

21778

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No: 2014-001744

IN THE MATTER OF THE CARE AND TREATMENT OF GLENN DAVID JONES,
APPELLANT

RECORD ON APPEAL

Charles T. Brooks, III
Post Office Box 3512
Sumter, South Carolina 29151
Telephone: (803) 418-5708
Facsimile: (803) 934-9618
Attorney for Appellant

Office of Attorney's General
Attn: Deborah Shupe, Esquire
Post Office Box 11549
Columbia, South Carolina 29211

ALAN WILSON
Attorney General

ANDERS
NO DEF. BRIEF
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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
GLENN DAVID JONES,)
PETITIONER.)
_____)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO. 2002-CP-10-03876

ORDER OF CONTINUED COMMITMENT

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CLERK OF COURT

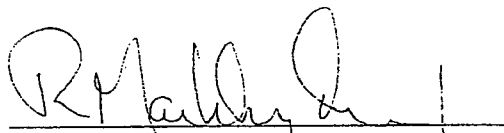
The trial of this case was held in the County of Charleston in the Court of Common Pleas the week of August 11, 2014. A jury of citizens from Charleston County heard this case pursuant to a request for a jury trial filed by the State. Senior Assistant Attorney James G. Bogle, Jr. represented the State. Charles T. Brooks III, Esquire, represented the Petitioner. The jury having heard the presentation of the evidence made the following findings of fact pursuant to South Carolina Code Sections 44-48-10 through 44-48-110:

The State has proven beyond a reasonable doubt that Petitioner's mental abnormality or personality disorder remains such that he is not safe to be at large and, if released, is likely to engage in acts of sexual violence.

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

Petitioner Glenn David Jones is to remain committed to the Department of Mental Health for his long-term control, care and treatment.

AND IT IS SO ORDERED.



R. MARKLEY DENNIS JR.
Presiding Judge for the Ninth Judicial Circuit
Court of Common Pleas

Aug 12, 2014
Charleston, South Carolina

1

I N D E X

2

WITNESS

DIRECT

CROSS

REDIRECT

RE CROSS

3

MARIE GEHLE

VOIR DIRE

4

MR. BOGLE

33

5

MR. BROOKS

36

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6

THOMAS VICTOR MARTIN

VOIR DIRE

MR. BROOKS

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7

MR. BOGLE

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CATHERINE MULLER

MR. BROOKS

9

MR. BOGLE

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1 (CHRISTINE WHITEHOUSE-SUGGS AND JOSIE MCDANIEL-BURKETTE
2 were sworn as sign language interpreters for the
3 proceedings.)

4 (The jury panel, having been previously qualified,
5 enters the courtroom.)

6 THE COURT: Thank you very much, ladies and gentlemen.
7 We're ready to select a jury in the first dispute, and this
8 is a dispute that involves the State of South Carolina and
9 Glenn David Jones, who is the respondent in this dispute.
10 Mr. Jones is hearing impaired, and so the lady standing in
11 front of me, Ms. Whitehouse-Suggs, is a court appointed
12 interpreter to facilitate the understanding for Mr. Jones of
13 the proceeding. She will be present, either she or Ms.
14 McDaniel -- I can't read my writing.

15 THE INTERPRETER: Burkette.

16 THE COURT: -- Burkette, either one of those will be
17 serving in that function. So the fact that they're there
18 should not deter you from your attention, and I'm sure that
19 you will not let that interfere with anything. The witnesses
20 will be seated to my left, but her position is for the
21 benefit of Mr. Jones. First I'd like to introduce Mr. Jones,
22 and I'd ask Mr. Jones to stand, please, and face the jury.

23 (Respondent complies.)

24 THE COURT: Thank you, sir. You may be seated, Mr.
25 Jones. Thank you.

1 He is in the yellow suit. Are there any members of the
2 jury related by blood or marriage, have any business dealings
3 with, socially or casually acquainted with Glenn David Jones,
4 if so please stand.

5 There are none.

6 Mr. Jones is represented by Mr. Brooks. If you'll
7 identify yourself.

8 MR. BROOKS: Charles Brooks.

9 THE COURT: Where do you practice, Mr. Brooks?

10 MR. BROOKS: I practice out of Sumter.

11 THE COURT: Thank you. Are there any members of the
12 jury panel related by blood or marriage, have any business
13 dealings with, socially or casually acquainted with, ever
14 been represented by Mr. Brooks or his law firm, if so please
15 stand.

16 Thank you. There are none.

17 The State of South Carolina in this matter is
18 represented by the Attorney General, Mr. Alan Wilson. Are
19 there any members of the jury panel related by blood or
20 marriage, have any business dealings with, socially or
21 casually acquainted with, ever been represented by Mr.
22 Wilson, if so please stand.

23 Thank you. There are none.

24 Mr. Wilson has a number of assistants who assist him in
25 performing the task of providing the state's attorney. One

1 of those is present in the courtroom, Mr. Jim Bogle.

2 If you'll identify yourself, please, and your role, sir.

3 MR. BOGLE: My name is Jim Bogle. As the Judge said, I
4 work for the Attorney General's Office. We're out of
5 Columbia.

6 THE COURT: Thank you, sir.

7 MR. BOGLE: Thank you, Your Honor.

8 THE COURT: Are there any members of the jury panel
9 related by blood or marriage, have any business dealings
10 with, socially or casually acquainted with, ever been
11 represented by Mr. Bogle, if so please stand?

12 Thank you, there are none.

13 I'm going to identify a number of persons, ladies and
14 gentlemen, and if you are related by blood or marriage, have
15 any business dealings with, socially or casually acquainted
16 with any of these persons, you need to stand and share that
17 information, please, with the Court. Also, I will identify
18 two healthcare providers, and if you have had any dealings
19 with any of these physicians or their offices, then you need
20 to share that as well. And that would be you or a member of
21 your immediate family. Dr. Marie E -- is it Gehle?

22 MR. BOGLE: Gehle, Your Honor.

23 THE COURT: -- Gehle, Dr. Thomas V. Martin, Mary Sink,
24 Louis and Debra -- is it Hall?

25 MR. BROOKS: Hall, and it's Mary Smith.

1 THE COURT: Mary Smith, I'm sorry; need to write better.

2 Thank you. Jesse Jones, Jimmy Jones, Catherine Muller. Any
3 of those persons?

4 Thank you, there are none.

5 The dispute that brings us here today involves a process
6 that is established by our law, the law in this state, it's
7 basically entitled the Sexually Violent Predator Act, and it
8 provides that persons who have been committed to that program
9 during the process have a right at certain stages to be
10 released if they feel that they've reached a point where they
11 would be safe for them to do so. In fact, what brings us
12 here and what you will be assisting in determining is if Mr.
13 Jones is in fact safe to be released into society and whether
14 or not he's likely to -- likely to or not to commit or
15 recommit sexual violence or acts of sexual violence. That is
16 what placed him there in 2003, and he's been in that program
17 since then. I share that with you, first of all, to find out
18 if any member of the jury panel has heard anything, read
19 anything, you have any prior knowledge of this dispute, if so
20 please stand.

21 Thank you. There are none.

22 Are there any members of the jury panel that have any
23 special training or background or experience in the fields of
24 psychiatry or psychology, if so please stand.

25 Thank you. There are none.

1 Are there any members of the jury panel that feel that
2 your life's experiences, your personal philosophy, something
3 that may have happened in your lifetime to you or a family
4 member that would influence or affect your ability to fairly
5 and impartially consider the evidence in this case and
6 determine what you believe to be the true facts, and then
7 once determining that take the law as I gave it to you and
8 apply that law fairly and impartially to those facts, if you
9 feel there is something in your background that would
10 influence or affect you, please stand.

11 All right. I'd ask those persons to come forward.

12 Does Mr. Jones waive him finding out what these persons
13 are saying? You're going to be present.

14 MR. BROOKS: I'll be present and I'll relay.

15 THE COURT: You will relay that to him.

16 MR. BROOKS: Yes, Your Honor.

17 THE COURT: That's fine.

18 COURT OFFICER: 25.

19 JUROR NO. 25: There may be two reasons.

20 THE COURT: Give me your name and juror number.

21 JUROR NO. 25: 25, Rudolph Baldwin. I'm family friends
22 with the Wilsons.

23 THE COURT: So you know them well.

24 JUROR NO. 25: Oh, yes. I haven't seen him in
25 probably -- since military service but, yes, I'm from

1 Lexington.

2 THE COURT: Not a problem. Juror No. 25 will be
3 excused. Call the number after 6:00 tonight. Have a great
4 day. Thank you, sir. Appreciate it very much.

5 COURT OFFICER: George Khoury.

6 JUROR NO. 180: I have a family member who was convicted
7 of a sexual offense.

8 THE COURT: Would that affect your ability to be fair
9 and impartial in this case?

10 JUROR NO. 180: I don't think so.

11 THE COURT: Could you apply your sense of logic and
12 reason and not be influenced by that?

13 JUROR NO. 180: Yes.

14 THE COURT: And you can make a commitment to both sides
15 that you would do that and your verdict would be based on the
16 evidence and the law?

17 JUROR NO. 180: Yes.

18 THE COURT: And your number again?

19 JUROR NO. 180: I don't remember.

20 THE COURT: Your name?

21 JUROR NO. 180: Khoury with a K.

22 THE COURT: 180. Any additional questions from either
23 side?

24 MR. BROOKS: No.

25 MR. BOGLE: No, Judge.

1 THE COURT: Thank you very much. Thank you. He will
2 remain.

3 COURT OFFICER: 229.

4 JUROR NO. 229: Peter Nelson.

5 THE COURT: Yes, sir.

6 JUROR NO. 229: My wife, she's had sexual trauma in the
7 past, so I don't know.

8 THE COURT: Would that affect you?

9 I appreciate your hesitation.

10 JUROR NO. 229: I don't know.

11 THE COURT: It's been my experience over the years
12 that's the greatest response a human being can give. Because
13 it caused you to hesitate, that answers my question, and I
14 thank you for that, and I appreciate you being candid about
15 that.

16 229 will be excused. If you'll call the number after
17 6:00 tonight. Thank you, sir. Have a great day.

18 Are there others? Thank you. There appear to be none.
19 Thank you, gentlemen.

20 Does any member of the jury panel have any background or
21 experience in the field of law, if so please stand.

22 Thank you, there appear to be none.

23 Any members of the jury panel that have been involved in
24 any program dealing with persons who were incarcerated such
25 as program ministry, outreach programs, or any other program

1 that may be performed or served in the prison setting, if so
2 please stand.

3 Thank you, there appear to be none.

4 Are there any members of the jury panel that have ever
5 been involved in a process where crimes or acts of sexual
6 violence were alleged in any role, either someone who was
7 accused, you were testifying for someone, you were supportive
8 for someone, or you were the person who was affected by some
9 act of sexual violence?

10 Come forward, please.

11 THE COURT: Mr. Khoury, I think you have already
12 expressed that. That's fine, but it would not influence or
13 affect you, as I understand.

14 JUROR NO. 180: That's correct.

15 THE COURT: All right. If you'll come forward, please.
16 Your number, please.

17 JUROR NO. 139: 139.

18 THE COURT: Yes, sir.

19 JUROR NO. 139: I just got done with a Court case where
20 actually my next to youngest daughter accused me of sexual
21 abuse. I was actually acquitted.

22 THE COURT: Would that affect you in this case?

23 JUROR NO. 139: Yes, I think.

24 THE COURT: All right. No. 139, thank you very much,
25 you're excused, if you'll call the number after 6:00 tonight.

1 Thank you, sir; appreciate it.

2 COURT OFFICER: 349.

3 THE COURT: Your name, please.

4 JUROR NO. 349: Michelle Zahn, Z-A-H-N.

5 THE COURT: Yes, okay.

6 JUROR NO. 349: And let me think, it was five years ago,
7 I was involved in a rape.

8 THE COURT: Okay. Would that affect you in this
9 dispute?

10 JUROR NO. 349: I don't believe so, no. It was resolved
11 and everything was okay.

12 THE COURT: Good. Can you make the commitment to the
13 Court and to each side that you would not be influenced by
14 that and would make your decision based on your analysis of
15 the evidence deciding what you believe to be the true facts
16 and then apply the law fairly and impartially?

17 JUROR NO. 349: Absolutely, sir.

18 THE COURT: Thank you.

19 Any additional questions from either side?

20 MR. BOGLE: No, Your Honor.

21 MR. BROOKS: No, Your Honor.

22 THE COURT: Thank you very much. 349 will remain. Are
23 there others?

24 Thank you. There appear to be none.

25 Any other specific questions from the State?

1 MR. BOGLE: No, Your Honor. Thank you.

2 THE COURT: Any other questions for Mr. Jones?

3 MR. BROOKS: No, sir.

4 THE COURT: The last question that I have for you,
5 ladies and gentlemen, is this: As I mentioned, when we were
6 qualifying, each one of you chosen will make a commitment to
7 the Court and to Mr. Jones, to the State and to the
8 attorneys, that you will at the appropriate time fairly and
9 impartially apply your common sense, your sense of logic and
10 reason in analyzing the evidence, decide what you believe to
11 be the true facts; and then once you make that decision, you
12 further make the commitment that you will take the law as I
13 give it to you and apply that law fairly and impartially to
14 those facts that you have determined. Is there anything that
15 you've heard about this dispute that would give you any
16 concern about your ability to make that commitment to the
17 Court, to the attorneys and to the officers? If there is,
18 please stand.

19 Thank you so much. What will happen now is your names
20 will be drawn at random by computer and placed on a list, and
21 the list will be numbered 1 through 20 and then 21 through
22 24. From that list we will select the jury. Each side can
23 excuse four persons from the first 20 selected. That means
24 the remaining 12 becomes our jury. Then from the remaining
25 three each side can excuse one person, the remaining person

1 becomes our alternate juror. The parties and attorneys need
2 a few moments to review the list, and so I'm going to let you
3 be at ease now for about 20 minutes.

4 Does that give you enough time?

5 MR. BROOKS: Yes, sir.

6 MR. BOGLE: Sure.

7 THE COURT: We'll be at ease, if you will be back in
8 your seats, why don't we just say 12:15, we'll select a jury
9 at that point. Thank you very much. We will be at ease.

10 (Recess held from 11:51 a.m. to 12:11 p.m.)

11 THE COURT: Thank you very much, ladies and gentlemen.
12 We're ready now to go through the process of selecting a
13 jury. As I mentioned to you, your names were drawn at random
14 and placed on a list. The list is numbered 1 through 24 -- 1
15 through 23 really we'll be using. Each side will now in just
16 a moment identify the persons that they want to excuse, and
17 the numbers that you will hear during this process are not
18 your juror numbers. They are the numbers that appear on the
19 list. So if you'll bear with us, we'll have our jury
20 identified very shortly. State may strike first. Please,
21 gentlemen, if you'll use the numbers on the left for purposes
22 of identifying your strikes. Mr. Bogle.

23 MR. BOGLE: Thank you, Your Honor. No. 2.

24 THE CLERK: Plaintiff strikes No. 2.

25 MR. BROOKS: No. 9.

1 THE CLERK: The defendant strikes No. 9.

2 MR. BOGLE: No. 10.

3 THE CLERK: The plaintiff strikes No. 10.

4 MR. BROOKS: No. 26.

5 THE COURT: No, within the first 23.

6 MR. BROOKS: Oh, first 20.

7 THE COURT: First 20, really, for the first 12.

8 MR. BROOKS: 18.

9 THE CLERK: Defendant strikes No. 18.

10 MR. BOGLE: 20.

11 THE CLERK: Plaintiff strikes No. 20 and has exhausted
12 three of its four strikes.

13 MR. BROOKS: No. 16.

14 THE CLERK: Defendant strikes No. 16 and has exhausted
15 three of its four strikes.

16 MR. BOGLE: No. 17.

17 THE CLERK: Plaintiff strikes No. 17 and has exhausted
18 all of its strikes.

19 MR. BROOKS: Beg the Court's indulgence, Your Honor.

20 THE COURT: Sure.

21 MR. BROOKS: 15.

22 THE CLERK: Defendant strikes No. 15 and has also
23 exhausted all of its four strikes.

24 THE COURT: All right. Numbers 21 through 23, each side
25 may strike one.

1 MR. BOGLE: No. 21.

2 THE CLERK: Plaintiff strikes No. 21.

3 MR. BROOKS: No. 24.

4 THE COURT: No, 21 through 23.

5 MR. BROOKS: Sorry, Judge.

6 THE COURT: That's all right. That's that high math. I
7 understand.

8 MR. BROOKS: No. 23.

9 THE CLERK: Defendant strikes No. 23.

10 THE COURT: If you would verify the strikes for me,
11 please, Madam Clerk.

12 THE CLERK: Yes, sir.

13 Now, counsel, if you can follow along with me, I have
14 No. 1, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 11, No.
15 12, No. 13, No. 14, No. 19, and No. 22.

16 THE COURT: Is that correct with the State?

17 MR. BOGLE: Yes, Your Honor.

18 THE COURT: Correct for Mr. Jones?

19 MR. BROOKS: Yes, sir.

20 THE COURT: All right. If you would ask those persons
21 to come forward, please.

22 THE CLERK: Ladies and gentlemen, when I call your name
23 and your number, please take with you all of your belongings;
24 you're going to take a seat in the jury box. Juror No. 293,
25 Jeffrey Smalls; Juror No. 5, Jaclyn Almeter; Juror No. 261,

1 Ann Pugh; Juror No. 118, Leah Geers; Juror No. 47, Robert
2 Brown; Juror No. 305, Ebonee Stanfield; Juror No. 78,
3 Kristine Defelice; Juror No. 87, Gail Diehl; Juror No. 186,
4 Narasha Lawrence; Juror No. 313, Kindra Taylor; Juror No.
5 290, Tammy Sigman; Juror No. 52, Erin Butcheck; and our first
6 alternate, Juror No. 168, Margaret Jenkins.

7 THE COURT: Ladies and gentlemen, those of you that were
8 not selected, thank you for your patience. Thank you for
9 your assistance. You are now excused for the balance of
10 today. Call the number after 6:00 tonight and follow that
11 instruction. I hope you have a great day, what's left of it.
12 Thank you.

13 Ladies and gentlemen, those of you who were selected,
14 thank you for your assistance as well, and you have been
15 selected now to help us resolve this dispute. Let me talk
16 about the seating. You'll notice there are three rows, there
17 are 18 chairs, but the back row is a row that's reserved for
18 Ms. Jenkins. She's our alternate. And, Ms. Jenkins, you can
19 occupy any one of those seats as long as you're the
20 alternate. That term really doesn't have a lot of
21 significance at this point. At the end of the trial, if the
22 first 12 selected are able to continue, then you will not
23 participate in the final deliberations; but it's not uncommon
24 for an alternate to have to assume a seat during a trial.
25 Sometimes jurors get sick, sometimes something happens in

1 family situations, numbers of reasons why, but that's
2 precisely why we have an alternate; but since neither you nor
3 I know the status of the jurors now at the end of the trial,
4 please, I know it will not detract from your attention that
5 you will give to this matter. And you may, while you're the
6 alternate, occupy any of those seats that you want.

7 The only other assigned seat is on the first row on this
8 end to my left, and any of the first 12 of you are eligible
9 to serve in this capacity. The statute allows me to appoint
10 or you to select your what I call presiding juror. Someone
11 has to be responsible for signing the verdict form on behalf
12 of the jury panel. That would be the presiding juror's duty.
13 If there are exhibits that are introduced, then those
14 exhibits, you would receive those from the Court, and when
15 the jury has completed its deliberations, return the evidence
16 to the Court; and there may be, on occasion, some necessity
17 for some written communication from the jury panel, and it
18 would be your responsibility as the presiding juror to draft
19 that on behalf of your other jurors. It doesn't give you any
20 additional pay. It doesn't give you any more power. It's
21 simply a position that has to be served and has to be
22 fulfilled and provided; and as I stated, any of you, the
23 first 12, are eligible. Ms. Jenkins is certainly competent
24 to be a presiding juror, but when she's the alternate she
25 cannot serve in that capacity. You have to select -- it

1 doesn't have to be done right away, but at some point if you
2 would select that person. Once that person has been so
3 selected, I would ask that that individual occupy that seat
4 on the first row. Until then please feel free to occupy any
5 of the seats that you want on the first two rows. Again, the
6 back row -- it's nothing sacred about it. Ms. Jenkins would
7 love to have some company, but it's just it's pure laziness
8 on my part, I will confess. As I look and glance, if all the
9 chairs on the first two rows are occupied, I know all 12 of
10 you are here, and that's the reason for it, so thank you for
11 indulging the Court in that respect. Over the years it's
12 just been my observation that the roll of a presiding
13 juror -- they're also called foreman, forelady, foreperson --
14 some persons are better facilitators than others, and that's
15 really the role of the presiding juror is to facilitate
16 deliberations; and so, after you talk to each other, you
17 decide who you want to serve in that role.

18 You haven't heard any evidence yet, and you'll take an
19 oath when we return from lunch to decide this case based on
20 the evidence and the law. Do not speculate about the trial.
21 Again, you will hear everything that you need in this
22 courtroom. Don't allow anyone to talk with you about this
23 case or talk about it in your presence when you're out of the
24 courtroom. That's very important throughout the process, and
25 for obvious reasons, because you will make your decision

1 based on what occurs in this courtroom and nothing else, and
2 so don't permit that. Generally no one -- I'm sure there
3 have been occasions in my 20 years where somebody's tried to
4 talk to a juror, I'm not familiar with any, but it's --
5 sometimes, when you're eating, someone may be involved in
6 this trial and talking about it and not realize that you are
7 on the jury; and if that should happen, just ask them to stop
8 or move or whatever. But if somebody does persist in talking
9 about it, please let me know when you return. Again, don't
10 speculate, don't talk among yourselves, don't need to do any
11 independent research.

12 Have a good lunch. I'm going to give you until 2:00,
13 and if you'll return to your jury room by 2:00, we'll bring
14 you in and resume the trial. When you exit, if you'll exit
15 the door to your right, they'll show you your jury room and
16 then you're free to go to lunch. Have a good lunch. Thank
17 you so much.

18 (Jury exits the courtroom at 12:23 p.m.)

19 THE COURT: Are there any matters of law from the State,
20 Mr. Bogle?

21 MR. BOGLE: No, Your Honor.

22 THE COURT: Don't anticipate any before we can start.

23 MR. BOGLE: No, Your Honor, I do not.

24 THE COURT: And you, Mr. Brooks?

25 MR. BROOKS: No, sir, the same.

1 THE COURT: Very well, we'll see you all then at 2:00.

2 Thank you so much, I appreciate it.

3 (Lunch recess held.)

4 (State's Exhibit 1 premarked for identification.)

5 THE COURT: I've looked at your brief, and I have also
6 read a little bit of the law, and you state in your brief,
7 and I agree, but I just want to confirm because I'm going to
8 talk to the jury briefly before you all speak to them, you
9 agree the State bears the burden of proving the elements
10 required to keep him detained at this stage?

11 MR. BOGLE: Yes, Your Honor, it's set forth at the end
12 of 44-48-110.

13 THE COURT: Okay.

14 MR. BOGLE: And, yes, we do.

15 THE COURT: And that's beyond a reasonable doubt as a
16 standard?

17 MR. BOGLE: Yes, Your Honor.

18 THE COURT: Okay. I just wanted to make sure we were on
19 the same page with that.

20 I'm advised that the jury is present. Is the State
21 ready?

22 MR. BOGLE: Yes, Your Honor.

23 THE COURT: Defendants ready?

24 MR. BROOKS: Yes, sir.

25 THE COURT: Okay. Bring in our jury.

1 (The jury enters the courtroom.)

2 BAILIFF: All jury present and seated, Your Honor.

3 THE COURT: Thank you very much. And thank you, ladies
4 and gentlemen. I hope you had a good lunch. We're ready now
5 to continue. I ask you to give your attention to the clerk
6 as she administers your oath.

7 THE CLERK: Ladies and gentlemen of the jury, if you
8 could please stand and raise your right hand and be sworn.

9 (Jury sworn.)

10 THE COURT: When we were talking this morning, I
11 mentioned to you that this system that we have in this
12 country of resolving disputes involves two judges working
13 together when you're present. You now have become a judge
14 with me, and now you and I will work together to resolve this
15 dispute.

16 As I told you, there was no one really more qualified
17 than you are to perform the tasks that you just accepted, and
18 I want to reiterate that. Feel comfortable in that because
19 you've brought everything that you're going to need to help
20 you make the decision at the appropriate time of what you
21 find to be credible and believable because it's not foreign
22 to us. We do it all the time. And you will perform that
23 task, when directed.

24 And you brought with you your life's experience. You
25 brought with you your common sense, your sense of logic and

1 reason. You brought with you something else that we really
2 haven't talked about so much. You saw me excuse some
3 persons, and the reason that I did was because they expressed
4 some concern about their ability to keep an open mind in this
5 dispute.

6 Each one of you, either by telling me that you -- and
7 you heard me ask will you base it on the evidence and the
8 law, and those -- that's really what we're just talking
9 about. Each one of you, either by not responding or
10 responding said, no, I can do that. There's nothing about
11 this dispute that would cause me any problem with doing that.

12 In fact, the last question that I asked of you before we
13 let the jury panel be pulled was -- or the group from which
14 they selected you -- was was there anything about the dispute
15 that would give you any concern about your ability to make
16 the commitment that you just made. And each one of you, by
17 not responding, said, no, nothing.

18 Please do something. It's important to the process.
19 It's important to the oath that you took. It's important to
20 both parties. And that is maintain that open mind until the
21 Court -- until I give you an instruction to begin your
22 deliberations.

23 And, quite frankly, when I give you the law, it will be
24 the last stage of this four-stage process. And the last
25 thing that I will tell you before you leave this courtroom to

1 commence the process is when you may start deliberating.

2 So until you receive that instruction, as you've just
3 promised to keep, to decide the case based on the evidence
4 and the law, and that's one aspect of the law. So you have a
5 duty to honor for that reason, but you also have a duty and
6 responsibility to honor that because it's fundamentally fair.
7 You need to go through all the parts. You need to hear all
8 the evidence. You need to hear the attorneys' remarks. They
9 speak to you twice.

10 As I mentioned to you when we were qualifying, it's a
11 very important responsibility that the attorneys have. They
12 have a duty to present the evidence and the law in a fashion
13 that will assist us to make the decisions that we're called
14 upon to make. Very important role. They're officers of this
15 court, and they have a duty to represent their clients
16 consistent with the rules of law and the rules of practice;
17 and each one of these will do that, and I'm confident of
18 that.

19 You should give them your undivided attention when they
20 speak to you because their remarks are extremely beneficial,
21 extremely important. But please remember something: Their
22 remarks, just as my remarks, should never be considered
23 evidence, because the evidence will come through the
24 testimony of the witnesses that will appear in this matter;
25 and it's that testimony that you ultimately will be tasked

1 with analyzing to decide what you find to be credible and
2 believable, and that's your job and yours alone. I have
3 nothing to do with it.

4 And during the process, I would ask you to do something:
5 We're human. Some of us, and I'll confess I'm one of them,
6 if you're a detail person, you and I don't see things the
7 same. I'm one of these people, let's get to the bottom line,
8 then I'll work my way back. Sometimes I get to the right
9 point; sometimes I don't.

10 But if you're a detail person, you don't make any
11 decisions until you've heard it all, and then you have a
12 chance to reflect on what you've heard. Then you make a
13 decision. I know that. I happen to live with one, and
14 that's the way she is. Sometimes we have some of the biggest
15 disagreements on that issue alone. Takes her forever to tell
16 me something, but that's what a detail person does.

17 You have that task to be a detail person, whether you
18 are or not, because you can't make a decision until you've
19 heard everything. Keep the open mind.

20 But having said that, I would also hasten to add that
21 when you hear something during the testimony that causes you
22 to think, "Wait a second, that doesn't ring true, that
23 doesn't connect," for instance, if I told you this morning
24 when I came to work I had to scrape ice off of my windshield,
25 your question would be, "Did you come from someplace other

1 than South Carolina?" That would cause you to think, "I'm
2 not going to know that I believe that."

3 Make a mental note of that, but don't reach the
4 conclusion that I don't believe that, because when you get to
5 your jury room, your fellow jurors may be able to give you
6 some logical explanation for it that will allay your concerns
7 about the credibility of that particular statement or
8 testimony.

9 So certainly make the note, but don't conclude, "I don't
10 believe this," or, "I do believe this." Leave that for the
11 point where you begin your deliberations.

12 When we start the evidentiary portion, the attorneys
13 speak to you before you hear it and after you hear the
14 evidence. Before, they will give you a basic overview of the
15 dispute. They'll talk to you about what the dispute
16 involves. They may discuss some of the evidence. They may
17 even discuss some of the law that they'll be dealing with.

