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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County  
Honorable W. Greg Seigler, Family Court Judge  
Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NAZARETH N SANCHEZ-PERALTA,

APPELLANT

APPELLATE CASE NO. 2023-001588

RECORD ON APPEAL

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**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:]**

- A. Juvenile Waiver Hearing Exhibits: State’s Exhibit 29 (DVD), State’s Exhibit 30 (DVD), State’s Exhibit 31 (DVD).**
  
- B. General Sessions Trials: State’s Exhibit 1 (DVD), State’s Exhibit 2 (DVD), State’s Exhibit 3 (DVD), State’s Exhibit 4 (DVD), State’s Exhibit 5 (DVD), State’s Exhibit 6 (DVD), State’s Exhibit 7 (DVD), State’s Exhibit 8 (DVD), State’s Exhibit 9 (DVD), State’s Exhibit 10 (DVD), State’s Exhibit 11 (DVD), State’s Exhibit 12 (DVD), State’s Exhibit 18 (DVD), State’s Exhibit 19 (DVD), State’s Exhibit 28 (DVD), State’s Exhibit 29 (DVD), State’s Exhibit 30 (DVD), State’s Exhibit 31 (DVD), State’s Exhibit 61 (DVD), State’s Exhibit 62 (DVD), State’s Exhibit 63, (DVD), State’s Exhibit 64 (DVD), State’s Exhibit 65 (DVD), State’s Exhibit 241 (Instagram Audio Message), State’s Exhibit 242 (Instagram Audio Message), State’s Exhibit 243 (Instagram Audio Message), State’s Exhibit 252 (Instagram Audio Message).**



1 reference to her case because she was trying to  
2 see if it was going to hurt her case.

3 Q So I'm going to back up a little bit. A  
4 solicitor for family court, I believe, had  
5 reached out to members of the Department of  
6 Juvenile Justice?

7 A Correct.

8 Q In regards to these event reports?

9 A Yes.

10 Q Where Sanchez-Peralta had been named in these  
11 reports?

12 A Yes.

13 Q And at some point in time had you spoken with a  
14 member of the solicitor's office?

15 A Yes.

16 Q And did another staff member somehow make that  
17 statement or release that information to  
18 Sanchez-Peralta?

19 A Yes.

20 Q And as a result what if anything did she say to  
21 you?

22 A Repeat that.

23 Q What if anything did Sanchez-Peralta say to you  
24 following that event?

25 A Basically when she found out that I had been in

1 contact with the solicitor -- well, that y'all  
2 had contacted me, basically she just wanted to  
3 know exactly what it was that y'all had -- what  
4 kind of questions you asked.

5 Q And what was her attitude or demeanor when this  
6 occurred?

7 A When she approached me she was calm.

8 Q Okay. And are you familiar with whether or not  
9 any other officer made a report in regard to  
10 that same incident?

11 A Yes.

12 Q And who was that officer?

13 A Officer Odom.

14 Q Did you tell her any information or release any  
15 information to her?

16 A No.

17 Q Now I want to move forward to last month, being  
18 specifically April of 2022. What if any event  
19 reports are you familiar with that have  
20 occurred over the course of the last month?

21 A A juvenile reported that she was having her  
22 food taken from her. She had bruises on her.  
23 She was afraid to actually tell the staff where  
24 she was at because she didn't think that they  
25 were going to help her. So apparently when I

1 was escorting her to get ready for court, I saw  
2 her walking funny and I saw the bruise on her  
3 toe and on her knee. And when I asked her what  
4 happened, that's when she stated that Sanchez  
5 and some other juveniles been chasing after  
6 her, taking her food, telling her since she  
7 wanted to die, she deserved to die; she didn't  
8 deserve to live and eat.

9 Q Was that a detainee who was on suicidal watch?

10 A Yes.

11 Q And she attributed those statements to  
12 Sanchez-Peralta?

13 A Yes.

14 Q Was there also a report that food had been  
15 taken?

16 A Yes.

17 Q As well as a physical assault?

18 A Yes.

19 Q And was all of that documented as well?

20 A Yes.

21 Q And then finally, the most recent being  
22 April 27th, roughly last week. Who was Debora  
23 Fortune?

24 A That's the chaplain.

25 Q That's the chaplain there at the Department of

1 Juvenile Justice?

2 A Yes. At the MEC building.

3 Q And this particular report was made by the  
4 chaplain?

5 A Correct.

6 Q And was that also dealing with security  
7 concerns?

8 A Yes.

9 Q Now what is meant by a shakedown?

10 A A shakedown consists of going to search rooms  
11 or persons making sure that they don't have any  
12 contraband. Contraband is actually items that  
13 they are not supposed to have.

14 Q Would that include letters to co-defendants?

15 A Correct.

16 Q Would that include writings that are intended  
17 to bring harm or potentially harm any other  
18 detainees?

19 A Yes.

20 Q And can you tell us whether or not you have  
21 been involved in a shakedown of the room of  
22 Nicolle Sanchez-Peralta?

23 A Yes.

24 Q I'm going to refer you now to event report  
25 dated April 24th of 2021. Do you have that

1 report? I'm sorry, August 24th of 2021.

2 A I have it.

3 Q Who was involved in this shakedown or search  
4 for contraband in the room of Nicolle  
5 Sanchez-Peralta?

6 A At this time it was Officer Odom and myself.

7 Q All right. And then did you also have a  
8 supervisor that you were reporting to over the  
9 course of this shakedown?

10 A Correct.

11 Q Now at that point in time did Nicolle  
12 Sanchez-Peralta have a roommate or was she  
13 housed alone?

14 A Housed alone.

15 Q And what was her room number?

16 A Seven.

17 Q Did you, yourself, conduct a search or  
18 shakedown of room 7?

19 A I didn't personally.

20 Q Who was with you?

21 A Officer Odom.

22 Q All right. Were you present when certain items  
23 were found?

24 A Yes.

25 Q How, if at all, did you and Officer Odom go

1 about documenting the items that were found?

2 A By us seeing the items and stuff that they are  
3 not supposed to have.

4 Q All right. Let me ask you this. Were they  
5 documented in any other way such as  
6 photographs?

7 A Yes.

8 Q And can you tell us who you sent the  
9 photographs to once they were taken?

10 A I submitted them to IG, which is our  
11 investigator and my supervisor.

12 Q Okay. Why did you do that?

13 A Because it was considered as contraband.

14 Q And did you observe the content of these  
15 writings?

16 A I did.

17 Q Did you have concerns upon reviewing them about  
18 the security of any other detainees?

19 A I did.

20 Q I'm going to show you what is State's 161, 160,  
21 159 and 158 and ask you if you are familiar  
22 with these items?

23 A Yes. It is the letter that she was sending to  
24 Treveon Nelson.

25 Q Okay. And then was something inside that

1 envelope?

2 A A letter.

3 Q And are you familiar with these writings? Did  
4 you come into the room in order to observe  
5 them?

6 A I did.

7 Q Does that include observing them in their  
8 original condition?

9 A Yes.

10 Q And looking at 160, whose room was that found  
11 in?

12 A Sanchez.

13 Q And looking at 159, whose room was that found  
14 in?

15 A Sanchez.

16 Q And 158, whose room was that found in?

17 A Sanchez.

18 Q And this particular letter in 158 was found  
19 where?

20 A Inside of the envelope.

21 Q In 161. And then this particular page that is  
22 reflected in 159, is that part of a journal?

23 A Correct.

24 Q And the crease mark we see there is there for  
25 what reason or because of why?

1 A It was folded down in a book in the journal.

2 Q And that's the original condition in which you  
3 found these?

4 A Yes.

5 MS. MAYES: State's 159, 161, 158 and 160.

6 (Pause.)

7 MS. SELERT: No objection.

8 (Whereupon, State's Exhibit Nos. 158-161 were  
9 marked and received into evidence.)

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q And did you yourself have an opportunity to  
13 speak with Ms. Sanchez-Peralta regarding these  
14 writings?

15 A I did.

16 Q Who is Iyonna Daugherty who is mentioned in the  
17 writings?

18 A That's one of the juveniles housed with her.

19 Q That's a fellow detainee?

20 A Correct.

21 Q Was there a threat toward Iyonna Daugherty?

22 A Yes.

23 Q Was there also concerns about any DJJ staff  
24 members upon reviewing these items?

25 A Yes.

1 Q How so?

2 A She had addresses and phone numbers and like  
3 Instagram items in reference to staff as well.

4 Q All right.

5 A And family members of the detainees.

6 Q All right. Who is Princess Henderson?

7 A She was an officer.

8 Q So that's actually a DJJ staff member?

9 A Correct.

10 Q And was all of that reported in your  
11 documentation as well?

12 A Yes.

13 MS. MAYES: Beg the court's indulgence.

14 (Pause.)

15 DIRECT EXAMINATION

16 BY MS. MAYES:

17 Q When you spoke with Ms. Sanchez-Peralta, did  
18 she tell you why she included Iyonna Daugherty  
19 in this threat?

20 A She stated that she was angry with her at the  
21 moment, at that time.

22 Q All right. And where Iyonna Daugherty is  
23 concerned, what was the nature of that threat?

24 A The nature of the threat, apparently she sent  
25 out in her journal she had made kill season,

1 time of death threat to Iyonna's family.

2 Q All right. And did she also attempt to send an  
3 address for Iyonna Daugherty to any other  
4 person?

5 A Yes. She was sending -- she was using Iyonna's  
6 address to send items to Treveon.

7 Q To Treveon Nelson?

8 A Yes.

9 MS. MAYES: All right. Nothing further of this  
10 witness at this time.

11 CROSS-EXAMINATION

12 BY MS. SELERT:

13 Q Good afternoon.

14 A Good afternoon.

15 Q One moment. Let me make sure I have  
16 everything.

17 (Pause.)

18 MS. SELERT: I apologize, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. SELERT:

21 Q So going back to the 6/19/21 incident report,  
22 Nicolle was holding another juvenile back  
23 during that altercation, correct? It had been  
24 an altercation between other juveniles and she  
25 was holding one back?

1 A When I got there she was holding her but I  
2 don't think, I'm not sure at that time if she  
3 was actually involved in that altercation but  
4 she was like holding her.

5 Q She was listed on that incident report as a  
6 witness though, correct?

7 A Uh-huh.

8 Q And not a subject?

9 A Uh-huh.

10 THE COURT: You have to answer 'yes' or 'no',  
11 ma'am.

12 THE WITNESS: Yes.

13 CROSS-EXAMINATION

14 BY MS. SELERT:

15 Q And going to the February incident, there was  
16 an incident report generated on February 3rd,  
17 correct?

18 A February 3rd of what year?

19 Q 2021 or, I'm sorry, 2022.

20 A And this is February 3rd?

21 Q Third.

22 A Okay.

23 Q And Nicolle is listed as a victim there,  
24 correct?

25 A Yes.

1 Q Other juveniles had been yelling at her?

2 A Yes.

3 Q And then the March incident, how does that  
4 report or incident pose a threat to security?

5 A On which month?

6 Q March 11th.

7 A How did it pose a threat?

8 Q Yes.

9 A First of all, she shouldn't have never been  
10 informed anything of reference, any calls or  
11 anything confidential.

12 Q But someone that was a DJJ staff member gave  
13 her that information, correct?

14 A Correct.

15 Q So if anything, that staff member posed a  
16 threat to security?

17 A Yes. And she approached me to ask me about it.  
18 But before I approached her I can hear her  
19 fussing and yelling and stuff in the unit.

20 Q But when she spoke with you, you said that she  
21 was calm?

22 A By the time she got to me she was calm.

23 Q And she didn't threaten you in any way?

24 A No because we didn't actually finish the  
25 conversation after I told her that I wasn't

1 going to discuss what was discussed between me  
2 and the solicitor and then I walked away.

3 Q And Princess Henderson was mentioned. I  
4 believe her information was some of the  
5 personal staff information that was listed in  
6 Nicolle's journal; is that correct?

7 A Yes.

8 Q And Princess Henderson no longer works there,  
9 correct?

10 A Correct.

11 Q She actually was she fired?

12 A No.

13 Q Did she stop working there the day of or the  
14 day after this report where staff members'  
15 information was found?

16 A After.

17 MS. SELERT: Beg the court's indulgence.

18 Actually, I do have a few more questions for you.

19 CROSS-EXAMINATION

20 BY MS. SELERT:

21 Q You are friends with Ms. Saleemah  
22 Graham-Fleming, correct?

23 A I am.

24 Q Friendly enough with her that you speak to her  
25 about details regarding Nicolle's case,

1 correct?

2 A No.

3 Q You didn't give her information that Nicolle  
4 had an obituary?

5 A I did inform her because I did not know if it  
6 was going to come up in court and I did not  
7 want my friend blindsided and I wanted her to  
8 know how the obituary had got into the  
9 facility.

10 Q So that was a detail about Nicolle's case,  
11 correct?

12 A Yes.

13 Q That you informed Ms. Graham-Fleming of?

14 A Yeah. But it wasn't in reference to the case.

15 MS. SELERT: Thank you.

16 THE COURT: Wait just a minute.

17 MS. SELERT: I'm sorry.

18 (Pause.)

19 CROSS-EXAMINATION

20 BY MS. SELERT:

21 Q The letter to Treveon Nelson was never mailed,  
22 correct?

23 A No.

24 Q It was found among other journal entries?

25 A Yes. That one wasn't mailed.

1 MS. SELERT: I have no other questions at this  
2 time.

3 REDIRECT EXAMINATION

4 BY MS. MAYES:

5 Q And just to clarify, is Ms. Graham-Fleming the  
6 mother of SA [REDACTED] ?

7 A Yes.

8 Q She is a DJJ employee?

9 A Yes.

10 Q Outside of your immediate facility?

11 A Yes.

12 Q I believe administrative?

13 A Yes.

14 Q But there was an obituary that Nicolle  
15 Sanchez ended up -- it ended up in her hands?

16 A Correct.

17 Q SA's [REDACTED] obituary?

18 A Yes.

19 Q And Princess Henderson, who was the DJJ  
20 employee, you said she is no longer an employee  
21 there?

22 A Correct.

23 Q And she had also been the subject of the  
24 writing that was found that had her personal  
25 information?

1 A Correct.

2 Q I'm going to show you what is State's 161  
3 already in evidence. That letter to Treveon,  
4 did it have a stamp on it?

5 A Yes.

6 MS. MAYES: Nothing further.

7 REXCROSS-EXAMINATION

8 BY MS. SELERT:

9 Q So again, though, this was never mailed?

10 A No. I intervened.

11 Q And did you report the obituary being found to  
12 your superior?

13 A I did.

14 MS. SELERT: Thank you. No further questions.

15 Thank you.

16 THE COURT: You can go, ma'am. Thank you so  
17 much.

18 THE WITNESS: You are welcome.

19 MS. MAYES: The State calls Officer Cassandra  
20 Odom. Judge, it is 4:23 but I believe we can get  
21 this next witness done within 30 minutes.

22 THE COURT: Come up and have a seat if you  
23 would, please. All right. Tell us what your name  
24 is, please and spell it for the court reporter.

25 THE WITNESS: Cassandra Odom.

1 C-A-S-S-A-N-D-R-A, O-D-O-M.

2 THE COURT: O-D-U-M?

3 THE WITNESS: O-M.

4 THE COURT: O-M. All right. Ma'am, would you  
5 raise your right hand?

6 CASSANDRA ODOM, after being duly sworn,  
7 testified as follows:

8 THE COURT: All right. Just speak up clearly  
9 and loudly so we can hear you, okay?

10 THE WITNESS: Okay.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q Good afternoon, Officer. Can you tell us a  
14 little bit about yourself? How long have you  
15 been at DJJ?

16 A I have been at DJJ a total of six years.

17 Q All right. And during the course of those six  
18 years, do you also work directly with  
19 detainees?

20 A Yes, ma'am.

21 Q And are you familiar with the event reports  
22 that are filed if there is any type of security  
23 concern?

24 A Yes, ma'am.

25 Q Or a physical altercation involving a detainee?

- 1 A Yes, ma'am.
- 2 Q Or any other type of threat?
- 3 A Yes, ma'am.
- 4 Q I'm going to start by asking you about your  
5 involvement in an event report dated  
6 February 25th of 2022. And do you have a copy  
7 of that with you? I'm going to show you what  
8 is State's 146. And it is in chronological  
9 order already in evidence if you need to refer  
10 to this document as well.
- 11 A What are you asking about this?
- 12 Q So a date of event being February 25th and the  
13 report being dated March 9th.
- 14 A Okay.
- 15 Q And who was the reporting officer for that?
- 16 A This one is Shylow Barber and Ashley  
17 Washington.
- 18 Q Okay. I'm going to refer you to the event  
19 being on February 25th of 2022. All right.  
20 Who was the reporting officer in this event?
- 21 A Myself, Cassandra Odom.
- 22 Q All right. And Officer Odom, can you tell us  
23 what if anything occurred which caused you to  
24 write that event report?
- 25 A On February 25th, 2022 at approximately 10 a.m.

1 I, JCO Odom, and Sergeant Caughman conducted a  
2 shakedown on Charley unit. While conducting  
3 the shakedown, I, JCO Odom, found numerous  
4 permanent markers, highlighters, pens and a  
5 large amount of extra sheets, blankets and  
6 hygiene products. While conducting a shakedown  
7 on Charley unit in room 7, juvenile Nazareth  
8 Sanchez-Peralta --

9 Q Peralta?

10 A -- had a pair of scissors under her mattress.  
11 I, JCO Odom, handed everything over that was  
12 found to Sergeant Caughman who placed them in  
13 central control.

14 Q All right. And if you could pull that  
15 microphone down just a little bit closer to  
16 you.

17 So you, yourself, found the scissors?

18 A Yes, ma'am.

19 Q Now is that considered to be contraband?

20 A Yes, ma'am.

21 Q Is it also considered to be a potential weapon?

22 A Yes, ma'am.

23 Q And that was found where?

24 A Under her mattress.

25 Q And was it seized by the Department of Juvenile

1 Justice as a result?

2 A Yes, ma'am.

3 Q Now I want to refer you to March 11th where  
4 there had been an incident involving Officer  
5 Shaki Franklin-Johnson, previously testified in  
6 this case, having spoken with the solicitor's  
7 office. Are you familiar with that event?

8 A Yes, ma'am.

9 Q And did you, yourself, actually make an event  
10 report following that interaction with Nicolle  
11 Sanchez-Peralta?

12 A Yes, ma'am.

13 Q Why did you make a report?

14 A I made a report on that incident because I  
15 worked on the unit, Charley unit with juvenile  
16 Sanchez that particular day. And on that  
17 particular day, she was upset because another  
18 sergeant supposedly came to her and told her  
19 that we -- told her that we spoke with the  
20 solicitor. When officer -- well, when Sergeant  
21 Johnson walked by, she stated that she wanted  
22 to speak with the cancer B-I-T-C-H.

23 Q You can say the word in this courtroom.

24 A The cancer bitch.

25 Q Is it noted in your report?

1 A Yes, ma'am.

2 Q And --

3 THE COURT: Said what bitch?

4 THE WITNESS: Cancer.

5 THE COURT: Cancer.

6 THE WITNESS: Okay.

7 THE COURT: I didn't understand you.

8 Okay. Go ahead.

9 DIRECT EXAMINATION

10 BY MS. MAYES:

11 Q Can you tell us what her demeanor or mood was  
12 like when she spoke of Sergeant Johnson as the  
13 cancer bitch?

14 A She was upset.

15 Q And regarding cancer, can you tell us whether  
16 or not Sergeant Johnson is a breast cancer  
17 survivor?

18 A She is a breast cancer survivor.

19 Q And did you note that reference to the cancer  
20 bitch in your report?

21 A Yes, ma'am.

22 Q And then looking there at 146 before you, are  
23 you familiar with numerous other reports that  
24 have been admitted pursuant to this same  
25 exhibit? I'm going to ask you first whether or

1 not there is a report dated March 6th, 2022  
2 regarding a struggle between staff and  
3 Sanchez-Peralta, with staff being Montague and  
4 Rous?

5 A I wasn't there when that incident occurred.

6 Q But that event report is included in that  
7 exhibit?

8 A Yes, ma'am.

9 Q And whether there is also an event report dated  
10 April 5th of this year, of roughly one month  
11 ago, regarding the taking of food of a  
12 detainee?

13 A Yes, ma'am.

14 Q And specifically was there a report regarding  
15 Sanchez-Peralta making all other detainees on  
16 that floor smell her underwear?

17 A Yes, ma'am.

18 Q And that's noted in that report as well?

19 A Yes, ma'am.

20 Q April 7th, can you tell us whether or not there  
21 is another report of bullying and taking food  
22 from another?

23 A Yes, ma'am.

24 Q And then finally, last week another security  
25 event noted by the chaplain, Ms. Fortune?

- 1 A Yes, ma'am.
- 2 Q And finally, I want to ask you whether or not  
3 you were present on August 24th of last year  
4 for the shakedown of Sanchez-Peralta's room  
5 there at room 7?
- 6 A Yes, ma'am. I was present.
- 7 Q What did you observe regarding any writings or  
8 anything of a threatening nature when you went  
9 into that room?
- 10 A On that particular day when we conducted the  
11 shakedown, numerous of items were found. It  
12 was a lot of composition notebooks that were  
13 found. We actually found the envelope that on  
14 the envelope it was written to Treveon Nelson  
15 to [REDACTED] Road. And it was -- she acts as  
16 if she was writing Iyonna Daugherty.  
17 Basically, she acts as if she was Iyonna  
18 Daugherty.
- 19 Q I want to come back to that but we are looking  
20 at it on the overhead. This is State's 161.  
21 And regarding this particular item, is this how  
22 it was found in her room?
- 23 A Yes, ma'am.
- 24 Q And again, this envelope has a stamp on it.  
25 Was there a letter inside of that envelope?

1 A Yes, ma'am.

2 Q Okay. And we will get to that in a moment.

3 Now [REDACTED] Road, are you familiar with  
4 whether or not that is the location of the  
5 Lexington County Detention Center?

6 A It is.

7 Q And up in the corner we see a name and address  
8 being Iyonna Daugherty, [REDACTED] Road,  
9 Hopkins. Did you see her name and address  
10 appear anywhere else in the writings of  
11 Sanchez-Peralta?

12 A It was actually -- hold on. No, ma'am. That  
13 was it. Well, yes, ma'am, it was.

14 Q Let me show you 159 and 160. You are familiar  
15 with 159?

16 A Yes, ma'am.

17 Q And 160?

18 A Yes, ma'am.

19 Q Now why was it a concern that among the  
20 inclusion of issues being that this would be  
21 considered contraband, what if anything was the  
22 concern about this address being sent to  
23 Treveon Nelson?

24 A It was a concern because she had issues with  
25 that particular juvenile and with that being

1 the juvenile's home address where her family  
2 lives.

3 Q Okay. You said particular issues. Is Iyonna  
4 Daugherty someone that Nicolle Sanchez-Peralta  
5 had fought or had some type of altercations  
6 with there at DJJ?

7 A Yes, ma'am.

8 Q And is this done following that interaction?

9 A Yes, ma'am.

10 Q So we are going to take a look now at 160. Can  
11 you tell us whether 160 contains again the name  
12 of Iyonna Daugherty?

13 A Yes, ma'am.

14 Q As well as phone number for mom?

15 A Yes, ma'am.

16 Q Other family members?

17 A Yes, ma'am.

18 Q That same home address, [REDACTED]?

19 A Yes, ma'am.

20 Q Hopkins?

21 A Yes, ma'am.

22 Q And then who is Princess Henderson?

23 A A staff at JC L2 at the Department of Juvenile  
24 Justice.

25 Q So that's a staff member at the Department of

1 Juvenile Justice?

2 A Yes, ma'am.

3 Q Are there concerns about her having that  
4 information as well?

5 A Yes, ma'am.

6 Q So now going back to Iyonna Daugherty, we know  
7 we saw that address being provided to Treveon  
8 Nelson?

9 A Yes, ma'am.

10 Q Can you tell us whether or not this would be a  
11 way to provide Treveon Nelson with her home  
12 address?

13 A Yes, ma'am.

14 Q For any type of potential retaliation?

15 A Yes, ma'am.

16 Q I'm going to refer you to State's 159. Again,  
17 up at the top that home address being [REDACTED]  
18 [REDACTED] Road, Hopkins, and the name of Iyonna  
19 Daugherty. Is that all consistent with what  
20 had previously been indicated to be her home  
21 address?

22 A Yes, ma'am.

23 Q And this is the juvenile she had previous  
24 issues with?

25 A Yes, ma'am.

- 1 Q And what is the date on this?
- 2 A August 10th, 2021.
- 3 Q And you discovered this on August 24th?
- 4 A Yes, ma'am.
- 5 Q Again, with the name of the family members?
- 6 A Yes, ma'am.
- 7 Q All right. And then a reference to, this would
- 8 be slang, but a reference to little Glock?
- 9 A Yes, ma'am.
- 10 Q Kill season?
- 11 A Yes, ma'am.
- 12 Q Time of death?
- 13 A Yes, ma'am.
- 14 Q ..., to be determined?
- 15 A Yes, ma'am.
- 16 Q Cause of death, gunshot wound?
- 17 A Yes, ma'am.
- 18 Q F your momma, she dead?
- 19 A Yes, ma'am.
- 20 Q And then are you familiar with what this
- 21 abbreviation means?
- 22 A Yes, ma'am. Laugh my ass off.
- 23 Q Okay. Laugh my?
- 24 A Ass off.
- 25 Q Okay. Here we see the words or the

1 abbreviation KTA?

2 A Yes, ma'am.

3 Q Shoot?

4 A Yes, ma'am.

5 Q You play, you lay?

6 A Yes, ma'am.

7 Q As bruh would say LOL?

8 A Yes, ma'am.

9 Q Laugh out loud?

10 A Uh-huh. Yes, ma'am.

11 Q And then as Iyonna Daugherty's address is  
12 provided to Treveon Nelson you indicated there  
13 is a letter inside?

14 A Yes, ma'am.

15 Q I'll show you State's 158. Do you recall that  
16 being the letter inside?

17 A Yes, ma'am.

18 Q Looking at this particular writing, is it  
19 consistent with the other journals, journal,  
20 sorry. I'm going to show you this, State's 161  
21 and 159. If you could take a look there at the  
22 paper involved in that journal. That is lined  
23 paper?

24 A Yes, ma'am. Yes, ma'am.

25 Q And is that letter we are looking at over head

1 all consistent with that same type of paper  
2 within that journal?

3 A Yes, ma'am.

4 MS. MAYES: Your Honor, permission to publish.

5 Tre, I think I don't have to really explain  
6 myself because you already know who this is. Tre I  
7 want to say I love you. Treveon, I really do 100.  
8 And like I have always told you, I'm going to love  
9 you no matter what. And no matter where you are I'm  
10 going to always be there with you Tre in your heart.  
11 I ask myself why do everyone I always love has to be  
12 taken away from me.

13 Tre, no matter what, you really my other half.  
14 And I don't give an F what nobody say Tre. It is me  
15 and you against the world. Nobody could ever figure  
16 us out. All the shit me and you been through nobody  
17 could ever replace you or the moments we laugh,  
18 cried and had fun!

19 The moments I spent with you were the best  
20 moments of my life. We really went through hell and  
21 back together. And no matter how hard it was, we  
22 always found a way. And we F-ed up, Tre. We really  
23 did. And once one of us F-ed up, we were so busy  
24 trying to get back at each other. We both are hurt  
25 and now THEY TOOK YOU AWAY FROM ME. And we never

1 had the time to realize that we were just hurting  
2 each other over and over. And now we both locked  
3 up. And I don't know when I'm ever see you again.

4 This shit hurts, Tre, because I'm going to love  
5 you, Tre. I really do. And I don't know what to do  
6 anymore. How the F am I supposed to move on and  
7 just forget you. How the F do I tell my heart  
8 everything going to be fine. How do I just stop  
9 loving you. Tre I can't and it is going to be hard  
10 to move on and I try to forget you.

11 When I met you, Tre, you made me happy. You  
12 made me feel special. You made me feel like a  
13 princess. You made me feel loved. Nobody ever made  
14 me feel like that before I met you Tre and now that  
15 I can't see you, touch you, call you, kiss you, what  
16 the F I'm going to do.

17 Man I'm going to like crazy for real and let me  
18 tell you it was hard to find the address to where  
19 you at and then I ain't wanting to send it because I  
20 thought I was going to need your inmate number in  
21 order for you to get but a girl came here from  
22 county and told me I could send it without the  
23 number. I don't know too much of what's going on  
24 right now with this shit but hold it down thug. And  
25 write me back to [REDACTED] Road, Columbia, SC

1 29210.

2 DIRECT EXAMINATION

3 BY MS. MAYES:

4 Q Is that your address there at JDC?

5 A Yes, ma'am.

6 Q And put Nazareth Sanchez on the front. Don't  
7 put the county address. Put another address  
8 and another name but still send it from where  
9 you at. If you get what I'm saying do it how I  
10 did it.

11 MS. MAYES: Nothing further of this witness,  
12 Your Honor.

13 CROSS-EXAMINATION

14 BY MS. SELERT:

15 Q That letter was never mailed, correct?

16 A Ma'am?

17 Q That letter was never mailed, correct?

18 A No, ma'am.

19 Q And so Treveon Nelson never received Iyonna  
20 Daugherty's address because it never made it to  
21 him, correct?

22 A No, ma'am.

23 Q Because it was never mailed?

24 A Yeah. It was never mailed.

25 Q And that was found as part of a journal?

1 A It was inside the journal. It was folded. The  
2 page was folded.

3 Q And going back to the events that we were  
4 discussing earlier. Some of them are based  
5 solely on accusations of other juveniles,  
6 correct, made by other juveniles?

7 A Which act? Which one are you referring to?

8 Q Just if a juvenile comes to you and says this  
9 happened, I feel this way, those are their  
10 accusations that you then put into a log,  
11 correct?

12 A Yes. They are accusations.

13 Q And someone had to have given her Iyonna  
14 Daugherty's personal information in order for  
15 her to get that information, correct?

16 A Yes, ma'am.

17 Q Do you know if Iyonna Daugherty gave her that  
18 information?

19 A I'm not sure.

20 MS. SELERT: May I beg the court's indulgence.

21 (Pause.)

22 CROSS-EXAMINATION

23 BY MS. SELERT:

24 Q Would anybody else have Iyonna Daugherty's  
25 address?

1 A I'm not sure.

2 MS. SELERT: No further questions.

3 Thank you.

4 REDIRECT EXAMINATION

5 BY MS. MAYES:

6 Q The scissors were found by you personally,  
7 correct?

8 A Yes, ma'am.

9 Q As well as all these items of contraband that  
10 we just viewed?

11 A Yes, ma'am.

12 Q And the struggle with staff that's noted on  
13 March 6th, 2022 where staff member Montague was  
14 injured, that would have been reported directly  
15 by staff, correct?

16 A Yes, ma'am.

17 Q And the reference to the cancer bitch was  
18 reported directly by you?

19 A Yes, ma'am.

20 Q The security issue reported last week by the  
21 chaplain was reported directly by the chaplain  
22 as the eyewitness, correct?

23 A Yes, ma'am.

24 MS. MAYES: Nothing further.

25 THE COURT: You can step down, ma'am. Thank

1 you so much.

2 THE WITNESS: Thank you.

3 THE COURT: Last witness for the day?

4 MS. MAYES: It is, Your Honor.

5 THE COURT: All right. Ms. McGrady, I'm going  
6 to ask that you talk with your client before she  
7 leaves today. Explain to her that she needs to keep  
8 her voice down. She has been making comments that I  
9 can hear way up here. So it is disruptive. She's  
10 also been turning around. I don't know if she is  
11 trying to speak with her mother or what but she has  
12 to stop that.

13 MS. McGRADY: Yes, Your Honor.

14 THE COURT: I want her to stay in here.  
15 Obviously, it is vital to your job that she is able  
16 to communicate with you. I don't want that to cease  
17 but just explain to her to try to keep it down,  
18 okay?

19 MS. McGRADY: Yes, Your Honor.

20 THE COURT: Also the deputy's telling me the  
21 juvenile is getting here fairly early. So I would  
22 respectfully ask that the public defender's office  
23 be here in time to meet with her so we can start at  
24 9:30 sharp.

25 MS. McGRADY: Yes, Your Honor.

1 THE COURT: Solicitor, anything else?

2 MR. HUBBARD: No, sir, Your Honor.

3 THE COURT: Anything else, Ms. McGrady?

4 MS. McGRADY: Nothing, Your Honor.

5 THE COURT: See y'all in the morning. Thank  
6 you so much.

7 MS. MAYES: Thank you, Your Honor.

8 MS. McGRADY: 9:30?

9 THE COURT: 9:30.

10 (Whereupon, the proceedings were concluded for the day.)

11 THE COURT: I appreciate everybody being here.  
12 It is exactly 9:30.

13 Solicitor, who is your next witness?

14 MR. HUBBARD: The State calls Dr. Heidi Dawn.

15 THE COURT: Come up here to my right, please.  
16 All right. Ma'am, tell us what your name is and  
17 spell it for the court reporter, please.

18 THE WITNESS: Dr. Heidi Dawn. You asked me to  
19 spell it?

20 THE COURT: Please.

21 THE WITNESS: H-E-I-D-I, D-A-W-N.

22 THE COURT: Raise your right hand.

23 HEIDI DAWN, after being duly sworn, testified as  
24 follows:

25 THE COURT: Thank you.

1 MR. HUBBARD: May it please the court. Thank  
2 you.

3 DIRECT EXAMINATION

4 BY MR. HUBBARD:

5 Q Dr. Dawn, where do you work?

6 A I work full time for the Department of Juvenile  
7 Justice South Carolina and Midlands Community  
8 Psychology Department.

9 Q And you work in that department. Are you a  
10 psychologist?

11 A Yes. I'm a licensed psychologist and a  
12 supervisor there.

13 Q And what are some of your duties and the things  
14 that you do in that capacity?

15 A I supervise a team of 11 or 12 psychologists, a  
16 couple of whom are not yet licensed, one  
17 master's level, some externs. We all conduct  
18 court-ordered evaluations for family court  
19 throughout the state, primarily the Midlands'  
20 counties. And the court-ordered evaluations  
21 are to address referrals the court has  
22 regarding certain youth and what might be  
23 needed for them to have a good chance of  
24 success in rehabilitation while on probation.  
25 So these are post adjudicatory predispositional

1 typically reports, along with these waiver  
2 evaluations.

3 Q And you bring up waiver evaluations. I was  
4 going to ask you as part of your skill set and  
5 your job duties, is that part of what you do as  
6 well?

7 A Yes. It is part of mine as well as several of  
8 my team.

9 Q What is your educational background,  
10 professional background that qualifies you?

11 A I have a bachelor's and master's and a  
12 doctorate in psychology. And I've always had a  
13 specialty as somebody who does testing along  
14 with clinical work and then I've worked for DJJ  
15 for four years.

16 Q And how many evaluations of various types have  
17 you done, just a guesstimate? You don't have  
18 to have a hard number.

19 A I thought of that before coming here. Between  
20 120 and 150 maybe.

21 Q And have you done waiver evaluations before as  
22 well?

23 A Yes.

24 MR. HUBBARD: Your Honor, at this time I offer  
25 Dr. Dawn as an expert in psychology with an

1 expertise in evaluations, including waiver  
2 evaluations.

3 MS. McGRADY: No objection.

4 THE COURT: All right.

5 DIRECT EXAMINATION

6 BY MR. HUBBARD:

7 Q Dr. Dawn, were you asked to do a waiver  
8 evaluation in this matter involving Nicolle  
9 Sanchez-Peralta?

10 A We received a court order and one of my jobs as  
11 a supervisor is to determine who would conduct  
12 the waiver evaluation because I conducted the  
13 2019 evaluation, community evaluation for her  
14 and I was kind of next to receive a waiver  
15 evaluation. Myself and my supervisor decided  
16 that I would take it.

17 Q So you did this one in this case?

18 A Pardon?

19 Q So you conducted the waiver evaluation in this  
20 case?

21 A Yes, I did.

22 Q And that was pursuant to the May 12th, 2021  
23 court order?

24 A I'm taking your word for it. I brought it with  
25 me but I'm not looking at it but that sounds

1 correct.

2 Q I was going to show you. And you also, you  
3 rendered your report in written form; is that  
4 correct?

5 A Yes.

6 Q I want to show you what's been marked State's  
7 144, a certified true copy. Is this your  
8 report in this matter?

9 A Yes. And yeah, the date is May 12th.

10 Q All right. And you do have that attachment at  
11 the end of the waiver order?

12 A Yeah. And I have it with me here.

13 MR. HUBBARD: Your Honor, I offer this as an  
14 exhibit for the State, 144. It is the waiver  
15 evaluation and attachments.

16 MS. McGRADY: No objection.

17 THE COURT: 144.

18 MR. HUBBARD: And Your Honor, it might be  
19 helpful if I hand this up. The doctor has a copy.  
20 So do I.

21 THE COURT: Great. Thank you, sir.

22 MR. HUBBARD: Thank you.

23 (Whereupon, State's Exhibit No. 144 was marked  
24 and received into evidence.)

25 DIRECT EXAMINATION

1 BY MR. HUBBARD:

2 Q Dr. Dawn, when you conduct a waiver evaluation,  
3 do you go in with a certain mindset based on  
4 your job at JDC and DJJ? When you are going in  
5 to -- do you go in with a certain mindset of  
6 what you can do for a child? Let me ask you  
7 that.

8 A Well, the mission of -- one aspect of the  
9 mission of DJJ is rehabilitation. And I feel  
10 very strongly about that, as does my team. So  
11 we are looking for what is needed with the  
12 focus on rehabilitation.

13 Q And when you conduct a waiver evaluation, is  
14 that a big part of what you are considering and  
15 testing for, evaluating for?

16 A It is a big part of what the court needs from  
17 psychologists in these kinds of evaluations in  
18 particular because we are looking at maturity  
19 of the youth and sophistication, what is the  
20 likelihood that they will be able to be  
21 rehabilitated in the juvenile justice system.

22 Q During the course of doing this evaluation, how  
23 many hours did you spend with Nicolle Peralta  
24 Sanchez and/or her parents?

25 A A conservative estimate is a total of 22 hours

1 with everyone in either face-to-face or phone  
2 contact. And with Nicolle specifically,  
3 testing or interviewing, I would say about 18  
4 hours.

5 Q About how many sessions did you have with  
6 Nicolle, if you recall? And you don't have to  
7 be exact on that.

8 A I do have it in my evaluation so I can answer.  
9 Four.

10 Q Okay.

11 A But I think one didn't result in anything. I  
12 showed up and it didn't -- it had to be  
13 rescheduled but there were four times that I  
14 had contact.

15 Q We'll talk about that. We'll talk about that.  
16 Now just going through your order or your  
17 evaluation, beginning at page 16, did that include  
18 the mental health history of Nicolle?

19 A Could you repeat? I'm on page 16. Could you  
20 repeat your question?

21 Q Part of the evaluation includes the mental  
22 health history?

23 A Yes.

24 Q And so in order to do that, a lot of that's  
25 information supplied to you from various

1 agencies or groups to say here's what's  
2 happened in Nicolle's past?

3 A That is correct.

4 Q Okay. It is not stuff you necessarily were  
5 personally involved in but that's part of what  
6 your job is?

7 A Yes. I get the mental health history. On  
8 regular evaluations we don't always have the  
9 time to get everything but we try. On these  
10 evaluations, we get everything possible. So it  
11 includes all the collateral records that we  
12 know of, receiving those and then discussing  
13 that with both Nicolle and her family as far as  
14 the history.

15 Q So the more information you get, the more you  
16 can -- the better you can do your job. Is that  
17 a good way of stating the facts?

18 A Yes. That's correct.

19 Q Okay. Now looking at page 17, I notice part of  
20 her history was that she was sent to or brought  
21 to Lexington Medical Center emergency room  
22 April 14th of 2020. And there is a notation  
23 that of homicidal ideation regarding her father  
24 and mother.

25 What was in her history? What was that about?

1 A Her father brought her to the ER. I believe  
2 law enforcement was called at some point. I  
3 don't know exactly when. It might have been  
4 prior to the ER or during. And it was  
5 disclosed to staff that she had made homicidal  
6 ideation or homicidal threats toward both  
7 parents. And this was in response to some  
8 limit setting and discipline that they were  
9 endeavoring to do.

10 Q So her parents tried to set some ground rules  
11 and then she threatened to kill her parents or  
12 is making threats?

13 A At this point I think it was related to trying  
14 to keep her home. She had been running away.

15 Q All right.

16 A Yes.

17 Q You have noted in here at the ER she had  
18 disclosed, Multiple ways she planned to kill  
19 her father. The police reportedly recovered  
20 written evidence of this in her journal where  
21 she had also documented homicidal ideation  
22 toward her mother.

23 So that was part of the information supplied to  
24 you in doing this evaluation?

25 A Not the journal entries or anything. I was

1 quoting or summarizing what I had read in the  
2 records that I obtained.

3 Q And you have talked to various people as well.  
4 So you have looked at information but you have  
5 also talked to various individuals as well as  
6 part of your evaluation, correct?

7 A Yes.

8 Q Okay. When you in 2021, for this evaluation  
9 asked her about that, what did she say about  
10 those homicidal threats?

11 A She said that she had not made them.

12 Q Did you confront her with this information you  
13 had been given to say, well, people say you  
14 did?

15 A I said it was documented in more than one place  
16 by more than one professional that you had.  
17 And she said that she had not made those  
18 threats; however, her mother was trying to sort  
19 of -- the implication being that her mother was  
20 alleging this had occurred to make her look  
21 crazy for the staff there.

22 Q So she denied anything she had said but said  
23 her mother was really the one behind this,  
24 behind the allegation of homicidal threats?

25 A I didn't spend like an hour on this

1 conversation so that's all I have. I would say  
2 that's the answer she gave me.

3 Q Sure.

4 A I don't know if I would say that her mother was  
5 behind it.

6 Q Right.

7 A Why would this happen? Why would they say  
8 this? She offered that but I didn't--

9 Q That's fair enough.

10 A -- continue the inquiry.

11 Q And at some point she was sent to William S.  
12 Hall Psychiatric?

13 A Right from there.

14 Q Okay. And I believe that picks up on page 18.  
15 And she was diagnosed Unspecified Disruptive,  
16 Impulse Control, Conduct Disorder, Unspecified  
17 Mood Disorder?

18 A Yes.

19 Q Okay. And then she was at some point, when she  
20 is at -- and while she was there with DMH,  
21 there was a Ms. Mack-Dingle that evaluated her?  
22 She is the one that made that diagnosis?

23 A No. Ms. Mack-Dingle had seen her for different  
24 episodes of character DMH. And this would have  
25 been outpatient. She was referred after

1 discharging from the emergency room and William  
2 S. Hall treatment episodes. She was referred  
3 for outpatient and then she saw Ms. Mack-Dingle  
4 again. Ms. Mack-Dingle had concluded a  
5 different diagnosis for that episode of care,  
6 which was Conduct Disorder.

7 Q Okay. All right. And she was discharged  
8 September 28th of 2020 when she was on runaway  
9 status?

10 A That is correct.

11 Q Okay. This was not the first time. This is  
12 runaway status again it says?

13 A No.

14 Q I'm looking at page --

15 A 2018 and 2019 is when it started and there were  
16 several runaway episodes prior.

17 Q Okay. And while with Ms. Mack-Dingle she  
18 indicated that she really never had an intent  
19 to kill her father but she just had problem  
20 with their rules? She was just mad?

21 A You are on page 18?

22 Q Yes, ma'am. Second paragraph, Nicolle informed  
23 Ms. Mack-Dingle she did not have actual intent  
24 to kill her father, that she was just mad when  
25 discussing the recent inpatient stay.

1 A Yes. I would have gotten that from the notes.

2 I did interview Ms. Mack-Dingle.

3 Q Okay.

4 A That was in the notes probably.

5 Q At some time, and this is on page 18, Nicolle  
6 was sent to Epworth Children's Home?

7 A Yes.

8 Q And she was able to receive therapy through the  
9 South Carolina Youth Advocate Program?

10 A I believe she just received one telehealth  
11 assessment, a short assessment.

12 Q There is an indication or a note by you she was  
13 diagnosed with PTSD due to the sexual abuse.  
14 Was that referring to sexual abuse by her  
15 father?

16 A Well, she endorsed sexual abuse by her father  
17 as well as her uncle to DSS and at Epworth and  
18 they didn't specify. Well, yeah, I can't say  
19 with certainty. I received the raw data. She  
20 filled out a couple of questionnaires and she  
21 may have endorsed that she was more disturbed  
22 and upset and experiencing PTSD symptoms based  
23 on the abuse by her father at that time.

24 Q Okay. And that was the allegation DSS, and you  
25 have noted it here, determined that there was a

1 lack of evidence and they closed that file?

2 A Yes.

3 Q Okay. And then while at JDC, this is after the  
4 incident we are here about, she was diagnosed  
5 and I would ask you. Dr. Pender diagnosed her  
6 with Unspecified Trauma and Unspecified  
7 Depressive Disorders?

8 A Yes.

9 Q And while she was there, the clinical staff  
10 expressed concern that she was exaggerating,  
11 making up or malingering symptoms?

12 A That's correct.

13 Q And that this ranges from sharing another  
14 peer's story as her own to malingering of  
15 psychiatric or medical symptoms. That was  
16 concerns expressed to you or expressed by the  
17 staff?

18 A Yes.

19 Q And you note, page 19, that she endorsed  
20 symptoms of Reactive Attachment Disorder and  
21 Borderline Personality Disorder symptoms.  
22 Can you explain to the court what that is or  
23 what that was about?

24 A Well, She endorsed some symptoms that could be  
25 best typified by the concept, and I'm quoting

1 myself here on page 19, of Reactive Attachment  
2 Disorder, which is a condition in the Trauma  
3 and Stressor-related Disorder category.

4 It was something that I saw in the 2019  
5 evaluation as well. She had disruption in care when  
6 she was very young. Her parents left for the United  
7 States. She was left with her grandmother. And  
8 then when her grandmother passed away, she  
9 returned -- not returned. She came to the United  
10 States with her sister to join her parents.

11 And so disruptions in care giving, her  
12 expression at the time of the 2019 evaluation was  
13 that a large source of her behavioral and emotional  
14 problems that she was displaying were because she  
15 was not connected with her family, really resented  
16 being with them, didn't feel they were her family.  
17 She did not endorse that in the 2021 waiver  
18 evaluation. She said she felt connected and close  
19 now.

20 Q Can I ask you this? As you conducted this  
21 evaluation process, did you determine whether  
22 Nicolle was a good or a poor historian about  
23 the facts of her life?

24 A I would say a poor historian.

25 Q Did you find that there were times where her

1           credibility in explaining things that have  
2           happened in the past, for whatever reason, was  
3           just at issue?

4   A       Say that again, please.

5   Q       That her credibility and explaining things in  
6           the past was at issue?

7   A       Yes. I did not know. To be candid, I did not  
8           know when she reported her history what was  
9           accurate or not at any given time. I had to  
10          cross-reference a lot of different collateral  
11          sources of information.

12   Q       Let me ask you. When you talked about the  
13          Borderline Personality Disorder symptoms that  
14          she endorsed --

15   A       Yes.

16   Q       -- there was an episode where it was discussed  
17          about cutting her wrists. And she basically  
18          said it was superficial but she said she did it  
19          for attention; I saw other kids at school doing  
20          it; it gave me a bit more attention; basically  
21          that was the reason.

22          Is that what she said?

23   A       That's what she said.

24   Q       Okay. Did she also claim that she had no  
25          current or past homicidal ideations?

1 A That's what she said.

2 Q And this was just days or weeks after planning  
3 or admitting basically putting hits on a peer  
4 at JDC and a staff member?

5 A Prior. The incident that I was made aware of,  
6 I don't know when it began, but I was made  
7 aware of it a week or two after. It is  
8 documented on August 24th and I met with her in  
9 early August.

10 Q Okay. And she denied making or remembering any  
11 threats to kill her father and mother?

12 A She denied that.

13 Q And basically she refused to admit what was  
14 clearly documented about that homicidal  
15 ideation?

16 A She didn't deny that it was documented. She  
17 just denied that it had happened.

18 Q Okay. Now bottom of page 19 you have regarding  
19 externalizing behaviors related to Oppositional  
20 Defiant Disorder and Conduct Disorder or  
21 Antisocial Personality Disorder, that she  
22 endorsed multiple symptoms of ODD. Can I ask  
23 you because you are going on page 20 and talk a  
24 little bit about Antisocial Personality  
25 Disorder in this waiver evaluation. What was

1 that about? You weren't asked to give a  
2 diagnosis?

3 A On the waiver evaluations we don't diagnose but  
4 we do need to at least provide are there  
5 symptoms that are being endorsed or observed of  
6 different conditions because that speaks to  
7 amenability for treatment and what's needed for  
8 rehabilitation but we don't assign diagnosis.

9 Q Right. And in doing that, you evaluated or you  
10 looked at traits of Antisocial Personality  
11 Disorder or you observed traits?

12 A Yes. So Antisocial Personality Disorder is not  
13 diagnosed until age 18 or older; however, there  
14 has to have been a history of conduct disorder.  
15 It would manifest in childhood or by late  
16 adolescence typically. And what I wrote here,  
17 which I could read, were the symptoms that she  
18 appears to have of Antisocial Personality  
19 Disorder and if not addressed, would likely  
20 qualify her at some point if they continue--

21 Q Okay.

22 A -- for that diagnosis when she is an adult.

23 Q So going through, you noted the traits or  
24 elements that you would look for that are  
25 specified in the DMS-5 for antisocial behavior

1 and you are just noting those. You are not  
2 diagnosing but you are noting what you see?

3 A Yes. That's correct.

4 Q Okay.

5 A The DSM-5.

6 Q DSM-5, yes.

7 And in the behavior at JDC while she's waiting  
8 for this hearing, you mention that she got quite a  
9 few event reports. So a lot of those, a number of  
10 those were provided to you or you were given  
11 information about them?

12 A I received a copy of all the ones that I list  
13 in here which occurred as of the writing of the  
14 report.

15 Q Okay.

16 A They are in the front when I list documents.

17 Q Right.

18 A So I did receive a copy of all of them. There  
19 were some events that I described that didn't  
20 have event reports.

21 Q Right. And there was one that you said bottom  
22 of page 20, Most concerning is one incident  
23 involving high-risk behavior involving several  
24 persons. On August 24th, 2021 a room search by  
25 security and staff yielded contraband Nicolle

1 had, including notes and letters in her  
2 handwriting, about and to her adult  
3 co-defendant, Mr. Nelson, where she professed  
4 love to him.

5 And going on to page 21, stating, Her intention  
6 to put a hit on a female JDC peer, the peer's family  
7 members and a JDC staff person. And that when she  
8 was confronted with that, she later admitted that  
9 was her intention; is that correct? That was the  
10 event that probably was most disconcerting to you?

11 A That was concerning to me, yes. The clinical  
12 staff called me while I was or e-mailed me  
13 while I was writing this report and said, Are  
14 you done with the report. And I said, I'm not  
15 done with the report. And she said, There was  
16 another event that happened. You should get a  
17 hold of the report and this is what my  
18 understanding of it.

19 And I interviewed and spoke with and e-mailed  
20 several persons related to security, the facility  
21 director and clinical staff.

22 Q Okay.

23 A And so I reported what they told me or what I  
24 saw. I was provided copies of some of these  
25 items.

1 Q And were you actually even given some originals  
2 and I would like to show you--

3 A Yes.

4 Q -- State's 181. Is this an actual letter and  
5 envelope that was provided to you that was part  
6 of that event?

7 A Yes.

8 Q And then State's 180, another note with looks  
9 like Facebook address, things like that?

10 A Yes. Social media handles.

11 MR. HUBBARD: I offer these into evidence.

12 MS. McGRADY: No objection.

13 THE COURT: That hasn't been previously  
14 admitted?

15 MR. HUBBARD: Excuse me, Your Honor?

16 THE COURT: Has that been previously admitted?

17 MR. HUBBARD: A photo copy. This will -- yes,  
18 sir. The actual photo copy is State's 158.

19 THE COURT: And what are those?

20 MR. HUBBARD: And 161. These, the letter and  
21 the envelope's 181; and then there is just a note  
22 with the social media address is 180.

23 (Whereupon, State's Exhibit Nos. 180 and 181  
24 were marked and received into evidence.)

25 DIRECT EXAMINATION

1 BY MR. HUBBARD:

2 Q Also talking about while she's at JDC, was  
3 there concern by staff about her -- you have it  
4 noted as staff splitting. What is that?

5 A Yeah. One of the clinical staff used that  
6 term. And what it means it would be kind of  
7 attempting to or succeeding in pitting one  
8 person against another. Well, this person said  
9 this and, you know. Many ways kids do it with  
10 their parents sometimes.

11 Q So she was doing it with both her peers and  
12 staff?

13 A Yes.

14 Q And was there also a concern about from the  
15 staff about her coaching her peers how to go  
16 outside of JDC, whether it's for medical needs  
17 or whatever?

18 A Yes. I believe one clinical staff person told  
19 me of that concern.

20 Q And based on that and other incidences with  
21 her, were they expressing concerns about a  
22 security risk that she posed, just behavior  
23 posed a security risk?

24 A The director or the -- just give me a moment.  
25 The facility administrator expressed that risk

1 to me or that concern for that risk.

2 Q And did they also express to you there were  
3 numerous times she was -- there were numerous  
4 verbal altercations between her and staff and  
5 peers?

6 A Yes.

7 Q And you have a note that says, In talking about  
8 Nicolle, and again this is page 21, It was not  
9 seen that she was making any friends per se.  
10 Instead, she was noted as adept at creating  
11 alliances with one or two peers at a time but  
12 that the alliances frequently shifted?

13 A That's correct. That's what was reported to  
14 me.

15 Q And another concern was reported to you was  
16 their concern about her malingering, whether it  
17 is physical or psychiatric symptoms?

18 A I had that concern too and we discussed it.  
19 They were increasingly becoming concerned with  
20 all the visits to medical staff or outside,  
21 exaggeration of or fabrication of issues.

22 Q And when you talked to her, did you  
23 specifically bring up SA [REDACTED] and note  
24 whether she showed any form of remorse as you  
25 talked to her?

1 A She verbally expressed remorse. I didn't see  
2 emotions or feelings congruent with what she  
3 expressed, although she did cry about it during  
4 the last interview.

5 Q Okay.

6 A I'm not sure if that was grief or pain but it  
7 did not occur to me as true remorse, grief,  
8 upset, distress or pain.

9 Q Okay. Page 22 you have some behavioral  
10 observations. At some point while you were  
11 conducting your evaluation, obviously the  
12 public defender was able to be there with the  
13 mitigation expert. And in doing their job,  
14 they had given her information on trauma,  
15 correct?

16 A Yes.

17 Q And did that become an issue at some point  
18 while you are talking to Nicolle?

19 A She had I think they requested or she had in  
20 front of her at the time some handouts they had  
21 provided. And there were suggestions or  
22 prompts for her to, you know, address what she  
23 was working on and learning about herself. And  
24 I just made the request that she answer my  
25 questions in her own words without anything,

1           you know, in front of her to refer to, but just  
2           in her own words.

3    Q       At the July 22nd, 2021 appointment, was there  
4           an issue there where she did not want to talk  
5           to you and got emotional? Is that the  
6           appointment where --

7    A       Could you repeat the beginning of that  
8           question, the date you said?

9    Q       July 22nd, 2021.

10   A       No. July 9th, the first one and the 22nd. The  
11           22nd one just didn't occur, I don't believe.

12   Q       Okay.

13   A       The July 9th one ended shortly, maybe 45  
14           minutes, an hour.

15   Q       All right. The bottom of page 22 you have, At  
16           that point, Nicolle --

17   A       Wait. I misspoke.

18   Q       Okay.

19   A       No. On 7/22 we were able to complete a large  
20           portion of the interview eventually. But on  
21           7/9 we didn't do much.

22   Q       And you have noted that she was exceedingly  
23           cooperative and displayed no further crying or  
24           verbal outbursts. But you went on, on page 23,  
25           to talk about how her eye contact with you is

1 intermittent; sometimes she was looking at you  
2 really hard, other times not looking at you and  
3 doodling the whole time.

4 A She wasn't doodling the whole time but some of  
5 the time, yes.

6 Q And you made a note of what she was doodling,  
7 top of page 23. You noted, She drew gang  
8 symbols on a notebook, KTA, for kill them all  
9 and gangster life, among other doodling?

10 A That's correct.

11 Q So that's while she is talking to you and while  
12 you are conducting this evaluation?

13 A That's correct.

14 Q And Nicolle had displayed good eye contact  
15 overall during the other testing and interview  
16 appointments but during this part of the third  
17 interview, eye contact with Nicolle was  
18 intermittent. At times it was piercing and  
19 other times it was avoided.

20 So you made that note as well?

21 A Yes.

22 Q In talking to you about her doodling and  
23 writing this, you made a comment about, If this  
24 was for her own amusement. You were trying to  
25 figure out what she was doing, why she would be

1 doing that. What did you note in your report?

2 A I'm just looking for where I wrote that and  
3 then I'll answer.

4 Q I'll tell you what. I'll help you out. Would  
5 you say, It was likely for her own amusement?

6 A Well, where just so I can look at it in the  
7 report. Are you still on the top photograph,  
8 page 23?

9 Q Right. And I might have pulled it from another  
10 spot.

11 A I think it was in another spot. But I was  
12 speculating to myself why would she do this  
13 because of the serious nature of the interview  
14 and the evaluation. And it was clear to me she  
15 was distressed by being detained and understood  
16 that this evaluation was important.

17 So one of the theories, you know, was that  
18 maybe it was for her amusement. She also might have  
19 been trying to intimidate me, which I thought of  
20 later. I didn't put that in the report.

21 Q Well, I want to jump ahead to page -- well,  
22 before I do, page 28 you discuss at the top of  
23 first paragraph you mention therapy, the type  
24 of therapy that you thought she might need and  
25 you have first paragraph middle of that

1 paragraph, Gains of therapy may even cause her  
2 to feel less motivated for therapy as she is  
3 likely to want to stop as soon as some progress  
4 is made and not to move beyond superficial  
5 progress.

6 Can you explain that portion or expound upon  
7 that?

8 A Yeah. The personality measures typically  
9 provide recommendations for treatment as well  
10 as areas to be mindful of, you know,  
11 challenges. And so that would be a challenge.  
12 What that is saying is she is not presenting as  
13 likely to be willing and motivated to do any  
14 kind of deep, deeper work.

15 Q And it would take that for her to actually be  
16 rehabilitated?

17 A To some degree, at least to take responsibility  
18 for choices she's making that are at minimum  
19 harming her.

20 Q Okay. The bottom of page 28 you have,  
21 Interview risk assessment and factors relevant  
22 to waiver with the heading of Empathy, Remorse,  
23 and Responsibility.

24 And you get into a test, the Risk  
25 Sophistication Treatment Inventory, the RSTI?

1 A Correct.

2 Q R-S-T-I?

3 A Correct.

4 Q And the header to that you have, Nicolle's  
5 history and discovery provided to the examiner  
6 indicated a clinically significant lack of  
7 ability to empathize with others. A poor  
8 demonstration of remorse and little  
9 responsibility or understanding of such for the  
10 impact of her behavior upon others as it  
11 relates to her delinquency or current  
12 pre-adjudicated charges.

13 And that's the bottom of page --

14 A I would add any problematic behavior, not just  
15 as it relates to her delinquency. The runaway,  
16 the DSS allegations.

17 Q And then you get into the bottom of page 28,  
18 top of page 29 into the RSTI, this risk  
19 assessment. There is a chart on page 29 and  
20 I'll put it up on the screen here as well where  
21 you have got three clusters. That's part of  
22 the RSTI where you go through three segments of  
23 that and then it is broken down into  
24 subcategories?

25 A Yes. The RSTI assesses the overall risk of

1 dangerousness which has a number of items  
2 broken down into three categories. The  
3 sophistication and maturity area which has a  
4 number of items and those are broken down into  
5 three categories. And then the overall  
6 treatment amenability, again has three  
7 sub-areas with a number of items used to come  
8 to those conclusions.

9 Q Okay. So like the first cluster, the overall  
10 risk of dangerousness, you have three  
11 sub-categories that you are looking at, violent  
12 and aggressive tendencies, planned and  
13 extensive criminality and psychopathic  
14 features.

15 A Yes.

16 Q I notice on the other said you have, Offender  
17 Range and you have high for those. What does  
18 that mean? We will get into the context of  
19 this but just looking at the chart as we begin  
20 this, what does that mean?

21 A Are you asking me to explain the number?

22 Q No. Not yet. Not yet. But just the range,  
23 looking at the offender range.

24 A Yeah. The range can be low, middle, or high.

25 Q What does high mean in this context when you

1 look at violent and aggressive tendencies for  
2 instance? When you have high, what does that  
3 indicate or what are you indicating with that  
4 result?

5 A It means based on the available data to address  
6 those three areas that make up overall risk of  
7 dangerousness as compared to other youth who  
8 are also involved in a juvenile detention  
9 manner, that she's at high risk, quite high  
10 risk, to reoffend with regards to a dangerous  
11 behavior.

12 Q Okay. So basically you are not comparing her  
13 to all, all folks her age, 16 year olds, but it  
14 is those who are similarly situated. They are  
15 offenders, female offenders and comparing to  
16 them whether she is at a higher risk than they  
17 are?

18 A That's actually female and male offenders.

19 Q Okay.

20 A And it is a variety of charges also. So they  
21 are not -- it's just a variety of youth  
22 involved with DJJ and the charges that they  
23 receive.

24 Q Looking at violent and aggressive tendencies,  
25 that first item in that first cluster, you make

1            mention of the discovery and history that you  
2            had, indicate a clear pattern as a willing  
3            participant of antisocial behavior that is  
4            often cruel.

5            That's under that?

6            A     Yeah.

7            Q     And you also say, she aligned herself with  
8            subculture.

9            When you say subculture, are those gangs?

10          A     Yes.

11          Q     What we call basically criminal gangs with just  
12          like the graffiti that you had seen earlier.

13          When you mentioned gangs, that's what you are  
14          talking about?

15          A     Gangs and people associated with the gangs, not  
16          necessarily all gang members.

17          Q     And she aligns herself with that subculture  
18          that glorifies weapons, violence and vengeance?

19          A     Yes. I wrote that.

20          Q     And that you asked her about if she had any  
21          values or knew any values. What was her  
22          response to that?

23          A     I reviewed some of my notes prior to preparing  
24          for this and she wasn't able to come up with  
25          any values, although I defined what value was.

1 I knew that she and her family were religious  
2 and I prompted her and I said, Sometimes values  
3 confirm your religion. And she was able to  
4 state that, Taking a life was wrong and she had  
5 learned that from her religion.

6 Q And you made a note that, This was all stated  
7 dismissively and superficially and felt  
8 contrived?

9 A Which is very superficial.

10 Q And you made a note too that these hits on this  
11 peer at JDC and the employee there indicates,  
12 Her priorities lean to power and control using  
13 aggression and threats to get needs and desires  
14 met if manipulation fails?

15 A Yes. I wrote that.

16 Q And that explains, Doctor, your rating. This  
17 is an example of why that rating is high?

18 A Yeah. Those are just examples.

19 Q Sure. Sure.

20 A What I mean by that is I couldn't list all of  
21 the examples. I just picked a couple but those  
22 are representative.

23 Q And that's all I'm going to be doing with you  
24 is just picking out some of these things that  
25 explain your actual offender range rating.

1           And then with Planned and extensive  
2 criminality, you had her rated high there too,  
3 meaning she is at a higher risk, a high risk?

4   A       Compared to other juveniles. I do write female  
5 juvenile counterparts. But, yes.

6   Q       And that her criminal and antisocial behavior  
7 is extensive, instrumental and often and very  
8 often planned?

9   A       Yeah. She doesn't have an extensive DJJ  
10 history but she admitted to an activity with  
11 her boyfriend at the time a lot of planned  
12 criminal behavior, stealing cars and kind of  
13 setting that up.

14   Q       Okay. Psychopathic features, you have that  
15 rated high. Here do you focus on issues like  
16 remorse or guilt or egocentrism, ability to  
17 manipulate others or the environment? Is that  
18 part of what you are looking at there?

19   A       Yes. That is what that item is about. There  
20 are particular kinds of features that are  
21 linked to a particular kind of psychopathology,  
22 antisocial personality traits.

23   Q       And did you note that she seems to enjoy the  
24 attention she receives when manipulating others  
25 and lying about being a victim?

- 1 A This is what clinical staff at JDC stated.
- 2 Q Okay. And you rated her in the offender range  
3 is high and you have an overall risk of  
4 dangerousness of course high. In this  
5 evaluation you have 98th percentile. In  
6 explaining that, again, that is among her  
7 female peers that are similarly situated in the  
8 criminal setting?
- 9 A Yeah. It is compared to DJJ involved youth.
- 10 Q Okay. And so she's to say 98th percentile,  
11 what does that mean when comparing to them?  
12 How is the best way to explain that? I don't  
13 want to misstate what that means.
- 14 A I can just read what I wrote.
- 15 Q Sure. Absolutely.
- 16 A This means she is 98 percent more likely to  
17 continue to engage in criminal behaviors than  
18 similar to her peers.
- 19 Q All right. Then moving to the next cluster,  
20 Overall sophistication and maturity, which  
21 obviously is a very important issue here. You  
22 have Autonomy and you have her in the offender  
23 range as high. What are you looking at there?  
24 Is this her ability to live on her own?
- 25 A Autonomy looks at autonomy like you are saying

1 ability to take care of herself; meet her basic  
2 needs; her ability to have some control over  
3 her behavior, her emotions; her development of  
4 self-concept and her self-reflection.

5 Q And I note that you have, and this is page 30,  
6 She's been living independent of her family for  
7 much of the past couple of years, was outside  
8 the school system and unless caught by law  
9 enforcement or brought to a hospital, did not  
10 engage with any systems designed to support  
11 youth.

12 A Yes.

13 Q Part of the autonomy. Okay.

14 The Cognitive Capacity you have in offender  
15 range of middle. I note you have, She uses  
16 intellectual capacity to succeed both in and outside  
17 of various social systems to an average degree.

18 And you have a little bit later, She is not  
19 highly sophisticated in her cognitive capacity and  
20 this may account for the numerous times she has  
21 gotten caught either committing crimes or lying.

22 A Correct.

23 Q And then Emotional Maturity you have her rated  
24 as high as well?

25 A Yes, I do.

1 Q We are moving over to page 31 at this point.

2 A Yeah. And that's kind of a qualified emotional  
3 maturity.

4 Q Okay. You have, She has an above average  
5 ability to understand and manage her emotions,  
6 at least to manipulate others or her  
7 environment?

8 A As compared to other peers in the system.

9 Q Right. And has demonstrated being able to, Lie  
10 effectively across many agencies and to many  
11 professionals?

12 A I said that, yes. I wrote that.

13 Q And quote, Showed difficulty with conflict  
14 resolution, delay of gratification, effective  
15 use of interpersonal skills and the ability to  
16 self-regulate?

17 A Yes. Even though she was rated as high the way  
18 this works and that's why I think the ultimate  
19 you see there is three categories, Autonomy,  
20 Cognitive Capacities, Emotional Maturity, high,  
21 middle, high, yet the whole overall is middle,  
22 is because on emotional maturity it just kind  
23 of just got into the high range.

24 She, in compared to 16 or 17 year old girls who  
25 are not involved with DJJ, it is not stating that

1 she has high emotional maturity.

2 Q Right.

3 A But compared to other DJJ involved youth, she  
4 can come across that way in very specific ways;  
5 however, some of those areas are not  
6 necessarily high and I note them.

7 Q Right. And you have also mentioned since she  
8 uses these skills or this, I'm going to say  
9 skills, for antisocial purposes, within  
10 antisocial subgroups who participate in  
11 organized crime, these skills are not  
12 necessarily pro-social strengths; that where  
13 she is able to survive, she is in the criminal  
14 setting; she is not in the social norm?

15 A This particular part of the RSTI there is on  
16 each of these there's 30 different items and  
17 you address each item based on a lot of  
18 information as opposed to just one item  
19 typically.

20 Q Right.

21 A Or one event or one thing. And the  
22 sophistication maturity piece has you note is  
23 this used for criminological ends, if it  
24 exists. If the youth has this ability, to what  
25 degree, is it high or middle and then is it

1           used for criminological ends. And there were  
2           several on that for Nicolle where I checked  
3           that off.

4    Q       Where if she was not using it for those  
5           purposes, rating high would have been a good  
6           thing. But since she is using it for criminal  
7           purposes, that's not a positive?

8    A       I don't know if I would use the words good or  
9           positive. But in regard to rehabilitation, we  
10          would want to see that these skills are used  
11          maybe more pro-socially than in an antisocial  
12          manner, yes.

13   Q       Under that section you have, Because of her use  
14          of these skills for criminological ends, her  
15          level of emotional maturity is not adaptive for  
16          societal norms, although it appears to be  
17          highly adaptive for offender settings and the  
18          streets?

19   A       I wrote that.

20   Q       Okay. And you explain the overall rating. But  
21          looking at the third cluster, the Treatment  
22          Amenability, is this the rehabilitation aspect  
23          that you are focused on here?

24   A       Uh-huh.

25   Q       And psychopathology Degree and Type, you have

1 offender range low. And I believe you state  
2 there, this is still page 31, This indicates  
3 Nicolle's degree of psychopathology is likely  
4 beyond her control and places her at higher  
5 risk for challenges at school and for  
6 delinquency, contributing to a lower likelihood  
7 of rehabilitation?

8 A Yes.

9 Q And that she easily meets criteria for severe  
10 presentation of conduct disorder?

11 A Yes.

12 Q And also, if she were to be diagnosed, there  
13 are traits there for Antisocial Personality  
14 Disorder. Even though she is underage, you  
15 don't diagnose it for someone of this age, the  
16 traits that they would be looking at should be  
17 should she be 18 or the appropriate age are  
18 already present?

19 A I'm sorry. Can you restate your question? I  
20 want to make sure I understand before I start  
21 talking.

22 Q You made a note again about Antisocial  
23 Personality Disorder if diagnosed. Your  
24 purpose was not to diagnose her?

25 A And she wouldn't be diagnosed with this

1           officially until age 18 but you would note  
2           traits. In fact, retroactively when someone's  
3           18, you would actually need to have seen that.

4    Q       And that's what you are noting?

5    A       Yes.

6    Q       Okay. That's what I meant.

7           Consideration and tolerance of others, you have  
8    her in the middle range. She expressed limited  
9    remorse on effects of her choices and behavior of  
10   others?

11   A       Yes.

12   Q       And then the final aspect of that cluster,  
13   Responsibility and Motivation to Change, you  
14   have the offender range is low. I note you  
15   have several statements here, She would be a  
16   poor candidate for therapy?

17   A       I wrote that. Yes.

18   Q       You wrote, Engaging her on a genuine and  
19   authentic level for real and sustained change,  
20   rehabilitation, would be extremely challenging?

21   A       I wrote that.

22   Q       And insight-oriented therapy is unlikely to be  
23   well received by Nicolle and yet genuine  
24   insight is what is needed for her  
25   rehabilitation?

1 A At least to the degree to at minimum see that  
2 her behavior is hurting herself and it is not  
3 forwarding circumstances and situations that  
4 she's happy with. That would be the start.

5 Q That's what's needed but she would be unlikely  
6 to -- that therapy would be unlikely to be well  
7 received by her?

8 A It does not appear to be the case that it would  
9 be well received based on previous therapy and  
10 how she presented during the testing and  
11 interview or the results of the testing and  
12 interview.

13 Q Again, this final cluster is really dealing  
14 with rehabilitation or amenability to change?

15 A Treatment and amenability, correct.

16 Q And you have an overall score of low range,  
17 third percentile. Just so I don't misstate it,  
18 what does the third percentile mean on this  
19 portion?

20 A It indicates that she is presenting as a  
21 amenable to treatment as better than three  
22 percent of her similar peers or 97 percent less  
23 amenable when compared to her peers or 97  
24 percent of her peers would present as more  
25 amenable.

1 Q Okay. So 97 percent of her similarly-situated  
2 peers in this juvenile setting of detention  
3 center, DJJ, JDC, 97 percent would be more  
4 amenable to change or rehabilitation?

5 A Correct.

6 Q Then I note on page 32 you have another, I  
7 don't know if it is your test or what you call  
8 it, but it is the SAVRY, the Structured  
9 Assessment of Violence Risk in Youth,  
10 S-A-V-R-Y, SAVRY?

11 A It is a risk assessment.

12 Q Okay. So you didn't just use the RSTI. You go  
13 on and do the SAVRY as well?

14 A Correct.

15 Q And this is under the heading, Likelihood of  
16 reasonable rehabilitation?

17 A Yes.

18 Q And again, you note, beginning page 32, four  
19 general areas that you look at; is that  
20 correct, under this SAVRY?

21 A Yes. That's correct.

22 Q And in this you have Nicolle, You have her as a  
23 high level of risk for future violent behavior  
24 defined as behavior violating the rights of  
25 others, resulting in severe injury or death

1 and/or use of a weapon during aggressive or  
2 violent acts?

3 A I wrote that. Yes.

4 Q The four general areas, first area is the  
5 historical risk factors. And I know you had to  
6 pull from a lot of things but one of the things  
7 I noted you said you have her moderate to high  
8 risk there based on the historical risk  
9 factors?

10 A Yes.

11 Q And that Nicolle struggles with rules and  
12 compliance in residential settings?

13 A I wrote that. Yes.

14 Q And as to the social and environmental, you  
15 have another general area of social and  
16 environment/context factors, page 32. You have  
17 her at high level. What are you looking at  
18 there?

19 A Well, one thing about the RSTI or not the RSTI,  
20 sorry, the SAVRY, is some of the factors are  
21 static, meaning they have already happened, you  
22 can't change them. And some are dynamic and  
23 there is room for change and that can alter the  
24 risk one way or the other. The social and  
25 environmental one includes dynamic factors,

1 specifically ones that can be changed.

2 Q And one of the things you mentioned was gang  
3 association. And you have in there, Hard to  
4 imagine Nicolle being genuinely motivated for  
5 such a change?

6 A Yes.

7 Q And that you also have, She still views  
8 violence and retaliation as appropriate  
9 responses to frustrations or conflicts with  
10 peers and staff.

11 This is going on to page 33?

12 A Yes.

13 Q And again, you have her at high level there,  
14 high. That's a high risk?

15 A Yes. I talk about some protective factors but  
16 overall there were more high factors.

17 Q Okay. Then the Individual Clinical Risk and  
18 Protective factors, again you have her at high  
19 risk. And what are you looking for there? Is  
20 that her ability to rehabilitate?

21 A These are about the person specifically.

22 Q Okay.

23 A So we would be looking at what's more  
24 associated with risk and what is protective  
25 factors associated with a person specifically.

1 Q Okay.

2 A And then I describe examples of both the risk  
3 and protective factors that I see, some of  
4 them.

5 Q And one of the risks I guess that you have here  
6 is she displays significant attitude supportive  
7 of crime or violence in word or deed?

8 A Correct.

9 Q And you noted that she had difficulty  
10 controlling expressions of anger?

11 A Correct.

12 Q That she had negative attitude toward  
13 intervention and treatment?

14 A Yes. She's been attending a lot of sessions  
15 available to her, group and individual. So it  
16 is not wholly negative attitude but toward the  
17 system's trying to help her and then when she's  
18 had previous therapy it doesn't seem as if that  
19 is something that she welcomes--

20 Q Okay.

21 A -- to work on herself.

22 Q And you have a notation that, There seems to be  
23 significant impairment in age-appropriate  
24 capacity for remorse or empathy?

25 A Correct.

1 Q On the positive side you did say, She does have  
2 the ability to succeed academically when she  
3 applies herself?

4 A Yes.

5 Q She's never been diagnosed with ADHD?

6 A Correct.

7 Q And while she was engaging with you, she  
8 appeared to be able to concentrate and there  
9 didn't seem to be an impairment of  
10 concentration?

11 A In both evaluations I didn't observe that.  
12 There were some fidgeting but otherwise, no.

13 Q And overall, you have Additional protective or  
14 risk factors and again, you have high risk.  
15 This is still page 33. You mention among other  
16 things, Although her parents remain committed  
17 to her, they have been intermittently  
18 available, or inconsistent?

19 A Correct.

20 Q That her parents don't know English.

21 So they are at a bit of a disadvantage trying  
22 to be parents here in the U.S. They are  
23 undocumented. You made a note of that?

24 A There is also it is unclear how they report and  
25 see things. It is not just, how do I put this,

1 I'm not sure how much they talk to each other,  
2 the two parents and coordinate taking care of  
3 Nicolle and what she needs. And some of the  
4 therapy records and therapy history indicate  
5 that there were attempts to work on family  
6 issues that needed to be addressed but that  
7 that was not successful.

8 Q Would you say that their daughter Nicolle is  
9 really beyond their ability to control or to  
10 provide the type of things she needs to make  
11 changes, positive changes in her life?

12 A Absolutely.

13 Q And Nicolle does not seem to have the  
14 wherewithal or the desire to make those changes  
15 herself?

16 A She's expressed verbally some of that but I  
17 would say no.

18 Q And then turning to Adequate Protection of the  
19 Public, this is final page of your report, 34  
20 of page 34. You obviously go through and just  
21 what would happen, the various options should  
22 she be sent to DJJ. But one thing you noted  
23 was that, The public would be adequately  
24 protected from any further criminal acts during  
25 this time, while she is being held?

1 A Presumably, yes.

2 Q And that would also include if she was at SCDC,  
3 that they would be able to better than anyone  
4 else protect the public from further criminal  
5 acts on her part; is that correct?

6 A Could you repeat the question?

7 Q That what applies to DJJ would also apply to  
8 SCDC?

9 A Both are detention settings so, yes.

10 Q Let me ask you this. By age 22, even if  
11 Nicolle starts going to therapy, by age 22 is  
12 she going to be fine?

13 A I can't say that. Maybe you could restate the  
14 question.

15 Q Would you expect given her, the condition you  
16 found, the things you found in this evaluation,  
17 would you expect by age 22 these issues to be  
18 resolved by age 22?

19 MS. McGRADY: Objection. Speculation.

20 MR. HUBBARD: Your Honor, she is an expert.

21 She gets to speculate if she can.

22 THE COURT: Overruled but how about narrow the  
23 question down a little bit.

24 DIRECT EXAMINATION

25 BY MR. HUBBARD:

1 Q As far as the issues you have looked at for  
2 rehabilitation, submitting to therapy, the type  
3 of therapy she would need, if she did that,  
4 would you expect her by age 22 -- is this a  
5 short-term or a long-term process, let me ask  
6 you that, in resolving the issues you found in  
7 this assessment, this evaluation?

8 A Well, her issues have been long term already.  
9 Therefore, in the risk she poses presents a  
10 need for quite extensive rehabilitation.  
11 That's in the report. The higher the risk, the  
12 more structured and the length of time and  
13 complexity of rehabilitation and treatment  
14 efforts are needed. So I would say I could say  
15 that. Did I answer your question?

16 Q You did and I'm going to probe a little bit  
17 more. Would you have concerns if she were to  
18 say be back out, outside of that structured  
19 environment, whether it is DJJ or SCDC, if she  
20 was back out by age 19, 20, 22?

21 A What kind of concerns?

22 Q Concerns about the risk factors that are noted  
23 in this evaluation.

24 A I would speculate that -- could you repeat that  
25 again?

1 Q Would you have concerns based on the risk  
2 factors you have evaluated her for, and the  
3 risks you found, would you have concerns if she  
4 were to be out at the age of 19, 20 or even 22?

5 A I would have concerns about age 19. And then I  
6 guess they would theoretically diminish over  
7 time with rehabilitation the more time. I  
8 would definitely have concern about 19. And a  
9 lot of what she's presenting with are character  
10 concerns and it is very difficult for people to  
11 work on their character. They have to be  
12 motivated. It is not that it isn't possible.  
13 You don't necessarily change your personality  
14 but you can learn different coping skills that  
15 are more adaptive. It just requires a lot of  
16 work.

17 Q But as to Nicolle, when it comes to  
18 rehabilitation, and her amenability to change,  
19 she is at the third percentile right now.

20 A Currently.

21 Q And her attitude to change, to do the things  
22 that would be required in these next few years  
23 is not supportive of change?

24 A Correct.

25 Q So if she continues in that attitude --

- 1 A If she were to continue to present how she is  
2 presenting now, she would be clearly at the  
3 risk that I've rated her. I just can't predict  
4 that that would happen or not.
- 5 Q Right. That would just be a concern that if  
6 she does not change these attitudes and right  
7 now there is no indication she is planning to?
- 8 A Well, all I have is for the time frame through  
9 the writing of my report.
- 10 Q Well, you take a snapshot. But part of what  
11 you are doing is so the judge can look at the  
12 future?
- 13 A Correct.
- 14 Q And these assessments are telling him where she  
15 is now?
- 16 A Correct.
- 17 Q And so confinement, currently confinement would  
18 secure the public?
- 19 A Correct.
- 20 Q But based on what you have had, there are  
21 issues and those are documented where she has  
22 been an issue for both staff and even her peers  
23 in the juvenile setting?
- 24 A That's correct.
- 25 Q Okay. And Doctor, everything you have in your

1 evaluation, is it -- you put a lot of work in  
2 this evaluation?

3 A That is correct.

4 Q And it is all to a reasonable degree of  
5 scientific certainty within your field of  
6 psychology?

7 A This evaluation wasn't done just by me. I had  
8 to have it reviewed several times. We are also  
9 teaching the RSTI and the SAVRY to each other  
10 and some of our psychologists on our team who  
11 are less familiar with it; supervisors took a  
12 long training and we have been doublechecking  
13 our scoring as a team and I did that with this  
14 case. And my team supported my conclusions,  
15 perhaps even more so, if that makes sense. I  
16 don't know if you would say that it shifted  
17 significantly but my conclusions were confirmed  
18 by my team all the more so.

19 Q Okay.

20 A So I can say to your question that you posed,  
21 yes, I worked hard and I stand by the  
22 conclusions.

23 MR. HUBBARD: Beg the court's indulgence.

24 (Pause.)

25 DIRECT EXAMINATION

1 BY MR. HUBBARD:

2 Q Just a couple more things. Page 24 of your  
3 report you have a note at the top of that page.  
4 Looks like the third line, There is  
5 considerable concern about Nicolle's  
6 disclosures to any professional as she appears  
7 to engage in chronic lying, making it difficult  
8 to assume any history she shares is valid and  
9 reliable.

10 Going back to her reliability?

11 A Yes. I wrote that.

12 Q And that's part of what you stand by as well?

13 A Yes.

14 MR. HUBBARD: Thank you. I have no more  
15 questions at this time.

16 CROSS-EXAMINATION

17 BY MS. McGRADY:

18 Q Hi, Dr. Dawn.

19 A Good morning if it is still morning.

20 Q It is. It is good to see you again.

21 I want to start asking just a few questions  
22 about you personally. What is your competency in  
23 the Spanish language?

24 A I would say that I'm not certified bilingual.

25 I've not ever taken a test to certify that. So

1 I would say receptive skills are advanced;  
2 expressive skills intermediate to advanced.

3 Q Did you choose to evaluate Nicolle based on the  
4 fact that her mother speaks Spanish?

5 A For the waiver evaluation or the first one?

6 Q Either.

7 A For the first one, yes. For the second one,  
8 what was more factors that I conducted the  
9 first evaluation.

10 Q So for continuity?

11 A Yes.

12 Q Are there cultural nuances or dialects that  
13 could cause information from Nicolle's mother,  
14 either to Nicolle's mother or from Nicolle's  
15 mother, to be lost in translation?

16 A There is always that possibility, absolutely.

17 Q And based on the fact that you are not  
18 certified bilingual, is that a greater  
19 possibility?

20 A Well, I've actually read quite a bit of  
21 research about the utility of using translators  
22 or interpreters during these kinds of  
23 evaluations. And I would not have conducted  
24 the evaluation if I didn't feel I was competent  
25 to do so, including in working with the family.

1 Q Okay. Did you evaluate Nicolle in 2019?

2 A I did.

3 Q And that was a community evaluation?

4 A That's correct.

5 MS. McGRADY: May I approach the witness?

6 CROSS-EXAMINATION

7 BY MS. McGRADY:

8 Q Do you recognize this?

9 A Yes. I have a copy with me.

10 Q Can you tell the court what this is?

11 A I'll double-check. Yeah. This is a copy of an  
12 evaluation dated 5/7, no, 5/29/2019 or a report  
13 dated 5/29/2019 that I wrote based on the  
14 evaluation I conducted on 5/7/2019 with Nicolle  
15 and her mother.

16 MS. McGRADY: Your Honor, at this time we would  
17 like to offer this as Defense, I believe, number 2.

18 MR. HUBBARD: Although it's not really what we  
19 are here about, I have no objection.

20 THE COURT: All right. Defendant's 2.

21 THE COURT REPORTER: I believe that is  
22 Defendant's 3.

23 MS. McGRADY: Three, Your Honor.

24 (Whereupon, Defendant's Exhibit No. 3 was  
25 marked and received into evidence.)

1 THE COURT: All right.

2 CROSS-EXAMINATION

3 BY MS. McGRADY:

4 Q How old was Nicolle at the time of your  
5 interview in 2019?

6 A She was 14.

7 Q What records did you use to compile your  
8 report?

9 A Records I reviewed?

10 Q Yes.

11 A Correct. I received school records, DSS  
12 records, to the degree that they provide them  
13 for community evaluations are not  
14 comprehensive. I reviewed a local news  
15 article, public index. I spoke with her  
16 contact at DMH as well as Palmetto Counselling  
17 staff.

18 Q And then of course you spoke with Nicolle and  
19 her mother?

20 A Yes. Yeah. Also, I don't think I wrote it on  
21 here, but Mrs. Peralta had provided me with  
22 copies of numerous, she didn't have all of  
23 them, but I believe half a dozen or so runaway  
24 incident reports from law enforcement and I  
25 made copies of those.

1 Q Okay. Was the evaluation report as a result of  
2 an adjudication for a marijuana charge?

3 A It was.

4 Q Was she with an adult co-defendant?

5 A She was.

6 Q Do you know the adult co-defendant's name?

7 A Well, the record states his name. Do you want  
8 me to say it?

9 Q Yes, please.

10 A Shytavious Javon Taylor.

11 Q How old was he?

12 A The record stated he was 26.

13 Q Did he have pending charges?

14 A He had at the time charges of possession of  
15 marijuana, possession of a stolen vehicle and  
16 property, contributing to the delinquency of a  
17 minor, conspiracy, failure to stop for a blue  
18 light, disobedience to police and child  
19 endangerment at the time that I wrote the  
20 report.

21 Q Okay. So going into the report you mention  
22 that Mr. Sanchez and Mrs. Peralta left their  
23 children in Honduras to come to the United  
24 States; is that correct?

25 A Correct.

1 MR. HUBBARD: Which report are we looking at  
2 now, the '19 or '21?

3 MS. McGRADY: The 2019 evaluation.

4 MR. HUBBARD: Okay.

5 THE WITNESS: And you just asked me if they  
6 had, if Nicolle and her mother had reported to me  
7 they had left Honduras for the United States when  
8 she was little?

9 CROSS-EXAMINATION

10 BY MS. McGRADY:

11 Q Yes.

12 A Yes.

13 Q Were Nicolle and her older sister left in the  
14 care of their maternal grandmother?

15 A That's what they reported to me.

16 Q Based on that information would you consider  
17 the maternal grandmother to be the primary  
18 caregiver for Nicolle?

19 A Yes. Well, became the primary caregiver.

20 Q Okay. Did Nicolle mention her relationship  
21 with her mother at the time in 2019 was just  
22 okay?

23 A Yes.

24 Q When Nicolle got to the United States, did  
25 Nicolle report that she did not accept her

1 parents?

2 A She reported that to me, yes.

3 Q Did Nicolle report that she felt abandoned by  
4 them in Honduras?

5 A She reported that to me, yes.

6 Q Based on your knowledge as a psychologist, is  
7 this normal for children whose parents  
8 immigrate to another country and leave them  
9 behind?

10 A Based on -- repeat the question.

11 Q Based on your knowledge as a psychologist, is  
12 this normal for children whose parents  
13 immigrate to another country and leave them  
14 behind?

15 A To have expressed those feelings?

16 Q Yes.

17 A I would say, yes, as well as kids whose parents  
18 have divorced or a parent moves. Any time a  
19 parent leaves, this would be a normal reaction  
20 to feel abandoned.

21 Q So there are multiple reasons a child can feel  
22 abandoned?

23 A Uh-huh.

24 Q Including being left in a foreign country?

25 A Well, she was left in her home country.

- 1 Q You are right. I'm sorry.
- 2 A No. It is okay. But, yes. That would be a  
3 normal reaction, I think.
- 4 Q Okay. Did Nicolle report that she simply did  
5 not feel like she knew her mother and father as  
6 her parents?
- 7 A She did.
- 8 Q Is it normal for a child who has identified  
9 other primary caregivers to feel that way about  
10 their biological parents?
- 11 A Restate the question or just repeat the  
12 question, please.
- 13 Q Is it normal for a child who has identified  
14 other primary caregivers to feel that way about  
15 their biological parents?
- 16 A I'm sorry. I'm going to ask you to repeat it  
17 again. I'm hearing the words. I just want to  
18 make sure I understand the question.
- 19 Q So my last question was that she said that she  
20 simply did not feel that she knew her mother  
21 and father as her parents. Is that normal for  
22 a child who has identified other primary  
23 caregivers to feel that way about their  
24 biological parents?
- 25 A I'm not sure if that was normal because she had

1           these problems for a while after coming to the  
2           United States and being with her family. She  
3           also was with her older sister and her older  
4           sister she reported she had brought her up or  
5           helped bring her up. So she wasn't completely,  
6           like in a disjointed setting. So it seemed  
7           like that was becoming problematic, her lack of  
8           connection to her family and resisting her  
9           parents as her parents--

10       Q     Okay.

11       A     -- at that point.

12       Q     Did Nicolle accept her new family or her  
13           biological parents as her family?

14       A     She reported she had not at that time or  
15           historically and still struggled, I think, a  
16           bit.

17       Q     Is that when she began acting out?

18       A     I don't know if what was told to me is  
19           completely accurate but her school records  
20           indicate fourth grade-ish, and she started  
21           having discipline problems there. And that was  
22           a couple of years after she had come to the  
23           United States.

24       Q     Okay. Did Nicolle's mother express that she  
25           did not have any trouble with Nicolle's older

1 sister or younger sister?

2 A That's what she reported.

3 Q You went on to talk about Nicolle's gang

4 involvement. Did you report that gang

5 involvement is a symptom of needs that family

6 does not meet, nor do the institutions around

7 them such as school?

8 A It is one of the -- it is a source of the pull

9 for youth to join gangs and become involved.

10 Q Can you describe that? Can you describe that?

11 A Feeling disconnected from family, feeling like

12 they don't fit in. Particularly immigrants or

13 children of immigrants would be more

14 susceptible, feeling marginalized. A gang can

15 kind of be a substitute family in a place where

16 they can be accepted. And in fact, I believe

17 that certain kids are recruited because they

18 are going to be more likely to be receptive.

19 Q Is this well-documented research?

20 A I believe so. I was quoting -- at the time of

21 the evaluation I was looking at research and I

22 had completed a dissertation on it.

23 Q Was Nicolle at risk for gang involvement?

24 A Yes.

25 Q Why?

1 A She's an immigrant to the United States and  
2 she, in particular, is in a setting where there  
3 is not a lot of other Hispanics or, you know,  
4 the Latino population is very low in South  
5 Carolina.

6 Q Okay. Did Mrs. Peralta indicate that there  
7 were any problems with her pregnancy and  
8 subsequent birth with Nicolle?

9 A She said --

10 MR. HUBBARD: Your Honor, I don't mean to  
11 interrupt. Are we still talking about the 2019  
12 evaluation?

13 MS. McGRADY: Yes.

14 MR. HUBBARD: I know we are here on the 2021  
15 waiver.

16 MS. McGRADY: We are still talking about the  
17 2019 evaluation and I do have plenty of questions  
18 about the 2021 waiver evaluation.

19 THE COURT: Well what were you trying to  
20 establish as to the 2019 evaluation, Ms. McGrady?

21 MS. McGRADY: There were some facts--

22 THE COURT: Because a lot of this is already in  
23 the 2021 evaluation, I mean the pre-waiver report.

24 MS. McGRADY: Right.

25 THE COURT: That is in evidence now along with

1 the '19 report.

2 MS. McGRADY: I just want to establish periods  
3 of trauma that were mentioned in the 2019  
4 evaluation. I don't have a ton more questions about  
5 it.

6 THE COURT: Okay. Go ahead.

7 CROSS-EXAMINATION

8 BY MS. McGRADY:

9 Q I'm sorry. Did you answer the question?

10 A I didn't answer the question and I think you  
11 didn't finish it.

12 Q Did Mrs. Peralta indicate there were problems  
13 with her pregnancy and subsequent birth with  
14 Nicolle?

15 A She did.

16 Q Was she --

17 A She was on -- she had a back problem or she was  
18 on bedrest and said she couldn't bond with her  
19 the first couple of months.

20 Q And the bedrest prevented her from being able  
21 to bond with Nicolle during that time?

22 A That's what she reported.

23 Q Is that a crucial bonding period for mothers  
24 and their infants?

25 A If she is bonding with a caregiver as an

1 infant. I would say it is more crucial that  
2 she be bonding with a caregiver.

3 Q Okay. Can not bonding with the biological  
4 mother significantly affect children?

5 A It can. It can lead to attachment issues.

6 Q Can you tell us about the loss of family  
7 members that Nicolle experienced at a young  
8 age?

9 A Can I tell you about the loss of --

10 Q Family members at a young age.

11 A Yes. Shortly before she came to the United  
12 States, age 7ish, she reported a maternal uncle  
13 had been shot and killed. And her mother  
14 confirmed that that had occurred. And then her  
15 maternal grandmother passed away and that  
16 prompted, I believe, prompted the move to the  
17 United States.

18 Q And the maternal grandmother would be the  
19 primary caregiver for Nicolle?

20 A Yes. And she, by her reports, was attached to  
21 her maternal grandmother.

22 Q Okay. Was it reported that Nicolle had much  
23 difficulty acculturating to living in a new  
24 country with a new language and new norms?

25 A I probed for that. I asked, I believe, I don't

1 know if I did during the 2021 evaluation if she  
2 had ever experienced harassment for being from  
3 Honduras and she denied that that had been the  
4 case. I do find that surprising, I will say.

5 Q Why is that?

6 A Because I believe kids experience a lot of  
7 racism in schools.

8 Q Okay.

9 A But she denied it. She got some ESL. I don't  
10 know the quality of that. My experience with  
11 other kids who are in ESL kind of settings in  
12 schools is it's because, again, the population  
13 is very low of Latinos in South Carolina, these  
14 may not be very well developed or ideal  
15 programs. She was not testing well in school  
16 as far as on standardized testing. She was  
17 struggling.

18 Verbally and, I think, reading and writing she  
19 was doing all right with English but she was really  
20 behind. It would be difficult to get thrown into a  
21 school and have most of your classes being in a  
22 language you don't know, never mind trying to learn  
23 the subject matter. Her mother said that she didn't  
24 really have any friends; that she tried to help her  
25 get friends and socialize appropriately and seemed

1 that she was struggling with that.

2 Q Was it reported that Nicolle actively resisted  
3 her parents' efforts to parent her when she  
4 moved here at the age of seven?

5 A This I got from both Nicolle and her mother,  
6 yes.

7 Q Was it reported that they had bonding issues?

8 A To me?

9 Q Yes.

10 A In their own words bonding issues? I would say  
11 they didn't use those words, no. But by what  
12 they stated, it looked like there were bonding  
13 issues, yes.

14 Q Is it normal for a minor child who has not  
15 grown up with their parents and had identified  
16 another individual or individuals as her  
17 primary caregiver to not or to have bonding  
18 issues with biological parents?

19 A I don't know if I would say it is normal or  
20 abnormal. I would say that that would happen  
21 sometimes; that that would make sense that it  
22 would happen sometimes. Not all children would  
23 struggle. There would be a variation in that.

24 Q So it is well documented that Nicolle had  
25 trouble in school. At the time of the

1 evaluation was she in alternative school for  
2 her district?

3 A I believe so, yes.

4 Q Did she change schools a number of times?

5 A Mrs. Peralta had reported at the time of the  
6 2019 evaluation that she had attended seven  
7 different schools.

8 Q What were the majority of her behavior  
9 infractions for? And I believe that's on the  
10 top of page 8 of the 2019 evaluation.

11 A I don't have what the majority of them are. I  
12 wouldn't remember that. But I wrote that the  
13 behavior ranges from opposition and defiance to  
14 some occasional aggression. Some behaviors are  
15 more impulsive, such as disrupting class,  
16 blurting out and talking when talking was not  
17 appropriate.

18 Other behaviors included being in off-limit  
19 areas, being tardy, cutting class, talking back,  
20 inappropriate language. And then there were  
21 numerous bus violations and violating detentions  
22 that were assigned.

23 Q Then Nicolle established a history of running  
24 away. What was her reasoning for leaving her  
25 parents' home at the time in 2019?

- 1 A Are you looking at a part of my report?
- 2 Q Yes, ma'am. The top of page nine.
- 3 A Okay. When I asked her why she ran away so  
4 often, she said that, I don't want to listen; I  
5 want to do what I want to do.
- 6 Q Had Nicolle received mental health care at the  
7 time of the report in 2019?
- 8 A Yes. I believe this was reported to me as  
9 2014, 2015 she had some counselling and her  
10 family or she and her mother.
- 11 Q How long did that therapy last? This is on  
12 page five.
- 13 A Okay. On page five and then where?
- 14 Q The second full paragraph or the last paragraph  
15 in the middle.
- 16 A Okay. Yes. So this is between what I was able  
17 to cobble together in talking with  
18 Mrs. Peralta, Nicolle and the DSS record. It  
19 was reported to me the treatment lasted for  
20 four months and took place at Palmetto  
21 Counselling and that's what Mrs. Peralta told  
22 me but I was not able to obtain a record of it.
- 23 Q Do you know how many times she was seen?
- 24 A I was not able to obtain a record of it.
- 25 Q So you don't know what topics they covered?

1 A All I know is what was reported to me. Her  
2 mother reported to me that -- let's see. Do  
3 you want me to read this? All I know is what's  
4 reported to me. I don't know what actually  
5 happened in the counselling except when I did  
6 the 2021 evaluation I was able to get more  
7 records.

8 Q No, ma'am. You don't have to read it.

9 A Okay.

10 Q Would four months of treatment be enough to fix  
11 Nicolle's problems at the time?

12 A No. In fact, when I found out much more  
13 information, it was very concerning to me that  
14 so little had been done.

15 Q So in 14 years in total, she may or may not  
16 have received four months of therapy for a  
17 plethora of complex issues that this child was  
18 struggling with that we have talked about here?

19 A Okay. I'm so sorry but I'm going to ask you to  
20 repeat that because I missed the beginning.

21 Q So in total of 14 years of Nicolle's life, she  
22 may or may not have received four months of  
23 therapy for a plethora of complex issues that  
24 this child was struggling with that we have  
25 talked about already?

1 A Are you asking what I knew at the time of the  
2 evaluation?

3 Q Yes, ma'am.

4 A Yes. Although she didn't present at the time  
5 of the evaluation with clinically significant  
6 depression or anxiety or trauma. She didn't  
7 present with it. She didn't endorse it,  
8 nothing was observable except for the  
9 externalizing behavior. So a positive thing  
10 was she didn't appear to be in a lot of  
11 distress.

12 Q Okay.

13 A But, yeah. To my knowledge at that time that's  
14 all they had reported had happened.

15 Q Okay. In your report from 2019, did you say  
16 that Nicolle's judgment appears to be poor?

17 A Where are you looking?

18 Q I didn't document where.

19 A That's okay. I'm sure I reread it a few times  
20 and I think it is probably in the behavior  
21 observations. Yes. Now I refer to her as  
22 Nazareth, her first name in the 2019 report.  
23 Her judgment appears to be poor.

24 Q Did you say that Nicolle's insight is low?

25 A Yes.

1 Q Did you say that her problem solving skills  
2 were underdeveloped and limited?

3 A Yes.

4 Q Is that compared to other youth her age?

5 A Yes. Yeah. Adolescents struggle with this in  
6 general but we were dealing with some really  
7 serious concerns and serious behavior and she  
8 appeared fairly indifferent and nonchalant and  
9 wasn't making any connections. I was concerned  
10 by her history and behavior and saw her  
11 judgment and insight as poor, as low.

12 Q So you still stand by your 2019 report of  
13 Nicolle having a lack of insight and judgment?

14 A Are you saying I still stand by this from 2019  
15 or now? The report with all the information I  
16 had available to me I don't have problems with  
17 my conclusions in general, never mind  
18 specifically. There are places in the report  
19 where it is clear that I didn't have  
20 information. I was trying to obtain it and  
21 there were some inconsistencies or conflicting  
22 issues and I point them out.

23 Q Okay. Was Nicolle not able to see the cause  
24 and effect of her actions?

25 A She does not appear to be able to do that at

1 this time, no.

2 Q Does all that place her at a significant risk  
3 to be victimized?

4 A I believed at the time and I don't disagree  
5 with that opinion that she already was being  
6 victimized. She was found in the company of  
7 this older adult and committing crimes or a  
8 participant with him.

9 Q Can you tell us about the Wechsler Abbreviated  
10 Scale of Intelligence?

11 A The WASI-II?

12 Q Yes. Can you just generally tell us about it?

13 A Sure. It is a brief measure of intelligence  
14 but a particular kind of intelligence related  
15 to specific kinds of skills. In this case,  
16 with the WASI, it is we are looking at verbal  
17 comprehension skills and perceptual reasoning  
18 abilities.

19 Q Was this given to Nicolle in her native  
20 language?

21 A This was not given to Nicolle in her native  
22 language and she expressed preference to do the  
23 evaluation in English.

24 Q Okay. Can you tell us generally about the Wide  
25 Range Achievement Test, Fifth Edition?

- 1 A Yes. That is designed to be done in English as  
2 well. So it was assessing her on -- well,  
3 there's a few different subtests. I used  
4 sentence comprehension and math computation.  
5 Sentence comprehension assesses achievement and  
6 reading comprehension in English. And math  
7 computation measures ability to do typical math  
8 problems. It is a timed test of 15 minutes and  
9 the problems get increasingly complex.
- 10 Q Was Nicolle's math score consistent with her  
11 abilities via the Wechsler Scale?
- 12 A No.
- 13 Q What could have been done to give Nicolle the  
14 opportunity to show her true aptitude?
- 15 A Well, the math computation is not an aptitude  
16 test. It is an achievement test. So I believe  
17 that was accurate. That's how she was  
18 performing with math at that time.  
19 What would be appropriate, and I recommended  
20 it, would be and math is particularly sensitive to  
21 undereducation, truancy, school disruption, all  
22 kinds of things because if you don't get what you  
23 need in the math class in fifth grade and then you  
24 go on to sixth grade, you are just going to get  
25 increasingly behind. So we see this scenario a lot

1 with DJJ involved youth when there is undereducation  
2 issues in general and Nicolle had some of them;  
3 however, if she were attending school consistently  
4 and she was still struggling with or without like  
5 with tutoring, she really should have had an  
6 evaluation to rule in or rule out whether she had a  
7 learning disability in math because it was  
8 inconsistent with her intellectual ability.

9 Q And that was one of your recommendations from  
10 this report?

11 A It was.

12 MR. HUBBARD: Your Honor, again, are we talking  
13 about the 2019 because some of this is in the 2021.  
14 I just need to know where I need to be looking.

15 MS. McGRADY: 2019. I have one last little set  
16 of questions for the 2019 evaluation and then I'll  
17 move on.

18 CROSS-EXAMINATION

19 BY MS. McGRADY:

20 Q Can you tell us generally about the Behavior  
21 Assessment System for Children?

22 A The BASC-3? It has a built-in screener on a  
23 variety of symptom types like anxiety,  
24 depression, ADHD, also different kinds of  
25 behaviors or problematic areas that kids might

1           have. For example, school issues, attitudes  
2           about the school. It is not a personality  
3           measure per se. It is more of a kind of a  
4           wide-range functioning test on issues that kids  
5           might present within the mental health setting.

6    Q       What were Nicolle's results?

7    A       Her results -- well, her mother and she both  
8           completed it. Do you want me to speak to  
9           Nicolle's?

10   Q       Yes.

11   A       Specifically versus her mother's?

12   Q       Yes.

13   A       Okay. Her responses were valid. So she was  
14           not inconsistent and she did not appear to be  
15           conveying an impression of herself that was  
16           overly positive or negative. And she did not  
17           appear to view herself as experiencing to any  
18           noteworthy degree problematic symptoms or  
19           behaviors.

20           She likely sees herself as being well-adjusted  
21           with no significant problems in the areas of school,  
22           mental health symptom, acting out behaviors or  
23           interpersonal challenges. And that was consistent  
24           with her clinical interview in that she did not  
25           appear to view her current situation with school,

1 her DJJ charges, activities undertaken and with whom  
2 while having run away on numerous occasions as cause  
3 for concern.

4 Q So that's consistent with her having poor  
5 insight and poor judgment?

6 A Yes. That would be a good example of that.

7 Q Because we all know that that was not actually  
8 true.

9 A No. In fact, there was more stuff. With the  
10 2021 evaluation I was able to receive records  
11 that I didn't have access to. So there was a  
12 lot of concerns. A lot of things going on that  
13 would be concerning.

14 Q Right. So my last question about the 2019  
15 evaluation, what are the reasons that a  
16 14-year-old child would not have insight into  
17 their own personal problems or challenges?

18 A That is a very broad question. Could you  
19 repeat the question?

20 Q What are reasons that a 14-year-old child would  
21 not have insight into their own personal  
22 problems or challenges?

23 A First of all, immaturity, being 14. And beyond  
24 that it is such a broad question. I mean, any  
25 number of possible reasons. Lack of addressing



- 1 the car in reference to this event because she  
2 felt the threat to her person if she did not  
3 comply?
- 4 A That I got from discovery. You are asking did  
5 she report that to law enforcement?
- 6 Q Yes.
- 7 A Yes.
- 8 Q Did she report that she felt scared while  
9 stealing the car?
- 10 A She reported that to me during the interview.
- 11 Q Okay. Did Nicolle commit other crimes with  
12 Treveon Nelson?
- 13 A She admitted to other events related to this  
14 kind of behavior with cars and she was found,  
15 you know, with him in stolen cars too.
- 16 Q She was found with Treveon?
- 17 A In stolen cars. Sometimes she would be -- it  
18 is in my report.
- 19 Q Yes.
- 20 A But not in the DJJ history. Just sometimes  
21 when she was on runaway status and then she was  
22 found, she would be found in a stolen car with  
23 him, I think at least twice. Once might have  
24 been her mother's car.
- 25 Q Are you familiar with Nicolle's Form 5?

- 1 A I have it in front of me.
- 2 Q How many times has Nicolle been charged with an  
3 assault?
- 4 A None.
- 5 Q How many times has Nicolle been charged with an  
6 attempted murder?
- 7 A None.
- 8 Q How many times, other than this event, this  
9 occasion that we are here today, has Nicolle  
10 been charged with murder?
- 11 A She only has one charge on her Form 5 for this  
12 evaluation.
- 13 Q For the 2021 evaluation?
- 14 A Can you repeat the question that you just  
15 asked? I was just looking. I realize there is  
16 a back page and could you repeat the question  
17 you just asked me?
- 18 Q Other than this occasion for which we are here  
19 today --
- 20 A None.
- 21 Q Okay. And Treveon Nelson is charged as a  
22 co-defendant to your knowledge?
- 23 A Yes. I found that out. I believe the  
24 assistant solicitor confirmed that to me.
- 25 Q You reviewed the discovery for this case?

1 A Yes, I did. And I reviewed public index of the  
2 co-defendants and then I asked about it.

3 Q All right. Moving to the Family Unity and  
4 Emotional Atmosphere section.

5 MR. HUBBARD: What page is that?

6 MS. McGRADY: Hold on. That's page six.

7 CROSS-EXAMINATION

8 BY MS. McGRADY:

9 Q Did Mrs. Peralta state that the only problems  
10 they had with Nicolle was the company that she  
11 kept and whatever she did when she ran away?

12 A She stated that.

13 Q Did Mrs. Peralta state that Nicolle made  
14 allegations against her father, Mr. Sanchez, so  
15 that Nicolle could live with her boyfriend?

16 A She stated that.

17 Q Is it safe to say that the family has an  
18 idealized or fantastical view of their  
19 relationships?

20 A I don't know if I would say that. I would say  
21 that they have a unrealistic view of their  
22 relationship that appears to be idealized.

23 Q Do the adults that you interviewed for  
24 Nicolle's 2021 evaluation believe that Nicolle  
25 needs treatment?

1 A The adults that I interviewed. Are you talking  
2 about her family members or--

3 Q Yes.

4 A Yes.

5 Q Does Nicolle admit to wanting to move to a  
6 different state to start over?

7 A It was one of the things that she mentioned is  
8 what might be needed; that the family had  
9 talked and leaving the elements. It was in  
10 conjunction with the elements that she's been  
11 exposed to, that leaving the state would be a  
12 good idea.

13 Q If someone feels hurt at home, would it be  
14 uncommon for them to want to run away?

15 A I don't know if I can answer that. But  
16 certainly some children run away because of  
17 problems at home, including being hurt.

18 Q Could a runaway land in the arms of a worse or  
19 more dangerous person?

20 A Absolutely.

21 Q Could that lead to more victimization?

22 A Absolutely.

23 MS. McGRADY: Beg the court's indulgence. I  
24 just wanted to check the page number before I  
25 announce my next section.

CROSS-EXAMINATION

1

2

BY MS. McGRADY:

3

Q So moving to page 13 of the 2021 evaluation,  
4 looking at the Trauma Reaction/History portion.  
5 You begin this section by saying you don't know  
6 to what degree you can believe what Nicolle  
7 tells you about traumatic events; is that  
8 correct?

9

A Yes. By her report, some of which she reported  
10 happened she then says hadn't happened.

11

Q You then go on to talk about Reactive  
12 Attachment Disorder. What is that?

13

THE COURT: Where are you? I know you are on  
14 page you said page 13.

15

MS. McGRADY: I'm on the top of page 14 now.

16

THE COURT: Okay.

17

THE WITNESS: So that would be it is first of  
18 all it is in the Trauma and Stressor Related  
19 Disorder category. So it happens in early  
20 childhood, typified by disruption in changes in who  
21 the caregiver is. And there is a maladaptive  
22 attachment style that gets formed. It doesn't  
23 always continue. A child might be disinhibited and  
24 go to anyone, but not necessarily form a secure  
25 attachment to the person they should or the person

1 who's taking good care of them. Another child might  
2 be very inhibited and not want to attach and  
3 actively avoid it, which can be problematic.

4 CROSS-EXAMINATION

5 BY MS. McGRADY:

6 Q Did Nicolle show those symptoms?

7 A What Nicolle described to me when she first  
8 came to the United States I don't know if I  
9 would say she showed the symptoms in 2019 but  
10 what she described appeared to be that she was  
11 having some sort of at the time when she came  
12 to the United States and was with her family  
13 over the course of those at least beginning  
14 years, if not later, some problems with bonding  
15 and attaching and connecting to her family; and  
16 that she stated the reason for this was because  
17 she had not grown up with them and she, you  
18 know, I don't know these people.

19 Q Moving down page 14, you talk about high risk  
20 sexual behavior or indiscriminate sexual  
21 behavior. Could either of those things be a  
22 symptom of an underlying trauma?

23 A First of all, just what part of the -- are you  
24 still on page 14?

25 Q On page 14, the first bullet.

- 1 A Okay. You said could those behaviors be  
2 because of caused --
- 3 Q An underlying trauma?
- 4 A Caused by or typifying?
- 5 Q Caused by, either.
- 6 A They certainly could be.
- 7 Q Could it be the result of being sexually abused  
8 by her older uncle?
- 9 A I don't know if that has happened but if that  
10 has happened, it could be the result or it  
11 could then cause these behaviors later, yes.
- 12 Q Did Nicolle report to you that she had been  
13 abused by an older uncle?
- 14 A She reported it in the 2021 evaluation.
- 15 Q Moving down the page, Nicolle reported abuse  
16 by -- abuse and violence by Treveon Nelson.  
17 And this is not in the report, I don't believe.  
18 But are you aware of a domestic violence  
19 incident from February 2021 in which Treveon is  
20 the perpetrator and Nicolle is the alleged  
21 victim?
- 22 A Yes.
- 23 Q Are you aware of a criminal sexual conduct and  
24 assault and battery from April 25th, 2021 in  
25 which Treveon Nelson is the perpetrator and

1           Nicolle is the victim?

2    A       Yes. I believe he has charges.

3    Q       Yes.

4    A       Yes.

5    Q       Did you know that Nicolle was so bruised and  
6           swollen from this event on April 25th that on  
7           April 29th when Nicolle was brought to JDC by  
8           law enforcement for purposes of detention, that  
9           she was rejected by DJJ staff until she was  
10          medically cleared by doctors?

11   A       This is what I'm aware of. That she needed to  
12          be medically cleared because of what she had  
13          reported before she was able to be accepted at  
14          JDC; and that she was, that she was taken back  
15          and she was cleared and that that was related  
16          to those injuries.

17   Q       Yes.

18           Moving to the Academic History, just briefly,  
19   has Nicolle been attending high school classes at  
20   JDC since August?

21   A       I don't know if she's to date but through the  
22          writing of my report, I believe she was  
23          attending classes that prepare her for a GED.

24   Q       My next question was at the time of your report  
25          was she preparing for her GED?

- 1 A Yes.
- 2 Q Does she plan to work hard to obtain her GED  
3 while detained?
- 4 A She stated she was and her grades were pretty  
5 good from those classes.
- 6 Q In fact, she had all As but except in math?
- 7 A Which was a B.
- 8 Q Which was a B?
- 9 A Yes.
- 10 Q And then moving down the page of 15 to Peer  
11 Functioning and Community Behavior. Did  
12 Nicolle meet Treveon Nelson at alternative  
13 school?
- 14 A That's what she reported to me.
- 15 Q Did Nicolle admit to staying with him at his  
16 mother's home when she was running away?
- 17 A She did.
- 18 Q Did Nicolle admit that Treveon Nelson was gang  
19 affiliated?
- 20 A The first time I asked she wasn't clear. The  
21 second time she did.
- 22 Q Was Nicolle ever identified as a Blood?
- 23 A Not to my knowledge.
- 24 Q As a Crip?
- 25 A She in the 2019 evaluation said she had been

1 jumped in and out of the Crips. But she said  
2 that she had lied to me during the 2019  
3 evaluation and that hadn't happened.

4 Q But you never received any documentation from  
5 law enforcement identifying her as a member of  
6 the Crips gang?

7 A I wouldn't actually know where to even solicit  
8 that. So nothing was provided to me in  
9 discovery about that.

10 Q Was Nicolle ever identified as a Gangster  
11 Disciple?

12 A No. I mean, by --

13 Q By anything you reviewed.

14 A No.

15 Q Moving down page 16 to Mental Health History,  
16 did Nicolle receive treatment through the  
17 Department of Mental Health in 2014?

18 A She did.

19 Q Did Nicolle see the same provider at the  
20 Department of Mental Health in 2020?

21 A Based on the records I was able to obtain, yes.

22 Q And that was Ms. Mack-Dingle?

23 A I believe she got married possibly during that  
24 time. I don't know if her name was the same  
25 during both but it is now Mack-Dingle.

1 Q And that is, M-A-C-K-D-I-N-G-L-E.

2 Did Ms. Mack-Dingle report that Nicolle was  
3 polite and respectful?

4 A She did.

5 Q But that she didn't engage in any deep level?

6 A She did. I interviewed and reviewed the  
7 records. So when I summarized that, part of it  
8 is interview or conversation with  
9 Ms. Mack-Dingle and part of it were the  
10 records.

11 Q Did Ms. Mack-Dingle admit that Nicolle had  
12 experienced trauma?

13 A She said that she knew she had experienced  
14 trauma, some sort of trauma.

15 Q Did Ms. Mack-Dingle notice the bond between  
16 mother and daughter was strained?

17 A She did and she made efforts to work on that.

18 Q Did Ms. Mack-Dingle note an attachment  
19 challenge between Nicolle and her mother?

20 A She did. There's stuff that's not even in  
21 here. She shared an example that Nicolle  
22 believed she had been abandoned and her parents  
23 didn't care while they were in the United  
24 States. And the therapist or counselor tried  
25 to demonstrate that they had actually made a

1 lot of effort to stay connected with calls and  
2 things like that while they were in the United  
3 States. So there was efforts working with them  
4 in the here and now and also a revisitation of  
5 what had happened to try to get the family  
6 closer.

7 Q Does Nicolle have a history of cutting or  
8 self-harm?

9 A I believe there were at least two. She went to  
10 Lexington Medical Center one time and then  
11 there was something that happened at JDC where  
12 she was expressing that.

13 Q During Nicolle's stay at William S. Hall in  
14 2020, did records indicate her judgment was  
15 seen as poor and insight was seen as fair?

16 A What page are you on? I can find it if you  
17 don't have a page.

18 Q I don't have a page number--

19 A Okay. Just give me a moment. I'll find it.

20 Q -- listed. It is at the top of page 18.

21 A Yes. Sorry. I was just rereading it.

22 Q That's okay.

23 And then moving down the page to the second  
24 full paragraph, while at Epworth Children's Home,  
25 did Nicolle state that she wanted counselling?

- 1 A Yes.
- 2 Q Was she referred to the South Carolina Youth  
3 Advocate Program or SCYAP?
- 4 A Yes.
- 5 Q And she was diagnosed with PTSD?
- 6 A They diagnosed her with PTSD, yes.
- 7 Q While at JDC does Nicolle take full advantage  
8 of therapy sessions with psychology,  
9 psychiatry, chaplain and social work staff?
- 10 A She appears to do so, yes.
- 11 Q Is her participation in group sessions noted as  
12 good?
- 13 A If I wrote that, then, yes. I'm not looking  
14 at it.
- 15 Q It is on page 18, the last paragraph, four  
16 lines down.
- 17 A Yes.
- 18 Q At the time of your report at least, did  
19 Nicolle often request individual clinician  
20 appointments to the extent that they are  
21 available?
- 22 A Yes.
- 23 Q Does Nicolle see Dr. Pender, the psychiatrist?
- 24 A I don't know if she currently sees Dr. Pender  
25 or recently has been seeing Dr. Pender but she

- 1 had met with Dr. Pender on several occasions.
- 2 Q At the time you've written your report?
- 3 A Correct.
- 4 Q Was Nicolle diagnosed by Dr. Pender as having
- 5 Unspecified Trauma and Unspecified Depressive
- 6 Disorders?
- 7 A She was.
- 8 Q Is she receiving medication for anxiety while
- 9 at JDC?
- 10 A At the time of the writing my report she was.
- 11 Q Does staff see a difference in her behavior
- 12 when she is medicated?
- 13 A They told me they had.
- 14 Q Again, did Nicolle engage in self-harm behavior
- 15 at JDC?
- 16 A At the writing of my report there was an
- 17 incident where she, I think it was in August,
- 18 where she was monitored for a day or two for
- 19 suicidal ideation and/or -- let's see. 8/12 to
- 20 8/16 due to self-harm behavior and expression
- 21 of suicidal ideation, yes.
- 22 Q Was that likely a cry for help?
- 23 A I don't know.
- 24 Q Instead of trying to find out what the problem
- 25 really is, is Nicolle seen as exaggerating or

1 making up symptoms?

2 A Restate your question or please just repeat it.

3 Q Instead of trying to find out what the problem  
4 really is, is Nicolle seen as exaggerating or  
5 making up symptoms?

6 A I can't speak to the first part of your  
7 question but and I don't think this was  
8 happening initially in working with Nicolle but  
9 over time staff are concerned that she's been  
10 exaggerated, making up or malingering symptoms.  
11 That doesn't necessarily mean she doesn't have  
12 any symptoms, just that they are seeing that.  
13 I don't know about the first part of your  
14 question.

15 Q Okay. That's fine.

16 If Nicolle was making up symptoms, could that  
17 be a cry for help?

18 A Sometimes it can be, yes.

19 Q Did I personally refer Nicolle for Trauma  
20 Informed treatment?

21 A To my knowledge you did.

22 Q Was she denied services?

23 A Yes. The service provider denied services  
24 until her detention was deemed complete. They  
25 wouldn't provide it.

1 Q So that means that Nicolle or any other  
2 similarly-situated juvenile cannot receive  
3 Trauma Informed therapy until they have been  
4 adjudicated?

5 A I don't know but I recently took a training on  
6 trauma and people who are detained. I think  
7 this was in adult settings. And there is  
8 definitely a lot of people who have trauma in  
9 these settings; however, there is also concern  
10 clinically for doing the treatment at the right  
11 time. Trauma work can be very destabilizing.  
12 It may not always be the right setting. It is  
13 very unfortunate.

14 Q Do you agree that Nicolle needs Trauma Focused  
15 therapy?

16 A I don't necessarily agree she needs Trauma  
17 Focused therapy. Any kind of therapy that's  
18 trauma informed would be, I believe, necessary.  
19 I think that what she needs most importantly is  
20 help with seeing choices she makes as harmful  
21 to herself as well as harmful to others.

22 Q Okay. You mention that not all the symptoms  
23 Nicolle has endorsed were accompanied by  
24 congruent affect or behavior and therefore may  
25 be manufactured. Could her lack of affect or

1 behavior congruent to symptoms be due to trauma  
2 that Nicolle has faced?

3 A The short answer is, yes, it could be.

4 Repeated exposure to trauma can make people  
5 numb and they get very used to those kinds of  
6 experiences, including violence. You can be  
7 numb to it or become indifferent to it.

8 Q So it could be seen as a coping mechanism?

9 A Yeah. It could be seen as a coping mechanism.

10 Q Did Nicolle endorse some symptoms of PTSD?

11 A She did endorse some symptoms of PTSD.

12 Q Then Nicolle endorsed multiple symptoms of  
13 Oppositional Defiant Disorder?

14 A She did.

15 Q You listed that symptoms include losing her  
16 temper easily, getting annoyed and irritated  
17 easily, getting angry or mad often and  
18 typically crying and wanting to be alone when  
19 she got mad and trying to get back at people  
20 who have hurt her or made her mad.

21 Could that be described as normative behavior  
22 of a teenager?

23 A Well, she's had these symptoms for many years,  
24 some of these symptoms. Some of these symptoms  
25 would be normative for a teenager. It is to

1 the degree of severity and the frequency and  
2 the problems they cause, either the distress in  
3 the person or to others around them and  
4 functioning. That's what makes it clinically  
5 significant versus kind of normal teenage  
6 behavior.

7 Q Is this something that could be described as a  
8 bigger problem for somebody who was hurt by  
9 adults in her life?

10 A Please repeat the question.

11 Q Could these symptoms that I listed earlier, be  
12 more normal or normative for someone who was  
13 hurt by adults in her life?

14 A Are you saying if she -- I'm just going to see  
15 if I understand your question by saying it a  
16 little differently.

17 Q Okay.

18 A Are you saying if she were hurt by adults in  
19 her life, would this be a normal response?

20 Q Yes.

21 A It could be.

22 Q As a psychologist I'm sure you are familiar  
23 with research on adolescent development and the  
24 fact that children grow out of oppositional  
25 behaviors as their brain matures, correct?

1 A Yes. Some do. You don't get this diagnosis as  
2 an adult. So it is really just a diagnosis for  
3 children.

4 Q But that then turns into Antisocial Personality  
5 Disorder sometimes?

6 A Not necessarily.

7 Q It can?

8 A If the person doesn't grow out of it, it may  
9 cause more, yeah, antisocial personality stuff,  
10 yes.

11 Q So do most children grow out of oppositional  
12 behavior?

13 A All right. Oppositional behavior in general or  
14 Opposition Defiant Disorder?

15 Q Either.

16 A I don't know about the literature on  
17 Oppositional Defiant Disorder if they grow out  
18 of it because you can't be diagnosed it but it  
19 is not as highly correlated with developing  
20 Antisocial Personality Disorder as Conduct  
21 Disorder is and not all children who have  
22 Conduct Disorder go on to have Antisocial  
23 Personality Disorder.

24 As far as growing out of oppositional behavior  
25 in general, kids who have it -- I almost -- that's a

1 very, very broad question. I'm not going to try to  
2 answer it for just general oppositional behavior.

3 Q But it is possible that Nicolle can grow out of  
4 this oppositional behavior?

5 A It is possible that she can grow out of it just  
6 by maturing?

7 Q Yes.

8 A It is possible, yes.

9 Q It is possible that with rehabilitation and  
10 therapy that she can grow out of this  
11 oppositional behavior?

12 A It is possible, yes.

13 Q And per the DSM-5 you can't diagnose anyone  
14 under 18 with Antisocial Personality Disorder?

15 A No. But you can note traits and try to  
16 intervene, which would be a wise thing to do to  
17 prevent it from developing. But, no, you have  
18 to be 18 to have it assigned.

19 Q Moving to page 20, looking at Behavior at JDC  
20 via event reports. Did DJJ staff note that  
21 Nicolle had acute anxiety related mostly to her  
22 worries over how her current charges will  
23 affect her life?

24 A Yes.

25 Q Did she have verbal outbursts toward staff?

1 A She was noted to, yes.

2 Q Is that abnormal for a child who's been  
3 incarcerated at JDC for over a year?

4 A First of all, some of these were not over a  
5 year. They were just in a few months of being  
6 there. I don't know about all JDC youth. I  
7 only know about youth that I've come in contact  
8 with or other of my team have come in contact  
9 with for waiver evaluations or perhaps a  
10 pre-adjudicatory evaluation that's not  
11 regarding a waiver.

12 Definitely it is not unusual to have some  
13 incidents of any kind, a fight, being upset,  
14 refusing to cooperate. I have not in my experience,  
15 which is limited with other waiver evaluations, I've  
16 not come across, how do I put this -- your question  
17 is is it unusual?

18 Q Right.

19 A It is unusual in my experience with the waiver  
20 evaluations I've conducted to see it to this  
21 degree, to actually see it at all. Incidents  
22 of some type like I described, some of them,  
23 those are not unusual.

24 Q Okay. But was Nicolle also described as  
25 cooperative and helpful by some staff?

- 1 A Yes, she was. I think it was also in the  
2 context of sometimes she can also be  
3 cooperative and helpful and other times she can  
4 be this way, yes.
- 5 Q Was medication noted as helping her remain calm  
6 and more stable?
- 7 A Yes.
- 8 Q Moving to page 22, Behavioral Observations. On  
9 the day of testing, that was just you and  
10 Nicolle. I was not present for that. Was  
11 Nicolle cooperative?
- 12 A She was.
- 13 Q Was she calm?
- 14 A She was.
- 15 Q Did she work efficiently on tasks?
- 16 A I wrote that she did and that sounds correct  
17 from my recollection.
- 18 Q Did she pay attention?
- 19 A Yes.
- 20 Q Did she make good eye contact?
- 21 A Yes.
- 22 Q Did she have intelligent questions that she  
23 asked you?
- 24 A Yes.
- 25 Q And you noted some of them you couldn't answer

1 and you referred her to me?

2 A She had some -- this is pretty typical that  
3 they will -- kids will ask questions that are  
4 related to something I can't answer. But they  
5 are good. She was asking questions that showed  
6 she was participating in her defense or  
7 participating in her case, yes.

8 Q Okay. On July 9th, 2021 Nicolle was not calm  
9 for the evaluation, correct?

10 A She initially presented as cooperative and that  
11 quickly changed or shortly into it. I don't  
12 know if it is quick. It was going to be a long  
13 day and within, maybe, I don't know, half an  
14 hour, 45 minutes it felt like.

15 Q But was she polite?

16 A She was never ill-mannered toward me.

17 Q Okay.

18 A During that day.

19 Q On July 22nd, 2021 was Nicolle initially not  
20 willing to participate in the evaluation?

21 A Correct.

22 Q Did she later decide to cooperate?

23 A Correct.

24 Q Was she cooperative?

25 A She was exceedingly cooperative.

1 Q Did she cry?

2 A I think there was crying on both days but I  
3 wasn't really present regarding not wanting to  
4 participate. You are saying on 7/22 did she  
5 cry. No further crying or verbal outbursts of  
6 any kind. Never declined a question. I did  
7 not note her to cry on 7/22.

8 Q You mentioned that she did not decline any  
9 questions?

10 A Correct.

11 Q Did she have a mostly calm demeanor?

12 A Correct.

13 Q You do write that, It was not clear to the  
14 examiner that her tearfulness from trauma or  
15 grief as her words -- excuse me. You write  
16 that, It was not clear to the examiner that her  
17 tearfulness was from trauma or grief as her  
18 words and affect accompanying emotion were  
19 often not in agreement?

20 A I wrote that, yes.

21 Q Is the lack of agreement between words and  
22 affect a sign of someone who has endured  
23 trauma?

24 A It can be. However, true distressing grief is  
25 sort of universally understood. True current

1           experiencing distressing grief is something  
2           that I feel equipped to state I can see it or  
3           not.

4   Q       Okay. And we will talk more about that.

5   A       But to answer the first part with people who  
6           have experienced trauma is there sometimes an  
7           incongruency between words and affect, yes.  
8           Sometimes there is.

9   Q       You wrote that Nicolle did not exhibit the  
10          emotions of grief, remorse or empathy when  
11          asked structured clinical questions to assess  
12          this capacity. This included emotion about or  
13          toward herself when discussing various abuses  
14          or traumas she reportedly herself had endured.

15  A       Yes. I wrote that.

16  Q       Is not exhibiting emotions also potentially a  
17          sign of someone who has endured trauma?

18  A       Yes.

19  Q       You wrote that Nicolle appears to have poor  
20          insight and poor judgment with a tendency to  
21          repress and deny anything upsetting in her  
22          environment.

23          Again, is repression and denial a potential  
24          symptom of trauma?

25  A       Well, there is an avoidance response in trauma.



1           Again, could that be a sign of someone who has  
2 endured trauma?

3   A    Almost anything that she's exhibiting could  
4 be -- I don't know how to say this.  People  
5 with Post Traumatic Stress Disorder can exhibit  
6 a wide variety of symptoms.  I don't believe  
7 she has Post Traumatic Stress Disorder symptoms  
8 fully.  Does she have some trauma symptoms?  
9 She endures some.  It can be -- what you are  
10 asking can also be caused by other things as  
11 well.

12   Q    Okay.  Is it normal for youth who are  
13 undergoing court-ordered evaluations to respond  
14 in a matter putting themselves in a positive  
15 light out of a desire to present well in court  
16 and to avoid a bad outcome at the court  
17 hearing?

18   A    It is not unusual.  And the more serious the  
19 stakes, the more likely, you know, youth will  
20 do that.  We try to tell them to be as honest  
21 as possible because it will reflect better on  
22 them but it is very hard for them to sometimes  
23 believe that.  So I would say it is not  
24 unusual.

25   Q    You write that Nicolle engages in chronic

1 lying.

2 Tell us how you know that.

3 A Well, she shared with me some of the things she  
4 disclosed to me were lies. She shared that  
5 some of the disclosures she had made to  
6 different agencies were lies. And there was  
7 also notation in treatment records of chronic  
8 lying and problems with lying at school, with  
9 DMH.

10 Q Could it be normal for someone who has been  
11 traumatized or abused to lie after not being  
12 believed?

13 A Could you say that again? I heard it. I just  
14 need to kind of hear it again.

15 Q Could it be normal for someone who has been  
16 traumatized or abused to lie after not being  
17 believed?

18 A I wouldn't say it would be normal but it is a  
19 possibility that it could occur.

20 THE COURT: Let me ask you this, Ms. McGrady.  
21 How many more questions do you have of this witness?

22 MS. McGRADY: A lot.

23 THE COURT: We need to take a break then.

24 MS. McGRADY: Okay.

25 THE COURT: Is this a good stopping point?

1 MS. McGRADY: I have two more questions on this  
2 page and then I'll be at a good stopping point.

3 THE COURT: All right.

4 THE WITNESS: Did I answer that last question?

5 MS. McGRADY: Yes.

6 CROSS-EXAMINATION

7 BY MS. McGRADY:

8 Q Could a child who misrepresents the truth be  
9 trying to protect herself?

10 A Sure.

11 Q Is it possible that a child who has been  
12 abandoned by adults in her life does not trust  
13 adults?

14 A Absolutely.

15 MS. McGRADY: All right. Your Honor, this is  
16 an appropriate time for a break.

17 THE COURT: Solicitor.

18 MR. HUBBARD: I was just going to ask again for  
19 clarification. Is this what could happen as opposed  
20 to what we are here about, Nicolle Sanchez-Peralta?

21 THE COURT: The doctor said she's answering in  
22 general.

23 MR. HUBBARD: Okay. In general. Okay. Thank  
24 you.

25 THE COURT: It could happen but I don't think

1 specifically she is testifying as specifically  
2 applicable to the defendant.

3 MR. HUBBARD: Okay. Thank you.

4 THE COURT: Right?

5 MS. McGRADY: Right.

6 THE COURT: Right, Doctor?

7 THE WITNESS: Yes.

8 THE COURT: Okay. Let's take a five-minute  
9 break.

10 (Whereupon, a recess was taken.)

11 THE COURT: All right.

12 Solicitor, are you ready?

13 MR. HUBBARD: Yes, sir.

14 THE COURT: All right.

15 MS. McGRADY: We are ready, Your Honor.

16 THE COURT: Go ahead.

17 CROSS-EXAMINATION

18 BY MS. McGRADY:

19 Q Moving to the psychological Test Results and  
20 Interpretation section on page 24. Well, I  
21 guess my first question comes from page 25.

22 Did Nicolle score a 76 as a full scale IQ?

23 A She did.

24 Q Is that in the very low range?

25 A It is.

1 Q What does a 76 IQ mean for somebody?

2 A Well, first of all, I think I wrote specific to  
3 Nicolle about these scores. But in general, a  
4 full scale IQ a very low means that they're  
5 functioning with regards to intellectual  
6 abilities to standard deviations below what is  
7 considered an average.

8 So what does that mean? Well, I think I  
9 talk -- I didn't say it on this but intellectual  
10 measures just measure very specific kinds of  
11 intelligence, a specific kind of intelligence. So  
12 it doesn't mean that she might not be smart in other  
13 ways. But it is regard, it is kind of in regard to  
14 these particular kinds of intellectual abilities.

15 So compared to people her age, she would be two  
16 standard deviations below the average. So she would  
17 be or -- let me back up. You said what a full scale  
18 IQ means in general for a person of 76. They would  
19 be less intellectually adept than the average  
20 person, significantly. Not to the degree that they  
21 have an intellectual disability but there would be a  
22 significant difference compared to the average  
23 person.

24 Q Okay. I believe you wrote that, Research  
25 indicates that bilingual subjects tend to be

1 lower by one standard deviation than their true  
2 abilities.

3 Was testing administered to Nicolle in Spanish?

4 A No. Testing was not administered to Nicolle in  
5 Spanish.

6 Q Why not?

7 A Because based on how she presented in 2019 and  
8 now she's been functioning more in English.  
9 And if she were to take an IQ test in Spanish,  
10 it actually, perhaps, she would do more poorly  
11 on it.

12 Q Can you tell us about the Juvenile  
13 Victimization Questionnaire, which is on page  
14 26?

15 A Sure. About the questionnaire in general?

16 Q Yes. Generally speaking.

17 A So it is a screening instrument to assess a  
18 youth's lifetime history of exposure to  
19 violence, crime and abuse. It is by  
20 self-report. They check 'yes' or 'no' and then  
21 typically whatever they write, I will inquire  
22 to get the details to make sure I understand  
23 what they have endorsed.

24 Q Nicolle's results were not assumed to be fully  
25 accurate; is that correct?

1 A I did not assume her results to be completely  
2 accurate because her self-report had not been  
3 truthful. On the JVQ-R, in fact, I didn't  
4 write it on here, but on the 2021 one during  
5 her evaluation she had stated that her  
6 brother-in-law had been sexually -- it has to  
7 be sexually abusive because she is underage.  
8 So sexually abusive versus sexually assaulted  
9 or sexual predatory with her. She did not  
10 include that on there. And I actually said,  
11 Hey, this person is missing and then she added  
12 it.

13 I don't know how accurate what she endorsed on  
14 the second one or the first one was. On the first  
15 one she might have underreported stuff she had been  
16 exposed to by her report of the sexual abuse of the  
17 uncle. She did not include that. And then on the  
18 2021 one, I just don't now how accurate everything  
19 is but, yeah.

20 Q Were some of the same answers marked between  
21 the 2019 and 2021 tests?

22 A The physical discipline and abuse by her mother  
23 was endorsed both times. Witnessing fights,  
24 gun violence, the loss of her uncle, those were  
25 to gun violence as well.

1 Q So there was some consistency?

2 A There was.

3 Q On the Minnesota Multiphasic Personality  
4 Inventory for Adolescence she endorsed answers  
5 that would be consistent with anxiety and/or  
6 social anxiety disorders, conduct disorders and  
7 ADHD or other neurodevelopmental disorders.  
8 Why did you not diagnose her with any of those  
9 disorders?

10 THE COURT: Where are you now, Ms. McGrady?

11 MS. McGRADY: The bottom of page 26.

12 THE COURT: Okay.

13 THE WITNESS: And to top of page 27, correct?

14 CROSS-EXAMINATION

15 BY MS. McGRADY:

16 Q Yes.

17 A So you asked me why I didn't diagnose her?

18 Q Yes.

19 A Well, I didn't assign diagnoses for any  
20 disorders. But when I interviewed her, I wrote  
21 up in the mental health history the symptoms  
22 she endorsed and what those symptoms are  
23 associated with. And on this measure it  
24 doesn't say that she would meet the criteria.  
25 It says, Persons with this profile indicate

1 considerations for Somatic Disorder.

2 I do talk about that with the frequently going  
3 to seeking out medical help and is it really, you  
4 know, true medical issues. I report that she is  
5 expressing distress and anxiety about being  
6 detained. She was endorsing that. Conduct, I talk  
7 about.

8 The ADHD, people sometimes endorse some  
9 symptoms of ADHD or other neurodevelopmental  
10 disorders for other reasons. For example, if I'm  
11 having trouble concentrating and focusing, it could  
12 be for other reasons, for example, anxiety. She  
13 didn't behaviorally seem to exhibit ADHD, so.

14 Q On the Jesness, and that's J-E-S-N-E-S-S,  
15 Inventory Revised, Nicolle's results were  
16 interpreted with caution, yes?

17 A Yes. And also the other one was too.

18 Q Okay.

19 Was Nicolle's score significantly elevated on  
20 the Repression scale?

21 A Yes.

22 Q Did Nicolle's level of repression show that she  
23 had poor insight into her self-concept?

24 A Yes. Well, it says that she is likely. So  
25 these are interpreted with caution and

1 interpreted with caution. If you are  
2 interpreting it as accurate, then she is likely  
3 to be rigid and have poor insight about her  
4 self concepts.

5 Q Could Nicolle be using repression as a defense  
6 mechanism?

7 A Repression is a defense mechanism. So if she  
8 is using it, that would be, yes.

9 Q Could it be a coping mechanism for all the  
10 trauma she tried to tell you and others about,  
11 particularly on the Juvenile Victimization  
12 Questionnaire but was deemed not to be fully  
13 accurate?

14 A Could you repeat the question?

15 Q Could it be a coping mechanism for all the  
16 trauma she tried to tell you about on the  
17 Juvenile Victimization Questionnaire but was  
18 deemed to not be fully accurate?

19 A That's like a three-part question. I believe I  
20 answered my concerns about the JVQ-R.  
21 Self-report in a forensic evaluation with  
22 stakes this high is somewhat suspect. You have  
23 to have corroboration. And by her own  
24 admission, some of the stuff that she'd said  
25 prior happened had not later. I don't even

1 know if that's true. She might, you know, I  
2 really just don't know.

3 As far as using repression to deal with trauma,  
4 in general people certainly could do that. Is  
5 Nicolle? I don't know.

6 Q But she could be using repression as a defense  
7 mechanism.

8 A Yes. Well, definitely as a defense mechanism  
9 in general she could be because repression  
10 defense mechanism. So if she is using it, for  
11 sure it would a defense mechanism by  
12 definition. Is she using it because of all the  
13 trauma she's experienced that she tried to tell  
14 people about? I don't know.

15 Q Okay. The results were to be interpreted with  
16 caution but Nicolle's profile indicates that  
17 she's a candidate for treatment. Yes?

18 A It doesn't indicate that she is a candidate for  
19 treatment or that she isn't. What it indicates  
20 are these are some considerations for  
21 treatment. It provides recommendations and  
22 treatment focus.

23 Q You say that Nicolle will likely not respond  
24 well to the type of treatment that this  
25 assessment deemed a potential for Nicolle. Is

1           it appropriate for you to make that subjective  
2           assessment in this evaluation?

3    A       Well, that's a two-part question.  Can you  
4           repeat the first part?

5    Q       The results were to be interpreted with caution  
6           but Nicolle's profile indicates that she is a  
7           candidate for treatment.  You answered that.

8    A       It didn't indicate that she is a candidate for  
9           treatment.  The Jesness always provides  
10          treatment focuses.  It didn't say that she  
11          isn't and it didn't say that she is I don't  
12          think.  It just says these are some issues to  
13          take into consideration for treatment.

14   Q       You say that Nicolle will likely not respond  
15          well to this type of treatment?

16   A       Yeah.  Interpreted with caution, that's what it  
17          said and I agree, although insight, that's  
18          insight oriented.  It doesn't mean that she  
19          could not benefit from other treatment but at  
20          this time in taking the test, she did not  
21          present as somebody who could be a good  
22          candidate for insight oriented treatment.  And  
23          then you asked me do I feel that I'm qualified  
24          to make that --

25   Q       Is it appropriate for you to make that

1 subjective assessment in this evaluation?

2 A Yes. It is appropriate. It is actually what  
3 I'm being asked for by the court, which is what  
4 is needed for rehabilitation and can we provide  
5 it. So it is actually pointing out this  
6 approach isn't ideal.

7 I don't think it is subjective because I'm  
8 using a lot of stuff in coming to my conclusions. I  
9 do know it should be interpreted with caution but  
10 that's because of these things, an unwillingness to  
11 admit to or unawareness of negative feelings,  
12 unrealistically positive image of herself was  
13 presented.

14 So for example, part of why this needed to be  
15 interpreted with caution is actually something that  
16 can be used for something useful, which is the  
17 insight oriented approach might not be the best  
18 approach with her.

19 Q Treatment foci should include assisting her to  
20 remain calm when frustrated; to be involved in  
21 a pro-social undertaking; and due to her  
22 likelihood of having little concern about her  
23 past behavior, significant support to help her  
24 begin to look critically at herself.

25 Did you write that?

1 A This is in the same paragraph.

2 Q Yes, ma'am.

3 A Yes.

4 Q Are you aware of the type of treatment services  
5 that young people receive at the Department of  
6 Corrections?

7 A I'm aware. Am I aware of the type of treatment  
8 that young people receive? I have some  
9 understanding. I've not personally been  
10 present during the individual or group kinds of  
11 sessions.

12 Q Would Nicolle be able to receive this type of  
13 treatment that you recommend at the Department  
14 of Corrections?

15 A I don't know.

16 Q Okay.

17 A I don't know. She would have to be motivated  
18 and you would have to have somebody skilled who  
19 is really working on these issues. Those two  
20 things together and somebody who can help her  
21 be motivated also because sometimes that is a  
22 treatment focus itself.

23 Q Do they have that type of person at the  
24 Department of Corrections?

25 A At the Department of Corrections.

1 Q Yes.

2 A I don't know enough about the Department of  
3 Corrections. I do know some psychologists who  
4 work there but I don't think that detention  
5 settings are where you get probably the best  
6 treatment. Does that make sense just in  
7 general?

8 Q Yes.

9 A I mean--

10 Q So you don't know if--

11 A It is not -- Department of Corrections isn't  
12 probably treatment focused. There are  
13 different kinds of treatment available.  
14 There's substance abuse. There's all kinds of  
15 stuff that I believe is available. I don't  
16 know to the degree that it addresses this kind  
17 of work.

18 Q So you don't know if Nicole could get this at  
19 SCDC?

20 A I don't know if she could get it at SCDC. No,  
21 I could not say.

22 Q Okay.

23 Can you tell us about the Millon Adolescent  
24 Clinical Inventory or MACI?

25 A Uh-huh. It is a personality inventory but it

1           also looks at emotional and behavioral symptoms  
2           that may be a part of a condition. And she  
3           completed that and had a similar pattern of  
4           responding that caused it to be interpreted  
5           with caution. But I still interpreted it and  
6           presented the findings in this paragraph. Do  
7           you want me to --

8    Q       No. You don't have to read it.

9    A       Okay. All right.

10   Q       You've already answered my question about  
11           whether the results are to be interpreted with  
12           caution.

13   A       Uh-huh.

14   Q       But there were some valid results that could be  
15           interpreted from Nicolle's answers?

16   A       There were some results that seemed to fit  
17           either how she presents herself or collateral  
18           information or whether or not they fit. This  
19           is how she presented.

20   Q       Did her responses indicate a significant lack  
21           of insight about herself?

22   A       They did.

23   Q       Is that consistent with the Jesness Inventory?

24   A       Yes.

25   Q       Did she endorse anxiety or distress and sexual

1           discomfort with elevated depressive affect?

2    A       She did.

3    Q       Did she endorse significant childhood abuse?

4    A       She did.

5    Q       Is that consistent with her trauma  
6           questionnaire?

7    A       The JVQ-R?

8    Q       Yes.

9    A       Yes.

10   Q       Is that consistent with her telling you about  
11           the sexual assault by an uncle?

12   A       She didn't tell me about a sexual assault with  
13           the uncle. I think there were -- I think there  
14           were -- to my recollection I didn't go into  
15           detail about more than one event with the  
16           uncle.

17           I thought that she had reported that there  
18           was -- I would call that sexual abuse versus a  
19           sexual assault. And you said is it consistent?  
20           Those two things are consistent. She endorsed  
21           significant childhood abuse on the MACI and she  
22           endorsed it on the JVQ-R and in the interview, yes.

23   Q       Can you tell us about the personality style  
24           associated with this profile?

25   A       I'll read a snippet.

1 Q Please.

2 A The personality style most consistent with this  
3 profile is self-defeating whereby Nicolle may  
4 behave with an apprehensive mistrust of others  
5 and permits others to exploit and mistreat her.  
6 Nicolle may expect the worst to happen and even  
7 precipitate events to generate self-defeating  
8 stressors, which that intensify her challenges  
9 and become a part of her character or response  
10 style to stressors.

11 Q So Nicolle is distrusting of others?

12 A Apprehensive mistrust means, yeah, you could  
13 say a distrust of others.

14 Q And that could include adults?

15 A Yes.

16 Q So Nicolle is self-defeating?

17 A This profile doesn't say that she is  
18 self-defeating. It says that her personality  
19 style most consistent with this profile is  
20 self-defeating, although her behaviors would be  
21 consistent with someone who may be  
22 self-defeating definitely.

23 Q And despite her clear history she did not  
24 endorse conflict or any challenges following  
25 rules/authority, impulsivity, delinquency or

1 dangerous ideation.

2 Is that consistent with someone who lacks  
3 insight into themselves?

4 A It is either consistent with somebody who lacks  
5 insight into themselves or somebody who is  
6 portraying themselves in an overly positive  
7 manner if it is inconsistent with their  
8 behavior.

9 Q But it's already been documented by multiple  
10 people in assessments that Nicolle lacks  
11 insight into herself?

12 A Yes. But you are asking would the lack of  
13 insight cause that and I can't say. I can say  
14 partly. And also there was a kind of overly  
15 virtuous self presentation on these measures.  
16 And so there could be that desire also  
17 contributing to this.

18 Q Okay. You say in your report, Rehabilitation  
19 would require collaboration between Nicolle and  
20 treatment providers and any rehabilitation is  
21 likely to be accomplished only with slow,  
22 thorough, hard work and the ability to build  
23 trust with Nicolle; is that correct?

24 A I did write that, yes. That's correct.

25 Q So rehabilitation is possible for Nicolle?

1 THE COURT: Where did you see that? Where are  
2 you now? Twenty-eight?

3 MS. McGRADY: Yes. Top of page 28. It is in  
4 the first paragraph.

5 THE COURT: All right.

6 THE WITNESS: Your question is, is based on the  
7 MACI results, am I determining that rehabilitation  
8 is possible for Nicolle or in general are you asking  
9 me?

10 CROSS-EXAMINATION

11 BY MS. McGRADY:

12 Q Based on the MACI.

13 A The MACI only indicates what you would need to  
14 do to pursue treatment and rehabilitation. It  
15 doesn't say whether she is going to be  
16 rehabilitated if she gets that treatment. It  
17 is not predictive. It just talks about  
18 treatment focuses and challenges.

19 It actually states that therapy could be very  
20 hard for her and she will possibly want to avoid the  
21 hard parts of it. So that's a challenge. But it  
22 doesn't mean that she couldn't participate in  
23 therapy.

24 Q You also say that, Combining treatment with  
25 psycho-pharmacology and a treatment setting

1           that affords her access to group therapy and  
2           pro-social norms would be to her benefit; is  
3           that correct?

4    A    Yes.

5    Q    To your knowledge are such treatment services  
6           available for children serving their sentence  
7           at DJJ?

8    A    Well, she already is receiving -- she is  
9           already seeing a psychiatrist several times,  
10          receiving medication, and she is going to group  
11          therapy. So she is at least receiving some of  
12          that.

13   Q    If she were adjudicated delinquent in a family  
14          court and sentenced to DJJ, an indeterminate  
15          sentence at DJJ --

16   A    And go to BRRRC.

17   Q    And go to BRRRC potentially--

18   A    Yes.

19   Q    -- would she receive those treatment services  
20          at BRRRC?

21   A    She would have access to those treatment  
22          services at BRRRC.

23   Q    Is it the same for young people who are  
24          sentenced to prison time at the Department of  
25          Corrections?

- 1 A Are they getting the same services?
- 2 Q Yes.
- 3 A I believe they have access to some services but  
4 they are not the same. There is more available  
5 in the juvenile -- a juvenile detention setting  
6 or juvenile placement.
- 7 Q So there is more options available for Nicolle  
8 if she were to remain with DJJ?
- 9 A That's what I've been told by many colleagues.
- 10 Q Okay. It is not likely that Nicolle would  
11 respond well to an insight oriented approach  
12 unless she stated that she was aware of and  
13 willing to work on her problems. Is that a  
14 subjective or objective take?
- 15 A It is an objective take and not all therapy has  
16 to be that way. But a lot of people think that  
17 is what therapy is. That would probably not be  
18 the best approach.
- 19 Q Okay. But there are other approaches that can  
20 be taken?
- 21 A That's right.
- 22 Q All right. Moving on to Empathy, Remorse and  
23 Responsibility, also on page 28. How do you  
24 assess empathy, remorse and responsibility?
- 25 A We ask -- I asked, we asked a variety of

1 questions aimed at finding out -- let's see.  
2 These are separate items so I'll go one at a  
3 time. So responsibility would be -- I will  
4 work backwards. Responsibility would be  
5 questions about behaviors and actions that the  
6 youth has taken, in this case Nicolle and how  
7 she views them; what might she do differently;  
8 does she take responsibility for them; does in  
9 taking the responsibility for them, does that  
10 include the effect upon other people, not just  
11 admitting that you have done them. That would  
12 be a way to describe that one.

13 Remorse and empathy are connected. Remorse is  
14 like a regret and empathy is the ability to feel or  
15 imagine how others would feel. I just did not see  
16 much of that at all with Nicolle as far as the  
17 empathy. It was somewhat nonchalant.

18 But as far as assessing it, it is asking her  
19 about -- I'm sorry. I answered something you didn't  
20 ask me. I apologize.

21 So in assessing empathy, there is scenarios  
22 that are theoretical as well as actual that I posed  
23 to her and would talk with her about. And then  
24 remorse is, you know, like regret and you know, what  
25 would you do differently; what could you do

1 differently; why do you regret if they say they  
2 regret their behavior. It is dozens of questions.

3 Q Are empathy, remorse and responsibility learned  
4 behaviors?

5 A I would say they are not completely learned,  
6 no, because very, very, very young children,  
7 toddler age or even younger can feel empathy.  
8 When somebody is distressed, they may cry. So  
9 I think that is a human trait.

10 Q Is remorse a learned behavior?

11 A Remorse isn't behavior. It is a feeling. If  
12 you are not brought up in an environment where  
13 people express remorse, it may be more  
14 difficult to develop it.

15 Q Is it common for children Nicolle's age to have  
16 not developed empathy, remorse and  
17 responsibility?

18 A It is common for teenagers to struggle with  
19 this and not have it to the degree that adults  
20 would and that they are kind of ongoingly  
21 developing it. They are growing with it. It  
22 is not fully developed as a teenager, no.

23 Q Is it recognized in the field of psychology  
24 that children are different than adults?

25 A Yes.

1 Q Did you know that the Supreme Court of the  
2 United States recognizes that children are  
3 different than adults?

4 A Yes.

5 Q Are you aware of diminished culpability is due  
6 to developmental immaturity, deceptibility, to  
7 influence and yet developed character?

8 A Yes.

9 Q Are you familiar with the Supreme Court case,  
10 Roper v. Simmons?

11 A I think I've read about it several times but I  
12 wouldn't be able to give you a summary.

13 Q That's fine. The decision in that case was  
14 that executing minors --

15 MR. HUBBARD: Your Honor, I'm going to object.  
16 I don't know what the relevance of questioning her  
17 about Supreme Court cases from the United States has  
18 to do with this waiver hearing.

19 MS. McGRADY: It goes back to remorse and they  
20 specifically touch on remorse in that Supreme Court  
21 decision.

22 MR. HUBBARD: It is a capital case.

23 THE COURT: Sir?

24 MR. HUBBARD: And that's a capital case she is  
25 citing.

1 MS. McGRADY: But it is talking about remorse  
2 as it applies to juveniles.

3 THE COURT: Well, ask her a question about it.  
4 I don't think reciting the case law or asking her  
5 whether she is aware of it has anything to do with  
6 her position regarding remorse.

7 So that's sustained to a degree but go ahead  
8 and ask her the question what you are looking for  
9 regarding remorse.

10 CROSS-EXAMINATION

11 BY MS. McGRADY:

12 Q Are you familiar that in Roper, the Supreme  
13 Court pointed out that even trained  
14 psychologists admit the difficulties of  
15 accurately differentiating between a child's  
16 depravity of character and transient  
17 immaturity?

18 A I wouldn't have recalled that from the case but  
19 I can see why that would be stated that way.  
20 That it could be difficult, I understand what  
21 that's saying and I don't disagree with it.

22 Q Okay. Would you agree that rather than  
23 indicating future dangerousness, limited  
24 rehabilitative potential or an assuring of  
25 moral responsibility, a child's remorselessness

1           may suggest nothing more than her age?

2    A       I would agree that that sometimes is the case,  
3           yes.

4    Q       Do psychologists struggle with providing an  
5           accurate assessment of remorse and often have  
6           misinterpreted a youth's evaluation responses?

7    A       You are still on that case or just in general?

8    Q       Just in general.

9    A       Just in general. Are you asking me do  
10          psychologists -- repeat the question, please.

11   Q       Yes. I'll break it up. Do psychologists  
12          struggle with providing an accurate assessment  
13          of remorse?

14   A       I would say probably some do when tasked with  
15          it. But I feel confident myself and my team do  
16          a very good job with it.

17   Q       Do psychologists often misinterpret a youth's  
18          evaluation responses?

19   A       I can't say that I could speak to that 'yes' or  
20          'no'.

21   Q       Is it unrealistic to expect that children have  
22          the social and psychological capacity as  
23          adults?

24   A       Yes.

25   Q       Is supposed remorselessness an inaccurate

1 predictor of genuine emotion and an inaccurate  
2 proxy for determining future criminality or  
3 amenability to treatment?

4 A My goodness. I'm sorry. I'm laughing out of  
5 nervousness and a little fatigue, not at what  
6 you said. Could you please repeat the  
7 question?

8 Q Is supposed remorselessness an inaccurate  
9 predictor of genuine emotion and an inaccurate  
10 proxy for determining future criminality or  
11 amenability to treatment?

12 A Could I see that or is it embedded in notes?

13 Q It is in notes but I'll let you look. I'll  
14 highlight it.

15 A I appreciate it. I just really want to make  
16 sure I understand it. Thank you.

17 (Pause.)

18 THE WITNESS: Okay. I'm not going to read  
19 anything else. The question is, is supposed  
20 remorselessness. In other words, it is not for sure  
21 that it is remorselessness. It is alleged  
22 remorselessness. An inaccurate predictor of genuine  
23 emotion and an inaccurate proxy. Well, all right.  
24 Is it an inaccurate picture of genuine emotions --

25 THE COURT: Talk into the microphone, Doctor,

1 so I can hear you.

2 THE WITNESS: Okay. I'm sorry. Okay. So it  
3 is asking if supposed remorselessness is accurate or  
4 not for predicting genuine emotion and should it  
5 be -- can it be an inaccurate proxy, in other words,  
6 used to determine future criminality and amenability  
7 to treatment.

8 It is only one piece. It should not be used in  
9 isolation and it should not be used if there's, in  
10 my opinion, if there is an absence of remorse. It  
11 needs to be demonstrated more than once and be  
12 really clear, not just sort of offhand, teenage, not  
13 really appreciating the gravity of the situation or  
14 their actions.

15 Is it an accurate predicator of genuine  
16 emotion. I'm not even sure I understand that. So  
17 the lack of remorse, does that mean it can predict  
18 accurately genuine emotion. First of all, that  
19 means all emotion versus just this particular one.  
20 And I don't believe remorselessness should be used  
21 solely for determining future criminality. First of  
22 all, assessing risk for future criminality would be  
23 my job, nor should it be used on its own to  
24 determine amenability to treatment, no.

25 CROSS-EXAMINATION

1 BY MS. McGRADY:

2 Q Thank you.

3 A Thank you.

4 Q As a psychologist, wouldn't you agree that even  
5 when experiencing internal sorrow, children may  
6 refrain from showing remorse in order to avoid  
7 the associated emotional discomfort?

8 A That could be said for adults too, yes.

9 Q Isn't remorse itself a type of painful  
10 suffering?

11 A I don't know if I would say that remorse is a  
12 painful suffering but it is a feeling of regret  
13 and guilt that has some distress, perhaps pain,  
14 yes.

15 Q Doesn't its expression release anguish and  
16 agony that accompany the acknowledgment of a  
17 crime?

18 A Would you repeat that, please?

19 Q Doesn't its expression release anguish and  
20 agony that accompany the acknowledgment of a  
21 crime?

22 A It can.

23 Q Aren't youth particularly attuned to pain  
24 avoidance as emotional distress hurts them more  
25 than it does adults?

1 A I couldn't say that yes to that. I don't know  
2 that they are more but I think people in  
3 general don't like to experience emotional  
4 pain.

5 Q In turn, children may fail to show remorse as a  
6 byproduct of denial or defense mechanism  
7 against the unpleasantness of tragedy?

8 A Is that a question?

9 Q Yes. May children fail to show remorse as a  
10 byproduct of denial or a defense mechanism  
11 against the unpleasantness of tragedy?

12 A They sure can.

13 Q May they avoid showing remorse in order to  
14 suppress their own anxieties about wrongdoing  
15 as a type of preservation of themselves against  
16 the external world?

17 A Yes.

18 Q To punish them for doing so would  
19 inappropriately penalize their natural  
20 immaturity and inability to cope with internal  
21 suffering, wouldn't it?

22 A Can you repeat that question?

23 Q To punish children for doing so would  
24 inappropriately penalize their natural  
25 immaturity and inability to cope with internal

1 suffering, wouldn't it?

2 A What do you mean by punishment?

3 Q If you inappropriately gauge remorselessness,  
4 would that penalize their natural immaturity  
5 and inability to cope with internal suffering?

6 A I don't believe that this kind of evaluation  
7 should draw conclusions based on  
8 remorselessness only. And what the court  
9 decides is up to the court.

10 I do believe that with time and reflection  
11 based on the seriousness of the charges, that an  
12 absence of remorse or sufficient remorse is  
13 concerning. I wouldn't necessarily agree with  
14 whether people should be punished for not having it.  
15 It is a rehabilitation issue--

16 Q Okay.

17 A -- more so.

18 Q Okay. Nicolle's IQ was scaled at a 76 which is  
19 in the very low range, correct?

20 A Yes. That was the full scale.

21 Q Could her IQ mean that she is not  
22 intellectually equipped to meet the high  
23 expectations with remorse?

24 A I think that the IQ score underrepresents her  
25 true intellectual abilities because when I

1 tested her in 2019 it was higher. It was low  
2 average. But could that affect her? No, I  
3 don't think so because I've evaluated children  
4 with lower IQ scores who can feel remorse or  
5 express remorse. So, no. I would not make  
6 that connection. And also, it was her score  
7 wasn't sufficient to have a concern about an  
8 intellectual disability.

9 Q Okay. Are children less capable of both  
10 feeling and expressing the pain associated with  
11 remorse?

12 A Less capable? I think that's probably fair to  
13 say that the younger you are, the more  
14 challenging it may be.

15 Q Could it be difficult for Nicolle to express  
16 emotion or empathy and remorse in the setting  
17 of a formal evaluation?

18 A You are asking if the setting of the formal  
19 evaluation would affect her ability to express  
20 that?

21 Q Yes.

22 A In theory, it could.

23 Q Okay.

24 A I don't know if it did.

25 Q Are you familiar with any empirical data on

1           remorselessness and future dangerousness for  
2           adults?

3       A    No.  It is just one element and it actually  
4           speaks more to treatment amenability.  So how  
5           workable is treatment going to be if you have  
6           somebody who can't or isn't showing regret or  
7           feeling that regret.  That speaks more to  
8           treatment amenability and treatment amenability  
9           is what I'm tasked to -- one of the constructs  
10          I'm needing to assess for the court.

11          The first part of your question could you  
12          repeat again?

13       Q    Are you familiar with any empirical data on  
14           remorselessness and future dangerousness for  
15           adults?

16       A    For adults?

17       Q    Yes.

18       A    No.

19       Q    Are you familiar with any empirical data on  
20           remorselessness and future dangerousness for  
21           children?

22       A    I'll backtrack on the first one.  I've read  
23           many articles but all of it is sort of escaping  
24           me now and I wouldn't want to say I'm familiar  
25           on this right at this moment.  Would I be able

1 to look at research, yes. I don't think that  
2 we should be assessing risk of dangerousness  
3 based only on presence or lack of remorse.

4 Q Okay.

5 A For children or adults. But it is a  
6 consideration.

7 Q Thank you.

8 Moving to the Risk Sophistication Treatment  
9 Inventory or I believe it was RSTI?

10 A Yes.

11 Q Top of page 29. You mention that you are  
12 teaching yourself the RSTI. Can you explain  
13 that?

14 A Okay. So in 2019 I took a very long training  
15 along with two other supervisors and I have  
16 been administering the RSTI with all of my  
17 waivers. When I say teaching myself, that's  
18 how we do this. Psychologists, we get training  
19 and then we practice and we get feedback from  
20 colleagues. Right now we are training other  
21 psychologists to use it at DJJ for these  
22 evaluations specifically.

23 Q Is this compared to other female peers that are  
24 similarly situated or males and females?

25 A Well, the research on the RSTI is with various

1           populations. There is a lot of research on the  
2           RSTI. So it is compared to her peers in  
3           juvenile settings.

4           There is not a different scoring for males or  
5           females but on both the RSTI and the SAVRY it is  
6           actually not seen as detrimental to females. In  
7           fact, there is like a less of a concern that they'll  
8           be -- that being lumped with males would be unfair.  
9           I don't know how to explain it better. I apologize.

10          Q       That's okay.

11          A       You can ask more questions about that but these  
12                 are measures that are normed with a juvenile  
13                 like Nicolle and normed on different  
14                 populations to make sure that they are reliable  
15                 and valid for use with other populations, not  
16                 just boys or any particular group.

17          Q       And this is only for DJJ-involved youth?

18          A       Well, the RSTI, yes. The SAVRY by nature  
19                 probably includes those youth but they do. It  
20                 could be behaviors that are concerning but if  
21                 not, like cause them to have any charges.

22          Q       Is this a United States study, the RSTI, or is  
23                 it just on South Carolina youth?

24          A       The RSTI has been used in many, many different  
25                 states, the research.

1 Q Okay.

2 A I actually spoke with the researcher when we  
3 had questions as a team about our use of it. I  
4 talked directly to the researcher, Randy  
5 Salekin.

6 Q When did you start using the RSTI for waiver  
7 evaluations?

8 A We started using it, piloting it, with the  
9 supervisors who had taken the training in 2019  
10 and then slowly using it with other  
11 psychologists who had either taken the training  
12 or we were training internally. So 2019  
13 through current.

14 Q So now is it used on all juveniles who are  
15 going through the waiver process?

16 A If it isn't, it is because that particular  
17 psychologist didn't get the training at the  
18 time. So there are some, you know, probably  
19 hearings that have yet to happen or recently  
20 happened where the evaluation did not include  
21 it. But that's because of the time that the  
22 evaluation was conducted and that person having  
23 had the training or not.

24 But otherwise, the intention is moving forward  
25 all will use the RSTI. They may not all use the

1 SAVRY. We are still looking at that. Best practice  
2 is to use more than one. So I'm going to advocate  
3 for the RSTI and SAVRY.

4 Q Okay. You mentioned the words, At the time of  
5 the present alleged offense. Does that mean  
6 that the level of risk of dangerousness is  
7 dynamic and could change?

8 A And you are quoting where?

9 Q Let me look. On the bottom paragraph on page  
10 29.

11 A Okay. At the time of the present alleged  
12 offense, yeah, similar to the SAVRY. As I said  
13 a little earlier, there is dynamic and static.  
14 A way to look at risk factors are dynamic and  
15 static. And some things you can't change,  
16 those are static. But anything that is dynamic  
17 can be impacted by many things in one direction  
18 or the other, including rehabilitation.

19 Q Her violent and aggressive tendencies cluster  
20 fell within the high range; however, you  
21 mentioned that her anger and violence do not  
22 appear to be severe; is that correct?

23 A Yes. There's no indication that she has caused  
24 physical damage to somebody.

25 Q Okay. You mention the words dismissively,

1           superficially and felt contrived. Is that  
2           subjective?

3    A    Where?

4    Q    In the same paragraph I believe. The top of  
5           page 30.

6    A    Okay. No. I would not say that that was  
7           subjective. I was asking her to talk about  
8           values and she was not able to name any. While  
9           that's not unusual with youth, with a little  
10          bit of prodding we can usually get something.  
11          And I suggested to think of well somebody get  
12          their values from their religion. And then she  
13          said, Taking a life was wrong.

14          That occurred to me as dismissively. It was  
15          very quick, kind of superficial and just sort of,  
16          oh, yeah, well, you are not supposed to do that. I  
17          would say that isn't subjective because I'm not a  
18          random person. I'm a psychologist and I'm capable  
19          of evaluating things like is somebody being  
20          superficial or not or does this feel as if it is a  
21          genuine value or something just supplied to me.

22    Q    Her psychopathic features cluster scored as  
23           high. This feature is empathy, remorse or  
24           guilt, her level of egocentrism and her ability  
25           to manipulate others or her environment,

1 correct?

2 A Yes. I'm just making sure I'm looking at the  
3 same sentence you are. Yes.

4 Q Okay. Not to beat a dead horse, but empathy,  
5 remorse and guilt are things that can be  
6 learned?

7 A Well, they are three different things.

8 Q Can empathy be learned?

9 A I would hope so if it is missing.

10 Q Can remorse be learned?

11 A I don't know. It depends on the person.

12 Q Can guilt be learned?

13 A Guilt is a very kind of basic emotion akin to  
14 shame which is what very, very, very young kids  
15 feel before they can feel guilt. Similar to  
16 empathy, I would say, that's a human emotion.  
17 And if somebody is lacking it, in theory can  
18 somebody learn it, yes. And it is something  
19 that we all to some greater or lesser degree by  
20 our upbringing, learn.

21 Q So this is dynamic and can change, her  
22 psychopathic features cluster score?

23 A Not necessarily.

24 Q If she were to learn empathy, remorse and  
25 guilt, this could change?

- 1 A Yes. Except that the greater degree of  
2 psychopathology, the more work would need to  
3 happen.
- 4 Q But it can change?
- 5 A In theory, yes.
- 6 Q Moving to the level of sophistication,  
7 maturity, are you familiar with this being a  
8 Kent factor?
- 9 A Yeah. You are looking at how sophisticated  
10 and -- I mean, I don't have the Kent factors  
11 right in front of me.
- 12 Q Just generally.
- 13 A It is. It is Kent factor number six.
- 14 Q Nicolle scored in middle range of the  
15 sophistication maturity scale, yes?
- 16 A Yes.
- 17 Q Does that mean she is average among similarly  
18 situated female youth offenders?
- 19 A Yes.
- 20 Q Nicolle scored high in autonomy, yes?
- 21 A Correct.
- 22 Q Is that attributed to her being independent of  
23 her family for the past couple of years?
- 24 A Not completely. But, yeah, that was part of  
25 it. There is a number of items for any one of

1           these areas. That's one.

2    Q       Could it also be because her primary caregiver,  
3           her maternal grandmother, died and she  
4           subsequently had trouble bonding with her  
5           parents when she came to the United States and  
6           felt she had to rely on herself?

7    A       Okay. So the question you are asking is how  
8           she scored on autonomy, could it be because of  
9           that?

10   Q       Yes.

11   A       That's not how I scored it so I would say, no.  
12           I'm not saying that that may not be why she is  
13           doing what she is doing but how I scored it was  
14           not based on that.

15   Q       Okay. Nicolle--

16   A       And it wasn't based on just that item.

17   Q       Right.

18           Nicolle scored in the middle range in cognitive  
19           capacity, yes?

20   A       Yes.

21   Q       Does that mean that she is average among  
22           similarly situated female youth offenders?

23   A       Yes.

24   Q       Is she highly sophisticated in her cognitive  
25           capacity?

- 1 A No. I mean, she's just not rating high on her  
2 cognitive capacity which would include, I don't  
3 know, not highly sophisticated and may  
4 account -- yeah. So that doesn't mean that  
5 with a medium or middle score that she is going  
6 to be, as an example, very good at whatever  
7 behavior she is doing, including if it is  
8 manipulative or criminal behavior.
- 9 Q Okay. Did Nicolle score high in the emotional  
10 maturity range?
- 11 A She did.
- 12 Q Could this be because she's learned to depend  
13 on herself due to her attachment style with her  
14 parents?
- 15 A It is kind of the same answer as to the other  
16 one. I was not using that as a particular item  
17 for emotional maturity and I used many items to  
18 come up with, you know, this result. I think  
19 you are asking a different question.
- 20 Q I'm sorry?
- 21 A I think I don't totally understand the  
22 question.
- 23 Q Could her high score in emotional maturity be  
24 because she depended on herself because she did  
25 not attach to her parents?

1 A It could be a piece that contributes to what  
2 has her have this score.

3 Q Could it be because that she learned that she  
4 couldn't trust others?

5 A It could be a piece that contributes to her  
6 behavior that helped me come to this score.  
7 But I did not use that item.

8 Q Could it be because others failed to meet her  
9 needs growing up?

10 A That's the same answer.

11 Q Okay.

12 A Yeah. I mean, there is a whole thing that we  
13 use for emotional maturity and those three  
14 items aren't on there.

15 Q Okay. That's fine.

16 Do children of immigrants or are children of  
17 immigrants forced to grow up faster than their  
18 American-born counterparts generally?

19 A They can. For example, as an example they may  
20 be put in an interpreter role for their parents  
21 and that's not a good thing. They can hide  
22 things from their parents, you know, school  
23 stuff. It is not ideal.

24 Q But they could also be put into a role say if  
25 somebody was in the hospital interpreting for

1 the doctor to the parent?

2 A Yeah. Absolutely. Yeah.

3 Q Or perhaps purchasing a car in an interpreter  
4 role for the parents?

5 A It could be anything and it does happen.

6 Q Is Nicolle average when it comes to  
7 sophistication and maturity?

8 A She came up as middle, in the middle range.  
9 So, yes, average compared to her peers in  
10 offender settings.

11 Q So average or middle is akin to average?

12 A Yes.

13 Q Okay. On staying on page 31 but moving to  
14 Previous Rehabilitation Efforts and Treatment  
15 Amenability, she, Nicolle, has a history of  
16 treatment for various mental health conditions  
17 for which she historically appeared to not  
18 engage in treatment or at sufficient or  
19 motivated levels; is that true?

20 A Yes.

21 Q Could that be because of her age?

22 A Are you asking if that could, all of that could  
23 be because of her age only?

24 Q Could her age be a piece of it?

25 A Yes. Her age could be a piece of it.

1 Q Could a piece of it be her attachment style to  
2 her parents?

3 A Well, if you are looking at doing family  
4 therapy, yes. That could contribute to it; or  
5 if she doesn't view adults as useful to her or  
6 helpful to her, then that could impede because  
7 you are not going to get therapy with a kid.  
8 So she would have to be able to work with a  
9 therapist, an adult therapist.

10 Q My next question being, could a piece of that  
11 be because of her inability to trust others?

12 A Yes.

13 Q Could a piece of that be because she didn't  
14 connect with the assigned therapist or  
15 clinician?

16 A I don't know. I mean, in theory that could be  
17 for anybody. I don't know about this.

18 Q Doesn't one need to find someone that they  
19 connect with or vibe with in order to be  
20 successful in therapy generally?

21 A I don't know if one has to have a deep  
22 connection. Depends on the kind of therapy you  
23 are doing. But feel comfortable to work and  
24 trust the person, yes.

25 Q Nicolle's consideration and tolerance of others

1 fell into the middle range. Is that akin to  
2 average with other similarly situated female  
3 youth?

4 A Yes.

5 Q Nicolle's responsibility and motivation to  
6 change was listed as falling into the low  
7 range. Is that contrary to what she told you?

8 A I don't know if it is contrary the  
9 responsibility part but the motivation for  
10 change, she said that she would participate in  
11 treatment for as long as it took.

12 Q Correct.

13 Is anyone really a poor candidate for therapy  
14 if they truly want help?

15 A Are you ask -- are you asking me if people who  
16 truly want help can be a poor candidate for  
17 therapy if they truly want help?

18 Q Right.

19 A I would say, because I do a lot of clinical  
20 work, I would say absolutely people can be very  
21 poor candidates for therapy who want help,  
22 unfortunately.

23 Q Even people who want help--

24 A Yes.

25 Q -- desperately?

- 1 A Yes. It depends on what's going on with them  
2 and their ability to use therapy. So, yes. In  
3 general that can happen.
- 4 Q Nicolle's treatment amenability falls in the  
5 low range, but isn't she already participating  
6 in treatment at JDC?
- 7 A She is.
- 8 Q Showing that she has the propensity to receive  
9 treatment?
- 10 A She is participating in treatment. So that is  
11 a good prognostic sign and I talked about it a  
12 few times. It was used in assessing that area.  
13 It just wasn't the only factor.
- 14 Q But she is participating at JDC?
- 15 A Yes.
- 16 Q All right. Moving to the Likelihood of  
17 Reasonable Rehabilitation, page 32. Do all  
18 children who have a high level of risk for  
19 future violent behavior go on to continue  
20 violent behavior or continue to commit crimes?
- 21 A Do not quite -- you are asking me a general  
22 question?
- 23 Q I'm asking you a general question.
- 24 A Okay. Could you repeat the question?
- 25 Q Do all children who have high level of risk for

1 future violent behavior go on to continue  
2 violent behavior or continue to commit crimes?

3 A No.

4 Q What percentage do?

5 A I don't know. But I think that the general  
6 literature about juveniles is that most do have  
7 some sort of juvenile involvement don't go on  
8 to commit crimes. That's in general.

9 Q Correct.

10 As a psychologist, you must be familiar with  
11 studies on desistence and the fact that children  
12 grow out of criminal behavior, even the ones who  
13 allegedly commit violent crimes?

