

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

May 07 2025

S.C. SUPREME COURT

Appeal from Kershaw County

Honorable Daniel McLeod Coble, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF JEREMIAH JAMES POUGH,

APPELLANT

APPELLATE CASE NO 2025-000548

RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
SVP PETITION WITH EXHIBITS A-G	1
TRIAL TRANSCRIPT DATED NOVEMBER 13-16, 2023	88
PRE-TRIAL MOTIONS	92
<u>DAUBERT</u> HEARING	93
TESTIMONY (IN-CAMERA)	
EMILY GOTTFRIED	
Direct Examination by Mr. Runyan	94
Cross-Examination by Mr. Kirkland	141
Re-Direct Examination by Mr. Runyan	172
Direct Examination by The Court	175
ARGUMENT BY MR. RUNYAN	181
ARGUMENT BY MR. KIRKLAND	188
REPLY ARGUMENT BY MR. RUNYAN	198
RULING BY THE COURT	203
RENEWAL OF MOTION	210
OPENING REMARKS BY THE COURT	213
OPENING STATEMENT BY MR. RUNYAN	213
OPENING STATEMENT BY MR. KIRKLAND	222
TESTIMONY	
EMILY GOTTFRIED	
Direct Examination by Mr. Runyan	235
Voor Dire Examination by	242
Cross-Examination by Mr. Kirkland	308
COLLOQUY REGARDING JUROR	356

TESTIMONY

EMILY GOOTFRIED

Re-Direct Examination by Mr. Runyan	359
Re-Cross Examination by Mr. Kirkland	378

COLLOQUY	382

STATE RESTS	385

MOTION FOR DIRECTED VERDICT	385

RULING BY THE COURT	387

RENEWAL OF MOTIONS	389

RULING BY THE COURT	389

TESTIMONY

MARIE GEHLE

Direct Examination by Mr. Kirkland	390
Voir Dire Examination by Mr. Runyan	397
Direct Examination by Mr. Kirkland	400
Cross-Examination by Mr. Runyan	450
Re-Direct Examination by Mr. Kirkland	503
Re-Cross Examination by Mr. Runyan	511

DEFENSE RESTS	517

RENEWAL OF ALL MOTIONS	518

RULING BY THE COURT	518

CLOSING ARGUMENT BY MR. RUNYAN	520

CLOSING ARGUMENT BY MR. KIRKLAND	537

CLOSING REBUTTAL BY MR. RUNYAN	566

CHARGE CONFERENCE	577

CHARGE ON THE LAW	578

VERDICT	591

RENEWAL OF ALL MOTIONS.....	592
RULING BY THE COURT.....	593
MOTION IN LIMINE FILED NOVEMBER 13, 2023.....	594
MEMORANDUM IN SUPPORT OF THE ADMISSIBILITY OF PPG TESTIMONY OF DR. EMILY GOTTFRIED.....	599
ORDER OF COMMITMENT FILED NOVEMBER 16, 2023	616
ORDER ALLOWING PPG TESTIMONY BY STATE’S EXPERT WITNESS DATED MAY 31, 2024.....	617
STATE’S EXHIBIT NO. 1 (SENTENCE SHEETS).....	624
STATE’S EXHIBIT NO. 2 (SENTENCE SHEETS).....	628
STATE’S EXHIBIT NO. 3 (SENTENCE SHEETS).....	632
COURT’S EXHIBIT NO. 1 (MEDICAL RECORDS)	636
COURT’S EXHIBIT NO. 2 (501(K) SUMMARY).....	641
COURT’S EXHIBIT NO. 3 (BIBLIOGRAPHY)	646
COURT’S EXHIBIT NO. 4 (PPG ADMINISTRATION INSTRUCTIONS).....	649
COURT’S EXHIBIT NO. 5 (SVP CLINICAL SCIENCE HANDBOOK)	657
COURT’S EXHIBIT NO. 6 (BIBLIOGRAPHY)	664
COURT’S EXHIBIT NO. 7 (BIBLIOGRAPHY)	665
COURT’S EXHIBIT NO. 8 (MANUAL OF MENTAL DISORDERS)	666
COURT’S EXHIBIT NO. 9 (ATSA ADULT PRACTICE GUIDELINES).....	668
CERTIFICATE OF COUNSEL	682

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

IN THE MATTER OF THE CARE)
AND TREATMENT OF:)

CIVIL ACTION NO. 2022-CP-28-351

JEREMIAH JAMES POUGH,)
RESPONDENT.)

PETITION PURSUANT TO THE
SEXUALLY VIOLENT PREDATOR
ACT

COMES NOW, Petitioner, State of South Carolina, by and through the undersigned, and for its cause of action herein alleges and states as follows:

1. This action is filed pursuant to the South Carolina Sexually Violent Predator Code Ann. Sections 44-48-10 *et seq.* ("the Act").
2. The South Carolina Department of Corrections ("SCDC"), determined Jeremiah James Pough, (hereinafter "Respondent"), has been convicted of at least one Sexually Violent Offense, and referred Respondent to the Multi-Disciplinary Team for assessment pursuant to S.C. Code Ann. Section 44-48-40. At the time of this filing, Respondent's max-out date from SCDC is set for on or about December 12, 2022. His SCDC Inmate Number is 386514, and he was born in 1993.
3. The Multi-Disciplinary Team ("MDT") on February 17, 2022 determined after assessment that Respondent satisfied the definition of a Sexually Violent Predator as set forth in S.C. Code Ann. Section 44-48-30, and referred Respondent to the Prosecutor's Review Committee for a determination pursuant to S.C. Code Ann. Section 44-48-60 as to whether probable cause exists to believe Respondent is a Sexually Violent Predator (EXHIBIT A). The assessment of the Multi-Disciplinary Team is based on a review of existing records, which may include, but are not limited to the following: description of the qualifying offense(s); history of other sexual assault(s); history of other criminal offenses/convictions/adjudications; documentation, if any, of mental disorder(s); community and institutional adjustment; and risk factors.
4. The Prosecutor's Review Committee ("PRC") received the case from the MDT on February 22, 2022, and on March 18, 2022 determined there is probable cause to believe that Respondent is a Sexually Violent Predator as defined by statute (EXHIBIT B). The PRC bases its determination on the records and reports provided by the MDT including any information provided by the agency that prosecuted the qualifying offense.
5. The Petitioner now alleges that Respondent is a Sexually Violent Predator as defined by S.C. Code Ann. Section 44-48-30(1), to wit:

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2022 APR -4 AM 11:52
JANET C. HESTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

QUALIFYING CONVICTION(S): (EXHIBIT C).

- A. Type of Conviction: Criminal Sexual Conduct with a Minor – Victim 11 to 14 year of age inclusive - Second Degree; Contributing to the Delinquency of a Minor¹; Criminal Sexual Conduct with a Minor – Victim under 16 years of age - Second Degree²; and Criminal Sexual Conduct with a Minor – Third Degree.
- B. Date of Conviction: On or about November 10, 2021 in Kershaw County.
- C. Trial or Plea: Guilty Plea in Kershaw County
- D. Sentence Received: Ten (10) years suspended to four (4) years with five (5) years' probation for each charge to be served concurrent. Credit given for time served - 811 days on the Contributing to the Delinquency of a Minor. Permanent Consent Restraining Order.
- E. Original Charge(s): Same as convictions.
- F. Brief Facts:

Victim 1: 14-Year-Old Female "C.P." – Kershaw County

On or about February 5, 2017, law enforcement was dispatched to a location involving a 14 year old female who has been sexually assaulted. When law enforcement arrived, Victim 1, another minor female, and two adult females were sitting in a vehicle. Victim 1 had a red mark and swelling under her left eye. When questioned about the red mark and swollen eye, Victim 1 reported Respondent took her to the side of a house, and forced himself on her when they got near an air-conditioning unit. Victim 1 tried hitting Respondent and telling him to stop, but he would not. After searching the area, two used condoms were found where Victim 1 reported the assault took place.

Victim 2: 17- Year- Old Female "A.M" – Kershaw County

On or about June 20, 2017 Respondent knowingly and willingly performed a sexual battery on Victim 2 while she was unconscious from intoxication. Respondent penetrated Victim 2's vagina with his penis after the victim had fallen asleep form consuming alcohol and marijuana.

Victim 2 stated she woke up and saw Respondent on top of her penetrating her vagina with his penis. Victim 2 stated she pushed Respondent off while mumbling and rolled over in a ball and passed back out. Victim 2 stated that when she woke

¹ Contributing to the Delinquency of a Minor is not a qualifying conviction under the SVPA, it is placed in this section because it stems from the victim and same facts as the CSC Second Degree conviction.

² This charge was brought in Richland County. Respondent plead guilty in Kershaw for this charge on same day as other convictions.

up around 9:00 am she was still on the porch and she noticed her shorts and underwear were pulled down to her ankles and she was covered up with some type of greenish floral blanket/tablecloth. Victim 2 stated she told Respondent to take her home, and Respondent did take her to a friend's house.

Victim 2 underwent a Forensic Interview and investigators determined the information disclosed in the Forensic interview was consistent with Victim 2's written statement in her report to law enforcement.

Victim 3: 15 Year-Old Female "M.W." – Richland County

On or about June 2019, Victim 3 was residing with her grandmother and her maternal Aunt. Respondent was the maternal aunt's boyfriend. Victim 3's grandmother discovered Respondent had been molesting Victim 3, and she immediately moved Victim 3 out of the house to another location and called law enforcement. During the investigation, Victim 3 disclosed Respondent put his hands inside her shorts and rubbed her "private parts" causing her pain. Victim 3 also reported when her aunt was at work, Respondent would touch her legs and offer to put lotion on her.

PRIOR VIOLENT/SEXUAL OFFENSES / CONVICTIONS:

- A. Type of Conviction: Assault and Battery – Third Degree (2 counts) – (EXHIBIT D).
- B. Date of Conviction: On or about July 26, 2017 in Kershaw County.
- C. Trial or Plea: TIA Guilty – Bench Trial in Kershaw County
- D. Sentence Received: TIA – Fine only.
- E. Original Charge(s): Same as convictions.
- F. Brief Facts:

Victim 4: 21- Year- Old Female "K.W."

Victim 5: 21- Year- Old Male "J.M."

Witness 1: Unknown age Male

On or about July 4, 2017, Victim 4, her friends, and Respondent were hanging out at a friend's house. Victim 4 reported to law enforcement Respondent began making sexual remarks and acting in a sexual manner towards her. This bothered Victim 4 so she told him to stop. Respondent grabbed Victim 4 around the neck, threw her on the bed, and tried to choke her. Witness 1 saw what was happening and tried to pull Respondent off Victim 4. Witness 1 ran out of the room, and told Victim 5 what was happening. Victim 5 confronted Respondent while Respondent was leaving, and Respondent cut Victim 5 across the chest. Respondent threatened he would shoot up the house.

OTHER OFFENSE CHARGES / CONVICTIONS (EXHIBIT E):

- A. Type of Conviction: Drugs/Possession of 28g or less of marijuana – 1st Offense
- B. Date of Conviction: On or about September 20, 2017 in Kershaw County.
- C. Disposition: Guilty Plea in Kershaw County.
- D. Sentence: Unknown.
- E. Brief Facts: Unknown.
- A. Type of Conviction: Drugs/Possession of 28g or less of marijuana – 1st Offense
- B. Date of Conviction: On or about July 26, 2017 in Kershaw County.
- C. Disposition: TIA Guilty – Bench Trial in Kershaw County.
- D. Sentence: TIA – Fine Only.
- E. Brief Facts: Unknown.
- A. Type of Conviction: Alcohol / Open container of beer or wine in motor vehicle
- B. Date of Conviction: On or about July 26, 2017 in Kershaw County.
- C. Disposition: TIA Guilty – Bench Trial in Kershaw County.
- D. Sentence: TIA – Fine Only.
- E. Brief Facts: Unknown.
- A. Type of Conviction: Drugs/Unlawful to advertise for sale, manufacture, possess, sell, etc. paraphernalia (civil fine)
- B. Date of Conviction: On or about September 20, 2017 in Kershaw County.
- C. Disposition: Guilty Bench Trial in Kershaw County.
- D. Sentence: Unknown.
- E. Brief Facts: Unknown.

SCDC RECORDS (EXHIBIT F):

None on file.

SEX OFFENDER TREATMENT WHILE AT SCDC (EXHIBIT G):

None on file.

GENERAL NOTES:

Risk factors common to cases of this nature include, but may not be limited to: (1) never been married or never lived with lover for at least 2 years, (2) not related to victim, (3) stranger to the victim, (4) prior non-sexual convictions, (5) length of sexual offending history 1 to 6 years, (6) force or threat of force used, (7) victim age 13-15, (8) more than 1 victim, and (9) offender aged 30 or younger at time of release from incarceration.

- 7. Sufficient evidence exists or will exist, to determine that Respondent suffers from a mental abnormality or personality disorder which makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care and

treatment, and that the Respondent has serious difficulty in controlling his behavior, or sexual desire impulses.

- a. In support of the State's allegations that the Respondent has a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, the State, in addition to any other evidence which Petitioner may present to the Court hereafter, submits the following for consideration:

- i. According to the Diagnostic and Statistical Manual of Mental Disorders, Ninth Edition, published by the American Psychiatric Association, the diagnostic criteria for **Paraphilic Disorder (EXHIBIT H)** are:

- 1. Any intense and persistent sexual interest other than sexual interest in genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners.

- ii. According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, the diagnostic criteria for **Other Specified Personality Disorder (EXHIBIT I)** are:

- 1. This category applies to presentations in which symptoms characteristic of a personality disorder that cause clinically significant distress or impairment in social, occupational, or other important areas of functioning predominate but do not meet the full criteria for any of the disorders in the personality disorders diagnostic class. The other specified personality disorder category is used in situations in which the clinician chooses to communicate the specific reason that the presentation does not meet the criteria for any specific personality disorder. This is done by recording "other specified personality disorder" followed by the specific reason (e.g., "mixed personality features").

- iii. "[P]revious instances of violent behavior are an important indicator of future violent tendencies." *Kansas v. Hendricks*, 521 U.S. 346, 358, 117 S. Ct. 2072, 2080 (1997). The Respondent's instances of violent and non-violent behavior are:

- 1. His 2021 convictions in Kershaw County for Criminal Sexual Conduct with a Minor – Victim 11 to 14 year of age

inclusive - Second Degree, and Contributing to the Delinquency of a Minor. (EXHIBIT C);

2. His 2021 conviction in Kershaw County for Criminal Sexual Conduct with a Minor – Third Degree. (EXHIBIT C);
3. His 2021 conviction in Richland County for Criminal Sexual Conduct with a Minor – Victim under 16 years of age - Second Degree. (EXHIBIT C);
4. His 2017 convictions for two (2) counts Assault and Battery Third Degree. (EXHIBIT D);
5. His non-sexual criminal history including drug and alcohol related charges. (EXHIBIT E); and
6. His lack of sex offender treatment while at SCDC. (EXHIBIT G).

- iv. The facts of the Respondent's offenses indicate the existence of a mental abnormality in that they could involve recurrent sexual urges, or behaviors involving minor and adult females occurring over a period of at least six months.

WHEREFORE, Petitioner requests that based on the above information the Court find there is probable cause to believe Respondent Jeremiah James Pough, is a Sexually Violent Predator and order:

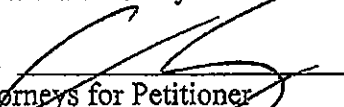
1. Respondent be taken into custody and confined in a secure facility, if he has not already been so confined, such as at SCDC or in a county detention center;
2. Respondent be notified by the Court of the opportunity to appear in person at a hearing to contest probable cause as to whether he is a Sexually Violent Predator;
3. A hearing to contest probable cause be held within 72 hours after Respondent is taken into custody, but only if he is not already in custody as described *supra*;
4. Counsel be appointed for Respondent if necessary;
5. If probable cause is found at that hearing, that Respondent remain in custody and be transferred to an appropriate facility for an evaluation as to whether Respondent is a Sexually Violent Predator;

6. The Court appoint a qualified expert for such an evaluation if probable cause is found;
7. If probable cause is found a trial be held on all issues, and if Respondent is found to be a Sexually Violent Predator that he be committed to the custody of the South Carolina Department of Mental Health for long term control, care, and treatment, until such time as Respondent's mental abnormality or personality disorder has so changed that Respondent is safe to be at large and has been released pursuant to the requirements of S.C. Code Ann. Sections 44-48-10 *et seq.*, and
8. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

CHRISTOPHER S. RUNYAN
Assistant Attorney General

By: 
Attorneys for Petitioner
S. C. Bar Number 104740
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Direct: 803-734-1173
crunyan@scag.gov

March 31, 2022
Columbia, South Carolina

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

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JANET C. HASTY
CLERK OF COURT
Kershaw County, S.C.

PETITIONER'S EXHIBIT

A



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
 BRYAN P. STIRLING, Director

Sexually Violent Predator Multi-Disciplinary Team Committee Meeting Minutes

Date: February 17, 2022
 Time: 9:00 am
 Place: Online via Microsoft Teams

The meeting commenced at 9:08 AM and went into executive session at 9:08 AM until 9:55 AM. The team reviewed 32 cases total. Out of the 32 cases, 6 cases were referred, 12 cases were deferred, and 14 cases were not referred. The meeting adjourned at approximately 11:02 AM. The next SVPMDT meeting is scheduled for Thursday, March 17, 2022 at 9 AM.

Attendance

Chairperson for the Committee: Dr. Cristopher Kunkle, Chairperson, SCDC Representative 

Committee Members: Dr. Colbi Sutton, DMH
 Andrew Moorman Sr., Attorney
 Hon. Thomas Cooper

Matthew Buchanan, SCDPPP was not in attendance. Reviewed tied cases for voting purposes

Other Attendance: Suzanne Shaw, Assistant Attorney General
 Sylvia Roberts, SCDC Division of Mental Health, Presenter
 Kendall Sherman, Presenter, SCDC
 Lauren Stevens, Recorder, SCDC

Case(s) Reviewed and Referred to the Prosecutor's Committee

<u>SCDC #</u>	<u>Offender Name</u>	<u>Vote to Refer/Not Refer</u>
385582	ADAM, DARRELL HENRY	4-0 Refer
309151	HINSON JR, EUGENE WINFRED	3-1 Refer
361576	DOUGLAS, DOMINICK JACOB	4-0 Refer
386514	POUGH, JEREMIAH JAMES	4-0 Refer
228323	YOUNG, DERRINGER	3-2 Refer
382878	GARNER, JUAN MARICHELLE	3-2 Refer

The offender's records were assessed by the Sexually Violent Predator Multi-Disciplinary Team on February 17, 2022. Based upon that assessment, we find that the offender satisfies the definition of a Sexually Violent Predator and a review by the Prosecutors Review Committee is warranted.

P.O. Box 21787 - 4444 Broad River Road - Columbia, SC 29221-1787 - Telephone (803) 896-8555
<http://www.doc.sc.gov> Email: corrections.info@doc.sc.gov

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

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KERSHAW COUNTY, S.C.

PETITIONER'S EXHIBIT

B

**PROSECUTOR'S REVIEW COMMITTEE
PROBABLE CAUSE DETERMINATION**

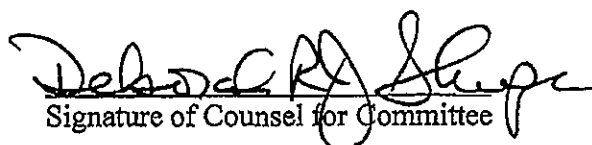
INMATE NAME:	INMATE NUMBER	PRC REVIEW DATE:
Jeremiah James Pough	386514	March 18, 2022
		MEMBERS PRESENT:
		Barry Bernstein for Alan Wilson David M. Stumbo via telephone Laura Hudson via telephone

DATE RECEIVED FROM MULTIDISCIPLINARY TEAM: February 22, 2022

The Multi-Disciplinary Team referred this case to the Prosecutor's Review Committee pursuant to S.C. Code Ann. § 44-48-50, for review to determine whether probable cause exists to believe this person is a sexually violent predator. S.C. Code Ann. § 44-48-60. The Prosecutors Review Committee reviewed all information received from the Multi-Disciplinary Team, including without limitation: documentation of the qualifying offense as well as other sexual assault(s) or criminal convictions/adjudications; documentation of mental disorder(s); community and institutional adjustment; and risk factors.

PROBABLE CAUSE DETERMINATION:

By a vote of 3-0, the Prosecutor's Review Committee found probable cause to believe that this individual has been convicted of a sexually violent offense, and suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.


Signature of Counsel for Committee

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

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KERSHAW COUNTY, S.C.

PETITIONER'S EXHIBIT

C

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

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CLERK OF COURT
KENSAM COUNTY, S.C.

VICTIM "C.P."



Kershaw County Fifth Judicial Circuit Public Index



Kershaw County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Jeremiah James Pough

Case Number:	2017A2810200016	Court Agency:	General Sessions	Filed Date:	02/07/2017
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Hood, Robert E
Disposition:	Pled Guilty				
Disposition Date:	11/10/2021	Date Received:	02/07/2017	Arrest Date:	02/06/2017
Law Enf. Case:		True Bill Date:	05/24/2017	No Bill Date:	
Prosecutor Case:		Indictment Number:	2017GS2800995	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	0396-Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg	0396-Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg	11/10/2021



Kershaw County Fifth Judicial Circuit Public Index



[Kershaw County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Jeremiah James Pough

Case Number:	2017A2810100160	Court Agency:	General Sessions	Filed Date:	02/07/2017
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Hood, Robert E
Disposition:	Pled Guilty				
Disposition Date:	11/10/2021	Date Received:	02/07/2017	Arrest Date:	02/06/2017
Law Enf. Case:	2017-514	True Bill Date:	05/24/2017	No Bill Date:	
Prosecutor Case:		Indictment Number:	2017GS2800994	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	0048-Minor / Contributing to the delinquency of a minor	0048-Minor / Contributing to the delinquency of a minor	11/10/2021

STATE OF SOUTH CAROLINA

COUNTY OF **Kershaw**

STATE

VS.

Jeremiah James Pough

AKA:

Race: BLACK Sex: M Age: 27

DOB: [REDACTED] 1993 SS# [REDACTED]

Address: [REDACTED]

City, State, Zip: Elgin, SC 29045

DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS280995

AW#: 2017A2810200016

Date of Offense: 2/5/2017

S.C. Code § : 16-03-0655(B)(1)

CDR Code #: 0396

RECOMMENDATION SENTENCE SHEET

NEGOTIA: 0-20 yrs.

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second

in violation of § 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45

(CSC w/minor 1st or CSC w/minor 3rd

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Pauling, Curtis

SC Bar#

Defendant

Sutherland IV, T. H. Colley
Attorney for Defendant

SCB68685

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/~~this State~~ ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of 4 days/months/years/~~11/1/11~~ 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.

The sentence shall run

☒ 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 SCDoc.

days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS Jeremiah James Pough INDICTMENT/CASE#: 2017GS280995

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☒ Substance Abuse Counseling ☐ Completion of GED ☒ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp. ☒ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☒ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.☐ Other: _____SEE PERMANENT RESTRAINING ORDER☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☒ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	TBD
☒ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD
TOTAL	\$ 128.75

Clerk of Court/ Deputy Clerk: Jeanette Mc BrideCourt Reporter: BCRP-Fitzgerald

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

SCCA/217 (07/2021)

Page 2 of 2

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

INDICTMENT

At a Court of General Sessions, convened on MAY 2017, the Grand Jurors of Kershaw County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
2ND DEGREE (AGE 11-14)

That Jeremiah James Pough did in Kershaw County, State of South Carolina, on or about February 5, 2017, willfully, unlawfully and feloniously engage in sexual battery with a minor who was at least fourteen (14) years or less but who was at least eleven (11) years of age, to wit: C [REDACTED] P [REDACTED] (JUVENILE), whose date of birth is [REDACTED] 2002, in violation of Section 16-03-655(B) of the 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.



DAN JOHNSON, SOLICITOR

2017 MAY 17 PM 1:10

WITNESSES

(S) Dexter Handy
- Kershaw County Sheriff

ARREST WARRANT NUMBER

2017A2810200016

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MAY 24 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017GS280995

The State of South Carolina

County of

Kershaw

COURT OF GENERAL SESSIONS

MAY TERM 2017

K13

**THE STATE
vs.**

Jeremiah James Pough

**Indictment for
SEX / CRIMINAL SEXUAL CONDUCT WITH
MINOR, OR ATTEMPT - VICTIM 11 TO 14
YRS OF AGE INCLUSIVE - SECOND**

SC Code: 16-03-0655(B)(1)

CDR Code: 0396

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
2017 MAY 24 PM 4:40
JANET C. HASTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

ARREST WARRANT

2017A2810200016

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Kershaw

THE STATE
against

Jeremiah James Pough

Address: [REDACTED]

Elgin, SC 29045-

Phone: _____ SSN: _____
Sex: M Race: B Height: 5 6 Weight: 200DL State: SC DL #: [REDACTED]DOB: 1993 Agency ORI #: SC0280000Prosecuting Agency: Kershaw County SheriffProsecuting Officer: Dexter Handy - S00003Offense: Sex / Criminal sexual conduct with minor, or
Attempt - victim 11 to 14 yrs of age inclusive -Offense Code: 0396Code/Ordinance Sec: 16-03-0635(B)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Jeremiah James Pough
on 2/5/17C. Wilson #33

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Bond Court
1121 Broad Street
Camden, SC 29020

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Kershaw

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 616

20

Personally appeared before me the affiant, Dexter Handy whobeing duly sworn deposes and says that defendant Jeremiah James Poughdid within this county and state on or about 2/5/2017 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Kershaw)
in the following particulars:DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second
degI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on February 5, 2017 in the city/county of Kershaw, one Jeremiah James Pough did engage in sexual battery by inserting his
penis into the genital opening of the victim (K.M.P), who at the time was 14 years of age and the defendant being more than three
years older. This incident did occur at [REDACTED] Elgin, Kershaw County, South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Kershaw

Affiant's Address 821 Ridgeway Rd
Lugoff, SC 29078

Affiant's Telephone _____

JANET C. HASTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

2017 FEB -7 AM 11:28

FILED FOR RECORD

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/5/2017 defendant Jeremiah James Pough
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Kershaw) as set forth below:DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second
degHaving found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicableSworn to and subscribed before me
on 2/5/2017[Signature] (L.S.)
Signature of Issuing Judge

Darrell J Drakeford

Judge Code: 7071Judge's Address P O Drawer 1528Camden, SC 29021-Judge's Telephone (803)425-1500 x 5420Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by
Judge Rankin
on 2-1-77
Type and Amount: C/S \$1,000
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

Judge _____
on _____
by _____
(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES
Name: Becky Sullivan
Address: 478 Lafayette St
Camden
Telephone: (803) 649-0573

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

CODEFENDANTS



STATE OF SOUTH CAROLINA

COUNTY OF Kershaw

STATE

VS.

Jeremiah James Pough

AKA:

Race: Sex: M Age: 27DOB: 1993 SS#: 1217

Address:

City, State, Zip: Elgin, SC 29045-9254DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS280994A/W#: 2017A2810100160Date of Offense: 2/5/2017S.C. Code § : 16-17-0490CDR Code #: 0048RECOMMENDED 1 SENTENCE SHEETNEGOTIATED 0-3 yrs.*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Minor / Contributing to the delinquency of a minorIn violation of § 16-17-0490 of the S.C. Code of Laws, bearing CDR Code # 0048☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Pauling, CurtisSC Bar# 68671

Defendant

Sutherland IV, Travis Colley
Attorney for Defendant

SCB69695

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of TIME SERVED days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; 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.

The sentence shall run

☒ 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 SCDOC. 8110 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS Jeremiah James Pough INDICTMENT/CASE#: 2017GS280994

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp. ☒ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.☐ Other: SEE PERMANENT RESTRAINING ORDER☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$	
	\$	
\$100	\$	100.00
\$100	\$	
\$12	\$	
\$25	\$	
\$25	\$	25.00
\$150	\$	
\$41	\$	
\$50	\$	
\$40/ea	\$	
TBD	\$	3.75
\$500	\$	
TBD	\$	
TOTAL	\$	128.75

Clerk of Court/ Deputy Clerk: Jeannette McBrattonCourt Reporter: Dee. FitzgeraldPresiding Judge: KathleenJudge Code: 2169Sentence Date: Nov 10, 21

SCCA/217 (07/2021)

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

INDICTMENT

At a Court of General Sessions, convened on MAY 2017, the Grand Jurors of Kershaw County present upon their oath:

CONTRIBUTING TO DELINQUENCY OF A MINOR

That Jeremiah James Pough, being over eighteen (18) years of age, did in Kershaw County on or about February 5, 2017, knowingly and willfully encourage, aid, or cause or influence one C [REDACTED] P [REDACTED], a minor, 14 years of age, to violate a law or municipal ordinance; or to become incorrigible or ungovernable or habitually disobedient and beyond the control of his/her parent or guardian; or to become habitually truant, or to without just cause and without consent of his/her parent or guardian to repeatedly desert her home; or to engage in an occupation which is in violation of the law; or to associate with immoral or vicious persons, or to frequent a place, the existence of which is in violation of law; or to habitually use obscene or profane language; or to beg or solicit alms in a public place under pretense; or to so deport himself/herself as to willfully injure or endanger her morals or health or the morals or health of others, in violation of Section 16-17-490, S. C. Code of Laws, 1976, amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DAN JOHNSON, SOLICITOR

RECEIVED MAY 14 2017

WITNESSES

(S) Dexter Handy
- Kershaw County Sheriff

ARREST WARRANT NUMBER

2017A2810100160

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

MAY 24 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS280994

The State of South Carolina

County of

Kershaw

COURT OF GENERAL SESSIONS

MAY TERM 2017

K13

**THE STATE
vs.**

Jeremiah James Pough

**Indictment for
MINOR / CONTRIBUTING TO THE
DELINQUENCY OF A MINOR**

**SC Code: 16-17-0490
CDR Code: 0048**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
2017 MAY 24 PM 4:40
JANET C. HASTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

ARREST WARRANT

2017A2810100160

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Kershaw

THE STATE

2017-514

against

Jeremiah James Pough

Address:

Elgin, SC 29045-9254

Phone: _____ SSN: 4217
Sex: M Race: _____ Height: 5 6 Weight: 200DL State: SC DL #: _____DOB: 1993 Agency ORI #: SC0280000Prosecuting Agency: Kershaw County SheriffProsecuting Officer: Dexter Handy - 7064Offense: Minor / Contributing to the delinquency of a minorOffense Code: 0048Code/Ordinance Sec: 16-17-0490This warrant is CERTIFIED FOR SERVICE in the☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant
on 2/6/17K. Richards 44
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Kershaw County Magistrate Court
1121 Broad Street
Camden, SC 29020

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Kershaw

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

26

Personally appeared before me the affiant Dexter Handy whobeing duly sworn deposes and says that defendant Jeremiah James Poughdid within this county and state on or about 2/5/2017State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Kershaw violate the criminal laws of thein the following particulars:
DESCRIPTION OF OFFENSE: Minor / Contributing to the delinquency of a minorI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on February 5, 2017 the defendant Jeremiah James Pough did knowingly and willingly contribute to the delinquency of a minor
(K.P.) by providing alcohol and marijuana for the juvenile to consume. This incident occurred at _____ which is located in
Elgin, Kershaw County, South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Kershaw

Affiant's Address 821 Ridgeway Rd.Lugoff, SC 29078-

Affiant's Telephone _____

FILED FOR RECORD
2017 FEB -7 AM 11:28
JANET G. HASTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/5/2017 defendant Jeremiah James Pough

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Kershaw) as set forth below:DESCRIPTION OF OFFENSE: Minor / Contributing to the delinquency of a minor

FEB 6 2017 PM 1:49

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 2/6/2017

Signature of Issuing Judge (L.S.)

Donnie Allen Trapp

Judge Code: 7344Judge's Address 1121 Broad StreetCamden, SC 29020-Judge's Telephone (803)425-7226

Issuing Court:

☒

Magistrate

☐

Municipal

☐

Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge RANKIN
on 2-1-77
Type and Amount: GS 5,000
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

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Name: _____
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Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

IN THE COURT OF GENERAL SESSIONS
FOR THE 5TH JUDICIAL CIRCUIT

Indictment No(s): 2017-GS-28-0994 and 0995

STATE OF SOUTH CAROLINA,)

vs.)

JEREMIAH POUGH,)

Defendant.)

**CONSENT PERMANENT
RESTRAINING ORDER**

FILED FOR RECORD
2021 NOV 19 PM 2:44
JAMES C. HASKIN
CLERK OF COURT
KERSHAW COUNTY, S.C.

This matter is before the Court pursuant to the Defendant's guilty plea to Criminal Sexual Conduct with a Minor Second Degree and Contributing to the Delinquency of a Minor. The Court heard this guilty plea on November 10th, 2021. As a result of the Defendant Jeremiah Pough's guilty plea, it is hereby ordered that:

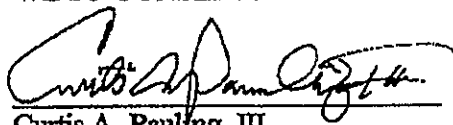
IT IS HEREBY ORDERED

1. Defendant Jeremiah Pough shall not abuse, threaten to abuse or molest the victim, C[REDACTED] P[REDACTED].
2. Defendant Jeremiah Pough shall not enter or attempt to enter the place of residence, educational facility, or place of employment of the victim, C[REDACTED] P[REDACTED].
3. Defendant Jeremiah Pough shall not communicate or attempt to communicate, directly or indirectly, with the victim, C[REDACTED] P[REDACTED] in any way that would violate this order.
4. Violation of this order is a felony criminal offense punishable by up to five (5) years in prison.
5. This permanent restraining order shall remain in effect for a term of ten (10) years to end on November 10th, 2031.

AND IT IS SO ORDERED.

November 10, 2021
Columbia, South Carolina

WE SO CONSENT:

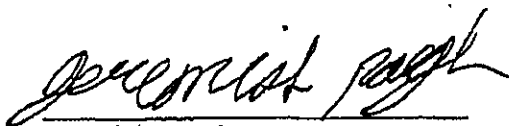

Curtis A. Pauling, III
Deputy Solicitor
Fifth Judicial Circuit



Presiding Judge
Fifth Judicial Circuit



Tivis Sutherland
Attorney for Defendant



Jeremiah Pough
Defendant

FILED FOR RECORD
2021 NOV 19 PM 2:44
JAMES C. HASTEN
CLERK OF COURT
KENNETH COUNTY, S.C.



KERSHAW COUNTY SHERIFF'S OFFICE

SHERIFF LEE BOAN

Case P2017-00514

Printed on March 23, 2022

Status	Approved
Report Type	Patrol
Primary Officer	Erin Miles
Investigator	Dexter Handy
Reported At	02/04/17 23:41
Incident Date	02/04/17 23:41 - 02/04/17 23:41
Incident Code	1135 : RAPE / SEXUAL ASSAULT
Location	GREEN HILL RD29 / IVO CIR, ELGIN, SC
Zone	ELGIN
Disposition	Closed - Charges Filed
Disposition Date/Time	02/13/17 09:42
Review for Gang Activity	None
Status Indicator	Administratively Closed
Status Change Date	2/13/17

Arrestee

POUGH, JEREMIAH JAMES

Male, DOB [REDACTED]/93

[REDACTED]
ELGIN, SC 29045

[REDACTED] Home

16-3-653 - CRIMINAL SEXUAL CONDUCT 2ND DEGREE

16-17-490 - CONTRIBUTING TO THE DELINQUENCY OF A MINOR

Offender

POUGH, JEREMIAH JAMES

Male, DOB [REDACTED]/93

[REDACTED]
ELGIN, SC 29045

[REDACTED] Home

16-3-653 - CRIMINAL SEXUAL CONDUCT 2ND DEGREE

16-17-490 - CONTRIBUTING TO THE DELINQUENCY OF A MINOR

Victim

P [REDACTED], C [REDACTED]

16-3-653 - CRIMINAL SEXUAL CONDUCT 2ND DEGREE

16-17-490 - CONTRIBUTING TO THE DELINQUENCY OF A MINOR

Witness

P██████████. K██████████ M██████████

16-3-653 - CRIMINAL SEXUAL CONDUCT 2ND
DEGREE
16-17-490 - CONTRIBUTING TO THE DELINQUENCY
OF A MINOR

Other**BAKER, KENNY**

Male, DOB ██████████/82

██████████
CASSATT, SC 29032

██████████ Cell

Contact Person: 16-17-490 - CONTRIBUTING TO THE
DELINQUENCY OF A MINORContact Person: 16-3-653 - CRIMINAL SEXUAL
CONDUCT 2ND DEGREE**KIMBRO, CANDACE**

Female, DOB ██████████/80

██████████
ELGIN, SC

██████████ Cell

Contact Person: 16-3-653 - CRIMINAL SEXUAL
CONDUCT 2ND DEGREEContact Person: 16-17-490 - CONTRIBUTING TO THE
DELINQUENCY OF A MINOR**SULLIVAN, REAGAN ASHLEY**

Female, DOB ██████████/94

██████████
ELGIN, SC 29045

██████████ Cell

Contact Person: 16-17-490 - CONTRIBUTING TO THE
DELINQUENCY OF A MINORContact Person: 16-3-653 - CRIMINAL SEXUAL
CONDUCT 2ND DEGREE**Primary Narrative By Erin Miles, 02/05/17 04:24****CSC. Contributing to the delinquency of a minor**

On the above date and time, I was dispatched to the area of Green Hill Road and Ivo Circle in reference to a fourteen year old female walking down the road that had just been sexually assaulted by a Jeremiah Pough at ██████████. Upon arrival located a white sedan with two juvenile females in it, and two older white females in it at the Green Hill Baptist Church. I identified her as C██████████ P██████████. C██████████ had a red mark with swelling under her left eye. C██████████ informed me that she was just raped by Jeremiah Pough. C██████████ was boarding an EMS vehicle as I was attempting to get as much information as I could from her. C██████████ stated that his penis did penetrate her. C██████████ stated that her sister, K██████████ and some friends were in a vehicle parked in the driveway and Jeremiah took her to the side of the house and that she remember seeing an A/C unit. C██████████ then stated that she remembers Jeremiah forcing himself on her when they got over near the A/C unit. C██████████ stated that she did not know if Jeremiah beat her in the process. C██████████ stated that Jeremiah then bent her over the A/C unit and raped her. C██████████ stated that she was telling him to stop, but Jeremiah would not. C██████████ stated that she tried hitting Jeremiah, but he would not let her go. C██████████ then went with EMS to Richland Health.

I then spoke with K██████████ who stated she was on scene when the incident occurred. Kori stated that Jeremiah James was taking her and C██████████ to Skateland. Jeremiah went to his house at ██████████ instead. K██████████ stated that her friend J██████████ came over and a few of friends, but she only knew D██████████. K██████████ stated that D██████████ left ██████████ at Jeremiah's home with her and C██████████. K██████████ then stated that she and J██████████ were sitting a heated car and J██████████ got out of the car and saw Jeremiah on C██████████. K██████████ then grabbed her stuff and O██████████ and started walking toward Green Hill Road. K██████████ stated that Jeremiah left them in the car and locked the door. K██████████ stated she knew something was wrong. K██████████ informed me that Jeremiah is 23 years old. K██████████ did write a statement. The statement was placed into evidence with a receipt. At this point and time, Lt. Boykin and Investigator Handy were on scene. they decided to head over to incident location and I followed.

Upon arrival to the incident location, I observed a black man with dreads walk up to Investigator Handy. The man was

identified as Jeremiah James Pough. Jeremiah was informed his miranda rights. I then heard Jeremiah stated that he did have sex with C [REDACTED] and that it was by the A/C unit. I also heard Jeremiah state that he smoked marijuana and supplied alcohol to both K [REDACTED] and C [REDACTED]. Investigator Handy then advised me to place Jeremiah under arrest. I then placed Jeremiah in handcuffs, double locked, checked for tightness and behind his back. Myself and Investigator Handy then walked over to the A/C unit on the side of the home. There were two used condoms laying beside the A/C unit. I took pictures of the scene and of C [REDACTED]'s swollen eye. The pictures were uploaded to this report. Lt. Boykin then transported Jeremiah to KCDC. Body Camera footage of the incident is available.


KERSHAW COUNTY SHERIFF'S OFFICE

Sheriff Jim Matthews 821 Ridgeway Road, Lugoff S.C. 29078
(803) 425-1512

Case Notes

Printed on February 13, 2017

Julia Locklear, 02/06/17 10:47

I made contact with the mother of the victim, Becky Sullivan, at [REDACTED] and advised her about the forensic interviews we want to schedule for C [REDACTED] and K [REDACTED]. I advised her of the process and what the interviews entailed and advised her that we will schedule them in Florence and would get them done within the next week. She stated that she would like to contact the father of the girls and would get back with me with a good date for them within the next hour.

Becky did call me back and advised me that the girls are staying with their father and that I would need to call him about the interviews. I did call Donte Priester at [REDACTED] and informed him about the interviews. He stated that he is self employed at the time and that he will make the appointment whenever I schedule it for. He also stated that C [REDACTED] is going to be on home leave from Camden Middle School if he can get her doctor to sign off on it because of the mental state she is in after the incident. I called The Care House and got the appointment scheduled for both C [REDACTED] and K [REDACTED] on Wednesday, February 8 at 12:00 PM. I also scheduled a medical exam for C [REDACTED] for that same day. I then called Mr. Priester back and advised him of the appointment and he stated that he would be there with both girls. He is supposed to be calling me back to give me the social security number of C [REDACTED] for the purposes of the medical exam.

Dexter Handy, 02/13/17 09:39

On 02/05/17 I, Inv. Handy was dispatched to Green Hill Baptist Church regarding a sexual assault of a 14 teen year old female. Once on the scene I was meet by Lt. Boykin. Lt. Boykin stated that the victim had been transported to Richland Heath for evaluation, by EMS. Lt. Boykin stated that the female victim had just left a home located at [REDACTED]. The victim stated that she had been "rape" by Jeremiah Pough. The victim did have a red mark under her left eye.

Lt. Boykin, Sgt. Hathaway, Dep. Bass, and myself went to the [REDACTED]. Once on scene we were meet in the yard by a male subject who identify himself as Jeremiah Pough. Pough was very visibility upset. Pough stated "y'all are here for me" and "my life is over". Inv. Handy ask Pough to clam down. Pough was advice of his Miranda Right. Inv. Handy asked Pough what had happen, He began by saying he had gone to the victims mother house and asked he if he could take the victim and her sister to Skateland. Pough stated that the girls didn't have enough money when they got to Skateland, so they decided to go back to his home and smoke marijuana and drink alcohol. Pough stated that he and the victim walked over to a section of the yard near the A/C unit. Pough stated once there, they began to have sex. Pough admits to penetrating the victim, by says it was consensual. Inv. HANDY TOLD THE SUSPECT THAT A 14 YEAR OLD CAN'T CONSENT TO SEX. At that time Pough was placed under arrest for Criminal Sexual Conduct and Contributing to the delinquency of a minor. While on scene Inv. Handy located to used condoms with body fluids in them, near the area were Pough and the victim stated the incident took place. These events are on body camera footage.

On 02/07/17 Inv. Handy attended the bond hearing of Pough where he stated to the bond hearing Judge, that he give the victim alcohol and that the sex was consensual. The Judge at the time told Pough that in the State of South Carolina, that a 14 year old can not consent to sex.

Case # 2017-514Name of Person Giving Statement
K [REDACTED] P [REDACTED]

Social Security Number

Address
[REDACTED]1-4-17

Current Time and Date

City, State, and Zip Code
Camden, SC 29020[REDACTED]-01 15

Date of Birth / Age

Phone Number: Home / Work / Cell
[REDACTED]

Jeremiah James was taking us to skateband. My sister C [REDACTED] was also with me and Jeremiah. Jeremiah went to his ^{house} instead. My friend J [REDACTED] showed with a few of his friends. I only knew D [REDACTED]. D [REDACTED] left J [REDACTED] at Jeremiah's house with my sister and I. J [REDACTED] said he didn't see her and Jeremiah anymore. Myself and Johnny were sitting in a heated car. So he got out & went around the house and saw Jeremiah on

I have made this foregoing statement freely and voluntarily, without fear, threat, promise of reward or hope of reward of any kind. This is to certify that I have read or had read to me the foregoing statement consisting of 2 pages and a true copy has been given to me this date.

Signature of Person Giving Statement
K [REDACTED] P [REDACTED]

Witness of Signature

Pages 1 of 2 PagesJawlin

Witness of Signature



KERSHAW COUNTY SHERIFF'S OFFICE

SHERIFF LEE BOAN

Case Notes

Printed on June 25, 2019

Julia Locklear, 02/06/17 10:47

I made contact with the mother of the victim, Becky Sullivan, at [REDACTED] and advised her about the forensic interviews we want to schedule for C [REDACTED] and K [REDACTED] advised her of the process and what the interviews entailed and advised her that we will schedule them in Florence and would get them done within the next week. She stated that she would like to contact the father of the girls and would get back with me with a good date for them within the next hour.

Becky did call me back and advised me that the girls are staying with their father and that I would need to call him about the interviews. I did call Donte Priester at [REDACTED] and informed him about the interviews. He stated that he is self employed at the time and that he will make the appointment whenever I schedule it for. He also stated that C [REDACTED] is going to be on home leave from Camden Middle School if he can get her doctor to sign off on it because of the mental state she is in after the incident. I called The Care House and got the appointment scheduled for both C [REDACTED] and K [REDACTED] on Wednesday, February 8 at 12:00 PM. I also scheduled a medical exam for C [REDACTED] for that same day. I then called Mr. Priester back and advised him of the appointment and he stated that he would be there with both girls. He is supposed to be calling me back to give me the social security number of C [REDACTED] for the purposes of the medical exam.

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Lt. Boykin, Sgt. Hathaway, Dep. Bass, and myself went to the [REDACTED] home. Once on scene we were meet in the yard by a male subject who identify himself as Jeremiah Pough. Pough was very visiblity upset. Pough stated "y'all are here for me" and "my life is over". Inv. Handy ask Pough to clam down. Pough was advice of his Miranda Right. Inv. Handy asked Pough what had happen. He began bye saying he had gone to the victims mother house and asked he if he could take the victim and her sister to Skateland. Pough stated that the girls didn't have enough money when they got to Skateland, so they decided to go back to his home and smoke marijuana and drink alcohol. Pough stated that he and the victim walked over to a section of the yard near the A/C unit. Pough stated once there, they began to have sex. Pough admits to penetrating the victim, by says it was consensual. Inv. HANDY TOLD THE SUSPECT THAT A 14 YEAR OLD CANT CONSENT TO SEX. At that time Pough was placed under arrest for Criminal Sexual Conduct and Contributing to the delinquency of a minor. While on scene Inv. Handy located to used condoms with body fluids in them, near the area were Pough and the victim stated the incident took place. These events are on body camera footage.

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Abby Trapp, 04/04/19 11:17

Redacted version of this report given to DSS per request from Kimberly Joiner on all reports for Reagan Sullivan

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

VICTIM “A.M.”



Kershaw County Fifth Judicial Circuit Public Index



Kershaw County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Jeremiah James Pough

Case Number:	2018A2810100287	Court Agency:	General Sessions	Filed Date:	03/28/2018
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Hood, Robert E
Disposition:	Pled Guilty				
Disposition Date:	11/10/2021	Date Received:	03/27/2018	Arrest Date:	03/26/2018
Law Enf. Case:	2018-0500	True Bill Date:	06/06/2018	No Bill Date:	
Prosecutor Case:		Indictment Number:	2018GS2800847	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	0162-Sex / Criminal sexual conduct - Third degree	0162-Sex / Criminal sexual conduct - Third degree	11/10/2021

STATE OF SOUTH CAROLINA

COUNTY OF Kershaw

STATE

VS.

Jeremiah James Pough

AKA:

Race: BLACK Sex: M Age: 27DOB: 1993 SS#: 4217Address: City, State, Zip: Elgin, SC 29045-9254DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS280847A/W#: 2018A2810100287Date of Offense: 6/20/2017S.C. Code § : 16-03-0654CDR Code #: 0162

RECOMMENDED

SENTENCE SHEET

NEGOTIATED

0-10 yrs.*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above Indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Sex / Criminal sexual conduct - Third degreeIn violation of § 16-03-0654 of the S.C. Code of Laws, bearing CDR Code # 0162☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Pauling, Curtis SC Bar# 68671 Defendant Sutherland IV, Tivis Colley Attorney for Defendant SC Bar# SCB69695

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 10 ~~years~~ months ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of 4 ~~years~~ months and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for 5~~years~~ and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ 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 SCDOC. 81 ~~days~~ months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS Jeremiah James Pough INDICTMENT/CASE#: 2018GS280847

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp. ☒ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☒ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
- ☐ Other: See Per Manent Restraining Order

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2842(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$
\$100	\$
\$100	\$ 100.00
\$12	\$
\$25	\$
\$25	\$ 25.00
\$150	\$
\$41	\$
\$50	\$
\$40/ea	\$
TBD	\$ 375
\$500	\$
TBD	\$
TOTAL	\$ 128.75

Clerk of Court/ Deputy Clerk: Jeanette McBrideCourt Reporter: DCRP. Fitzgerald

Presiding Judge: _____

Judge Code: _____

Sentence Date: Nov 10, 2021

SCCA/217 (07/2021)

Page 2 of 2

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

INDICTMENT

At a Court of General Sessions, convened on JUNE 2018, the
Grand Jurors of Kershaw County present upon their oath:

CRIMINAL SEXUAL CONDUCT – THIRD DEGREE

That Jeremiah James Pough did in Kershaw County on or about June 20, 2017, engage in sexual battery with the victim, A [REDACTED] M [REDACTED], when the defendant knew or had reason to know that the victim was mentally defective, mentally incapacitated or physically helpless, in violation of Section 16-03-0654, 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.


DAN JOHNSON, SOLICITOR

WITNESSES

(S) Carmen T Ford
- Kershaw County Sheriff

ARREST WARRANT NUMBER

2018A2810100287

ACTION OF GRAND JURY

TRUE BILL

Janet C. Hasty
Foreperson of Grand Jury

Date:

JUN 06 2018

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018GS280847

The State of South Carolina

County of

Kershaw

COURT OF GENERAL SESSIONS

JUNE TERM 2018

K13

THE STATE
vs.

Jeremiah James Pough

Indictment for
SEX / CRIMINAL SEXUAL CONDUCT -
THIRD DEGREE

SC Code: 16-03-0654
CDR Code: 0162

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
2018 JUN -6 PM 2:42
JANET C. HASTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

STV ANT
2018A2810100287
STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Kershaw
THE STATE 2018-0500
against
Jeremiah James Pough
Address:
Elgin, SC 29045-9254
Phone: SSN: -4217
Sex: M Race: B Height: 5.5 Weight: 200
DL State: SC DL #:
DOB: 1993 Agency ORI #: SC0280000
Prosecuting Agency: Kershaw County Sheriff
Prosecuting Officer: Carmen T Ford - S00203
Offense: Sex / Criminal sexual conduct - Third degree

Offense Code: 0162
Code/Ordinance Sec: 16-03-0654
This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Jeremiah Pough
on 03/26/18

J. P. 54
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
1121 Broad Street
Camden, SC 29020

ORIGINAL

ORIGINAL

STATE BIRTH LINE
☒ County/ ☐ Municipality of
Kershaw
AFFIDAVIT
Personally appeared before me the affiant Carmen T Ford who
being duly sworn deposes and says that defendant Jeremiah James Pough
did within this county and state on or about 6/20/2017
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Kershaw
in the following particulars:
DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - Third degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on or about June 20, 2017 the defendant Jeremiah James Pough did commit the offense of Criminal Sexual Conduct-3rd
degree. To wit: the defendant did knowingly and willingly preform a sexual battery on the victim (A. M.) while the victim
was unconscious from intoxication. The defendant did preform a sexual act by penetrating the victim's vagina with his penis. The
defendant did preform the sexual battery after the victim had fallen asleep from consuming alcohol and marijuana. The victim's
statement and Forensic Interview have been secured to prove the same. This incident did occur at Elgin, SC Kershaw
County.

Signature of Affiant
STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Kershaw

Affiant's Address 821 Ridgeway Rd.
Lugoff, SC 29078-
Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/20/2017 defendant Jeremiah James Pough
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Kershaw) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - Third degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 3/23/2018

Signature of Issuing Judge
James E Davis Jr
Judge Code: 7278
(L.S.)

Judge's Address Post Office Box 23 2018 PM 1:57
Camden, SC 29021-

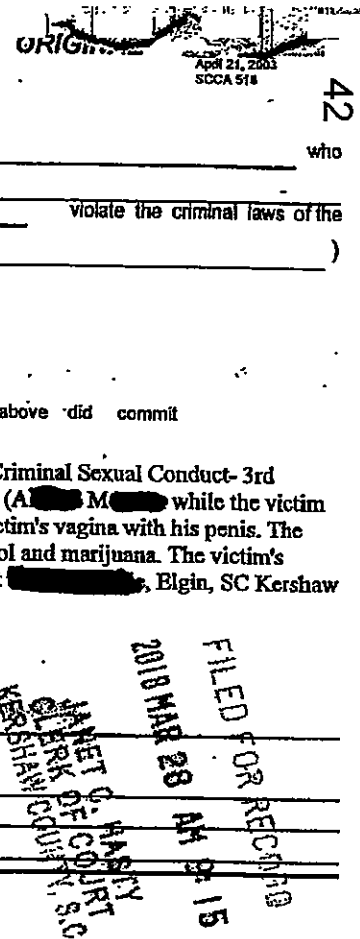
Judge's Telephone (803)425-7226

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL



AIL set by

Judge

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS



STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

IN THE COURT OF GENERAL SESSIONS
FOR THE 5TH JUDICIAL CIRCUIT

Indictment No(s): 2018-GS-28-0847

STATE OF SOUTH CAROLINA,)

vs.)

JEREMIAH POUGH,)

Defendant.)

**CONSENT PERMANENT
RESTRAINING ORDER**

FILED FOR RECORD
2021 NOV 19 PM 2:43
KERSHAW COUNTY, S.C.

This matter is before the Court pursuant to the Defendant's guilty plea to Criminal Sexual Conduct Third Degree. The Court heard this guilty plea on November 10th, 2021. As a result of the Defendant Jeremiah Pough's guilty plea, it is hereby ordered that:

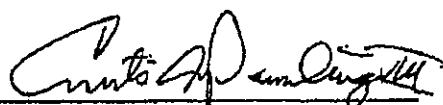
IT IS HEREBY ORDERED

1. Defendant Jeremiah Pough shall not abuse, threaten to abuse or molest the victim, A█████ M█████.
2. Defendant Jeremiah Pough shall not enter or attempt to enter the place of residence, educational facility, or place of employment of the victim, A█████ M█████.
3. Defendant Jeremiah Pough shall not communicate or attempt to communicate, directly or indirectly, with the victim, A█████ M█████ in any way that would violate this order.
4. Violation of this order is a felony criminal offense punishable by up to five (5) years in prison.
5. This permanent restraining order shall remain in effect for a term of ten (10) years to end on November 10th, 2031.

AND IT IS SO ORDERED.

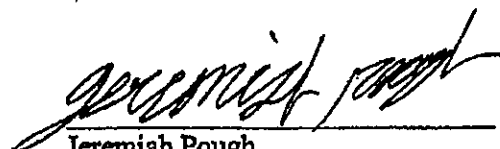
November 10, 2021
Columbia, South Carolina

WE SO CONSENT:


Curtis A. Pauling, III
Deputy Solicitor
Fifth Judicial Circuit


Presiding Judge
Fifth Judicial Circuit


Tivis Sutherland
Attorney for Defendant


Jeremiah Pough
Defendant

CLERK OF COURT
Kershaw County, S.C.

FILED FOR RECORD
2021 NOV 19 PM 2:43



KERSHAW COUNTY SHERIFF'S OFFICE

SHERIFF LEE BOAN

Case P2018-00500

Printed on March 23, 2022

Status	Approved
Report Type	Patrol
Primary Officer	Jerry Barnwell
Investigator	Carmen Ford
Reported At	02/12/18 18:22
Incident Date	02/12/18 18:22 - 02/12/18 18:22
Incident Code	1135 : RAPE / SEXUAL ASSAULT
Location	821 RIDGEWAY RD, SC 29078
Zone	LUGOFF
Disposition	Closed - Charges Filed
Disposition Date/Time	03/23/18 10:51
Review for Gang Activity	None

Status Indicator	Administratively Closed
Status Change Date	3/23/18

Offender

POUGH, JEREMIAH JAMES

Male, DOB [REDACTED]/93

16-3-654 - CRIMINAL SEXUAL CONDUCT 3RD
DEGREE

[REDACTED]
ELGIN, SC 29045

[REDACTED] Home

Suspect

POUGH, JEREMIAH JAMES

Male, DOB [REDACTED]/93

16-3-654 - CRIMINAL SEXUAL CONDUCT 3RD
DEGREE

[REDACTED]
ELGIN, SC 29045

[REDACTED] Home

Victim

M [REDACTED], A [REDACTED]

Female, DOB [REDACTED]/00

16-3-654 - CRIMINAL SEXUAL CONDUCT 3RD
DEGREE

[REDACTED]
IRMO, SC 29063

[REDACTED] Cell

Primary Narrative By Jerry Barnwell, 02/13/18 02:10

ON 02/12/2018 I WAS DISPATCHED TO THE SHERIFF'S OFFICE IN REFERENCE TO A WALK IN. UPON ARRIVAL I WAS MET BY A [REDACTED] M [REDACTED] WHO STATED THAT SHE WAS SEXUALLY ASSAULTED. M [REDACTED] STATED THAT ON 06/20/2017 M [REDACTED] WAS INTOXICATED IN THE AREA OF LATITUDE BAR IN COLUMBIA SOUTH CAROLINA. M [REDACTED] STATED THAT SHE WAS OFFERED A RIDE BY A STRANGER THAT WAS LATER IDENTIFIED AS JEREMIAH POUGH WHO WAS OPERATING A BLACK IN COLOR CHEVY CAMARO. M [REDACTED]

STATED THAT SHE ACCEPTED THE RIDE AND WAS TAKEN TO THE LUGOFF AREA OF KERSHAW COUNTY SC BY POUGH. M [REDACTED] STATED THAT DURING THE RIDE SHE WAS GOING IN AND OUT OF CONSCIOUSNESS. M [REDACTED] STATED THAT ONCE SHE ARRIVED AT POUGH'S RESIDENCE SHE PASSED OUT AGAIN AND THEN WOKE UP. M [REDACTED] STATED THAT SHE THEN WOKE UP AGAIN AND OBSERVED POUGH SEXUALLY ASSAULTING M [REDACTED]. M [REDACTED] STATED THAT IN THE MORNING HOURS OF 06/20/2017 SHE WOKE UP ON THE FRONT PORCH OF THE RESIDENCE WITH HER SHORTS PULLED DOWN TO M [REDACTED] FEET AND M [REDACTED] WAS COVERED WITH A TABLE CLOTH. M [REDACTED] STATED THAT SHE THEN MADE CONTACT WITH POUGH AND POUGH TOOK M [REDACTED] TO A FRIENDS HOUSE. M [REDACTED] COMPLETED A WRITTEN STATEMENT ON THE INCIDENT AND M [REDACTED] WAS ISSUED A VICTIMS FORM. THE WRITTEN STATEMENT WAS FORWARDED TO INVESTIGATIONS ON 02/13/2018.


KERSHAW COUNTY SHERIFF'S OFFICE

Sheriff Jim Matthews 821 Ridgeway Road, Lugoff S.C. 29078
(803) 425-1512

Case Notes

Printed on March 23, 2018

Carmen Ford, 02/16/18 09:18

I called and spoke with A [REDACTED] M [REDACTED] and she stated she is willing to talk about this situation and she will come to the sheriff's office on Monday 2/19/18 around 3:00pm to talk with me.

Carmen Ford, 02/20/18 09:20

I spoke with A [REDACTED] M [REDACTED], she stated she will come to the sheriff's office today around 1:00 pm to speak with me.

Carmen Ford, 02/20/18 14:40

A [REDACTED] M [REDACTED] came to the sheriff's office to speak with me and she stated that she is willing to do a forensic interview. She stated that she waited almost 7 months to report this incident because she felt that since she did not have a medical exam done that nothing could be done about the situation. She stated she has been bothered by this issue since it happened and she has spoke with her parents about it and they also feel like she should pursue the issue. She stated she would keep remembering the incident and wanted to seek help. She stated that Pough added her on snapchat the night he picked her up from the bar. She stated she remembers being on his front porch but then she passed out on a couch on the porch. She stated she woke up and saw Pough having sex with her but she was too intoxicated to forcefully push him off. She stated she kinda pushed him with her legs then curled up in a fetal position then passed back out. She believes he stopped when she kicked him off. She stated she woke up the next morning still on the couch outside on the porch with her pants down to her ankles and was covered up with a table cloth or sheet. She stated Pough was sitting on the couch beside her and she pulled her pants up when she realized what had happened then demanded him to take her home. She stated he tried to brush it off and tried to get her to stay awhile but she told him "take me the fuck home now". She stated she got him to take her to a friends house in Columbia.

I will get with the VA and get a forensic interview set up and I will contact A [REDACTED] with the details.

Carmen Ford, 03/13/18 09:21

A Forensic interview has been set up for A [REDACTED] M [REDACTED] on March 20, 2018 at 1:00 pm in Columbia, SC

Carmen Ford, 03/19/18 09:56

I tried to make contact with Jeremiah Pough but there was no answer. I left a voicemail for him to call me back.

Carmen Ford, 03/21/18 15:16

On 3/20/18 A [REDACTED] M [REDACTED] had her forensic interview in Columbia, SC. I went and observed the interview. A [REDACTED] stated everything almost identical to what she filed in the report and to what she stated happened in her written statement. A [REDACTED] was very open to the questions and gave a lot of detail to the interviewer. She stated that she has not had any contact with Jeremiah since the incident.

When asked why she waited to file a report, she stated that after it happened she just tried to block it out but it kept weighting on her and with the help of her family and friends she got the courage to file a report about the sexual assault. From my perspective and the forensic interviewer, we both believe A [REDACTED] was genuine and telling the truth due to her detail and openness about the situation.

On 3/21/18 Jeremiah called me in reference to me coming and trying to speak with him. He stated he was willing to come in and speak with me at the office tomorrow 3/22/18 around 3-4pm.

Carmen Ford, 03/22/18 10:57

I went this morning and retrieved a search warrant for Jeremiah Pough's residence on [REDACTED] Elgin, SC. Judge

K. ZUERCHER

Davis was the judge that signed the search warrant. I will go out to the residence this afternoon and issue the search warrant.

Carmen Ford, 03/22/18 14:47

Today around 1:45 pm myself and victim's advocate Locklear went to [REDACTED], Elgin, SC to execute the search warrant that I received from this morning. We arrived and Jeremiah Pough was home. I read him the search warrant and began taking photos of the residence and the porch. I was able to take photos of the front porch, the outdoor furniture and the residence itself. I also found in the back sun room two floral printed blankets/sheets. Those two blankets/sheets were very close in description to what the victim disclosed was on her the night of the incident. I collected in a large evidence bag both the large brownish/blue/greenish floral blanket and the thin green/pink floral sheet.

I was able to take photos of the sun room where I found the floral blankets/sheets and I continued to photograph the residence. I did not collect anything else from the residence. The only items collected were photographs and the two floral blankets/sheets.

After conducting the search warrant, I signed Jeremiah's copy and issued him his copy of the search warrant.

I placed the two blankets/sheet into evidence at the Kershaw County Sheriff's Office.

Carmen Ford, 03/23/18 10:48

After executing the search warrant yesterday at Jeremiah's residence and finding what could be the blanket/sheet that was used to cover up the victim and having photos to prove the same as what the victim described, I typed up a warrant for Jeremiah's arrest. The warrant is for Criminal Sexual Conduct-3rd degree. I went to the court house and had my search warrant returned signed off by Judge Davis and Judge Davis signed the arrest warrant.



KERSHAW COUNTY SHERIFF'S OFFICE

SHERIFF LEE BOAN

Case Notes

Printed on June 25, 2019

Carmen Ford, 02/16/18 09:18

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Carmen Ford, 02/20/18 09:20

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Carmen Ford, 02/20/18 14:40

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When asked why she waited to file a report, she stated that after it happened she just tried to block it out but it kept weighting on her and with the help of her family and friends she got the courage to file a report about the sexual assault. From my perspective and the forensic interviewer, we both believe A. Mc. was genuine and telling the truth due to her detail and openness about the situation.

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Carmen Ford, 03/22/18 10:57

I went this morning and retrieved a search warrant for Jeremiah Pough's residence on [REDACTED], Elgin, SC. Judge

Made by ZUERCHER

Page 1 of 2

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Carmen Ford, 03/22/18 14:47

Today around 1:45 pm myself and victim's advocate Locklear went to [REDACTED] Iva Circle, Elgin, SC to execute the search warrant that I received from this morning. We arrived and Jeremiah Pough was home. I read him the search warrant and began taking photos of the residence and the porch. I was able to take photos of the front porch, the outdoor furniture and the residence itself. I also found in the back sun room two floral printed blankets/sheets. Those two blankets/sheets were very close in description to what the victim disclosed was on her the night of the incident. I collected in a large evidence bag both the large brownish/blue/greenish floral blanket and the thin green/pink floral sheet.

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Steve Knafelc, 05/31/18 16:36

KNAFELC DID PLACE THIS CASE JACKET UP FRONT OFFICE

VOLUNTARY STATEMENT

DATE 2/12/18TIME 6:40 M. PLACE LugoffI, A [REDACTED] M [REDACTED], am 17 years old and I live at [REDACTED]ct Irmo, SC 29063I am giving this statement to Jerry Bamwell I.D. 42, who has identifiedhimself as a Deputy Sheriff

and he has duly warned me that I have the following rights: that I have the right to remain silent and not make any statement at all; that any statement I make may be used against me at my trial, that any statement I make may be used as evidence against me in court; that I have the right to have a lawyer present to advise me prior to and during any questioning; that if I am unable to employ a lawyer, I have the right to have a lawyer appointed to advise me prior to and during any questioning and that I have the right to terminate the interview at any time.

Prior to and during the making of the statement, I have and do hereby knowingly, intelligently, and voluntarily waive the above explained rights and I do make the following voluntary statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whomsoever.

On the night of June 20th I was blackout intoxicated and stranded in front of Latitude bar in five points. A stranger, who I now have identified as Jeremiah Pough, offered me a ride home out of the window of his black Camaro. I accepted the offer and entered the vehicle and ~~set~~ passed out. When I woke up again I saw vs. pass a sign for Lugoff Elgin, an hour in the opposite direction of ~~was~~ my home. When I asked where we were going he said we were going to smoke weed and then he would take me home. I fell back asleep and woke up at his home next, which was trailer like with a screen porch. He brought me to the porch and I sat on a couch outside while he rolled a blunt and lit it. I hit the blunt twice and passed back out. When I woke up again he was raping my unconscious body and I pushed him off and curled up. I did not have access to this memory until it was triggered months later. When I woke up in the morning my shorts had been pulled down to my feet and I was covered by a table cloth, the only reason I knew he had violated and raped me. Angered and scared I forced him to take me

I have read this statement consisting of 2 page(s), each page of which bears my signature, and I do affirm that all facts and statements contained herein are true and correct.

[Signature]
Signature of person making voluntary statement

The above warnings were given by and
this voluntary statement was taken by

[Signature]
Witness

(This must be one and the same person as named above)

VOLUNTARY STATEMENT

53

DATE 02-12-18 TIME 6:45 AM M. PLACE Lu90ft
 I, A [REDACTED] M [REDACTED], am 17 years old and I live at [REDACTED]
CT IRMO SC 20063

I am giving this statement to Jerry Bamwell I.D. 42, who has identified himself as a Deputy Sheriff

and he has duly warned me that I have the following rights: that I have the right to remain silent and not make any statement at all; that any statement I make may be used against me at my trial, that any statement I make may be used as evidence against me in court; that I have the right to have a lawyer present to advise me prior to and during any questioning; that if I am unable to employ a lawyer, I have the right to have a lawyer appointed to advise me prior to and during any questioning and that I have the right to terminate the interview at any time.

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to a friends house I had been staying at and he did. On the way home he spoke to a police officer about a warrant he had out for his arrest, offering to turn in another dope dealer. I was able to identify him because he added my snapchat, and giving me the name batman. I made a post on twitter sharing screenshots I had taken of his face asking if anyone knew him and was linked to his facebook page where he is wearing a batman shirt, has pictures of his black camera, and the front of the screen porch I was raped in in the background of a picture of a snowman. Further evidence to be found include video footage of me entering his vehicle taken on five points cameras.

