

9

ORIGINAL

RECEIVED

MAY 02 2016

SC Court of Appeals

22512

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Alison Renee Lee, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF DAQUAN JOHNSON,

APPELLANT

APPELLATE CASE NO. 2014-001959

RECORD ON APPEAL

DAVID ALEXANDER
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
SC Bar No. 5098

PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorneys for Respondent

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED SEPTEMBER 15-16, 2014.....	1
STATE’S MOTION TO SEQUESTER WITNESSES	5
RULING BY THE COURT ON STATE’S MOTION TO SEQUESTER WITNESSES	6
JURY VOIR DIRE	10
STRIKING OF THE JURY	28
INSTRUCTIONS TO THE JURY	31
OPENING STATEMENT BY MS. WETHERTON	41
OPENING STATEMENT BY MR. BELDING.....	47
TESTIMONY	
WILLIAM HENRY BURKE	
Direct examination by Ms. Wetherton	50
Cross examination by Mr. Belding.....	115
Redirect examination by Ms. Wetherton.....	159
MARGARET FANT BODMAN	
Direct examination by Ms. Wetherton	170
Cross examination by Mr. Belding.....	177
STATE RESTS.....	181
DEFENSE MOTION FOR A DIRECTED VERDICT	181
RULING BY THE COURT ON DEFENSE MOTION FOR A DIRECTED VERDICT	183
TESTIMONY	
KIMBERLY S. HARRISON	
Direct examination by Mr. Belding	186
Cross examination by Ms. Wetherton	208

TESTIMONY

D'ANTONIO RAMON JOHNSON	
Direct examination by Mr. Belding	227
Cross examination by Ms. Wetherton	236
STATE RESTS.....	238
STATE'S MOTION FOR A DIRECTED VERDICT	239
RULING BY THE COURT ON STATE'S MOTION FOR A DIRECTED VERDICT	241
CHARGE CONFERENCE.....	243
CLOSING ARGUMENT BY MS. WETHERTON.....	247
CLOSING ARGUMENT BY MR. BELDING	253
REPLY BY MS. WETHERTON.....	265
CHARGE ON THE LAW	268
NOTE FROM THE JURY	280
NOTE SENT BACK TO THE JURY	284
VERDICT	286
SENTENCING	288
PETITION PURSUANT TO THE SEXUALLY VIOLENT PREDATOR ACT AND ALL EXHIBITS.....	290
ORDER OF COMMITMENT FILED SEPTEMBER 16, 2014.....	386
FORM ORDER FILED SEPTEMBER 17, 2014.....	387
STATE'S EXHIBIT #1 (INDICTMENTS AND SENTENCING SHEETS)	389
CERTIFICATE OF COUNSEL.....	402

INDEX

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
William Henry Burke				
Wetherton	50		159	
Belding		115		
Margaret Fant Bodman				
Wetherton	170			
Belding		177		
Kimberly S. Harrison				
Belding	186			
Wetherton		208		
D'Antonio Ramon Johnson				
Belding	227			
Wetherton		236		

<<-->>

	PAGE
Jury Voir Dire	5
Opening Statements	
Wetherton	41
Belding	47
Closing Statements	
Wetherton	247
Belding	253
Wetherton	264
Charge	267
Certificate of Reporter	290

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Exhibit List

3

STATE'S EXHIBITS

NO	DESCRIPTION	ID	EV
S-1	Certified copies of Indictments	5	72

DEFENDANT'S EXHIBITS

	(NONE)		

COURT'S EXHIBITS

C-1	Note from jury	285	

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

JURY VOIR DIRE

Juror #	Name	Race	Sex	Strikes			Accept
				Court	Plaintiff	Def.	
	Maureen Boggs						X
	Nancy Beale						X
	Brenita Irick						X
	Tommy Brasley						X
	Stephen Mondello						X
	Jennifer Span						X
	Jevon Priester						X
	Patrick Wright						X
	Amy Johnson						X
	Brittany Vassor						X
	Brian McConchie						X
	Tally Adams						X
	Kennard Franklin						X

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

5

1 **September 15, 2014**

2 (WHEREUPON, court convened with all parties present
3 and the following proceedings were had.)

4 (WHEREUPON, State's Exhibit Number 1 was marked for
5 identification.)

6 THE COURT: This is docket number 2013-CP-40-
7 03805. This is in the Matter of the Care and Treatment
8 of Daquan Johnson. The State is represented by Nicole
9 Wetherton and the Respondent is represented by David
10 Belding.

11 Is there anything we need to take up before we
12 bring our jury in?

13 MR. BELDING: We had talked about we need a
14 motion in limine.

15 MS. WETHERTON: There's just a few things,
16 Your Honor. May it please the Court. The first thing,
17 there is a brother that has -- is named on the witness
18 list and I'd like to make a motion just to sequester
19 him. As far as the two experts, I'm not making a motion
20 for that.

21 THE COURT: Any response to that?

22 MR. BELDING: No, Your Honor. I think that it
23 is just standard to sequester witnesses in a case like
24 this. Would that be D'Antonio Johnson?

25 MS. WETHERTON: Yes.

1 MR. BELDING: Okay.

2 THE COURT: All right. Mr. Johnson, D'Antonio
3 Johnson, it is my understanding that you are a potential
4 witness in this particular matter. And there's been a
5 motion made to sequester the witnesses. That means that
6 you will not be allowed to stay in the courtroom. The
7 idea behind sequestration is to make sure that the
8 witnesses, as they testify, will not be influenced by
9 what they may hear or see throughout the course of the
10 trial in the courtroom. And that what you recall about
11 the events in question or whatever your testimony might
12 be will be your own recollections and would not be
13 refreshed or enhanced by someone else's testimony or
14 other evidence that you may hear. So I'll have to ask
15 that you remain outside the courtroom, that you should
16 not discuss your testimony with anyone, with any other
17 witnesses. Of course, you may, of course, discuss your
18 testimony with Mr. Belding, who's representing Daquan
19 Johnson. But there should be no discussion about what
20 other witnesses have testified to. Do you understand?

21 D'ANTONIO JOHNSON: Yes, ma'am.

22 THE COURT: And you may step outside the
23 courtroom at this time. You can wait outside in the
24 hall and we'll call you when it's time for you to
25 testify.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

7

1 D'ANTONIO JOHNSON: Yes, ma'am. Thank you.

2 MS. WETHERTON: And, Your Honor, I did also
3 file a motion in limine to exclude any records -- if Mr.
4 Johnson was committed to the sexually violent predator
5 treatment unit, we would agree not to speak about what
6 type of treatment that he would actually received while
7 housed there at the unit. I've spoken to Mr. Belding
8 prior to trial and he has agreed to that motion in
9 limine.

10 MR. BELDING: And, it's my understanding that
11 we're not going to talk about one-year kind of stuff.

12 MS. WETHERTON: No, we will not talk about
13 what would happen once he becomes committed to the unit,
14 condition for release, annual reviews, nothing like that
15 will be discussed.

16 THE COURT: And that's your understanding, Mr.
17 Belding; is that correct?

18 MR. BELDING: It is. Thank you, Your Honor.

19 MS. WETHERTON: And then -- I'm sorry.
20 Finally, Your Honor, we have -- the State has one
21 exhibit that we're going to admit into evidence. I've
22 also shown that to Defense counsel prior to trial and he
23 does agree and has no objection to the exhibit coming
24 into evidence. And I've already marked it.

25 THE COURT: And I notice that there's two

1 copies of all the indictments. I understand that one
2 was a copy before it was signed. And so you're going to
3 introduce both copies of those three indictments?

4 MS. WETHERTON: I can just introduce the
5 signed indictments.

6 THE COURT: Because as I -- you've given me a
7 copy of the exhibit. It contains the -- there are three
8 separate indictments. There's also the sentencing
9 sheets, as well as the arrest warrants for each one of
10 those indictments, I believe. And then after that, then
11 there's a copy of the indictment as it would appear
12 after being true billed by the Grand Jury before Mr.
13 Johnson signed it during the course of his plea.

14 MS. WETHERTON: Okay. I can take out the ones
15 that we know haven't been true billed if that would be
16 acceptable to the Court. Are you okay with that, Dave?

17 MR. BELDING: I'm all right with that, yeah.

18 MS. WETHERTON: Okay. I'll remove those.

19 THE COURT: Those are just ones that just have
20 not been signed by him?

21 MS. WETHERTON: Correct.

22 THE COURT: They have been true billed but
23 just not signed by him?

24 MS. WETHERTON: Correct.

25 THE COURT: I just want to make sure that

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

9

1 there's no confusion to the jury, no more than ---

2 MS. WETHERTON: I understand.

3 THE COURT: Even though they should read them.

4 Anything else we need to take up?

5 MS. WETHERTON: Nothing from the State, Your

6 Honor.

7 MR. BELDING: Nothing from the Respondent,

8 Your Honor.

9 THE COURT: And I did not receive any separate
10 voir dire from you, Mr. Belding, so I assume that you
11 have none?

12 MR. BELDING: I sent a note. The Attorney
13 General's Office refined that down to the point where it
14 works fine for everybody.

15 THE COURT: All right.

16 MR. BELDING: So that will work. Thank you.

17 THE COURT: Thank you. Then you may call for
18 the panel. I'm wondering if we should have an
19 alternate?

20 MS. WETHERTON: Yes, Your Honor.

21 Would you like an alternate?

22 MR. BELDING: Yes. One, just in case.

23 THE COURT: Okay.

24 (WHEREUPON, the jury panel entered the open court
25 at approximately 11:52 a.m.)

1 THE CLERK: Your Honor, the jury panel is
2 present.

3 THE COURT: Thank you. Good morning, ladies
4 and gentlemen.

5 JURY PANEL: Good morning.

6 THE COURT: My name is Alison Lee. I'm your
7 Circuit Court Judge here this week for Common Pleas and
8 General Sessions. I'm doing both this week. So I'm
9 delighted to have you all here this morning. I think I
10 can see all of your faces. We are here this morning
11 about to begin the trial of the case entitled In the
12 Matter of the Care and Treatment of Daquan Johnson.
13 Ladies and gentlemen, this is a petition that's brought
14 by the State of South Carolina under the Sexually
15 Violent Predator Act. And the State seeks civil
16 commitment of the Respondent, Daquan Johnson, for long-
17 term control, care and treatment in a secure facility.
18 This is not a criminal proceeding, but it is rather a
19 civil commitment proceeding. The State alleges that
20 Daquan Johnson is a sexually violent predator under the
21 statute, a claim which he denies. And so the burden of
22 proof is on the State to prove by a greater weight or
23 preponderance of the evidence that Mr. Johnson meets the
24 criteria set forth under the Sexual Violent Predator
25 Act.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

11

1 Is there any member of the jury panel that has any
2 knowledge of any of the facts or any of the issues in
3 this particular case? If so, please stand.

4 (No response)

5 THE COURT: The State of South Carolina is
6 represented by Nicole Wetherton with the South Carolina
7 Attorney General's Office. Ms. Wetherton, if you'd
8 stand and face the jury panel.

9 MS. WETHERTON: (Stands and faces panel)

10 THE COURT: Is there any member of the jury
11 panel who is related by blood or marriage or a close
12 personal friend of Ms. Wetherton? If so, please stand.

13 (No response)

14 THE COURT: Thank you.

15 MS. WETHERTON: (Seated)

16 THE COURT: Is there any member of the jury
17 panel that has any -- or a member of your immediate
18 family who is employed with the Office of the Attorney
19 General here in South Carolina? If so, please stand.

20 (No response)

21 THE COURT: The Respondent in this matter is
22 Daquan Johnson. Mr. Johnson, if you would stand and
23 face the panel, please.

24 THE DEFENDANT: (Stands and faces panel)

25 THE COURT: Is there any member of the jury

1 panel who is related by blood or marriage or a close
2 personal friend of Daquan Johnson? If so, please stand.

3 (No response).

4 THE COURT: Thank you, sir. You may have a
5 seat.

6 THE DEFENDANT: (Seated).

7 THE COURT: Mr. Johnson is represented by
8 David Belding. Mr. Belding, if you'd face the panel.

9 MR. BELDING: (Stands and faces panel)

10 THE COURT: Of the Law Offices of David
11 Belding. Is there any member of the jury panel who is
12 related by blood or marriage or a close personal friend
13 of Mr. Belding or having ever been represented? If so,
14 please stand.

15 (No response).

16 THE COURT: Thank you.

17 MR. BELDING: (Seated)

18 THE COURT: Ladies and gentlemen, there may a
19 number of witnesses who may be called to testify in this
20 matter. And if any those witnesses are present, when I
21 call your names if you would please stand.

22 Is there any member of the jury panel who is
23 related by blood or marriage or a close personal friend
24 of Dr. William Burke? If so, please stand.

25 (No response)

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

13

1 THE COURT: Is there any member of the jury
2 panel who is related by blood or marriage or close
3 personal friends of Dr. Kimberly Harrison, who is
4 standing in the back of the courtroom. If so, please
5 stand.

6 (No response)

7 THE COURT: Is there any member of the jury
8 panel who is related by blood or marriage or close
9 personal friends of D'Antonio Ramon Johnson? If so,
10 please stand.

11 (No response)

12 THE COURT: Is there any member of the jury
13 panel who is related by blood or marriage or a close
14 personal friends of Margaret Bodman, who is an Assistant
15 Solicitor in the Fifth Circuit Solicitor's Office? If
16 so, please stand.

17 (No response)

18 THE COURT: Is there any member of the jury
19 panel who has any knowledge of any of the facts or
20 circumstances surrounding Mr. Johnson's conviction of a
21 sexual offense? If so, please stand?

22 Yes, ma'am. Your Name, please.

23 THE JUROR: Brittany Vassor.

24 THE COURT: What was the last name?

25 THE JUROR: Vassor.

1 THE COURT: Yes, ma'am. You have knowledge of
2 the circumstances surrounding the conviction?

3 THE JUROR: I don't have any knowledge of the
4 particular circumstances, but I was a correctional
5 officer. And Mr. Johnson was one of my prior inmates.
6 But I'm not sure if that's ethical for me to be on it.

7 THE COURT: And the fact that that occurred,
8 would that have any bearing on your ability to be able
9 to listen to the evidence in this particular matter?

10 THE JUROR: I can listen to it.

11 THE COURT: I'm sorry?

12 THE JUROR: I can listen to it. I don't think
13 it would have any bearing. I just wanted to let the
14 court know.

15 THE COURT: And I'm sorry. I didn't hear the
16 last part of that?

17 THE JUROR: I just wanted you to be aware.

18 THE COURT: Yes, ma'am. And the fact that
19 that occurred, would that prevent you from being able to
20 listen to the evidence and to be able to make a decision
21 that would be based strictly upon the evidence presented
22 here?

23 THE JUROR: No, ma'am.

24 THE COURT: Would you be able to give both the
25 State and the Respondent a fair and impartial trial in

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

15

1 this particular matter?

2 THE JUROR: Yes, ma'am.

3 THE COURT: Okay. Thank you. You may have a
4 seat.

5 Would the fact that Daquan Johnson has been
6 convicted of a sexual offense and has completed his
7 criminal sentence related to that conviction in any way
8 prevent you from being able to serve as a fair and
9 impartial juror in the trial of this particular case?
10 If so, please stand.

11 (No response)

12 THE COURT: Is there any member of the jury
13 panel or member of your immediate family who's ever been
14 the victim of a sexual assault? If so, please stand.

15 Yes, ma'am. Tell me your name, please?

16 THE JUROR: Jacqueline Jacobs.

17 THE COURT: And Ms. Jacobs, was that you or a
18 family member?

19 THE JUROR: Family member.

20 THE COURT: And the fact that that occurred,
21 would that prevent you from being able to listen to the
22 evidence in this particular case?

23 THE JUROR: No, Your Honor.

24 THE COURT: Would you be able to make a
25 decision that would be based strictly on the evidence to

1 be presented here?

2 THE JUROR: Yes.

3 THE COURT: And would you be able to give both
4 the State, as well as the Respondent, a fair and
5 impartial trial?

6 THE JUROR: Yes.

7 THE COURT: Thank you. You may have a seat.

8 Is there any member of the jury panel or member of
9 your immediate family who has ever been charged or
10 convicted of a sexual offense? If so, please stand.

11 Yes, ma'am, please.

12 THE JUROR: Amanda Ruiz, R-U-I-Z.

13 THE COURT: And Ms. Ruiz, the fact that that
14 occurred, would that prevent you from being able to
15 listen to the evidence in this matter?

16 THE JUROR: No, ma'am.

17 THE COURT: Would you be able to make a
18 decision that would be based strictly upon the evidence
19 presented here?

20 THE JUROR: Yes, ma'am.

21 THE COURT: Would you be able to give both the
22 State, as well as the Respondent, a fair and impartial
23 trial?

24 THE JUROR: Yes, ma'am.

25 THE COURT: Thank you. You may have a seat.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

17

1 Yes, ma'am. Your name, please?

2 THE JUROR: Renee Connolly.

3 THE COURT: And Ms. Connolly, the fact that
4 occurred, would that prevent you from being able to
5 listen to the evidence in this matter?

6 THE JUROR: No.

7 THE COURT: Would you be able to make a
8 decision that would be based strictly upon the evidence
9 to be presented here?

10 THE JUROR: Yes, ma'am.

11 THE COURT: And would you be able to give both
12 the State, as well as the Respondent, a fair and
13 impartial trial?

14 THE JUROR: Yes, ma'am.

15 THE COURT: Thank you. You may have a seat.

16 Is there any member of the jury panel who is a
17 member of or contributor to an organization that has as
18 its primary focus either the promotion of law
19 enforcement or victims' rights or -- and that would
20 include organizations such as MADD, SADD, CAV, CADRE,
21 Sister Care? If so, please stand.

22 Yes, sir. Tell me your name, please.

23 THE JUROR: Stephen Mondello.

24 THE COURT: And Mr. Mondello, are you the
25 contributor or one of your family?

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

18

1 THE JUROR: I'm a contributor.

2 THE COURT: And the fact that you contribute
3 to such an organization, would that affect your ability
4 to be able to listen to the evidence in this matter?

5 THE JUROR: No, ma'am. It sure will not.

6 THE COURT: Would you be able to make a
7 decision that would be based strictly upon the evidence
8 to be presented here?

9 THE JUROR: Yes, ma'am.

10 THE COURT: And would you be able to give both
11 the State, as well as the Respondent, a fair and
12 impartial trial?

13 THE JUROR: Yes, ma'am.

14 THE COURT: Thank you, sir. You may have a
15 seat.

16 Is there any member of the jury panel who is a
17 member of or contributor to an organization that has as
18 its primary focus prison ministries, prison outreach
19 programs, the Innocence Project or some other program or
20 project involving individuals who are incarcerated in
21 prison? If so, please stand.

22 Yes, ma'am. Tell me your name, please.

23 THE JUROR: Tamala Jackson.

24 THE COURT: And, Ms. Jackson, the fact that
25 you are a member or a contributor to one of those

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

19

1 organizations, would that prevent you from being Able to
2 listen to the evidence in this matter?

3 THE JUROR: No.

4 THE COURT: Would you be Able to make a
5 decision that would be based strictly upon the evidence
6 to be presented here?

7 THE JUROR: Yes.

8 THE COURT: Would you be Able to give both the
9 State, as well as the Respondent, a fair and impartial
10 trial?

11 THE JUROR: Yes.

12 THE COURT: Thank you. You may have a seat.
13 Yes, ma'am. Your name please?

14 THE JUROR: My name is Lynn Merritt.

15 THE COURT: I'm sorry?

16 THE JUROR: Lynn Merritt.

17 THE COURT: And Ms. Merritt, the fact that you
18 are a member or a contributor to one of those
19 organizations, would that prevent you from being Able to
20 listen to the evidence in this matter?

21 THE JUROR: No, ma'am.

22 THE COURT: Would you be Able to make a
23 decision that would be based strictly upon the evidence
24 presented here?

25 THE JUROR: Yes, ma'am.

1 THE COURT: Would you be Able to give both the
2 Respondent, as well as the State, a fair and impartial
3 trial?

4 THE JUROR: Yes, ma'am.

5 THE COURT: Thank you. You may have a seat.

6 Yes, sir. Your name, please?

7 THE JUROR: Patrick Wright.

8 THE COURT: And Mr. Wright, the fact that you
9 are a member of or a contributor to such an
10 organization, would that prevent you from being Able to
11 listen to the evidence?

12 THE JUROR: No, ma'am.

13 THE COURT: Would you be Able to make a
14 decision that would be based strictly upon the evidence
15 presented?

16 THE JUROR: Yes.

17 THE COURT: Would you be Able to give both the
18 State, as well as the Respondent, a fair and impartial
19 trial?

20 THE JUROR: Yes, ma'am.

21 THE COURT: Thank you. You may have a seat.

22 Is there any member of the jury who has any
23 training or experience in the fields of psychiatry,
24 psychology or the law? If so, please stand.

25 Ms. Jackson?

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

21

1 THE JUROR: Yes.

2 THE COURT: And can you tell me which areas?

3 THE JUROR: I have a bachelor's in psychology
4 and a master's in rehab counseling.

5 THE COURT: And the fact that you have those
6 degrees and that training, would that prevent you from,
7 again, from being Able to listen to the evidence in the
8 case or make a decision based upon the evidence?

9 THE JUROR: No, ma'am.

10 THE COURT: Would you be Able to give both the
11 State, as well as the Respondent, a fair and impartial
12 trial?

13 THE JUROR: Yes, ma'am.

14 THE COURT: Thank you. You may have a seat.
15 Ms. Merritt; is that correct?

16 THE JUROR: Yes, ma'am.

17 THE COURT: Can you tell me what type of
18 training you have?

19 THE JUROR: I'm a social worker. I work in
20 psychiatric hospitals.

21 THE COURT: And the fact that you have that
22 training, would that prevent you from being Able to
23 listen to the evidence, again, or to make a decision
24 based upon the evidence in this case?

25 THE JUROR: No, ma'am.

1 THE COURT: Again, would you be Able to give
2 both the State, as well as the Respondent, a fair and
3 impartial trial?

4 THE JUROR: Yes, ma'am.

5 THE COURT: Thank you. You may have a seat.

6 Mr. Wright, can you tell me what training you have?

7 THE JUROR: I have a bachelor's degree in
8 psychology, an internship at the state mental hospital,
9 a Ph.D. in organizational behavior, a minor in
10 industrial organizational technology.

11 THE COURT: And the fact that you have that
12 training, would that prevent you, again, from being Able
13 to make a decision in this case based upon the evidence,
14 or being Able to listen to the evidence presented?

15 THE JUROR: No.

16 THE COURT: Would you be Able to give both the
17 State, as well as the Respondent, a fair and impartial
18 trial?

19 THE JUROR: Yes, ma'am.

20 THE COURT: Thank you. You may have a seat.

21 Ms. Jacobs?

22 THE JUROR: Yes, ma'am.

23 THE COURT: Can you tell me what training you
24 have?

25 THE JUROR: I have a master's in school

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

23

1 counseling and I'm a faculty school counselor in
2 schools.

3 THE COURT: And the fact that you have that
4 training, would that prevent you from being Able to
5 listen to the evidence and make a decision based upon
6 the evidence in this case?

7 THE JUROR: No, ma'am.

8 THE COURT: And again, would you be Able to
9 give both the State, as well as the Respondent, a fair
10 and impartial trial?

11 THE JUROR: Yes, ma'am.

12 THE COURT: Thank you. You may have a seat.

13 Ms. Vassor.

14 THE JUROR: I have a bachelor's in criminal
15 justice.

16 THE COURT: And, again, the fact that you have
17 that training, would that prevent you from being Able to
18 listen to the evidence and make a decision based upon
19 the evidence of this case?

20 THE JUROR: No, ma'am.

21 THE COURT: Again, would you be Able to give
22 both the State, as well as the Respondent a fair and
23 impartial trial?

24 THE JUROR: Yes, ma'am.

25 THE COURT: Thank you. You may have a seat.

1 Last, but not least.

2 THE JUROR: John Folsom.

3 THE COURT: Mr. Folsom, can you tell me what
4 training you have?

5 THE JUROR: I'm a lawyer.

6 THE COURT: And the fact that you are trained
7 in that profession, would that prevent you from being
8 Able to listen to the evidence in this trial?

9 THE JUROR: No, ma'am.

10 THE COURT: Would you be Able to make a
11 decision that would be based strictly upon the evidence
12 presented in this case?

13 THE JUROR: Yes.

14 THE COURT: Would you be Able to give both the
15 State, as well as the Respondent, a fair and impartial
16 trial?

17 THE JUROR: Yes.

18 THE COURT: Thank you. You may have a seat.

19 Is there any member of the jury panel or member of
20 your immediate family who's ever been the subject of
21 civil commitment proceeding, either voluntarily or
22 involuntarily? If so, please stand.

23 Mr. Folsom?

24 THE JUROR: I don't know if this counts, but
25 my wife is a marriage and family therapist and she's

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

25

1 been involved, but not a party.

2 THE COURT: And the fact that she's employed
3 in that profession, again, would that prevent you from
4 being Able to listen to the evidence and make a decision
5 based upon the evidence?

6 THE JUROR: No, ma'am.

7 THE COURT: Would you be Able to give both the
8 State, as well as the Respondent, a fair and impartial
9 trial?

10 THE JUROR: Yes.

11 THE COURT: Thank you. You may have a seat.

12 Is there any member of the jury panel who has
13 formed or expressed an opinion about any of the issues
14 that are to be tried in this particular case? If so,
15 please stand.

16 (No response)

17 THE COURT: Is there any member of the jury
18 panel that's aware of any bias or prejudice towards
19 either the State or the Respondent, Daquan Johnson? If
20 so, please stand.

21 (No response)

22 THE COURT: Is there any member of the jury
23 panel that knows of any reason why you would not be Able
24 to serve as a fair and impartial juror in the trial of
25 this particular case? If so, please stand.

1 (No response)

2 THE COURT: Is there anything further from the
3 State?

4 MS. WETHERTON: Your Honor, could we approach?

5 THE COURT: Yes.

6 (WHEREUPON, a bench conference was held off the
7 record.)

8 THE COURT: Yes, ma'am.

9 THE JUROR: Your Honor, I do want the Court to
10 know that I do work in the Department of Corrections and
11 I work directly with inmates.

12 THE COURT: And the fact that you work in that
13 capacity with inmates and I believe you have a
14 background in psychology and rehabilitation; is that
15 correct?

16 THE JUROR: Yes.

17 THE COURT: And would that, again, prevent you
18 from being Able to listen to the evidence and make a
19 decision based upon the evidence?

20 THE JUROR: I can listen to it, the
21 information. However, I won't put myself in harms way
22 if there's going to be some type of criminal conviction.

23 THE COURT: Well, this is a civil proceeding.
24 This is not a criminal proceeding.

25 THE JUROR: I just want to make sure.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

27

1 THE COURT: This is not a -- let me state
2 again. This is a civil proceeding. Mr. Johnson has
3 been convicted of certain crimes. He has served his
4 sentence within the Department of Corrections. And at
5 this particular time, the State is petitioning to
6 determine whether or not he meets the criteria under the
7 Sexual Violent Predator Act, for which they have the
8 burden of proving beyond a reasonable doubt that he
9 meets those requirements. So even though you talk about
10 a criminal issues, it is still a civil case. We're
11 talking about civil commitment for care and treatment.
12 Under those circumstances, do you believe that you would
13 be Able -- could you listen to the evidence and make a
14 decision based upon the evidence?

15 THE JUROR: Yes.

16 THE COURT: Would you be Able to give both the
17 State, as well as the Respondent, a fair and impartial
18 trial?

19 THE JUROR: Yes.

20 MR. BELDING: Your Honor, on that point, may I
21 ask a question? The prospective juror mentioned
22 something about being put in harms way. And I didn't
23 know if the jury panel would be interested in knowing
24 that were Mr. Johnson to be found to be committed and
25 sent to treatment that that does take place as a part of

1 the Broad River Correctional Institution.

2 THE COURT: But it is under the jurisdiction
3 of the Department of Mental Health.

4 MR. BELDING: Correct.

5 THE COURT: Anything further?

6 MS. WETHERTON: Nothing from the State, Your
7 Honor.

8 MR. BELDING: Nothing from the Respondent,
9 Your Honor.

10 THE COURT: Counsel, if you will look at your
11 list. Using numbers on the far left-hand side of the
12 column, numbers 1 through 21. Number 17 has previously
13 been excused. There are four strikes for the State and
14 four strikes for the Respondent. And then for the
15 alternate, we'll use numbers 22 through 24, and this is
16 one strike each. And we'll begin with the Petitioner.

17 MS. WETHERTON: Thank you. State strikes
18 number 4.

19 THE CLERK: State strikes number 4.

20 MR. BELDING: Respondent strikes number 3,
21 Your Honor.

22 THE CLERK: Respondent strikes 3.

23 MS. WETHERTON: State strikes number 11.

24 THE CLERK: State strikes number 11.

25 MR. BELDING: Respondent strikes number 6.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

29

1 THE CLERK: Respondent strikes number 6.

2 MS. WETHERTON: State strikes number 7.

3 THE CLERK: State strikes number 7.

4 MR. BELDING: Respondent strikes number 19.

5 THE CLERK: Respondent strikes 19.

6 MS. WETHERTON: State strikes Number 20.

7 THE CLERK: State strikes 20.

8 MR. BELDING: I beg the Court's indulgence.

9 One moment, Your Honor. Respondent strikes number 18.

10 THE CLERK: Respondent strikes 18.

11 THE COURT: Would you please select your
12 strike for the alternate using numbers 22 through 24.

13 MS. WETHERTON: State strikes number 23.

14 THE CLERK: State strikes 23.

15 MR. BELDING: Respondent strikes number 24.

16 THE CLERK: Respondent strikes 24.

17 Please allow me to review your strikes. For the
18 State I have 4, 11, 7, 20, and 23.

19 MS. WETHERTON: That's correct.

20 THE CLERK: For the Respondent, I have 3, 6,
21 19, 18, and 24.

22 MR. BELDING: Correct.

23 THE COURT: Are there any motions with respect
24 to the selection of the jury?

25 MS. WETHERTON: None from the State, Your

Jury Voir Dire

1 Honor.

2 MR. BELDING: None from the Respondent, Your

3 Honor.

4 THE COURT: Ladies and gentlemen, as your
5 names are called, if you would please bring all of your
6 belongings and have a seat in the jury box.

7 THE CLERK: Maureen Boggs, Nancy Beale,
8 Brenita Irick, Tommy -- is it Brasley?

9 THE JUROR: That's Correct.

10 THE CLERK: Tommy Brasley, Stephen Mondello,
11 Jennifer Spain, Jevon Priester, Patrick Wright, Amy
12 Johnson, Brittany Vassor, Brian McConchie, Tally Adams,
13 Kennard Franklin.

14 THE COURT: Ladies and gentlemen, if you'd
15 stand and raise your right hand. And at the conclusion
16 of the statement that will be a recitation of the oath,
17 answer appropriately.

18 (WHEREUPON, the jury was duly sworn)

19 THE COURT: To the remaining members of the
20 panel, I'd like to thank you very much for your
21 willingness to serve as jurors in this particular
22 matter. I ask that you return downstairs to the jury
23 assembly room for further instruction. Thank you.

24 (WHEREUPON, the jury panel exited the open

1 courtroom at approximately 12:25 p.m.

2 THE COURT: Ladies and gentlemen, you have now
3 been sworn as jurors in this matter. And as jurors you
4 are sworn to determine the facts based upon the evidence
5 that will be presented to you throughout the course of
6 this particular trial. In connection with that, I would
7 like to give you some instructions I'm going to ask that
8 you follow each and every we come together. And then
9 we'll probably take a lunch break and then we'll come
10 back and actually begin the trial at that particular
11 time.

12 Now, ladies and gentlemen, as I indicated you have
13 been sworn as jurors, and your role is to determine the
14 facts based upon the evidence. You should not begin to
15 discuss this matter among yourself until it's time for
16 you all to begin your deliberations. The evidence does
17 not always come in in a chronological order. Until
18 you've heard all the evidence, you are not in a position
19 to be Able to determine the facts or determine the
20 issues in this particular matter. So, therefore, I ask
21 that you not discuss it among yourselves until it's time
22 for you all to begin your deliberations.

23 Secondly, as you come and go from the courthouse, I
24 ask that you not listen to conversations that you may
25 hear as you come and go. Oftentimes, the attorneys may

1 be discussing things with each other or with their
2 witnesses and the decisions that you have to make about
3 this case must be based upon the evidence that will be
4 presented throughout the course of this particular
5 trial. And so I ask that you not listen to any
6 conversations as you come and go.

7 Also, ladies and gentlemen, it's inappropriate for
8 anyone to come up to you and talk to you about this case
9 while you're seated as a juror. If someone comes up to
10 you and wants to talk to you about this case, please
11 tell them that you are a juror and you cannot discuss
12 it. And I ask that you report it as soon as possible.
13 We would like to have the opportunity to investigate to
14 make sure that no one's attempting to influence --
15 influence you in any way. And the only way we can do
16 that is if you report it to us. You can report it to
17 any of the bailiffs in the case or to me or to the
18 clerk's office, but certainly we do ask that you report
19 any contact that you may have with someone who wants to
20 discuss this matter with you.

21 Also, ladies and gentlemen, I'm going to ask that
22 you, as you come and go from the courthouse or when you
23 return this afternoon, that you not bring any reading
24 materials with you. I don't screen your reading
25 materials. I don't want to screen them, but I never

1 know when there's something that you possess that may
2 have an impact upon some fact or some issues that is to
3 be determined in this case. And so out of an abundance
4 of caution, I ask that you not keep it with you, either
5 while you're in the jury room or in the courtroom. And
6 so if you have the opportunity during the lunch break to
7 return to your car or perhaps home and you can leave
8 those materials there, I ask that you do that. If not,
9 we'll simply collect them from you before you go into
10 the jury room this afternoon when you return.

11 Also, ladies and gentlemen, when you return and you
12 come and go into the jury room, the bailiffs will
13 collect your telephones from you. You should turn your
14 telephones off. But I can understand that you may need
15 to be connected to your home or office for whatever
16 reason. So out of an abundance of caution, we just ask
17 that you not keep your phones with you and that they'll
18 be collected from you. If you need to be connected,
19 please do turn your phone on silent or vibrate. If it
20 goes off, then we can take a break to address any
21 emergencies. But we ask that you not keep your
22 telephones with you while you're in the courtroom and
23 while you're in the jury room.

24 Now, ladies and gentlemen, I'm going to go ahead
25 and excuse you for a lunch break. When you come back.

1 from lunch I'll give you a brief overview of how the
2 trial will progress and then we'll get started at that
3 particular time. When you leave the courtroom, ladies
4 and gentlemen, I ask that you follow the bailiff out.
5 They'll show you a room where you should report after
6 lunch. So when you come back into the building, come up
7 to the third floor and there'll be someone that'll
8 direct you down the hallway so that you can reach that
9 particular jury room. When you have all assembled when
10 you return, I ask that you select a foreperson. The
11 foreperson's responsibility is to communicate with me in
12 the event that there's anything that you all need
13 throughout the course of the trial. Say, for example,
14 there's anyone that has any conflict in the event that
15 we have to go after five p.m., any childcare, daycare or
16 other appointment that you may need to -- for scheduling
17 or if there's anyone that has any health issues that we
18 need to take up, that I'll need to be aware of for
19 purposes of taking a break or taking a lunch hour. But
20 more importantly, when this case is submitted to you all
21 to begin your deliberations, it will be the foreperson's
22 responsibility to make sure that everyone has the
23 opportunity to express his or her views about this case
24 and what you believe the evidence shows in the form of
25 facts to be determined. And then the foreperson should

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

35

1 coordinate those discussions. And then ultimately when
2 you have reached a verdict, it will be the foreperson's
3 responsibility to record the verdict on the appropriate
4 form.

5 When you have returned from lunch and you have
6 selected the foreperson, you should write that person's
7 name on a sheet of paper and give it to the bailiff.
8 And then when you come into the courtroom, the
9 foreperson should take the very first seat in the first
10 row, where this young lady is with the blue sweater on,
11 blue shirt on. The rest of you are free to sit wherever
12 you like to sit within the first three rows.

13 Now, Mr. Franklin, as the alternate, your role is
14 also extremely important. If one of your fellow jurors
15 is unable to complete service, then you must step into
16 that person's shoes and fulfill service on their behalf.
17 I ask that when you come into the courtroom that you
18 always take a place somewhere on that last row, so that
19 we can keep up with your whereabouts. The rest of you
20 are free to sit wherever you'd like to sit, again,
21 within the first three rows of the jury box. Only the
22 foreperson and the alternate have assigned seats. Now,
23 ladies and gentlemen, it's about twelve thirty, which is
24 generally the height of the lunch hour. I'm going to
25 give you a little extra time to get where you need to go

1 and get back. So I'm going to ask that you report back
2 at one forty-five to the jury room that you'll be shown.
3 When you go out, they'll show you that jury room and
4 that's where you should report after lunch. And then
5 after you've selected the foreperson and you've all
6 assembled and done that, then at one forty-five, we'll
7 be ready to continue on with the trial in this
8 particular matter. I hope that you have a pleasant
9 lunch and we'll see you back at one forty-five. Thank
10 you.

11 (WHEREUPON, the jury exited the open court at
12 approximately 12:32 p.m.)

13 THE COURT: Is there anything that we need to
14 take up at this time?

15 MS. WETHERTON: Nothing from the State, Your
16 Honor.

17 MR. BELDING: Nothing from the Respondent,
18 Your Honor.

19 THE COURT: Then we'll see you back at one
20 forty-five.

21 MR. BELDING: Thank you.

22 MS. WETHERTON: Thank you, Your Honor.

23 (WHEREUPON, court stood at recess for a lunch
24 break)

25 THE COURT: Good afternoon. Be seated,

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

37

1 please. Our Foreperson is Nancy Beale.

2 Is there anything we need to take up before we get
3 started?

4 MS. WETHERTON: Nothing from the State, Your
5 Honor.

6 MR. BELDING: Nothing from the Respondent.
7 Thank you, Your Honor.

8 THE COURT: You may ask the jury to join us.

9 THE BAILIFF: Yes, Your Honor.

10 (WHEREUPON, the jury entered the open court at
11 approximately 1:50 p.m.)

12 THE BAILIFF: Your Honor, the jury is present.

13 THE COURT: Thank you.

14 Good afternoon, ladies and gentlemen.

15 THE JURY: Good afternoon.

16 THE COURT: Ms. Beale, you've been selected as
17 the foreperson?

18 MADAM FORELADY: Yes, Your Honor.

19 THE COURT: I would like to thank you very
20 much for serving in that capacity.

21 MADAM FORELADY: Okay.

22 THE COURT: Ladies and gentlemen, as I
23 indicated to you before lunch, I will explain to you or
24 give you a brief overview of how the trial will
25 progress, and then we'll go ahead and get started this

1 afternoon.

