

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

G. Edward Welmaker, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF JOHN E. DARNELL,

APPELLANT

APPELLATE CASE NO. 2012-210417

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

IN THE MATTER OF THE
CARE AND TREATMENT OF
JOHN EDWARD DARNELL,

RESPONDENT,

2010-CP-23-02454

TRANSCRIPT OF RECORD

MARCH 21, 2012
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE G. EDWARD WELMAKER

APPEARANCES:

ATTORNEY FOR APPLICANT:

LLOYD V. FLORES, JR.
ASSISTANT ATTORNEY GENERAL

ATTORNEY FOR RESPONDENT:

ELIZABETH P. WIYGUL, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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1 THE COURT: We'll be at ease until -- Judy will be
2 giving us another mix. And as soon as she can get our list
3 up here, Dale, we'll let the lawyers start looking at it.
4 As soon as y'all look at your list, let me know and we'll be
5 ready to proceed. We'll get an alternate in this one.

6 MR. FLORES: Thank you, Your Honor.

7 THE COURT: All right. We'll be at ease til then.

8 (Whereupon court was in recess)

9 THE COURT: Thank you. Please be seated. All right.
10 Are you ready to have our jury come up?

11 MR. FLORES: Yes, Your Honor.

12 THE COURT: All right. Let's have them come.

13 (Pause)

14 THE COURT: Mr. Flores, you need me to ask them again
15 about psychiatric and legal -- I'll be glad to if you need
16 the record to reflect that.

17 MR. FLORES: I don't think it's necessary, Your Honor.

18 THE COURT: Either one of you need that?

19 MS. WIYGUL: Your Honor, I don't think it's necessary.

20 THE COURT: Okay. I'll ask the ---

21 MS. WIYGUL: I think we know who they are now.

22 THE COURT: Right. Okay. I'll not ask that then.

23 (Pause)

24 (Whereupon the jury panel entered the courtroom)

25 THE COURT: Ladies and gentlemen, you're probably

1 learning the protocol now. It's not that I'm forgetful, I
2 really did remember from Monday some of you, and certainly I
3 remember from earlier this morning, but we need to protect
4 the record and ask these questions again. So I hope you
5 understand the repetition for some of you that -- for the
6 questions I'm asking.

7 We're now ready to proceed with the case brought by the
8 State of South Carolina captioned In the Matter and the Care
9 and Treatment of John Edward Darnell. The State has filed a
10 petition and alleges that the Respondent, Mr. Darnell, is a
11 sexually violent predator, seeks to have the Respondent
12 involuntarily committed to a secure facility for long-term
13 control and care and treatment.

14 Mr. Darnell has -- is contesting that petition by the
15 State and needs to have a jury to determine the facts about
16 the case. And I'm going to be the judge of the law. We
17 need twelve fair and impartial jurors to determine the facts
18 in this case. I need to ask you some additional questions
19 to determine your eligibility to serve on this particular
20 case, ladies and gentlemen, although you have been qualified
21 as a juror for the week.

22 First of all, is there any member of the jury panel
23 related by blood or marriage to Mr. Quentin Dale -- excuse
24 me, Mr. Darnell, Mr. John Edward Darnell? If so, would you
25 please stand.

1 (No response)

2 THE COURT: Thank you. There is no response.

3 Does any member of the jury panel have a close business
4 or a social, a personal relationship with Mr. Darnell? If
5 so, would you please stand.

6 (No response)

7 THE COURT: Thank you. There is no response.

8 Would the fact that Mr. Darnell -- has been convicted
9 of a sexual offense and has completed a criminal sentence
10 related to that conviction in any way prevent you from being
11 a fair and impartial juror in this trial if you were
12 selected to serve? If so, would you please stand.

13 (No response)

14 THE COURT: Thank you. There is no response.

15 Is there any member of the jury panel or a member of
16 your immediate family who has ever been the victim of a
17 sexual assault or have been convicted or charged with the
18 offense relating to a sexual charge? If you've ever been
19 the victim or if you've been charged or convicted of a
20 sexual offense, would you please stand.

21 (No response)

22 THE COURT: Thank you. There is no response.

23 The potential witnesses who may be called upon to
24 testify in this case, ladies and gentlemen, would be Ronald
25 A. Darnell, Melvin Hawkins, Mike Darnell, Dr. Rebecca

1 Jackson. Is there any member of the jury panel related by
2 blood or marriage to any of these potential witnesses? If
3 so, would you please stand.

4 (No response)

5 THE COURT: Does any member of the panel have a
6 business or a social or a personal relationship with any of
7 these potential witnesses? If so, would you please stand.

8 (No response)

9 THE COURT: Thank you. There is no response.

10 I'll now have the attorneys to stand and introduce
11 themselves to the jury panel. Mr. Flores.

12 MR. FLORES: Thank you, Your Honor. My name is Lloyd
13 Flores. I work in the Office of the Attorney General.

14 THE COURT: Ms. Wiygul.

15 MS. WIYGUL: My name is Elizabeth Wiygul. I practice
16 law here in Greenville.

17 THE COURT: Thank you. Is there any member of the jury
18 panel related by blood or marriage to either of these
19 attorneys? If so, please stand.

20 (No response)

21 THE COURT: Is there a member of the panel who has a
22 close business, or a social or a personal relationship with
23 either of these attorneys? If so, would you please stand.

24 (No response)

25 THE COURT: Is there a member of the jury panel who has

1 ever been involved in any litigation in which either of
2 these attorneys represented you or represented the opposing
3 side? If so, would you please stand.

4 (No response)

5 THE COURT: Thank you. There is no response.

6 Is there any member of the jury panel or a member of
7 your immediate family who has ever been involved in civil
8 commitment proceedings through Probate Court or otherwise?
9 If you've been involved in those in any capacity, would you
10 please stand.

11 (No response).

12 THE COURT: Thank you. There is no response.

13 Is there any member of the jury panel now involved or
14 formerly involved in prison ministry of any kind? If so --
15 dealing with incarcerated persons, if so, please stand.

16 (No response)

17 THE COURT: Thank you. There is no response.

18 Has any member of the jury panel expressed or formed an
19 opinion in any way about the facts in this case? If so,
20 would you please stand.

21 (No response)

22 THE COURT: Is there any member of the jury panel aware
23 of any bias or prejudice that would interfere with your
24 ability to be a fair juror if called upon to serve in this
25 particular case? If so, would you please stand.

1 (No response)

2 THE COURT: Thank you. There is no response.

3 Both parties, the Respondent, Mr. Darnell, the State of
4 South Carolina deserve to have fair jurors, and they desire
5 that. Is there any member of the jury panel aware of any
6 reason whatsoever that you feel in this case you could not
7 be a fair juror to both sides, render a verdict on the law
8 and the evidence and that alone? If you feel for any reason
9 you could not be a fair juror, would you please stand.

10 (No response)

11 THE COURT: Thank you. There is no response.

12 Any other questions from the State?

13 MR. FLORES: Nothing from the State, Your Honor.

14 THE COURT: From the Respondent?

15 MS. WIYGUL: Nothing from Respondent, Your Honor.

16 THE COURT: Let's empanel our jury.

17 MADAME CLERK: Petitioner strikes first.

18 MR. FLORES: Petitioner would strike juror 19.

19 MADAME CLERK: Petitioner strikes 19.

20 MS. WIYGUL: Respondent strikes 2.

21 MADAME CLERK: Respondent strikes 2.

22 MR. FLORES: Petitioner strikes number 12.

23 MADAME CLERK: Petitioner strikes 12.

24 MS. WIYGUL: Respondent strikes 5.

25 MADAME CLERK: Respondent strikes 5.

1 MR. FLORES: Petitioner strikes 10.

2 MADAME CLERK: Petitioner strikes 10.

3 MS. WIYGUL: Respondent strikes 18.

4 MADAME CLERK: Respondent strikes 18.

5 MR. FLORES: Petitioner strikes 8.

6 MADAME CLERK: Petitioner strikes 8.

7 MS. WIYGUL: Respondent strikes 9.

8 MADAME CLERK: Respondent strikes 9.

9 MR. FLORES: On the alternates, Petitioner strikes 22.

10 MADAME CLERK: Petitioner strikes 22.

11 MS. WIYGUL: Respondent strikes 21.

12 MADAME CLERK: Respondent strikes 21. I'll read these
13 back to you. Petitioner strikes 8, 10, 12, 19 and 22.

14 MR. FLORES: That is correct.

15 MADAME CLERK: Respondent strikes 2, 5, 9, 18 and 21.

16 MS. WIYGUL: That's correct.

17 THE COURT: All right. You may empanel the jury.

18 MADAME CLERK: As I call your names, if you'll bring

19 your things and come up and have a seat in our jury box.

20 Christina Herd, Flossie Cecile, Jerry Cantrell, Herbert

21 Smith, David Herron, Vickie Wilson, Karen Peahuff, Jennifer

22 Harris.

23 (No response)

24 THE COURT: Jennifer Harris.

25 (No response)

1 THE COURT: Can I see the attorneys a minute? We need
2 to find out where Ms. Harris is.

3 (Whereupon a bench conference was held off the record
4 in the presence of the jury panel, but out of their hearing)

5 MADAME CLERK: Connie Reeves, Clara Bayne, Scott
6 Stevens, Casey Oliver and Michael Desantis.

7 (Pause)

8 THE COURT: Are you ready to select an alternate?

9 MS. WIYGUL: Yes, Your Honor.

10 MR. FLORES: Yes, Your Honor.

11 THE COURT: All right. Madame Clerk, you may seat the
12 alternate.

13 MR. FLORES: Petitioner would strike number 25.

14 MADAME CLERK: Petitioner strikes 25.

15 MS. WIYGUL: Respondent would strike 26.

16 MADAME CLERK: Respondent strikes 26. The alternate,
17 Barbara Knight. If you'll bring your things and come up and
18 have a seat in our jury box, please.

19 THE COURT: Are there any matters we need to take care
20 of as far as the selection of the jury in this case from the
21 State?

22 MR. FLORES: Nothing from the State, Your Honor.

23 THE COURT: From the Respondent?

24 MS. WIYGUL: Nothing from the Respondent.

25 THE COURT: All right. Thank you very much.

1 Ladies and gentlemen who were not selected for the
2 trial of this case, I understand that there won't be anymore
3 jury trials for the week. So you'll be excused. Thank you
4 very much for your service this week.

5 Some of you may need an excuse for your employment. If
6 you do, they'll have those available for you down in the
7 assembly room. Thank you very much for being here with us
8 this week. You're now excused. If you can stop back by
9 there if you do need that statement for your employer.
10 Everyone else, please remain seated while the jury is
11 released for the week.

12 (Whereupon the remaining jurors exited the courtroom)

13 **THE COURT:** Ladies and gentlemen, you've seen the
14 process by which you were selected. Both parties felt that
15 you were the best group of people to hear this case. The
16 alternate, last juror here, we didn't know -- sometimes
17 emergencies happen. And we wanted to make sure we had a
18 sufficient amount of jurors to serve on this case.

19 It won't be starting immediately. As you saw earlier,
20 we've selected another jury. We're going to be trying that
21 case this morning. The attorneys have assured me that it
22 would -- should be finished after lunch. So I'm going to
23 have you come back at 2:15.

24 I have another matter I need to take care of that
25 doesn't relate to these trials. It's a hearing that has

1 been long scheduled. So I believe I'll be through with that
2 by 2:15.

3 So if you'll be back in your jury rooms -- I'll let you
4 go with Mr. Lynch in a moment. And he'll show you where you
5 are to report back. We'll then be ready to proceed with the
6 trial, and I'll give you some preliminary instructions.

7 The instruction I need to give you now, of course,
8 relates to your service as a juror on this case. You have
9 been selected. And that means that these parties have
10 placed that confidence in you. Because of the process that
11 we're now in, we want to maintain that purity of it.

12 That means that while you're out and about between now
13 and 2:15 that you should not be discussing this case with
14 anyone, with each other. You should not discuss it with
15 family, with friends, or business associates or anyone you
16 may come in contact with.

17 If you're having lunch downtown and there's some folks
18 next door at a table near you and they're talking about this
19 case, witnesses or whoever, you take the initiative to move,
20 ask for another table. It's very important that you fulfill
21 the obligation that you've -- the commitment that you've
22 made to these parties.

23 Our Chief Justice has issued an order that all trial
24 judges such as I are required to give to jurors, once
25 they're selected for a trial, that means that there's not to

1 be any communication with anyone during the course of that
2 trial, about the trial. That means family members or anyone
3 else.

4 You should not do any kind of social media and get on
5 Facebook or tell anyone or let anyone give you any kind of
6 information about this case. You should not do any kind of
7 independent research, want to go check archives or internet
8 or go to the library and see what you can find out about
9 this case.

10 You don't know anything about the facts of the case
11 yet. You haven't heard anything. That would be improper
12 for you to kind of do any kind of independent research.
13 You'd be in violation of the Chief Justice of the Supreme
14 Court of South Carolina's order in the conveyance that I've
15 made to you.

16 So maintain the commitment that you've already made to
17 these parties. I'm sure you will. I say that not to tempt
18 you, but to impress upon you the importance of your
19 maintaining that innocence as far as not knowing anything
20 about the case from any source.

21 We'll be ready to begin hopefully at 2:15. Some of you
22 have had the opportunity to serve as jurors before. Some of
23 you have not. If you'll go with Mr. Lynch now, he'll show
24 you where you are to report back and when to report back.
25 And we'll be ready to begin hopefully at 2:15. Have a good

1 break, ladies and gentlemen. I'll see you this afternoon.

2 (Whereupon the jury exited the courtroom at 10:45 am).

3 THE COURT: All right. We'll be ready to proceed

4 hopefully at 2:15.

5 MS. WIYGUL: Thank you, Your Honor.

6 (Whereupon court was in recess at 10:45 am)

7 (Whereupon court resumed at 3:21 pm)

8 (Whereupon Plaintiff's exhibits 1 & 2 were marked for
9 identification)

10 THE COURT: You ready to proceed?

11 MS. WIYGUL: Yes, Your Honor. I was going to ask if I
12 could have about one to two minutes to step out and speak
13 with the witnesses in the next case so that we won't need to
14 pause at all while we go through the case.

15 THE COURT: That'll be fine. Your client's not in here
16 yet either, is he?

17 MS. WIYGUL: No, Your Honor. He's ---

18 THE COURT: Okay.

19 MS. WIYGUL: --- on deck.

20 THE COURT: Okay. Yeah. We'll take just five minutes
21 and be ready to start.

22 MR. FLORES: Thank you, Your Honor.

23 (Whereupon court was in recess at 3:21 pm)

24 (Whereupon court resumed at 3:31 pm)

25 THE COURT: Is everybody ready to proceed?

1 MR. FLORES: Yes, Your Honor.

2 MS. WIYGUL: Yes, Your Honor.

3 THE COURT: Okay. If our jury's ready, have them come
4 in, please.

5 (Whereupon the jury entered the courtroom at 3:33 pm)

6 THE COURT: Thank you for bearing with us, ladies and
7 gentlemen. I miscalculated our time. We've not been doing
8 nothing, we've been working on some other cases. And I
9 apologize for keeping you waiting. I thought we'd be ready
10 to start a little sooner than we were. We're now -- we are
11 ready to begin.

12 I'm honored to have a chance to work with you. We're
13 going to be judges. You're going to judge the facts in the
14 case. I'm going to judge the law. That means as the case
15 progresses for you to be a good judge of the law you need to
16 pay attention to what's going on in the courtroom, to
17 observe the demeanor of the witness while testifying, to
18 watch what's happening with the lawyers and other parties
19 here as well.

20 At the end of the testimony and the evidence being
21 presented I'm going to instruct you on the law and explain
22 to you what the law is. Part of my job also during the
23 course of the trial is to rule on objections that are made
24 by the attorneys, the admissibility of evidence.

25 My job is to conduct the trial as far as when we take

1 breaks and so forth. We'll normally try to go for an hour,
2 sometimes an hour and fifteen, hour and a half at a time.
3 If you need a break and I haven't called for a break, you
4 please let us know. It's vitally important you be
5 comfortable in order to be a good listener. That's your
6 job, to listen. If you need to take a break, get my
7 attention, raise your hand, let one of the bailiffs know.

8 Got Ms. Fryor in the back of the courtroom to your left
9 and Mr. Lynch over here to your right. Either of those will
10 be certainly available to assist you.

11 Ms. Susan Hudgins is the young lady in front of me
12 taking down the record of the proceedings, the court
13 reporter. And to her right and to your left is Ms. Dale
14 Jones with the Clerk's Office and Ms. White also here to
15 assist you in any way they can.

16 Sean Hinton is the young man seated beside me, my law
17 clerk. And you may see him coming and going. He's a
18 valuable asset to have as well. But any of these folks are
19 here to serve you and will certainly help you in any way
20 that they can.

21 In a few moments the attorneys are going to make an
22 opening statement to you. They're going to give you an
23 overview of this case. After that they'll be calling
24 witnesses to testify.

25 And before we do any of those processes, however, it's

1 very important that you be sworn in to take an oath to try
2 this case. I urge you to listen carefully as this oath is
3 given to you. It's an oath that's been in existence for
4 many years, longer than the existence of our Country.

5 Folks such as you have sat in a jury box similar to
6 that in different parts of our Country, in different parts
7 of England and taken this oath in criminal cases, in civil
8 cases and even cases such as this. And even as we're
9 proceeding now there's probably some juror -- jury sitting
10 in another courtroom somewhere else taking such an oath.

11 But it's an oath that's very important. It's one that
12 is meant to bring in the importance of this trial, not only
13 for the parties here, but for all trials that we have in our
14 judicial system.

15 After the oath is given you the attorneys will address
16 you in their opening statement. While that's not evidence
17 for you to consider, I certainly urge you to listen as the
18 lawyers address you in their opening statements. Ms. Jones,
19 you can swear the jury at this time, please.

20 **MADAME CLERK:** Please rise and raise your right hand.
21 The correct response is I will.

22 You shall well and truly try case number 2010-CP-23-
23 2454, In the Matter of the Care and Treatment of John Edward
24 Darnell and a true verdict rendered according to the law and
25 the evidence so help you God.

OPENING STATEMENTS - MR. FLORES

19

1 THE JURY: I will.

2 MADAME CLERK: Thank you. You may be seated.

3 THE COURT: Mr. Flores, you may address the jury in
4 your opening statement.

5 MR. FLORES: Thank you, Your Honor. May it please the
6 Court. Good afternoon, ladies and gentlemen of the jury.
7 As His Honor has stated, we apologize for keeping you
8 waiting back in your jury room.

9 Sometimes cases and issues come up in trials and they
10 must be dealt with, but we were working diligently. I think
11 all of us can agree that we've been very busy this week
12 trying some cases.

13 This case in particular, as during our voir dire, the
14 questions that were posed to the Judge, involves sexually
15 violent predators. It's a case which we consider to be one
16 about protection and treatment.

17 This is a case brought pursuant to the Sexually Violent
18 Predator Act. I must disclaim first that there are some
19 details you will learn in this case that are not pleasant,
20 events that have taken place and that have happened.
21 They're just not pleasant. But there is a question of fact
22 that we must present to you to answer and with those details
23 that we must provide you with the tools and the instruments
24 for you to render your verdict in this matter.

25 With that being said, the State believes that Mr. John

OPENING STATEMENTS - MR. FLORES

20

1 Edward Darnell, seated here with his counsel, is a sexually
2 violent predator. The Sexually Violent Predator Act was
3 enacted in 1998 by our Legislators in Columbia.

4 They had two thoughts in mind when they passed this
5 Act. First, that there exists within our State a number of
6 individuals who suffer from mental abnormalities or
7 personality disorders that make them more likely to commit
8 acts of sexual violence. And, second, that these
9 individuals need treatment in a secure setting to protect
10 the public during the treatment process because they are
11 extremely dangerous.

12 The Sexually Violent Predator Act defines a sexually
13 violent predator as, one, an individual who has been
14 convicted of a sexually violent offense. And, two, suffers
15 from a mental abnormality or personality disorder that makes
16 them more likely to commit acts of sexual violence if they
17 are not confined in a facility for long-term control, care
18 and treatment.

19 The State has the burden in this case of proving facts
20 to your satisfaction beyond a reasonable doubt. We must
21 prove to you that Mr. John Edward Darnell has, one, been
22 convicted of a sexually violent offense and, two, suffers
23 from a mental abnormality or personality disorder that makes
24 him more likely to do these types of sexually violent
25 offenses.

OPENING STATEMENTS - MR. FLORES

21

1 With that being said, you will hear testimony today
2 concerning these sexually violent offenses. In fact, there
3 are two. The first took place over a period of time in the
4 early 90's. It involved Mr. Darnell's step-daughter. She
5 was five -- allegedly five when the offenses began. And
6 they ended when she was eleven.

7 You will also learn about a second set of offenses
8 which occurred in 2003 to which Mr. Darnell also pled
9 guilty, which involved the eleven to thirteen year old step-
10 son, which was committed after his incarceration.

11 You will learn the details about these offenses and
12 about their sequence. You will learn about the victims in
13 this case.

14 To prove the second prong as we say in the legal world,
15 the second issue I must present to you, have you -- that I
16 must prove is that Mr. Darnell suffers from a mental
17 abnormality which makes him more likely to do this again.

18 You will hear testimony today from a psychologist, Dr.
19 Rebecca Jackson, who is seated here behind counsel table,
20 who was ordered by the court to conduct such an evaluation
21 and to seek out the question, or to elucidate or to shine
22 light on whether or not she believes, first, he suffers from
23 a mental abnormality and whether or not that mental
24 abnormality will make him commit acts of sexual violence.

25 She is here to report her opinion to you. But all this

OPENING STATEMENTS - MS. WIYGUL

22

1 information will be for you to decide. As the Judge will
2 instruct you at the end of this case, just because an expert
3 opinion has been rendered does not mean you have to believe
4 it in its entirety, does not mean you have to believe it one
5 bit. But, listen, listen carefully to her experience, what
6 she does in these cases and how she comes to her opinions.

7 With that being said, because these cases are
8 difficult, require such a high burden, we ask you to
9 carefully consider all evidence that's put up. Not just the
10 evidence from the State, but anything that Mr. Darnell might
11 put up in his case.

12 We believe that after you've considered everything
13 before you, you will come to the conclusion that Mr. John
14 Edward Darnell is -- John Edward Darnell is a sexually
15 violent predator and that he should be committed for long-
16 term control, care and treatment. Thank you.

17 **THE COURT:** Ms. Wiygul, you may address the jury.

18 **MS. WIYGUL:** Thomas Jefferson said that the price of
19 liberty is eternal vigilance. Eternal because if you don't
20 watch it, you'll lose it.

21 You, the jury, got a small taste of being stuck
22 somewhere you probably didn't especially want to be. And
23 y'all were waiting back there about an hour and a half, two
24 hours, which can feel like a really long time.

25 Eddie, John Edward Darnell, he goes by Eddie, was

OPENING STATEMENTS - MS. WIYGUL

23

1 waiting since August 10th of 2006 just to finish his
2 sentence because he went before a judge and he pled guilty.
3 He didn't go to a trial. He went before a judge and he
4 admitted what he had done. He entered a guilty plea to a
5 criminal charge and was sentenced for it.

6 Now I want you to keep something in mind as we go
7 through this trial. There's several kind of defenses that
8 criminal defense attorneys can use in this State. There is
9 not guilty by reason of insanity. Mr. Darnell is not
10 insane. So he didn't use that defense. He said, I made a
11 mistake. I broke the law.

12 There's also a defense called guilty, but mentally ill.
13 Mr. Darnell was not a candidate for that defense. In 2006 a
14 General Sessions Judge asked him questions on the record.
15 His defense attorney spent time with him prior to that plea.
16 And everyone understood Mr. Darnell is competent, he's not
17 mentally ill. He is perfectly capable of making the
18 decision to admit guilt.

19 And that's what he did. He admitted guilt. And he
20 received a sentence. And he went to jail. That occurred in
21 August of 2006. And he anxiously waited, and waited, and
22 waited for more than four years to finish his sentence to
23 get back outside.

24 He hadn't had a strawberry milkshake in more than four
25 years 'cause they don't make those at the Department of

OPENING STATEMENTS - MS. WIYGUL

24

1 Corrections. But he knew that he needed to do his time and
2 complete his sentence. And that is what he did, he thought.

3 But the State decided that he had not been locked up
4 long enough. So instead of calling this punishment, they're
5 calling it treatment. They're calling it long-term control
6 and care. It's the same thing.

7 He was released from the Department of Corrections on
8 August 26th of 2010. He's been sitting at the Greenville
9 County Detention Center since that date waiting for this
10 trial.

11 Today y'all have a very hard decision to make. But I
12 submit to you that it's really not that hard a decision.
13 What he did was horrible. And he admitted it. And he pled
14 guilty. And he was sentenced by a judge. And he did his
15 time. And that's the way our justice system is supposed to
16 work.

17 And all we're asking you to do today, to let him go
18 home. We're going to ask that you find that Mr. Darnell is
19 not a sexually violent predator because if he was that in
20 need of treatment he would have gotten it in 2006 instead of
21 going to prison. Thank you.

22 THE COURT: You may call your first witness, Mr.
23 Flores.

24 MR. FLORES: Thank you, Your Honor. The State would
25 call Dr. Rebecca Jackson.

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1 THE COURT: Come around and be sworn, please.

2 Rebecca Jackson, being

3 duly sworn testified as follows:

4 MADAME CLERK: Please state your name for the record.

5 DR. JACKSON: Rebecca Jackson.

6 MADAME CLERK: Thank you. You may be seated.

7 Direct Examination by Mr. Flores:

8 Q. Good afternoon, Dr. Jackson.

9 A. Good afternoon.

10 Q. Would you describe for the jury, briefly, your
11 professional career, your job history, if you would.

12 A. Sure. Well, my education, I have a bachelor's degree
13 in psychology, a master's degree in psychology and a Ph.D in
14 clinical psychology.

15 I've been working with a group of offenders known as
16 sexually violent predators, also called sex offender civil
17 commitment. I've been working in this field since about
18 2003 in various capacities with various programs, done
19 treatment, evaluation, administration, research for four
20 different programs in four different states.

21 I was with the South Carolina Department of Mental
22 Health for about a year and a half. And most recently since
23 July 2011 I moved to the Florida Sex Offender Civil
24 Commitment Program, their version of the Sexually Violent
25 Predator Program where I'm the clinical director for the six

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1 hundred and eighty men who reside in that facility.

2 Q. Would you briefly describe for the jury what the study
3 of psychology is?

4 A. Broadly, psychology is the study of human emotions,
5 thoughts and behaviors.

6 Q. I understand that you are also a professor, you hold a
7 professorship?

8 A. That is correct. I'm also an associate professor with
9 a university in California.

10 Q. And what do you teach?

11 A. Forensic psychology.

12 Q. What is forensic psychology?

13 A. It is the application of broad psychological principals
14 to help answer questions that the law has. And those
15 questions run the gamut between criminal and civil law. It
16 may be competency, or insanity or, in this case, sex
17 offender civil commitment.

18 Q. Have you previously been recognized and testified as an
19 expert in the field of forensic psychology in the courts of
20 law in this State?

21 A. Yes.

22 Q. Approximately how many times have you been recognized?

23 A. Roughly a dozen in South Carolina.

24 Q. As part of your previous employment with the South
25 Carolina Department of Mental Health were you tasked with

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1 performing evaluations pursuant to the Sexually Violent
2 Predator Act?

3 A. Yes. That was my sole responsibility for about the
4 fifteen months that I was working with the Department of
5 Mental Health.

6 Q. And about how many evaluations did you conduct?

7 A. About forty-five during that time.

8 Q. And of the forty-five that you conducted how many did
9 you recommend being committed to the program?

10 A. It was about thirty-five percent, about seventeen men.

11 Q. Seventeen out of forty-five?

12 A. Yes.

13 MR. FLORES: Your Honor, at this time we would move for
14 Dr. Jackson to be recognized as an expert in the field of
15 forensic psychology.

16 MS. WIYGUL: Without objection.

17 THE COURT: Without objection this witness will be
18 considered an expert in the field of forensic psychology.
19 Experts normally are qualified in some field that's not
20 common knowledge of other individuals. It may be a
21 profession, it may be a science, but when a person is
22 qualified because of education or training or other
23 abilities, that person can be allowed to give opinions about
24 certain matters within their field of expertise.

25 This witness being qualified as a forensic psychologist

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1 will be allowed to give opinions and the basis of those
2 opinions as an expert unlike other witnesses who can tell
3 what they saw, or heard or experienced in some way. The
4 fact that an expert is allowed to give an opinion does not
5 mean that you must accept that opinion. It's evidence like
6 all other evidence for you to consider and weigh as you see
7 fit. Mr. Flores, you may continue your examination of the
8 witness.

9 MR. FLORES: Thank you, Your Honor.

10 Direct Examination by Mr. Flores continued:

11 Q. Dr. Jackson, how did you become involved with this
12 case?

13 A. I was appointed by the court to conduct this
14 evaluation.

15 Q. And when you are appointed by the court, are you --
16 what are you tasked with doing, asking you to do?

17 A. The law specifically is designed for individuals who
18 represent a, quoting, mentally abnormal and extremely
19 dangerous group of sexually violent predators who require
20 care, control and treatment.

21 The question I am asked is does the respondent meet
22 criteria under the law. And the criteria are; has he
23 committed a sexually violent offense? Does he have a mental
24 abnormality? And does that mental abnormality make him
25 likely to commit acts of future sexual violence? Likely is

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1 further defined in the law only as sufficient likelihood to
2 pose a menace to society.

3 Q. As the court appointed evaluator are you ever paid any
4 extra money to do these?

5 A. No.

6 Q. Was that part of your description with the Department
7 of Mental Health ---

8 A. Yes.

9 Q. --- when you were employed? As part of your evaluation
10 did you meet with and interview Mr. Darnell?

11 A. I did.

12 Q. And is the man that you met with here in the courtroom
13 today?

14 A. Yes. He's seated next to his attorney.

15 MR. FLORES: Your Honor, we move to ask that the record
16 reflect that Dr. Jackson identified Mr. Darnell.

17 THE COURT: So ruled.

18 MR. FLORES: Thank you, Your Honor.

19 Q. After you've been ordered to conduct an evaluation in
20 this type case can you describe for the jury what your
21 protocol is? What do you do to reach an opinion in this
22 kind of case?

23 A. The first thing that occurs is a file of information is
24 forwarded to the evaluator. And the information is pretty
25 comprehensive that we receive. It often contains arrest

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1 records, sentencing sheets, any prior psychological or
2 psychiatric evaluations, educational history, social
3 histories, any mental health history, hospitalizations.

4 There will be records from the Department of
5 Corrections from any terms of imprisonment he may have
6 served. And in some cases -- an unusual case there may be
7 some idiosyncratic records here and there.

8 Q. And how do you normally obtain those materials?

9 A. The Attorney General's Office forwards them to us.

10 Q. And was that done in this case?

11 A. Yes.

12 Q. On how many occasions did you sit down and talk with
13 Mr. Darnell?

14 A. One occasion for four and a half hours.

15 Q. And when did you actually conduct your interview?

16 A. Back in June of 2010.

17 Q. And you rendered your opinion in this case when?

18 A. The report is dated June 23rd, 2010.

19 Q. Now the information that you just described, the legal
20 records, the information you gather to conduct these types
21 of evaluations, is that the type that's typically and
22 reasonably relied upon by other experts in your field?

23 A. Yes.

24 Q. To your knowledge was there any information that you
25 sought that you could not obtain in this case?

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1 A. No, there wasn't.

2 Q. Doctor, why do you -- why did you rely on information
3 regarding Mr. Darnell's criminal history in reaching your
4 opinion in this matter?

5 A. The documentation that's provided in these cases often
6 does provide the most comprehensive picture of an
7 individual's life, and functioning and behavior. It allows
8 us to score risk assessment instruments, which are often
9 based on past behaviors.

10 And risk assessment instruments are obviously important
11 when attempting to estimate how likely somebody is to re-
12 offend. So having solid documentation of a person's history
13 is important.

14 Certainly as you might imagine in adversarial settings,
15 such as legal settings, where an individual's liberty is at
16 risk, he may or may not be motivated to be completely
17 genuine or forthright. And so it often helps to have a
18 record of their history where you can compare and contrast
19 and to gather facts.

20 Q. Based on your interview with Mr. Darnell and review of
21 his file at the time of your interview had he been convicted
22 of a sexually violent offense?

23 A. Yes.

24 Q. Of what had he been convicted when you conducted your
25 evaluation?

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1 A. He had two prior convictions. The first conviction was
2 for a criminal sexual conduct, second degree, back in 1993.
3 He was sentenced for that and released in 1998.

4 After that he was actually reviewed by the multi-
5 disciplinary team for this Sexually Violent Predator Act.
6 And the multi-disciplinary team referred him, but it was
7 dropped during the probable cause incident. So he was
8 released on that occasion.

9 His next conviction occurred in 2006. And that was
10 also for criminal sexual conduct, second degree.

11 MR. FLORES: May I approach the witness, Your Honor?

12 THE COURT: You may do so.

13 Q. Doctor, I'm going to hand you what's been marked as
14 Plaintiff's exhibit number 1 for identification. Would you
15 just take a moment to review that, that set of documents?

16 (Pause)

17 Q. Doctor, have you seen these documents before?

18 A. Yes, copies were included in the file.

19 Q. And what are these -- or what are these documents of?

20 A. This -- these documents pertain to Mr. Darnell's first
21 conviction. It includes an indictment, an affidavit, an
22 indictment of offenses, and affidavits, sentencing sheet.

23 Q. Okay. How do you know that they are what they portray
24 to be?

25 A. They have the seal of the court on them.

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1 Q. Doctor, based on your review of the legal documents,
2 these documents, any other law enforcement documents you may
3 have had, any interview that you may have had, or any
4 information you learned from Mr. Darnell, could you tell the
5 jury what happened in this underlying offense?

6 A. This offense pertains to his minor step-daughter. The
7 indictment indicates that she was twelve years old when the
8 offense happened in 1992.

9 And then according to the affidavit, it says that a
10 female who was twelve years old at the time of the incident,
11 his step-daughter, the statement indicates that the
12 Defendant did carry her into his bedroom, remove her
13 clothing and lick and finger her between her legs. He also
14 attempted to insert his penis into her vagina and slightly
15 penetrated her. This incident occurred at the Defendant's
16 residence in Greenville County.

17 In addition to this document I have noted that there
18 was a victim's statement in the report that indicated the
19 abuse actually began when she was five and was not disclosed
20 until later when he was charged with one of the later
21 incidents.

22 MR. FLORES: Your Honor, we would move Plaintiff's
23 exhibit 1 into evidence at this time.

24 THE COURT: Any objection?

25 MS. WIYGUL: Without objection, Your Honor.

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1 THE COURT: Without objection Plaintiff's exhibit 1 is
2 admitted into evidence. It may be published to the jury.

3 (Whereupon Plaintiff's exhibit 1 was admitted into
4 evidence)

5 MR. FLORES: Thank you, Your Honor. If I may approach
6 the witness again, Your Honor?

7 THE COURT: You may do so.

8 MR. FLORES: Thank you.

9 Q. Dr. Jackson, I'm handing you what's been marked as
10 Plaintiff's exhibit 2 for identification purposes. Would
11 you review those set of documents, please?

12 (Pause)

13 A. Similar to the first set. It's the indictment, the
14 affidavit, and the sentencing sheet for his later 2004
15 offenses.

16 Q. And based on these documents as well as the documents
17 that you reviewed in this case, as well as your interview
18 with Mr. Darnell what occurred with regard to this offense?

19 A. According to the affidavit itself, indicates that the
20 affiant has a statement from the victim in which he states
21 that the Defendant has performed oral sex on him in the
22 past.

23 Affiant also has a statement from the Defendant in
24 which he states that sometime in November 2003 he did
25 perform oral sex on the victim who was thirteen years of

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1 age. The victim is the step-son to the Defendant. The
2 incident occurred in Greenville County. Similarly, there
3 was a victim report included in the information received
4 that indicated the abuse occurred between the time that his
5 step-son was eleven to thirteen.

6 Q. And these documents, I must ask you, how do you know
7 they are what they portray to be?

8 A. Again, it is sealed. The Clerk's seal is on the
9 documents.

10 MR. FLORES: We would move Plaintiff's exhibit 2 into
11 evidence at this time.

12 MS. WIYGUL: Without objection.

13 THE COURT: Without objection exhibit 2 is admitted
14 into evidence. It may be published.

15 (Whereupon Plaintiff's exhibit 2 was admitted into
16 evidence)

17 MR. FLORES: Thank you, Your Honor.

18 Q. Going back to the offenses described in Plaintiff's
19 exhibit 1, what sentence did -- did Mr. Darnell plead guilty
20 to that offense?

21 A. He pleaded guilty.

22 Q. And what did he -- what was his sentence? What was the
23 sentence he received for that offense?

24 A. He received a ten year sentence.

25 Q. Were there any other conditions imposed upon him at the

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1 Department of Corrections?

2 A. There was a handwritten note on the sentencing sheet
3 that indicates, quote, get what treatment is available.

4 Q. As part of your -- let's go back now to the second
5 exhibit. Do you recall if Mr. Darnell went to trial or pled
6 guilty in this incidence?

7 A. It would indicate he pleaded guilty.

8 Q. And what was the sentence he received?

9 A. Five years.

10 Q. And were there any other conditions placed upon him at
11 the time?

12 A. That he must register with the Sex Offender Registry,
13 which is required of virtually all sex offenders.

14 Q. Now concerning these particular offenses, doctor, was
15 there anything significant about the offenses themselves
16 with regard to your ultimate opinion in this case?

17 A. Yes. Probably the -- striking for me was that the
18 victims were both male and female minor children.

19 Individuals who are attracted to children often have a
20 preference for minor females or minor males.

21 I won't say that it's uncommon for someone to have
22 victims of both types, but it increases an individual's risk
23 if he also has male victims. So that was particularly
24 meaningful in a risk perspective. That's meaningful.

25 It was the fact that he re-offended again after prison,

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1 is also meaningful, that he had been sanctioned for an
2 earlier offense, did time in prison, was released, had had a
3 little bit of treatment during his first incarceration, but
4 re-offended when he got out with a completely different
5 victim profile. Those facts in and of themselves were
6 concerning.

7 Q. Now you just mentioned that he did undergo some sex
8 offender treatment. He was ordered to do so by the court
9 ---

10 A. Yes.

11 Q. --- following his first offense. What did you learn
12 about that sex offender treatment?

13 A. There are a couple of different phases of sex offender
14 treatment within the Department of Corrections. And for
15 sake of argument, phase one, phase two. Mr. Darnell
16 participated in phase one, which does tend to be more
17 psychoeducational, teaching an individual about risk
18 factors, teaching them why people might commit sexual
19 offenses. It has less to do with intensive treatment of an
20 individual, as I said, educational in nature. And he
21 completed that while incarcerated.

22 Q. Did he complete any further treatment according to your
23 records or your interview with him?

24 A. No other sex offender treatment.

25 Q. And that treatment was completed prior to his second

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1 offense?

2 A. Correct.

3 Q. Is that significant with regard to your opinion?

4 A. It is significant that he was exposed to some treatment
5 and also significant that he had spent time in prison, as I
6 said, being sanctioned for his first offense. So those two
7 things are relevant.

8 Q. And was the information about the offenses, the
9 details, the fact that he went to the sex offender
10 treatment, was this part of the basis of your opinion in
11 this case?

12 A. Yes.

13 Q. Was it the sole basis of your opinion in this case?

14 A. No.

15 Q. Now you mentioned to the jury that you perform an
16 actuarial instrument or assessments. Could you describe
17 what you did in this case?

18 A. Sure. Do you mind if I take a moment to talk about
19 risk factors, explain some risk factors first?

20 Q. That would be appropriate at this time. What are risk
21 factors?

22 A. Well, risk factors are attributes or qualities that an
23 individual has that can increase or potentially decrease an
24 individual's risk. In this case it's for sexual offending.
25 But we look at risk factors in many aspects of our lives.

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1 There are a couple of different kinds of risk factors.
2 There are historical risk factors, which tend to be static
3 in nature. And then there are dynamic ones that are more
4 changeable over time.

5 An example that we use in our every day lives is with
6 looking at a person's risk for heart attack. There are
7 certainly lots of static, historical factors that will put
8 you at risk for a heart attack. If you're male, if you're
9 over sixty, if you have a family history of heart disease.
10 Those are risk factors. But they're historical, they're
11 static, there's really nothing you can do about them.

12 And there are also dynamic risk factors. Those things
13 are more changeable. So if you -- if you exercise, if you
14 eat well and you don't smoke, you can reduce your risk of
15 having a heart attack. But if you eat red meat at every
16 meal, if you never exercise, have a sedentary lifestyle, and
17 you smoke a pack of cigarettes a day, you increase that
18 risk.

19 So a person, even with the same historical static risk
20 factors that we talked about, would be at very different
21 levels of risk potentially based on those changeable risk
22 factors, in this case, lifestyle risk factors.

23 So when we look at someone's risk for future sexual
24 offending, we look at both kinds of risk factors. Those are
25 historical and those also that are more changeable that we

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1 can potentially treat over time.

2 Q. All right. Well, let's go ahead and start with the
3 historical factors.

4 A. There is an instrument that is used to rate and score
5 the static risk factors. And the instrument is called the
6 Static-99 revised version. It consists of ten static risk
7 factors that are scored primarily based on presence or
8 absence of the risk factor and number of previous sex
9 offenses.

10 The instrument itself was formed on years and years of
11 research that included about twenty-eight thousand sex
12 offenders who were released from prison. Each one of these
13 sex offenders were scored on that instrument. They followed
14 them up over five, ten, fifteen year periods. And then they
15 were able to look at rates of re-offense compared to what
16 they scored on the instrument.

17 And the higher score on the instrument, you were in a
18 bin of men who re-offended at higher rates. The lower your
19 score was, the less likely you were to re-offend. So it
20 allows us to give an estimate both in terms of how likely is
21 it that an individual may re-offend, but then also, how
22 risky is he compared to every other sexual offender who's
23 been released or at least those twenty-eight thousand sexual
24 offenders. Where does he fall on that risk level compared
25 to all of those men?

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1 Q. Now when you, maybe tabulated might be a good word, I
2 don't know, tabulated this actuarial instrument, what did
3 you learn about Mr. Darnell?

4 A. The scores on the instrument actually range from
5 negative 3 to 12. The average score on the instrument, out
6 of those twenty-eight thousand individuals who got out, the
7 average score was a 2. Mr. Darnell scores a 4.

8 So he scored actually higher than seventy percent of
9 those twenty-eight thousand men who were released from
10 prison. Seventy percent of those men scored lower than he
11 did.

12 Q. What does that mean as far as likelihood to re-offend?

13 A. Of the individuals in that large group who did -- let
14 me find that piece so I can be exact about it. Of the
15 individuals who scored 4 in that group of offenders who were
16 released, roughly fifteen percent re-offended within five
17 years of their release date. And approximately twenty-two
18 percent of them re-offended within ten years. And that's
19 just sexual re-offending. That didn't include other kinds
20 of re-offending.

21 Q. And this is solely with regard to historic or static
22 factors?

23 A. Exactly.

24 Q. Was this part of the basis of your opinion?

25 A. Yes.

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1 Q. Was it the sole basis for your opinion?

2 A. No.

3 Q. Let's move to the changeable or dynamic risk factors.

4 When you took a look at Mr. Darnell's records, his
5 information, your interview, were there risk factors that
6 stood out for you that you discovered, perhaps, were
7 relevant in this case?

8 A. Yes. Mr. Darnell did exhibit through his history as
9 well as during the interview process several dynamic risk
10 factors that were important for me. And I'll explain a
11 little bit -- I'll go down the list and explain a little bit
12 what each of them is.

13 Again, the research literature has identified factors
14 that when present increase an individual's risk of re-
15 offense. So when I'm looking for risk factors in an
16 evaluation there are research based risk factors, things
17 that we know from science are related to re-offending.

18 In Mr. Darnell's case there was an inability to stop
19 his behavior, inabilities to control his sexual behavior in
20 a couple of different aspects of his life. He indicated to
21 me during the interview that he didn't want to offend
22 against his step-son.

23 And he seemed genuinely confused about why he had done
24 so and genuinely upset, and frustrated, confused why he had
25 done that, but found himself unable to stop. He indicated

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1 to me that he had attempted prayer in order to help him
2 stop. And that was not enough to overcome that desire.

3 He'd also had a history of pornography use and
4 masturbation, at times quite frequent. At times in between
5 marriages he talked about viewing pornography, masturbating
6 multiple times a day. During marriages it would be reduced
7 to a couple of times a month. But he indicated that he
8 didn't feel it was right, somewhat against his religious
9 views, yet he was unable or unwilling to modify that
10 behavior and continued to do so despite the fact that it was
11 wrong. So that -- that he felt it was wrong. Pardon me.

12 So that suggests to me that there was a bit of an
13 inability to control some sexual behavior. He had
14 difficulty controlling those urges. That's one.

15 At least during his first offense he discussed having a
16 history of substance abuse. And certainly alcohol in
17 particular can lower inhibitions. He mentioned that as a
18 factor for him.

19 During his second set of offenses with his step-son he
20 indicated to me during the evaluation that the step-son, his
21 step-son was the aggressor in these episodes. And it to me
22 suggested a shifting of responsibility to the victim. And
23 this has been identified as a treatment target or something
24 that does put individuals at risk when they view children as
25 sexual beings or viewing children as wanting to engage in

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1 sexual behavior with adults or encouraging sexual behavior
2 with adults is a risk factor.

3 We've already indicated Mr. Darnell did participate in
4 high density sexual behavior with pornography and
5 masturbation. High density sexual behavior, having a high
6 sex drive has been linked to future sexual offending.

7 This is not to say that having a high sex drive causes
8 people to offend in the first place, but that once an
9 individual has offended, if he continues to be preoccupied
10 with sex, have high sexual arousal or high density sexual
11 behavior, that is a risk factor for participating in sexual
12 offending in the future.

13 Finally, Mr. Darnell also did have some troubled
14 innerpersonal relationships. He had three marriages that
15 were marred in one way or another by infidelity, sexual
16 offending, substance abuse, sexual difficulties, that he did
17 not obtain or maintain an appropriate healthy intimate
18 relationship with an adult. Lack of these kinds of intimate
19 relationships with adults will also put individuals at risk
20 for future offending.

21 Q. And these dynamic factors were also part of the basis
22 for your opinion in this matter?

23 A. Yes.

24 Q. Doctor, was there any other information upon which you
25 relied in rendering your opinion in this matter?

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1 (Pause)

2 A. No.

3 Q. Doctor, based on your examination of Mr. Darnell, and
4 review of his records and legal documents, all these risk
5 factors and assessments we've been discussing, did you
6 render an opinion to a reasonable degree of psychological
7 certainty as to whether Mr. Darnell has a mental abnormality
8 or a personality disorder?

9 A. Yes.

10 Q. And what is that opinion?

11 A. Mr. Darnell suffers from a disorder called pedophilia,
12 sexually attracted to both, non-exclusive type. What that
13 means, breaking it down, pedophilia is a disorder
14 categorized by sexual arousal to children, prepubescent
15 children. Generally speaking, that's under the age of
16 thirteen, girls and boys.

17 Sexually attracted to both indicates that he appears to
18 have sexual arousal to both male and female children. And
19 the non-exclusive type indicates that he is also sexually
20 aroused to adults, and in his case, adult females, that his
21 sexual interest is not exclusive to children.

22 Q. Is this condition considered a life-long condition?

23 A. It is.

24 Q. Doctor, based on all this information you have just
25 discussed with the jury do you have an opinion to a

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1 reasonable degree of psychological certainty as to whether
2 Mr. Darnell's pedophilia affects his emotional or volitional
3 capacity so that he is predisposed to commit future sexually
4 violent offenses?

5 A. Yes.

6 Q. And what is that opinion?

7 A. Based on behavioral history as well as the interview it
8 does appear that he had difficulty controlling his behavior,
9 which the law considers volitional impairment, essentially
10 just lack of ability to control your sexual behavior.

11 Q. Doctor, do you have an opinion to a reasonable degree
12 of psychological certainty as to whether Mr. Darnell has the
13 propensity to be dangerous and to commit future sexually
14 violent offenses?

15 A. Again, based on the information I have available, it
16 does appear so.

17 Q. Doctor, do you have an opinion to a reasonable degree
18 of psychological certainty as to whether Mr. Darnell's
19 propensity to commit future sexually violent offenses is of
20 such a degree that it poses a menace to the health and
21 safety of others?

22 A. Yes, I believe it does.

23 Q. Doctor, can you explain why you believe that he has
24 that -- that his propensity is of such a degree that it
25 poses a menace to the health and safety of others?

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1 A. His -- again, what was a bit concerning about Mr.
2 Darnell's history is that he offended against both boys and
3 girls was a bit of an indiscriminate nature to his victim
4 profile. These were also victims who were living under his
5 care, minor children for whom he was responsible.

6 He had lived with his step-daughter, my understanding,
7 is all of -- all of her life as -- before he was offending.
8 But his step-son lived with him for only about four months
9 according to his step-son before he started offending.

10 So the fact that he was in a caretaker role over these
11 individuals was concerning, that he, again, went through
12 some treatment, had been subject to sex offender civil
13 commitment in the past, had been sanctioned for an earlier
14 offense and went on to do it again, a second victim profile
15 was also concerning.

16 Q. Doctor, do you have an opinion to a reasonable degree
17 of psychological certainty as to whether Mr. Darnell has
18 serious difficulty in controlling his behavior and his
19 propensities to be dangerous?

20 A. Again, yes. And that partly comes from his history as
21 we just discussed as well as Mr. Darnell's acknowledgment of
22 how much difficulty he had controlling his sexual behavior
23 both in terms of pornography use, but as well as not wanting
24 to offend against his step-son, but continuing to do it
25 definitely demonstrates a lack of control.

REBECCA JACKSON - CROSS EXAMINATION BY MS. WIYGUL

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1 Q. Doctor, do you have an opinion to a reasonable degree
2 of psychological certainty as to whether Mr. Darnell's
3 pedophilia makes him likely to engage in acts of sexual
4 violence if he is not confined in a secure facility for
5 long-term control, care and treatment?

6 A. I believe it does.

7 Q. And, doctor, do you have an opinion to a reasonable
8 degree of psychological certainty as to whether Mr. Darnell
9 meets the legal criteria to be found a sexually violent
10 predator at this time?

11 A. In my opinion, he does.

12 MR. FLORES: I beg the Court's indulgence.

13 THE COURT: Yes, sir.

14 (Pause)

15 MR. FLORES: Your Honor, that's all the questions I
16 have for Dr. Jackson.

17 THE COURT: You may cross examine the witness, Ms.
18 Wiygul.

19 Cross Examination by Ms. Wiygul:

20 Q. Dr. Jackson, just to clarify, you're not a medical
21 doctor, right?

22 A. I am not.

23 Q. Okay. You can't write prescriptions?

24 A. No, I cannot.

25 Q. And, in fact, you stated you work in Florida now. You

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1 no longer live or work in this State, correct?

2 A. That is correct. As of July, I moved to Florida.

3 Q. In fact, you're not even licensed to practice in this
4 State anymore, correct?

5 A. I'm not. When I moved to Florida I did not renew my
6 South Carolina license.

7 Q. Now you stated that some of the concerning dynamic
8 factors were that Mr. Darnell views children as sexual
9 beings, correct?

10 A. I believe what I said is that he explained to me that
11 his perception was that his step-son was the aggressor.

12 Q. Okay. Wouldn't -- and I wrote down exactly what you
13 said about him viewing children as sexual beings. Wouldn't
14 any person that suffers from pedophilia view children in a
15 sexual manner?

16 A. Most do, yes.

17 Q. Okay. You stated that he had troubled innerpersonal
18 relationships and specifically referenced his marriages.
19 Isn't it kind of logical that these women whose children
20 have been the victims may divorce Mr. Darnell?

21 A. Of course. Of course. And what Mr. Darnell explained
22 to me, at least in the process of his first offenses with
23 his step-daughter is that he would often turn to his step-
24 daughter because his wife was refusing to have sex with him
25 because he was drunk or hung over, so that he would go to

REBECCA JACKSON - CROSS EXAMINATION BY MS. WIYGUL

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1 his step-daughter instead.

2 Q. Okay. Is pedophilia a mental illness?

3 A. Yes.

4 Q. Okay. So do you believe that the courts handled it
5 incorrectly whenever he pled guilty? Do you believe he
6 should have been found guilty, but mentally ill?

7 A. To be honest, I have no legal opinion on that. I'm not
8 an attorney.

9 Q. Would he have suffered from this whenever he pled
10 guilty?

11 A. I would think so based on his record, yes.

12 Q. Okay. Mr. Darnell voluntarily sought mental health
13 treatment when he was not in prison, correct?

14 A. For depression. He sought treatment after his -- one
15 of his marriages broke up. And then also for depression.
16 Let me give you specifics here in a moment, if you'd like.

17 Yes, they were not related to sexual offending in any
18 way. He had a hospitalization. According to the records
19 his first inpatient hospitalization occurred shortly after
20 his second wife left him.

21 My report indicates he -- he reported that he found out
22 she was seeing another man and he cut his wrists. He
23 acknowledged he didn't intend to kill himself and his intent
24 was for her to feel sorry for him and return to the
25 relationship. So that was his first hospitalization when he

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1 sought treatment.

2 The second hospitalization, this occurred after his
3 third marriage dissolved. I apologize. I think I may have
4 said second. And he was staying with a friend. Said he --
5 stated he was depressed, but not suicidal on that occasion.
6 He felt he wasn't able to cope and voluntarily admitted
7 himself. He's also received outpatient mental health
8 treatment for depression.

9 Q. And this is the same Department of Mental Health that
10 oversees this program, correct?

11 A. South Carolina Department ---

12 Q. Um-hum (affirmative).

13 A. --- of Mental Health is statewide, yes.

14 Q. Okay. And the Department of Mental Health at that time
15 had his records, correct?

16 A. I honestly don't know what they had in terms of ---

17 Q. Is it typical ---

18 A. --- legal or psychiatric ---

19 Q. --- for the Department of Mental Health to get the
20 records of the people they're treating?

21 A. They would -- they would mostly get medical records
22 unless they're there on a forensic admit after some sort of
23 criminal offense. They may not have legal records.

24 Q. Are you aware that there was no phase two, the C-Star
25 Program, the Sex Offender Treatment Program whenever Mr.

REBECCA JACKSON - CROSS EXAMINATION BY MS. WIYGUL

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1 Darnell participated in the phase one portion?

2 A. I'm not aware if that existed for him or not.

3 Q. Okay. Do you have any records that would suggest that
4 anyone offered him a phase two of the program?

5 A. There's no record that he was offered that, no.

6 Q. Okay. Mr. Darnell was in the marines for a short
7 period of time, isn't that right?

8 A. That's my understanding, yes.

9 Q. And he was discharged due to basically just having bad
10 knees?

11 A. Bad knees, and I believe he has a bad back, but that
12 may have come later.

13 Q. And he was a firefighter for five years, correct?

14 A. That is what he reported to me, yes.

15 Q. And his back and knee problems are so severe at this
16 point that at some point after he was a firefighter he was
17 actually declared disabled, correct?

18 A. Yes. He indicated to me during the interview that he
19 became a truck driver after being a firefighter and that had
20 created some back problems for him. And as a result he was
21 receiving disability.

22 Q. Okay. And you met with Mr. Darnell once, correct?

23 A. Yes.

24 Q. Did you make any effort to visit with him or speak with
25 him in the past year and a half?

REBECCA JACKSON - CROSS EXAMINATION BY MS. WIYGUL

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1 A. I have not met with Mr. Darnell since.

2 Q. Okay. Did you speak with his brother?

3 A. No, I did not.

4 Q. Did you speak with any of the people that know him?

5 A. No, I did not.

6 Q. In fact, other than the interview with him all of your
7 information came from the Attorney General's Office,
8 correct?

9 A. Came from the records, yes.

10 Q. And those records were provided by the Attorney
11 General's Office, correct?

12 A. That is correct.

13 Q. Are you familiar with the treatment that's offered in
14 this program?

15 A. Very vaguely.

16 Q. Can you tell us what it entails?

17 A. My understanding of the South Carolina program is that
18 it's a group therapy format. Individuals from the facility
19 are brought over to the Department of Mental Health campus
20 and participate in group therapy with two therapists, I
21 believe they're co-facilitated groups, and then escorted
22 back to the unit.

23 Q. To the unit? So they're not housed at the Department
24 of Mental Health?

25 A. They're housed in a unit that is run by the Department

REBECCA JACKSON - REDIRECT EXAMINATION BY MR. FLORES

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1 of Mental Health, but it's on the grounds of the Department
2 of Corrections.

3 Q. I have no further questions. Thank you, doctor.

4 THE COURT: Any redirect?

5 MR. FLORES: Very briefly, Your Honor.

6 Redirect Examination by Mr. Flores:

7 Q. I just want to follow up on a couple of points that Ms.
8 Wiygul asked you about. She asked if you're currently
9 licensed to practice psychology in the State of South
10 Carolina and you responded no. Were you licensed at the
11 time you conducted this evaluation?

12 A. Yes. I'm also licensed in the State of Washington and
13 the State of Florida.

14 Q. And those are current?

15 A. Yes.

16 Q. She asked you about interviewing family members. And
17 you did not interview family members in this case. Is it
18 typical for interviewers or experts in your area to
19 interview family in these cases?

20 A. It would be uncommon to interview family. A compelling
21 reason to interview family is if they really felt that they
22 needed to contribute something to the evaluation, they
23 wanted the evaluator to know something that wasn't in the
24 record and requested it. I've done so on those occasions.

25 Or on occasion, if an individual may be going home to a

REBECCA JACKSON - REDIRECT EXAMINATION BY MR. FLORES

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1 family member and I have some questions about the release
2 environment, I may contact the family. But especially when
3 family involves victims, I tend not to intrude on family
4 space in that way.

5 Q. With regard to treatment you've stated to the jury and
6 to the Court that you left South Carolina last July. If
7 there had been changes to that program you would have no
8 idea about ---

9 A. I would have no idea.

10 Q. And last, I just want to follow up on this -- this
11 issue. Could you describe the unit at the Department of
12 Corrections, how that is set up?

13 A. Sure. It's an isolated unit in the Department of
14 Corrections where you must pass through its own security and
15 metal detection and walk across the yard to get to the unit.
16 So the individuals who are housed in the civil commitment
17 facility are not housed in the same area unit, they have no
18 overlap with the inmates of the Department of Corrections.

19 The staff on the civil commitment unit are Department
20 of Mental Health staff. Treatment providers and nurses all
21 work for the Department of Mental Health. So the physical
22 space and the food is provided by the Department of
23 Corrections, but the care and -- the care and treatment is
24 provided by the Department of Mental Health.

25 Q. Do you -- are you aware of the agreement between the

REBECCA JACKSON - REDIRECT EXAMINATION BY MR. FLORES

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1 Department of Mental Health and the Department of
2 Corrections in using that facility for this program?

3 A. My understanding is that they allow the program to use
4 space in that wing. It helps keep costs down so that other
5 resources can be channeled into other aspects of the
6 program, recreation, medical care, that kind of stuff.

7 Q. Was the Department of Corrections using that particular
8 facility?

9 A. My understanding is that it had been vacant before this
10 law was passed.

11 Q. Just to make it clear, what was that old facility?

12 A. Rumor has it it was the -- the old death row before
13 they created the new one.

14 Q. Okay. But that is entirely manned by the personnel of
15 the Department of Mental Health, is that correct?

16 A. Yes.

17 Q. And the Department of Mental Health is required to have
18 this particular treatment program in a secure facility?

19 A. Absolutely.

20 Q. And that's required by law?

21 A. Yes.

22 MR. FLORES: I have no further questions, Your Honor.

23 MS. WIYGUL: Your Honor, may I ask one brief follow-up
24 question?

25 THE COURT: Brief follow-up.

REBECCA JACKSON - RECROSS EXAMINATION BY MS. WIYGUL

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1 Recross Examination by Ms. Wiygul:

2 Q. Are you aware that the food for this unit is prepared
3 by the inmates at the Department of Corrections?

4 A. I'm -- I am aware the Department of Corrections
5 provides food. And in most prison kitchens inmates do work
6 there. So that seems reasonable. I don't know that for a
7 fact, but that does seem very reasonable.

8 MS. WIYGUL: No further questions.

9 THE COURT: All right. Thank you, doctor. You may
10 step down. Any objection to this witness being excused?

11 MS. WIYGUL: No objection.

12 THE COURT: Thank you. You may be excused. The State
13 may call its next witness.

14 MR. FLORES: If I may briefly, Your Honor?

15 THE COURT: Yes, sir.

16 (Pause)

17 MR. FLORES: Your Honor, at this time the State would
18 rest.

19 THE COURT: Okay. Ladies and gentlemen, I'm going to
20 let you go back to your jury room just for a few moments.
21 We need to take care of some other matters. I'll not keep
22 you as long as last time, I assure you.

23 When you come back out, I'm going to appoint Ms. Cecile
24 as the foreperson of the jury. If she would just occupy the
25 front row, the seat closest to the witness chair here.

1 What the foreperson will do is to -- that'd be Cecile,
2 I guess, instead of Ms. Cecile, would be the one to -- if
3 you need any communication with the Clerk's Office or with
4 me while you're back in your jury room, she can just write
5 that request out, give it to the bailiff, we'll take care of
6 it.

7 Ultimately what the foreperson will do will be the one
8 who will make sure that everyone has their say and on behalf
9 of the fellow jurors write out the verdict form. So she'll
10 occupy that seat.

11 And, Ms. Knight, the alternate will occupy the seat on
12 the back row closest to the wall over here. And the rest of
13 you can sit in any seat that you choose.

14 If you will go with the bailiff. At this time don't
15 discuss the case. We'll call you back in just a few
16 moments.

17 (Whereupon the jury exited the courtroom at 4:38 pm)

18 **THE COURT:** Could I see the attorneys up here just for
19 a moment?

20 (Whereupon a bench conference was held off the record)

21 **THE COURT:** All right. I understand we have a verdict
22 in the other case. If we can get Mr. Markham back out.

23 (Whereupon court was in recess at 4:39 pm)

24 (Whereupon court resumed at 5:00 pm)

25 **THE COURT:** You ready to proceed, ladies and gentlemen?

RONALD DARNELL - DIRECT EXAMINATION BY MS. WIYGUL

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1 MS. WIYGUL: Yes, Your Honor.

2 THE COURT: Ready to proceed?

3 MR. FLORES: Yes, Your Honor.

4 THE COURT: Let's have our jury come in, Ms. Fryor, if
5 they're ready.

6 (Whereupon the jury entered the courtroom at 5:02 pm)

7 THE COURT: Thank you very much, ladies and gentlemen.
8 We're now ready to proceed. Ms. Wiygul, you may call your
9 first witness.

10 MS. WIYGUL: Your Honor, the State [sic] calls Ronald
11 Darnell.

12 THE COURT: First witness for the Respondent. If you'd
13 please come around and be sworn, please.

14 MADAME CLERK: If you'll place your left hand on the
15 Bible and raise your right hand, please.

16 Ronald Darnell, being
17 duly sworn testified as follows:

18 MADAME CLERK: Please state your name for the record.

19 MR. DARNELL: Ronald A. Darnell.

20 MADAME CLERK: Thank you. You may be seated.

21 Direct Examination by Ms. Wiygul:

22 Q. Mr. Darnell, what's your relationship with Mr. Darnell?

23 A. I'm Eddie's youngest brother.

24 Q. Okay. And are you familiar with the circumstances of
25 his plea, of his guilty -- his most recent guilty plea?

RONALD DARNELL - DIRECT EXAMINATION BY MS. WIYGUL

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1 A. Yes, I am.

2 Q. And do you know if he knew that he could potentially be
3 sitting here for the same charge?

4 A. Absolutely none of us knew.

5 Q. Okay.

6 A. Completely blindsided.

7 Q. Okay. Are you aware of any time in the last six years
8 when anyone has attempted to give your brother any kind of
9 treatment?

10 A. Not any extensive that I know of.

11 Q. Okay. Tell us a little bit about your brother.

12 A. Well, Eddie's -- I'm the youngest out of four brothers.
13 He's always been a good guy. Graduated high school. I was
14 the youngest. Of course, he helped me a lot with a lot of
15 different things growing up whether it be homework or a
16 bully around the corner. Never really seen him hurt anybody
17 physically in that manner at all. He's always been a
18 helpful hardworking guy.

19 I was -- my wife and I nineteen years ago separated and
20 we had five children. And I got them all. I had them all
21 myself. So Eddie helped me a lot with them financially.
22 Let us stay at his place a while. He's always just helped
23 us out.

24 Q. Did he ever inappropriately touch any of your children?

25 A. Absolutely not.

RONALD DARNELL - DIRECT EXAMINATION BY MS. WIYGUL

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1 Q. Have you spoken with them about it?

2 A. I know for a fact they would tell me and we wouldn't be
3 here.

4 Q. Okay.

5 A. Absolutely not.

6 Q. When your brother pled guilty and received this
7 sentence what did he think that sentence was going to be?

8 A. It was my understanding on a guilty plea -- what they
9 call a plea bargain, whatever, for five years.

10 Q. Okay. So the judge sentenced him to five years?

11 A. Yes, ma'am. He was charged, he was guilty, pled guilty
12 and he done the five years, in fact, a lot more than five.

13 Q. Now when he's released where will he be living?

14 A. Sheila and I, that's my girlfriend, she's forty-four,
15 we live just -- she and I live together.

16 Q. Um-hum (affirmative).

17 A. Love to have him at our house.

18 Q. So you've got space for him?

19 A. Got space for him.

20 Q. Okay.

21 A. And I've been doing construction. I worked thirty
22 years residential/commercial work in commercial. Eddie's
23 worked with me numerous times. I mean, if I go to work, he
24 would be with me. If I go to church, he would be with
25 Sheila and I. If he needs to go shopping, he'd go with

RONALD DARNELL - DIRECT EXAMINATION BY MS. WIYGUL

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1 Sheila and I.

2 Q. Okay.

3 A. Whatever.

4 Q. So you're willing to basically hold his hand for the
5 rest of his life ---

6 A. Whatever it takes.

7 Q. --- if that's what it takes?

8 A. Whatever it takes.

9 Q. Have you ever heard of a Mental Health Treatment Center
10 housed at a death row?

11 A. No, ma'am.

12 Q. Does that make any sense to you?

13 A. No, ma'am, it doesn't make any sense at all. I can't
14 see much help coming out of that, especially mentally.

15 Q. Okay. Is there anything else that you'd like to tell
16 us about your brother?

17 A. If this Court would send my brother home with me, I'd
18 love to have him there. I'd accept a hundred percent of
19 responsibility, any guidelines no matter how intense they
20 are. From now til the day he's dead, he would be with me.

21 Q. Thank you, Mr. Darnell. I don't have any further
22 questions.

23 THE COURT: Any cross examination?

24 MR. FLORES: Nothing for this witness, Your Honor.

25 THE COURT: All right. Thank you, Mr. Darnell. You

MELVIN HAWKINS - DIRECT EXAMINATION BY MS. WIYGUL

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1 may step down from the witness stand.

2 MS. WIYGUL: Respondent calls Melvin Hawkins.

3 MADAME CLERK: If you'd place your left hand on the
4 Bible and raise your right hand.

5 Melvin Hawkins, being
6 duly sworn testified as follows:

7 MADAME CLERK: Please state your name for the record.

8 MR. HAWKINS: Melvin Hawkins.

9 MADAME CLERK: Thank you. You may be seated.

10 Direct Examination by Ms. Wiygul:

11 Q. Mr. Hawkins, thank you for being here today.

12 A. You're welcome.

13 Q. Tell me how you know Eddie.

14 A. I met -- I met Eddie the first time through his
15 brother, Ronnie. I had ---

16 Q. The gentleman we just ---

17 A. --- known Ronnie ---

18 Q. --- heard from?

19 A. I'm sorry. I had ---

20 Q. The gentlemen we just heard from? Ronnie is the
21 gentleman we just ---

22 A. Oh, I'm sorry. Yes.

23 Q. Okay.

24 A. Ronnie is the brother. He -- I knew Ronnie prior to
25 knowing Eddie. And Eddie came to my house one day with

MELVIN HAWKINS - DIRECT EXAMINATION BY MS. WIYGUL

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1 Ronnie, his brother. That's been about eleven -- eleven and
2 a half years ago.

3 Q. Okay.

4 A. And as over the time Eddie moved in with me, my wife
5 and family. And he lived with us for about a year and a
6 half, two years.

7 Q. How many children were in your house when Eddie was
8 living with you?

9 A. Grandchildren. At that time it was only one
10 grandchild, a little girl. And he was very good with her.
11 I mean, he never did anything out of the way. He was always
12 well behaved with her. And I would -- I would trust him
13 with her. I mean, that's just the type of person he is.
14 He's a very good person. Everybody makes mistakes. But as
15 far as him being around any of my children, I would have no
16 problem with it.

17 Q. Okay. And, sir, you have -- you have a little bit more
18 experience than most of us as far as dealing with people,
19 don't you?

20 A. Yes, ma'am.

21 Q. Can you tell us a little bit about that? What did you
22 used to do?

23 A. I was a paramedic. I was one of the first paramedics
24 in the State of South Carolina. I was also a South Carolina
25 State Constable under Governor Richard Riley.

MELVIN HAWKINS - DIRECT EXAMINATION BY MS. WIYGUL

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1 Q. Okay. For ---

2 A. And I ---

3 Q. --- how many years?

4 A. --- worked with Greenville County some. I would ride
5 with the Greenville County deputies and patrol with them.

6 And I worked places like when the auditorium was there, I'd
7 work events there, wrestling, concerts and so on.

8 Q. Okay. Mr. Hawkins, do you know -- are you aware if
9 Eddie anticipated the possibility of the State trying to get
10 him more time?

11 A. I have no idea of it. I haven't heard anything about
12 it. And I've talked to Eddie numerous times.

13 Q. Okay. Did it surprise you to hear that he would
14 receive this supposed treatment while housed at the old
15 death row?

16 A. No, it was a total surprise to me, you know. He was
17 sentenced, he pleaded guilty, plea bargain, he went before
18 the judge, pleaded guilty. He was sentenced to five years.
19 He's done his time.

20 Q. Okay. Is there anything else you'd like to tell us,
21 sir?

22 A. Well, I just don't think it's fair. I don't think the
23 justice system is fair him serving his time to what he was
24 sentenced and then bringing him back in the court and
25 retrying him again for the same sentence. I just, you know,

MICHAEL DARNELL - DIRECT EXAMINATION BY MS. WIYGUL

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1 I don't agree with it.

2 Q. Yes, sir. Thank you. I don't have any further
3 questions.

4 THE COURT: Any cross examination?

5 MR. FLORES: Nothing for this witness, Your Honor.

6 THE COURT: All right. Thank you, Mr. Hawkins. You
7 may step down. You may call your next witness, Ms. Wiygul.

8 MS. WIYGUL: Your Honor, Respondent calls Melvin, I'm
9 sorry, Mike Darnell.

10 MADAME CLERK: Place your left hand on the Bible and
11 raise your right hand, please.

12 Michael Darnell, being
13 duly sworn testified as follows:

14 MADAME CLERK: Please state your name for the record.

15 MR. DARNELL: Michael Darnell.

16 MADAME CLERK: Thank you. You may be seated.

17 Direct Examination by Ms. Wiygul:

18 Q. Mr. Darnell, I'm going to call you Mike so we don't get
19 confused. We ---

20 A. That's fine.

21 Q. --- have too many Darnells in the room. Mike, how do
22 you know Eddie?

23 A. Well, he's my uncle. I grew up around him. You know,
24 just my relative.

25 Q. Okay. How old are you?

MICHAEL DARNELL - DIRECT EXAMINATION BY MS. WIYGUL

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1 A. I'm thirty.

2 Q. So you were around Eddie when you were a child, is that
3 right?

4 A. Oh, yeah, absolutely. All the time.

5 Q. Did he ever touch you inappropriately?

6 A. No, ma'am.

7 Q. Did he ever make you feel uncomfortable in any way?

8 A. No, ma'am.

9 Q. What do you do now?

10 A. I'm a minister. I'm an ordained minister for the past
11 seven years and a missionary.

12 Q. Okay. Have you stayed in contact with Eddie while he's
13 been in prison?

14 A. We've spoken on the phone.

15 Q. Okay. And during the course of those conversations
16 have you made any plans for when he gets out?

17 A. Yes, ma'am. I told him that I would be in his corner
18 for whatever spiritual support he might need. And he
19 actually was the one who asked me to be there for him for
20 that.

21 So I told him I would definitely be willing, whatever
22 the case might be. I work with individuals on a spiritual
23 level all the time. So it's, you know, it's no problem at
24 all. I'd be willing.

25 Q. Okay. Have you been here in court to hear the

MICHAEL DARNELL - DIRECT EXAMINATION BY MS. WIYGUL

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1 testimony today?

2 A. Yes, ma'am.

3 Q. And were you surprised by anything?

4 A. Well, you know, this is my first time in court. It is
5 a little -- a little shocking to me, I guess, maybe in my
6 naiveness that a person could say they're guilty, not
7 challenge that, do their time and be released, and then be
8 brought back again for the same thing and give it a new
9 name, but it's the same thing.

10 You're talking about punishing a person that admitted
11 wrong, and he said I'll take what the verdict is, and I'll
12 do my time and progressively tries to get that, you know,
13 extra help they need and whatever is available. So, yeah, I
14 mean, I believe he's done his time. I believe he admitted
15 his wrong and took the punishment that was there. And, you
16 know, I believe he needs to go home.

17 Q. All right, sir. Do you have anything else you'd like
18 us to hear about your uncle?

19 A. Well, I want to tell him, excuse me, I don't want to be
20 emotional, that, you know, he's telling me when he came in
21 that I haven't seen his face in a lot of years. He said
22 that he was proud of me and -- for what I do, you know.
23 Excuse me. I'm sorry. I'm pretty emotional.

24 (Pause)

25 Sorry. Goodness. And I just want to tell you that I'm

MICHAEL DARNELL - DIRECT EXAMINATION BY MS. WIYGUL

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1 proud of you. It takes a lot to admit wrong. If most of us
2 were honest, we don't always admit we're wrong in what we do
3 in life. I'm proud of that. And as a minister of the Bible
4 we just swore in on, I know that Word. I do know it. I
5 preach it everywhere I go, around the world.

6 I'm taught to forgive because God has deemed me not
7 guilty. And I will be in your corner to help you in
8 whatever way I can according to that Bible without
9 prejudice, without considering your past. I will love you.
10 And I don't -- God says you're not guilty as well. You're
11 forgiven. And I'm proud of you for all the things you did..

12 I guess the only thing I really want to say to you also
13 is that growing up, it was really hard for us. We didn't
14 have a lot of money. We were pretty poor. You know, my
15 dad's in the room. So he -- he could tell you, it was
16 challenging times, split family, a lot of horrible things
17 going on.

18 The one thing I will say is that he stuck his neck out
19 for a big family to come live in his home. He was a great
20 disciplinary, pretty strict on his rules, pretty strict on
21 running his home, hard worker. I watched him work very hard
22 as a truck driver.

23 I thought it was pretty cool to learn he was a fireman.
24 I didn't know that. That's probably when I was a lot
25 younger. And, you know, he took care of the home.

MICHAEL DARNELL - DIRECT EXAMINATION BY MS. WIYGUL

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1 And this is -- this is my testimony as a minister. And
2 I tell people this all the time. A lot younger in my career
3 I was gang affiliated. Never joined a gang, but I ran with
4 them, carried guns, I was a formerly drug dealer. They
5 didn't catch me, obviously.

6 But I turned my life around. And through many years of
7 training, you know, I received my ordination. And a lot of
8 people in my situation, 'cause I deal with a lot of inner
9 city teens, to help them turn their lives around, a lot of
10 people in my situation without a structured home fall into
11 criminal activity.

12 And by him sticking his neck out for me then, I believe
13 was -- as a fragile part of my life and allowed me to have a
14 structured home when my family was falling apart. And so I
15 believe that I'm able to do what I do today because of
16 people like him, and he played a very big part of that,
17 sticking their neck out for me.

18 Q. Okay.

19 A. So I appreciate that. And I love you.

20 Q. Thank you, sir.

21 MS. WIYGUL: I have no further questions.

22 THE COURT: Any cross examination of this witness?

23 MR. FLORES: Nothing from this witness, Your Honor.

24 THE COURT: All right. Thank you. You may step down,
25 Mr. Darnell. You may call your next witness, Ms. Wiygul.

CLOSING ARGUMENTS - MR. FLORES

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1 MS. WIYGUL: Respondent rests, Your Honor.

2 THE COURT: Anything in reply?

3 MR. FLORES: Nothing in reply, Your Honor.

4 THE COURT: Madame Forelady, ladies and gentlemen of
5 the jury, you've heard all the testimony that's to be given.
6 The exhibits have been marked and identified and into
7 evidence now. The attorneys are going to make a closing
8 statement to you. I urge you to listen carefully as they
9 address you and give you their view, at least, of the
10 evidence. While this is not evidence, I'm confident they
11 can each give you some valuable insights to help you in your
12 deliberations.

13 After they've had a chance to address you I'm going to
14 instruct you on the law. The case will then be yours to
15 decide. Mr. Flores, you may address the jury in your
16 closing statement.

17 MR. FLORES: Thank you, Your Honor. May it please the
18 Court. Before I begin my closing arguments I do want to
19 express my thanks on behalf of myself, on behalf my
20 employer, the Attorney General's Office, and Alan Wilson.

21 These cases aren't easy. Details of crimes, what's
22 happening to families, these things are not pleasant. And
23 it's up to you to answer the questions that we cannot
24 answer. These are questions of fact.

25 The Sexually Violent Predator Act was passed in 1998,

CLOSING ARGUMENTS - MR. FLORES

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1 as I told you, for two reasons, because individuals who
2 suffer from mental abnormalities that make them more likely
3 to re-offend, more likely to commit acts of sexual violence
4 exists in our State. And they require treatment in a secure
5 facility to protect the citizens of our State during that
6 process.

7 Now, the testimony from Mr. Darnell's witness about
8 fairness, this is just punishment, he's admitted his guilt,
9 those questions have all been asked before. They're
10 questions of law. Our Supreme Court here in the State, our
11 U.S. Supreme Court has accepted these laws as being
12 constitutionally proper at this time.

13 The Judge will instruct you that whatever your personal
14 feelings are about the law, you think this is a good thing
15 or a bad thing, this is the law. And that's his role, as
16 the judge of the law. But you are the judges of the facts.
17 So I will turn to the facts in this case.

18 I have been asked to present this case to you and to
19 prove to you beyond a reasonable doubt that Mr. Darnell, Mr.
20 John Edward Darnell, is a sexually violent predator. To
21 that end I brought forth the court appointed evaluator to
22 express to you how she arrived at her opinion in this
23 matter, what she consulted, what she looked at, how much did
24 she look at, why did she look at it, why didn't she look at
25 these things, did she ignore other things.

CLOSING ARGUMENTS - MR. FLORES

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1 Psychiatrists and psychologists are asked to look into
2 the mind of individuals. It's not an easy thing to do. The
3 best way to see what a person may do is to rely upon their
4 past history, which was done in this case.

5 The first burden that I must prove to you is that Mr.
6 Darnell has been convicted of a sexually violent offense.
7 He has. He was convicted of two separate offenses that took
8 place over two separate periods of time between which he was
9 incarcerated, received treatment, and yet the second offense
10 occurred. In fact, you heard Dr. Jackson testify that he
11 was subject to this procedure, this Sexually Violent
12 Predator Act procedure before in 1998.

13 The way the law works is that these individuals are
14 screened. She mentioned a multi-disciplinary team. Anybody
15 who has been convicted of a sexually violent offense, by
16 law, the Department of Corrections must bring that person
17 forward for a review.

18 Subsequent to that it will arrive on my desk for a
19 petition. That committee and another committee believe that
20 some evidence out there exists. They don't decide it
21 because that's your role, but they have that information.
22 And so we bring it to you after an evaluation by a court
23 appointed evaluator.

24 Now what did Dr. Jackson do in this case? My second
25 burden in this case, to prove to you beyond a reasonable

CLOSING ARGUMENTS - MR. FLORES

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1 doubt that Mr. Darnell suffers from a mental abnormality, a
2 personality disorder that makes him more likely to commit
3 these acts of sexual violence.

4 Dr. Jackson testified that she's diagnosed him with a
5 mental abnormality, pedophilia, attracted to both males and
6 females, non-exclusive type. Mr. Darnell has a sexual
7 attraction to prepubescent children. How do we know this?
8 She looked at the offense history, the number of years that
9 these offenses occurred.

10 And the first instance, although the offense to which
11 he pled guilty happened, according to the sentencing sheets,
12 when the victim was twelve. The victim reported that these
13 went on for a period of six years prior. And the second
14 case took place over a period of two years. These are not
15 single instances of abuse. It's a prolonged period. And so
16 she considered that, but she did not consider that her sole
17 reason in this case.

18 She needs to paint the entire picture to get as much
19 information as she needs in order to render an adequate,
20 proper opinion. In fact, she testified, if I recall
21 correctly, that of the forty-five or forty-six of these
22 types of evaluations she's conducted, she's only recommended
23 commitment in fifteen cases.

24 She doesn't have a bias towards the State. These cases
25 aren't automatic. She cares enough to really get into the

CLOSING ARGUMENTS - MS. WIYGUL

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1 facts to look what's out there. So she asked him about
2 these offenses. He shifted the blame. My step-son was
3 coming on to me. What could I do?

4 Now I will submit to you marital problems occur. No
5 doubt. But in this situation what was the result of those
6 marital problems? It wasn't just a divorce. There was
7 abuse on the first victim. My wife wouldn't have sex with
8 me, so I had sex with my step-daughter. Risks.

9 Dr. Jackson gave you the full picture of this static,
10 historic factors, some things that can't change. She used
11 the example of heart attacks. A great example. There are
12 things we just can't change, our genes, our genetics. We
13 can't change them. There are certain static risks that
14 individuals possess in these types of cases.

15 She also discussed dynamic risks, things that can
16 change. She painted that whole picture. And she said Mr.
17 Darnell is a risk. I believe his pedophilia does make him
18 likely to re-offend and he will. That's her opinion.

19 But it's for you to decide. Is that opinion adequate?
20 Did she give you enough information to come to that
21 conclusion? That's for you to decide. Thank you again for
22 your time.

23 THE COURT: Ms. Wiygul, you may address the jury in
24 your closing.

25 MS. WIYGUL: The State must declare the child to be the

CLOSING ARGUMENTS - MS. WIYGUL

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1 most precious treasure of the people. As long as the
2 government is perceived as working for the benefit of the
3 children, the people will happily endure almost any
4 curtailment of liberty and almost any depravation. Adolf
5 Hitler said that in 1943.

6 I like quotes. I like old catchy sayings because
7 really most of them are there for a reason, and they're
8 there because they're true. And one of the most common ones
9 on TV shows and spoken day-to-day is if it walks like a duck
10 and it quacks like a duck, it's a duck.

11 It's the old death row. This is not about treatment.
12 You can't get life imprisonment in South Carolina for these
13 types of convictions. You can't be sentenced to death. You
14 cannot be put on death row unless you do it, unless you call
15 it something else, unless you call it treatment.

16 There are some things people cannot change. People
17 cannot change where they come from. They can't change the
18 color of their skin. They can't change whether their
19 parents had money. Eddie's nephew can't change the fact he
20 used to run with gangs. And he can't change the fact he
21 used to do drugs.

22 But I submit to you you can overcome these things. You
23 might not be able to change what happened in the past, but
24 you can change what happens in the future. That's what our
25 justice system is supposed to be about. It's supposed to

CLOSING ARGUMENTS - MS. WIYGUL

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1 work in a particular fashion.

2 Now I want everyone to start thinking about something.

3 And I want you to take children out of the equation. I want
4 you to take the word pedophile out of the equation. I want
5 you to think about people that are convicted when they're
6 kids when they're twenty, twenty-three running with the
7 wrong crowd, hanging with the gangs, doing drugs and they
8 get caught and they go to jail.

9 What if South Carolina or the Attorney General's Office
10 decides those people are just too dangerous to have on the
11 streets? What if they decide that the best predictor of
12 future behavior is past behavior, and so we'd better just
13 keep them locked up forever? Because if we keep them locked
14 up forever they can't do drugs, they can't hurt people or
15 rob people. What happens then?

16 The State has put its foot in the door to take away our
17 liberties. Not just Mr. Darnell's liberties, all of our
18 liberties. The liberties of the citizens of South Carolina.
19 And it's asking you to hold that door open wide. Give them
20 a little bit more. Tell them it's okay to let somebody
21 plead guilty in a criminal court and then after they've
22 finished their sentence decide they suffer from a mental
23 illness and better get locked up. That's what they're
24 asking you to approve of.

25 Let's talk a little bit about Eddie Darnell. He made

JURY CHARGE

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1 mistakes. He broke the law. He victimized people. And
2 then he did what he thought was right. He admitted what he
3 did wrong. He pled guilty in a criminal court. He was
4 sentenced and he did his time. That's Eddie Darnell.

5 Whenever he was out on the street, when he felt like he
6 needed help he voluntarily committed himself to the
7 Department of Mental Health. And you know what they did?
8 They released him. They had access to his criminal history.
9 They knew what he'd been convicted of. And they released
10 him.

11 I submit to you that if you agree with the State and
12 say that just serving your criminal sentence isn't enough
13 anymore, then you're imposing a death sentence. You're
14 sending someone to death row for a crime that they've
15 already done the time for. Thank you.

16 THE COURT: Anything in reply, Mr. Flores?

17 MR. FLORES: Nothing, Your Honor.

18 THE COURT: Madame Forelady, ladies and gentlemen of
19 the jury, I'm going to now give you the instructions on the
20 law. I've ruled on the admissibility of evidence that's
21 been submitted during the course of the trial. You've heard
22 the testimony. That and that alone is what you'll have to
23 determine the facts of this case, the evidence that's been
24 admitted and the testimony that you've heard and that alone.

25 I also have the job to tell you what the law is that's

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1 applicable to this case. It's your duty as jurors to accept
2 that law and apply the law to the facts that you determine
3 as you determine them to be.

4 Some of you may already have a notion of what the law
5 is in a case such as this or you may have an idea of what
6 the law ought to be in a case like this. If you have such a
7 notion and that idea is in conflict with what I now tell you
8 the law is, you must abandon such an idea because under your
9 oath you've sworn to accept the law and apply the law just
10 as I state it to you now.

11 You, the jury, are the fact-finders. You're the sole
12 judges of the facts. Our law in South Carolina prohibits a
13 trial judge from having an opinion about the facts or
14 expressing any opinion about the facts.

15 Therefore, you're not to infer from any rulings I've
16 made on the admissibility of evidence, any comments I may
17 have made during the course of the trial, any rulings that
18 I've made, anything I say to you now in this instruction to
19 you that I have an opinion about the facts of the case. You
20 should abandon such an idea because I don't have an opinion.
21 That's exclusively up to you and you alone to determine what
22 the facts are.

23 Now you're going to have to determine the credibility
24 of witnesses who've testified in this case. That simply
25 means the believability of those witnesses. In your

JURY CHARGE

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1 discretion you can determine the credibility of those
2 witnesses by looking at the demeanor of that witness while
3 on the witness stand, the hesitancy or direct response
4 that's made.

5 You can determine the consistency of that testimony.
6 You can determine whether or not the testimony of one
7 witness was amplified or diminished by other witnesses.

8 In your discretion, ladies and gentlemen, you can
9 believe one witness over several witnesses. You can believe
10 several witnesses over one witness. You can make a decision
11 that the testimony of a witness can be believed in part and
12 you can reject the remaining part of the testimony of that
13 very same witness.

14 In your discretion you can accept the testimony of a
15 witness in its entirety or you can reject the testimony of a
16 witness in its entirety. You and you alone have the full
17 discretion to determine the credibility of the witnesses who
18 have testified in this case.

19 I briefly explained to you about expert witnesses. And
20 the exception to the rule of giving opinions relates to
21 those who are trained in such a science, or profession or an
22 art, that they're allowed to give an opinion of the subject
23 matter to which they are trained and claim to be an expert.
24 They can give the opinion and also the reasons for that
25 opinion.

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1 Now for an expert witness you can consider that
2 testimony given, treat it like other evidence, give it the
3 weight that you think it deserves. If you decide in your
4 opinion that the witness' testimony was not based upon
5 sufficient education and the opinion given was lacking
6 therein, or other experience, you can -- you may even decide
7 that the reason given for that opinion was not sound or that
8 other evidence outweighed that opinion by the expert.

9 You can disregard the expert's opinion altogether. The
10 mere fact that an expert testified, that testimony is not to
11 be given any greater weight than that of any other witness
12 simply because the witness is qualified as an expert. You
13 don't have to accept an expert's opinion even though it may
14 be uncontradicted.

15 Now this is a case that the State has brought under the
16 law of South Carolina relating to sexually violent
17 predators. This is a statute enacted by our General
18 Assembly in Columbia. And the requirements of that Act are
19 to ensure that those involuntarily committed under the
20 procedures are these procedures are only used to control a
21 limited subclass of dangerous persons and not broadly
22 subject -- would subject any dangerous person to what may be
23 an indefinite term.

24 Now the allegations from the State are that the
25 Respondent in this case, Mr. Darnell, is a sexually violent

JURY CHARGE

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1 predator. And the State seeks to have the Respondent
2 involuntarily committed in a secure facility for long-term
3 control and care and treatment.

4 The State has the burden of proof by evidence
5 sufficient to satisfy each of you beyond a reasonable doubt
6 that the Respondent is, in fact, a sexually violent
7 predator. Now if the State is able to meet that burden of
8 proof, you should return a verdict finding the Respondent is
9 a sexually violent predator. On the other hand, if you find
10 the State is unable to meet that burden of proof, you should
11 return a verdict finding the Respondent is not a sexually
12 violent predator.

13 We're in the civil court. As I told you on Monday,
14 this is the Court of Common Pleas. In most civil cases the
15 Petitioner only has the burden of proving that a fact is
16 more likely true than not true by what is called the
17 preponderance of the evidence or the greater weight of the
18 evidence. However, in this type of case the State's burden
19 of proof is more powerful than that. It must be beyond a
20 reasonable doubt.

21 You may ask yourself, what is a reasonable doubt in the
22 law? A reasonable doubt, ladies and gentlemen, is the kind
23 of doubt that would cause a reasonable person to hesitate to
24 act. Proof beyond a reasonable doubt would be proof that
25 leaves you firmly convinced that the Respondent is, in fact,

JURY CHARGE

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1 a sexually violent predator.

2 There are very few things in this world that we know
3 with absolute certainty. And the law doesn't require proof
4 that overcomes every possible doubt.

5 If, based upon your consideration of the evidence,
6 you're firmly convinced that the Respondent is a sexually
7 violent predator, then you must return a verdict for the
8 State. If, on the other hand, you think there's a real
9 possibility that the Respondent is not a sexually violent
10 predator, you must give the Respondent the benefit of that
11 doubt and find that he is not a sexually violent predator.

12 In order to show that a Respondent is a sexually
13 violent predator the State must prove beyond a reasonable
14 doubt that the Respondent has been convicted of a sexually
15 violent offense. Criminal sexual conduct -- criminal sexual
16 conduct with a minor are sexually violent offenses under the
17 law of South Carolina.

18 The State must also prove to your satisfaction beyond a
19 reasonable doubt that the Respondent suffers from a mental
20 abnormality or a personality disorder that makes him likely
21 to engage in acts of sexual violence if not confined in a
22 secure facility for long-term control, care and treatment.

23 A mental abnormality has been defined as a mental
24 condition affecting a person's emotional capacity or
25 capacity to make conscious choices that make that person

JURY CHARGE

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1 inclined to commit sexually violent offenses. Likely to
2 engage in acts of sexual violence means the person's
3 tendency to commit acts of sexual violence is of such a
4 degree as to pose a menace to the health and safety of
5 others.

6 I've prepared a verdict form for you, Madame Forelady.
7 I believe it'll be self-explanatory. It merely says that if
8 you find the State has met its burden of proof beyond a
9 reasonable doubt, then, of course, your decision would be
10 yes, that the Respondent in this case is a sexually violent
11 predator. On the other hand, if you find the State in any
12 aspect has failed to meet its burden of proof, your answer
13 would be, no, that he is not a sexually violent predator.

14 There's no significance whatsoever in the order in
15 which they're listed on the verdict form. One has to be
16 listed before the other. Once you've reached that decision,
17 if you'll sign your name as foreperson and date it, let the
18 bailiffs know that you have reached a verdict, then we'll
19 receive it back in the courtroom.

20 Whatever your verdict is, it must be a unanimous one.
21 All twelve of you must agree upon that verdict. Your
22 verdict can't be based upon sympathy, or passion, or
23 prejudice, or emotion or any other consideration not in
24 evidence in this case.

25 At this time, ladies and gentlemen, I'm going to ask

JURY CHARGE

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1 you to go back to your jury room. Don't discuss the case
2 just yet. There's a final matter of law that I need to take
3 care of with the jury [sic].

4 I want you to know that the bailiff will certainly
5 accommodate any needs that you have. If anyone needs to
6 make a call, if you need some snacks, or order supper or if
7 you desire to deliberate a while and finish deliberating
8 later tonight or tomorrow, that's your prerogative, Madame
9 Forelady. We're here to serve you. And we'll certainly
10 accommodate you for your needs and the rest of your jurors
11 as to how long you wish to deliberate tonight.

12 I'll ask you to go back to your jury room at this time.
13 Don't discuss the case just yet. If you will, excuse
14 yourself at this time.

15 (Whereupon the jury exited the courtroom at 5:44 pm)

16 THE COURT: Any exceptions to the charge from the
17 State?

18 MR. FLORES: None from the State, Your Honor.

19 THE COURT: From the Respondent?

20 MS. WIYGUL: Not from the Respondent, Your Honor.

21 THE COURT: All right. If you would, here's the
22 verdict form, and get the -- make sure all the exhibits are
23 properly marked and in order. And if you will, Ms. Fryor,
24 send the alternate out for me. Tell them they can begin
25 their deliberations when you take that back. And just make

1 sure she comes out. I think it's Ms. Wright. Excuse me,
2 Ms. Knight. We'll be at ease til we hear from our jury.

3 (Whereupon the jury began deliberating at 5:45 pm)

4 (Whereupon court was in recess at 5:45 pm)

5 (Whereupon court resumed at 5:47 pm)

6 (Whereupon the alternate, Ms. Knight, came into the
7 courtroom)

8 **THE COURT:** Thank you for your services. You're
9 welcome to stay with us, but you're certainly free to go.
10 We don't need the jury's service for the rest of the week.
11 So you're free to go.

12 You may need a statement for your employer. If you
13 do, you can check with the Clerk's Office tomorrow. They'll
14 have that for you. If you need to have it, I don't believe
15 we have any tonight. They're closed up. But you're free to
16 go for the rest of the week. Thank you so much for your
17 service.

18 **MS. KNIGHT:** Thank you.

19 **THE COURT:** All right. We'll be at ease til we hear
20 from our jury.

21 (Whereupon court was in recess at 5:47 pm)

22 (Whereupon court resumed at 6:19 pm)

23 (Whereupon the jury entered the courtroom at 6:22 pm)

24 **THE COURT:** Madame Forelady, I understand the jury has
25 reached a verdict, is that correct?

VERDICT OF THE JURY

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1 MADAME FORELADY: Yes.

2 THE COURT: Is it a unanimous verdict?

3 MADAME FORELADY: Yes.

4 THE COURT: If you would, hand the verdict form to the
5 bailiff, please. Madame Clerk, you may publish the verdict.

6 MADAME CLERK: Your Honor, this is case number 2010-CP-
7 23-2454, In the Matter of the Care and Treatment of John
8 Edward Darnell.

9 Has the Petitioner, the State of South Carolina, proven
10 beyond a reasonable doubt that John Edward Darnell is a
11 sexually violent predator under the South Carolina Sexually
12 Violent Predator Act? We, the jury, unanimously answer the
13 question as follows; yes, John Edward Darnell is a sexually
14 violent predator. Signed, Flossie Cecile, 3/21/12.

15 If this is your verdict, so say you all. Please
16 signify by raising your right hand.

17 (Whereupon all jurors raised their right hand)

18 MADAME CLERK: Thank you.

19 THE COURT: Are there any other matters we need to take
20 care of with this jury before they're discharged, from the
21 State?

22 MR. FLORES: Nothing from the State, Your Honor.

23 MS. WIYGUL: Nothing from Respondent, Your Honor.

24 THE COURT: All right. Thank you.

25 Madame Forelady, ladies and gentlemen, thank you very

VERDICT OF THE JURY

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1 much for your service. You've had a complete day today.

2 And I appreciate your willingness to stay a little later and
3 work on this case.

4 I can inform you that the trials that we had have all
5 resolved for the rest of the week. We won't need your
6 services for Thursday or Friday. We'll have matters that we
7 need to take care of here with other legal issues, but they
8 won't involve any jury service. You've fulfilled your
9 obligation for this week.

10 I hope it's been an enjoyable week as best it could, an
11 educational week for you. It's not every opportunity you
12 have to serve as a juror. And I hope that this will be one
13 that'll inspire you to want to serve again if you're called
14 upon.

15 I'm confident that if you find yourself sitting not in
16 the jury box, but at a table for whatever event that may
17 happen in your life, a contract dispute or a property line
18 dispute with our neighbors, automobile accident, you'll want
19 good solid jurors such as yourself to hear the case that you
20 have that's brought before the court and make a decision.
21 You've been conscientious. You've been a good group to work
22 with. And I appreciate it so much.

23 You're free to go for the day and for the week. Some
24 of you may need a statement for your employers. If that's
25 the case, the Clerk's Office doesn't -- isn't still down

1 there now, but if you'll let us know tomorrow we can
2 certainly get that to you. Just call Ms. Olsen down in the
3 assembly room. The number's on your badge. And you can
4 certainly get that to explain to your employer your service
5 this week. Have a good evening, ladies and gentlemen.
6 Thank you for your service. You're dismissed at this time.

7 (Whereupon the jury exited the courtroom at 6:25 pm)

8 **THE COURT:** Any other matters that we need to take care
9 of, from the State?

10 **MR. FLORES:** I do have a prepared order of commitment.

11 **THE COURT:** All right.

12 **MR. FLORES:** I'll hand that up to Your Honor.

13 **THE COURT:** I'll be glad to review it. Mr. Flores, if
14 you'll show a copy to Ms. Wiygul.

15 **MR. FLORES:** Yes, Your Honor.

16 **MS. WIYGUL:** Thank you, Your Honor.

17 **THE COURT:** All right. I find the order is in
18 appropriate form. I'll sign it and order the commitment of
19 the Respondent. Thank you very much for your hard work this
20 week on all these cases. We'll be adjourned for the
21 evening.

22 **MS. WIYGUL:** Thank you, Your Honor.

23 **MR. FLORES:** Thank you, Your Honor.

24 **MR. DARNELL:** Thank you for the Court's time, Your
25 Honor.

1

(Hearing Ended at 6:27 pm)

2

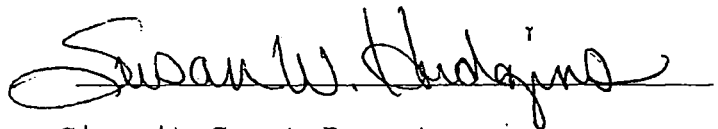
(End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 21st day of March 2012.

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

April 13, 2012



Susan W. Hudgins

Circuit Court Reporter



93-GS-23
DOCKET NO. 711 LAK

The State of South Carolina,

County of GREENVILLE

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 1993

12-9-93

CSC 2nd

PLEAD GUILTY

THE STATE

VS.

JOHN EDWARD DARNELL w/H

G'ville SC 29605

DOB: [REDACTED]

SSAN: [REDACTED]

*G. Newell ap-
Jernigan*

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Indictment for

COUNT ONE: CRIMINAL SEXUAL CONDUCT
WITH A MINOR - SECOND DEGREE

COUNT TWO: ASSAULT WITH INTENT TO
COMMIT CRIMINAL SEXUAL CONDUCT

VIOLATION § 16-3-655
§ 16-3-656

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WITNESSES

P. A. McDonald

GCSO

2/26/93

ARREST WARRANT NO. D 678979

ACTION OF GRAND JURY
TRUE BILL

[Signature]
Foreman of Grand Jury

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date:

Certified Copy
Paul B. Wiersma
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 6-28-11

FORM 32 (12/87)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
COUNT ONE-CRIMINAL SEXUAL CONDUCT WITH
A MINOR-SECOND DEGREE
COUNT TWO-ASSAULT WITH INTENT TO COMMIT
CRIMINAL SEXUAL CONDUCT

At a Court of General Sessions, convened on September 28, 1993,
the Grand Jurors of Greenville County present upon their oath:

COUNT ONE-CRIMINAL SEXUAL CONDUCT WITH A MINOR-SECOND DEGREE

That JOHN EDWARD DARNELL did in Greenville County between December 1 - 25, 1992, commit a sexual battery on Child 1 a twelve-year old female. This is in violation of South Carolina Code of Laws §16-3-655.

COUNT TWO-ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT

That JOHN EDWARD DARNELL did in Greenville County between December 1 - 25, 1992 assault Child 1, a twelve-year old female with the intent to commit criminal sexual conduct. This is in violation of South Carolina Code of Laws § 16-3-656.

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

Joseph J. Watson
SOLICITOR

93-GS-23 711

NOW COMES THE DEFENDANT

John Edward DARNELL

Who in open Court pleads guilty to the within indictment;

second degreeC & Cand consents to sentence this 9th day of Dec 19 93

ATTEST:

Caroline W. Martin
Clerk of Court[Signature]

SENTENCE

The defendant John Edward DARNELL is
 committed to the State Dept. of Corrections/County for a term of 10 Ten
~~months~~ years and/or to pay a fine \$ _____; provided upon the service of
 _____ months/years and/or payment of \$ _____, plus pay/waive
 costs and assessments as applicable*, the balance suspended with probation for
 _____ months/years.

get what treatment is available

Restitution

For physical injury \$ _____

Yes / No

Property damage \$ _____

to be paid _____

to clerk for _____

**

Other conditions _____

Date DEC 9 1993Frank Eggers
Presiding Judge

* Costs and Assessments

Non-waivable

\$ _____

Not waived

\$ _____

Total

\$ _____

Clerk of Court

* Pay to Victim's Compensation Fund if subrogated.

ARREST WARRANT

D- 678979

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
GREENVILLE

EC

THE STATE
against

JOHN EDWARD DARNELL

Address: TAYLORS, SC 29687Phone: SSN: [REDACTED]Sex: M Race: W Height: 6'3" Weight: 250Dt. State: DL#:DOB: [REDACTED] Agency ORI#: [REDACTED]Prosecuting Agency: GREENVILLE CO. S. O.Prosecuting Officer: P. A. McDONALDOffense: C.S.C. W/ MINOR 2nd DEGREEOffense Code: [REDACTED]
Code/Ordinance Sec. 16-3-655This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: [REDACTED]

RETURN

A copy of this arrest warrant was delivered to
defendant John Edward Darnell
on 2-26-93

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Haynesworth

93-23341

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
GREENVILLE

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 28, 1990
SCCA 518Personally appeared before me the affiant P. A. McDONALD
being duly sworn deposes and says that defendant JOHN EDWARD DARNELL
did within this county and state on 12-01-90/12-25-90 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of

the following particulars:

DESCRIPTION OF OFFENSE: CRIMINAL SEXUAL CONDUCT WITH A MINOR 2nd DEGREEI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:AFFIANT HAS A SWORN WRITTEN STATEMENT FROM THE VICTIM, A FEMALE WHO WAS TWELVE
YEARS OLD AT THE TIME OF THIS INCIDENT. THE STATEMENT INDICATES THAT THE DEFENDANT
DID CARRY HER INTO HIS BEDROOM, REMOVE HER CLOTHING, AND LICK HER AND FINGER HER
BETWEEN HER LEGS. HE ALSO ATTEMPTED TO INSERT HIS PENIS INTO HER VAGINA, AND
SLIGHTLY PENETRATED HER. THIS INCIDENT OCCURED AT THE DEFENDANT'S RESIDENCE IN
GREENVILLE COUNTY.Sworn to and subscribed before me
on Feb 23, 1992Signature of Affiant P.A. McDonald
Affiant's Address #4 MOGEE ST.
GREENVILLE, SC 29601
Affiant's Telephone 467-5243

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
GREENVILLE

ARREST WARRANT

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

If appearing from the above affidavit that there are reasonable grounds to believe that
OR ABOUT 12-01-90/12-25-90 defendant JOHN EDWARD DARNELL
did violate the criminal laws of the State of South Carolina (or ordinance of☐ County/ ☐ Municipality of) as set forth below:

DESCRIPTION OF OFFENSE:

CRIMINAL SEXUAL CONDUCT WITH A MINOR 2nd

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.Judge's Address #4 MOGEE ST.
GREENVILLE, SC 29601
Judge's Telephone 467-5302
Issuing Court: ☒ Magistrate ☐ Municipal ☐ CircuitSignature of Issuing Judge
Judge Code: [REDACTED]

ORIGINAL

WITNESSES

M. FORTNER

Parsons

GCSO

02/23/04

DOCKET NO. 2004-GS-23004548
DRW

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JUNE TERM 2004

THE STATE

PLEAD GUILTY

vs.

JOHN EDWARD DARNELL

ARREST WARRANT NUMBER

I-465458

ACTION OF GRAND JURY

TRUE BILL

Rich G Spradlin

FOREMAN GRAND

Foreperson of Grand Jury

VERDICT

LA Manzant

Indictment for

0396

CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

VIOLATION § 16-3-655(2)

Foreperson of Petit Jury

Date:

336



Certified Copy
Paul B. Wickham
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated *6-28-11*

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

At a Court of General Sessions, convened on JUNE 22, 2004 the Grand Jurors of Greenville County present upon their oath:

That JOHN EDWARD DARNELL did in Greenville County, between the 1st day of January, 2002 and the 1st day of January, 2004, commit a sexual battery on [Child] who was fourteen years of age or less but who was at least eleven years of age. This is in violation of § 16-3-655(2) of the South Carolina Code of Laws (1976) as amended.

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

David M. Agn
SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

John Darnell

AKA:

Race: W Sex: M Age: 53

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]
Taylors, SC 29687

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

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2004GS2304548

A/W#: 1465458

Date of Offense: 11-01-2003

S.C. Code § : 16-03-0655(B)

CDR Code #: 0396

☐ CASE RESTORED
SENTENCE☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Sex / Criminal sexual conduct with minor - victim 11 to 14 v

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

[Signature]
Solicitor[Signature]
Defendant[Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$

TOTAL

[Signature]
Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other:

SEXUAL OFFENDER REGISTRY

☐ Appointed PD or appointed other counsel, §35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2 11 12 106

Sentence Date: 08-10-06

ARREST WARRANT

I-465458

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE

against

John Edward Darnell

Address:

Taylors, SC 29687-

Phone:

Sex: M Race: W Height: 6 2 Weight: 245

DL State:

DL #:

DOB:

Agency ORI #: 0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: Michael Fortner

Offense: Sex / Criminal sexual conduct with minor - victim

Offense Code: 0396

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

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

JOHN EDWARD DARNELL

on

02-23-04

Michael E Fortner

Signature of Constable or Enforcement Officer

David L. Hanks

RETURN WARRANT TO:

City Magistrate #2

4 Mc Gee Street Room 116-B

Greenville, SC 29601

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Personally appeared before me the affiant

Michael Fortner

being duly sworn deposes and says that defendant

John Edward Darnell

did within this county and state on

11/01/2003

State of South Carolina (or ordinance of

☒ County/☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE:

Sex / Criminal sexual conduct with minor - victim 11 to 14 yrs of age inclusive

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:Affiant has a statement from the victim in which he states that the defendant has performed oral sex on him in the past.
Affiant also has a statement from the defendant in which he states that some time in November 2003 he did perform
oral sex on the victim who is thirteen years of age. The victim is the step-son to the defendant. This incident
occurred in Greenville County.

COMPILED ENTERED

FEB 27 2004

Signature of Affiant

Michael E Fortner

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)467-5388

ARREST WARRANT

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

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

on 11/1/2003

defendant John Edward Darnell

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

☒ County/☐ Municipality of

Greenville

) as set forth below:

DESCRIPTION OF OFFENSE:

Sex / Criminal sexual conduct with minor - victim 11 to 14 yrs of age inclusive

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

Sworn to and subscribed before me

on 02/23/2004

Signature of Issuing Judge

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5032

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 IN THE MATTER OF THE CARE)
 AND TREATMENT OF)
 JOHN EDWARD DARNELL,)
 RESPONDENT.)

IN THE COURT OF COMMON PLEAS
 THIRTEENTH JUDICIAL CIRCUIT

CASE NO. 2010-CP-23-2454

ORDER OF COMMITMENT

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 2012 MAR 22 P 2:45

2012 MAR 22 P 2:45

gn

The trial of this case was held in the County of Greenville in the Court of Common Pleas the week of March 19, 2012. A jury of citizens from Greenville County heard this case pursuant to a request for a jury trial filed by the State. Assistant Attorney General Lloyd V. Flores, Jr., represented the State. Elizabeth P. Wiygul, Esquire, represented the Respondent. The jury having heard the presentation of the evidence made the following findings of fact pursuant to South Carolina Code Sections 44-48-90 and 44-48-100:

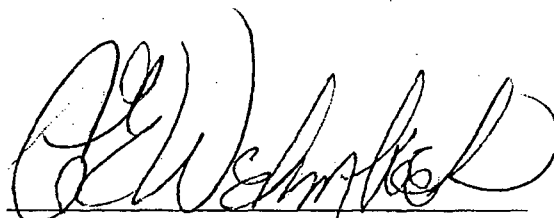
The State has proven beyond a reasonable doubt that Respondent, John Edward Darnell, is a sexually violent predator as that term is defined in South Carolina Code Section 44-48-30.

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

(a) Respondent is committed to the Department of Mental Health for his long-term control, care and treatment;

(b) Respondent is to continue to be detained at the Greenville County Detention Center, and then transported to the secure facility of the South Carolina Department of Mental Health, at 4460 Broad River Road, Columbia, SC 29210. The Detention Center is to transport Respondent on such scheduled date as it coordinates with the Department of Mental Health.

AND IT IS SO ORDERED.



The Honorable G. Edward Welmaker,
 Chief Administrative Judge for the Thirteenth
 Judicial Circuit Court of Common Pleas

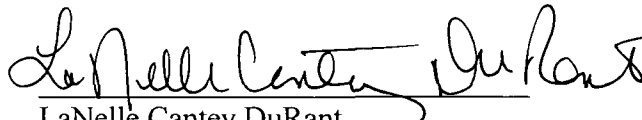
3/21, 2012
 Greenville, South Carolina

SCANNED

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 17th, 2012


LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT