

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GREENVILLE COUNTY

Charles B. Simmons, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JENNIFER RAYANNE DYKES,

APPELLANT

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE) COURT OF COMMON PLEAS
3) 2006-GS-39-02116
4)

5 Jennifer Rayanne Davis) TRANSCRIPT OF RECORD
6)

7 -vs-)
8)

9 STATE OF SOUTH CAROLINA)
10)

11 -----
12
13 April 22, 2010
14 Greenville, South Carolina

15 B E F O R E:

16 THE HONORABLE CHARLES SIMMONS, Judge.

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

18 TONY EVANS, Esquire
19 Attorney for the State

20 CHRISTOPHER SCALZO, Equire
21 Attorney for Jennifer Davis

22 CAROLINE HISKELL
23 Circuit Court Reporter
24
25

DYKES VERSUS THE STATE

I N D E X

WITNESSES

DIRECT

CROSS

REDIRECT

Greg Dwyer

44

77

85

Jeremy Windele

89

97

E X H I B I T S

DESCRIPTION

IN

EVD

D-1 Dwyer C.V.

3

43

D-2 Stipulation

3

18

S-1 Form

90

90

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P R O C E E D I N G S

(Defendant's Exhibit 1 and 2 was marked for identification.)

THE COURT: Are we ready to proceed on the record?

MR. SCALZO: Yes, Your Honor.

THE COURT: State ready?

MR. EVANS: Yes, sir.

THE COURT: Do one of your gentleman have the case number? For the record this is State versus Jennifer Ray Anne Dykes, D-Y-K-E-S, and it's 06-GS-39-2116.

Are there any other cases involved in this matter?

MR. SCALZO: No, sir.

MR. EVANS: No, sir, Your Honor.

THE COURT: This is a Pickens County case, correct?

MR. SCALZO: It originated in Pickens County but she was monitored in Greenville for probation. The warrants are all from Greenville.

THE COURT: In other words, there are no issues about it being heard here in Greenville as opposed to Pickens, correct?

MR. SCALZO: The defense has no issues.

MR. EVANS: None here, Your Honor.

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1 THE COURT: Okay. I'll be glad to hear from
2 the State.

3 MR. WINDELE: Your Honor, this is a probation
4 violation. Jennifer Dykes who was sentenced for lewd act
5 on a minor under Indictment 06-GS-39-2116 to a sentence of
6 15 years suspended to three years and five years
7 probation. At the time of sentencing ATU was recommended
8 during incarceration.

9 Special conditions were a fine and surcharge,
10 Public Defender Fund, no victim contact, Sex Offender
11 Registry, random drug and alcohol testing, substance abuse
12 counseling, mental health counseling.

13 There are no prior violations listed in this
14 case. Details of the current violation is and I'll begin
15 with Citation C-23-09-640. She was charged with failing
16 to avoid persons who were known to have a criminal record
17 and whom she's been instructed to avoid and that she was
18 found to be residing with one Daffany Denise Smith during
19 home visit conducted on 4/2/2009, 5/18/2009 in which the
20 agent specifically instructed the offender to avoid during
21 her progress report on 8/13/08 due to the fact that she
22 stated that she had met the subject at the Department of
23 Corrections while she was incarcerated; failing to make
24 complete and truthful reports to her agent in that when
25 agent conducted home visit on 4/2/09, the offender

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1 identified the female she was living with only as DeDe,
2 and subsequent report on 4/8/09 when questioned as to the
3 identify of female residing with her, she stated that the
4 female was not Daffany but was someone else.

5 At the issuance of the Citation for that
6 violation, she was also three payments in arrears on her
7 court ordered fine.

8 A subsequent warrant was issued W-23-09-776
9 for failing from refraining from having contact with one
10 Daffany Denise Smith who the offender had an absolute
11 understanding knowledge that this particular person is a
12 felon her agent had instructed her to avoid on numerous
13 occasions as evidenced by agents having witnessed the
14 offender and the above-mentioned person having direct and
15 social interaction on 7/28 of 2009; by failing to make
16 complete and truthful reports to her agent in that 7/0/09
17 the offender stated she does not see the above subject nor
18 have contact with the above-mentioned person anymore; by
19 failing to follow the direct advice and instructions of
20 her agent in the offender has been instructed and warned
21 that any further contact with the above-mentioned person
22 will constitute willful violation of her probation on
23 her part.

24 Additional Citation C-23-09-0880 was issued
25 for failing to refrain from drinking alcoholic beverages

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1 as evidenced by Probation and Parole Agent Bauchum
2 witnessing the offender with a beer at Frodo's Pizza and
3 by the offender's own admission that she had been drinking
4 a beer just before she was arrested on Warrant W-23-09-776
5 on July 28, '09.

6 Citation C-09-1109 charges with her with
7 having been terminated from sex offender counseling on
8 8/19 of '09 in that the offender exceeded the maximum
9 amount of cancelled or rescheduled appointments that is
10 allowed for individual treatment option in which the
11 offender was made aware of on 10/16/08 when she signed a
12 treatment contract with Dr. Voldorf's office and by
13 failing to follow the instruction and advice of
14 supervising agent.

15 Warrant W-23-09-1167 by having changed her
16 residence without knowledge and consent of the agent as
17 evidenced by home visit conducted on 11/17 of '09 in which
18 agent spoke with two different neighbors who both stated
19 that they had not seen the offender or her car in about
20 two or three weeks again by home visit conducted on
21 11/19/09 where a different neighbor also stated that they
22 had not seen her car in two or three weeks, and when agent
23 asked the offender to present evidence that she was living
24 there, she was unable to provide any sort of evidence; by
25 failing to maintain a residence approved by her agent and

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1 failing to stay at her residence each and every night as
2 required by Sex Offender conditions; by failing to make
3 complete and truthful reports to the agent about her
4 address, and that the offender reported this address on
5 11/12/09; by failing to work diligently at a lawful
6 occupation or provide proof thereof, and by failing to
7 follow the device and instructions of the supervising
8 agent.

9 THE COURT: If I could have the agent, and I
10 should have done this preliminary and I apologize, if you
11 would state your full name and your capacity with the
12 Department.

13 MR. WINDELE: My name is Jeremy Windele and
14 I'm a supervisor for the Greenville County Field Office of
15 the South Carolina Department of Probation, Parole and
16 Pardon Services.

17 THE COURT: Anything else relative to the
18 violations?

19 MR. WINDELE: Did you want to recommendation
20 on record at this point?

21 THE COURT: Yes, sir.

22 MR. WINDELE: The State's recommendation is
23 partial revocation of two years and this is a mandatory
24 GPS under Sex Offender Accountability and Protection of
25 Minors Act.

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1 THE COURT: Mr. Scalzo, any questions of the
2 agent relative to the allegations of violation?

3 MR. SCALZO: No, sir, I don't have any
4 questions.

5 THE COURT: Is there any contest over the
6 fact that the State has been able to provide sufficient
7 evidence to support it's recommendation of partial
8 revocation in this case?

9 MR. SCALZO: We would agree that they have
10 provided enough evidence to say that she's in violation.

11 THE COURT: Okay.

12 MR. SCALZO: We would agree.

13 THE COURT: I understand that the issue of
14 most substance is whether or not GPS is mandatory under
15 the facts of this case; is that correct?

16 MR. SCALZO: That's correct, Your Honor. We
17 have a motion related to that specific issue.

18 THE COURT: And are we ready to move into
19 that specific motion, gentleman?

20 MR. SCALZO: Still waiting on my witness,
21 Judge. If Your Honor would like, I could address the
22 violation side and sentence side. Some issues are
23 obviously in mitigation and what we suggest the Court
24 does, and hopefully, we can contact our witness -- we do
25 have some other things that I can put into evidence in

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1 support of the motion.

2 THE COURT: Let's go ahead and do what we can
3 and hopefully the witness from Columbia will be here.

4 MR. SCALZO: Your Honor, if it pleases the
5 Court, Jennifer is sitting here to my left is 29 years
6 old, and in the courtroom with her is her mother. She's
7 sitting behind Jennifer in the galley.

8 She's not married and she doesn't have any
9 children. After she got out of the Department of
10 Corrections, she served obviously a split sentence of
11 three years first, came out on probation, within 18 days
12 of her release she got a job for KFC. My main point is
13 that she was employed relatively immediately. She
14 eventually moved on to a different job. Probably her best
15 job was at Precision Valve where she was assembling
16 factory items and things of that nature. She worked there
17 about a year.

18 As far as her violations are concerned, they
19 really center on a relationship that she had with Daffany
20 which was referred to by Agent Windele in his recitation
21 to you. Daffany is 26 or 27 -- 30, sorry, they're of the
22 around the same age. I think that's important because
23 it's an age appropriate relationship in light of her
24 charge of lewd act of a minor. This is not a relationship
25 that was based on, in and of itself, being a crime. The

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1 only reason it was is it was a violation of a rule that
2 probation had set up. Daffany did or does have a prior
3 felony record.

4 They developed a serious relationship so it
5 was not a relationship simply where a romantic
6 relationship and it was not a relationship where they were
7 simply palling around and sort of getting into trouble,
8 that kind of relationship. Now, there really is no way
9 around that as a violation, but I point out and describe
10 the relationship so that the Court understands that this
11 is not a situation where she decided well, let me start
12 going out to hang around a felon and now she and I will
13 now get into more trouble.

14 There isn't an allegation that Jennifer has
15 ever committed a crime since she's been related to the
16 community from the Department of Corrections, and I think
17 that's a very important aspect of this.

18 Judge, I do want to tell you about her
19 medical issues because she does have some medical issues.
20 She has been diagnosed with ulcerative colitis and my
21 understanding of it, and I've talked to her about it and
22 I've looked at some of her medical records, essentially
23 she has ulcers that are in the colon and it can cause
24 severe abdominal pain, bleeding and constipation and
25 things of that nature. Stress can cause it in essence the

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1 flare up.

2 She does see a doctor regularly. I did ask
3 her how many times she might end of seeing a doctor or
4 going into the hospital because of that condition. She
5 estimated 10 to 15 times. It's not a consistent
6 treatment. It's essentially a flare up if something
7 happens and she needs to get it treated.

8 She does receive some medication or has been
9 prescribed some medication to help deal with that, but it
10 is a fairly significant medical condition.

11 Judge, I also, and you will eventually hear
12 from Dr. Greg Dwyer who evaluated Jennifer and he'll talk
13 more specifically about issues regarding sex offenders,
14 but what I would like you to know and you'll eventually
15 hear from him is that he has diagnosed her with some
16 mental health disorders that are not related to sex
17 offending or anything sexual in nature.

18 His primary diagnoses is that she has
19 depression and she has borderline personality disorder. I
20 will eventually get him to explain the borderline
21 personality disorder a little bit more, but I believe he
22 would tell you that his primary opinion is depression is
23 the most important or highest in that list of medical or
24 mental health issues.

25 Obviously she can be treated or has been

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1 treated before with medication. She did receive mental
2 health treatment in SCDC and there are records that were
3 reviewed by Dr. Dwyer about that.

4 Judge, there are three issues with regard to
5 the violation. First, let me address the treatment.
6 Agent Windele mentioned that she was terminated from sex
7 offender treatment. I want it to be clear that we don't
8 dispute that she was terminated and the reason for her
9 termination centered around, essentially, her inability to
10 pay. And there's a letter written from Dr. Bibar who was
11 conducting the treatment to probation and he, in essence,
12 required payment for the services and that she also could
13 not miss a certain number and I think it was three. Well,
14 she missed really because of the inability to pay. So we
15 don't have a situation where she refused to cooperate.
16 She just stopped coming or she would come one day and not
17 come another day because she didn't feel like going. It
18 was really centered around the monetary issue.

19 She did cooperate. I have a letter from a
20 Rhodonia Thomas. She's the therapist who primarily saw
21 Jennifer and she outlines that essentially they had a good
22 working relationship as far as therapy went but the issue
23 really did center around the finances. I think that's
24 important because that tells you that while it might be a
25 violation, it is not the kind of violation that Jennifer

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1 set out to not cooperate because she didn't feel like
2 doing the treatment or anything like that.

3 I will point out, Judge, that there was
4 mention in the violation of her not staying at the home or
5 the address she had given. I guess if there is one area
6 that I have dispute facts, that may be it. Her mother is
7 here. Her mother would tell the Court, if the Court needs
8 to hear from her, that was the mother's house at one point
9 and she owned the house and was letting Jennifer stay.

10 Mom and dad lived at a different residence in
11 the area. They were selling that house and Jennifer was
12 staying at the house while it was for sale. And the house
13 essentially was fairly barren because of them trying to
14 sell the house so it was not full.

15 Jennifer would probably readily admit that
16 she didn't spend a whole lot of time at the house during
17 the daytime hours. She wasn't required to stay there
18 during the daytime hours. And, so, whether or not
19 neighbors say she didn't stay there or not, I don't know,
20 but what I'm really trying to get the Court to understand
21 is I don't think what you had was somebody that was
22 absconding and who didn't want to be found. That is
23 saying I'm staying here and really couldn't be found at
24 that location. In fact, Agent Gilbert had called her with
25 his cell phone and said meet me at that location and she

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1 ended up meeting him at that location, and that was one of
2 the Citations or Warrants that had been asserted.

3 It may be a violation, but it's not the kind
4 of violation where really at the heart of it is Jennifer
5 trying to get away and be out from under probation's
6 management. We can't hide the fact that there was a
7 disagreement as far as that was concerned. The
8 relationship is very important to Jennifer, and she and I
9 have talked about it and she would acknowledge to the
10 Court that she understands that that was a rule, that
11 provision passed. Although she disagrees with the rule, I
12 think she understands that it's essentially a violation of
13 that rule. But I think that's really where the primary
14 violation is.

15 She reported there aren't any issues of her
16 failing to report to agents. She had more than one agent
17 at this stage, and she had never re-offended at all
18 whether it's sexual. She has never re-offended in any
19 other minor crime. So I think that is an important thing.

20 As far as the relationship goes, I do think
21 it's important to understand that the relationship is
22 serious. When Jennifer has been sick and has had
23 difficulty medical, Daffany was the person that took care
24 of her so to speak. So the relationship was mutual and it
25 wasn't simply that we were hanging out and we could get

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1 into trouble.

2 We're not arguing against the rule that
3 provision has about not being involved with people who had
4 felony records. We're not saying that's an inappropriate
5 rule or challenging the rule. I'm simply addressing to
6 the Court in mitigation or violation of that rule, that
7 the relationship needs to be understood.

8 THE COURT: Let me ask you a couple of
9 questions and some of these will be out of order simply
10 because the witness isn't here. First, do you have any
11 idea when the witness will be here because we're already
12 30 minutes late?

13 MR. SCALZO: No, and I can ask Mr. Cullinan
14 to call down to see if the witness has contacted my
15 office. He had contacted my office right before 8:30 and
16 he was at the 385 split which gives him about half hour,
17 45 minutes away.

18 THE COURT: If you wouldn't mind checking
19 with your office, please. And I think you already touched
20 on this, Mr. Scalzo, Ms. Dykes was sentenced by Judge
21 Miller in 2007.

22 MR. SCALZO: Yes, sir.

23 THE COURT: Have there been any arrests since
24 January of 2007 and by arrests I mean new offenses other
25 than the revocation issues involved in this case?

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1 MR. SCALZO: No, the only arrests have been
2 for these revocations and there's a rap sheet, NCIC report
3 that Mr. Windele has done this week and it's up to date
4 and it shows no new arrests.

5 THE COURT: Do you agree with that agent?

6 MR. WINDELE: Yes, Your Honor.

7 THE COURT: As long as both sides agree, we
8 don't need to take any evidence on it.

9 Let me hear the substance of your argument
10 relative to the GPS monitoring.

11 MR. SCALZO: Okay. Essentially, Judge, when
12 you find a violation in terms of her probation, and it's
13 any violation, it's not because she's -- she's on
14 probation for a sex offense so they're treating her under
15 the Sex Offender Supervision program. The Statute doesn't
16 make that distinction. The Statute just simply says that
17 any violation of probation ---

18 THE COURT: For appellant purposes, which
19 Statute?

20 MR. SCALZO: 23-3-540 is the specific
21 section, but essentially it's 23-3-540c is the specific
22 subsection, but the whole Act has other relevant sections
23 as far as definitions and things from a legal standpoint
24 come into play. But orders you essentially that says this
25 court must order GPS is that 23-3-540 Subsection C.

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1 THE COURT: And what is your argument that it
2 does not or should not be applied here? Because it seems
3 like a very fine jurist from the Greenville area decided
4 against that Statute at some point and the Appellant
5 Courts found otherwise.

6 MR. SCALZO: That's correct, Your Honor, and
7 I was the lawyer and I believe when the fine jurist was
8 overturned.

9 Judge, basically the argument is this, it is
10 our position that essentially for Constitutional problems
11 with the mechanism or actual order of mandatory GPS for
12 life. Primarily, as I believe there is a due process
13 violation but there are other Constitutional implications.
14 It really centers on the fact that it's the mandatory
15 aspect of it, the inability for the Court, for Your Honor,
16 to hear evidence, weigh evidence and then have the ability
17 to say based on that evidence or some standard of proof,
18 GPS monitoring is either necessary or unnecessary.

19 The reason I got a witness that's going to
20 testify is that witness, I believe, would tell the Court
21 that in his professional opinion that she does not pose a
22 moderate or high risk of re-offending as a sex offender,
23 and essentially it comes down to, from the due process
24 standpoint -- really due process about fairness, it's
25 about fairness in the procedure as well as fairness in the

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1 substance of what actually has happened before the action
2 of the State, is that essentially this Court is being
3 mandated by the Statute to order GPS monitoring in a
4 situation where factually it's unnecessary and
5 unwarranted.

6 If the stated purpose of mandatory GPS for
7 life is to assist, which is in the Statute and I can find
8 the subsection to read to the Court in a second, the
9 purpose and goal of the GPS section is to assist law
10 enforcement with re-offending. It's a future oriented
11 tool is really how it's set up, at least that's what the
12 Legislature says what it's intention is.

13 For a due process standpoint, our position is
14 that you're going to take away a fundamental liberty
15 rights, which this would do. There's a couple of them.
16 One, she has a fundamental liberty interest in not having
17 the State literally take hold of her. They have to
18 physically place their hands on her or restrain her in
19 order to put an ankle bracelet on her. And I've got a
20 part of the stipulation which both sides agree to, which I
21 can pass up to the Court, which is Defendant's Exhibit 2.

22 (Stipulation marked as Defendant's Exhibit
23 No. 2 for identification was admitted into evidence.)

24 BY MR. SCALZO:

25 Q. If you look at the Exhibit, which is the second

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1 page, Judge, it shows the ankle bracelet and it shows the
2 bracelet on. There are two pictures and it shows the
3 ankle bracelet on someone's ankle. It's not Jennifer but
4 it's on someone's ankle for example. Clearly there's some
5 liberty issue in what the State has to do in order to put
6 it on. What the State has to do in order to maintain it
7 because if it breaks or they have to replace it. She has
8 to submit herself to the State.

9 THE COURT: Is there any authority anywhere
10 requiring a person to wear an ankle bracelet as so
11 intrusive as to violate due process rights?

12 MR. SCALZO: No, and I'm not aware that the
13 issue has been addressed, as far as authority goes, I
14 don't know if that issue has been put in the way that Your
15 Honor has just clarified it.

16 The GPS Statute has been challenged in other
17 contexts but I'm not aware of any case where it's directly
18 addressed where it is a violation of your liberty
19 interests and then there are due process in other legal
20 implications because of what happens. So the answer is,
21 no, as far as that.

22 THE COURT: So if someone served day for day
23 maxed out on the sentence maxed out by the court and say
24 it was a maximum sentence, once they did their prison time
25 they would have the GPS system for the rest of their

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1 natural life?

2 MR. SCALZO: Yes. And, Your Honor,
3 highlights one of the other Constitutional issues that are
4 raised in what you just said in which there's an expo
5 facto aspect to it. I understand that the State may claim
6 that is not punishment, the GPS is not punishment, but --
7 and I can go into this in more detail afterwards, but I
8 also can do it now at the mercy of the Court.

9 THE COURT: Keep going.

10 MR. SCALZO: I believe it's an expo facto
11 violation because, one, it's retroactive. In Jennifer's
12 case, the offense occurred in 2005, the act which brings
13 about the GPS monitoring is not in effect until July 1,
14 2006, that's why when she pled guilty, and I can give you
15 Defense Exhibit 3 which is the sentencing sheet, that's
16 why when she pled guilty on the sentencing sheet in 2007,
17 when she pled guilty, there is a section on there, a box,
18 for mandatory GPS. That's not checked and was not checked
19 by Judge Miller. And the reason it wasn't checked because
20 the law didn't apply to her at that point because her
21 conduct preceded the Statute.

22 However, Subsection C, which is 540c is what
23 we're talking about is a special little section that was
24 put in there. That section specifically says it's dealing
25 with the class of people like Jennifer conduct preceded

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1 the passing of the Statute, but something happens after
2 their put on probation and after the Statute obviously has
3 been enacted. It says, if you violate probation for any
4 reason, you are not mandated if it's lewd act or criminal
5 sexual conduct in the first degree, the Court is mandated
6 and has to order the GPS monitoring for life.

7 So it clearly is retroactive because it goes
8 backwards. It was not something that was ordered
9 originally and it goes backwards. But for it to be a expo
10 facto violation, it's got to be a punishment, and I would
11 argue that it is a punishment, and it's as punishment for
12 several different reasons; one, being the most obvious
13 that it wasn't triggered until she did something wrong,
14 until she broke a rule. She breaks a rule that is
15 unrelated to re-offending. The State is not presenting
16 evidence to say, hey, she now demonstrates a level at the
17 risk of re-offending, and here is all our evidence for
18 that and that's why we're asking for it. They're not
19 saying that. What the State is saying she violated a rule
20 and the Statute says you have to order GPS monitoring. In
21 that context, it's really beginning to look more like a
22 punishment.

23 Two, just like I said, there isn't any
24 evidence of her level of risk. I will present evidence to
25 having a low level of risk. You never have a zero level

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1 of risk, but you have a low level of risk. Then you have
2 the fact that it's not something that she wants -- she
3 doesn't get a tangible benefit out of it so it's not like,
4 I guess the way I thought about it, a registration for
5 your car. I don't want to have to pay the State for the
6 registration of my car, but I'm getting a benefit out of
7 registering our car. She has to pay, I believe, it's \$60
8 a month for that she doesn't want and has to submit to.

9 So, again, we're getting to a point where
10 we're looking more and more like a punishment. The fact
11 of having an ankle bracelet on her is, one, being served
12 on her to try to deter her from committing a crime. It is
13 sort of retribution for the violation of rule breaking and
14 those are classic punishment theories or goals.

15 You have the stigma that's associated with
16 having to have it on from a public standpoint,
17 embarrassment, and things of that nature.

18 THE COURT: Why isn't this within the
19 prerogative of the Legislature to set the terms and
20 conditions?

21 MR. SCALZO: One, from an expo facto
22 standpoint, because it's punishment, it's something that
23 should have been done at the time she was convicted. It
24 wasn't the law at the that time, so that's the expo facto
25 violation. From a due process standpoint, because the

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1 Legislature currently, the way it's set up currently, did
2 not provide the due process, one, hearing the actual
3 process and procedure for a court to evaluate the
4 necessity or the need or the likelihood, all of that kind
5 of finding in order to take away or impinge on fundamental
6 liberty interests and property interests, that's a due
7 process violation; substantively, obviously, also because
8 they're effect is essentially unfair.

9 To answer your question directly, I'm not
10 saying that the Legislature could never do it. What I'm
11 saying that the current scheme and the current way that it
12 is set up is an improper overly broad way of trying to
13 accomplish what they are saying they want to accomplish,
14 and factually, which will be presented, is inconsistent
15 with what they -- the Legislature I'm saying -- its trying
16 to accomplish. Because if the standard intent of this
17 permanent GPS monitoring is to protect against
18 re-offending, what you're going to have is evidence that
19 the risk of re-offending is low.

20 Given the facts that it's low and the intent
21 to protect from I think a Constitutional standpoint, it's
22 improper. So I would say that I'm not here today that
23 this could never been done and the Legislature could not
24 implement this kind of tool or procedure, it just needs to
25 do it in a better way. It doesn't currently comport with

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1 the Constitution, is my point.

2 THE COURT: So what you're saying is,
3 23-3-540(c) is not the better practice which if it was
4 just limited to the better practice, it would take it
5 outside of the course purview, but you're saying it is so
6 far not the better or the best practice as to violate
7 certain fundamental and Constitutional rights?

8 MR. SCALZO: Yeah. And essentially what I'm
9 saying is you cause in sort of the language of due process
10 analysis, you're using scrutiny I would say. There's a
11 compelling State interest, yes, to protect the community,
12 but it's not narrowly tailored to achieve that goal. The
13 narrowly tailored part is what I'm talking about. It's
14 broad and it encompasses and this leads to another
15 violation, which I can talk about in a second, which is
16 it's an equal protection violation in that if you're
17 trying to accomplish protecting society from what you
18 perceive to be a harm, obviously at the base level is you
19 have to have an assessment of what's the risk of the harm.
20 And what the Statute does is it ignores, in Jennifer's
21 case, that there are facts that would show she does not
22 pose a level of risk of harm that essentially would
23 warrant this kind of tool being used.

24 That's where that narrowly tailored language
25 comes from and I think it is also somewhat irrational in a

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1 sense that you're ignoring or you're not allowing the
2 court to take into consideration facts that are relevant
3 to whether or not this is necessary, how could you then
4 have a rational decision being made to order this or not
5 order this because Your Honor is not permitted to take
6 those facts into consideration.

7 THE COURT: Let me hear from this State on
8 the legal arguments. Let me here on the due process
9 argument.

10 MR. EVANS: Well, first of all, our position
11 on due process is two prongs. First of all is notice,
12 whether or not she knew there was a possibility that she
13 would have to have the GPS monitor for life if she
14 violated her probation. We are prepared to show that she
15 not only had written notice but also verbal notice of this
16 possibility. And second of all in this due process, she
17 must have an ability to address the offenses against her
18 before an impartial court. She had that opportunity. She
19 had an opportunity to deny any allegations raised by the
20 Department against her in violation. She was represented
21 by competent counsel and she inform an impartial tribunal
22 whether or not the actual violations was willful.

23 She is not obligated to be on GPS monitoring
24 unless the Court finds that the violations are willful.

25 THE COURT: Let me ask you a question right

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1 here to tie into one of Mr. Scalzo's arguments, as I
2 understand the Statute, it's any violation that triggers
3 life time GPS as opposed to violation relating to
4 underlying charge that lead to probation; is that correct?

5 MR. EVANS: That's correct, Your Honor.

6 THE COURT: I'm sorry. I just want to make
7 sure I have that clarified for the record.

8 MR. EVANS: But you still must find it's
9 willful. If you find that it's not willful, then she
10 would not be on that kind of GPS. So she had the
11 obligation under the Statute to fight any allegations that
12 she may have against her that the actual violation was
13 willful, and that gives her her due process rights.

14 Under Morrison v. Vanborough, which is the
15 United States Supreme Court case regarding the violation
16 of probation and parole, the Supreme Court would give
17 limited due process rights of a person that's under
18 probation or parole, and those rights are the ability to
19 prepare for an impartial tribunal, to have competent
20 counsel representing her, be able to fight or raise any
21 allegations or any mitigation to that tribunal, and also
22 be notified of the actual violations.

23 She was given the actual warrants that stated
24 the violation that she had against her so she could fight
25 those violations. She also had notice that any violation

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1 will if found unlawful would cause her to be on lifetime
2 GPS monitoring. It is our position that there is no
3 violation of due process.

4 As for the ex post facto, it is our position
5 that she is not being punished. She's not given any extra
6 time on the sentence. She's not being given extra time in
7 prison on the GPS monitoring basis, it's just that the
8 fact that she's violated her probationary sentence that
9 she's been given previously, she has to do two years of
10 the judge decides that regarding the actual sentence she's
11 received earlier and not anything from later ---

12 THE COURT: How about Mr. Scalzo's argument
13 that the law changed between the offense date and the
14 sentencing date relative to 23-3-540(c) and that it's
15 impermissibly retroactive?

16 MR. EVANS: Our position is ex post facto
17 goes to punishment. She's not being punished for
18 anything. She's not being give an extra sentence or
19 another sentence, it's just that there's other
20 obligations she now has to do while she's out because of
21 the willful violation of probation.

22 She has the freedom to move around. She's
23 can work, she has the opportunity to meet friends or do
24 any activity she wants to do, but she's just obligated to
25 wear the actual device on her ankle because of the

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1 sentence. And as I said earlier because her offense
2 occurred before the Statute was created, if she did not
3 violate probation, she would not be on GPS monitoring.

4 Now, the people who are under these offenses
5 under Subsection C that's currently in the Department of
6 Corrections or was sentenced after the Statute was
7 created, is obligated to be on GPS monitoring, but she
8 would not had been obligated if she did what she was
9 supposed to do on probation and not violated. So,
10 therefore, our position is that since she's not being
11 punished extra for anything that she's done previously is
12 not an violation of ex post facto.

13 THE COURT: Let me fire an extreme
14 hypothetical, the maximum on this charge was 15?

15 MR. EVANS: Yes.

16 THE COURT: Let's say that she pleads as of
17 the day that she actually pled which is January, 2007, and
18 she's sentenced to 10 years active and 5 years probation.
19 She does her 10 straight up. On her 5 year probation on
20 the last day of probation, she gets a traffic ticket,
21 which is technically could argue to be a violation of
22 probation. She gets assigned to a young zealous agent
23 who's going to make a name for himself and write as many
24 violations as he can. He then brings her into court and
25 there's a judge that hears it and says, yes, technically

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1 that is a violation so I find that you have violated
2 probation and under 23-3-540(c) I don't have any
3 discretion, you now have the rest of your life to wear
4 this GPS monitoring.

5 Mr. Scalzo argues that is so draconian in
6 result as to be unconstitutional, so walk me through that.

7 MR. EVANS: Well, it's no different than
8 having to register as a sex offender. She has to do that
9 anyway, and the United Supreme Court has stated that
10 that's no unconstitutional as having her registered. I
11 see it as no different that she has to wear that monitor.
12 She's free to do what she wants to do just being monitor.
13 Mr. Scalzo says that it's to her detriment. It could be
14 to her benefit. We've had individuals who have been
15 accused of crimes that was found -- charges has been
16 dropped because of the monitoring. We've been able to
17 tell law enforcement that this person was here, this
18 person was there this person was not at the scene of the
19 crime. So it could actually be to her benefit.

20 I see it being no different than police
21 cameras that are there to protect police officers, but
22 sometimes it's there to protect the defendant also if
23 police are doing something they shouldn't be doing.

24 Our position is that this is no different
25 than sex offender registry, which as been established by

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1 the Supreme Court of the United States to be lawful and
2 not unconstitutional, and doesn't inhibit her from doing
3 anything. So she's not being punished, incarcerated or
4 made to stay in her house or anything like that, it's just
5 a measure to monitor her to see where she's at at all time
6 in case she does re-offend. She may have a low risk of
7 re-offending, but there is a risk because she has done
8 this before and then we will know where she is. Or if
9 somebody else does something that they shouldn't do and
10 she's being accused of that, we'd be able to tell the law
11 enforcement that she wasn't there, she wasn't the actual
12 person that committed this crime.

13 THE COURT: Mr. Scalzo, before we hear from
14 your witness are there any other legal arguments?

15 MR. SCALZO: Yeah, I'm sorry, I should have
16 been more clear so that they had an opportunity to address
17 it. I did not speak to Your Honor about -- I think there
18 is also a Fourth Amendment issue as well. And the Fourth
19 Amendment issue is raised by the fact that the US Supreme
20 Court has said and they said this in the City of
21 Indianapolis versus Edmund, which is 531 US 32, that
22 essentially the police, law enforcement cannot use
23 measures like -- and this was, I believe, a car checkpoint
24 stop kind of a tool that the police in Indianapolis were
25 using to stop people and what the Court said was this

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1 particular tool -- the whole point of the program was sort
2 of general crime patrol; that there was no immediate crime
3 that they were trying to stop for instance where they
4 upheld checkpoints for DUI. So if you're doing DUI
5 checkpoints, that's an immediate concern because the
6 person driving right then and there is DUI then there's an
7 immediate crime that was being committed. But his
8 checkpoint in this case was not about DUI, it was about,
9 and I think they ended up uncovering some drugs things of
10 that nature, so it was characterized as a general crime
11 concern or concern for general commission of crime.

12 That's exactly what this is because they don't -- if you
13 get down to the basic principle of it, do they have
14 probably cause -- if the State came to Your Honor or to a
15 Magistrate or some other judge and said, we would like a
16 search warrant to search Jennifer's house or her person or
17 her anything or to seize her or even obtain blood, they
18 would have to offer the Court probable cause. They don't
19 have any probable cause to say that she has committed or
20 is about to commit a crime.

21 They couldn't get a warrant and essentially
22 what this amounts to is it is a seizure. They are seizing
23 a body and they are attaching an electronic device to her.
24 They then have, for the rest of her life, a continuing --
25 I mean it's like to do the analogy with the City of

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1 Indianapolis, it would be every time you got in your car
2 there's a police officer standing outside your car and
3 says I'm going to search your car. Why? Because you had
4 a speeding ticket before or you had a DUI. Now, they
5 don't have any probable cause to believe that you're going
6 to commit this crime right then, they just have this
7 generalized idea that because you've done it before
8 therefore you might do it again.

9 I will note that in a trial, they couldn't
10 make that argument to a jury but it was made earlier. I
11 think that that is one of the arguments and South Carolina
12 has a higher authority of protection than even the Federal
13 Constitution does. In South Carolina, our Constitution
14 says not only unreasonable search and seizures,
15 unreasonable evasions of privacy. And, obviously, what
16 we're arguing is it is unreasonable by the very fact that
17 there isn't supporting evidence to suggest that she poses
18 a risk so not only on the search and seizure side of
19 things is it unreasonable, but as an evasion of privacy it
20 is unreasonable, and it clearly is an evasion of her
21 privacy. She doesn't want it, she doesn't want to
22 government to put something on her body. She doesn't want
23 the government to surveil her for the rest of her life,
24 minute by minute. So in that respect, I think that's
25 where you get the Fourth Amendment.

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1 If I can just address some of the points that
2 the other side made and I'll try to be quick. Notice in
3 terms of the due process issue, the State is saying that
4 she's had notice and she's had the opportunity to address
5 the issue. First let me say, there's procedural due
6 process and there's substantive due process.
7 Procedural due process is what they are talking about when
8 they said she had notice and the ability to address and
9 impartial tribunal, things of that nature. First, I would
10 disagree. She has not had that with respect to the
11 decision as to whether or not GPS is appropriate or
12 necessary. She has had that with respect to whether or
13 not she's violated probation.

14 In what we went through before I started this
15 argument was a hearing on whether or not she violated
16 probation and what should happen to her in terms of what
17 that violation should be and mitigating evidence, things
18 of that nature. What we did not discuss and was not
19 presented for Your Honor's consideration was whether or
20 not ordering GPS is an appropriate necessary thing to do.
21 The Statute says you have to do it whether it makes sense
22 or doesn't make sense. In reality, there is no procedure
23 when it comes to the GPS. She has not had the opportunity
24 to challenge the State's reasons as to why GPS should
25 happen.

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1 She hasn't had the ability, meaningfully,
2 because you can't decide according to the Statute to say,
3 no. She doesn't have the ability to say, no, they don't
4 have a good reason to put that ankle bracelet on me. Your
5 Honor, can only decide whether there was a violation or
6 not a violation.

7 It was said that it's not punishment because
8 she's not getting extra time. Well, one, I would say that
9 that's not the only criteria or standard for why something
10 would be considered punishment. A fine is considered
11 punishment even if the person doesn't go to prison or is
12 not locked up. But this is very similar to being locked
13 up. While her movement is not restricted in a sense that
14 she is not confined to a house or confined to a jail cell,
15 certainly there is a level of restriction, one, because
16 she's got to report to probation because they've got to
17 put it on her. She's got to go to probation because they
18 have to update it or they have to repair it or do things
19 of that nature. She doesn't want it. It's not a benefit
20 to her that she would like to take advantage of. So there
21 are points in time where she is restricted.

22 But I think the real reason why it looks like
23 punishment is because there is no other context in which
24 we use GPS monitoring, an ankle type thing, on somebody's
25 body except for the criminal justice system. If Your

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1 Honor was sentencing somebody and you decided that in lieu
2 of prison you were going to say you are sentenced to home
3 incarceration, what would happen is part of Your Honor's
4 order would be that person would have an active electronic
5 monitor on her ankle to insure that you could enforce the
6 Order of staying in your house which is in lieu of prison.

7 There isn't a civil or non punitive context
8 in which we use GPS monitoring. The only other
9 non punitive way we use GPS monitoring is when I got buy a
10 GPS device and put it in my car because I want to find out
11 how to get someplace, but I'm getting a tangible benefit
12 out of that because I want to know how to get somewhere.
13 There isn't any tangible benefit that she desires nor that
14 she gets out of the State forcing her to wear it. So I do
15 think there's a punishment aspect to it.

16 There clearly is a liberty interest. It was
17 said that there is no liberty interest in wearing the
18 bracelet. I don't think there's anything more fundamental
19 than the fact that our bodily integrity is our domain.
20 It's an assault if somebody grabs me and I don't want them
21 to grab me. Assault and battery for that to take place so
22 to say that there's no liberty interest, I would offer
23 that to a defense to an assault and battery if a client
24 had grabbed and punched somebody that there was no liberty
25 interest in it, there clearly is a liberty interest and

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1 that is even at a minimum.

2 And the last point, I would make unless Your
3 Honor has some questions, it was said that this is no
4 different than sex registry. I would concede that there
5 are aspects that are similar. Obviously the most obvious
6 being a collateral result of a sex offense, but I think
7 that's really where those two part ways. It is accurate
8 that the law has been held not only in the State of South
9 Carolina, but in the US Supreme Court, that sex registry
10 -- the requirement to register as a sex offender -- is not
11 a violation of the Constitution.

12 But what you have is two very different --
13 they're apples and oranges on the conduct of the State.
14 The sex registry, what you essentially have is as
15 glorified public record. It's an easy access public
16 record and the reason it's been held to not violate any
17 liberty interest or due process or other Constitutional
18 issues is because primarily what it is is a transmittal of
19 information that is currently already public, and we're
20 not here to challenge the sex registry. Her conviction is
21 public. Any sex offender who has been convicted of a
22 crime it is as public record.

23 Historically, that's a difficult thing for
24 the average person to find out so obviously what happened
25 was, especially with the Internet, they developed a way to

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1 make it easier to report that information or give the
2 public that access, but what's been noted by all the
3 Courts I think that have looked at it, is the very aspect
4 of it being only public information that is not used in a
5 way to punish because it's just public information so
6 there isn't a sanction to that aspect of it. That's the
7 reason the Courts have used before. That is not the
8 situation that you have with the GPS. It has nothing to
9 do with public information. Obviously, it's something
10 that isn't otherwise going to take place unless the State
11 decides it wants to do this and it has through the piece
12 of Legislation, and as my argument has been before, there
13 is a punishment to it. At a minimum, the punishment is
14 that you have to pay \$60 a month for a service you don't
15 want and you get no tangible benefit out of that. We call
16 that a fine. In normal everyday life, we would say that's
17 a fine. That's some kind of fee that we don't desire.
18 That, I think in and of itself, raises it to the level of
19 a punishment.

20 So I think in that sense it is different than
21 the sex registry and that is why, while instruction, I
22 don't think the case law upholding that sex registry is
23 not a violation of the Constitution. It's really
24 controlling in this type of environment and there are
25 other implications that I've already discussed.

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1 THE COURT: Anything else from the State
2 before I hear from the witness?

3 MR. EVANS: Yes. First of all, the Fourth
4 Amendment argument he made, there is not seizure. She can
5 go wherever she wants and we are not intruding on her
6 privacy by GPS monitoring. Agent Windele is not going to
7 go to her house, knock on the door searching for drugs.
8 Basically, what the GPS monitoring does it find where her
9 location is. She can be in her house smoking crack and
10 marijuana and we wouldn't know so I don't see how it would
11 be a Fourth Amendment issue regarding this case. We are
12 not intruding on her privacy or seizing her in any way.
13 We are not taking anything from her. We are not searching
14 her residence. We are not searching her vehicle. We are
15 not searching her person. We are not taking any bodily
16 fluids from her. We're just going to know her ---

17 THE COURT: And I don't have any problem
18 saying this isn't a Fourth Amendment issue.

19 MR. EVANS: And also his addressing the Sex
20 Offender Registry. I think the Sex Offender Registry is
21 even more intrusive than GPS monitoring reason being
22 because under the Statute, there are offenses, sexual
23 offenses, that is not in the Statute. This Statute only
24 pertains to minors so certain sex offenses that is not in
25 the Statute you have to register under Sex Offender

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1 Registry, and the public knows you committed that offense.
2 I can go on the Internet and find if certain people who
3 committed the actual offenses and go to their house. With
4 the GPS, they can't come to our office, get Agent
5 Windele's computer and track her down. The public cannot
6 do that. Only law enforcement can do that, and we don't
7 release this information to anybody unless the law
8 enforcement is doing the actual investigation done in a
9 certain case, Your Honor.

10 So as I said before, this is very similar to
11 a Sex Offender Registry which the Supreme Court has ruled
12 is not unconstitutional. As a matter of fact, in
13 Hendricks, the Supreme Court simply said, "That an
14 imposition that restrictive measures is a legitimate
15 noncumulative government objective." And that's our basic
16 argument regarding the GPS system.

17 THE COURT: Let me, and this probably a more
18 practical question. Assuming that Ms. Dykes or anyone
19 else has a lifetime GPS, they finish with the probation
20 and they're out of prison and they can't afford to pay the
21 monitoring fee, what happens?

22 MR. EVANS: I don't think we would remove it.
23 I think we would probably do an affidavit saying they
24 can't afford it. That's what I think would happen.

25 THE COURT: That might be a field from the

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1 issues presented, but I have such good lawyers, y'all
2 making me think about all kinds of interesting ---

3 MR. SCALZO: You can look at Section K that
4 addresses that issue. If Your Honor needed to look at the
5 law, that would be the section that addresses that issue.

6 MR. WINDELE: Your Honor, the Statute says
7 that two months in arrears on the payment of the fee would
8 act as a violation of the program, and a warrant would be
9 sought from the Magistrate at that point. If a warrant is
10 issued from the Magistrate for the nonpayment of that fee,
11 then it would be turned over the Solicitor's Office and
12 then to prosecute or make a determination whether
13 prosecution on that violation would go forward or not.

14 THE COURT: So even if someone has fully
15 completed a probationary sentence?

16 MR. WINDELE: Yes, Your Honor. The Statute
17 provides that a fee be charged and that that fee go
18 directly back into providing for that equipment and
19 training and so forth that's necessary to run the program,
20 so that is a mandatory fee. I believe there's also some
21 language in the Statute about that the offender has to
22 show this is a -- and I don't know the word off the top of
23 my head -- creates a substantial hardship on them. But
24 once the warrant is sent to the Solicitor's Office, of
25 course, it's up to them to determine whether to move

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1 forward with prosecution as far as having the person
2 indicted for violation of the program based on nonpayment
3 of fees or not. And then we would get a decision from
4 them whether they were dismissing those charges or whether
5 they have indicted and to move forward.

6 THE COURT: One of the the results of a
7 potential indictment could be jail time?

8 MR. WINDELE: That's correct, Your Honor.

9 THE COURT: Anything else from the State
10 before we hear from the witness?

11 MR. EVANS: Nothing else, Your Honor.

12 MR. SCALZO: The only thing I would say, Your
13 Honor, to address one thing that the State brought up that
14 we hadn't discussed was, and I should have talked about it
15 earlier, the say that the Statute classifies the offenses
16 is two ways. There's one class that Jennifer falls under,
17 lewd act on a minor is the offense, criminal sexual
18 conduct in the first degree with a minor is the offense,
19 that is mandatory. All other offenses that are listed in
20 the Statute are basically sexual offenses against children
21 are discretionary to the court.

22 That's an important distinction, I think
23 factually that I'll be able to bring out from the witness,
24 but from a legal standpoint it goes back to several
25 issues, but one of the most obvious would be the equal

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1 protection because it's classifying people and treating
2 them differently. And what you'll learn from the evidence
3 is the way it makes the distinction basically it's saying
4 because you committed a crime where the child is less than
5 11, that the Legislature is inferring that there is some
6 level of risk there that's higher. And I think what
7 you're going to learn from my expert is you can't make
8 that leap. The offense level doesn't equal the risk
9 level. It's part of the analysis, but it doesn't complete
10 the analysis. There's other things that you have to do
11 and so I wanted to address that because the State had
12 brought that up.

13 THE COURT: Let's go ahead and call your
14 witness.

15 MR. EVANS: Can I address that one issue? I
16 think the Legislature has ever right to make sentences
17 more punitive pending on the severity of the actual
18 offense. I mean if you had unlawful sexual conduct with
19 persons under the age of 11, I think you should be
20 punished more severely than with a person of 14 because of
21 the age of the person. So I don't see no problem with the
22 Legislature doing this because of the severity of the
23 actual offenses in pertaining one offense could be more
24 severe than the other one. That's why you get more time
25 for murder than assault because of the severity of the

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1 actual offense you committed.

2 THE COURT: So again, that kind of pulls it
3 back to being within the province of the Legislature.

4 MR. EVANS: Yes, that's my opinion.

5 MR. SCALZO: And it also sounds like a
6 concession that it's a punishment.

7 THE COURT: Okay.

8 MR. SCALZO: Your Honor, my client says she
9 has to go to the bathroom while we're calling the witness.

10 THE COURT: Okay. You okay with that?

11 MR. WINDELE: Yes, sir.

12 MR. EVANS: Yes, sir.

13 MR. SCALZO: Your Honor, we would call
14 Dr. Greg Dwyer to the stand.

15 (Dr. Dwyer's C.V. marked as Defendant's
16 Exhibit No. 1 for identification was admitted into
17 evidence.)

18 RICHARD GREG DWYER, having been sworn,
19 testified as follows:

20 THE COURT: If you could come around and have
21 a seat in that green chair, sir.

22 MR. SCALZO: Your Honor, Defense Exhibit 1 is
23 the Doctor's CV. I've already shown it to the other side.
24 I don't they have any objection to it coming in. I thought
25 I'd hand it to you so it would make it easier to refer to.

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1 (Dwyer Curriculum Vitae marked as Defendant's
2 Exhibit No. 1 for identification and admitted into
3 evidence.)

4 THE COURT: If you would State your full
5 name, sir.

6 THE WITNESS: Richard Greg Dwyer.

8 DIRECT EXAMINATION

9 BY MR. SCALZO:

10 Q. Dr. Dwyer, would you explain to the Court what
11 you do for a living?

12 A. I'm an Assistant Professor and the Director of
13 the Sexual Behavioral Evaluation and Treatment Clinic and
14 Laboratory at the University of South Carolina School of
15 Medicine.

16 Q. Can describe what kind of degrees you hold and
17 what kind of schooling.

18 MR. EVANS: Your Honor, we would stipulate to
19 his expertise.

20 THE COURT: No voir dire?

21 MR. EVANS: No, sir.

22 THE COURT: He's qualified, then.

23 MR. SCALZO: And, Your Honor, I won't go
24 through a full crediting of the witness, but I would like
25 Your Honor to understand a little bit about his expertise

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1 factually.

2 THE COURT: Okay. Move it on kind of quick.

3 MR. SCALZO: I will try, Judge.

4 BY MR. SCALZO:

5 Q. Are you a psychiatrist?

6 A. Yes.

7 Q. For how many years have you been practicing as a
8 psychiatrist?

9 A. Residency training was for six year and I've been
10 out of residency training for three.

11 Q. And you said you're a professor, do you do
12 research?

13 A. Yes, I do.

14 Q. Do you do treatment?

15 A. Yes.

16 Q. Do you do evaluations and consultations?

17 A. Yes.

18 Q. Do you have an area of expertise or a particular
19 specialized area that you do research in?

20 A. Yes, I do. It's in human sexual behavior
21 primarily sexual aggression and offending behavior.

22 Q. Are you Board Certified in any area, but
23 particularly with relation to sex offenders or sexual
24 treatment?

25 A. I have three Board Certifications, Psychiatry, in

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1 effect general psychiatry, one child adolescence
2 psychiatry and one in forensic psychiatry.

3 Q. And, are you familiar with the Sexually Violent
4 Predator Act?

5 A. Yes.

6 Q. And have you been involved in evaluating people
7 under that Act?

8 A. Yes, I have.

9 Q. And describe for the Court so we make sure
10 everybody is dealing on the same sheet of paper what a
11 sexually violent predator is and what it means for a
12 psychiatrist to evaluate for it?

13 A. Well, the definition in South Carolina for a
14 sexually violent predator actually has a few components to
15 it. One is that the person has been convicted of a
16 sexually violent offense; one is that they have a mental
17 abnormality or personality disorder that makes the person
18 likely to engage in acts of sexual violence if they are
19 not confined in a secure facility for long term control,
20 care and treatment. So those are, in essence, the key
21 points that a forensic psychiatrist I would like at if
22 asked to do an evaluation either for civil commitment or
23 for release. I've been involved in both kinds.

24 Q. With regard to the sexually violent predator type
25 of evaluation, how many times have you been involved in

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1 evaluating somebody for that program?

2 A. I'd have to sit down and start writing down the
3 ones I can recall. I've done both for release from
4 treatment. I've done them for the initial consideration
5 for the Court. I've been asked to be a consultant for the
6 South Carolina Attorney General's Office on several. I
7 have several pending right now for them as a second
8 opinion.

9 Q. In your best estimate, how many would you have
10 been involved in?

11 A. Probably the double digits, certainly not in the
12 triple.

13 Q. Defense Exhibit 1 is your CV and it lists --
14 it's, I guess more than 20 pages -- there are lot of
15 articles that you published, but have you published
16 articles and do research in the specific area of sex
17 offenders and treatment for sexual offenses?

18 A. Yes, I've conducted both grant funded and
19 unfunded research. I've presented locally and nationally
20 on the topic and I've published on the topic.

21 Q. Have you consulted with law enforcement agencies
22 regarding sex offenders and in other capacities?

23 A. Yes.

24 Q. Did I ask you to do an evaluation of Jennifer?

25 A. Yes.

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1 Q. And can you tell the Court what I asked you to do
2 as far as your evaluation was concerned?

3 A. Yes. You asked me to assess whether or not she
4 has a mental health diagnosis. The answer to that
5 question is, yes. Is it a diagnosis that could lead to
6 sexual aggression, sexual offending behavior? You asked
7 whether or not she met the criteria for the South Carolina
8 Sexually Violent Predator Act. You asked what her risk of
9 sexual re-offending would be in my opinion, and you asked
10 me to give recommendations for mental health treatment if
11 any would be warranted in my opinion.

12 Q. Before we find out the details of that, would you
13 describe to the Court what you did as the forensic
14 psychiatrist to make your determinations and answer those
15 questions as put to you?

16 A. Certainly. The evaluation as I conduct them has
17 three major components, one being a clinical review of
18 documents and review of the individual being evaluated,
19 collateral interviews. When I look at records, I look at
20 police records, court records, mental health treatment
21 records, general health records, anything that will help
22 me understand how the person acts, what's occurred in the
23 past and their behaviors.

24 The second component is what we call
25 psychometrics, what we call psychological testing and data

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1 collections. Some of it is pencil and paper assessments,
2 some of it is on the computer, all peer reviewed
3 instruments that I use in my assessment.

4 And the third is try to gather data. It
5 could be laboratory work. It could be other physiological
6 testing. I've used components in each of those three
7 areas as part of the evaluation I did for you.

8 Q. And describe for the Court in the tools that you
9 describe as assessment tools and the other things that you
10 utilize, are there things that you made up or where do
11 they come from these assessment tools?

12 A. The actual instruments that are used are out in
13 the public domain in the sense for professionals that are
14 credential to use them, and I only use the ones that have
15 been in the peer review literature typically ones that
16 have been around for a while as opposed to something
17 that's brand new that's been used with the population and
18 this literature to support its use.

19 Q. When you say peer review, does that mean other
20 forensic psychiatrists participated in that or created it?

21 A. Peer review means that someone other than who
22 developed it has published about it looking at it
23 independent of the author so to speak, and it's been
24 published in a journal that's peer reviewed meaning that
25 journal sends the article, sends the data out to other

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1 professionals who are considered experts in the field to
2 review what's been written and see whether or not it meets
3 scientific rigor before it gets published.

4 Q. And how many different assessment tools or tests
5 did you perform?

6 A. Let me take a look at my log sheet here. I used
7 seven, one was a screening, and then I actually did the
8 full version.

9 Q. My first question is, is that something that --
10 those tests that you described -- is that something that a
11 lay person would be able to conduct and utilize?

12 A. There are standards that vary from one instrument
13 to the other. In some cases you can teach almost anyone
14 to administer it. It's the interpretation of the results
15 that requires particular credentials, in some cases at the
16 master's level, some cases at the doctoral level. And
17 each developer of the instrument has set certain standards
18 within the field. Some require or at the very least
19 recommend certain specialized training to administer it.
20 For those that have that kind of training, I've gone to
21 the course that are listed on my CV.

22 Q. And for all the tests or instruments that you
23 use, if there were required certifications, do you have
24 them?

25 A. Yes.

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1 Q. Did you interview Jennifer?

2 A. Yes, I did.

3 Q. On how many times?

4 A. On two occasions.

5 Q. Roughly how many hours did you spend or how much
6 time did you spend with her?

7 A. Well, the first time that she came in was to do
8 some of the testing. In between some of those tests, we
9 talked and the bulk of that day was for that purpose and
10 she was there approximately eight hours. There was
11 probably a lunch break in there as well. The actual full
12 interview log, I've got three hours and roughly 15 minutes
13 just for that log. Then there would be interview time
14 when I went over the results of those instruments to
15 clarify anything that I saw was a discrepancy. I could
16 total up that time. I keep a log, but I don't have it
17 readily available.

18 Q. With regard specifically to your findings on
19 Jennifer, what is your professional opinion about her risk
20 of re-offending from a sexual offense standpoint?

21 A. First of all, it should be known that assessing
22 what anyone would do in the future is not an exact
23 science, and the way we try to accomplish that with things
24 like violence or sexual behavior is look at patterns of
25 people who have offended and look at someone we're

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1 considering now and see how they compare to those people
2 who have and those people who have not with similar
3 characteristics.

4 There are certain actual instruments that are
5 used for that and unfortunately none of those have been
6 developed specifically with women, any females of any
7 agent for that matter, so we end up having to use more of
8 research results to do that and look whether or not
9 somebody is like a group and give either a range or what's
10 typically given a low moderate high risk kind of category.
11 And in my opinion, using that comparison, I would put her
12 in the low risk category.

13 Q. Describe a little bit more what a low risk
14 category for sexual re-offense would mean?

15 A. Right. First of all, you should probably think
16 about the data we have about females offending in general
17 to begin with. It's a low base rate. Depending on the
18 study you look at it's 1, 3, 5 percent of the sexual
19 offenses that have become known or attributed to females.
20 And then if you look at the re-offense rate for -- well,
21 for males for that matter too -- it's not extraordinarily
22 high compared to some other kinds of offenses and then in
23 women it's even lower.

24 Now, that doesn't mean that when it happens
25 it's not a major issue, but the chance of it happening for

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1 any female is low to begin with.

2 Q. How much lower in comparison to men as far as
3 sexual offenses?

4 A. Well, again, it depends on the studies. If you
5 look at one of the recent med analysis where they look at
6 several different studies and try to combine them, it's in
7 the teens it would be expected just comparing them to man
8 it tends to be in the single digits instead.

9 Q. So men are in the teens as far as the percentage
10 --

11 A. Well, no, what we would expect from woman
12 comparing them to me.

13 Q. Okay. I'm sorry.

14 A. And, again, with man and with woman, you have to
15 take a look at multiple factors to determine what that
16 risk is which is what I do in this case.

17 Q. I want to talk about that issue a little bit, but
18 let's try to get to your diagnosis and then I want to talk
19 about what informed that diagnosis a little bit more.
20 First thing you said she was a low risk, did you review an
21 evaluation done by a Karl Bockler?

22 A. Yes, I did.

23 Q. I've got marked Defense Exhibit No. 4. I'm going
24 to show it to the witness and see if he has it and then
25 I'm going to hand it to the Judge.

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1 A. The first page matches and I have no reason to
2 believe it's not.

3 Q. What do you understand or what did you understand
4 that document to be?

5 A. This was a psychological evaluation for the South
6 Carolina Department of Probation and Parole in Greenville
7 County.

8 Q. Does that document offer either an opinion or
9 conclusions about Jennifer's risk of re-offending?

10 A. It listed in several places low risk and actually
11 said that she would be an appropriate candidate for an
12 outpatient sexual offender services.

13 Q. Is there anything that you found in your
14 evaluation or your diagnosis with regard to the risk of
15 re-offending that is different from what Dr. Bockler
16 found?

17 A. Well, if you go by the instrument that he used as
18 low risk underlined in several places, I am also saying
19 low risk.

20 Q. Are you able to tell from his report what kind of
21 instrument or instruments he used?

22 A. He lists one, the Sexual Adjustment Inventory,
23 Psycho and Personality Assessment Screener. The Psycho
24 one is the one I use. I don't use the same one he uses.
25 The Inventory is a different instrument and I have looked

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1 at what that one is, it's just not one that I used.
2 There's a variety of ones out in the field that can be
3 employed.

4 Q. You're saying you don't disagree with his
5 instruments show and his conclusions as far as the risk
6 level?

7 A. As far as the risk level, correct.

8 Q. And in terms of other assessment tools that you
9 used that were different to his or in addition to his, I
10 should say?

11 A. I believe I said I had seven and one was the
12 Screener so I used six others. One of those collected
13 similar kind of data in regards to sexual behaviors and
14 knowledge and were collecting similar kinds of things. I
15 haven't put them side by side to see one may have that the
16 other one doesn't.

17 Q. You stated that your opinion is that Jennifer
18 poses a low risk of re-offending. Can you explain why?

19 A. Certainly. When you look at the research on
20 female offending and you look at the characteristics that
21 lead to those persons that offend, again, she doesn't have
22 those characteristics, and in fact she has the ones that
23 compare to the groups that don't end up with another
24 sexual offense. In fact, she compares to the group that
25 doesn't end up with any other kind of violent offense or

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1 criminal offense in general.

2 Q. Again, I'm going to come back and talk about
3 those groups and those categories in a minute, but let's
4 go through the rest of her diagnosis. I believe you've
5 also diagnosed her as having depression; is that correct?

6 A. Yes.

7 Q. Can you talk about the influence or impact that
8 the depression has on the assessment of risk for sexually
9 re-offending, if any?

10 A. Right. A mood disorder of depression and there
11 are several different kinds of depressive disorders, have
12 not been linked with an increased risk of sexually
13 offending. There's actually a med analysis involving man
14 that there's a decreased risk. If you think about it,
15 someone being so depressed and lack of energy and not
16 engaging in any activity, that makes sense. But there's
17 less data about woman in general, so there's no reason to
18 believe it would be different in terms of that diagnosis.

19 Q. And I believe you've also diagnosed her with
20 borderline personality disorder?

21 A. I actually have given her borderline personality
22 traits because I don't have a sufficient number of those.
23 You have to have a certain number for that disorder. She
24 has been given that diagnosis before in terms of records
25 that I have, Dr. Pam Crawford that's worked with the South

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1 Carolina Department of Corrections has given her that
2 diagnosis. Personality disorders typically take several
3 interviews and some testing sometimes in addition to that.
4 Dr. Crawford may have had additional data to render that
5 diagnosis. I don't have any reason to believe it's not
6 accurate, I just didn't have enough at this stage to say
7 that.

8 Q. If we assume that she does have that borderline
9 personality disorder, again, can you talk about its
10 relation o the risk level that we've been discussing?

11 A. Again, that's not one of the personality
12 disorders you typically find that leads to sexual
13 offending behaving. There are ones that do, but that's
14 not one of them.

15 Q. What is it? Describe for the Court as far as
16 what that kind of personality disorder is?

17 A. Borderline personality disorder in general means
18 that the person has difficulty rendering their mood and
19 their interactions and relationships. People are
20 sometimes seen as all perfect or all bad in their personal
21 relationships, and concerns about losing the relationship
22 and their mood can be linked to that. It doesn't mean
23 that everybody who has that diagnosis has every one of
24 those characteristics. There's a list that also includes
25 potentially doing harmful things to themselves either for

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1 attention or to feel better, relieve stress, but not
2 everybody does that necessarily.

3 Q. Is there any specific sexual component to that
4 kind of personality disorder that your going to expect to
5 manifest itself in Jennifer or anybody?

6 A. Not in terms of doing harm to somebody else. You
7 might be able to extrapolate trying not to lose a
8 relationship somebody might agree to do something sexual
9 which would be to their detrimental potentially or to keep
10 from losing somebody unlike, for example, and anti-social
11 personality disorder, which has been linked to doing
12 things that are sexually inappropriate all the way up to
13 being sexual offenses.

14 Q. And is that something Jennifer has anti-social
15 personality?

16 A. No. In my opinion, she does that and none of the
17 other assessments I've seen or treatment records has
18 anybody raised that even traits of it.

19 Q. Talk about any substance abuse problems you've
20 identified and, again, their relationship to the level of
21 risk involved?

22 A. Certainly. There are some characteristics, some
23 criteria for alcohol abuse. There's not a sufficient
24 number for me to actual give that diagnosis at this point.
25 I did do a screen for substance dependence which indicated

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1 she does not have that. There was a slightly elevated
2 scale on that being a little bit offensive about answering
3 questions, but I noticed they also have that same
4 assessment done earlier what appears to be in the
5 Department of Corrections. It's referenced in the Sexual
6 Violent Predator Act where disciplinary teams review and
7 it's listed as negative at that time as well. So there's
8 two different times in the span of a couple of years.

9 There is mentioned in the Department of
10 Correction records about potential for alcohol abuse and
11 cannabis abuse during initial screening. Dr. Crawford,
12 who is her psychiatrist for a period of time, and a
13 treating psychiatrist never listed that diagnosis or even
14 a possibility of it in the notes that I was provided.

15 Q. Have you found any in your entire interviews,
16 assessments, research with regard to Jennifer anything
17 that would suggest that any substance abuse problem would
18 increase her risk of re-offending?

19 A. The link between substance use and sexual
20 offending tends to be that it can have, depending on the
21 substance, a dis-inhibiting effect. So certain substances
22 causes us not to think about the consequences of what our
23 acts are, which is why people get behind the wheel of a
24 car or operate machinery or other things if they weren't
25 under the influence of something they wouldn't do because

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1 of the risk to themselves or potentially others. I have
2 to factor that in.

3 The typical research has looked at whether or
4 not substances were used in the actual offense. In other
5 words, were they used because the person was intentionally
6 trying to reduce their anxiety in order to engage in the
7 sexual offense. There's no indication of that from the
8 police reports or any other documents that I looked at.
9 Or they use substances in order to gain access or
10 acquiesces of the victim or potential victim, again,
11 there's no indication of that from the police documents or
12 any other reports that I was provided.

13 So I look for those things to see whether or
14 not that's the case and did not. That doesn't mean that
15 shouldn't be addressed with her in treatment and make sure
16 there isn't some underlying issue there.

17 Q. Are you saying that you didn't find in Jennifer
18 sort of a modus operandi either she uses drugs or she gets
19 the victim to use drugs in order to accomplish the crime?

20 A. Right. There's no indication of that from what
21 I've reviewed or interviews.

22 Q. Last part of the diagnosis question would be
23 gender identify disorder, talk about that and it's
24 relationship to Jennifer. Is it a diagnosis and what it
25 means?

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1 A. First of all, again, there could be several
2 different components to them and everybody doesn't have to
3 have all of them. Again, I have the diagnostic criteria
4 with me and I can read those if the Court wants the
5 specifics on any of these. But in general what it means
6 that is somebody that believes that they have, in effect,
7 the wrong body in terms of the sex of the body their in So
8 a male thinking they should be in a female body and a
9 female thinking that she should be in a male body. In
10 other words, they thinking and processing and interacting
11 with the world is mismatched.

12 There is an initial mention of it when that
13 actual diagnosis was given by Dr. Crawford in the
14 Department of Corrections. And there's a couple of
15 comments from Dr. Crawford about what criteria she saw for
16 that that is consistent with the diagnosis

17 During my evaluation and asking some of the
18 similar questions of Ms. Dykes, those answers were
19 different in such that they wouldn't meet the criteria.
20 And so I include that that's a possibility. It may be.
21 There's a variety of reasons somebody may not want to
22 share that kind of detail with somebody that's only had a
23 couple of interactions or interviews. Or there may have
24 been a shift of thinking in terms of it's not an issue any
25 more.

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1 Q. Talk about assume she had this disorder, what
2 relations of risk there is, and then talk about if she
3 doesn't have that disorder, again, what relation to risks
4 she has.

5 A. Right. In terms of mental health diagnoses have
6 been linked to sexual aggression and sexual offending, the
7 sexual disorders that have been are some of the
8 paraphilias, and paraphilias, again, in general terms is a
9 disorder where the individual's interest, the target so to
10 speak of their sexual interest and who arouses them, is
11 what creates the problem. So as opposed to an adult being
12 sexually aroused by another consenting adult, they are
13 aroused by some aspect of no consent or some other age
14 group or some other part of the animal kingdom or some
15 inanimate object. Some paraphilias have acted on it that
16 resulted in a crime, shoe fetish in stealing the shoes,
17 but other could like sexual attraction to prepubescent
18 children. So as far as evaluation, you look for those
19 types of disorders.

20 Q. Did you find any in Jennifer?

21 A. No, and nobody else has mentioned those
22 previously of being a diagnosis. So, although sexual
23 identity disorder is included in the disorders in terms of
24 broad categories in the diagnostics, it is not one that's
25 been linked to sexual offending. So even if she did meet

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1 that criteria right now today, that would not be one with
2 increased risk.

3 Q. Talking about sort of sex offenders in general
4 and then we'll sort of tie that into Jennifer again, are
5 there different categories of sex offenders?

6 A. I'm not sure what you mean by categories.

7 Q. Or types of sex offenders.

8 A. Right. Well, there's certainly different
9 etiologies, different reasons, different causes as to why
10 people would sexually offend. Certainly some offenders
11 the typologies where researchers have tried to come up
12 some up with categories and those are those type of
13 categories which would be separate from a diagnosis issue.

14 Q. Talk about typology, define that a little bit
15 better for us?

16 A. Well, in terms of women, there are a couple of
17 major ones that's out there, one by Mathews and some of
18 her colleagues puts them into categories that describe the
19 sexual orientation of the person who has offended and
20 described something about the relationship to the offense.
21 For example, there's teacher/lover or there's that kind of
22 relationship with the person who has been offended.
23 There's one that includes predatory behavior. There's one
24 that is male coerced where there's females involved and
25 it's because an adult male who coerced an adult female to

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1 whatever offending involving a child, for example.

2 So there are several categories like that. I
3 brought one of the articles with you and I can read the
4 all to you.

5 Q. My question about typology and sort of categories
6 is this, can you determine that from the offense that has
7 been committed or a person has been convicted for? You
8 described teacher/lover, could you say a person who was
9 convicted of criminal sexual conduct with a minor in the
10 first degree or the second degree, can you take that
11 conviction and say, yes, they fall into that category or
12 that typology?

13 A. No, I'd have to have the facts of the case, the
14 actual statutory title to help me with that.

15 Q. In general, in your professional opinion, can the
16 level of risk be determined strictly from looking at the
17 offense the person has been convicted of?

18 A. No, for a variety of reasons actually.

19 Q. Why?

20 A. One is that people at time plead to some that
21 they weren't originally charged with so that skews what
22 I'm looking at and the other, as I mentioned, we look for
23 characteristics that are like those people that re-offend
24 and those have to do with the characteristics with him or
25 herself that's been offending or has offended once and

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1 then the circumstances and the acts and behaviors of the
2 actual offense and the statutory definition or title
3 doesn't have that kind of detail. It's not it's purpose,
4 obviously.

5 Q. What about age, because a lot of what the
6 statutes were focused on here are separated by age? For
7 instance, criminal sexual conduct in the first degree with
8 a minor, the age of the victim is less than 11 years old.
9 If it's criminal sexual conduct in the second degree it's
10 between 11 and between 14. So if I give you those two
11 pieces of information and ask you this question, just
12 based on the age, is an offender more likely to re-offend
13 if their victim is 10, the criminal sexual offender degree
14 in the first degree category, as compared to 12 where they
15 fall into the second degree category?

16 A. I think I understand. The question is, does the
17 age of the victim relate to something about the offender
18 that then in turn relates to risk?

19 Q. Right.

20 A. Actually, the issue, although there could be
21 extremes of age where I would have to ask additional
22 questions, but I would ask questions to follow along was
23 this prepubescent or pubescent, that actually is a factor
24 that links to risk. Certainly with men, there's some
25 extrapolation to women, and there's some debate about that

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1 in some settings, but there are so many other factors that
2 go into risk besides that. In looking with the
3 etiologies, what the actual offending is, if it's going to
4 take place again, the chance of it, what we would use for
5 treatment, containment, those kinds of things.

6 Q. To use an example that you just mentioned because
7 I understand there's more than just one example, you said
8 pubescence.

9 A. Yes.

10 Q. That's a factor. Talk about pubescence and it's
11 role in assessing risk.

12 A. Well, it has to do with several. It's actual a
13 question that helps with several issues. One it could be
14 in terms of a paraphilia if we're considering whether this
15 person has pedophilia and one of the requirements of
16 pedophilia is that their sexual interest arousal or urges
17 towards prepubescent children. If you look at the
18 diagnostic manual, it goes an age and it says about that
19 because puberty doesn't start at a precise age for
20 everybody. We have ranges in the medical profession where
21 that started. Anything below a certain age, we'd consider
22 that an anomaly and we'd look into why that happened, and
23 if it took too long, we'd look at if there's been some
24 medical reason why it's been delayed. So the age is a
25 general range so we would look at where they are

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1 developmental, and there's a medical way to do that called
2 Tanner Staging with Secondary Sexual Characteristics.

3 The reason that that's an issue, not just
4 because it's part of that diagnosis, but it also says
5 something about interests in general. Human beings as
6 mammals respond to secondary sexual characteristics, and
7 in fact, there is an assessment instrument that looks at
8 sexual interests, that looks at that beyond your
9 conscience awareness and what's considered a normative
10 response on that assessment for an adult is sexual
11 interest in adults and adolescents because it uses
12 photographs, pre-awareness is how you respond. Now,
13 whether you act on that is a completely different thing.
14 There's legal or constraints on what the age of consent is
15 and it varies from state to state. But this issue is
16 biologically we respond that way at least with that kind
17 of initial response. So we look at that because if it's
18 prepubescent, it doesn't fit in that range that we would
19 expect from, frankly, anybody in this room that I assess
20 with that instrument or the building.

21 Q. And specifically with regard to Jennifer, in your
22 review either of the documents that you reviewed or our
23 evaluation of her, did the issue of pubescence, was it a
24 part of her crime?

25 A. Based on the reporting and the age of the

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1 reported victim, there's no reason to believe that that
2 person was not in puberty based on age, there's no
3 indication that there was some anomaly that had delayed it
4 that many years. In my assessment of where her interests
5 lies there was indication of any prepubescent sexual
6 interest.

7 Q. What I hear you saying, and correct me if I'm
8 wrong, is that the commission of the crime by Jennifer did
9 not center on the desire to be with somebody who was not
10 yet in puberty?

11 A. That's correct. There was no indication in this
12 case.

13 Q. Sort of our classic IBO of pedophile.

14 A. By definition of pedophile. Often times the
15 media and others will misuse that term, but by definition
16 for pedophile to be diagnosed, there has to be a
17 prepubescent interest.

18 Q. You said you did not diagnose Jennifer with a
19 paraphilia?

20 A. That's correct.

21 Q. But to use that as an example for a moment, if
22 you diagnose someone with a paraphilia, one, can you treat
23 it and then two, I guess the word you used can you contain
24 it and does that vary over time?

25 A. Well, first of all there are many paraphilias

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1 depending on whose list you look at. There are two
2 hundred, three hundred, and I've even seen a list of five
3 hundred that has some very specific ones, and not all of
4 those even if acted on would ever result in the criminal
5 justice system being involved. But narrowing it down to
6 those that could result in that, then the question becomes
7 can that be cured or not cured, could it be managed which
8 is probably a better way to look at it.

9 There are many illnesses that we can't cure.
10 We can't cure insolent dependent diabetes. We can't cure
11 essential hypertension, which is the fancy way of saying
12 we don't know why you have high blood pressure. We can't
13 cure schizophrenia, bi-polar disorder, but we can treat
14 all of those and people live and have families and jobs in
15 the community without anyone knowing they have those
16 unless they decide to tell them as long as they are
17 following their treatment measurement.

18 In terms of paraphilias, we haven't figured
19 out a way to cure those, but certainly have ways to manage
20 them. And sometimes that's just a psychological way of
21 management with therapy and certain tools that they learn.
22 In some cases it includes also the addition of
23 medications.

24 Q. If, for example, and I really this doesn't
25 directly apply to Jennifer, somebody had a paraphilia that

1 you diagnosed and they were at a stage where they couldn't
2 be managed currently, could there be a time how likely or
3 however you want to characterize that, where they could be
4 managed? In other words, if they are unmanageable, are
5 they always unmanageable?

6 A. Okay. Well, let's take for example somebody
7 whose never been offered any treatment and has acted on
8 their paraphilia desires and that has lead to someone
9 being victimized, and they are offered treatment, accept
10 the treatment and participate in the treatment, and are
11 then able to manage their behavior with the help of
12 treatment ongoing, a course of treatment and don't need
13 any after that. There's all kind of possibilities at that
14 point. Certainly somebody could show up at a clinic
15 having not been treated acting on behaviors, get
16 treatment, and eventually be able to control that in a
17 community setting. Or the whole course of treatment could
18 take place in a community setting depending on the issues
19 at hand in terms of risk and community safety and those
20 kinds of things.

21 Q. If a person has either a psychiatric disorder or
22 a paraphilia or some other kind of more sexually related
23 disorder that causes them to have a low risk, could they
24 then develop into a higher risk?

25 A. You lost me there. You said paraphilia or some

GREG DWYER - DIRECT EXAMINATION

1 kind of disorder that causes a low risk?

2 Q. No. If they had either a psychiatric disorder or
3 a paraphilia and they currently impose a low risk, could
4 that risk increase over time.

5 A. Okay. Now, first of all let me clarify for the
6 Court paraphilia actually is a mental health diagnosis.
7 It's included in the diagnostic manual. So if we go back
8 to my treatment example and let's say the person had been
9 receiving treatment and was managing it well and went off
10 medication, for example, then potentially the risk may go
11 up. It's possible.

12 Q. How about the reverse? If you start out at a
13 high risk, can you go to a low risk?

14 A. Certainly.

15 Q. That leads me to talk a little bit more about the
16 sexually violent predator issue that you testified you've
17 been involved with before.

18 A. Yes, I've actually been a consultant for that
19 treatment program with the State in the past.

20 Q. Have you been involved in evaluating people for
21 whether or not they are sexually violent predators?

22 A. Yes.

23 Q. Have you been involved with treating people who
24 are sexually violent predators?

25 A. I was a consultant to the treatment team. I

GREG DWYER - DIRECT EXAMINATION

1 trained folks that provided treatment.

2 Q. Did you review any documents from the Multi
3 Disciplinary Team, the sexually violent predator team,
4 with regard to Jennifer?

5 A. Yes, I did.

6 Q. And was there a review of her case as to whether
7 or not there was going to be action taken to see if she
8 was a sexually violent predator?

9 A. Yes. It went before the Multi Disciplinary Team
10 for them to vote on whether or not to forward her name up
11 to the next step. There are several steps in the process
12 for consideration of civil commitment under that Act and
13 she was reviewed under the first level of that.

14 Q. Was she referred on to the be evaluated for a
15 sexually violent predator?

16 A. As I recall, no. I was looking through to make
17 sure I got that correct. Here it is. "The defender does
18 not satisfy definition of sexually violent predator and a
19 review by the prosecutor of the committee is not
20 warranted."

21 Q. When did that decision take place? Would she
22 have been in or out of prison is really what I'm after.

23 A. Right. Generally, the way I've seen it -- I
24 can't speak to all, there's been over 5000 of these since
25 the Act was passed -- typically they're done when the

GREG DWYER - DIRECT EXAMINATION

1 completion and incarceration is about ready to end so the
2 person would be, if not committed, would be released. And
3 generally when that time is approaching, packets of
4 background is put together for the team to review. How
5 soon they do that and whether they have some sort of
6 specific requirement, I don't know.

7 Q. Is it your understand that when a person has been
8 civilly committed for being a sexually violent predator,
9 that they go through treatment?

10 A. That's the purpose.

11 Q. If there comes a time when the treating
12 psychologist makes a determination that that person no
13 longer poses a threat or suffers from the condition which
14 they were committed for, do you know what happens?

15 A. Yes. It has changed a bit over time. They now
16 have an internal review board that makes the decision, but
17 ultimately whether the person is released or not is a
18 judge's decision. It eventually goes back to court and a
19 judge decides. Although, it can also involve a jury
20 deciding. It doesn't necessary have to be just a judge,
21 but it will be in a courtroom. I've seen juries involved
22 more often than not but I don't know mathematically if it
23 a jury or not, but it ends up back in a court proceeding.

24 Q. By from a psychiatric standpoint, could there
25 come a time when someone who has been committed as a

GREG DWYER - DIRECT EXAMINATION

1 sexual violent predator no longer really maintains that
2 kind of status from a psychiatric standpoint?

3 A. Yes. And, in fact, in the State people have been
4 released as a result.

5 Q. And we talked about earlier, you evaluated
6 Jennifer under that standard for sexually violent
7 predator, did you not?

8 A. Yes. One of your questions was that so I did,
9 yes.

10 Q. And, again, to be clear, did you meet that
11 criteria?

12 A. No, I agree with the MBT, the disciplinary team's
13 decision, I would concur with that that she doesn't meet
14 that criteria.

15 Q. My last topic is sort of science versus opinion.
16 When you do your evaluation overall, is it based on
17 science and how so if it is?

18 A. I try to do everything, every instrument I use,
19 all the questions I ask during an interview, any
20 physiological testing, that I have some peer reviewed
21 scientific literature to support that. Some techniques
22 and procedures have more literature to support it than
23 others, and there certainly is controversy in this area of
24 study, and it's got a ways to go, as opposed to what we
25 know about depression, for example, which we have

GREG DWYER - DIRECT EXAMINATION

1 something to learn about. But I try to insure that there
2 is some sort of basis for the decision I'm making, but
3 it's ultimately I'm giving an opinion about those things.

4 When I give a mental health diagnosis for
5 example, depression, depressive disorder not otherwise
6 specified, it's a diagnosis I gave then I can go to the
7 manual and I can point out which criteria I believed she
8 has and examples of that either from interview, from
9 testing, or from records to support that criteria.

10 When I look at the risk and rendered an
11 opinion about whether I thought it was low, moderate, or
12 high, I went to the literature and looked at those
13 typologies. I looked at the studies that have looked at
14 woman who have committed sexual offenses and followed them
15 to see if they've committed other ones, and said, what do
16 her characteristics look like and what group does she most
17 likely fit in, which is very similar with what we do with
18 males although there is more literature because frankly
19 more men do this based on arrests and studies.

20 Q. Based on either a professional approach and or a
21 scientific approach, is your evaluation of her as a
22 forensic psychiatrist really any different than how you
23 would evaluate somebody for a nonsexual type evaluation?

24 A. Well, what you do in your evaluation depends on
25 what the question is and who the audience is. My clinical

GREG DWYER - CROSS-EXAMINATION

1 practice, my research, and my teaching and my consultants
2 is all focused on human sexual behavior and primary
3 aggressive behavior so that's the kind of work I do in all
4 those areas. In terms of how an evaluation should be
5 done, certainly as scientist, as a researcher, I would say
6 everybody should be doing it with an evidence base
7 regardless of what the question is. There's variable
8 evidence depending on what you're asking.

9 We talked at the very beginning about trying
10 to predict future behaviors. Psychiatrists are asked to
11 predict whether somebody is going to hurt themselves, for
12 example. What do they do? They use the literature that
13 we've gathered from people who have actually hurt
14 themselves or tried to and said, okay, what are the
15 characteristics. Let's get as many of those cases
16 together as we can to see what's common. All right, let's
17 look for those things that we're assessing. Will we be
18 perfect on it? No. Unfortunately, there isn't a test for
19 that kind of thing. If there was, we'd all be using it
20 obviously given the risk.

21 Q. And my last question and I make sure I ask it in
22 a kind of an active way, is an evaluation of the risk
23 level of a sex offender something a lay person can do
24 accurately?

25 A. No. I believe you need specialized training in

GREG DWYER - CROSS-EXAMINATION

1 terms of mental health. Even more than that, I think you
2 need specialized training in human sexual behavior, sexual
3 aggression that you need those credentials to fully
4 understand.

5 Q. Thank you, Doctor.

6 THE COURT: How long do you anticipate your
7 cross-examination to lasting?

8 MR. EVANS: No long, Your Honor, but I would
9 like to take a break.

10 THE COURT: How about we start back at about
11 11:15 and start back a little shorter than a 15 minute
12 break.

13 Doctor, you can stand down.

14 (Whereupon, there was a brief break.)

15 THE BAILIFF: Court will come to order.

16 THE COURT: All right, keep your seat.
17 If you would just come back around, please,
18 sir.

19 Your witness.

20 MR. EVANS: Thank you, Your Honor.

CROSS-EXAMINATION

22 BY MR. EVANS:

23 Q. Good morning, Doctor.

24 A. Good morning.

25 Q. Now, you said earlier that you are one of the

GREG DWYER - CROSS-EXAMINATION

1 evaluators on the Sexually Violent Predator Act, right?

2 A. I have conducted evaluations. I don't work for
3 the Department of Mental Health as one of their forensic
4 evaluator, but I have done them on behalf of the South
5 Carolina Attorney General's Office more often than not.

6 Q. So you are aware of the actual Sexually Violent
7 Predator Statute?

8 A. I am aware part of it. I wouldn't be able to
9 quote all aspects of it.

10 Q. So when a person comes to you for an evaluation,
11 you are the person to make an assessment of whether or not
12 the person is a sexually violent predator?

13 A. Actually, that's not in a courtroom. I just give
14 an opinion about whether or not they meet the criteria.

15 Q. And then once you make that opinion, the person
16 goes to court and that's determined by a jury or a circuit
17 court judge, correct?

18 A. If it's in terms of a civil commitment and I'm
19 the one that's doing the evaluation that's been court
20 ordered. There could be another stage where, for example,
21 an attorney for the respondent may ask for something at
22 some other stage. But if I'm the one called to do it at
23 that point, then that would be the issue. Although, with
24 the Attorney General's Office, that's already been done
25 and they ask for another opinion and I'm actually doing a

GREG DWYER - CROSS-EXAMINATION

1 second one.

2 Q. And all this is usually done when the person has
3 almost completed their sentence, correct?

4 A. The ones I've been involved in they were coming
5 up on release from custody of the Department of
6 Corrections.

7 Q. So a person could do 30 years in prison and be
8 civilly committed to the Department of Mental Health?

9 A. That's my understanding of the Act works, yes.

10 Q. And when a person is civilly committed, they go
11 to Broad River Correctional in the medical facility?

12 A. No, actually there has to be, and it's my
13 understanding this is by Statute, it has to be in a mental
14 health facility. Now, it turns out that that mental
15 health facility is physically situated in a Department of
16 Correction building and the Department of Corrections
17 property on Broad River Road, but you reach a stage at the
18 very last door the officers' uniform don't say Department
19 of Correction but they say the Department of Mental
20 Health.

21 Q. You are still in a confined setting, correct?

22 A. It's a confined setting in terms of the doors are
23 locked.

24 Q. You can't leave when you please if you are
25 civilly committed?

GREG DWYER - CROSS-EXAMINATION

1 A. That's pretty much the definition of civil
2 commitment for any purpose.

3 Q. And that happens after the person has done their
4 full sentence on the criminal charges?

5 A. I don't know the full sentence. I know there is
6 some people who get a sentence and then there's like
7 release at a certain stage with good time, and I'm not
8 going to say I understand how all that works. But they're
9 about when the Department of Corrections is ready to say,
10 you can leave.

11 Now, there's some other folks that can come
12 under that. Juveniles and the Department of Juvenile
13 Justice can fall under that Act, persons found not guilty
14 by reason of insanity and maybe held in a different
15 facility under that Act. There's quite a list of folks
16 that qualify and the definition of conviction varies, too,
17 pleading guilty, found guilty by reason of insanity, being
18 adjudicated. I couldn't say them all off the time of my
19 head, but there's a list and some other categories in
20 there under the Act that would qualify to be considered.

21 Q. And when a person is civilly committed, they're
22 committed until a doctor -- a doctor could recommend that
23 they are well enough to be in society and a judge could
24 release that person, correct?

25 A. Well, a couple different things could take place.

GREG DWYER - CROSS-EXAMINATION

1 One, is what are called annual reviews and by the Statute
2 there's a requirement for an annual review, and that
3 actually can end up in a court setting as well. And the
4 individual committed may petition to have their situation
5 reviewed even though the treatment team, the folks may say
6 their not ready to go, and that might be overridden in a
7 courtroom. That has happened in our State. I'm not
8 consulting with them directly and prior to me consulting
9 with them, they were switching to having the treatment
10 team and the board of several members decide whether or
11 not that was a yes, then to go to the court and say we'd
12 like you now to look at this.

13 Q. You don't have a set amount of time you're
14 committed. If you're committed, you don't sit there for
15 five years and then released, it has to be done by a court
16 judge, correct, through a recommendation of a board or a
17 doctor?

18 A. Yes, and as you pointed out, they no longer meet
19 that criteria.

20 Q. So you could actually be civilly committed for
21 the rest of your life, correct.

22 A. I imagine in theory that could happen.

23 Q. So you could have done your sentence in prison,
24 be civilly committed after that for the rest of your life?

25 A. My understanding of how the Act works, that's a

GREG DWYER - CROSS-EXAMINATION

1 possibility.

2 Q. As far as you know that is legal. That has not
3 been decided to be illegal under the law as far as you
4 know?

5 A. Right, well, they're still doing it.

6 Q. Now, let's talk about Jennifer's case. You said
7 you met with her for hours during treatment -- evaluation?

8 A. I was not providing treatment. That's a major
9 ethical violation if I was a treatment provider and then
10 did a forensic evaluation. I only saw her for an
11 evaluation for a legal proceeding.

12 Q. And did you have a chance to speak to her about
13 the actual offense she committed?

14 A. Yes.

15 Q. And you're aware that she was found guilty of a
16 lewd act upon a child?

17 A. Correct. I think she pled to that.

18 Q. Pled guilty, found guilty, the same thing. And
19 she was 26 and the victim was 15; is that correct?

20 A. I'd have to look back at the ages. That sounds
21 approximately right.

22 Q. And are you aware of the Criminal Sexual Conduct
23 Statute for the State of South Carolina?

24 A. I've certainly read it before. I can't recite it
25 off the top of my head.

GREG DWYER - CROSS-EXAMINATION

1 Q. I couldn't either, myself. But you would agree
2 that a person who has consensual sex with a 15 year old
3 has committed criminal sexual conduct, correct?

4 A. By definition in the State of South Carolina the
5 age of consent is 16.

6 THE COURT: One point of clarification
7 because in one portion of the report, it states that the
8 victim was 14. What was the age, Mr. Scalzo?

9 MR. SCALZO: I believe it was 14.

10 BY MR. EVANS:

11 Q. Are you aware that Jennifer was originally
12 charged with criminal sexual conduct, second degree, and
13 pled down, correct?

14 A. I was given a list of the charges. I'd have to
15 flip through to be precise, but there is no reason to
16 believe that you're not reading it right.

17 Q. And were you aware that she had a relationship
18 with this 14 year old and didn't know she was 14 when the
19 relationship began?

20 A. That's my understanding.

21 Q. But once she found out, she still had the
22 relationship, correct?

23 A. Again, that's my understanding, correct.

24 Q. Now, you said on direct that she has a low chance
25 of re-offending, correct?

GREG DWYER - REDIRECT-EXAMINATION

1 A. A lot risk of sexually re-offending, yes.

2 Q. But there is a risk even though it's low?

3 A. Well, technically there's a risk for everybody on
4 this room. We don't have a means to assess that and
5 there's no reason to believe that anybody here would, so
6 all of our risk assessments is based on somebody who has
7 done something. Just like my example of suicide, anybody
8 in the room could do that and there are all kinds of, I
9 suppose, protective factors in place; age, whether they
10 have children, your faith base, belief system, and those
11 are the things we look at when we're assessing somebody
12 for that. But we don't assess people just random for
13 suicide either, only people who have actually made some
14 attempt or talked about it or something like that. So
15 keep in mind the data is based on looking at somebody who
16 has done something and then we assess the risk. So we
17 compare someone who has done something to other people who
18 have done something and done it again and that's any
19 crime. Most of the research looks at crime in general,
20 frankly, and specifically violent sexual crime is usually
21 folded under the violent category.

22 Q. Okay. Now, I'm going to give you a hypothetical,
23 Dr. Dwyer. What if Jennifer meets another 14 year old,
24 not realizing she's that age, she has a sexual
25 relationship with that child, she'd been committing sexual

GREG DWYER - REDIRECT-EXAMINATION

1 conduct, correct?

2 A. My understanding of how the law is I don't know
3 if a person doesn't know how that effects a decision in a
4 courtroom, I couldn't speak to that.

5 Q. What if she does know and commits that act, that
6 would be criminal sexual conduct, correct?

7 A. Right, the way you just defined it by the age,
8 correct.

9 Q. And you can't tell the Judge that can not happen?

10 A. I can't predict the future for anything.

11 Q. So that is possible that could occur?

12 A. Is it possible? Oh, yes.

13 MR. EVANS: Nothing further, Your Honor.

14 THE COURT: Anything else, Mr. Scalzo?

15 MR. SCALZO: Just real quick on that last
16 issue.

17 REDIRECT EXAMINATION

18 BY MR. SCALZO:

19 Q. You were just asked the hypothetical of could she
20 re-offend with a 15 year old was the example, okay. Now,
21 you've diagnosed her as having a low risk of re-offending.

22 A. It's not a diagnosis like depression. In my
23 professional opinion, her risk of re-offending is low.

24 Q. Describe a little bit better what the State was
25 really kind of answer you which was can you predict the

GREG DWYER - REDIRECT-EXAMINATION

1 future because it's possible versus having a reliable
2 accurate way of predicting or assessing risk of
3 re-offending sexually. What they're trying to say is
4 there is some sort of competition there. Describe that a
5 little bit more.

6 A. Right. We don't have any means to predict
7 re-offending of any kind of offense, frankly. When we
8 look at sexually re-offending as I mentioned before, we
9 are looking at adult males. We have some actuarial
10 instruments, but keep in mind even those are just like the
11 actuarial instruments that were used likely for everybody
12 in this room when they determined your life insurance
13 payments. They looked at your age, they looked at whether
14 you were male or female and they put you in this group and
15 said, well, these folks they die early, we're going to
16 charge them more, and these folks don't. Frankly, there
17 will be some people in that group who last much longer and
18 there may be some people in the group that last long who
19 don't. Even when we do that with actuarials, we're just
20 putting you in a group.

21 But that's what we do throughout medicine in
22 many aspects of making decisions about whether you're a
23 candidate for a particular procedure, particular
24 medication. We look at the data we have from folks who
25 have had similar things. So in this case, we do the same

GREG DWYER - RECROSS-EXAMINATION

1 thing. We look at what are the characteristics of the
2 offense, of the offender, both in terms of the actual
3 sexual offense but also globally about them, and what have
4 we found are indicators of offending again because people
5 with those have and people without them have not which
6 group looks like you and then put them in that group. Is
7 that low, moderate, or high risk.

8 That's the best we have for a lot of things
9 that we do. It's unfortunate, but that's what we have so
10 that's the procedure. Does that mean that somebody may in
11 that group, sure. It also means that somebody in the high
12 risk group may never do it. It goes both ways. We try to
13 frame those characteristics as well as we can so we don't
14 have the false positives or false negatives. We don't put
15 somebody in a group that says they won't and they really
16 will or says they will and they really won't. There are
17 two extremes of that.

18 So the bottom line is as to predict the
19 future, I can't do that. If somebody comes here and sits
20 in this chair and say absolutely this is their risk, I
21 want to know how they're doing that because all the rest
22 of us need to do it. Either that there's some issue about
23 competency or their understanding of the field and the
24 science.

25 Q. Given all of the evaluations and the evidence and

GREG DWYER - RECROSS-EXAMINATION

1 interviews and everything that you've done in your overall
2 evaluation, what is your opinion that the level of risk
3 that if Jennifer were to meet a 15 year old as in the
4 example that was given to you, what level risk you would
5 assign that she would re-offend in that situation?

6 A. Well, if you're saying that she knows that this
7 person is underage and is familiar with the age of consent
8 I would say that the risk is low.

9 MR. SCALZO: That's all I have right now,
10 Your Honor.

RECROSS-EXAMINATION

11
12 BY MR. EVANS:

13 Q. But if she does meet a 15 year old and does do
14 this, there's a possibility that could happen, correct?

15 A. Is it possible?

16 Q. Yes.

17 A. Can't say that it isn't.

18 Q. And if she does do that, that is against the law,
19 correct.

20 A. That's correct.

21 MR. EVANS: Nothing further.

22 THE COURT: Can Dr. Dwyer be excused?

23 MR. SCALZO: Yes, Your Honor.

24 MR. EVANS: Yes, Your Honor.

25 THE COURT: Thank you, Dr. Dwyer.

JEREMY WINDELE - DIRECT EXAMINATION

1 (Witness leaves the witness stand.)

2 MR. SCALZO: I don't have any other
3 witnesses, Your Honor.

4 MR. EVANS: The State would call Jeremy
5 Windele, Your Honor.

6 JEREMY WINDELE, having been duly sworn,
7 testified as follows:

8 THE COURT: Please state your name for the
9 record.

10 THE WITNESS: Jeremy Windele.

DIRECT EXAMINATION

11 BY MR. EVANS:

12 Q. Agent Windele, where are you employed?
13

14 A. With the South Carolina Department of Probation,
15 Parole and Pardon Services in the Greenville County field
16 office.

17 Q. How long have you been employed with the
18 Department?

19 A. Twelve-and-a-half years.

20 Q. Now, are you familiar with the Jennifer Dykes
21 case?

22 A. Yes, sir, I am.

23 Q. And are you familiar -- was she on probation?

24 A. Yes, she was.

25 Q. And what was she charged with and on probation

JEREMY WINDELE - DIRECT EXAMINATION

1 for?

2 A. Lewd act on a minor.

3 (Form marked as State's Exhibit No. 1 for
4 identification.)

5 BY MR. EVANS:

6 Q. Now, I'm show you what's been marked as State's
7 Exhibit No. 1 for identification. Do you recognize that?

8 A. Yes, sir, I do. It's the standard form that is
9 used to notify registering sex offenders of the Sex
10 Offender Accountability and Protection of Minor's Act.

11 Q. And that a standard form used in the course of
12 business for the Department?

13 A. Yes, sir, it is.

14 Q. And Ms. Dykes signature on the second page?

15 A. Yes, sir.

16 Q. What date was it signed?

17 A. April 1, 2008.

18 Q. And when was she placed on probation?

19 A. That was when she was released from the
20 Department of Corrections about that time.

21 MR. EVANS: At this time, I'd like to
22 introduce this form into evidence.

23 THE COURT: Any objection?

24 MR. SCALZO: No objection.

25 (Form previously marked as State's Exhibit

JEREMY WINDELE - DIRECT EXAMINATION

1 No. 1 for identification was admitted into evidence.)

2 BY MR. EVANS:

3 Q. Now, on the top of the form could you read to the
4 Court exactly what it says by the No. 1.

5 A. It says, "A person who is required to register as
6 a sex offender for 16-3-655a, Criminal Sexual Conduct with
7 a minor in the first degree; 16-15-140, committing or
8 attempt to commit a lewd act on a child under 16."

9 Q. Okay. Stop right there. Now, you said earlier
10 that Jennifer Dykes was placed on probation for what
11 offense.

12 A. Lewd act on a minor.

13 Q. Could you read the rest of the statement under
14 No. 1.

15 A. Yes. Also for, "16-140 accessory before the fact
16 of either of those offenses listed above. 16-180 attempt
17 to commit either offenses above, the defendant must be and
18 who violates a term of probation, parole, community
19 supervision, or community supervision program, must be
20 ordered by the court or agency with jurisdiction to be
21 monitored by the Department with an active electronic
22 monitoring device."

23 Q. Now, did she ever inform you or anybody else at
24 the agency she didn't understand that form?

25 A. No, sir, not to my knowledge.

JEREMY WINDELE -CROSS-EXAMINATION

1 Q. And are you aware that she was also notified
2 verbally?

3 A. When the form is signed, it's gone over with the
4 offender at that time, so that would have been a verbal
5 conversation as well.

6 Q. And nobody ever told you -- she never told she
7 didn't understand the implications of being violated?

8 A. No, sir.

9 MR. EVANS: Nothing further, Your Honor.

10 THE COURT: Your witness.

11 MR. SCALZO: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. SCALZO:

14 Q. Agent Windele, it's your understanding that based
15 on the form you were just reading from, that there is no
16 procedure that she's notified of for determining whether
17 or not she poses a risk or whether or not GPS monitoring
18 is even warranted, correct?

19 A. That's correct.

20 Q. The only thing it's telling her is that if
21 there's a violation of probation that probation or the
22 State is going to say you have to wear an ankle monitor?

23 A. Yes. It says that if she's find to be in willful
24 violation that the Statute requires that she be placed on
25 active electronic monitoring device.

JEREMY WINDELE -CROSS-EXAMINATION

1 Q. And it's not giving her notice that there's going
2 to be a hearing where the specific issue is whether or not
3 GPS monitoring is appropriate or necessary?

4 A. No.

5 Q. It's only about if she violated probation; is
6 that right?

7 A. It's strictly an explanation of the law if she
8 were the violate probation.

9 Q. And you would agree that the rest of the document
10 that Paragraph 2, that's a list of all of the offenses
11 where it is discretionary to the court whether or not GPS
12 was warranted, correct?

13 A. That's correct. And the explanation says that,
14 "violates a term of probation, parole, community
15 supervision or community supervision program may be
16 ordered by the court or agency with jurisdiction to be
17 monitored by the Department with an electronic monitoring
18 device."

19 Q. And, again, the effective date which is on this
20 form is of the Sex Offender Accountability and Protection
21 Act of 2006 was July 1, 2006, is that your understanding.

22 A. That's correct.

23 MR. SCALZO: That's all I have, Judge.

24 THE COURT: Anything else from the State?

25 MR. EVANS: No, sir, Your Honor.

JEREMY WINDELE -CROSS-EXAMINATION

1 THE COURT: Anything else, Mr. Scalzo?

2 MR. SCALZO: The only thing I would say, Your
3 Honor, is I don't think I asked you what kind of relief we
4 would want specifically. The recommendation by probation
5 is for a revocation of two years. She clearly has 12
6 years remaining over her head. She'd one 3. What we would
7 ask, Your Honor, to do in light of the nature of her
8 violations and we understand there are violations by the
9 light of the nature of her violations in the overall
10 issues, we're going to ask Your Honor to consider if you
11 do give that revocation that you terminate the probation
12 upon the completion of that two-year sentence. And that,
13 particularly in light of, Dr. Dwyer's diagnosis of her
14 currently having depression, that I'd ask, Your Honor, to
15 specifically order that the Department of Corrections
16 evaluate or provide her with mental health treatment while
17 she's incarcerated to make sure that kind of thing doesn't
18 fall through the cracks because they're not aware of that.
19 That's our request, Your Honor.

20 THE COURT: Anything from the State as far as
21 what the violation consequences look like?

22 MR. EVANS: No, Your Honor.

23 THE COURT: Gentleman, I'm prepared to go
24 ahead and issue a ruling so if you get your pens and pads
25 out.

JEREMY WINDELE -CROSS-EXAMINATION

1 I'll start with Ms. Dykes. I hope you
2 already understand this Mr. Scalzo have done terrific job
3 for you. There are fine lawyers on both sides and from
4 the Court's standpoint, that helps the Court in so many
5 ways and so many levels, and this is a significant issue
6 not only to you but also to the citizens of this State,
7 and in a very real fashion you are the test case because
8 I'm sure this is going to go up as it should because good
9 lawyers find and argue good issues. And then good issues
10 ultimately make it to our Appellant Courts where the law
11 is finally resolved.

12 I do find that there is a factual basis for
13 the revocation and in fact there's simply been no argument
14 against that. I am also cognizant of the fact that under
15 the law of this State and of this land that once someone
16 pleads guilty or has found guilty then they have a lesser
17 expectation of certain rights.

18 I am going to also find that as established
19 by State's 1 that Ms. Dykes was notified both in this
20 writing and also orally of the requirements of the Sex
21 Offender Accountability and Protection of Minors Act of
22 2006, which certainly includes, in part at least to some
23 degree, the issue that's being raised in our hearing here
24 today. I am going to find that I don't think that the GPS
25 anklet is a seizing or an unreasonable evasion of privacy.

JEREMY WINDELE -CROSS-EXAMINATION

1 In all candor, I am troubled by certain
2 aspects of 23-3-540(c) specifically by the depth and the
3 breath of it, which is certainly what Mr. Scalzo's
4 argument has seized upon in that there is no distinction
5 to whether the violation relates to the underlying crime
6 or whether it is just a violation in some other regard.

7 Further, the lifetime GPS is mandated
8 regardless of any evidence or diagnosis of whether the
9 lifetime GPS, in fact, meets the legislative intent and
10 purposes. However, our Appellant Courts, which I have the
11 utmost trust and respect for has already addressed that
12 issue, in fact, on one of my decisions. And I am simply
13 bound by that decision and I think it is binding precedent
14 at this point, so I am going to find that, Mr. Scalzo, I
15 must deny your motion.

16 And as it relates to the sentencing, I find
17 that there is a factual basis for revocation and I am
18 going to accept the State's recommendation for two years
19 and at the conclusion of that sentence there will be a
20 termination as opposed to any kind of carrying on or
21 continuation on probation. And, of course, under
22 23-3-540(c) that does require the mandatory GPS unless and
23 until the law is changed in our State.

24 But I do find that is a Legislative
25 prerogative and it falls within the realm of their

JEREMY WINDELE -CROSS-EXAMINATION

1 responsibility as opposed to the judicial responsibility.

2 So if I could ask the State to prepare a
3 proposed order and send a copy to Mr. Scalzo before you
4 send it to the Court and I wish you both good luck on the
5 appeal.

6 And Ms. Dykes, I appreciate you being here
7 and I hope things go well.

8 MR. SCALZO: Would you include in the Order
9 that ---

10 THE COURT: Mental health counseling is
11 necessary and appropriate.

12 MR. SCALZO: Thank you, Judge.

13 THE COURT: Thank you, ma'am.

14 ---END OF TRANSCRIPT RECORD---

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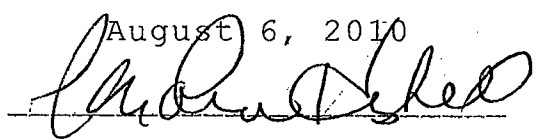
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JEREMY WINDELE -CROSS-EXAMINATION

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Circuit Court of Greenville County, South Carolina on
8 the 22nd day of April, 2010

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

11
12 August 6, 2010

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14 Caroline Hiskell
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R. Gregg Dwyer, M.D., Ed.D.

Assistant Professor

Department of Neuropsychiatry and Behavioral Science
 University of South Carolina School of Medicine
 15 Medical Park, Suite 301, 3555 Harden Street Extension
 Columbia, SC 29203
 (803) 434-4698; Gregg.Dwyer@uscmed.sc.edu
 April 20, 2010

EDUCATION

Aug 1997 - May 2001	Doctor of Medicine , University of Arkansas for Medical Sciences
Aug 1989 - Dec 1992	Doctor of Education , Virginia Tech
Aug 1989 - May 1992	Advanced Graduate Studies Certificate (Education), Virginia Tech
Jan 1985 - May 1988	Master of Arts (Management), Webster University
Dec 1984 - May 1985	Bachelor of Science (Sociology), University of the State of New York

POSTGRADUATE FELLOWSHIP and RESIDENCY TRAININGUniversity of South Carolina School of Medicine/Palmetto Health, Columbia, SC

July 2006 - June 2007	Forensic Psychiatry Fellowship
July 2004 - June 2006	Child and Adolescent Psychiatry Residency
July 2001 - June 2005	General Psychiatry Residency

BOARD CERTIFICATIONS and STATE LICENSUREAmerican Board of Psychiatry and Neurology

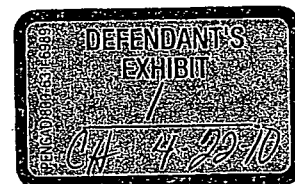
May 2009 - Dec 2019	Forensic Psychiatry Diplomate
Nov 2007 - Dec 2017	Child and Adolescent Psychiatry Diplomate
May 2006 - Dec 2016	Psychiatry Diplomate

South Carolina Board of Medical Examiners

July 2001 - Present	Medical Physician
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ACADEMIC APPOINTMENTS

Jul 2007 - Present	Assistant Professor , Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine, Columbia, SC
Jul 2005 - Jun 2007	Clinical Associate Instructor , Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine Columbia, SC
Jul 2005 - Jun 2006	Chief Resident , Child and Adolescent Psychiatry Residency, University of South Carolina/Palmetto Health, Columbia, SC
Aug 1996 - May 1997	Instructor , Department of Criminal Justice, University of Arkansas at Little Rock
Aug 1995 - May 1996	Lecturer , Administration of Justice Program, Northern Virginia Community College, Annandale and Manassas Campuses
Jan - May 1991	Lecturer , Department of Sociology, Anthropology and Criminal Justice, Montgomery College, Rockville, MD



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CLINICAL APPOINTMENTS

Sep 2009 - Present **Director**, Professionals Wellness Program, Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine, Columbia, SC

Jul 2007 - Present **Director**, Sexual Behaviors Evaluation, Research and Treatment Clinic and Laboratory, Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine, Columbia, SC

Jul 2004 - Jun 2007 **Associate Medical Staff Member**, Columbia Behavioral Health System, William S. Hall Psychiatric Institute, South Carolina Department of Mental Health, Columbia, SC

CONSULTING CONTRACTS

Feb 2009 - Present **Child & Adolescent Psychiatrist**, South Carolina Department of Juvenile Justice; funded: fee for service

Jul 2008 - Present **Consultant**, Executive Office for United States Attorneys, United States Department of Justice; funded: fee for service

Apr 2010 **Consultant**, Delaware Department of Justice and Delaware State Police; funded: \$2500

Jul 2007 - Dec 2008 **Consultant**, Sexually Violent Predator Treatment Program, South Carolina Department of Mental Health, Columbia, SC; funded: \$97,500 annually

May 2008 **External Grant Reviewer**, College of Nursing, University of Arkansas for Medical Sciences, Little Rock, AR; funded: \$200

Dec 2002 - Apr 2003 **Promotion Exam Co-Consultant**, North Little Rock Police Department, Civil Service Commission, North Little Rock, AR; funded: \$2400

Jun 1997 **Degree Program Assessment Consultant**, Department of Criminal Justice, University of Arkansas at Little Rock; funded: \$2800

FEDERAL, MILITARY and PUBLIC SAFETY EMPLOYMENT

Sep 1985 - Jan 1996 **Special Agent (Criminal Investigator)**, United States Naval Criminal Investigative Service (NCIS): headquarters (Washington, DC) assignments in the Training Department as *Special Assistant (for Research and Development) to the Director of Training, Special Programs Manager*, and *Foreign Counterintelligence Coordinator and Instructor* and in the Foreign Counterintelligence Department as a *Special Operations Division Desk Officer*; field assignments in Corpus Christi, TX, Coronado, CA and San Diego, CA conducting *Criminal and Foreign Counterintelligence Investigations and Special Operations* and serving on a *Special Protection and Antiterrorism Team*

Jun - Sep 1985 **State Commissioned Security Officer**, Baptist Medical Center, North Little Rock, AR

Jun 1981 - Jun 1985 **Aviation Electronics Technician, Petty Officer Second Class (E-5)**, United States Navy, various assignments

R. Gregg Dwyer, M.D., Ed.D., April 20, 2010

AWARDS and HONORS

Medical Research and Service

- 2009 **Certificate of Service**, Editorial Board, *Academic Psychiatry* journal
- 2008 **Certificate of Appreciation**, Internet Crimes Against Children Task Force Training & Technical Assistance Program
- 2008 **Certificate of Appreciation**, South Carolina Department of Mental Health
- 2008 **Physician's Recognition Award**, American Medical Association
- 2007 **Future Leaders in Psychiatry**, Department of Psychiatry and Behavioral Sciences, Emory University, Atlanta, GA
- 2006 - '07 **APIRE/Janssen Resident Psychiatric Research Scholars Fellowship**, American Psychiatric Institute for Research and Education (APIRE)
- 2006 **Certificate of Appreciation**, American Medical Association
- 2006; '06 **Certificate of Appreciation**, South Carolina Department of Mental Health
- 2006 **APA Research Colloquium for Junior Investigators**, American Psychiatric Association (APA)/American Psychiatric Institute for Research and Education
- 2005 **Physician's Recognition Award**, American Medical Association
- 2003 **Workshop on Clinical Trials in Psychopharmacology Fellowship**, American Society of Clinical Psychopharmacology/National Institute of Mental Health

Psychiatry Residency Achievement

- 2006 **Certificate of Recognition**, nominee for Palmetto Health Resident of the Year Award, Columbia, SC
- 2005 - '06 **Child and Adolescent Psychiatry Resident of the Year Award**, Child Faculty, Palmetto Health/University of South Carolina
- 2005 - '06 **Training Director's Medical Student Educator Award**, Child Psychiatry Residency Training Program, University of South Carolina
- 2005 - '06 **Chief Resident, Fullerton Foundation Senior Resident in Psychiatry**, Child and Adolescent Psychiatry, Palmetto Health/University of South Carolina
- 2005 - '06 **Laughlin Fellowship**, The American College of Psychiatrists
- 2005 **Rappeport Fellowship**, American Academy of Psychiatry and the Law
- 2005 **Presidential Scholar Award**, American Academy of Child and Adolescent Psychiatry
- 2004 - '05 **AAP Fellowship Award**, Association for Academic Psychiatry (AAP)
- 2004 **Joe E. Freed Award (Outstanding Scientific Paper)**, Department of Neuropsychiatry and Behavioral Science, University of South Carolina
- 2003 - '04 **APA/Shire Child and Adolescent Psychiatry Fellowship**, American Psychiatric Association (APA)

Medical School Achievement

- 1998; 2000 **Outstanding Scholastic Non-Cognitive Performance Award**, College of Medicine, University of Arkansas for Medical Sciences

Federal, Military and Public Safety Service

- 1996 **Special Act/Service Award**, United States Naval Criminal Investigative Service
- 1995 **Letter of Commendation**, United States Naval Criminal Investigative Service
- 1994 (2) **Letter of Appreciation**, United States Naval Criminal Investigative Service
- 1992; 1993 **Quality Increase Award**, United States Naval Investigative Service
- 1992 **Letter of Appreciation**, Investigations Branch, U.S. Internal Revenue Service
- 1991 **Performance Award**, United States Naval Investigative Service

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- 1991 Letter of Appreciation, Commander Task Force 168, United States Navy
- 1990 Letter of Appreciation, Navy and Marine Corps Intelligence Training Center
- 1989 Incentive Award, United States Naval Investigative Service
- 1986 Letter of Commendation, United States Naval Investigative Service
- 1986 Letter of Appreciation, United States Naval Investigative Service
- 1985 Good Conduct Award, United States Navy
- 1985 Certificate of Appreciation, Shelby County Sheriff's Department [Tennessee]
- 1981; 1982 Letter of Commendation, United States Navy

PROFESSIONAL ASSOCIATION and SOCIETY MEMBERSHIP

- 2010 - present American Association of Sexuality Educators, Counselors and Therapists
- 2010 - present American Professional Society on the Abuse of Children
- 2009 - present Society for Sex Therapy and Research
- 2009 - present American College of Sexologists
- 2008 - present National Adolescent Perpetration Network
- 2008 - present South Carolina Association for the Treatment of Sexual Abusers
- 2008 - present Association for the Treatment of Sexual Abusers
- 2008 - present Sex Offender Civil Commitment Programs Network
- 2007 - present International Academy of Sex Research
- 2007 - 2008 South Carolina Medical Association
- 2006 - present Society for the Scientific Study of Sexuality
- 2005 - present American Society for Adolescent Psychiatry
- 2005 - present Southern Medical Association
- 2004 - present Association for Academic Psychiatry
- 2001 - present American Academy of Child and Adolescent Psychiatry
- 2001 - present South Carolina Psychiatric Association
- 1999 - present American Academy of Psychiatry and the Law
- 1998 - present American Psychiatric Association
- 1997 - present American Medical Association
- 1997 - 2001 Arkansas Medical Society
- 1991 - 1995 Academy of Criminal Justice Sciences
- 1991 - 1992 Southern Criminal Justice Association
- 1990 - 1995 American Society of Law Enforcement Trainers
- 1990 - 1992 American Society for Training and Development
- 1988 - 1994 Federal Law Enforcement Officers Association

EDITOR/INVITED REVIEWER

- 2009 - Present Peer Reviewer, *Journal of Sex Research*
- 2009 - Present Editorial Board, *Adolescent Psychiatry*
- 2009 - Present Peer Reviewer, *Adolescent Psychiatry*
- 2009 - Present Editorial Board, *Academic Psychiatry*
- 2006 - Present Editorial Oversight Committee, *Journal of Evidence Based Psychiatry: Guidance for the Service Provider*, Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine
- 2004 - Present Peer Reviewer, *Academic Psychiatry*

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- 2004 - Present **Report Reviewer and Panel Reviewer**, National Institute of Justice, United States Department of Justice, Washington, DC
- 2007 - 2009 **Peer Reviewer**, *Journal of Behavioral Health Services & Research*
- 2004 - 2006 **Peer Reviewer**, *Annals of Behavioral Science and Medical Education*
- 2005 - 2006 **Co-Editor-in-Chief**, *Journal of Evidence Based Psychiatry: Guidance for the Service Provider*, Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine

COMMITTEE POSITIONS – International, National and State

- 2010 - Present **President-Elect**, South Carolina Chapter of the Association for the Treatment of Sexual Abusers
- 2009 - Present **Professional Development Committee**, International Academy of Sex Research
- 2009 - Present **Treasurer**, American Society for Adolescent Psychiatry
- 2008 - Present **Membership Committee**, American Society for Adolescent Psychiatry
- 2007 - Present **Sexual Offenders Committee**, American Academy of Psychiatry and the Law
- 2006 - Present **Child and Adolescent Psychiatry Committee**, American Academy of Psychiatry and the Law
- 2006 - 2009 **Juvenile Justice Reform Committee**, American Academy of Child and Adolescent Psychiatry
- 2008 - 2009 **Member-at-Large, Governing Board**, American Society for Adolescent Psychiatry
- 2006 **Poster Symposium Committee**, 3rd Annual Research Poster Symposium, 30th Interim Assembly Meeting, Resident and Fellow Section, American Medical Association
- 1999 - 2000 **Ad Hoc Committee on Managed Care and Children's Mental Health Services**, Arkansas Commission on Child Abuse, Rape and Domestic Violence

COMMITTEE POSITIONS – University

- 2008 - Present **Institutional Review Board**, University of South Carolina
- 2008 - Present **Academic Review Subcommittee**, University of South Carolina School of Medicine
- 2008 - Present **Faculty/Staff Peer Advocacy Committee**, University of South Carolina School of Medicine
- 2007 - Present **Research Consortium on Children and Families**, University of South Carolina
- 2007 - Present **Faculty Associate, Carolina Judicial Council and Office of Academic Integrity** University of South Carolina
- 2005 - 2006 **Education Council**, Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine
- 2005 - 2006 **Child and Adolescent Psychiatry Residency Training Committee**, University of South Carolina/Palmetto Health, Columbia, SC
- 2005 **Neuroscience Symposium Planning Committee: A Psychopharmacology Update**, Department of Neuropsychiatry and Behavioral Science. University of South Carolina School of Medicine
- 2004 - 2005 **Child and Adolescent Psychiatry Residency Program Selection Committee**, University of South Carolina/Palmetto Health, Columbia, SC

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- 2001 - 2002 **General Psychiatry Residency Program Selection Committee**, University of South Carolina/Palmetto Health, Columbia, SC
- 1997 - 2001 **Student Advocacy Council (Student Chair 1998-1999)**, College of Medicine, University of Arkansas for Medical Sciences

RESEARCH GRANT and PROJECT EXPERIENCE

Funded

- Principal Investigator**, *Internet Chat Room Solicitation of Children: A Study of Psychosocial and Criminal Justice Factors as They Relate to Public Safety Risk*; American Academy of Psychiatry and the Law Institute for Education and Research (AIER) Grant: \$13,922; Co-investigators: D DeHart, DM Schwartz-Watts, W Burke & R Moran; 2009 - 2010
- Principal Investigator**, *"Sexually Violent Predators": Psychosocial Characteristics and Treatment Needs of Those Recommended versus those Dismissed by the Multidisciplinary Team during the Civil Commitment Review Process*; South Carolina Department of Mental Health Ensor Foundation Scholars Grant: \$6900; Co-investigators: GR McKee, W Burke & R Moran; 2009 - 2010
- Principal Investigator**, *Comparison of Characteristics of Persons Evaluated to Persons Committed under a State's Sexually Violent Predator Act*; American Psychiatric Institute for Research and Education/Janssen Research Scholars Stipend: \$1720; Co-investigator: GR McKee; 2007 - 2008
- Principal Investigator**, *Comparison of Treatment, Offense, and Psychiatric Histories of Juvenile Male and Female Sex Offenders in a State's Department of Mental Health System*; Southern Medical Association Research Project Grant: \$1128; Co-investigator: JM Jerrell; 2006 - 2007
- Principal Investigator**, *Analysis of Treatment Service Utilization to include Gender Differences among Juvenile Sex Offenders Served by a State's Department of Mental Health*; Central Carolina Foundation Grant: \$600; Co-investigator: JM Jerrell; 2005 - 2006
- Principal Investigator**, *Comparison of In-Custody Male Juvenile Offenders in a Sex Offender Treatment Program to Male Juvenile Offenders in Other Programs Using Massachusetts Youth Screening Instrument Data*; Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine Grant: \$200; Co-Investigator: CC Bell; 2003 - 2004

Unfunded

- Principal Investigator**, *Factors Differentiating between Persons Forensic Examiners Recommend for Commitment to Sexually Violent Predator Treatment and Those Recommended for Release*; unfunded; Co-investigator: GR McKee; 2008
- Co-Investigator**, *Screening Factors that Correlate with Judge and Jury Decisions to Civilly Commit Persons to Sexually Violent Predator Treatment*; unfunded; Principal Investigator: GR McKee; 2008
- Principal Investigator**, *Offender and Offense Characteristics Correlated with a State Statutory Screening Committee's Decisions to Refer Juvenile Sex Offenders for Judicial Review as Sexually Violent Predators*; unfunded; Co-investigator: GR McKee; 2008
- Co-Investigator**, *Differences between Civilly Committed Sexually Violent Predators Who Participate in Treatment and Those Who Refuse Treatment*; unfunded; Principal Investigator: GR McKee; 2007

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- Co-Investigator**, *Differences between Persons Discharged from a Sexually Violent Predator Treatment Program with Treatment Team Approval and Persons Discharged without Such Approval*; unfunded; Principal Investigator: GR McKee; 2007
- Co-Investigator**, *Volitional Impairment among Men Civilly Committed to a Sexually Violent Predator Treatment Program*; unfunded; Principal Investigator: GR McKee; 2007
- Co-Investigator**, *Comparison of Offender and Offense Characteristics of Rapists and Child Molesters in a Sexually Violent Predator Treatment Program*; unfunded; Principal Investigator: GR McKee; 2006 - 2007
- Principal Investigator**, *Use of the Sexual Event Classification System to Facilitate General Psychiatry Residents' Understanding of Clients' Sexual Histories and Concerns*; unfunded; Co-Investigators: DC Fidler & JE Jones; 2005
- Co-Investigator**, *Two-Site Study of Psychiatry Residents' Use of Second Generation Antipsychotic Medications for Treating Acute Mania in Bipolar Disorder*; unfunded; Principal Investigator: AB Gowans; 2004
- Principal Investigator**, *Comparison of Offender and Offense Characteristics of Capitol Murder Defendants with IQ Scores above the Criteria for a Mental Retardation Diagnosis to those with IQ Scores below the Criteria*; Co-Investigator: RL Frierson; 2003 - 2004
- Co-Investigator**, *Survey of all Fifty States' Therapeutic Possibilities for the Management of Insanity Acquittes*; unfunded; Principal Investigator: SA Young and Co-Investigators: RL Frierson & A Shah; 2002
- Co-Investigator**, *Assessment of Training Utilizing Senior Medical Students to Teach Basic Clinical Skills to Freshman Medical Students*; unfunded; Principal Investigator: LA Delaney; 2000
- Principal Investigator**, *Ethnographic Study and Grounded Theory Development of a Learning Process Model among Probationary Special Agents of a Federal Criminal Investigative Agency*; unfunded; 1990 - 1992

PUBLICATIONS - Peer Reviewed

- Dwyer RG, Thornhill IV JT. (in press). Sexual Health: Recommendations for Teaching How to Ask and What to Do with the Answers. *Academic Psychiatry*
- Dwyer RG, Boyd MS (2009). Sex Education for Male Adolescent Sex Offenders in a Group Setting Led by General Psychiatry Residents: A Literature Review and Example in Practice. *American Journal of Sexuality Education*, 4(3):208-224
- Dwyer RG, Laufersweiler-Dwyer DL (2008). Juvenile Sex Offenders: Initial Evaluations. *Encyclopedia of Public Administration and Public Policy*, 1(1):1-5
- Laufersweiler-Dwyer DL, Dwyer RG (2008). Juvenile Stalking. *Encyclopedia of Public Administration and Public Policy*, Second Edition, 1(1):1089-1092
- Dwyer RG, Bell CC, Frierson RL, Williamson JL (2008). Use of Assessment Data for Research in Juvenile Justice: An Exploratory Study of Sex Offenders. *Adolescent Psychiatry, The Annals of the American Society for Adolescent Psychiatry*, 30:63-68
- Williamson JL, Bell CC, Dwyer RG, Frierson RL (2008). Toward a Better Juvenile Justice System: A City-State Partnership. *Adolescent Psychiatry, The Annals of the American Society for Adolescent Psychiatry*, 30:47-53

R. Gregg Dwyer, M.D., Ed.D., April 20, 2010

- Frierson RL, Dwyer RG, Bell CC, Williamson JL (2008). The Mandatory Registration of Juvenile Sex Offenders and Commitment of Juveniles as Sexually Violent Predators: Controversies and Recommendations. *Adolescent Psychiatry, The Annals of the American Society for Adolescent Psychiatry*, 30:55-61
- Freeman B, Buckland JJ, Dwyer RG, Frierson RL (2007). Hypnotics and Driving, FDA Action and Clinical Trials Show Need for Precautions. *Current Psychiatry*, 6(4):39-53
- Saleh FM, Dwyer G, Grudzinskas A (2006). An Integrated Look at Dually-Diagnosed Female Sex Offenders and the Law. *Journal of Dual Diagnosis*, 3(1):23-32
- Finkenbine RD, Dwyer RG (2006). Adolescents Who Carry Weapons to School: A Review of Cases. *Journal of School Violence*, 5(4):51-63
- Dwyer RG, Frierson RL (2006). The Presence of Low IQ and Mental Retardation Among Murder Defendants Referred for Pretrial Evaluation. *Journal of Forensic Sciences*, 51(3):678-682
- Dwyer RG, Deloney L (2004). Peer Teaching in Medical Education: Lessons from the Literature. *Annals of Behavioral Science and Medical Education*, 10(2):95-98
- Dwyer RG, Deloney LA, Cantrell MJ, Graham CJ (2002). The First Clinical Skill: Students Teach Students to Take Vital Signs. *Medical Education Online* [serial online], 7:9. Available from URL <http://www.med-ed-online.org>
- Dwyer RG, Laufersweiler-Dwyer DL (1999). Identifying and Using a Learning Model for Probationary Law Enforcement Personnel. *Police Forum*, 9(2):12-15
- Laufersweiler-Dwyer DL, Dwyer RG (1999). Profiling Those Impacted by Organizational Stressors at the Macro, Intermediate and Micro Levels of Several Police Agencies. *The Justice Professional*, 12:443-469

PUBLICATIONS - Editor Reviewed

- Freeman B, Buckland JJ, Dwyer RG, Frierson RL (2007). Hypnotics and Driving, FDA Action and Clinical Trials Show Need for Precaution. *Journal of Evidence Based Psychiatry: Guidance for the Service Provider*, 3(1):13-19. Reprint from *Current Psychiatry*, 2007;6(4):39-53
- Dwyer RG, Saleh FM (2006). Got Ink or Steel? Why Ask: Adolescents with Tattoos and Piercings. *American Society for Adolescent Psychiatry Newsletter*, Spring:4-5,7
- Dwyer RG, Saleh FM (2006). Psychiatric Comorbidities: Adult Sex Offenders. *AAPL* [American Academy of Psychiatry and the Law] *Newsletter*, 31(1):18-19
- Campbell N, Dwyer G, Frinks L, Green K, Heath J (2005). Atypical Antipsychotics for Antidepressant Augmentation. *Journal of Evidence Based Psychiatry: Guidance for the Service Provider*, 1(1):4-10
- Dwyer RG, Laufersweiler-Dwyer DL (2004). The Need for Change, A Call for Action in Community Oriented Police Training. *FBI Law Enforcement Bulletin*, 73(11):18-24
- Young SA, Frierson RL, Dwyer RG, Shah A (2002). Commitment versus Confinement: Therapeutic Passes in the Management of Insanity Acquittes. *Journal of the American Academy of Psychiatry and the Law*, 30(4):563-567
- Dwyer RG (1994). Team Provides Help After Trauma. *NCIS Bulletin*, 1(1):6-9

R. Gregg Dwyer, M.D., Ed.D., April 20, 2010

PUBLICATIONS - Book Chapters

- Dwyer RG, Laufersweiler-Dwyer DL (2009). Juvenile Stalking: An Overview of Assessment and Management Issues. In J. Andrade (Ed.), *Handbook of Violence Risk Assessment and Treatment New Approaches for Mental Health Professionals*. New York: Springer Publishing, 561-72
- Dwyer RG, Laufersweiler-Dwyer DL (2006). Juvenile Sex Offenders: An Overview. In B Sims & P Preston (Eds.), *Handbook on Juvenile Justice*. Boca Raton, FL: CRC Press, Taylor & Francis Group, pp. 359-374.
- Laufersweiler-Dwyer DL, Dwyer RG (2006). Juvenile Stalkers: An Introduction. In B Sims & P Preston (Eds.), *Handbook on Juvenile Justice*. Boca Raton, FL: CRC Press, Taylor & Francis Group, pp. 235-249
- Dwyer RG, Laufersweiler-Dwyer DL (2005). Sex Offender Treatment: An Overview. In FP Reddington & BW Kreisel (Eds.), *Sexual Assault: The Victims, the Perpetrators and the Criminal Justice System*. Durham, NC: Carolina Academic Press, pp. 301-318
- Laufersweiler-Dwyer DL, Dwyer RG (2005). Rapists. In FP Reddington & BW Kreisel (Eds.), *Sexual Assault: The Victims, the Perpetrators and the Criminal Justice System*. Durham, NC: Carolina Academic Press, pp. 205-231

PUBLICATIONS - Other

- Dwyer RG, Saleh FM, Kim CS (2007). Assessment and Treatment by General Psychiatrists of Outpatients with Paraphilias [abstract]. *Australian and New Zealand Journal of Psychiatry*, 41 (Suppl. 2):A245
- Dwyer RG, Baxley MD, Campbell NN (2006). Letter from the Editors, Journal of Evidence Based Psychiatry: Guidance for the Service Provider. *Journal of Evidence Based Psychiatry: Guidance for the Service Provider*, 2(1):2
- Dwyer RG, Campbell NN (2005). Letter from the Editors-in-Chief, Evidence Based Psychiatry: Guidance for the Service Provider. *Journal of Evidence Based Psychiatry: Guidance for the Service Provider*, 1(1):3
- Dwyer RG, Laufersweiler-Dwyer DL (2005). The Need for Change, A Call for Action in Community Oriented Police Training. *CPI's [Crisis Prevention Institute, Inc.] Crisis Response*, February 2005. Available from URL <http://www.crisisprevention.com/whatsnew/CRNews/>. Reprint from FBI Law Enforcement Bulletin, 2004, 73(11):18-24
- Dwyer RG. (2004) Old Dogs Learning New Tricks. *Psychiatric News*, 39(7):23
- Laufersweiler-Dwyer DL, Dwyer RG (2004). Instructor's Manual with Test Bank for Karmen's Crime Victims: An Introduction to Victimology, Fifth Edition. Belmont, CA: Thomson Wadsworth
- Dwyer RG, Shugart M (2003). [Review of the book "Handbook on Firesetting in Children and Youth"]. *Journal of the American Academy of Child and Adolescent Psychiatry*, 42(12):1532-1533
- Laufersweiler-Dwyer DL, Dwyer RG (2002). Test Bank for Crime Victims: An Introduction to Victimology (4th ed.) by A Karmen. Belmont, CA: Wadsworth. Available from URL http://www.wadsworth.com/cgi-wadsworth/course_products_wp.pl?fid=M2&discipline_number=23&product_isbn_issn=0534515444

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Naval Air Warfare Center Aircraft Division TID & Naval Criminal Investigative Service (Producers) and **Dwyer RG**, Simas DD, Gelles MG, Reese DI, Nedrow RD (Writers) (1994). Critical Incident Debriefing [videotape]. Patuxent River, MD: Naval Air Warfare Center Aircraft Division TID

Dwyer RG (1993). Informal Learning in the Police Subculture: A Case Study of Probationary Special Agents of a Federal Criminal Investigative Agency. [Doctoral Dissertation, Virginia Polytechnic Institute and State University, Blacksburg, VA] Ann Arbor, MI: University Microfilms, Inc

PRESENTATIONS - National and International Conferences

Kenan JN, Billick S, De Crisce D, **Dwyer RG**, Saleh, F, Thompson C. (2009, October). Child Sexual Abuse Allegations in Custody Evaluations. Workshop at the 40th annual meeting of the American Academy of Psychiatry and the Law, Baltimore, MD

Dwyer RG, Meyers CL, Kim CS, Saleh FM. (2009, October). Elderly with Problem Sexual Behaviors: Ethical/Clinical Issues. Poster presented at the 40th annual meeting of the American Academy of Psychiatry and the Law, Baltimore, MD

Saleh FM, **Dwyer RG**. (2009, October). Child Pornography and Child Molestation: Is there a Relationship. Poster presented at the 40th annual meeting of the American Academy of Psychiatry and the Law, Baltimore, MD

DeCrisce DM, Ash P, Saleh F, **Dwyer R**, Billick SB. (2008, October). Rebels, Rapists and Rifles: Risk Assessment of Troubled Teens. Child and Adolescent Psychiatry Committee sponsored workshop at the 39th annual meeting of the American Academy of Psychiatry and the Law, Seattle, WA

Dwyer RG, McKee GR (2008, October). SVPs [Sexually Violent Predators]: Who Do Psychiatrists Commit?. Presentation at the 39th annual meeting of the American Academy of Psychiatry and the Law, Seattle, WA

Dwyer RG, Jerrell JM (2008, October). Juvenile Sex Offenders: A Community Setting Study. Presentation at the 39th annual meeting of the American Academy of Psychiatry and the Law, Seattle, WA

Dwyer G, Musolf A, Burke W (2008, October). The Utilization of Adult, Adolescent, and Child Voices in Standardized PPG Stimulus Sets. Poster presented at the Association for the Treatment of Sexual Abusers 27th Annual Research and Treatment Conference, Atlanta, GA

Hendricks MC, **Dwyer RG** (2008, October). Sex Chromosome Anomalies and Juvenile Sexual Offending: A Case Series. Presentation at the Association for the Treatment of Sexual Abusers 27th Annual Research and Treatment Conference, Atlanta, GA

McKee GR, **Dwyer RG** (2008, October). Characteristics of SVPs [Sexually Violent Predators] Committed by Trial. Presentation at the Association for the Treatment of Sexual Abusers 27th Annual Research and Treatment Conference, Atlanta, GA

Dwyer RG, McKee GR (2008, October). Sexual Predator Cases: Juveniles' Risk Factors. Poster presented at the 39th annual meeting of the American Academy of Psychiatry and the Law, Seattle, WA

Dwyer RG (Chair and presenter), DeCrisce D, Fedoroff P, Bradford JMW, Saleh FM (2008, October). Forensic Evals of Special Population Sex Offenders. Sex Offender Committee sponsored workshop at the 39th annual meeting of the American Academy of Psychiatry and the Law, Seattle, WA

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- Dwyer RG, Schwartz-Watts D, Burke W (2008, October). Internet Chat Rooms: Who Solicits Children?. Poster presented at the 39th annual meeting of the American Academy of Psychiatry and the Law, Seattle, WA
- Dwyer RG, Schwartz-Watts D (2008, September). Safeguarding the Mental Health of Child Sexual Exploitation Investigators and Prosecutors. Presentation at the 2008 Project Safe Childhood National Conference, Columbus, OH
- Dwyer RG, Saleh FS (2008, March). What Do We Know About Evaluating and Treating Female Adolescent Sex Offenders?: An Overview of the Literature. Presentation at the 2008 annual meeting of the American Society for Adolescent Psychiatry, Boston, MA
- Frierson RL, Dwyer RG (2008, March). The Inclusion of Juvenile Sex Offenders in Internet Registries and Sexually Violent Predator Programs. Presentation at the 2008 annual meeting of the American Society for Adolescent Psychiatry, Boston, MA
- Dwyer RG, Saleh FM, Kim CS (2007, November). Assessment and Treatment by General Psychiatrists of Outpatients with Paraphilias. Presentation at the World Psychiatric Association International Congress 2007, Melbourne, Australia
- Dwyer RG, Saleh FM (2007, November). Sex Offending Among Persons with Paraphilias. Presentation at the annual meeting of the Society for the Scientific Study of Sexuality, Indianapolis, IN
- Dwyer RG, Saleh FM (2007, November). Mental Illness and Mental Retardation Among Sex Offenders: Clinical Issues and Risk Management. Presentation at the annual meeting of the Society for the Scientific Study of Sexuality, Indianapolis, IN
- Dwyer RG, Saleh FM (2007, November). Adolescent Sex Offenders: Assessment and Management. Workshop presented at the annual meeting of the Society for the Scientific Study of Sexuality, Indianapolis, IN
- Dwyer RG, McKee GR (2007, November). Characteristics of Treatment-Discharged Sexually Violent Predators. Paper presented at the 26th annual Association for the Treatment of Sexual Abusers Research and Treatment Conference, San Diego, CA
- McKee GR, Dwyer RG (2007, November). Characteristics of Sexually Violent Predators Who Refuse Treatment. Paper presented at the 26th annual Association for the Treatment of Sexual Abusers Research and Treatment Conference, San Diego, CA
- Saleh FM, Dwyer RG, Schwartz-Watts D, McKee GR (2007, October). Pitfalls in Sex Offender Commitment Hearings. Panel presented at the 38th annual meeting of the American Academy of Psychiatry and the Law, Miami Beach, FL
- Dwyer RG, McKee GR (2007, October). SVPs' [Sexually Violent Predator's] Sexual Disciplinaries: Volitional Impairment? Paper presented at the 38th annual meeting of the American Academy of Psychiatry and the Law, Miami Beach, FL
- Dwyer RG, Saleh FM, Kim CS (2007, October). Female Sex Offenders: Forensic and Clinical Considerations. Poster presented at the 38th annual meeting of the American Academy of Psychiatry and the Law, Miami Beach, FL
- Dwyer RG, Vincent GM, Andrade JT, Saleh FM (2007, October). Assessing and Treating Violent Women: What Do We Know?. Poster presented at the 38th annual meeting of the American Academy of Psychiatry and the Law, Miami Beach, FL
- Dwyer RG, McKee GR (2007, August). Characteristics of Sexually Violent Predators: Rapists versus Child Molesters. Presentation at the 115th annual convention of the American Psychological Association, San Francisco, CA

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- Dwyer RG** (2007, May). Sexually Violent Predators: Preliminary Analysis of South Carolina Data. Poster presented at the 9th annual Future Leaders in Psychiatry meeting, Atlanta, GA
- Grudzinkas A, Saleh F, Dwyer RG, Laufersweiler-Dwyer D** (2007, March). Substance Abuse and Risk Assessment in Sex Offenders. Presentation at the 44th annual meeting of the Academy of Criminal Justice Sciences, Seattle, WA
- Saleh F, Dwyer RG, Laufersweiler-Dwyer D, Grudzinkas A** (2007, March). Pedophilia: An Exploration of Issues Relevant to the Victim and Public Safety. Panel at the 44th annual meeting of the Academy of Criminal Justice Sciences, Seattle, WA
- Grudzinkas A, Saleh F, Dwyer RG, Laufersweiler-Dwyer D** (2007, March). Female Sex Offenders and the Law. Presentation at the 44th annual meeting of the Academy of Criminal Justice Sciences, Seattle, WA
- Saleh F, Dwyer RG, Kim, C** (2007, March). Paraphilic Sexual Predators: How to Keep Our Communities Safe. Presentation at the 44th annual meeting of the Academy of Criminal Justice Sciences, Seattle, WA
- Dwyer RG, Laufersweiler-Dwyer D, Saleh F** (2007, March). Are Tattoos and Piercings Among Adolescents Markers for Delinquency or Just Body Art?: A Review of the Literature. Presentation at the 44th annual meeting of the Academy of Criminal Justice Sciences, Seattle, WA
- Dwyer RG, Saleh F, Frierson R, Grudzinkas A, Laufersweiler-Dwyer D** (2007, March). Juveniles on Sex Offender Registries: Good or Bad Idea? Panel presented at the 44th annual meeting of the Academy of Criminal Justice Sciences, Seattle, WA
- Dwyer RG, Boyd MS** (2006, November). Combining Psychiatry Resident Education with Patient Service Requirements: An Example in Practice of a Sex Education Group for Incarcerated Juvenile Offenders. Poster presented at the 3rd Annual Research Poster Symposium, 30th Interim Assembly Meeting of the American Medical Association Resident and Fellow Section, Las Vegas, NV
- Kim C, Saleh F, Dwyer RG, Berlin F** (2006, October). A Female Patient with Multiple Paraphilias: A Case Study. Poster presented at the 37th annual meeting of the American Academy of Psychiatry and the Law, Chicago, IL
- Dwyer RG, Saleh FM, Grudzinkas A** (2006, October). Female Sexual Offending: The Impact of Substance Abuse. Poster presented at the 37th annual meeting of the American Academy of Psychiatry and the Law, Chicago, IL
- Gowans AB, Dwyer RG, Sebastian CS, Narasimhan M, Buckland JJ** (2006, October). A Resident Forum on the Use of Second Generation Antipsychotics in Bipolar Disorder: Does Clinical Practice Reflect Clinical Research?. Poster presented at the 58th annual Institute on Psychiatric Services, New York, NY
- Fidler DC (Co-Chair & presenter), Dwyer G (Co-Chair & presenter)** (2006, May). Teaching Human Sexuality to Health Science Students Using the Sexual Events Classification System. Workshop presented at the 159th annual meeting of the American Psychiatric Association, Toronto, Canada
- Dwyer RG** (2006, May). Juvenile Sex Offenders: A Comparison by Gender of Residential and Outpatient Services. Presentation at the American Psychiatric Association (APA) Research Colloquium for Junior Investigators at the 159th annual meeting of the APA, Toronto, Canada

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- Dwyer RG (2006, May). Juvenile Sex Offenders: Residential and Outpatient Services Analysis. Poster presented at the American Psychiatric Association (APA) Research Colloquium for Junior Investigators at the 159th annual meeting of the APA, Toronto, Canada
- Saleh F, Kenan J, Dwyer RG, Andrade JT (2006, March). Workshop: Evaluation and Treatment of Adolescent Sex Offenders. Workshop presented at the annual meeting of the American Society for Adolescent Psychiatry, Miami Beach, FL
- Heath JE, Campbell NN, Dwyer RG, Rudd KB (2006, March). Inspiring and Mentoring Psychiatry's Future Medical-Scientists: A Description of a Psychiatry Department's Efforts to Facilitate Research Education and Practice Among its Residents and Fellows. Poster presented at the 35th annual meeting of the American Association of Directors of Psychiatric Residency Training, San Diego, CA
- Laufersweiler-Dwyer DL, Dwyer RG (2006, March). Education Online: Retention in Online Courses. Poster presented at the 43rd annual meeting of the Academy of Criminal Justice Sciences, Baltimore, MD
- Narasimhan M, Dwyer G, Stuck, C, Williams E, Mao A, Harding RK (2005, October). Antidepressant Prescribing Trends in Children and Adolescents Pre and Post-Black Box Warning: A Review of the Medicaid Database. Poster presented at the joint 52nd annual meeting of the American Academy of Child and Adolescent Psychiatry and the 25th annual meeting of the Canadian Academy of Child and Adolescent Psychiatry, Toronto, Canada
- Dwyer RG, Fidler DC, Jones JE (2005, September). Identifying and Facilitating the Understanding of Clients' Sexual Histories and Concerns: Results of Research in Progress. Poster presented at the annual meeting of the Association for Academic Psychiatry, Chicago, IL
- Dwyer RG (Co-Chair & Presenter), Bell CC (Co-Chair & Presenter), Williamson JL, Frierson RL (2004, May). The Juvenile Justice System: Assessment, Services, and Data Use. Workshop presented at the 157th annual meeting of the American Psychiatric Association, New York, NY
- Dwyer RG, Laufersweiler-Dwyer DL, Frierson RL (2004, March). Identifying Capital Murder Defendants with Mental Retardation. Paper presented at the 41st annual meeting of the Academy of Criminal Justice Sciences, Las Vegas, NV
- Dwyer RG (Chair), Buckler KG, LaTorre DT, Selva L (2004, March). Legal and Policy Perspectives on Evidence and Testimony. Panel conducted at the 41st annual meeting of the Academy of Criminal Justice Sciences, Las Vegas, NV
- Dwyer RG, Frierson RL (2003, October). Mental Retardation and the Murder Defendant. Paper presented at the 34th annual meeting of the American Academy of Psychiatry and the Law, San Antonio, TX
- Dwyer RG, Kittrell A, Ross R (2001, October). Community Treatment of Dually Diagnosed Acquittes. Paper presented at the 32nd annual meeting of the American Academy of Psychiatry and the Law, Boston, MA
- Dwyer RG, Laufersweiler-Dwyer DL (1997, March). Identifying and Using a Learning Model of Probationary Law Enforcement Personnel. Paper presented at the 34th annual meeting of the Academy of Criminal Justice Sciences, Louisville, KY
- Laufersweiler-Dwyer D, Dwyer RG (1997, March). Profiling Those Impacted by Organizational Stress at the Macro, Intermediate, and Micro Levels of Police Agencies. Paper presented at the 34th annual meeting of the Academy of Criminal Justice Sciences, Louisville, KY

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Dwyer RG, Gelles MG, Simas DD (1995, April). Support Programs in Naval Criminal Investigative Service. Paper presented at the 3rd World Congress on Stress, Trauma and Coping, Baltimore, MD

Dwyer RG, Dorworth VE (1991, March). Police Training Revisited: An Andragogical Approach to Police Education. Paper presented at the 28th annual meeting of the Academy of Criminal Justice Sciences, Nashville, TN

PRESENTATIONS - Regional and State Conferences

Dwyer RG (2010, January). Adolescents with Sexual Problem/Offending Behaviors: Are They "Sexually Violent Predators"? Presentation at the South Carolina Psychiatric Association 2010 Annual Meeting, Charleston, SC

Dwyer RG (2008, September). Juvenile Sexual Problem Behaviors. Presentation at the annual CME [Continuing Medical Education] Conference, University of South Carolina School of Medicine/Palmetto Health Richland Continuing Medical Education Organization/South Carolina Department of Mental Health Division of Evaluation, Training and Research, Columbia, SC

Dwyer RG, Frierson RL (2006, September). Overview of Pharmacological Treatment for Adult Sexual Offending Behaviors. Presentation at the 4th annual CME [Continuing Medical Education] Conference, University of South Carolina School of Medicine/Palmetto Health Richland Continuing Medical Education Organization, Columbia, SC

Dwyer G (2006, May). Juvenile Sex Offenders: An Overview of Initial Evaluation and Treatment. Presentation at the 15th annual Child, Adolescent and Family Services Spring Conference, West Columbia, SC

Dwyer RG, Deloney LA, Cantrell MJ, Graham CJ (2001, March). Senior Students Facilitate Freshmen Transition to Practicing Medicine. Poster presented at the annual meeting of the Southern Group on Educational Affairs, Association of American Medical Colleges, Little Rock, AR

Laufersweiler-Dwyer DL, Dwyer RG (1996, September). Macro, Intermediate and Micro Level Organizational Stressors: Identifying Stressors and Their Place in the Tri-level Analysis. Paper presented at the annual meeting of the Southwestern Association of Criminal Justice, Tucson, AZ

Dwyer RG, Simas DD (1995, April). Peer Support Counseling and Critical Incident Stress Management. Paper presented at 17th annual George Mason University Counseling and Development Conference, Fairfax, VA

PRESENTATIONS - Grand Rounds

Dwyer RG (2009, September). Juvenile Sex Offenders: "Sexually Violent Predator" Law, Assessment, and Treatment. Special Grand Rounds, Division of Evaluation, Training & Research, South Carolina Department of Mental Health and Child and Adolescent Psychiatry Grand Rounds, Palmetto Health/University of South Carolina School of Medicine, Columbia, SC

Dwyer RG (2008, May). Adult Sex Offenders: "Sexually Violent Predator" Law, Assessment, and Treatment. Grand Rounds, Department of Psychiatry and Behavioral Sciences, Medical University of South Carolina, Charleston, SC

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- Dwyer RG, McKee GR (2007, June). Rapists v. Child Molesters: Preliminary Results of Data Analysis from the South Carolina Sexually Violent Predator Treatment Program. Forensic Grand Rounds, University of South Carolina School of Medicine-Palmetto Health Richland Continuing Medical Education Organization and the Division of Evaluation, Training & Research, South Carolina Department of Mental Health, Columbia, SC
- Dwyer RG (2006, March). Got Ink or Steel?: Why Should We Ask Adolescents About Their Tattoos and Piercings?. Child and Adolescent Psychiatry Grand Rounds, University of South Carolina, Columbia, SC
- Dwyer RG, Frierson RL (2004, November). Juvenile Sex Offenders: Sex Offender Registries and Sexually Violent Predator Statutes. Forensic Grand Rounds, Institute of Behavioral Science, University of South Carolina, Columbia, SC
- Dwyer RG (2004, October). Juvenile Sex Offenders vs. Non-Sex Offenders: A Comparison Using Initial Screening Results. Child and Adolescent Psychiatry Grand Rounds, William S. Hall Psychiatric Institute, Columbia, SC
- Dwyer RG, Frierson RL (2003, December). Characteristics of South Carolina Murder Defendants with Mental Retardation. Forensic Ground Rounds, William S. Hall Psychiatric Institute, Columbia, SC

PRESENTATIONS - University and College Guest Lectures

- Dwyer RG (2009, October). Paraphilias and Sexual Offending: Psychodynamics and Treatment. Presentation in the general residents lecture series *Advanced Psychotherapy Series*, General Psychiatry Residency, University of South Carolina/Palmetto Health, Columbia, SC
- Dwyer RG (2009, April). Construct of Psychopathy and its Relationship to Sexual Offending Risk. Presentation in *Psychiatric Epidemiology*, Arnold School of Public Health, University of South Carolina, Columbia, SC
- Dwyer RG (2007, May). Evaluation and Treatment of Juvenile Sex Offenders. Presentation in the *Special Topics in Forensic Psychiatry Seminar* series, Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine, Columbia, SC
- Dwyer RG (2006, June). Juvenile Sexual Offending Behavior: A Brief Overview of Initial Evaluation and Treatment. *Special Topics Seminar* presentation, Child and Adolescent Psychiatry Residency, University of South Carolina/Palmetto Health, Columbia, SC
- Dwyer RG (2006, April). Conduct Disorder and Aggression: An Overview of Treatment with a Focus on Pharmacology. Presentation in the general residents lecture series *Child and Adolescent Psychiatry Psychopathology*, General Psychiatry Residency, University of South Carolina/Palmetto Health, Columbia, SC
- Dwyer RG, Jones JE, Fidler F (2005, August). Human Sexuality Issues Seminar. General Psychiatry Residency *Special Topics Presentation*, Department of Neuropsychiatry and Behavioral Science, University of South Carolina, Columbia, SC
- Dwyer RG (2005, August). PowerPoint® Presentations: An Overview of Preparation and Presenting. Presentation in the first year *Therapeutic Seminar* series, Child and Adolescent Psychiatry Residency, University of South Carolina/Palmetto Health, Columbia, SC
- Dwyer RG (2005, April). Conduct Disorder and Aggression Overview. Presentation in the general residents lecture series *Child and Adolescent Psychiatry Psychopathology*, General Psychiatry Residency, University of South Carolina/Palmetto Health, Columbia, SC

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- Dwyer RG** (2005, February). Qualitative Research Methods: An Overview. Presentation in *Child and Adolescent Psychiatry Residency Research Applications Lecture* series, Department of Neuropsychiatry and Behavioral Science, University of South Carolina, Columbia, SC
- Dwyer RG, Lobel MA** (2004, June). Workshop on Clinical Trials in Psychopharmacology: Selected Topics Overview. General Psychiatry Residency *Special Topics Presentation*, Department of Neuropsychiatry and Behavioral Science, University of South Carolina, Columbia, SC
- Campbell N, Dwyer G, Frinks L, Green K, Heath J** (2004, March). Evidence-Based Assessment of Treatment Options for Obsessive-Compulsive Disorder. Presentation in the *Psychopharmacology/Clinical Issue Case Conference Evidence Based Medicine Lecture Series*, Department of Neuropsychiatry and Behavioral Science, University of South Carolina, Columbia, SC
- Campbell N, Dwyer G, Frinks L, Green K, Heath J** (2003, November). Atypical Antipsychotics for Antidepressant Augmentation. Presentation in the *Psychopharmacology/Clinical Issue Case Conference Evidence Based Medicine Lecture Series*, Department of Neuropsychiatry and Behavioral Science, University of South Carolina, Columbia, SC
- Dwyer RG** (2000, September). Interview and Interrogation. Presentation in the Graduate Program, Department of Criminal Justice, University of Arkansas at Little Rock, Little Rock, AR
- Dwyer RG** (1993, April). Interrogation Overview. Presentation in *Criminal Investigations* course, Administration of Justice Program, Northern Virginia Community College, Annandale, VA
- Dwyer RG** (1992, November). Interrogations. Presentation in *Criminal Investigations* course, Administration of Justice Program, Northern Virginia Community College, Annandale, VA

PRESENTATIONS - Other Invited Presentations

- Dwyer RG.** (2009, August). EOUSA Wellness Program: Overview of Training for Child Exploitation Prosecutors. Presentation to Assistant United States Attorneys at the 21st Annual Crimes Against Children Conference, Dallas, TX
- McKee Gr. Dwyer RG.** (2009, January). Sexually Violent Predators: Whom do SC [South Carolina] Juries Commit? 24th Annual Criminal Law Update, 2009 South Carolina Bar Convention, Charleston, SC
- Dwyer RG, Schwartz-Watts D.** (2008, November). Sexual Offending Behaviors: An Overview of Offending and a Brief Stress Management Review for Solicitors and Investigators. Presentation at the South Carolina Attorney General's Office Internet Crimes Against Children (ICAC) Quarterly Meeting, Columbia, SC
- Dwyer RG** (2008, September). Treatment Model Overview Briefing for Attorneys of the South Carolina Attorney General's Office. Presentation on behalf of the South Carolina Department of Mental Health Sexually Violent Predator Treatment Program, Columbia, SC
- Burke W, Dwyer RG** (2008, April). Adolescent Brain Development: The Impact on Decision Making – The Relevance for H 4984 [amendment to the South Carolina code of laws regarding youthful offenders]. Presentation before the South Carolina Legislature House Judiciary Criminal Law Sub-Committee, Columbia, SC
- Dwyer RG, McKee GR** (2008, April). Adult Sexual Offender Treatment: Staff-Patient Interactions. Presentation for the South Carolina Department of Mental Health Sexually Violent Predator Treatment Program staff, Columbia, SC (two iterations)

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- Dwyer RG, McKee GR (2007, December). South Carolina Department of Mental Health Sexually Violent Predator Treatment Program Staff Overview Training. Columbia, SC (RG Dwyer's topics: *Adult Sexual Offending: Definitions, Etiologies and Prevalence; Evaluation of Adults with Sexual Offending or Problem Behaviors; Adult Sexual Offending: Treatment*; RG Dwyer's and GR McKee's topic: *Adult Sexual Offender Treatment: Staff-Patient Interactions*)
- Dwyer RG (2007, April). Adolescent Sex Offenders: An Overview of Initial Evaluation and Treatment Planning. Presentation in the *Finding Words South Carolina II The Advanced Course*, South Carolina Department of Mental Health Assessment and Resource Center/University of South Carolina Children's Law Center, Columbia, SC
- Dwyer RG (2007, February). Forensic Psychiatry: A Brief Overview. Presentation at the monthly meeting of the *Psychiatry Student Interest Group Network [PsychSIGN]* University of South Carolina School of Medicine, Columbia, SC
- Dwyer RG (2006, July). Writing Book Reviews and Case Reports: An Overview. Presentation at the monthly meeting of the *Psychiatry Residents and Fellows Research Interest Group*, University of South Carolina/Palmetto Health, Columbia, SC
- Dwyer RG (2006, March). Writing for Journal Publication: An Introduction for Psychiatry Residents and Fellows. Presentation at the monthly meeting of the *Psychiatry Residents and Fellows Research Interest Group*, University of South Carolina/Palmetto Health, Columbia, SC
- Dwyer RG (2006, January). Introduction to Attention Deficit/Hyperactivity Disorder. Presentation at the monthly *Faculty [in-service education] Meeting*, Brennen Elementary School, Columbia, SC
- Dwyer RG (2005, April). Child and Adolescent Psychiatry Overview. Presentation at the monthly meeting of the *Medical Student Psychiatry Interest Group*, University of South Carolina School of Medicine, Columbia, SC
- Dwyer RG, Frierson RL (2004, January). Neuropsychiatric Characteristics of South Carolina Murder Defendants with Mental Retardation. Presentation at the *Quarterly Forensic Meeting*, South Carolina Department of Disabilities and Special Needs, Columbia, SC

UNIVERSITY and COLLEGE CURRICULUM DEVELOPMENT and TEACHING

Residents/Fellows (Physicians)-University of South Carolina School of Medicine/Palmetto Health

- 2009 - '10 Clinical Records Studies and Large Data Set Studies: An Introduction for Child and Adolescent Psychiatry Residents
- 2008 - '10 Assessment of Sex Offenders
- 2008 - '10 Adults with Paraphilias: An Overview for General Psychiatrists
- 2008 - '09 Clinical Interviews: "Detection" and Management of Deception
- 2008 - '09 Evaluation of the Juvenile Sexual Offender
- 2008 - '09 School Violence: An Introduction
- 2008 - '09 Adolescent Sexual Behavior Problems II
- 2008 - '09 Treatment of Sex Offenders
- 2008 - '09 Presenting and Publishing Research: An Introduction for Child and Adolescent Psychiatry Residents
- 2005 - '09 Understanding the Medical Literature (seven session series)
(Also designed & developed each of the above.)

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Medical Students

University of South Carolina School of Medicine

2009 - '10 Sexual Behaviors Evaluation, Research and Treatment (also designed & developed)

2008 - '10 Paraphilias: An Overview

2008 - '10 Everything You Ever Wanted to Know about Sex, but were Afraid to Ask (Panelist)

2005 - '06 Child and Adolescent [Psychiatry] Workshop

University of Arkansas for Medical Sciences

2001 Vital Signs Measurement Lab (also designed & developed)

Undergraduate Students

University of Arkansas at Little Rock

1996 - '97 Psychology and the Criminal Process

1996 - '97 Corrections Psychology

1996 - '97 Drug Abuse

1996 - '97 Criminal Intelligence

1996 - '97 Introduction to Criminal Justice (also designed & developed)

Northern Virginia Community College

1995 - '96 Criminal Law, Evidence and Procedure

1995 - '96 Report Writing

Montgomery College

1991 Introduction to Law Enforcement

ACADEMIC and PROFESSIONAL SERVICE

National Advocacy Center, United States Department of Justice, Columbia, SC

2010 **Faculty**, *Project Safe Childhood Peer Support Team Training*

2010 **Faculty**, *Criminal Chiefs' Conference*

2010 **Faculty**, *Criminal Paralegal Seminar*

2009 - '10 **Faculty**, *Computer Forensics and Forfeiture for Child Exploitation Investigators Seminar*

2009 **Faculty**, *Project Safe Childhood Basic Online Child Exploitation Seminar*

2007 **Reviewer**, *New Fact Patterns for Prosecutor Trainings - Forensic Evidence*

2007 **Faculty**, *childPROOF: Advanced Trial Advocacy for Child Abuse Prosecutors*

2006 - '07 **Faculty**, *Trial Advocacy II*

2004 **Role Player**, *The Adolescent Brain: Helping Prosecutors Address Psychiatric Evaluations and Competency Challenges*

National College of District Attorneys, National District Attorneys Association

2008 **Faculty**, *Prosecuting Sexual Assault Cases and Related Violent Crimes*, Orlando, FL

2008 **Faculty**, *Experts: Promoting and Protecting the Science*, San Diego, CA

2007 **Faculty**, *Experts: Case Preparation & Trial Issues*, San Antonio, TX

University of South Carolina/Palmetto Health, Columbia, SC

2008 - '10 **Examiner**, *Mock Oral Board Examination, Child and Adolescent Psychiatry Residency Program*

2008 - '10 **Outpatient Case Supervisor**, *Second Year Child and Adolescent Psychiatry Residency Program*

2009 **Applicant Interviewer**, *General Psychiatry Residency Program*

2007 - '09 **Applicant Interviewer**, *Forensic Psychiatry Fellowship Program*

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- 2007 - '09 **Applicant Interviewer**, Child and Adolescent Psychiatry Residency Program
- 2005 - '06 **Child and Adolescent Psychiatry Case Supervisor**, Second Year General Psychiatry Residency Program
- 2004 - '05 **Group Leader**, Residents and Fellows Research Interest Group, Department of Neuropsychiatry and Behavioral Science
- 2004 **Co-Founder**, Residents and Fellows Research Interest Group, Department of Neuropsychiatry and Behavioral Science

University of South Carolina School of Medicine, Columbia, SC

- 2008 - '10 **Small Group Facilitator**, Human Sexuality, *Introduction to Clinical Medicine I*
- 2006, '08-9 **Facilitator**, Objective Structured Clinical Exam for Psychiatry Clerkship
- 2005 - '06 **Small Group Facilitator**, Child and Adolescent Section, Mental Status Examination Session, *Introduction to Clinical Medicine II*
- 2005 **Co-Founder**, *Journal of Evidence Based Psychiatry: Guidance for the Service Provider*, Department of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine, Columbia, SC
- 2003 - '06 **Role Player**, Objective Structured Clinical Exam for Psychiatry Clerkship
- 2002; 2005 **Tutor**, *Third Year Medical Student Psychiatry Clerkship*

Others

- 2008 - '09 **Faculty**, Juvenile Sexual Problem Behaviors: A Clinical Overview, *Child and Adolescent Clinical Training Curriculum*, South Carolina Department of Mental Health, Columbia, SC
- 2000 **Coordinator**, Family Day Clinical Skills Center Tour and Blood Pressure Measurement Demonstration, College of Medicine, University of Arkansas for Medical Sciences, Little Rock, AR
- 1993 - '96 **Peer Counselor**, Critical Incident Debriefing Team, United States Naval Criminal Investigative Service, Washington, D.C.
- 1994 - '95 **Peer Counselor**, National Police Week, Concerns of Police Survivors, Alexandria, VA
- 1990 - '93 **Agency Coordinator and Participant**, Law Enforcement Torch Run Special Olympics, Washington, D.C. and metro area

COMMUNITY SERVICE

- 2002 - '07; '09 **Presenter**, Annual Career Day, Brennen Elementary School, Columbia, SC
- 1990 - 2002 **Instructor**, CPR, American Heart Association, various locations
- 1994 - 1996 **Counselor**, Capital Area Crisis Response Team, Washington, D.C. and Metro area
- 1994 **Assistant Instructor**, Children's Self-Defense Course, Park Authority, Fairfax County, VA
- 1983 - 1990 **Instructor**, CPR, American Red Cross, various locations
- 1982 - 1985 **Emergency Medical Technician**, Emergency Services Division, Shelby County Sheriff's Department, Shelby County, TN

MEDIA INTERVIEWS

The Weekend Countdown [topic: psychopathy among children]. Hosted by Kaela Harmon. *WGCV 620am*, Columbia, SC, 2009; May 29

R. Gregg Dwyer, M.D., Ed.D., April 20, 2010

Study Begins Piecing Together Profile of Online Predators. By S London. *Clinical Psychiatry News*, 2009;37(1):32

Picture of Online Sexual Predators Begins to Emerge. By S London. *MD Consult News*, 2008;December 24

Substance Use by Female Sex Offenders: A Peek at Reality. By BK Dixon. *Clinical Psychiatry News*, 2007;51(1):38

Retarded Murder Defendants are Often Female. By J Frieden. *Clinical Psychiatry News*, 2003;31(2):37

SPECIALIZED CERTIFICATES and TRAINING - Mental Health Care and Research

Successful Treatment of Problematic Sexual Behaviors, course conducted at the annual meeting of the American Academy of Psychiatry and the Law, Baltimore, MD (John Paul Fedoroff, MD; John Bradford, MB; William Marshall, PhD; Fabian Saleh, MD), 2009

Substance Abuse Subtle Screening Inventory (SASSI) Clinical Interpretation Certification, Training and Shipping of SASSI Inventory (TASSI), Inc., conducted in Charlotte, NC (Regina Forest), 2009

Substance Abuse Subtle Screening Inventory (SASSI) Administration and Scoring Certification, Training and Shipping of SASSI Inventory (TASSI), Inc., conducted in Charlotte, NC (Regina Forest), 2009

Sex Offender Re-Offense Risk Assessment [Rapid Risk Assessment of Sex Offense Recidivism, Static-99, Sex Offender Need Assessment Rating, Minnesota Sex Offender Screening Tool-Revised, Juvenile Sex Offender Assessment Protocol, Structured Risk Assessment, Violence Risk Appraisal Guide, Sex Offender Risk Appraisal Guide], Sinclair Seminars (R. Karl Hanson, PhD, Thomas Grisso, PhD, Douglas Epperson, PhD, Robert Prentky, PhD, David Thornton, PhD, Dennis Doren, PhD, Robert Hare, PhD, & Vernon Quinsey, PhD); Videotape Training Program and Home Study Examination, 2009

STATIC-99: Sex Offender Risk Assessment, Justice Institute of British Columbia, Canada (Instructor: Chris Thompson, PhD; Authors: Karl Hanson, PhD & David Thornton, PhD); online course, 2009

Current Perspectives for Treating Adolescents Who Have Sexually Abused, New England Adolescent Research Institute, Holyoke, MA (David Prescott, LICSW); online course, 2008

Assessing Psychopathy in Youth: Clinical and Forensic Applications of the Hare Psychopathy Checklist: Youth Version, Darkstone Research Group and Multi-Health Systems, conducted at the Rosalind Franklin University of Medicine and Science, North Chicago, IL (Adelle E. Forth, PhD and David Kosson, PhD), 2008

The Personality Assessment Inventory, Specialized Training Services, Inc., conducted in San Diego, CA (Leslie Morey, PhD), 2008

Assessing Psychopathy with the Psychopathy Checklist-Revised (PCL-R), Specialized Training Services, Inc. and Darkstone Research Group, conducted in San Diego, CA (J. Reid Meloy, PhD), 2008

Treatment of Sexually Abusive Youth: A Goal Oriented Approach, Kempe Center for Prevention and Treatment of Child Abuse and Neglect, Department of Pediatrics, University of Colorado School of Medicine, Denver, CO (Gail Ryan, MA), 2008

Stewards of Children Online Training, Darkness to Light, Charleston, SC, 2008

R. Gregg Dwyer, M.D., Ed.D., April 20, 2010

- Penile Plethysmograph Clinical Analyst Certification Course**, Limestone Technologies Inc., conducted in Columbia, SC (William H. Burke, PhD), 2008
- Penile Plethysmograph Technician Certification Course**, Limestone Technologies Inc., conducted in Columbia, SC (William H. Burke, PhD), 2008
- Training for Professionals Working with Sexual Offenders**, Rockwood Psychological Services, conducted in Columbia, SC (William L. Marshall, PhD and Liam E. Marshall, MA), 2008
- Sexual Disorders Training**, National Institute for the Study, Prevention and Treatment of Sexual Trauma, Baltimore, MD (Fred S. Berlin, MD, PhD), 2007
- Adult Assessment Track: Static-99, Sexual Violence Risk-20, Risk for Sexual Violence Protocol**, course conducted at the 26th annual Association for the Treatment of Sexual Abusers Research and Treatment Conference, San Diego, CA (Dana Anderson, CPsych; Dennis M. Doren, PhD; Andrew J.R. Harris, PhD; P. Randal Kropp, PhD), 2007
- Nuts and Bolts: How to Run a Sex Offender Program**, course conducted at the annual meeting of the American Academy of Psychiatry and the Law, Miami Beach, FL (J. Paul Fedoroff, MD; John Bradford, MB; William Marshall, PhD; Fabian M. Saleh, MD), 2007
- Training for Therapists Working with Sexual Offenders**, Rockwood Psychological Services, Kingston, Ontario, Canada (William L. Marshall, PhD; Liam E. Marshall, MA; Matt D. O'Brien, MA, MSc), 2007
- PrefTest Professional Suite™ [Penile Plethysmograph and Vaginal Photoplethysmograph]**, Limestone Technologies Inc., Odessa, Ontario, Canada (Tyler Buttle), 2007
- Conducting Human Research - Social & Behavioral Science and Biomedical**, Office of Research Compliance, University of South Carolina; online course, 2006
- The Protection of Human Research Subjects Basic Course - Social & Behavioral and Biomedical**, Collaborative Institutional Training Initiative (CITI), Office of Research Education, University of Miami; online course, 2006
- Trauma-Focused Cognitive-Behavioral Therapy (TF-CBT Web)**, National Crime Victims Research and Treatment Center, Medical University of South Carolina, 2006
- Sexual Offending and Problem Behaviors Evaluation and Treatment Educational Elective**, Behavioral Medicine Institute of Atlanta, GA (Gene G. Abel, MD), 2006
- Abel Assessment for Sexual Interest™**, Abel Screening, Inc., Atlanta, GA, 2006
- Sexually Aggressive and Offending Behaviors Evaluation, Research and Treatment Educational Elective**, Sexual Behaviors Clinic, Royal Ottawa Health Care Group, Royal Ottawa Hospital, Ottawa, Ontario, Canada (John M.W. Bradford, MB, ChB, DPM and J. Paul Fedoroff, MD), 2006
- Sexual Aggression Evaluation, Research and Treatment Tutorial**, Sexual Disorders Clinic, University of Massachusetts Memorial Medical Center, Community HealthLink, Worcester, MA (Fabian M. Saleh, MD), 2005
- Finding Words South Carolina II, The Advanced Course**, [Forensic Interviewing of Children in Abuse Cases], South Carolina Department of Mental Health Assessment and Resource Center/Children's Law Office, University of South Carolina, Columbia, SC, 2005
- Finding Words South Carolina, Interviewing Children and Preparing for Court**, National Child Protection Training Center, American Prosecutors Research Institute; course conducted in Columbia, SC, 2004

R. Gregg Dwyer, M.D., Ed.D., April 20, 2010

Workshop on Clinical Trials in Psychopharmacology, American Society of Clinical Psychopharmacology/National Institute of Mental Health; conducted in New York, NY, 2003

Adolescent Long Term Sex Offender Treatment Program Acting Internship, Arkansas State Hospital/University of Arkansas for Medical Sciences College of Medicine, Little Rock, AR (André Derdeyn, MD and Steve Domon, MD), 2000

Advanced Peer Techniques, course conducted at the Third World Congress on Stress, Trauma and Coping in the Emergency Services Professions, Baltimore, MD (Nancy K. Bohl, PhD), 1995

Responding to Communities in Crisis, National Organization for Victim Assistance; course conducted in Springfield, VA, 1994

Critical Incident Debriefing Team, International Critical Incident Stress Foundation; course conducted in Washington, DC, 1993

THE STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE)	THIRTEENTH JUDICIAL CIRCUIT
THE STATE)	Citations/Warrants: C-23-09-0640,
)	W-23-09-0776, C-23-09-0880
)	Indictment: 2006-GS-39-02116
)	
v.)	
)	STIPULATION OF FACTS
JENNIFER RAYANNE DYKES,)	
)	
DEFENDANT.)	

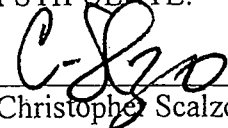
The parties, represented by undersigned counsel, agree and stipulate to the following facts:

1. The S.C. Department of Probation, Pardon & Parole Services (PPP) uses a Global Positioning Satellite (GPS) system to comply with § 23-3-540(P);
2. The GPS system used by PPP is capable of pinpointing a person's location anywhere to within 15 meters;
3. The GPS system used by PPP is made of plastic, metal, and other materials;
4. The GPS system used by PPP is placed around the ankle of an individual who is being monitored by a probation agent or other employee of PPP (see Exhibit A);
5. In order for the GPS system used by PPP to be placed on an individual's ankle, the individual must submit themselves to the location of a probation agent or other PPP employee and must submit to that agent or employee physically taking hold of the individual's leg, ankle, or other body part;
6. In order for the GPS system used by PPP to be changed, upgraded, repaired, or otherwise serviced, the individual must submit themselves to the location of a probation agent or other PPP employee and must submit to that agent or employee physically taking hold of the individual's leg, ankle, or other body part; and
7. The cost to the individual for the GPS system used by PPP is currently \$60 per month.

Greenville, South Carolina

Date: April 22, 2010

I STIPULATE:


 Christopher Scalzo, Esq.
 Attorney for Defendant

I STIPULATE:

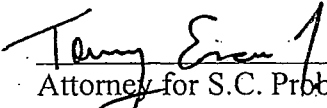
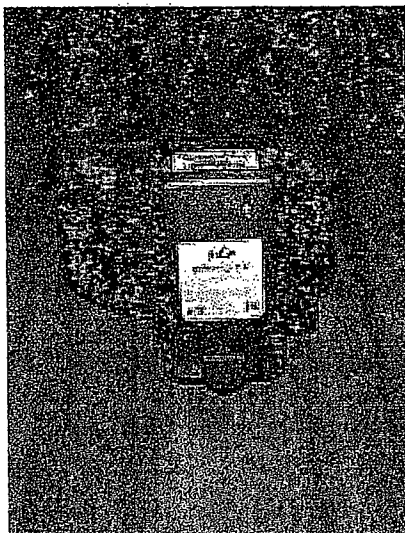

 Attorney for S.C. Probation, Pardon &
 Parole Services



EXHIBIT A



Karl R. Bodtorf, P.C.

302 W. Main Street • Taylors, SC 29687 • Tel 1-864-244-1007 • Fax 1-864-244-4427

Psychological Evaluation

Client Name: Jennifer Dykes
 Date of Birth: [REDACTED]
 Education: GED
 Employment: Assembly Operator
 Date of Evaluation: 09/03/08

REASON FOR REFERRAL

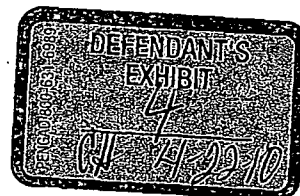
Jennifer Dykes is a twenty-eight year old single white female who was referred to this office for psychological evaluation via the South Carolina Department of Probation/Parole (Greenville County). This assessment was requested to determine what if any psychological and/or sexual problems that Ms. Dykes may possess, as well as to determine what if any psychological services may be indicated.

RELEVANT BACKGROUND INFORMATION

Ms. Dykes begins the interview on this date by responding to some questions about her referral to this office. Per her account, while working at a local discount store she chanced to meet a young girl named Samantha. Jennifer indicates that she was single at the time though dating a twenty-three year old woman. The young girl in question was able to secure Jennifer's phone number from the younger sister of the girl that Jennifer had been dating. Jennifer stated that the girl never came across as a teenager and Ms. Dykes indicates that she thought she was in fact a college student. It was Jennifer's impression that the girl was very mature and very intelligent. When she discovered that the girl was fifteen she relates that she remembers saying to herself, "...no way is this going to happen...". Nevertheless, a relationship developed and she allows that "consensual" physical relations developed between them. Jennifer stresses that "...it was never forced...". According to her report, they were in a relationship that lasted for some eight months. This matter came to the attention of the authorities in June 2006 and Jennifer was arrested. She was originally charged with Criminal Sexual Conduct with a Minor, second degree as well Contributing to the Delinquency of a Minor. These charges were dropped in court and Jennifer pled guilty to Lewd Act On A Minor. She did go to prison in this matter, serving some nineteen months in the South Carolina Department of Corrections. She is on the sexual offender registry and has five years probation to complete. Jennifer's statements with respect to her circumstance were found to be largely consistent with the information found in the collateral records, though the age of the young girl would appear to have been fourteen versus fifteen.

INSTRUMENTS

1. Sexual Adjustment Inventory
2. Personality Assessment Screener
3. Clinical Interview
4. Collateral Information
 - i. Various records sent to this office via SCPP (40 pages)



PERSONALITY

Ms. Dykes was given a brief screening measure of personality. Her responses on this instrument reflect a P-score of 9.03. Roughly 9% of individuals scoring in this range will report some type of psychological problems and/or distress in a full length personality assessment. Her score reflects a "low" risk of experiencing clinical problems. There does not appear to be any indication that this client was attempting to distort the PAS results in a positive direction. If any problems were to be present, her profile suggests possible difficulties with respect to acting out, hostile control and/or social withdrawal.

SEXUAL

Mrs. Dykes was given the Sexual Adjustment Inventory. This particular instrument was designed specifically for the purpose of sexual offender assessment and screening in order to identify sexually deviate and or paraphilic behavior in individuals accused or convicted of sexual offenses.

Her score on the "Test Items Truthfulness Scale" was at the 85th percentile and is in the Problem Risk range (70-89th percentile). This client would appear to have been attempting to minimize problems or concerns. She was guarded and defensive. Nevertheless, the truth-corrected scores should be valid, though it would be prudent to be cautious in considering the interpretive statements that follow.

Her score on the "Sex Items Truthfulness Scale" was at the 73rd percentile and is also in the Problem Risk range (70 to 89th percentile). It would appear that this client was attempting to minimize or even conceal sex-related interest and information. Although some distortion is possible, her truth corrected scores on sex related items should be accurate. As noted above, it would however be prudent to be cautious in considering the interpretive statements that follow.

Her score on the Sexual Adjustment Scale was at the 43rd percentile and is in the Medium Risk range (40-69th percentile). In court settings, it is not uncommon for clients to consciously or subconsciously attempt to minimize sexual adjustment worries and/or concerns. It would appear that she has average sexual adjustment.

Jennifer's score on the Child Molest Scale was at 0 and is in the Low Risk range (0-39th percentile). Few if any indicators of child molest behavior (pedophilia) were evidenced.

Her score on the Sexual Assault Scale was 0 and is in the Low Risk range (0-39th percentile). This client's responses would suggest that the probability that she would engage in sexual assault is low.

Her score on the Incest Scale was at the 3rd percentile and is in the Low Risk range (0-39th percentile). Low risk scorers reveal few, if any, indicators of incestuous behavior.

Her score on the Exhibitionism Scale was 0 and is in the Low Risk range (0-39th percentile). Low scorers typically do not expose themselves to unsuspecting persons.

Ms. Dykes' score on the Alcohol Scale was 0 and is in the Low Risk range (0-39th percentile). Few if any indicators of alcohol abuse are indicated.

Her score on the Drug Scale was also at 0 and is in the Low Risk range (0 to 39th percentile). Few if any indicators of drug abuse are indicated.

Her score on the Violence Scale was at the 28th percentile and is in the Low Risk range. Violent tendencies are not indicated. Others would likely describe her as easy going and peaceful. She can be expected to prefer a non-violent lifestyle.

Her score on the Antisocial Scale was at 0 and is in the Low Risk range (0-39th percentile). Few if any indicators of antisocial tendencies are evident. Low risk scorers tend to be able to show responsibility and stability, and are able to maintain significant relationships.

Jennifer's score on the Distress Scale was at 0 and is in the Low Risk range (0-39th percentile). She would not appear to be experiencing much in the way of distress (anxiety and depression).

Her score on the Judgment Scale was 0 and is in the Low Risk range (0 to 39th percentile). Her judgment, understanding and comprehension appear to be within normal limits.

CONCLUSIONS

Jennifer Dykes is a twenty-eight year old single white female who was referred to this office for psychological evaluation via the South Carolina Department of Probation/Parole (Greenville County). This assessment was requested to determine what if any psychological and or sexual problems that Ms. Dykes may possess, as well as to determine what if any psychological services may be indicated.

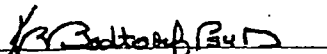
Ms. Dykes was found to be reasonably cooperative in her interactions with the undersigned and was well able to present her circumstances in a clear and understandable fashion. According to her report, she was charged with sexual crimes against a minor in connection with a relationship that developed between her and a fourteen/fifteen year old girl. Jennifer was some twenty-six years of age at the time. Jennifer maintains that the girl did not come across as a typical teenager due to above average levels of maturity and intelligence. Their relationship lasted for some eight months and there were occasions where they became sexually involved. Ms. Dykes maintains that the interactions were always consensual and never forced. The matter did come to the attention of the authorities and Jennifer was arrested and sent to prison for the offense. In court she pled guilty to Lewd Act on a Minor. Ms. Dykes was found to be reasonably open during the interview with the undersigned. While she admits to poor judgment on her part in connection with the relationship that developed between her and the young teen, she does at the same time provide numerous justifications and excuses for her behavior.

While guarded in her acknowledgement of responsibility on the Sexual Adjustment Inventory, the results were thought to be largely accurate. Testing failed to reveal the presence of significant elevations on any of the clinical scales found on this instrument. I would not consider her to be a pedophile in the classic sense though she did engage in a sexual relationship with a minor (many years her junior). Her offense would fit with the following classification, Sexual Molestation, Situational, Regressed. In general, her situation, personality makeup and classification are fairly similar to individuals recommended for sexual offender specific counseling. The likelihood of rehabilitation would be considered to be reasonably positive given the fact that she does admit to her offense (though there were many justifications and rationalizations). Nevertheless, Jennifer would be considered an appropriate candidate for outpatient sexual offender services. Given her gender, I am not inclined to recommend the Intervention Group and would suggest that she be seen individually and that the individual option be the equivalent of what occurs in the group format. Services can be accessed through the Taylor's office as facilitated by Redonia Thomas, LISW-CP.

DSM IV DIAGNOSTIC IMPRESSIONS

Axis I V61.21 Sexual Abuse of Minor (Admitted though Minimized)

Axis II V71.09 No Diagnosis On This Axis

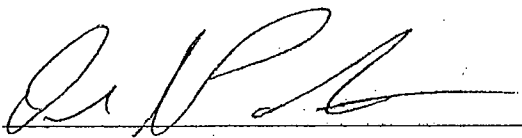
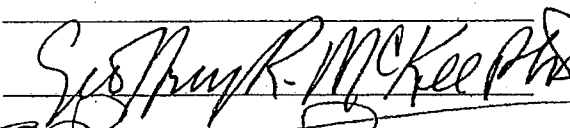
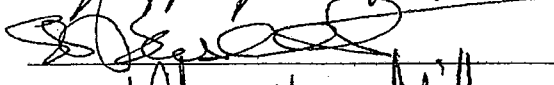
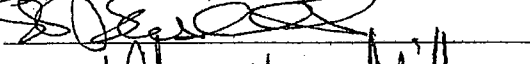
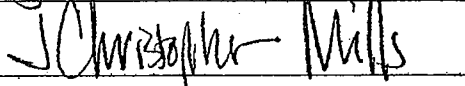

Karl R. Bodtorf, Psy.D.

SEXUAL PREDATOR REFERRAL FORM

Offender Name: JENNIFER RAYANNE DYKES		Offender Number: 319946	Jurisdictional Agency: SCDC
Age: 27	County: PICKENS	Qualifying Offense(s): Guilty Plea: Trial:	
Gender: Female	No. of Incarcerations:	Lewd Act on Child Under 16	
Adult Sentence: 15 years suspended to 3 years with 5 years probation	Parole Eligibility Date:	Max-Out Date: 04/08/2008	
Juvenile Guidelines:	Parole Release Date:	SFII Date:	

The review of this case is based on the offender's records which include, but are not limited to, the following information: description of the qualifying offense(s); history of other sexual assault(s); history of other criminal convictions/adjudications; documentation of mental disorder(s); community and institutional adjustment; and risk factors. Findings are strictly based on the legal criteria set forth in Section 44-48-30 of the Sexually Violent Predator Act, and are not to be interpreted as a clinical assessment.

REFER TO PRC?

		YES	NO	ABSTAIN
	SCDC CHAIRPERSON	___	☒	___
	SCDPPS	___	___	___
	DMH	___	☒	___
	JDG	___	☒	___
	ATTORNEY	___	☒	___

MULTIDISCIPLINARY TEAM

The offender's records were assessed by the Multidisciplinary Team on October 16, 2007, and based upon that assessment, we find that:

- ☐ The offender satisfies the definition of a sexually violent predator and a review by the Prosecutor Review Committee is warranted.
- ☒ The offender does not satisfy the definition of a sexually violent predator and a review by the Prosecutor Review Committee is not warranted.

COUNTY OF Pickens

STATE VS.

Jennifer Rayanne Dykes

AKA:

Race: W Sex: F Age: 26

DOB: SS#

Address:

DL#: SID#

INDICTMENT/CASE#: 2006GS3902116

A/W#: 2006GS3902116

Date of Offense: 10-08-2005

S.C. Code § : 16-15-0140

CDR Code #: 2468

SENTENCE SHEET ^{upto 15 years} sex offender registry

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Lewd Act, committing or attempting lewd act upon child

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act) ;

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

M. F. Hartman

Solicitor:

Mary Frances Hartman

Defendant

Attorney for Defendant

John DeJong

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of 3 days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. ~~15 days~~

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 7-25-135

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)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 35-13 (Public Def/Prob)

§ 73-3, 1B TP (Law Enforce. Funding)

§ 33.7, 1B TP (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea

3% to County (if paid in installments)

TOTAL \$ 643.75

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: NVCMENTAL HEALTH COUNSELINGPLACE ON SEX OFFENDER REGISTRY

☒ Appointed PD or appointed other counsel, §35-13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2111310Sentence Date: January 29, 2007

SCCA/217 (9/2006)

Clerk of Court/ Deputy Clerk

Court Reporter:

Susan Hudgens

STATE OF SOUTH CAROLINA

County of Greenville
STATE VS.

Jennifer Rayanne Dykes

AKA: _____

Race: W Sex: F

DOB: [REDACTED]

SSN: [REDACTED]

SID#: 01703961

IN THE COURT OF GENERAL SESSIONS

INDICTMENT#:

06 -GS- 39 - 02116

C/W#: C-23-09-0640; W-23-09-0776; C-23-09-0880

C-23-09-1109; W-23-09-1163

Name of Original Offense: Lewd Act Upon A Child

Conviction S.C. Code §: 16-15-140

Conviction CDR Code #: 2, 4, 6, 8

Date of Original Offense: 10-08-05

Original Sentence: 15 yrs ss 3 yrs & 5 yrs probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 01/29/2007 in the Court of General Sessions of Pickens County as set forth in the attached warrant ^{AND} citation dated * / /. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special condition as provided in the affidavit) 1, 4, 9, 10 & sex offender conditions 2

* 6-3-09; 7-28-09; 7-29-09; 9-4-09; 11-12-09

Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 2 months/years, the remainder of the original sentence, and/or pay \$ _____.

☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.

☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.

☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☒ Additional Conditions ordered by the Court: Balance of probation terminated; GPS imposed under 23-3-540 due to the violation; The offender is to receive mental health treatment/evaluation by Department of Corrections based on upon Arrival at reception and evaluation, motion by Defendant denied as stated on the record. 065

☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant has previously served 3 months/years on this sentence.
(split sentence time and/or prior partial revocation time)

This 22 day of April, 2010

GREENVILLE, SC.

Presiding Judge

Charles B. Simmons Jr 13th Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this _____ day of _____, _____, at _____, SC.
Day Month Year City

South Carolina Department of Probation, Parole and Pardon Service
Violation Report

2012

129

Offender's Name: JENNIFER RAYANNE DYKES

State of South Carolina, County of: GREENVILLE

SID#: 01703961

Warrant#: C-23-09-0640; W-23-09-0776; C-23-09-0880

Date of Birth: [REDACTED]

SCDC#:

Indictment Numbers:

06-GS-39-02116

Offense and Offense Code:

2468 - Lewd Act, committing or attempting
lewd act upon child under 16 (after 6/4/96)

GPS MANDATORY

Supervision Program: Probation

Begin Date: 4/1/2008

End Date: 3/31/2013

Supervision Level: Sex Off. - High

Sentencing Judge: 130 - Miller, Edward

Sentencing County: PICKENS

Sentencing Date: 1/29/2007

Location (Bold Response): SCDC

Sentence:

Lewd Act committing or attempting lewd act upon child - 15 yrs susp 3 yrs & 5 yrs prob, recommend ATU - see spec cond
040108: Released

Special Conditions:

Fine - \$643.75 includes surcharge, PDF, LEF, 3%; Other1 - no victim contact (NVC); Sex offender registry;; RADT - ; SAC - MH counseling;

Current Address and Summary of Residence:

[REDACTED], GREENVILLE, USA,

[REDACTED], GREENVILLE, USA, [REDACTED]
GREENVILLE, USA, [REDACTED] GREENVILLE, USA,

Reporting:

The offender reports as instructed.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
Unemploy	7/28/2009 -		
	4/1/2008 - 4/21/2008		
KFC/Taco Bell	4/21/2008 - 7/31/2008		\$690.00
Precision Valve	7/31/2008 - 12/30/2008		\$1,600.00
	12/30/2008 - 1/30/2009		
Precision Valve	1/30/2009 - 7/27/2009		\$1,600.00

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Fees						
Intensive Supervision	\$5,220.00	\$20.00/W	\$1,680.00	10/28/2009	\$260.00	\$3,540.00
Fines						

130 South Carolina Department of Probation, Parole and Pardon Services Violation Report

Offender's Name: **JENNIFER RAYANNE DYKES**

Court Ordered Fines	\$643.75	\$30.00/M	\$350.00	5/6/2009	\$293.75	\$29
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Prior Violation Dates	Prior Violations	Prior Violation Disposition

Details of the Present Violation:

C-23-09-0640- By failing to avoid persons who the offender knows have a criminal record and whom the agent has instructed the offender to avoid in that the offender was found to be residing with a one, Daphaney Denise Smith, during home visits conducted on 04/02/09 and 05/18/09 in which the agent had specifically instructed the offender to avoid during her report on 08/13/2008 due to the fact that she stated she had met "Daphaney" in SCDC while she was incarcerated. By failing to make complete and truthful reports to her agent in that when agent conducted a home visit on 04/02/09, the offender identified the female that she was living with only as "Dee Dee" and on a subsequent report on 04/08/09 when questioned as to the identity of the female residing with her, she stated that the female was not "Daphaney" but was someone else. By being 3 payments (\$70.00) in arrears on her court ordered fine as of 06/01/09.

W-23-09-0776 : By failing to refrain from having contact with one Daphney Denise Smith, who the offender has an absolute and understanding knowledge that this particular person is a felon whom her agent has instructed her to avoid on numerous occasions, as evidenced by agents having witnessed the offender and the above mentioned person having direct and social interaction on 07/28/09. By failing to make complete and truthful reports to her agent in that on 07/09/09, the offender stated that she does not see the above mentioned person nor have contact with the above mentioned person anymore. By failing to follow the direct advice and instructions of her agent in the offender has been instructed and warned that any further contact with the above mentioned person will constitute a willful violation of her probation on the offenders part.

C-23-09-0880: By failing to refrain from drinking alcoholic beverages as evidence by Agent Baughcome witnessing the offender with a beer at Frodos Pizza and by offenders own admission that she had been drinking a beer just before she was arrested on warrant W-23-09-0776 on 07/28/09.

Ms. Dykes asked back in August of 2008 if her girlfriend (Daphaney Denise Smith), whom was in SCDC at the time, could come live with her when she was released from prison. Agent advised offender that she could not come live with her and she could not have any association with her because they were both convicted felons and she knew that she was a convicted felon. Offender then tried to ask agent if we could forget that she ever mentioned this and let her come live there anyways. Offender then moved to a new residence at the beginning of this year and when agent conducted home visits on the offender in April and May, there was another female there at the residence with the offender. Agent asked offender who this female was and she replied "Dee Dee, or DD." Agent then asked if having a room mate now helped with the rent and bills and she replied "yes" which implies that the other female was in fact living there. Further investigation determined that the female living with the offender was in fact "Daphaney Denise Smith" who was recently released from an active sentence in SCDC and has been under probation supervision before.

Agent's Recommendation:

Partial Revocation of 2 (two) years. (Note: This is a mandatory gps case under the Sex Offender Accountability and Protection of Minors Act of 2006 should the offender be found in violation)

Agent's Justification:

The offender knowingly violated one of the Court imposed, standard conditions of probation even after conversations with her supervising Agent directed her on how to handle the situation. The condition is in place because it is widely recognized that continuing or establishing relationships that influence in a negative direction are a hurdle to behavior modification and successful completion of supervision. Court and supervision records indicate that both individuals have problems with substance abuse, making the association between the two even more of a negative factor than just the past criminal activity. "New playgrounds, new playmates" is a phrase coined by recovery programs that stresses the importance of breaking ties with those that would influence toward a return to old habits and negative behaviors. Once the offender completes her sentence and is no longer under the supervision of the Court, she is free to associate with whomever she chooses. However, while she is actively under the probationary sentence of the Court, she must abide by the conditions that have been ordered as part of that sentence. Her choice to willfully and knowingly violate the condition in this situation indicates the inability to place herself under the "rule of law" when it conflicts with her personal plans showing a continued problem with criminal thinking tendencies.

Allan Norfus

Agent

Date: 2/9/2010

Supervisor's Signature

Date: 02/09/2010

PROBATION CITATION

No. C-23-09-0640

SOUTH CAROLINA		COUNTY: GREENVILLE	
V.			
JENNIFER RAYANNE DYKES		SCDC #	SID # 01703961
TO: JENNIFER RAYANNE DYKES			
YOU ARE HEREBY NOTIFIED to appear in the above named case at the time, date and place specified below.			
Place TBD		Room TBD	
		Date and Time	
YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below.			
Violations Charged By willfully violating all or parts of her probation conditions 1, 4, 9 and 10 as ordered in cause number 06-GS-39-02116 by the Pickens County Court of General Sessions on 01/29/07.			
YOU ARE HEREBY NOTIFIED that you have the rights listed below.			
List of Rights: You have the right at the hearing to question any person who appears as a witness against you and to have witnesses appear in your behalf. You may present evidence on your behalf. You may have an attorney represent you. If you cannot afford an attorney, an attorney will be appointed for you. You must advise the agent or the court in writing of your desire for an attorney. It is your responsibility to make arrangements for your witnesses and your attorney to appear at the hearing.			
IF YOU FAIL TO APPEAR AT THE TIME, DATE AND PLACE SHOWN ABOVE, THE HEARING WILL BE HELD IN YOUR ABSENCE AND YOU MAY BE INCARCERATED.			
GREENVILLE, South Carolina		Probation and Parole Agent	
Date 6/3/2009		Robbie Gilbert, Jr.	
		Agent # 0608	
A copy of the citation was served by the undersigned and given to the individual named therein at the time, date, and place indicated below.			
Place SC DRRP5		Date and Time 6/11/09 11:55	
		Serving Officer's Signature 	
Sworn to and subscribed before me this _____ day of _____			
_____ Signature of Notary Public		My Commission Expires _____	

STATE OF SOUTH CAROLINA

AFFIDAVIT

County of GREENVILLE

Personally appeared before me, Robbie Gilbert, Jr., who first being duly sworn, deposes and says that JENNIFER RAYANNE DYKES did within this county and State on the 3 day of June, 2009, violate certain conditions of release in the following particulars:

DESCRIPTION OF VIOLATION

By willfully violating all or parts of her probation conditions 1, 4, 9 and 10 as ordered in cause number 06-GS-39-02116 by the Pickens County Court of General Sessions on 01/29/07.

The Affiant states that there is probable cause to believe the defendant named committed the violations set forth and that such probable cause is based on the following facts:

By failing to avoid persons who the offender knows have a criminal record and whom the agent has instructed the offender to avoid in that the offender was found to be residing with a one, Daphaney Denise Smith, during home visits conducted on 04/02/09 and 05/18/09 in which the agent had specifically instructed the offender to avoid during her report on 08/13/2008 due to the fact that she stated she had met "Daphaney" in SCDC while she was incarcerated. By failing to make complete and truthful reports to her agent in that when agent conducted a home visit on 04/02/09, the offender identified the female that she was living with only as "Dee Dee" and on a subsequent report on 04/08/09 when questioned as to the identity of the female residing with her, she stated that the female was not "Daphaney" but was someone else. By being 3 payments (\$70.00) in arrears on her court ordered fine as of 06/01/09. By failing to follow the advice and instructions of her supervising agent.

Sworn to and subscribed
before me this 3 day of
June 2009

[Signature]
Signature of Notary Public

[Signature]
Affiant

My Commission Expires: 12/01/2010

Form 18.1- Arrest Warrant
 Form Approved by
 SC Attorney General
 Section 17-13-160
 March 15, 1978

ORIGINAL

STATE OF SOUTH CAROLINA
 COUNTY OF GREENVILLE

Probation

ARREST WARRANT

Indictment Number 06-GS-39-02116

Warrant Number W-23-09-0776

State Identification No. (SID) 01703961

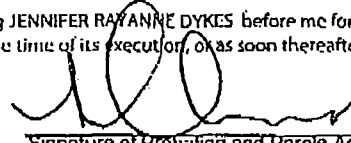
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF GREENVILLE, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that JENNIFER RAYANNE DYKES, did on the 28 day of July, 2009 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

By having violated conditions 1, 4 and 10 as ordered in cause number 06-GS-39-02116 by the Pickens County Court of General Sessions on 01/29/07.

Now, therefore, you are empowered and directed to arrest the said defendant and bring JENNIFER RAYANNE DYKES 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. Done at GREENVILLE, S. C. this 28 day of July, 2009.



(L.S.)

County of GREENVILLE

Signature of Probation and Parole Agent

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Kristin Tompkins, who, first being duly sworn, deposes and says that JENNIFER RAYANNE DYKES did within this County and State on the 28 day of July, 2009, violate the criminal laws of the State of South Carolina in the following particulars:

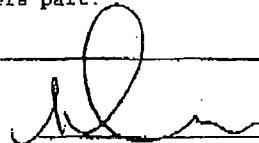
DESCRIPTION OF OFFENSE:

By having violated conditions 1, 4 and 10 as ordered in cause number 06-GS-39-02116 by the Pickens County Court of General Sessions on 01/29/07.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

By failing to refrain from having contact with one Daphney Denise Smith, who the offender has an absolute and understanding knowledge that this particular person is a felon whom her agent has instructed her to avoid on numerous occasions, as evidenced by agents having witnessed the offender and the above mentioned person having direct and social interaction on 07/28/09. By failing to make complete and truthful reports to her agent in that on 07/09/09, the offender stated that she does not see the above mentioned person nor have contact with the above mentioned person anymore. By failing to follow the direct advice and instructions of her agent in the offender has been instructed and warned that any further contact with the above mentioned person will constitute a willful violation of her probation on the offenders part.

Sworn to and Subscribed before me
 this 28 day of July, 2009.



Affiant



(L.S.)

Signature of Notary Public

6-21-2017

My Commission Expires

Address: SUITE 6500
 301 UNIVERSITY RIDGE
 GREENVILLE, SC 29601
 GREENVILLE
 USA
 (864) 282-4540

RETURN

STATE OF SOUTH CAROLINA

COUNTY OF

GREENVILLE

THE STATE

against

JENNIFER RAYANNE DYKES

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24.21-430

Date: 7/28/2009

Officer and Agency: SC Department of Probation,
Parole and Pardon Services

Kristin Tomaso

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name JENNIFER RAYANNE DYKES

Address

Phone

Sex Female Race White Height 511

Weight 145 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant.

Decision

BAIL

Date Set

Magistrate

Amount

Surety

7/28/09

James E Hudson

2500/5000

S

A copy of this Arrest Warrant was delivered by me to the following defendant:

Jennifer Dykes

on the 28th day of July 2009

R.S. Cooper

Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

(L.S.)

Signature of Judge

PROBATION CITATION

No. C-23-09-1109

SOUTH CAROLINA V. JENNIFER RAYANNE DYKES		COUNTY: GREENVILLE <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">SCDC #</td> <td style="width: 50%; padding: 5px;">SID # 01703961</td> </tr> </table>		SCDC #	SID # 01703961		
SCDC #	SID # 01703961						
TO: JENNIFER RAYANNE DYKES							
YOU ARE HEREBY NOTIFIED to appear in the above named case at the time, date and place specified below. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Place TBD</td> <td style="width: 50%; padding: 5px;">Room TBD</td> </tr> <tr> <td style="width: 50%;"></td> <td style="width: 50%; padding: 5px;">Date and Time</td> </tr> </table>				Place TBD	Room TBD		Date and Time
Place TBD	Room TBD						
	Date and Time						
YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below. Violations Charged By having violated condition 10 and Sex Offender Condition #2 as ordered in cause number 06-GS-39-02116 by the Pickens County Court of General Sessions on 01/29/07.							
YOU ARE HEREBY NOTIFIED that you have the rights listed below. List of Rights: You have the right at the hearing to question any person who appears as a witness against you and to have witnesses appear on your behalf. You may present evidence on your behalf. You may have an attorney represent you. If you cannot afford an attorney, an attorney will be appointed for you. You must advise the agent or the court in writing of your desire for an attorney. It is your responsibility to make arrangements for your witnesses and your attorney to appear at the hearing.							
IF YOU FAIL TO APPEAR AT THE TIME, DATE AND PLACE SHOWN ABOVE, THE HEARING WILL BE HELD IN YOUR ABSENCE AND YOU MAY BE INCARCERATED.							
GREENVILLE, South Carolina		Probation and Parole Agent Robbie Gilbert, Jr.					
Date 9/4/2009		Agent # 0608					
A copy of the citation was served by the undersigned and given to the individual named therein at the time, date, and place indicated below.							
Place SCORPPS		Date and Time 09/08/09 14:15					
23		Serving Officer's Signature [Signature]					
Sworn to and subscribed before me this <u>10</u> day of <u>September</u>, 2009							
[Signature] Signature of Notary Public		My Commission Expires <u>12/01/2010</u>					

STATE OF SOUTH CAROLINA

AFFIDAVIT

County of GREENVILLE

Personally appeared before me, Robbie Gilbert, Jr., who first being duly sworn, deposes and says that JENNIFER RAYANNE DYKES did within this county and State on the 4 day of September, 2009, violate certain conditions of release in the following particulars:

DESCRIPTION OF VIOLATION

By having violated condition 10 and Sex Offender Condition #2 as ordered in cause number 06-GS-39-02116 by the Pickens County Court of General Sessions on 01/29/07.

The Affiant states that there is probable cause to believe the defendant named committed the violations set forth and that such probable cause is based on the following facts:

By having been terminated from sex offender counseling on 08/19/09 in that the offender exceeded the maximum amount of canceled/rescheduled appointments that is allowed for the individual treatment option in which the offender was made aware of on 10/16/08 when she signed the treatment contract with Dr. Bodtorf's office. By failing to follow the advice and instructions of her supervising agent.

Sworn to and subscribed
before me this 4 day of
September 2009

Jeremy W. Wells
Signature of Notary Public

Robbie Gilbert, Jr.
Affiant

My Commission Expires:

12/01/2010

Form 18.1 - Arrest Warrant
Form Approved by
SC Attorney General
Section 17-13-100
March 15, 1978

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Probation

ARREST WARRANT

Indictment Number 06-GS-39-02116

Warrant Number W-23-09-1167

State Identification No. (SID) 01703961

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF GREENVILLE, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

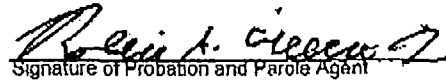
It appearing from the attached affidavit that there are reasonable grounds to believe that JENNIFER RAYANNE DYKES, did on the 18 day of November, 2009, violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

By having violated conditions 1, 2, 5, 10 and sex offender condition 9 as ordered in cause number 06-GS-39-02116 by the Pickens County Court of General Sessions on 01/29/07.

Now, therefore, you are empowered and directed to arrest the said defendant and bring JENNIFER RAYANNE DYKES 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. Done at GREENVILLE, S.C. this 18 day of November, 2009.

County of **GREENVILLE**

 (L.S.)
Signature of Probation and Parole Agent

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Robbie Gilbert, Jr., who, first being duly sworn, deposes and says that JENNIFER RAYANNE DYKES did within this County and State on the 18 day of November, 2009, violate the criminal laws of the State of South Carolina in the following particulars:

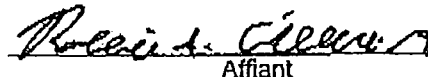
DESCRIPTION OF OFFENSE:

By having violated conditions 1, 2, 5, 10 and sex offender condition 9 as ordered in cause number 06-GS-39-02116 by the Pickens County Court of General Sessions on 01/29/07.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

By having changed her residence without the knowledge or consent of her agent as evidence by home visit conducted on 11/17/09 in which agents spoke with two different neighbors who both stated that they have not seen the offender or her car in about two or three weeks. Then again by home visit conducted on 11/18/09 where a different neighbor also stated that they had not seen her or her car in two or three weeks and when agents asked the offender to present evidence that she was living there, she was unable to provide any sort of evidence. By failing to maintain a residence approved by her agent and failing to stay at her residence each and every night as required by the Sex Offender Conditions. By failing to make complete and truthful reports to agent about her address in that the offender reported this address on 11/12/09. By failing to work diligently at a lawful occupation or provide proof thereof. By failing to follow the advice and instructions of her supervising agent.

Sworn to and Subscribed before me
this 18 day of November, 2009.

 Affiant

 (L.S.)
Signature of Notary Public

Address: SUITE 6500
301 UNIVERSITY RIDGE
GREENVILLE, SC 29601
GREENVILLE
USA
(864) 282-4540

6/21/2017
My Commission Expires

RETURN

STATE OF SOUTH CAROLINA
COUNTY OF
GREENVILLE

THE STATE
against

JENNIFER RAYANNE DYKES

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 11/18/2009

Officer and Agency: SC Department of Probation,
Parole and Pardon Services

Robble Gilbert, Jr.

on the 19th day of November, 2009

Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

(L.S.)

Signature of Judge

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name JENNIFER RAYANNE DYKES

Address

Phone (000) 000-0000

Sex Female Race White Height 511

Weight 145 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant.

Decision

BAIL

Date Set

Magistrate

Amount

Surety

South Carolina Department of Probation, Parole and Pardon Services

Violation Report

Offender's Name: JENNIFER RAYANNE DYKES

State of South Carolina, County of: GREENVILLE

SID#: 01703961

Warrant#: C-23-09-0640; W-23-09-0776; C-23-09-0880

Date of Birth: [REDACTED]

SCDC#:

Indictment Numbers:

06-GS-39-02116

Offense and Offense Code:2468 - Lewd Act, committing or attempting
lewd act upon child under 16 (after 6/4/96)**GPS MANDATORY**

Supervision Program: Probation

Begin Date: 4/1/2008

End Date: 3/31/2013

Supervision Level: Sex Off. - High

Sentencing Judge: 130 - Miller, Edward

Sentencing County: PICKENS

Sentencing Date: 1/29/2007

Location (Bold Response): SCDC

Sentence:Lewd Act committing or attempting lewd act upon child - 15 yrs susp 3 yrs & 5 yrs prob, recommend ATU - see spec cond
040108: Released**Special Conditions:**

Fine - \$643.75 includes surcharge, PDF, LEF, 3%;; Other1 - no victim contact (NVC); Sex offender registry;; RADT - ; SAC - MH counseling;

Current Address and Summary of Residence:

[REDACTED], GREENVILLE, USA,

[REDACTED], GREENVILLE, USA, [REDACTED]
GREENVILLE, USA, ; [REDACTED], GREENVILLE, USA,**Reporting:**

The offender reports as instructed.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
Unemploy	7/28/2009 -		
	4/1/2008 - 4/21/2008		
KFC/Taco Bell	4/21/2008 - 7/31/2008		\$690.00
Precision Valve	7/31/2008 - 12/30/2008		\$1,600.00
	12/30/2008 - 1/30/2009		
Precision Valve	1/30/2009 - 7/27/2009		\$1,600.00

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Fees						
Intensive Supervision	\$5,220.00	\$20.00/W	\$1,680.00	10/28/2009	\$260.00	\$3,540.00
Fines						

South Carolina Department of Probation, Parole and Pardon Services
Violation Report

Offender's Name: JENNIFER RAYANNE DYKES

Court Ordered Fines	\$643.75	\$30.00/M	\$350.00	5/6/2009	\$293.75	\$293.75
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Prior Violation Dates	Prior Violations	Prior Violation Disposition

Details of the Present Violation:

C-23-09-0640- By failing to avoid persons who the offender knows have a criminal record and whom the agent has instructed the offender to avoid in that the offender was found to be residing with a one, Daphaney Denise Smith, during home visits conducted on 04/02/09 and 05/18/09 in which the agent had specifically instructed the offender to avoid during her report on 08/13/2008 due to the fact that she stated she had met "Daphaney" in SCDC while she was incarcerated. By failing to make complete and truthful reports to her agent in that when agent conducted a home visit on 04/02/09, the offender identified the female that she was living with only as "Dee Dee" and on a subsequent report on 04/08/09 when questioned as to the identity of the female residing with her, she stated that the female was not "Daphaney" but was someone else. By being 3 payments (\$70.00) in arrears on her court ordered fine as of 06/01/09.

W-23-09-0776 : By failing to refrain from having contact with one Daphney Denise Smith, who the offender has an absolute and understanding knowledge that this particular person is a felon whom her agent has instructed her to avoid on numerous occasions, as evidenced by agents having witnessed the offender and the above mentioned person having direct and social interaction on 07/28/09. By failing to make complete and truthful reports to her agent in that on 07/09/09, the offender stated that she does not see the above mentioned person nor have contact with the above mentioned person anymore. By failing to follow the direct advice and instructions of her agent in the offender has been instructed and warned that any further contact with the above mentioned person will constitute a willful violation of her probation on the offenders part.

C-23-09-0880: By failing to refrain from drinking alcoholic beverages as evidence by Agent Baughcome witnessing the offender with a beer at Frodos Pizza and by offenders own admission that she had been drinking a beer just before she was arrested on warrant W-23-09-0776 on 07/28/09.

Ms. Dykes asked back in August of 2008 if her girlfriend (Daphaney Denise Smith), whom was in SCDC at the time, could come live with her when she was released from prison. Agent advised offender that she could not come live with her and she could not have any association with her because they were both convicted felons and she knew that she was a convicted felon. Offender then tried to ask agent if we could forget that she ever mentioned this and let her come live there anyways. Offender then moved to a new residence at the beginning of this year and when agent conducted home visits on the offender in April and May, there was another female there at the residence with the offender. Agent asked offender who this female was and she replied "Dee Dee, or DD." Agent then asked if having a room mate now helped with the rent and bills and she replied "yes" which implies that the other female was in fact living there. Further investigation determined that the female living with the offender was in fact "Daphaney Denise Smith" who was recently released from an active sentence in SCDC and has been under probation supervision before.

Agent's Recommendation:

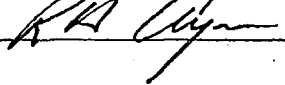
Partial Revocation of 2 (two) years. (Note: This is a mandatory gps case under the Sex Offender Accountability and Protection of Minors Act of 2006 should the offender be found in violation)

Agent's Justification:

The offender knowingly violated one of the Court imposed, standard conditions of probation even after conversations with her supervising Agent directed her on how to handle the situation. The condition is in place because it is widely recognized that continuing or establishing relationships that influence in a negative direction are a hurdle to behavior modification and successful completion of supervision. Court and supervision records indicate that both individuals have problems with substance abuse, making the association between the two even more of a negative factor than just the past criminal activity. "New playgrounds, new playmates" is a phrase coined by recovery programs that stresses the importance of breaking ties with those that would influence toward a return to old habits and negative behaviors. Once the offender completes her sentence and is no longer under the supervision of the Court, she is free to associate with whomever she chooses. However, while she is actively under the probationary sentence of the Court, she must abide by the conditions that have been ordered as part of that sentence. Her choice to willfully and knowingly violate the condition in this situation indicates the inability to place herself under the "rule of law" when it conflicts with her personal plans showing a continued problem with criminal thinking tendencies.


Agent

Date: 2/9/2010

Supervisor's Signature 

Date: 3-18-2010

141

WITNESSES

Brian Cowan

Easley Police Department

6/5/2006

ARREST WARRANT NUMBER

DIRECT PRESENTMENT

ACTION OF GRAND JURY

WIFE EASLEY

OCT 17 2006

Date

Rhonda Lopez
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2006-GS-39-2116

MFH

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

THE STATE

VS.

JENNIFER RAYANNE DYKES

WHITE, FEMALE

DOB: [REDACTED]

SSN # [REDACTED]

Indictment for

2468

LEWD ACT UPON A CHILD

VIOLATION § 16-15-0140

[Faint circular stamp, possibly "CLERK OF COURT"]

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)

INDICTMENT FOR
 LEWD ACT UPON A CHILD

At a Court of General Sessions, convened on

the Grand Jurors of Pickens

County present upon their oath:

That JENNIFER RAYANNE DYKES did in Pickens County, between the dates of the 8th day of October, 2005 and the 31st day of May, 2006, being over the age of fourteen years, willfully and lewdly commit or attempt a lewd and lascivious act upon or with the body, or its parts, of S. D., a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of herself or such child. This is in violation of §16-15-140 of the South Carolina Code of Laws (1976) as amended.

TRUE COPY

Harold P. Wilborn
 CLERK OF COURT
 PICKENS COUNTY, S.C.

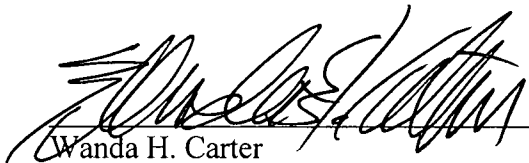
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WFP Hartman
 SOLICITOR

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."

May 26th, 2011



Wanda H. Carter
Deputy Chief 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

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE SUPREME COURT

Appeal from Greenville County

Charles B. Simmons, Jr., Special Circuit Court Judge

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MAY 31 2011

THE STATE,

S.C. Supreme Court

RESPONDENT,

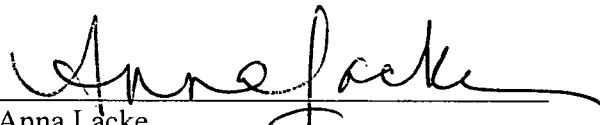
V.

JENNIFER RAYANNE DYKES,

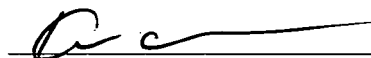
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Tommy Evans, Jr., Esquire, at the South Carolina Department of Probation, Parole & Pardon Services, PO Box 50666, Columbia, SC 29250, this 26th day of May, 2011.


Anna Lacke
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 26th day of May, 2011.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 2, 2013.

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MAY 26 2011

SC COURT OF APPEALS