I have read this statement consisting of 2 page(s), each page of which bears my signature, and I do affirm that all facts and statements contained herein are true and correct.

[Signature]
 Signature of person making voluntary statement

The above warnings were given by and this voluntary statement was taken by

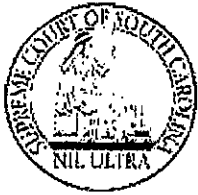
Witness

(This must be one and the same person as named above)

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

FILED FOR RECORD
2022 APR -4 AM 11:54
JANET C. HASTY
CLERK OF COURT
Kershaw County, S.C.

VICTIM "M.W."



Richland County Fifth Judicial Circuit Public Index



[Richland County Home Page](#) [Online Payments](#) [Public Index](#) [City of Columbia Municipal Ct](#) [S.C. Judicial Department](#) [Summary Ct Dockets](#)

Switch View

State of South Carolina vs Jeremiah James Pough

Case Number:	2019A4011200576	Court Agency:	Richland County General Sessions	Filed Date:	07/01/2019
Case Type:	Richland-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Hood, Robert E
Disposition:	Pled Guilty				
Disposition Date:	11/10/2021	Date Received:	07/01/2019	Arrest Date:	06/24/2019
Law Enf. Case:	1906019807	True Bill Date:	09/12/2019	No Bill Date:	
Prosecutor Case:		Indictment Number:	2019GS4006093	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	0397-Sex / Criminal sexual conduct with minor, or Attempt - victim under 16 years of age - Second degree	0397-Sex / Criminal sexual conduct with minor, or Attempt - victim under 16 years of age - Second degree	11/10/2021

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Jeremiah James Fough

AKA:

Race: _____ Sex: M Age: 27

DOB: [REDACTED]-1993 SS# [REDACTED]-4217

Address: [REDACTED]

City, State, Zip: Elgin, SC 29045-9254

DL#: [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS4006093 ...

A/W#: 2019A4011200576

Date of Offense: 5/7/2019

S.C. Code § : 16-03-0655(B)(2)

CDR Code #: 0397

RECOMMENDATION: _____
NEGOTIATION: _____

204

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above Indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Sex / Criminal sexual conduct with minor, or Attempt - victim under 16 years of age - Second degree

in violation of § 16-03-0655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0397

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-4
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Browder, Anna

SC Bar#

Defendant

Goode, Allcia Dyar
Attorney for Defendant

SCB100067

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,

for a determinate term of 10 ~~months~~ ^{years} ~~Life Sentence~~ ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of 4 ~~days~~/months/years/Terms Served and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5 _____

~~24 months~~ years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ 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 SCDOC.

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS Jeremiah James Pough INDICTMENT/CASE#: 2019GS4006093

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp. ☒ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☒ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours.☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.☐ Other: See Permanent Restraining Order☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§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	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114(BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$	
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	
TOTAL		\$	128.75

Clerk of Court/ Deputy Clerk: Jeanette McBrideCourt Reporter: Rep. Fitzgerald

SCCA/217 (07/2021)

Presiding Judge: _____

Judge Code: _____

Sentence Date: Nov 10, 2021

WITNESSES

(S) Glenn Oxendine

- Richland County Sheriff Dept

ARREST WARRANT NUMBER

2019A4011200576

ACTION OF GRAND JURY

TRUE BILL

Heather R. Pugh
Foreperson of Grand Jury

Date:

SEP 12 2019

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019GS4006093

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2019

11

THE STATE

vs.

Jeremiah James Pough

**Indictment for
SEX / CRIMINAL SEXUAL CONDUCT WITH
MINOR, OR ATTEMPT - VICTIM UNDER 16
YEARS OF AGE - SECOND DEGREE**

SC Code: 16-03-0655(B)(2)

CDR Code: 0397

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on September 10, 2019,
the Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
2nd DEGREE (AGE 11-14)

That Jeremiah James Pough did in Richland County, State of South Carolina, on or between May 7, 2019 and June 7, 2019, willfully, unlawfully and feloniously engage in sexual battery with a minor M██████ W██████ who was less than fourteen (14) years of age but who was at least eleven (11) years of age, whose date of birth is ████████, 2003, and the said Defendant was in a position of familial, custodial, or official authority to coerce the said victim to submit and/or the defendant was older than the victim, in violation of Section 16-03-655(C) [formerly Section 16-3-655(3)], 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.



BYRON E. GIPSON, SOLICITOR

ARREST WARRANT

2019A4011200576

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Hopkins Magistrate

THE STATE

1906019807

against

Jeremiah James Pough

Address:

Elgin, SC 29045-9254

Phone: (853) SSN: 2-4217

Sex: M Race: B Height: 5 5 Weight: 200

DL State: SC DL #:

DOB: 1993 Agency ORI #: SC0400000

Prosecuting Agency: Richland County Sheriff

Prosecuting Officer: Glenn Oxendine - S00599

Offense: Sex / Criminal sexual conduct with minor, or
Attempt - victim under 16 years of age - Second

Offense Code: 0397

Code/Ordinance Sec: 16-03-0655(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Hopkins Magistrate
2500 Decker Boulevard
Columbia, SC 29206

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Hopkins Magistrate

Personally appeared before me the affiant Glenn Oxendine

being duly sworn deposes and says that defendant Jeremiah James Pough

did within this county and state on or about 5/7/2019

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Richland / Hopkins Magistrate

In the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor, or Attempt - victim under 16 years of age - Second degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on or about 5/07/2019-6/7/2019 while at 1613 Lower Richland Blvd in the Hopkins Magisterial District of Richland County, one Jeremiah James Pough did commit the crime of CSC 2nd/ Statute Number 16-3-655 (B)(2). It is believed the defendant committed the crime because the def who is older than the victim did engage in the sexual battery of the victim by kissing the victims body and then placing his hands down the victims shorts. The victim who is a minor disclosed in a Forensic Interview that the def did place his hands down her shorts and began rubbing her genitals and in doing so the victim began to feel pain which the victim was able to get the def to stop. The def also attempted to grab the victims breast by sticking his hand underneath her shirt. The victim was able to get away from the def and notified her grandmother. The victim knows the subject by name and sight. Affiant and others are witness to prove same

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Hopkins Magistrate

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/7/2019

defendant Jeremiah James Pough

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of

Richland / Hopkins Magistrate

) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor, or Attempt - victim under 16 years of age - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me
on 6/21/2019

Signature of Issuing Judge (L.S.)

Valerie R. Stroman

Judge Code: 5021

Judge's Address 2500 Decker Blvd

Columbia, SC 29206-

Judge's Telephone (803)576-2530

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

who

violates the criminal laws of the

)

RICHLAND COUNTY SHERIFFS DEPT

5623 TWO NOTCH RD COLUMBIA, SC 29223

803-576-3000



Case #: 1906019807

Incident #: 1906019807

Event**1613 Lower Richland Blvd SC SOUTH CAROLINA 29061**

Incident Description: ALL OTHER CRIMINAL VIOLATIONS
 Incident Start Date: 06/07/2019 11:07:00
 Incident End Date: 06/07/2019 11:07:00
 Reported Date: 06/07/2019 11:07:00
 City: HOPKINS
 Region: REGION 1
 Weapon Code:
 Case Status: ACTIVE
 Exceptional Clearance: NOT APPLICABLE
 How Reported:
 NCIC Entered: No

Suspects (1)**Pough, Jeremiah**

Person Number: 1
 DOB:
 Age: 25
 Race: BLACK OR AFRICAN AMERICAN
 Sex: MALE
 Resident Status: JURISDICTION
 Ethnicity: NOT HISPANIC OR LATINO
 Apt/Rm/Bldg:
 County:
 Primary Phone:
 Email:
 Facial Hair:
 Misc ID Type:
 Occupation Code/Description:
 Ste/Bldg:
 Email/Website:

RICHLAND COUNTY SHERIFFS DEPT

5623 TWO NOTCH RD COLUMBIA, SC 29223

803-576-3000



Case #: 1906019807

Incident #: 1906019807

Victim (1)**W [REDACTED], M [REDACTED]**

Victim Type: PERSON/INDIVIDUAL (NOT A LAW ENFORCEMENT OFFICER)
Person Number: 1
DOB: [REDACTED] 2003
Age: 15
Race: WHITE
Sex: FEMALE
Ethnicity: NOT HISPANIC OR LATINO
Address: [REDACTED]
City: HOPKINS
State: SC SOUTH CAROLINA
Zip Code: 29061
County: Richland
Primary Phone: [REDACTED] 1
Email:
Resident Status: JURISDICTION
SID Number:
Email:
Email/Website:

Complainant Data (1)**DEPARTMENT OF SOCIAL SERVICES**

Business Number: 1
Address: 3220 TWO NOTCH RD
Sta/Bldg:
City: COLUMBIA
State: SC SOUTH CAROLINA
Zip Code: 29204
County: Richland
Phone 1: (803)-714-7300

Victim'S Guardian Data (1)**Smith, Virginia**

Person Number: 1
Address: [REDACTED]
City: HOPKINS
State: SC SOUTH CAROLINA
Zip Code: 29061
County: Richland
DOB: [REDACTED] 1959
Age: 60
Race: WHITE
Sex: FEMALE
Ethnicity: NOT HISPANIC OR LATINO

RICHLAND COUNTY SHERIFFS DEPT

5623 TWO NOTCH RD COLUMBIA, SC 29223

803-576-3000



Case #: 1906019807

Incident #: 1906019807

Resident Status:

JURISDICTION

Phone 1:

Email:

Misc. Associated Names Data (1)**Smith, Stephanie**

Person Number:

2

Address:

City:

HOPKINS

Zip Code:

29061

County:

Richland

DOB:

1990

Age:

28

Race:

WHITE

Sex:

FEMALE

Ethnicity:

NOT HISPANIC OR LATINO

Resident Status:

JURISDICTION

Phone 1:

Email:

Offenses (1)

Attempted/Completed:

Attempted

Completed:

Yes

Units Entered:

Bias Motivation:

NOT A BIAS MOTIVATED INCIDENT

Offender Suspected of Using:

Not Applicable

Cargo Theft:

Vehicle (0)

Style:

Type Of Loss:

Property (0)

Miscellaneous:

Drug (0)

Property Class:

RICHLAND COUNTY SHERIFFS DEPT

5623 TWO NOTCH RD COLUMBIA, SC 29223

803-576-3000



Case #: 1906019807

Incident #: 1906019807

Gun (0)

Make:

Narrative (1)

Dickman, Elizabeth C336

06/07/2019

It was reported to DSS that the child (M[REDACTED] W[REDACTED]) lives with her grandmother (Virginia Smith) and Maternal Aunt (Stephanie Smith) at the I/L. It was reported that the victim is being sexually molested by her Aunt's boyfriend (Jeremiah Pough) who also resides in the home. When the grandmother became aware of the allegations, she immediately moved the victim out of the home and she is currently staying with a cousin at 4[REDACTED], 2922. DSS Case Manager assigned is Crystal Heyward. When Ms. Heyward made initial contact with the victim, she shut down and was not able to talk about what was going on in the home. Therefore, Ms. Heyward is referring the victim to the METCAC for a forensic interview (intake has already been sent in).

Body Worn Camera:

OFF (EXPLAIN IN NARRATIVE)

Author Name:

Elizabeth Dickman

Officer (2)

Reporting Officer:

Dickman, Elizabeth (C336)

Approving Officer:

Uindler, Christopher (815)

06/13/2019 09:40:37

Attachment Data (1)

Description:

File Name: DSS intake Jeremiah Pough.pdf

RICHLAND COUNTY SHERIFFS DEPT

5623 TWO NOTCH RD COLUMBIA, SC 29223
803-576-3000



Case #: 1906019807

Incident #: 1906019807

Incident Information

1613 Lower Richland Blvd SC SOUTH CAROLINA 29061

Suspect Information (1)

Pough, Jeremiah

Victim Information (1)

Walls, Michelle

Phone 1: [REDACTED]

Complainant Data (1)**DEPARTMENT OF SOCIAL SERVICES**

Address: 3220 TWO NOTCH RD
State: SC SOUTH CAROLINA
Zip Code: 29204
County: Richland
Organization Number: 1
Phone 1: (803)-714-7300

Victim's Guardian Data (1)

Smith,

Phone 1: [REDACTED]

Narrative (1)

06/17/2019

6/18/2019 The victim was interviewed at the Met CAC where she disclosed that she had been inappropriately touch by her aunts live in boyfriend Jeremiah Pough. The victim disclosed that over the last several months the subject has on different occasions put his hands on the victim. The victim stated that in one incident that the victim actually put his hands down her shorts and began rubbing her private area and then she felt pain. The victim stated that while her aunt Stephanie Smith was at work she would play the PS4 with the subject and that on occasions he would rub her legs and even offer to to put lotion on her.

During the victim's Forensic Interview she disclosed that she had told her aunt Stephanie Smith

All this information had been reported to DSS and the assigned case worker is Crystal Heyward. DSS did put in place a safety plan which the victim was staying with another family member at a different location.

RICHLAND COUNTY SHERIFFS DEPT

5623 TWO NOTCH RD COLUMBIA, SC 29223

803-576-3000



Case #: 1906019807

Incident #: 1906019807

6/24/2019 The I/O made contact with the subject Jeremiah Pough at [REDACTED] and took him into custody. Pough was allowed to get a shirt and shoes prior to him being transported to 1931 Pineview Road. Once arriving at 1931 Pineview Road Pough was advised of his Miranda Rights which he waived and made a statement.

(Video) Jeremiah Pough stated that he hasn't been alone with the victim and that he and his girlfriend Stephanie Smith want to give her some guidance. Jeremiah denied ever placing hands on the victim and denied the fact that he put lotion on her. Jeremiah also denied ever playing the PS4 alone with her. Jeremiah did describe an event where the victim came into his room that he was sharing with his girlfriend Stephanie stating that the victim had just gotten out of the shower and she came into his room looking for something. Jeremiah stated that the victim came into the room with just a towel on and that it was around her waist, she was using her arms to cover her top part. Jeremiah stated that when the victim came in he said something to her like she needed to leave but she went into the bathroom in that bedroom and then came back out and left the room.

Jeremiah Pough was transported to the Alvin S Glen Detention Facility for further processing.

This case is cleared by arrest...(CJ)

Author Name:

Inv. Oxendine, G

Officer (1)

Investigating Officer:

Oxendine, Glenn (1456)

06/17/2019 13:34:00



RICHLAND COUNTY SHERIFF'S DEPARTMENT

CASE SUMMARY

Type of offense: CSC 2nd

Date of offense: 5/7/2019

Location of offense: 1613 Lower Richland Blvd

Case Number: 1906019807

Case Officer: Inv. Oxendine, G

No. of hours to prepare case: _____

Review by Solicitor: _____

Approval by Lieutenant: _____

Victim: W. Ma

Phone:

Address:

Age: 15

Emergency Contact: Smith, Virginia

Phone:

Address:

Subjects: 1

1. Pough, Jeremiah James

Address: Elgin, SC

Phone: _____

2. _____

Address: _____

Phone: _____

3. _____

Address: _____

Phone: _____

Date of Arrest:

1. 6/24/2019

2. _____

3. _____

Bond:

Amount:

Judge:

1. N/A

2. _____

3. _____

Amount of property stolen: _____

Amount of property recovered: 0

Chain of custody: 1. _____

2. _____

3. _____

Type of evidence: 1. _____

2. _____

3. _____

Evidence retained at: 1. _____

2. _____

3. _____

SPECIAL ATTENTION SOLICITOR

Case officer wants to be present at all pleadings: Yes: X No

Is suspect a career criminal? Yes: X No:

It was reported to DSS that the victim who is a minor had been fondled by the suspect while at . The suspect was residing at this location with his girlfriend Stephanie Smith who is the aunt of the victim. The victim disclosed in a Forensic Interview that when her aunt went to work usually in the afternoon until late at night that the suspect would allow the victim to into his room and that while playing PS4 or game he would begin rubbing her legs and once even began kissing on her legs. The victim stated that it was during

one of these times the suspect actually put his hands down her pants, under her underwear and began rubbing her vagina to the point she felt pain.

South Carolina Department of Social Services
DETERMINATION FACT SHEET

Hand Delivered 69
to Alvin S. Glenn

Case Name: Jeremiah Pough

Case Number: 0000024596

Address: [REDACTED]

Hopkins SC 29061

As of 06/19/2019, it is the decision of the department that the investigation/assessment
initiated on 06/04/2019 has been INDICATED for the following forms
of maltreatment: Sexual Abuse as supported by the facts and observations
recorded below and in the county investigative/assessment file.

Facts/Observations	Supporting Documentation/Evidence
M [REDACTED] W [REDACTED] was sexually assaulted by Mr. Jeremiah Pough.	Summary of Allegations
M [REDACTED] was seen at the METCAC for a forensic interview and forensic medical interview. There were observed text messages between victim child and adults where the child disclosed the behaviors of Mr. Jeremiah Pough. Stephanie Smith failed to protect M [REDACTED] and subjected the child to have continuous contact with Mr. Pough, putting her at risk to be sexually assaulted again.	Client Statment Casemanager Observation Collateral Contact
***The child is no longer in the home. The child does not have contact with Ms. Stephanie Smith and Mr. Jeremiah Pough.	Case Decision Staffing: Case indicated against Jeremiah Pough for Sexual Abuse

For indicated investigations/assessments, check all that apply:

- ☐ You have been identified as the person responsible for harm to a child. (See attached DSS Form 3089.)
- ☐ A child with whom you are involved has been identified as being abused and/or neglected by state statute. You have not been identified as being responsible for the maltreatment. This information is being provided to you solely because of your legal relationship to the child.
- ☐ A child for whom you are the caretaker has been determined to be abused and/or neglected.
 - ☐ **Day Care Facility:** The matter will be referred to your employer and the DSS Division of Child Day Care Licensing and Regulatory Services for action. (See attached DSS Ltr. 3061.)
 - ☐ **Foster Homes, Group Homes and Residential Facilities:** See the attached letter for additional information regarding appeal of this decision. (See attached DSS Ltr. 3061.)
- ☐ A child has been determined to have been harmed while at your child care facility. The DSS Division of Child Day Care Licensing and Regulatory Services will contact you regarding a corrective action plan and/or any other actions needed to insure the safety of children.

For unfounded investigations/assessments:

- ☐ See attached DSS Form 3085.

C. Hayward
Worker's Signature

6/19/19
Date

[Signature]
Supervisor's Signature

6/19/19
Date

New Case Intake

General Information *

Alleged Victim/Client Name	Alleged Victim/Client Biological Sex	Presenting - Reason for Referral	Presenting - Alleged Maltreatment(s)	Date Case Received by CAC	CAC Case Number	Alleged Victim/Client County
W [REDACTED] M [REDACTED]	F	Allegation of Abuse	Sexual abuse	06/06/2019	2019-962	Richland County

Case Comments

Alleged Victim/Client Date of Birth	Alleged Victim/Client Age	Alleged Victim/Client Race (NCA)	Alleged Victim/Client Address	ARC Case Comments
[REDACTED]/2003	15 years	White	[REDACTED] Columbia, SC 29229	

Co- Victims *

No data found.

Referral Information *

Presenting - Referral Source (Personnel)	Presenting - Referral Source (Agency)	Presenting - Referral Source Personnel Contact Info	Receiving Intake
Crystal Heyward	Richland County DSS		Kristin Dixon

Description *

Presenting - Incident Narrative Description
M [REDACTED] is reportedly being sexually molested by her uncle (aunt's paramour). The child stated to CM Heyward that Jeremiah Pough rubbed her legs, made her lay on her back on the bed and rubbed her chest, then forcefully removed her pants. She stated this happened more than one time.

FI Appointment *

FI Session - Date	FI Session - Start Time	FI Session - Status
06/18/2019	08:45 AM	Scheduled

Medical Appointment *

Med Visit - Date	Med Visit - Start Time	Med Visit - Status
06/18/2019	08:45 AM	Scheduled

Law Enforcement *

LE - Investigator (Agency)	LE - Investigator (Personnel)	Contact Number	LE - Case Number
Richland County Sheriff's Dept	G. Oxendine		1906019807

CPS *

CPS - Investigator (Agency)	CPS - Investigator (Personnel)	Contact Number
Richland County DSS	Crystal Heyward	

Caregiver Information *

Caregiver Name	Caregiver Relationship to Alleged Victim/Client	Caregiver Address	Caregiver Home Phone Number	Caregiver Cell Phone Number	Caregiver Race	Caregiver Work Phone Number
Smith, Virginia	MGM / Step-MGM	[REDACTED] Road Columbia, SC 29229	[REDACTED]	[REDACTED]	White	

Alleged Offender Information *

Alleged Offender Name	Alleged Offender Relationship to Alleged Victim/Client	Alleged Offender Age at Time of Referral	Alleged Offender Date of Birth	Alleged Offender Biological Sex	Alleged Offender Race	Alleged Offender Address	Alleged Offender County	Convictions - Sex Offender
Pough, Jeremiah James	Other Family	25 years	[REDACTED]/1993	M	Black/African American	[REDACTED] Columbia, SC	Richland County	

Insurance Information Primary *

Ins. - Primary Company Name

FI: DSS, M: Insurance
Accompanied By: *Accompanied by:
maternal grandmother

Interpreter Service *

Interpreter Service
Not Required

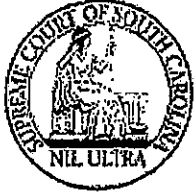
This report is private and confidential.

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

FILED FOR RECORD
2012 APR -4 AM 11:54
JANET C. HASTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

PETITIONER'S EXHIBIT

D



Kershaw County Fifth Judicial Circuit Public Index



[Kershaw County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Jeremiah James Pough

Case Number:	5102P0663605	Court Agency:	Kershaw County Magistrate Court	Filed Date:	07/06/2017
Case Type:	Criminal	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Todd, Roderick M. Jr.	Disposition Judge:	Trapp, Donnie Allen
Disposition:	TIA Guilty Bench Trial Fine Only				
Disposition Date:	07/26/2017	Date Received:		Arrest Date:	07/04/2017
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:		Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	3414-Assault / Assault & Battery 3rd degree	3414-Assault / Assault & Battery 3rd degree	07/26/2017



Kershaw County Fifth Judicial Circuit Public Index



[Kershaw County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Jeremiah James Pough

Case Number:	5102P0663603	Court Agency:	Kershaw County Magistrate Court	Filed Date:	07/06/2017
Case Type:	Criminal	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Todd, Roderick M. Jr.	Disposition Judge:	Trapp, Donnie Allen
Disposition:	TIA Guilty Bench Trial Fine Only				
Disposition Date:	07/26/2017	Date Received:		Arrest Date:	07/04/2017
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:		Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	3414-Assault / Assault & Battery 3rd degree	3414-Assault / Assault & Battery 3rd degree	07/26/2017



KERSHAW COUNTY SHERIFF'S OFFICE

SHERIFF LEE BOAN

Case P2017-02771

Printed on February 7, 2022

Status	Approved
Report Type	Patrol
Primary Officer	Meagan Wilson
Investigator	None
Reported At	07/04/17 03:58
Incident Date	07/04/17 03:58 - 07/04/17 17:57
Incident Code	1021 : CALL BY PHONE
Location	1188 JORDAN RD, LUGOFF, SC
Zone	LUGOFF
Disposition	Closed - Charges Filed
Disposition Date/Time	07/05/17 09:07
Review for Gang Activity	None
Status Indicator	Administrative
	Filler
Status Change Date	7/4/17

Arrestee

POUGH, JEREMIAH JAMES

Male, DOB [REDACTED] 5/93

[REDACTED]
ELGIN, SC 29045

[REDACTED] Home

16-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2 counts

61-4-110 - OPEN CONTAINER OF BEER OR WINE IN MOVING VEHICLE

44-53-370 - POSSESSION 28G OR LESS MARIJUANA/10G OR LESS HASH 1ST

Cited

POUGH, JEREMIAH JAMES

Male, DOB [REDACTED] 5/93

[REDACTED]
ELGIN, SC 29045

[REDACTED] Home

61-4-110 - OPEN CONTAINER OF BEER OR WINE IN MOVING VEHICLE

44-53-370 - POSSESSION 28G OR LESS

MARIJUANA/10G OR LESS HASH 1ST

16-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2 counts

Complainant

M [REDACTED], J [REDACTED] L [REDACTED]

Male, DOB [REDACTED] 5/96

[REDACTED]
LUGOFF, SC 29078

[REDACTED] Home

16-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2 counts

Offender

POUGH, JEREMIAH JAMES

Male, DOB [REDACTED] 6/93

[REDACTED]
ELGIN, SC 29045

[REDACTED] Home

44-53-370 - POSSESSION 28G OR LESS

MARIJUANA/10G OR LESS HASH 1ST

16-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2
counts61-4-110 - OPEN CONTAINER OF BEER OR WINE IN
MOVING VEHICLE**Suspect****POUGH, JEREMIAH JAMES**

Male, DOB [REDACTED] 6/93

[REDACTED]
ELGIN, SC 29045

[REDACTED] Home

16-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2
counts61-4-110 - OPEN CONTAINER OF BEER OR WINE IN
MOVING VEHICLE44-53-370 - POSSESSION 28G OR LESS
MARIJUANA/10G OR LESS HASH 1ST**Victim****M [REDACTED], J [REDACTED] L [REDACTED]**

Male, DOB [REDACTED] 7/96

[REDACTED]
LUGOFF, SC 29078

[REDACTED] Home

16-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2
counts**W [REDACTED], K [REDACTED] L [REDACTED]**

Female, DOB [REDACTED] 0/95

[REDACTED]
ELGIN, SC 29045

[REDACTED] Cell

16-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2
counts**Witness****M [REDACTED], J [REDACTED] L [REDACTED]**

Male, DOB [REDACTED] 7/96

[REDACTED]
LUGOFF, SC 29078

[REDACTED] Home

16-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2
counts**S [REDACTED], P [REDACTED] M [REDACTED]**

Male, DOB [REDACTED] 7/96

[REDACTED]
LUGOFF, SC 2907816-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2
counts**W [REDACTED], K [REDACTED] L [REDACTED]**

Female, DOB [REDACTED] 1/95

[REDACTED]
ELGIN, SC 29045

[REDACTED] Cell

16-3-600 - ASSAULT AND BATTERY 3RD DEGREE - 2
counts**Primary Narrative By Meagan Wilson, 07/04/17 18:04**

On July 4th, 2017 at 4:30 A.M. I was dispatched to 1 [REDACTED] Lugoff, SC Kershaw County for a disturbance. Upon arrival the victims began telling me what happened at the residence. The two victims (K [REDACTED] W [REDACTED] and J [REDACTED] M [REDACTED]) both stated that the suspect (Jeremiah Pough) was over at the house hanging out with them and drinking. W [REDACTED] stated that Pough had been acting in a sexual manner towards her and she had finally had enough and said something to him about it. W [REDACTED] stated that Pough then grabbed her around the neck and threw her on the bed and proceeded to choke her. P [REDACTED] S [REDACTED] was in the room as well and witnessed Pough assault her. W [REDACTED] punched Pough in the face twice and S [REDACTED] grabbed Pough off of her. W [REDACTED] ran out of the room and told M [REDACTED] what had happened. M [REDACTED] confronted Pough and grabbed him by the neck and threw him against the car. M [REDACTED] stated that Pough then cut him across the chest. M [REDACTED] stated that while Pough was leaving he was making threats saying that he would shoot up the house.

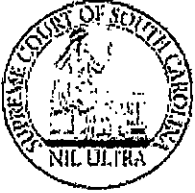
Pough was stopped at the end of the road and detained and marandized. While conducting a lawful search of the vehicle a black bladed fidget spinner was located under the driver's side seat. During questioning Pough admitted that he had the fidget spinner in his hand the whole time that the altercation was happening. He had an open container of beer in the car which he admitted to drinking as well. Pough was arrested and transported to KCDC. Both victims (W [REDACTED] and M [REDACTED]) were given VNI forms as well as statement forms and a case number. P [REDACTED] S [REDACTED] was given a statement form as well. Pictures were taken of M [REDACTED] and W [REDACTED] injuries which are attached to this report. The black fidget spinner as well as the statement forms have been placed into evidence. Pough has been issued to UTT for Assault and Battery 3rd Degree and Open Container.

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

FILED FOR RECORD
2022 APR -4 AM 11:54
JANET G. HASTY
CLERK OF COURT
Kershaw County, S.C.

PETITIONER'S EXHIBIT

E



Kershaw County Fifth Judicial Circuit Public Index



Kershaw County Home Page [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Jeremiah James Pough

Case Number:	5102P0662216	Court Agency:	Kershaw County Magistrate Court	Filed Date:	06/25/2017
Case Type:	Criminal	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Todd, Roderick M. Jr.	Disposition Judge:	Trapp, Donnie Allen
Disposition:	Pled Guilty				
Disposition Date:	09/20/2017	Date Received:		Arrest Date:	06/20/2017
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:		Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	0659-Drugs / Possession of 28g (1 oz) or less of marijuana or 10g or less of hash - 1st offense	0659-Drugs / Possession of 28g (1 oz) or less of marijuana or 10g or less of hash - 1st offense	09/20/2017



Kershaw County Fifth Judicial Circuit Public Index



[Kershaw County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Jeremiah James Pough

Case Number:	5102P0663606	Court Agency:	Kershaw County Magistrate Court	Filed Date:	07/06/2017
Case Type:	Criminal	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Todd, Roderick M. Jr.	Disposition Judge:	Trapp, Donnie Allen
Disposition:	TIA Guilty Bench Trial Fine Only				
Disposition Date:	07/26/2017	Date Received:		Arrest Date:	07/04/2017
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:		Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	0659-Drugs / Possession of 28g (1 oz) or less of marijuana or 10g or less of hash - 1st offense	0659-Drugs / Possession of 28g (1 oz) or less of marijuana or 10g or less of hash - 1st offense	07/26/2017



Kershaw County Fifth Judicial Circuit Public Index



[Kershaw County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Jeremiah James Pough

Case Number:	5102P0663604	Court Agency:	Kershaw County Magistrate Court	Filed Date:	07/06/2017
Case Type:	Criminal	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Todd, Roderick M. Jr.	Disposition Judge:	Trapp, Donnie Allen
Disposition:	TIA Guilty Bench Trial Fine Only				
Disposition Date:	07/26/2017	Date Received:		Arrest Date:	07/04/2017
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:		Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	0660-Alcohol / Open container of beer or wine in motor vehicle	0660-Alcohol / Open container of beer or wine in motor vehicle	07/26/2017



Kershaw County Fifth Judicial Circuit Public Index



Kershaw County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Jeremiah James Pough

Case Number:	5102P0660474	Court Agency:	Kershaw County Magistrate Court	Filed Date:	02/27/2017
Case Type:	Criminal	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Davis, James E Jr	Disposition Judge:	Davis, James E Jr
Disposition:	Guilty Bench Trial				
Disposition Date:	03/28/2017	Date Received:		Arrest Date:	
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:		Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Pough, Jeremiah James	2428-Drugs / Unlawful to advertise for sale, manufacture, possess, sell, etc. paraphernalia (civil fine)	2428-Drugs / Unlawful to advertise for sale, manufacture, possess, sell, etc. paraphernalia (civil fine)	03/28/2017

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

PETITIONER'S EXHIBIT

F

9:49:32 Wednesday, February 23, 2022

85 !

DISI100D

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

02/23/22
C066297

SCDC ID: 386514

DISPLAY INMATE OFFENSE HISTORY

POUGH, JEREMIAH JAMES

CURR LOC: MACDOUGALL

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV
SERIOUS MENTAL ILLNESS: N

CASE#	OFFENSE DESCRIPTION	TYPE ACTION	OFFENSE DATE	HEARING DATE	NET GT LOST	DHO DECISION	OFF LVL
END OF LIST							

PAGE 0001

SELECT A RECORD AND PRESS <ENTER> TO DISPLAY OR <PF04> TO MODIFY
PF4-MODIFY PF6-DISMISSED/NOT GUILTY PF11-QUIT PF10-MAIN MENU

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

PETITIONER'S EXHIBIT

G

SP Multi-Disciplinary Team
 Pough Jeremiah - 386514
 Page 3

HEALTH INFORMATION AND HISTORY:

Physical Health/Condition: None
 Medications:
 Other Information:

MENTAL HEALTH INFORMATION AND HISTORY:

Diagnosis:
 Medications:
 Problems/Compliance: N/A
 Treatment History:
 Other Information:

SOCIAL HISTORY: N/A

Inmate's History of Sexual Abuse (age at time of abuse, age of perpetrator
 Length of abuse, relationship to perpetrator, gender of perpetrator):

Juvenile History: N/A
 Other Information:

SEX OFFENDER TREATMENT HISTORY: None in the file

	TYPE	DATES	STATUS
Phase I:			

SOTP

Phase II:

Phase III: Education

OTHER
 RTU: Intensive Residential
 Treatment

Admission of Sex Offense(s):
 Other Information:

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 5
COUNTY OF KERSHAW) DOCKET NO. 2022-CP-28-00351

STATE OF SOUTH CAROLINA,
Plaintiff,
versus
JEREMIAH JAMES POUGH,
Defendant.

H E A R I N G
BEFORE THE HONORABLE DANIEL COBLE

DATE: November 13-16, 2023
TIME: 9:13 a.m.
LOCATION: South Carolina Circuit Court 5

TRANSCRIBED BY: Natasha Barrientos

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1 INDEX

2

3 Proceeding..... 4

4 Certificate of Transcriber..... 177,356,551,569

5

6 EXAMINATIONS

7 WITNESSES DIRECT CROSS REDIRECT RECROSS

8 For the plaintiff:

9 Dr. Emily Gottfried 69 116 147

10

11 For the defendant:

12 Dr. Marie Gehle 12 72 125 133

13

14 EXHIBITS

15 COURT'S DESCRIPTION PAGE

16 Exhibit 3 Document from Federal Drug

17 Administration 80

18

19 PLAINTIFF'S DESCRIPTION PAGE

20 Exhibit 1 Sentence Sheet for

21 Criminal Sexual Conduct

22 with a minor 11 to

23 14 Years of Age in

24 the Second Degree 230

25 Exhibit 2 Sentencing Sheet for

1	Criminal Sexual Conduct	
2	In the Third Degree	
3	with Special Conditions &	
4	Indictment	233
5	Exhibit 3 Sentencing Sheet for	
6	Criminal Sexual Conduct	
7	with a Minor Under the	
8	Age of 16 in the Second	
9	Degree as well as Special	
10	Conditions & Indictment	237

11
12
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14
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24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL
25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 THE REPORTER: Monday, November the 13, 2023. Kershaw
2 County Common Pleas Court Judge Daniel Coble.

3 THE COURT: Jeremiah, is it Pough?

4 UNIDENTIFIED SPEAKER: Pough.

5 THE COURT: Pough. All right. What's the status of
6 this one?

7 MR. RUNYAN: Going forward -- yeah, we're ready, Your
8 Honor.

9 THE COURT: All right. We got any pre -- we got some
10 pretrial. I saw that.

11 MR. RUNYAN: Yes, Your Honor.

12 THE COURT: Tell me about it.

13 MR. RUNYAN: Well we have -- the State has two motions.
14 There are standard motions to limit testimony regarding ---

15 THE COURT: Hold on. Turn ---

16 MR. RUNYAN: --- that motion. So we have our standard
17 two motions, Your Honor, which is basically to limit the any
18 testimony on it -- it being a prison or punishment or an
19 indeterminate amount of time, putting it away or talking
20 about the facility being on the correctional facility,
21 property, things of that nature is our first one I think -- I
22 think for the most part Mr. Kirkland and I agree -- agree on
23 that, but we put it on the record. The second one we have is
24 to -- no talk about treatment. The types of treatment are
25 speculative and the referral question here is whether or not

1 MR. RUNYAN: Some judges care, some don't. I mean---

2 THE COURT: Let's all -- well, typically we -- I make
3 them stay seated because if someone's shackled or what not.
4 So let's just remain seated. Just to keep it efficient.

5 MR. RUNYAN: Okay.

6 THE COURT: Yep. Other than that though, let's -- we're
7 in recess until 1:30.

8 MR. KIRKLAND: You want us back now or?

9 THE COURT: Yeah -- yeah, come on back. And then we can
10 go and then let's--- On the record in the matter of Jeremiah
11 Pough. All right. This is a pretrial Daubert counsel
12 hearing with several doctors and we have the State. You got
13 your witness ready?

14 MR. RUNYAN: Yes, Your Honor.

15 THE COURT: Anything before we bring up the witness from
16 the respondent?

17 MR. KIRKLAND: No, sir.

18 THE COURT: Bring her up.

19 MR. RUNYAN: All right. State will call Dr. Emily
20 Gottfried.

21 MS. GOTTFRIED: My name is Dr. Emily Gottfried.
22 G-O-T-T-F-R-I-E-D.

23 MR. RUNYAN: Thank you. And I think, Judge, just --
24 I'll ask Mr. Kirkland if for purposes of this hearing only I
25 believe he will stipulate to Dr. Gottfried being an expert in

1 forensic clinical psychology and sex offender evaluations.
2 There's some further qualifications I want to do, but for --
3 I don't want to have to do the qualifications on those two
4 things if he stipulates to it.

5 MR. KIRKLAND: I'm going to stipulate to that. Yes.

6 THE COURT: Very well.

7 DIRECT EXAMINATION

8 BY MR. RUNYAN:

9 Q. Thank you. Dr. Gottfried. Could you tell us
10 where you're employed and in what capacity?

11 A. Certainly. I'm an associate professor of
12 Psychiatry and Behavioral Sciences at the Medical University
13 of South Carolina. I also serve as the director of our
14 sexual behaviors clinic and lab.

15 Q. And how long have you held that position?

16 A. I've been there since 2015, so I've just started
17 my ninth year.

18 Q. And what positions did you hold prior to that?

19 A. Previously at MUSC I was an assistant professor
20 and before that I was an instructor of psychiatry.

21 Q. Okay. Can you tell us just briefly, what are your
22 duties as director of the Sexual Behaviors Clinic and lab at
23 MUSC?

24 A. Yeah, so I have administrative duties, so I'm in
25 charge of all of our ordering procurement, selecting what

1 test and measures we're going to use ordering equipment. I
2 handle scheduling. I train people who work as technicians or
3 work in the lab. I conduct research and then I do the
4 evaluations and treatment within the sexual behaviors clinic
5 and lab.

6 Q. Do you do any research as a part of this role?

7 A. Yes.

8 Q. What's your research in?

9 A. Broadly my research covers paraphilic sexual
10 interests or disorders the accurate assessment of sexual
11 behavior risk, and then the physiological arousal or
12 measuring it for both men and women.

13 Q. Okay. Do you train students as a part of your
14 role?

15 A. Yes.

16 Q. And what do you train them in?

17 A. I teach first year medical students. I train
18 psychiatry residents, psychology interns and then forensic
19 psychology and forensic psychiatry, postdoctoral fellows. I
20 give lectures to the whole medical school about sexual
21 behavior and sexual dysfunction. And then also physician
22 assistants, students. I have a lot of educational roles at
23 MUSC.

24 Q. Now, are you a member of any professional
25 organizations?

1 A. I am.

2 Q. What are they?

3 A. I am a clinical member of the Association for the
4 Treatment and Prevention of Sexual Abuse that is the National
5 Professional Organization dealing with this kind of work for
6 sexual behavior and -- and risk. I guess I just started my
7 second year. I was elected to the board of directors for
8 that association, ATPSA, and I serve as the chair of the
9 research committee for the organization. I am the president
10 of the assessment section of the American Psychological
11 Association. They have some sections and divisions. So the
12 assessment section is within division 12, which is clinical
13 psychology. I serve as the president of that. I'm a member
14 of the Society for Personality Assessments, American
15 Psychological Association American Academy of Forensic
16 Sciences. I'm forgetting some, but a number of professional
17 organizations.

18 Q. Do you sit on any international committees or
19 collaborations?

20 A. I am a part of the International Standardization
21 Group for penile plethysmography that is a coalition of
22 researchers, primarily researchers from the United States,
23 Canada, Russia and the UK. And we're working on procedures
24 for international standardization.

25 Q. Okay. Have you presented any peer review -- have

1 you published any peer review public articles or presented at
2 conferences?

3 A. Yes.

4 Q. And ---

5 A. I have I think 33 journal articles that were peer
6 reviewed that are in scholarly journals. I have six peer
7 reviewed book chapters and I believe I have 70 peer reviewed
8 presentations and then another 30 to 50 invited
9 presentations.

10 Q. And how many are specific to the penile
11 plethysmography or we'll just call it for the rest of the
12 day? The PPG. How many are -- is that okay?

13 THE COURT: Say that one more time. PPG?

14 BY MR. RUNYAN:

15 Q. Yeah, it's just short for the penile
16 plethysmography. So how many of these articles or
17 conferences are directly related to your work with the PPG?

18 A. Let's see. I published an article in behavioral
19 sciences and the law on penile plethysmography. Two or three
20 of the book chapters are on PPGI present pretty regularly on
21 it. So maybe 10 of my peer reviewed National Scientific
22 Organization presentations were on PPG. And then I give a
23 lot of invited lectures. So that is for organizations like
24 the California Coalition of Sex Offending. I give invited
25 lectures for University of Denver for Bridgewater State

1 Hospital, their well path program for their clinicians and
2 their trainees. I gave a presentation, I think in 2019, to
3 the Judicial Conference for South Carolina, the Judges
4 Conference. A couple different fellowship programs across
5 the United States. I've given some webinars on PPG for a
6 forensic psychiatry lecture series in Canada, and then one
7 through the University of New Mexico. So I get invited
8 pretty often to do those kinds of trainings and -- and
9 lectures.

10 Q. And, again, those -- the trainings are specific to
11 the PPG?

12 A. Yes.

13 Q. Is part of your job to oversee the administration
14 of the PPG lab in your -- at MUSC?

15 A. Yes.

16 Q. You just -- is it a standard test performed in
17 each of your SVP evaluations?

18 A. Yes. Any adult man who comes in for a sexual
19 behavior evaluation at MUSC has a PPG.

20 Q. Okay. Why do you use it?

21 A. So it's an important component of my evaluation.
22 It's one day point in a comprehensive kind of multi method
23 assessment that I do. The literature suggests that men who
24 have committed a sexual offense, if they have a paraphilic
25 arousal or they are aroused by what they engaged in, so that

1 could be paraphilic arousal to prepubescent children or to
2 coerce of or sadistic sexual behavior. If they have that
3 arousal and they've acted on it, that represents a risk
4 factor for future sexual violence.

5 And because we know that individuals undergoing sexual
6 behavior evaluations that they didn't choose to request or
7 necessarily want to come in for, they have a pretty
8 well-founded reason for not being totally forthcoming about
9 what they're aroused by. So I try to assess it in a multi
10 method way. So I ask them questions about their sexual
11 arousal fantasies behaviors. I administer questionnaires on
12 a computer that asks them about their sexual history. I do
13 physiological PPG assessment of what they are aroused to in
14 the lab. Because we know that people are not necessarily
15 going to disclose things about themselves that could make
16 them look bad or be bad for their legal case.

17 Q. Are you specifically trained to administer the
18 PPG?

19 A. Yes.

20 Q. What training do you have?

21 A. I'm a certified clinical analyst through what was
22 Limestone Technologies. That is the certification program
23 that I send my technicians to do to administer the PPG. And
24 then anybody who interprets or reads the PPG should be
25 certified in that.

1 Q. And tell us a little bit more specifically, what
2 does the training consist of to be certified?

3 A. So it has a didactic portion that covers a wide
4 range of topics. We go over the scientific literature
5 related to the PPG, the reliability, the specificity, the
6 sensitivity. It goes over how to write the report, how to do
7 the interpretation, how to administer it, the standardization
8 procedures. And so there's the classroom part and then
9 there's the part where you actually sit in the lab with the
10 -- the person who's teaching the class, the trainer in small
11 groups. You learn how to set the lab up, how to calibrate
12 the penile gauge. They have to observe you administering a
13 PPG. And then in order to get the certification, you have to
14 administer and interpret three PPGs in your own lab and then
15 send in your interpretation. And they have to be scored by a
16 trainer before you can get that certification.

17 Q. Do you use it in other contexts as well?

18 A. PPG?

19 Q. Yes.

20 A. Yes. So I use it for, as I mentioned, any man who
21 comes in for a -- any adult man. So we use it only for
22 people over the age of 18 who are undergoing a sexual
23 behavior evaluation. So I have a contract with United States
24 Probation. So men getting out of federal prison after
25 serving time for a sexual offense. I do a risk assessment

1 with them and then I do treatment planning with them and do
2 some of the treatment. So I use the PPG for that. I have
3 attorneys ask for a pretrial evaluation. Somebody's been
4 charged with a sexual offense but not convicted and they want
5 more information about their client. So I do that standardly
6 for that. So anything having to do with sexual behavior,
7 I've done them in the context of child custody disputes and
8 -- and things like that. But it's a standard part. So any
9 adult man referred gets a PPG.

10 Q. Okay. Well, how many times in your career there
11 have you requested or performed or interpreted and
12 interpreted the results of a -- of a PPG?

13 A. I have ordered or requested approximately 92 PPGs.
14 And I have personally interpreted approximately 75, 73 to 75
15 PPGs.

16 MR. RUNYAN: Okay. Your Honor, at this time I'd ask
17 that Dr. Gottfried be qualified as an expert in the PPP --
18 PPG technology.

19 MR. KIRKLAND: I have no objections.

20 THE COURT: Microphone. He's going to turn it on.

21 MR. KIRKLAND: Oh, I have to turn it on. I have to
22 click it? Oh, that's much better. I have no objection to
23 her being considered an expert in ---

24 MR. RUNYAN: The field of penile plethysmography,,
25 PPG. Yeah.

1 MR. KIRKLAND: Right. Of course, that is not waiving
2 our objection to anything concerning the scientific value of
3 the -- of the process.

4 THE COURT: Correct. And I'll allow her to be considered
5 an expert in PPG. But with the understanding, we still need
6 to determine the reliability of that underlying science.

7 MR. RUNYAN: Right. Good. Thank you, Your Honor.

8 BY MR. RUNYAN:

9 Q. Let's talk about the reliability. How long has
10 the PPB -- how has the PPG been used? And in what context
11 has it been used in historically?

12 A. So the PPG was developed in the 1950s, and it was
13 initially developed to help determine the sexual orientation
14 of people being drafted into the military. So that was in
15 the former Czechoslovakia. And they found that it could
16 reliably dis discriminate between men who had homosexual
17 interests from men who were trying to avoid being drafted and
18 saying they had homosexual interests. And so shortly after
19 that, they also showed that the PPG could distinguish between
20 men who had paraphilic sexual arousal or interest arousal to
21 sexual assault or assault against children. So it's been
22 used in a variety of context since at least the 1950s.

23 Q. Has it been improved by the Federal Drug --
24 Federal Drug Administration?

25 A. The system that we use under Limestone

1 Technologies, that was FDA approved.

2 Q. Okay. Now, what about insurance companies? What
3 do they -- how do they look at this test?

4 A. So PPG is not just used for sexual behavior risk
5 evaluations. It's really commonly used in the field of
6 sexual dysfunction. So if somebody is being considered for a
7 penile implant or other treatments for sexual dysfunction
8 disorders, they undergo PPG. And I believe it's Blue Cross
9 Blue Shield. It's -- it's covered under insurance for those
10 purposes.

11 MR. RUNYAN: I have some exhibits, if I could
12 approach the witness, Your Honor?

13 THE COURT: You may.

14 MR. RUNYAN: And these are just Court's exhibits I'm
15 just introducing for the purpose of hearing only. And the
16 first one, I'll let Dr. Gottfried (inaudible). So the first
17 one, Dr. Gottfried (inaudible) I'm sorry.

18 MR. KIRKLAND: Oh, excuse me. I was reading.

19 MR. RUNYAN: Yeah.

20 MR. KIRKLAND: Did you ask me ---

21 MR. RUNYAN: Yeah, I don't --

22 MR. KIRKLAND: Which one is the first?

23 MR. RUNYAN: The first one's the Blue Cross Blue
24 Shield.

25 MR. KIRKLAND: And this just appears to be a printout

1 that there is coverage in ---

2 MR. RUNYAN: That -- that -- well, that they
3 recognize the PPG as a medical device, but they don't cover
4 it. They won't pay for it.

5 MR. KIRKLAND: Well, then, yeah, I'm -- I'm not going
6 to object to it then.

7 BY MR. RUNYAN:

8 Q. Okay. So Dr. Gottfried does -- does Blue Cross
9 Blue Shield a major insurance company, do they recognize it
10 as a -- a valid procedure?

11 A. Yes, they say penile plethysmography, a
12 non-invasive test for measuring the variation in the volume
13 of the penis and in the amount of the blood present or
14 passing through it. Refer to the medical policy on
15 evaluation of impotence for coverage information.

16 Q. Okay. Now, the second one this is a document from
17 the Federal Drug Administration. And what does it say.
18 Generally about the PPG?

19 A. Let's see. So this is from the FDA it's for
20 Limestone Technologies. It says, "The intended use of the
21 device is used to measure penile tumescence in response to
22 visual and auditory stimuli. Penile tumescence data can
23 later be combined with other standardized psychological
24 testing procedures to assist clinicians with their
25 assessments and treatment of sexual offenders."

1 Q. Okay. Has the PPG been subject to peer review?

2 A. Yes.

3 Q. I'm going to give you what -- you just tell us
4 what this -- this---

5 A. This is a list of peer reviewed publications on
6 the PPG.

7 Q. And -- and in general, what -- 'what do you use
8 that list for?

9 A. I mean, I use it for a lot of things. So I
10 regularly read all the literature on penile homography when I
11 do my own research and write introduction sections to
12 scholarly articles. These are some of the ones that I cite.
13 This is how I -- these are my basis for why I conduct a PPG
14 and why I think it's reliable, valid, and adds incremental
15 value to my evaluation.

16 MR. RUNYAN: So, Your Honor, again, I would like to
17 enter this as a Court's Exhibit Number 3 just to show the
18 extensive peer reviewed articles on the reliability of the
19 PPG that Dr. Gottfried uses.

20 THE COURT: That Dr. -- yes. That this doctor uses?

21 MR. RUNYAN: Yes.

22 MR. KIRKLAND: We have no objection.

23 (Court's Exhibit 3 was marked for identification.)

24 BY MR. RUNYAN:

25 Q. Dr. Gottfried, can you discuss the 2019 a

1 meta-analysis by McPHail?

2 A. Sorry. Did you say, can I discuss it?

3 Q. Yeah. Can you discuss it for us?

4 A. Yes. So in 2019, Ian McPHail and his colleagues
5 conducted a really large meta-analysis looking at the
6 validity and reliability of penile plethysmography. This
7 meta-analysis -- so taking data from a lot of different
8 studies and statistically comparing them and putting them
9 together. This specific meta-analysis was on sexual interest
10 in children, and it had a huge sample of a variety of
11 different groups. 4,700 men who had committed sexual
12 offenses against children over 2000 men who had not committed
13 sexual offenses against children.

14 A portion of the sample had gone on to sexually
15 recidivate while another portion had not. And so, comparing
16 the PPG results across those different samples across
17 studies, and the results indicated that the PPG reliably
18 differentiated -- differentiate men who had a sexual interest
19 in children and had offended against children from all other
20 groups. There were a lot of different findings. It was a --
21 a big meta-analysis, but that is, I think, the main -- main
22 one -- the its ability to discriminate.

23 Q. Discriminate against?

24 A. Men who had offended against children and were
25 sexually aroused by children from all other comparison groups

1 in those studies.

2 Q. Okay. Well, how is the PPG used in context of SVP
3 pre-commitment evaluations?

4 A. So I use it as one data point specifically to look
5 at diagnoses. So when I'm doing a pre-commitment, sexually
6 violent predator evaluation, the question is, does the person
7 have a mental abnormality or personality disorder that
8 predisposes them to future acts of sexual violence? We know
9 that across the literature, again, really huge meta-analyses
10 report that there is a -- a strong link between the presence
11 of paraphilic arousal so sexual interest in something other
12 than consenting human adults and recidivism. So it is
13 important to look at that in the lab. So not only am I
14 asking the person what they're aroused by, what they
15 fantasize about, what they masturbate to, but I'm also
16 looking to see in the lab on the day of my evaluation, what
17 were they aroused by? And is that consistent with their
18 victim pool?

19 Q. Okay. You familiar with this -- with this book?

20 A. Yes.

21 Q. Okay. What is this book?

22 A. That is a book, sexually violent predators, a
23 Clinical Science Handbook. It was published in 2019.

24 Q. Okay. And I asked you experts in the field, do
25 you use this book when you're -- is it reliable? I mean,

1 sorry, is it authoritative in your field?

2 A. I -- I believe so. I use it regularly. I -- I
3 know a lot of people who do sexual violent predator
4 evaluations rely on that book.

5 Q. Okay. Well, I want to turn specifically to, you
6 know, I'm going to put this -- give this to you. This is
7 just--- You'll tell us what this is.

8 A. So the first page is a photocopy of the book you
9 just showed me. And then the rest of it is chapter 15 of
10 that book, the use of penile plethysmography in SVP
11 assessment and treatment decision making by Joseph Claude.

12 Q. Why is this chapter important to you?

13 A. Well, it's one chapter in a book about conducting
14 sexual violent predator evaluations best practices,
15 empirically supported practices. And this chapter supports
16 the use of using PPG in these in -- in both treatment and
17 pre-commitment, SVP evaluations. He describes how the use of
18 PPG is acceptable, it's valid as a data point in a larger and
19 more comprehensive evaluation. So again, you would never use
20 the results, the PPG or -- or any test as a single data
21 point. He discusses that using PPG is important in both the
22 evaluation and the treatment of individuals who are being
23 considered for civil commitment under the SVP Act. And he
24 noted that because of the identification of what he calls
25 deviant sexual arousal has been found by multiple researchers

1 to be a significant predictor of sexual offense recidivism
2 that penile plethysmography or PPG has a role in both
3 diagnosis and treatment decisions.

4 Q. Dr. Gottfried, have polygraphs been used in sexual
5 -- sexually violent predator evaluations in the past?

6 A. Yes. Do you use a polygraph?

7 A. No.

8 Q. Why do you -- what is a polygraph? Well, we don't
9 have to ask that. Why do you -- why do you not use a
10 polygraph?

11 A. Sexual behaviors clinic and lab at MUSC previously
12 used the polygraph under our former director, but when I took
13 over as the director of the lab, I discontinued the use of
14 the polygraph because there are a number of problems with it.
15 So, there are no independent, or like, there's -- there's
16 nothing in the brain that is unique that someone is being
17 deceptive. So there are a lot of issues with the way
18 polygraphs are administered, what the results mean. I -- we
19 could have a longer discussion about it, but it -- it's hard
20 to know if it's a fear detector or a lie detector because
21 you're looking at physiological changes in someone's heart
22 rate and their breathing and their -- govern skin response.
23 But we don't know exactly what that means because those are
24 not necessarily unique indicators of being deceptive.

25 Q. So you don't use it in your reports. Is that what

1 you said?

2 A. I don't.

3 Q. Okay. So tell us why the PPG is different than a
4 polygraph.

5 A. Well, they are both physiological measures, but
6 that's, in my opinion, kind of where the similarities end.
7 So for PPG, you're specifically looking at blood flow to a
8 man's penis while being presented with a variety of sexual
9 scenarios. And so, if you look at the seminal work by
10 Masters and Johnson in 1966, they said, "The best way to know
11 what a man is aroused by is to see what's happening with his
12 penis." And so we are change -- we are measuring changes in
13 the blood flow. So we are looking at arousal, erection, and
14 that is unique to sexual arousal. When I do any evaluation,
15 but specifically when I'm doing pretrial evaluations for an
16 attorney or department of social services is asking me to
17 conduct an evaluation, I always make sure in the first
18 consult call to say, "There's nothing that is going to tell
19 us whether this person has ever committed an offense, if
20 they're ever going to do it again."

21 It only tells us today in the lab on the day of the
22 evaluation, what they were aroused by. And so we're using
23 that as a data point in the context of a larger evaluation to
24 see which data points kind of converge, corroborate each
25 other and -- and which ones don't. So it -- it's not telling

1 you whether the person is lying or whether the person has
2 done something or they will do something to a specific victim
3 or non-specific. I think that's how it really differs from a
4 polygraph.

5 Q. Okay. Now, is the -- is the Sexual Behaviors
6 Clinic and Labs certified to administer the PPG?

7 A. Yes.

8 Q. Do they have any certifications?

9 A. Yes. We have both research and clinical
10 certifications to administer the PPG. The research
11 certification is the highest certification that a lab can
12 get. And that means that we do everything standardized. We
13 control the temperature, the humidity, we go through a long
14 checklist. Every single PPG is performed exactly the same
15 way administered the same way, interpreted the same way. So
16 everything is standardized. And to have the research
17 certification, that means that we can add our data -- combine
18 our data with other research certified labs because it means
19 that we are using all the standardized procedures.

20 Q. So what type of equipment do you use?

21 A. We use -- I don't know what it's called now. So
22 Limestone stop doing the PPG, but all of our equipment is
23 from Limestone Technologies. We use the prep test, PPG and
24 Associated Software.

25 Q. Okay. What -- what stimulus sets come with the

1 Limestone hardware?

2 A. The Real Child Voices comes. I believe the
3 Marshall may come as well, but we also have always used the
4 Marshall.

5 Q. Now, can you separate the hardware from the
6 software?

7 A. To my knowledge, no. I've never tried to separate
8 it, but I -- I mean, it comes with it. I don't know how you
9 would, I don't know enough about computers to know how you
10 could separate it.

11 Q. Fair enough. Do you have protocols or procedures
12 for administering the test?

13 A. Yes.

14 Q. Yes, you do? I'm going to show you this exhibit
15 which I'd like to enter. If you could tell us what it is?

16 A. This is the Sexual Behaviors Clinic and Lab of the
17 Department of Psychiatry and Behavioral Sciences of the
18 Medical University of South Carolina penile plethysmography,
19 PPG administration instructions.

20 Q. Okay. So tell us what that is. I mean, what --
21 what is that document? What does it do?

22 A. So this is the document that my technician uses
23 for every single PPG that we administer. So he goes through
24 and he has a -- in -- in our chart paperwork. So in the
25 person's clinical chart, there's a checklist. So he is going

1 through and making sure that he is doing it in the correct
2 order, getting every single step so that it's totally
3 standardized. It's our administration instructions.

4 Q. Could you give some examples of what the steps
5 are?

6 A. Yes. Okay. Number one, "Ensure that the examinee
7 is at least the minimum age for PPG examination. Verify that
8 the consent form has been signed by the appropriate persons.
9 Use the PPG examination checklist to prepare the examination
10 room. So it goes through about the countermeasure pad.
11 Ensure unused papers covering the examination chair place
12 unused, disposable covers on the examinee headphones, so it
13 adjusts the room lighting." So it goes through all the steps
14 for that. "Prepare the PPG software. So you enter the
15 examinee data, you select the stimuli set and record it on
16 the check sheet." You log the room temperature then you
17 activate the video monitoring system.

18 Q. Cool. It's a very specific step-by-step procedure
19 that you -- that you said you file on every single PPG that
20 you administer?

21 A. Yes.

22 Q. Okay.

23 A. It's -- I don't recall how many pages it is. It's
24 a seven page document.

25 Q. Seven page document? Okay. I'll give you another

1 document. I'd like to--- Okay. If you could just tell us
2 what this is?

3 A. This is a list of peer reviewed publications in
4 scientific journals that tested the -- the Limestone PPG
5 system that we use.

6 Q. Okay. So this is specific to the Limestone
7 Technologies, PPG peer reviewed articles on that system?

8 A. Correct.

9 Q. Okay. What -- what did the instructions require
10 you to -- before administering the test? Tell us about
11 calibration.

12 A. So, before a test can be administered, the strain
13 gauge that is ultimately going to go around the examinee's
14 penis, once the examinee places it there. It has to be
15 calibrated three times before the program will even start.
16 So you cannot override it, you cannot, I've tried to listen
17 to some of the PPG stimuli in the context of doing something
18 else, and there's no way that you can even like start a PPG
19 until you've calibrated the gauge. So you calibrate it using
20 the software on a cone, and that makes sure that it's like
21 reading accurately perfectly. So you have to do that three
22 times. It has to pass all three tests before you can even
23 start a PPG administration at all.

24 Q. And what do you calibrate? You said a cone. What
25 is the cone?

1 A. So it's a cone that varies in circumference. And
2 so the -- the software will tell you like, "Okay, put it on
3 10 millimeters, put it on 80 millimeters." So you use a
4 little -- I don't know, like a chopstick and knitting needle
5 to move the gauge up and down. And then you say, "Okay, it's
6 on 90." And it's making sure that it really is reading 90.
7 And then it'll tell you, "Go to 120." And so you have to do
8 that. So it'll be a series of going back and forth and then
9 that's one, and then you have to do that three times of those
10 series to make sure that it's reading accurately.

11 Q. So tell me about the actual test. What -- what
12 are the conditions like for a person taking the PPG?

13 A. So first the examinee will meet with the
14 technician in an interview room where they'll go over a
15 consent form, and then they'll give them some basic
16 information about the PPG, kind of based on the checklist
17 that they go through. They'll then -- the technician then
18 escorts the examinee into the PPG lab and gives him a
19 flexible circumference ruler. He leaves him alone in the
20 room and asks him to measure the circumference of his penis.
21 The technician then comes back in and he takes the ruler. At
22 that point the examinee sits in the room by himself and he
23 watches an instructional video that goes along with the Real
24 Child Voices and that explains the test procedures, how it's
25 going to work. It instructs them to remain still during the

1 -- each of the individual trials and gives them information
2 about what they are to do during the PPG.

3 Then -- so while they're watching that, the technician
4 is selecting the appropriate sides penile gauge and
5 calibrating it, then the technician will come in, answer any
6 questions that the person has. If they want to watch the
7 instructional video again, they can watch it as many times as
8 they want. The technician answers questions. They then
9 leave the person in the room by themselves. We have a camera
10 that monitors chest up in the room. So he covers that
11 camera.

12 So the examinee is instructed to place the penile gauge
13 on his penis, sit on the chair, cover himself up. He lets
14 the technician know when he's completely covered up, the
15 technician comes back in, uncovers the camera, and then the
16 test will start. And so during a PPG, the examinee is
17 presented with a variety of auditory stimuli. So in the
18 Marshall Set, it's a narrator kind of reading the scenarios
19 in the Real Child Voices that it's actors on the sound stage.
20 So when you hear sound effects, like glasses clinking and
21 things like that. And so the examinee is listening to those
22 trials. There are some photographs in the Real Child Voices,
23 but it's primarily on both sets, auditory. so we also use
24 some countermeasures to help us ---

25 Q. Well, let me stop you there. I know there's some

1 been some old federal case law that talks about the person
2 masturbating before the test. Tell us why that's not true.

3 A. I've seen this a couple times, which makes me
4 think that maybe at some point this was true, but as long as
5 I've been doing this, they can't touch themselves. Like they
6 can't masturbate during the test because that would spoil the
7 test. If somebody had an orgasm, the test would be over.
8 Like we have, there's a refractory period that would spoil
9 the test results. They're instructed to not touch
10 themselves, not touch the gauge. They certainly are not
11 supposed to be stimulating themselves.

12 Q. So what -- you were saying, so what quality
13 controls are in place to ensure that the the test is working
14 properly?

15 A. So in addition to making sure everything is
16 standardized, we administer and interpret it in exactly the
17 same way. We also use some countermeasures. So during the
18 examination, the examinee is sitting on a chair and there is
19 a pad. And that's recording movement. So we can see through
20 the physiological data their movement data.

21 So if the person is like squirming a lot in their chair
22 or if they are flexing. So sometimes someone will try to be
23 aroused by something that they're not actually aroused by,
24 and we can kind of see that movement data like and if they
25 sneeze, that could show up on the penile gauge. So we have

1 that movement data to help us make sure that what we're
2 looking at is from arousal. They also are wearing a
3 respiration strap so we can see if they're holding their
4 breath things like that.

5 So if somebody is trying to manipulate the test and
6 they're given instructions about all of that on the
7 instructional video we also have them hit a keypad that's
8 next to the chair. Every time the scenario that they're
9 listening to becomes sexual or violent, they are to hit the
10 keypad. And that's one way that we try to ensure that
11 they're paying attention. And then every couple trials, the
12 technician will come over the intercom because he's in the
13 next room and he will ask the examinee to kind of briefly
14 summarize the last trial that they just heard. Those are
15 ways that we are trying to ensure that the person is paying
16 attention. And then there are also neutral non-sexual trials
17 that we are comparing to the sexual trials as well. And
18 that's another -- another way.

19 Q. What would be an example of a neutral trial?

20 A. There's one where somebody's buying a chair.
21 There's one about taking a trip. There's a variety of
22 neutral ones that are not sexual.

23 Q. Now. The -- thank you. Now the Limestone list
24 that you peer reviewed articles there. Could you just
25 briefly discuss what the articles say about the Limestone

1 technology?

2 A. Yeah, they mostly don't say anything about the
3 Limestone technology. It's more that in the method section,
4 those, that was the system that was used in those scholarly
5 research studies.

6 Q. Okay. And what did they say? What were they
7 researching and what did they say?

8 A. I mean, across the studies they, I mean, the
9 system that they're used is not questioned.

10 Q. Okay.

11 A. So like the results are showing that, you know,
12 men who offended against children and are aroused by children
13 showed arousal in the lab to that stimuli.

14 Q. Using -- using the Limestone?

15 A. Correct.

16 Q. Okay, I got it. Thank you.

17 Q. Let's talk about MUSC's lab specifically. Even
18 this document, I'd like to have entered as Court's exhibit
19 (inaudible) evidence. Can you just tell what that is?

20 A. This is a list of two peer reviewed publications
21 that were specifically about the Sexual Behaviors Clinic and
22 Lab at MUSC. This list does not include peer reviewed
23 presentations, just ones in journals, scientific

24 Q. Journals. It was specific to your -- your lab's
25 procedures?

1 A. Correct.

2 Q. Okay.

3 MR. KIRKLAND: Judge, do you mind me real quick?

4 THE COURT: Yes.

5 MR. KIRKLAND: Can we go off the record for one second?

6 MR. RUNYAN: You want us to approach?

7 MR. KIRKLAND: You want to approach? Yeah -- yeah.

8 Well, if -- I can just tell you what's going on.

9 THE COURT: Yeah.

10 MR. KIRKLAND: He just -- he -- he wants to walk out

11 and go to the bathroom and I said that's fine. Okay.

12 THE COURT: Yeah, we got to -- all right. Call whatever

13 the procedure is. Yeah, but we can keep going here.

14 MR. KIRKLAND: That was his point.

15 THE COURT: Does he need to use the restroom?

16 MR. KIRKLAND: Yeah. Yes, sir.

17 THE COURT: All right. Let's take a short 10 minute

18 break.

19 MR. KIRKLAND: We can keep going. He's willing to just

20 ---

21 THE COURT: No. We'll take ---

22 MR. RUNYAN: I -- I prefer he be back in for the

23 testimony.

24 THE COURT: 10 minute recess.

25 MR. KIRKLAND: Thank you, Judge.

1 THE COURT: All right.

2 MR. KIRKLAND: Sorry.

3 THE COURT: All right. Be seated. All right. Back on
4 the record. Ready to go? Yes, sir.

5 MR. RUNYAN: Yes, Your Honor. Thank you.

6 BY MR. RUNYAN:

7 Q. Dr. Gottfried, before we broke, you were talking
8 about your -- your lab's procedures being peer reviewed.
9 I've given you a document and you were telling us those --
10 those are articles about your lab's procedures?

11 A. Yes.

12 Q. Specifically to the PPG?

13 A. Yes. It's about the lab in general. So the
14 Sexual Behaviors Clinic and Lab at MUSC, it's about the
15 procedures that we use, what we do in the lab and both of
16 these are international papers comparing different labs
17 across countries.

