

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas
Honorable W. Jeffrey Young, Circuit Court Judge

Appellate Case No: 2014-000449

In The Matter of the Care and Treatment of
Michael Lawyer, Appellant

CORRECTED RECORD ON APPEAL

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INDEX

Commitment Order.....	1
Order Denying Annual Review Hearing.....	2
Transcript from Hearing date January 22, 2014.....	4
Report from SCDMH	55
Notice of Appeal.....	64

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)
)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
MICHAEL T. LAWYER,)
RESPONDENT.)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO. 08-CP-14-183
ORDER OF COMMITMENT


The trial of this case was held in the County of Clarendon in the Court of Common Pleas. A jury of citizens from Clarendon County heard this case pursuant to a request for a jury trial filed by the State. The State was represented by R. Westmoreland Clarkson, Assistant Attorney General. The Respondent was represented by Charles T. Brooks, III. The jury having heard the presentation of the evidence made the following findings of fact pursuant to South Carolina Code Section(s) 44-48-90 and 44-48-100:

The State has proven beyond a reasonable doubt that Respondent Michael T. Lawyer is a sexually violent predator as that term is defined in South Carolina Code Section 44-48-30.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT

- (a) Respondent Michael T. Lawyer is committed to the South Carolina Department of Mental Health for his long term control, care and treatment; and
- (b) Respondent is to be detained in the Clarendon County Detention Center and transported, as soon as possible, by the Sheriff of Clarendon County to a secure facility of the South Carolina Department of Mental Health.

AND IT IS SO ORDERED.


The Honorable F. Ferrell Cothran, Jr.,
Judge for the Third Judicial Circuit

April 6, 2009
Manning, South Carolina

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OF ORIGINAL FILED IN THIS OFFICE
DATE 4/6/09
Beulah S. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

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CLARENDON COUNTY SC
CLERK OF COURT
BEULAH S. ROBERTS

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)
)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
MICHAEL LAWYER,)
RESPONDENT.)
_____)

IN THE COURT OF COMMON PLEAS

CASE NO. 2008-CP-14-183

**ORDER DENYING TRIAL AFTER ANNUAL
REVIEW HEARING PURSUANT TO THE
SEXUALLY VIOLENT PREDATOR ACT**

This matter comes before the Court on annual review of Michael Lawyer's status as a Sexually Violent Predator pursuant to South Carolina Code Section 44-48-110. A hearing was held pursuant to Section 44-48-110 on January 22, 2014. Mr. Lawyer was represented by his appointed attorney Charles Brooks, Esquire. The State was represented by Assistant Attorney General Nicole T. Wetherton.

Mr. Lawyer was committed to the Sexually Violent Predator Treatment Program on or about April 6, 2009. The Court received a letter from the Department of Mental Health dated May 3, 2013, indicating Mr. Lawyer was exercising his right to a hearing. The Department also sent an Annual Review Packet to the Court, including an Annual Review Treatment Summary dated April 17, 2013.

The purpose of an annual review hearing held pursuant to South Carolina Code Section 44-48-110 is for the court to determine whether probable cause exists to believe that "the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and, if released, is not likely to commit acts of sexual violence." S.C. Code Ann. Section 44-48-110 (Supp. 2008). At the hearing, the committed person bears the burden of showing that probable cause exists to believe his mental condition has so changed that he is safe to be released. *In re Care and Treatment of Tucker*, 353 S.C. 466, 578 S.E.2d 719 (2003). In the context of Sexually Violent Predator cases, a party establishes probable cause when he presents evidence that "would lead a reasonable person to believe and conscientiously entertain" the proposition set forth at the hearing. See *In re the Care and Treatment of Brown*, 372 S.C. 611, 643 S.E.2d 118 (Ct. App. 2007) (establishing this standard for hearings held pursuant to South Carolina Code Section 44-48-80).

At the hearing, Petitioner offered testimony from Thomas V. Martin, MD, and the State presented testimony of Kimberly Harrison, Ph.D., Chief Psychologist at the Department of Mental Health. Both Dr. Martin and Dr. Harrison testified that Mr. Smith suffers from Paraphilia, Not Otherwise Specified, has progressed in treatment, and requires continued treatment. However, Dr. Martin testified that Mr. Lawyer is now able to receive this treatment in an outpatient setting, and Dr. Harrison believes that Mr. Lawyer needs continued confinement to get the treatment he needs.

In the *Tucker* case, Appellant appealed the Circuit Court's finding of no probable cause from his annual review hearing. In that case, Dr. Martin testified that since Appellant took responsibility for his sexual offending and was "capable and motivated towards continuing sex offender treatment,

that [Appellant] should continue his treatment in an outpatient setting.” However, it was the Department of Mental Health’s position that although Appellant had progressed in treatment, Appellant had additional treatment goals that had to be met before he could be eligible for release. The Supreme Court upheld the denial of probable cause stating while evidence exists that Appellant could be released to an outpatient setting, Appellant must still show his condition has so changed he is safe to be at large, and if released, unlikely to commit sexually violent acts. Therefore, since Appellant failed to meet this burden, denial was proper.

Similar to *Tucker*, Mr. Lawyer has progressed in treatment and has additional treatment goals that need to be met before the Department of Mental Health will consider him eligible for release. Whether Mr. Lawyer could continue his treatment in an outpatient setting is not relevant, because he has failed to prove that his mental abnormality or personality disorder has so changed that he is safe to be at large and, if released, is not likely to commit acts of sexual violence.

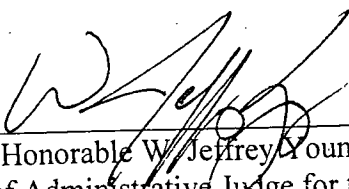
Based on the testimony offered at the hearing, the report provided to the Court, and the arguments of counsel, the Court hereby finds and concludes that, at this time, Mr. Lawyer’s mental abnormality or personality disorder has not so changed that he is safe to be at large, and, if released, not likely to commit acts of sexual violence. Therefore, Mr. Lawyer has failed to meet his burden, and the Court does not find probable cause in this matter.

THEREFORE IT IS ORDERED, ADJUDGED AND DECREED that Michael Lawyer shall continue to be confined in a secure facility of the Department of Mental Health for long term control, care and treatment pursuant to the Sexually Violent Predator Act, Code of Laws of South Carolina, 1976, as amended, Sections 44-48-10 et seq.

IT IS FURTHER ORDERED that Mr. Smith continues under the jurisdiction of this Court.

AND IT IS SO ORDERED.

26 Feb, 2014
Sumter, South Carolina


The Honorable W. Jeffrey Young,
Chief Administrative Judge for the
Third Judicial Circuit Court of Common Pleas

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
) THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON) CASE NO. 2008-CP-14-183

IN RE: CARE AND TREATMENT OF)
MICHAEL LAWYER,)
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TRANSCRIPT OF RECORD

January 22, 2014
Manning, South Carolina

B E F O R E:

THE HONORABLE W. JEFFREY YOUNG, Judge

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

NICOLE T. WETHERTON, Esquire
Attorney for the State of South Carolina

CHARLES T. BROOKS, III, Esquire
Attorney for Michael Lawyer

KRYSTAL J. SMITH
Court Reporter

I N D E X

1
2
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11
12
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24
25

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
Dr. Thomas Martin	
Direct Examination by Mr. Brooks.....	6
Cross Examination by Ms. Wetherton.....	14
Direct Examination by the Court.....	21
Redirect Examination by Mr. Brooks.....	23
Recross Examination by Ms. Wetherton.....	24
Dr. Kimberly Harrison	
Direct Examination by Ms. Wetherton.....	27
Cross Examination by Mr. Brooks.....	36
Redirect Examination by Ms. Wetherton.....	43
Direct Examination by the Court.....	46
Recross Examination by Mr. Brooks.....	46
Direct Examination by the Court.....	47
Arguments of Counsel	
Mr. Brooks.....	48
Ms. Wetherton.....	48
Mr. Brooks.....	50
Court Reporter Certification.....	51

E X H I B I T S

1
2
3
4
5
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(No Exhibits Presented)

1 JANUARY 22, 2014

2 (WHEREAS this matter was scheduled for an SVP probable
3 cause review hearing, the defendant appeared along with
4 his counsel of record. The State of South Carolina
5 appeared through counsel of record. The hearing began at
6 9:38 a.m.)

7 THE COURT: Does anybody have any pleadings for me on
8 this matter?

9 MS. WETHERTON: Your Honor, may it please the Court.
10 Nicole Wetherton for the Attorney General's Office. We have a
11 report.

12 THE COURT: I don't have anything.

13 MS. WETHERTON: Okay.

14 THE COURT: I need something.

15 MS. WETHERTON: I understand.

16 THE COURT: At least reference as to what we ---

17 MS. WETHERTON: Okay. If I can approach?

18 THE COURT: You may.

19 MS. WETHERTON: This is the report from Dr. Kimberly
20 Harrison through the Department of Mental Health.

21 (Whereupon, there is a pause in the proceedings.)

22 THE COURT: All right. Mr. Brooks or Nicole?

23 MS. WETHERTON: Yes. Thank you, Your Honor. We are here
24 today pursuant to South Carolina Code 44-48-110 for an annual
25 review of Mr. Lawyer's status as a sexually violent predator

1 in the treatment program. Mr. Lawyer has petitioned for an
2 order finding that there's probable cause to believe that his
3 mental abnormality and personality disorder has so changed
4 that he is safe to be at large and no longer likely to commit
5 acts of sexual violence and for an order requiring a trial on
6 this issue pursuant to South Carolina Code 44-48-110.

7 The Court has been previously provided by the Department
8 of Mental Health with the annual review examination hearing
9 notice and Mr. Lawyer's notice of right to the report drafted
10 by the Department of Mental Health. In addition, the State
11 would also note that an order was issued in this case where
12 Mr. Lawyer was approved by us for an independent evaluation
13 and he was also evaluated by Dr. Tom Martin, who is here today
14 to testify.

15 Pursuant to the case In the Matter of the Care and
16 Treatment of Billy Ray Tucker -- and that citation is 578
17 S.E.2d 719 -- it is Mr. Lawyer's burden to prove that probable
18 cause does exist. Therefore, based on the holding in Tucker,
19 the fact that an independent evaluation occurred, and Mr.
20 Lawyer's request to exercise his right to a hearing, Mr.
21 Lawyer will now put forward any evidence that he has at this
22 time.

23 THE COURT: All right. Mr. Brooks, are you ready to
24 proceed?

25 MR. BROOKS: Yes, sir. We would go ahead and call Dr.

DR. THOMAS MARTIN - DIRECT EXAMINATION BY MR. BROOKS

1 Thomas Martin to the stand.

2 THE COURT: Dr. Martin, come forward and be sworn.

3 THE CLERK: Why don't you step right here? Raise your
4 right hand, please, sir, and put your left hand on the Bible.
5 Do you solemnly swear that the testimony you are about to give
6 to be the truth and nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Watch your step for me.

9 MR. BROOKS: Judge, to make it easy for you, I just spoke
10 with Ms. Wetherton and we are willing to stipulate that Dr.
11 Martin, as well as Dr. Harrison, are both experts in this
12 field.

13 THE COURT: All right. Very well. Thank you, sir.

14 DR. THOMAS MARTIN, being first duly
15 sworn, testifies as follows:

16 DIRECT EXAMINATION

17 BY MR. BROOKS:

18 Q: Dr. Martin?

19 A: Yes, sir.

20 Q: How are you today?

21 A: I'm fine, sir. Thank you.

22 Q: Now, you've -- you've had a chance to evaluate my client,
23 Michael Lawyer, who is sitting in the back?

24 A: Yes, sir.

25 Q: And matter of fact, you have evaluated him twice?

DR. THOMAS MARTIN - DIRECT EXAMINATION BY MR. BROOKS

1 A: Yes, sir.

2 Q: Pre-commitment, as well as post-commitment?

3 A: That's correct.

4 Q: Can you tell us what your evaluation was pre-commitment,
5 which was about five or six years ago?

6 A: Yes, sir. It was November 13th, 2008. I was contacted by
7 your office to do an evaluation of Mr. Lawyer, a pre-
8 commitment assessment, and I reviewed his records and any
9 treatment that he may or may not have, as well as his insight
10 into sex offender-related issues, the reasons for his
11 offenses, how he was dealing with them, and his likelihood to
12 re-offend. I found him at that time to be a poor candidate,
13 therefore, a high risk to re-offend if released and so I
14 recommended to your office that he actually go into the
15 program.

16 Q: Okay. And that was how many years ago?

17 A: That was November 13th, 2008, and he was committed on
18 April of 2009.

19 Q: Okay. Now, since that time you have done a post-
20 commitment evaluation of him; is that correct?

21 A: Yes, sir.

22 Q: And when did you do that evaluation?

23 A: That was June 11th, 2013.

24 Q: Okay. And it was after the State had done their
25 evaluation; is that correct?

DR. THOMAS MARTIN - DIRECT EXAMINATION BY MR. BROOKS

1 A: That's correct.

2 Q: And we had a motion before the Court to get approval to
3 get funds for you to do the evaluation after that; is that
4 correct?

5 A: That's correct.

6 Q: Okay. And you did the evaluation; is that correct?

7 A: That's correct.

8 Q: And can you tell us the results of your evaluation?

9 A: Certainly. In that evaluation, I reviewed again his
10 basic two sexual offenses, as well as some of his other
11 previous criminal history. I covered with him his ability to
12 self-disclose his participation in those two offenses, his
13 ability to take responsibility, empathy for victims, and so
14 forth. The part that substance use at the time played in his
15 offenses, he was abusing alcohol and crack cocaine. And also
16 his take on his assault cycle, what components actually
17 allowed him to commit those offenses against two individuals,
18 and also what type of participation he had in the sexually
19 violent predator treatment program up to that date.

20 I also reviewed the traditional discovery that was shared
21 by the Attorney General's Office with you, as well as his
22 notes of treatment that are found in his Department of Mental
23 Health chart. And I met with Mr. Lawyer for about three hours
24 on June 11th of last year. I covered all these materials with
25 him and I came to some conclusions about what his current

DR. THOMAS MARTIN - DIRECT EXAMINATION BY MR. BROOKS

1 diagnosis is and his ability to regulate his own sexual and
2 general behavior and his likelihood to re-offend.

3 Q: And you said you came up with a current diagnosis and
4 what would that be?

5 A: Yes. He does suffer from a paraphilia not otherwise
6 specified, which is consistent with what the Department of
7 Mental Health has described him. Essentially, a paraphilia is
8 an umbrella term for sexual perversion disorders. He doesn't
9 have a specific one so we call it not otherwise specified. I
10 also believe that he has a substance abuse -- a history of
11 substance abuse, which would include alcohol and cocaine.

12 Q: And did -- and that contributed to this; is that correct?

13 A: Yes. I believe it was mitigating.

14 Q: Okay.

15 A: It did not cause, nor would he state that it causes or
16 caused his sexual offenses, but it did cloud his judgment and
17 allow him to do things that he knows better about doing. I
18 did not find that Mr. Lawyer suffered from a personality
19 disorder. He's been diagnosed with an antisocial personality
20 disorder. He's been in the program for five years. He seems
21 to get along well with others in the program. He has minimal,
22 if any, infractions. He's on green level. He's progressing
23 well.

24 Q: Let me -- let me stop you right there. You -- you
25 checked his record or his history while he's been there; is

DR. THOMAS MARTIN - DIRECT EXAMINATION BY MR. BROOKS

1 that correct?

2 A: That's correct.

3 Q: Okay.

4 A: For the past five years.

5 Q: Go ahead, Doctor.

6 A: And I just don't have information to support that he's
7 got a psychopathic personality.

8 Q: Okay. So would that lead you to believe that he is now a
9 low risk to re-offend?

10 A: Yes, sir.

11 Q: Okay. So in other words, he has changed while in the
12 program?

13 A: Well, clearly from my first assessment of his case to the
14 current assessment of his case, he has changed. I never
15 believed that he had a personality disorder. That's something
16 that would be very difficult to hide for five years, but I
17 don't understand about the -- no diagnosis for a substance
18 abuse. He did go through a drug and alcohol treatment program
19 within the Department of -- or within the Department of Mental
20 Health and completed that and that would be an important
21 relapse prevention intervention to continue in maintenance
22 rehab meetings to make sure that, you know, he didn't relapse
23 on substances which contributed to his criminal behavior in
24 the past. Most of his old history -- of his legal history and
25 non-sexual were fueled by substance abuse.

DR. THOMAS MARTIN - DIRECT EXAMINATION BY MR. BROOKS

1 Q: Okay. All right. And now, Doctor, you had an
2 opportunity to review the report offered by the State; is that
3 correct?

4 A: Yes, sir.

5 Q: And you reviewed that prior to you doing your evaluation
6 -- your post-commitment evaluation of Mr. Lawyer; is that
7 correct?

8 A: That's correct.

9 Q: Okay. And basically to sum it up, you feel like and you
10 are of an opinion that Mr. Lawyer is -- is now low risk and
11 safe to be released; is that correct?

12 A: Yes. He still carries the diagnosis of paraphilia not
13 otherwise specified because that's a chronic lifetime
14 diagnosis. We do not in my field know of a cure for a
15 paraphilia, but not unlike substance dependence or abuse, one
16 can carry the diagnosis chronically but also regulate their
17 behavior and put steps in place so that they do not re-abuse
18 substances; they do not re-offend people. That's where I
19 believe Mr. -- where Mr. Lawyer is. Plus he has an outpatient
20 plan and release plan to include places to live, school,
21 therapy, and career ideas that he wants to again get back on
22 track and pursue and he has a support network of family here
23 in Manning who are also willing to help him with that.

24 Q: And these are the things that you find out as a part of
25 your evaluation in talking with him?

DR. THOMAS MARTIN - DIRECT EXAMINATION BY MR. BROOKS

1 A: Yes, sir.

2 Q: Post- commitment?

3 A: And looking at his chart, yes.

4 Q: Okay. Now, Doctor, as a part of you being an expert, you
5 also have a -- a counseling program. I think that's for lack
6 of better words. Can you explain that to us?

7 A: Certainly. I run three outpatient treatment groups.
8 I've been practicing in South Carolina for about 14 years and
9 about a third of my practice is designated to assessing and
10 treating people who have committed inappropriate sexual
11 behaviors. I have three outpatient groups that meet regularly
12 that he would be a good candidate for. He would be one of my
13 typical guys. I've got a few other folks in the groups who
14 have completed the sexually violent predator treatment
15 program. The program has evolved over the years, but when I
16 used to be the chief psychiatrist there, it was important that
17 they have outpatient follow-up once being released from long-
18 term incarceration, which would apply to Mr. Lawyer, as well
19 as having committed the sexual offenses that he committed back
20 in the middle 90's and the middle 2000's.

21 Q: And in comparison to the candidates you have in your
22 program now and have had in the past in your outpatient
23 program, does Mr. Lawyer kind of fit that profile?

24 A: Yes. He looks like the average person I would see.

25 Q: Okay. And if he is released, you would be willing to

DR. THOMAS MARTIN - DIRECT EXAMINATION BY MR. BROOKS

1 accept him in your outpatient program?

2 A: If he would like to come see me. I have people come from
3 Manning, Walterboro, Myrtle Beach. People come from all over
4 the state to my treatment.

5 Q: Okay. And just for the Court's reference, your office is
6 in Columbia?

7 A: That's correct.

8 Q: Okay. All right. Doctor, is there anything else you
9 need to share with the Court about your evaluations of Mr.
10 Lawyer pre-commitment versus post-commitment?

11 A: I believe that his understanding of his offenses are more
12 intact. They're more realistic. I believe he's being more
13 honest with himself. That's reflected in his record as well.

14 Q: And that's what -- and that's what the treatment is
15 supposed to do; right?

16 A: Absolutely.

17 Q: Okay.

18 A: Yeah. In fact, if some of them won't acknowledge at
19 least some aspects of their offense, usually the evaluation is
20 close to over because I don't know exactly what I'm
21 evaluating. But he's more empathic. He was experimenting
22 with sexual preferences and so forth back in the years that he
23 committed the offenses, fueled by poor judgment with substance
24 abuse. He has learned a lot more about interpersonal and pro-
25 social relationships. He knows relapse prevention for not

DR. THOMAS MARTIN - DIRECT EXAMINATION BY MR. BROOKS

1 only offensive sexual offenses behavior but as well as
2 substance use behavior, and also that he has a network outside
3 that can help him as he transitions back into a community.

4 I do recommend to everyone who leaves the treatment
5 program that they attend some maintenance offender therapy to
6 help them re-integrate into the community. Sometimes that
7 includes their support network coming to an occasional session
8 with their family member, who would be in this case Mr.
9 Lawyer. There is no way I can say he needs absolutely no
10 treatment. I recommend that because he's been locked up for a
11 long time now. It's been nine years or so since his last
12 offense, but still he's been in prison and then treatment
13 confinement for quite a while.

14 Q: Okay. So now basically, Dr. Martin, he is now -- in your
15 opinion, his level has now been reduced to where it's
16 manageable for him on the outside; is that correct?

17 A: That's my opinion, yes.

18 Q: Okay. All right. Doctor, I think that's it. You answer
19 any questions of ---

20 A: Yes, sir.

21 Q: --- Madam Attorney General.

22 THE COURT: Ms. Wetherton.

23 MS. WETHERTON: Thank you.

24 CROSS EXAMINATION

25 BY MS. WETHERTON:

DR. THOMAS MARTIN - CROSS EXAMINATION BY MS. WETHERTON

1 Q: Hi, Dr. Martin.

2 A: Hi.

3 Q: I have just a few questions. For the record, did you
4 look at the same types of records as Dr. Harrison did in this
5 case?

6 A: I believe I did. I know I specifically asked for ex --
7 for extra group notes, but I believe she had access to the
8 chart like I did.

9 Q: Okay. And -- and one of the things that you relied upon
10 again in making your decision was Dr. Harrison's report?

11 A: I think I would have come to the same opinion on his
12 condition, but I did look for certain red flags that she was
13 concerned about in her report.

14 Q: But you did -- prior to making your decision, you
15 reviewed Dr. Harrison's report?

16 A: Oh, yes.

17 Q: Okay.

18 A: Absolutely..

19 Q: All right. And did you issue a report in this case?

20 A: No, I did not.

21 Q: Okay. And for the record, you both agree on his
22 diagnosis of paraphilia?

23 A: That's correct.

24 Q: Okay. And would you agree that this condition is
25 chronic?

DR. THOMAS MARTIN - CROSS EXAMINATION BY MS. WETHERTON

1 A: Yes.

2 Q: Okay. And to make sure, is it your opinion that you
3 still feel that he needs additional sex offender treatment?

4 A: Yes.

5 Q: Okay. And that treatment that he would take, it would
6 help prevent him from re-offending?

7 A: Absolutely.

8 Q: Okay. And you think that it can be done in an outpatient
9 basis?

10 A: Yes.

11 Q: Okay. Hypothetically, if he went into your office, is
12 there a cost involved?

13 A: Yes.

14 Q: Okay. And what is that cost?

15 A: \$65 twice a month.

16 Q: Okay. Do you know if he has any of those means to pay
17 for it?

18 A: I believe he has family support and plus because he has
19 funds -- family support that is going to help him re-enter
20 school in order to get a CDL ---

21 Q: Okay.

22 A: --- permit. So it would be enough for an average of \$130
23 a month to come see me or someone like me.

24 Q: Okay. And your office is -- do you only have offices in
25 Columbia?

DR. THOMAS MARTIN - CROSS EXAMINATION BY MS. WETHERTON

1 A: For these groups, that's only in Columbia. Yes, ma'am.

2 Q: And that's about an hour and a half away from here?

3 A: That's correct.

4 Q: Okay. Do you know if he has -- oh, how often do these
5 groups meet?

6 A: Every two weeks.

7 Q: Every two weeks? Okay. Do you know -- have you talked
8 to him about any means of transportation as to how he would
9 get to and from these sessions?

10 A: He believes that either his immediate family or his
11 extended family would be able to help him with transportation
12 in the beginning until he gets his license.

13 Q: Okay. What continued areas do you think that he needs
14 sex offender treatment on?

15 A: Well, there's a couple. One is there is going to be a
16 transition from being in prison to the -- essentially the
17 community, which is I believe true for anyone who has been
18 incarcerated or in confinement for a long period of time.
19 With that is to make sure that he still understands what his
20 relapse prevention tools are because, no fault of the program,
21 there's no way they can actually check that by giving them a
22 weekend furlough to go home and see how well things work,
23 which is more common in let's say a substance abuse rehab
24 program.

25 So essentially, he'll have to land on his feet and what I

DR. THOMAS MARTIN - CROSS EXAMINATION BY MS. WETHERTON

1 would want to reiterate with each individual who leaves is
2 whether or not that they can still recognize the cognitive
3 distortions that allowed him to misperceive others' desires or
4 interests or even consentuality [verbatim] with sexual
5 behavior. That's where he had a lot of problems early on and
6 he has recently completed a cognitive distortions course at
7 the predator program.

8 But I want to make sure that's re-instilled, as well as
9 knowing relapse prevention tools of where to stay at or avoid
10 or identify triggers, high-risk situations, and so forth that
11 would put him in a bad place. One of our group rules is you
12 have to be better than good so if there's some stress or you
13 stumble, you're still in the good zone and that's what we try
14 to support with folks. We don't take anyone who I consider to
15 be a moderate or high risk to re-offend because they would
16 need to have a little bit more attention than an every two-
17 week group. But I believe he's reached the point where he's
18 got that knowledge and motivation to be able to continue
19 looking and applying those same skills I just mentioned in the
20 outpatient setting and so that's what we would focus on.

21 Q: Okay. Now, if Mr. Lawyer is released, is he going to be
22 on probation?

23 A: No, I don't think so.

24 Q: Okay. Will there be anything that would require him to
25 go and get sex offender treatment in these areas?

DR. THOMAS MARTIN - CROSS EXAMINATION BY MS. WETHERTON

1 A: No. My understanding of the statute would not provide
2 anything like that.

3 Q: Okay. Therefore, you -- you can't say to a reasonable
4 degree of medical certainty he is safe to be at large if he
5 does not attend?

6 A: No. I would really not like to go there. I would still
7 recommend that he attend some treatment to maintain that low
8 risk to re-offend, but you're right. That would have to be
9 his decision.

10 Q: Okay. And if he does not receive this treatment you
11 testified that he needs, isn't it true that it would make him
12 more likely to re-offend?

13 A: I would not know that. There would not be information
14 for me to say that, but I would not be comfortable with him
15 coming to my program let's say sporadically. But I can't make
16 the opinion therefore he would be a high risk to re-offend
17 because if he didn't come to see me, I wouldn't be able to
18 make that assessment.

19 Q: Okay.

20 A: I will tell you that there are two offenses in the
21 forensic world that I work in that are unlikely just base
22 rate-wise to re-occur and that is sex offending and murder.
23 Other offenses like armed robbery, shoplifting, and those type
24 of things are more likely to re-offend, but these are lower
25 chances of re-offending, but I would still recommend that he

DR. THOMAS MARTIN - CROSS EXAMINATION BY MS. WETHERTON

1 come to treatment even if there is a low base rate for re-
2 offending.

3 Q: Okay. Well, just to be clear, for example, you talked
4 about his cognitive distortions?

5 A: Yes, ma'am.

6 Q: And if he did not receive treatment on understanding or
7 additional treatment on his cognitive distortions, could he
8 then be more at risk for re-offending?

9 A: If he didn't maintain -- if I understand you correctly,
10 if he didn't have that additional support of maintenance of,
11 okay, that's a good example of a cognitive distortion, I would
12 say that yes, that he would become more likely.

13 Q: Okay. And since he wouldn't be confined, an outpatient
14 program doesn't protect against any potential victims?

15 A: No, but what I usually do in my programs is if there's a
16 supportive family network, for example, they have contact with
17 me and I think most everyone knows who knows me knows that if
18 I ever get suspicious of anything, I start calling authorities
19 to make sure and I actually -- I have to admit this happens
20 very rarely. But no, he will not be as, you know, sequestered
21 from the community as if he were confined. I just don't
22 believe he needs to be confined anymore.

23 Q: Okay. And you would agree like one of the things that
24 you considered is to look at his individual progress in the
25 treatment?

DR. THOMAS MARTIN - CROSS EXAMINATION BY MS. WETHERTON

1 A: Yes, ma'am.

2 Q: Okay. Did you see in Dr. Harrison's report where it was
3 noted that in group treatment his self-disclosure is still
4 considered minimal?

5 A: Yes. In fact, I focused on that with him when I saw him
6 and I can't share that same opinion. With me, he had no
7 difficulty expressing his self-disclosure of his offenses,
8 what he was going through, and so forth, and how he actually
9 -- to quote him, how I raped him, unquote.

10 Q: Okay. But you would agree with me that is noted in the
11 treatment records?

12 A: Definitely that's what Dr. Harrison saw, too, yes.

13 Q: Okay. And did you see within the past year he's been
14 seen as being defensive in group settings?

15 A: I saw that, too. Yes, ma'am.

16 Q: Okay. And did you see where they also noted he's been
17 defensive to receiving feedback?

18 A: At times, yes.

19 Q: Okay.

20 MR. WETHERTON: And I think that's all the questions I
21 have at this time.

22 DIRECT EXAMINATION BY THE COURT

23 THE COURT: Doctor, I have a couple questions.

24 THE WITNESS: Yes, sir.

25 THE COURT: Just a moment. You had stated that he has

DR. THOMAS MARTIN - DIRECT EXAMINATION BY THE COURT

1 done well with his substance abuse; is that correct?

2 THE WITNESS: Yes, sir.

3 THE COURT: Is one of the reasons that he's done well
4 with his substance abuse is because he is basically
5 incarcerated?

6 THE WITNESS: I would like to ---

7 THE COURT: I mean once he's out in the world, the
8 cocaine and the alcohol are going to be available again.
9 Right now, it's maybe available more than we would certainly
10 have a want, but it certainly is not easy to get; is that
11 correct?

12 THE WITNESS: That is correct. Yes, sir. And again,
13 just like it is with assessing general as well as sexual
14 regulatory behaviors, the program is not equipped to really
15 hands-on see how well they do by letting someone out for a
16 short period of time. It's just not equipped to do that. On
17 the unit, I agree with you, sir, that he could get -- when I
18 used to work on the unit, people were making buck and all
19 sorts of interesting chemicals and so forth and, yes, it is
20 available. He has never been accused of doing or partaking in
21 that, but I do agree that it is more difficult to get it there
22 and that's part of the reason why my recommendation also
23 includes maintenance like AA/NA meetings once he's released to
24 help that support from being a drug-addicted relapse.

25 THE COURT: All right. Thank you.

DR. THOMAS MARTIN - REDIRECT EXAMINATION BY MR. BROOKS

1 THE WITNESS: Yes, sir.

2 THE COURT: Any follow-up questions based on my
3 questions?

4 MR. BROOKS: I do, Judge.

5 REDIRECT EXAMINATION

6 BY MR. BROOKS:

7 Q: Dr. Martin, Ms. Wetherton asked you about him being
8 released, his not being on any type of probation. To your
9 knowledge, all of the individuals who are in the program and
10 who leave, they always have to register as sex offenders;
11 isn't that correct?

