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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Newberry County

Honorable William P. Keesley, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF GEORGE ROMAN PIERSON,

APPELLANT

APPELLATE CASE NO. 2024-001488

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STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 11
COUNTY OF NEWBERRY) DOCKET NO. 2023-CP-36-00120

IN RE: THE CARE AND TREATMENT OF)
GEORGE ROMAN PIERSON,)
 Respondent.)

H E A R I N G
BEFORE THE HONORABLE WILLIAM KEESLEY.

DATE: January 8 & 9, 2024.
TIME: ***
LOCATION: SOUTH CAROLINA CIRCUIT COURT 11
TRANSCRIBED BY: Latasha Jefferson

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14 ALSO ATTENDING:

15 (None)

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

1 **PROCEEDINGS - JANUARY 8, 2024.**

2 THE COURT: Morning, ladies and gentlemen. My name is
3 William Keesley. I live in Edgefield. I'm the resident
4 judge in the 11th Circuit. My circuit consists of Newberry,
5 Lexington, Saluda, Edgefield, and McCormick counties, and
6 I've been assigned to preside over Common Pleas Court in this
7 county, called a civil court here in Newberry County this
8 week. I'll be with you folks in here many times. Always
9 delighted to work with you fine people.

10 What we're going to do this morning is we're going to
11 get started with organizing you. The first step in this
12 process is the clerk is going to call a roll, and as your
13 name is called, I need for you to stand. I need for you to
14 speak loudly. I need for you to tell me the following
15 things: I need to know where you work, and what you do for a
16 living. If you're married, I need to know where your spouse
17 works, and what he or she does for a living.

18 If you're unmarried, you can stand and say that. I
19 don't need to know if you are widowed, divorced, or never
20 married. I just need to know whether -- listen for
21 employment information about your spouse. If you or your
22 spouse is in a situation of being retired, disabled,
23 unemployed, self-employed, or on layoff, you need to tell me
24 that. But then please fill in the blank, and tell me what
25 type of business it is, if it's a self-employment situation,

1 or where you or your spouse in case maybe last worked, if
2 you're in a situation where your spouse is being unemployed,
3 disabled, on layoff, things like that.

4 It's important that you understand you have an
5 obligation to be completely truthful and honest with the
6 Court. And if I ever -- ever ask you anything that you
7 prefer to discuss more privately, you may come down here to
8 the side and we'll talk about it on the side. We are in a
9 court of record, which means we have a court reporter taking
10 down everything you say. So I need for you to speak loudly
11 and distinct.

12 If you have any doubt about whether anything I ask you
13 applies to you, please discuss it with me and let me resolve
14 the doubt. All right. The first thing I need to do is have
15 you placed under oath. If you'll please stand, and raise
16 your right hand.

17 THE CLERK: You shall truly answer to all such
18 questions (inaudible) the subject matter is now before the
19 Court, by the Court, and by order thereof. You should speak
20 the truth, the whole truth, and nothing but the truth, so
21 help you God? Please respond: "I will."

22 JURY PANEL: I will.

23 (Jury sworn.)

24 THE CLERK: Thank you. Have a seat.

25 THE COURT: Thank you very much. Be seated, please.

1 (Inaudible) I'll start the roll call myself --

2 THE CLERK: Judge, excuse me. (Inaudible).

3 THE COURT: Oh, you all (inaudible)?

4 UNIDENTIFIED SPEAKER: Yes, sir. We're good.

5 THE COURT: Okay. All right. Good. She says, "They
6 need to be one mile from your house to the courthouse."

7 Don't give them tenths of a mile, round up, okay? You don't
8 know? Can't give us your best guess, or no way? Anything
9 else I missed?

10 UNIDENTIFIED SPEAKER: That's -- that's it.

11 THE COURT: Show you how it goes. I don't know how far
12 I drove. My name is William Keesley, let's say I drove four
13 to six miles to the courthouse. I work for the State of
14 South Carolina as a circuit judge. My wife is disabled. She
15 formerly was self-employed as a hairdresser. It's that
16 (inaudible). That's all you have to do. All right. Madam
17 Clerk?

18 THE CLERK: Juror Number 3, Thomas Arthur.

19 JUROR NUMBER 3: Yeah. I live 20 miles away from the
20 courthouse in the town of Prosperity. I'm retired, but
21 working part time for a company called Myland, where I do
22 sales work for John Deere Company. My wife is employed for
23 Southern First Bank as a -- in mortgage.

24 THE CLERK: Thank you. Number 6, Journey Ballinger.

25 JUROR NUMBER 6: My name is Journey Ballinger. I live

1 about 10 miles from this courthouse, and I'm unemployed and
2 unmarried.

3 THE CLERK: Number 8, O'Brien Baxter.

4 JUROR NUMBER 8: My name is O'Brien Baxter. I live
5 about 12 miles from the courthouse. I'm disabled, and I'm
6 unmarried.

7 THE COURT: Where did you last work, sir?

8 JUROR NUMBER 8: Oh, (inaudible).

9 THE COURT: Thank you.

10 THE CLERK: Number 12, Brandon Bowlen (ph).

11 JUROR NUMBER 12: My name is Brandon Bowlen. I live
12 about 19 miles from here in Prosperity. I'm currently
13 unemployed and unmarried.

14 THE COURT: Where did you last work?

15 JUROR NUMBER 12: I worked in IT at a place called
16 (inaudible).

17 THE COURT: Thank you, sir.

18 THE CLERK: Number 13, Curtis Bowling.

19 JUROR NUMBER 13: I'm unmarried, I drove about 18
20 miles. I work for DOT as a building and maintenance
21 technician.

22 THE CLERK: Number 17, Michael Boozer (ph).

23 JUROR NUMBER 17: Name is Michael Boozer. I'm
24 currently unemployed, formally I was at pharmaceutical health
25 with Pfizer. I drove 20 miles to get here. I'm married, my

1 wife is unemployed. She's currently seeking disability.

2 THE CLERK: And what -- did she have employment before?

3 JUROR NUMBER 17: Yeah, before she was a financial
4 analyst.

5 THE CLERK: Thank you. Number 18, Matthew Bowers.

6 JUROR NUMBER 18: I drove about 1 mile from the
7 courthouse. I work for Collins & Lacy law firm in Columbia,
8 doing a mixture of about 10 operations. I'm not married.

9 THE CLERK: Thank you. Number 21, Walter Buchanan.

10 JUROR NUMBER 21: I live up 10 miles from the
11 courthouse in Prosperity. I work for Amtech as a technology
12 superintendent, and my wife works at Lowe's as a department
13 manager.

14 THE CLERK: Thank you. Number 27, Tavares Carmichael.

15 JUROR NUMBER 27: I -- I stay -- I stay about 1 mile
16 from the courthouse, and I'm an industrial lead technician at
17 JTEKT in Blackwood Industrial Plant.

18 THE CLERK: Oh, your marital status?

19 JUROR NUMBER 27: Oh, I'm not married.

20 THE CLERK: Thank you. Number 29, Carlotta Chapman.

21 JUROR NUMBER 29: I live 18 miles from the courthouse
22 in Little Mountain. I'm employed as an instructor at
23 Piedmont Technical College. My husband, Mark Chapman, is
24 employed with Dominion Energy as an acoustical and electric
25 -- electrical engineer.

1 THE CLERK: Thank you. Number 35, Thomas Commons (ph).

2 JUROR NUMBER 35: I live 20 miles from here in
3 Prosperity. I'm retired. I formerly worked in New York City
4 Police Department. Retired and ranked lieutenant, and my
5 wife is a retired schoolteacher, and she used to work at
6 Cardinal Newman in Columbia.

7 THE CLERK: Thank you. Number 38, Shannon Corley.

8 JUROR NUMBER 38: Shannon Corley. I live 18 miles from
9 here. I am retired from the University of South Carolina
10 School of Medicine, department of OB/GYN as a surgical tech.
11 My husband is an IT director in Become (ph) Construction.

12 THE CLERK: Thank you. Number 39, Olivia Crawford.

13 JUROR NUMBER 39: I live 10 miles away in Silverstreet.
14 I'm employed at Blanchard Equipment as a bookkeeper. My
15 husband is employed at Blanchard Equipment as a service
16 advisor.

17 THE CLERK: Thank you. Number 40, Sharon Palmer.

18 JUROR NUMBER 40: I live 14 miles away in Pomaria. I'm
19 employed with the Newberry County School District office as
20 their receptionist. My husband is employed with Senior
21 Catering as a delivery driver.

22 THE CLERK: Thank you. Number 42, Bradley Camalanda
23 (ph).

24 JUROR NUMBER 42: I live 18 miles from the courthouse
25 in the Woodmont community. I'm employed at Electric

1 Machinery, inside rental manager. My wife is employed by
2 Mungo Homes. She's a purchasing manager.

3 THE CLERK: Thank you. Number 43, Robert Garby (ph).

4 JUROR NUMBER 43: I'm Robert Garby. I'm employed with
5 Zayo Corporation, I'm a trichologist. I live about 18 miles
6 from here in Whitmire. My wife works as a vet in Prosperity.

7 THE CLERK: Thank you. Number 44, Christian de Villa.

8 JUROR NUMBER 44: I'm Christian de Villa, and I live
9 about 5 miles away from the courthouse. I am single, and I
10 work at KRA Operations as a production leader.

11 THE CLERK: Thank you. Number 48, David Denmore.

12 JUROR NUMBER 48: My name is David Denmore. I live 18
13 miles away from here in Prosperity. I'm currently a realtor
14 with Keller Williams, and my wife is a self-employed artist.

15 THE CLERK: Thank you. Number 50, Elaine Doley (ph).

16 JUROR NUMBER 50: My name is Elaine Doley. I work at
17 RC's Kitchen in Newberry. I live about 15 miles away from
18 the courthouse.

19 THE CLERK: And your marital status?

20 JUROR NUMBER 50: I'm single.

21 THE CLERK: Thank you. Number 51, Kevin Dora.

22 JUROR NUMBER 51: I live 17 miles away in Prosperity.
23 I'm employed at D S Utilities, I'm a head equipment operator.
24 My wife works for H.E. Sport. She's a motorsport teacher.

25 THE CLERK: Thank you. Number 58, Linda Edwards.

1 JUROR NUMBER 58: I'm Linda Edwards. I live about 3
2 miles from the courthouse. My husband is -- I'm -- I'm
3 disabled. My husband is employed with Lexington School
4 District as a construct employee.

5 THE CLERK: And did you have employment before you
6 became disabled?

7 JUROR NUMBER 58: Yes. Crown Heights.

8 THE CLERK: Thank you. Number 60, Annette Elston.

9 JUROR NUMBER 60: Annette Elston. 1 mile from the
10 courthouse. I'm a controller at Bilt Rite Garage Doors. My
11 husband is a professor at Newberry College.

12 THE CLERK: Thank you. Number 69, Gary Gandy.

13 JUROR NUMBER 69: I'm Gary Gandy, living about 2 miles
14 from the courthouse. Director of operations for company
15 called Signal Technologies, and I'm not married.

16 THE CLERK: Thank you. Number 70, Kevin Gilman.

17 JUROR NUMBER 70: My name is Kevin Gilman. I'm
18 employed at Pleasurecraft Engine Group as a machine operator.
19 My wife works at Gallman Elementary as a teacher and
20 instructor.

21 THE CLERK: And how many miles, sir?

22 JUROR NUMBER 70: About 3 miles from here.

23 THE CLERK: Thank you. Number 78, Charity Hansen.

24 JUROR NUMBER 78: Charity Hansen. I live about 7 miles
25 from here in Prosperity. I'm employed at Pinner Clinic as a

1 -- as a certified medical assistant. My husband is employed
2 as -- self-employed as a house designer.

3 THE CLERK: Thank you. Number 79, Kathleen Harmon.

4 JUROR NUMBER 79: I live about 10 miles from the
5 courthouse. I manage a portrait studio. I'm a manager
6 photographer in Columbia, South Carolina. And husband, he
7 places pipes with a company. It's like Williams (inaudible).

8 THE CLERK: Thank you. Number 84, Tommy Hedgepath.

9 JUROR NUMBER 84: I'm Tommy Hedgepath. I'm the owner
10 of Hedgepath Outdoor Power Equipment. My wife teaches in
11 Newberry Christian School, I'm self-employed.

12 THE CLERK: And how many miles, sir?

13 JUROR NUMBER 84: 8 miles.

14 THE CLERK: Thank you. Number 85, Michael Heffner.

15 JUROR NUMBER 85: My name is Michael Heffner. I live
16 in Whitmire, about 30 miles from here, give or take. I'm --
17 work for WG Baker and Son, general contractor. And my wife
18 -- she works at Greenwood Medical as an attorney.

19 THE CLERK: Thank you. Number 90, Barbara Honeycutt.

20 JUROR NUMBER 90: I live about 18 miles from here.
21 Unemployed, and separated.

22 THE CLERK: And what was your previous employment?

23 JUROR NUMBER 90: I -- I did DoorDash, sales
24 department.

25 THE CLERK: Thank you. Number 102, Sydney Lake.

1 JUROR NUMBER 102: I don't know my exact miles
2 (inaudible) from here, but I work for a company called
3 (inaudible) Virginia, and I'm not married.

4 THE CLERK: Thank you. Number 106, Daniel Winmore
5 (ph).

6 JUROR NUMBER 106: It is 18 miles from Little Mountain.
7 Work for Springhill Construction as a superintendent. My
8 wife works at Almond Farm as a maintenance planner.

9 THE CLERK: Thank you. Number 110, Jordan Greenberg.

10 JUROR NUMBER 110: I'm Jordan Greenberg. I live about
11 17 miles from here. I work for (inaudible) Digital as a team
12 lead. My husband works for the (inaudible).

13 THE CLERK: Thank you. Number 111, Blake Lucas.

14 JUROR NUMBER 111: I live about 15 miles from the
15 courthouse in Little Mountain. I'm employed at (inaudible).
16 My job is a survey technician, and I'm not married.

17 THE CLERK: Thank you. Number 112, Desmond Wildes.

18 JUROR NUMBER 112: So I live about 1 mile from the
19 courthouse. I (inaudible), I'm not married.

20 THE CLERK: Thank you. Number 114, Sherry Malcolm.

21 JUROR NUMBER 114: I live 1 mile from the courthouse.
22 I work at HopeSouth Federal Credit Union as a teller, and I'm
23 not married.

24 THE CLERK: Thank you. Number 118, Rachel Mills.

25 JUROR NUMBER 118: I'm Rachel Mills. I am -- I live 15

1 miles from here in Prosperity. I'm currently unemployed, but
2 I worked as a schoolteacher, and my husband is currently
3 employed at Newberry High School.

4 THE CLERK: Thank you. Number 122, Carson Murphy.

5 JUROR NUMBER 122: My name is Carson Murphy. I live
6 about 5 miles away from the courthouse. I'm currently
7 employed at Bilmar Incorporated, and I'm unmarried.

8 THE CLERK: Thank you. Number 123, Ralph Mardone (ph).

9 JUROR NUMBER 123: I'm Ralph Mardone. I live 18 miles
10 from the courthouse. I work for AEC Incorporated of Sandy,
11 Oregon as an aerospace technical writer. My wife works for
12 Newberry College as a college professor.

13 THE CLERK: Thank you. Number 127, Mallory Odell.

14 JUROR NUMBER 127: Hey, I'm Mallory Odell, and I drove
15 about 15 miles, I live in Prosperity. I'm an occupational
16 therapist, and I work for Palmetto Pediatric OT. My husband
17 is an operations and logistics manager at J.B. Hunt.

18 THE COURT: Thank you. Number 134, Travis Pool.

19 JUROR NUMBER 134: I live 5 miles from the -- from
20 here. I'm employed at Securitas, it's in Belmont, as a night
21 shift security guard. My wife is employed at Colony Lutheran
22 Church as a secretary.

23 THE CLERK: Thank you. Number 135, Marissa Pugh (ph).

24 JUROR NUMBER 135: I live 20 miles away in the Little
25 Mountain community. I am employed by DaVita Dialysis as a

1 registered nurse, and my husband is employed at Michelin as
2 an electrician.

3 THE CLERK: Thank you. Number 148, Christopher Shire.

4 JUROR NUMBER 148: Chris Shire, I live about 12 miles
5 away in Prosperity. I work as an IT assistant at
6 (inaudible). Unmarried.

7 THE CLERK: Thank you. Number 150, Alan Stins.

8 JUROR NUMBER 150: 12 miles, Prosperity. I'm
9 self-employed. Communications. My wife is a stay-at-home
10 mom.

11 THE CLERK: Thank you. Number 152, Melvin Springfield.

12 JUROR NUMBER 152: I live 20 miles from the courthouse
13 in the Prosperity Community. I'm employed at Palmetto Real
14 Estate Group of South Carolina, and my job is a realtor. My
15 wife is employed by Prisma, and her job is a nurse educator.

16 THE CLERK: Thank you. Number 160, Brandon Toland.

17 JUROR NUMBER 160: I'm Brandon Toland (inaudible), and
18 I'm not married.

19 THE CLERK: And how many miles, sir?

20 JUROR NUMBER 160: 15.

21 THE CLERK: 15. Thank you. Number 161, Mitzvah Treble
22 (ph).

23 JUROR NUMBER 161: I'm Mitzvah Treble. I live 2 miles
24 and -- from the courthouse in Newberry. I am employed at
25 South Carolina -- South -- South Carolina House Calls, I'm a

1 medical assistant.

2 THE CLERK: Thank you. And your marital status?

3 JUROR NUMBER 161: I'm single.

4 THE CLERK: Thank you. Number 162, Barry Turner.

5 JUROR NUMBER 162: Hi -- I'm Barry Turner. I live
6 approximately 12 miles from here in Silverstreet. I'm
7 retired, but I currently work at Stokes Trier, and I'm a
8 supervisor for the shop. Unmarried.

9 THE CLERK: Thank you. Number 164, Tracy Turner.

10 JUROR NUMBER 164: I'm Tracy Turner. I live about 6
11 miles from the courthouse. I work for Bernardo Geriatrics as
12 a medical assistant. My husband, Greg, works for Foundation
13 Partners, which is a funeral home management company as a
14 regional manager.

15 THE CLERK: Thank you. Number 166, Sandy Wallace.

16 JUROR NUMBER 166: My name is Sandy Wallace. I live on
17 Lake Murray. I'm about 15 miles from here. I'm retired from
18 AT&T as a sales manager. My husband is a retired football
19 coach.

20 THE CLERK: Thank you. Number 170, Donna Wissinger
21 (ph).

22 JUROR NUMBER 170: Donna Wissinger. I live 17 miles in
23 Whitmire community. I work for the South Carolina Department
24 of Corrections as a correctional officer. My husband is
25 disabled and -- but he was a former electrician.

1 THE CLERK: Thank you. Number 175, Ashley Wilson.

2 JUROR NUMBER 175: I live 7 miles away. Self-employed,
3 owner of Wilson Tractor. My wife works at Wilson Marine as
4 an accountant.

5 THE CLERK: Thank you. Number 176, Marshall Wise.

6 JUROR NUMBER 176: I live about 7 miles in Prosperity.
7 I'm unmarried and work at Wilson up here.

8 THE CLERK: Thank you. Number 177, Michael Wise.

9 JUROR NUMBER 177: I live 18 miles, Little Mountain
10 community. Self-employed, own Virginia Golf Course. I'm
11 unmarried.

12 THE CLERK: Thank you. Number 180, Joe Wright.

13 JUROR NUMBER 180: I live approximately 25 miles from
14 the courthouse in the Chapin community. I'm employed at
15 Chapin Intermediate School as a school administrator.
16 Unmarried.

17 THE CLERK: Thank you. Number 182, Michelle Wimer
18 (ph) .

19 JUROR NUMBER 182: I live 20 miles here in the Chapin
20 community. I work for Clemson University, data entry for
21 ESS. My husband works for City of Columbia, Richmond County
22 College Services, and he's a volunteer board member.

23 THE CLERK: Thank you. Is there a juror whose name
24 that I did not call? If so, please stand. Thank you.

25 THE COURT: The next thing I have to do is to go over

1 with you the things that would disqualify you from jury duty.
2 If you have any doubt about whether these apply to you,
3 please discuss it with me, and let me resolve the doubt. But
4 you must let me know if these apply to you because you're not
5 eligible to serve. In order to serve on the jury, you must
6 be a citizen of the United States and a legal resident of
7 Newberry County, South Carolina. If you're not, please
8 stand.

9 There are certain occupations that a person might hold
10 or position that a person might hold that would disqualify
11 that individual from jury service. So if you are a clerk or
12 deputy clerk of court, a constable, sheriff, probate judge,
13 county council member, magistrate, or other county officer,
14 or if you're employed within the walls of any courthouse,
15 you're not eligible to serve. If any of those apply to you,
16 please stand up. Has any of you served on a trial jury
17 within the last year? If so, please stand.

18 All right. We're going go over several things now
19 together. When I finish all of them, if any of them will
20 apply to you, please stand. If you're comfortable talking to
21 me from where you are, that's fine. If you want to come down
22 in front, that's always fine too. In order to serve on the
23 jury, you have to be able to read, write, speak, and
24 understand the English language. You must have at least a
25 sixth-grade education or its equivalent. If you have some

1 mental or physical infirmity that prevents you from rendering
2 an efficient jury service, you're not eligible to serve.

3 And if you've ever been convicted of a crime, no matter
4 how long ago, if that crime carried the possibility of more
5 than a year in jail as punishment, you cannot serve on the
6 jury unless your civil rights have been restored by pardon or
7 by amnesty. So if any of those apply to you: If you're
8 unable to read, write, speak, or understand the English
9 language, have a mental or physical problem that prevents you
10 from rendering efficient jury service, have a criminal
11 conviction for which you could have gotten more than one
12 year, or have served on the jury. That's -- that's it. I
13 think that's it. Unable to read, write, speak, and
14 understand English language. I think I covered that. Please
15 stand.

16 All right. There are certain things that are
17 exemptions. An exemption does not disqualify you from jury
18 service. You are welcome to stay and serve if you'd like,
19 and we're delighted to have you do that. But the legislature
20 has established some things that are exemptions. So -- but
21 if it applies to you, and you wish to claim it, then I'm
22 required to excuse you from jury duty. The only restriction
23 I place on you is this: if you want to claim your exemption,
24 please claim it now. Don't try to wait and see if you will
25 actually get picked on the jury, and then decide you want to

1 claim your exemption. The first is: if any of you work in
2 any capacity in a penitentiary, prison, jail, anywhere where
3 people are incarcerated, if so, please stand. Your name,
4 please?

5 JUROR NUMBER 170: Donna Wissinger.

6 THE COURT: You said you work at the Department of
7 Corrections doing what?

8 JUROR NUMBER 170: Correctional officer.

9 THE COURT: You want to be excused?

10 JUROR NUMBER 170: Yes, sir.

11 THE COURT: You need a slip for work?

12 JUROR NUMBER 170: Yes, sir.

13 THE COURT: Where does she get that?

14 THE CLERK: Downstairs.

15 THE COURT: They say you're going downstairs to the
16 clerk's office. They'll give it to you. 170 excused from
17 jury service. Anybody else on that one?

18 If you have reached the age of 65 and you do not wish
19 to serve, you're not required to serve. So if any of you is
20 65 or older, and do not wish to serve, please stand up. Has
21 any of you served on a -- excuse me. Has any of you actually
22 been called for jury duty, whether you actually got picked on
23 a jury or not, within the last three calendar years, that
24 would be: 2024, 2023, or 2022. You were called for jury
25 duty and you had to report, regardless of whether you got

1 picked for a jury, you have an exemption, you may claim by
2 standing.

3 Has any of you served on the grand jury in Newberry or
4 any other county in South Carolina in the last five years,
5 you have an exemption. You may claim if you were on the
6 grand jury, you'd probably remember it because jury gives you
7 at least a year in most cases. Anybody been on grand jury in
8 the last five years? Okay. There's an exemption for people
9 -- or who are these caretakers for a small child and there's
10 nobody else who can provide care for that child while you're
11 performing your jury duty.

12 Now, ladies and gentlemen, as I told you, I'm a
13 visiting judge here. Each -- each circuit has assigned a
14 chief judge, a civil court, and a criminal court. The chief
15 judge for a civil court puts together the roster in
16 conjunction with the clerk of court. And so, basically what
17 they do is they give me a list of cases. And what's happened
18 over the last -- in the year or so, is that all these cases
19 have dwindled down to the point that we only have one case to
20 try that involves the jury. So I'm assuming nobody is here
21 for grand jury because I think they all went away.

22 Okay. So we have one case to try. The information I
23 got last week is that this case should last a couple of days.
24 Now, we usually start court with a jury 9:30 or 10:00. We
25 usually go until about 1:00, break for lunch. Normally, the

1 jury is on its own for lunch. We then start back, say 2:00 -
2 - 2:30. Sometimes I schedule your things during a lunch
3 break. So it may start at 2:30, even though we break at
4 1:00. And we usually stop for the day, between 5:00 and
5 5:30.

6 Now, that's not on the witness, once the jury gets the
7 case, we normally wait on them to decide even if it goes into
8 the night. But you know as much as I know about how your day
9 is likely to go right here. I tell you that so you can more
10 intelligently answer the questions I'm about to ask you. And
11 the first one is, what I mentioned: If you are the care
12 provider for a small child, and there is nobody else who can
13 perform care for that child while you're required to do jury
14 duty, and you signed an affidavit attesting to that fact,
15 then I'm required to excuse you from jury duty. Any of you
16 wish to claim that? Please stand.

17 All right. That's a record. There's a similar
18 (inaudible) for people who are the caretakers for someone who
19 is disabled or over 65. I'm not talking about if that's what
20 you do for your job. But if -- if -- if you're taking care
21 of somebody who's 65, or older, or disabled, and there's
22 nobody else who can do that while you're doing jury duty, you
23 have an exemption. If you wish to claim it, please stand.
24 Your name, please?

25 JUROR NUMBER 102: Sydney Lake.

1 THE COURT: I'm sorry, I couldn't hear you.

2 JUROR NUMBER 102: Sydney Lake.

3 THE COURT: 102, Mr. Lake. What's your situation, sir?

4 JUROR NUMBER 102: I got a 7- and a 6-year-old back at
5 home with (inaudible).

6 THE COURT: Do you work from home?

7 JUROR NUMBER 102: No, sir.

8 THE COURT: So who's there with your mother when you
9 work?

10 JUROR NUMBER 102: I had to pay people to come in, and
11 stay with them while I'm at work.

12 THE COURT: What time do you work?

13 JUROR NUMBER 102: I work out of time. I'd been gone
14 for months at a time. I'm on my off season right now.

15 THE COURT: So are you paying somebody to take care of
16 your mother during your off season?

17 JUROR NUMBER 102: No, sir. I keep her during my off
18 season. I pay -- while -- I pay people while I work.

19 THE COURT: Okay. So if you're not here today, you'll
20 be with your mother?

21 JUROR NUMBER 102: Yes, sir. (Inaudible) today.

22 THE COURT: I -- I -- I don't need any witnesses, I
23 take your word for it. (Inaudible)?

24 THE CLERK: Yes.

25 THE COURT: You're free to go, sir. Thank you. 102

1 excused from jury duty (inaudible). All right. There is a
2 provision of law that I call: "The small business exemption."
3 It's not really called that. It's just an operation that
4 almost always applies to people who are self-employed or
5 people who are engaged in small business operations. What
6 that law states is that if you perform services that are so
7 essential to the operation of a business, that the business
8 will have to cease to function or cease to exist if you're
9 required to do jury duty, then you have an exemption you may
10 claim by signing an affidavit attesting to that fact.

11 If any of you is self-employed people or small business
12 operators, anyone like that -- if any of you perform services
13 that are so essential to the operation of a business that the
14 business would stop working, or would have to go out of
15 business if you're required to do jury duty, and you want to
16 claim that, stand now, please. Okay. Those are all the
17 exemptions.

18 The legislature has transfer provisions. What that
19 means is that if you don't serve this week, that you come
20 back some other week to serve. Folks, I'm generally very
21 happy to transfer people to other terms of court. I know
22 that some weeks are just not good weeks for people to serve
23 because of any number of reasons. So I'm generally very
24 happy for you to be transferred to another term of court.

25 I do always tell jurors this: I don't know what the

1 next term of court is going to involve. And if you get drawn
2 on a criminal case and you're sequestered in a hotel for two
3 weeks, don't be mad at me. I didn't know. As I told you,
4 we're going to select a jury for one case. So we'll have 12
5 to 14 people. The rest of you will be going home or wherever
6 you wish to go. Just choose wisely. But I understand you
7 may have doctor's appointments which is a long standing. You
8 may have vacation plans, weddings, any number of things if
9 you want to be transferred to another term of court.

10 Now, the law did put in place one specific transfer
11 provision and it deals with students and teachers, and people
12 who perform essential services for schools. Schools are
13 defined as kindergarten through 12th grade plus higher
14 education. It may be public, it may be private. That
15 doesn't matter. If you're a student or a teacher or you
16 perform services so -- services that are essential to the
17 operation of the school and you wish to be transferred to a
18 term that does not conflict with school, I'm required to do
19 that. If you wish to claim that exemption, please stand --
20 and get transferred, please stand now. Your name, sir?

21 JUROR NUMBER 84: Tommy Hedgepath.

22 THE COURT: Juror Number 84, Mr. Hedgepath. You work
23 at school?

24 JUROR NUMBER 84: No, sir. I'm self-employed.

25 THE COURT: You want to claim the last exemption?

1 JUROR NUMBER 84: I don't mind missing the last one.

2 My son is home from the navy and plans to go back Wednesday,
3 and I'd like to spend these next two days with him.

4 THE COURT: You want to get transferred?

5 JUROR NUMBER 84: Yes, sir.

6 THE COURT: Okay. They -- they'll send you another
7 notice instead then. All right. Thank you very much. 84 is
8 transferred to another term of court. Your name, sir?

9 JUROR NUMBER 162: Barry Turner. I got a doctor's
10 appointment that I need to be at because they had to get it
11 approved through my insurance. It's an MRI, Thursday here --
12 I'd have to be here in Prosperity.

13 THE COURT: I -- I can't promise you --

14 JUROR NUMBER 162: Yeah, I know -- I know, but I just
15 figured I'd -- I'd at least get it out there.

16 THE COURT: You want to be transferred or you want to
17 take the chance?

18 JUROR NUMBER 162: I'll take the chance.

19 THE COURT: Okay.

20 JUROR NUMBER 162: I can schedule it, I guess.

21 JUROR NUMBER 44: I got a question.

22 THE COURT: Hold on just a second. 162, Mr. Turner,
23 will stay with us. Yes, sir. Would you stand up, please?
24 What's your name?

25 JUROR NUMBER 44: I said my name is Christian de Villa.

1 THE COURT: I can't hear you.

2 JUROR NUMBER 44: My name is Christian de Villa.

3 THE COURT: 44? Yes, sir.

4 JUROR NUMBER 44: You said there was an exemption when
5 you served as a grand jury?

6 THE COURT: If you served on the grand jury in the last
7 five years.

8 JUROR NUMBER 44: Yes, sir. I have.

9 THE COURT: You were on Newberry County grand jury?

10 JUROR NUMBER 44: Yes, sir. I was for the whole year.

11 THE COURT: I'm sorry?

12 JUROR NUMBER 44: I was serving as a grand juror for
13 the whole year. So it was once a month when it came.

14 THE COURT: Yes, sir. That's what they do.

15 JUROR NUMBER 44: Okay. Yes, sir. That's right.

16 THE COURT: Well, most places (inaudible) possible.

17 JUROR NUMBER 44: So am I eligible for that exemption
18 right here?

19 THE COURT: They're looking to make sure. You want be
20 exempt, sir?

21 JUROR NUMBER 44: Yes, sir -- yes, sir.

22 THE COURT: You need any kind of slip to prove you were
23 here?

24 JUROR NUMBER 44: Yes, sir. I'd like a slip, please.

25 THE COURT: Okay. You -- you heard what I said, go

1 down to the clerk's office, and then you take your stuff.

2 JUROR NUMBER 44: Okay.

3 THE COURT: Juror Number 44 is exempt by a virtue of
4 prior grand jury service.

5 JUROR NUMBER 44: Yes, sir.

6 THE COURT: Thank you. All right. Anybody else on any
7 transfer requests for any reason?

8 JUROR NUMBER 6: Your Honor --

9 THE COURT: What's your name?

10 JUROR NUMBER 6: I'm Journey Ballinger.

11 THE COURT: Ballinger is --

12 THE CLERK: Is 6.

13 THE COURT: -- is 6?

14 THE CLERK: Yeah.

15 THE COURT: What's your situation, ma'am?

16 JUROR NUMBER 6: I'm the caregiver and mother to an
17 18-month-old, and I'm not sure (inaudible) I'll be able to
18 get a sitter for the next few days.

19 THE COURT: Okay. Come down here and sign the
20 affidavit, I'll excuse you. 6 is exempt by virtue of
21 childcare. Anybody else? Yeah. On -- on that small child,
22 I -- I will probably go back through that in just a minute
23 because I usually say this: It's caused some confusion in the
24 past. If you got a small child who gets off a school bus at
25 a certain time, and there's nobody that's going to be there

1 to take the child off the school bus, that's what I'm talking
2 about too. If you have to pick your child up from a day care
3 center by a certain time, that's what I'm talking about too.
4 So does anybody need to talk to me about that? What's your
5 name, ma'am?

6 JUROR NUMBER 176: Marshall Wise.

7 THE COURT: 177. How old is your child?

8 JUROR NUMBER 176: She's four.

9 THE COURT: And what's your situation?

10 JUROR NUMBER 176: Daycare.

11 THE COURT: What time do you have to pick the child up?

12 JUROR NUMBER 176: It's closed at 6:00, I'm not sure if
13 that was an exemption, but at 6:00 -- it's closed at 6:00.

14 THE COURT: Where is it?

15 JUROR NUMBER 176: Kids Unlimited of Prosperity.

16 THE COURT: Yeah. Being in Prosperity no later than
17 6:00?

18 JUROR NUMBER 176: Yes.

19 THE COURT: I -- I can't promise you -- you can do
20 that. You want to be exempt? You want to be off duty?

21 JUROR NUMBER 176: I mean, if I can get out of here
22 before 6:00 I can stay.

23 THE COURT: I can't promise you that. I mean, if I
24 give the case to the jury at 4:00, you all still will be
25 deliberating at 6:00 -- 6:30. I can't -- I can't help.

1 JUROR NUMBER 176: Okay. Well, I exempt.

2 THE COURT: Okay. 177 is exempt, small child.

3 Your name, please?

4 JUROR NUMBER 110: Jordan Greenberg.

5 THE COURT: 110. What's your -- how old is your child,
6 ma'am?

7 JUROR NUMBER 110: Well, we actually have five
8 children. My youngest is three.

9 THE COURT: Okay.

10 JUROR NUMBER 110: With my job, I stay at home work,
11 and he is with me, I can't guarantee that Wednesday
12 (inaudible) up here.

13 THE COURT: You can't guarantee Wednesday?

14 JUROR NUMBER 110: Wednesday or Friday, your Honor.

15 THE COURT: I'm really not worried about Friday. All
16 right. Wednesday you -- you're not sure?

17 JUROR NUMBER 110: Correct.

18 THE COURT: Okay. Sign that affidavit as you leave,
19 please. 110 is exempt: Small child. I don't think we'll be
20 done on Wednesday, but I can't promise.

21 If there's any reason you won't be considered, whatever
22 it is: Business, personal, religious beliefs, any kind of
23 reason you want me to consider as to why you feel that you
24 cannot serve on the jury at any time or why you feel like you
25 need to be transferred to another term of court, please

1 stand. Very good. Jury is qualified.

2 All right. What we're going to do next -- do you all
3 need a break? I see some (inaudible).

4 We're going to change our focus and we're going to
5 start looking at a particular case, and I'll be asking you
6 questions about any type of connection you may have to the
7 case or anybody in it. Whether you've ever been through
8 anything similar to it or anybody close to you has, such
9 things as whether there's something about the nature of the
10 case itself that affects you in any way to be a fair and
11 impartial jury -- juror. So we'll change our boats there.
12 If you happen to know what case we're going to try, don't
13 discuss it with your fellow jurors, please. We'll cover that
14 later. All right. Let's take 15 minutes. I need you back
15 in place five minutes to 11:00. All right? Thank you.

16 (Jury exits.)

17 (Off the record.)

18 UNIDENTIFIED SPEAKER: Judge, can I approach? Judge,
19 can I approach?

20 THE COURT: Clerk of court, did excuse one of the
21 jurors (inaudible). The right juror left, I said wrong the
22 number. It was 175 and 176. The female is Wise too. I said
23 177. Let me make sure, is Ashley W. Wilson still here?
24 Okay. And Marshall R. Wise? No. Michael E. Wise?

25 JUROR NUMBER 177: Yes, sir.

1 THE COURT: Okay. I just read the wrong number. All
2 right. Ladies and gentlemen, we're now going to shift our
3 attention to the particular case as I mentioned long ago.
4 And what we're going to do in this part of the process is
5 that we're going to focus on trying, and get a jury that is
6 fair and impartial. If you keep that goal in mind, I think
7 the questions will make more sense too.

8 Now, we're going to go through a process that's going
9 to look very similar to what we just went through. And you
10 need to remember that you're under oath. You need to
11 remember that you have an obligation to be completely
12 truthful and ought to be. And that if you have -- if you're
13 in doubt about whether anything applies to you, you need to
14 discuss it with me and let us resolve it out. You also need
15 to remember that if -- if you prefer to come down front to
16 discuss things, that's fine. We'll talk about it over here
17 on the side with the court reporter.

18 Now, in this next stage, it's really important that one
19 juror might stand up and say things that might taint the
20 other juror. Some of you may have a very strong feeling, one
21 way or another, by giving subjects in any case. And if you
22 start standing up, and giving us your feelings about certain
23 things, that may taint the other jurors. So there may be
24 times when you need to come down front. There may be times
25 when I anticipate and tell you to come down front. So just

1 please be careful if your sentence is going to start out, "I
2 think," probably you need to come down at the front.

3 Now, the first case we're going to try is a case that
4 is captioned: "In the matter of the Care and Treatment of
5 George Roman Pierson." Now, ladies and gentlemen, you are in
6 civil court. This is not criminal court. That's a -- that's
7 called a general session. It held -- it's held at a
8 different time -- different standards apply. You are in
9 civil court. There is a process in civil court where when
10 someone has been convicted of a certain type of offense, that
11 the Attorney General's Office can bring an action to attempt
12 to have that person declared to be a sexually violent
13 predator.

14 It's something like in probate court where somebody is
15 mentally ill, and they are involuntarily committed against
16 their will until -- to get treatment, until they're better
17 and until they reach a certain level where they can be
18 released. It is akin to the same thing in probate court. If
19 somebody is under the influence so much of alcohol or drugs,
20 that they can be involuntarily committed for treatment and
21 they be kept there against their will until such time, as
22 it's determined, that they can be released back into the
23 community, that the treatment is best served as first.

24 Now, that doesn't mean there won't be following
25 treatment, I'm not saying that -- but this is an involuntary

1 treatment procedure. Now, Mr. Pierson, as you'll hear, I
2 expect you'll hear, was convicted of crime of committing a
3 lewd act on a minor under the age of 16. And the Attorney
4 General's Office has brought this action and they are
5 attempting to have him committed for long-term care,
6 treatment, things of that nature because they believe he's a
7 sexually violent predator.

8 They, being the State, has to prove that all the
9 elements of it are beyond a reasonable doubt. So please keep
10 in mind that while we're in civil court, we are going to be
11 using the standard of proof. Beyond a reasonable doubt. And
12 you need to understand that Mr. Pierson has been convicted
13 and he has been sentenced on the criminal side. And you're
14 not here to be a criminal court jury. He's -- he's been
15 convicted. He's got his criminal court sentence. All right.
16 Is George Roman Pierson in court?

17 MR. FISHER: He is, your Honor.

18 THE COURT: Would you please stand, sir, and face the
19 rest of us, please? Thank you very much. Can you please be
20 seated? Is there any member of the jury panel who is related
21 by blood or marriage or has any connection whatsoever with
22 the Respondent here, George Roman Pierson? That would
23 include being a neighbor or a friend, a social acquaintance,
24 and the connection could be current or former. If you've got
25 any connection or ever have had any connection with George

1 Roman Pierson -- any relationship with him, please stand.

2 Mr. Pierson will be represented by Mr. Michael S.

3 Gambrell, you will see him within the Counsel (inaudible).

4 Do any of you know anything at all about the underlying

5 criminal case or anything at all about this matter? If so,

6 please stand. Are any of you connected in any way with the

7 Attorney General's Office of South Carolina or have you ever

8 been connected, or is anyone close to you? It can be a close

9 friend, it can be a relative, whatever. Anyone close to you

10 have any connection whatsoever with the South Carolina

11 Attorney General's Office? If so, please stand. Your name,

12 sir?

13 JUROR NUMBER 85: Michael Heffner.

14 THE COURT: Bear with me a moment, please.

15 JUROR NUMBER 85: Okay.

16 THE COURT: Mr. Heffner is 85. What's your connection?

17 JUROR NUMBER 85: My sister, she works with the

18 Attorney General's Office with computer -- crime kids on

19 computers.

20 THE COURT: Okay.

21 JUROR NUMBER 85: Her name is Lucinda McKeller (ph).

22 THE COURT: I'm going to set you aside. Number 85 is

23 set aside on the trial of this case. He's related to a

24 member of the staff of the Attorney General. Please stay

25 with us, okay? Anyone else? Have any of you ever campaigned

1 for or made any type of financial contribution for -- without
2 yard signs or anything like that for Attorney General Alan
3 Wilson? If so, please stand.

4 All right. The Attorney General's Office is going to
5 be represented by Mr. James Keith Fisher -- Mr. Fisher here.
6 Thanks very much, sir. Any of you have any connection
7 whatsoever with these attorneys in the case? Any attorney
8 who works for the Attorney General's Office any of these two
9 attorneys, have they ever represented you in any way? To the
10 best of your knowledge, have you ever been on the opposite
11 side of any case involving these attorneys or anyone with
12 their affiliation? If so, please stand.