18 Q. Okay. Well, let's talk about the stimulus sets.
19 I think you mentioned that ---

20 MR. KIRKLAND: Excuse me, Your Honor, for just for a
21 moment. Was that the lab? The two ---

22 MR. RUNYAN: Yeah. The one with two. Yes.

23 MR. KIRKLAND: One with two on it?

24 MR. RUNYAN: Yes.

25 MR. KIRKLAND: Let me try that. If you don't mind.

1 Okay, "At our lab." Okay, I got it. Thank you.

2 BY MR. RUNYAN:

3 Q. The stimulus sets. What stimulus sets do you use?

4 A. So we use the Real Child Voices stimulus set and
5 the Marshall Set.

6 Q. Now, have the stimulus sets been subject to peer
7 review?

8 A. Yes.

9 Q. Okay. can you describe the peer review process
10 for us?

11 A. Yeah. So when -- I guess we can start with a
12 scholarly journal. So when you conduct research and you
13 submit it for consideration for publication in a scholarly
14 scientific journal first the editor will assign it to an
15 action editor and then they'll review it and they might desk
16 reject it, which means they don't think the paper is good
17 enough for that journal. If it passes the decks -- desk
18 rejection phase, then it's sent out to a -- a group of peer
19 reviewers. So those are experts in that field who the
20 journal asks to review the entire paper. So the methods, the
21 results, the analysis to see if it meets the standard. So
22 are -- does it look like there are errors? Is it clear? Is
23 it scientific? And so it's reviewed by experts. Typically,
24 they're going to have some feedback and they're going to ask
25 for some revisions. And that might be multiple processes of

1 -- of going back and forth of submitting a new version and
2 then them asking for additional analyses or additional
3 clarification.

4 Q. Let me back up a little bit. How do you -- how do
5 you know all this about peer review?

6 A. I publish a lot of research and then I also serve
7 as a peer reviewer. I want to say maybe for 35 scholarly
8 journals. I'm on the editorial board of two or three
9 journals which means I peer review for them more often or I
10 serve as an action editor or I specialized knowledge that
11 they needed somebody on their board to help review those
12 papers. So that's where scientific journals, but then
13 scientific conferences for national organizations, they also
14 have a peer review process of presentations that they allow
15 at their annual conference. And those are peer reviewed as
16 well.

17 Q. Now, how many labs -- well, let me ask you this.
18 Have the both stimulus sets the Marshall and the RCV, have
19 they been subjected to peer review?

20 A. Yes.

21 Q. Both publication and scientific conferences?

22 A. Yes.

23 Q. How many labs currently use Limestone system that
24 has with Marshall and Real Child Voice sets?

25 A. Fifty to 100 have purchased or -- yeah, have

1 purchased Limestone. We don't know how many use it, but
2 that's how many have purchased it from the company. And --
3 and that's like also Sexually Violent Predator Treatment
4 Programs in Missouri, New York, Illinois, they all have a
5 Limestone system.

6 Q. I'm sorry. That -- that's the actual Sexually
7 Violent Predator Treatment Programs?

8 A. Yes.

9 Q. In which states did you say?

10 A. Missouri, Illinois, New York. California has
11 purchased Limestone and Minnesota. And Minnesota definitely
12 uses it regularly because I consult with people who work
13 there.

14 Q. So what of the peer review articles, I guess, what
15 they have -- they said found about the stimulus sets?

16 A. So kind of in general, the peer reviewed
17 scientific articles and conference presentations show that
18 the Marshall and the Real Child Voices are pretty equivalent.
19 Both stimuli that are able to discriminate people who have
20 offended and are aroused by those offense behaviors from
21 people who do not have the same stimuli in their victim pool.
22 Some studies show that the Real Child Voices is slightly
23 better than the Marshall. So either across the research
24 studies, either they're equivalent or sometimes the RCV is a
25 little better.

1 And then there has been a fair amount of research
2 comparing the Real Child Voices set to the Sexual Behaviors
3 Clinic of the Royal -- Royal Institute of Mental Health in
4 Ottawa, Canada. So they do a ton of PPGs, they've been
5 around for a very long time. They have what they call their
6 SBC set, their Sexual Behavior Clinic set. And because it's
7 Canada, they have a medical exemption to their federal child
8 pornography laws. So the SBC set includes what would be
9 considered child pornography, and they found that the RCV is
10 equivalent and in some samples it's better than the SBC set
11 that they also use.

12 Q. Well, tell me about that. That's -- let's talk
13 about the -- well, let me ask you this. Has it been found to
14 be an over -- has the Limestone and those stimulus sets found
15 to be an overall reliable test that's generally accepted in
16 the fields of psychology in SVP evaluations?

17 A. Yeah.

18 Q. Let's talk about standardization. Tell us about
19 the standardization issues with the PPG?

20 A. So there are a couple issues with standardization
21 and the PPG. So one is that different sites use different
22 cut scores and they use different stimuli. And being part of
23 this international standardization group, the difficulty that
24 we have really had in getting it standardized is that
25 different countries have different laws. So for example my

1 colleagues in Canada, have used stimuli that included nude
2 pictures of children from nudist colonies with their faces
3 blurred out. But that is child pornography. We cannot show
4 that to somebody here in the United States because that would
5 be breaking federal law. And so labs are really reluctant to
6 change what they've been doing and has been working for them
7 for a long time. So we've had a lot of issue with that.
8 There is also an issue about the cut score. So where you
9 call a test any kind of test, not just the PPG, what you call
10 significant results is depending on where you cut the test.

11 So how many millimeters of change represents clinically
12 significant sexual arousal? At MUSC, we use a really
13 conservative cut score because we only use the PPG as one
14 data point. And so we don't want to use such a low cut score
15 that we're saying that somebody is aroused by something that
16 they're not actually aroused by. We would much prefer to
17 have what's called a false negative that we miss somebody
18 with that arousal because we're assessing it in other ways.

19 And so when you are thinking about something like a
20 pre-commitment evaluation under the Sexual Violent Predator
21 Act, you want to be really conservative. But if you're using
22 the PPG for treatment and it's just between me and you and
23 I'm giving you treatments, then you could say half a
24 millimeter of change is significant, because you're just
25 working on that as a treatment target. And so when we're

1 doing standardization, do we need to get to the level of,
2 "Okay, if you're doing treatment, it should be this cut
3 score. And if you're doing something that's going to go to
4 court, it should be this cut score and if it's -- they're up
5 for civil commitment." So we've had some difficulty about
6 agreeing on a cut score there.

7 Another criticism of the PPG not necessarily related to
8 standardization is that some people do not show what
9 quote-unquote the expected arousal pattern would be. So you
10 might have a man who has offended against small children, but
11 they're not showing arousal to small children in the lab.
12 And to me, that makes a lot of sense because the majority of
13 people who offend sexually against children are not offending
14 because they're sexually aroused by it. They don't have
15 pedophilic disorder. There are a lot of reasons why people
16 offend. And so that makes sense to me and that is why we're
17 using the test to help us look at diagnostic questions. But
18 that's also been a criticism.

19 Q. So I just want to key in on why, why you use --
20 well, tell us what a false positive is.

21 A. So a false positive would be somebody who is not
22 sexually aroused by children, but they show sexual arousal to
23 children in the lab setting.

24 Q. And that would be bad, right?

25 A. That would be bad.

1 Q. Okay. What's a false negative?

2 A. A false negative would be somebody who is sexually
3 aroused by children, but they're not showing that, or the
4 test is not picking up on it.

5 Q. And that would be bad as well?

6 A. They both would be bad.

7 Q. Okay.

8 A. So for any test, you have to balance specificity
9 with sensitivity.

10 Q. Well, tell us what's specificity.

11 A. So when -- yeah. So when you're looking at these
12 tests, they can't both be perfect. So you're either going to
13 miss people or you're going to put somebody in the wrong
14 group. And that is for literally any test. All tests have
15 to have a cut score. All tests have specificity and
16 sensitivity. So ---

17 Q. Can you give us an example kind of?

18 A. Yeah. So sensitivity is somebody has the
19 condition. So in this case, let's example, let's say
20 pedophilic disorder. Sexual arousal will progress in
21 children. So they have pedophilic disorder, and the test is
22 showing that they have pedophilic arousal. But specificity
23 is somebody who does not have pedophilic disorder, and the
24 test is not showing sexual arousal to children. And so when
25 you're creating a test and developing a cut score, you have

1 to decide which, which is more important.

2 I like to use a COVID example. I think that's clear.

3 At least it made it more clear like in 2021. But so

4 sensitivity would be that the person actually has COVID and

5 the COVID test is positive. Specificity is the person does

6 not have COVID, and the COVID test is negative. But you have

7 to determine how specific and how sensitive you want that

8 test to read. So if you want to balance more false

9 negatives, so a person has COVID but they test negative for

10 COVID, or do you want to favor false positives where the

11 person does not have COVID, but they test positive for COVID.

12 And so if we have more false positives in a COVID test,

13 then the risk is that somebody who is not sick has to

14 quarantine. And if we decide to favor more false negatives

15 on the COVID test, the risk is that we're exposing somebody

16 to other people and they could potentially make a lot of

17 people sick. So we have to decide what is, like, would we

18 rather miss somebody? Or we -- would we rather say this

19 person has COVID when they don't. And so like any test, we

20 have to do that with the PPG. And because it's just one data

21 point that we use, we would much rather miss somebody on the

22 PPG than say somebody has arousal that doesn't actually have

23 that arousal.

24 Q. So what is the cut score in Canada?

25 A. I believe that they are still using one millimeter

1 of change.

2 Q. And what is the cut score in your laboratory?

3 A. Five millimeters.

4 Q. Five millimeters. So this conservative cut score
5 is -- is it likely to produce far more false negatives than
6 false positives?

7 A. Yes.

8 Q. And that's -- that's a good thing. Because you
9 don't want -- is that a good thing?

10 A. To me, it's the best case scenario.

11 Q. Okay.

12 A. We would like a test to be perfect. We would like
13 to not miss anyone, but no test is perfect. And so we have
14 to decide which is better or which is worse. And I'd rather
15 miss that arousal than say someone had arousal falsely that
16 they don't have.

17 Q. I want to back up a little bit because I want to
18 -- I want you to talk about -- I don't know, can you tell us
19 what the difference between a set and a trial is?

20 A. Yes. So the Real Child Voices Set is the set, the
21 Marshall Set is the set. So within each set there are a
22 number of trials. So those are individual trials. They're
23 about two and a half minutes long each. So for example, if
24 you gave the entire Real Child Voices Set, that would be 27
25 trials. And so they feature different stimuli, but they're

1 all within the set of Real Child Voices. But there's 27
2 trials.

3 Q. Trials. And that's the same for the Marshall?

4 A. Yes. It -- the Marshall is split up with
5 prepubescent and pubescent girls, adult women. So it's --
6 they have a different number for each of the Marshall Sets.
7 But -- but yes, it's a number of sets. The example is that
8 the RCV has 27 trials.

9 Q. So in the trials, are you testing arousal to
10 different things in different ways?

11 A. Different things. So they might listen to trials
12 of consenting adults. So we always are going to present them
13 with consenting adults because that is the arousal we want to
14 see. Whether it's heterosexual, homosexual, it doesn't
15 matter. We want to see sexual arousal to consenting human
16 adults. And then we're also going to give them trials with
17 stimuli that match their victim or offense characteristics
18 from cases that they've been convicted. So that might be
19 sexual activity against prepubescent children or adult women.
20 The level of coercion can range from passive or persuasive to
21 coercive, to sexually violent. There are some trials that
22 are only violent and not sexual. And then we're comparing
23 that to the neutral non-sexual trials. So when I interpret a
24 PPG, you're comparing the person within themselves. So what
25 that means is did they show clinically significant arousal to

1 consenting adults? And then relative to that arousal, are
2 they showing arousal to the abusive non-consensual deviant
3 trials? So things like rape, things like prepubescent
4 children.

5 Q. Let's move on to -- do you recognize this book?

6 A. Yes.

7 Q. And what is this book?

8 A. That is published by the American Psychiatric
9 Association. It's the Diagnostic and Statistical Manual of
10 Mental Illnesses. And that's the fifth edition text revision
11 published in 2022.

12 Q. Is this something that forensic scientists,
13 psychologists use in their field?

14 A. Psychologists, psychiatrists, anybody who has a
15 license to diagnose mental illnesses, that's typically the
16 manual that they use.

17 Q. And this is -- would you call -- would you
18 consider authoritative in the United States?

19 A. Yes.

20 Q. I'll give you this (inaudible)?

21 A. Yeah.

22 Q. Okay. Turn page up 795. So I'm under page 795.
23 You could just tell us what the DSM-5 says under diagnostic
24 markers. And I'll actually just give you this. That's what
25 (inaudible) you tell us what the DSM-5 (inaudible) which is

1 authoritative manual in your field, what it says regarding
2 the PPG.

3 A. Yeah. So this is page 795 under pedophilic
4 disorder in the chapter on paraphilic disorders. And it
5 says, "The most thoroughly researched and longest used of
6 such measures is penile plethysmography. Although, the
7 sensitivity and specificity of diagnosis may vary across
8 sites which frequently used different stimuli, procedures and
9 scoring."

10 Q. Thank you. You said the most thoroughly
11 researched and what?

12 A. "The most thoroughly researched and longest used."

13 Q. Okay. Thank you, Doctor. Could you -- let's just
14 move on a little bit now, just speed these things up. What
15 is you mentioned you were a board member of what you called
16 ATSA, the Association for Treatment of Sexual Abusers. Can
17 you tell us again what that is?

18 A. Yes. So we actually changed our name a year and a
19 half ago. It's now, instead of the Association for the
20 Treatment of Sexual Abusers, we are the Association of the
21 Treatment and Prevention of Sexual Abuse. So that is the
22 national organization for people who do this kind of work.
23 So the prevention, treatment, assessment of individuals who
24 cause sexual harm. This is the national organization that
25 deals with that.

1 Q. Now, how do you become a member of a -- of -- you
2 still call it ATSA? Or how do you call it?

3 A. We still call it.

4 Q. You still call it ATSA? How do you become a
5 member of ATSA?

6 A. So you have to apply you have to submit
7 credentials. The number of hours that you've had working
8 with this population. I think it's the same. When I applied
9 to be a member, you had to get letters of reference from
10 other ATSA members, and then they verify your credentials,
11 they verify your hours. You have to attest to like the
12 number of hours that you've done your continuing education,
13 that your license, that you haven't -- you're not being
14 investigated for a crime, those kinds of things. A little
15 more -- a little more goes into it than some other
16 organizations.

17 Q. Say for example, you're not -- you're not just
18 paying dues and you get a membership, right?

19 A. Correct.

20 Q. Okay. Do -- can they -- do they have any policing
21 capabilities?

22 A. Yes. So they have a pretty robust ethics
23 committee, and a lot of ethics guidelines and rules that are
24 not just aspirational. They come with a lot of weight. So
25 they ultimately can report to you, to your licensing board

110

1 and revoke your membership. But they can sanction you, they
2 can say that you need supervision for something. Yeah, they
3 -- they issue sanctions.

4 Q. Do they publish any professional guidelines
5 regarding SVP evaluations?

6 A. Nothing specific to SVP, but they publish best
7 practice guidelines for the assessment and treatment of men,
8 there's juvenile guidelines.

9 Q. I could give you what I think it's my last exhibit
10 here.

11 UNIDENTIFIED SPEAKER: Thank you.

12 BY MR. RUNYAN:

13 Q. If you could tell us what this is? You have a
14 copy?

15 A. I do. This is just a larger photocopy of the
16 2014. So it's the -- ATSA practice guidelines for the
17 assessment, treatment and management of male sexual abusers.
18 Latest published in 2014.

19 Q. They're guidelines support the use of PPG -- the
20 PPG technology?

21 A. So these are the best practice guidelines for the
22 assessment and treatment of adult men. And they discuss PPG
23 amongst a lot of other things. They're not just specific to
24 PPG.

25 Q. Right. But what do they say about the PPG?

1 A. So they support the responsible use of PPG. Let's
2 see. So they say a number of things about it. They -- they
3 say that members recognize that research supported assessment
4 methods such as penile plethysmography may be useful for
5 obtaining objective behavioral data about the examinee that
6 may not readily be established through other assessment means
7 exploring potential changes relative to progress in
8 treatment. They say that ATSA members take reasonable steps
9 to obtain assurances that examiners using the PPG are
10 appropriately trained in the use of such methods, use of
11 accepted methods, and adhere to applicable professional and
12 discipline specific standards or guidelines. They say that
13 the PPG -- like -- like everything they talk about in this
14 manual should not be used as the sole criterion to make
15 really any decision. But they have a list of, like, you
16 shouldn't use this as the sole criterion of -- you know,
17 recommending someone's release or someone's risk. I think
18 that's generally, but they have a couple pages and then
19 there's more in the appendix about their support of the PPG
20 when used responsibly.

21 Q. Okay. Are you familiar with this book?

22 A. Yes.

23 Q. Do you use this book?

24 A. I do.

25 Q. What is this book

1 A. That is in -- it's from a series of best practice
2 books about how to conduct a wide range of forensic
3 psychology referral questions. So they make one on
4 competency to stand trial disability evaluations,
5 pre-employment. That one is specific on conducting sexually
6 violent predator evaluations.

7 Q. What does -- what does that book say about the PPP
8 -- use of the PPG?

9 A. So that book was published in 2009, and it notes
10 that the psychophysiological assessment method with the
11 longest research history is the PPG. However, it cites a
12 paper that was published in 2006 by Bill Marshall that noted
13 some problems with the PPG and that some problems with the
14 PPG, they said in 2009 that that presently limits the use of
15 PPG in SVP evaluations.

16 Q. Now, you said that article was published by -- by
17 who?

18 A. They cite an article from 2006 that was published
19 by Bill Marshall.

20 Q. Who's Bill Marshall?

21 A. Bill Marshall, William Marshall is who developed
22 the Marshall Set for penile plethysmography.

23 Q. Okay. Now, that article you -- that they cite is
24 written in 2006, is that what you said?

25 A. Correct.

1 Q. Did Bill Marshall do any subsequent articles on
2 the PPG?

3 A. He has, yeah.

4 Q. What -- what did they say? And when were they
5 published?

6 A. In 2014, he really walked back his own criticisms
7 of the test. So in the article that he published in 2014, he
8 notes some of the issues with standardization for the PPG,
9 but he noted, "Despite these reservations, telemetry or PPG
10 remains the best approach to establish a sex offender's
11 sexual interest. And so long as the resultant data are
12 interpreted with caution, they can use -- they can use fully
13 contribute -- their use can fully contribute to risk
14 assessment and to -- to defining targets for treatment." He
15 also noted, "Despite these reservations, it is possible to
16 attempt integration of data across sites."

17 He said what this integration of the data across site
18 reveals is that the results of individuals who offend against
19 children appear reasonably consistent in showing that some,
20 but far from all, of these offenders displayed deviant
21 arousal that requires treatment intervention. He said,
22 "Deviant interest displayed is also a moderate predictor of
23 future risk to re-offend. So the value of PPG assessments
24 with these offenders appears to be clear." And he concluded
25 by saying, "Overall, the data suggest some value to follow

1 metric assessments, but caution in the interpretation of
2 results is recommended." So he had a much more favorable
3 outlook in 2014.

4 Q. And since the publication of that book in 2009 has
5 there been any additional research into the PPG?

6 A. Considerable -- considerable. I mean, PPG is the
7 subject of a lot of research, so there's been a lot of
8 research since 2009 looking at its ability to differentiate
9 between groups and its value in risk assessments.

10 Q. Dr. Gottfried, in your opinion, based on your
11 knowledge, experience, and expertise in this field, and with
12 this test in particular as an expert in the field of PPG,
13 would you consider it a generally reliable test?

14 A. Yes. I mean, I -- I changed the measures that I
15 used based on the research. I would not use the PPG if I did
16 not think that it was valid, reliable, and added something to
17 my evaluation.

18 Q. Do you believe it's generally accepted in the
19 mental health community when it comes to the assessment and
20 treatment of sex offenders?

21 A. Yes.

22 Q. Do you believe it's generally accepted in a wide
23 area of medical -- medical community for assessment of
24 arousal?

25 A. Yes.

1 Q. In Mr. Pough's case, specifically, was he -- was
2 he administered to PPG examination?

3 A. He was.

4 Q. Were the results interpretable?

5 A. They were.

6 Q. Were these results the sole basis of your opinion
7 in this matter?

8 A. No.

9 Q. And just remind us why you would not use it as
10 such?

11 A. You should never use any tests like as a single
12 data point, especially for an evaluation like this. You are
13 -- you should do a multi method assessment where you're
14 collecting similar data in multiple different ways, putting
15 that together in context -- again, nothing should be the sole
16 data point, but certainly not the PPG.

17 MR. RUNYAN: Okay. I don't have any further
18 questions at this time. I would just ask, Your Honor that we
19 just go ahead and officially, if -- if there's no objection,
20 the documents that I put in exhibits, Court's exhibits for
21 this hearing only be admitted for that purpose?

22 THE COURT: Yeah, let's go ahead and do that before cross
23 examinations. So we keep up with them. And will you tell us
24 what -- or show the court reporter so she can get them
25 marked?

1 MR. RUNYAN: Thank you, Your Honor.

2 THE COURT: All right. Cross-examination?

3 MR. KIRKLAND: Thank you, Your Honor. Or hold on one
4 second. Sorry, I made the court reporter do too much. I'm
5 trying -- they threw a bird nest of paperwork at me, so I'm
6 going to try to have a little space here.

7 CROSS-EXAMINATION

8 BY MR. KIRKLAND:

9 Q. All right. So you put in a lot of exhibits here.
10 Let me try to go through some of these and talk to you about
11 that. All right. So Exhibit 3. You -- let me show you
12 which one is Exhibit 3.

13 A. Thank you.

14 Q. So Exhibit 3 is the research that you regularly
15 rely upon, you said in determining, you know, the validity of
16 the PPG testing, correct?

17 A. Yes. That's part of the literature base
18 supporting why I use the PPG.

19 Q. Now, is there even -- let me find -- I should have
20 known this was going to be a mess. So within this list right
21 here, are you able to point to specifically an article that a
22 peer reviewed article or paper book, anything that you have
23 in here that has been published concerning the use of PPG in
24 sexually violent pre-commitment hearings with facts similar
25 to this? And what I'm talking about is facts similar to this

1 and not just facts that are concerning children. Because you
2 mentioned children over and over. Can you tell us which of
3 these specifically speak on that?

4 A. There are limited -- there are some studies
5 looking at SVP, pre-commitment, but the literature on the SVP
6 pre-commitment, that's not typically the sample that they're
7 using in these research studies. So there are studies on
8 here looking at people who are aroused by rape that have
9 nothing to do with children, but without looking through it,
10 I'm pretty confident that there's not going to be one that's
11 dealing specifically with pre-commitment SVP evaluations.

12 Q. So -- so this hasn't been -- so what you're saying
13 is that although this has been a -- a method that has been
14 utilized in other fields, particularly fields, I think you
15 would agree, involving offenses against children. In fact,
16 that's a large portion of the research, is it not?

17 A. It is, but I -- I wouldn't call that another
18 field.

19 Q. Well, I -- you have to excuse me, Mr. (Inaudible).
20 What I'm talking about is, here's the vast, vast majority of
21 the research involved offenders against children. And that
22 is in -- in large part what the -- the RCV, the Recorded
23 Child Voices, RVC, the Recorded Voice Children, whatever the
24 terminology of that is. That's what -- that's what, that's
25 four, correct? In large part.

1 A. No. So the Real Child Voices stimuli set includes
2 rape of adult women, children, teenagers. That's just the
3 name of it.

4 Q. But ---

5 A. It has sets concerning things other than children.

6 Q. Well, if you don't -- where is it that this
7 particular system, the Limestone system with the Marshall and
8 the Real Voice Children, where are -- where's the research
9 for this being used in sexually violent predator,
10 pre-commitment hearings? This -- this is a very different
11 type of hearing. This is not treatment. This is where
12 somebody is -- is potentially losing their -- their liberty.

13 A. Correct.

14 Q. So it's -- it is absolutely of the utmost
15 importance that we understand how this can be used in this
16 setting where somebody can potentially lose their liberty as
17 opposed to treatment, as opposed to identification. Where
18 are the studies showing that? Can you tell me what those
19 studies are?

20 A. Right, so the penile plethysmography has been
21 shown for use with risk assessment and in that risk
22 assessment that identifies the treatment targets. And then
23 you can use the PPG to see how well, that treatment is
24 working. So it's been tested in a variety of settings, not
25 pre-commitment SVP evaluations have not been subjected to a

1 lot of research. So if you look at chapter 15 of the flawed
2 chapter, that's where they specifically discuss the value and
3 the use in pre-commitment SVP evaluations.

4 Q. And I realize that you're not an attorney, but
5 this is something that's -- that's a big part of your -- your
6 practice, obviously. And you understand this is not -- this
7 is not something that's recognized across the United States
8 by courts.

9 A. Recognized---

10 Q. This is recognized as -- as a valid way to
11 determine if somebody's a sexually violent predator in all
12 states across the United States.

13 A. Well, I don't know if the court is -- like, I'm
14 not going to speak to the legal sense of it.

15 Q. Okay.

16 A. I know that it varies across jurisdictions. I
17 know that in -- in countries, so I know it's regularly used
18 for dangerous offender proceedings in Canada. The UK has no
19 issues getting it in court. But in the United States, I
20 think the landmark cases, or at least the appeals court cases
21 have been mixed. So I would agree with that, if that's---

22 Q. Yeah, that's -- that's what -- that's what I mean.
23 So it's -- it is not -- it's not widely accepted among the --
24 in -- in the legal field. It -- whereas I understand what
25 you're saying is it's widely accepted in the therapeutic

1 field and things like that. Right?

2 A. I don't know that I have a basis of opinion that.
3 I use it because it helps me with diagnosis as part of my
4 assessment. But I don't use it thinking about court and what
5 happens in court.

6 Q. I understand. Now, are you familiar with -- I --
7 I -- as I was listening to you, I thought, "Oh, this sounds
8 extremely impressive." So I assume you have spent the vast
9 majority of the last several years of your life focusing
10 pretty heavily on this PPG stuff. Correct?

11 A. I -- I do research in a number of areas. I do
12 evaluation in a number of areas. The PPG is something I do a
13 lot of research on and design studies and think about. So,
14 yes.

15 Q. How many -- how many pre-commitment hearings have
16 you testified in pre-commitment hearings?

17 A. I believe I've done 23 related SVP, but I don't
18 know that I have it split up between annual and
19 pre-commitment. I'd -- I'd have to get that number. That's
20 the total number.

21 Q. So the total number is 2320,

22 A. I believe, 23 related to SVP.

23 Q. Okay. Do you remember in 2019 that, you know,
24 this Greg case has come up and I'm sure you -- you're
25 familiar with it. In 2019, you testified that it was either

1 nine or 10. So you think it might be a few more than that?

2 A. Yeah. Yes, because now it's been 23.

3 Q. I -- I -- I mean nine or 10 that were directly
4 related to SVP.

5 A. Oh, total in 2019?

6 Q. Yes.

7 A. That sounds ---

8 Q. The pre -- the pre-commitment hearing.

9 A. Okay.

10 Q. That's what I meant.

11 A. I believe that, that's what I testified to. I
12 keep track of the type of case and I mean, I can pull those
13 numbers, but the number for SVP is 23 and I don't -- let me
14 look, I don't think I have it broken down with me.

15 Q. Okay.

16 A. On annual versus pre-commitment.

17 Q. That's fine. So you talked quite a bit, but -- so
18 I want to make sure that -- that we're clear on this. You're
19 not able to point out a specific article among your -- your
20 -- your sort of cheat-sheet here of articles that deals with
21 specifically this being used in sexually violent predator
22 pre-commitment hearings. Correct? And the validity of it in
23 those here types of hearings?

24 A. I would say just the plot chapter.

25 Q. Okay. So I also -- and I want to go back to this

1 because I want to make sure I understand. Because I was
2 listening to you and as I was listening to you, I was
3 learning from you. Every time it appeared to me that you
4 talked about peer reviewed paper, you kept referring to
5 offenses against children over and over and over. Is that --
6 is that fair to say that that is an extremely large part of
7 -- of how this is used in a therapeutic or whatever setting?

8 A. I -- I don't know that I would say it's a --
9 partly large. All the articles by Marnie Rice and Grant
10 Harris, those were about men who offended against adult
11 women. I mean, it -- it definitely is used in men who have
12 offended against children, but not exclusively. And there
13 are a number of publications looking at men who offended
14 against adults and never had a detected victim that was a
15 child.

16 Q. Okay. So how -- approximately, how many, I guess,
17 lime -- Limestone centers are there across the United States
18 using that technology?

19 A. I think I testified 50 to 100.

20 Q. Okay. 50 to 100. Of the 52 to 100, are they all
21 using the exact same -- because you presented your
22 administrative instructions?

23 A. Yeah.

24 Q. Which is Exhibit 4. Are they using -- are all of
25 them using these -- this exact same administrative

1 instructions for administering the test?

2 A. They're not using that form because we developed
3 that form based on the certification course that we all took.
4 And this was to make sure that we didn't miss anything. And
5 it's a little bit more detailed, but if they are research
6 certified, which they aren't all research certified then yes,
7 they have to be following those procedures in order to
8 maintain their research certification.

9 Q. But across all of these centers, how many of them
10 are accredited in this one association that you're referring
11 to? Whatever accreditation is at.

12 A. From Limestone?

13 Q. Yeah. From Limestone.

14 A. There have been over a hundred, at least a hundred
15 people who have gone through the certification through
16 Limestone.

17 Q. And Limestone is the creator?

18 A. That's the -- the company that---

19 Q. Well, that's the company that makes the machine,
20 right?

21 A. And does the certification and does the strain
22 gauges. Yeah.

23 Q. Okay. So they have nothing specifically to do
24 with what dataset is being used by each center. Correct?

25 A. I -- I don't know what you mean by dataset.

1 Q. Okay. So the Marshall Set, am I to understand
2 that that is a uniform set across all of the United States?
3 It's always this exact same?

4 A. If you use the Marshall Set, then you would use
5 the Marshall Set. So it would be the same.

6 Q. Okay. How about the Real Child Voices? There is
7 -- from what I understand, a lot of variation in the Real
8 Child Voices that was developed here for USC by somebody in
9 Somerville. Right?

10 A. It was developed by Bill Burke, but I don't know
11 what you mean by variation. There's 27 trials.

12 Q. Who else is using the Real Child Voice Set that
13 you are using here in South Carolina?

14 A. The SVP program in Minnesota. The one in
15 California, the -- the one in Missouri, they have Real Child
16 Voices. I don't know whether or not they use it. So the 50
17 to 100 labs use the RCV.

18 Q. Do they use the one that was developed here in
19 Somerville?

20 A. There's only one RCV Set. It's one set with 27
21 trials.

22 Q. Here's -- here's one of the issues that I -- that
23 I have is that when you were testifying -- let me grab some
24 water really quick. When you were testifying in 2019, I made
25 a note of something that you said you were referring to the

1 first article that's on the -- what I'm just going to call
2 your cheat-sheet. And you commented that, that article,
3 which is the baptism, Curry, Federoff, Bradford, and Cedo,
4 you -- you -- you said, "So the problem with a lot of the
5 articles is they describe the stimuli, but they don't talk
6 about which set it came from."

7 A. Yeah.

8 Q. So that's an issue?

9 A. I believe for that I was referring to the Marshall
10 Set.

11 Q. Okay. So there can be differences between the
12 stimuli sets?

13 A. Well, there's the Marshall set, there's the Real
14 Child Voices set, there's the Monarch set, there's the --
15 Abel made a set. So people might use different stimuli sets,
16 but if they're using the Marshall then everybody's using the
17 Marshall.

18 Q. So with all of these different sets, are you
19 telling me that -- that -- that MUSC in Charleston, you've
20 picked two of them other places may be using other sets?

21 A. Correct.

22 Q. So you cannot directly compare the research done
23 by one of these places with your place, unless you know
24 specifically which set they are using?

25 A. I -- I don't think I would agree with that.

1 Q. So why even have different sets then?

2 A. Maybe people make money off of it. I -- that I
3 don't.

4 Q. Oh.

5 A. That I don't know.

6 Q. I like that. So Limestone does accreditation on
7 this program for you that they sell machines to you and they
8 make money off of that?

9 A. Limestone is paid for their services.

10 Q. Right.

11 A. That's correct.

12 Q. And -- and the software -- and -- and they have no
13 control over what set people decide to use, correct?

14 A. That's right. So when you buy puff test from
15 Limestone, it comes with the RCV set. But somebody could
16 hook up their CD player, they could use whatever they wanted.

17 Q. So all of this research, you cannot tell me
18 specifically, as to each one of these what set of stimuli
19 they are using?

20 A. Not on that exhibit. Not for all of them, but for
21 the ones on the -- I believe there was one on the PP -- on
22 the Marshall and the RCV, like it's a different list.

23 Q. Okay. So what -- what you're -- what you're
24 basically saying is that the stimulus set is not widely
25 accepted across the United States. It varies.

1 A. I'm not sure what you -- like you have to use a
2 stimuli set to administer PPG.

3 Q. Correct. So you can pick one of them, correct?

4 A. Yes. So you have to pick the set that you're
5 going to use.

6 Q. Right. So here's -- here's what I'm saying.
7 There's four that you mentioned, correct?

8 A. RCV, there's a Marshall Set, there's Monarch. I
9 think Abel made a set.

10 Q. Anything else?

11 A. Not that I'm aware -- aware of. Oh, the SBC Set
12 in Canada, but they -- they made that -- they used that in
13 their own lab.

14 Q. Okay. So there may be other sets that you're not
15 even aware of at this point? It's possible.

16 A. Certainly.

17 Q. So there is no -- as far as the stimulus set,
18 there is no actual standardization. Correct?

19 A. I am not sure what you mean by standardization for
20 stimulate that.

21 Q. I mean that if any of these labs -- I feel like
22 this is an easy question. If any of these labs can choose
23 whichever set they're going -- they want to use, then the
24 sets aren't standardized. So for example, you can't say we
25 use the RCV, the standardization for all of these testing in

1 order to make sure that it's valid in order to make
2 absolutely certain that everyone is treated the exact same
3 way. We are going to use one set and the set is going to
4 include the MUSC is going to be the Marshall and it's going
5 to be the RCV and that's it. We are standardizing this and
6 we are going to make that the set. You cannot say that that
7 is the -- that is true.

8 A. Right. So I testified to that, that that is the
9 issue that other countries have different laws and they use
10 stimuli sets that they've used for a long time. But at MUSC,
11 the 94 that I ordered were all done in the exact same way.
12 So it's standardized in in that way.

13 Q. So it's standardized within USC -- I mean MUSC?

14 A. Correct.

15 Q. So you -- you internally standardized your own
16 research?

17 A. Of course. Yeah.

18 Q. But you can't tell me that, that your -- that your
19 program is standardized with the rest of the programs across
20 the rest of the United States using the same stimuli set?

21 A. Well, no, and I never testified to that. I don't
22 know what stimuli sets some of the programs use.

23 Q. I'll just go through another -- another couple of
24 things really quick. So I'm trying to find it. So one of
25 the exhibits that was handed up, and I'll just mention this,

1 was the Blue Cross Blue Shield of Texas. Do you remember
2 that exhibit?

3 A. Yes, I do.

4 Q. Have you read through that before? The exhibit?

5 A. I don't know that I've read through the whole
6 thing, but I've I've seen it before. Okay.

7 Q. So this was one of the things that used to
8 establish that the PPG test is recognized by Blue Cross Blue
9 Shield, correct?

10 A. Yes.

11 Q. Okay. So what we're looking at here, is actually
12 they talk about sporadic electrical bio -- a type of plus --
13 plus -- plus -- help me with that.

14 A. Plethysmography.

15 Q. Plethysmography, did I say it right?

16 A. Yes.

17 Q. Plethysmography is considered medically necessary
18 for inpatient around patient treatment in a hospital office
19 when used to establish a baseline status with a patient with
20 heart failure, monitoring patients with congestive heart
21 failure. It goes through using it for tons of things other
22 than what you're using it for, correct?

23 A. Well, there's different kinds of plethysmography
24 and they discuss penile plethysmography in there as well.

25 Q. Right. And what they say, they simply say penile

1 plethysmography is just a definition, a non-invasive test for
2 measuring the variation in volume of the penis and the amount
3 of blood present or passing through it refer to the medical
4 policy on evaluation of impotence for coverage of
5 information. They're not even referring -- they're not
6 referring to it at all as being any kind of valid test for
7 anything concerning what we're talking about here.

8 A. That is exactly what we're talking about. That's
9 ---

10 Q. Impotence?

11 A. That is what the -- so insurance companies never
12 pay for forensic evaluations.

13 Q. And they don't pay for this one? I don't believe.

14 A. It says -- I don't know where it's referring me to
15 -- to look for coverage that -- I don't have that document.
16 But it's used all the time when somebody is being assessed
17 for a penile implant for different kinds of treatment to --
18 to see where the impotence is coming from. So that is a
19 reason why we would use PPG.

20 Q. Okay. So I'll take that back. Let's just assume
21 that they are covering it, they're covering it for the
22 purpose of determining where the -- how impotence is
23 occurring. Correct?

24 A. To see if somebody would be a candidate for a
25 penile implant for a variety of treatments that we use for

1 impotence.

2 Q. So it is -- it's not referring to anything
3 concerning arousal states for sexually violent predator type
4 hearing?

5 A. Right. The insurance company would never cover
6 anything like that.

7 Q. Right.

8 A. For anything related to a forensic issue. So ---

9 Q. But ---

10 A. But it -- they cover it for arousal.

11 Q. But that is the issue here is -- is it reliable
12 for use in these types of hearings, sexually violent
13 predator, pre-commitment hearings? And is it -- is there
14 uniformity and standardization across the United States and
15 across the literature? That's the question that we have here
16 today. Right?

17 A. I only heard the first part of that.

18 Q. Okay. I'm not going to even bother repeating
19 that. One of the tests that you -- or one of the articles
20 that you referred to was validity and -- tric testing for
21 sexual interest in children, a meta-analytic review. Do you
22 remember mentioning that in your testimony?

23 A. That's the Ian McPhail from 2019 meta-analysis?

24 Q. Yeah.

25 A. Yeah.

1 Q. It is. So there's a passage in there where it
2 talks about stimulus presentation modality. "Presentation
3 modality was coded as audio only, slide only audio plus slide
4 video and audio plus computer generation -- generated images.
5 Audio stimuli are recorded. Descriptions of sexual activity
6 presented via headphones. Slide stimuli are images of
7 partially closed or naked individuals. The audio plus slide
8 includes slides presented to offenders while audio tape
9 vignettes are played via headphones." And it goes on. Here's
10 what I'm saying. They're -- they're talking about the use of
11 this machine with all sorts of stimulus sets in all sorts of
12 different ways. Is that fair to say?

13 A. Yes. And the results indicate that the most valid
14 consistent was for the audio only or the audio plus slide,
15 which is what the Real Child Voices is.

16 Q. Which is not a standardized test because there's
17 four tests that we know of and they could be using any of the
18 four?

19 A. I -- I don't know what you mean by four tests.

20 Q. Four stimuli.

21 A. There are different stimuli sets. That's correct.

22 Q. So that is not standardized?

23 A. I guess we might be using standardized
24 differently. What do you mean by not standardized?

25 Q. What I mean by not standardized, is that if

1 someone were to use one particular set okay, somewhere in the
2 United States and you use your -- whatever your preferred set
3 was here, and you don't even know what the other standardized
4 the other set involves. Right? You may not have ever even
5 heard it. Because you -- you indicated that there may be
6 sets that you don't even know about. Correct?

7 A. Sure.

8 Q. That would potentially lead to a different result.

9 A. Yeah. So I'm not -- still not following that. So
10 I wouldn't compare them if I didn't know what that set was
11 measuring. So typically in your methods section or in your
12 report, you're going to explain the stimuli that you used,
13 the modality. It was presented in the level of persuasion,
14 coercion, violence presented the age, the gender. And so
15 then you could compare across them, but I would agree that if
16 I didn't know those things, then you shouldn't compare them
17 to one another.

18 Q. But from what I understand, you can't point to the
19 articles that show what you're doing in Charleston is peer
20 reviewed specifically?

21 A. I -- I mean, I think there is a list of ones from
22 our lab that are peer reviewed specifically of what we're
23 doing in -- at MUSC.

24 Q. Okay. So the ones from your lab that are -- that
25 are peer reviewed, but they're not the -- but -- yours have

1 been peer reviewed. But it's not a standard across -- your
2 -- your standard is not the standard across the entire United
3 States?

4 A. We conduct our BBGs in a standardized way based on
5 the certification, based on the best practices. But I can't
6 speak to what every other lab across the United States is
7 doing.

8 Q. That's right. You can, right. So to say that
9 this is -- that what you're doing at USC is widely accepted
10 in the psychological community, you cannot say that.

11 A. Well, we're MUSC and I -- I ---

12 Q. Sorry.

13 A. I think that I can say that based on the peer
14 review publications of our specific clinic and lab, the
15 protocol that we follow.

16 Q. What is -- how many peer review articles have been
17 written specifically about yours?

18 A. About our lab?

19 Q. Yeah, your lab.

20 A. At least two. And then some present -- some peer
21 reviewed presentations.

22 Q. Okay. Now, the peer reviewed presentations, has
23 anybody been able to -- has tried to reproduce the results
24 that you achieved in your lab? That's what peer review is.
25 Whenever you put information out there to make it available

1 to -- for somebody else to make an attempt to test it and
2 reproduce it based on the criteria that you have put into the
3 article or into the paper. Correct?

4 A. I would say that's the general goal of research,
5 but that's not what peer review means.

6 Q. Can you establish that your lab -- what you do in
7 your laboratory, that there are articles, there are other
8 laboratories that specifically can reproduce the same results
9 that you do accurately, just completely separate place using
10 your methodologies. Any papers in which somebody has tried
11 to reproduce what you do and been able to do it successfully
12 consistently?

13 A. Yes. I mean, those articles are describing the --
14 the labs. So our sister lab at the Royal, that's what the
15 articles are about. So yeah, I mean, they've reproduced it.

16 Q. So they've reproduced the results that
17 specifically reproduced the results that they're using the
18 exact same parameters and everything that you are using?

19 A. I don't -- what results are you talking about?

20 Q. Okay. So you talked about, and I won't even
21 pretend to remember what you said, but whatever the device is
22 that's placed over the penis.

23 A. Strain gauge.

24 Q. Strain gauge. So they -- and you talked about the
25 cut. So they're all using the exact, exact same cut.

1 They're all using both the RCV and the Marshall Set. They're
2 all using the exact same -- and I'm talking about the exact
3 same the -- the guide, the administrative guide or whatever
4 that you wrote up to your place. You're telling me that
5 those places are using the exact same guide and that they've
6 been able to reproduce your results exactly?

7 A. I still don't know what you mean by results, but
8 -- but no, I mean, I testified how there are differences in
9 the cut score. I testified that we made those instructions.
10 So from the publications that we did, somebody can read the
11 methods or the ones on our lab and reproduce them.

12 Q. But has anybody written a paper or made an effort
13 to actually take your standards that you have chosen and you
14 yourself believe are valid based on your reading of the
15 research? Has anybody else tried to reproduce exactly the
16 results that you get that you know of?

17 A. So I guess I'm getting stuck on the results. What
18 -- what results are you referring to?

19 Q. I'm talking about the results of being able to
20 successfully identify someone with a particular -- some kind
21 of particular -- like, so for example, you used it in this
22 case for -- for coercive paraphilia.

23 A. Paraphilic Coercive disorder.

24 Q. Paraphilic coercive disorder. Have you had
25 somebody that's been able to reproduce those results because

1 that was the -- in this particular case, been able to
2 reproduce those results using your methods in another -- in
3 another place using your methods?

4 A. Well, they would have to send Mr. Pough there.

5 Q. Okay.

6 A. No -- no one's sent him to another lab.

7 Q. Well, are -- are other labs reaching those results
8 in sexually violent predator pre-commitment cases using your
9 methodology? And I'm talking about your methodology, the
10 exact same methodology.

11 A. But you're talking about results for a specific
12 person. So that ---

13 Q. Not necessarily.

14 A. --- person -- to get ---

15 Q. Not necessarily.

16 A. --- the exact same results they would've to take
17 that person to the lab. So no. To my knowledge, no one that
18 we've tested have then been sent to California to be tested.

19 Q. I understand that completely. What I'm saying is
20 you have research that you're saying that you have done and
21 it's giving you -- you -- you've compared it to COVID and
22 pass fail rates and all of this. And so you have an idea
23 within your own -- within your own institution, MUSC, you
24 have an idea and you claim that we are being successful with
25 what we are doing, correct?

1 A. Well, I don't think I ever claimed that. I mean,
2 I -- we're doing it in a standardized way. We're using it as
3 a data point, but I -- I -- I don't know how you are
4 operationalizing success.

5 Q. Do you remember -- are you familiar with the -- I
6 think this was actually mentioned in the transcript, with the
7 Jackson and Hess article evaluation for Civil Commitment of
8 sexual offenders, A Survey of Experts?

9 A. Yes.

10 Q. Okay.

11 A. 2015, I think Becky Jackson, Derek Hess.

12 Q. So this one is 2007.

13 A. Oh, seven. Okay.

14 Q. All right.

15 A. I believe that.

16 Q. So you're familiar with the article?

17 A. Yes.

18 Q. Now, in this article, and I apologize (inaudible)
19 I'd like to look at this chart right here. And the chart
20 goes down you'll see here on the side.

21 MR. RUNYAN: And if you don't mind, can I hold it for
22 a second?

23 THE WITNESS: Sure.

24 MR. RUNYAN: I don't mean to interrupt. Is this an
25 article that I put in? Or what is this?

1 MR. KIRKLAND: I'm not sure (inaudible) we can make a
2 -- I only have one copy of it.

3 MR. RUNYAN: Well, I just want take a look at.

4 MR. KIRKLAND: Oh yeah, I'll show you exactly what I'm
5 going to show her.

6 MR. RUNYAN: Okay. The counsel's indicate he has a
7 copy of this article.

8 BY MR. KIRKLAND:

9 Q. So the -- it's talking about the frequency
10 (inaudible) evaluation. It talks about the (inaudible)
11 testing. Always -- you have the scores here in this chart.
12 They have always 0%, most of the time 0%, frequently 4.9%,
13 sometimes 12.2%, rarely 12.2%, never 70.7%.

14 A. Yes, I'm familiar with that article.

15 Q. So the people said -- they're saying they're not
16 using this set. The (inaudible) testing.

17 A. So that article is from 2007.

18 Q. Right.

19 A. Can you remind me who their sample was? Was it
20 ABAP psychologist, or just ---

21 Q. I'll let you look at it.

22 A. --- anybody? Yes. So this was a survey of 41
23 people who said that they conducted sexual violent predator
24 evaluations.

25 Q. Right. Okay. And 70 percent said never?

1 A. Out of the 41 people survey. Correct.

2 Q. Now, you talked about the DSM-5.

3 A. Yes.

4 Q. "It refers to the most thoroughly researched and
5 longest used of such measures is penile plethysmography.

6 Although the sensitivity and specificity of diagnosis may
7 vary across sites which frequently use different stimuli."

8 A. Yes.

9 Q. So the DSM-5 is recognizing that it exists, but it
10 is also recognizing that the specificity and diagnosis --
11 diagnosis varies across sites.

12 A. Yes. We discussed that I think at length.

13 Q. I can hinge you this.

14 A. Can I have it?

15 Q. Here you go.

16 A. Yeah, I mean, that's what I read.

17 Q. Well, that's basically saying that this is not
18 sensitivity and specificity in diagnosis is different across
19 sites?

20 A. Yes.

21 Q. So to my understanding, it's not -- we're not
22 talking about something that is -- that's standardized?

23 A. Well ---

24 Q. It's reproducible in the exact same way in all of
25 the labs across the United States, you will get different

1 results in different labs.

2 A. Yes. Based on the cut scores that we talked
3 about, specificity, sensitivity, where you decide to cut
4 clinically significant sexual arousal. Yeah.

5 Q. Okay. That -- let me make sure -- but I think
6 that's all I have. We'll see. You also talked about not
7 using any more polygraphs.

8 A. Yeah.

9 Q. So you had mentioned previously that -- you
10 mentioned this super normal group. You know what I'm talking
11 about?

12 A. That is from a research study that they did with
13 the Real Child Voices, I believe.

14 Q. Okay. And these were people with no sexual
15 offenses they were charged with or convicted of. And in
16 order to validate that they were not sexually abnormal, many
17 of them were giving polygraph tests to see if they were
18 telling the truth?

19 A. Yes. So my memory serves for the super normals.
20 They got wrap sheets on them. They did polygraphs and I
21 believe one other thing to confirm that they had never been
22 charged with a sex offense against a child.

23 Q. So this was a control group basically?

24 A. Yeah.

25 Q. And you're saying you no longer even use that

1 Burke control group?

2 A. Well, that was for a research study.

3 Q. Right.

4 A. I'm talking about -- I don't clinically use PPG or
5 polygraphs. Totally different things.

6 Q. No, I understand what you're saying. So what --
7 what are your control groups? What -- what is the control
8 group?

9 A. For -- for what?

10 Q. Well, if you're trying -- if you're trying to --
11 to test for a specific thing, you need to know that the
12 device does test for that thing. So you need a control.
13 That's just simple scientific method. You need a control
14 group to establish that it's not picking up false positives.
15 It's not doing things it shouldn't do. What is your control
16 group?

17 A. Are you talking about research or are you talking
18 about ---

19 Q. I'm talking about what is the control group for
20 this field of science?

21 A. Well, you can use groups of men who have not
22 offended. You can compare men who have no known child
23 victims to those who have child victims. You can use college
24 students as controls, but that's for research. So clinically
25 he is his own control. So you're comparing his results to

1 himself. So you're looking at his arousal relative to
2 consenting adults and the neutral.

3 Q. So you're saying that your -- your -- your center
4 has not done its own control groups?

5 A. We conduct research where we're comparing groups,
6 but -- I guess I'm just not following what you're talking
7 about for control groups.

8 Q. So -- and I realize you're just not getting into
9 this at this point. So my understanding, I'm not a
10 scientist, but in order to determine if something is actually
11 measuring the thing that you say that it is measuring, you
12 need to make sure that it is not falsely measuring that thing
13 and that some kind of control, you need to make sure that
14 it's not picking up coercive -- what is it?

15 A. Paraphilic coercive disorder.

16 Q. Paraphilic coercive disorder on people that do not
17 have the disorder. So how -- what is the control group? How
18 do you make -- how do you determine that that does not ever
19 happen?

20 A. So for the research studies that we've conducted,
21 we compare different groups of people. So people who have
22 offended against, who have raped adults versus molested
23 children. We compare -- we did a study where we looked at
24 the Real Child Voices and the Marshall Set compared to the
25 able visual reaction time looking at sexual interest of

1 children versus arousal. So those ---

2 Q. Okay. You mentioned something, the Abel visual
3 reaction time.

4 A. Yes.

5 Q. You mentioned before that you -- you had some
6 serious reservations about the Abel -- the visual reaction
7 time. Did you not? You ---

8 MR. RUNYAN: Your Honor, I -- I'm going to have to
9 object. I don't know what the Abel -- we're here to talk
10 about the viability of the PPG. I'm not sure what the Abel
11 has to do with it.

12 MR. KIRKLAND: She's telling me about the -- how they
13 -- they just -- they picked their control groups. She just
14 enlisted it.

15 THE COURT: Overruled. Re-ask the question.

16 BY MR. KIRKLAND:

17 Q. The -- that that particular test that you're
18 talking about, tell me the name of that test again?

19 A. The Abel Assessment for Sexual Interest. And I
20 was specifically talking about the visual reaction time
21 portion.

22 Q. Right. And so that was -- oh my goodness, what is
23 it called? I cannot think of the word. When you're -- when
24 you're measuring body responses like such as this and such as
25 the polygraph is galvanic? Galvanic responses? You don't

1 recognize the word galvanic?

2 A. I -- I do, but I -- I -- maybe you're just meaning
3 physiological?

4 Q. Yeah. Okay. Physiological. That test
5 specifically was to determine, and you're saying this is one
6 of the ways that you test your control group was determine
7 how long somebody would stare at a particular picture.
8 Right?

9 A. It was a visual reaction time. So it wasn't---

10 Q. So if they looked at it more, they would be more
11 interested in it?

12 A. Purportedly.

13 Q. Purportedly. And you used to use that test?

14 A. Yes, we did used to use the Abel.

15 Q. And you stopped using that -- that test, although
16 you just listed that as one of the potential control groups.

17 A. Well, we did a study looking at the Abel VRT
18 versus the PPG. Correct.

19 Q. And -- but you were using the Abel VRT at the same
20 time you were using the PPG?

21 A. Right. That's how we got those data.

22 Q. At the -- and I think I have the quote right here.
23 I may not have pulled it out, but during the 2019 trial, you
24 specifically expressed serious concerns with that test. and
25 that you did not have much confidence in it?

1 A. I -- I don't remember what I said in 2019. What I

2 ---

3 Q. Right. I understand.

4 A. My -- my feelings about the Abel are that due to
5 the proprietary nature of it. That there are issues of those
6 kinds of issues. However, I mean, it is empirically
7 supported. It's been around for a long time. It's been the
8 subject of a lot of studies. I choose not to use it because
9 I don't like that I can't pull the curtain back and see every
10 way that test works. So that's why I don't use it clinically
11 any longer.

12 Q. And so, as to establishing control groups the
13 control group is the patient himself, from what I understand.

14 A. Right. You're -- you're doing all of the analyses
15 and interpretations of a PPG against himself, not compared to
16 other people. And

17 Q. There's no -- and you cannot -- when you're
18 looking at the -- this research, all the research that's been
19 done, it does not specify in all of these exactly which
20 stimulus sets they're using.

21 A. That's right.

22 Q. So that's not standardized?

23 A. I mean, they're probably doing it in a
24 standardized way, but no, not every place uses the same
25 stimuli sets.

1 MR. KIRKLAND: I'm -- I'll -- I'll just -- that's --
2 I'm good, Your Honor.

3 THE COURT: All right. Thank you.

4 MR. RUNYAN: If I have a redirect, Your Honor?

5 THE COURT: Briefly.

6 RE-DIRECT EXAMINATION

7 BY MR. RUNYAN:

8 Q. Thank you. Dr. Gottfried, you testified that your
9 lab is Limestone certified Clinical research lab. Is that
10 correct?

11 A. We have a clinical certification and a research
12 certification.

13 Q. And any lab that gets that certification has to
14 follow the same certification process?

15 A. Yeah. So if you get a research certification,
16 that means that you are doing everything standardized, that
17 you could put your data together because it was collected by
18 the book.

19 Q. And you're certified to interpret the results by
20 Limestone?

21 A. Yes.

22 Q. Okay. And does someone go into that training,
23 gets the same training on how to interpret results?

24 A. Yeah.

25 Q. So is it fair to say that someone in California

1 who's using the Limestone PPG did result and sent them to you
2 and you looked at the raw data, you could see the arousal,
3 the millimeters, arousal, and you would interpret that the
4 same -- not the same way, but the arousal would be the same
5 from that lab to your lab?

6 A. Yeah. So it would be the same numbers. Yeah.

7 Q. And the only difference is the cut score by what
8 you would use and that would be for what purpose you're doing
9 the evaluation for. Is that correct?

10 A. It could be. I mean, I use a five across the
11 board whether I'm doing a treatment evaluation or an SVP
12 evaluation. But if California was using a three cut score
13 and I'm using a five, those numbers from the PPG are not
14 going to change ---

15 Q. Right.

16 A. --- with your interpretation, depending on your
17 cut score.

18 Q. But the actual raw data of the millimeter of
19 change and the blood flow of the penis would be the same when
20 you got the raw data from that, or you sent the raw data to
21 them?

22 A. Correct.

23 Q. Okay. And I'm -- you were asked a lot about --
24 and I got -- there was some confusion here. What is
25 research? What's the role of research?

1 A. That's a broad question.

2 Q. Yeah.

3 A. I mean, research answers questions. It tests a
4 set of hypotheses. It improves upon things. It helps you
5 decide to stop testing something because there are no
6 results.

7 Q. Okay. So over the research and the years of -- of
8 research over the PPG, as the DSM-5 said, "Most thoroughly
9 research physiological measure." Over those years of research
10 is it your opinion that the PPG is an objective way to
11 measure male sexual arousal?

12 A. Yeah.

13 Q. Does it have to be specific for pre-commitment SVP
14 commitment?

15 A. No, it's -- it's used to look at arousal in
16 different settings, including pre-commitment.

17 Q. And so across all those settings, including across
18 the setting -- and I think if we have the court's exhibits.

19 MR. KIRKLAND: Oh yeah. Did I take them?

20 MR. RUNYAN: The ones with mark up.

21 MR. KIRKLAND: Hold on.

22 BY MR. RUNYAN:

23 Q. Look at Exhibit 1. Where it says penile
24 plethysmography if you can just read this? Yeah.

25 A. "Penile plethysmography is a non-invasive test for

1 measuring the variation in the volume of the penis and in the
2 amount of the blood present or passing through it."

3 Q. So that's what the -- that's what penile
4 plethysmography is?

5 A. Yes.

6 Q. Okay. And across the board, whether you're doing
7 it for impotence or whether you're doing it for SVP
8 commitment, the research is objective male sexual arousal?

9 A. Yes.

10 Q. Okay. And you mentioned chapter -- you were asked
11 about chapter -- I think you actually mentioned chapter 15.
12 Chapter 15 of the SVP Clinical Science Handbook, the plow
13 chapter. It specifically states that the usefulness of PPG
14 in assessment of sexual offenders. Is that correct?

15 A. Yes. And that's specific to pre-com commitment.

16 Q. So across all literature that we've discussed.
17 And it's your opinion that it is a diagnostic tool for
18 assessment of male sexual arousal in SVP proceedings?

19 A. Correct.

20 MR. RUNYAN: I don't think I have anything else, Your
21 Honor.

22 THE COURT: Any re-cross?

23 MR. KIRKLAND: No -- no, sir.

24 THE COURT: Very briefly, since we're running very
25 long time, Mr. Kirkland asked about the stimuli and how it's

1 standardized and not standardized. Is there a scientific
2 method as to how it came to the Marshal and the RCV or the --
3 the other two that you talked about? Is there a standard
4 procedure scientifically for choosing stimuli?

5 THE WITNESS: When you say choosing, like choosing ---

6 THE COURT: Or creating.

7 THE WITNESS: --- what you're going to present to the
8 person?

9 THE COURT: Correct. As Mr. Kirkland made the point
10 that it's different from California or you don't know if
11 you're using Missouri or -- or -- but do you know they say
12 we're using -- we're watching a football game, you know it's
13 a football game as opposed to we're watching a sport, you
14 don't know what sport we're watching. Is there a standard
15 scientific method in choosing or creating that?

16 THE WITNESS: So for choosing I tailor what I give the
17 person based on their offenses. So I used to kind of
18 standardly give them all 27 trials of the Real Child Voices.
19 But then I'm in court testifying about how somebody who has
20 no offenses against a child showed some arousal to children.
21 And that's not relevant. So I have kind of -- I have changed
22 it so that I am tailoring it for the person. So for,
23 example, in Mr. Pough's case, I only had him administered
24 consenting adults, rape of adult women and then pubescent, so
25 like teenage adolescent. But I didn't give him like infant

1 trials. I didn't give him rape of an adult man because
2 there's no allegations that that's what he's committed. So
3 even if he has an arousal to that, that's not going to be a
4 helpful data point.

5 THE COURT: What is the scientific method to figure
6 out what this person is saying is arousal -- arousable as
7 opposed you say -- children saying something as opposed to
8 adult arguing? Is there a method to say, "Mr. -- when Dr.
9 Marshall created this, this is how we know, or this is how
10 I'm going to figure out if it is potentially arousal?"

11 THE WITNESS: So all of the PPG trials, the exception of
12 the neutral ones, are describing sex. So sexual situations.
13 So the only kind of variation between them are the level of
14 coercion or violence and the gender and the age. But
15 otherwise they're describing sexual assault or consenting
16 sexual experiences.

17 THE COURT: And then you said that this is just one
18 data point similar to a polygraph value, it's a multifaceted,
19 you're looking at, you're taking the physiological reaction
20 plus other items. What other data points are you measuring
21 besides the PPP -- PPG in determining your final opinion?

22 THE WITNESS: Yeah, so I don't use polygraphs. So like
23 comparing it to that data point, I don't think it's accurate.
24 So I administer a battery of psychological testing. So I'm
25 looking at psychopathology. So symptoms of mental illnesses,

1 personality functioning. I give a pretty long sexual
2 behavior questionnaire and then I do a clinical interview
3 where I'm asking them about their entire history plus getting
4 a sexual history on them. The research shows that people
5 might respond differently depending on the modality. So for
6 example, if I ask somebody, "Are you having thoughts about
7 hurting yourself?" And then I give them a measure where
8 they're in a room by themselves filling it out. Some people
9 are going to be more forthcoming sitting across the table
10 talking to me, and some people are going to be more likely to
11 say yes when they're by themselves in a private room. So I
12 want to assess multiple data points or a data point in
13 multiple different ways.

14 So those are all my data points. So the PPG is one
15 data point, but I'm also looking at the victim's descriptions
16 of what happened to them and all the officially reported
17 information. So the police reports, forensic interviews, I'm
18 asking the examinee what happened during that offense, what
19 they were aroused by. I'm looking in the lab, what they were
20 aroused by on that day. I'm giving them a measure where
21 they're checking boxes of things that they're aroused by or
22 what kind of pornography they watch. So those are all my
23 data points that I'm putting together. And the PPG is just
24 one data point.

25 THE COURT: And then, finally, you mentioned earlier

1 that when it comes to -- some people use PPG for treatment
2 and then as well as you mentioned treatment, you can see
3 improvement. Are you able to correlate if you just had
4 treatment in general with no PPG and you could see someone
5 improving? Are you able to correlate the PPG number, the
6 five millimeter to get you lower throughout treatment to --
7 to show that it is consistent?

8 THE WITNESS: I mean, that's kind of the goal of
9 treatment. So if we're doing sexual arousal management
10 treatment with somebody, so if you have somebody, I keep
11 using pedophilic disorder as an example because I think it's
12 clear to illustrate, but if you have somebody who has
13 pedophilic disorder, I am doing sexual arousal management
14 treatment with them, I'm helping them learn techniques to not
15 respond to that arousal, to not be aroused by it. We can do
16 almost like biofeedback where I can bring them into the lab.
17 I can have them do A PPG, I can -- they can feel when they're
18 getting aroused, but I can tell them over the intercom like,
19 "What's your body doing? Okay. Let's do these techniques."
20 And then -- yeah, I mean they can see their arousal go down.
21 And so that's the ultimate goal of treatment, is to be cured
22 or free from this arousal that's really distressing, can be
23 harmful to other people. So if you have access to a PPG lab,
24 then you can see in real time if that treatment is working.

25 THE COURT: All right -- all right. Thank you. All

1 right. You may step down.

2 THE WITNESS: Thank you.

3 THE COURT: All right. We -- anything else from the
4 State for this witness?

5 MR. RUNYAN: No, Your Honor.

6 MR. KIRKLAND: No, sir.

7 THE COURT: Does she need to stay or is she excused?

8 MR. RUNYAN: Dr. Gottfried? I mean she can leave for
9 today.

10 THE COURT: Any objection?

11 MR. KIRKLAND: No.

12 THE COURT: You're free to leave. Thank you. And
13 let's just make sure we have all those ---

14 MR. RUNYAN: I don't think that's the marked one.

15 THE COURT: Oh, there is just one missing?

16 MR. RUNYAN: Just one. Just one missing there?

17 THE REPORTER: I have all.

18 MR. RUNYAN: You have all?

19 MR. KIRKLAND: She has all.

20 THE COURT: All right. Mr. Kirkland, you got a
21 witness?

22 MR. KIRKLAND: I'm not going to call a witness.

23 THE COURT: All right. Y'all ready for argument?
24 You need a little break?

25 MR. KIRKLAND: I'm ready.

1 MR. RUNYAN: Give ma -- have just about five -- five
2 minute help break.

3 THE COURT: Let's take a 10-minute break and -- just
4 if you need to use the restroom.

5 MR. RUNYAN: Yep, I do too.

6 THE COURT: All right, let's do -- let's take a 10
7 minute break.

8 THE COURT: All right. We got all the Court
9 exhibits, right? Not missing any? I found all the exhibits.

10 MR. RUNYAN: Yeah, we have them all.

11 THE COURT: Okay. Good. All right.

12 MR. RUNYAN: I got 'em all.

13 THE COURT: All right. Let's hear some arguments.

14 MR. RUNYAN: You want me to go first?

15 THE COURT: State go first.

16 MR. RUNYAN: Okay. All right. Your Honor, what --
17 what we're trying to determine is if the PPG is reliable
18 under the Jones counsel standards and they are -- I mean I'm
19 sure the court's aware, but has the scientific evidence been
20 subject to publication and peer review of the technique? Has
21 there a -- is there a prior application of the method of the
22 type of evidence involved in the case? Is -- is there
23 quality control procedures used to ensure reliability and is
24 the consistency of the method with recognized scientific laws
25 and procedures? I believe Dr. Godfried has established that.

1 I think the first thing on -- on onset and in the brief --
2 I'll cite you to our brief that we in support of this for --
3 for further details.

4 But I think one thing I can't -- it's not disputed, is
5 that across 50 years since the inception of the PPG, it's
6 changed and evolved. And that's the role of research.
7 That's the role of studies. And it is been accepted by --
8 the reason we put it in the Blue Cross Blue Shield of Texas
9 is because it's to show that measuring blood flow to the
10 penis to establish arousal is scientific. The blood flow is
11 there or it's not there. The real question is so they do it
12 in that respect, they do it in treatment. Even the the DMH
13 well path facility uses the PPG and treatment. Dr. Gottfried
14 talked about the PPN treatment. Because what they want to do
15 is see if their arousal techniques are working to help
16 somebody not be aroused by their, whatever their sexual
17 deviance is. I think it's important to note what Dr.
18 Gottfried said and that if you are using the Marshall Set, in
19 other words, if you have decided that's the set you want to
20 use to measure arousal, anyone using that Marshall Set uses
21 the same stimulus.
22 They can't go in and change the way those stimulus sets are
23 -- are read over the audio. If you're using the Real Child
24 Voices and you decide to use that, you can't go in and change
25 what those trials are. Now, she did say on Real Child Voices

1 you could select to not, you know, subject someone who
2 doesn't have infant offenses. You know, they don't have to
3 hear that. They can hear just the adult coercion or the
4 teenage coercion. But once you start that set, once you hit
5 play, that doesn't change. And that's across 50 to 100
6 different labs across the United States that use the
7 Limestone prefect test. I think it's important to note also
8 when I ask her on redirect is that when you look at the raw
9 data, when you look at the blood flow to the penis and you're
10 given that data sheet and they send it to her to interpret
11 that doesn't change.

12 That data's the same. Imagine a blood pressure, you
13 take somebody's blood pressure, you know, that is what you
14 get. You know, that's the data for that day. Same thing
15 here. Blood flow. What is the blood flow on that day? The
16 real issue that I think people like to key on is what is the
17 lens by which someone who interprets the data looks at the
18 data? So in other words, am I looking at it through a lens
19 of someone who wants to treat this person? Am I -- so I
20 might have a different cut score. I might have one
21 millimeter cut score. Because I want to see if that
22 treatment is working in very incremental levels. So that's
23 the lens by which I look at that raw data. If I'm a doctor
24 and I'm measuring impotence, maybe I want to look at a small
25 cut score. Because I want to know if there's any change in

1 the penis.
2 But that's the lens by which the doctor looks at the raw
3 data. And the same thing when you're doing it as a
4 diagnostic tool. The lens by which Dr. Gottfried looks at is
5 -- is -- is she -- she talks about the how important it's to
6 get it right in these cases because there is a liberty
7 interest at stake. How important it's to know that the
8 person is aroused to what the stimulus set says they are.
9 She would rather not capture that than to -- to -- you know,
10 to have it and it not really be there. So she uses that
11 conservative cut score of five millimeters. So that's what
12 the DSM-5s are talking about when they talk about the varying
13 spec specificity and sensitivity from site to site. But it
14 can't be ignored that the PPG is the most thoroughly
15 researched and it is an objective measure of male sexual
16 arousal.

17 If we go to the courts, Your Honor, and I -- let me
18 stop -- let me just go to peer review. When you look at peer
19 review, you know, there's been a lot of talk about whether
20 this set's been peer reviewed or that set's been peer
21 reviewed. I -- I think Mr. Kirkland would think that Mr.
22 Pough's actual test has to be peer reviewed. I mean, that's
23 kind of getting down into how -- how far down we're going in
24 this. But courts have said mean that the laws -- some courts
25 have said in the ninth circuit, 2017 said expert test in

1 Wendell v. Glaxo Smith Kline expert testimony may be reliable
2 and admissible without peer review and publication.

3 The absence of independent research into a topic at an
4 issue does not mean the expert's methods were unreliable.
5 That's from the United States v. Cloud, Eastern District
6 Washington in 2021. So you don't have to have peer review
7 for the method to be reliable. I think Dr. Gottfried
8 testified to the -- the way in which her lab standardizes
9 this, the stimulus sets that she uses, the cut score that she
10 uses, the quality control measures that she uses to make sure
11 that people are paying attention, that they are not trying to
12 avoid arousal. I think all that goes, but all that aside,
13 she testified and it's -- it's in the record there and the
14 Court's exhibits, these stimulus sets have been peer reviewed
15 extensively.