12 A: I believe that's a hundred percent correct.

13 Q: Okay. And as a part of registering as a sex offender,
14 they have to go to the local law enforcement agency that -- in
15 the place where they live and register with those law
16 enforcement entities; is that correct?

17 A: Quarterly or semi-annually, yes, sir.

18 Q: Failure to do so is actually a criminal offense?

19 A: Yes.

20 Q: And they're also on the Attorney General's internet
21 website for sex offenders in South Carolina; isn't that
22 correct?

23 A: I believe they are, yes.

24 Q: And they now have to wear the GPS ankle monitor; isn't
25 that correct?

DR. THOMAS MARTIN - REDIRECT EXAMINATION BY MR. BROOKS

1 A: I don't know what the situation would be with Mr. Lawyer,
2 but I would say most of my -- my outpatients who have actually
3 had touch crimes have been either on lifetime GPS or lifetime
4 supervised release.

5 Q: Okay.

6 A: That seems to be a new trend.

7 Q: Okay. So as such, there is some mechanisms to watch over
8 him in addition to going to your outpatient program?

9 A: Yes. I am not the only person who would be trying to
10 help Mr. Lawyer reintegrate into the community. There is
11 other agencies as well that could be involved.

12 Q: And those agencies, some of -- like I said, some of those
13 requirements are mandatory for him. Otherwise, he commits
14 criminal offenses; is that correct?

15 A: That's correct.

16 Q: Okay.

17 MR. BROOKS: No other questions.

18 THE COURT: Yes, sir.

19 REXCROSS EXAMINATION

20 BY MS. WETHERTON:

21 Q: Dr. Martin, what's the web address for the Attorney
22 General's sex offender -- sex offender registry website?

23 A: I don't know exactly. It would be on my favorites I
24 suppose on my computer, but I usually go to the state
25 registry.

DR. THOMAS MARTIN - RECROSS EXAMINATION BY MS. WETHERTON

1 Q: Isn't it a possibility that that actually doesn't exist?

2 A: Well, I don't use that one so I just have heard about it
3 like perhaps Mr. Brooks had heard about it. That's ---

4 Q: So are you saying there is an actual Attorney General's
5 sex offender -- sex offender website?

6 A: Oh, no. I don't think there's an Attorney General's sex
7 offender website, no.

8 Q: Okay. And are you familiar with what they have to do
9 with the registration requirements, what exactly they have to
10 provide?

11 A: Yes. A -- like address, sometimes workplace. They also
12 -- if it's a touch crime, they have to report quarterly. If
13 it's a non-touch crime, it's usually semi-annually at their
14 local sheriff's office.

15 Q: So they just provide addresses?

16 A: I know at least that.

17 Q: But there's no counseling?

18 A: Oh, no, absolutely not.

19 Q: No.

20 A: No.

21 Q: They just provide addresses of where they're going to be?

22 A: That's right.

23 Q: Locally.

24 A: It's just registration, just purely registration,
25 demographic registration.

DR. THOMAS MARTIN - RECROSS EXAMINATION BY MS. WETHERTON

1 Q: Okay. And are you familiar -- will he be on GPS
2 monitoring?

3 A: That I don't know.

4 Q: Okay. Do you know at what point somebody has to be on
5 GPS monitoring?

6 A: No. They usually come to me with the GPS monitoring on
7 and what I testified earlier is what I know when they come to
8 me on it.

9 Q: Okay.

10 MS. WETHERTON: All right. Nothing further.

11 THE COURT: Thank you. You may step down.

12 THE WITNESS: Yes, sir.

13 MR. BROOKS: Your Honor, that's our evidence that we
14 present to establish probable cause.

15 THE COURT: All right. Does the State want to put up
16 anything?

17 MS. WETHERTON: Yes, Your Honor. The State would like to
18 call Dr. Kimberly Harrison to the stand.

19 THE COURT: All right. Dr. Harrison, come forward,
20 please.

21 THE CLERK: Raise your right hand, place your left hand
22 on the Bible, and repeat your name, please.

23 THE WITNESS: Kimberly Harrison.

24 THE CLERK: Do you solemnly swear the testimony you're
25 about to give to be the truth and nothing but the truth, so

DR. KIMBERLY HARRISON - DIRECT EXAMINATION BY MS. WETHERTON

1 help you God?

2 THE WITNESS: Yes, I do.

3 DR. KIMBERLY HARRISON, being
4 first duly sworn, testifies as follows:

5 DIRECT EXAMINATION

6 BY MS. WETHERTON:

7 Q: Could you state and spell your name for the record,
8 please?

9 A: Kimberly Harrison, H-A-R-R-I-S-O-N.

10 Q: Okay. And did you evaluate Mr. Lawyer in connection with
11 these proceedings?

12 A: Yes, I did.

13 Q: Okay. And for the record, when was he committed to the
14 program?

15 A: He was committed on April 6th, 2009.

16 Q: Okay. Doctor, before we discuss your report and the
17 opinions you came to, when Mr. Lawyer was committed back to
18 the sexually violent predator treatment program in 2009, what
19 was his mental abnormality and/or personality disorder?

20 A: At the time of his commitment, he was diagnosed with
21 paraphilia not otherwise specified. He was also diagnosed
22 with alcohol abuse and he was diagnosed with antisocial
23 personality disorder.

24 Q: Now, did you do the pre-commitment evaluation in this
25 case?

DR. KIMBERLY HARRISON - DIRECT EXAMINATION BY MS. WETHERTON

1 A: I did not, no.

2 Q: Okay. So another doctor had diagnosed him with those; is
3 that correct?

4 A: That's correct.

5 Q: Okay. Did you find that he had the same mental
6 abnormalities and/or personality disorder when you reviewed
7 him for this most recent annual review?

8 A: Yes, I did. I don't believe I listed the diagnosis of
9 alcohol abuse, but I did assign diagnoses of paraphilia not
10 otherwise specified, as well as antisocial personality
11 disorder.

12 Q: All right. Why did you diagnose him with antisocial
13 personality disorder?

14 A: Personality disorders are based on a person's lifelong
15 pattern of behaviors, thoughts, feelings, interactions with
16 others, and based on Mr. Lawyer's history, he has a long
17 pattern of committing illegal acts, not just the sexual
18 offenses that brought him into this program, but starting in
19 adolescence, so an early onset. He performed acts including
20 malicious injury to personal property, grand larceny,
21 resisting arrest, disorderly conduct, carrying a concealed
22 weapon. Now, he also committed offenses while he was on
23 probation, which is concerning that while he was under some
24 form of supervision he continued to offend as well.

25 And then in addition to committing those illegal acts, he

DR. KIMBERLY HARRISON - DIRECT EXAMINATION BY MS. WETHERTON

1 also demonstrated other characteristics that are consistent
2 with antisocial personality disorder, including impulsivity,
3 disregard for the safety of other people, irresponsibility,
4 lack of remorse. So in addition to those sexual or those
5 criminal acts, he also was arrested for driving while
6 intoxicated, failing to pay child support. So just sort of a
7 wide range of illegal activities and activities that show sort
8 of a disregard for rules and for other people.

9 Q: Okay.

10 A: And although he has been -- his behavior has been good in
11 the program, but he still has this long historical pattern of
12 this type of behavior, and so these diagnoses are based on the
13 long pattern. So just having a few years of relatively good
14 behavior wouldn't be enough to override that diagnosis.

15 Q: Is it safe to say when he's outside of an institutional
16 environment that his actions have been different?

17 A: That seems to be the pattern, yes, that when he's
18 incarcerated, he had very minor disciplinary infractions while
19 in prison. He's had relatively minor infractions in the SVP
20 program, but it's when he's out in the community that he
21 commits these illegal acts.

22 Q: Has he had any recent behavioral infractions?

23 A: At the time that I conducted my interview with him during
24 the review period, he did not have any behavioral infractions.
25 I reviewed his chart recently. He did have a minor infraction

DR. KIMBERLY HARRISON - DIRECT EXAMINATION BY MS. WETHERTON

1 in October where he was cited for covering the window in his
2 room, which is against the rules. They have to keep their
3 window open and he had covered that and so he was given a
4 verbal warning for that.

5 Q: Okay. Now, paraphilia, is that condition curable?

6 A: It's generally not considered to be curable.

7 Q: Okay. Is antisocial personality disorder -- is that
8 considered curable?

9 A: Generally not.

10 Q: Are either of these conditions -- can they be treated?

11 A: It's believed by a majority of the mental health
12 community that they can be treated and managed.

13 Q: Okay. Can disorders of this type be difficult to manage?

14 A: Yes, they can be.

15 Q: Can these types of disorders sometimes take a long time
16 to properly manage?

17 A: Yes, they can.

18 Q: Okay. Can the existence of both these disorders in a
19 single person make them difficult to treat?

20 A: Yes. What we know about sex offenders is people that
21 have both a paraphilia or some form of sexual deviance as well
22 as a history of antisocial behavior are those that are most
23 likely to re-offend in the future. So that makes them more
24 likely than a person who just has the sexual deviance or just
25 has the antisocial orientation, but having both of those,

DR. KIMBERLY HARRISON - DIRECT EXAMINATION BY MS. WETHERTON

1 those are sort of the two big factors that make a person more
2 likely to re-offend.

3 Q: Okay. Now, when you evaluated Mr. Lawyer, what did the
4 evaluation consist of?

5 A: My evaluation consisted of an interview with him. I also
6 reviewed all of his treatment records, progress notes during
7 the review period. I -- I re-reviewed all of the legal
8 records, the previous evaluations that had been conducted on
9 him, and I spoke with the psychologist who supervises his
10 treatment.

11 Q: Okay. Did you also interview him as part of the
12 evaluation?

13 A: Yes, I did.

14 Q: Okay. Did you explain to him the purpose of the
15 evaluation?

16 A: Yes, I did.

17 Q: Okay. And how was his demeanor during the interview?

18 A: He was fine. He was cooperative. He answered my
19 questions. He was pleasant.

20 Q: Okay. Also, did you perform what's referred to as an
21 actuarial assessment of Mr. Lawyer?

22 A: Yes. I did complete the Static 99-R, which is an
23 actuarial risk assessment that we do on all of these
24 evaluations. So everyone that I evaluate pursuant to the
25 Sexually Violent Predator Act I conduct a Static 99-R and what

DR. KIMBERLY HARRISON - DIRECT EXAMINATION BY MS. WETHERTON

1 it is is basically just a checklist of factors that research
2 has shown to be predictive in evaluating who is more likely to
3 commit acts of sexual violence in the future.