13 I think this was included in the earlier questions, but
14 just to make sure: Do any of you have any connection of any
15 kind, to the best of your knowledge, with the minor who was
16 allegedly involved in or involved in the prior criminal case?
17 In other words, if you know anything about the case or you
18 have any connection to that minor or the family, if so,
19 please stand.

20 Okay. I'm going to ask the question I normally ask at
21 the end -- towards the end. Is there anything at all about
22 the nature of this case that might affect your ability to be
23 a fair and impartial juror? Anything at all about the
24 allegations of sexual misconduct? Anything at all about the
25 age involved of the victim of sexual misconduct? If there's

1 any -- anything whatsoever about a case where it's claimed
2 that a person is a sexually violent predator or that a person
3 has been convicted of committing a lewd act upon a minor?
4 Please stand. If it would prevent you in any way, or if you
5 have any doubt about whether it would prevent you in any way
6 from being a fair and impartial juror? Please stand.

7 Your name, please?

8 JUROR NUMBER 90: Barbara Honeycutt.

9 THE COURT: I didn't hear your last name.

10 JUROR NUMBER 90: Barbara Honeycutt.

11 THE COURT: Honeycutt? Juror Number 90. You're set
12 aside, Ms. Honeycutt. Just stay with us, don't discuss
13 anything with your fellow jurors, please.

14 Anyone else? Do any of you have any training,
15 whatsoever, in the field of psychology, psychiatry, or any
16 related fields? If so, please stand. The witness who's
17 going to testify on behalf of the Attorney General's Office
18 is Dr. Christopher Gillen. Is Dr. Gillen in the courtroom?
19 Is he here? Is Dr. Gillen here?

20 MR. FISHER: He's not, your Honor. He -- I told him to
21 be here at noon.

22 THE COURT: Okay. Ladies and gentlemen, do any of you
23 have any connection whatsoever with Dr. Christopher Gillen,
24 G-I-L-L-E-N, either a personal relationship, a familial
25 relationship, professional relationship, social, any kind of

1 connection with Dr. Christopher Gillen? If so, please stand.
2 Have any of you ever been involved in or had any training in
3 such things as prison ministry, prison outreach, or programs
4 to assist or deal with, in any way, incarcerated persons? If
5 so, please stand.

6 Have any of you ever, to the best of your recollection,
7 contributed to or worked in any capacity in any type of
8 victims' rights organization, victim assistance organization,
9 any shelter for abused persons? If so, please stand. Have
10 any of you ever been involved, in any capacity, with a civil
11 commitment proceeding? Any kind of civil commitment
12 proceeding, that could be where you were being committed, or
13 you were having someone committed, or a close friend or a
14 relative of yours was being committed against their will or a
15 voluntary commitment proceeding? If so, please stand. Your
16 name, sir?

17 JUROR NUMBER 162: Barry Turner.

18 THE COURT: Okay. Mr. Turner is Juror Number 162. And
19 you want to tell us from there or you want to come down here?

20 JUROR NUMBER 162: I'd rather come down there.

21 THE COURT: Okay. That's fine. You all might come
22 down too.

23 What's your situation?

24 JUROR NUMBER 162: I was committed right here at
25 Newberry Hospital. I went in for a nervous breakdown. Next

1 thing I know I'm in -- in a sheriff's car, shackles and
2 handcuffs. Never been there (inaudible) on me. I just had
3 another breakdown.

4 THE COURT: Yes, sir.

5 JUROR NUMBER 162: And they took me to Greer.

6 THE COURT: Okay. Is there anything about that
7 experience that affects your ability to be fair and impartial
8 in this case?

9 JUROR NUMBER 162: No. I got out in three days, but
10 it's still...

11 THE COURT: Right. Okay. You sure -- do you have any
12 doubt at all about your ability to be fair and impartial in
13 the case?

14 JUROR NUMBER 162: No. After they understood
15 everything, they let me go, so...

16 THE COURT: Okay.

17 JUROR NUMBER 162: I -- I do.

18 THE COURT: You're confident of --

19 JUROR NUMBER 162: I weigh -- I weigh both (inaudible)
20 cards.

21 THE COURT: Okay. Thank you, sir.

22 JUROR NUMBER 162: All right. Just wanted to look that
23 up.

24 THE COURT: You -- you did the right thing. 162 is
25 eligible to serve.

1 UNIDENTIFIED SPEAKER: Your Honor?

2 THE COURT: Oh, I'm sorry. Yes, ma'am. What's your
3 name?

4 JUROR NUMBER 29: Carlotta Chapman.

5 THE COURT: You want to stay there, Ms. Chapman, or you
6 can come down front?

7 JUROR NUMBER 29: I can stay here. Does working at --
8 previously working at John de la Howe have any bearing?

9 THE COURT: Well, I have to rely on you.

10 JUROR NUMBER 29: I did not, I just wanted to bring it.

11 THE COURT: You -- you formerly worked at the John de
12 la Howe House school?

13 JUROR NUMBER 29: I did.

14 THE COURT: Is there anything about that that affects
15 your ability to be a fair and impartial juror?

16 JUROR NUMBER 29: No, sir. I just wanted to...

17 THE COURT: You're doing the right thing. I just have
18 to ask you these questions.

19 JUROR NUMBER 29: Okay.

20 THE COURT: Do you have any doubt about whether you'd
21 be fair and impartial?

22 JUROR NUMBER 29: No, sir.

23 THE COURT: All right. Thanks. 29 is eligible to
24 serve. Are any of you related to each other? Now, bear with
25 me. I've got a bunch of questions for both of you, I'm

1 trying to be (inaudible) as I can. All right. We probably
2 talked about this one down front, so if this applies to you,
3 please stand, but we'll talk about it down front.

4 Has any member of the jury panel had experience with
5 mental illness, whether that be through your own experience,
6 a friend, or a loved one? If so, please stand.

7 Have any of you or any of your immediate family members
8 or close personal friends ever been accused of committing any
9 type of sexual assault, or have any of you, any of your close
10 personal friends ever been a victim of a sexual assault?
11 We'll talk about that up here. Come on the stage. Come
12 around and form a line up here, please. Right by here, sir.
13 Tell me your name again, please.

14 JUROR NUMBER 48: I'm David Denmore, Juror 48.

15 THE COURT: 48?

16 JUROR NUMBER 48: Number 48.

17 THE COURT: What's your situation, sir?

18 JUROR NUMBER 48: My sister-in-law was involved with
19 something like this with her fellow students. She was a
20 principal at Airport High School.

21 THE COURT: Okay.

22 JUROR NUMBER 48: It's been about five or six years.

23 THE COURT: She was accused of assaulting them or what?

24 JUROR NUMBER 48: Inappropriate relationship with a
25 student.

1 THE COURT: Was she charged?

2 JUROR NUMBER 48: I'm not sure.

3 THE COURT: Yeah. You -- you're doing right. Was she
4 charged with a crime?

5 JUROR NUMBER 48: I can't really remember to be honest
6 with you.

7 THE COURT: Okay. Is there anything about that
8 experience or your relationship with her that might affect
9 your ability to be fair and impartial?

10 JUROR NUMBER 48: No.

11 THE COURT: Do you have any doubt in your mind?

12 JUROR NUMBER 48: No, sir.

13 THE COURT: Thank you, sir. 48, eligible to serve. If
14 you've been set aside, you don't have to come back.

15 Okay. Your name, please?

16 JUROR NUMBER 60: Annette Elston.

17 THE COURT: Number 60.

18 THE COURT: 60. What's your situation, ma'am?

19 JUROR NUMBER 60: My brother-in-law molested my
20 husband.

21 THE COURT: As a child?

22 JUROR NUMBER 60: Yes -- yes, sir. As a child.

23 THE COURT: Any -- any criminal charges ever brought?

24 JUROR NUMBER 60: No, sir.

25 THE COURT: Is there anything at all about that

1 experience or your relationship with your husband, or
2 brother-in-law that might affect your ability to be fair and
3 impartial?

4 JUROR NUMBER 60: No, sir.

5 THE COURT: Do you have any doubt in your mind?

6 JUROR NUMBER 60: No, sir.

7 THE COURT: Thank you very much. Ms. Elston, Juror
8 Number 60, she's eligible to serve. Yes, ma'am. What's your
9 name, please?

10 JUROR NUMBER 78: Charity Hansen, Juror 78.

11 THE COURT: 78. Ms. Hansen, what's your situation?

12 JUROR NUMBER 78: Both my husband and I have been
13 sexually assaulted, and I've worked -- I worked at OB/GYN
14 office where I had to deal with patients with those.

15 THE COURT: Okay. When your husband was sexually
16 assaulted was he -- was he an adult?

17 JUROR NUMBER 78: No, he was younger.

18 THE COURT: Okay. Were there any criminal charges
19 brought that you know about?

20 JUROR NUMBER 78: I'm not sure off the top of my head.
21 I can call him and ask him.

22 THE COURT: No, no. That's not --

23 JUROR NUMBER 78: Oh, okay.

24 THE COURT: From what you know, that's all I want to
25 know.

1 JUROR NUMBER 78: That -- no. Not that I'm aware of.

2 THE COURT: Okay. From what you know, was it an adult
3 that molested him?

4 JUROR NUMBER 78: Yes, it was. It was an uncle.

5 THE COURT: Okay. And yourself?

6 JUROR NUMBER 78: Myself, it was my best friend's
7 father.

8 THE COURT: Okay. How old were you?

9 JUROR NUMBER 78: I was 14, 15.

10 THE COURT: Okay. Any charges brought on any of that?
11 Speak your answer?

12 JUROR NUMBER 78: No, I'm sorry.

13 THE COURT: You're good. Your husband, any charges
14 brought for him? And your experiences working in the OB/GYN
15 --

16 JUROR NUMBER 78: OB/GYN with 9- to 12-year-olds.

17 THE COURT: Okay.

18 JUROR NUMBER 78: It's definitely difficult.

19 THE COURT: I understand.

20 JUROR NUMBER 78: Yes.

21 THE COURT: All I want you to do is be honest with me.

22 JUROR NUMBER 78: Yes, sir.

23 THE COURT: Okay. That's why we bring in a lot more
24 than 12 jurors, okay?

25 JUROR NUMBER 78: Yes, sir.

1 THE COURT: Is there anything whatsoever about your
2 experience, your relationship with your husband, and his
3 experience, or your relationship with your job -- former job,
4 that might affect in any way your ability to be fair and
5 impartial in this case?

6 JUROR NUMBER 78: Truthfully, I cannot guarantee, I
7 won't lie. I don't want to lie.

8 THE COURT: I can certainly understand why. All right.
9 Ms. Hansen, I'm going to set you aside. Don't discuss any of
10 that with your fellow jurors.

11 JUROR NUMBER 78: Yes, sir.

12 THE COURT: Just wait so I can give you some more
13 instructions.

14 JUROR NUMBER 78: Yes, sir.

15 THE COURT: 78, set aside. Yes, ma'am. What's your
16 name, please?

17 JUROR NUMBER 114: Sherry Malcolm.

18 THE COURT: 114. What's your situation, Ms. Malcolm?

19 JUROR NUMBER 114: My brother was sentenced in prison
20 for a sexual act.

21 THE COURT: Okay.

22 JUROR NUMBER 114: But we never -- I mean, he pled
23 guilty. We never heard the...

24 THE COURT: What? The specific?

25 JUROR NUMBER 114: Right.

1 THE COURT: Okay.

2 JUROR NUMBER 114: I have no idea what all happened.

3 THE COURT: Do you know if it involved a child?

4 JUROR NUMBER 114: It did.

5 THE COURT: Okay. And is he still in prison?

6 JUROR NUMBER 114: No.

7 THE COURT: How long ago are we talking?

8 JUROR NUMBER 114: He served six years.

9 THE COURT: Okay.

10 JUROR NUMBER 114: So about six years ago.

11 THE COURT: South -- was it in South Carolina?

12 JUROR NUMBER 114: Uh-huh.

13 THE COURT: That's a "Yes"?

14 JUROR NUMBER 114: Yes, sir.

15 THE COURT: You need to speak up, she -- she takes down
16 yeses and nos, okay?

17 JUROR NUMBER 114: Okay.

18 THE COURT: Is there anything at all about your
19 experience or your relationship with him that might in any
20 way affect your ability to serve?

21 JUROR NUMBER 114: No, sir.

22 THE COURT: Is there any doubt in your mind?

23 JUROR NUMBER 114: No, sir.

24 THE COURT: Okay. Thank you very much. Okay. 114,
25 Ms. Malcolm is eligible to serve.

1 Yes, ma'am. Right up here please. What's your name?

2 JUROR NUMBER 58: Linda Edwards.

3 THE COURT: Edwards?

4 JUROR NUMBER 58: Sorry, what was that?

5 THE COURT: Edwards. 58. What's your situation,
6 Ms. Edwards?

7 JUROR NUMBER 58: My daughter was sexually assaulted
8 when she was younger, and I was also assaulted.

9 THE COURT: Okay. How old was your daughter at the
10 time?

11 JUROR NUMBER 58: She was around 15.

12 THE COURT: 15? Was this a stranger, or a relative, or
13 a friend that committed the act?

14 JUROR NUMBER 58: It was my -- my brother's
15 girlfriend's --

16 THE COURT: Okay.

17 JUROR NUMBER 58: -- brother.

18 THE COURT: Okay. And were any criminal charges
19 brought?

20 JUROR NUMBER 58: Uh-huh.

21 THE COURT: And what happened?

22 JUROR NUMBER 58: He done time.

23 THE COURT: Okay. Did you testify?

24 JUROR NUMBER 58: No. Yeah, I went to the --

25 THE COURT: Did he plead guilty? Did he plead guilty?

1 JUROR NUMBER 58: Yes, he did.

2 THE COURT: Okay.

3 JUROR NUMBER 58: Because they -- they caught him in
4 the act.

5 THE COURT: They caught him in the act?

6 JUROR NUMBER 58: Yes.

7 THE COURT: Okay. Now -- and you were molested as
8 well?

9 JUROR NUMBER 58: Yes.

10 THE COURT: (Inaudible)? How old were you?

11 JUROR NUMBER 58: I was nine years old.

12 THE COURT: Nine? Was this a stranger or a relative?

13 JUROR NUMBER 58: Cousin.

14 THE COURT: Cousin. Male?

15 JUROR NUMBER 58: Yes, sir.

16 THE COURT: Any criminal charges brought on that?

17 JUROR NUMBER 58: No charges were brought.

18 THE COURT: Okay. Now, all I want you to do is be
19 honest with me, all right? Is there anything at all about
20 any of those relationships or experiences that might affect
21 your ability to be fair and impartial in this case?

22 JUROR NUMBER 58: Yes. To be honest, I don't think so.

23 THE COURT: You have some doubt?

24 JUROR NUMBER 58: Maybe if it went to some extent.

25 THE COURT: I understand. I -- I would expect it. All

1 right. Ms. Edwards, I'm going to set you aside on this case
2 and you stay here, but don't discuss any of that with your
3 fellow jurors, okay?

4 JUROR NUMBER 58: Thank you.

5 THE COURT: 58, set aside. Have any of you ever been
6 accused of or been the victim of any other type of crime of
7 violence, or has anyone very close to you ever been accused
8 of or convicted of any crime of violence that you haven't
9 already told me about? If so, please stand. If I set you
10 aside, you don't -- you don't need to answer any more
11 questions. Okay. Anybody else?

12 Yes, sir. What's your name?

13 JUROR NUMBER 35: Tom Commons. Number 35.

14 THE COURT: You want to come down here, sir?

15 JUROR NUMBER 35: Yes, sir.

16 THE COURT: Right about there, please. 35, what's your
17 situation, sir?

18 JUROR NUMBER 35: Just my son was arrested for assault
19 on his wife, domestic violence.

20 THE COURT: Okay. Your son?

21 JUROR NUMBER 35: Yes, my son.

22 THE COURT: Okay. And was he convicted or pled guilty?

23 JUROR NUMBER 35: Well, it was, like, ACD, Adjournment
24 in Contemplation of Dismissal, you know, they worked things
25 out, and then -- it was in California.

1 THE COURT: Okay. Anything at all about that
2 experience that'd affect your ability to be fair and
3 impartial in the case?

4 JUROR NUMBER 35: No.

5 THE COURT: Any doubt in your mind?

6 JUROR NUMBER 35: No.

7 THE COURT: Thank you, sir. Have a seat. 35 is
8 eligible to serve. Anybody else?

9 Have any of you formed or expressed any opinions about
10 this case? If so, please stand. Are any of you aware of any
11 interest, bias, or prejudice that you might have for, or
12 against the State? For, or against Mr. Pierson? For, or
13 against anyone, or any entity involved in this case? If so,
14 please stand. Can each of you give the parties here,
15 including Mr. Pierson, a fair and impartial trial? If not,
16 please stand. Further questions from the State?

17 MR. FISHER: Nothing further, your Honor.

18 THE COURT: Further questions from the Respondent?

19 MR. GAMBRELL: Nothing further.

20 THE COURT: Thank you very much. Jury is finally
21 qualified. All right. I told the lawyers it's been a while
22 since I tried one of these cases. I've tried some in the
23 past. I want just to make sure the strikes were -- are they,
24 like, civil strikes?

25 MR. FISHER: Yeah.

1 THE COURT: Okay. So we're going to put a list here,
2 is that right?

3 MR. FISHER: Correct.

4 THE COURT: And one alternate be in that?

5 MR. FISHER: Typically, we go with two.

6 THE COURT: Two?

7 MR. FISHER: That's fine.

8 THE COURT: All right. Here's what's going to happen,
9 ladies and gentlemen. The -- the clerk of court is going to
10 tell the computer to randomly draw 26 names, and the first 20
11 of those names, each side has to strike four. They may be
12 perfectly happy with all 20, but they have to strike four.
13 That gives us some jury of 12. Then from the next three, we
14 strike one each -- one each gives us the first alternate, and
15 then from the next three, they strike one each to get the
16 second alternate.

17 So it usually takes about 20 minutes for the -- this to
18 be done, and for the lawyers to have a chance to go over it.
19 And so, in just a short while, we're going to take a break.
20 Now, who's being excused from the trial of the case? Stand
21 up, please. You were excused from the trial of this case?
22 Stand up. I know I set aside three. I want to make sure I
23 don't -- anybody gets the wrong person. Very good. Who was
24 -- what's your name again?

25 JUROR NUMBER 85: Michael Heffner. 85.

1 THE COURT: 85. And Ms. Edwards, that's Juror Number
2 58. Ms. Honeycutt, Juror Number 90. 78, Ms. Hansen.
3 Anybody else that I say was set aside? All right. What you
4 all are going to do here, you all are giving him those cards
5 or you mail the checks?

6 THE CLERK: We mail the checks.

7 THE COURT: Okay. If they need a slip for work, go
8 downstairs?

9 THE CLERK: Yes, sir.

10 THE COURT: Okay. You four folks, there's no reason
11 for you to stay because I don't have you on jury trial this
12 week. You -- and you're going to be free to go. If you need
13 a slip for work, check with the clerk's office downstairs.
14 They'll get it to you. They'll mail you a little check.
15 Don't plan much with it, okay? But you'll get a little check
16 in the mail, okay? Thank you. You're disqualified from jury
17 -- I'm sorry. You're exempt from jury duty now for three
18 calendar years if you don't want to serve. Thank you.

19 Now, the rest of you, please listen carefully. We're
20 going to be on a break while the lawyers get this list, and
21 while they go over it -- during this time, do not discuss
22 this case in any way at all. Don't talk about the people
23 involved in it. Don't talk about the type of case it's
24 alleged to be. Don't talk about anything whatsoever that
25 relates to this case.

1 Also, if you -- different counties do different things,
2 but if you have your cell phones or you have access to the
3 internet, do not look up anything about the law or about the
4 people or about the underlying case. Don't look up anything
5 whatsoever concerning this matter. Don't do any independent
6 investigation is the term I'll use when I talk to the jury.
7 You're going to be placed under oath when you take your next
8 oath if you're on this jury, to decide the case based on the
9 evidence and the law, and those things are going to come to
10 you in the courtroom.

11 So please do not do any independent investigation,
12 like, looking up anything on the internet. I -- I do want
13 you to use your common sense. I'm going to tell you that.
14 So we'll be in recess. You can stay where you are or you can
15 step outside if you'd like, I need you back in place, say, in
16 15 minutes. Well, it's about five minutes to 12:00, and as
17 soon as the lawyers are ready, we'll strike the jury. All
18 right. You may leave.

19 (Jury exits.)

20 (Off the record.)

21 THE COURT: All right. I sit -- whether we do it
22 right. So I want to make sure I don't miss anything. When
23 we do the alternates, we do 21, 22, and 23.

24 THE CLERK: Yes, sir.

25 THE COURT: Each one. Do you all use all six of those

1 or do you just use three at a time?

2 THE CLERK: We haven't done this in so long, but we can
3 do three at a time.

4 THE COURT: All right. Let's (inaudible). 21, 22, and
5 23. The first alternate?

6 MR. FISHER: Yes, your Honor.

7 THE COURT: 24, 25, and 26 will be the second
8 alternate?

9 MR. FISHER: Correct.

10 THE COURT: That okay with the Respondent?

11 MR. GAMBRELL: Yes, sir -- your Honor.

12 THE COURT: All right. Ladies and gentlemen, what's
13 going to happen now is we're going to use a different
14 numbering system, and the attorneys are going to be asked to
15 strike jurors. They may be perfectly happy with everybody on
16 the list, but they have to strike four from the first list of
17 20 in order to get us to a jury of 12. After that, the next
18 three, we will select one juror from that, be the first
19 alternate, and then -- then we'll do the second alternate on
20 the next three. But we're using a different numbering
21 system, ma'am.

22 THE CLERK: Thank you.

23 THE COURT: All right. We'll do the Plaintiff first --
24 excuse me, the State first, and then the Respondent. Madam
25 Clerk?

1 THE CLERK: Plaintiff's first strike?
2 MR. FISHER: Number 2.
3 THE CLERK: Defendant's first strike?
4 MR. GAMBRELL: Number 1, please.
5 THE CLERK: Plaintiff's strike?
6 MR. FISHER: Number 8.
7 THE CLERK: Defendant's strike?
8 MR. GAMBRELL: Number 5.
9 THE CLERK: Plaintiff's strike?
10 MR. FISHER: Number 20.
11 THE CLERK: Defendant's strike?
12 MR. GAMBRELL: Number 6.
13 THE CLERK: Plaintiff's strike?
14 MR. FISHER: Number 9.
15 THE CLERK: Defendant's strike?
16 MR. GAMBRELL: Number 10.
17 THE COURT: All right. From 21, 22, and 23, Madam
18 Clerk?
19 THE CLERK: Plaintiff's strike?
20 MR. FISHER: Number 21.
21 THE CLERK: Defendant's strike?
22 MR. GAMBRELL: 22.
23 THE COURT: 24, 25, and 26. Madam Clerk?
24 THE CLERK: Plaintiff's strike?
25 MR. FISHER: Number 24.

1 THE CLERK: Defendant's strike?

2 MR. GAMBRELL: 25.

3 THE CLERK: Okay. Can --

4 THE COURT: All right. You want to confirm the
5 strikes?

6 THE CLERK: Yes. Please check these: Plaintiff's
7 strike is 2, 8, 9, 20, 21, and 24.

8 MR. FISHER: Correct.

9 THE CLERK: Defendant's strikes are 1, 5, 6, 10, 22,
10 and 25.

11 MR. GAMBRELL: Correct.

12 THE CLERK: Thank you.

13 THE COURT: Ladies and gentlemen, if you hear your name
14 called, please gather your personal belongings, come down
15 front, have a seat over here in the jury box. Madam Clerk?

16 THE CLERK: Ralph Mardone, Carlotta Chapman, Kevin
17 Dora, Mallory Odell, Olivia Crawford, Matthew Bowers, Thomas
18 Arthur, Michael Boozer, Diamond Lindler, Kathleen Harmon,
19 Bradley Camalanda, Elaine Doley, Tracy Turner, and Thomas
20 Commons.

21 THE COURT: Are there any matters to take up including
22 composition, your -- prior to the jury being sworn from the
23 State?

24 MR. FISHER: Nothing your Honor.

25 THE COURT: From the Respondent.

1 MR. GAMBRELL: Nothing from Respondent.

2 THE COURT: Thank you very much. All right. Ladies
3 and gentlemen, I'm going to ask you in a moment to step into
4 the jury room here. Where are you all? Which two of you
5 were the last two alternates? Okay. Thank you. When you
6 come back, Madam Clerk is going to tell you to sit in a
7 different order, but while you're back there, without
8 discussing the case in any way, I want you to select a
9 foreperson of the jury, all 12 of you. The reason I ask
10 about these two, they don't get to vote. 12 of you who were
11 first selected, choose a foreperson. You're all perfectly
12 qualified to do the job, I just would relatively select any.

13 So what I want you to do is select a person, and write
14 on a piece of paper the name, and juror number of the person
15 you choose as your foreperson. I'll get you back out here as
16 quickly as I can. What we're going to do is: I'm going to
17 bring you back out here, I'm going to give you some
18 preliminary instructions, very brief, and then we're going to
19 break for lunch. I'm going to stay here and work on some
20 legal issues with the lawyers, and then we'll start back with
21 you this afternoon at certain time that I'll have to
22 determine that. Don't discuss the case. Follow the bailiff,
23 please.

24 (Jury exits.)

25 THE COURT: Ladies and gentlemen, if you were not

1 selected on this jury, as you've heard me say, I don't have
2 any other jury cases this week. So in just a moment, I'm
3 going to let you go. I want to thank you very much for your
4 service. I'll tell you that you have an exemption from jury
5 service for -- one year from today, you can serve, but if you
6 choose not to serve, and you get drawn, you just try to
7 remember when you were selected, and tell the judge at that
8 time, or the clerk at that time, they will mail to you those
9 checks for jury service for today only, and sign the
10 envelope. There will be a certificate for using you for
11 today.

12 Now, I really don't have any power over your boss, but
13 pretty much everybody accepts it, but there'll be proof that
14 you were here today. In Lexington, it takes -- I know I keep
15 talking about Lexington. I'm from Edgefield, so those are
16 two entirely different places, but in Lexington, what they do
17 is they take about 10 days to get those checks out. So
18 hopefully yours won't take that long.

19 THE CLERK: (Inaudible) about three days.

20 THE COURT: Well, we got a big administration there.
21 So -- anyway, you may go out and if your boss won't wait
22 until the letter comes, if you come back and check with the
23 clerk, they'll give you what you need, all right? I'm going
24 to shut up now. You all can stay if you want to stay, you're
25 free to go if you want to. Thank you.

1 All right. Do you all have an approximation about how
2 long these motions are going? Any that you agree on?

3 MR. GAMBRELL: Well, Judge, there -- there's two
4 motions in limine. The first one pertains to the form of
5 treatment or any -- any treatment the Defendant -- I'm sorry,
6 the Respondent may ultimately receive, it is irrelevant. And
7 any talk about any treatment, treatment plan, treatment
8 facility, not only is not -- not relevant to these
9 proceedings, but further it's highly probative of the -- I'm
10 sorry, it's highly prejudicial in that it -- it will allow --
11 necessitate the jury to consider factors that are not
12 relevant to these proceedings.

13 THE COURT: All right. Do you wish to be heard on
14 that?

15 MR. FISHER: Well -- I mean -- I -- I think I'm allowed
16 to say that he's going to the Department of Mental Health if
17 the jury finds (inaudible). I -- he said there something
18 about the facilities. I -- I don't think it's a secret.

19 THE COURT: Do you have an issue with that?

20 MR. GAMBRELL: I do. I -- it's not relevant. It --
21 the -- you know, the -- the State only has to prove three
22 elements, and the treatment he may or may not receive, a
23 treatment plan, a treatment facility, where he would be
24 confined is just simply not relevant to these proceedings.

25 THE COURT: I agree with you on everything you said. I

1 don't think there's any problem him saying -- I'm ruling.

2 There's no problem him saying that the Respondent is going to
3 the Department of Mental Health. Now, as far as describing
4 what that involves and whether it's in an old prison
5 facility, I don't understand why that is relevant.

6 MR. FISHER: I -- I'm not -- I don't even know, Judge,
7 to be honest with you.

8 THE COURT: Do you --

9 MR. FISHER: I mean, I talked to plenty clients on the
10 phone, but I've never been in person.

11 THE COURT: You're not going to get any of that as far
12 as the treatment plan, and how that goes about all that is
13 irrelevant.

14 MR. FISHER: I don't intend --

15 THE COURT: And it's undue prejudicial (inaudible).

16 MR. FISHER: I -- I just -- I -- you know, I -- it's
17 hard to talk about the case without saying that the State is
18 trying to involuntarily commit him.

19 THE COURT: Well -- I mean, I've already told the jury
20 he is going to be involuntarily committed if they find these
21 without prejudice. So saying he's going to the Department of
22 Mental Health I don't see that that's a problem. All right.
23 What's the next motion?

24 MR. GAMBRELL: Well, Judge, I -- in looking at these, I
25 -- I believe that what I've done is -- is combine the two.

1 The first one had to do with the facility, and the second one
2 had to do with the treatment. So inadvertently, what it does
3 is combine the two motions in limine, but the argument is the
4 same.

5 THE COURT: All right. Thank you. Do you have a
6 motion?

7 MR. FISHER: I -- I didn't catch the second one. Was
8 it the same --

9 THE COURT: Treatment.

10 MR. FISHER: -- treatment?

11 THE COURT: Describe what kind of treatment he might go
12 through.

13 MR. FISHER: No, sir. I don't have a problem with
14 that. The other one I did, Judge, was in Dr. Gillen's report
15 (inaudible).

16 THE COURT: What background or history?

17 MR. FISHER: This -- this deals with a little bit of
18 that. Now, I know that they're allowed to go into his
19 criminal history even if he wasn't convicted. I think the
20 statute speaks to offenses in which case law says that they
21 can talk about offenses.

22 THE COURT: You said there was one incident that he --

23 MR. FISHER: Yes, sir. I'm --

24 THE COURT: -- was not charged and that -- and in
25 chambers, the State indicated that has happened at the

1 Department of Corrections?

2 MR. GAMBRELL: It's on page 9 of 22.

3 THE COURT: Okay. What is it?

4 MR. GAMBRELL: It is a -- he -- and it's under the
5 subcaption, "Adult, nonsexual offenses."

6 THE COURT: "Adult, nonsexual offense."?

7 MR. GAMBRELL: Yes, sir. And he lists -- you know,
8 most of these, I was able to confirm it through NCIC through
9 public index.

10 THE COURT: Look this way, if you're looking down, your
11 voice is going to (inaudible). Okay.

12 MR. GAMBRELL: Yeah, but --

13 THE COURT: I mean, you -- you -- you can look down,
14 look this way, and your voice is going to (inaudible).

15 MR. GAMBRELL: Yes, sir. I understand it's hard to
16 hear in this courtroom, so I'll try to speak louder. The
17 last -- second to the last one, it says: "An assault on a
18 female from 2021." I could not confirm that. I don't know
19 what that charge is. I don't know what it's referring to.
20 It's not a charge that I'm familiar with in South Carolina,
21 under the old at (inaudible) common law, in this (inaudible)
22 female would -- would be included from that, but I -- I don't
23 know what that charge refers to. And I would object to that
24 with -- being mentioned without some offers showing.

25 THE COURT: All right -- all right. So to break that

1 down, whether it is a crime or not, I don't know what
2 matters.

3 MR. FISHER: It does not.

4 MR. GAMBRELL: Well, if he listed it as a nonsexual
5 offense.

6 THE COURT: Is a nonsexual offense?

7 MR. GAMBRELL: Right. And it has a year on it: 2021.
8 And all the other listed offenses are crimes that he's been
9 either convicted of or was charged, and subsequently on
10 promise.

11 THE COURT: All right. So what's the State's position?

12 MR. FISHER: I'm not familiar with the crime of assault
13 on a female. I don't -- frankly, I don't know what it is.
14 However, let me just say this. Mr. Pierson was in custody at
15 the time in 2021. And if it relates directly to his
16 violations at the South Carolina Department of Corrections,
17 then I think it is admissible as a violation. An infraction
18 while -- and is also very relevant, while at the Department
19 of Corrections. I will confirm that with the witness -- the
20 witnesses here now. If that is an -- if that is a crime of
21 which he was charged, but there's no record of it, I have no
22 objection to not speaking about it. There's plenty of other
23 crimes to -- to speak of. However, if that is an infraction
24 at SCDC, I think it is highly relevant and admissible.

25 THE COURT: I think what I'm going to have to do is --

1 if you all work it out, is put the witness on the stand --
2 the camera and hear what it is that he's saying about that,
3 and why it's part of his evaluation. But you may be able to
4 work it out in the meantime. Let's -- let's bring -- is that
5 -- is that everything you got now?

6 MR. GAMBRELL: Yes, sir.

7 THE COURT: Everything in now?

8 MR. FISHER: It is.

9 THE COURT: Let's bring the jury back, I'm going to be
10 giving them some very brief instructions, and have them come
11 back at 2:15, and have the doctor here at 1:45. Probably too
12 much time for the doctor (inaudible). I'm terrible with
13 scheduling. 12:15, I talk to the jury for five minutes, 20
14 minutes, an hour 20 minutes. All right. Let's do 1:45,
15 okay? Bring the jury, please.

16 (Jury enters.)

17 THE COURT: Olivia Crawford (inaudible). You're the
18 foreperson, Ms. Crawford. Take a seat, please. She's Juror
19 Number 39. All right. How do you all sit? Will you sit at
20 the front or sit at the back?

21 THE CLERK: Yes, sir. But those two back chairs back
22 there.

23 THE COURT: And then the foreperson sits on the end on
24 the front row?

25 THE CLERK: Yes, sir.

1 THE COURT: Okay. The rest of you can sit anywhere you
2 want. You're in the process. We usually have the two
3 officers in the back on either of those seats and the
4 foreperson in front.

5 Now, ladies and gentlemen, you'll take your oath as a
6 juror -- excuse me, as a trial jury after lunch break.
7 Before you go, I'm going to repeat some things that's really
8 important. Don't discuss this case among yourselves. Don't
9 discuss it with anybody else. Until you're completely
10 through with the case, you're not talking to family members,
11 friends, spouse, anybody whatsoever about the facts of the
12 case: who's in it, what the allegations are, anything related
13 to the case.

14 Now, it is okay if you tell your boss, to tell your
15 spouse, or tell somebody you have to tell that you've got
16 drawn on a jury. Just can't tell them anything about who's
17 involved with, what the case is about. Now, at the very end
18 of the term, whenever I discharge you, then you're on your
19 own, you can talk whenever you want, I don't know about the
20 wisdom of that. But you -- you're -- you're free to talk
21 about what you will. But don't talk about this case in any
22 way with anybody else until you're through with jury duty,
23 please. And don't talk about it among yourselves until I
24 tell you to, which will be at the very end of the case after
25 you've heard all the evidence, and you know what the law is.

1 Now, I mentioned earlier, don't do any independent
2 investigation that -- and primarily in this case, that means
3 you don't go on the internet or go to any library or try to
4 look up the law, look up facts, look up incident reports,
5 look up anything whatsoever in relation to the case, anybody
6 in it, don't do any name searches or word searches. Don't do
7 any independent investigation. If anybody attempts to
8 contact you and discuss the case with you, report it to me so
9 that I can deal with it.

10 Give it the best description you can of who it was, and
11 how it occurred, when it occurred. Now, I never know when
12 there's going to be media coverage in the trial unless they
13 ask to set up TV cameras. I do not expect any media coverage
14 in this trial, but I have to give this instruction in every
15 case: If there is any media coverage in the trial, do not let
16 yourselves be exposed to it. Get away from it and report to
17 me, at the first opportunity, what you may have seen, heard,
18 or read. Now, with that said, you're going to be on your own
19 for lunch, and I'm going to need you back here at 1:45. So
20 when you come back -- I forgot how you all do this year. Did
21 I say 1:00? I -- I did, 2:00 -- 2:00. But I forgot that --
22 what do you all put while (inaudible)?

23 THE CLERK: You going to be at -- we can put them
24 downstairs in the grand jury room, and get someone to bring
25 them up.

1 THE COURT: Okay. The only entrance into the jury room
2 is in the courtroom here. So when you come back, I want you
3 to report to the grand jury room. They'll show you where
4 that is before you go. And then as soon as I finish with
5 those legal issues with the attorneys that I will be dealing
6 with, we'll bring you up, put you in the jury room, and then
7 shortly after that, we can start the trial, okay? But when
8 you come back, report to the grand jury room, they'll show
9 you where that is.

10 If some true emergency arises that prevents you from
11 being here, please have somebody call us, and let us know
12 what's going on. You saw earlier we go through a very
13 methodical process to pick a jury that's fair and impartial,
14 and I don't just get to willy-nilly put somebody aside and
15 bring the alternates in. I have to account for what's going
16 on and make a determination that -- that we cannot proceed
17 without putting an alternate in place. So please let us
18 know. Hopefully there won't be anything. If there's any
19 emergency that arises, please let us know of what's going on.
20 Call the clerk's office or have somebody call.

21 All right. Any questions before I let you go for
22 lunch? I'll try to keep you abreast of how the case is
23 proceeding as far as procedurally and -- and what I think is
24 going to happen. My best guess is that you probably will get
25 this case tomorrow. We may have some downtime this

1 afternoon, but I think you'll get it tomorrow, not more. All
2 right. Follow the bailiff, please. 2:00, we get started.

3 (Jury exits.)

4 (Off the record.)

5 THE COURT: All right. I indicated we might have an
6 in-camera hearing, but some of the (inaudible) that there was
7 some documentation in North Carolina about this assault? Has
8 that been obtained yet?

9 MR. FISHER: Judge, what happened was, I went and
10 talked to Dr. Gillen. Dr. Gillen is in the courtroom. I
11 asked him to verify where he got that charge of assault on a
12 female. It's not a charge I'm familiar with in South
13 Carolina. The doctor confirmed that Mr. Pierson was arrested
14 in North Carolina on the charges resisting without --
15 resisting arrest, and also on battery on -- assault on a
16 female. The -- Dr. Gillen, I just spoke to him again, he
17 confirmed it. It's on the -- and he said it's on the NCIC.
18 Further, what he said was that he had another psychologist in
19 his office confirmed it because the NCIC is confidential and
20 they have confirmed it as well. If your Honor is inclined to
21 -- to speak to Dr. Gillen, he's here. He can tell you the
22 basis of his consideration of that charge out of North
23 Carolina.

24 THE COURT: Mr. Gambrell?

25 MR. GAMBRELL: Judge, these are -- received that from

1 an NCIC report. I -- the one that I had did not have -- did
2 not have that -- reflect that particular charge. But if he
3 has documentation that -- that he reviewed in making his
4 diagnosis with regard to Mr. Pierson, then that's fine.

5 THE COURT: So I don't need to do any camera report for
6 review.

7 MR. GAMBRELL: I don't believe so.

8 THE COURT: Okay. Thank you. Mr. Pierson?

9 MR. PIERSON: Yes, sir.

10 THE COURT: Let me talk to you a minute before we get
11 started. Okay? You can sit. Just speak out loudly enough
12 so this lady can take down everything we say, okay?

13 MR. PIERSON: Yes, sir.

14 THE COURT: And do you promise, during this part, to
15 tell the truth, the whole truth, and nothing but the truth,
16 so help you God?

17 MR. PIERSON: Yes, sir.

18 THE COURT: Thank you. Do you know why you're here
19 today?

20 MR. PIERSON: To undergo a trial to see whether I'm
21 simply committed for, you know what I mean, evaluation for
22 SVP.

23 THE COURT: Right.

24 MR. PIERSON: Yeah.

25 THE COURT: And you know who that is besides you?

1 MR. PIERSON: Mike Gambrell.

2 THE COURT: And what's his job?

3 MR. PIERSON: To represent me in defense in this
4 building.

5 THE COURT: Okay. Do you know this gentleman over
6 here? You know who --

7 MR. PIERSON: I don't know him. I -- I don't really --

8 THE COURT: I don't want to know his name, but do you
9 know what he does?

10 MR. PIERSON: Kind of like a prosecutor, I guess.

11 THE COURT: Yes, sir. And do you know about the
12 witness stand? Witness stand, right here beside me, I know
13 you can't see it, but do you know they plan to put a witness
14 up here to testify against you?

15 MR. PIERSON: Oh, okay.

16 THE COURT: The doctor, you understand that?

17 MR. PIERSON: Oh, I understand.

18 THE COURT: Okay. And do you know what he does?

19 MR. PIERSON: He evaluates people, and then they come
20 to a basic decision whether they think that -- that the
21 treatment is necessary or unnecessary.

22 THE COURT: All right. And you understand he's going
23 to tell that to the jury?

24 MR. PIERSON: Yes, sir.

25 THE COURT: What his opinion is?

1 MR. PIERSON: Yes, sir.

2 THE COURT: And you understand that the State has to
3 put up proof to prove that issue that you're a sexually
4 violent predator beyond a reasonable doubt, you understand
5 that?

6 MR. PIERSON: Yes, sir.

7 THE COURT: Okay. Do you know whether your lawyer gets
8 to question that document?

9 MR. PIERSON: He -- he does if he wants, you know what
10 I mean? If I -- If I -- you know what I mean? If it's in my
11 best interest -- interest or -- you know what I mean? My
12 lawyer is able to object or -- you know what I mean? Stuff
13 like that. I don't (crosstalk).

14 THE COURT: Okay. Well, that -- that's exactly right.
15 He -- he can do cross-examination, he can cross-examine.

16 MR. PIERSON: Thank you, sir.

17 THE COURT: And you can put up evidence, you said, if
18 you want to, you understand that?

19 MR. PIERSON: Yes, sir.

20 THE COURT: You're under no obligation to do it. And
21 I'm not trying to suggest whether you should or you
22 shouldn't. I'm just making sure you know. State has to
23 prove you're guilty beyond a reasonable doubt, you get to put
24 up evidence if you wish to put up evidence, if you can. You
25 understand?

1 MR. PIERSON: Yes, sir. I would -- I would -- I would
2 inform -- I thank them that they're -- that they're -- excuse
3 my language, sorry, that they're -- that they are, like,
4 oriented to, like, Columbia area, but they don't -- they
5 don't have any local facility -- facilities that they can
6 send you to in Greenville (inaudible) Department of Mental
7 Health.

8 THE COURT: Sir, I'll be honest with you, I have no
9 idea.

10 MR. PIERSON: Oh, okay.

11 THE COURT: I'm sorry. I don't have any idea.

12 MR. PIERSON: All right. Thank you, sir.

13 THE COURT: Have -- has any court ever declared you to
14 be mentally incompetent?

15 MR. PIERSON: Mentally incompetent? No. You know what
16 I mean? I've been to many evaluations, so while I was on
17 federal probation, you know, I -- I've been diagnosed for all
18 kinds of things, but schizoaffective is one of the things
19 that I was diagnosed with by the -- by the -- by Dr. Carl
20 Wild in -- while I was on federal probation.

21 THE COURT: Okay. When did you finish your federal
22 probation?

23 MR. PIERSON: That was finished, I believe, around
24 2018, 2019.

25 THE COURT: Okay. Did they have you at Butner?

1 MR. PIERSON: I went to Butner -- yeah, they had me
2 also go for evaluation at Butner also.

3 THE COURT: Are you supposed to be on medication now
4 for anything related to mental health?

5 MR. PIERSON: I stopped taking it because it didn't do
6 anything for me. You know, I just tried to deal with it on
7 my own, like, my bipolar -- my schizoaffective, bipolar,
8 anxiety, and depression.

9 THE COURT: How is your mindset today? You feel like
10 you know what's going on?

11 MR. PIERSON: I know what's going on.

12 THE COURT: Any doubt about it?

13 MR. PIERSON: No, sir.

14 THE COURT: So anything that you want your lawyer to
15 know, you're too confident that you can express that to him?
16 You want him to know about a witness or about something on
17 your position? Feel like you can tell it to him?

18 MR. PIERSON: I don't have any witnesses or anything,
19 you know. But I was going to say...

20 THE COURT: Well, I just want to make sure you can
21 communicate with your lawyer --

22 MR. PIERSON: Yes, sir.

23 THE COURT: -- everything.

24 MR. PIERSON: Thanks, sir.

25 THE COURT: Any?

1 MR. PIERSON: I -- I can't, you know what I mean? I
2 have to...

3 THE COURT: You don't have any?

4 MR. PIERSON: Yes, sir.

5 THE COURT: All right. And you're confident you can
6 make rational choices about all this? Whatever your thought
7 process is that -- that's rational?

8 MR. PIERSON: Yes, sir.

9 THE COURT: Do you know what medication you were
10 supposed to be taking that you're not?

11 MR. PIERSON: Suppressor paliperidone.

12 THE COURT: Suppressor what?

13 MR. PIERSON: Paliperidone.

14 THE COURT: I'm not sure I know what that is. You said
15 that's for schizoaffective disorder?

16 MR. PIERSON: Yes, sir.

17 THE COURT: And bipolar disorder?

18 MR. PIERSON: Schizoaffective is bipolar-driven
19 anxiety, depression, all kinds of twists (inaudible) type of
20 schizophrenia.

21 THE COURT: All right. You want to put anything on the
22 record about his mental state?

23 MR. GAMBRELL: No, sir. Your Honor, I do not.

24 THE COURT: Mr. Fisher, you want to put anything on the
25 record about his mental state?

1 MR. FISHER: No, your Honor. It appears that he
2 understands what's going on today. He understands the
3 gravity of the situation and he certainly understands his
4 lawyer's role in this matter.

5 THE COURT: Okay. Based on my observations and
6 discussions with Mr. Pierson, he has answered all my
7 questions very appropriately. He does not hesitate in his
8 answer. He doesn't seem to be confused. He seems to be
9 oriented as to where he is, and what's happening. He
10 understands the -- the process that we're undertaking as one
11 where the State is attempting to having him declared a
12 sexually violent predator.

13 He -- knows the Department of Mental Health because
14 he's asked me about locations, so -- even though he hasn't
15 taken his medication, had -- had he not told me that he had
16 no diagnoses, I would've no reason to think he did. Seems to
17 be alert, intelligent, capable of making rational choices
18 concerning this matter, and able to effectively communicate
19 with his attorney. So is there anything else I need to do
20 before I send for the jury from the State?

21 MR. FISHER: Nothing, your Honor.

22 THE COURT: Defense?

23 MR. GAMBRELL: No, sir -- no, sir, your Honor.

24 THE COURT: Okay. (Inaudible) the jury?

25 THE CLERK: I'll check, Judge. Okay.

1 We're waiting on one more, Judge.

2 THE COURT: Thank you, ladies and gentlemen. The first
3 thing I have to have done is to place you under the oath for
4 the trial. Would you please stand and raise your right hand,
5 and the clerk will administer the oath?

6 THE CLERK: Do you solemnly swear or affirm that you
7 will -- will, well and truly, try the issues joined in this
8 case, and a true verdict rendered according to the law and
9 evidence, so help you God? Please respond: "I will."

10 JURY PANEL: I will.

11 (Jury sworn.)

12 THE CLERK: Thank you.

13 THE COURT: All right. Ladies and gentlemen, I'm going
14 to run through quickly how the case will begin and how it'll
15 proceed, and then I'm going to give you some instructions you
16 have to follow about the trial. The first thing that's going
17 to happen is, you'll hear the opening statements from the
18 lawyers. Opening statements are in the nature of what each
19 lawyer believes the evidence will share. What the lawyers
20 say is not evidence, but they facilitate the introduction of
21 the evidence. So I invite your close attention to their
22 opening statements.

23 When those opening statements are finished, then I'll
24 call upon the State to present its case. The State brought
25 this case against Mr. Pierson, and the State has the entire

1 burden of proof. The State has to prove beyond a reasonable
2 doubt that Mr. Pierson is a sexually violent predator under
3 the South Carolina sexually violent predator Act. I'll
4 explain all that to you in more detail later.

5 So the State has to put up evidence to defeat that
6 burden. When the State finishes, they will rest. I'll send
7 you out of the courtroom, I'll discuss some legal issues, and
8 then I'll bring you back out, tell you where we go from
9 there. That's how we're going to begin. Now, ladies and
10 gentlemen, it's really important that you understand some
11 things. There are two judges in the courtroom. I'm the
12 judge of the law. I'm charged with determining what the law
13 is and telling it to you, and you're to take it as I give it
14 to you. You're to apply and accept it as the law that you
15 use.

16 I also preside on the case. I make legal rulings,
17 maintain order. That's my job. You're the other judge and
18 you need to understand that you're the only judge of the
19 facts. Only you are going to get to decide such things as
20 whether evidence is believable or not. Only you get to
21 decide what weight to put on the evidence. Those things are
22 entirely your prerogative. And I'm not going to invade your
23 prerogative.

24 Now, as I mentioned to you, you have to decide the
25 evidence of what it proves or does not prove. So you need to

1 know where the evidence comes from. The evidence comes from
2 the sworn testimony of a witness. Evidence can also come in
3 the form of exhibits. Exhibits can be anything tangible
4 that's marked on the record. If they do mark exhibits in
5 this case, they will go back with you in the jury room when
6 you decide the case. But what the lawyers say is not
7 evidence. The evidence comes from the witnesses and any
8 exhibits. There is one exception to that rule about what the
9 lawyer's saying, not any evidence, but I don't expect it to
10 come up in the trial. So I'll tell that later. If it does,
11 I will tell you about it.

12 Now, while you promised us that you're going to decide
13 this case based on the evidence and the law, I'm not telling
14 you to leave your common sense at home. We want you to use
15 your sense of logic, and your reason, and your good judgment.
16 It just makes good common sense if you keep an open mind
17 about the case, and you don't make up your mind until you've
18 heard all the evidence, and you know what the law is. So
19 there's a rule we insist upon that I've already mentioned to
20 you. That is: You're not to discuss the case in any way
21 until I tell you to. Don't discuss it with anybody else
22 until the week is completely over. If there's any media
23 covering in the trial, get away from it. Don't let
24 yourselves be exposed to it. And I've explained to you about
25 independent investigation. Don't do any independent

1 investigation on the case.

2 The short version of this, ladies and gentlemen, is
3 what I'm trying to give to you. And that means I'm in the
4 part where I want to thank you. I -- I don't sit up here and
5 repeatedly thank jurors. And the reason I do is not because
6 I don't appreciate what they're doing. The reason I don't do
7 it over and over and over again is because I think it
8 (inaudible). I'm very much aware that you have other places
9 to be and other things to do, and I promise you that I'll do
10 everything in my power not to waste your time. The only
11 thing I can, basically, tell you is the Court often involves
12 hurry-up and waiting. But if you're waiting on us, we're
13 going to be working. There's never going to be a time we're
14 out here goofing around, and you're back there waiting on us.
15 That's not going to happen. So I thank you very, very much
16 for your service. I'll do everything I can not to waste your
17 time.

18 I will tell you while it's on my mind that I'm aware of
19 the fact that the weather service is calling for some severe
20 weather tomorrow. I read something this morning before I
21 left Edgefield, and it was -- it was saying that it's coming,
22 but there's a lot of "ifs" to it. And what I read this
23 morning, very long, it said basically that sometime between
24 6:00 and 7:00 at night, they would have a better idea of
25 where these high winds might hit and rain, and that -- things

1 of that nature. The Chief Justice has the course -- the
2 trial course -- to follow the directives of the individual
3 counties. So that's what we do.

4 So if the powers that be in Newberry County decide to
5 shut down the courthouse, we won't have court tomorrow.
6 We'll just come back on Wednesday. If the powers that be
7 decided to delay it for some reason because the forecast
8 shows that it's going to get a little better, then that's
9 what we're going to do. So I'm inviting you, please do
10 follow, but make sure it's an official pronouncement from the
11 county. And I may have a clerk talk to you before we leave
12 today to make sure that we get the right message to you, or
13 that you have some place you can call and verify before you
14 come in.

15 I'm probably going to bring you in at 10:00 tomorrow,
16 just -- just to give us a little time to do that assessment.
17 She did tell me -- the clerk did tell me just before you came
18 in that they have decided not to have school tomorrow, but to
19 do remote learning. So how would that affect any of you? If
20 it does affect any of you or your children, you can write in
21 a note, and give it to the bailiffs, and I'll deal with it.
22 That's as much as I know about the weather. Hold on a
23 second. I'm sorry. I -- that's the chief judge of the Court
24 of Appeals. I think I (inaudible). All right. I think I'm
25 through. I invite your close attention. The Attorney

1 General's Office is recognized for an opening statement.

2 MR. FISHER: Thank you, your Honor. If it pleases the
3 Court? Again, my name is Jim Fisher. I'm with the Attorney
4 General's Office. I reference -- represent the people of the
5 State of South Carolina in this matter against Mr. Pierson.
6 This is a civil commitment case. It's not a criminal case.

7 I want to remind everybody that Mr. Pierson went to
8 prison for lewd -- lewd act on a six -- on a person under the
9 age of 16, and he was sentenced to 10 years in the Department
10 of Corrections, followed by five years of probation. And the
11 State's going to have to prove three of these: First one is
12 that Mr. Pierson has been convicted of a qualifying offense.
13 And I accept the evidence to show that I've got a certified
14 copy of the conviction for a lewd act on a child under the
15 age of 16. It happened in 2004 when Mr. Pierson was the age
16 of 18. Now, I get no pleasure in telling you about the facts
17 of that case. They're alarming, they're troubling. I get no
18 pleasure in telling you this, but I have no choice.

19 Mr. Pierson and his mother were at Mr. Pierson's
20 sister's house babysitting his five-year-old niece. This is
21 his sister's daughter. This is his brother-in-law's
22 daughter. And I expect the evidence to show that Mr. Pierson
23 removed the clothing of the child, then he rubbed his penis
24 over the child's face, then he penetrated that child's vagina
25 and her anus with his fingers digitally while masturbating.

1 It's troubling.

2 And I don't think there's any doubt that he did it
3 because he pled to it. He pled no contest to a lewd act on
4 the child under the age of 16. She was five. Now, I'm not
5 going to call her by her name. She's an adult today. I'm
6 not going to do that. I'm just going to refer to her as
7 "five-year-old niece." That's the best way to go. My goal
8 is not to embarrass anybody.

9 So the State has to prove those three elements. First
10 one: That he has a qualified conviction. And I believe at
11 the end of this case in the jury instruction, the Judge will
12 instruct you on the law, and he will instruct you that that
13 is a qualifying offense. That's not an issue in doubt by
14 this court.

15 The second element that I have to prove is that
16 Mr. Pierson suffers from a -- a mental abnormal --
17 abnormality or a personality disorder. Now, that personality
18 disorder is an antisocial personality disorder, I expect
19 Dr. Gillen will testify. Dr. Kristen -- Christopher Gillen
20 is here and he will testify. I fully anticipate qualifying
21 him as an expert. And he will testify that his diagnosis of
22 Mr. Pierson is -- as an antisocial personality disorder.

23 And in order to come to that diagnosis -- element two --
24 - in order to come to that diagnosis, he has to -- he was
25 required by the Court to conduct a mental health evaluation

1 to see if Mr. Pierson qualifies under the SVP Act. This act
2 has been around for a while since passing the law by the
3 legislature in South Carolina in 1998. So it's the Court
4 that orders Dr. Gillen to evaluate Mr. Pierson. And he did.
5 And there's a lot of records. The offense -- the qualifying
6 offense. But then Dr. Gillen needs to evaluate what
7 Mr. Pierson was -- was doing. What was he doing prior to the
8 age of 18? Because if you are going to diagnose somebody
9 with antisocial personality disorder, you have to evaluate
10 what they were doing prior to the age of 18.

11 Now, Mr. Pierson had violent outbursts in school. He
12 was suspended from school. He subsequently hit -- he was
13 truant. He subsequently committed violent acts at school.
14 He cursed the teachers. He created disruptions in school.
15 So part of the makeup of antisocial personality disorder.
16 And ultimately, Mr. Pierson was held in contempt of court as
17 a -- as a juvenile for his violent outburst at school. He
18 also had a knife in the school.

19 So we've got these precursor events as a juvenile that
20 bring us to the age of 18 when he molested that five-year-old
21 niece. He was sentenced by the Department of Corrections for
22 10 years. And while at the Department of Corrections, he's
23 doing something called targeting masturbation in prison.
24 What he's doing is waiting for female correctional --
25 correction officers -- female staff to come by. He knows

1 they're there and he begins masturbating. It's an
2 infraction.

3 Mr. Pierson was cited six times for public masturbation
4 while in the Department of Corrections. He also has a total
5 of 22 other infractions for fighting, for failure to comply
6 with direction from staff, failure to observe the counts for
7 disrespect. See, you may look at Mr. Pierson and say, "Well,
8 gee, Jim, that's -- that's pretty alarming. He's not a
9 problem, he's not well." Mr. Pierson is not well, that's why
10 we're here.

11 So one of the reasons we're here: He's got an
12 antisocial personality disorder. And that disorder means
13 that he has no filter. He -- he does it -- he knows what
14 he's doing is wrong, but he can't help himself. There's no
15 brakes on the bus. He's just going to do whatever he's going
16 to do. And it's best exemplified by what he did in -- in
17 DOC. Clearly, you are going to lose privileges if you have
18 22 infractions in DOC. You are going to lose privileges, and
19 in spite of that, he continues to do it.

20 I expect Dr. Gillen to testify as to what Mr. Pierson
21 told him about that qualifying offense. The five-year-old
22 niece. He was -- he was napping. He, being Mr. Pierson, was
23 napping. The five-year-old niece removed his pants, removed
24 his underwear, and began manipulating his penis while he was
25 sleeping. And then he woke up. That's not what the report

1 says. And that's ultimately not what Dr. Gillen relied on.
2 But that's part of the disease. That's part of the mental
3 health. It's part of his inability to -- to have remorse,
4 blame the victim.

5 And I expect Dr. Gillen will tell you that Mr. Pierson
6 told Dr. Gillen that she was -- she, the five-year-old niece,
7 was masturbating like she was an adult. Like, she's done it
8 before. She knew what she was doing. It was the
9 five-year-old. See, it was her problem. It was her fault.
10 It's utter remorse, insight, the inability of Mr. Pierson to
11 understand the gravity of what he's done to his niece. It's
12 not because he's mean, it's not because -- he's sick, he's
13 not well, but it gets better -- well, frankly, it gets worse.
14 So he picks up all these infractions in DOC, and then he is
15 subsequently released. And part of his probation is that he
16 has to go to sex offender treatment. He failed to comply.

17 As a matter of fact, Mr. Pierson violated the terms of
18 his probation -- probation repeatedly. One of those ways is
19 that he just got a gun. Now, he's a convicted felon. He
20 can't have a gun. And he was federally indicted for a felon
21 in possession of a firearm. Do you think that would stop
22 him? Of course not, because he's not well, he can't control
23 himself.

24 But while in -- in treatment, he gets kicked out of
25 treatment because he gets into a fight -- argument with other

1 people who are trying to get well. Mr. Pierson cannot
2 control himself. There is no -- there's no brakes on the
3 bus. He also violated his probation and picked up new
4 charges for failure to register as a sex offender. See,
5 nobody is going to tell Mr. Pierson what to do. He is not
6 going to comply with any form of authority. He's going to do
7 whatever he is going to do because there is no filter.
8 There's no brakes on the bus. And he --

9 MR. GAMBRELL: Your Honor, I typically don't object
10 during Counsel's opening statements. But Counsel is making
11 an argument here. He's not talking about the facts or the --
12 or the evidence that he intends to give to the jury.

13 THE COURT: Do you wish to be heard?

14 MR. FISHER: Judge, I -- I fully anticipate Dr. Gillen
15 to testify to everything I just said. The facts will --

16 THE COURT: (Inaudible)?

17 MR. GAMBRELL: When he says that he can't stop himself,
18 that's an argument.

19 THE COURT: We're getting into the arguments. I agree.
20 Try -- try to limit your things to what he believes the State
21 -- the evidence will show.

22 MR. FISHER: I -- I expect the evidence to show through
23 Dr. Gillen that he can't control himself. So mental
24 personality disorder. And then the third element is that
25 Mr. Pierson is more likely than not to reoffend. He -- is he

1 likely to reoffend? Now, you are going to hear some
2 information about static risk factors -- dynamic risk
3 factors. Dr. Gillen's report isolated 11 or 12 dynamic risk
4 factors. And some of those that are really important are:
5 The aggression, the fighting, the argument, resistance to
6 authority. And the other two are remorse and lack of
7 insight. Mr. Pierson simply cannot control himself.

8 So Mr. -- in 2020, law enforcement is called to an
9 apartment complex where Mr. Pierson has a gun. Now, again,
10 he's convicted of felony, can't have a gun, but he's -- he's
11 in this apartment complex. Law enforcement is called because
12 there's a suspect pointing guns at people. Why? And I
13 think, though I'm confident, Dr. Gillen is going to tell you
14 that when asked, "Why do you do these things? Why did you
15 have this inappropriate touching of your niece? Why did you
16 do it?" And the answer is, "I don't know." Because he just
17 doesn't.

18 You are also going hear that Mr. Pierson exposed
19 himself on a job site. In 2020, he was working at a job site
20 -- a construction job site of some sort. A woman comes along
21 and he -- he exposed himself and starts masturbating. Why?
22 I don't know. He's subsequently arrested -- identified,
23 arrested. And within 24 hours, he's in the detention center
24 because he's just been arrested, and now he's smoking
25 cannabis in the detention center. Why? Because he can't

1 help himself.

2 He understands what he's doing is wrong, but he just
3 can't help himself. Then you go further to a 16-year-old
4 girl, Mr. Pierson exposes himself to her and begins
5 masturbating to her. She goes -- he actually entered
6 somebody else's residence knowing this girl was in there,
7 16-year-old girl. And he actually propositioned her. He
8 exposed himself and began masturbating. His sexual
9 proclivity is off the charge.

10 Dr. Gillen is going to go through the legal history.
11 He's going to go through substance abuse, he's going to go
12 through education. This comprehensive report is what
13 Dr. Gillen, with those dynamic risk factors, those static
14 risk factors, and -- and came to the conclusion that
15 Mr. Pierson is 71 percent likely to reoffend, more probably
16 than not. Well, giving that common sense, that's 50 percent.
17 Dr. Gillen is going to testify that he anticipates that Mr.
18 Pierson's risk factor risk of reoffending is 71 percent.

19 Dr. Gillen is going go through treatment -- his
20 treatment history, whether that was successful. And I
21 believe Dr. Gillen is going to testify that Mr. Pierson told
22 him that treatment is a burden that if he receives treatment,
23 that he's more likely to reoffend. Mr. Gillen -- I'm sorry,
24 Mr. Pierson -- Mr. Pierson addresses conflict by anger and
25 violence. He's violent, he's aggressive, and he has no

1 insight. He's not well.

2 I believe that Dr. Gillen is going to testify that
3 Mr. Pierson's substance abuse history -- he's not using
4 illicit drugs to -- to commit offenses. That's not the case.
5 But he's using illicit drugs for other reasons. Mr. Pierson
6 cannot hold a job. His employment history is not good. He
7 had a supervisor asked him to go work the register -- the
8 cash register at -- at whatever he was working at. And he
9 walked off the job. He just walks off. Why? Authority --
10 authority tells him to do something, he won't do it, and he's
11 going to do whatever he's going to do.

12 Last, Mr. Pierson has nobody. He has nobody. He
13 doesn't have a mother, he doesn't have somebody, an aunt, an
14 uncle, or brother, or cousin. He's alienated. His sister
15 and his brother-in-law, they won't have anything to do with
16 him, but he has nobody to give him support in the community.
17 It's one thing to understand that your friend or family is
18 offended, and it's another thing to give them the support
19 they need to get well. And there's nobody to give
20 Mr. Pierson the support that he needs. Now, when this case
21 is over, the Judge will instruct you on what reasonable doubt
22 is. When this case is over, I ask that you come back with a
23 verdict of: Yes, Mr. Pierson is a violent -- sexually
24 violent predator pursuant to statute. Those are the three
25 elements I just stated. Thank you.

1 THE COURT: All right. Thank you, sir. Mr. Gambrell,
2 do you have an opening statement?

3 MR. GAMBRELL: Thank you, your Honor. May it please
4 the Court?

5 THE COURT: Yes, sir.

6 MR. GAMBRELL: Good afternoon, ladies and gentlemen of
7 the jury, you've already met Mr. Pierson. This is obviously
8 a -- a -- a very important day for him, and we appreciate you
9 all responding to the summons that you got to be here today.
10 He's 37 years old. He's not married. Obviously, if you
11 don't know by now, the State has brought these actions. It's
12 a civil commitment action to ask you all to find that George
13 is a sexually violent predator, asking to be committed to a
14 secured long-term care facility.

15 In order to do that, they've got -- and Mr. Fisher and
16 I agree on this, that there are three elements to that. The
17 first element, as he said to you earlier is that there must
18 be a qualified conviction. Now, I agree in 2004, there was
19 an incident that ultimately led to the conviction for a lewd
20 act of a person under the age of 16, he was convicted in that
21 in 2005. Pled guilty to it. Came to a courtroom. I don't
22 think it was this one because at the time I think we were
23 having cases out by Old (inaudible) across the interstate.
24 But he came in and pled guilty to it. He received a 15-year
25 sentence that was suspended upon the service of 10 years, and

1 then probation to follow up for that five years.

2 He's a lifetime registrant of the -- of the sex
3 offender list. Wherever he moves to, he'll have to register
4 as a sex offender. And he'll have to wear a GPS monitor for
5 the rest of his life. That -- those facts are not contested.
6 That case is not contested. He's already been found guilty.
7 And I suspect that during Dr. Gillen's testimony, you're
8 going to hear more about that case, more so than even
9 Mr. Fisher has told you about. And that that's possible for
10 them to talk about that. But we're not here to reiterate
11 that case. That case has already been decided. Pierson has
12 already been sentenced -- George has been sentenced, he did
13 10 years in SCDC.

14 The second factor is that they have to show that he has
15 a mental abnormality or a personality issue. The only person
16 in this building that can probably speak to that is going to
17 be Dr. Gillen. He'll be qualified as an expert. And he
18 would give you his professional opinion on what he's
19 diagnosed with (inaudible) about. So really the crux of this
20 whole case comes down to that third element. Whether or not
21 that mental abnormality and personality disorder is likely --
22 makes that likely for George to engage in sexual violence
23 offenses.

24 Now, not just any offense, it can't be a nonviolent
25 offense -- not a violent offense, not a sexual offense, but a

1 sexually violent offense. And they're going to have to prove
2 that to you that he's likely to engage in offenses --
3 sexually violent predator offenses by proof beyond a
4 reasonable doubt. Now, Judge Keesley is going to instruct
5 you on what that means in South Carolina. But I can tell you
6 that the State is going to have to firmly convince you of
7 that.

8 And the way they're going to do it is just how
9 Mr. Fisher said, they're going to put Dr. Gillen on the
10 stand, and he's going to testify about his evaluation. He met
11 with George and -- and evaluated him over a period of a few
12 hours. He's going to tell you about his history, his
13 criminal history, his any other offenses history, he's going
14 to tell you about treatment he received or didn't receive,
15 and everything that went into his diagnosis for his mental
16 disorder or personality disorder with the Department of
17 Mental Health.

18 But I can tell you the one evidence that you're not
19 going to hear, you're not going to hear any evidence at all
20 that George has ever committed another sexually violent
21 offense since 2004, and that's almost 20 years of that, since
22 that time. You're not going to hear any evidence that he's
23 ever committed any other sexually violent offense during that
24 time. And that's exactly what you're here today to decide on
25 whether or not he's likely to engage in those types of

1 offenses if he's not committed to the Department of Mental
2 Health.

3 And so, I believe that you keep that in mind when
4 you're listening to all the evidence that's given today,
5 specifically to Dr. Gillen, just keep that in mind. He's
6 never been charged or committed or convicted of any sexually
7 violent offense since 2004. And I believe at the end of the
8 presentation of the case that you will not refer to any
9 offenses because of that fact. And at the end, I'll ask you
10 to say that: "No." That the State has not proven their case
11 beyond a reasonable doubt. Thank you.

12 THE COURT: Thank you, sir. State, call your first
13 witness, please.

14 MR. FISHER: The State -- the State calls Dr. Gillen.

15 THE CLERK: Place your right hand on the Bible --
16 excuse me, and raise your right.

17 DR. CHRISTOPHER GILLEN,
18 being duly sworn, testified as follows:

19 THE CLERK: Please state your name for the record,
20 please.

21 THE WITNESS: My name is Christopher Gillen. Gillen is
22 spelled G-I-L-L-E-N.

23 DIRECT EXAMINATION

24 BY MR. FISHER:

25 Q. And Dr. Gillen, are you employed?

1 A. I am, yes. I'm employed with the South Carolina
2 Department of Mental Health.

3 Q. And what do you do for the Department of Mental
4 Health?

5 A. I'm employed as a psychologist there. I primarily
6 complete sexually violent predator evaluations for the State.

7 Q. How many sexually violent predator evaluations
8 have you done?

9 A. Over a hundred.

10 Q. And how is it that you were -- come to evaluate
11 Mr. Pierson?

12 A. I was assigned to complete Mr. Pierson's
13 evaluation by my supervisor at the Department of Mental
14 Health, Dr. Kelly Gothard.

15 Q. And can you briefly describe your education for
16 the jury?

17 A. I can. I received my bachelor's in psychology
18 from Carleton University, as well as my master's degree in
19 psychology from Carleton University. Following completion of
20 those degrees, I received a doctorate in clinical psychology
21 from the University of Southern Mississippi in 2018.

22 Q. What -- do you have any other education?

23 A. So as part of the doctorate degree, you are
24 required to complete what's called "A pre-doctoral
25 internship." It's an intensive 12-month clinical supervised

1 training experience. As part of that internship, I received
2 training in how to conduct various types of forensic
3 psychological evaluations from juveniles being evaluated to
4 go to adult court, competency to stand trial, criminal
5 responsibility cases, as well as domestic violence risk
6 assessments.

7 Following completion of that internship and receiving
8 my doctorate, I pursued a one-year postdoctoral fellowship in
9 forensic psychology up in Wisconsin. That was at Mendota
10 Mental Health Institute, as well as Sand Ridge Secure
11 Treatment Center. That training allowed me to get
12 specialized training in how to conduct a sexually violent
13 person, that's how they call the term in Wisconsin.

14 So that's their SVP law. Sexually violent person
15 evaluations, as well as how to do treatment with individuals
16 who've been committed as SVPs in the State of Wisconsin, as
17 well as additional training on how to conduct violence risk
18 assessments for people at the psychiatric forensic hospital
19 in that state. And other types of forensic evaluations for
20 the courts, primarily competency evaluations for their court
21 system up in Wisconsin.

22 Q. So is it safe to say you -- your primary focus
23 these days is doing SVP evaluations?

24 A. Yes, almost exclusively. In addition, some of my
25 job responsibilities have included doing sex offender

1 registry removal evaluations for the State. So I've done a
2 few of those as well as well as consultations for our main
3 forensic hospital in Columbia, South Carolina. My supervisor
4 has assigned me some cases to do sex offender risk assessment
5 evaluations of people who are at the psychiatric hospital who
6 have displayed problematic sexual behaviors. So I've done a
7 few of those as well. All my work at the Department of
8 Mental Health since I've been there, since 2019, has involved
9 sex offender risk assessment in some capacity.

10 Q. And what is your current title at the Department
11 of Mental Health?

12 A. I'm listed as a psychologist-1 at the Department
13 of Mental Health.

14 Q. And are you published?

15 A. Yes, I've published 11 peer-reviewed journal
16 articles and scientific journals. The most recent being
17 publication -- a first authored publication looking at
18 sexually violent predator evaluator decision-making factors
19 that go into that, are factors that can impact evaluator
20 decision-making. I've published in scientific journals to
21 include personality assessment, law and human behavior,
22 psychology, public policy and law, and looking at a wide
23 variety of topics, including kind of the quality of forensic
24 risk assessment instruments, so tools that psychologists
25 might use in this sort of work as well as that SVP or

1 sexually violent predator publication I mentioned earlier, to
2 name a few.

3 Q. So those publications, do they involve forensic
4 psychology?

5 A. Yes, most of them do. They -- all of them do
6 involve the field of psychology and require rigorous peer
7 reviewed by other experts in the field. Usually, that's
8 going to be other doctors who are going to critique and
9 evaluate the quality of the work to deem whether it's
10 publishable or not.

11 Q. And have you been called to train others in this
12 field?

13 A. Excuse me. Yeah. So part of my job
14 responsibilities at the South Carolina Department of Mental
15 Health is in providing direct supervision to our postdoctoral
16 fellows in how to do sexually violent predator evaluations.
17 So I -- In that role, I've been supervising students or --
18 not students, sorry, but postdoctoral fellows since 2020. So
19 that will be, you know, teaching them methods, teaching them
20 interview techniques, how to review records, how to score,
21 different risk assessment tools to do the type of work that
22 I'll be talking about today.

23 Q. And are you licensed as a psychologist in the
24 State of South Carolina?

25 A. Yes, I am. I've held my license in South Carolina

1 since January, 2020.

2 Q. Can you briefly describe what the area of forensic
3 psychology includes?

4 A. Well, forensic psychology is really the study of
5 behavior, functioning, emotions of the person as it relates
6 to the criminal justice system. So we're offering opinions
7 about someone's functioning, for example mental health as it
8 relates to, you know, processes of the court. So in this
9 specific case, this is a sexually violent predator case. So
10 it would be how psychology is interacting with this specific
11 sort of legal question today.

12 Q. Now, in this case, I think you said that you were
13 hired by the Court or ordered by the Court to conduct this
14 evaluation, but did -- do you get any compensation from the
15 Attorney General's office?

16 A. No, I do not. No. I receive a salary as a state
17 employee for my work.

18 Q. And are you getting any additional compensation
19 for testifying today?

20 A. No, I do not.

21 Q. And have you been qualified as an expert in the
22 area of forensic psychology in courts in the State of South
23 Carolina?

24 A. Yes, I have on 10 prior occasions.

25 MR. FISHER: Your Honor, I -- off the -- offer the

1 witness as an expert in forensic psychology.

2 THE COURT: Any voir dire?

3 MR. GAMBRELL: No objection.

4 THE COURT: He is so recognized; he may render opinions
5 in the field of forensic psychology.

6 BY MR. FISHER:

7 Q. Can you briefly describe your evaluation just in
8 broad terms of Mr. Pierson?

9 A. So for my evaluation process, I start with a
10 thorough review of a case file that's going to include
11 various records that are important like criminal history
12 records, that could be things like warrants, indictments,
13 police reports, investigative statements, as well as records
14 from the Department of Corrections regarding maybe someone's
15 mental health treatment, or their disciplinary history.
16 Department of Juvenile Justice records, records from the
17 Department of Probation, Parole, and Pardon services, as well
18 as an official criminal history sheet. School records were
19 another piece of records that I evaluated from Mr. Pierson.

20 Q. And in this case, what were you directed to do?
21 What was your specific purpose?

22 A. So I was asked to provide an opinion to the Court
23 as whether I believed Mr. Pierson met the conditions to be
24 considered as a sexually violent predator.

25 Q. Did you interview Mr. Pierson?

1 A. I did. I interviewed Mr. Pierson across two
2 separate interview-days in June and July of 2023 for a total
3 of eight hours total.

4 Q. Okay. And do you see Mr. Pierson in the courtroom
5 today?

6 A. I do, yes.

7 Q. Okay. Can you point to him and identify an
8 article of clothing that he's wearing?

9 A. Yes. Mr. Pierson is sitting at the table over
10 there, in the light blue shirt.

11 MR. FISHER: Let the record reflect the important
12 identification of the Respondent.

13 THE COURT: So noted.

14 BY MR. FISHER:

15 Q. Now, Dr. Gillen, can you define per the statute
16 what a mental abnormality or defect is?

17 A. Sure. It's a mental condition that affects
18 someone's emotional or volitional capacity that predisposes
19 the person to engage in sexually violent offenses.

20 Q. And you -- you mentioned that you interviewed
21 Mr. Pierson twice in June and July. Did you tell Mr. Pierson
22 why you were meeting?

23 A. Yes, I did. I outlined the purpose of the
24 evaluation, the process of the evaluation, the different
25 limits of confidentiality or secrecy as part of that

1 evaluation. So I will tell people is that this isn't a
2 typical doctor-patient sort of conversation. It doesn't stay
3 between us. Anything that we talk about in our interview,
4 not only can it go in the report that I write, but it's stuff
5 that could be talked about in open court like I'm doing
6 today.

7 Q. Did you tell him that you were going to prepare a
8 written report for the Court?

9 A. Yes, I did.

10 Q. And after you advised Mr. Pierson of the purpose,
11 did he agree to cooperate with you and discuss this case?

12 A. He did, yes.

13 Q. Now, what records did you review to form your
14 opinion?

15 A. So as I previously testified, criminal history
16 records, his school records, Department of Juvenile Justice
17 records -- records from the Department of Probation, Parole,
18 and Pardon Services those were some of the main records that
19 I reviewed for this case.

20 Q. And did you conduct any additional interviews?

21 A. I did. So in addition to interviewing Mr. Pierson
22 over those two days in 2023, I also conducted collateral
23 interviews. So telephone interviews with people that he
24 identified as people that would -- would be good for me to
25 talk to for the evaluation. That was his mother and aunt.

1 Q. Why is it important to review all this background
2 information?

3 A. Well, so it's important to directly provide an
4 opinion on the questions today to try to get an idea of
5 really the full background history of how Mr. Pierson behaves
6 and acts in a wide variety of situations. That's going to be
7 important in deciding whether he has a personality disorder,
8 whether he meets the criteria to be diagnosed with a
9 personality disorder. It's also important in being able to
10 assess for risk factors which are going to be directly
11 related to whether Mr. Pierson is or is not likely to
12 sexually reoffend in the future.

13 Q. Is it safe to say the best indicator of future
14 conduct is past conduct?

15 A. That's definitely a strong risk factor for it,
16 yes.

17 Q. Let's go to Mr. Pierson's family and development
18 history. Did you review that? His family and development
19 history?

20 A. Yes. As part of our interview, and then also in
21 talking with some of those collateral sources I mentioned
22 earlier.

23 Q. Why is that important?

24 A. So specifically, it's important to really get an
25 idea of how long-standing, chronic, different problems may or

1 may not have been. So really going back and trying to
2 evaluate how someone was functioning as a -- as a juvenile --
3 as a minor, that's going to be incredibly important in
4 determining whether someone can or cannot meet criteria for a
5 personality disorder like antisocial personality disorder.

6 Q. Who did Mr. Pierson say raised him?

7 A. He was raised primarily by his mother.

8 Q. And then around the age of 16 or 17, where was he
9 residing? "He" being Mr. Pierson?

10 A. May I look at the report?

11 Q. Yes.

12 A. So for a brief period around age 14 or 15 -- oh,
13 age -- sorry, age 16. Yeah. He was residing with a cousin
14 at that time. I'm sorry.

15 Q. Did he identify the cousin?

16 A. Not by name. I'm not -- I'm not sure about that.

17 Q. And then as part of his -- Mr. Pierson's
18 developmental history, was he subsequently committed to the
19 Department of Juvenile Justice?

20 A. Yes. Around -- he said around age 14 to 15, he
21 was committed to Department of Juvenile Justice.

22 Q. Did Mr. Pierson advise you that he had been
23 sexually abused as a juvenile?

24 A. He -- he reported that, yes.

25 Q. What age was he when he was...

1 A. I'm not sure off the top of my head what age is,
2 but he -- he was a child when it occurred.

3 Q. Now, as far as mental illness within the family,
4 what did Mr. Pierson tell you about his mother?

5 A. He -- he explained that his mother had a history
6 of mental health problems, that there was a period of time
7 where he was in the custody of someone else because of her
8 health concerns, I believe. That -- that was some of the
9 main things that stood out for me about -- about what he said
10 about her.

11 Q. Do you remember who Rita Jones was?

12 A. I believe that's his aunt that I spoke to on the
13 phone.

14 Q. What did she say about Mr. Pierson's mother's
15 mental health issues?

16 A. Referring to my report, she -- she specifically
17 said that various family members, didn't specify who, but
18 various family members had a history of schizophrenia and
19 bipolar disorder diagnoses.

20 Q. And then, I -- I know that you said that you
21 diagnosed Mr. Pierson with antisocial personality disorder.
22 Why is it important to look at what happened to Mr. Pierson
23 before the age of 18?

24 A. Are you referring to -- as it relates to the
25 diagnosis?

1 Q. Yes.

2 A. So one of the requirements for someone to be
3 diagnosed with antisocial personality disorder is they need
4 to have displayed some symptoms of what's called "Conduct
5 disorder" before age 15. So these could be things like
6 fighting, destroying property, deceit, theft. They could be
7 things like arson, animal cruelty. And so, because that's a
8 prerequisite, it's a requirement to give that diagnosis --
9 it's important to do an evaluation, assess how they were
10 behaving before age 15.

11 Q. What did Mr. Pierson report to you about his
12 aggression towards teachers at the ages of 13 to 16?

13 A. He -- he indicated that he would be aggressive
14 towards teachers at school, starting at around that time.

15 Q. Did he curse them?

16 A. I believe so, yes.

17 Q. What did Mr. Pierson tell you about the age of 15
18 with his destruction of property?

19 A. So he had informed me that before age 15, he had
20 engaged in acts of property destruction to include throwing
21 rocks at windows, scratching cars, things of that nature.

22 Q. Was that important to you?

23 A. It was important in establishing that these were
24 behaviors that were happening before age 15 that fit in with
25 some of those conduct disorder symptoms I testified to

1 earlier.

2 Q. Did Mr. Pierson report to you any thefts at --
3 before the age of 18?

4 A. He did. Around age eight or nine. He talked
5 about, I believe, stealing a toy, and that there were other
6 thefts that happened I believe just prior to, and around, and
7 after age 15 to 16, in addition to that. Yes, that's
8 correct. Shoplifting from around age 15 to 16 after the
9 incident around age eight.

10 Q. Now, Ms. Jones, who is Mr. Pierson's aunt, what
11 did she tell you about Mr. Pierson becoming angry?

12 A. Refer to my report. Just want to make sure I'm
13 not mixing up the people. So she reported that he became
14 easily angered, increasingly aggressive, starting at around
15 age 15.

16 Q. Now, did you confront or discuss -- "discuss" is a
17 better word, these verbally- or physically-aggressive
18 attributes with Mr. Pierson?

19 A. Yes, I talked to him about those.

20 Q. What did he say? Did he acknowledge them? What
21 did he do?

22 A. Yes, he -- he acknowledged a history of those
23 behaviors starting at around age 13 up to 15. In talking
24 with him, he primarily talked about it as being at school.
25 And then he also talked about how he was suspended for

1 fighting at school on one occasion as well.

2 Q. What did Mr. Pierson say about his -- his conduct
3 with his sister?

4 A. I don't believe he told me anything specific about
5 that.

6 Q. Now, was -- was Mr. Pierson subsequently
7 adjudicated delinquently?

8 A. Yes, he was.

9 Q. And do you remember what that was for?

10 A. So according to the Department of Juvenile Justice
11 records, I believe the initial adjudication was for truancy,
12 followed by contempt of court in those proceedings. And then
13 that was followed by a third incident of carrying a weapon --
14 or possessing a weapon on school grounds. That -- that all
15 happened between the ages of 15 and 16.

16 Q. And was Mr. Pierson subsequently suspended or
17 expelled from school -- expelled from school?

18 A. So from his accounts, yes, he was because of those
19 -- those problems I just talked about earlier.

20 Q. Let's move on to Mr. Pierson's academic history.
21 Why is Mr. Pierson's academic history important?

22 A. So primarily in this case that -- those -- history
23 of -- of reported suspensions, expulsions, those behavior
24 problems in the classroom or in school, that to me is what's
25 most important for this type of case.

1 Q. Okay. And do you remember when Mr. Pierson was
2 expelled from school?

3 A. It would've been around the time of the -- of the
4 Department of Juvenile Justice adjudications, which would've
5 been up to 15, 16, I believe the expulsion was at age 16
6 involving the possession of the -- of the weapon on school
7 grounds.

8 Q. Did Mr. Pierson advise you what his education was?

9 A. Yes. We -- we talked about his education.

10 Q. Did he graduate from high school? Does he have a
11 GED?

12 A. He -- he indicated he has not received his GED,
13 and he did not graduate from high school because of that
14 expulsion in the 10th grade I had mentioned earlier.

15 Q. What about Mr. Pierson's education both in grade
16 school, and then subsequent in high school? Was he meeting
17 expectations or how -- how did that go?

18 A. So the records that I reviewed from the school
19 suggest that he struggled academically, and that was
20 consistent with his report when I was talking to him during
21 the interview, and then also what some of his family members
22 said when I talked to them. So it was a pretty consistent
23 picture that he -- he struggled in school throughout much of
24 his time there.

25 Q. When you asked Mr. Pierson directly about a school

1 -- problem in school, how did he explain that?

2 A. I believe he used the term, "A brain syndrome
3 disorder." He wasn't clear exactly what the problems was.
4 The school record simply didn't identify a -- you know, a
5 specific disorder or a problem that -- that he would've had
6 at that time that contributed to that.

7 Q. But did -- did Mr. Pierson deny being suspended or
8 expelled from school?

9 A. I -- I don't believe so. He -- he -- he reported
10 that that had happened to him.

11 Q. And then let's move on to Mr. Pierson's employment
12 history. Why is Mr. Pierson's employment history important?

13 A. It's important because that's another one of those
14 settings I had mentioned, when looking to see if someone
15 might meet criteria for a personality disorder. So
16 specifically, what I'm looking at is to see, "Well, how is he
17 conducting himself on the job? Is he having problems on the
18 job that might speak to kind of an underlying personality
19 problem?"

20 Q. And did Mr. Pierson advise you that he was able to
21 get positions -- he was able to get jobs?

22 A. Yes, he was able to hold lots of different types
23 of positions for short periods of time. I believe the
24 longest time he told me he -- he held the job was
25 approximately six months.

1 Q. Now, did Mr. Pierson advise you what his problems
2 were with work?

3 A. Yes, he did.

4 Q. And -- and explain to the jury what his problems
5 were with -- with employment.

6 A. So he -- he reported a few different types of
7 problems. One being absenteeism, so not showing up for
8 shifts. He also reported issues with becoming aggressive or
9 threatening towards both supervisors and coworkers on the
10 job. So there was one incident where he threatened a
11 supervisor if they reported some sort of conduct that he had
12 engaged in on the job to the police before he then left the
13 job. He also reported, you know, kind of this disobedience,
14 or not necessarily he was following the rules, or following
15 what was asked of him by supervisors on the job.

16 Q. At any point, did Mr. Pierson threaten to kill a
17 coworker?

18 A. I believe so, yes.

19 Q. Okay. Can -- if you can review a report and
20 explain to the jury what that was about?

21 A. So it was -- he reported that there was an
22 altercation between himself and a supervisor, which resulted
23 in him threatening to kill them.

24 Q. Now, what -- and we'll get to it more in detail
25 later, but did you review records in which Mr. Pierson

1 exposed himself while on a job site?

2 A. Yes, I did.

3 Q. And explain why that was important to you and what
4 you discovered.

5 A. So that was important because it's a -- a sexual
6 offense. He was charged in April, 2021 with exposing himself
7 and masturbating at someone while he was at a job site. So
8 that -- that's important because it speaks to his ability to
9 be able to control his sexual behavior especially in places
10 where he could be readily identified, right? This is a job
11 site. People know who he is. He could be readily identified
12 by doing it, and he was. So that's significant for that.
13 And it also kind of speaks to this impulsivity or spur of the
14 moment opportunistic sort of behavior that I think he
15 displays in a lot of different areas in his life.

16 Q. Now, what did his mother say about Mr. Pierson
17 working and going to work?

18 A. She said that he -- he struggled showing up to
19 work missing shifts, not always going when he was supposed
20 to. That was primarily how she describes some of his work
21 problems.

22 Q. Now, as it relates just to the employment history,
23 because that's all we're on right now, explain Mr. Pierson's
24 employment history while at the Department of Corrections.

25 A. Right. So people who are incarcerated in -- in

1 the Department of Corrections can often hold prison jobs, so
2 they can maybe work in food service, cleaning, that sort of
3 thing. And so, Mr. Pierson was employed while he was
4 incarcerated in -- in the Department of Corrections. And he
5 was infracted so he received a sanction once for poor work
6 performance. And I believe he was also terminated as well
7 because of disciplinary proceedings because of things that he
8 was doing outside of the job.

9 Q. We'll talk about it more later in your testimony,
10 but did Mr. Pierson understand that what he was doing was
11 wrong?

12 A. Are you referring to the workplace-specific
13 infractions?

14 Q. At work and -- you know, we've talked about
15 school, and work, and -- and the qualifying offense, so...

16 A. Yeah, it's my understanding that, you know, he
17 knew that these were -- were problems and that they were
18 wrong at the time.

19 Q. Do you remember how many times Mr. Pierson was
20 terminated from positions while at the Department of
21 Corrections?

22 A. Several. I don't know the specific number off the
23 top of my head.

24 Q. Let's talk about his relationship -- Mr. Pierson's
25 relationship history. Why is that important?

1 A. So, I haven't talked about this yet, but one of
2 the things I'm looking for, and that we look for as
3 psychologists for establishing a personality disorder is
4 going to be if they're having sort of potential interpersonal
5 problems, problems in relationships. So I'm going to be
6 looking at the relationship history to help try and answer
7 that. The quality and closeness, level of intimacy of
8 relationships is also really important in being able to
9 assess for risk factors related to sexual offense.

10 Q. Okay. Did Mr. Pierson indicate that he was able
11 to maintain long-term relationships with women?

12 A. He -- he said that that was a -- a struggle for
13 him, especially as an adult. He wasn't able to really
14 maintain any long-term, lasting, close, romantic connections.

15 Q. What did Mr. Pierson tell you about his
16 relationship flopping?

17 A. So he -- he typically -- when describing why these
18 relationships would end after very short periods of time,
19 would often talk about things that the partner was doing. So
20 specifically, maybe a partner had been having sex outside of
21 the relationship with him, or that they were using drugs, and
22 that this is why these relationships could -- could never
23 work, even though he was fairly open in talking with me about
24 his own views about women and about relationships more
25 generally.

1 Q. What did Mr. Pierson tell you about terminating
2 one relationship because of a sexually transmitted disease?

3 A. That he had ended the relationship because he
4 believed that partner had given him a sexually transmitted
5 infection.

6 Q. Now, how did Mr. Pierson categorize women?

7 A. I believe he used the term "trash" when talking
8 with me. He referred to them as trash and that he did not
9 want any sort of long-term relationships with them in the
10 future because of the level of distrust that he -- he had
11 towards women.

12 Q. Now, was Mr. Pierson ever cruel to any -- any
13 women?

14 A. In my opinion, yes.

15 Q. Explain what that is about.

16 A. So, when I was talking with him, he described to
17 me one of the relationships that -- that he was in. And he
18 referred to this person as someone that he wanted to treat
19 like a dog, was the term he used. And so, I asked, "Well,
20 you know, why -- why would you do this? These sort of things
21 to this person?" And he said, "Well, it was to toughen her
22 up." He -- he said that this was kind of almost like an act
23 of kindness or something positive that he was doing for this
24 woman by treating her poorly in order to try and toughen her
25 up for the real world that he believed she needed. And so,

1 he -- he didn't seem to see it as a problem. He actually
2 kind of described behaving that way towards her as -- as
3 something good that he did.

4 Q. At what point did Mr. Pierson say that women are
5 not -- not worth his time?

6 A. When I asked him about his plans for long-term
7 relationships in the future.

8 Q. And -- and why is Mr. Pierson's view of women
9 important within this context?

10 A. So specifically, it -- it speaks to the lack of
11 remorse, which is consistent with a personality disorder,
12 which I'll talk about later. But then also, again, the
13 intimacy deficits are a risk factor for sexual reoffending.
14 And so, he's basically just not wanting to pursue those
15 relationships because it's not worth his time -- distrustful
16 of women, it speaks not only to a history of those problems,
17 but really an ongoing mindset supportive of them as well.

18 Q. Let's move on to Mr. Pierson's sexual history now.
19 Why is it important to understand Mr. Pierson's prior sexual
20 history?

21 A. I could speak to, again, another setting where
22 someone might be having problems in their life related to a
23 personality disorder, and it also might speak to some risk
24 factors that might be relevant for them.

25 Q. And based on Mr. Pierson's self-report, explain

1 his -- his sexual relations with women.

2 A. So he reported approximately 10 total sexual
3 relationships with women. What was most significant about
4 that was he talked how many of those were kind of with
5 strangers or one-night stands. So again, these aren't close,
6 intimate, sort of sexual relationships that he's talking
7 about. He's -- also was telling me how he tried to pay women
8 for sex multiple times but was unsuccessful. So those types
9 of problems kind of maybe speak to impulsivity with regards
10 to sexual relationships, and also maybe some difficulty being
11 able to control your sexual behavior.

12 Q. What did Mr. Pierson say about terminating
13 relationships before they became sexual?

14 A. I'm not sure off the top of my head. Is there
15 something specific that you were thinking?

16 Q. If you review your report on sexual history?

17 A. Would you be able to repeat the question?

18 Q. What did Mr. Pierson advise you about his -- about
19 terminating relationships prior to having sexual relations
20 with that person?

21 A. Oh, that he -- he would never cheat on someone.
22 He would terminate the relationships beforehand.

23 Q. Now, let's move on to masturbation, which is going
24 to be an issue going forward. When did Mr. Pierson admit to
25 you that he began masturbating?

1 A. Age 13.

2 Q. And in the first interview in June of 2023, did he
3 advise you how many times he masturbated?

4 A. I'm not sure on the exact frequency that he said
5 at that time, but over the two different days that I met with
6 him, he provided two -- two different answers.

7 Q. In the second interview, did he advise you that he
8 masturbates three to four times a day?

9 A. I believe so. I'm not sure if that was the first
10 or second day, but that was one of the frequencies. And the
11 other one was multiple times per day, I believe.

12 Q. Now, why is his masturbation frequency important?

13 A. So it gets at again ability to control sexual
14 behavior. A high frequency of masturbation in and of itself
15 necessarily isn't problematic. I think what stood out in
16 this case is that at one point in his life, he had
17 masturbated so frequently, he told me he actually injured his
18 penis because it was happening so much. So that that is when
19 you start noticing that the masturbation frequency is -- is a
20 problem. Because it's -- it's causing harm to the person
21 who's doing it, and yet they keep continuing. So that aspect
22 of the masturbation history, to me, was what was particularly
23 important in this case.

24 Q. Now, sexual fantasies, what did Mr. Pierson tell
25 you about sexual fantasies?

1 A. He -- he explained having fantasies that he
2 believed other women liked. He referred to as S&M type
3 sexual behaviors.

4 Q. What is S&M?

5 A. I'm -- well, it stands for sadistic and
6 masochistic sex. Now, how he described it to me, which is
7 what's most important, is that he's talking about kind of
8 rough sort of sex with -- with women.

9 Q. So he -- did he, in your interview, indicate that
10 he found a little S&M to be arousal?

11 A. Well, actually, he said that wasn't something that
12 he was interested in, so he -- he was pretty clear that he
13 didn't like doing it, but he believed the women he was with
14 enjoyed it. And so -- but more so that women generally
15 enjoyed this. Even if they were to say, you know, "I'm not
16 into that initially," he would say, "Well, a lot of them
17 still do." So sometimes you have to engage in those sorts of
18 rough behaviors with them to see if they actually like it.
19 So he was framing it more as something he did because he
20 believed it's what they liked rather than something he liked.

21 Q. Was there -- did he have -- did Mr. Pierson ever
22 ask for a consent from the -- the woman that he was doing S&M
23 with?

24 A. It's unclear from his descriptions of kind of how
25 he asked or -- or what he asked. He would say things like,

1 you know, "You would have to engage in some types of force in
2 order to kind of see if they -- they like that, because some
3 women could say they don't like it, but they might actually
4 like it, even though they might say they don't." So that --
5 that's how he described those types of interactions.

6 Q. What did Mr. Pierson say regarding his excitement
7 for exposing his penis?

8 A. He had various times when I was talking with him,
9 he described it as an excitement or an adrenaline rush.
10 However, it was unclear exactly what the adrenaline rush was
11 about, like, what specifically he found so exciting about
12 doing that.

13 Q. Let's move on to substance abuse history. Do you
14 remember at what age Mr. Pierson began drinking alcohol?

15 A. I'd have to refer to my report to the specific
16 age. Age 13 is when he started drinking.

17 Q. And what about cannabis or marijuana?

18 A. I believe it was around the same time. Yeah, by
19 age 13.

20 Q. Did he indicate that his use of cannabis was
21 problematic?

22 A. He -- he described that it was problematic in some
23 ways, yes.

24 Q. Did he ever attend treatment for substance abuse?

25 A. I -- I'm not sure. He did report -- I'm referring

1 to my report, he did report that he sought treatment for
2 alcohol abuse in the past. But that he didn't find that type
3 of 12-step or narcotics anonymous treatment to be effective
4 for him.

5 Q. Now, why is it important to evaluate Mr. Pierson's
6 substance abuse history?

7 A. So more broadly it's important to know if maybe
8 someone's sexual offending is related to substance abuse. So
9 is it because they were high on drugs or alcohol and maybe
10 that's why they committed these types of crimes? In
11 Mr. Pierson's case, that doesn't seem to really apply.
12 What's more -- what's more important for him is how he
13 described his alcohol use and how he would have blackouts
14 because of his drinking, and that would typically result in
15 violent and aggressive behavior when drunk.

16 Q. Let's move on to Mr. Pierson's medical history.
17 Why is it important to evaluate Mr. Pierson's medical
18 history?

19 A. With everyone that I evaluate, I want to make sure
20 that there's not a possibility of an underlying mental
21 condition or disorder that someone might have, which might
22 play a role in their sexual offending or their -- maybe their
23 ability to understand their sexual offending. So -- like,
24 for example someone maybe who has some severe brain trauma,
25 like a traumatic brain injury. And ever since they had this

1 traumatic brain injury, they can't control themselves
2 sexually. That would be important to know in a hypothetical
3 case, you know, to explain maybe why they're doing the things
4 they're doing.

5 Q. Okay. Did Mr. Pierson indicate that he had a
6 traumatic brain injury or traumatic head -- head injury?

7 A. He -- he did report some incidents of head trauma,
8 one as a juvenile -- as a child, then one in 2004 as well.

9 Q. Explain the incident in 2004 with the head injury.

10 A. So he was hit in the head with a tire iron after
11 the sexual offense against his niece.

12 Q. Moving on to the mental health aspect of your
13 report, did -- did Mr. Pierson ever get any counseling?

14 A. Yes, he did.

15 Q. And what was that for?

16 A. So as a juvenile, it was somewhat unclear from his
17 accounts exactly what he was being treated for when he was a
18 child. But it sounded like he was prescribed a type of
19 medication which would suggest he was being counseled for
20 attention deficit hyperactivity disorder. That was actually
21 consistent with what his mother said as well, when I talked
22 to her over the phone as to what he was being treated for as
23 a kid.

24 Q. And wouldn't Mr. Pierson's mother indicate ages 8,
25 9, 10 years old about Mr. Pierson's aggression?

1 A. So when I was talking with her, she said that his
2 aggressive and threatening behavior towards her started to
3 increase around age 12 or 13. And that from a -- I believe
4 the quote was, "A young age," he was becoming more and more
5 physically aggressive towards his siblings.

6 Q. And in reviewing the South Carolina Department of
7 Corrections records, did he -- did you review the mental
8 health records at SCDC?

9 A. I did, yes.

10 Q. And explain to the jury what you discovered.

11 A. So there was a lot of mental health records for
12 Mr. Pierson while he was incarcerated in -- in the Department
13 of Mental Health. And the way I kind of look at it is, I
14 broke them up into different time frames because what's being
15 reported and being observed by mental health clinicians
16 there, kind of changes over time. So, initially, I believe
17 it's around 2006 to 2007, they're reporting really no sort of
18 mental health concerns for him.

19 And specifically, they're saying he's not acting
20 psychotic, so he is not hearing things that aren't there or
21 seeing things that aren't there. He's -- doesn't have
22 beliefs that are incorrect -- delusional beliefs that are
23 inaccurate but can't really be shaken or changed. So he's
24 not reporting that. The clinicians aren't saying it looks
25 like he's responding to those sorts of things. And he was

1 diagnosed with an antisocial personality disorder at that
2 time.

3 Now, I believe, I think it was June of 2007, he starts
4 inconsistently reporting those sorts of what are called
5 psychotic symptoms. So these are things like seeing and
6 hearing things that other people aren't there. Specifically
7 in his case, he starts reporting that he's hearing voices to
8 harm himself and others. What's interesting at around this
9 time is most of the documents from mental health clinicians,
10 their observations are saying that his appearance, his
11 functioning, so his speech, his thinking, his mood, his
12 emotions, they don't -- they're not consistent with what he's
13 saying about hearing and seeing things that aren't there.

14 And they actually take it a step further in those
15 records, and talk about how it's likely he's reporting these
16 things at that time to try and get moved to a different cell.
17 Because when he gets put on that cell, all of a sudden, he is
18 not reporting these things anymore. But then when he -- they
19 try to move him back into the general population, he starts
20 recording them again. There were a few records where he was
21 diagnosed with schizophrenia at that time, but that's
22 inconsistent. Most of the mental health records from 2009 to
23 2011 while he was incarcerated, suggest he -- he wasn't
24 looking psychotic or acting psychotic in prison.

25 Q. So based on your analysis of the records at the

1 Department of Corrections, was he malingering?

2 A. So if you look at those records, that's what
3 they're saying. So they're saying that at that time it's,
4 like -- like, he's reporting these things for some sort of
5 secondary gain. So these aren't genuine accounts of mental
6 illness. Now, when he comes back into the prison in 2022,
7 he's seen by mental health staff there again. And there's a
8 -- I believe, a much more kind of concrete specific sort of
9 presentation that they report at that time.

10 So what they're saying is that this is not
11 schizophrenia, this is not him seeing things that aren't
12 there, hearing things that aren't there, even though he's
13 saying he's experiencing that at that time. They're saying
14 he doesn't look sick like that. He doesn't seem psychotic
15 like that. And they called his report "Questionable," in
16 2022. And that how he was acting and presenting himself was
17 actually inconsistent from that sort of mental health
18 problem.

19 Q. At this point, can you briefly -- very briefly,
20 describe what antisocial personality disorder is?

21 A. So to do that, I think it's important to say:
22 "Well, what is a personality disorder?" You've heard me talk
23 about it a bunch already. So a personality disorder is
24 really the person's inner experience, how they think about
25 their world, how they see the world around them, and how they

1 interact with it, is distorted. And it's distorted in such a
2 degree that it's going to be different from that person's
3 culture. It's going to impact different areas of their life,
4 like their emotions, their thinking, their relationships,
5 their ability to control their impulses, for example. And
6 that it's a longstanding, inflexible sort of problem. That's
7 really the key, is that it's very inflexible and rigid.

8 This isn't something that's situational, like, someone
9 cuts you off while you're driving on the highway and you get
10 angry. This is some -- something where the problems are
11 pervasive and inflexible across different areas of the
12 person's life in different contexts, and there's different
13 types of personality disorders that someone can have.
14 Antisocial personality disorder is a personality disorder
15 where there's this violation and disrespect of the rights of
16 other people.

17 Q. Let's change subjects a little bit and talk about
18 Mr. Pierson's legal history. Why is it important to look at
19 Mr. Pierson's legal history?

20 A. It'll speak directly to whether he has or does not
21 have a personality disorder, as I've mentioned. And the
22 underlying dynamics, the things that happen in these offenses
23 are also going to speak to risk factors that someone may or
24 may not have.

25 MR. FISHER: Now, let's talk about the qualifying

1 conviction, which -- which is a lewd act on a child under the
2 age of 16. If I may approach the witness, your Honor?

3 THE COURT: Certainly.

4 BY MR. FISHER:

5 Q. I'm showing you what's been marked as
6 State's Exhibit A for identification. Do you recognize that?

7 A. Yes.

8 Q. And how do you recognize that?

9 A. So this was a sentencing sheet that was reviewed
10 in the file that I had when evaluating Mr. Pierson.

11 MR. FISHER: At this time, I'd ask that
12 State's Exhibit A for identification be received as State's
13 Exhibit 1.

14 MR. GAMBRELL: No objection.

15 THE COURT: Mark the exhibit, please, Madam Court
16 Reporter.

17 (State's Exhibit 1 admitted into evidence.)

18 BY MR. FISHER:

19 Q. Now, did Mr. Pierson discuss with you this
20 qualifying conviction?

21 A. Yes.

22 Q. And how did Mr. Pierson explain what happened on
23 that date in 2004?

24 A. So when I asked Mr. Pierson what happened in 2004,
25 he said that he went to the home with his mother because she

1 was going to babysit his niece. She didn't want to go alone
2 because she would've been lonely. So Mr. Pierson went with
3 her, even though he had other plans that he was going to do
4 that day. So he talked about going to the home with his
5 mother who was there to babysit the niece.

6 While at the house, he talked about playing with her
7 for a period of time, he said that he got bored by doing
8 that, went to sleep. He then told me he wakes up and he
9 finds his niece has, you know, removed his pants and is
10 starting to masturbate his penis. At that time, he talked
11 about how he then proceeded to masturbate himself afterwards,
12 and he said that the niece also then started masturbating
13 herself during the offense.

14 Q. Did you have a chance to read the police reports?

15 A. Yes.

16 Q. And what did the police reports indicate to you?

17 A. So it was a different version of events in the
18 incident reports. So what they outlined in those records is
19 that Mr. Pierson removed the five-year-old niece's clothing,
20 digitally penetrated her vagina and anus, rubbed his penis
21 over her vaginal area, kissed her on the mouth, and then
22 masturbated himself in -- in her presence. The records also
23 note that he became erect during the abuse. So while the
24 abuse was happening, he -- he had an erection or developed an
25 erection.

1 Q. Did Mr. Pierson ever admit that he did indeed
2 masturbate in front of this child?

3 A. Yes, he did.

4 Q. And was Mr. Pierson subsequently convicted of this
5 -- of a lewd act on a child under 18?

6 A. Yes. He was convicted of that charge in 2005.

7 Q. And are you --

8 THE COURT: You said 18 -- you said under 18.

9 MR. FISHER: What did I say?

10 THE COURT: You said under 18.

11 MR. FISHER: Under 16. I'm sorry. Thank you, your
12 Honor.

13 THE COURT: We need answers to the question.

14 THE WITNESS: Sorry?

15 THE COURT: We need answers --

16 THE WITNESS: Oh, sorry. Yes, under 16. That was a
17 conviction in 2005.

18 BY MR. FISHER:

19 Q. Now, we seem to be fixated on this word "violent,"
20 but based on your training, experience, and education, do you
21 take this act as a violent act?

22 A. I don't -- it's not really my opinion, it just is.
23 So in the statute they outline what are sexually violent
24 offenses, and this is one such offense or can be one such
25 offense.

1 Q. What did Mr. Pierson say about his act -- his --
2 his lewd act on a child under 16? What did he say about the
3 effect on the victim -- on the -- the minor?

4 A. So he -- he acknowledged that what happened
5 probably had some impact on her. But whilst he was saying
6 that, he then also said how much it traumatized himself. So
7 how -- how he was negatively impacted by what happened that
8 day in 2004.

9 Q. What did Mr. Pierson say about messing up his
10 mind?

11 A. Is there something specific that you're referring
12 to?

13 Q. I'm just asking, what -- what did he say?

14 A. So he said that, again, he was traumatized by --
15 by what happened, and how his life was negatively impacted by
16 what happened because of the legal consequences he
17 experienced, some of the problems that he had with his family
18 afterwards, problems finding jobs because of what happened.
19 So he very much kind of focused on those types of problems.
20 I believe he said that it also messed up his mind as well
21 because of what happened.

22 Q. Was it focused on the -- on the -- the child --
23 the minor -- or was it on himself?

24 A. Mostly on himself. Like I said earlier, he did
25 acknowledge that she was likely impacted by what happened,

1 but then he returned to talking about how he was the one who
2 was traumatized by -- by what occurred that day.

3 Q. Why was that important to you?

4 A. Well, because it's showed when I was even asking
5 directly about how victims are being impacted by sexual
6 abuse, you know, the story came back to himself. So again,
7 it kind of speaks to problems with victim empathy or
8 understanding how people can be impacted by sexual abuse, as
9 well as a lack of remorse or limited guilt for -- for that
10 type of behavior.

11 Q. Let's move on to the exposure incidents. The --
12 specifically, one at the job site, would you explain what --
13 what that -- what the report said and what you evaluated and
14 why?

15 A. Sure. So that was April, 2021. Mr. Pierson was
16 at a job site. There were other people around, including the
17 person that he exposed himself to. The records outlined that
18 he -- he waited until other people were gone from the job
19 site, and then proceeded to expose his penis and masturbate
20 to the female employee. He was at the job site.

21 Q. And what -- did Mr. Pierson say why he did that?

22 A. So his account of why that happened was he called
23 -- he described having a -- a random erection at the time.
24 And because of this, he thought he would get some adrenaline
25 or excitement by exposing himself to this person that would

1 help him ejaculate. When I asked him, you know, "Had this
2 random erection happened before?" He said, "Yes." When I
3 asked, "Well, why -- you know, why did you not do it at those
4 times?" He said, "Well, I -- I don't know." So he wasn't
5 really able to connect the dots as to, you know, why in that
6 specific situation he handled his random erection in that
7 sort of way.

8 Q. Was Mr. Pierson subsequently arrested for that
9 indecent or exposure incident?

10 A. He -- he was, yes.

11 Q. And do you know whether or not he made a bond at
12 that point?

13 A. I believe he did because he -- he was released
14 after that.

15 Q. And did he reoffend with another exposure
16 incident?

17 A. Yes. In October, 2021.

18 Q. Explain why that's important to you.

19 A. Well, it -- it's important for several reasons.
20 So one: It means that he did this type of behavior, got
21 caught for it, was released, and then shortly afterwards did
22 it again. So again, it shows that, you know, this is
23 behavior that he knows was wrong. He recognized that it was
24 wrong even when I was talking to him, and, you know, he still
25 did it again. So it speaks to this difficulty of being able

1 to control sexual behavior despite being caught for it and
2 being given consequences for it.

3 Q. Is -- the fact that Mr. Pierson is continuing to
4 reoffend, but is -- is -- subject to consequences, how did
5 you view that?

6 A. I viewed it as someone who has a severe difficulty
7 being able to control their sexual behavior.

8 Q. Is that sexual compulsivity?

9 A. Yes. That's part of a -- a sexual compulsivity,
10 which is a risk factor for sexual reoffending.

11 Q. Let's talk a little bit about the second incident
12 which was October of 2021. Do you remember how old
13 Mr. Pierson was at that time?

14 A. Not off the top of my head, no, but probably
15 around 35, 34, somewhere in that area.

16 Q. And understanding that he went to the Department
17 of Corrections, and that he was released, and -- and so on.
18 At the age of 35, explain to the jury what you reviewed --
19 what records you reviewed in the second incident.

20 A. The October, 2021 incident?

21 Q. Yeah -- yeah.

22 A. So incident reports outlining what happened,
23 sentencing sheet for the conviction associated with that,
24 warrants, like the arrest warrant, for example, and other
25 investigative records outlining what happened.

1 Q. And do you remember the -- the facts of that case?

2 A. Yes.

3 Q. Can you explain that to the jury?

4 A. Sure. So Mr. Pierson went to a neighbor's home.

5 I believe the records talk about he was trying to find a
6 friend, which was the grandfather of the person he later
7 exposed himself to, and -- to find some hair grease. When he
8 went into the home, he first made a -- a sexual comment to a
9 16-year-old who was there. She told him to leave after that
10 comment and went to her room. He followed and proceeded to
11 expose his penis to her. She, again, closed the door. He
12 stayed there until I think about the third time, she asked
13 him to leave. Then he voluntarily left the -- the residence
14 at that time.

15 Q. Did Mr. Pierson indicate to you why he exposed his
16 penis and -- and followed her to the closed door?

17 A. Right. So he -- he talked about -- before he went
18 to the residence, wanting to have sex with a different woman.
19 But then also he acknowledged wanting to have sex with this
20 16-year-old prior to the incident. And he said that he
21 exposed himself to try and start a consensual sexual
22 relationship with her. So that was his way of -- of trying
23 to initiate sex with this person.

24 Q. The -- the fact that Mr. Pierson did not encounter
25 this other woman that he wanted to have sex with, but

1 encountered this 16-year-old girl, how -- explain to the jury
2 how that was impulsive or reactive.

3 A. Right. So from talking with him, it didn't sound
4 like he had any sort of, like, pre-planning with this
5 offense. So he -- like, you don't -- he didn't stake out the
6 house before or, you know, spend a lot of time with this
7 person to groom them, or kind of prepare them to try and have
8 sex. You know, from the accounts that he told me, there was
9 no indication he had made sexual comments to her before,
10 despite being in the home, prior times to see her
11 grandfather, someone he viewed as a friend. So again, it
12 sounds like this is something that kind of happened, spur of
13 the moment, very reactive and opportunistic when he found
14 himself in the home with this person when there was no one
15 else there.

16 Q. Let's talk a little bit about Mr. Pierson's adult
17 -- adult -- not juvenile, we'll talk about that. His adult
18 nonsexual offenses. Why is that important for you to
19 evaluate?

20 A. So those types of offenses are going to be
21 important as part of the risk assessment, but it also can
22 speak to difficulty controlling behavior, consistent with the
23 personality disorder.

24 Q. And what -- can you outline briefly, Mr. Pierson's
25 nonsexual offenses?

1 A. Yeah. So he has several drug offenses, like,
2 possession convictions, also pointing a firearm conviction as
3 a registered felon which I believe is a federal offense that
4 he has. And he received other charges too, where the outcome
5 of those charges was -- was either unknown or they were
6 dismissed, or, you know, not indicted further.

7 Q. Why would you evaluate charges and not just
8 convictions?

9 A. So specifically, in those cases, I'm looking at
10 incident reports or the Respondent's own account of what
11 happened, so their version of events and these sort of
12 charges, to try and get at, again, personality disorder as
13 well as potential risk factors that the person might have
14 had. So if we're talking about aggressive behaviors, for
15 instance, during a crime, that's going to be important to
16 know, because again, it's going to speak to, you know, how --
17 the types of context and situations people become aggressive
18 in. And, I guess, how important that risk factor might be
19 for someone in terms of the risk of sexual reoffending.

20 Q. And now talk about violations of probation. Is --
21 is -- has Mr. Pierson successfully completed probation?

22 A. I'm not sure if he's ever successfully completed
23 it. I do know that he's been violated three separate times
24 for violation of probation.

25 Q. And what about registering as a sex offender? Did

1 you evaluate that?

2 A. Right. So he was convicted of three separate sex
3 offender registry violations in addition to those probation
4 violations.

5 Q. Why is that important to you?

6 A. It speaks directly to difficulty being able to
7 follow the -- follow the conditions that are placed on you.
8 It speaks to difficulty following community supervision.
9 That's important. Because it -- it's a -- one of the risk
10 factors for sexual reoffending, not abiding by or following
11 conditions of supervision and not viewing supervision as
12 helpful. What would be protective is if someone views
13 supervision as helpful.

14 You know, it's nice to have conditions. It's nice to
15 be mandated to do certain things to check in, have an agent
16 to talk to, go to treatment. If someone has those attitudes
17 that it's helpful, that's good. Someone who has the opposite
18 attitudes that this isn't helpful, it's a burden or a
19 nuisance, again, it speaks to the presence of that risk
20 factor.

21 THE COURT: Mr. Fisher?

22 MR. FISHER: Yes, sir.

23 THE COURT: We've been out here a little while. We're
24 going to take break, okay?

25 MR. FISHER: Yes, sir.

1 THE COURT: All right. Ladies and gentlemen, we're
2 going to take about 10 -- 15-minute break. Don't discuss the
3 case. Follow the bailiffs, please.

4 (Jury exits.)

5 THE COURT: Doctor, during the break you can step down
6 if you'd like. You're not permitted to discuss the case and
7 what's going on. We're in recess, please.

8 (Off the record.)

9 THE COURT: Bring them in, please.

10 (Jury enters.)

11 THE COURT: All right. You may continue. Thank you.

12 MR. FISHER: Thank you, your Honor. May it please the
13 Court?

14 THE COURT: Yeah.

15 BY MR. FISHER:

16 Q. Dr. Gillen, we were talking about Mr. Pierson's
17 nonsexual adult offenses. Moving on to -- pointing and
18 possess -- presenting a firearm. Did you have an opportunity
19 to review that report?

20 A. Sorry. Review the report?

21 Q. Yeah. Did you have an opportunity to review those
22 charges?

23 A. Oh, yes.

24 Q. And what did you discover, and why was it
25 important?

1 A. It was important because it was a conviction. He
2 was already a felon, was not supposed to be behaving in that
3 -- in that way of possessing a firearm. So in that sense, it
4 -- it was concerning because -- again, it's further
5 indication of violating the rules.

6 Q. And we talked about the possession of cannabis.
7 What about any -- any crimes indicating violence or
8 aggression -- specifically, aggression?

9 A. Right. So in and of itself, possession of
10 marijuana or cannabis isn't that relevant in terms of, like,
11 these SVP proceedings, but the incident report outlining that
12 offense, there was information that was. So specifically,
13 that a neighbor had called law enforcement because of an
14 altercation that Mr. Pierson was having with his mother.
15 That was this -- this altercation, which was documented in --
16 in the incident report. That's what was related to that
17 cannabis possession charge.

18 Q. And what did Mr. Pierson say regarding that
19 incident with his mother?

20 A. Right. So when I asked Mr. Pierson about what
21 happened, he told me that, you know, "That neighbor should
22 have minded their own business." That it wasn't that
23 neighbor's responsibility to report his aggressive behavior
24 with his mother.

25 Q. Now, you also discovered some charges of that --

1 out of North Carolina. What were those?

2 A. That's correct. So in 2021, he was charged with
3 resisting arrest as well as assault on a -- on a female in
4 Asheville, North Carolina.

5 Q. So far, based on what, you know, how does
6 Mr. Pierson react to conflict?

7 A. Generally speaking, with aggression. Both verbal
8 aggression and threatening behavior.

9 Q. Now -- now, when you talked to Mr. Pierson about
10 these criminal charges, what did he say in regard to his --
11 his responsibility?

12 A. Are you talking about a specific charge in
13 particular, or just in general?

14 Q. No, let -- let me rephrase the question to make it
15 a little easier. I mean, does Mr. Pierson indicate he knows
16 what he's doing is wrong?

17 A. Yes. He -- he -- he understands well right from
18 wrong.

19 Q. And -- but why is he doing this?

20 A. So a lot of the times he framed his behavior as
21 impulsive, opportunistic, very reactive. He also would kind
22 of justify some of his -- some of the offenses as appropriate
23 responses based on the situation that he was in.

24 Q. So how does he react to conflict then?

25 A. I -- I would say predominantly, based on the

1 records that I reviewed with aggression.

2 Q. Let's move on to Mr. Pierson's Department of
3 Corrections -- South Carolina Department of Corrections
4 records. Why was it important you review those?

5 A. Again, it's a different setting to which -- to
6 examine behaviors. That's going to be important when looking
7 at a personality disorder. As well as being able to follow
8 rules within a secure setting. That's going to be important
9 in the assessment of dynamic risk factors.

10 Q. And from Mr. Pierson's Department of Corrections
11 records, what did you -- what did they reveal to you?

12 A. So there were six substantiated infractions for
13 sexual misconduct between 2006 and 2022 within the Department
14 of Corrections that spanned multiple different periods of
15 incarceration. What was particularly problematic about those
16 behaviors was, I guess, the targeted nature of them. And
17 what I mean by that is that he was deliberately exposing his
18 penis at specific people or when he would know certain people
19 would be coming by, like during a formal count time, and when
20 he would -- maybe expecting a specific person to come by. So
21 that sort of behavior, given that it was so kind of specific
22 and targeted is concerning given it also kind of matches on
23 with some of those offenses that he had in the community in
24 2021.

25 Q. Why did Mr. Pierson indicate he was exposing his

1 penis and -- and masturbating to targeted people?

2 A. He provided different reasons depending on the
3 type of infraction, but they -- so -- so they varied.
4 Sometimes he talked about how he thought exposing himself to
5 a specific female staff member would go undetected or at
6 least unreported. Maybe they'd be okay with it, or at least
7 neutral to the behavior and wouldn't write them up for it.
8 So that's why he did it.

9 Other times he talked about feeling an excitement or an
10 adrenaline, and then exposing himself to try and relieve
11 that. He also talked about how he kind of blamed the rules
12 of the prison for why he did it. He told me that if they had
13 simply allowed him to look at pornography, he wouldn't have
14 to expose himself to -- to women who weren't expecting to be
15 seen by him.

16 Q. Moving on to nonsexual offenses at the Department
17 of Corrections, can you give the jury an idea of some of
18 those infractions?

19 A. Yeah. So there was 22 additional substantiated in
20 infractions that he received. They involved things like
21 possessing or using substances, threatening behavior with
22 other people who were there, disobedience. So outright
23 refusal to follow directives and rules within the Department
24 of Corrections. Things -- things of that nature.

25 Q. And what did Mr. Pierson tell you why he was doing

1 those things? In other words, why did he have these other
2 nonsexual infractions?

3 A. May I refer to the report? So in my report, I
4 talked about a few specific examples. So he blamed staff for
5 unfairly infracting him or citing him in specific situations.
6 So one that comes out was he believed staff falsely kind of
7 sided with a different inmate and took their side of the
8 story. And because of that, he ended up having to spend more
9 time in prison than he otherwise would've. And so, he was
10 blaming the staff member for that problem, despite he -- he
11 was the one who was infracted for the misbehavior.

12 Q. So was he receiving consequences for the
13 infractions?

14 A. Yes. Institutional sanctions. So that could be
15 loss of privileges, sometimes that could result in being
16 placed on different units or losing a job. Things of that
17 nature.

18 Q. Did -- did Mr. Pierson indicate to you that he had
19 any insight into his offending these infractions at the
20 Department of Corrections?

21 A. So I think just kind of generally including the
22 infractions, I think he had some degree of insight in that a
23 lot of these behaviors were impulsive. I think he's able to
24 recognize that he's -- that he's reacting based on
25 opportunity and without a lot of forethought or thinking

1 beforehand. So there -- there's some of that. I -- I think
2 in some situations he's able to know that, you know, "This is
3 wrong and I did it anyway." Which I think at some level
4 speaks to insight that he knows that he shouldn't be doing
5 these things, but he does them anyway. But that -- that's
6 about it in terms of insight into why he does these
7 problematic things that he does.

8 Q. Well, let's move on to sex offender treatment in
9 the Department of Corrections and -- and/or the community.
10 Did Mr. Pierson -- was he offered treatment in the community?

11 A. So he was offered because he was court-mandated to
12 do treatment. So I guess in that sense, that's being
13 offered. But -- so that was when he was on the depart -- on
14 Department of Probation, Parole, and Pardon Services.
15 Court-mandated to participate in a community-based sex
16 offender treatment as part of the conditions of his
17 probation.

18 When he went to -- to those groups, there was an
19 altercation between himself and other people in the group
20 that caused him to actually be referred to mental health
21 counseling before he could return to the group because of
22 suicidal or homicidal ideation. What that means is thoughts
23 of wanting to harm himself or others. And then when he was
24 allowed to come back and rejoin the group, he didn't go back.
25 So he ended up missing the deadline for him to return and

1 participate in that court-mandated treatment.

2 Q. Now, you -- you talked to Mr. Pierson. Why did he
3 tell you that he terminated treatment in the community?

4 A. So as I had mentioned, he talked about an
5 altercation with someone, and then having to go to a mental
6 health treatment because of that. So that -- that's why he
7 said he didn't go to that -- that specific treatment.

8 Q. Did Mr. Pierson indicate to you that treatment was
9 a burden?

10 A. Yes. He -- he framed treatment as not just
11 unnecessary, but he actually told me that if he were to
12 participate in sex offender treatment, it would actually make
13 him more risky to commit these types of crimes. So he -- he
14 believed that sex offender treatment would not be helpful for
15 him.

16 Q. What did Mr. Pierson tell you regarding -- if --
17 if this court ordered him to be confined?

18 A. He -- he told me that he would murder every police
19 officer who tried to confine him for that treatment.

20 Q. Now, let's move on to testing. Did you give
21 Mr. Pierson any kind of formal test?

22 A. So I -- he completed a self-report psychological
23 test called the MMPI-3 or the Minnesota Multiphasic --
24 Multiphasic Inventory-3 -- Personality Inventory-3. Sorry.
25 Which is hundreds of self-report questions designed to assess

1 kind of someone's overall psychological functioning, their
2 interpersonal functioning, their personality traits and
3 characteristics, things like that.

4 Q. And how did he perform?

5 A. So part of the scales on the -- on the test are
6 what we call validity scales. So he elevated one particular
7 scale, which said that he was reporting an above average
8 number types of mental health -- health symptoms that people
9 who have kind of genuine real problems in those areas, even
10 very severe problems with those mental health concerns,
11 typically don't report. So he's reporting having -- excuse
12 me, a high number of these types of symptoms that -- excuse
13 me again, people with genuine mental illness typically don't
14 report.

15 Q. How would Mr. -- if -- if Mr. Pierson's
16 self-report were true, how would he have presented to you
17 during your evaluations?

18 A. Frankly, I probably wouldn't have been able to
19 interview him. If he was that sick, it's likely I wouldn't
20 have been able to actually ask him questions. He probably
21 wouldn't have been able to respond in any sort of logical or
22 meaningful way. If someone is that -- that psychotic as he
23 was claiming to be, that much thought dysfunction, you
24 wouldn't really be able to -- they likely wouldn't be able to
25 understand what I was saying or be able to provide a -- a --

1 understandable response to my questions.

2 Q. How would he have presented to you if -- if he was
3 indeed suffering from these claimed illnesses?

4 A. So someone who's claiming to be that ill, they
5 present with -- like -- you know, usually something like word
6 "salad." So in other words, their expressive communication,
7 it doesn't really make sense. It's just kind of a bunch of
8 words thrown in that don't really seem to have much meaning.
9 Their thinking is -- is erratic. It's -- it's all over the
10 place. And it makes sense. Someone who is hearing voices
11 that aren't there, how are they going to be able to listen to
12 an examiner asking them questions? They can't do it. Their
13 -- their mind is over -- overwhelmed with other things that
14 aren't there. And that -- that wasn't the case with, with
15 Mr. Pierson.

16 Oftentimes, people who have those types of mental
17 illness as well, they -- they might struggle taking care of
18 themselves with their hygiene. So you might notice odors,
19 unkept appearance, dirty clothing. Because they're --
20 they're so ill, they're not able to take care of those basic
21 needs. That also wasn't the case with Mr. Pierson. You
22 might expect their emotions to be kind of incongruent or
23 different from a situation.

24 So, for example, sometimes I've interacted with people
25 who are laughing. There's no reason to laugh, but there's

1 some sort of internal stimuli, something they're hearing or
2 seeing that isn't there, that's making them laugh or making
3 them respond in that way. And again, these are things that I
4 was observing with Mr. Pierson over two different days of
5 interviewing, and eight hours of interaction with him.

6 Q. What is clinical dysfunction?

7 A. So I would define that as when someone's problems
8 are -- are creating severe distress or impairment in their
9 lives, or a risk of harm or impairment to other people.

10 Q. Did you find that with Mr. Pierson?

11 A. Not in terms of mental health symptoms, like,
12 being psychotic or seeing or hearing things that aren't
13 there.

14 Q. And he had no auditory hallucinations or anything
15 like that?

16 A. So he -- he reported that he was experiencing
17 these things, which is consistent with some of those
18 Department of Corrections records that I reviewed, right? So
19 he's saying that these things are happening. But I didn't
20 observe him, like, he was that ill, right? He -- he would've
21 presented much differently, like, a very -- you know,
22 responding to the things they can't see or can't hear, but
23 that they hear -- sorry, I'll -- I'll -- I'll rephrase that.
24 Things that they see or hear that aren't there. They might
25 be responding to those types of things in the interview room.

1 But that's not something that I noticed. It didn't seem like
2 he was responding to internal stimuli, is how we -- is how we
3 call it.

4 Q. Now, did the MMPI, the Minnesota Multiphase test,
5 did it give you an indication about compulsion?

6 A. So he did elevate on one of the subscales. So
7 there's these broad different scales that look at different
8 types of problems someone can have. And within some of those
9 scales, he elevated some specific subscales. One of them was
10 compulsive behavior which seemed unusual from the records I
11 reviewed. There wasn't really any indication that he might
12 have had something like obsessive compulsive disorder.
13 Typical example of that is someone has this obsession. They
14 need to wash their hands because they feel they're unclean
15 and they wash their hands, you know, 30, 40 times to the
16 point where the skin is raw.

17 There was no indication of those problems in the
18 record. So I followed up with him based on why he responded
19 in that way. And he -- he described it more as kind of more
20 of a distrust and suspiciousness of people around him. So he
21 is going to be checking a lot. That's how he described it,
22 not typical with, like, an obsessive-compulsive disorder, as
23 I described.

24 Q. Now -- but you did not diagnose him with paranoia?

25 A. No, I -- I didn't diagnose a psychotic disorder

1 that would include paranoia.

2 Q. But as he was in the community with his -- with
3 his gun, not the possession of a firearm by convicted felon,
4 but when he was pointing a gun at other people, how did you
5 interpret it -- interpret that?

6 A. So it's possible some of those behaviors could
7 indicate that Mr. Pierson is highly distrustful, has kind of
8 a pervasive suspiciousness of other people around him. It's
9 possible that could explain it. But that in and of itself
10 doesn't mean that someone has schizophrenia or is actively
11 psychotic. There are other explanations for why someone
12 could be distrustful or highly suspicious of others,
13 including other personality disorder traits.

14 Q. Now, on the MMPI, did he score high or higher in
15 aggressiveness?

16 A. On a specific subscale, looking at interpersonal
17 functioning, he -- he had elevated responses on what's called
18 instrumental aggression. So this is kind of more, you know,
19 purposeful goal-directed types of aggressive behaviors. He
20 -- he reported higher than normal problems in those areas.

21 Q. Again, can you explain for the jury what
22 antisocial personality is and how you view it?

23 A. So it's a -- a flagrant disregard in violation of
24 the rights of others. That happens at least starting around
25 age 15 and going into adulthood. As we mentioned earlier,

1 there needs to be that conduct disorder piece, so symptoms of
2 behavior problems as a child before age 15. And that these
3 problems that someone's experiencing, it's not happening
4 within the course of another mental illness. So someone
5 isn't going to be impulsive, aggressive, irresponsible simply
6 because they're psychotic. So generally speaking, those are
7 the things that we're looking for if -- to see if someone has
8 antisocial personality disorder.

9 Q. Now, are there criteria for antisocial personality
10 disorders?

11 A. Yes, there are specific symptoms or traits that --
12 that one would look for.

13 Q. I'm looking at the Diagnostic and Statistical
14 Manual of Mental Disorders, commonly called DSM-5-TR. Are
15 you familiar with this book?

16 A. I am, yes.

17 Q. And is this a -- a book that you normally use in
18 the course of your duties as a forensic psychologist?

19 A. Yes.

20 Q. Okay. Now, if you would, Doctor, did you bring
21 your -- your book with you?

22 A. I did.

23 Q. Can you take a look at it?

24 A. Yeah.

25 Q. Specifically, page 748.

1 A. Okay.

2 Q. Specifically looking at the first term,
3 understanding that you have diagnosed Mr. Pierson with
4 antisocial personality disorder, what is the first criteria
5 that you're looking for?

6 A. It's called "A failure to conform with social
7 norms with respect to lawful behavior."

8 Q. Can you give examples for the jury about how
9 Mr. Pierson failed to conform some lawful behavior?

10 A. So it's a lot of what we've already talked about.
11 The nonsexual offenses that I've talked to you about, the
12 sexual offenses I've talked to you about, the problems when
13 he was a juvenile with following rules and regulations, his
14 -- his misbehavior within the Department of Corrections, even
15 though he wasn't criminally charged with that, there could
16 have been grounds for arrest. All those behavior -- those
17 types of behaviors. Like indecent exposure in the prison,
18 can be grounds for arrest as well.

19 Q. Isn't it true that people could go their entire
20 lives without being arrested?

21 A. I would say yes.

22 Q. What's the second criteria?

23 A. Deceitfulness.

24 Q. Okay.

25 A. Which can be considered lying, conning, or using

1 an alias.

2 Q. Now, as it relates to Mr. Pierson and
3 deceitfulness, was that a criteria that you concentrated on?

4 A. It's certainly a criteria that I evaluated as part
5 of my assessment.

6 Q. Okay. In -- in evaluating the antisocial
7 personality disorder, how many of these criteria, we're about
8 to outline, are needed before you can properly diagnose
9 Mr. Pierson or anybody?

10 A. Right. So there's -- there's seven criteria that
11 make up antisocial personality disorder. You only need to
12 have three in order to receive the diagnosis, assuming that
13 there's enough evidence of a general personality disorder.
14 So, as I mentioned earlier, kind of that distorted way of
15 interacting and perceiving the world around you, which is
16 different from your culture, it's inflexible, and you're
17 seeing it across settings. If you have that, to begin with,
18 and then you start seeing some of these concerns like
19 deceitfulness, lack of remorse, impulsivity,
20 irresponsibility, then that personality disorder fits in with
21 -- as being an antisocial personality disorder as opposed to
22 a different disorder.

23 Q. So in regard to one failure to conform to lawful
24 behavior, you found that criteria?

25 A. Correct.

1 Q. Okay. What about the deceitfulness?

2 A. So there were some examples of deceitfulness in
3 his life, but I didn't feel that there was enough problems in
4 that area, across enough settings, to say that that was a
5 symptom of antisocial personality disorder for him.

6 Q. What is the third criteria?

7 A. Impulsivity or failure to plan ahead.

8 Q. Can you give the jury some examples of
9 Mr. Pierson's impulsivity?

10 A. You see it in the sexual offenses, how he's just
11 reacting, you know, acting without really thinking of
12 consequences beforehand. You see it with his behavior on the
13 job. So kind of walking off shifts when things don't go his
14 way or act -- or threatening coworkers and supervisors when
15 problems arise, you see it with his relationship history as
16 well. So these are the different domains, he's displaying
17 it. So with the relationships, right, he's ending
18 relationships very quickly when there's problems that he
19 perceives are going on in there. Just to name a few.

20 Q. Did you determine that impulsivity was a factor
21 for him?

22 A. For him? Yes.

23 Q. Take a look at the fourth criteria.

24 A. Irritability or aggressiveness.

25 Q. Did you find that Mr. Pierson was aggressive?

1 A. Yes.

2 Q. Explain to the jury how.

3 A. As I mentioned before we're seeing aggression in
4 the community with some of those nonsexual offenses. We're
5 seeing it on the job, on the workplace. We're seeing it in
6 his relationships both with his siblings and his mother when
7 he was younger as well as when he was older with some of
8 those romantic relationships. We're also seeing it in
9 incarcerated settings with some of that threatening behavior
10 that he demonstrated there.

11 Q. What about when he was court-ordered to treatment
12 in his probation terms, how did he react?

13 A. Yeah, that -- that he acted aggressively. So that
14 would be another example of that, yes.

15 Q. What is the fifth criteria?

16 A. Reckless disregard for safety of self or others.

17 Q. Can you -- did you diagnose Mr. Pierson with that
18 trait?

19 A. Yes, I did.

20 Q. Explain to the jury how.

21 A. So there's a few specific things that kind of pop
22 out for this one. One is some of his sexual history, sexual
23 behaviors. The fact -- you know, he is having sex with high
24 number of strangers, propositioning people for sex with
25 money, engaging in high-risk sexual behaviors. So by his own

1 account, he contracted sexually transmitted infections
2 because of those behaviors, that speaks to a recklessness to
3 himself and others. And then also his substance use history.
4 So, specifically, his alcohol use. He had told me that when
5 he drinks a lot, he can blackout and become violent or
6 aggressive, which speaks to recklessness towards others
7 because of those types of problems.

8 Q. What is the next criteria?

9 A. Consistent irresponsibility to sustain consistent
10 work behavior or honor financial obligations.

11 Q. Now, talking about his work responsibility, what
12 was his -- in talking to Mr. Pierson and evaluating the
13 reports, what was his work history?

14 A. I think he certainly displayed some
15 irresponsibility at work, given the high amount of work
16 turnover that he had, difficulty sustaining -- in maintaining
17 a job. However, I didn't actually assign this as a symptom
18 for his antisocial personality disorder because again, I'm
19 looking for multiple settings, multiple domains. The fact
20 that he's struggling at work is certainly an indicator of
21 this, but I'd want to see some other problems, like -- maybe,
22 you know, defaulting on loans, if he had children, not being
23 able to pay child support. Other sorts of areas where this
24 financial irresponsibility would come in. And I -- I just
25 didn't think there was enough evidence to assign that for

1 him.

2 Q. But Mr. Pierson clearly has some of the traits,
3 but not enough for you to make that conclusion?

4 A. That's correct. I didn't think there was quite
5 enough evidence across settings to assign irresponsibility as
6 a symptom.

7 Q. What's the seventh criteria for antisocial
8 personality disorder?

9 A. Lack of remorse.

10 Q. And explain to the jury how Mr. Pierson showed a
11 lack of remorse.

12 A. He did so in several ways. The first is, you
13 know, his recognizing that a lot of these offenses were
14 wrong, and he still did them anyway. Not really being able
15 to understand how people were impacted by the things that he
16 did. As it relates to the sexual offending, placing his own
17 sexual desires and what he wants ahead of the well-being of
18 victims. So in that sense, not really considering or
19 thinking about how victims are impacted because of his
20 decisions. Those are some of, I guess, the most pronounced
21 aspects of lack of remorse for him as it relates to sexual
22 offending.

23 The other one is with his violent attitudes. So as I
24 testified earlier about his interactions with a prior
25 romantic partner where he described treating her like a dog.

1 Yeah -- I mean, that behavior is problematic, but what --
2 what is concerning for a personality disorder is that, you
3 know, he's viewing this as a positive thing that he did.
4 Yeah, I -- he truly thinks he did something good by treating
5 this woman so poorly. And so, that -- that again speaks to a
6 lack of remorse.

7 Q. And what about the qualifying conviction with his
8 representation of the victim and his remorse towards what he
9 did to her?

10 A. Are you referring to the niece? Sorry.

11 Q. Yes. To -- to the niece.

12 A. So again, as I testified earlier, he -- he was
13 talking about how -- you know, he -- he was traumatized, you
14 know, he was negatively impacted by this offense that he
15 committed. So again, that also can speak to a -- a lack of
16 remorse as well.

17 Q. Explain how Mr. Pierson values his own sexual
18 desires over others.

19 A. Well, as I mentioned, he -- he recognizes that
20 these things are wrong. It's not that he doesn't know, but
21 he still did them anyway. And so, he's talking about putting
22 his own sexual excitement and adrenaline, his desire to
23 ejaculate, for example, in the April, 2021, indecent exposure
24 offense, ahead of how the people he exposes himself to, or
25 the person -- persons he harms can be impacted by what he

1 does.

2 Q. Now, you went through some risk -- excuse me, some
3 risk assessment, correct?

4 A. Yes.

5 Q. Explain to the jury what risk assessment is.

6 A. Okay. So risk assessment's a really broad term.
7 Really the way I look at it is we're trying to figure out,
8 you know, what someone's probability or likelihood of
9 engaging in a specific outcome is.

10 Q. Is it kind of like insurance actuaries?

11 A. It can be. So there's different types of risk
12 assessment. One type is actuarial risk assessment, and
13 really what that involves is the use of scientific or
14 research-based items, which are going to be empirically or
15 scientifically related to an outcome of interest. You're
16 going to then examine those items that have that
17 relationship, in this case, sexual offending. In order to
18 determine how likely someone is or what the probability of
19 someone is to engage in that. There's going to be very
20 specific scoring rules, very specific instructions of how to
21 rate and score, and evaluate different items that are all
22 related to the outcome. In this case, sexual reoffending.

23 Q. Can you explain to the jury what static risk
24 assessment is?

25 A. Right. So in sexual offending, we -- we break

1 down types of risk factors. One of them is static risk
2 factors, the other is dynamic. So static risk factors are
3 largely historical risk factors. So these are things about a
4 person's history from their past that increase their -- their
5 risk for sexual reoffending. These are things like, you
6 know, have they maintained a relationship, a live-in
7 relationship with some -- someone for two years?

8 What were their victims of their past sexual offenses
9 like? Were they strangers? Were they family members? How
10 much sexual offending have they done? Have they been
11 previously convicted of a sexual offense and gone out and
12 done it again? Do they have any violent offense convictions
13 on their record? Things like this that can't really be
14 changeable, but it's a part of that person's history, and
15 it's related to increased risk for them.

16 Q. Now, did you perform a static risk assessment for
17 Mr. Pierson?

18 A. I did.

19 Q. And what are the categories for determining a risk
20 assessment, static risk assessment?

21 A. What do you mean?

22 Q. Well, there's multiple categories. So for
23 instance, there's a numbering scale. What's the numbering
24 scale?

25 A. Oh, are you meaning like the total scores that

1 someone can get on a tool like that?

2 Q. Yes.

3 A. So this tool I used is called the Static-99R or
4 Static-99 Revised. And so, it's looking at a lot of those
5 historical risk factors I told you about. And there's
6 specific items that get scored with specific scoring rules.
7 And it -- as you sum them up and add them up, it can range
8 from negative 3 to 12 with the higher number related to a
9 higher amount of risk.

10 Q. So based on Mr. Pierson's Static-99R, what was his
11 scoring number?

12 A. He scored a 7.

13 Q. And how does a 7 translate to your diagnosis?

14 A. It doesn't have anything to do with the diagnosis.

15 Q. How does it translate to your conclusion of
16 Mr. Pierson's writ?

17 A. Yes, so the -- the static instrument and the
18 static risk factors speak directly to whether someone can be
19 likely or at least it's a part of the equation as to whether
20 someone can be likely. So in that sense, it was an elevator
21 or a high static score which contributed to his overall risk
22 rating.

23 Q. It is based on Mr. Pierson's static score of 7?

24 A. Mm-hmm.

25 Q. What is his risk to reoffend?

1 A. So you can look at risk in different ways. You
2 can place them in -- people in categories based on these
3 scores. That's one way to do that. On the Static-99R, a
4 score of 7 would result in being in the well above average
5 risk category which is the highest risk category that someone
6 can go into on the scale.

7 Q. So 7 is the highest -- I'm sorry, well, above
8 average is the highest category that he would be classified
9 into?

10 A. That's right. So if someone was scored, say a 6,
11 or a 7, or a 12, of course, a 12 is higher than a 7, but
12 they'd all belong in that same risk category, which is well
13 above average.

14 Q. So I think you said it, but Mr. Pierson's risk to
15 reoffend is well above average?

16 A. Well, only looking at the static scores. So
17 that's just one piece of the puzzle. I -- I believe a
18 question was about car insurance. That might be a way to
19 maybe explain this a little better. So, for example, when
20 you go to renew your auto insurance, there's this new thing
21 out now, like drive safe apps that maybe some people are
22 aware of that you can sign up for to maybe try and get a
23 better rate.

24 Well, how car insurance kind of works is they're going
25 to use historical factors about your driving. So if you have

1 any accidents within the last few years, are you married?
2 How old are you? Historical things you can't really change.
3 And that'll be part of the price. How -- how risky they
4 think you are as a driver? That's part of it. But with
5 these drive safe apps, there's a whole new kind of almost
6 ball game that they're looking at to see how safe you are as
7 a driver. So they might look at how well you handle turns.
8 Are you speeding when you drive? What times are you driving?
9 Are you driving a lot at night when it's dark out?

10 The -- those -- these apps measure these unique things
11 about you that you can change either for the better or -- or
12 not to adjust your car insurance rate. So it's not just
13 based on the historical stuff anymore. It's also based on
14 things you can change. And I use that as an example because
15 the Static-99R is really just giving us one piece of data,
16 just one piece of the information about someone's history.
17 It doesn't look at all the things that might be risk relevant
18 when determining how risky someone is. So it's just one
19 piece of the information -- one piece of the information,
20 somewhat incomplete picture of someone's risk.

21 Q. What are dynamic risk factors? I think you
22 started to talk about it.

23 A. Yeah -- yeah. So that's the second piece of the
24 puzzle. That's dynamic risk factors, kind of like those
25 drive safe apps. These are factors which are still related

1 to sexual offending. They're still risk-relevant, but these
2 are things that can be changed with treatment or changed with
3 your environment. So if you have more of these dynamic risk
4 factors, it can certainly increase your risk, but you can do
5 something about them to lower your risk.

6 With the driving example, you can stop taking turns so
7 hard, you can start following the speed limit. You can drive
8 at times and conditions when it's more safe. By doing that,
9 you can actually reduce your risk driving and reduce your --
10 your car insurance. I -- I'm not a car insurance salesman,
11 so that's where I'll stop with that. But hopefully that --
12 hopefully that that explains things a little easier about how
13 these historical and changeable things go -- go together.

14 Q. Now, you assigned certain dynamic risk factors to
15 Mr. Pierson?

16 A. That's correct, yes.

17 Q. And one is one of them sexual compulsivity?

18 A. Yes, it is.

19 Q. Explain why you assigned that adverse assessment.

20 A. So sexual compulsivity is a severe difficulty
21 being able to control your sexual behavior. The manual talks
22 a little bit about it, almost like a sexual addiction. I do
23 believe that there are indicators of Mr. Pierson having
24 sexual compulsivity problems. You see it with his indecent
25 exposure infractions in the prison. You see it with his

1 indecent exposures in the community in 2021. His sexual
2 offense in 2024 -- sorry, 2004. And you see it as -- as well
3 with some of those sexual history items I talked about. So
4 the frequent sex with strangers, propositioning people with
5 money to have sex. Those types of problems, as well, fit
6 into that.

7 Q. Masturbating to the point of -- of injuring
8 himself?

9 A. Yes, that would count as well.

10 Q. What about criminal responsibility, is that a
11 dynamic risk factor?

12 A. Criminal personality is, yes.

13 Q. And explain to the -- to the jury how you came to
14 that conclusion.

15 A. So just very briefly, criminal personality is
16 someone who might be deceitful, lack remorse about what they
17 do, have very shallow emotions, and not very deep emotions,
18 very superficial connections with other people. For
19 Mr. Pierson, as I mentioned before, he -- he certainly has a
20 lack of remorse for the things he's done. His relationships
21 are also somewhat superficial. They're not strong or very
22 well connected. So it's in those ways that he primarily
23 displays that.

24 Q. What about aggression? We talked a lot about
25 aggression. Explain to the jury Mr. Pierson's dynamic risk

1 factor for aggression.

2 A. Right. So for sexual offending, what's important
3 about aggression is just that it's happening, and it can take
4 the form of a lot of different things. It could be verbal
5 aggression, physical aggression, even passive aggressive
6 behavior if it's pervasive enough, can be considered
7 aggressive and increase someone's risk for sexual offending.

8 So I say that because it's important to note that the
9 sexual offenses themselves don't need to be inherently
10 violent in order for it to be a risk factor. So,
11 Mr. Pierson, with his behavior at work, in his relationships,
12 when he was a -- a child at school, with his family members,
13 his behavior while in prison, some of his nonsexual offenses,
14 that all speaks to problems managing aggression in his life.

15 Q. What about compliance under a community
16 supervision? Explain to the jury why you assigned
17 Mr. Pierson that risk factor.

18 A. So that one's pretty self-explanatory. It's
19 difficulty being able to follow the rules of a community
20 supervision program. That has certainly been his case. Six
21 total community supervision violations. Three violations of
22 probation, three sex offender registry violations. And also,
23 what's really important is his own attitudes about that. So
24 he doesn't view supervision as important. He doesn't view it
25 as necessary or something that's helpful. He -- he views it

1 more as a burden. So again, that speaks that he doesn't even
2 view supervision as something that could help him manage his
3 risk.

4 Q. What about impulsivity? Explain to the jury why
5 you assigned that dynamic risk factor to Mr. Pierson.

6 A. Right. So this is kind of like the aggression
7 one, right? It's -- it's just general impulsivity. It
8 doesn't have to be in the sexual offenses, even though each
9 of Mr. Pierson's sexual offenses reflect very reactive,
10 opportunistic, spur of the moment sort of behavior. But we
11 also see his impulsivity in other ways, as I talked about
12 before. You see it as behavior at work. You see it in
13 terminating his relationships. We see it with his
14 institutional or prison conduct. We see it in his
15 relationships as well. So again, a lot of these kind of
16 quick to react without really thinking of consequences before
17 acting.

18 Q. How did -- community support would you explain to
19 the jury why you assigned that risk factor to Mr. Pierson?

20 A. So, community support is a two-way street. It
21 talks about both having supports, but then also your ability
22 or willingness to benefit from them if they're there. And in
23 Mr. Pierson's case, there's limited people who are there to
24 provide support for him. He told me that after 2004, after
25 that sexual offense, he didn't have a lot of family or

1 friends supporting him. He doesn't have a lot of other
2 friends that he -- that he has right now. He did talk about
3 how his mother could be maybe that one person who can provide
4 support, but there's been a history of -- of not really
5 following her directives or -- or listening to what she has
6 to say.

7 And, you know, these people that I -- you know, I
8 interviewed, the aunt and his, his mother, they don't -- they
9 don't believe that he's -- he's committed a sexual offense.
10 And why that's important is it underscores or makes it
11 unlikely that they're going to be able to hold him
12 accountable in the community, right? If he -- if they don't
13 believe he's done something wrong, how are they going to try
14 and hold him accountable?

15 The third piece of this is professional supports,
16 right? If someone's going to have treatment in the
17 community, like on probation, that could really help give
18 someone some support and structure in their life.
19 Mr. Pierson will -- will not have access to that. So he
20 doesn't have those professional supports if he's released.
21 So that also went into my risk assessment.

22 Q. What about cognitive distortion? Explain to the
23 jury why you assign that risk factor.

24 A. So, cognitive distortions, very briefly, that's
25 kind of inaccurate beliefs about sexual offending. So an

1 example could be sexualizing children. I think that
2 certainly applied to Mr. Pierson and how he thinks about the
3 2004 offense with his niece. So the fact that he's saying
4 she's the one initiating the sexual behavior, she's acting
5 like a grown woman when she's touching herself, these types
6 of thinking that he's talking about during the evaluation
7 suggests that he's, you know, sexualizing the behavior of a
8 five-year-old. That -- that sort of thinking is distorted,
9 it's inaccurate, and those are the types of thoughts that can
10 increase risk.

11 Q. Now, did you assign treatment compliance as a
12 dynamic risk factor to Mr. Pierson?

13 A. Yes, I did.

14 Q. And explain why you would assign that risk factor.

15 A. So someone who doesn't have treatment compliance
16 is someone who's not taking treatment seriously maybe not
17 completing a program, not showing up. That certainly fits
18 Mr. Pierson's history. So not only did he basically get
19 removed from sex offender treatment in the community, he
20 didn't show back up when he was supposed to, and he declined
21 sex offender treatment in the prison in 2022. Because he --
22 he said, "That's something I could just get later if I need
23 it." So again, it's not really -- he's not showing any sort
24 of interest in treatment. And as I testified to earlier, he
25 actually thought treatment would make -- make him worse.

1 Q. So the -- there's no treatment component if
2 Mr. Pierson is released?

3 A. Correct.

4 Q. Explain to the jury why you assigned intimacy
5 deficits to Mr. Pierson.

6 A. So he -- he has intimacy deficits because of those
7 problems with romantic relationships he's had throughout his
8 life. The fact that he hasn't really maintained any sort of
9 deep, emotionally close, and trusting relationship with
10 others, the fact that he doesn't really have strong
11 connections with his family or friends either, only
12 exacerbates or makes that -- makes that more problematic.
13 And then the fact that he doesn't really see value or a point
14 in doing those things. So he doesn't see that as important
15 and not something that he wants to do.

16 Q. What about -- well, you -- you assigned high-risk
17 situations as well to Mr. Pierson as a dynamic risk factor.
18 Explain why.

19 A. Release to high-risk situations?

20 Q. Yes.

21 A. So again, he -- he doesn't really have any
22 concrete release plans for when he gets out. And -- and why
23 that's a problem is because he -- he's not well prepared and
24 hasn't really thought through how to manage potential
25 high-risk settings that he can find himself in. So when I

1 asked him in the interview, you know, has he worked with
2 anyone in -- in the prison like staff to develop a release
3 plan? He said, "No." Said that wasn't really important.
4 And he hasn't really developed a lot of skills to manage a
5 high-risk environment. So for example, when he is feeling
6 sexually excited, he doesn't really have skills or hasn't
7 thought about how he's going to manage that in the future to
8 not do those types of things again.

9 Q. Now, I -- I know we talked about it at length, but
10 does Mr. Pierson have insight into his offending?

11 A. So I assigned insight as a risk factor for him. I
12 do think he has some level of insight into the fact that he
13 -- his sexual offending was largely impulsive. He's able to
14 identify that and that he disregarded that -- that it was
15 wrong. So I think he -- he gets that piece. But when you
16 really kind of ask him, well -- like, "Why did you do the
17 things you did with your sex offenses?" He -- he's -- he's
18 at a loss to be able to describe more, you know, what -- what
19 really caused these things to happen. Why did he behave in
20 that way at that time and not others? You know, "What were
21 the factors that led you to do this? What was going on that
22 day that led up to this problem?" You know, he's -- he's not
23 really able to put it all together yet. So his insight and
24 understanding of his sexual offending is still very much a
25 work in progress.

1 Q. Now, based on these dynamic risk factors; I've got
2 at 11 at this point. Can you review your report and tell me
3 did I miss any?

4 A. Gosh. Emotional control, I don't think is on
5 there.

6 Q. Explain to the jury why you attached -- or
7 assigned Mr. Pierson with emotional control.

8 A. So emotional control that talks about a difficulty
9 being able to control your emotions that is contributed to
10 sexual offending. So this is one where the emotional control
11 problems directly need to be caught or be related to sexual
12 offending. And so, for him this really applies with those
13 indecent exposures both in the prison and in the community.
14 So the fact that he's talking about having this sexual
15 excitement build up and he doesn't know how to handle it, and
16 he ends up exposing himself and/or masturbating at people
17 because of that. So that -- that -- those are the offenses
18 where the emotional control piece seems to be most -- most
19 important.

20 Q. Is Mr. Pierson's antisocial personality disorder,
21 is it chronic?

22 A. Yes.

23 Q. Based on Mr. Pierson's Static-99 risk factors and
24 his dynamic risk factors, did you -- were you able to reach a
25 conclusion as to Mr. Pierson's overall risk to reoffend?

1 A. I was, yes.

2 Q. And explain how you did that, and what the score
3 was.

4 A. So I testified earlier that, you know, you're --
5 kind of like pieces of the puzzle. So the static instruments
6 give you a piece of the puzzle and the dynamic actuarial
7 gives you another piece. So you're kind of -- you're left
8 with two pieces of information that are both telling you
9 something about the guy's risk. Well, how do you integrate
10 it together? How do you combine this information?

11 There's a statistical technique that you can use called
12 logistic regression. Basically, it allows you to combine
13 multiple different data points to try and predict a specific
14 outcome. In this case, the risk of someone sexually
15 reoffending. So I used -- it's a peer reviewed article, so
16 peer reviewed scientific article that talks about how to
17 integrate this data together to come up with a -- a five-year
18 risk -- risk for sexual recidivism. And I use that to
19 identify what his five-year risk would be.

20 Q. And what about his lifetime risk to reoffend?

21 A. So that tool that I told you about, that gives you
22 that five-year rate, that's going to tell you what someone's
23 risk is of being charged or convicted of a new sex crime
24 within that timeframe.

25 MR. GAMBRELL: Judge, I have an objection to make. I

1 think I need to make it outside the presence of the jury.

2 THE COURT: All right. Ladies and gentlemen, please
3 step into the jury room. Don't discuss the case.

4 (Jury exits.)

5 THE COURT: State your objection.

6 MR. GAMBRELL: Your Honor, I believe Dr. Gillen is --
7 he referred to some peer review articles. I believe he's
8 referring to Kelly that he cited in his report. It's
9 (inaudible) the jury in the view of sexual -- any type of
10 sexual offending (inaudible) in the --

11 MR. FISHER: Excuse me, your Honor. I -- I -- I can't
12 hear Mr. Gambrell.

13 MR. GAMBRELL: I believe he's referring to the peer
14 review articles that he cited in his report. One was Kelly,
15 which is noted to the footnote seven, the other is Thornton
16 to the footnote eight, to talk about the -- the lifetime and
17 the five-year risk. He states in his report that the
18 estimate is not limited to sexually violent recidivism as
19 defined by South Carolina statute.

20 So my concern is -- is that if he's going to give some
21 sort of a percentage that he believes that Mr. Pierson falls
22 under with regards to five-year and lifetime recidivism
23 rates, those rates that he's referring can include offenses
24 that are not sexually violent offenses. And I believe that
25 that would not be relevant under 401. And if it was

1 relevant, I believe it would be confusing or prejudicial upon
2 Rule 403. Because those -- those figures do not discriminate
3 between sexually violent offenses and sexual offenses.

4 THE COURT: Mr. Fisher?

5 MR. FISHER: Judge, the bottom line is that not only is
6 a sexual offense, but all offenses that Mr. Pierson is
7 accused of crimes of opportunity because of his impulsivity.
8 So presented with the right opportunity, Mr. Pierson will
9 reoffend to the rate of 71 percent. He will reoffend if
10 given the opportunity to a sexually violent offense. So our
11 argument is that he doesn't have a paraphilic disorder. Our
12 argument is that he has a personality disorder.

13 And I think what -- what I hear Mr. Gambrell doing is
14 conflating the two issues. Not only is he likely to
15 reoffend, but given the opportunity, he would be likely to
16 offend in a sexually violent manner. Now, it's ultimately
17 irrelevant because I only have -- the State only has to prove
18 qualifying offense, personality disorder, likely to reoffend.
19 And this goes to his ability -- his propensity -- "his" being
20 Mr. Pierson's propensity to reoffend.

21 MR. GAMBRELL: I'd like to respond.

22 THE COURT: Yeah.

23 MR. GAMBRELL: It's not his likelihood to reoffend.
24 It's likelihood to engage in acts of sexual violence. It's
25 very specific in that subject. It's not to engage in -- in

1 illegal defense, but the question that the jury has to
2 determine is whether or not his mental health or personality
3 disorder is such that it would lead him to engage in the
4 future, in -- in sexually violent offenses. If this figure
5 includes other offenses, then I think that's misleading to
6 jury. Because -- because it's not that he's likely to engage
7 its smoking marijuana in the future, it's whether or not he's
8 likely to engage in sexually violent offenses, specifically,
9 enumerated under the statute.

10 And -- and they're going to get the impression that he
11 has some high number of likelihoods to offend at any of
12 offense. That it's a likelihood that he's going to reoffend
13 to a sexually violent offense, which is what they're tasked
14 to determine. It's not any offense, it's a sexually violent
15 offense. And if they're told that he has a 71 percent chance
16 of reoffending to any offense, they're going to conflate that
17 with a 71 percent chance of -- of reoffend to a sexually
18 violent offense. And that's not what they're asking.

19 THE COURT: Anything else?

20 MR. FISHER: Judge, I'm looking at the footnotes and
21 they say as it follows, Kelly: "Do sanctions affect
22 undetected sexual defendant?" Then it goes down to Thornton:
23 "Estimating lifetime and residual risk for individuals who
24 remain sexually offense free in the community." And then it
25 goes practical application. I don't know if Mr. Gambrell has

1 taken it upon himself to interpret these Kelly's and
2 Thornton's analysis. I don't know if that's what he's doing,
3 but he's clearly becoming a -- by this argument, becoming a
4 witness in this case. Because he now has interpreted both
5 Kelly and Thornton, it doesn't say anything about likely to
6 reoffend for sexually violent predator.

7 MR. GAMBRELL: Judge, I'm just reading from
8 Dr. Gillen's report. He says, "This estimate is also not
9 limited to sexually violent pursuer." It's not limited to
10 that. The only task that this jury is tasked with is trying
11 to find out whether or not he's likely to engage in sexually
12 violent offenses. Not sexual offenses, not any other
13 offenses, sexual violent offenses. Offenses which are
14 specifically enumerated under the statute. Dr. Gillen,
15 himself, in his report says that the estimates are not
16 limited to sexually violent pursuer.

17 MR. FISHER: Judge, I don't see that. I --
18 Mr. Gambrell, can you give me a page number?

19 MR. GAMBRELL: It's page 21.

20 MR. FISHER: Again --

21 MR. GAMBRELL: The fourth -- fourth paragraph, the
22 second to the last sentence.

23 MR. FISHER: So you're not talking about the footnote,
24 you're talking about the copy -- the text of the report?

25 MR. GAMBRELL: Correct.

1 MR. FISHER: Judge, again, it goes to what I'm trying
2 to prove. This disorder appears related to a sexually
3 violent offending, and he demonstrated a pattern of
4 difficulty controlling his sexual arousal and behavior
5 consistent with volitional impairment due to mental
6 condition. So that goes to the very crux of what I'm trying
7 to prove.

8 THE COURT: I think his argument is likely. Do your
9 questions outside the presence of the jury so I can
10 understand.

11 BY MR. FISHER:

12 Q. Based on your analysis of both the static risk
13 factors and the dynamic risk factors, what is Mr. Pierson's
14 likelihood to reoffend?

15 A. So you're asking based on the static factors and
16 dynamic factors?

17 Q. Yes.

18 A. Okay.

19 Q. His lifetime risk to reoffend.

20 A. Well, his lifetime risk to reoffend is 71 percent.

21 Q. Is that limited just to smoking marijuana?

22 A. No, it's all types of sexual offenses.

23 MR. FISHER: Thank you.

24 MR. GAMBRELL: It's not all types of sexual offenses,
25 Judge, I mean...

1 THE COURT: You want to question him?

2 MR. GAMBRELL: Okay. Absolutely.

3 CROSS-EXAMINATION

4 BY MR. GAMBRELL:

5 Q. Dr. Gillen, you note in your report that that
6 estimate is not limited to sexually violent recidivism?

7 A. Yes, that's correct.

8 Q. What other recidivism does it refer to?

9 A. So I'm happy I can kind of clear this up. So that
10 total estimate involves all different types of sexual
11 offending. So for instance, in South Carolina, there's
12 specific types of sexual offenses which are listed as
13 sexually violent, but not all sexual offenses are sexually
14 violent. So, for example, that 71 percent can include the
15 risk of being charged or convicted. Well, I guess actually
16 that -- that includes undetected as well. So of committing
17 any type of sexual offense. It may not necessarily be
18 statutorily defined in South Carolina as sexually violent,
19 but it is 71 percent lifetime risk of committing a sexual
20 offense.

21 Q. So it could include a sexual offense that's not a
22 sexually violent offense?

23 A. That is correct. Yes.

24 MR. GAMBRELL: And, your Honor, that goes directly to
25 my argument. Because if they're allowed to consider that,

1 because the statute says it's not any sexual offense, he is
2 likely to engage in any sexual offense, that's likely to
3 engage in a sexually violent offense, which as Dr. Gillen
4 said, it's specifically enumerated under the statute. That
5 -- that's what the State has to prove is that he's likely to
6 engage in a sexually violent offense. And if you would
7 include a statistic that includes offenses not enumerated
8 under the statute then I believe it could confuse them, and
9 it's not relevant to what the jury has to decide.

10 THE COURT: Anything else?

11 MR. FISHER: I would like to review the -- the statute,
12 but I -- I -- I'm going to leave it at this, that I
13 completely disagree -- completely disagree with
14 Mr. Gambrell's assessment. I don't have to prove a sexually
15 violent -- one of those enumerated offenses. Further, in my
16 reading of the statute, and I don't want to misspeak, I don't
17 think they're enumerated. I don't think that -- that the
18 statute specifically enumerates what offense that Mr. Pierson
19 is likely to reoffend. But again, I would have to review the
20 statute.

21 MR. GAMBRELL: Judge, it -- it absolutely does. Under
22 44-48-30, one of the definitions under -- under (b)(2),
23 "Sexually violent offense means..." -- and it goes through a
24 list of enumerated statutes starting with criminal sexual
25 conduct in the first degree, and then second degree, third

1 degree with minors. First, second, third degree engaging in
2 sexual with a child for -- for sexual performance. I mean,
3 they -- they're enumerated under the statute.

4 And if you go to the definition of -- of what a
5 sexually violent predator is, it's someone who suffer, not
6 only that has the qualifying conviction, but suffers from a
7 mental abnormality or personality disorder that makes the
8 person likely to engage in acts of sexual violence, which, if
9 you look at what sexual violence is, these are what that
10 means. This means all those -- those particular offenses
11 that are listed under the -- under the statute. And so,
12 Dr. Gillen's estimate is percentage includes offenses that
13 are not listed in there. They not -- it's not relevant
14 because it's -- it's -- it's -- it includes offenses that are
15 not relevant, and that are outside the scope and the
16 definition of what a sexually violent predator is in -- in --
17 in the statute.

18 MR. FISHER: First thing I would say, Judge, is that's
19 an interesting argument, but it's subject to
20 cross-examination, that's not subject to Dr. Gillen's
21 ultimate analysis. Certainly, I would -- I would not object
22 to Mr. Gambrell cross-examining Dr. Gillen on that issue.

23 May I? I'm sorry, Judge, if I may? Mr. Gambrell, are
24 you talking about 44-48-110(b)? I'm at 44-48-100. Can you
25 show me where it says that he has to be convicted of a

1 sexually violent predator?

2 THE COURT: I think he's talking about 44-48-30(2).

3 MR. GAMBRELL: (1) and (2). Yes, sir. (1) gives the
4 definition of a sexually violent predator, and (2) defines
5 sexually violent offenses. Part of the definition of a
6 sexually violent predator is someone likely to engage in acts
7 of sexual violence. Sexually violent offense are those
8 listed under (2).

9 MR. FISHER: Judge, if I may a have moment -- moment?

10 THE COURT: Certainly.

11 MR. FISHER: Judge, I -- I'm looking at the definitions
12 too, and I'm looking at 44-48-9(b). 1(b): "Suffers from a
13 mental abnormality or personality disorder that makes the
14 person likely to engage in acts of sexual violence, if not
15 confined in a secure facility." Acts of sexual violence
16 would be a sexual offense. To limit the -- the State's
17 responsibility of what they must prove, is whether or not Mr.
18 Pierson is likely to commit acts of sex -- acts -- sexual
19 acts. And I -- I find it hard to believe that committing a
20 sexual battery on -- on somebody is not an act of sexual
21 violence. Nonetheless, I think this is right for
22 cross-examination, but I don't think it's a reason to take it
23 to the jury.

24 MR. GAMBRELL: Judge, I will just close by saying that
25 if -- if the legislature wanted to limit it to just sexual

1 offenses, they would have put that in the statute. They
2 would've said, "This person is likely to engage in acts of
3 sexual offenses." They added the word "violence" in there
4 for a reason. And in the very next section, they define what
5 that is: sexually violent offense. I -- I don't see what's
6 so difficult about connecting those two dots. It -- it isn't
7 to likely engage in any sexual offense. It's sexual
8 violence. What does that mean? Well, here's the definition
9 in (2).

10 MR. FISHER: And further, Judge, I would say that the
11 71 percent includes the risk to commit a lewd act, which is
12 the qualifying offense that -- that brings us before this
13 court. 71 percent includes a lewd act on a -- on a child
14 under the age of 14. We don't have to show the exact
15 offense. He's already shown the propensity to commit an act
16 of sexual violence by his qualifying conviction. And 71
17 percent does include that act.

18 MR. GAMBRELL: So this is a -- this is a forward
19 projection. This is not a reversible (inaudible). This is a
20 likelihood to reoffend in the future (inaudible).

21 THE COURT: 44-48-30, as (1) (b): "Suffers from a
22 mental abnormality or personality disorder that makes the
23 person likely to engage in acts of sexual violence if not
24 confined in a secure facility for long-term control, care,
25 and treatment." But (a), the preface of that says that the

1 person has to have been convicted of a sexually violent
2 offense. (2) states: "Sexually violent offense means..."
3 So the question would be whether sexually violent defense is
4 to define what falls under (1) (a) or if it's required on the
5 (b).

6 And down in (9): "Likely to engage in acts of sexual
7 violence means that a person is predisposed to engage in acts
8 of sexual violence, and more probably than not, will engage
9 in acts of sexual violence to such a degree as to pose a
10 menace to the health and safety of others." So the question
11 is multifaceted as I see it was formed. One is: whether the
12 likelihood requires one of these enumerated offenses. Two:
13 what is he including in the 71 percent?

14 MR. FISHER: It is my understanding that it's all
15 sexual offenses.

16 THE WITNESS: Sorry, was that a question to be
17 answered, or...?

18 THE COURT: I'm going to need some clarification either
19 in-camera or from the witness or from -- I don't have a
20 report, so I don't have any way of reading that, but I need
21 to know, what he's including in 71 percent if he's -- if I'm
22 hearing the State's argument, the 71 percent of reoffending.
23 Reoffending of what? And -- and the charge -- both charges
24 that have been given to me by the State, which coincides with
25 this charge I've given in the cases in the past states, "He's

1 likely to engage in acts of sexual violence."

2 And that means that the person is predisposed to engage
3 in acts of sexual violence and, more probably than not, will
4 engage in acts of sexual violence to such a degree as to pose
5 a menace to the health and safety of others. Which is a
6 restatement of (9). So I guess I need to ask -- you to ask
7 him questions so I can understand what he's including in the
8 71 percent and in just limiting him to acts of sexual
9 violence.

10 MR. FISHER: May I proceed, your Honor?

11 THE COURT: Please.

12 RE-DIRECT EXAMINATION

13 BY MR. FISHER:

14 Q. Dr. Gillen, you've assigned Mr. Pierson a 71
15 percent likelihood to reoffend. What is included in that 71
16 percent?

17 A. So it includes his -- the amount of risks from his
18 static risk factors, from the Static-99R, his amount of
19 dynamic risk as captured by the Violence Risk Scale Sexual
20 Offense Version. And then it includes the -- the combination
21 of those factors and how that impacts a five-year rate of
22 sexual reoffending.

23 From there, I go beyond and use the Kelly article to
24 figure out how much risk is being lost for undetected
25 offending. So that's when someone is committing crimes and

1 not being charged or caught by police. So the Kelly article
2 talks about -- like, about 80 -- just over 84 percent of
3 people are caught after five victims, which translates
4 roughly to about one victim per year. So that's why with
5 that five-year rate, we can then say that there's
6 approximately just over 15 percent are not caught.

7 So they provide an equation to try to account for that
8 amount of undetected offending. The second piece beyond that
9 is to figure out, "Well, what is the remaining risk for
10 Mr. Pierson in his lifetime?" So that's conceptualized of
11 about 20 years because after 20 years, if someone's in the
12 community for that length of time and they don't sexually
13 reoffend, the risk is essentially the same as those of
14 nonsexual offenders. So we extrapolate out the five-year
15 risk to 20 years as a proxy for lifetime risk, and that leads
16 to a total risk of 71 percent.

17 Q. Is that -- is that limited to just sexually
18 violent offenses or is it all offenses?

19 A. So it's all sexual offenses. So it's not just,
20 you know, like assault or possession of drugs. It's -- it's
21 sexual offending specific, but as I mentioned, it's not just
22 sexually violent offending. And the reason for that is
23 because the tools that -- that we use in our risk assessments
24 like the Static-99R, and the Violence Risk Scale Sexual
25 Offense Version, especially with the Static-99R, that's a

1 tool that I've used in every evaluation since I've been here.
2 People have been using them for -- oh gosh, probably well
3 over a decade in our work here.

4 Those risk estimates that derive from the tools, the
5 Static-99R our for all sexual offending, which makes sense
6 when you think of it. The people who make this tool didn't
7 only take a look at one -- one state and say, "It needs to
8 only look at these offenses." It applies to all different
9 types of sexual offenses that can happen, not just what one
10 state might define as sexually violent.

11 So that's why the -- that initial five-year risk
12 estimate based on the Static-99R scores, and the Violence
13 Risk Scale Sexual Offense Version scores is a total risk for
14 all sexual offenses, not just what South Carolina says is
15 sexually violent. And -- and that's been the case in every
16 evaluation that I've done in Wisconsin, here, that -- that's
17 been consistent. I've included this language in every report
18 I've ever done here in the State of South Carolina.

19 MR. FISHER: That's all I have, your Honor.

20 THE COURT: My difficulty is, he's saying that is not
21 limited to sex -- sexually violent offenses. I'm having
22 trouble, like you said, "Well, it's a sexual offense. How is
23 it not violent?" Whether it's a defined term under the
24 statute, that's a different issue. He's saying it's not
25 sexually violent offense. If he's saying that that's

1 misleading to the jury and it's excluded under Rule 403. If
2 he's saying it is not limited to the ones that are defined in
3 that statute, that's a different statement. But again, I'm
4 struggling to understand how in the generic sense somebody
5 can commit a sexual offense and it not be violent.

6 MR. GAMBRELL: Exhibitionism, Judge. There's --
7 there's offenses out there that are sexual in nature.
8 They're not violent and they're not enumerated under the
9 statute.

10 MR. FISHER: Now, Judge, at this point, exhibitionism,
11 we don't have any evidence one way or another, I --
12 Mr. Gambrell is testifying as to what sexual exposure is,
13 exhibitionism is, but...

14 Judge, if it helps the Court I can -- I can ask that
15 question. I can ask the question: "What is his likelihood
16 to -- to sexually reoffend?" And leave it there.

17 THE COURT: Well, the State has to establish his --
18 that it's more likely than not, that it's likely, that it's
19 probable, that he will commit a sex -- sexually violent -- an
20 act sexual of violence if he's not confined. When you start
21 adding percentages to it, that's where it is getting
22 problematic. And I -- I appreciate your help. I also thank
23 him about exhibitionism as an exposure.

24 MR. GAMBRELL: Yes, but -- but actually -- actually, he
25 has been convicted.

1 THE COURT: Oh, I've heard. The objection is
2 sustained.

3 MR. FISHER: Judge, and I need to ask the question I
4 pose to the Court, which based on your static risk and
5 dynamic risk: "What is his likelihood to reoffend sexually?"

6 THE COURT: You can ask him what's in this -- it -- you
7 have to prove that it is likely that he will commit a sex --
8 an act of sexual violence and will probably than not will
9 engage in acts of sexual violence to such a degree as to pose
10 a menace to the health and safety of others. If he has an
11 opinion on that, and he's talking about acts of sexual
12 violence, I -- my ruling is that the definitions that are
13 listed in (2) relate to 1(a). They don't necessarily relate
14 to 1(b). I could be wrong. We may be making a law, but I
15 just have to make a call. Does that help or not?

16 MR. FISHER: I just don't want to violate the Court's
17 order so -- the Court's decision.

18 THE COURT: Anything else?

19 MR. GAMBRELL: What -- what is he allowed to ask,
20 Judge? I'm not clear on that.

21 THE COURT: I'm saying that if he is -- if I understood
22 his testimony correctly, he's attributing the 71 percent,
23 which he's including things that do not appear to fall under
24 the requirement of the statute. That he's including things
25 that don't have anything to do with whether they're sexually

1 the -- likelihood of sexually violent reoffending. So the 71
2 percent -- the percentages to me are problematic because they
3 are confusing to the jury and they appear to be irrelevant.

4 MR. GAMBRELL: Yes, sir.

5 THE COURT: You all need a minute? It's just a quarter
6 after 5:00.

7 MR. FISHER: No.

8 THE COURT: How much longer do you think he's going to
9 be with you?

10 MR. FISHER: I -- I'm -- was at the last two questions.

11 THE COURT: Okay. You got more questions in today or
12 tomorrow?

13 MR. FISHER: I can't wait until tomorrow. I -- I
14 prefer rather than break it up.

15 THE COURT: All right. You ready?

16 MR. FISHER: Yes.

17 THE COURT: Go ahead and bring in the jury. I hope
18 (inaudible) at 5:00.

19 (Jury enters.)

20 THE COURT: All right. I made my ruling, ladies and
21 gentlemen, we'll proceed. You may ask your next question.

22 BY MR. FISHER:

23 Q. Dr. Gillen, based on Mr. Pierson's history, the
24 records, and so on, were you able to formulate an opinion as
25 to whether or not Mr. Pierson is likely -- more likely than

1 not to engage in acts of sexual violence?

2 A. I was able to formulate an opinion as to whether
3 he was more probable than not to engage in that. Yes.

4 Q. And what is that opinion?

5 A. That: Yes, he -- he is -- he -- he does fit that
6 threshold of likely.

7 MR. FISHER: That's all I have at this time, your
8 Honor.

9 THE COURT: Are you sure?

10 MR. FISHER: I'm sorry?

11 THE COURT: Are you asking far (inaudible). You sure
12 you're through?

13 MR. FISHER: At this time, yes.

14 THE COURT: Okay. Ladies and gentlemen, the jury,
15 we're going to have to resume this tomorrow. I'm looking on
16 the state's website for weather, and the initial --
17 initially, they were just shutting down courthouses and
18 county governments, and the local country, and the PD, but
19 just now moved up to Aiken. I don't know what's going to
20 happen. Madam Clerk, you want them have any call number,
21 or...?

22 THE CLERK: Yes. Well, they can call the calling
23 number that they have, or -- right now, we're not shutting
24 down anything.

25 THE COURT: Yeah, they -- the problem is I've not seen

1 anything. So -- so what I'd like for you to do is to call --
2 you all still have that number? To be here at 10:00, but
3 call (inaudible), right? And if you know that the county
4 courthouse is closed, call the number anyway, okay? And just
5 make sure they -- they confirm for you you don't need to be
6 here. But I -- I need you to be here tomorrow at 10:00.

7 Remember what I told you about, if you have some
8 emergency that arises. So if you wake up in the morning and
9 there's a tree across the road, you can't get out, you --
10 you're (inaudible), all right? And I thank you very much for
11 your patience and your attentiveness. And I need you back in
12 the jury room in the morning. Come straight to this one.
13 Unless they tell you differently at 10:00 a.m. Don't discuss
14 the case. Remember the admonitions. Follow the bailiff,
15 please.

16 THE CLERK: Judge, it might make it easier if I have
17 them to write their names and phone numbers down.

18 THE COURT: Okay.

19 THE CLERK: And then that way we can (inaudible).

20 THE COURT: Why don't you all step in the jury room and
21 we'll finish with that? Then you can leave, okay? Thank
22 you.

23 (Jury exits.)

24 THE COURT: We're in recess for 10 minutes.

25 (Off the record.)

1 THE COURT: Yes, sir?

2 MR. FISHER: I want to make sure I -- I complied with
3 your ruling. You said that you -- you found 71 percent
4 problematic.

5 THE COURT: Yeah.

6 MR. FISHER: So I didn't go into 71 percent. And I --
7 I feel like after the -- the Court said, "Are you sure?"
8 Maybe I misinterpreted your ruling.

9 THE COURT: No, you didn't misinterpret my ruling. But
10 the statute doesn't stop at what he said. Reoffending if not
11 confined. Now, you might be give -- it will give another
12 shout in. I don't know. And it may be the totality of his
13 testimony may be enough that it survives a directed verdict.
14 But it's not that he just is likely to reoffend, it's likely
15 to be reoffending if he's not locked up in a treatment
16 facility. That -- that's why I asked you if you were sure
17 you were through.

18 And listen, I've been on my feet. I understand. When
19 you're down -- down the well, you all are both very skilled
20 lawyers. I -- I -- I just have to apply the laws I
21 understand. You're not supposed to discuss your testimony
22 with anybody during the break, okay?

23 THE WITNESS: All right.

24 THE COURT: And I appreciate it if I was uncertain as
25 to what you'd said -- I mean --

1 THE WITNESS: I'm sorry?

2 THE COURT: -- I -- I'm apologizing if -- if I was
3 uncertain as to what you were saying.

4 THE WITNESS: Oh, no. I'm always happy to explain. So
5 if you have questions, I'm happy to explain.

6 THE COURT: Okay, fine. Those folks over there are the
7 ones to make the decision.

8 THE WITNESS: Okay.

9 THE COURT: Thank you all very much. 10:00 in the
10 morning.

11

12 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT ***)

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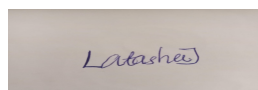
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I, LATASHA JEFFERSON, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 11 of Newberry County, South Carolina, on January 8, 2024.

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

April 16, 2025.

A rectangular box containing a handwritten signature in blue ink that reads "Latasha".

LATASHA JEFFERSON
TRANSCRIBER

1 **CONTINUATION OF PROCEEDINGS - JANUARY 9, 2024.**

2 THE COURT: All right. Before we get started, can I
3 just -- I mentioned to the attorneys privately that --
4 yesterday before we left, my law clerk had been looking at
5 some law on that issue that came up in our (inaudible) the
6 attorney find that issue.

7 UNIDENTIFIED SPEAKER: I did.

8 THE COURT: And she actually read every case that said
9 in South Carolina that cites that statute. I did not do that
10 kind of work, but it did kind of weigh on my mind all night,
11 most of the night, because I didn't care if Michigan wanted
12 to, or Washington wanted. But anyway, she didn't find any
13 cases specifically on point. But it does seem that the logic
14 that I was trying to apply about a violent act as opposed to
15 a violent offense is something that the Supreme Court has, in
16 a roundabout way, addressed. So even though I had some
17 doubts, I still do. As I said yesterday, you know, as a
18 trial judge you just have to make a call and I made a call.

19 The last thing about that we -- we went over,
20 obviously, was something that was getting too technical, but
21 -- but it is supported in cases, the issue about being
22 confined in a -- in a facility for long-term care. Anyway,
23 having said that, I understand that the State wishes to make
24 some sort of record, so be recognized to do so.

25 MR. FISHER: Thank you, your Honor. Judge, the

1 statement to prove that Mr. Pierson has the qualifying
2 conviction, I don't think that's an issue and so on. But he
3 suffers from a mental abnormality of personality disorder
4 that makes the person likely to engage in acts of sexual
5 violence, if not confined to a secure facility for long-term
6 care, control, and treatment. Yesterday, and I'm doing this
7 for me because I didn't have an opportunity to read the
8 record, but when this issue first came up, I understood, and
9 I believe, that it was the argument that was being made by
10 Respondent was that the State had to prove one of the listed
11 qualified offenses that he's more likely than not -- more
12 probably than not to commit one of the qualifying offenses.

13 And then that's when I said, "You're conflating the
14 issue." And -- and then there was some talk about, "No, I'm
15 -- I'm reading the statute, and -- and I'm reading sexual
16 violence." And then we went through the -- the list
17 offensives. That's not what the State has to prove. And I
18 -- I think the Court cleared that up, not only yesterday and
19 today. I maintain that the jury instruction and the law --
20 and I'm citing from 44-48-30 on (9). What is it that is
21 likely to engage in acts of sexual violence? And the statute
22 defines, "It means the person's propensity to commit acts of
23 sexual -- sexual violence is of such a degree as opposed a
24 menace to the health and safety of others." And that will be
25 on page 10 of the proposed jury instructions that I've given

1 the Court. I don't know -- and -- and, Judge, if I may?

2 THE COURT: I -- I was just asking her, I thought I
3 read that yesterday. Go ahead. I thought I read that, but
4 go ahead.

5 MR. FISHER: For the limited purpose, I do not want
6 this to go to the jury, but I've got a copy of Dr. Gillen's
7 report, and I'm going to cite to it. And if the Court is
8 inclined to accept this for that limited purpose, I would
9 offer it to the Court.

10 THE COURT: You can mark as a court's exhibit. Yes,
11 sir.

12 MR. FISHER: Can we mark this as a court's exhibit?

13 (Court's Exhibit 1 marked for identification.)

14 THE COURT: Hold on just a moment. If you could tell
15 them it's going to be a few minutes. Thank you.

16 MR. FISHER: Again, I'm -- I'm only offering this --

17 THE COURT: Hold -- hold on. You ready? Hold on until
18 she leaves. Go ahead.

19 MR. FISHER: Again, Judge, for this limited purpose,
20 I'm not offering this as evidence. I'm just asking that the
21 Court consider Dr. Gillen's report as I -- as I make this
22 record. And again, on page 10 of the proposed jury
23 instructions, it defines again what likely to engage in acts
24 of sexual violence is. Now, yesterday -- we still don't know
25 what acts of sexual violence is, other than the person's

1 propensity to commit acts of sexual violence is of such a
2 degree as to pose a menace to the health and safety of
3 others. That's all we know.

4 Now, there was some Statement by Mr. Gambrell that,
5 "Well, exhibitionism is -- is not a violent defense." I
6 disagree. I don't know that. And I don't think that's the
7 fact that -- the Court can take judicial notice of. So I --
8 I maintain that -- and I said it to -- to your Honor, I think
9 any sexual offense is vital to the victim. But having said
10 that, if you look at page 20 of Dr. Gillen's report in the
11 footnote, Dr. Gillen, in making his evaluation, cited to
12 Olver, it's not Oliver, O-L-V-E-R. And he states on page 20
13 in the footnote, "Using the Violence Risk Scale Sexual
14 Offense Version in sexual treated sexual offenders."

15 So he's using -- Dr. Gillen is using the Olver -- the
16 Olver -- he's using the Olver book. So I believe that
17 certainly -- and I said it yesterday as I tried to understand
18 what Mr. Gambrell -- I'm sorry the Respondent was really
19 arguing, because I -- I -- I was -- to me yesterday, it was a
20 moving target. But I think we've narrowed it down to: is Mr.
21 Pierson, more probably than not, likely to engage in acts of
22 sexual violence? And what's his acts of sexual violence? To
23 this day, we don't know that.

24 Now, it's a -- it's an issue right for
25 cross-examination, I get that. It's a -- it is an argument

1 to the jury and we know that because it's in the jury
2 instructions, but to say that one offense is not violent and
3 another is, we have no evidence, we have no testimony on that
4 whatsoever except Mr. Gambrell's statement yesterday. And
5 again, I don't think that's the type of fact the Court can
6 take judicial notice of. So, Judge, I certainly respect and
7 understand your ruling. I am very concerned that I may step
8 into a landmine, but I believe, and I certainly don't want to
9 mis-try this case by violating of -- a court's ruling.

10 However, I believe that the doctor can discuss the
11 percentages. He can talk about how he reached those
12 percentages and why. And then the issue is subject to
13 cross-examination and/or closing argument. So I don't have
14 to prove what is or is not a sexual, a violent sexual
15 offense. That's a jury determination, subject to the
16 verdict.

17 And Dr. Gambrell -- I'm sorry, strike that. Dr. Gillen
18 specifically said that he considered arrests, charges,
19 convictions, but most importantly, undetected -- undetected
20 sexual offenses -- violent sexual offenses. And that's in
21 his report that he considered all of it in coming to the
22 conclusion that based on the dynamic and the static risk
23 factors, that Mr. Pierson is 71 percent likely to engage in
24 acts of sexual violence subject that he has to be detained
25 for long-term care, control, and treatment. So at this

1 point, I -- I don't know what the Court's pleasure is. I --
2 I certainly want to honor the Court's ruling, but I -- I
3 think -- I don't think the Court can take judicial notice
4 that what is or is not a sexually violent offense.

5 THE COURT: I haven't taken a judicial notice of
6 anything. I don't know what you're talking about.

7 MR. FISHER: Well, I understand that, but how do we
8 define "Sexually violent?"

9 THE COURT: I thought you read it. And this is what --
10 what -- what said is -- it -- it was in your proposed
11 charges, and it's my proposed charge. I -- I -- I went -- I
12 thought to greater lengths to give the witness the
13 opportunity to explain to me what he was talking about. And
14 if I misunderstood him, I apologize. A lot of times you
15 would ask a question, which I thought was a very good legal
16 question, and he would narrow that -- in my estimation, would
17 narrow that down and start talking about in different terms
18 that really are not that much concern from a legal
19 standpoint. It -- it was very technical at times.

20 And I was just trying to figure out what it was that he
21 was saying. What I heard him out -- out in the presence of
22 the jury say, was that he was talking about reoffending, and
23 I thought he was given several opportunities to say,
24 "Reoffending in what way?" And I didn't think he ever said
25 in a sexually violent way. Now, what he did do, at the end

1 when we went through all of that, was he did say that he's
2 more likely than not to reoffend in a sexually violent way.

3 MR. FISHER: Right.

4 THE COURT: Which is the issue. Whether it's 71
5 percent or 50.5 percent doesn't make that difference that I
6 know of. And -- and as I was trying to say yesterday, I -- I
7 was interpreting this in a generic sense, this phrase. We
8 went through the different subsections. I said what I
9 thought, I said, "I -- I think it's something that you just
10 are applying plainly what it means. And things that were
11 going through my head were like, "Suppose an offender moves
12 to another state which has different laws and has different
13 definitions and has different names or offenses."

14 I don't think the South Carolina statute was designed
15 to say, "Oh, well, because they didn't, they're not likely to
16 commit an offense that exactly mirrors our offenses in South
17 Carolina. That -- that -- that means that we can't commit
18 somebody for long-term care and treatment." But anyway, I
19 want you to make your record because I can promise you I've
20 been wrong before and I do wrong again, and I -- I'm just
21 trying to rule on what I think I heard and -- and I didn't
22 have a report, as I mentioned yesterday, and the report is
23 not in evidence, as you all know.

24 I -- I just thought a lot of times it was getting very
25 technical and in terms of getting harsh so that a legal

1 person, like me, his lack of understanding may have
2 contributed to not really knowing exactly what it was that
3 the witness was saying. But if I don't know, I don't --
4 don't know what the jury know either. I -- I'll be quiet now
5 as you make the record.

6 MR. FISHER: Well, Judge, I think I have. And is it
7 safe to -- to assume that the Court's prior ruling stands?

8 THE COURT: Yeah, I'm not going to let you shutdown.
9 It depends on what he says on cross and on re-direct. If he
10 gets up here on cross and straightens out some of the issues
11 that I thought were existing, then -- then it is a different
12 ruling. But if -- if it stays what it was, then I'm not
13 going to let you -- I'm not going to let him testify: "It's
14 71 percent."

15 MR. FISHER: Thank you. I appreciate your time.

16 THE COURT: Are you putting anything on the record?

17 MR. GAMBRELL: No, sir.

18 THE COURT: Doctor, I need you back out here, please.
19 Please administer the oath, ma'am.

20 THE CLERK: He's still under oath, Judge.

21 THE COURT: Okay. And this is your (inaudible)? And
22 I'm supposed to tell you you're still under oath. Thank you,
23 sir. All right. Is the State ready for the jury?

24 MR. FISHER: Yes, your Honor.

25 THE COURT: Is Respondent ready for the jury?

1 MR. GAMBRELL: Ready, your Honor.

2 THE COURT: Bring them in, please.

3 (Jury enters.)

4 THE COURT: All right. Ladies -- ladies and gentlemen,
5 I apologize for the delay, we've been working as I told you
6 we would be. A legal issue came up this morning that I had
7 to take up. But we'll continue now with cross-examination of
8 the witness. Be recognized.

9 MR. GAMBRELL: Thank you, your Honor. May it please
10 the Court?

11 RE-CROSS EXAMINATION

12 BY MR. GAMBRELL:

13 Q. Dr. Gillen?

14 A. Good morning.

15 Q. Good morning. You testified yesterday you work
16 for the State of South Carolina?

17 A. Yes, that's correct.

18 Q. Do you have any other additional sources of
19 income?

20 A. I do some contract work from Falcon Incorporated.
21 They do consulting work around the country for jails,
22 prisons, regarding mental health.

23 Q. And that's for a private company?

24 A. Yes, based out of Chicago, Illinois.

25 Q. I'm going to go over some of your testimony that

1 you gave pursuant to the report that you published in this
2 case.

3 A. I'm sorry, I'm having a hard time hearing what
4 you're saying.

5 Q. I'm going to go over some of your testimony to
6 clarify some things with regard to the testimony you gave on
7 your report.

8 A. Yes, that should be fine.

9 Q. Okay. And I'm -- I'm going to kind of go in just
10 a chronological order as it -- as it does in your report.
11 And at first, regarding the academic history, you testified
12 George had been expelled in the 10th grade when he was caught
13 using marijuana in the bathroom while possession of a weapon.
14 Is that correct?

15 A. Yes. I believe I said that he reported that he
16 was expelled at that time for having that weapon in the
17 bathroom. Yes.

18 Q. Okay. He also reported to you that that weapon
19 was pocket knife?

20 A. Yes, that's correct.

21 Q. And he also denied using that knife as a weapon?

22 A. Correct, yes.

23 Q. And he said that he had used it for sharpening
24 sticks and such, and had just forgotten that it was in his
25 possession?

1 A. Yes, I believe that's correct.

2 Q. And you have no further information or evidence
3 that he ever used that knife for any other knife as a weapon?

4 A. That's correct, yes.

5 Q. And that was the only time he was ever expelled
6 from school?

7 A. I believe so, yes.

8 Q. Okay. And I want to talk about his employment
9 history. I don't know if you testified to this, but in your
10 report, you said that George reported that he and his family
11 had a received disability income due to his mental health
12 issues when he was a child.

13 A. Yes. I believe that's in the report.
14 Specifically, I believe, that was what his mother was saying
15 when I was talking with her on the phone.

16 Q. And so, you agree that his mental health issues go
17 back to when he was a juvenile?

18 A. Right. He reported, as well as his mother
19 reported that he had received counseling or some form of
20 mental health treatment since around age eight.

21 Q. And I believe you testified that you used his
22 conduct while in employment settings to diagnose him with
23 anti-personality disorder.

24 A. So his conduct at work was one of the data points
25 in one of those settings that I was looking at to help inform

1 a diagnosis of antisocial personality disorder.

2 Q. So is that, "Yes?"

3 A. Specifically for antisocial personality disorder.
4 It was one data point for that. That's the best way I can
5 explain it.

6 Q. His conduct in employment sense?

7 A. Yes. Was a data point for that decision-making.

8 Q. Okay. And I think you testified that he worked
9 but he just had trouble keeping a job.

10 A. That's correct, yes.

11 Q. I want to ask you some questions about his
12 relationship. You testified that George denied ever having a
13 long-term romantic relationship.

14 A. That's correct, yes.

15 Q. And he denied wanting to maintain a long-term
16 romantic relationship in the future because he pursued women,
17 I think you said "trash?"

18 A. Well, that's what he told me. He referred to
19 women as trash when I was having our interview with him.

20 Q. But he also said that it was because women were
21 purposefully disrespectfully mean and not worthy of his time?

22 A. Yes, I believe that's correct.

23 Q. Okay. And you also failed to mention that after
24 one relationship had ended, he said that he was sad about the
25 relationship because she was friendly, fun, and goofy?

1 A. Are you referring to the relationship when he was
2 an adolescent?

3 Q. The one that was in your report. Yes, sir.

4 A. Yes. Yeah, he did say that about a relationship
5 when he was approximately age 17 with a 15-year-old,

6 Q. That he was sad that it had ended and went on to
7 describe her as friendly, and -- and fun, goofy?

8 A. Yes. Those were the terms he used to describe
9 that relationship.

10 Q. Now, with regard to his sexual history, you
11 testified he reported about 12 sexual partners?

12 A. Approximately.

13 Q. 10 to 12, I think it was?

14 A. Yes, that sounds correct.

15 Q. And that he had never cheated on a romantic
16 partner?

17 A. I believe so. May I refer to the report?

18 Q. Absolutely.

19 A. Yes, that's correct.

20 Q. You also testified, several times, about him
21 chafing his penis off from masturbating?

22 A. So I believe the chafing incident that he
23 explained was a single incident. So not several times. He
24 described it as a single incident.

25 Q. Thank you. I just want to clarify that. But it

1 only happened on one occasion, according to his report?

2 A. Yes. The -- the chafing of the penis because he
3 was masturbating so much was a -- a single incident per his
4 report. That's correct.

5 Q. And did you testified, when you asked him about
6 his sexual fantasy, that he endorsed arousal to satisfy adult
7 women sexually?

8 A. Yes, I believe so.

9 Q. And when further asked, he replied, "A little
10 S&M," I think is what the phrase you used?

11 A. Yes. That was the -- the term that he used to
12 describe that was S&M.

13 Q. And that he had denied fantasies about that, but
14 he thought that that's what women perceived as arousal?

15 A. That's correct, yes.

16 Q. And I think you said after that, that you had --
17 it made you pause because you were wondering whether or not
18 he had asked for consent with regard to those 10 sexual
19 encounters that he had had.

20 A. So -- yeah, so in relation to that, how he
21 described it to me, as I testified yesterday, was that some
22 women, for example, might communicate that that's not an
23 interest of theirs, but that's something that they still
24 might want. So he went through and described various types
25 of behaviors. I think he used like a whip as a specific

1 example. The way he was describing it to me was that there
2 was some aggressive acts that you could do, but not too
3 aggressive was how he decided -- or how he explained it to me
4 to decide whether that person really wanted to engage in that
5 sort of S&M behavior or not. So the way he was describing it
6 was, it wasn't just what they were saying, but also how he
7 would act to them would help determine whether they did or
8 did not want to engage in that kind of behavior.

9 Q. You have no information or evidence that he ever
10 engages in non-consensual sex with a woman?

11 A. No -- no -- no. Just outside of what I just said.
12 That that would be the only indication from his own report.

13 Q. And you also -- and with regard to his substance
14 abuse history or use history, you testified that George
15 reported the history of alcohol, marijuana use, and -- and
16 experimented with other drugs?

17 A. Yes, that's correct.

18 Q. And just to clarify in your report, your opinion
19 is that his substance use didn't seem to lead to any sexual
20 offenses?

21 A. That's correct, yes. I don't think substance
22 abuse is a risk factor for him for sexual offending.

23 Q. I want to move on to his legal history. With
24 regard to his sexual offenses, the first one that you spoke
25 about was the lewd act on a minor. You testified prior to

1 going into that testimony that the sexually violent predator
2 statute outlines which offenses are sexually violent
3 offenses.

4 A. Yes, that's correct.

5 Q. And that that -- that particular offense lewd act
6 on a minor was listed in that category?

7 A. Yes.

8 Q. And you also testified that George, when he was
9 talking to you about this and reported, that how it had
10 affected him and messed him up?

11 A. Yes, that's correct.

12 Q. But in your -- in your report, you also reported
13 that he reported to you that he knew how much it messed her
14 up.

15 A. Right. So as I testified yesterday he was able to
16 explain that at some level the -- the niece was impacted by
17 what happened. However, as I said yesterday, when he said
18 that, he went right back spontaneously or on his own to talk
19 about how he was negatively impacted by it.

20 Q. He did acknowledge to you that he knew that it had
21 messed up his niece?

22 A. I'm sorry, could you repeat that?

23 Q. He did acknowledge to you that he knew that it had
24 messed up his niece?

25 A. Yes, he did. He did say that.

1 Q. Okay. With regard to the indecent exposure
2 incident, the first one, the one that occurred on April 1,
3 2021. That one occurred when everyone else had left the work
4 site?

5 A. Yes, that's correct.

6 Q. You had a -- you had an opportunity to review the
7 incident report?

8 A. Yes.

9 Q. Okay. And yeah, I think you testified that it was
10 impulsive behavior for him to act out in that way?

11 A. Right. Yeah. So his action of feeling sexually
12 excited and pulling down his pants and -- and masturbating at
13 that woman was more opportunistic, reactive, and impulsive in
14 response to his difficulty controlling sexual excitement in
15 that moment. And that was from a lot of what he told me
16 about what happened.

17 Q. And he -- just for -- in your knowledge, indecent
18 exposure is not one of the listed offenses under sexually
19 violent offenses?

20 A. Do you mean, is it a sexually violent offense per
21 statute?

22 Q. Correct.

23 A. Yes, that is correct. It is not one of the listed
24 sexually violent offenses under South Carolina statute.

25 Q. And in -- in this -- and in this incident, he was

1 not charged with any of those offenses listed under the
2 statute?

3 A. That's my understanding.

4 Q. Okay. With regard to the incident too, that
5 happened in October of 2021, that occurred in another
6 situation where he was alone with a female?

7 A. Yes, that's correct.

8 Q. And this female was a 20 -- I'm sorry, 16-year-old
9 junior?

10 A. Correct. Yes.

11 Q. And you again testified that it happened, in your
12 opinion, due to his impulsive behavior?

13 A. Correct.

14 Q. And again, he was charged with indecent exposure?

15 A. Yes.

16 Q. Indecent exposure is not an enumerated offense
17 under the sexually violent offenses in the statute?

18 A. Yes, that is correct.

19 Q. And to your knowledge, he was not charged with any
20 other sexually violent offense under the statute?

21 A. That's my understanding.

22 Q. Okay. So in both cases, when George was alone
23 with a female, one adult -- one a juvenile, he had the
24 opportunity, I suppose, to commit a sexually violent offense
25 on the statute, but he didn't?

1 A. Yes, that's true.

2 Q. Okay. Now, I just want to talk to you about some
3 of the -- your testimony regarding the non -- adult
4 non-offenses that George was charged with. You list in your
5 -- I think it's on page 9 on your report that he was
6 convicted of possession of a marijuana in 2004?

7 A. Oh, yes. That's correct.

8 Q. And possession of marijuana, that's not an offense
9 listed on the sexual violence statute, right?

10 A. No, it's not sexual at all.

11 Q. Possession of a firearm and ammunition by a
12 convicted felon in 2016.

13 A. Sorry, what was the question about that?

14 Q. He was convicted of possession of a firearm by a
15 convicted felon in 2016?

16 A. Yes, that's correct.

17 Q. And -- and that particular charge is not one
18 enumerated as a sexually violent offense under the statute?

19 A. That's true, yes.

20 Q. And he also had probation violations in 2012,
21 2014, and 2019?

22 A. Yes, that is correct. Those are the dates.

23 Q. And none of those violations related to -- he
24 wasn't charged with any sexually violent offenses due to --
25 in -- in those violations?

1 A. Correct, yes.

2 Q. And he also was convicted of a -- a sexual
3 offender registry in 2012, '21, and '22?

4 A. Yes. Those are the correct dates.

5 Q. Did he tell you -- give you any information about
6 any of those cases?

7 A. Yes. I -- I talked to him about it during our
8 interview together.

9 Q. And he told you when he was convicted of failing
10 to register as a sex offender that he was homeless at that
11 time?

12 A. I believe that's correct, yes.

13 Q. And -- and even though that -- that's not a -- a
14 defense under the statute, but he did -- he was not residing
15 in a specific place than when he was convicted (inaudible) he
16 was charged?

17 A. Could -- could you rephrase the question?

18 Q. Yeah. He was homeless at the time he was charged
19 with those offenses?

20 A. Yes, that's correct. At least for some of them.

21 Q. Correct. And again, failure to register as a --
22 as a sex offender, that is not an enumerated offense under
23 the sexual crime offense statute?

24 A. Yes, that is correct.

25 Q. Now, the -- the next set of cases, pointing and

1 presenting of a firearm in 2020, he was charged, that case
2 was dismissed, correct?

3 A. It was either dismissed, the outcome was unknown,
4 or it was nolle prosequi. Either way, it was not a convicted
5 -- convicted offense.

6 Q. Do -- do you know what the -- the meaning of
7 "nolle prosequi" is?

8 A. My understanding of nolle prosequi is that it --
9 it's not quite dismissed. They could get it later at a
10 different time, for example, if new evidence were to become
11 available or the court -- or -- or the state wants to pursue
12 it. But it's similar to dropping a case but not quite the
13 same as dismissal.

14 Q. It would be a dismissal without purpose in -- in
15 other words.

16 A. I'm not sure on the exact technicality. That's
17 just how it's been explained to me by attorneys in the past.

18 Q. But he was not convicted of that offense?

19 A. Based on the records I reviewed, there was no
20 indication that those specific offenses resulted in a
21 conviction.

22 Q. But did have possession of marijuana in two counts
23 in 2021?

24 A. Yes, that's correct.

25 Q. And -- and those were dismissed as well?

1 A. Dismissed or the outcome was unknown or nolle
2 prosequi.

3 Q. And possession of contraband in county prison, and
4 assault and battery, third degree, in 2021?

5 A. Yes, that is correct.

6 Q. And those resulted in non-convictions?

7 A. Yes -- well -- or it's unknown? Again, a lot of
8 these, there was no record of what happened with the case.
9 So it -- it could be unclear what the disposition or eventual
10 outcome was in the case. But as I testified before there's
11 no evidence to suggest that he was convicted of those things.

12 Q. And resisting a public officer and assault on a
13 female in 2021?

14 A. Yes, those were charges he received out of North
15 Carolina.

16 Q. And as of today, that he has not been convicted of
17 those?

18 A. That's my understanding.

19 Q. And failure to register as a sex offender in 2021?

20 A. Yes, that was a charge as well.

21 Q. And -- and as of today's date, he has not been
22 convicted of that?

23 A. That is my understanding as well.

24 Q. And additionally, I believe the first indecent
25 exposure was also -- he's not been convicted of that as well?

1 A. Yes. So I believe the April, 2021 charge was
2 nolle prosequi as part of his plea agreement to the October,
3 2021 indecent exposure, conviction.

4 Q. And all of those cases that were listed as outcome
5 undetermined are the ones that he has not been convicted of
6 as of today. None of those cases are sexually violent cases
7 listed under the statute?

8 A. Yes, that is correct.

9 Q. At the time that he had spent in SCDC, you
10 testified that he had several infractions. To your
11 knowledge, none of those infractions led to any charges under
12 the sexual offenders -- offense -- excuse me. Let me
13 rephrase. None of the infractions led to any charges that
14 would be considered sexually violent offenses under the
15 statute?

16 A. That's correct. He wasn't criminally charged with
17 -- with any crime for those institutional infractions.

18 Q. And he was released -- did -- do you know when he
19 was released?

20 A. I -- I don't know the specific date off the top of
21 my head.

22 Q. Did he tell you it was in -- sometime in -- in
23 (inaudible)

24 A. I'm not sure. I -- I'm -- I can't -- I don't
25 recall the specific date -- date or time of release.

1 Q. And in -- in post incarceration, he is required to
2 continue to register as a -- as a sex offender?

3 A. Yes. I believe so, yes. Those -- those registry
4 laws will still apply.

5 Q. And he's also required to wear an ankle monitor,
6 subjected to GPS monitor?

7 A. Yes, that's correct.

8 Q. Do you know if -- if there's ever a time that he
9 can get off the sex registry?

10 A. Yes, it's possible to come off the sex offender
11 registry. That's now in statute. It's going to be dependent
12 on how you're classified by the State, but based on how
13 you're -- what type of sex offender you're classified as,
14 there's going to be certain periods of time where an
15 individual can petition the Court to come off that registry
16 after that period of time has passed.

17 Q. So he would've to file an action and have a judge
18 rule whether or not he would have to?

19 A. I believe so. I -- I don't know all the specific
20 details about the process for the different classifications.
21 But generally speaking, that's my understanding.

22 Q. And do you know if he's able to petition to allow
23 him to come off GPS monitoring?

24 A. Yes. I believe that is the case after a certain
25 amount of time as well.

1 Q. Is it -- okay. Thank you. With regard to your
2 diagnoses, I just wanted to clarify that, I believe on page
3 13 of your report at the bottom, you state that, "Although
4 Mr. Pierson offended against his five-year-old niece in 2004,
5 he does not meet the criteria for a paraphilic disorder
6 reflecting sexual interest in prepubescent children," which
7 would be a -- a pedophilia disorder. Is that correct?

8 A. Yes, that is correct. That is contained in the
9 report.

10 Q. You -- you say that his sexual behavior with his
11 niece appear to reflect an isolated incident?

12 A. Yes.

13 Q. Okay. On page 21 of your report, you state in
14 your -- I think it's capturing your opinion, that, "Sexual
15 violent predators as defined by statute, are an extremely
16 dangerous group?"

17 A. Yes, that is in my report.

18 Q. Could you turn to page 15 of report? And if you
19 could, just from the first four paragraphs, read the first
20 three sentences.

21 A. "Of note, there is a question whether his
22 personality disorder predisposes him to engage in acts of
23 sexual violence as defined by statute and not just other
24 illegal or problematic sexual behaviors, e.g., exhibitionism.
25 Mr. Pierson committed one sexually violent offense in 2004,

1 and his behavior since then, while problematic, was not
2 sexually violent. Further, he has not committed any sexually
3 violent offenses despite being released to the community and
4 exposed to risk for various amounts of time since his release
5 from his only sexually violent offense in 2011."

6 MR. GAMBRELL: Thank you very much, Doctor. That's all
7 the questions I had for you.

8 THE COURT: Re-direct?

9 MR. FISHER: Yes, sir.

10 RE-DIRECT EXAMINATION

11 BY MR. FISHER:

12 Q. Dr. Gillen, do you have any interest in the
13 outcome of this case?

14 A. I -- I do not. No.

15 Q. Is possessing a weapon in school, whether it be a
16 pocket knife or hunting knife, or any kind of knife, is that
17 a -- is that a crime?

18 A. It was and he was charged with it, and he was
19 adjudicated delinquent for it.

20 Q. Mr. Pierson appears to have a lot of criminal
21 history. Why is that important to you as you reach your
22 diagnosis for anti-person -- antisocial personality disorder?

23 A. So as I testified yesterday, antisocial
24 personality disorder, it -- we're really looking at pervasive
25 problems across time and across different settings. So

1 you're seeing sort of problems with impulse control, lack of
2 remorse, irresponsibility, recklessness, and a lot of
3 different settings in the person's life. And one of those
4 areas is going to be their criminal history, both sexual and
5 otherwise. It's just one of the settings in one of the
6 domains that I was looking at in coming to the conclusion
7 that he has antisocial personality disorder.

8 Q. Let's talk about this relationship with this girl,
9 that was fun, silly, whatever. How old was Mr. Pierson at
10 the time of that relationship?

11 A. Approximately age 17.

12 Q. And why did that relationship end?

13 A. His parents disapproved of it. It was a
14 15-year-old girlfriend. They didn't want her seeing
15 Mr. Pierson anymore, and that's why the relationship ended.

16 Q. Could you take a look at your report? Is there
17 any other reason why they wanted that relationship ended?

18 A. So for the report the parents informed police
19 about their interactions and told him to stop messing with
20 her. That's how he described it to me during our interview.