16 So I think they have been subject to peer review. I
17 think her quality control speaks for itself based on her
18 testimony. But I also want to talk about what other -- the
19 other jurisdictions have done with this. Now, I have to go
20 back to the, to the argument that controversy does not equal,
21 not reliable. I mean, all the things that Mr. Kirkland
22 cross-examine Dr. Gottfried are fair game, what we're looking
23 for is a baseline of reliability. It is what Dr. Gottfried
24 doing reliable in her assessment. Other courts have held,
25 and again, I'll -- I'll -- I'll refer you to our -- our brief

1 on this. But the Washington courts the Washington Supreme
2 Court in the matter of detention of Herrick (ph), they said
3 that the -- they found the PPG results were admissible as a
4 part of the diagnostic process, which is what we're talking
5 about here.

6 And the PPG testimony would assist the juror
7 understanding the expert's sexual deviancy diagnosis. And
8 that's what's important about this. It's very probative.
9 The fact that Mr. Pough's results on the PPG are identical to
10 his criminal offending history. And Dr. Gottfried talked to
11 you on when you asked her some questions. So she told you
12 about the comprehensive method that she uses. She looks at
13 all these different data points. I think it's very
14 significant that he's aroused to what the victim said
15 happened and what he was convicted of. Which is criminal
16 sexual conduct with a minor age 11 to 14 second degree.
17 Criminal sexual conduct in a third degree with a 17-year-old
18 girl and criminal sexual conduct with a minor under age 16
19 second degree.

20 And it's important that his offense, his convictions,
21 his current arousal, what he said about the PPG is all
22 important data points and corroborates what the PPG results
23 were. Also -- and this, I think this is important, Your
24 Honor, the -- the Illinois Supreme Court in a case called
25 Sandry. And again the site is in our brief. They said that

1 once it's determined that a methodology is generally
2 accepted, it follows that it is achieved a sufficient degree
3 of reliability and validity to cross the threshold of
4 admissibility. I think that's important. I -- that's what
5 we're talking about here. Baseline of reliability.
6 The court appeals in South Carolina in matter of Milton (ph),
7 which was a PPG like test. It was a conduit, hearsay. So
8 one doctor testified about the results of another doctor's,
9 PPG, and they said that was conduit hearsay, that this doctor
10 couldn't establish a baseline of reliability for those
11 results. So they kept them out. I think that's important to
12 note because what we're looking at is the baseline of
13 reliability.

14 The Sandry court in Illinois said, "Determination of
15 reliability of expert's methodologies naturally sustained by
16 the inquiry into its general acceptance in the scientific
17 community." And as I stated earlier, I think across the
18 board, the fact that the FDA has approved this device for
19 diagnosis and assessment of sexual offenders, the fact that
20 Blue Cross Blue Shield recognizes it as a measure of blood
21 flow to the penis, the fact that the DSM-5 says it's the most
22 thoroughly researched physiological measure in measuring this
23 stuff, the fact that the sexually violent predators Clinical
24 Science Handbook by Dr. Plough, the chapter says the value --
25 he emphasizes the value of the PPG in assessing sexually

1 violent offenders in these types of evaluations. And the
2 fact that it's heavily used in treatment to show whether or
3 not there's been a change. And I like to think of it this
4 way.

5 So if -- if a person is committed and they walk into
6 the treatment center on day one, and they're given a PPG and
7 then five years from now they're given another PPG, then 10
8 years from now they're given another PPG and you see that
9 change. What is that change based off? That change is based
10 off the objective reliability of the PPG they took when they
11 walked through that door. And I -- no one can tell me or
12 explain to me how that objective data, that raw data, that
13 arousal is not -- not any more unreliable before treatment.
14 It's -- I mean, nobody's said that to me. If it's a reliable
15 in treatment, then you walk through the door, you know, back
16 here when they're not in treatment. How is it not reliable
17 then? I mean, I -- I just don't -- no one can tell me that.
18 And I think Dr. Gottfried told us that it is reliable. and
19 that's what we're talking about here is just the baseline of
20 reliability. And I'll -- I'll leave it at that, Your Honor.

21 THE COURT: All right. Thank you. Yes, sir. Mr.
22 Kirkland.

23 MR. KIRKLAND: Thank you, Your Honor. I realize we
24 were ---

25 THE COURT: Let's turn that microphone on.

1 MR. KIRKLAND: Oh, yes. I realize that we're in an
2 adversarial stance right now. One of the things that was
3 said was that I seem to think that every single person that
4 takes the test needs to be sent to another -- another testing
5 center and see if they test the same. That was not at all
6 what I was trying to argue. I was trying to just get to the
7 simple fact that there is no standardization there -- across
8 all of these various centers. They don't have, she could not
9 tell me what the other centers were that had -- that used the
10 exact same stimulus tests that she used. Now, there's a few
11 things that -- and -- and one of the things that I asked her
12 was, so based -- I was like so -- she said, "We've been peer
13 reviewed."

14 And I said, "So basically you've established that you
15 are now internally standardized yourself?" And she said,
16 "Yes." To that. "So we -- we've internally standardized
17 ourselves." I said, "But you -- you can't say that you're
18 standardized with -- with any other program necessarily
19 across the United States." And then she's trying to say,
20 "Well, yes I can." And then I started talking about stimulus;
21 the various stimulus programs that they use. And at that
22 point, that's when I think things really started to fall
23 apart because she had to admit that a lot of the research
24 journals that she -- well, she admitted initially a lot of
25 the research journals were involving adults on juveniles.

1 That's the first thing she admitted.

2 Then she secondly admitted that there's various
3 stimulus sets and that it's not clear in a lot of the
4 publications which stimulus set is being used. I asked her
5 if somebody could receive one diagnosis at your place and
6 then go to California or anywhere else and potentially
7 receive a different diagnosis if they were using a different
8 stimulus set, even if all of the other things were the same.
9 And she admitted yes to that.

10 So one of the things -- and and we also talked about
11 this because this is -- has been the problem, Your Honor, and
12 -- and I will refer you to the -- the motion that I filed.
13 And there's a portion of it on page 3 or so. There's not
14 page numbers at the bottom. But William Burke and Dr. Dwyer,
15 and I think Dwyer or Burke, one of them actually did the --
16 the child voice recordings. But they stated in one of their
17 books in 2015, and she talked about this book wide variation
18 exists concerning, concerning stimuli types.

19 This is the problem I have with this assessment
20 protocols and means of analyzing, interpret -- interpreting
21 tric results in forensic laboratories in North America.
22 Okay. So he's saying the two things that they basically
23 admitted to, he's saying, number one, "The stimulation types
24 are not standardized." And number two, "Interpreting
25 plyometric results are not standardized."

1 Goes on to say, "With concerns regarding lack of standard
2 standardization and telemetry sites across have been
3 discussed since this creation, however little improvement has
4 been made, there are challenges in the implementation of
5 standardization within jurisdictions in between communities,
6 our -- our countries." Well, that's a problem. That is a
7 serious problem. This is the United States of America. We
8 do not need to have a different standard for anti -- any
9 mental health ill -- illness that we have. I mean, if you
10 have schizophrenia, you need to have schizophrenia in
11 California and you need to have it in -- due to diagnostic --
12 whatever diagnostic test they give you, you need to have it
13 in South Carolina. It needs to line up. We cannot have a
14 situation where somebody is determined to be attracted to
15 whatever females. And in this case, she diagnosed him with
16 coercive paraphilic disorder.

17 We can't have a situation where in one state, at one
18 lab you are in another lab, you're not. And the differences
19 are because of the stimuli that they're using or the string
20 gauge that they're using. And I don't want you to think
21 about this as well, Your Honor, these string gauges that
22 we're using -- that they were using, and they call them so
23 incredibly forgiving that the ones they're using in in
24 Canada, I think she said was one millimeter. One millimeter,
25 almost invisible measurement. Five millimeters is -- is five

1 times more, but it's barely anything. And nobody can -- even
2 -- nobody can agree on any part of this test. The only thing
3 that appears to have been able to happen is Limestone is
4 handing out certifications to people and they're getting paid
5 money to do it. And these people are supposed to be using
6 particular standards when they set up their laboratories and
7 then the Limestone says, "Well, you've done it." But she
8 admitted that our standard, it complies with the Limestone's
9 or standard that they gave us, but we have made adjustments
10 to it.

11 We've made adjustments to it. And you can't do that.
12 There either is a standard or there is not a standard. You
13 will hear throughout this trial. And -- and you talked to
14 her about, "Did you -- were there other tools that you used?"
15 Okay. She used the MMPI, the Massachusetts Multi-phase
16 Personality Inventory. She used the SASSI-4, which is a drug
17 screen, the PAI, which is a Personal Assessment Inventory,
18 the MIDSA, which is the Multidimensional Sex and Aggression
19 -- that -- that's all that I have written down. The PNI, the
20 Pathological Narcissism Inventory, the Hare Psychopathy
21 checklist second edition, the Static-99R, and I think it's
22 the Static 2002R. Now, these tests, well, some of them I'm
23 not in complete agreement with, but I'll like the
24 Massachusetts Multi-phase Personality Inventory that is
25 standardized 100 percent across I think the entire world, not

1 just the United States.

2 The SASSI-4. My understanding is that that is
3 standardized 100 percent. There is no other way to give that
4 test. The -- I mean, I'm talking about the ones that I'm
5 familiar with, the Static-99R and the Static 2002R that she
6 does. That is a set of questions that is the same exact
7 every single time, every single time these tests that she --
8 she uses are tests that have been proven that -- that -- that
9 they have boiled them down to an essence, to a -- every
10 single person that does the test does it exactly the same
11 way. There is no deviation whatsoever in -- and this is just
12 what we're dealing with is an emerging field even after 50
13 years. And the reason why it's an emerging field is because
14 of what I just -- I talked about when I was speaking to her.
15 When you're dealing with a person's physiology, right? You
16 do not know, like for example, if a person does poorly on a
17 lie detector test, is it because they're lying or because
18 they're afraid?

19 That's why they're not admissible in court. Because
20 when you're using physiological responses, it's not clear
21 what you are physiologically responding to. These types of
22 tests have traditionally been held out of courtrooms and for
23 good reason. And they actually used the -- the polygraph,
24 they actually used that as a part of these 1,918 people,
25 super normals. She barely mentioned that she didn't -- she

1 was -- I -- I felt like she was being very evasive of the --
2 the answers, but she did eventually get to a point where she
3 admitted that there was something called super normals, but
4 she also went through, then -- she started talking about all
5 these control groups and she's just listed -- they could be
6 college kids, they could be in. What is the control group
7 then what -- how do we know that this machine tests for what
8 it tests for -- if -- if a particular person listens to a
9 particular stimulant?

10 And this is another thing they don't bring in here for
11 you to hear. I've never heard it. I think Mr. Runyan has
12 heard it, but no court has been able to actually hear what
13 this stuff is, hear the recordings. and not only that. And
14 -- and because of that, it's very difficult to understand and
15 they just never put it into evidence. It's very difficult to
16 understand what these recordings are. And it's even more
17 difficult to understand what someone might be reacting to.
18 So we do not know what -- let's just -- I'm making up a
19 number. 20 recordings of -- of children. They play the
20 recordings. The person could be reacting to depending upon
21 the sentence structure. They could -- and they use in these
22 tests, they use common everyday language. So they might be
23 reacting to breasts that's said by a child and not the child
24 itself.

25 I mean, it depends. And she said it even at one point

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1 that -- and I'm pretty sure she said to you when you started
2 asking her about -- I can't remember what your question was,
3 but it was -- it -- it really shocked me that during some of
4 the tests, even with her -- within her standardized lab, she
5 will change, she will internally change the stimuli that she
6 gives a particular person. That goes against absolutely
7 everything that she had said throughout her entire testimony,
8 that they performed this test the exact same way every single
9 time. The papers that have been published on her lab do not
10 apply to any other lab unless that lab is using exactly the
11 same procedures that her lab is. She said, "Our lab has been
12 peer reviewed." Have you peer reviewed to internally
13 standardize yourself? I mean, and she seemed to suggest that
14 there is absolutely no way that because she said, "What do --
15 what do you mean? Do you want me to send Jeremiah Pough, you
16 want me to send him over to California and have him tested
17 again?"

18 No, I wasn't saying that. I'm not an absolute moron.
19 What I'm saying is what is -- we know that the Massachusetts
20 Multi-phase, I think it is, Personality Inventory. We know
21 that that test can be given anywhere and you get similar
22 results. She could not tell us, despite how hard I tried to
23 ask her, because I'm not a psychologist, I tried to ask her
24 various ways, how can we know that these tests are valid?
25 What are the controls? What are the -- what are the ways

1 that you -- you ensure that there's no false positives? How
2 do you internally regulate this machine? And she's like,
3 "The person just internally regulates themselves." The
4 person, if they respond to something, then that's just --
5 well, that's the galvan metric response. That -- like I was
6 saying. We don't know, just like in a lie detector test,
7 which she used to use and now doesn't like, in the VRT test,
8 which she said she no longer likes because that was another
9 galvan metric or physiological response where she was talking
10 about people's, how long they stared at a particular picture,
11 if they stared longer at a child versus a 60-year-old woman.

12 That's what that -- that test was all about. And what
13 we found with -- with physiological reactions to things that
14 it's pretty unreliable. She even said that she no longer,
15 even though she did in the past, she no longer believes in
16 the polygraph. She no longer believes in the VRT, I think it
17 is, which is the -- the visual thing. Looking at the
18 pictures. Well, it's about -- it's time for her to start
19 giving up on this one until something else happens. It's --
20 they haven't made it yet. It's just not ready. We have not
21 reached a point that we can -- we can identify a
22 physiological response with a thought and with any form of
23 guarantee. And she could not point to any standardization,
24 any control, anything that can prove that this actually
25 measures exactly what it does measure. And even if it does

1 appear to measure what it is supposed to measure, there is no
2 standardization across the rest of the country, across the
3 rest of the world.

4 And she specifically admitted that you could get
5 different results in another -- if you go into another place
6 if they're not using the exact same stuff. So it's never
7 been standardized. And it has to be. It has to be like the
8 -- the Massachusetts or Minnesota, I don't remember,
9 Multi-phase Personality Inventory and these other things. It
10 has to be standardized. If it's not standardized, it doesn't
11 come in. That's the counsel. That is what they require of
12 these sorts of tests is reliability and validity. And she
13 cannot attest to either reliability or validity, cannot point
14 to any type of standardization, any widespread acceptance of
15 one single test. They're all using their various data sets.
16 The only thing that they seem to be using in common is the
17 machine. But they're using different cut scores. They're
18 using different stimulus. We don't know what they're using.
19 She admitted that in some of the papers. It's hard to tell
20 which stimulus set that they're using. We don't -- we don't
21 necessarily know when some of the -- because I read a piece
22 of one of the articles and it wasn't clear what the cut was.
23 I don't know how this can be considered peer review when
24 nobody actually knows what everybody else is doing and nobody
25 can agree on what has to be done to standardize it. So I

1 will leave it at that.

2 MR. RUNYAN: I can respond, Your Honor?

3 THE COURT: Briefly.

4 MR. RUNYAN: Okay. Your Honor, I know Mr. Kirkland
5 believes that the articles that are in the list that are into
6 the court, submit to the court are just basically junk is
7 what he's saying. These are peer reviewed articles that have
8 gone through the scientific process. And to say that -- you
9 know, they don't say what they say they say, which is that
10 the PPG is at the -- the is an objective measure of male
11 sexual arousal. That's what they're saying. And that's what
12 this -- that's what the courts have to rely on the medical
13 field and the -- and the mental health community in making
14 these decisions sometimes. And they say that this is a -- a
15 reliable test. And I also have to point out, I just have to
16 point this out because Mr. Kirkland said that, you know,
17 someone with schizophrenia has to be diagnosed with
18 schizophrenia in California and in South Carolina.

19 The PPG is not a tool to say that Mr. Pough or anyone
20 else has paraphilic coercive of disorder. It shows his
21 arousal. The doctor then has to take that arousal compared
22 to all the other things that Dr. Gottfried said, she used in
23 a report in totality to come up with what the diagnosis is.
24 It's just one part of the diagnosis. It corroborates his
25 sexual offending history. It doesn't diagnose him with

1 paraphilic coercive disorder. And all the tests that Dr. --
2 I mean, that Mr. Kirkland talked about, which I don't think
3 were in testimony, I don't think she listed the tests that
4 she used, but the Static-99R and the Static 2002R, which are
5 the list of questions that are -- he says are the same every
6 time they are. But some of those questions have a subjective
7 nature to them that doctor can determine whether or not
8 certain things apply or don't through their -- through their
9 clinical knowledge.

10 That's the way they think. It's not standard. They
11 can apply their clinical knowledge to it. It's the same
12 thing here. They get the raw data, they use the cut score,
13 they see their arousal, they apply their clinical judgment,
14 but along with the other sets of things that come up with a
15 diagnosis, it's not an emerging field. The PPG has been long
16 established. And I think if you look at the fact that the
17 Illinois Court did from insurance companies to the FDA to
18 treatment centers, to other state sexually violent predator
19 programs, they used a PPG and they consider it a reliable
20 device in measuring male sexual arousal, not diagnosing
21 somebody with something.

22 And I think it's unfair to say that it's always
23 excluded. It isn't. Not even in South Carolina Circuit
24 Courts. I've given you a list in a footnote in the brief.
25 There's several cases. This doesn't come before. This is

1 not a standard issue in all these cases. I mean, most of the
2 time DMH says they need to go in and the other person doesn't
3 have an expert. Only in these -- you know, these tough cases
4 where -- where we employ Dr. Gottfried, which as she said,
5 you know, I think she'd been qualified 23 times or something
6 as a -- as an expert only these tough cases.

7 And I'll just cite you to the matter of Greg, which is
8 on cert; pending cert with the Supreme Court where the trial
9 court said this came in the matter of Wilford (ph) Judge
10 Sprouse allowed this to come in in the matter of Hyman.
11 Judge Henderson let this come in in the matter of treatment
12 of Daily (ph); Judge Kelly let this come in. I mean, it's
13 not uniformly excluded in South Carolina courts and there's
14 been South Carolina courts and they excluded it. And the
15 matter of Harry Leonard, judge Young Charleston excluded it
16 in the matter of Vaughn (ph) Judge Young, same judge excluded
17 it. So it has been excluded as well. It's really, it's your
18 discretion as to whether or not this is a reliable device.
19 And we'll leave it to you to make that determination. But I
20 -- I to just blanketly say that it's uniformly excluded that
21 it's unreliable. I think all we have to do is establish a
22 baseline reliability under the Jones Factors. I think Dr.
23 Gottfried did that with her undisputed testimony. I mean,
24 she's the expert here. She was qualified as expert penile
25 plethysmography. And it's undisputed testimony, Your Honor.

1 Thank you.

2 THE COURT: All right -- all right. What I'm going
3 to do is I'm going to take this under advisement. I'm going
4 to think about this tonight. I'm going to review these
5 Court's exhibits, the two motions I have. And consider all
6 the testimony I heard from Dr. Gottfried today. I'll have my
7 decision first thing in the morning. We'll start back at
8 9:30 with opening statements by the parties at 9:00 a.m.
9 I'll be here handling the minor settlements for the other
10 civil cases. So just be mindful of that. If there's
11 something else that you all need to talk with after that,
12 I'll take a short break. But other than that we'll get ready
13 to go at 9:30. Anything else you the State?

14 MR. RUNYAN: No, Your Honor.

15 THE COURT: Anything from the respondent?

16 MR. KIRKLAND: No, sir.

17 THE COURT: All right. Court is in recess until
18 9:00 a.m. tomorrow.

19 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
20 4:43 P.M.)

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1 CONTINUATION OF PROCEEDINGS - NOVEMBER 4, 2023

2 THE COURT: All right. Anything before we begin from
3 the State?

4 MR. RUNYAN: Just, Your Honor, I emailed this morning
5 to your clerk and secretary, the proposed or the jury charge
6 that Judge Hood used that Mr. Kirkland and I spoke about
7 yesterday. I did email that. So we have that to look at for
8 -- for the jury charge in this case.

9 THE COURT: Very well.

10 MR. RUNYAN: I didn't get the print -- chance to print
11 it out, so when we do the charge, if you could maybe print
12 out some copies, that would be helpful.

13 THE COURT: All right. All good.

14 MR. KIRKLAND: Nothing from the defense.

15 THE COURT: All right. As to the -- back on the record
16 for -- in the matter of the care and treatment of Jeremiah
17 James Pough. We ended yesterday's hearing with the Daubert
18 counsel hearing with the testimony of Dr. Gottfried regarding
19 the PPG specifically about her treatment of Mr. Pough and her
20 determination about the sexual violent predator nature of
21 that and the future risk. Mr. Kirkland made the argument
22 that it was not reliable based on many factors in my
23 procedure for determining whether or not to admit it under
24 the reliability standard.

25 First and foremost, just making some findings of fact

1 and wall as I see it. Under 702, the three factors I first
2 need to determine first is this type of evidence beyond the
3 scope of the ordinary juror. I think we all agree that it
4 is, it's highly technical. It was explaining both
5 psychiatry, psychology as well as physiology of a human and
6 how a scientist interpreted that data. So I think an
7 expert-expert is needed. It would be helpful to the juror.
8 So -- so I find that first factor is met.

9
10 Secondly, when it comes to the qualifications, I
11 believe that Dr. Gottfried is qualified based on her skills,
12 requisite knowledge, her training, her experience. She was
13 qualified in -- as an expert in several different areas for
14 the purposes of Daubert counsel hearing the sexual
15 evaluation. And specifically with the PPG, she did, she went
16 through her entire training which was significant, including
17 being the director of the behavioral sciences department as
18 well as a lot of other training and writing presentations all
19 in this specific field for well over the past decade, if not
20 more. So I find she is qualified in this area.

21 The third factor, which needs to be determined is. Is
22 the underlying science reliable? Obviously whether it's
23 reliable does not mean whether or not it's credible. I need
24 to find whether or not it is reliable though that threshold
25 foundational question before it goes to the jury as the

1 gatekeeper. First, I find that this is scientific in nature.
2 I don't -- I don't believe it's not scientific. I believe
3 it's scientific in nature. So the counsel factors are the
4 ones that I'm looking for.

5 Several of these factors. Now, whether or not I need
6 to use every single one, whether I need to go outside of
7 them, which is different under Daubert. I don't know what
8 our Supreme Court has said it all -- it kind of changes, but
9 the way I looked at this -- this science, kind of the
10 general, then more specific and then more specific than that.

11 First and foremost, the actual machine from limestone
12 we heard testimony that it was created back in the 1950s, the
13 general technology for different reasons it was created. So
14 it's been around for a long time. It's been used not just
15 for the sex evaluation, but it was also used -- we saw from
16 two different exhibits we saw from Court's Exhibit 1 that
17 under Blue Cross Blue Shield it generally has been used for
18 heart failure and other -- other measuring types of devices
19 to show that it's accurate in what it's doing and it's
20 physical form. And as -- as Dr. Gottfried explained the
21 procedure about how it works and what it measures. So I
22 think the actual machine, based on the testimony and the
23 evidence presented that is reliable, that it -- it measures
24 what it measures.

25 Now, the second step is combining the physical and

1 physiological aspect of this machine with the psychological.
2 With the -- the thoughts and the connection from the brain to
3 the blood flow and how that is measured. So the next thing I
4 look at are there are a lot of peer review articles
5 presented, which I believe was Court's Exhibit Number 3,
6 which the doctor testified to that she had reviewed, looked
7 at, studied before.

8 A lot of these peer review articles go through PPG and
9 sexual behavior assessment based on different types of
10 situations; adult victims, child victims, violence, other
11 things. These articles discussed about how the PPG works and
12 its connection with the sex evaluation, whether it be
13 pre-commitment treatment or whatnot. The general science
14 seems to be sound that you can study the PPG and its relation
15 with sexual evaluation and the physical -- physiological
16 changes that the machine records.

17 So I think that's important to -- to understand the
18 baseline that I believe that the physical machine works based
19 on science. And it is reliable that the -- the science of
20 studying sex evaluation, the psychological connection between
21 the thoughts of a potential offender or a patient and the
22 machine are based on peer reviewed articles that it is
23 reliable, that has been tested, that has been studied for
24 many years through many different peer reviewed articles. As
25 to the specific science that was used by Dr. Gottfried with,

1 we have the limestone machine and then we have the specific
2 trial sets, which included the Marshall and the RCV, I
3 believe it was and how these stimuli worked in her assessment
4 and how they were connected.

5 For me, the most important thing was that this was one
6 data point among many that she used in making her assessment.
7 She stated, I believe, multiple times that it would not work
8 solely based on as one data point because it's not reliable
9 enough. She needs to use her expert training and experience
10 and other knowledge of this area of the medical field to
11 determine -- to make her evaluation about whether or not
12 someone is likely to re-offend under that standard. So she
13 used the -- the peer review technique. She cited several
14 articles, which again was in Court's Exhibit 3. She is
15 discussed her mini peer reviewed articles.

16 She's written peer reviewed presentations she has
17 given, as well as other discussions, she has had on this
18 subject multiple times before. We discussed -- throughout
19 her testimony, she discussed the application method, kind of
20 prior application throughout, not just the State, but the
21 United States and throughout the world. There was an issue
22 about it not being standardized, which I understand.
23 However, the underlying science, which I asked her about was
24 the stimuli which was being used, which is used in different
25 places, which she manipulates scientifically per patient, I

1 believe, is standardized in how the underlying science was
2 created.

3 The Marshall test she discussed how that was created.
4 The RCV, she discussed how that was created and why it's
5 important that these voices were used in certain ways. And
6 so the underlying science of whether or not it was the same
7 Marshall test or the same RCV test or she changed a question
8 here or there was based on the studies and getting the -- the
9 sexual type of arousal out of the patient. So there was a
10 basis on how they did that. She talked about the quality
11 control procedures extensively, including Court's Exhibit 4,
12 which is the procedure for the instructions to ensure that,
13 that is done properly. That is -- there's a controlled
14 measure including the -- the seating that the patient would
15 use to ensure that they can't manipulate it. Even though
16 this was her own checklist that she created, it shows that
17 there is a quality control procedure used in this method.

18 She also discussed the -- the cut score and how she
19 evaluates that. And that goes, I think, the consistency of
20 the method with recognized scientific laws and procedures
21 that she changed the cut method based on her own evaluation
22 and why -- she discussed why she used a certain more
23 conservative cut method as opposed to in a treatment method,
24 you might make a little bit less because you're -- it's
25 different -- she discussed it's different for treatment

1 versus essentially diagnosis or an assessment. And that went
2 to the specificity and sensitivity.

3 She discussed the false positives versus false
4 negatives and how she used her. The method changed based on
5 that and how they were more concerned about avoiding false
6 positives and they rather have false negatives so that it can
7 be consistent. I believe that, essentially, covers it.
8 There were these other court exhibits.

9 Court Exhibit 5, which is the sexual -- sexually
10 violent predators, a Clinic Science Handbook. Court Exhibit
11 6 goes to some peer reviewed studies of limestone and that
12 machine. We have the DSM-5-TR, Court Exhibit 8. The
13 diagnostic markers, which quote, "The most thoroughly
14 researched and longest use of such measures is the PPG.
15 Although, the sensitivity and specificity of diagnosis may
16 vary across sites which frequently use different stimuli,
17 procedures, and scoring." And, again, I think this goes to
18 the overall technology is sound and reliable based on the
19 peer review studies, based on the link that's been used. And
20 then as the DSM talks about it varies site by site. And then
21 Dr. Gottfried explained why it varies and how she uses it in
22 different ways, which I believe are based on scientific
23 methods. So I find that the underlying science is reliable
24 for purposes of 702. Obviously, the credibility can be
25 attacked, but I think that has met that threshold matter.

1 As to 403, I believe the -- the probative value versus
2 prejudicial, obviously the probative has to be substantially
3 outweighed by the prejudicial effect. And this is extremely
4 probative because it goes to the underlying element of the
5 two elements. You know, did he have a conviction? And then
6 what was her assessment? So I believe that the 403, it also
7 passes 403 with the burden being on the State for all of
8 those factors, I believe they have carried their burden. So
9 I find that it is reliable and I'll allow her to testify to
10 it. Anything else from the State?

11 MR. RUNYAN: No, Your Honor. Thank you.

12 THE COURT: And if the State -- if the State will
13 prepare a written proposed order for the Respondent to review
14 at some point. It doesn't have to be -- just essentially
15 what I said, what the prior motion kind of summed up again,
16 what was testified to. So I believe that was rather
17 accurate. So if you will have that and let defense counsel
18 review that as well.

19 MR. RUNYAN: Okay.

20 THE COURT: And anything else from the Respondent?

21 MR. KIRKLAND: No, sir. I believe I don't need to make
22 further objection that it's already preserved since we -- I
23 filed a motion and you made the ruling, so I would renew the
24 motion, just ---

25 THE COURT: Of course.

1 MR. KIRKLAND: -- just to make sure.

2 THE COURT: Of course, it is renewed. Your objections
3 are renewed for the record.

4 MR. KIRKLAND: Thank you.

5 THE COURT: All right. Anything else before we bring
6 the jury in?

7 MR. RUNYAN: No, Your Honor. We're ready.

8 MR. KIRKLAND: No, Your Honor.

9 THE COURT: All right. And again, this is, you know,
10 criminal and civil plea, is there anything different about
11 opening statements or anything with SVPs?

12 MR. RUNYAN: No. I mean, we -- we open, he -- he gets
13 an opening if he wants one.

14 MR. KIRKLAND: There's no. But so it's a normal.

15 MR. RUNYAN: Normal. Yeah.

16 THE COURT: All right. I'm going to give them a brief
17 instruction, what I already told them, but other than that,
18 I'm going to let them, I'll let you all just ---

19 MR. RUNYAN: Okay.

20 THE COURT: --- go ahead. All right. Let's bring the
21 jury. Mr. ---

22 MR. KIRKLAND: Yeah. I'm good.

23 THE COURT: Mr. Pough is good?

24 MR. KIRKLAND: Yeah, he's good.

25 THE COURT: All right. If he we'll take a restroom

1 break at some point so everyone can ---

2 MR. KIRKLAND: Yeah, I'm sorry about that. yesterday
3 he -- when somebody leans over to me and said, "I need to go
4 to the bathroom." I stop for -- because I don't know what's
5 going on.

6 THE COURT: That's not a problem at all. If anybody --
7 if -- if he needs to take a break, something comes up just
8 let us know. We'll work with that. All right. Let's bring
9 the jury.

10 (Jury enters room)

11 THE COURT: And here the court exhibits if for any --
12 you all need them for any other reason. All right. Good
13 morning, ladies and gentlemen. We turned the heat up a
14 little bit and make sure it's as comfortable as possible. If
15 it's still a little cold, we'll -- we'll keep working on it.
16 But I appreciate you all being on -- on time. I appreciate
17 your patience. Before we get started today, we're going to
18 have you sworn in one more time before we begin this trial.

19 THE CLERK: Ladies and gentlemen of the jury, would you
20 please stand and raise your right hand to be sworn in? You
21 will well and truly try and true deliverance make of all the
22 issues joined in this case and render a verdict which is in
23 accordance with the law and the evidence. So help you God.
24 Please signify by saying, I do.

25 MULTIPLE SPEAKERS: I do.

1 THE CLERK: Thank you. Please be seated.

2 THE COURT: All right. Ladies and gentlemen, before we
3 get started, I'm going to read to you again what this case is
4 about and then I'll let -- turn it over to the attorneys.
5 The State has brought this case under the sexually violent
6 Predator law of South Carolina. The State seeks the civil
7 commitment of Jeremiah Pough, the Respondent for long term
8 control, care and treatment in a secure facility. This is
9 not a criminal proceeding seeking incarceration, but rather
10 is a proceeding seeking civil commitment.

11 The State of South Carolina alleges or claims that the
12 Respondent, Jeremiah Pough, is a sexually violent predator
13 under the law. Respondent denies that he is a sexually
14 violent predator and the burden of proof is therefore on the
15 State to prove by evidence sufficient to satisfy each of you
16 beyond a reasonable doubt that Respondent is a sexually
17 violent predator. If the State is unable to meet that burden
18 of proof as to one or more of the elements of this claim, the
19 Respondent is entitled to a finding that he is not a sexually
20 violent predator. All right. With that, State may begin.

21 MR. RUNYAN: Thank you, Your Honor. May it please the
22 court?

23 THE COURT: Yes, sir.

24 MR. RUNYAN: Good morning, ladies and gentlemen. As I
25 introduced myself yesterday, my name is Chris ---

1 THE COURT: Mr. Runyan, let's get you a microphone.

2 MR. RUNYAN: Yep. I'm sorry. Just one or that one.

3 THE COURT: It's important we always have the court
4 transcript, the recording, and make sure everybody's heard.

5 MR. RUNYAN: I think it was over here yesterday, so
6 that works. Is that good? We're good. Okay. Sorry about
7 that. Ladies and gentlemen. There's always something in the
8 courtroom, but my name is Chris Runyan, and as I told you
9 yesterday, I work for the office of the Attorney General here
10 in South Carolina. Before we start, I want to thank you and
11 you'll be thanked a lot. You probably already have been.

12 And there's a good reason for why people thank you is
13 because we can't do our job without you. The job and the
14 role and the function that jurors have in the American
15 judicial system is very important. We can't answer disputed
16 questions. We can't find the -- the answers to these
17 disputed facts without you. So it's a very important not
18 only to the State, but to Mr. Pough that you're here today to
19 do that because you have a -- a unique role.

20 And you may not believe me when I tell you this, but
21 you're the fact finder in this case. And the judge will tell
22 you this. You're the only ones that could determine what the
23 facts are in this case. We all have roles to play and yours
24 to do that. I can't tell you what the facts are. If you
25 believe this or not. The judge can't tell you what the facts

190

1 are. That's your role here today, and it's a very important
2 role that you play. So we thank you for that.

3 And I also want to talk about when -- you know, when I
4 was in law school, they always said, come up with a theme.
5 You know, as you're reviewing the evidence and you're
6 preparing for trial, look for something throughout the -- you
7 know, throughout the case that can really, you know, think
8 about throughout the system.

9 I was thinking about it while I was doing it, and I --
10 I thought of follow through. That's what came to my mind.
11 And I was thinking about my son who just recently went to
12 college. And when he was in high school, he -- he shot skeet
13 and sporting clays, those little orange clays that go up in
14 the air. And his coach always talked about follow through.
15 when he would take what he was following, that little clay in
16 the air, he would follow it. And when he took the shot, not
17 to just stop there and just keep going to follow through. As
18 I thought about that, I think about you can -- any sports
19 analogy you can think about because you're swinging a
20 baseball bat or a golf club or shooting a free throw on a
21 basketball court. There's just numerous amounts of things
22 you can think of, but it's follow through.

23 And what does that mean to be? It means thoroughness.
24 It means you're -- you're -- you're taking that shot or that
25 swing you're being thorough and you're being complete in what

1 you're doing to get the -- get the shot right, or get the,
2 you know, the swing right. So think about that as we go
3 through this.

4 And like I said, I work for the Attorney General's
5 office and it might be -- you might be wondering why the
6 Attorney General is here and not a local attorney. And
7 there's a very simple answer to that question. In 1998, when
8 the legislator passed the sexually violent predator law, I
9 guess that's 23 years ago now, 25 years ago. They wrote into
10 the law that the Attorney General will be the -- the entity
11 that works these cases on behalf of the State. So that's why
12 I'm here. Now, the State is seeking the civil commitment as
13 the judge told you of Mr. Jeremiah James Pough. And you
14 might be wondering at this point what is an SVP?

15 And I think when the legislators, the people in
16 Columbia, when they passed -- the ones that passed laws, when
17 they passed this law in '98 they had really had two things in
18 mind. One is that there's individuals in this state that
19 suffer from a mental abnormality or personality disorder that
20 makes them engage in acts of sexual violence. And the second
21 thing they had in mind was those people need to be in a
22 secure facility for treatment. And the State contends that
23 Mr. Pough is one of those individuals.

24 Now, I want to apologize to you, and that might seem
25 strange. But when you got your jury summons probably three,

1 four weeks ago, I -- I don't know how -- how they do it in
2 Kershaw, but when you got your jury summons to come to civil
3 court, you probably thought about like normal people. You
4 see the ads on TV, you know, car wrecks things of that
5 nature. maybe somebody's at the food line and they slipped
6 and fell and they're looking for compensations for the
7 injury. That's kind of what we think about when we think
8 about civil cases. But this is not a normal civil case. I
9 bet when you walked through those doors yesterday, you
10 weren't thinking sexually violent predator.

11 So I'm apologizing to you because the facts that you're
12 going to hear today, those facts with you as a fact finder
13 that are going to determine what the facts are, those facts
14 that you have to listen to are going to be disturbing.
15 You're going to have to hear about sexual crimes that Mr.
16 Pough committed against minor females and -- and -- and
17 females, adult females. You have to hear about the facts of
18 those crimes. Because those are the facts that you're going
19 to have to deal with when you make your determination.

20 So I apologize, it's going to be hard, but you have to
21 remember this -- it's important that you remember this. Mr.
22 Pough has been punished for his crimes. He's -- he's had a
23 criminal sentence, he's gone to prison, he's been punished
24 for those crimes. And you might not like what Mr. Pough did.
25 You might not -- might not like him very much, but we chose

1 you because we think you can rise above that, rise above
2 those emotions and look to the facts of the case to
3 understand that we're looking to commit him for treatment.

4 So what must we prove to you? What makes a person a
5 sexually violent predator? Well, there's two things, and the
6 first thing is whether or not the person has been convicted
7 of a sexually violent offense. And I submit to you that
8 you're going to see evidence that's going to be allowed to
9 come in. And you're going to see that he has been convicted
10 of not one but three sexually violent offenses. And those
11 are criminal sexual violence with a minor age, 11 to 14,
12 second degree. Criminal sexual conduct in the third degree,
13 and criminal sexual conduct with a minor victim, aged 16 or
14 under, in the second degree. I don't think there's really be
15 much contest to that that he has been convicted of these
16 crimes and that they are sexually violent offenses.

17 The second thing we have to show to you is whether or
18 not he has a mental abnormality or personality disorder that
19 makes him likely to engage in acts of sexual violence, if not
20 confined from long-term control, care and treatment. Now, on
21 that second piece, we need help from the mental health
22 community. We -- you know, we can't determine whether
23 someone has a -- a -- a disorder or not. So we look to the
24 mental health community. So as part of this law Mr. Pough
25 had a -- the court appointed a doctor from the Department of

1 Mental Health, Dr. Marie Gehle, who I believe will be
2 qualified as an expert in forensic psychology. And she
3 determined that he does not meet the criteria. He does not
4 have a mental abnormality or personality disorder, so he
5 should not be committed for treatment.

6 But as the law allows, the State got a second opinion.
7 And we hired Dr. Emily Gottfried from Medical University of
8 South Carolina, who I believe will also be qualified as a
9 forensic psychologist, as an expert. And she diagnosed Mr.
10 Pough with two disorders. One, it's a paraphilic disorder,
11 and she'll explain to you what that is. It's called
12 paraphilic coercive disorder. Basically, that's a arousal to
13 sex, non-consensual sex, rape. And they also suffers from
14 personality disorder. So other specified personality
15 disorder, narcissistic traits. And she'll explain to you
16 what that is and how she -- she reached her diagnosis on
17 that.

18 Now, also, this mental abnormality or personality has
19 to make the person likely to engage in access sexual
20 violence. So both doctors look at risk, and I believe you're
21 going to hear testimony from both experts that Mr. Pough's
22 risk is high. It's a well above average category for
23 re-offending. Now, you're going to have to look at these
24 doctors and you're going to have to decide, they're going to
25 explain to you the comprehensive evaluations that they did.

1 You're going to have to figure out what the facts are.

2 And as I'm thinking about that, I -- it reminds me of
3 my wife who she hurt her wrist pretty bad when she was
4 working out. And she went to the doctor and that doctor her
5 wrist was swollen up and bruised. And that doctor, you know,
6 kind of poked and prodded at it, twisted it around. He asked
7 her what she did. He interviewed her. He -- he asked her
8 about her medical history. He did an X-ray, and he told her
9 he couldn't find anything wrong with her. "Just keep it on
10 ice and, you know, take some ibuprofen or Tylenol, you should
11 be all right." Well, she didn't like that answer. So she
12 got a second opinion and she went to the next doctor. The
13 doctor poked and prodded at her wrist, asked her what she
14 did, asked her about her medical history, took an X-ray, did
15 an ultrasound, did an MRI, come to find out she had a tear in
16 her ligament and there was some bone disintegration in her --
17 her bone. They had to put anchor in, they had to repair the
18 ligaments. And now she's got the surgery and she's okay.
19 That's what you're going to have to look at. Look at the
20 thoroughness who followed through, who was complete and
21 thorough in their evaluation. That's going to be for you to
22 decide. And after hearing that, after hearing the evidence,
23 you're going to be presented with the question. And that's
24 -- that's how you're going to determine, you know, the facts
25 of this case.

1 That's kind of what we have to prove to you. This --
2 the -- the next thing is what's the level of proof we have to
3 give you? Now, in a normal civil case it's called
4 preponderance of the evidence. And I'll explain it to you
5 the same way my law school professor explained it to me. If
6 you know those old scales and you got a plate on both sides,
7 you see -- you see the scales, and on one side you have a
8 rock that weighs 100 pounds, and the other side you have a
9 hundred rocks that weigh 1 pound. They're even. They weigh
10 exactly the same, 50/50. And they told me, imagine that a
11 tiny little spirit flying over top and a feather comes down
12 and it floats down and it lands on either side of those scale
13 and it tips that scale ever so slightly. "50 percent plus a
14 feather." That's what he said. And that's the burden in a
15 -- a normal civil case.

16 But as you know, now, this is not a normal civil case.
17 So what the legislators did is they gave us a beyond a
18 reasonable outstanding. Now, if you watch TV or crime shows
19 or the news or anything else, you've probably heard that
20 before, beyond a reasonable doubt. Now, the judge is going
21 to tell you what beyond a reasonable doubt means under the
22 law. So when he tells you that's what you go with, that's
23 how you make a determination. But I'm going to suggest to
24 you that he's going to tell you that beyond a reasonable
25 doubt is not beyond all doubt or every doubt. It's -- in

1 fact, you listen to the evidence, you're firmly convinced
2 that Mr. Pough is a sexually violent predator. That's the
3 answer. And if you're not firmly convinced he's not, that's
4 up for you to determine.

5 And finally, ladies and gentlemen you may -- you may
6 not know this by my appearance, but I'm not an old attorney.
7 I'm an old person, but not an old attorney. Law is a second
8 career for me. I spent almost 20 years building cell towers
9 and putting fiber optics in the ground. And early on in my
10 career when I was young, I had a foreman, construction
11 foreman who told me, and he said, "Chris, always ask for what
12 you want. If you don't ask. People don't know what you
13 want. They don't know what to expect."

14 I've kind of taken that throughout my career in telecom
15 and my career in law, and I see no reason why that doesn't
16 apply here today. So what do I want? What I want is for you
17 guys to listen to the evidence, all the bad facts,
18 everything, you just listen to it. And not just the evidence
19 the State has, but also the evidence that Mr. Pough may
20 present. Listen to that evidence. And I think as you listen
21 -- listen to that evidence, it's going to become clear that
22 Mr. Pough is a sexual violence predator. I thank you for
23 your time and your attention.

24 MR. KIRKLAND: Thank you, Your Honor. May I please the
25 court?

1 THE COURT: Yes, sir.

2 MR. KIRKLAND: Mr. Runyan?

3 MR. RUNYAN: Yes, sir.

4 MR. KIRKLAND: Same microphone? Okay. So the trial
5 has begun. Now, every single one of you, I have no doubt at
6 all that you walked in here. And some of the things that --
7 that I say are probably going to sound very similar, some of
8 the things that you heard from Mr. Runyan, but when you were
9 sitting out there in the audience, I have no doubt that every
10 single one of you had no clue that you were coming in here
11 for a civil case that involved sexually violent predator.
12 And the judge asked you when you were sitting out there in
13 that sea of people, if several questions about whether or not
14 you could be fair and impartial in a case involving sex
15 offenses.

16 Now, already, the Attorney General's office, Mr. --
17 represented by Mr. Runyan, has indicated to you that you're
18 going to hear -- and he's apologized. You're going to hear
19 some -- you're going to hear about some criminal offenses
20 that are not particularly pleasant.

21 You're going to hear about, I believe, if I remember
22 correctly, about offenses involving two juveniles. And
23 you're going to hear an offense involving an adult. Mr.
24 Pough, Jeremiah, he pled guilty to all three of these
25 offenses. So that's not an issue. They're going to put

1 these offenses into the record. He has admitted to them.

2 And so the -- the first step of what they have to prove that
3 he has been convicted of a -- of an -- an offense that
4 qualifies under the statute that's already been established.

5 Now, the issue that I have is that when all of you said
6 that you could be fair and impartial, you weren't told what
7 it was that you had to be fair and impartial about. And
8 here's the reality. The vast majority of people I have
9 found, not just in South Carolina, and when I say the vast
10 majority, I mean the vast majority, but people in America
11 believe that any sort of sexual assault offense is among the
12 worst, if not the worst. There's people that think it is
13 actually worse than murder. And I have no doubt that there
14 are some of you prior to coming up here and sitting in the
15 stand that did not understand exactly what was going to be
16 asked of you.

17 But we did pick you because we truly believed out of
18 all of the people that were called up that all of you could
19 be the most fair. But fairness does not come natural to
20 people. It just doesn't. When we're watching TV and we see,
21 you know, our favorite politician or our most hated
22 politician, our -- you know, anything that you're looking at,
23 you know, you have these -- these biases -- biases, and you
24 have these prejudices and they're built into us. They're
25 built into us, you know, from the time that we're born to the

1 time that you are sitting here today. And so a lot of you
2 are going to be put in a situation where you're going to hear
3 this stuff and it is really going to offend you, but it
4 doesn't mean that you can't be fair and impartial.

5 Being fair and impartial is an intellectual exercise.
6 It is something that you have to actively engage in. You
7 cannot just be a passive audience member during this trial.
8 You have to actively engage yourself in this trial at every
9 single moment. You are going to have to think to yourself
10 that your job is to be fair, is to be impartial. Because the
11 question is not whether or not he convicted these offenses.
12 The question is, as he sits here today, is he a sexually
13 violent predator? And sexually violent predator has a very,
14 very specific definition, and the judge is going to give you
15 the definition at the end of the trial. So that has yet to
16 be determined what he's going to say, the exact definition of
17 -- what -- what they have to prove, what the -- what the
18 definition is. But it's already been talked about some of
19 the things -- oh, and there's -- there's another thing that I
20 wanted to mention.

21 I'm glad I just looked at my notes. I normally don't
22 even do that. One of the things that you also have to
23 understand is this. This is absolute fact. This cannot be
24 denied by anybody. The fact that a person commits a sexual
25 offense, two sexual offenses, or even as in this case, three

1 sexual offenses, does not make them a sexually violent
2 predator. Sexually violent predator is a very specific
3 designation. The person has to have -- has to have a mental
4 -- they have to have an abnormality or personality disorder
5 that makes them likely to engage in acts of sexual violence.
6 And if -- and -- and this is, if they are not confined to a
7 secure facility.

8 Now, let me explain to you what I mean by that. So
9 what you're going to be deciding today is whether or not this
10 person has the mental abnormality defect that makes him more
11 likely than not. I mean, it's going to be beyond a
12 reasonable doubt, but makes him more likely to engage in
13 these acts beyond a reasonable doubt, such that he needs to
14 be confined to a secure facility.

15 Now, this is one of the reasons why the burden of proof
16 in this case is different than the burden of proof in a
17 typical civil case. We're not talking about a car crash
18 here, we're talking about a secure facility. This is the
19 kind of facility that you don't go home for dinner. This is
20 a secure facility. It sounds like exactly what it is. And
21 they are sent there for long term treatment and care under
22 the statute. So the burden of proof then is based on
23 something that would -- would be appropriate for a potential
24 loss of liberty for a person, because they're forced to, if
25 you decide that he's a sexually violent predator, participate

1 in this program.

2 Now, the burden of proof is beyond a reasonable doubt.

3 And so each element of this case, they're going to have to

4 establish to you beyond a reasonable doubt and beyond a

5 reasonable doubt is not -- there's no actual real definition.

6 Nobody knows exactly what beyond a reasonable doubt means.

7 The only way that I think that you can -- you can actually

8 get your head wrapped around it to any degree, is to look at

9 the other burdens of proof. Now, burdens of proof. What in
10 the world are burdens of proof? Okay. The best way to

11 explain this to you is -- is to simply by give you examples.

12 So whenever a police officer, you're driving down the road

13 and the police officer wants to pull you over, thinks you're

14 speeding, tail lights out, whatever basically ruin your day,

15 they have to have an articulable suspicion. They have to

16 have something that they can articulate to -- to stop you.

17 And that's called -- they -- they call that a traffic

18 stop. It doesn't matter what they call it, but that's --

19 that's what they call a -- a typical traffic stop. If they

20 see a car sitting behind a business -- business at 3:00 a.m.

21 and the business is closed, that might be, you know, they

22 could say an articulable suspicion, you know, I'm just going

23 to drive over there and, you know, just ask them what's going

24 on. It's -- it's the basis of every car stop in America.

25 And it is the lowest standard of proof. The -- the cop near

1 -- nearly -- merely needs to articulate a reason why he
2 believes a crime might be committed. And that's it. But
3 above that is the probable cause.

4 Now, probable cause we start bringing in Fourth
5 Amendment protections against searches and seizures and
6 things like that. And a seizure of your person is, is
7 implicated in this. Not just a -- just not your papers and
8 effects, not just a search of your car, not just a search of
9 your house. So probable cause is a higher standard.
10 Probable cause requires that they -- that there is a
11 reasonable probability that a crime is being committed at
12 that moment or has been committed or will be committed. So
13 as a higher standard, we don't know where those fall on,
14 where those fall, I should say, as far as percentages, we
15 don't know if they need to have 5 percent or 10 percent proof
16 for whatever -- for -- for articulable suspicion. We don't
17 know whether they need to have 35 percent or whatever for
18 probable cause because it's just not written into our
19 constitution. It's not written into any code of laws. It's
20 not written in any case law. You don't see it anywhere.
21 Preponderance of the evidence, though, preponderance of the
22 evidence, that is the breaking off point.

23 And that is normally what civil court involved. And
24 you've already heard this, and in fact, I won't go back
25 through his example, but his example was perfect. You can

1 think of it as the 51 percent standard is that one side, you
2 have a scale. One side has to establish their case by 51
3 percent or by the weight of a feather. I won't go back
4 through that example. That was a very good example that he
5 gave.

6 Now, that's what normally we -- that's the only one
7 that we know exactly where it is. It's 50 percent plus the
8 weight of a feather, you could say. And a civil judge will
9 tell you that if the scale slightly keeps in favor of one
10 party or the other, however slight, you must find in favor of
11 that party only one we know. Now, above that there are two
12 more standards. There's clear and convincing evidence, which
13 is a -- as you -- I -- I would submit to you as a high
14 standard.

15 This is a high standard because clear and convincing
16 evidence is the standard that DSS needs in order to take
17 somebody's children away. So that is not -- that is
18 something that is taken very seriously as you can imagine by
19 -- by the family court, which handles those sorts of actions
20 and DSS by judges and by legislators. But even above that,
21 the highest standard -- the highest standard in the world is
22 beyond a reasonable doubt. And what they have to prove to
23 you is that today, as Jeremiah sits at that table, not back
24 when he was originally charged with these offenses, but today
25 that he is a sexually violent predator, they have to prove

1 each element of the offense as outlined to you by judge
2 beyond a reasonable doubt. And like I said, the elements
3 involve that he is suffering from a mental abnormality or
4 personality disorder that makes him likely to engage of --
5 act of -- of -- in acts of sexual violence, if not confined
6 to a secure facility for long-term control. I mean, that's
7 the basic definition. And the judge will break it up for you
8 and explain it to you.

9 So when you're listening to the evidence and what's
10 going to end up happening here is we're going to have --
11 we're going to have, which is so unfortunate, we're having a
12 battle of experts. We're going to have two experts that are
13 going to take the stand and they are going -- one is going to
14 tell you -- and this -- and I'll -- and I'll just go ahead
15 and spoil the plot for you. Both experts have already made a
16 determination that he is at a high risk for re-offending.
17 Okay? Because that's -- that's one of the things that they
18 look at. But where the experts completely disagree, and I
19 mean completely disagree, is whether or not he has an
20 abnormality or defect that's going to make him more likely,
21 more probably than not to engage in -- in acts of sexual
22 violence in the future.

23 So the way that the statute works is that whenever the
24 Attorney General's office files a petition the case is
25 originally sent to the Department of Mental Health. The

1 Department of Mental Health has a psychologist, they call
2 them Chief Psychologist. The psychologist is Dr. Marie
3 Gehle, and she's in the courtroom today. I don't -- there's
4 no need to point her out because you'll see her sometime
5 later today. And it is her job to do an evaluation on behalf
6 of the State of South Carolina, on the behalf of the
7 Department of Mental Health to make a determination of
8 whether or not this person falls under the act.

9 And what she did was that she went through all of his
10 previous history, she gave him some testing, she did some
11 interviews, she did all of these things. And at the end of
12 the interview, her conclusion was that despite the fact that
13 he had committed these offenses, the offenses were of such a
14 nature that he did not suffer from any -- any mental disease
15 or defect. And what I mean is, none, no mental disease, no
16 defect that would place him under this statute, that he is
17 not likely, under this statute, to re-engage in this type of
18 behavior.

19 Now, their expert, they've already explained to you,
20 had found that he had two separate mental abnormal
21 abnormalities, paraphilic disorder, and, I think,
22 narcissistic disorder. I don't remember exactly what they
23 called it. Our expert completely disagrees with that. Now,
24 one of the things that they said, and I want you to be paying
25 close attention to this, is that they said that he talked

1 about the follow through, that they went to get a second
2 opinion. And that this other doctor, I think what they were
3 implying did additional tests. I think what they're implying
4 is that because their doctor did more tests than Dr. Gehle,
5 then you should just believe her.

6 Well, Dr. Gehle, just so you understand something, I
7 mean, you're going to hear this during the testimony, she has
8 been doing this for much, if not most. I -- I -- she'll tell
9 you of her life, she's done close, she's done about 300 of
10 these evaluations. She's going to tell you this is what she
11 does. She does not do anything else. What they did was they
12 hired someone from MUSC, someone that does not do this full
13 time that I believe she's going to tell you that the total
14 number of times that she's engaged in these evaluations is
15 something around 30. She'll give you the number, whatever
16 the number is, is what the number is not -- not close to 300,
17 not doing it every day.

18 She's got another job and she gets paid by the State of
19 South Carolina to come and do this. And I believe she's
20 going to say, because we've -- we had -- these cases, you
21 have hearings and stuff, I believe she's going to say, and if
22 she doesn't, she doesn't. But I believe she said yesterday
23 that very often, or more often than not, she finds in favor
24 of the State in these cases. So you have to take into
25 consideration motives, biases. You have to take into

1 consideration what it is we're talking about. I mean, Dr.
2 Gehle has this -- she has devoted her -- the last 15 years or
3 20 years or whatever it is, of her life, to doing this on
4 behalf of the Department of Mental Health and coming in here
5 and assisting jurors.

6 And she -- and listen, I've fought against her before
7 plenty of times. It's not like she -- you'll -- you'll hear
8 her talk about this. It's not as if she just turns -- she
9 works for the Department of Mental Health. It's is not as if
10 she -- her job is just to turn people out on the street. I
11 -- I -- I -- you know, I want to make sure that you get what
12 is going on here. That is not what her job is. Her job is
13 to give an honest opinion on the -- on the part of Department
14 of Mental Health and bring you the -- the best information
15 that she can under the standards that they use at the
16 Department of Mental Health to help you as a trier of fact.

17 So I'll leave you with this. You're the only person
18 that can hold the State to their burden. And once again,
19 just like staying fair and impartial, that's an active role.
20 You must pay attention every second that everyone is
21 testifying. You must tear it all apart in your head. You
22 must think about it individually, exactly how it all fits
23 together. You have to think about any potential motives or
24 biases. You have to think about anything that seems to make
25 sense or doesn't seem to make sense. You're not watching a

1 cop show. You're not watching a show, you know, about court
2 cases. You are an active participant. You are a judge. And
3 therefore, as a judge, you need to be actively involved and
4 actively holding the State to their burden every second of
5 this trial. Because I can't do it. The judge can't do it.
6 You are it, you are solely responsible for holding the State
7 to the -- their burden.

8 I -- technically, I don't have any burden. Well, I
9 mean, not technically. I don't have any burden. They have
10 the entire burden to prove beyond a reasonable doubt. I
11 could sit over at that table and do nothing the entire trial,
12 nothing. And it would not change your job as a jury to hold
13 the State to their burden. So you're playing an active role.
14 You're playing actually a more -- more important role than
15 I'm playing in this thing. I can tell you that because I
16 can't hold them to it. All I can do is maybe ask some
17 questions and maybe help point some things out to you. But
18 you ultimately are going to be the judges of the facts. So
19 what I ask you to do is do your -- do exactly what you've
20 been asked to do, keep any potential biases, anything like
21 that. Keep those out of your head when -- you're going to
22 hear this stuff that's really bad.

23 Keep your eye on the ball. Make sure you know what it
24 is that we're here for and hold the State to their burden.
25 And if you do that, there's no question that you will reach a

1 fair and just verdict. And we believe that Dr. Gehle's
2 experience and testimony will convince you that he does not
3 suffer from a -- a disorder that makes -- that makes him fall
4 under the Sexually Violent Predator Act. And so at the end
5 of the trial, we are going to ask for you to make a finding
6 that he should not be committed. And I want to point out one
7 other thing that's going to come out. His sentence in this
8 case was a 10-year suspense -- sentence suspended on the
9 service of four with five years of probation to follow and
10 sex offender treatment counseling.

11 And so we're going to ask you to take that into
12 consideration as well. But hold the State to their burden
13 and be fair. And you're going to reach a just verdict. And
14 we trust all of you to do that. So thank you very much.

15 THE COURT: All right. State may call its first
16 witness.

17 MR. RUNYAN: You can delay that.

18 THE COURT: Oh yeah.

19 MR. RUNYAN: Thank you, Your Honor. The State would
20 call Dr. Emily Gottfried.

21 THE COURT: Come up this way.

22 THE WITNESS: My name is Dr. Emily Gottfried,
23 G-O-T-T-F-R-I-E-D.

24 DIRECT EXAMINATION

25 BY MR. RUNYAN:

1 Q. Good morning, Dr. Gottfried. How are you?

2 A. Good morning.

3 Q. I'm standing back here. I know we have
4 microphones and such, but I am hard of hearing, so if I can
5 hear you back here. Well, hopefully the jurors back here can
6 hear you. But I'm glad we have microphones in this
7 courtroom, some places we don't. Dr. Gottfried, could you
8 tell us by whom you are employed in what capacity?

9 A. Yes. I am an associate professor of Psychiatry
10 and Behavioral Sciences at the Medical University of South
11 Carolina in Charleston.

12 Q. In order to be employed in that capacity, you
13 required to have a certain education background and
14 experience?

15 A. Yes.

16 Q. Could you tell us, do you -- where you obtained
17 your undergraduate degree?

18 A. I have a bachelor's degree in psychology from San
19 Diego State University.

20 Q. And did you do any graduate work?

21 A. I Did.

22 Q. What did you do and where?

23 A. I did a master's degree in psychology at Columbia
24 University in New York. And then I went to Florida State
25 University where I did another master's degree in psychology

1 and a PhD a doctorate degree also in clinical psychology.

2 Q. Now, did you complete any internships or
3 fellowships or other post-doctoral programs as a part of your
4 training?

5 A. I did. So part of graduate training is getting
6 practicum experience, so practical hours prior to finishing
7 school and being licensed. So I did a number of those in
8 forensic psychology. I did one for the Federal Bureau of
9 Prisons in New York City assisting with competency to stand
10 trial evaluations and other forensic kind of stuff. I work
11 at a forensic state hospital for the State of Florida and the
12 State of Georgia, I worked at community mental health
13 centers. And then for my predoctoral internship, which is
14 essentially a year of working full-time prior to graduating,
15 I did that in Southern California at a large state forensic
16 facility. And then after I graduated with my PhD, I did a
17 postdoctoral fellowship in forensic psychology.

18 Q. And where'd you do that?

19 A. I did that through a partnership with the Medical
20 College of Georgia and one of the State forensic hospitals in
21 Augusta, Georgia.

22 Q. Now, Doctor, have you been published in the area
23 of forensic psychology?

24 A. Yes.

25 Q. Have your works -- have any of your works been

1 peer reviewed?

2 A. Yes.

3 Q. Could you tell us about how many?

4 A. I have 33 peer reviewed journal manuscripts and
5 scholarly journals. And then I have six peer reviewed
6 chapters in forensic psychology tech.

7 Q. Have you presented at any professional
8 conferences?

9 A. Yes.

10 Q. Now, tell us about those.

11 A. I regularly present at scientific conferences. I
12 have, I think, 70 presentations that I've done. And then I
13 also do some trainings and education and invited
14 presentations for a variety of other universities in addition
15 to my teaching at MUSC.

16 Q. Now, are those -- those specific to forensic
17 psychology?

18 A. Yeah.

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

21 A. Yes.

22 Q. Could you tell us about those?

23 A. So I am a member of the Association for the
24 Treatment and Prevention of Sexual Abuse or ATPSA, it's
25 called, I think about two years ago I was elected to their

1 board of directors for ATPSA, and I serve as the research
2 committee chair. I'm a member of the American Psychological
3 Association, the APA and then APA has a number of -- kind of
4 subspecialty divisions sections. So within clinical
5 psychology they have an assessment section. An assessment is
6 generally testing psychological conditions. I'm the
7 president of the assessment section. Let's see, I'm a member
8 of the -- for -- my train of thought. The Society for
9 Personality Assessment and the American Academy of Forensic
10 Sciences. A couple more.

11 Q. Okay.

12 A. A couple more.

13 Q. Are you required to have a license to practice
14 psychology as a part of your employment?

15 A. Yes.

16 Q. And where are you licensed and how long?

17 A. I was licensed in both South Carolina and the
18 State of Georgia. I obtained both those licenses in 2015, so
19 a little over eight years.

20 Q. What are your job duties at the -- as the director
21 at the clinic?

22 A. So I serve as the director of the MUSC Sexual
23 Behaviors Clinic and Lab. So my duties there are
24 administrative. I oversee all of our ordering, all of our
25 scheduling, all of the technicians and staff who work in that

1 clinic and lab. I coordinate treatment and assessment
2 services. I conduct research. I train students and fellows
3 and residents.

4 And then I also do a lot of evaluations within that
5 clinic as well. But then also at MUSC as an associate
6 professor, I teach medical students, psychiatry residents
7 psychology interns, forensic psychiatry. Excuse me. And
8 Psychology postdoctoral fellows. I give lectures about
9 sexual behavior to the medical school, and then I conduct
10 more general forensic evaluations also.

11 Q. Well, tell us what -- what is psychology in
12 general?

13 A. Psychology is study of the human mind. that could
14 include mental illnesses, like how you interact with people
15 you know, personally, generally.

16 Q. So what is clinical psychology?

17 A. So clinical psychology is the subspecialty of
18 psychology that deals with mental illnesses, psychiatric
19 conditions. We do assessment, testing, treatment, research.

20 Q. And -- and tell us what is forensic psychology?

21 A. So forensic psychology is the intersection of
22 psychology and the law. So forensic psychology typically
23 involves evaluation for matters that could go to court. So
24 that could be, whether or not, a criminal defendant is
25 competent to stand trial. They understand the proceedings

1 against them. It can be sexual or general violence risk
2 assessment, it can be disability evaluations, pretty much
3 anything that specialized mental health expertise is
4 necessarily -- necessary for like a legal case.

5 Q. So does your work as a forensic psychologist allow
6 you to conduct forensic psychological evaluations of
7 individuals?

8 A. Yes.

9 Q. Approximately how many? And not -- not exclusive
10 to sexually violent predator. How many individuals have you
11 evaluated in your career?

12 A. Thousands.

13 Q. And what types of evaluations?

14 A. So I do evaluations of sexual violence risk. I do
15 evaluations of sexual arousal, general violence risk,
16 competency to stand trial. I do treatment evaluations and
17 provide treatment. I do evaluations for individuals who want
18 to become law enforcement officers. They're required to have
19 a psychological evaluation. I do those as well.

20 Q. Okay. So how many -- specific to SVP, how many
21 SVP evaluations have you performed in your role at the -- at
22 the lab?

23 A. Seventy six.

24 Q. Now, prior to this case, have you been qualified
25 as an expert in the field of forensic psychology?

1 A. Yes.

2 Q. In -- in any field where, where have you been
3 qualified?

4 A. All over South Carolina and then a few counties in
5 Georgia as well.

6 Q. Okay. Have you ever been qualified as an expert
7 in the field of forensic psychology in South Carolina Circuit
8 Courts in SVP proceedings?

9 A. For SVP? Yes.

10 Q. Yeah. And how many times have you been qualified
11 in circuit courts?

12 A. Twenty-two times.

13 MR. RUNYAN: Your Honor, I would ask that this time
14 that Dr. Gottfried be recognized as expert in forensic
15 psychology and forensic sex offender evaluations?

16 MR. KIRKLAND: No objection.

17 THE COURT: All right. Should be qualified in those
18 two fields, forensic psychology and forensic sex offender
19 evaluations.

20 MR. RUNYAN: Thank you.

21 VOIR DIRE

22 BY MR. RUNYAN:

23 Q. Dr. Gottfried, what type of evaluation did you
24 conduct in this case?

25 A. I did a pre-commitment evaluation.

1 Q. And can you tell -- tell us what a pre-commitment
2 evaluation is?

3 A. Yes. So those evaluations are essentially risk
4 assessments to give an opinion on whether somebody meets the
5 definition of being a sexually violent predator and then
6 needs commitment and treatment.

7 Q. Okay. Can you describe for us the protocol you
8 use, the steps that you take in -- in conducting evaluations
9 in cases of this type?

10 A. So first I receive all the records in the case and
11 I kind of review those to make sure that I'm not missing
12 anything. If I'm missing something, then I request it. So I
13 review if there are any mental health treatment records,
14 records from prisons and detention center facilities. I
15 review the police reports detailing the sexual offenses. I
16 look at criminal history reports. Sometimes victims have
17 forensic interviews. There might be records from DSS or
18 other state agencies. I look at any prior psychological
19 evaluations that the person has had.

20 Then I schedule them for three appointments. So they
21 come to MUSC and they're administered a battery of
22 psychological tests. I interview the person, I do a
23 comprehensive clinical interview where I'm looking at their
24 whole history as well as assessing for the wide range of
25 symptoms that they could be experiencing. I then score other

1 measures, risk assessment measures on them, and then I kind
2 of put all that information together and then write a report.

3 Q. So how were you approached to conduct an
4 evaluation of Mr. Pough?

5 A. The Attorney General's office requested MUSC,
6 sexual behaviors clinic and Lab to conduct an evaluation.

7 Q. How were you paid to conduct the evaluation in
8 this case?

9 A. So MUSC I guess has a contract with the Attorney
10 General's office, the -- or any side that requests this kind
11 of evaluation. It's a flat rate of \$5,600. That includes
12 the three days of the interview, all of the testing, the
13 testing supplies, the review records, the writing the report,
14 including a day of trial testimony. And that money goes to
15 MUSC, not to me specifically.

16 Q. Now, you just said something, you said whoever --
17 whoever request -- requested. have you done these
18 evaluations for other parties?

19 A. Yes.

20 Q. Yeah. What -- what other parties?

21 A. In my ---

22 Q. In general.

23 A. --- occasion, the other side. So the respondents
24 attorney will request a second opinion as well.

25 Q. Now, do you personally receive the fee that's

1 given to MUSC?

2 A. I personally don't receive it. I mean, I suppose
3 that it's used towards my salary, but I don't get like a
4 check for it.

5 Q. Does the -- does your -- does the fee change or
6 does your salary change depending on the results of your
7 evaluation?