14 A I'm familiar with some of the literature, yes.

15 Q Okay.

16 A That would have been probably my follow-up  
17 point if I kept talking, what you just said.

18 Q Historical risk factors are static, yes?

19 A Historical factors that can't be changed are  
20 static, yes and by nature they happened  
21 already.

22 Q Nicolle is at a moderate to high risk for  
23 future delinquent or violent behavior; is that  
24 correct?

25 A On the historical risk factors?

1 Q Yes.

2 A Yes.

3 Q Is moderate, again, akin to the word average?

4 A Yes.

5 Q Is Nicolle at average risk to reoffend?

6 A No. I don't have her as average risk to

7 reoffend. I have her as high. But on the

8 historical risk factors, she was average to

9 high for future delinquent or violent behavior

10 in the future.

11 Q Are proactive and reactive aggressions learned

12 behaviors?

13 A They can be.

14 Q Can they be unlearned through therapy?

15 A They can be.

16 Q You go on to say that, Nicolle has a

17 significant discontinuity of care occurring

18 through her childhood that lasted longer than a

19 year.

20 Did that adversely affect her attachment style?

21 A I can't say for sure but I think that based on

22 what she said, the therapy records and how she

23 and her family are that it affected her

24 attachment style. I don't know if it still

25 exists now.

1 Q Did that adversely affect her ability to bond  
2 with her family?

3 A It seems as if it caused her to have problems  
4 bonding with her parents.

5 Q Was that Nicolle's fault, the discontinuity of  
6 care?

7 A The discontinuity of care was nothing to do  
8 with anything that she did.

9 Q You say that Nicolle doesn't hold her education  
10 as an important goal but didn't she tell you  
11 during her 2019 evaluation that she wanted to  
12 complete her education and get her diploma?

13 A She did say that.

14 Q Protective factors include her parents having  
15 no criminal backgrounds, yes?

16 A Yes.

17 Q A protective factor is that her home is not  
18 violent, yes?

19 A So how I rated that was the physical abuse that  
20 was alleged that there was excessive physical  
21 discipline that at times qualifies for abuse,  
22 Nicolle said over and over that she exaggerated  
23 it and her mother denied it. At least for  
24 several years it does not appear that there's  
25 violence in the home or that outside of efforts

1 at discipline that it is something that she  
2 grew up with.

3 Q Okay.

4 A So that would be a protective factor. This was  
5 a little tricky. I had to really spend some  
6 time with that but I did not determine her  
7 based on all of the information made a  
8 determination which could be erroneous that she  
9 did not grow up in like witnessing violence all  
10 the time.

11 Q Moving to the Social and Environment Context,  
12 is that also a set of dynamic factors?

13 A These factors are dynamic, yes.

14 Q And that means they can change?

15 A Yes.

16 Q Did Nicolle state to you, which you have  
17 already testified to, that she would do  
18 treatment for as long as it takes?

19 A She said that.

20 Q Did Nicolle indicate that her family would be  
21 supportive and make sure she got to every  
22 meeting?

23 A She said that.

24 Q You cited Nicolle's inability to cope with  
25 stress or loss as a risk factor but Nicolle's

1 experience of severe trauma and loss and has  
2 coped throughout her life, wouldn't that make  
3 it a protective factor?

4 A No. I'm speaking to her struggles at JDC, that  
5 she struggles significantly with coping. It is  
6 one of the factors that we look at.

7 Q You cite in her home environment or  
8 neighborhood as one that would make  
9 rehabilitation tough, yes?

10 A Where are you? Like her neighborhood.

11 Q Yes.

12 A Yeah. Yeah. I don't know how much criminal  
13 and gang activity there is there but their home  
14 had been shot at they reported. And if she  
15 were to continue to have involvement with  
16 negative peers, gang members, that she has  
17 access to in her community, that would be a  
18 problem.

19 Q But that's a dynamic factor, right?

20 A Correct.

21 Q Meaning that they can change their home  
22 environment or move homes, move neighborhood?

23 A It is not always easy for people to move homes.

24 Q But it is possible?

25 A Yes.

- 1 Q Did her parents offer steadfast support?
- 2 A During the waiver evaluation? It appears to be  
3 the case, yes.
- 4 Q Did her parents cooperate with the evaluation?
- 5 A They did.
- 6 Q Are those protective factors?
- 7 A Yes.
- 8 Q The individual and clinical risk in protective  
9 factors are static and dynamic, correct?
- 10 A It is a combination of both, yes.
- 11 Q You say, Nicolle displays significant attitude  
12 supportive of crime or violence in word or  
13 deed, correct?
- 14 A I wrote that, yes.
- 15 Q You mention marijuana use. She can cease  
16 marijuana use, correct?
- 17 A Yes.
- 18 Q You mention risk taking and impulsive behavior.  
19 This could cease with appropriate therapy, yes?
- 20 A In theory, yes.
- 21 Q You mention that she has significant difficulty  
22 controlling her anger. This could, in theory,  
23 cease with appropriate therapy, yes?
- 24 A Yes.
- 25 Q You mention that she has a negative attitude

1           toward intervention or treatment. But at the  
2           bottom of page 33 you say that she has  
3           professed interest and motivation in treatment  
4           at JDC; is that correct?

5    A    Yes.

6    Q    These could be protective factors, yes?

7    A    Participating in treatment and saying that she  
8           is open to treatment I noted as protective  
9           factors.

10   Q    Does Nicolle have the ability to succeed  
11          academically when she applies herself?

12   A    She does.

13   Q    Is that a protective factor?

14   A    It is.

15   Q    Nicolle does not have ADHD or concentration  
16          issues; is that correct?

17   A    I did not determine that to be the case.  
18          Correct.

19   Q    And that's also a protective factor?

20   A    It makes it harder if you have ADHD, yes. So  
21          yeah, the lack of it is a protective factor.

22   Q    Additional protective or risk factors are  
23          dynamic, correct?

24   A    No. Oh, yeah. It says these factors are  
25          dynamic and can change. Yes. Sorry. Yes.

1 Q Was one of the listed factors that her parents  
2 are committed to her?

3 A Yes. Sorry.

4 Q Again, did Nicolle profess interest and  
5 motivation in treatment at JDC?

6 A She did.

7 Q Is that a protective factor?

8 A Yes.

9 Q To make genuine change in Nicolle's life, she  
10 must increase her ability to empathize with  
11 others, deepen her understanding of societal  
12 norms and the impact of criminal behavior upon  
13 herself and others, increase her remorse and  
14 sense of responsibility for delinquent behavior  
15 as well as her motivation for pro-social  
16 behavior, yes?

17 A The question is --

18 Q Is that what you wrote?

19 A I wrote that, yes.

20 Q Would all of this be attainable in therapy?

21 A They would be goals. They would be goals for  
22 therapy and in theory attainable with the  
23 proper rehabilitation.

24 Q And again, therapy that Nicolle has agreed to  
25 do for as long as it takes?

1 A She has not agreed to do this therapy. She's  
2 agreed to do therapy for as long as it takes.  
3 It remains to be seen if she would do this  
4 therapy because she may not know what it -- it  
5 can be very hard work.

6 Q Right.

7 A So but she has agreed to participate. I think  
8 I asked in intensive, would you be open to that  
9 and she said that she would do that as well as  
10 for as long as it would take.

11 Q Okay. Does DJJ offer therapy for youth who  
12 have been adjudicated delinquent and are  
13 committed to the department?

14 A To my knowledge they do.

15 Q Is it true that most youth, even those who  
16 commit violent offenses, do not continue to  
17 engage in such behaviors into adulthood?

18 A That is true.

19 Q Research shows that youth are not at high risk  
20 to reoffend into adulthood, correct?

21 A That is in general for all youth, correct.

22 Q Did you do a follow-up interview with Nicolle  
23 prior to coming to court?

24 A I did not.

25 Q What did you do to account for potential bias

1 in your interview?

2 A First of all, I probably came in to the process  
3 biased in that I had evaluated her in 2019 and  
4 I had no negative bias toward her. I was  
5 positively inclined toward her and very much  
6 concerned at what I had heard had happened.

7 As far as other bias, do you want to specify or  
8 do you just want me to answer? Is there something  
9 specific kind of bias?

10 Q No, ma'am.

11 A Okay. So in general, I talked several times  
12 with colleagues and peers or a supervisor to  
13 make sure that I was not being biased, which is  
14 something that psychologists should always do  
15 when they think that that's happening and I  
16 did. And I also double-checked my results with  
17 a group. I think I described that earlier.

18 Q Yes, ma'am.

19 A Yeah.

20 THE COURT: Ms. McGrady, how many more  
21 questions do you have for her? It is after 1:00  
22 already.

23 THE WITNESS: Anyway, that was it.

24 MS. McGRADY: About three pages.

25 THE COURT: We are going to have to take a

1 break. Find a good stopping point.

2 MS. McGRADY: If I could ask just a couple of  
3 more questions, I'll be at a good stopping point.

4 CROSS-EXAMINATION

5 BY MS. McGRADY:

6 Q Why do different clinicians come up with wide  
7 and varying conclusions after meeting with the  
8 same client?

9 A That is too general of a question. Do you mean  
10 specifically here or just in general?

11 Q In general.

12 A There are many reasons. They may do -- they  
13 may have different interactions and do  
14 different things.

15 Q Is it possible that Nicolle would be more  
16 comfortable with one clinician over another,  
17 even though both clinicians are equally  
18 skilled?

19 A Sure.

20 Q Are you familiar with adverse childhood  
21 experiences?

22 A I am.

23 Q Is there a significance with someone who has  
24 had multiple adverse childhood experiences  
25 before the age of seven that's different from

1 someone who had one at the age of 15 generally?

2 A What's the very first part of your question? I  
3 heard the rest of it.

4 Q Is there significance with someone who has had  
5 multiple--

6 A Is there significance. Well, the more trauma  
7 one has experienced earlier on is considered to  
8 have more of an adverse effect, yes. And that  
9 can last into adulthood.

10 Q So --

11 A And on for a lifetime.

12 Q So are more adverse childhood experiences worse  
13 than fewer?

14 A Well, by definition.

15 Q How many children have you interviewed who have  
16 walked from Honduras to America?

17 A I don't know if I've interviewed another child  
18 who's walked from Honduras to America but I've  
19 worked with many children who have come to the  
20 United States from other countries.

21 Q How many children have you interviewed who have  
22 been raped?

23 A Many.

24 Q All right.

25 MS. McGRADY: Your Honor, this is an

1 appropriate place for us to stop. I have about two  
2 and a half pages of questions left.

3 THE COURT: All right. It is 10 after.  
4 Everybody be back at 2:10 and we will resume. Thank  
5 you.

6 (Whereupon, a lunch break was taken.)

7 THE COURT: Ms. McGrady, are you ready?

8 MS. McGRADY: We are waiting on someone.

9 THE COURT: All right. Doctor, you want to  
10 come on up and have a seat and get situated?  
11 Doctor, you are still under oath.

12 CROSS-EXAMINATION

13 BY MS. McGRADY:

14 Q Are you ready, Doctor?

15 A Yes.

16 Q Okay. What did Nicolle tell you about being  
17 left by her parents in Honduras?

18 A During the 2019 evaluation?

19 Q Either.

20 A I don't think we talked too much in 2021. I  
21 did ask her a little bit more about the  
22 traveling in 2021.

23 In 2019 she stated that she felt abandoned.

24 Q What did Nicolle tell you about the death of  
25 her grandmother?

1 A That it was hard for her and she was close to  
2 her.

3 Q Did she tell about sneaking into her hospital  
4 room while she was on her deathbed?

5 A She did not.

6 Q What did Nicolle tell you about the death of  
7 her uncle?

8 A She stated that he was shot by his enemies.

9 Q What did Nicolle tell you about watching a man  
10 be beat to death in the streets of Honduras?

11 A She did not tell me about that but she did say  
12 that she'd seen some -- the streets were rough  
13 in Honduras.

14 Q What did Nicolle tell you about being sexually  
15 abused by her uncle, a different uncle?

16 A Wait. She did not tell me about that in 2019.  
17 She endorsed it in 2021.

18 Q Did she give you any details?

19 A I didn't probe for too many details, just that  
20 she stated that. But my recollection is it was  
21 more than one event and she did say some  
22 additional stuff. She said that she had  
23 told -- no. That it had also happened to her  
24 sister and she overheard her mother talking  
25 with her aunt on the phone about it; and she

1           knew her mother knew, at least that it had  
2           happened to her older sister but they didn't do  
3           anything about it; and that something had  
4           happened to her but she wasn't sure if her mom  
5           knew it was the same person. That's what she  
6           told me.

7    Q       What did Nicolle tell you about coming to the  
8           United States via coyote as an unaccompanied  
9           minor?

10   A       That she and her sister -- she told me in 2019  
11           that she came with family friends. In 2021  
12           she -- and I probed her in 2019 if there was a  
13           coyote and she had said no. But in 2021 she  
14           said there was that type of person, somebody  
15           who's hired to bring people over. And when  
16           they arrived in Texas -- and I asked her in  
17           2019 if there were any incidents. I probed  
18           quite a bit because usually it is not uncommon  
19           that there are incidents. She said no; it was  
20           fine; her sister looked out for her and  
21           everything was fine.

22           In 2021 she said that the--

23           MR. HUBBARD: Your Honor, I hate to interrupt.

24           I believe we have some witnesses for the defense  
25           that are on their list that are in the courtroom.

1 THE COURT: Why is that, Ms. McGrady?

2 MS. McGRADY: I didn't know they were in the  
3 courtroom.

4 THE COURT: Danny, who is back there that are  
5 witnesses for the defense? Do you have any idea?

6 All y'all step out.

7 MS. McGRADY: Nobody was requested to be  
8 sequestered.

9 THE COURT: Well, but --

10 MR. HUBBARD: Your Honor made it clear that  
11 that's what was going to happen.

12 THE COURT: And the doors were to remain open  
13 so that y'all could have people come in and out.

14 MS. McGRADY: Okay.

15 THE COURT: Everybody who hasn't testified  
16 needs to leave.

17 (Pause.)

18 THE COURT: You know, when we initiated these  
19 proceedings, she is the mitigation specialist,  
20 right?

21 MS. McGRADY: Yes.

22 THE COURT: She is allowed to stay.

23 MR. HUBBARD: Yes, sir.

24 THE COURT: When we initiated these  
25 proceedings, my specific instructions were when a

1 witness was called, the witness was to come testify  
2 and leave.

3 MS. McGRADY: Yes, Your Honor.

4 THE COURT: And not be in here during the  
5 proceedings. And that applied to the State and the  
6 defense except for the individuals specifically  
7 requested, i.e. investigators on both sides.

8 MS. McGRADY: Yes, Your Honor. My apology.

9 THE COURT: I'm not blaming you. I'm just  
10 saying, Tony, don't let anybody in here through  
11 those doors unless they are a witness, okay?

12 THE BAILIFF: I said something earlier.

13 THE COURT: That's all right. We got it taken  
14 care of.

15 MS. McGRADY: My apologies, Your Honor. I  
16 didn't realize they had come into the courtroom.

17 THE COURT: No problem. Go ahead.

18 CROSS-EXAMINATION

19 BY MS. McGRADY:

20 Q What did Nicolle tell you about being in foster  
21 care after arriving to the United States as an  
22 unaccompanied minor?

23 A So I wasn't done answering that other question  
24 but I can answer these together. She stated in  
25 the 2021 evaluation that when they arrived to

1 Texas, the family friends actually were not  
2 available or were not available to continue to  
3 help them to get to South Carolina. And so  
4 that they were placed in some sort of, you  
5 know, setting for unaccompanied minors.

6 I don't know the details of that. And then her  
7 parents or one of her parents was able to help get  
8 them the rest of the way. I don't know if it was  
9 meeting them at the airport or coming and then  
10 flying with them. But that the family friends fell  
11 through and this took a long time, I think she said  
12 at least a few months, the whole leaving Honduras  
13 and arriving in South Carolina process.

14 Q What did Nicolle tell you about being pistol  
15 whipped by Treveon Nelson?

16 A Repeat that.

17 Q What did Nicolle tell you about being pistol  
18 whipped by Treveon Nelson?

19 A She stated she had been.

20 Q What did Nicolle tell you about being raped by  
21 Treveon Nelson?

22 A She stated she had been I believe on more than  
23 one occasion but there was one that there is a  
24 law enforcement report and she endorsed that.  
25 But I believe that there were -- she said there

1 was more than one time that it had happened. I  
2 don't remember if she said it had happened in  
3 the month of April prior to her being detained  
4 off the top of my head.

5 Q Okay. Changing gears. Would it be  
6 unreasonable for a child to perceive the  
7 participation in the waiver process or waiver  
8 evaluation as risky?

9 A I don't know if perceiving participation as  
10 risky. I would say that there is a lot on the  
11 line and they know it as far as the  
12 seriousness. So most youth are concerned about  
13 what they share or don't share. You can see  
14 that and sometimes it is not unusual in all of  
15 these evaluations.

16 Q Did you tell Nicolle that the report would be  
17 given to the court, the solicitor and to me?

18 A Yes.

19 Q Does that sound safe for a child?

20 A I don't know how to answer that question--

21 Q That's fine.

22 A -- to be frank.

23 Q Does it seem reasonable for a child to be  
24 concerned about this?

25 A To be concerned about what, the waiver

1 evaluation?

2 Q The waiver evaluation.

3 A It is reasonable to be concerned about the  
4 waiver evaluation.

5 Q Could Nicolle's trauma history being relayed to  
6 the solicitor or to the court be deemed  
7 embarrassing to her?

8 A It is possible, yes.

9 Q Is it possible for a child to be embarrassed or  
10 ashamed of being in an abusive relationship?

11 A Yes.

12 Q Are you familiar with the cycle of abuse?

13 A I am.

14 Q Can you tell us what the cycle of abuse looks  
15 like?

16 A Yes. Well, it is probably different variations  
17 of it but in the beginning of a relationship  
18 with somebody who is going to be abusive,  
19 there's probably an overabundance of lots of  
20 displays of affection and charm and things that  
21 would be appealing to somebody. And then abuse  
22 can begin with something maybe kind of  
23 innocuous or confusing. It might be verbal and  
24 it just kind of tends to escalate the more  
25 someone tolerates it.

1           It typically doesn't start how it ends. So it  
2 kind of builds up and there are periods of where the  
3 person who is being abused might be trying to set  
4 limits or leave or get help or stand up for themself  
5 and the person who is being abusive might then  
6 apologize and be contrite and say they will never do  
7 it again and that then becomes like a little bit of  
8 a honeymoon phase where everything is wonderful and  
9 then it continues. So I think that that's a decent  
10 representation. There's probably several different  
11 of those charts.

12   Q     Yes. I agree with your representation.

13           Does a person go along with their abuser or can  
14 a person go along with their abuser even though it  
15 can be damaging to their body?

16   A     Absolutely.

17   Q     Or if it could be illegal?

18   A     Pardon?

19   Q     Or if it could be illegal?

20   A     Yes.

21   Q     And changing gears again, is it possible that  
22 Nicolle meets the diagnostic criteria for PTSD?

23   A     I didn't come to that conclusion.

24   Q     Is it possible that Nicolle meets the  
25 diagnostic criteria for depression?

1 A I didn't come to that conclusion but depression  
2 is different -- I think you might mean major  
3 depression but there's different kinds of  
4 depression. So do you mean any kind of  
5 clinical diagnosis of depression?

6 Q Yes.

7 A It is possible that -- well, first of all, I  
8 haven't met with her in a number of months but  
9 based on the time that I had done this  
10 evaluation, she was diagnosed with Unspecified  
11 Depressive Disorder. I would have probably  
12 seen it as more of a like adjustment disorder  
13 with both anxiety and depression at the time  
14 related to being detained. I mean, there was a  
15 lot of distress and she might have been  
16 experiencing some depressive symptoms that  
17 would meet its own diagnosis but I didn't come  
18 to that conclusion.

19 Q Okay. Is it possible that Nicolle meets the  
20 diagnostic criteria for Reactive Attachment  
21 Disorder?

22 A I don't think that that's something you would  
23 diagnose in an adult but she may have ongoing  
24 attachment issues now based on issues that she  
25 had in the past.

1 Q Is it possible that Nicolle meets the  
2 diagnostic criteria for an underlying anxiety  
3 disorder?

4 A That is possible.

5 Q Are there evidence-based interventions, therapy  
6 or treatments that can help Nicolle for the  
7 diagnoses that she offers?

8 A All the diagnoses you listed?

9 Q Any that she has or may have.

10 A There is -- well, I can't answer to things that  
11 she has or doesn't have or may have. It is  
12 just very broad. Are you asking me if there  
13 are evidence-base treatments for the diagnoses  
14 you offered that she might have?

15 Q Yes.

16 A Okay. Except for the Reactive Attachment  
17 Disorder in an adult, because that's really not  
18 what's addressed as an adult. It is more  
19 attachment style and perhaps personality  
20 disorders. If it continues personality stuff  
21 might be at play. So except for that, I would  
22 say, yes, there is evidence-base treatment for  
23 all of the other diagnoses you offered.

24 Q And those treatments can alleviate symptoms?

25 A Those treatments are evidence based as being

1           able to alleviate symptoms, yes.

2    Q       And they can reduce negative trauma history?

3    A       They can't reduce a history but people can  
4           recover from posttraumatic stress.

5    Q       Are there evidence-base treatments that would  
6           reduce the symptoms of what you have diagnosed  
7           Nicolle with?

8    A       I didn't assign diagnoses for Nicolle. But I  
9           did discuss some possible diagnoses where she  
10          had symptoms.

11   Q       Are there evidence-base treatments that would  
12          help reduce the symptoms of what symptoms you  
13          see in Nicolle?

14   A       Unfortunately, as a profession where we don't  
15          do very well is addressing antisocial behavior  
16          in adults. So if she were to continue to have  
17          that as an adult, we don't do as well with that  
18          in the profession.

19   Q       But Nicolle is not an adult yet.

20   A       No. She is not. For everything that I listed  
21          that she had some symptoms for, there are  
22          evidence-based treatments.

23   Q       Are there evidence-based treatments that would  
24          help with negative coping skills?

25   A       Yes.

1 Q Are there evidence-based treatments that would  
2 help with abandonment issues with her parents?

3 A It is not really how we typify things because  
4 it is not a condition but there are  
5 evidence-based treatments for people who have  
6 that as part of whatever else is going on.

7 Q Are there evidence-based treatments that help  
8 with being the victim of a rape?

9 A Yes.

10 Q On page four of your evaluation from 2021, you  
11 mention that it does not appear that any family  
12 therapy or the IEP request was done; is that  
13 correct?

14 A What page are we on?

15 Q Four.

16 A Uh-huh. Yes. So at the top? Where am I on  
17 page four? Where am I on this? Near the  
18 bottom of the first paragraph?

19 Q Yes, ma'am.

20 A Okay. All right. To my knowledge there was no  
21 evaluation request made for an IEP. There does  
22 not really appear to have been any family  
23 therapy. I had a list of items. I didn't  
24 include it in here. I went through every  
25 single item on the dispositional order and I



1 appointments and they were able to confirm that by  
2 phone. So there might have been random drug screens  
3 with that.

4 CROSS-EXAMINATION

5 BY MS. McGRADY:

6 Q Okay.

7 A There was an IAS that I put on because she had  
8 run away right after completing the evaluation  
9 but prior to disposition she turned herself in  
10 and it was too late to do an IAS before the  
11 disposition date. So I recommended it for  
12 right after and I don't believe that was held.

13 Q Okay. So you mentioned that it doesn't appear  
14 that family therapy was done. What does that  
15 do for a kid who has problems at home?

16 A Well, I recommended the family therapy because  
17 I thought that that was important to help her  
18 with the issues I saw in the 2019 evaluation.  
19 What I can say is the lack of it, the lack of  
20 it could compromise her ability to address  
21 those problems.

22 Q Would family therapy be beneficial or important  
23 for this family?

24 A I believe it was at the time. I don't know now  
25 but for rehabilitation efforts, in general the

1 research says with juveniles, family therapy is  
2 very important and there is probably still are  
3 family issues. So I would say likely.

4 Q Would it have been beneficial for Nicolle to  
5 have support academically since she scored so  
6 low in the testing that you did?

7 A She didn't score so low in the testing I did in  
8 2019. But I did recommend that she be  
9 evaluated for an Individualized Education  
10 Program and in case there was a math or  
11 instability. That was the only low, that one  
12 score.

13 Q Would support in math have been beneficial for  
14 her?

15 A Yes, tutoring.

16 Q Could these have been rehabilitative factors  
17 for Nicolle?

18 A Are you asking if she had gotten an IEP  
19 evaluation, if that would have helped with  
20 rehabilitation?

21 Q Would that be a protective factor?

22 A Having an IEP can be a protective factor if it  
23 is needed and done early enough. We see it as  
24 protective factor.

25 Q And my last set of questions for you. Changing

1 gears but when does brain development stop?

2 A I think the general accepted age is 25 but I  
3 mean, I don't know if it totally stops because  
4 I think there is some if there is injury or  
5 whatever there might be, you know, new neural  
6 pathways that can be established, once you are  
7 an adult anyway. But as far as are you talking  
8 normal development of the brain? I think we  
9 are looking at early to mid 20s is what's  
10 generally --

11 Q Early to mid 20s?

12 A Uh-huh.

13 Q When does a person's personality become so  
14 fixed that it cannot change through  
15 intervention or therapy?

16 A That's a very broad question. It is generally  
17 understood that by the time you are an adult,  
18 your personality is fairly fixed. But that  
19 doesn't mean that people can't learn new coping  
20 skills and kind of expand, expand their  
21 personality. You don't necessarily greatly  
22 alter your personality. And can you repeat the  
23 question? So I feel like I answered a part of  
24 it but now I want to hear the question again.

25 Q When does a person's personality become so

1 fixed that it cannot change through  
2 intervention or therapy?

3 A That part is too broad, when does a person's  
4 personality because it depends on the person  
5 and it depends on the -- well, it depends on  
6 the personality.

7 Q What about for a normal person?

8 A For a person without a personality disorder,  
9 you are more likely to be able to kind of keep  
10 growing and expanding. You are more adaptive.  
11 So it is considered less rigid but yet we still  
12 maintain our personalities even if they are not  
13 disordered. But by early adulthood is  
14 generally what is understood in my field is  
15 when the personality becomes mostly well  
16 established.

17 Q You said early adulthood?

18 A By early adulthood. It manifests in  
19 adolescence. But by early adulthood is -- I'm  
20 not saying it become so fixed. I don't really  
21 agree with the question. It is too broad. But  
22 by early adulthood is when it is generally  
23 agreed that we formed our basic personality. I  
24 can answer that.

25 Q Okay. Has Nicolle's brain stopped developing?

1 A Not according to neuroscience.

2 Q Is Nicolle's personality so fixed that it will  
3 not change whatsoever with intervention and  
4 therapy?

5 A I could not say that specific to Nicolle. I  
6 could not say that. You can repeat the  
7 question to make sure that I'm understanding  
8 it.

9 Q Is Nicolle's personality so fixed that it will  
10 not change with intervention or therapy?

11 A I can't say that it wouldn't and I can't say  
12 that it would.

13 Q Okay.

14 A And she is a young adult at this point, 17.

15 Q Yes.

16 A Not an adult by statutory. I just mean by  
17 developmental standards.

18 Q Do you believe that DJJ has treatment programs  
19 that could be beneficial for Nicolle?

20 A I don't know. There could be.

21 MS. McGRADY: All right. No further questions.

22 THE COURT: Thank you, ma'am.

23 MR. HUBBARD: A few quick follow-ups, Your  
24 Honor.

25

REDIRECT EXAMINATION

1 BY MR. HUBBARD:

2 Q Doctor, when we say someone is endorsing  
3 something, what does that mean?

4 A That means they are saying that they endorsing,  
5 they are saying they have it or they agree with  
6 it for them.

7 Q Okay. It is not something you find. It is  
8 something that they are -- it is coming from  
9 their mouth?

10 A Yeah. Like a self-report.

11 Q Okay. Page 13, I did not get into this area.  
12 The defense did. The Trauma Reaction History,  
13 bottom of the page 13 on over to 14. You have  
14 where Nicolle has shared numerous allegations  
15 of abuse and events that could have been  
16 traumatic. See where I am?

17 A You are at the bottom of page 13?

18 Q Yes, ma'am.

19 A Yes.

20 Q And you have there, There appears to be a  
21 pattern of Nicolle providing false or  
22 inaccurate accounts of victimization,  
23 apparently motivated by a desire to get out of  
24 trouble. Further, while others are blamed for  
25 her victimization, which she later might

1 nonchalantly concede are lies, Nicolle  
2 evidences no remorse or concern about this  
3 behavior and its effects upon others, including  
4 her family.

5 Is that your finding of talking to her and  
6 going through all this information?

7 A Yes.

8 Q All right. And following up from that, you  
9 have some bullet points, some information that  
10 was reported events that may have been a source  
11 of trauma?

12 A Yes. Additional, additional reported events  
13 that weren't already included in other parts of  
14 the report.

15 Q Right. And one of those, I think it is the  
16 third bullet down you have, Nicolle reported  
17 experiencing violence with Treveon Nelson back  
18 in 2020 and 2021?

19 A Yes.

20 Q And you have that she reports the relationship  
21 may include violence and also appears to have  
22 been serious and mutual?

23 A By what I could discern, the relationship  
24 appeared to be serious and mutual. And I noted  
25 that the relationship may include violence.

1 Q Would that violence also potentially be mutual?

2 A It is possible. I saw some things on social  
3 media that could, that could indicate some  
4 maybe mutually combative ways of interacting  
5 with each other.

6 Q Okay.

7 A Nicolle is small. And so in any kind of  
8 relationship where there is domestic violence,  
9 if it is male-female, the female's typically  
10 going to, even if it is physical, going to get  
11 the worst of it just by size alone. And I  
12 don't know that that was the case.

13 Q Right. You also note that she alleged about  
14 being a prisoner of Treveon Nelson, that she  
15 was further abused and got away and then he  
16 found her. Do you remember that part?

17 A I do.

18 Q And you have in there, Law enforcement and  
19 social media discovery and medical reports are  
20 not consistent with this story?

21 A Yeah. In reviewing everything, that didn't  
22 quite line up.

23 Q Then under the Mental Health History, page 17,  
24 you reference a suicide attempt from July 26 of  
25 2019, suicidal ideation.

1 A Page 17?

2 Q Right. Yes, ma'am.

3 A Okay. Got it.

4 Q All of that was about her parents trying to set  
5 limits on her behavior while she was on house  
6 arrest and was not supposed to have a phone; is  
7 that correct?

8 A Yeah. She was actually on probation. They  
9 were probably trying to, you know, have her  
10 succeed on probation by setting appropriate  
11 limits or limits appropriate to the situation.

12 Q And the suicide attempt were the superficial  
13 cuts to her wrists?

14 A Correct.

15 Q And all of it appeared to be a reaction to the  
16 limits placed upon her by her parents?

17 A Well, I was quoting the medical records and  
18 then when I also talked with Nicolle and I'm if  
19 it were -- if that's the one where I asked her,  
20 you know, have you ever, you know, attempted  
21 suicide and she informed me she was doing that  
22 for attention, which actually isn't fully  
23 consistent with this because it sounds like it  
24 is in response to limit setting. But it may be  
25 both, you know.

1 Q Okay. But it wasn't an attempt to -- it was  
2 clear from her responses to you and from the  
3 records that she didn't try to actually kill  
4 herself. This was really a reaction to her  
5 parents, but also trying to get attention.  
6 Those two things were examples of evidence.

7 A The medical records didn't indicate it as a  
8 suicide attempt.

9 MR. HUBBARD: I have no further questions.

10 MS. McGRADY: No redirect or recross.

11 MR. HUBBARD: I ask the doctor be excused, Your  
12 Honor.

13 MS. McGRADY: No objection.

14 THE COURT: Have a good day, ma'am. Thank you  
15 so much.

16 THE WITNESS: Thank you.

17 MR. HUBBARD: Your Honor, I think we have one  
18 more matter.

19 (Pause.)

20 MR. HUBBARD: Your Honor, that's all we have.

21 THE COURT: Thank you, Solicitor.

22 Ms. McGrady.

23 MS. McGRADY: Your Honor, we need to discuss,  
24 if it is appropriate at this time, the matter of Ms.  
25 Selert's witness having covid and the e-mail that

1 was sent last night.

2 THE COURT: Okay. Solicitor, I assume you saw  
3 that e-mail? She is available via WebEx or zoom or  
4 some other form of communication but she can't be  
5 here due to a positive test.

6 MS. SELERT: Yes. She tested positive this  
7 morning.

8 THE COURT: When did y'all anticipate calling  
9 that witness?

10 MS. SELERT: When did we anticipate calling  
11 her? I believe tomorrow morning.

12 THE COURT: Y'all have the capability to set  
13 that up in here?

14 MR. HUBBARD: I believe we do, Your Honor. And  
15 there is no objection if we do it virtually from our  
16 standpoint but we could see if it is somehow like  
17 put her up on the screen.

18 MS. SELERT: We would be very appreciative of  
19 that.

20 THE COURT: I don't have an issue with it as  
21 long as the State doesn't have an issue with it and  
22 certainly so that the court reporter can take down  
23 her testimony.

24 MS. SELERT: Absolutely. Thank you. We will  
25 arrange that.

1 THE COURT: All right. Thank you, ma'am.

2 MS. McGRADY: Your Honor, as of just an aside,  
3 we do intend on entering my two motions as court's  
4 exhibits. I don't have copies on me right this  
5 moment so I'll do that tomorrow. But since we were  
6 not able to argue them out loud for the court, I  
7 would like those to be noted as court exhibits.

8 THE COURT: Well, you weren't able to argue  
9 them out loud because I asked you if you had  
10 anything to add outside of the material that you had  
11 submitted and you said you did not, correct?

12 MS. McGRADY: We have arguments prepared, Your  
13 Honor. But it did not exceed --

14 THE COURT: What I already had.

15 MS. McGRADY: -- what you already had.

16 THE COURT: Okay.

17 MS. McGRADY: So we just want those two motions  
18 marked as courts exhibits.

19 THE COURT: They are part of the court's file.

20 MS. McGRADY: Right. But just in case there is  
21 ever an appeal or any matter that goes forward from  
22 this, we want them marked as court's exhibit.

23 THE COURT: Solicitor, do y'all have any  
24 objection to that?

25 MR. HUBBARD: I don't believe so, Your Honor.

1 I was just seeing if we had this information too but  
2 that's fine, Your Honor.

3 THE COURT: What information?

4 MS. McGRADY: The original motion.

5 MR. HUBBARD: The motions.

6 THE COURT: The original motions have been  
7 clocked by the clerk and they are in the file.  
8 Everybody was given an opportunity to submit their  
9 positions by Friday. State I mean y'all did it.  
10 Y'all didn't. I understand why. But I also asked  
11 both sides at the commencement of this hearing if  
12 there was anything outside of the motions and  
13 materials that have been submitted that you would  
14 like to present. And my recollection is is that  
15 neither of you did.

16 MR. HUBBARD: Correct.

17 MS. McGRADY: Correct.

18 MR. HUBBARD: And we are fine with that, Your  
19 Honor. I just needed to clarify what she was  
20 talking about. We are okay.

21 THE COURT: I'm not implying that you are  
22 misleading me or I'm misleading. I just want to  
23 make sure we all understand the same the situation.

24 MS. McGRADY: Yes, Your Honor.

25 THE COURT: Okay. All right. So any motions

1 or what does the defense intend on -- how do y'all  
2 intend on proceeding today?

3 MS. McGRADY: We would like to call our first  
4 witness.

5 THE COURT: Okay. All right.  
6 Solicitor, anything before defense?

7 MR. HUBBARD: No, sir, Your Honor.

8 THE COURT: Who is your first witness, ma'am?

9 MS. McGRADY: Luke Pincelli.

10 THE COURT: Luke Pincelli. And I assume, Ms.  
11 McGrady, any witnesses that y'all intend on calling  
12 are going to be on this list or did I see something  
13 come through that there was one supplement?

14 MS. McGRADY: We added a supplement. We added  
15 a supplementary witness last night. We sent that to  
16 Ms. Rawl.

17 THE COURT: Okay. Did y'all copy the Solicitor  
18 on that?

19 MS. McGRADY: Yes.

20 THE COURT: All right.

21 Sir, come up here to my right, and have a seat  
22 if you would, please.

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: All right. Sir, tell us what your  
25 name is and spell it for the court reporter, please,

1 sir.

2 THE WITNESS: My name is Luke Pincelli,

3 P-I-N-C-E-L-L-I.

4 THE COURT: All right. Would you raise your  
5 right hand, sir?

6 LUKE PINCELLI, after being duly sworn, testified  
7 as follows:

8 THE COURT: Thank you so much.

9 All right.

10 DIRECT EXAMINATION

11 BY MS. McGRADY:

12 Q Mr. Pincelli, can you tell us where you are  
13 employed?

14 A I work for the 11th Circuit Solicitor's Office.

15 Q What do you do for the 11th Circuit Solicitor's  
16 Office?

17 A I'm an assistant solicitor. I prosecute cases.

18 Q Have you had the opportunity to handle the case  
19 of Allon Adams?

20 A I did.

21 Q Do you know Allon Adams?

22 A No. I do not.

23 Q Do you know that he was interviewed as part of  
24 the SA [REDACTED] disappearance?

25 A I have come to learn that, yes.

1 Q Did you know that he was located with Treveon  
2 Nelson?

3 A I do not, no and I don't know who Treveon  
4 Nelson is.

5 Q As part of your employment with the solicitor's  
6 office, were you in charge of warrants and  
7 indictments for Allon Adams?

8 A Yes.

9 Q What were the charges on those warrants and  
10 indictments?

11 A P with marijuana, possession with intent to  
12 distribute marijuana as well as possession of  
13 controlled substance, I think, related to  
14 Xanax.

15 Q Was there also another charge under an  
16 indictment?

17 A There was a I straight indicted for  
18 contributing to the delinquency of a minor  
19 later. That was never presented on Mr. Adams.

20 Q But it was presented to the grand jury?

21 A Yes. And in fact, I was unaware it was  
22 actually presented. I have an e-mail that was  
23 in my case file to the clerk's office. They  
24 asked for more information. I said I didn't  
25 think it had been presented but I did want it

1 dismissed. But, yes, that was straight  
2 indicted but never presented.

3 Q Do you recognize these two sheets of paper?

4 A Yes. These are what we call disposition  
5 sheets. They are what our office uses to turn  
6 to the clerk's office when we were dismissing a  
7 charge.

8 MS. McGRADY: At this time we would like to  
9 offer the possession of marijuana and possession of  
10 a controlled substance as Defense 4 and possession  
11 or excuse me, contributing to the delinquency of a  
12 minor as Defense 5.

13 MR. HUBBARD: No objection.

14 THE COURT: All right. Defense 4 and 5. Y'all  
15 have those marked?

16 MS. McGRADY: Not yet but I'll mark them when  
17 we are done.

18 THE COURT: We need to get them marked so we  
19 can put them in the exhibit, on the exhibit table  
20 there.

21 While they are doing that, Solicitor, I assume  
22 y'all have ensured that all the exhibits that had  
23 been admitted are in one place.

24 MR. HUBBARD: Yes, sir.

25 THE COURT: Okay.

1 (Whereupon, Defendant's Exhibit Nos. 4 and 5  
2 were marked and received into evidence.)

3 DIRECT EXAMINATION

4 BY MS. McGRADY:

5 Q This is the disposition sheet for P with  
6 marijuana and possession of a controlled  
7 substance. Can you tell us the reason --  
8 marked as Defendant's 4. Can you tell us the  
9 reason why you dismissed this charge or these  
10 charges?

11 A Sure. So this was charges possession with  
12 intention to distribute marijuana and obviously  
13 possession of a controlled substance. I  
14 received this case and another attorney had  
15 recently left our office and I got a dozen or  
16 more files. This was one of them. It's been  
17 described to me as a triage system when we are  
18 getting in a large batches of cases. Some are  
19 fit for dismissal. Some are fit for diversion,  
20 plea offers, trials.

21 This is one I looked at. It was a motel room  
22 party. There were drugs found. It is what I would  
23 describe a constructive possession case. The report  
24 read there were four individuals in a room. The  
25 report only identified two individuals. One of

1 those individuals claimed the drugs. That  
2 individual was not named Allon Adam. Based on all  
3 those facts, and the shortage of resources and times  
4 for prosecution, I found that this was not fit to  
5 prosecute.

6 Q All right. Thank you.

7 And looking at Defense's five, this is  
8 contributing to the delinquency of a minor. Can you  
9 tell us the reason why this was dismissed?

10 A Sure. So you'll see that this was dismissed  
11 several months after the others. This was  
12 straight indicted after I dismissed the drug  
13 charges. After I dismissed those, I  
14 reevaluated the case and I still didn't think  
15 the drug charges were good because the  
16 constructive possession issue and the unnamed  
17 other parties in the room as well as the one  
18 person claiming drugs that was not Allon Adams.  
19 But I did think there was a potential to  
20 prosecute contributing delinquency of a minor  
21 because there was a minor in the room while  
22 those drugs were present.

23 There was also unruly behavior documented with  
24 in regard to police interaction; however, once I  
25 looked more into it and thought about how I would

1 have to try the case, I didn't know that I would be  
2 able to prove the knowledge of the minor's age. So  
3 I mean, that was it really.

4 And by that time, I had learned that Allon  
5 Adams was, in fact, involved in giving some  
6 statement or was a witness to a larger case and I  
7 didn't want to have any appearance that I was  
8 creating a charge just because he was related to  
9 another case. So because I didn't think I could  
10 prove it and because it might look bad that I was  
11 creating a new charge for somebody related to a  
12 case, I just thought it was safer to dismiss it and  
13 avoid prosecution on that charge.

14 Q Were you aware that Allon Adams had a general  
15 sessions bench warrant for the P with marijuana  
16 and the controlled substance charges?

17 A I think previous to me getting the file, yeah.  
18 Yes. I'm aware at some point he did. I'm not  
19 sure if that was active when I dismissed the  
20 case.

21 Q Did you lift the bench warrant for Allon,  
22 effectively having him released from jail?

23 A I don't believe I did. No. That would have  
24 been a prior prosecutor.

25 Q Did you dismiss the warrants and indictments

1 against Allon Adams?

2 A Yes.

3 Q Did it have anything to do with the case of  
4 Nicolle Sanchez-Peralta?

5 A Absolutely not.

6 Q Treveon Nelson?

7 A Again, two names I've never heard before today.

8 MS. McGRADY: All right. Thank you.

9 CROSS-EXAMINATION

10 BY MR. HUBBARD:

11 Q Luke, I want to ask you a few questions. One,  
12 have you talked to me at all about what you  
13 needed to do to Allon Adams' charges?

14 A Absolutely not.

15 Q Did we have any discussion about this pending  
16 murder charge on Nicolle Sanchez-Peralta?

17 A No, sir. In fact, the first time I've heard  
18 that name is today.

19 Q When you have a case that lacks merit, what is  
20 your instruction?

21 A To dismiss it.

22 Q Is that what you did?

23 A That is what I did.

24 Q On the PWID marijuana and the possession of a  
25 controlled substance, which you dismissed

1 August 25th, 2021, if that case was pending  
2 today, would it still lack prosecutorial merit?

3 A It would.

4 Q What would your job be?

5 A To dismiss that case.

6 Q And the contributing to the delinquency of a  
7 minor, you said you dismissed that, looks like,  
8 December 13th of 2021. By this point you knew  
9 there was some other charge with an Allon Adams  
10 as a witness or something to that effect?

11 A That's correct.

12 Q What have you been told about if there is  
13 somebody that is involved in a case, are you  
14 allowed or is anyone in our office allowed to  
15 use the power of a prosecutor to keep people in  
16 jail just so we know where they are and we can  
17 use it as leverage?

18 A We are absolutely not to do that and I was one  
19 of the reasons for dismissal was to avoid any  
20 appearance of impropriety there.

21 Q And as to that charge, if it were pending  
22 today, would it still lack merit?

23 A It would.

24 Q And what would your duty be?

25 A To dismiss that charge.

1 Q And that duty, is that a duty to me or is that  
2 a duty you have as a prosecutor?

3 A It's the oath I took as an attorney and my duty  
4 as a prosecutor.

5 Q And you followed that oath?

6 A Absolutely.

7 Q Have you heard anything from me or anyone in  
8 our office to tell you to do anything to go  
9 contrary to that oath?

10 A Absolutely not.

11 Q Have you done anything on behalf of me or our  
12 office in the prosecution of this case with  
13 Nicolle Sanchez-Peralta?

14 A No, sir.

15 MR. HUBBARD: Thank you.

16 MS. McGRADY: No further questions and we ask  
17 that he can be released.

18 THE COURT: Have a good day, sir.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: All right. Who is your next  
21 witness?

22 MS. McGRADY: Chris Watkins.

23 (Pause.)

24 THE COURT: Come on up here to my right, sir  
25 and have a seat if you would, please. Sir, tell us

1 what your name is and spell it for the court  
2 reporter, please.

3 THE WITNESS: Yes, Your Honor. Christopher  
4 James Watkins, W-A-T-K-I-N-S.

5 THE COURT: All right. Would you raise your  
6 right hand, sir?

7 THE WITNESS: Yes, sir.

8 CHRISTOPHER J. WATKINS, after being duly sworn,  
9 testified as follows:

10 THE COURT: Thank you very much. Just speak up  
11 clearly and loudly so we can hear you.

12 DIRECT EXAMINATION

13 BY MS. McGRADY:

14 Q Hey, Mr. Watkins. How are you?

15 A Good. How are you?

16 Q I'm good. Thank you.

17 Can you tell us where you are currently  
18 employed?

19 A Yes. I'm employed at Certified Computer  
20 Forensics, located at 1416 Park Street in  
21 Columbia, South Carolina.

22 Q What is your current title and position there?

23 A I am an owner-operator of the company. I am a  
24 SLED licensed private investigator and I work  
25 primarily as a digital forensic examiner, that

1 most of my duties concern digital forensics. I  
2 have been engaged in other investigations in  
3 the past, other types but that is my primary  
4 focus.

5 Q How long have you been working as an  
6 investigator and a digital forensic analyst?

7 A I began my career February of 2010. I first  
8 began working at a private investigation firm  
9 in Columbia, actually the same office address  
10 that I'm at now, Stillenger Investigations.  
11 There I began working as a digital forensic  
12 examiner. I did leave that company in 2016,  
13 started my own company, Watkins Digital  
14 Forensics and Investigations, which is also  
15 headquartered in Columbia.

16 I continued working the same field. I  
17 dissolved that company in 2019 and merged or created  
18 a new company, Certified Computer Forensics, with  
19 Brian Stillenger, who is the owner of Stillenger  
20 Investigations, where I previously worked. We began  
21 that January 2019 and are still operating.

22 Q Could you pull the microphone a little bit  
23 closer to you?

24 A Yes.

25 Q What is your educational background?

1 A I attended Midlands Technical College in 2003  
2 through 2005 pursuant to obtaining an  
3 associate's degree in science with area of  
4 study being computer science. In 2012 I earned  
5 a certification comptia.

6 THE COURT REPORTER: I'm sorry. A what?

7 THE WITNESS: Comptia, C-O-M-P-T-I-A.

8 THE COURT REPORTER: Thank you.

9 THE WITNESS: That's the name of the company  
10 offering the certification. It was an A-plus  
11 certification which is essentially a general  
12 technician certification. I did go back to Midlands  
13 Tech. to do additional continuing education in the  
14 field concerning computer, computer programming.

15 In 2018 I obtained training through IACIS,  
16 which is the International Association of Criminal  
17 Investigative Specialists, pursuant to earning my  
18 certification that I have as a certified forensic  
19 computer examiner. And in 2021 I attended another  
20 training event hosted by IACIS pursuant to earning  
21 my mobile device forensic examiner certification.

22 I've also had training through Hawk Analytics  
23 and ZETX, which are both cellular analysis  
24 development software companies.

25 Q That was ZETX, Z-E-T-X?

1 A Yes. That's correct.

2 Q Do you have any certifications or  
3 qualifications in the field of digital forensic  
4 science?

5 A Yes, I do. I am recognized as a certified  
6 forensic computer examiner by IACIS and as a  
7 mobile device forensic examiner by IACIS. I've  
8 also been qualified as an expert in the field  
9 of digital forensic science 25 times in South  
10 Carolina Family Court, General Sessions court,  
11 the Court of Common Pleas and the United States  
12 District Court for the District of South  
13 Carolina.

14 MS. McGRADY: Your Honor, at this time I would  
15 like to admit Christopher Watkins as an expert in  
16 the field of digital forensics.

17 MS. MAYES: State does have voir dire, Your  
18 Honor.

19 CROSS-EXAMINATION

20 BY MS. MAYES:

21 Q First, Mr. Watkins, normally when you have been  
22 involved in cases you have either done an  
23 extraction?

24 A Yes, ma'am.

25 Q Or really some type of mapping product related

1 to GPS location data. What is the nature of  
2 your testimony here? I heard you were offered  
3 in digital forensics?

4 A Certainly.

5 Q Specifically, what are those digital forensics  
6 in this case?

7 A Certainly. So part of my involvement in this  
8 case I was contracted by the Lexington County  
9 Public Defender's Office to examine the digital  
10 evidence in this case. There were digital, a  
11 digital forensic extraction. I believe there  
12 were two, possibly three, one being a cell  
13 phone which was of interest.

14 We also received social media data, which is  
15 slightly outside the purview of digital forensics  
16 but it is still treated the same way because it is  
17 data. This is data coming from a proprietary  
18 source, a server such as Facebook, Instagram,  
19 Snapchat.

20 Additionally, I did also receive records from,  
21 cellular data records from cellular network  
22 providers which I was also asked to review in this  
23 case.

24 Q All right. So are you saying that you actually  
25 conducted phone extractions?

- 1 A So because I'm involved as an expert in this  
2 case, not every case do I perform extractions.  
3 A lot of times when I'm assigned to a matter  
4 such as this one, it is to review the evidence.  
5 And just essentially it is like a form of  
6 checks and balances. We are looking at the  
7 information that law enforcement has obtained;  
8 whether they have done an extraction or they  
9 have received it through a search warrant or  
10 some other subpoena or some other way is  
11 essentially looking at that data, testing it to  
12 verify that the data is true and correct, that  
13 it is accurate and then of course performing an  
14 investigation into that data and to provide an  
15 analysis to determine why certain data types  
16 exist, how they originated and what they mean.
- 17 Q All right. And so my question is have you  
18 handled any physical evidence in this case to  
19 conduct an extraction or generate a report?
- 20 A There was an attempt. The cell phone that I  
21 received that we did have an interest in  
22 examining and doing an extraction on was  
23 password protected, if I recall correctly and  
24 therefore, one could not be facilitated.
- 25 Q Who did you receive that phone from?

1 A Detective Michael Phipps.

2 Q All right. And so regarding the GPS data that  
3 you said you looked at in this case to review,  
4 have you generated any type of report or  
5 mapping?

6 A Well, to be perfectly clear, so you said GPS  
7 data. I think you mean cellular --

8 Q Anything regarding location data.

9 A So what I did in this case is I did receive  
10 copies of the digital evidence in discovery.  
11 And I did import that into a software that will  
12 allow me to interpret that data, parse it out  
13 and put it into a timeline view.

14 I did export some grammatically generated  
15 exhibits of that, I guess would be the best way to  
16 describe that. And I did also put the records into  
17 a more readable report for the purpose of examining  
18 a timeline. This is something that I would  
19 typically do in a normal course of work. This is  
20 for me to be able to better understand the records  
21 as a whole because in this case we do have a lot of  
22 records from a lot of different sources. And the  
23 best way to examine them is to put them in a view  
24 that they can be parsed and interpreted in one  
25 place.

1 Q So these exhibits that you just mentioned, I  
2 believe that was your word, exhibits, do  
3 reflect the results of your analysis?

4 A Well, yes. And they should also reflect any  
5 reports that were generated by law enforcement  
6 as well.

7 Q Where are these exhibits?

8 A Again, they were relied upon for my analysis.  
9 I haven't provided any as far as a report. I  
10 haven't completed a report. This was just part  
11 of my general analysis and progress throughout  
12 this case.

13 Q Where are the exhibits?

14 A They would be in our digital case file.

15 Q Where is that?

16 A At our office located at 1416 Park Street.

17 MS. MAYES: Your Honor, the State at this point  
18 would move to exclude any testimony until we are  
19 allowed to see what it is he is talking about, these  
20 exhibits. They have not been provided to us and we  
21 certainly would need an opportunity to review those  
22 as well as have our own expert available. So again,  
23 I just don't think this witness is timely until we  
24 receive those items.

25 MS. McGRADY: One moment, Your Honor.

1 (Pause.)

2 MS. McGRADY: Your Honor, at this time we are  
3 not moving to admit any evidence or any exhibits.  
4 We are purely using Mr. Watkins to check the work  
5 the Solicitor's office and law enforcement has done  
6 on this case regarding social media and the cell  
7 phones.

8 MS. MAYES: And the issue, Your Honor, is  
9 Reciprocal Rule 5 and we have filed it in this case.  
10 It entitles us to the results of any type of  
11 analysis or testing done by any expert. And he is  
12 saying that he had generated exhibits which reflect  
13 his analysis in this case. We are clearly entitled  
14 to those documents before we cross-examine him.

15 MS. McGRADY: Beg the court's indulgence again.

16 (Pause.)

17 MS. McGRADY: Your Honor, it is our  
18 understanding that the Reciprocal Rule 5 only  
19 pertains to evidence we plan to present in our case  
20 in chief.

21 MS. MAYES: And the results of testing or  
22 analysis.

23 MS. McGRADY: Your Honor, if you are not  
24 inclined to let this go forward, we can recall  
25 Mr. Watkins tomorrow.

1 THE COURT: After they have been provided an  
2 opportunity to review whatever exhibits that he's  
3 referencing.

4 MS. McGRADY: Yes, Your Honor.

5 THE COURT: I believe that's appropriate.  
6 Step down, sir. Thank you for your time.

7 THE WITNESS: Yes, Your Honor.

8 THE COURT: Let's take five minutes. I want  
9 everybody out except the lawyers. We will take five  
10 minutes.

11 Liz, if you would, clear the courtroom except  
12 the lawyers.

13 THE DEPUTY: Yes, sir.

14 THE COURT: That includes the parents.

15 (Pause.)

16 THE COURT: You are getting ready to run out of  
17 time. Y'all realize that.

18 THE COURT REPORTER: Judge, this is off the  
19 record?

20 THE COURT: We off the record or do y'all want  
21 this on the record?

22 MS. McGRADY: On the record.

23 THE COURT: Okay. The courtroom is empty  
24 except for three attorneys for the defense and three  
25 attorneys for the State. I wanted to talk to y'all.

1 I've now excluded one witness until tomorrow,  
2 assuming that they are provided an ample opportunity  
3 to review whatever exhibits he is referencing. We  
4 have used today for the defense to prepare for two  
5 witnesses and now we are at a couple hours away from  
6 being finished today, which leaves us one day. So  
7 y'all think y'all can do this in one day and two  
8 hours?

9 MS. McGRADY: We are prepared to, Your Honor.  
10 I definitely, I mean, I know I had a lot of  
11 questions for Dr. Dawn but I did not expect her  
12 testimony to go as long as it did.

13 THE COURT: That's fine. I'm not getting on  
14 anybody. Like I told y'all at the outset, my  
15 biggest concern is running out of time. Y'all know  
16 what the options are going to be, do it again or  
17 else continue it until I have a full couple of days  
18 or whatever it is going to take to finish it.

19 How many witnesses are y'all planning on  
20 calling?

21 MS. McGRADY: Fifteen, Your Honor, only two of  
22 which should take any length of time.

23 THE COURT: Okay. Y'all need to take a  
24 five-minute break or y'all want to get back started?

25 MS. McGRADY: If we could have five minutes, we

1 would appreciate that.

2 THE COURT: All right.

3 MS. McGRADY: Is it okay if our staff comes  
4 back in?

5 THE COURT: Sure.

6 (Whereupon, a recess was taken.)

7 MS. McGRADY: Your Honor, before we call the  
8 next witness, Ms. Ashley Story of the Epworth  
9 Children's Home legal counsel is with the two ladies  
10 from Epworth. She was wondering if she could come  
11 sit in the courtroom while her employees are  
12 testifying.

13 MR. HUBBARD: I have no objection.

14 THE COURT: That's fine.

15 MS. McGRADY: All right. At this time we call  
16 Ms. Gertie Frazier-Williams.

17 THE COURT: All right. Ma'am, if you would  
18 come on up and have a seat, please. All right. You  
19 are Gertie Frazier-Williams, ma'am?

20 THE WITNESS: Yes, sir.

21 THE COURT: Would you raise your right hand,  
22 please?

23 GERTIE FRAZIER-WILLIAMS, after being duly sworn,  
24 testified as follows:

25 THE COURT: Thank you so much.

1 MS. McGRADY: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. McGRADY:

4 Q Ms. Frazier-Williams, can you tell us where you  
5 are employed?

6 A Epworth Children's Home.

7 Q How long have you worked at Epworth?

8 A June 25th will be 10 years.

9 Q How long have you been in your current  
10 position?

11 A Well, in my current position as a PQI  
12 coordinator just a month. But as an intake  
13 case manager and case manager, nine years.

14 Q Okay. Do you know Nicolle Sanchez-Peralta?

15 A Yes, ma'am.

16 Q Do you recognize her today?

17 A Yes, ma'am.

18 Q For what length of time did you know Nicolle?

19 A For a month.

20 Q Did you complete a comprehensive care plan for  
21 Nicolle?

22 A Yes, ma'am.

23 Q How did you describe Nicolle in the  
24 comprehensive care plan that you created for  
25 her?

1 A Would I be able to see what I wrote?

2 MS. McGRADY: Do you have any objection to me  
3 showing her?

4 MR. HUBBARD: Sure.

5 THE COURT: While they are doing that,  
6 Ms. Williams, scoot that microphone up there a  
7 little closer so we can hear you, please.

8 THE WITNESS: Okay. Thank you.

9 In my CCP or the comprehensive care plan I  
10 stated that she has a sensitive spirit; she's  
11 respectful of staff and her peers; she puts on a  
12 brave face for everyone; she has a kind heart and a  
13 giving spirit.

14 DIRECT EXAMINATION

15 BY MS. McGRADY:

16 Q What were her strengths?

17 A Creativity, persistence, kindness and  
18 gratitude.

19 Q What did you see as her weaknesses?

20 A Not allowing others to care for her per se.  
21 Nicolle had an issue with trusting others and I  
22 thought that was a weakness because we were  
23 there so that she could rely on us as well.

24 Q What do you know about her boyfriend or her  
25 relationship with her boyfriend at the time?

- 1 A The only thing I remember her saying was that  
2 her boyfriend was overprotective and that she  
3 can depend only on him.
- 4 Q What is the CATS, C-A-T-S, trauma youth  
5 assessment?
- 6 A It is a trauma screening that gives us  
7 indication so we can use that to do a guide for  
8 residents that need to be in counselling.
- 9 Q Is that an assessment that you did with  
10 Nicolle?
- 11 A Yes, ma'am.
- 12 Q What did Nicolle score on that?
- 13 A On my comprehensive care plan I said she scored  
14 a 27.
- 15 Q What score determines if clinical help is  
16 needed?
- 17 A Fifteen points or more.
- 18 Q What did you do as a result of her score?
- 19 A I provided that information to our counselling  
20 center and then she was recommended for  
21 counselling.
- 22 Q Did she begin counselling while at Epworth?
- 23 A Let me see. I don't remember if she did or  
24 not.
- 25 Q Did she do an assessment?