18 Following that, then we'll move into the evidentiary
19 portion. In this particular case, the State bears the burden
20 of proving the elements required. And I'll discuss those
21 with you in full in the charge. And you'll be analyzing the
22 evidence, decide whether or not you're convinced to the
23 standard required.

24 And the standard that you will be applying -- this is a
25 civil case. The standard that you will be applying is a

1 standard the statute provides beyond a reasonable doubt. And
2 that's more than just being probable, that they're probably
3 establishing any particular element. Because that's what
4 you're going to do. You'll go back and analyze it. "Am I
5 convinced beyond a reasonable doubt that the evidence has
6 established that particular element?"

7 And if it has, then the State's met its burden of proof.
8 If it hasn't, then you move to the next one and so on.

9 If at any point you're not convinced beyond a reasonable
10 doubt as to that particular element, and that's the
11 collective decision, then the State has failed, and you must
12 return a verdict, as I will instruct you, that will be for
13 the defendant and not for the State.

14 But we'll talk about that more during my charge, but
15 that's the standard that you will be applying: A reasonable
16 doubt. I'll define it for you, but that's the doubt that
17 would make an honest, sincere, conscientious juror searching
18 for the truth in a case to hesitate to act, to take some
19 action.

20 And that's the standard that you will be assessing, not
21 the probability standard. That's called a preponderance or
22 greater weight of the evidence. In some civil trials, that's
23 the standard that's applied, but it won't apply in this
24 particular proceeding.

25 The State goes first because they have the burden of

1 proof, but the defendant also has the right to present
2 testimony for your consideration, but that won't happen until
3 you've heard all the State's evidence. A very logical
4 reason. You don't want to make a decision on what you
5 believe until you hear everything, of course.

6 Once the defense has had the opportunity to choose to
7 present any additional testimony, then the parties, the
8 attorneys will speak to you the second time. And unlike the
9 opening statements, you will have heard all of the evidence,
10 but it's proper for them to discuss that evidence with you
11 and suggest reasonable inferences that you may draw from that
12 evidence. Their remarks will be extremely helpful when you
13 begin your deliberations; so please, again, give them your
14 attention.

15 Following that, I will give you the instruction on the
16 law, and then you will retire to resolve this dispute. It's
17 an honor and a privilege to serve with each one of you, and I
18 thank you very much for your attention to my remarks. I ask
19 you now to give that same attention to the attorneys as they
20 give their opening statements.

21 Mr. Bogle.

22 MR. BOGLE: Thank you, Your Honor.

23 THE COURT: Yes, sir.

24 MR. BOGLE: May it please the Court.

25 THE COURT: Yes, sir.

1 MR. BOGLE: Ladies and gentlemen, I introduced myself
2 earlier today. My name is Jim Bogle. I'm with the Attorney
3 General's Office. People often wonder why their local
4 solicitor or their county attorney doesn't do these types of
5 cases, and I'll tell you. When the legislature passed this
6 law, they put the Attorney General's Office -- gave us the
7 job of presenting these cases to juries around the state.
8 It's called the sexually violent predator law. It was passed
9 in 1998. When the legislature passed this, here's what they
10 said, they made a finding that a mentally abnormal, extremely
11 dangerous group of sexually violent predators exist who
12 require involuntary civil commitment in a secure facility for
13 long-term control, care and treatment.

14 In this particular case, the matter of
15 Glenn David Jones, sitting over there, that was done about
16 him back in 2003. He had been convicted of a sexually
17 violent crime. He was also determined to have a mental
18 abnormality or a personality disorder that made him likely to
19 commit the same type of crime in the future, unless he was
20 confined for treatment. So back in 2003, a hearing was held.
21 He finished his prison term for the crimes, and it was found
22 by the Court that he should be committed to a place run by
23 the Department of Mental Health for this, what they call
24 long-term control, care and treatment. And he's been there
25 ever since.

1 Now, our law provides for an annual review process. At
2 a previous hearing, Mr. Jones presented to a judge evidence,
3 and the judge made a finding that there was enough evidence
4 that his mental condition changed to where he was now safe to
5 be at large and not likely to commit acts of sexual violence
6 and ordered trial on the issue. And that's why we're here
7 today.

8 Here's what the state has to prove, and I'll read it
9 also from the law. It says: The burden is upon the State --
10 that would be our evidence -- to prove beyond a reasonable
11 doubt that the person, the committed person, Mr. Jones's
12 mental abnormality or personality disorder, whichever he has,
13 remains such that he is not safe to be at large and, if
14 released, is likely to commit acts of sexual violence.
15 That's the burden that we have to MEET.

16 We will be calling Dr. Marie Gehle. She is a forensic
17 psychologist with the Department of Mental Health who did the
18 annual review evaluation of Mr. Jones this time and on
19 previous occasions as well. And we will present evidence
20 through her. And I think the burden is on us, like I said,
21 to establish that his condition remains such, even after 11
22 years, he's still a danger to the community and should not be
23 released and, if released, is likely to commit acts of sexual
24 violence. That's what the case is about.

25 Now, the Judge will tell you, like he said a few minutes

1 ago, he'll explain the law to you at the end. And in that
2 definition, he'll define to you what is meant by beyond a
3 reasonable doubt. And that's your duty: Apply the facts you
4 hear from that witness stand, any exhibits that were
5 introduced into evidence and apply it to the stuff you hear
6 and the law that you hear from the Judge and make the
7 decision.

8 That's what the case is, and that's what it's about.
9 Will the State meet its burden? I would submit to you I
10 believe that we can.

11 Thank you, Your Honor.

12 THE COURT: Thank you, Mr. Bogle. Mr. Brooks.

13 MR. BROOKS: Ladies and gentlemen, once again, my name's
14 Charles Brooks, and I have the distinct honor and privilege
15 of representing Glenn Jones, who's seated at the table. And
16 as you can tell by now, the man has a disability, and we have
17 interpreters in the room to do the sign language for him.

18 And there's some things that I agree with Mr. Bogle
19 about; there's some things I disagree with him about. This
20 is a case under the sexual violent predator law. And Glenn
21 has served his time, prison time. He has been in the
22 department for long-term care and treatment. And our
23 position is that it's time for him to be released.

24 And while this is something that may be repugnant to the
25 average and ordinary citizen, we truly still live in a

1 country where a person still has the opportunity to
2 rehabilitate themselves and talk about power of forgiveness.

3 Now, the burden is on the State. I agree with Mr. Bogle
4 in regards to that. And what does that mean when you heard
5 the Court say and you heard Mr. Bogle say, "State has the
6 burden beyond a reasonable doubt"? Most folks, and you are
7 no exception, you all don't come into Court and do all this
8 Court stuff that lawyers and judges do on a daily basis. You
9 all have been brought in here, taken away from your normal
10 daily routines, and you sit in here and all of a sudden
11 you're thrust upon a case that you really don't -- might not
12 know a whole lot about. But what do I mean by that standard
13 of beyond a reasonable doubt? That's very important.

14 Now, I'll give you an idea of what I'd like to show
15 people as what's called beyond a reasonable doubt or equate
16 that to something, maybe something you can identify. I know
17 we've got a lot more ladies on here, but if you're like my
18 momma, my momma knows a whole lot of stuff about football.
19 Okay? And I'd like to use football to describe it.

20 Beyond a reasonable doubt is the other team taking our
21 ball and going all the way into the other team's end zone.
22 It's not sufficient just to get the ball across the 50 yard
23 line. And it's not sufficient just to get the ball in the
24 field goal range. But it's the burden of the State to get
25 the ball all the way in the end zone.

1 Or another sport, if you're not a football fan, maybe
2 you're a baseball, softball fan. The State has got to get
3 the runner out. If it's a tie when the runner gets to the
4 bag, the tie goes to the runner. In this case it would be
5 left to my client, Glenn Jones.

6 That's a huge burden that the State has. But even
7 though the burden is on them, we've got the right and the
8 opportunity to present evidence to you.

9 You heard the Judge give you names of another doctor,
10 Thomas Martin. You also heard the Judge give you about three
11 to four other names. These people are Glenn's relatives,
12 sisters who obviously are supporting him, as well as Glenn
13 himself.

14 Even though he does have a disability, we do have
15 interpreters in this courtroom for him. Keep that in mind.
16 The burden is on them.

17 We feel confident that you will have an open mind and
18 listen to all the evidence and pay attention to the people as
19 they testify in this case. And just because you hear
20 something that you may find repugnant or you might revile,
21 grotesque or whatever, bear in mind, that you -- we're
22 talking about something that an individual did a long time
23 ago and where that individual is now. It's a big difference.

24 And I think when you keep that open mind and you listen
25 to the experts and you listen to how they testify, when you

1 listen to what's talked about and you listen to the other
2 witnesses, and I think at the conclusion, you will come to
3 the same conclusion that I have, that this man has changed
4 and it's time for him to have his opportunity to go home and
5 live in society. Thank you.

6 THE COURT: Thank you, Mr. Brooks.

7 You may call your first witness, Mr. Bogle.

8 MR. BROOKS: Thank you, Your Honor. We call
9 Dr. Marie E. Gehle, please.

10 MARIE GEHLE,
11 being first duly sworn, testified as follows:

12 DIRECT EXAMINATION ON VOIR DIRE BY MR. BOGLE:

13 Q. Dr. Gehle, what is your current employment?

14 A. I'm a chief psychologist at the South Carolina
15 Department of Mental Health.

16 Q. And as a chief psychologist, do you perform evaluations
17 of people involved with the Sexually Violent Predator Act?

18 A. That's correct.

19 Q. What type of evaluations do you do?

20 A. I primarily do evaluations to determine if somebody
21 meets the criteria to be committed; so I consider those
22 precommitment evaluations. And from time to time, I do these
23 reviews called annual reviews of the people who have been
24 committed to see if they continue to meet the criteria.

25 Q. Okay. And roughly speaking, about how many of these two

1 categories of reviews or evaluations have you done?

2 A. I've completed more than 160 of these evaluations.

3 Q. Okay. And looking at just the ones -- the ones where
4 someone -- where you have to evaluate someone to see whether
5 or not they should be committed to this treatment program,
6 about what percentage of the time do you come back saying
7 that you don't think they need to be committed?

8 A. Of those evaluations, it would be about 40 percent of
9 the time I say -- I recommend commitment. 30 to 40 percent
10 of the time, I will recommend commitment, and the remainder,
11 I don't recommend commitment.

12 Q. What professional and educational degrees do you hold?

13 A. I have a bachelor's degree in psychology, a master's
14 degree in criminal psychology and a doctorate in clinical
15 psychology.

16 Q. Have you had any specialized training within the field
17 of psychology?

18 A. Yes. I completed numerous practicum experiences,
19 that's, like, work experience during graduate school. And
20 then I completed a predoctoral internship in forensic
21 psychology out in Washington State. One of the rotations
22 during that internship was at their sexually violent predator
23 commitment center; so I did treatment with sexually violent
24 predators and detainees there.

25 And I did a number of forensic psychological evaluations

1 for the courts. Then I also completed a postdoctoral
2 fellowship in the State of Georgia, completing evaluation and
3 treatment of people who were referred by the courts for
4 evaluation or if they were found incompetent or insane.

5 Q. Are you licensed to practice psychology in the State of
6 South Carolina?

7 A. Yes, I am.

8 Q. Are you licensed in any other states?

9 A. I'm also licensed to practice in Georgia.

10 Q. What is, very briefly, the study of psychology?

11 A. Psychology is the study of the mind and behavior.

12 Q. And when you say -- a few minutes ago, you used the word
13 "forensic" psychology. What does the word forensic mean when
14 taken with the word psychology?

15 A. It just means applying the principles of psychology, the
16 study of human behavior, to questions of the law or questions
17 that the court might have.

18 Q. Have you previously been recognized by the courts of
19 this state as an expert witness in the field of psychology
20 and forensic psychology?

21 A. Yes.

22 Q. About how many times?

23 A. Approximately 70 times.

24 MR. BOGLE: Okay. Your Honor, at this time we would ask
25 that Dr. Gehle be recognized by the Court as an expert

1 witness in the fields of psychology and forensic psychology.

2 THE COURT: Care to examine her as to qualifications?

3 MR. BROOKS: No, sir.

4 THE COURT: Very well. She will be permitted to render
5 opinions in those areas. Thank you.

6 MR. BOGLE: Thank you, Your Honor.

7 DIRECT EXAMINATION BY MR. BOGLE:

8 Q. Now, Dr. Gehle, you talked about the type of evaluations
9 you do under this law. Let's talk about annual reviews. In
10 an annual review, what is involved as far as the presentation
11 to the court?

12 A. Regarding the presentation? I'm not sure I understand.

13 Q. What does an annual review consist of as far as how the
14 court is notified of a person coming up for annual review?

15 A. The resident -- that's what we call them in the program,
16 so anybody who's committed to the program is considered a
17 resident. They are given notification by the program that
18 their annual review is due, and they make a decision as to
19 whether they're going to participate in the annual review.
20 Then the annual review happens.

21 Currently, their -- this was a little bit different in
22 years past, but currently they get a copy of their completed
23 review, so the report, and then they are allowed to make a
24 decision as to whether they want to go to Court and have a
25 hearing or whether they want to waive their hearing.

1 Q. Okay. Now, in this particular case, were you called
2 upon to evaluate Glenn David Jones for an annual review under
3 the Sexually Violent Predator Law?

4 A. Yes, I was.

5 Q. Okay. As part of that evaluation, did you meet with and
6 interview Mr. Jones?

7 A. Yes, I did.

8 Q. When did that happen and for about how long?

9 A. I met with him for this annual review on May 22nd, 2013.
10 And I met with him for roughly about two and a half hours.

11 Q. Okay. Is the man you met with here in the courtroom
12 today?

13 A. Yes.

14 Q. Would you identify him for the record.

15 A. He's sitting at the table dressed in yellow
16 (indicating).

17 MR. BOGLE: Okay. Let the record reflect she's
18 identified Mr. Jones.

19 THE COURT: So reflects.

20 MR. BOGLE: Thank you, Your Honor.

21 Q. Now, in addition to meeting with Mr. Jones, did you
22 receive a file of information, or did you review a file of
23 information about him, written documentation about him?

24 A. Yes, I reviewed the file of information that was
25 received as part of the precommitment evaluation. So the

1 original packet of information. I also looked at all of the
2 prior annual reviews that were completed, and I looked at his
3 records from the program.

4 Q. Okay. Did the records you looked at also consist of
5 criminal records related to the sexually violent conviction
6 or any other convictions that he has?

7 A. Yes. The records, they included all of his criminal
8 history reports, police reports, warrants, indictments,
9 things like that related to his criminal convictions.

10 Q. Now, Doctor, is this the type of information that's
11 typically and reasonably relied upon by experts in your
12 field?

13 A. Yes, it is.

14 Q. Why was it necessary to review all this information,
15 both the precommitment, the police records, as well as the
16 different annual reviews that have happened each year? Why
17 was it necessary to look at all this stuff?

18 A. Well, it's necessary to look at his past criminal
19 behavior because I'm looking for patterns of sexual offending
20 that would indicate he has a mental illness or a personality
21 disorder. I want to see what kind of victims he preferred,
22 how he offended, who he offended, when he offended, those
23 kinds of things; so that stuff's important to look at.

24 It's also important to look at all the reviews that he
25 had to see how he's progressed from the time he was committed

1 to see if I can identify any pattern of change or to see if
2 he's remained the same, see how consistent he is in his --
3 whether he's honest in his reporting, whether he is denying
4 the offenses, just how specific he is in the offenses when he
5 reports those things to evaluators. So I have to look at
6 everything and look for patterns and just behavioral cues.

7 Q. Did you consider and rely upon the information you
8 talked about just now along with your interview of Mr. Jones
9 in reaching an opinion about him?

10 A. Yes.

11 Q. Okay. Now, how does past behavior relate to future
12 behavior, particularly in the field of sexual offending?

13 A. Well, in regards to sexual offending, past behavior
14 might indicate some proclivities and might indicate what
15 somebody is likely to do in the future. So, you know, people
16 tend to be consistent in those things in their sexual
17 offending; so it would probably indicate what he -- what he
18 would be most likely to engage in if he was in the community.

19 Q. Okay. Now, when was Mr. Jones committed to the sexually
20 violent predator treatment program, which, I believe, is in
21 Columbia? When was he committed?

22 A. He was committed in July of 2003.

23 Q. Okay. I'd like to turn to the criminal history for a
24 second now. Regarding his past criminal history, did you
25 look at the records behind each conviction, behind his

1 convictions?

2 A. Yes.

3 Q. Okay. Are they part of what you told the jury about a
4 few minutes ago when you were talking about the stuff you
5 looked at?

6 A. Yes.

7 Q. And are they part of the basis for your opinion?

8 A. Yes.

9 Q. Was he convicted of a sexually violent crime as defined
10 by the statute?

11 A. Yes.

12 MR. BOGLE: I'd like to approach right now, if I may,
13 Your Honor.

14 THE COURT: You may.

15 Q. I show you what's been marked as State's Exhibit No. 1,
16 a certified copy from Charleston County of a conviction of a
17 lewd act on a minor. Is that a document you looked at?

18 A. Yes.

19 Q. Okay. It consists of the sentencing sheet, the
20 indictment and the arrest warrant; is that right?

21 A. That's correct.

22 Q. Okay. And is lewd act on a minor a sexually violent
23 crime under South Carolina's sexually violent law --

24 A. Yes, it is.

25 Q. -- predator law?

1 A. Yes.

2 MR. BOGLE: We'd move to introduce into evidence, Your
3 Honor, this particular document right now as State's Exhibit
4 No. 1.

5 THE COURT: Objection?

6 MR. BROOKS: No objection.

7 THE COURT: Without objection, State's Exhibit 1 is
8 admitted.

9 MR. BOGLE: Thank you, Your Honor.

10 (State's Exhibit 1 admitted into evidence.)

11 Q. Now, Doctor, before we get into this one, were there
12 other convictions he had, convictions for crimes that weren't
13 sexually violent, but the charges and facts were sexual in
14 nature that required you to take a look at them?

15 A. Yes.

16 Q. Okay. I'd like to go back first to 1986, a conviction
17 for assault and battery of a high and aggravated nature. Do
18 you recall that, that charge?

19 A. Yes. Well, I believe he was charged with assault and
20 battery. I have that he was convicted of aggravated assault
21 and battery.

22 Q. Okay. Why was it necessary -- now, this is -- is
23 aggravated assault and battery a sexually violent crime as
24 defined in this particular law?

25 A. Not per se. Only if a judge would say that this is

1 going to be considered a sexually violent offense, but it's
2 not one of the crimes that's listed in the statute
3 specifically.

4 Q. Okay. Was it necessary, though, for you to look at the
5 underlying details of this crime in evaluating Mr. Jones's
6 situation right now?

7 A. Yes.

8 Q. And why was that?

9 A. Well, it was his first known charge of a sexual nature,
10 and I needed to look at it to see who he offended, how he
11 offended, when he offended.

12 Q. Okay. Would you tell the jury what underlying details
13 you found that were important in reaching your decision about
14 whether or not he should get out of there right now.

15 A. In relation to this charge?

16 Q. The assault, the aggravated assault charge. Could you
17 tell us what factors you found were significant in that case?

18 A. Well, this -- this offense was against a 17-year-old
19 girl. He said that they were acquaintances. And he went to
20 this girl's house, and he knocked on the door and asked her
21 if he could get a piece of paper and a pencil so that he
22 could communicate with her.

23 And he asked her some questions, you know, "Do you
24 remember me? Who am I?" Things like that. And he
25 established that she knew him from -- I think that he knew

1 her brother. And then he asked her, "Do you like me?"

2 And she indicated that she had a husband. She was
3 lying. She stated in the police report that she was lying.
4 She was doing this so she -- he would leave her alone. But
5 she told him that she was married and that her husband would
6 be home soon.

7 He then proceeded to touch her, put his hand on her leg.
8 She pushed him away. And I think she got up and tried to run
9 away. He chased her. She grabbed onto a glass or something
10 and hit him. And they fought some more, struggled a lot.
11 And finally, she was able to get up and run out of the home.

12 This, in particular, was important because it showed his
13 persistence in offending. It was also important because of
14 the account that he gave to me or how he explained the
15 charge, which was he said that she used to smile at him, that
16 she had been nice to him and that he thought that that meant
17 she would be happy to have sex with him.

18 He said that he wanted to have sex, and when she said
19 no, it made him mad and -- because he wanted to have sex. So
20 that was important because it's consistent with later
21 offenses.

22 Q. Okay. And what type of sentence -- when he was
23 convicted of this particular aggravated assault charge, what
24 sentence did he get?

25 A. He was sentenced under the Youthful Offender Act to an

1 indeterminate sentence of one to six years.

2 Q. Okay. Now, was there another crime after that, a charge
3 in 1988 that led to a conviction which you also found
4 significant?

5 A. Yes.

6 Q. Okay. And what was the original charge in this
7 particular case we're about to talk about now?

8 A. He was originally charged with assault with intent to
9 commit criminal sexual conduct and public drunk.

10 Q. Okay. What was he eventually convicted of?

11 A. Assault and battery of a high and aggravated nature and
12 attempted burglary in the second degree.

13 Q. Okay. Were there -- was there information about this
14 charge that you found significant in your evaluation of
15 Mr. Jones and whether or not he should be released from
16 treatment right now?

17 A. Again, it's looking at the details of the offense. He
18 went to this woman's home and fondled her and tried to use
19 force to have sex with her. He doesn't talk about this
20 offense very much when I evaluated him. In the last
21 interview, he skipped over this and talked about another
22 offense being his second offense.

23 But he has talked about this in past reviews. And he
24 really just gives a different story that, you know, he wasn't
25 trying to force her, that it was a misunderstanding, a

1 communication difficulty, something like that.

2 Q. Was this a woman that knew him prior to the incident
3 happening?

4 A. I believe so, yes.

5 Q. Okay. Was there another conviction after that? Again,
6 we haven't gotten to the lewd act charge yet, but was there
7 another conviction after that that you also found
8 significant? And, if so, what was the charge on the next
9 conviction?

10 A. Yes. The next sexual offense was he was initially
11 charged with assault with intent to commit criminal sexual
12 conduct, and that was in November of 1993. And he was
13 convicted of assault and battery of a high and aggravated
14 nature and sentenced to ten years incarceration.

15 This incident involved him going to a bar, and he
16 started buying a woman drinks, and he asked her for a ride
17 home. And on the way home, he tried to sexually assault her.

18 This was particularly important because at the last time
19 I interviewed him, his account was pretty inconsistent. He
20 said initially that he did leave with her with the intent to
21 rape her, but then he said that he just wanted sex and that
22 he was wasn't planning to rape her, which -- you know, he
23 went back and forth.

24 But it was also very inconsistent because he gave her
25 directions that were to kind of a dead-end street. It wasn't

1 to his home. He asked her for a ride home and then gave her
2 false directions. And, to me, that indicated he had some
3 sort of plan when he was giving her those directions that he
4 was going to do something to her.

5 When she started fighting with him, he fought back even
6 more and attempted to, you know, sexually assault her.

7 Q. Was this a -- was there any indication to suggest that
8 this was a woman he knew prior to meeting her at the bar and
9 buying her drinks?

10 A. No. I believe that she was a complete stranger.

11 Q. Okay. Was there another charge after that, again, not a
12 sexually violent conviction, but another charge involving an
13 assault with a woman that you also looked at?

14 A. There's an incident of him committing a simple assault,
15 a woman reported that she was at a bar and that Mr. Jones was
16 asking her for money and that she just wanted him to leave
17 her alone. She left, and he followed her, and he ended up
18 pushing her and hitting her. It's unclear if that was sexual
19 in nature. And he wasn't charged with anything. None of the
20 charges were sexual in nature.

21 Q. Okay. Was he convicted of simple assault on that
22 particular case?

23 A. Yes.

24 Q. Okay. And his sentence would have been -- I guess the
25 maximum's 30 days; is that right?

1 A. Yes.

2 Q. Okay. Now, was it important, though, for you to look at
3 this particular crime, even though it's not a sexually
4 violent crime?

5 A. Yes. Violence is related to sexual offending; so it's
6 important to look at those things. This was also an assault
7 of a woman, and it involved him being in a bar, which, you
8 know, is problematic for him. He had a prior offense in a
9 bar.

10 This was also months after the sexual offense, the
11 assault and battery of a high and aggravated nature. He was
12 not yet detained or convicted of that offense; so prior to
13 adjudication of that offense, he commits another offense
14 against a woman.

15 Q. Okay. Now, you said that he went to prison, I think,
16 the last time on the last one when he went to prison for ten
17 years; is that right?

18 A. Yes.

19 Q. When did he -- did he get paroled from that crime? Did
20 he eventually get paroled from the Department of Corrections?

21 A. Yes.

22 Q. And when was he paroled at the Department of
23 Corrections?

24 A. Sometime in around June 1997.

25 Q. Okay. Now, going back to the State's Exhibit No. 1,

1 which I handed you a minute ago, the conviction for the lewd
2 act charge, how did that crime -- when was he charged with
3 that, and what's the date of that incident?

4 A. He was charged -- the offense happened around Halloween
5 of 1997; so it would have been a few months after his release
6 from prison. And he was convicted in January of 1999.

7 Q. What was the original charge on that particular
8 indictment or on that particular charge?

9 A. The original?

10 Q. Mm-hmm.

11 A. Criminal sexual conduct with a minor.

12 Q. Okay. And this is a crime that's a sexually violent
13 crime under our law; is that right? Lewd act on a minor is
14 what he was convicted of?

15 A. Yes.

16 Q. Okay. Now, did you find the conviction here to be
17 significant in reaching your opinion about whether or not
18 Mr. Jones should be released as a result of this jury trial
19 we're doing right now?

20 A. Yes. So this was a different type of offense for him.
21 This was against a child.

22 Q. Mm-hmm.

23 A. It was, again, a stranger victim. So with this offense,
24 he apparently met some people who were parents to this child.
25 They said that they met him two or three hours before this

1 sexual assault. He was apparently hanging out at their
2 house, and he invited this eight-year-old boy to climb on his
3 lap, and he was teaching him sign language.

4 The boy said that while he was teaching him sign
5 language with one hand, he was -- had his hand in the little
6 boy's pants and was fondling his penis with the other hand.
7 The victim said that he was scared, that he was shaking, and
8 he made some sort of noise, and his parents heard the noise.
9 They were apparently very close, and they looked over and saw
10 this offense happening. And they got up, and I think they
11 started beating up Mr. Jones.

12 Q. Now, the crime he was convicted of, you said he was
13 charged with criminal sexual conduct with a minor. What was
14 the eventual crime that he was convicted of on that sheet of
15 paper?

16 A. I believe that he was -- it was initially called a
17 criminal sexual conduct with a minor on the police report.
18 But on the indictment, it's lewd act on a minor.

19 Q. Okay.

20 A. And that's what he was convicted of was lewd act on a
21 minor.

22 Q. The date of that conviction?

23 A. The date of the conviction is January 26th, 1999, I
24 believe.

25 Q. And what sentence did he get for that crime?

1 A. Ten years.

2 Q. Okay. Now, what is it about his conduct -- you've
3 talked about a series of crimes here involving women or women
4 of a certain age and now a small boy. What is significant
5 about these crimes that affect -- did you find significant
6 regarding your opinion about whether or not Mr. Jones should
7 be released?

8 A. Well, these offenses indicate several different
9 paraphilic disorders.

10 Q. Now, before you go further, what is -- don't use big
11 words on me. What does paraphilic mean, Doctor? All right.

12 A paraphilic disorder, what are you saying?

13 A. Paraphilia is a mental illness that involves deviant
14 sexual arousal to a specific person or object or type of
15 behavior. So it can involve -- like, pedophilia is a
16 paraphilia where you're aroused by prepubescent children.
17 Biastophilia is a paraphilia that involves being aroused by
18 rape. You know, you're aroused when you rape somebody.

19 He also has voyeurism. That's a paraphilia where you're
20 aroused by watching unsuspecting people in various acts,
21 intimate acts, whether watching them have sex, undress,
22 things like that.

23 Q. Okay.

24 A. So in this -- in this evaluation, I have to look at all
25 of his reported conduct, so things that he was charged and

1 convicted of, but also his unreported conduct, things that he
2 was not detected of but that he's talked about in treatment
3 or that are known through the records, and looked for those
4 patterns to see if he has a pattern of sexual arousal that
5 would indicate a paraphilia.

6 In this case, he has offenses against females, who one
7 was 17, but she's postpubescent, meaning she's sexually
8 developed at that age; adult females who would be sexually
9 developed; an eight-year-old boy who would be prepubescent.
10 That in conjunction with some things that he has reported in
11 treatment, that he is sexually aroused by children, that he
12 has -- that he was sexually abused when he was a young child.