8 A. No.

9 Q. At the beginning of the evaluation, was Mr. Pough
10 informed about what you were doing?

11 A. Yes. So every -- anybody who comes in for an
12 evaluation, any kind of evaluation goes through a consent
13 form. So in the sexual behaviors clinic and lab, we have,
14 it's like six or seven pages kind of describing all of the
15 procedures, different tests that they may or may not be asked
16 to take. And we go through it with them kind of line by
17 line, answer all of their questions. So they sign a consent
18 form on the first day, and then each subsequent day they sign
19 what we call a rereading of it. So they have an opportunity
20 to go back through the consent -- consent form, and then sign
21 another form indicating that they are still consenting that
22 they had all their questions answered.

23 Q. And did Mr. Pough in this case, did he sign the
24 consents form for this?

25 A. He did.

1 Q. Each time he came in?

2 A. Yes.

3 Q. And Dr. Gehle is a part of the evaluation that you
4 meet and interview Mr. Pough?

5 A. I did.

6 Q. Is the -- can you point out. Is that man in the
7 courtroom here today?

8 A. He is.

9 Q. Could you describe him?

10 A. He's sitting with his attorney, Mr. Kirkland at
11 the ---

12 Q. Okay.

13 A. --- Respondent table.

14 MR. RUNYAN: Your Honor, I would just want the record
15 reflect that Dr. Gottfried has identified Mr. Pough as the
16 individual she interviewed and tested in this case,

17 THE COURT: (Inaudible).

18 BY MR. RUNYAN:

19 Q. Doctor, on how many occasions did you meet with
20 Mr. Pough?

21 A. He was transported to our offices at MUSC on four
22 occasions. On the first time they brought him really late
23 and they didn't bring a handcuff key. So I don't think I met
24 with him that day. He came four times. He did testing and
25 interview on three of those days.

1 Q. Okay. Doctor, in addition to meeting with and
2 interviewing Mr. Pough what information did you review and
3 aid -- and aid you in conducting your evaluation?

4 A. I received and reviewed records from the Kershaw
5 County Sheriff's Office, from the Kershaw County Court of
6 General Sessions, Kershaw County Detention Center, South
7 Carolina Department of Corrections records from when he was
8 in prison. The care house of the PD, as well as South
9 Carolina Network of Children's Advocacy Centers and the
10 Metropolitan Children's Advocate -- Advocacy Center. I
11 reviewed records from the Richland County Sheriff's
12 Department, court of general sessions for Richland magistrate
13 Court, DSS or South Carolina Department of Social Services
14 records -- records from the South Carolina Department of
15 Mental Health. Yeah.

16 Q. Okay. Now, the -- the -- these records that you
17 summarized for us did you consider and rely on these records
18 and upon your interview and the assessments you performed in
19 rendering your opinion in this matter?

20 A. Yes.

21 Q. Is the information that you listed for us, is that
22 the type of information that's typically and reasonably
23 relied on by experts in this field?

24 A. Yes.

25 Q. And that's in performing sexually violent predator

1 evaluations?

2 A. Correct.

3 Q. Doctor, can you explain to us how an individual's
4 past sexual offense behavior relates to their future sexual
5 offense behavior?

6 A. So the best predictor of future behavior is
7 looking at past behavior. And so looking at what they've
8 done in the past that also can give you information that if a
9 re-offend were to occur, some of the characteristic level of
10 violence you could expect and some victim characteristic.

11 Q. So in your interview you talked to you -- you
12 talked to Mr. Pough about his background or his personal
13 history?

14 A. Yes.

15 Q. Why is it important for an individual or forensic
16 evaluator doing this assessment to learn about a person's
17 personal history?

18 A. So I'm doing a comprehensive clinical interview.
19 So I'm not just asking about current sexual functioning,
20 prior sexual functioning. I'm getting a whole picture of
21 that person. I'm looking at how they interact with other
22 people interpersonally, any symptoms that they've
23 experienced. I'm looking at things that happened in their
24 childhood, because I'm not just looking for a specific sexual
25 related disorder, but I am assessing them for the full range

1 of potential mental abnormalities and personality disorders.

2 Q. So what type of categories do you look at in
3 personal history?

4 A. A lot. So I look at their developmental history,
5 I look at their medical history, legal, relationship history,
6 sexual history, you know, who raised them, education, their
7 work history, romantic relationships, friendships.

8 Q. Now, as a part of your interview did you discuss
9 with Mr. Pough his personal history?

10 A. I did.

11 Q. And what, if any, conclusions did you make about
12 Mr. Pough's personal history that were significant to you and
13 rendering your opinion in this case?

14 A. I mean, so in general, Mr. Pough was born in
15 Richland County. He was raised in, I believe, here in
16 Kershaw County. I kind of asked him to describe in an
17 open-ended way. Described their childhood. He described his
18 childhood as being really great. Fantastic. When I asked
19 him to give me a little more information on that, he said
20 that he would've given it two thumbs up, that if he had to
21 give it a rating, he'd give it a five-star rating.

22 He was raised by both of his parents, along with three
23 brothers. He didn't report a lot of behavioral problems
24 during his childhood. He reported that his parents divorced
25 when he was a teenager and regarding the effect that their

1 divorce had on him, he said that it was kind of great because
2 he had two Christmases, two bedrooms. He understood it.

3 He graduated from high school with a diploma. He was
4 first suspended from school when he was in seventh grade for
5 slapping one of his peers. He said that he was suspended
6 from school no more than three times, but more than once. He
7 never was expelled from school. He reported working six to
8 seven jobs across his lifetime, including like taking calls
9 or a call center for a bank at two plants.

10 His longest job lasted for nearly three years. He
11 reported being fired from two jobs and leaving another job
12 without giving them proper notice. He kind of explained that
13 he was so good at that job that they wanted to make him a
14 supervisor, but he didn't want to be a supervisor. So he
15 kind of quit without giving notice. He said that although
16 everybody at the Department of Corrections, all of the
17 inmates are assigned to be dorm workers, that he didn't work
18 while he was in prison because he would've been overqualified
19 for that job.

20 He didn't report having any really significant general
21 medical conditions. He did describe sustaining a head injury
22 when he was in prison after he got into a fight with six
23 people, I believe. Yeah, I think he said that he fought six
24 people at the same time and -- and had a head injury from
25 that. He didn't have a very significant mental health

1 treatment history. He was diagnosed with ADHD when he was
2 six or seven years old, and he was prescribed medication for
3 that up until he went to prison or got -- or got arrested.
4 He reported a number of physical fights with other people
5 especially in jail and prison.

6 During my evaluation, he reported that the prior day he
7 had gotten into a fight with somebody at the detention center
8 and that he was currently in lockup. He reported a pretty
9 significant history of alcohol and marijuana use and
10 subsequent significant problems with those substances. He
11 said that he consumed alcohol while he was in the Department
12 of Corrections, and then he also used synthetic marijuana, so
13 with like Spice or K2. he's never been married. He has no
14 children. He described two significant important romantic
15 relationships in his life, kind of generally. His background
16 information.

17 Q. Any -- specifically anything about his sexual
18 history that stood out to you?

19 A. He was a little bit guarded about his sexual
20 history. I believe he said that he first had sex when he was
21 maybe 17, around that age maybe 20 sexual partners. He
22 described some consensual sexual experiences related to like
23 BDSM, so like choking, asphyxiation and but reported those as
24 being consensual with a consenting partner.

25 Q. So moving on, Doctor, to his -- to criminal

1 history. Why is it important for an expert in your field to
2 look at prior criminal history?

3 A. So we're trying to predict the likelihood or how
4 risky somebody is to commit another sexual offense. But
5 we're also looking at violent offenses because that can give
6 you information, again, if a sexual offense were to reoccur,
7 like the -- how violent that could be. We're also looking at
8 the ability for somebody to kind of follow the rules and laws
9 and regulations.

10 Q. So you look at criminal history, even if it's not
11 sexual?

12 A. Correct.

13 Q. In your review of Mr. Pough's -- let's start with
14 non-sexual criminal history. In your review of Mr. Pough's
15 non-sexual criminal history, what, if anything, did you find
16 significant in rendering -- rendering an opinion in this
17 case?

18 A. So we had prior arrests that were non-sexual, but
19 they were relatively minor misdemeanors. He had been
20 convicted of breach of trust with fraudulent intent,
21 possession of marijuana, assault and battery in the third
22 degree, having an open container of alcohol and trespassing.

23 Q. Is there anything else in the non-sexual criminal
24 history or -- well, let's just move on to -- I think you've
25 said everything. Right?

1 A. I believe so.

2 Q. Okay. So we'll move on to the sexual crimes.

3 Doctor, based on your interview with Mr. Pough and your
4 review of his file at the time of the interview with him, had
5 he been convicted of any sexually violent offenses?

6 A. Yes. Three.

7 Q. Could you list those for us?

8 A. He was convicted of criminal sexual conduct with a
9 minor aged 11 to 14 in the second degree. He was convicted
10 of criminal sexual conduct in the third degree and criminal
11 sexual conduct with a minor under the age of 16 in the second
12 degree.

13 Q. Now, did you review the did you review law
14 enforcement records, court records medical and forensic
15 records regarding these offenses?

16 A. I did.

17 Q. Now, are those -- the -- these -- the records, the
18 type -- type of information that experts in your field use in
19 rendering opinions in these cases?

20 A. Yes.

21 Q. Did you ask Mr. Pough about each of the defenses
22 to kind of get his input?

23 A. I did.

24 Q. So, Doctor, could you tell us why it's necessary
25 to examine the underlying details behind convictions?

1 A. So we are trying to predict someone's level of
2 risk. so we're looking to see what they did in the past the
3 number of times that they did it in the past, that can help
4 you predict that if a future sexual offense were to occur who
5 the victim pool or victim characteristics might include,
6 including the level of harm injury sustained. And also
7 looking at the underlying details is important at for looking
8 at diagnostic information. If they have a diagnosis, some of
9 those data come from there as well.

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

11 THE COURT: You may.

12 MR. RUNYAN: Dr. Gottfried I've given you what's been
13 pre-marked State's 1.

14 BY MR. RUNYAN:

15 Q. Do you recognize the document?

16 A. Yes.

17 Q. Is this document something that you reviewed in
18 this case?

19 A. It is.

20 Q. Is there anything on that document that would
21 indicate it's authenticity?

22 A. Yes, it has, I guess, the -- the seal from the
23 court.

24 Q. The seal from the clerk of court?

25 A. Yes.

1 Q. Could you tell us what it is?

2 A. This is the sentence sheet for criminal sexual
3 conduct with a minor victim, 11 to 14 years of age in the
4 second degree.

5 Q. What else is there?

6 A. There are special conditions for the sentence and
7 then the indictment.

8 MR. RUNYAN: Your Honor, I would ask this time, what's
9 been pre-marked State's 1 be entered into evidence?

10 MR. KIRKLAND: No objection.

11 THE COURT: So (inaudible).

12 (State's Exhibit 1 was admitted into evidence.)

13 BY MR. RUNYAN:

14 Q. Dr. Gottfried, you considered this offense in your
15 evaluation?

16 A. I did.

17 Q. Could you tell us what -- was he -- did -- was Mr.
18 Pough convicted or what -- did he plead to this?

19 A. He pleaded guilty.

20 Q. Okay. What was the sentence of the court?

21 A. He was sentenced to 10 years in prison that was
22 suspended to five years of probation after he served four
23 years in prison.

24 Q. Dr. Gottfried, can you tell us what are the
25 underlying details that were important to you in rendering

1 your opinion in this case?

2 A. So according to the officially reported
3 information, Mr. Pough raped a 14-year-old girl after he had
4 supplied alcohol to her. He reportedly knew the victim's
5 sister, but she was a stranger to him. The victim was up
6 until that day. He reportedly had asked the victim's and her
7 sister's mother if he could take them skating, but then he
8 took them to his house to drink alcohol and smoke marijuana.
9 In the records detailing the exam that the victim had, she
10 told that examiner that she had been very intoxicated, but
11 that she recalled Mr. Pough began trying to kiss her. She
12 told him to stop. She tried to push him away.

13 She also recalled that he pulled down her pants and put
14 his penis in her vagina, vaginally raped her. She told the
15 examiner that another man came over to them and hit Mr.
16 Pough, hit him in order to get Mr. Pough off of her. From
17 the police investigator's report, it appears that Mr. Pough
18 told police that this was a consensual sexual experience.
19 And ultimately in addition to being convicted of this
20 criminal sexual conduct there also was a permanent
21 restraining order that was issued in this case.

22 Q. Now, what about Mr. Pough's criminal offense
23 behavior in this conviction is significant to you in your
24 opinion?

25 A. It's significant because based on the information

1 that I read, the officially reported information, there's
2 indication that this victim told him to stop, tried to push
3 him away, that he continued with the sexual assault --
4 assault despite her saying no and being in distress.

5 Q. What did Mr. Pough tell you about this assault?

6 A. He said that he and the victim had consensual sex.
7 He also said that he wasn't in his right state of mind due to
8 alcohol and marijuana use. He specifically said that this
9 wouldn't have been rape because there was no weapon, that he
10 didn't hit her with anything or -- or beat her.

11 Q. And why is that problematic?

12 A. Well, that's one way that you could rape somebody,
13 but you don't need a weapon or to physically beat somebody
14 for it to be considered rape.

15 Q. Dr. Gottfried, same questions. Do you recognize
16 these documents?

17 A. Yes.

18 Q. Are they something that you reviewed for this
19 case?

20 A. Yes.

21 Q. Is there anything to indicate the authenticity of
22 those documents?

23 A. Yes, there's the -- the seal again from the clerk
24 of court.

25 Q. And could you tell us what those documents are?

1 A. This is the sentencing sheet for criminal sexual
2 conduct in the third degree with special conditions as well
3 as the indictment.

4 MR. RUNYAN: Your Honor, at this time I request of
5 what's been pre-marked State's Exhibit 2 be entered into
6 evidence?

7 MR. KIRKLAND: No objection.

8 THE COURT: (Inaudible).

9 (State's Exhibit 2 was admitted into evidence.)

10 BY MR. RUNYAN:

11 Q. Dr. Gottfried, you considered this -- these
12 documents in your opinion?

13 A. Yes.

14 Q. And could you tell us whether he -- whether he was
15 convicted or pled guilty?

16 A. He pleaded guilty to criminal sexual conduct in
17 the third degree.

18 Q. And what was the sentence of the court?

19 A. It was the same sentence as the first one. So 10
20 years in prison, suspended to five years of probation after
21 he served four years, and that was to be run concurrent. So
22 at the same time with the original -- the sentence for the
23 first one.

24 Q. Tell us what are the underlying details that are
25 important to you in your opinion in this case.

1 A. So according to the officially reported
2 information, Mr. Pough offered a ride home to a 17-year-old
3 girl who was standing in front of a bar or a club in
4 Columbia. They had never met before this encounter.
5 According to the police report, she reported that during this
6 ride, the car ride, that she was kind of going in and out of
7 consciousness due to intoxication that once she arrived at
8 Mr. Pough's house, like she didn't know that they were going
9 to her house, she had asked for a ride home and she was kind
10 of falling asleep or passing out in the car. She said that,
11 you know, she was going in and out and then she woke up again
12 and that Mr. Pough was sexually assaulting her. She woke up
13 early the next morning or in the morning. She said she woke
14 up on his front porch and her shorts were pulled down to her
15 feet and she was covered up with a table cloth.

16 She didn't report this to police right away, and when
17 she did report it, she said that she didn't have access to
18 this memory and it was like triggered a couple months later.
19 And that's when she reported it. When she reported it, she
20 had a medical examination and it was noted that she had a
21 healed hymenal transection, which basically means that the
22 tissue at the opening of the vagina was torn through. They
23 noted that this was not diagnostic of sexual abuse but the
24 person conducting that medical exam noted in their records
25 that their suspicion for sexual abuse was high.

1 Q. You said she reported, how long did it take her to
2 report it?

3 A. This occurred in June of 2000 -- 2017, and she
4 reported it in February of 2018.

5 Q. Is there any psychological reason why someone
6 would -- could not access a memory?

7 A. Certainly, so if somebody had a head injury or
8 they had a lot of trauma from this, if somebody was
9 intoxicated or blacked out or had a spotty memory of it that
10 might interfere with their ability to remember what happened.
11 Due to the traumatic nature, they might like not want to
12 remember it or like not let themselves remember it.

13 Q. So what about Mr. Pough's criminal offense
14 behavior in this conviction during this assault was
15 significant to you in rendering your opinion?

16 A. So according to the reports, he raped an
17 unconscious woman who, therefore, could not consent because
18 she was unconscious. And additionally, he was out on bond
19 for the first criminal sexual conduct. So he had been
20 arrested at some point. He got out of the detention center
21 on bond while waiting to resolve that case. So he had
22 already been arrested and told that he wasn't supposed to do
23 that, and then he offended a relatively short time after
24 that.

25 Q. What did Mr. Pough say have to say about this

1 assault?

2 A. He told me that they had met at a club and that
3 she stayed the night at his house. He said that he was
4 pretty sure that they didn't have sex, and he told me that he
5 was 90 percent sure that this hadn't happened. He said that
6 he remembered her being very conscious and that if he had sex
7 with her or raped her, that they would've found his DNA. He
8 said that she contacted him several months after this had
9 occurred, but he was with somebody else, so he told her he
10 didn't want to meet up or hang out with her. When I asked
11 him why he pleaded guilty to this offense, he said that they
12 were offering him a good plea bargain or a good deal. He was
13 ready to get on with his life. And then I noted that the
14 other evaluator, he told the other evaluator that they
15 engaged in consensual sexual acts and that this was
16 essentially a retaliation for him rejecting her, and that's
17 why she went to the police.

18 MR. RUNYAN: Okay. Approach, Your Honor?

19 THE COURT: Okay.

20 BY MR. RUNYAN:

21 Q. Again, doctor, do you recognize these documents?

22 A. Yes.

23 Q. Are they something that you reviewed for this
24 evaluation?

25 A. Yes.

1 Q. Is there any -- anything to indicate the
2 authenticity of those documents?

3 A. Yes, it has the seal from the Richland County
4 Clerk of Court.

5 Q. And could you tell us what those documents are?

6 A. This is the sentencing sheet for criminal sexual
7 conduct with a minor under the age of 16 and the second
8 degree as well as special conditions and the indictment.

9 MR. RUNYAN: Okay. Your Honor, I'd ask what's been
10 pre-marked State's 3 be entered into evidence?

11 MR. KIRKLAND: No objection.

12 THE COURT: So entered.

13 (State's Exhibit 3 was admitted into evidence.)

14 BY MR. RUNYAN:

15 Q. Dr. Gottfried, you considered this conviction as a
16 part of your evaluation?

17 A. I did.

18 Q. And again, was he convicted or was it a plea?

19 A. He pleaded guilty.

20 Q. Okay. And what was the sentence of the court?

21 A. It was the same sentence. So he was sentenced to
22 10 years in prison suspended to five years of probation after
23 serving the four years. And again, this was to be served
24 concurrently. So all of the sentences at the same time.

25 Q. Can you tell us what -- what are the underlying

1 details about this offense that were significant to you in
2 rendering your opinion?

3 A. So according to the DSS records; the 15-year-old
4 niece of Mr. Pough's girlfriend at the time, reported that
5 Mr. Pough was molesting her. She told the examiner, like,
6 according to those reports, she had a forensic interview, a
7 medical exam, and she told the -- that examiner that when her
8 aunt; Mr. Pough's girlfriend, was working nights, Mr. Pough
9 digitally penetrated her vagina causing her to have pain. He
10 touched her legs, touched her breasts on several occasions,
11 made her feel really uncomfortable. Yeah.

12 Q. Well, what about Mr. Pough's criminal offense
13 behavior in -- in this assault a conviction? And what --
14 what's different to you in rendering your opinion?

15 A. There's indication that this was clearly not
16 consensual. So she reported to the person conducting her
17 exam that she repeatedly pushed his hand away, that she
18 freaked out when this happened. And again, he was out on
19 bond now after being arrested for two separate sexual
20 offenses, had not been to court for them, and he reoffended a
21 short time later.

22 Q. And what did Mr. Pough tell you about this during
23 your evaluation?

24 A. He said that it didn't happen at all, that this
25 was the product of coaching by his girlfriend's mother

1 because she was living with them and they were trying to
2 evict her at that time.

3 Q. Doctor, let's move on from sexual offense and
4 let's -- offenses. Let's go on to other -- other misconduct.
5 As a part of your evaluation, do you look at institutional
6 misconduct?

7 A. Yes.

8 Q. Why do -- why do you do that?

9 A. Well, I'm looking at their ability to follow the
10 rules in a very controlled setting like prison and detention
11 center.

12 Q. Did you review South Carolina Department of
13 Correction records as a part of your evaluation?

14 A. I did.

15 Q. What, if anything, about those records was
16 important to you in rendering your opinion?

17 A. I noted that he had one disciplinary infraction
18 that was in May of 2022, and he was charged, I guess, charged
19 disciplinary, not legally charged, but within the prison and
20 found responsible for being an inmate under the influence.

21 Q. Did he have any offenses outside of -- while
22 incarcerated, but outside of the South Carolina Department of
23 Corrections?

24 A. Yeah. When I -- I -- I indicated that during my
25 evaluation he reported that he was on lockup or lockdown for

1 a fight. So I reviewed those records that confirmed that he
2 had gotten into a physical fight with another inmate in the
3 showers in February of 2023.

4 Q. Was there any indication from the South Carolina
5 Department records regarding sexual offender treatment? Did
6 you review any of those records?

7 A. I did. It appears that he was offered sexual
8 behavior treatment, but he did not have sexual behavior
9 treatment.

10 Q. As a part of your evaluation, doctor, do you look
11 at other evaluations?

12 A. I do.

13 Q. Why would you experts in your field review other
14 evaluations?

15 A. I want to look at consistencies and
16 inconsistencies between the two of them. So what he told
17 another evaluator versus what he told me. I want to make
18 sure that I have all the records that they reviewed that I'm
19 not missing anything.

20 Q. Did you review any prior evaluations as a part of
21 your evaluation in this case?

22 A. I did.

23 Q. What did you -- what evaluations did you review?

24 A. I reviewed the initial Department of Mental Health
25 evaluation related to the same question on sexual violent

1 predator.

2 Q. Was there anything in that evaluation that was
3 important or significant, significant to you in rendering
4 your opinion in this case?

5 A. I noted that there were some inconsistencies on
6 what he told me versus what he told that evaluator. For
7 example, he told her he was only suspended from school one
8 time, but he told me it was about three times he told her
9 that he was fired from one job. He told me two, he told her
10 that he never walked off of a job or left without giving
11 proper notice. But he told me that that had happened. He --
12 it was noted that he had no medical conditions, but he told
13 me he had that head injury in prison. It was noted that he
14 -- in her report that he had last smoked marijuana around the
15 time he was arrested, but -- and same with alcohol use, but
16 he told me that he was using synthetic cannabis Spice, K2 in
17 prison and drinking alcohol in prison.

18 There wasn't any indication that he talked about
19 engaging in the consensual and asphyxiation sexual activities
20 that he described to me. He told her that he doesn't
21 masturbate at all. Now, he told me that he masturbates about
22 monthly. He told her that he only spoke to his brother when
23 his brother was not on drugs. He told me that he speaks to
24 his brother every day whenever he can. And then I guess the
25 -- the big difference that I noted was that she didn't think

1 that he met diagnostic criteria for any mental illness and I
2 -- I had a different opinion.

3 Q. Okay. So, Doctor, those are kind of -- we went
4 through kind of a records review. You said you reviewed
5 records and -- and interview. Is there any other records
6 that we -- we haven't talked about that you think are
7 important to your opinion?

8 A. No.

9 Q. Okay. Well, let's move on to the assessments and
10 testing that you perform that you -- you mentioned that you
11 ---

12 THE COURT: We're going to take short 15-minute break
13 for you to stretch your legs, use the restroom while you're
14 back there, do not discuss the case amongst yourselves,
15 amongst anyone. We'll have you back in about 15 minutes.
16 All right, we'll take a 15-minute recess. Do not discuss
17 your testimony.

18 (Off the record.)

19 (Jury exits room)

20 THE COURT: All right. Anything from the State before
21 we bring the jury back?

22 MR. RUNYAN: No, Your Honor.

23 THE COURT: Anything from the Respondent?

24 MR. KIRKLAND: No, sir.

25 THE COURT: All right. Bring the jury.

1 (Jury enters room)

2 THE COURT: All right. Ladies, gentlemen, can we turn
3 the heat up even more? I hope you are comfortable and we
4 will -- we'll keep making it high as we need to. Okay? All
5 right. State (inaudible).

6 MR. RUNYAN: Thank you, Your Honor.

7 BY MR. RUNYAN:

8 Q. Dr. Gottfried, before we broke, we were going to
9 move into your assessment inventories and testing. Could you
10 tell us, were there any assessments performance the part of
11 this evaluation?

12 A. Yes.

13 Q. What type of assessments did you use?

14 A. So I use a battery of testing. So that includes
15 self-report, like computer questionnaires, physiological
16 assessments, and then clinician rated.

17 Q. Why do you perform these tests?

18 A. So for these evaluations, I want to get the whole
19 picture of the person. So I want to look at any symptoms
20 that they might be experiencing, any personality
21 characteristics I want to know about their substance use
22 sexual arousal, sexual behavior. I want to look at their
23 level of risk.

24 Q. Was the information you learned from your
25 assessments in this case a part of the basis of your opinion?

1 A. Yes.

2 Q. And the assessments you use are those types of
3 assessments, other fields in your -- and forensic psychology
4 reasonably rely on and rendering opinions in these matters?

5 A. Yes.

6 Q. So why do you use all these assessments?

7 A. So these are high stakes evaluations. They're
8 really important. So I want to have multiple data points and
9 not just rely on one piece of data or one test. I also think
10 it's really important to conduct what's called a multi method
11 assessment. So I'm assessing the same thing in multiple
12 different ways. So I'm going to ask the person about it, I'm
13 going to give them tests or measures that's going to assess
14 for it. And I just want as much data as I can to give these
15 opinions.

16 Q. You said they were high stakes evaluations. What
17 makes them high stakes?

18 A. Well, when somebody is being considered for civil
19 commitment, the opinion is that the person, you know, gets
20 committed and that means that they might have a loss of
21 liberty. And then on the other side it is the prevention of
22 new victims. So really balancing public safety with the
23 person's liberty interests and I want to be as correct as
24 possible.

25 Q. So you mentioned self-report or what you said,

1 computer-based tests that you use?

2 A. Yes.

3 Q. Did you administer these self-report or
4 computer-based tests to Mr. Pough?

5 A. Yes.

6 Q. And what about Mr. Pough's performance on those
7 tests was significant to you in regards to your opinion in
8 this case?

9 A. So Mr. Pough was not reporting a lot of
10 psychopathology, so not a lot of symptoms of mental
11 illnesses. There were some pretty consistent findings in how
12 he interacts with other people. He probably is pretty
13 suspicious and distrustful of the motives of other people.
14 He likely kind of has what you call a chip on his shoulder.
15 He's kind of scanning his environment, looking for evidence
16 that other people aren't to be trusted or out to get him.
17 There was some indication of cynical beliefs, so believing
18 that others only act in their own interest. Less about like
19 being shy around other people, but just generally not really
20 liking other people, not really wanting to be around other
21 people. Some hostility. He probably holds some grudges of
22 things that he's perceived were wrongdoings to him in the
23 past.

24 There was indication that he was reporting being
25 impatient. Maybe some issues with his temper, some

1 recklessness. Impulsivity. He probably gets bored easily
2 craves stimulation. Doesn't like -- like routine. He wants
3 things to be novel. He might do impulsive acts to kind of
4 stir up some excitement in his environment. He described
5 himself testing as having really strong opinions, the ability
6 to lead other people, that he's very assertive and direct.
7 There are also indications that he was reporting on the
8 testing that he was really optimistic. He was unwilling to
9 be limited by like his own limitations. People who produced
10 similar test results that Mr. Pough did, they're often
11 self-confident. They really focus on successes and
12 achievements. Other people probably view him as not being
13 very sympathetic, but he probably views himself as being
14 really independent, practical, caring less about what other
15 people think of him than most people do.

16 Others may see him as being really self-important,
17 overbearing, domineering. There was indication that he was
18 reporting problems with drugs and alcohol and having some
19 consequences as a result. Looking at a test that assessed
20 his sexual behavior, there was indication that he was denying
21 having sexual thoughts and engaging in sexual behaviors. But
22 from his test results, there was some evidence that he had
23 sexual preoccupation, so preoccupied with sex, some
24 callousness in the form of not having a lot of empathy for
25 other people having a lack of guilt.

1 There was evidence of lifestyle impulsiveness. So this
2 need to kind of stir up the excitement being really prone to
3 boredom. There was also evidence that he is resistant to
4 rules and supervision. he scored highly on a scale that
5 looks at attitudes of toughness and being really masculine.
6 And then he also elevated a lack of empathy scale. People
7 who score highly on that kind of scale report lacking
8 feelings of concern for other people and their misfortunes.

9 Q. Okay. So tell us why it's important in
10 evaluations of these types to assist current sexual arousal.

11 A. So we know that if somebody is sexually aroused to
12 non-consensual abusive, illegal sexual behavior, that -- that
13 is a risk factor for future sex offenses. So somebody who
14 has what you might call a deviant or arousal to -- to
15 non-consensual sexual acts and have acted on it, that is a
16 risk factor for re-offending.

17 Q. How do you measure arousal -- sexual arousal?

18 A. Well, you can ask somebody what they're sexually
19 aroused by, but in an evaluation like this, people have a lot
20 of understandable motivation for not being totally
21 forthcoming about what arouses them. So because we know that
22 people usually don't just tell us when they're aroused by
23 something that might make them look bad, we have to
24 objectively measure it in the lab.

25 Q. So how do you objectively measure in the -- that

1 arousal in the lab?

2 A. So we use a test called penile plethysmography
3 abbreviated PPG, easier. So PPG is a physiological measure
4 of male sexual arousal. When somebody is undergoing a PPG
5 test, they are sitting in a room by themselves privately.
6 They put a little flexible stretchy gauge around their penis.
7 They're covered up, and then they're presented with a variety
8 of sexual stimuli. So in this case, it's usually audio. So
9 they're just listening to somebody describe sexual situations
10 with a variety of stimuli. So consenting adults having sex
11 with each other. They're listening to scenarios of rape --
12 rape against teenagers, adults, and then they're also
13 presented with neutral non-sexual stimuli as well.

14 Q. And what other ways -- and what other ways are
15 other fields is the PPG utilized?

16 A. I'm sorry?

17 Q. In what -- what other ways or other fields is the
18 PPG utilized?

19 A. So it's used pretty widely, widely in general
20 sexual functioning. So men who are experiencing impotence
21 erectile dysfunction or other sexual dysfunction they'll do
22 PPG to see if they can get aroused at all. And that's --
23 yeah, mostly where it's used a lot.

24 Q. Okay. What, if any, kind of training have you had
25 in regards to the PPG?

1 A. I have been trained by the manufacturer of the
2 PPG. I am a certified clinical analyst, so I'm certified to
3 administer and interpret the results of PPG.

4 Q. You testified you were the director of the sexual
5 behaviors clinic and lab. In that capacity, can you tell us
6 if the MUSC behavior laboratory holds any certifications
7 regarding the PPG?

8 A. Yes. We're certified as a research and clinical
9 laboratory for PPG.

10 Q. I think you -- you said this already, but you are
11 certified to interpret and analyze results?

12 A. Yes.

13 Q. Dr. Gottfried, tell us are there any issues with
14 the PPG?

15 A. There are some issues.

16 Q. Could you explain?

17 A. So the PPG has been criticized for having a lack
18 of standardization. So what that means is for a test you
19 want -- places that use that test to use it in the exact same
20 way. kind of the Reader's Digest version, I'd say is that
21 different countries have different laws. So PPG is used
22 really widely in Canada and in the UK and Russia and used in
23 the US but in the United States, we don't have any medical
24 exemptions to things like child pornography laws. So other
25 countries can show a picture of a new child during a PPG, but

1 if we did that in the United States, that would be a federal
2 offense and I would go to federal prison for child
3 pornography.

4 So it's really hard. And -- and I can say all of this
5 because I'm on an international standardization work group
6 where we're trying to standardize PPG administration between
7 countries, but it's really difficult when you have labs that
8 have been using the stimuli for years and getting good
9 results to make them want to change it just because a country
10 can't do a certain thing. So there are issues with that.
11 There are issues about cut scores. So for any kind of test,
12 you have to determine where you're going to cut the results
13 to say that, that is a positive or negative or significant
14 result.

15 At MUSC, we use a really conservative cut score. So
16 other places, if they're using it for treatment progress.
17 You would want to say a much lower level of arousal is still
18 arousal because you're using it to help treat that person.
19 When I'm doing it in an evaluation like this, it's like I
20 mentioned the high states important evaluation. I don't want
21 to be wrong, so I would rather miss that arousal because it's
22 only one data point and I'm using a lot of measures. I --
23 I'd rather miss it than say that somebody had arousal that
24 they didn't actually have.

25 Q. Okay. Well, you -- you mentioned something you

1 said stimuli. Could you explain, you know, what stimuli is
2 and how the PPG works?

3 A. Yeah. So I mentioned that for our lab is mostly
4 auditory, and that's because then we're not breaking any
5 laws. So we use two different stimuli sets. One is called
6 the real child voices set, and those are actors' voices
7 recorded on a sound stage. There is sound effects. So one
8 of the scenarios takes place in a bar and you can like, hear
9 the glasses clinking in the background. So that's all
10 auditory. So the actors, just their voices. And then
11 there's some slides or some still images of when it's
12 children, they're clothed children or like a topless woman.
13 And that's kind of priming them to the verbal descriptions
14 that they're going to hear.

15 It's kind of priming them of the age and the sex of --
16 of the people involved in that scenario. And then the other
17 stimuli set that we use is called the Marshall set, and that
18 is a monotone male voice describing sexual scenarios in the
19 second person. And so for both of them they are men and
20 women, boys and girls of various ages with different --
21 different levels of cooperation, I'd say. So it ranges from
22 consenting adults to rape, to coercion to sexual violence to
23 violence that isn't sexual.

24 Q. So what is the -- what is the PPG measuring?

25 A. So it's looking at sexual arousal. So today in

1 the lab, what were you aroused by?

2 Q. And how does it measure that?

3 A. So it measures changes to the circumference of the
4 penis. So it's looking at increased blood flow and
5 essentially it is looking at erections.

6 Q. So tell us about how do you -- how do you
7 determine if someone is, you know, trying to get around the
8 test? What control measures do you -- quality control
9 measures do you use?

10 A. So we have a couple, what we call countermeasures.
11 So when the person is taking the test, they're sitting on a
12 pad that's measuring their movement. So when I'm
13 interpreting the PPG data, I can tell if they're squirming in
14 their seat a lot, if they're clenching or flexing. Sometimes
15 someone will try to flex to show an erection or arousal to
16 consenting adults. We're measuring their breathing, so I can
17 tell if somebody's holding their breath, if their breathing
18 changes, I can tell if someone sneezes. So all of that is
19 going to make the reading of the data more accurate because I
20 can see what else is going on with their body. And I can see
21 if somebody is perhaps trying to manipulate the results of
22 the test.

23 That's how I can tell with their body. But we also
24 know that somebody can just, you know, not pay attention or
25 think about baseball or something instead. So to try to

1 counter that. Whenever the scenario becomes sexual or
2 violent, the person is instructed, there's a keypad next to
3 them, to hit on the keypad a number when it becomes sexual or
4 violent. And then every so often the technician who's
5 administering the test will come over the intercom and ask
6 the person to just kind of briefly generally describe the
7 scenario they just heard. So that's trying to ensure that
8 they're paying attention.

9 Q. So why -- why do you -- why use the PPG?

10 A. So I use PPG because we need an objective way to
11 measure what the person is sexually aroused by. It is rare
12 that somebody comes in and says, "I really aroused by rape or
13 sex with children. I masturbate to it. I did it because I
14 like it." It's really rare that somebody's going to come in
15 and say that, but because we know that this deviant arousal,
16 so arousal to non-consensual abusive, illegal sexual activity
17 is strongly related to sexual offending, we need an objective
18 way to measure it. So if somebody is acting on that arousal
19 and they acted on it because they -- they like it. I mean,
20 there's a lot of reasons why somebody's sexually off offense,
21 but if the reason is because they were aroused by it, that's
22 a risk factor for future offenses. So that's why it's really
23 important to measure.

24 Q. Was the information you learned from the PPGs --
25 PPGs -- PPG test that you gave Mr. Pough a -- a part of the

1 basis of your opinion?

2 A. Yes.

3 Q. Can you tell us what was significant about Mr.
4 Pough's performance on the PPG to you in rendering your
5 opinion in this case?

6 A. So, Mr. Pough demonstrated arousal to numerous
7 trials across the PPG examination. He demonstrated arousal
8 to the rape or sexual violence on every single trial given to
9 him, I think with the exception of one. So that was about
10 nine trials. He demonstrated clinically significant sexual
11 arousal to rape which is consistent with his offenses. He
12 also demonstrated arousal to consenting adults. And so
13 that's kind of the first step. You look at the individual
14 trials, so the ones featuring rape, the ones featuring
15 consenting adults, and then you want to compare their arousal
16 to those stimuli compared to their arousal to consenting
17 adults.

18 And you -- you kind of calculate them differently based
19 on -- well, separately, I mean like based on the real child
20 voices set and the Marshall set. And so across those trials
21 depending on if it was the Marshall or the real child voices,
22 he demonstrated either equal. So his arousal to consenting
23 adults was about equal to his arousal to rape. And then on
24 one of the sets his arousal to consenting adults was greater.
25 And then on the third set that we gave him his arousal to the

1 rape trials were demonstrated a preference for the rape over
2 the consenting adults.

3 Q. And the -- that the one where he demonstrated
4 preference for rape over consenting adults. That -- which
5 set was that?

6 A. That was the Marshall adult women rape. So that
7 was the Marshall set, the -- the male monotone voice
8 describing sexual scenarios and that -- those scenarios
9 included consenting adult women and then rape of adult women.

10 Q. Now, I asked you about the other assessments. Did
11 -- did you talk to Mr. Pough about his results on the PPG?

12 A. I did.

13 Q. What was significant to you about what he said
14 about the results of the PPG?

15 A. So on the final day of the evaluation, I give the
16 person an overview of what all the tests said about them and
17 give them an opportunity to agree, disagree, you know, say,
18 "I checked the wrong box on that." What was significant was
19 that Mr. Pough didn't deny that arousal. He said that he
20 hadn't been aware of it. But that he -- he said like, there
21 -- he said, "You cannot feel it." So sometimes people will
22 say like, "No -- no, that test is wrong." Like, "I wasn't
23 aroused by that." But he said like, "Yes, I was aroused. I
24 -- I felt that arousal."

25 He said that if that's what the result showed, then

1 that's what happened. He said that he was shocked by the
2 results and that he had called his mom after the test to, I
3 guess, share that with her. But he -- he didn't say, "I'm
4 not aroused by this." He said, "Yes, I'm aware that that
5 happened on the test." And -- and it shocked me. And -- and
6 kind of asked like, "Does that mean there's something wrong
7 with me mentally?" And he said that like he didn't expect to
8 be aroused by that, but acknowledged, or, I guess at the very
9 least, he didn't deny that that arousal was present in the
10 lab.

11 Q. Okay. Now, moving on, that's your physiological
12 test. Do you -- you mentioned also clinician score test.

13 A. Yeah.

14 Q. What -- what is the Hare PCL-R?

15 A. So that's the Hare Psychopathy Checklist Revised.

16 Q. And do experts in your field routinely use this in
17 sexually violent predator evaluations?

18 A. Yes.

19 Q. Why is that?

20 A. Psychopathy or being high on traits associated
21 with being a psychopath has correlation or relationship with
22 sexual re-offending and -- and general re-offending as well.

23 Q. Okay. What about Mr. Pough's performance on the
24 Hare PCL-R that you administered or scored for him was
25 significant to you in regards to your opinion?

1 A. Based on that measure, I don't think that Mr.
2 Pough is a psychopath. I think he has some characteristics
3 associated with psychopathy. So he's pretty grandiose. He
4 has the inflated sense of self. He has like this superficial
5 charm. You think of like a used car salesman, like, you
6 know, glib, kind of talkative. He has low remorse and guilt.
7 His emotions are pretty shallow and not necessarily
8 consistent with the situation or emotions that other people
9 might experience. He has a lack of empathy. He's somewhat
10 callous.

11 There was evidence that he is failure to accept his,
12 you know, consequences for his actions or responsibility for
13 his actions. But I guess my ultimate opinion was that he
14 does not have psychopathy. He's not a psychopath, but he has
15 some characteristics mostly related to how he feels about
16 himself, his emotions and reactions to things and dealing
17 with other people.

18 Q. Were there any other tests that we need to talk
19 about outside of your risk assessment test?

20 A. No.

21 Q. Okay. So let's move on, Doctor, to your
22 diagnoses. Could you tell us what this book is?

23 A. Yes. That is the DSM-5. So that's the Diagnostic
24 and Statistical Manual of Mental Disorders. It's published
25 by the American Psychiatric Association. We're on the fifth

1 edition text revision, which was published in 2022. And
2 that's essentially like the manual that psychiatrists,
3 psychologists, anybody who diagnosed and has a license to
4 diagnose a mental illness. That's the book that they
5 typically use. It lists all of the psychiatric conditions
6 and then the criteria that the person has to satisfy in order
7 to meet to -- to meet for that disorder.

8 Q. Would you consider this book authoritative in the
9 field of psychology and forensic psychology?

10 A. Yes.

11 Q. And define what authoritative means to you?

12 A. My understanding of authoritative is that it's the
13 authority that other people who do the same thing rely on it.

14 Q. Okay. Let's talk about paraphilic disorders.
15 What are paraphilic disorders?

16 A. So paraphilic disorders are intense sexual arousal
17 to anything other than a human adult consenting partner. So
18 a paraphilic disorder could be sexual arousal, intense sexual
19 arousal to feet. It could be to children, it could be really
20 anything in the environment could become the object of
21 someone's arousal.

22 Q. Okay. Well, why do experts in your field and
23 these sexually violent predator evaluations consider
24 paraphilic disorders?

25 A. So when you're doing an evaluation related to

1 sexual behavior, you want to try to figure out the etiology
2 or the cause of that sexual behavior and engaging in a
3 behavior because you like it because you're aroused by it,
4 that's a potential cause. And so we assess all the potential
5 causes and we know that paraphilic disorders can represent a
6 risk factor for future offenses, like I mentioned before,
7 like when you're engaging in a behavior because you like it's
8 because you're aroused by it, that's related to doing it
9 again.

10 Q. Now, did you consider the paraphilic disorders for
11 Mr. Pough?

12 A. I did.

13 Q. Were you able to diagnose Mr. Pough with any
14 relevant paraphilic disorder?

15 A. Yes. It is my opinion. He does have a paraphilic
16 disorder.

17 Q. And what -- what disorder is that?

18 A. So it's my opinion that he has other specified
19 paraphilic disorder, specifically paraphilic coercive
20 disorder.

21 Q. And specifically is that -- what is a specifier?

22 A. Specifier is making it more specific, like
23 explaining what the characteristics are.

24 Q. So I guess I should back up. Tell us what the
25 DSM-5 says about the -- what is other specified paraphilic

1 disorder?

2 A. So that is preferential intent sexual arousal to
3 something other than a human consenting adult partner. But
4 it isn't one of the ones that the DSM has in it. So for
5 example, there is pedophilic disorder in the DSM, there's
6 sadism exhibitionistic disorder, but as I mentioned, anything
7 in the environment can become the object of someone's
8 paraphilic arousal. So they can't put a thousand things in
9 that chapter. So for all of the disorders in the DSM, there
10 are other specified categories.

11 Q. And you specified -- you said you specified him
12 with paraphilic coercive disorder?

13 A. Correct.

14 Q. Okay. Tell us briefly what paraphilic coercive
15 disorder is.

16 A. So that's characterized by really intense
17 fantasies behaviors, urges involving coercive sexual acts
18 towards a non-consenting person. So it reflects underlying
19 deviant sexual arousal to forced sex, and it is conceived as
20 the sexualizing of power control and dominance over a
21 non-consenting person.

22 Q. Are there issues with using this diagnosis?

23 A. There can be.

24 Q. Explain that to us.

25 A. So there is some history or there are some

1 evaluators or providers who would diagnose paraphilic
2 coercive disorder to anybody who's raped someone, and that's
3 not accurate. So kind of briefly, there are a lot of reasons
4 why people engage in illegal sexual behavior, and the
5 majority of them are not acting, like doing those behaviors
6 because they're aroused by them.

7 So a very small proportion of people who have been
8 convicted of rape would actually meet diagnostic criteria for
9 paraphilic coercive disorder. This is that you're aroused by
10 the fact that the person is not consenting. And so most
11 people who have been convicted of rape wouldn't need for that
12 diagnosis. So it is inappropriate to give that diagnosis
13 just because somebody has raped another person.

14 Q. So what is the criteria for diagnosis with -- of
15 paraphilic coercive disorder?

16 A. So you're looking at this intense sexual arousal
17 to the non-consenting person that you acted on it to the
18 non-consenting person, that you have fantasies about it, that
19 it's caused impairment or distress to you or another person.
20 And then there's other things that -- that you might look
21 for. So you look to see that the person has similar offenses
22 that they're offending, even though they have a willing
23 consenting partner. So if they're like in a relationship,
24 but they're still offending. Raping someone in under
25 circumstances where there's a high likelihood that they might

1 be caught. Most of their offenses are sexual in nature.
2 Those -- those kinds of things are -- are things that you're
3 considering and looking at.

4 Q. Okay. Well, how does Mr. Pough, in your opinion,
5 meet the diagnostic criteria for paraphilic coercive
6 disorder?

7 A. So, Mr. Pough has been convicted of raping two
8 teenage girls and molesting another. There's evidence that
9 he was sexually aroused during these sexual encounters.
10 There's evidence that once he became aware that the victims
11 were distressed and not consenting that he did not stop those
12 rapes. Also, his offenses occurred in a relatively short
13 time period, so kind of one after another. He described
14 having girlfriends at the time of these offenses, so that
15 means that he offended even though he had purportedly a
16 willing consenting sexual partner. And then the results of
17 the PPG examinations that I gave him demonstrated sexual
18 arousal to rape and sexual violence.

19 Q. Okay. So moving on, were -- did you have any
20 other paraphilic disorders that you considered for Mr. Pough?

21 A. I considered the full spectrum of paraphilic
22 disorders. But in my opinion, he -- that's the one he met
23 diagnostic criteria for and has that one he didn't meet for
24 multiple.

25 Q. Okay. So let's move on, Doctor, what are

1 personality disorders?

2 A. So personality disorders are how you interact with
3 the world and -- and yourself. So they represent kind of
4 this chronic way, maladaptive or -- or I guess the opposite.
5 of -- of adaptively interacting with the world and the
6 environment. It's this inner experience and behavior that
7 kind of is different or deviates from the norm. It is
8 pervasive, so it exists over time. It's inflexible. It's
9 stable over time and it usually first appears like in late
10 adolescent early adulthood.

11 Q. Okay. So why do experts in your field consider
12 personality disorder in SVP evaluations?

13 A. So we know that personality pathology or
14 characteristics of personality disorders could be the
15 etiology. So it could be the cause of someone engaging in
16 sexual offenses. We also know that the presence of
17 personality pathology or problems with your personality can
18 also increase your risk for future sexual offenses.

19 Q. Did you consider personality disorders for Mr.
20 Pough in this evaluations?

21 A. Yes.

22 Q. Were you able to diagnose Mr. Pough with any
23 relevant personality disorder?

24 A. Yes.

25 Q. What was it?

1 A. So it is my opinion that he had a lot of traits
2 that are characteristic of narcissistic personality disorder,
3 but based on the information that I had, I -- it is not
4 totally clear that he would meet full diagnostic criteria.
5 So that means having all of the symptoms necessary for that
6 personality disorder. 'So I diagnosed him with another
7 specified personality disorder with narcissistic features.

8 Q. Okay. And other specified personality disorder is
9 like other specified paraphilic disorder? It's in the DSM-5?

10 A. Correct.

11 Q. And what is the criteria to meet other specified
12 personality disorder with narcissistic traits?

13 A. Well, so in order for somebody to meet for
14 narcissistic personality disorder, they have to have at least
15 five symptoms of the disorder. So they -- those symptoms
16 include having like this really grandiose sense of
17 self-importance being preoccupied with fantasies about
18 success, power having beliefs that they're really special,
19 unique. They require a lot of admiration. They are really
20 entitled; they exploit other people. They are low or lacking
21 in empathy. They might be envious or jealous of other people
22 and have like this general sense of arrogance.

23 Q. So how does Mr. Pough meet the criteria?

24 A. So based on records and my evaluation, he has a
25 really grandiose sense of self-importance or an over-inflated

1 sense of self-importance. He described himself as being too
2 smart, overqualified to work a job in the prison. He kind of
3 spoke at length about how other people aren't as mentally
4 strong as he is. He acknowledged that other people would
5 call him cocky or arrogant. He spoke at length about how
6 good he is at fighting about the large sums of money that he
7 made while he was in prison. I -- I don't know for sure that
8 he has fantasies of success and accomplishments, but he
9 described his plan to design video games and then never
10 having to work again.

11 He demonstrated the belief that he's special and he can
12 only be understood by other special, unique people. He
13 reported that others opinions of him really don't matter to
14 him. He said the only person's opinion who matters to him is
15 his mom's because his mom has gotten a lot farther in life
16 than he has. His sexual offenses seem to be really like
17 exploitive of the victims. So what I make -- what I mean by
18 that is like his sexual offenses were means to achieve his
19 own outcomes.

20 He appears really entitled. He doesn't seem to have a
21 lot of empathy. So for example, he said that other people
22 told him that he's not concerned about them or how they feel.
23 He's pretty cynical, selfish. And based on all the data that
24 I had, it seems like this has been a pervasive pattern kind
25 of since adolescence. And so taken together is my opinion

1 that these are all characteristic of narcissistic personality
2 disorder. But based on the data that I currently have, I'm
3 not sure that he would meet for all five of those symptoms
4 required. And so he has traits of personality disorder, or
5 narcissistic personality disorder.

6 Q. Okay. Did you consider any substance abuse
7 disorders?

8 A. Yes.

9 Q. And what did you conclude or -- I'm sorry. Why
10 did you consider substance abuse disorders?

11 A. Well, I'm looking at the full range of mental
12 illnesses. So I'm not just looking for sexual behavior
13 disorders, I'm looking at depression. I'm looking at
14 schizophrenia. I'm -- I'm looking at all potential to kind
15 of start with a wide lens. And then if somebody meets for
16 multiple mental illnesses, then kind of dialing down and
17 seeing if those were related to his offenses. So I'm looking
18 at the whole spectrum.

19 Q. And ---

20 A. With specific to substance use disorders, we know
21 that the use of drugs or alcohol does not make somebody
22 sexually offend, but it can lower your inhibition and can be
23 a risk factor for somebody who has offended it can increase
24 their risk for future offenses.

25 Q. And the substance abuse disorders there in the

1 DSM-5?

2 A. Yes.

3 Q. What, if any, substance abuse disorders did you
4 consider and -- and -- and conclude in your opinion?

5 A. So it's my opinion that he meets diagnostic
6 criteria for alcohol use disorder and cannabis use disorder.

7 Q. And how does he meet those?

8 A .So, for cannabis use disorder, he has at least
9 three, at some point has had at least six symptoms of that
10 disorder. So that would put it in the severe range. He has
11 experienced legal and work problems due to cannabis. He has
12 had unsuccessful attempts to stop smoking cannabis or cut
13 down on his use. He's experienced cravings for cannabis or
14 marijuana. He was using in larger amounts or quantities than
15 he had planned to or wanted to use. He was spending a lot of
16 time in cannabis related activities, so that means getting
17 cannabis, using cannabis, recovering from cannabis, talking
18 about cannabis, so just a large portion of your day. He
19 described tolerance, so having to smoke more cannabis to get
20 the same buzz or effects and then some withdrawal symptoms.
21 So that could include, you know, when you stop smoking
22 cannabis problem is sleeping, problem is eating,
23 irritability. So he had six symptoms. So that's how he met
24 for cannabis use disorder.

25 Q. And how did he meet for the alcohol abuse

1 disorder? You ---

2 A. Let's see. So he described two or three symptoms
3 of alcohol use disorder, so that's a mild use disorder. He
4 had legal problems, relationship problems, intolerance to
5 alcohol.

6 Q. Any other paraphilic or personality disorders or
7 substance abuse disorders that you have not discussed that you
8 need to?

9 A. No.

10 Q. Okay. Well, then we'll move on, Doctor, to your
11 risk assessment. How do experts in your field assess risk?

12 A. So the best way to assess how risky someone is, is
13 to look at the literature, the empirical peer reviewed
14 literature where they have really, really large groups of
15 people who committed sexual offenses. And then look at who
16 went on to re-offend from those who did not re-offend, had no
17 detected offenses, and look to see what's different between
18 those two groups. And so once you figure out what's
19 different, then the person who's sitting in front of you, you
20 can see how many of those characteristics that they have.

21 Q. So what are risk factors?

22 A. Risk factors are any characteristic disorder thing
23 that is going to increase your risk for committing another
24 offense?

25 Q. Are there different types of risk factors?

1 A. Yes.

2 Q. What are the types of risk factors?

3 A. So risk factors can be split into static and
4 dynamics. So a static risk factor is something that's not
5 changeable like with treatment. So you're always going to
6 get older, but there's no treatment I can give you that's
7 going to make you younger. We know the presence of a male
8 victim increases your risk just based on what separates those
9 two groups of people who offended or re-offended and those
10 who didn't. So I can give you treatment so that you never
11 have another male victim, but there's nothing I can do to go
12 into your past to take that victim away.

13 So static factors are things that you cannot change.
14 Dynamic risk factors are things that can be targeted in
15 treatment. They might be really hard to treat, but they're
16 treatable. So that is something like substance use,
17 substance use disorders, paraphilic arousal. So those both
18 are notoriously really difficult to treat, but they can be
19 treated. So they're dynamic risk factors.

20 Q. Okay. Well, let's talk about -- you mentioned the
21 static risk factors. How do you -- how do experts in your
22 field measure or assess static risk factors?

23 A. So we use something called an actuarial risk
24 assessment measure. We use this -- tend -- we tend to
25 typically use the Static-99R.

1 Q. Okay. Well, tell -- tell me what -- or tell us
2 what is -- what is an actuarial assessment?

3 A. So I like to give the example of life insurance.
4 So when you are applying for life insurance, the insurance
5 company is never going to know, like when you're going to
6 die, but they're going to send you for a physical exam,
7 they're going to look at your lifestyle characteristics and
8 they're going to compare that to the factors that we know are
9 associated with early death. So we know women tend to live
10 about five years longer than men. So that's going to factor
11 into it. They're going to find out if you smoke, if you have
12 a lot of speeding tickets, if you race cars, if you have a
13 heart condition.

14 So there's no way that the insurance company is going
15 to know, Okay, this person is going to die early, they're
16 going to die at this age. But they're going to look to see
17 how many of these factors that are associated with an early
18 death you have, and then they're going to charge your premium
19 based on that information. So similar -- that's very similar
20 to how we assess someone's risk. We don't know anything
21 about the person sitting in front of us. The best that we
22 can do is see how many characteristics that person has.
23 That's been shown in the research to be associated with being
24 higher risk for sexually re-offending.

25 Q. Well, what are the -- what are the Static-99R

1 2002R?

2 A. So those are actuarial risk assessment measures
3 that is looking at the likelihood or the risk of somebody who
4 has been charged with or convicted of a sexual offense.
5 Their risk of committing another offense.

6 Q. And these are what you called earlier, clinician
7 scored?

8 A. Yes.

9 Q. Or tests? And you're trained to score these?

10 A. Yes.

11 Q. Did you perform the Static-99R and 2002R
12 assessments in Mr. Pough for this evaluation?

13 A. Yes, I did.

14 Q. Was the information you learned from these two
15 actuarial assessments a part of the basis of your opinion?

16 A. Yes.

17 Q. Could you tell us why you use both assessments?

18 A. The literature suggests that in a high stakes
19 evaluation, administering both of them can add incrementally
20 so they can compliment each other and gives you better
21 information.

22 Q. Let's talk specifically about the Static-99R. How
23 was that scored?

24 A. So it is -- I don't know if I'd say a checklist.
25 It is -- you're -- you're looking at the risk factors you're

1 rating, whether it's present or absent. The measure is
2 telling you how many points each risk factor has and then
3 you're summing them together and putting them in a risk
4 level.

5 Q. So what's the range of scoring on the Static-99R?

6 A. So on the Static-99R the scores can range from -3
7 three to 12.

8 Q. And what was Mr. Pough's score on this?

9 A. His score was an eight.

10 Q. What's significant to you about Mr. Pough's score
11 of an eight on the Static-99R in rendering your opinion in
12 this case?

13 A. So A score of eight on the Static-99R is in the
14 well above average risk category for being charged with or
15 convicted of another sexual offense. It is -- when you look
16 at people who had an eight their likelihood of re-offending
17 when you follow them for up to 20 years, it is -- the
18 expected recidivism rate is over 50 percent. So it's about
19 50.3 percent of people with an aid went on to sexually
20 re-offend. If you think about percentiles, so compared to
21 other people who were scored on the Static-99R he was in the
22 99th percentile.

23 So that means that if you have 100 people, 99 of them
24 would have a lower score than Mr. Pough. One would have the
25 same score and zero, none of them, would have a higher score.

1 And then when you look at the -- the mean score, the median
2 score, the average score on the Static-99R is a two. So a
3 score of eight is like almost seven and a half times the rate
4 of somebody with that average score. So it -- it -- it's a
5 high score.

6 Q. What's the range of score on the Static-2002R?

7 A. Negative two to 13.

8 Q. And what was Mr. Pough's score on the
9 Static-2002R?

10 A. Six.

11 Q. And can you tell us what's significant to you, in
12 your opinion about a score of a six on this -- this actuarial
13 tool?

14 A. So again, that's above average risk. So the score
15 of eight on the Static-99 was well above average. 2002R
16 score of six was above average. It's in the 88 percentile.
17 So out of a hundred people, approximately 85 would have a
18 lower score, seven would've the same score, eight would have
19 a higher score. The expected recidivism or re-offending rate
20 of a score of six is approximately 34 percent. And then when
21 you look at like how many times higher it is than an average
22 score on the Static-99 or the -- the middle of the risk
23 range, it is over two and a half times higher.

24 Q. So the -- did you use any other measures to score
25 static risk factors?

1 A. No.

2 Q. Okay. So moving on to -- you mentioned dynamic
3 risk factors.

4 A. Yes.

5 Q. Could you tell us how you determined dynamic risk
6 factors?

7 A. So I use the sexual violence risk 20 version two.
8 And that is professional judgment guidelines where it is
9 similar to the static where it's -- it is like a checklist.
10 So the manual is taking you through the dynamic respecters
11 that have been identified in the research studies as being
12 respecters. And you go through each one and consider whether
13 or not they're present or absent. And like how relevant that
14 is for the person sitting in front of you.

15 Q. Are you trained to -- to score the silent -- sex
16 violence risk assessment 20?

17 A. Yes.

18 Q. Well, what, if anything, about Mr. Pough's score
19 on this test -- what did it reveal to you about his
20 perceptions and your perceptions of his risk factors to
21 re-offend?

22 A. So you don't get a score on the SVR-20. This is
23 more of you like structuring the way that you're thinking
24 about the dynamic risk factors. And so you could do that in
25 -- in different ways. You could read a research article and

1 highlight the ones that have been repeatedly found in the
2 literature and try to remember them or look at that article.
3 You could just say, "What do I think is risky?" But this
4 really structures the way that you're doing it so that you're
5 not missing any of the risk factors.

6 So they're split into psychosocial adjustments, sexual
7 offending and future plan risk factors. So for Mr. Pough,
8 for the psychosocial -- psychosocial adjustment risk factors,
9 he's had problems with sexual deviation, so sexual arousal,
10 coercion, substance use problems, and non-sexual offending.
11 And then I judged that he had partial or possible problems
12 with having traits of psychopathy and a history of
13 relationship problems for the sexual offending risk factors
14 he has had a problem with chronic sexual offending, so
15 frequent offenses over a relatively short period of time,
16 extreme minimization and denial of his sex offenses and
17 attitudes that condone or support sex offending.

18 And then for the future plans, risk factors he has a
19 lack of realistic future plans. He has possible or partial
20 problems with having a negative attitude towards intervention
21 in that he doesn't believe that he needs treatments in order
22 for him to not re-offend.

23 Q. So, Doctor, putting everything together you've
24 discussed regarding the static and dynamic risk factors.
25 What did you learn about Mr. Pough's risk to re-offend?

1 A. He has a high number of static and dynamic risk
2 factors and he represents based on the risk factors alone, a
3 high risk to re-offend.

4 Q. What are Mr. Pough's plan if he's released? What
5 did he tell you his plans were?

6 A. So his plans are to live with his mother. He --
7 that he is not really concerned about money because he made
8 money in SEDC and he wants to go to school. He wants to
9 create video games. So he -- he said he doesn't really need
10 to -- to work that he made pretty big money. And -- and
11 those were basically the plans that he told me.

12 Q. And what is -- what is your understanding of his
13 -- of -- what, if any, probation requirements he has?

14 A. So he has those five years of probation that he
15 was sentenced to after serving four years. That probation to
16 my understanding started last November. So he's a year in
17 and then he'll also have two years of community supervision.
18 But that also, I believe, started last November. So he would
19 be a year into that. So he would have four years left of
20 supervision.

21 Q. So rendering your opinion, you considered his
22 probation requirements and his community supervision, in your
23 opinion?

24 A. Yes.

25 Q. Do you believe his plans are realistic given his

1 level of risk?

2 A. No. So he hasn't received any treatment for his
3 paraphilic disorder or his personality disorder. I don't
4 believe that he has good insight into the factors that made
5 him offend in the first place. So I don't think that he has
6 a realistic strategy to prevent re-offenses. I think that he
7 doesn't have realistic plans to avoid re-offending. When I
8 asked him during my evaluation the likelihood or the chances,
9 he thought that he had to get in trouble for another sex
10 offense, he essentially said that his risk was non-existent.
11 We know that that's really not realistic because no one's
12 risk is non-existent.

13 So I don't think that he had insight into that. He
14 couldn't identify moods or situations that would increase his
15 risk or people that could be at risk from him. He -- when --
16 when I really pushed him to tell me how he was going to
17 prevent this from ever happening again, he told me that he
18 just needs to not be drinking alcohol when he's around other
19 people. So I think it kind of went back and forth to not
20 drink alcohol at all or only drink alcohol when he is alone.
21 And -- and that's problematic as well because he made these
22 statements. But in May of last year, he was found to be an
23 inmate under the influence. So even in this controlled
24 setting, he didn't limit his alcohol use.

25 Again, I don't think that alcohol makes someone commit

1 a sexual offense, but if he's saying that that's what the
2 issue was and he's still engaging in it, that represents an
3 issue to me. During my evaluation and -- and I believe
4 during the previous evaluation he really minimized his sexual
5 thoughts, fantasies behaviors. He said like, he's just going
6 to suppress that. And -- and we know that that's not
7 realistic. So I think that without treatment for both his
8 personality pathology problem and his arousal to
9 non-consenting sexual acts that he represents a high risk and
10 that's unrealistic with his plans.

11 Q. All right. Doctor wrapping up here. Putting
12 everything we've discussed together, did you make any
13 conclusions about whether Mr. Pough meets the criteria for
14 civil commitment?

15 A. Yes.

16 Q. Is it your opinion that Mr. Pough's paraphilic
17 coercive disorder and other specified paraphilic personality
18 disorder with narcissistic traits affects his volitional
19 control to the extent that he is predisposed to commit acts
20 of sexual violence?

21 A. Yes. So I believe that he acted on his arousal.
22 So he committed the rapes because he was aroused by them. I
23 think that he has these personality characteristics that are
24 related to feeling entitled to engage in these acts. I think
25 that when you look at his risk factors, he is at a really

1 high risk. So coupled with the fact that he is aroused by it
2 and he feels entitled to do it, he hasn't had treatment, he
3 has a lot of dynamic risk factors. I think the interplay,
4 the combination of all of those together make him a high risk
5 that affects his ability to stop himself.

6 Q. So you believe that he has serious difficulty
7 controlling his -- controlling this propensity?

8 A. Yeah.

9 Q. Do you believe that his propensity to engage in
10 sexually violent offenses is due -- is to such a degree that
11 he is more probably than not to re-offend?

12 A. Yes.

13 Q. Why is that?

14 A. Kind of what I just said. So if you look at his,
15 the 20 year estimate it is 50.3 percent likelihood of
16 re-offending. But in addition to just those static risk
17 factors, he had the arousal to it that he didn't deny having.
18 So he's acting on this arousal with non-consenting people.
19 He has personality characteristics that make him exploit
20 other people have low empathy, have low remorse, feel
21 entitled to -- to act on this. So I think that combination
22 of having the mental abnormality and the personality disorder
23 and being at well above average risk, when you look at the
24 Static-99R that makes him more probably than not to
25 re-offend.

1 Q. Do you believe that Mr. Pough poses a menace of
2 the health and safety of others if he's not confined to a
3 secure facility for long-term control, care, and treatment?

4 A. Yes. Like I think that -- or I'm afraid that
5 without treatment that he is at risk to other people.

6 Q. Did you draw all of your conclusions to a
7 reasonable degree of psychological certainty -- certainty?

8 A. Yes.

9 MR. RUNYAN: Thank you, Dr. Gottfried, if you would
10 please answer any question that Mr. Kirkland may have of you.

11 THE COURT: All right. Ladies and gentlemen, we're
12 going to break to lunch. We're going to break until 2:00.
13 It's 12:30 right now. While you are on your lunch break, do
14 not discuss the case amongst yourselves, amongst anyone. Do
15 not do any kind of research. And we will have you back in
16 the deliberation room at 2:00. Thank you.

17 All right. Dr. Gottfried, do not discuss your
18 testimony during the break. Anything before we break from
19 State?

20 MR. RUNYAN: Nothing from the State, Your Honor.

21 THE COURT: Anything from the respondent?

22 MR. KIRKLAND: Nothing, Your Honor.

23 THE COURT: All right. 2:00.

24 (Off the record.)

25 (Jury exits room)

1 THE COURT: Thank you. All right. Anything from the
2 State before we bring the jury back?

3 MR. RUNYAN: No, Your Honor.

4 THE COURT: Anything from the respondent?

5 MR. KIRKLAND: No, sir.

6 THE COURT: All right. And let's bring the witness up.
7 All right. Let's bring the jury.

8 (Jury enters room)

9 THE COURT: All right ladies and gentlemen, I want to
10 thank you for being back one more time. I hope you had a
11 great lunch. We're down one juror just for personal reasons.
12 So we're going to move to the next alternate. Alternate
13 number one, you're moving on up. So you can grab a seat
14 right there. And alternate number two, you're still in the
15 battery box. Everyone looks good, healthy, ready to go. And
16 madam juror in purple? Nope. You.

17 JUROR NUMBER 164: Me?

18 THE COURT: Yes, ma'am.

19 JUROR NUMBER 164: Okay.

20 THE COURT: Yes. I'm going to make you the jury
21 foreperson. All right? It doesn't give you any special
22 powers or extra votes or more extra duties. So it just means
23 -- and I'll explain more at the end. You'll be the
24 spokesperson for the jury. If you have a question, if you
25 have any issues, direct it to you. And tell me your juror

1 number. Do you remember it?

2 JUROR NUMBER 164: 164.

3 THE COURT: 164. And so when you all come back -- back
4 out on your next break, you'll sit in that front corner. But
5 other than that, you all are all good to go. All right.
6 Thank you.

7 MR. KIRKLAND: And just to be clear, Judge, because Mr.
8 Runyan and I have had this problem in a previous trial, the
9 fact that you mentioned that she would answer -- she would
10 speak to the jury and -- and relay any questions and things
11 like that. They are not to start deliberating until you tell
12 them to deliberate it. So as of this time, the function is
13 absolutely zero. Is that my -- is that correct
14 understanding?

15 THE COURT: Not exactly.

16 MR. KIRKLAND: Okay.

17 THE COURT: Obviously they're not going to deliberate
18 per my previous instructions. If there's an issue when you
19 need the bathroom, the water's not working, it's too cold,
20 you can let us know that. All right. But obviously they're
21 not deliberating.

22 MR. RUNYAN: Wait, just approach really quick.

23 THE COURT: Yeah.

24 MR. RUNYAN: That's kind of why (inaudible).

25 THE COURT: Just to reemphasize, any questions don't

1 begin your deliberation at any point until the very end. So
2 at the very end, if you have questions you can direct it to
3 your foreperson, but at this point there shouldn't be any
4 questions essentially directed to her. If there's an issue
5 with the bathroom not working, something of that nature you
6 could let the clerk know or the foreperson. But any
7 questions about deliberation, about the evidence at this
8 point you are just -- just listening. No -- no deliberation
9 until the very end. Until I tell you. Until the end of the
10 trial. All right. Thank you.

11 MR. KIRKLAND: So just to make sure, the foreperson
12 person has no function right now?

13 THE COURT: Correct. No function.

14 MR. KIRKLAND: Thank you.

15 THE COURT: All right. Cross-examination.

16 MR. KIRKLAND: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. KIRKLAND:

19 Q. Dr. Gottfried -- is the mic picking me up? Okay.
20 Dr. Gottfried, you talked about the total number of
21 evaluations that you had done during direct examination. How
22 many examinations have you done for pre-trial commitment
23 hearings?

24 A. For pre-commitment?

25 Q. Pre-commitment -- pre-commitment sexually violent

1 predator hearings?

2 A. Sorry. How many hearings or how many evaluations?

3 Q. Yeah. How many -- how many -- how many of -- how
4 many evaluations have you done? For -- for -- for what this
5 hearing is today?

6 A. For pre-commitment, I have been referred 54.

7 Q. Okay. Oh, okay. I thought you were looking back
8 down for something else.

9 A. Sorry, 54.

10 Q. And -- and how many times have you testified in
11 pre-commitment hearings?

12 A. So I don't have it broken down between different
13 kinds of proceedings. I have testified 22 times in circuit
14 courts related to SVP proceedings.

15 Q. Okay.

16 A. I do more pre-commitment than other routine
17 evaluations. And I testified more often on them, but I don't
18 know the exact number splitting it up.

19 Q. Now, I believe that yesterday when we were --
20 because we had a hearing yesterday outside the presence of
21 the jury, I believe yesterday that you agreed that by your
22 breakdown, you more often than not, disagree with the
23 evaluation results by the Department of Mental Health. Is
24 that correct?

25 A. I -- to my memory it wasn't discussed yesterday.

1 Q. Okay.

2 A. But I do have those breakdowns, but I -- yeah.

3 Q. What -- what -- what are -- what are those
4 breakdowns if you have them?

5 A. I do. So total of all the cases that've been
6 referred my opinion is that they meet protection violent
7 predator 51.7 percent of the time.

8 Q. Okay. I also noticed that -- that when looking at
9 some of the old transcripts when you have testified before
10 that there were tests that you have given in the past that
11 you used to give, but you've stopped giving now one of them
12 is the ABEL assessment. Why -- why -- what was the ABEL
13 assessment and why did you stop giving that particular test?

14 A. So the ABEL assessment -- assessment is ABEL
15 assessment for sexual interest. It is a questionnaire and
16 then it also has a visual reaction time. I stopped giving
17 that test because I think the MIDSA (ph) that I currently
18 give is better. So the research looks better. I think it's
19 used -- I think it's used more often in these kinds of cases,
20 but that's just based on list of people talking about their
21 methods and things like that.

22 Q. But among the value -- the evaluations that you've
23 given you -- you've used that test before?

24 A. Oh yes. It used to be a part of my battery.

25 Q. Okay. But it's no longer a part of your battery?

1 A. That's correct.

2 Q. And the VRT, what does the -- what does VRT stand
3 for?

4 A. It's a visual reaction time. It is part of the
5 ABEL assessment.

6 Q. Oh, it's part of the ABEL assessment?

7 A. Yes.

8 Q. Okay. And -- and so that one -- was -- was that
9 the one where a picture is shown and then you determine how
10 long they look at the picture or focus on the picture?

11 A. Right. So it's a type of test called a visual
12 reaction time. There's a couple different brands of these,
13 but essentially the person is shown slides and then for this
14 particular test on the first round, they just look at the
15 slides. The second round they rate how sexually interested
16 they are to the model in the image. And that's looking at
17 sexual interest.

18 Q. Now, another one I think that you didn't do in
19 this one was something called the Conners Continuous
20 performance test?

21 A. I give the Conners on occasion.

22 Q. On occasion? You didn't give it on this one?

23 A. I did not.

24 Q. So you've not stopped entirely giving that test?

25 A. It is not part of my standard battery that I

1 currently give in the sexual behaviors clinic and lab, but I
2 -- I -- on route -- on occasion, I give it.

3 Q. Okay. So you've given it in these types of
4 reports before?

5 A. In these types of evaluations? Yes.

6 Q. And what -- and what is that designed to
7 determine?

8 A. That's looking at continuous attention. So it is
9 looking at -- essentially it is a computer-based test where
10 the person is to hit the spacebar for every letter that
11 flashes on the computer screen except for the letter X. And
12 so it's looking at their attention span. It's looking if
13 they're making more omissions, so not hitting the button when
14 they're supposed to, or commission hitting the button when
15 they're not supposed to.

16 Q. And you have in the past used what they call
17 polygraph examinations or lie detector tests.

18 A. In the past, before I became the director of the
19 sexual behaviors clinic and lab, we -- part of our battery,
20 we routinely gave polygraphs.

21 Q. And polygraphs, my understanding is, they're
22 pretty notoriously unreliable in the psychological community?

23 A. Depending on how a polygraph is administered.
24 They are not very reliable. That's correct.

25 Q. Okay. And -- well, I'll move on to something

1 else. Oh, you -- something that you -- that you said about
2 his prison disciplinary. Actually piqued my interest. You
3 -- and I -- I wrote it down as you were -- right after you
4 said it. You said that he was in a fight with six other
5 people.

6 A. Yes. That was based on his self-report.

7 Q. So he -- he was in a fight with six other people.

8 That's how you categorize that what happened?

9 A. Yes.

10 Q. And you read the report on that?

11 A. I don't believe there was a report on that. I got
12 that from his self-report.

13 Q. So you're -- the way that you're saying it is what
14 I'm concerned about. He -- what he reported to you was that
15 he was jumped by six other people, not that he fought six
16 other people. Correct?

17 A. Like -- let me find the direct quote. Let's see.

18 Yeah. So he said that he got into a fight with, "six
19 people." "I was jumped, they wanted to steal my canteen. I
20 fought back and was hit in the back of the head and kicked in
21 the back. I went for the biggest one and hit him a couple
22 times. I hit my lower back on the bed my tailbone and was
23 injured really bad and had a head injury and injured my left
24 hand and elbow and head." Regarding any injuries he caused
25 to others during that fight. Mr. Pough said, "One or two, I

1 hit one in the face and he fell. And another dude, I kicked
2 him pretty hard."

3 Q. Well, the character -- this is what I'm concerned
4 about, words matter. You would agree with that, right?

5 A. Yes.

6 Q. The characterization of he got into a fight with
7 six other people is vastly different than I got jumped by six
8 other people and I fought back. Correct?

9 A. I would say so.

10 Q. Okay. But that's what you originally told the
11 jury? That's all that you told them?

12 A. I don't remember specifically what I said, but I
13 did mention that he reported having a fight with six people.

14 Q. Okay. I can refer you to page -- I'll go ahead
15 and refer you to page 33.

16 A. Thirty-three.

17 Q. Of your report.

18 A. Of my report.

19 Q. I'm sorry. I don't even know what you have. What
20 else do you have up there? I don't know. What else have you
21 got with you?

22 A. The articles we discussed some of the ---

23 Q. All right.

24 A. --- articles, the bibliography.

25 Q. Okay. I didn't -- I didn't know what you had up

1 there. So this I found sort of fascinating. This is the --
2 the PNI study. Right. You see that there on 33?

3 A. That is the PNI measure

4 Q. PNI measure. Okay. That's what I meant.
5 Pathological narcissism inventory. And you write in there
6 that his scores for each of the dimensions were in the low
7 range. Correct?

8 A. Correct.

9 Q. And then you go on together, you go on -- on to
10 say, "Taken together, Mr. Pough did not significantly elevate
11 any of the dimensions of this measure, but it is unknown if
12 he was responding in a forthcoming manner to test questions.
13 And it is possible he was engaging in positive impress --
14 impress -- impression management." Correct?

15 A. Correct.

16 Q. Then you go on later on, and I don't think I wrote
17 down the page number, but I might be able to find it really
18 quick and you might be able to find it quicker than me. But
19 then you go on to say that, "Despite the fact that I gave him
20 this test, I'm not going to rely on the results of this test.
21 I'm just going to rely on everything that I talked to him
22 about. And even though he doesn't meet all of the criteria
23 -- criteria for narcissistic disorder, I'm going to diagnose
24 him with narcissistic disorder anyway." Is -- is that a fair
25 statement?

1 A. Well, I didn't diagnose him with -- with
2 narcissistic personality disorder. I noted that he had some
3 traits of it, but I didn't think that I had enough data to
4 fully support the full diagnostic criteria.

5 Q. So what did you, what -- so what did you diagnose
6 him with?

7 A. Other specified personality disorder.

8 Q. So otherwise -- are other specified personality
9 disorder, narcissism?

10 A. With narcissistic features. Correct.

11 Q. So you're -- you're diagnosing him with something
12 that he doesn't have the all of the traits for?

13 A. He has features. That's the specifier. So he has
14 features of narcissistic disorder.

15 Q. But he doesn't meet the criteria under the test
16 for -- for narcissism. Is that what you're telling me?

17 A. Based ---

18 Q. I'm trying to -- I'm trying to understand what
19 you're saying.

20 A. So based on the diagnostic criteria in the DSM, I
21 thought there was at least some evidence for enough symptoms
22 to fully meet. But because like the -- the one about
23 unlimited success fantasies, I thought there were some data
24 supporting that, but not all the data, not very strong data
25 that I would feel comfortable saying, "Okay. This is

1 definitely present."

2 Q. So if in your opinion, in any of these -- any of
3 these types of diagnoses that you make, if you feel -- if you
4 feel that it is sufficient, then you can -- you can always go
5 under the otherwise unspecified?

6 A. Sorry. If I feel it's sufficient?

7 Q. Yes. If you feel it's sufficient based on the
8 things that you -- that you've been looking at.

9 A. I -- I would say yes. So based on my education,
10 training expertise, that is the reason that we have the other
11 specified as well as the unspecified diagnostic categories
12 for every chapter. Yeah.

13 Q. But the more objective test, he -- he didn't meet
14 the criteria.

15 A. I'm not sure what you're referring to.

16 Q. I'm talking -- I'm talking about the actual
17 evaluation that you gave him under page 33.

18 A. No, the PNI.

19 Q. Yeah.

20 A. So not objective. That would be a subjective
21 self-report.

22 Q. Well, I mean, are you telling -- but from what I
23 can tell your opinion that -- that he met this -- this
24 criteria later on in your report was subjective based on just
25 what you had observed from watching him. Correct?

1 A. From records that I reviewed from the MMPI, the
2 PAI, the MIDSA, his self-report during the clinical
3 interview, the PCLR.

4 Q. Okay. Let me look at one thing really quick. So
5 I want to talk to you for a little while about the PPG test
6 that you gave him. All right. So the PPG test, it was
7 talked about in -- in some detail, but I need to talk about
8 it a little bit more. So the PPG test, what they're
9 basically doing is they're hearing -- they're sat into a
10 chair and then around their penis is placed something called
11 a -- don't remember.

12 A. So they sit in a chair.

13 Q. They sit in a chair.

14 A. They are instructed how to measure the
15 circumference of their penis when they're in a private room
16 by themselves. And then based on that measurement they're
17 giving -- they're given a penile strain gauge

18 Q. Strain gauge.

19 A. Strain gauge.

20 Q. How do you -- how do you spell that?

21 A. S-T-R-A-I-N.

22 Q. Strain gauge.

23 A. Strain gauge.

24 Q. Got you. Strain gauge. Now, at that point then,
25 when the test begins you -- from what I understand, your --

1 your lab, is called, you refer to it as a lab, do you not?

2 A. It is a clinic and lab. Sexual behaviors clinic
3 and lab.

4 Q. Okay. So your lab, what you do is this strain
5 gauge. You -- you -- once that's placed on, then you use
6 stimuli, correct?

7 A. Yes.

8 Q. Okay. And you use two different stimuli in your
9 lab called the Marshall set and the child voice recording set
10 CV -- or is that what it's called?

11 A. No, the real child voices.

12 Q. Real child Voices. Real child voices. Okay.
13 Now, one of the issues, and you brought this up on direct,
14 but one of the issues is that there is variation throughout
15 even the United States. You mentioned just other countries,
16 but there's variation in within the United States about how
17 this test is administered -- administered. Is that correct?

18 A. Less so how it's administered, but there are
19 variations in what stimuli sets different clinics choose to
20 use.

21 Q. So the two stimulus sets that you choose to use
22 are the Marshall set and the -- the RCV, correct?

23 A. Correct.

24 Q. Other places throughout the United States do not
25 use the same stimulus sets, correct?

1 A. Some do, but I don't believe that all clinics use
2 the same.

3 Q. So this is not the -- the stimulation sets are not
4 standard throughout the United States?

5 A. Well, the stimuli -- well, what do you mean by
6 standard?

7 Q. Well, what I mean is if I go to your lab and
8 you're using the Marshall and you're using the RCV, which is
9 the real child voices, I could go to another lab in Georgia
10 and they could be using -- because I think you said some --
11 yesterday, you said that there's four that you know of four
12 different sets of stimuli. They could be using the other
13 two.

14 A. Sure, certainly.

15 Q. So -- and what were the other two that you
16 mentioned yesterday?

17 A. I believe the monarch, and then I believe ---

18 Q. The -- the -- what was it called?

19 A. Monarch.

20 Q. Monarch.

21 A. And then I believe there's an ABEL set, I think.

22 Q. Now, one of the things about the real -- so this
23 -- I guess this is the point that I'm getting to. Oh, and --
24 and the -- the strain gauge, different labs use different
25 strain gauge numbers cutoff numbers, correct?

1 A. Numbers of the strain gauge?

2 Q. Yeah. One millimeter, five millimeters, whatever.

3 A. That's not the strain gauge. That's the cut score

4 ---

5 Q. Okay. The cut score.

6 A. --- to do with it.

7 Q. Okay. Well, explain to me how the cut score and
8 the -- how -- how that -- explain -- explain to me how that
9 works.

10 A. How -- what it -- how a cut score works?

11 Q. Yeah.

12 A. So a cut score is any test that you have. So if
13 you have a COVID test, if you have an HIV test, you're going
14 to look to see what -- when are we going to call this
15 positive? When are we going to call this negative? So you
16 have to figure out where you're going to cut it to be
17 clinically significant.

18 Q. Right.

19 A. So for a PPG, we are -- when the person has the
20 strain gauge on, they're presented with the audio stimuli,
21 but the strain gauge is continuously every second taking --
22 recording measurements. So for the trials, we -- we have the
23 data, the numbers for the entire trial every second of a two
24 and a half to three minute long audio trial. And so for the
25 cut score, we look at peak minus base. So where the strain

1 gauge started at baseline, those millimeters, and then what
2 their highest arousal was during that trial. That's called
3 peak or maximum arousal. So we take peak minus base, and
4 that is the millimeters of change.

5 Q. Right.

6 A. And then you have to determine the cut score there
7 of how many millimeters of change is clinically significant
8 arousal.

9 Q. Right. And so what I was saying is that the
10 strain gauge is what is used to determine the millimeter
11 difference. I mean, that's what I was asking you a moment
12 ago. That's -- that -- the strain gauge is the -- is the
13 measuring tool, correct?

14 A. Yes. But it is -- it's hooked up to the PPG
15 system. So it's continuously taking measurements from there,
16 but it's not like on the gauge itself.

17 Q. Okay. So the cut scores that -- that are used,
18 and I think that there's three labs in South Carolina or
19 whatever you -- you want to call locations that have these
20 machines. They have -- my understanding is that there's
21 three labs in South Carolina and they have three different
22 cut scores in South Carolina alone.

23 A. I only know of two. So I'm not -- I don't know
24 which other ---

25 Q. Is the -- what -- what is the cut score on the

1 other lab? Do you know?

2 A. Yeah, it's 4.7.

3 Q. So it's not the same as yours?

4 A. No, we use five.

5 Q. Do you know if they -- if they're even within
6 South Carolina -- I mean this is just within South Carolina.
7 Do you know if they use what -- what stimulus sets that they
8 use?

9 A. Yes.

10 Q. Which stimulus sets do they use?

11 A. I mean, I'm referring to Dr. Burke's lab, so.

12 Q. Okay.

13 A. We do the same. The same stimuli.

14 Q. Okay. But once again, even within the state,
15 we're using, there's -- there's non standardization within
16 the State itself. You are using five, they're using 4.7 for
17 a cut score, correct?

18 A. Yes. So we use the PPG for slightly different
19 things. So he primarily does treatment programs. He does
20 some evaluations. But when you're looking at things like
21 treatment progress, something that's not going to court, you
22 could call one millimeter of change clinically significant
23 because you're looking to see if what the person is targeting
24 in treatment is being targeted. So we're going to use the
25 really conservative five millimeters of changes our cut

1 score, because these are high stakes evaluations. These are
2 going to court.

3 Q. All right.

4 A. We don't want to erroneously ---

5 Q. Of course.

6 A. --- if somebody has arousal that they don't have.

7 Q. So the -- the point that I'm making, and this --
8 and this is the last question that I'll ask along these
9 lines, but across the nation usage in sexually violent
10 predator, pre-commitment hearings, there -- there is not a
11 set standard for -- for whatever the stimulus set is and what
12 the cut score is. Is that correct?

13 A. That is correct. I wish there were, I wish there
14 were for how to do these evaluations from start to finish.
15 There are no standards, no guidelines, no publications on
16 this is -- or I mean there's books, but this is how you do
17 mental evaluation.

18 Q. Well, I mean, this is a physical machine like --
19 like the data master in South Carolina. You would think -- I
20 -- I understand psychological testing where you're asking
21 somebody questions, but we're talking about a physical
22 measurement and we're talking about no standardization within
23 this physical measurement. And that's the issue that I have
24 with it. And -- are -- so are you -- are you -- are you
25 admitting that there is no -- in this physical mechanism,

1 that there is no standardization across the United States and
2 even within South Carolina?

3 A. You're still -- I don't want to answer wrongly
4 because I don't know what you mean by standardization.

5 Q. I mean standardization. I don't know how many
6 ways I -- I have to ask you this. I mean, standardization in
7 the cut scores and standardization in the stimulus sets. I
8 keep saying that.

9 A. Well, there's studies on it and -- yeah, I mean,
10 can you use a different word than standardization?

11 Q. If I use a machine in another location and it has
12 a different cut score, then that is different than what
13 you're doing, correct?

14 A. Well, the machine doesn't have a cut score, so.

15 Q. I understand, but it's different than the cut
16 score that you're using.

17 A. But the cut score is how I'm interpreting the
18 test.

19 Q. I understand.

20 A. If I went to another lab, a lab in California, I
21 would've the same results because the numbers wouldn't
22 change.

23 Q. Okay. But what I'm saying is, in sexually violent
24 predator, pre-commitment testing, there are places in the
25 United States that use different standards and different cut

1 scores and different stimulus sets than you do at your lab.

2 That is correct?

3 A. Yes. People use different brands of stimuli sets.

4 Q. Okay. So you've decided that yours is -- is the
5 best way to do it, and they've decided theirs is the best way
6 to do it, correct? I guess. I mean, why would they use it
7 otherwise, right?

8 A. Yeah, I don't know that I can ---

9 Q. Okay. Now, we have the recordings and we have the
10 RCV recordings. Now, the RCV recordings you described and
11 the one that you described was I think it was -- was it an
12 adult female in -- in a bar setting with glasses clinking?
13 Was -- was that what you described on direct?

14 A. I think I just said that there were sound effects.
15 So for example, there's one that takes place in a bar and you
16 can hear glasses clinking.

17 Q. Okay. So -- and do -- do you -- you -- did you
18 bring any -- the -- the recordings from that -- from these
19 sets with you here today?

20 A. No.

21 Q. So you can't put any of those into evidence today?

22 A. No.

23 Q. Okay. So when somebody's listening to these sets,
24 particularly a set, let's say, when there's other background
25 noises. You -- it's -- it's hard to tell exactly what they

1 are reacting to. And here's what I mean. What if a person,
2 and I know you're saying a bar is just something benign. I
3 -- I -- I -- I would -- I would guess you would say that, but
4 what if somebody is aroused by a bar setting that's, you
5 know, a bar setting actually arouses them, they get sexually
6 aroused at the idea of being in a bar that would throw off
7 the results, would it not?

8 A. Not necessarily. So if somebody was sexually
9 aroused by like glasses clinking, then that could explain
10 their arousal to that trial. But there's only one on the RCV
11 that has glasses clinking.

12 Q. Okay.

13 A. So that wouldn't explain the arousal.

14 Q. So what are all the different background noises?
15 All of them.

16 A. To my memory they don't all have background
17 noises.

18 Q. Okay. Well, what are all the ones that you
19 remember?

20 A. Well, I think ---

21 Q. When was the last time that you listened to the
22 full Marshall set and the full -- full RC -- RCV set?

23 A. Greater than a year, but I can't tell you the
24 date.

25 Q. So -- so you don't -- you don't really remember a

1 lot about the stimulus sets other than -- you know, you
2 haven't listened to them in over a year.

3 A. Right. I've not listened to the whole thing in
4 over a year. I mean, I pop in and out for every PPG. I hear
5 pieces of them but ---

6 Q. So you don't ---

7 A. --- I don't routinely listen.

8 Q. So you don't administer the tests?

9 A. No. I have a technician who does the PPG testing.

10 Q. And the technician is presumed to be doing it by
11 the standards that you've set at your lab, correct?

12 A. That is -- yep. He's been there longer than I
13 have. He follows the checklist. He writes it all out. He
14 ---.

15 Q. But you don't personally know if he does that, you
16 just pop in and out?

17 A. Oh, I personally know he fills out the checklist.

18 Q. Okay. He checked, he -- he fills out the
19 checklist? Now, let me ask you about the reliability of this
20 test and -- and what we might call control samples, you know,
21 trying to -- you know, people that do not have any -- any
22 type of sexual deviancy. Is there -- is there any kind of
23 research specifically on creating a control -- a -- a -- a
24 control group? A sample that you could test and you could
25 know for certain that this machine is measuring exactly what

1 it says it's measuring?

2 A. Oh, yes. I mean, that's been subject to a lot of
3 research where they use community controls. They use college
4 students, they -- students, they use men who have been
5 convicted of offenses that are not sexual in nature. They
6 compare it between men who have child victims versus sexual
7 offenses against adults.

8 Q. So when you're talking about people that --
9 because the ultimate control group, I -- I would think would
10 be people that have absolutely no any sort of sexual deviancy
11 whatsoever. That would be the best control group if you
12 could get that. So they wouldn't respond to anything
13 necessarily except for maybe normal consenting female or --
14 or male encounters. Right? If you -- what I'm saying is --
15 is there a -- is there a normal, is there a -- is -- is -- is
16 there a normal, could you take this test and could you be
17 normal?

18 A. Well, I couldn't take the test.

19 Q. I -- not you. I -- when I say you, I mean the --
20 anytime you hear me say you, it's going to generally be the
21 -- the general population of the United States. So -- so
22 could you, the general population of the United States, take
23 this test and be found, "This guy's completely normal?"

24 A. Yeah. So normal PPG would be reacting -- showing
25 clinically significant sexual arousal to the consenting

1 adults and nothing else.

2 Q. Okay. And -- and your lab and yourself and your
3 colleagues have tremendous confidence in this test. Correct?

4 A. I wouldn't use it if I didn't have confidence in
5 it.

6 Q. Well, I ask if you and your colleagues in your lab
7 and everybody that -- that -- that you talk with this about
8 on a regular basis, have tremendous confidence in -- in this
9 test?

10 A. I don't think I can speak for anyone else.

11 Q. Right?

12 A. Yeah.

13 Q. Okay. Let me ask you this. Do you -- have you
14 ever had -- this is a weird question; I don't know why I just
15 thought of this. Has anybody in your lab or anybody that you
16 know, any of your friends, any of your colleagues, anybody
17 volunteer to sit down and test this machine?

18 A. In what way?

19 Q. Sit down and -- and determine if they have any
20 sexual deviancy?

21 A. Well, it -- it -- it wouldn't work like that. So
22 ---

23 Q. Well, if they -- so if I wanted to go in there and
24 I wanted you to hook me up to the machine. Okay? Could you
25 hook me up to the machine?

1 A. I could, but I wouldn't.

2 Q. What -- why would you not?

3 A. Well, so in order to do research, you generally
4 need funding. So I couldn't steal the PPG gauge from MUSC.

5 Q. Okay. What if I just bought one? Okay. What if
6 I just bought one and I set up your lab? Okay. Your lab to
7 the exact specifications, everything?

8 A. So yeah, if you bought the gauge, if you ---

9 Q. Yep, everything.

10 A. Did the text hourly? Yeah, I can hook you up to
11 it.

12 Q. Okay. Now, what I'm saying is these people that
13 you work with, have you ever had any interest in -- in
14 actually testing the machine on someone that you know,
15 someone that you've actually had that you know extremely well
16 far beyond even just a three -- just this three-day
17 evaluation. Had any interest in actually sitting someone
18 down ---

19 MR. RUNYAN: Objection. We're getting kind of
20 speculative here.

21 THE COURT: Getting who?

22 MR. RUNYAN: Speculative.

23 THE COURT: Oh no.

24 MR. KIRKLAND: I'm asking her if she's done it.

25 THE COURT: I think he's asking essentially a

1 hypothetical, which is in her office. So I overruled out
2 loud. I ask.

3 MR. RUNYAN: Okay.

4 THE COURT: Yeah. If you keep it a hypothetical for
5 scientific reasons.

6 BY MR. KIRKLAND:

7 Q. Well, I -- yes, I understand. But the first
8 question is, have you ever actually someone -- okay. Someone
9 that you know, someone that you know extremely well, have you
10 -- has any of them ever -- these people that invent the test,
11 that use the test, all of this stuff, have they ever sat down
12 and subjected themselves to this test before?

13 A. Have -- I think you're asking me two different
14 things. Have I ever wanted to test someone that I know?

15 Q. No. I'm asking you if it's been done.

16 A. Has -- has anyone who uses the PPG ever tested
17 themselves?

18 Q. Yes.

19 A. I don't know the answer to that.

20 Q. So you're not your knowledge? No.

21 A. I mean, I think that would raise some ethical or
22 conflict of interest to test yourself for the purpose. So I
23 -- I don't know. That would be like a personal thing ---

24 Q. Well ---

25 A. --- if you wanted to test the machine.

1 Q. Well, like, for example, the -- the data master
2 machine that they use to determine whether a person is
3 intoxicated or not, breathalyzer data master, they actually
4 -- police officers will sometimes actually sit down and drink
5 some alcohol and then blow into the thing and they determine
6 if it's work. What I'm asking you is if, do you guys do the
7 same sort of testing of your own equipment?

8 A. Personally, I -- I couldn't take a PPG. So ---

9 Q. I know you can't. I'm talking about people around
10 you. I'm not -- you're, I feel like you're almost
11 intentionally avoided my question. My question is simple.
12 Have people that are interested in this field, that are in
13 this field, have any of them that you know of ever sat down
14 and hooked themselves up to this machine that they have such
15 tremendous confidence in and tested themselves?

16 A. I have no idea.

17 Q. So the -- but the answer is of your -- not -- to
18 your knowledge is no?

19 A. Nobody has shared with me that they gave
20 themselves a PPG ---

21 Q. All right.

22 A. --- if they have.

23 Q. Let's talk -- let's talk a little bit about the
24 sex offenses. I think you know where those are in your
25 report, so you can find them if you need them. Whatever --

1 whatever it is you need. So the first thing I want to ask
2 you, and this is not as dumb of a question as it sounds. Are
3 you an attorney?

4 A. I'm not.

5 Q. Okay. Because I think there is somebody at the
6 Department of Mental Health in the Department of Psychology
7 that is an attorney. So you are not an attorney?

8 A. That's correct.

9 Q. Okay. and so consequently, you've never been a
10 prosecutor. you've never -- you're not a -- never been a
11 defense attorney. You've never -- have you ever been a
12 police officer?

13 A. I have not.

14 Q. Do you have any personal information? Did you
15 ever receive any kind -- type of training or anything on how
16 police reports are written?

17 A. No training on how to write a police report.

18 Q. Okay. Have you ever -- have you ever, even just
19 out of curiosity, just -- because you -- you read these
20 things all the time, even just sat down at a -- and talked to
21 somebody, you know, a police officer about how it is that
22 they go about writing the reports, anything like that, any
23 curiosity in that area?

24 A. I have had conversations with police officers, but
25 not specifically about how they write a report.

1 Q. Okay. So you've never -- because you're not an
2 attorney, you've never negotiated a resolution to a case
3 between a defendant and a prosecutor on either side? Of
4 course.

5 A. That's correct.

6 Q. So -- and when you read these reports, you -- you
7 -- my understanding is that you do not do any further
8 investigation beyond reading the report. Is that correct?

9 A. That would be far out of the scope of ---

10 Q. Okay.

11 A. --- my practice. Correct.

12 Q. Okay. So are you aware that police reports may
13 not contain all of the information that's available in a
14 case?

15 A. Am I aware that police reports may not include all
16 of the information?

17 Q. All -- all of the information involving the
18 prosecution and defense of a case?

19 A. I am aware that police reports are written prior
20 to the prosecution and defense of the case.

21 Q. Right. And then they get sent -- you're -- so
22 you're aware that the -- the police send over their report?

23 A. That's my understanding that that would be the
24 first document.

25 Q. Right. And then once it gets sent over there, it

1 would be conceivable to you, I would presume, that further
2 internal reports could be written they may receive results
3 back from SLED Labs concerning DNA and things like that,
4 things that would be sent direct -- sent directly to the
5 solicitor's office. Right?

6 A. Certainly.

7 Q. Yeah. I mean, that's -- okay. Now, were you --
8 do you ever request a copy of the solicitors, not the police
9 report, but the solicitor's copy of the entire file?

10 A. No.

11 Q. Okay. Have you ever been provided -- because one
12 of these cases actually involved some SLED DNA. Did you ever
13 receive in any of your cases a SLED DNA result?

14 A. In this case or a case?

15 Q. In -- in this case.

16 A. No.

17 Q. Okay.

18 A. To my knowledge, no.

19 Q. Okay. So let's look at the -- the first one, CP.
20 So when I was listening to you and doing the best that I can,
21 because I'm not a doctor, but you defined coercive paraphilic
22 disorder as coercive sex with a non-consenting person.
23 Correct? Well, just -- just -- you just tell me the
24 definition so you don't have to ---

25 A. Paraphilic coercive disorder is intense,

1 preferential sexual arousal to sex with somebody who cannot
2 consent, who is not consenting, but it more represents like
3 the arousal to the power, to the control, to the
4 non-consensual nature versus the -- the fact that they're
5 having sex itself, itself.

6 Q. So -- so what you're looking for is evidence then,
7 because what the person that's being evaluated what excites
8 them based on what you just said, is the feeling of power of
9 coercion. That's the -- that's the exciting part. Correct?

10 A. It's more about the non-consent itself, which,
11 yes. Couldn't be like conceptualized as power.

12 Q. Okay. I understand. Now, if we look at -- and I
13 just lost my place on this thing here. So in the first case,
14 and this is the one -- are you -- you -- are you familiar
15 with -- are you looking at your report for CP?

16 A. Yeah.

17 Q. Okay. So CP, if you go through the actual police
18 records themselves, which I have done, I've gone through the
19 police records themselves, the victim readily -- readily
20 admitted that she did not really remember it because she
21 voluntarily consumed drugs and alcohol and blacked out. That
22 is in the report, is that correct?

23 A. I believe so. And perhaps the police report,
24 which was different than the forensic evaluation.

25 Q. Well, let's just say it was in one of the two,

1 either the police report or the forensic evaluation.

2 A. Yes.

3 Q. It was in the information that you received.

4 Because I -- I -- I got to receive the entire packet just
5 like you did. She specifically stated that she and Jeremiah
6 walked to the side of the house to give her friend and some
7 guy that they were with some space because the two of them
8 were talking.

9 A. I recall that being in the document.

10 Q. So -- so they walked over there -- she walked over
11 there freely. She wasn't taken over there?

12 A. I don't believe so.

13 Q. You -- you say things like, "I don't believe so."
14 The police report specifically indicates that she said that
15 she walked over there voluntarily. Is that correct?

16 A. I mean, if you -- that sounds accurate, but I'd
17 have to find that.

18 Q. Well, if you -- if you want to -- to get your
19 police report and look at it, go right ahead. I mean, I ---

20 A. Well, I mean, I -- I summarized all of them in my
21 report.

22 Q. Well, I mean, I -- I -- I know you did, and I
23 appreciate your summary, but I'm talking about the report,
24 what it says in the report.

25 A. Yeah. She said she and Jeremiah walked to the

1 side of the house to give her sister space with the friend's
2 first name because the two of them were talking.

3 Q. Okay. So there was a sexual examination done of
4 her and the sexual examination showed that she was sexually
5 active and tested positive for chlamydia. Is that -- was
6 that -- that -- that is in the -- the report from the medical
7 -- the medical reports you -- does that sound correct?

8 A. That sounds familiar, yes.

9 Q. Then -- and she was, she was 14 years old, right?

10 A. Correct.

11 Q. And you were not provided with the DNA results
12 from that examination? From what I can -- from what I can
13 tell.

14 A. Not to my memory.

15 Q. So if there were multiple sources of DNA, you
16 would have no idea?

17 A. Yeah, I don't recall stating that.

18 Q. And -- and they also noted in the medical report
19 that she was a Tanner Stage Four. Do you recall that?

20 A. I don't recall it offhand, but I believe that a
21 14-year-old was Tanner Stage Four.

22 Q. Okay. Well, tell me what -- tell me what the
23 tanner stage, what -- the difference between -- there's --
24 it's a one through five scale, right?

25 A. One through five or one through four? Yes. I

1 mean, one is the lowest.

2 Q. Okay. And so four is potentially the highest?

3 A. Four or five. Yes.

4 Q. So this -- this is -- this is in appearance, a
5 fully functioning adult female?

6 A. No, this is talking about secondary sex
7 characteristics.

8 Q. Okay.

9 A. Not anything about their functioning.

10 Q. Okay. This -- what is -- what is the secondary
11 sex characteristics?

12 A. So pubic hair.

13 Q. Right.

14 A. Development of genitalia. Development of breast
15 tissue.

16 Q. Right. I guess that was -- I was asking the same
17 thing. You -- I'm just using different terminology. Now,
18 she specifically said -- and I can give you the quote on
19 this. She specifically said about her encounter, and I
20 thought this was of particular importance. The report says,
21 and they quote ---

22 MR. RUNYAN: What page?

23 MR. KIRKLAND: On the report?

24 MR. RUNYAN: Yeah.

25 MR. KIRKLAND: I'll have to grab the report. I'm

1 reading off of my notes.

2 MR. RUNYAN: I'll just find ---

3 MR. KIRKLAND: It's -- it's -- it's the medical -- it's
4 the -- no, it's the -- it is the -- in fact, I can go grab it
5 because I -- Dr. Gehle has it so I can grab it really quick.

6 THE COURT: All of them.

7 MR. KIRKLAND: Okay. It is page 3 of 14, Forensic
8 Nurse Examiner Program.

9 MR. RUNYAN: Thank you.

10 MR. KIRKLAND: You have it?

11 THE COURT: Is it -- whose report?

12 MR. KIRKLAND: I'm talking about the actual report.
13 I'm talking about the report, the actual report that she says
14 that she reviewed. Can we approach Your Honor? All right.
15 We're good? Okay. So part of this -- that was a bizarre mix
16 up. He was -- he was asking me for a page in your report,
17 and I -- I was referring to the actual -- I thought he was
18 asking me specifically for the -- the police report itself.

19 BY MR. KIRKLAND:

20 Q. So one of the quotes in the -- the Regional
21 Forensic Nurse Examiner Program that you had listed as part
22 of the records that you had reviewed. It says in the
23 patient's own words, "I remember that my sister and me were
24 talking, she was talking to my friend Johnny. Me and
25 Jeremiah walked away so they could talk. I don't remember

1 much." They're putting this in quotation marks by the way.
2 "Apparently my friend Johnny hit him and he got me, we got my
3 sister. We started walking. After we started walking, my
4 sister called my mom, then my friend Johnny, or someone
5 called 911. Then my mom pulled up the ambulance went to the
6 church, and I ended up here."

7 And then the patient -- it says, "Patient arrived by
8 ambulance." It goes on to say, "I asked why did Johnny hit
9 -- I asked --" She's saying, I, the victim asked, "Why did
10 Johnny hit Jeremiah?" She answered, "Because Johnny knew what
11 he was doing. Well, he didn't know until after it was
12 happening because I -- I didn't realize it." So in that
13 scenario that -- that statement is not contained in your
14 report. Is that correct?

15 A. I don't think directly.

16 Q. Because -- because you -- yours is just a summary
17 of all the information.

18 A. What is the source of that report?

19 Q. I -- oh, that's -- that's a great idea. I'll hand
20 it to you. So here's the front page.

21 A. Okay. Yes.

22 Q. Okay. So you believe so?

23 A. I believe so.

24 Q. Okay. So that's important information. Is it
25 not?

1 A. The -- the quote?

2 Q. Yeah -- yeah. That quote -- that particular
3 quote. And here's the reason why you're -- because we're
4 talking about establishing that there was coercion and there
5 is evidence there -- there's evidence that from her that she
6 doesn't have any idea whatsoever whether there's any
7 coercion.

8 A. Well, the information that I have from that
9 interview from 2517 on page 20 of my report is that they
10 walked to the side of the house to give her sister space.
11 She could only recall part of what happened because of being
12 intoxicated, blacked out. However, she recalled that
13 Jeremiah began trying to kiss her, and she told him to stop
14 and tried to push him away. She also recalled that he pulled
15 her pants and put -- pulled down her pants and put his penis
16 into her vagina. She reported this happened on top of the
17 air conditioning unit.

18 Q. And now I think you're seeing what the issue is
19 here. You took a part of that report and you believed it and
20 you put it in your report, correct?

21 A. No, I believe this is a direct ---

22 Q. No, I understand.

23 A. --- quote from the summary of that report.

24 Q. I just read you a quote from her. Do you
25 understand that -- what I just showed you, they had put in

1 quotation marks in this document? Do you understand that?

2 A. Right. But I think when it is similar
3 information, if there's -- maybe the summary was from the
4 police report. All I know is this whole paragraph is a
5 direct (inaudible). So I didn't -- I don't cherry pick. I
6 just put the whole quote in there.

7 Q. So -- but in this quote, and this is -- this is
8 the problem. This is what I was asking you about earlier.
9 There are things about these offenses that you have assumed
10 that you absolutely do not know, because this quote directly
11 contradicts that statement because in this quote, she says
12 she doesn't remember anything, and the only way she ever
13 found out about it was that her friend Johnny told her
14 something happened.

15 A. Well, the -- the summary that I think the examiner
16 wrote was that she said she didn't recall all of it, but that
17 she recalled him taking her over the air conditioner unit
18 trying to kiss her. So I think that that's inconsistent.

19 Q. So yeah, it's absolutely inconsistent with the --
20 the quote that they literally put in quotation marks in this
21 report. Correct?

22 A. It sounds inconsistent.

23 Q. Okay. And do you take that into consideration
24 whenever you're -- whenever you're writing your reports?

25 A. No, I take everything that I have into

1 consideration.

2 Q. You didn't take this into consideration, it
3 appears?

4 A. Yeah. I mean, I don't know. I'd have to look
5 through where that, that summary is from there or where that
6 -- what the document is from.

7 Q. Okay. But what you ended up doing was simply,
8 rather than you relied on the -- the -- the summary that the
9 -- or the information that you had put in your report and not
10 the fact that she had no memory of it whatsoever, and
11 somebody else told her what happened. That -- that's --
12 that's what you relied on?

13 A. Right. The -- the documents that I quoted said
14 that she recalled some of it, but didn't recall the whole of
15 it.

16 Q. So if -- if she did not recall it at all, there
17 would be no evidence of this coercion that -- that you've
18 attached to this particular -- this particular incident.

19 A. Well, I don't think that's true.

20 Q. If she doesn't recall it?

21 A. He pleaded guilty for the facts of the case.

22 Q. Okay. That -- that's fine. If that's -- if
23 that's what you're -- okay. So that -- so that -- that's
24 what you're relying on is that -- that he pleaded guilty to
25 the facts of the case?

1 A. Yes. When somebody takes a plea bargain or pleads
2 guilty, the solicitor reads the facts of the case into the
3 record, and then the defendant has to agree that they did
4 that, or the judge doesn't accept the guilty plea.

5 Q. Okay. You understand that this is a case where
6 the charge was only having sex with a 14-year-old. That was
7 the charge an underage person that was what the charge was?

8 A. Well, it was criminal sexual conduct.

9 Q. Right. With a minor under the age of 15.

10 A. 11 to 14. Yes.

11 Q. Right. 11 -- right. I mean, we just call it
12 under 15 sometimes. So ---

13 A. But it wasn't statutory rape. It was criminal
14 sexual conduct.

15 Q. That is -- that is statutory rape in South
16 Carolina. You do understand that, right? There's no
17 difference between criminal, sexual conduct -- that statute
18 and statutory rape. That is the statute. You don't know
19 that?

20 A. I guess not.

21 Q. Okay.

22 A. That doesn't sound rape.

23 Q. And you were not at the -- the plea proceedings
24 for I presume, of course not. So you don't know what was
25 read into the record?

1 A. No, I don't. I -- I've been to a lot of pleas,
2 but not, I did not go to this plea.

3 Q. And you understand that the reason why criminal
4 sexual conduct with someone under the -- under the age of 15
5 or, you know, up to 14, as you said, it's illegal because
6 they technically, legally can't consent, right? From ---

7 A. That's correct.

8 Q. But from a psychological standpoint, somebody
9 could consent, not a legal standpoint. Somebody could
10 consent and then there would be no force involved.

11 A. Well, not if somebody is so intoxicated that they
12 don't know what's going on. They could not.

13 Q. Okay. All right. The second one, we're going to
14 get through this fast, I promise. So the second one we have
15 AM, right?

16 A. Yes.

17 Q. Okay. She was voluntarily drunk, correct?

18 A. She was drinking. I don't -- I don't know who ---

19 Q. All right.

20 A. --- bought the alcohol

21 Q. That she was in and out of consciousness, how
22 about that?

23 A. She reported being in and out the consciousness
24 during the car ride.

25 Q. Did she indicate that she was not voluntarily

1 drunk that somebody had -- had roofied her or something?

2 A. Oh, no. I don't believe that was ever reported.

3 Q. Okay. So when I said voluntary drunk just a
4 minute ago, and you said, "I don't know if that's the case."
5 Then what -- what did you mean? What -- what did you mean by
6 that?

7 A. Well, I don't think there's any evidence for her
8 again.

9 Q. Oh, okay.

10 A. I mean, I can't opine who gave her the alcohol,
11 whether it was voluntary or not. There's no indication that
12 she's reporting that he drugged her or gave her alcohol.

13 Q. So would we -- would -- would, would you not
14 presume -- I'm just wondering how this works. Would you not
15 presume then that she was voluntarily drunk if there's no
16 evidence that she was -- that there was no nothing in there
17 about her being forced alcohol or -- I'm wondering how you do
18 this is what I'm wondering. So when you read this report,
19 and there's nothing in there about somebody being forcefully
20 fed alcohol about somebody being roofied and they're talking
21 about being blackout drunk, you say that there's -- to you,
22 there is no evidence either way, one way or the other,
23 whether or not this person was voluntarily drunk?

24 A. Right. I wouldn't call it voluntarily. I would
25 just say the person was intoxicated.

1 Q. Okay.

2 A. I'm not saying Mr. Pough intoxicated her, but I
3 can't imply on how she got intoxicated.

4 Q. So that -- that's how you read incident reports,
5 basically.

6 A. Well, I ---

7 Q. That's what you're telling me?

8 A. --- I didn't use the word voluntary.

9 Q. Right. And so that's part of your thinking. When
10 you read these incident reports.

11 A. I noted she was intoxicated. I don't think I gave
12 it a second thought of how she became intoxicated.

13 Q. Now, she said she woke up and I think she said
14 observed Jeremiah sexually assaulting her, correct?

15 A. Yes.

16 Q. She never mentioned anything about pushing him
17 off, fighting back, anything like that?

18 A. No.

19 Q. Now, as to this one, and I think I have my notes
20 right here, but I could be mixed up. She went to -- she did
21 not report this for 10 months, is that correct?

22 A. From what happened in June, she reported it in
23 February, I think. Yeah.

24 Q. So she ---

25 A. February.

1 Q. So she had no recollection at the time this
2 occurred -- of this occurring. They asked you about this and
3 they asked you about reasons why that may happen, but it's
4 fair to say that she had no recollection of this from those
5 two dates that you just gave, which I think is about 10
6 months, nine months spread.

7 A. Eight. Maybe.

8 Q. Eight months? That's fine. About an eight-month
9 spread. So she -- she did -- she didn't remember anything
10 about it?

11 A. I don't know when she recalled it. She reported
12 -- when she reported it, she said that she -- something had
13 triggered this recollection.

14 Q. Okay.

15 A. But I don't know that she had a date of when it
16 was triggered.

17 Q. Now, this was the person, if I'm not mistaken,
18 that went in, is this the person that had the -- the tear in
19 the hymen? Am I -- or I mixed this up?

20 A. It -- I believe it was a heeled tear. Yes.

21 Q. A heeled tear. And you said that the doctors were
22 extremely confident of sexual abuse?

23 A. I don't think I said extremely confident. I think
24 the ---

25 Q. You said highly confident?

1 A. No, the quote is, "At this time, my suspicion for
2 sexual abuse is high."

3 Q. Is high.

4 A. That's what the provider noted.

5 Q. So there is no evidence whatsoever that -- that
6 that tear was caused during any encounter with -- with
7 Jeremiah?

8 A. Right. This was eight months, nine -- I think she
9 had the exam in March, so nine months.

10 Q. Well, the way you presented it to the jury though
11 is -- I'm concerned that they could get confused that your
12 opinion is that this could potentially have something to do
13 with Jeremiah. But you're absolutely saying that is not the
14 case, that is not your opinion?

15 A. Well, no, it potentially could, but it potentially
16 could be from someone or something else as well.

17 Q. Right. So that's -- so that's very significant to
18 you in your report?

19 A. I wouldn't say very significant. It was in the
20 record, so I noted it.

21 Q. Okay. And you -- and you in that information, you
22 -- you considered when you wrote your report?

23 A. It was the data points. I mean, I didn't write
24 about it when I was detailing how I thought he met for
25 paraphilic coercive disorder.

1 Q. So if something that you -- you literally have no
2 idea whether it's -- it's -- it's a part of what he was
3 charged with or not, that's a data point for you?

4 A. Sure. I mean, everything I consider is a data
5 point.

6 Q. Everything's a data point.

7 A. Yes.

8 Q. Okay. All right. So last one, and we're getting
9 close here, MW. All right. This was the -- this was the
10 girl that said she was being sexually molested by her uncle,
11 who is Jeremiah, right?

12 A. Yes.

13 Q. And I think her mother, I -- I -- I -- this is all
14 I know her by, because of the way that it was written. Her
15 mother is a woman named Stephanie. and she was dating
16 Jeremiah. Does that sound right?

17 A. I think that -- that was her aunt. But ---

18 Q. Oh, yeah. That's fine -- that's fine. It was her
19 aunt -- this was a younger person living in the house. And
20 then we had Jeremiah living in the house and then the
21 girlfriend living in the house, right?

22 A. Yes. And I believe the girlfriend's mother.

23 Q. Yes. And the girlfriend's mother. So those are
24 the four people in the house. All right. That we -- we know
25 exactly which one we're talking about. Now, she said on

1 numerous occasion -- that on numerous occasions that he had
2 touched her inappropriately he had rubbed her butt. He had
3 tried to reach under her bra, various things like that,
4 correct?

5 A. Yes.

6 Q. And she said that she would push him away and did
7 not indicate that he would continue on after that -- at --
8 during that particular session, correct?

9 A. I don't recall noting that he persisted.

10 Q. Right.

11 A. I -- I don't -- I don't know.

12 Q. Okay. And she also said that he would sometimes
13 ask her to come to his room and sometimes she would go to his
14 room and sometimes she would not go to his room.

15 A. I recall that. Yes.

16 Q. And she said sometimes when she was in his room,
17 he would touch her inappropriately.

18 A. Yeah.

19 Q. And those are times that presumably based on what
20 we read in the report, that she had chosen to go into the
21 room. There's no indication that he -- he picked her up and,
22 and carried her into the room.

23 A. Correct.

24 Q. Now, she also says that she was freaked out at one
25 point.

1 A. I -- I believe that the quote was that she freaked
2 out, not that ---

3 Q. She freaked out.

4 A. --- she was freaked out.

5 Q. Okay. Now, the term freak out. We have no idea
6 what she meant by that.

7 A. No.

8 Q. None. Okay. And she never indicated that she
9 ever fought screamed kicked nothing like that, that occurred,
10 correct?

11 A. I believe she pushed his hand away ---

12 Q. Pushed his hand away.

13 A. --- and freaked out.

14 Q. And those are the -- the only two descriptive that
15 -- that --that you were relying on?

16 A. I believe so.

17 Q. Okay. And on the basis of -- from what I
18 remember, on the basis of these accounts -- in fact, I'll try
19 to find the sentence. I may have it in my notes here, but
20 I'll see if I can find the sentence. I am getting there.
21 I'm getting close. Oh, my goodness. I'm sorry. Oh, here it
22 is. The reason why is I didn't underline it completely. It
23 says, "Taken together based on Mr. Pough's offense behaviors
24 and the results of the PPP examination. He meets the
25 diagnostic criteria for paraphilic coercive disorder." So

1 you were basing in large part, according to this, your --
2 your diagnosis on those two -- on the -- the offense
3 behaviors in the PPG examination.

4 A. The offense behaviors, the PPG examination. Yeah.
5 That's accurate.

6 Q. Okay. And we all agree that, I mean, even Dr.
7 Gehle in her report, because you looked at her report,
8 correct?

9 A. I have.

10 Q. Everybody, there's not any question that he -- he
11 fell -- I think, I think maybe both of you. The Static-99 --
12 whatever the two risk actuaries are. Your -- your results
13 were virtually identical on that.

14 A. I believe we had the same scores.

15 Q. Yeah. Okay. So there's no -- there's no question
16 on that. The question is where -- whether or not he suffered
17 from a disorder.

18 A. Correct.

19 MR. KIRKLAND: That's what we're dealing with. All
20 right. Thank you. I don't have any more questions.

21 THE COURT: All right, ladies and gentlemen, we're
22 going to take a short 15-minute break while you are in the
23 deliberation room. Do not deliberate, do not discuss the
24 case. Do not do any independent research. We'll see you
25 back in 15 minutes. We might still be on the record, but

1 they left a little early. All right. Short recess. Don't
2 discuss your testimony.

3 (Off the record.)

4 THE COURT: What you got? We -- we're back on the
5 record. Before we put it on the record.

6 THE COURT: All right. We're off the record. Ms. Keel
7 (ph). You come right down that microphone. Don't worry,
8 you're not in trouble. All right. Earlier when through voir
9 dire and qualifications, we ask questions if you've been a
10 victim of crime or involved in anything. Through our -- some
11 of our research, have you ever been arrested for anything?

12 MS. KEEL: Yes.

13 THE COURT: Were you arrested back in 2018?

14 MS. KEEL: Uh-huh.

15 THE COURT: And what happened to that case?

16 MS. KEEL: I was arrested for accessory. I think it
17 was before the fact.

18 THE COURT: To murder?

19 MS. KEEL: Yes.

20 THE COURT: Okay. What happened with that charge?

21 MS. KEEL: It was dismissed.

22 THE COURT: Okay. All right. Hang tight really quick.

23 MS. KEEL: Okay..

24 THE COURT: All right. Thank you. All right.

25 Anything else from the State?

1 MR. RUNYAN: No, Your Honor. I guess we would just ask
2 that the juror be thanked and dismissed because I don't think
3 she was forthright with the court in answering any questions
4 during voir dire and selection.

5 THE COURT: All right. Anything else from the
6 respondent or court's discretion?

7 MR. KIRKLAND: Let me think for half a second here.
8 Your Honor. How to -- how to put this. So here -- here's --
9 here's how I'm going to put it. If you make a determination
10 that she did not comply with voir dire and come forward, then
11 we're not objecting to anything you do. Do you understand
12 what I'm saying?

13 THE COURT: Yes.

14 MR. KIRKLAND: Okay.

15 THE COURT: Yes. I'll make the determination not
16 through any fault of your own Ms. Keel, but that with voir
17 dire we're -- if you might not have understood the question,
18 but I feel like you should have answered that during voir
19 dire, no fault of your own. It -- it happens. So for that
20 reason, we're going to dismiss you from the trial. I want to
21 thank you for your service. I know it hasn't been easy, it's
22 been time consuming, but I want to thank you for what you've
23 done for being a part of this and making our judicial system
24 work. So at this point, have you -- do you have any items in
25 the jury room?

1 MS. KEEL: Yes.

2 THE COURT: All right. Can we get her keys and then we
3 will -- and then we'll just let -- escort her out? But don't
4 -- don't go back in there. Okay?

5 MS. KEEL: Okay.

6 THE COURT: All right. Thank you, Ms. Keel. I
7 appreciate it.

8 UNIDENTIFIED SPEAKER: (Inaudible) okay. And you can
9 -- you can just step out here (inaudible).

10 THE COURT: Do you need a work excuse or anything like
11 that?

12 MS. KEEL: Yes.

13 THE COURT: All right. If you will -- all right. When
14 you get your keys just go to the clerk's office that way.
15 All right. Thank you, Ms. Keel. All right. For the record,
16 I find that she was not forthright in the voir dire, so it's
17 necessary to remove her for the record.

18 MR. RUNYAN: Thank you, Your Honor.

19 THE COURT: All right. Let's ...

20 MR. RUNYAN: That's why we picked two alternates in
21 these things. We don't want to do them again.

22 MR. KIRKLAND: Now, we're -- now, we're out. It --
23 it's getting close now. Now, we got to -- now, we got to --
24 we got to bring it home. Plan with live ammunition.

25 MR. RUNYAN: Yeah.

1 THE COURT: All right. Let's -- let's bring the jury
2 back once she is out of the hallway. Please do that once Ms.
3 Keel is gone.

4 MR. RUNYAN: And Your Honor, I apologize for earlier, I
5 -- when you said we were in recess, I -- I had to use the
6 restroom. I did not even look to see where the jury was when
7 I --

8 THE COURT: We'll just remain seated until the jury is
9 out of the courtroom.

10 MR. RUNYAN: Yes, Your Honor. I apologize.

11 THE COURT: That's all right.

12 MR. KIRKLAND: You got her excuse? All right. Luckily
13 her charges dropped.

14 MR. RUNYAN: Yeah -- yeah.

15 MR. KIRKLAND: And good for her. Must have had a good
16 attorney. Probably me.

17 THE COURT: All right. Thank you, ladies and
18 gentlemen, for your patience. MR. Alternate. Move on up.
19 Thank you, sir. All right. We're going to go ahead and get
20 started. Right? Again, I believe we were redirect?

21 MR. RUNYAN: Yes, Your Honor. May it please the court?

22 THE COURT: Yes, sir.

23 RE-DIRECT EXAMINATION

24 BY MR. RUNYAN:

25 Q. Dr. Gottfried, I just want to go through a few

1 things that were brought up on cross-examination just to kind
2 of follow up. And I want to start -- just kind of go in
3 order in the way he cross-examined you. You -- you talked
4 about the ABEL test and the fact that you don't use that
5 anymore and the reasons you don't use it. Then there was a
6 section of -- there's a part of that test called the VRT.
7 You were talking about the visual reaction time. Is that
8 correct?

9 A. Yes.

10 Q. Do you still use that in any capacity?

11 A. Not the sexually violent predator cases. I mean,
12 I have used it in the last two or three years, but I -- I
13 don't use it regularly.

14 Q. Okay. And the -- you were asked specifically
15 about the Conner's test. Now you were talking about it -- it
16 -- it assesses continuous attention. Is that right?

17 A. Yes.

18 Q. Were there any problems that appeared in the way
19 Mr. Pough presented to require you to give that test?

20 A. No.

21 Q. And tell us again why you -- do you no longer use
22 a polygraph or never used a polygraph?

23 A. I have used the polygraph when I was not
24 necessarily in charge of selecting what tests that we used in
25 the clinic and lab. When we used the polygraph, it was

1 really for specific information about diagnoses. So we would
2 only polygraph somebody on a question like in the last six
3 months have you masturbated the fantasies of prepubescent or
4 little girls?

5 And that was purportedly to help with the current
6 arousal to supplement all the other results of the
7 evaluation. There are issues with polygraphs. There is no
8 unique physiological indicator of deception. We don't know
9 fully what a polygraph is measuring. It could be a fear
10 detector and not a lie detector. It is used in some sexual
11 behavior evaluations and treatment. But -- but I don't use
12 it for those reasons. The issues with it.

13 Q. So you don't use it because you believe it's not
14 -- not a reliable tool. Is that correct?

15 A. I'm sorry.

16 Q. It's not a reliable tool. That's why you don't
17 use it?

18 A. I think depending on how you administer it, there
19 are different ways to administer a polygraph but there are
20 ways to make it more reliable, but they're typically not used
21 in these kinds of evaluations because of the problems with
22 it, because I didn't think that it added to my evaluation and
23 because I don't think we actually know exactly what it's
24 measuring. A PPG is measuring blood flow to the penis. A
25 lie detector test is measuring your breathing rate, the

1 condition, like your skin response, your heart rate, and you
2 can have an increased heart rate and breathing because you're
3 scared. It's not unique to lying.

4 Q. Okay. Thank you. So is it fair to say that as a
5 forensic evaluator in sexually violent predator cases, you
6 can -- you can choose the diagnostic tools that best help you
7 make your determination?

8 A. Yes. As I testified to earlier, there is no,
9 like, this is how you have to do these evaluations or even
10 this is necessarily how you should people use different
11 methods.

12 Q. Now, you were asked specifically about the -- the
13 narcissistic the PNI if you tell us what that stands for
14 again?

15 A. Pathological narcissistic inventory.

16 Q. And that -- that assessment is used to assess
17 whether or not someone has narcissistic personality disorder?

18 A. No. So it's a self-report questionnaire looking
19 at traits of narcissism. I don't -- it is -- how do I put
20 this? It is the best thing that we have available for
21 assessing those characteristics outside of the other
22 personality measures that I had already given and that I
23 routinely give, but it's not great in forensic cases because
24 it has no validity indicators. So all of the other tests
25 that I give look to see if it looks like the person is

1 answering consistently. So are they even paying attention to
2 the test? Then it has scaled looking at negative impression
3 management. So is the person like saying everything is wrong
4 with them and that's inconsistent? Like does it look like
5 they're crying for help or faking?

6 And then it also looks at positive impression
7 management is the person like denying common problems that
8 people will normally admit to. The PNI doesn't have any
9 validity indicators, so it doesn't tell you how valid that
10 person's approach was. And those questions are pretty face
11 valid. What that means is you can tell what they're asking
12 about. And so I -- I wanted to give that measure because
13 that really is the best thing to look at narcissism in
14 addition to the personality assessment inventory, the
15 Minnesota Multiphasic assessment inventory that I gave him,
16 the PCLR. But it is -- yeah.

17 Q. Okay. So hypothetically, if some -- even if
18 someone scored in the highest ranges in every category on the
19 PNI would you use that sole measure to diagnose them with
20 narcissistic personality disorder?

21 A. Definitely not.

22 Q. Why wouldn't a -- why would an evaluator not do
23 that?

24 A. It's just based on their self-reports. They could
25 be over exaggerating. We don't know how valid the approach

1 was. It -- it's a data point. It's a way to look at those
2 symptoms and their own perception of whether or not they have
3 those symptoms.

4 Q. So you did not use the p and i to diagnose him
5 with other specified personality disorder with narcissistic
6 traits solely?

7 A. No.

8 Q. Okay. We talked about the DSM-5 and do you have
9 the DSM-5 with you?

10 A. Yes.

11 Q. Okay. I guess I want to clear up some, some
12 confusion. And on page 7 -- I'm looking at page 778.

13 A. 770?

14 Q. 778. Uh-Huh.

15 A. Sorry. 78 or 70? 770?

16 Q. Well, 778.

17 A. Okay. Got it.

18 Q. I guess there was some confusion of whether or not
19 the -- the other specified personality disorder is in the
20 DSM-5. Is it -- is it in the DSM-5?

21 A. Yeah.

22 Q. So it is a -- is it a diagnosable condition in the
23 DSM-5?

24 A. Yes.

25 Q. Could you read for us -- I know this might be

1 tedious, but could you read for us what the DSM-5 says about
2 the other specified personality disorder?

3 A. Yes. On page 778 under other specified
4 personality disorder, it says, "This category applies to
5 presentations in which symptoms characteristic of a
6 personality disorder that caused clinically significant
7 distress or impairment in social, occupational, or other
8 important areas of functioning, predominate, but do not meet
9 the full criteria for any of the disorders in the personality
10 disorders diagnostic class. The other specified personality
11 disorder category is used in situations in which the
12 clinician chooses to communicate the specific reason that the
13 person -- of the -- " Excuse me. " -- That the presentation
14 does not meet the criteria for any specific personality
15 disorder. This is done by recording other specified
16 personality disorder, followed by the specific reason. E.g.,
17 mixed personality features."

18 Q. Okay. So, "This is done by recording or
19 diagnosing other specified personalities order filed by a
20 specific reason." And in this case what is the specific --
21 what's the specifier or the specific reason that you found?

22 A. Narcists features, traits of narcissistic
23 personality disorder.

24 Q. And what was that based off of? What was the --
25 your -- the traits based off or that diagnosis based off of?

1 A. My clinical interview, my review of the records,
2 the results of the MMPI-3, the PAI, the PCLR and I think I
3 already said in his self-report and presentation during the
4 clinical interview.

5 Q. Thank you. Moving on, Doctor, to the PPG test.
6 You were asked about different stimulus sets and I think he
7 asked you about the Marshall and the Real Child Voices
8 stimulus sets. And it -- I seem to -- seem to be some
9 confusion as to someone -- if someone -- if a lab is using
10 the Marshall set and you -- as you testified on direct there,
11 they're different trials that make up a set of the stimulus
12 set.

13 A. Correct.

14 Q. Can -- in the Marshall set, can you go in and
15 change the -- what the auditory stimulus is?

16 A. You can't modify it.

17 Q. That's what I mean. Yeah. Can you modify it?

18 A. What they say on it.

19 Q. Right. So anyone using the Marshall set when they
20 -- when they apply the stimulus through the auditory, it's
21 the same scenario?

22 A. Yes.

23 Q. And same for the Real Child Voices on the trials
24 there, once you start the Real Child Voice trial and they
25 have the headphones on, can you go in and change the

1 scenario?

2 A. No.

3 Q. So is it fair to say that when labs are using the
4 Marshall and the Real Child Voices set, they're using a
5 standard stimulus set that the person undergoing the test has
6 hearing?

7 A. Yes.

8 Q. Okay. Now, you testified that your -- your lab is
9 limestone certified as the clinical -- clinical research lab
10 on direct. Is that correct?

11 A. Yeah, we're certified at the clinical level as
12 well as the research. Research is the highest certification
13 you can obtain.

14 Q. And you yourself are certified? And you think you
15 testified in interpreting and analyzing the results of PPGs?

16 A. Yes, I'm a certified clinical analyst of the PPG.

17 Q. So my guess question is at any -- any lab or any
18 evaluator, I think you mentioned Dr. Burke in Somerville.
19 Anyone using the limestone technology that's limestone
20 certified and is certified to interpret results, if they were
21 given the raw data by you, they would see the same change in
22 circumference?

23 A. Yes, the numbers would be exactly the same.

24 Q. And those numbers -- show the blood flow, right?
25 The change in blood flow to the penis?

1 A. Correct.

2 Q. And your procedure, I believe you testified, do
3 you have a standard procedure?

4 A. Yes.

5 Q. Is that procedure applied in every PPG that --
6 that comes into the MUSC lab?

7 A. Yes. Every PPG is done exactly the same from how
8 we administer it, how we calibrate the page -- the gauge
9 through the interpretation. And we have a checklist that's
10 six or seven pages long and it goes through every single step
11 so that everyone is done in the exact same way.

12 Q. And do you do the PPG and other evaluations
13 outside of sexually violent predator?

14 A. Yes.

15 Q. And -- and those PPGs are the same procedures
16 followed?

17 A. Always the exact same.

18 Q. Doctor, you -- I guess the question I -- I -- I
19 heard on your -- on the cross-examination was based on the
20 science and the research and your experience in training. Is
21 the PPG an objective measure of male sexual arousal?

22 A. Yes.

23 Q. And I think you testified this already, but are
24 forensic psychologists free to use the tools they feel are
25 necessary to render their opinions?

1 A. Yeah.

2 Q. I want to move on to the sexual offenses. You --
3 you testified you are a forensic psychologist, correct?

4 A. Yes.

5 Q. And I think you testified that you did some
6 postdoctoral training in forensic psychology, is that
7 correct?

8 A. Yes.

9 Q. Is it your job to investigate crimes?

10 A. No.

11 Q. As a forensic psychologist, were you -- was it
12 part of your training to investigate crimes?

13 A. No.

14 Q. Is it your job to prove guilt?

15 A. No.

16 Q. Dr. Gottfried, do you have the exhibits that were
17 entered into evidence?

18 A. No.

19 MR. RUNYAN: Can we approach?

20 BY MR. RUNYAN:

21 Q. You were asked a lot of questions about, you know,
22 the evidence in those cases. But I want to turn to these
23 exhibits and I want to turn to the Exhibit Number 1. And if
24 you could tell us on the sentencing sheet where those boxes
25 are checked across the middle, could you tell us what they --

1 what they're checked, what boxes are checked?

2 A. Yes. So it says that -- the box checked that, "He
3 pleads to criminal sexual conduct with a minor or attempt
4 victim 11 to 14 years of age inclusive, second degree." Then
5 it's checked that, "This is a violent, and most serious, the
6 charges as indicted."

7 Q. Okay. That's enough. So as indicted, so if we go
8 back to the indictment, could you read to us what he was in
9 -- what he was indicted for, and what he -- what he at a
10 minimum pled guilty to?

11 A. That, "Jeremiah James Pough did, in Kershaw County
12 State of South Carolina on or about February 5, 2017,
13 willfully, unlawfully and feloniously engaged in sexual
14 battery with a minor who is at least 14 years or less, but
15 who is at least 11 years of age to wit." And then the
16 victim's name is redacted. "Juvenile, whose date of birth is
17 -- " It list her date of birth. "-- In violation of section
18 1603655B of the South Carolina Code of Laws 1976 as amended."

19 Q. So he plugged guilty to sexual battery?

20 A. Yes.

21 Q. What's your understanding of sexual battery?

22 MR. KIRKLAND: Objection, Your Honor. That's -- that
23 is a legal issue,

24 MR. RUNYAN: Your Honor. She's a forensic psychologist
25 who's is joining legal with the -- the psychology world. I

1 think she can opine on it.

2 THE COURT: Sustain that objection.

3 BY MR. RUNYAN:

4 Q. Okay. But at a minim Dr. Gottfried he was -- pled
5 guilty to as indicted sexual battery?

6 A. Yeah.

7 Q. Okay. Let's talk about what Mr. Kirkland talked
8 about with you and -- The evidence that you reviewed showed,
9 I think he didn't mention this, but I want to bring it up.
10 Did -- did the victim have any -- any swelling or red marks
11 on her eye?

12 A. Yes.

13 Q. And that's from -- where did you -- where is that
14 from the medical report?

15 A. I don't recall if that was the police observation
16 and or the medical report. I recall seeing that. I'm -- I'm
17 not sure where that was from.

18 Q. But you did review records that indicated he --
19 she had red swelling mark over her eye?

20 A. Yes.

21 Q. And you did indicate records that -- as you -- as
22 you testified on cross, and I think I'm on page 20 of your
23 report. You testified with Mr. Kirkland that there was --
24 from the medical exam, 25, 2017, I think you said, "Jeremiah
25 began trying to kiss her and told her to stop and tried to

1 push him away. She also recalled that he pulled her down her
2 pants and put his penis into her vagina." That's her quote.
3 Correct?

4 A. This is quoted from the medical exam. And so that
5 was somebody saying what they -- what she told them.

6 Q. Okay. All right. But there is evidence that was
7 non-consensual, correct?

8 A. Yes.

9 Q. And also -- I -- I'm on page 19 of your report.
10 You say, and I believe this is in the police report, "The
11 victim stated that his penis did penetrate her." Is that
12 correct?

13 A. Yes.

14 Q. Okay.

15 A. And that is also the police report where it says
16 she had a red mark with swelling under her left eye.

17 Q. Okay.. And it says that -- she stated, "Jeremiah
18 then bent her over the AC unit and raped her." Further down
19 the paragraph?

20 A. Yes.

21 Q. And then she stated she was telling him to stop,
22 but Jeremiah would not. Is that what it says?

23 A. Yes.

24 Q. Are those indications of non-consent?

25 A. Yes.

1 Q. There was some testimony about you were asked
2 about DNA evidence, but you said you had no sled DNA
3 evidence?

4 A. Not to my recollection.

5 Q. There's no -- in your summary of sources of
6 information, you had nothing on DNA?

7 A. Not that I recall.

8 Q. So you really have no evidence of anything
9 regarding DNA?

10 A. I don't believe so.

11 Q. Okay. Now, there was talk about her being
12 intoxicated. Did Mr. Pough receive any convictions other
13 than the criminal sexual conduct at the time of this event?

14 A. I believe -- yeah, contributing to the delinquency
15 of a minor.

16 Q. Contributing to the delinquency of a minor. And
17 did the victim state that they went there to that he -- she
18 was given marijuana and alcohol by Mr. Pough?

19 A. Yes.

20 Q. Okay. If some talk about the Tanner stage of the
21 victim explain to me when a Tanner stage would be important
22 to look at.

23 A. So you would be looking at Tanner stages when you
24 were considering whether or not the victim was pre-pubertal
25 (ph) which would be Tanner stage one, which would be a child

1 with no secondary sex characteristics.

2 Q. And this victim was in Tanner stage four, right?

3 A. Yes. Since she was 14.

4 Q. Okay. And there was some talk about the -- the
5 fact that she legally could not consent, correct?

6 A. Correct.

7 Q. But whether she could legally consent or not. The
8 -- the evidence that you reviewed in your opinion, she wasn't
9 consenting regardless of her age.

10 A. Correct.

11 Q. Let's talk about the second one. You were asked
12 if she was voluntarily drunk.

13 A. Yes.

14 Q. And you -- I think you responded, "She was
15 intoxicated." Is that correct?

16 A. Yes.

17 Q. I would ask you to look at the State's Exhibit 2,
18 and if you would please on this one. Is this one as indicted
19 as well?

20 A. Yes.

21 Q. As the last one? I'm sorry?

22 A. Yes, it is.

23 Q. Could you read for us what the indictment says?

24 A. That, "Jeremiah James Pough did, in Kershaw County
25 on or about June 20, 2017, engage in sexual battery with the

1 victim -- " And then it lists the victim's name. "-- When
2 the defendant knew or had reason to know that the victim was
3 mentally defective, mentally incapacitated or physically
4 helpless in violation of section 16030654 South Carolina Code
5 of Laws 1976 as amended."

6 Q. So on this offense, at a minimum he was -- he pled
7 guilty to, again, sexual battery. Is that correct?

8 A. Yes.

9 Q. And that was with someone who is known or had
10 reason to know was mentally defective, incapacitated or
11 physically helpless?

12 A. Yeah.

13 Q. Is that evidence of non-consent?

14 A. Yes.

15 Q. Because I want to ask, does someone -- there was
16 some talk about this. Does a -- in -- in your -- in your
17 opinion as a forensic psychologist. Does a person have to
18 fight, scream, or kick, I think was the -- your question on
19 -- they have to fight, scream, or kick in order for it to be
20 considered non-consensual?

21 A. No. And in fact, when you look at research on
22 paraphilic coercive disorder, they specifically talk about
23 cases where the victim doesn't fight but isn't -- given you
24 consent.

25 Q. You were also asked about a medical exam that you,

1 you said you, you noted it for the record -- the fact that a
2 medical examination said that this second victim had a tear
3 in her -- was the perineum or the hymen of her vagina. Is
4 that correct?

5 A. Yes.

6 Q. And you said you noted it for the record. Let me
7 ask you this, you've testified you look at everything.

8 A. Yes.

9 Q. So do you look at things that are positive for Mr.
10 Pough?

11 A. Yes.

12 Q. And do you look at things that are negative
13 against Mr. Pough?

14 A. Yes. I look at everything provided..

15 Q. So there's some things that are neither positive
16 or negative?

17 A. Certainly.

18 Q. And you said these are all data points for you?

19 A. Yes.

20 Q. And why do you collect all those data points?

21 A. Well, I want to make sure that I have all of the
22 information to consider. There might be things like an
23 example of school records from 30 years ago that might be
24 more neutral, but I don't know that until I consider them.

25 Q. All right. And turning to the final victim.

1 Again, I'll just have you look at the sentencing sheet.
2 Would -- would be State's Exhibit 3. Could you tell us
3 again, what boxes are checked on this sentencing sheet?

4 A. That he pled to a violent, most serious offense as
5 indicted.

6 Q. Okay. And turning to the indictment. So if you
7 could just read to us what -- as indicted, what he was --
8 what he pled guilty to?

9 A. That, "Jeremiah James Pough did, in Richland
10 County, State of South Carolina, on or between May 7, 2019
11 and June 7, 2019, willfully, unlawfully and feloniously
12 engaged in sexual battery with a minor -- " And then the
13 victim's name is redacted. "-- who is less than 14 years of
14 age, but who is at least 11 years of age -- " Then it gives a
15 birthday. "And the said defendant was in a position of
16 familial, custodial or official authority to coerce the set
17 victim to submit. And or the defendant was older than the
18 victim in violation of the South Carolina Code of laws."

19 Q. And this victim was living in the same residence
20 with Mr. Pough?

21 A. To my understanding, yes.

22 Q. And is there evidence in the record that the --
23 him molesting her was non-consensual?

24 A. Yes.

25 Q. And, Doctor, going back to the PPG, I'm sorry.

1 The non-consensual nature of his criminal offenses, as he was
2 indicted and convicted, did that match his arousal patterns
3 on the PPG?

4 A. Yes. He showed clinically significant sexual
5 arousal to nine out of the 10 scenarios depicting coercion
6 rape on the PPG.

7 MR. RUNYAN: Thank you, Your Honor. No further
8 questions.

9 THE COURT: Recross?

10 RE CROSS-EXAMINATION

11 BY MR. KIRKLAND:

12 Q. One question. You said you look at positive
13 things as well as the negative things?

14 A. Yeah.

15 THE COURT: Hold on. Your microphone.

16 MR. KIRKLAND: Thank you. I will re-ask it?

17 THE COURT: Working?

18 MR. KIRKLAND: It is now.

19 BY MR. KIRKLAND:

20 Q. You said that -- that you -- you look at the
21 positive things as well as all the negative things, correct?

22 A. Yes.

23 Q. Could you give me a list of all the positive
24 things that you -- that you looked at that you're referring
25 to?

1 A. I would say that it is positive that it LCDC, he
2 only had the one disciplinary infraction.

3 MR. KIRKLAND: Okay. Thank you. No further questions.

4 THE COURT: Thank you. You may step down. All right.
5 Attorney to approach. All right. Ladies and gentlemen,
6 we're going to break for the day. Thank you again for your
7 patience and for your participation and for the alternates.
8 Moving on up. We're going to dismiss you for the day
9 tomorrow. We're going to get started a little bit later.
10 We'll start back at 10:30 a.m. tomorrow morning. So if
11 you'll be in the jury deliberation room at 10:30.

12 Once again, you know what I'm going to tell you. Do
13 not discuss the case. Do not discuss it amongst yourselves,
14 amongst your family members, amongst your friends. Do not
15 deliberate. Do not discuss the case. Do not do any
16 independent research. Just go take the day off judge's
17 orders and we'll see you back here at 10:30 tomorrow morning.
18 Thank you. Anything else from the State?

19 MR. RUNYAN: I would just ask, Your Honor, I think
20 tomorrow morning, I guess, I'll close in front of the --
21 close our case in front of the jury.

22 THE COURT: Yes.

23 MR. RUNYAN: And I would just ask that, Dr. -- I'm not
24 -- I'm not going to recall Dr. Gottfried for any rebuttal or
25 anything like that. So if you could release her from her

1 subpoena.

2 THE COURT: Fine with me. You're released. All right.
3 When we bring the jury back tomorrow, assuming there's no
4 legal issues, I'll just ask anything else from the State can
5 close. So we'll go in and we'll have your witness ready to
6 go.

7 MR. KIRKLAND: She'll be ready to go.

8 THE COURT: All right. Court is in recess until 10:30
9 tomorrow morning.

10 MR. RUNYAN: Thank you, Your Honor.

11 THE COURT: Thank you.

12 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
13 4:24 P.M.)

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CERTIFICATE OF TRANSCRIBER

I, NATASHA BARRIENTOS, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 5 of Kershaw County, South Carolina, on the 14th Day of November, 2023.

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

February 6, 2024

Natasha Barrientos

Transcriber

1 CONTINUATION OF PROCEEDINGS - NOVEMBER 15, 2023

2 THE REPORTER: Wednesday, November the 15, 2023.

3 Kershaw County General -- Common Pleas Court. Judge Daniel
4 Coble.

5 THE COURT: All right. Anything from the State before
6 we begin?

7 MR. RUNYAN: Your Honor, I think there was some
8 question about -- I know we'll have a jury charge conference,
9 but I did send Mr. Kirkland had some issues with the Judge
10 Hood's jury charge that we have used in previous case -- the
11 previous case. I did send some this morning to your law
12 clerk an addendum to that just breaking the elements out to
13 three. Versus as the statute says, you know, it's listed as
14 two, but it's kind of two, the two ones it's kind of AB type
15 thing, so.

16 THE COURT: And with Judge Hood -- Hood's instructions,
17 I have those. Any -- I don't mind switching out the part,
18 the elements part.

19 MR. KIRKLAND: I'll -- I'll show you what I have here
20 Judge. And I can hand it over to you because what I did last
21 night was -- is five, six on my proposed jury charges. This
22 is the way that I believe complies with -- and I'll also hand
23 you this. There's a case you -- of course, you have in this
24 case, but whatever. I'll give you the case.

25 THE COURT: This is it?

1 MR. KIRKLAND: So now, it's the -- so now ---

2 MR. RUNYAN: Did you get my email this morning?

3 MR. KIRKLAND: I -- I did not.

4 MR. RUNYAN: Because I already said we could break it
5 up into three based on stuff.

6 MR. KIRKLAND: Oh, you did?

7 MR. RUNYAN: Yeah, I sent a proposed outline.

8 MR. KIRKLAND: Oh, I didn't see your ---

9 MR. RUNYAN: I just want -- you know, so you don't have
10 to argue.

11 THE COURT: I think we're all in agreement. So while
12 on -- we'll work on that.

13 MR. KIRKLAND: We'll figure it out.

14 THE COURT: I'm probably going to use Judge Hood's.
15 The everything else. I'll sum out what you sent me this
16 morning. You confirm that it is what you want. Of the
17 sexual violent predator. That part of the charge, but
18 everything else will confirm is agreeable.

19 MR. RUNYAN: Thank you.

20 THE COURT: All right. What I'd like to do, and Mr.
21 Kirkland, you let me know. This is like how you handle it
22 for the State to go on the record and rest. That's what they
23 intend to do. You are your directed verdict motion. I'll
24 make that ruling. We bring the jury back out. I'll let you
25 rest the case in front of them and I'll let Mr. Kirkland you

1 renew all previous motions. That way I don't send them back
2 out unless you feel like you need to send them out and have
3 the floor.

4 MR. KIRKLAND: No, I do not need to do that. So I want
5 to make sure that I understand exactly what you're saying.
6 So they're going to rest then we send the jury out.

7 THE COURT: No -- no -- no. I was saying before we
8 bring them out ---

9 MR. RUNYAN: Rest out.

10 THE COURT: --- say if you officially rest right now on
11 the record. You're going to make your directed verdict
12 motion after they rest. And I'll hear it assuming I deny it.
13 Then we'll have the jury come back out and then on the
14 record, the State is going to rest in front of them.

15 MR. KIRKLAND: And then I renew my motion.

16 THE COURT: Renew all your motions previously made.

17 MR. KIRKLAND: Okay. Got it. Let's do that..

18 THE COURT: That preserves all your directed verdict
19 motions.

20 MR. KIRKLAND: I think so.

21 THE COURT: Yes. I mean, that's how we typically do
22 it.

23 MR. KIRKLAND: Good. Yeah, let's do it.

24 THE COURT: Unless you think that -- I think that
25 covers it.

1 MR. KIRKLAND: I think it does.

2 THE COURT: Or it preserves it.

3 MR. RUNYAN: No -- no objection.

4 MR. KIRKLAND: I'd be very disappointed if the Court of
5 Appeals Was that petty.

6 THE COURT: Yeah, I don't think so.

7 MR. KIRKLAND: Very disappointed.

8 MR. RUNYAN: No objections from the State doing it that
9 way.

10 THE COURT: Let's -- all right. Let's -- any -- let's
11 go -- hear from the State. State rests?

12 MR. RUNYAN: Yeah -- yeah. State has no more
13 witnesses. We would rest our case at this time.

14 THE COURT: Very well. Any motions from the
15 Respondent?

16 MR. KIRKLAND: We would make a motion for a directed
17 verdict. we'd make that motion based on the fact that we do
18 not believe that any evidence has been entered into the
19 record from which a jury could find beyond a reasonable doubt
20 that the defendant should be committed. I would point to
21 specifically the issues that I raised earlier with the PPG
22 test and point to the cross-examination of the witness and
23 the issues that she had in establishing from our position,
24 establishing that he suffers from a mental disease or defect
25 which is really what this trial is all about, because they

1 agree on the risk assessment. What -- what we're arguing
2 over is the mental disease or defect. So we do not think
3 that they have been able to establish the mental disease or
4 defect to a -- to a level that a jury could find beyond a
5 reasonable doubt that he falls under the sexually violent
6 predator statute.

7 THE COURT: Very well.

8 MR. RUNYAN: Thank you, Your Honor. As, Your Honor,
9 knows and when ruling on directed verdict motions, you have
10 to look at the evidence and the inferences that are
11 reasonably can be drawn from them In the -- the light most
12 favorable to the non-moving party, which in this case would
13 be the State. And when considering a directed verdict
14 motion, you have to -- you're concerned with the existence of
15 evidence, not as Wait. I think we have put up Dr. Gottfried,
16 who was qualified as an expert in forensics psychology and
17 forensic sex offender evaluations. She diagnosed Mr. Pough
18 with other specified paraphilic disorder -- paraphilic
19 coercive disorder. That's a specifier and other specified
20 personality disorder with narcissistic traits.

21 Dr. Gottfried gave testimony as to how she came to
22 those conclusions that he had arousal on the PPG to
23 non-consenting sexual with teenagers and adults that he
24 offended in places where he readily be identified that he had
25 multiple convictions after bonding out and then re-offending

1 and bonding out and re-offending. there was evidence in the
2 record that the victims were not consenting all this
3 supported her opinion that he suffers from the paraphilic
4 coercive disorder. She talked about other specified
5 personality disorder and the test that she gave and the
6 conclusions of the test that lead her to believe that he has
7 callousness glibness that he looks at himself in an overly
8 positive light. I think those support her diagnosis of other
9 specified personality disorder with narcissistic traits.

10 And, again, as Mr. Kirkland said, they both agree that
11 he has very high risk, over 50 percent over 20 years on the
12 Static-99R. He's in the well above average and above average
13 category. And that's the first element, Your Honor, he has
14 three convictions that are undisputed. So we would just
15 suggest this is enough to survive a motion for directed
16 verdict.

17 THE COURT: All right.

18 MR. KIRKLAND: And as to two of those issues we do
19 agree that he has ---

20 THE COURT: Microphone -- microphone.

21 MR. KIRKLAND: --- conviction. Oh, as to two of those
22 arguments. It is correct that he has qualifying convictions
23 and I -- we are not able to rebut the risk factor. So it
24 comes down to the mental abnormality.

25 THE COURT: All right. Based on the -- I'm looking for

1 evidence, not the weight of evidence in light of -- in the
2 light of the most in favor of the non-moving party, I found
3 that their evidence does exist as to obviously element number
4 one, there was conviction. As to element number three Dr.
5 Gottfried testified about -- testified about the risk factor
6 citing the, I believe the Static 99 or risk as assess
7 assessment test as well as others that she in her expert
8 opinion that he was likely to engage in sexual acts of
9 violence if he was not confined to received treatment.

10 And then also as to element number two, she testified
11 that he suffered from two the mental disorders which were
12 defined in the textbook of that the psychologist used for to
13 define different personality trait disorders or
14 abnormalities. And so based on her -- her testimony, the --
15 the exam of Mr. Pough, including the PPG test, including the
16 review of his history, both criminal history, as well as
17 other personal history, as well as the interview she
18 conducted with him based on all of her testimony, she
19 determined in her expert opinion that he did suffer from
20 those two personality disorders. So the motion is denied at
21 this point. All right. Anything from the State before we
22 bring the jury back out?

23 MR. RUNYAN: No, Your Honor.

24 THE COURT: Anything from the Respondent?

25 MR. KIRKLAND: No, Your Honor.

1 THE COURT: All right. Let's bring the jury. Are you
2 all going to get an email from the -- I think the correct
3 charges at some point by lunch or whatnot. I'm just
4 reviewing it.

5 MR. RUNYAN: Okay. Thank you, Your Honor.

6 THE COURT: All right. I got to count and do the math
7 and make sure all 12 are here. Thank you for being here this
8 morning. Thank you for your patience and your service.
9 We're going to continue the trial starting now. Anything
10 else from the State?

11 MR. RUNYAN: No, Your Honor.

12 THE COURT: All right. At this time, the State has
13 rested their case. Any motions from the respondent?

14 MR. KIRKLAND: I would just renew the motion that we
15 did in camera a little while ago, Your Honor.

16 THE COURT: Very well. Your motion is renewed and all
17 the rulings priorities are still standing. Right. Anything
18 from the Respondent?

19 MR. KIRKLAND: Your Honor, I would call, to the stand,
20 Dr. Marie Gehle.

21 THE CLERK: You put your right hand on the Bible. Do
22 you swear or affirm that the evidence you give in this case
23 will be the truth, the whole truth, and nothing but the
24 truth, so help you God?

25 MS. GEHLE: I do.

1 THE CLERK: Please take a seat in the witness stand and
2 then state your full name for the record.

3 THE WITNESS: My name is Marie Gehle, G-E-H-L-E.

4 DIRECT EXAMINATION

5 BY MR. KIRKLAND:

6 Q. Dr. Gehle, where are you employed?

7 THE COURT: Microphone.

8 MR. RUNYAN: Either one. Let me do this, Your Honor.
9 Let me turn this one off.

10 MR. KIRKLAND: Let me just take (inaudible).

11 BY MR. KIRKLAND:

12 Q. Once again. Here we go. Dr. Gehle where are you
13 currently employed?

14 A. At the South Carolina Department of Mental Health
15 in Columbia.

16 Q. How long have you been employed there?

17 A. I've been employed there for 14 years.

18 Q. And what is your title there?

19 A. I'm a chief psychologist.

20 Q. Hold on. Oh, I found my pen. I lost my pen for a
21 minute. how long have you held that title of Chief
22 psychologist?

23 A. Since I started there in 2009.

24 Q. 2009? Did you work anywhere prior to working at
25 the South Carolina Department of Mental Health?

1 A. Yes.

2 Q. Where did you work?

3 A. Well, I worked in a variety of positions. like
4 right before that, I did a postdoctoral fellowship at East
5 Central Regional Hospital in Augusta, Georgia. Before that,
6 I did a pre-doctoral internship at Western State Hospital in
7 Tacoma, Washington and their special commitment center, which
8 is their sexually violent predator program in Washington
9 state. I worked at Cincinnati Children's Hospital in their
10 psychiatry unit for several years during graduate school.
11 And then I did a number of practicum experiences in which I
12 was paid during graduate school.

13 Q. At the Department of Mental Health right now what
14 are the -- what are -- what are your responsibilities?

15 A. My responsibilities are to do pre-commitment,
16 sexually violent predator evaluations. I also supervise
17 postdoctoral fellows that were training to do this kind of
18 work. So competency evaluation, criminal responsibility
19 evaluations, and sexually violent predator evaluations. I
20 supervise them in their experiences learning how to do
21 pre-commitment, sexually violent predator evaluations.

22 Q. So there are different type -- from what I can
23 understand, based on what you just said, there are different
24 types of forensic evaluations involving sexually violent
25 predator. What we're doing here today, my understanding is a

1 -- is a pre-commitment evaluation. Is that correct?

2 A. That's correct.

3 Q. Okay. Did you -- did you ever perform any
4 different jobs in the forensic division?

5 A. When I first started at the Department of Mental
6 Health, I worked in the sexually violent predator treatment
7 program and I supervised the treatment providers, and then I
8 did evaluations of people who were in the program. I did
9 that for a few years, and then I switched over to working
10 full-time as the pre-commitment evaluator.

11 Q. So you actually work -- I -- I actually was not
12 aware of this. so you actually worked in the treatment
13 facility, is that what you just said?

14 A. I did the first few years, yes.

15 Q. And so when someone would come up for a review,
16 you would -- you would also write those evaluations?

17 A. Yes. I supervised the treatment of half of the
18 offenders in the program, and then I was evaluating, you
19 know, the other half, or not all of the other half, but I
20 could evaluate the other half. I didn't supervise the
21 treatment for the people that I also evaluated.

22 Q. So you've not only done just these pre-commitment
23 evaluations and testified in court, you've actually been in
24 the center doing treatment? Is that what I understand?

25 A. I supervised the treatment and then sat in some

1 treatment groups. Met with some people, but I wouldn't say
2 that I was like a primary treatment provider. I was more
3 supervising the primary treatment providers.

4 Q. Okay. Where did you attend school?

5 A. I have a bachelor's degree in psychology from Ohio
6 Northern University. I have a master's in clinical
7 psychology and a doctorate in clinical -- clinical Psychology
8 from Xavier University in Cincinnati,

9 Q. Ohio. And this may be virtually the same
10 question, but I'm -- I'm going to ask it. So what -- what
11 degrees do you possess? What are all the degrees that you
12 possess?

13 A. I have a Bachelor's of Arts in Psychology, a
14 master of Arts in clinical psychology, and psychology
15 doctorate; Doctor of Psychology in clinical Psychology.

16 Q. Okay. are you a member of any professional
17 associations?

18 A. Yes. I'm a member of the American Psychology and
19 Law Society and a member of the Sex Offender Civil Commitment
20 Program Network. That's an -- that's a group that deals with
21 people who are being evaluated and committed for sexually
22 violent predator status.

23 Q. So your primary focus, certainly right now, is in
24 forensic psychology, correct?

25 A. Yes.

1 Q. Now, has your forensic throughout your career
2 primarily focused -- focused on forensic psychology?

3 A. Yes.

4 Q. Okay. Now, you may have mentioned this already,
5 but your postgraduate work that you did, was that also in --
6 in this -- this area?

7 A. My postdoctoral fellowship, which is a year of
8 training, after you finish your doctorate, before you get
9 licensed, you have to do about a year of clinical experience
10 that you're supervised in. That work for me was at East
11 Central Regional Hospital, which is a psychiatric hospital.
12 Psychiatric forensic hospital was the part that I worked in.

13 So I was supervising and doing treatment there
14 with people who were found not guilty by reason of insanity,
15 or people who were incompetent to stand trial or being
16 evaluated for competency to stand trial. I worked in that
17 part of the hospital. And then I also evaluated people for
18 competency to stand trial and criminal responsibility during
19 that year of training.

20 Q. So that was basically practical -- practical
21 experience. you were working hands-on with people, correct?

22 A. Yes.

23 Q. Okay. How long were you there?

24 A. I was there for a year.

25 Q. Okay. Are you licensed to practice psychology in

1 South Carolina?

2 A. Yes.

3 Q. Are you licensed to practice psychology in any
4 other state?

5 A. I'm also licensed to practice in Georgia. And I
6 -- I realize I just misspoke. I -- I worked at East Central
7 Regional after my postdoctoral fellowship ended and I started
8 at the South Carolina Department of Mental Health. I
9 continued to do work there for a couple years doing those
10 evaluations as a contractor. So I should add that just to be
11 accurate.

12 Q. Okay. And what year was it? Because I just want
13 to be clear on this that you -- I think you started doing sex
14 offender violations or pre-commitment sex offender violations
15 full time. Do you know what year that was that you started
16 doing that?

17 A. I started at the Department of Mental Health in
18 the Sexually Violent Predator program in 2009. And I believe
19 it was 2012 when I started doing the pre-commitment
20 evaluations.

21 Q. So since 2012, that has been your job do
22 pre-commitment evaluation -- evaluations?

23 A. Yes. And so that is for 11 years, been every day
24 what you go into work to do?

25 A. Yes.

1 Q. That seems like that's not a -- a -- a pleasant
2 job, but that's a lot of experience. Have you ever been
3 qualified as an expert in the field of sexually violent
4 predator evaluations in South Carolina?

5 A. Yes.

6 Q. Do you know approximately how many evaluations you
7 have performed?

8 A. I've performed I think it's around 350 roughly.
9 It's probably -- yeah, between 330 and 350 sexually violent
10 predator evaluations.

11 Q. And let me talk about this for a minute. So when
12 -- so when the Attorney General's office recommends someone
13 for commitment in the program the -- my understanding is that
14 the statute then sends it to the Department of Mental Health
15 first to have a Department of Mental Health evaluation. Is
16 that correct?

17 A. That -- that's not exactly how the process works.
18 Because the Attorney General's office doesn't recommend
19 anybody for commitment.

20 Q. But the first place -- the first place -- this is,
21 I guess what I'm saying, the first place under the statutory
22 scheme, the first place that this goes for the evaluation is
23 to the Department of Mental Health. Is that correct?

24 A. Yes. We're the first person who evaluates or the
25 Department of Mental Health is the first time the person

1 who's being evaluated will be spoken to about their history
2 and will have, you know, more of a -- a -- a decision made or
3 an opinion given that's not just based on records.

4 Q. Right. So do you know how many -- approximately
5 how many times you have been recognized as an expert in in
6 the -- in -- in the field of forensic psychology and sexually
7 violent predator evaluations?

8 A. It's been more than a hundred times.

9 MR. KIRKLAND: More than a hundred? Your Honor, at
10 this time I would like to tender this witness as an expert in
11 the field of forensic psychology and sexually violent
12 predator evaluations.

13 MR. RUNYAN: A few questions, Your Honor?

14 THE COURT: Yes.

15 MR. RUNYAN: Dr. Gehle. I just want to ask you -- you
16 -- you said your title was Chief Psychologist at DMH, is that
17 correct?

18 THE WITNESS: Yes.

19 MR. RUNYAN: And you got that when you were hired in
20 2009?

21 THE WITNESS: Yes.

22 MR. RUNYAN: Okay. as a chief psychologist, are you
23 like -- are you in charge of the forensic evaluation
24 services?

25 THE WITNESS: No, I'm not.

1 MR. RUNYAN: Do you do -- are there other chief
2 psychologist there?

3 THE WITNESS: I believe so.

4 MR. RUNYAN: About how many?

5 THE WITNESS: I'm not sure what everybody's title is,
6 but I believe that there are maybe 10 psychologists in the
7 forensic evaluation service currently. They don't all do
8 sexually violent predator evaluations, but.

9 MR. RUNYAN: And there are other -- other psychologists
10 in the forensic services unit that do sexually violent
11 federal pre-commitment evaluations?

12 THE WITNESS: Yes, that's true.

13 MR. RUNYAN: Are you familiar with the association of
14 the treatment of sexual abusers?

15 THE WITNESS: I -- I'm familiar of -- of that group.

16 MR. RUNYAN: Yes. You're not a member?

17 THE WITNESS: I'm not a member.

18 MR. RUNYAN: Do you know generally what they do?

19 THE WITNESS: I -- I mean, I -- that's a broad
20 question. I know what the acronym is. I know that they do
21 some research. I know that they publish a journal.

22 MR. RUNYAN: Well, I asked because you said you were,
23 you were worked in the sexually violent predator treatment
24 program. So I was curious if you were familiar with the
25 association with the treatment of sexual abusers. And so

1 you're generally, you're -- you understand what they do?

2 THE WITNESS: I'm not a member, but I understand a
3 little bit of what they do. Yes.

4 MR. RUNYAN: Would it be important if you were in doing
5 treatment to be a member of that group?

6 THE WITNESS: No, I don't think so. You could choose
7 to be a member of that group if you wish to, but you don't
8 have to. Many of the -- many of the psychologists I work
9 with are not members of that group.

10 MR. RUNYAN: You said you've done about 330 -- it's 350
11 SVP evaluations?

12 THE WITNESS: Yes.

13 MR. RUNYAN: Were those -- does that number all
14 pre-commitment evaluations?

15 THE WITNESS: No.

16 MR. RUNYAN: So you've done other types of evaluations?

17 THE WITNESS: Yes.

18 MR. RUNYAN: Nothing further, Your Honor. We have no
19 objections to Dr. Gehle.

20 THE COURT: Mr. Kirkland, will you state again the
21 specific areas you qualified her?

22 MR. KIRKLAND: Sure. Field of forensic psychology and
23 sexually violent predator evaluations.

24 THE COURT: Very well. She will be qualified in those
25 fields as an expert.

1 MR. KIRKLAND: Thank you, Your Honor.

2 BY MR. KIRKLAND:

3 Q. You mentioned that you had done -- now, that
4 number 350 do -- do you have any breakdown, and I don't know
5 that you would or not. Do you -- do you -- do you have any
6 breakdown of how many of those were pre-commitment
7 evaluations?

8 A. Yeah, it's I think when I looked at my numbers
9 yesterday, I believe that it was like 252 evaluations. And
10 then I have several more pending that I'm working on.

11 Q. So these are the just pre-commitment evaluations,
12 what we're here for today? Is that what -- is that what
13 you're saying?

14 A. It is right around between 250 and 260 depending
15 on how you count it. But I believe, I, excuse me, issued
16 opinions in 252 cases.

17 Q. And you mentioned that there are other people that
18 -- I'm genuinely asking these questions because I don't know
19 the answer to these questions. That was some interesting
20 questions that he asked. You, at this point in your career,
21 this is all you do. You -- you only do the pre-commitment
22 evaluations. Did I understand that correctly?

23 A. For the Department of Mental Health? That's all I
24 do. I have -- in -- in my spare time I see people for
25 therapy out of a private practice in Georgia.

1 Q. And that's been -- that's what you're talking
2 about. Since 2012, you've been doing only pre-commitment
3 evaluations?

4 A. Almost entirely pre-commitment evaluations. Every
5 now and again, I will do a evaluation of a person who's in
6 the program. It's pretty rare when that happens.

7 Q. Now, do you have any idea, even a -- a -- a fair
8 guess of how many of the pre-commitment evaluations that you
9 handle for the Department of Mental Health?

10 A. In terms of like what percentage I do, of all the
11 referrals they get?

12 Q. Yes.

13 A. I -- I don't have a good grasp on that. I know
14 that the majority go to me because I'm the only one who does
15 them full-time. Other people primarily do the evaluations of
16 the people who are in the program. But -- but I can't do all
17 of them myself because there's too many, so they get divvied
18 out to other evaluators as well.

19 Q. Okay -- okay. And we've already talked about
20 this, but the type of evaluation that you were called upon to
21 do in this case was a pre-commitment evaluation, correct?

22 A. Correct.

23 Q. Tell me, generally speaking, what is -- what is a
24 sexually violent predator pre-commitment evaluation?

25 A. Well, it's an evaluation to determine if the

1 person has a mental abnormality or a personality disorder
2 that makes them likely to engage in acts of sexual violence,
3 if not confined in the long-term secure facility. So in
4 layman's terms, that is or layman's terms for psychologists,
5 it is whether they have a mental health problem that has
6 caused them to commit sexually violent offenses and whether
7 they're likely to commit sexually violent offenses if they're
8 released from prison.

9 Q. Now, one of the things that we have talked about
10 and I can go ahead and get this out of the way. You did the
11 -- you'll have to -- you'll have to remind me of the name of
12 these -- these two actuarial tests. But you did find, and
13 this is not disputed, that there was a -- a higher risk for
14 offending a high risk. It was similar to Dr. Gottfried's
15 risk assessment.

16 A. Yes. We obtained the same scores on the two
17 actuarial risk assessments that we performed.

18 Q. So the primary difference between the two reports
19 that both of you wrote and are here to -- and you're here to
20 testify about was whether or not he had the mental abnormal
21 -- abnormality. Is that correct?

22 A. That's correct.

23 Q. Okay. Now, could you describe for the jury, when
24 you get one of these cases, what is it -- what is the process
25 that you go through when -- once you -- once you are assigned

1 the case?

2 A. When I'm assigned the case, I get an order from
3 the court for the evaluation. I also receive a big stack of
4 records. This is some of the records or this is all the
5 records that I have for this case, but some come
6 automatically. Some I have to request some records I request
7 and don't get I have to request a criminal history report
8 from the public safety at Department of Mental Health. So
9 that's a -- an official national rap sheet, criminal history
10 report from them. I schedule an interview. The person comes
11 to the forensic evaluation service in Columbia. They come
12 from the prison that they're at.

13 I interview them. I will do psychological testing
14 with them if necessary to answer a question that I couldn't
15 answer through the interview process. I'll see them until I
16 have a comprehensive view of their background, until I'm able
17 to get through all of the questions that I have for them. In
18 this case, I saw Mr. Pough two times and did one test with
19 him and then scored those actuarials. So I take all that
20 information and my job is to look at all that information in
21 two different ways. One is -- is it evidence for or against
22 a mental abnormality or a personality disorder? And the
23 other way that you look at it is whether it is evidence of
24 risk to commit another sex offense.

25 Q. So after the interview, if any additional

1 information is made aware to you aware to you by the
2 interview with Jeremiah, for example, you would have the
3 opportunity to collect anymore -- any other necessary records
4 that you would need at that point in time? So you -- the --
5 the bottom line is, I'm making sure that you -- you -- you
6 try to receive all of the, the records that you can possibly
7 receive before you begin to write an evaluation. Is that
.8 correct?

9 A. I mean, typically some information's more
10 necessary than others. For example, like military records, I
11 will typically request those if I think they exist. They
12 take a very long time to get sometimes it is years to get,
13 because the, the people who handle those records are so
14 backlogged with them. So I will often not hold an opinion
15 waiting on those records.

16 So -- so it is -- it not everything is necessary.
17 I will take information from the attorney general's office.
18 I will take information that the respondent provides. If
19 they've done programming in the prison that aren't already in
20 the records, they can provide that information to me. But I
21 -- I try to have, you know, comprehensive amount of
22 information.

23 Q. So before you -- you write an evaluation; you take
24 into consideration all of the things that you just talked
25 about. Your, your interviews any tests that you did, all of

1 the information that you've received, you -- you take all of
2 that, every bit of it into consideration prior to writing an
3 evaluation. Is that correct?

4 A. Yes.

5 Q. Okay. Now, I want to talk to you about sexually
6 violent predators. Because I think there may be some
7 misunderstanding about this. Does the fact that someone
8 commits a -- what would be under a statute, because that's --
9 that's how this works, isn't it? There's a statute that
10 lists what they consider to be sexually violent predator
11 offenses that trigger the -- that trigger the act?

12 A. Yes.

13 Q. Okay. So the fact that somebody commits one of
14 these offenses, does that mean that you are a sexually
15 violent predator?

16 A. No.

17 Q. So let me give you -- let me give you an example
18 because -- to try to understand this. So if I use the
19 example of shoplifting, somebody that shoplifts, even if they
20 have shoplifted multiple times there is a mental health
21 disorder that became famous with Winona Ryder called
22 Kleptomania. Would the fact that somebody has shoplifted
23 several times necessarily make them a Kleptomaniac?

24 A. No.

25 Q. And -- and is it -- it is the same for sexually

1 violent predators, that the fact that they have committed
2 these offenses in the past does not automatically make them a
3 sexually violent predator?

4 A. Not automatically, no.

5 Q. And in order to determine that, you would have to
6 go through the entire psychological process of making that
7 determination that -- that you just described a moment ago?

8 A. Yes.

9 Q. Okay. Now, when you -- when you were meeting with
10 -- with Jeremiah did you walk through his, you know, things
11 like personal history, mental history mental health history,
12 just the general history of him as part of your interview?

13 A. Yes, I did.

14 Q. Did you make any observations about just generally
15 speaking about his personal history?

16 A. Sure. I made a number of observations.

17 Q. Did do you mind sharing?

18 A. Yeah. He grew up in an intact family. He had a
19 close relationship with his mom. A more distant relationship
20 with his dad. Didn't have problems per his report about
21 getting in trouble as a kid, no conduct problems. He didn't
22 have a juvenile arrest record. So he wasn't in trouble with
23 the law as a kid graduated from high school. He had a wide
24 variety of jobs, different areas of kind of work. Had no
25 medical problems, no issues with that. He had a history of

1 Attention Deficit Hyperactivity Disorder, ADHD, and -- and
2 was treated with medications when he was a kid.

3 He reported substance use problems specifically
4 with cannabis. Smoking a lot of marijuana and drinking
5 alcohol as well. He had a couple relationships that were
6 long term as an adult. Said he was heterosexual, had sex
7 when he was 16 or 17 for the first time. He denied any
8 paraphilic arousal when I asked him those questions. We
9 talked about his legal history. We talked about, you know,
10 his prison history, things like that. What his plans were
11 for the future. Some of it was history and some of it was
12 more current.

13 Q. Now, concerning that, your interview with him, did
14 you -- did you take that into consideration in -- in -- in
15 making your final diagnosis in this case?

16 A. Yes.

17 Q. Was there -- was there anything particularly
18 significant in that information that you received that
19 would've had a higher impact on your evaluation?

20 A. The information that I received from him through
21 ---

22 Q. From the personal history information.

23 A. One of the things that I look for in these cases
24 is whether they have a juvenile history and whether they have
25 juvenile conduct problems. Because that can mean that they

1 have antisocial personality disorder. Didn't have that in
2 this case. There was no evidence that -- that -- that it
3 existed. I -- I'm really in the interview. Like one -- one
4 thing that's really important is their demeanor, their
5 interaction style, their -- the way they express. Explain
6 things like that. Because that's -- that's going to be where
7 you see evidence of the personality disorder if it exists.
8 It's how they interact.

9 Are they cooperative? Are they hostile? Do they
10 answer questions directly? Do they try to take over the
11 interview? Are they rude? Are they too close and personal?
12 I mean, there could be a wide variety of personality
13 characteristics that you see in the interview.

14 Q. Was there -- was there anything that you noticed
15 during your -- your interview with Jeremiah that was
16 significant to your diagnosis concerning the issues that you
17 just raised?

18 A. Well, I noticed a couple things in the
19 interview that gave me some concern. So he was -- he joked
20 around a lot. He -- he joked that the Attorney General's
21 Office knew him and that meant he was important and that he
22 knew that when we went through the notification form for the
23 purpose of the evaluation, he said that -- that it meant that
24 he was never going to get out. But much of this was done in
25 a joking kind of manner. And that was something that I

1 wasn't sure exactly why he was doing that.

2 Was he not taking it seriously? Did he not really
3 understand how serious this was? Was this his demeanor? Is
4 this how he maybe coped with how serious it was as well?
5 Some people joke around in -- in situations where they're
6 uncomfortable like that. And then there was -- he -- he
7 asked some questions at time, like question like, "How is
8 that relevant?" Like, I asked him, you know, what his mom
9 did for work and he asked, you know, "Why is that relevant?"
10 I explained why it was relevant, and then he answered the
11 questions, so.

12 Q. Was -- was there anything during this -- this
13 process that -- that you would've viewed as a -- as a
14 positive indication of what was going on in his mind when you
15 were interviewing him?

16 A. He was cooperative. He was pleasant. He wasn't
17 hostile. He interacted in a -- in a fairly normal way except
18 for that joking at times. So he had -- he knew where he was,
19 he knew what he was doing. He was oriented. So his mental
20 status is what we call that. He was -- it was pretty normal.
21 He was clean, neat there was no evidence of a major mental
22 illness. There was nothing really significant in his
23 presentation.

24 Q. And did you make a determination concerning the
25 joking around? Did -- you said that it was of concern to

1 you. How did that impact your -- your final assessment?

2 A. Well, I wanted to know, a little bit more about
3 that. So I did a psychological test with him and to see, you
4 know, was he being open and honest was, was that indication
5 of a bigger personality problem or not? And that testing
6 showed that it wasn't that he had very little problems and
7 answered those questions in an open and honest way. He
8 wasn't exaggerating. His problems were under reporting
9 problems.

10 So the testing was -- was almost normal. There
11 was a couple things that -- that he -- that the testing
12 showed in terms of there was a little bit of restlessness,
13 easily bored, excitable, energetic, euphoric and then tends
14 to emotionally distance himself from other people. That he
15 was pretty decisive and self-reliant and that he wasn't as
16 anxious as other people.

17 Q. And was that the MMPI that you're referring?

18 A. That's correct, yes.

19 Q. Okay. I'm going to talk to you a little bit more
20 about that in a minute. Now, in this case both of the
21 experts, you and Dr. Gottfried are in agreement that he
22 suffered from severe cannabis use disorder and mild alcohol
23 use?

24 A. Yes.

25 Q. Okay. Now, tell me how that impacts your -- your

1 evaluation and the final results of your evaluation.

2 A. Okay. If I understand your question. So
3 substance use disorders, they can lower somebody's
4 inhibitions they can affect decision making, things like
5 that. We know -- we know, that. But other than that -- they
6 -- they don't have a big impact on sexual offending. They
7 don't cause somebody to commit sexual offenses or sexually
8 violent offenses.

9 Q. So if somebody that's a substance abuser, that --
10 that would not cause them to become a sex offender?

11 A. That's correct.

12 Q. All right. There --and so -- and I -- and -- and
13 from what I understand, and this is based on everything that
14 I've heard. The only -- the -- the primary concern is
15 intoxication could lead to a lack of inhibition and that
16 could potentially contribute. Is that -- is that what the --
17 the primary concern is with substance abuse?

18 A. Yes.

19 Q. Okay. When you're looking at these cases, what
20 are the main things that you're looking for? The main mental
21 health disorders, the -- the ones that are most probably
22 going to pop up if somebody's a sexually violent predator?

23 A. There's really there's one class of disorders.
24 And then there's one personality disorder that is most
25 associated with sexually violent offending. The first one is

1 the class of disorders is the paraphilic disorders. So a
2 pattern of deviant sexual interest that lasts over a period
3 of six months. That's intense and preferential. So we -- so
4 in looking at those paraphilic disorders in every case, and
5 then the personality disorders, antisocial personality
6 disorder, that has the most relationship with sexual
7 offending in these cases. I consider other personality
8 disorders. That's the one that I'm going to consider most
9 highly.

10 Q. Okay. And to -- to make a diagnosis of a
11 paraphilic disorder, you mentioned that there is a -- these
12 -- it has to occur with the -- multiple times within a
13 six-month period?

14 A. It is intense and persistent over the course of a
15 six-month period.

16 Q. So -- so there are very specific guidelines on how
17 -- and I -- I assume that you use the diagnostic statistical
18 manual, like most everybody does in diagnosing this -- these
19 -- these disorders. You -- you look to that book to make a
20 determination of what the traits are and whether or not the
21 person meets the traits.

22 A. Yes.

23 Q. Okay. Now, we already talked about this, but I'm
24 just going to go ahead and mention it again. You -- you gave
25 him the risk assessment actuarials, and there's no

1 disagreement between you and Dr. Gottfried, right?

2 A. I -- I don't believe that there was disagreement
3 on -- on the actuarial risk assessment. No.

4 Q. All right. So the MMPI, tell me what that is.

5 A. It's the Minnesota Multiphasic Personality
6 Inventory. It's the third edition. So it's a -- it's an
7 assessment that somebody sits down and takes on their own.
8 We -- we review some standard instructions and then make sure
9 that they know how to -- know how to fill out the forms, and
10 then they take it on their own. So it's -- it's like
11 hundreds of true and false questions. And you take those
12 responses that they give -- you actually enter it into a
13 computer program and it scores it and gives you a report of
14 the results.

15 Q. And -- and this is a -- a standardized test is the
16 same that's used across the United States, I presume?

17 A. Yes, it's a standardized test.

18 Q. And what were the -- and I'll just -- you
19 mentioned a moment ago, but what were the results of that
20 evaluation?

21 A. The results were that he answered the questions in
22 a consistent manner. There was no indications of
23 over-reporting or under-reporting symptoms or problems. So
24 it was an accurate portrayal of how he was functioning. It
25 was -- the results were really within normal limits in -- in

1 the large areas. And then there was just a few above --
2 above average results. So significant results. And that was
3 in the areas of hypomanic activation, is what that category
4 is called. So that's somebody who would be restless, easily
5 bored, excitable, energetic, euphoric, risk -- risk tolerant.

6 Q. Well, let me ask you about that one before you go
7 to the next one. How -- how does that one relate to a
8 sexually violent predator assessment?

9 A. How does -- how does that category relate to a
10 sexually violent --?

11 Q. Yeah, if -- if -- if someone, if the MMPI shows
12 that specific trait of a person, how do you factor that in to
13 your ultimate evaluation of as to whether or not they -- they
14 -- they have a disorder?

15 A. That's a -- that's a very big question. So this
16 -- I think the -- the word that would stick out in that
17 description of somebody who elevates on that scale is the
18 risk tolerant. But -- but you can't just look at it in just
19 isolation. If somebody's risk tolerant, that's not going to
20 make them a sexually violent predator. So it's something
21 that you might consider in the overall picture.

22 Q. So that's one data point?

23 A. It's one data point. And it -- it might have --
24 it would depend on the case. It might be significant to your
25 determination, or it might have no meaning if it -- if you

1 don't have other things to add it to.

2 Q. Okay. And what were -- what were the other
3 findings?

4 A. So there was -- he elevated on a scale called
5 affiliation. That's a -- that means that he might dislike
6 being around others, may emotionally distance himself. There
7 was also some indication that he was decisive, self-reliant,
8 had minimal conflict in his family and had fewer anxiety
9 related experiences than other people.

10 Q. And in your final assessment, you took all of this
11 into consideration, correct?

12 A. Yes.

13 Q. Okay. Now, he had several, I can't remember, it
14 might've been five or six non-sexual criminal offenses. Do
15 you mind walking through those and -- and how they play a
16 role in your decision making?

17 A. Sorry, I'm going to find my -- he had a 2016
18 charge for breach of trust with fraudulent contempt. He had
19 an open container and assault and battery in the third degree
20 in 2017. Entering premises after warning in 2017. I believe
21 that was it. And so how does that -- how does that
22 contribute?

23 Q. Yeah. How -- how do -- when you're -- when you're
24 doing one of these reports and you're looking at this non-sex
25 criminal history, how does that -- how -- how do you factor

1 that into your -- your ultimate -- that your ultimate
2 diagnosis?

3 A. Again, I'm looking at each piece of information in
4 kind of two different ways. Is it indicative of a mental
5 abnormality or personality disorder? Or is it related to
6 risk? Some things are related to risk because that's --
7 that's how you score the actuarial risk assessment measures.
8 So these could be factored in into the risk assessment.
9 Because there's a question about whether he has any
10 non-sexual violence. So one of those offenses was an assault
11 that would be non-sexual violence. Whether he has four prior
12 convictions, it would be calculated into that area.

13 So you're considering that in the way that you're
14 supposed to per the guidelines of how to score those
15 actuarial measures. In terms of having a paraphilic
16 disorder, these would not be indicative of him having a
17 paraphilic disorder. They're not related to sex. And then
18 we would look at that in terms of is it related to a
19 personality disorder? And these -- I mean, there -- there
20 was some contribution to that consideration, but overall, I
21 -- I just -- I determined that he didn't meet the criteria
22 for a personality disorder.

23 Q. Now, one of the things that I want you to just
24 very briefly talk about is, do you use -- and this is the --
25 the a the acronym's been used so many times, everybody knows

1 what it is. Did -- did you use a PPG -- did you make a PPG
2 assessment of Jeremiah?

3 A. No.

4 Q. Are you a -- someone that's qualified to give that
5 type of testing?

6 A. I am not qualified to give that type of testing.

7 Q. Have you ever been offered to be qualified in that
8 type of testing?

9 A. Yes, I've been offered that training to do that
10 testing. I have decided not to do that. And this was years
11 ago. Because there's a lot of problems with that test in
12 these types of cases.

13 Q. And -- and based on the research that you've done
14 in -- in this area, what are the problems that led you to
15 decline being qualified in the PPG testing?

16 A. The problems are related to whether it's generally
17 accepted in by psychologists who do this type of work. And
18 the vast majority of them don't use this assessment in the
19 sexually violent predator cases. Some do, but the vast
20 majority do not use them. And then there's problems with the
21 reliability and validity and standardization. So the test is
22 not standardized.

23 Each center gives it in different ways. Interprets the
24 results in different ways, sets their cut scores in at
25 different places. They can give a wide variety of stimulus

1 sets. And so it's very difficult under those conditions when
2 a test isn't standardized to look at the overall research
3 body and say that this is a valid and reliable test that you
4 give at your center, because those -- that research is
5 relying on testing that could be had -- could have been done
6 very differently than you give yours.

7 Q. Now, and you're basing this on the -- the research
8 that you -- that -- that you've read concerning this testing.
9 Is that correct?

10 A. I'm basing this on a review of the literature,
11 yes.

12 Q. And do you make it a point, I mean, maybe even a
13 habit to keep up with the literature on PPG testing?

14 A. Yes.

15 Q. That -- that's part of when something new comes
16 out, you -- you make sure that you expose yourself to it?

17 A. I do the best I can to stay updated. And it can
18 be difficult because you -- nobody alerts you when things are
19 published. So I -- I do the best I can. I can't say that I
20 read absolutely everything that's published.

21 Q. So if at some point in time the PPG test does
22 become widely accepted and standardized, then would you
23 consider ---

24 MR. RUNYAN: Objection, Your Honor. Can we approach?

25 THE COURT: Yes, sir. All right. The objection is

1 sustained.

2 MR. KIRKLAND: Question withdrawn.

3 MR. RUNYAN: Thank you.

4 BY MR. KIRKLAND:

5 Q. Let me find where I was. If you don't mind,
6 Doctor. Now, I read your evaluation, obviously, and it
7 looked to me like you spent a lot of time discussing these
8 prior -- the prior offenses. And would it be fair to say
9 that the prior offenses were a -- a very large part of the
10 decision that you made that -- and I -- and the ultimate
11 decision that you made was what? That -- whether he had --
12 whether or not he had a mental health disorder?

13 A. My opinion is that he does not have a mental
14 abnormality or personality disorder that makes him likely to
15 commit acts of sexual violence.

16 Q. Okay. So in doing so -- and -- and we will talk
17 about that again at the very end here, but I just wanted to
18 get that out in the open. Now, when you -- before you make
19 that decision, there's a lot of ink in here devoted to the --
20 the actual offenses and your review of all the materials that
21 you were given concerning these offenses, the -- the -- the
22 -- the offenses that would put him potentially into the
23 sexually violent predator program. Is that a fair statement?

24 A. The sexually violent offenses? Yes. Those ---

25 Q. Yeah.

1 A. --- those are significant parts.

2 Q. So -- so let's walk through those. And I -- and I
3 want to see how -- how it is that you evaluate, how you look
4 at these offenses, how you make determinations about these
5 defenses, how these offenses ultimately go into your final
6 evaluation, you know, diagnosis, I mean. So let's start with
7 I think the first one was -- because they do it by initials
8 in here. I think the first one was CP. Tell me what the
9 information that you received indicated about that particular
10 case.

11 A. Okay. So this -- this offense in -- it happened
12 in February of 2017. It involved a 14-year-old girl. she
13 and her sister her sister knew Mr. Pough and CP did not know
14 Mr. -- Mr. Pough. But he -- he went over to their house, met
15 Mom, pick them up. I think that they said that they were
16 going to go to skate land or roller -- roller rink. Instead,
17 they went to his house and they drank alcohol, smoked
18 marijuana and then a sexual assault happened.

19 Q. Was there any indication that he took them there
20 against their will?

21 A. No.

22 Q. All right. So now, this particular offense you
23 made many notations about -- about details, about the offense
24 that you found to be significant in determining whether or
25 not he met one of the paraphilic disorders. Could you go

1 through some of those details that you noted in your report
2 that relate to your view of this offense?

3 A. Okay. That's a -- that's a big complicated
4 question. So ---

5 Q. I -- I ---

6 A. --- it will receive a complicated answer.

7 Q. I understand completely.

8 A. So this was, again, it was a 14-year-old female
9 stranger. And this -- this girl, she drank alcohol and
10 smoked marijuana. She described herself as blacked out.
11 Blacked out, I take to mean as somebody who is still
12 functioning but might not have memory of it. Some people
13 like that can be confusing. Because some people say they're
14 blacked out when they mean passed out or incoherent. So that
15 was a little bit complicating there, knowing if she meant
16 actually blacked out as I know that term to mean. She said
17 she could very -- she could remember very little of the
18 offense.

19 Q. Well, tell -- tell me about the blacked-out-passed
20 out. Let's -- let's talk about that for a second and then
21 we'll move on to something else. How -- how -- how is that
22 significant in your evaluation?

23 A. Because she said that she didn't remember much.
24 And that she believed she said no and -- and that she was
25 raped. She also said that she was told by someone ---

1 Q. Well, listen ---

2 A. --- that she was raped. She was also she had an
3 injury to her face and she didn't know how she got it. She
4 said she had very little memory of the offense. She -- she
5 said at one point that this other guy came up and hit Mr.
6 Pough because that guy knew what Mr. Pough was doing. But --
7 but she did -- but she didn't realize it.

8 Q. Okay. So ---

9 A. So ---

10 Q. Yeah. Go ahead.

11 A. --- I think that complicates the -- the
12 information that she provided to the law enforcement and to
13 the medical examiners.

14 Q. So when you have a situation like that where
15 there's information, I -- and I actually believe that per the
16 records and you have a quote there in your evaluation that
17 you paid particular attention to. Do you see that on page 9?

18 A. Yes. There's two quotes on page 9.

19 Q. The top one.

20 A. Okay.

21 Q. Tell -- what -- what -- what does that say?

22 A. It says, "I remember that when my sister and me
23 were talking, she was talking to my friend Johnny, me and
24 Jeremiah, which is Mr. Pough, walked away so they could talk.
25 I don't remember much. Apparently, my friend Johnny hit him

1 and he got me, we got my sister. We started walking. After
2 we started walking, my sister called my mom, then my friend
3 Johnny, or someone called 911. And then my mom pulled up the
4 ambulance went to the church, and I ended up here." The
5 nurse examiner asked, "Why did Johnny hit Jeremiah?" She
6 answered, "Because Johnny knew what he was doing. Well, he
7 didn't know until after it was happening. I didn't realize
8 it." The nurse examiner asked, "What did Johnny tell you he
9 saw?" She answered, "He said he saw him raping me and I
10 kept telling him to stop."

11 Q. Now -- so when you get a report like this that the
12 victim did not -- did not have any recollection of the event
13 itself, how does that go -- when you're talking about para
14 paraphilic disorders, how -- how does -- how does that
15 calculate into your assessment of the event?

16 A. Well, it depends on the case and the specific
17 facts of that case. So for -- for the diagnosis that I would
18 consider in this case, the -- whether he is sexually aroused
19 by non-consent and coercive acts with non-consenting person.
20 It complicates things. Makes it, you know, sometimes
21 impossible to make the conclusions because they really need
22 to see what she did, what he did, like in reaction, what she
23 did reaction, what he did reaction. So I need to see that
24 interplay.

25 And that be documented because I need to see that

1 the arousal was to the non-consent. Sometimes it's easier
2 with -- when somebody is sexually aroused by coercive sexual
3 acts with a non-consenting person, you'll see things like
4 threats escalation in reaction to resistance. You'll see
5 victims, you know, screaming, fighting and they have to
6 overcome that. And they do anyways. So in this case,
7 there's some indication that she was saying, no, we don't see
8 what he did next. We don't see that full, like, documented
9 interaction.

10 Q. And let me ask you this, the fact -- how does it
11 -- somebody being passed out or even unconscious. How does
12 that impact your decision making on whether or not somebody
13 has a paraphilic disorder? Because I believe we're about to
14 come up on -- on one of those here in a minute.

15 A. If the person is sexually aroused specifically to
16 somebody being passed out, that could be a paraphilic
17 disorder. Somebody.

18 Q. Is it coercive? Is that -- is that the -- the
19 disorder?

20 A. I wouldn't say it is coercive. It there's a
21 specific term to describe it. It's pretty rare. I think
22 it's called in somnolence or ---

23 Q. Right.

24 A. It has the word somnolence, which is sleeping. It
25 has that -- that in the title. It's a specific ---

1 Q. But that -- but that one ---

2 A. --- paraphilic disorder.

3 Q. That's not -- that doesn't fall under coercive?

4 A. I wouldn't say that that's coercive.

5 Q. Okay. So give -- give me a better idea if you
6 can. What a coercive, because you -- you mentioned the
7 things that you were looking for and about the victim
8 fighting back. So if something's going to be a paraphilic
9 disorder, not otherwise specified, coercive with coercive
10 whatever I -- however it's worded. However, that's worded.
11 what is it that you're looking as -- as far as the
12 interaction between the two people that, that would give you
13 that diagnosis?

14 A. Well, first off, just the relationship. So
15 whether it's a stranger that's going to increase that, like,
16 that's going to be more indicative of that. Being coercive
17 paraphilic disorder with non-consent in person. So how well
18 did they know each other? Under what circumstances did they
19 know each other? Was there threats, weapons, overt violence?
20 So were they stroke -- choking, strangling, beating the
21 person up during the sexual activities? How much did the
22 victim resist? What did that resistance look like? Did they
23 acquiesce? So did they just sort of go along with it? Even
24 though they're not consenting, did they not fight? It's a
25 lot of considerations like that. So if it was -- if it --

1 evidence of coercive interaction would be threats, violence
2 things like that would -- would often be there.

3 Q. Okay. Now, there's a second quote on that page,
4 and I'm just going to go ahead and read this to get to get
5 this done. And you then you can comment on it. But she
6 reported that, "She can only recall -- recall part of what
7 happened because of being intoxicated, blacked out. However,
8 she did recall Jeremiah -- " And this -- this -- this she
9 gave at the forensic interview. "Jeremiah began to try to
10 kiss her. Told him -- she told him to stop and pushed him
11 away. She also recalled that she pulled down her pants and
12 put his penis in her vagina. She reported this happened on
13 top of an air conditioning unit. Charleston (ph) believed
14 that Johnny came over to them and hit Jere -- " Oh, I don't
15 know if that's the name of the person or not, but
16 nonetheless, "Came over to them and hit Jeremiah to get him
17 off her.

18 She then went over to her sister and told her
19 sister what happened, and they grabbed their skates and began
20 walking down the street where they called their mother." All
21 right. So that statement there that she gave during the
22 forensic evaluation is different than the statement that she
23 gave to the -- to the medical team when she was brought into
24 the hospital. Correct?

25 A. The statement that you just read was a summary by

1 the forensic interviewer. So when she went a few days later
2 to the forensic -- for a forensic interview. So that's just
3 an interview by a specialized -- specially trained person to
4 do those kinds of interviews with minors, so.

5 Q. So I -- what you're saying is that's not a direct
6 -- that's not a direct quote.

7 A. That's not a direct quote from her.

8 Q. Okay.

9 A. Yeah.

10 Q. So that's a summary. Okay.

11 A. It's a quote from the report. It's a direct quote
12 from the report, but not -- only some words were quoted so
13 blacked out. That was quoted. But otherwise, it was -- she
14 said she reported.

15 Q. Got it. So this -- so that summary seems in
16 contradiction to the -- what is quoted specifically quoted in
17 the account when she was at the hospital. Tell me how --
18 when you're looking at these things, how -- how -- how do you
19 resolve this? How do you resolve these different bits of
20 information that you get?

21 A. That's a great question. It can be very difficult
22 and my practice is to not fill in the blanks and make the
23 assumptions of what I think likely happened. But it -- it --
24 it's difficult and sometimes you don't resolve it.

25 Q. And in this situation, ultimately -- well, tell me

1 just generally speaking, what Mr. -- Mr. Pough's account was
2 of this -- of this interaction.

3 A. His account that it was -- his account was that it
4 was consensual. And, I mean, he -- he told law enforcement
5 that he had sex with her consensually. they, they told him a
6 14-year-old cannot consent. He told the judge that he had
7 consent with her or had sex with her consensually. And the
8 judge also told him a 14-year-old is not legally able to
9 consent. So that was his -- his account helped him get
10 convicted and he pleaded guilty to that anyway.

11 Q. Now, as to this particular offense ultimately what
12 did you -- and -- and I realize you may have to take all
13 three of these together and you just tell me what -- how --
14 how you do this. So as to this offense was -- what did --
15 did you consider this to be direct evidence of a paraphilic
16 disorder?

17 A. Did I consider this to be direct evidence of
18 paraphilic disorder? Well, what I found was that this
19 information from this offense was contradictory and was
20 certainly evidence of criminal behavior. And he pleaded
21 guilty to that -- to that offense. But it was -- it was
22 insufficient to -- to indicate that he had a paraphilic
23 disorder.

24 Q. Okay.

25 A. But -- but really, I had to take all that

1 information from all the offenses together to see, do I have
2 that evidence ---

3 Q. I understand.

4 A. --- of the coercion with the non-consenting
5 person.

6 Q. And -- and we're also talking about the six
7 months' time frame here as well, that you had to take into
8 consideration. All right. So let's move on to the -- to the
9 next one. Which I believe is AM. I don't see what -- what
10 page -- is that page 12, Doctor?

11 A. Yes.

12 Q. Okay. I'm there. All right. Can you walk us
13 through this one and what you -- and what was of particular
14 importance to you in this offense?

15 A. So this offense was a 17-year-old female, again, a
16 stranger.

17 Q. What was the date of this one?

18 A. The date was June 20, 2017.

19 Q. Okay.

20 A. And it was reported in February of 2018, which was
21 about, just about eight months later.

22 Q. All right.

23 A. This 17-year-old girl was in Five Points in
24 Columbia. She had been drinking, she said she was blackout
25 intoxicated and stranded at a bar in -- in Columbia. She

1 said a stranger offered her a ride. She took the ride,
2 passed out. She at times said that she passed out, fell
3 asleep. She used those terms interchangeably. She said she
4 woke up at one point and saw that they were close to this
5 area, Lugoff-Elgin, which was an hour in the opposite
6 direction from where she lived in Irmo, South Carolina.

7 She said they -- that Mr. Pough told her that they
8 were going to go to his house, smoke some marijuana, and then
9 he would drive her home. She talked about falling, about
10 falling back asleep, waking at his home. She was out on the
11 porch sitting on a couch. She said that he rolled a blunt
12 marijuana lit it, and that she took a hit off of that two
13 times and passed back out. And that -- like, I have to read
14 this quote because what she -- the information that she
15 provided there was in some ways confusing. Is that okay if I
16 read that?

17 Q. Oh, of course. Whenever you're talking about how
18 you make a diagnosis, just feel free to explain to -- I mean,
19 this is for the jury.

20 A. Okay. So a quote from what -- from her statement
21 was, "When I woke up again, he was raping my unconscious body
22 and I pushed him off and curled up. I did not have access to
23 this memory until it was triggered months later when I woke
24 up in the morning, my shorts had been pulled down to my feet
25 and I was covered by a tablecloth. The only reason I knew he

1 had violated and raped me." She indicated that -- that she
2 woke up in the morning. She remembered that like waking up
3 and she had him take her home, which he did. And then she
4 found him through social media in the months after that
5 incident and then reported it.

6 Q. So that was -- that was eight months later?

7 A. Yes.

8 Q. Okay. Now, to the average person, it would appear
9 that the -- she -- she mentioned pushed off in the other one.
10 There was some conflicting information about if she
11 remembered it at all or if she remembered trying to push him
12 off. To the normal person, this would sound potentially like
13 a -- a coercive situation. So in -- so how did you, when you
14 were looking at these two in particular, because the third
15 ones are going to be a little bit different, but looking at
16 these two in particular, how did you make a decision about
17 how these relate to any paraphilic disorder? and any -- I'll
18 just call it subset of paraphilic disorders.

19 A. Well, I'm looking for the interaction. So she did
20 this, he did this, she did this, he did this, and their
21 reactions to each other. So was there an escalation?

22 Q. Right.

23 A. So what I'm seeing here is you have -- she says
24 she was unconscious and she was passing out and also smoking
25 marijuana and maybe falling asleep. So that was a little bit

1 -- I'm not -- not exactly sure what kind of state she was in,
2 whether she was fully unconscious, blacked out, passed out,
3 sleeping. She's using those terms -- and I think those terms
4 are kind of being used interchangeably. She doesn't use that
5 term blackout in this -- in this particular instance. But
6 one indicated that it's -- one indicator that it's not
7 coercive paraphilic disorder is she pushed him off and that
8 seemed to stop it.

9 So when -- when Mr. Pough gets resistance from
10 her, then it stops. It's not -- it doesn't escalate. He's
11 not attracted to that non-consent. He's not attracted to
12 that, you know, coercion and taking and power over her in
13 that way. Now, her being conscious can be indicative of --
14 of that of -- of that other paraphilic disorder perhaps but
15 not of a paraphilic coercive disorder.

16 Q. Okay. So -- so that's -- what you're saying
17 that's extremely important in -- in -- when reviewing these
18 types of interactions that if someone is -- if someone
19 there's some resistance and they stop, the person stops, that
20 would -- that would be indicate -- that would be evidence
21 that the person is not suffering from a coercive paraphilic
22 disorder. That -- because that -- I think what you just said
23 was that's the part of it that -- I'll just use a layman's
24 term. That's the part that turns them on, is the resistance.
25 Is that -- is that what I understand you're saying?

1 A. Yes.

2 Q. Okay. And -- and you're saying in both of these
3 incidents that we just went through, you did not see clear
4 evidence that he had continued after being -- after some
5 resistance, he did not continue escalating. Is that correct?

6 A. That's correct.

7 Q. And is that in large part? In whole part? Or
8 however you -- you put it, you're the doctor, I don't know.
9 The -- the reasoning behind the fact that you did not find
10 that he was suffering from a paraphilic disorder and in
11 particular something involving coercion?

12 A. Oh, can you ask that question again? I think I
13 lost while you were still asking.

14 Q. Sorry. Yeah, I'm -- I'm not a doctor. I'm barely
15 a lawyer. So the -- the -- the -- the discussion that we
16 just had about the escalation about whether a person
17 continues onward after -- after they are -- you know, they
18 show -- they -- they -- they express some sort of resistance,
19 something like that. What you're looking for is that the
20 person continues on because that's something that -- that --
21 that turns them on, correct?

22 A. Yes. They -- they like that resistance. They
23 like that non-consent from the person.

24 Q. And you're saying you did not see clear evidence
25 of that in either of these two cases?

1 A. That's correct. For me, the information was
2 insufficient. So there was some evidence, but it wasn't
3 sufficient and it wasn't clear.

4 Q. So -- so what -- so what you're saying is that --
5 and you -- you've said this specifically earlier, that you
6 don't read into any of this, right? You -- you literally
7 take the information as it is provided in the documents and
8 that is the information that you consider.

9 A. That's correct.

10 Q. So in your mind, the information that was provided
11 to you, did it -- did it show, in your opinion, evidence --
12 clear evidence of coercion such that you could make a
13 diagnosis of a coercive paraphilic disorder?

14 A. In my opinion, no. It doesn't clearly indicate
15 that and I could not make that diagnosis.

16 Q. Now, there are -- this -- this subset and -- and
17 you're going to have to help me with the wording, but this is
18 -- this is -- coercive disorder in particular. That's --
19 that's paraphilic disorder for sure is recognized by the
20 DDSM, these -- these types of disorders, right?

21 A. By the DSM. Yes.

22 Q. DSM.

23 A. Yes.

24 Q. And there are guidelines in the DSM about how to
25 evaluate this, correct?

1 A. About how to evaluate paraphilic disorders. Yes.
2 The paraphilic coercive disorders, not specifically ---

3 Q. And ---

4 A. --- in there as a listed diagnosis.

5 Q. And then -- so how do people reach -- how -- how
6 do you reach a conclusion for that? Because I've actually
7 read a report that you reached a conclusion for that before.
8 So how would you reach a conclusion for that?

9 A. How would I reach a conclusion for that?

10 Q. Yeah -- yeah. I mean, what are the -- what are
11 the criteria?

12 A. I -- I apply the -- I apply the general criteria
13 for a paraphilic disorder.

14 Q. First.

15 A. Yes. And then look at a deviant sexual interest
16 for coercion and non-consent.

17 Q. Okay. And do they give you guidelines on how to
18 look for that?

19 A. Guidelines for the general paraphilic disorder?
20 Yes.

21 Q. Yeah, of course. Yeah.

22 A. And then not for that specific disorder. Some
23 people call it different things. There are, like Dr.
24 Gottfried said, there are hundreds of paraphilic disorders.
25 They couldn't list them all. And so they would be diagnosed

1 under other specified paraphilic disorder.

2 Q. And so the way that -- so how -- so how are these
3 -- decisions ultimately made by each individual psychologist?

4 A. I can only tell you how I make these decisions.
5 I'm looking for that intense recurrent persistent deviant
6 sexual interest. So arousal behavior urges over a period of
7 six months that has caused them either distress or impairment
8 or has caused problems for other people. So being convicted
9 of crimes would -- would be problems for other people.

10 Q. And one of the issues here is I think that some of
11 the -- these are outside of a six-month period, some of these
12 is that--

13 A. He has a sex offense history that spans more than
14 six months. That's correct.

15 Q. Okay. Now, the final one, which was MW, I believe
16 you see that on page 13?

17 A: Yes --yes.

18 Q. All right. So walk through with me what was
19 significant about that particular case and that you noted in
20 your report.

21 A. This was the 15-year-old niece of Mr. Pough's
22 girlfriend. Her initials are MW and these incidents happened
23 -- I think the police reports and indictments said it was, I
24 believe, between her birthday in [REDACTED], 2018 and to March
25 or April of 2019. And this was unwanted -- unwanted touching

1 in a sexual manner. And I think maybe penetration of her
2 vagina digitally. So with his fingers, maybe on one
3 instance. And those -- those incidents occurred at the home
4 that they lived in together.

5 Q. Now, what did you note about the interaction
6 between these two? Because this one did not trigger a
7 paraphilic disorder, in your opinion, either. What was it
8 about the interaction between these two that was important to
9 you?

10 A. Well, there was a number of things that were
11 important. And so this was repeated. The victim reported
12 that most of the time it happened in his bedroom. She would
13 go into his bedroom and it would happen at those time. One
14 time I believe that it happened in her bedroom. Yes. And I
15 think what -- what really struck me and why it was not
16 indicative of that paraphilic disorder was that one point I
17 think when things were advancing, she decided not to go to
18 his room anymore. And she avoided him, and that stopped
19 that. So when she put up some resistance, he stopped.

20 Q. Now, what -- what is -- and I understand that what
21 you're saying, but the jury does -- hasn't been able to read
22 the actual report. So when you say that she put up some
23 resistance, he stopped, what are you referring to?

24 A. I mean, that she, she said that -- or she didn't
25 go to his room anymore and he didn't pursue it. He didn't do

1 this over her resistance. He didn't have her consent. So
2 it's still criminal behavior, clearly. All of these things
3 were criminal behavior, but ---

4 Q. Well, let's -- let's get -- let's -- let's talk
5 about that for one second. You are not suggesting to this
6 jury that any of this is okay behavior?

7 A. No. Not -- not at all. Not at all.

8 Q. What you've been saying over the past, however
9 many minutes or whatever, is that these events do not rise to
10 the level of a paraphilic disorder. Is that correct?

11 A. Correct.

12 Q. Okay.

13 A. They're criminal behavior, no question. But are
14 they indicative that a mental illness caused him to act this
15 way and is going to make him act this way again? I didn't
16 find that evidence the -- the evidence was insufficient in
17 that area to make that conclusion.

18 Q. But you would agree, just so I understand, I mean,
19 you've been doing this exclusively for 11 years now, the
20 behavior itself is abhorrent?

21 A. Is abhorrent?

22 Q. Yeah.

23 A. Yes.

24 Q. But you're drawing a distinction between the
25 abhorrent behavior and a diagnosis of paraphilic disorder.

1 A. That's correct.

2 Q. So as he sits there today, having done these
3 interviews and gone through these reports, it's your opinion
4 that he does not -- that he -- he does not suffer from a
5 paraphilic disorder. You -- I think you said earlier?

6 A. That's correct.

7 Q. All right. Now, I do want to sort of clear up. I
8 think we talked all around it, but the resistance that I
9 think you were referring to in your report, she talked about
10 pushing his hand away. Was that what you were referring to?

11 A. Yes. And then her avoiding him. Yes.

12 Q. So the avoiding and pushing the hand away. And at
13 that point you were saying it -- the -- he would -- he would
14 not escalate it beyond that point?

15 A. Yes. I -- the way that I understood what happened
16 was that she essentially acquiesced. So she's not
17 consenting, but she's not being resistant in the moment.
18 Some victim's handle what's happening to them that way, and
19 that always makes it difficult to make a determination that
20 they have a paraphilic disorder.

21 Q. Okay. So ---

22 A. But that resistance is not something that the
23 offender has to overcome. It's not in their face.

24 Q. And -- and there's no -- there's no diagnosis of
25 -- of -- of pedophilia, correct?

1 A. No.

2 Q. Okay. So that's ---

3 A. There's no absolutely no evidence to indicate that
4 all the victims were pubescent or post pubescent. None of
5 them were, you know, young children.

6 Q. So this entire thing revolves around this
7 paraphilic disorder in large part, correct?

8 A. Well, pedophilic disorder is a paraphilic
9 disorder.

10 Q. Oh, that's one of the subsets -- that's one of the
11 -- that's one of the mini ---

12 A. It's a type of a paraphilic disorder.

13 Q. Okay. All right. Oh let me mention something to
14 you. And I -- I skipped over this, I think, and I -- I don't
15 even know where it is at this point. But did you receive any
16 information about any issues that he had in -- in prison?

17 A. I received his SCDC, South Carolina Department of
18 -- of Corrections records.

19 Q. Right.

20 A. And the records that I received didn't show any
21 disciplinary infractions.

22 Q. Okay. All right. So I want to move on to your --
23 the section of your report that you talk about your
24 diagnostic impressions. So could you walk us through -- and
25 this is, once again, I know, a huge broad question. Could

1 you walk us through your diagnostic impressions -- well,
2 let's first start with because right before that section, I
3 think, is how did he present for the -- and actually you
4 already answered that question, how he presented for the
5 interview. But your diagnostic impressions. The -- the
6 things that you wrote up that you took into consideration in
7 ultimately making your decision?

8 A. You want me to discuss that?

9 Q. Yes. Just -- just feel free to discuss that, that
10 section of your report.

11 A. Okay. So I -- I first considered whether he had a
12 paraphilic disorder. So I -- I analyzed each of those sexual
13 offenses, the three sexual offenses. So for the first one,
14 we have the 14-year-old intoxicated female stranger. She
15 couldn't remember much about the incident. She was told that
16 Mr. Pough had sex with her while she said no. There was no
17 witness statement from the person who reportedly told her
18 this, who was Johnny. I found no statement in the records
19 from him to describe what he saw. she described being
20 blacked out from intoxication, but she left the scene on
21 foot.

22 She was reportedly unsteady walking when she was
23 at the hospital. Her parents reported that to the medical
24 staff there. But they described her as -- medical staff,
25 described her as coherent during the sexual assault

1 examination. So within hours of the incident happening, I'm
2 not sure exactly how much time passed, but it was immediately
3 reported she went to the hospital. So he characterized it as
4 consensual. Said that it was illegal because of her age, and
5 then the -- the victim's account just didn't provide much
6 significant information to -- to contradict his account. So
7 she basically was saying, "I think I was saying, no, this is
8 what I was told. I was being saying, no." But that's just
9 from her hearsay from another person.

10 Q. So part of that is you once again, not reading
11 anything into the reports themselves, just literally taking
12 them at face value?

13 A. Yes.

14 Q. Okay. You can continue.

15 A. So from that, it's unclear what motivated Mr.
16 Pough to commit that offense. Was it just criminal behavior,
17 bad choices, him being intoxicated? You know, just whatever.
18 Or was it paraphilic interest and -- and I didn't find that
19 paraphilic interest in that account in records that I had.
20 The second incident involved that 17-year-old intoxicated
21 female stranger. She accepted a ride from Mr. Pough without
22 knowing him. She described herself as being blacked out,
23 intoxicated and stranded. She repeatedly passed out, fell
24 asleep on the drive, she awoke at his home, spoke marijuana
25 with him, passed out again. And when she woke up, she was --

1 he was raping her unconscious body. She pushed him off and
2 curled up.

3 This victim said she didn't remember this until
4 months later when she woke up, her shorts were pulled down,
5 and that was the only way that she knew that she had been
6 assaulted. So there we have a little bit of contradictory
7 information. There was -- she didn't report this for months,
8 so there was no information about her level of
9 intoxication, her demeanor at the time, her physical
10 examination, findings occurred months later. I know that
11 there was testimony about that yesterday, that there was her
12 hymen had some sort of healed, I believe, transection, which
13 there's no way to -- to know if that was caused by anything
14 Mr. Pough did or if it was caused by other sexual activities
15 that she engaged in consensually or non-consensually.

16 So there's no way to tie that finding to what
17 happened with him. Most of the time, whether it is
18 consensual or non-consensual sex the body will look the same.
19 It -- it's difficult to tell if it was...

20 Q. So that that injury can occur through consensual
21 sex? Is that what you're -- is that what you're saying?

22 A. Yes.

23 Q. Oh, okay.

24 A. And non-consensual sex can result in no injuries.

25 Q. Okay. So it goes both ways.

1 A. So she didn't describe like, "I did this, he did
2 this, then he -- then I did this." There was not that
3 description of the interaction between them.

4 Q. So you didn't see the resistance, the escalation,
5 the stuff that you were talking about?

6 A. That's -- that's correct. What I see is that when
7 she pushed him off, it stopped as far as I know from her
8 account.

9 Q. All right. And -- and -- and as we discussed,
10 there is a separate, I'm just going to call it a subset
11 because I'm not a doctor, of paraphilic disorder involving an
12 unconscious person that would account for that, but it
13 wouldn't be coercive. It wouldn't be ---

14 A. That's correct.

15 Q. Okay. All right. You can continue.

16 A. Then the third one was repeated fondling of a
17 15-year-old acquaintance. Somebody who he lived with at
18 times. There was no -- nothing in the records of any
19 violence force threats or coercion was used to complete that
20 offense. The 15-year-old indicated it was unwanted and she
21 could push his hand away and avoid going into his room, and
22 that would -- that would stop the offending. So there was no
23 evidence that that was motivated by a paraphilic interest.

24 Q. Okay.

25 A. So those are the -- those are the three offenses.

1 Q. And what did you -- what did you ultimately lead
2 in your diagnostic impressions and make a determination of?

3 A. Yeah. My determination was that overall, the
4 evidence that was available was insufficient to draw that
5 conclusion that he meets criteria for a paraphilic disorder
6 related to coercive sex with a non-consenting person or
7 sexual sadism, which is sexual arousal to causing pain,
8 suffering, humiliation of another person.

9 Q. Right.

10 A. That's another thing that you would look at in
11 cases of sexual assault of -- of non-prepubescent children.
12 because attraction to prepubescent children is a different
13 category. So we're looking at more of the quality of the
14 actions there. There was, really, overall, it was
15 insufficient information to draw those conclusions.

16 Q. Now, I think you talked about in the -- it's the
17 -- what is it? The MMPI you discussed -- there's a part of
18 this report I remember you discussing, talking about
19 potential narcissism. I don't remember where that was found
20 in here. Do you recall that?

21 A. I mean, I -- I go through whether he meets
22 criteria for a personality disorder in that same section, the
23 diagnostic impressions.

24 Q. Okay. And -- and during the -- any of the testing
25 that you did -- and you talked about the joking around and

1 things like that, did that rise to the level of -- of
2 anything that would be considered under the DDSM narcissism?

3 A. No.

4 Q. Okay. Or any subset of narcissism as a -- any
5 kind of disorder?

6 A. No. I thought that the joking around that he did
7 ---

8 Q. So did you -- you thought that the joking ---

9 A. Oh wait, I'm sorry. I stopped answering here.

10 Q. Right.

11 A. The joking around to me wasn't -- was, I think, a
12 personality quirk that could be good in some situations, not
13 good in other situations. It's not always maladaptive, it's
14 not always inappropriate. Could be good in certain
15 situations.

16 Q. In fact -- in fact. Was there any sort of
17 pleasant experiences that you remember concerning his joking
18 when you were interviewing him?

19 A. I mean, it's always better when somebody's joking
20 around versus being hostile. That's a more pleasant
21 experience.

22 Q. I think you mentioned -- you mentioned -- you
23 mentioned something about chap stick.

24 A. Yeah, he -- he had wanted his chap stick during
25 the interview. So when they come to the evaluation center,

1 we have a lobby where the guards who transport them wait, and
2 then they come back into a separate room. So I took him back
3 to the separate room and he -- he said that the guard would
4 not let him have his chap stick, but the guard would let him
5 have it whenever he wanted. So I took him out on a break
6 back to the lobby where the guard was, and he said to the
7 guard like, "Hey, chap stick boy." And I -- I didn't know
8 how the guard would respond to that, but the guard laughed
9 and gave to -- gave him his chap stick.

10 Q. I -- I just found the -- the -- the section on the
11 -- that I -- in my notes about narcissism. Because you had
12 -- you had -- he had self-reported to you delusions of that
13 his mother had talked about delusions of grand -- grandeur
14 that he -- she thought she -- that he had delusions of
15 grandeur. And he -- and then you -- in the MMPI, you noticed
16 that there was some risk taking and immaturity. Were those
17 -- were those the results from that test? I assume it's the
18 same as what we just talked about. They -- they did not rise
19 to the level of being some kind of narcissistic disorder?

20 A. No. So narcissism was something that was on my
21 radar. But overall, he doesn't meet criteria for personality
22 disorder. you have to look at what a personality disorder is
23 and he doesn't meet that criteria. So ---

24 Q. And you do ---

25 A. --- his personality was generally flexible,

1 adaptable, could work for the situation except for
2 the joking around. That was a little -- I think
3 that's something that his typically there for him
4 even when it's inappropriate in the situation.

5 Q. Okay. So do you have an opinion to a reasonable
6 degree of psychological certainty if Jermaine (ph) has a
7 mental abnormality or personality disorder?

8 A. My opinion is that he does not.

9 Q. Do you have an opinion to a reasonable degree of
10 me -- of psychological certainty? If -- if Jermaine -- and
11 I'm talking about pursuant to the Sexually Violent Predator
12 Act, if he meets the definition of a sexually violent
13 predator?

14 A. Jeremiah.

15 Q. Jeremiah.

16 A. But my opinion is that ---

17 Q. I wrote -- I actually wrote Jermaine in my notes.
18 That's hilarious.

19 A. My opinion is that he does not meet the criteria
20 of a sexually violent predator.

21 MR. KIRKLAND: I believe that that is all the questions
22 that I have for you, Doctor. So I'm going to turn it over to
23 the Attorney General's Office.

24 THE COURT: All right. Before that, ladies and
25 gentleman, we're going to go ahead and break for lunch.

1 We're going to break until 1:40. You'll be back in the jury
2 deliberation room at 1:40. In the meantime, do not discuss
3 the case. Do not deliberate, do not discuss the case, do not
4 do any independent research whatsoever. We'll see you back
5 here at 1:40 in the deliberation room. Thank you. Anything
6 from the State?

7 MR. RUNYAN: No, Your Honor.

8 THE COURT: Anything from the Respondent?

9 MR. KIRKLAND: No, sir.

10 THE COURT: All right. You are still under oath. Do
11 not discuss your testimony. All right. 1:40.

12 (Off the record)

13 THE COURT: All right. Anything from the State before
14 we bring the jury in?

15 MR. RUNYAN: No, Your Honor.

16 THE COURT: Anything from the Respondent?

17 MR. KIRKLAND: No, sir.

18 THE COURT: All right. And we're cross-examination,
19 right?

20 MR. RUNYAN: Yes, sir.

21 THE COURT: All right, let's bring the jury. Or let's
22 bring Mr. Pough.

23 UNIDENTIFIED SPEAKER: (Inaudible).

24 THE COURT: Okay. That? Perfect. You got it. We'll
25 get Mr. Pough first then --

1 MR. KIRKLAND: They're doing -- they're good.

2 THE COURT: They're good? All right. Good afternoon,
3 ladies and gentlemen. I hope you had a great lunch. Thank
4 you for being back on time. We're going to go ahead and get
5 started again with this trial. The State may continue.

6 MR. RUNYAN: Thank you, Your Honor. May it please the
7 court?

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. RUNYAN:

11 Q. Good afternoon, Dr. Gehle?

12 A. Good afternoon.

13 Q. How are you?

14 A. Good. Thank you.

15 Q. Just to start off here, Dr. Gehle, you -- you were
16 here for all of Dr. Gottfried's testimony, correct?

17 A. I believe so, yes.

18 Q. Okay. I think you spoke about that during the
19 direct examination, some of that testimony. Is that right?

20 A. Yes.

21 Q. Okay. I want to start off, if you -- yesterday
22 Dr. Gottfried was asked about the percentages of, you know,
23 commitment, non-commitment. And I recall her answer was 51
24 percent of the time she had said someone needs to be
25 committed to the program. Of the evaluations you've done, do

1 you have a similar breakdown?

2 A. Yeah, I believe like the last time I calculated
3 that my percentages was about a third recommendations for
4 commitment.

5 Q. Thirty?

6 A. A third.

7 Q. A third. So 33 percent?

8 A. Yes. Roughly, yes.

9 Q. Okay. recommend commitment. So 67% not commit?

10 A. Correct.

11 Q. Okay. Now, when you were testifying, you had said
12 -- you said somewhere between 330 and 350 sexually violent
13 predator evaluations. I think I asked you how many of those
14 were -- were pre-commitment evaluations, is that right?

15 A. Yes.

16 Q. So I think you said around 250 or maybe on direct
17 examination said around 250 to 260 were pre-commitment
18 evaluations?

19 A. Yes.

20 Q. Okay. You also testified that when -- while you
21 were at -- doing the sexual treatment, and, and since then,
22 since 2012, you've done other types of evaluations. I think
23 you called them evaluations of persons in -- in the program?

24 A. I did evaluations of -- of people in the program
25 when I started there up until 2012, and then a couple in the

1 years since then. But not -- I mean not -- I guess it's been
2 more than a couple, but in the last couple years I have done
3 only a couple of evaluations of people in the program.

4 Q. So there's, I guess the numbers about a hundred
5 evaluations you've done were not pre-commitment evaluations?

6 A. Yes.

7 Q. Okay. Would those be these evaluations of people
8 in the program?

9 A. Yes.

10 Q. Is the assessment the same? Do you do the same
11 thing when you're assessing people who are in the program and
12 who are not in the program?

13 A. It's a little bit different because you have
14 treatment records, you tend to have more recent information
15 and it's less of a less emphasis on the legal history than on
16 how they're doing in the treatment program. It depends on
17 the case though. Every case is different.

18 Q. And what -- what question are you answering? What
19 legal question are you answering in those evaluations?

20 A. The question there is whether the person's mental
21 abnormality or personality disorder has so changed that they
22 are no longer likely to commit acts of sexual violence.

23 Q. And could you tell us since you've done these how
24 often does someone in the program get reviewed?

25 A. How often do they get reviewed? They get

1 reviewed. I mean, it's supposed to be -- I mean, it was
2 before the law changed recently, it would be an annual
3 review. But I know that many times it would be, you know, a
4 couple years 1, 2, 3 years depending on the case, depending
5 on the staffing, all things like that.

6 Q. I mean, fair to say that every one to two years?
7 Would that be fair to say?

8 A. I -- I think that's fair.

9 Q. Okay. Now, Doctor, as part of these evaluations
10 you testified and I will say you and I have done these before
11 in the past together you've testified that you look at
12 records. Is that right?

13 A. Yes.

14 Q. And that includes criminal records, investigation
15 reports, educational records, medical records, things of that
16 nature?

17 A. Yes.

18 Q. Okay. Now, I just want to make sure we're working
19 from the same document here. Doctor, your original report
20 came out in October 24, 2022, is that correct?

21 A. Yes.

22 Q. Okay. And the one I have, it says date of amended
23 report, June 26, 2023. And that's -- that's the one I'm
24 working from?

25 A. Yes.

1 Q. And that's your most current report?

2 A. Yes.

3 Q. Did anything change in this report?

4 A. I just added the new legal language that the law
5 changed in May of 2023. So I just updated that. But it
6 didn't change the substance of the report.

7 Q. There's no substance because it wasn't -- you
8 didn't review new records or interview him again or anything
9 like that?

10 A. That's correct.

11 Q. Okay. All right. So I guess then you weren't
12 aware, Dr. Gottfried testified in February of 2023 at the
13 Kershaw County Detention Center, he was given an incident
14 report for fighting. Were you aware of that?

15 A. In February of 2023?

16 Q. 23. Yes.

17 A. No, I wasn't aware of that.

18 Q. So you didn't have that record when you did your
19 evaluation?

20 A. Excuse me?

21 Q. You didn't have that record when you did your
22 evaluation?

23 A. That's correct.

24 Q. Okay. And when you did the amendment, you didn't
25 request any additional documents, is that correct?

1 A. That's correct.

2 Q. Okay. You also testified that when you did your
3 evaluation, I guess a report in October, you didn't show any
4 South -- South Carolina Prison, South Carolina Department of
5 Corrections disciplinaries. Is that correct?

6 A. That's correct.

7 Q. So you were unaware that as Dr. Gottfried
8 testified yesterday that he was given an inmate under the
9 influence in May of 2022?

10 A. That's correct.

11 Q. Okay. So you didn't have that information?

12 A. I did not have that information.

13 Q. So when you do these evaluations, Doctor, are you
14 looking for -- you're looking for a pattern of behaviors, is
15 that correct?

16 A. That's correct.

17 Q. Okay. And you want to look for patterns -- I
18 think you've said -- I think you testified. Is there -- that
19 develop and consistent over time? Is that right? The
20 patterns are -- they develop and they're consistent over
21 time, is that correct?

22 A. I mean that's typically how you define a pattern.

23 Q. Okay. So I just add, tell me if you would agree
24 with the statement that persons who commit acts that are
25 illegal, which result in significant consequences and they

1 repeatedly engage in those behaviors despite the consequence,
2 that can indicate a preference for that behavior. Do you
3 agree with that?

4 A. It can, yes.

5 Q. Okay. So it's important, I guess, is it
6 important, you tell me isn't it important to, in evaluations
7 to look at a person's behavior when they're -- when they're
8 charged with a crime, when they're in the community? Is that
9 important?

10 A. Yes.

11 Q. Okay. And are you looking for things like -- I
12 think you've testified this before; you're looking for things
13 like did the person amend -- they amend their behavior after
14 arrest. Is that important? How they adjust their behavior
15 after being arrested?

16 A. Is that important?

17 Q. Uh-huh.

18 A. Yeah. It's something to consider.

19 Q. Okay. Something to consider. In fact, you asked
20 Mr. Pough this question this really specific question on page
21 10 of your report. At the bottom last paragraph. You there?

22 A. Sorry.

23 Q. Okay.

24 A. Getting there.

25 Q. All right. Okay. You ask when asked if he lived

1 differently after he bonded out on the sex charge. So you
2 were asking him -- were you asking him what changed after he
3 had gotten the sex charge was back in the community? Is that
4 what you were asking him?

5 A. Yes.

6 Q. What did he tell you?

7 A. He said, "I started going to clubs. Turns out
8 that didn't work out for me either. The irony in that I
9 started going out a little more clubbing, more." He said
10 before the incident he had been skating every weekend. He
11 became terrified to go skating because there was so many
12 teens there. So he stopped doing that. He said he got a
13 second job at a gas station, started going out more to be
14 around adults his age. Said his drinking and use of
15 marijuana increased and said he was doing fine and was in the
16 process of accepting a plea deal for simple assault. And he
17 was charged with a second sexual assault. And he said that,
18 that happened out of the middle of nowhere.

19 Q. Okay. So I want to look at these, I guess, these
20 facts real quick. And that's -- I guess you -- you've
21 considered ---

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

23 THE COURT: You may.

24 BY MR. RUNYAN:

25 Q. I'm going to ask you, I guess, you considered

1 these convictions and indictments in your report. They were
2 entered out (inaudible).

3 A. Yes, I have copies of these documents.

4 Q. Okay. So the -- in 2017 he was convicted of --
5 well, in 2021 he was convicted. But in 2017 offense was the
6 -- what State's 1 there. CSC with a minor second-degree
7 victim, age 11 through 14, second degree. Is that right?

8 A. That's correct.

9 Q. Okay. And you were talking about that the details
10 of that offense on direct. Help me understand, because I
11 don't -- I don't think you -- you said this on direct when he
12 was arrested with that, did he -- he bonded out, is that
13 correct?

14 A. That's correct.

15 Q. What does that mean?

16 A. That means that he was released from jail.

17 Q. He was released from jail. So he was in the
18 community?

19 A. Yes.

20 Q. Okay. And that was in -- what date was that
21 offense?

22 A. The offense?

23 Q. Uh-huh.

24 A. But the sentence sheet says February 5th. I think
25 that it's February 5, 2017.

1 Q. Okay.

2 A. Let me just -- because I -- I had that, it
3 happened in the late hours of -- of February 4, 2017.

4 Q. Okay. And was his original charge what he was
5 arrested for, was that different than what he was convicted
6 of?

7 A. No, I think that he was arrested and convicted of
8 the same charge.

9 Q. Okay. Were those -- so that CSC second with a
10 minor, is that a significant offense?

11 A. Significant?

12 Q. Yeah.

13 A. In my opinion or in the law?

14 Q. In your opinion?

15 A. Yes. It's a -- it's -- yeah, it's a -- it's a
16 significant offense.

17 Q. Does it -- does it carry a -- a heavy sentence?

18 A. I don't know exactly what the sentence is for
19 that, but in my experience, I've seen it carry a -- I don't
20 know what I would consider a heavy sentence, I guess.

21 Q. Okay. So in your experience as a forensic
22 psychologist, you consider that -- that carries a heavy
23 offense, so it's a significant consequence is what I'm -- I'm
24 asking you, correct?

25 A. That's correct.

1 Q. Okay. So he was arrested, he bonded out and he's
2 facing significant consequence. And then if you look at
3 State's 2, what was he -- what was that conviction?

4 A. The conviction was for criminal sexual conduct,
5 third degree.

6 Q. Third degree. And when did that offense happen?

7 A. On June 20, 2017.

8 Q. So he was on bond for his first offense facing
9 significant consequences, and he has his second sexual
10 offense during that time, is that correct?

11 A. That's correct.

12 Q. Okay. And I guess this was the offense he was
13 talking about when you asked if he changed his behavior and
14 he said he went to clubs, he started going to clubs and
15 rather than skating, so this would be that second offense he
16 talks about, correct?

17 A. Yes.

18 Q. Okay. So his change in behavior from hanging out
19 with teenagers at skate parks was to start going out clubbing
20 and drinking. That's the change in behavior?

21 A. Correct.

22 Q. Okay. So he gets on bond again, is that correct?
23 For the second offense?

24 A. Well, he wasn't arrested for this one or charged
25 with it until much later.

1 Q. Okay. Much later? But -- and I guess when she
2 reported it in February of 2018. That's right?

3 A. It was reported in February. And then -- let me
4 see if I noted the date that he was charged with. He wasn't
5 charged until March.

6 Q. March of?

7 A. 2018.

8 Q. Okay. So March of 2018. Did he get out on bond
9 then when he was arrested?

10 A. I mean, I -- I believe so. I didn't specifically
11 note that, but I believe so.

12 Q. Okay. And after he was out -- so he was out in
13 the community at least after that arrest, correct?

14 A. Yes.

15 Q. And he was -- he moved in with his girlfriend, is
16 that right?

17 A. Yes, that's my understanding.

18 Q. Okay. And States 3 is a criminal sexual conduct
19 with a minor third-degree victim age under 16 second degree.
20 Is that right?

21 A. Sorry. Can you say that again?

22 Q. Yeah, State's 3.

23 A. Okay.

24 Q. And did I get the...

25 A. It's criminal sexual conduct with a minor or

1 attempt victim under 16 years of age, second degree.

2 Q. Okay.

3 A. If that's what you said.

4 Q. So he's living with his girlfriend and this is his
5 girlfriend's niece is the victim in this case, is that right?

6 A. Yes.

7 Q. And from -- I think you testified on direct from
8 basically October, 2018 until March of 2019, he molested her?

9 A. That's -- that's what some of the records say.
10 The sentence sheet says the date of offense is May 7, 2019.
11 So they list one date. The -- the indictment list dates
12 between May 17, 2019 and June 7, 2019, so.

13 Q. Okay.

14 A. Shorter time period.

15 Q. Some in that range. I think you testified about
16 five months on direct, is that right? So a period of about
17 five ---

18 A. That -- that was -- that was indicated in, I
19 think, a police report and then it's a couple months in the
20 indictment and then it's one date on the sentence sheet.

21 Q. Okay. Now, in when he was -- when was he arrested
22 for that?

23 A. When was he arrested for that?

24 Q. Uh-huh.

25 A. I believe he was -- I think he was charged on June

1 24, 2019.

2 Q. Okay. So at that time he was, he was -- he was
3 facing two significant sexual charges, is that correct?

4 A. That's correct.

5 Q. And he molested the niece at that time?

6 A. Yes.

7 Q. So there's a pattern of repeatedly sexually of
8 violating minor females, even after arrest, while charges are
9 pending, there's a pattern of that behavior. Is that
10 correct?

11 A. There is.

12 Q. Now, you didn't diagnose Mr. Pough with any mental
13 abnormalities or just personality disorders. That's --
14 that's correct?

15 A. That's correct.

16 Q. Okay. Now, I just want to go back forth here just
17 to clarify some few things. The diagnosis that Dr. Gottfried
18 gave was other specified paraphilic disorder, paraphilic
19 coercive disorder. Is that right?

20 A. Yes, sir.

21 Q. Okay. Now you -- you've diagnosed that in the
22 past, correct?

23 A. I don't typically call it specifically that, but I
24 have diagnosed essentially the same thing with a different
25 name.

1 Q. What -- what's the different name?

2 A. I mean, I will call it biastophilia. Some people
3 call it paraphilic or other specified paraphilic disorder,
4 non-consent. That might be a little bit different than what
5 she diagnosed. People call it different things in -- in the
6 scientific community, in the psychology community.

7 Q. But with all those different names, tell us what
8 you think it is.

9 A. I think that it is sexual arousal -- well, let me
10 -- let me give you the full clear definition so that I'm
11 clear, but. So first it has to be a paraphilic disorder. So
12 it has to be an intense and persistent sexual interest other
13 than a sexual interest in genital stimulation or preparatory
14 fondling with phenotypically normal, physically mature
15 consenting human partner. And there has to be a period of
16 deviant sexual arousal that occurs over a period of at least
17 six months. And for this specific one, it would be coercive
18 sexual activities with a non-consenting person. Over a
19 period of six months.

20 Q. So I guess just to clear it all up here, where --
21 other specified paraphilic disorders in the DSM-5?

22 A. Yes.

23 Q. And you as forensic psychologist can go outside of
24 the DSM-5 for things that aren't physically enumerated in
25 there. There's -- like you said, it testified to over

1 hundred -- hundreds of paraphilic disorders. So you can look
2 for almost any of those when rendering opinion in these
3 cases. Is that right?

4 A. Yes.

5 Q. Okay. And you'd agree that deviant sexual arousal
6 has been found by, in the research to be a significant
7 predictor of sexual offender recidivism?

8 A. In the research it's more specific if the deviant
9 sexual arousal is related to, like, pedophilia. So if it's
10 deviant sexual arousal to prepubescent children than if it is
11 related to, like, a rape or sexual assault, like what would
12 we consider rape.

13 Q. All right. But what deviant -- deviant sexual
14 arousal has been linked to recidivism?

15 A. Yes. Generally, it has. That's -- that's true.

16 Q. So when you're doing these types of evaluations
17 how do you find out what sexually arouses someone?

18 A. Well, you're looking through the records. That's
19 the primary -- that's the primary way that you're doing it.
20 And then talking to the person to see how they described the
21 incidents. But oftentimes it comes back to the things that
22 they said, the things that they did that are described by the
23 victims.

24 Q. Well, you also specifically asked him -- I think
25 it's in your report, you specifically asked them if they are

1 aroused by all sorts of deviant behavior. Is that correct?

2 A. Yes. That's -- that's -- yes.

3 Q. Okay.

4 A. I'm sorry if I expected to say that, but yes. You
5 just asked the questions as well.

6 Q. Just asked the questions. And I guess you take
7 their -- whatever they say at face value, is that right?

8 A. Well, I -- I take what they say and then I look to
9 see if there's evidence that contradicts that.

10 Q. Okay. Has it been your experience that when
11 people are talking to you about deviant interest, that they
12 -- they can tend to be not forthcoming with that information?

13 A. It's actually pretty mixed. You get people who
14 are honest, people who are dishonest about it.

15 Q. Okay. Now, Mr. Pough, in -- in particular, did he
16 deny being aroused to coercive non-consensual sex?

17 A. Yes. He did.

18 Q. Okay. Now, as an expert, are there ways -- are
19 there ways that you can determine sexual arousal outside of
20 interview and the records?

21 A. Those are the best ways and those are the ways
22 that I use.

23 Q. So you were asked on direct about the PPG
24 examination and you said that you don't use it, is that
25 right?

1 A. That's correct.

2 Q. Okay. As a DMH evaluator who's been working there
3 for, I think you said 14 years doing sexually violent
4 predator evaluations, have DMH evaluators doing these types
5 of evaluations used the PPG in the past?

6 A. Have -- have DMH evaluators used the PPG in the
7 past?

8 Q. Yes. Doing these court ordered evaluations?

9 A. Some have.

10 Q. Okay. And I assume the other side of that is some
11 haven't?

12 A. Yes.

13 Q. Okay. And I guess I'm sitting here today, you did
14 not use the PPG?

15 A. That's correct.

16 Q. And it's your understanding that Dr. Gottfried did
17 use the PPG?

18 A. That's correct.

19 Q. So you testified -- I'm kind of getting this
20 because you testified on direct that the vast majority of SVP
21 evaluators don't use it, but you've just testified now that
22 some DMH evaluators use it -- you -- have to use it, some
23 don't. You don't use it. Dr. Gottfried does use it. I
24 mean, to me it doesn't seem like a vast majority.

25 A. Well, when I'm saying vast majority, I'm looking

1 at the survey of SVP evaluators and the vast majority that
2 respond to a, you know, so there's one research study that
3 did this kind of survey with SVP evaluators.

4 Q. What survey was that?

5 A. That's Jackson and Hess.

6 Q. What was the number of evaluators surveyed for
7 that?

8 A. I'd have to pull that up.

9 Q. Okay.

10 A. I think I don't have that with me to be honest
11 with you.

12 Q. Well, okay, that's fine. You were here for
13 doctor's testimony -- Dr. Gottfried's testimony -- testimony
14 on Monday, correct?

15 A. Yes.

16 Q. Okay. She said, and is it fair to say, would you
17 agree with her that that study was a consisted of 41
18 participants? Would that be fair?

19 A. I'm not -- not sure if that's accurate. I -- I
20 don't know.

21 Q. Okay. Let's see if you can look it up then.

22 A. I -- I don't have it with me.

23 Q. You don't have it with you?

24 A. I'm sorry.

25 Q. So you don't know if that's accurate or not?

1 A. I don't know if that's accurate.

2 Q. Okay. So you also testified on direct that you --
3 you keep up with the literature? I mean, it's not something
4 you do regularly, right? On the literature on the PPG?

5 A. I'm sorry, what was your question?

6 Q. The literature on the PPG, you testified on direct
7 that you keep up with it.

8 A. I do my best to keep up with it, yes.

9 Q. Right. Not something you do every day, but you
10 do, you do try to keep up with it?

11 A. All right. That's correct.

12 Q. And you've been looking -- how long have you been
13 looking at the PPG information?

14 A. I don't know, maybe like for the past -- I don't
15 -- I mean, I learned about the PPG when I was first in
16 graduate school, so I don't -- I don't know how -- I don't
17 know how, like, when I started to look at it specifically,
18 but that's when I first learned about it, so.

19 Q. Okay. So at -- all the reading you've done on
20 this, and would you agree with this statement or have you
21 ever seen in the research that the PPG is an objective
22 measure of male sexual arousal?

23 A. It's described that way in some literature, yes.

24 Q. Okay. All right. Doctor, now when you were
25 interviewing Mr. Pough, he was aware of the nature of the

1 evaluation, correct?

2 A. Yes.

3 Q. Okay. And you talked to him about, you know, the
4 confidentiality things that it was going to be given to us
5 and all that, right?

6 A. I did, yes.

7 Q. Okay. So when you were asking him about his
8 sexual arousal, since you don't do the PPG, so you asked him
9 about his sexual arousal and he knew the nature of this
10 evaluation. I mean, again, don't you think he might've been
11 guarded in telling you what his deviant sexual interests are?

12 A. He might've been, yes.

13 Q. Okay. Are there ways that experts in your field,
14 when someone denies being aroused by deviant sexual behavior,
15 there ways in your field that you can -- are there factors
16 that you can determine in helping you assist whether someone
17 has a deviant sexual interest?

18 A. Well, again, you look at the records.

19 Q. Yeah. Are you familiar with this book?

20 A. Yes.

21 Q. Okay. And you use this book?

22 A. Yes.

23 Q. Okay. Now, in this book -- and do you have it
24 with you?

25 A. Yeah. I do.

1 Q. Okay. Good.

2 THE COURT: What -- what -- what is this book?

3 MR. RUNYAN: Oh, I'll give you a copy.

4 MR KIRKLAND: You'll have to give me a copy. It's not
5 like I'm looking to read it.

6 BY MR. RUNYAN:

7 Q. So now that -- this is -- on page 23 and 24, this
8 is talking about paraphilia rape. Is that correct?

9 A. Yes.

10 Q. Okay. And I think in this book -- when was this
11 book published?

12 A. 2009.

13 Q. Okay. So I don't want to confuse anybody, but in
14 this book they talk about a paraphilia, NOS not otherwise
15 specified non-consent. But the name has changed over the
16 years, is that right?

17 A. That's correct.

18 Q. Okay. So what they're talking about is the same
19 thing that, you know, biastophilia paraphilic coercive
20 disorder, that's the same thing, right?

21 A. Well, they're -- I mean, I -- I'm sorry, I'm --
22 I'm not ---

23 Q. Okay. I'm just -- I just want -- when we're
24 reading this, they're, they're calling it Paraphilic, NOS
25 non-consent, but that's the same thing we're talking about

1 here. You call it biastophilia, Dr. Gottfried calls it
2 paraphilic coercive disorder.

3 A. Yes. I think that -- well, it would be the other
4 specified paraphilic disorder and then your specified. Yes.
5 I think that we're talking about the same thing.

6 Q. All right. So now this was based on a -- a book
7 done by a person named Doen (ph) in 2002. That's right. Is
8 that correct?

9 A. That section or?

10 Q. No, this -- these -- these factors are based on
11 that sexual evaluator book by Doen that was published in
12 2002.

13 A. That's correct.

14 Q. And you're familiar with that book?

15 A. Yes.

16 Q. Okay. And this just lists that there's useful
17 indicators of a paraphilia not -- not NOS non-consent under
18 circumstances when the offender does not report deviant
19 sexual arousal. And in this case, Mr. Pough did not report
20 deviant sexual arousal. Would you say that, you know, one of
21 the things they talk about in here is virtually all the
22 criminal person's criminal behavior is sexual. Would you
23 agree with that?

24 A. Would I agree that, that ---

25 Q. With Mr. Pough?

1 A. --- is accurate?

2 Q. Yeah. With Mr. Pough?

3 A. I'm not.

4 Q. Would you agree that you know, primarily Mr.
5 Pough's felonious behavior has been sexual charges?

6 A. He's had a variety of sexual and non-sexual
7 charges?

8 Q. What I'm talking about is his felony behavior.

9 A. When I look at their criminal history, I don't
10 typically delineate whether it was misdemeanors or felony.

11 Q. Well, I'm sorry, you said -- you said on direct
12 that you -- I'm sorry. Go ahead. Answer.

13 A. I'm finished.

14 Q. Okay. I -- you said on direct that you -- you
15 looked at a -- a rap sheet that you got from public safety.

16 A. That's correct.

17 Q. Is that right? And doesn't that delineate whether
18 something's a misdemeanor or a felony?

19 A. I don't believe so.

20 Q. You don't think so? Do you have it with you?

21 A. I don't know if I have that with me because I'm
22 not sure. I do not have it with me.

23 Q. Okay. Well, I -- it's -- I -- it doesn't really
24 matter. We'll move on. Your answer is you don't think that
25 virtually all his criminal offend behavior is sexual, right?

1 A. Well, my answer is that he had non-sexual and
2 sexual offenses in his criminal history.

3 Q. Did he have -- well, this says, "Co-commitment."
4 Can you define Co-commitment for us? So this third one from
5 the bottom on the list there.

6 A. Okay. Concomitant?

7 Q. Concomitant. Yes, that. Sorry.

8 A. So what that means is at the same time. That
9 word.

10 Q. Okay. So having persons at the same time that
11 were cooperative sexual partners, but he is sexually offended
12 nonetheless. Did he have willing partners?

13 A. I believe so, yes.

14 Q. Okay. Did he did he have a -- a repetitive
15 patterns of action?

16 A. Did he have repetitive patterns of action? His
17 offenses varied. I don't think that they were overly
18 repetitive, like a script.

19 Q. Like a script. So ---

20 A. Like this is indicating.

21 Q. So having non-consensual sex or raping intoxicated
22 females is not a script?

23 A. I wouldn't say that those circumstances were the
24 same. In those two instances.

25 Q. Were both of the victims intoxicated?

1 A. I believe so.

2 Q. Did he have non-consensual sex with them?

3 A. I believe so.

4 Q. Okay. All right. We'll move on, Doctor. These
5 are -- but these are indicators that someone could have a
6 preference in that behavior, is that right?

7 A. These are indicators, but you'd still have to see
8 all of that evidence in the records and then this would help
9 you differentiate those people. So you'd still want to see
10 that interplay, that dynamic, what he said, what he did. We
11 don't have any accounts of what he said or what he did during
12 the -- or what he said and what he did in reaction to their
13 non-consent.

14 Q. Did you consider these factors in your opinion?

15 A. I didn't have that other information, so I didn't
16 get to this point.

17 Q. Okay. So you didn't consider those factors in your
18 opinion, is that right?

19 A. I didn't get to this point yet.

20 Q. Okay.

21 A. These are factors that I consider in other cases,
22 but I didn't get to the point in this case.

23 Q. Okay. So you testified earlier that persons who
24 commit acts that are illegal, which result in significant
25 consequences, and they repeatedly engaged in those behaviors,

1 despite the consequence that can indicate a preference for
2 that behavior. You said that right?

3 A. It can.

4 Q. So based on the record, isn't it fair to say that
5 Mr. Pough has a sexual preference for sex with non-consenting
6 victims?

7 A. I don't think that's fair.

8 MR. KIRKLAND: I -- I couldn't hear that question,
9 Judge. I'm sorry.

10 MR. RUNYAN: I ask if it was fair to say that Mr. Pough
11 has a preference for sex with non-consenting victims?

12 MR. KIRKLAND: Okay.

13 THE WITNESS: My answer is no. I don't believe that he
14 has a preference for -- for non-consensual victims.

15 BY MR. RUNYAN:

16 Q. Despite the fact that he has three convictions
17 over a short period of time for having sex with
18 non-consenting victims?

19 A. That's correct.

20 Q. Okay. So, Doctor, you testified that there was
21 evidence -- on direct that there was evidence that the
22 sexually violent offenses were non-consensual. Is that
23 correct? There was some evidence. Is that right?

24 A. There was some evidence and there was certainly
25 not evidence that it was consensual.

1 Q. Well, let's look at these offenses. I think you
2 said it was difficult to resolve that -- did you say it was
3 difficult to resolve some of the things you saw in the
4 reports?

5 A. Yes. Because there was contradictory evidence.

6 Q. Okay.

7 A. Information.

8 Q. And I think you called it insufficient evidence.
9 Is that right?

10 A. That was my conclusion, yes.

11 Q. Okay. Well, I want to ask you, Doctor, on page --
12 I'm on page 8 and 9 of your report. And I don't think you
13 talked -- you talked about this on -- I don't think you
14 talked about in your report, but on page 8 and 9, you
15 reviewed the petition that the attorney general's office did
16 in this case. Is that right?

17 A. Yes.

18 MR. KIRKLAND: What were those pages, Judge?

19 MR. RUNYAN: Eight -- 8 and 9.

20 MR. KIRKLAND: Okay. Thank you. You -- by the way.

21 MR. RUNYAN: Yeah.

22 MR. KIRKLAND: With the way you're facing is really
23 (inaudible).

24 MR. RUNYAN: You want me to move over a little bit?

25 MR. KIRKLAND: No -- no -- no. You're -- you're fine.

1 It's just -- it's hard to hear. I'm sorry.

2 MR. RUNYAN: That's no problem. I'll move this a
3 little bit closer. Is that better?

4 MR. KIRKLAND: Yeah, I think maybe it is.

5 BY MR. RUNYAN:

6 Q. Okay. I -- I asked if you had reviewed the
7 petition. I believe it's on your list of sources of
8 information?

9 A. Yes.

10 Q. Okay. And in that petition, there's a police
11 report. Do you have that with you?

12 A. Yes, it will take me some time to find it.

13 Q. Okay.

14 A. Okay.

15 Q. You got it? Well, I'll just show it to you. I --
16 that's page two of three of the --

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

18 THE COURT: You may.

19 BY MR. RUNYAN:

20 Q. I don't think you specifically say in your report
21 about the police report but you did review this, is that
22 right?

23 A. Yes.

24 Q. Okay. I want turn to this narrative in the police
25 report. One -- sorry on the date and above time, if we go

1 down 1, 2, 3, 4 sentences.

2 A. First paragraph?

3 Q. First paragraph.

4 A. Okay.

5 Q. "I identified her as -- " The victim's name is

6 redacted. "Victim Had a red mark with swelling under her

7 left eye." Is that correct?

8 A. Yes.

9 Q. I didn't think -- I don't see that noted in your
10 report. I know you -- you did testify about on direct. Did
11 you say it in your report?

12 A. Oh, I -- I noted it.

13 Q. Okay.

14 A. Yes.

15 Q. That's fine if you had. That's fine. So, "She

16 had a red mark with swelling under her left eye and she

17 informed me," the investigator, "that she was just raped by

18 Jeremiah Pough." Is that what it says?

19 A. Yes.

20 Q. Okay. Now I want to go down further. Next
21 sentence down, it says, "Victim stated that his penis did
22 penetrate her." You see that?

23 A. Yes.

24 Q. Okay. And then we go down to the next sentence.

25 Next two sentences down, it says, "Victim then stated --

1 victim then stated that she remembers Jeremiah forcing
2 himself on her when they got over near the AC unit." Does it
3 say that?

4 A. Yes.

5 Q. Okay. And if we go down a few more sentences it
6 says, "Victim stated that Jeremiah bent her over the AC unit
7 and raped her." Is that right?

8 A. Yes.

9 Q. And going on continuing, "She stated she was
10 telling him to stop, but Jeremiah would not." Is that
11 correct?

12 A. That's correct.

13 Q. "Victim stated that she tried hitting Jeremiah,
14 but he would not let go of her." Is that correct?

15 A. That's correct.

16 Q. And you consider that in your -- in your report?

17 A. Yes.

18 Q. Okay. Is that -- and that's, "She stated." You
19 testified on direct by the law of things about she doesn't
20 remember, she didn't -- anywhere that say, "She doesn't
21 remember?" It says, "She stated."

22 A. Not in that just part that you just went through.

23 Q. And that's police reports. When -- when did the
24 police take those statements?

25 A. When did they take them?

1 Q. Uh-huh. Yeah. When did they take those
2 statements?

3 A. It -- it appears at this part -- because they take
4 them at different times, this would've been taken at the
5 scene.

6 Q. Okay. At the scene.

7 A. Or -- I mean at wherever the EMS was called to.

8 Q. Okay. And then subsequently that she went to the
9 -- the hospital, right?

10 A. Yes.

11 Q. Okay. And then we get into what you were talking
12 about on -- on direct or what you were asked about on direct.
13 We get to the medical examiner at the hospital, is that
14 right?

15 A. Yes.

16 Q. Okay. And this is the paragraphs on page 9 in
17 your report that you read into -- that you read in -- in your
18 directed testimony. And the nurse examine -- examiner said,
19 "You said, why did Johnny hit Jeremiah?" And she answered,
20 "Because Johnny knew what he was doing. Well, he didn't know
21 until after it was happening. I didn't realize it." And
22 that -- that was important to you. She goes on to say that
23 -- as you testified on direct, "What did Johnny tell you he
24 saw?" She answered, "He -- he said he saw him raping me and
25 I kept telling him to stop." We don't know -- the nurse

1 asked her, "What did Johnny tell you he saw?" So she
2 answered that question, did she not?

3 A. Yes.

4 Q. Okay. So she answered the question she was asked?

5 A. Yes.

6 Q. Okay. So basically -- but she's still confirming
7 that she was being raped. Johnny saw her being raped?

8 A. Yes.

9 Q. Okay. And then we go a couple days later, Doctor
10 you discussed the forensic interview, is that right?

11 A. Yes.

12 Q. And I think on direct you said -- you know,
13 forensic interviews, you said they are special types of
14 interviews.

15 A. Yes. I said they are special.

16 Q. What's special about them?

17 A. They're completed by individuals who are trained
18 to not ask leading questions and things like that so that
19 they can interview like child victims.

20 Q. Okay. Why would -- you know, why would a forensic
21 interviewer -- why would they not want them to ask leading
22 questions?

23 A. So that they wouldn't give like answers that were
24 inaccurate?

25 Q. Okay. So it's a special type of report with

1 trained people to get the facts. Is that fair?

2 A. It should be, yes.

3 Q. Okay. Now, you testified on the -- in this is
4 forensic evaluation that Dr. -- I mean, that the victim
5 underwent, and you -- you've already testified to this, but,
6 "CP reported that she can only recall part of what happened
7 because of being intoxicated, blacked out. However, she
8 recalled that Jeremiah began trying to kiss her and she told
9 him to stop and tried to push him away. She -- she also
10 recalled that he pulled down her pants and put her penis into
11 her vagina." Is that right?

12 A. Yes.

13 Q. Okay. So this train forensic interviewer is
14 telling you what the facts that the victim told the
15 interviewer?

16 A. Yes.

17 Q. Okay. And I got -- I guess there was some
18 question, you seemed to think that there was no consistency,
19 but Doctor, all cross three different reports from the time
20 at the scene when the victim gave her statement, the time she
21 was the medical examiner, to the time she took the forensic
22 evaluation, her statements are consistent, that she was raped
23 by Jeremiah Pough, is that right?

24 A. I would say that, that -- that was consistently
25 reported that she was raped, yes.

1 Q. Okay. I also want to talk about something that
2 you were asked on direct and you said she was freely drinking
3 alcohol and smoking marijuana. Is that right?

4 A. That she was freely, yeah. Freely drinking it?
5 It I don't know if I testified to that, but that was -- there
6 was no indication in the report that she was coerced or
7 forced or didn't want to drink or smoke marijuana.

8 Q. Did Mr. Pough get an offense for that activity?

9 A. He got charged and convicted of contributing to
10 the delinquency of a minor. I'd have to -- I mean, I believe
11 that was related to the providing underage people with
12 alcohol.

13 Q. I think you're right. Yes. I'll find it for
14 you. It's in the petition. There we go.

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

16 THE COURT: You may.

17 THE WITNESS: Yes.

18 BY MR. RUNYAN:

19 Q. You have (inaudible).

20 A. I haven't found that page, but I think I'm -- yes,
21 I have it.

22 Q. Okay. Well, I mean, he was convicted of
23 contributing to the delinquency of the minor, and this is
24 your understanding. That's because he was giving a minor
25 alcohol and marijuana?

1 A. That's my understanding. The language in this
2 indictment is very broad.

3 Q. Okay. But that's your understanding?

4 A. Yes.

5 Q. Okay. moving on, Doctor, to the second offense.
6 This was with the 17-year-old female. Now, she's not a
7 minor, but she's not an adult, correct?

8 A. Well, I would say that she's a minor. She's under
9 17. But ---

10 Q. Okay. So ---

11 A. She -- she is old enough to consent to sex if
12 that's what you mean.

13 Q. Still a minor, but old enough to consent.

14 A. I'm sorry?

15 Q. Still a minor, but old enough to consent? Is that
16 what you're saying?

17 A. To -- to sex by -- by the law, yes.

18 Q. Okay. So I want you to look at State's 2 and on
19 the indictment, you there?

20 A. Yes.

21 Q. And there was testimony to this yesterday that he
22 -- it says that he was engaged in sexual battery with the
23 victim when the defendant knew or had reason to know that the
24 victim was mentally defective, mentally incapacitated, or
25 physically helpless. Is that correct?

1 A. Yes.

2 Q. Okay. Can someone who's mentally incapacitated
3 consent to sex?

4 A. No.

5 Q. Okay. And there was some talk about whether she
6 reported this some months later that seemed to be important
7 to you?

8 A. It meant that there wasn't as -- as much
9 information as there might be if she had reported it, like,
10 if she knew that it happened right then.

11 Q. So you're not saying it's a problem that she
12 reported it months later, it's just that you didn't have
13 enough information, is that right?

14 A. I'm saying that it -- yeah. It precludes a lot of
15 specific information from being gathered, yes.

16 Q. Okay. Is it your -- your understanding that
17 sexually -- sex offenses are one of the most under-reported
18 offenses?

19 A. Yeah. That's commonly believed.

20 Q. Okay. But is it unreasonable that she was able to
21 recall these events after blocking them out? Do you -- do
22 you think that psychologically that there could be some
23 trauma that would block memories?

24 A. It is -- it's debatable. I mean, there's been
25 research on either side on that issue.

1 Q. Where do you come down on it?

2 A. I don't know that I have a specific, like -- like
3 I fall in a specific place. I know that -- that -- that it's
4 -- it's questionable the memory degrades over time and if it
5 was never a memory that actually sunk in, can it be
6 unconsciously brought out? And that's debatable. Could it
7 be a false memory triggered that could be possible, but it --
8 it doesn't matter if -- if it was false or not, he pled
9 guilty to it. So I take that as a fact that it happened.

10 Q. It's a fact it happened. That's right?

11 A. I do.

12 Q. Okay. All right -- all right. Moving on to the
13 last offense. There was some talk about the fact, and -- and
14 you seem to be important to you, that she wasn't fighting or
15 in fact in all these offenses, you know, there was no
16 fighting or threats or escalation, I think you said. Is that
17 necessary for non-consensual rape event?

18 A. It is -- I don't know if it's necessary. In every
19 case they're -- the facts of the cases are, you know,
20 different, so it varies in the total calculation. But it
21 would certainly be a bigger indicator if those things were
22 present or if we had information about what happened.

23 Q. Okay. Are you familiar with this?

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

25 THE COURT: You may.

1 BY MR. RUNYAN:

2 Q. Are you familiar with this article?

3 A. Of this article?

4 Q. Yeah. Familiar.

5 A. I -- I don't believe so. I don't -- I don't
6 know. I -- just from the look of it, it doesn't -- I don't
7 know.

8 Q. Okay. Well, would you agree with this statement?
9 Would you agree that non-consenting persons need not be
10 actively or physically resisting to sexual assault such as
11 fighting, struggling, et cetera? Would you agree with that?

12 A. Can you say that one more time?

13 Q. Would you agree that non-consenting persons need
14 not be actively physically resisting the sexual assault,
15 fighting, struggling, et cetera?

16 A. Right. In some circumstances it wouldn't be
17 necessary.

18 Q. And would you agree in some circumstances that the
19 -- the person who's a victim of the -- the rape could just
20 surrender, just not do anything?

21 A. Yes. Of -- of course.

22 Q. Okay. And would you agree with -- with that
23 paraphilic coercive disorder can be present in a rapist who
24 target unconscious and mentally incompetent victims who are
25 unable of incapable of consenting due to their lack of

1 awareness of a sexual assault being committed upon them?

2 A. In certain circumstances. Yes.

3 Q. Okay. So, Doctor, you were talking about on
4 direct, how you look at -- you don't solely rely on one
5 thing, do you? In coming to an opinion?

6 A. No.

7 Q. Okay. So you look at lots of things, I think you
8 testified, is that right?

9 A. Yes.

10 Q. Okay. So despite the fact that there's evidence
11 that these three victims were -- were non-consenting, despite
12 the fact that he has a pattern of offending sexually while
13 facing significant charges and the fact that he could have
14 some of these indicators or factors that you didn't get to as
15 you testified to you're saying that that doesn't lead you
16 towards a -- a diagnosis? A paraphilic ---

17 A. That's correct.

18 Q. Okay. Well, let's talk about the personality
19 disorders. Doctor, I've read a lot of your reports over the
20 years and the MMPI is not something that you give as -- as a
21 standard in all your reports, is that right?

22 A. That's correct.

23 Q. Okay. So they usually have a reason as to why you
24 perform an MMPI. Is that right?

25 A. Yes.

1 Q. Okay. And in this case, you did perform MMPI, is
2 that right?

3 A. Yes.

4 Q. Okay. And tell us again why in this particular
5 case, was there some reason that -- in the records or in the
6 interview that made you think I should give this test?

7 A. It was the reasons that I described before where
8 he was joking around. Those -- those kind of instances was
9 what indicated to me that I -- I wanted some more information
10 and some of the things that he said, like his mom said he had
11 delusions of grandeur things like that. I wanted to see if
12 that was -- if that came out on testing.

13 Q. Okay. Was there anything specific he said to you
14 that -- or was just -- it was his joking manner and the fact
15 that his mom said he has delusion of grandeur? Is there
16 anything else?

17 A. Those are the things that are coming to mind.

18 Q. Okay. So -- so you chose the MMPI, right?

19 A. Yes.

20 Q. Now, I should ask you this question earlier, and I
21 didn't, but maybe I did. I can't remember. As a forensic
22 evaluator and sex offender evaluations, are you free to
23 choose the diagnostic tools that you use?

24 A. Yes.

25 Q. Well, there's no set standard like you, here's --

1 here's a checklist. If you're a sexual offender evaluator,
2 you do these 10 things and you're done.

3 A. There's no standard in South Carolina. Other
4 states have protocols that they have to follow.

5 Q. Okay. But you don't?

6 A. That's correct.

7 Q. Okay. So you chose the MMPI, right?

8 A. Yes.

9 Q. Okay. Based on some things that you saw in the
10 interview that concerns you.

11 A. Yes.

12 Q. And what is the MMPI again?

13 A. It's the Minnesota Multiphasic Personality
14 Inventory three. Do you want me to describe it?

15 Q. Yeah. Well, it's a personality test, is that
16 right?

17 A. Well, it is -- it is a true and false test that
18 provides information about psychopathology, so mental
19 illness, things like depression, schizophrenia, mania and
20 then some personality domains.

21 Q. Okay. And you said in your report that he had
22 some -- there were some areas of concern for you on that --
23 that MMPI. Right? I'm on page 16 of your report.

24 A. He had elevations on just a couple areas. Yes.

25 Q. Yes. And what were those areas He had elevations

1 on?

2 A. So he had elevations and hypomanic activation.

3 Q. What's that? You have to explain that to me.

4 A. So that means that the person may be restless,
5 easily bored, excitable, energetic, euphoric, risk tolerant.

6 Q. Okay. I'm sorry. You -- you did explain it there
7 in your report. I apologize. Restless, easily bored,
8 excitable, energetic, euphoric and risk tolerant. Were there
9 any other problem areas that you saw?

10 A. There was some problem areas with affiliation.
11 And that was -- he -- he may dislike being around others and
12 he may be emotionally distant.

13 Q. Okay. All right. And did you do anything else to
14 follow up on those areas of concern?

15 A. Did I do anything to follow up on it?

16 Q. Uh-huh.

17 A. I'm not sure.

18 Q. Did you investigate these concerns further?

19 A. I -- I -- I don't know how to answer that. Did I
20 investigate them further?

21 Q. Did you do any additional testing based off of
22 these?

23 A. No, I did not.

24 Q. Okay. All right.

25 A. Thank you.

1 Q. I want to turn to page 17, a report, and I think
2 you've already mentioned this. You had -- you had said that
3 he indicated to you that his mother has told him in the past
4 that he has delusion of grandeur, and I think this one was
5 left out on direct, but he also thought he was untouchable.
6 Is that right?

7 A. Yes.

8 Q. Okay. And those comments you say in your report,
9 and correct me if I'm wrong, but you say, "These comments may
10 suggest narcissistic traits?"

11 A. Yes.

12 Q. Okay. Did you do anything else to investigate the
13 narcissistic traits?

14 A. That's what I did with the MMPI.

15 Q. Okay. So that was -- that was the -- that was the
16 judge, the narcissistic traits? The MMPI?

17 A. Well, that was to help me rule in or rule out a
18 disorder in that area, and it ruled it out.

19 Q. Okay. Were you aware? Did Mr. Pough tell you
20 during your interview? Did he express to you, well he
21 expressed to you a grandiose self-sense of importance, or at
22 least his mother said he had a grandiose delusion of
23 grandeur. Right?

24 A. He told me that his mother said that to him.

25 Q. Right. Did he describe to you -- himself as being

1 too -- too smart?

2 A. He didn't -- I don't believe that he described
3 himself as being too smart.

4 Q. So he didn't tell you that?

5 A. I don't believe so.

6 Q. Did he tell you in -- in your interview that he
7 felt overqualified for a job?

8 A. No.

9 Q. Did he tell you why he was in SEDC the reason he
10 didn't have a job was because he thought he would be too
11 overqualified. He didn't tell you that?

12 A. No.

13 Q. Okay. Did he tell you or indicate to you during
14 the interview that he felt like he was other -- others were
15 not mentally strong as he is?

16 A. No.

17 Q. Did he tell you that he others saw him as being
18 cocky or arrogant?

19 A. That might have come up.

20 Q. Okay. Did he tell you that he made pretty big
21 money when he was locked up?

22 A. No.

23 Q. Okay. Did he -- did he discuss with you his
24 fighting abilities?

25 A. Not that I recall.

1 Q. Did he tell you about his plans to, you know, get
2 out and make a video game and never have to work again?

3 A. I think we might have talked about that perhaps,
4 I'm not sure.

5 Q. Did he tell you that he thought he -- that he
6 could only be understood by others by a high -- by other
7 high-status people?

8 A. No.

9 Q. No. That he -- and he included his mother that --
10 that -- he didn't tell you that his mom's gotten farther in
11 life than I have?

12 A. He did say that.

13 Q. He did say that. Okay. Would any of those
14 statements, if you had known them, would they lead you to
15 believe that he has narcissistic traits?

16 A. I mean, they would -- they would be somewhat
17 indicative of that, and it would be looking at the whole
18 picture to see if -- if it was enough to call it a
19 personality disorder.

20 Q. But you didn't have that information when you
21 interviewed him?

22 A. I didn't have that specific information. You're
23 right.

24 Q. Okay. You're qualified to perform the Hare PCL-R,
25 correct?

1 A. Yes.

2 Q. Okay. And what is the Hare PCL-R?

3 A. It is the psychopathy checklist revised. And it's
4 a test to determine if somebody is a psychopath.

5 Q. And to be sure -- to be -- let's be clear, Mr.
6 Pough is not a psychopath, correct? In your opinion?

7 A. No, I didn't see any evidence that he was a
8 psychopath in my evaluation of him.

9 Q. Now, since you're trained in the Hare, are there
10 different facets or different parts of the Hare?

11 A. There are.

12 Q. There are?

13 A. And I -- and I will caution you that it's not
14 something that I give very often, so I don't -- I don't
15 remember those facets off the top of my head.

16 Q. That's fine -- that's fine. Just you're aware
17 there are different facets and you don't give that test very
18 often. would it be fair to say you don't give a lot of tests
19 very often?

20 A. That's correct.

21 Q. Okay. Is part of the Hare one of the facets
22 anti-social traits?

23 A. Like I said, I -- I couldn't tell you what the
24 facets are.

25 Q. Okay. Well, then we'll move on if you -- if you

1 can't remember those, that's fine. We'll move on to -- but
2 at the end despite not having all this information, you --
3 you say that Mr. Pough does not suffer from any personality
4 disorder. That's your opinion?

5 A. That is my opinion.

6 Q. And I will just -- just to close this out, other
7 specified personality disorder is in the DSM-5?

8 A. It is.

9 Q. You've diagnosed it before?

10 A. Yes.

11 Q. And you've used narcissistic traits as a specifier
12 in the past?

13 A. I don't believe I've ever diagnosed just
14 narcissistic traits that I can recall.

15 Q. Maybe ---

16 A. It might be antisocial and narcissistic traits,
17 but ---

18 Q. Is there something called mixed Cluster B traits?

19 A. Yes.

20 Q. And what is that?

21 A. That would be, if they have traits of what were
22 previously called the Cluster B personality disorders it
23 would be borderline personality disorder, antisocial
24 personality disorder, narcissistic personality disorder,
25 histrionic personality disorder.

1 Q. Okay. Have you diagnosed that before? Mixed
2 Cluster ---

3 A. Yes.

4 Q. Okay. You have. And that includes narcissistic
5 in there ---

6 A. Yes.

7 Q. --- traits? Okay. So it's a valid, I mean it's a
8 valid -- it's a -- other specified personality disorder is a
9 valid diagnosis?

10 A. That is a valid diagnosis. Yes.

11 Q. Okay. You evaluated -- as part of evaluation, I
12 think you, you said you determined you have to look at risk,
13 correct?

14 A. Yes.

15 Q. And you found that Mr. Pough -- oh, you agree with
16 Dr. Gottfried, that there are both static and dynamic risk
17 factors?

18 A. Yes.

19 Q. And you would agree that experts in your field use
20 both of those risk factors?

21 A. Yes. Typically, yes.

22 Q. Okay. Did you find that Mr. Pough had dynamic
23 risk factors?

24 A. Yes.

25 Q. And what did you find he had?

1 MR. KIRKLAND: I'm sorry, Mr. Runyan, what was the
2 original question you asked before? Where did you find that?

3 MR. RUNYAN: I asked if she -- if she found that Mr.
4 Pough had any dynamic risk factors?

5 MR. KIRKLAND: Dynamic?

6 BY MR. RUNYAN:

7 Q. Dynamic. Yes?

8 A. Yes. I identified that he had lifestyle
9 impulsiveness for problem solving and negative social
10 influences.

11 Q. And how do you determine dynamic risk factors?

12 A. At the time that I did this evaluation, I reviewed
13 a meta-analysis that has went through many research studies
14 to identify a list of risk factors that are related to sexual
15 recidivism.

16 Q. Okay. About how many of the -- how many of them
17 are they?

18 A. I never remember this. There's like maybe 16, 12,
19 16.

20 Q. Okay. And when you're looking at the records and
21 his interview and you're kind of just -- with your training,
22 determining whether or not these, there's any of those that
23 are on the list apply to him, is that right?

24 A. Yes.

25 Q. Okay. Now, tell me, you said lifestyle

- 1 impulsiveness?
- 2 A. Yes.
- 3 Q. What -- what is that?
- 4 A. What is that?
- 5 Q. Yeah.
- 6 A. That's a risk factor related to living impulsively
- 7 impulsive decision making, but it has a lot to do with
- 8 substance use whether they were doing things like that or
- 9 being impulsive.
- 10 Q. Okay. And you found Mr. Pough was?
- 11 A. Yes.
- 12 Q. Okay. I think -- and poor problem solving, I
- 13 think I've caught up with you now. Poor problem solving?
- 14 A. Yes.
- 15 Q. And what is that?
- 16 A. That's a person who has trouble conceptualizing
- 17 problems, identifying problems, conceptualizing them finding
- 18 solutions that will adequately address those problems and who
- 19 avoid problems.
- 20 Q. And you found Mr. Pough has -- did -- did issues
- 21 in that domain?
- 22 A. Yes.
- 23 Q. And then I think you said negative social
- 24 influences?
- 25 A. Yes.