1 A She did a diagnostic assessment. And the  
2 diagnostic assessment gives the counselor more  
3 information to what she would need when she  
4 attends counselling.

5 Q And was that through the Youth Advocate  
6 Program?

7 A Yes, ma'am.

8 Q Did Nicolle ultimately leave Epworth prior to  
9 her discharge?

10 A If I'm not mistaken, the day she was supposed  
11 to leave with DSS she ran away.

12 Q To your knowledge did she leave with her  
13 boyfriend?

14 A I don't know.

15 MS. McGRADY: Okay. I have no further  
16 questions for this witness.

17 Please answer any questions that the State may  
18 have.

19 CROSS-EXAMINATION

20 BY MS. MAYES:

21 Q Good afternoon. So briefly looking at your  
22 notes from working with Nicolle at Epworth  
23 Children's Home, you actually made the referral  
24 for her to get counselling back in August of  
25 2020?

- 1 A Yes, ma'am.
- 2 Q Okay. And so she had counselling services  
3 available to her?
- 4 A Yes, ma'am.
- 5 Q And we are talking about group counselling as  
6 well as one-on-one counselling?
- 7 A If it says that, yes, ma'am.
- 8 Q Okay. And if you have patients there that need  
9 any type of in-depth psychological care, you  
10 have services to offer those as well?
- 11 A Yes, ma'am, we do.
- 12 Q And so all of those services were available to  
13 her but she ended up still running away from  
14 Epworth?
- 15 A Just before she was supposed to go with her DSS  
16 worker, yes, ma'am.
- 17 Q Okay. And I think there is a note on  
18 August 24th in your records that she had stated  
19 to you that she was no longer going to be  
20 running away; she realized that she needed to  
21 stop running away; and then even after making  
22 that statement, she still ended up running away  
23 again?
- 24 A At the time she was with me, she did not leave  
25 intake cottage at all.

1 Q And that final day when she ran away, are you  
2 aware that she ran away with Treveon Nelson at  
3 some point from Epworth?

4 A No, ma'am. I'm not.

5 MS. MAYES: Thank you.

6 MS. McGRADY: We have no further questions and  
7 we ask that she be released.

8 THE COURT: Thank you, ma'am. You have a good  
9 day.

10 THE WITNESS: Thank you. You too.

11 MS. McGRADY: Your Honor, at this time we call  
12 Ms. Cherida McCray.

13 THE COURT: Cherida McCray, Tony.

14 Ma'am, if you would come up here and have a  
15 seat, please.

16 THE WITNESS: Thank you.

17 THE COURT: All right. You are Cherida McCray,  
18 ma'am?

19 THE WITNESS: Yes, sir.

20 THE COURT: Would you raise your right hand,  
21 please?

22 CHERIDA McCRAY, after being duly sworn,  
23 testified as follows:

24 THE COURT: If you would position yourself  
25 close to that microphone and speak up so we can hear

1 you clearly and loudly, okay?

2 THE WITNESS: No problem.

3 DIRECT EXAMINATION

4 BY MS. McGRADY:

5 Q Ms. McCray, can you tell us where you are  
6 employed?

7 A Epworth Children's Home.

8 Q How long have you been at Epworth?

9 A Five years.

10 Q What position do you hold?

11 A I'm the cottage coordinator of one of the  
12 cottages.

13 Q How long have you been in that position?

14 A Four years.

15 Q Do you know Nicolle Sanchez-Peralta?

16 A Yes, ma'am.

17 Q Do you recognize her today?

18 A Yes, ma'am.

19 Q How do you know Nicolle?

20 A She came in my in-take cottage last year, the  
21 year before last and I worked with her.

22 Q So that was 2020?

23 A Yes, ma'am.

24 Q For what length of time did you know Nicolle?

25 A Thirty days approximately or a little over.

1 Q Do you remember Nicolle specifically?

2 A Yes, I do.

3 Q Did you speak one on one?

4 A Yes. I had a lot of one on ones.

5 Q If you had to guess, how many one on ones did  
6 you have with Nicolle?

7 A I can't remember.

8 Q Okay.

9 What kind of things did you talk about with  
10 Nicolle?

11 A It's been a lot. You know she was sheltered so  
12 we spoke about opening up and talking to, you  
13 know, staff and communicating more with the  
14 other clients.

15 Q Anything else?

16 A Not really.

17 Q Did she tell you about her problems?

18 A She spoke about her not wanting to go home but  
19 she was very sheltered. She didn't open up a  
20 lot. She didn't talk about a lot of problems,  
21 you know, but she just didn't want to go home.  
22 That's the most that she spoke about.

23 Q Did you know anything about Nicolle's  
24 boyfriend, Treveon Nelson?

25 A No, ma'am.

1 Q Can you tell us about Nicolle generally?

2 A When she first came into care she was very  
3 sheltered, you know. And our job is to make  
4 sure that the kids are, you know, getting the  
5 services that they need. So I try for Nicolle  
6 to come out of her room. I even played games  
7 with her. We cooked together. So she is a  
8 very bubbly girl, you know. At times you have  
9 to really go and make sure that she participate  
10 but in my cottage she was a typical teenager.

11 Q Can you describe her personality?. I know you  
12 just called her bubbly but is there anything  
13 else you can tell us?

14 A Not really because she didn't like to share her  
15 personal, her intimacy. She just kept to  
16 herself and when it was time to engage with  
17 other clients she used to come out but we had  
18 to ask her, doesn't come out of her  
19 spontaneous.

20 Q Okay. Did Nicolle ultimately leave Epworth  
21 prior to her discharge?

22 A Not that I know of.

23 Q To your knowledge did she leave with her  
24 boyfriend, Treveon Nelson?

25 A I'm not aware of that.

1 MS. McGRADY: Okay. I have no further  
2 questions but please answer any questions that the  
3 State may have.

4 THE WITNESS: No problem.

5 CROSS-EXAMINATION

6 BY MS. MAYES:

7 Q Looking at your records, it looks like you are  
8 actually the one that back on July 27th, 2020  
9 Nicolle made a statement to you that her father  
10 was molesting her?

11 A I'm not aware of that. It's been a while.

12 Q Okay. You are Ms. McCray, right?

13 A Yes, ma'am.

14 Q And upon learning that information, I'm going  
15 to show you a document and ask you what you  
16 recall about it. But upon learning that  
17 information, what action did you take being a  
18 mandatory reporter?

19 MS. MAYES: Your Honor, if I may approach the  
20 witness.

21 THE COURT: Yes, ma'am.

22 CROSS-EXAMINATION

23 BY MS. MAYES:

24 Q I refer you to that bottom portion there.

25 (Pause.)

CROSS-EXAMINATION

1  
2 BY MS. MAYES:

3 Q Does that help refresh your memory?

4 A A little. But because we got a lot of cases  
5 but in a case like this we are mandatory  
6 reporters. We always have to make sure that  
7 this is reported. And you know, we take the  
8 steps that needed to be taken.

9 Q Right. Okay. And that's part of the reason  
10 you documented it here and your name?

11 A Yes, ma'am.

12 Q Just making sure you documented that she  
13 reported to you that she was being molested at  
14 home by her father. And this was on July 27th.  
15 I believe two days earlier, on July 25th, she  
16 had reported to the police the same  
17 allegations, that she was being molested by her  
18 father. It says here according to your notes,  
19 that she left home because she was being  
20 molested and then went to stay with her  
21 boyfriend.

22 Did you know that was Treveon Nelson?

23 A She never mentioned the name to me.

24 Q Okay. And then according to this, it is within  
25 two days of making that report while staying

1 with Treveon Nelson that they are then arrested  
2 in a stolen vehicle?

3 A Yes, ma'am.

4 Q And after being arrested in the stolen vehicle  
5 she ends up in Epworth on July 27th and then  
6 tells you the story about being molested by her  
7 father?

8 A Yes.

9 Q Did she ever acknowledge to you that that was a  
10 false allegation and that her father had not  
11 actually molested her?

12 A No, ma'am.

13 MS. MAYES: Thank you. Nothing further.

14 MS. McGRADY: We have nothing further for this  
15 witness and we ask that she be released.

16 THE COURT: Thank you, ma'am. Have a good day.

17 THE WITNESS: Thank you.

18 (Pause.)

19 MS. McGRADY: Your Honor, at this time we are  
20 going to call Mike Pinilla and he is not here. We  
21 are going to call Mr. Brenda Wilson.

22 THE COURT: Brenda Wilson, Tony.

23 (Pause.)

24 THE COURT: Come on up and have a seat right  
25 there, if you would, please, ma'am. You are Brenda

1 Wilson?

2 THE WITNESS: Yes, sir.

3 THE COURT: Raise your right hand, please.

4 BRENDA WILSON, after being duly sworn, testified  
5 as follows:

6 THE COURT: Thank you very much.

7 DIRECT EXAMINATION

8 BY MS. McGRADY:

9 Q Can you tell us where you are employed?

10 A I work for the juvenile detention center,  
11 ma'am.

12 THE COURT: Ms. Wilson, scoot that microphone  
13 up closer and speak into it.

14 THE WITNESS: I work for the juvenile detention  
15 center.

16 DIRECT EXAMINATION

17 BY MS. McGRADY:

18 Q Is that at DJJ?

19 A Yes, ma'am.

20 Q How long have you worked in that position?

21 A It is going to be six months.

22 Q Do you know Nicolle Sanchez-Peralta?

23 A Yes, ma'am.

24 Q How long have you known Nicolle?

25 A I know her since I started working there but

1 she was assigned to me approximately like two,  
2 three months ago.

3 Q Okay. What services do you offer Nicolle as  
4 her clinician?

5 A I talk to -- I try to talk to my kids as much  
6 as I can. I go like to check on them to see if  
7 they need anything, to talk to attorneys,  
8 parents, you know. I help them to deal with  
9 all the issues that there is within being  
10 there.

11 Q Does she seem engaged with services that you  
12 offer her?

13 A With me, yes, ma'am.

14 Q Have you spoken with Nicolle about  
15 rehabilitation services or therapy?

16 A Yes, ma'am.

17 Q What has she said to you about that?

18 A She's always willing. I mean, she always been  
19 willing to talk to me every time we do like  
20 relaxation or, you know, talk to her about like  
21 healing within, from the inside out, things  
22 like that and she is always you know says she  
23 wants to always do better.

24 Q And do you speak Spanish?

25 A Yes, ma'am.

1 Q Is that part of why you became her clinician?

2 A Yes, ma'am, as well. Yes, ma'am.

3 Q To speak with her mother too?

4 A Yes.

5 Q Okay. Have you had the occasion to speak with  
6 her mother?

7 A A few times, ma'am, yes.

8 Q This is my last question. Do you believe that  
9 Nicolle is motivated to change and lead a  
10 better future?

11 A I do believe so. I do believe like all kids  
12 can do that, yes.

13 Q Why about Nicolle specifically?

14 A Because we talk and she says that she wants to  
15 do better. I mean, we share both some of the  
16 same background coming into this country and  
17 try to succeed and do something better about  
18 ourselves. So that's what we discuss as well.

19 MS. McGRADY: Okay. I have no further  
20 questions for this witness, but please answer any  
21 questions that the State may have for you.

22 CROSS-EXAMINATION

23 BY MR. HUBBARD:

24 Q Ms. Wilson?

25 A Yes, sir.

1 Q So Nicolle has had services, counselling  
2 services available at JDC?

3 A Yes. We do like -- we don't have like full  
4 clinical service because we are overcrowded.  
5 So we do, you know, talk with -- we have to  
6 talk to the kids at least once every two weeks.  
7 I do try to talk to my kids as often as I can.

8 Q You are aware that she has had and continues to  
9 have issues with peers and with staff at JDC?

10 A I do believe so, yes.

11 Q And those have been ongoing as recently as a  
12 few weeks ago?

13 A I hear about all this stuff. She was never  
14 disrespectful to me so I just speak on my  
15 behalf.

16 Q So when she is with you, she is very positive,  
17 upbeat and tells you she wants your help?

18 A Yes, sir.

19 Q But when she is not with you, you are aware  
20 she's gotten in trouble with her peers and with  
21 other staff at JDC?

22 A I do read reports because they are sent reports  
23 all the time so I have to read. I'm not there.  
24 I never witness that to, you know, so I know  
25 how she is with me. So that's what I can go

1 by.

2 Q You know how she is with you but you also get  
3 event reports and information how she is acting  
4 outside of your presence?

5 A Yes, sir.

6 MR. HUBBARD: No further questions.

7 MS. McGRADY: We ask that she be released.

8 THE COURT: Have a good day. Thank you very  
9 much.

10 THE WITNESS: Thank you, sir.

11 MS. McGRADY: Beg the court's indulgence.

12 (Pause.)

13 MS. SELERT: Lauren Penny.

14 THE COURT: Come on up and have a seat, ma'am.  
15 You are Lauren Penny?

16 THE WITNESS: Yes, Your Honor.

17 THE COURT: Raise your right hand.

18 LAUREN PENNY, after being duly sworn, testified  
19 as follows:

20 THE COURT: Thank you.

21 DIRECT EXAMINATION

22 BY MS. SELERT:

23 Q Good afternoon. How are you doing?

24 A Good. How are you?

25 Q Good. If you could pull that closer just a

1 little bit.

2 A My apologies. Is that better?

3 Q Thank you. Yeah.

4 Can you tell us where you work?

5 A I work for the South Carolina Department of  
6 Juvenile Justice in Lexington County.

7 Q And what is your role there?

8 A I'm an intensive supervision officer.

9 Q Could you tell us a little bit about what that  
10 entails?

11 A I am the primary case manager for juveniles  
12 assigned to an intensive level of supervision.

13 Q How long have you worked at DJJ in this role?

14 A In this role since September of 2019.

15 Q And how long have you worked there total?

16 A August of 2017.

17 Q So do you supervise Nicolle?

18 A I do.

19 Q And were you able to meet with Nicolle's mom on  
20 May 3rd of 2021?

21 A I was.

22 Q What did you discuss with Nicolle's mom on May  
23 3rd of 2021?

24 A It was after a court hearing. Her mother had  
25 discussed concerns of how Nicolle -- of her

1 treatment at the detention center.

2 Q And what specific concerns did her mom have?

3 A Her mother stated that she has concerns for her  
4 daughter's safety and wellbeing; that some  
5 staff at JDC have been making comments to her  
6 such as, I know why you are here, you killed my  
7 friend's daughter; that Nazareth was afraid to  
8 eat anything due to staff behavior; that she  
9 had been throwing up; that Nazareth had been  
10 trying to call her mother but that staff had  
11 not given her a wristband so that she was  
12 unable to make calls; and that she was supposed  
13 to be taking medication as she had been  
14 attacked last week and that she had not  
15 received that medication.

16 Q And who had been making the comments to Nicolle  
17 that made her feel safe and that caused her  
18 mother concern?

19 A Her mother reported that Nazareth had shared it  
20 was staff at the detention center.

21 Q And you said that those comments included  
22 something about knowing that she had killed  
23 her -- someone's friend's daughter?

24 A Correct.

25 Q What, if anything, does the DJJ handbook,

1 employee handbook, say about making such  
2 comments to juveniles?

3 A I'm unsure of the exact wording but comments  
4 like that are not appropriate.

5 Q And did her mom express any concerns about  
6 impacts that she herself was receiving due to  
7 things that were going on at DJJ?

8 A Can you clarify that?

9 Q I think it may have come out in a later report  
10 where you mentioned but that's okay. We can  
11 move on.

12 So when are wristbands created and given to  
13 juveniles?

14 A Upon intake at the detention center.

15 Q And when was Nicolle's intake done?

16 A I believe it was the 29th of April.

17 Q And she expressed to you on the 3rd of May that  
18 Nicolle had not yet received a wristband,  
19 correct?

20 A Correct.

21 Q What purpose do wristbands serve at DJJ?

22 A They allow for identification. So they are  
23 needed for receiving of medication and to make  
24 phone calls.

25 Q So if a juvenile doesn't have a wristband, they

1 aren't able to make phone calls?

2 A Correct. They would need to know their ID  
3 number off the top of their head.

4 Q And if a juvenile doesn't have a wristband,  
5 they are not able to receive medications?

6 A Correct.

7 Q When Nicolle arrived to DJJ was she on  
8 medication?

9 A Per her mother's report, yes.

10 Q Do you know what those medications were for or  
11 what they related to?

12 A Her mother had shared that they were from the  
13 hospital based on an attack that occurred the  
14 week before.

15 Q Do you know who the assailant was in that  
16 attack?

17 A Her mother stated that it was Treveon Nelson.

18 Q Why had Nicolle not receive a wristband prior  
19 to May 3rd of 2021?

20 A I do not know.

21 Q Is that standard?

22 A No.

23 Q It actually had to be ordered by Judge Crouch  
24 on May 5th that DJJ provide her with a  
25 wristband and medication, right?

- 1 A I believe it was May 4th.
- 2 Q I'm sorry. May 4th.
- 3 When you met with Nicolle on May 19th of 2021,
- 4 what did she express to you that she wanted to do?
- 5 A She stated that she would like to talk with a
- 6 counselor about past trauma.
- 7 Q And what did you do to set her up with a
- 8 counselor or to set her up with services
- 9 regarding that?
- 10 A I spoke to our in-office social worker and made
- 11 a social work referral.
- 12 Q And why didn't anything come to fruition
- 13 regarding that social work referral?
- 14 A I do not know.
- 15 Q But nothing came of it?
- 16 A Not to my knowledge.
- 17 Q When did you -- when you met with Nicolle on
- 18 July 21st of 2021, what did she express to you
- 19 that she wanted to do?
- 20 A She advised that she would like a counselor for
- 21 trauma.
- 22 Q Did anything ever come from it then?
- 23 A I do not know.
- 24 Q To your knowledge was a counselor ever provided
- 25 to Nicolle for her trauma?

1 A For her trauma, no.

2 Q Why was a counselor never provided to Nicolle  
3 for her trauma?

4 A I do not know.

5 Q Would you categorize that as a failure by DJJ?

6 A I don't think I can comment on that.

7 Q I understand. Thank you.

8 MS. SELERT: I don't have any other questions  
9 at this time but please answer any the State may  
10 have. I beg the court's indulgence actually.

11 (Pause.)

12 DIRECT EXAMINATION

13 BY MS. SELERT:

14 Q Were you Nicolle's probation officer in 2019?

15 A I was her assigned case manager during her  
16 evaluation status in 2019.

17 Q Why did Nicolle not complete all the court  
18 ordered probationary recommendations such as  
19 family therapy or family counselling?

20 A I did not supervise her probation so I cannot  
21 speak on why that did not happen.

22 MS. SELERT: Thank you. Now please answer any  
23 questions they may have.

24 CROSS-EXAMINATION

25 BY MS. CATES:

1 Q Good afternoon, Ms. Penny.

2 A Hello.

3 Q Just a few questions. You had indicated  
4 earlier that it was or I'm sorry, that it was  
5 uncommon for a juvenile not to receive a  
6 wristband immediately upon arrival. In fact,  
7 we've received notification over the last  
8 probably year that there are several juveniles  
9 that don't automatically get a wristband.  
10 Would you say that's correct?

11 A Per policy they are supposed to receive a  
12 wristband as soon as they go through the intake  
13 at the detention center.

14 Q But they don't always?

15 A May be fair to say.

16 Q Okay. You also indicated that you were the  
17 assigned case manager for her evaluation back  
18 in 2019; is that right?

19 A That is correct.

20 Q But you were not the probation officer?

21 A Correct.

22 Q Okay.

23 MS. CATES: Begging the court's indulgence.

24 (Pause.)

25 MS. CATES: Excuse me.

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(Pause.)

CROSS-EXAMINATION

BY MS. CATES:

Q When Nicolle was adjudicated back in 2019, she was actually adjudicated on April 15th, 2019; is that correct?

A Give me one moment and I can answer.

Q Sure.

(Pause.)

THE WITNESS: That is correct.

CROSS-EXAMINATION

BY MS. CATES:

Q And it appears that Mr. Troficanto was the DJJ representative at that time. This was actually for the possession with intent to distribute marijuana?

A Correct.

Q And she had two charges that were not pressed, receiving stolen goods and criminal conspiracy. At that particular hearing she was ordered to cooperate with a community evaluation and she received a suspended MEC commitment; is that correct?

A Correct.

Q Okay. She was also placed on house arrest with

1 electronic monitoring?

2 A That is correct.

3 Q Okay. And if she violated in any manner, she  
4 was to be detained. Even after the community  
5 evaluation was complete she was still to be  
6 immediately detained pending the dispositional  
7 hearing?

8 A Correct.

9 Q She returned for her dispositional hearing on  
10 6/19/2019; is that correct?

11 A That is correct.

12 Q Did she actually violate her community  
13 evaluation?

14 A She did.

15 Q How did she violate?

16 A She removed her ankle monitor and ran away.

17 Q Okay. So she was detained?

18 A Yes.

19 Q And then her dispositional hearing was held at  
20 the same time of that detention hearing?

21 A I believe because she was on the suspended MEC  
22 that she was able to set at the detention  
23 center until her dispositional hearing.

24 Q Okay. At that time and I believe these are  
25 already in State's evidence Exhibit 145. She

1 was ordered to cooperate with nine months  
2 probation. And again, that's June 19th, 2019?

3 A That is correct.

4 Q She was ordered to cooperate with all  
5 referrals?

6 A That is correct.

7 Q She was to cooperate with a referral to DMH and  
8 that was with your in-office social worker?

9 A Correct.

10 Q Would that be Charlotte Crisp?

11 A At the time, yes.

12 Q Okay. She was to cooperate with family  
13 counselling?

14 A Correct.

15 Q She was to cooperate with alcohol and drug  
16 counselling, as well as drug screenings?

17 A Correct.

18 Q Her mother was made a party?

19 A Correct.

20 Q Okay. And she was ordered to follow the rules  
21 of the home?

22 A Yes.

23 Q She was placed on house arrest, again for the  
24 first 60 days of probation?

25 A Correct.

1 Q An interagency staffing was to be held within  
2 30 days from today, the day of that hearing?

3 A Correct.

4 Q She was to cooperate with a referral to family  
5 planning?

6 A Correct.

7 Q Cooperate with a referral to local Latino  
8 organizations?

9 A That is correct.

10 Q And her parents were to request an IEP  
11 evaluation?

12 A That is correct.

13 Q Okay. I would like to show you what is marked  
14 as State's Exhibit 182. Are you familiar with  
15 this document?

16 A Yes, I am.

17 Q Thank you. I'm sorry. Let me ask you a couple  
18 more questions. Is it a fair and accurate  
19 depiction of -- well, first describe it to me  
20 what that is if you could, please.

21 A So that is called a Form 5 and that is a  
22 Department of Juvenile Justice quick fact sheet  
23 on demographic information and charges and the  
24 history of charges.

25 Q Okay. And is that kept in the normal course of

1 DJJ business?

2 A Yes.

3 Q Okay. Is it a fair and accurate depiction of  
4 her record and demographics?

5 A Yes, it is.

6 Q Has it been altered or amended in any manner?

7 A No. It has not.

8 MS. CATES: Your Honor, at this time we would  
9 like to offer this into evidence.

10 MS. SELERT: No objection.

11 THE COURT: 182 you said?

12 MS. CATES: Sir?

13 THE COURT: 182?

14 MS. CATES: Yes, 182.

15 THE COURT: All right.

16 (Whereupon, State's Exhibit No. 182 was marked  
17 and received into evidence.)

18 CROSS-EXAMINATION

19 BY MS. CATES:

20 Q So you had indicated that at the time she was  
21 placed on probation you were not actually her  
22 probation officer; is that correct?

23 A That's correct.

24 Q And who would her probation officer have been?

25 A It was Weslyn Adderson.

1 Q And you also indicated that Ms. Crisp would  
2 have been the in-house mental health  
3 counselor--

4 A Yes.

5 Q -- assigned to her?

6 Neither of those individuals are in your office  
7 any longer, are they?

8 A Correct. They are no longer with the agency.

9 Q Okay. And you also testified just moments ago  
10 that all the sanctions or conditions listed in  
11 this 6/19/2019 order they were not complied  
12 with?

13 A Not everything on the court order was completed  
14 by the time that probation was ended.

15 Q Okay. Because you weren't the probation  
16 officer, is it a possibility that referrals and  
17 sanctions were completed? There's possibly  
18 just a recordkeeping problem?

19 A That is correct.

20 Q Okay. At what point was Ms. Sanchez-Peralta  
21 released from probation?

22 A December 16th of 2019.

23 Q And she was actually placed on probation on  
24 what date?

25 A June 19th, 2019.

1 Q And that was for nine months?

2 A Correct.

3 Q So she actually was released early. Can you  
4 explain that?

5 A She was documented as receiving earned  
6 compliance credit for every month that she was  
7 on probation, which shortened her probation  
8 length.

9 Q And what exactly is earned compliance credit?

10 A For every month that the juvenile is complying  
11 with the order, they get 10 days removed from  
12 their probationary sentence.

13 Q So she was not -- she actually received earned  
14 compliance credit for each month?

15 A She did.

16 Q So we could assume from that that she complied?

17 A We can.

18 Q And was she ever brought up on a probation  
19 violation?

20 A She was not.

21 Q Okay. You indicated that you had requested  
22 trauma focused therapy for Nicolle?

23 A That is correct.

24 Q And that particular therapy was not provided to  
25 her at DJJ; is that correct?

1 A Correct.

2 Q Would that therapy have been provided to her  
3 while she is behind the fence?

4 A It is provided at BRRRC, the Broad River Road  
5 Complex.

6 Q Okay. So is it a possibility that the reason  
7 she wasn't provided that treatment was because  
8 she had not been adjudicated yet?

9 A It may be.

10 Q Okay. To your knowledge is she cooperating  
11 with any other therapy while she is at DJJ?

12 A The detention center has assigned her a social  
13 worker, a psychologist and a psychiatrist.  
14 From activity notes in our system I do see that  
15 she's participated in group and individual  
16 sessions.

17 Q And she has actually participated for some  
18 time, right?

19 A That is correct.

20 MS. CATES: Begging the court's indulgence.

21 (Pause.)

22 CROSS-EXAMINATION

23 BY MS. CATES:

24 Q Were any other agencies involved with the  
25 family? I'm sorry, with Nicolle?

1 A I believe Department of Social Services and  
2 Department of Mental Health.

3 Q And in what capacity were they involved? Was  
4 it to a point of providing services?

5 A I believe that services were provided through  
6 Department of Social Services based on their  
7 investigations. For Department of Mental  
8 Health she had several different periods of  
9 treatment.

10 Q Okay.

11 MS. CATES: Thank you.

12 Nothing further, Your Honor.

13 MS. SELERT: I don't have any other questions.

14 THE COURT: Have a good day. Thank you.

15 MS. SELERT: And since Ms. Penny is Nicolle's  
16 caseworker, can she stay in the courtroom?

17 MR. HUBBARD: We'll leave that to the court's  
18 discretion.

19 THE COURT: What's the purpose? I mean, if we  
20 are going to start making this discretionary on my  
21 part, no.

22 MS. SELERT: Thank you, Your Honor.

23 THE COURT: Call your next witness.

24 MS. McGRADY: Your Honor, the defense calls  
25 Mike Pinilla.

1 THE COURT: Mike Pinilla, Tony.

2 (Pause.)

3 THE COURT: Come up here and have a seat, sir.

4 All right. You are Mike Pinilla?

5 THE WITNESS: Yes, sir.

6 THE COURT: Raise your right hand, please.

7 MIKE PINILLA, after being duly sworn, testified  
8 as follows:

9 THE COURT: All right. Speak into the  
10 microphone. Speak up so we can hear you, okay?

11 DIRECT EXAMINATION

12 BY MS. McGRADY:

13 Q Hi, Mr. Pincelli.

14 A Hey. How are you?

15 Q Good. How are you doing?

16 A Good.

17 Q Can you tell us about your job?

18 A I'm an immigration attorney, mostly  
19 immigration. I do practice some other areas of  
20 law.

21 Q Can you pull the microphone closer to you?

22 A Yeah. Absolutely. Absolutely.

23 Q Tell us about your education.

24 A I went to Virginia Commonwealth University for  
25 undergrad and then I went to the University of

- 1 South Carolina School of Law, graduated in  
2 2008.
- 3 Q How long have you been working in your current  
4 role?
- 5 A Probably since about 2010.
- 6 Q So you have been doing immigration law for  
7 about 12 years?
- 8 A Correct.
- 9 Q Do you have any additional training in  
10 immigration law?
- 11 A Additional training? No. I do not.
- 12 Q Do you have any additional certification in  
13 immigration law?
- 14 A I do not.
- 15 Q Do you go to immigration court on a regular  
16 basis?
- 17 A I do.
- 18 Q Do you have to have any special certification  
19 to get into immigration court?
- 20 A You have to be it is kind of like a federal bar  
21 but not for the district court. It is for the  
22 administrative court of immigration.
- 23 Q So you have a separate license for immigration  
24 court?
- 25 A I do.

1 Q And you are also licensed to practice law in  
2 the state of South Carolina?

3 A That's correct.

4 Q Have you ever been qualified as an expert  
5 witness before?

6 A Never.

7 MS. McGRADY: Your Honor, at this time I would  
8 like to admit Mike Pinilla as an expert in the field  
9 of immigration law.

10 MR. HUBBARD: Your Honor, I don't know how that  
11 works. I know Mr. Pinilla knows what he does in  
12 that field. I know he is superb in what he does in  
13 that field but I've never heard of qualifying a  
14 lawyer as an expert. I don't object to him talking  
15 about that field but I don't know that he needs to  
16 be qualified as an expert.

17 THE WITNESS: And I don't want to be qualified  
18 as an expert.

19 THE COURT: That request is denied.

20 Go ahead.

21 MS. McGRADY: Okay. But as long as there is no  
22 objection to him testifying about immigration law.

23 THE COURT: I don't think the solicitor was  
24 objecting but I think the other problem is Mr.  
25 Pinilla said he didn't want to be declared an

1 expert.

2 MS. McGRADY: Okay.

3 THE WITNESS: I think that might be contrary to  
4 the rules. I would have to brush off my books.

5 THE COURT: Just go ahead and question him. If  
6 the solicitor has an objection, I feel sure he will  
7 raise it.

8 MS. McGRADY: Yes, sir, Your Honor.

9 DIRECT EXAMINATION

10 BY MS. McGRADY:

11 Q Tell us about your familiarity with immigration  
12 law.

13 A I've practiced immigration law since about  
14 2010. I have done several conferences for the  
15 South Carolina Bar. I have done several  
16 conferences for other organizations. I  
17 practice immigration law nationwide and it is  
18 something I do on a daily basis.

19 Q Okay. Are you familiar with Nicolle  
20 Sanchez-Peralta?

21 A I'm familiar with her, yes.

22 Q Are you familiar with her family?

23 A I am.

24 Q Nicolle currently has what we would refer to as  
25 a hold on her from immigration. Are you

1 familiar with that?

2 A I am.

3 Q Can you tell us what that means for Nicolle?

4 A That means that the federal government,  
5 depending on the outcome of this case, will  
6 take her into custody. So if she posts a bond  
7 and I don't know if that's an option, but if  
8 she posts a bond, they will come and get her.  
9 If this case resolves, they will come and get  
10 her at the conclusion of whatever the ending of  
11 that case is.

12 Q What would happen if she is released to DJJ,  
13 from DJJ at age 22 or the South Carolina  
14 Department of Corrections at the end of her  
15 sentence with the immigration hold?

16 A With the hold, then they would come and take  
17 her into custody. She would be transferred to  
18 a federal facility somewhere in Georgia and she  
19 would have another process there that she would  
20 appear before an immigration judge. And you  
21 know, if she is guilty of something, has some  
22 criminal conviction, that will hinder her  
23 ability to remain in the United States.

24 Q Do criminal convictions automatically bar  
25 undocumented individuals from being allowed to

1 stay in the United States?

2 A Depends on the conviction. But a lot of times  
3 it does.

4 Q Would a murder conviction likely bar her from  
5 being able to stay?

6 A It would.

7 Q Does she have the right to counsel?

8 A She does. It is at her own expense though so  
9 it is not -- there is no one that can be  
10 appointed to her.

11 Q So they don't have public defenders for  
12 immigration court?

13 A They do not.

14 Q How long does the immigration court process  
15 last?

16 A It varies. You know fast, fast could be  
17 anywhere from close to six months. And then if  
18 she is deported, there is another wait time for  
19 her to actually be released from the detention  
20 center. So it could be, you know, 8, 10, 12  
21 months.

22 Q Are you familiar with the conditions of the  
23 detention centers?

24 A I am familiar with some of them.

25 Q You mentioned Nicolle would be sent to a place

1 in Georgia?

2 A Correct.

3 Q Are you familiar with that detention center?

4 A I am.

5 Q Can you tell us about the conditions?

6 A You know, they are not the best, I guess I  
7 would say. They are probably not as good as  
8 some of the state detention centers here. They  
9 are very crowded. They are, yeah, they are  
10 pretty bad.

11 Q So can you tell us what Nicolle's odds are of  
12 being deported?

13 A I don't know the situation. I don't know the  
14 outcome of her case so it would be hard for me  
15 to say. But if you are implying she is  
16 convicted of a murder, I would say she had zero  
17 chance of immigration relief.

18 Q If she is adjudicated delinquent of murder,  
19 what are her odds?

20 A I think it is going to be the same.

21 Q Are you familiar with the conditions in  
22 Honduras?

23 A I am vaguely familiar. I'm familiar with it  
24 through my work I should say. I've not  
25 experienced it firsthand.

1 Q Can you tell us what it is like there?

2 A It is not like the United States. It is  
3 certainly one of the most dangerous countries  
4 in the world. Used to have the highest murder  
5 rate, depending on exactly where but overall it  
6 is bad. The education system is poor. The  
7 health system is poor. The GDP and the ability  
8 to work and earn a living is poor.

9 Q Do you have clients from Honduras?

10 A I do.

11 Q Have they told you why they left Honduras?

12 A Yeah. Yes, they have.

13 Q Can you elaborate on that?

14 A Yeah. They leave, you know, generally speaking  
15 they leave because of poor health conditions,  
16 extreme poverty, dangerousness. You know local  
17 delinquents and gang members that are something  
18 that's very common in Honduras.

19 Q Are you familiar with extortion in Honduras?

20 A I am and there is a lot of extortion that  
21 occurs in Honduras, especially for business  
22 owners and folks that are perceived as having  
23 some kind of money.

24 Q So last question. Just to sum it up, if  
25 Nicolle stays in family court and is

1 adjudicated delinquent, or she is waived up to  
2 general sessions and treated as an adult, if  
3 she is convicted or adjudicated delinquent of  
4 murder, her odds of being deported are  
5 basically 100 percent?

6 A Personally that is my assessment of it. Yes.

7 MS. McGRADY: All right. I have no further  
8 questions. Please answer any questions that the  
9 State may have.

10 CROSS-EXAMINATION

11 BY MR. HUBBARD:

12 Q Just a few quick ones, Mr. Pinilla. Thank you  
13 for being here.

14 A Absolutely.

15 Q Honduras and any other countries in the Central  
16 America are pretty dangerous?

17 A That's correct.

18 Q And people come here often illegally because of  
19 that?

20 A Yes, sir.

21 Q And when people are deported, they often try to  
22 return back too because of the same conditions  
23 that they fled from the first time?

24 A I couldn't speak to that, sorry. But I could  
25 see why someone would want to come back, yes.

1 Q The conditions here in the United States, even  
2 if they are not the best in the world by our  
3 standards, are a whole lot better than what  
4 they are in some of the countries that people  
5 are fleeing from?

6 A I would agree.

7 Q And even if there is a prohibition to come back  
8 to the United States, and it is a felony  
9 charge, there are people that will risk that to  
10 get back to what they had here?

11 A I believe that. I mean, there are also, you  
12 know, there are federal charges for coming back  
13 after and those have hefty sentences in federal  
14 court. And every single time that someone  
15 attempts to do that, it keeps increasing. So  
16 but there could be some folks that would risk  
17 that.

18 Q Because even with those charges that are  
19 graduated here in the US, what they face back  
20 in their home country is pretty bad?

21 A That's correct.

22 MR. HUBBARD: Thank you.

23 THE WITNESS: Yes, sir.

24 MS. McGRADY: I have no further questions and I  
25 ask that Mr. Pinilla be released.

1 THE COURT: Have a good day, sir.

2 THE WITNESS: Thank you, Judge.

3 MS. McGRADY: Your Honor, we have no more  
4 witnesses that are on deck for today. We have two  
5 ladies that we were hoping could come today but they  
6 cannot and we were hoping that that would have taken  
7 up the rest of the afternoon. But they will be here  
8 tomorrow instead. So we are asking to adjourn for  
9 the day, understanding that we are under a time  
10 crunch.

11 MR. HUBBARD: Your Honor, obviously it is your  
12 call. We would be willing if they needed to, if  
13 they thought they could get one or two more up, even  
14 if we took an hour break, that might put us forward  
15 a little bit or half an hour break or something like  
16 that. I know Your Honor probably needs to get out  
17 around 5:00. But I just want Your Honor to know we  
18 are flexible and willing to work late if we have to  
19 due to the crunch.

20 THE COURT: Y'all going to be able to get it  
21 done tomorrow?

22 MS. McGRADY: We will certainly try. I hope  
23 so, Judge.

24 THE COURT: Y'all need to have all the  
25 witnesses here first thing in the morning then so we

1 can have them here in case things run short.

2 MS. McGRADY: Yes. That is our plan, Your  
3 Honor, to have everybody here at 9:30. Your Honor,  
4 we could start early if that suits the court.

5 THE COURT: Start whenever you want to. Y'all  
6 tell me when you can be here.

7 MS. McGRADY: I think the earliest that the  
8 transport order has Nicolle getting here is 8:30.

9 THE COURT: Liz, when has she been getting  
10 here?

11 THE DEPUTY: Judge, she is usually here by  
12 7:30, 8:00 in the morning because she is already  
13 here by the time I get here at 8:30.

14 THE COURT: What time you been getting here,  
15 ma'am?

16 NAZARETH NICOLLE SANCHEZ-PERALTA: Really been  
17 around 8.

18 THE COURT: 8:00?

19 NAZARETH NICOLLE SANCHEZ-PERALTA: (Nods head.)  
20 8:30.

21 THE COURT: Sanya, what time do you want to  
22 start?

23 THE COURT REPORTER: 8:30 is fine.

24 THE COURT: 8:30.

25 MS. McGRADY: 8:30.

1 MR. HUBBARD: Thank you, Your Honor.

2 THE COURT: So that means y'all talk to her.

3 MS. McGRADY: Before.

4 THE COURT: Call your first witness at 8:30.

5 MS. McGRADY: Yes, sir, Your Honor.

6 THE COURT: Solicitor?

7 MR. HUBBARD: Yes, sir. We will be here.

8 THE COURT: See y'all then.

9 MS. McGRADY: Thank you, Your Honor.

10 THE COURT: Thank you.

11 (Whereupon, the proceedings concluded for the day.)

12 THE COURT: All right. Ms. McGrady.

13 MS. McGRADY: Yes, Your Honor. We are ready to  
14 proceed.

15 THE COURT: You can call your next witness.

16 MS. McGRADY: We are calling Sherry Highbaugh  
17 and she is out this door right here.

18 THE COURT: All right. Ma'am, come up here and  
19 have a seat if you would, please. All right.

20 Ma'am, tell us what your name is and spell it for  
21 the court reporter.

22 THE WITNESS: My name is Dr. Sherry,  
23 S-H-E-R-R-Y, Highbaugh, H-I-G-H-B like boy A-U-G-H.

24 THE COURT: All right. Would you raise your  
25 right hand, please?

1            SHERRY HIGHBAUGH, after being duly sworn,  
2 testified as follows:

3            THE COURT: If you would, just speak into the  
4 microphone clearly and loudly so everybody can hear  
5 you.

6            THE WITNESS: Okay.

7            THE COURT: Thank you.

8                            DIRECT EXAMINATION

9 BY MS. McGRADY:

10 Q        Good morning, Ms. Highbaugh.

11 A        Good morning.

12 Q        Could you tell us your current job role?

13 A        I am a clinical chaplain at the Department of  
14 Juvenile Justice Detention Center.

15 Q        How long have you been in that position?

16 A        I have been in that position almost 10 years  
17 now.

18 Q        Can you tell us about your relevant education  
19 and training?

20 A        Yes. I have a Bachelor's Degree in Religion.  
21 I have a Master's Degree in Theology and I have  
22 a Master's of Divinity, as well as I have a  
23 Ph.D. in Theology and I have a Chaplain C  
24 Certification through the College of  
25 Psychotherapy for Adolescents.

- 1 Q When did you get that?
- 2 A I got that 2002.
- 3 Q Okay. Perfect. So you have been well educated
- 4 for a while now?
- 5 A Yes.
- 6 Q Do you know Nazareth Nicolle Sanchez-Peralta?
- 7 A Yes, I do.
- 8 Q I believe you guys refer to her as Sanchez?
- 9 A Yes.
- 10 Q How have you come to know Nicolle?
- 11 A Nicolle was based in our facility. And of
- 12 course, is one of our juveniles on the female
- 13 unit. And you know, I've seen her quite a bit,
- 14 you know, for counselling and for different
- 15 type classes, clinical groups, that type thing.
- 16 Q How long have you known Nicolle?
- 17 A Since she has been there. It's been well over
- 18 a year now.
- 19 Q How often do you see her?
- 20 A I see her on a regular basis. I've probably
- 21 seen Nicolle at least 50 or 60 times in the
- 22 last year.
- 23 Q What do you guys talk about?
- 24 A We talk about her feelings. We talk about her
- 25 goals. We talk about what's going on on the

1 unit, you know, if there is some type of  
2 conflict or that type thing, ways to solve  
3 problems. And we talk about her dreams, you  
4 know, just good conversation and also spiritual  
5 counselling.

6 Q Okay. I have eight pages of notes in my report  
7 from DJJ that you reference to Nicolle. Have  
8 you seen her more than eight times since she's  
9 been at DJJ for about a year?

10 A Yes.

11 Q You mentioned 50 or 60?

12 A Yes.

13 Q Okay. Do you make documentation every time you  
14 see her?

15 A Not every time.

16 Q Most times?

17 A Most of the times and particularly on when we  
18 are doing the clinical groups.

19 Q So does she participate in these clinical  
20 groups that you put on as chaplain?

21 A Yes. She is very active. Sanchez is usually  
22 the first one to sort of take the lead role in  
23 the group. She is very open and vocal about  
24 the subject matter.

25 Q So she is engaged?

1 A She is very engaged.

2 Q What are the themes of the programs or  
3 clinicals that you put on?

4 A I'm referring to my notes. They are like  
5 managing anger. I do a lot of emotional  
6 wellness groups such as finding your way from  
7 feeling lost; finding a sense of self-purpose.  
8 We do a lot of art, therapeutic art sessions  
9 and you know, different things about, you know,  
10 what are your dreams and your hopes, that type  
11 thing. And taking care of your health, how to  
12 stay healthy and emotional wellness, good  
13 memory experiences when you feel depressed, you  
14 know and defining your plans.

15 Just it is just such a variety, you know. I do  
16 a lot of clinical groups on drugs and on alcohol and  
17 on self-preservation, self-care.

18 Q Okay. Thank you for that.

19 And you mentioned that Nicolle does actively  
20 engage?

21 A She is very active.

22 Q Have you gotten to talk to Nicolle one-on-one?

23 A Yes.

24 Q Can you tell us what you talk about with  
25 Nicolle?

1 A We do a lot of spiritual counselling because  
2 she has a deep foundation of religion. So we  
3 talk a lot about religion versus, you know, the  
4 biblical things and that type thing. And if  
5 she has questions, she will bring them to me.  
6 We also talk about personal issues,  
7 particularly in her feelings. We talk about  
8 times when she is very depressed because she  
9 does get depressed. And we talk about traumas  
10 that she has had in her life. We work a lot  
11 with that.

12 Q Can you tell us about those traumas?

13 A Well, the traumas that we have talked about  
14 have been in an abusive relationship, you know,  
15 constant beatings, manipulation, just being so  
16 young and having to go through that and how it  
17 has just left a dent inside of her, in her soul  
18 as well as in her emotions.

19 Q So you believe that that abusive relationship  
20 has taken a toll on Nicolle?

21 A Oh, definitely.

22 Q Generally what can you tell us about Nicolle?

23 A Nicolle, she is a smart young lady. She is  
24 somewhat passive in the idea that she is easily  
25 intimidated and she gets depressed a lot. She

1 is motivated for a future and which I'm so glad  
2 about. She does have hope for tomorrow and she  
3 tries to be somewhat of a mediator even with  
4 other young girls that are going through  
5 things, you know. And she goes through a lot  
6 of self with others girls. You get a lot of  
7 girls together in the same room, it is going to  
8 be that way.

9 And she is just a nice person and she is a very  
10 honest person. She doesn't have a problem with  
11 sharing her emotions and her feelings. And she does  
12 sometimes get very overwhelmed with her feelings and  
13 with events that are going on around her. And then  
14 being there for a over a year now, it takes its toll  
15 on you. You know, this is a correctional  
16 environment.

17 Q Yes, ma'am.

18 Do you feel that Nicolle trusts you?

19 A Yes.

20 Q Okay. Have you spoken with Nicolle or has  
21 Nicolle spoken with you about rehabilitation,  
22 future services or therapy?

23 A Yes, she has. And she is adamant about wanting  
24 it. She knows that she needs some assistance,  
25 particularly with dealing with depression and

1 with dealing with trauma. She knows that she  
2 does need to have professional help with that  
3 and she also wants to get an education. She  
4 wants to go to college. You know she wants to  
5 do those things that we consider and take for  
6 granted as normal.

7 Q Yes, ma'am.

8 And you have mostly answered this question but  
9 I'm going to ask it just one last time. Do you  
10 believe that Nicolle is motivated to change and lead  
11 a better future?

12 A Yes, she is. She desperately wants that.

13 MS. McGRADY: Great. Thank you, Ms. Highbaugh.  
14 Please answer any questions that the State may have.

15 THE WITNESS: Okay. Great.

16 CROSS-EXAMINATION

17 BY MR. HUBBARD:

18 Q Dr. Highbaugh, I have a few questions. You  
19 describe Nicolle Sanchez-Peralta as being a  
20 leader?

21 A A leader in the fact that when we have the  
22 groups, when we do the clinical groups, she is  
23 always the first one to really open up and  
24 start. And it is sort of like the domino  
25 effect. Once she starts, that draws the other

1 young ladies in.

2 Q You describe her as smart and honest?

3 A She is smart.

4 Q And honest?

5 A Honest to me.

6 Q Now let me ask you this. Who is Debora  
7 Fortune? Is that another chaplain?

8 A That is a chaplain that's over at MEC. That is  
9 the Midlands Evaluation Center. That's the  
10 facility that's across the way from us.

11 Q Okay. Well, are you aware of just last  
12 Wednesday of an incident involving Debora  
13 Fortune where Nicolle was verbally and  
14 attempted to physically assault another peer?

15 A In those situations, sir, and last Wednesday I  
16 was probably over there, with that. In the  
17 situation where you have got 20, 21 girls in a  
18 small area and there is usually conflicts that  
19 come from them. And some of the girls can be  
20 very aggressive.

21 Q And on this occasion that girl that was very  
22 aggressive was Nicolle, correct?

23 A I'm not quite sure. I came in on the back end  
24 of that.

25 Q You don't have any reason to question Debora

1 Fortune?

2 A No, I don't. No.

3 MR. HUBBARD: Okay. Thank you.

4 MS. McGRADY: I have just one last question.

5 REDIRECT EXAMINATION

6 BY MS. McGRADY:

7 Q If you had to guess, how much time have you  
8 spent with Nicolle total?

9 A Time as in hours?

10 Q Yes, ma'am.

11 A Oh, I would say probably, you know, and I'm  
12 just really just throwing it out there,  
13 probably 60 to maybe 100 hours with her.

14 MS. McGRADY: Okay. Thank you.

15 THE WITNESS: Okay.

16 MR. HUBBARD: Nothing further, Your Honor.

17 MS. McGRADY: Your Honor, we ask that this  
18 witness be released.

19 MR. HUBBARD: No objection.

20 THE COURT: Thank you, ma'am. Have a good day.

21 THE WITNESS: Thank you.

22 MS. McGRADY: Your Honor, at this time the  
23 defense calls Sergeant Demetra Caughman who is also  
24 out this door right here.

25 THE COURT: Solicitor, since y'all are closer

1 to the door, can you have someone instead of her  
2 having to go all the way over there, just have one  
3 of your staff designated to call to assist the court  
4 in calling their names?

5 MR. HUBBARD: We are happy to do it. It might  
6 even help, Your Honor, if they want to let us know  
7 who is coming next or we will help circulate them in  
8 a little quicker.

9 THE COURT: Sounds great. Thank you.

10 Now Ms. McGrady, I've asked the solicitor just  
11 in the interest of saving as much time as possible  
12 so you don't have to go all the way over there, that  
13 they assist the court in calling the next witness.  
14 Are you okay with that?

15 MS. McGRADY: Yes, sir, Your Honor.

16 THE COURT: All right. Ma'am, tell us what  
17 your name is and spell it for the court reporter,  
18 please.

19 THE WITNESS: I'm Demetra Caughman,  
20 D-E-M-E-T-R-A, Caughman, C-A-U-G-H-M-A-N.

21 THE COURT: All right. Would you raise your  
22 right hand, please?

23 THE WITNESS: Sure.

24 DEMETRA CAUGHMAN, after being duly sworn,  
25 testified as follows:

1 THE COURT: Thank you so much.

2 DIRECT EXAMINATION

3 BY MS. McGRADY:

4 Q Sergeant Caughman, who do you work for?

5 A South Carolina Department of Juvenile Justice.

6 Q Can you pull that microphone a little bit  
7 closer to you?

8 A Sure. South Carolina Department of Juvenile  
9 Justice.

10 Q Perfect.

11 What is your current job role?

12 A I'm a sergeant at DJJ Detention Center.

13 Q What does that mean?

14 A I work with the kids hands on, talking to the  
15 kids, being therapeutic with the kids. I deal  
16 with all situations because I'm a supervisor.

17 Q Do you also deal with security?

18 A Yes. Yes.

19 Q How long have you been in the current position  
20 that you are in?

21 A Eight years.

22 Q How long --

23 A Well, as a sergeant it been a year and a half  
24 but I been at DJJ eight years.

25 Q Okay. Thank you.

1           What are your job duties on a day-to-day basis?

2    A       Making sure the youth, staff are safe. Making  
3           sure that the facility runs with no issues, no  
4           problems the best of our abilities.

5    Q       Yes, ma'am.

6           Do you feel that you go above and beyond in  
7    your job duties?

8    A       Yes, I do.

9    Q       What shift do you work?

10   A       A1, 6 a.m., 6 p.m.

11   Q       Do you typically work the same days a week or  
12           do you alternate?

13   A       Well, I'm on the same shift. I don't rotate  
14           shifts. So I'm on the same shift every day.

15   Q       Okay. Do you know Nazareth Nicolle  
16           Sanchez-Peralta?

17   A       Yes. She was one of my youths at the detention  
18           center.

19   Q       And I believe you guys call her Sanchez?

20   A       Yes. I call her Sanchez.

21   Q       How long have you known Nicolle?

22   A       I think she has been there about a year maybe.

23   Q       Yes, ma'am.

24           How have you come to know her?

25   A       One particular day she was having a bad day and

1 I went and pull her off, talk to her. I was  
2 very therapeutic to see what was wrong and  
3 tried to help her make it through her day.

4 Q Have you had other conversations with Nicolle?

5 A Yeah. She talks to me about she will talk to  
6 me if she having a bad day. She will talk to  
7 me if something is going wrong or she is not in  
8 a good mood. I'm one of the ones that's able  
9 to talk to her.

10 Q Do you feel you have a good relationship with  
11 Nicolle?

12 A Yes.

13 Q Do you feel that she trusts you?

14 A Yeah.

15 Q What can you tell us generally about Nicolle?

16 A Personally I never had any issues with her. I  
17 mean, she always been good for me. I mean, I  
18 can't say for others but, I mean, just by  
19 talking to her and listening to her and making  
20 sure that her day go by smooth as possible.

21 She has told me that she hate what happened and  
22 she's very sorry for what happened. I try not to  
23 get in too many details with her about the  
24 situation. But I mean, she never went into details  
25 of what happened and I didn't want that situation

1 but she has told me that she was sorry for what  
2 happened and it bothers her. I mean, it bothers her  
3 sleep and everything and I try to talk to the best  
4 as I can. I did a sick call to see if we could get  
5 her something for sleep to try to help her as much  
6 as I can.

7 Q Yes, ma'am.

8 A Yes, ma'am.

9 Q Can you tell us about her personality, what you  
10 have observed?

11 A Sanchez, to me she is a sweet kid. Like I  
12 said, she never gave me any issues. To me she  
13 is a sweet kid. She is a real funny kid when  
14 she is having a very good day.

15 Q Yes, ma'am.

16 A Yes, ma'am.

17 Q And you already mentioned this. Have you had  
18 any behavior problems with Nicolle?

19 A I haven't.

20 MS. McGRADY: All right. I have no further  
21 questions but please answer any questions that the  
22 State may have.

23 THE WITNESS: Sure.

24 CROSS-EXAMINATION

25 BY MR. HUBBARD:

- 1 Q Sergeant Caughman--
- 2 A Yes, sir.
- 3 Q -- so you have got to know Nicolle pretty well?
- 4 A Yes, sir. I mean, with dealing with the kids,
- 5 yeah. I try to be a lot more hands on and
- 6 therapeutic because of the surroundings of
- 7 where she is at with all the kids.
- 8 Q Sergeant, are you the staff member that gave
- 9 Nicolle Sanchez-Peralta the obituary on SA [REDACTED]
- 10 [REDACTED]?
- 11 A No, sir.
- 12 Q You didn't do that?
- 13 A No, sir. I did not.
- 14 Q Are you the sergeant and staff member that told
- 15 Nicolle that someone from my office,
- 16 solicitor's office, was talking to one of your
- 17 fellow staff members?
- 18 A No. I didn't tell her that no solicitor was --
- 19 when I asked her because they brought my name
- 20 up in a situation about a shakedown and a
- 21 letter. And I wasn't present at work that day
- 22 so I was asking her what was going on, why is
- 23 my name in the situation. And she was like she
- 24 don't know, no one never called my name that
- 25 she knew of. But I never told her about a



1           make sure that she didn't say if I was there or  
2           not so I was asking everyone. It wasn't a  
3           particular person.

4    Q       And you have indicated she wasn't a problem for  
5           you?

6    A       No, sir.

7    Q       But you understand there's been some 30 plus  
8           event reports --

9    A       Yes, sir.

10   Q       -- since she's been in that facility?

11   A       Yes, sir.

12   Q       One as late as last Wednesday. You are not  
13           aware of that?

14   A       No, sir. She is at MEC Pearl unit. All our  
15           female youth are at Pearl unit at MEC so I  
16           don't know.

17   Q       And although you say you haven't had any issues  
18           with her, you also understand she put a hit on  
19           one of your co-workers?

20   A       No.

21   Q       You don't know any of that?

22   A       No. A letter that they was saying supposedly  
23           being on a juvenile but I never know about a  
24           staff.

25   Q       Including one of your coworkers. So you

1           weren't informed of that?

2     A     No.

3     Q     Did anybody tell you that she actually admitted  
4           that was her intent?

5     A     No.

6     Q     Does that change your impression of who you  
7           know to be Nicolle Sanchez?

8     A     I can't really say that would because I never  
9           had any issue. I can't go by--

10    Q     You can't go by your staff members?

11    A     Yeah. I mean, sure, my staff member but I  
12           didn't know about the situation.

13    Q     You are going to take her word over a  
14           coworker's?

15    A     No, sir. That's not what I'm saying, no, sir.  
16           Never would. My job is very important to me.

17    Q     It is an important job.

18    A     Yes, sir.

19           MR. HUBBARD: Thank you.

20           MS. McGRADY: No further questions and we ask  
21           that this witness be released.

22           THE COURT: Have a good day, ma'am.

23           THE WITNESS: Oh, thank you.

24           THE COURT: Thank you.

25           THE WITNESS: Y'all have a wonderful weekend.

1 THE COURT: You too.

2 MS. McGRADY: Your Honor, I'm going to go check  
3 on Ms. Selert.

4 (Pause.)

5 MS. SELERT: Defense calls Patrick Hawkins.

6 THE COURT: Come up here to my right, sir and  
7 have a seat if you would, please. You are Patrick  
8 Hawkins, sir?

9 THE WITNESS: Yes, sir.

10 THE COURT: Raise your right hand, please.

11 PATRICK HAWKINS, after being duly sworn,  
12 testified as follows:

13 THE COURT: Thank you very much. Scoot up to  
14 the microphone. Speak up so we can hear you.

15 DIRECT EXAMINATION

16 BY MS. SELERT:

17 Q Good morning, Mr. Hawkins. How are you doing?

18 A I'm good. How are you?

19 Q Doing well.

20 If you could, please, spell your name for the  
21 record.

22 A Patrick, P-A-T-R-I-C-K, middle initial C, last  
23 name Hawkins, H-A-W-K-I-N-S.

24 Q Thank you.

25 What do you do for a living?

1 A I'm retired.

2 Q And where do you live?

3 A [REDACTED] Drive in Springdale, West  
4 Columbia.

5 Q Did you live there on April 25th of 2021?

6 A Yes.

7 Q And what happened to you or what happened on  
8 April 25th of 2021 that stands out to you?

9 A What stands out the most is a young man came  
10 knocking at my door and said there is a young  
11 girl screaming. My first thought was, why are  
12 you telling me, why didn't you do anything  
13 about it. But I got my dog and I walked over  
14 there to see what was going on. And what I  
15 noticed was a young lady and a young man in a  
16 wooded area across the street from my house.  
17 And I told him to stop. He got up and well,  
18 I'm sorry. He was already up. He was fixing  
19 his clothing and she was on the ground and then  
20 she got up also.

21 Q Well, let's go back. What was he doing that  
22 made you say stop?

23 A He what appeared to me is like he was still  
24 going toward her. So I don't know if he was  
25 finishing, starting. I don't know where he

1 was. I don't know what was going on. He was  
2 just still going toward her and she was still  
3 screaming.

4 Q And finishing or starting what exactly?

5 A Assault. I'm not sure. I don't want to  
6 speculate what it was.

7 Q I understand.

8 And how far away was the attack happening from  
9 your house?

10 A My house is about 100 feet from, yeah, about  
11 100 feet from my house. Directly across the  
12 street.

13 Q So someone knocks on your door, you go outside,  
14 you see something going on?

15 A No. You can't see it from my door.

16 Q Okay. Okay.

17 A So basically what I did, I asked the young man  
18 where was it. He said over in that wooded  
19 area. I went over. I had my dog with me and  
20 even at my driveway you couldn't see anything  
21 because of how much vegetation is over there.

22 Q Okay.

23 So ultimately how close did you get to them?

24 A Between five and 10 feet.

25 Q And what did you notice about the man's pants?

- 1 A He was fixing them, not pulling them up, just  
2 fixing, like redoing his button, zipper, the  
3 belt.
- 4 Q Okay. And what did you ultimately say to him?
- 5 A I said, What are you doing.
- 6 Q What did he say back?
- 7 A I honestly I can't remember what he said but  
8 when he responded, I said, I'm just going to  
9 call the police.
- 10 Q And what was the young girl doing whenever you  
11 approached them and said, Hey, get off of her,  
12 what are you doing?
- 13 A She was on the ground. And then when I started  
14 speaking, she started getting up and she was  
15 also fixing her clothes.
- 16 Q And what were your observations about whether  
17 it seemed like she wanted to be there?
- 18 A Her screaming and crying.
- 19 Q What did she look like?
- 20 A To me a young Caucasian female, couldn't have  
21 been more than 18, 19 years old, just very  
22 young.
- 23 Q And you ultimately called the police?
- 24 A Yes.
- 25 Q How long was it until they got there?

1 A Ninety seconds to two minutes.

2 Q When they got there, was the man and young  
3 girl, were they still there?

4 A No. They had gotten up and walked away.

5 Q And did you provide a statement to the police?

6 A Yes, I did.

7 MS. SELERT: Thank you. I don't have any other  
8 questions at this time. Please answer any questions  
9 the State may have.

10 THE WITNESS: Yes, ma'am.

11 CROSS-EXAMINATION

12 BY MS. MAYES:

13 Q Good morning, sir.

14 A Good morning.

15 Q And I think the way you described it when you  
16 called in is that it was some type of  
17 disturbance, you could hear them yelling?

18 A Yes. I heard her screaming. I didn't hear  
19 anything from him, just her screaming.

20 Q And then afterwards, once they see you, you saw  
21 them both stand up and walk away?

22 A Yes.

23 Q Which direction were they walking?

24 A I mean, when you come back out on to [REDACTED]  
25 Drive, they turned right and went toward

1           Huntington, which is the next street over.

2    Q       And just to kind of get an idea, this is within  
3           Springdale?

4    A       Yes.

5    Q       How close are you to the main road there in  
6           Springdale? I guess that's Airport?

7    A       Platt Springs Road I think is the main. It  
8           takes me about two minutes driving to get  
9           there.

10   Q       Okay. Is there a Wal-Mart in that area?

11   A       Yes.

12   Q       How close would all of this be to that  
13           Wal-Mart?

14   A       To Wal-Mart maybe, about right at a mile.

15           MS. MAYES: Okay. Thank you so much, sir.

16           MS. SELERT: I just have one final question for  
17           you.

18   REDIRECT EXAMINATION

19   BY MS. SELERT:

20   Q       What, if any, injuries did you observe the  
21           young girl to have?

22   A       I didn't look at -- I didn't see any injuries.  
23           All I heard was her screaming and crying. I  
24           didn't see any injuries.

25           MS. SELERT: Thank you.

1 I don't have any other questions for him.

2 MS. MAYES: Nothing further, Judge.

3 THE COURT: Have a good day, sir.

4 THE WITNESS: All right. Thank you.

5 THE COURT: Thank you.

6 MS. SELERT: The defense calls Investigator D.  
7 Jordan.

8 MS. MAYES: Your Honor, if I may approach the  
9 evidence box.

10 THE COURT: Sir, if you would come up here and  
11 have a seat to my right, please. All right. If you  
12 would, tell us what your name is and spell it for  
13 the court reporter.

14 THE WITNESS: I'm Investigator Jordan from the  
15 Springdale Police Department. And it's David  
16 Jordan, D-A-V-I-D, J-O-R-D-A-N.

17 THE COURT: All right. Would you raise your  
18 right hand, please?

19 DAVID JORDAN, after being duly sworn, testified  
20 as follows:

21 THE COURT: All right. Move up close to that  
22 microphone. Speak up so we can hear you, okay?

23 THE WITNESS: Yes, sir.

24 DIRECT EXAMINATION

25 BY MS. SELERT:

1 Q Good morning, Investigator Jordan. How are  
2 you?

3 A Fine.

4 Q And you stated that you work for Springdale?

5 A That is correct.

6 Q And what is your role there?

7 A I do the investigations for the department.

8 Q Were you working there on April 25th of 2021?

9 A I was.

10 Q And were you called out to a criminal sexual  
11 conduct case in the town's jurisdiction?

12 A I was.

13 Q Where did you respond to?

14 A At first I responded to a crime scene at the  
15 corner of [REDACTED] and [REDACTED] Drive.

16 Q And who joined you there?

17 A Sergeant Gant was the initial officer that  
18 responded and then they called me out from the  
19 house. I responded to the scene because we  
20 were actively searching for a suspect.

21 Q And what did you find in the side yard of [REDACTED]  
22 [REDACTED] Drive?

23 A We located what appeared to be a location where  
24 there was a struggle that had ensued. The  
25 leaves were knocked up and there was very

1 obvious area that was disturbed due to an  
2 altercation or somebody wallowing around on the  
3 ground in leaves.

4 Q While at the incident location, who did you  
5 speak with while conducting your investigation?

6 A Let me get his name correct. I spoke to an  
7 eyewitness, Mr. Hawkins, who was a neighbor at  
8 [REDACTED] Drive.

9 Q And what did he tell you he observed?

10 A He observed a young black male subject  
11 assaulting a young black female subject.

12 Q And who did you determine the victim in this  
13 case to be?

14 A At that time we believed that -- I apologize.  
15 I have it redacted from mine. I want to say  
16 her name correctly. At the time it was Nicolle  
17 Nazareth is what I got.

18 Q Sanchez-Peralta?

19 A Yes, ma'am.

20 Q And who was the subject or suspect?

21 A Treveon Nelson.

22 Q Where did you ultimately speak with Nicolle?

23 A I spoke to Nicolle at the hospital.

24 Q Lexington Medical Center?

25 A Yes, ma'am. In the emergency room.

1 Q And why was she at Lexington Medical Center?

2 A For injuries of the allegation of an assault  
3 and a rape.

4 Q When you first arrived at Lexington Medical  
5 Center, did you speak with Nicolle's mother?

6 A I had a hard time due to language barrier so I  
7 requested our SRO, Corporal Rodriguez, to  
8 respond so that he could speak Spanish to her  
9 directly.

10 Q Okay. And looking at the fourth paragraph of  
11 your report dated April 26th, 2021, what did  
12 Nicolle's mother through the interpreter tell  
13 you regarding her daughter and Treveon Nelson?

14 A That the victim stated that she was walking to  
15 the store and that an unknown black male was  
16 following her that she did not recognize at  
17 first; that individual had grabbed her from  
18 behind and forced her to the ground at the  
19 corner of [REDACTED] and [REDACTED].

20 At that time the victim had stated subject held  
21 her down by her wrists and her throat and kept  
22 saying, You are mine and that if she was with anyone  
23 else, he would kill her and that he had punched her  
24 in the facial area with a closed fist numerous  
25 times.

1 Q Were you made aware that charges were filed  
2 regarding a February pistol whipping incident  
3 where Nicolle was the victim and Treveon Nelson  
4 was the offender?

5 A Not at that time I was not.

6 Q What were your observations of her physical  
7 appearance at that time?

8 A She did appear to have been in an altercation.  
9 She had facial injuries and trauma to her face  
10 consistent with being struck by a closed fist.

11 Q Looking at the fifth paragraph of your report,  
12 what did Nicolle say happened? You may have  
13 read some of that already.

14 A Which section are you referring to as the fifth  
15 paragraph so I make sure I go to the right --

16 Q I think it is just the fifth paragraph down on  
17 that report.

18 A Following from where I stopped just a moment  
19 ago? She stated that the subject forced her  
20 back into a wood line and physically and  
21 sexually assaulted her by inserting himself  
22 into her until he ejaculated inside of her.

23 Q Was her report consistent with what the  
24 incident location looked like?

25 A At that time, yes, ma'am. Absolutely.

1 Q Was her report consistent with what the witness  
2 told you?

3 A Yes, ma'am.

4 Q Was her report consistent with the injuries you  
5 observed her to have?

6 A Yes, ma'am.

7 Q What was Treveon Nelson ultimately charged with  
8 in connection to this attack?

9 A I did warrants for aggravated assaulted, rape  
10 and the kidnapping.

11 Q Thank you.

12 MS. SELERT: May I approach the witness, Your  
13 Honor?

14 DIRECT EXAMINATION

15 BY MS. SELERT:

16 Q Do you recognize these?

17 A Yes, ma'am. Those are copies of my warrants.

18 Q And are they true certified copies?

19 A Yes, ma'am.

20 MS. SELERT: Your Honor, at this time I would  
21 submit into evidence Defense exhibits 7, 8 and 9.

22 (There was no response.)

23 THE COURT: Hearing no objection 7, 8 and 9.

24 MS. SELERT: Thank you.

25

1 (Whereupon, Defendant's Exhibit Nos. 7, 8, 9  
2 were marked and received into evidence.)

3 DIRECT EXAMINATION

4 BY MS. SELERT:

5 Q And these warrants are regarding those charges  
6 that you just listed, correct?

7 A Yes, ma'am.

8 Q Kidnapping, CSC?

9 A Yes, ma'am.

10 Q And assault high and aggravated?

11 A Yes, ma'am.

12 MS. SELERT: Thank you. At this time I don't  
13 have any other questions. Please answer any the  
14 State may have.

15 CROSS-EXAMINATION

16 BY MS. MAYES:

17 Q Good morning.

18 A Good morning.

19 Q And I think you first met me and Solicitor  
20 Hubbard at the debriefing we had at the  
21 sheriff's department on the day that SA's  
22 body was found?

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

24 Q And this is one of the matters that we  
25 discussed?

1 A Yes, ma'am.

2 Q And just to clarify for the record, the  
3 warrants that you mentioned, the CSC,  
4 kidnapping, those warrants are being prosecuted  
5 by the Office of Attorney General, correct?

6 A Yes, ma'am.

7 Q Our office conflicted those cases out because  
8 we have the pending murder charge as a juvenile  
9 and the pending kidnapping charge as a juvenile  
10 against Nicolle Sanchez-Peralta?

11 A As I understand it that is correct.

12 Q So just I want to go back over some of this  
13 information that Nicolle was providing there at  
14 the hospital. And at this point in time no one  
15 had any idea with Springdale Police Department  
16 that Nicolle was connected in any way to SA [REDACTED]  
17 [REDACTED], correct?

18 A Correct.

19 Q And at this point in time, being April 25th of  
20 2021, multiple agencies across the Midlands  
21 were involved in the search for SA [REDACTED]  
22 [REDACTED], correct?

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

24 Q Her disappearance at this point had made both  
25 statewide and national news?

- 1 A Yes, ma'am.
- 2 Q And Nicolle was listed in NCIC as a missing  
3 person, a runaway?
- 4 A Yes, ma'am. That's correct.
- 5 Q And when you were at the hospital, did you  
6 become aware of that in order to notify Molly  
7 Nations with the Richland County Sheriff's  
8 Department?
- 9 A Yes, ma'am.
- 10 Q And I believe that Detective Nations was listed  
11 also in NCIC as the person to contact if  
12 Nicolle Sanchez were found?
- 13 A Yes, ma'am. That's correct.
- 14 Q And there at the hospital as she is reporting  
15 an assault by Treveon Nelson and she has her  
16 parents come to the hospital?
- 17 A Yes, ma'am.
- 18 Q And this would be the first time she's seen  
19 them since late March when she ran away?
- 20 A Yes, ma'am. There was an extended period of  
21 time between the time she had seen her parents.
- 22 Q And her parents also indicated to you that she  
23 had run away at the end of March and they  
24 considered her to be a runaway?
- 25 A Yes, ma'am.

1 Q And surrounded there at the hospital by not  
2 only police are medical staff?

3 A Yes, ma'am.

4 Q A SANE nurse?

5 A Correct.

6 Q Social workers?

7 A Yes, ma'am.

8 Q You have victim advocates available?

9 A Yes, ma'am.

10 Q She is informed following this assault that she  
11 also had services available such as Sister Care  
12 or safe housing?

13 A Yes, ma'am.

14 Q And at no point there in the hospital did she  
15 ever mention to you SA's name?

16 A No, ma'am.

17 Q Or that this person she said assaulted her is  
18 dangerous because he has also hurt her friend?

19 A No, ma'am.

20 Q And I believe defense was asking you about the  
21 fact that you later learned she had also made a  
22 report back in February of 2021 against Treveon  
23 Nelson for assaulting her?

24 A Yes, ma'am. I learned that happened in a  
25 neighboring jurisdiction.

1 Q Cayce?

2 A Yes, ma'am.

3 Q And back in February she had no problem  
4 reporting to Cayce DPS that Treveon Nelson had  
5 assaulted her?

6 A That's correct.

7 Q In fact, he had a warrant that was served on  
8 him by Cayce DPS for DV third?

9 A Yes, ma'am.

10 Q And that was a pending warrant at the time she  
11 ran away in March to be with him?

12 A That is correct.

13 Q So she had reported him to authorities before?

14 A Yes, ma'am.

15 Q As well as on this occasion.

16 Now I think you said that part of the story you  
17 got was that she is in the area and sees a subject  
18 and she doesn't recognize the subject and then she  
19 learns that the subject is Treveon Nelson when he  
20 gets up close to her?

21 A Yes, ma'am. That is the statement she gave at  
22 the hospital.

23 Q And at no point did she inform you that she had  
24 actually been texting or messaging, I guess I  
25 should put it, on Instagram Treveon Nelson

1 throughout that morning?

2 A No, ma'am. We didn't have any of that  
3 information.

4 Q And the time of your report is, I believe,  
5 2:18 p.m. on the 25th?

6 A Our initial dispatch was 14:15 hours, which  
7 would be 2:15 in the afternoon.

8 Q All right. So dispatch is going to be  
9 2:15 p.m. and it is going to be roughly 2:18  
10 that your first unit's going to arrive?

11 A Yes, ma'am. That would be Sergeant Gant.

12 Q So 2:15 p.m. is the time that it is called in.  
13 And at no point had she indicated to you that  
14 she and Treveon had been in communication all  
15 night and all morning about meeting up there in  
16 the area?

17 A Not at the time of the allegations at the  
18 hospital, no, ma'am.

19 Q And in fact, that she is telling him where to  
20 meet her as recently as 2:04 p.m. on that day  
21 when she says, Walking down the road we were  
22 sitting at you was trying to tell Gotto to push  
23 up.

24 And then she says to him her location. Okay,  
25 I'm walking. Don't go nowhere, at 16:52.

1 MS. MAYES: Your Honor, pursuant to 19-5-520,  
2 the State does offer pages 981, 982 from the  
3 Instagram records of Treveon Nelson reflecting these  
4 communications on this date.

5 THE COURT: What were the exhibit numbers?

6 MS. MAYES: This is going to be 183, Your  
7 Honor, for the State.

8 THE COURT: So both pages as 183?

9 MS. MAYES: Yes, Your Honor.

10 THE COURT: Hearing no objection, 183 for the  
11 State.

12 (Whereupon, State's Exhibit No. 183 was marked  
13 and received into evidence.)

14 MS. MAYES: And if I may approach the witness?

15 THE COURT: Yes, ma'am.

16 CROSS-EXAMINATION

17 BY MS. MAYES:

18 Q And looking here at State's 183 reflecting  
19 those communications on pages 981 and 982 it is  
20 subtracting 4 from the UTC time. Those  
21 correspondences are going to reflect  
22 approximately 2 p.m. as well as direct  
23 messaging between the parties, being Dabratt  
24 and Lul\_Tre. And then do you also see in these  
25 records that there are also video calls?

1 A Yes, ma'am, I do.

2 MS. MAYES: Thank you.

3 Nothing further.

4 REDIRECT EXAMINATION

5 BY MS. SELERT:

6 Q Investigator Jordan, throughout your career  
7 investigating have you noted that someone could  
8 have consensual sex with someone once and then  
9 they could still be later raped by that person?

10 A Yes, ma'am.

11 Q And have you noticed that you can message  
12 someone to meet up with them and then they can  
13 have nefarious intentions and when you meet up,  
14 something else happens other than what you were  
15 expecting to happen?

16 A Yes, ma'am.

17 MS. SELERT: Thank you. I don't have any other  
18 questions for you.

19 THE COURT: Anything else?

20 MS. MAYES: Nothing further from the State,  
21 Your Honor.

22 THE COURT: Have a good day, sir. Thank you so  
23 much.

24 THE WITNESS: Yes, sir.

25 MS. SELERT: Deana Brooks.

1 THE COURT: Ma'am, come up here and have a seat  
2 if you would, please. All right. Ma'am, you are  
3 Deana Brooks?

4 THE WITNESS: Deana Brooks, yes, sir.

5 THE COURT: Deana?

6 THE WITNESS: Yes, sir.

7 THE COURT: That's D-E-A-N-N-A?

8 THE WITNESS: Just one N.

9 THE COURT: Would you raise your right hand?

10 DEANA BROOKS, after being duly sworn, testified  
11 as follows:

12 THE COURT: Scoot up to the microphone there  
13 and speak up so we can hear you, please.

14 THE WITNESS: Yes, sir.

15 THE COURT: You can put your hand down.

16 DIRECT EXAMINATION

17 BY MS. SELERT:

18 Q Good morning, Ms. Brooks.

19 A Good morning.

20 Q How are you doing?

21 A I'm doing good. Thanks.

22 Q Good.

23 What do you do for a living?

24 A I'm a nurse at Lexington.

25 Q All right. If you could just speak up just a

1 little bit because we have some interpreters  
2 that need to hear.  
3 A I'm a nurse.  
4 Q And where do you work now?  
5 A At Lexington Medical Center.  
6 Q Where did you work on April 25th of 2021?  
7 A In the emergency department.  
8 Q And were you working in the emergency room on  
9 April 25th of 2021?  
10 A Yes, ma'am.  
11 Q Did you have the occasion to treat Nazareth  
12 Nicolle Sanchez-Peralta?  
13 A Yes, ma'am.  
14 Q And how did she arrive to the ER?  
15 A She came with police officers from West  
16 Columbia, also with EMS.  
17 Q And what was she being seen for?  
18 A She was being seen for an assault and rape.  
19 Q Who did Nicolle say attacked her?  
20 A Treveon Nelson.  
21 Q Treveon Nelson?  
22 A Yes, ma'am.  
23 Q And what did Nicolle say happened?  
24 A I'm going to read from my triage note because  
25 it's been a while so it's accurate.

1 Q Thank you.

2 A Today the patient was assaulted by --

3 THE COURT: Just make sure you speak into the  
4 microphone, ma'am.

5 THE WITNESS: Yes, sir.

6 Today the patient was assaulted by her  
7 ex-boyfriend. After leaving a friend's house the  
8 patient admits to being, and these are her words and  
9 I put these in quotes, she was Raped, kicked, hit  
10 with fist all over, per the patient.

11 The ex-boyfriend's name is Treveon Nelson per  
12 the patient and of course West Columbia PSO and EMS  
13 transported the patient to the ER. The patient is  
14 also in DSS's custody per the police.

15 MS. SELERT: Thank you. I don't have any other  
16 questions for you. Please answer any the State may  
17 have.

18 CROSS-EXAMINATION

19 BY MS. MAYES:

20 Q And in a hospital surrounded by nursing staff  
21 such as yourself --

22 A Yes.

23 Q -- it is a safe place?

24 A Yes, ma'am.

25 Q And you nurses are trained in working with

1 patients that need special care?

2 A Yes, ma'am.

3 Q And letting them know that you also have social  
4 workers available?

5 A Uh-huh.

6 THE COURT: You have to answer 'yes' or 'no',  
7 ma'am.

8 THE WITNESS: Yes.

9 CROSS-EXAMINATION

10 BY MS. MAYES:

11 Q There were police present at the hospital?

12 A Yes.

13 Q Because this was a sexual assault?

14 A Yes.

15 Q There were I think you said she was in DSS  
16 custody so a DSS worker would have made it down  
17 there at some point in time?

18 A I wasn't present at that time so I cannot  
19 attest to being -- DSS being there at that  
20 time.

21 Q Okay. So you recalled that police would have  
22 been there as well as multiple members of your  
23 hospital staff?

24 A That is correct.

25 Q And at no point in time did she tell you that

1 she had been a witness to a murder?

2 A I have no recollection of anything of a murder.

3 Q And if that had been information that she had  
4 provide, you certainly would have documented  
5 it?

6 A Yes, ma'am.

7 MS. MAYES: Nothing further.

8 THE COURT: Anything else?

9 REDIRECT EXAMINATION

10 BY MS. SELERT:

11 Q Just to clarify, did yourself or anyone else  
12 ask Nicolle any questions about a murder?

13 A No, ma'am.

14 Q Because that's not why she was there to be  
15 seen. That wasn't her emergency at the time?

16 A That is correct.

17 MS. SELERT: Thank you.

18 THE COURT: You can go, ma'am. Thank you very  
19 much.

20 THE WITNESS: Thank you.

21 MS. SELERT: I'm going to check and make sure  
22 our next witness is here.

23 (Pause.)

24 MS. McGRADY: Your Honor, our next witness is  
25 not present. If we could have a five-minute break

1 to call and try to find out where he is at.

2 THE COURT: Who is it?

3 MS. McGRADY: Dr. Stephen Grant.

4 THE COURT: All right. We will take five  
5 minutes.

6 MR. HUBBARD: Yes, sir.

7 MS. McGRADY: Thank you, Your Honor.

8 (Whereupon, a recess was taken.)

9 THE COURT: What witness are you calling?

10 MS. SELERT: Dr. Stephen Grant.

11 THE COURT: Okay. Come up here to my right,  
12 sir, and have a seat, please.

13 MS. SELERT: Your Honor, would you like me to  
14 do something with Ms. DeGuzman?

15 THE COURT: I thought that was the next witness  
16 but you probably need to. I have her here. I guess  
17 let her know we will be with her shortly.

18 MS. SELERT: Okay. Ms. DeGuzman, can you hear  
19 me?

20 BRIGITTE DeGUZMAN: Yes.

21 MS. SELERT: Okay. We are just going to be  
22 with you shortly, okay? We have one witness to call  
23 before you and then we will speak with you, okay?

24 BRIGITTE DeGUZMAN: Okay.

25 MS. SELERT: Thank you.

1 THE COURT: You are Dr. Stephen Grant, sir?

2 THE WITNESS: Yes.

3 THE COURT: That's Stephen with a PH?

4 THE WITNESS: Yes.

5 THE COURT: All right. Would you raise your  
6 right hand, sir?

7 STEPHEN GRANT, after being duly sworn, testified  
8 as follows:

9 THE COURT: Thank you very much. Scoot up to  
10 the microphone and speak up so we can hear you,  
11 please, sir.

12 THE WITNESS: Okay.

13 DIRECT EXAMINATION

14 BY MS. SELERT:

15 Q Good morning, Mr. Grant. How are you?

16 A Fine.

17 Q Dr. Grant. What do you do for a living?

18 A I'm an emergency room physician and urgent care  
19 physician.

20 Q And where are you a physician?

21 A I'm currently employed at Lexington Medical  
22 Center.

23 Q And did you work there on April 25th of 2021?

24 A I believe so. I just briefly looked at this  
25 record last night, so.

1 Q I understood.

2 A I was working during that year, yes.

3 Q And to your knowledge were you working on  
4 April 25th of 2021?

5 A Yes.

6 Q Did you have the occasion to treat Nazareth  
7 Nicolle Sanchez-Peralta on that date?

8 A According to the record I looked at last night,  
9 yes.

10 Q Thank you.

11 What was she being seen for?

12 A I believe, I don't have the record in front of  
13 me, but I believe it was a sexual and physical  
14 assault.

15 Q And from your memory what orders did you make  
16 or a case like that what orders would you make?

17 A I don't have an independent recollection apart  
18 from the record but generally speaking, we  
19 would take a history, do a physical exam on the  
20 patient. Because there was a question of a  
21 sexual assault, we have what we call a SANE  
22 nurse, which is a Sexual Assault Nurse  
23 Examiner, S-A-N-E, who would come in and do  
24 that part of the exam. I would do the rest of  
25 the physical exam and then order x-ray

1 evaluation, a radiographic evaluation, if I  
2 thought they were indicated by the injury  
3 pattern and some basic blood work and urine.

4 Q And would medications be administered if  
5 warranted?

6 A Yes.

7 Q What is other than calling in a SANE nurse, is  
8 that the protocol for a sexual assault victim  
9 is calling in a SANE nurse?

10 A Usually, yes.

11 Q And was that protocol followed?

12 A I believe a SANE nurse did come in. Again, I  
13 don't have that record in front of me but from  
14 my review of it last night, I saw that a SANE  
15 nurse was consulted.

16 MS. SELERT: Thank you. I don't have any other  
17 questions for you at this time. Please answer any  
18 the State may have.

19 CROSS-EXAMINATION

20 BY MS. MAYES:

21 Q Good morning, Doctor.

22 A Good morning.

23 Q And according to the Lexington Medical Center  
24 records pursuant to protocol there was also a  
25 social worker present?

1 A A social worker is usually consulted, yes.

2 Q And referrals were made, both to law  
3 enforcement as well as to Sister Care?

4 A That would be the social worker would  
5 coordinate those, depending on the patient's  
6 wishes. But yes, that would be part of the  
7 protocol.

8 Q And the only thing the patient is reporting at  
9 this time is a physical assault, correct?

10 A I believe it was a physical and a sexual  
11 assault. But again, this is going from a  
12 record I briefly reviewed last night.

13 Q And she's not reporting anything to you or  
14 authorities about having information related to  
15 a murder?

16 A I do not believe I saw that on the record, no.  
17 MS. MAYES: Thank you, sir.

18 REDIRECT EXAMINATION

19 BY MS. SELERT:

20 Q I just have a few more questions for you. And  
21 to your knowledge, while Nicolle was being  
22 treated for her assault injuries, did anyone  
23 ask her about a murder and whether she had  
24 witnessed a murder or anything like that?

25 A Not to my knowledge.

1 MS. SELERT: Thank you. I don't have any other  
2 questions.

3 THE COURT: Thank you, Doctor. Have a good  
4 day.

5 THE WITNESS: Thank you.

6 MS. SELERT: Defense calls Brigitte DeGuzman.  
7 And Your Honor, just as a preliminary matter, since  
8 she is testifying virtually and I intend to admit  
9 some photos through her, just to clarify, I will be  
10 presenting the photos in a specific order. I  
11 scanned these photos in this morning and sent them  
12 to Ms. DeGuzman. So is it okay if she references  
13 that e-mail of the scan of photos to recognize and  
14 testify as to what the photos are?

15 THE COURT: Solicitor, any objection?

16 MS. MAYES: No objection, Your Honor.

17 MS. SELERT: Thank you.

18 THE COURT: Mr. Chehoski, do you want me to let  
19 you in as well?

20 MR. CHEHOSKI: Yes, Your Honor. I can't see  
21 anything from here.

22 THE COURT: I got you.

23 MR. CHEHOSKI: Thank you.

24 THE COURT: So is she able to hear at this  
25 point because I'm going to have to unmute her and

1 swear her in.

2 MS. SELERT: Okay.

3 THE COURT: Or unmute myself, excuse me.

4 MS. SELERT: Yes, Your Honor.

5 Ms. DeGuzman, can you hear us?

6 THE WITNESS: Yes.

7 MS. SELERT: Thank you.

8 THE COURT: All right. Ma'am, if you would  
9 raise your right hand.

10 BRIGITTE DEGUZMAN, after being duly sworn,  
11 testified as follows:

12 THE COURT: Thank you. Speak up so everybody  
13 can hear you.

14 DIRECT EXAMINATION

15 BY MS. SELERT:

16 Q Thank you. And Ms. DeGuzman, if you could  
17 please state and spell your name for the  
18 record.

19 A My name is Brigitte DeGuzman. That's  
20 B-R-I-G-I-T-T-E, last name D-E-G-U-Z-M-A-N.

21 Q Thank you.  
22 And what do you do for a living?

23 A Currently I'm a registered nurse at Lexington  
24 Urgent Care.

25 Q And where did you work on April 25th of 2021 or



1 everything to the victim. Basically we go  
2 through a medical history. She or he tells me  
3 about the assault history and there's different  
4 things that we go over, such as pre and  
5 post-assault activities such as post-assault  
6 activity like taking a shower after the  
7 assault, eating, drinking, that sort of thing.  
8 Pre-assault activity is if there was any  
9 alcohol involved, if there was any drug  
10 facilitated possibly sexual assault was drug  
11 facilitated, that sort of thing.

12 And then after that, you know, she or he tells  
13 me what happened and then based on the assault  
14 history I would collect evidence, any, you know,  
15 type of bodily fluid, any injuries. I would swab  
16 for bodily fluid, photograph the injuries of course.  
17 If this was a vaginal assault, then I would do a  
18 pelvic exam, collect evidence at that time. So  
19 generally collect evidence and then post assault we  
20 also give any STI prophylactics if needed, that sort  
21 of thing.

22 THE COURT: Stop her for just a second. I  
23 could see her movement but it is locked up up there  
24 on the screen.

25 THE WITNESS: I'm not hearing anything if you

1 are saying anything.

2 MS. SELERT: I'm not saying anything. The  
3 judge was speaking with the court reporter. We are  
4 just having technical difficulties so IT will step  
5 in for a second.

6 THE WITNESS: Okay.

7 (Pause.)

8 THE COURT: In the interest of time we are  
9 going to let her try to do it even if it is locked  
10 up as long as she can see her. Just instruct her to  
11 speak slowly and clearly.

12 MS. SELERT: Thank you.

13 DIRECT EXAMINATION

14 BY MS. SELERT:

15 Q Ms. DeGuzman, can you hear me now?

16 A I can.

17 Q Since we can't actually see your mouth moving,  
18 if you could just speak slowly and clearly.

19 That way our court reporter and interpreters  
20 that are here today can get everything you are  
21 saying down.

22 A Okay.

23 Q Is this volume okay for you?

24 A It is.

25 Q Okay. Thank you.

1           So I'm not sure if I asked you this before.

2           Generally what is the purpose of a SANE exam?

3           A     Well, the purpose of it, I mean, there's  
4           different reasons. But for a Sexual Assault  
5           Nurse Examiner we are especially trained to do  
6           this exam because it can be traumatic for the  
7           patient and you know, someone who was untrained  
8           it is just a little bit more difficult on the  
9           patient.

10          So the purpose is to do both a medical exam to  
11          make sure that she is medically okay and typically  
12          the physician will complete the medical clearance  
13          before we see them. But sometimes we do determine  
14          that there are other medical conditions that might  
15          need to be addressed prior to the patient's  
16          discharge. So in addition to the medical screening,  
17          we also, you know, perform the exam both, you know,  
18          for the medical part and for the evidence collection  
19          due to the sexual assault.

20          Q     Okay. And on April 25th of 2021, were you able  
21          to perform a SANE evaluation or exam on  
22          Nazareth Nicolle Sanchez-Peralta?

23          A     Yes, I did.

24          Q     And did Nicolle indicate to you whether she  
25          knew who the assailant was?

1 A Yes.

2 Q Who did Nicolle say the assailant was?

3 A She said it was her -- she said it was her  
4 ex-boyfriend and she named him as Treveon  
5 Nelson. And she said he is also known as Tre,  
6 T-R-E.

7 Q Okay. And who was present during the exam that  
8 you performed on Nicolle?

9 A Her mother was present during the exam.

10 Q And what injury or what physical injuries  
11 and/or pain did Nicolle describe to you that  
12 she was experiencing?

13 A She indicated multiple injuries in multiple  
14 areas of pain according to my forensic reports.

15 Q And do you have that report in front of you?

16 A I do.

17 Q Okay. Looking at page 4 of your report, how  
18 did Nicolle describe the attack to you?

19 A Do you want me to use her words because from  
20 what I typed or--

21 Q You can read it off of what you have there.

22 A Okay. I was walking -- well, do you want me to  
23 read the whole report or --

24 Q Whatever you believe is pertinent to what she  
25 described to you.

1 A Okay. When the assailants caught up to her,  
2 she said, All of a sudden he pushed me into  
3 somebody's yard. And this is paraphrased or  
4 not paraphrased but not word by word because I  
5 was also taking notes while she was talking to  
6 the investigator.

7 So all of a sudden he pushed me into somebody's  
8 yard. He started hitting me and stuff. He said,  
9 Oh, you know you are mine and stuff like that. He  
10 kept kitting me and stuff and kicking me. And the  
11 man whose house it was, he came out and he asked if  
12 I was okay. I said, no. After the man left and  
13 went back into the house, Tre started grabbing me  
14 and dragged me. He was holding me by my hair. He  
15 told me to go back there with him. He was holding  
16 me. He started hitting me again, punching me and  
17 stuff.

18 He said he was going to kill me and stuff. He  
19 hit me for about three minutes. Assailant was  
20 saying, You know you are mines, you can't go  
21 nowhere, you belong to me.

22 I seen the ambulance pull up to that house. I  
23 started yelling. He covered my mouth. He started  
24 hitting me again.

25 He got on top of me. He was holding my hands

1 down. He kept hitting me. He put me on top of him.  
2 He rolled me over. He was grabbing me by my throat.  
3 He pushed me again on the ground. He was holding my  
4 hands down. He was taking my pants down. After  
5 that he forced me to have sex with him.

6 After that he grabbed my wrists. We walked  
7 down the road. After a little while he was ahead of  
8 me so I went to a house and used a phone to call the  
9 police. I ran back toward the other way. I knocked  
10 on this guy's door and he opened it and let me use  
11 the phone.

12 While he was hitting me behind the second  
13 house, there is a little water that flows through  
14 there, like a creek the whole time he was hitting  
15 me. He was trying to be sarcastic saying, You think  
16 I should put you in there.

17 And then Investigator Jordan asked her to  
18 clarify what she meant about him being forceful as  
19 part of the intercourse part. And she answered, So  
20 he pulled my pants down and he was like, you know,  
21 you are mines; no, I don't want, I don't want to do  
22 nothing with you. And he was like, Shut up. And  
23 then he just did it. And that's what I have.

24 Q What threats did Nicolle tell you she received  
25 while being assaulted by Treveon Nelson?

1 A She said that -- let's see. He was telling me  
2 that he was going to kill me because I was  
3 going to leave him. She gave an example of,  
4 Oh, do you want me to drown you in that water.  
5 And then she explains there was a little stream  
6 near the scene. But she basically indicated  
7 that, you know, he would ultimately kill her if  
8 he wanted to.

9 Q And did Nicolle indicate to you whether she  
10 consented to having sex with Treveon Nelson on  
11 April 25th of 2021?

12 A She did not indicate that it was consensual.

13 Q Did she indicate whether she had previously had  
14 consensual sex with Treveon Nelson?

15 A Yes.

16 Q Is that --

17 A She said --

18 Q Go ahead.

19 A She indicated that, you know, that was her  
20 ex-boyfriend.

21 Q And is it common or uncommon for victims of  
22 sexual assault to have previously had  
23 consensual sex with their assailant?

24 A It is common.

25 Q Thank you.

1           What was Nicolle's general appearance like on  
2 April 25th of 2021?

3   A    She was obviously -- she obviously had, you  
4        know, bruising and injuries, swelling to her  
5        face upon entering the room. She was -- she  
6        looked disheveled. She had debris in her hair.  
7        Her clothes were stained with looked like from  
8        dirt or grass. Let's see, yes. Her, you know,  
9        sweatpants were heavily soiled with dirt and  
10       stains that are reported to be blood per the  
11       patient.

12   Q    Okay.

13   A    So obvious facial swelling, redness and  
14        bruising even to her extremities.

15   Q    And looking at page nine of your report, what  
16        body findings were made? And you can read  
17        those directly off if you would like.

18   A    Okay. So on her left scapula she had linear  
19        abrasions. On her upper left arm she had  
20        petechiae about 5 by 8 centimeter area with  
21        scattered petechiae to the left deltoid area.

22   Q    What is petechiae if I could interrupt for just  
23        a second?

24   A    Well, if you look at it, they look like little  
25        red dots, fine, little red dots. And that just

1 shows an area of maybe some bleeding under the  
2 skin but it is small. It is not quite like a  
3 bruise.

4 Q Okay. I'm sorry. You can continue.

5 A Okay. Upper left arm she had a 3 by 5 area,  
6 centimeter area with three oval shaped red and  
7 light purple bruises. On her right forearm she  
8 also had an abrasion to the right anterior  
9 forearm three centimeter linear abrasion.

10 To her left breast she had seven centimeter  
11 linear abrasion. To her upper right arm multiple  
12 abrasions with associated dark red bruising to right  
13 upper arm and lower deltoid area with extension to  
14 the right shoulder.

15 She had about five linear abrasions,  
16 approximately one centimeter each to the right  
17 anterior forearm. On her left breast she had brown  
18 yellow bruises or I'm sorry, brown yellow bruises to  
19 the right breast but there were some bruises that  
20 related to the assault but there were two bruises  
21 that were not related to the assault.

22 She had some tenderness to her abdomen. There  
23 were no visible injuries but she said that the  
24 assailant kicked and punched her in the abdomen.  
25 Multiple linear abrasions to the anterior thigh

1 ranging from one centimeter to as long as five  
2 centimeters. 4 by 1 centimeter area of redness to  
3 her right medial knee and 5 centimeter linear  
4 abrasion to right lower shin area.

5 Four abrasions to right anterior ankle. Three  
6 round areas of read abrasions/bruises ranging from 1  
7 millimeter to 2 millimeters at right anterior ankle.  
8 And three areas of abrasions/redness to left medial  
9 ankle, all less than 2-millimeters each.

10 Q So looking at this report, there's 15 different  
11 body parts that were injured, some having  
12 multiple injuries, correct?

13 A Correct.

14 Q And looking at page 11 of your report, this  
15 section entitled, Head, neck and oral  
16 examinations, what findings were made there?

17 A So there was general swelling to the face. The  
18 right side of the face appears more swollen.  
19 The patient complained general tenderness and  
20 soreness to face. There's dark red/light  
21 purple bruise to right cheek with swelling and  
22 satellite petechiae and abrasions observed.  
23 Swelling and redness to right helix and  
24 antihelix with associated pain with palpation,  
25 basically the ear. Redness and petechiae observed

1 behind the right ear. Multiple areas of dark red  
2 discoloration/abrasions at right lateral neck. Dark  
3 red/light purple bruise observed at left forehead  
4 with redness and petechiae extending down to the  
5 left jaw line.

6 Dried blood was observed at left ear. Swelling  
7 and dark red discoloration/bruising observed at  
8 helix and antihelix of left ear with pain, causative  
9 pain with palpation. There was also an abrasion.  
10 Dark red/light bruise and swelling observed behind  
11 left ear. Abrasions and redness observed at  
12 posterior neck. Swelling and redness observed at  
13 forehead, on the forehead.

14 Swelling observed at the nasal bone. Patient  
15 states her nose was bleeding at the scene. Multiple  
16 abrasions and dark red discoloration observed on  
17 both sides of the face. Pea-sized red bruise  
18 observed at inner upper lip. Small area of  
19 subconjunctival hemorrhage to right eye.

20 Q Okay. In looking at that, it appears as though  
21 there are 14 different areas on her head and  
22 neck and mouth that were injured. So multiple  
23 injuries, correct?

24 A Correct.

25 Q And what did Nicolle's clothes look like? I

1 know you described it a little bit earlier but  
2 if you could just clarify.

3 A They just looked stained. There was multiple  
4 stains on her clothing. You know, some  
5 appeared to be from like dirt and she said that  
6 there was some blood on her sweatshirt as well.  
7 The back of the shirt was soiled. Her pants  
8 were or sweatpants were heavily soiled with  
9 dirt and dried blood of the patient.

10 Q And looking at page 13 of your report, what did  
11 you note about her underwear?

12 A I said blue and white boxers with paisley type  
13 graphics and the word swag with skulls on the  
14 waistband; dark red/brown stain observed at  
15 crotch of boxers; patient reports stain is  
16 blood; states she is not on her period and was  
17 not bleeding prior to the assault.

18 Q And as part of your exam, did you take photos?

19 A I did.

20 Q Okay.

21 MS. SELERT: Just one second. Is there any way  
22 that I could pull myself back up? That way I could  
23 see what I'm showing. Sorry. I'm not good with  
24 technology.

25 (Pause.)

1 MS. SELERT: Thank you.

2 DIRECT EXAMINATION

3 BY MS. SELERT:

4 Q And I or my paralegal sent you over an e-mail  
5 with some photos this morning, correct?

6 A Correct.

7 Q And this is generally what the first page of  
8 those photos look like. You can see what I'm  
9 holding up; is that right?

10 A I can't see you.

11 Q Oh, you can't see me at all?

12 A No.

13 MS. SELERT: Going back to what I discussed  
14 earlier, is it okay if she just references that scan  
15 that I sent her this morning? I believe it was not  
16 objected to earlier.

17 MS. MAYES: I have no objection to the photos,  
18 Judge.

19 MS. SELERT: Thank you.

20 DIRECT EXAMINATION

21 BY MS. SELERT:

22 Q So looking at that e-mail I sent you, do you  
23 recognize these photos?

24 A I do.

25 Q And did you take them?

1 A I did.

2 Q What are these photos of?

3 A They are photos of the patient and her  
4 injuries.

5 Q Do they fairly and accurately represent  
6 Nicolle's injuries from or on April 25th of  
7 2021?

8 A Yes, they do.

9 MS. SELERT: At this time I would like to offer  
10 these photos into evidence as Defense exhibit 10  
11 through 54.

12 THE COURT: Hearing no objection, Defense 10  
13 through 54?

14 MS. SELERT: Yes, Your Honor.

15 (Whereupon, Defendant's Exhibit Nos. 10 through  
16 54 were marked and received into evidence.)

17 MS. SELERT: And I'm just going to show it to  
18 the camera. That way Your Honor and the courtroom  
19 can see the photos.

20 DIRECT EXAMINATION

21 BY MS. SELERT:

22 Q So Ms. DeGuzman, looking at the first photo  
23 that I sent you, can you describe what exactly  
24 that is?

25 A The first photo is just kind of like a bookend

1           where at the beginning of the series of photos  
2           that we take of the victim it identifies who  
3           she is.

4   Q       Thank you.  And Defense exhibit 10.

5           In Defense exhibit 11 which was the second  
6   photo that you were sent, can you describe this  
7   image?

8   A       This is just a kind of overall photo from looks  
9           like the waist up.

10  Q       Thank you.  Defense exhibit 12 which is the  
11           third photo I sent you.

12  A       This is the other half of her body and it shows  
13           her pants that are soiled.

14  Q       Thank you.

15           And Defense 13, the fourth photo?

16  A       Same thing.  Those are her pants.

17  Q       With the dirt and blood noted on there?

18  A       Yes.

19  Q       Defense 14, and I'm just going in the order of  
20           those photos that I sent you this morning.  And  
21           what is this?

22  A       Which photo is that?

23  Q       I believe the fifth one that I sent you.

24  A       That looks like her scapula with the abrasions.

25  Q       Thank you.

1 Defense 16, so the sixth photo that I sent you.

2 A A picture of her face with the swelling and  
3 redness, abrasions, bruises.

4 Q Defense 16, which is the next photo that I sent  
5 you.

6 A This is the right side of her face with her  
7 injuries as well and it shows her neck and ear.

8 Q Defense 17, the next photo that I sent.

9 A Same thing, just a little bit closer.

10 Q Defense 18, which is the next photo that I sent  
11 you. Is that a ruler?

12 A Yes.

13 Q And that's showing the size of that injury?

14 A Correct and helps with the scale as well but,  
15 yes.

16 Q Okay.

17 Defense 19, which is the next photo that I  
18 sent.

19 A That's a close-up of her ear and the swelling  
20 and redness and bruising.

21 Q Defense 20, which is the next photo.

22 A Same, another view of her ear with me trying to  
23 pull it back.

24 Q Defense 21, which is the next photo.

25 A Those are the abrasions on her neck.

- 1 Q The next photo, Defense 22.
- 2 A It is a close-up of the injuries to her neck.
- 3 Q Defense 23, which is the next photo.
- 4 A Same thing, injuries to the right side of her  
5 neck along with the ruler.
- 6 Q Defense 24, which is the next photo.
- 7 A This is the left side of her face showing her  
8 injuries including the ear and the dried blood.
- 9 Q Defense 25, which is the next photo.
- 10 A It is just a closer shot of the same injuries  
11 on the left side of her face.
- 12 Q And going back to this photo, the dark matter  
13 on her ear, is that dried blood?
- 14 A Yes.
- 15 Q Defense 26, which is the next photo I sent you.
- 16 A Same injuries, just with a ruler.
- 17 Q And those red dots, is that the petechiae you  
18 were referencing earlier?
- 19 A Yes.
- 20 Q Defense 27, which is the next photo.
- 21 A Just another view of the left side of her face.
- 22 Q And 28, is that the same thing, the next one?
- 23 A Yes.
- 24 Q Defense 29.
- 25 A It is just a close-up of her left ear with the

- 1           dried blood and swelling on her helix.
- 2    Q       Thirty, which is the next photo.
- 3    A       A photo of her left side of her neck.
- 4    Q       Thirty-one, which is the next photo.
- 5    A       That's behind her left ear with the swelling
- 6           and redness, bruising.
- 7    Q       And 32 which is the next photo is just another
- 8           version of that?
- 9    A       Yes, ma'am.
- 10   Q       And 33, is that the same thing, the next photo?
- 11   A       Yes, ma'am.
- 12   Q       And 34?
- 13   A       It looks like the right ear, behind the right
- 14           ear and the right neck.
- 15   Q       Thirty-five, which is the next one.
- 16   A       Same thing, like the base of her neck as well.
- 17   Q       Thirty-six?
- 18   A       Just showing the debris in her hair, like
- 19           leaves.
- 20   Q       And 37, that is as well?
- 21   A       Same thing.
- 22   Q       Thirty-eight?
- 23   A       Just showing around her eye, the swelling and
- 24           redness and bruising around her forehead and
- 25           eyes.

- 1 Q And 39?
- 2 A Just another view, just a little bit lower
- 3 showing her cheeks and nose with the abrasions
- 4 and redness.
- 5 Q Forty?
- 6 A That is her injuries to her lower lip.
- 7 Q And injuries to the inside of her lip would be
- 8 caused from her lip hitting her teeth?
- 9 A It could be, yes.
- 10 Q Forty-one?
- 11 A Those are injuries to her upper lip, inner lip.
- 12 Q Forty-two?
- 13 A A close up of the left side of her forehead and
- 14 left side of her eye.
- 15 Q Forty-three?
- 16 A I was just trying to get the picture of the
- 17 subconjunctival hemorrhage or that redness in
- 18 the white of her eye.
- 19 Q And what is that? I'm going to butcher this,
- 20 subconjunctival hemorrhage?
- 21 A It is an injury. Basically you could say like
- 22 a bruise there. It can be caused by, you know,
- 23 a blunt trauma or pressure around the neck.
- 24 Q Okay. Pressure around the neck such as
- 25 strangulation or choking?

1 A Yes. But for the location of that, most likely  
2 some sort of blunt trauma.

3 Q Okay. And Defense 44 is the next photo.

4 A That looks like her left, upper left arm.

5 Q Forty-five, is that the same thing just with  
6 the ruler?

7 A Yes.

8 Q And this ruler, how large is the ruler?

9 A So it is measured in centimeters and it looks  
10 like this one is five by five that we use.

11 Q Okay. Forty-six.

12 A This is to her left upper inner arm with her  
13 bruises, the oval-shaped bruises.

14 Q All right. Forty-seven, is that the same thing  
15 with the five by five ruler?

16 A Yes.

17 Q Forty-eight, is that her wrist and hand?

18 A Yes. Right. So that's her right wrist showing  
19 the linear abrasions.

20 Q Okay. Forty-nine.

21 A That's her right shoulder showing abrasions and  
22 bruising.

23 Q Fifty.

24 A Same thing. I think it is just more to the  
25 right. It is the right shoulder.

1 Q Fifty-one.

2 A Her right shoulder and right upper arm.

3 Q Fifty-two.

4 A That's just a close up of the same injuries  
5 from the previous photo.

6 Q Fifty-three.

7 A That is of her knee, right knee with abrasion.

8 Q And 54.

9 A That's a close-up of that same injury from the  
10 previous photo.

11 Q So what was your general impression of  
12 Nicolle's physical appearance and injuries?

13 A That it was consistent with her assault history  
14 that she, you know, told us.

15 MS. SELERT: Thank you.

16 Beg the court's indulgence.

17 (Pause.)

18 MS. SELERT: Thank you, Ms. DeGuzman. At this  
19 time I don't have any other questions for you. If  
20 you could please answer any the State may have.

21 THE WITNESS: Okay.

22 CROSS-EXAMINATION

23 BY MS. MAYES:

24 Q Brigitte, good morning.

25 A Good morning.

1 Q It is Suzanne Mayes. I don't know if you can  
2 see me or not.

3 A No.

4 Q Just wanted to follow up on a couple of things  
5 regarding this particular Sexual Assault Nurse  
6 Examiner report. You had listed on your report  
7 I think the time being roughly 3:00. Of  
8 course, that's just an estimate. Were you  
9 aware that the actual police report's going to  
10 have it around 2:15, just so we are all  
11 straight about the time, around 2:15 in the  
12 afternoon for the assault?

13 A All right. Hold on.

14 Q I think you had it around 3 but that was just  
15 an estimate?

16 A Oh, yeah. They are always typically estimates.

17 Q All right. So it is going to be in the  
18 afternoon. And then you guys are actually  
19 there with that patient for a pretty extended  
20 amount of time because they have to call you  
21 in?

22 A Correct.

23 Q And so after she's seen by the nurse on duty  
24 and the ER physician, it takes a while for you  
25 to get that page and actually get to the

1 hospital and arrive?

2 A Yes.

3 Q And I think looking at your notes, you didn't  
4 arrive until roughly around maybe 5:30, 4 p.m.  
5 something like that? And I'm on your actual  
6 notes, your nurse notes.

7 A So I arrived there around 8:50.

8 Q Okay. And then you guys stay and go through  
9 this entire exam with multiple other  
10 professionals there at the hospital. It looks  
11 like according to your notes, you guys were  
12 there on the scene all the way through 23:30.  
13 So roughly 11:30 that night?

14 A I was probably there longer. Hold on a second.  
15 Let me see.

16 (Pause.)

17 THE WITNESS: So I left there about 1:35 that  
18 morning or I discharged her around 1:35 that  
19 morning.

20 CROSS-EXAMINATION

21 BY MS. MAYES:

22 Q Okay. This report is called in to the  
23 Springdale police around 2:15 in the afternoon.  
24 Police respond. I believe she is actually  
25 taken to LMC by an ambulance. So there is EMS

1 workers there. Then she is going to arrive at  
2 the hospital in the afternoon. There is going  
3 to be nurse, nursing staff there, doctors  
4 there. According to your report, it's actually  
5 the social worker there at the hospital that  
6 spoke with her and called for you to come on  
7 in?

8 A That's correct.

9 Q And then after you arrive, the officers are all  
10 still there with her. It looks like you have  
11 got a note that Officer Rodriguez, who was  
12 there to do the translation with her family,  
13 and Investigator Jordan are still there and  
14 stay on scene and they were giving various  
15 family members their cards and contact  
16 information so that they could reach them as  
17 needed?

18 A Correct.

19 Q So I want to go now to where you have actually  
20 noted the report that's given to you by the  
21 patient. And when it is you and the patient, I  
22 believe it is going to be just the two of you  
23 there doing the exam?

24 A For the physical part, yes.

25 Q Yeah.

1 A I believe her mother was also present.

2 Q Okay. And so she's got family there as well.

3 Now at some point, you've got a sexual trauma  
4 services social worker on the phone or counselor on  
5 the phone as well to speak with her?

6 A Correct.

7 Q And when it is just the two of you there in the  
8 room, how long do you think you guys were there  
9 going through this exam?

10 A So the actual physical examine was probably --  
11 so I started the actual physical exam about  
12 11:50 p.m. and then the last photo or the last  
13 part of the exam was about 12:45 that morning.

14 Q Okay.

15 A So almost an hour.

16 Q All right. And during that course of time you  
17 are asking a lot of very personal and intimate  
18 questions?

19 A Yes. But -- well, that part was the physical  
20 exam. With the questions, yes. I do ask some  
21 personal questions as well.

22 Q And she had no trouble reporting a lot of that  
23 personal information to you. For example, you  
24 are asking when was her last intercourse?

25 A Correct.

- 1 Q And you are asking when was her last period?
- 2 A Correct.
- 3 Q And you are asking all the specifics about this
- 4 particular type of assault, where she was
- 5 penetrated, where and how she was harmed, any
- 6 threats that were made?
- 7 A Yes.
- 8 Q And you are also asking for information about
- 9 the assailant as well?
- 10 A Correct.
- 11 Q And she tells you that it is her ex-boyfriend.
- 12 And I'm looking now on your page five of 15.
- 13 A Okay.
- 14 Q She tells you that it is her ex-boyfriend and
- 15 that they broke up two to three months ago?
- 16 A Correct.
- 17 Q And this exam you are doing is going to be on
- 18 the 25th of April?
- 19 A Yes.
- 20 Q So she is telling you two to three months ago.
- 21 At no point in time does she tell you that
- 22 she's had contact with Treveon Nelson in the
- 23 month of April?
- 24 A Correct.
- 25 Q And you checked to see if she is pregnant and

1 testing would have been done to confirm that  
2 she was not pregnant?

3 A Correct.

4 Q And now I want to move to your nurse's notes  
5 again. And that's going to be your page one of  
6 one, the nursing notes entered roughly during  
7 the time period of 10 p.m. through 11:30 p.m.  
8 on the night of the 25th.

9 A Okay.

10 Q When you ask about her history, specifically  
11 that social history, you are getting that  
12 directly from her. You ask about why she is  
13 there and what the history is and what she says  
14 is that she has a history of running away; she  
15 states that this time she ran away around the  
16 beginning of the month?

17 A Correct.

18 Q She indicates that she has stayed at different  
19 friends' homes?

20 A Yes.

21 Q And she states to you that her ex-boyfriend,  
22 the assailant, is a member of the Bloods gang.  
23 She states to you that she has dropped out of  
24 school. And it appears that during this point  
25 in time, Investigator Jordan is there as well.

1           And she states to him that the reason she ran  
2           away is because her parents wouldn't let her do  
3           some things that she wanted to do?

4    A    Correct.

5    Q    And then you note that she is a repeat runaway.  
6           So during this point in time, she never informs  
7           you that she has been in contact with Treveon  
8           Nelson in the month of April and that, in fact,  
9           she ran away to be with him?

10   A    She did not say that, that she ran away to be  
11           with him.

12   Q    And in the history of the assault, which was on  
13           your page four of 15, she talks about how the  
14           assault began. And she says, I was walking  
15           from Lexi's house, which is my friend. I  
16           walked a good seven minutes. Once I got on the  
17           bridge I saw somebody following me. I couldn't  
18           see who it was. I seen him trying to speed up.  
19           I moved to the left side of the street.

20           And she states that it is only then that she  
21           realizes once she is being assaulted that it is  
22           Treveon Nelson.

23   A    Yes.

24   Q    Okay. And at no point during that history of  
25           the events that day did she tell you that she

1 had been messaging him on Instagram or Facebook  
2 throughout that day up until around 2:04 p.m.,  
3 which is just 11 minutes before the assault?

4 A No. She did not indicate that to me.

5 Q Or that she and him had discussed meeting up  
6 and where they both were located so that they  
7 could walk on foot and meet up together at some  
8 point?

9 A She did not indicate that to me.

10 Q Okay. Now I want to go back to your nurse's  
11 notes. I think you have already accounted for  
12 everybody who's at the hospital, her parents,  
13 law enforcement, you are there now, a social  
14 worker has been there and seen her. And she's  
15 now been there close to 10 hours. This  
16 assault's going to be around 2:15. She gets  
17 transported there and it looks like she is  
18 going to be there through midnight?

19 A Yes.

20 Q And she's speaking with Investigator Jordan of  
21 Springdale as late as 22:57. So 10:57 p.m.  
22 according to your notes?

23 A Okay.

24 Q And according to your notes, a safety plan was  
25 in place. The family had been given business

1 cards for both Officer Rodriguez who was the  
2 translator and Investigator Jordan of  
3 Springdale. There were also discussions about  
4 staying at a hotel as a safe house if needed.

5 A Correct.

6 Q And throughout that entire time she never told  
7 you that she had been with Treveon Nelson on  
8 April 5th of 2021?

9 A No. She did not indicate that to me.

10 Q When she told you that she had stayed with  
11 friends after running away, she never, ever  
12 mentioned that that had been with Treveon in  
13 various hotels or motels throughout April?

14 A Correct.

15 Q And she certainly never told you that on  
16 April 5th they were together when SA [REDACTED]  
17 [REDACTED] was kidnapped and murdered?

18 A She didn't indicate that, no.

19 MS. MAYES: Thank you.

20 REDIRECT EXAMINATION

21 BY MS. SELERT:

22 Q Ms. DeGuzman, I just have a few more questions  
23 for you. Sexual assaults are traumatic events,  
24 right?

25 A Correct.

1 Q And would you say that the exam itself can be  
2 traumatic?

3 A It can.

4 Q Recounting what had happened to them?

5 A Correct.

6 Q And again, did Nicolle ever indicate or did  
7 Nicolle indicate to you during this whether she  
8 consented to having sex with Treveon Nelson on  
9 the 25th?

10 A She did not indicate that she gave consent.

11 Q And is it common for women to have or young  
12 women to have contact with an ex following a  
13 breakup?

14 A Yes.

15 Q And especially with an abusive ex or in this  
16 case of an abusive ex?

17 A Yes.

18 Q And is it common in sexual assault situations  
19 for women to initially consent to having sex  
20 and then are they able to take that consent  
21 back?

22 A Yes. It is common in any situation where they  
23 consent initially but things turn south and  
24 they take, you know, they don't want any  
25 contact anymore.

1 Q And you can agree to meet with someone without  
2 agreeing to meet with them for the purposes of  
3 being assaulted or raped, correct?

4 A Correct.

5 MS. SELERT: Thank you. I don't have any other  
6 questions for you.

7 MS. MAYES: No further questions, Your Honor.

8 MS. SELERT: Thank you, Ms. DeGuzman.

9 THE WITNESS: Thank you. Have a good day.

10 MS. SELERT: You too.

11 MS. McGRADY: Your Honor, before we call our  
12 next witness we would ask for another five-minute  
13 break.

14 THE COURT: It is a good time for a bathroom  
15 break.

16 MS. McGRADY: Yes. Thank you, Your Honor.

17 (Whereupon, a recess was taken.)

18 THE COURT: All right. Ms. McGrady, you had  
19 time?

20 MS. McGRADY: Yes, Your Honor.

21 THE COURT: All right. Who is next?

22 MS. McGRADY: The defense calls Cherlitch  
23 Peralta.

24 THE COURT: Okay.

25 Interpreters, come on up and get situated so

1 Ms. Peralta can testify.

2 THE INTERPRETER: Thank you, Your Honor.

3 THE COURT: All right. Ma'am, tell us your  
4 name and spell it, please.

5 (Interpretation.)

6 THE INTERPRETER: My name is Cherlitch Jojana  
7 Peralta Cerrato. Cherlitch, C-H-E-R-L-I-T-C-H,  
8 Jojana, J-O-J-A-N-A, Peralta, P-E-R-A-L-T-A and  
9 Cerrato.

10 The interpreter needs to doublecheck just one  
11 second, Your Honor.

12 (Interpretation.)

13 THE INTERPRETER: C-E-R-R-A-T-O.

14 THE COURT: All right. Ma'am, raise your right  
15 hand.

16 (Interpretation.)

17 CHERLITCH JOJANA PERALTA CERRATO, after being  
18 duly sworn, testified via the interpreter as follows:

19 THE COURT: All right.

20 DIRECT EXAMINATION

21 BY MS. McGRADY:

22 Q Can you pull the microphone up a little bit  
23 closer? All right. Mrs. Peralta, just like we  
24 talked about. It is important that you wait  
25 for the interpreter to finish before you answer

- 1 my questions.
- 2 What is your relationship to Nicolle?
- 3 A I'm her mom.
- 4 Q How old are you?
- 5 A Forty-two years old.
- 6 Q You speak Spanish but do you understand a  
7 little bit of English?
- 8 A A little bit.
- 9 Q Are you married?
- 10 A Yes. For 25 years now.
- 11 Q What is your husband's name?
- 12 A German Ronaldo Sanchez Gallegos.
- 13 Q Do we need to spell that?
- 14 A German, G-E-R-M-A-N; Ronaldo, R-O-N-A-L-D-O;  
15 Sanchez, S-A-N-C-H-E-Z; Gallegos,  
16 G-A-L-L-E-G-O-S.
- 17 Q Do you currently work?
- 18 A No.
- 19 Q What is your address?
- 20 A [REDACTED] Avenue, West Columbia, South  
21 Carolina 29169.
- 22 Q How many children do you have?
- 23 A Three.
- 24 Q Who lives in the house with you currently?
- 25 A Me, my husband and my two children, Nicolle and

- 1 AS [REDACTED].
- 2 Q Where are you from originally?
- 3 A From Honduras.
- 4 Q When did you travel to the United States?
- 5 A In 2006.
- 6 Q How old was Nicolle?
- 7 A She was two years old.
- 8 Q But she didn't travel with you?
- 9 A No.
- 10 Q Did you travel with any family?
- 11 A No.
- 12 Q Was anyone else with you?
- 13 A Yes.
- 14 Q Who?
- 15 A An acquaintance, some friends, a couple that I
- 16 knew.
- 17 Q Okay. How long did it take for you to get
- 18 here?
- 19 A About a month and a half.
- 20 Q Where did you go first upon arriving to the
- 21 United States?
- 22 A To the state of Maryland.
- 23 Q When did you come to South Carolina?
- 24 A I came in 2009.
- 25 Q Why did you pick South Carolina?

1 A Because we had some acquaintances and friends  
2 who had told us that it was a good state where  
3 you could live well.

4 Q Why did you leave Honduras to come to the  
5 United States?

6 A Well, let me just say that I was a victim of  
7 medical malpractice when I had Nicolle. And my  
8 husband, he had already come here a year before  
9 and we had a business. But because of my  
10 illness and because we were victims of gangs,  
11 let me just tell you that gangs there extort  
12 businesses and I was a victim of that. I was  
13 ill and we practically had lost our business.

14 THE COURT: Ma'am, about that time frame,  
15 that's about as far as you need to go before  
16 stopping and allowing them to interpret, okay?

17 (Interpretation.)

18 THE INTERPRETER: Okay. Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. McGRADY:

21 Q So who was extorting you?

22 A The gangs.

23 Q Is that related to the business that you owned?

24 A Yes.

25 Q What happens if you don't pay?

1 A Well, you are killed. You are a victim and you  
2 are killed.

3 Q You mentioned that there were poor economic  
4 prospects and gangs and extortion. Did you  
5 feel safe in Honduras?

6 A No.

7 Q Why not?

8 A Well, because like I said, I'll say it again.  
9 We were victims of the extortion and if you  
10 don't pay, well, they find a way to get their  
11 money.

12 Q When you left Honduras to come to the United  
13 States, did you leave your children in  
14 Honduras?

15 A I did.

16 Q Was that a difficult decision?

17 A It was.

18 Q Why?

19 A Well, mainly because I had to, you know, leave  
20 my daughters. I had never been separate from  
21 them before. But my idea was first to come,  
22 for me to come and then later bring them.

23 Q Okay.

24 Who did Nicolle stay with in Honduras?

25 A With my mom.

1 Q Was your mother Nicolle's primary caregiver?

2 A Yes.

3 Q What was their relationship like?

4 A What do you mean between them? You mean  
5 between Nicolle and my mom? Very good. I  
6 would say it was excellent.

7 Q Okay. How did you keep in contact with the  
8 children?

9 A Yeah. We would call them and we had video  
10 calls. My husband and I were always in contact  
11 with them.

12 Q How long did Nicolle live with your mother?

13 A She lived with her until my mom died. Sorry.  
14 Just a second. It was five years. A little  
15 bit more than five years.

16 Q When did your mom die?

17 A My mom died when my brother was killed.

18 Q How old was Nicolle when your mother died?

19 A She was about six years old.

20 Q What effect did that death have on Nicolle?

21 A Well, I wasn't with her when that happened but  
22 I kept in touch with her the whole time. And  
23 the way I think about it and when I realized  
24 how much it affected her was when she came here  
25 because she kept mentioning my mom.

1 Q Was your mother sick before she died?

2 A Well, I think so. Possibly so. The thing is  
3 my brother was killed because he was a  
4 businessman and he didn't pay the extortion so  
5 he was killed. And because of that, my mom  
6 stopped eating well and all that and then the  
7 illness proceeded really quickly and because of  
8 that she died.

9 Q Did Nicolle live with your mother the whole  
10 time that she was sick?

11 A Yes.

12 Q Who did Nicolle live with after your mother  
13 died?

14 THE INTERPRETER: Your Honor, just one second.  
15 May the interpreters consult?

16 (Pause.)

17 THE INTERPRETER: The interpreter would like to  
18 make a correction to the record, Your Honor. The  
19 witness mentioned that the mother had cancer and the  
20 interpreter did not hear that. Stomach cancer.  
21 Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. McGRADY:

24 Q Who did Nicolle live with after your mother  
25 died?

- 1 A With my sister.
- 2 Q Was it in the same city?
- 3 A It was.
- 4 Q But did Nicolle have to change schools?
- 5 A She did.
- 6 Q And the sister you mentioned, is that Aunt  
7 Karina?
- 8 A Karina.
- 9 Q How long did she live with Aunt Karina?.
- 10 A A little more than a year.
- 11 Q Did Nicolle witness any violence in Honduras?
- 12 A Not that I know of.
- 13 Q But she lived through her uncle's murder?
- 14 A She did.
- 15 Q When did he die?
- 16 A My brother died May the 1st, 2011.
- 17 Q And you mentioned that he was murdered?
- 18 A Right.
- 19 Q How did he die?
- 20 A He was shot to death. He was in his car and he  
21 was shot to death.
- 22 Q By whom?
- 23 A Well, unfortunately in our country we don't  
24 have a very good judicial system and even to  
25 this day we don't know. The only thing that's

1 known is that two motorcycles came up to his  
2 car and he was shot and killed.

3 Q Do you know what that was like for Nicolle?

4 A Well, I think it had to have affected her  
5 because my brother was basically like a father  
6 figure you could say for her because he lived  
7 at my mother's house with her.

8 Q How old was Nicolle when you decided to bring  
9 her to the United States?

10 A Seven and a half years old.

11 Q What year and month did Nicolle leave Honduras?

12 A They left Honduras in October of 2012.

13 Q Who did Nicolle travel with?

14 A With her older sister.

15 Q Is that Bringer?

16 A Yes.

17 Q How old was Bringer?

18 A Fourteen.

19 Q What was Nicolle's experience traveling to the  
20 United States from Honduras?

21 A Well, she was a little girl and her thoughts  
22 were that it was just a trip. That's what she  
23 stated to me, that she just thought it was just  
24 a trip and everything would be fine.

25 Q Did you have to pay a ransom to get Nicolle

1 released from her coyote?

2 A Yes.

3 Q Did you speak with Nicolle while she was  
4 traveling?

5 A I did.

6 Q How long was the trip from the United States --  
7 or to the United States from Honduras?

8 A About two weeks. Between 12 and 15 days.

9 Q Why did you wait so long to bring Nicolle up  
10 here to the United States?

11 A Well, because, well, I had a newborn and my  
12 husband was the only one working and it is not  
13 easy to save 30 to \$40,000, which is what we  
14 had to pay to have them brought here.

15 Q I asked about a ransom. How long did they have  
16 to stay with the coyote before the ransom was  
17 paid?

18 THE INTERPRETER: Your Honor, may the  
19 interpreter ask for repetition of the last part of  
20 the question?

21 DIRECT EXAMINATION

22 BY MS. McGRADY:

23 Q How long did they have to stay with the coyote  
24 before the ransom was paid?

25 A Well, in the beginning we had to pay \$30,000.

1 We go to church and the name of the church is  
2 New Hope in English. And there I met a sister  
3 who has family members in McCallen, Texas. And  
4 so I really didn't want that. I was terrified  
5 of the idea of them having to be brought  
6 through the desert and so the lady offered to  
7 bring them here. And so they stayed with the  
8 mother of the lady who I had met at church who  
9 had offered to bring them. So that's where  
10 they stayed.

11 And so one day the lady calls me and says your  
12 children can't stay here anymore; you know, you have  
13 got to pay me \$10,000 more for them to be released.  
14 And that's when we got the money together. And so  
15 they just waited on us to send those \$10,000 and  
16 then they let the children go out in the wilderness,  
17 near their house but it was basically in a  
18 wilderness type area. And that's where immigration  
19 officers picked them up.

20 Q What happened after they were turned over to  
21 immigration?

22 A I was called by the immigration department. I  
23 was told that they have them and we had to  
24 start claiming, the process to claim them. And  
25 we started the process and that's how they

1 arrived to us on February of 2013.

2 Q So they left in October and arrived in  
3 February?

4 A Yes.

5 Q Who was living in the house when Nicolle and  
6 Bringer arrived in South Carolina?

7 A I was living there with my husband and my  
8 one-year-old baby.

9 Q Had Nicolle met the baby before?

10 A Not in person.

11 Q What was her reaction to her new little sister?

12 A It was good.

13 Q Did Nicolle have problems no longer being the  
14 baby in the family?

15 A Yes.

16 Q Can you tell us about that?

17 A She didn't show it initially but with time she  
18 did. I could observe that she become jealous  
19 when we spent time with the baby but we were  
20 treating them all the same.

21 We were also aware that she was coming from a  
22 home with my mother where she was the only, the baby  
23 of the house. But as I said before, I'm going to  
24 repeat this. We did everything to integrate her  
25 back into the family because we were aware that we

1 had been away from her for a long time.

2 Q Did you seek any outside help for these  
3 problems?

4 A Not initially.

5 Q Has DSS been involved with your family on  
6 multiple occasions?

7 A Yes.

8 Q Who was living in your house at the time of  
9 these investigations?

10 A In the first instance it was my older daughter,  
11 Nicolle, Fernanda, my husband and I.

12 Q What about the next instance?

13 A That was when she had run away. And we as  
14 parents always search for her. We ask the  
15 police for help. We ask anyone. That's when I  
16 was informed by the son of a friend of mine  
17 that she was at Treveon's house.

18 Q All right. But let's back up. Was there an  
19 incident where you were alleged to have hit  
20 Nicolle in the face?

21 A Yes.

22 Q Were the children taken into foster care?

23 A Yes.

24 Q And the children were ultimately returned?

25 A Yes.

- 1 Q And the case was dismissed?
- 2 A Yes.
- 3 Q Overall how was Nicolle's behavior when she was  
4 young?
- 5 A Young, when she was with me?
- 6 Q Yes.
- 7 A The first years she had good behavior and in  
8 honesty, all honesty she always had good  
9 behavior at the home with us.
- 10 Q Did you begin to have trouble with Nicolle as  
11 she got older?
- 12 A Yes.
- 13 Q At what age did you start having trouble with  
14 Nicolle?
- 15 A When she was in middle school.
- 16 Q What was the first indication that she started  
17 rebelling?
- 18 A When she started to run away from home.
- 19 Q Why do you think she started being rebellious  
20 or defiant?
- 21 A Honestly, we asked her for reasons but she told  
22 us there were no reasons at home. And the only  
23 reason she had is that she wanted to have  
24 friends but those were not good friends.
- 25 Q At the time how was she behaving at the home?

1 A As I said before, she was not -- she was never  
2 aggressive. She was always good. She would  
3 tidy up her room. She wasn't a spoiled child.  
4 She wasn't spoiled by us. But she started to  
5 have bad friends, friends who tell her to skip  
6 school, to start doing drugs.

7 Q In middle school or late middle school was she  
8 attending school regularly?

9 A Yes.

10 Q At what point did she stop going to school  
11 regularly?

12 A When she was in high school.

13 Q And that began in ninth grade?

14 A But she started to be absent from school  
15 because she would not go to school. But when  
16 she was at home, she was always willing to go  
17 to school but then she would leave school.

18 Q Okay. When did Nicolle begin to run away?

19 A I don't remember the exact date but it was when  
20 she was between 13 and 14 years old.

21 Q When Nicolle began to run away, did you call  
22 the police?

23 A Always. Always.

24 Q How many times do you think you called the  
25 police to report Nicolle as missing?

- 1 A I don't know exactly but I think it was more  
2 than 10 times.
- 3 Q Was she reported as missing on the local news?
- 4 A Sometimes.
- 5 Q How did you know Nicolle was running away?
- 6 A Well, because I knew the time that she was  
7 supposed to be home and when she would not come  
8 home I would go to the school, I would call the  
9 teachers and I would do everything in my hands  
10 to get her. When I saw that she wasn't there,  
11 I would call the police and I knew that she had  
12 run away.
- 13 Q Why do you think that Nicolle was running away?
- 14 A Well, at home we have our rules and she knows  
15 our rules. But really beyond the rules we  
16 wanted her to have friends but we always told  
17 her we wanted to meet her friends but we never  
18 got to meet her friends.
- 19 Q When Nicolle was missing did you ever go out  
20 and look for her?
- 21 A Every time. We risked our life, lives to find  
22 her.
- 23 Q Can you tell us about that?
- 24 A Yes. One time when she ran away, we went and  
25 looked for her at a place called schoolhouse in

1 Columbia. But the thing is every time we  
2 called the police when she ran away, they told  
3 us we had to wait 48 hours before we could  
4 actually get the report but we never waited 48  
5 hours. We always looked for her.

6 So I told my husband that I remembered that she  
7 had told me that she had a friend in Columbia. And  
8 I remember she told me where that friend was so me  
9 and my husband went to look for her but we didn't  
10 find her then. And so the next morning I told my  
11 husband, I said, Let's go look for her. He said,  
12 No. That's a really dangerous place, we shouldn't.  
13 I said, No, I don't care. Let's go look for her.  
14 So we go, we get there and there she was. She was  
15 in the car. She was in Mr. Treveon's car. Treveon  
16 was there.

17 My husband sees them; he blocks in Treveon,  
18 parks his car so that Treveon is blocked in. And  
19 what Treveon did as a result was he comes out with  
20 two weapons, one in each hand pointing them at us.

21 THE INTERPRETER: Just one minute, Your Honor.

22 (Off-the-record discussion was had, after which  
23 the following proceedings were held.)

24 THE INTERPRETER: Everything is fine with the  
25 record.

1           So we called the police. We let them know that  
2 she was there and turned out surprisingly we waited  
3 for two hours surprisingly and they never came. And  
4 he got her out of the car and he took her with him  
5 that day. And so my husband tried to follow him but  
6 there were a lot of people working at the apartment  
7 that day where they were and they told him not to  
8 follow him, that he was armed.

9           So that's when I was able to get in touch with  
10 a Spanish-speaking police officer and I said, you  
11 know, why aren't the police coming. I called him  
12 several times and I said why aren't the police doing  
13 anything about this.

14           And so in the last call that I made to him he  
15 said, Ma'am, if you feel like you are in a dangerous  
16 situation, go home. And surprisingly five minutes  
17 after I get home there are the police and it was  
18 weird. The thing was I wondered why they didn't go  
19 to the place where we had told them she was.  
20 Instead, they come up -- where we needed them to be.  
21 Instead, they are at my house five minutes after I  
22 get there.

23           And so our opinion was that we just felt like  
24 we would turn in these reports; we would make these  
25 reports and it just felt like the police weren't

1 doing anything. And so then when it came to my  
2 house he said, ironically he said, Again.

3 And so I can tell you about a whole lot of  
4 other occasions like that where we just felt like we  
5 weren't getting any support, like that time that  
6 they found her at Mr. Treveon's house. And so we  
7 were told since we were her parents, you know, we  
8 were looking for her, and we were told that that's  
9 where she was. And so like I had said before, one  
10 of my lady friends' sons told me that a man -- a guy  
11 had told him that Nicolle was at Treveon's house and  
12 that every day he'd take her out back and beat her  
13 up.

14 And so that's when I remember that several days  
15 before she and my younger daughter had gone out  
16 walking outside my house. My youngest daughter came  
17 home, came inside and she was really scared. And  
18 she said, Mom, mommy, mommy, a car just went by and  
19 a guy had a gun. He showed me a handgun. He was  
20 inside the car and he showed me a handgun.

21 And so I come out and I'm afraid too and I ask  
22 Nicolle, Who is that, who is that guy in the car.  
23 And she tells me at that time she doesn't know who  
24 he is. And so that's when I said we have got to  
25 call the police. I was really, really afraid and I

1 told Nicolle we got to call the police. And she  
2 says no. And I say why. She said no, you can't  
3 call the police and she was just really afraid.

4 She said because he had been threatening her.  
5 He said that -- she told me that he knows everything  
6 about us. He knows where my husband works; he knows  
7 where my little daughter, my youngest daughter goes  
8 to school and he was threatening us. And that he  
9 even made death threats. And so that happened.

10 That event was done and then but it happened  
11 again. Me and my husband left the house; he was  
12 going to get into the car with my youngest daughter  
13 and with her and then he saw that same white car.  
14 He knew it was the same car because I had described  
15 the car to him after that last event. And so that  
16 is when my husband sees him in the car and he tells  
17 Nicolle to get out of the car and get in his car and  
18 that's when my husband asked her who is that. Do  
19 you know him? And she says -- can the interpreter  
20 ask for repetition of the last part, Your Honor?

21 (Pause.)

22 THE INTERPRETER: So then after that, after she  
23 asked about the car -- sorry. Interpreter  
24 correction. He, my husband was taking photos of  
25 that car and he took a picture of the license plate

1 of that car.

2           Going back to what I want to tell you, when we  
3 found her at Treveon's house, I remember that  
4 picture. So I called Cayce's detective and I made  
5 him aware. I used the lady who speaks Spanish there  
6 and I informed her that I had a photograph of those  
7 license plates so they can try to find him. But my  
8 husband and I did not want to wait so we went ahead  
9 and we tried to -- because we were aware that she  
10 was at a home because of that child that had told my  
11 friend and so we went there.

12           So we went there and we could verify that the  
13 car was there and I called the lady in Cayce. Yes.  
14 Wait there, the police is on its way. The police  
15 came in and they could verify that she was inside  
16 with Mr. Treveon. This time she had been with him  
17 about three months at that location and I'm  
18 surprised.

19           I have no job, no post, no position. How could  
20 I do the research and find that place, investigate  
21 and find her? We arrive, the police took them out  
22 and that's when she accuse her father. So we were  
23 nearby and we get out of the car and I was surprised  
24 because in front of the police officers Mr. Treveon  
25 tells us that we will regret this. And it turns out

1 that we have this big lie.

2 And I also ask the police officer if they were  
3 not going to press charges against him and his mom  
4 because they knew that she had been disappeared for  
5 so long and they knew that she was there and these  
6 things have been on the news. So the answer would  
7 be, ma'am, we do our investigation and if she runs  
8 away, we see that we think she runs away is because  
9 she wants to and she's at will with him.

10 So how can they come to this conclusion on  
11 their own? Unfortunately, as I said before, we had  
12 many of those instances and events and that we felt  
13 that we were not being supported because there is  
14 also the report where the officer takes her to my  
15 home and she's been beaten up and this was in  
16 February 2021.

17 And he would communicate to me via telephone  
18 and he we would look -- he would look for her and  
19 then I learned he told me that Mr. Treveon had been  
20 apprehended. Nicolle had to go to court to press  
21 charges against him and but then Mr. Treveon is out.  
22 And how can it be that a judge let somebody out like  
23 that, somebody who is an aggressor, abuser.

24 MS. MAYES: Your Honor, we are going to object  
25 at this point because there are no questions. This

1 is just purely narrative at this point.

2 DIRECT EXAMINATION

3 BY MS. McGRADY:

4 Q Did Nicolle ever take--

5 THE COURT: Wait a minute. Wait a minute.

6 Repeat what the solicitor said so she  
7 understands.

8 MS. McGRADY: I'm sorry.

9 THE INTERPRETER: I'm sorry, Your Honor.

10 (Interpretation.)

11 THE COURT: Ask a question.

12 DIRECT EXAMINATION

13 BY MS. McGRADY:

14 Q Did Nicolle ever take your car?

15 A Yes. Once.

16 Q Did she ever take your car prior to meeting  
17 Treveon Nelson?

18 A Never.

19 Q How far away have you driven to find Nicolle?

20 A Once we went to North Carolina.

21 Q When and where did Nicolle meet Treveon Nelson?

22 A As far as I know at school.

23 Q Was that at the alternative school?

24 A Yes.

25 Q At New Bridge?

1 A Yes.

2 Q And you mentioned that there were a couple of  
3 occasions where your family saw Treveon drive  
4 past the house?

5 A Yes.

6 Q With guns?

7 A I didn't see that but my youngest daughter did  
8 and she did. There was a second time where my  
9 husband was able to take pictures of the car.  
10 That's when I saw it.

11 Q Did Nicolle ever tell you how she felt about  
12 Treveon?

13 A Yes.

14 Q Can you tell us about that?

15 A Well, yes. She would tell me that she didn't  
16 love him but he forced her to be with him.

17 Q Have you ever witnessed any bruises or injuries  
18 to Nicolle?

19 A Yes.

20 Q Did you ask her where the bruises or injuries  
21 came from?

22 A At the beginning she wouldn't tell me. She  
23 would just change the subject or just avoid the  
24 question.

25 Q Did you ever see Nicolle with bruises or

1 injuries that she said were from Treveon  
2 Nelson?

3 A Yes.

4 Q When?

5 A When she was at the alternative school and she  
6 ran away and one time she came back and she had  
7 bruises.

8 Q And there was also an incident in February 2021  
9 that you mentioned?

10 A Right.

11 Q After that incident did you take her to the  
12 police station to file a report?

13 A Yes.

14 Q Was Treveon Nelson ultimately arrested?

15 A Yes. That's what the police officer let me  
16 know.

17 Q Are the charges still pending?

18 A Well, I suppose so because Nicolle had to go to  
19 court to press charges against him and in the  
20 meantime this happened.

21 Q At that point did Nicolle end the relationship  
22 with Treveon Nelson?

23 A Yes.

24 Q And you mentioned earlier somebody else that  
25 you know saw Nicolle being hurt by Treveon?

1 THE INTERPRETER: Your Honor, can she repeat  
2 the last part of her question?

3 DIRECT EXAMINATION

4 BY MS. McGRADY:

5 Q You mentioned earlier that you know somebody  
6 else saw Nicolle being hurt by Treveon?

7 A Yes.

8 Q Did she leave the house again as a runaway  
9 after ending the relationship with Treveon  
10 Nelson?

11 A No.

12 Q But she left somewhere else to go with Treveon?

13 A Yes. It was before this event happened. She  
14 was working at a store.

15 Q Did you talk to people from the store about  
16 Nicolle leaving during her shift with Treveon  
17 Nelson?

18 A Yes. Yes. I spoke with some people when she  
19 didn't show up. When she ran away I spoke with  
20 some people.

21 Q What did they say?

22 A I was told that for three straight days a black  
23 person showed up to that place and he was  
24 telling her things.

25 Q Okay. Did you ever meet Treveon Nelson?

1 MS. MAYES: Asked and answered, Your Honor.

2 THE COURT: Wait.

3 MS. McGRADY: I don't believe I've asked that.

4 THE COURT: Just answer the question, ma'am.

5 THE INTERPRETER: What was the question?

6 DIRECT EXAMINATION

7 BY MS. McGRADY:

8 Q Did you ever meet Treveon Nelson?

9 A Never. Never.

10 Q Did anyone in your family ever meet Treveon  
11 Nelson?

12 A No. They did not.

13 Q We wanted your sister, Jasmine, to come  
14 testify, right?

15 A Yes.

16 Q But she is not here?

17 A No.

18 Q Why?

19 A Because of what happened on Monday. Because of  
20 things like what happened on Monday.

21 Q Can you elaborate?

22 A It was during the lunch recess on Monday. The  
23 lady, I don't know her name, but she is the  
24 mother of the girl who died, and the father, we  
25 were downstairs in our car and they came up to

1           our car and pointed at us. And I wasn't able  
2           to hear exactly what was said but I will say  
3           that she came up to my car and knocked on the  
4           window.

5           And she started to talk and I don't understand  
6           English 100 percent but I do understand a little  
7           bit. And what I was able to hear was that we were  
8           going to have to pay for what my daughter had done.  
9           And they started to take a lot of pictures of us and  
10          the car. And there were other people around with  
11          them outside and a lot -- they started to take a lot  
12          of pictures of us.

13        Q     So is it safe to say that Jasmine is scared?

14        A     All of us in our family are scared. All of us.

15        Q     All right. Last few questions. If Nicolle is  
16              released into the community and family therapy  
17              is part of the plan, are you willing to  
18              participate in family therapy?

19        A     Yes.

20        Q     What would you be willing to do to help Nicolle  
21              if she is released into the community?

22        A     Well, everything. Anything and everything that  
23              I'm advised to do, therapy. I'm willing to do  
24              everything that the experts recommend, you  
25              know, keep her busy, make sure she is in

1 school, everything.

2 Q Last question. What are your hopes for  
3 Nicole?

4 A Well, first, I want her to forgive me for  
5 having left her there when she was little and  
6 that she be accepted and reintegrated into  
7 society; that she was a rebellious young  
8 person; like any young person, they go through  
9 their rebellious stages but that she matures  
10 and that she keeps maturing; and that she, God  
11 willing, take what we have taught her in the  
12 ways that we have raised her and be able to  
13 change. I know she can change, that all of us  
14 go through our rebellious stages but she can  
15 change; and that she use the fear of God that  
16 we have instilled in her to be able to do this.

17 MS. McGRADY: No further questions but please  
18 answer any questions the State may have.

19 CROSS-EXAMINATION

20 BY MS. MAYES:

21 Q Good morning, Mrs. Peralta. I want to ask you a  
22 few questions just about what's occurred over  
23 this period of time.

24 I think you testified a few moments ago that  
25 your daughter was running away mainly because of

1 Treveon?

2 A Yes.

3 Q She was running away long before she met  
4 Treveon Nelson?

5 A Sometimes.

6 Q Okay. So I want to start with a police report  
7 that is dated October 23rd, 2018. And that was  
8 filed with the Cayce Police Department. At  
9 that point in time your daughter was 14 years  
10 old. She had run away and you reported to the  
11 police that she was smoking marijuana and  
12 engaged in sexual activity with numerous boys.

13 A I did not report that because she never did  
14 drugs in my house.

15 Q I'm sorry?

16 A I did not report that because she never did  
17 drugs in my house.

18 Q All right. So you don't know how the police  
19 got that information that's in the report?

20 A No because I couldn't say what she was doing  
21 when she wasn't in the house because at least  
22 in the house she never did drugs.

23 Q All right. And a month before that, in  
24 September of 2018, was another runaway report,  
25 this one with the West Columbia Police

1 Department. Do you remember that?

2 A As I said before, she left many times so I  
3 don't remember the exact dates.

4 Q Okay. Well, this one in September of '18 she  
5 was later located with a boyfriend but that was  
6 not Treveon Nelson.

7 THE INTERPRETER: May the interpreter change  
8 pens?

9 CROSS-EXAMINATION

10 BY MS. MAYES:

11 Q And she made an allegation of physical abuse  
12 against you at that time which was not true.  
13 Do you recall that?

14 A That's not how it happened. When I was charged  
15 with physical abuse she was in school. She was  
16 very young.

17 Q Okay. So in 2018, in September, did she call  
18 and report a physical abuse at that time?

19 A No.

20 Q Now moving forward to December of 2018, there  
21 is another runaway report, also with the West  
22 Columbia Police Department, correct?

23 THE INTERPRETER: May the interpreter  
24 request --

25 CROSS-EXAMINATION

1 BY MS. MAYES:

2 Q She went to school that day but did not come  
3 home, correct?

4 A Yes.

5 Q And then the following month, January 7th of  
6 2019, also a report to West Columbia. Also  
7 this time she went to school and did not come  
8 home and was found at a nearby house of who was  
9 called a boyfriend known as Kevin or TT. Do  
10 you recall that?

11 A Honestly, I don't remember who she was found  
12 with because I wasn't made aware of who she was  
13 found with.

14 Q All right. The following month, February of  
15 2019, on the 15th, also a runaway report to  
16 West Columbia Police Department?

17 A Possibly.

18 Q She had gone to school but had not come home.  
19 Does that sound familiar?

20 A Yes.

21 Q All right. The following month, March 17th of  
22 2019, another runaway report to the West  
23 Columbia Police Department?

24 A Yes.

25 Q Okay. And this time I believe you reported





1 hospital?

2 A Yes.

3 Q And then some time in 2020 you became aware  
4 that she had made some threats against you and  
5 your husband. I believe -- I'll let you.

6 A Well, that's what we were told. A lady came  
7 outside the hospital because that was during  
8 the covid pandemic and, you know, people  
9 couldn't go inside the hospital much. But a  
10 lady came out and told us about those threats  
11 but she never made threats in person to me and  
12 my husband.

13 Q And when the lady told you about those threats,  
14 it was necessary to keep her in the hospital  
15 for about two weeks?

16 A Yes. She was admitted and she was in the  
17 hospital. Yes.

18 Q Okay. Then the police actually found her  
19 journals and her writings about that, didn't  
20 they?

21 A Well, I was never told that. I was never told  
22 that that was found. The police went to our  
23 house. They would go and they asked if they  
24 could search her room and I was never told that  
25 a sheet, that a sheet had writings of hers that

1           said something like that never, no.

2    Q       Okay.  So now I want to move forward to the  
3           question that I think you got earlier about  
4           your car being stolen.

5    A       Uh-huh.

6    Q       And that occurred on June 21st of 2020?

7    A       Right.

8    Q       And this is after she had already been through  
9           DJJ and had gotten some treatment pursuant to  
10          her probation.

11   A       I don't remember very well.  I don't really  
12          remember very well that date.  I just don't  
13          remember the date.

14   Q       Okay.  So looking here at a West Columbia  
15          Police Department report dated June 21st of  
16          2020, you reported that you had put gas in your  
17          car.

18   A       Yes.

19   Q       And you had gone into a parking space?

20   A       Yes.

21   Q       And you took your youngest daughter inside the  
22          store?

23   A       No.  She stayed inside the car with her.

24   Q       So Nicolle stayed inside the car?

25   A       Uh-huh.  Yes.

1 Q And then according to the report, Nicolle  
2 steals the car while you are inside the store?

3 A Yes.

4 Q Okay. So when she left with the car, your  
5 daughter, your little girl, was not with her?

6 A No.

7 Q And you come outside and find both your car  
8 being the I believe it was a Mitsubishi?

9 A Yes.

10 Q Both your car and Nicolle are missing, correct?

11 A No.

12 Q And then you report that she has run away  
13 again?

14 A Right.

15 Q And inside that car was your phone?

16 A Yes.

17 Q And later that car is found somewhere in  
18 Columbia?

19 A Yes.

20 Q And her daughter runs away once the car is  
21 found?

22 A Yes. That was what I was mentioning earlier  
23 when me and my husband went to look for her and  
24 we found her inside the car with Treveon.

25 Q All right. And nowhere in that report is there

1           any mention of guns or being in danger,  
2           correct?

3    A       But remember, the police never even showed up  
4           to file a report over there.

5    Q       And here it is noted that the vehicle is  
6           recovered and her daughter runs away.

7    A       We found her.

8    Q       And according to the report they ran away and  
9           there is no mention of guns. Does she agree  
10          with that?

11   A       I reported it. I don't know why it is not in  
12          the report but I reported it.

13   Q       All right. And again, when your daughter took  
14          your car she was alone in the car, correct?

15   A       Uh-huh. Yes.

16   Q       Now we are going to move forward to the next  
17          month, which is going to be July 25th of 2020.

18   A       Okay.

19   Q       At this point there is another runaway report  
20          and this time she is found at                       
21          Street?

22   A       Yes.

23   Q       And she tells the police that she is being  
24          sexually abused at home by your husband?

25   A       Yes.

1 Q And she is sent to Epworth?

2 A Well, I was never given that information.

3 Q She was taken out of your care and put into  
4 foster care?

5 A Yes. Her and my other daughter.

6 Q So she told that story about being sexually  
7 abused to both the police and DSS?

8 A Yes.

9 Q And she repeated it again and again to many  
10 professionals in the field?

11 A Well, I think so. I mean, I can't say for sure  
12 because I wasn't there but I think so.

13 Q And it caused your little girl to be taken out  
14 of your home too, right?

15 A Yes.

16 Q And how long was your youngest daughter removed  
17 from the home?

18 A It was about five months.

19 Q So your daughter was taken from you and your  
20 husband for about five months?

21 A Yes.

22 Q And you were investigated by the Department of  
23 Social Services?

24 A Yes.

25 Q As well as your husband?

- 1 A Yes.
- 2 Q And then Nicolle admitted that it was not true?
- 3 A Yes.
- 4 Q And two days after she made that report about  
5 being sexually abused, she was found again in a  
6 stolen car, wasn't she? July 27th of 2020 the  
7 Springdale police report.
- 8 A I was never told about that because she was  
9 under the care of DSS.
- 10 Q Okay. So you weren't aware that she was two  
11 days later found in a stolen vehicle.  
12 Eventually she is returned home?
- 13 A No. My youngest daughter is returned to me but  
14 not her.
- 15 Q Okay. So where was Nicolle back in the time  
16 period of the summer of 2020 through February  
17 of 2021?
- 18 A With Mr. Treveon. That's when she was found at  
19 Treveon's house. Let's see. She ran away in  
20 October, right? So what's that, how long? My  
21 understanding is that whole time she was with  
22 Treveon.
- 23 Q Okay. That whole time between roughly October  
24 of 2020 until February of 2021.
- 25 A Yes.

1 Q Okay.

2 A Yes.

3 Q So let's talk about February of 2021. And  
4 that's when there was a report with the Cayce  
5 Department of Public Safety.

6 A Yes.

7 Q And that report is actually made by Nicolle  
8 herself?

9 A Yes.

10 Q And she walked just a block or so, a short  
11 distance from where Treveon lived at [REDACTED]  
12 [REDACTED] Street?

13 A Yes.

14 Q Down to Econo Lodge.

15 A What is that?

16 Q Econo Lodge is a motel where the report was  
17 made.

18 A Well, that wasn't specified to me by the  
19 police. The police told me that he took her  
20 home and called me and said that she had been  
21 found but never said where.

22 Q Okay. So--

23 THE INTERPRETER: Just a minute. The  
24 interpreter needs to clarify.

25 (Off-the-record discussion was had, after which

1 the following proceedings were held.)

2 THE INTERPRETER: And that she was a victim;  
3 that he had been hitting her.

4 CROSS-EXAMINATION

5 BY MS. MAYES:

6 Q Yeah. So that's reported at the Econo Lodge  
7 where the police met Nicolle on February 3rd.

8 A Yes.

9 Q And then she comes home with you?

10 A Yes.

11 Q Okay. So now I want to talk about when she  
12 disappeared on March 31st. And the day after  
13 she disappears on April 1st, you made a report  
14 again with the West Columbia Police Department?

15 A Yes.

16 Q And you and your husband both spoke with the  
17 police, Officer Battles, in order to make this  
18 report?

19 A Yes.

20 Q And what you reported to Officer Battles is  
21 that you actually had been saving money at home  
22 and you had saved \$1,000.

23 A No. I never said that I was saving my money.  
24 It was her money because she was working.

25 Q All right. And what you noted and told the



1 Q Application.

2 A No.

3 Q Okay. So if it was reported that according to  
4 the bank Nicolle attempted to transfer funds  
5 twice out of your account to Nicolle's cash app  
6 in the amounts of \$500 and \$900, you don't  
7 recall that?

8 A I never -- I never notified and I don't know  
9 how that come to be, came to be. And we were  
10 talking about her money because it was the  
11 money that she got from her job.

12 Q I understand that. This is a reference to your  
13 bank accounts and that both attempts were  
14 denied by the bank.

15 Does she recall that, 'yes' or 'no'?

16 A No because it didn't happen.

17 Q So the officer's completely mistaken about all  
18 that information regarding your bank account?

19 A Listen, I think sometimes it was poor  
20 communication because sometimes there was no  
21 one who would speak Spanish or somebody that  
22 didn't speak very good Spanish.

23 Q This was very detailed so is it possible then  
24 that maybe your husband gave that information  
25 to law enforcement instead of you?

1 A I don't think so.

2 Q Okay. So this is five days before the murder  
3 of SA [REDACTED], correct?

4 A What do you say?

5 Q This is five days before the murder?

6 A Yes.

7 Q And we know that your daughter has a phone?

8 A Yes.

9 Q And she has \$1,000 in cash?

10 A Yes.

11 Q Now one thing that happened is law enforcement  
12 actually got Nicolle on the phone because you  
13 gave the phone number?

14 A Yes.

15 Q And she spoke with the officer saying that she  
16 was at your sister's house.

17 A No. I never said that but I did not understand  
18 the question very well. Would you repeat that?

19 Q Does she know that the officer spoke with  
20 Nicolle on the phone that day?

21 A They told me that they had talked to someone at  
22 the store that had informed them that she would  
23 go to her aunt's house. But they told me. I  
24 didn't tell them.

25 Q All right. And then you also told them about a

- 1 tattoo she had with the name Tre?
- 2 A Yes.
- 3 Q And that that was her boyfriend?
- 4 A Yes.
- 5 Q And according to the report neither you nor  
6 your husband knew the last name of Tre?
- 7 A No.
- 8 Q Or an address for Tre?
- 9 A At that time, yes, because remember she had  
10 been found at the house of Mr. Treveon.
- 11 Q And at no time did they give the address of  
12 [REDACTED] Street?
- 13 A Who?
- 14 Q The police.
- 15 A I don't understand. Why would they have to  
16 give me the address?
- 17 Q Okay. They are asking if you know the address  
18 and your answer to them was that you did not  
19 know an address.
- 20 A I did not know the address but I knew the house  
21 because that's where she was found earlier.
- 22 Q And when they asked if you knew he drove a  
23 vehicle, you said you don't know anything about  
24 a vehicle either?
- 25 A When they went to our house?

1 Q When they made the report on April 1st, 2021.

2 A I don't remember having been asked that  
3 question. But if I had been asked that  
4 question, I would have shown them the photo but  
5 I don't remember being asked that question.

6 Q About a vehicle.

7 A No. The vehicle that my husband had taken a  
8 picture of when Nicolle was found at his mom's  
9 house.

10 Q And this was reported as a runaway event?

11 A April 1st?

12 Q Yes.

13 A Yes.

14 Q Okay. Now I want to go to February of 2020,  
15 when shots were fired into your home.

16 A Uh-huh. Yes.

17 Q Okay. And Nicolle was the witness to that?

18 A All of us. All of us who were at home that  
19 day, we witnessed that.

20 Q And the car was recognized and caught nearby?

21 A Yes.

22 Q As well as the gun found inside that car?

23 A Yes.

24 Q And those suspects were an adult who was 19 and  
25 his name is Feliciano Stoutmire?

1 A Yes.

2 Q And a juvenile who at least was a juvenile at  
3 the time but it was a female juvenile.

4 A Yes.

5 Q She was a 15 year old who lived in Gaston?

6 A Well, well, I don't know. I suppose because I  
7 didn't really know anything about them.

8 Q Okay. But she was determined to be the shooter  
9 and she was charged as a juvenile?

10 A Well, I was present at a virtual court hearing  
11 and as far as I understand it, only the two  
12 older men were charged.

13 Q All right. And again, all of that had  
14 something to do with your daughter, Nicolle?

15 A Well, I don't think so because those guys  
16 insulted all of us. They were using racist  
17 terminology like, you Mexicans, you go back  
18 home to your country. It was my husband. He  
19 was there. I was there. Nicolle was there and  
20 at that time I had a nephew who was living with  
21 us. So I don't think it was specifically  
22 having to do with Nicolle, no.

23 Q Okay. All right. I just wanted to clarify  
24 that.

25 So to recap, Mrs. Peralta, your daughter has

1 run away multiple times in 2018, 2019, 2020 and then  
2 the final time being April or March 31st of 2021?

3 A Yes.

4 Q Which ultimately led to her being charged with  
5 murder in this case?

6 A Yes.

7 Q And throughout that time you did your best to  
8 keep her at home?

9 A Yes.

10 Q And to let her know that home would be a safe  
11 place?

12 A Yes.

13 Q And she continued to run away?

14 A Yes.

15 MS. MAYES: Nothing further.

16 MS. McGRADY: No further questions for this  
17 witness.

18 THE COURT: Thank you, ma'am.

19 All right. Ms. McGrady, how many witnesses  
20 does that leave the defense?

21 MS. McGRADY: We just have one left, our  
22 mitigation specialist, and we expect that to be  
23 lengthy.

24 THE COURT: Do you want to take a lunch break  
25 now and then come back?

1 MS. McGRADY: Yes, Your Honor.

2 THE COURT: See y'all at 1:19.

3 MS. MAYES: Thank you, Judge.

4 THE COURT: All right. Thank you.

5 THE INTERPRETER: Thank you, Your Honor.

6 THE COURT: All right. Thank you, sir.

7 (Whereupon, a lunch break was taken.)

8 THE COURT: All right. Ms. McGrady.

9 MS. McGRADY: Your Honor, just a moment if the  
10 court doesn't mind.

11 (Pause.)

12 THE COURT: Ms. McGrady, you can go ahead and  
13 get your witness up here if you are just marking  
14 exhibits.

15 MS. McGRADY: Yes, Your Honor. The defense  
16 calls Kristen Anderson.

17 THE COURT: All right. You are Kristen  
18 Anderson?

19 THE WITNESS: I am, yes.

20 THE COURT: Raise your right hand.

21 KRISTEN ANDERSON, after being duly sworn,  
22 testified as follows:

23 THE COURT: Thank you.

24 DIRECT EXAMINATION

25 BY MS. McGRADY:

1 Q Are you ready?

2 A I am.

3 Q All right. Can you please state your name?

4 A Kristen Anderson.

5 Q Can you describe your educational background?

6 A Sure. I have a bachelor's degree from the  
7 University of North Carolina at Chapel Hill and  
8 I have a master of social work degree from the  
9 University of Michigan in Ann Arbor.

10 Q Do you hold any additional certificates or  
11 licenses?

12 A I do. I'm a licensed master social worker. I  
13 also hold a certificate from the University of  
14 Michigan in international social work, which  
15 means that I have a focus on working with  
16 immigrant populations and across transnational  
17 factors, transnational factors. I also have a  
18 certificate in forensic social work and I  
19 believe that's it.

20 Q Are you credentialed to diagnose?

21 A I have great familiarity with the diagnostic  
22 criteria in the DSM-5 through my master's  
23 degree and subsequent training. I am not  
24 credentialed to diagnose. I'm credentialed to  
25 assess symptoms and observe symptoms and come

1 up with treatment plans. But my job would be  
2 more to collect that information for a provider  
3 who is credentialed to make an official  
4 diagnosis.

5 Q Can you describe your work history?

6 A Sure. After I got my master's in social work I  
7 started my public defense career at the Bronx  
8 Defenders in New York City. The Bronx  
9 Defenders is the well-known public defender's  
10 office that champions the holistic model of  
11 representation where social workers are  
12 embedded on to defense teams.

13 I was split between the criminal defense  
14 practice and the immigration defense practice,  
15 meaning I had clients that were facing charges in  
16 criminal court as well as clients that were facing  
17 deportation proceedings. I had numerous roles but  
18 mitigation was one of those roles.

19 My last role at the Bronx Defenders was in the  
20 homicide unit. I was the first dedicated social  
21 worker to that practice and I was doing exclusively  
22 mitigation work. I left the Bronx Defenders in  
23 early 2020 to go into private practice in mitigation  
24 and I moved to North Carolina where I started that  
25 practice.

1           So I currently am a private mitigation  
2 specialist. I work on a variety of cases. I work  
3 on both capital and noncapital cases in state court  
4 in North Carolina. I work on capital and noncapital  
5 cases in federal court. I also work on some  
6 post-conviction cases, including juvenile  
7 resentencing hearings. And yeah, that's--

8 Q       What is a mitigation specialist?

9 A       So mitigation specialists our function is to  
10 create a comprehensive bio-psychosocial history  
11 of our client to explain our client's  
12 experiences to the court. It assesses the  
13 client in their complete environment, the whole  
14 person and the environment. The goal is to  
15 explain behaviors that clients have had.

16       It is not to excuse those behaviors or minimize  
17 any criminal conduct, but to shed light on the  
18 unique circumstances that a client has faced. We  
19 consider the good and the bad.

20       To conduct a mitigation investigation the  
21 methodology is to speak at length with the client,  
22 to do interviewing with the client themselves, to  
23 interview people in their lives that know them the  
24 best, their caretakers, primarily other people in  
25 their life.

1           We also review as many records as we can that  
2 have been generated by different agencies and  
3 providers that the client may have come into contact  
4 with during their life. And then we kind of put it  
5 all together and create a narrative, a picture of  
6 the client's life.

7   Q     Do you speak any second languages?

8   A     I do. I'm not bilingual but I have advance  
9 fluency in Spanish and in this particular case  
10 allowed me to communicate with Nicolle's family  
11 in their native language. That greatly  
12 increases rapport and trust and increases the  
13 quality of information that I'm able to gather.

14   Q     Have you had the occasion to get to know  
15 Nicolle?

16   A     I have. We have spent many hours together,  
17 probably I totaled it up, over 20 hours, both  
18 three, three lengthy visits in person at DJJ.  
19 Then we did follow-up video conferences because  
20 I'm not local, about three of those. I also  
21 observed Nicolle's interview for the waiver  
22 hearing with Dr. Dawn. And Nicolle every so  
23 often calls me from DJJ and we chat about  
24 what's going on and she updates me.

25   Q     Did you compile a report?

1 A I did.

2 MS. McGRADY: And that report has been given to  
3 the State and to Your Honor.

4 DIRECT EXAMINATION

5 BY MS. McGRADY:

6 Q Who did you interview for said report?

7 A I interviewed Nicolle as previously mentioned.  
8 I interviewed her mother, Mrs. Peralta. I  
9 interviewed her older sister, Bringer. I  
10 interviewed two of her aunts, Jasmine who she  
11 grew up with in Honduras but now lives in South  
12 Carolina. I also interviewed her Aunt Karina  
13 that she lived with briefly in Honduras.  
14 I interviewed Lauren Penny who testified here  
15 yesterday. And also Dr. Roundtree who is the lead  
16 psychologist at DJJ and Andy Bulton who is over DJJ  
17 programs.

18 Q What records did you review in preparation for  
19 your support?

20 A As we've heard throughout testimony, Nicolle  
21 has had contact with a number of agencies so  
22 there were a lot of records to review in this  
23 case. I reviewed Office of Refugee  
24 Resettlement records. Those are the records  
25 from her immigration to the U.S. I reviewed

1 her school records, her pediatric records from  
2 Brookland Community Pediatrics. I reviewed her  
3 DSS records, her DJJ records, Lexington Medical  
4 Center records, Epworth Children's Home  
5 records, police incident reports and the waiver  
6 evaluations by Dr. Dawn, both the 2019 and the  
7 2021.

8 Q Can you please describe Nicolle's infancy and  
9 early childhood?

10 A Sure. She did not have the best start in life.  
11 Her mother gave birth to her by emergency  
12 C-section. Her mother had complications during  
13 her pregnancy that resulted in illness after  
14 Nicolle was born.

15 Her mother referenced having medical  
16 malpractice. She had to have multiple surgeries  
17 that did not go well. This meant that Nicolle  
18 really wasn't able to bond well with her mother as  
19 an infant. An infant-mother bonding is crucial to  
20 healthy development.

21 As Dr. Dawn stated yesterday that's through no  
22 fault of her mother's or Nicolle's. But one task in  
23 childhood is to form your attachment style to your  
24 caregiver and Nicolle was at risk for developing an  
25 insecure attachment style due to the fact that her

1 mother did not have the capacity to be a consistent  
2 caregiver for her. Her older sister actually took  
3 on a lot of that role in her infancy.

4 Another developmental theory is Erik Erikson  
5 that says in infancy the kind of main dilemma that  
6 needs to be resolved in order to go on to develop in  
7 an adaptive way is trust, mistrust. And when that  
8 is not resolved adequately, the infant can go on to  
9 have difficulty trusting others in feeling secure in  
10 the world and can go on to have difficulty in social  
11 relationships. And I think that's something we  
12 definitely see with Nicolle because of what happened  
13 in her early infancy.

14 We heard from Nicolle's mother that they made  
15 the very difficult decision to leave Honduras due to  
16 extortion. Her dad had a butcher business at the  
17 local market and due to all of the medical issues  
18 that her mom was facing, the family really fell on  
19 really hard financial times and they were no longer  
20 able to comply with the demands of the gangs who  
21 were extorting the business. So they made the  
22 decision to leave the country and her father came  
23 first and then her mother came before she turned 2,  
24 before Nicolle turned 2.

25 And there are a number of abandonment issues

1 that come with a caretaker leaving. Transnational  
2 youth who are left in their home countries and their  
3 parents immigrate are at a greater risk of a wide  
4 range of emotional problems and those are  
5 exacerbated when it is the mother that leaves. If  
6 it is just the father, that you don't see as much of  
7 an impact but because the mother-child relationship  
8 is so important to development, that is exacerbated  
9 when it is the mother that leaves. So she did not  
10 have the best sort of start in life I would say.

11 Q Did her parents become disembodied voices on  
12 the phone once they left?

13 A Exactly. Yeah. They did try to keep in touch  
14 but she didn't know these people. She was so  
15 young when they left. They really, she really  
16 had no attachment or memory of their physical  
17 presence. So to her they were just voices on  
18 the other end of the telephone.

19 Q What happened to Nicolle after her parents left  
20 for the United States?

21 A She was placed in the care of her grandmother  
22 who she calls Mommy Maria. She calls her mommy  
23 because she really was her mother. She knew  
24 her as her mother. She was so young when she  
25 went to live with her that that was who she

1 connected with and bonded as a maternal figure.  
2 She has really fond memories of the time that  
3 she lived with her grandmother. She felt loved and  
4 protected. Her grandmother had had eight of her own  
5 children that she had raised and now she was raising  
6 Bringer and Nicolle. So Nicolle was the tenth child  
7 that this woman had raised. So Nicolle was really  
8 doted on as kind of the baby of these 10 children  
9 that her grandmother had spent her life raising.

10 So she did experience a lot of love and  
11 affection. She speaks at length of, you know,  
12 remembering her grandmother's cooking and the dough  
13 that she made from scratch to make baleadas which is  
14 are like Honduran tortilla. And when she describes  
15 that period of her life she is kind of overcome with  
16 fond, you know, emotional memories.

17 Q And I'm going to stop you there for a minute.  
18 I'm going to place on the screen Defendant's  
19 Exhibit 56 that is being offered into evidence  
20 without objection from the State.

21 (WHEREUPON, Defendant's Exhibit No. 56 was  
22 marked and received into evidence.)

23 DIRECT EXAMINATION

24 BY MS. McGRADY:

25 Q Do you recognize this photo?

1 A I do. Nicolle's mother provided me with this  
2 picture. This is Nicolle during the time  
3 period that she was living with Mommy Maria.

4 Q And you can continue with your testimony.

5 A So unfortunately, this kind of happy period it  
6 doesn't undo the damage that has been done by  
7 the abandonment of her parents. I will just  
8 note that. But unfortunately, tragedy befell  
9 the family and a succession of traumas happened  
10 to Nicolle in a very short period of time, the  
11 first being her Uncle Noah's murder.

12 Her Uncle Noah, as her mother testified, was  
13 like a paternal figure to her. They were very close  
14 and the family members also say this was due to the  
15 gangs and refusing to pay extortion as a business  
16 person. Gang violence was rampant in Honduras at  
17 this time and still is. Just two years after  
18 Nicolle left Honduras a report by Insight Crime said  
19 that Honduras was the most violent country that was  
20 not at war. So we are not talking, you know,  
21 minimal things here. It really affected the society  
22 greatly and Nicolle was really affected by her Uncle  
23 Noah's murder. She felt, you know, a sense of grief  
24 and loss at his murder.

25 And it really affected her grandmother whose

1 health declined very rapidly after she lost her son  
2 in such a violent manner. Nicolle remembers when  
3 her mother -- because the last time she was able to  
4 see her grandmother she kind of snuck into her  
5 grandmother's hospital room when she wasn't supposed  
6 to. And she remembers her, you know, her chapped  
7 lips and her wrinkly kind of purple fingers, really  
8 on the edge of death and remembers giving her some  
9 water and telling her I love you. And that was the  
10 last time she saw her grandmother alive.

11 She was picked up at school by her Aunt Karina  
12 in a taxi and that was when she was told that she  
13 had passed away. And that was when Nicolle  
14 expressed to me that I know I'll never see -- that  
15 was when she knew that she would never see her  
16 again.

17 She became really depressed after her  
18 grandmother passed away. This is according to her  
19 older sister, Bringer, who says the grandmother's  
20 death really had a ripple effect throughout the  
21 entire family, but particularly for Nicolle who was  
22 so bonded to her. She was very tearful and it  
23 really, really impacted her.

24 Q I'm going to put up what we are marking as  
25 Defendant's Exhibit 57 without objection.

1 (WHEREUPON, Defendant's Exhibit No. 57 was  
2 marked and received into evidence.)

3 DIRECT EXAMINATION

4 BY MS. McGRADY:

5 Q Do you recognize this picture?

6 A I do. That's Nicolle with her Mommy Maria.

7 Q Who gave you this photo?

8 A Nicolle's mother.

9 Q And you may continue.

10 A After Mommy Maria passed away Nicolle was sort  
11 of passed off to the next relative, which was  
12 Aunt Karina. She didn't have a particularly  
13 comfortable time in that home. She was, you  
14 know, suffering the loss of -- she was 7 at  
15 this time when her grandmother passed away.  
16 She was suffering the loss of her primary  
17 caregiver.

18 Aunt Karina was incredibly strict. She reports  
19 that she was a germophobe and was very particular  
20 about everything in the house. So Nicolle didn't  
21 feel like as comfortable there while she was dealing  
22 with the grief of her grandmother.

23 Her Aunt Karina also did use corporal  
24 punishment on Nicolle. Sorry, yeah. That's Nicolle  
25 with her Aunt Karina.

1 MS. McGRADY: And this is Defense Exhibit 58,  
2 again, without objection.

3 THE COURT: What number?

4 MS. McGRADY: Fifty-eight.

5 (Whereupon, Defendant's Exhibit No. 58 was  
6 marked and received into evidence.)

7 THE COURT: What was the one prior to that?

8 MS. McGRADY: Fifty-seven.

9 THE COURT: Okay.

10 Sorry, ma'am. Go ahead.

11 THE WITNESS: That's okay. While she was  
12 living with Aunt Karina she had her first kind of  
13 bad experience of witnessing the violence that was  
14 rampant in Honduras. She'd seen other smaller  
15 things but at a young age you don't always  
16 understand what's going on in society in terms of  
17 gang control and all of that. But she did witness a  
18 murder take place. It was a gang assault. She was  
19 at -- they could see this happen from her Aunt  
20 Karina's apartment. And she remembers her aunt  
21 trying to block her eyes but she could see and hear  
22 what was going on.

23 And as I said, it was just like one thing after  
24 the other between the ages of 7 and 8. During the  
25 time that she was with Aunt Karina her aunt would

1 travel some and she would also have days when she  
2 ran errands and this is according to my interview  
3 with Aunt Karina. And she would leave Nicolle at  
4 her grandfather's house for extended periods of  
5 time.

6 And her grandfather had or she had an uncle,  
7 Uncle Minor, that lived in that household and that  
8 uncle would tempt her with candy. He would make her  
9 sit on his lap and he would molest her. He would  
10 touch her in the private parts and she was just 7  
11 going on 8 at this time. The abuse happened  
12 repeatedly. It was an ongoing thing, not just a  
13 one-off occasion and Nicolle was confused by it.

14 She didn't know if it was wrong or right that  
15 he was doing this. But she did eventually report it  
16 or disclose it to her Aunt Karina who Nicolle says  
17 didn't do anything about it. She thought that it  
18 was just one time and sort of swept it under the  
19 carpet, which is not unusual for families to do.

20 Sexual abuse is incredibly sensitive and  
21 incredibly shameful for a family to confront this  
22 kind of thing. So it is not uncommon and I'm not  
23 surprised that nothing was done. But this kind of  
24 showed Nicolle that she didn't have any protection  
25 and safety when she went to an adult for help. And

1 that's what she learned. That's the message that  
2 she learned.

3 DIRECT EXAMINATION

4 BY MS. McGRADY:

5 Q Is this behavior normal?

6 A What behavior?

7 Q The sexual abuse behavior.

8 A No. It is not normal to be sexually abused.

9 It is a minority of children that have to go  
10 through that. It does happen unfortunately and  
11 there are lasting impacts into adulthood for  
12 children that experience that kind of  
13 molestation and abuse.

14 Q So you mentioned Nicolle experienced sexual  
15 abuse obviously. What if any long-term impact  
16 does childhood sexual abuse have?

17 A Wide-ranging problems of maladjustment,  
18 difficulty trusting others, low self-esteem,  
19 self-defeating behaviors, self-destructive  
20 behaviors. It can lead to depression,  
21 isolation, sexual maladjustment.

22 I think that we see some of this behavior in  
23 Nicolle. She has had episodes of self-harm. She  
24 has difficulty trusting others, which has been  
25 stated on the record by numerous witnesses. And she

1 also has had indiscriminate sexual encounters with  
2 loose boundaries that really put her at risk for  
3 exploitation and further victimization.