21 Q. So police were contacted in order to end this
22 relationship between this young lady and Mr. -- Mr. Pierson?

23 A. Yes, that's what Mr. Pierson told me.

24 Q. Did you find that relevant?

25 A. It was relevant in the sense that this was not a

1 relationship that was approved of or sanctioned by the
2 parents, that he was told to end. And I guess what was
3 significant about it to me was really that this was the only
4 sort of relationship at age 17 that he was able to talk about
5 that, you know, had any sort of degree of significance in his
6 life. And so, that's the one that he was kind of putting his
7 stock into, so to speak, when we were talking.

8 Q. You did not diagnose Mr. Pierson with a paraphilic
9 disorder, did you?

10 A. That's correct. I did not diagnose him with any
11 of those types of disorders.

12 Q. What is a paraphilic disorder?

13 A. So the first thing to know about a paraphilic
14 disorder kind of have to take a step back and ask, "Well,
15 what is a paraphilia?" So a paraphilia is going to be kind
16 of a severe persistent sexual interest in things other than
17 physically mature, consenting human partners. And so, a
18 paraphilic disorder is a paraphilia which is going to be
19 causing distress, harm, or risk of harm to other people. And
20 it's being expressed over a period of at least six months.

21 Q. You did not diagnose Mr. Pierson with a pedophilic
22 disorder. In other words, he wasn't sexually attracted to
23 minors?

24 A. Correct. So pedophilic disorder is a specific
25 type of paraphilic disorder, just like antisocial personality

1 disorder is a specific type of personality disorder.

2 Pedophilic disorder involves attraction towards prepubescent
3 children. So that's children who have yet to start puberty.
4 Although his five-year-old niece certainly was prepubescent,
5 had not started puberty. There was no evidence that he
6 sustained that attraction or that behavior for at least six
7 months.

8 For someone to have pedophilic disorder, they either --
9 they either need to be having those feelings, arousal towards
10 prepubescent children or behaviors towards them for at least
11 six months. That wasn't the case with Mr. Pierson, and
12 that's why the diagnosis doesn't apply.

13 Q. So you did not diagnose Mr. Pierson with an
14 abnormal behavior -- in other words, it's abnormal behavior
15 or -- and personality disorder?

16 A. Well, I certainly think his behavior is abnormal,
17 but that doesn't necessarily mean that it's a paraphilic
18 disorder.

19 Q. Why is the possession of cannabis such an
20 important issue in your diagnosis?

21 A. So I think I testified about this yesterday, but
22 it's not the fact that he was possessing marijuana that was
23 particularly problematic. Yes, it's certainly a crime he was
24 convicted of, that factored into the risk assessment. But in
25 terms of dynamic risk factors, what I put more stock into is

1 from the incident reports. So why were police called to the
2 scene in the first place? Well, it was because he was
3 becoming aggressive towards his mother, and the neighbor
4 phoned in, and that's why police arrived on the scene.

5 So it fits back in with that pattern of aggressive
6 conduct that I talked about and testified about earlier. To
7 me, that's why that -- that conviction is -- is more
8 important or that's where I'm putting my stock into, in that
9 one.

10 Q. Mr. Pierson was ordered by the Court to wear an
11 ankle monitor, correct?

12 A. Yes.

13 Q. Did it stop him?

14 A. Could you further explain?

15 Q. Well, it did -- did it stop his continued criminal
16 -- criminal activities?

17 A. No, I don't believe so. He was still -- continued
18 to -- to offend after being placed on a monitor.

19 MR. FISHER: Okay. Give me a minute. Not going to
20 stand up, so I'm just going to hold this.

21 THE COURT: (Inaudible).

22 BY MR. FISHER:

23 Q. When you considered Mr. Pierson's criminal
24 activity, was that part of identifying his dynamic risk
25 factors?

1 A. It -- it was, yes.

2 Q. When you were identifying Mr. Pierson's criminal
3 activity, was that part of his antisocial personality
4 disorder?

5 A. It is, yes.

6 MR. FISHER: Thank you very much.

7 THE COURT: (Inaudible).

8 BY MR. FISHER:

9 Q. Doctor, you said yesterday the best indicator of
10 future conduct is past conduct, correct?

11 A. Yes.

12 Q. Is -- based on your diagnosis, isn't Mr. Pierson a
13 dangerous person to reoffend subject that he's needs to be
14 confined for long-term care and treatment?

15 A. Yes, I believe he meets those criteria.

16 Q. Based on your expertise as an expert in forensic
17 psychology, concentrating in the area of sexually violent
18 predators, is Mr. Pierson more likely than not to likely
19 engage in acts of sexual violence if not confined for
20 long-term control, care, and treatment?

21 A. Yes, I believe he is.

22 Q. Is Mr. Pierson more likely than not to commit acts
23 of sexual violence such that he's a menace to the health and
24 safety of others?

25 A. I believe so, yes.

1 Q. Now, without talking about percentages or any of
2 that, based on the static risk factors, based on the dynamic
3 risk factors, how many times have you seen a person such as
4 Mr. Pierson with such a likelihood to reoffend sexually
5 violent acts such that he needs to be confined?

6 MR. GAMBRELL: I'm going to object to that question,
7 your Honor.

8 THE COURT: What's your objection?

9 MR. GAMBRELL: My objection is, I think that's outside
10 the -- the scope of his expertise.

11 THE COURT: Overruled. You remember the question?

12 THE WITNESS: Would you be able to repeat it?

13 BY MR. FISHER:

14 Q. Yes. Without talking about percentages, based on
15 the static risk factors -- well, let -- let me break this up
16 a -- a little bit. Do you remember Mr. Pierson's static risk
17 factors?

18 A. Yes.

19 MR. GAMBRELL: Judge, I'm going to object to -- I
20 didn't go into any about any risk factors or static risk
21 factors in the cross-examination. So I would object to this
22 as outside the scope of cross-examination.

23 THE COURT: Wish to be heard?

24 MR. FISHER: Mr. Gambrell went into dangerousness of
25 Mr. Pierson, and I'm addressing the dangerousness

1 specifically.

2 THE COURT: Objection, overruled. You may continue.

3 BY MR. FISHER:

4 Q. Based on the static risk factors, what was
5 Mr. Pierson's likelihood to reoffend in -- in a sexual
6 manner?

7 A. So as I testified yesterday, it put him in the
8 highest risk category for the Static-99R, which is a -- well
9 above average risk.

10 Q. Okay. Now, taking the dynamic risk factors and
11 the static risk factors, how many times have you documented
12 or reported somebody with such a high-risk factor as
13 Mr. Pierson?

14 A. I'm not sure on a specific number of cases. The
15 -- that combination of static and dynamic risk is -- is
16 unusual in the sense that it's -- it's quite high. But I
17 wouldn't be able to provide a -- a number in terms of how
18 many people were or were not like that off the top of my
19 head. But it certainly is a high amount of risk, static and
20 dynamically, compared to other sex offenders.

21 Q. When -- in incident number one of the exposures in
22 -- I believe it was 2021 -- April of 2021, once Mr. Pierson
23 was told to leave or -- what did he do?

24 A. In April, 2021?

25 Q. And -- and if you need to feel free to.

1 A. Okay. So he continued to engage in the behavior:
2 So masturbating at the woman at the job site despite her
3 telling him multiple times to stop.

4 Q. And ultimately, how did he leave?

5 A. I believe he fled through a window.

6 Q. Based on his flight from this incident. Were you
7 -- tell me what your impression was based on that incident?

8 A. I -- I -- to me, what I took away from this
9 incident was that it shows a severe difficulty being able to
10 control sexual behavior because he is doing it in a job site
11 where he can be readily identified and was readily identified
12 by supervisors on the job site. And he wasn't able to manage
13 his sexual arousal at that time in -- in an appropriate way.
14 And he kept doing it despite being told to stop repeatedly by
15 -- by the woman who was targeted in that incident.

16 Q. Is that part of what we talked about yesterday,
17 number three, impulsivity?

18 A. It certainly reflects impulsivity in that he
19 didn't come there with, you know, a pre-planned notion. He
20 didn't like stake out the building, identify who he was going
21 to offend against, and then carry through with it. So in
22 that sense, it reflects as more impulsive, consistent with
23 that factor.

24 Q. Now, you did not diagnose Mr. Pierson with a
25 mental abnormality or defect, correct?

1 A. That's true, yes.

2 Q. You diagnosed him with the antisocial personality
3 disorder, which is a personality disorder?

4 A. Correct. Yes.

5 Q. When Mr. Pierson digitally penetrated his niece
6 both vaginally and anally, was that non-consensual?

7 A. It was.

8 MR. FISHER: I believe that's all I have at this time,
9 your Honor.

10 THE COURT: Thank you, sir. Re-direct -- excuse me,
11 re-cross. I apologize.

12 MR. GAMBRELL: No, sir, your Honor.

13 THE COURT: Thank you, Doctor. You may step down.
14 Anything else from the State?

15 MR. FISHER: I have nothing further, your Honor.

16 THE COURT: Thank you very much. Ladies and gentlemen,
17 I told you the outset of the trial is when we'd recess --
18 when the State rests, I have to send you out of the
19 courtroom. So we're at that point now. It usually takes 10
20 or 15 minutes. I'll bring you back out here as soon as I
21 can. Don't discuss the case. Follow the bailiff, please.

22 (Jury exits.)

23 THE COURT: Are there any motions?

24 MR. GAMBRELL: Judge, Respondent moves for a directed
25 verdict based on the insufficiency of the evidence provided

1 by the State, Judge.

2 THE COURT: There's sufficient evidence for the case to
3 go through the jury from the State. You intend to offer any
4 evidence?

5 MR. GAMBRELL: Judge, my client has to go to the
6 bathroom, but I'd like to discuss that when he comes out of
7 the bathroom, very briefly, with him.

8 THE COURT: Sir?

9 MR. FISHER: Judge?

10 THE COURT: I'm sorry. Yes, sir.

11 MR. FISHER: Before we -- well, I -- I -- I'm not --
12 this is more of a matter of housekeeping. As I was entering
13 the courtroom today, there was a juror who was walking in
14 with me and I recognized him as a jury -- juror, and I walked
15 away. I didn't make eye contact with them. I -- I saw them
16 and I walked away. Not one, but I -- I believe two. Would
17 it be okay if either enclosed or if the Court would instruct
18 them? I'm not trying to be aloof or arrogant or rude to the
19 juror in any way. I just need them to understand that I'm
20 not to have any contact with them.

21 THE COURT: I'll see what I can do. Thank you. We're
22 in recess.

23 (Off the record.)

24 THE COURT: What does Respondent wish to do?

25 MR. GAMBRELL: We are not offering any evidence, Judge.

1 THE COURT: Mr. Pierson, you decide not to present any
2 evidence, is that correct?

3 MR. PIERSON: Yes, sir.

4 THE COURT: Thank you. All right. You all ready? You
5 have any motions to make? I know you're not offering any
6 evidence, but you want to renew your motion?

7 MR. GAMBRELL: For a directed verdict? Yes, sir.

8 THE COURT: Again, respectfully denied. Are you all
9 ready to argue?

10 MR. FISHER: Yes, your Honor.

11 THE COURT: All right. Are we in agreement: The State
12 goes then Defense goes, and then State goes?

13 MR. GAMBRELL: I thought it was the State then the
14 Defense --

15 THE COURT: What did I say?

16 MR. FISHER: Judge, if I may? I -- I didn't quite
17 understand Mr. Gambrell, but it's my understanding the State
18 goes first. We're allowed an equal amount of time. The
19 State is allowed the opportunity to break up its time. I
20 don't know how much time I'm going to take. My close --
21 hopefully will be relatively short. So 30 minutes is what
22 I'd ask. 20 minutes on closing argument and then reserve 10
23 minutes for the rebuttal.

24 MR. GAMBRELL: I was always on the impression, Judge,
25 if we did not put up -- offer any evidence, we can have more

1 time.

2 THE COURT: In a civil case?

3 MR. GAMBRELL: I don't know, Judge. Civil commitment
4 case where (inaudible) is sustained.

5 MR. FISHER: Judge, that would be true if this was a
6 criminal case.

7 THE COURT: (Inaudible).

8 MR. FISHER: Judge?

9 THE COURT: Yes.

10 MR. FISHER: I -- I think I -- I think I found the --
11 the rule.

12 THE COURT: Go ahead.

13 MR. FISHER: It's 43(j): Right to open and close.

14 "The moving party upon a motion shall have the right to open
15 and close argument, and the plaintiff shall have the right to
16 open and close upon the trial; except that a party admitting
17 the adverse party's claim in his pleading, and taking upon
18 himself the burden of proof, shall have the like privilege.
19 The party having the right to open shall be required to open
20 in full, and in reply, may respond in full but may not
21 introduce any new matter." So I think what I'm -- my -- my
22 understanding of the rule is -- is that I can open -- I can
23 -- I can close, and then reserve time for rebuttal.

24 THE COURT: I -- my understanding of civil case is: the
25 moving party goes first, the responding party goes second.

1 The first party has to close in full, and you can't leave
2 anything hanging out. You have to close in full, then --
3 it's only a closing argument. And then the State, in this
4 case, can come back and reply, but can't go through
5 everything in an argument.

6 So that's always been my understanding. There was one
7 case that came up years ago, that's what I was trying to
8 find. So through all the (inaudible) they changed my
9 computers, they changed the whole bunch of stuff around now
10 after (inaudible). So again, it's not a criminal, and I
11 think that civil rules apply.

12 MR. GAMBRELL: Talking about (inaudible), Judge.

13 THE COURT: Say that again, please.

14 MR. GAMBRELL: Talking about the case that is not on
15 record.

16 THE COURT: It is, and you made your right, but I will
17 try to look up sections to see if there anything different in
18 the rule that I had in my head, but I couldn't (inaudible).
19 All right. What time is it? I don't have the exact time,
20 but I think there was one case here years ago where I had
21 limited time for (inaudible). You ready?

22 MR. FISHER: Yes, your Honor.

23 THE COURT: Ready?

24 MR. GAMBRELL: Yes, sir, your Honor.

25 THE COURT: Bring in the jury.

1 (Jury enters.)

2 THE COURT: All right. Members of the jury, during the
3 break, the Respondent indicated that they have no evidence to
4 present in addition to what's been presented already. So
5 we're at the end of the case. As far as the evidence is
6 concerned, you have all the evidence you're going to have to
7 decide the case. And so I need to go back through a couple
8 things that I went through with you at the outset.

9 I told you that I was giving kind of a short version.
10 And one of the things that I often say to jurors is: if you
11 -- if you have noticed at any time during your -- your
12 experience here, that anybody involved in the case: the
13 attorneys, the -- anybody who's involved in the case at all,
14 if they seem to be keeping their distance to you, that's what
15 they're supposed to do. They're told not to have any contact
16 with jurors or not to speak with jurors, to keep a distance
17 from you. So just understand that's -- that's what they're
18 doing. They're doing their jobs.

19 The second thing I want to make sure you understand is
20 that I -- I indicated at the outset that the attorneys would
21 make their opening statements to you, and the opening
22 statements were not argued, they were not permitted to be
23 argued. But they generally are told in law school, or they
24 generally teach in law school, is what an opening statement
25 is, is what the attorney believes the evidence would show at

1 the outset of the trial.

2 When we reach the end of the trial, then the attorneys
3 are permitted to use the arc of advocacy to attempt to get
4 you to see things as they would like you to see them on
5 behalf of their respective position. And that doesn't change
6 the burden of proof. The burden of proof remains with the
7 State throughout the case. And in this case, that is proof
8 beyond a reasonable doubt.

9 Now, the way this will go is, since the State has the
10 burden of proof, the State gets to go first and last. So
11 you'll hear the argument from the Attorney General, and
12 you'll hear the arguments from the Respondent, and then the
13 State can come back and reply or respond, but can't go back
14 through the whole argument again. I find this by ear as far
15 as whether we take any breaks or not during this process, I
16 always take a break between when they stop and when I tell
17 you the law. So whenever the attorneys have finished with
18 their closing arguments, there will be at least a brief break
19 at that point so I can get set up to tell you the law. I
20 invite your close attention. Mr. Fisher, you're recognized
21 to give your closing argument.

22 MR. FISHER: Thank you, your Honor. Ladies and
23 gentlemen of the jury, I appreciate your time and attendance
24 -- attention in this case. What lawyers say is not evidence.
25 You're going to hear that in the jury instructions. So would

1 you please know I'm not going to draw you on that. The
2 evidence is what's been offered in the form of exhibits and
3 testimony from the witness stand.

4 The State has to prove three elements: the Defendant --
5 I'm sorry, the Respondent, Mr. Pierson, was convicted of a
6 qualifying offense. Lewd and lascivious -- I'm sorry, lewd
7 act on a child under the age of 16 is a qualifying offense.
8 Mr. Pierson pled guilty to it, on the contest, he served his
9 time. Element one is proven.

10 Number two: the State has to prove that Mr. Pierson
11 suffers from a -- a mental abnormality or defect. And I
12 believe the testimony was: that would've been a paraphilic
13 disorder. That would've been a pedophilic disorder. That's
14 not Dr. Gillen's diagnosis. The State has to prove that
15 Mr. Pierson suffers from a mental defect or abnormality or a
16 personality disorder. And Dr. Gillen has diagnosed
17 Mr. Pierson with that personality disorder. The personality
18 disorder is antisocial personality disorder.

19 Now, when we talked about some of the -- the factors
20 that Dr. Gillen identified with Mr. Pierson, failure to
21 conform to lawful behavior, and that is -- is proven over and
22 over again by his criminal history. It -- it -- in spite of
23 consequences, in spite of having -- I -- I think the
24 testimony was that he actually had his prison sentence
25 extended because he could not conform his conduct within a

1 controlled setting of the prison. And that's exemplified by
2 the 22 infractions while at DOC that it includes the targeted
3 masturbation when he knew others were around. It's what I
4 said in opening, and then what I'll say now: Mr. Pierson
5 cannot control himself.

6 Control himself in the form of impulsivity. Why did he
7 do what he did to his niece? His five-year-old niece? He
8 was impulsive. It was a -- act of opportunity. But I asked
9 Dr. Gillen at -- at -- in various stages: "Did Mr. Pierson
10 know what he was doing was wrong?" And the answer is, "Yes.
11 He just can't control himself." He can't control himself.
12 He is going to do whatever he's going to do. And it's like I
13 said, "No, there's no brakes on the bus."

14 His aggressiveness. His aggressiveness is formed -- I
15 mean, even today Dr. Gillen testified that it wasn't the
16 possession of pot, cannabis, marijuana. It -- that was not
17 the issue. It's -- why was law enforcement called to the
18 scene? Because he had attacked his mother. Why was he
19 kicked out of sex offender treatment? Because he got into a
20 fight with other patients in the treatment setting. And then
21 when he had the opportunity to come back, he refused to come
22 back.

23 Aggressiveness. He's -- he's -- he's inclined to
24 commit acts that are aggressive. We talk about the -- the --
25 pointing, presenting a firearm. Law enforcement was called

1 to the scene. I believe the evidence has shown, that he --
2 law enforcement was called to the scene not because he was, I
3 don't know, committed -- committing a burglary. That wasn't
4 the reason they were called. They were called to the scene
5 because there was an individual presenting a firearm at
6 people while he's a convicted felon. It shouldn't have a
7 firearm at all.

8 Now, for those of us that have carried concealed
9 permits, we understand -- instinctively, we all understand
10 it's our common sense. I'm going to ask you to use your
11 common sense throughout all of your deliberation. But why is
12 somebody in possession of a firearm when they know they
13 shouldn't possess it? There's no evidence this was
14 self-defense. What the evidence is, is that he couldn't help
15 himself. And that goes back to the aggressiveness and the
16 impulsivity.

17 Additionally, he's got a resisting an officer resisting
18 arrest. He's got a -- a -- an assault on a female. I don't
19 whatever that entailed. But it's -- it is this constant
20 inability to control himself, that is part of the mental
21 defect, that is part of the personality disorder. And it is
22 exemplified by the aggressiveness. Reckless disregard for
23 the safety of others and -- and himself.

24 Well, we heard that Mr. Pierson likes has used in the
25 past. It's not a reason for him to offend, but we've --

1 we've learned that he has disregard for his own safety for
2 the amount of drugs he's ingested. But his reckless
3 disregard for the safety of others is -- is exemplified again
4 by the pistol, by -- by the pointing of presenting a firearm
5 to other individuals.

6 Mr. Pierson's work history. Mr. Pierson can get a job.
7 He just can't keep it. And why can't he keep it? Because he
8 exposed himself to -- and masturbated in front of a -- a
9 woman in April of 2021. While on pretrial release pending
10 that charge, which I would submit to you using your common
11 sense, you'd be on your best behavior. But he did it again
12 in October of 2021, where -- that's when he exposed himself
13 to the -- to the 16-year-old young lady after he -- without
14 consent, entered the house of the 16-year-old's grandfather
15 and exposed himself.

16 And when she ran away or locked herself into a room and
17 shut the door, he continued to try and have sexual relations
18 and thought in his mind that exposing himself to a young lady
19 -- a 16-year-old young lady, was a precursor to sexual
20 relations. I'm not saying accept it. I'm -- I'm saying
21 accept that Mr. Pierson is not well.

22 So his work history, he threatened to harm his
23 supervisors. He walks off the job. He just -- if -- if you
24 tell him -- if you -- if -- if a supervisor, a person of
25 authority, tells him what to do, he's not going to do it.

1 He's going to do whatever he's going to do. And that's part
2 of the impulsivity, that's part of his personality disorder.
3 And that's mostly -- importantly, his antisocial personality
4 disorder.

5 Dr. Gillen talked a lot about his crimes, violations
6 before the age of 18. And I think Dr. Gillen's testimony was
7 that -- it -- it was the fact he brought a knife to school,
8 which I think all of us could -- using common sense, know is
9 -- is a violation of the rules. And he was currently charged
10 for it. He was subsequently committed and he was held
11 contempt of court because he wouldn't do what the Court said.
12 He did that -- that is information that we need before the
13 age of 18. And then, of course, after the age of 18 while in
14 the Department of Corrections, Mr. Gillen was determined to
15 have antisocial personality disorder. Then later Dr. Gillen
16 additionally finds the same diagnosis.

17 Lack of remorse. Using our common sense, is it
18 reasonable to believe a five-year-old child would remove the
19 pants of her uncle and his underwear, manipulate his penis,
20 or is it more reasonable to believe that Mr. Pierson removed
21 the clothing of the child? Regardless, how did the child
22 come -- become unclothed? There's no remorse. There's
23 minimization, there's trying to explain away his antisocial
24 personality disorder, and none of it is his fault -- none of
25 it is his fault.

1 Yeah, I believe that that this affected the
2 five-year-old wouldn't -- I'm willing to using common sense,
3 willing to agree with that. I'll bet it did affect that
4 five-year-old. But even more than that is when we get to
5 these dynamic risk factors -- you know, I'm being really
6 careful with this easel. Because there's nothing easy about
7 an easel, right? His sexual compulsivity, well, he only
8 masturbated to the point that he injured himself once. I
9 submit that it's common sense to believe you don't to the
10 point of injury at all.

11 His criminal responsibility, personality, his ability
12 to go out and commit more -- more crimes if you do
13 timetables, Mr. -- from the age -- early age, I believe the
14 testimony was that he began using cannabis, which is illegal
15 in the State of South Carolina. He began using cannabis as
16 early as the age of 11, 12, 13. And it just kept going. His
17 criminal personality never stopped. He's either in custody
18 and offending by infractions, or he's out committing
19 additional crimes. And yet he knows there are consequences,
20 but he just can't help himself.

21 His aggression, another dynamic risk factor, compliance
22 in the community supervision, he couldn't -- he violated
23 probation three times. He had his sentence extended while at
24 the Department of Corrections. He's not going to do what is
25 required with him. And it is pervasive through everything in

1 his life. His impulsivity -- again, his community support.
2 These are the dynamic risk factors.

3 And Mr. Pierson's community support is just not there.
4 There's no -- there's no friends, there's no family. He's
5 alienated his family. I think it's reasonable to believe
6 that his brother-in-law and sister are not real warm about
7 him coming back into their family unit. There's just no
8 community support. And if he walks out, there is no
9 treatment plan. There is nothing further for him except the
10 opportunity to reoffend.

11 His cognitive distortion. He -- he justifies the
12 things that he's done. He's failed. He will not comply with
13 treatment. He will not do it. And it goes as far as -- as
14 to what he told Dr. Gillen that he would murder or kill any
15 police who -- who confined him for long-term care and -- and
16 -- control, and treatment. He -- he -- he responds in anger,
17 and violence, and aggression. He has no ability to -- to
18 handle high-risk situations.

19 So in other words, in the future, if he is working at a
20 place and he has this erection, for whatever reason, he's
21 going to do whatever he has to relieve that -- that feeling
22 of excitement. And that includes that public masturbation.
23 He has no ability. He has no tools in his toolbox to address
24 high-risk situations such that he is alone. Remember when he

1 was with his niece, he was alone. Remember when he was with
2 the first lady at the job site, he was alone. Remember when
3 he exposed himself to the -- to the 16-year-old girl, he was
4 alone.

5 When he's alone -- and he has no community support, he
6 has no family support -- when he's alone, he's going to
7 offend. He has no insight or remorse. He doesn't fully
8 understand what he's doing to these people. And in this
9 case, his niece: five-year-old niece, the -- the lady at the
10 job site. He has -- none of us need to see that. Mr. --
11 Mr. Pierson exposing himself, none of us need to see that.
12 What effect does that have? What does -- effect does that
13 have on a 16-year-old girl? And the answer is that only the
14 victim knows. But Mr. Pierson is incapable of having empathy
15 to understand what he's doing to other people.

16 And he has no emotional control. He has no emotional
17 control. And it is what I said in opening. All of this is
18 what I said in opening: "There's no brakes on the bus,
19 there's no filter." He's going to do whatever he is going to
20 do. Now, Dr. Gillen's testimony is unrebutted and
21 uncontradicted. So as you deliberate and think about
22 everything that came from this witness stand, think about
23 Dr. Gillen's testimony. Dr. Gillen's testimony is unrebutted
24 and uncontradicted. It is evidence.

25 Now, the Judge is going to give you some jury

1 instructions and the State has to prove that third element,
2 and let me -- let me read it for you. This is the third
3 element. And -- and in opening, I heard Mr. Gambrell, on
4 behalf of the Respondent, say that, you know, "The -- the --
5 the qualified conviction really wasn't an issue." And then
6 during the course of this trial, that was never an issue.

7 The second element is that Mr. Pierson suffers from a
8 mental abnormality or defect or a personality disorder. And
9 that really isn't an issue either. Mr. Pierson clearly --
10 clearly suffers from a mental -- from a personality disorder.
11 And that diagnosis is antisocial personality disorder.

12 Here's the third element, "The mental abnormality or
13 personality disorder," so Mr. Pierson's personality disorder,
14 "makes the person likely to engage in acts of sexual
15 violence, if not confined to a secure facility for long-term
16 control, care, and treatment."

17 Because of Mr. Pierson's personality disorder, he is
18 likely to reoffend. He is, more probably than not, likely to
19 reoffend if he is not detained, committed. You know, the
20 Judge used an analogy of probate if he's not committed for
21 his own well-being and the safety of the community. Now,
22 Mr. Pierson absolutely is, more probably than not, likely to
23 commit acts of sexual violence because he is a menace. His
24 conduct has indicated to us, using our common sense, a menace
25 to society.

1 Mr. Pierson is, more probably than not, likely to
2 reoffend. And that the -- the third issue is the -- is
3 really the focus. And I asked Dr. Gillen this question. Oh
4 my life, man. Oh, here it is. "Dr. Gillen, based on your
5 expertise as an expert in forensic psychology, concentrating
6 in the area of sexually violent predators, is Mr. Pierson,
7 more probably than not, likely to engage in acts of sexual
8 violence if not confirmed to long-term control, care, and
9 treatment?" And the answer was, "Yes."

10 I also asked the doctor: "Based on the static risk
11 factors and the dynamic risk factors, how many times have you
12 documented or evaluated a person with such a significant risk
13 factor?" The answer was: "He's up there. He's -- he's
14 pretty high. He's -- he's -- he's up." I don't know the
15 exact numbers, but he's up there. And in using his static --
16 Mr. Pierson's static risk factors, we know that he's well
17 above average, and that is the highest level that Mr. Pierson
18 could be placed at on his static risk factors: Well above
19 average. Well, I submit to you using your common sense,
20 "well above average" is greater than "more probably than not
21 likely to reoffend if not confined to a long-term care,
22 control, and treatment facility."

23 Again, this is -- this is common sense. I'm going to
24 sit down, but I am going to ask that you return a verdict of,
25 "Yes." That Mr. Pierson is a sexually violent predator

1 within the confines of the statute. That he's, more probably
2 than not, likely to reoffend if not confined to long-term
3 care and treatment. And he is -- his risk, overall risk, is
4 so significant that, yes, he's a menace to the community. I
5 ask that you return a verdict of, "Yes, Mr. Pierson is a
6 sexually violent predator." Thank you.

7 THE COURT: Thank you, sir. All right. Ladies and
8 gentlemen, I got an alert that we're under a warning of -- a
9 watch, not a warning. So if that changes to a warning, we'll
10 have you vacate the courtroom and go to a safe location than
11 the courthouse. But I haven't had that warning yet. All
12 right. You're recognized to make your closing argument.

13 MR. GAMBRELL: Thank you, your Honor. On behalf of Mr.
14 Pierson, may it please the Court?

15 THE COURT: Yes, sir.

16 MR. GAMBRELL: George doesn't have to prove anything to
17 you all. He doesn't have to prove that he's not a sexually
18 violent predator. He doesn't have to prove that he would
19 engage in any additional acts if he were not committed to a
20 long-term care facility. That burden remains, and has always
21 been, with the State. And the reason why that is, is because
22 in this country we have what's called due process of law.
23 Much like the Second Amendment, it gives us the right to bear
24 arms, Fifth and the 14th Amendment gives us the right to have
25 due process before the State (inaudible), okay?

1 And in this process, what that means is -- is the State
2 has the burden of proof, means they have to prove the
3 elements that Mr. Fisher has laid out to you all beyond a
4 reasonable doubt. Now, Judge is going to instruct you as to
5 what that means in South Carolina. But it means that the
6 State has to convince you -- to firmly convince you of each
7 of the elements. And as he stated before, and as I stated at
8 the beginning of this trial, the first two elements are the
9 first two factors that you would look at the qualifying
10 offense and whether or not Mr. Pierson, George, has a
11 personality disorder. Not very much in dispute.

12 With regard to the qualifying conviction, there's no
13 dispute that George was convicted and -- and the incident
14 occurred in '04, he was convicted in '05 for that horrible
15 offense. No child should ever have to go through that. And
16 you heard details that occurred when George was 18. He came
17 to the court and looked the judge in the face and he pled
18 guilty to it, took responsibility. He then was sentenced.
19 15 years suspended on 10 years, five years probation.

20 The only real element, and I agree with Mr. Fisher on
21 that, that is really the crux of this case, is whether or not
22 they've proven to you beyond a reasonable doubt that George's
23 diagnosis of anti-personality disorder will cause him to
24 likely to engage in acts of sexual violence if he is not
25 committed. Now, that doesn't mean is he likely to engage in

1 any -- any offense in the future. That doesn't mean illegal
2 or otherwise. That doesn't mean, is he likely to engage in
3 any sexual offense in the future? That's very specific as
4 attributed in the statute: Is he likely to engage in acts of
5 sexual violence?

6 And Dr. Gillen explained that those were listed in the
7 statute, and the State has gone through all of the reasons
8 why he was diagnosed with a personality disorder. And
9 they've given, looks like a list of 12. And so, my question
10 is -- is that: If George really suffers from all of these
11 different dynamic risk factors and he's been in the public
12 since 2011, why has he not committed any acts of sexual
13 violence since that time? That's 12 years. How long does he
14 have to go to convince you that he's not going to commit
15 those acts of sexual violence?

16 He's committed other acts, but that's not why we're --
17 that's not what we're here to decide whether or not George is
18 going to likely commit additional offenses, any offense --
19 any additional sexual offense, very specific to sexually
20 violent offenses. And I would use the two inducing exposure
21 incidences to further illuminate that. And these disclosures
22 are gross. Nobody wants to see that. I agree with
23 Mr. Fisher. I -- I wouldn't want anybody to see that -- a
24 16-year-old daughter, I wouldn't want her to see that.

25 But I say that to say this and those -- both of those

1 instances, George was alone with a woman when was a juvenile.
2 If he had all these indications that he was going to act in a
3 sexually violent manner, why did he not do that then? He had
4 two perfect occasions to do that. He acted in a sexual
5 offending offender -- behavior, but it wasn't a sexually
6 violent offending behavior, which is what you have to decide
7 today.

8 It's not whether he's going to commit additional acts
9 of sex offenses. It's whether he's going to be sexually
10 violent. And I would say those two incidences prove that
11 based on everything that they say that's bad about him: his
12 awful childhood, his, you know, terrible history of school,
13 his terrible work history, all his dynamic risk factors,
14 still, it put him in two separate situations with females who
15 were alone and didn't commit an act of sexual violence. What
16 more of a doubt do you need than that to say that he's not
17 likely? We -- we have two real world examples. We don't
18 have to get on the stand and pontificate and -- and predict,
19 and -- and speculate as to whether or not he's going to
20 behave in that manner because he's already been put in that
21 position twice. Aand twice, he did not.

22 He was charged with indecent exposure, was convicted
23 for a year in prison, which is what he should have done. He
24 should have been in prison for that. That doesn't make him a
25 sexually violent predator, which is what you're here to

1 decide for. I don't know what else the State could -- or we
2 could have shown you -- you know, for -- with any different
3 witnesses or any different examples to show that when he's
4 placed in those situations, he doesn't act in a sexually
5 violent way. He may act in an inappropriate way and an
6 illegal way, I agree with both of those, but that's not the
7 question. The question is whether or not he acts in a
8 sexually violent way, because those are the most obvious
9 individuals that need to be committed to get help.

10 He's got 20 years since his qualifying conviction. And
11 -- and not once during that time has he committed a sexually
12 violent act. Dr. Gillen's testimony, he testified to that.
13 He's done other things. Smoked weed, possessed a -- a
14 firearm that he shouldn't have. He was punished for those.
15 Other things he -- they -- State dismissed against him. But
16 in all of those regards, he's never committed a sexually
17 violent act in 20 years. How much -- how much more time does
18 he need to convince that he's not going to do that?

19 He may be a bad person. He may not invite you to
20 Christmas dinner. He may be an odd person. He may not be
21 someone you'd want to sit on a park bench and have a
22 conversation. But the question is whether or not he's a
23 sexually violent predator, and every empirical piece of
24 evidence that we have, shows that he's not. Not likely to
25 be. Does he need to go another 10 years? Another 40 years?

1 If he commits official crimes, he's going to get punished by
2 the criminal justice system. That's how this system works.
3 This is not a criminal court; this is a civil court.

4 This is the State of South Carolina attempted to come
5 in and deprive him of liberty, because they -- they want to
6 prove that he's a sexually violent predator. And he says,
7 "Look, the history? Yes, I'm not a great citizen, okay? I
8 get into trouble and I get punished for it, but what I'm not
9 is a sexually violent predator." Those two incidents of
10 incident -- of indecent exposure, I think should illuminate
11 more than anything because he had the absolute opportunity to
12 do that. And in both cases, he didn't. He still acted
13 inappropriately, and -- and was charged with a crime. It's
14 gross. But it's not a sexually violent act.

15 It's -- what else do we have to do to show? And even
16 without the burden of proof to show that he's not a sexually
17 violent predator. We don't even have to prove that, the
18 State has to prove it to you, has to firmly convince you
19 those two incidences should you hesitate -- should make you
20 hesitate as whether or not I'm firmly convinced if George was
21 put in that position twice, one with a -- a juvenile female
22 and he didn't act as though they say he's going to act. I
23 have a doubt. I have a doubt as to whether or not they've
24 proven their case.

25 They haven't shown any other evidence other than

1 Dr. Gillen's testimony as to how he's going to behave in the
2 future. They said this before, past behavior can predict the
3 future. 20 years of not behaving as a sexually violent
4 predator. What more do you need than that? We're not here
5 to lock him up because he's -- to commit him because he's a
6 bad person. We're not here to commit him because he may
7 commit sexual offenses down the road. The commitment comes
8 because he has a likelihood, based on his personality
9 disorder, to commit acts of sexual violence. They have not
10 proven that beyond a reasonable doubt.

11 I would just end with Dr. Gillen's own words as I had
12 him read through his -- his report. He said, "There's a
13 question where his personality disorder predisposes him to
14 engage in acts of sexual violence that's defined by the
15 statute, and not just other illegal or problematic sexual
16 behaviors." For example, exhibitionism. Mr. Pierson
17 committed one sexually violent offense in 2004 and his
18 behavior since then, while problematic was not sexually
19 violent. Further, he has not committed any sexually violent
20 offenses despite being released to the community and exposed
21 to risk for various amounts of time since his release from
22 his only sexually violent offense in 2011. He was released
23 in that.

24 That's their witness telling you exactly that there's a
25 doubt. You have to have a doubt. Their witness says he --

1 even though he was exposed to risk, he did not commit any
2 sexually violent offense. If they don't prove their case to
3 you as required by law, the oath that you took requires you
4 to say, "No, you didn't prove your case." And -- and don't
5 feel bad about that because that's you doing your job and you
6 upholding your oath that you took when you came into this
7 courtroom. It's the trial of this case barely and truly
8 approves evidence that was presented on the stand. Their own
9 witness has told you that there's a doubt. I ask you to act
10 accordingly. Thank you.

11 THE COURT: Thank you. Any response?

12 MR. FISHER: Yes, Judge. It's simply stated,
13 Mr. Pierson couldn't commit additional sexually violent acts
14 if he's in prison -- if he's in jail for possession of
15 cannabis and -- and other -- and -- displaying a pistol. All
16 these arrests require him to go to jail. So did he commit
17 another sexually violent act against another inmate? I guess
18 that would be the assumption he'd have to be attacking other
19 inmates in jails and prison. But I submit that it's common
20 sense to say that the guards are going to prevent Mr. Pierson
21 from attacking other people's sexual, and he did what he
22 could.

23 He masturbated in public targeted, masturbation to
24 other correctional officers. He -- he got whatever sexual
25 gratification he could get from those acts when he was in

1 jail. He -- you know, if you do the quick math, in 2004, 10
2 years, 2014, extended sentence because he of the infractions
3 now we're into 2002 -- 2015, 2016. And in 2016 he's supposed
4 to go to treatment or he doesn't go to treatment. So why
5 didn't he commit more -- more acts? Because he couldn't.

6 And how far does a victim have to run? How far do they
7 have to run before Mr. Pierson can get at them to commit this
8 violent sexual act? Now, there was talk about reasonable
9 doubt, and the State has the burden of proof, that is true,
10 and it's true that Mr. Pierson doesn't have to -- have to
11 prove anything. Yes, it's true. But -- but are you firmly
12 convinced that Mr. Pierson is a sexually violent predator?

13 Sometimes when I think of what something is, it helps
14 me to think what it's not. So reasonable doubt -- any doubt
15 that is in my mind, not a speculative imaginary or forced
16 doubt. Such doubt should not influence your decision if you
17 are firmly convinced that Mr. Pierson is a violent sexual
18 predator. Is Mr. Pierson likely to engage in other acts of
19 sexual violence? In -- and cherry (ph) picked one excerpt
20 from Dr. Gillen's report doesn't usurp or replace his
21 testimony because that data point, that one data point --
22 remember it's multiple data points. Doctor talked about data
23 points.

24 This one data point is something that Dr. Gillen, I
25 think I would say showing that he is completely objective.

1 That one data point is something that Dr. Gillen reviewed.
2 But I asked Dr. Gillen this question: "Is Mr. Pierson more
3 likely than not to commit acts of sexual violence so as to be
4 a menace to the health and safety of others?" That's what
5 you have to concentrate on, and that is part of the jury
6 instructions. Yes, he's a menace. Sexually violent predator
7 means that Mr. Pierson is likely to engage in acts of sexual
8 violence such that he is a menace to -- to the health and
9 safety of others.

10 I submit that Dr. Gillen's testimony today and
11 yesterday, but more importantly today, he said, "Dr." -- I'm
12 sorry, he said, "Mr. Pierson is at a very high risk to
13 reoffend." Instead of paying attention solely to one data
14 point. Let's look at the entire report and all of
15 Dr. Gillen's testimony and I submit that the reason -- the
16 reason that Mr. Pierson did not reoffend sexually -- sexually
17 to those -- to that adult woman and to that 16-year-old woman
18 is that they were able to get away. But it's a crime of
19 opportunity. It's a crime of impulsivity.

20 So without any high-risk situation management, given
21 the opportunity Dr. Gillen's testimony is that he's --
22 Mr. Pierson is likely to reoffend. Now, I ask that you
23 return a verdict of, "Yes," pursuant to the criteria that
24 I've laid -- laid out those three elements that Mr. Pierson
25 is classified and the State has proven firmly, not

1 speculatively, that Mr. Pierson is a sexually violent
2 predator. "Yes." I ask that you return a verdict of, "Yes."
3 Thank you.

4 THE COURT: Thank you, sir. Ladies and gentlemen, as I
5 told you, we'll have you step into the jury room, don't
6 discuss the case. I'll bring you back here within about five
7 minutes.

8 (Jury exits.)

9 THE COURT: Bring them in, please.

10 (Jury enters.)

11 THE COURT: Members of the jury, all the evidence has
12 been presented and you've heard the arguments from counsel,
13 it's now time for me to instruct you on the law that applies
14 to this case. Please continue to pay close attention during
15 this next stage of the proceeding. First, you need to
16 understand some basic ground rules. You, the jury, are
17 members of the sole judges of fact, you decide all the issues
18 of fact. The truth of the evidence, its effect, its value,
19 and its weight. You alone will judge the credibility of
20 witnesses. In other words, whether or not their testimony is
21 believable.

22 You may consider any interest, bias, or prejudice you
23 feel that a witness has in the case. You may consider the
24 demeanor and the appearance of the witness and the
25 opportunity for knowledge that the witness has. You may

1 consider whether a witness as being consistent or
2 inconsistent, but you're not to exercise these considerations
3 arbitrarily. What you are to do is to use your common sense,
4 your sense of logic, and reason, and your good judgment.