4 Q: Okay. And what did it determine?

5 A: Based on this measure, his score -- he obtained a score
6 of a 4, which places him in the -- what the authors of the
7 Static 99 refer to as a moderate high risk category. People
8 who have that same score of sex offenders who have that same
9 score, about twenty percent of them sexually re-offend within
10 five years and about thirty percent of them re-offend sexually
11 within ten years.

12 Q: Okay. Now, did you review his treatment records?

13 A: Yes, I did.

14 Q: Okay. As indicated in your report, what is your opinion
15 of Mr. Lawyer's progress in treatment?

16 A: I believe his progress has improved since his previous
17 annual review evaluation. Previously, his participation and
18 his attendance in groups were sporadic. During this review
19 period, it appears that he has attended all of his groups. He
20 participates. He offers feedback to other residents. He's
21 generally appropriate in group. He has presented some
22 treatment assignments.

23 However, the main -- the main factor with Mr. Lawyer
24 appears to be he still lacks a thorough understanding of his
25 -- of his own sexual offense history, his own offense cycle,

DR. KIMBERLY HARRISON - DIRECT EXAMINATION BY MS. WETHERTON

1 why he committed these offenses. He still seems to struggle
2 with his own sexual orientation, his own sexual preferences,
3 and he seems reluctant to talk about that, both with me and in
4 his treatment groups.

5 When I spoke with the psychologist who supervises his
6 treatment just the other day in preparation for this hearing,
7 his treatment teams believe that he still tends to minimize
8 his -- his sexual attraction to the victims and that he still
9 lacks a thorough understanding of his sexual offense cycle.

10 Q: Okay. And so we're clear, did you find that he still has
11 treatment areas that he needs to still work on?

12 A: Yes. His treatment team has continued to identify areas
13 where he needs continued work and those -- those same areas
14 were evident in my interview with him.

15 Q: Okay. And you also stated in your report that Mr. Lawyer
16 has failed to understand risk factors. Can you explain what
17 that means?

18 A: Sure. A risk factor is just something that makes a
19 person more likely to commit a sex offense in the future. So
20 you think about like risk factors for heart disease are those
21 things that make a person more likely to have a heart attack
22 in the future. And with sex offending, it's important in
23 treatment for an individual to identify either those
24 situations or those events or moods or thoughts. It can be
25 anything that might make a person more likely to commit a sex

1 offense in the future.

2 So for Mr. Lawyer, he's able to identify some, such as
3 not being around teenage boys. That would be a risk factor
4 for him. His drug and alcohol abuse would be a risk factor
5 for him because those things played a part in his previous
6 offenses. And he did -- he did identify some other sort of
7 more complex risk factors such as what he told me was how he
8 deals with rejection and abandonment, feelings of loneliness.
9 Those things could be risk factors for him.

10 But he still seems to have some difficulty really linking
11 up those risk factors to how they played a part in his past
12 offending, and I think his treatment team would like to see
13 him get more -- more of an understanding of the linkages
14 between his risk factors and his sex offending.

15 Q: Okay. And you also said in the report he needs to
16 continue to work on his emotional regulation. What is
17 emotional regulation?

18 A: Basically, emotional regulation is just being able to
19 manage your emotions, cope with the expression of your
20 emotions, being able to express your emotions in an
21 appropriate manner, and he has -- he has improved in that
22 quite a bit during his stay in the SVP program. But the --
23 his treatment providers have noticed that he tends to engage
24 in behaviors such as attention-seeking when someone new is in
25 the group and -- let's see what else they said. Being

DR. KIMBERLY HARRISON - DIRECT EXAMINATION BY MS. WETHERTON

1 somewhat resistant to feedback from other people, so just
2 being perhaps a little bit more open to assessing his own
3 behavior and changing it if -- if it's appropriate.

4 Q: So why specifically is emotional regulation important for
5 sex offender treatment?

6 A: Emotional regulation -- and it varies from individual to
7 individual.

8 (Whereupon, a cell phone rings.)

9 A: Some people commit sexual ---

10 THE COURT: Please take the cell phone. Mr. Hill, that's
11 someone's cell phone. Please take it.

12 A: So some individuals, their sexual offense history is
13 marked by committing offenses in response to anger. For some
14 individuals, they commit acts of sexual violence because
15 they're depressed or because they're lonely. So learning how
16 those emotions are linked up with our sexual offending is
17 important so that they can change their behaviors, change the
18 way that they think about their emotions and their expressions
19 of those emotions, and then hopefully prevent that from
20 leading to a sex offense in the future.

21 Q: Okay. So in your opinion to a reasonable degree of
22 psychological certainty, do you believe Mr. Lawyer's mental
23 abnormality of personality disorder has so changed that he is
24 safe to be at large and no longer likely to commit acts of
25 sexual violence?

DR. KIMBERLY HARRISON - DIRECT EXAMINATION BY MS. WETHERTON

1 A: It's my opinion that at this time there's insufficient
2 evidence to support that he has so changed.

3 Q: Okay. And what is your title?

4 A: Oh, my job title?

5 Q: Yes.

6 A: Chief Psychologist with the Department of Mental Health.

7 Q: Typically, mental health professionals and the Department
8 of Mental Health, do they have the title of typically Chief
9 before their psychiatrists or psychologists?

10 A: Yes.

11 Q: Is there more than one chief psychiatrist or chief
12 psychologist at the Department of Mental Health?

13 A: Yes, yes.

14 Q: Okay. And as a chief psychologist for the Department of
15 Mental Health, is your opinion also the opinion of the
16 Department of Mental Health?

17 A: I'm authorized by DMH to conduct these evaluations and to
18 issue my opinion to the Court.

19 Q: Okay. Thank you, Dr. Harrison. If you will, please
20 answer any questions the judge or Mr. Brooks may have for you?

21 THE COURT: Mr. Brooks?

22 A: Thank you.

23 CROSS EXAMINATION

24 BY MR. BROOKS:

25 Q: Dr. Harrison?

DR. KIMBERLY HARRISON - CROSS EXAMINATION BY MR. BROOKS

1 A: Good morning.

2 Q: How are you doing today?

3 A: I'm good. Thank you.

4 Q: It's been a while; hasn't it?

5 A: It's been a little while.

6 Q: All right. Now, Doctor, I'm going to go back over a
7 couple questions that Ms. Wetherton asked you. Mr. Lawyer has
8 had no behavioral infractions; did I understand that you say
9 that?

10 A: He had that minor one back in October.

11 Q: Covering the window?

12 A: Covering the window.

13 Q: Okay.

14 A: Yeah.

15 Q: Absent that, in the five-year period he's had nothing
16 else?

17 A: I'm not sure about in the whole five-year period because
18 my report just focused on this current review period.

19 Q: From August 2011 -- August 5th, 2011, to April 10th, 2013;
20 is that correct?

21 A: Correct.

22 Q: Okay. So in the span of almost two years, he's had no
23 infractions during your review period?

24 A: That's correct.

25 Q: And you don't have any evidence of any infractions since

DR. KIMBERLY HARRISON - CROSS EXAMINATION BY MR. BROOKS

1 then up to today; do you?

2 A: Just the one that I mentioned, covering the window.

3 Q: Just the covering the window?

4 A: Right.

5 Q: Okay. So basically from August 5th to January 2014, we've
6 got one infraction of covering a window?

7 A: Right.

8 Q: Okay. Now, being in the program, the program is designed
9 to give them treatment; is that correct?

10 A: Care, control, and treatment, yes.

11 Q: Okay. In order to deal with whatever problems that they
12 have that makes them likely to re-offend; is that correct?

13 A: Ideally, yes.

14 Q: Okay. Now, you said earlier that Mr. Lawyer's pattern
15 has been when incarcerated or confined, everything is great.
16 Then he gets out and re-offends and everything is not great,
17 and he goes back in confined and everything is great. Is that
18 the pattern that I heard you mention when Ms. Wetherton asked
19 you the question?

20 A: Basically, yeah. When he's out in the community, he
21 tends to get arrested. He tends to violate rules, abuse
22 alcohol and drugs, and when he gets incarcerated or otherwise
23 confined, he really doesn't engage in much behavior that --
24 for which he's sanctioned or given disciplinary infractions.

25 Q: Okay. Now, all of those other confinements were not with

DR. KIMBERLY HARRISON - CROSS EXAMINATION BY MR. BROOKS

1 the sexually violent predator program; isn't that correct?

2 A: That's correct. He was in prison.

3 Q: Okay.

4 A: Yes.

5 Q: And in prison, he did not get the treatment that a person
6 gets in the sexually violent predator program; is that
7 correct?

8 A: That's correct. According to our records, he did not
9 have any sex offender treatment during his incarceration.

10 Q: Okay. So now, as a result of having all this treatment
11 and he's been there five years, of which more than two and a
12 half we acknowledge he's only had one incident of covering a
13 window, you don't know exactly if he is going to follow that
14 same pattern; isn't that correct?

15 A: Well, that's correct.

16 Q: Okay.

17 A: I don't know that. I mean nobody can predict ---

18 Q: Okay.

19 A: --- what a person is going to do.

20 Q: And all of those -- the one common denominator in all of
21 those instances of that pattern you described is he did not
22 have any treatment?

23 A: Correct.

24 Q: Now he's had the treatment?

25 A: Correct.

DR. KIMBERLY HARRISON - CROSS EXAMINATION BY MR. BROOKS

1 Q: And you already said that of the people that fit his
2 profile or fit -- yeah, fit his profile as an adult male based
3 on the Static 99 score; is that correct? I think you call
4 that the Static 99 where he had a 4; is that correct?

5 A: That's correct.

6 Q: Okay. And would it be fair to say that that's the
7 profile of Mr. Lawyer?

8 A: I wouldn't say it's a profile. It's just a risk
9 assessment instrument. So it only includes really ten
10 factors.

11 Q: Okay. And basically, he falls into that risk assessment
12 in your opinion; is that correct?

13 A: Well, he falls into the category that's described as
14 moderately high risk to re-offend.

15 Q: Okay. And of the people in -- that fell into that
16 category, you testified that twenty percent re-offend in five
17 years and thirty percent re-offend in ten years?

18 A: That's correct.

19 Q: Okay. And those individuals -- because you said there
20 was twenty percent that re-offend in five years, is that fair
21 to say that eighty percent did not re-offend in five years?

22 Is that correct?

23 A: That's correct. Or were not detected for re-offending.

24 Q: Okay. And thirty percent did not -- re-offended in ten
25 years. That means seventy percent did not re-offend?

DR. KIMBERLY HARRISON - CROSS EXAMINATION BY MR. BROOKS

1 A: Correct.

2 Q: Okay. So wouldn't it be fair to say that Mr. Lawyer, who
3 had a history of being bad when he was out and being good when
4 he was confined but had no treatment, and now that he's had
5 this extensive treatment in the sexually violent predator
6 program -- you would agree with me that it is extensive; isn't
7 that correct?

8 A: I'm not sure I would use the word extensive.

9 Q: How would you categorize it?

10 A: They generally go to group once or twice a week.

11 Q: Okay. And in group is where they go through this
12 counseling that's a part of their treatment; right?

13 A: Correct.

14 Q: Okay. And basically, isn't it fair to say that this
15 sexually violent predator program treatment that he has had
16 would break that pattern?

17 A: We don't have any evidence of that.

18 Q: And you don't -- and you don't have any evidence that
19 he'll re-offend; is that correct?

20 A: Well, we can -- we know based on research what his risk
21 factors are and where he falls relative to other sex offenders
22 who are ---

23 Q: And that's at twenty percent?

24 A: More or less likely to re-offend.

25 Q: Five years, thirty percent, ten years?

DR. KIMBERLY HARRISON - CROSS EXAMINATION BY MR. BROOKS

1 A: Five years, twenty percent. Ten years, thirty percent.

2 Yes.

3 Q: Eighty percent not re-offending in five years. Seventy
4 percent in ten years?

5 A: Correct.

6 Q: Okay. So now, is it fair to say that Mr. Lawyer as a
7 result of all of his treatment, he could fall into that eighty
8 percent in five years and seventy percent in ten years?

9 A: Sure.

10 Q: Okay. You indicated that during your evaluation of him,
11 he was very pleasant and cooperative; is that correct?

12 A: Yes, he was.

13 Q: Okay. And he has improved quite a bit as it relates to
14 emotional regulation; is that correct?

15 A: Yes, he has.

16 Q: One of his mitigating factors was the substance abuse; is
17 that correct?

18 A: Well, I would say that that was one of his risk factors.

19 Q: Okay.

20 A: Yes.

21 Q: Is it fair to say that if that's minimized, then his risk
22 assessment would be minimized as well?

23 A: That would be considered a dynamic risk factor. So I
24 would say that if that's eliminated from his life that that
25 would possibly lower his risk, yes.

DR. KIMBERLY HARRISON - CROSS EXAMINATION BY MR. BROOKS

1 Q: Okay. And in order to be able to minimize that or
2 perhaps even eliminate that, he would need to go to some --
3 you would think he would need to go to some type of drug
4 treatment or drug counseling and outpatient, things of that
5 sort; right?

6 A: If that treatment has been shown to be effective or if
7 there have been any kind of studies showing that the treatment
8 is effective.

9 Q: Okay. And we don't know yet with Mr. Lawyer because he
10 has not been out since getting all this treatment with the SVP
11 program; is that right?

12 A: That's correct.

13 Q: Okay.

14 MR. BROOKS: No other questions, Judge.

15 THE COURT: Any redirect?

16 MS. WETHERTON: I just have a couple of questions.

17 REDIRECT EXAMINATION

18 BY MS. WETHERTON:

19 Q: Dr. Harrison, his treatment, it's more than just one hour
20 of group. Is it more than one hour of group?

21 A: Well, he goes to group and then they're given assignments
22 that they're to work on outside of group.

23 Q: Is he observed on the unit?

24 A: Yes.

25 Q: Is he -- is his behavior observed, how he interacts with

1 people?

2 A: Yes, it is.

3 Q: Okay. And he receives additional assignments?

4 A: Yes. That he's supposed to work on outside of group and
5 then present them in his group.

6 Q: And do they also work on other areas not specifically sex
7 offender treatment but areas for personal improvement?

8 A: Yes. They have started offering other types of groups,
9 alcohol and drug treatment groups, different sort of anger
10 management groups. There's a dialectical behavior therapy
11 group. So different things they've started incorporating into
12 the treatment program as well.

13 Q: Now, would -- for example in Mr. Lawyer's situation, him
14 attending the alcohol and drug treatment, would that lower his
15 -- help lower his risk to re-offend?

16 A: I can't say if it would or not because I don't know that
17 any research has been conducted that the particular treatment
18 that they're using in the program is effective. So I don't
19 know.

20 Q: Did he when he spoke to him or in any type of records
21 indicate that alcohol and drug use occurred while he was
22 offending sexually?

23 A: Yes. That does seem to play a part in his previous
24 offenses.

25 Q: Okay. And according to the Static 99 for example, his

DR. KIMBERLY HARRISON - REDIRECT EXAMINATION BY MS. WETHERTON

1 statistics with the twenty percent and the thirty percent,
2 those are actually one-third of the people that have a 4
3 actually committed a sex offense against someone within five
4 years?

5 A: Twenty percent in five years.

6 Q: And then ---

7 A: Thirty.

8 Q: --- one-third within ten years; is that correct?

9 A: Correct.

10 Q: Okay. And why do you consider someone's past behavior
11 when you look at all of this?

12 A: Well, when someone establishes a pattern of behavior over
13 the course of their life and especially starting in
14 adolescence or younger, that's generally a fairly good
15 predictor of their future behavior. We tend to keep doing
16 what we've always done and in order to break those patterns,
17 it often takes years of intensive effort to change those
18 patterns. And if someone is -- especially if someone is
19 returning back into the same environment in which they
20 committed the previous acts, that also would make them more
21 likely to go back into those old patterns of behavior.

22 Q: And it is your opinion at this time that his mental
23 abnormality and personality disorder has not so changed that
24 he's safe to be at large and no longer likely to commit acts
25 of sexual violence; is that correct?

DR. KIMBERLY HARRISON - DIRECT EXAMINATION THE COURT

1 A: That is correct.

2 Q: Okay.

3 MS. WETHERTON: Nothing further.

4 DIRECT EXAMINATION BY THE COURT

5 THE COURT: Doctor, what would you perceive he would need
6 to do in order to reach a diagnosis or a recommendation that
7 he be released from the program?

8 THE WITNESS: Because he does have this long pattern for
9 many years so starting around age fifteen until he was into
10 his 30's, for him it's going to be consistency, continuing
11 with his treatment, continuing not to show behavior problems,
12 and just continuing down the path he's started down. But for
13 him, a lot of it is just going to be time and consistency and
14 showing that he can maintain good behavior that doesn't
15 violate the rights of other people for an extended period of
16 time.

17 THE COURT: All right. Any questions related to my
18 follow-up?

19 RE CROSS EXAMINATION

20 BY MR. BROOKS:

21 Q: Now, there's no way he can show that within the confines
22 of the program. He would have to be let out at some point in
23 order to exemplify that; isn't that correct?

24 A: Well, that -- I mean that's up to the Court if they let
25 him out, yeah.

DR. KIMBERLY HARRISON - DIRECT EXAMINATION THE COURT

1 Q: I understand. Okay.

2 DIRECT EXAMINATION BY THE COURT

3 THE COURT: But there's no intermediate way of checking
4 that. If the Court releases him, he's released. Whether or
5 not he goes to the other doctor's treatment or goes to alcohol
6 or drug treatment or anything like that, he's out; is that
7 correct?

8 THE WITNESS: That's correct. My -- my understanding of
9 the statute is that there's -- there's no -- like in other
10 states, they have step-down programs or partial release
11 programs where you can still sort of keep an eye on the person
12 and bring them back quickly if something happened.

13 THE COURT: So the only way ---

14 THE WITNESS: South Carolina ---

15 THE COURT: --- this Court would be able to bring him
16 back into the justice system would be if he re-offends?

17 THE WITNESS: That's correct.

18 THE COURT: Any other questions based on that question?

19 MR. BROOKS: No, sir.

20 MS. WETHERTON: I have no other questions, Your Honor.

21 THE COURT: Thank you. You may step down.

22 THE WITNESS: Thank you.

23 MS. WETHERTON: Your Honor, we have no other witnesses.

24 We just have a brief argument and then that would be it.

25 THE COURT: All right. You may make your arguments and

1 I'll take the matter under advisement. Yes, sir?

2 MR. BROOKS: Judge, it's our understanding that this is
3 simply a probable cause hearing to determine if my client
4 would be allowed another jury trial and basically, Judge, it's
5 our position that we have -- by virtue of the testimony of Dr.
6 Martin, a clearly established expert in his field, we have
7 established probable cause in order for Mr. Lawyer to be
8 granted another jury trial.

9 THE COURT: Thank you. Yes, ma'am?

10 MS. WETHERTON: Your Honor, we believe that we have a
11 case that might provide some guidance for the Court and it's
12 In the Matter and Care and Treatment of Tucker, and I have the
13 case here if you'd like a copy.

14 THE COURT: Yes, ma'am.

15 MS. WETHERTON: It's 578 S.E.2d 719 is the citation, but
16 very quickly, in the Tucker case Dr. Martin was the defense
17 expert that testified and he testified that since appellant
18 took responsibility for his sexual offending and was capable
19 and motivated towards sex offender treatment that appellant
20 should continue his treatment in an outpatient setting, which
21 is similar to what happened here. However, it was the
22 Department of Mental Health's position that although appellant
23 had progressed in treatment, similar to what happened here,
24 appellant had additional treatment goals that he had to meet
25 before being eligible for release.

1 Probable cause was denied on that situation and the
2 Supreme Court upheld that denial of probable cause stating
3 while evidence exists that appellant could be released to an
4 outpatient setting, appellant must still show his condition,
5 which is the statutory standard, has so changed that he's safe
6 to be at large and if released unlikely to commit acts of
7 sexual violence.

8 Similar to Tucker, Mr. Lawyer has progressed in
9 treatment, which is a good thing, which is what we want to
10 see, but that's not the standard. His mental abnormality has
11 to so change that he's safe to be at large. There's no --
12 like we were saying, there's no step-down treatment. It's in
13 or out and we can't force him to go to outpatient treatment
14 and even Dr. Martin has testified that he still needs
15 additional treatment and, you know -- and he still has
16 additional goals before the Department of Mental Health can
17 consider him eligible for release.

18 Whether he can continue or could go to outpatient
19 treatment is not relevant for these proceedings because he's
20 failed to prove that his mental abnormality and personality
21 disorder have so changed that he's safe to be at large and if
22 released not likely to commit acts of sexual violence. So if
23 I could approach ---

24 THE COURT: Yes, ma'am.

25 MS. WETHERTON: --- I can give you a copy of the case.

1 THE COURT: Thank you. Thank you.

2 MS. WETHERTON: Thank you.

3 THE COURT: Mr. Brooks, any follow-up?

4 MR. BROOKS: Judge, if you're going to follow that
5 standard, nobody gets out ever because as Dr. Martin
6 testified, you know, it is now manageable. The issue is is he
7 a high risk to re-offend. He was five or six years ago; he's
8 not now. He's gone through the treatment. He's gone through
9 all the steps. Dr. Martin has testified. Clearly, Judge,
10 we've met our burden on these issues that my client is
11 entitled to his day in court.

12 THE COURT: All right. Thank you. I'll take the matter
13 under advisement and I'll inform the attorneys when I make my
14 ruling. Thank you.

15 MS. WETHERTON: Thank you, Your Honor.

16 (Whereupon, the proceedings end at 10:37 a.m.)

17

18 --- END REQUESTED TRANSCRIPT ---

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STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

CERTIFICATE

I, the undersigned, Krystal J. Smith, Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Clarendon County, South Carolina, on the 22nd day of January, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Krystal J. Smith
Court Reporter

Florence, South Carolina
May 12, 2014

**ANNUAL NOTICE OF RIGHT TO PETITION FOR RELEASE
ELECTIONS TO WAIVE OR EXERCISE RIGHTS**

TO: Michael Lawyer
Name of Resident

FROM: Lynda Shephard, Case Manager

DATE: April 25, 2013

II. ANNUAL NOTICE OF RIGHT TO PETITION FOR RELEASE

Pursuant to Section 44-48-110 and 130, South Carolina Code of Laws,

- A. You have the right to petition the Court for release at any time, with or without the approval of the Department of Mental Health. However, it is important that you understand that if you do petition the Court for release without the approval of the Director of the Department of Mental Health, and the Court finds that either: (1) the petition was frivolous or (2) your condition has not changed so that you (the petitioner) are now safe to be at large, then the Court may deny any subsequent petitions without a hearing unless the petition contains facts upon which a Court could find your condition has so changed as to warrant a hearing.

Please initial and check the box below:

I am aware of the fact that I have the right to petition the Court for release at any time and I am aware that this document does not constitute a "Petition for Release."

III. ACKNOWLEDGMENT

I have received and reviewed the foregoing ANNUAL NOTICE OF RIGHT TO PETITION FOR RELEASE form.

Michael Lawyer
Resident: PRINT Name

[Signature] - 4-25-13
Resident: SIGN Name Date

[Signature] 4-25-13
Witness Date

Or, resident refused to sign.

Witness Date

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
SEXUALLY VIOLENT PREDATOR PROGRAM

ANNUAL EXAMINATION AND REVIEW HEARING NOTICE

TO: Michael Lawyer
Name of Resident

FROM: Lynda Shephard, Case Manager

DATE: April 25, 2013

I. ANNUAL EXAMINATION AND REVIEW HEARING

Pursuant to Section 44-48-110, South Carolina Code of Laws,

A. You are entitled to an annual re-examination of your condition. A report of such examination is attached and will be furnished to the Court which committed you, the Attorney General, the Solicitor in the Circuit you were convicted of the qualifying offense(s), your attorney (unless you do not have one), and the multi-disciplinary team.

B. The Court conducts an annual hearing to review your status.

Please initial and check one (1) box below:

I am aware that I have the right to an annual hearing to review the status of my case.

- I choose to waive my right to an annual hearing. Do NOT complete I. C. or D.
 I do not waive my right to an annual hearing.

C. You have the right to have an attorney represent you at the hearing, but you are not entitled to be present at the hearing. If you do not have an attorney and are indigent, you may request the Court to appoint an attorney to represent you at the review hearing.

Please initial and check one (1) box below:

I am aware that I have the right to be represented by an attorney at the annual hearing to review the status of my case.

- I choose to waive my right to representation by an attorney.
 I will exercise my right to counsel by hiring an attorney to represent me.
 I want to exercise that right, do not have an attorney, I am indigent, and request the Court to appoint an attorney for me.
 Charles Brooks is my Court appointed attorney.

D. You may retain or, if you are indigent and so request, the Court may appoint a qualified expert to examine you, and the expert shall have access to all your medical, psychological, criminal offense and disciplinary records and reports.

Please initial and check one (1) box below:

I am aware that I have the right to have a qualified expert examine me and that I may present the results of that examination to the Court at the annual review hearing.

I choose not to exercise that right at this time.

I choose to exercise that right and will hire a qualified expert to examine me.

I am indigent and I wish to have the Court appoint a qualified expert to examine me. I understand that the appointment of an expert is discretionary with the Court.

III. ACKNOWLEDGMENT

I have received and reviewed the foregoing ANNUAL EXAMINATION AND REVIEW HEARING form.

Michael Lawyer
Resident: PRINT Name

[Signature] - 4.25.13
Resident: SIGN Name Date

[Signature] 4.25.13
Witness Date

Or, resident refused to sign.

Witness Date

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE

SEXUALLY VIOLENT PREDATOR ANNUAL REVIEW

Pursuant to §44-48-110

<u>Name:</u>	LAWYER, MICHAEL
<u>SCDMH #:</u>	1018-0459
<u>SCDC #:</u>	264273
<u>Date of Birth:</u>	7/6/70
<u>Date of Commitment:</u>	4/6/09
<u>Date of Admission:</u>	4/9/09
<u>County:</u>	Clarendon
<u>Date of Evaluation:</u>	2/12/13
<u>Review Period:</u>	8/5/11 to 4/10/13
<u>Date of Report:</u>	4/17/13

DIAGNOSES:

Paraphilia Not Otherwise Specified
Antisocial Personality Disorder

REFERRAL INFORMATION:

Mr. Lawyer is a 42-year-old male who was committed to the Sexually Violent Predator Program (SVPP) of the SC Department of Mental Health after adjudication as a Sexually Violent Predator (SVP), pursuant to statute.

Pursuant to §44-48-110, the purpose of the current Annual Review is to assess whether Mr. Lawyer's "mental abnormality or personality disorder has so changed that the person is safe to be at large and, if released, is not likely to commit acts of sexual violence."

NOTIFICATION:

The nature and purpose of this evaluation were explained to Mr. Lawyer at the beginning of the interview. He was notified that the information obtained during this evaluation would not remain confidential, and that anything he disclosed could be included in a report to the Court, the Attorney General's office, his attorney, and the SVPP treatment team. Mr. Lawyer demonstrated an adequate understanding of the purpose of the evaluation and the limits of confidentiality and agreed to proceed with the evaluation.

SOURCES OF INFORMATION:

1. Interview with Mr. Lawyer on 2/12/13 for approximately 50 minutes
2. Legal records, including police reports, arrest warrants, indictments, and statements of victims and witnesses
3. Records from the South Carolina Department of Corrections
4. Records from the Sexually Violent Predator Program
5. Forensic Psychological Assessment by Daniel J. Neller, Psy.D., dated 8/13/08
6. Completion of the Static-99R, an actuarial risk assessment instrument

LEGAL HISTORY:

As indicated in Dr. Neller's report, Mr. Lawyer was apprehended at the age of 15 for Burglary; the case was diverted. He was arrested six months later for Forgery and Petty Larceny and was sentenced to probation and community service. He has a history of arrests for Malicious Injury to Personal Property, Grand Larceny, Resisting Arrest, Disorderly Conduct, Driving under Suspension, and Carrying a Concealed Weapon. Several of these arrests reportedly occurred while he was on probation.

According to legal records, in February 2000 Mr. Lawyer pled guilty to Criminal Sexual Conduct (CSC) with a Minor-2nd Degree and sentenced to four years incarceration. This conviction resulted from Mr. Lawyer forcing anal intercourse on a 14-year-old boy.

In October 2006 Mr. Lawyer pled guilty to Lewd Act on a Child and was sentenced to five years incarceration. He was originally charged with CSC with a Minor for fondling a 14-year-old boy and making the victim fondle him.

During his incarcerations, Mr. Lawyer was "convicted" of Refusing or Failing to Obey on two occasions. This disciplinary infraction is categorized as a "minor" violation.

PREVIOUS SEX OFFENDER TREATMENT:

According to SCDC records, Mr. Lawyer did not participate in any sex offender treatment during his incarcerations.

PREVIOUS MENTAL HEALTH EVALUATIONS AND DIAGNOSES:

In a psychological evaluation conducted in 2008, Daniel J. Neller, Psy.D., opined that Mr. Lawyer met criteria for commitment as a Sexually Violent Predator, based upon diagnoses of Paraphilia Not Otherwise Specified and Antisocial Personality Disorder. Dr. Neller also diagnosed him with Alcohol Abuse.

Mr. Lawyer's last annual review was conducted by Allyson Sipes, Psy.D. In her report dated 8/5/11, Dr. Sipes diagnosed him with Paraphilia Not Otherwise Specified; Alcohol Abuse, by history; and Antisocial Personality Disorder. According to Dr. Sipes's report, ~~Mr. Lawyer is engaged in treatment, though it appears to be on a superficial level at this time. His participation in groups has been sporadic, and his treatment team believed he presents as highly guarded and evasive. His assignments in group have been directed at women as his victims; however, his convictions are for sexual offenses against teen males. Mr. Lawyer demonstrated difficulty addressing this victim group, likely due to shame around sexual acts with males. As he has not addressed this victim group in treatment, he is only in the early stage of treatment.~~

PREVIOUS PHYSIOLOGICAL ASSESSMENT:

There is no indication Mr. Lawyer has ever undergone physiological to assess his sexual arousal patterns (e.g., penile plethysmography).

ACTUARIAL RISK ASSESSMENT:

The Static-99R is an instrument designed to assist in the prediction of sexual and violent recidivism for sexual offenders. The recidivism estimates were derived from rates of charges and reconvictions of groups of individuals; as such, these estimates do not directly correspond to the recidivism risk of an individual offender. Mr. Lawyer's score on the Static-99R, 24, places him in the Moderate-High risk category relative to other adult male sex offenders. Mr. Lawyer's status as an adjudicated SVP indicates that he has been deemed sufficiently high risk to warrant indefinite detention. Therefore, his score on the Static-99R was

compared to a reference group identified as "high risk/need." On average, 20.1% of high-risk sex offenders with this score sexually recidivated within five years; 29.6% of high-risk sex offenders with this score sexually recidivated within ten years.

RESIDENTIAL FUNCTIONING & BEHAVIOR:

Mr. Lawyer is generally described as calm, compliant with unit rules, and interacting appropriately with staff and peers. For example, a progress note dated 1/23/12 indicates that he "attends groups, and is prompt for all work duties. . . . He displays no hostile behavior, and requires no redirection." He has not received consequences for any disciplinary infractions during the current review period.

REVIEW OF SVPP TREATMENT PROGRESS:

Mr. Lawyer is generally described in his treatment groups as actively participating, providing appropriate feedback, and being supportive of his peers. In his treatment team meeting on 10/6/11, "He identified that he needed to work on his emotions, as he used drugs and alcohol historically to avoid emotions. . . . Case manager indicated his participation is consistent, though he remains guarded. . . . Resident had a positive attitude toward treatment and agreed to goals of taking responsibility and discussing offenses more openly."

During his treatment group on 12/21/11, Mr. Lawyer made a comment that "appeared to be a way of objectifying women. He seems to think that he should engage in multiple relationships with women. . . . It also seems as though he has trouble verbalizing what he wants from someone without a sense of arrogance or entitlement. . . . [He] never talks about his personal relationships with women or others."

In a meeting with his treatment team on 3/29/12, Mr. Lawyer "present[ed] as genuine in his desire to reduce his risks of re-offending." He was advised to continue with the goals of accepting responsibility and adapting to changes. His team observed, "Goal progress was noted by treatment team but resident will benefit from continued focus on each goal."

During his treatment group on 4/4/12, Mr. Lawyer "said that he is focusing on identifying, expressing and coping with emotions and feelings as has been pointed out to him by therapy staff. . . . He indicated that . . . he does not ever stop looking for those times that he is feeling and expressing anger, 'even when watching television.' . . . Lawyer appears sincere in his response, as he has shown progress in self-disclosing and always brings his focus back to those areas of treatment that have been suggested as an area of treatment focus and targets. . . . Lawyer's Grp participation has shown obvious progress in his engagement, focus on appropriate issues, and empathic responses to other Grp members." In the group of 5/2/12, Mr. Lawyer helped a fellow group member process a situation. The group facilitator noted, "In doing so, Lawyer, [sic] demonstrated his development and understanding of empathy skills." According to a progress note dated 9/19/12, "He actively assists some Grp members and others with group tasks. He seems to be a resident that several other residents confide in as a confidante."

Mr. Lawyer met with his treatment team on 11/29/12, at which time he "appeared attentive and receptive to feedback. He was offered positive feedback regarding his good and consistent participation in group. . . . [H]e denied having any sexual attraction or motivation behind [his second sex offense]. . . . He was encouraged to think about possible sexual attraction/motivation behind both of these offenses, but he appeared to avoid any discussion of same-sex attraction. Goals for treatment include understanding Risk Factors and Emotional Regulation."

In his treatment group on 2/13/13, the resident "provide[d] feedback but self-disclosure is minimal. He

readily gives his opinion and strategic ways to handle problems presented but does not provide self-reflection, especially around offending behaviors. He needs to increase his self-disclosure and focus on his offending behavior." In the 4/3/13 treatment group, he presented an assignment on his offense cycle. He was described as appearing "resistant to the presentation request and became defensive. Resident appeared to be engaging in attention-seeking behavior, as there was a new staff member observing the group. Resident has been observed engaging in similar behaviors in the past when new staff members are present. Resident became defensive when another group member challenged Resident Lawyer's cognitive distortion that his offense was 'unplanned' and 'just happened.' . . . Resident was resistant to feedback from the group members . . . and insisted that he had not engaged in any planning behaviors or sexual thoughts/feelings before raping his victim."

Mr. Lawyer has also recently been participating in a Dialectical Behavior Therapy (DBT) group. During the group on 4/3/13, the facilitator noted, "Occasionally, he was observed talking to the residents next to him while the facilitators or group members were talking. This made it difficult to hear and was distracting." However, he "would give occasional feedback and appeared to be giving some thought to what was being taught to the group."

MENTAL STATUS EXAMINATION & INTERVIEW:

Mr. Lawyer is a 42-year-old African American male. His hygiene and grooming appeared good. He was alert, oriented, and demonstrated appropriate eye contact during the interview. His speech was normal in rate, volume, and tone. His thought processes were logical, linear, and goal-directed. His affect was broad and appropriate, and he was cooperative with the evaluation. He described his recent mood as "pretty good, comfortable." He denied symptoms of mental illness, and no overt symptoms were observed. He denied recent or current suicidal or homicidal ideation. He reported he currently takes medication for high blood pressure.

Mr. Lawyer reported he was committed to the SVPP "because of my behavior. . . . It caused me to assault two young boys." He stated he believes he needed to be committed to the program because "I needed a reality check. I was living on the edge, doing things my way, didn't take into account anyone else's feelings." Regarding his progress in treatment, he stated, "I'm improving pretty well. I'm learning to be responsible for what I actually did." He said he is currently working on assignments related to emotional regulation and self-disclosure.

When asked if there was anything deviant about his sexuality in the past, Mr. Lawyer replied, "I gave females drugs for sex. I made that a big part of my life." When asked specifically about his sex offenses, he agreed those actions were deviant. He stated he has offended against two victims, and he described the two offenses. He said he committed the first offense against the 14-year-old boy because "I was a horn dog, selfish. I don't know if I was hiding a secret attraction to kids. It was enjoyable to me. I was not ashamed till I got caught. It was about my own selfishness." When asked if he was sexually attracted to the victim, he replied, "When I saw him at the door, not before." He said he committed the second offense against the other 14-year-old boy because "Maybe I was testing the waters, see if I could get a reaction." When asked if he was sexually attracted to that victim, he replied, "In a good sense, yes. . . . He wasn't a bad-looking young man."

The resident denied that there is currently anything deviant or problematic about his sexuality. He described his sexual orientation as "attracted to some males, but I prefer women." When asked to describe other behavioral or emotional problems, he stated, "Alcohol and drug abuse. A history of balling up my

emotions. I've been working on emotional regulation, identifying my feelings." He identified his mood-related and cognitive risk factors for sexual reoffending as, "how I deal with rejection and abandonment, thinking everybody's out to get me and I'm a failure, alcohol and drugs . . . , loneliness, lack of intimacy." He described appropriate ways of coping with those risk factors. He described his situational risk factors as "in a room with a teenager and I'm drunk." He identified ways that other people might know he is at risk of reoffending. He was asked to rate his likelihood of future sexual offending on a scale from 0 (not likely) to 10 (very likely), and he reported, "It's 50-50." When asked if he was rating himself a 5, he replied, "Yes." He said he gives himself that rating because "When I got out of prison the first time, I told myself I'd never do that again and here I am. . . . The likelihood is always going to be there." He stated he believes he is ready to be discharged from the SVPP and that he has changed in "my thinking, how I view others. I used to put myself first. I'm more honest with talking about myself. I don't mind sharing."

DIAGNOSTIC FORMULATION:

Mr. Lawyer has been convicted of sexual assaults against two male victims that occurred seven years apart. This history is consistent with sexual arousal to nonconsensual sexual activity. This pattern of arousal and behavior indicates a diagnosis of ~~Paraphilia~~ ~~Not Otherwise Specified~~.

The respondent's history and clinical presentation are also consistent with a diagnosis of ~~Antisocial Personality Disorder~~. Personality disorders are defined by persistent and inflexible patterns of thought, emotion, and behavior that are stable over time and lead to subjective distress or functional impairment. Antisocial Personality Disorder is characterized by a pattern of disregard for and violation of the rights of others occurring since age 15. Mr. Lawyer's history of arrests dates back to the age of 15; since then he has been apprehended for multiple offenses, including burglary, forgery, larceny, resisting arrest, malicious injury to personal property, and carrying a concealed weapon. The nature of his criminal offenses indicates a reckless disregard for the safety of himself and others. He has a significant history of impulsivity, irritability, and aggressiveness.

OPINION:

Based on evidence that Mr. Lawyer has a mental abnormality or personality disorder and is likely to sexually reoffend, the Court previously determined that he met the criteria as an SVP. He was committed to the SVPP for control, care, and treatment to attempt to help him change such that he would be safe to be at large. ~~He has been consistently diagnosed with Paraphilia Not Otherwise Specified and Antisocial Personality Disorders~~; these disorders are considered to be chronic.

Mr. Lawyer is generally described as an active participant in his sex offender treatment groups, completes assignments, and generally offers appropriate feedback to group members. During the current evaluation, he discussed his risk factors for future sexual offending and strategies to cope with those risk factors. ~~However, he tends to provide minimal self-disclosure and appears to have continued difficulty understanding his sexual offenses and his sexual preferences.~~

Despite Mr. Lawyer's active participation in treatment, research has shown paraphilias and personality disorders to be chronic conditions. He will always have static risk factors that place him at risk for sexual reoffending, such as his history of arrests and convictions for sexual offenses, male victims, and unrelated victims. Moreover, his history is also notable for sexual offending after being sanctioned for a sexually violent crime. In terms of dynamic risk factors (those that are amenable to change), his most recent Master Treatment Plan includes areas for ongoing focus. The team recommended that he continue working on his emotional regulation and understanding his risk factors. As such, at this time, there is insufficient basis to

opine that his mental abnormality has so changed that he is now safe to be at large and no longer likely to engage in acts of sexual violence.

Kimberly Harrison, Ph.D.
Kimberly S. Harrison, Ph.D.
Chief Psychologist

4/17/13
Date

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

JAN 20 2015

SC Court of Appeals


**APPEAL FROM CLARENDON COUNTY
Court of Common Pleas
Honorable W. Jeffrey Young, Circuit Court Judge**

Case No: 2008-CP-14-183

In The Matter of the Care and Treatment of
Michael Lawyer, Appellant

NOTICE OF APPEAL

Michael Lawyer, Appeals his Order Denying Trial After Annual Review Hearing Pursuant to the Sexually Violent Predator Act. The Order was imposed and signed by the Honorable W. Jeffrey Young, on February 26, 2014, which I, Charles T. Brooks, III, received on March 6, 2014.



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March 7, 2013

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

JAN 20 2015

SC Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas
Honorable W. Jeffrey Young, Circuit Court Judge

Case No: 2014-000449

In The Matter of the Care and Treatment of
Michael Lawyer, Appellant

PROOF OF SERVICE

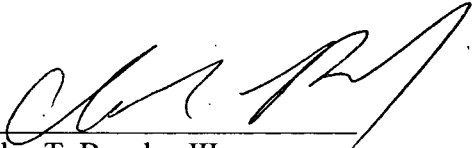
I, the undersigned, do hereby certify that on this 20 day of January, 2015, I served the foregoing Corrected Record on Appeal in this matter by depositing a true copy of it in the United States Mail, postage prepaid, on January, 2015, addressed to the following as indicated below:

South Carolina Court of Appeals
Attn: Clerk of Court
Post Office Box 11629
Columbia, South Carolina, 29211

Office of Attorney General
Attn: Deborah R.J. Shupe
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