13 Q. Let's stop and talk about that for a second. As a young
14 child, did he live in a particular facility or place?

15 A. Yes. He lived at -- I believe it's called the
16 Spartanburg School for the Deaf.

17 Q. Okay. In the course of your investigation of the
18 records, was there evidence that he had been sexually abused
19 while there?

20 A. He's consistently reported that he was sexually abused
21 there by an adult.

22 Q. Okay. Was there any information about the effect that
23 had on him and what he did, how he might have acted out
24 toward other people while at the school?

25 A. Well, it sounds like he was abused, he said it was

1 weekly, for a couple years. And then he started abusing
2 younger children.

3 Q. Okay. Was that while he was living at this school for
4 the deaf in Spartanburg?

5 A. Yes. He said it continued until he graduated.

6 Q. Okay. Please continue with your analysis of the --
7 whether or not he has a paraphilia or a deviant sexual
8 interest.

9 A. So a paraphilia means that you have intense arousal that
10 lasts a certain period of time; so it can't just be a
11 one-time thing. It has to be a pattern of such. And the
12 guideline is that the pattern has to last six months or more;
13 so you want to see it over time, not just one instance of a
14 behavior. Sometimes people try out things, and they do it
15 once and they don't do it again.

16 So if I look at all of his reported and undetected but
17 self-reported conduct, he has -- he meets criteria for
18 pedophilia, which is sexual arousal to prepubescent children.
19 He meets criteria for what was called at the time paraphilia
20 not otherwise specified. It's since changed names. It's
21 other specified paraphilic disorder. And the focus in that
22 is he's aroused by rough sex where he takes control, where he
23 is committing a rape. So, again, somebody who doesn't want
24 it. That is very arousing to him.

25 He has reported that he had sex with a number of

1 prostitutes and that he wanted very rough sex. And if they
2 didn't want to comply, he would rape them in conjunction with
3 these attempted rapes that he had; so that -- that gives
4 evidence for a paraphilic disorder towards rape,
5 biastophilia.

6 He also talked about a history of voyeuristic behavior
7 starting when he was at the Spartanburg School for the Deaf.
8 He used to peep on the girls there, and he reported that that
9 arousal was ongoing for many years; so he has the paraphilic
10 disorder called voyeurism as well.

11 In addition, I have to look at all of his criminal
12 behavior, attitudes, conduct problems as an adolescent,
13 things like that to see whether he has a personality
14 disorder. That's defined as more of a problem with the way
15 that you view the world. And he's been diagnosed by myself
16 and by previous evaluators with antisocial personality
17 disorder, meaning he looks at the world through a lens of
18 more of a criminal mind, that sort of thing.

19 Q. Now, Doctor, was it also necessary in doing your
20 evaluation of him to look at whether or not -- even though it
21 was a long time ago, whether or not he'd had sex offender
22 treatment while at the Department of Corrections?

23 A. It was important to look at that to see if he had that
24 treatment and what he had -- what he'd gained from that
25 treatment, how he benefited from that treatment.

1 Q. Why would it be important to look at that? Because,
2 again, it would have happened a long time ago. Why was that
3 important to look at?

4 A. Well, it's important to see if he had sex offender
5 treatment at any time that he was incarcerated and did he
6 then go out and reoffend. You want to see if there was any
7 benefit from treatment. In looking at his records, he was
8 treat -- he went through some treatment the last time that he
9 was incarcerated; so he's not been out in the community since
10 then.

11 But the records indicate that he was in treatment for
12 two or three years. And when he was evaluated prior to his
13 commitment for the purpose of commitment, he reported that he
14 really didn't have any memory as to what happened in sex
15 offender treatment, that he didn't remember anything or, you
16 know, didn't really learn anything from it.

17 Q. Was it necessary in the course of your review to form an
18 opinion about him to look at the prior annual reviews done by
19 yourself or by other professionals prior to the annual review
20 that led to today's hearing? Was it necessary to look at
21 those prior annual review treatment reports?

22 A. Yes.

23 Q. Why is that?

24 A. Well, it's important to see, you know, what he's stated
25 in interviews in previous years. Part of -- part of doing

1 this evaluation is looking for consistency, so consistency
2 and honesty in his report to see if he's telling the truth
3 and to see, you know, how honest he can be, if it's -- it's
4 not everybody's opinion, but it's my opinion that you have to
5 be honest in treatment, report all of your behaviors, report
6 your problems in order to get help with that as just a
7 baseline.

8 So being honest is kind of the first step, and being
9 consistently honest is really important.

10 Q. In the records you looked at, did you find any prior
11 record where he was being considered for release from the
12 program?

13 A. Yes.

14 Q. Okay. About how long ago could that have been?

15 A. He was considered for release -- well, he's considered
16 every year when there is an annual review done. That's a
17 consideration for release. But in 2007 his treatment team
18 thought that he was ready for release.

19 Q. Okay. And as a result of that feeling by the treatment
20 team, was he looked at again by a psychiatrist to take
21 another look at him?

22 A. Yes.

23 Q. Was that a review that you also looked at as part of
24 your review of this case here now?

25 A. Yes.

1 Q. Okay. Who was that other psychiatrist whose records you
2 were compelled to look at to see what happened when they were
3 recommending release back in 2007?

4 A. It was Dr. Donna Schwartz-Watts.

5 Q. As a result of Dr. Schwartz-Watts's review, did his
6 case -- was he recommended for release then?

7 A. No.

8 Q. Okay. Was his case ever processed by the Department of
9 Mental Health as a release case back then as a result of her
10 looking at him?

11 A. No.

12 Q. Okay. Now, I'd like to ask you, could you tell the
13 jury, is there an actuarial scoring thing that you did of
14 Mr. Jones as part of your review?

15 A. Yes.

16 Q. Okay. I used a big word. What does actuarial scoring
17 mean? And tell the jury what it's called.

18 A. An actuarial scoring thing, it's called the Static-99R,
19 and it is a risk assessment measure to help estimate or
20 predict whether somebody's likely to reoffend.

21 Q. Okay. And is Static-99 based upon a study of, what,
22 thousands of sex offenders in multiple countries?

23 A. Tens of thousands, yes.

24 Q. Are these people who have offended once or who have
25 reoffended?

1 A. Well, basically they're looking at anybody who -- they
2 take large sample sizes, obviously, tens of thousands, and
3 they look at anybody who's been released or is released and
4 look at the group of who's offended and who's not reoffended.
5 So who reoffended versus who did not reoffend. And they look
6 at variables to see if they can differentiate those groups.

7 Q. Can you give the jury a real-life example, a plain-life
8 example that we can compare this to, this analysis of the
9 Static-99R, which, I believe, stands for revised; is that
10 right?

11 A. Yes. Yes.

12 Q. Okay. Give us an example of in real life what we might
13 run into, please.

14 A. An example would be if you have a heart attack, you go
15 to your doctor afterwards and you -- if you ask your doctor,
16 "What's my chances that I'll have another heart attack," he's
17 going to -- he or she's going to look at a variety of
18 factors, things like do you smoke, you know, what's your
19 weight, what's your blood pressure, how many heart attacks
20 have you had in the past, what's your age, family history,
21 and he's going to make an assessment as to whether you're
22 likely or not or what your chances are, hopefully.

23 Q. Okay. And this Static-99R, for revised, is it an
24 assessment of the risk of Mr. Jones to reoffend?

25 A. Yes.

1 Q. Okay. What score did he get on that assessment?

2 A. Well, he got a numerical score of 8, and the scores
3 range from negative 3 to 12; so he had a score of 8. That's
4 in the high-risk category. It's in the 99th percentile; so
5 only 1 percent or less of offenders will score higher than
6 that.

7 Q. Okay. And taking that another way, five years out, for
8 example, using that score as a guide and the literature that
9 goes with it, what is his chance of reoffending sexually?

10 A. Well, I can't say what his chance is. Basically, we're
11 looking at group rates; so we're looking at these samples of
12 people who have been convicted of a sex offense, and we want
13 to know whether they've offended again.

14 So people with a score of 8 in the sample, 45 percent of
15 them reoffended within five years, and 55.3 percent of that
16 sample reoffended in ten years.

17 Q. Okay. Now, Doctor, looking at your report, around
18 Page 6 of your report, I'd like to talk now and ask you some
19 questions about treatment at the unit. There's a section of
20 your report on Page 6 called "Revising his disclosure." What
21 is that about, and what is the significance of that part of
22 your report in the ultimate conclusion this jury has to make
23 today and tomorrow?

24 A. Well, like I said previously, I'm looking to see if he's
25 changed, whether he's still having problems with these

1 paraphilias that he has. An important thing in the treatment
2 is to do a disclosure; so they do a written disclosure. It
3 means exactly what it -- how it sounds. They have to
4 disclose their criminal history and their sex offenses. They
5 give a long narrative of what happened.

6 So he was asked to revise his disclosure. According to
7 his treatment plan, it said that he was given this goal
8 because his past disclosure did not include all of his
9 offenses, he recently had disclosed in group that he had
10 multiple nonreported victims, so victims who the law didn't
11 know about or that, you know, he didn't report it, which is
12 common with sex offenses. They often don't get reported.

13 It also noted that he didn't look at the children that
14 he offended at the school for the deaf as victims; so he was,
15 you know, asked to incorporate those things into a new
16 disclosure.

17 Q. Was he able to do that, though, recognize that they were
18 victims of him?

19 A. I think he does that intermittently.

20 Q. Okay. You also talk about accepting responsibility on
21 Page 6 of the report. What has been his pattern as far as
22 accepting responsibility for his crimes and for the things --
23 not just the crimes but things he's done where it hasn't been
24 reported?

25 A. He has accepted responsibility, again, intermittently.

1 For example, when I interviewed him the last time, there were
2 things within the interview that were inconsistent with
3 taking responsibility, such as saying that he planned to --
4 that he just went to the girl's house to have sex, versus
5 other times he said that he went to the girl's house to rape
6 her. So that's inconsistent. So just within, you know, a
7 five-minute conversation about it, when I give him a specific
8 question, it'll be inconsistent.

9 When I look at his reports from this year to the years
10 prior, he was also inconsistent with taking responsibility
11 for his behavior, for example, he reported to his treatment
12 team in 2012 that he was having deviant sexual fantasies, so
13 fantasies of a paraphilic nature, two or three times a week.
14 Some of those fantasies involved him wanting to touch his
15 interpreter and manipulating her into making phone calls.

16 Q. Phone calls? What do you mean by phone calls?

17 A. He was getting her to aid him in making phone calls to
18 family members or things like that.

19 Q. Okay. His family members?

20 A. Probably.

21 Q. Why is that of a concern to you when we're talking about
22 sexual issues?

23 A. Well, because that might be a ploy to get her alone and,
24 you know, seeing how far he can go with her.

25 Q. Mm-hmm. Let me back up a second and ask you this: In

1 fact, if you'll forgive me for interrupting, but when you
2 conduct the evaluations of him and the treatment he does on
3 the unit, are there American Sign Language people brought to
4 the unit available, present when these interviews are done by
5 you and by previous evaluators?

6 A. Yes.

7 Q. Okay. Please continue then about --

8 A. And they tend to be the same people.

9 Q. Okay.

10 A. So he -- it was described in the treatment team review
11 as he was manipulating them. They didn't spell out
12 specifically what he did, but it was described as
13 manipulating. My guess would be that, you know, he was
14 talking somebody into making a phone call when maybe he
15 didn't have permission of the other staff members.

16 And interpreters are not employees of the Department of
17 Mental Health.

18 Q. Mm-hmm.

19 A. Something like that may have happened. But when I asked
20 him whether he had deviant sexual fantasies, he told me he
21 didn't. That was the bottom line, that he had reported to me
22 in previous interviews that he did have those. He reported
23 to his treatment team that he did have deviant sexual
24 fantasies.

25 Q. When you say "deviant sexual fantasies," exactly what

1 are you talking about?

2 A. I mean that he's fantasizing about scenarios, you know,
3 maybe involving children or sexual scenarios involving
4 children or involving sexually assaulting somebody, involving
5 peeping, things like that. He reported those things to me
6 previous years, but when I asked him about it this time, he
7 said that he had not had a deviant sexual fantasy since he
8 was last arrested in 1997.

9 Q. Are there any other materials -- on Page 6 and 7, I
10 believe, and 8 of your treatment report, you mention
11 different notes that you reviewed. Is it necessary for you
12 to review the notes taken of prior treatment teams of him to
13 get an assessment of him for the purpose of this trial?

14 A. Yes.

15 Q. Okay. And why is it necessary to look at the prior
16 notes and the prior treatment team records done involving
17 Mr. Jones?

18 A. Well, I want to see how he presents, how he answers
19 questions, what he reports, you know, to not just me but to
20 other people. The treatment team worked with him in a very
21 different way than I do.

22 Q. Mm-hmm.

23 A. I sit down and do an interview. It might feel like an
24 interrogation to him. They work with him on a day-to-day
25 basis and so have a very different relationship than I do; so

1 it's very important to look at, you know, how they're seeing
2 things and how they -- how he responds to their questions.

3 Q. Regarding these fantasies or these sexual thoughts, was
4 there any other information in those treatment team notes
5 that you reviewed that you feel necessary in developing your
6 opinion about whether or not he should be released?

7 A. Yes. A repeated theme for many years has been his
8 ongoing frustration and problems with anger and emotional
9 regulation. He becomes easily frustrated because he has so
10 many communication issues. There are very few people in the
11 program, very few residents and very few staff members who
12 speak American Sign Language; so he certainly has a lot of
13 communication barriers.

14 And this seems to be a very big source of frustration
15 and anger for him. He talks about or has talked about in the
16 past how he would get so angry that people couldn't
17 communicate with him. He would feel that people were making
18 fun of him or looking down on him, things like that. And
19 that contributed to his anger. That led to him committing
20 sexual assaults.

21 Q. Well, how did this anger, this frustration, which is
22 certainly understandable, how did that tie in to him
23 committing sexual offenses or having sexual thoughts that
24 you've described?

25 A. I think that he has a very deep-seated resentment for

1 people who can hear and him not being able to hear; so he
2 sees himself as different, thinks that people should speak
3 his language, that that would be fair, thinks it's unfair
4 that he's deaf and that people also treat him unfairly.

5 And some of that, you know, is probably rooted in
6 absolute reality. It's got to be incredibly frustrating for
7 him to not be able to speak the same language as his peers.
8 But he's been -- it's been suggested to him frequently that
9 he carry a pad of paper and a pencil or pen with him so that
10 he can communicate written -- in written form with others.

11 And he does that sometimes, and other times he refuses
12 to, and he goes back to this feeling that he shouldn't have
13 to do that. Other people should speak his language.

14 Q. Now, as part of your evaluation for this trial today,
15 did you interview him about his past sexual offenses? And,
16 again, I'm looking around, beginning on Page 9 of your
17 report, you start looking at "interview of his past sexual
18 offenses".

19 A. Yes.

20 Q. Why is it important to do that at this level of the
21 case?

22 A. Well, again, I want to see how consistent he is in his
23 report. I want to hear how he views those offenses now; if
24 he can identify, you know, things that might have triggered
25 his behavior, things of that nature.

1 Q. And what of any significance did you learn from these
2 interviews about his prior offenses?

3 A. Well, he was inconsistent, as I pointed out. Within
4 conversations about a specific offense, he could be
5 inconsistent. He also talked about, you know, whether he
6 went over to somebody's house to have sex or to rape them,
7 you know. So he's inconsistent about what his intent was.

8 He talks about how if he just had a girlfriend, this
9 stuff wouldn't happen, or if he wasn't drinking alcohol, this
10 stuff wouldn't have happened. He talked about his approach
11 to these girls, like asking some -- going to somebody's
12 house, you know, somebody that you kind of know randomly and
13 saying, "Hey, you want to have sex?" He told me that that
14 was a normal approach.

15 And so I think it speaks to a lot of his intimacy
16 deficits that he has, which is an ongoing concern that he
17 doesn't really have a good grasp as to what a normal
18 relationship looks like and how that would progress.

19 Q. Now, Doctor, in preparation for today's hearing and the
20 trial we're having this week, did you contact the treatment
21 team or look at the records to update yourself based on
22 what's happened to him since the last time you testified or
23 the last time you interviewed him?

24 A. Yes.

25 Q. Okay. What did you find out that you found significant?

1 A. I didn't do a full -- a new full report or anything like
2 that, but I reviewed the records and saw that there was still
3 ongoing concerns with his frustration and how he handles
4 that. He tends to get angry, things of that nature. Whether
5 he was consistent in his reports, and there weren't that many
6 records talking about his offenses in which to compare.

7 Q. You mentioned alcohol a few minutes ago. Was alcohol an
8 issue in some of his prior offenses?

9 A. I believe so, yes.

10 Q. Is alcohol an issue in the future with him?

11 A. Yes. From what he describes, and unfortunately, when
12 people are arrested, they often don't take blood samples to
13 see if somebody was drunk. And so I don't know this for a
14 fact, but he reports that he was drinking quite a bit.

15 Q. Mm-hmm.

16 A. That when he got stressed out, he drank a lot, and that
17 might be a time where he would also offend. And alcoholism
18 is a very chronic condition. It's very hard to treat, and
19 it's an ongoing concern for people with that disorder.

20 Q. Now, you mentioned a minute ago, and I'll ask you again
21 just for the record here, do you have an opinion, to a
22 reasonable degree of psychological certainty, as to whether
23 or not Mr. Jones still suffers from a mental abnormality
24 or -- and/or a personality disorder?

25 A. Yes.

1 Q. Okay. And what mental abnormalities does he fit the
2 criteria for? You mentioned a minute ago but just one more
3 time very quickly, what are the mental abnormalities that you
4 have diagnosed him with?

5 A. He meets criteria for other specified paraphilic
6 disorder with specifier biastophilia; so arousal to rape.

7 Q. Okay.

8 A. He meets criteria for pedophilia, which is sexual
9 arousal to prepubescent children. He meets criteria for
10 voyeurism, which is sexual arousal to watching unsuspecting
11 people in intimate acts, such as undressing or having sex,
12 things of that nature.

13 He also meets criteria for antisocial personality
14 disorder.

15 Q. Okay.

16 A. Those are all chronic conditions that tend to last a
17 lifetime.

18 Q. Are these things that can be cured?

19 A. The professional community wouldn't consider these
20 disorders curable. They can be managed some -- with some
21 people, not with everybody, but they can be managed or
22 controlled.

23 Q. Does he have any, what I call "unchangeable risk
24 factors" that you've looked at that you've found in your
25 analysis of him?

1 A. He does.

2 Q. What are those?

3 A. Well, his unchangeable risk factors are -- let me pull
4 something here. Basically, those are his static risk
5 factors. That's what we call them. He has no history of an
6 intimate relationship that was healthy or stable. He has --
7 his last offense -- I'm sorry. I lost my place there.

8 He has a prior history of nonsexual violence. So he had
9 that simple assault conviction. That's a risk factor that's
10 unchangeable. He has several prior charges and convictions
11 of a sexual nature; so that's a risk factor that's
12 unchangeable. He has multiple prior sentencing dates.
13 That's unchangeable. He has unrelated victims, meaning
14 things -- or victims who were not family members, and that is
15 related to increased risk of reoffending, and it's
16 unchangeable. He has a history of sexually assaulting
17 strangers, and that's another unchangeable risk factor. He
18 also has a male victim, and that's unchangeable.

19 Q. Is there another thing called dynamic risk factors?

20 A. Yes.

21 Q. What does the word "dynamic" mean when we talk about
22 risk factors?

23 A. Dynamic risk factors are things that are theoretically
24 changeable through treatment or that can be amended over
25 time.

1 Q. Does he have -- he's been there almost 11 years now.

2 Does he still have some dynamic risk factors that have to be
3 addressed?

4 A. I believe so, yes.

5 Q. What would those be?

6 A. Well, some of these things are not easily addressed in a
7 treatment program that doesn't include a lot of exposure to
8 the outside world. And it's difficult to assess these things
9 in general, but he has problems with his emotional and sexual
10 self-regulation; so he continues to, you know, intermittently
11 report. And he consistently reports deviant sexual
12 fantasies.

13 He has trouble regulating his emotions, meaning he gets
14 frustrated very easily. That leads to anger, and his
15 tendency is to get angry. And that in the past has led to
16 his committing sexual assaults.

17 He is, at times, cooperative with treatment. I think
18 this is intermittent. When he is stressed out or when he
19 doesn't get a result that he wants when he asks for something
20 that he's not given, he tends to shut down, withdraw and not
21 answer questions and things like that. So he tends to still
22 get stressed and frustrated. And he has difficulty
23 controlling that.

24 He has a history of negative peer influences. That's
25 one that's very difficult to assess how that affects him.

1 When he's in a program, that's very controlled.

2 He has a lot of difficulty accepting rejection. He's
3 not really in a position where he is getting rejected by
4 females or potential sexual partners.

5 THE COURT: Let's take a break right now. All of you,
6 ladies and gentlemen, let you retire. We'll be with you in
7 about 10 or 15 minutes. Thank you.

8 (Jury exits the courtroom.)

9 THE COURT: We'll take a break for about 15 minutes.
10 You may step down, Doctor. I would ask that you not
11 have any conversation with any of the attorneys.

12 (Recess held.)

13 (The jury enters the courtroom.)

14 BAILIFF: All jurors are present, Your Honor.

15 THE COURT: Thank you very much. Ms. Sigman, I
16 understand you've been selected as the presiding juror; is
17 that correct?

18 THE JUROR: Yes, sir.

19 THE COURT: Thank you very much. And thank you, ladies
20 and gentlemen. That will be your seat for the balance of the
21 trial.

22 And please, I apologize. If anyone needs, do not
23 hesitate to just raise your hand. I've typically found over
24 the years that about an hour and 15 minutes to hour and 30
25 minutes works, but there are lots of times when that doesn't

1 work for me either; so please just don't hesitate to raise
2 your hand. We will be happy to stop and take a break as
3 needed, but thank you so much. We'll continue.

4 Mr. Bogle, thank you very much. You may resume your
5 examination.

6 MR. BOGLE: Thank you, Your Honor. May it please the
7 Court.

8 THE COURT: Yes, sir.

9 Q. Dr. Gehle, just one last thing. If I could look at
10 this, the lewd act conviction, State's Exhibit 1, which you
11 looked at earlier, what county did that take place in?

12 A. Charleston.

13 Q. Okay. Now, Doctor, you've already testified about the
14 mental abnormality and the personality disorder. You've gone
15 through that. Let me ask you this: Looking at Page 11 of
16 your report, did you discuss with Mr. Jones his risks for
17 reoffending, whether or not he thought he had any?

18 A. Yes.

19 Q. Why would you do that? Why is that important?

20 A. Well, it's important because if he is released, he's the
21 one that's going to have to prevent himself from reoffending.
22 There's -- you know, he's not going to be discharged into any
23 type of program if the -- this law means he's either in the
24 program or he's out free and clear.

25 So he's the one who has to identify his risk factors and

1 has to manage them if he's released in the community; so I
2 asked him about those, of course.

3 Q. Okay. Just to make it clear, though, your understanding
4 of the law as a forensic psychologist who's worked with this
5 law, is there any kind of halfway house or temporary release
6 or something like that with this particular program?

7 A. Not with the Sexually Violent Predator Act, no.

8 Q. Okay. You're either in or you're out; is that right?

9 A. Yes.

10 Q. Okay. Go on back to my question, though. Did you
11 discuss with him his risk factors, asking him if he -- what
12 he thought his risk factors might be?

13 A. Yes.

14 Q. Is this something that's typically and reasonably done
15 by experts in your field?

16 A. Yes.

17 Q. What did you find out?

18 A. He said drinking, drugs, any sort of cruising for
19 victims, just being out with no purpose, looking for victims,
20 being around children, any interaction with children, or
21 physical fighting. Those were the things that he identified
22 as his risk factors when I asked him.

23 Q. And what if he didn't drink, would he still be a risk to
24 sexually offend? Did you ask him about that?

25 A. Yes. He said that if he did not drink, he would be at

1 no risk.

2 Q. Okay. Were there any moods or feelings he had that he
3 expressed to you that might influence his sexual offending in
4 the future?

5 A. Yes. He did a good job of identifying those. I would
6 say that he identified them pretty correctly. He said being
7 overly frustrated, being extremely angry or having his
8 feelings hurt. Those are things that would be related to his
9 sexual offending.

10 Q. Okay. How does that relate, though, to everyday life?
11 Don't these things happen to people?

12 A. I think they happen a lot to everybody. I mean, it
13 certainly depends on how your life's set up. Some people's
14 lives are more frustrating than others, but I would say, you
15 know, most people deal with frustration, anger, having their
16 feelings hurt, things not being fair frequently.

17 Q. Now, Dr. Gehle, let me ask you this: Do you have an
18 opinion, to a reasonable degree of psychological certainty,
19 has Glenn Jones's mental abnormality and his personality
20 disorder, have they so changed -- let me ask you this: Do
21 they remain such that he is not safe to be at large and, if
22 released, is likely to commit acts of sexual violence?

23 A. My opinion is that his mental abnormalities and
24 personality disorder have not changed to that degree that he
25 is ready for release.

1 Q. Okay. Why is that? What did you find out to base that
2 on?

3 A. Well, he has several serious disorders and a personality
4 disorder. Those are all things that are very difficult to
5 change. I think that he's been invested in treatment at
6 times, and at times he's been more focused on discharge,
7 especially after the treatment team was thinking that he
8 could be discharged in 2007.

9 I interviewed him several times after that, and he was
10 very focused on discharge to the exclusion of other things;
11 so I think that, you know, his investment in treatment and
12 how seriously he takes treatment has been inconsistent over
13 the years. And according to something that I read in a
14 recent treatment team note, he expressed that to his
15 treatment team, that he's more serious now about treatment
16 than he has been in the past.

17 I think that he's still been inconsistent and
18 intermittently honest about his history. I think that he
19 still has a lot of those risk factors, you know: Talking
20 about intimacy deficits, about how he's struggled to develop
21 a normal or healthy relationship that might involve sex when
22 he was in the community.

23 And I don't see evidence that he understands what a
24 normal relationship that might involve sex, how that would
25 progress. You know, as he said, he thought it was normal to

1 just approach sort of a random person and say, you know,
2 "Hey, I want to have intercourse."

3 I think that he has made some improvements. I think
4 that he's less angry, and he doesn't act out as much as he
5 used to in the past, I mean, when he was in the program in
6 the earlier years, but he still continues to express
7 difficulties or have difficulties with frustration and anger,
8 feeling like the world's not fair, looking at the world
9 through that perspective.

10 And he has been intermittently honest with reporting
11 deviant sexual fantasies.

12 Q. By "intermittently honest," what do you mean by that?

13 A. I think, you know, sometimes he reports that he has
14 them. And I would expect him to have them from time to time.
15 But sometimes he denies that he ever had them or that the
16 last time was in 1997. Sometimes he reports that he has them
17 a couple times a week; so it's really hard to tell what the
18 truth is, but not all those things could be true.

19 Q. Does he minimize his sexual behaviors?

20 A. I think sometimes he does minimize his sexual behaviors.

21 Q. Why is that significant?

22 A. Well, it's significant because it's about taking
23 responsibility and understanding kind of the -- the depth of
24 his deviancies.

25 There was a victim that I talked to him about, and there

1 was -- I think he reported that he had choked the victim.
2 And he used words like he had his arm around her. When I
3 asked, you know, "Were you choking her," he could admit that
4 he was, but he would still go back to, you know, just had his
5 arm around her like -- and that's minimizing the depth of his
6 behavior.

7 Q. Do you believe or do you have an opinion, again, to a
8 reasonable degree of psychological certainty, about whether
9 or not, does he understand his risk factors, the factors
10 you've talked about in your testimony today?

11 A. Well, it's noted throughout his records by his treatment
12 team and, again, when I talked to him, that he has difficulty
13 understanding his risk factors. And this is an essential
14 part of sex offender treatment, because if he's out there,
15 he's going to have to identify those moods, thoughts, things
16 that trigger him to have an urge to commit a sexual offense.

17 And he can sometimes name them, name some risk factors.
18 He can name some moods, some thoughts. Some of them would
19 trigger that he's already very much in the throes of his
20 offense cycles, meaning like you could equate it to an
21 alcoholic.

22 Like some of the things that he reports, like if it's
23 physical fighting, anger, cruising for victims, that means
24 he's already sitting on a bar stool with a drink in front of
25 him. I mean, that's how close he is to offending if those

1 things are happening. If he is cruising for a victim, I
2 would equate that with sitting on a bar stool with a drink,
3 waiting to take that drink. I mean, it's very far into his
4 offense cycle.

5 So he -- he's not consistently reporting what the
6 triggers are that happen early in his offense cycle. He's --

7 Q. What do you mean by the triggers in the offense cycle?

8 You're kind of losing me here, Doctor.

9 A. I'm sorry.

10 Q. What do you mean by triggers --

11 A. Speaking a lot of jargon. I'm sorry.

12 Q. What's an offense cycle and what's a trigger? How does
13 it relate to --

14 A. An offense cycle is, you know, sort of the whole how you
15 got into this mess in that particular situation. So if -- in
16 his case he sees the world as unfair. He thinks people
17 should speak his language. They don't. He gets frustrated.
18 He gets angry. He wants to lash out and punish somebody.

19 He also gets arousal in there, and then he looks for a
20 victim, and then he figures out how to get that victim alone
21 and commit an offense. So that's like an offense cycle.

22 Q. Okay. And what are triggers in that context?

23 A. Triggers are that -- a trigger in that example would be
24 like at the very beginning of that. It would be his world
25 view that people should speak his language, that he's not

1 treated fairly, that the world's not fair. Those are early
2 triggers.

3 Then -- you know, then he gets the frustration. That's
4 a trigger. The anger's a trigger. The arousal's mixed in
5 there.

6 Q. Mm-hmm.

7 A. Those are triggers.

8 Q. Now, Doctor, do you have an opinion, again, to a
9 reasonable degree of psychological certainty, as to whether
10 or not he has difficulty in controlling his deviant sexual
11 urges?

12 A. I think that he does.

13 Q. Why is that?

14 A. Well, he is still having deviant sexual fantasies. And
15 while it's difficult to say exactly how he would act on those
16 if he was not in a controlled environment, like being in the
17 sexually violent predator program, there is some evidence
18 that he manipulated that interpreter to help him make phone
19 calls. He had history of winking at an interpreter, which
20 was considered flirting.

21 He talked about -- denying that this happened, saying
22 something was in his eye. But then in a later interview, he
23 reported that he thought that she was nice to him and that he
24 thought that that meant it was okay to flirt with her. That
25 was several years ago.

1 And then in 2012, in this current review period, you
2 know, he was having deviant sexual fantasies about sexually
3 assaulting the interpreter.

4 Q. Okay. Do you have opinion, again, to a reasonable
5 degree of psychological certainty, as to whether or not the
6 mental abnormalities you diagnosed and the personality
7 disorder you also diagnosed, do they continue to affect his
8 emotional or volitional capacity so that he is predisposed to
9 commit future sexually violent offenses?

10 A. Yes.

11 Q. What is that opinion?

12 A. My opinion is that those disorders continue to affect
13 his emotional and volitional capacity.

14 Q. Now, explain those terms: Emotional and volitional. In
15 the context of what you're talking about, what do those terms
16 mean?

17 A. Emotional control is whether your emotions affect your
18 ability to make everyday decisions, or are you driven by your
19 emotions. Volitional capacity is considered like are you
20 able to make choices or do your urges and desires overcome
21 your ability, you know, to make good choices.

22 Q. Okay. In your opinion, again, to a reasonable degree of
23 psychological certainty, does Mr. Jones need continued
24 confinement for treatment?

25 A. I think that he requires continued confinement for

1 control, care and treatment.

2 Q. Does he have any release -- does he -- have you talked
3 about -- talked to him about what he would do if he was
4 released?

5 A. Yes.

6 Q. What is his release plan, or is there something called a
7 relapse prevention plan?

8 A. Yes.

9 Q. What does that mean?

10 A. That's how somebody will, you know, avoid offending,
11 what they'll do in certain situations, kind of how they'll
12 structure their life so they don't commit another offense.

13 Q. Has that come up in your discussions with him or the
14 treatment team's discussions with him?

15 A. It has, yes.

16 Q. What is his plan?

17 A. I believe his current plan is that he would like to live
18 with his family. He talks a lot about his mother being ill
19 and that she doesn't live in the home, but she needs his
20 help, and that his dad needs his help and that he just wants
21 to get out and, you know, spend time with his family.

22 Q. Were there any issues you found significant about his
23 relapse prevention plan or his plans for the future?

24 A. Well, I didn't assess for that in particular. I didn't
25 go through a full relapse prevention plan with him because in

1 past years, he has been so focused on discharge that that
2 wasn't something that I wanted to focus on.

3 Q. Mm-hmm.

4 A. When I interview him, I might ask him a question about,
5 you know, "Tell me about this offense." And he'll talk
6 about, "I just want to go home. I just want to go home." So
7 it's been something that he's been focused on; so it's
8 something that I avoided in this last interview.

9 But I know that he was living with a family member at,
10 you know, a time of an assault. I don't know, you know, how
11 good of an influence they would be. I mean, I'm sure that
12 they would be fine. I think that he has a supportive family;
13 so I don't think it would be a particularly bad plan for him
14 if he were to be released.

15 Q. Well, was he living with family members when he
16 committed these assaults, as far as you know, at least some
17 of the time?

18 A. At least some of them, yes.

19 Q. Okay. Is he facing any kind of probation if he is
20 released?

21 A. No. It's my understanding that any probation that he
22 would have would be running while he's in the program.

23 Q. Okay. Okay. So is there anything out there that can --
24 do you know of anything out there that could compel him or
25 force him to take sex offender treatment on the outside?

1 A. No, not at this time. There would be, you know, he's
2 under no legal sanction except for the civil commitment. And
3 if he were to be released, you know, the civil commitment
4 would end.

5 MR. BOGLE: Okay. Thank you, Doctor.

6 A moment, Your Honor?

7 THE COURT: Yes.

8 MR. BOGLE: Thank you, Doctor. Please answer any
9 questions Mr. Brooks may have or the Court may have.

10 THE COURT: You may cross-examine.

11 CROSS-EXAMINATION BY MR. BROOKS:

12 Q. Dr. Gehle, how are you today?

13 A. Good. How are you?

14 Q. I'm doing lovely. How long have you been with the
15 Mental Health Department?

16 A. I've been there for almost five years.

17 Q. Okay. And how many people have you evaluated there at
18 the department in that five years?

19 A. I don't have a number specific --

20 Q. Let me cut you off a minute. Be more specific.
21 Postcommitment evaluations.

22 A. I've completed around 90 annual reviews or
23 postcommitment evaluations. Some of those have been on the
24 same individuals in subsequent years; so I don't know how
25 many people it is in particular. I just know the number of

1 evaluations.

2 Q. And how many of those have you rendered an opinion that
3 they should be released?

4 A. I didn't count that number before I came here. I think
5 I have recommended somewhere between five and ten. I would
6 say it would be like, you know, I don't know, around seven.
7 Between five and ten would be, I think, accurate.

8 Q. Out of 90 evaluations?

9 A. Out of 90 evaluations, but of maybe between 60 and 70
10 people.

11 Q. Multiple times?

12 A. Yes.

13 Q. And are you aware of whether or not the department
14 receives any money for how many people in the program from
15 the federal government?

16 A. From the federal government?

17 Q. Correct.

18 A. It's my understanding that I don't believe that they
19 have received any money from the federal government, that
20 it -- that they receive a state budget.

21 Q. Okay. You're not aware at all; is that my
22 understanding?

23 A. Correct.

24 Q. Okay. Is it fair to say that you just don't know?

25 A. Yes, I don't know that they would have any budget from

1 the federal government. I mean, this isn't a law that's in
2 place in every state. I don't think it would be directed
3 specifically towards the sexually violent predator program.

4 Q. Okay.

5 A. The Department of Mental Health might receive money from
6 the federal government --

7 Q. And that's what I mean, because the sexual violent
8 predator program is a facet of the Department of Mental
9 Health; isn't that correct?

10 A. It's a program that's run by the Department of Mental
11 Health, correct.

12 Q. Okay. So if the federal government was sending a
13 stipend based on the number of residents in the program, it
14 wouldn't go to necessarily the SVPs, it would go to the
15 Department of Mental Health; isn't that correct?

16 Is it fair to say, Doctor, that you just don't know
17 whether or not Mental Health --

18 A. Yes, I don't deal with the budgets.

19 Q. Okay.

20 A. I mean, I have a rough understanding of how budgets
21 and --

22 THE COURT: Let's move on. Under 602 she can't answer.
23 She'd be speculating. She's already answered. Ask her
24 something else.

25 THE WITNESS: Thank you.

1 Q. Okay. Now, the last time you met with my client was May
2 of last year; is that correct?

3 A. That's correct.

4 Q. Okay. So that's been roughly 15 months ago; is that
5 correct?

6 A. Yes.

7 Q. Okay. And the last time you reviewed his chart prior to
8 today was when?

9 A. I reviewed his chart today, as you said. And I reviewed
10 his chart, we were -- I think this court hearing was
11 scheduled for a previous time, and I reviewed it -- I
12 reviewed his records then.

13 Q. Would that be back in May of this year?

14 A. I don't remember exactly when that court date was that
15 was rescheduled, but that sounds about right.

16 Q. Now, tell me about all the write-ups and referrals he's
17 gotten.

18 A. Write-ups and referrals as far as what?

19 Q. Well, let me ask you this: When people are in the
20 program, they are monitored by the people that are employed
21 with the Department of Mental Health in the sexual violent
22 predator program; is that correct?

23 A. Correct.

24 Q. And if they act out or they violate certain rules, as
25 part of discipline, they get a referral; is that correct?

1 A. I mean, when you say "referral," you're talking very
2 generally.

3 Q. Well --

4 A. I think you mean a referral to the behavior management
5 committee?

6 Q. They get some type of thing in their chart saying they
7 violated this rule or violated that rule. They have certain
8 rules that they're governed by; is that correct?

9 A. That's correct.

10 Q. And if they violate those rules, they get marks in their
11 chart; isn't that correct?

12 A. I think you're referring to behavior observation notes.
13 That's what --

14 Q. Okay.

15 A. -- the initial observation by staff is. That can
16 trigger a referral to the behavior management committee.

17 Q. Okay. So how many of those things have Mr. Jones gotten
18 in the last two years?

19 A. Well, I looked at his file yesterday, and I saw one that
20 was in the last few months. It wasn't very serious. It
21 wasn't a serious allegation.

22 Q. What was it?

23 A. I can't remember right offhand. I didn't write it down.
24 It wasn't -- I think that he had too many magazines or
25 something of that nature, had too many items. And so it

1 wasn't a very serious thing.

2 Q. ' Okay. Now, and in the five -- how long have you --
3 well, let me strike that.

4 How many times have you evaluated Mr. Jones?

5 A. I interviewed him for a consultation in 2009, for an
6 annual review in 2010, for an annual review in 2011, for an
7 annual review in 2013.

8 Q. Okay. Since the 2011 evaluation, which would have been
9 your next to last one, how many disciplinary marks did
10 Mr. Jones receive?

11 A. I know of the one. I don't know of any others.

12 Q. Okay. Now, has he been -- does the sexually violent
13 predators program have a mentor relationship in the program
14 where some residents mentor other residents?

15 A. That's talked about. I don't believe that it's a formal
16 thing. It's encouraged with some people, discouraged with
17 other people.

18 Q. Okay. And do you know what, if anything, has been done
19 with Mr. Jones as far as being a mentor to someone else?

20 A. No.

21 Q. Is that a "no," you don't know, or "no," he has not?

22 A. No, I don't know.

23 Q. Okay. In your assessment of Mr. Jones in the last
24 couple years, what else does he need to do in order to get
25 you to render an opinion that he is safe to be released?

1 A. It's not a simple question such as he has to complete
2 this assignment or that assignment, but really, it needs to
3 be the fact that he decrease his risk factors for offending.

4 Q. He needs to decrease his risk factors. Now, some of
5 these risk factors you indicated are things that he just
6 can't change; is that correct?

7 A. That's correct.

8 Q. Which is basically like his legal history, correct?

9 A. Correct.

10 Q. And another thing he can't change is his disability; is
11 that correct?

12 A. That's correct.

13 Q. Because you indicated that his disability causes him to
14 get emotional and angry because of the communication barrier;
15 is that correct?

16 A. I think that it's not that it causes him. I think that
17 his opinion of how the world should be and the fact that he
18 has a disability in that world with that world view is what
19 leads to his anger and frustration and communication
20 problems.

21 Q. So that would be under the dynamic risk factors, things
22 that could be changed, as far as how he responds to these
23 communication barriers; is that correct?

24 A. Yes.

25 Q. Okay. But he hasn't had any indication in the last few

1 years of any acting out?

2 A. He's not had any disciplinaries.

3 Q. He's had --

4 A. He's had that one disciplinary, but no -- no behavior
5 observation notes or referrals to the BMC, the behavior
6 management committee.

7 Q. Okay. Now, you also talked about him being emotional,
8 frustrated very easily. Those are things that can be
9 changed, but he hasn't acted out, no disciplinary referrals
10 in the last couple years. Let me make sure I'm
11 understanding. That is true to the best of your knowledge;
12 is that correct?

13 A. Can you repeat that? I'm sorry.

14 Q. Well, you said that one of the -- the dynamic risk
15 factors or, in other words, something that can be changed,
16 modified. And one of those things was dealing with the
17 emotional anger, frustration that could come about from his
18 communication barrier, his disability, correct?

19 A. Yes.

20 Q. Okay. But he's had that all these years, and he hasn't
21 had but one, as you used the term, very, very minor, not
22 having enough (sic) magazines. Outside of that, he hasn't
23 had any disciplinary referrals, any acting out, things of
24 that sort?

25 A. Well, I don't know that I would equate a lack of

1 disciplinary referrals with a lack of acting out. I don't
2 think that the staff members refer him for every time he gets
3 angry or frustrated or things like that. They tend to handle
4 it more in a therapeutic manner than rather in an
5 authoritarian, disciplinary manner.

6 Q. Does the treatment notes, because you've only seen him
7 once in 2011 and once in 2013; so you're not seeing him on an
8 ongoing basis, like once a month, twice a month, anything
9 like that?

10 A. That's correct, no. I see him when I'm scheduled to see
11 him for an annual review on that.

12 Q. And that's typically how you see any resident there; is
13 that correct?

14 A. Yes.

15 Q. Okay. Now, so basically, you're relying on the
16 treatment notes and reports that are rendered to you in his
17 chart by a case manager; is that correct?

18 A. Yes. That in addition to speaking to treatment team
19 members and looking at the treatment team notes that are
20 written by the supervisors of his case managers.

21 Q. Do these treatment team notes identify what interpreters
22 are there on these particular days that they're rendering
23 service to him?

24 A. I don't know if they all do. I'm not sure. I'd have to
25 look at the chart to tell you that specifically.

1 Q. Okay. Have you factored in whether or not there could
2 be some differences in the interpreter and the interpreter's
3 style and the way the interpreter translates what Mr. Jones
4 is saying and what the person actually receives? Has that
5 actually been factored in?

6 A. That's a good question. I know that when I've
7 interviewed him, it's been different interpreters, not every
8 time, but I -- I can think of three interpreters that have
9 been around for an evaluation that I've done, from my memory
10 anyway.

11 Q. Okay.

12 A. I believe that the interpreters that he works with in
13 the program are fairly consistent. They might be from one of
14 those three people or --

15 Q. Let me ask, Doctor, do you speak sign language?

16 A. No, I don't.

17 Q. So you would not have any idea whether Sign Language
18 Interpreter A is actually doing the same thing and being
19 consistent with Sign Language Interpreter B and C?

20 A. That is correct.

21 Q. Okay. And as you indicated during the direct
22 examination of Mr. Bogle, he has been intermittently -- he's
23 been inconsistent. And I think you used the phrase, "One
24 moment he says he wanted to have sex, and another time he
25 said he wanted to rape"; is that correct?

1 A. Yes.

2 Q. Okay. Now -- and wouldn't nonconsensual sex also equal
3 rape?

4 A. I use the term "rape." I don't know how that's
5 interpreted by them. If there's a specific word that
6 indicates rape or, you know, if nonconsent and rape is the
7 same in sign language, I'm not sure.

8 Q. Okay. But if it is, if it's translated different based
9 on Interpreter A versus Interpreter B, one interpreter being
10 here on one week, the other interpreter being here on the
11 next week, that could make a significant difference between,
12 "Hey, I want to have sex, I really, really, really want to
13 have sex," versus, "Hey, I want to rape somebody."

14 A. Well, the problems that I noted in that regard were
15 within the same interview with the same interpreter. So
16 while I think what you're saying is true, that it -- that it
17 could be a communication difference or an interpretation
18 difference, possibly, if it was two different interpreters,
19 I've noted those problems with the same interpreter in one
20 single interview.

21 Q. But do the notes and the treatment notes and things that
22 you're relying on, these reports, do they indicate whether it
23 was Interpreter A versus Interpreter B? Do they signify
24 which interpreter was there when they were conducting
25 themselves?

1 And what I mean, Doctor, could that be the explanation
2 between the inconsistencies that you're seeing?

3 A. Well, I don't think it could be the explanation for the
4 inconsistencies that I've seen for the reason that I've just
5 stated because I've seen those inconsistencies within, you
6 know, a couple minutes of, you know, each other, an
7 inconsistency within a single conversation with one
8 interpreter.

9 So I don't think having two different interpreters
10 interpret two different ways would account for that, but what
11 you're saying is possible between times.

12 Q. But so that would have an impact on the treatment notes
13 that you reviewed; isn't that correct?

14 A. It could. I'm not sure.

15 Q. Okay. And then you've only seen him in the last --
16 since 2010 till now, you've only talked to him on two
17 occasions, once in 2011 and once in 2013?

18 A. After 2010? Because I saw him in 2010 as well. So...

19 Q. Okay. Well, let's start from 2011. Since --

20 A. I saw him in 2011 and 2013.

21 Q. Okay. So you've only seen him twice in the last three
22 years?

23 A. For an interview, yes.

24 Q. Okay. Have you seen him for anything else?

25 A. Not specifically, but sometimes, on occasion, I would

1 see him for -- if he was in the building where I work or...

2 Q. You would see him as in passing?

3 A. Yes.

4 Q. All right. And did you make notes when you saw him in
5 passing?

6 A. No.

7 Q. Okay. And you would also see other residents in passing
8 too?

9 A. That's correct.

10 Q. And I'm sure you didn't make notes of seeing him in
11 passing as well; is that correct?

12 A. Correct.

13 Q. Okay. What other things would need to change or be
14 modified? We talked about the anger, frustration, the
15 emotional, not being able to communicate. What other things
16 would need to be changed or modified for you to render an
17 opinion for him to be released?

18 A. Well, it's a total evaluation; so it's not just one
19 thing, but it would be decreasing his risk factors, the
20 things that you mentioned, him having a better understanding
21 of his risk factors earlier in his offense cycle, things of
22 that nature.

23 Q. Now, he needs to have a better understanding of his risk
24 factors?

25 A. Yes. That's one thing, yes.

1 Q. Okay. Now, he's been confined for the last 17 years?

2 A. That's correct.

3 Q. Okay. Roughly six years in the Department of
4 Corrections and the last 11 years in the Department of Mental
5 Health?

6 A. Yes.

7 Q. How will you know for sure unless he ever gets the
8 opportunity to be out in society?

9 A. That's absolutely a relevant question. I don't know for
10 sure. What I do look at is what the research says about
11 recidivism, sex offenders. But you're right, there's not a
12 lot of opportunity for him to have the freedoms to see how he
13 would behave and how he would handle himself if he were free
14 and clear in the community.

15 There's no conditional release. There's no field trips.
16 for him to go shopping by himself, you know, things like
17 that. There's little opportunity for him to be free until
18 he's out of this program.

19 Q. Okay. Now, Mr. Bogle asked you there's nothing over him
20 if he's released; is that correct?

21 A. That's correct.

22 Q. Can you tell the Court what is -- what is being on the
23 sexual registry? What is that?

24 A. It's a registration that you, I guess, go to the
25 sheriff's office in whatever county that you're living in and

1 you register your address.

2 Q. Okay. Do you have an understanding of why that sexual
3 registry exists?

4 A. Do I have an understanding as to why?

5 Q. Yes, ma'am.

6 A. It's to alert people that sex offenders, you know, are
7 living in proximity or, you know, things of that nature. I
8 mean, it's a public registry.

9 Q. Okay. And is that registry based on the whole premise
10 that these people may be of high risk and high risk to
11 reoffend?

12 A. I don't think that that is the premise of the registry.

13 Q. Okay. But, I mean, why have it if you don't think that
14 these people are a risk to reoffend?

15 A. Well, you're asking public policy questions that --

16 Q. Okay.

17 A. -- you know, are very difficult to answer. And I think
18 that it largely depends on -- you know, I think the general
19 public thinks that sex offenders are very scary people who
20 are always going to go out and reoffend, and this gives
21 people some sense of security.

22 Q. And, Doctor, let me ask you this: If he gets out, he
23 will have to register; is that correct?

24 A. Yes, it's my understanding he'd have to register.

25 Q. Which means he's got to go to the sheriff's department

1 periodically and let them know where he lives and what he's
2 doing and all of that; isn't that correct?

3 A. He's required to. And if he didn't, it would be a
4 violation, yes.

5 Q. And if he violated, he could be arrested, thrown in
6 jail? That's a criminal act, not to register?

7 A. That's correct.

8 Q. So he does have some type of responsibility, even if he
9 was released; isn't that correct?

10 A. Yes, he has that.

11 Q. Okay. Now, you indicated that one of the risk factors
12 is he had deviant sexual fantasies?

13 A. Yes.

14 Q. Okay. And he had been inconsistent in reporting that;
15 is that correct?

16 A. Yes.

17 Q. Had he be inconsistent in reporting that to you in your
18 session, or had he been inconsistent in reporting that along
19 and along as part of his treatment with his case manager?

20 A. He has been inconsistent in both regards.

21 Q. Okay. And explain to me the level of inconsistency.

22 What do you mean by inconsistent? Is it a situation where he
23 says, "I had a deviant fantasy," one minute, and then another
24 minute he says, "I didn't"?

25 A. He has -- he has reported in the past that he's had

1 deviant sexual fantasies. He's reported -- I have a note
2 from 2012 from his treatment team where he was saying that he
3 was having those fantasies two to three times a week. In my
4 last interview, he said that he didn't have them and that the
5 last time he had a deviant sexual fantasy was in, like, 1997
6 when he was arrested.

7 Q. Now, Mr. Jones is -- according to your report, he's
8 about 48 years of age; is that correct?

9 A. Yes.

10 Q. So --

11 A. I think that he's -- he's 49 now.

12 Q. Okay.

13 A. He was 48 at the time I completed my evaluation.

14 Q. Okay. So these offenses occurred when he was relatively
15 young; is that correct?

16 A. Yes.

17 Q. Did you talk with his family about what the release plan
18 would be?

19 A. No.

20 Q. You indicated earlier he had an allegation about
21 flirting with the interpreter or manipulating an interpreter
22 to make phone calls for him. Do you recall that?

23 A. Yes.

24 Q. That's something that you were not present for; is that
25 correct?

1 A. That's correct.

2 Q. And is it fair to say that that could be something that
3 could be different based on one interpreter versus another?

4 A. I mean, I guess anything's possible, but I don't know.
5 I wasn't there. He reported to his treatment team, as was
6 written in the note anyway, in the treatment team note, that
7 he had been having sexual fantasies about her.

8 Q. And in your opinion, that's a problem; is that correct?

9 A. Yes.

10 Q. To have sexual fantasies?

11 A. He described them as deviant sexual fantasies; so that
12 would mean sexual assault.

13 Q. Okay. Now, one of the things in the program that you
14 place a premium on is you want residents to disclose; isn't
15 that correct?

16 A. That's correct.

17 Q. So disclosing was actually a good thing?

18 A. Yes. It's a double-edged sword.

19 Q. Okay. So you want him to report, and he's compliant.

20 And then when he does, you're saying, "Hey, that's a
21 problem," even though he didn't do anything. There's no
22 acting out that was a part of that; is that correct?

23 A. Well, from what the treatment team note said, it said
24 one sentence that he was having deviant sexual fantasies
25 about her, and in the next, like, sentence it said about him

1 manipulating her into making phone calls with him. So that
2 could be construed as acting out, depending on what your
3 definition is.

4 Q. And, Doctor, it could have been construed as, "Hey, I
5 want to just make a call to my family and let them know I'm
6 all right because I'm in Columbia and they're in Charleston."

7 A. They use the word "manipulation" or "manipulative." So;
8 you know, they didn't spell out specifically why they were
9 describing the behavior as manipulative.

10 Q. Okay. And manipulative could be translated one way with
11 one interpreter, where another interpreter could be he just
12 simply requested. I didn't see no harm or no foul in it.
13 There could be a distinct difference between two different
14 interpreters, because I'm sure that there's some men that
15 might show up as an interpreters there as well.

16 THE COURT: Mr. Brooks, break your multiple questions
17 down, please.

18 MR. BOGLE: Objection.

19 THE COURT: Just ask one, because I don't know how she
20 answers that. Thank you, sir.

21 Q. Okay. Could there be a distinct difference in what one
22 interpreter says is manipulative versus another interpreter?

23 MR. BOGLE: Objection; calls for speculation.

24 THE COURT: I agree. And you've asked that question
25 several times. She's answered as anything's possible, but

1 that's not the standard the jury has to apply; so you need to
2 rephrase it in a more relevant fashion. Thank you, sir.

3 Possibility is not sufficient.

4 MR. BROOKS: Okay.

5 THE COURT: It's just not relevant.

6 Q. Dr. Gehle, do you remember what -- do you recall your
7 report from 2011 on Mr. Jones?

8 A. I mean --

9 Q. Do you have it in front of you?

10 A. Yes.

11 Q. Okay.

12 A. I believe I do. Give me a minute and I'll find it.

13 Yes.

14 Q. Let me know when you've found it.

15 A. Okay. I've found it.

16 Q. Okay. Now, you indicated that Mr. Jones has made
17 progress; is that correct?

18 A. Yes.

19 Q. What progress did he make between your 2011 interview
20 and report and your 2013 interview and report?

21 A. What progress did he make?

22 Q. Yes, ma'am.

23 A. All right. I've got to compare the two.

24 I think the large progress that he's made, probably the
25 most significant that he's made has been, when I interviewed

1 him in 2011, he was still rather focused on discharge and had
2 been that way for a couple years. And I think that he's
3 refocused on treatment and more on the present rather than
4 just wanting to go home.

5 Q. Did that manifest itself in any way in your review of
6 the treatment notes between the two evaluations?

7 A. I think he went back and did more treatment assignments;
8 so it would show that he was, you know, doing more work.

9 Q. Anything else?

10 A. Nothing comes to mind offhand. There was a notation
11 that he was -- he said he was more serious about treatment
12 than he had been in the past.

13 Q. And I know I've asked this question, and I'm going to
14 ask it again in regards to him needing to decrease his risk
15 factors, having a better understanding of his trigger
16 offenses. I think that's one; is that correct?

17 A. Having an understanding of his early triggers would be
18 important, yes.

19 Q. Okay. And that would be -- is that one of the things
20 that you talked about as far as decreasing his risk factors?

21 A. I believe so.

22 Q. Okay. And what else would he need to do?

23 A. Well, he has to decrease his risk factors, work on his
24 emotional regulation. I think that he needs to work on his
25 attitudes about how he views the world, his approach to

1 communication.

2 So, you know, if it's suggested to him -- and it's
3 probably the best suggestion that you can make, given his
4 disability -- that he carry a pad of paper and a pen around
5 if he needs to communicate with somebody who doesn't speak
6 sign language and there's no interpreter present, that that
7 would be one way where he could communicate.

8 I think that it would be good for him to be doing that
9 all the time, but he doesn't do that all the time. He
10 chooses not to do that. He gets upset that he has to write
11 when other people don't have to write things.

12 I think he needs to be consistent in his reports. And
13 that's just as a baseline. I think treatment builds upon
14 that. And it's really hard to say that after he's honest and
15 consistent, you know, there might be other things that he
16 needs to work on. But, you know, his treatment team has
17 advised that he work on certain factors, and they might
18 advise that he work on certain factors when he's done well on
19 the ones that he's assigned now.

20 Q. Okay. You said he needs to be more consistent. Did I
21 hear you say that correctly?

22 A. Yes.

23 Q. And more consistent in doing what now?

24 A. In talking about his offenses, in talking about his
25 deviant sexual interests, in talking about a lot of things,

1 in taking responsibility.

2 Q. So in your opinion, he has not done that between 2011
3 and 2013?

4 A. He's still been inconsistent.

5 Q. He's still been inconsistent?

6 A. Yes.

7 Q. How so, Doctor? How has he been inconsistent? One
8 minute he's reporting these deviant fantasies, and he's
9 reporting, "I want to have sex." Is it -- well, how so?

10 A. I think I've answered this question several times, but I
11 will answer it again. He's been inconsistent in that when I
12 ask him about an offense and, you know, want to know what his
13 intentions were, within a single conversation, he's saying
14 that he went over to somebody's house to have sex. Then he
15 says he was planning to rape her. Then he says no, he just
16 wanted sex. So that's inconsistency. That inconsistency is
17 played out in the same manner over time --

18 Q. Let me stop you. I want to make sure.

19 So your opinion, that right there, that's an
20 inconsistency?

21 A. That's an inconsistency.

22 Q. All right. What else?

23 A. When he's talking about, you know, having his arm around
24 a victim versus, you know, choking a victim, that speaks to
25 an inconsistency when he's talking about what his intentions

1 were and what his behavior was.

2 Q. And, I mean, let me stop you right there, Doctor. Was
3 that in the course of an interview with you, or is that based
4 on the treatment notes?

5 A. That was in the course of an interview with me.

6 Q. Okay. One minute he said, "Put an arm around her," then
7 the next thing he said, "Headlock"?

8 A. I can tell you specifically what he said.

9 When I questioned him about an offense --

10 Q. Which page are you on, Doctor?

11 A. 10.

12 Q. Okay.

13 A. He said, "I had my arm around her trying to get her
14 clothes off." When I asked if he had tried to choke her, he
15 said, "Well, I had my arm around her."

16 When I asked him again, he said the same thing. I asked
17 if he had the victim in a headlock, and he said "yes." I
18 asked if he wanted the victim to pass out. He said "yes." I
19 asked if he would have raped the victim if she was passed
20 out. He said "yes." I asked if he would have raped her
21 while she was unconscious, and he said "yes."

22 So at the beginning, I think that he's minimizing. He's
23 saying I just had my arm around her. When I continue
24 questioning, he admits that he's choking her, has her in a
25 headlock.

1 Q. Okay.

2 A. I want him to be saying -- taking responsibility for his
3 behavior at the outset. That's where he should be this many
4 years into treatment. He shouldn't be minimizing his
5 behavior. Because if I hadn't kept asking, then he would
6 have left it at that, "I just had my arm around her." That's
7 completely different -- that's a different characterization
8 of him having her in a headlock, choking her and wanting her
9 to pass out and having sex with her while she's unconscious
10 than just, "I had my arm around her."

11 Q. Okay. And that's -- that's the other inconsistency?

12 A. Yes. I find that inconsistent.

13 Q. Okay. Any other inconsistencies? And based on what you
14 said, I count two. Are there any other inconsistencies?

15 A. Well, I mean, his inconsistencies with talking about the
16 victim that he met in the bar. Just finding my place here.

17 Q. When you find it, let me know which page you're on.

18 A. It's 11, Page 11. He said he met this girl at a bar.
19 And he said, "In my head I started planning." And then he
20 said, "I thought she maybe wanted to have sex." He tried to
21 buy her a drink. She said no, but he ended up buying her a
22 drink. She, you know, later accepted.

23 He asked her for a ride home, and on that ride home, he
24 motioned -- he said the sexual sign to her and she said no.
25 He pointed out a fake home, and she stopped the car at some

1 point. He started grabbing at her, manhandling her. She
2 punched him. This is what he said initially when I asked for
3 his account.

4 He also said that he was not planning on raping this
5 victim, but he admitted that he gave her a false address
6 early on when he got into the car. So that would indicate
7 that maybe he was planning on, you know, raping her when he
8 got into the car.

9 He also said he started planning when he sat down next
10 to her; so I find that within that account, he's being
11 inconsistent. He's not being consistent about his
12 intentions.

13 Q. And, Doctor, you just said you want him to not minimize,
14 correct?

15 A. Correct.

16 Q. So initially he says, "I planned" -- make sure I
17 understand this. You're saying initially he said, "I was
18 planning to rape her"?

19 A. No.

20 Q. Isn't that coming out?

21 A. Well, initially, he didn't say he was planning to rape
22 her. He said that he wasn't until she said no to his sexual
23 advances. But he also said later that he was planning to
24 rape her.

25 He was very inconsistent; so it's hard to tell, you

1 know, what his real intentions were or when he made the
2 decision to try to sexually assault her. Was it at the time
3 that he was sitting next to her in the bar? Was it at the
4 time that he got into the car? Was it at the time that she
5 said no? Was it at the time he gave her the false address?
6 It's unclear because he's said all those things.

7 Q. And, Doctor, during the course of this interview, you
8 couldn't speak to him directly? You had an interpreter
9 translate between you and him; is that correct?

10 A. That's correct.

11 Q. Okay. And the inconsistency that you point out is
12 whether it was at the time he sat down at the bar, or was it
13 at the time he got in the car, or was it at the time he put
14 forth sexual urges and she said no, right? Those are the
15 examples of inconsistency?

16 A. That's an example of inconsistency here. And it's
17 extremely important in this type of evaluation because we
18 need to understand what the trigger is in order to help him
19 manage those things.

20 If it was when he sat down at the bar, that could mean
21 that the trigger was one thing. If she -- if it was he
22 decided to rape her when she said no to his sexual advances
23 and he got angry, that would be a different trigger.

24 So it's important for him to consistently report these
25 things and as honestly as possible so that the treatment team

1 can help him identify what the triggers are and help him
2 manage those things.

3 Q. So what would be the trigger if it was at the time of
4 sitting at the bar?

5 A. It could be the drinking. It could be something that --
6 you know, about how she looked. It could be about his mood,
7 anything that happened before going to the bar. It could be
8 how they interacted. It could be a variety of things.

9 Q. Could it also be those same things if it was the
10 scenario of, "At the time she said no when I wanted to -- I
11 expressed that I wanted to have sex with her"?

12 A. That would indicate that he is more responding to
13 rejection and anger.

14 Q. Okay.

15 A. So I would see those scenarios as very different.

16 Q. And how would that second scenario be different than
17 that third scenario of, "Once we're in the car"?

18 A. Well, the third scenario would be -- I would consider
19 it -- so if we have the first scenario, if you want to
20 consider them chronologically, would be him sitting down at
21 the bar, you know, and seeing this girl, sitting next to her.
22 It could even be, you know, two days before, a girl rejected
23 him. We don't know because he's not identified that. So it
24 could be, if we're taking it that it was when he sat down at
25 the bar, I would take it the second scenario would be when he

1 got into the car. That could mean that he identified that
2 he's got her alone. That could be more of an opportunistic
3 rape. And then the third scenario would be where he's
4 reacting to the rejection with anger, and the anger leads to
5 the arousal.

6 Q. Okay. Doctor, earlier you mentioned during Mr. Bogle's
7 examination that Mr. Jones had gotten some sex offender
8 treatment when he was in SCDC the first time; is that
9 correct?

10 A. Yes. That's what the records indicate.

11 Q. Are you knowledgeable as to the extent of that treatment
12 and what all that entails?

13 A. Well, that treatment would have been many years ago. I
14 know more about what the treatment entails in the Department
15 of Corrections now than I do as to what it, you know, was
16 back then.

17 Q. And back then would have been sometime during the 1990s?

18 A. Yes.

19 Q. So it's possible that it could be inconsistent with
20 what's going on now in the sexually violent predator
21 treatment program; is that correct?

22 A. That the treatment programs are inconsistent?

23 Q. What a person gets in the Department of Mental Health's
24 sexually violent predator treatment program, is it vastly
25 different than what they get in the sex offender treatment

1 program with SCDC as it stands now?

2 A. As it stands now, the way the Department of Corrections
3 treatment program works is, you know, there's more people in
4 a group than there would be at the SVP program; so they have,
5 you know, larger groups. They have a component of
6 psychoeducation; so where they learn the sex offender
7 treatment terms, where they would learn what risk factor is,
8 where they would learn what some of the risk factors are,
9 where they would learn what cognitive distortions are.

10 Q. In the SVP program?

11 A. No. In the SCDC.

12 Q. Okay.

13 A. In corrections.

14 Q. Okay.

15 A. And that is more incorporated into just the group
16 treatment in the SVP program. So SCDC has a component of
17 treatment that's just psychoeducational. They have just
18 expanded their program to include more of talking about the
19 offenses and things like that in the SCDC program. But I
20 would say that in general, sex offender treatment and the
21 components of that are, you know, similar.

22 Q. Is it fair to say that the Department of Mental Health's
23 program is much more advanced than what's in the Department
24 of Corrections?

25 A. I would say that that's a fair characterization.

1 Q. And you indicated that you would not be as knowledgeable
2 about how the program was in the '90s?

3 A. Correct.

4 Q. Would it be fair to say that what they have now in SCDC
5 is an improvement versus what they had then?

6 A. I have no idea.

7 MR. BROOKS: Okay. No other questions, Judge.

8 THE COURT: Very well. Redirect.

9 MR. BOGLE: Thank you, Your Honor.

10 REDIRECT EXAMINATION BY MR. BOGLE:

11 Q. When you are meeting with him, there's an American Sign
12 Language interpreter present, correct?

13 A. Correct.

14 Q. If at any time during the interchange between you and
15 him he doesn't understand anything, has he interrupted on
16 past occasions and said, "Wait," and he signaled to, "Wait.
17 Say that again," or "Explain that again"?

18 A. Yes. I would say so, yes.

19 Q. Is he free to do that at any time during the
20 interpretation back and forth, if he doesn't understand
21 something to ask for it to be re-explained or restated?

22 A. Yes. There have been times when I asked a question and
23 the interpreter and Mr. Jones will have an exchange. And the
24 interpreter will be speaking out loud to me saying, "He's
25 asking for clarification," you know, "He's asking me to

1 repeat the question," things like that.

2 Q. Okay. Okay. You mentioned a minute ago, counsel asked
3 you about some of the residents at the SVP treatment program
4 mentor others, but some don't. Are there reasons why it's
5 not recommended for some of the residents?

6 A. Well, some of the residents, I would say, are not good
7 influences on other residents. And I think there's also been
8 a problem in the past where residents will maybe do the
9 homework for other people.

10 Q. Mm-hmm.

11 A. So, you know, it will be a way to kind of cheat on
12 treatment assignments. But I'm not saying that that's an
13 issue with Mr. Jones, but that's why I don't believe that
14 there's a strong mentoring relationship or formal program in
15 the SVP program.

16 MR. BOGLE: Thank you, Doctor; Your Honor.

17 THE COURT: Recross?

18 MR. BROOKS: No, sir.

19 THE COURT: Okay. You may step down, Doctor.

20 MR. BOGLE: Your Honor?

21 THE COURT: Yes, sir.

22 MR. BOGLE: Could I have permission to release her at
23 whatever time we deem it necessary? I'm not sure if it'll be
24 tomorrow or this afternoon --

25 THE COURT: Do you have any objection to her being

1 released?

2 MR. BROOKS: No.

3 THE COURT: She's free to go. That's up to you.

4 MR. BOGLE: All right. Thank you.

5 THE COURT: If you want her to stay, that will be
6 between you and Dr. Gehle.

7 All right. Call your next witness.

8 MR. BOGLE: All right. At this time, Your Honor, the
9 State would rest.

10 THE COURT: Okay. You all approach, please, just for a
11 second.

12 (Judge and attorneys confer.)

13 THE COURT: Ladies and gentlemen, at this point there's
14 some matters of law that I have to take up out of your
15 presence; and I was really just discussing with them if they
16 were planning to present any witnesses, and they do.

17 We have been -- I've been in touch with Mr. Michel,
18 who's certainly been in touch with Ms. Armstrong about the
19 weather and the water situation and flooding situation. I've
20 been looking periodically at the maps to make sure there's
21 nothing. There's some systems apparently coming in, more of
22 them in the Summerville area than it looks like in
23 Charleston, but I think given everything that's there, we'll
24 go ahead and recess for the evening.

25 As to you, I'll let you go home and ask you to return,

1 please, by 9:45. There's some matters that I have to take up
2 tomorrow that aren't related to this. There are other
3 matters. We'll start back at 9:45.

4 Please remember that you are not at liberty to discuss
5 this case among yourselves, nor may you talk with anyone
6 outside. I would imagine if you go home tonight, and there's
7 somebody there, the first question's going to be, "What are
8 you doing and what's the case about?"

9 If you respond, you will have started your
10 deliberations, and you will have violated your oath. You'll
11 finish this case probably tomorrow. And then if you want to
12 talk about it, that will be up to you. But do not discuss
13 the case with anyone, even anyone at home.

14 Have a great evening, and I'd ask you to be in your jury
15 room by 9:45. Thank you.

16 (Jury exits the courtroom.)

17 THE COURT: Any motions from the State at this point?

18 MR. BOGLE: No, Your Honor, thank you.

19 THE COURT: Motions. Yes, sir.

20 MR. BROOKS: Judge.

21 THE COURT: Yes, Mr. Brooks.

22 MR. BROOKS: I'll just try to say it as succinctly as
23 possible.

24 THE COURT: Thank you, sir.

25 MR. BROOKS: But my client is no danger. I don't see

1 evidence. I asked about referrals and disciplinary actions
2 and a 2011 evaluation, when that last annual review was
3 denied, up until this one where Your Honor granted him a
4 trial, and, I mean, there's no danger indication.

5 THE COURT: Well, I appreciate that, and, of course, I
6 understand you can certainly argue that, but in the light
7 most favorable to the State, Dr. Gehle testified
8 unequivocally that he was at risk to reoffend, that he had
9 several disorders, numbers of them.

10 That will be up to the jury to determine whether or not
11 those are correct or not, but certainly in the light most
12 favorable to the State, I must respectfully deny your motion.
13 But thank you very much, and I appreciate that.

14 Now, you plan to call how many witnesses tomorrow, do
15 you think?

16 I'm just -- and the only reason I'm asking you this is
17 for planning purposes. We're trying to schedule some matters
18 about the time this case could go to the jury; so I'm just
19 trying to --

20 MR. BROOKS: Judge, in all fairness, since we're coming
21 tomorrow, Dr. Martin, who already the Court's aware is lined
22 up, that's our expert, and I've got two of Mr. Jones's
23 sisters.

24 THE COURT: Okay.

25 MR. BROOKS: Possibly Mr. Jones. We're kind of seeing

1 how it goes.

2 THE COURT: That's fine. I understand. We'll gauge
3 that accordingly. Thank you very much. Have a good evening,
4 and we'll see you tomorrow morning at 9:45, please.

5 (Trial of the case adjourned for the day at 4:45 p.m.)

6 (Trial of the case resumed on 8/12/14 at 9:45 a.m.)

7 THE COURT: The State's ready?

8 MR. BOGLE: Yes, Your Honor. Thank you.

9 THE COURT: The defendant's ready, Mr. Brooks?

10 MR. BROOKS: Yes, sir.

11 THE COURT: Okay. Let's bring in our jury, please.

12 (The jury enters the courtroom.)

13 BAILIFF: All jurors present and seated, Your Honor.

14 THE COURT: Thank you, Ms. Sigman.

15 Ladies and gentlemen, good morning. Hope you had a good
16 evening. We're ready now to continue the matter we started
17 yesterday. When we took our break, the State had completed.

18 And, Mr. Brooks, does the defendant wish to present any
19 testimony for the jury's consideration?

20 MR. BROOKS: Yes, sir.

21 THE COURT: You may proceed.

22 MR. BROOKS: We will call Thomas Martin.

23 THE COURT: Okay.

24 THOMAS VICTOR MARTIN,
25 being first duly sworn, testified as follows:

1 MR. BROOKS: Ready, Judge?

2 THE COURT: Yes, sir.

3 DIRECT EXAMINATION ON VOIR DIRE BY MR. BROOKS:

4 Q. Dr. Martin?

5 A. Yes, sir.

6 Q. How are you today?

7 A. I'm fine. Thank you.

8 Q. Okay. Now, Doctor, I'm going to start this off by
9 asking a little bit of background on yourself. What is it
10 that you do?

11 A. I'm a private independent forensic psychiatrist in South
12 Carolina. I have a private practice in Columbia. I travel
13 to different parts of the State. I also have four other
14 medical licenses in other states.

15 I am a physician, a psychiatrist and I've had
16 subspecialty training in forensic psychiatry, which is how
17 thoughts, feelings and behaviors may interface with the legal
18 system. I'm board certified by the American Board of
19 Psychiatry and Neurology in both general and in forensic
20 psychiatry.

21 Q. Now, also, Doctor, did you have the opportunity to work
22 at the Department of Mental Health at one time?

23 A. Yes. I was the chief psychiatrist at the sexually
24 violent predator treatment program where Mr. Jones is now
25 residing. I was there from 1999 until 2001.

1 Q. Okay. So matter of fact, that was in the inception of
2 the program; is that correct?

3 A. Yes, sir.

4 Q. Okay. And have you testified in courts before?

5 A. Yes, sir.

6 Q. And have you been deemed and qualified as an expert in
7 the field of forensic psychiatry and psychology?

8 A. In forensic psychiatry, yes, sir.

9 MR. BROOKS: Okay. All right. Your Honor, at this time
10 I would submit Dr. Martin as an expert in the field of
11 forensic psychiatry.

12 THE COURT: Care to examine him as to his
13 qualifications?

14 MR. BOGLE: We have no objection, Your Honor. Thank
15 you.

16 THE COURT: Very well. I will permit him to render
17 opinions in the area of forensic psychiatry.

18 DIRECT EXAMINATION BY MR. BROOKS:

19 Q. Doc, and I might just refer to you as Doc as we go
20 through this question-and-answer period, if you don't mind.

21 A. Yes.

22 Q. Now, seated at the table is Glenn Jones. Are you
23 familiar with Glenn Jones?

24 A. Yes, sir, I am.

25 Q. Okay. And how familiar are you with Glenn Jones?

1 A. I was originally asked to evaluate, in the same type of
2 setting, Mr. Jones back in April of 2010. He was petitioning
3 to be released from the sexually violent predator treatment
4 program at that time. That's where I first began reviewing
5 his case.

6 Q. Okay. And what is it -- when you review a case, what is
7 that?

8 A. I review materials that include the discovery, the
9 incident reports, the arrest warrants, police reports and so
10 forth that surround the crimes that an individual's been
11 charged and then later convicted of. I also examine
12 documents that may be related to mental health that pertain
13 to the individual.

14 I also examine, if they're in the treatment program
15 already, the documents that pertain to his or her chart and
16 then find out what kind of progress has been made, what kind
17 of diagnoses have been made and so forth.

18 So when I make a review in a case that's -- would be an
19 annual review release case, I want to know the conception
20 that the individual has of the crimes that they committed,
21 what treatment they've gotten and how they plan to prevent
22 any type of reoccurrence.

23 Q. Okay. And basically, you started working on that or
24 looking into that back in 2010, 2011 as it relates to
25 Glenn Jones?

1 A. Yes, sir.

2 Q. And can you tell the Court what some of your findings
3 were?

4 A. Well, after I assessed his case, I found that he did
5 suffer from a paraphilia, which is a sexual perversion
6 disorder, and that he also had a serious substance abuse,
7 primarily alcohol dependence, problem in his past that
8 related to his crimes.

9 But in 2010 I did not feel that he had a very good grasp
10 of his sexual assault cycle, the cognitive distortions or
11 thinking errors that may have led to some of his committing
12 those sexual crimes, and I didn't think he had a very good
13 understanding of relapse prevention techniques that would
14 help prevent him from committing crimes in the future. So in
15 2010 I rendered the opinion he was not ready to be released.

16 Q. Okay. Now, just to repeat, you felt he was not ready to
17 be released?

18 A. In 2010, no, sir.

19 Q. Okay. Now, also in your evaluation of him, did you also
20 find out that he himself had been abused?

21 A. Yes. Throughout much of his childhood.

22 Q. Can you explain that to the jury, what you found out
23 there?

24 A. Well, as I imagine most folks know, Mr. Jones is deaf.
25 He had required special schooling. He was in some

1 residential facilities where the schooling took place, and
2 unbeknownst to many folks, and especially his family, until
3 he was at least an adult, he had actually been sexually
4 molested by other students in the facility, and it went
5 unreported.

6 Q. Okay. Now, that would have been in his adolescent
7 years, teenage years, etc., etc.; is that correct?

8 A. Yes, sir.

9 Q. Okay. So in 2010-2011 time frame, is it fair to say
10 that Glenn needed help, and he needed to continue getting
11 help in the program?

12 A. That was my opinion, yes, sir.

13 Q. Okay. Now, here we are in August 2014. Have you had a
14 chance to review and evaluate him recently?

15 A. Yes, sir, I have.

16 Q. And can you tell us about that?

17 A. I met with Mr. Jones again on September 10th, 2013, last
18 fall, and I evaluated his treatment progress since then.
19 What I do, for a number of hours, is to review what the
20 crimes were. I focus in their understanding of the dynamics
21 to the crimes.

22 And I felt I got a better understanding because I
23 believe he had a better understanding of why he may have
24 committed some of the heinous crimes that he did back in the
25 '80s and '90s.

1 And I then reviewed with him his treatment progress in
2 the program. I compared that with the chart, which,
3 actually, I reviewed the chart up until the spring of this
4 year, since I've seen him. And his progress seems to be
5 steady.

6 His conception, his understanding, his implementation of
7 prosocial and healthy social skills has been good. And I
8 believe that he now has all the tools that he needs. He has
9 the family support that he needs to be able to go out, return
10 home and become a productive citizen and help his family.

11 Q. Now, you also said something about he has the family
12 support. As a part of your review and evaluation of Glenn,
13 did you get any family input?

14 A. Yes.

15 Q. Can you tell us about that?

16 A. Well, I've spoken with his family on several occasions.
17 They've known Glenn all of his life, and they're here in the
18 courtroom today. As a matter of fact, his parents are in
19 their 70s. His mother is in an assisted-living facility.
20 His father lives kind of in farmland in Walterboro.

21 And so essentially, where he would be going would be to
22 live and help maintain the land, which is sort of what I call
23 "in the middle of nowhere" Walterboro. And plus he has other
24 sibling support in the periphery who are very enthusiastic
25 about making sure he continues to do well, as he has already

1 been doing.

2 Q. Now, Doctor, you have -- well, let me regress a bit.
3 How many evaluations have you done of people in the sexual
4 violent predator program or something of that magnitude?

5 A. Well --

6 Q. I mean, this isn't the first time you've evaluated
7 somebody on these lines.

8 A. No. Hundreds --

9 Q. Okay.

10 A. -- I've done.

11 Q. And to have a release plan, is that important?

12 A. In my opinion, yes.

13 Q. Okay. So talking to the family and seeing what the
14 family dynamics are at the point in time and where Glenn
15 would be going, that's part of what we call a release plan;
16 is that correct?

17 A. Yes, sir.

18 Q. And do you think that that is a good, sound release plan
19 for him?

20 A. Yes. I believe his family is very enthusiastic. They
21 are committed to his continuing to do well, and I'm not
22 worried about their input in his aftercare.

23 Q. Okay. And a lot of times, when you look at somebody who
24 might be ready to go, you consider the release plan. And
25 what I mean, Doc, as opposed to somebody who goes out with

1 nowhere to go versus somebody like Glenn. That's a huge
2 difference, isn't it?

3 A. Yes.

4 Q. Okay. When you looked at his charts and records over
5 the past three years, has he gotten in any trouble at the
6 program: Referrals, disciplinary write-ups, things of that
7 sort?

8 A. He's maintained a very good level in terms of status on
9 the unit. Those level statuses have been changing recently,
10 but he's maintained a good one. He is on the side of the
11 unit at Broad River Correctional that is typically used for
12 folks that don't need to be watched very closely.

13 He's been a responsible individual on the unit. He has
14 not had any what are called major behavioral observation
15 notes or therapeutic room restrictions or confinements. I
16 believe he was perhaps reprimanded once for having too many
17 magazines, but that's part of confinement life. You can have
18 so many magazines, so many cups of coffee and so forth, and
19 apparently, he violated that. But I think that's about the
20 only one, especially in the past several years.

21 Q. Okay. And that could have been just a simple oversight
22 on his part; isn't that correct?

23 A. That's what he says, yes.

24 Q. Okay. Now, is there -- to your knowledge, is there some
25 type of mentor/mentee program going on within the sexual

1 violent predator program?

2 A. Yes. Some of the more advanced, if I could call it
3 that, residents who are part of the program are sometimes
4 called upon or they take it upon themselves to be mentors or
5 tutors for other perhaps less fortunate educationally
6 deprived individuals.

7 I found Glenn Jones to be a rather intelligent
8 individual. He is somewhat thwarted by the fact that he
9 cannot clearly speak because he is deaf, but there are
10 interpreters that are provided. And even with interpreters,
11 he -- without interpreters, I should say, he actually helps
12 teach other people sign language that are on the unit. And
13 he actually helps mentor them in the material that he
14 already, in my opinion, has a very good command of.

15 And so he's crossed several thresholds there of being
16 able to communicate on a unit where it was at one time early
17 on -- he's been in there like 11 years. Early on, he didn't
18 have anybody to help him speak, and now he has interpreters.
19 And now he's helped people actually understand him on the
20 unit, which requires, in my opinion, a lot of patience and
21 perseverance. And he's helping them, through signing, to
22 understand the materials so that they can progress in the
23 program. Mr. Jones has done that.

24 Q. So, Doc, is that clearly a sign of significant progress
25 for Mr. Jones -- is that correct?

1 A. Yes, sir. My opinion is based in part on a social
2 adaptability. I would never recommend people go to a
3 confinement setting like where Mr. Jones is to learn how to
4 become a social being, but that is where he is, and so he
5 must adapt to it.

6 I believe he's done a very good job. He's identified
7 good social skills and, I would say, healthier attitudes that
8 will carry with him, in my opinion, once he leaves the
9 program. And that is an important part, in my opinion, of
10 the social group setting that he's in in the program.

11 Q. And, Doc, I want to ask you something else about Glenn.
12 If Glenn is released, he will have to register as a sex
13 offender; is that correct?

14 A. I believe so, yes.

15 Q. Okay. And what is your knowledge of registering as sex
16 offender? What is that?

17 A. The sex offender registry's been in existence for quite
18 a while. It was once only known by law enforcement. But due
19 to -- in the past about 20-some years, it's become, with the
20 information technology as it is, more of a community
21 awareness.

22 And so there is a belief that if people register as a
23 sex offender, anyone can access that registry in the State of
24 South Carolina, has that registry online, to where you can
25 identify who it is by sight. They have a photograph. They

1 have the crime they committed and where they are and their
2 address and -- or whether they've moved.

3 Q. Okay. So if Glenn is released, he has to do that. And
4 he will also have to report to law enforcement periodically;
5 is that correct?

6 A. Yes. Four times a year he has to report to law
7 enforcement.

8 Q. So he got something he got to do. He's just not
9 released out there without no type of structure; is that
10 correct?

11 A. That's the structure that the registry provides, yes.

12 Q. Okay. All right. And as a matter of fact, if a person
13 is on the registry, and they don't do those things that you
14 talked about, going to law enforcement four times a year,
15 that's a criminal offense for which they can go back to
16 prison; is that correct?

17 A. That's correct.

18 Q. Okay. Now, you also do a outpatient program; is that
19 correct?

20 A. Yes. I have three outpatient sex offender-related
21 treatment groups that has a total of about 50 guys between
22 three groups that I meet with on a regular basis.

23 Q. And is Glenn someone who would be a candidate for an
24 outpatient program such as yours?

25 A. Yes. If he wanted to come see me -- he'd have to bring

1 an interpreter, but if he wanted to come see me, I'd be more
2 than willing to help treat him.

3 Q. Okay. And if his family arranged transportation, you
4 would be open to that; is that correct?

5 A. I've got a place for him if he wants to come.

6 Q. Okay. And that's something where a person can continue
7 to get help; is that correct?

8 A. Yes. I believe, especially in Mr. Jones's case, he's
9 been incarcerated, I think, at least 17 years. 11 of those
10 years he's been in the sexually violent predator treatment
11 program. A lot of the work that I do also has a lot to do
12 with individuals who have committed crimes that have served
13 those lengths of sentences. They just haven't been sexual
14 crimes. Transitioning from 17 years incarceration into the
15 community is not always an easy task. And it would
16 benefit -- the individual would benefit from supportive
17 measures. And I've done this with other folks and their
18 families where they can come in periodically just to get
19 acclimated on getting back into the community.

20 They're used to following certain rules that, in a way,
21 don't make sense, like having too many magazines. You know,
22 I'm not sure that that's a law in the outside world. But
23 sometimes that's frustrating for an individual. And so I
24 actually recommend some transition supportive therapy for
25 someone who's been incarcerated or confined that long.

1 In his case I would recommend maintenance sex offender
2 therapy so he can take the materials, the cycle and so forth
3 that he's learned and the relapse prevention techniques and
4 say, "Here, here's where I'm applying them, and here's how
5 well they're working," and keep the family involved as well.

6 Q. And in your reviews and evaluations, interviews with
7 him, has he indicated that he would be responsive to doing
8 that, to the outpatient program?

9 A. Yes. And so has his family.

10 Q. Okay. Now, Doc, we've heard some terms and some things
11 like Static-99. What is that?

12 A. Static-99 is an actuarial scale that was developed by
13 actually some teachers of mine up in Canada. And what it
14 does is it takes, based on a lot of studies, certain
15 historical facts, that if an individual meets a similar
16 number of those historical factors or criteria, that there
17 may be a percentage likelihood that they would do whatever
18 again that they were essentially being assessed for.

19 An easy way to understand how an actuarial scale works
20 is that the insurance companies use them. If you are a
21 19-year-old single male, you will pay the highest car
22 insurance premiums of anyone. And the reason is because
23 other people who are 19 and single and are male have had more
24 accidents. It doesn't mean you have, but it means that some
25 people in that category have.

1 And so an actuarial scale is one way to say somebody who
2 has some of Mr. Jones's criteria has a certain percentage or
3 a likelihood of, in his case, reoffending. But the
4 Static-99, as the name implies, takes only historic factors.
5 It doesn't really incorporate at all any treatment factors or
6 any treatment changes.

7 So his Static-99, with the exception of aging, isn't
8 going to change. His Static-99 was bad when he went in.
9 It'll stay, in my opinion, bad through the whole thing until
10 he dies, no matter how much he's improved.

11 Q. Is there a better indicator than the Static-99, in your
12 opinion?

13 A. Well, I'm not going to say the Static-99 is bad. We are
14 in the infancy of understanding how paraphilias and sexual
15 offending operates. There are other factors that I do
16 incorporate in my assessment that is actually proposed by the
17 same psychological leaders in Canada who developed the
18 Static-99.

19 The sexually violent predator program has not adapted
20 any of those yet, and I don't know why that is. But other
21 treatment factors would be mood and behavior regulation,
22 substance use rehabilitation, the ability to form healthy
23 interpersonal relationships and so forth. These are things
24 that are called dynamic factors that can change with
25 treatment. They're not assessed in the Static-99.

1 Q. And that's a huge difference as it relates to the
2 Static-99 if you don't factor in these dynamic factors;
3 wouldn't you agree?

4 A. Yes. The Static-99 is -- or the Static-99R, revised, is
5 mainly for folks who have had no treatment and are being
6 assessed for potential commitment.

7 Q. On the precommitment phase, like how Glenn Jones was
8 back in 2003 when he first went into the program?

9 A. That's correct.

10 Q. But now after being in there and going through this
11 process, and even within the last couple years, this is where
12 the dynamic stuff kicks in; is that correct? The changes --

13 A. That's where it's supposed to. That's right. That's
14 where treatment changes are supposed to take place. His
15 Static-99 is not good, but it's never going to be good.
16 Their history and treatment is not going to change what he
17 did.

18 Q. It's not going to change what he did or the fact that he
19 is deaf?

20 A. Correct.

21 Q. And what his disability may have affect on as far as his
22 communication with people and him getting frustrated about
23 that communication barrier; is that correct?

24 A. Well, I think that those -- those last points are what
25 he has improved on. In other words, his conception of what a

1 relationship was, what an intimate relationship was, what
2 having sex was, what was "yes" and what was "no" was horribly
3 distorted when I first met him in 2010.

4 Now he has a much more empathetic -- which I believe is
5 a real key and relapse prevention tool, is that he now can
6 appreciate on a healthier and more accurate level the
7 emotions and feelings of other individuals and how he may
8 positively or negatively impact them by what he tries to say
9 or his behavior. And that, to me, is a huge difference.

10 Q. Okay. And would also another example be he's deaf with
11 a disability. That's not going to change. But how it
12 impacts his interpersonal relations and how he deals with it
13 in the potential communication barriers, that has changed?

14 A. Yes.

15 Q. In your opinion, is that important?

16 A. Yes. Because that's a communication skill. He has to
17 be able to communicate with his family and any small number
18 of people that may be in his community.

19 Q. Okay. When you were evaluating Mr. Jones, did you look
20 at other medical experts' reports as a part of your
21 evaluation and review?

22 A. I looked at -- well, the latest one from the treatment
23 program was the annual review produced by Dr. Marie Gehle.

24 Q. Okay. And you had opportunity to review that?

25 A. Yes, sir.

1 Q. Okay. In her review does she do anything in addition to
2 the Static-99?

3 A. Well, she interviewed him and, I believe, talked to him
4 a little bit about what the offenses were.

5 Q. Is it fair to say, in Glenn's situation, because of the
6 limitations on the Static-99 that you're talking about, that
7 you need to go deeper in evaluating him; is that fair to say?

8 A. Well, it's my opinion that the better you understand the
9 individual and their conception of what it is they're in the
10 program for and how they're applying it, I believe that's
11 crucial. And that's what I try to do with an individual,
12 whether they're deaf or not.

13 Q. Okay. Doc, I may have asked you this already, but also
14 as a part of your review, you look back at all of his
15 criminal history, which is the same criminal history that
16 Dr. Gehle reviewed; is that correct?

17 A. Yes. His first sexual offense, I believe, was reported
18 in '86. And his last one was in 1997, I believe.

19 Q. Now, Doc, do you have an opinion as to whether or not
20 Mr. Jones' condition, disorder, mental abnormality has so
21 changed that he is now safe to be released into society and
22 whether or not he's likely to engage in acts of sexual
23 violence?

24 A. Yes. I believe Mr. Jones suffers from paraphilia not
25 otherwise specified. He's in -- he also has alcohol

1 dependence in full remission, and that I believe that,
2 through the treatment program, his behavior and his condition
3 and his diagnoses have so changed that he is very unlikely to
4 commit another sexual offense without being confined in a
5 facility.

6 Q. And is this opinion to a reasonable medical certainty?

7 A. Reasonable degree of medical and psychiatric certainty.

8 MR. BROOKS: Beg the Court's indulgence.

9 THE COURT: Certainly.

10 Q. Doctor, do you remember the last time you interviewed
11 Glenn Jones? Does your notes or memory recall when you met
12 with him?

13 A. I spent three hours with him on September 10th, 2013.

14 MR. BROOKS: No other questions, Doc.

15 THE WITNESS: Yes, sir.

16 MR. BROOKS: Answer any questions of Mr. Bogle.

17 THE COURT: You may cross-examine.

18 MR. BOGLE: Thank you, Your Honor.

19 CROSS-EXAMINATION BY MR. BOGLE:

20 Q. Good morning, Dr. Martin.

21 A. Good morning.

22 Q. Now, your employment with the Department of Mental
23 Health sexual predator unit, I believe you said that was from
24 November of 1999 until April -- is it April 16th of 2001; is
25 that right?

1 A. I know those are the correct years. I don't know the
2 exact months.

3 Q. Okay. So it's about -- would you agree with me that's
4 about 17 months?

5 A. Okay.

6 Q. Okay. And were you initially a temporary appointment as
7 a psychiatrist, and that became a permanent senior
8 psychiatrist the following year, 2000?

9 A. I believe that's what the title is, yes.

10 Q. Okay. While you were associated with the sexually
11 violent predator unit, did you conduct any precommitment
12 evaluations, in other words, of guys prior to them being
13 committed as to whether or not they should be committed?

14 A. I don't think I did that before or while I was in the
15 program.

16 Q. Okay.

17 A. I did all of the intake evaluations once they were
18 committed.

19 Q. Once they got committed?

20 A. Yes.

21 Q. Okay. What about once they got committed and came up
22 each year for an annual review? Did you do any annual review
23 treatment reports about how far along they were and where
24 they had to go?

25 A. Yes, I believe I did those.

1 Q. Now, you say you last saw Mr. Jones in September 10 of
2 2013, and you interviewed him personally; is that correct?

3 A. That's correct.

4 Q. Okay. Do you have a written report on him that you did
5 for this trial?

6 A. No, sir.

7 Q. Okay. Did he also -- when you talked to him about his
8 experiences at the school for the deaf when he lived there,
9 did he also report to you that he himself was abused,
10 correct?

11 A. Correct.

12 Q. And that he also then began to abuse other children
13 there. Did that also come up?

14 A. That's actually the way he described it. He thought it
15 was more consensual, but he realized later in treatment that
16 it was more of an abusive situation. That's correct.

17 Q. Okay. In the last five years, have you ever testified
18 for the State in one of these hearings?

19 A. The Attorney General's Office?

20 Q. Well, yes -- yes, the Attorney General's Office.

21 A. Yes.

22 Q. Have we ever called you as a witness for the State in
23 the last five years in one of these hearings?

24 A. No, sir.

25 Q. Okay. Now, his living locations, where Mr. Jones is

1 going to live if he's released by this jury, you said is with
2 his family down in Walterboro?

3 A. Yes.

4 Q. Okay. Where was he living back in the 1980s and 1990
5 when these sex offenses happened?

6 A. I don't remember.

7 Q. Okay. Was he living with the same family in the same
8 locations? Do you know?

9 A. I don't know.

10 Q. Okay. Is there an issue of him not taking -- being
11 prescribed medications while at the sexually violent predator
12 treatment unit and not taking his medications consistently?
13 Did you discover that?

14 A. Sometimes that was true with certain medications. And
15 he discontinued them or asked to be discontinued because of
16 the adverse side effects.

17 Q. Okay. Now, were you here yesterday when Dr. Gehle
18 testified?

19 A. No, sir.

20 Q. You've read her report, though?

21 A. Yes, sir.

22 Q. And one of the things she used to analyze him, which you
23 talked about a few minutes ago, was his score on the
24 Static-99R, right? We talked about that?

25 A. Yes, sir.

1 Q. And she also interviewed him according to your testimony
2 a few minutes ago, right?

3 A. That's correct.

4 Q. Okay. And she also looked at his criminal history over
5 the years, did she not?

6 A. That's correct.

7 Q. And did she also look at the treatment notes from the
8 treatment teams who've been working with Mr. Jones over the
9 years?

10 A. That's correct.

11 Q. That also -- was there evidence of that as well?

12 A. Yes, sir.

13 Q. Okay. And then she, of course, interviewed the guy just
14 like you did, right?

15 A. I know she interviewed him.

16 Q. Okay. So it's safe to say her review was not just
17 limited to a score on the Static plus an interview, right?

18 A. I presume not, but I wasn't here to talk to her about
19 that.

20 Q. Okay. Did you consult with her prior to your testimony
21 today?

22 A. Not just prior, but I did talk to her at the prior
23 hearing.

24 Q. Okay. Now, there was a prior hearing where you
25 testified about Mr. Jones back on April 17 of 2014, correct?

1 A. That's correct.

2 Q. Okay. And isn't it true that at that prior hearing, you
3 said that his risk was minimal?

4 A. Yes. I could never tell anyone that, after they've
5 committed such a history of crimes, that their risk would be
6 zero. I couldn't also tell you that there's 100 percent
7 chance they'll reoffend. But minimal is as low as in my
8 field of practice --

9 Q. Okay.

10 A. -- minimal or low.

11 Q. And your diagnosis of him, again, was paraphilia not
12 otherwise specified?

13 A. And alcohol dependence.

14 Q. And alcohol dependence. Did you also diagnose him with
15 antisocial personality disorder?

16 A. No, sir.

17 Q. Did you also diagnose him with pedophilia?

18 A. No, sir.

19 Q. The fact that he abused this child for the lewd act
20 conviction back in 1999 coupled with the abuse of children at
21 the school for the deaf, that didn't lead to a diagnosis of
22 pedophilia for you?

23 A. When you give someone a diagnose of paraphilia not
24 otherwise specified, not otherwise specified means that it
25 encompasses components of other subparaphilias, which include

1 pedophilia, voyeurism, frotteurism, cross-dressing, so forth
2 So to diagnose somebody with a paraphilia in general, and
3 then to go and give them separate diagnoses of other
4 categories, in my opinion, doesn't make sense.

5 Q. Okay. So bottom line is you did not diagnose him as a
6 pedophile?

7 A. Not solely, no.

8 Q. Okay.

9 A. He has paraphilia not otherwise specified.

10 Q. But your paraphilia not otherwise specified, does it
11 include elements of pedophilia?

12 A. Yes, it does.

13 Q. Does it include elements of voyeurism?

14 A. Yes, it does.

15 Q. Does it include elements of whatever -- biastophilia,
16 the one that involves rape of women?

17 A. Yes.

18 Q. Okay. Now, you mentioned that he will have to register
19 as a sex offender. He's not facing any kind of probation, is
20 he?

21 A. No, sir.

22 Q. Any probation's already run out, if he had any; is that
23 right?

24 A. Correct.

25 Q. Okay. Do you know of anything that can require him to

1 take sex offender treatment?

2 A. Not in the statute, no.

3 Q. Okay. And you said that your office offers outpatient
4 sex offender treatment, and he's welcome to attend your
5 system; is that right?

6 A. That's correct.

7 Q. And to do that, he would have to arrange transportation,
8 right?

9 A. Correct.

10 Q. And he'd have to, I guess, pay a fee, because you've got
11 to charge for this, don't you?

12 A. Yes, I do.

13 Q. And he has to -- because of his situation, he would have
14 to bring with him an interpreter like one of these ladies
15 here?

16 A. Or have one down in Columbia.

17 Q. Right. And they charge a fee as well, do they not?

18 A. I would imagine so.

19 Q. Okay. Do you know what efforts have been undertaken by
20 the family to raise and put together the necessary money and
21 make arrangements for transportation to bring him to your
22 office?

23 A. I have not asked them to make a commitment to that,
24 because whether or not Mr. Jones is going to be released is
25 still pending. But I do feel that they are committed to

1 having him in follow-up care. And I, in my practice, you
2 wouldn't see me here testifying today if I wasn't willing to
3 take care of the person who I am saying is ready for release.

4 He does not have to come to me. I don't need to solicit
5 patients this way. But if I feel comfortable treating him,
6 then I'm comfortable testifying on his behalf. But that --
7 that commitment is done by his parents, and I -- and his
8 family, and I do believe that they're committed to do it.
9 I'm just saying if they want to come to see me, that's fine.

10 Q. Okay. Or they could go to another provider, if there's
11 somebody else down here in the Lowcountry, that might be more
12 convenient to where they live, right?

13 A. Absolutely.

14 Q. Do you know if any appointment has been many made,
15 either with your office or with somebody else, say next week
16 or the week after or a definite appointment made to show up?

17 THE COURT: You don't have to answer that question.
18 That's purely argumentive. Obviously, he can't make an
19 appointment. He's incarcerated. Thank you.

20 MR. BOGLE: Thank you, Your Honor.

21 THE COURT: Okay.

22 Q. Did you find indications where you're interviewing him
23 that he would minimize the accounts of his sexual behaviors?

24 A. No, sir.

25 Q. Okay. So you didn't find a situation where he described

1 putting an arm around somebody, and suddenly that becomes a
2 choke hold in the next sentence?

3 A. Yes, sir.

4 Q. Did you find --

5 A. He brought that scenario to my attention and how he used
6 to say that that was more of a playful gesture versus more of
7 a violent one.

8 Q. Okay.

9 A. But he brought that to my attention.

10 Q. Do you find that he has a poor understanding of his risk
11 factors?

12 A. No.

13 Q. Okay. What about the fact that he may still report to
14 these people at the unit the having of deviant sexual
15 fantasies or thoughts? Did that factor into your evaluation?

16 A. Absolutely. It's my opinion that everybody at one time
17 or another has a deviant sexual fantasy or thought. It's
18 what you do with it. With folks like Mr. Jones, they may
19 have had too many back in the day, and the idea is to
20 minimize those and also have some sort of intervention. I
21 believe he's successfully done that, and he's demonstrated
22 that on the unit.

23 Q. Does he think he needs sexual offender treatment once
24 he -- if he is released?

25 A. Maintenance, yes.

1 MR. BOGLE: He does. Okay. Thank you, Doctor; Your
2 Honor.

3 THE WITNESS: Thank you.

4 THE COURT: Redirect.

5 REDIRECT EXAMINATION BY MR. BROOKS:

6 Q. Doc, Mr. Bogle asked you whether you've been called or
7 summoned by the AG's office or State to testify for them. Do
8 you remember him asking you that question?

9 A. Yes, sir.

10 Q. You're available for anybody to call to testify, aren't
11 you?

12 A. I would say that's true, yes.

13 Q. Doesn't matter whether it's the respondent or the State;
14 is that correct?

15 A. If you're asking, yes, whether or not I could be asked
16 by anybody, that's right. I've worked for the US Attorney's
17 Office. I've worked for the, you know, federal public
18 defender. No matter who asks me the question, everybody's
19 going to get the same answer.

20 Q. And they're going to get your opinion, whether they like
21 it or not; isn't that correct?

22 A. And you know better than anyone in this room that they
23 will get a bad opinion if I believe that.

24 Q. All right. Mr. Bogle asked you about the sex offender
25 registry as a follow-up to my question. As far as you know,

1 the current trajectory is that he'd have to do that for the
2 rest of his life; isn't that correct?

3 A. As it stands now, that's what I believe is true, yes.

4 Q. Okay. And you're open to seeing him for outpatient
5 treatment, but as indicated, he could go see anybody more
6 convenient for him if he's released; isn't that correct?

7 A. Absolutely.

8 Q. More convenient for him and his family?

9 A. Absolutely.

10 MR. BROOKS: No other questions, Judge.

11 THE COURT: Recross.

12 MR. BOGLE: No, Your Honor. Thank you.

13 THE COURT: Thank you. You may step down, Doctor.

14 THE WITNESS: Thank you.

15 THE COURT: Wish the witness to be excused?

16 MR. BROOKS: He can. He may still hang around, Judge.

17 THE COURT: It's up to you.

18 MR. BROOKS: Yes, yes, yes.

19 THE COURT: Do you have any objection?

20 MR. BOGLE: No, Your Honor.

21 THE COURT: You're free to leave if you wish,

22 Dr. Martin.

23 THE WITNESS: Thank you.

24 THE COURT: You may step down.

25 Call your next witness, please.

1 MR. BROOKS: Can we approach?

2 (Judge and attorneys confer.)

3 THE COURT: Ladies and gentlemen, we need to take a
4 break for just a few moments. Go to the jury room. Do not
5 begin your deliberations. Do not discuss the case. We'll be
6 with you as quickly as we can. Thank you.

7 (Jury exits the courtroom.)

8 THE COURT: Anything from the State before we recess?

9 MR. BOGLE: No. Thank you, Your Honor.

10 THE COURT: Anything from the defendant?

11 MR. BROOKS: Nothing, Judge.

12 THE COURT: If you'll just get your witnesses together.
13 At least keep them together now because you'll need to move
14 them. Thank you.

15 (Recess held.)

16 (The jury enters the courtroom.)

17 BAILIFF: All present and seated, Your Honor.

18 THE COURT: Thank you very much. Thank you, ladies and
19 gentlemen. And we've received your lunch orders. And what
20 we do sometimes -- I anticipate that we'll probably be
21 finished the -- this is a guesstimate on my part, but be
22 finished the case probably between 12:30 and 1:00. And that
23 way we'll have lunch for you.

24 You can then eat lunch, and that allows you to progress
25 and start your deliberations a little earlier than you would

1 otherwise; so that's why we're doing that. And hopefully
2 you'll enjoy your lunch as well. Thank you very much. I
3 appreciate it if you'll give your attention now to the next
4 witness.

5 If you'll call your next witness.

6 MR. BROOKS: We call Catherine Muller to the stand.

7 CATHERINE MULLER,

8 being first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. BROOKS:

10 Q. Ms. Muller, where do you live?

11 A. I just recently moved from Mount Pleasant to
12 Summerville, South Carolina.

13 Q. Okay. And what do you do for a living?

14 A. I work in the accounting field.

15 Q. Okay. Here in the Charleston area?

16 A. Yes.

17 Q. And do you know my client, Glenn Jones?

18 A. Yes, I do.

19 Q. How do you know him?

20 A. He is my baby brother.

21 Q. Okay. So you -- fair to say you've known him all his
22 life and pretty much all of yours; is that correct?

23 A. 49 years.

24 Q. Okay. Now, has Glenn always had the disability of not
25 being able to hear all his life?

1 A. Yes, sir. He was born in 1963 when the epidemic of
2 German measles had broken out. And some children had come to
3 school with measles, and my older sister and I got the German
4 measles and took them home to my mother when she was about
5 six months pregnant with Glenn. And we were told that he
6 could have been born with a multitude of disabilities, you
7 know, missing limbs, all kind of things. And he's got a
8 heart condition, and he was born deaf.

9 Q. Catherine, that's a very good memory. So I'm going to
10 ask you this question -- it's a question that my wife, she
11 dreads me asking her this and has sworn me to secrecy and
12 will beat my head if I ever let it come out: How old are
13 you?

14 A. I will happily tell you I'll be 57 in November.

15 Q. Okay. So that meant when Glenn was born, you were about
16 eight years old?

17 A. Yes.

18 Q. And that's how you remember a lot of those things
19 about --

20 A. Oh, my mother telling the story. You know, she -- yes,
21 just hearing the story throughout the years. But yes, I
22 remember it.

23 Q. Okay. All right. Now, when Glenn was adolescent and
24 going into his teenage years, did he go to a special school?

25 A. Yes. He started off when he was like four or five years

1 old going to the Charleston County Speech and Hearing Clinic
2 in downtown Charleston. And my parents, especially my
3 mother, reluctantly agreed to send him away to school.

4 And he has a special bond with his mother, our mother.
5 And they both hated that separation, but he eventually -- I
6 think he was about six years old, seven years old when he
7 entered the South Carolina School for the Deaf in
8 Spartanburg, South Carolina.

9 Q. Okay. Now, we've heard from both experts about some
10 things that happened with Glenn while he was there. And, of
11 course, is it fair to say you all didn't know these things
12 then, but you found out afterwards; is that correct?

13 A. I've only known about four years what was done to him
14 from the time he was a first grader until the time he was in
15 12th grade.

16 Q. Now, let me know when you've composed yourself. I know
17 this is very emotional for you.

18 Now -- and I'm going to kind of get to the heart of the
19 matter, Catherine. Is it fair to say that you and other
20 members of the family support Glenn?

21 A. Oh, definitely, yes.

22 Q. And he has been away from the family for roughly 17
23 years; is that correct?

24 A. Yes, he has.

25 Q. Okay. If he is released, do you -- or are knowledgeable

1 about the family's plan for Glenn?

2 A. We definitely have a plan for Glenn. He -- with the
3 limited amount of phone use that he's been given, because
4 they don't always have an interpreter for him to call us, but
5 every opportunity that he can sway them to get an interpreter
6 so he can make phone calls to his family, and through
7 letters, he will be going to live with my father and brother.
8 My father has approximately three acres near Walterboro,
9 where my father's from.

10 Q. Is this a farm?

11 A. Yes.

12 Q. Okay.

13 A. So he'll have plenty to keep him busy. My father can
14 definitely use the help, because he is knocking on 80's door;
15 so he and my mother both are getting up in age and --

16 Q. As a matter of fact, your mother's in a nursing
17 facility?

18 A. Yes, she is.

19 Q. Now, your father's farm, what's your father's name?

20 A. Jesse.

21 Q. Okay. Jesse's farm is a typical farm where you've got
22 animals and all that stuff?

23 A. Some wild animals, yes.

24 Q. Okay. All right. So is it the plan for Glenn to work
25 on the farm?

1 A. Yes. Yes. He's -- we've made arrangements for some
2 different things, one of which is trying to find somebody
3 where he can attend a program, an aftertreatment program
4 where he -- my brother or father can take him to receive this
5 treatment.

6 And he's discussed a lot with us through letters and
7 telephone conversations that he would definitely want to be
8 in a program to help him stay on an even keel and to
9 transition back into society because of the -- he's served
10 his sentence plus part of a sentence for somebody who abused
11 him as a young child. He's been there longer than his
12 sentence was.

13 Q. Okay.

14 A. So -- but to help him transition back into society, he
15 feels like he would need some, you know, sessions maybe with
16 the psychiatrist, psychologist.

17 Q. Is it fair to say that you and the family are committed
18 to that for your brother?

19 A. Oh, definitely, yes.

20 Q. Now, obviously, is it fair to say you guys are not
21 wealthy?

22 A. No.

23 Q. Okay. Modest family here in the Charleston area.

24 A. Mm-hmm.

25 Q. Is that correct?

1 A. Yes, it is.

2 Q. Okay. Now, also, I know you don't come into Court and
3 testify a whole lot, but make sure you give a verbal response
4 for our court reporter here. Okay?

5 A. Okay.

6 Q. All right. And I know you're still a little nervous.

7 Did Glenn ever get any type of disability check from the
8 government?

9 A. Yes, he does. He did, mm-hmm.

10 Q. Okay. And obviously he's released you or other members
11 of your family to plan to help him get back on disability?

12 A. Oh, yes. My father's already been in contact with the
13 appropriate people to have that started.

14 Q. So, Catherine, is it fair to say that the family is
15 ready with open arms for Glenn to come home?

16 A. More than ready.

17 Q. And ready to support him; is that correct?

18 A. Yes. 110 percent.

19 Q. And is the family committed to making sure he either
20 sees Dr. Martin or -- you know, Dr. Martin's in Columbia --
21 some other person in Dr. Martin's field in the Lowcountry?

22 A. Yes, yes.

23 Q. And even though Glenn would also require the services of
24 an interpreter, is the family committed to that?

25 A. We have a family friend with the church who is an

1 interpreter and would be -- actually, she's in the Columbia
2 area. So if he does, in fact, go to Columbia to receive
3 this, I mean, I've lived 26 years in Columbia; so I was a
4 member of a church there and became -- befriended the lady
5 who was over the deaf ministry of my church. And she would
6 be willing to go as an interpreter at no charge; so that's
7 not a problem.

8 Q. Okay. And these are some things that you've looked into
9 personally; is that correct?

10 A. Yes. She's interpreted for Glenn before, Barbara
11 Porter. He knows her.

12 Q. But these are the -- these are some things that you have
13 personally looked into in order to support your brother?

14 A. Correct, yes.

15 MR. BROOKS: Beg the Court's indulgence, Your Honor.

16 THE COURT: Yes, sir.

17 MR. BROOKS: No other questions, Judge.

18 THE COURT: You may cross-examine.

19 MR. BOGLE: Yes, thank you, Your Honor.

20 CROSS-EXAMINATION BY MR. BOGLE:

21 Q. Ms. Muller, back in 1986, when he was arrested for the
22 first of the crimes that we've been talking about these last
23 couple days, was he living on his own then or with a family
24 member back then?

25 A. On his own.

1 Q. Okay. How about in 1988 when he was arrested again for
2 one of those other crimes against a woman? Was he living on
3 his own then or with a family member?

4 A. You know, I don't remember each one and where he was
5 living. But to my recollection, he was on his own is what I
6 can remember. I'm not real sure, to tell you the truth.

7 Q. Okay. I guess what I'm getting at, I've got four dates
8 here over the years when he's been arrested for a crime
9 involving a woman or, in one case, involving a child. Was he
10 living with family members at any of the times when those
11 arrests occurred?

12 And to refresh, the dates are '86, '88, '93 and '97. Do
13 you know if he was living with any family members when any of
14 those arrests or those crimes occurred?

15 A. I would -- I don't believe that he was, but I can't say
16 with 100 percent surety that that's correct.

17 Q. Okay. When he was paroled from prison back in June of
18 1997, do you remember whether or not he went to a halfway
19 house first or came straight to a relative or to his own
20 place?

21 A. I believe it was either a halfway house and then his own
22 place I think is what it was. There again, I'm not 100
23 percent sure.

24 Q. Okay. One of the things we've heard talked about in
25 this trial has been an alcohol use or abuse by Mr. Jones.

1 Have y'all looked into anything about taking care of that or
2 having him seen by anybody to cut down on the alcohol issue?

3 A. Well, he's been without it basically for 17 years, but
4 I'm sure that would be part of what he wants to deal with.
5 And seeing -- because, I mean, he's expressed to us again and
6 again about wanting to have some -- a treatment plan when
7 he's released to help him with his getting back into society.
8 So I'm sure that would probably be part of the treatment
9 program.

10 Q. Okay. Thank you, ma'am.

11 MR. BOGLE: Nothing further, Your Honor.

12 THE COURT: Redirect.

13 MR. BROOKS: No questions, Judge.

14 THE COURT: Thank you. You may come down, Ms. Muller.

15 THE WITNESS: Thank you.

16 THE COURT: Call your next witness.

17 MR. BROOKS: Debra Hall, Judge.

18 DEBRA HALL,
19 being first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. BROOKS:

21 Q. How you doing today, Ms. Hall?

22 A. Doing well. Thank you, Mr. Brooks.

23 Q. Now, where do you live?

24 A. I live in Bonneau, South Carolina.

25 Q. And that -- is that in the Lowcountry area?

1 A. Well, it's actually about a 45-minute ride from here
2 north. It's on the lake up between Moncks Corner and
3 St. Stephens.

4 Q. Okay. Are you married?

5 A. I am.

6 Q. That's your husband back there?

7 A. Yes, it is.

8 Q. Okay. What do you do for a living?

9 A. I am retired. Disabled.

10 Q. Okay. Now, I see you've got the sling on your -- thing
11 on your arm.

12 A. Yes, sir.

13 Q. Can you tell me what that's about?

14 A. Well, I just recently -- I, less than three weeks ago,
15 had three different types of surgery done to my right arm.
16 And I put it off for three and a half years; so it was time
17 to have it done. And one of them was the rotary [sic] had
18 torn completely. And then there's some degenerative disease
19 going on.

20 Q. Okay. Now, do you know Glenn Jones?

21 A. I do.

22 Q. How do you know Glenn Jones?

23 A. He is my baby brother.

24 Q. Okay. Now I'm going to ask you a question that I asked
25 your sister, and I don't want you to get mad with me. How

1 old are you?

2 A. I'm 58 years old.

3 Q. Okay. So that means you would have been a little bit
4 older than Ms. Muller when Glenn was coming along?

5 A. Just a little bit.

6 Q. All right. And you remember all of that very well?

7 A. Pretty much so, yes. My memory goes and comes every now
8 and again --

9 Q. Okay.

10 A. -- the older I get, but yes.

11 Q. Is that pretty much -- what Ms. Muller had testified to
12 about Glenn coming along, is that pretty much your memory as
13 well?

14 A. Yes, it is. Yes, sir.

15 Q. Okay. And you do remember Glenn going off to the
16 Spartanburg School for the Deaf?

17 A. I do. I certainly do. He would go on Sunday evening,
18 leave us on a bus traveling back, and attend school during
19 the week and then come back again on Friday evening.

20 Q. At the time family didn't have any idea that this was
21 going on at the school?

22 A. Oh, no, sir. We never knew anything. And as a matter
23 of fact, I just found out about Glenn's situation with him
24 being abused probably three or four years ago.

25 Q. Okay.

1 A. And it was heart wrenching.

2 Q. Matter of fact, that's kind of caused all of these other
3 things to happen?

4 A. Yes, sir.

5 Q. Okay. Now, your sister, Ms. Muller, she indicated that
6 there was a release plan for your brother to go stay out on a
7 farm where your father has; is that correct?

8 A. He has less than three acres, yes, sir, in Lodge, in
9 Walterboro, South Carolina, and he -- it's not actually a
10 farm per se, but it's a good bit of land. And there are wild
11 animals there. And he is getting older. He's approaching
12 the age of 80 and needs some help.

13 Q. Is it fair -- is it fair to characterize y'all as pretty
14 much a close-knit family?

15 A. Mm-hmm. Pretty close, yes, sir. We keep in contact.
16 We speak pretty much on a daily basis.

17 Q. And even with Glenn's confinement, you guys have stayed
18 in consistent contact with him; is that fair to say?

19 A. We've tried. We've tried.

20 Q. Within the --

21 A. Within the bounds of -- of --

22 Q. Of what they allow?

23 A. Of what was allowed, yes, sir.

24 Q. Okay. And do you fully support Glenn coming home?

25 A. I sure do, 100 percent.

1 Q. And are you willing to help with the release plan, and
2 more specifically, you know, getting him to outpatient
3 treatment, such as somebody like Dr. Martin or somebody
4 closer in the Lowcountry, whatever the case may be?

5 A. Yes, sir, I do. And as a matter of fact, in any manner
6 that I can help, I'll be more than -- more than pleased, more
7 than happy to help.

8 Q. As a matter of fact, because you're retired, you've got
9 a lot of free time?

10 A. Well, I wouldn't say that, because I have seven
11 grandchildren, but I do have some time, yes, sir.

12 Q. With the grandchildren in perspective, you obviously are
13 in a position where you could help?

14 A. Yes.

15 Q. And willing to do so?

16 A. Yes, I will.

17 Q. And do the grandchildren go out to the farm?

18 A. No, sir. They don't. They don't get to see my father
19 very often. He comes to see them, though.

20 Q. Okay.

21 A. So, you know, he'll come every once in awhile, come into
22 town for an appointment or what have you.

23 Q. Okay.

24 A. And he'll see them.

25 Q. That's probably because of his age?

1 A. Yes. He -- he doesn't go a lot, yes.

2 Q. But it sounds to me you're pretty knowledgeable about
3 the farm.

4 A. Well, about his property you mean?

5 Q. Yes, ma'am.

6 A. Oh, yes. Uh-huh.

7 Q. Is there things for Glenn to do out there?

8 A. Plenty. There's a lot of work to be done.

9 Q. Construction?

10 A. Oh, yes, sir, and constant work. It's a lot of
11 repetitive, cutting grass. You know, he's recently put up
12 buildings there that he needed to store things.

13 Q. Your dad put them --

14 A. My dad, right. Or had them put up. He didn't -- he
15 wasn't able to do it. In the past he was an electrician in
16 his past, but, you know, he's not able to do that any longer.

17 Q. Now, Ms. Hall, you said you kind of became aware of what
18 happened with Glenn in the past a few years ago; is that
19 correct?

20 A. Yes.

21 Q. And back in the late '80s and '90s, when some of these
22 offenses occurred, do you remember where Glenn was living?
23 Was he on his own?

24 A. You know, during each time I can't say for sure exactly
25 where he was. Now, he did live with my mother for a short

1 period of time. And as a matter of fact, I can't recall if
2 it was in the '90s. On October 31st when he went back to
3 jail, he was ready to go to work that day at a steakhouse.
4 They were calling him to work and --

5 Q. And before that he didn't have a job?

6 A. Well, he didn't. And he was -- he was living with my
7 mother at that time. And it was within walking distance; so
8 it would have been, you know, good that he could have had
9 that.

10 Q. Okay. And that would have been huge?

11 A. Yes.

12 Q. Okay.

13 A. Yes, sir.

14 Q. And obviously, back then you and other members of the
15 family were unaware?

16 A. Oh, yes, definitely. We knew nothing at all. We never
17 knew. Like I said, we -- I've only known for three or four
18 years that any of this took place.

19 Q. Is it fair to say that if you had known, y'all would
20 have gotten him help back then?

21 A. Oh, yes. Yes, we sure would have.

22 Q. Okay. And is it time for Glenn to come home?

23 A. It's more than time for Glenn to come home. His mom was
24 here yesterday to support him. We all support him and want
25 him home now. He's ready to come home. But she lives in a

1 home.

2 Q. Your mother?

3 A. My mother does. And I made arrangements yesterday for
4 transportation for her to be here.

5 Q. And she was here?

6 A. And she was here. Her oxygen almost ran out, and it
7 scared me a little bit.

8 Q. I understand.

9 A. So I didn't want to get into that today. I needed my
10 undivided attention.

11 MR. BROOKS: I understand. I understand. Okay. Answer
12 any questions of Mr. Bogle.

13 THE WITNESS: Okay.

14 MR. BOGLE: No questions, Your Honor.

15 THE COURT: Very well. You may come down.

16 MR. BROOKS: Your Honor, can I have just one minute?

17 THE COURT: Sure.

18 (Brief pause.)

19 MR. BROOKS: Thank you, Your Honor, for that minute.

20 THE COURT: Sure.

21 MR. BROOKS: That is the respondent's case.

22 THE COURT: Very well. Any reply testimony, Mr. Bogle?

23 MR. BOGLE: No, Your Honor. Thank you.

24 THE COURT: Ladies and gentlemen, there are some matters
25 of law now that I must take up out of your presence. I'm

1 going to ask you to return to your jury room. Do not begin
2 your deliberations. When we return, the next two phases
3 still remain, obviously; so it would be inappropriate for you
4 to begin deliberating or discussing this case.

5 While you will not hear any more evidence in the
6 remaining portion, this concludes the evidentiary portion.
7 It still would be inappropriate to decide this case,
8 individually or collectively; so we'll be with you as quickly
9 as we can. Thank you very much.

10 (Jury exits the courtroom.)

11 THE COURT: Any motions from the State, Mr. Bogle?

12 MR. BOGLE: No, Your Honor. Thank you.

13 THE COURT: Mr. Brooks, again.

14 MR. BROOKS: Judge.

15 THE COURT: It's a weight -- it's a weight situation.
16 There's no question about it. There's testimony that
17 supports your position. There's testimony that supports the
18 State's position. It's a jury issue.

19 MR. BROOKS: I know, Judge. You're looking for that
20 small, small scintilla.

21 THE COURT: Well, I'm really not even looking -- I'm
22 looking until they allow us to start weighing evidence, and
23 they haven't done that yet, and I don't anticipate that will
24 be in my career as a judge, then really at this point, it is
25 clearly a matter for the jury to decide.

1 Of course, the State has the sole burden of proof, as
2 we've said. And I will charge that again. But I must
3 respectfully deny your motion. Thank you very much.

4 MR. BROOKS: Thank you, Judge.

5 THE COURT: In the charge, I'm going to charge the parts
6 of the sexually violent predator that define the terms,
7 obviously. But what we're really talking about, really, is
8 whether or not the State has met the burden of proof that his
9 mental disorder or personality disorder, mental abnormality,
10 is such that he's still not safe to return to the community.

11 That's the whole issue in this case, as I see it, and
12 that's what the jury's going to have to decide. I'm going to
13 define those terms, and I'm going to define -- but I'm going
14 to focus on those -- that language throughout the charge as
15 being the issue that the jury has to address.

16 You've submitted a verdict form. The only change I'm
17 probably going to put is the answer, instead of yes, and
18 you've restated your question, I'm just going to say, yes,
19 the State has met its burden of proof; no, the State has not
20 met its burden of proof, because that's really the issue to
21 decide.

22 They don't have to prove that he is safe, but the jury
23 can conclude based on that it has changed, and now he's
24 entitled to be released. I don't think it's necessary for me
25 to engage the jury in the statutory language that talks about

1 that, that -- the State finding that and that he must be
2 released, because we're not at that point.

3 So I'm inclined to just leave it to the issue at hand,
4 as I see this hearing, is really whether or not the State can
5 prove he should be continued to be basically incarcerated,
6 but I'm not going to use that word, obviously.

7 MR. BOGLE: The proposed jury charge we submitted had
8 come from a prior case involving Judge Stillwell over in
9 Greenwood.

10 THE COURT: Okay. Well, I -- maybe I missed that.

11 MR. BOGLE: It was a civil trial like this one.

12 THE COURT: Maybe I missed it, but I -- if you have it,
13 you have a copy of it, I'll look at it and compare what I
14 have.

15 MR. BOGLE: Yes, because I --

16 THE COURT: I saw your memo, proposed jury charge, and,
17 I mean, proposed verdict form and voir dire.

18 MR. BOGLE: Right. I hope I sent everything. Yes, I
19 sent it, not knowing if your law clerk had left yet -- it's
20 that time of year -- I sent it to everybody in your office.

21 THE COURT: Thank you.

22 You know, I'm not going to deal with the criminal
23 process. He's already been determined to be a sexually
24 violent predator. There's no issue of that, and, therefore,
25 he's been incarcerated. I mention the acts just generally.

1 My charge picks up at the bottom of 2, exactly what it's
2 stating there. Yes, the rest of it's just boilerplate stuff
3 I have. I'm not going to charge direct and circumstantial
4 evidence because it's pretty much direct evidence. I don't
5 think there's any question of that.

6 Why do we need to define sexually violent predator?
7 That's not an issue. I'm going to charge -- I'm going --
8 because I'm going to say that basically the language is what
9 it says. There's no question in this case that he's already
10 been determined -- that's determined. He has a mental
11 abnormality. He has a personality disorder.

12 The question is whether or not it's changed sufficient
13 that he's no longer basically, in my words, a threat to
14 society, that he's not likely to reoffend. And that's what
15 the question is. So why do we need to recharge about
16 sexually violent predator?

17 I'm going to define mental abnormality. I'm going to
18 define the terms "likely to engage," and we'll use the
19 statute, obviously, for that.

20 The rest of it, I think, is pretty much covered.
21 I'm going to give -- you're welcome to request any additions
22 to it, Mr. Bogle.

23 MR. BOGLE: Thank you, Judge.

24 THE COURT: Do you have any specific requests?

25 MR. BROOKS: We're in full agreement with the Court.

1 THE COURT: All right. Fine. We'll be at ease then for
2 about ten minutes or so. That should give y'all enough time
3 to get your thoughts together.

4 MR. BROOKS: Yes, sir.

5 MR. BOGLE: Yes, sir. That will do it.

6 THE COURT: Okay. I assume that, since this is a civil
7 proceeding, you will open, and then you will have a chance to
8 reply to his argument.

9 MR. BOGLE: If he brings up something new --

10 THE COURT: Correct.

11 MR. BOGLE: -- is the way I understand it.

12 THE COURT: Yes. I mean, if there's a reply, you can
13 reply to it. It's a civil proceeding.

14 MR. BOGLE: Yes, sir.

15 THE COURT: Thank you.

16 (Recess held.)

17 (The jury enters the courtroom.)

18 BAILIFF: All jurors present and seated, Your Honor.

19 THE COURT: Thank you very much, ladies and gentlemen.

20 We've now reached the point in this process where the
21 attorneys have their second opportunity to speak to you. As
22 I mentioned to you, they now will discuss the evidence with
23 you and suggest reasonable inferences that you may draw from
24 that evidence.

25 I'm confident that you will find their remarks to be

1 extremely helpful when you begin the process of analyzing
2 this case; so please give them your attention. But please
3 remember also, while extremely important, very beneficial,
4 their remarks should never be considered evidence.

5 Following their closing arguments and remarks, I will
6 then give you the law. And, again, anything that I tell you,
7 likewise, is not to be considered evidence.

8 Thank you so much for your attention. Give your
9 attention now to the attorneys.

10 Mr. Bogle.

11 MR. BOGLE: Thank you, Your Honor. May it please the
12 Court.

13 THE COURT: Sure.

14 MR. BOGLE: Mr. Brooks.

15 Thank you again on behalf of the State and the
16 defense -- I can speak for them, I believe -- and doing your
17 job, coming down here, away from your home, your jobs,
18 wherever, whatever you're doing and doing a service for
19 Charleston County and the State of South Carolina and for
20 Mr. Jones.

21 Like I told you yesterday, in trying to figure out where
22 we are in this case, Mr. Jones, at a previous time, was found
23 to be a sexually violent predator. And what that means is
24 that he suffers from a mental abnormality or a personality
25 disorder. He's been convicted of at least one sexually

1 violent crime. In this case we have the lewd act charge,
2 which you'll have in the jury room.

3 He also -- his mental condition was determined to be
4 such that he was likely to engage in acts of sexual violence
5 unless he was confined for treatment. And that determination
6 was made back in 2003, and he's been confined for treatment
7 ever since at the treatment place run by the Department of
8 Mental Health.

9 Now -- so that's how we got to where we are. Like the
10 Judge told you and like we all told you at the very beginning
11 when you first heard testimony, the question now is this:
12 The burden is on the State. It's on us. It's on the
13 Attorney General's Office to present witnesses to show you
14 beyond a reasonable doubt that his mental condition remains
15 such that he's not safe to be at large, and if he was
16 released, he's likely to commit acts of sexual violence.

17 So that's the burden of proof. It's a tough burden of
18 proof. I'll concede that in a minute. It's a higher burden
19 of proof than you'll see in any type of civil case. It's
20 almost the same burden of proof you see in a criminal case,
21 beyond a reasonable doubt. And the Judge will explain to you
22 what that means later on when he tells you about the law in
23 this case.

24 Now, one thing to think about is this: Have you ever
25 heard the phrase, "The elephant in the room"? It's something

1 that's so big and so obvious and nobody wants to look at it?

2 Well, what's the elephant in the room here?

3 We have two expert witnesses, a psychiatrist and a
4 psychologist, Dr. Martin for the defense and Dr. Gehle, who
5 testified for the State. Both declared qualified by the
6 Judge based upon their education and their experience to give
7 expert opinions about Glenn Jones. Both saw the same guy,
8 looked at the same stuff for the same reason, and both came
9 up with different opinions.

10 One thinks he's safe to be at large. He can go home.
11 Dr. Gehle, for the State, indicates that, no, he has not
12 progressed enough in treatment to be safe to be in the
13 community and should stay in treatment.

14 So I know what you're thinking: Two different opinions
15 by two docs, isn't that reasonable doubt? And I would
16 suggest to you if you look carefully at it, you'll see that
17 it's not.

18 Now, we have, you will be told, I believe, one of the
19 things you're to consider is this: Normally witnesses can
20 only testify about what they see, what they hear, what they
21 touch, what they feel, sometimes smell. They testify about
22 facts, like the witness that says, "I saw the light turn red
23 and the guy ran the red light." Okay.

24 But in special cases, a witness can be allowed to give
25 an opinion, and that's what we have here. When a person has

1 had the required training and expertise and competence in
2 their field, they can give an opinion.

3 But at the same time, remember you're the judge of the
4 facts. You decide what the facts are in this case based on
5 everything you've heard from that witness chair and the
6 exhibits you'll take back in the jury room with you. You
7 decide the facts, and you also decide the credibility of the
8 witnesses. You decide how much to believe. You could
9 believe all of what a witness says, you can believe nothing
10 or you can believe part of it.

11 And the same rule applies to expert witnesses. While
12 they do have that level of expertise that they're qualified
13 and recognized by the Judge to give opinions, you can accept
14 their opinions or you can reject them or somewhere in
15 between. That's your call and totally your call. Up to you
16 to do that.

17 And so we've got to compare the two. I think Dr. Martin
18 is a fine psychiatrist. I think he did a good job. The
19 question is has he done it enough and did he look hard
20 enough. Okay?

21 He was involved in the sexual predator unit for about 17
22 months almost ten years ago. Dr. Gehle has been there for
23 three or four or five years. She's done over a hundred of
24 these evaluations, both before committing the guy and also
25 what they call annual reviews like this one, after a guy's

1 been committed and the question is, is he safe to be at
2 large. She's done a lot of these. It's what she does for a
3 living and nothing else. So I think her experience is
4 something you've got to weigh. You can't ignore it. It's
5 something you've got to look at here.

6 And what did she find that Dr. Martin didn't seem to
7 find? The issue of deviant sexual fantasies. Dr. Martin
8 seemed to say that we all have these. It's not any big deal.
9 But I think it's a big deal here, because remember why
10 Mr. Jones went there to begin with. His deviant sexual
11 fantasies were such that he acted on them. He acted on them
12 and got convicted. And then he acted on them again and got
13 convicted. And then he acted on them again and got
14 convicted. And then he was paroled. And four months later,
15 we have the incident involving a little boy in 1999.

16 So the question is these deviant sexual fantasies, the
17 fact that he still thinks about them, still expresses them to
18 the treatment providers out there at the unit, both the
19 treatment care providers and to Dr. Gehle, could raise a real
20 issue here.

21 We have inconsistencies. Hugging somebody, putting
22 their hand around them, then that turns into a choke hold
23 within the same sentence as he's talking about inconsistent
24 versions, trying to explain what happened. If he cannot
25 understand what he did to these women or this child, that

1 raises a real question of whether or not he's getting the
2 treatment such that he is safe to be at large.

3 I'll be the first to -- we all know another elephant in
4 the room is he's been there 11 years. That seems like a long
5 time. Shouldn't it be enough? And the question is, is it
6 enough. And, you know, they say you can lead a horse to
7 water, but you can't get it to drink. Mr. Jones has been led
8 to the treatment. The question is, is he drinking it. Is he
9 getting enough of it to be safe to be at large.

10 And Dr. Gehle thinks he hasn't gotten there yet. And I
11 think she had sound reasons. She's talked about the assault
12 cycle from the idea of going to a bar, ending up with a rape,
13 and trying to recognize the trigger somewhere in between
14 Point A and Point B, what is the trigger that made him offend
15 and how he hasn't quite gotten that yet after all this time.

16 There was a lot made about the interpreters who would
17 have to interpret things for him because of his hearing
18 impairment. But while there was talk about it, I don't
19 believe there was any evidence that you heard that there was
20 any flaw in what was being done, any flaw in the
21 interpretations.

22 And even Dr. Gehle mentioned that sometimes the
23 interpreter would have to have a private exchange with
24 Mr. Jones to make sure that he understood what she was saying
25 or what he or she was saying.

1 Now, the law in South Carolina says, "Has the mental
2 abnormality so changed that he's safe to be at large?" And
3 this is a question where you've got to apply the law as the
4 judge explains it to you. And we all have ideas of what we
5 think the law ought to be or what we think the law might
6 should be or could be, like should there be halfway houses
7 for guys like this, should there be a conditional release
8 where they can live in the community or work at a job before
9 getting out.

10 Well, that might be a great idea. We might wish it were
11 so, but it's not here. The law, as the judge will charge
12 you, is safe to be at large. There's no middle ground. The
13 question is you've got to decide has the mental condition he
14 has changed where he's safe to be at large. And, again, we
15 have the criminal history over and over and over again.

16 Family members, they really are sincere people. I think
17 they really mean well. And one of them said how, "We want to
18 get him help." And I hate to be cynical and sound cynical,
19 but help after which time? After the first time, the second
20 time, the third time or the fourth time? Which time was it
21 time to get him help?

22 Dr. Gehle talked about him minimizing his offenses, not
23 really recognizing what he's done, about not being able to
24 recognize the risk factors that he has.

25 So that's where we are. The burden's on the State, by

1 its evidence, to show that his mental condition -- because
2 remember Dr. Gehle testified that he has -- he's a pedophile,
3 based upon his conduct with the little boy over there on that
4 lewd act conviction, also the conduct he told her about,
5 voluntarily disclosing victims he'd not been convicted on in
6 the past when he was at that school. He's a pedophile.

7 She talked about -- she called it biastophilia. It's
8 the -- raping people, raping adult women. Okay? The
9 voyeurism. She diagnosed all these. She also diagnosed
10 antisocial personality disorder, which is a person who won't
11 live by the rules we all have to go by.

12 Dr. Martin came up with one: Paraphilia not otherwise
13 specified. But he did admit that that includes some of the
14 other elements; so maybe it's all there. But there seems to
15 be no dispute he's got these mental conditions. There's no
16 dispute he's been convicted of violent crimes.

17 The sole test before you is has his condition so changed
18 that he's safe to be at large. And given the lack of
19 progress, sadly, over all these years that he's not made in
20 treatment, I would submit to you he's not there yet. And the
21 burden of proof required upon the State in this case has been
22 met. Thank you very much.

23 Your Honor.

24 THE COURT: Thank you, Mr. Bogle.

25 Mr. Brooks.

1 MR. BROOKS: Ladies and gentlemen, of course it's
2 obvious that I disagree with my good friend, Mr. Bogle. I
3 think you've had plenty of evidence that shows that my client
4 has changed. And bearing in mind that he doesn't have to
5 prove he's changed, the State has to prove he hasn't changed.

6 But we've come up here with a qualified expert, who I
7 submit to you has dug deeper into my client, past his
8 disability, because I don't want to have people discriminate
9 against him because of his disability.

10 I'm his lawyer, and he's in the Department of Mental
11 Health. He calls, and sometimes that's frustrating, because
12 we all have frustrations. But I can imagine him being
13 frustrated because he has a communication barrier.

14 That communication barrier caused him to be sent to
15 Spartanburg School for the Deaf to try to help with that
16 communication barrier. Both doctors and his sisters
17 testified that that's where he was molested. At some point
18 he needed help. And because of that communication barrier,
19 he probably couldn't effectively communicate what was going
20 on.

21 Well, these crimes happened. There's no denying that.
22 As Dr. Martin told you, Static-99 deals with factors that are
23 never going to change. Legal, criminal history, that's not
24 going to change. That happened. His disability, he's deaf.
25 That's not going to change. That's who he is. That's how

1 God made him.

2 But what's important is he plead guilty to these
3 offenses. He served his time. He then went voluntarily into
4 this program to get help. The sisters testified that they
5 didn't even know about the things for years at Spartanburg
6 School for the Deaf. He's been in the department for 11
7 years.

8 Now, one of the things that I asked Dr. Gehle was what's
9 been his history. What has been his history of infractions,
10 disciplinary write-ups, referrals? That's really, really
11 significant. Because if a person has not changed, they will
12 continue to act out on certain things that come into their
13 head. And he's been diagnosed as having some mental
14 abnormality. Well, by her own testimony, she said that he
15 only had one, which was having too many magazines.
16 Dr. Martin explained to you what that is. And this is in a
17 span of about three years.

18 Also, Dr. Martin testified to you that years ago,
19 somewhere around 2010, 2011, he said, "I didn't think he was
20 ready." If you'll recall that, he was forthright on the
21 stand. He said to you, "My opinion was Glenn was not ready
22 to be released, and this is why..."

23 And it's hard for us to understand some of the terms
24 that people in the field of psychiatry and psychology --
25 sometimes we think about them talking an entirely different

1 language. Sometimes I have to ask Dr. Martin, "What in the
2 world are you talking about," to get a better understanding.

3 But if we want to just break it down so that everybody
4 can understand, is the gentleman who's had a disability,
5 who's had some problems from his past that he didn't have any
6 control over that put him in this situation that he
7 acknowledged he needed help -- he goes into the program the
8 State has.

9 Obviously, there's perhaps some issues about what
10 interpreters are available for him because he has this
11 communication barrier and how effective they are in engaging
12 with him and the treatment providers and the case managers.

13 But what we've got is a guy who has done some things,
14 has been in a program for him to receive help. He's done
15 everything he's supposed to do. He's done classes,
16 treatment. I mean, he probably knows how to write a book on
17 the entire program because he's been there so long.

18 The real question that you've got is, is it time for him
19 to go out and have a chance in society. That's the real
20 question you've got. That's the real elephant in the room.

21 Mr. Bogle sat here and he's talking about it with
22 Dr. Gehle. Well, you know, back in 1986, he got an ABHAN
23 when he sexually assaulted this lady, tried to assault this
24 lady at the bar while he was drinking.

25 And Dr. Gehle said, "Well, you've got to know when his

1 trigger events occur, because we didn't know whether or not
2 he got mad when he first sat at the bar, or did he get into
3 that feeling of wanting to rape her, or did he say he wanted
4 to have sex, or did he just want to rape her.

5 The real issue is has this man received treatment that
6 has so changed him that now is he ready to go out and have a
7 chance in society. That's the real question. That's the
8 real elephant in the room.

9 And I don't care what anybody tells you, confinement is
10 confinement. Barbed wires are barbed wires. Jumpsuits are
11 jumpsuits. Take a look at that man over there. He's sitting
12 there with a jumpsuit on and handcuffs. He's already done
13 SCDC time, South Carolina Department of Corrections, and now
14 he's doing Department of Mental Health time. When that's
15 going be, we don't know. Comes up for annual reviews.

16 Here is a time where Mr. Jones is asking for a chance.
17 That's all. His family has supported him throughout all of
18 this. You heard from his two sisters. We know they're
19 biased. They're his sisters. They're his older sisters, but
20 they have stood in this well and have told you that they're
21 committed to making sure he gets to where he needs to go to
22 get outpatient treatment.

23 He indicated to Dr. Martin that's what his plans were.
24 They told you that Daddy Jones got a farm in Walterboro with
25 plenty of stuff for him to do. Okay? He's got a place.

1 Another thing that the Attorney General wants to do is
2 say, "There ain't nothing hanging over his head to ensure he
3 does that." There ain't nothing hanging over your head to
4 ensure that you behave right. There's nothing hanging over
5 your head that ensures that you do what you're supposed to
6 do. And I'm sure all of us sitting here have done something
7 that we regret in our lives.

8 Of course the elephant in the room that the Attorney
9 General wants to do is keep harping on his past. His past
10 wasn't yesterday. Heck, his past wasn't even five years ago.
11 His past was 17, almost 18 years ago. I'm sure you are a
12 different person than what you were ten years ago, let alone
13 18 years ago.

14 And when they talk about nothing hanging over his head,
15 he's still got to register. He's still got to report to the
16 sheriff's office. He's got to tell them where he's living,
17 what he's doing.

18 Look at Glenn. He's 5'5, 5'6, I bet. I don't know
19 exactly how much. You can see him. Look at him with your
20 own eyes. The man, he hasn't had a chance to put forth to
21 show what the Department of Mental Health supposedly would
22 have treated him for and corrected the problem. When would
23 he? If you believe him, when would he ever get the
24 opportunity to get back in society? That's the problem
25 you've got here, and that's the elephant in the room.

1 Dr. Gehle, if you remember her testimony when I asked
2 her, "What else does he need to do?"

3 "Well, he needs to change the dynamic factors." Okay.
4 "He needs to be consistent."

5 "Well, what else does he need to do?"

6 "He needs to be consistent in what he's saying." She
7 sees him twice in a three-year period. The first time was
8 consistent with Dr. Martin. He's not ready. She sees him
9 again in July or May of 2013. She ain't seen him since.
10 Dr. Martin saw him in September 2013.

11 But the difference was Dr. Martin understood that there
12 might be some communication barriers. Perhaps I might need
13 to give him the benefit of the doubt in my evaluation and not
14 get hung up on that. Because if he still had a problem, it
15 would show in his reports and his history of being down there
16 in the department.

17 What I mean by that is he would have consistently acted
18 out in some form or fashion where he would have consistently
19 gotten referrals, write-ups or some type of disciplinary
20 action to go along with his not being consistent.

21 And remember when I asked Dr. Gehle this about, okay, he
22 reported. She said, "Oh, that's a double-edged sword."
23 Damned if you do; damned if you don't. You want him to
24 report so that he's now accepting responsibility, but now
25 that you're going to use that against him, that doesn't make

1 any sense. She said those words, "It's a double-edged
2 sword." Well, the whole premise about this program is not to
3 double the incarceration. It's to give them help and
4 rehabilitate them.

5 You heard Dr. Martin talk about how he is actually
6 helping other residents at the facility who have language and
7 hearing-impaired problems to be able to communicate. Because
8 if they can't communicate, they can't get the treatment.

9 Here's a guy who started out way down here when he went
10 into the program, and now he's up there helping, probably
11 because they don't have that many other interpreters all the
12 time. He now tries to help interpret some other guys there.

13 Because after being there 11 years, like I said, he
14 probably can write the book on every program they got, every
15 treatment thing, everything you do. Write this book. Write
16 this poem. Write all of this. Go to this class. Go to that
17 class. Glenn probably knows everything. He knows probably
18 better than some of them. He's there all the time. He's
19 been there for 11 years.

20 So cut all that aside. The real elephant in the room is
21 do you all feel comfortable letting that man go to his
22 daddy's farm. That's what it is. That's really what it is.
23 And the AG's Office, all they want to do is prey on your
24 being scared of somebody who's done a sexual offense and say
25 he ain't got nothing to hang over his head. This is what he

1 did. Yes, almost 20 years ago. Well, who amongst us has not
2 even sinned at all?

3 Ain't about whether he did it. It's about whether or
4 not he'll do it again. Dr. Gehle can't say he'll do it
5 again. Nobody got that kind of crystal ball. But what you
6 want to look at is what the person has done in their recent
7 history. Here's a guy that's been in the program, done the
8 treatment.

9 Now, in an ideal world, you would like to say, "Well,
10 let's see if we can transition him. Maybe he can go to some
11 halfway house, stay there for a while and have somebody
12 monitor him." Well, guess what? It don't exist. That's not
13 Glenn's fault. Y'all talk to your legislature about that.
14 Put money aside for that. And you know that ain't goin'
15 happen. But that's not his fault. He shouldn't pay the
16 price for that.

17 Either the State has met its burden or it hasn't. Ain't
18 even close. Ain't even close.

19 I submit to you, Glenn stays confined, we'd be here a
20 year from now, two years from now, we'd have the same report.

21 He's inconsistent. Guess what. Know what that means?
22 What did Dr. Martin say about Static-99? It just takes an
23 account of certain factors that ain't never goin' change.
24 Know what that really means? We looking to keep him forever.
25 Forever. With no opportunity to show you or to be a member

1 of society again. That's the real problem. That's the big
2 gorilla, the 800-pound gorilla, in the room.

3 We don't ever want him to get out. They're not going to
4 say that, but that's what they mean. They don't ever want
5 him to get out. Ever. He can sit there for 20, 30 years.
6 He can start writing the manuals himself, teach the class
7 himself, have perfect attendance, perfect disciplinary
8 record. They still will tell you he ain't ready.

9 And then if he ain't ready, then why is there a program?
10 Because it's supposed to be rehabilitation. You're supposed
11 to be there for long-term care to treat you for these
12 problems. If they don't rehabilitate people with an
13 opportunity to come out, why have a program? Really what
14 they want to do is they're relying on you being scared.
15 Plain and simple. Plain and simple.

16 Now, I can sit here, stand before you and go back
17 through each person's testimony, but this has been a
18 relatively short trial. You only had four witnesses. Three
19 of them testified for the respondent, my client. The only
20 person you had that State had to tell you that he ain't ready
21 is Dr. Gehle.

22 Remember I asked Dr. Gehle how many times she's done
23 postcommitment reviews. She said about 90. A huge amount of
24 them, most of them, the majority of them, an overwhelming
25 majority of them she said they need to stay.

1 I know people are afraid. You know, I have children
2 myself, and we're always afraid of what goes bump in the
3 night. There comes a time that you must not live in fear and
4 you have to set aside certain biases and prejudice that we
5 may all be guilty in when we hear "sexual violence,"
6 particularly if you hear the Attorney General continue to
7 harp on, you know, Glenn did to a little boy in 1997. And
8 where was the outcry for him at this particular school 30 or
9 35 years ago?

10 If you do your job as the judge has instructed you to
11 follow the oath, the State hasn't met its burden. Clearly.
12 They haven't even gotten the ball past their own 20. She
13 can't even tell you what else he needs to do in order to
14 satisfy her to get out and make himself a minimum risk.

15 Dr. Martin came here, and you heard me ask him questions
16 about, you know, his testimony and the times that he's
17 testified. He said, "You know as well as anybody, I'll tell
18 you some things you don't want to hear. I'll tell you
19 sometimes people ain't ready. Done this for a long time."
20 We didn't have to do that, but we did to try to destigmatize
21 the whole idea of somebody with sexual offenses.

22 Now it's your time to follow your oath, deal with that
23 800-pound gorilla that's staring you in the face. We're
24 scared to let him go. Give this man an opportunity to go
25 out. No matter what else, he's still a human being that's

1 been locked away for 17 years. Give him a chance to go live
2 on his daddy's farm, and that's all he's asking. Thank you.

3 THE COURT: Thank you. Mr. Bogle, reply?

4 MR. BROOKS: No, Your Honor. Thank you.

5 THE COURT: Very well.

6 All right. Ladies and gentlemen, it now becomes my
7 responsibility to give you the law, which, of course, you
8 have promised to accept and apply fairly and impartially to
9 the facts that you will determine very shortly when you begin
10 your deliberations in this matter.

11 This is a case, as I stated, that's brought under the
12 Sexually Violent Predator Act, which is an act that's been
13 enacted by our legislature. It's part of our code of laws.

14 Our general assembly has determined that those persons
15 who have been found to be sexually violent predators under
16 the law will be required to remain in a secure facility for
17 long-term control, care and treatment until that person's
18 mental abnormality or personality disorder has changed so the
19 person is safe to be at large and, if released, is not likely
20 to commit acts of sexual violence.

21 The intent of the legislature in passing this law does
22 not in any way control or direct your decision in this case.
23 You and you alone must decide whether or not the State has
24 met its burden of proof at this trial and establish beyond a
25 reasonable doubt that the defendant -- and when I use the

1 term "defendant" in this case, I'm referring to Mr. Jones.
2 It's just another way of identifying him. That's the sole
3 significance. In this case we'll refer to him as the
4 defendant. He could be referred to as a respondent, but it's
5 just a technical name of identifying him -- that Mr. Jones'
6 mental abnormality or personality disorder remains such that
7 he is not safe to be at large and, if released, is likely to
8 engage in acts of sexual violence.

9 Now, in most civil cases, such as this case, the person
10 who brings the action and who has the burden of proof, such
11 as the State, there's typically the preponderance or greater
12 weight of the evidence. That's the standard I mentioned to
13 you when we started. That's, simply stated, a probability
14 standard. Is it more likely so than not? Is it most
15 probable?

16 However, in this particular case, the statute provides
17 the State's burden is much greater than that because the
18 State has to prove it being more than most likely or
19 probable. It has to prove the facts beyond a reasonable
20 doubt.

21 Now, reasonable doubt is a doubt which would make an
22 honest, sincere, conscientious juror who's searching for the
23 truth in a case to hesitate to act or take some action.
24 Proof beyond a reasonable doubt is proof that leaves you
25 firmly convinced as to the facts of this case and the fact

1 that the State's required to prove. And that is that
2 Mr. Jones's mental abnormality or personality disorder
3 remains such that he is not safe to be at large, and, if he's
4 released, he's likely to engage in sexual violence, acts of
5 sexual violence.

6 Now, there are very few things in this world that we
7 know with absolute certainty, and this law does not require
8 the State to submit proof which overcomes every possible
9 doubt. If, based on your consideration of the evidence,
10 you're firmly convinced that the State has met its burden of
11 proof as to those particular facts and circumstances, and --
12 then you must return a verdict for the State.

13 If, on the other hand, you feel there's a real
14 possibility that the defendant's mental abnormality or
15 personality disorder has changed and is not such that he is
16 likely to engage in acts of sexual violence, then you must
17 give him the benefit of that doubt and return a verdict in
18 his favor.

19 Reasonable doubt, ladies and gentlemen, may arise from
20 the evidence which is in the case or from the lack or absence
21 of evidence of a case. And it's up to you to determine
22 whether or not a reasonable doubt exists in this particular
23 case.

24 Now, the evidence which you are to consider, as I've
25 stated throughout, consists of testimony of the witnesses and

1 exhibits that were introduced through their testimony and
2 nothing else.

3 Please know that there have been times that you've heard
4 objections, and I've made rulings and not permitted questions
5 or answers. You're not to consider that, because that was
6 properly brought before me. Those are matters of law that
7 I'm required to deal -- to handle. And you should not place
8 any significance on that, either the fact that I excluded
9 something or the fact the attorney may have raised an
10 objection. Because as officers of the Court, they're
11 required to do that.

12 In fact, when those situations were such that I have an
13 objection and I overruled it, I've said, as a matter of law,
14 you may consider it. That shouldn't be taken by you as a
15 suggestion that I think you have to accept that fact, rather,
16 that really does demonstrate how we work together. My
17 responsibility is to determine what questions are proper
18 under our rules of evidence.

19 But once a question is answered, and you then are
20 instructed to consider that answer, nothing that I said or
21 did is to be considered by you as a suggestion, rather, it
22 shifts to you whether or not you believe it, and, if so, how
23 strongly you believe it.

24 I would also remind you the attorneys' remarks, either
25 the opening statements or closing arguments, likewise, are

1 not for the purpose of controlling your judgment on what a
2 witness said or didn't say. In fact, I would instruct you
3 that any remark which differs from your collective
4 recollection of what a witness said or didn't say, you're
5 instructed to disregard that remark in its entirety, because
6 you and you alone are the judges of the facts in this case.
7 Likewise, if there are any statements of what the law is that
8 differ from what I give to you in this charge, you're
9 instructed to disregard those remarks as well, because for
10 purposes of this proceeding today, I'm the sole judge of the
11 law.

12 Now, in this case we've had testimony of witnesses who
13 were allowed to render opinions. Generally, our rules of
14 evidence do not permit witnesses to testify on opinions and
15 conclusions except very limited exceptions. But there are
16 some witnesses who, by education and experience, have become
17 an expert in some art, science, profession. And our rules
18 allow that witness to give opinions as to the subject in
19 which the witness claims an expertise and also give reasons
20 for that opinion.

21 You're instructed to consider any expert opinion the
22 same as you do any other evidence and give it the weight that
23 you believe it is deserving. If you decide that an expert
24 witness's opinion is not based on sufficient education and/or
25 experience, or if you decide that the reasons given for that

1 opinion are not sound or that the opinion is outweighed by
2 other evidence in the case, you may disregard the opinion in
3 its entirety.

4 An expert witness's testimony is to be given no greater
5 weight than any other witness simply because that witness
6 claims an expertise. And furthermore, you do not have to
7 accept an expert's opinion, even though it is not
8 contradicted directly. Again, the purpose of the expert
9 testimony is to assist you in analyzing the evidence and not
10 for the purpose of controlling your judgment.

11 How do you decide the facts of the case? How do you
12 decide what you find to be credible and believable? As we
13 talked when we started, that's what you've done your entire
14 life. It's not foreign to you. And there are many, many
15 factors that we may consider to assist us in making these
16 determinations, and I will discuss some of them with you now.

17 But if I don't mention a factor or method that you've
18 employed in your life and you've found it to be reliable,
19 please use it when you begin the process of analyzing the
20 evidence in this case.

21 Some of the factors that you may want to consider would
22 be the appearance of the witness. How did they appear to
23 you, straightforward or hesitant in answering questions? Was
24 the testimony of a witness strengthened or weakened by other
25 evidence in the case? How did the witness come to know the

1 facts that he or she testified to? What was the ability of
2 that witness to know those particular facts or circumstances?
3 Is there a reason for a witness to give testimony which may
4 be helpful to one side or the other, or conversely, may be
5 detrimental or damaging to one side or the other? In other
6 words, did the witness have any bias or prejudice that would
7 affect that person's -- affect that person's credibility in
8 your judgment?

9 In considering the testimony of the witnesses, you're
10 given very broad discretions. You can believe one witness
11 against many, many witnesses against one. You don't
12 certainly do it by counting the number of witnesses, but you
13 have that prerogative. And also, you may believe all of a
14 witness's testimony, parts of a witness's testimony or none
15 of the witness's testimony.

16 Now, of course you don't make these decisions
17 arbitrarily, but if there's a reason in the evidence of this
18 case for your taking that position, you have that
19 prerogative. Because your objective, since you raised your
20 hand, really when you raised your hand downstairs when we
21 qualified you and we brought you up and asked you questions,
22 has been to determine the truth regardless of the source of
23 the evidence.

24 Now, while you are given very wide latitude when it
25 comes to determining the facts in this case, please remember

1 something: You're not at liberty to change the law or modify
2 the law or not accept any law as I give it to you. The fact
3 that you and I may sit down and talk about this law or any
4 other law and come up with maybe some improvements, maybe
5 some suggestions, maybe it should be written a different way,
6 maybe it should be stronger, maybe it should be weaker,
7 that's not your judgment.

8 You can't -- you have to set aside those feelings.
9 Because why? Because you've promised to recognize that
10 separation, that you're the sole judges of the facts. My
11 responsibility is the sole judge of the law, and you promised
12 that you would accept that law and apply that law,
13 notwithstanding your personal opinions, fairly and
14 impartially to those facts and reach a decision which would
15 be fair to both sides.

16 Now, the fact that I give you an instruction on a
17 particular area of law shouldn't be considered by you as a
18 suggestion of what you're to do or how you're to resolve a
19 factual issue. Again, I have nothing to do with that.

20 Also, consider the charge as a whole. Don't focus on
21 any one aspect of the charge. And the order of instruction
22 means absolutely nothing. You are to consider the charge and
23 apply that charge fairly and impartially. And I'm confident
24 that you will. And obviously, you will do that very shortly.

25 Now, let's look at it, before the State is entitled to a

1 verdict in their favor, each of you must be convinced beyond
2 a reasonable doubt that the State has proven beyond a
3 reasonable doubt that Mr. Jones's abnormality or personality
4 disorder causes him serious difficulty in controlling his
5 behavior.

6 That is to say the State must prove beyond a reasonable
7 doubt that Mr. Jones -- that the individual it seeks to
8 remain committed suffers -- that is Mr. Jones -- from a
9 mental illness which makes him likely to engage in acts of
10 sexual violence if he's not confined in a mental health
11 facility for long-term care or control and treatment.

12 I'm going to define several terms for you that we've
13 mentioned throughout this charge. First, I'd like to focus
14 your attention on the term "mental abnormality." Mental
15 abnormality means a mental condition affecting a person's
16 emotional or volitional capacity that predisposes that person
17 to commit sexually violent offenses. This mental abnormality
18 must cause the individual serious difficulty in controlling
19 his behavior.

20 Now let's look at the term "likely to engage in acts of
21 sexual violence." That term is defined to mean that the
22 person's propensity to commit acts of sexual violence is of
23 such a degree as to pose a menace to the health and safety of
24 others.

25 The burden of proof is upon the State to prove each of

1 its -- those factors that I've mentioned to you beyond a
2 reasonable doubt.

3 And, ladies and gentlemen, throughout this entire
4 process, you are not a partisan for either side. You
5 absolutely have no friends to reward, nor do you have any
6 enemies to punish.

7 In fact, ladies and gentlemen, you, we, both are humans.
8 And as human beings, we all bring with us our emotions,
9 feelings. And we all have them in varying degrees. But for
10 this process -- and I confess to you that I've been doing it
11 for about 20 years. I have to remind myself constantly,
12 because you have to keep them in check, because in performing
13 the task of being a judge, whether it be the law or the
14 facts, you have to set aside all human emotion and deal
15 with -- and apply that knowledge, that sense of logic and
16 reason that you brought with you and be fair.

17 You are about to do that. You will apply that in
18 analyzing the evidence and decide what you believe to be the
19 truth. And once you make that decision, then you must take
20 the law, as I've given it to you, apply it fairly to those
21 facts, and tell us what it is.

22 Madam Presiding Juror, to assist you in reporting that
23 decision, I've prepared a verdict form, which we'll send back
24 with the exhibits. I'd like to discuss it with you now.
25 You'll note that it's captioned. And it states basically,

1 has the respondent, the State of South Carolina, proven
2 beyond a reasonable doubt that Glenn David Jones's mental
3 abnormality or personality disorder remains such that he is
4 not safe to be at large and, if released, is likely to commit
5 acts of sexual violence? Then it says, we, the jury, answer
6 the question as follows, first -- and the order in which they
7 appear means nothing; had to put them in some order -- yes,
8 the State has proven beyond a reasonable doubt that Glenn
9 Jones's mental abnormality or personality disorder remains
10 such that he is not safe to be at large and, if released, is
11 likely to commit acts of sexual violence. Or, no, the State
12 of South Carolina has not met -- has not proven beyond a
13 reasonable doubt that Glenn Jones's mental abnormality or
14 personality disorder remains such that he is not safe to be
15 at large and, if released, is likely to commit acts of sexual
16 violence. In other words, it's changed so that he is safe.
17 That's a double negative in there, but don't be misled by
18 that. Yes and no is obvious. Yes, they met the burden; no,
19 they didn't meet the burden.

20 Whichever your choice, if you will place a check in the
21 box that precede -- the line that precedes it and then sign.
22 Then knock on the door. We will return you to receive your
23 verdict.

24 All of you must agree. That means 12 to 0 has to be the
25 verdict on whichever decision you select.

1 I know you're anxious to get started. I told you the
2 last thing I'd tell you is when you may start. The first
3 thing I need to ask you: Of the first 12 selected, does
4 anyone believe they will not be able to continue? If so,
5 raise your hand.

6 Thank you.

7 Madam Alternate, it appears at this point, the jury, the
8 first 12, are able to continue. So when I excuse you and the
9 other jurors in just a moment, I'm going to ask that you not
10 rejoin them in the jury room. They will take you to another
11 room, and I'll be in very shortly to discuss with you how
12 much longer you need to remain with me.

13 You're almost there. I have to discuss my charge with
14 the attorneys. And in order to do that, I have to excuse
15 you, as we've done consistently, for matters of law.

16 If there are any additions that need to be given or
17 corrections, I will return you to the courtroom to accomplish
18 that. But if there aren't any, then we will gather the
19 exhibits and the verdict form and deliver them to you. When
20 you have received the verdict form and exhibits, then you may
21 commence your deliberations, but not before.

22 Now, once the deliberations start, the only restriction
23 I place is this: If any juror has to leave the table for any
24 reason, you must stop deliberating until all 12 of you begin.
25 Other than that, you proceed as you deem fit and proper.

1 Thank you so much for your attention throughout. Please
2 now retire to your jury room and await the exhibits before
3 commencing your deliberations.

4 (Jury exits the courtroom at 12:33 p.m.)

5 THE COURT: Exceptions or additions from the State?

6 MR. BOGLE: There are none, Your Honor.

7 THE COURT: Any exceptions or additions from the
8 defendant?

9 MR. BROOKS: No, sir.

10 THE COURT: Thank you very much.

11 (Evidence and verdict form delivered to the jury with
12 instruction to begin deliberations at 12:34 p.m.)

13 (Recess held.)

14 THE COURT: Gentlemen, if you all would approach, please
15 (indicating).

16 (The Court's Exhibit 1 marked for identification.)

17 THE COURT: I was going to bring them in and give an
18 instruction, but they've just knocked on the door and said
19 they have a verdict.

20 Is the State ready to receive the verdict?

21 MR. BOGLE: Yes, Your Honor.

22 THE COURT: Defendants are ready?

23 MR. BROOKS: Yes, sir. Well, got to get my client out.

24 (Brief pause.)

25 THE COURT: All right. Mr. Jones is present. Let's

1 bring in our jury, please.

2 (The jury enters the courtroom at 2:03 p.m.)

3 BAILIFF: Jurors are present and seated, Your Honor.

4 THE COURT: Thank you very much.

5 Thank you, ladies and gentlemen.

6 First, I have what's Court's Exhibit No. 1, and it's a
7 question that asks for some clarification. But before
8 bringing you in, I've been advised now the jury has reached a
9 verdict; is that correct?

10 JURY FOREPERSON: Yes, Your Honor.

11 THE COURT: If you would please pass the verdict form to
12 the bailiff.

13 Thank you, sir.

14 The verdict form has been properly completed. If you
15 will please publish the verdict form. And all you have to do
16 is publish where it says, "we, the jury", okay? You can just
17 read the case number. That would be fine.

18 THE CLERK: Case No. 2002-CP-10-03876. We, the jury,
19 unanimously answer the question as follows: Yes, the State
20 of South Carolina has proven beyond a reasonable doubt that
21 Glenn David Jones's mental abnormality or personality
22 disorder remains such that he is not safe to be at large and,
23 if released, is likely to commit acts of sexual violence.
24 Signed Tammy Sigman, presiding forelady, August 12, 2013.

25 Ladies and gentlemen of the jury, if this is your

1 verdict, please raise your right hand.

2 (Jurors comply.)

3 THE CLERK: Thank you.

4 THE COURT: Let the record reflect that each juror
5 raised his or her right hand in response to the clerk's
6 question.

7 Anything further from the jury from the State?

8 MR. BOGLE: No, Your Honor. Thank you.

9 THE COURT: Anything further from Mr. Jones?

10 MR. BROOKS: Could you poll the jury?

11 THE COURT: All right. Ladies and gentlemen, the clerk
12 will be calling your name, and she will be asking you two
13 questions: Was that your verdict, and is it still your
14 verdict? If you will just -- when they call your name, if
15 you'll respond, please. Thank you. Thank you.

16 THE CLERK: Juror No. 290, Tammy Sigman, is this your
17 verdict?

18 JUROR NO. 290: Yes.

19 THE CLERK: Is this still your verdict?

20 JUROR NO. 290: Yes.

21 THE CLERK: Juror No. 293, Jeffrey Smalls.

22 JUROR NO. 293: Yes.

23 THE CLERK: Is this still your verdict?

24 JUROR NO. 293: Yes.

25 THE CLERK: Juror No. 5, Jaclyn Almeter, is this your

1 verdict?

2 JUROR NO. 5: Yes.

3 THE CLERK: Is this still your verdict?

4 JUROR NO. 5: Yes.

5 THE CLERK: Juror No. 261, Ann Pugh, is this your
6 verdict?

7 JUROR NO. 261: Yes.

8 THE CLERK: Is this still your verdict?

9 JUROR NO. 261: Yes.

10 THE CLERK: Juror No. 118, Leah Geers, is this your
11 verdict?

12 JUROR NO. 118: Yes.

13 THE CLERK: Is this still your verdict?

14 JUROR NO. 118: Yes.

15 THE CLERK: Juror No. 47, Robert Brown, is this your
16 verdict?

17 JUROR NO. 47: Yes.

18 THE CLERK: Is this still your verdict?

19 JUROR NO. 47: Yes.

20 THE CLERK: Juror No. 305, Ebonee Stanfield, is this
21 your verdict?

22 JUROR NO. 305: Yes.

23 THE CLERK: Is this still your verdict?

24 JUROR NO. 305: Yes.

25 THE CLERK: Juror No. 78, Kristine Defelice, is this

1 your verdict?

2 JUROR NO. 78: Yes.

3 THE CLERK: Is this still your verdict?

4 JUROR NO. 78: Yes.

5 THE CLERK: Juror No. 87, Gail Diehl, is this your
6 verdict?

7 JUROR NO. 87: Yes.

8 THE CLERK: Is this still your verdict?

9 JUROR NO. 87: Yes.

10 THE CLERK: Juror No. 186, Narasha Lawrence, is this
11 your verdict?

12 JUROR NO. 186: Yes.

13 THE CLERK: Is this still your verdict?

14 JUROR NO. 186: Yes.

15 THE CLERK: Juror No. 313, Kindra Taylor, is this your
16 verdict?

17 JUROR NO. 313: Yes.

18 THE CLERK: Is this still your verdict?

19 JUROR NO. 313: Yes.

20 THE CLERK: And, Juror 52, Erin Butcheck --

21 JUROR NO. 52: Yes.

22 THE CLERK: -- is this your verdict?

23 JUROR NO. 52: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NO. 52: Yes.

1 THE CLERK: Thank you.

2 Let the record reflect that the jury has been polled.

3 THE COURT: Thank you. The jury has been polled, and
4 the verdict stands.

5 Thank you very much, ladies and gentlemen. I'm going to
6 ask you to step back in your jury room for just a few
7 moments. I'll be with you in just a second. Thank you.

8 (Jury exits the courtroom.)

9 THE COURT: All right. Anything from the State?

10 MR. BOGLE: No, Your Honor. I do have a proposed order
11 that I can submit.

12 THE COURT: Just one second. Anything from the
13 defendant?

14 MR. BROOKS: Judge, we would respectfully make a motion
15 to set aside the jury verdict. You've heard all the
16 evidence. We would ask you to try to be the 13th juror on
17 all, Judge, in the respective motions that we have in this
18 situation.

19 THE COURT: I appreciate that. And certainly, it's my
20 observation, maybe others as well, that the statute certainly
21 could be, I think, enhanced and allowed -- we allow
22 supervision for persons who are not guilty by reason of
23 insanity and provides a method of getting them back into the
24 system. But the legislature has chosen not to do that at
25 this juncture. That's a legislative decision. But in a case

1 such as this where I have two competent experts that have
2 testified, the jury is tasked with deciding which expert and
3 what testimony they find to be most credible, and they've
4 spoken in that respect. So thank you. I respectfully deny
5 your motion.

6 I'll be delighted to sign your order, Mr. Bogle.

7 And good luck to Mr. Jones. Okay. Thank you.

8 --- END OF TRANSCRIPT OF RECORD ---

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1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA

3 COUNTY OF CHARLESTON

4

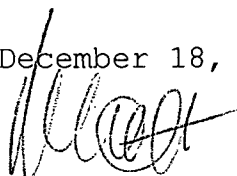
5 I, the undersigned Ruth L. Mott, Official Court Reporter
6 for the State of South Carolina, do hereby certify that the
7 foregoing is a true, accurate and complete transcript of
8 record of all the proceedings had and evidence introduced in
9 the matter of the above-captioned case, relative to appeal,
10 in the First Judicial Circuit Court for Charleston County,
11 South Carolina, on the 11th and the 11th of August, 2014.

12 I further certify that I am neither related to nor
13 counsel for any party to the cause pending or interested in
14 the events thereof.

15

December 18, 2014

16



17

Ruth L. Mott

18

Official Court Reporter

19

20

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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Honorable R. Markley Dennis Jr., Circuit Court Judge

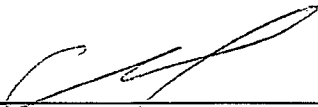
Case No: 2002-CP-10-03876

In the Matter of the Care and Treatment of

Glenn David Jones

NOTICE OF APPEAL

Glenn David Jones, appeals his Order of Continued Commitment.
The Order of Continued Commitment was imposed and signed by the Honorable
R. Markley Dennis Jr, on August 12, 2014, which I, Charles T. Brooks, III,
received on August 13, 2014.



Charles T. Brooks, III
309 Broad Street
Post Office Box 3512
Sumter, South Carolina 29151
(803) 418-5708
Attorney for Appellant

Other Counsel on Record:
Jim Bogle, Esquire
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3970

August 13, 2014

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Honorable R. Markley Dennis Jr., Circuit Court Judge

RECEIVED
MAR 23 2015

Case No: 2002-CP-10-03876

SC Court of Appeals

In the Matter of the Care and Treatment of

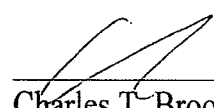
Glenn David Jones

PROOF OF SERVICE

I, the undersigned, do hereby certify that on this 20th day of March, 2015, I served the foregoing **Initial (Anders) Brief of Appellant, Certificate of Counsel, Designation of Matter to be Included on Record of Appeal and Record on Appeal**, as well as **Proof of Service** in this matter by depositing a true copy of it in the United States Mail, postage prepaid, addressed to the following:

Office of Attorney's General
Attn: Deborah Shupe
Post Office Box 11549
Columbia, South Carolina 29211

Glenn David Jones
S. C. Dept. of Mental Health
SVP Program
7901 Farrow Road
Columbia, South Carolina, 29203


Charles T. Brooks, III
Attorney for the Appellant
309 Broad Street
Sumter, South Carolina 29150
(803) 418-5708

Dated: March 20, 2015