5 The rules of evidence allow for opinion testimony to be
6 given under certain circumstances and one area where that's
7 allowed is where someone, by virtue of education, training,
8 or experience, is allowed to testify as an expert witness.
9 The mere fact that an expert witness is allowed to give
10 opinions under our rules does not mean that you must accept
11 the opinions given if you choose not to do so. You may
12 accept or reject the testimony of an expert witness as you
13 may any other witness in whole or in part.

14 It's not proper for me to give you a charge on the
15 facts of the case. I can't discuss the facts with you or
16 even convey to you an impression as to what personal
17 opinions, if any, I might develop during the trial of the
18 case. If, during any stage of this trial, I developed an
19 impression that I have a personal opinion about the facts,
20 you've to remove that belief totally from your mind. You're
21 the sole judges of the facts. I'm the judge of the law that
22 applies in the case. Under your oath, you're bound to accept
23 and apply law as I give it to you.

24 That means you must abandon any conflicting ideas you
25 have as to what the law is or what it should be. I give you

1 the law, you apply to the facts as you term them to be, and
2 in that way, you read your verdict. It's also my job to
3 decide what evidence is admissible. If I rule something as
4 admissible or instruct you to disregard something, do not
5 consider those things in arriving at your verdict. Base your
6 verdict on the confident evidence before you. You are to
7 consider the testimony from the witnesses and any exhibits
8 admitted in the trial.

9 I need to explain that there are two types of evidence
10 generally presented during a trial. There's direct evidence
11 and there's circumstantial evidence. Direct evidence
12 directly prove the existence of a fact and does not require
13 deduction. Circumstantial evidence is proof of a chain of
14 facts and circumstances indicating the existence of a fact.

15 A fact may be proven by circumstantial evidence. The
16 law makes no distinction between the way or value to be given
17 to you either direct or circumstantial evidence. However, to
18 the extent the State relies on circumstantial evidence, all
19 the circumstances must be consistent with each other. And
20 when taken together, or conclusively to the determination
21 that the Respondent is a sexually violent predator beyond a
22 reasonable doubt.

23 If these circumstances rise only to the level of
24 suspicion to prove his fate, the State has the entire burden
25 to prove that the Respondent is a sexually violent predator

1 beyond a reasonable doubt, whether the State relies on direct
2 evidence or circumstantial evidence or some combination of
3 the two.

4 Now, the State brought this action under the sexually
5 violent predator Act. The State seeks to have the
6 Respondent, George Roman Pierson, involuntarily committed for
7 long-term control, care, and treatment in a secure facility.
8 As I have explained to you, this is not a criminal case, it
9 is a civil commitment process. The State must prove to you
10 beyond a reasonable doubt that Mr. Pierson is a sexually
11 violent predator. If he is found to be a sexually violent
12 predator, he will not be released, but will be committed to a
13 secure treatment facility operated by the Department of
14 Mental Health.

15 Now, proof beyond a reasonable doubt is proof that
16 leaves you firmly convinced that Mr. Pierson is a sexually
17 violent predator. Every essential fact and issue must be
18 established by the State beyond a reasonable doubt. In this
19 case, you're going to be asked to tell us whether the State
20 has proven that Mr. Pierson is a sexually violent predator.
21 "Yes," or "No." The Respondent, Mr. Pierson, is entitled to
22 every reasonable doubt arising in the entire case.

23 There are a few things in the world that we know with
24 absolute certainty, and in a case of this sort, the law does
25 not require proof that overcomes every possible doubt. If,

1 based on your consideration of the evidence, you are firmly
2 convinced the State has proven that the Respondent is a
3 sexually violent predator beyond a reasonable doubt, you are
4 to answer the question, "Yes."

5 However, if after considering all the evidence you
6 think there is a real possibility that he is not a sexually
7 violent predator, then you must give him benefit of the doubt
8 and answer the question, "No." There is no obligation on the
9 Respondent to raise any doubt or any other possibility. The
10 burden of proof is entirely on the State. The State has to
11 prove that the Respondent is a sexually violent predator to
12 the exclusion of any other real possibility.

13 So let me explain to you in more detail what
14 requirements are necessary to establish that someone is a
15 sexually violent predator. In order for the State to commit
16 Mr. Pierson under the sexually violent predator Act, the
17 State must prove to you three essential elements, each beyond
18 a reasonable doubt. First: the State has to prove to you
19 that Mr. Pierson has been convicted of a sexually violent
20 offense. And I charge you that committing a lewd act on a
21 minor under the age of 16 years is defined under our law as a
22 sexually violent offense.

23 Second: the State must prove that Mr. Pierson suffers
24 from a mental abnormality or personality disorder. Third:
25 the State must prove that the mental abnormality or

1 personality disorder makes Mr. Pierson likely to engage in
2 acts of sexual violence, if not confined to a secure facility
3 for long-term control, care, and treatment.

4 So regarding the first element, a person has been
5 convicted when that person has pleaded guilty to his offense
6 or has been determined -- determined to be guilty by a jury.

7 Regarding the second element, the term "mental
8 abnormality" means a mental condition of affecting a person's
9 emotional or relational capacity that predisposes the person
10 to commit sexually violent offenses.

11 Regarding the third element, "Likely to engage in acts
12 of sexual violence," means the person's propensity to commit
13 acts of sexual violence is of such a degree as to pose a
14 menace to the health and safety of others.

15 In order to prove this element, the State must prove
16 that the Respondent has serious difficulty in controlling his
17 behavior. The State must prove that the Respondent suffers
18 from a mental condition that he cannot sufficiently control
19 without the structure and care provided by a mental health
20 facility rendering him likely to commit a dangerous act of a
21 sexual nature if he is not confined and treated in such a
22 facility.

23 A mental abnormality means a mental condition affecting
24 a person's emotional or relational capacity that predisposes
25 the person to commit sexually violent offenses. This mental

1 abnormality or personality disorder must be of such a nature
2 that it causes serious difficulty in controlling behavior.

3 And the term, "likely to engage in acts of sexual
4 violence" means that the person is predisposed to engage in
5 acts of sexual violence, and more probably than not, will
6 engage in acts of -- of sexual violence to such a degree as
7 to pose a menace to the health and safety of others. That
8 the person's propensity to commit acts of sexual violence --
9 this is repetitive -- I'm sorry, is of such a nature as to
10 pose a menace to the health and safety of others, so that he
11 is dangerous to others.

12 Now, to recap that for you, in order to prove its case,
13 the State has to prove to you beyond a reasonable doubt,
14 Mr. Pierson has previously been convicted of a sexually
15 violent offense and that he suffers from a mental abnormality
16 or personal -- personality disorder that makes him likely to
17 engage in acts of sexual violence if he is not confined to a
18 secure facility for long-term care -- I'm sorry, control,
19 care, and treatment.

20 Now, as I told you before, this is not a criminal case.
21 The criminal matters involving Mr. Pierson have already been
22 handled and Mr. Pierson has been punished in the criminal
23 context. It would be improper for you as jurors to consider
24 punishment in any manner during your deliberation. The
25 sexually violent predator law was not enacted to act to the

1 criminal punishment.

2 Your decision is not to be influenced by your personal
3 opinions regarding whether Mr. Pierson received an
4 appropriate criminal punishment. Your focus must be instead
5 on whether or not the State has proven the elements I've just
6 explained to you from the sexually violent predator Act.
7 When or under what the circumstances Mr. Pierson might be
8 released is not the matter for your concern.

9 Mr. Pierson is entitled to the benefit of every
10 reasonable doubt arising in the entire case. If upon any
11 issue, essential to your termination, that he is a sexually
12 violent predator, you have a reasonable doubt, you must
13 resolve that doubt in his favor. If upon reviewing the
14 entire case you have a reasonable doubt about -- that the
15 State has proven the Respondent to be a sexually violent
16 predator, he is entitled to that reasonable doubt and a
17 determination that he is not.

18 On the other hand, if upon reviewing the entire case,
19 you find that the State has proven every essential element
20 and a status that Mr. Pierson is a sexually violent predator
21 beyond a reasonable doubt, is equally your duty to find that
22 he is a sexually violent predator. That's the law.

23 Folks, when you go back to the jury room, you're going
24 to have this verdict form and any exhibits submitted in the
25 trial. This verdict form is one in which you just ask a

1 question and you're to give us an answer, "Yes" or "No." It
2 reads, "Has the Petitioner, the State of South Carolina,
3 proven beyond the reasonable doubt that George Roman Pierson
4 is a sexually violent predator under the South Carolina
5 sexually violent predator Act?"

6 And it reads, "We, the jury, unanimously answer the
7 question as follows:" You have two options. Don't think I'm
8 trying to suggest one over the other. I put one first, and
9 one second. The first option listed here is, "Yes, George
10 Roman Pierson is a sexually violent predator." The second
11 option listed is, " No, George Roman Pierson has not been
12 proven to be sexually violent predator."

13 Madam Foreman, part of your job is going to be
14 recording the verdict. I think you'll find itself
15 explanatory. Just check the option chosen by the jury and
16 sign your name, and your signature on it both and date the
17 date of the document.

18 I'm going to tell you how you go about your
19 deliberations, how you go about your taking your votes is all
20 in your discretion subject to the requirement that you must
21 be unanimous decisions, all at will. You must agree in order
22 for a response to be recorded. When you have reached your
23 response, knock on the door and the bailiff will respond to
24 your knock.

25 All right. I've told you not to discuss the case until

1 I tell you to and it's not quite done yet. But what has to
2 happen is I have to give the attorneys an opportunity to talk
3 to me about what I just told you because sometimes I say
4 things I don't even realize I said. If I'm satisfied with
5 what I've told you, this is a signal you need to look for.
6 The bailiff will come in and bring the two alternates out,
7 give you very form and give you the exhibits and close the
8 door.

9 Once there's the 12 of you in there and the alternates
10 are out and you've got the verdict form and the exhibits, you
11 can start deliberating. You don't need to wait one second.
12 Until then, though, do not deliberate in case I have to bring
13 you back out and clarify some of the things. Thank you very
14 much for your attention. Please follow the bailiff.

15 (Jury exits.)

16 THE COURT: Please state for the record: exceptions,
17 additions, or objections to the instruction. From the State?

18 MR. FISHER: The State has no objection or -- or
19 reservations.

20 THE COURT: From the Respondent?

21 MR. GAMBRELL: I take no objection -- exceptions,
22 Judge. I have no objections.

23 THE COURT: All right. The verdict form, I didn't even
24 notice it until I was reading to the jury, but I -- I
25 modified the language on the, "No," because I think it's

1 mistaken. It states, "No, George Roman Pierson is not a
2 sexually violent predator." I think it should state, "No,
3 George Roman Pierson has not been proven as a sexually
4 violent Predator." So I intend --

5 MR. FISHER: I have no objection, Judge.

6 THE COURT: -- I intend to modify that. And I intend
7 to send the jury one copy of the instructions. So I'm going
8 to give you a few minutes to go through that, all right?

9 MR. FISHER: Fair enough.

10 THE COURT: Okay. You understand I didn't have you
11 sitting over there for no reason. But you're through with
12 jury duty. The clerk's got your slips and your check, I
13 guess.

14 THE CLERK: Yes, sir.

15 THE COURT: Thank you very much. You're welcome to
16 stay if you wish to stay, free to go, if you wish to go.
17 You're disqualified from jury duty at this level for a year,
18 and you're -- you have an exemption that you can claim for
19 three calendar years if you wish. All right. Thank you.
20 We're at ease, pending verdict.

21 (Off the record.)

22 (Jury enters).

23 THE COURT: Madam Forelady, has the jury reached a
24 verdict?

25 JUROR NUMBER 39: We have, your Honor.

1 THE COURT: Pass it to the bailiff please, ma'am.

2 Case number 2023-CP-36-00120, in the matter of Care and
3 Treatment of George Roman Pierson, Respondent. The question
4 posed to the jury -- excuse me, "Has the Petitioner, the
5 State of South Carolina, proven beyond a reasonable doubt
6 that George Roman Pierson is a sexually violent predator
7 under the South Carolina Sexually Violent Predator Act?"

8 "We, the jury, unanimously answered the question as follows:
9 'Yes.'" Signed by the foreperson, and dated. Madam Foreman
10 and ladies and gentlemen of the jury, if I accurately state
11 your verdict, will you please signify by raising your right
12 hand? All 12 hands are raised. Are there any matters to
13 take prior to the jury being discharged, from the State?

14 MR. FISHER: Nothing from the State, your Honor.

15 THE COURT: From the Respondent?

16 MR. GAMBRELL: No, sir.

17 THE COURT: Thank you very much. Ladies and gentlemen,
18 that's going to conclude your jury service today. They have
19 your slips and they have your little check, they'll give it
20 to you. Thank you very -- very much for your attention.

21 You have an exemption for jury duty for 2024, '25 and
22 '26 at this level of court. It will not help you in
23 municipal court or magistrate court or federal courts,
24 whether civil or criminal, or in state court. You are
25 disqualified for a year in state courts for civil and

1 criminal. So try to remember when you served beginning in
2 2024, somewhere around there. And I'm going be quiet and let
3 you go home, though. If you don't have any (inaudible).

4

5 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED)

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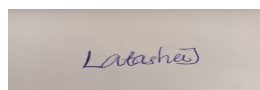
25

CERTIFICATE OF TRANSCRIBER

I, LATASHA JEFFERSON, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 11 of Newberry County, South Carolina, on January 9, 2024.

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

April 21, 2025.

A rectangular box containing a handwritten signature in blue ink that reads "Latasha".

LATASHA JEFFERSON

TRANSCRIBER

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATENEWBERRY
VS.

GEORGE R. PIERSON

AKA:
Race: W Sex: M Age: 19

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip Greenville, SC, 29609

DL# [REDACTED] SID# [REDACTED]

INDICTMENT/CASE#:

04

-GS- 36 - 276

AW#: 1-316704

Date of Offense: May 14, 2004

S.C. Code §: 16-15-140

CDR Code #: 2, 4, 6, 8

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: LEWD ACT 1 CHILD Less than 18

in violation of §16-15-140 of the S.C. Code of Laws, bearing CDR Code # 2, 4, 6, 8

☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Elizabeth P. Folk
SolicitorGeorge R. Pierson
DefendantCharles R. Pierson
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of 10 days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§ 35.13 (Public Def/Prob)	\$500
§73.3, 1B TP (Law Enforce. Funding)	\$25
§33.7, 1B TP (Drug Court Surcharge)	\$100
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$18
TOTAL	\$1643.75

Elizabeth P. Folk
Clerk of Court/ Deputy Clerk

Court Reporter: Sharen Ayze

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other: _____

☒ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

SCCA/217 (7/2003)

I, Elizabeth P. Folk, Clerk of Court, Newberry,
South Carolina, do hereby certify that this is a true
Copy of the original on file in this office.

DEC 18 2023

Elizabeth P. Folk
Clerk of Court

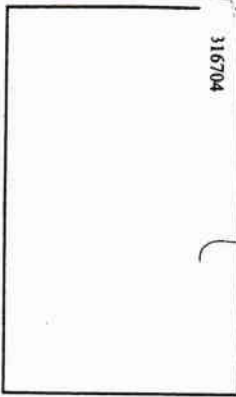
✓ ✓

WITNESSES

Todd Johnson

WARRANT NUMBERS

316704



TRUE BILL

Foreman of the Grand Jury

at: 6/27/04

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

June Term, 2004

Indictment # 04GS36-276

THE STATE

vs.

GEORGE ROMAN PIERSON

INDICTMENT FOR

Grand Juror 9/16/05

- 1) CRIMINAL SEXUAL CONDUCT WITH A MINOR
- 2) COMMITTING OR ATTEMPTING LEWD ACT UPON A CHILD UNDER SIXTEEN YEARS OF AGE

I, GEORGE ROMAN PIERSON, THE DEFENDANT, IN MY OWN PROPER PERSON, COME TO THE BAR OF THIS COURT, WAIVE GRAND JURY ACTION, AND FREELY AND VOLUNTARILY PLEADS no Contest ~~guilty~~ TO THE CHARGE(S) OF:

LEWD ACT UPON CHILD less than 16 YOA

THIS 27th DAY OF June A.D. 2005

George Roman Pierson

DEFENDANT'S SIGNATURE

ATTEST:

CLERK OF COURT, NEWBERRY, S.C.

**THE STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY**

INDICTMENT FOR

1. CRIMINAL SEXUAL CONDUCT WITH A MINOR
2. COMMITTING OR ATTEMPTING LEWD ACT UPON A CHILD UNDER SIXTEEN YEARS OF AGE

At a Court of General Sessions, convened on the 28th day of June, 2004, the Grand Jurors of Newberry County present upon their oath:

COUNT ONE

That GEORGE ROMAN PIERSON, did in Newberry County, state aforesaid, on or about the 14th day of May, 2004, being older than the victim, wilfully and unlawfully commit criminal sexual conduct with a minor in the first degree, to wit: that the said defendant did engage in sexual battery upon a person under the age of eleven (11) years, to wit: one _____, in violation of Section 16-3-655 of the South Carolina Code of Laws, 1976, as amended

COUNT TWO

That GEORGE ROMAN PIERSON did in Newberry County, state aforesaid, on or about the 14th day of May, 2004, being over the age of fourteen (14) years, the said defendant did unlawfully, wilfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, of a child under the age of sixteen years, to wit: _____, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the said defendant, or of the said child, _____, in violation of Section 16-15-140 of the South Carolina Code of Laws, 1976, as amended

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


Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)
IN THE MATTER OF THE)
CARE AND TREATMENT OF)
GEORGE ROMAN PIERSON,)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
CASE #: 2023-CP-36-0120

ORDER OF COMMITMENT

W.K. The trial of this case was held in the Newberry County Court of Common Pleas the week of January 8, 2024. A jury of citizens from Newberry County heard this case pursuant to a request for a jury trial filed by the State. James K. Fisher from the Attorney General's Office represented the State and Respondent George Roman Pierson was represented by Michael Gambrell, Esq. The jury having heard the presentation of the evidence made the following findings of fact pursuant to S. C. Code Ann. Sections 44-48-90 and 44-48-100:

The State has proven beyond a reasonable doubt that Respondent, George Roman Pierson, is a sexually violent predator as that term is defined in S. C. Code Ann. Section 44-48-30.

NOW, THEREFORE, IT IS ORDERED THAT:

(a) Respondent, George Roman Pierson, is committed to the South Carolina Department of Mental Health for his long-term control, care and treatment;

(b) Respondent, George Roman Pierson, is to continue to be detained at the *Newberry* *(W.K.)* Charleston County Detention Center, and then transported to the secure facility of the Department of Mental Health. The Detention Center or the Sheriff's Department is to transport Respondent on such scheduled date as is coordinated with the Department of Mental Health.

AND IT IS SO ORDERED.

William P. Keesley
HON. WILLIAM P. KEESLEY
Presiding Judge
Eighth Judicial Circuit
Court of Common Pleas

January, 9, 2023
Newberry, South Carolina

FILED
NEWBERRY COUNTY
2024 JAN -9 PM 1:56
ELIZABETH P. COLE
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

State of South Carolina,

vs.

In re the Care and Treatment of,
George Roman Pierson,

Respondent.

IN THE COURT OF COMMON PLEAS

EIGHTH JUDICIAL CIRCUIT

Case No. 2023-CP-36-00120

**RESPONDENT'S MOTION FOR
JNOV AND ALTERNATIVELY
FOR A NEW TRIAL****RESPONDENT'S MOTION FOR JNOV AND,
ALTERNATIVELY, FOR A NEW TRIAL**

COMES NOW Respondent, by and through his undersigned counsel of record, pursuant to SCRCF Rule 50 and Rule 59, and files this Motion for JNOV, and, alternatively, for a New Trial as follows:

I. INTRODUCTION

The State filed a petition under the S.C. Sexually Violent Predator (SVP) statute, S.C. Code of Laws Ann. § 44-48-10 et. seq. (1998) and the case was tried in Newberry County during the week of January 8, 2024, before the Honorable William P. Keesley. At the conclusion of the State's case, the Court denied Respondent's motion for a directed verdict and Respondent did not present any evidence or testimony. Thereafter, the jury returned a verdict in favor of the State.

II. JUDGMENT SHOULD BE ENTERED IN FAVOR OF RESPONDENT AS A MATTER OF LAW

Respondent moves for a Judgment Notwithstanding the Verdict (JNOV) and, alternatively, for a New Trial because the State failed to prove beyond a reasonable doubt Respondent is a sexually violent predator. In ruling on motions for directed verdict and JNOV, the trial court is required to view the evidence and the inferences that reasonably can be drawn therefore in the light most favorable to the party opposing the motions and to deny the motions where either the evidence yields more

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CLERK OF COURT
JAN 15 2024
NEWBERRY COUNTY

than one inference or its inference is in doubt. *Strange v. South Carolina Dep't of Highways and Public Transportation*, 314 S.C. 427, 429 445 S.E.2d 439, 441 (S.C. 1994). The trial court can only be reversed by a reviewing court when there is no evidence to support its ruling. The evidence taken in the light most favorable to the State shows that their expert witness, Dr. Christopher Gillen, diagnosed Respondent with Anti-Social Personality Disorder (ASPD) and in his opinion, this mental condition affects his emotional and volitional capacity to engage in acts of sexual violence and predisposes him to engage in such behavior. Dr. Gillen's opinion is refuted, however, by his own testimony as follows:

"Of note, there is a question whether his personality disorder predisposes [Respondent] to engage in acts of sexual violence, as defined by the statute, and not just other illegal or problematic sexual behaviors (e.g., exhibitionism). Mr. Pierson committed one sexually violent offense in 2004 and his behaviors since then, while problematic, was not sexually violent. Further, he has not committed any sexually violent offenses despite being released to the community and exposed to risk for various amounts of time since his release from his only sexually violent offense in 2011."

The empirical evidence presented in this case shows that Respondent has not committed any acts of sexual violence since 2004 even when exposed to risk for various amounts since his release from his only sexually violent offense in 2011. The only inference from this empirical evidence is that Respondent is not predisposed to engage in acts of sexual violence or, alternatively, this evidence creates doubt as to Dr. Gillen's contrary opinion. Because the State as a matter of law cannot prove beyond a reasonable doubt Respondent is a sexually violent predator, Respondent thus requests the Court enter a judgment in favor of Respondent.

III. THE COURT SHOULD GRANT RESPONDENT A NEW TRIAL

A. The Court Should Grant Respondent a New Trial Under the 13th Juror Doctrine

The thirteenth juror doctrine is a vehicle by which the trial court may grant a new trial absolute when he finds that the evidence does not justify the verdict. A trial judge has the discretionary power to grant a new trial absolute or Nisi in a law case upon his disapproval of the verdict on factual grounds. *South Carolina State Highway Dep't v. Townsend*, 265 S.C. 253, 258, 217 S.E.2d 778, 781 (S.C. 1975). The

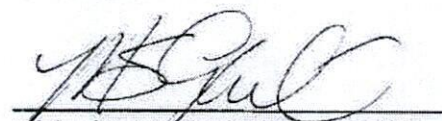
evidence presented in this case shows that it is undisputed that since 2004 Respondent behavior was not sexually violent and he has not committed any sexually violent offenses despite being released to the community and exposed to risk for various amounts of time since his release in 2011. Under the SVP statute, the State must prove beyond a reasonable doubt that Respondent is a sexually violent predator. S.C. Code of Laws Ann. § 44-48-100 (1998). Because the evidence does not support a finding that the State proved beyond a reasonable doubt that Respondent is a sexually violent predator, Respondent requests a new trial absolute under the 13th juror doctrine.

B. The Jury Failed to Follow the Court's Instructions and the Verdict is Not Supported by the Weight of the Evidence.

Additionally, Judge Keesley gave the jurors over twelve pages of jury instructions regarding the law of the case. The jury only deliberated for approximately 15 minutes before informing the Court that they had rendered a verdict. The jury simply did not have time to read and review their instructions and then sufficiently deliberate as instructed by Judge Keesley. Because it is clear that the jury failed to apply the law as given to them by Judge Keesley and apply this law to the facts of this case, Respondent requests a new trial absolute.

WHEREFORE, Respondent respectfully request a judgment notwithstanding the verdict in his favor, or, alternatively, the Court grant a new trial absolute.

Respectfully submitted.


Michael S. Gambrell, SC Bar# 70044
104 South Calhoun Street
Greenville, South Carolina 29601
(864) 414-2391
Attorney for Respondent

January 19, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	EIGHTH JUDICIAL CIRCUIT
COUNTY OF NEWBERRY	)	CASE #: 2023-CP-36-00120
	)	
IN THE MATTER OF THE	)	RETURN TO RESPONDENT'S
CARE AND TREATMENT OF	)	MOTION FOR JUDGMENT NOT
	)	WITHSTANDING THE VERDICT OR
GEORGE ROMAN PIERSON	)	IN THE ALTERNATIVE, NEW TRIAL
	)	
_____ RESPONDENT.	)	

NOW COMES the State, by and through the undersigned counsel, who submits the following Return to Respondent's Motion for Judgment Not Withstanding the Verdict and/or a New Trial:

Procedural History

1. On January 8, and 9, 2024 a jury trial was held in Newberry, South Carolina to determine whether Respondent is a Sexually Violent Predator, pursuant to S.C. Code Ann. Sections 44-48-10, *et seq.* ("SVPA").
2. Dr. Christopher Gillen, PhD., of the South Carolina Department of Health was qualified as an expert in forensic psychology, and he diagnosed Respondent with Antisocial Personality Disorder (ASPD). Dr. Gillen ultimately opined that Respondent was more probably than not to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment. Dr. Gillen's testimony was not contradicted or rebutted.
3. At the close of the State's case-in-chief, Respondent moved for a directed verdict. After hearing the argument of counsel and considering the evidence before it, the court denied Respondent's motion. Respondent offered no evidence in his case-in-chief, and after discussion with his trial counsel, also rested. Respondent then renewed all prior motions, including his motion for a directed verdict, which were

again denied by the court. In denying the directed verdict motion, the court properly found that all reasonable inferences from the evidence presented and any conflict(s) in the evidence should be resolved in favor of the State (non-moving party).

4. After approximately 18 minutes of deliberations, the jury returned a verdict, finding beyond a reasonable doubt, that Respondent is a sexually violent predator as defined in the SVPA.

Pending Motion

5. Respondent now moves for judgment notwithstanding the verdict or a new trial [b]ecause the State as a matter of law cannot prove beyond a reasonable doubt Respondent is a sexually violent predator." Based on a "quote" from Dr. Gillen's "testimony," Respondent argues Dr. Gillen himself refuted his ultimate opinion that Respondent is a sexually violent predator. As a threshold matter, Respondent's claim that the "quote" is from Dr. Gillen's "testimony" cannot be verified because there is no trial transcript yet, but the "quote" he sets forth in his motion is a verbatim partial paragraph contained in Dr. Gillen's report, including the parenthetical clause.
6. During the trial, Respondent's counsel read excerpts from Dr. Gillen's report and asked Dr. Gillen to acknowledge them. Assuming the "quote" Respondent relies on as support for his motion was one of the excerpts that counsel read to Dr. Gillen at trial, Dr. Gillen confirmed that that language was in his report because it came directly from it. During redirect examination, however, Dr. Gillen explained the context of the report excerpts that counsel had read to him and the complete meaning of those excerpts.

7. In explaining the context of his report, Dr. Gillen testified he considered all the evidence before him, which included Respondent's qualifying sexually violent conviction from 2004 and his on-going other non-qualifying sexual offenses committed in and out of prison. It is undisputed that after Respondent was released from prison on the qualifying offense conviction, he went on to commit other sexual offenses that put him back in prison where he continued to commit various sexual infractions while incarcerated. Based on all the information he reviewed for the evaluation, Dr. Gillen concluded Respondent's ASPD is a mental condition that affects his emotional and volitional capacity to engage in acts of sexual violence and predisposes him to engage in such behavior in the future.
8. As part of Respondent's directed verdict motion, the court heard Respondent's argument regarding the sufficiency of the evidence, which Respondent repeats in the pending motion, and denied him relief, when the court found there was sufficient evidence to submit the case to the jury. As with a directed verdict motion, in considering a motion for judgment notwithstanding the verdict and/or a new trial, the court is concerned with the existence of evidence, not its weight. See Cruce v. Berkeley Cnty. Sch. Dist., Op. No. 28186, 2024 WL 174324, at *5 (S.C. Jan. 17, 2024) citing Curcio v. Caterpillar, Inc., 355 S.C. 316, 585 S.E.2d 272, 274 (2003). The State submits the court found sufficient evidence to support a verdict when it denied Respondent's first Motion for a Directed Verdict. Nothing has changed.
9. Respondent also moves for a new trial under the "13th juror doctrine," asserting the evidence presented does not justify the verdict. Under the thirteenth juror doctrine, a trial court may grant a new trial absolute if it finds the evidence does not justify the verdict. Folkens v. Hunt, 300 S.C. 251, 387 S.E.2d 265, 267 (1990). In this case,

there were only two possible verdicts – Respondent is a sexually violent predator or Respondent is not a sexually violent predator. Implicit in the court's denial of Respondent's initial Directed Verdict Motion is the court's finding there was sufficient evidence for the jury to make that determination, and the evidence would justify the jury's verdict. The jury made the determination and Respondent is not entitled to a new trial simply because he disputes that determination.

10. Respondent also asserts he is entitled to a new trial because the jury deliberations were too short for it to review and discuss the written jury charges the court provided. Respondent does not allege the jurors did not pay close attention to the jury charges as the court gave them orally, only that they did not take time to review and discuss the written charges. Rather than showing the jury failed to sufficiently deliberate and follow the court's instructions, however, the fact it took the jury approximately 18 minutes to reach a verdict illustrates the overwhelming evidence presented that proved beyond a reasonable doubt Respondent is a sexually violent predator. Reaching any other conclusion requires rank speculation regarding the jury deliberations, which is prohibited. State v. Lemire, 406 S.C. 558, 753 S.E.2d 247, 253 (Ct. App. 2013) (recognizing the general rule against review of jury deliberations, finding the length of a jury's deliberation could be attributable to a variety of factors, and declining to speculate about what occurred in the jury room).

Wherefore, The State of South Carolina respectfully submits that Respondent's Motion for Judgment not Withstanding the Verdict and/or Motion for a New Trial should be denied in its entirety.

Respectfully Submitted,

ALAN WILSON
Attorney General

JAMES K. FISHER
Assistant Attorney General

By: James K. Fisher
S. C. Bar Number 106127
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Post Office Box 11549
Columbia, South Carolina 29211
Direct: 803-734-1173
Email: jimfisher@scag.gov

May 15, 2024
Columbia, South Carolina

Sep 05 2024

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

In Re: The Care and Treatment of George
Roman Pierson,
Respondent.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

Civil Action No. 2023CP3600120

ORDER ON POST-TRIAL MOTIONS

FILED
NEWBERRY COUNTY
CLERK OF COURT
ELIZABETH P. FOLK
2024 SEP 23 AM 10:02

A jury trial on a sexually violent predator case was conducted during the January 8, 2024 term, and the jury unanimously determined beyond a reasonable doubt that the Respondent qualifies as a sexually violent predator. The Respondent's attorney filed a post-trial motion seeking judgment notwithstanding the verdict (JNOV), a new trial, and a new trial under the thirteenth juror doctrine.¹ The motions are respectfully denied.

WPK #1
The Respondent asserts that JNOV or a new trial should be granted because of alleged inconsistencies within the testimony of the State's expert, Dr. Christopher Gillen. Dr. Gillen determined that The State presented the testimony of Dr. Christopher Gillen in support of its position that the Respondent suffers from anti-social personality disorder and meets the statutory definition for a sexually violent predator, and that the Respondent should be required to be held for long-term care and treatment. No testimony was presented by the Respondent.

The Respondent focuses on alleged inconsistency. Specifically, the language relied upon comes from a report issued by Dr. Gillen. Respondent maintains this was read into evidence:

Of note, there is a question whether [Respondent's] personality disorder predisposes [Respondent] to engage in acts of sexual violence, as defined by the statute, and not just other illegal or problematic sexual behaviors (i.e., exhibitionism). Mr. Pierson committed one sexually violent offense in 2004 and his behaviors since then, while problematic, was [sic] not sexually violent. Further, he has not committed any sexually violent offenses despite being released to the community and exposed to risks for various amounts of time since his release from his only sexually violent offense in 2011.

¹ The attorneys agreed to have the court determine this motion using written submissions. Various efforts were made to arrange for a hearing, but the initial and ultimate agreement was that no formal hearing was needed.

Dr. Gillen testified extensively about how his diagnosis and findings are based upon looking at the entirety of the evidence. He testified that the evidence before him included Respondent's qualifying sexually violent conviction from 2004 and his on-going, other non-qualifying sexual offenses committed in and out of prison. It is undisputed that after Respondent was released from prison on the qualifying offense conviction, he went on to commit other sexual offenses that put him back in prison where he continued to commit various sexual infractions while incarcerated. Based on all the information Dr. Gillen reviewed for the evaluation, he concluded Respondent's anti-social personality disorder is a mental condition that affects his emotional and volitional capacity to engage in acts of sexual violence and predisposes him to engage in such behavior in the future.

Even if there was a material inconsistency in one aspect of the doctor's analysis, which the court does not find, Dr. Gillen's testimony viewed as a whole was more than sufficient to justify the jury's finding. Dr. Gillen testified that he holds a doctoral degree in clinical psychology, that he has trained and supervised practitioners in this field, specifically related to SVP, since 2020, and that he has been licensed in South Carolina since 2020. He was qualified as an expert, without objection.

His testimony was that he conducted interviews of the Respondent over a two-day period for a total of eight hours. He considered the records, as well as interviews with the Respondent's mother and aunt. Dr. Gillen stated that the Respondent was reared primarily by his mother, that he was involved with the Department of Juvenile Justice (DJJ) when he was fourteen to fifteen years of age, that he lived with his cousin at age sixteen, and that he was sexually abused as a child.

Mr. Pierson indicated that he started using marijuana at around the age of thirteen. He has been treated for alcohol abuse, but did not find it effective.

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NEWBERRY COUNTY
2023 AUG 23 AM 10:02
ELIZABETH P. FOLK
CLERK OF COURT

WPK
#2

Mr. Pierson's mother had a history of mental health issues and, at times, the Respondent had to live with other people. His aunt, Rita Jones, indicated that the Respondent's family members suffered from schizophrenia and personality disorders. Concerning the diagnosis of the Respondent as having anti-social personality disorder. He described the diagnosis as requiring a finding of flagrant disregard for others starting before age fifteen. Dr. Gillen cited the Respondent's aggression towards teachers, his destruction of property by breaking windows and keying cars, and thefts beginning around age eight.

The Respondent became involved with DJJ for truancy, contempt of court, and possession of a weapon on school grounds. He was suspended from school. He did not graduate from high school, nor did he obtain his GED.

WPK
#3 According to Dr. Gillen, the Respondent indicated that he had a brain syndrome disorder, but the doctor found no records stating that diagnosis. The Respondent told Dr. Gillen that he suffered two head injuries. He said that he was struck in the head with a tire iron related to the sexual contact that he had with a minor.

Dr. Gillen testified that the Respondent has a history of having difficulty retaining relationships. It was asserted that the Respondent referred to women as trash and said that he does not want a long-term relationship. There are indications of cruelty to women. The Respondent discussed treating a woman as a dog in an effort to toughen her up. He said that he is not into sado-masochistic behavior, but thinks that a lot of women like it and sometimes it is necessary to engage in it to see if the woman wants to participate in it. He has tried to pay women for sex. He stated that he masturbates multiple times each day (four to five times per day). He discussed the excitement of exposing his penis.

The Respondent has had difficulty maintaining employment. He has had a number of jobs, with the longest period of employment in any given job being six months. There is an indication

that he threatened to kill a co-worker. There is also evidence that he exposed himself and masturbated at a job site, which the doctor found to be significant because it was an act that was sexual in nature, committed in an area where it was likely to be known, and demonstrated a lack of impulse control. While in the South Carolina Department of Corrections (SCDC), he was terminated from several of the jobs he undertook. He had six writeups for sexual misconduct in SCDC. Mr. Pierson expressed that he felt that he was targeted by SCDC officials.

WPA
#4

The exposure of his penis and masturbation in front of a co-worker occurred in April of 2021. Mr. Pierson stated that he waited for others to leave the area where the female was located because he wanted to expose himself to her and masterbate. He said that he gets random erections and thought that the female would help. After he was arrested for indecent exposure, he was released on bond but reoffended in October of 2021. Dr. Gillen found that important because the Respondent engaged in sexual behavior while out on bond. The doctors stated that fact demonstrates his inability to control sexual urges. Dr. Gillen described the Respondent's sexual impulsivity to be severe.

The Repondent went to a neighbor's home and made sexual comments to a sixteen-year-old who told him to leave. Instead, he followed her to her room and exposed himself to try to start what he deemed to be a consensual sexual relationship. He left only after being told to leave for the third time.

Dr. Gillen also testified about non-sexual offenses that Mr. Pierson committed as an adult, also indicating a lack of impulse control. He was arrested for pointing a firearm, possession of a firearm by a felon, and drug offenses. He violated probation three times. He violated the requirement to register as a sex offender three times. According to Dr. Gillen, this is evidence that the Respondent has difficulty following conditions of community supervision.

Dr. Gillen stated that Mr. Pierson said that he would murder every police officer if confined. Tests performed on the Respondent showed a high score for aggression.

Dr. Gillen did not find the Respondent to be psychotic or schizophrenic. The reports of psychotic symptoms, such as seeing and hearing things that were not real, appear to have been part of his effort to get moved out of various placements. Dr. Gillen felt that the behavior would stop when he got moved out of the placements and started again only when he got put somewhere that he did not want to be. So, the doctor evaluated the reporting of psychotic or schizophrenic behaviors as being inconsistent and not reliable.

Dr. Gillen found the Respondent's anti-social personality disorder to be demonstrated in his lack of impulse control, which the doctor found to be longstanding and inflexible. It was stated to distort his perceptions and to affect other people.

WPK
#5 With regard to the offense for which the Respondent was incarcerated, the defendant stated that he was at the home of the child's mother and was babysitting. He said that the girl did not want to go to sleep and that he woke up to find his niece masturbating him and then herself. He did admit masterbating in front of the child. However, the police report stated that he removed the child's clothes, performed digital penetration of the child's vagina, and masterbated.

When questioned about the impact upon the child, he expressed that his conduct did have an impact on the child, but that the incident had also had a adverse impact upon him. He focused on himself as suffering from legal difficulties, an impact upon his profession, and the negative effects upon family relationships.

Dr. Gillen testified about various tests that were performed and the criteria necessary to conclude that the Respondent suffers from anti-social personality disorder. The DSM IV lists seven criteria for this diagnosis, at least three of which must be met. Dr. Gillen found the Respondent to

have five, including the failure to conform to social norms with respect to lawful behavior, impulsivity, aggressiveness, reckless disregard for the safety of others, and lack of remorse.

A risk assessment test was conducted. This was described as being one piece of the puzzle in determining the qualification as a sexually violent predator needing long-term care and treatment. Mr. Pierson's score falls into the category of posing a well above average risk. There was testimony to explain the doctor's evaluation of static risk factors and dynamic risk factors. The discussion regarding dynamic risk factors included what the doctor found to be severe difficulty in controlling his sexual offenses, his deceit, lack of remorse, failure to follow rules, impulsivity, and lack of community and professional support. Dr. Gillen found that the Respondent engages in cognitive distortions resulting in inaccurate beliefs about his sexual interactions. He was found not to take things seriously, not to have any concrete plans or the skills necessary to address treatment needs on his own, not to have sufficient insight into various issues, and a belief that treatment would make things worse.

WPC
#6

In all, the doctor assessed eleven factors in this part of his assessment of the Respondent's overall risk to reoffend, both in a five-year period and over his lifetime. His conclusion is that Mr. Pierson is likely to reoffend and meets the criteria for determining him to be a sexually violent predator under the statute who requires longterm care and treatment.

The Respondent's argument related to alleged inconsistency in the doctor's testimony is that the court should grant judgment for the Respondent as a matter of law. That argument is not supported by the totality of the record. The court declines to enter JNOV.

With regard to the Respondent's assertion that a new trial should be granted based on the jury failing to take the case seriously and rendered a decision without proper deliberation, the verdict came after somewhere between fifteen and eighteen minutes of deliberation. The fact that the jury had a copy of the charge is not controlling because the charge was read to them in open

court and on the record, and there is no support for the position that the jury failed to follow the instructions. The evidence in this case was overwhelmingly against the Respondent. The jury was acting within its province in determining the amount of time necessary for deliberations. The motion for new trial on these grounds is denied.

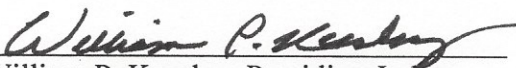
Finally, the Respondent asks the court to act as the thirteenth juror and essentially deadlock the jury, preventing a verdict and requiring a new trial. For all the reasons stated above, the court declines to do so.

To the extent that there is mention in the Respondent's motion about a new trial nisi, the court finds no basis in this context for such relief.

THEREFORE, IT IS ORDERED that the post-trial motions filed by the Respondent are respectfully denied, and the verdict of the jury is upheld.

AND IT IS SO ORDERED.

#7


William P. Keesley, Presiding Judge

August 20, 2024

FILED
NEWBERRY COUNTY
2024 AUG 23 AM 10:03
ELIZABETH P. FOLK
CLERK OF COURT

CERTIFICATE OF COUNSEL FOR APPELLANT

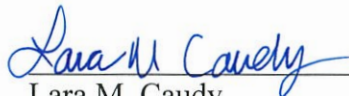
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Sep 05 2025

SC Court of Appeals



Lara M. Caudy
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of September, 2025.

RECEIVED

Sep 05 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Newberry County

Honorable William P. Keesley, Circuit Court Judge

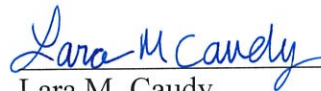
IN THE MATTER OF THE CARE AND
TREATMENT OF GEORGE ROMAN PIERSON,

APPELLANT

APPELLATE CASE NO. 2024-001488

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon Christopher S. Runyan, Esquire, at his primary email address listed in the Attorney Information System (AIS); and on George Roman Pierson, at 4546 Broad River Road, Columbia, SC 29210, this 5th day of September, 2025.



Lara M. Caudy
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT