

22511

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

R. Lawton McIntosh, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF CALVIN JOE MILLER,

APPELLANT

APPELLATE CASE NO. 2014- 001735

RECEIVED

FEB 18 2016

SC Court of Appeals

AMENDED RECORD ON APPEAL

LAURA R. BAER
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General

Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorneys for Respondent

INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED JULY 14, 2014.....	1
OPENING STATEMENT BY MR. BOGEL.....	5
OPENING STATEMENT BY MR. ARIAIL.....	9
TESTIMONY	
DR. SUSAN KNIGHT	
Voir Dire Examination by Mr. Bogel.....	10
Voir Dire Examination by Mr. Ariail.....	14
Direct Examination by Mr. Bogel.....	18
Cross Examination by Mr. Ariail.....	105
Redirect Examination by Mr. Bogel.....	136
STATE RESTS	140
DR. KIMBERLY HARRISON	
Direct Examination by Mr. Ariail.....	142
Cross Examination by Mr. Bogel	163
Redirect Examination by Mr. Ariail	177
CLOSING ARGUMENT BY MR. BOGEL	179
CLOSING ARGUMENT BY MR. ARIAL	187
VERDICT	188
SENTENCING	190
STATE'S EXHIBIT 1 (CERTIFIED CONVICTIONS)	192
ORDER OF COMMITMENT	196
STATE'S PETITION PURSUANT TO THE SEXUALLY VIOLENT PREDATOR ACT	197
CERTIFICATE OF COUNSEL.....	291

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE) IN THE COURT OF COMMON PLEAS

3
4 IN THE MATTER OF THE)
5 CARE AND TREATMENT OF)
6 CALVIN JOE MILLER) TRANSCRIPT OF RECORD
7) 2013-CP-23-01543
8)
9) JULY 14, 2014
10) GREENVILLE, SOUTH CAROLINA

11 (VOLUME I)

12 B E F O R E :

13 THE HONORABLE R. LAWTON MCINTOSH, JUDGE. ; and a jury.

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

15 JAMES G. BOGEL, ASSISTANT ATTORNEY GENERAL
16 NICOLE T. WETHERTON, ASSISTANT ATTORNEY GENERAL
17 ATTORNEYS FOR THE PETITIONER

18 R. MILLS ARIAIL, JR., ESQUIRE
19 ATTORNEY FOR THE RESPONDENT

20 MICHAEL R. WATTS
21 CIRCUIT COURT REPORTER

22
23
24
25

INDEX

(JULY 14, 2014)

WITNESSES

PAGE

JURY VOIR DIRE -- PAGE 7

JURY SWORN -- PAGE 34

OPENING STATEMENT BY MR. BOGEL -- PAGE 44

OPENING STATEMENT BY MR. ARIAIL -- PAGE 48

DR. SUSAN KNIGHT (PW)

DIRECT EXAMINATION BY MR. BOGEL 51

VOIR DIRE EXAMINATION BY MR. ARIAIL 56

CONT'D DIRECT EXAMINATION BY MR. BOGEL 59

INDEX

(JULY 15, 2014)

WITNESSES PAGE

DR. SUSAN KNIGHT (PW)

CROSS EXAMINATION BY MR. ARIAIL 150

REDIRECT EXAMINATION BY MR. BOGEL 181

STATE RESTS -- PAGE 185

DR. KIMBERLY HARRISON (RW)

DIRECT EXAMINATION BY MR. ARIAIL 188

CROSS EXAMINATION BY MR. BOGEL 209

REDIRECT EXAMINATION BY MR. ARIAIL 223

RESPONDENT RESTS -- PAGE 225

COURT'S JURY INSTRUCTIONS -- PAGE 231

CLOSING ARGUMENT BY MR. BOGEL -- PAGE 246

FINAL ARGUMENT BY MR. ARIAIL -- PAGE 254

JURY VERDICT -- PAGE 269

REPORTER'S CERTIFICATE -- PAGE 273

1	EXHIBITS			
2	NO.	DESCRIPTION	ID.	EV.
3	P-1	CERTIFIED CONVICTIONS		66
4				
5	CT-1	JURY NOTE	30	
6	CT-2	MEDICAL RECORDS	122	
7	CT-3	JURY NOTE	262	
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 MR. ARIAIL: No, Your Honor.

2 THE COURT: Very good.

3 Do you want a minute before you do your opening
4 statements, or are you ready to go?

5 MR. BOGEL: Ready to go.

6 MR. ARIAIL: Ready to go, Your Honor.

7 THE COURT: Bring them in.

8 (The following takes place in the presence of the
9 jury panel)

10 THE COURT: All right, Mr. Bogel, you ready for
11 the State for opening statement?

12 MR. BOGEL: Yes, Your Honor. Thank you.

13 THE COURT: Yes, sir.

14 MR. BOGEL: May it please the court?

15 THE COURT: Yes, sir.

16 MR. BOGEL: Ladies and gentlemen, I introduced
17 myself earlier. My name is Jim Bogel. I'm with the
18 Attorney General's Office. With me today is Nicole
19 Wetherton also with the office. We do these type of cases
20 around the state.

21 Some people wonder why you are seeing the Attorney
22 General's Office instead of say the solicitor or your county
23 attorney. The reason is when the legislature passed this
24 law back in 1998, they told our office, they said this is
25 your office, the A.G.'s office, is going to be the one to

1 present these cases around the State. Nicole and I have the
2 state divided in half. We do different cases from all the
3 different circuits of the State.

4 Now, let me give you an idea of what this is.
5 And, remember, the judge is going to charge you the law when
6 everything is over with. He will tell you what the law is
7 before you go out to deliberate on your verdict. And if I
8 should say anything about the law that's different than what
9 he says, please remember what the judge says is that's what
10 really counts.

11 In 1998 our state became aware of and was
12 concerned about what they called a dangerous group of what
13 they called sexually violent predators. People out there
14 who commit sexual crimes, they go to prison, they get out of
15 prison, but something is still wrong with them. They have
16 some kind of mental abnormality, or a personality disorder,
17 or even both, that makes them likely to commit the crime
18 again. In the Probate Court process there is many people
19 who are not sufficient enough to take care of these folks,
20 so when they passed this law, they said, okay, the folks who
21 meet that cut, who have that kind of problem, they can be
22 civilly committed or confined to treatment run by the
23 Department of Mental Health. It's called long termed
24 control, care and treatment, and you will hear about that.

25 In this particular case Mr. Miller made that cut

1 and that's why we are here today, okay? He's been convicted
2 of a sexually violent crime. You will be hearing about that
3 during the testimony. The crime is lewd act on a minor
4 child. You will be hearing about that as the case
5 progresses. We also have a copy of the sentencing sheet and
6 the indictment, if you would look at them when you go back
7 in the jury room. That is a sexually violent crime. It's
8 one of the sixteen crimes listed in the statute.

9 So what we have to do is we have to prove to you
10 beyond a reasonable doubt, like the judge said, that he,
11 number one, has been convicted of a right kind of crime,
12 which he has; and, number two, that he has that kind of
13 mental abnormality. In this case he's a pedophile, which
14 means he has a sexual interests in prepubescent children.
15 And that because of that he has not enough control of his
16 own actions, that he has to be committed, locked up, if you
17 will, but committed to a secure facility for long term
18 control, care and treatment that's run by the Department of
19 Mental Health. That's what we are saying is here.

20 Now, he's got a defense to this. You may hear
21 that. You will hear that today. Let me tell you something
22 strange about this case. As the case progressed, the court
23 here in Greenville County appointed a doctor from the
24 Department of Mental Health to evaluate Mr. Miller. Kim
25 Harrison, sitting over there in the black suit with the red

1 shirt, she was appointed by the court to evaluate him. Now,
2 she came back with her analysis or her report saying that he
3 did not fit the criteria to be a sexually violent predator.
4 He did not need to be committed.

5 The Attorney General's office, by the statute,
6 it's written done, has the right, if we disagree with that
7 or we think that might be wrong, to get an independent
8 evaluation, and we do. Susan Knight, the dark suit with the
9 white shirt sitting right in the back there, she's with the
10 Medical University of South Carolina and we hired her office
11 to take a second look at this guy. And I think what you
12 will hear is, while Dr. Harrison took a look at him and did
13 do the report, she didn't look hard enough. Our position is
14 Dr. Knight looked even further and found enough stuff to
15 convince us to present a case to you that this man is a
16 sexually violent predator. Now, that's why you will be
17 hearing from two expert witnesses.

18 Now, you need to understand this. Because it's
19 the type of case that it is, in order for these experts,
20 both of them, to testify and give opinions about whether or
21 not this man should be committed for long term control, care
22 and treatment, they will have to explain how they reached
23 that conclusion. In doing so they will have to talk about
24 the underlying details of the crimes he committed, what he
25 did to the child. Also they will have to talk about the

1 underlying details of things he has said to them. And some
2 of this may be unpleasant to hear. I apologize in advance
3 for that, but that's just -- it comes with the territory.
4 It comes with this type of case.

5 So what I would like to do is, first of all, thank
6 you for all being here. I appreciate you doing your duty by
7 Greenville County. Listen to the case. Listen to all the
8 evidence and come to a verdict, and we think that verdict
9 will be that Mr. Calvin Joe Miller needs to be committed for
10 treatment. Thank you.

11 Your Honor?

12 THE COURT: Mr. Ariail?

13 MR. ARIAIL: Thank you, Your Honor. May it please
14 the court?

15 THE COURT: Yes, sir.

16 MR. ARIAIL: Ladies and gentlemen, my name is
17 Mills Ariail and I introduced myself earlier in the case. I
18 represent Mr. Miller in regards to this case.

19 Now, this is a very important day for Mr. Miller.
20 They have filed a petition against him alleging that he is a
21 sexually violent predator. It's our view that he is not.

22 And as you have heard, they are going to have to
23 put up their evidence to support the position that he should
24 be confined, that he should receive this long term care and
25 treatment. And throughout this process you will have to go

1 confine, continue to confine Mr. Miller.

2 I thank you for your time in this and he really
3 does appreciate it. It's a very big day for him and look
4 forward to working with you. Thank you very much.

5 MR. BOGEL: Thank you, Your Honor.

6 If it please the court, the State would call Dr.
7 Susan Knight.

8 DR. SUSAN KNIGHT, having been first duly sworn,
9 testified as follows:

10 THE COURT: State your name, please.

11 THE WITNESS: Susan Knight.

12 THE CLERK: Thank you. Please be seated.

13 DIRECT EXAMINATION BY MR. BOGEL:

14 Q. Good afternoon, Dr. Knight.

15 Would you please tell the jury your occupation?

16 A. I am a forensic psychologist.

17 Q. And what professional degrees do you possess?

18 A. I have a Bachelor's Degree in Psychology from Trinity
19 University in San Antonio, Texas.

20 I have a Master's Degree in Clinical Psychology from
21 the University of Louisville, in Kentucky.

22 And I have a Ph.D., a Doctorate in Clinical Psychology
23 from the University of Louisville.

24 Q. Do you have any additional specialized training within
25 the field of psychology or forensic psychology?

1 A. I do.

2 Q. Would you tell us what that is?

3 A. That's specific within forensic psychology. So I
4 completed a pre-doctoral internship with the Department of
5 Justice within the Bureau of Prisons up at Buckner, North
6 Carolina, working in their sexually -- sex offender
7 treatment program and at their federal forensic evaluation
8 unit.

9 And then I completed a post-doctoral fellowship in
10 forensic psychology out in California at the Keck School of
11 Medicine.

12 Q. What states are you licensed to practice psychology in?

13 A. In South Carolina and North Carolina.

14 Q. Do you have memberships in any professional
15 organizations?

16 A. I do.

17 Q. What would those be?

18 A. ATSA, the Association and Treatment of Sexual Abusers;
19 the South Carolina Psychological Association, those types of
20 things.

21 Q. Now, basically what is the study of psychology?

22 A. Psychology is the study of human behavior; so how we
23 think about things, why we do the things that we do. A
24 large part of psychology is also devoted to the diagnosis
25 and treatment of mental disorders.

1 Q. Now, you mentioned the word a few minutes ago forensic
2 psychology as part of your training. What does the word
3 forensic mean when connected with the word psychology?

4 A. So forensic psychology means taking psychological
5 principles and applying those things to legal issues, like
6 the insanity defense, or competency to stand trial, those
7 sorts of issues.

8 Q. Are you board certified in forensic psychology?

9 A. Yes.

10 Q. What do you have to do to become board certified?

11 A. Board certification in forensic psychology takes about
12 a year and a half to two years to complete and there are
13 three phases. So I had to pass a written examination. I
14 had to travel and go to the test site and pass this standard
15 written evaluation. I then had to send in three of my
16 forensic reports, my work samples. Those were evaluated by
17 a panel of experts in the field. Once I passed that I had
18 to go and undergo an oral examination by three experts in
19 the field and those are three hour examinations.

20 Q. How long have you been board certified in forensic
21 psychology?

22 A. Since April, 2009.

23 Q. How much of your practice is dedicated to forensic
24 psychology?

25 A. A hundred percent.

1 Q. Does your work as a forensic psychologist allow you to
2 conduct psychological evaluations of individuals?

3 A. Yes.

4 Q. Okay. Approximately how many individuals have you so
5 evaluated?

6 A. Hundreds. So I have been in practice over ten years.
7 I have been evaluated hundreds of defendants at this point.

8 Q. Have you ever been hired by defense counsel in a case,
9 be it criminal or civil, to conduct a psychological
10 evaluation?

11 A. Yes.

12 Q. And, doctor, have you evaluated people pursuant to
13 South Carolina's Sexually Violent Predator Law, the one we
14 are here about today?

15 A. Yes.

16 Q. Could you describe your background in relation to
17 sexually violent predator cases?

18 A. Well, my background in sex offender evaluations started
19 on my pre-doctoral internship where I worked in the Federal
20 Sex Offender Treatment Program.

21 And then on my post-doctoral fellowship in California I
22 was exposed to the sexually violent predator laws and the
23 evaluation process.

24 And then in South Carolina I worked at the Medical
25 University of South Carolina for six years and I worked in

1 the sexual behaviors clinic and lab where these evaluations
2 regularly take place.

3 Q. Doctor, have you been previously recognized by the
4 Circuit Courts of South Carolina as an expert in the field
5 of psychology and forensic psychology?

6 A. Yes.

7 Q. Have you been so recognized in that field regarding
8 sexually violent predator cases?

9 A. Yes.

10 Q. About how many times have you been recognized as an
11 expert witness in the fields of psychology and forensic
12 psychology in this state?

13 A. Approximately over twenty times.

14 Q. Okay.

15 MR. BOGEL: Your Honor, at this time I would like
16 to offer Dr. Susan Knight as an expert witness in the field
17 of psychology and forensic psychology.

18 THE COURT: Voir dire?

19 MR. ARIAIL: Yes, your Honor, if I could do an
20 additional voir dire?

21 THE COURT: Yes..

22 MR. ARIAIL: Thank you.

23

24 VOIR DIRE EXAMINATION BY MR. ARIAIL:

25 Q. Dr. Knight, I think Mr. Bogel began to ask you

1 questions in regards to the SVP aspect of your review. How
2 many times have you been qualified as an expert in regards
3 to sexually violent predator cases?

4 A. Approximately three times.

5 Q. Three times.

6 When were those?

7 A. They would have been in 2013, 2014.

8 Q. So those were the first times that you have had those,
9 I mean have been named as experts in those type cases?

10 A. Correct.

11 Q. Did you testify at trial?

12 A. Yes.

13 Q. Okay. Were they in the State of South Carolina?

14 A. Yes.

15 Q. Okay. Did you testify for the State?

16 A. Correct.

17 Q. Okay. The State of South Carolina, correct?

18 A. Yes.

19 Q. For the Attorney General's Office?

20 A. That's right.

21 Q. Now, in regards to the SVP, I guess, evaluations that
22 you have done, you said it began six years ago at MUSC?

23 A. Well, my training started on my post-doctoral
24 fellowship in 2004, I believe.

25 Q. Okay. So 2004.

1 And explain to me your training. You began your
2 training in regards to particularly sexually violent
3 predator cases?

4 A. Correct.

5 Q. And so what type of training did you go through for
6 that?

7 A. So that was on my fellowship training. And I was
8 paired with a faculty member of the medical school who would
9 do these types of evaluations regularly and I was trained by
10 that individual. This was in California, around 2003, 2004?

11 Q. Okay. So that was in California. Then you came to
12 South Carolina?

13 A. Correct.

14 Q. When did you come to South Carolina?

15 A. I began working at the Medical University in January of
16 2008.

17 Q. Okay. 2008.

18 What training did get here in regards to South
19 Carolina's Sexually Violent Predator Law?

20 A. Around 2011, MUSC began a sexual behaviors clinic and
21 lab, and that is a laboratory specific for sex offender
22 assessment. And so we had sex offenders come in and they
23 are regularly assessed in that lab. They go through a whole
24 battery of testing and I was working there when that lab was
25 developed.

1 Q. Okay. And so I guess from 2008 to 2011, what were you
2 doing during that time frame before you began, I guess,
3 evaluations in 2011?

4 A. Sure, I was a full-time faculty member at MUSC from
5 2008 until just recently, 2013. And so my clinical duties
6 involved conducting all kinds of forensic evaluations,
7 primarily on criminal defendants, sometimes civil work as
8 well. I also taught medical residents and medical students
9 and things like that that a faculty member would do at a
10 medical school.

11 Q. Okay. How many evaluations have you done for, I guess,
12 2011, on, in regards to sexually violent predators?

13 A. Approximately eight, looking specifically at the SVP
14 statute.

15 Q. Okay. On those eight, how many have you found not to
16 be confined?

17 A. I would say -- I would have to go back and look, but
18 probably around half.

19 Q. Okay.

20 MR. ARIAIL: Your Honor, I have no further
21 questions. Thank you.

22 THE COURT: All right. Just one second.

23 Ladies and gentlemen of the jury, normally
24 witnesses are limited to testifying about what they see and
25 they hear and they smell, they saw, their senses. They are

1 generally are not allowed, except very small circumstances,
2 to give their opinion. However, a person, because of their
3 education, or their experience, or a combination of those
4 who has an area that's helpful to you may be allowed to be
5 qualified in that area. In that event they are allowed to
6 give their opinion.

7 In this case Dr. Knight is going to be found to be
8 an expert in the area of psychology and forensic psychology.
9 Therefore, she would be allowed to give her opinion in that
10 area.

11 Expert testimony is like any other testimony in
12 this case that you will hear. You may accept it, you may
13 reject it, or give it as much weight as you think is
14 appropriate.

15 Mr. Bogel.

16 MR. BOGEL: Thank you, Your Honor.

17 May it please the court?

18 THE COURT: Yes.

19 CONTINUED DIRECT EXAMINATION BY MR. BOGEL:

20 Q. Dr. Knight, how did you get involved in this case
21 involving Mr. Miller?

22 A. The Attorney General's Office has a contract with the
23 Medical University of South Carolina to conduct cases, and I
24 was hired by the Medical University of South Carolina to do
25 this case, as well as other cases. This was just one case

1 in the rotation. So I was the next evaluator up for a case
2 and I was assigned Mr. Miller's case by MUSC.

3 Q. Were you paid to conduct this evaluation?

4 A. Yes.

5 Q. How were you paid?

6 A. The Medical University of South Carolina pays me an
7 hourly rate to conduct any type of evaluation, including an
8 evaluation like Mr. Miller's evaluation.

9 Q. Would your payment by the Medical University have been
10 any different had you recommended that Mr. Miller not be
11 committed?

12 A. No, MUSC pays me by the hour for -- no matter what my
13 opinion is on the case, I'm paid for the work on that case.

14 Q. Okay. Now, Dr. Knight, what type of evaluation did you
15 do in this case?

16 A. Mr. Miller's case was a sexual behaviors evaluation --
17 a sexual behavior evaluation to determine if he met
18 commitment criteria for the South Carolina Sexually Violent
19 Predator Act.

20 Q. Okay. Now, prior to this, are you --

21 Now, in doing evaluations under this law, have you also
22 familiarized yourself with the various steps that take place
23 in the law?

24 A. Yes.

25 Q. Okay. So prior to your getting the case had there also

1 been an assessment of Mr. Miller by something called the
2 multi-disciplinary team that meets out at prison?

3 A. Yes.

4 Q. And they voted for the case to go forward?

5 A. They did.

6 Q. Okay. Then after that what is the next level or
7 committee that reviews the case after that?

8 A. So once the individual passes that review by the
9 multi-disciplinary team, then they go to the Prosecutor's
10 Review Committee, and that -- that's the committee they go
11 to.

12 Q. And that already happened before you got the case?

13 A. Yes.

14 Q. Then by the time you got this case Mr. Miller had
15 already been evaluated by a doctor appointed by the court.
16 That would be Dr. Harrison, correct?

17 A. Correct.

18 Q. Okay. Now, doctor, can you describe for the jury your
19 protocol in conducting evaluations of this type?

20 A. Sure. So everybody that comes into our lab gets the
21 same type of protocol, the same type of evaluation. And the
22 evaluation always consists of review of all the collateral
23 data that's made available to us; clinical interviews with
24 the individual; collateral interviews, if those are
25 important, speaking with people that know the defendant; and

1 a battery of psychological testing.

2 Q. Okay. Is it necessary for you to form an opinion in a
3 case like this to interview people who have either treated
4 the respondent or who know him?

5 A. Yes.

6 Q. Okay. Is this the type of thing that you reasonably
7 relied upon by experts in your field?

8 A. Yes.

9 Q. Doctor, once you have done the interviews, looked at
10 all the -- you said, collateral. You mean treatment records
11 and things like that?

12 A. Yes.

13 Q. Records on the guy, okay.

14 What do you do next? What comes next?

15 A. At that point I write a report with my opinion,
16 whatever that opinion is, if the person meets commitment, if
17 they don't meet commitment, and that report is submitted to
18 MUSC.

19 Q. As part of your evaluation do you meet with the person,
20 in this case Mr. Miller?

21 A. Yes.

22 Q. Okay. Did you in case -- in this case did you meet
23 with Mr. Miller personally, one on one?

24 A. I did.

25 Q. And about how long did that interview last?

1 A. Approximately four hours.

2 Q. Okay. Was there also some testing that is part of the
3 protocol run by the laboratory you mentioned you worked for
4 that also testing is done of Mr. Miller and him and all the
5 cases that you deal with these sexually violent predator
6 evaluations?

7 A. Yes, Mr. Miller gets the same battery of testing that
8 everybody else that comes through the lab would receive.

9 Q. Okay. Now, in addition to the meeting and interview,
10 you talked about the word collateral a minute ago. What
11 type of written information did you get on Mr. Miller?

12 A. So I reviewed all of the legal discovery documents on
13 Mr. Miller. So all of his warrants, arrest reports, police
14 reports, incident reports, all related to his prior sexual
15 charges. Those are very important for me to review. That
16 included looking at the victim statements and also watching
17 a video of the victim's report to child services.

18 I also reviewed South Carolina Department of
19 Corrections records from his time in prison.

20 I reviewed his psychiatric records, so he was
21 hospitalized at one point. I reviewed those hospital
22 records.

23 I reviewed the reports by the Department of Mental
24 Health examiner. I reviewed Dr. Harrison's report.

25 I also spoke with a prior treatment provider of Mr.

1 Miller's and an acquaintance of Mr. Miller's.

2 Q. How did you obtain all this information, the
3 documentary information, to begin with?

4 A. That information was provided by the Attorney General's
5 Office to the Medical University of South Carolina.

6 Q. And the people that you talked to, the prior treatment
7 provider, the prior acquaintance, how did you learn about
8 those two people?

9 A. I had Mr. Miller's sex offender treatment records from
10 prison, from when he went to his treatment while he was in
11 prison, and on those records was the name of his treatment
12 provider. So that's how I knew who his treatment provider
13 was and who to contact.

14 With the acquaintance of Mr. Miller, this individual
15 had called into the Attorney General's Office and wanted to
16 speak with someone who was evaluating Mr. Miller, so I
17 returned her call.

18 Q. Okay. Now, is the type of information that you talked
19 about so far, both the treatment provider, a person that
20 knows him, the documentary evidence that you reviewed, is
21 this information that's typically and reasonably relied upon
22 by experts in your field?

23 A. Yes.

24 Q. And did you consider and rely upon this information,
25 along with the personal interview of Mr. Miller, in

1 rendering an opinion in this case?

2 A. Yes.

3 Q. Now, could you explain to the jury, does a person's
4 past sexual offense behavior relate to their future sexual
5 offense behavior?

6 A. Yes. I mean the best predictor we have of someone's
7 future behavior is their past behavior. It's very important
8 for me to know what's happened in his past.

9 Q. Doctor, based upon your review of the information that
10 you got and also your interview with Mr. Miller, has he been
11 convicted of a sexually violent offense under our law in
12 South Carolina?

13 A. Yes.

14 MR. BOGEL: May I approach the witness, Your
15 Honor?

16 THE COURT: Yes, sir.

17 BY MR. BOGEL:

18 Q. I would like to hand you a certified copy of the
19 sentencing sheet, the indictment and the arrest warrant for
20 a lewd act on a child conviction dated August 3, 2010.
21 Would you please look at these and tell me if these are
22 documents that you looked at with regard to his criminal
23 record in South Carolina?

24 A. Yes.

25 Q. Okay. And is this the type of thing that is typically

1 and reasonably relied upon by experts in your field in
2 making evaluations such as the one of Mr. Miller?

3 A. Yes.

4 Q. Okay.

5 MR. BOGEL: Your Honor, at this time I would like
6 to introduce into evidence what has been marked as
7 Petitioner's Exhibit No. 1, the sentencing sheet, indictment
8 and arrest warrant for the lewd act charge, conviction date
9 of August 3, 2010, in Greenville County.

10 THE COURT: Any objection?

11 MR. ARIAIL: No objection, Your Honor.

12 THE COURT: Admitted without objection.

13 (Whereupon, Petitioner's Exhibit No. 1 was entered
14 into the record as evidence)

15 BY MR. BOGEL:

16 Q. Now, doctor, why was -- was it also necessary, in order
17 to form an opinion, for you to review the underlying details
18 behind this particular conviction?

19 A. Yes.

20 Q. Why is that necessary?

21 A. I need to know the nature of the sexual conduct, the
22 sexual behavior that made up the offense. It's very
23 important when we talk about his risk of re-offense.

24 Q. Okay. And is this stuff typically and reasonably
25 relied upon by experts in your field that you just

1 mentioned?

2 A. Yes.

3 Q. Okay. Would you please describe for the jury the
4 underlying details relating to this lewd act conviction of
5 the respondent, which is sitting before you as Petitioner's
6 Exhibit No. 1?

7 A. May I refer to my report?

8 Q. Yes, please.

9 A. So these -- these offenses, which were initially
10 criminal sexual conduct with a minor under the age of
11 eleven, two counts, and lewd act on a minor under the age of
12 sixteen. These offenses were reported in February, 2009,
13 when the victims were ten years old. And the victims were
14 two twin nieces of Mr. Miller's. So they reported this to a
15 school guidance counselor when they were ten years old, but
16 they reported that the actual sexual abuse took place at two
17 different times; once when they were five or six years old,
18 and once they were eight years old.

19 And so there is -- there is two victims here, because
20 these -- they are twin girls. And the first victim reported
21 that when she was five or six years old, quote, "Mr. Miller
22 tried to touch me and my sister. He tried to touch us in
23 areas he's not supposed to," and she indicated her breasts
24 and her genital areas. She stated that she was home alone
25 with Mr. Miller watching television and he, quote, "put his

1 hands under my clothes, my pants, my skirt. He made me
2 touch his thing. He picked up my hand. I was feeling
3 something hairy. I got up and his pants were down." And
4 that was one incident that she reported when she was five or
5 six years old.

6 This same victim reported a second incident when she
7 was eight years old -- seven or eight years old. She said
8 this was the exact same. She was also alone at the time
9 with Mr. Miller and she reported that he touched her breasts
10 under her clothes at that time when she was seven or eight.
11 And she indicated that she "tries to keep it out of my mind.
12 I don't like to think about it." That's one of his victims.

13 The other victim -- so the other twin reported that
14 when she was five or six years old she was also alone with
15 Mr. Miller and she reported that Mr. Miller had anal
16 intercourse with her, when she was seven or eight years old.
17 She stated that they were alone and she was lying on the bed
18 and Mr. Miller pulled up her dress, pulled down her panties
19 and "told me not to look, so I didn't," and he started
20 having anal intercourse with her. And she stated that he
21 told her to keep her head down in a pillow, so she did. And
22 she also stated that "it felt like a knife jabbing into me."
23 And she said he stopped when he heard a car coming into the
24 driveway, so somebody came home.

25 She reported a second incident. That incident was when

1 she was five or six years old. She reported a second
2 incident when she was eight years old, that the same thing
3 happened again when she was eight years old. She was alone
4 with Mr. Miller in the house and he, quote, "told me to go
5 into my room, pulled down his pants and my pants." And he
6 told her to get on the bed. "If you tell anybody I can go
7 to jail." And she said that it happened again at that time.

8 So those were the -- those were the sexual actions that
9 led to his charges in the sexually violent conviction in his
10 case.

11 Q. Okay. Now, doctor, you said he was charged with
12 other -- with multiple charges to begin with. What is the
13 charge he eventually pled to as shown on Petitioner's
14 Exhibit No. 1?

15 A. Lewd act -- committing or attempting lewd act upon a
16 child under sixteen.

17 Q. Okay. And that charge is dated 2010, in the lower
18 right-hand corner?

19 A. Yes.

20 Q. What was the sentence he got by the court for this
21 conviction?

22 A. So he received a sentence of eight years from the
23 court.

24 Q. Did he receive any probation from the court in addition
25 to the eight years, according to the sentencing sheet that

1 you are looking at?

2 A. No.

3 Q. Okay. Thank you.

4 Now, was Mr. Miller convicted of any other sexual
5 offense that's not -- it might not be a sexually violent
6 crime in South Carolina?

7 A. Yes.

8 Q. What state did that happen in?

9 A. North Carolina.

10 Q. Okay. Was it necessary for you to review those
11 records, in addition to what you have talked about so far,
12 in order to give the jury a picture about Mr. Miller and
13 make a recommendation about whether or not he should be
14 committed for treatment?

15 A. Yes, because this is another sexual offense that he's
16 been convicted of, so it's important for me to know what
17 happened in that offense as well.

18 Q. Okay. And is the details regarding that other sexual
19 offense something that's typically and reasonably relied
20 upon by experts in your field?

21 A. Yes.

22 Q. Would you tell the jury about the underlying details
23 about that particular crime; when it happened, where it
24 happened, the age of the victim, things like that?

25 A. Yes.

1 So collateral documents in this case alleged that on
2 June 20th, 1994, Mr. Miller would have been around nineteen
3 or twenty years old. He was in a baby-sitting role, and the
4 allegations are that he digitally penetrated the vagina of a
5 three year old female child while he was in a baby-sitting
6 role.

7 Q. Okay.

8 A. And she came home from the baby-sitter, told her mother
9 that, quote "Calvin had taken her into the bathroom and
10 stuck his finger in her bo bo," is what she calls her
11 vagina, "and that there was blood because his finger was so
12 big."

13 And she was later interviewed twice, one month apart,
14 by the Department of Social Services in North Carolina. She
15 reported the same thing.

16 Her five year old brother was interviewed and he also
17 reported that he witnessed Mr. Miller, quote, "punching her
18 in her private area."

19 She was taken to a pediatrician at that time and she
20 reported the same thing as well, that he touched her and put
21 her finger in her bo bo.

22 Q. Now, doctor, was this something you considered in
23 making your evaluation of Mr. Miller?

24 A. Yes.

25 Q. Why was that?

1 A. When you do a sexual behaviors evaluation, you want to
2 make sure and evaluate all of the information around any
3 kind of sexual behavior, particularly sexual offense
4 behavior.

5 Q. Was Mr. Miller also convicted of any nonsexual crimes?

6 A. Yes.

7 Q. Was it important to you in making your evaluation to
8 look at his criminal record, other than the sexual crimes we
9 talked about so far?

10 A. Yes.

11 Q. Now, are these things typically and reasonably relied
12 upon by experts in your field in making evaluations, such as
13 this?

14 A. Yes.

15 Q. Okay. Would you please tell the jury what other
16 criminal activity you found out about that was relevant and
17 necessary for you to make your evaluation?

18 A. So when -- Mr. Miller's charges go back to when he was
19 a teenager, so I believe he was charged with grand larceny --

20 MR. ARIAIL: Objection, Your Honor. I think the
21 question was e asked for convictions. I don't know if we
22 are going into charges or not, and I would object to any --

23 THE COURT: Just one second.

24 Madam Forelady, would you take your jury back to
25 the jury room, please, ma'am?

1 (The following takes place outside the presence of
2 the jury panel)

3 THE COURT: Now, the matter of Ettel, I read that
4 case and it was cited again in 2014. Clearly nonconvicted
5 sexual offenses would be something that you can venture
6 into. Do you have any authority for going into nonsexual
7 criminal offenses?

8 MR. BOGEL: Basically the Ettel case, also the
9 matter of Corley case I think talks about -- excuse me, Your
10 Honor, let me get this.

11 (Off the record)

12 (Back on the record)

13 MR. BOGEL: In the Ettel case prior sexual
14 offenses and a prior nonsexual murder offense were deemed
15 relevant by the court to go into, because it went to his
16 likelihood of success in treatment. That was a major
17 factor. That was a factor in that case when Dr. Pam
18 Crawford was testifying.

19 And she also testified about --

20 THE COURT: Hang on. Hang on. Hang on. The
21 issue was likelihood of success in treatment. I thought was
22 clearly not an issue in this case.

23 MR. BOGEL: Well, the issue was whether or not he
24 should be committed for treatment. And had -- I guess the
25 question is would outpatient treatment work versus required

1 confinement for treatment. And her opinion was he needed to
2 be confined for treatment, and one of the things she went
3 into to back that up was prior nonsexual murder conviction.

4 THE COURT: Right.

5 Let me -- Mr. Ariail, that is -- that is correct,
6 there was a nonsexual murder case that was brought up in
7 that other case, in the Ettel case.

8 MR. BOGEL: There is a -- in the matter of Cureton
9 Corley, the details of an ABHAN, okay, as well as the
10 criminal sexual conduct convictions would be relevant.

11 THE COURT: That was a 2014 case?

12 MR. BOGEL: The Corley case was 2003.

13 MR. ARIAIL: That was --

14 MR. BOGEL: Now, I can rephrase my question.

15 THE COURT: Hang on. Hang on. Let me stop you.

16 MR. BOGEL: I'm sorry.

17 MR. ARIAIL: I guess what I mean that was the one,
18 the Corley case, I thought that an ABHAN, it was a
19 nonconviction which was the charge?

20 MR. BOGEL: Right.

21 MR. ARIAIL: Was allowed to go into, is that
22 right?

23 MR. BOGEL: Uh-huh.

24 MR. ARIAIL: That's similar. I mean, the murder
25 was a little different, I think, but this case, I mean she's

1 going into breaking and entering. I think the only other
2 one we have would be CDV. Is that other one charge that
3 she's going into that's a non --

4 MR. BOGEL: I think he's got two CDV's.

5 THE WITNESS: Three failure to register.

6 MR. BOGEL: Three failure to register as a sex
7 offender convictions he did jail time for, right?

8 THE WITNESS: And possession of substances.

9 MR. ARIAIL: Possession. What's the other one?

10 THE WITNESS: Possession of substances.

11 MR. ARIAIL: Okay.

12 THE WITNESS: I think that's all.

13 MR. ARIAIL: Based on that decision, if that's
14 what the Corley case says, the ABHAN coming in, I think
15 that's consistent with what we have here.

16 THE COURT: I'm going to overrule your objection.
17 I note it for the record.

18 MR. BOGEL: Thank you, Your Honor.

19 THE COURT: You don't need to thank me. That's
20 just part of what we do.

21 All right, bring the jury in, please.

22 (The following takes place in the presence of the
23 jury panel)

24 MR. BOGEL: Thank you, Your Honor.

25 THE COURT: Yes, sir.

1 BY MR. BOGEL:

2 Q. Let me back up just a bit. Is it necessary in doing
3 evaluations of this type to look at a person's nonsexual
4 charges and convictions?

5 A. Yes.

6 Q. Why is that?

7 A. It gives me an idea of any other criminal behavior they
8 may have been involved in, the nature of that behavior. It
9 can also go to diagnosis, things like that.

10 Q. Okay. Would you please tell the jury about the
11 nonsexual convictions and charges that Mr. Miller has had
12 that you found important?

13 A. So Mr. Miller's criminal history dates back to when he
14 was a teenager. He was charged with a breaking and entering
15 and larceny as a teenager around age seventeen.

16 He has been charged with possession of marijuana.

17 He's been charged with criminal domestic violence, two
18 counts of that, at two separate times.

19 He's been charged with failure to register as a sex
20 offender on three different occasions.

21 Q. Now, the criminal domestic violence charges, was he
22 also convicted of those?

23 A. He was, yes.

24 Q. And you say it was three times he was charged with
25 failure to register as a sex offender, was he also convicted

1 of those?

2 A. Yes.

3 Q. And did he do some jail time for these failure to
4 register offenses?

5 A. He did.

6 Q. Okay. Were these nonsexual type crimes significant, in
7 your opinion?

8 A. Yes.

9 Q. Now, did you rely solely upon his prior criminal past
10 in making the ultimate decision?

11 A. No.

12 Q. Would that be acceptable within the ethics of your
13 profession to even do so?

14 A. No, you -- we don't rely ever on any one piece of data
15 to make these opinions. There are lots of pieces of data
16 that we consider together to form an opinion in these cases,
17 so I would never rely just on somebody's criminal history.

18 Q. Now, Dr. Knight, earlier I asked you if you interviewed
19 Mr. Miller and you said yes, you did, for like four hours,
20 or so?

21 A. Yes.

22 Q. Would you please tell the jury about that interview of
23 Mr. Miller? And specifically what I'm asking you now is how
24 did he account for these offenses, both the North Carolina
25 crimes and the South Carolina conviction?

1 A. Would you like me to start with one versus the other,
2 or --

3 Q. Whichever one you would like.

4 A. Okay. So I interviewed Mr. Miller for over four hours
5 going through his entire history, but one thing that we
6 spent a lot of time on was his account of what happened
7 during his sexual offenses, during those sexual charges;
8 what does he say happened. I know what the police say
9 happened. What does he say happened.

10 So Mr. Miller, with regard to the incidents with his
11 twin nieces, I'll start with that one. He stated that
12 nothing happened with them when they were five or six years
13 old, that there was no sexual contact with them. However,
14 he does say that around 2006, when they were eight years
15 old, that there was sexual contact with them. He was
16 thirty-two years old at this time and they were eight.

17 So with victim one he stated that he and the victim
18 were at his mother's house alone. They were watching
19 television and he, quote, "I reached in her pants and
20 grabbed her vaginal area. The whole thing lasted a minute.
21 She said that's weird to be my uncle and I got embarrassed
22 and quit." He said he touched her under her clothes and he
23 also put her hand on his penis when he did that.

24 And with regard to victim two, again, he stated this
25 was in 2006 when she was eight years old, that this was a

1 week later. He was lying in bed with victim two and he
2 said, quote, "I asked her if I could sodomize her and she
3 agreed. I said can I put my penis in your butt and then she
4 said okay." And he said the sexual activity lasted a couple
5 of minutes and then it was over at that time.

6 He said one week later he went back to this same niece
7 and asked if she wanted to do it again and, quote, "she said
8 okay." He stated "she got undressed and got on the bed, but
9 I didn't do it because my conscience really started eating
10 at me," and so he said there was no anal intercourse that
11 took place on that occasion.

12 And he stated that there were no further incidents with
13 his nieces at any time.

14 Q. Now, you mentioned that sexual intercourse with one of
15 the nieces, anal intercourse. Did he make any comment to
16 you about why he chose to do it that way, as opposed to
17 vaginal intercourse?

18 A. Right. So Mr. Miller made comments to me, and there is
19 comments in the records as well, that he believes anal
20 intercourse is not -- does not count as somebody's first
21 time of having sex and that it is not equivalent to vaginal
22 intercourse. And he said you, "you know, I only engaged in
23 anal intercourse with her." In other words, he is
24 separating the two different kinds of intercourse. One
25 seems to be okay in his mind and the other is something that

1 he says he would not do. So he draws a distinction there.

2 Q. What about the -- did you find those distinctions, the
3 way he tried to explain this to you, significant?

4 A. Yes. It shows a lack of insight into the gravity and
5 the severity of the sex act with his niece of the sexual
6 abuse, that he doesn't recognize that anal intercourse is
7 a -- is not the same as vaginal intercourse, as far as
8 severity level, if you are abusing an eight year old and you
9 are thirty-two years old. That was quite concerning to me
10 that he didn't recognize the severity of that.

11 Q. Doctor, did you try to contact a family member, such as
12 his mother, for further information?

13 A. I did.

14 Q. What was the reason for trying to contact her?

15 A. As a general part of most evaluations I like to collect
16 family history, somebody that knew the person when they were
17 growing up, somebody that could tell me about their
18 developmental history and how they were as a child and as a
19 teenager. So I tried to contact Mr. Miller's mother and
20 called her several times, left messages. She did not return
21 my call.

22 Q. Okay. What did Mr. Miller say to you about his sexual
23 interests?

24 A. Specifically with this incident I asked Mr. Miller why
25 this occurred, why did this sexual abuse of your nieces

1 occur in the first place, and Mr. Miller stated that he had
2 sexual -- a sexual dream about one of his nieces. He began
3 to have sexual thoughts about his nieces. He began
4 fantasizing about them and masturbating to those fantasies
5 and those took over his mind. And then he saw one of the
6 nieces in her underwear and he became aroused, and another
7 niece was around, and so he abused that niece that was
8 there.

9 Q. What was it about them he found so attractive to lead
10 to sexual activity?

11 A. So he was attracted to physical characteristics of --
12 his nieces would have been prepubescent at the time, meaning
13 that they have not going through puberty. They are small
14 girls, seven or eight years old, and so he said he was
15 attracted to the smoothness of their vaginal area of a young
16 girl.

17 Q. Was that the comment he made to you?

18 A. Yes.

19 Q. Okay. What did you find significant about these
20 comments to you about the fantasies, about the dreaming,
21 about the masturbation? What did you find significant about
22 these comments regarding his sexual interests?

23 A. So these -- these are all pieces of information that I
24 used to diagnose Mr. Miller with pedophilia. So pedophilia
25 is the current sexual urges towards prepubescent children.

1 And this information that he was telling me about his nieces
2 and having those feelings and masturbating and abusing such
3 small girls, that was all important to when I'm trying to
4 figure out what his diagnosis is.

5 Q. Okay. Now, doctor, that covers the South Carolina
6 offense. What about the North Carolina offense? What was
7 Mr. Miller's explanation to you or his account to you about
8 what he did to the girl in North Carolina?

9 A. So with this offense, this was in 1994. He was -- he
10 said he was twenty at the time. He said he was baby-sitting
11 at the time. He said he was helping his baby -- his sister
12 baby-sit six kids. Quote, "I asked if I could help out with
13 the kids and I hung out and helped out with the kids." And
14 he stated while he was baby-sitting that day a three year
15 old screamed at the top of her lungs and she was outside on
16 her bike. She was holding herself between her legs. "I
17 tried to help her and she wouldn't let me hold her. Her mom
18 took her home, found dried blood and assumed the worst." So
19 Mr. Miller did not admit to digital penetration of this
20 three year old.

21 Q. But he had pleaded guilty to it in North Carolina?

22 A. He did.

23 Q. And he got three years, is that right?

24 A. Yes.

25 Q. Okay. In that case did he choose prison versus over

1 probationary, or a possible probationary sentence?

2 A. Correct. So Mr. Miller was actually given the option
3 of probation by the court, but he chose prison time. He
4 told me he didn't have a place to live, so he was afraid
5 that he would violate his probation, so he chose prison.

6 Q. Now, you mentioned earlier in your testimony about the
7 background information that this little girl in North
8 Carolina was also examined by a doctor who diagnosed the
9 penetration or saw evidence of the penetration.

10 Dr. Knight, what about this bicycle story, the little
11 girl is getting hurt on bicycles as an excuse for what
12 happened in this case? Is that something that you have seen
13 before?

14 A. I haven't seen that particular story before. Is that
15 what you mean?

16 Q. Well, what did you -- what was the significance to you
17 of him trying to use this bicycle story, the girl hurt
18 herself on a bicycle?

19 MR. ARIAIL: Objection, Your Honor. She's already
20 answered she never seen this done before. I don't know how
21 she can go on and draw another -- he is just rewording it to
22 it try to get an answer that he wants out of her.

23 THE COURT: Overruled. Go ahead.

24 BY MR. BOGEL:

25 Q. What was the -- what significance, if any, did you draw

1 from his version of a bicycle causing this type of injury to
2 a little girl?

3 A. Well, it could have been a denial of the offense. I --
4 I -- with this offense I had the victim's interview with
5 child services. I read that. I read her brother's
6 interview with child services. I looked over the
7 pediatrician's notes. I had all of those things to review,
8 as well as his words that it was simply a straddle injury.

9 Q. Okay. Now, in addition to what you have done so far,
10 the interviews, reviewing the documents, did you, your
11 laboratories that you worked with, did you perform some
12 assessments or scores of Mr. Miller as part of this
13 evaluation?

14 A. Yes.

15 Q. What assessments did you perform? Just give me the
16 list of them first and then we will go through them one at a
17 time.

18 A. Sure. So when -- when any -- when somebody comes into
19 the lab at MUSC for a sexual behaviors valuation, they
20 receive a battery of testing, and that's what Mr. Miller
21 received. So he receives a measure of attention and
22 impulsivity. He receives a substance abuse test or measure.
23 He receives a measure of personality. He receives a measure
24 of psychopathy a sex offender risk assessment measures
25 specifically, and he receives a test of sexual interests in

1 visual reaction time, and he receives what we call the PPG
2 or penile plethysmograph.

3 Q. Okay. Why are all these assessments performed?

4 A. These assessments are given to give us the most clear
5 picture that we can get of this individual; you know, what's
6 going on with them psychologically, physiologically, from a
7 sexual arousal standpoint, from a personality standpoint, do
8 they have a substance disorder. So looking at various
9 domains of their functioning, that's going to give me a
10 better idea of who this person is and how they work, how
11 they operate.

12 Q. And are these assessments part of the basis of your
13 opinion in this case?

14 A. Sure.

15 Q. Okay. Let's start with something called the
16 Static-99-R for revised. What is the -- could you explain
17 to the jury what the Static-99 is and how it works.

18 A. Well, the Static-99 is what we call an actuarial risk
19 assessment measure and it's composed of risk factors that
20 correlate with somebody's risk to commit another sex act,
21 another sex offense act. So it's just like if you go to
22 your doctor, your cardiologist or your general practitioner,
23 and you want to know what your risk is for a heart attack,
24 that doctor is going to review with you certain risk
25 factors: Do you have a history of cardiac disease in your

1 family; have you ever had a cardiac event; do you have a
2 sedentary lifestyle; what's your diet like; do you smoke;
3 all of those things. If you answer yes to all of those
4 things, that's going to put you at a higher risk to have a
5 heart attack.

6 So the Static-99 does the same thing, except these are
7 risk factors to re-offend sexually.

8 Q. And is the Static-99 based on studies of thousands of
9 sex offenders and multiple countries?

10 A. Yes.

11 Q. Okay. What was the scoring that Mr. Miller got? And I
12 know you got -- I read your report, okay?

13 A. Uh-huh.

14 Q. What was the scoring he got on the Static-99-R in your
15 report?

16 A. So Mr. Miller received a score of four, placing him in
17 a moderate high risk category.

18 Q. Okay. Has that score changed since then?

19 A. Yes.

20 Q. And why would it change?

21 A. The one risk factor is associated with someone's age,
22 the theory being that as someone grows older into advanced
23 age, their risk for sex offending drops. So when I
24 evaluated Mr. Miller, he was thirty-nine years old. That
25 put him in one category. He turned forty in May. That

1 drops him down into another category. It's just divided
2 between thirty-nine and forty. So we take off a point for
3 him and he's a three now.

4 Q. What is three described as?

5 A. Moderate low.

6 Q. Okay. Now, are there certain percentages of
7 re-offending associated with the score of three in a
8 Static-99-R?

9 A. With the score of three, yes. With every score there
10 is --

11 Q. Okay. What are the percentage of re-offending five
12 years out, say ten years out, with the score of three?

13 A. So individuals that they've studied that get a score
14 three on the Static, sex offenders that get a score of three
15 on the Static, have been shown to recidivate or commit
16 another sexual offense at the rate of twelve percent over
17 the next five years, and about eighteen percent over the
18 next ten years.

19 Q. Okay. In looking at the entire study, about what
20 percentage of people tend to score at or above or at or
21 below his score? Give me the numbers on that.

22 A. Well, they are different now because he's now a three
23 instead of a four.

24 Q. Uh-huh.

25 A. So now out of all of -- out of a sample of sex

1 offenders, twenty-five percent of them score higher than Mr.
2 Miller, and seventy-five percent either score the same or
3 lower.

4 Q. Okay. So he's at least -- seventy-five percent scored
5 the same as he did, or a lower score means less, being less
6 risk of re-offending, is that right?

7 A. Correct.

8 Q. Okay. So what did you learn from the Static?

9 A. I learned what risk factors he was positive for on the
10 Static, so Mr. Miller has an unrelated victim. He has a
11 prior sexual conviction, sex offense conviction. He has
12 four, or more, sentencing dates for other types of charges,
13 and he has a history of a violent conviction.

14 Q. Now, doctor, when you wrote your report, his score was
15 a four, which you said was in the moderate high range. In
16 the time since that report to get this case to go to trial
17 he's now turned forty years old and now his score is a
18 three. You just testified about that, right?

19 A. Uh-huh.

20 Q. Is that change in your score change your ultimate
21 opinion on whether or not he is a sexually violent predator
22 and should be committed for long term control, care and
23 treatment?

24 A. No.

25 Q. Why not?

1 A. The Static is just one tool that we have. It's a good
2 measure. It's well validated, but it's just one tool that
3 we use. So you have to consider if there are any other risk
4 factors that somebody has that are not accounted for by the
5 Static. And if they have those, then you would factor those
6 into your opinion. So you can't just use what the Static
7 tells you. It can be informative, but you have got to look
8 at any other risk factors that may be present.

9 Q. Now, the next assessment I wrote down of the list that
10 you gave me was called the SASSI-3?

11 A. Correct.

12 Q. What's that?

13 A. That's what we call the SASSI. It's a measure of
14 substance use. And so it can give us an idea if somebody
15 has a substance, drug or alcohol disorder.

16 Q. Was anything learned from that assessment?

17 A. So that came out as low, that Mr. Miller does not have
18 a drug or alcohol disorder.

19 Q. Okay. Why is it important for experts like you to
20 conduct such an assessment?

21 A. If somebody has a substance use disorder, that can
22 elevate their risk. If they are intoxicated a lot, or they
23 are impaired, they are disinhibited by substances, that
24 could elevate their risk for re-offense.

25 Q. Okay. Now, the next thing I have got written down on

1 my list is the PAI, or personal assessment inventory. Can
2 you please tell the jury is that also something that you
3 looked at?

4 A. Yes.

5 Q. And what did you learn -- first off, what is it?

6 A. The PAI is simply a measure of personality traits, and
7 the person is -- they are presented on a computer screen and
8 they answer questions about themselves and it comes up with
9 some ideas about their personality.

10 Q. Was anything learned from that testing that benefitted
11 or helped you in your opinion, or didn't help you?

12 A. Well, one thing that test does is it helps us
13 understand how the person is responding to the test, called
14 validity measures. So is the person trying to present in an
15 overly positive manner, or are they trying to portray
16 themselves as very ill, when maybe they are trying to
17 exaggerate something like that.

18 So with Mr. Miller, his testing came out that he was
19 trying to portray himself in a good light and probably a
20 better light than actually is reflected by other clinical
21 data. So he was trying to portray himself as having fewer
22 psychological problems than he actually does. Despite that
23 response style, the PAI suggested certain diagnoses. One of
24 those diagnoses was personality disorder with antisocial
25 traits.

1 Q. Okay. We will talk about that in a few minutes, but
2 that was something suggested at this level by the PAI?

3 A. Yes.

4 Q. Okay. There was also something called the Conners', or
5 the CPT II. What is that assessment for?

6 A. The Conners' is a measure of someone's attention, their
7 concentration, their impulsivity. Sometime it's used in
8 ADHD assessments, and Mr. Miller scored right in the middle
9 on that one, right in the middle of pathology and not
10 pathology, so there wasn't much to take away from them.

11 Q. Okay. Would you call that a neutral; it didn't help
12 you, didn't hurt you?

13 A. Sure.

14 Q. Okay. You know, something called the Abel, or the
15 AASI-2 test, the Abel Test it's called. What is the Able
16 score or the Abel assessment?

17 A. The Abel Assessment has several parts. There is a
18 questionnaire that asks the person about their sex behavior
19 history; have you ever engaged in, and it goes through
20 multiple items of different types of sex behavior. It also
21 asks about fantasies associated with those behaviors. It
22 asks about a history of sexual abuse, those types of things.
23 So it's gathering questionnaire data about the person that
24 they are responding to about themselves.

25 The second part of the Abel is based on viewing

1 reaction time. So the person is shown pictures of models in
2 bathing suits from children to adults and how long they look
3 at each picture is measured.

4 Q. What, if anything, did you -- did anything have to do
5 with risk assessment that was gained from the Abel
6 Assessment done on Mr. Miller?

7 A. Sorry, what did you --

8 Q. Let me rephrase the question. What did you gain from
9 the Abel Assessment of Mr. Miller?

10 A. Well, the Abel Assessment, I reviewed all of the things
11 that he endorsed, as far as his sexual behavior and
12 fantasies. I reviewed all of that with him. He endorsed
13 some sexual abuse. I reviewed that with him. With the
14 viewing reaction time, it came out that he was most
15 interested in adolescents and adults, and so I reviewed that
16 with him as well.

17 Q. Now, the next thing is called a P --

18 Let me ask you this. I have heard criticism of Abel,
19 the validity of his assessment because he won't release his
20 proprietary data, I won't tell anybody how he works out.
21 What is your take on the reliability or the common usage of
22 the Abel Assessment?

23 A. So the Abel is a pretty common assessment. It's used
24 in -- it's been used in over seven hundred clinics in the
25 United States. Sometimes states mandate its use in their

1 sex offender evaluations. Federal government has used the
2 Abel, so it's a widely used instrument. And there has been
3 probably over ninety scientifically published articles on
4 the Abel as well, so we would -- again, we would never use
5 the Abel in isolation. I would not just give the Abel to
6 somebody and make a conclusion about diagnosis and anything
7 else. It's just one piece of our entire evaluation.

8 Q. Is the Abel Assessment something reportedly used by the
9 Department of Mental Health?

10 A. On Abel's website he lists the states that use the Abel
11 Assessment and he lists South Carolina Sexually Violent
12 Predator Program as using the Abel Assessment,

13 Q. Now, doctor, the next thing I have got on my list is
14 something called the PPG. Would you please tell the jury
15 what the PPG is and what it's supposed to -- what you are
16 trying to learn from it?

17 A. So the PPG, or are Penile Plethysmograph, it's for men
18 and it measures a man's sexual arousal. So a gauge is
19 placed around the man's penis and they are shown stimuli,
20 sexual stimuli, neutral stimuli. They either watch this or
21 they hear it and their level of sexual arousal is measured,
22 and so you can get an idea of what is arousing to that
23 individual. Adult women, adolescent women, adult men,
24 whatever the stimulus is, you can get an idea of what they
25 are interested in.

1 Q. What did you learn in this particular case about Mr.
2 Miller from the PPG?

3 A. So on the PPG Mr. Miller did not respond to anything.
4 It was what we call an invalid PPG. He didn't respond to
5 adult women. He didn't respond to children. He didn't meet
6 that minimum threshold of arousal for us to draw any
7 conclusions.

8 Q. Now, as part of your evaluation, was it necessary for
9 you to review other treatment providers of Mr. Miller?

10 A. Yes.

11 Q. Did that include his treatment at a psychiatric
12 hospital called Patrick Harris Psychiatric Hospital here in
13 the Upstate?

14 A. Yes.

15 Q. Is that something typically and reasonably relied upon
16 by experts in your field conducting evaluations of this
17 type?

18 A. Yes.

19 Q. What did you learn from his stay at Patrick Harris that
20 was relevant to the way he scored or didn't score on the
21 PPG?

22 A. Can I refer to my report again?

23 Q. Please do.

24 A. So Mr. Miller was hospitalized at Patrick B. Harris in
25 2009, for almost two months, from February until sometime in

1 April of 2009, April 20th.

2 Q. Before you go any further, was this 2009
3 hospitalization connected to or close in time to the 2009
4 charges which led to his conviction for lewd act here in
5 Greenville County?

6 A. Yes. So --

7 Q. Okay. Go ahead.

8 A. A day prior to his hospitalization he received a notice
9 from the sheriff's department that he was wanted, or had a
10 warrant out, for these sex abuse charges with his twin
11 nieces, and he went into the hospital for suicidal thoughts.
12 And he reported depression, sleep disturbance, reduced
13 energy, difficulty concentrating, hopelessness, and they
14 admitted him because they thought he was a danger to
15 himself. He also reported that he was a danger to other
16 people, so they hospitalized Mr. Miller. This was the first
17 time he had ever been hospitalized in his life.

18 And he told the hospital -- well, at the hospital he
19 would not cooperative with treatment. They stated he
20 resisted massively. He took every advantage possible to
21 come up with an excuse not to go to groups. He was
22 aggressive. He punched a peer at the hospital. And when he
23 took psychological testing at the hospital, he grossly
24 exaggerated his symptoms. He wasn't being truthful with
25 them about his actual symptoms.

1 So during my evaluation he told me that he lied to get
2 into the hospital. He, quote, "wanted to beat his charges
3 and play insane."

4 So the reason that he went into the hospital here, the
5 hospital records reflect somebody who is exaggerating, which
6 fits with what he told me in my evaluation that he lied to
7 get into the hospital.

8 Q. Now, let's go back to the PPG, where you couldn't get a
9 valid response from the PPG testing. Does his prior
10 experience at Patrick Harris have some kind of influence in
11 how you read that lack of a valid response in the PPG?

12 A. Well, when somebody has an invalid PPG there are many
13 reasons for that. Anxiety is one reason. Some guys get
14 very anxious and they just can't become aroused in a
15 laboratory setting. It's a manufactured setting. Or they
16 are on some medication that prevents them from becoming
17 aroused, or they are taking some sort of illicit drug.

18 Another theory, though, is that they are manipulating
19 the machine. They are trying to fool the PPG. So what we
20 see there is a lot of moving around, a lot of holding of
21 breath, muscle contractions, things of that nature, and Mr.
22 Miller showed those things on his PPG. It doesn't mean that
23 we can say that he was trying to deceive the PPG. We can't
24 say that for certainty, because there could have been other
25 things going on with him, but we do know from his hospital

1 records that he's tried in the past to present -- tried to
2 fool tests, to present as he was not.

3 Q. Now, doctor, the final thing I have on my list is
4 something called the Hare, the H-A-R-E, or PCL-R Assessment.
5 What is that?

6 A. So the Hare Assessment is a measure of psychopathy to
7 see if someone meets criteria as a psychopath. This is a
8 psychological construct where somebody lacks empathy, has
9 very difficulty relating to others, is callous, impulsive,
10 those sorts of things. Mr. Miller did not score high enough
11 on that measure to meet that threshold criteria.

12 Q. Okay. Now, doctor, was all the information that you
13 gathered, whether it helped him or hurt him, or didn't help
14 him at all, or didn't advance the case a bit, was all of
15 this information, this testing and assessments that you did,
16 were they necessary as part of your opinion on Mr. Miller?

17 A. Well, that battery of testing is what everybody gets
18 when they come into the lab to see what's going on with that
19 person. Sometimes those tests are helpful and sometimes
20 they are not. So that's -- you know, Mr. Miller got the
21 tests that everyone else gets when they come into the lab.

22 Q. Okay. In the context of this type of litigation, what
23 are risk factors?

24 A. Well, in regards to this, risk factors are things that
25 place one at a higher risk for sexual re-offending.

1 Q. Does Mr. Miller have any risk factors that would place
2 him at a higher risk for sexual re-offending?

3 A. Yes.

4 Q. Would you please explain to the jury what those are?

5 A. Yes. So I mentioned the Static-99, he had some risk
6 factors on that, and that was having a prior sex offense,
7 having an unrelated victim, having multiple sentencing
8 dates, and having a violent conviction on his record, but
9 then he also had additional risk factors that are not
10 covered by the Static that we have to take into account. So
11 he has a history of sexually deviant arousal to prepubescent
12 children. That's a risk factor to commit another sexual
13 offense against a child. So he has that by his own
14 admission that he was sexually attracted to his nieces.

15 He also has antisocial traits, meaning that he has a
16 history of failing to conform his conduct to the
17 requirements of the law.

18 Those two things in combination, sexually deviant
19 arousal and a history of failing to conform his conduct to
20 the law, place him at a higher risk for sexual re-offense.

21 Mr. Miller also underwent a period of treatment in the
22 South Carolina Department of Corrections. And in speaking
23 with his treatment provider --

24 Q. Let me back up for a second --

25 A. Sure.

1 Q. -- and ask you this.

2 A. Sure.

3 Q. Did the Department of Corrections, when he was there,
4 offer sex offender treatment?

5 A. Yes.

6 Q. Okay. Is it necessary for you, as part of your
7 evaluation, to interview whoever is in charge of the sex
8 offender treatment that he would have received?

9 A. Yes, I interviewed the program leader over the sex
10 offender treatment program that had Mr. Miller in her groups
11 in her treatment while he was in prison.

12 Q. Okay. Is that similar to the collecting information
13 you did on his treatment at Patrick Harris, the psychiatric
14 hospital, when he was hospitalized there back in 2009?

15 A. Yes.

16 Q. Okay. And is this kind of stuff, collecting this type
17 of information, the prior sex offender treatment, is that
18 necessary? Is it reasonably relied upon by other experts in
19 your field?

20 A. Yes.

21 Q. Okay. What efforts did you undertake to collect
22 information about his prior sex offender treatment?

23 A. In two ways. It's important to know if somebody has
24 been through sex offender treatment, how they did, so I
25 reviewed his records from the South Carolina Department of

1 Corrections. I got his treatment records from his time in
2 treatment.

3 And then I also called the individual that was over his
4 treatment, his program leader, his counselor. I called her
5 as well to get information on how he did.

6 Q. Okay. What relevant information did you learn from
7 talking with her that was reasonably -- that is reasonably
8 relied upon by other experts in your field and was relied
9 upon by you in evaluating the level or quality of his sex
10 offender treatment at the Department of Corrections?

11 MR. ARIAIL: Objection, Your Honor.

12 THE COURT: Don't answer that.

13 I'm going to ask -- it's time to take an afternoon
14 break anyway. Go back to your jury room for about a ten or
15 fifteen minute break. If you need anything, let us know,
16 please.

17 (The following takes place outside the presence of
18 the jury panel)

19 THE COURT: What's the basis of your objection,
20 Mr. Ariail?

21 MR. ARIAIL: Well, hearsay, Your Honor, at first.
22 I mean, I think what he's going to do, and I have read the
23 report from Ms. Knight, is that getting into what Ms.
24 Roberts -- I think Ms. Roberts is the individual that what
25 he's told -- what my client has told her and then she's

1 relaying it to Ms. Knight, and they are going to draw it
2 from that. My issue with that is --

3 THE COURT: Let me stop you. I agree. I read
4 State v. Kromah and that says that it allows an expert to
5 give their opinion relying on facts or data that may not be
6 admissible or -- that may not be admitted into evidence, or
7 even admissible, but that doesn't give them the right to
8 testify about hearsay.

9 MR. BOGEL: Well --

10 THE COURT: So you will have to show me a hearsay
11 exception, is the way I read that case.

12 MR. BOGEL: Yeah. Well, what I'm looking at --
13 instead I'm looking -- instead of hearsay exceptions, I'm
14 looking at Rule 703, which again talks about the
15 facts that --

16 THE COURT: In State v. Kromah they are talking
17 about Rule 703.

18 MR. BOGEL: Uh-huh. Well, so is State v. Cutro
19 and in Cutro --

20 THE COURT: What year was State v. Cutro decided?

21 MR. BOGEL: Cutro was -- I apologize, judge. Your
22 Honor, my cite is 618 S.E. 2d 890. It was a conviction for
23 murder in Richland County about eight years ago.

24 THE COURT: Well, this was a case that was decided
25 just last year. And also there was a Court of Appeals case

1 that I referenced in my chambers meeting with you guys that
2 was issued by Judge Few, I believe, but here is the language
3 of the case.

4 And they also cite in the Kromah case Allegro v.
5 Scully, which is a 2012 case. It says "Rule 703 allows an
6 expert to give an opinion -- "give an opinion to rely on
7 facts and data that are not admitted into evidence or even
8 admissible into evidence if they are the type reasonably
9 relied upon in the field of a particular field. The rule
10 does not, however, make hearsay automatic admissible simply
11 because it was relied upon by the expert."

12 So the way I read that case, the way I understand
13 it to be, that unless you -- if you are bringing up hearsay,
14 which it sounds to me that you are, that unless you made
15 some exception to the hearsay rule, then it's not coming in.

16 MR. BOGEL: I guess what I'm -- I heard the word
17 automatically admissible. It doesn't make it automatically
18 admissible.

19 THE COURT: Right, so you have got to show
20 that it's -- it's not automatically inadmissible either.
21 You just got to show an exception.

22 MR. BOGEL: Well, I would think it would be
23 admissible under Rule 703, if it's something relied upon to
24 experts in her field.

25 THE COURT: No, you are arguing -- you are saying

1 one thing and arguing another. You are trying to say it's
2 703 just because it says they can testify not about. But
3 even if they have used things that have not been admitted,
4 or even used things that are not admissible, it doesn't mean
5 they automatically get to testify about them.

6 If you want to put a proffer, if that's what you
7 intend to do, I'll let you, but I'm not going to let you do
8 that -- maybe it's better for me to hear it so I can decide
9 whether it's hearsay.

10 MR. BOGEL: That may be better.

11 The case involving Judge Few, I'm not a hundred
12 percent on this.

13 THE COURT: Right.

14 MR. BOGEL: My understanding, that involved a
15 9-1-1 call that was offered for the truth of the matter
16 asserted.

17 THE COURT: That was not -- that was a different
18 case. I think that was not -- that was -- the 9-1-1 call
19 was State v. Hendrix, and that's when the victim was talking
20 about what the -- the mother said what the victim told her
21 and then -- it's two levels of hearsay in the case. Is that
22 what you are talking about?

23 MR. BOGEL: I believe that might be it.

24 THE COURT: Right.

25 MR. BOGEL: Let's do this, Your Honor. The

1 exception I can think of under hearsay --

2 THE COURT: Hang on. Hang on. Hang for a second,
3 if you don't mind me. I need to go take a personal break.

4 MR. BOGEL: Okay.

5 THE COURT: I'm going to let you do that too. You
6 may not speak with anybody about your testimony, but you are
7 free to get down and you can have a break.

8 THE WITNESS: Thank you.

9 THE COURT: Let's take a five minute break and
10 come back here.

11 MR. BOGEL: Yes, sir.

12 (Whereupon, proceedings were recessed)

13 (Whereupon, proceedings were reconvened)

14 THE COURT: If you would, Mr. Bogel, would you
15 give me an abbreviated version of what you intend to elicit
16 this aspect of the testimony, please, by what you are
17 offering?

18 MR. BOGEL: If I may, judge, just to save the
19 court time and save the jury running back out, this same
20 objection to going to come up twice, so let's do both of
21 them right now.

22 THE COURT: That sounds good.

23 MR. BOGEL: The first issue right now has to do
24 with whether or not she can testify about what she learned
25 from Sylvia Roberts, who is the director of the sex offender

1 treatment of the Department of Corrections.

2 Now --

3 THE COURT: And you contend 703 lets it in without
4 having to meet a specific exception to the hearsay rule?

5 MR. BOGEL: Well, I contend 703 let's it in, even
6 though the data might not be admissible by itself into
7 evidence.

8 As far as the hearsay rule goes, I think your best
9 bet is going to be Rule 803, (4), statement made from
10 medical diagnosis or treatment.

11 THE COURT: That's only what the patient tells
12 them and you cannot get admitted subjective opinions or
13 conclusions by the doctors in the case.

14 MR. BOGEL: Well, the statements that describe the
15 past medical history, past or present symptoms or
16 sensations. And, see, the whole bottom line for Ms. Roberts
17 is going to be is whether or not her information is that he
18 did so badly or faked it so well in the sex offender
19 treatment, that he's likely to re-offend again. And this is
20 the kind of thing --

21 THE COURT: Would you say that again, please?

22 MR. BOGEL: He did so badly in the sex offender
23 treatment, or he faked it, faked his progress, to the extent
24 that Ms. Roberts thinks he's likely to re-offend again, he's
25 going to re-offend.

1 And, of course, she's looking at the --

2 You see, the question is should he be confined for
3 treatment or let go for treatment, and she's looking to see
4 why he should be confined.

5 THE COURT: I understand what she's doing. I
6 understand why you are trying to get it out. I'm just
7 saying that I don't think --

8 Let me just go -- number one, 703 doesn't let it
9 in. And clearly Kromah, under 737 S.E. 2d 490, confirms
10 that, as well as Allegro v. Scully, which is 733 S.E. 2d
11 114.

12 MR. BOGEL: Just to make a record, judge, the
13 Cutro case we are relying on is 618 S.E. 2d 890.

14 THE COURT: The Cutro case, I read that.

15 You know, Ettel is what you referenced to me.

16 MR. BOGEL: I also referenced the Ettel case.

17 THE COURT: Yeah, which is a 403 case.

18 MR. BOGEL: That is correct, 660 S.E. 2d 285.

19 Mr. Court Reporter, it's spelled E-T-T-E-L, and
20 Cutro is spelled C-U-T-R-O.

21 THE COURT: That case was, what, eight year old,
22 you say?

23 MR. BOGEL: Ettel is 2008.

24 THE COURT: Okay, sir.

25 All right. Then your most recent argument you say

1 under 803(4), is a statements made for purposes of medical
2 diagnosis.

3 MR. BOGEL: Yes, sir.

4 THE COURT: Statements made for purposes of
5 medical diagnosis or treatment and describing medical
6 history, or past symptoms, pain, or sensations, or the
7 inception or general character of the cause or external
8 source thereof insofar as reasonably pertinent to diagnosis
9 or treatment; provided the admissibility of statements made
10 after commencement of litigation is left to the court's
11 discretion.

12 And it also says you can't get the subjective
13 opinions and conclusions in under that subsection as well.

14 So what is it specifically that you are trying to
15 get in?

16 MR. BOGEL: What we are trying to get in -- there
17 is two things we are trying to get in.

18 Number one is the information from Sylvia Roberts.
19 He attended sex offender treatment at the Department of
20 Corrections. Sylvia Roberts is the director of that
21 program. He went there when she was running it. And her
22 statements to Dr. Knight about how he did and what his
23 predictor was; in other words, did the sex offender
24 treatment result in an inference he will do well when he
25 gets out, or not do well when he gets out. That's where she

1 is going to go with that.

2 At the same time, Your Honor, just to save the
3 jury time by running in and out, there is a separate issue.
4 A lady contacted our office wanting to talk to whoever was
5 evaluating respondent. It was made clear to us this lady
6 who used to live with was in some kind of relationship with
7 the respondent. Dr. Knight will testify that she first got
8 that e-mail, read it, decided -- determined it's relevant to
9 her in making diagnoses to talk with other people about
10 their relationships with the guy. So she decided it was
11 relevant for her to make her diagnosis, as some of the
12 people in her field do.

13 The next thing she did was she told Mr. Miller she
14 was going to do that and he agreed for her to do so. She
15 got the consent from him to contact his ex-lover and found
16 out what she could.

17 She then contacted woman --

18 THE COURT: Okay, hang on. Do you agree or
19 disagree that he consented?

20 MR. ARIAIL: I don't know if he -- I mean, first
21 of all, I didn't even discuss this with him in regards to
22 the consent aspect. That's the first time I have heard
23 about it. Even if he consented to allow her to talk to
24 her --

25 THE COURT: It doesn't make any difference.

1 MR. ARIAIL: -- I don't think she considered to
2 have her here at trial or having her not present.

3 First of all, I don't have anything -- I think all
4 I have as part of the record is some unknown female that is
5 I think sixty-three years old. I don't know who this lady
6 is.

7 Second of all, I don't know if she made the call
8 before Dr. Harrison was still there and that information
9 wasn't provided to my expert, so she hasn't had time to talk
10 to her.

11 THE COURT: Well, let me say this. Clearly
12 those -- both of these are hearsay. They don't come in
13 under 704. They don't come in under the exception to
14 hearsay as articulated.

15 I was looking at the language in 803(4). And also
16 it says that the physician's testimony should only include
17 those statements related to him by the patient upon which
18 the physician relied in reaching both conclusions, and
19 that's interpreting 803(4).

20 On the other hand, the State v. Kromah or the
21 Scully case clearly say that they don't automatically come
22 in just because they are allowed to be relied on, even if
23 they were admitted or admissible. In other words, it's not
24 a carte blanche rule that they can be testified about.

25 MR. BOGEL: Okay. Would the court --

1 THE COURT: If you want to more clearly articulate
2 what it is that you wish to elicit from this witness or the
3 other witness on the record, I'm going to let you, but
4 unless you can convince me that there is another exception
5 I'm not going to allow it in.

6 MR. BOGEL: That's basically what we have, Your
7 Honor.

8 To make a record, would Your Honor allow me to
9 make a proffer of the doctor's testimony very briefly on
10 these two subjects?

11 THE COURT: Yes, sir, absolutely.

12 MR. BOGEL: We are talking about Sylvia Roberts
13 and this woman, the other woman.

14 THE COURT: Go ahead.

15 BY MR. BOGEL:

16 Q. Okay. Dr. Knight, we are back on the record now and
17 you are still under oath.

18 As a part of your job conducting these evaluations is
19 it necessary for you to look at records or interview
20 treatment providers, people who have provided sex offender
21 treatment to a respondent, such as Mr. Miller?

22 A. Yes.

23 Q. Why is it necessary to do that?

24 A. It's important for me to understand how that individual
25 responded to sex offender treatment. Did they do well in

1 treatment? Did they fail some aspects of the treatment?
2 What happened in that treatment? It's important for me to
3 know when looking at somebody's risk of re-offense. And so
4 I can look at the record, which tells me some data, but also
5 talking to the person who is actually in charge of that
6 treatment, who is seeing Mr. Miller every day during that
7 treatment program, it's also important to find out what her
8 observations were of Mr. Miller during that treatment.

9 Q. And is this something that's typically and reasonably
10 relied upon by experts in your field?

11 A. Yes.

12 Q. Okay. Pursuant to that duty, did you look at the
13 treatment records, written records, from the Department of
14 Corrections sex offender treatment program?

15 A. Yes.

16 Q. What did you learn from that?

17 A. Those treatment records indicated that his attendance
18 was good. He came to groups. He was cooperative in the
19 sense that he participated.

20 The records also indicated, however, that he was
21 disruptive and narcissistic and manipulative, but the
22 records indicated that he, quote, "passed or completed the
23 treatment."

24 Q. Okay. Why not stop there, then? Why not take it the
25 next step to interview the person that runs the program?

1 A. Well, when I see words like disruptive and manipulative
2 and narcissistic, and I want to know what was his behavior
3 like in treatment for those documentation -- for that
4 documentation to be made.

5 Q. Is Sylvia Roberts the person who is in charge of the
6 Department of Corrections sex offender treatment program?

7 A. Yes.

8 Q. Is she the person you contacted?

9 A. Yes.

10 Q. And based on your contact with her, what did you learn
11 that was important in making the decision about Mr. Miller?

12 A. So Ms. Roberts made it very clear that he, quote,
13 "passed or completed the treatment because he answered
14 enough items right on a test," enough factual knowledge.
15 She said, however, that he didn't pass or complete the
16 treatment in the sense that he did not internalize the
17 concepts. He didn't get it. He couldn't apply what she was
18 teaching to himself, which in her mind made him a risk for
19 re-offense.

20 Q. Now, this case is all about whether or not he should be
21 confined for treatment or let go, to either seek or not seek
22 treatment on the outside. Is Mrs. Roberts records and
23 personal observations relevant to making that decision for
24 you --

25 A. Yes.

1 Q. -- making that decision by you as to whether or not he
2 should be confined versus let go?

3 A. Yes.

4 Q. And based upon her observations, did that assist you in
5 reaching an opinion about whether or not he should be
6 confined for treatment?

7 A. Yes, her -- speaking with her and her observations gave
8 me a much richer understanding of his time in his prior sex
9 offender treatment and how he did.

10 Q. And were the sex offender treatment records you got
11 part of the same packet that would have been gone to the
12 Department of Mental Health?

13 A. Yes.

14 Q. Were all those records and the availability of Ms.
15 Roberts available to the Department of Mental Health, as
16 well as available to you?

17 A. Yes.

18 Q. Okay.

19 MR. BOGEL: That's the part about Sylvia Roberts,
20 judge.

21 THE COURT: Okay.

22 BY MR. BOGEL:

23 Q. Now --

24 THE COURT: I think it's relevant and I think it's
25 probative. I don't think it's admissible, because it's

1 barred by the hearsay rule, doesn't follow the exception.
2 That's my ruling. If I'm wrong, I'll be corrected, but
3 that's the way I have read the cases and the rule.

4 MR. BOGEL: Thank you, Your Honor.

5 THE COURT: Yes.

6 BY MR. BOGEL:

7 Q. Now, let's look down the road.

8 In the course of your investigation did you receive
9 information about a woman who knew Mr. Miller and wanted to
10 talk to you?

11 A. Yes.

12 Q. Okay. How did you receive this information?

13 A. This information came by way of an e-mail sent from the
14 Attorney General's Office to the Medical University of South
15 Carolina stating that a female had called the Attorney
16 General's Office and wanted to speak with the evaluator, if
17 that was possible.

18 Q. Okay. Did you -- now, is talking to -- what was it
19 about this woman that made you want to talk to her?

20 A. In speaking with Mr. Miller, this woman -- he was in a
21 relationship with her. He lived with her. She was also one
22 of the victims of his CDV charges.

23 Q. Uh-huh.

24 A. So she was somebody that knew him pretty well and knew
25 him recently prior to going to prison.

1 Q. Now, based on the time frame that Mr. Miller gave you,
2 was living with this woman have occurred around the time
3 that the sex offense occurred against the twin nieces?

4 A. Yes, and this individual reported to me --

5 Q. Well, let's -- let's not go there just yet.

6 Based upon your interview with Mr. Miller, the time
7 frame that he lived with this woman, did that occur around
8 the time when the allegations of the sex offenses against
9 the two nieces occurred?

10 A. Yes.

11 Q. Okay. So did you ask Mr. Miller or get consent or
12 permission from him to contact this woman?

13 A. Yes.

14 Q. How did you do that?

15 A. After the clinical interview I always get consent to
16 talk to family members or people that I think are important
17 for me to speak with.

18 Q. Uh-huh.

19 A. And Mr. Miller signed a consent form for me to speak
20 with that individual, as well as his mother and grandmother
21 on the date of the interview.

22 Q. Could I see that consent form, please?

23 A. Yes.

24 Q. Is this it right here?

25 A. Yes.

1 Q. Okay. Now, as part of the full disclosure you made to
2 Mr. Miller when you started interviewing him, was it made
3 clear to him that whatever you found out would go to the
4 Attorney General's Office and go to his defense lawyer and
5 might come to a courtroom?

6 A. Yes.

7 Q. Okay. And this is the consent form he signed
8 authorizing you to talk to these people?

9 A. Yes.

10 Q. Is this woman's name or her phone number anywhere on
11 this form?

12 A. This is her name.

13 Q. Peggy Powell or Power?

14 A. Powell.

15 Q. Okay. Let me ask you a question about the writing on
16 here, because I can't read everything. It says "entity
17 providing information," and there is three names listed. Is
18 the last name of the woman you are talking about?

19 A. Yes.

20 Q. What does it say? Peggy --

21 A. Peggy Powell.

22 Q. Powell.

23 And what is this stuff in parenthesis?

24 A. That indicates that he did know her phone number.

25 Q. Oh, he did not know number. That's a number sign?

1 A. Yes.

2 Q. Okay. Okay.

3 And based on this, then with his permission, knowing
4 that it would be disclosed to us, the defense, and maybe
5 even the court, you called her?

6 A. Yes.

7 Q. Okay. What information did you receive from her that
8 you found relevant to form an opinion about whether or not
9 this man should be committed?

10 A. So Ms. Powell told me that Mr. Miller would -- at one
11 point he brought his nieces over to her house and she was
12 able to observe his interaction with his nieces, which are
13 his victims in the case.

14 Q. Uh-huh.

15 A. That he would sleep in one bed with one victim and then
16 another time in another bed with another victim.

17 He bought one of the victims a ring.

18 She stated she found a note from one of the -- from Mr.
19 Miller to the victim that stated the victim was saying "I'm
20 sorry," or something like that, and Mr. Miller said "you
21 will like it when you get used to it."

22 So she provided me information around his interaction
23 with his nieces.

24 Q. Uh-huh.

25 A. She also provided me information about what she

1 observed with his behavior with a neighborhood girl, that
2 when this twelve or thirteen year old girl would come home
3 from school every day, he would make sure to be outside,
4 present, available; would try to talk with her repeatedly,
5 and that others in the neighborhood saw this as well.

6 Q. Was this Peggy woman, was she also a victim of at least
7 one of his CDV offenses?

8 A. Yes, and so we discussed that incident as well and she
9 told me what occurred from her standpoint during that
10 incident.

11 Q. What is grooming in the context of an offender against
12 a child?

13 A. Grooming is typically seen in pedophilic offenders when
14 they will do things to win over a child's trust or gain
15 their friendship; giving them things, buying them things,
16 letting them pet their dog, something that makes the child
17 feel more comfortable with the offender.

18 Q. Would buying a ring be consistent with grooming?

19 A. Yes.

20 Q. Okay. Did you find the information from this Peggy
21 Powell woman to be relevant in making your diagnosis?

22 A. Yes.

23 Q. How so?

24 A. Her information further strengthened the diagnosis of
25 pedophilia for me and also gave me more insight into the CDV

1 charge and the level that that went to, as far as his anger
2 and his physical aggressiveness. And then she provided me
3 the information with regards to the other child in the
4 neighborhood that he was paying attention to. Those are all
5 reported things.

6 Q. Right.

7 Now, doctor, you have no way of knowing yourself if he
8 actually did this thing regarding the twelve year old child,
9 do you?

10 A. Correct.

11 Q. You know what this lady told you?

12 A. Correct.

13 Q. And you have no idea of knowing yourself if he actually
14 gave a ring or wrote a letter to one of the nieces, do you?

15 A. Correct.

16 Q. It's what she told you?

17 A. Correct.

18 Q. Okay. So not knowing whether or not it's truthful or
19 not, how does it still factor into your diagnosis and your
20 information collecting abilities?

21 A. Well, I listened to her and I evaluate that data based
22 within the context of everything else I have, does it fit or
23 not. And a lot of what she said told me fit with his
24 diagnosis of pedophilia and his diagnosis of antisocial
25 traits.

1 Q. So you are not necessarily telling this court today
2 that he actually did -- that these things are true, that he
3 bought a ring, wrote a letter, stalked a girl, but you
4 saying that the information was consistent with your
5 diagnosis?

6 A. Yes, and consistent with the entirety of the evaluation
7 data.

8 Q. Okay.

9 MR. BOGEL: That's all I have, Your Honor.

10 THE COURT: All right. I'm still not going to
11 allow that.

12 I assume for the record, so you are protected, you
13 moved again to have that -- both those aspects of the
14 testimony admitted at the end of your proffer?

15 MR. BOGEL: Both -- both together and both
16 separately.

17 THE COURT: All right.

18 MR. BOGEL: I think there is a different
19 additional sustaining ground for this most recent thing,
20 because she's clear that she's not necessarily accepting to
21 be true, but it goes to diagnosis.

22 THE COURT: Well, I would disagree with you. The
23 truth of the matter asserted is that he is a sexually
24 violent predator. That's what it goes for in this case,
25 which is actually a legal cause.

1 Quite frankly I don't think that that testimony or
2 a good large amount would be the aspect of it, especially
3 the girlfriend, would be statements -- would qualify as
4 statements made for purposes of diagnosis or medical
5 treatment. She wasn't given any treatment at all obviously
6 to this gentleman. Medical diagnosis, it may be a little
7 bit closer, but I think it's not, but in large part of it
8 doesn't fall into that as well, so that would be an
9 additional grounds to disallow that.

10 Do you guys need a break right quick before we
11 proceed, or are you okay?

12 MR. BOGEL: We are good.

13 MR. ARIAIL: We are good.

14 THE COURT: Will you bring the jury in?

15 Just one second.

16 Do you need a break?

17 THE WITNESS: No, I'm good. Thank you.

18 THE COURT: Thank you.

19 MR. BOGEL: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 MR. BOGEL: Before they come in, could I?

22 THE COURT: Do you want to make that a court
23 exhibit?

24 MR. BOGEL: We would like to make that a court's
25 exhibit for purposes of this proffer.

1 THE COURT: Let me make that a court exhibit and
2 that way it's in the record and you are protected and that
3 goes to the proffer just now, is that correct?

4 MR. BOGEL: We would like to substitute a copy.
5 This is her original out of her file. I can make a copy
6 when she's finished.

7 (Medical Records marked as Court's Exhibit No. 2
8 for identification)

9 THE COURT: Are you ready?

10 MR. BOGEL: Yes, sir, Your Honor.

11 MR. ARIAIL: Yes, Your Honor.

12 THE COURT: Okay.

13 (The following takes place in the presence of the
14 jury panel)

15 THE COURT: Mr. Bogel.

16 MR. BOGEL: Thank you, Your Honor. May it please
17 the court?

18 THE COURT: Yes.

19 BY MR. BOGEL:

20 Q. Dr. Knight, let me turn the clock back a second and ask
21 you something I forgot earlier.

22 When you were talking about things that Mr. Miller said
23 to you about why it was he was attracted to his two nieces,
24 did he give any reasons as to why he did this conduct? Not
25 the attractiveness, but the reasons; things in his personal

1 life that were going bad that made him do this type of
2 conduct?

3 A. He mentioned that he was depressed and he was going
4 through a rough time in his life, that he viewed his nieces
5 as friends that were comforting him through this hard time.
6 I think that was something that he mentioned in talking
7 about why this all happened.

8 Q. Did that friends comment cause you some concern?

9 A. Yes.

10 Q. Why?

11 A. So viewing an eight year old as your equal, your
12 friend, somebody that comforts you when you are thirty-two
13 years old, that is a common way of thinking with people with
14 pedophilia. It's called a cognitive distortion. It's a way
15 of thinking about something that rationalizes it, it
16 justifies it -- it justifies it, it minimizes it. So these
17 are my friends instead of these are my eight year old nieces
18 is an example of the cognitive distortion that Mr. Miller
19 had.

20 Q. Doctor, prior to your getting involved in this case was
21 a psychologist from the Department of Mental Health ordered
22 by the court to conduct an evaluation of Mr. Miller?

23 A. Yes.

24 Q. Who was that person?

25 A. Dr. Kimberly Harrison.

1 Q. And as part of your review, did you review her
2 report -- did she issue -- did she issue a report in this
3 case?

4 A. She did.

5 Q. And as part of your collecting of information and
6 reviewing your situation regarding Mr. Miller, did you
7 review her report?

8 A. I did.

9 Q. Why was it important for you to look at her evaluation
10 of Mr. Miller?

11 A. Dr. Harrison is another psychologist. She is
12 evaluating the very same issue that I'm evaluating, so it's
13 important to look at other professionals findings and
14 reports, particularly if they are evaluating the same
15 individual and the same issue.

16 Q. Okay. I'll come back to her report in a few minutes.

17 You have talked earlier about reviewing his psychiatric
18 records when he was confined at Harris Psychiatric Hospital.
19 Is there anything else about those records that you would
20 like to tell us that you found significant?

21 A. Well, we talked about how the timing of going into the
22 hospital. He checked himself into the hospital a day after
23 getting notice from the sheriff's department that he was
24 going to be arrested or charged with these sexual offenses
25 and he reported suicidality and depression.

1 However, he reported to me during my evaluation that he
2 lied about those things to beat the charge, to act insane,
3 so that he wasn't really experiencing those things at that
4 time. He was using the hospital as a way to avoid his legal
5 situation.

6 The hospital also diagnosed him at the end of his
7 hospital stay with major depressive disorder, dysthymic
8 disorder, alcohol and marijuana abuse, and personality
9 disorder with antisocial features.

10 Q. What is the dysthymic disorder?

11 A. Dysthymic disorder is a form of depressive disorder
12 where somebody is in a low mood more days than not. They
13 kind of go along in life and they are not just not happy
14 about really anything, but they don't hit those real lows
15 with suicidality and things like that.

16 Q. Now, Dr. Knight, based upon your review of the records,
17 the information that you have talked about today, your
18 evaluation of Mr. Miller personally, the assessments that
19 were done, do you have an opinion to a reasonable degree of
20 psychological certainty as to whether or not Mr. Miller has
21 a mental abnormality or a personality disorder?

22 A. Yes.

23 Q. What is it that you are diagnosed?

24 A. So I diagnosed Mr. Miller with pedophilia, exclusive
25 type -- I mean, sorry, non-exclusive type, sexually

1 attracted to females.

2 Q. Let's back up a second. What does the word pedophilia
3 mean?

4 A. Pedophilia means that someone has recurrent intense
5 sexual urges towards prepubescent children.

6 Q. Okay. And when it says non-exclusive, what does that
7 mean?

8 A. That means that's a qualifier that we can use if the
9 person is also attracted to adults.

10 Q. Okay. And sexually attracted to females was the third
11 thing you said, is that right?

12 A. Correct.

13 Q. What does that mean? I mean, it sounds obvious, but go
14 ahead and tell the jury what we are talking about here.

15 A. It means the individual is attracted to prepubescent
16 girls or adult women.

17 Q. Okay.

18 A. Not boys or men.

19 Q. Is pedophilia a relevant mental abnormality that you
20 encounter, experts such as yourself encounter, when
21 conducting evaluations on sexually violent predators?

22 A. Yes.

23 Q. Okay. Is it something that's curable?

24 A. No, there is no cure for pedophilia.

25 Q. Can it be treated or managed?

1 A. Yes.

2 Q. Can it take a long time to learn how to properly manage
3 or treat pedophilia?

4 A. Yes.

5 MR. ARIAIL: Objection, Your Honor.

6 BY MR. BOGEL:

7 Q. Why do you --

8 THE COURT: Just one second. I sustain the
9 objection.

10 MR. ARIAIL: Thank you.

11 MR. BOGEL: Thank you, Your Honor.

12 BY MR. BOGEL:

13 Q. Why do you think Mr. Miller has pedophilia?

14 A. Because Mr. Miller reported at least the period of six
15 months, which is what the diagnosis requires, sexually
16 intense urges, fantasies, sexual arousal to prepubescent
17 children - his two nieces. The nieces say this went on
18 from -- was separated by a span of three years, meaning he
19 would have had those thoughts and fantasies for three years.
20 Mr. Miller says it just happened in 2006.

21 And we also have an offense from 1994 with a
22 prepubescent child that was a sexual offense in nature.

23 So those are things that I used to diagnose Mr. Miller
24 with pedophilia.

25 Q. Did Dr. Harrison, the doctor from the Department of

1 Mental Health who did the initial evaluation, did she also
2 diagnose Mr. Miller with pedophilia?

3 A. Yes.

4 Q. Was her calling it was the same diagnosis that you
5 did --

6 A. Yes.

7 Q. -- pedophilia, sexually attracted to females,
8 nonexclusive?

9 A. Yes.

10 Q. Did you also diagnose Mr. Miller with a personality
11 disorder?

12 A. Yes.

13 Q. What would that be?

14 A. So I diagnosed Mr. Miller with other specified
15 personality disorder with antisocial traits.

16 Q. And is that diagnosis also made to a reasonable degree
17 of psychological certainty?

18 A. Yes.

19 Q. Would you tell the jury what that means?

20 A. Antisocial traits, for example, in the DSM, which is
21 how we diagnose mental disorders, there is something
22 called --

23 Q. Doctor, doctor, doctor, what is the DSM?

24 A. The DSM is the Diagnostic & Statistical Manual of
25 Mental Disorders. It's where we find all of our mental

1 disorders that we use to diagnose individuals.

2 Q. Is that a book, a textbook that's --

3 A. Yes.

4 Q. -- used by your profession?

5 A. Yes.

6 Q. We will do abbreviations, doctor.

7 A. Sorry.

8 Q. Okay. Go ahead, please. Tell us about what this
9 antisocial trait means.

10 A. So antisocial personality disorder is found in the DSM
11 or other specified personality disorder with antisocial
12 traits. You can also diagnose that out of the DSM.

13 And antisocial traits include failure to conform one's
14 behavior to the law, a pattern of that. So Mr. Miller has
15 criminal charges stemming from when he was seventeen years
16 old all the way up until 2006, and he has multiple charges
17 across two different states, so he's shown a pattern of
18 that. That's a trait that he has.

19 He has a pattern of irresponsibility. That's another
20 diagnostic criteria for that disorder.

21 He has held over fifty jobs. The longest he stays at a
22 job is about six weeks and then he leaves and finds another
23 job. He's defaulted on a bank loan. He's failed to abide
24 by the sex offender registry three times resulting in
25 charges. So all of that indicates he has a pattern of

1 irresponsibility.

2 He has a pattern of physical aggressiveness, which is
3 also another antisocial trait. He has two criminal domestic
4 violence charges. The hospital records note that he punched
5 a peer when he was in the hospital. His sex offender
6 treatment records indicate that he was angry during sex
7 offender --

8 MR. ARIAIL: Objection, Your Honor. She's going
9 into what --

10 THE COURT: How about, Madam Forelady, you take
11 the jury back to the jury room, please.

12 I'll remind you that objections are a standard
13 part of the case, okay?

14 (The following takes place outside the presence of
15 the jury panel)

16 THE COURT: What is your objection?

17 MR. ARIAIL: The reason I objected, Your Honor, is
18 she was going back into the sexual offender treatment. I
19 didn't know if she was going to get back into what Dr.
20 Roberts indicated, or what the information was put in those
21 records. I just --

22 THE COURT: I think she was aware that I excluded
23 that testimony.

24 THE WITNESS: Correct, but I --

25 MR. ARIAIL: That was the only concern I had about

1 getting back into that.

2 MR. BOGEL: I think she was doing the same thing
3 she did with all these other things. The records is one
4 thing, but she is not going to repeat what Dr. Roberts told
5 her, or Ms. Roberts told her.

6 MR. ARIAIL: I have no problem. I just wanted to
7 make sure that was it was handled, because I heard we were
8 going into the sex offender treatment. I didn't want Ms.
9 Roberts had said or anything like that.

10 THE WITNESS: Okay.

11 MR. BOGEL: We won't go into that.

12 MR. ARIAIL: Thank you.

13 THE COURT: Very good.

14 Check with the jury and make sure they are ready
15 to come back. If they are, bring them back, please, sir.

16 (The following takes place in the presence of the
17 jury panel)

18 THE COURT: Mr. Bogel.

19 MR. BOGEL: Thank you, Your Honor.

20 BY MR. BOGEL:

21 Q. Doctor, I think where we left off was I was asking you
22 about the reasons why you diagnosed him with the personality
23 disorder diagnoses. What was the name of that diagnosis
24 again?

25 A. It was other specified personality disorder with

1 antisocial traits.

2 Q. You were about to go into what you found in the records
3 of his treatment for sex offender treatment at the
4 Department of Corrections?

5 A. Correct.

6 Q. Please continue.

7 A. We were discussing the traits associated with that
8 disorder. One is physical aggressiveness. And just before
9 we left I was going to reference his sex offender treatment
10 records that indicate that he slammed doors and got angry
11 during his sex offender treatment. So that's another thing
12 that I used to come up and to diagnosis him with that.

13 I also used the fact that he was diagnosed with this
14 disorder by Patrick B. Harris, by the physicians there, and
15 they had him for two months around-the-clock observation.
16 They did psychological testing with him. And at the end of
17 those two months they diagnosed him with this disorder.

18 I also used the fact that the testing I did on the
19 personality tests suggested that this diagnosis wasn't maybe
20 accurate for Mr. Miller.

21 Q. Were there any other features that you found relevant
22 to your opinion contained in the records of his treatment
23 for sex offender treatment at the Department of Corrections?

24 A. I would have to reference those.

25 Q. Go ahead.

1 A. So the records include notes from his sex offender
2 treatment, from when he would attend treatment. And some
3 notes indicate that he participated in the group discussion;
4 he shared his views; that he was attending regularly; that
5 he had distorted views of his relationships.

6 Q. What does that mean, distorted views of relationships?

7 A. Well, we talked about cognitive distortions and how he
8 viewed the nieces as his friends instead of a younger
9 smaller family member. Things like that is most likely what
10 the records are getting at, distorted views of his victims,
11 the relationship with his victims.

12 In one note he indicated that "he has developed a hate
13 toward my family, including my mother. I'm at the end of my
14 rope and I'm about to explode."

15 And he was very angry and this note is talking about
16 that he said "I get upset with child molesters." So the
17 note is indicating that he views the other people in the
18 group as child molesters, but he does not view himself as a
19 child molester, even though he's charged with molesting his
20 two nieces. So that's another cognitive distortion that he
21 could not internalize what the group was talking about.

22 And this note also stated that he is displaying
23 narcissistic behavior towards his fellow inmates.

24 Q. When you say narcissistic behavior, what does that
25 mean?

1 A. Narcissistic behavior, meaning that he is the only
2 person that matters, he is the most important person in the
3 group, not giving attention or empathy to others in the
4 group. And many of these notes just document that he was
5 there and participated in the group.

6 Q. Okay. Thank you, doctor.

7 Let me ask you a question a different way. Is this
8 diagnosis, this other specified personality disorder with
9 antisocial traits, is that in relevant personality disorder
10 in the field of for experts like you in evaluating sexually
11 violent predators?

12 A. Yes.

13 Q. And why is that?

14 A. Because that can elevate one's risk to re-offend. If
15 somebody has antisocial personality traits, they have a
16 failure to conform their conduct to the requirements of the
17 law, and we are talking about their risk of committing
18 another offense, this time a sexual offense. That's
19 important to know.

20 Q. Is this disorder something that can be cured?

21 A. No.

22 Q. Could it be managed?

23 A. It can be managed.

24 Q. And you mentioned he had been diagnosed with this one
25 time before at Patrick Harris, is that correct?

1 A. Yes.

2 Q. Okay. Now, do these two diagnoses, the pedophilia and
3 the diagnosis, the other -- the specified personality
4 disorder that you mentioned a minute ago, do you have an
5 opinion to a reasonable degree of psychological certainty as
6 to whether or not these diagnoses cause him serious
7 difficulty in controlling his behavior?

8 A. Yes.

9 Q. What is that opinion?

10 A. They do.

11 Q. Why?

12 A. The nature of pedophilia, the diagnostic criterion for
13 that is somebody who has recurrent intense sexual urges
14 towards children, making their behavior difficult to
15 control, and he's acted on those urges in the past with at
16 least three different victims that we know of.

17 And then antisocial personality disorder or antisocial
18 traits, that would also predispose one to be more likely to
19 commit acts, criminal acts, than somebody without that
20 disorder.

21 Q. Do you have an opinion also to a reasonable degree of
22 psychological certainty as to whether Mr. Miller has the
23 propensity to commit future -- propensity to commit future
24 sexually violent offenses?

25 A. Yes.

1 Q. What is that opinion?

2 A. That he does.

3 Q. Okay. And did you find any evidence of his having
4 difficulty controlling his sexual behavior, other than the
5 things that you have talked about so far?

6 A. Well, primarily it's his offense -- it's his offense
7 history and difficulty controlling his sexual behavior.

8 Q. Okay. Do you also have an opinion, again to a
9 reasonable degree of psychological certainty, as to whether
10 or not his pedophilia and the personality disorder you
11 discussed already make him likely to engage in crimes of
12 sexual violence, unless he's confined for long term control,
13 care and treatment?

14 A. Yes.

15 Q. Okay. What is that opinion?

16 A. That Mr. Miller requires long term care -- control,
17 care and treatment because of these disorders. They make
18 him likely to engage in acts of sexual violence.

19 Q. And based upon these opinions and your training as a
20 forensic psychologist, do you also have an opinion, again to
21 a reasonable degree of psychological certainty, as to
22 whether or not Mr. Miller meets the definition, or the
23 criteria, rather, to be found a sexually violent predator by
24 this jury?

25 A. Yes.

1 Q. Now, I would like to come back to the report that you
2 studied by Dr. Harrison. Do you remember that? We talked
3 about that a minute ago?

4 A. Yes.

5 Q. She was appointed by the court to conduct the initial
6 evaluation, is that correct?

7 A. Yes.

8 Q. Okay. Was she one of the people who diagnosed -- did
9 she also diagnose him as a pedophile?

10 A. Yes.

11 Q. Did she diagnose him with the personality disorder you
12 mentioned earlier?

13 A. She did not.

14 Q. What was her ultimate opinion on whether or not he
15 should be classified as a sexually violent predator, or
16 whether or not he met the criteria to be a sexually violent
17 predator and be committed?

18 A. So Dr. Harrison did not think that Mr. Miller met
19 criteria for commitment.

20 Q. Okay. Well, it's apparent from your testimony that you
21 disagree with her conclusions. Could you please tell the
22 jury why it is that you disagree with her conclusions?

23 A. I think that the more data you collect, the more -- the
24 better you can inform your opinions, and I think my
25 examination was very comprehensive of Mr. Miller.

1 I also considered other factors beyond the Static.
2 Factors -- some factors we have talked about today and some
3 factors we haven't talked about, such as Mr. Miller's
4 release plan. I think I have put emphasis on those things
5 to form my opinions that he meets criteria for commitment.

6 Q. Okay. If he is not committed to the sexually violent
7 predator program, based upon the criminal conviction
8 documents that you have looked at, Petitioner's Exhibit No.
9 1, is he going to be on probation?

10 A. No.

11 Q. Is there anything you know of, any program that can
12 require him to take sex offender treatment if he gets out?

13 A. No.

14 Q. Did you discuss with him his release plans, who he
15 wants to live with, where he's going to live if he is
16 released?

17 A. Yes.

18 Q. What are his plans? What did he tell you his plans
19 were, as far as who he's going to live with?

20 A. So Mr. Miller stated he was going to live with another
21 registered sexual offender in a certain county in South
22 Carolina, and this person had also been a sexually violent
23 predator. This person also had prepubescent victims, like
24 three boys, three prepubescent boys. This person had
25 violated his probation by being around children and was sent

1 back to prison. This person was also caught mailing his
2 pubic hair and his bodily fluids back to the sexually
3 violent predator program after he got out.

4 Q. Had he been committed to the sexually violent predator
5 program?

6 A. He had, yes.

7 Q. Later got released from it?

8 A. Yes.

9 Q. Okay. Go ahead.

10 A. So this is the individual that Mr. Miller would like to
11 live with when he's released.

12 Q. Okay. And does this cause you some concern, as far as
13 planning and --

14 A. Yes.

15 Q. -- the right thing to do --

16 A. Yes.

17 Q. -- for Mr. Miller?

18 A. Yes.

19 Q. Why?

20 A. In talking about this with Mr. Miller, he had no
21 insight into the idea that this was not good, that this
22 was -- that going to live with another sexually violent
23 predator with prepubescent victims, that had violated his
24 probation, he didn't understand -- he had no insight into
25 the fact that that would put him at a risk for re-offense by

1 living with this person. So he showed very poor insight in
2 judgment into this release plan.

3 Q. Now, you said violated his probation. Who had violated
4 whose probation?

5 A. The individual he would like to live with violated his
6 probation by being around minors.

7 Q. Okay. Did Mr. Miller tell you what his plans were, as
8 far as getting a job?

9 A. So Mr. Miller said his ideal job was to work at a zoo.
10 And Mr. Miller has worked at a zoo before. He got paranoid
11 about the children being around and he thought they might do
12 a background check; so he stopped, but he thought he was
13 good at it, and so that would be his ideal job would be to
14 work at a zoo.

15 Q. In your opinion, after evaluating him, is that a sound
16 plan for where to work for a guy with his situation?

17 A. No, so that -- so working at a zoo and being around
18 children like that would increase his risk for re-offense.

19 Q. What are his plans he told you to avoid re-offending if
20 he gets out?

21 A. So Mr. Miller said that he would, quote, "always keep
22 an adult around." That was his plan. He said "I can't
23 fully trust myself because it's happened before. I'm going
24 to always keep an adult around." Well, the adult that will
25 be around will be the sexually violent predator, the person

1 that was in the program that he would be living with.

2 Q. Is that Jackie Cantrell?

3 A. Yes.

4 Q. Okay. Who would be at risk if Mr. Miller is released
5 after his trial?

6 A. Prepubescent children.

7 Q. Thank you, doctor. Please answer any questions counsel
8 may have or the court may have.

9 THE COURT: Your Honor, may we approach?

10 (Whereupon, the lawyers approached for an
11 off-the-record discussion)

12 THE COURT: Madam Forelady, ladies and gentlemen
13 of the jury, I'm advised that cross-examination is probably
14 going to be a little lengthy. I generally like to run court
15 until 5:00 or 5:30, but I don't want to make it disjointed
16 so that he has to stop his cross-examination and start back
17 in the morning and then come back, so it would be more
18 cohesive to go ahead and break today.

19 I ask that you be back in the jury room at 9:30 in
20 the morning and we will start and resume cross-examination
21 at that point.

22 Any reason that any juror cannot be here at 9:30
23 in the morning?

24 (No response).

25 THE COURT: If you will leave your note pads in

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE) IN THE COURT OF COMMON PLEAS

3
4 IN THE MATTER OF THE)
5 CARE AND TREATMENT OF)
6 CALVIN JOE MILLER) TRANSCRIPT OF RECORD
7) 2013-CP-23-01543
8)
9) JULY 15, 2014
10) GREENVILLE, SOUTH CAROLINA

11 (VOLUME II)

12 B E F O R E:

13 THE HONORABLE R. LAWTON MCINTOSH, JUDGE. ; and a jury.

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

15 JAMES G. BOGEL, ASSISTANT ATTORNEY GENERAL
16 NICOLE T. WETHERTON, ASSISTANT ATTORNEY GENERAL
17 ATTORNEYS FOR THE PETITIONER

18 R. MILLS ARIAIL, JR., ESQUIRE
19 ATTORNEY FOR THE RESPONDENT

20 MICHAEL R. WATTS
21 CIRCUIT COURT REPORTER
22
23
24
25

INDEX

(JULY 14, 2014)

WITNESSES

PAGE

JURY VOIR DIRE -- PAGE 7

JURY SWORN -- PAGE 34

OPENING STATEMENT BY MR. BOGEL -- PAGE 44

OPENING STATEMENT BY MR. ARIAIL -- PAGE 48

DR. SUSAN KNIGHT (PW)

DIRECT EXAMINATION BY MR. BOGEL 51

VOIR DIRE EXAMINATION BY MR. ARIAIL 56

CONT'D DIRECT EXAMINATION BY MR. BOGEL 59

INDEX

(JULY 15, 2014)

WITNESSES PAGE

DR. SUSAN KNIGHT (PW)

CROSS EXAMINATION BY MR. ARIAIL 150

REDIRECT EXAMINATION BY MR. BOGEL 181

STATE RESTS -- PAGE 185

DR. KIMBERLY HARRISON (RW)

DIRECT EXAMINATION BY MR. ARIAIL 188

CROSS EXAMINATION BY MR. BOGEL 209

REDIRECT EXAMINATION BY MR. ARIAIL 223

RESPONDENT RESTS -- PAGE 225

COURT'S JURY INSTRUCTIONS -- PAGE 231

CLOSING ARGUMENT BY MR. BOGEL -- PAGE 246

FINAL ARGUMENT BY MR. ARIAIL -- PAGE 254

JURY VERDICT -- PAGE 269

REPORTER'S CERTIFICATE -- PAGE 273

1	EXHIBITS			
2	NO.	DESCRIPTION	ID.	EV.
3	P-1	CERTIFIED CONVICTIONS		66
4				
5	CT-1	JURY NOTE	30	
6	CT-2	MEDICAL RECORDS	122	
7	CT-3	JURY NOTE	262	
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 Would you bring the jury in?

2 (The following takes place in the presence of the
3 jury panel)

4 THE COURT: Good morning, ladies and gentlemen,
5 Madam Forelady. Thank you for being here on time.

6 We will resume with cross-examination I believe of
7 Dr. Knight.

8 Dr. Knight, would you come around, please, ma'am?

9 I'll just remind you you are still under oath.
10 I'm sure that you know.

11 MR. ARIAIL: Thank you, Your Honor.

12 THE COURT: Yes, sir.

13 CROSS EXAMINATION BY MR. ARIAIL:

14 Q. Dr. Knight, how are you doing this morning?

15 A. Good morning.

16 Q. I want to ask you a few questions in regards to your
17 background a little bit.

18 I know we went through it -- you went through it with
19 Mr. Bogel in regards to your training and expertise.

20 Tell me a little bit -- and I know you have been
21 qualified as an expert in psychology and I think forensic
22 psychology.

23 Tell me, is there a specific, I guess, expertise that
24 you have to have for sexually violent predator cases?

25 A. Not to my knowledge, no.

1 Q. Okay. There is no additional training that you have to
2 have to be able to do these evaluations or, I guess,
3 interview these individuals?

4 A. To conduct a sexually violent predator evaluation?

5 Q. Correct.

6 A. Not to my knowledge.

7 Q. Okay. You don't -- during your schooling or, I guess,
8 preparation, is there any subsection or any specialized
9 training that you can do for these sexually violent predator
10 cases?

11 A. Well, aside from learning about it in school, doing
12 practice cases with supervisors, going to the trainings
13 offered by national committees, organizations, things like
14 that.

15 Q. Okay. Now, when you came -- and I want to go back
16 through your background a little bit. When you came -- I
17 guess finished with your schooling --

18 A. Uh-huh.

19 Q. -- where did you go directly after that, as to your
20 employment?

21 A. I completed my Ph.D., my doctorate at University of
22 Louisville. Where did I go after that?

23 Q. Correct.

24 A. Well, I completed a pre-doctoral internship at the
25 Federal Bureau of Prisons in Buckner, North Carolina. That

1 was in forensic psychology and working on the sex offender
2 treatment program in the federal system.

3 And then once that was completed, I went directly to
4 California to complete a post-doctoral fellowship in
5 forensic psychology at the Keck School of Medicine.

6 Q. Okay. And then after that went to MUSC, is that
7 correct?

8 A. After I completed my fellowship I stayed in California.
9 I worked at the Los Angeles county jail doing forensic
10 evaluations for the federal system, also for the university,
11 and I worked at the jail.

12 Q. Okay. After you finished that, is that when you came
13 to South Carolina?

14 A. After California I went to North Carolina.

15 Q. Okay.

16 A. Become licensed in North Carolina.

17 I worked in private practice for some time, and then
18 came to South Carolina to begin a job at MUSC in January
19 2008.

20 Q. Okay. So the training what I'm understanding you have
21 had, sexually violent predator was out some in California.
22 I guess you did it for the Los Angeles, is that correct, the
23 jails out there?

24 A. Well, not the jail, but with the university.

25 Q. With the university in regards to that.

1 Then you came here to MUSC and have been doing that
2 through their, I guess, the lab down at MUSC, is that
3 correct?

4 A. Yes.

5 Q. Now, during your time down there, from my understanding
6 what I recollect, there were about eight evaluations -- or
7 tell me, there were eight individuals that you have done
8 evaluations for, is that correct?

9 A. For specifically assessing sexually violent predators,
10 but I have done many sex offender evaluations, sex offender
11 risk assessments, sexual -- other types of sexual behaviors
12 evaluations.

13 Q. Okay. But specifically what we are dealing with today,
14 the sexually violent predator determination that we are here
15 today, you have only done eight evaluations regarding that,
16 correct?

17 A. Correct.

18 Q. Okay. And as part of that I think you said that four
19 of them you recommended they should not confined, is that
20 right?

21 A. I would have to go back and look. Approximately half I
22 would say.

23 Q. Okay. So give or take four?

24 A. Sure.

25 Q. Half of those, okay.

1 Do you remember any of the specifics behind those
2 cases, those four that you did not recommend?

3 A. One comes to mind.

4 Q. Okay. Can you give us some background in regards to
5 that?

6 A. This was an individual who had committed sexual
7 offenses but he did not have a sexual disorder like
8 pedophilia. He was committing his sexual offenses for a
9 different reason. And so to recommend commitment and
10 treatment for a sexual disorder didn't make sense in his
11 case, even though he had a history of committing sexual
12 offenses.

13 Q. Okay. So you are saying in that case he didn't have
14 pedophilia --

15 A. Right.

16 Q. -- or paraphilia, or some type of sexual disorder?

17 A. Correct.

18 Q. Okay. The other ones -- and that's one you are saying
19 he didn't. Did the others have sexual disorders;
20 paraphilia, pedophilia?

21 MR. BOGEL: Your Honor, I object on the grounds of
22 relevance.

23 THE COURT: What is the relevance?

24 MR. ARIAIL: I am just trying to go into determine
25 how she makes her decisions, how she made them in the

1 previous cases.

2 THE COURT: I'll give you a little leeway on that.
3 Overruled for the time being.

4 MR. BOGEL: Okay.

5 A. I would -- you know, I would have to go back and look.
6 These were over two years. I would have to go back and look
7 at those specific cases.

8 BY MR. ARIAIL:

9 Q. I'll make it -- in regards to those cases, do you
10 remember if you made a determination if those individuals
11 had sexual disorders?

12 A. I do not recall at this time.

13 Q. Okay. Now, in evaluating this case, we have gone
14 through the facts of the two convictions?

15 A. Uh-huh.

16 Q. Recollecting those other cases that you have had, are
17 these offenses, I guess, consistent with those ones that you
18 have dealt with in previous cases?

19 A. Well, certainly Mr. Miller's offenses are pedophilic in
20 nature involving prepubescent children, so that's a very
21 common type of crime, type of offense that we see in these
22 types of cases. Is that what you mean?

23 Q. Yeah. I'm just trying to make -- to get an
24 understanding. You have done these eight evaluations. They
25 were consistent with what the evaluation that you have done

1 here today, correct, for Mr. Miller?

2 A. Well, no case is exactly the same. So to say
3 consistent is not exactly -- I wouldn't use that word. Each
4 case has individual factors that must be considered.

5 Q. Maybe that was a bad use of it, but what I'm saying is
6 you did the same type of evaluation you did for those eight
7 individuals as you did for Mr. Miller?

8 A. Yes, each case that comes through the lab gets the same
9 type of evaluation.

10 Q. Okay. And these eight evaluations, I want to make
11 sure, because there is two different -- there is annual
12 reviews and there is initial pre-commitment proceedings.
13 Were these all the eight that you have done commitment
14 proceedings?

15 A. So one of them was an annual review.

16 Q. Okay. So we only have seven pre-commitment like we
17 have right now?

18 A. Yes.

19 Q. Okay. Now, you have been -- as we know, you have been
20 retained by the Attorney General's Office to handle this --
21 to do this review, correct?

22 A. No.

23 Q. MUSC was retained?

24 A. Yes.

25 Q. Okay. And you are -- are you an employee of MUSC, or

1 how does that relationship work?

2 A. Sure. So for -- from January 2008 until sometime last
3 year I was a full-time faculty member at the Medical
4 University of South Carolina. I then went into private
5 practice where I practice now and continued doing case work
6 for the Medical University of South Carolina, just under a
7 different contract. So my status changed, but I was still
8 connected with the university.

9 Q. Okay. So when you were retained to do this case, was
10 it through MUSC, or with a contract with MUSC? How did it
11 work?

12 A. At the time Mr. Miller's evaluation I had a contract
13 with MUSC to do X amount of hours per week. So MUSC would
14 assign me cases and to get up to my agreed upon hours Mr.
15 Miller's was one of those case that MUSC assigned me to do.

16 Q. Okay. And MUSC assigned you to do -- is that through
17 Dr. Dwyer, is that correct?

18 A. Dr. Dwyer runs the unit at MUSC, so yes.

19 Q. Okay. So you were assigned to do this and paid by MUSC
20 to do it?

21 A. Yes.

22 Q. Okay. And how much were you paid to do this
23 evaluation?

24 A. So I spent about twenty-eight hours on Mr. Miller's
25 case and that -- and I'm paid \$65 an hour, so that works out

1 to eighteen -- a little over 1,800.

2 Q. And you are being paid today to testify, correct?

3 A. I'm being paid for my time that I spend here in the
4 courtroom.

5 Q. Okay. And how much is your time to testify?

6 A. \$65 an hour.

7 Q. Okay. Now, how many hours do you think that you have
8 spent total on this evaluation; testimony, evaluating,
9 talking to my client?

10 A. Well, if we look at the time chart in here, it looks
11 like about twenty-eight hours, or they have my name here
12 with eighteen, twenty, and we would just add the time in
13 court.

14 Q. Okay. And you are thinking that's roughly going to be
15 thirty, thirty-five hours, somewhere in that range?

16 A. Including court.

17 Q. Including court time, okay.

18 Now, Dr. Harrison -- and I want to go through kind of
19 the history of this. Dr. Harrison was initially appointed
20 to do the evaluation?

21 A. Yes.

22 Q. Okay. After her evaluation you were retained by MUSC
23 to do a second evaluation, correct?

24 A. Well, I was assigned the case. MUSC assigned me Mr.
25 Miller's case.

1 Q. They assigned you a case and asked you to do an
2 evaluation?

3 A. Yes.

4 Q. Okay. Prior to doing that evaluation, did you speak
5 with anybody at the Attorney General's Office?

6 A. I don't think so. The Attorney General's Office
7 coordinates with our admin coordinator for scheduling
8 purposes, sends MUSC the case names, and then Dr. Dwyer
9 assigns the cases.

10 Q. And what -- when you are assigned a case, what
11 specifically are you asked to do?

12 A. Depending on the type of case. If it's a sexual
13 behavior case, they -- the individual receives a sexual
14 behavior evaluation. If it's a different type of case, I do
15 a different type of evaluation.

16 Q. Okay. So in this case what were you asked to do for
17 Mr. Miller?

18 A. Since Mr. Miller was a sexual behaviors case, he
19 followed the protocol of a sexual behaviors evaluation,
20 which is reviewing collateral data, interviewing Mr. Miller,
21 having a battery of psychological testing, reviewing
22 collateral sources as appropriate. Those are the elements
23 of what goes into a sexual behaviors evaluation at MUSC.

24 Q. Okay. Did you receive any correspondence from the
25 Attorney General's Office?

1 A. MUSC did. I have those e-mails. Is that --

2 Q. Okay. And what I'm asking is was there any
3 communication between you and the Attorney General's Office
4 as to what they wanted to get out of this case, what they
5 were looking for?

6 A. They -- the Attorney General's Office sends a form
7 letter to MUSC requesting an evaluation of whoever they are
8 requesting the evaluation on.

9 Q. Okay.

10 A. That letter is in the chart and that would determine --
11 that gives MUSC the go ahead to do an evaluation on this
12 person.

13 Q. Okay. So when you began your evaluation, you knew that
14 Dr. Harrison had said Mr. Miller should not be confined?

15 A. Yes, uh-huh.

16 Q. Okay. Did that in any way affect the way that you
17 evaluated this case or made a determination in this case?

18 A. No.

19 Q. Okay. Did you have any communication with the Attorney
20 General's Office with them asking you, "hey, Dr. Harrison
21 didn't say he should be confined. We are trying to see if
22 you believe he should be confined."

23 A. No, there is no communication like that. They send Dr.
24 Harrison's report, along with everything else that they send
25 us, and I review that report as part of my evaluation.

1 Q. But you knew that she said he should not be confined
2 prior to doing your evaluation?

3 A. Yes.

4 Q. Okay. Now, the evaluation process, ma'am, you have
5 gone through it with Mr. Bogel in some detail, but I want to
6 go back through it.

7 When you met with Mr. Miller, you met with him for
8 approximately four hours, is that correct?

9 A. That's correct.

10 Q. Okay. During that time I think you put in your report
11 that he was cooperative and he maintained focus?

12 A. Uh-huh.

13 Q. You had no issues with him during the evaluation,
14 correct?

15 A. No, he was -- no.

16 Q. Okay. And you have had evaluations where people are
17 not being cooperative and not being helpful and not telling
18 the truth, correct?

19 A. Oh, yes, uh-huh.

20 Q. Okay. In this case I don't see anything in your report
21 saying that he was being untruthful or not providing you the
22 information that you requested.

23 A. Aside from the testing data that we talked about
24 yesterday, on one of the testing it looked like he was
25 trying to present himself in an overly positive light. That

1 was the only indication.

2 Q. What test was that?

3 A. It was the personality assessment inventory.

4 Q. And that's the only one that you are saying that he
5 didn't provide truthful information, or are you saying
6 that's what your evaluation is?

7 A. And possibly the PPG.

8 Q. Okay. And the PPG, if I remember correctly, you had
9 a -- there was no finding out of that because you couldn't
10 determine if it was him being manipulative, or some issue
11 with the machine, or some anxiety, or something? You can't
12 make a determination about that?

13 A. That's right.

14 Q. Okay. So you can't sit here today and say he wasn't
15 providing you correct information in there, because you just
16 don't know?

17 A. Right, that's a hypothesis, but there are other
18 hypotheses as well.

19 Q. Okay. Now, the evaluation, I want to go through it,
20 and I know that you have got this report and you have done
21 all these tests in regards to it. A lot of these tests, and
22 we can go through them, they really don't add anything to
23 what Dr. Harrison found in her report. Do you agree with
24 that? I mean, these are additional tests, but we get to the
25 same conclusion that he has pedophilia.

1 A. Some of the tests were more helpful than others in Mr.
2 Miller's case --

3 Q. Okay.

4 A. -- as is typically the case. And there were some
5 findings that assisted me beyond what Dr. Harrison found,
6 one of them being on the personality assessment inventory it
7 gave me a rule-out diagnosis of personality disorder not
8 otherwise specified with antisocial features, so that was of
9 assistance.

10 Q. Okay. So that's one. Let's go through each of them
11 here.

12 The initial test, this Conners' Continuous Performance
13 Test, that's the CPT II, correct?

14 A. Correct.

15 Q. Okay. You are saying in this one Mr. Miller responded
16 in a compliant manner and, therefore, the administration was
17 considered valid, correct?

18 A. Correct.

19 Q. Okay. Now, on this one it is a test designed for, I
20 guess, to determine if he's telling the truth, is that --

21 A. Many of the tests that we give have validity measures
22 or validity scales. It simply means those are scales
23 sensitive to how the individual is responding to the test.
24 And on this test it has a built-in validity scale and it
25 indicated that he was compliant and the results are valid.

1 Q. Okay. So we -- it then goes to make a determination as
2 to whether or not he's telling the truth, is that what we
3 are --

4 A. If he's responding in a forthright manner.

5 Q. Okay. Which is another way of saying he's being
6 truthful, right?

7 A. Sure.

8 Q. Okay. So this test right here tells you that what he
9 is presenting to you during this evaluation is truthful?
10 He's not misleading you?

11 A. Well, this particular test, one looks at the computer
12 screen and an X appears on the computer screen and you have
13 to press the space bar on time. It's a measure of attention
14 and impulsivity. So to say truthful, it means that he was
15 compliant with that test.

16 Q. And the reason you do that is because you want to get a
17 baseline to understand if he is going to be truthful or
18 compliant or give -- I mean, I guess compliant answers
19 during this evaluation, is that right?

20 A. Well, this is just simply part of the test. This is
21 how the test is designed and this test -- Mr. Miller has a
22 history of Attention Deficit Hyperactivity Disorder. That
23 diagnosis is in his records. So this test would help us
24 figure out if that's still something that is clinically
25 appropriate for him or not.

1 Q. Okay. As a result you found out this, and I think your
2 response was that he has been compliant, and we will just
3 forward after that, is that right?

4 A. He was compliant with this test, yes.

5 Q. Okay. Now, the substance abuse test, from my
6 understanding, from recalling your testimony, this really
7 didn't add anything, because you don't believe that he has a
8 substance dependence disorder?

9 A. Well, he -- this test indicated that Mr. Miller had a
10 low probability for a substance dependence disorder, which
11 is important for us to know, because his history, he's
12 diagnosed with alcohol disorders and marijuana disorders, so
13 that's important for us to know.

14 Q. And you do this to determine whether or not substance
15 abuse is affecting him and how he relates to individuals or
16 recidivism and all that, is that correct?

17 A. Yes.

18 Q. Okay. Now, the person -- the other -- let's see, the
19 personality assessment inventory, this was -- was it
20 basically designed for a clinical assessment of
21 psychopathology and personality? Is that what that test is
22 to determine?

23 A. Yes.

24 Q. Okay. Now, it's my understanding -- I mean, you put in
25 here the clinical scales did not indicate clinically

1 significant elevations to indicate the presence of clinical
2 psychopathology, is that right?

3 A. Yes.

4 Q. Now, my understanding of this test, and this is what
5 I'm trying to kind of understand it, if these tests were
6 needed, we are determined -- you made a determination he's a
7 pedophile and he's got some antisocial traits, correct?

8 A. Correct.

9 Q. From my review of this, what does this add to that
10 diagnosis, or, I guess, corroborate any of that? It doesn't
11 seem like there is anything in there that relates to that.

12 A. Well, the diagnostic consideration that the PAI came up
13 with is personality disorder not otherwise specified with
14 antisocial features, so that was relevant.

15 Q. Okay. Now, the Abel Assessment that we discussed,
16 there was not -- from my understanding, this was a -- we
17 didn't get a clear result in regards to that, right?

18 A. Well, there are -- there is two parts to the Abel. So
19 there is a questionnaire part where the individual fills out
20 questions about their sexual history; have they been
21 sexually abused.

22 Q. Right.

23 A. Reviewed sexual behaviors, those sorts of things. So
24 that's -- that was data from that part.

25 Q. Right. And you believe he's being truthful in regards

1 to information he submitted?

2 A. There is no validity measure on the questionnaire.

3 It's simply what somebody reports.

4 Q. Okay. You mark him as low on the scale of cognitive
5 distortion.

6 A. Correct. The -- well, I didn't mark him as low. The
7 test found him as low on this particular measure.

8 Q. And that's -- tell me what that means when it's marked
9 as low.

10 A. The test has questions about justifications for sexual
11 misconduct, and on this test Mr. Miller came up as low on
12 that scale.

13 Q. And last test that you did was the PPG. I think --
14 well, actually, excuse me, you have done the Static-99 and
15 we'll get to that in a second, but the PPG, which came up
16 inconclusive, and you listed numerous reasons it could come
17 up inconclusive is anxiety; effects of medication; effects
18 of illicit use of substances; erectile dysfunction due to a
19 general medical diagnosis; lack of stimuli that is arousing
20 for the examinee; purposeful manipulation; I think being one
21 of the low percentages of the males who do not sexually
22 respond during the PPG. Those are all things --

23 A. Sure.

24 Q. -- that could have led this to be inconclusive?

25 A. That's correct.

1 Q. You can't tell us which one they are or which one
2 definitively made it inconclusive?

3 A. That's right. I mean, some of them, effects of
4 medications, we have his medication history. He's denying
5 substances. Some of that would go of self-report, but you
6 are right, we can't definitively say which one of those
7 impacted his performance on the PPG.

8 Q. Okay. And I'm trying to -- in my mind I'm trying to
9 try to decipher and in this case there is two things. We
10 are trying to determine whether or not he has a sexual
11 disorder, and I think you and Dr. Harrison agree he's got at
12 least pedophilia?

13 A. Yes.

14 Q. Okay. These tests -- and what I'm trying to get a
15 better understanding of, the ones we have just discussed,
16 those are the ones that deal with defining or giving a
17 diagnosis in regard to sexual disorder, correct?

18 A. Correct.

19 Q. Okay. So we agree he's got pedophilia, okay. And then
20 the question we got to get down to is if he has these
21 antisocial traits, because, as you have seen, Dr. Harrison
22 doesn't give him that diagnosis.

23 A. Correct.

24 Q. Okay. Now, your diagnosis in regards to antisocial
25 traits, that's based off of your reviewing his Patrick B.

1 Harris records, correct?

2 A. It's based on the totality of the evaluation.

3 Q. Okay. And let's break that down, because I want the
4 jury to understand exactly what you are basing it on.

5 You reviewed his Patrick B. Harris records?

6 A. Correct.

7 Q. What other things are you saying came out in the
8 evaluation that showed that he has an antisocial trait?

9 A. His criminal history, I had that available to me.
10 His -- the clinical interview. Things came out in the
11 clinical interview. Looking over his treatment records from
12 SCDC. Speaking with collateral sources. All of these
13 things go into a diagnosis. I would not use one set of data
14 to make a diagnosis with somebody.

15 Q. Would you or would you not agree that most individuals
16 that are in the Department of Corrections have some
17 antisocial traits?

18 A. There is a high percentage.

19 Q. Okay. So this is not uncommon to see an individual
20 that is in the Department of Corrections having these type
21 of traits, right?

22 A. No.

23 Q. Okay. In this case the only difference that we have is
24 is that he is sitting here trying to be confined for a
25 sexual violent predator case, where there are others that

1 could be in jail there for murder --

2 A. Uh-huh.

3 Q. -- armed robbery that have these type of traits?

4 A. That's correct.

5 Q. Okay. So that, I guess, diagnosis, does it deal simply
6 with his being able to follow rules and obey society? Is
7 that what -- is that what you are drawing out of that?

8 A. Well, the criteria for the diagnosis is more than that.
9 That's one criterion.

10 Q. Okay. I guess what I'm trying to understand is I'm
11 trying to piece together. Pedophilia, we know he has an
12 issue in regards to that, and that deals with I guess an
13 interest in prepubescent or females, something of that
14 nature, correct?

15 A. Correct.

16 Q. Now, antisocial gets into something totally outside of
17 that, which way he relates to individuals, society and other
18 things and follows directions and orders, correct?

19 A. Yes.

20 Q. Okay. So you are putting those two together, from my
21 understanding, to say that he has these, has this issue, and
22 he is not going to follow the rules to monitor or keep this
23 pedophilia in check, is that what I'm understanding?

24 A. Well, if somebody has pedophilia and then they also
25 have antisocial traits, meaning they have shown a repetitive

1 history of failing to conform their conduct to the law, you
2 put those things together and that elevates their risk of
3 sexual re-offense. That's why that's an important factor in
4 these types of cases.

5 Q. Okay. So it's a risk -- it's an elevation of the risk
6 with him is pretty much what it is?

7 A. Yes.

8 Q. So the Static-99, and I want to go into that, because
9 that's the key to this risk of recidivism, which I guess is
10 risk of re-offending, is that right, what the Static-99-R
11 measures?

12 A. It's a measure, yes. That's the measure that has the
13 risk factors to see if somebody is at risk, how much at risk
14 they are to sexually re-offend, yes.

15 Q. Okay. So you took all of this into play and I think
16 you have now said he is at a three, which is a low to
17 moderate risk level, is that correct?

18 A. Correct.

19 Q. Okay. My understanding, in going back and reviewing,
20 is that you said there is a twelve percent likelihood that
21 he's going to re-offend within the next -- I mean, this
22 group -- excuse me, I got to make sure I say that right.

23 The group, because it's not simply focusing on him,
24 it's focusing on a group of individuals, that there is a
25 twelve percent likelihood that individuals in that group

1 will re-offend within five years?

2 A. Right, and re-offend sexually, not re-offend by getting
3 a traffic ticket.

4 Q. Okay.

5 A. There is a twelve percent chance of re-offending
6 sexually.

7 Q. So we are sitting here, we have got twelve percent out
8 of a group and we don't -- do you know how big that group
9 is?

10 A. Thousands of individuals have been studied with the
11 Static.

12 Q. So thousands -- I mean, do you know how many thousands,
13 because that's --

14 A. No.

15 Q. Okay. So we only have twelve percent out of that group
16 is going to re-offend in five years?

17 A. Yes.

18 Q. But there is eighty-eight percent that aren't going to
19 re-offend, right?

20 A. Well, they have lower percentages of re-offending over
21 those five years. To say they are not going to re-offend is
22 not accurate.

23 Q. But I think that's -- so your testimony I thought was
24 said that there was twelve percent of these individuals are
25 likely to re-offend?

1 A. People with that score -- in the research studies that
2 they have done on the Static, people with the score of three
3 sexually re-offend at a rate of twelve percent over five
4 years.

5 Q. Okay. So eighty-eight percent do not re-offend out of
6 that group over a five year period, right?

7 A. They would have a lower percentage of re-offending.

8 Q. Okay.

9 A. Not that they do not re-offend.

10 Q. Okay. And sitting here today I have read through the
11 Static-99-R and all the language that says you are really
12 not sure -- I mean, you have got no idea sitting here today
13 the likelihood of re-offense?

14 A. We -- yeah, we don't have a crystal ball. We can't
15 tell what somebody is going to do tomorrow, but we have the
16 best measures that are available to us and we utilize those.

17 Q. But you are going to sit here today and tell this jury
18 that twelve percent is the best number that you can come up
19 with that he's likely to re-offend, is that right?

20 A. That is only based on the Static. That does not take
21 into account other risk factors that would elevate his risks
22 beyond the Static.

23 Q. Tell me -- I think -- let me go through.

24 He's attended the sex offender treatment program in the
25 Department of Corrections?

1 A. Yes.

2 Q. Correct?

3 A. Yes, uh-huh.

4 Q. So that's a step toward controlling or managing this
5 pedophilia and antisocial traits that you say that he has,
6 correct?

7 A. That is where someone could learn how to manage their
8 disorder.

9 Q. Okay. But you would also agree that there are
10 individuals that have these same type of problems who don't
11 voluntarily commit themselves to this program at the
12 Department of Corrections, agreed?

13 A. I guess so, there is people that choose not to go
14 through.

15 Q. Right. And you don't have to go through it, correct?

16 A. No.

17 Q. Okay. It's a voluntary program that he's put himself
18 into?

19 A. Yes.

20 Q. Okay. Now, he has not -- he's been in the Department
21 of Corrections since, I guess, 2010. I will have to go back
22 and look.

23 A. 2010.

24 Q. 2010.

25 During that time he hadn't had any disciplinary issues

1 or any problems that he's been found, I guess, to violate
2 any rules down there?

3 A. Correct.

4 Q. Okay. During your conversation with him I think you
5 went into -- and I want to make sure because this was a big
6 point of his post-detention plans, what he's going to do
7 when he gets out. I think one of the conversations you had
8 with him, he was going to reside with an individual that was
9 a former sexually violent predator?

10 A. Yes.

11 Q. Correct. Okay.

12 Now, did you go in -- and I have read your report. My
13 understanding during the conversation was that he -- that
14 was the initial step for him to get out of jail, prison, he
15 was going to live with that individual and then he was going
16 to try to find a means of living with his mother, cousin,
17 some other relative, is that correct?

18 A. Well, he's estranged from all of his family. He has
19 not spoken with his family since at least 2008. So he
20 mentioned some cousins he might try and live with, but he
21 hasn't spoken with them since 2005, so before this sex
22 offense, before these charges.

23 Q. All right. But you would also agree that it was not
24 his sole plan to live for the rest of his life with this
25 sexually violent predator, is that correct?

1 A. He mentioned trying to find some family members after
2 living with this person.

3 Q. He also mentioned trying to find some work and trying
4 to do other things to help himself out, correct?

5 A. Right, he wants to work at a zoo.

6 Q. Okay. Now, let's go to that zoo comment.

7 A. Sure.

8 Q. From my review of your report, you asked him what his
9 ideal job is.

10 A. Uh-huh.

11 Q. Okay. You didn't ask him what he was going to do when
12 he walked out of prison to go and work. You asked him what
13 he liked to do, correct?

14 A. Correct.

15 Q. Okay. So to sit here and tell the jury that he wanted
16 to go work in a zoo and be around kids was not what he said,
17 right?

18 A. Well, he had already worked at a zoo and he liked it.
19 He said he was good at it and that was his ideal job, so it
20 would make sense that he would pursue that.

21 Q. Well, my ideal job would still be being professional
22 football like I was, but I'm not able to do that, and he
23 knows he's not able to play or be able to be a part of a zoo
24 based upon his past criminal record, correct?

25 A. He worked at a zoo when he was on the sex offender

1 registry. He already did that.

2 Q. You would agree he didn't say "I'm walking out and
3 going to go get a job at a zoo tomorrow to be around kids,"
4 right?.

5 A. He did not. He did not say that.

6 Q. Okay. Now, a comment -- now, I think you -- did you
7 call his grandmother, Ms. Remmert, to have a discussion with
8 her?

9 A. He did not know his grandmother's number. I called his
10 mother. He did know his mother's number.

11 Q. Okay. So you couldn't get in touch with his
12 grandmother?

13 A. Correct. I didn't have a number for his grandmother.

14 Q. Did you talk to any former employers, anybody else that
15 could give you any background in regards to him?

16 A. No. I tried to call his mother and she did not return
17 my call.

18 Q. So no employers?

19 A. No, no employers.

20 Q. Okay. Now, he has -- I want to make sure. He's been
21 truthful and has admitted things in here about what he has
22 done, correct?

23 A. Correct.

24 Q. Okay. He also has apologized for the things he's done,
25 correct?

1 A. I'm not sure. Apologized to who?

2 Q. Apologized to the victims.

3 A. No, he told me he would like to do that, once they are
4 old enough, but he has not had contact with them, to my
5 knowledge, to apologize.

6 Q. Okay. Well, maybe I'm saying it the wrong way. He has
7 not expressed it to the victims themselves, but he has
8 acknowledged that he apologizes for these actions that he's
9 taken?

10 A. He stated he would like to apologize to them, once they
11 are old enough.

12 Q. Maybe I should it this way. Is he remorseful for what
13 he's done?

14 A. He said he would like to apologize to them.

15 Q. Okay. Well, I mean, let me ask it a different way. Do
16 you believe that he is remorseful for what he's done?

17 A. His words to me were different than what is found in
18 his records about accepting responsibility and how he
19 conceives of his actions in that respect.

20 Q. You would agree that the biggest acceptance of
21 responsibility that you can do is by pleading guilty and
22 putting him -- and doing that, correct? Wouldn't you say
23 that?

24 A. I'm not sure I follow.

25 Q. Okay. Do you agree that by accepting responsibility

1 and pleading guilty, he's acknowledging that he's done
2 something wrong?

3 A. Yes.

4 Q. Okay. You are just saying that you -- I'm trying to go
5 back to your report. I thought he openly apologized and
6 said that he was sorry for doing these crimes.

7 A. The way I recall it is he wanted to apologize to the
8 victims and if he had the chance, that he would.

9 Q. He's going to be on the sex offender registry when he's
10 released, correct?

11 A. Correct.

12 Q. Okay. And he's got to -- I guess he will be on that
13 for the rest of his life, right?

14 A. He was on that prior. He's been on that since his 1994
15 charge.

16 Q. Okay. Did you go over -- I know that you -- these
17 failure to register on the sex offender allegation, did you
18 review any of the records to those?

19 A. I have his criminal history where those are listed, and
20 then I discussed with Mr. Miller each of those charges, but
21 I didn't have any records from law enforcement on those
22 charges.

23 Q. So you -- other than what you received from Mr. Miller
24 and reviewing his what we call the NCIC --

25 A. Uh-huh.

1 Q. -- report, you don't have any of the background or
2 specifics about those charges?

3 A. No.

4 Q. Okay. So you don't know -- except from what you
5 received, you don't know why these happened?

6 A. I know what he told me.

7 Q. Okay. But other than that, you haven't gone
8 specifically to get that information?

9 A. No. ..

10 Q. Okay. Now, in this situation, if Mr. Miller is
11 released, has counseling, lives with an individual, has a
12 good support group, and manages his pedophilia, are you
13 comfortable with him being released at that point in time?

14 A. Mr. Miller stated to me that he did not need treatment
15 any more, so I would have doubts about him seeking out any
16 counseling, and there is nothing to mandate that, and his
17 good support group is living with another registered sex
18 offender.

19 Q. Okay. I appreciate your analysis of that question.

20 My question was if he does those things, then do you
21 believe that he should be released or he should be confined?

22 A. He needs to be confined for the treatment.

23 Q. Okay. But if he was having that support group, doing
24 what he needs to do counseling-wise, managing his
25 pedophilia, then you still believe he should be confined?

1 MR. BOGEL: Objection. It calls for speculation.

2 THE COURT: Overruled...

3 MR. BOGEL: Thank you.

4 A. I believe he needs to be confined currently for
5 treatment. What you are suggesting may work down the road,
6 but he needs treatment in a confined setting at this point.

7 BY MR. ARIAIL:

8 Q. And he has had that treatment in a confined setting,
9 hasn't he, with the sex offender treatment?

10 A. Yes.

11 Q. Okay. So --

12 MR. ARIAIL: Your Honor, I'm going to check with
13 my client real quick.

14 (Off the record)

15 (Back on the record)

16 MR. ARIAIL: Your Honor, I have no further
17 questions.

18 THE COURT: Redirect, Mr. Bogel?

19 MR. BOGEL: Yes, Your Honor, very briefly.

20 REDIRECT EXAMINATION BY MR. BOGEL:

21 Q. Dr. Knight, is it just the number of sex offenses that
22 counts when you are doing an evaluation like this?

23 A. That counts for --

24 Q. The quantity of sex offense that counts toward
25 recommending that he be confined for treatment versus he not

1 be confined? Is it just the number that --

2 A. No, we look at the totality of the sexual offense, what
3 happened, the severity.

4 Q. When you say totality, what do you mean?

5 A. All of the circumstances around that sexual offense;
6 who the victim was, what were the -- what did the abuse
7 consists of. All of those things.

8 Q. Okay. Does that also include how he explains to you
9 what happened and what his motivation was?

10 A. Yes.

11 Q. Is that also a factor that you look at?

12 A. Yes.

13 Q. When our office retains the Medical University -- as I
14 understand your testimony, when our office retains the
15 Medical University to look at one of these cases, then Dr.
16 Dwyer runs the lab that does this and he decides who gets
17 it, and in this case he got you?

18 A. Yes.

19 Q. Or he appointed -- he designated the case to you, is
20 that right?

21 A. That's right, yes.

22 Q. Is there anything in the communication from our office
23 that hires MUSC or communications to you that suggests we
24 want a particular result?

25 A. No.

1 Q. Okay. Have you ever felt that there was any pressure
2 on from our office to hey, decide it this way as opposed to
3 that way?

4 A. No.

5 Q. Okay. The antisocial traits disorder that you -- tell
6 me again what that disorder was called.

7 A. Other -- personality disorder not otherwise specified
8 antisocial traits.

9 Q. Oka. And the criteria for that would be what?

10 A. Antisocial traits are failure to conform one's conduct
11 to the law.

12 Q. Okay.

13 A. Irresponsibility, aggressiveness, deceitfulness, those
14 types of traits.

15 Q. Okay. And the failure to respond to the law, we have
16 those sex offender convictions. We have the other
17 convictions, right?

18 A. Yes.

19 Q. The aggressiveness, where does that come from?

20 A. The aggressiveness comes from past history of criminal
21 domestic violence charges, punching a peer at a hospital,
22 his records from the sex offender treatment program at SCDC.
23 He described the problem with anger as a child.

24 Q. Uh-huh. What about the irresponsibility criteria you
25 mentioned just a second ago?

1 A. For example, one's job history. Mr. Miller has had
2 over fifty jobs. He only stays at a job about six weeks
3 before picking up and moving on. He has defaulted on a bank
4 loan. He's failed to abide at least three times by the sex
5 offender registry resulting in charges.

6 Q. Now, counsel asked you about how accepting -- in fact,
7 if I remember this right, one of his question questions had
8 to do with how accepting responsibility -- when you plead
9 guilty to an offense, it shows that you are accepting
10 responsibility. Do you remember that question along those
11 lines?

12 A. Yes.

13 Q. Now, regarding the North Carolina crime that happened
14 back in 1994, he did plead guilty to that, did he not?

15 A. Yes.

16 Q. But did he deny doing that when he talked to you?

17 A. Yes.

18 Q. Okay. Is there anything you're aware of, based on
19 talking to Mr. Miller and looking at the additional sources
20 that you talked to, that suggests to you he has some kind of
21 counseling set up if he gets released?

22 A. No.

23 Q. Anything arranged, any appointment made, any doctor
24 identified, any counseling service, anything like that out
25 there that you know of?

1 A. No.

2 Q. Okay. There is no probation hanging over his head, is
3 that right?

4 A. Correct.

5 Q. So he hasn't got a suspended sentence that could be
6 unloaded on him if he had violated probation by not going to
7 offender treatment?

8 A. No.

9 Q. Okay. Thank you, doctor.

10 MR. ARIAIL: No further questions, Your Honor.

11 THE COURT: All right. Thank you. You may step
12 down.

13 Any reason why Dr. Knight can't be excused or are
14 you going to ask her to stick around?

15 MR. BOGEL: We are going to have her stick around
16 for a few minutes, Your Honor. Thank you, though.

17 THE COURT: Call your next witness, please, sir.

18 MR. ARIAIL: Your Honor, I call Dr. Kimberly
19 Harris.

20 MR. BOGEL: Whoa, whoa, whoa.

21 MR. ARIAIL: Excuse me, I'm sorry.

22 THE COURT: That's all right. That's all right.

23 MR. BOGEL: I'm sorry. May it please the court,
24 the State would rest at this time.

25 THE COURT: Very good.

1 Madam Forelady, ladies and gentlemen of the jury,
2 I have a couple of administrative matters I need to take up
3 at this time. If you would go back to your jury room. I
4 anticipate it would be roughly twenty minutes, or so. If
5 you need anything, let the bailiffs know and we will make
6 sure they get it for you.

7 (The following takes place outside the presence of
8 the jury panel)

9 THE COURT: All right, any motions?

10 MR. ARIAIL: Sorry, Your Honor.

11 THE COURT: That's all right.

12 MR. ARIAIL: I knew he was done. I was -- that's
13 it right there.

14 THE COURT: In the NFL they might qualify that as
15 being offsides.

16 MR. ARIAIL: That was a fifteen yard penalty.

17 MR. BOGEL: Illegal procedure.

18 THE COURT: Are you going to make a directed
19 verdict motion?

20 MR. ARIAIL: No, Your Honor, no motions at this
21 time.

22 THE COURT: Very good. Are you ready to call your
23 first witness?

24 MR. ARIAIL: Yes.

25 THE COURT: Okay.

1 DR. KIMBERLY HARRISON, having been first duly
2 sworn, testified as follows:

3 THE CLERK: State your name, please.

4 THE WITNESS: Kimberly Harrison.

5 THE CLERK: Thank you. Be seated.

6 DIRECT EXAMINATION BY MR. ARIAIL:

7 Q. Dr. Harrison, how are you doing today?

8 A. I'm doing well. Thank you.

9 Q. Good. Thank you.

10 For the jury's purposes, I know that you have come all
11 the way from Texas. Can you give us a little bit of your
12 background regarding your education? Let's start off with
13 that.

14 A. Sure. I have a Bachelor's Degree in Psychology, a
15 Masters Degree in Psychology, and a Ph.D. or a Doctoral
16 Degree in Clinical Psychology.

17 Q. And where did you go to undergraduate?

18 A. I went to Texas A&M University for my Bachelor's
19 Degree, and then to the University of North Texas for my
20 Masters and Doctoral Degrees.

21 Q. Okay. Now, the doctoral degrees, if I'm understanding,
22 were clinical psychology. Is that your doctoral?

23 A. Correct.

24 Q. Now, you have also, I guess -- give us a little bit of
25 your background in regards to forensic psychology.

1 A. Sure. Most of my research that I conducted while in
2 graduate school was focused on the area of forensic clinical
3 psychology. I worked with a leader in the field of forensic
4 psychology during my graduate training.

5 My pre-doctoral internship I did at Tascodara State
6 Hospital in California, which is a maximum security forensic
7 hospital for the State of California. And there I provided
8 treatment to and evaluations on a wide variety of forensic
9 patients, including sexually violent predators in
10 California.

11 After my internship and I received my Ph.D. I then went
12 on to do a forensic psychology post-doctoral fellowship and
13 that was done in the State of Minnesota. State Operated
14 Forensic Services is the name of that state agency. And in
15 that capacity I did a number of different types of forensic
16 evaluations, including insanity evaluations, competency to
17 stand trial evaluations, different types of risk
18 assessments, as well as evaluations under their -- they
19 don't call it sexually violent predator, but it's called
20 sexually dangerous persons. It's a similar type of law.

21 Q. Okay. So your background, I guess, training, doctoral
22 path has been pretty much along the line of sexually violent
23 predators evaluation, cases like this, is that correct?

24 A. Yes, different types of forensic evaluations, to
25 include sexually violent predators.

1 Q. Okay. And then in 2008 I think you came to South
2 Carolina from -- was it Minnesota, is that correct?

3 A. Correct.

4 Q. Okay. And tell me, when you came to South Carolina,
5 how did you begin your career? Where did you go when you
6 came to South Carolina in 2008?

7 A. I was hired by the South Carolina Department of Mental
8 Health as a chief psychologist with the Forensic Evaluations
9 Service. And so in that role, this was in Columbia, I
10 conducted forensic evaluations on both criminal defendants,
11 so competency to stand trial, insanity types of evaluations,
12 as well as evaluations for the SVP program, the treatment
13 program, and these types of pre-commitment evaluations as
14 well.

15 Q. Okay. And you did that for I think until February of
16 2014, is that correct?

17 A. That's correct.

18 Q. Okay. And during that time you were the chief
19 psychologist. You were also Department of Mental Health
20 assistant professor, is that correct?

21 A. At the University of South Carolina's School of
22 Medicine, I was also on faculty there. And in that role I
23 helped supervise medical students, psychiatry residents and
24 forensic psychiatry fellows. I did some lectures for them,
25 as well as supervised some of their clinical practice as

1 well.

2 Q. In February of 2014, you I think -- did you go back to
3 Texas, is that correct?

4 A. That's correct, I moved back to Texas at the very end
5 of February of this year.

6 Q. Okay. And your whole time while you have been doing
7 that is I guess you were also -- from 2010 to 2014, you were
8 in private practice also. You were -- is that how that
9 works?

10 A. Yes, while I was in Columbia I also did some private
11 practice work through the university's specialty clinics,
12 different types of evaluations outside of the forensic
13 realm, just more sort of general types of clinical
14 evaluations.

15 Q. Now, in regards to the sexually violent predator cases,
16 which we are here today and which you provided an
17 evaluation, how many evaluations have you done in regards to
18 sexually violent predator cases?

19 A. In the State of South Carolina, so pursuant to this
20 particular statute, I have conducted 138 evaluations.

21 Q. And I tried to go through a little bit with Dr. Knight.
22 Maybe you can help us out. There is pre-commitment, which
23 we are here today for Mr. Miller, and then there are annual
24 reviews where these individuals come up for annual reviews
25 in regards to their treatment process. How many of those?

1 Can you tell us --

2 A. Sure.

3 Q. -- the numbers?

4 A. I have done twenty-four of the pre-commitment
5 evaluations and 106 of the annual review evaluations.

6 Q. Okay. So in regards to the twenty-four that you have
7 done for pre-commitment, can you give us a little bit of an
8 understanding of how they were kind of split between
9 confinement, which your recommendation is for confinement
10 versus being released?

11 A. Yes. In the pre-commitment evaluations I have done, I
12 have recommended commitment on seven of the individuals and
13 I have opined that they did not meet criteria for the other
14 seventeen.

15 Q. Okay. Now, as part of this process when you do these
16 evaluations, you are required to be an expert in some of
17 these cases, as you are right now, how many times have you
18 been qualified as an expert in the field of forensic and
19 clinical psychology?

20 A. Approximately -- well, fifty-two times.

21 Q. Okay. How many times in the State of South Carolina?

22 A. Forty-eight times.

23 Q. Okay. Now, in regards to these cases, I guess we've
24 said the SVP cases specifically, I think that was all your
25 times that you have been qualified as an expert?

1 A. Right.

2 Q. In regards to SVP cases, how many times have you been
3 qualified as an expert in clinical or forensic psychology in
4 these cases?

5 A. Thirty-six times.

6 Q. And have you testified in all of those cases, or you
7 just --

8 A. Yes, those are all times that I have testified, was
9 qualified as an expert.

10 Q. Okay.

11 MR. ARIAIL: Your Honor, at this time I would move
12 that she be admitted as an expert on the basis of clinical
13 and forensic psychology.

14 THE COURT: Clinical and forensic?

15 MR. ARIAIL: Yes, Your Honor.

16 THE COURT: Any voir dire, Mr. Bogel?

17 MR. BOGEL: No, Your Honor. No objection.

18 THE COURT: All right, ladies and gentlemen, as I
19 told you yesterday, usually a person, when they testify,
20 it's limited in the type of areas they can testify to to
21 what they saw, they heard, they smelled, they felt.
22 However, a person, because of their education or experience,
23 or a combination of both, if the area is helpful to you, the
24 jury as finders of fact, is allowed to give their opinions
25 in the areas of their expertise.

1 In this case it's agreed that this expert, Ms.
2 Kimberly Harrison, is an expert in clinical forensic
3 psychology. She will be allowed to give her opinion in that
4 area.

5 As I told you yesterday, expert opinion is like
6 any other opinion you will find in a case. You may accept
7 it, you may reject it, but give it as much weight as you
8 believe it deserves. Okay.

9 MR. ARIAIL: Thank you, Your Honor.

10 BY MR. ARIAIL:

11 Q. Dr. Harrison, I want to take you back for what we are
12 here today. You did an evaluation in regards to Mr. Miller,
13 correct?

14 A. Correct.

15 Q. Okay. And the date of that evaluation I think was
16 August 22nd, 2013?

17 A. That's correct.

18 Q. Okay. Your evaluations, can you give the jury an
19 understanding of how the evaluation process works with the
20 Department of Mental Health? Just give them a little
21 background of after you were appointed on this case how
22 things proceeded.

23 A. Sure. I was appointed by the court in this case as an
24 employee of DMH, Department of Mental Health, to conduct
25 this evaluation, and so we received a packet of information

1 that comes from the Attorney General's Office. We also
2 receive records from the Department of Corrections where the
3 person is incarcerated.

4 We scheduled the evaluation. I meet with the
5 respondent, in this case Mr. Miller. I do an interview with
6 him. If necessary, I conduct psychological testing. That
7 just depends on the individual case and if it's necessary
8 and relevant.

9 We attempt to obtain any other records that may be
10 pertinent to the case; mental health records, other legal
11 records. We are just trying to get as many records and
12 sources as possible to conduct the evaluation.

13 After meeting with the respondent and reviewing all the
14 information then I write a report that is sent to Mr.
15 Miller's attorney, the Attorney General's Office, and the
16 court.

17 Q. Okay. And we have gone through a little bit of the
18 background, and Judge McIntosh has told them what the law is
19 kind of in this, but when you do an evaluation, can you, I
20 guess, break it down exactly what you are looking for and
21 how, I guess, the items you are looking to see whether or
22 not this individual falls within the criteria of the Act?

23 A. Sure. So there are basically three elements for a
24 person to be considered for commitment. The first one is
25 that he's been convicted of a sexually violent act, which by

1 the time they get to me, that's already been verified by the
2 court and all the other players involved. So we know that
3 in this case Mr. Miller has been convicted of a lewd act,
4 which is considered a sexually violent crime.

5 The second element is does the person have a mental
6 abnormality or personality disorder that's relevant to the
7 Sexually Violent Predator Act. And so that's where my
8 evaluation really starts is I'm trying to determine does
9 this person have such a mental abnormality or personality
10 disorder.

11 And then the third element is does that mental
12 abnormality or personality disorder make the individual
13 likely to commit acts of sexual violence in the future.

14 So those last two parts of it are the parts that I'm
15 most concerned with in my evaluation.

16 Q. Okay. In this case you met with Mr. Miller and
17 conducted an evaluation?

18 A. Yes.

19 Q. Okay. And before that you had and received
20 information, I guess, regarding his background, medical
21 records, his criminal record and all that information before
22 you did the evaluation, correct?

23 A. Correct.

24 Q. Okay. Now, when you spoke with Mr. Miller, can you
25 give us a little understanding of how the evaluation went

1 and what type of demeanor he was, what he had?

2 A. Sure. I was informed the person, what the purpose of
3 the evaluation is, that anything they say to me can go into
4 my report. That way there is no miscommunication or they
5 don't think that I'm their treating doctor who is going to
6 provide confidentiality, so that they know this is an
7 evaluation for the court.

8 With me and Mr. Miller he was cooperative. He answered
9 all of my questions. He didn't become aggressive or angry
10 during the evaluation, so he was -- he was an easy person to
11 evaluate.

12 Q. Was he -- did you feel that he was truthful and
13 provided you, I guess, information that was going to let
14 you, I guess, get a good read on the evaluation?

15 A. There were no indicators that he was being dishonest.

16 When I conduct these evaluations, I expect people to
17 try to put themselves in a positive light. Obviously they
18 are trying to avoid being committed, and so there is always
19 that, that they try to present themselves in the best
20 possible way, but I asked questions and asked them about
21 details that are in records that may sort of counteract what
22 they are telling me, so we worked through some of that.

23 Q. Now, you were sitting here during the testimony of Dr.
24 Knight, correct?

25 A. Yes, I did.

1 Q. You heard the facts that were part of these criminal
2 complaints and criminal charges that he had?

3 A. Yes.

4 Q. Was that all the information that you had when you went
5 in to do your review and evaluation of Mr. Miller?

6 A. Yes, I believe I had all that same information.

7 Q. Okay. And did you discuss that information with him
8 about the charges, about the facts of the cases, about
9 witness statements and all of that?

10 A. Yes, I did.

11 Q. Okay. Do you remember or can you recall from your
12 report as to what, you know, his response to those, his
13 either acknowledgement of those or whatever he said in
14 regards to those charges?

15 A. Sure. Well, with the first offense, the one that took
16 place in North Carolina in 1994, he denied committing that
17 offense. He said that -- I believe like he told Dr. Knight,
18 that the young girl had hurt herself on her bicycle or
19 tricycle and that's where her injuries came from. So that
20 was what he told me about that particular offense.

21 Then the other offenses, the more resent ones where he
22 was convicted of lewd act, he did acknowledge that he
23 engaged in anal intercourse with his niece and that he also
24 touched the other niece inappropriately. There was some
25 discrepancy on the timeline about how old the children were

1 when this happened, but he admitted to the essential
2 elements of it.

3 Q. Okay. During this time was he also -- did he express
4 any remorse or give any idea if he apologized for these
5 crimes?

6 A. Let me just refresh my memory here.

7 He told me about those offenses, that he felt really
8 ashamed. He said "I dishonored my family. I would really
9 like to apologize."

10 Q. Okay. Now, you have done -- and when you went through
11 this evaluation, you came up with and I think made a
12 diagnosis based on all the information that you had?

13 A. Yes, I did.

14 Q. What diagnosis did you give him after you reviewed
15 everything and did, I guess, your evaluation with him?

16 A. I diagnosed Mr. Miller with pedophilia, sexually
17 attracted to females, nonexclusive type.

18 Q. And that is the same diagnosis as Dr. Knight made,
19 correct?

20 A. That's correct.

21 Q. Okay. Now, was that -- and I read your report and I
22 want to understand. We went through several items with Dr.
23 Knight about various tests that you did. How did you come
24 about to, I guess, get that diagnosis of pedophilia?

25 A. Basically that diagnosis was given based on his history

1 of the sexual offenses and his admission that he had sexual
2 thoughts about his niece and masturbated to those thoughts.
3 So both having the thoughts and the fantasies and acting on
4 those thoughts and fantasies and that all occurred over a
5 period of at least six months, and so that meets the
6 criteria for pedophilia.

7 Q. Okay. Now, the other aspect -- and we will come back
8 to the pedophilia, but the other aspect or diagnosis -- did
9 you --

10 First of all, did you make any other diagnosis outside
11 of that one?

12 A. I did not. Based on his records from Patrick B. Harris
13 and some other things in his past, I, of course, considered
14 some other diagnoses. For example, at Patrick B. Harris he
15 had been diagnosed with depression, so I considered that. I
16 considered personality disorder personality diagnoses. I
17 didn't feel, though, that I had sufficient information.
18 There wasn't enough data for me to offer any other diagnosis
19 with any degree of certainty.

20 Q. Okay. And I guess maybe if we can go into that a
21 little bit more. I know Dr. Knight made a diagnosis of
22 antisocial traits?

23 A. Yes.

24 Q. I don't think I'm saying that -- there was some other
25 stuff, but why did you not feel that there was a diagnosis

1 for that, that he should be diagnosed with that?

2 A. Well, basically that -- she diagnosed him with a
3 personality disorder, and I don't think we have really
4 explained very much what a personality disorder is, because
5 that's -- that's sort of the issue here.

6 A personality disorder is a longstanding pervasive
7 pattern of interacting with the world, dealing with your
8 emotions that's really problematic, and that's sort of who
9 that person is. And there are several different types of
10 personality disorders; borderline personality disorder;
11 narcissistic personality disorder, paranoid personality
12 disorder.

13 And so to diagnosis any of those specific personality
14 disorders you have to meet the general criteria for
15 personality, first of all. And in my review of Mr. Miller's
16 history and his current presentation I didn't feel like he
17 demonstrated this pervasive lifelong pattern of
18 antisociality, which is essentially what you are saying when
19 you are diagnosing someone with a personality disorder.

20 Q. And when you say this -- I know we have heard testimony
21 in regards to criminal charges over a length of time, not
22 maintaining employment, defaulting on a bank note. Are
23 these all things that you took into consideration when you
24 made your -- when you did your evaluation?

25 A. Yes. I don't know that I was aware of the bank loan at

1 the time of my evaluation, but the other things, yes, I took
2 into account.

3 Q. Okay. And the other things, as part of that you had
4 those in front of you and decided or didn't make a diagnosis
5 in regards to this antisocial trait?

6 A. That's correct.

7 Q. Okay. Now -- and I tried to decipher this a little bit
8 when I was doing the cross-examination for Dr. Knight.
9 There is two steps -- I mean, I think there is three steps.
10 You said you have the charge --

11 A. Right.

12 Q. -- which we agree there is a charge there that's with
13 him.

14 There is also I guess the sexual disorder, which we are
15 saying is at least pedophilia. You agree with that?

16 A. Correct.

17 Q. Now, the next step is the likelihood to engage or
18 re-offend once someone is released, correct?

19 A. Correct.

20 Q. Okay. How do you as part of the evaluation go about
21 and analyze that prong of the Sexually Violent Predator Act?

22 A. Okay. So this third prong is sort of the risk
23 assessment element of it. And in this case I utilized the
24 Static-99, which we have already talked about. It's an
25 actuarial risk assessment measure, which basically means

1 it's just sort of a check list; does the person have this,
2 do they have this. And it's like if you are trying to
3 assess your risk maybe for having a heart attack in the
4 future. So if you have a family history of a heart attack;
5 have you, yourself, ever had attack in the past; what's your
6 history of smoking, these types of things. And so I relied
7 on the Static-99 as part of my risk assessment.

8 As already has been explained, Mr. Miller achieved a
9 score of a three -- or now he would be a score of a three,
10 because he's aged, and that score is associated with what
11 the authors considered to be a low moderate degree of risk
12 for sexual re-offending.

13 That score of three, when they looked at the samples of
14 sex offenders and they looked at the scores that various sex
15 offenders obtained on that measure, of those with the score
16 of three, twelve percent committed another sex offense over
17 five years. So that would be the level of risk associated
18 with that score; twelve percent over five years for that
19 group. So the risk assessment measure, the Static-99, is
20 sort of my base level of risk.

21 And then I looked to see if there are other risk
22 factors that may elevate his risk even more than that. And
23 so we know from the literature what some of the other risk
24 factors are. In my opinion, Mr. Miller's history is not
25 consistent with a significant number of these other risk

1 factors that would elevate his risks more than what the
2 Static is already accounting for. And we do know from
3 research that actuarial risk assessment measures, such as
4 the Static-99, have been proven to be the most accurate way
5 to predict risks in the future.

6 Q. Okay. So my understanding, and correct me if I'm
7 wrong, is that twelve percent are likely to re-offend out of
8 his three, moderate to low level, is that correct?

9 A. Well, the way it works, they looked at -- they had many
10 more than this, but if they had a hundred sex offenders that
11 had had a score of three, twelve of them re-offended over
12 five years.

13 Q. Right. And we don't know how large the group is of
14 this?

15 A. Right, it was much more than a hundred, but yes.

16 Q. But there is eighty-eight percent out of that group
17 that are not likely to re-offend?

18 A. In that sample eighty-eight percent of them did not
19 commit another sex offense.

20 Q. Okay. Now, is part of that likelihood to re-offend --
21 how does -- how does his sex offender treatment that he
22 received within the Department of Corrections, how does that
23 affect your opinion in regards to this?

24 A. This -- he -- he went through the sex offender
25 treatment that was provided, that was offered at the

1 Department of Corrections. According to the records he did
2 complete the treatment. He was required to take tests over
3 the information that was provided. He passed those tests.
4 And so he did, according to the Department of Corrections,
5 he did complete their treatment program. So they did
6 provide him with some information that he can use in the
7 future to help him avoid risky situations or getting himself
8 in trouble again.

9 The treatment that's provided at the Department of
10 Corrections is typically educational in nature. So they are
11 provided information. They are not asked to do a lot of
12 self-examination or self-disclosure. It's pretty much just
13 sort of educational.

14 Q. Okay. But that is a voluntary program, correct -- or,
15 excuse me, you don't have to -- it's not a mandatory program
16 where he has to go through that while he's at the Department
17 of Corrections?

18 A. Right, it's voluntary.

19 Q. Okay. Now, you reviewed his SCDC, South Carolina
20 Department of Corrections, disciplinary history, correct?

21 A. Yes.

22 Q. What did you learn from that?

23 A. That he did not have any disciplinary infractions
24 during his time in prison.

25 Q. How does that affect your opinion when you see that he

1 has had no issues while he's been in the Department of
2 Corrections?

3 A. Well, it suggests that has not been displaying
4 antisocial behaviors to such a degree that he is breaking
5 the rules in prisons.

6 Oftentimes I will evaluate people under this Act who
7 have pages and pages of infractions, which shows that even
8 in a controlled environment they are still getting in
9 trouble, they are still breaking the rules. He's not had
10 any of those during his time in prison.

11 Q. Okay. Now, we have also discussed and you have heard
12 about his, I guess, nonsexual criminal offenses and you
13 reviewed his record. How did that affect your opinion based
14 on reviewing his record?

15 A. Well, I definitely considered those other convictions
16 and they did go into his risk score. That is an element of
17 the Static-99 that's accounted for in that risk score.

18 Q. Okay. During your interview did you find him to be
19 manipulative or untrustworthy?

20 A. I did not notice any indicators, no, that he was
21 manipulative.

22 Q. And we have heard of these tests that were done. I
23 guess there were about six tests that you heard Dr. Knight
24 testify to. Did you use any of those tests?

25 A. I did not, no.

1 Q. Okay. And why -- I guess why from the standpoint of
2 the Department of Mental Health are you doing it differently
3 than she did?

4 A. I do testing if it's necessary, if in that particular
5 case there is some reason that would warrant psychological
6 testing. In this case I didn't feel like there was
7 anything, any testing that I could give, that would provide
8 any information over and above what I already had from the
9 records and from the interview. Many of the tests that
10 claimed measure, sexual interests, or sexual deviance are
11 plagued with problems in terms of their validity and their
12 reliability and those are tests that I would not rely on to
13 come to an opinion that's as important as this type of
14 case is.

15 The Department of Mental Health no longer uses the PPG,
16 for example, in these types of pre-commitment evaluations.

17 So, again, had any testing been warranted, in my
18 opinion, I would have administered it.

19 Q. Okay. And you also reviewed his Patrick B. Harris
20 records, is that correct?

21 A. Yes, I did.

22 Q. Okay. Now, as part of your evaluation you came up with
23 an opinion in regards to it, correct?

24 A. Yes, I did.

25 Q. Now, to a reasonable degree of psychological certainty,

1 do you believe Mr. Miller is likely to engage in future acts
2 of sexual violence?

3 A. Based on all the information that I had, and including
4 his diagnosis and his risk level, I cannot say that he's
5 likely to engage in acts of sexual violence.

6 Q. Okay. To a reasonable degree of psychological
7 certainty do you believe he is a part of an extremely
8 dangerous group of sex offenders that's under the Act that's
9 set forth in there?

10 A. No, the statute specifies that this Act is intended for
11 an extremely dangerous group of sex offenders, and I don't
12 believe -- based on all the other evaluations that I have
13 done under this Act, I don't believe that Mr. Miller falls
14 into that small, but extremely dangerous group.

15 Q. Okay. And, finally, do you -- to a reasonable degree
16 of psychological certainty, do you believe that Mr. Miller
17 meets the criteria under the SVP Act to be civilly confined?

18 A. No, do I not believe he does.

19 MR. ARIAIL: Thank you, Your Honor. I have no
20 further questions.

21 THE COURT: Cross-examination?

22 MR. BOGEL: Thank you, Your Honor. May it please
23 the court?

24 THE COURT: Yes, sir.

25

1 CROSS EXAMINATION BY MR. BOGEL:

2 Q. Hello, Dr. Harrison.

3 A. Good morning.

4 Q. Welcome back to South Carolina.

5 A. Thank you.

6 Q. Just a couple of quick questions.

7 Your title when you were working for the Department of
8 Mental Health was chief psychologist, right?

9 A. That's correct.

10 Q. They have a bunch of people called chief psychologists
11 out there, don't they?

12 A. All the psychologists that work in the forensic
13 evaluation service, their title is chief psychologist,
14 that's correct.

15 Q. So it's not like you are the only one?

16 A. No.

17 Q. Okay. Are you board certified in forensic psychology?

18 A. No, I'm not.

19 Q. Okay. Do you currently -- your present job right now
20 to conduct evaluations under the Texas equivalent of a
21 Sexually Violent Predator Act?

22 A. No, the system in Texas is quite different than the
23 system here. They are done exclusively in another part of
24 the State, so I have not gotten involved in those.

25 Q. Okay. And looking back, when you were doing these

1 pre-commitment evaluations for the Department of Mental
2 Health, I believe for all of 2013, do you know how many
3 evaluations for pre-commitment cases like this one you did
4 in the year 2013?

5 A. I don't. When I looked at my database I did not break
6 it down by year.

7 Q. Okay. Would you agree with me that during the year
8 2013, of all the evaluations that you did during that year,
9 you did not recommend a single person for commitment?

10 A. I don't know --

11 Q. Okay.

12 A. -- without looking at it.

13 Q. Okay. Now, regarding our fellow right here, Mr.
14 Miller, you did diagnose him as a pedophile. No question
15 about that?

16 A. Right.

17 Q. And by sexually attracted to females, that means his
18 interests in pre-puberty girls is in pre-puberty girls,
19 right?

20 A. That's correct.

21 Q. Because that's what his victim -- that's the profile of
22 all of his victims?

23 A. Correct.

24 Q. Okay. And non-exclusive means he also had sexual
25 relations with age appropriate women --

1 A. Yes.

2 Q. -- like sexual partners, things like that?

3 A. And he expressed his current interests in sexual
4 relationships with adult women.

5 Q. Okay. Regarding the -- do you know when he enrolled in
6 the sex offender treatment at the Department of Corrections,
7 when he began the program?

8 A. I don't think I have that specific date. I know that
9 they usually do it towards the end of their sentence as they
10 are coming up on their discharge date or release date, so
11 it's usually the last few months of their time in prison.

12 Q. Okay. Well, do you know when he maxed out of his
13 prison term; completed his prison term and was transferred
14 to the local detention center?

15 A. I don't. I believe -- back when I saw him, he was
16 still in prison, and I'm not sure what his max-out date was.

17 Q. Okay. Is there anything in your record to suggest that
18 he decided to enroll in the sex offender treatment at the
19 prison after he became aware that this proceeding had
20 started against him?

21 A. That I don't know.

22 Q. Okay. Now, did you also -- among the documents that
23 you review would have been the stuff from Harris -- is it
24 called Patrick Harris Psychiatric Hospital?

25 A. Patrick B. Harris.

1 Q. It's up here -- somewhere near here --

2 A. Anderson.

3 Q. Like in Spartanburg County, maybe, or in --

4 A. It's in Anderson.

5 Q. Anderson. Okay.

6 So you reviewed those records, right?

7 A. Yes, I did.

8 Q. And they -- there was things in there -- I'm looking at
9 page three of your report about him making excuses, about
10 resisting, about punching out a peer.

11 A. Yes.

12 Q. And they came up with a diagnosis of personality
13 disorder with antisocial features, right?

14 A. Yes, that was his diagnosis, among several diagnoses --

15 Q. Okay.

16 A. -- when he was discharged.

17 Q. And that was when he was there in 2009, about the time
18 he was being charged with the crime that led to the lewd act
19 conviction that we are here about today, right?

20 A. That's correct.

21 Q. And Dr. Knight, who testified already today, or
22 yesterday, rather, and today, she also diagnosed him with
23 that personality disorder with antisocial features, right?

24 A. Correct.

25 Q. But you did not?

1 A. Correct.

2 Q. Okay. Did you -- as you were going through these
3 records, did you like call down to Patrick Harris and say
4 "look, I'm not seeing it. What is it you guys saw that I'm
5 not seeing?"

6 A. No, I had no records --

7 Q. Did you contact anybody there?

8 A. I had their records --

9 Q. Okay.

10 A. -- and so I reviewed all of the reports that were
11 generated and made available to me during his stay there.

12 Q. Well, let me ask it again. Did you call someone down
13 there and say "hey, you know, I'm not seeing it. What did
14 you guys see that made you give that diagnosis?"

15 A. No, I did not call.

16 Q. Okay. And one of the things that you mentioned in your
17 report was he malingered -- "the feeling at Harris was that
18 he was malingering --

19 A. Yes.

20 Q. -- trying to fake it --

21 A. Correct.

22 Q. -- to beat the charges he knew were pending against
23 him."

24 A. Yes.

25 Q. Another comment he made, with regard to these -- now,

1 the North Carolina offenses there, there is no question he
2 denies doing that to you?

3 A. The North Carolina --

4 Q. I mean, he said "I didn't do it."

5 A. That's correct.

6 Q. Okay. And his excuse was the bicycle accident?

7 A. That's correct.

8 Q. Okay. In your work with pedophiles or people trying to
9 disclaim responsibility for abusing children, is that a
10 fairly common defense that "oh, she hurt herself on a
11 bicycle." Do you see that a lot?

12 A. I'm not sure that I have heard the specific bike
13 injury --

14 Q. Uh-huh.

15 A. -- but the victim in that case did report having a bike
16 injury.

17 Q. Right, right, but she also reported being with him
18 putting his finger up inside her.

19 A. Right.

20 Q. And the pediatrician report found blood and found
21 evidence of a penetration injury, right?

22 A. Well, the doctor said it could have been either
23 penetration or a straddle injury.

24 Q. Okay. You reviewed the record, okay.

25 A. Yes.

1 Q. Now, one of the comments he made to you about his 2006
2 victims, the two nieces, was he -- the one he did the lewd
3 act on, the one that he was convicted of just for touching
4 but not penetrating, he said he only touched her, okay?

5 A. Okay.

6 Q. That's on page seven I think of your report. And did
7 you find some significance as to the way he's trying to
8 justify that in his mind by saying "I only did this?"

9 A. Yes, that's very typical in people with pedophilia is
10 they attempt to minimize or justify the behavior that they
11 have engaged in.

12 Q. In fact, he used the word only when he described the
13 anal penetration of the second victim, "I only did this to
14 her." Do you remember that?

15 A. I'm not recalling that specifically.

16 Q. It's on page seven of your report.

17 A. Page seven.

18 I'm not -- I'm not seeing the "only" comment.

19 Q. Okay. Well, how did he -- but he did tell you, I
20 believe, that he asked that girl if he could, and his word
21 was sodomize her, meaning he asked her "could I have anal
22 sex with you, and she said she didn't care?"

23 A. That's what he told me, yes.

24 Q. And what's this phrase about when you asked him why he
25 chose to penetrate her anally --

1 A. Uh-huh.

2 Q. -- he commented, and it's your words here -- it's your
3 words, "he said the word vaginal is sacred. You never get
4 that back."

5 A. Correct.

6 Q. So what's he trying to say here?

7 A. I interpreted that to mean that performing anal sex on
8 her was less offensive than vaginal sex.

9 Q. Okay. Looking at the -- one of the factors that you
10 also found, of course, is that in his sexual interests in
11 young girls, he had these fantasies about his nieces and
12 that would cause him to masturbate to those fantasies.

13 A. Correct.

14 Q. Do you agree with me common sense interpretation a guy
15 is going to do that to something that sexually excites him,
16 right?

17 A. Masturbates to things that are sexual, yes.

18 Q. So that meant it sexually excited him?

19 A. Correct.

20 Q. Okay. You talked about him completing the sex offender
21 treatment at the prison, but weren't there also in those
22 records indications of him being aggressive, being angry,
23 about not taking responsibility, that sort of thing?

24 A. According to the records from that treatment program --

25 Q. Uh-huh.

1 A. -- excuse me, he did demonstrate some aggression in
2 terms of slamming a door I believe on one occasion because
3 he was upset about going through this SVP commitment
4 process.

5 Q. Okay. So he knew about the SVP -- he knew about this
6 case pending against him at a time he was taking the sex
7 offender treatment, it sound likes, is that right?

8 A. Yes. I don't know -- I don't know the timeline of when
9 he found out versus when he entered treatment, but at some
10 point during the treatment, yes, he knew.

11 Q. After reading that kind of stuff, did you think, you
12 know, "maybe I ought to call the director of that sex
13 offender program and talk to her?"

14 A. Well, again, I had her -- all of her treatment notes
15 that I reviewed.

16 Q. Okay. Okay.

17 Now, about the different tests that were run at
18 different places, one of the things mentioned was the Abel
19 Screen, right? You talked about that. Do y'all use that at
20 the Department of Mental Health?

21 A. I know we do not use it for these pre-commitment
22 evaluations.

23 Q. Okay.

24 A. I believe they previously used it in the treatment
25 program, but I don't think I have seen any reports of Abel

1 testing since maybe 2006, 2008.

2 Q. Okay. Are you aware that Mr. -- or the Abel people on
3 their website say that for -- they list all the states and
4 under South Carolina they say the State's SVP program uses
5 it in their evaluations?

6 A. I have not looked on that website, so I don't know, and
7 I don't know when that list might have last been updated.

8 Q. Okay.

9 A. But they did previously use it, yes.

10 Q. Okay. This one was printed out on February 22, which
11 is kind of close. Do you know if anybody has called out
12 there to say "take that off, we don't use this?"

13 A. I don't know.

14 Q. In fact, the reality is there is some psychologists and
15 psychiatrists at your agency, or when you were with mental
16 health, who do use the Abel, right?

17 A. I don't believe there are any currently there that use
18 it, no.

19 Q. Well, there is some that use the PPG, strong believers
20 in it, correct?

21 A. Perhaps on the treatment side of things.

22 Q. Well, I'm talking about the pre-commitment side as
23 well.

24 A. I believe the people that are doing -- that have been
25 doing these evaluations recently do not use the PPG.

1 Q. I'm not talking about recently. I'm talking about --
2 Doctor, the Department of Mental Health owns the PPG
3 machine, does it not?

4 A. Yes.

5 Q. Okay. And there is also a Dr. William Burke down in
6 Summerville who owns a PPG and runs PPG testing, is that
7 correct?

8 A. That's correct.

9 Q. And the Department of Mental sometimes -- from time to
10 time the department has sent people down to Dr. Burke to be
11 evaluated on the PPG if the consulting psychiatrist thinks
12 it's necessary, right?

13 A. That's correct.

14 Q. All right. So of the tests that were available, the
15 one -- or the scoring, or tests, or things like that that
16 I'm seeing in your report here is the Static-99-R, right?

17 A. That's correct.

18 Q. Okay. Now, his -- did you talk with him about what
19 he's going to do if he gets out? If the jury decides he's
20 not a threat and he walks out of the courtroom today or
21 tomorrow, did you talk to him about what his plans are?

22 A. Yes, I did.

23 Q. And his plans are to live with this guy, his name is
24 Cantrell, Jackie Cantrell?

25 A. I'm not sure. I did not put his name in my report.

1 Q. The plans are to live with a guy who used to be -- he
2 met in prison, right?

3 A. Correct.

4 Q. And this guy used to be in the sexually violent
5 predator treatment program for several years until he was
6 released and this guy is also a pedophile, right?

7 A. That's my understanding, yes.

8 Q. Did you look up how many prior victims and the age of
9 the victims this guy that Mr. Miller wants to go live with
10 has?

11 A. No, I did not.

12 Q. Okay. Do you think this is -- and so do you find this
13 a realistic idea for a good place to go live with when I get
14 out type plan?

15 A. It's probably not the best option.

16 Q. Uh-huh.

17 A. In reality sex offenders often live together, because
18 they know each other, because of residency restrictions, so
19 this is not particularly uncommon.

20 Q. Okay. Did he -- and his plans are -- his ideal job, if
21 he can get it, would be to go back to work at a zoo. Did he
22 talk to you about that?

23 A. No. When I asked him about a job, he said he would
24 like to find a job in a restaurant or in assembly work.

25 Q. Okay. Didn't mention a zoo with you?

1 A. He told me he previously worked at a zoo --

2 Q. Okay.

3 A. -- but he did not identify that as future employment.

4 Q. Well, you were present yesterday when Dr. Knight
5 testified, right?

6 A. Yes.

7 Q. And you heard her say that he told her he wanted to
8 work at a zoo, because he had previously worked at zoo,
9 right?

10 A. That I believe is what her testimony was.

11 Q. And does that cause you some concern that he wanted to
12 work at a zoo where there is going to be lots and lots of
13 kids?

14 A. Well, again, I don't know if that's his plan or if
15 that's his ideal job.

16 Q. Well, you were provided -- as part of your evaluation,
17 you were given a copy of Dr. Knight's report, correct?

18 A. Yes, I was.

19 Q. And the zoo stuff is mentioned in her report, right?

20 A. Yes, it is.

21 Q. So when you saw that, did you make an effort to contact
22 Mr. Miller and say "have your plans changed, as far as
23 employment?"

24 A. No, Dr. Knight finished her evaluation after I did, so
25 my evaluation was --

1 Q. I understand.

2 A. -- done here.

3 Q. But she put something in her report that's not in
4 yours, the zoo thing. So did you pick up the phone and call
5 mental health and say "I want to talk to Mr. Miller again
6 and find out about this zoo issue?"

7 A. No, I did not.

8 Q. Okay. Now, the score on the Static was about a twelve
9 percent chance of re-offending of the thousands of sex
10 offenders that they compare it with, right?

11 A. Yes.

12 Q. You have got about a twelve percent chance of
13 committing another sexual crime over the next five years,
14 right?

15 A. Well, of the people in that group, twelve percent of
16 them re-offended.

17 Q. Right, re-offended sexually, not re-offend with traffic
18 tickets or --

19 A. Right.

20 Q. -- running a red light --

21 A. Yes.

22 Q. -- re-offend sexually?

23 A. Right.

24 Q. And it's about an eighteen percent over ten years, is
25 that right?

1 A. Yes.

2 Q. And basically what that means is, like Dr. Knight
3 testified, that about seventy-five percent of the people
4 scored lower than Mr. Miller, right?

5 A. I believe that's correct.

6 Q. Okay. You used to work at mental health. You now work
7 in Texas?

8 A. Right.

9 Q. You flew out here for this, to be available to testify
10 at this hearing today?

11 A. Yes.

12 Q. If the plane you are flying back on, if you found out
13 that it had a twelve percent chance of crashing, would you
14 get on it?

15 A. Luckily that's not the question I'm being asked here
16 today to address.

17 Q. Thank you, doctor.

18 THE COURT: Redirect?

19 MR. ARIAIL: Yes, Your Honor.

20 REDIRECT EXAMINATION BY MR. ARIAIL:

21 Q. You have got Dr. Knight's report, don't you?

22 A. Yes, I do.

23 Q. Let me turn you to page seven. In regards -- the third
24 paragraph, the last part. I guess it's the last sentence --

25 MR. BOGEL: I'm sorry, which report are you

1 looking at?

2 MR. ARIAIL: I'm sorry, Dr. Knight's.

3 MR. BOGEL: Page seven?

4 MR. ARIAIL: Page seven. Actually it would be
5 second complete paragraph from the top.

6 BY MR. ARIAIL:

7 Q. It says "his ideal job would be to work at a zoo
8 because he had a prior job at a zoo. I was good at it." Is
9 that what you recall?

10 A. Yes.

11 Q. Did he tell you anything about a zoo?

12 A. He did tell me that he worked at a zoo, and I believe
13 that might have been his longest period of employment.

14 Q. Did he tell you that he was going back to work at a zoo
15 after he got out?

16 A. He did not, no.

17 Q. Okay.

18 MR. ARIAIL: I have no further questions, Your
19 Honor.

20 MR. BOGEL: Nothing on redirect, Your Honor.

21 THE COURT: Thank you, ma'am. You may step done.
22 Any reason why the doctor can't be excused?

23 MR. BOGEL: No objection.

24 MR. ARIAIL: No objection, Your Honor.

25 THE COURT: Thank you, ma'am.

1 State?

2 MR. BOGEL: None Your Honor. Thank you.

3 THE COURT: From the defense?

4 MR. ARIAIL: None, Your Honor.

5 THE COURT: Y'all want a quick break before you do
6 your closing, or are you ready to go?

7 MR. BOGEL: Ready to to.

8 MR. ARIAIL: Ready to go.

9 THE COURT: Bring them back when they are ready.

10 (The following takes place in the presence of the
11 jury panel)

12 THE COURT: All right, Mr. Bogel, is the State
13 ready with closing argument?

14 MR. BOGEL: Yes, Your Honor.

15 Thank you, Your Honor. May it please the court?

16 THE COURT: Yes, sir.

17 MR. BOGEL: Mr. Ariail.

18 I'm not one of these TV lawyers, so I have got to
19 refer to notes, so if you will bear with me a few times on
20 that.

21 First off, I would like to thank you for your
22 service. It's been a full two days of testimony. Like I
23 said in the beginning, you are going to have to hear some
24 things that you maybe would not like to hear, but I think we
25 can all agree that the stuff that you had to hear from that

1 witness stand was necessary in order for you to reach a fair
2 verdict in this case.

3 Now, have you ever heard the phrase the elephant
4 in the room? It's the big thing that's in the room,
5 everybody knows it's there, but nobody wants to talk about
6 it. Okay? Let me tell you about the elephant in the room
7 in this case. We have had two doctors, both qualified as
8 experts by the court, saw the same guy for the same reasons
9 and comes back with opposite opinions about whether or not
10 he should be committed. Doesn't that by definition mean
11 reasonable doubt? And I would submit to you that's the
12 elephant in the room, it's there, let's not ignore it, but I
13 don't think it fits the facts that you have heard. It
14 doesn't affect you from bringing back a verdict that the
15 State has shown beyond a reasonable doubt that Calvin Joe
16 Miller is a sexually violent predator.

17 Every case has a theme. This case has a theme I
18 can sum up in two words; the words "only" and "the first
19 time." His words when he described to both of these experts
20 about his rationale, his justification for sexually
21 offending against one of those young girls under twelve. Do
22 you remember, "I was only doing anal intercourse," as though
23 there is something else that's worse; and "by doing anal
24 intercourse I was saving her first time." That's how he
25 justified this and that's something that's hard to forget.

1 Now, we have two victims. We have the North
2 Carolina crime. And the biggest problem with the North
3 Carolina crime is apparently he pleaded guilty to it, but
4 does not admit to doing anything to both Dr. Harrison and
5 Dr. Knight.

6 We come back to the two doctors. Dr. Harrison,
7 formerly employed by the Department of Mental Health, has
8 done about twenty-four of these cases. About seventy-five
9 percent of the time she comes back saying the guy is not a
10 threat. She's a good doctor. I think she knows her job and
11 I think she looked at Mr. Miller, but I don't think she
12 looked hard enough. Dr. Knight did. That's what the case
13 is all about.

14 So we have the incident in North Carolina, which
15 digital penetration causing a little girl to bleed. What
16 did we hear? The old bicycle excuse; "oh, she hurt herself
17 on a bicycle." Come on folks. That's where your common
18 sense comes in.

19 The next thing when the two girls, the twins, the
20 girls in South Carolina, the touching of one of the girls
21 and the anal intercourse of the second girl. And how did he
22 describe it? "I asked her and it was okay and she said
23 okay." I mean, do you really think such a thing like that
24 could happen the way he described it, the way he's trying to
25 justify this? The fact that he masturbates to thinking of

1 these two young girls. Whatever excites him sexually,
2 that's what he's going to do, and that's what it was here.
3 The fact he's attracted to them because of the smoothness of
4 their body. This is what both doctors called a cognitive
5 distortion. It's a twisted way of thinking about the way to
6 approach a seven or eight year old girl. They are not his
7 friends. They are his nieces. They are not his buddies.

8 We had the denial, the justification that we were
9 talking about just now, and the fact that he indicated to
10 one of the doctors that he's not sure if he can trust
11 himself alone, so he's got a buddy. What's his release
12 plan? Who is he going to live with when he first gets out?
13 A person who has already been convicted of pedophile crimes,
14 a person who has been committed to the sexually violent
15 predator treatment unit that where we want Mr. Miller to go,
16 and had gotten released after several years of treatment,
17 but this is a registered sex offender. He's a pedophile
18 with child victims and that's his plan? That's his safety
19 lever to go live with? I don't think that's -- and, again,
20 that shows poor planning, poor idea, just like the idea of
21 working in a zoo where there is going to be lots and lot of
22 children.

23 Now, the burden of proof in this case, as the
24 judge said, and he's explained to you, is beyond a
25 reasonable doubt. That's our burden. That's what we have

1 to show to you, and I will leave it to the judge's
2 explanation as to what that means. You will get a verdict
3 form. It will have two verdicts on it. One will say no,
4 the State hasn't proved its case, he should not be
5 committed. The second option is yes, the State has proved
6 beyond a reasonable doubt that Calvin Joe Miller is a
7 sexually violent predator.

8 What do we have to prove? First off, has he been
9 convicted of a sexually violent crime? Well, here it is.
10 Petitioners Exhibit No. 1, you will be taking this back to
11 the jury room. This is a certified copy for the conviction
12 record here in Greenville County for lewd act on a child.
13 It's dated August of 2010.

14 The next thing is does he have the mental
15 abnormality or the personality disorder.

16 Now, both doctors say he's a pedophilia, and that
17 is a recognized mental abnormality in these types of cases.
18 No problem there.

19 He was diagnosed at Patrick Harris Hospital with
20 having that personality disorder of antisocial traits and
21 they had him for almost two months. Dr. Harrison saw him
22 for two hours and looked at the record and came back and did
23 not diagnosis him. Dr. Knight did diagnose him. She
24 diagnosed the same personality disorder that Patrick Harris,
25 the people there had found. And what the problem here is

1 it's like a perfect storm. You have got the pedophile and
2 the mental abnormality interacting with the rule breaking,
3 the disregard for rules, poor judgment, of the antisocial
4 traits. It's a perfect storm, folks.

5 Dr. Harrison, the job that she did, she seemed to
6 hang her hat on one thing, on one test, that thing called
7 the Static-99-R. Ten questions, asked you about certain
8 things that have happened in your life that you can't
9 change. That's why they are called statistics factors, but
10 there is more to that than what's already happened to you.
11 There is dynamic factors. What are the things that you have
12 done that can be changed or that should have been changed?
13 And that's where Dr. Knight took off. That's where she's
14 did a thorough job, a more thorough job and I think where
15 she turned the corner. For example, we have the attraction
16 to prepubescent children; the fact that he's acted on it;
17 the fact that it's documented that he acted on it. He
18 picked victims who could identify him, not people who
19 couldn't identify him. There were multiple charges of a
20 sexual nature. The personality disorder I have already
21 talked about. The combination of interaction, the clash
22 between the pedophilia he has and the antisocial personality
23 traits. The cognitive distortion, somehow that anal
24 intercourse is more benign, less damaging, than vaginal
25 intercourse, and that it was only that he saved her first

1 time for some time in the future. He only had anal
2 intercourse and they are his friends. These are distortions
3 in his thinking. Look at all these factors. Some are
4 mentioned by Dr. Harrison. All of them were covered by Dr.
5 Knight. These are the dynamic factors that increase his
6 risk to re-offend.

7 And the Static, the score is a three. Because
8 he's aged a year while this case was pending, so he dropped
9 from a four down to a three. It's called low to moderate.

10 Now, you heard me ask her about when I talked
11 about those percentages as being twelve percent chance of
12 re-offending in five years, I think eighteen percent in ten
13 years. I said "doctor, if a plane that you are taking back
14 to Texas had a twelve percent chance of crashing, would you
15 get on it," and she said "no, I'm not asked that." Well,
16 that may sound kind of funny, but think a minute. We are
17 talking twelve percent is a better than one in ten chance.
18 Eighteen percent is almost two in ten, and this is not a
19 chance that he is going to commit -- going to break into a
20 convenience store, or run a traffic light, or run a stop
21 sign. This is a greater chance that he's going to molest a
22 little girl, okay? He's going to act out. That is a
23 chance. Because of the type of crime I think that
24 percentage weighs a lot heavier.

25 And, again, looking at the numbers another way,

1 seventy-five percent of the people in the study that made
2 this thing scored better than he did. So he's in that
3 category.

4 And, again, the Static is one thing. Dr.
5 Harrison, to her credit, I think she did a decent job, but
6 she hung her hat on that store on the Static. Dr. Knight
7 said "wait, let's not stop there. That's just one factor.
8 Let's look at the whole picture," and she did.

9 So what do we got? We got a sexually violent
10 conviction. No question about that. We have got the mental
11 abnormality. No question about that. We also have the
12 personality disorder Dr. Knight found and the people at
13 Patrick Harris found. And we also have these distortions in
14 his thinking about little girls that make him more likely to
15 re-offend than not to the extent that we feel the State has
16 proved its case to you beyond a reasonable doubt.

17 So think about the case. Listen to the arguments.
18 Again, our arguments are not the law. We are trying to
19 summarize the case as best we can. And the way this works
20 is in civil cases the State, which is me, opens in full. I
21 have a full argument. You will hear now from Mr. Ariail in
22 a few minutes. If he brings up something new, I get to
23 reply to that. If he doesn't, that's the last time you will
24 hear from me. That's kind of how it works. That's how it
25 works in civil cases. So that's where you are.

1 You have got two verdicts; did we not meet our
2 burden of proof; or, yes, we did. And I would submit the
3 evidence says yes, we did. This man needs to be confined
4 for treatment, not living with another sex offender, another
5 pedophile, molesting kids.

6 Thank you, Your Honor.

7 THE COURT: Mr. Ariail?

8 MR. ARIAIL: Your Honor?

9 THE COURT: Yes, sir.

10 MR. ARIAIL: If it please the court?

11 THE COURT: Yes, sir.

12 MR. ARIAIL: Ladies and gentlemen, thank y'all
13 very much for your time in this case. Mr. Miller thanks you
14 for your time also, and I know hopefully we will finish this
15 case today and get it to you.

16 This is a big day for him. As y'all heard, he has
17 been confined, been sentenced on some horrific cases. There
18 is no question. I told you in the beginning there is no way
19 I can go back and make good with the facts of this case.
20 They're bad facts. You have heard them. We all sit here
21 and you probably don't want to hear them again. The issue
22 we have in this case is we have to hear those facts. They
23 had to present those facts to you.

24 And our view of it is, and what my client and what
25 I think Dr. Harrison has said, is despite those facts,

1 MR. ARIAIL: Yes, Your Honor.

2 THE COURT: Do you have everybody that you need?

3 MR. ARIAIL: Yes, Your Honor.

4 THE COURT: Would you bring the jury in, please,
5 ma'am?

6 (Whereupon, at 4:45 p.m., the jury panel returned
7 to open court to render its verdict)

8 THE COURT: All right, Madam Forelady, I
9 understand the jury has reached a verdict, is that correct?

10 JURY FORELADY: Yes, sir.

11 THE COURT: And is it unanimous?

12 JURY FORELADY: Yes, sir.

13 THE COURT: Would you pass the verdict form to the
14 bailiff, please, ma'am?

15 Madam Clerk, would you publish the verdict,
16 please?

17 THE CLERK: Your Honor, this is case number
18 2013-CP-23-1543, in the matter in the care and treatment of
19 Calvin Joe Miller, respondent.

20 "Has the petitioner, the State of South Carolina,
21 proven beyond a reasonable doubt that Calvin Joe Miller is a
22 sexually violent predator under the South Carolina Sexually
23 Violent Predator Act?

24 "We, the jury, unanimously answer the question as
25 follows: Yes, Calvin Joe Miller is a sexually violent

1 predator." Signed Sharon Campbell, foreperson, July 15th,
2 2014.

3 If this is your verdict, so say you all? Please
4 signify by raising your right hand, if so?

5 Thank you.

6 THE COURT: Let the record reflect that all twelve
7 raised their hand.

8 Okay. Madam Forelady, ladies and gentlemen of the
9 jury, the court is never concerned with what your verdict
10 is, but that you followed the procedure and you stay engaged
11 in the trial. I watched you do that. For that I thank you.
12 Not for whatever your decision was. That's simply your
13 personal decision, but that you stayed engaged, you paid
14 attention to the law, you paid attention to the attorneys
15 and testimony, so we thank you for that.

16 I would like to be able to say you are done for
17 the week. You may be, but you may not be. The clerk has
18 asked that you call in tonight after six o'clock and there
19 will be a voice message on there as to whether or not you
20 need to report back. But for your services thus far thank
21 you very much and you are excused for the day.

22 Well, you can take care of that later. Well, let
23 me ask you this, Madam Clerk. If they are not needed back,
24 will they just be sent an employer's statement in the mail,
25 if they need one? How does that work?

1 THE CLERK: We will.

2 THE COURT: All right. Thank you very much. You
3 are excused.

4 (Whereupon, at 4:47 p.m. the jury panel was
5 discharged)

6 THE COURT: Mr. Miller -- and since I have not
7 done one of these type cases before, I think I have to
8 commit him to the long term care and treatment of the
9 Department of Mental Health and whoever they have
10 contractual agreements with.

11 Is it normal practice, Mr. Bogel, that the AG's
12 office prepare an order?

13 MR. BOGEL: If I may approach, Your Honor?

14 THE COURT: Yes, sir.

15 Have you shown it to Mr. Ariail?

16 MR. BOGEL: He's seen it before. It was the
17 standard one. He's seen it before.

18 THE COURT: Okay.

19 MR. BOGEL: I think it's a basic order. And what
20 will happen is we will inform the sheriff's department that
21 has custody of him at the detention center to contact the
22 Department of Mental Health and set up a time to take him.

23 THE COURT: Okay.

24 MR. BOGEL: It's not like a hotel. You just can't
25 drop him off. They coordinate a time to bring him down

1 there.

2 THE COURT: Sure, I can understand that.

3 MR. BOGEL: Yes, sir.

4 THE COURT: Mr. Ariail, for the record, my
5 understanding is that you have no objection to the order.
6 Although you don't agree with the verdict, you don't have a
7 problem with the order as worded?

8 MR. ARIAIL: Correct, Your Honor, I do not have
9 any issue with the order as worded.

10 THE COURT: I'll sign that order.

11 MR. BOGEL: Thank you, Your Honor. We will get it
12 filed and get it to the detention center.

13 THE COURT: Thank you again for the attorneys and
14 for your hard work.

15 (END OF REQUESTED TRANSCRIPT OF RECORD)

16

17

18

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA

COUNTY OF
STATEGreenville
VS.
Calvin Joe Miller

AKA:

Race: Sex: M Age: 36

DOB: SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Marietta, SC 29661

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

in violation of § 16-15-140 of the S.C. Code of Laws, bearing CDR Code # 2468

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.Attest: Christina S. Seay 65398 Calvin Miller [Signature]
Seay, Bryna SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation formonths/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. 470 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2304187

A/W#: 1477835

Date of Offense: 1/1/2003

S.C. Code § : 16-15-140

CDR Code #: 2468

PETITIONER'S
EXHIBIT

SENTENCE SHEET

Presiding Judge

Judge Code:

Sentence Date:

Certified Copy

Paul B. Wiersma
Clerk of Court C.P. & G.S.
Greenville County, SC

dated 4-4-14

WITNESSES

Cheryl Cromartie *CC*

Greenville County Sheriffs Office

4/20/2009

DOCKET NO. 2009-GS-23- 004107

BSD

✓ The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February TERM 2009

THE STATE

VS.

ARREST WARRANT NUMBER

1477835

CALVIN JOE MILLER

ACTION OF GRAND JURY

TRUE BILL

Ann Shoverette

Foreperson of Grand Jury FOREMAN GRAND JURY

VERDICT

✓ 2468

Chamber
Indictment for

LEWD ACT UPON A CHILD

VIOLATION § 16-15-140

Foreperson of Petit Jury

Date:

A Certified Copy
Paul B. Wickham
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 4-4-14

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
LEWD ACT UPON A CHILD

At a Court of General Sessions, convened on **FEB 16 2010** the Grand Jurors of Greenville County present upon their oath:

That CALVIN JOE MILLER did in Greenville County, on or about the 1st day of January, 2003, 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 K.L., a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of himself or such child. This is in violation of §16-15-140 of the South Carolina Code of Laws (1976) as amended.

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

Byrne S. Seay
SOLICITOR

ARREST WARRANT

-5031
4-19-09STATE OF SOUTH CAROLINA
County/ Municipality of

Greenville

THE STATE
against

09-22072

Calvin Joe Miller

Address

Sex: M Race: W Height: 5 9 Weight: 212

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: Cheryl Cromartie - 0086

Offense: Sex / Lewd Act, committing or attempting lewd act
upon child under 16 (June 4, 1996)

Offense Code: 2468

Code/Ordinance Sec: 16-15-0140

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant CALVIN Joe Miller
on 4-20-09CG Smith 548 +317
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate 2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant Cheryl Cromartie

being duly sworn deposes and says that defendant Calvin Joe Miller

did within this county and state on or about 01/01/2003

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:The affiant has a document in possession implicating the defendant in the above named offense. The victim a 10 year old female
states when she was 5 or 6 years of age the defendant put his hand inside of her pants and grabbed her vaginal area, touched her
chest underneath her shirt, and put the victims hand on his penis. This incident occurred at 95 Trammell Road located in Greenville
County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street
Greenville, SC 29601-

Affiant's Telephone (864)467-4122

ARREST WARRANT

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

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

on or about 1/1/2003

defendant Calvin Joe Miller

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

☒ County/ ☐ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

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

Sworn to and subscribed before me

on 04/16/2009

Signature of Issuing Judge

James E Hudson

Judge Code: 5031

(L.S.)

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

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518A Certified Copy
Paul B. Wilkerson
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 4-4-14

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
IN THE MATTER OF THE CARE	)	CASE NO. 2013-CP-23-01543
AND TREATMENT OF	)	
CALVIN JOE MILLER,	)	ORDER OF COMMITMENT
RESPONDENT.	)	

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL A. HIGGINS/CLERK
2014 JUL 15 PM 4 50

The trial of this case was held in the County of Greenville in the Court of Common Pleas the week of July 14, 2014. A jury of citizens from Greenville County heard this case pursuant to a request for a jury trial filed by the State. Assistant Attorney General Nicole T. Wetherton represented the State. R. Mills Ariail Jr., Esquire, represented the Respondent. The jury having heard the presentation of the evidence made the following findings of fact pursuant to South Carolina Code Sections 44-48-90 and 44-48-100:

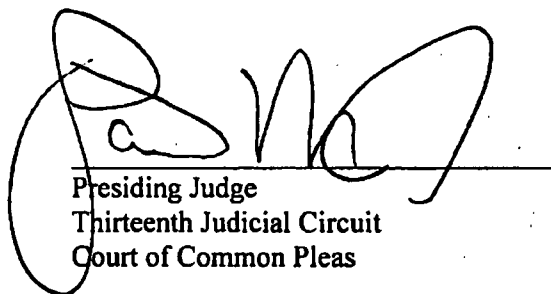
The State has proven beyond a reasonable doubt that Respondent, Calvin Joe Miller, is a sexually violent predator as that term is defined in South Carolina Code Section 44-48-30.

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

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

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

AND IT IS SO ORDERED.



Presiding Judge
Thirteenth Judicial Circuit
Court of Common Pleas

7-15, 2014
Greenville, South Carolina

RECEIVED

AUG 13 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA)
 COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

CASE NO. 2013-CP-~~07~~ 01543

IN THE MATTER OF THE CARE)
 AND TREATMENT OF)
 CALVIN JOE MILLER,)
 RESPONDENT.)

PETITION PURSUANT TO THE
 SEXUALLY VIOLENT PREDATOR ACT

ENTERED COMPUTER

COMES NOW, Petitioner, State of South Carolina, by and through the undersigned, and for its cause of action herein alleges and states as follows:

1. This action is filed pursuant to the South Carolina Sexually Violent Predator Act, S.C. Code Ann. Sections 44-48-10 *et seq.* (Supp. 2008).
2. The South Carolina Department of Corrections, having determined that Respondent, Dewey Chadwick, had been convicted of at least one Sexually Violent Offense, referred Respondent to the Multi-Disciplinary Team for assessment pursuant to S.C. Code Ann. Section 44-48-40 (Supp. 2008). **Respondent's anticipated release date from custody is on or about September 2, 2013.**
3. The Multidisciplinary Team met on **February 4, 2013** and determined after assessment that Respondent satisfied the definition of a Sexually Violent Predator as set forth in S.C. Code Ann. Section 44-48-30 (Supp. 2008), and referred Respondent to the Prosecutor's Review Committee for a determination pursuant to S.C. Code Ann. Section 44-48-60 (Supp. 2008) as to whether probable cause exists to believe Respondent is a Sexually Violent Predator. **(PETITIONER'S EXHIBIT A)**. The assessment of the Multidisciplinary Team is based on a review of existing records, which may include, but are not limited to the following: description of the qualifying offense(s); history of other sexual assault(s); history of other criminal convictions/adjudications; documentation, if any, of mental disorder(s); community and institutional adjustment; and risk factors.
4. The Prosecutor's Review Committee met on **March 1, 2013** and determined that there is probable cause to believe that Respondent is a Sexually Violent Predator as defined by statute. **(PETITIONER'S EXHIBIT B)**. The Prosecutor's Review Committee bases its determination on the records and reports provided by the Multidisciplinary Team including any information provided by the agency that prosecuted the qualifying offense.
5. The Petitioner now alleges that Respondent is a Sexually Violent Predator as defined by S.C. Code Ann. Section 44-48-30(1) (Supp. 2008), to wit:
 - (a) In and around the early months of 2003, Respondent sexually assaulted **Victim 1** (8-year-old female). According to law enforcement documents, Respondent anally penetrated the victim. In addition, on or about the same

SCANNED

time period, Respondent also sexually assaulted **Victim 2** (5/6-year-old female) who was also **Victim 1**'s younger sibling. Respondent was the maternal uncle of both the victims. According to reports, **Victim 2** stated that Respondent placed his hands inside her pants, grabbed her vaginal area, and made her rub his penis. In addition, she also reported that he anally penetrated her. Respondent was charged with two counts of First Degree Criminal Sexual Conduct with a Minor in violation of South Carolina Code Section 16-3-652 and one count of Lewd Act Upon a Child Under 16 in violation of South Carolina Code Section 16-15-140. On August 3, 2010, Respondent pled guilty to one count of Lewd Act Upon a Child Under 16 and was sentenced to 8 years of incarceration. **(PETITIONER'S EXHIBIT C).**

(b) Prior to the offense described in subparagraph 5(a), on or about the summer months of 1994, Respondent sexually assaulted **Victim 3** (3-year-old-female). According to law enforcement documentation, the victim stated that Respondent, who was her brother's babysitter, put his finger into her vagina, and that he had hurt her. The victim's mother then took the victim to the doctor regarding vaginal bleeding, and it was found that the victim's injuries were consistent with digital penetration or a straddle injury. Respondent was charged in Brevard, North Carolina with one count of First Degree Statutory Sexual Offense in violation of North Carolina Code Section 14-27.4. On October 10, 1996, Respondent pled guilty to one count of Indecent Liberties and was sentenced to 3 years of incarceration. **(PETITIONER'S EXHIBIT D).**

(c) During Respondent's incarceration at the South Carolina Department of Corrections, Respondent has had one recorded disciplinary infraction, but it was subsequently dismissed. **(PETITIONER'S EXHIBIT E).** However, South Carolina Department of Corrections (SCDC) records indicate that he has been noncompliant with taking his psychiatric medications, voluntarily missed counseling sessions, and reported hearing "voices." **(PETITIONER'S EXHIBIT F).**

(d) Sufficient evidence exists or will exist to determine that Respondent suffers from a mental abnormality or personality disorder which makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, and that Respondent has serious difficulty in controlling his behavior or sexual desire impulses.

(e) In support of the State's allegations that Respondent has a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, the State, in addition to any other evidence which Petitioner may present to the Court hereafter, submits the following:

- i. According to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, published by the American Psychiatric Association, the diagnostic criteria for

Pedophilia listed in Section 302.2 are:

- A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).
 - B. The person has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.
 - C. The person is at least age 16 years and at least 5 years older than the child or children in Criterion A. **(PETITIONER'S EXHIBIT G).**
- ii. According to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, published by the American Psychiatric Association, the diagnostic criteria for **Paraphilia**:
 - A. Recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving (1) the suffering or humiliation of oneself or one's partner, or non-consenting person, (2) over a period of at least 6 months. **(PETITIONER'S EXHIBIT H).**
- iii. "[P]revious instances of violent behavior are an important indicator of future violent tendencies." *Kansas v. Hendricks*, 521 U.S. 346, 358, 117 S.Ct. 2072, 2080 (1997). Respondent's instances of violent and non-violent behavior are:
 - A. Respondent's 2010 conviction for Lewd Action on a Child Under 16 as set forth above. **(PETITIONER'S EXHIBIT C, *supra*).**
 - B. Respondent's 1996 conviction for Indecent Liberties as set forth above. **(PETITIONER'S EXHIBIT D, *supra*).**
 - C. The basis of his record of convictions and arrests North Carolina and South Carolina dating back to at least 1992, including convictions for:
 - 1. 11/24/1992 – Breaking & Entering, Larceny
 - 2. 09/13/1995 – Criminal Domestic Violence
 - 3. 01/28/1999 – Failure to Register as a Sex

Offender

4. 12/12/2003 – Failure to Register as a Sex Offender

(see NCIC Report, **PETITIONER'S EXHIBIT J, *infra***).

- iv. The facts of Respondent's offenses indicate the existence of a mental abnormality in that they involve recurrent sexual urges or behaviors involving underage children occurring over a period of at least six months.
- v. **Known risk factors** increasing Respondent's likelihood to re-offend include: 1) Never legally married or never lived with lover for at least 2 years; 2) Not related to victim; 3) Prior non-sexual convictions; 4) Prior sexual offenses; 5) Length of sexual offending history 1 to 6 years; 6) More than one victim; 7) two or more age groups victimized; and 8) Victim age 11 or younger.
- vi. Upon information and belief, Respondent has not completed sex offender treatment while incarcerated in the South Carolina Department of Corrections. (**PETITIONER'S EXHIBIT I**).
- vii. Attached also is Respondent's NCIC Report. (**PETITIONER'S EXHIBIT J**).

WHEREFORE, Petitioner requests that based on the above information the Court find there is probable cause to believe Respondent is a Sexually Violent Predator and Order:

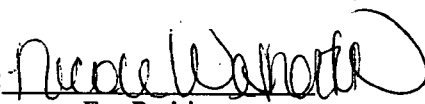
- 1. Respondent be taken into custody and confined in a secure facility, if he has not already been so confined;
- 2. Respondent be notified by the Court of the opportunity to appear in person at a hearing to contest probable cause as to whether he is a Sexually Violent Predator;
- 3. A hearing to contest probable cause be held within 72 hours after Respondent is taken into custody, if he is not already in custody;
- 4. Counsel be appointed for Respondent, if necessary;
- 5. If probable cause is found at that hearing, Respondent remain in custody and be transferred to an appropriate facility for an evaluation as to whether Respondent is a Sexually Violent Predator;
- 6. The Court approve a qualified expert for such an evaluation, if probable cause is found;

7. If probable cause is found, a trial be held on all issues, and if Respondent is found to be a Sexually Violent Predator, that he be committed to the custody of the South Carolina Department of Mental Health for control, care, and treatment until such time as Respondent's mental abnormality or personality disorder has so changed that Respondent is safe to be at large and has been released pursuant to the requirements of S.C. Code Ann. Section 44-48-10 *et seq.* (Supp. 2008), and
8. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

NICOLE T. WETHERTON
Assistant Attorney General

By: 
Attorneys For Petitioner
S.C. Bar No. 100500
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
V: (803) 734-0087
F: (803) 734-6679
nwetherton@scag.gov

March 11, 2013
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE MATTER OF THE CARE AND TREATMENT OF
CALVIN JOE MILLER

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Plaintiff(s)

vs.

Defendant(s)

2013-CP - 23- 01543

ENTERED COMPUTER

(Please Print)

Submitted By: Nicole T. Wetherton

Address: Office of the Attorney General

P.O. Box 11549

Columbia, SC 29211

SC Bar #:

100500

Telephone #:

803-734-0087

Fax #:

803-734-6679

Other:

E-mail:

nwetherton@scag.gov

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|--|
| Contracts | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | Previous Notice of Intent Case # | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | 20__-CP-____ | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | ☐ Notice/ File Med Mal (230) | ☐ Personal Injury (350) | ☐ Possession (450) |
| | ☐ Other (299) | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |
-
- | | | | |
|--|---|---|--|
| Inmate Petitions | Judgments/Settlements | Administrative Law/Relief | Appeals |
| ☐ PCR (500) | ☐ Death Settlement (700) | ☐ Reinstate Driver's License (800) | ☐ Arbitration (900) |
| ☐ Mandamus (520) | ☐ Foreign Judgment (710) | ☐ Judicial Review (810) | ☐ Magistrate-Civil (910) |
| ☐ Habeas Corpus (530) | ☐ Magistrate's Judgment (720) | ☐ Relief (820) | ☐ Magistrate-Criminal (920) |
| ☐ Other (599) | ☐ Minor Settlement (730) | ☐ Permanent Injunction (830) | ☐ Municipal (930) |
| | ☐ Transcript Judgment (740) | ☐ Forfeiture-Petition (840) | ☐ Probate Court (940) |
| | ☐ Lis Pendens (750) | ☐ Forfeiture-Consent Order (850) | ☐ SCDOT (950) |
| | ☐ Transfer of Structured Settlement Payment Rights Application (760) | ☐ Other (899) | ☐ Worker's Comp (960) |
| | ☐ Other (799) | | ☐ Zoning Board (970) |
-
- | | |
|--|--|
| Special/Complex /Other | |
| ☐ Environmental (600) | ☐ Pharmaceuticals (630) |
| ☐ Automobile Arb. (610) | ☐ Unfair Trade Practices (640) |
| ☐ Medical (620) | ☐ Out-of State Depositions (650) |
| ☐ Other (699) | ☐ Motion to Quash Subpoena in an Out-of-County Action (660) |
| | ☒ Sexual Predator (510) |

Submitting Party Signature:

Date: 3/12/13

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Petitioner's Exhibit A

SEXUAL PREDATOR REFERRAL FORM

Offender	Offender	Jurisdictional
Name: CALVIN JOE MILLER	Number: 342144	Agency: SCDC
Age: 38	County: GREENVILLE	Qualifying Offense(s): Guilty Plea: _____ Trial: _____
Gender: Male	No. of Incarcerations: 4	Lewd Act on Child Under 16, CDV

Adult 8 years 1 month	Parole Eligibility	Max-Out
Sentence:	Date:	Date: 09/02/2013
Juvenile	Parole	SFII
Guidelines:	Release Date:	Date:

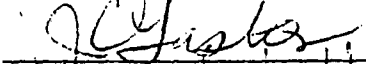
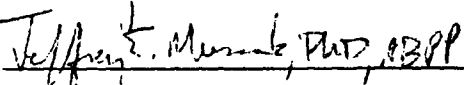
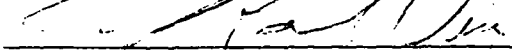
Review deferred from 12/14/12.

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..

VOTES TO REFER/NOT REFER TO PROSECUTOR'S REVIEW COMMITTEE:

YES	NO	ABSTAIN
3	1	0

The following Sexual Predator Multi-Disciplinary Team Members participated in the review process:

	SCDC -- CHAIRPERSON
	SCDPPS
	DMH
	JDG
	ATTORNEY

MULTIDISCIPLINARY TEAM

The offender's records were assessed by the Multidisciplinary Team on January 18, 2013, 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.

Petitioner's Exhibit B

**PROSECUTOR'S REVIEW COMMITTEE
PROBABLE CAUSE DETERMINATION**

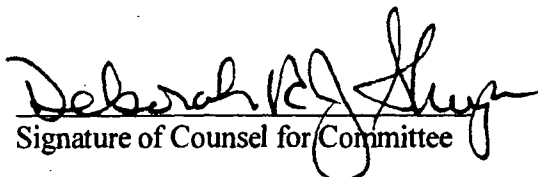
INMATE NAME:	INMATE NUMBER:	PRC REVIEW DATE:
Calvin J. Miller	342144	March 1, 2013
		MEMBERS PRESENT:
		John McIntosh for Alan Wilson Jim Bogle for Deb Shupe Laura Hudson for BeeBe James David M. Stumbo via telephone

DATE RECEIVED FROM MULTIDISCIPLINARY TEAM: February 4, 2013

The Multi-Disciplinary Team referred this case to the Prosecutor's Review Committee pursuant to S.C. Code Ann. § 44-48-50, for review to determine whether probable cause exists to believe this person is a sexually violent predator. S.C. Code Ann. § 44-48-60. The Prosecutors Review Committee reviewed all information received from the Multi-Disciplinary Team, including without limitation: documentation of the qualifying offense as well as other sexual assault(s) or criminal convictions/adjudications; documentation of mental disorder(s); community and institutional adjustment; and risk factors.

PROBABLE CAUSE DETERMINATION:

By a vote of 3-0, the Prosecutor's Review Committee found probable cause to believe that this individual has been convicted of a sexually violent offense, and suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.


Signature of Counsel for Committee

Petitioner's Exhibit C

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Calvin Joe Miller

AKA: _____

Race: _____ Sex: M Age: 36

DOB: _____ SS#: _____

Address: _____

City, State, Zip: Marietta, SC 29661

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)in violation of § 16-15-140of the S.C. Code of Laws, bearing CDR Code # 2468☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST: Bryna S. Seay 65398 Calvin Miller Paul GRG
Seay, Bryna SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of 8 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 470 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5</u>
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/ Deputy Clerk

Court Reporter: T. Johnson

SCCA/217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2304187A/W#: 1477835Date of Offense: 1/1/2003S.C. Code § : 16-15-140CDR Code #: 2468

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSPresiding Judge 32 W. HillJudge Code: 2130Sentence Date: 8-3-10

Dec 19 2012 10:55AM CRIMINAL#RECORDS

8644678513

P.5

General Sessions Tracking Sheet

Indictment # 0000GS23

Name: Miller, Calvin Joe

AKA:

Addr:

Lyman, SC 29365

SSN#

Sex: M Race: W

DOB:

DL#

Warrant/Ticket # 1477831

Date of Arrest: 04/20/2009

Date of Offense: 01/01/2003

Date Rev by Clerk 04/29/2009

Magistrate: Hudson, James E.

Counts: Code: 0385/Sex / Criminal sexual conduct
with minor - victim under 11 yrs of age - First
degree

Indictment # 0000GS23

2009-4189

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk
3. Date of Disposition: 8-4-10

AUG 05 2010

- Disposition
- ___ 1. Guilty plea
 - ___ 2. Trial - guilty
 - ___ 3. Trial - not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ___ 5. Judicial Commitment
 - ___ 6. Judicial Dismissal
 - ___ 7. Remanded
 - ___ 8. Dismissed at Prelim
 - ___ 8. No Bill
 - ___ 9. Failure to Appear
 - ___ 10. Other

Explain:

Explain:

Explain:

Explain:

Explain:

*pled guilty to other charge
plea agreement.*

Judge:

Defense Atty:

Counts: ___ Code:

Sentence:

Court Reporter:

Solicitor: Bryna Seay

INMATE RECORDS OFFICE
2012 DEC 19 AM 10:30

WITNESSES

Greenville County Sheriffs Office

4/20/2009

ARREST WARRANT NUMBER

1477834

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-000100
BSD

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2009

THE STATE

vs.

CALVIN JOE MILLER

Indictment for

0385

**CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE**

**VIOLATION § 16-03-0655(A)(1) [formerly 16-3-
655(1)]**

INMATE RECORDS OFFICE
2013 JAN -7 AM 11:37

WITNESSES

Greenville County Sheriffs Office

4/20/2009

ARREST WARRANT NUMBER

1477835

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-

BSD

004137

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2009

THE STATE

VS.

CALVIN JOE MILLER

Indictment for

2468

LEWD ACT UPON A CHILD

VIOLATION § 16-15-140

CRIMINAL RECORDS OFFICE

2013 JAN -7 AM 11:37

WITNESSES

Greenville County Sheriffs Office

4/20/2009

ARREST WARRANT NUMBER

1477831

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-
BSD

007109

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2009

THE STATE

vs.

CALVIN JOE MILLER

Indictment for

0385

**CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE**

**VIOLATION § 16-03-0655(A)(1) [formerly 16-3-
655(1)]**

INMATE RECORDS OFFICE

2013 JAN -7 AM 11:37

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That CALVIN JOE MILLER did in Greenville County, on or about the 1st day of February, 2009, commit a sexual battery on K.L., who was less than eleven years of age. This is in violation of §16-3-655(A)(1)[formerly 16-3-655(1)] of the South Carolina Code of Laws (1976) as amended

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

Wayna J. Gray
SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
LEWD ACT UPON A CHILD

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That CALVIN JOE MILLER did in Greenville County, on or about the 1st day of January, 2003, 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 K.L., a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of himself or such child. This is in violation of §16-15-140 of the South Carolina Code of Laws (1976) as amended.

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

Byrne S. Sears

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That CALVIN JOE MILLER did in Greenville County, on or about the 1st day of December 2007, commit a sexual battery on A.L., who was less than eleven years of age. This is in violation of §16-3-655(A)(1)[formerly 16-3-655(1)] of the South Carolina Code of Laws (1976) as amended

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

Conna S. Seay
SOLICITOR

ARREST WARRANT

1-477834

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

09-22072

against

Calvin Joe Miller

Address:

Lyman, SC 29365-

Phone:

SSN:

Sex: M Race: W Height: 5 9 Weight: 212

DL State: SC DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: Cheryl Cromartie - 0086

Offense: Sex / Criminal sexual conduct with minor - victim
under 11 yrs of age - First degree

Offense Code: 0385

Code/Ordinance Sec: 16-03-0655(A)(1)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant CALVIN JOE MILLER

on

4-20-09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate 2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant Cheryl Cromartie

being duly sworn deposes and says that defendant Calvin Joe Miller

did within this county and state on or about 12/01/2007

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:The affiant has a document in possession implicating the defendant in the above named offense. The victim a 10 year old female
states when she was 8 years of age, she was penetrated anally by the defendant. This incident occurred at 177 Grant Rd located in
Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street
Greenville, SC 29601-

Affiant's Telephone (864)467-4122

ARREST WARRANT

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

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

on or about 12/1/2007

defendant Calvin Joe Miller

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

☒ County/ ☐ Municipality of Greenville

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

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

Sworn to and subscribed before me

on 04/16/2009

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

(L.S.)

Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

who

violate the criminal laws of the

2013 JAN - 7 AM 11:37

PRIVATE RECORDS OFFICE

COMPUTER ENTERED
APR 21 2009
GREENVILLE COUNTY
SHERIFF'S OFFICE

ARREST WARRANT

Greenville

Calvin Joe Miller

Address:

Lyman, SC 29365.

Phone:

Sex: M

Race: W

Height: 5

SSN: [REDACTED]

Weight: 212

DL State: SC

DL #: [REDACTED]

DOB: [REDACTED]

Agency ORI #: SC0230000

Prosecuting Agency:

Greenville County Sheriff's Office

Prosecuting Officer:

Cheryl Cromartie - 0086

Offense: Sex / Lewd Act, committing or attempting lewd act upon child under 16

Offense Code:

2468

Code/Ordinance Sec:

16-15-0140

This warrant is

CERTIFIED FOR SERVICE

in the

☐ County/☐ Municipality of

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

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant

on

CALVIN Joe Miller
4-20-09CG South 548 #317
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate 2

4 Mc Gee Street Room 116-B

Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Personally appeared before me the affiant Cheryl Cromartie being duly sworn deposes and says that defendant Calvin Joe Miller did within this county and state on or about 01/01/2003 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville violate the criminal laws of the

DESCRIPTION OF OFFENSE Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The affiant has a document in possession implicating the defendant in the above named offense. The victim a 10 year old female states when she was 5 or 6 years of age the defendant put his hand inside of her pants and grabbed her vaginal area, touched her chest underneath her shirt, and put the victims hand on his penis. This incident occurred at 95 Trammell Road located in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street
Greenville, SC 29601-
Affiant's Telephone (864)467-4122

ARREST WARRANT

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

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

on or about 1/1/2003

defendant Calvin Joe Miller did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville) as set forth below.

DESCRIPTION OF OFFENSE: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me on 04/16/2009

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

(L.S.)

Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

violate the criminal laws of the

JUL 7 2009 11:30 AM

217

ARREST WARRANT

50.91
4-29-09

STATE OF SOUTH CAROLINA
County of Greenville
Municipality of Greenville

THE STATE
against

69-22872

Calvin Joe Miller

Address:

Lyman, SC 29365-

Phone:

SSN:

Sex: M Race: W Height: 5 9 Weight: 212

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriff's Office

Prosecuting Officer: Cheryl Cromartie - 0086

Offense: Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

Offense Code: 0385

Code/Ordinance Sec: 16-03-0655(A)(1)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant **CALVIN JOE MILLER** on **4-20-09**

CJH *548 4317*
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate 2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant Cheryl Cromartie

being duly sworn deposes and says that defendant Calvin Joe Miller

did within this county and state on or about 01/01/2003

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The affiant has a document in my possession implicating the defendant in the above named offense. The victim a 10 year old female states when she was 5 or 6 years of age, she was sexually penetrated by the defendant. This incident occurred at 95 Trammell Road located in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street
Greenville, SC 29601-
Affiant's Telephone (864)467-4122

ARREST WARRANT

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

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

on or about 1/1/2003

defendant Calvin Joe Miller

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

☒ County/ ☐ Municipality of Greenville

) as set forth below.

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

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

Sworn to and subscribed before me on 04/16/2009

J. Hudson
Signature of Judge
James E. Hudson
Judge Code: 5031

(L.S.)

Judge's Address 4 McGee Street, Room 116-B
Greenville, SC 29601-

Judge's Telephone (864)467-5302

Hearing Court ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

INMATE RECORDS OFFICE

2012 DEC 19 AM 10:30

Violate the criminal laws of the

Form Approved by
U.S. Attorney General
April 21, 2003
DOCA 616

-9 FEB 20 12 59

AGENCY I.D. SCO230000	GREENVILLE COUNTY SHERIFF'S OFFICE	CASE NUMBER 09000022072	INS EXT
SUPPLEMENTAL REPORT			
☐ ORIGINAL REPORT	☐ STATUS CHANGE	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL OFFENSES	☐ ADDITIONAL RECEIVED PROPERTY	
MODIFY TYPE: Criminal Sexual Conduct with a Minor		PATROL DISTRICT: 10 PAGE: 1 OF 1 PAGES	

I.D. OVERBELOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUSPECT		PERCENT	RACE	SEX	AGE	B.B.B.	DOB
	☐ VICTIM #	ADDRESS		CITY	STATE	ZIP CODE	PATROL DISTRICT		DAYPHONE		EVENING PHONE
	☐ SUSPECT #	ADDRESS		CITY	STATE	ZIP CODE	PATROL DISTRICT		DAYPHONE		EVENING PHONE
	☐ REMAND	HEIGHT		WEIGHT	HAIR	EYES	FACIAL HAIR, BEARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECuliarITIES, ETC.				
	☐ WANTED	COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.	
	☐ WARRANT	COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.	
	☐ ARREST	COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.	
	☐ MISSING	COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.	
	☐ JAIL	COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.	
	☐ JAIL	COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.		VICTIM NO.		COMPLAINANT NO.	
ARRESTEE ARMED ☐ YES ☐ NO WEAPON TYPE: ☐ ON VIEW ARREST ☐ SUMMONED ☐ CUSTODY											
JUVENILE DISPOSITION: 1. ☐ HANDLED, RELEASED ☐ REFERRED TO OTHER AUTHORITY											

Victim #2: [REDACTED]
[REDACTED]
[REDACTED]

Suspect: Miller, Calvin, W/M (No further information).

This agency received a referral from the complainant/Galloway-Williams, a counselor at Greenville Rape Crisis and Child Abuse Center. Galloway-Williams conducted forensic interviews with both victims after receiving allegations of sexual abuse through the Department of Social Services in Easley. During the interviews, both girls disclosed that they had been anally penetrated by their maternal uncle, Calvin Miller, who is also reportedly a registered sex offender. The girls stated that the assaults took place at the [REDACTED] address in 2003 and at [REDACTED] SC in 2007. The incidents were apparently reported to [REDACTED], the girls maternal grandmother, who kept the children from Miller since that time. The girls apparently had a visit with their non custodial mother this past Thanksgiving at which Miller was also present. It was after that visit that the girls reported the assaults. This case is assigned to Investigator Cheryl Cromartie for follow up.

PROPERTY	TYPE						TOTAL VALUE
	STOLEN						
	DAMAGED						
	RECOVERED						
	RECOVERED						
ADMIN	SUBJECT IDENTIFIED	SUBJECT LOCATED		AUTHOR ☐ ACTUAL CLEARED		ARRESTED UNDER 18	
	☐ YES ☐ NO	☐ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ WITHHELD COOPERATION				☐ EXTRADITION DENIED		☐ ARRESTED AND ARREST
	REPORTING OFFICER	DATE	UNIT NO.	APPROVING OFFICER	DATE	UNIT NO.	
	McNamara, M.J. *242	02-05-09	603	Sgt. McNamara, M.J. *242	02-06-09	603	
			Chromartie	02-06-09	634		

-9 FEB 2012 12 59

0 9 0 0 0 0 2 2 0 7 2

I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)		VEHICLE NO. ATTENDING TO EMERGENCY			RESIDENT	WIFE	AGE	D.O.B.
	☐ VICTIM	Miller, Calvin		OF/Via File	FE	SS		With File	34	
	☐ SUSPECT	ADDRESS		CITY	STATE	ZIP CODE	PATROL DIVISION	DAY PHONE		EVENING PHONE
	☐ REFUSAL			Lyman	Sc	29365	0119			
	☐ WANTED	HEIGHT WEIGHT HAIR EYES RACE, MARK, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL, REGULARITIES, ETC.								
	☐ SUSPECT									
	☐ ARREST	☐ VICTIM NO.	VEHICLE PLATE	COMPLAINT OF NON-VEHICLE SUBJECT	VEHICLE MAKE	☐ NO ☐ YES ☐ UNK	☐ YES-OWN VEHICLE ☐ DETECTIVE ☐ ALONE			
	☐ MISSED	EXPLAIN:	☐ YES ☐ NO	☐ NO ☐ YES	REASON:	☐ NO ☐ YES TYPE ☐ UNK	☐ YES-OWN VEHICLE ☐ OTHER ☐ ASSISTED			
	☐ JAIL	REASON FOR:	UNSUB CLOSING	☐ NO ☐ YES ☐ UNK	☐ ARRESTED ON CURRENT OFFENSE					
	☐ OTHER	UNSUB CHARGED	☐ NO ☐ YES TYPE ☐ UNK	☐ CHARGED BY ARREST ON PRIOR OFFENSE						

ARRESTEE ARMED ☐ YES ☐ NO WEAPON TYPE:	☐ ON VIEW ARREST ☐ SUMMONED ☐ CUSTODY
JUVENILE DISPOSITION: 1. ☐ HANDLED, RELEASED ☐ REFERRED TO OTHER AUTHORITY	

Arrest Location:

Viet [REDACTED]

Vict: [REDACTED]

On February 19, 2009, [REDACTED] the victims grandmother attempted contact with Investigator via telephone.

On February 23, 2009, I made contact with [REDACTED] and informed her of the report sent to this agency for further investigation regarding sexual abuse. Walker advised she is familiar with the allegations and advised she was given temporary custody of the victims by the Department of Social Services. I asked [REDACTED] could she provide any additional information regarding the abuse and she advised she was told by [REDACTED] the suspect "stuck his thing in her butt". [REDACTED] advised [REDACTED] stated the incident occurred when she was 5 years of age, but victim [REDACTED] would not provide any information. I informed Walker that in the report provided to this office from the Greenville Rape Crisis Center it identifies two incident location [REDACTED] and [REDACTED]. [REDACTED] advised she lived at the [REDACTED] location for three years and her daughter [REDACTED] resided at the [REDACTED] address for about two years.

I secured a contact number for the victims mother Mary Lovelace and informed Walker that I would make contact with her again on a later date.

I will attempt contact with the suspect to inform him of the allegations.

CASE REMAINS ACTIVE

VEHICLE	DETAILS	TAG NUMBER		STATE	YEAR	V.I.N.	VALUE	
	DISCOVERED	YEAR	MAKE		MODEL		STYLE	COLOR
	DISPOSER							
	OTHER	TAG ONLY	ADDITIONAL VEHICLE DESCRIPTION					

[illegible]

ADMIN	SUSPECT IDENTIFIED		SUSPECT LOCATED		SIGHTING ☐ ADMISSION CLOSED		☐ ADMITTED UNDER 19		☐ RELEASED UNDER 19	
	☐ YES ☐ NO	☐ YES ☐ NO	☐ INVESTIGATED		☐ ADMITTED 19 AND OVER		☐ RELEASED 19 AND OVER		☐ RELEASED 19 AND OVER	
	REASON FOR IMMEDIATE CLEARANCE: 1. ☐ OFFENDER DEATH, 2. ☐ NO PROSECUTION, 3. ☐ VOLUNTARY RELEASE, 4. ☐ VOLUNTARY RELEASE, 5. ☐ VOLUNTARY RELEASE, 6. ☐ VOLUNTARY RELEASE, 7. ☐ VOLUNTARY RELEASE, 8. ☐ VOLUNTARY RELEASE, 9. ☐ VOLUNTARY RELEASE, 10. ☐ VOLUNTARY RELEASE									
	APPROVED OFFICER		DATE		APPROVED OFFICER		DATE		APPROVED OFFICER	
	Twy. Cheryl Cromack *86		2/23/09		Sgt. M. McNamara		2/23/09		603	

03-4-09E

OF AGENCY I.D. GREENVILLE COUNTY SHERIFF'S OFFICE
SCO230000 SUPPLEMENTAL REPORT

CASE NUMBER
09000022072

☐ ORIGINAL REPORT	☐ STATUS CHANGE	☐ ADDITIONAL VICTIM	☐ ADDITIONAL STEAL PROPERTY	INVEST TYPE	CSC W/MINOR
☒ SUPPLEMENTAL REPORT	☐ OTHER REPORT	☐ ADDITIONAL OFFENSES	☐ ADDITIONAL RECEIVED PROPERTY	PATROL DISTRICT	10A
				PAGE	1
				OF	1
				PAGES	

I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)		VEHICLE OR ATTENDANCE ON SUBJECT		RESIDENT	W/IN	AGE
	☐ VICTIM #	Miller, Calvin		OP/VOL #		6	16	34
	☐ SUBJECT #	ADDRESS		CITY				
	☐ INTERVIEW	Unknown		Unknown				
	☐ VICTIM #	PLANE		STYL				
	☐ VICTIM #	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL, FIBERGLASS, ETC.						
	☐ ARREST	VEHICLE NO.		VEHICLE MAKE				
	☐ MISSING	EXPLANATION		VEHICLE NO.				
	☐ JAIL	VEHICLE NO.		VEHICLE MAKE				
	☐ OTHER	VEHICLE NO.		VEHICLE MAKE				

ARRESTED ARMED	☐ YES ☐ NO	WEAPON TYPE:	☐ ON VIEW ARREST ☐ SUMMONED ☐ CUSTODY
JUVENILE DISPOSITION: 1.	☐ HANDLED, RELEASED ☐ REFERRED TO OTHER AUTHORITY		

Arrest Location:

I left a message for Pickens Cnty DSS caseworker Michelle Gerald to make contact with Investigator as soon as possible, so that I can gather detailed information regarding incidents.

Due to no contact number listed for the victims legal guardian Sharon Walker, I sent a contact letter advising she make immediate contact upon receipt of the letter.

CASE REMAINS ACTIVE

VEHICLE	☐ CYCLES	TAG NUMBER	STATE	YEAR	V.I.C.	VALUE
	☐ DISCOVERED	YEAR	MAKE	MODEL	STYLE	COLOR
	☐ DISCOVERY	ADDITIONAL VEHICLE DESCRIPTION				
	☐ OTHER					

PROPERTY	Serial	Property Type	Quantity	Property Make	Color	Description	Serial #	Value

ADMIN	SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO
	REASON FOR REQUESTING CLEARANCE		OFFENSE OR CRIM. 1. ☐ NO RECORDATION 2. ☐ VICTIM/RELATIVE COOPERATION 3. ☐ EXTRADITION DEMAND 4. ☐ JUVENILE/ADULT ARREST				
	REPORTED BY	DATE	APPROVED BY	DATE			
	Inv. Cheryl Forensic *86	2/14/09	Sgt. M. McNamara	2/14/09			

034096

17 FEB 2009 16:18

CAGE NUMBER

0 9 0 0 0 0 2 2 0 7 2

042-09E

0 9 0 0 0 0 2 2 0 7 2

I.O. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)		VIOLENCE RELATIONSHIP TO SUSPECT			RESIDENT	WITH ☐ OR ☐	AGE	D.O.B.
	☐ VICTIM #	Miller, Calvin		OFF/VOA Form	#2	#3		16	34	
	☐ SUSPECT #	ADDRESS		CITY	STATE	ZIP CODE	PATROL DISTRICT	DAY PHONE	EVENING PHONE	
	☐ RUNAWAY	[REDACTED]		Lynman	Sc	29645	QJ19			
	☐ WANTED	REPORT WEIGHT HAIR EYES FACIAL MARKS SCARS TATTOOS GLASSES CLOTHING PHYSICAL PECuliarITIES, ETC.								
☐ WARRANT										
☐ ARREST	INVEST NO.	VIOLENCE RELATIONSHIP	COMPLAINT OF NON-VIOLENCE SUSPECT	VIOLENCE USED WEAPON: ☐ NO ☐ YES ☐ FIRE			☐ TWO-WAY VEHICLE ☐ DAYTIME ☐ ALONE			
☐ ESCAPE	EXPLAIN:	☐ YES ☐ NO	☐ NO ☐ YES	FIRE: ☐ NO ☐ YES TYPE ☐ FIRE ☐ UNK.			☐ ONE-WAY VEHICLE ☐ OTHER ☐ ARRESTED			
☐ JAIL	SUSPECT NO.	USED ALONE	☐ NO ☐ YES ☐ UNK				☐ ARRESTED OR CURRENT OFFENSE			
☐ CONV		USED GUN/WEAPON	☐ NO ☐ YES ☐ TYPE	☐ UNK			☐ CLEARED BY SUSPECT OR PRIOR OFFENSE			

Arrest Location:	
------------------	--

On April 9, 2009, I received a call from sex offender registrar Beverly Petit advising the suspect made contact with her and informed her that he committed himself to Patrick B. Harris. I contacted the Sheriff's Office Judicial Support and informed them of the suspects whereabouts.

On April 20, 2009, I received a call from Deputy Sweat advising the suspect would be transported to Greenville from Patrick B. Harris on this date.

The suspect was transported from Patrick B. Harris and taken before Magistrate Garrison for arraignment. No bond was set.

VEHICLE	☐ OTHER	TAX NUMBER	STATE	YEAR	V.I.N.	VALUE
	☐ RECEIVED	YEAR	MAKE	MODEL	STYLE	COLOR
	☐ SUBJECT					
	☐ NOTED	TAX ONLY	ADDITIONAL VEHICLE DESCRIPTION			

[illegible]

ADMIN	SUBSISTY IDENTIFIED		SUBSISTY LOCATED		☐ ACTIVE ☐ ADORN. GLOVES ☐ ARRESTED UNDER 18 ☐ RELEASED UNDER 18		☐ RELEASED UNDER 18 ☐ RELEASED 18 AND OVER	
	☐ YES ☐ NO		☐ YES ☐ NO		☐ UNPROCESSED		☐ ARRESTED 18 AND OVER	
	REASON FOR CRIMINAL CLEARANCE: 1. ☐ OFFENSES DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/RELATIVE COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE/18+ ARREST							
	REPORTING OFFICER		DATE		USE 87 SH#		APPROVING OFFICER	
	Inv. Cheryl Cronanick *85		4/22/09		634		Sgt. M. McNamara	
							FOLLOWUP INVESTIGATION ☐ YES ☐ NO ☐ PENDING	
							DATE 4/22/09 USE 87 SH# 605	

A 5-20-09E

28 APR 1971 12 7.3

Petitioner's Exhibit D

STATE OF NORTH CAROLINA		File No. County Of Hearing 94 CRS 1791	
<u>Transylvania</u> County <u>Brevard, N.C.</u>		Seat Of Court ☐ In The General Court Of Justice ☒ District ☒ Superior Court Division	
NOTE: (This form is not to be used for offense(s) occurring on or after October 1, 1994. There must be a separate revocation judgment for each sentence which is activated, but one revocation judgment is sufficient where the original sentence was imposed on offenses consolidated for purposes of judgment.)			
STATE VERSUS		JUDGMENT AND COMMITMENT UPON REVOCATION OF PROBATION (OR ELECTION TO SERVE SENTENCE)	
Defendant Calvin Joe Miller		G.S. 15A-1341(c), 15A-1344, 15A-1345	
Race White Sex Male ☐ Pre-FSA ☐ Felony			
Attorney For State Jill Rose		Attorney For Defendant At Revocation Hearing Paul Welch ☒ Appointed ☐ Retained	
The defendant was placed on probation pursuant to the following Judgment Suspending Sentence:			
Date Of Judgment Suspending Sentence October 7, 1996		☒ Superior Court ☐ District Court	
File No.(s) In County Of Origin And Offense(s) 94 CRS 1791 Indecent Liberties		Name Of County Of Origin Transylvania 94 CRS 1791	
	Date Of Offense 6/20/94	G.S. No. 14202.1	Fel./M. F
		Fel. Class/ DUI Level H	Max. Term 10yrs
			Presumptive 3 yrs.
☐ Based upon the Findings of Fact set out on the reverse side, the Court concludes that the defendant has violated a valid condition of probation upon which the execution of the active sentence was suspended, and that continuation, modification or special probation is not appropriate, and the Court ORDERS that the defendant's probation be revoked, that the suspended sentence be activated, and the defendant be imprisoned: ☒ The defendant has freely, voluntarily and understandingly elected to serve the defendant's suspended sentence of imprisonment in lieu of the remainder of the defendant's probation. Therefore, by virtue of G.S. 15A-1341(c) the Court ORDERS that the suspended sentence be activated, and the defendant be imprisoned:			
for a term of: 3 years		in the custody of the ☒ N.C. Dept. of Correction ☐ Sheriff of _____ County	
The defendant shall be given credit for 23 days spent in confinement prior to the date of this Judgment as a result of this charge.			
☐ The sentence activated this date shall begin at the expiration of all sentences which the defendant is presently obligated to serve. ☐ The sentence activated this date shall begin at the expiration of the sentence imposed in the case referenced below: (NOTE: List the case number, date, county and court in which prior sentence imposed.)			
(check all that apply)			
☐ The defendant shall serve as a committed youthful offender pursuant to G.S. Chapter 148, Article 3B.		☐ The defendant should not obtain the benefit of release pursuant to G.S. 148-49.15.	
☐ Immediate work release is recommended pursuant to G.S. 148-39.1.		☐ Work release is recommended. ☐ Work release is not recommended.	
☐ With the consent of the defendant, work release is ordered under the conditions set forth in the attached order (applies to misdemeanants only).			
☐ The Clerk, under G.S. 7A-904(d), shall immediately disburse any undisbursed monies paid by the defendant under the Judgment Suspending Sentence, as provided in that Judgment.			
☐ The Court does not recommend that the defendant be required to pay restitution or reparation, as a condition of parole if parole is granted, or from his earnings if work release is granted.			
☐ The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted, or from his earnings if work release is granted, the "Total Amount Due" shown below.			
Restitution \$ 70.00	All Prior Attorney Fees In This Case \$ 1,050.00	Attorney's Fee For This Proceeding \$	All Other \$
			Total Amount Due \$ 1,120.00
☐ The Court recommends the defendant be assigned to a substance abuse treatment unit pursuant to G.S. 15A-1351(h).			

The Court further recommends:

FINDINGS

After considering the record contained in the files numbered above, together with the evidence presented by the parties and the statements made on behalf of the State and the defendant, the Court finds:

1. The defendant is charged with having violated specified conditions of the defendant's probation as alleged in
 - ☐ a. the Violation Report(s) on file herein, which is incorporated by reference.
 - ☐ b. the Notice of Hearing to Revoke Unsupervised Probation on file herein, which is incorporated by reference.
2. Upon due notice or waiver of notice (check a. or b.)
 - ☐ a. a hearing was held before the Court and, by the evidence presented, the Court is reasonably satisfied in its discretion that the defendant violated each of the conditions of the defendant's probation as set forth below.
 - ☐ b. the defendant waived a violation hearing and admitted that the defendant violated each of the conditions of the defendant's probation as set forth below.
3. The condition(s) violated and the facts of each violation are as set forth (check a. and/or b.)
 - ☐ a. in Paragraph(s) _____ in the Violation Report or Notice dated _____
 - ☐ b. on the attached sheet.
4. Any allegation of a violation stated in the Violation Report, Notice, or otherwise, which is not set forth above is dismissed.
5. Each of the conditions violated as set forth above is valid; the defendant violated each condition willfully and without valid excuse; and each violation occurred at a time prior to the expiration or termination of the period of the defendant's probation.
 - ☐ Each violation is, in and of itself, a sufficient basis upon which this Court should revoke probation and activate the suspended sentence.
6. The Judgment for attorney's fees previously entered in this case shall be docketed, if it has not already been docketed.

FOR USE WITH FAIR SENTENCING ACT FELONIES ONLY

In the Judgment Suspending Sentence, the Court considered the aggravating and mitigating factors in G.S. 15A-1340.4 and:

Name Of Original Sentencing Judge

Hon. Zoro J. Guice, Jr.

- ☐ made no written findings because the prison term imposed does not require such findings.
- ☒ made no written findings because the prison term imposed was pursuant to a plea arrangement as to sentence per Ch. 15A, Art. 58.
- ☐ made written findings of factors in aggravation and mitigation of punishment per G.S. 15A-1340.4.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

- ☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender in this revocation proceeding.

ORDER OF COMMITMENT

It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

Date
10/8/96

Name Of Presiding Judge (Type Or Print)

Honorable Zoro J. Guice, Jr.

Signature Of Presiding Judge

APPEAL ENTRIES

- ☐ The defendant gives notice of appeal from the Judgment of the District Court to the Superior Court. The current pretrial release order is modified as follows:
- ☐ The defendant gives notice of appeal from the Judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

Date

Name Of Presiding Judge (Type Or Print)

Signature Of Presiding Judge

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and correct copy of the original on file in this case.

- ☐ Appeal Entries (AOC-CR-350) ☐ Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)
- ☐ Commitment Information Statement (DC-800)

Date Of Certification

Date Certified Copies Delivered To Sheriff

Signature And Seal

10-10-96

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

NOTE TO CLERK: Send certified copies to the Clerk of Superior Court of county of origin, if different, and to DOC, Attn: Combined Records, 831 West Morgan Street, Raleigh, NC 27603. COURIER BOX 53-71-00.

STATE OF NORTH CAROLINA		File No. 94 CRS 001791	
TRANSYLVANIA County Brevard, N.C.		Seat Of Court In The General Court Of Justice ☐ District ☒ Superior Court Division	
NOTE: (This form is not to be used for offenses occurring on or after October 1, 1994. This form is not to be used for multiple offenses unless they are consolidated for judgment.)			
STATE VERSUS		JUDGMENT SUSPENDING SENTENCE AND	
Defendant Calvin Joe Miller		☐ COMMITMENT ON SPECIAL PROBATION	
Race White	Sex Male	G.S. 15A-1341, 15A-1342, 15A-1343, 15A-1346	
Attorney For State Jill Rose		Attorney For Defendant Paul Welch	
☐ Del. Found ☐ Not Indigent		☐ Del. Waived ☐ Attorney ☒ Appointed ☐ Retained	
The defendant ☒ pled guilty to: ☐ was found guilty by the Court of: ☐ was found guilty by a jury of: ☐ pled no contest to:			
(Alford) (Neg.)			
File No.(s) And Offense(s)	Date Of Offense	G.S. No.	Fel/M. Class Min. Term Presumptive
94 CRS 1791 Indecent Liberties	6/20/94	14-202.1	F H 10 yrs. 3 yrs.
The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and			
☐ makes no written findings because the prison term imposed does not require such findings.			
☐ makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence.			
☐ makes the Findings Of Factors In Aggravation And Mitigation Of Punishment set forth on the attached AOC-CR-303.			
The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned			
for a term of Three (3) years		in the custody of the ☒ N. C. Dept. of Correction ☐ Sheriff of _____ County	
The defendant shall be given credit for 23 days spent in confinement prior to the date of this Judgment as a result of this charge, to be applied toward the ☐ sentence imposed above. ☐ Imprisonment required for special probation below.			
SUSPENSION OF SENTENCE			
With the consent of the defendant and subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on ☒ supervised probation for 5 years. ☐ unsupervised probation for _____ years.			
☐ The above period of probation shall begin: ☐ when the defendant is paroled or otherwise released from incarceration in the case referred to below. ☐ at the expiration of the sentence in the case referred to below.			
(NOTE: List Case Number, Date, County And Court In Which Prior Sentence Imposed.)			
SPECIAL PROBATION - G.S. 15A-1351			
☐ As a condition of special probation, the defendant shall ☐ serve an active term of _____ days ☐ months in the custody of the ☐ N.C. DOC. ☐ Sheriff of this County. ☐ submit to IMPACT imprisonment per attached CR-302, Page Two. ☐ pay jail fees.			
(NOTE: This term shall NOT be reduced by good time, gain time or parole, or, unless provided above, by time in jail awaiting trial.)			
The defendant shall report in a sober condition to begin serving his term on:		and shall remain in custody until:	
Day _____	Date _____	Hour ☐ AM ☐ PM	Day _____ Date _____ Hour ☐ AM ☐ PM
☐ The defendant shall again report in a sober condition to continue serving this term on the same day of the week for the next consecutive weeks, and shall remain in custody during the same hours each week.			
MONETARY CONDITIONS			
The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee set by law ☒ pursuant to a schedule determined by the probation officer. ☐ at the rate of \$ _____ per month beginning on 11-7-96 and continuing on the same day of each month thereafter until paid in full. ☒ Other:			
Pay monthly probation fee beginning 11-7-96.			
Fine	Costs	Restitution *	Attorney's Fee
\$ 200.00	\$	\$ 70.00	\$ 1,050.00
Community Service Fee		Total Amount Due	
\$ 100.00		\$ 1,420.00	
*The name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:			
Victim's parents			
☐ All payments received by the Clerk shall first be disbursed pro rata among the persons entitled to restitution.			
☐ Upon payment of the "Total Amount Due", the probation officer may transfer the defendant to unsupervised probation.			

REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)

The defendant shall: 1. Commit no criminal offense in any jurisdiction. 2. Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269. 3. Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip the defendant for suitable employment and abide by all rules of the institution. 4. Satisfy child support and family obligations, as required by the Court.

If the defendant is on supervised probation, the defendant shall also: 5. Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. 6. Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. 7. Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. ~~8. Obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned.~~

If the defendant is to serve an active sentence as a condition of special probation, the defendant shall also: 9. Obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned. 10. Report to a probation officer in the State of North Carolina within 72 hours of the defendant's discharge from the active term of imprisonment.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1), 143B-282(c)

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

- ☐ 11. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of _____, or until relicensed by the Division of Motor Vehicles, whichever is later.
- ☒ 12. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, and of the defendant's vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision:
☒ stolen goods ☒ controlled substances ☒ contraband ☒ Drug Paraphernalia
- ☒ 13. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.
- ☒ 14. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the defendant's probation officer.
- ☐ 15. Successfully pass the General Education Development Test (G.E.D.) during the first _____ months of the period of probation.
- ☒ 16. Complete 72 hours of community or reparation service ~~as directed by the community service coordinator~~ as directed by the community service coordinator and pay the fee prescribed by G.S. 143B-475.1(b) ☐ pursuant to the schedule set out under monetary conditions above. ☐ within _____ days of this Judgment and before beginning service.
- ☒ 17. Report for initial evaluation by ~~for Sex Offender Specific Program~~ and pay any costs participate in all further evaluation, counseling, treatment or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.
- ☒ 18. Other: Must admit, and continue to admit guilt to offense. B. Comply with all conditions of Sex Offender Special Conditions. Have no contact with victim or victim's family.
- ☐ 19. Comply with the Additional Conditions Of Probation which are set forth on AOC-CR-302, Page Two.
- ☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APEAL ENTRIES

- ☐ It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- ☐ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order is modified as follows:
- ☐ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

SIGNATURE OF JUDGE

Date 10/7/96 Name Of Presiding Judge (Type Or Print) Honorable Zoro J. Guice, Jr. Signature Of Presiding Judge Zoro J. Guice Jr.

CERTIFICATION

I certify that this Judgment and the attachment(s) marked below are true copies of the original(s).

- ☐ Appeal Entries AOC-CR-350 ☐ Judgment Suspending Sentence, Page Two (Additional Conditions Of Probation (AOC-CR-302, Page Two))
- ☐ Findings Of Factors In Aggravation And Mitigation Of Punishment (AOC-CR-303)

Date of Certification _____ Date Certified Copies Delivered To Sheriff _____ Signature And Seal _____

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

NOTE: (Defendant signs below in all cases except unsupervised probation without community or reparation service.) I have received a copy of this Judgment which contains all of the conditions of my probation and I agree to them. I understand that no person who supervises me or for whom I work while performing community or reparation service is liable to me for any loss or damage which I may sustain unless my injury is caused by that person's gross negligence or intentional wrongdoing. I understand that my probation may be extended pursuant to G.S. 15A-1342(a).

Date Signed _____ Signature Of Defendant _____ Witnessed By: _____

STATE OF NORTH CAROLINA		File No. 94CRS1791
TRANSYLVANIA County		In The General Court Of Justice Superior Court Division
STATE VERSUS		INDICTMENT FIRST DEGREE STATUTORY SEXUAL OFFENSE (FEMALE OR MALE CHILD UNDER 13)
Name Of Defendant Calvin Joe Miller		
Date Of Offense 6/20/94	Offense In Violation Of G.S. 14-27.4(a)(1)	

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did engage in a sex offense with _____ a child under the age of 13 years.

Signature Of Prosecutor

WITNESSES

☒ Rita Smith, TCSD	☐
☐	☐
☐	☐
☐	☐

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and, after hearing testimony, this Bill was found to be:

☒ A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

Twelve or more jurors concur

☐ NOT A TRUE BILL

Date September 6, 1994	Signature Of Grand Jury Foreman Mike Saunders
---	--

9006425

File No. **94-CR-1791**

WARRANT FOR ARREST

Offense **FIRST DEGREE STATUTORY
SEXUAL OFFENSE**

THE STATE OF NORTH CAROLINA VS.

Name, Address And Telephone No. Of Defendant
CALVIN JOE MILLER
[REDACTED]
Brevard, NC 28712

Race W	Sex M	Date Of Birth [REDACTED]	Age 20
Social Security No. [REDACTED]		Driver's License No. [REDACTED]	

Name Of Defendant's Employer

Offense Code 1116	Offense In Violation Of G.S. 14-27.4
	Date Of Offense 06/20/94

Date Of Arrest And Check Digit No. (From Fingerprint Card)
08-01-94 G71.719N

Complainant (Name, Address Or Department, Phone No.)
Det. Rita Smith TCSD

Witnesses (Names, Addresses, Phone Numbers)
[REDACTED]
[REDACTED]
[REDACTED]

STATE OF NORTH CAROLINA

TRANSYLVANIA

County

In The General Court Of Justice
District Court Division

To any officer with authority and jurisdiction to execute a warrant for arrest for the offense(s) charged below:

I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did engage in a sex offense with [REDACTED], a child under the age of 13 years.....

This act was in violation of the law referred to in this Warrant. This Warrant is issued upon information furnished under oath by the complainant listed. You are DIRECTED to arrest the defendant and bring him before a judicial official without unnecessary delay to answer the charge(s) above.

Date Issued July 26, 1994	Signature <i>[Signature]</i>	Location Of Court Brevard- Courthouse
Date Of Service	☒ Magistrate ☐ Assistant CSC	☐ Deputy CSC ☐ Clerk Of Superior Court
		Court Date Court Time ☐ AM ☐ PM

If this Warrant For Arrest is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon. The officer must state all steps taken by his department in attempting to execute the warrant and any information obtained about the whereabouts of the defendant.			Name Of Attorney For Defendant At Time Of Trial Or Plea _____ ☐ Waived Attorney						
RETURN OF SERVICE I certify that this Warrant was received and served as follows: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Date Received 7/20/94</td> <td style="width: 33%;">Date Served 8/1/94</td> <td style="width: 33%;">Date Returned 8/1/94</td> </tr> </table> ☒ By arresting the defendant and bringing him before: Name Of Judicial Official <u>Dora Robinson</u>			Date Received 7/20/94	Date Served 8/1/94	Date Returned 8/1/94	PLEA: ☐ guilty ☐ not guilty ☐ no contest VERDICT: ☐ guilty ☐ not guilty ☐ It is ORDERED that this case be consolidated for judgment with case number _____ JUDGMENT: The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict it is ORDERED that he: ☐ pay a fine of \$ _____ and costs. ☐ be imprisoned for a term of _____ in the custody of the ☐ Sheriff. ☐ N. C. DOC. ☐ With defendant's consent, execution of the sentence is suspended and he is placed on unsupervised probation for _____ years, subject to the following conditions: 1. commit no criminal offense in any jurisdiction. 2. possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. 3. remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. 4. satisfy child support and family obligations, as required by the Court. 5. pay to the Clerk of Superior Court the costs of court and any additional sums shown below.			
Date Received 7/20/94	Date Served 8/1/94	Date Returned 8/1/94							
☐ This Warrant WAS NOT served for the following reason: Signature Of Officer Making Return <u>[Signature]</u> Department Or Agency Of Officer <u>TCSD</u>			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Fine \$</td> <td style="width: 20%;">Restitution*</td> <td style="width: 20%;">Attorney's Fee \$</td> <td style="width: 20%;">Community Service Fee \$</td> <td style="width: 20%;">Other</td> </tr> </table> *The name(s) and address(es) and amount(s) due the person(s) to receive this restitution are: ☐ 6. complete _____ hours of community service during the first _____ days of probation, as directed by the community service coordinator, and pay the fee prescribed by G.S. 143B-475.1(b). ☐ 7. surrender his driver's license to the Clerk of Superior Court for transmittal to the Division of Motor Vehicles and not operate a motor vehicle for a period of _____ or until relicensed by the Division, whichever is later, except as may be permitted in a limited driving privilege. ☐ 8. not be found in or on the premises of _____ located at _____ ☐ 9. not assault, communicate with or be in the presence of _____ ☐ 10. this sentence is to run at the expiration of the sentence in case number _____ ☐ 11. Other: _____		Fine \$	Restitution*	Attorney's Fee \$	Community Service Fee \$	Other
Fine \$	Restitution*	Attorney's Fee \$	Community Service Fee \$	Other					
RETURN FOLLOWING REDELIVERY I certify that this Warrant was received and served as follows: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Date Received</td> <td style="width: 33%;">Date Served</td> <td style="width: 33%;">Date Returned</td> </tr> </table> ☐ By arresting the defendant and bringing him before: Name Of Judicial Official ☐ This Warrant WAS NOT served for the following reason: Signature Of Officer Making Return Department Or Agency Of Officer			Date Received	Date Served	Date Returned	☐ The defendant, in open court, gives notice of appeal to the Superior Court. PROBABLE CAUSE: ☐ Probable cause is found as to all Counts except _____ of this Warrant, and the defendant is bound over to Superior Court for action by the grand jury. ☐ No probable cause is found as to Count(s) _____ of this Warrant, and the Count(s) is dismissed. Date _____ Signature Of District Court Judge _____ WAIVER OF PROBABLE CAUSE HEARING: The undersigned defendant, with the consent of his attorney, waives his right to a probable cause hearing. Date Waived <u>8/23/94</u> Signature Of Defendant <u>Celation Miller</u> Signature Of Attorney <u>[Signature]</u>			
Date Received	Date Served	Date Returned							

Incident Data	Agency Name TRANSYLVANIA COUNTY S D		INCIDENT/INVESTIGATION REPORT PCIBASE North Carolina		OCA 94060919																																																																																																																																																																																														
	ORI NC08800				Date/Time Reported Month Day Yr Time 06 28 94 1100 Hrs																																																																																																																																																																																														
	#1 Crime/Incident(s) 1ST DEG.STAT.SEX OFF 1790		☐ Attempt ☒ Complete		At Found Month Day Yr Time 06 27 94 1800 Hrs																																																																																																																																																																																														
MO	#2 Crime Incident		Location of Incident		Offense Tract B																																																																																																																																																																																														
	#3 Crime Incident		Premise Type 01 HOME OF VICTIM - SIN		Victim Residence Type ☒ Single Family ☐ Multi Family																																																																																																																																																																																														
	How Attacked or Committed DIGITAL PENETRATION		Forcible ☒ Yes ☐ No		Weapon/Tools 40 PERSONAL WEAPONS (HANDS, FEET, TEET																																																																																																																																																																																														
VICTIM	# of Victims 01		Type: ☒ Person ☐ Business ☐ Society ☐ Government ☐ Financial Institute ☐ Religious ☐ L.E. Officer Line of Duty ☐ Other/Unk		Injury: ☐ None ☒ Minor ☐ Loss of Teeth ☐ Broken Bones ☐ Severe Lacerations ☐ Internal ☐ Unconscious ☐ Other Major																																																																																																																																																																																														
	Victim/Business Name (Last, First, Middle) V1		Victim DOB / Age		Race Sex W F																																																																																																																																																																																														
	Home Address		Home Phone 704-883-8978		Relationship To Offender AQ																																																																																																																																																																																														
	Employer Name/Address		Business Phone		Resident Status ☒ Resident ☐ Non-Resident ☐ Unknown																																																																																																																																																																																														
	VYR Make Model Style Color Lic/Lis Vin																																																																																																																																																																																																		
OTHERS INVOLVED	CODES: V-Victim (Denote V2, V3) O-Owner (if other than victim) R-Reporting Person (if other than victim)																																																																																																																																																																																																		
	Type: ☐ Person ☐ Business ☐ Society ☐ Government ☐ Financial Institute ☐ Religious ☐ L.E. Officer Line of Duty ☐ Other Unknown																																																																																																																																																																																																		
	Code Name (Last, First, Middle)		Victim DOB / Age		Race Sex																																																																																																																																																																																														
	Home Address		Home Phone		Business Phone																																																																																																																																																																																														
	Employer Name/Address		Business Phone																																																																																																																																																																																																
PROPERTY	Type: ☐ Person ☐ Business ☐ Society ☐ Government ☐ Financial Institute ☐ Religious ☐ L.E. Officer Line of Duty ☐ Other Unknown																																																																																																																																																																																																		
	Code Name (Last, First, Middle)		Victim DOB / Age		Race Sex																																																																																																																																																																																														
	Home Address		Home Phone		Business Phone																																																																																																																																																																																														
	Employer Name/Address		Business Phone																																																																																																																																																																																																
	Status Codes: L-Lost S-Stolen D-Damaged Z-Seized B-Burned C-Counterfeit/Forged F-Found (Check 'OJ' column if recovered for other jurisdiction)																																																																																																																																																																																																		
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Victim #</th> <th>DCI</th> <th>Status</th> <th>Value</th> <th>OJ</th> <th>QTY</th> <th>Property Description</th> <th>Make/Model</th> <th>Serial Number</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>							Victim #	DCI	Status	Value	OJ	QTY	Property Description	Make/Model	Serial Number																																																																																																																																																																																				
Victim #	DCI	Status	Value	OJ	QTY	Property Description	Make/Model	Serial Number																																																																																																																																																																																											
Number of Vehicles Stolen 0 Number of Vehicles Recovered 0																																																																																																																																																																																																			
STATUS	Officer Name SMITH R R		ID# 100501		Officer Signature																																																																																																																																																																																														
	Complaint Signature		Case Status ☒ Further Investigation ☐ Inactive ☐ Closed/Cleared ☐ Closed/Leads Exhausted		Case Disposition: ☐ Unfounded ☐ Juvenile/No Custody ☐ Extradition Declined ☐ Cleared by Arrest ☐ Refuse to Cooperate ☐ Cleared by Arrest by Another Agency ☐ Death of Offender																																																																																																																																																																																														

INCIDENT/INVESTIGATION REPORT

Page 2

07/08/94 15:15

OCA

94060919

Status Codes L-Lost S-Stolen R-Recovered D-Damaged Z-Seized B-Burned C-Counterfeit/Forged F-Found																
DRUGS	DCI	Status	Quantity	Type Measure	Suspected Type				Check up to 3 types of activity for each							
									Possess	Buy	Sale	Mfg.	Importing	Operating		
OFFENDER	Offender Used Alcohol/Drugs ☐ Yes ☐ Unk ☐ No ☐ N/A			Offender 1 Age: 20 Race: W Sex: M				Offender 2 Age: Race: Sex:				Offender 3 Age: Race: Sex:				Primary Offender Resident Status ☒ Resident ☐ Non-Resident ☐ Unknown
	Computer ☐ Yes ☐ Unk ☐ No ☐ N/A			Offender 4 Age: Race: Sex:				Offender 5 Age: Race: Sex:				Offender 6 Age: Race: Sex:				
SUSPECT	Name (Last, First, Middle)				Alias or Nickname				Home Address							
	MILLER, CALVIN JOE								[REDACTED] NC 28772							
	Occupation				Business Address											
	UNEMPLOYED				NONE											
	DOB / Age		Race	Sex	Height	Weight	Build	Hair Color	Hair Style	Hair Length	Eye Color	Glasses				
	[REDACTED] 20		W	M	509	170		BRO			BLU	No				
	Scars, Marks, Tattoos, other distinguishing features (i.e. limp, foreign accent, voice characteristics)															
	Hat	Jacket	Shirt/Blouse	Tie/Scarf	Coat/Suit	Pants/Dress/Skirt	Socks	Shoes								
	Was Suspect Armed?		Type of Weapon				Direction of Travel				Mode of Travel					
	VYR	Make	Model	Style	Color	Lic/Lis	Vin									
WITNESS	Name (Last, First, Middle)				DOB / Age		Race	Sex	OCA							
	[REDACTED]				[REDACTED]		W	M								
	Home Address [REDACTED]				Home Phone [REDACTED]		Employer			Phone						
Suspect Hate / Bias Motivated: Yes ☐ No ☒																

NARRATIVE

Incident Data	Agency Name TRANSYLVANIA COUNTY S D		INCIDENT/INVESTIGATION REPORT PCIBASE North Carolina				OCA 94080819							
	ORI NC08800		08/02/94 08:28				Date/Time Reported Month Day Yr Time 08 28 94 1100 Hrs.							
NO	#1	Crime/Incident(s) 1ST DEG.STAT.SEX OFF 1790		☐ Attempt ☒ Complete		At Found Month Day Yr Time 08 27 94 1800 Hrs.		Last Known Secure Month Day Yr Time 08 27 94 0800 Hrs.						
	#2	Crime Incident				Location of Incident [REDACTED]				Offense Tract 8				
	#3	Crime Incident				Premise Type 01 HOME OF VICTIM - SIN				Victim Residence Type ☒ Single Family ☐ Multi Family				
VICTIM	How Attacked or Committed DIGITAL PENETRATION										Forcible ☒ Yes ☐ No		Weapon/Tools 40 PERSONAL WEAPONS (HANDS, FEET, TEETH, ETC.)	
	# of Victims 01	Type: ☒ Society ☐ Religious ☒ Person ☐ L.E. Officer Line of Duty ☐ Business ☐ Financial Institute ☐ Other/Unk			Injury: ☐ None ☒ Minor ☐ Loss of Teeth ☐ Broken Bones ☐ Severe Lacerations ☐ Internal ☐ Unconscious ☐ Other Major				Drug/Alcohol Use: ☒ Yes ☐ No ☐ Unknown ☐ N/A					
	V1	Victim/Business Name (Last, First, Middle) [REDACTED]				Victim DOB / Age [REDACTED]		Race W	Sex F	Relationship To Offender AQ	Resident Status ☒ Resident ☐ Non-Resident ☐ Unknown			
OTHERS INVOLVED	Home Address [REDACTED]										Home Phone [REDACTED]			
	Employer Name/Address										Business Phone			
	VYR	Make	Model	Style	Color	Lic/Lis	Vin							
Reportee	CODES: V-Victim (Denote V2,V3) O-Owner (if other than victim) R-Reporting Person (if other than victim)													
	Type:	☐ Person ☐ Business ☐ Society ☐ Government ☐ Financial Institute ☐ Religious ☐ L.E. Officer Line of Duty ☐ Other Unknown												
	Code	Name (Last, First, Middle) R1 WILLIAMS,LINDA							Victim	DOB / Age / / 00		Race W	Sex F	
PROPERTY	Home Address C/O HENDERSONVILLE PEDIATRICS, BREVARD, NC 28712										Home Phone			
	Employer Name/Address										Business Phone			
	Type:	☐ Person ☐ Business ☐ Society ☐ Government ☐ Financial Institute ☐ Religious ☐ L.E. Officer Line of Duty ☐ Other Unknown												
STATUS	Code	Name (Last, First, Middle)							Victim	DOB / Age		Race	Sex	
	Home Address										Home Phone			
	Employer Name/Address										Business Phone			
PROPERTY	Status Codes L-Lost S-Stolen O-Damaged Z-Seized B-Burned C-Counterfeit/Forged F-Found (Check "OJ" column if recovered for other jurisdiction)													
	Victim #	DCI	Status	Value	OJ	QTY	Property Description			Make/Model	Serial Number			
STATUS	Number of Vehicles Stolen 0 Number Vehicles Recovered 0													
	ID	Officer Name SMITH R R			ID# 00501	Officer Signature			Supervisor Signature					
	Complaint Signature				Case Status ☒ Further Investigation ☐ Inactive ☐ Closed/Cleared ☐ Closed/Leads Exhausted			Case Disposition: ☐ Unfounded ☐ Cleared by Arrest ☐ Cleared by Arrest by Another Agency ☐ Death of Offender			☐ Juvenile/No Custody ☐ Refuse to Cooperate ☐ Prosecution Declined			

ARREST REPORT - PCIBASE North Carolina

AGENCY INFO.	Agency Name TRANSYLVANIA COUNTY S D		ORI 08800	Date/Time of Custody Mo Date Year 08 01 94 0900 Hrs.		OCA 94060919	
	Taken ☐ Prints ☐ Photos	Fingerprint Card Check Digit # (CKN) G76719N	Arrest Tract C	Residence Tract B		Arrest Number 5624	
ARRESTEE INFORMATION	Name (Last, First, Middle) MILLER, CALVIN JOE		O.O.B. [REDACTED]	Age 20	Race W	Sex M	Place of Birth WILMINGTON
	Current Address [REDACTED], ROSMAN, NC 28772		Phone [REDACTED]		Occupation UNEMPLOYED	☐ Resident ☐ Unknown ☐ Non-Resident	
	Employer's Name NONE		Address [REDACTED]		Phone [REDACTED]		
	Also Known As (Alias Names)		Hgt 510	Wgt 178	Hair BLN	Eye BLU	Skin Tone MEDIUM
	Scars, Marks, Tattoos T:LT.SHLDR "HEART"/RT.SHLDR "CINDY", LT.LEG "LIS"		Social Security # [REDACTED]		OLN and State 8422638 NC	Consumed Drug/Alcohol ☐ Yes ☐ No ☐ Unk	
Nearest Relative Name FRANK RIMMER		Address [REDACTED], BREVARD, NC		Phone [REDACTED]			
ARREST INFO.	If Armed, Type of Weapon		☐ On-View ☐ Criminal Summons ☐ Order for Arrest ☐ Citation ☒ Warrant		Place of Arrest LITTLE RIVER CAMPGROUND		
	Charge # 1 1ST DEG STAT SEX OFFENSE	☒ Fel ☐ Misd	Counts 1	DCI Code 1790	Offense Jurisdiction (If not reporting Agency) TRANSYLVANIA	Statute # 14-27.4	Warr Date Mo Day Yr 07/26/94
	Charge # 2	☐ Fel ☐ Misd	Counts	DCI Code	Offense Jurisdiction (If not reporting Agency)	Statute #	Warr Date Mo Day Yr
	Charge # 3	☐ Fel ☐ Misd	Counts	DCI Code	Offense Jurisdiction (If not reporting Agency)	Statute #	Warr Date Mo Day Yr
VEH. INFO.	VYR	Make	Model	Style	Color	Lic/Lis	Vin
	Vehicle: 1. ☐ Left at Scene ☐ Secured ☐ Unsecured Date/Time 2. ☐ Released to other at owners request ☐ Name of Other 3. ☐ Impounded ☐ Place of storage ☐ Inventory on File?						
CONFINED BOND INFO.	Date/Time Confined 08/01/94 0915 Hrs.		Place Confined TC JAIL		Committing Magistrate ROBINSON		
	Type Bond ☐ Written Promise ☐ Unsecured ☒ Secured ☐ No Bond ☐ Other	Amt. Bond 50000		Trial Date 08/04/94	Court of TRANSYLVANIA	City BREVARD	
AT TIME OF ARREST	Assisting Officer Name/ID Number WHTIMIRE T 00813		Released By: Name/Dept/ID			Date/Time Released / / 0 Hrs.	
	Status Codes L-Lost S-Stolen R-Recovered D-Damaged Z-Seized B-Burned C-Counterfeit/Forged F-Found (Check "OJ" column if recovered for other jurisdiction)						
	DCI	Status	Quantity	Type Measure	Suspected Type	Check up to 3 types of activity for each Possess Buy Sale Mfg Importing Operating	
ANT	Name: Complainant ☒ Victim ☐ SMITH, RITA		Address: 201 EAST MORGAN ST, BREVARD, NC 28712			Phone: 704-884-3168	
	NARRATIVE						
STATUS	Arresting Officer Signature/ID # WHTIMIRE T 00813		Date/Time Submitted Mo Date Yr 08/01/94 1030 Hrs.		Supervisor Signature		
	Case Status: ☐ Further Inv. ☐ Inactive ☒ Closed	Case Disposition: ☒ Cleared By Arrest / No Supplement Needed ☐ Arrest/No Investigation		Arrestee Signature			

ARREST REPORT - PCIBASE North Carolina

AGENCY INFO.	Agency Name TRANSYLVANIA COUNTY S D		ORI 08800		Date/Time of Custody Mo Date Year 08 01 94 0900 Hrs.		OCA 94060919		
	Taken ☒ Prints ☒ Photos	Fingerprint Card Check Digit # (CKN) G76719N	Arrest Tract C		Residence Tract B		Arrest Number 5624		
ARRESTEE INFORMATION	Name (Last, First, Middle) MILLER, CALVIN JOE			D.O.B. [REDACTED]	Age 20	Race W	Sex M	Place of Birth WILMINGTON	Country of Citizenship US
	Current Address [REDACTED], ROSMAN, NC 28772			Phone [REDACTED]		Occupation UNEMPLOYED		☐ Resident ☐ Unknown ☐ Non-Resident	
	Employer's Name NONE			Address [REDACTED]		Phone [REDACTED]			
	Also Known As (Alias Names)			Hgt 510	Wgt 178	Hair BLN	Eye BLU	Skin Tone MEDIUM	Consumed Drug/Alcohol ☐ Yes ☒ No ☐ Unk
	Scars, Marks, Tattoos T:LT.SHLDR "HEART"/RT.SHLDR"CINDY", LT.LEG "LIS"			Social Security # [REDACTED]		OLN and State 8422035 NC		Misc. # and Type	
ARREST INFO.	Nearest Relative Name FRANK RIMMER			Address [REDACTED] BREVARD, NC			Phone [REDACTED]		
	If Armed, Type of Weapon		☐ On-View ☐ Criminal Summons ☐ Order for Arrest ☐ Citation ☒ Warrant		Place of Arrest LITTLE RIVER CAMPGROUND				
	Charge # 1 1ST DEG STAT SEX OFFENSE	☒ Fel ☐ Misd	Counts 1	DCI Code 1790	Offense Jurisdiction (If not reporting Agency) TRANSYLVANIA		Statute # 14-27.4	Warr Date Mo Day Yr 07/26/94	
VEH. INFO.	Charge # 2	☐ Fel ☐ Misd	Counts	DCI Code	Offense Jurisdiction (If not reporting Agency)		Statute #	Warr Date Mo Day Yr	
	Charge # 3	☐ Fel ☐ Misd	Counts	DCI Code	Offense Jurisdiction (If not reporting Agency)		Statute #	Warr Date Mo Day Yr	
	VVR	Make	Model	Style	Color	Lic/Lis	Vin		
CONFINED BOND INFO.	Vehicle: 1. ☐ Left at Scene ☐ Secured ☐ Unsecured 2. ☐ Released to other at owners request ☐ Name of Other 3. ☐ Impounded ☐ Place of storage			☐ Inventory on File?					
	Date/Time Confined 08/01/94 0915 Hrs.		Place Confined TC JAIL		Committing Magistrate ROBINSON				
	Type Bond ☐ Written Promise ☐ Unsecured ☒ Secured ☐ No Bond ☐ Other		Amt. Bond 50000		Trial Date 08/04/94		Court of TRANSYLVANIA City BREVARD		
COMPLAINANT	Assisting Officer Name/ID Number WHTIMIRE T 00813			Released By: Name/Dept/ID			Date/Time Released / / 0 Hrs.		
	Status Codes L-Lost S-Stolen R-Recovered D-Damaged Z-Seized B-Burned C-Counterfeit/Forged F-Found (Check "OJ" column if recovered for other jurisdiction)								
	DCI	Status	Quantity	Type Measure	Suspected Type		Check up to 3 types of activity for each Possess Buy Sale Mfg. Importing Operating		
NARRATIVE	Name: Complainant ☒ Victim ☐			Address: [REDACTED]			Phone: [REDACTED]		
STATUS	Arresting Officer Signature/ID # WHTIMIRE T 00813			Date/Time Submitted Mo Date Yr 08/01/94 1030 Hrs.		Supervisor Signature			
	Case Status: ☐ Further Inv. ☐ Inactive ☒ Closed		Case Disposition: ☒ Cleared By Arrest / No Supplement Needed ☐ Arrest/No Investigation		Arrestee Signature				

File No.	
WARRANT FOR ARREST	
Offense FIRST DEGREE STATUTORY SEXUAL OFFENSE	
THE STATE OF NORTH CAROLINA VS.	
Name, Address And Telephone No. Of Defendant CALVIN JOE MILLER [REDACTED] Brevard, NC 28712	
Race W	Sex M
Date Of Birth [REDACTED]	Age 20
Social Security No. [REDACTED]	Driver's License No. [REDACTED]
Name Of Defendant's Employer ---	
Offense Code	Offense In Violation Of G.S. 14-27.4
	Date Of Offense 06/20/94
Date Of Arrest And Check Digit No. (From Fingerprint Card)	
Complainant (Name, Address Or Department, Phone No.) Det. Rita Smith TCSD	
Witnesses (Names, Addresses, Phone Numbers) [REDACTED] [REDACTED] [REDACTED] [REDACTED]	

STATE OF NORTH CAROLINA

TRANSYLVANIA _____ County

In The General Court Of Justice
District Court Division

To any officer with authority and jurisdiction to execute a warrant for arrest for the offense(s) charged below:

I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did engage in a sex offense with [REDACTED], a child under the age of 13 years.....

COPY

This act was in violation of the law referred to in this Warrant. This Warrant is issued upon information furnished under oath by the complainant listed. You are DIRECTED to arrest the defendant and bring him before a judicial official without unnecessary delay to answer the charge(s) above.

Date Issued July 26, 1994	Signature <i>[Signature]</i>	Location Of Court Brevard- Courthouse
Date Of Service	☒ Magistrate ☐ Assistant CSC	☐ Deputy CSC ☐ Clerk Of Superior Court
		Court Date Court Time ☐ AM ☐ PM

PATIENT'S FULL NAME

(last)

(first)

(middle)

PROGRESS NOTES

Date of Birth:

Chart No.:

Pt notes there is a man at the baby sitter who bothered her "bobo" (for vaginal area) He also touched her there and also put his finger into "bobo" He also hurt her. No hx of other contact, i.e. bathing, taking to ~~play~~ or "going to bed" - She denies "the man" put anything else in her bobo nor did he pull his pants off.

PE GU Clitoris - inferior bruising on @ @, SI. swelling; @ side labia majora - old blood-dried - No bruising No discharge Vaginal vault appears normal by this exam Anus Normal

No gaping on knee chond exam mid clitoris - mid cleft - No sign of blood @ @ / Lav Vaginal bleeding cause undetermined

Re To contact DSS / Sheriff's Dept

Mother notes that her son told her that "Calvin" who is the baby sitter's brother had been hitting Emily in the "bobos" 2-3x while allegedly at play -

Hendersonville Pediatrics, P.A.

MAT

PATIENT'S FULL NAME

(last)

(first)

(middle)

PROGRESS NOTES

Date of Birth:

Chart No.:

DATE 11/10/94 AGE 3 1/2 TEMP (BO)
 WT HT HEAD BP

**DID NOT KEEP
APPOINTMENT**

DATE 11/10/94 AGE 3 1/2 TEMP (M)
 HT HEAD BP

Sensitive to bathing last P.M. - vaginal
 opening showed irritation + sl. amount of blood.
 No volunteered complaint for child. Urinated
 this AM 3 complaint. Parents feel that
 child (male), Baby sister's brother, may have "battered"
 her. Father notes that baby sister's brother
 has history of complaints from other people against
 him along this line. No knowledge of him
 being investigated by DSS or
 law enforcement.

Mon. June 13th 8:00 AM - abt 4:30 pm
 Tues. June 14th " - abt 10:30 AM
 Wed. June 15th 8:00 AM - abt 4:30 pm
 Mon. June 20th 8:00 AM - abt 4:30 pm
 Tues. June 21st 8:00 AM - abt. ~~10:30 AM~~ 8:30 AM
 Wed. June 22nd 8:00 AM - abt 4:30 pm
 Mon. June 27th 8:00 AM - abt 4:30 pm
 Thurs. June 23 - 10:00 AM - Overnight - 10 AM Fri June 24
 [redacted] stayed also

Notes:

Th wed Night - July 13 - After I arrived at
 Mom's house & was giving [redacted] a bath
 she asked why she had a hole in her
 "bo-bo's"

Wed - July 20th - In the car on our way home
 from "Nanny's" house in Oklahoma.
 We saw a policeman and [redacted] said
 that he was probably going after bad
 guys. Then [redacted] asked if Calvin was in
 jail & I said, "Not yet." The [redacted]
 asked if I remembered when she told
 her daddy about Calvin sticking his
 fingers in her "bo's" and I said, "yes,
 what about that?" Then she told me
 that Calvin had taken her in the
 bathroom and stuck his fingers in
 her "bo's" and that there was blood
 because his finger was so big."

Sunday - July 24th - I was taking [redacted]
 out of the bathtub - [redacted] said her "bo's"
 still hurt sometimes when she takes a
 bath because Calvin stuck his finger
 in her "bo's" and it hurt her.

Case File Number: 94060919

Reference: 1st Deg Stat Offense

07-26-94, 10:35AM, CCTC

victim

Q. Do you remember talking to me before?

A. Shakes head yes

Q. Can you tell me what we talked about?

A. About body

Q. What did we say about the body?

A. Bo-bo being hurt

Q. Who hurt your bo-bo?

A. The man at the babysitter.....he comes everyday

Q. How did the man hurt your bo-bo?

A. He stuck his finger in my bo-bo

Q. How did it feel?

A. No answer

Q. Did it tickle, hurt, feel good, tell me how it felt?

A. It hurt

Q. Did you cry?

A. Yeah

Q. What did the man say anything?

A. Man didn't say anything

Q. Did the man say not to tell anybody?

A. Shakes head no

Q. Do you remember the day you had a bicycle wreck?

A. No

Q. Do you remember having a bicycle wreck?

A. No

Q. Do you remember hurting your bo-bo on a bicycle?

A. Yeah

Q. Did the man come to help you then and help you go into the house?

A. Yeah

Q. Where were you, what room were you in when the man hurt your bo-bo?

A. In the bathroom

- Q. Why were you and the man in the bathroom?
A. No answer
- Q. Did the man help you potty?
A. Yeah, and shakes head yes
- Q. What kind of potty did you do?
A. Peed
- Q. How many times has the man hurt your bo-bo?
A. One time
- Q. Did hurting your bo-bo on the bicycle and the man sticking his finger in your bo-bo happen on the same day or on different days?
A. Different days
- Q. Did you tell anybody about the man hurting your bo-bo?
A. No
- Q. Was there a reason that you didn't tell anybody?
A. I don't know
- Q. Where was [REDACTED]?
A. In livingroom
- Q. Where was [REDACTED]?
A. In livingroom with [REDACTED]
- Q. Were other kids there?
A. Yeah
- Q. Where were the other kids?
A. In livingroom

Case File Number: 94060919

Reference: 1st Deg Stat Offense

07-26-94, 11:05AM, CCTC

[REDACTED], [REDACTED] victim's brother

Q. Do you remember coming to talk to us before?

A. Yeah

Q. What did we talk about?

A. About staying at babysitter's.

Q. What else did we talk about?

A. About Calvin punching [REDACTED]

Q. Do you remember ever seeing Calvin take [REDACTED] to the bathroom?

A. Yeah.....one time

Q. Where were you when Calvin took [REDACTED] to the bathroom?

A. On the couch watching tv

Q. Where was [REDACTED]?

A. I think she was in the kitchen

Q. Who else was there?

A. The 4 girls

Q. Where were they?

A. Maybe in the kitchen getting something to eat

Q. Do you remember seeing [REDACTED] cry?

A. No

Q. Do ^{you} remember if [REDACTED] hurting herself on the bicycle and Calvin taking her to the bathroom happened on different days or on the same day?

A. Same day

Q. Do you think Calvin has hurt the other girls?

A. No, just [REDACTED]

Q. Has Calvin ever touched your privates?

A. No, just wrestles with me

Case File Number: 94060919 Reference: 1st Deg Stat Offense

07-26-94, 10:00AM, CCTC

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Coming back from Oklahoma, while riding in the car, at one point [REDACTED] had awakened from a dream, she wouldn't tell me what the dream was about, would just say that it was a bad dream.

We were going through Knoxville and the kids saw a cop car, [REDACTED] commented "they're probably going after bad guys", [REDACTED] asked, "Is Calvin in jail yet?", I told him, "No, not yet". [REDACTED] said, "Mommy, do you remember when I told Daddy about Calvin putting his finger in my bo's?" I said, "Yeah, what about that?" and she says, "He took me to the bathroom and there was blood because his finger was so big." I didn't know what to say after that.

A couple of evenings ago I was getting [REDACTED] out of bathtub and she said her bo still hurts sometimes cause of what Calvin did, I assured her nobody was ever gonna hurt her again.

Kids babysat at Rebecca Miller's

Mon.	June 13th	8:00AM-5:00PM	
Tues.	June 14th	8:00AM-10:30AM	
Wed.	June 15th	8:00AM-5:00PM	
★ Mon.	June 20th	8:00AM-9:00PM	DOO
Tues.	June 21st	8:00AM-9:30AM	
Wed.	June 22nd	8:00AM-5:00PM	
Thurs.	June 24th	10:00AM-10:00AM	Fri. June 25th
Mon.	June 27th	8:00AM-5:00PM	

Case File Number: 94060919

Reference: 1st Deg Stat Offense

06-28-94, apx. 2:30PM, CCTC w/Noreda Moody, DSS

~~_____~~ victim

Q. How old are you?

A. 3 years old, and held up 3 fingers

Q. Do you have any pets at home?

A. no answer

Q. Is Hersey Bar a cat?

A. No, a dog

Q. Is Hersey Bar a little dog or a big dog?

A. Big dog

Q. Do you play with Hershey Bar?

A. Sometimes he plays rough

Q. Do you go to school?

A. Sometimes

Drawings...we asked Emily to name the body parts, she named the parts as I pointed to each one.

C, wing
Q. What is this?

A. Hair

Q. Do you have hair?

A. Yeah

Q. How many hairs do you have?

A. No answer

Q. What is hair for?

A. For the head

Q. What is this?

A. Eyes

Q. Do you have eyes?

A. Yeah

Q. How many eyes do you have?

A. Two

Q. What are eyes for?

A. Can't see without eyes.

Q. What is this?

A. Nose

Q. Do you have a nose?

A. Yeah

Q. How many noses do you have?

A. One

Q. What are noses for?

A. Smell

Q. What is this?

A. Mouth

Q. Do you have a mouth?

A. Yeah

Q. How many mouths do you have?

A. One

Q. What are mouths for?

A. For food

Q. What is this?

A. Boobies

Q. Do you have boobies?

A. Yeah

Q. How many boobies do you have?

A. Two

Q. What are boobies for?

A. No answer

Q. What is this?

A. Bellybutton

Q. Do you have a bellybutton?

A. Yeah

Q. How many bellybuttons do you have?

A. One

Q. What are bellybuttons for?

A. Don't know

Q. What is this?

A. Bo-Bo

Q. Do you have a bo-bo?

A. Yeah

Q. How many bo-bo's do you have?

A. One

Q. What are bo-bo's for?

A. Pee-pee

Q. What is this?

A. Knee

Q. Do you have a knee?

A. Yeah

Q. How many knees do you have?

A. One

Q. What are knees for?

A. To bend

Q. What is this?

A. Toes

Q. Do you have toes?

A. Yes

Q. How many toes do you have?

A. Six

Q. What are toes for?

A. To stand on tippy-toes

Q. Has anybody ever hurt any of your body parts?

A. Shakes head yes

Q. Show me where somebody has hurt you?

A. Emily answered by pointing to the bo-bo (pubic area) and I marked where she pointed.

Q. Did you go to the doctor this morning?

A. Yeah

Q. Why did you go to the doctor?

A. No answer

Q. Did you tell the doctor about someone hurting your bo-bo?

A. Yeah

Q. Who hurt your bo-bo?

A. A big boy

Q. Was it a little boy, a big boy or a man?

A. Man

Q. What is this man's name?

A. I don't know

Q. Where were you when this man hurt your bo-bo?

A. At babysitter's

Q. How did this man hurt your bo-bo?

A. Inside bo-bo.

ran away
Q. Show me what the man hurt you with?

A. [redacted] answered by pointing to the hand and I marked where she pointed.

Dolls.....we asked [redacted] to show us how the man hurt her, [redacted] demonstrated with the dolls that the man put his finger inside her vaginal opening, that her pants were down at the time.

[redacted] took the pants off of the male doll and saw the penis on the doll, she touched it.

Q. What is it?

A. Maybe a pee-pee

Q. Who has one?

A. The man

Q. Did you see it?

A. No answer

Q. Who is this man, does he have a name?

A. He fights

Q. Who does he fight with?

A. Me and [redacted]

Q. Where?

A. At babysitter's

Q. Is a lie a good thing or a bad thing?

A. Good thing

Q. Is the truth a good thing or a bad thing?

A. No answer

Q. About the man hurting your bo-bo, is that a real thing or a pretend thing?

A. Real thing

Q. Where was Rebecca?

A. On the couch

Case File Number: 94060919

Reference: 1st Deg Stat Offense

06-28-94, 1:20PM, CCTC w/Noreda Moody, DSS

[REDACTED], [REDACTED] victim's brother

Q. [REDACTED], when is your birthday?

A. August 19th

Q. Do you know what year?

A. Of summer

Q. How old are you?

A. 5 years

Q. So will you be 6 in August?

A. Yeah

Q. Do you go to school?

A. Yeah

Q. What grade?

A. Kindergarden

Q. What school do you go to?

A. Brevard Ele.

Q. What grade will you be in when school starts back?

A. 1st grade

Q. Can you count?

A. Shakes head yes

Q. Can you count to 100?

A. Yes

Q. [REDACTED] was instructed to please count and show us how far he
he could count.

A. He counted to 100 correctly

Q. Do you know your ABC's?

A. Yeah

Q. [REDACTED] was instructed to please say his ABC's for us.

A. He correctly said his ABC's.

Q. Do you like school?

A. Yes

Q. Do you like getting up early?

A. Shakes head yes

Q. Do you eat breakfast at home or at school?
A. At home and at school

Q. Do you watch cartoons before going to school?
A. Yes

Q. What is your favorite cartoon?
A. Bugs Bunny

We asked [REDACTED] about pets at his house. [REDACTED] tells us he has one dog, named Hersey Bar, that he is a big dog, that he lives outside, chained up and has a doghouse, no birds, had a cat but it runned away cause it was scared of the dog, no elephants, no fish but his school has fish, that Mrs. Unger is there at school to feed the fish.

Q. Do you know why Mama and Daddy brought you to talk to us?
A. No

Q. Do you know anything about someone touching [REDACTED]'s privates?
A. Shakes head yes

Q. Who?
A. Calvin

Q. Does Calvin have a last name?
A. Don't know what it is.

Q. Is Calvin a little kid, a big kid or a grownup?
A. A grownup

Q. Is Calvin a man or a woman?
A. A man

Q. How do you know Calvin?
A. He is always at the babysitter's house and we are at the babysitter's house.

Q. Does Calvin have a wife or a girlfriend?
A. I don't know

Q. What did you see happen?
A. I seen Calvin punching it

Q. Where were you when you saw Calvin punching it?
A. In the house

Q. Who else was in the house?
A. [REDACTED] and 4 little girls

Q. Where in the house were you?
A. In the livingroom

Q. Tell us the names of who was there?

A. [REDACTED] 8 year old, [REDACTED] 11 years old, [REDACTED] 7 years old, [REDACTED] don't know how old she is, she is a big girl

Q. Show us what you saw happen, (with anatomical dolls).
How was [REDACTED] dressed?

A. A shirt with lots of white, tennis shoes

Q. Did [REDACTED] have on a skirt or pants?

A. Pants

Q. Long pants or shorts pants?

A. Shorts pants

[REDACTED] demonstrated by laying an [REDACTED] doll on a pillow on the floor and Calvin punching [REDACTED] in private area while explaining his actions while he did so.

Q. Was the punching done over [REDACTED]'s clothes or under Emily's clothes?

A. Over the clothes

Q. Can you tell us when this happened or on what day?

A. The middle time we were there, I think Wednesday....Wednesday is the middle day.

Q. How many times have you seen this happen?

A. Maybe 5 times

Q. Have you seen [REDACTED] with her pants down at the babysitter's.

A. Shakes head yes

Q. Do you remember when or on what day?

A. I think Monday

Q. Who was with [REDACTED] when her pants were down?

A. That Big Boy, Calvin

Q. Where were they?

A. In the livingroom

Q. What else was happening?

A. They were fighting, sometimes [REDACTED] gets hurt and cries

Q. Were they really fighting or play fighting?

A. Really fighting not play fighting

Q. Would [REDACTED]'s pants be up or down?

A. Down.....her pants would go up and come down as they jumped.

Q. Would Calvin's pants be up or down?
A. Down

Q. Did you see Calvin's private parts?
A. No.....I saw his underwear

Q. Do you know what color his underwear was?
A. Don't remember

Q. Have you seen Calvin fighting with anybody else like this?
A. [REDACTED], lot of hurting to [REDACTED] she cried just a little bit.....other kids are mean to [REDACTED], ... not met and [REDACTED] being mean to [REDACTED] iz.

Q. When Calvin and [REDACTED] were fighting were [REDACTED] pants be up or down?
A. Down

Q. When Calvin and [REDACTED] are fighting are Calvin's pants up or down?
A. When Calvin is mean to [REDACTED] his pants are down, he swings her down and trips her and she falls to carpet, and he says, "I'm gonna hurt you", "I'm gonna hurt you."

Q. Who is your babysitter?
A. Rebecca Miller

Q. Where was Rebecca when Calvin was punching [REDACTED]?
A. In the bathtub.

Q. Was the bathroom door open or shut??
A. Shut

Q. Does Rebecca hear [REDACTED] or [REDACTED] when they cry?
A. No, they cry softly

Q. Who all does Rebecca babysit?

[REDACTED] keep them anymore [REDACTED], [REDACTED], she says she's not going to

Q. Is she going to babysit you and [REDACTED] anymore?
A. Not us anymore either, Mama's not gonna let us go back anymore.

Q. Do you like Calvin?
A. No

Q. Do you and Calvin wrestle?
A. We wrestle some, sometimes

Q. Has Calvin touched you in your private places?
A. No

No pictures, no dirty pictures.

Petitioner's Exhibit E

South Carolina Department of Corrections

Classification Summary Reports

Date: Tuesday, December 11, 2012

Classification Summary Reports

Inmate Number 342144

Submit

Classification Summary Report for MILLER, CALVIN JOE :

Create PDF

CLASSIFICATION SUMMARY REPORT DATED 12/11/2012

SCDC# 00342144

MILLER, CALVIN JOE

FBI# 643844RA0

OFFENDER ADULT-STRAIGHT
TYPE: SENTENCE

INSTITUTION: EVANS

SECURITY/CUST: 2 MINIMUM IN

CURR INCARC 8 YRS 1 MOS 0
SENT: DAYSVICTIM
WITNESS: Y SEPREQ:NMED MED PROB/NO WORK
CLASS: RESTRICTINST OUTPATIENT MENTAL
RESTRICT: HEALTHMENTAL
CLASS: MH-4 (OUTPATIENT)CURRENT NO CURRENT
PROGRAM: PROGRAM

SEX REGISTRY: Y

DNA: C

AGE: 38

RESIDENT
STABILITY: NA

DORMROOMBUNK_CODE: 1B 0141 B

PROJ MAXOUT
DATE: 09/02/2013

PROJ PAROLE DATE: 09/19/2013

EWC JOB: LITERACY PROGRAM

ASSIGNMENT: EDUCATION

EWC
LEVEL: 2F5 EEC LEVEL:-EDUC
PGM: NO CURR EDUC PROGRAM

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS

CURRENT OFFENSES	YRS	MOS	SENTENCE DYS	COUNTY	START	SENTENCE V/NV CAT	INDICT
CDV 1/2/3-NON-MAND	0	0	30	SPARTANBURG	09/11/2010	N	3

LEWD ACT/CHILD UNDER 16 8 0 0 GREENVILLE 04/20/2009 N 4 09GS23-04187

COMPLETED OFFENSES

NO COMPLETED OFFENSES

PRIOR COMMITMENTS OVER 90 DAYS:

09/08/1997 SEX OFF REG-1ST OFFENSE
08/01/1994 LEWD ACT/CHILD UNDER 16

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINERS (HOLD,WANTED,NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

03/21/2012 POSS. OR/ATTEMPT TO POSSESS CELL PHONE NOT GUILTY MAJOR DISC. HEARING

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

DATE	NAME	STATUS	REASON
08/06/2012	EVANS	INCARCERATED	ADMINISTRATIVE
08/06/2012	LEE	INCARCERATED	MEDICAL
06/18/2012	EVANS	INCARCERATED	ADMINISTRATIVE
06/18/2012	LEE	INCARCERATED	MEDICAL
07/25/2011	EVANS	INCARCERATED	ADMINISTRATIVE
07/25/2011	LEE	INCARCERATED	MEDICAL
02/25/2011	EVANS	INCARCERATED	ADMINISTRATIVE
02/25/2011	LEE	INCARCERATED	MEDICAL
10/12/2010	EVANS	INCARCERATED	ADMINISTRATIVE
09/12/2010	KIRKLAND	INCARCERATED	RETURN FROM COURT
09/11/2010	SPARTANBURG CO	AUTH ABSENCE (AWL)	TO COURT
08/09/2010	KIRKLAND	INCARCERATED	R&E PROCESSING
08/09/2010	PERRY	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
LITERACY PROGRAM	04/13/2012	-		2F5
LITERACY PROGRAM	04/11/2012	04/12/2012	MI ELIGIBLE FOR LEVEL 2	3F5
LITERACY PROGRAM	03/30/2012	04/10/2012	PLACED IN ST/SP CUSTODY	3F5
LITERACY PROGRAM	11/23/2011	03/29/2012	ASLT/DRUG/MAJOR DISC	2F5

CUSTODIAL WORKER	04/01/2011	11/22/2011	LATERAL TRANSFER	2F5
CUSTODIAL WORKER	03/31/2011	03/31/2011	MI ELIGIBLE FOR LEVEL 2	3F5

HISTORY OF EARNED EDUCATION CREDITS:

NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****

[Create PDF](#)

Source : SummaryReport.jsp

Copyright © 2007-2012 South Carolina Department of Corrections. All rights reserved.

[Version: 1.4.4 Built: 08/23/2012 09:37:57 AM Time: 11:21:09 AM]

Petitioner's Exhibit F

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 12/07/12
SCDC#: 342144 MILLER, CALVIN JOE CURR LOC: EVANS C035477
ENC LOC: EVANS ENC#: 00127 DATE: 10/23/12 TIME: 09:10 COMP PAGE: 001
S: DOING OK, PSYCHIATRICALY. DID NOT LIKE TAKING THE FULL DOSE OF GEODON,
SO HE ONLY TAKES THE HS DOSE. HAS CONCERNS ABOUT HIS FUTURE. HE MAXES OUT N
EXT YEAR AND WORRIES THAT HE WILL NOT BE ABLE TO TAKE CARE OF HIMSELF. HE H
AS NOT STARTED DISCHARGE PLANNING CLASSES YET, WHERE THESE ISSUES WILL BE A
DDRESSED. I GAVE HIM A BRIEF IDEA OF THE HELP AVAILABLE TO HIM ONCE HE MAXE
S OUT.
O: CONSTRICTED AFFECT. GOOD SPEECH AND ACTIVITY LEVEL.
A: BIPOLAR DO, ADD, H/O POLYSUB. ABUSE (MJ, ALC.), ANX.
P: DECREASE GEODON. CONTINUE ZOLOFT.
LABS: IN DECEMBER 2012, GET FBS AND LIPID PROFILE.
P> GEODON 60MG
P> SIG:1 PO HS WITH FOOD
P> SIG:
P> START DATE: 10/23/12 TOTAL DAYS: 180
P> MD: POILETMAN, ROBERT M
P> ZOLOFT 100MG TABS (SERTRALINE)
P> SIG:1 PO HS
P> SIG:
P> START DATE: 10/23/12 TOTAL DAYS: 180
SOAP NOTES/NARRATIVE DISPLAYED.
PF2 => PREV ENC PF3 => NEXT ENC PF7 => PREV PAGE PF8 => NEXT PAGE
4-© 1 Sess-1 167.7.50.33 SCDC1483 1/1

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 12/07/12
 SCDC#: 342144 MILLER,CALVIN JOE CURR LOC: EVANS C035477
 ENC LOC: EVANS ENC#: .00129 DATE: 10/23/12 TIME: 15:49 COMP PAGE: 001

CCC NOTE: IND. SESSION NOTE.

D: I/M WAS SEEN IN F/U TO MISSING PSYCH CLINIC. I/M WAS OBSERVED WALKING TO WARDS MEDICAL. HE NOTED THAT HE WAS TOLD TO COME TO MEDICAL TO SEE CCC. HE WAS ADVISED THAT HE MISSED HIS PSYCH CLINIC APPOINTMENT THIS AM. HE SAID THAT HE CHOSE NOT TO ATTEND. I/M WAS ADVISED THAT HIS MEDICATION WOULD BE STOPPED IF HE DID NOT COMPLY WITH CLINICS. HE SAID THAT HE WANTS THE MEDS STOPPED AND MAYBE HE WILL RESUME THEM IN 6 OR 9 MONTHS. HE WAS ADVISED THAT IT DIDN'T WORK THAT WAY. IF HE STOPS MEDS, HE WILL BE REMOVED FROM MH SERVICES. HE SAID THAT HE WOULD RESUME MH SERVICES IN 6 TO 9 MONTHS TOO. PSYCH NOTED THAT LABS SHOW THAT I/M IS NOT TAKING THE MEDS, BECAUSE HIS LITH. LEVELS REMAINED LOW AFTER THE DR. INCREASED THE MG. I/M WAS ENCOURAGED TO COMPLY WITH HIS PSYCH CLINIC. HE ASKED IF HE HAD TO ATTEND AND WAS ADVISED THAT THE DR. WAS GONE FOR TODAY. HE WAS TOLD THAT HE WOULD BE RESCHEDULED. HE SAID THE LATER THE BETTER. HE WAS TOLD 11/27/12. HE OKAYED. I/M WAS NOTED TO BE ORIENTED AND ALERT X 3. HIS HYGIENE AND GROOMING WERE WNL. I/M DID NOT REPORT S/H IDEATIONS OR A/V HALLUCINATION S. HIS SPEECH WAS CLEAR AND CONCISE. HE USED GOOD EYE CONTACT.

A: NO PSYCHOSIS NOTE. CLINICAL IMPRESSION: R/O MALINGERING. GAF: 75. I/M DID NOT APPEAR TO BE A DANGER TO HIMSELF OR OTHERS. HIS MOOD AND AFFECT WERE SOAP NOTES/NARRATIVE DISPLAYED.

PF2 => PREV ENC PF3 => NEXT ENC PF7 => PREV PAGE PF8 => NEXT PAGE

4-© 1 Sess-1 167.7.50.33 SCDC1483 1/1

From: Evans CI Medical

803 896 4978

11/29/2012 10:50

#131 P.010/017

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 11/29/12
SCDC#: 342144 MILLER, CALVIN JOE CURR LOC: EVANS C031217
ENC LOC: EVANS ENC#: 00128 DATE: 10/23/12 TIME: 11:24 COMP PAGE: 001
HE REFUSED TO ATTEND TODAY'S MENTAL HEALTH CLINIC.
SIGNED OFF ON 10/23/12 @ 11:25 BY ROBERT M POILETMAN, PSYCHIATRIST

SOAP NOTES/NARRATIVE DISPLAYED.

PF2 => PREV ENC PF3 => NEXT ENC PF7 => PREV PAGE PF8 => NEXT PAGE

4-0

1 Sess-1

167.7.50.33

SCDC1450

1/1

From: Evans CI Medical

803 896 4978

11/29/2012 10:50

#131 P.011/017

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 11/29/12
SCDC#: 344690 WORLEY, SAMUEL ROGER CURR LOC: EVANS C031217
ENC LOC: EVANS ENC#: 00035 DATE: 10/16/12 TIME: 09:37 COMP PAGE: 001
S: CONTINUES TO STATE THAT HE IS DOING WELL, PSYCHIATRICALY.
O: GOOD SPEECH, AFFECT AND ACTIVITY LEVEL.
A: H/O DEPRESSION, H/O ANX., H/O ALC. ABUSE, SEX OFFENDER.
P: SAME RXS.
SIGNED OFF ON 10/16/12 @ 9:38 BY ROBERT M POILETMAN, PSYCHIATRIST

SOAP NOTES/NARRATIVE DISPLAYED.

PF2 => PREV ENC PF3 => NEXT ENC PF7 => PREV PAGE PF8 => NEXT PAGE

4-0

1 Sess-1

167.7.50.33

SCDC1450

1/1

From: Evans CI Medical

803 896 4978

11/29/2012 10:50

#131 P.012/017

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 11/29/12
SCDC#: 342144 MILLER, CALVIN JOE CURR LOC: EVANS C031217
ENC LOC: EVANS ENC#: 00053 DATE: 10/11/11 TIME: 12:26 COMP PAGE: 001
S: HE HAS A FEW SEPARATE PSYCH PROBLEMS THAT REQUIRE RX. FIRST, HE HAS BIPOLAR DO. ASSOCIATED WITH IT ARE FH, MOOD SWINGS (EUPHORIC AND IRRITABLE MANIA AND DEPRESSION), SPENDING SPREES, HYPERSEXUALITY, RACING THOUGHT, ANX. AND A H/O AH. HE DENIED CURRENT S/HI. SECOND, HE HAS ADHD. THIRD, HE HAS OCD. HE NOTED PAST BENEFITS FROM DEPAKOTE AND EFFEXOR.
O: SOME RESTLESSNESS, BUT NO LEG BOUNCING OR ROCKING. GOOD SPEECH. CONSTRICTED AFFECT.
A: BIPOLAR DO, ADHD, OCD. I WANT TO DEAL WITH THE BIPOLAR DO AND ANX. FIRST.
P: DEPAKOTE AND EFFEXOR.
LABS: ON 10/21/11, GET DEPAKOTE LEVEL, CBC, CMP.
P> DIVALPROEX SOD EXTEND RELEASE 500MG (DEPAKOTE ER-ONCE DAILY)
P> SIG: 3 PO Q NOON
P> SIG:
P> START DATE: 10/11/11 TOTAL DAYS: 180
P> MD: POILETMAN, ROBERT M
P> EFFEXOR XR 75MG CAPS (VENLAFAXINE ER)
P> SIG: 1 PO HS FOR 7 DAYS THEN 1 PO Q NOON AND HS
P> SIG:
P> START DATE: 10/15/11 TOTAL DAYS: 176
SOAP NOTES/NARRATIVE DISPLAYED.
PF2 => PREV ENC PF3 => NEXT ENC PF7 => PREV PAGE PF8 => NEXT PAGE
4-0 1 Sess-1 167.7.50.33 SCDC1450 1/1

From: Evans CI Medical

803 896 4978

11/29/2012 10:50

#131 P.014/017

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 11/29/12
SCDC#: 342144 MILLER, CALVIN JOE CURR LOC: EVANS C031217
ENC LOC: EVANS ENC#: 00022 DATE: 02/18/11 TIME: 11:18 COMP PAGE: 001
S; I WANT TO GET OUT OF MENTAL HEALTH.
O; IM IS A 36 Y/O WHITE MALE WITH A HX OF MENTAL HEALTH TREATMENT SINCE AGG
E OF 34. WENT TO PATRICK B HARRIS IN 2009 FOR 2 MONTHS FOR DEPRESSION WITH
REMERON. HAS BEEN ON MULTIPLE MEDS INCLUDING EFFEXOR, LITHIUM, TRAZADONE, D
EPAKOTE. HAD ONE SUICIDE ATTEMPT IN 1997 BY OD. WAS HOSPITALIZED FOR ONE NIG
HT. HEARD VOICES IN THE COUNTY JAIL AND A SONG REPEATEDLY IN HIS HEAD. IN 20
009. WAS ON MEDS THERE. IM SIGNED A REFUSAL HERE 3 MONTHS AGO. AND HAS DON
E "GOOD". HE DENIES ALL SKS OF DEPRESSION. HIS FUNCTIONING IS GOOD ON THE
YARD. HE HAS NOT BEEN SUICIDAL IN YEARS AND LAST HEARD VOICES A UEAR AGO. I
M QUIET BUT NO PSYCHOSIS EVIDENT. NOT SUICIDAL. CALM.
A: HX OF DEPRESSION
P: SIGNED A REFUSAL IN OCT 2010. MED CLASS CHANGED.
JANET WOOLERY, MD.
SIGNED OFF ON 02/18/11 @ 11:31 BY JANET WOOLERY, PHYSICIAN I
NOTED.
SIGNED OFF ON 02/18/11 @ 12:13 BY TONYA MARIE AMERSON, REGISTERED NURSE I

SOAP NOTES/NARRATIVE DISPLAYED.

PF2 => PREV ENC	PF3 => NEXT ENC	PF7 => PREV PAGE	PF8 => NEXT PAGE
4-0	1 Sess-1	167.7.50.33	SCDC1450 1/1

From: Evans CI Medical

803 896 4978

11/29/2012 10:50

#131 P.015/017

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 11/29/12
SCDC#: 342144 MILLER, CALVIN JOE CURR LOC: EVANS C031217
ENC LOC: KIRKLAND ENC#: 00011 DATE: 09/15/10 TIME: 15:37 COMP PAGE: 002
SIG: TAKE ONE BID
SIG:
START DATE: 09/15/10 TOTAL DAYS: 180
MD: HIGGINS, EDMUND -
ZOLOFT 100MG
SIG: TAKE ONE QAM
SIG:
START DATE: 09/15/10 TOTAL DAYS: 180
MD: HIGGINS, EDMUND -
NORTRIPTYLINE 25MG
SIG: TAKE ONE QHS
SIG:
START DATE: 09/15/10 TOTAL DAYS: 180
MD: HIGGINS, EDMUND -
SIGNED OFF ON 09/15/10 @ 15:45 BY EDMUND S HIGGINS, PSYCHIATRIST
LAB SLIP COMPLETED AND MAR UPDATED
SIGNED OFF ON 09/16/10 @ 11:36 BY WANDA SERMONS, LICENSED PRACTICAL NURSE

NEXT PAGE DISPLAYED

PF2 => PREV ENC	PF3 => NEXT ENC	PF7 => PREV PAGE	PF8 => NEXT PAGE
4-0	1 Sess-1 167.7.50.33	SCDC1450	1/1

From: Evans CI Medical

803-896 4978

11/29/2012 10:50

#131 P.016/017

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 11/29/12
SCDC#: 342144 MILLER, CALVIN JOE CURR LOC: EVANS C031217
ENC LOC: KIRKLAND ENC#: 00011 DATE: 09/15/10 TIME: 15:37 COMP PAGE: 001
36 YO WM SERVING 8 YRS FOR LEWD ACT ON MINOR. I/M NEVER TOOK PSYCH MEDS
UNTIL 2/09 AND THEN ARRIVED HERE FROM JAIL ON 6 PSYCH MEDS. HERE HE WAS
PUT ON TRIAVIL AND RISPERDAL WHICH EXPIRED A FEW DAYS AGO. CURRENTLY, "NOT
GOOD". C/O ANXIETY, DEPRESSION, AGITATED BY CROWDS AND NOISE, NAPS DURING
DAY. TROUBLE SLEEPING AT NIGHT. -VOICES AND -S/H.
PAST PSYCH: UNCLEAR ABOUT DX. ARRIVED HERE ON DEPAKOTE, LITHIUM, EFFEXOR,
PAXIL, TRIAVIL AND RISPERDAL. DENIES DRUG OR ALCOHOL PROBLEMS. OD'D
ON EXCEDRIN AT AGE 24 - ER AND HOME.
MEDICAL: HX HYPOTHYROID - NOT GETTING MEDS HERE.
O: ALERT, CALM, SOFT SPOKEN, RESTLESS LEGS, MOOD: BLUNTED, NOT OVERTLY
PSYCHOTIC OR MANIC. POOR HISTORIAN
A: DEPRESSION, R/O BPAD. THIS VERY CALM MAN RPTS THAT HE HAD EPISODE IN
JAIL WHERE HE WAS RESTLESS AND QUICK TEMPERED. DEPAKOTE HELPED WITH THIS
PROBLEM
P: DEPAKOTE 500MG BID, ZOLOFT 100MG QAM, PAMELOR 25 MG QHS
DC TRIAVIL AND RISPERDAL
DRAW BLOOD - 9/29/10 - VALPROIC ACID LEVEL, CHEM 18 AND THYROID PROFILE
F/U 3 MOS
P> DIVALPROEX SOD DELAYED RELEASE 500MG (DEPAKOTE-TWICE DAILY)
SOAP NOTES/NARRATIVE DISPLAYED.
PF2 => PREV ENC PF3 => NEXT ENC PF7 => PREV PAGE PF8 => NEXT PAGE

4-5

1 Sess-1

167.7.50.33

SCDC1450

1/1

Petitioner's Exhibit G

302.2 Pedophilia

The paraphilic focus of Pedophilia involves sexual activity with a prepubescent child (generally age 13 years or younger). The individual with Pedophilia must be age 16 years or older and at least 5 years older than the child. For individuals in late adolescence with Pedophilia, no precise age difference is specified, and clinical judgment must be used; both the sexual maturity of the child and the age difference must be taken into account. Individuals with Pedophilia generally report an attraction to children of a particular age range. Some individuals prefer males, others females, and some are aroused by both males and females. Those attracted to females usually prefer 8- to 10-year-olds, whereas those attracted to males usually prefer slightly older children. Pedophilia involving female victims is reported more often than Pedophilia involving male victims. Some individuals with Pedophilia are sexually attracted only to children (Exclusive Type), whereas others are sometimes attracted to adults (Non-exclusive Type). Individuals with Pedophilia who act on their urges with children may limit their activity to undressing the child and looking, exposing themselves, masturbating in the presence of the child, or gentle touching and fondling of the child. Others, however, perform fellatio or cunnilingus on the child or penetrate the child's vagina, mouth, or anus with their fingers, foreign objects, or penis and use varying degrees of force to do so. These activities are commonly explained with excuses or rationalizations that they have "educational value" for the child, that the child derives "sexual pleasure" from them, or that the child was "sexually provocative"—themes that are also common in pedophilic pornography. Because of the ego-syntonic nature of Pedophilia, many individuals with pedophilic fantasies, urges, or behaviors do not experience significant distress. It is important to understand that experiencing distress about having the fantasies, urges, or behaviors is not necessary for a diagnosis of Pedophilia. Individuals who have a pedophilic arousal pattern and act on these fantasies or urges with a child qualify for the diagnosis of Pedophilia.

Individuals may limit their activities to their own children, stepchildren, or relatives or may victimize children outside their families. Some individuals with Pedophilia threaten the child to prevent disclosure. Others, particularly those who frequently victimize children, develop complicated techniques for obtaining access to children, which may include winning the trust of a child's mother, marrying a woman with an attractive child, trading children with other individuals with Pedophilia, or, in rare instances, taking in foster children from nonindustrialized countries or abducting children from strangers. Except in cases in which the disorder is associated with Sexual Sadism, the person may be attentive to the child's needs in order to gain the child's affection, interest, and loyalty and to prevent the child from reporting the sexual activity. The disorder usually begins in adolescence, although some individuals with Pedophilia report that they did not become aroused by children until middle age. The frequency of pedophilic behavior often fluctuates with psychosocial stress. The course is usually chronic, especially in those attracted to males. The recidivism rate for individuals with Pedophilia involving a preference for males is roughly twice that for those who prefer females.

Diagnostic criteria for 302.2 Pedophilia

- A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).
- B. The person has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.
- C. The person is at least age 16 years and at least 5 years older than the child or children in Criterion A.

Note: Do not include an individual in late adolescence involved in an ongoing sexual relationship with a 12- or 13-year-old.

Specify if:

Sexually Attracted to Males
Sexually Attracted to Females
Sexually Attracted to Both

Specify if:

Limited to Incest

Specify type:

Exclusive Type (attracted only to children)
Nonexclusive Type

302.83 Sexual Masochism

The paraphilic focus of Sexual Masochism involves the act (real, not simulated) of being humiliated, beaten, bound, or otherwise made to suffer. Some individuals are bothered by their masochistic fantasies, which may be invoked during sexual intercourse or masturbation but not otherwise acted on. In such cases, the masochistic fantasies usually involve being raped while being held or bound by others so that there is no possibility of escape. Others act on the masochistic sexual urges by themselves (e.g., binding themselves, sticking themselves with pins, shocking themselves electrically, or self-mutilation) or with a partner. Masochistic acts that may be sought with a partner include restraint (physical bondage), blindfolding (sensory bondage), paddling, spanking, whipping, beating, electrical shocks, cutting, "pinning and piercing" (infibulation), and humiliation (e.g., being urinated or defecated on, being forced to crawl and bark like a dog, or being subjected to verbal abuse). Forced cross-dressing may be sought for its humiliating associations. The individual may have a desire to be treated as a helpless infant and clothed in diapers ("infantilism"). One particularly dangerous form of Sexual Masochism, called "hypoxiphilia," involves sexual arousal by oxygen deprivation obtained by means of chest compression, noose, ligature, plastic bag, mask, or chemical (often a volatile nitrite that produces a temporary decrease

Petitioner's Exhibit H

1. No (or substantially diminished) subjective erotic feelings despite otherwise normal arousal and orgasm
2. Situations in which the clinician has concluded that a sexual dysfunction is present but is unable to determine whether it is primary, due to a general medical condition, or substance induced

Paraphillias

Diagnostic Features

The essential features of a Paraphilia are recurrent, intense sexually arousing fantasies, sexual urges, or behaviors generally involving 1) nonhuman objects, 2) the suffering or humiliation of oneself or one's partner, or 3) children or other nonconsenting persons that occur over a period of at least 6 months (Criterion A). For some individuals, paraphilic fantasies or stimuli are obligatory for erotic arousal and are always included in sexual activity. In other cases, the paraphilic preferences occur only episodically (e.g., perhaps during periods of stress), whereas at other times the person is able to function sexually without paraphilic fantasies or stimuli. For Pedophilia, Voyeurism, Exhibitionism, and Frotteurism, the diagnosis is made if the person has acted on these urges or the urges or sexual fantasies cause marked distress or interpersonal difficulty. For Sexual Sadism, the diagnosis is made if the person has acted on these urges with a nonconsenting person or the urges, sexual fantasies, or behaviors cause marked distress or interpersonal difficulty. For the remaining Paraphillias, the diagnosis is made if the behavior, sexual urges, or fantasies cause clinically significant distress or impairment in social, occupational, or other important areas of functioning (Criterion B).

Paraphilic imagery may be acted out with a nonconsenting partner in a way that may be injurious to the partner (as in Sexual Sadism or Pedophilia). The individual may be subject to arrest and incarceration. Sexual offenses against children constitute a significant proportion of all reported criminal sex acts, and individuals with Exhibitionism, Pedophilia, and Voyeurism make up the majority of apprehended sex offenders. In some situations, acting out the paraphilic imagery may lead to self-injury (as in Sexual Masochism). Social and sexual relationships may suffer if others find the unusual sexual behavior shameful or repugnant or if the individual's sexual partner refuses to cooperate in the unusual sexual preferences. In some instances, the unusual behavior (e.g., exhibitionistic acts or the collection of fetish objects) may become the major sexual activity in the individual's life. These individuals are rarely self-referred and usually come to the attention of mental health professionals only when their behavior has brought them into conflict with sexual partners or society.

The Paraphillias described here are conditions that have been specifically identified by previous classifications. They include Exhibitionism (exposure of genitals), Fetishism (use of nonliving objects), Frotteurism (touching and rubbing against a nonconsenting person), Pedophilia (focus on prepubescent children), Sexual Masochism (receiving humiliation or suffering), Sexual Sadism (inflicting humiliation or suffer-

ing), Transvestic Fetishism (cross-dressing), and Voyeurism (observing sexual activity). A residual category, Paraphilia Not Otherwise Specified, includes other Paraphilias that are less frequently encountered. Not uncommonly, individuals have more than one Paraphilia.

Recording Procedures

The individual Paraphilias are differentiated based on the characteristic paraphilic focus. However, if the individual's sexual preferences meet criteria for more than one Paraphilia, all should be diagnosed. The diagnostic code and terms are as follows: 302.4 Exhibitionism, 302.81 Fetishism, 302.89 Frotteurism, 302.2 Pedophilia, 302.83 Sexual Masochism, 302.84 Sexual Sadism, 302.3 Transvestic Fetishism, 302.82 Voyeurism, and 302.9 Paraphilia Not Otherwise Specified.

Associated Features and Disorders

Associated descriptive features and mental disorders. The preferred stimulus, even within a particular Paraphilia, may be highly specific. Individuals who do not have a consenting partner with whom their fantasies can be acted out may purchase the services of prostitutes or may act out their fantasies with unwilling victims. Individuals with a Paraphilia may select an occupation or develop a hobby or volunteer work that brings them into contact with the desired stimulus (e.g., selling women's shoes or lingerie [Fetishism], working with children [Pedophilia], or driving an ambulance [Sexual Sadism]). They may selectively view, read, purchase, or collect photographs, films, and textual depictions that focus on their preferred type of paraphilic stimulus. Many individuals with these disorders assert that the behavior causes them no distress and that their only problem is social dysfunction as a result of the reaction of others to their behavior. Others report extreme guilt, shame, and depression at having to engage in an unusual sexual activity that is socially unacceptable or that they regard as immoral. There is often impairment in the capacity for reciprocal, affectionate sexual activity, and Sexual Dysfunctions may be present. Personality disturbances are also frequent and may be severe enough to warrant a diagnosis of a Personality Disorder. Symptoms of depression may develop in individuals with Paraphilias and may be accompanied by an increase in the frequency and intensity of the paraphilic behavior.

Associated laboratory findings. Penile plethysmography has been used in research settings to assess various Paraphilias by measuring an individual's sexual arousal in response to visual and auditory stimuli. The reliability and validity of this procedure in clinical assessment have not been well established, and clinical experience suggests that subjects can simulate response by manipulating mental images.

Associated general medical conditions. Frequent, unprotected sex may result in infection with, or transmission of, a sexually transmitted disease. Sadistic or masochistic behaviors may lead to injuries ranging in extent from minor to life threatening.

Petitioner's Exhibit I

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
SEXUAL PREDATOR MULTI-DISCIPLINARY TEAM**

REFERRAL DATA

INMATE: Miller, Calvin Joe

SCDC #: 342144

INSTITUTION: Evans

SSN#: XXXX [REDACTED]

VICTIM/WITNESS: Yes

DOB/AGE: [REDACTED] (38 y/o)

SCDC ARRIVAL DATE: 08/09/10

MAX OUT DATE: 09/02/13

SENTENCE START DATE: 04/20/09

SUPERVISED FURLOUGH

JUVENILE SENTENCE: N/A

ELIGIBILITY DATE: N/A

DATA SOURCE(S):

Automated Medical Record: ✓
Institutional Record:
Sex Offender Treatment Record:
Inmate Interview:
Attachment:

Hard Copy Medical Record:
Central Inmate Record:
Offender Management Summary: ✓
Other Data Source(s):
Specify:

CONVICTION HISTORY:

Current Conviction(s): Lewd Act w/Child Under 16; 8-year sentence, sentenced date 4-20-09,
CDV 1/2/3; 30-day sentence, sentence date 9-11-10

Prior SCDC #'s: N/A

Prior Conviction(s): N/A

Parole Revocation(s): N/A

Probation Revocation(s): N/A

Other Information:

INSTITUTIONAL ADJUSTMENT:

Disciplinary(s): Total: 0

Assaultive:

Sexual Misconduct: 0

Narrative(s): N/A

Work History: Education Department

Other Information: No Problems in SCDC

SP Multi-Disciplinary Team
 Miller, Calvin Joe -#339932
 Page 2

SPECIAL NEEDS/DISABILITIES: N/A

Limitation(s) in Mobility and Sensory:

Level of Supervision Needed:

Ability to Complete Activities of Daily Living:

COGNITIVE FUNCTIONING/ACADEMIC ABILITY:

Beta Score: N/A

Other IQ Screening: 83

Mental Retardation: None

Disability/Other Known Impairment:

Wide Range Achievement Tests (WRAT)

Grade Level: Reading: 7.5

Math: 5.7

Language: N/A

SUBSTANCE ABUSE:

SASSI Score: Valid Yes No

TCUDDS: Valid Yes No

Other Screening(s):

Under influence at the Time of Crime (Self-Report):

Treatment History:

Chemically Dependent:

Yes No

Chemically Dependent:

Yes No

Other Information:

HEALTH SUMMARY CLASSIFICATION:

Mental Health Status: Outpatient Mental Health

Medical Problem(s): Yes Work Restriction(s): No

Institutional Assignment: Outpatient Mental Health

HEALTH INFORMATION AND HISTORY:

Physical Health/Condition: Toenail Fungus

Medications: Diflucan, Cholestyramine

Other Information:

SP Multi-Disciplinary Team
Miller, Calvin Joe #339932
Page 3

MENTAL HEALTH INFORMATION AND HISTORY:

Diagnosis: Bipolar D/O, ADD, Anxiety, History of Polysubstance Abuse,
Medications: Geodon, Zoloft
Problems/Compliance:
Treatment History:
Other Information:

SOCIAL HISTORY: N/A

Inmate's History of Sexual Abuse (age at time of abuse, age of perpetrator
Length of abuse, relationship to perpetrator, gender of perpetrator):

Juvenile History: N/A
Other Information:

SEX OFFENDER TREATMENT HISTORY: NO PROGRAMS ON FILE

	TYPE	DATES	STATUS
Phase I:	Education		
SOTP GROUP:			
Phase II:	Education		
Phase III:	Education		
OTHER			
RTU:	Intensive Residential Treatment		

Admission of Sex Offense(s):
Other Information:

SP Multi-Disciplinary Team
 Miller, Calvin Joe -#339932
 Page 4

VICTIM PROFILE: N/A

Conviction(s):

Age:	Gender:	Relationship	Time Span:
Age:	Gender:	Relationship	Time Span:
Age:	Gender:	Relationship	Time Span:
Age:	Gender:	Relationship	Time Span:

Aggravating Circumstances: N/A

Other Victims Alleged or Self-Reported by Inmate: N/A

Age:	Gender:	Relationship	Time Span:
Age:	Gender:	Relationship	Time Span:
Age:	Gender:	Relationship	Time Span:
Age:	Gender:	Relationship	Time Span:

** A = Alleged S = Self-Reported

Aggravating Circumstances:

Other Information:

Information submitted in this packet was obtained from the SCDC Offender Management System, Inmate's Primary Therapist and Automated Medical Records.

Submitted by: Sylvia Roberts MSW HSC II
 Sylvia Roberts, MSW, HSC II

Date: 12/1/12

Petitioner's Exhibit J



ICHR 003FD8A0F5 from SCCH

ATTSC412

.ICHR.003FD8A0F5.SCCH.20130206 14:45:43

TO: ATTSC412-2092 20130206 14:45:43 003FD8A0F5
FROM: SCCH-14196981 20130206 14:45:43

ICHR REQUEST FOR RAP SHEET

ORI-SC040015A FBI-643844RA0 PUR-C

ATN-DEB SHUPE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING
AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-02/06/2013 TIME-14:39:13

REQ ORI-SC040015A ATTORNEY GENERALS

SID-SC01026361 FBI-643844RA0

NAME-MILLER, CALVIN JOE SEX-M RACE-W

HEIGHT-509 WEIGHT-190 EYES-BLU HAIR-BLN SKIN-FAR BORN-NC

FPC-11TT06TTTT08TTTTTT02 HENRY-11 S 1 T-TT

S 1 TTT- 2

PHOTOGRAPH AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--10/10/1995 DATE OF LAST UPDATE--08/09/2010

ADDITIONAL IDENTIFIERS

NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
		TAT R SHLD		
		TAT L SHLD		

CONTRIBUTOR/SUBJECT

DOA/RCVD CHARGE/DISPOSITION/ETC

MILLER, CALVIN JOE

08/22/1995

SC0230500 SIMPSONVILLE PD

CASE-SI956846

WARR-016752P

ARREST CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE
OFFENSE DATE-08/22/1995
PHOTOGRAPH AVAILABLE
COURT CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE
COURT DISP-CONVICTED;\$304
FINED
COURT DATE-09/13/1995

MILLER, CALVIN JOE

10/26/2005

SC0390000 PICKENS CNTY SO

CASE-NA

ATN-990000120616

WARR-I681447

CIT-23-3-470(A) (B) (1-MISDEMEANO

ARREST CHARGE 01-SEX OFFENDER

REGISTRY VIOLATION 1ST
OFFENSE
OFFENSE DATE-10/26/2005
PHOTOGRAPH AVAILABLE

WARR-09513RD
CIT-44-53-370(D) (4)-MISDEMEANOR

ARREST CHARGE 02-POSS 28G OR
LESS MARIJ OR 10G OR LESS
HASH 1ST
OFFENSE DATE-10/26/2005

MILLER, CALVIN JOE
SC0420000 SPARTANBURG CNTY SO
CASE-2009121423
ATN-422100145763
WARR-M110053 @
CIT-16-25-20(A)-MISDEMEANOR

01/02/2009

ARREST CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
OFFENSE DATE-01/02/2009
PALM PRINTS AVAILABLE

CIT--MISDEMEANOR
WARR-M110053

COURT CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
COURT DISP-CONVICTED; 30 DAYS
SUSP 15 DAYS & CDVTP &
\$55 CC
COURT DATE-01/21/2009
ATN-422100145763

MILLER, CALVIN JOE
SC0230000 GREENVILLE CNTY SO
CASE-139854
ATN-231600205614
WARR-I477831
CIT-16-3-655(C) (1)-FELONY

04/20/2009

ARREST CHARGE 01-CRIM SEX
CONDUCT W/MINOR <11YRS
OLD 1ST DEGREE
OFFENSE DATE-04/20/2009
PALM PRINTS AVAILABLE

WARR-I477834
CIT-16-3-655(C) (1)-FELONY

ARREST CHARGE 02-CRIM SEX
CONDUCT W/MINOR <11YRS
OLD 1ST DEGREE
OFFENSE DATE-04/20/2009

WARR-I477935
CIT-16-15-140-FELONY

ARREST CHARGE 03-COMMIT/ATTEM
PT LEWD ACT ON CHILD <16
OFFENSE DATE-04/20/2009

SC040015C SC DEPT CORRECTIONS
CASE-003421
CIT-16-15-140-FELONY

08/09/2010 CUSTODY STATUS-RECEIVED
START DATE-08/09/2010

COURT CHARGE 01-COMMIT/ATTEMPT
T LEWD ACT ON CHILD <16

COURT DISP-CONVICTED;8 yrs
ATN-50D200004678

@ - WARRANT OCCURS WITH MORE THAN ONE SID NUMBER

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/643844RAO
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

>>> *** NOTICE *** <<<

* THE SUBJECT OF THIS RECORD IS A CONVICTED SEX OFFENDER. ADDITIONAL *
* INFORMATION MAY BE OBTAINED FROM THE SOUTH CAROLINA SEX OFFENDER *
* REGISTRY AT: > WWW.SLED.SC.GOV < *

SCLED CJIS RECORD INDICATES SUBJECT HAS OUT OF STATE ARREST INFORMATION
REQUEST FORWARDED TO NCIC FOR OUT-OF-STATE INFORMATION
INFORMATION FROM OTHER STATES TO FOLLOW THRU NLETS VIA YOUR TERMINAL

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING HANDGUN IN
SOUTH CAROLINA

INFORMATION SUBMITTED TO SLED CCH PURSUANT TO 16-23-10 (C) AND 23-31-110
(C) OF THE SOUTH CAROLINA CODE OF LAWS INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A CRIME OF VIOLENCE AND IS NOT PERMITTED TO POSSESS OR
ACQUIRE A HANDGUN.

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY
FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS
DEFINED BY THE GUN CONTROL ACT OF 1968 (18.U.S.C. 922(G)).

** S C CJIS END OF RECORD **



ATTSC412

.QR.00353BC0BD.III.20130206 14:45:44

TO: ATTSC412-2093 20130206 14:45:44 00353BC0BD

FROM: III-3915965 20130206 14:45:44

FL0131F500051E2QR

SC040015A

THIS INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
RECORD REQUEST FOR FBI/643844RA0. INDIVIDUAL'S RECORD WILL BE
COMPLETE WHEN ALL RESPONSES ARE RECEIVED FROM THE FOLLOWING SOURCES:

FBI - FBI/643844RA0

NORTH CAROLINA - STATE ID/NCJ564314A

AN ADDITIONAL RECORD MAY BE OBTAINED FROM FILES WITHIN YOUR STATE.
END

QWA 00066AEDF4 from NC2K

ATTSC412

.QWA.00066AEDF4.NC2K.20130206 14:45:45

TO: ATTSC412-2094 20130206 14:45:45 00066AEDF4

FROM: NC2K-7007732 20130206 14:45:45

1L0131F500051F2QWA

SC040015A

***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.

*** SEX OFFENDER REGISTRY INFORMATION ***

THE SUBJECT IDENTIFIED IN THE FOLLOWING RECORD WITH NIC/X441666039
IS REGISTERED AS A SEX OFFENDER. DO NOT SEARCH, DETAIN, OR
ARREST BASED SOLELY ON THIS RECORD. ADDITIONAL INFORMATION REGARDING
SUBJECT MAY BE AVAILABLE FROM THE INTERSTATE IDENTIFICATION INDEX.

MKE/SEXUAL OFFENDER

ORI/SC0420000 NAM/MILLER, CALVIN JOE SEX/M RAC/W

DOB/[REDACTED] HGT/509 WGT/219 EYE/BLU HAI/RED FBI/643844RA0

SKN/FAR SMT/TAT R SHLD

MNU/PI-4498 SOC/[REDACTED]

ORD/19990127 ERD/NONEXP SKP/N CRP/SEX ASSAULT

CON/19990128 JUV/N PLC/US

OCA/0000004498

MIS/(CRR - 1199) 23-3-470(A),(B)(1) - SEX OFFENDER REGISTRY VIOLATION 1ST OFFENS
E

DNA/N

SNU/130 SNA/252 HWY

CTY/ANDERSON STA/SC ZIP/29621

COU/ANDERSON

ORI IS SPARTANBURG CO SO SPARTANBURG 364 503-4527

AKA/MILLER, CALVIN

AKA/MILLER, CALVIN J

AKA/MILLER, JOE

SMT/TAT L ARM

SMT/TAT L LEG

SMT/TAT SHLD

NIC/X441666039 DTE/20120719 0814 EDT DLU/20120719 0817 EDT

***** END OF SEX OFFENDER REGISTRY INFORMATION *****

**CR 00084B1090 from NLETS**

ATTSC412

.CR.00084B1090.NLETS.20130206 14:45:46

TO: ATTSC412-2095 20130206 14:45:46 00084B1090

FROM: NLETS-4919440 20130206 14:45:46

CR.WVFBINFCO

12:45 28230

02/06/2013 09141 SC040015A

*31F5C0051E

TXT

HDR/2L0131F500051E2QR

ATN/DEB SHUPE

***** CRIMINAL HISTORY RECORD *****

***** Introduction *****

This rap sheet was produced in response to the following request:

FBI Number 643844RA0

Purpose Code C

Attention DEB SHUPE

The information in this rap sheet is subject to the following caveats:

This record is based only on the FBI number in your request-643844RA0.

Because additions or deletions may be made at any time, a new copy should be requested when needed for subsequent use. (US; 2013-02-06)

All arrest entries contained in this FBI record are based on fingerprint comparisons and pertain to the same individual. (US; 2013-02-06)

The use of this record is regulated by law. It is provided for official use only and may be used only for the purpose requested. (US; 2013-02-06)

***** IDENTIFICATION *****

Subject Name(s)

MILLER, CALVIN JOE

MILLER, JOE (AKA)

MILLER, CALVIN J (AKA)

Subject Description

FBI Number

643844RA0

State Id Number

NC0564314A

SC01026361

Social Security Number

Sex

Male

Race

White

Height	Weight	Date of Birth
5'10"	170	
Hair Color	Eye Color	Fingerprint Pattern
Blonde Or Strawberry	Blue	11TT06TTTT08TTTTT02 (FPC)
Scars, Marks, and Tattoos		
Code	Description, Comments, and Images	
TAT L SHLD	, TATTOO ON LEFT SHOULDER	
TAT R SHLD	, TATTOO ON RIGHT SHOULDER	
TAT L ARM	, TATTOO ON LEFT ARM	
TAT R ARM	, TATTOO ON RIGHT ARM	
TAT L LEG	, TATTOO ON LEFT LEG	
PRCD L EAR	, PIERCED L EAR	

Place of Birth	Citizenship
DC	US

Fingerprint Images

Caution Information

Registered Sex Offender SHERIFF'S OFFICE SPARTANBURG (SC0420000) 1999-01-27 A
GENCY CASE 0000004498 NIC/X441666039 REGISTRY EXPIRATION - NONEXP

***** CRIMINAL HISTORY *****

***** INDEX OF AGENCIES *****

Agency FBI-CJIS DIV-CLRKSBBG CLARKSBURG; WVFBINF00;
Address 1000 CUSTER HOLLOW RD
CLARKSBURG, WV 26306

Agency SHERIFF'S OFFICE SPARTANBURG; SC0420000;
Address 8045 HOWARD ST
SPARTANBURG, SC 29303

* * * END OF RECORD * * *



CR 00084B1091 from NLETS

ATTSC412

.CR.00084B1091.NLETS.20130206 14:45:49

TO: ATTSC412-2096 20130206 14:45:49 00084B1091

FROM: NLETS-4919441 20130206 14:45:48

CR.NCIII0060

12:45 10369

02/06/2013 09142 SC040015A

*31F500051E

TXT

HDR/2L0131F500051E2QR

ATN/DEB SHUPE

***** CRIMINAL HISTORY RECORD *****

***** Introduction *****

This rap sheet was produced in response to the following request:

Subject Name(s) MILLER, CALVIN JOE
FBI Number 643844RA0
State Id Number NC056431A (NC)
Request Id UNKNOWN
Purpose Code C
Attention DEB SHUPE

The information in this rap sheet is subject to the following caveats:

BASED ONLY ON SID NUMBER (NC)
THIS CRIMINAL HISTORY IS FOR A MULTI-STATE RECORD. (NC)
THIS RESPONSE CONTAINS ONLY NORTH CAROLINA CHARGES. (NC)
A MULTI-STATE NCIC RESPONSE WILL BE PROVIDED BY THE FBI. (NC)
THIS CRIMINAL HISTORY RECORD INFORMATION ON THE ABOVE-NAMED INDIVIDUAL
IS A CERTIFIED COPY SUBSTANTIATED BY FINGERPRINTS, AS IT APPEARS IN THE
SBI/DCI FILES. STATE/FEDERAL REGULATIONS REQUIRE A ONE-YEAR RECORD OF
DISSEMINATION. * * * CAUTION * * * CHANGES TO THIS RECORD MAY OCCUR AT
ANY TIME AND A NEW INQUIRY SHOULD BE MADE FOR SUBSEQUENT USE. THIS
RECORD MUST NOT BE USED AFTER 2013-05-07 (NC)

***** IDENTIFICATION *****

Subject Name(s)

MILLER, CALVIN JOE
MILLER, CALVIN J (AKA)
MILLER, JOE (AKA)

Subject Description

FBI Number	State Id Number	DOC Number
643844RA0	NC0564314A (NC)	0547534

Social Security Number



Sex	Race	Skin Tone
Male	White	Medium
Height	Weight	Date of Birth
5'10"	222	

Hair Color	Eye Color
Blonde or Strawberry	Blue
Scars, Marks, and Tattoos	
Code	Description, Comments, and Images
PRCD L EAR	,
TAT L ARM	,
TAT L LEG	,
TAT R ARM	,
TAT R SHLD	,

Place of Birth
North Carolina

***** CRIMINAL HISTORY *****

===== Cycle 1 =====

Tracking Number	01
Earliest Event Date	1992-11-02 Incident Date 1992-11-02

Arrest Date	1992-11-02
Arrest Case Number	92111596
Arresting Agency	NC0880000 TRANSYLVANIA CO SO COMMUNICATION
Subject's Name	MILLER, CALVIN JOE
Offender Id Number	068117T
Charge	01
Charge Literal	BREAKING-ENTERING
Charge	02
Charge Literal	LARCENY

Court Disposition	(Cycle 1)
Court Case Number	1992CR 002312
Court Agency	NC088025J TRANSYLVANIA CO DIST COURT
Charge Literal	BREAKING AND OR ENTERING (F)
Statute	14-54(A); NC
Severity	Felony
Disposition	(1992-11-24; Dismissal Without Leave (By DA))

Court Disposition	(Cycle 1)
Court Case Number	1992CR 002312
Court Agency	NC088025J TRANSYLVANIA CO DIST COURT
Charge Literal	LARCENY AFTER BREAK/ENTER
Statute	(14-72(B)(2); NC)
Severity	Felony
Disposition	(1992-11-24; Dismissal Without Leave (By DA))

===== Cycle 2 =====

Tracking Number	02
Earliest Event Date	1994-08-01 Incident Date 1994-06-20

Arrest Date 1994-08-01
 Arrest Case Number 94060913
 Arresting Agency NC0880000 TRANSYLVANIA CO SO COMMUNICATION
 Subject's Name MILLER, CALVIN JOE
 Offender Id Number 676719H
 Charge 01
 Charge Literal FIRST DEGREE STATUTORY SEXUAL OFFENSE

 Court Disposition (Cycle 2)
 Court Case Number 1994CRS001791
 Court Agency NC088035J TRANSYLVANIA CO SUP COURT
 Charge Literal INDECENT LIBERTIES WITH CHILD
 Statute (14-202.1; NC)
 Severity Felony
 Disposition (1996-10-07; Trial By Judge; Verdict: Guilty)
 Court Comment Plea: Guilty To A Lesser Degree
 Court Comment Special Condition: INTENSIVE PROBATION/SEX
 OFFENDER PROB/SEE JUDGMENT FOR
 Court Comment Special Condition: ALL TERMS/CACS1050/GUICE.
 Court Comment Special Condition: DEF ELECTED TO SERVE SENT
 10-3-96/GUICE.

 Sentencing (Cycle 2)
 Sentencing Agency NC088035J TRANSYLVANIA CO SUP COURT
 Court Case Number 1994CRS001791
 Charge Literal INDECENT LIBERTIES WITH CHILD
 Statute (14-202.1; NC)
 Severity Felony
 Disposition (1996-10-07; Trial By Judge; Verdict: Guilty)
 Sentence Special Condition: INTENSIVE PROBATION/SEX
 OFFENDER PROB/SEE JUDGMENT FOR
 Sentence Special Condition: ALL TERMS/CACS1050/GUICE.
 Sentence Special Condition: DEF ELECTED TO SERVE SENT
 10-3-96/GUICE.
 Sentence Confinement: 3Y-3Y
 Sentence Probation Sentence: 5Y
 Sentence Supervised Probation Sentence: Y
 Sentence Fine: \$100
 Sentence Court Costs: \$375
 Sentence Restitution: \$70.00
 Sentence Judgment Satisfied: E

===== Cycle 3 =====
 Earliest Event Date 1996-11-03

 Corrections (Cycle 3)
 Date Supervision Began 1996-11-03
 Corrections Agency NC092173C NC CORR IDENT BRANCH-RALEIGH
 Subject's Name MILLER, CALVIN JOE
 Correctional Id Number 0547534
 Court Case Number 1994CRS001791
 Correction Action SUBJECT INCARCERATED FOR CONVICTIONS
 Charge 01
 Charge Literal TAKING INDECENT LIBERTIES W/CHILD
 Severity Felony
 Disposition (1996-10-08; Convicted and Incarcerated; Court
 Case Number: 1994CRS001791)

===== Cycle 4 =====
 Earliest Event Date 1997-09-08

Corrections (Cycle 4)
Date Supervision Began 1997-07-03
Corrections Agency NC092175C NC CORR IDENT BRANCH-RALEIGH

Correctional Id Number 0547534
Correction Action PAROLED

===== Cycle 5 =====
Earliest Event Date 1997-11-15

Corrections (Cycle 5)
Date Supervision Began 1997-11-15
Corrections Agency NC092175C NC CORR IDENT BRANCH-RALEIGH

Correctional Id Number 0547534
Correction Action DISCHARGED

===== Cycle 6 =====

Tracking Number 03
Earliest Event Date 1999-01-07 Incident Date 1998-04-13

Arrest Date 1999-01-07
Arrest Case Number 0674
Arresting Agency NC0380020 TRANSYLVANIA CO SO COMMUNICATION
Subject's Name MILLER, CALVIN JOE
Offender Id Number 000619H
Charge 01
Charge Literal FAIL REGISTER SEX OFFENDER
Severity 2nd Offender

Court Disposition (Cycle 6)
Court Case Number 1998CR 000970
Court Agency NC0380025 TRANSYLVANIA CO DIST COURT
Charge Literal FAIL REGISTER SEX OFFENDER(F)
Statute 14-208.11; NC
Severity Felony
Disposition (1998-01-28; Trial By Judge; Verdict: Guilty)
Court Comment Plea: Guilty
Court Comment Special Condition: PAY \$300 CAC FEE, REPORT FOR
EVALUATION AS DIRECTED BY
Court Comment Special Condition: OFFICER, CAN TO BE TRANSFERED
TO S.C., SUBMIT FOR TRTMT
Court Comment Special Condition: FOR SUBS ABUSE AND SEX
OFFENDER TRTMT AS DIRECTED BY
Court Comment Special Condition: OFFICER 2-5-99 APPEALED TO
APPELLATE COURT, 1-13-00 NOT PERFECT

Court Disposition (Cycle 6)
Court Case Number 1998CR 000970
Court Agency NC0380025 TRANSYLVANIA CO DIST COURT
Charge Literal FELONY PROBATION VIOLATION
Statute 15A-1315; NC
Severity Felony
Disposition (2000-10-16; Process Revocation)
Court Comment Special Condition: CREDIT FOR 25 DAYS

Sentencing (Cycle 6)
Sentencing Agency NC0380025 TRANSYLVANIA CO DIST COURT

Court Case Number 1993CR000970
 Charge Literal FAIL REGISTER SEX OFFENDER(F)
 Statute 114-208.11; NC
 Severity Felony
 Disposition 1999-01-19: Trial By Judge; Verdict: Guilty)
 Sentence Special Condition: PAY \$300 CAC FEE, REPORT FOR
 EVALUATION AS DIRECTED BY
 Sentence Special Condition: OFFICER, CAN TO BE TRANSFERED
 TO S.C., SUBJECT FOR TRIMNT
 Sentence Special Condition: FOR SUBS ABUSE AND SEX
 OFFENDER IRMNT AS DIRECTED BY
 Sentence Special Condition: OFFICER 2-5-99 APPEALED TO
 APPELLATE COURT, 1-13-00 NOT PRECT
 Sentence Confinement: 6M-3M
 Sentence Probation Sentence: 24M
 Sentence Supervised Probation Sentence: Y
 Sentence Fine: \$500
 Sentence Court Costs: \$80
 Sentence Judgment Satisfied: N

===== Cycle 7 =====
 Earliest Event Date 2003-12-12

 Corrections (Cycle 7)
 Date Supervision Began 2003-12-12
 Corrections Agency NC092175C NC CORR IDENT BRANCH-RALEIGH
 Subject's Name MILLER, CALVIN J
 Correctional Id Number 0547534
 Court Case Number 1993CR000970
 Correction Action SUBJECT INCARCERATED FOR CONVICTIONS
 Charge 01
 Charge Literal FAIL TO REGISTER SEX OFFENDER
 Severity Felony
 Disposition 1999-01-19: Convicted and Incarcerated; Court
 Case Number: 1993CR000970)

===== Cycle 8 =====
 Earliest Event Date 2004-04-05

 Corrections (Cycle 8)
 Date Supervision Began 2004-04-05
 Corrections Agency NC092175C NC CORR IDENT BRANCH-RALEIGH
 Correctional Id Number 0547534
 Correction Action DISCHARGE
 ***** INDEX OF AGENCIES *****

Agency PENNSYLVANIA CO SO COMMUNICATION; NC0880000;

 Agency NC CORR IDENT BRANCH-RALEIGH; NC092175C;

 Agency PENNSYLVANIA CO DIST COURT; NC088025J;

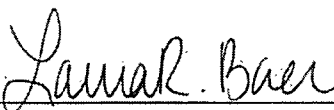
 Agency PENNSYLVANIA CO SUP COURT; NC088035J;

END OF RECORD * * *

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

February 18th, 2016



Laura R. Baer
Appellate Defender

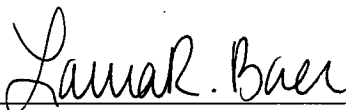
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

February 18th, 2016



Laura R. Baer
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

RECEIVED
FEB 18 2016
SC Court of Appeals