4 She does report that she was further victimized  
5 when she was in middle school by her sister's now  
6 husband. They weren't married at the time. This  
7 happened in the family home when he would grope her  
8 and touch her inappropriately. And then on a trip  
9 to Disney Land Nicolle, Bringer and Bringer's  
10 partner were sleeping in a bed in the hotel and he  
11 essentially rubbed his erect penis on her thigh  
12 while she was trying to sleep.

13 So past childhood sexual abuse puts people at  
14 risk for further victimization. And that's clearly  
15 documented in the literature. And again, she went  
16 on to be sexually abused by Treveon Nelson as well.

17 Q Has life taught Nicolle that she is not worthy  
18 of protection or safety?

19 A Yes.

20 Q Why is that?

21 A I think that that is a cause of being sexually  
22 abused at a young age and also being abandoned  
23 by your parents and turning to the current  
24 caregiver that you have and not being believed  
25 or protected. So yes, that's the message that

1 she received.

2 Q At what point did Nicolle come to the United  
3 States?

4 A So she was around 8 at the point that her  
5 parents decided to bring her over with her  
6 older sister who was also a minor. I think it  
7 is important to note these were two minors that  
8 made the journey from Honduras to the U.S.

9 They came with a coyote. And like we heard her  
10 mother testify, they were held for ransom. Nicolle  
11 doesn't have much memory of this so what I learned  
12 of the journey comes from her older sister, Bringer.  
13 But they crossed the border and they were supposed  
14 to meet up with these family acquaintances that  
15 their parents had arranged and that fell through.

16 So this 8 year old and 14 year old were in the  
17 wilderness in Texas essentially and Bringer did what  
18 she thought she needed to do which was turn  
19 themselves in to -- it was actually a police  
20 department that they went to. And they were held in  
21 an adult jail, which Bringer remembers to be really  
22 cold, really uncomfortable.

23 Nicolle's just kind of sticking to her the  
24 whole time clinging to her. And they were picked up  
25 by border patrol from that jail and they were taken

1 to El Paso in Texas and they were taken to the  
2 Lutheran Family Services was the agency that was  
3 dealing with unaccompanied immigrant minors.

4 THE COURT REPORTER: What was the name of it?

5 THE WITNESS: Lutheran Family Services. And  
6 they were placed in -- records from her immigration  
7 records from the Office of Refugee Resettlement show  
8 that Nicolle had only what was on her person in  
9 terms of just the clothes that she was wearing when  
10 she arrived in El Paso.

11 She was placed in a foster care family, the  
12 Montoyas. And the records show that, you know,  
13 Nicolle was confused. That's the word that a case  
14 manager used. She didn't really know what was going  
15 on and why they were there, why there was this kind  
16 of delay. Her understanding was that they were  
17 going to meet their parents. But they spent a  
18 number of months in foster care while the  
19 paperwork -- while her parents went through the  
20 paperwork process of claiming them and being their  
21 sponsors.

22 There was also an incident while she was at  
23 school at this agency where an older male touched  
24 her in the private parts during recess. And I find  
25 it notable that the records show that Nicolle didn't

1 have any reaction to that, as if, you know, that was  
2 something that had happened to her before and it  
3 wasn't abnormal for her to be touched there.

4 DIRECT EXAMINATION

5 BY MS. McGRADY:

6 Q What are some problems for unaccompanied minor  
7 youth?

8 A The literature shows that unaccompanied minor  
9 youth really experience difficulties in  
10 adjusting and having healthy development. They  
11 are obviously at a hugely increased risk for  
12 exploitation during their journey. And the  
13 separation that has occurred prior to them  
14 coming to the U.S. to reunite with family also  
15 has had, you know, traumatic effects on  
16 attachment style.

17 And so they can really have damaged attachment,  
18 toxic stress, traumatization. They are at risk.  
19 The literature shows the unaccompanied minors are at  
20 risk for future mental health conditions such as  
21 PTSD, Conduct Disorder. Again, these are things  
22 that we see in Nicolle. Anxiety, depression, just a  
23 range of issues that the literature shows they are  
24 more at an increased risk of developing. I would  
25 like to read a quote from the literature. Is that

1 okay?

2 Q That's fine.

3 A So a quote goes, In many cases where youth are  
4 released to family members or caregivers who  
5 hold the best intentions for them, the  
6 transition can still be rocky. Longitudinal  
7 studies have found that mental health problems  
8 in unaccompanied immigrant minors persist over  
9 time, underscoring the importance of mental  
10 health treatment and follow-up care. Prior  
11 separations in many cases prolonged can lead to  
12 disruptions in forming secure attachments with  
13 parents and other caregivers.

14 I think this quote is really important because  
15 Nicolle did not get any follow-up mental health care  
16 when she came to the U.S. during that transition  
17 period. And that could have been an incredibly  
18 protective factor for her as she made that  
19 transition to living with this new family that were  
20 essentially strangers to her.

21 Q Can you describe Nicolle's adjustment to living  
22 with her parents in the United States?

23 A It was mixed and not, not easy. I think the  
24 picture of how they reunified at the airport is  
25 really telling. When Nicolle describes or

1           actually I think it is Bringer that describes  
2           this. Her mother was running up to them.  
3           Nicolle immediately went to her younger sister  
4           who she had never met. She was really excited  
5           to meet her and she went immediately to her.  
6           This is a picture of Nicolle with Fernanda or  
7           AS L. And she didn't immediately embrace her  
8           parents. She stood kind of behind Bringer and stood  
9           kind of -- Bringer was the one that she was familiar  
10          with so she kind of stuck by her and was  
11          apprehensive of her parents.

12                 So again, you see this kind of lack of  
13          attachment to her parents, despite their best  
14          efforts, you know. They decorated her new room in  
15          pink princess, you know, duvets and everything.  
16          They really were trying but this wound had been  
17          long, long happened.

18                 She did well in school at first and she learned  
19          at least conversational English very quickly.  
20          People always noted that they were surprised that  
21          she didn't have an accent and how could she come  
22          from Honduras.

23                 MS. McGRADY: Let me let you pause for one  
24          second. The picture with Fernanda or AS is  
25          Defense Exhibit 59 that was offered without

1 objection. And the next photo I'm putting up is  
2 Defendant's Exhibit 60.

3 (Whereupon, Defendant's Exhibit Nos. 59 and 60  
4 were marked and received into evidence.)

5 THE WITNESS: So this is Nicolle proudly  
6 displaying some certificates she had earned in  
7 school. She was in ESL and really kind of excelled,  
8 at least conversationally and but things were rocky.  
9 Her parents had what we term in the social science  
10 literature an authoritarian parenting style, which  
11 is linked to juvenile delinquency.

12 Nicolle was essentially as she got older, a  
13 little older than this picture, she was not allowed  
14 to socialize like her peers. She remembers just  
15 basically being able to go to school and she had to  
16 come home at a certain hour. She only remembers one  
17 incident, instance where she had a social outing  
18 with a peer who was another Latina. And they went  
19 to the movies and they were accompanied I think by  
20 the friend's parents. But other than that she  
21 didn't have friends over, wasn't allowed to go to  
22 sleepovers like her peers and she resented that as  
23 somebody trying, you know, to fit in and make  
24 friends in this new place.

25 Her parents were fearful. They are

1 undocumented immigrants. They, for good reason,  
2 were overprotective. Nicolle says they watched a  
3 lot of news and would see bad things that were  
4 happening in the community. They didn't necessarily  
5 trust neighbors or community members and Nicolle  
6 felt that and they passed on that fear and  
7 overprotectiveness to her.

8 She went on to have her first disciplinary  
9 infraction when she was 9. So you start to see  
10 things are not all rosy. And she did experience  
11 abuse or reports abuse at the hands of her mother  
12 who this authoritarian parenting style did go into  
13 corporal punishment.

14 DIRECT EXAMINATION

15 BY MS. McGRADY:

16 Q Can you tell us more about the abuse that  
17 Nicolle suffered at the hands of her mother?

18 A Sure. When she was 10 she describes that she  
19 was looking for a shoe, to help her mom look  
20 for a shoe and she apparently made a mess and  
21 her mom hit her with the shoe. And then there  
22 was more punching and physical altercation and  
23 she got a black eye as a result of this  
24 incident.

25 She went to school and her friend noticed the

1 black eye. And I believe it was her friend that  
2 reported it to the teacher because she told her  
3 friend what had happened. At first Nicolle wanted  
4 to protect her mother so she said it was something  
5 else but then later she did say that it was her  
6 mother. And in DSS records in the forensic  
7 interview she did go on to say that her mother had  
8 used belts on her before and that there was  
9 excessive corporal punishment in the home.

10 Q To your knowledge what kind of long-term impact  
11 does DSS involvement have or and placement in  
12 the foster care system have?

13 A Sure. So as a result of that instance, Nicolle  
14 was placed in stranger foster care, which is  
15 noted to have even more of a detrimental impact  
16 than, say, kinship foster care. Her and her  
17 sister were away from their parents, removed  
18 from their parents for just under a year, I  
19 believe.

20 They didn't have a good experience in the first  
21 foster care home. Her sister was mistreated and  
22 that's documented in DSS records and was told to me  
23 by numerous family members and Nicolle. AS was  
24 kind of if she was kind of soiled herself, they  
25 would leave, the family would leave her in the

1 bathroom by herself and Nicolle would find her on  
2 the toilet asleep, kind of left alone.

3 And to answer your question, foster care youth  
4 face unique developmental challenges and poor odds.  
5 It is well documented in the literature of the  
6 connection between foster care and juvenile justice  
7 involvement. There is kind of multifactorial kind  
8 of things that go into that but abuse and neglect  
9 certainly are correlated to delinquency and juvenile  
10 justice involvement.

11 Specific risk factors that Nicolle experienced,  
12 specific to her are in the literature. It is shown  
13 that if a child is removed after age nine, the risk  
14 factor, the detrimental risk exponentially increases  
15 and for Nicolle she was older than nine at the time  
16 of her removal. Also being Hispanic is also a risk  
17 factor and being placed in a congregate setting,  
18 like a group home, is the highest risk factor for  
19 juvenile justice involvement or justice involvement  
20 and delinquency. And as we know, Nicolle was in  
21 Epworth. Yeah.

22 Q You have mentioned many traumatic events that  
23 Nicolle had suffered. What if any long-term  
24 impacts can this kind of childhood trauma have?

25 A So it is widely recognized what we talk about

1 as adverse childhood experiences, ACES. This  
2 is widely recognized in the field of  
3 psychology, medicine, social work, social  
4 science fields.

5 Primary care facilities are doing screenings on  
6 ACES because they are so well known to have an  
7 impact on life outcomes and even on physical health  
8 outcomes. So the more ACES a child has, the worst  
9 odds they face in life for a variety of mental  
10 health, physical, educational, on all measures.

11 So, you know, Nicolle experienced parental  
12 abandonment, a violent death of her relative, the  
13 death of her primary caretaker, witnessing community  
14 violence in Honduras, being sexually abused by an  
15 uncle, immigrating as an unaccompanied minor, being  
16 held at ransom, physical abuse by her mother and  
17 placement in the foster care system.

18 This is not insignificant. Like I can't state  
19 how significant this number of ACES is to a child of  
20 Nicolle's age. And we are not even -- we haven't  
21 even got into what she went through after the time  
22 period we are talking about now. So this is a girl  
23 that has faced a multitude of traumas.

24 Q How would you describe Nicolle's adolescence?

25 A I would describe it as tumultuous for sure.

1 She entered this stage of development with the  
2 odds severely stacked against her, with her  
3 adverse childhood experiences, her  
4 developmental traumas, her attachment issues,  
5 the authoritarian parenting style of her  
6 parents, her involvement with DSS and the  
7 foster care system. I mean, this is just one  
8 thing stacked on top of the other.

9 She was not facing good odds. And it is not  
10 surprising that she had a difficult adolescence.  
11 And this showed up for her in running away, which we  
12 have heard a lot about, skipping school, smoking  
13 marijuana, talking back to teachers. She had  
14 numerous incident reports at school. But again,  
15 this behavior like is not surprising for somebody  
16 who has gone through everything that she has and who  
17 came to this stage of development with the odds  
18 stacked against her.

19 She was 14 years old when the first runaway  
20 report was filed by her mother. And that became a  
21 pattern and it really put her at risk for  
22 exploitation. I wouldn't be surprised even if there  
23 are things that happened during those runaway  
24 periods that she didn't even open up to me about  
25 because she's not ready, comfortable. But she found

1 herself in really precarious and dangerous  
2 situations as a child.

3       There was another abuse investigation and DSS  
4 records do actually state that Mrs. Peralta admitted  
5 to having a physical altercation with Nicolle at  
6 that time. And then there is her first DJJ charge,  
7 which again, she was found in the company of an  
8 adult, a grown man who had her hold his marijuana  
9 for her because he had warrants. And that was the  
10 stem, the root of her first DJJ contact.

11 Q     Did Nicolle go on to experience any further  
12 traumas?

13 A     She did. When she was 15 her family home was  
14 shot up. We heard about that from Mrs.  
15 Peralta. This is a picture of the family  
16 outside the home that was shot before, some  
17 time before the shooting. Nicolle was asleep  
18 in bed at the time.

19       One thing that really scares her about the  
20 incident is that a bullet went into the headboard of  
21 her younger sister. So AS was just very narrowly,  
22 narrowly missed being fatally shot during this  
23 incident. After this incident, Nicolle experienced  
24 pronounced trauma symptoms and her mother took her  
25 to Brookland Pediatrics for treatment and there she

1 was diagnosed with Acute Stressor Disorder which is  
2 kind of a precursor to PTSD.

3 So if you are diagnosed with Acute Stressor  
4 Disorder, it just means that you haven't experienced  
5 the symptoms long enough or enough of the duration  
6 to get a PTSD diagnosis. But often that diagnosis  
7 will later become PTSD. She was prescribed  
8 medicine, psychiatric medicine for anxiety and  
9 depression at that time.

10 Her mother, and the records reported that  
11 Nicolle was not eating, was not sleeping, was  
12 hypervigilant, was on alert, just couldn't relax.  
13 So this incident really had a profound effect on  
14 her. Then she went on to experience interpersonal  
15 violence at the hands of Treveon Nelson, including  
16 emotional, sexual and physical abuse.

17 MS. McGRADY: Your Honor, for the record this  
18 is Defense Exhibit 62, the family in front of their  
19 home without objection.

20 (Whereupon, Defendant's Exhibit No. 62 was  
21 marked and received into evidence.)

22 DIRECT EXAMINATION

23 BY MS. McGRADY:

24 Q Has Nicolle ever received mental health  
25 treatment?

1 A Like I said before, it would have been really  
2 great if Nicolle had gotten treatment when she  
3 first arrived to the country. And that  
4 opportunity was missed. That would have helped  
5 her transition, her bonding with the family,  
6 help her deal with the traumas she had already  
7 had at that young age of 8 when she arrived.

8 The treatment that she got was sporadic. It  
9 was through her contact with DSS and DJJ. Those  
10 agencies kind of parachuted into her life and no  
11 kind of interventions. The interventions didn't  
12 meet her needs. They never got the family therapy  
13 that was ordered by the DJJ case.

14 She did get some therapy through the Department  
15 of Mental Health and she went on to be hospitalized  
16 at William S. Hall when she was 15. That  
17 hospitalization was just acute stabilization. There  
18 was no follow-up to that. And if it is okay, I  
19 would like to read a quote from the literature.

20 Q Sure.

21 A So at William S. Hall, she was diagnosed with  
22 Unspecified Disruptive Impulse Control and  
23 Conduct Disorder. So the literature shows that  
24 Conduct Disorder often has an underlying root  
25 cause. Trauma is the underlying root cause and

1           also attachment issues. And this quote from  
2           the literature says, Distracted by disruptive  
3           behavior, we medicate, punish or exclude rather  
4           than respond to the needs of youth who have  
5           experienced relational trauma. Our question  
6           should not be what is wrong with you, but  
7           rather what has happened to you.

8           I would say that every interaction that Nicolle  
9           had with providers, they asked the wrong question.  
10          They asked the question what is wrong with you. And  
11          they punished and medicated and excluded rather than  
12          asking what has happened to you. And often when  
13          Nicolle said what has happened to her, she was not  
14          believed.

15         Q     Did she ask for therapy at Epworth?

16         A     She did. But she was not able to access it at  
17          that time. I'm not sure why.

18         Q     To your knowledge has she utilized all the  
19          treatment at DJJ?

20         A     She has. Dr. Dawn testified to that yesterday.  
21          And the records show that she's engaged in  
22          group therapy, individual therapy. She has a  
23          social worker, psychologist, a psychiatrist.  
24          She's accessing everything that she can and  
25          participating to the best of her abilities.

1 Q What was the nature of Nicolle and Tre's  
2 relationship?

3 A Well, at first it was young love. It started  
4 off innocently with notes at school where he  
5 asked her for her Snapchat. He asked her to go  
6 out with him during a fire drill, when everyone  
7 in the school was lined up. And she liked him.  
8 He was somebody that had a reputation for being  
9 kind of a stud. Other girls had a crush on him. He  
10 was good looking, charming, according to Nicolle's  
11 report of what other girls thought of him. And they  
12 really fell in love.

13 She felt protected by him. He made her feel  
14 special and that's her own words in messages to him  
15 on social media. She repeatedly says, You make me  
16 feel special. She was proud that he chose her  
17 because he could have had a lot of other girls.

18 And he was vulnerable with her too, which she  
19 really liked. She remembers him crying about a  
20 time, you know, he had I think an uncle that  
21 committed suicide and had some other traumas that he  
22 shared with her. And he treated her really well in  
23 the beginning, made her, again, in her own words,  
24 Feel very special. That changed. It changed  
25 gradually and he became emotionally and physically

1 and sexually abusive to her.

2 Q All right. I'm going to stop you there.

3 MS. McGRADY: Your Honor, may I approach the  
4 witness?

5 DIRECT EXAMINATION

6 BY MS. McGRADY:

7 Q Do you recognize this?

8 A I do.

9 Q Can you tell us what this is?

10 A This is one of the examples of a cycle of abuse  
11 graphic.

12 Q And you are prepared to tell us about the cycle  
13 of abuse?

14 A Yes.

15 MS. McGRADY: Do we have a copy of this?

16 THE WITNESS: I have one.

17 MS. McGRADY: Thank you.

18 We offer this as Defendant's 63.

19 MS. MAYES: No objection.

20 (Whereupon, Defendant's Exhibit No. 63 was  
21 marked and received into evidence.)

22 THE COURT: All right.

23 THE WITNESS: So this is the cycle that Nicolle  
24 found herself in with Tre. I'm going to refer to  
25 him as Tre because that's easier because that's how

1 Nicolle refers to him. So the beginning of the  
2 cycle is this tension is building or sorry, calm is  
3 the beginning of the cycle. Things are good, he's  
4 treating you well, he's you know telling you things  
5 that make you feel good, make you feel safe, love  
6 and protected. And then tension is building and  
7 then eventually there is some kind of explosive  
8 incident. That can be verbal. It could be sexual.  
9 It could be physical but it is a moment of abuse.

10 And then there comes a period of  
11 reconciliation. In this period the abuser is really  
12 apologetic, does things to make up for it, minimizes  
13 what they did, tells you, you know, Tre would tell  
14 Nicolle that I did this because I loved you, because  
15 I love you. Really having all kinds of excuses for  
16 the behavior and the victim sort of acquiesces and  
17 moves on and kind of forgives them, hoping that it  
18 won't happen again. And then you fall back into the  
19 cycle of okay, things are good, things are good for  
20 a while, maybe he'll never do it again, maybe I  
21 overblew it or maybe it was overblown in my head.

22 And then it just happens again and again and  
23 there is really no time frame for this. So it could  
24 happen over months. It could happen multiple times  
25 in a day. And with Nicolle and Tre it started

1 infrequently and then the pace on the cycle kind of  
2 picked up. Yeah.

3 And many women die because they get trapped in  
4 this cycle. They believe there is no escape. When  
5 they make attempts at escape is actually when they  
6 are at the highest risk from their abuser and yeah.

7 MS. McGRADY: May I approach the witness?

8 DIRECT EXAMINATION

9 BY MS. McGRADY:

10 Q Do you recognize this?

11 A Yes.

12 Q Can I have your copy of it if you have one just  
13 in case the State asks for it?

14 A Yeah.

15 Q Do you recognize this?

16 A I do.

17 Q Can you tell us what it is?

18 A It's the Power and Control Wheel which is a  
19 visual depiction of the tactics that abusers  
20 use to exert power and control over their  
21 victims.

22 Q Are you going to be able to describe this to  
23 us?

24 A Yes.

25 MS. McGRADY: At this time we offer this as

1 Defendant's Exhibit 64.

2 MS. MAYES: No objection.

3 (Whereupon, Defendant's Exhibit No. 64 was  
4 marked and received into evidence.)

5 DIRECT EXAMINATION

6 BY MS. McGRADY:

7 Q What is the Power and Control Wheel?

8 A So the Power and Control Wheel is a visual  
9 depiction of categorizing the types of tactics  
10 that abusers use to exert power and control  
11 over their victims.

12 Q Can you tell us how this relates to Nicolle?

13 A Sure. So in interviewing Nicolle about her  
14 relationship with Tre, I went over this Power  
15 and Control Wheel, not giving her a copy but  
16 asking her if he used certain -- if she could  
17 name certain things in each category. And I  
18 left it very broad, without giving examples and  
19 Nicolle was able to give examples in every  
20 single category of abuse of power and control.

21 She said that the physical abuse started after  
22 a couple of months of them dating and it was for  
23 petty things like not texting back quickly enough.  
24 He used all manner of physical abuse like beating  
25 her with his fists, with shoes, pushing her,

1 grabbing her by the hair. She described one time  
2 that he picked her up and threw her down on a branch  
3 outside which caused her to limp.

4 Another time he hit her in the face and her  
5 nose bled on the mattress. And I believe Treveon's  
6 mother was present for that incident. And you know,  
7 this is an adult woman that should be responsible  
8 for a minor in her house and she did nothing to  
9 intervene with her son's violence.

10 On another incident he punched her and her  
11 tooth went through her lip. She described  
12 incidences of sexual abuse where after Treveon had  
13 been physically abusive with her, he would force  
14 himself on her sexually. She would just acquiesce  
15 because she knew that if she fought back, he would  
16 beat her again.

17 He used emotional abuse. He used all kinds of  
18 pejorative language that I'm not sure I should say  
19 here. But he frequently referred to her as bitch  
20 and all kinds of other pejorative things.

21 He would cheat on her and then he would flip  
22 things around and gaslight her. He would, for  
23 example, if she saw messages between him and another  
24 girl, he would then like tell her delete them and  
25 tell her that she had imagined it. So he would

1 basically make her feel like she was crazy. That's  
2 a hallmark kind of tactic that abusers use to  
3 gaslight their victims.

4 He would intimidate her. She said that he had  
5 kind of this scary look that he would give her. He  
6 also had a scary laugh that she said sounded like a  
7 maniac. And then he would also the most  
8 intimidating thing that he would do would be to  
9 display his gun to her. He held his gun to her head  
10 on numerous occasions and he pistol whipped her on  
11 one occasion.

12 The January 19th, 2021 incident came up in Mrs.  
13 Peralta's cross. Nicolle ran from his house after  
14 an instance of physical abuse in which she reported  
15 to from the Econo Lodge. She reported to police,  
16 yet she wasn't really protected from his abuse.  
17 There are messages that I have seen between her and  
18 her mother in which it is clear that her mother  
19 knows that she is at his house and that on when she  
20 is on runaway status at his house and that her  
21 mother knows that he is abusive to her, and she  
22 constantly -- there is no help. There is no  
23 intervention. She says constantly (Spanish). Like,  
24 that basically means let me figure it out. The  
25 message to her is that she is on her own to figure

1 this out and she is trapped in this cycle.

2 Q What would be the outcome of saying no to  
3 Treveon when he tells Nicolle to do something?

4 A A beating, any manner of things that I've  
5 described. Nicolle feared for her life. He  
6 lived in her head. That's what abusers do.  
7 They don't need to hold a gun to your head for  
8 you to feel threatened or controlled. Going  
9 through that cycle over and over again means  
10 that he had control over her even when he  
11 wasn't physically with her.

12 She was in fear of her life. If she didn't  
13 participate, she knew that she would be seriously  
14 injured or killed, particularly after SA's death  
15 when she had seen what he was capable of. She was  
16 in fear for her life and she went on to find out  
17 what he would do if she -- when she said that she  
18 was going to turn herself in he went on to assault  
19 and rape her. And quite frankly, she's lucky that  
20 she made it through that attack. She really could  
21 have been killed and yeah.

22 Q Would you say that the amount of traumatic  
23 experiences that Nicolle has been through is a  
24 lot?

25 A Absolutely.

1 Q I'm going to show you this timeline that you  
2 made and ask if you recognize it.

3 A I do.

4 MS. McGRADY: This is Defense's Exhibit 65 and  
5 66.

6 DIRECT EXAMINATION

7 BY MS. McGRADY:

8 Q Can you tell us what this is?

9 A This is a timeline of Nicolle's life  
10 highlighting traumatic events and adverse  
11 experiences.

12 Q And these are things that you have already told  
13 us about?

14 A Yes.

15 MS. MAYES: All right. Your Honor, the State  
16 does object to 65 and 66. We did not get a copy and  
17 I can't verify these dates on such short notice.

18 THE COURT: The document is just reciting what  
19 she alleges are traumatic events to this witness?

20 MS. McGRADY: Yes. As she has testified.

21 THE WITNESS: It is a visual depiction.

22 THE COURT: Wait a minute. Don't say anything.

23 So how long do you need to look at it to verify  
24 it, Solicitor? I mean, if she has just -- I mean,  
25 those are what she has put on a document that was

1 recited to her by the juvenile. I'm going to allow  
2 it in. I'll put the appropriate weight on it. It  
3 is 65, 66.

4 (Whereupon, Defendant's Exhibit Nos. 65 and 66  
5 were marked and received into evidence.)

6 DIRECT EXAMINATION

7 BY MS. McGRADY:

8 Q In going back to our question, would you say  
9 that the amount of traumatic experiences  
10 Nicolle has been through is a lot?

11 A I would. I would say that Nicolle has more  
12 traumas than a whole classroom full of kids  
13 should at that age. This is not a small amount  
14 of adversity for a child to go through that we  
15 are talking about. This is repeated traumas  
16 over her developmental stages, which we refer  
17 to as complex trauma.

18 So just to reiterate, this is a visual  
19 depiction. She started off her life with a sick  
20 mother and was not able to bond leading to  
21 attachment issues. Before she was two her parents  
22 abandoned her.

23 THE COURT: Let me interrupt you, ma'am.

24 Ms. McGrady, this has already been testified  
25 to.

1 MS. McGRADY: Right.

2 THE COURT: Now that you have put it in, this  
3 has already been testified to over and over about  
4 the trauma and the time frame. So I mean, is there  
5 a reason why this is repetitive at this stage?

6 MS. McGRADY: No, Your Honor. We can move  
7 forward.

8 THE COURT: Thank you.

9 DIRECT EXAMINATION

10 BY MS. McGRADY:

11 Q Is this hugely significant for Nicolle?

12 A Yes. Absolutely.

13 Q How are adolescents different than adults?

14 A So adolescents are different from adults in a  
15 number of ways and that is widely recognized by  
16 the literature and by the courts. Adolescent  
17 brains are not fully developed. Their  
18 prefrontal cortex is immature up until the mid  
19 to -- early to mid 20s is when the brain  
20 develops as Dr. Dawn stated yesterday.

21 The prefrontal cortex is responsible for  
22 executive functions like decisions and planning and  
23 those kind of things. In turn, the limbic system in  
24 adolescence is overreactive and this is the part of  
25 the brain that is responsible for impulse.

1           Adolescents are susceptible to peer influence,  
2           which is widely acknowledged and they are more  
3           likely to engage in risk-taking behavior. They are  
4           simply more focused on the reward than the risk.  
5           And this is because of the way the brain system is  
6           set up and the reward, the reward security in the  
7           brain. Adolescents are much more inclined for  
8           immediate gratification rather than long-term and  
9           they are impulsive in sensation seeking.

10           They are also less likely to think about the  
11           future and evaluate negative consequences. So I  
12           think Nicolle's behavior really needs to be  
13           understood within the context of adolescent  
14           development and the brain science that shows that  
15           adolescents are fundamentally different than adults.  
16           She is. She is still a child.

17           Q     Do you think that Nicolle expresses remorse?

18           A     I do. To me absolutely. Absolutely. And I  
19           think that may be a difference between Dr. Dawn  
20           and myself is that Nicolle felt safer with me  
21           to express that vulnerable emotion. She's  
22           talked incredibly genuinely about her love of  
23           SA . This was her friend. This was somebody  
24           that she trusted. She expresses that she  
25           readily expresses that she doesn't trust many

1 people and SA was one of them.

2 She describes times when SA sent Ubers for  
3 her to get her away from Tre when he was being  
4 abusive. She describes sitting up all night outside  
5 cuttled under SA's hoodie together and SA  
6 taking her into her home to help her with showering  
7 and getting her something to eat.

8 She also talked a lot about SA's sister and  
9 how difficult it is for her to imagine what it would  
10 be like if something happened to Fernanda. And  
11 those expressions were incredibly vulnerable and  
12 genuine.

13 She loves music, Nicolle. And one of the ways  
14 that she copes is through music and through lyrics.  
15 And she had a song that reminded her of her  
16 grandmother previously that now is a song that she  
17 dedicates for SA. And I'm just going to read  
18 some lyrics. I hope you are dancing in the sky.  
19 And I hope you are singing in the angels choir. I'm  
20 sorry. And I hope the angels know what they have.  
21 I bet it is nice up in Heaven since you arrived.

22 And Nicolle would ask me to play this song  
23 every time we met and she would cry when the song  
24 was played. It wasn't fake. I know genuine feeling  
25 and it was not fake. I will say that Dr. Dawn

1 testified yesterday to juvenile remorselessness and  
2 that juveniles shouldn't be held to the same  
3 standards as adults in being able to express  
4 remorse. And I think that that is important but to  
5 me absolutely, absolutely Nicolle expressed remorse.

6 Q From your knowledge and observation does  
7 Nicolle potentially show systems congruent with  
8 depression?

9 A Yes.

10 Q From your knowledge and observation does  
11 Nicolle potentially show symptoms congruent  
12 with anxiety?

13 A Yes.

14 Q From your knowledge and observation does  
15 Nicolle potentially show symptoms congruent  
16 with attachment issues?

17 A Absolutely.

18 Q From your knowledge and observation does  
19 Nicolle potentially show symptoms congruent  
20 with PTSD?

21 A Yes.

22 Q From your knowledge and observation does  
23 Nicolle potentially show symptoms congruent  
24 with factors unique to abuse survivors?

25 A Yes.

1 Q Just to be clear, you are not diagnosing  
2 Nicolle; is that correct?

3 A Correct.

4 Q In fact, you are just acknowledging that  
5 Nicolle's past trauma history is one of the  
6 worst that you have seen and it could result in  
7 these mental health issues. Is that a correct  
8 statement?

9 A Yes. That's correct.

10 Q What is Nicolle's opportunity for  
11 rehabilitation if given adequate supports?

12 A Well, the trend that is widely acknowledged for  
13 juveniles that are showing delinquent behavior  
14 and have justice involvement is a downward  
15 trend. Most youthful offenders do not continue  
16 to offend into their 20s and Nicolle is no  
17 different. She is included in that, in that  
18 trend.

19 She has participated in as much treatment as  
20 she has access to at DJJ and that's a really good  
21 indicator. When I've interacted with her and I've  
22 given her handouts on grounding exercises and stress  
23 relief techniques, she's hungry for that  
24 information. She always asks me to keep that and  
25 she puts it in a binder so that she can refer to it.

1           She needs to process these traumas and  
2           vulnerabilities. And yes, it is a lot that she has  
3           been through but with evidence based and  
4           developmentally appropriate supports, she's not  
5           somebody that we need to throw away. She has an  
6           opportunity for rehabilitation.

7           In my interview with Dr. Roundtree, who is over  
8           psychology at DJJ, he let me know what is available  
9           in the DJJ system and specifically referenced trauma  
10          focus CBT, which I think absolutely she would  
11          benefit from. He also referenced DBT, Dialectical  
12          Behavior therapy, which is particularly useful for  
13          people with self-harming behaviors and  
14          self-defeating behaviors. So I think she would also  
15          benefit from that.

16          He mentioned Aggression Replacement Therapy,  
17          which I also think Nicolle would benefit from with  
18          some anger issues that she's identified. He also  
19          mentioned that she would have access to medication  
20          management and a psychiatrist and she's already on  
21          medication and it was testified to yesterday that  
22          she is doing much better when she is on that  
23          medication. So she would be able to continue that.

24          When I talked to Mr. Britton who oversees  
25          programming, he describes a wide range of programs

1 that are developmentally appropriate to her,  
2 including GED programming, which is particularly  
3 special or individualized for the small offender  
4 population that they have at BRRRC.

5 They have a youth in transition program after  
6 the GED is obtained where youth can learn like hard,  
7 hard skills and work ethic with jobs that they are  
8 earning money for. With Nicolle, those services are  
9 simply not available in the Department of  
10 Corrections in a developmentally appropriate manner.

11 Ms. Crapps, I believe was her name who  
12 testified from SCDC, said, We treat everyone the  
13 same. That is not what we want for our youthful  
14 offenders. We don't want them to be treated the  
15 same because they are fundamentally different. So  
16 DJJ has the purview for the kinds of clinically and  
17 developmentally appropriate treatments that are  
18 evidence based that Nicolle could benefit from. And  
19 I believe that she has -- that she should be given  
20 the chance to avail herself of those opportunities.

21 MS. McGRADY: Thank you, Kristen. Please  
22 answer any questions the State may have.

23 CROSS-EXAMINATION

24 BY MS. MAYES:

25 Q Good afternoon.

1 A Good afternoon.

2 THE COURT: Solicitor, before you begin was her  
3 report marked or admitted at any point or is it  
4 something that y'all -- I don't know if it was or  
5 not.

6 MS. MAYES: It has not been admitted, Your  
7 Honor.

8 THE COURT: Okay.

9 MS. McGRADY: We need to have that admitted,  
10 Your Honor. Could we have that admitted as, I don't  
11 know what number we are on. Defense's 67.

12 THE COURT: Solicitor.

13 MS. MAYES: We leave that to your discretion,  
14 Your Honor.

15 THE COURT: I'm going to allow it. It would  
16 have been admitted had they asked. There is no  
17 valid objection that I'm aware of other than the  
18 timeliness. Sixty-seven.

19 MS. SELERT: Yes, Your Honor. Thank you.

20 (Whereupon, Defendant's Exhibit No. 67 was  
21 marked and received into evidence.)

22 CROSS-EXAMINATION

23 BY MS. MAYES:

24 Q Now your report does not have page numbers, or  
25 at least my copy does not. So I'm going to do

1 my best to refer you as needed.

2 You are aware of the finding noted in  
3 Dr. Dawn's report that due to the numerous false  
4 allegations throughout her adolescence, that there  
5 is considerable concern about Nicolle's disclosures  
6 to any professional working with her as she appears  
7 to engage in chronic lying?

8 A I am and I'm not surprised given everything  
9 she's been through that she would not be  
10 truthful all the time.

11 Q And the fact that she does have an issue with  
12 chronic lying, especially to professionals in  
13 the field, regarding past alleged issues of  
14 victimization, it makes it difficult for anyone  
15 to truly assess what's valid and what's  
16 reliable, doesn't it?

17 A For some people might find it hard, yes.

18 Q But you believe everything she says to you?

19 A There are things that she has said that are  
20 untrue like the allegation of abuse to her  
21 father. But for the most part, yes, I believe  
22 what Nicolle has told me.

23 Q For the most part. And of course, as you said,  
24 this is coming to you self-reported from  
25 Nicolle, correct?

1 A Well, I reviewed a mountain of records as well  
2 and talked to other people. This is not just  
3 self-report.

4 Q Well, you say you did. You say you reviewed a  
5 mountain of records but you had available to  
6 you all of those social media records?

7 A I was given certain social media records.

8 Q Well, did you review thoroughly the entire  
9 Instagram communications between Nicolle and  
10 various other people including Treveon Nelson?

11 A It is not actually customary for a mitigation  
12 specialist to review discovery in that way.

13 Q Okay. Well, I want to ask you about that  
14 because when we are talking about discovery in  
15 modern times and of course, I'm an attorney  
16 that goes back before there were smart phones  
17 and before there was an Instagram or anything  
18 like that. But you would agree that where we  
19 are with modern technology, the phone is pretty  
20 much an extension of one's self?

21 A I would agree with that.

22 Q What you are thinking, what you are searching,  
23 who you are communicating with. And where the  
24 social media is concerned, Nicolle used social  
25 media, her Snapchat, that she told this officer

1 she did not have; her Facebook, that she told  
2 this detective she did not have. And then  
3 those communications between her and Treveon  
4 Nelson that's going to tell you what she is  
5 really thinking and doing, isn't it?

6 A I think that social media is often not an  
7 accurate reflection of reality. Actually, I  
8 think people present themselves in different  
9 ways on social media than in the real world.

10 Q So a social media post, for example, such as a  
11 Facebook post, might not be reflective of what  
12 what's going on behind closed doors. But when  
13 you are communicating one-on-one, a direct  
14 message, it is not a post on Instagram. Those  
15 are private communications. They are text  
16 messages between the defendant in this case and  
17 all the other parties. Wouldn't you want to  
18 review that?

19 A Some people would do more. Some people would  
20 do less. I stand by what I did and my  
21 methodology.

22 Q Okay. Well, let's talk about that. And again,  
23 I don't have a page number but where you have  
24 quoted those lyrics that you read a little  
25 while ago, in that bottom paragraph on that

1 page you report that she was held hostage by  
2 Treveon following the murder of SA [REDACTED]. And  
3 again, you didn't have access to Snapchat so  
4 you weren't aware that they had been posting on  
5 Snapchat videos of them in a motel room having  
6 sex, having fun. You didn't know about any of  
7 that?

8 A I think I testified to the cycle of abuse and I  
9 would say they were in a honeymoon period  
10 during that time.

11 Q Again, what you put in your report is that she  
12 was held hostage. You acknowledge you did not  
13 have all the information in that regard,  
14 correct?

15 A I'm sorry. Can you repeat the question?

16 Q Where you state that she was held hostage, you  
17 acknowledge now that you did not have all the  
18 necessary information to make that  
19 determination?

20 A I don't believe that being held hostage means  
21 that you have a gun to your head.

22 Q Now you also state here that she was held by  
23 Treveon and that the first chance she got, she  
24 ran away and stayed with a friend. But on  
25 April 25th she decided to go to a store. As

1 she was crossing a bridge she noticed someone  
2 following her. She didn't see who it was  
3 before the person pushed her into the bushes  
4 and then she realized it was Treveon.

5 So again, that account is coming from Nicolle?

6 A Yes, it is.

7 Q Okay. Just as she told you that she had been  
8 in your words, Held hostage by Treveon, not  
9 letting her out of his sight.

10 A I don't think Nicolle ever told me -- used the  
11 words held hostage. But she was held against  
12 her will which is the same thing.

13 Q All right. And again, that she is  
14 self-reporting that.

15 If you had the social media communications  
16 between her and Treveon as well as her and others,  
17 wouldn't that help you make a determination as to  
18 whether or not that's actually factual?

19 A Again, I don't believe that being held hostage  
20 means you have to have a gun to your head and I  
21 believe that the cycle of abuse is clear and  
22 that you can be in love with your abuser and  
23 you can have good times with your abuser and  
24 that that post in the hotel room doesn't change  
25 my mind about the fact that she was in an

1 abusive relationship with him and she was  
2 not -- it was not of her will.

3 Q Not of her will. Okay.

4 And you are also aware that when she ran away  
5 with him on the 31st, and I believe you recounted  
6 that as well, that he shows up to the store. Had  
7 you looked at all the police reports to know that  
8 she actually took the money to run away before she  
9 ever went to the store that day? Did you know that?

10 A Again, Treveon was living in her head. I  
11 wouldn't -- we don't know if he told her to  
12 take that money.

13 Q So she is at home. She has her own money. She  
14 is in her own house. And if she took the money  
15 and decided to go to work and then run away  
16 with Treveon, that's because Treveon is living  
17 in her head? So he makes her do this while she  
18 is at her own home?

19 A It could be. Yes.

20 Q Okay. So moving on, regarding the many, many  
21 false statements that have been made by Nicolle  
22 throughout her life, throughout her adolescence  
23 and then most importantly, in this murder  
24 investigation. Now you are aware that  
25 following the murder of SA [REDACTED], Treveon

1            somewhere around mid April has taken up with a  
2            girl that she refers to on social media as  
3            Jasmine. She is extremely upset about that.  
4            She has a friend to stay with, so as you would  
5            agree a more safe place than with Treveon  
6            Nelson?

7    A        Is there a question?

8    Q        Yes. That is my question. Would you agree  
9            that that is a more safe place to be than with  
10           Treveon Nelson?

11   A        With the friend?

12   Q        Yes.

13   A        Yes.

14   Q        So she's with that friend and then repeatedly  
15            makes threats to Treveon Nelson to both him and  
16            his girlfriend. You are aware of that?

17   A        (There was no response.)

18   Q        Are you aware of that?

19   A        Yes. I think they are baseless and she is  
20            blustering.

21   Q        When did you become aware of that? When did  
22            you become aware that she had made multiple,  
23            multiple threats to Treveon Nelson and his  
24            girlfriend?

25   A        In this courtroom.

1 Q And when did you become aware that she had  
2 attempted to lure him back by telling him that  
3 she was pregnant?

4 A In this courtroom.

5 Q And when did you learn that she had sent him  
6 numerous, numerous sexually explicit messages  
7 and videos just prior to April 25th?

8 A In this courtroom.

9 Q Now during this law enforcement investigation,  
10 she's wanted of course because she's a missing  
11 person. She is in NCIC. When Molly Nations,  
12 the lead detective in SA's [REDACTED] disappearance  
13 makes initial contact with her, of course her  
14 first story is I don't know anything about  
15 this. The last time I saw SA [REDACTED], SA [REDACTED] left  
16 with Raysean Jenkins. And then she ends up  
17 implicating Treveon Nelson. Were you aware of  
18 that?

19 A I'm sorry. Can you repeat that?

20 Q Were you aware that in her interview with Molly  
21 Nations she ends up implicating Treveon Nelson  
22 in SA's [REDACTED] disappearance and murder?

23 A I'm sorry. Who is Molly Nations?

24 Q She is a detective with the Richland County  
25 Sheriff's Department investigating SA's [REDACTED]

1 disappearance.

2 A Am I aware that she implicated Treveon?

3 Q Yes.

4 A I am aware that she implicated Treveon at some  
5 point. I don't know when.

6 Q Okay. So did you know that when she first  
7 implicated Treveon, she gave an elaborate story  
8 that Treveon had left with SA [REDACTED] along with  
9 Jaylen and that she had been back at the house;  
10 she had drank some lean; she had taken some  
11 pills; and she just passed out and she wasn't  
12 even with them. Did you know that?

13 A Did I know that --

14 Q Did you know that she made that statement? Did  
15 you know that she made that false statement to  
16 police?

17 A When?

18 Q April 27th.

19 A I'm sorry. I was asking did I know that at  
20 what point. Are you asking if I knew that now  
21 or if I knew that at the time of my report?

22 Q At any point in time.

23 A I think that was put on here in the courthouse.

24 Q Okay. So she had no trouble implicating  
25 eventually Treveon in SA's [REDACTED] disappearance and

1 murder. She just chose to not tell her role in  
2 it, correct?

3 A I'm not surprised because she was fearing for  
4 her life. She had seen what this man had done.

5 Q She had already named him. She tells law  
6 enforcement, Treveon Nelson left with SA [REDACTED] and  
7 I never saw SA [REDACTED] alive again. She's named  
8 Treveon. She's named Jaylen. The person she  
9 doesn't name is herself. Were you aware of  
10 that?

11 A I don't think it is -- people make self-serving  
12 statements to law enforcement.

13 Q And that's what I'm asking.

14 So those statements weren't about being in fear  
15 of Treveon. She's implicated him. She's named him.  
16 Those statements were self-serving to protect  
17 herself, correct?

18 A I don't know what Nicolle is thinking at the  
19 time.

20 Q And are you aware that after she tells that  
21 story and it is very elaborate. She talks  
22 about how he changed clothes and she was passed  
23 out and then she wakes up and what he is  
24 wearing. Are you aware that the story then  
25 evolves and now she admits being at the murder

1 scene but she does not admit to being there  
2 when SA [REDACTED] is buried? Did you know that?

3 A Yes.

4 Q And again, when we talk about self-serving,  
5 self-preservation, she had no trouble  
6 implicating Treveon Nelson and Jaylen Wilson as  
7 the persons who killed SA [REDACTED] but she states  
8 that her role was that of a victim.

9 A Yes.

10 Q And she tells an elaborate story to law  
11 enforcement that as SA [REDACTED] was being buried, she  
12 is not there; she is being held hostage by  
13 Kilo, Allon Adams, back at the home of Allon  
14 Adams. Did you know she made that statement?

15 A Yes.

16 Q And it turns out that wasn't true either, was  
17 it, because she was actually there when SA [REDACTED]  
18 was buried?

19 A Yes.

20 Q And then the car that she stole that day that  
21 ended up being used in the murder and abduction  
22 of SA [REDACTED], she repeatedly told law enforcement  
23 it was not used that day. And are you aware  
24 that she made up a very detailed and elaborate  
25 story about an Uber? She actually left the

1 crime scene in an Uber. And the color and the  
2 make of the car and the description of the  
3 driver and even that he had glasses. Did you  
4 know that?

5 A Yes.

6 Q All self-serving statements, correct?

7 A (There was no response.)

8 Q I think one of the quotes in your report,  
9 again, I don't have a page number, But she  
10 talks about being angry when her mom tries to  
11 set rules. She wants me to stay home, and I  
12 can't go anywhere; I get really angry and I'm  
13 not thinking in that moment when I'm mad.  
14 She made that statement to you?

15 A Yes.

16 MS. MAYES: Nothing further.

17 REDIRECT EXAMINATION

18 BY MS. McGRADY:

19 Q Just one last question. Is the stuff that you  
20 didn't review, is that part of your job  
21 description to review social media?

22 A No.

23 MS. McGRADY: No further questions.

24 RECCROSS-EXAMINATION

25 BY MS. MAYES:

1 Q Those are statements from the defendant with  
2 other people pertinent to this case, aren't  
3 they?

4 A It is not customary for a mitigation specialist  
5 to review discovery like that.

6 MS. MAYES: Thank you.

7 THE COURT: Anything else?

8 MS. McGRADY: Nothing else, Your Honor.

9 THE COURT: All right. That concludes the  
10 testimony at this waiver hearing.

11 Solicitor, is there anything else from the  
12 State?

13 MR. HUBBARD: Your Honor, there has been an  
14 incident that we were apprised of at DJJ again. The  
15 two officers that testified earlier apparently when  
16 they got back to DJJ they were apprised of a threat  
17 made by this defendant saying that she was going to  
18 retaliate against them. They have made a report.  
19 We got that report. We have given that to the  
20 defense. But it was made right after one of these  
21 hearings when those officers testified. And they  
22 are actually here to authenticate that.

23 THE COURT: Anything else from the defense?

24 MS. McGRADY: We have nothing else, Your Honor.

25 THE COURT: So Solicitor, your desire is to

1 call these witnesses?

2 MR. HUBBARD: Just the person to authenticate  
3 these reports and add to those reports Your Honor  
4 has in evidence already.

5 THE COURT: Defense have a position?

6 MS. McGRADY: Your Honor, just that if it is  
7 not the people who witnessed the reports, it is a  
8 confrontation issue.

9 THE COURT: And you are raising the  
10 confrontation objection again?

11 MS. McGRADY: Yes, Your Honor.

12 THE COURT: So noted.

13 Call your witness.

14 MR. HUBBARD: State calls Jasmine Harris.

15 THE COURT: All right. Ms. Harris, come up  
16 here to my right and have a seat, please, ma'am.  
17 You are Jasmine Harris?

18 THE WITNESS: Yes, sir.

19 THE COURT: Would you raise your right hand,  
20 please?

21 JASMINE HARRIS, after being duly sworn,  
22 testified as follows:

23 THE COURT: Thank you.

24 DIRECT EXAMINATION

25 BY MR. HUBBARD:

- 1 Q Ms. Harris, you work at DJJ?
- 2 A Yes, sir.
- 3 Q I want to show you what's been marked State's  
4 184. Can you recognize this as two reports,  
5 two DJJ event reports?
- 6 A Yes, sir.
- 7 Q Are you familiar with these reports?
- 8 A Yes, sir.
- 9 Q And have these reports been kept in the  
10 ordinary course of business at DJJ?
- 11 A Yes, sir.
- 12 Q And what's in these reports, is this to the  
13 best of your knowledge accurate and it is the  
14 usual process to write up an event--
- 15 A Yes, sir.
- 16 Q -- in one of these reports.  
17 In this report, does it involve Nazareth  
18 Sanchez Peralta?
- 19 A Yes, sir.
- 20 Q Also known as Nicolle?
- 21 A Yes, sir.
- 22 Q And they occurred May 5th, which was what,  
23 yesterday?
- 24 A Yes, sir.
- 25 Q May 6th?

1 A This morning, yes, sir.

2 MR. HUBBARD: Your Honor, I offer these into  
3 evidence.

4 MS. McGRADY: No objection.

5 MR. CHEHOSKI: Renew previous objection, Your  
6 Honor.

7 THE COURT: Regarding what, the confrontation?

8 MR. CHEHOSKI: Regarding confrontation,  
9 personal knowledge. Your Honor, again --

10 THE COURT: I understand. So noted. All your  
11 previous objections are noted.

12 MR. CHEHOSKI: Thank you, Your Honor.

13 (Whereupon, State's Exhibit No. 184 was marked  
14 and received into evidence.)

15 DIRECT EXAMINATION

16 BY MR. HUBBARD:

17 Q 184 is May the 5th, Juvenile Sanchez on this  
18 evening while in transport to the Pearl unit  
19 was speaking with Ms. Bennett-York regarding  
20 her court date appearance. In attempts to  
21 encourage her to be mindful of her behavior  
22 while in court. Youth Sanchez shared that she  
23 was angry with Sergeant S. Johnson and JCO  
24 Odom.

25 Do you know them?

1 A Not personally, no, sir.

2 Q Okay. But they obviously work with DJJ?

3 A Yes, sir.

4 Q And when she sees them she is going to curse  
5 them out. She further shared that Ms. J. Carma  
6 is going to handle it meanwhile. When Ms.  
7 Bennett-York inquired as to what Ms. Carma's  
8 role was, Youth Sanchez did not respond.

9 And then on the 6th you got this report up  
10 there, a copy as well?

11 A Yes, sir.

12 Q On May 4th, I, JCO Odom was served to appear in  
13 court in reference to the case with Juvenile  
14 Nazareth Sanchez-Peralta. Upon arriving to  
15 work on May 6th 2022, multiple juveniles  
16 mentioned that the above juvenile Nazareth  
17 Sanchez-Peralta, stated that the first chance  
18 she gets she is going to F up, it is written in  
19 there fuck up, Officer Odom and Sergeant  
20 Johnson due to us appearing in court and  
21 stating the incidents that occurred at DJJ.  
22 Is that what those reports have?

23 A Yes, sir.

24 MR. HUBBARD: Thank you.

25 No further questions.

CROSS-EXAMINATION

1

2 BY MR. CHEHOSKI:

3 Q Ms. Harris, you weren't present for either of  
4 these events; is that correct?

5 A No, sir.

6 Q And you didn't -- you weren't see any video of  
7 these events; is that correct?

8 A No, sir.

9 Q Didn't hear any audio of these events; is that  
10 correct?

11 A No, sir.

12 Q And you did not write any of these, either of  
13 these reports; is that correct?

14 A No, sir.

15 MR. CHEHOSKI: Your Honor, I renew my  
16 objection. This witness is not even competent to  
17 admit to these reports.

18 MR. HUBBARD: Keeper of record. Under the rule  
19 she is more than able to put them in.

20 THE COURT: Objection noted and overruled.

21 MR. CHEHOSKI: No further questions, Your  
22 Honor,

23 MR. HUBBARD: State has nothing else.

24 THE COURT: Thank you so much, ma'am.

25 MR. HUBBARD: May the witness be excused?

1 MR. CHEHOSKI: Without objection.

2 THE COURT: Have a good day.

3 THE WITNESS: Thank you.

4 THE COURT: Anything else from the State?

5 MR. HUBBARD: Your Honor, we would like to be  
6 heard.

7 THE COURT: Here's what I'm going to do if  
8 there is nothing else and I know what you are  
9 referencing as far as closing statements.

10 What about you? Here's what I'm inclined to do  
11 before I hear from y'all as far as anything short of  
12 closing statements.

13 MR. HUBBARD: Yes, sir.

14 THE COURT: What I was inclined to do was give  
15 both sides an opportunity to prepare a brief in  
16 support of their respected positions as it relates  
17 to the evidence and testimony that has been  
18 presented in lieu of closing statements, whichever  
19 one y'all prefer. But again, that was my  
20 inclination, not both.

21 MR. HUBBARD: I guess, Your Honor, I'll be  
22 honest. I spend more of my time talking than  
23 writing. And if Your Honor can indulge me for 10,  
24 15 minutes, I would be happy to -- what I did to  
25 assist me but also this court power point that I

1 would go through real quick just going through those  
2 Kent factors.

3 THE COURT: Before you do that I want y'all to  
4 understand that I'm going to take this under  
5 advisement.

6 MR. HUBBARD: Yes, sir. We assumed you  
7 probably would.

8 THE COURT: Everybody understands per  
9 63-19-1210 the sole issue that I am to decide is  
10 whether to send this up to general sessions or have  
11 family court retain exclusive jurisdiction based on  
12 that statute as well as the application of those  
13 factors in Kent v. U.S.

14 MR. HUBBARD: Yes, sir.

15 THE COURT: But if you are adamant about making  
16 a closing statement, I'll give y'all an opportunity  
17 to do a brief too. Immediately submit that brief,  
18 though, early next week. That way I can get with my  
19 staff, the clerk's staff, all of your staff and have  
20 this rescheduled to reconvene for the purposes of  
21 issuing my ruling on the record.

22 MR. HUBBARD: Yes, sir.

23 MS. McGRADY: So we are doing both a closing  
24 statement and a brief?

25 THE COURT: You don't have to do either one.

1 But I'm giving you an opportunity to do both.

2 MS. McGRADY: Okay. Thank you.

3 MR. HUBBARD: Thank you, Your Honor.

4 MS. McGRADY: Your Honor, while they are  
5 getting that set up, can we have a brief recess to  
6 go to the bathroom?

7 THE COURT: Yeah. Five minutes.

8 (Whereupon, a recess was taken.)

9 THE COURT: Who are we waiting on?

10 MR. HUBBARD: The State's ready.

11 MS. McGRADY: We are ready, Your Honor.

12 THE COURT: All right.

13 MR. HUBBARD: Thank you, Your Honor. Your  
14 Honor, I understand this isn't a jury trial but we  
15 just wanted to go through this, kind of streamline  
16 what we have done since it has been a whole week.  
17 And the easiest way is to go back to the timeline.

18 April 5th, early that morning hour, and this is  
19 really our timeline starts -- excuse me. What we  
20 don't have on this timeline is Treveon's house being  
21 shot up earlier that morning but we do have the car  
22 theft that occurs and you saw Nicolle stealing that  
23 car. You have the text, three texts for  
24 9-millimeter bullets. You have later at 9:45 p.m.  
25 SA [REDACTED] getting in the car with Nicolle, Treveon and

1 Jaylen. And then we know at 10:06 SA's [REDACTED] phone  
2 goes dead.

3 There is something significant about that  
4 point. Nicolle has come in here and said she is a  
5 victim too but guess whose phone didn't go dead.  
6 Hers. We follow her phone all the way to the crime  
7 scene. Your Honor saw that. Your Honor saw that we  
8 could place it at the scene. We could place it  
9 right over the body. 12:55 they are looking for  
10 shovels at [REDACTED] Road.

11 In looking at the Kent factors, I'm not going  
12 to go through each one here but, Your Honor, the  
13 first one is easy. The seriousness of the alleged  
14 offense is murder and kidnapping. SA [REDACTED]  
15 was only 15. She is the victim of both of these  
16 crimes.

17 Kent factor number two, whether the offense was  
18 committed in an aggressive, violent, premeditated or  
19 willful manner. The doctor who testified as to the  
20 autopsy told Your Honor 14 gunshots were noted on  
21 the body. There may have been more. She talked  
22 about fractures to the left orbit, facial bone from  
23 blunt force trauma. It could have been consistent  
24 with a pistol being whipped against her face. The  
25 fracture of her left ribs two through six and

1 hemorrhage of the left chest. Could have been  
2 consistent with beating on the ground, even  
3 stomping. It was a brutal, brutal beating and in  
4 addition to the shooting.

5 And then of course her body, the way it was  
6 found. And this we found her two pink shoes, Your  
7 Honor, her Crocks that she was always noted to wear.  
8 And they were burned and that was significant. You  
9 heard about why Treveon's home was shot up. He  
10 burned the so-called flag of this Raysean fellow.  
11 Well, that's payback right there, Raysean's alleged  
12 girlfriend, SA [REDACTED] and he burns her shoes. They burn  
13 her shoes. All three of these individuals are  
14 involved in this.

15 Your Honor had a hard time hearing this and we  
16 did too because the overhead, the way the system is  
17 there with the microphones and the audio, the way it  
18 plays in the sheriff's department. But what you  
19 will hear if you go back and play that, Your Honor,  
20 you will hear Allon Adams sitting here talking with  
21 his grandmother and he will say, Nicolle told me she  
22 said we had kidnapped her, questioned her, we. She  
23 told me, Nicolle told me and she did some shooting  
24 too. Very clear. She said she showed up; she had  
25 played her role; got it set up. That was Allon

1 Adams, Your Honor.

2 Kent factor number three, whether the alleged  
3 offense was against persons or against property.

4 Obviously people are more important. SA [REDACTED]

5 [REDACTED], this was a murder.

6 Kent factor number four, the merit of  
7 prosecuting the complaint, whether there is evidence  
8 upon which a grand jury may be expected to return an  
9 indictment. Both Treveon Nelson and Jaylen Wilson  
10 have been indicted. And the language we used in  
11 both the murder and in the kidnapping show the hand  
12 of one hand of all, whether acting alone or in  
13 concert with another. But with murder also felony  
14 murder. During the commission of a felony being an  
15 unlawful kidnapping, which Treveon Nelson was a  
16 coconspirator. The language is in those  
17 indictments.

18 Your Honor, we know that if we did an  
19 indictment on Nicolle Sanchez-Peralta, we would get  
20 a true bill on that. We have got plenty of evidence  
21 to show at least probable cause. These are the  
22 indictments. Hand of one, hand of all. Your Honor  
23 knows that. The crimes committed by two or more  
24 people acting together in concert committing a  
25 crime. The act of one is the act of all. It