2 Now, the first thing that you will hear, ladies and
3 gentlemen, will be the opening statements of the
4 attorneys. Now, their opening statements are not
5 evidence. But what they'll do is they'll discuss with
6 you or tell you a little bit more about what the
7 proceeding is about and what you can expect to hear in
8 the form of testimony that may be presented throughout
9 the course of the trial. So I ask you to listen very
10 carefully to their opening statements. They'll kind of
11 give you a roadmap, if you will, of where they're going
12 and what you can expect to hear so that you can keep up
13 with what's going on in the course of the testimony.
14 Once they've made their opening statements, then you
15 will hear the evidence. Now, the evidence may take many
16 forms. It may be in the form of witnesses' testimony
17 from the witness stand. It may be in the form of
18 photographs or documents or other physical pieces of
19 evidence that you'll be able to take with you into the
20 jury room when it's time for you all to begin your
21 deliberation.

22 Now, just as in any profession, there are certain
23 rules that govern. For trials, they're what we call
24 rules of evidence. Those rules are provided to make
25 sure that what you hear and what you consider will

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Jury Voir Dire

39

1 assist you in being Able to determine the facts of this
2 case. For, again, that's your job; you must determine
3 the facts of the case based upon the evidence. So the
4 attorneys may object about evidence that's being
5 presented. If I sustain the objection, then that means
6 that the evidence will not be allowed in. I ask that
7 you not speculate as to what the evidence might have
8 been or the reasons for the objection. I assure you
9 that we're not trying to hide or keep anything from you.
10 We're just trying to, again, make sure that what you can
11 consider and what you do hear will assist you in being
12 Able to determine the facts. On the other hand, if I
13 overrule the objection, then the evidence will be
14 allowed in and you will be Able to hear it.

15 Now, from time to time we may need to take up some
16 legal matters outside of your presence. To the extent
17 that we can do that quickly here in the courtroom,
18 they'll come up to the bench and we'll discuss them. On
19 other occasions, I may need to ask that you retire to
20 the jury room so that we can discuss those issues that
21 may come up. They are legal issues and I ask that you
22 not speculate as to what we're discussing or the reasons
23 for our conversation. Again, we're just trying to make
24 sure that everyone's legal rights are protected and the
25 only way we can do that is if we have the opportunity to

1 fully discuss the issue in open court. And we have to
2 do that outside of your presence.

3 Now, once you've heard all of the evidence that has
4 to be presented, then you will hear again from the
5 attorneys in the form of a closing argument. Now, their
6 closing arguments are not evidence. But what they'll do
7 is they'll pick out portions of the evidence that you've
8 heard and make arguments to you in an effort to try to
9 sway you to find the facts in accordance with their view
10 of what's happened. So I ask that you listen very
11 carefully to those closing arguments. And then once
12 you've heard those arguments, then I will instruct you
13 on the law that's to be applied and then you may begin
14 your deliberations at that particular point.

15 Now, ladies and gentlemen, I don't think we'll
16 likely be Able to get the case to you to begin
17 deliberations today. But I'm hoping that we'll be Able
18 to get through a majority of the testimony that the
19 attorneys will present. So we may not finish today, but
20 hopefully we'll be Able to get it to you tomorrow.
21 We'll just kind of go along and see how things progress.

22 I ask that you give the attorneys and the witnesses
23 and the evidence your full attention, that you listen
24 carefully to all the information as its being presented.
25 I ask that you not take notes. I find that oftentimes

1 when people take notes they're busy writing information
2 and they're missing something that's being presented.
3 However, I do understand that sometimes people need to
4 take notes to help them remember information. And if
5 you need to take notes to help you remember what's going
6 on and help with your thought process, then please let
7 me know so I can accommodate in that regard. I'm hoping
8 that the information will be fairly straight forward and
9 easy for you to be Able to understand. But if you find
10 that you need to take notes, please let me know so I can
11 accommodate you.

12 At this time, I believe we're ready to hear opening
13 statements. Would you like to make an opening
14 statement?

15 MS. WETHERTON: Yes, Your Honor.

16 THE COURT: All right. Yes, ma'am.

17 MS. WETHERTON: May it please the Court?

18 THE COURT: Yes, ma'am.

19 **OPENING STATEMENT**

20 **BY MS. WETHERTON:**

21 Judge Lee, Mr. Belding, Mr. Johnson, and ladies and
22 gentlemen of the jury, good afternoon.

23 THE JURY: Good afternoon.

24 MS. WETHERTON: My name is Nicole Wetherton
25 and I'm an Assistant Attorney General and I am one of

1 two attorneys in the State of South Carolina that tries
2 these types of cases. So let's go ahead and let's get
3 down to it.

4 Why are we here? Well, it's our position that that
5 man sitting over there at that table, Mr. Daquan
6 Johnson, is a sexually violent predator. So what is a
7 sexually violent predator? I'm sure we all have
8 preconceived notions in our minds of what a sexually
9 violent predator is. But in the law in the State of
10 South Carolina, what does that really mean? Well, about
11 sixteen years ago our representatives here in Columbia
12 passed a law with two things in mind. One, that there
13 are certain individuals that suffer from what's referred
14 to as a mental abnormality or personality disorder that
15 makes them likely to commit acts of sexual violence.
16 And, two, these individuals need treatment in a secure
17 setting during that process because they're extremely
18 dangerous individuals. It's our position that those
19 representatives in Columbia had someone like Mr. Johnson
20 in mind when they passed that act that day, the Sexually
21 Violent Predator Act.

22 So how do we know this? What I'm going to do is
23 I'm going to go through what the actual statute says,
24 and then I'm going to break it apart and apply it to
25 this case. So in the law -- under the law here in South

1 Carolina, I have to prove: one, that Mr. Johnson has
2 been convicted of a qualifying sexually violent offense;
3 and, two, he suffers from what is referred to as a
4 mental abnormality or personality disorder that makes
5 him likely to commit acts of sexual violence if not
6 confined in a secure facility for long-term control,
7 care and treatment. Now, that sounds like a lot. Let's
8 break that down.

9 First, I have to prove he's been convicted of a
10 qualifying sexually violent offense. He has been
11 convicted of a sexually violent offense. In fact, he's
12 been convicted of three sexually violent offenses. What
13 I will do during the trial, you will see, I will pass
14 some papers to someone who will be testifying. There
15 will be copies of certified convictions. And those will
16 go back with you when you go back to deliberate. I
17 don't really think the Defense is going to contest
18 those. I have the required certified convictions of a
19 sexually violent act. But you're going to also learn
20 about the Defendant and you're going to learn about the
21 victim. And you will learn how Mr. Johnson molested
22 three children. And they all were siblings and one was
23 developmentally delayed. And you're also going to hear
24 about the things that he did to them and what he made
25 them do to one another and how this abuse lasted for

1 almost five years. And you'll also hear how he also
2 molested another five-year-old boy on a totally separate
3 occasions.

4 Now, the SVP Act also requires him to suffer from a
5 mental abnormality or personality disorder that makes
6 him likely to commit future acts of sexual violence if
7 not confined for long-term control, care and treatment.
8 In this case, Mr. Johnson has been diagnosed as a
9 pedophile. Mr. Johnson has been diagnosed as a
10 pedophile by both the doctor that's going to testify for
11 the State and also the doctor that will testify for him.
12 And, again, I don't think the defense is going to
13 contest the fact that I have the required mental
14 abnormality pursuant to this statute.

15 You're also going to hear testimony from which you
16 can decide whether Mr. Johnson lacks control over his
17 pedophilia and whether he's likely to commit future
18 sexual acts of violence. You're going to hear testimony
19 from Dr. William Burke who's affiliated -- he's sitting
20 in the front row -- with the Medical University of South
21 Carolina. He's going to tell you he spent close to six
22 months reviewing Mr. Johnson's case, which included
23 reviewing multiple files, conducting several tests on
24 Mr. Johnson, interviewing Mr. Johnson, and then taking a
25 closer look at Mr. Johnson's plans to avoid re-offense.

1 And after his thorough evaluation, he believes Mr.
2 Johnson is likely to sexually assault another child.
3 And you're also going to hear that Mr. Johnson has
4 significant risk factors for re-offending. Such as that
5 he has never had sex-offender treatment. He takes no
6 responsibility for his crimes. He violated very quickly
7 on probation, very quickly after being released from
8 jail. And based on the testing performed by Dr. Burke,
9 he is in the top category for re-offending once again.

10 You're also going to hear testimony from a
11 psychologist who also evaluated Mr. Johnson in this
12 case. Her name is Dr. Kimberly Harrison. In these
13 cases when a petition is filed pursuant to the Sexually
14 Violent Predator Act, she used to be one of the
15 individuals that was appointed by the court to evaluate
16 that person. And she evaluated Mr. Johnson. Now, as I
17 told you, she is one of the other individuals that
18 diagnosed him as a pedophile. However, she states that
19 he is not likely to re-offend. In cases when someone
20 like her does not recommend commitment under the law, we
21 have the right and the option of requesting a second
22 evaluation when we have issues with the report.
23 Admittedly, we don't do that in every single case, but
24 we did do that here. And so the question that will be
25 presented to you is after comparing these two experts

1 who will testify during the trial, and assessing their
2 credibility and thoroughness and extent of their
3 evaluation, whether Mr. Johnson's pedophilia makes him
4 likely to commit an act of sexual violence.

5 In other words, is Mr. Johnson, without ever taking
6 any sex offender treatment, going to be safe out in the
7 Richland County Community and not molest another child
8 ever again?

9 Now, in these cases, despite the fact that they are
10 civil in nature, the State is required to prove their
11 case beyond a reasonable doubt, similar to that of like
12 a criminal case. And the Judge at the end is going to
13 explain exactly what that means to you. But it means
14 essentially that I have to leave you firmly convinced.
15 That is my standard. I've had defense attorneys in
16 cases try to say it's like a slam dunk, or a touchdown,
17 or a hole in one, or something crazy. There are scales
18 and it's up here and down here. No. Beyond reasonable
19 doubt means I have to leave you firmly convinced that
20 Mr. Johnson is a sexually violent predator. And I want
21 you to know in this case, I embrace that burden. And I
22 believe that I will be able to prove to you beyond a
23 reasonable doubt, I will leave you firmly convinced that
24 Mr. Johnson is a sexually violent predator.

25 Now, these cases, and I'm sure that you all have

1 pretty much figured this out by now, but they tend to
2 contain some very disturbing facts. And I will promise
3 you this case will be no different in that regard. But
4 I'm going to ask you to do one thing in this case, and
5 that's to listen to the evidence. And not just the
6 State's evidence, listen to all the evidence. Listen to
7 what was done in this case and listen to what was not
8 done. And as you listen to the evidence, I believe the
9 verdict that you will render in this case will become
10 very clear; that Daquan Johnson is a sexually violent
11 predator who must be committed to the Department of
12 Mental Health to get the treatment that he so
13 desperately needs and to protect the children of
14 Richland County and the state from him.

15 THE COURT: Mr. Belding.

16 MR. BELDING: Thank you, Your Honor. May it
17 please the Court.

18 THE COURT: Yes, sir.

19 **OPENING STATEMENT**

20 **BY MR. BELDING:**

21 Solicitor, Judge Lee, Your Honor. Ladies and
22 Gentlemen of the jury, my name is Dave Belding. I'm an
23 attorney here in Columbia and I was appointed by this
24 Court to represent Mr. Daquan Johnson who is sitting
25 before you today. This is not my first rodeo here

1 either in the sexually violent predator arena. Ms.
2 Wetherton and I have tried several cases and had a
3 number of them that didn't go to trial. I'm here today
4 because Daquan Johnson is ready to go home. At the end,
5 that's what I'm going to ask you to do, is to find that
6 he is not a sexually violent predator. Ms. Wetherton
7 has already told you a couple of things that are very
8 important.

9 First of all when he was first evaluated, he was
10 found by a licensed psychologist in this state who
11 worked for DMH to not be a sexually violent predator.
12 And as she also stated, most of the time, that's it.
13 They go home. But under our statute, both sides have a
14 right to an independent evaluation. So they went
15 looking for second opinion. And their second opinion
16 person is here today to say that he doesn't agree with
17 that opinion. To me, that's going to create a real
18 issue of reasonable doubt. And as Ms. Wetherton said,
19 at the end, Judge Lee is the one who'll tell you exactly
20 what that means. I'm not the guy to talk about
21 touchdowns and holes in one. I don't know who that was.
22 But I can tell you to listen to what Judge Lee says
23 about reasonable doubt because this is a critical part
24 of our protection in our society. Just as much as our
25 laws protect us, we need juries to understand that they

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Opening Statement by Mr. Belding

49

1 don't flip a coin, that they don't compromise, that they
2 don't think about, well, maybe that's the safe way to
3 go. You're going to have to be convinced, each and
4 every one of you in this case from the evidence you hear
5 from this stand, that Mr. Johnson is a sexually violent
6 predator who will, has a propensity to sexually re-
7 offend if he does not receive long-term custody, care
8 and treatment. The statute will be read to you and
9 that's essentially what it says.

10 What we're going to let you know about is the fact
11 that Mr. Johnson has been sitting in jail since August
12 of last year, thirteen months, waiting for this day.
13 Waiting to have his day. There's no bond. There's no
14 way to get out. He's been sitting in the Richland
15 County Jail for thirteen months waiting for this day, so
16 he could have this trial, so he can go home. We're
17 going to talk about all of that.

18 I appreciate your attention. I think you'll find
19 it interesting. I think it's possible we could get done
20 today, but that depends on a lot of things. But I hope
21 you all enjoy what you are going through as jurors
22 because sometimes these cases are boring. But I think
23 this one's going to be better.

24 Thank you for your attention.

25 THE COURT: You may call your first witness.

1 MS. WETHERTON: Thank you. Your Honor, the
2 State would call Dr. William Burke to the stand.

3 THE CLERK: Do you swear or affirm the
4 testimony you're about to give in this case to be the
5 truth, the whole truth and nothing but the truth, so
6 help you God?

7 THE WITNESS: I do.

8 THE CLERK: Thank you. Have a seat in the
9 witness stand, please. State your name for the record.

10 THE WITNESS: William Henry Burke.

11 **WILLIAM HENRY BURKE,**

12 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

13 **DIRECT EXAMINATION**

14 **BY MS. WETHERTON:**

15 THE COURT: Ms. Wetherton, you can use that
16 podium if you'd like to use it.

17 MS. WETHERTON: It's all right. I'd rather
18 just stand here, if that's all right.

19 THE COURT: All right. That's fine.

20 Q. Dr. Burke?

21 A. Yes.

22 Q. What is your occupation?

23 A. Well, I have two occupations that run side-by-side.

24 I'm in private practice where I evaluate individuals

25 who've been accused of sexual crimes and individuals who

1 have been convicted of sexual crimes and I provide risk
2 assessments. In addition to that, I provide treatment
3 in seventeen counties in South Carolina for individuals
4 on probation or parole to the state and federal
5 governments with a team of seven other therapists who
6 work for me. On any given time, we have approximately
7 two hundred and fifty sex offenders under our care and
8 supervision. In addition to that, I am an Assistant
9 Professor of Forensic Psychiatry at the Medical
10 University of South Carolina where I have several roles
11 there. One is I'm involved with seven different
12 research projects designed to evaluate sex offenders and
13 individuals with sexual abnormalities. Also, I teach
14 physicians who are either medical students or going to
15 be physicians or already are physicians and are in
16 residency to be psychiatrists working, doing an
17 internship, as they call it, for forensic psychiatry.
18 So my roles sort of overlap. But in general, I provide
19 risk assessments for individuals accused or convicted of
20 sexual crimes and provide treatment and oversight for
21 those individuals as well.

22 Q. And what degrees do you possess?

23 A. I have a Bachelor's Degree in Psychology from the
24 Citadel, a Corp Cadet. I graduated in 1980. I have a
25 Master's Degree in Counseling from the Citadel, 1984. I

1 received a Ph.D. in counseling from the University of
2 South Carolina in their Department of Educational
3 Psychology Program under the Counselor Education
4 Program. That's my formal education.

5 Q. Do you have any specialized training or experience
6 within the field of forensic assessment of sex offenders
7 beyond your doctorate degree?

8 A. I do. I've been trained by the inventors of
9 several different instruments. I've trained sixteen
10 hours with Robert Hare, who invented the Hare
11 Psychopathy Checklist, which predicts recidivism for
12 criminals and -- sexual criminals and non-sexual
13 criminals. I've trained probably forty-five plus hours
14 with Dr. Gene Abel, who invented the Abel Screen
15 Assessment. I've trained twenty-four hours plus with
16 Peter Byrne who developed the Monarch Penile
17 Plethysmograph System. I've been trained over forty-
18 five hours by Limestone Technologies who also has a
19 plethysmograph for phallometric evaluation system.
20 Phallometric or plethysmography measures blood flow to
21 the penis. And so that is really critical in assessing
22 someone's risk. And so when I say the Monarch and
23 Limestone, those are the two companies that I've worked
24 with. I've also been trained by Andrew Harris, who is
25 one of the co-authors of Static 99-R in Stable and acute

1 actuarial scales, which we'll talk about a little later.
2 Actuarial scales are borrowed from the insurance
3 industry and are helpful in risk predictions. I've been
4 -- I am the -- I train people for Limestone Technologies
5 phallometrics. What that means is everyone who wishes
6 to purchase the phallometric or plethysmograph system
7 from Limestone comes to my office outside of Charleston
8 and trains for three days under my direct supervision in
9 order to be certified to administer and interpret the
10 results of that test. I've had specific training for
11 the MMPI II, which is psychometric -- it's a test of
12 personality. Off the top of my head, that's it right
13 now.

14 Q. Do you have any membership with any organizations?

15 A. Yes. I'm a clinical and research member of the
16 Association for the Treatment of Sexual Abusers, which
17 is a national and international organization.
18 Clinicians and interested persons mostly are --
19 interested persons are mostly probation officers -- that
20 have come together to provide some ethical standards for
21 evaluation and treatment and standards of care for
22 evaluation and treatment. I'm the past president of the
23 South Carolina Chapter of -- the acronym is ATSA. I've
24 been president twice for a total of eight years. And
25 for a twelve-year period I was the liaison for ATSA and

1 the government, which means I interacted with state and
2 federal government agencies trying to get some policies
3 invoked to help protect the public and provide better
4 services for sex offenders being treated.

5 Q. Does your work allow you to conduct forensic
6 assessments on individuals?

7 A. Yes, it does.

8 Q. Do you have any experience working directly with
9 sex offenders?

10 A. Yes. I initially began working with sex offenders
11 in 1981. I didn't choose that initially. I was the new
12 kid on the block at the hospital. And they gave the
13 cases they didn't want, which happened to be a lot of
14 sexual offender cases. But I developed an interest in
15 it. And a conservative estimate is that I've evaluated
16 over six thousand sex offenders. And I think that's a
17 conservative estimate, because from 1981 until now,
18 thirty, what, thirty-three years give or take. I'm
19 required to keep records for ten years. And in my
20 office now, I've got over three thousand records, three
21 thousand files on sex offenders on hand. So just
22 doubling that for a thirty-year period total, I think
23 would be a conservative estimate. But I'm being
24 conservative saying six thousand.

25 Q. What types of assessments have you conducted in

1 relation to sex offenders?

2 A. Type of assessments have I -- well, as I stated
3 earlier, oftentimes if someone's charged with a sex
4 offense, I'm asked to do a risk assessment before they
5 ever go to trial. And that information is used to help
6 determine if someone's safe enough to be released, if
7 their bond can be lowered, if they can be released into
8 the public. In addition to that, I do risk assessments
9 for individuals who've already been convicted. Maybe
10 they pled or were found guilty, and a judge will refer
11 them to be evaluated and come back at a later time and
12 the person will be sentenced. They won't be sentenced
13 that day. They'll wait on the risk assessment. So I do
14 that. I do sexually violent predator assessments. I
15 was involved with the very first SVP case back in 1999.
16 Also, almost on a daily basis, I interview a sex
17 offender who's been convicted and has either been placed
18 on probation or is released on parole. I do one or two
19 of those a day, at least, at my office. And those are
20 to provide -- again, risk assessments to put together a
21 treatment plan for their own treatment needs and to do
22 it in a manner that it not only protects the public but
23 offers the most mobility for an individual. And what I
24 mean by that is, we've developed a program called
25 Chaperones, where we'll give a little help; go with a

1 sex offender for a job interview or go to church if they
2 want to go to church. Gives them a little more freedom
3 in the community, while we're also protecting the
4 public.

5 Q. Can you briefly talk about your other experience in
6 relation to sex offenders?

7 A. My other experience in relation to sex offenders.
8 Oh, well, I do a lot of research. My dissertation, I
9 developed a test that measures sexual fantasies for sex
10 offenders and compared that to normal non-offending
11 relations. And also with the plethysmography system
12 that I was talking about, I was the principal
13 investigator, along with some other individuals, and we
14 developed what's known as the Real Child Voices
15 Stimulus. And so what happens when a subject undergoes
16 phallometrics, is they're in a room by themselves. We
17 never see them naked or anything. But they are asked to
18 put a gauge on their penis. And they look at pictures
19 and listen to stories. And we measure the blood flow to
20 their penis, which is very important. It's a very
21 accurate measure. It correlates very highly to
22 recidivism. Recidivism means whether or not you re-
23 offend. In fact, with two major studies, it's been the
24 single greatest predictor of re-offending regarding
25 child molestation. So before we developed the Real

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Direct Examination by Ms. Wetherton

57

1 Child Voices Stimulus, what a guy listened to was a male
2 voice in a monotone voice describing sexual behavior
3 with children or the rape of a woman or the rape of a
4 man. And historically, arousal levels were not that
5 great. What I mean, the blood flow to the penis didn't
6 really increase that much compared to other -- to the
7 other categories. And I think it was simply because of
8 that monotone male voice. So what we did was we got
9 professional actors and went into a professional studio
10 and so we used child's voices. Because I was working
11 with the FBI one time and the agent made an off-the-cuff
12 statement, he said, look there's thousands of wav files
13 in this guy's computer and it's nothing but children's
14 voices. It was nothing sexual. It was just their
15 voices, playing, laughing, whatever, crying. And I had
16 the idea well, gee, there's a reason that's in there.
17 So we developed a stimulus package, which I'm very proud
18 of. It's being normed, meaning peer-reviewed in seven
19 different sites; two in Canada and four in the United
20 States. And they've actually gotten better results than
21 we did initially with our own pilot study. So I'm also
22 involved with -- we're doing some brain imaging research
23 at MUSC where we're having people who have passed the
24 polygraph and have never been accused or convicted of a
25 sex crime, we're putting them in an MRI tube, functional

1 MRI so you get realtime images of brain function. And
2 showing them pictures of men, women and children and
3 seeing if their brain reacts or behaves differently than
4 that of someone diagnosed with pedophilia. And at the
5 same time, we have the gauge on the penis from the
6 phallometric that I spoke of earlier. So we're
7 correlating those to the blood flow to the penis with
8 changes in the brain, which has never been done before,
9 which is pretty exciting stuff.

10 Q. Have you authored any chapters in books or
11 publications in relation to sex offenders?

12 A. I co-authored a chapter from a manual that is the
13 study guide for physicians going into psychiatry. They
14 have to pass a test to be a psychiatrist. And this is
15 the study manual that's given by that company. So Dr.
16 Dwyer and I co-wrote the chapter on normal and abnormal
17 sexual behaviors. I was asked to write a chapter on
18 cognitive behavioral treatment of sex offenders by what
19 is known as the Safer Society Press, which is the
20 largest book and worksheet program company probably in
21 the world; certainly in the United States, that provides
22 materials for other clinicians and doctors to read to
23 keep up on different treatment modalities. And also
24 some things for offenders to have, as well, to help them
25 not re-offend. So I was asked to write a chapter on

1 that, which I did. I've got a couple of publications
2 reviewing some other books in a journal. I've got two
3 publications. I don't even know what they are yet.
4 Because I'm on this team and once I do my bit and write
5 my bit it's sort of gone. I don't know. I haven't
6 caught up with it yet, but I've got two other
7 publications out there. I'm not sure where they are.
8 Well, I do know they're under AFFP, which is the
9 Association for Forensic Psychiatrists, whatever their
10 journal is.

11 Q. Can you briefly describe your background in
12 relation to sexually violent predator cases.

13 A. Well, as I said, I was involved in the very first
14 case that came -- that was going to go before a jury
15 back in 1999. And I've evaluated probably -- I'm going
16 to be conservative. I've done independent evaluations
17 probably about fifty times. And I've testified for the
18 Defense probably -- what I know for a fact is four
19 times. And what that means is, you know, out of the
20 fifty or so, there were four that I felt like didn't
21 meet the criteria. Actually, there was one I did feel
22 met the criteria, but I was forced to testify anyway,
23 that we were talking about earlier today. But this is
24 my first case for the Attorney General's Office. I've
25 done multiple cases, been involved with other cases for

1 the federal government with military court martials that
2 involved sex crimes, both for the prosecution and the
3 defense. And in federal court, as well.

4 Q. And were you one of the individuals that provide
5 advice to the revisions of the Sexually Violent Predator
6 Act in South Carolina?

7 A. I was. The Governor appoint Judge Jack Guedalia to
8 form a committee and to do that and I was asked to be on
9 that and did participate.

10 Q. Have you specifically created assessments to help
11 determine an individual's risk to re-offend sexually?

12 A. Well, as I stated earlier, we developed the
13 material for phallometrics and the equations that are
14 utilized for that. I can say directly, yeah, that's a
15 measurement of risk for risk assessment.

16 Q. Have you previously been recognized and testified
17 as an expert witness in the assessment of sex offenders?

18 A. Yes. I really can't give you an accurate count.
19 It's probably over a thousand times. I know for a fact
20 in Family Court it was over four hundred and fifty in my
21 three-year stint at Mental Health. So that alone. But
22 in federal court -- I'm in court almost every week.

23 Q. And how many times has that been actually in the
24 State of South Carolina?

25 A. All but -- I testified once in Georgia and once by

1 satellite in Minnesota.

2 Q. And how many times have you been qualified as an
3 expert in sexually violent predator cases in the State
4 of South Carolina?

5 A. Sexually violent predator cases, I believe four
6 that I went to, you know, to testify.

7 MS. WETHERTON: Your Honor, at this time, I
8 move for Dr. Burke to be recognized as an expert in the
9 field of the assessment and evaluation of sexual
10 predators pursuant to the Sexually Violent Predator Act.

11 THE COURT: Any voir dire?

12 MR. BELDING: No voir dire. No objection.
13 Upon reading his -- you're qualifying him as ---

14 MS. WETHERTON: I'm sorry.

15 MR. BELDING: Yeah. What is he -- we're
16 qualifying him as an expert in what?

17 MS. WETHERTON: In the assessment and
18 evaluation of sex offenders pursuant to the SVP Act.

19 MR. BELDING: No objection.

20 THE COURT: Then I'll find him so qualified.

21 Q. Now, Dr. Burke, how did you become involved in this
22 case?

23 A. My boss at MUSC asked me to help out because they
24 -- the MUSC Forensic Psychiatry had been doing a lot of
25 sexually violent predator evaluations. And things were

1 sort of getting backlogged and asked if I would be

2 willing to take on a few cases. And I told him, sure.

3 Q. Okay. Will you be paid to conduct your evaluation
4 in this case.

5 A. I hope so.

6 Q. Who will pay you?

7 A. Gee, I don't know. I think -- I don't know. I get
8 the -- I guess I'll get a check from MUSC.

9 Q. Okay. Would you have been paid any differently if
10 you did not recommend commitment?

11 A. No, ma'am.

12 Q. So what type of evaluation did you conduct in this
13 case?

14 A. What I did was I followed the standards of care for
15 the Association and Treatment of Sexual Abusers, which
16 requires that you look at a lot of different factors.
17 Because everyone's an individual. Every convicted sex
18 offender who comes in for an evaluation has got a
19 different story, has a different background, has
20 different medical issues or they don't have medical
21 issues or psychiatric issues and so forth. So the way
22 these assessments are structured is you do your best to
23 address all the possible factors that could lead to re-
24 offending or to -- in hopes of providing an accurate
25 risk assessment. Because this is very important, not

1 only for the public, it's very important for the
2 convicted sex offender to have a proper assessment. If
3 for nothing else, to protect them from themselves
4 sometimes. But, you know, in this case with Mr.
5 Johnson, his freedom is at stake. This is huge. This
6 is very important. So, you know, I've been tasked with
7 weighing his level of risk to the community. And, you
8 know, the vital -- I mean, you know, it's so important
9 that someone has access to freedom, you know. He's paid
10 his price to society, so I've been asked to utilize the
11 statute to make a determination, you know, gee, what I'm
12 in effect saying through my report is because of the
13 statute, I think the public is at greater risk if he
14 were to be released to the public, that I think he needs
15 confinement with specific treatment.

16 Q. Now, this protocol that you use, did you create
17 this protocol?

18 A. I did not. It was created by a number of
19 clinicians that included -- well, all the prominent
20 people in the field, which included psychiatrists,
21 psychologists, counsels, social workers, probation
22 officers, all had a part in developing this protocol.
23 ATSA has been around since 1979, and right now we have
24 about four thousand members. A little over two thousand
25 members are in the United States. England and New

1 Zealand and Australia have a -- are next in line. But
2 the vast majority are in the United States and Canada.
3 So they, you know -- beginning in '79 they came together
4 with standards of care, which were just reassessed in
5 February of this year. So they have been reassessed and
6 re-released. So it's an ongoing process. It's been
7 reassessed three times.

8 Q. Is this protocol accepted by experts, such as
9 yourself, in this field?

10 A. Yes.

11 Q. Now, in doing this type of evaluation, is there
12 more than one more person that assists you in conducting
13 this evaluation?

14 A. Well, in this case, yes. And when I say in this
15 case, in every case I do nowadays, I have assistance.
16 I'm just really busy and it's better that I have a
17 certified, trained technician running the laboratory for
18 four or five hours at a time, instead of me sitting
19 there staring at the screen. So in this case, I had
20 assistance with someone, a certified technician, running
21 the plethysmograph lab, and an assistant at MUSC who
22 administered some of the paper and pencil and computer
23 tests.

24 Q. Now, is it common for experts, such as yourself, to
25 rely on tests developed by other individuals?

1 A. Yeah. All the time.

2 Q. And once the interviews and tests have been
3 performed, what do you do next?

4 A. I take the test results, and sometimes the test
5 results are just the beginning of the test evaluation.

6 And what I mean by that is I'll get some test results
7 and then I'll have to take some of the information that
8 I gleaned from the interview and put that in an
9 equation. And it gives me an estimate. So that's what
10 I do. I take raw data, I take what I've learned from
11 the interview, and I take what I've learned from
12 official documents and I put all of that together, and
13 to the best of my ability, and come up with a risk
14 assessment. And if I could just tell you how I think --
15 what I've been told by other judges is for a sexually
16 violent predator case ---

17 MR. BELDING: Objection, to hearsay, Your
18 Honor. I don't think that's appropriate for him to
19 testify about what he's heard from other judges.

20 THE COURT: I will sustain the objection.

21 A. My understanding is that an SVP evaluation should
22 focus on whether there is a greater than fifty percent
23 chance that an individual will commit another sexual
24 crime in the future. And that's how I look at this.
25 And that's how I formulate my reports.

1 Q. And as part of this evaluation did you meet with
2 and interview Mr. Johnson?

3 A. Yes, ma'am, I did.

4 Q. And how long did you interview him?

5 A. Approximately three hours.

6 Q. Is the man you met with here in the courtroom
7 today?

8 A. Yes, ma'am.

9 Q. Could you please identify him for the record?

10 A. The orange shirt.

11 MS. WETHERTON: Your Honor, we ask the record
12 reflect that Dr. Burke identified Mr. Johnson.

13 THE COURT: So noted.

14 MS. WETHERTON: Thank you, Your Honor.

15 Q. Now, did you explain the purpose of the evaluation
16 to him?

17 A. Yes, ma'am.

18 Q. And did he consent to the evaluation?

19 A. Yes, ma'am. On multiple occasions. He consented
20 the day I interviewed him and the other times that he
21 was at the MUSC forensic building undergoing other
22 tests. Each time he signed a consent.

23 Q. Now, in addition to meeting with and interviewing
24 Mr. Johnson, what information did you receive to aid you
25 in conducting your evaluation?

1 A. I received what's commonly called a RAP sheet. I
2 received Dr. Harrison's report from the Department of
3 Mental Health. I received information describing the
4 sexual acts of the sex crimes that occurred regarding
5 his convictions. And well, I guess it would be best if
6 I just read what I got. Records from the South Carolina
7 Department of Corrections, from the Department of
8 Juvenile Justice, Hall Psychiatric Institute, the
9 Department of Mental Health, the Department of
10 Disabilities and Special Needs, court and law
11 enforcement records.

12 Q. Okay. How did you obtain that information?

13 A. Well, I showed up to work and it was in the chart.
14 So I don't know how it got there. I don't know it got
15 there but that's ---

16 Q. Is this the type of information that's typically
17 reasonably relied upon by experts such as yourself in
18 the field?

19 A. Yes, ma'am.

20 Q. Did you consider and rely upon the information you
21 just listed for the jury a minute ago and upon your
22 interview with Mr. Johnson in rendering your opinion in
23 this matter?

24 A. Yes, ma'am, I did.

25 Q. Can you please explain to the jury how an

1 individual's past sexual behavior relates to his future
2 sexual behavior?

3 A. Well, one of the basic tenets of behavior is past
4 behavior is the greatest predictor of future behavior.
5 But there are multiple other factors that we contribute
6 to that. And there are multiple factors that would
7 decrease a person's level of risk. So with my
8 evaluation, I considered both the factors that decrease
9 his level of risk and the factors that increase his
10 level of risk. And I forgot the question. What was it?

11 Q. Could you explain to the jury how an individual's
12 past sexual offense behavior relates to future sexual
13 offense behavior?

14 A. I answered that.

15 Q. Based on your interview and your review of the
16 file, at the time of your evaluation had Mr. Johnson
17 been convicted a sexually violent offense?

18 A. Yes. At the time I understood it to be at least
19 three times.

20 Q. And what are they?

21 A. What are the crimes?

22 Q. Yes?

23 A. Well, initially there was an incident where I
24 believe Mr. Johnson was sixteen years old and he
25 sexually assaulted a five-year-old male. There was some

1 discrepancy in the record as to whether or not that
2 charge was dropped or if he was actually found guilty.
3 I've since learned he was found guilty of that, of that
4 charge.

5 MS. WETHERTON: Your Honor, if I could
6 approach the witness?

7 THE COURT: Yes, ma'am.

8 Q. I'm going to show you these documents. Have you
9 seen these documents before?

10 A. Yes, ma'am.

11 Q. Okay. And what are they?

12 A. They are indictments for the different sexual
13 crimes Mr. Johnson was found guilty of.

14 Q. Is there anything on these documents that indicates
15 their authenticity?

16 A. They are signed by the foreperson of the Grand
17 Jury, stamped as a true bill. They've got the stamp of
18 Richland County on it.

19 Q. Did you review these documents as part of your
20 evaluation?

21 A. Yes, ma'am, I did.

22 Q. Are there sentencing sheets included in that
23 package of documents?

24 A. I believe so, yes.

25 Q. Okay. And what was the sentence he received?

1 A. I believe he was sentenced under the Youthful
2 Offender Act initially for -- it says for fifteen years
3 in prison. I don't know.

4 Q. What was the crime that he pled guilty to?

5 A. Criminal sexual conduct with a minor in the first
6 degree.

7 Q. Is that what's on the sentencing sheet?

8 A. Lewd act, committing or attempting lewd act upon a
9 child.

10 Q. And how many counts of lewd act was he convicted
11 of?

12 A. I believe it's three.

13 Q. Are these the type of documents that are commonly
14 relied upon by experts in your field?

15 A. Yes, ma'am.

16 Q. Why is it necessary to review the details of the
17 underlying facts of the offense?

18 A. Well, oftentimes, and this is an example of it,
19 when an individual charged with, for instance, criminal
20 sexual conduct with a minor in the first degree, they
21 may plead to a lesser charge. And lewd act is a lesser
22 charge meaning the -- actually the severity of the crime
23 is viewed as less severe as criminal sexual conduct in
24 the first degree. And you're sentencing window is less.
25 So I think it's important that you not only review these

1 documents, but victim impact statements or interview
2 statements from the victims to really understand and
3 appreciate what occurred during the commission of these
4 crimes.

5 Q. And would you please describe to the jury the
6 details underlying these specific facts?

7 A. Well, with the first -- the first crime that I just
8 found out today was actually adjudicated and he was
9 convicted. I believe he was sixteen years old. The
10 victim was a five-year-old male. There was attempted
11 anal penetration, penile anal penetration of the young
12 boy. Mr. Johnson had pulled the boy's pants down. With
13 the other charges, he masturbated in front of a young
14 boy, attempted anal intercourse with that same boy,
15 forced the boy to perform oral sex, exposed him to
16 pornography. Additionally, there is also a young girl
17 where there was attempted vaginal penetration or
18 completed vaginal penetration, instructed her to perform
19 oral sex. Exposed her to pornography. And then there
20 was a third young man who was subjected to the same
21 behaviors.

22 Q. And how long did this abuse occur?

23 A. It went on for about a four and a half year period
24 or so.

25 Q. And what sentence did he receive following these

1 convictions?

2 A. I don't recall, so I'm going to have to find it.

3 Sentenced to fifteen years, suspended on time served and
4 five years probation. There is no charge for three
5 counts ... Fifteen years, suspended to time served and
6 five years probation.

7 MS. WETHERTON: Your Honor, at this time, I'd
8 move to introduce this exhibit as State's Exhibit 1.

9 MR. BELDING: Without objection, Your Honor,
10 these are certified copies from the clerk's office.

11 THE COURT: Without objection, they're
12 admitted.

13 MS. WETHERTON: Thank you, Your Honor.

14 (WHEREUPON, State's Exhibit Number 1 was admitted
15 into evidence.)

16 Q. In reviewing the legal documents in this case, did
17 you see that Mr. Johnson may have been charged with a
18 sexually violent offense but not convicted?

19 A. Correct.

20 Q. Okay. Did you consider it?

21 A. Yes.

22 Q. And why is it relevant?

23 A. It's relevant because oftentimes in plea
24 agreements, as I stated earlier, when you plead to a
25 lesser charge, the community, even the legal community,

1 the general community, views as -- the person as being
2 less dangerous. When, in fact, they've still committed
3 -- their behavior was still criminal sexual conduct in
4 the first and they pled to a lesser charge. This
5 happens most often, that I've noticed, for people in an
6 attempt -- and it's not in this case, but I'm giving you
7 an example of how that works. Is they'll plead to
8 assault and battery instead of lewd act or criminal
9 sexual conduct because even though the behavior may be
10 exactly the same, it's an effort to get a lesser
11 sentence, avoid jail time or prison time. And in some
12 cases not be on the registry. So it's important that
13 you know the facts of the case, even though the lesser
14 charge may indicate less risk.

15 Q. Can you describe the details of the underlying
16 facts?

17 A. Describe the details of the underlying facts. Is
18 that different than what I did describing the -- I'm not
19 sure what the -- ask me another way.

20 Q. Did you consider any -- was he charged with any
21 sexually violent offense and wasn't convicted?

22 A. Yes.

23 Q. And you considered it; is that correct?

24 A. Yes, yes.

25 Q. Did you review the details of those charges?

1 A. Yes.

2 Q. Can you explain them; what happened?

3 A. Well, I'm confused because I thought I already did
4 that.

5 Q. Okay. I'll move on then.

6 A. All right.

7 Q. So was he convicted of any non-sexual offenses that
8 you found relevant to your opinion?

9 A. No, none.

10 Q. No? Okay. Now did you rely solely on his past
11 criminal history in making your ultimate decision?

12 A. No, ma'am.

13 Q. Okay. And was it professionally acceptable to do
14 so.

15 A. Yes, it's required actually. It's ethically
16 required. You don't just consider someone's criminal
17 history in a risk assessment.

18 Q. So it would not be professionally acceptable to
19 rely on someone's past criminal history?

20 A. By itself, I think not, you know.

21 Q. Did you review his disciplinary history while at
22 the Department of Corrections?

23 A. Yes, I did.

24 Q. How many disciplinary infractions did he have?

25 A. I believe he had thirteen.

1 Q. Okay. Were any of these significant to your
2 ultimate opinion?

3 A. Well, the one that was most significant was he was
4 found naked at the doorway masturbating in his jail
5 cell. And when told to stop by the corrections officer,
6 he refused to stop. And the way I understood the
7 description of the offense was the officer wrote out a
8 citation for that to give him, and he balled it up and
9 threw it back at the, at the officer. But I think
10 that's relevant for a number of reasons. It certainly
11 makes me wonder if he's close to meeting the criteria
12 for a diagnosis of exhibitionism, because that act alone
13 is an exhibitionist act. From what one of the children
14 reported, he was masturbating in front of them, forced
15 them to watch him masturbate. That's an exhibitionist
16 act. So I think he's pretty close to meeting that
17 diagnostic criteria. And I put that in my report. How
18 is that relative to re-offense? Well, the highest re-
19 offense rate of any sexual act or any sexual crime is
20 exhibitionism at eighty-six percent of the time someone
21 convicted of an exhibitionism charge will re-offend in
22 the future in that manner. When you put exhibitionism
23 together with the diagnosis of pedophilia, it also
24 increases the level of risk that he will act out towards
25 children. So I think that was a very significant event

1 that occurred that he was at least cited for while
2 incarcerated. And, in addition to that, I think it
3 demonstrates that when Mr. Johnson is under the
4 strictest of supervision while he's incarcerated, that
5 he would act out in a sexual manner. So then I was --
6 of course, it makes me wonder if he's going to act out
7 sexually under those very strict incarceration
8 guidelines and so forth, when he's free in the
9 community, I would think with no constraints, that he
10 would be more apt to do that.

11 Q. And did you personally interview Mr. Johnson for
12 his evaluation?

13 A. Yes, ma'am.

14 Q. What was his version of events that led to his
15 conviction?

16 A. Mr. Johnson's version of events for everything he
17 was convicted of was that he was totally innocent and
18 that he was following the advice of his attorney to
19 accept pleas.

20 Q. Do you find what he said as significant to your
21 decision?

22 A. I think it -- yes, I did. I find it significant
23 that, you know, to be in total denial of everything.
24 Now, the research is mixed on this right now. There is
25 a body of research that says if you're in denial, it

1 doesn't increase your level of risk. But then they
2 looked at that again three years later and they found,
3 well, in some cases it does make a difference. So it's
4 sort of up in the air. But I can tell you from my
5 experience over the last thirty-some-odd years,
6 individuals in denial of their crime time and time again
7 have had a higher re-offense rate than individuals
8 wanting treatment, asking for treatment and admitting to
9 what they've done.

10 Q. What did he say about his sexual interests?

11 A. He said that he was interested in adult females
12 only.

13 Q. Did you review any previous medical evaluations of
14 Mr. Johnson?

15 A. Yes, I did.

16 Q. And what were they?

17 A. They included records from the Department of Mental
18 Health -- well, most of them were the Department of
19 Mental Health, but the community mental health system
20 and also at three different -- regarding three different
21 hospitalizations under the mental health, mental health
22 umbrella, the Department of Mental Health hospitals.
23 There were some school records, Eau Claire, I believe.
24 Yeah.

25 Q. Did you find anything that was significant to your

1 ultimate opinion?

2 A. Significant to my ultimate opinion. He had been
3 diagnosed with attention deficit hyperactivity disorder.
4 With our psychometric test, that didn't pan out, didn't
5 match that. He'd been diagnosed with bipolar, I believe
6 bipolar I disorder. Bipolar is what used to be called
7 manic depression. One of the tests that I gave him said
8 it was a rule-out, that he may or may not have it. It
9 can be significant in that part of being what's called
10 hypomanic or even manic, so when a person is really
11 depressed -- probably everybody in the jury knows what
12 it's like to depressed. You know, all humans get
13 depressed for whatever reason. Mania is feeling really,
14 really good. High energy. You can't sleep for a few
15 days and you make really -- usually bad decisions, which
16 include financial but sexual too. So a lot of sexual
17 acting out occurs when a person's manic or hypomanic.
18 Hypomanic you tend to be more irritable, not as giddy or
19 feeling really, really good. So that did play into it.
20 However, you know, my final diagnoses that I focused on
21 were the pedophilia of a non-exclusive mix and to rule
22 out exhibitionism.

23 Q. Had he ever been psychiatrically hospitalized
24 before?

25 A. Correct. At least three times, as I recall.

1 Q. Did you find that significant in your opinion?

2 A. Significant that he's got a significant mental
3 health history, which could increase his level of risk
4 if he doesn't following the recommendations of his
5 treatment clinicians.

6 Q. Were there any assessments performed as a part of
7 your evaluation?

8 A. Yes. It's part of the standards of care. What we
9 do is, you know, review documents. But also, we have a
10 structured interview. The interview that I did with Mr.
11 Johnson was based off an eighty-page questionnaire that
12 was developed. In addition to that, he was administered
13 the Abel Assessment for Sexual Interest and that
14 measures sexual interest, which is different than
15 arousal. It measures how long you look at pictures in
16 different categories of men, women and children and put
17 that through an equation. That came back that he was
18 attracted to adult females and adolescent females. It
19 did not indicate, on that particular test, he was
20 interested in children.

21 Q. Actually, Doctor, let me interrupt you. Can you
22 just list the tests that you performed?

23 A. Well, the Abel Assessment that I just described. I
24 did the Connors Continuous Performance Test, the last
25 known Penile Plethysmograph, and the Personality

1 Assessment Inventory, the Substance Abuse Subtle
2 Screening Inventory, the Mini-Mental State Evaluation,
3 the Static-99R, the Stable-2007, the Acute-2007, and the
4 Hare Psychopathy Checklist.

5 Q. Okay. Why did you perform all these assessments?

6 A. As part of the standards of care as derived by
7 ATSA, you're required to address different facets of a
8 person's other makeup, of their sexual makeup, of their
9 sexual interests, sexual arousal, their mental state, if
10 there's any physiological problem with them. So all
11 these tests are designed to rule in or rule out
12 different issues that may contribute to a person's
13 risks.

14 Q. And were these assessments part of the basis of
15 your opinion?

16 A. Yes, ma'am.

17 Q. Okay. Let's move -- let's talk about the first
18 test. So it's SASSI-3. Would you explain what that
19 assessment is and how it works for the jury?

20 A. The SASSI-3 is a questionnaire that has some
21 questions embedded in it for validity purposes to, you
22 know, help detect if a person's being honest in
23 responding. But it's mainly focused on substance abuse.
24 Do you have a problem with alcohol or drugs. And it
25 puts, depending upon how the client responds to the

1 test, it classifies you as a higher risk or low risk.

2 In this case, Mr. Johnson, the test results had no
3 evidence of risk. The results didn't indicate that he
4 had a problem with alcohol or drugs.

5 Q. And was the information you learned from the SASSI-
6 3 part of the basis of your opinion?

7 A. Yes, it was.

8 Q. Okay. So now let's move to Static-99R. Can you
9 explain what that assessment is and how it works for the
10 jury?

11 A. Okay. The Static-99R is an actuarial scale.
12 Actuarial scales come from the insurance industry. For
13 example, if you smoke, if you eat fatty foods, you don't
14 exercise, you're probably not going to live as long as
15 someone who doesn't smoke, exercises regularly and is a
16 vegetarian, let's say. So smoking, inactivity and your
17 diet are risk factors for early death, according to the
18 insurance industry. So that same sort of thinking was
19 utilized to develop this kind of test. In essence,
20 there are certain risk factors that increase a person's
21 level of risk to re-offend. Just as smoking increases
22 the risk of a heart attack or cancer, the type of victim
23 you have can increase or decrease your level of risk.
24 So there are different factors that are taken into
25 consideration with this particular instrument.

1 Q. What did you learn from the assessment?

2 A. Well, I learned multiple things. One is that --
3 initially I scored a seven for Mr. Johnson, okay? And
4 that puts him in the high risk category for re-offense,
5 but it also gives us a number. And the number was
6 forty-eight point six percent, I believe. So according
7 to that, a score of seven predicts there's a forty-eight
8 point six percent chance that he will commit another sex
9 crime in the next ten years on the ten-year prediction
10 rate.

11 Q. Okay. How did you determine he has a score of
12 eight?

13 A. Well, yeah. I said seven initially until I was
14 given a document when I got here this morning and I
15 found out that he had fifteen counts against him
16 initially, that were pled down to three. So in scoring
17 this, right out of the book it says, counts count. The
18 number of counts you have against you give you a number
19 that can be greater than the number of convictions you
20 have and that's what happened here. So utilizing that,
21 he actually has a score of eight, which puts him at
22 fifty-five -- over fifty-five percent level of risk to
23 re-offend over ten years. Do you want me to explain how
24 I scored each one?

25 Q. Yes?

1 A. Yeah. And this is the score sheet. The first
2 factor is are you under the age of twenty-five. So he's
3 under the age of twenty-five so he got a point for that,
4 okay? Why is that important? Well, men, our prefrontal
5 lobe, the front of our brain isn't developed fully until
6 we're twenty-five. That's why we can't get cheaper car
7 insurance until we're twenty-five. We're more
8 impulsive. We're more -- we don't have a good filter to
9 make decisions with. And that plays out in the risk
10 prediction. I scored another point, have you ever lived
11 with a lover, romantically lived with someone for more
12 than two years and he hasn't. That's one of those
13 things if you had, it lowers your risk. Prior sex
14 offenses. When I scored it initially, I got a score of
15 two because he had three convictions. But with the new
16 information I got now, today, the counts are over -- a
17 little over six. So actually he's got three points
18 there. Now, it's -- the way I scored it was different
19 than the way Dr. Harrison scored it. And I don't know
20 -- this is why I think it's different. Remember we
21 talked about him masturbating in prison in front of the
22 officer. According to the manual when you have --
23 that's an institutional violation, a charge, that
24 becomes your new, what we call index offense. The
25 latest sex offense. And so you don't include the latest

1 sex offense in your scoring. You include everything
2 before that. So I think the difference is that I
3 included everything after the masturbation in front of
4 the officer. And Dr. Harrison included everything
5 before these three convictions. The way I viewed the
6 data was he had a new charge of exposing himself,
7 masturbating. And so that became the new index offense.
8 That may have not been clear. But the index offense is
9 your latest sex offense. So if your latest was the
10 three that he was convicted of, you wouldn't count those
11 in the numbers or in the data. You can count it in the
12 charges, but you wouldn't count it as a conviction. So
13 I think that's where it's different. Prior sentencing
14 date. If you have more times you're in front of judge
15 for a sentence, you get a point. I've got that. And
16 any unrelated victims. There was the boy -- I think
17 maybe they were all unrelated. I don't know. But I
18 know for sure that the one boy was not related. And any
19 male victim, and he had a total of three male victims.
20 So adding that up now it's eight points, which puts him
21 in, you know, the highest risk category at that level of
22 fifty-five percent, or greater than fifty-five percent
23 chance that he would re-offend over a ten-year period.
24 So that was the Static-99R.
25 Q. Are you familiar with the people that created the

1 Static-99R?

2 A. I'm familiar with them, met them, spoke with them,
3 trained with them. Carl Hanson is the main guy. I
4 didn't train with Dr. Hanson specifically. I did with
5 Dr. Harris who took -- who's part of Static-99R and
6 Acute -- and the Stable and Acute Tests, that I also
7 did.

8 Q. Do the makers of the Static-99R believe that it
9 should be the only test given to a person when they're
10 being evaluated such as this?

11 A. No, they don't believe that. It's clearly in the
12 manual not to do that.

13 Q. And concerning Mr. Johnson's score in a higher
14 range, do you feel the instrument accurately stated Mr.
15 Johnson's risk to re-offend?

16 A. Well, actually, I think it underestimates it. One
17 of the problems with this kind of measurement is it
18 really doesn't measure re-offense rates. It measures
19 getting caught. It doesn't measure new crimes. It only
20 measures those guys who got caught and convicted. And
21 if you look at the other research in the field, the vast
22 majority of sexual crimes that occur don't get reported,
23 particularly against children. So to answer your
24 question, I think it underestimates his level of
25 reoccurrence. I think his risk is higher than fifty-

1 five percent.

2 Q. Was the information you learned from the Static-99R
3 part of the basis for your opinion?

4 A. Yes, it was.

5 Q. All right. Now, let's move to what you refer as to
6 the Stable-2007. Can you explain what that assessment
7 is and how it works for the jury?

8 A. All right. The Static-99R are the latest now. You
9 look at five and ten-year re-offense rates, what he's
10 probably going to do over the next ten years. The Stable
11 looks at what's going to happen over the next year,
12 three hundred and sixty-five days. And it takes into
13 account what we call dynamic factors, things that are
14 changeable. May be changed through a person's health or
15 may be changed through treatment interventions,
16 medications, that sort of thing. So with that -- let me
17 see. I gave him a score of fourteen, which put him in
18 the moderate level of risk, but then you combine the
19 moderate with the high level of risk of the Static-99R.
20 That's how you view that particular -- you take the
21 Static-99R and then you take the Stable, put them
22 together and that's really the Stable level of risk.
23 And then you do the same with the Acute, which we talked
24 about the Acute is the next forty-five days upon
25 release, and you combine them.

1 Q. Let's move on to the Acute.

2 A. Yeah.

3 Q. Can you explain what that assessment is and how it
4 works for the jury.

5 A. Yeah, it predicts, you know, recidivism, re-offense
6 rate over a forty-five-day period. You can give it
7 every forty-five days. There are just seven components
8 to it. The most important ones are access to children,
9 alcohol or drug use, emotional -- is the person
10 emotionally distraught, things like that. I didn't give
11 him any score on that, but combining the -- he didn't
12 get any of the seven. But you combine that with the
13 Static-99R and the Stable, you put it in the low level
14 of risk. But I must say it predicts two point four
15 percent level of risk over the next forty-five days.
16 The lowest you can get in that category is zero point
17 seven. So that's a three hundred percent increase, two
18 point four percent. And that's because of the Static
19 and Stable effect on that.

20 Q. Let me make sure I understand this correctly. When
21 you combine those three tests together, what do you find
22 overall? What is your bottom line?

23 A. Well, overall, he's in a high-risk category, okay?

24 Q. Okay.

25 A. But for the next forty-five days upon release, it

1 was in the low category, but it was in the upper
2 echelons of low because of the other two tests.

3 Q. Okay. And what you found in those assessment, did
4 it help form the basis of your opinion?

5 A. Sure. Yes.

6 Q. And are those assessments commonly relied upon by
7 experts such as yourself?

8 A. Yes, they are.

9 Q. Next let's move on to Abel Assessment. What is
10 that?

11 A. As I was stating earlier, you look at pictures of
12 men, women, and children in bathing suits. And it
13 measures how long you look at them and how you rate
14 them. It puts that data through an equation and it
15 measures what we call sexual interests. Interest being
16 how long you look at the subject. If you're attracted
17 to adult females or if you're attracted to adult men,
18 and you give a person free reign to look at three
19 hundred pictures of men, women, children, if you're
20 attracted to adult women you're probably going to look
21 at the adult women longer than the children, that sort
22 of thing, okay? That's the basis for the research. In
23 this particular administration, Mr. Johnson was found to
24 have primary sexual interest in adult females and
25 adolescent females, which falls within the normal range.

1 Q. Has there been criticism about the Abel Assessment
2 among experts such as yourself in the field?

3 A. Well, one of the -- yes, there has been. I think
4 it's a valid instrument, but there's some weak points to
5 it. It's sort of transparent, you know, when you're
6 taking the test. Most often people sort of get a feel
7 for what the test is trying to measure. And there's
8 been a myriad of other criticisms about the test. But I
9 don't think that would be applicable to Mr. Johnson
10 because the biggest criticisms are data you get off the
11 internet. Unless he had access to the internet and went
12 to one of the sites to tell you how to cheat on the
13 test, which I don't think he did. But it's not unusual
14 to have a normal Abel response and then you have
15 deviancy in the laboratory, because we're measuring two
16 different things.

17 Q. With that said, why do you continue to use it?

18 A. Well, because, I mean, it's a valid instrument and
19 oftentimes -- there have been times where we have what
20 we call flat liners in the laboratory, phallometric,
21 measuring the blood flow to the penis. Sometimes we get
22 nothing. And you may find some deviant interest on an
23 Abel Screen. Most of the time, though, over ninety
24 percent of the time they'll match to some degree.

25 Q. Now, was the information you learned from the Abel

1 Assessment part of the basis of your opinion?

2 A. Yes, it was.

3 Q. And you also used what's referred to as the Emerick
4 Special Victimization Scales?

5 A. Right.

6 Q. Can you explain what that assessment is and how it
7 works for the jury?

8 A. It's a sub-component of the Able, Able Assessment.

9 It measures and attempts to quantify the effect sexual
10 abuse has had on a person. Also, there are some indices
11 about physical abuse, being a victim of physical abuse
12 are also embedded in there as well.

13 Q. What did you learn from this assessment?

14 A. Let me look. He didn't -- I don't think there was
15 a significant finding on the Emerick scales. Let me
16 make sure here. Yeah. He had no trauma. You know,
17 there are different categories and he scored zero on all
18 of them. I do make a note that he had disclosed to me
19 that his mother's methods of punishing him during
20 childhood were rather harsh, but he did not consider
21 those to be abuse.

22 Q. Was the information you learned from this
23 victimization scales, did they help form a part of the
24 basis of your opinion?

25 A. Yes, ma'am.

1 Q. Okay. And you also conducted Mini-Mental State
2 Evaluation?

3 A. Right.

4 Q. Can you explain what that assessment is and how it
5 works for the jury?

6 A. Mini-Mental State is -- what we're looking for is,
7 among other things, is the possibility of brain damage,
8 cognitive impairment with the individual. There's
9 thirty separate questions you ask as simple as what's
10 your name, what's the date, what's the address where
11 you're at? You ask them to do some math problems. You
12 give them some verbal instructions and see if they can
13 follow it, so forth.

14 Q. So what did you learn from that assessment?

15 A. The score is twenty-six, which is within normal,
16 which means there's no indication of any cognitive
17 impairment.

18 Q. Did the information you learned from this
19 assessment help form part of the basis of your opinion?

20 A. Yes, it did.

21 Q. And next did you conduct the Connors Continuous
22 Performance Test II?

23 A. Yes.

24 Q. Can you explain what that assessment is and how it
25 works for the jury?

26 A. It's a computer-based test where for fourteen

1 minutes you're asked to press the spacebar as quickly as
2 you can, whenever you see a letter of the alphabet flash
3 on the screen, except for the letter X. When the X
4 shows up, you are told not to hit the button. What that
5 does is a number of things. People who are really
6 impulsive and maybe have ADHD, impulsive type will have
7 a lot of errors, particularly when the X comes up. Or
8 if they're inattentive, you know, they'll miss pressing
9 the button when some letters flash. And they flash at
10 different speeds. They'll be really fast and they'll be
11 really slow and they'll stay on and then go off. So you
12 really have to pay attention to it. It's also sort of a
13 first line test to rule out brain damage as well.

14 Q. And what did you learn from that assessment?

15 A. It fell within the normal range. It suggested he
16 didn't have a diagnosis of Attention Deficit
17 Hyperactivity Disorder nor any sort of brain damage.

18 Q. And was the information you learned from this
19 assessment form part of the basis for your opinion?

20 A. Yes.

21 Q. Okay. Next did you perform a ---

22 THE COURT: Before you move on let's take an
23 afternoon break.

24 MS. WETHERTON: Okay.

25 THE COURT: Ladies and gentlemen, this is a

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Direct Examination by Ms. Wetherton

93

1 good time to take an afternoon break. I'm going to
2 remind you of the instructions; that is, not to begin to
3 discuss this matter among yourselves because you've
4 still not heard all the evidence that's to be presented.
5 Let's take an afternoon break and then we'll come back.

6 (WHEREUPON, the jury exited the open court at
7 approximately 3:15 p.m.)

8 THE COURT: Dr. Burke, during this break you
9 may not discuss your testimony with anyone. We've not
10 concluded it, so it would be inappropriate for you to
11 discuss it. You may step down.

12 Anything we need to take up before we take a break?

13 MS. WETHERTON: Not at this time, Your Honor.

14 MR. BELDING: Nothing at this time. Thank
15 you.

16 THE COURT: We'll take a break and then we'll
17 come back.

18 (WHEREUPON, court stood at recess for a short
19 break.)

20 THE COURT: Is there anything we need to take
21 up before we bring the jury in?

22 MR. BELDING: No. Thank you, Your Honor, not
23 from the Respondent.

24 MS. WETHERTON: Nothing from the State, Your
25 Honor.

1 THE COURT: You may ask the jury to come in,
2 please.

3 THE BAILIFF: Yes, Your Honor.

4 (WHEREUPON, the jury entered the open court at
5 approximately 3:37 p.m.)

6 THE BAILIFF: Your Honor, the jury's seated.

7 THE COURT: You may continue.

8 MS. WETHERTON: Thank you, Your Honor.

9 Q. Next can you tell us what the Hare test is?

10 A. The Hare Psychopathy Checklist is an instrument
11 used to measure what -- a concept known as psychopathy,
12 psychopath. There are twenty different traits
13 associated with a psychopath. And the test was
14 developed for interview and record review to determine
15 if a person meets the diagnostic cut-off level to be a
16 psychopath. A psychopath is an individual who is
17 usually devoid of feeling, devoid of emotion, other than
18 anger, and takes advantage of people. They end up in a
19 variety of areas. They may be, they may be a politician
20 or they may be a serial killer. There's a lot of
21 different -- you know, being a manipulative individual
22 and trying to take advantage of other people, for
23 instance. And if one meets that criteria, it's an
24 increased level of risk to re-offend.

25 Q. What did you learn from this assessment?

1 A. I scored Mr. Johnson with twenty-two points. Now,
2 I've been trained by Dr. Hare personally, over a sixteen
3 hour course, and administered this thousands of times.
4 Twenty-two is below the cut-off level for psychopathy.
5 The cut-off level is thirty, a score of thirty. So what
6 does a score of twenty-two mean? It means that he's got
7 a lot of the risk factors that are associated with that
8 disorder but doesn't quite meet it. How does that
9 relate to you? Most likely, the majority of you in the
10 jury wouldn't have any risk factors that would come up
11 on that test.

12 Q. Was the information you learned from the Hare test
13 help form part of the basis of your opinion?

14 A. Yes, ma'am.

15 Q. Next, what is the Personality Assessment Inventory?

16 A. Personality Assessment Inventory is a computerized
17 instrument that takes -- there's three hundred and
18 seventy-some-odd questions where you're asked to
19 respond, you totally disagree, partially agree, fully
20 agree. And research has indicated that the way people
21 answer certain tests, they get categorized with
22 different kind of diagnoses. And so with this
23 particular test, Mr. Johnson came up with a couple of
24 diagnoses that the test suggested. Now, what that
25 means, like if you take a depressed male, depressed

1 males tend to answer the questions the same way. So it
2 sort of clusters you into that sort of category. That's
3 how it works sort of, from a lay perspective.

4 Q. So what did you learn from this assessment?

5 A. Well, it suggested that Mr. Johnson was defensive,
6 meaning, in responding like he didn't want to divulge
7 too much information about himself. But it also had a
8 -- what we call a rule-out. Meaning -- rule-out means
9 there's sufficient evidence to suggest that they may
10 have the disorder, but they don't quite meet the
11 diagnostic criteria and it came back as rule out bipolar
12 I disorder, which he has been diagnosed with in the past
13 anyway. We had talked a little bit about that, about
14 feeling manic and feeling depressed. That's what that
15 is. And then Axis II is a personality disorder and it
16 suggested narcissistic personality disorder.
17 Narcissistic personality disorder, an individual views
18 themselves -- view themselves as special, more special
19 than anybody. Their needs are more important than
20 anyone else's. They view the world from their eyes only
21 and what their needs are. And so those are the
22 diagnoses that it suggested that he had.

23 Q. Now, let me make sure that I understand you
24 correctly. Does the PAI test for cognitive -- what's
25 referred to as cognitive distortion?

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Direct Examination by Ms. Wetherton

97

1 A. It doesn't -- if you're referring to cognitive
2 distortions regarding the sexual behavior, no, it does
3 not. But this is strictly a psychological/
4 psychiatrically based test. It's not really designed
5 for sex offender assessment per se, but it's necessary
6 to administer it to see if there's some other diagnoses
7 going on that may increase or decrease a person's level
8 of risk.

9 Q. Whether or not Mr. Johnson had what's referred to
10 as a cognitive distortion, was that ever tested?

11 A. Let's see. Yes, I know it's tested in the Abel
12 Assessment.

13 Q. And what is a cognitive distortion? Please explain
14 that to the jury.

15 A.. A cognitive distortion is a behavior -- I'm sorry.
16 It is a thought that individuals use to justify their
17 behavior. As it relates to child molestation, a common
18 cognitive distortion would be, well, the child wanted me
19 to molest them. Or I was teaching a child about sex.
20 So there's really nothing wrong with. Or another common
21 cognitive distortion is, it's only fondling, so,
22 therefore, I really didn't hurt the person.

23 Q. Was anything found in relation to Mr. Johnson
24 having a cognitive distortion?

25 A. In the PAI?

1 Q. In the PAI or apparently the Abel? I apologize.

2 A. Oh, okay. Okay. I don't think anything came up in
3 the Abel. No, ma'am. Nope.

4 Q. Okay. Well, then I'll move on.

5 A. Well, I stand corrected. His score was twenty-
6 seven, which suggests that he does utilize cognitive
7 distortions. Yep. There was some indication that he
8 utilizes cognitive distortions in his thinking process.
9 Yeah. That was in Abel.

10 Q. Okay. And so back to the PAI -- and I'm sorry. I
11 apologize for jumping around. The information that you
12 learned from the PAI, did that help form the basis of
13 your opinion?

14 A. Yes, ma'am.

15 Q. Okay. Next we'll go on the Penile Plethysmograph;
16 is that correct?

17 A. Right. You can say phallometric. It's easier to
18 say. And we'll just say phallometric.

19 Q. Can you explain what that is and how it works for
20 the jury?

21 A. Well, the history of phallometrics goes back into
22 the 1950s in the Soviet Block Era where individuals were
23 trying to get out of being drafted in the military. And
24 so they would go to the draft board and say that they
25 were homosexual. And at the time, they wouldn't allow

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Direct Examination by Ms. Wetherton

99

1 homosexuals in the Russian -- the Czechoslovakian Army.
2 So this test was developed to see -- to really see if
3 somebody was heterosexual, attracted to females, adult
4 females or homosexual, attracted to adult -- so, I mean,
5 the literature goes way back to the '50s, where this was
6 first utilized. In the United States it was utilized
7 for the first time in the late 1960s in assessing sexual
8 offenders. It really got underway a great deal during
9 the '70s. It's progressed quite a bit during that time.
10 As you might imagine, if you think of the car industry,
11 what a car was in the 1960s compared to what a car does
12 now, the computerization of it. So a lot of the data, a
13 lot of the things that have been brought forward and
14 researched from the past, really aren't applicable too
15 much today because you're comparing antiquated machines
16 with what we have today. But, what it does it is, you
17 ask an individual to put a gauge around the penis. It's
18 like a rubber band, doesn't hurt, stretches quite a bit.
19 Inside there's mercury or some other chemical compound
20 that when you stretch it, it indicates an increase in
21 the circumference, okay? So when men start to become
22 aroused sexually, their penis will plump up a bit, okay?
23 And I'm not trying to be funny, but it's sort of like a
24 Ballpark Frank commercial, you know. It'll pump --
25 that's what happens. You know, the circumference gets

1 bigger. And so that's measured. And that's a direct
2 measure of blood flow to the penis, which is right now
3 the only direct measure we have of measuring sexual
4 arousal. Now we're working on the brain thing that I
5 told you about earlier. For right now, this is the best
6 that we have. So they're in a room by themselves.
7 They're not subjected to anyone looking at them naked or
8 touching them. They put the gauge on themselves. They
9 cover it up. And they watch -- well, in this case he
10 watched and listened because they use two different
11 stimulus, a variety of sexual behaviors that are either
12 described by, like I said earlier, by a male voice or
13 with the real child stimulus cassette. Utilizing
14 children's voices enacted sexual behavior with an adult,
15 okay? And so when they sit and listen to this and then
16 look at the pictures associated with them, the blood
17 flow to the penis is measured. Now, there are a lot of
18 safeguards to make sure that we don't have some bad
19 information, some bad data. What would bad data be?
20 Well, if the gauge suddenly showed a rapid expansion.
21 Well, you know, human beings, their penises don't just
22 balloon up like that and come back down. That's usually
23 a movement artifact, meaning he's twisting in the seat
24 and is pulling on the gauge. Well, we have a
25 countermeasure cushion that measures that, any movement.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Direct Examination by Ms. Wetherton

101

1 So that's the number one thing that can give you a false
2 reading. But that, I think, for all intents and
3 purposes, is eliminated these days. Also, we need to
4 make sure they pay attention to what we're looking at.
5 So we ask them to press a button if the person they're
6 looking at, which is always the victim in this story, if
7 the next person they see is, in fact, the victim or is
8 it someone else? Because there's a series of seven
9 pictures with each presentation. And so what we have
10 is, when they have a red-headed young girl and then have
11 her in another set of clothes and then another set of
12 clothes, and then have another red-headed girl, who's
13 actually a different person, to make sure that they're
14 paying attention to the stimulus. Also it's recorded
15 from their waist up so we can see if they're staying
16 awake, if they're paying attention. Also, if they're
17 listening, they're asked to press a button whenever
18 there's anything sexual occurring in the story or turns
19 violent. So we have ways of tracking that they're
20 listening to the story and that they're watching the
21 story when the button pushes. In addition to that, we
22 can see on the monitor whether they're paying attention
23 or not or moving. So what we have is we're comparing
24 this person's responses to different categories of
25 sexual behavior. Some of the sexual behavior is adult

1 consensual. It's a married couple having consensual
2 sex. Some of it is consensual sex between two adult
3 males, homosexual males. Then there's what we call
4 persuasive or trying to talk a child into having sex or
5 inducing sexual behavior. And then we have another
6 category that's coercive, where it's just forcible rape.
7 You're just -- the individual is just -- they're not
8 trying to talk anyone into anything. They're forcing
9 them against their will. So what we do is we get their,
10 what we think -- what is commonly considered normal
11 sexual arousal, which would be attraction, a response to
12 adult male/female consensual sex or adult male/male
13 consensual sex and compare that to the deviant category,
14 which are infants, grammar school, elementary, middle
15 school, adolescent and adults. And so what you are
16 looking for to see is, first, did they have any response
17 to adults? That's important. Second, did they have any
18 response to children? Certainly, that's important. And
19 third, any response to violence towards children or
20 adults. So those are the three general categories that
21 we're looking for with that kind of test.

22 Q. Okay. Do you provide any type of teaching or
23 training on the PPG?

24 A. I do. As I stated earlier, I've been hired by
25 Limestone Technologies, which is -- there are only two

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Direct Examination by Ms. Wetherton

103

1 companies that make these machines in the world. And
2 there are about three hundred clinicians on the planet
3 that do it. I mean, it's not a whole lot of us that do
4 it. I've trained about a hundred and forty of them on
5 the Limestone system. I've been working with Limestone
6 since 2000, the year 2000.

7 Q. And how many PPGs have you requested and reviewed
8 in on individuals?

9 A. Over, you know, conservatively five thousand or so.

10 Q. Okay. Has the Department of Mental Health ever
11 requested that you administer a PPG for an evaluation
12 for them?

13 A. Yes, I've -- in the past routinely would get
14 requests from the Department of Mental Health to provide
15 phallometric assessments, PPG, what we're talking about,
16 for people who are already in the sexually violent
17 predator program. I think actually that's the only time
18 that I've had them in the past is when they're coming
19 out of the -- they want me to evaluate the guys that are
20 already in the SVP Program. And I've done probably a
21 hundred of those.

22 Q. Okay. So what happened in this case when you had
23 recorded the PPG?

24 A. Well, Mr. Johnson underwent the test, which took
25 about four hours. And in short, he responded to a lot

1 of categories very significantly. For instance, he
2 responded to consenting adult females, which you want to
3 see somebody respond to that when he says he's
4 heterosexual. Mr. Johnson said he was heterosexual. So
5 he responded significantly to that. However, he also
6 responded just as significantly to the rape of a
7 prepubescent female, the rape of a prepubescent male,
8 what we call passive or persuasive for prepubescent male
9 and female. Anything to do with male or female
10 children, whether it was the scenario where the child
11 was being talked into having -- undergoing some sexual
12 behavior or was forced against their will, which I'm
13 just saying that for purposes of explanation because a
14 child can't give consent. When you're trying -- when
15 they're in the story trying to persuade a child, you
16 know, to have sex, I'm not implying that the child has
17 the capacity to make that decision. I'm just
18 differentiating the types of scenarios. So what we have
19 is an individual who's responding to quite a broad
20 category of scenarios. So you have an individual who's
21 responding to grammar school age male and female, pre-
22 school age males and females, both in the persuasive or
23 trying to talk them into having -- doing something
24 sexual. And then the out and out rape of them. And
25 significant ways, when I say significant, with the

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Direct Examination by Ms. Wetherton

105

1 calculations that we're able to do, it looks like he
2 responded to most of those categories with what is
3 probably a full erection. Okay? He was fully aroused
4 by virtually all of those categories that I just went
5 over. Some didn't quite meet it, but overall it was --
6 it was clearly evident that he was sexually aroused,
7 sexually turned on by those scenarios.

8 Q. So you say that he responded to a broad range of
9 categories; correct?

10 A. Right.

11 Q. So as an expert in this field doing assessments,
12 what does that mean? What do you make of that?

13 A. Well, that means several things. That means
14 there's a larger potential victim pool, okay? So, for
15 instance, if an individual is only aroused to the rape
16 of an adult female, that's not a good thing. But we
17 probably don't have to worry too much about children.
18 Well, if an individual is only aroused to young female
19 children, then you don't have to worry so much about
20 male children. But in this case, you know, with the
21 preschool and grammar school age males and females, he
22 was aroused to all of that. So from a risk assessment,
23 like I said, there's more people, potential victims,
24 that he's attracted to. And in these situations that
25 he's attracted to.

1 Q. So was this information you gathered as a result of
2 this PPG test, did it help form the basis of your
3 opinion?

4 A. Yes, ma'am, it did. And as I testified earlier,
5 two major studies, positive responses to children in a
6 phallometric laboratory is the single greatest predictor
7 of re-offending in child molesters. The single -- if
8 there was only one test you could give, this would be
9 it.

10 Q. Let's move away from the testing. Let's talk about
11 risk factors. What are risk factors?

12 A. Risk factors are -- pertain to situations or
13 information that lead to increasing someone's propensity
14 to re-offend. It can be anything from economic, meaning
15 if you're discharged and you don't have anywhere to
16 live, you don't have a job, you don't have really the
17 skills to get a job. Being on the registry, difficult
18 to get a job. That increases ones level of risk because
19 the more stress one has the more likely you are to act
20 out sexually. For males, anyway. Other risk factors
21 include proximity to children. Where are you going to
22 live? Are you living close to a school? Where did the
23 victimization occur? Where did you commit your crimes
24 at? Those are important risk factors. Whether you
25 drink alcohol or take drugs or not. Whether you've

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Direct Examination by Ms. Wetherton

107

1 demonstrated an ability to control yourself, either
2 through anger management, meaning you haven't lost your
3 temper or assaulted anyone. If you do, if you have lost
4 your temper or assaulted anyone, that increases your
5 level of risk. Your failure to follow the guidelines of
6 probation increases your level of risk statistically
7 speaking. In a nutshell, those are sort of the things
8 that we're talking about, risk factors.

9 Q. Does Mr. Johnson have any of these risk factors?

10 A. Yes, he does. As I stated earlier, you know, he
11 demonstrated while incarcerated that he wasn't able to
12 control his sexual impulses by masturbating in front of
13 an officer. He assaulted a couple of people in prison.
14 He has had some emotional things occur to him that I
15 think may be a level of risk for him as well. I really
16 felt for him when I was interviewing him because his
17 mother had passed away two weeks earlier. His mother
18 died just two weeks before I met him. And, you know, I
19 could tell from talking him, you know, he was close to
20 his mom. And that bothered him greatly. And initially
21 the plan was to go and live with his mom when he got
22 out. Of course, now she's gone. And part of the reason
23 I believe he got in trouble with probation initially was
24 he was going to go back to where his mom lived, where --
25 that's where the victimization -- that's where the kids

1 were when he abused them, his mom's house. So that's
2 one risk factor, you know, some being distraught or
3 depressed over losing your loved one can increase your
4 level of risk that hopefully one would get over in the
5 future. But, also, he has unrealistic expectations
6 about what he was going to do when he was going to be
7 released. I mean, he said he was going to start his
8 business and go in the lawn maintenance business, but
9 couldn't formulate how he was going to do that. He was
10 in denial, of course, that he committed any of these
11 crimes. So when a person is in denial, they're
12 certainly less likely to want to undergo treatment or
13 follow any recommendations regarding treatment, which is
14 another risk factor, which increases your level of risk.

15 Q. Did he ever complete any sex offender treatment?

16 A. From what I read he never started nor completed sex
17 offender treatment.

18 Q. Does that factor into your decision at all?

19 A. Sure it does, yeah.

20 Q. Okay. And why is that?

21 A. Well, with actual treatment one, certainly can
22 hope, can reduce their level of risk. I mean, that's
23 the whole point of treatment.

24 Q Did you talked to him about sex offender treatment?

25 A. Yes.

1 Q. What did he say about it?

2 A. He was innocent and he didn't need it.

3 Q. Okay. All right. Was there any other information,
4 any other testing, upon which you relied upon in
5 rendering your opinion regarding Mr. Johnson?

6 A. I don't believe so. I think we covered it, other
7 than the mental status exam, which is real close to the
8 Mini-Mental State. But, yeah, that's it.

9 Q. Okay. Did you also conduct another mental status
10 exam; is that right?

11 A. Right. Right. And that was within normal limits.

12 Q. So based on your examination of Mr. Johnson, the
13 review of his records, the assessments you conducted and
14 all these factors we've been discussing, did you render
15 an opinion as to whether Mr. Johnson had some mental
16 abnormalities or personality disorders?

17 A. I did. The mental abnormality is defined as
18 pedophilia non-exclusive mix, meaning he's attracted to
19 both males and females. Non-exclusive means he's also
20 attracted to some adult, in this case, adult females.
21 The lingo, the language is in flux right now, okay? I
22 don't even know if I should get into it. But I mean,
23 the government told us to switch the DSM-V -- the
24 government told us to use new terminology in November of
25 last year, so we did that. Then they turned around and

1 said, don't do it for another year. So I've got both
2 terminologies in my report. So he's a pedophile who's
3 attracted to boys and girls.

4 Q. Is pedophilia considered a relevant mental
5 abnormality amongst experts such as yourself who conduct
6 evaluations pursuant to the Sexually Violent Predator
7 Act?

8 A. It is. And it's a critical diagnosis to make.
9 Because once you have pedophilia, you never get rid of
10 it. You've got it for life. It's like diabetes. You
11 can hopefully, through proper treatment with diabetes,
12 with exercise, with diet, take your insulin, whatever
13 your medication, you can control it and live a normal
14 life span and be healthy. Pedophilia is the same way.
15 You know, if you have proper treatment and supervision,
16 there are interventions that can be made whether that's
17 with medication or cognitive behavioral interventions
18 and some oversight, you know, it can be controlled. But
19 when one says I don't have a problem. I'm innocent and,
20 you know, they're not a good candidate for treatment, at
21 least right now I don't think Mr. Johnson being released
22 would be a safe thing to do.

23 Q. Just so that we're very specific here. What are
24 the actual characteristics of pedophilia? Would you
25 describe it overall please?

1 A. It is an on-going persistent attraction to
2 prepubescent children. Prepubescent children are
3 children who aren't fully formed. They don't have pubic
4 hair yet. Girls don't have breast development or
5 curvature of the body yet. Actually, if you were to
6 look at little boys and little girls from behind who
7 were naked, you probably -- if they had the same length
8 hair, you couldn't tell who was male or female. Their
9 body types are very similar. So to meet the diagnostic
10 criteria, you'd have to have either recurrent fantasies
11 or act it out in way that's harmful over a six-month
12 period of time, which Mr. Johnson clearly did for four
13 and a half years plus, actually.

14 Q. Okay. And just to tie this all in together, all
15 your testing in the areas you did, why do you think Mr.
16 Johnson has pedophilia?

17 A. He meets the diagnostic criteria. His actions
18 indicate sexual interest, sexual arousal to children.
19 His laboratory results overwhelmingly show sexual
20 arousal to children. Those are the main reasons why.

21 Q. Okay. And based on your review of the files in the
22 case, did anyone else diagnose Mr. Johnson with being a
23 pedophile?

24 A. I believe Dr. Harrison with the Department of
25 Mental Health also diagnosed him that way.

1 Q. Okay. Do you have an opinion as to whether his
2 pedophilia causes serious difficulty in controlling his
3 behavior?

4 A. Yes, I do. I believe without proper -- I don't
5 think he could be released in the community, in the
6 community safe. I believe he needs to be confined and
7 to undergo proper treatment.

8 Q. Did you find that he had any other disorder that
9 may affect his risk to re-offend?

10 A. Well, he'd been diagnosed with Bipolar I in the
11 past. And so as I stated earlier, if he were to become
12 manic or hypomanic, that's an increased level of risk.
13 Also, as I stated earlier, he may meet the criteria for
14 exhibitionism, public masturbation. That, combined with
15 pedophilia, increases his level of risk as well.

16 Q. Did you find evidence that Mr. Johnson is
17 physically in control of his behavior?

18 A. Well, obvious, you know, for the pedophilic acts to
19 occur for over a five-year period, more than a five-year
20 period, that demonstrates a lack of control. Certainly
21 demonstrated a lack of control when he was incarcerated
22 when he was masturbating in front of an officer.

23 Q. And then for clarification, do you have an opinion
24 whether Mr. Johnson pedophilia makes him likely to
25 engage in acts of sexual violence if he is not confined

1 in a secured facility for long-term control, care and
2 treatment?

3 A. I do. I believe that's what's needed.

4 Q. And do you have an opinion as to whether Mr.
5 Johnson meets the legal criteria to be found as a
6 sexually violent predator at this time?

7 A. According to my understanding of the law, he meets
8 the definition of a sexually violent predator.

9 Q. Okay. Let me come back then to Dr. Harrison's
10 evaluation of Mr. Johnson. Just for clarification, was
11 she one of the individuals that also diagnosed him with
12 pedophilia?

13 A. Correct.

14 Q. What is her ultimate opinion in this matter
15 concerning whether she believed Mr. Johnson is -- what
16 was her opinion? Whether or not he met that criteria?

17 A. She felt like he did not meet the criteria.

18 Q. So it's apparent, based on your testimony, that you
19 disagree with her in this matter. What led you to a
20 different conclusion than Dr. Harrison?

21 A. Well, a number of things. As I said, I scored the
22 Static-99R differently, and I think correctly. And I
23 was afforded the data from the penile plethysmograph, or
24 phallometric assessment, which is vitally important. I
25 think those are the two main things that directed me

1 towards this decision that's different than Dr.

2 Harrison's.

3 Q. If Mr. Johnson was not committed into the program,

4 would Mr. Johnson be on probation?

5 A. I believe that he may, yes. I'm not sure about

6 that.

7 Q. Okay. If he was on probation, would he have to

8 take sex offender treatment?

9 A. He would be ordered to, yes.

10 Q. Are you one of the individuals that works with the

11 Department of Probation, Parole and Pardon Services to

12 provide sex offender treatment to convicted sex

13 offenders that are on probation?

14 A. Yes, I am.

15 Q. And when you provide sex offender treatment for a

16 person who's on probation, you would receive a fee for

17 treating them; is that correct?

18 A. Not all the time. The clients pay us for our

19 services. We're not paid by the State. And to be

20 honest with you, it's a fifty/fifty shot whether we get

21 paid or not.

22 Q. Okay. And despite that, you still recommended that

23 he be committed into the sexually violent predator

24 program?

25 A. Yeah. Uh-huh (affirmative).

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Cross Examination by Mr. Belding

115

1 Q. Okay. And did he violate the terms of his

2 probation previously?

3 A. Yes, he did.

4 Q. Does he have any plans to avoid re-offending?

5 A. He didn't tell me he had any plans to avoid re-
6 offending because he said he never offended in the first
7 place.

8 Q. Okay. And based on your evaluation who would be at
9 risk if Mr. Johnson is released?

10 A. A wide variety of boys and girls.

11 MS. WETHERTON: Your Honor, I'd offer Dr.
12 Burke for cross-examination.

13 THE COURT: Any cross at this time?

14 MR. BELDING: Yes. Thank you, Judge.

15 **CROSS-EXAMINATION**

16 **BY MR. BELDING:**

17 Q. Let's go back through your testimony a little bit
18 at a time. It's my understanding that even though --
19 you're an Assistant Professor of Psychiatry at MUSC; is
20 that right?

21 A. Correct.

22 Q. But you're not a psychiatrist; correct?

23 A. I'm not a psychiatrist.

24 Q. Okay. You have a Ph.D. You're not a medical
25 doctor?

1 A. Correct.

2 Q. And you are not licensed to practice psychology or
3 psychiatry in this state; correct?

4 A. Correct.

5 Q. Are you basically an academician that provides some
6 treatment on the side; is that what you said?

7 A. Basically an academician? No, but let me tell you
8 what I am licensed at because you sort of -- I am
9 licensed in South Carolina as a licensed professional
10 counselor, okay?

11 Q. Okay.

12 A. And through that ---

13 Q. Which doesn't really have anything to do with this
14 case; right?

15 A. Sure it does. Sure it does. It gives me the
16 ability to do this. The license provides me the ability
17 to provide this kind of assessment and this kind of
18 treatment. So -- now, what was your second point?

19 Q. I think you answered it. You were appointed -- you
20 were asked in February of 2014 of this year to perform a
21 second opinion in this case. Now, you didn't do it for
22 four months. What were you doing during that time? Was
23 that reviewing records and things like that?

24 A. No. I don't think I got the word in February. I
25 know I was asked if I would help at MUSC. I really

1 can't recall when the time was. It may have been there,
2 it may have been Christmas. But yeah, at that time I
3 was doing what I normally do is work, you know, out of
4 my office or at MUSC. So the first time I reviewed Mr.
5 Johnson's case was just the week before I saw him.

6 Q. Well, that's right. Originally -- you're right.
7 You reminded me. Originally, the Attorney General sent
8 me a notice of their intention to get an independent
9 expert and they wanted to Dr. R. Greg Dwyer to do it.

10 A. Right.

11 Q. And you said he was your boss down there?

12 A. Yep.

13 Q. Okay. So during that four months somehow it turned
14 out that he couldn't do it so he gave it to you?

15 A. Yeah. He asked me if I would help out and if I
16 could take some cases for him and I said yes.

17 Q. So you ended up getting it a week before you did
18 the interview; correct?

19 A. That's when I got the data. Yes, sir.

20 Q. And you said that in your report that you spent
21 three and a half hours talking to him. Is that how long
22 you actually spent face-to-face?

23 A. I'm think it was about three hours face-to-face, I
24 think. I've got it documented.

25 Q. On the front of your report it says, the interview

1 with Mr. Johnson was three hours and thirty minutes on
2 June 20th, 2014; is that correct?

3 A. Yeah. Yes, sir.

4 Q. All right. So if Mr. Johnson were to say that you
5 only met with him for an hour and a half, face-to-face
6 would he be incorrect?

7 A. Yes.

8 Q. Are the documents that you said you reviewed,
9 twenty-two different types of documents, were all those
10 provided to you by the Attorney General's Office?

11 A. I believe so.

12 Q. Okay. And is it your opinion -- I'm just trying to
13 restate something I think you said -- that the more
14 information you get, the better an evaluation you can
15 conduct?

16 A. Correct.

17 Q. Okay. Did you try to find any information out
18 about the plea that Mr. Johnson entered in December of
19 2012?

20 A. Did I try to find out any information about the
21 plea?

22 Q. Well, you testified about the convictions?

23 A. Correct.

24 Q. Okay. And you saw State's Exhibit 1, which is
25 basically an indictment and then a plea, a sentence

1 sheet; correct?

2 A. Correct.

3 Q. Okay. And as Ms. Wetherton established with you,
4 what he was indicted for was not what he pled guilty to?

5 A. Correct.

6 Q. Now, again, just to figure out what information
7 would have helped you in your evaluation, do you know
8 why he was allowed to plead guilty to a lesser crime?

9 A. I think part of the reason, as I recall, is one of
10 the victims was intellectually challenged and incapable
11 of testimony, testifying.

12 Q. And where did you hear that from?

13 A. The Attorney General's Office.

14 Q. Okay. Did you also hear that one of the victims'
15 mothers was non-cooperative?

16 A. I think I did, but I can't recall specifically.

17 Q. Do you know what Mr. Johnson actually pled to?
18 What was the form of his plea?

19 A. Could you clarify for me?

20 Q. Okay. Well, let me just ask you straight out. Do
21 you know what an Alford plea is?

22 A. I know what Alford versus North Carolina, yes, sir.

23 Q. North Carolina, correct. What is that for the
24 jury, if anybody doesn't know?

25 A. Alford Plea is when a person says, I'm not guilty

1 ---

2 MS. WETHERTON: I object, Your Honor. This is
3 beyond the scope of his expertise.

4 MR. BELDING: Do you need a response to that
5 to rule, Your Honor?

6 THE COURT: Yes, sir.

7 MR. BELDING: He's already testified about the
8 convictions. All right. I wanted to know if he knew
9 how those pleas were entered. And it was an Alford
10 Plea. Now, whether I explain it to the jury or he does,
11 I don't care. But I want to know if he knows what that
12 means.

13 THE COURT: I'll overrule the objection.

14 MR. BELDING: Thank you.

15 A. Alford Plea means that you are claiming you are
16 innocent of what you are charged with but you recognize
17 that there is an abundance of evidence that would
18 probably convict you anyway.

19 Q. And those of us who do some criminal law sometimes
20 refer to that as a no-contest plea. Have you ever heard
21 that expression?

22 A. Yes, sir.

23 Q. Okay. But for purposes of the criminal law if you
24 enter a no-contest plea, it goes down to a conviction;
25 isn't that correct?

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Cross Examination by Mr. Belding

121

1 A. Yes, sir.

2 Q. And you can get sentenced just as if you had had a
3 trial or pled guilty; isn't that true?

4 A. Yes, sir.

5 Q. Okay. Do you know how long Mr. Johnson stayed in
6 jail before he entered that Alford plea?

7 A. I don't know exactly. I want to say nineteen
8 months, but I'm not sure.

9 Q. It was a little over two years.

10 A. Okay.

11 Q. All right. Did you ever review any records from
12 his public defender at the time who represented him in
13 that plea?

14 A. I don't recall. I may have had -- I read through
15 everything I had, but I don't recall that off the top of
16 my head.

17 Q. Did you talk to Mr. Johnson about why he entered a
18 plea to these three lewd acts?

19 A. He said he did it on the advice of his attorney.

20 Q. Okay. Did he tell you whether or not he would be
21 sentenced to time served?

22 A. During that conversation, no, he didn't.

23 Q. Okay. Did you understand that from reading the
24 sentence sheet?

25 A. Yes, sir.

1 Q. All right. Now, in your report at the end you
2 stated that Mr. Johnson's pre-index crimes were
3 exceptionally heinous and cruel with a five-year
4 duration; correct?

5 A. Yes, sir.

6 Q. What do you mean heinous and cruel?

7 A. Heinous and cruel are when you force a child
8 against their will to perform oral sex upon you. When
9 you force a child to be anally penetrated by your penis.
10 When you're a girl and you are forced to have a man, a
11 young man's penis forced into your body. When you're
12 forced to perform different sexual acts with other
13 children. When you're forced to watch pornography,
14 particularly over a long period of time. I think that
15 meets, in my book, the criteria for heinous and cruel.

16 Q. So that's your definition of heinous and cruel;
17 correct?

18 A. Yes, sir.

19 Q. And did you talk to any of these victims?

20 A. No, sir.

21 Q. Okay. And did you talk to anybody with the
22 solicitor's office about this case?

23 A. No, sir.

24 Q. You thought that it was heinous and cruel based on
25 -- and did you actually -- you said something about

1 reading a victim's impact statement. You didn't list

2 that on your list of documentations; did you?

3 A. Right. No, yeah, I -- well, I may have misspoke.

4 I assumed it was a victim's impact statement I took from

5 Dr. Harrison's report where she quoted what the victims

6 said occurred, which to me sounded like a victim impact

7 statement.

8 Q. Okay. And this is the same Dr. Harrison who

9 concluded that he was not a sexually violent predator?

10 A. Yes, sir.

11 Q. Okay. Does it seem consistent to you, Dr. Burke,

12 that the State would let someone go with time served

13 that committed a heinous and cruel crime like that?

14 MS. WETHERTON: Objection. Calls for

15 speculation.

16 THE COURT: Sustain the objection.

17 MR. BELDING: All right.

18 Q. Do you have any knowledge of why Mr. Johnson, after

19 these heinous and cruel acts, would be allowed to enter

20 a no-contest plea and be sentenced to time served where

21 he could have gone home that day?

22 A. I don't know specifically regarding Mr. Johnson why

23 that particular judge made that particular decision.

24 But throughout my career, I have seen people -- well,

25 not too long ago in Berkeley County, by all accounts a

1 man raped a six-year-old girl. And he pled to simple
2 assault, no registry. I've seen a lot of things.

3 Q. And he was a town councilman?

4 A. I don't know who it was.

5 Q. Oh, I'm sorry. I thought you said he was a
6 councilman. Okay. So do those kinds of ---

7 A. Berkeley County is what I said. It was in
8 Berkeley.

9 Q. Oh, Berkeley County. So do those kinds of things
10 affect your opinion?

11 A. The fact that a judge doesn't give someone a larger
12 sentence, does that affect my opinion? To some degree
13 it certainly does, yeah.

14 Q. And, in fact, you also testified that the fact that
15 you said a vast majority -- I wrote it down. I just
16 want to quote it exactly. The vast majority of sex
17 crimes against children are unreported?

18 A. Right.

19 Q. Okay. And what is your basis for that statement,
20 sir?

21 A. National Institute of Mental Health studies suggest
22 that less than fifteen percent of all sex crimes against
23 children are not reported.

24 Q. They suggest that but they don't know; do they?

25 A. Do they know an exact percentage?

1 Q. Exactly?

2 A. No, sir, they don't.

3 Q. Okay. And isn't that because how do you know when
4 something's been unreported; isn't that right?

5 A. Well, in the study how they know is interviews with
6 therapists who, when people come in as adults and report
7 that they were raped or molested as a child, but did not
8 tell. That's where a lot of the data came from.

9 Q. Okay. And how does that translate into the vast
10 majority?

11 A Well, the vast majority of individuals who've been
12 sexually abused end up in a therapist's office.

13 Q. Okay. Have you ever read the South Carolina
14 Sexually Violent Predator Act?

15 A. Yes, sir.

16 Q. Do you understand that there's some ambiguous terms
17 in that act?

18 A. There's a lot of ambiguity in the act, yes.

19 Q. Okay. Is one of the terms mental abnormality?

20 A. I don't consider that ambiguous.

21 Q. Okay. Earlier you were talking about the DSM and
22 said that you used the DSM-IV to prepare this report,
23 but there's been a DSM-V that's been out for a year and
24 a half; isn't that true?

25 A. Well, what I said was I use both. If you look, you

1 know, in my final diagnosis I used DSM-V, with a PAI,
2 which is a computer drive instrument, there's not a DSM-
3 V version of it available so all I had was DSM-IV, so I
4 included that in there.

5 Q. All right. And in the DSM-IV or V, is the term
6 mental abnormality ever used?

7 A. Well, I can't draw it from memory. It may or may
8 not be.

9 Q. Okay. If I told you that that term is not ever
10 used in the DSM, would you have any reason to refute
11 that?

12 A. I'm going to trust you.

13 Q. Okay. And you started to explain it. The DSM is
14 the -- this is the total body of knowledge that we've
15 got about psychiatry and psychology in the United
16 States. Isn't that a fair statement?

17 A. No, it's not. That's not the total body at all.
18 It is a conglomerate of different kinds of psychiatrists
19 who have come together to have a framework for which to
20 categorize people with different kinds of diagnoses. So
21 we can thus speak the same language.

22 Q. So, I have this written down. It's a listing of
23 diagnostic criteria for every psychiatric disorder
24 recognized by the U.S. Health Care System. Would you
25 agree to that statement?

1 A. I agree it's a listing. It is not an exhaustive
2 review of such.

3 Q. Would you go to court about something that wasn't
4 listed in the DSM?

5 A. Sure.

6 Q. Okay. What would you have to back it up with if
7 it's not even listed with diagnostic criteria?

8 A. Behavior. Behavior. For instance -- I'll give you
9 a for-instance. I evaluated a sexually violent predator
10 prospect. All his testing was absolutely fine. Psych
11 testing was fine. Laboratories were fine. He had one
12 incident where he kidnapped a girl, injected her nipples
13 with iodine and put her in a frozen bathtub where she
14 almost died from hypothermia. He didn't meet the
15 criteria for anything in DSM-V.

16 Q. What did you diagnose him with?

17 A. Paraphilia NOS, which means not otherwise
18 specified. But to rule out paraphilia, rule-out, as I
19 stated earlier means may not quite meet the diagnostic
20 criteria, but I'm pretty sure we're headed that way. So
21 that's an example of someone not meeting any DSM-IV
22 criteria, who I've testified is very dangerous.

23 Q. Okay. And did you know at the time you did the
24 report that Mr. Johnson entered a no-contest plea to
25 three counts of lewd act?

1 A. Yes, sir.

2 Q. Okay. Because in the beginning you were just wrong
3 when you said he pled to criminal sexual conduct;
4 correct?

5 A. I was wrong when I made that statement, yes, sir.

6 Q. All right. Now, another term in the act that you
7 mentioned was the term likely?

8 A. (Nodding head affirmatively.)

9 Q. Do you consider that to be a precise term or
10 something that's a little ambiguous?

11 A. Yeah. I considered it ambiguous. That's why I
12 asked judges in the past to give me direction. And
13 without fail they said, greater than fifty percent
14 chance.

15 Q. Okay. And is that one of the reasons that your
16 scoring came in over fifty percent?

17 A. Is that one of the reasons it came over because
18 that's the criteria of ---

19 Q. Yes.

20 A. No. It has nothing to do with why my score came in
21 high.

22 Q. Although, when you read Dr. Harrison's report and
23 she did the Static-99, just like you did, it didn't come
24 in at over fifty percent; correct?

25 A. She didn't do it like I did.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Cross Examination by Mr. Belding

129

1 Q. You did it differently?

2 A. Yeah. I have the manual if you want to go over it.

3 And I show you why we differ and how the manual supports
4 what I did.

5 Q. Which one of those -- was it Mr. Harris you took
6 your training with; is that right?

7 A. Andrew Harris, yes.

8 Q. Andrew Harris, okay. Are you -- now, let's just
9 jump right to it. This Static-99R ---

10 A. Right.

11 Q. --- is an actuarial risk assessment?

12 A. Right.

13 Q. Is that correct?

14 A. Right.

15 Q. Okay. And you stated that the actuarial part is
16 actually kind of taken from the life insurance or the
17 insurance industry; correct?

18 A. Correct.

19 Q. Okay. Have you had any training in statistics?

20 A. Oh yes.

21 Q. Okay.

22 A. Six graduate courses, and I taught a graduate
23 course in statistics.

24 Q. Okay. And you understand regressive analysis and
25 all of that kind of thing?

1 A. Yes, I do.

2 Q. Are you an actuary?

3 A. Am I an actuary?

4 Q. Yes.

5 A. Yes, I am.

6 Q. You are?

7 A. I am.

8 Q. But not licensed as one; right?

9 A. Oh, oh, I thought you meant -- I thought you were
10 talking in statistical terms. You're talking legal
11 terms. No. Statistically, we all in this room are an
12 actuary. But, no, I misunderstood your question.

13 Q. All right. So the term likely then in the ways you
14 look at it is, it needs to be kind of like a common
15 sense thing. If it's more than fifty percent it's
16 likely. If it's under fifty percent, it's not likely.
17 Is that fair?

18 A. I'll go with it for now. Yes, sir, I think so.

19 Q. Okay. Do you understand though that the Static-99R
20 provides kind of a general level of risk. Is that ---

21 A. Yes, sir, I do.

22 Q. And do you understand that the authors of -- the
23 creators of the test, particularly Hanson and Thornton,
24 wrote an article a couple of years ago where they said
25 these cannot be applied to a specific case?

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Cross Examination by Mr. Belding

131

1 A. That's right.

2 Q. This doesn't predict anything about Daquan Johnson?

3 A. It classifies Mr. Johnson in a known category of
4 people who offended at a specific rate.

5 Q. That re-offends; correct?

6 A. Yes, sir.

7 Q. Okay. And you explained that that's what the term
8 recidivism meant; right?

9 A. Yes, sir.

10 Q. Are you aware that in May of 2012 those same
11 authors came out with an article that said they did not
12 -- that the original Static-99 didn't find any
13 significant differences in the overall recidivism rate
14 across it's three developmental samples?

15 A. State that again?

16 Q. Well, I'm just reading it right out their article.
17 Maybe you can help with the language.

18 A. Okay.

19 Q. In May of 2012 ---

20 A. Right.

21 Q. --- Mr. Hanson, Mr. Thornton, Mr. Babchishin and
22 Andrew J.R. Harris and also someone named Leslie Helmus,
23 published a pretty scholarly, I would guess, article,
24 because I can understand it, in a magazine called
25 Criminal Justice and Behavior, entitled Absolute

1 Recidivism Rate Predicted by Static-99R and Static-
2 2002R, Sex Offender Risk Assessment Tools, vary across
3 samples, a meta analysis?

4 A. Yes.

5 Q. Now, you understand what all that means; right?

6 A. Yeah. I read that article. I know exactly what it
7 means.

8 Q. Okay. So the Static-99, which originally developed
9 didn't do a very good job of predicting recidivism
10 rates; did it?

11 A. What that article addresses is classification,
12 okay? What they found with regression analysis is that
13 individuals who were not high risk needed their own
14 category. People who were considered in treatment, who
15 were convicted sex offenders who needed treatment, were
16 a third category. Then there would be high risk or SVP
17 categories. So, yes, Static-99 did not uniformly
18 predict recidivism over those three categories. In
19 fact, I have that data right here. Because it
20 demonstrates that someone being evaluated for an SVP is
21 considerably more at risk to re-offend than the other
22 two categories that you brought up.

23 Q. And while you're looking for that ---

24 A. I've got it. Got it right here.

25 Q. --- all these people were sex offenders; right?

1 A. Yes, sir.

2 Q. Everybody in the sample in Canada where this

3 started?

4 A. Well, it started in Canada but it now involves

5 quite of bit of data from the United States as well.

6 Q. Okay. All right. In that same article the

7 creators stated this: Recent research has found that the

8 overall sexual recidivism base rate is lower than

9 commonly expected, often in the ten to fifteen percent

10 range. Well, since you've read it, what do they mean by

11 that, if you know?

12 A. I'm going to have to ask you to read that again.

13 Q. That's no problem. I'll do it myself. You don't

14 have a copy of the article with you, do you?

15 A. No, sir.

16 Q. Oh, I thought you might have. Okay. This is the

17 quote: Previous research has found that the overall

18 sexual recidivism base rate is lower than commonly

19 expected, often in the ten to fifteen percent range.

20 A. Yes. They're talking a base rate, which is routine

21 criminal sexual behavior -- routine CSC category. Yeah.

22 The low-risk guys are probably more low-risk than they

23 thought.

24 Q. Okay.

25 A. That's not applicable here.

1 Q. Okay. And CSC means criminal sexual conduct?

2 A. Right.

3 Q. Okay. So these were people that were convicted of
4 criminal sexual conduct that you say are lower risk?

5 A. I'm not saying it. The guys in your article said
6 it.

7 Q. Okay. But Mr. Johnson wasn't convicted of criminal
8 sexual conduct; was he?

9 A. No, he wasn't.

10 Q. He was convicted of lewd act?

11 A. Correct.

12 Q. By pleading no contest; right?

13 A. I know that about his first offense.

14 Q. Well, we need to know what you know. So can you
15 tell us ---

16 A. Well, what I know was that before I got here today
17 I thought that he -- that that charge was dropped or
18 somehow disappeared, but I was told by the attorney
19 general something different.

20 Q. Well, let's not go into the hearsay if you don't
21 mind. What I need to know is what did you use to form
22 your opinion, no matter what they might have told you
23 today. You've already published a report saying ---

24 A. Well, the Static-99 is overall. What are you
25 talking about?

1 Q. Well, I mean, you said you didn't know what he pled
2 guilt to?

3 A. Right.

4 Q. You just knew some charges were dropped.

5 A. Right. Right. Right. Right.

6 Q. What did you use to come to this conclusion that he
7 was a sexually violent predator with respect to what he
8 was charged with?

9 A. I followed the standards of care, which includes
10 gathering information, reading documents, administering
11 tests, scoring the tests, putting those test results
12 into a framework or a formula to come up with, in this
13 case, to answer a specific question whether I felt like
14 he meets the cut-off criteria for a sexually violent
15 predator or not.

16 Q. Okay. And since you didn't know until today what
17 exactly happened with some charge, and since you've also
18 testified that more information is better in making
19 these opinions, would it have been interesting for you
20 to see a copy of the transcript of the Alford plea?

21 A. Could be. However, from the statistical
22 standpoint, it doesn't matter whether it's Alford plea
23 or not.

24 Q. Okay. Does it matter whether it goes from criminal
25 sexual conduct to lewd act?

1 A. It doesn't when you're considering charges.

2 Q. Okay. Would it be important to know why some
3 charges were dropped?

4 A. Possibly, yes, sir.

5 Q. Okay. And just for example, did you find out that
6 one of the charges was not supported by the evidence,
7 would that help you make an opinion?

8 A. Yes. Can I assume that to be the case?

9 Q. Do you think ---

10 A. Can I assume that to be the case?

11 Q. You can in this case, yeah?

12 A. Okay. Okay.

13 Q. All right. The bottom line is, as you stated,
14 though, the Static-99R or whatever version, and that
15 doesn't predict the future either; does it?

16 A. Doesn't predict the future?

17 Q. In the case of Mr. Johnson, whatever he might have
18 scored on that little chart you showed the jury, it's
19 not going to tell us whether he's going to commit
20 another sex offense or not?

21 A. It does not tell us whether he's going to commit
22 another sex offense or not. Correct.

23 Q. Okay. And, in fact, according to your report,
24 though, you concluded that Mr. Johnson scored a seven on
25 the Static-99R and said that placed him in the low to

1 medium-risk category; isn't that right?

2 A. Well, no, that's not right. There's a typo in my
3 report. I believe it's at the end of the paragraph.
4 Because it should be high. The numbers and what I put
5 in bold ---

6 Q. Well -- and your pages aren't numbered. On the
7 page that there's a -- it says combining Mr. Johnson's
8 -- this is under -- now I'm under Acute-2007.

9 A. Oh, okay.

10 Q. Maybe I made a jump a little bit.

11 A. Yeah. Okay.

12 Q. Let me find the Static-99 for us. Well, it's right
13 after that. It's right when you start Acute-2007.

14 You've stated: Combining Mr. Johnson's Static-99,
15 Stable-2007, and the Acute-2007 score, places Mr.
16 Johnson as a low current risk priority for sexual and
17 violent recidivism and low for general criminal
18 recidivism. That's what your report says; right?

19 A. You don't have page numbers on your report?

20 Q. I don't have page numbers on my report. I can
21 count them for you. It's the first page kind of -- 2,
22 3, 4, 5, 6, 7, 8, 9. And the paragraph headed in bold
23 Acute-2007.

24 A. Okay. Got you.

25 Q. Okay. It's kind of the second -- it's the third

1 paragraph, the last sentence?

2 A. Right.

3 Q. Okay.

4 A. Okay. Yeah, I attempted, I guess very poorly, to
5 explain that earlier. What you have to do with the
6 Acute is you take into consideration the Static-99 data,
7 along with the Stable-2007 data. And there are cross-
8 reference tables, okay? Then you add -- so those scores
9 are already done. For Acute-2007, there are seven
10 questions, okay? He scored zero on all those questions.
11 And Acute-2007 predicts the next forty-five days upon
12 release, okay? I had assumed that he would not have
13 access to children, okay, if he were released into the
14 community. His testing came back that he did not have
15 an alcohol or drug problem, which is another one of
16 those. I gave him the benefit of the doubt that he has
17 the capability to overcome the grief associated with his
18 mother's death because emotional -- it's called --
19 emotional collapse is what that particular point is.
20 Nevertheless, he scored a zero on that. But it elevated
21 it because of this Static-99R and 2007. And what I mean
22 by that is, the lowest score you can have possibly on an
23 Acute-2007 -- I'll just say Acute -- on the Acute, the
24 forty-five day prediction, is zero point seven percent.
25 That is the lowest you can possibly get. The only way

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Cross Examination by Mr. Belding

139

1 you can get that is to have a really low Static-99R and
2 a really low Acute -- I'm sorry -- Stable, okay? He
3 didn't. He had high, high and medium together.. He had
4 a medium Stable and a high Static-99. So that caused
5 his -- even though he scored zero on the Acute, it
6 bumped it up to two point four percent. So it predicts
7 a two point four percent probability that he would
8 commit a sex crime in the next forty-five days upon
9 release, which is three hundred percent greater than
10 zero point seven. It's more than a three hundred
11 percent increase. So, yes, following the protocol to
12 score that, I could see where you would see, you know,
13 that that looks like a low risk. It is low risk for
14 forty-five days, but it's elevated -- well, it's on the
15 threshold, just below medium risk, for forty-five days.
16 Q. Okay. If he got out, it's your understanding he'd
17 be on probation; correct?
18 A. That's my understanding, yes.
19 Q. You understand that he'd be wearing an ankle
20 bracelet?
21 A. (Nodding head affirmatively).
22 Q. You understand he'd be on a sex offender registry?
23 A. Yes, sir.
24 Q. This would all happen whether this case went on
25 today or not; correct?

1 A. Yes, sir.

2 Q. So he's going to be monitored; isn't he?

3 A. Yes, sir.

4 Q. Okay. And he has to stay in a place that the
5 probation people approve; isn't that correct?

6 A. Correct.

7 Q. Okay. Now, earlier you were talking about a fact
8 that his probation was revoked?

9 A. Correct.

10 Q. Do you know why it was revoked?

11 A. I believe I do.

12 Q. Tell me again?

13 A. Well, I don't think I told you before. But my
14 understanding is he was released and could not live --
15 and wanted to live with his mother and was not allowed
16 to do that. He was told to go to a halfway house. He
17 was found not to be there. Ended up in an emergency
18 room. Left the emergency room and was tracked by GPS in
19 an area where he should not have been. That's my
20 understanding of why he was revoked.

21 Q. All right. And did you see the transcript of the
22 probation hearing?

23 A. Yes, sir, I did.

24 Q. Okay. Who provided that to you?

25 A. The Attorney General's Office.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Cross Examination by Mr. Belding

141

1 Q. Okay. So he got out on January 29th, ---

2 A. Right.

3 Q. --- 2014. Excuse me, '13. They installed the GPS.

4 He said he wanted to live at , but the

5 probation people checked on that and said, you can't

6 live there, okay?

7 A. (Nodding head affirmatively).

8 Q. So instead of taking him down to the jail, they

9 took him to the winter shelter; correct?

10 A. Correct.

11 Q. All right. When he got there, he was told they

12 weren't going to be able to put him up there. So in

13 lieu of putting him back in jail, he goes to the

14 hospital; correct?

15 A. Correct.

16 Q. In the emergency room?

17 A. (Nodding head affirmatively)

18 Q. He didn't tell his probation officer that he was at

19 the emergency room on the night of January the 30th,

20 which is one of the reasons he was revoked; correct?

21 A. Correct.

22 Q. He goes back the second night. And then this is

23 the statement from the probation officer, who says the

24 31st he doesn't report and tells me that he's at the

25 hospital. He doesn't have any place to stay, does he?

1 A. Apparently not.

2 Q. All right. Then he goes back to his mother's
3 place, trying to find a place to stay, but that's where
4 some of this stuff was alleged to have occurred;
5 correct?

6 A. Correct.

7 Q. So he wasn't supposed to be there?

8 A. Correct.

9 Q. And the GPS picked it up and they went and got him;
10 right?

11 A. Yes, sir.

12 Q. That's why his probation was revoked; isn't that
13 correct?

14 A. I believe that is correct.

15 Q. Okay. So it all boils down to the fact that the
16 guy didn't have a place to stay. Now, how does that
17 factor into your opinion that he's a sexually violent
18 predator?

19 A. It's problematic he doesn't have a place to stay.
20 How does that fit into my ---

21 Q. Well, I don't mean to cut you off, but the way I
22 understood your testimony, Ms. Wetherton asked you, that
23 hey, he was revoked from probation. And you said, yeah.

24 A. Right.

25 Q. The facts are kind of important though; aren't

1 they?

2 A. Sure.

3 Q. Okay. Do you think that because a person who may
4 be desperate and he's trying to find a place to stay,
5 how did that factor into your opinion as to whether or
6 not he'll commit future sex crimes?

7 A. Well, if you're implying that he was desperate,
8 then he did exactly what he was told not to do and went
9 back to his mother's house.

10 Q. Okay.. You found ---

11 A. That's a problem. That's a problem.

12 Q. I understand. I wouldn't have advised him to do
13 that either. But let me ask you, you testified you've
14 counseled six thousand people or something like that
15 about sex offenses?

16 A. I've counseled probably four thousand. I've
17 evaluated over six. Sometimes they'll come in and I'll
18 send them out, yeah.

19 Q. Have you also counseled other kinds of people that
20 haven't had those kinds of criminal problems?

21 A. Yes.

22 Q. Have you ever counseled someone who was desperate?

23 A. All the time.

24 Q. Okay. I mean aren't people, when they're pushed to
25 the wall, won't people do a lot of things when they're

1 desperate?

2 A. Yes, sir, they will.

3 Q. Okay. I mean, if you don't have money and you

4 can't eat, don't people rob stores sometimes?

5 A. Sure.

6 Q. Okay. So what we have here is after two days of

7 being in an emergency room, he went back to his mother's

8 house to see if she could find a place to stay and they

9 found out he went there; correct?

10 A. Correct.

11 Q. Do you consider that to be the act of a sexually

12 violent predator?

13 A. The act of a sexually violent predator?

14 Q. I mean, was it part of your ---

15 A. I think the sex offenses he committed are the acts

16 of a sexually violent predator. I think what you're

17 talking about is an inability, albeit under pressure or

18 under desperation, to follow a directive given to him by

19 probation. I see those as two separate things, although

20 they are related. But, no, I disagree with your

21 statement. I think his crimes against the children are

22 the behaviors of a sexually violent predator. His --

23 I'll give you he was desperate because a lot of these

24 guys are desperate, okay? A lot of these guys are

25 desperate. That's why we form companies to have them

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Cross Examination by Mr. Belding

145

1 build wheelchair ramps, so we can have churches have
2 them, have places to stay and worship. I get it. I
3 understand that these guys are desperate. But
4 nevertheless, that increases their level of risk. I'm
5 not saying it's fair. It's just how it is.

6 Q. Okay. Let me make sure I'm not misunderstanding
7 you. Is every person who commits criminal sexual
8 conduct necessarily a sexually violent predator?

9 A. No, sir.

10 Q. Everyone who commits a lewd act necessarily a
11 sexually violent predator?

12 A. No, sir.

13 Q. This guy you think is, although he -- because he
14 committed three of those -- he's convicted of three lewd
15 acts; correct?

16 A. (Nodding head affirmatively)

17 Q. And in your evaluation, in your opinion, he's a
18 sexually violent predator. And you've testified about
19 his being revoked from probation as if that was part of
20 his M.O. and part of his problem. Don't the facts tend
21 to show that there was -- that it was not nefarious. He
22 just wanted to find a place to stay?

23 A. Well, irregardless of whether it was nefarious or
24 not, it shows an inability to follow directions under
25 the strictest supervision available in the State.

1 Q. Okay.

2 A. That's what it demonstrates.

3 Q. All right. Now, while he was out, he was out for
4 three days, okay, what children did he molest?

5 A. None that I'm aware of.

6 Q. Okay. Well, I mean, you testified he has an
7 inability to control his behavior?

8 A. Yes, sir.

9 Q. How come he didn't go out and rape some little girl
10 or some little boy that day?

11 A. We don't know that to be the truth. I don't know
12 that. He may have and we don't know.

13 Q. Okay. All right. One of those unreported things
14 that we talked about earlier?

15 A. Could be.

16 Q. Okay. But you have no evidence of anything he did
17 during those three days?

18 A. I don't know. You're correct, I don't.

19 Q. Okay.

20 A. I can tell you about a guy who was on a GPS
21 monitor. He molested three kids.

22 Q. All right. Well, let's stick with Mr. Johnson if
23 that's all right with you?

24 A. Well, okay.

25 Q. And you testified that you believe the pedophilia

1 -- and by the way in your report you did not diagnose
2 him with exhibitionism; right? You danced around it and
3 said it's kind of close, but you didn't do it in the
4 report; correct?

5 A. I didn't dance around. There's a protocol and a
6 reason you put rule out. It's not just on a whim or
7 dancing with the stars or whatever you're trying to
8 imply. Rule out is a serious term to be utilized. Rule
9 out means the possibility exists; he probably meets the
10 criteria for this or will in the future. It needs to be
11 ruled out. If you have -- if you're bleeding from your
12 mouth and you're bleeding from your rectum, the first
13 thing they need to do is rule out colon cancer. And
14 that's an example of what rule out means.

15 Q. Okay. But it's not part of your diagnosis in this
16 report?

17 A. It is. A rule-out means we need to look into this
18 further. It doesn't mean that it's -- ruled out doesn't
19 mean, oh, he doesn't have that.

20 Q. Okay. When we reviewed the last page, and I don't
21 know what that number is either, right above your
22 signature, when you gave your final opinion, you said,
23 it is my opinion that -- and I think you might have left
24 out a pronoun. It is my opinion that meets the
25 diagnostic criteria for 302.2 pedophilic disorder, non-

1 exclusive mixed. I don't see any diagnosis in your

2 report that he has exhibitionism; isn't that true?

3 A. I don't know, do we have different -- I've got

4 something different. Let me see your last page and I

5 can tell you if it's the same, because what you read is

6 not the same. Let's compare. Where did you say I left

7 out something?

8 Q. Well, he does not accept -- wait a minute. It is

9 my opinion that meets ...

10 A. Oh, Okay. You're right. Okay. All right. I'm

11 sorry. I was looking at a different part.

12 Q. All right.

13 A. All right. Same thing.

14 Q. But, I mean, people make mistakes. I'm not getting

15 on you about that. We all misspell a word or leave out

16 a the here or there, but really in your -- you did not

17 diagnose him with exhibitionism in this report; correct?

18 A. I did not diagnose him with exhibitionism. I

19 marked it as rule-out, meaning he's probably got it. We

20 just need more time and more information.

21 Q. Okay. And I understand that. I went to law school

22 not psychiatry school, but on this page when you list

23 your diagnosis, it's not written; is that correct?

24 Exhibitionism is not written as a diagnosis that you

25 found in your conclusion?

1 A. It is written as a rule-out diagnosis.

2 Q. On this page?

3 A. On the last page, just above my signature. R/O,
4 exhibitionism disorder.

5 Q. R/O 302.4. That's your assessment, exhibitionistic
6 disorder? So is that, in fact, your diagnosis?

7 A. Yes, sir. That's what that is.

8 Q. Oh, okay. I didn't know what that meant.

9 A. Yeah.

10 Q. All right. Well, it wasn't listed above it.

11 Sorry. Now, I understand. All right. Now, let me ask
12 you a couple other questions. You really were, I think,
13 bothered by the fact that Mr. Johnson would not take
14 responsibility for the acts that he entered a plea to;
15 correct?

16 A. Bothered?

17 Q. Well, I mean, you said he was in a state of denial,
18 things like that.

19 A. That's just reporting the facts. I wasn't bothered
20 by it. It happens all the time.

21 Q. Okay. When people plead guilty or enter a plea,
22 does that carve it in stone to your opinion as to what
23 happened?

24 A. I don't know what happened on any sex offense ever
25 that is -- I've been involved with because I wasn't

1 there, okay? All I have to go with is what I'm

2 presented with.

3 Q. And I agree with that completely. I'm the same
4 way. I wasn't there either. But my question is, did
5 you know that he entered an Alford plea before today?

6 A. Yes, I did.

7 Q. And an Alford plea is, I'm not admitting anything.
8 I'm not confessing; correct?

9 A. Yes, sir. That's correct.

10 Q. And the sentence that he was given was -- you've
11 been in jail for over two years and you can go home?

12 A. Yes, sir.

13 Q. Okay. In your experience do people ever plead
14 guilty to things they may or may not have done to get
15 out of jail?

16 A. In my experience, people may or may not have pled
17 guilty to get out of jail to do things they may have
18 done.

19 MS. WETHERTON: I would object. I think this
20 calls for speculation. I mean, this all kind of goes to
21 what he did the day he pled guilty. And the bottom line
22 is under the statute, I didn't need a guilty conviction.
23 The reasons why he pled guilty aren't really relevant.
24 And that someone else for some other reason may or may
25 not have -- I just don't understand the relevance of

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Cross Examination by Mr. Belding

151

1 this.

2 THE COURT: I overrule your objection.

3 MS. WETHERTON: Okay.

4 MR. BELDING: Okay. Thank you, Your Honor.

5 Q. Let me just rephrase that and we'll break it down
6 because I'm trying to understand myself. Ms. Wetherton,
7 I believe, is absolutely right about one thing. I
8 cannot contest what Mr. Johnson entered a plea to. It's
9 of record. We have certified copies. No contest to
10 that. It's the same as a guilty plea. Is that not --
11 you understand it's the same as pleading guilty in terms
12 of its consequences?

13 A. In terms of consequences, it's the same, is my
14 understanding.

15 Q. Okay. But we just went through talking about the
16 fact that he was desperate enough to go back to his
17 mother's house when he'd been told not to; correct?

18 A. Correct.

19 Q. And the day he came to court, he'd been sitting in
20 jail for over two years. And he entered a no-contest
21 plea to an agreed sentence of time served, you get out.

22 A. Okay.

23 Q. Doesn't that evidence the same kind of desperation?

24 A. Well, no. I mean, the probation violation was in
25 direct defiance of a specific order given. His

1 desperation to get out of jail for two years, wasn't in
2 defiance of any direct order. I guess what you're
3 implying is that he wanted -- he just wanted to get out
4 of jail. So, no, I disagree. I don't think they're the
5 same.

6 Q. Okay. Would it have made a difference if you had
7 known that?

8 A. No. It really doesn't matter with the evaluation.

9 Q. Okay. So even if he entered a no-contest plea just
10 to get out, it wouldn't matter because he entered a plea
11 and we're going on the reported documents that you saw
12 from Dr. Harrison? Okay.

13 A. Well ---

14 MS. WETHERTON: Your Honor, if he could allow
15 the witness to answer.

16 MR. BELDING: Well, I didn't stop him. I'm
17 sorry. Go ahead.

18 A. Well, I need you to ask me that one more time.

19 MR. BELDING: Can we get the court reporter
20 just read it back and see if that -- I'm not sure I can
21 do it again.

22 (WHEREUPON, the question was read back by the court
23 reporter.)

24 Q. Let me try to rephrase it from that so I'm
25 accurate. Were you to find out that Mr. Johnson had

1 entered a no-contest plea just to get out of jail, in
2 the same kind of, maybe the last way he went was to mom
3 and said, I've got to find a place to stay. Would that
4 have changed your opinion any as to the crimes he was
5 convicted of?

6 A. No, sir, because a conviction is a conviction. My
7 job isn't to try the case over again. And what I wanted
8 to respond to was the way you asked the question seemed
9 to me that I was basing my entire decision as to whether
10 or not he met the criteria for SVP or not was, you know,
11 would that have changed whether he was desperate and
12 just said, yeah, I took the plea. It doesn't change
13 because it doesn't matter. It does not matter. That
14 data has got to be put in there as a conviction and it's
15 one piece of the evidence I considered. I considered a
16 lot of other stuff, not the least of which is his
17 responses in the laboratory.

18 Q. Okay. And as we stated before not every lewd act
19 is a sexually violent predator?

20 A. Correct.

21 Q. So you are just making that one piece of
22 information; correct?

23 A. But there are other facets to the information,
24 okay? There's the initial charge that was either
25 dropped or he was convicted of but for some reason we

1 don't know. So we have a period of time where he was at
2 least accused of this. And that's important. Being
3 accused of this sort of behavior is important because it
4 gives one a chance, if you're innocent, to rectify your
5 behavior. And I don't know about you but if I was
6 accused of molesting a child, I would stay away from
7 children. I would not put myself in a situation to
8 babysit. I would not put myself in a situation to be
9 alone with kids. I just wouldn't do it. But that's
10 just me. So you've got someone who's been accused, and
11 then over a four-year period continues to abuse some
12 children in some pretty horrible ways. That's
13 significant information. That demonstrates an inability
14 to control your sexual arousal patterns, an inability to
15 control your sexual impulses over a protracted period of
16 time. So the fact that he was desperate and he just
17 wanted to get out of jail so, you know, he could go home
18 that day doesn't matter to me. What matters to me is
19 he's convicted of it, Alford or not, that's got to go
20 into the equation. I didn't make up the equations,
21 okay? That's what we're supposed to do.

22 Q. And whether he actually did it or not, it wouldn't
23 matter if he pled to it?

24 A. It doesn't -- I'm not -- my job is not to retry a
25 case.

1 Q. But you looked back to the reports. You didn't

2 talk to the victims. You looked at reports?

3 A. Correct.

4 Q. And those reports he never admitted?

5 A. Correct.

6 Q. Now, that factored into your opinion too, didn't

7 it?

8 A. In what way?

9 Q. Well, you said he's in denial about it?

10 A. Well, he is.

11 Q. Okay. But he never -- okay. So we keep going

12 around in circles. He never admitted it in court

13 because he didn't have to. He said, I'm pleading no-

14 contest; correct?

15 A. Because he didn't have to.

16 Q. He didn't have to. That's right. He pled no

17 contest. That's what I'm saying. The court says fine.

18 You're sentenced to time served, the whole time you've

19 been in county jail. Goodbye. Okay? And I just can't

20 figure out why you don't -- one, you don't wonder why

21 such heinous and cruel crimes that took place over five

22 years were resolved in such a petty manner?

23 A. Is that a question?

24 Q. Yes.

25 A. Ask it again.

1 Q. Oh, God. Okay.

2 A. Well, I heard a statement. I didn't hear a
3 question.

4 Q. I was just wondering why, you know, a guy that you
5 say committed all these crimes over a period of years,
6 okay, came into court and didn't contest them. And it's
7 resolved with a bye-bye, time served?

8 A. Got you. Here's my thoughts on that, okay. I
9 can't count the times I've been to court. I can't --
10 and I'm not trying to be funny when I say this, okay?
11 I'm telling you, I can't count the times I've gone to
12 the restroom at court. But let me tell you what happens
13 in the restroom sometimes. Is attorneys, at least guy
14 attorney are talking, okay, and deals are made. Deals
15 are made in the hallway. Deals are made in the
16 restroom. And the deals are based on things like, well,
17 I don't want to spend a week on a jury trial and spend
18 the taxpayer's money and put these poor children on the
19 stand and have them testify with this guy staring them
20 in the face. You know what, I'd rather give this guy a
21 lesser charge and not go to jail as long to preserve the
22 dignity of these victims. That's what happens.

23 Q. But you don't know whether or not that happened in
24 this case?

25 A. I don't, but I ---

1 Q. And, in fact, do you know who the prosecutor was?

2 A. No, sir.

3 Q. I would represent to you that it was Margaret Fant
4 Bodman, and she didn't meet the defense attorney in the
5 bathroom because she's a woman and he's a man.

6 MS. WETHERTON: Your Honor, I would object.
7 He's testifying. He's putting in facts that are not
8 based on questions. He's just standing up and giving a
9 narrative.

10 MR. BELDING: The Solicitor -- excuse me. I
11 just want to respond. Sorry.

12 THE COURT: I'll just remind you that you need
13 to ask questions, and then you can elicit a response to
14 your questions.

15 MR. BELDING: Okay.

16 Q. On Exhibit 1 there's the name of the prosecutor?

17 A. Right.

18 Q. I don't know if you've looked at it. It's Margaret
19 Fant Bodman. Do you understand that that's a woman?

20 A. Yeah, I do.

21 Q. Okay. The defense attorney's name is James Cooper.

22 A. Right.

23 Q. I will represent to you that he's a man. Do you
24 see any way they would have met in the restroom to work
25 out one of these plea deals?

1 A. I don't. But I can see where the Solicitor was
2 trying to do the best she could to protect these
3 children and felt it was her judgement to go with this
4 deal. And I don't fault her at all.

5 Q. And you base that on?

6 A. What you just told me.

7 Q. But you just now learned that. You'd already made
8 your opinion before you even knew that?

9 A. That's irrelevant.

10 Q. Okay. Bottom line is two things you said that were
11 differences with Dr. Harrison's report. How she scored
12 the Static-99R and that you had PMG result; correct?

13 A. More to it than that but, yes. There's more to it
14 than that.

15 Q. Well, that's what you said. Now ---

16 A. No, what I said was there was more to it than that,
17 in that I said with a diagnosis of bipolar disorder if
18 he weren't taking his medication, which he has a history
19 of not doing in the chart, multiple times, then there's
20 an increased level of risk that he would re-offend.
21 Because with bipolar I, if you get manic or hypomanic,
22 one of the top behaviors that occur is sexual
23 indiscretion or bizarre sexual activities. So his
24 bipolar disorder is a problem. His refusal to take
25 treatment in the past and take his medication to control

1 his bipolar disorder is a problem. That was also part
2 of my consideration.

3 Q. And everyone who's bipolar doesn't commit sex
4 crimes; right?

5 A. I don't believe so and hope not.

6 MR. BELDING: Thank you, Your Honor. No
7 further questions.

8 THE COURT: Any redirect?

9 MS. WETHERTON: I just have just a few
10 questions.

11 THE COURT: Yes, ma'am.

12 **REDIRECT EXAMINATION**

13 **BY MS. WETHERTON:**

14 Q. Now, let's go back to the probation violation
15 hearing, the transcript that you read. You read the
16 transcript; correct?

17 A. Yes, ma'am.

18 Q. And as Mr. Belding told you, it's very important
19 that you pay attention to the facts, what happened, or
20 he had asked you that in relation to his violating his
21 probation; is that correct?

22 A. That's correct.

23 Q. Isn't it true that he violated probation within two
24 months of getting out of jail?

25 A. In two months? I thought it was a couple of days.

1 Q. Well, it was very quickly within ---

2 A. Right.

3 Q. --- getting out of jail?

4 A. Yeah.

5 Q. So as an expert who does these type of evaluations
6 did you consider the fact that someone who would just be
7 so desperate to get out of jail would do something that
8 would put him right back into jail?

9 A. Yeah. That doesn't seem logical. You're correct;
10 yes.

11 Q. Okay. And isn't it true also in the transcript
12 that the probation officer testified; isn't that
13 correct?

14 A. Correct.

15 Q. And didn't he also say that they tracked Mr.
16 Johnson by GPS and they called and asked where he was?

17 A. Correct.

18 Q. And didn't he also lie and say his probation agent
19 had given him permission ---

20 A. Correct.

21 Q. --- to be there?

22 A. Yes, he did.

23 Q. Was that the case?

24 A. Yes, as you remind me, I'm reading the document.

25 Yes, he did lie and say that he was given permission to

1 be there when he was not.

2 Q. Okay. And, also, I think you were cut off. But
3 can we get that manual out with the Static-99. I think
4 you had it regarding how to score the Static?

5 A. Right. Okay.

6 Q. Can you explain pursuant to that manual that you
7 have why you gave Mr. Johnson the score that you did?

8 A. With this instrument your most recent sex offense
9 is called the index offense. And so you don't count
10 that towards the number of offenses that you have for
11 this instrument, okay? You count all the offenses
12 before your last sex offense. The reason my score
13 differs from Dr. Harrison's is my interpretation of the
14 manual is that because of his exhibitionism in prison,
15 that is his latest, most recent sexual offense charge.
16 It's not a conviction. It's a charge. You don't need a
17 conviction. You just need a charge for it to be your
18 index offense, your last offense. That being the case,
19 it opened up for us to count all the other molestations
20 that occurred prior to that. If I had not counted it,
21 then I would have had the same score or maybe within a
22 point of Dr. Harrison's. Here's why I decided -- and I
23 put a lot of thought into this -- to count that
24 particular event. On page thirty-nine, it's about
25 scoring institutional disciplinary reports. Sexual

1 misbehaviors that would likely result in a charge for an
2 offender not already in custody counts as charges. In a
3 prison environment, it's important to distinguish
4 between targeted activity and non-targeted.
5 Institutional disciplinary reports of an offender who
6 specifically chooses a female guard and masturbates in
7 front of her, when it is obvious the intended target is
8 the act would count as a charge as opposed to an
9 alternative, someone who's masturbating, discovered and
10 is not obviously the indented target. The reason I
11 chose to say it was an intended target was he continued
12 to masturbate in front of the guard after being
13 instructed not to and continued to do that long enough
14 for the person to write up a citation, hand it to him
15 and he through it back to them. To me that implies
16 intent, okay? So that's why I chose that as the last --
17 as the index sexual behavior. And that's why my score
18 is considerably higher.

19 Q. In the article that you and Mr. Belding were
20 discussing regarding the Static-99R. And I apologize, I
21 was never provided with a copy of that article. So I
22 might be going out on a limb here. But you obviously
23 read that article; is that correct?

24 A. Correct.

25 Q. Okay. When they talk about criminal sexual conduct

1 in that study, is that a national study or an
2 international study?

3 A. It's primarily the United States and Canada.

4 Q. Okay.

5 A. I think there's some English ...

6 Q. When they talk about criminal sexual conduct in
7 that study, are they referring to general criminal
8 sexual conduct or are they referring to the South
9 Carolina Statute?

10 A. General sexual conduct. I don't even think Canada
11 has it termed that way. Anyway, yeah, it's -- and I
12 should have pointed that out. That's my fault. That
13 doesn't mean -- the criminal sexual conduct means
14 behavior towards a child that was illegal, sexual
15 behavior toward a child that was illegal. That's what
16 criminal sexual conduct means. It doesn't mean criminal
17 sexual conduct in the first, second, or third degree as
18 it does in South Carolina. It's sort of a global
19 category for that, you know, illegal sexual behavior..

20 Q. So on cross-examination when you were comparing
21 lewd act, it wasn't being compared in that study to the
22 actual criminal sexual conduct statute in South
23 Carolina; is that correct? Criminal sexual conduct?

24 A. That's correct. That's correct. Very good point.

25 Q. Okay. And then also you were provided by our

1 office the general petition that started these
2 proceedings ---

3 A. Yes.

4 Q. --- pursuant to the sexual violent predator act.

5 I'm going to ---

6 MS. WETHERTON: May I approach, Your Honor.

7 THE COURT: Yes, ma'am.

8 MS. WETHERTON: Thank you.

9 Q. I'm going to show you the petition, the name of
10 this case right here and I'd ask that you read it. This
11 is the entire petition. If you can just read the first
12 paragraph?

13 A. Of this?

14 Q. Yes. Not out loud, just to yourself.

15 A. Oh, okay. I already did.

16 Q. Okay. Although -- who create -- if you'd flip to
17 the other page? What exactly is that document that I
18 showed you, that exhibit.

19 A. Richland County Sheriff's Department Supplementary
20 Report.

21 Q. Is that a police report?

22 A. I believe so. Sheriff's department, yeah.

23 Q. Does that document indicate that the child -- one
24 of the victims had special needs? She had special needs
25 classes?

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Redirect Examination by Ms. Wetherton

165

1 A. Special education student with limited
2 communication skills.

3 Q. Okay. So although I handed you that document, I
4 did not create that document; is that correct?

5 A. That's correct.

6 MS. WETHERTON: You Honor, I have nothing
7 further.

8 THE COURT: Cross-exam.

9 DR. BURKE: Your Honor, I would like to make a
10 statement.

11 THE COURT: I'm sorry. That's not permitted.
12 Any further questions?

13 MR. BELDING: No recross, Your Honor.

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

15 Ladies and gentlemen, at this time it would be a
16 good time to break for the evening. I'm going to remind
17 you the instructions that I've given to you throughout
18 the course of the trial, that is do not begin to discuss
19 this matter among yourselves because you still have not
20 heard all the evidence that's to be presented in this
21 matter. As you come and go from the courthouse, please
22 remember not to listen to any conversations that you may
23 hear in the hallway. Again, for the reasons that you
24 have to be guided by the evidence that you hear
25 presented in this courtroom and not based upon

1 conversation that you may overhear in the hallway.
2 Please also remember not to allow anyone to approach you
3 to discuss this matter with you. If anyone attempts to
4 do that, please tell them that you cannot discuss it
5 with them and we ask that you report it as soon as
6 possible.

7 Additionally, overnight, ladies and gentlemen, I'm
8 going to give you a few additional instructions. I know
9 that your family and friends will want to know what
10 you're doing on jury duty this week. Certainly you can
11 tell them that you've been selected for the jury in a
12 case that involves a sexually violent predator act, but
13 I'd ask that you not discuss the testimony and the
14 evidence that you've seen or heard with your family and
15 friends. The reason I tell you not to do that is
16 because oftentimes they'll make comments to you, they'll
17 ask you questions. All of that has the possibility to
18 affect how you think about the evidence and how you view
19 the evidence that's been presented. And while they're
20 not perfect strangers it's still -- it's inappropriate
21 for them to have conversations with you about what
22 you've heard or seen. Please tell them that Judge has
23 asked you not to discuss it with them. When you have
24 rendered a verdict in this case, then you will be free
25 at that time to discuss what you've heard and seen as

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Redirect Examination by Ms. Wetherton

167

1 you sit. But until that time, please tell them that

2 I've asked you not to discuss it with them at this

3 particular time.

4 Additionally, ladies and gentlemen, I ask that you

5 not engage in any independent research or investigation.

6 To the extent that you may have access to any sources,

7 whether it's a book, material, internet, individuals who

8 may have information, I ask that you not engage in any

9 independent research or investigation about any of the

10 matters that you have heard throughout the course of the

11 testimony today. That's inappropriate. It's not

12 evidence that's presented in this courtroom. It's not

13 appropriate for you to consider that information in

14 coming up with your verdict in this particular matter,

15 so I ask that you not engage in that conduct.

16 Also, ladies and gentlemen, I don't know that there

17 will be any media reports. But to the extent that there

18 is something written in the newspaper or on the radio or

19 television, I ask that you not watch or listen to or

20 read any of those reports. That is someone else's

21 recitation of what they heard or what they saw

22 throughout the course of this trial. And you have to be

23 guided by what you heard and what you saw throughout the

24 course of this trial. And you should not be influenced

25 by any media reports. So I just ask that you simply not

1 watch or listen to or read any of those reports.

2 Ladies and gentlemen, I'm going to ask that you
3 report tomorrow morning to the same jury room where you
4 reported after lunch. If you will report at nine thirty
5 tomorrow morning. When you come into the building, stop
6 downstairs on the first floor long enough for them to
7 scan your badges, but do not stay downstairs. Come up
8 to third floor, report to this jury room. And when you
9 have all assembled at nine thirty, then we'll be ready
10 to continue on with the trial of this matter. I hope
11 that you all have a pleasant evening and we'll see you
12 tomorrow morning at nine thirty. Thank you.

13 (WHEREUPON, the jury exited the open courtroom at
14 approximately 5:18 p.m.)

15 THE COURT: Anything we need to take up before
16 we adjourn for the day?

17 MS. WETHERTON: Nothing from the State, Your
18 Honor.

19 MR. BELDING: Nothing from the Respondent.
20 Thank you, Your Honor.

21 THE COURT: All right.

22 MR. BELDING: Nine-thirty?

23 THE COURT: Nine-thirty tomorrow morning.
24 Thank you..

25 MS. WETHERTON: Thank you, Judge.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
William Henry Burke - Redirect Examination by Ms. Wetherton

169

1 (WHEREUPON, court stood at recess for the day at
2 approximately 5:19 p.m.)

3 **SEPTEMBER 16, 2014**

4 (WHEREUPON, court convened with all parties present
5 and the following proceedings were had.)

6 THE COURT: Good morning, everyone.

7 MS. WETHERTON: Good morning.

8 THE COURT: Is there anything that we need to
9 take up before we bring the jury in?

10 MS. WETHERTON: Nothing from the State, Your
11 Honor.

12 MR. BELDING: Nothing for the Respondent.
13 Thank you, Your Honor.

14 THE COURT: Okay. You may ask the jury to
15 come in, please.

16 THE BAILIFF: Yes, Your Honor.

17 (WHEREUPON, the jury entered the open court at
18 approximately 9:40 a.m.)

19 THE BAILIFF: Your Honor, the jury is seated.

20 THE COURT: Thank you. Good morning,
21 everyone.

22 THE JURY: Good morning.

23 THE COURT: At this time we're ready to
24 continue on in the trial of this matter. You may call
25 your next witness.

1 MS. WETHERTON: Thank you, Your Honor. The
2 State calls Assistant Solicitor Margaret Fant Bodman.

3 THE CLERK: Place your left hand on the bible,
4 raise your right hand.

5 Do you swear or affirm the testimony you're about
6 to give in this case to be the truth, the whole truth
7 and nothing but the truth, so help you God?

8 THE WITNESS: I do.

9 THE CLERK: Thank you. Have a seat in the
10 witness box. State your name for the record.

11 THE WITNESS: Margaret Bodman, B-O-D-M-A-N.

12 **MARGARET FANT BODMAN,**

13 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

14 **DIRECT EXAMINATION**

15 **BY MS. WETHERTON:**

16 Q. And Assistant Solicitor Bodman, where are you
17 currently employed?

18 A. Here at the Fifth Circuit, Fifth Judicial Circuit
19 Solicitor's Office, specifically Richland County.

20 Q. How long have you been with this office?

21 A. Since 2005.

22 Q. And what types of cases do you handle?

23 A. Violent crimes. The majority of my docket are
24 sexual assaults, both adult victims and child victims.

25 But I do also handle some other violent crimes; murders,

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Margaret Fant Bodman - Direct Examination by Ms. Wetherton

171

1 armed robbery, burglary, things like that. But the bulk
2 of it are sexual assaults.

3 Q. Do you have any other experience dealing with
4 sexual assault cases?

5 A. I do. I graduated law school in 1991 in San
6 Antonio, Texas, and I started working there at the Bexar
7 County District Attorney's Office in 1991 where I
8 handled a variety of cases but some of them were sexual
9 assault cases. I stayed there until '99, when I moved
10 here to Columbia to work at the National Advocacy
11 Center, which is a national training center for
12 prosecutors. And we put on basically programs to help
13 teach how to try a case. And much of that training
14 dealt with prosecuting sexual assault cases. Then when
15 I came here, I started helping out in the prosecution of
16 sexual assault cases. And then in 2006 took on the
17 primary responsibility of handling those hearings.

18 Q. Were you assigned to Mr. Johnson's criminal case
19 back in 2012?

20 A. I was.

21 Q. Are you familiar with this case?

22 A. I am.

23 Q. How were you assigned that case?

24 A. Well, at that time, I guess almost all of the
25 sexual assaults came to me, were assigned to me, so

1 that's how I got it.

2 Q. In preparation for that specific case, what did you
3 do?

4 A. I would have sat down, reviewed the case, decided
5 or tried to figure out what other evidence I needed to
6 get. Make sure that I got the entire records from the
7 Assessment Resource Center regarding their forensic
8 interview, the medical examination, all statements.
9 Once I have a complete file or as much as I know exists
10 out there, we're going to try to attempt to talk to the
11 family, talk to the victim, talk to the defense attorney
12 about potential resolutions.

13 Q. What was Mr. Johnson initially charged with?

14 A. Criminal sexual conduct with a minor in the first
15 degree, so that the victim was under the age of eleven.

16 Q. Was he on probation at the time he was charged with
17 these offenses?

18 A. I'm not -- I can't tell you for sure. I'd have to
19 look at the records, but there was another case that I
20 had involving Mr. Johnson that at some point he pled
21 guilty to that and was placed on probation. Whether he
22 pled before I ever got this CSC charge or after, I'm not
23 exactly sure. I'd have to look at the actual warrants
24 to figure that out. But, yeah, at some point, while the
25 CSC with a minor, the first one, was pending, at some

1 point he pled guilty to another charge and was placed on
2 probation.

3 Q. So what did Mr. Johnson plead to in the case that
4 you were assigned to?

5 A. Well, this initial charge that came in, he
6 ultimately pled to a lewd act. But together with other
7 charges that subsequently came in.

8 Q. Okay. Was this an Alford plea?

9 A. It was.

10 Q. What is an Alford Plea?

11 A. An Alford Plea essentially is the Defendant wants
12 to, (A), take advantage of some type of a deal, some
13 type of bargain. So I'm not making the Defendant plead
14 basically straight up or as charged, that he's getting
15 some type of benefit. So the benefit in this particular
16 case would be a reduction of the charge from the CSC
17 with a minor in the first degree to a lewd act. The
18 second thing is that the Defendant has to basically
19 agree that he would be convicted at trial, that the
20 evidence is substantial and that he likely would be
21 convicted if he went to trial. So he wants to take
22 advantage of the bargain, of the deal, and he knows that
23 he would be convicted at trial of the, of the greater
24 offense.

25 Q. Was this a negotiated plea as to the charges?

1 A. Yes.

2 Q. Was this a negotiated plea as to the sentence?

3 A. Yes.

4 Q. And as a prosecutor, do you have discretion based
5 on the circumstances of the case to make those
6 decisions?

7 A. Absolutely.

8 Q. Can you explain why you agreed to this plea?

9 A. There are a number of reasons. I guess I have to
10 kind of also take into account that additional charges
11 that came in while this one was pending, were charges
12 involving other victims and assessing the facts and the
13 evidence in that case. One, I'm always taking into
14 account the age of the perpetrator. I'm taking into
15 account obviously that -- one of our main goals is that
16 we don't want somebody to re-offend. So we want them to
17 get treatment. We want them to get the opportunity to
18 get treatment. If you give somebody just a straight
19 prison time, no probation, just a straight prison time,
20 there's really no hammer over the Defendant's head to
21 try to get treatment because they're in the Department
22 of Corrections. They've already gotten a prison
23 sentence. But if you give them that probation sentence,
24 then you have that motivation and that hammer over their
25 head to try to get treatment. I'm always taking into

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Margaret Fant Bodman - Direct Examination by Ms. Wetherton

175

1 account having to put children on the witness stand.
2 Number one is just them having to retell and relive the
3 abuse that happened to them. I don't want that to
4 happen. The next thing is when I have a case involving
5 particularly the second set of charges that came in on
6 the Defendant involved multiple victims. And so then
7 you're dealing with, you know, potential -- their
8 memories are going to be different, potential
9 inconsistencies, the pressure, familial pressure they
10 may have not to talk it or to talk about it. The age
11 that they are and how that will affect their memory of
12 the incident and to be able to accurately tell about it.
13 So treatment, the age of the perpetrator, not having to
14 put the victims through a trial and relive it. And the
15 cooperation of the family members, as well as just the
16 evidence, you know, itself. There are just multiple,
17 multiple factors that I want to get a conviction and not
18 have to go to trial with all those factors.

19 Q. Did you review the transcript of the plea prior to
20 coming to court today?

21 A. I did.

22 Q. Okay. With respect to the Alford plea, did he take
23 any responsibility on the record as to these acts?

24 A. He did. He apologized to the family.

25 Q. And were the terms of his probation clearly

1 explained to him on the record?

2 A. It was.

3 Q. Did you consider dismissing the charges in this
4 case?

5 A. No.

6 Q. Why not?

7 A. There was sufficient evidence to go forward. In
8 reviewing all the forensic interviews of the children,
9 there clearly was enough to go to trial. And that's
10 essentially why it ended up being, you know, a
11 resolution to a guilty plea because they're assessing
12 the facts just like I am and deciding what the risk is
13 in going to trial and that the evidence is substantial.
14 So in this case, we were, we were able to reach that
15 resolution without having to put all of these kids
16 through a trial.

17 Q. And as a prosecutor and attorney are you bound by
18 ethical guidelines?

19 A. Yes.

20 Q. And if you believe the crime hadn't occurred, are
21 you ethically bound to dismiss those charges?

22 A. I would dismiss the charges, yes.

23 MS. WETHERTON: Offered from cross-
24 examination.

25 THE COURT: Any cross.

1 MR. BELDING: May it please the Court.

2 CROSS-EXAMINATION

3 BY MR. BELDING:

4 Q. Good morning, Ms. Bodman?

5 A. Good morning.

6 Q. I only have a couple of questions. I think you
7 explained pretty well why you were willing to negotiate
8 this case down. What can you get in South Carolina,
9 what's the maximum possible sentence for criminal sexual
10 conduct in the first degree?

11 A. Life.

12 Q. And we had three of those pending; correct?

13 A. Yes. No ---

14 Q. Okay. And ---

15 A. Yes, sir. I'm sorry.

16 Q. And you also had an assault with intent to commit
17 criminal sexual conduct that you dismissed; correct?

18 A. In the second degree, right, which would carry up
19 to twenty.

20 Q. Okay. And as I believe you stated or at least I
21 got this out of the testimony, I mean, it's your duty to
22 protect the public, the victims, the family; that's your
23 job?

24 A. No, it's not.

25 Q. What is your job?

1 A. My job is seek justice. Hopefully, we can do all
2 that we can to protect the community. But I -- we all
3 have different roles. And law enforcement is to
4 protect, mine is to get a just sentence, you know, if I
5 have evidence, sufficient evidence, to prove that this
6 person committed a crime. Some cases, yeah, that means
7 locking somebody away for life. And sometimes, you
8 know, it means that I have to assess my case. And I may
9 have to dismiss a case. And that violent perpetrator is
10 on the street. I can't, I can't go through this job and
11 ethically, you know, protect the community and ethically
12 prosecute cases. They are two totally different things.

13 Q. Okay. So my understanding is your job is to see
14 that justice is done?

15 A. Yes.

16 Q. Okay. And in this case, justice was done by a plea
17 to lewd act to time served?

18 A. Based upon the evidence and the factors, yes.

19 Q. Okay. Also you said two things. One, you said you
20 wanted him to get treatment. Okay. Well, he'd been in
21 jail for two and a half years.. Now, it's my
22 understanding they have no sex offender treatment of any
23 kind at the Richland County jail. Is that your
24 understanding too?

25 A. I don't know of any sex offender treatment. I

1 think they have a lot of different programs there but

2 not specifically sex offender programs.

3 Q. Okay. All right. Where were you thinking this
4 treatment would take place when he pled to time served?

5 A. It would be a condition -- it wasn't totally --
6 time served is he walked out of the door and nobody has
7 any power over anything that he does. This was a
8 fifteen year sentence, the maximum on a lewd act,
9 suspended to the maximum amount of probation that a
10 person can be on, which is five years. So the maximum
11 sentence for lewd act, the biggest hammer over his head
12 and motivation to comply with treatment, suspended to
13 the maximum amount of time that we could, which was five
14 years. That was the sentence. It was not a time-served
15 sentence.

16 Q. Do you recall the words time served ever coming up
17 in this plea when you reviewed the transcript this
18 morning?

19 A. Right. Fifteen years suspended to time served,
20 followed by five years probation.

21 Q. Probation, okay. That's fine. Now, essentially,
22 so as soon as he got set up with probation, he was
23 released?

24 A. With very substantial conditions. Sex offender
25 conditions of probation are much more intense than

1 regular probation. One of the things that they have to
2 do is go through treatment.

3 Q. Okay. And that was not something that was ordered
4 by the court. That was something that would have come
5 out of probation; right?

6 A. The probation department, correct.

7 Q. All right. Well, the other thing is Ms. Wetherton
8 -- and I don't really want to split hairs too much. But
9 Ms. Wetherton said you read this transcript and that he
10 apologized to the family; is that correct?

11 A. He did.

12 Q. Okay. I'm going to hand you the transcript, page
13 27, starting on line 18. Would you read that paragraph
14 to yourself very carefully and then I'm going to ask you
15 a question about it.

16 A. Okay.

17 Q. Did he apologize directly to the family?

18 A. No.

19 Q. Okay.

20 MR. BELDING: No further questions, Your
21 Honor. Thank you.

22 THE COURT: Any redirect?

23 MS. WETHERTON: No. No redirect, Your Honor.

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

25 Any further witnesses?

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Margaret Fant Bodman - Cross Examination by Mr. Belding

181

1 MS. WETHERTON: At this time, Your Honor, the
2 State would rest.

3 THE COURT: Do we have any legal issues we
4 need to take up?

5 MS. WETHERTON: Not from the State, Your
6 Honor.

7 MR. BELDING: Your Honor, may we approach?

8 THE COURT: Yes, sir.

9 (WHEREUPON, a bench conference was held off the
10 record.)

11 THE COURT: Ladies and gentlemen, we do have
12 some legal issues which we need to take outside of your
13 presence. I'm going to ask that you retire to the jury
14 room. I ask that you not discuss this matter.
15 Certainly, you've not heard all the evidence. And even
16 if you have heard all the evidence, you are still not in
17 a position to be able to determine the facts at this
18 particular time. So we'll bring you back shortly as
19 soon as we're able to resolve these legal issues. Thank
20 you.

21 (WHEREUPON, the jury exited the open court at
22 approximately 9:57 a.m.)

23 THE COURT: Yes, sir, Mr. Belding.

24 MR. BELDING: Your Honor, at this time
25 Respondent would like to move for a directed verdict.

1 In Professor Burke's testimony, he expressed an opinion
2 that he expressed a lot of evidence about things that
3 would not show that Mr. Daquan Johnson is, in fact, a
4 sexually violent predator. A lot of his tests like the
5 Stable-2007 showed a moderate risk of only thirteen
6 point two percent. The Acute-2007 was two point four
7 percent. And he even testified that it was his
8 understanding that it had to be over fifty percent in
9 order for him to meet the likelihood requirement, that
10 he'd been told that by a court. And so he gave, what I
11 think is pretty clearly a high Static-99R score to try
12 to get over fifty percent. He even said he elevated the
13 score. You know, Ms. Bodman's testimony essentially is
14 that she agreed that justice was done by allowing him to
15 plead to a lewd act. Lewd act is an offense that is
16 listed as a predicate act in the Sexual Violent Predator
17 Act. But not all lewd acts makes someone a sexually
18 violent predator. All she said was she thought that
19 justice was done by allowing him to plead to three lewd
20 acts and essentially getting out on time served and
21 going on probation. I think that if there was any
22 question that he was a sexually violent predator, you
23 don't put him out in the community, even on probation.
24 So on those grounds, I would move -- I don't the
25 testimony carries the burden of proof beyond a

1 reasonable doubt that the State has to prove. And I
2 would move for a directed verdict on those grounds.

3 THE COURT: Any response from the State?

4 MS. WETHERTON: Yes, Your Honor. Thank you.
5 Under the Sexually Violent Predator Act, I just have to
6 show, put before the jury evidence, one, that there is a
7 sexually violent offence. He has three. We have copies
8 of the certified convictions that we brought into
9 evidence. We have to show a mental abnormality. Dr.
10 Burke testified that he has pedophilia. And graded on
11 two test he said that he was a low risk to re-offend.
12 But with the Acute, it's a low risk for forty-five days.
13 It's not over the course of the rest of his life. He's
14 actually considered at a high risk to re-offend. The
15 elevated score -- he did not elevate the Static-99R as
16 was said. Mr. Johnson elevated the score based on his
17 history of what he did. Whether or not the jury
18 believes Mr. Burke's testimony, that's a matter of
19 credibility. But I have to use all evidence in order to
20 meet my burden.

21 THE COURT: And as you well know, at the
22 directed verdict stage, I'm only concerned with the
23 existence of evidence, not what weight to give it. And
24 so based upon the testimony that's been presented, there
25 has been evidence that there was a conviction of a

1 sexually violent offense. There is evidence of a mental
2 abnormality or personality disorder. And with respect
3 to the issue that that disorder makes him likely to
4 engage in acts of sexual violence if not confined in a
5 secure facility, there is evidence from Dr. Burke that
6 he does meet that criteria and that he would need to be
7 -- that he has difficulty being able to control his
8 conduct.

9 And so, again, as the State pointed out, it's up to
10 the jury to determine what weight to give all the
11 testimony. And so since I'm not concerned with the
12 weight to give it, just the existence of the evidence,
13 I'll deny your motion at this time.

14 MR. BELDING: Thank you, Your Honor.

15 THE COURT: Is there anything else that we
16 need to take up before we continue on?

17 MS. WETHERTON: Nothing from the State, Your
18 Honor.

19 MR. BELDING: No. Do you have any questions
20 from me, Your Honor?

21 THE COURT: The only thing I wanted to discuss
22 is that I notice that Mr. Johnson is in restraints, leg
23 restraints. And while I understand that yesterday the
24 testimony or the comments to the jury was that he is, in
25 fact, incarcerated. He's certainly not in the

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Margaret Fant Bodman - Cross Examination by Mr. Belding

185

1 appearance of being incarcerated at this particular
2 time. So I need to know what the position was with
3 respect to if he decides to testify in those leg
4 restraints.

5 MR. BELDING: And fair enough. If we get to
6 the point and I have -- we have not made that decision
7 yet, but that's coming soon, if Mr. Johnson is going to
8 take the stand, I would ask for a short recess so that
9 he could be up there either with restraints on where the
10 jury wouldn't see it or whatever the law enforcement
11 would be comfortable with. And I appreciate the concern
12 on that.

13 THE COURT: And I guess we'll get to that
14 point when we get there. If there's nothing else we
15 need to take up at this time, we can bring the jury
16 back. Are we ready?

17 MS. WETHERTON: Nothing from the State, Your
18 Honor.

19 MR. BELDING: Thank you, Your Honor. That's
20 fine.

21 THE COURT: We're ready to bring the jury back
22 in.

23 (WHEREUPON, the jury entered the open court at
24 approximately 10:03 a.m.)

25 THE BAILIFF: Your Honor, the jury's present.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison - Direct Examination by Mr. Belding

186

1 THE COURT: At this time we're now ready to
2 hear from the Defense. Mr. Belding, you may call your
3 first witness.

4 MR. BELDING: Thank you, Your Honor. I'd like
5 to call Dr. Kimberly S. Harrison.

6 THE CLERK: Place your left hand on the bible,
7 raise your right.

8 Do you swear or affirm the testimony you're about
9 to give in this case to be the truth, the whole truth
10 and nothing but the truth, so help you God?

11 THE WITNESS: Yes, I do.

12 THE COURT: Have a seat and state your name
13 for the record.

14 THE WITNESS: Kimberly Harrison, H-A-R-R-I-S-
15 O-N.

16 MR. BELDING: May it please the Court. Thank
17 you, Your Honor.

18 KIMBERLY S. HARRISON,

19 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MR. BELDING:

22 Q. Dr. Harrison, what is your occupation?

23 A. I'm a clinical and forensic psychologist.

24 THE COURT: I'm sorry. Dr. Harrison, if you
25 would speak up a little bit, please. I can barely hear

1 you.

2 DR. HARRISON: Sure. Is that better?

3 THE COURT: Yes, thank you.

4 Q. Okay. I'm sorry, you are a what?

5 A. Clinical and forensic psychologist.

6 Q. All right. Where were you educated?

7 A. I received my Bachelor's Degree in Psychology from
8 Texas A&M University. I then received a Master's Degree
9 in Psychology from the University of North Texas. And
10 Ph.D. in Clinical Psychology also from the University of
11 North Texas..

12 Q. Is that the college that Dr. Richard Rogers taught
13 at?

14 A. That's correct.

15 Q. Is North Texas -- is that the premiere sexual
16 offender psychology school in the country?

17 A. It's generally regarded to be a top-notch program
18 in forensic and clinical psychology in general, yes.

19 Q. Okay. And when did you graduate? When did you get
20 your doctorate?

21 A. In 2007.

22 Q. Okay. After that, where did you begin to work?

23 A. Well, as part of my doctoral training, I did a
24 year-long internship at Atascadero State Hospital, which
25 is the maximum security forensic hospital in California.

- 1 So in that capacity I did a lot of evaluations and
2 assessment evaluations of different types of people
3 involved with the criminal justice system. So people
4 that had been found not guilty by reason of insanity,
5 incompetent to stand trial, as well as sexually violent
6 predators. From there, I moved to Minnesota where I
7 completed a year-long Post-doctoral Fellowship in
8 Clinical Forensic Psychology. And from there, I moved
9 to South Carolina where I worked with the Department of
10 Mental Health as a chief psychologist in their forensic
11 evaluation service.
- 12 Q. All right. And when did you come to South Carolina
13 to work for DMH?
- 14 A. That would have been 2008.
- 15 Q. Okay. And are you still working with them?
- 16 A. I'm not. I actually quit DMH in February of this
17 year, February 2014, to move back to Texas.
- 18 Q. Is that where you were from?
- 19 A. Yes, it is.
- 20 Q. Is Atascadero east of San Francisco in California,
21 out over the bay?
- 22 A. No, it's actually on the central coast near San
23 Luis Obispo, halfway between L.A. and San Francisco.
- 24 Q. Is there where Charlie Manson was?
- 25 A. No. He's actually out at Corcoran.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison - Direct Examination by Mr. Belding

189

1 Q. Okay. Now, starting in 2008 how many sexually
2 violent predator forensic evaluations have you done
3 while you were at the Department of Mental Health?

4 A. I did a couple of different types of evaluations
5 for sexually violent predators. I did a pre-commitment
6 evaluation, so that's what we'll be talking about today
7 with Mr. Johnson. And then I also do annual review
8 evaluations, which are done yearly on the sexually
9 violent predators that have been committed to the
10 Department of Mental Health. So combining those two,
11 it's probably between a hundred and a hundred and fifty.

12 Q. All right. Was Mr. Johnson one of your last ones?

13 A. He was actually my very last one, yes.

14 Q. Okay. All right. And have you had to testify in
15 court about those evaluations before?

16 A. Yes, I have.

17 Q. And on those occasions, were you called as an
18 expert witness?

19 A. Yes.

20 Q. Were you usually called by the Attorney General's
21 office as an expert witness?

22 A. I've been called by both sides.

23 Q. Okay. And on those occasions, were you always
24 qualified by the court to testify as an expert witness?

25 A. Yes.

1 Q. All right.

2 MR. BELDING: Your Honor, at this time I'd
3 move to have Dr. Harrison qualified as an expert in
4 forensic psychology.

5 THE COURT: Any voir dire?

6 MS. WETHERTON: No objection, Your Honor.

7 THE COURT: Without objection, I'll find her
8 so qualified.

9 MR. BELDING: Thank you.

10 Q. Now, Dr. Harrison, in this case when did you
11 evaluate Daquan Johnson?

12 A. I interviewed Mr. Johnson on October 15th, 2013.

13 Q. And how long was your interview with him?

14 A. I believe I spent about an hour and twenty minutes
15 with him.

16 Q. Where did that interview take place?

17 A. That was at the Department of Mental Health's
18 forensic evaluation service.

19 Q. The Crafts Farrow?

20 A. Yes.

21 Q. Okay. Did you review any records prior to talking
22 with Mr. Johnson?

23 A. Yes, I did.

24 Q. Okay. What kind of records did you review?

25 A. I reviewed all of the available court documents,

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison - Direct Examination by Mr. Belding

191

1 the sentencing sheets, the indictments. All of the
2 legal records, the police reports, the victims'
3 statements, anything else regarding the arrests. I
4 reviewed his rap sheet or his criminal history record.
5 I reviewed records from the Department of Corrections
6 during his stay there. I reviewed records from the
7 Department of Juvenile Justice. Some school records
8 from Richland County School District I. Records from
9 the jail, Alvin S. Glenn Detention Center, from William
10 S. Hall Psychiatric Institute. There were several
11 previous forensic evaluations that had been conducted by
12 the Department of Mental Health as well as the
13 Department of Disabilities and Special Needs. I
14 reviewed all of those. There were some records from the
15 Columbia Area Mental Health Center, records from
16 Richland Springs. And I believe that about -- that's
17 all the records.

18 Q. Did you talk to Mr. Johnson about his background?

19 A. I did.

20 Q. What did you learn about Mr. Johnson?

21 A. Basically, I do a full historical interview,
22 everything from his childhood, who he grew up with, what
23 his childhood was like. His educational history, any
24 problems he had in school, behavior problems. His
25 medical history, substance use history, his mental

1 health history. His relationship and sexual history.

2 And then his legal history.

3 Q. Did you talk with him any about his relationship

4 with his mother?

5 A. Yes, that did come up.

6 Q. Okay. Is there anything interesting that you

7 learned about his relationship with his mother?

8 A. I guess the main thing that came up there was that

9 his mother had some pretty serious health problems. I

10 think she'd actually had both of her legs amputated.

11 And so he spent so much of his time helping to care for

12 her.

13 Q. Do you know whether or not she's still alive?

14 MS. WETHERTON: Objection. I don't -- excuse

15 me. It's a relevancy argument. I don't know how this

16 would be important to her opinion of whether or not he

17 meets the criteria of a sexually violent predator.

18 MR. BELDING: I just wanted to know. She said

19 his background is ---

20 THE COURT: I think there was some testimony

21 about it yesterday, so I'll allow it in.

22 MR. BELDING: Thank you, Your Honor.

23 Q. Briefly, do you know whether his mother is still

24 alive or not?

25 A. I believe she passed away.

1 Q. In your experience, how would that affect Mr.

2 Johnson?

3 A. Well, at the time I saw him, his mother was still
4 living. So this wasn't something that we talked about
5 obviously at that time. But if Mr. Johnson felt close
6 to his mother then he likely experienced grief, a period
7 of mourning, which would include sadness, cheerfulness,
8 a recollection of their time together, that would all be
9 very common.

10 Q. Thank you. Do you know what his educational
11 background was?

12 A. He said that he completed the eleventh grade. And
13 he actually dropped out of the twelfth grade, according
14 to him, in order to help take care of his mother.

15 Q. Did he seem -- did he understand your questions?

16 A. Yes, he seemed to. He responded appropriately.

17 Q. Okay. Did he say anything about what kind of jobs
18 he'd had?

19 A. His employment history was fairly brief. He said
20 his longest job was a summer job for about three months.
21 He worked at Goodwill sorting and tagging clothing
22 donations. He also worked at a fast food restaurant
23 during that same period of time. He worked briefly at
24 the Greyhound Bus Station carrying luggage. And other
25 than that, he said he'd worked for one day at a farm,

1 but quit after that one day.

2 Q. Okay. Now, as far as his medical or physical

3 history, was there anything remarkable about that?

4 A. He was evidently diagnosed with high blood pressure

5 and diabetes, Type II diabetes. Other than that, the

6 only other thing that was significant was that when he

7 was two years old, he fell out of a window and hit his

8 head. But the records that I had said that he had a

9 normal head CT scan, so there didn't appear to be any

10 serious damage as a result of that fall.

11 Q. Okay. Thank you. Now, you did say you reviewed a

12 lot of his mental health records; correct?

13 A. Correct.

14 Q. All right. And then, of course, you had your own

15 observations, too. What can you tell us about his

16 mental health history?

17 A. Mr. Johnson showed some behavior problems pretty

18 early on. In an earlier report that had been conducted,

19 his mother reported that he started taking Ritalin at

20 the age of four. Ritalin is a medication used to treat

21 attention deficit hyperactivity disorder in children.

22 He, I guess, set fires on two occasion, once in their

23 apartment and once in the school bathroom. He actually

24 started going to the mental health center when he was

25 three years old because of behavior problems. He

1 received a number of diagnoses during his childhood,
2 everything from bipolar disorder to attention deficit
3 hyperactivity disorder. At one point he was diagnosed
4 with mental retardation, which would be low intellection
5 functioning. He exhibited some impulsive stealing
6 behavior. Never really violent or aggressive towards
7 other people. It was mainly property destruction,
8 stealing, those types of things.

9 Q. Did you talk to him any about his relationship
10 history?

11 A. I did.

12 Q. Okay. What did you find out about that?

13 A. Let me see. He said he had a girlfriend when he
14 was a teenager. The girlfriend was his first sexual
15 partner. He said he first had sexual intercourse when
16 he was eighteen years old. He said he'd had two sexual
17 partners in his life. One was that first girlfriend and
18 then his fiancé. At the time that interviewed him, he
19 did say that he had fiancé. He's never married and has
20 no children.

21 Q. Okay. Now, you also reviewed his legal history;
22 correct?

23 A. Yes.

24 Q. Okay. His convictions?

25 A. Correct.

1 Q. Who provided all of those records to you?

2 A. Those all came from the Attorney General's office.

3 Q. Okay. Did you find that he had committed sexual
4 offenses?

5 A. Yes.

6 Q. And what were those offenses?

7 A. Well, in 2007 a complaint was file alleging -- by a
8 woman -- that Mr. Johnson had sexually assaulted her
9 five-year-old son. According to the petition, pursuant
10 to the Sexual Violent Predator Act, which is drafted by
11 the Attorney General's office, that charge was
12 dismissed. I attempted to inquire about the reason for
13 dismissal and I was told, again, by the Attorney
14 General's office that charge had been dismissed, that
15 they did not know the reason why. I came to find out
16 just yesterday that that was actually a conviction. So
17 that was new information that I was not privy to prior
18 to yesterday. So that was part of his conviction in
19 2012. In 2012, as has been stated earlier, he was
20 charged with criminal sexual conduct and assault with
21 intent to commit criminal sexual conduct and he entered
22 an Alford plea to three counts of lewd act on a child.
23 Q. Okay. And as we have now cleared up, one of the
24 three lewd acts goes back to 2007; correct?

25 A. That's my understanding at this point. I -- yeah.

1 Q. Have you seen State's Exhibit 1?

2 A. I'm not sure if that's been shown to me.

3 MR. BELDING: Is it still up there, Your
4 Honor?

5 THE COURT: It's right there.

6 MR. BELDING: Yes.

7 Q. I hand you State's Exhibit 1. It's an entire
8 package, Dr. Harrison.

9 A. Okay. Sure.

10 Q. If you look at it you'll note that one of the
11 indictment numbers is from 2007, matches one of the lewd
12 acts sentencing sheets. I think it's 2128, the last one
13 ---

14 A. Okay. Yes. So this one was from 2007, right.

15 Q. Do you have any knowledge of why a case that was
16 brought in 2007 would not be brought to court and
17 involved in a guilty plea for over five years?

18 A. I don't know.

19 Q. Okay. Now, was it your understanding that he pled
20 to essentially a sentence of time serviced with five
21 years probation?

22 A. That's my understanding, yes.

23 Q. Okay. Now, did you conduct any actuarial tests of
24 your own on Mr. Johnson?

25 A. I did, yes.

1 Q. Okay. What kind of tests did you give him?

2 A. I completed the Static-99R, which Dr. Burke
3 described yesterday. It's an actuarial risk assessment
4 instrument. It's based on research looking at tens of
5 thousands of sex offenders all over the world. And what
6 are some of those risk factors that help predict who's
7 going to sexually re-offend and who's not.

8 Q. Okay. What score did you give him that was in your
9 report?

10 A. The score that I gave him that was in my report,
11 and this was before yesterday, before this new
12 information came out, was a score of four. That score
13 of four is considered a moderate high-risk to sexually
14 re-offend. Of other sex offenders who scored a four,
15 fifteen percent of them went on to re-offend over a
16 course of five years. And twenty-two, about twenty-
17 three percent of them sexually re-offended over ten
18 years. So a score of four is associated with a
19 recidivism rates of fifteen percent over five years,
20 twenty-three percent over ten years.

21 Q. Okay. Now, if you add in what was not clear to you
22 when you did this evaluation, if you add in that he was
23 also charged with and pled during an Alford plea to
24 something that happened in 2007, how would that affect
25 his Static-99 score?

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison - Direct Examination by Mr. Belding

199

1 A. Well, at this point, I don't know, because I don't
2 have information about that victim in that 2007 offense.
3 It's possible that his score could move up to a five or
4 even a six. So at this point, I can't offer a definite
5 static score given the lack of information that I have
6 about this conviction that just fell into my lap
7 yesterday.

8 Q. I understand. I don't mean to put you on the spot.
9 Do you have those scoring papers with you, by any
10 chance?

11 A. I have the sheet that I scored on Mr. Johnson, yes.

12 Q. Well, what I'm going to ask you is if he were to
13 move up to, say, to a six. What would be the predictive
14 actuarial numbers be on that. Do you have that with
15 you?

16 A. I do. If you'll give me just a second here to find
17 it.

18 Q. That's no problem.

19 A. No, that's okay. I don't have all those numbers
20 memorized. Okay. So as I said before, when I
21 originally scored him as a four, the five-year
22 recidivism rate was fifteen point four percent. If his
23 score is a five, he would be in a group of people whose
24 recidivism rate is nineteen point six percent. If his
25 score was a six, he would be in a group of people whose

1 recidivism rate is twenty-four point seven percent over
2 five years.

3 Q. Okay. Let me ask you something. Did you review --
4 as part of the information given to you by the Attorney
5 General's office, did you review Mr. Johnson's SCDC
6 records?

7 A. Yes, I did.

8 Q. Okay. Yesterday there was some testimony about an
9 incident at SCDC from Professor Burke that led him to
10 diagnose Mr. Johnson with exhibitionism. Did you hear
11 that testimony?

12 A. Yes, I did.

13 Q. Okay. Did Mr. Johnson create -- excuse me. Did
14 Mr. Johnson commit an offense at the Department of
15 Corrections that involved him engaging in exhibitionism?

16 A. According to the records that I reviewed, his one
17 infraction in SCDC was refusing to obey orders by
18 declining to enter his cell.

19 Q. Okay. Now, did you review any records from the
20 Alvin S. Glenn Detention Center, the county jail here in
21 Richland County?

22 A. Yes, I did.

23 Q. Okay. Was there any exhibitionism or masturbation
24 incident that took place there?

25 A. Yes.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison - Direct Examination by Mr. Belding

201

1 Q. Okay. So you were familiar with this reported
2 incident; correct?

3 A. Yes. According to my records, it occurred in the
4 jail, not in prison.

5 Q. Okay. So Professor Burke was just mistaken about
6 that, correct, about where it took place?

7 A. I believe so.

8 Q. How did that factor into your opinion about Mr.
9 Johnson, this incident at the Richland County jail?

10 A. Well, this incident allegedly happened on July 8th,
11 2012. So it was during the time that he was waiting for
12 these charges to be adjudicated. I did not factor it
13 into my scoring of the Static-99. And the reason for
14 that is because the Static-99 is pretty clear that there
15 has to be some sort of punishment or consequences or
16 something for the alleged behavior in order for it to
17 count. If this had happened in prison, in SCDC, there's
18 usually some sort of disciplinary review panel, sort of
19 like a quasi judicial or court system, where the -- if
20 there's an infraction then some evidence is presented
21 and then consequences are given for the behavior. My
22 understanding at the jail is that there's not sort of
23 this review panel, this sort of oversight or quasi
24 judicial system to determine if something actually
25 happened or not. So I could not take these jail records

1 and use that as a the new index offense, essentially.

2 But the manual is clear that if it's unclear, then you

3 have to go to the person the benefit of the doubt. And

4 I try to follow the rules of the scoring manual.

5 Q. Thank you, Dr. Harrison. Also, as part of your

6 evaluation, did you interview any other people? You

7 listed someone under collateral interview. Would you

8 mind telling us what that was for?

9 A. Sure. Because usually when we evaluate

10 individuals, they've been in prison and we see them as

11 they're finishing the end of their prison sentence. And

12 so in those cases we tend to have a lot of prison

13 records about how they've been doing recently. They're

14 oftentimes in treatment, in sex offender treatment at

15 the end of their sentence. And so I can talk to or

16 review records from their treatment provider, just to

17 get an idea of how they're doing now, basically. In Mr.

18 Johnson's case, I wasn't able to do that because he

19 wasn't coming out of prison. He was coming out of the

20 jail. And so I called a woman who's the director of the

21 halfway house where Mr. Johnson had resided for a while,

22 just because she was a person who could give me some

23 information just about his more current functioning.

24 Q. Okay. Did you find or hear anything significant

25 about Mr. Johnson that aided you in forming your

1 opinion?

2 A. Ms. Scarborough had nothing but positive things to
3 say about Mr. Johnson, said that he follows the rules.
4 He helped out around the house and she did say that she
5 would gladly allow him to live there again.

6 Q. Okay. Now, did you make any findings in your
7 report about Mr. Johnson's current mental status?

8 A. Yes. I went through a brief mental status exam
9 with Mr. Johnson. He was not demonstrating any serious
10 symptoms of mental illness at the time that I saw him.
11 He appeared calm and he was cooperative with my
12 evaluation.

13 Q. Did you discuss with him any risk factors for
14 sexually re-offending?

15 A. We did. In my evaluation, Mr. Johnson denied
16 having ever committed a sex offense. And, therefore, he
17 said that there is no likelihood of him ever committing
18 a sex offense in the future. That he had no risk
19 factors that would lead him to commit a sex offense.

20 Q. Did you ask him about him having a record?

21 A. We did. Yeah. We talked about his past
22 convictions and involvement.

23 Q. But did you know at the time that he entered
24 essentially an Alford plea?

25 A. I'm not sure at that time if I knew it was an

1 Alford plea or if it was a guilty plea.

2 Q. Okay. Did you know at such time you did the
3 report?

4 A. I'm not sure.

5 MR. BELDING: One moment, Your Honor.

6 A. I believe in my report I did say that he pled
7 guilty. And that's according to the petition pursuant
8 to the Sexually Violent Predator Act.

9 Q. Okay. And, in fact -- that's right. That's, in
10 fact, the petition that was put together by the Attorney
11 General's office, that you read said he pled guilty.
12 But, in fact, it was he entered an Alford plea; correct?

13 A. Yes. That's what I've learned. Yes.

14 Q. Okay. All right. Now, based on your review of all
15 the documents, your interviews with several people and
16 including Mr. Johnson, were you able to come to a
17 diagnosis of Mr. Johnson's mental state?

18 A. Yes. I did diagnose Mr. Johnson with pedophilia.
19 Sexually attracted to both non-exclusive type. So as
20 was explained yesterday, pedophilia means basically a
21 sexual attraction to children, recurrent sexual
22 fantasies, urges, or behaviors directed towards
23 prepubescent children. And his history is consistent
24 with sexually attracted to both boys and girls, non-
25 exclusive type, meaning that he also reports a sexual

1 attraction to adult females.

2 Q. Okay. I didn't hear anything about exhibitionism.

3 Did you make a diagnosis of exhibitionism?

4 A. I did not.

5 Q. In your professional medical opinion, does he meet

6 the criteria for a diagnosis of exhibitionism based on

7 what you've seen?

8 A. In my opinion -- well, and according to the

9 diagnostic and statistical manual, which is what we base

10 or diagnoses on, for someone to diagnose a paraphilia,

11 which is an umbrella term for things like pedophilia,

12 exhibitionism, it has to be a pattern. So this one

13 incident in the jail does not equal a pattern to me. So

14 is it possible that he has exhibitionism? Yes. Based

15 on the evidence I had could I diagnose it? No.

16 Q. Okay. Thank you. Were you, at the conclusion of

17 your report, able to express a professional medical

18 opinion about Mr. Johnson and whether or not he was a

19 sexually violent predator?

20 A. Yes. I did offer an opinion in my report.

21 Q. Did you find that Mr. Johnson -- you found that he

22 had a mental condition; correct?

23 A. That's correct.

24 Q. And, of course, he has the requisite sexual offense

25 convictions; correct?

1 A. Correct.

2 Q. Okay. What was your professional medical opinion
3 when you wrote this report?

4 A. When I wrote this report, obviously not having some
5 very important information that I now have, my opinion
6 at that time was that he did not meet the criteria to be
7 committed as a sexually violent predator.

8 Q. And the information that's different, the only
9 piece of information different is that you were not
10 aware that the 2007 charges were rolled in and pled at
11 the same time in 2012 under the Alford plea; correct?

12 A. That's correct. I was informed that those charges
13 -- that that charge was dismissed.

14 Q. Okay. If you add in that conviction and raise the
15 Static-99 score to either five or six, if we take six,
16 which is the worst case scenario, then Mr. Johnson would
17 have, as I think you have stated, a twenty-four point
18 seven percent likelihood of committing a future sexually
19 violent offense. Is that within five years or ten?

20 A. I believe that was the five year.

21 Q. Five year? Okay.

22 A. And just to be clear, you can't directly apply
23 those percentages to an individual. Those percentages
24 are based on group norms. So everyone that has a score
25 of a six, you take all those people, twenty-four point

1 seven percent of them recommitted a sexual offense. So
2 it may sound like I'm splitting hairs or being very
3 specific with semantics here, but you can't say that an
4 individual has this particular likelihood. We're
5 saying, of these people with this same score, twenty-
6 four point seven of them committed another sex offense.
7 Q. Well, I mean, so the flip side of that is is that
8 seventy-five point three percent don't re-offend?

9 A. Right.

10 Q. So using the term Professor Burke used yesterday,
11 the vast majority, would you consider that the vast
12 majority of people in the same category, if Mr. Johnson
13 was a six, do not sexually re-offend within ten years?

14 A. I'm not sure if that qualifies as a vast majority,
15 but it's a majority.

16 Q. Is seventy-five percent bigger than twenty-five
17 percent?

18 A. I believe it is. Yes.

19 Q. Okay. Do you have a -- this is the professional
20 medical opinion that you stated in your report?

21 MS. WETHERTON: Objection. She doesn't have a
22 medical degree.

23 THE COURT: Rephrase the question. Sustain
24 the objection.

25 MR. BELDING: Let me rephrase that.

1 Q. In your professional opinion as of February the
2 20th of 2014, it was your stated opinion, as I
3 understand, that Mr. Johnson did not meet the criteria
4 as a sexually violent predator; correct?

5 A. That was my opinion, yes.

6 Q. Is that still your opinion today?

7 A. At the current time, I don't feel like I can offer
8 an opinion one way or the other. Given this new
9 information, the fact that I still have questions about
10 the victim in that case, and some other information that
11 I would need in order to be able to come to a Static
12 score. If this information had come to light earlier, I
13 would have been able to ask Mr. Johnson some more
14 questions about it, been able to do more research into
15 it and get some more information. At this point, I do
16 not feel like I can offer an opinion one way or the
17 other, given this lack of information.

18 Q. Thank you.

19 MR. BELDING: No further questions, Your
20 Honor.

21 **CROSS-EXAMINATION**

22 **BY MS. WETHERTON:**

23 Q. Dr. Harrison, do you currently conduct any
24 evaluations pursuant to the Sexually Violent Predator
25 Act in South Carolina or any other states?

1 A. No, I do not.

2 Q. Do you currently offer sex offender treatment?

3 A. No, I do not.

4 Q. What is your practice at this time?

5 A. I'm in private practice in Austin, Texas, focusing
6 on mainly forensic evaluations and other general types
7 of psychological evaluations.

8 Q. How many individuals did you evaluate for pre-
9 commitment while working at the Department of Mental
10 Health?

11 A. I believe I evaluated about twenty-four or twenty-
12 five.

13 Q. Okay. And what percentage did you not recommend to
14 the SVP Program?

15 A. Did I not recommend? Probably between sixty and
16 seventy percent.

17 Q. Isn't it true that of all the individuals that you
18 evaluated in 2013, you did not recommend one person for
19 commitment?

20 A. I don't know. I just have my total numbers. I
21 didn't break it down by year.

22 Q. So you're not sure?

23 A. I said I'm not sure. I didn't break it down by
24 year. I just have the total numbers.

25 MS. WETHERTON: Your Honor, permission to

1 approach?

2 THE COURT: Yes, ma'am.

3 Q. I'm going to show you your report. And what is the
4 date on that report?

5 A. The date of the report is July 15th, 2013.

6 Q. Can you flip to the last page, please?

7 A. (Witness complied).

8 Q. Is that your signature on the last page?

9 A. Yes, it is.

10 Q. Can you read to yourself the last sentence?

11 A. Okay.

12 Q. Did you recommend that person for a commitment?

13 A. No, I did not.

14 Q. All right.

15 MS. WETHERTON: Permission to approach, Your
16 Honor?

17 THE COURT: Yes.

18 Q. Can you please tell the jury the date of that
19 report?

20 A. This report is dated September 27th, 2013.

21 Q. And can you flip to the last page.

22 A. (Witness complied)

23 Q. Is your signature on the last page of the report?

24 A. Yes, it is.

25 Q. Can you read the last sentence to yourself?

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison - Cross Examination by Ms. Wetherton

211

1 A. Yes.

2 Q. Did you recommend that person for commitment?

3 A. No, I did not.

4 MS. WETHERTON: Permission to approach, Your
5 Honor?

6 THE COURT: Yes.

7 MR. BELDING: Your Honor, may I -- Nicole, do
8 I need copies of any of these?

9 MS. WETHERTON: No, they're not going to be
10 admitted and I'm not going to talk about the content of
11 the report.

12 MR. BELDING: Okay.

13 Q. Can you please tell the jury the date of that
14 report?

15 A. This report is dated January 14th, 2013.

16 Q. Can you flip to the last page of the report?

17 A. (Witness complied).

18 Q. Is your signature on the last page of the report?

19 A. Yes, it is.

20 Q. Can you read the last sentence to yourself?

21 A. Yes.

22 Q. Did you recommend that person for commitment?

23 A. No, I did not.

24 MS. WETHERTON: Permission to approach, Your
25 Honor.

1 THE COURT: Yes, ma'am. Why don't you just
2 give her the whole stack.

3 MS. WETHERTON: Okay.

4 Q. And on that first report, what is the date on that
5 report?

6 A. February 26, 2013. And that is my signature. And
7 no, I did not recommend commitment.

8 Q. And if you could go to the next report, please?

9 A. February 13th, 2013. I did not recommend
10 commitment on him.

11 Q. Okay.

12 A. May 6th, 2013, I did not recommend commitment on
13 him. August 20th, 2013, I did not recommend commitment
14 on him.

15 Q. And isn't it true you only recommended one person
16 for commitment in 2014?

17 A. Again, I did not break it down by year. I don't
18 know. I don't know if these are all the reports I
19 conducted or wrote in 2013.

20 Q. How many report did you do in 2013?

21 A. Again, I did not break it down by year.

22 Q. Okay. Well, you would agree with me at least that
23 all those reports I gave you, you did not recommend one
24 person for commitment?

25 A. Of those reports; that's correct.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison - Cross Examination by Ms. Wetherton

213

1 Q. And they're all from 2013?

2 A. Yes.

3 Q. Okay. And you diagnosed him with pedophilia?

4 A. Are we speaking about Mr. Johnson now?

5 Q. Yes?

6 A. I did diagnose him with pedophilia.

7 Q. And is pedophilia considered a chronic condition?

8 A. Yes, it is.

9 Q. And did he take any responsibility -- I think you
10 said this before -- for sexual offending?

11 A. He denied committing all of the offenses that I
12 asked him about.

13 Q. So based on your evaluation he basically said these
14 children fabricated all these stories?

15 A. Right. He said he did not commit them.

16 Q. Okay. In your experience is that common for a
17 person who pled guilty or entered an Alford plea to a
18 sex offense, do they ever deny it happened during these
19 types of evaluations?

20 A. Yes, it's pretty frequent.

21 Q. Okay. And did he complete any sex offender
22 treatment?

23 A. Not to my knowledge, no.

24 Q. And you interviewed him for about an hour and a
25 half?

1 A. That's correct.

2 Q. Are you familiar with the Association for the

3 Treatment of Sexual Abusers?

4 A. Yes, I am.

5 Q. Are you a member?

6 A. No, I'm not.

7 Q. Are you aware that there are guidelines created by

8 them for the evaluation of a male sex offenders?

9 A. Well, they have some guidelines for general

10 psychosexual evaluations. Their statements on sexually

11 violent predator evaluations specifically are very brief

12 and do not contain specific standards that I'm aware of.

13 Q. Okay.

14 MS. WETHERTON: Permission to approach, Your

15 Honor?

16 THE COURT: Yes.

17 Q. I'm going to show you that document. What does the

18 first page of the document say?

19 A. Association for the Treatment of Sexual Abusers,

20 Practice Guidelines for the Assessment, Treatment and

21 Management of Male Adult Sexual Abusers 2014.

22 Q. Can you flip to page eighteen of the guidelines?

23 A. (Witness complied).

24 Q. And can you go to section 5.01?

25 A. Yes.

1 Q. Do you agree with me that members should rely on
2 multiple sources of information when conducting a
3 psychosexual evaluation?

4 A. Yes.

5 Q. And that would included client interviews; is that
6 correct?

7 A. Correct.

8 Q. Interviews with collateral informants; is that
9 correct?

10 A. That's correct.

11 Q. Thorough review of official documents; is that
12 correct?

13 A. Correct.

14 Q. Empirically grounded psychometric testing; is that
15 correct?

16 A. Correct.

17 Q. Empirically grounded instruments designed to
18 measure broad sexual as well as offense related
19 attitudes and interests; is that correct?

20 A. Correct.

21 Q. Empirically grounded objective psycho physiological
22 measures of sexual arousal, interests, and/or
23 preferences; is that correct?

24 A. Correct.

25 Q. It also says empirically grounded strategies to

1 estimate the risks of sexual and/or non-sexual

2 recidivism; is that correct?

3 A. That is correct.

4 Q. If you flip to page twenty-five?

5 A. (Witness complied).

6 Q. If you look at section .603. Would you agree with

7 me that it says members who conduct risk assessments of

8 sexual abusers using empirically grounded supported

9 instruments and methods. For example, validated actual

10 risk assessments tools and structured empirically

11 grounded risk assessment protocols over unstructured

12 clinical judgment. You would agree with me it says

13 that?

14 A. Yes.

15 Q. So did you use this protocol?

16 A. Again, this is not a protocol for sexually violent

17 predator evaluations. I do not used this protocol. I

18 use many elements that are listed here. But depending

19 on what source you look at, which expert you choose to

20 believe, there are different ways to conduct these

21 evaluations.

22 Q. And what protocol do you use?

23 A. I use a protocol generally set out in this book

24 called Best Practices in Forensic Mental Health

25 Assessments, Evaluation of Sexually Violent Predators.

1 Q. And what year was that book published?

2 A. This book was published in 2009.

3 Q. Okay. And in what year, according to the front of
4 the guidelines did these guidelines come out?

5 A. Okay. Well, we're comparing apples and oranges
6 there. I just want that to be clear. This is not a
7 guideline for conducting sexually violent predator
8 evaluations. This came out in 2014.

9 Q. So since you didn't follow this protocol, you
10 didn't do any tests to test his impulsivity and
11 intention?

12 A. I did not do any testing, no.

13 Q. So you didn't conduct the Connors Performance Test?

14 A. There is no reason to conduct that test. I did not
15 conduct it.

16 Q. Since you didn't follow the protocol, you didn't
17 run any tests to see if he had any issues of substance
18 abuse?

19 A. I did not do any testing for that.

20 Q. So you didn't conduct an assessment?

21 A. No.

22 Q. But you did perform a ten-question assessment to
23 determine his risk to re-offend?

24 A. Well, it's not a test that you get. It's more of a
25 checklist. And that's an empirically validated

1 actuarial risk assessment measure.

2 Q. Lists ten questions; is that correct?

3 A. It's not questions. It's ten items that a person
4 is rated on.

5 Q. All right. Ten items?

6 A. Uh-huh (affirmative).

7 Q. Okay. And that was the Static?

8 A. That's correct.

9 Q. Okay. And then you gave him a score of four?

10 A. At the time, based on the information that I had,
11 yes, the score was a four.

12 Q. Okay. But he could be as high as a six possibly?

13 A. Yes.

14 Q. What's the average score of a sex offender?

15 A. A two.

16 Q. Would you agree with me now that he moved into the
17 moderate or high risk to re-offend with the score of a
18 five or a six?

19 A. It's possible. Giving that I'm missing
20 information, I don't know what his score is.

21 Q. Okay. Haven't there been people admitted to the
22 program with a four on the Static?

23 A. I'm sure there have been, yes.

24 Q. Haven't there been people admitted to the sexually
25 violent program with a five on the Static?

1 A. Yes.

2 Q. Haven't there been people admitted to the sexually
3 violent program with a six on the Static?

4 A. Yes.

5 Q. And you agree with me that sentencing sheet, that
6 2007 sentencing sheet was included in the original
7 petition that was filed?

8 A. I'm not sure, but I'll agree that, yes, it probably
9 was.

10 Q. Okay. And would you be surprised to know that that
11 information regarding his convictions was sent to the
12 Defense attorney over a month ago?

13 A. Again, I did not receive that information.

14 Q. Okay.

15 A. I asked you specifically. It was in the petition
16 that that charge has been dismissed. And I asked you
17 specifically about it in an email, which I have a copy
18 up here. And you again agreed that that charge had been
19 dismissed.

20 Q. But you agree with me that I got new information
21 and over a month ago, I sent that to the Defense
22 attorney.

23 A. I would agree that I'm not a psychic, I'm not a
24 mind reader, and I don't know what information you sent
25 to the Defense attorney.

1 Q. But it was provided to the Defense, that
2 information, over a month ago.

3 A. All I can say is I never received any information.

4 Q. Okay. And isn't it true the first time that you
5 contacted Defense counsel about this case was at three-
6 thirty on Friday?

7 A. No. We'd exchanged emails about it.

8 Q. Okay. Didn't you request from Defense counsel on
9 Friday for the file because you didn't have it?

10 A. I did ask if he could obtain a file from the
11 Department of Mental Health.

12 Q. So as of three-thirty on Friday you didn't have it?

13 A. I did not. No, I do not have the file.

14 Q. Okay. And since you didn't run the protocol, did
15 you use the Abel Assessment of Sexual Interests?

16 A. No, I did not.

17 Q. Are you aware of certain education that's required
18 in order to properly administer the Abel Assessment?

19 A. I'm not sure what the standards are. That test is
20 -- most experts would not use that test in pre-
21 commitment evaluations. It's just ---

22 MS. WETHERTON: Your Honor, I would object.
23 This is non-responsive to my question and I ask that it
24 be stricken from the record.

25 THE COURT: Overruled.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison - Cross Examination by Ms. Wetherton

221

1 Q. But have you had training on the Abel Assessment?

2 A. No, I have not.

3 Q. Okay. Since you didn't follow that protocol, did
4 you run the assessment under Emerick Sexual
5 Victimization scales?

6 A. No.

7 Q. Or PPG?

8 A. No.

9 Q. Does the Department of Mental Health have a PPG
10 machine at their facility?

11 A. They do. But it's no longer used for pre-
12 commitment evaluations. It's only used for once the
13 person's in the treatment program as per the national
14 ---

15 Q. And since you did not follow that protocol ---

16 THE COURT: Excuse me. Excuse me. Excuse me.
17 Excuse me. She was answering a question, and she does
18 have the right to explain her answer.

19 MS. WETHERTON: Okay. My apologies.

20 Q. Go ahead.

21 A. The PPG machine at the Department of Mental Health
22 is not used for pre-commitment evaluations. It's used
23 as part of their treatment program to monitor progress
24 in treatment if it's used at all. There are a lot of
25 problems with phallometric testing..

1 Q. And since you didn't follow that protocol, you

2 didn't run an assessment as to his psychopathy?

3 A. No, I did not use a specific instrument to measure

4 psychopathy.

5 Q. So you didn't administer the Hare Test?

6 A. I did not.

7 Q. Did you perform the Personal Assessment Inventory?

8 A. Not in this case, no.

9 Q. Could that Personal Assessment Inventory help

10 determine whether someone has anti-social tendencies?

11 A. It could. And in my report I did explain that I

12 looked at his potential for anti-social personality

13 disorder. That was definitely a consideration that I

14 wanted to look at carefully and I did. And I found that

15 there was insufficient information at the current time

16 to offer a diagnosis of anti-social personality

17 disorder.

18 Q. And you didn't run a PAI?

19 A. I did not give him a PAI, no.

20 Q. Did you run the MMSE?

21 A. No.

22 Q. And according to your report, Mr. Johnson has never

23 really had any long-term employment?

24 A. That's correct.

25 Q. And according to your report, Mr. Johnson has been

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison - Cross Examination by Ms. Wetherton

223

1 psychiatrically hospitalized three times -- two times?

2 A. Yes, he has.

3 Q. And you also found that he had several dynamic risk
4 factors?

5 A. Yes. His history is consistent with several risk
6 factors.

7 Q. Okay. And one would be that he has resistance to
8 rules because he violated probation?

9 A. That's correct.

10 Q. And also that he has grievance hostility because of
11 disciplinarys?

12 A. Correct.

13 Q. In SCDC? He also has a history of lifestyle
14 impulsiveness?

15 A. Correct.

16 Q. And after reading this report did you try to --
17 excuse me. After reading Dr. Burke's report, did you
18 try to interview Mr. Johnson to discuss the content of
19 his report or statements?

20 A. No, I did not.

21 Q. Okay. And you agree with me you issued your report
22 the last week of you working at the DMH?

23 A. I'm sorry?

24 Q. You issued the report for Mr. Johnson your last
25 week of work at the DMH?

1 A. That's correct, yes.

2 Q. And you also spoke to someone at the halfway house
3 where he lives?

4 A. That's correct.

5 Q. And that's at the Cambridge House, according to
6 your report?

7 A. That's right.

8 Q. Did you bother to ask anyone at the Cambridge House
9 the address where the Cambridge House is?

10 A. I don't recall. It's not in my report.

11 Q. Would you be surprised if the Carolina Children's
12 Home is less than a mile from the Cambridge House?

13 A. I don't know.

14 Q. Do you think it's a realistic prevention plan for a
15 pedophile to live so closely to a children's home?

16 A. It's obviously not the optimum situation. There
17 are usually residency restrictions and things like that.

18 Q. Okay. At this time, do you have an opinion as to
19 whether Mr. Johnson has the propensity to commit future
20 sexually violent offenses?

21 A. As I stated earlier, at this time I cannot offer an
22 opinion with any degree of certainty either way
23 regarding a question of whether or not he meets criteria
24 as an SVP.

25 Q. Do you have an opinion whether Mr. Johnson's

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Kimberly S. Harrison'- Cross Examination by Ms. Wetherton

225

1 pedophilia makes him likely to engage in acts of sexual
2 violence if he is not confined in a secure facility for
3 long-term control, care and treatment?

4 A. Again, at this time, I cannot offer an opinion as
5 to that issue.

6 Q. Do you have an opinion as to whether Mr. Johnson
7 meets the legal criteria to be found a sexually violent
8 predator at this time?

9 A. Again, I cannot offer an opinion with any degree of
10 certainty at this time.

11 MS. WETHERTON: Your Honor, that's all the
12 questions I have.

13 THE COURT: Any redirect?

14 MR. BELDING: No redirect. Thank you, Your
15 Honor.

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

17 MR. BELDING: Your Honor, may we have a five-
18 minute break. Is it too early for a mid-morning break?

19 THE COURT: No, it's about time for a morning
20 break.

21 Ladies and gentlemen, I'm going to ask that you --
22 we're going to take a brief break this morning. I'm
23 going to ask that you remember the instructions I've
24 given to you not to begin to discuss this matter among
25 yourselves as you've still not heard all the evidence

1 that has to be presented. And let's take a break and
2 then we'll come back and continue on.

3 (WHEREUPON, the jury exited the open court at
4 approximately 10:50 a.m.)

5 THE COURT: Is there anything we need to take
6 up before we take a break?

7 MR. BELDING: No, Your Honor. Thank you.

8 THE COURT: Okay. Let's take a break and then
9 we'll come back.

10 (WHEREUPON, court stood at recess for a short
11 break.)

12 THE COURT: Okay. Anything we need to take up
13 before I bring the jury in?

14 MR. BELDING: No, nothing from the Respondent,
15 Your Honor.

16 MS. WETHERTON: Nothing from the State, Your
17 Honor.

18 THE COURT: Okay. You may ask the jury to
19 come in, please.

20 (WHEREUPON, the jury entered the open court at
21 approximately 11:20 a.m.)

22 THE BAILIFF: Your Honor, the jury's seated.

23 THE COURT: Thank you. You may call your next
24 witness.

25 MR. BELDING: Thank you, Your Honor. If it

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
D'Antonio Ramon Johnson - Direct Examination by Mr. Belding

227

1 please the Court, I'd like to call Mr. D'Antonio Ramon
2 Johnson.

3 THE COURT: If you'd step forward please, sir,
4 to be sworn.

5 THE CLERK: Place your left hand on the bible,
6 raise your right.

7 Do you swear or affirm the testimony you're about
8 to give in this case to tell the truth, the whole truth
9 and nothing but the truth, so help you God?

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Have a seat and state your name
12 for the record.

13 THE WITNESS: D'Antonio Ramon Johnson.

14 MR. BELDING: May it please the Court?

15 THE COURT: Yes, sir.

16 MR. BELDING: Thank you, Your Honor.

17 **D'ANTONIO RAMON JOHNSON,**

18 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

19 **DIRECT EXAMINATION**

20 **BY MR. BELDING:**

21 Q. Mr. Johnson, where do you live?

22 A. I currently live with my fiancé at

23

24 Q. Okay. I want you to speak up a little bit and make
25 it real clear what you're saying?

1 A.

2 Q. Is that here in Columbia?

3 A. Yes, sir.

4 Q. All right. And how long have you lived at that
5 address?

6 A. For a year and a half.

7 Q. Okay. Where did you live before that?

8 A. I lived with my mother. We stayed in
9

10 Q. And what part of town is that in?

11 A. That's right off of Broad River. Right across the
12 bridge.

13 Q. Okay. Right across the Broad River Bridge?

14 A. Yes, sir.

15 Q. Towards Columbia?

16 A. Yes, sir.

17 Q. Oh, okay. How are you related to Daquan Ricardo
18 Johnson?

19 A. He's my younger brother.

20 Q. Okay. How much older are you than he?

21 A. Two years.

22 Q. So I take it you've known him your whole life?

23 A. Yes.

24 Q. All right. How long did you live with him?

25 A. Well, I lived with him up to he got locked up the

- 1 last time.
- 2 Q. In 2010?
- 3 A. In 2010. Yeah.
- 4 Q. Essentially, you lived with him his whole life
- 5 until 2010?
- 6 A. Yes, sir.
- 7 Q. Who else lives with you all? Was that on Lucius
- 8 Road?
- 9 A. Yes, sir.
- 10 Q. Okay. Who all lived -- describe the -- where you
- 11 lived. Was it a house or an apartment?
- 12 A. It was an apartment, three bedroom.
- 13 Q. Three?
- 14 A. Yes, sir.
- 15 Q. Three bedroom. Who all lived at that apartment?
- 16 A. At the time it was me, my brother D'Angelo Johnson,
- 17 Daquan Johnson. My mother, Wanda Odom, and my son's
- 18 mother at the time, Decara Weston. We was all staying
- 19 at the house.
- 20 Q. Your son's mother?
- 21 A. Yes.
- 22 Q. What was her name?
- 23 A. Decara Weston.
- 24 Q. Now you mentioned a son. Now, where did he live?
- 25 A. He wasn't conceived yet.

- 1 Q. Oh, okay. How old is he?
- 2 A. He will be four on Christmas.
- 3 Q. Okay. He's three years old now?
- 4 A. Yes, sir.
- 5 Q. Okay. What kind of employment do you have now?
- 6 A. Well, now, I have a music business.
- 7 Q. Okay. What do you do in the music business?
- 8 A. As far as a the music business, I do a little music
- 9 production and I manage artists and also do shows
- 10 myself?
- 11 Q. Really?
- 12 A. Yes, sir.
- 13 Q. Okay. What style of music are we talking about?
- 14 A. Hip-Hop, R&B Hip-Hop.
- 15 Q. Okay. You mostly deal with artists in the Columbia
- 16 area?
- 17 A. Yes, sir. I have clients in Columbia and also out
- 18 of Columbia.
- 19 Q. What kind of criminal record do you have?
- 20 A. I have a few drug charges for marijuana.
- 21 Q. All right. Was that misdemeanor or felony
- 22 marijuana?
- 23 A. Misdemeanor.
- 24 Q. Okay. Do you have any disorderly conduct or
- 25 domestic violence convictions?

1 A. I have a disorderly conduct.

2 Q. When did that take place?

3 A. In 2011.

4 Q. Okay. Was that a misdemeanor or a felony?

5 A. Misdemeanor.

6 Q. Okay. Now, I ask, do you have any criminal
7 domestic violence convictions that you're aware of?

8 A. Not that I know of.

9 Q. Okay. And how much time did you spend around your
10 brother, Daquan, when he was growing up?

11 A. I spent a lot of time. I spent a lot of time with
12 him. From kids, my mother had us together everyday.

13 And as we grew, as we grew older, we still was like
14 together everyday. And my brother had like a mental
15 problems so I tried to spend as much time with him as I
16 can.

17 Q. What kind of mental problem did Daquan have?

18 A. ADHD, bipolar.

19 Q. Do these ---

20 A. And he had learning disabilities also.

21 Q. If you know, Mr. Johnson, how far did Daquan go in
22 school?

23 A. He did up to eleventh grade. And he was scheduled
24 to get his GED; however, he was never able to go finish.

25 Q. Okay. Between 2007 and 2010, where were you

1 living?

2 A. I was in

3 Q. How long did you live there?

4 A. We lived -- well, in the neighborhood, we stayed in
5 the neighborhood all our life. But we was moving from
6 different apartments out there.

7 Q. Okay. All right. And during that whole time was
8 Daquan living with you wherever you were living?

9 A. Yes.

10 Q. And the other people, your mother and all those, if
11 they moved, did y'all move together?

12 A. Yes.

13 Q. Okay. All right. During that period of time that
14 I'm going to focus on is between 2007 and 2010, okay?
15 So we're talking about four years ago to seven years
16 ago.

17 A. Yes, sir.

18 Q. Did you spend a lot of time around Daquan during
19 those years?

20 A. Yes, sir.

21 Q. Was he working, do you recall?

22 A. He had a job at Wendy's before. He also worked --
23 he had a summer job down at the bus station and also at
24 Goodwill.

25 Q. Okay. Were there ever any young children around

1 the apartment when you were there when Daquan was there?

2 A. Yes.

3 Q. What kind of children?

4 A. My nephews and nieces.

5 Q. How many nephews and nieces did you all have?

6 A. Altogether four.

7 Q. Okay. How often would these nieces and nephews
8 come over to the apartment?

9 A. They'd usually just stay for one night and leave,
10 except for my one nephew, he'd stay until about like
11 Tuesday or Wednesday and he'll go back.

12 Q. Okay. Were you ever there during those years when
13 the nieces and nephews were there and Daquan, your
14 brother, Daquan were there?

15 A. Yes, sir.

16 Q. All right. Did you ever observe Daquan make any
17 attempts to molest any of these children?

18 A. No, sir.

19 Q. You understand that Daquan pled guilty to three
20 counts of lewd act with a minor?

21 A. Yes, sir.

22 Q. Okay. Were you in court that day? Did you go to
23 the ...

24 A. No, sir.

25 Q. Okay. Do you know the dates of any of the alleged

1 molestations of minor children?

2 A. I don't recall the exact dates, but I do know like
3 in July, July 2010, that's when there was like the first
4 accusation.

5 Q. The first accusation of the last group?

6 A. Yeah.

7 Q. Okay. Were you ever contacted to be a witness at a
8 potential trial for your brother, Daquan, in criminal
9 court?

10 A. Repeat that question, sir?

11 Q. I don't mind. Mr. Johnson, your brother Daquan,
12 was he staying in jail back then?

13 A. Yeah.

14 Q. I'm leading back up to the question I asked. I'm
15 sorry.

16 A. All right.

17 Q. So when did he get arrested to the best of your
18 recollection?

19 A. He got arrested, I remember the date, it was
20 December 17th, 2010.

21 Q. Okay.

22 A. That was the week before my son was born.

23 Q. All right. And did he stay in jail until he
24 entered his Alford plea?

25 A. Yes.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
D'Antonio Ramon Johnson - Direct Examination by Mr. Belding

235

1 Q. Okay. And when was that plea?

2 A. He did a plea December 2012.

3 Q. 2012. So was he in jail for a couple of years?

4 A. Yes, sir.

5 Q. Okay. During that couple of years, were you ever
6 contacted by anybody about being a witness for him at a
7 trial?

8 A. No, sir.

9 Q. Okay. All right. Did you have any personal
10 knowledge about any of the things that your brother,
11 Daquan, was accused of?

12 A. Yes.

13 Q. What kind of personal knowledge did you have?

14 A. The personal knowledge I have, my mother was the
15 babysitter of the kids. But she never had the kids and
16 us around at the same time as far as like playing with
17 them. Because she always had a pet peeve about, like,
18 grown people do not play with kids. So that's how we
19 was raised. And, also, most of the time -- another time
20 he was with me because I would take up time with him
21 because of his disorder.

22 Q. Okay. Was your mother disabled at that time in
23 2010?

24 A. No, sir.

25 Q. Okay. When did she become disabled?

1 A. In April, April 2012.

2 Q. Okay. All right. Now, did you ever witness any
3 inappropriate behavior by your brother, Daquan, against
4 any children while he was with you?

5 A. No, sir.

6 Q. And were you with him and with the children a lot
7 in that apartment?

8 A. Yes, sir.

9 Q. All right.

10 MR. BELDING: Thank you, Your Honor. No
11 further questions.

12 Q. Thank you, Mr. Johnson.

13 THE COURT: Any cross?

14 MS. WETHERTON: Just a few questions, Your
15 Honor.

16 **CROSS-EXAMINATION**

17 **BY MS. WETHERTON:**

18 Q. Mr. Johnson?

19 A. Hey, good morning.

20 Q. Good morning. You have a felony conviction for
21 criminal domestic violence?

22 A. No. No, ma'am.

23 Q. Okay.

24 A. I never even got locked up for that.

25 Q. You're saying you don't have a conviction?

1 A. No, ma'am.

2 Q. And it's your testimony that you never saw him do
3 anything inappropriate with the children; is that
4 correct?

5 A. Yes, ma'am.

6 Q. Okay. You weren't around a hundred percent of the
7 time; were you?

8 A. Not a hundred percent.

9 Q. So you can't conclusively say he didn't commit
10 these offenses, just that it didn't happen in your
11 presence; is that correct?

12 A. Correct.

13 Q. It's just you didn't see it. You didn't personally
14 observe any type of abuse. That's what you're saying?

15 A. Yes, ma'am.

16 Q. Okay. And you love your brother. He's your
17 brother; you love him?

18 A. Yes, ma'am.

19 Q. You'd probably do anything for him?

20 A. Not if he's wrong. If he's wrong, he's wrong; if
21 he's right, he's right.

22 Q. Okay. But you do love your brother?

23 A. Yes.

24 Q. And it is your testimony that you didn't see
25 anything happen?

1 A. I didn't see anything happen.

2 Q. Okay.

3 MS. WETHERTON: Nothing further, Your Honor.

4 MR. BELDING: No redirect, Your Honor.

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

6 MR. JOHNSON: You're welcome.

7 MR. BELDING: Your Honor, at this time, the

8 Respondent would rest.

9 THE COURT: Is there any rebuttal testimony?

10 MS. WETHERTON: There is no rebuttal

11 testimony, Your Honor. I'd like to make a motion.

12 THE COURT: Ladies and gentlemen, at this time

13 we have some legal matters that we need to take up. And

14 what I'm going to do is I'm going to send you to an

15 early lunch. And then when you come back from lunch,

16 then we'll be ready at that time to hear the closing

17 arguments, and then I'll instruct you on the law.

18 During this lunch break, ladies and gentlemen, I'd ask

19 that you not discuss this matter among yourselves. Even

20 though you have heard all of the evidence that has to be

21 presented, you are still not in a position to be able to

22 determine the facts and make a decision in this matter

23 until you hear my instructions to you as to the law to

24 be applied.

25 Additionally, as you come and go from the

1 courthouse, please remember not to listen to any
2 conversations that you may hear in the hallways. Again,
3 for the reasons that you have to make the decisions
4 based upon what you have heard and seen throughout the
5 course of this particular trial. Please also remember
6 not to allow anyone to approach you to discuss this
7 matter. Again, it's inappropriate for anyone to come up
8 to you and talk to you about this case while you're
9 seated as a juror. Please tell them that you are a
10 juror and you cannot discuss it. And I ask that you
11 report it as soon as possible.

12 Ladies and gentlemen, I'm going to ask that you
13 report back at twelve forty-five. When you report back
14 at twelve forty-five, then we will be ready at that
15 particular time to continue on with the closing
16 arguments and my instructions. I hope that you have a
17 good lunch and we'll see you back at twelve forty-five.
18 Thank you.

19 (WHEREUPON, the jury exited the open court at
20 approximately 11:34 a.m.)

21 THE COURT: Are there motions at this time?

22 MS. WETHERTON: Yes, Your Honor. Actually, I
23 have never actually made a motion like this in one of
24 these cases, but I'm going to go forward. I'm going to
25 ask for a motion for a directed verdict for the

1 following reasons. One, I have to prove that there have
2 been sexually violent convictions, qualified for a
3 sexually violent offense. That was admitted with the
4 three counts of lewd act. Both doctors when they
5 testified, they both agreed that he has pedophilia and
6 that is a relevant mental abnormality.

7 Next, we go to his likelihood to re-offend. There
8 is very long testimony by Dr. Burke when he does
9 believe, in fact, that he's likely to re-offend. And at
10 that point, Dr. Harrison cannot give an opinion one way
11 or another. So the only evidence that's in the record
12 right now is the fact that he is, in fact, likely to re-
13 offend. So at this point I'm asking for a motion -- I'm
14 moving for a motion for a directed verdict.

15 THE COURT: Any response, Mr. Belding?

16 MR. BELDING: Yes, briefly. Your Honor, as
17 the Court knows, expert testimony is the important in
18 these cases but it's not dispositive. It's one piece of
19 evidence for the jury to consider. They can give it
20 whatever weight they want. What we have is testimony
21 that does not say that Daquan Johnson will commit a
22 future sexual offense. Everybody agreed that nobody's
23 got a crystal ball and nobody knows the future. There's
24 a dispute about what the likelihood is.

25 Now, we stipulated to his convictions. That was

1 early on. The question is, is he likely to re-offend.
2 And we also have testimony, by the way of a witness,
3 albeit his brother, who said he never saw anything like
4 that. That is something for the jury to consider. The
5 State cannot say that beyond a reasonable doubt he will
6 commit a future sexual offense. What they've got is
7 disputed testimony about the incidence level under the
8 Static-99. And I think there's questions of fact to go
9 to the jury in this case. And I don't think it's
10 appropriate for a directed verdict at this time.

11 Thank you, Your Honor.

12 THE COURT: I understand that there is
13 evidence and uncontroverted evidence that Mr. Johnson
14 does have his conviction for a sexually violent offense
15 and that he does have a mental abnormality or
16 personality disorder in the form of pedophilia. I agree
17 that the question is whether or not he's likely to re-
18 offend or whether, under the statute, that he is likely
19 to engage in acts of sexual violence if not confined to
20 a secure facility for long-term control, care and
21 treatment.

22 And while there is expert testimony that indicates
23 that he meets that criteria, there's also testimony that
24 says that a conclusion cannot be reached based upon the
25 information that was available at the time. There's

1 also testimony that talks about the fact that on
2 probation that he would have been required to receive
3 sex offender treatment. And so I think that there are
4 issues for the jury to determine, weighing the
5 credibility of the witnesses, what weight to give the
6 testimony, and what weight to give the evidence is up to
7 the jury. And I think that I would only be able to
8 grant a directed verdict in favor of the Defense at this
9 particular point, if all the inferences that can be
10 drawn from the evidence point to one conclusion. And I
11 can't say that under the circumstances in this case they
12 all point to one conclusion so that I would take it
13 outside of the function of the jury. So I'm going to
14 deny your request and let it go to the jury for their
15 determination.

16 MS. WETHERTON: Thank you, Your Honor.

17 MR. BELDING: And for the record, Your Honor.

18 THE COURT: Yes, sir.

19 MR. BELDING: Once I appeared in front of
20 Judge Manning. He said, are you going to make a motion
21 for a directed verdict? I said, yes, Your Honor. He
22 said, for the record, I accept the motion. It's denied.
23 I'd appreciate it if you'd do that ---

24 THE COURT: I'll do the same.

25 MR. BELDING: Thank you.

1 THE COURT: I'll do the same in light of I
2 haven't heard anything in the last two seconds that
3 would change my opinion. And so I think it clearly is a
4 jury function, that they need to make that decision and
5 they have to weigh the evidence and determine whether or
6 not the State's met the burden beyond a reasonable
7 doubt. And so I'll allow it to go to the jury.
8 Having said that then, let's talk about the charge.
9 I will instruct the jury that they have to determine the
10 facts based upon the evidence, that they have to judge
11 the credibility of the witnesses. And I'll instruct
12 them on what factors to consider with that. I will also
13 talk to them about expert opinions and that they should
14 consider any opinion that's been received in this case
15 and give it the weight that they think it deserves.
16 I'll also charge them that this case is brought by the
17 State against Mr. Johnson under the Sexually Violent
18 Predator Act. And that the State alleges that the
19 Respondent is a sexually violent predator and seeks to
20 have him involuntarily committed in a secure facility
21 for long-term control, care and treatment. And that the
22 burden of proof is on the State to present evidence that
23 would satisfy them beyond a reasonable doubt that the
24 Respondent is a sexually violent predator.
25 I'll define for them reasonable doubt. I use the

1 Victor versus Nebraska definition, which is that there
2 are very few things in this world that we know with
3 absolutely certainty. And the law does not require
4 proof that overcomes every possible doubt. But if based
5 upon your consideration of the evidence you are firmly
6 convinced that the Respondent is a sexually violent
7 predator, then you must return a verdict for the State.
8 If, on the other hand, you think that there's a real
9 possibility that the Defendant is not a sexually violent
10 predator, then you must give him the benefit of that
11 doubt, and find that he is not a sexually violent
12 predator. In order to prove its case, the State has to
13 prove beyond a reasonable doubt that the Respondent has
14 been convicted of a sexually violent offense.
15 Committing or attempting to commit a lewd act on a child
16 under the age of sixteen is a sexually violent offense
17 under the Act.

18 The State also must prove beyond a reasonable doubt
19 that the Respondent suffers from a mental abnormality or
20 personality disorder that makes him likely to engage in
21 acts of sexual violence if not confined in a secure
22 facility for long-term control, care or treatment.
23 Mental abnormality means a mental condition affecting a
24 person's emotional capacity or capacity to make
25 conscious choices that makes him inclined to commit acts

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
D'Antonio Ramon Johnson - Cross Examination by Ms. Wetherton

245

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

5 I'll charge them that their verdict has to be
6 unanimous. It must be the verdict of all twelve of
7 them. My verdict form, which my law clerk will give you
8 a copy of it, says, that we, the jury, unanimously find
9 that Daquan Johnson is a sexually violent predator. Or
10 the second choice is Daquan Johnson is not a sexually
11 violent predator. I'll tell them that there's no
12 significance to the order in which I put them on the
13 page. I have to put one first. I have to put one
14 second. But after they've considered all the evidence
15 and my instructions to them, then once they have made
16 their choice, then the foreperson should sign it --
17 complete the form and sign it and date it. And I'll
18 tell them that they are, of course, are sworn under
19 their oath to make a decision based upon the evidence
20 and based upon the laws I've instructed to them. And
21 when they've done that, then no one can complain about
22 the verdict that they've reached and they have fully
23 discharged their duty and their responsibility as jurors
24 in this matter.

25 Is there anything additionally I need to add?

1 MS. WETHERTON: Nothing from the State, Your
2 Honor.

3 MR. BELDING: Nothing from the State and we --
4 the Respondent approves the verdict form.

5 THE COURT: Okay.

6 MS. WETHERTON: The State does, as well, Your
7 Honor.

8 THE COURT: All right. Then with that then
9 we'll take a lunch break and we'll come back at twelve
10 forty-five.

11 MR. BELDING: Thank you, Your Honor.

12 MS. WETHERTON: Thank you, Your Honor.

13 (WHEREUPON, court stood at recess for a lunch
14 break)

15 THE COURT: Is there anything that we need to
16 take up this afternoon before we bring the jury in?

17 MS. WETHERTON: Nothing from the State, Your
18 Honor.

19 MR. BELDING: Nothing from the Respondent.
20 Thank you, Your Honor.

21 THE COURT: You may have the jury come in,
22 please?

23 THE BAILIFF: Yes, Your Honor.

24 (WHEREUPON, the jury entered the open court at
25 approximately 12:54 p.m.).

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement by Ms. Wetherton

247

1 THE BAILIFF: The jury is seated, Your Honor.

2 THE COURT: Good afternoon, ladies and
3 gentlemen.

4 THE JURY: Good afternoon.

5 THE COURT: At this time, we're now ready to
6 hear the closing arguments of the attorneys. As I told
7 you earlier, their closing arguments are not evidence,
8 but what they'll do is they'll point out portions of the
9 evidence that you've heard and make arguments to you to
10 try to sway you to find the facts in accordance with
11 their view of the case. So I ask that you listen very
12 carefully to those closing arguments. Sometimes those
13 arguments may cause you to think about the evidence in a
14 different light. Or they may raise questions that
15 you'll want to discuss among yourselves when it's time
16 you all begin your deliberation. Once they've made
17 those closing arguments, I will instruct you in the law
18 that's to be applied and then you may begin your
19 deliberations at that particular point.

20 Ms. Wetherton.

21 MS. WETHERTON: Thank you, Your Honor. May it
22 please the Court.

23 THE COURT: Yes, ma'am.

24 MS. WETHERTON: Mr. Belding, Mr. Johnson.

25 CLOSING STATEMENT

1 **BY MS. WETHERTON:**

2 Ladies and gentlemen of the jury, on behalf of Alan
3 Wilson and the Attorney General's Office, I would thank
4 you for your time during this trial. I can only imagine
5 when you all got your civil jury summons that you were
6 probably thinking you're going to see a car accident or
7 a slip and fall in a grocery store. And we're all
8 sitting here trying to figure out whether someone is a
9 sexually violent predator. But I will tell you this is
10 a very short case, but this is a very important case.
11 You know, this is a very important case to Mr. Johnson.
12 This is a very important case to our office. And
13 ultimately it's going to be very important to the
14 Richland County community.

15 And also I'd like to apologize for having notes.
16 All I can tell you is trying cases is nothing like
17 television. I have to refer to notes sometimes and I'm
18 also kind of a little bit Type A. So I have a lot of
19 things I'd like to tell you so I'm going to refer to my
20 notes throughout this closing argument.

21 So what did I have to prove? What did I tell you
22 in my opening statement. First, I had to prove that he
23 was convicted of a sexually violent offense. And, two,
24 that he suffers from a mental abnormality or personality
25 disorder that makes him likely to re-offend.

1 So first, the sexually violent offense, that was
2 admitted -- it's not up here -- but it was State's
3 Exhibit 1. It's right here. He was convicted of three
4 counts of lewd act on a minor. Judge Lee will instruct
5 you that lewd act on a minor is, in fact, a sexually
6 violent offense. And those certified convictions are
7 going to go back with you when you deliberate.

8 So next let's move to the mental abnormality or a
9 personality disorder. Now, you heard testimony today --
10 well, yesterday -- from the State's expert and today the
11 Defense's expert that he suffers from pedophilia.
12 Pedophilia is a relevant mental abnormality. Therefore,
13 the crux of this case lies upon whether he is likely to
14 re-offend if he does not receive treatment in a secure
15 setting. So let's get into it.

16 Now, as I told you also in my opening statement, it
17 is important to listen to all of the evidence in this
18 case. So you heard two experts. One brought by the
19 Defense and one brought by the State. Both experts
20 diagnosed him as a pedophile. Both explained to you
21 what that means. You heard the State's expert, Dr.
22 Burke, state that after his review Mr. Johnson is likely
23 to re-offend. And today you heard Mr. Johnson's expert
24 who said she had no opinion as to whether or not he
25 would re-offend. One of the things that a juror must

1 decide is how to consider to weigh the evidence that has
2 been brought before you.

3 So the question you have to ask yourself, what was
4 different in the evaluations. Dr. Burke, in this case,
5 he looked at the entirety of the case. What he said,
6 whether Mr. Johnson had sex offender treatment and he
7 conducted numerous assessments of tests and he testified
8 for over three hours in this case, exactly what he did.
9 And you heard what they determined. It appeared that
10 Dr. Harrison was basing her decision strictly on a ten-
11 item checklist, which she miscalculated.

12 Now, it might have appeared during cross-
13 examination that I was a little bit angry. And I
14 apologize for that. But it seemed that she's trying to
15 blame this miscalculation on myself and the Attorney
16 General's office. But as you heard from Dr. Burke, she
17 miscalculated primarily because she didn't follow the
18 manual. And although she did produce a book stating she
19 was following a protocol, are we supposed to believe the
20 protocol tells you just to run one ten-question
21 checklist. Dr. Burke told you, the creators of the
22 Static-99 tell you not to use this checklist as a
23 standalone tool. And this case is a perfect example as
24 to why you shouldn't do that because you couldn't get an
25 ultimate opinion from her.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement by Ms. Wetherton

251

1 In addition, Dr. Harrison stated herself that
2 individuals have been admitted to the SVP program with
3 the same score that she graded him, whether it's a four,
4 five or six. In addition, Mr. Johnson does not take any
5 responsibility for his sexual offense or have any sex
6 offender treatment. That shows no insight as to why he
7 offended. Also, most recently, he has failed to follow
8 the rules of his probation, so I submit that the odds
9 that he is going to attend sex offender treatment and
10 stay on track, especially when he doesn't even think he
11 has a problem, are very low.

12 In addition, there may be some argument from the
13 defense that he'll go to sex offender treatment if he's
14 on probation. I'm going to read part of an opinion from
15 the Court of Appeals. For the record, it's a Matter of
16 the Care and Treatment of Anthony Valentine. And the
17 citation is 659 S.E.2d 227. And our Court of Appeals
18 said by creating a Sexually Violent Predator Act, our
19 Legislature has made it clear that the safeguards
20 probation offers to protect society are inadequate for
21 sexually violent predators. That was stated by our
22 Court of Appeals.

23 In addition, in the Defendant's opening, much has
24 been made about the fact that Mr. Johnson has been in
25 jail awaiting this case for over a year. This is what

1 I'm going to say to you about that argument. Ask
2 yourself this, in determining whether an individual is
3 going to molest another child, not get necessarily a
4 parking ticket, but is actually going to sexually
5 assault maybe a fourth or a fifth child, do you want a
6 fly-by-night evaluation? Or do you want someone to do
7 what Dr. Burke did, to take his time and conduct and
8 interpret a lot of tests, speak with Mr. Johnson at
9 length, and follow the appropriate protocols to see if
10 Mr. Johnson will do this again. What I can tell you is
11 based on what you heard, Dr. Burke did not take this
12 decision lightly. He even talked about how this impacts
13 someone's freedom. And it was important not only from
14 Mr. Johnson's perspective but also in protecting the
15 public that Mr. Johnson be evaluated very closely. So
16 after doing this thorough evaluation, what did Dr. Burke
17 say? His crimes were exceptionally heinous with a five-
18 year duration. And based on the tests he performed, the
19 bottom line is that he is in the high-risk category to
20 re-offend. Based on that information, it is even more
21 important that he is required to attend sex offender
22 treatment so he can finally gain an understanding of his
23 pedophilia and he doesn't victimize another child.
24 Therefore, the question that you have to ask yourself is
25 despite that another doctor had no conclusion that Mr.

1 Johnson should not be committed, as a juror and as a
2 member of the community, based on what you heard, are
3 you really satisfied that a pedophile should be released
4 out into this community when he has proven that he
5 cannot follow the terms of his probation and takes no
6 responsibility and has never had any sex offender
7 treatment.

8 With that said, I believe that I have met my burden
9 of proof and I have left you firmly convinced that Mr.
10 Johnson is, in fact, a sexually violent predator.

11 THE COURT: Mr. Belding?

12 MR. BELDING: Thank you, Your Honor. May it
13 please the Court.

14 THE COURT: Yes, sir.

15 **CLOSING STATEMENT**

16 **BY MR. BELDING:**

17 Well, thank y'all for your attention. I've brought
18 a couple of notes too. Usually, I do this because I
19 know it so well, but this one was interesting. There
20 were a few things I wanted to make sure I spoke about.
21 There was a lot of factual information flying around in
22 this case.

23 First of all, we had two experts. One was an
24 Assistant Professor of Psychiatry down at MUSC. So he
25 teaches school and he treats sexually violent offenders

1 on the side. He is not licensed by the State either as
2 a psychiatrist or a psychologist. I asked him if he was
3 licensed. He said, oh, yeah. He had a license in
4 counseling, which he said qualified him to do this.

5 On the other hand, Dr. Kim Harrison, who was the
6 expert that the State first employed to see Mr. Daquan
7 Johnson went to the best sex offender psychology school
8 in the country. She even admitted that. And she is
9 licensed by the State of South Carolina to practice
10 psychology. And she was the chief psychologist in the
11 forensic area at the Department of Mental Health, which
12 is the people that deal with these sexually violent
13 predators everyday; not in an academic way. They're not
14 treating them on the outside like Professor Burke does.
15 She's the one that does these evaluations all the time.

16 And when she performed her evaluation she said,
17 yeah, you know, she thought he had pedophilia, but he
18 was not likely to re-offend. And that was her
19 conclusions stated in her report. Now, as you all know,
20 surprise, surprise, she didn't realize that one of the
21 convictions that he pled to, that he entered a no-
22 contest plea to in 2012 was the one that went back to
23 2007. And that bothered her because, see, now are we
24 talking about a pattern that went over a period of time.
25 That's part of their criteria. They want to know. If

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement by Mr. Belding

255

1 it's a one-time thing, not good but that doesn't show
2 likelihood to re-offend, but a pattern might. And so
3 that bothered her and she was honest with that. I put
4 her up to testify and said, tell us what your -- you
5 know, what are your problems with this? And she said,
6 you know. The interesting thing about it is this to me.
7 Professor Burke seemed to me, he's always looking for
8 the bogey man, you know. Some of the things he
9 testified to, I had never heard before. For example, he
10 said, quote, the vast majority of sex crimes against
11 children are unreported. And I asked him about that.
12 Did you do that research yourself? What are the
13 statistics? Well, I mean, everybody knows that. That's
14 not facts. That's his, you know, conclusion drawn from
15 -- where did he get that from? And next he said -- he
16 was asked on direct examination by Ms. Wetherton, what
17 did Mr. Johnson plead to and he said criminal sexual
18 conduct with a minor. And then she had to correct him.
19 You sure it wasn't lewd act? Oh, oh, yes. Lewd act.
20 Yeah. You've got it. Look at State's Exhibit 1. I
21 don't know how much he prepared to come testify to
22 y'all, but he was not in command of the facts in this
23 case. And that bothered me a lot. You know, he doesn't
24 know what he pled to. He doesn't know, you know, things
25 like -- he said, hey, here's another thing. When he was

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement by Mr. Belding

256

1 at the South Carolina Department of Corrections, he was
2 cited for masturbating and that's why I said he was an
3 exhibitionist. Okay. What did Dr. Harrison, who had
4 those records, testify to? No, it didn't happen at the
5 Department of Corrections. It happened at the Richland
6 County jail where they can just write up whatever they
7 want. The South Carolina Department of Corrections has
8 a whole inmate disciplinary system where you have a
9 hearing in front of a hearing officer with an inmate
10 representative, an employee helping to defend you, to
11 make sure that the facts of the case come out and are
12 adjudicated. They don't do that at the jail. They just
13 write it up and put it in your file. It can be true or
14 it can not be true. Because of that, the manual and the
15 procedures that Dr. Harrison followed said you are not
16 to include that if there is no way to test the
17 information and make sure it is reliable. So she didn't
18 include that. And that's why she didn't have any reason
19 to come up with a diagnosis of exhibitionism. But it's
20 an example of the sloppy work done by Professor Burke.
21 That stuff was in the file that Ms. Wetherton sent me a
22 year ago. He could very easily have found out. His
23 SCDC record listed one violation, failure to obey a
24 direct order, which is not a capital offense, even in
25 South Carolina.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement by Mr. Belding

257

1 Now, he also said -- we were talking about well,
2 why, Professor Burke, why is this -- you remember he was
3 talking about it was a heinous and cruel crime, you
4 know. I asked the prosecutor, what can you get for
5 criminal sexual conduct with a minor, first degree?
6 Life in prison. A life sentence. Huh, that's
7 interesting. But what did you let him plead to? Lewd
8 act. And not just lewd act, go serve fifteen years or
9 anything. Lewd act and go home. Time served, five for
10 probation, leave. That's how heinous and cruel it was.
11 And I asked Professor Burke about that. Why do you
12 suppose they would do that? Well, let me tell you why.
13 They make deals in bathrooms. That's what this was all
14 about. The bathroom deal. You know, a lot of what he
15 testified to was his sloppy work or no information at
16 all. This was stuff that he believes because I think he
17 looks for the bogey man because the people that he deals
18 with on the outside are people that are sex offenders
19 that need treatment. And the rest of what he does is
20 teach psychiatrist classes in college.

21 He performed a lot of tests. Yes, he did do a lot
22 of tests. Interestingly he did -- he said under the
23 Stable-2007 test, Mr. Johnson is a moderate risk,
24 thirteen point two percent, for re-offending. Then he
25 did the Acute-2007 test and he said he's got a two point

1 four percent risk of offending in the next forty-five
2 days. Then he did the Static-99R and he scored it as a
3 seven. Dr. Harrison, who does these all the time,
4 scored it originally as a four, found out that one of
5 the charges was not dismissed, but was rolled into the
6 no-contest plea. And she said yeah, to me that would
7 put it up from a four to a five, maybe a six. And I
8 said, in fairness, let's take it as a six. Okay? What
9 does the Static-99R say about someone who is a category
10 six? And that said that would take him up to twenty-
11 four point seven percent likelihood of re-offending.
12 People in that category re-offend at a twenty-four point
13 seven percent rate. Nowhere near fifty percent. And he
14 also stated that a judge had told him that when it came
15 to likelihood, it had to be over fifty percent. So he
16 somehow managed to do that. You take the forty-eight
17 point six for a seven percent score, which is not
18 correct, Dr. Harrison said, and you add the two point
19 four and the thirteen point two, and you get over fifty
20 percent. But that's not how that works. He combined
21 all those scores to get over fifty percent. And the
22 fact is it's not about a number. It's just not, okay?
23 The Judge will instruct you that likely to re-
24 offend is actually something for the finder of fact to
25 determine, okay? What is likely to re-offend? Well, I

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement by Mr. Belding

259

1 think likely means more likely than not. Likely means,
2 in terms of probability, Professor Burke said he had all
3 these statistics classes; he should know. But likely
4 means more likely than not. So, yeah, that would mean
5 more than fifty percent. But that doesn't mean you get
6 to boost it up until you get there.

7 I asked -- then the Assistant Solicitor came in who
8 actually did the case. Very interesting. I really
9 liked her answer about one thing. I said, what is your
10 job? Aren't you supposed to be out there protecting the
11 public? She said, no. I don't agree with that at all.
12 My job is to see that justice is done. You know what, I
13 like that. I think that's true. So, what happened in
14 this case? Well, there were five charges. Actually,
15 one of them was -- it doesn't matter. There were four
16 sexual offense allegations, charges. Criminal sexual
17 conduct. You can get life for any of them. One she was
18 willing to dismiss. And the other three she was willing
19 to put together to let him plead to a reduced charge of
20 lewd act for time served. For being in jail for two
21 years. So justice was done in that case by Ms. Bodman's
22 own words. Obviously, if this was a heinous and cruel
23 situation, as Professor Burke put it, there's no way
24 she'd let him go for time served. But she did because
25 she was doing justice. That was her job. And that was

1 the proper result for that case. Also interesting, it
2 was an Alford plea, all right? Now, Professor Burke
3 said Mr. Johnson was in denial. You know, he didn't
4 take responsibility for this and, in fact, he never even
5 took responsibility at the trial because he entered a
6 no-contest plea. Well, here's what I wonder about that.
7 All right? If I had sat in jail for two years and I
8 knew that someday I'd have to go to trial and I'd be
9 facing a life sentence or I could plead, enter a plea
10 and go home today, that's a personal decision for each
11 of us that I hope none of us ever has to make. I tend
12 to think that I would never plead guilty willingly to
13 something I didn't do. If I'm going to -- you know, if
14 I'm facing a life sentence or I can go home as soon as I
15 get with the probation people, and I can enter an Alford
16 plea where I don't say I did it, but I'm not contesting
17 it so I can go home, that's a bird in the hand, folks.
18 A rational smart person could very definitely consider
19 that to be an appropriate response from the Defendant.
20 I'm not going to risk my life on this. I can go home as
21 soon as I get a monitor on my ankle.

22 Then Ms. Wetherton told you that, hey, he can't
23 even follow the probation directions. He violated in
24 three days. Yeah, we heard about that, you know. He
25 couldn't go home. He went to the emergency room for two

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement by Mr. Belding

261

1 nights because the shelter wouldn't take him where they
2 first dropped him off. So he goes to his mama to help
3 find him a place to stay. And the GPS say bink-bink-
4 bink. Too close. He's not supposed to be around those
5 apartments. I don't know if it was the same one because
6 they moved around. But you're not supposed to be in
7 that apartment complex. And he knew that. But I asked
8 Professor Burke, I mean, don't people who are desperate
9 do things like that? I mean, he didn't go out and
10 commit another sexual assault on a kid. He was out for
11 three days. And I said, did he commit any sexual
12 assault? Well, none that we know of. That was his
13 answer. Well, you don't think we would have found out?
14 The answer is, no, Professor Burke, he didn't. That's
15 what happened with the probation. And he got revoked
16 for that, you know. He paid his time. Ended up having
17 to go to the Department of Corrections a little while
18 for that.

19 As Ms. Wetherton said, the State is required to
20 prove a couple of things. The first one we give them.
21 Because it doesn't matter -- we're not trying to nitpick
22 here. It doesn't matter why Daquan Johnson entered a
23 plea. It doesn't matter how he entered a plea. He's
24 got a conviction for lewd act. And it only takes one.
25 He's got a lewd act of record. So they win there

1 because that's what the statute says. If you've ever
2 committed any of this list of sexually violent offenses,
3 then you can be reviewed to see if you should be put
4 into treatment, long-term treatment, care, custody and
5 control. So he's got that, okay?

6 The second question is, does he have a mental
7 abnormality? Well, they both said he did. Okay. He's
8 also got bipolar, which also works. The question, as I
9 told you the first time we talked yesterday, it comes
10 down to one thing and that is, is he likely to re-
11 offend? Is he likely to re-offend unless he's put
12 behind the fence for treatment?

13 Here's what we've got. We got Dr. Harrison who
14 originally said, no, he doesn't need to have the
15 treatment. He doesn't need to be put in there. Now,
16 she says, well, okay, but I haven't had time to research
17 all that part about the 2007 thing. I didn't realize
18 they rolled it all together. I didn't get the
19 information. It was a surprise to me. So now I have no
20 opinion. And Professor Burke who says, oh, yeah, stack
21 up all this stuff here. I mean, he's okay on the Abel
22 thing. He's okay on this. He's okay on that. But I
23 found three and one was two percent and one is thirteen
24 and then forty-eight percent out of somewhere. Dr.
25 Harrison says he didn't score it right. But he says,

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement by Mr. Belding

263

1 yeah, add this up and it gets me over fifty percent so
2 now he is likely to re-offend.

3 What we have here is a case of reasonable doubt.
4 If reasonable doubt means anything in our society -- and
5 Judge Lee will explain to you very carefully what
6 reasonable doubt means. It doesn't mean you can't have
7 a little doubt. But if you can make -- point your finger
8 to something and say, I'm bothered about this, that's
9 reasonable doubt. If you can assign a reason to it,
10 that's reasonable doubt. No one can predict the future
11 and I asked both of them. They can't predict the
12 future. They don't know if he'll re-offend. So the
13 question is, is it likely? And even if you take this
14 conviction from 2007 that he pled no-contest to, and
15 roll that in, Dr. Harrison says that puts him up to
16 twenty-four point seven. And I said, doesn't that mean
17 that seventy-five of a hundred people in that category
18 don't re-offend? She said, that's what that means.
19 Well, that's, you know, the vast majority to me.

20 Also, you know, we had his brother come up, which
21 is interesting. His brother was around during that
22 whole time, you know. And I asked him, you ever see
23 Daquan do anything untoward. There was kids around all
24 of the time being taken care of. He said, no, nothing,
25 not at all.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement by Mr. Belding

264

1 What Judge Lee will instruct you to do is take all
2 the evidence and go back and think about it. You listen
3 to what she says. Not me. But I submit to you that
4 this is not about compromising. Juries don't go back
5 there and say, well, I've got some problems with this
6 and that. How about this, we'll just put him in for a
7 little bit of treatment. No, see, this is long-term.
8 Long-term. That's what the statute says. When Judge
9 Lee reads you the statute, it will say long-term
10 custody, care and treatment because it ain't a quick
11 little fix if he goes in. It's not about compromising.
12 It's not about saying, well, let's play it safe. Let's
13 just put him behind the wall. That way we know. Your
14 responsibility as a juror is to say based on what I have
15 heard from this witness stand, do I believe beyond a
16 reasonable doubt that Daquan Johnson is likely to commit
17 another sexual offense unless he's sent in for
18 residential treatment at the Department of Corrections
19 unit that DMH runs? That's what you need to decide on
20 Daquan's behalf who spent the last two years in jail
21 waiting, a year of it at the Richland County Detention
22 Center, thirteen months.

23 I'd ask you for a verdict that he is not a sexually
24 violent predator so he can go back home and continue his
25 life. He's been waiting long enough.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement Continued by Ms. Wetherton

265

1 Thank you very much for your attention. I
2 appreciate it. So does Mr. Johnson.

3 THE COURT: Yes, ma'am, any reply?

4 MS. WETHERTON: Thank you, Your Honor.

5 **CLOSING STATEMENT**

6 **BY MS. WETHERTON:**

7 I just have a few things that I want to clear up
8 and then I'll be done. First off, Dr. Burke, he is a
9 professor and he is licensed. His license is a little
10 different than what Dr. Harrison's is, but he's licensed
11 and he's done over six thousand risk assessments similar
12 to this. He might not work for the Department of Mental
13 Health, but he's done six thousand risk assessments.
14 And Dr. Harrison, although she may work for the
15 Department or used to, she's done twenty-seven, okay?
16 And you saw me running back and forth during cross-
17 examination to the witness stand showing her reports for
18 2013. She said no on all of them. She even admitted
19 that fifty to seventy-five percent of all of her cases,
20 all twenty-seven of them, she said, no on. And you know
21 it's all great and wonderful that Mr. Belding's says the
22 definition likely is not over fifty percent. You have
23 to remember, Dr. Burke helped write the statute. So the
24 fact that he sees it as over fifty percent, I think that
25 that should be considered.

1 In addition, there's something else I wanted to
2 straighten up. Dr. Burke never diagnosed him with being
3 -- with having exhibitionism. That's not what he said.
4 He was concerned because of the masturbation offense.
5 It happened in an institutional setting. And it shows a
6 lack of control. And you also heard him read into the
7 record about the manual with the Static. And that was
8 an exact example of where you can grade a point,
9 something that Dr. Harrison didn't do. But it shows
10 that he can't control himself. Even behind a walls of a
11 prison or a jail, he's up there openly masturbating in
12 front of female corrections officers when he gets angry,
13 which is a sexual offense in prison. And that's a
14 problem.

15 And then next we'll go to the Alford plea. The
16 whole thing he didn't accept guilty, okay? The Alford
17 plea -- you heard Margaret Bodman testify. You don't
18 have to confess to a crime when you plead under Alford,
19 that's true. But you do acknowledge on the record there
20 is enough evidence that if the State went to trial they
21 could prove their case and they could prove it beyond a
22 reasonable doubt. Okay? So that is why it's treated
23 like a conviction for all purposes. And, yes, he still
24 denies that he did any of these offenses. But his own
25 doctor that testified for him didn't believe him because

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Closing Statement Continued by Ms. Wetherton

267

1 she had no problem diagnosis him as a pedophile. Now,
2 granted, she couldn't come to a conclusion about his
3 likelihood to re-offend. She's suddenly now neutral.
4 But she had no problem. So what does that say about her
5 assessing his credibility as to his guilt?

6 And then also I think the Defense on his closing
7 was kind of picking apart the tests. And basically the
8 bottom line overall is Dr. Burke, after running
9 everything, the PPG, he is in the high risk to re-
10 offend. But I will break apart the one test because
11 it's the only test that Dr. Harrison did, about the
12 Static-99. They said he was likely to re-offend in five
13 years at twenty-four point seven percent. This is the
14 analogy I can put to you. That's what it says, okay?
15 When somebody's sexually assaulted or a child is
16 sexually abused, all I can tell you is it has absolutely
17 devastating effects.

18 So let's compare it to a plane crash. If you were
19 about to get on a plane and you heard that plane had a
20 one in four chance of crashing, would you get on that
21 plane? Would you get on that plane knowing that plane
22 has crashed three times before? Would you get on that
23 plane? It's not a hundred point scale. You have to
24 look at it in terms -- if you know if he re-offends,
25 he's going to hurt somebody. He's going to hurt a

1 child. He's not going to get a parking ticket. And
2 that's something you have to really consider.
3 And then finally, you know, Dr. Burke, he isn't
4 trying to make Mr. Johnson the bogey man. Mr. Johnson
5 is the bogey man just based on what he did.

6 **CHARGE**

7 **BY THE COURT:**

8 During this trial, ladies and gentlemen, you and I
9 have certain duties to perform. As the trial Judge,
10 it's my responsibility to preside over the trial of this
11 case and to rule upon or pass upon the admissibility of
12 evidence that's been presented throughout the course of
13 this trial. And you are to accept only the competent
14 evidence which is before you. To any evidence to which
15 there was an objection sustained, you must not speculate
16 as to what the evidence might have been or the reason
17 for the objection. Again, you should consider only the
18 evidence, along with any of the exhibits that have been
19 made a part of the record in this case.

20 Now, I have the additional duty and responsibility
21 to instruct you on the law that applies to this case.
22 And as the trial Judge, I'm the sole Judge of the law
23 that applies. If you have any preconceived ideas as to
24 what the law is or your interpretation of the law or
25 what you want the law to be or what you think it should

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Charge

269

1 be, you must set all of that aside. Under your oath as
2 jurors you are sworn to accept the law as I charge it to
3 you.

4 Now, if by chance I make some error in my
5 instructions, there's another court at another time that
6 can correct those errors of law. But for purposes of
7 this trial, right now, this moment, you must accept the
8 law as I charge it to you as being the correct statement
9 of the law.

10 Now, in every case tried before a jury, you, the
11 jurors, become the sole and exclusive judges of the
12 facts in this case. No one can tell you what the facts
13 of this case are. And if I've done anything throughout
14 the course of the trial that's given you an impression
15 that I'm commenting on the facts, that I'm telling you
16 what facts to find or giving you an opinion about the
17 facts, I ask that you set all of that aside as well. I
18 assure you I don't have any opinion about the facts of
19 this case. That's not my job here. That's not my role.
20 That's your duty. Your responsibility as jurors is to
21 determine the facts.

22 Now, in order to do that, you have to analyze and
23 evaluate the evidence and determine what evidence
24 convinces you of its truth. In order to do that, you
25 have to judge the credibility or believability of the

1 the witnesses who've testified. And in judging the
2 credibility or believability of the witnesses you may
3 consider the following factors. What was the manner and
4 appearance of the witness who testified? Was he or she
5 hesitant or straightforward in answering the questions.
6 Was the testimony of a witness consistent or
7 inconsistent? How did the witness come to know the
8 facts that he or she testified to? What was his or her
9 ability to know these facts. Is there some reason a
10 witness would want to give testimony that would help or
11 hurt one side or the other? In other words, was a
12 witness's testimony bias or prejudice in some manner?
13 And was the testimony of a witness strengthened or
14 weakened by other testimony or other evidence.

15 Now, ladies and gentlemen, in judging the
16 credibility of the witnesses, you may believe one
17 witness against several witnesses. Or you may believe
18 several witnesses against one witness. You may believe
19 a portion of a witness's testimony and disregard other
20 portions of that same witness's testimony. You may also
21 consider whether a witness's testimony has been
22 challenged or impeached. For example, a person who has
23 a criminal record is competent to testify during a
24 trial. A past record does not prevent someone from
25 being able to testify. The fact that that person may

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Charge

271

1 have a criminal history may be considered by you, if at
2 all, in determining that witness's credibility.
3 Remember you, ladies and gentlemen, are the sole judges
4 of the credibility of the witnesses and believability of
5 the witnesses who've testified in this matter. And if
6 in your good judgment there's reason for you to consider
7 all these factors as I've described them, you should do
8 so. Your objective, ladies and gentlemen, is to seek
9 the truth. And whether it comes from a witness or
10 witnesses for the State or witness or witnesses for the
11 Respondent, you do not determine the truthfulness of the
12 testimony by counting the number of witnesses who
13 testified for one side or the other. The truth isn't
14 determined by counting witnesses. What the law requires
15 is that when you exercise your mental processes in
16 coming up with what you consider to be truthful
17 evidence, that you should use your good common sense.
18 Use your sense of logic and reasoning. Use your
19 experiences in life. You then apply these attributes to
20 the evidence and determine what you, the jury, consider
21 to be truthful evidence. And then to those true
22 statements of fact as determine by you, you will apply
23 the law as I will instruct you and then you will be able
24 to arrive at your verdict.

25 Ladies and gentlemen, your verdict should not be

1 based upon sympathy, passion or prejudice. By your
2 verdict you have no friends to reward and you have no
3 enemies to punish. Your verdict should simply speak the
4 truth.

5 Now, in this case, ladies and gentlemen, you heard
6 the testimony from individuals who are considered to be
7 experts in a certain field. Those are witnesses, who
8 because of their education and training, they profess to
9 be an expert in some art or science. And under our
10 rules of evidence, they may give an opinion in the area
11 in which they profess to be an expert. Ordinarily, we
12 don't allow witnesses to testify as to opinions or
13 conclusions, but the exception is for expert witnesses.
14 You should consider any expert's opinion in this case
15 and give it the weight that you think it deserves. If
16 you should find that an expert's opinion is not based
17 upon sufficient education or training or if the
18 witness's opinion is outweighed by other testimony or
19 other evidence, then you are not required to accept that
20 expert's opinion. An expert's opinion is to be given no
21 greater weight than that of any other witness just
22 because that person professes to be an expert. And you
23 are not required to accept an expert's opinion even
24 though it may be uncontradicted.

25 Now, in this case, ladies and gentlemen, as we've

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Charge

273

1 stated earlier, this is the State versus Daquan Johnson.
2 And in this case the State has brought this claim under
3 the Sexually Violent Predator Act. The State alleges
4 that the Respondent, Daquan Johnson, is a sexually
5 violent predator and seeks to have him involuntarily
6 committed in a secure facility for long-term control,
7 care and treatment.

8 Now, the burden of proof is on the State to prove
9 by evidence that's sufficient to satisfy each and every
10 one of you beyond a reasonable doubt that the Respondent
11 is a sexually violent predator. If the State is able to
12 meet that burden, then you would return a verdict that
13 would find the Respondent, Daquan Johnson, is a sexually
14 violent predator. If you find that the State has not
15 met that burden of proving beyond a reasonable doubt
16 each and every element of the claim, then you would
17 return a verdict finding that the Respondent, Daquan
18 Johnson, is not a sexually violent predator.

19 Now, in most civil cases -- I don't know whether
20 any of you have been jurors in civil cases, the burden
21 is only required that the Plaintiff or the Petitioner
22 would have to prove that a fact was more likely true
23 than not true. While in this particular type of case
24 involving the Sexual Violent Predator Act, the burden is
25 higher than that. The State has a higher burden of

1 proof. It must be beyond a reasonable doubt.

2 Proof beyond a reasonable doubt leaves you firmly
3 convinced that the Respondent is a sexually violent
4 predator. Now, there are very few things in this world
5 that we know with absolute certainty. And the law does
6 not require proof that overcomes every possible doubt.
7 But if, after considering all of the evidence that has
8 been presented in this case, you are firmly convinced
9 that the Respondent is a sexually violent predator, then
10 you must return a verdict for the State, finding that
11 the Respondent is a sexually violent predator. If,
12 however, on the other hand you find that there is a real
13 possibility that the respondent is not a sexually
14 violent predator, then you must give him the benefit of
15 that doubt and find that he is not a sexually violent
16 predator.

17 Now, in order to show that the Respondent is a
18 sexually violent predator, the State must first prove
19 beyond a reasonable doubt that Daquan Johnson has been
20 convicted of a sexually violent offense. Ladies and
21 gentlemen, committing or attempting to commit a lewd act
22 on a child under the age of sixteen is a sexually
23 violent offense.

24 Next, the State must also prove beyond a reasonable
25 doubt that the Respondent, Daquan Johnson, suffers from

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Charge

275

1 a mental abnormality or personality disorder.

2 Finally, the State must prove beyond a reasonable

3 doubt that that mental abnormality or personality

4 disorder makes Mr. Johnson likely to engage in acts of

5 sexual violence if he is not confined in a secure

6 facility for long-term control, care and treatment.

7 Mental abnormality means a mental condition affecting a

8 person's emotional capacity or capacity to make

9 conscious choices that makes the person inclined to

10 commit sexually violent offenses. Likely to engage in

11 acts of sexual violence means that the person's tendency

12 to commit acts of sexual violence is of such a degree as

13 to pose a menace to the health and safety of others such

14 that he must be confined to a secure facility for long-

15 term control, care, and treatment.

16 Now, ladies and gentlemen, after you have

17 considered all of the evidence in this case and you've

18 determined the facts and you've applied the facts to the

19 law as I've instructed you, then you will be able to

20 arrive at your verdict. And at that time, your

21 foreperson will complete the verdict form. The verdict

22 form says, we, the jury, unanimously find that, there's

23 a space that says, Daquan Johnson is a sexually violent

24 predator. Or there's a space to check, Daquan Johnson

25 is not a sexually violent predator. In completing this

1 form, again, ladies and gentlemen, your thought process
2 should be this, did the State prove beyond a reasonable
3 doubt that the Respondent, Daquan Johnson, who has
4 committed a sexually violent offense. The answer to
5 that question is, yes. That's been established. Your
6 second question is, did the State prove beyond a
7 reasonable doubt that the Respondent, Daquan Johnson,
8 has a mental abnormality or personality disorder? The
9 answer to that question is, yes. That's been
10 established without conflict. The third question that
11 you have to ask yourself is, did the State prove beyond
12 a reasonable doubt that that mental abnormality or
13 personality disorder that Mr. Johnson has makes him
14 likely to engage in acts of sexual violence if not
15 confined in a secure facility for long-term control,
16 care, and treatment? If you find that the State has not
17 proven that particular point beyond a reasonable doubt,
18 then your verdict would be that Daquan Johnson is not a
19 sexually violent predator. If, however, you find that
20 the State has met that burden of proving beyond a
21 reasonable doubt that his personality disorder makes him
22 likely to engage in acts of sexual violence if he is not
23 confined in a secure facility for long-term control,
24 care or treatment, then you would find that he is a
25 sexually violent predator and you would check the

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Charge

277

1 appropriate blank.

2 Madam Foreperson, no matter what the verdict is by
3 the jury, once you have concluded the form, if you would
4 sign your name and place today's date and then let us
5 know at that time that you have reached a verdict in
6 this case.

7 Ladies and gentlemen, your verdict must be
8 unanimous. That is, it must be the verdict of all
9 twelve of you. You have been sworn as fair and
10 impartial jurors to determine the facts of this case
11 based upon the evidence that has been presented
12 throughout the course of this trial, and based upon my
13 instructions to you as to the law. And once you have
14 done that, and you will arrive at your verdict and no
15 one will be able to complain about the verdict that
16 you've reached. And you will have fully discharged your
17 duty and your responsibility as jurors in this matter.
18 Again, ladies and gentlemen, your verdict should not be
19 based upon sympathy, passion or prejudice. Your verdict
20 should simply speak the truth.

21 Now, ladies and gentlemen, at this time, I'm going
22 to ask that you retire to the jury room. I ask that
23 before you begin your deliberations you wait just a few
24 moments. The law requires that I consult with the
25 attorneys to make sure that I have not omitted anything

1 from my instructions to you. If I have not omitted
2 anything, then the verdict form, along with the exhibit,
3 will be sent to you and you may begin your deliberations
4 at that point.

5 Madam Foreperson, if throughout the course of your
6 deliberations you have any questions that you would like
7 for us to try to answer, if you would write the question
8 on a sheet of paper, sign your name, knock on the door
9 and give it to the bailiff, and we'll try to answer that
10 question. If you have no questions, then once you've
11 completed the verdict form, knock on the door at that
12 time and tell the bailiff that you have reached a
13 verdict and we will receive you back into court to
14 receive your verdict.

15 Mr. Franklin, as the alternate, again, your role
16 has also been extremely important. If one of your
17 fellow jurors had been unable to complete service, then
18 you would have stepped into that person's shoes. I
19 would ask that you would wait outside the jury room,
20 that is not to go into the jury room with them. And
21 I'll come and excuse you in just a few moments.

22 So ladies and gentlemen, at this time, I'd ask that
23 you retire to the jury room and await further
24 instruction. Thank you.

25 (WHEREUPON, the jury exited the open court at

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Charge

279

1 approximately 1:40 p.m.)

2 THE COURT: Are there any exceptions to the
3 charge, by the State?

4 MS. WETHERTON: Nothing from the State, Your
5 Honor.

6 THE COURT: From the Defense or Respondent?

7 MR. BELDING: Nothing, Your Honor. No
8 objections. Thank you.

9 THE COURT: If you will come and look one last
10 time at the verdict form, make sure that the Exhibit is
11 in proper order and I would say staple it. Make sure
12 it's in the correct order so that it can be stapled
13 properly.

14 MR. BELDING: That's it; isn't it?

15 MS. WETHERTON: That's it.

16 THE COURT: Take a look and make sure all the
17 pages of the exhibit are there and in order.

18 MR. BELDING: The exhibit is proper from the
19 Respondent, Your Honor.

20 THE COURT: Thank you. And you may tell the
21 jury they may begin their deliberations.

22 (WHEREUPON, the verdict form and exhibit were
23 delivered to the jury at approximately 1:42 p.m.,
24 at which time the Court stood at recess awaiting
25 the verdict of the jury.)

1 THE COURT: I've got a question, three
2 questions, from the jury. The first is, what is the
3 legal, quote unquote, legal definition of a sexually
4 violent predator. Two, where will he be committed?
5 Three, long-term treatment involves what amount of time?
6 I know how to answer two and three.

7 MR. BELDING: Can you just give them the
8 statute? Doesn't it define sexually violent predator?

9 THE COURT: No.

10 MR. BELDING: You're right. It says what
11 you've got to prove?

12 THE COURT: Right.

13 MR. BELDING: Okay. Right. To me that is the
14 definition.

15 MS. WETHERTON: Yeah, me, too.

16 MR. BELDING: And the third one was how long?

17 MS. WETHERTON: How long? Like, what --
18 basically what treatment ---

19 THE COURT: Long-term treatment involves what
20 amount of time?

21 MS. WETHERTON: And that's -- I'd argue that's
22 excluded because of the motion in limine that I filed.

23 MR. BELDING: You know what, we've kind of
24 been through that, Judge, and I agree. I think that
25 that's -- either he is or he's not is their ---

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Charge

281

1 THE COURT: Burden?

2 MR. BELDING: Yeah.

3 MS. WETHERTON: Yeah.

4 THE COURT: What about where will he be
5 committed?

6 MR. BELDING: Well ---

7 THE COURT: In a long-term ...

8 MR. BELDING: --- I mean, do you ---

9 THE COURT: It's in a secure facility. I
10 mean ---

11 MR. BELDING: A secure facility with DMH. And
12 right now, it's all out at Broad River. That could
13 change. That could change. So I don't know if that's
14 ---

15 MS. WETHERTON: Yeah. So I would just say
16 pursuant to the statute it's in a secure facility.

17 MR. BELDING: Run by DMH.

18 MS. WETHERTON: We won't say run by DMH.

19 MR. BELDING: You don't think -- well, because
20 it might ---

21 MS. WETHERTON: According to the statute,
22 that's excluded.

23 MR. BELDING: Okay. All right.

24 MS. WETHERTON: We just quote the statute.

25 MR. BELDING: All right. That's right.

1 Because they're getting ready to out-source some of it.

2 MS. WETHERTON: Yes. And that is true as
3 well. It's a secure facility.

4 THE COURT: Okay. Basically, under the
5 Statute 44-48-30, sexually violent predator is
6 everything I charged them.

7 MR. BELDING: Okay.

8 THE COURT: It means a person has been
9 convicted of a sexually violent offense and suffers from
10 a mental abnormality, a personality disorder, that makes
11 a person likely to engage in acts of sexual violence if
12 not confined in a secure facility for long-term care and
13 treatment. And I'm happy ---

14 MR. BELDING: Is that -- do you have to bring
15 them back in here?

16 THE COURT: No, I'm happy to write that.

17 MR. BELDING: Okay. That's fine.

18 THE COURT: That says, you know, Section 44-
19 48-30 says ...

20 MS. WETHERTON: That's fine.

21 MR. BELDING: Thank you. Works for us; for
22 me.

23 THE COURT: Where will he be committed?

24 MR. BELDING: To a secure facility.

25 MS. WETHERTON: Yes. Pursuant to the statute.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Charge

283

1 MR. BELDING: Your Honor, the statute, does it
2 say in DMH?

3 MS. WETHERTON: Yeah, it does say that he must
4 be committed to the custody of the Department of Mental
5 Health. So if you want to say that, it is in the
6 statute.

7 THE COURT: Okay, Counsel. The first question
8 is, what is the legal definition of a sexually violent
9 predator? My response is, pursuant to the statute, a
10 sexually violent predator is a person who has been
11 convicted of a sexually violent offense and suffers from
12 a mental abnormality or personality disorder that makes
13 the person likely to engage in acts of sexual violence
14 if not confined in a secure facility for long-term
15 control, care, and treatment.

16 MS. WETHERTON: That's fine.

17 MR. BELDING: That's what it says.

18 THE COURT: Number two. Where will he be
19 committed? My response is, pursuant to the statute, if
20 the jury determines that the person is a sexually
21 violent predator, the person must be committed to the
22 custody of the Department of Mental Health in a secure
23 facility.

24 MS. WETHERTON: That's fine.

25 MR. BELDING: Okay.

1 THE COURT: And the third one is, long-term
2 treatment involves what amount of time? And I haven't
3 written anything yet.

4 MS. WETHERTON: Just that ---

5 MR. BELDING: Can you just say indeterminate?
6 Or does that mean anything to those people?

7 MS. WETHERTON: No, I would just say that
8 that's not a question. Because that's not what they
9 require -- that isn't what they're required to
10 determine. I mean, if they're there a year or they're
11 there ten years, they have to meet ---

12 THE COURT: So basically, the answer is that
13 is not a factor for you to consider.

14 MS. WETHERTON: Yes.

15 MR. BELDING: Okay. That's a good response.

16 THE COURT: Okay. Counsel, this is what I
17 wrote for question three. That is not a factor for your
18 consideration in reaching a verdict on whether
19 Respondent is or is not a sexually violent predator.

20 MS. WETHERTON: I agree.

21 MR. BELDING: Agreed.

22 THE COURT: If you will give this note to the
23 jury. Ask that they hold onto it. Do not destroy it,
24 do not ball it up. And have the foreperson read it to
25 the jury and save it.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Verdict

285

1 THE BAILIFF: Yes, Your Honor.

2 THE COURT: Thank you. And we'll just stand
3 in recess until we hear from them further.

4 MR. BELDING: Thank you, Your Honor.

5 MS. WETHERTON: Thank you, Judge.

6 (WHEREUPON, court stood at ease awaiting the
7 verdict of the jury.)

8 THE COURT: I understand that the jury has
9 reached a verdict. Is there anything we need to take up
10 before we bring the jury in?

11 MS. WETHERTON: Nothing from the State, Your
12 Honor.

13 MR. BELDING: Nothing from the Respondent.
14 Thank you.

15 THE COURT: You may ask the jury to come in,
16 please.

17 THE BAILIFF: Yes, Your Honor.

18 (WHEREUPON, Court's Exhibit Number 1 was marked for
19 identification.)

20 (WHEREUPON, the jury entered the open court at
21 approximately 2:30 p.m.)

22 THE BAILIFF: Your Honor, the jury's present.

23 THE COURT: Madam Forelady, I understand that
24 you've reached a verdict; is that correct?

25 MADAM FORELADY: Yes, Your Honor.

1 THE COURT: Would you please pass it to the
2 bailiff for me, please?

3 If you would publish the verdict for me, please.

4 THE CLERK: Yes, ma'am.

5 Court of Common Pleas of the Fifth Judicial
6 Circuit, State of South Carolina, County of Richland.
7 In the Matter of Care and Treatment of Daquan Johnson,
8 Case number 2013-CP-40-3805. We, the jury, unanimous
9 find that Daquan Johnson is a sexually violent predator.
10 Signed by the forelady and dated September the 15th,
11 2014.

12 Madam Forelady, is this your verdict and the
13 verdict of the entire jury?

14 MADAM FORELADY: Yes, it is.

15 THE CLERK: Thank you.

16 THE COURT: Do the parties wish to poll the
17 jurors?

18 MS. WETHERTON: The State does not.

19 MR. BELDING: Not for the Respondent, Your
20 Honor. Thank you.

21 THE COURT: Ladies and gentlemen, the Court is
22 not concerned with the verdict that you reached so much
23 as I'm concerned with the process by which you reached
24 the verdict. You listened to the evidence as it was
25 presented throughout the course of this trial and you

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Verdict

287

1 listened to my instructions as to the law. You
2 determined the facts in accordance with your view of
3 what that evidence showed and you applied the law as I
4 instructed you and you were able to arrive at your
5 verdict. And having done so, no one can complain about
6 the verdict that you've reached. And you have fully
7 discharged your duty and your responsibility as jurors
8 in this matter.

9 On behalf of the State and Richland County, I'd
10 like to thank you very much for your service in this
11 particular matter. I'm pleased to tell you that your
12 service is concluded for the week. I'll ask if you will
13 when you leave the courtroom, if you will step out into
14 the jury room, Becky has your return to work form and
15 the checks will be in the mail. I ask that you leave
16 your plastic portion of your badge with us. The white
17 portion is your souvenir for jury this week.

18 But thank you all very much. I appreciate your
19 service.

20 (WHEREUPON, the jury exited the open court at
21 approximately 2:34 p.m.)

22 THE COURT: Are there any post-trial motions
23 at this time?

24 MR. BELDING: None from the Respondent, Your
25 Honor.

1 MS. WETHERTON: And none from the State, Your
2 Honor. I do have an order of commitment for the Court.

3 THE COURT: Yes, ma'am. If you'd like to hand
4 it up, I'll be happy to look at it. Based upon the
5 jury's verdict in this case, they unanimously found that
6 Mr. Johnson is a sexually violent predator. And
7 pursuant to the statute then I'm required to commit him
8 to the custody and control of the Department of Mental
9 Health for long-term care, control and treatment.

10 MS. WETHERTON: Judge, if I could approach.
11 And I just provided Mr. Belding a copy as well.

12 MR. BELDING: Your Honor, I just looked at it.
13 This is fine.

14 MS. WETHERTON: And I can file it for you so I
15 can get it to the jail.

16 THE COURT: Thank you very much.

17 MS. WETHERTON: And thank you for taking over
18 at the last minute.

19 THE COURT: Not a problem at all.

20 MS. WETHERTON: Thank you.

21 THE COURT: Thank you, very much. And I've
22 signed the order. And Mr. Johnson you will be
23 transported to the Department of Mental Health whenever
24 they arrange transportation with the county detention
25 center. Good luck to you all.

In Re: Care and Treatment of Daquan Johnson (2013-CP-40-03805)
Verdict

289

- 1 MS. WETHERTON: Thank you.
- 2 MR. BELDING: Thank you, Your Honor.
- 3
- 4 [END OF REQUESTED TRANSCRIPT OF RECORD]

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)	
)	CASE NO. 2013-CP-40-_____
IN THE MATTER OF THE CARE)	
AND TREATMENT OF)	PETITION PURSUANT TO THE
DAQUAN JOHNSON,)	SEXUALLY VIOLENT PREDATOR ACT
RESPONDENT.)	
_____)	

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, Daquan Johnson, 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 has already been released from custody.**
3. The Multidisciplinary Team met on **May 31, 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 **June 25, 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) On June 14, 2010, a woman reported to law enforcement authorities that Respondent had sexually assaulted her three children, **Victim 1 (10-year-old female)**, **Victim 2 (13-year-old male)**, and **Victim 3 (5-year-old male)**. According to law enforcement documentation, Victim 1, who

2013 JUL - 1 AM 10:33
 JENNIFER M. McNEIL
 C.C.P.
 RICHLAND COUNTY
 FILED

according to investigators had "obvious developmental delays," stated that Respondent had shown her pornography, exposed his penis and made her perform oral sex on him. In addition, Victim 1 further described Respondent performing anal intercourse on her and Victim 2. In addition, Victim 2 reported that Respondent had also shown him pornography and corroborated Victim 1's statement of her performing oral sex on Respondent. Victim 2 further stated that Respondent masturbated in front of them and tried to make Victim 2 and the other victims perform sexual acts with each other. Victim 2 described Victim 1 performing oral sex on himself (Victim 2), and Victim 3. Victim 2 also described attempting to have vaginal intercourse with Victim 1. Victim 2 stated that when they would refuse to perform oral sex on the Respondent that Respondent would threaten to kill or hit them. Victim 2 also described Respondent attempting to penetrate Victim 1's vagina with his penis. Also, Victim 3 reported that Respondent made Victim 3 and the other victims perform oral sex on him. Victim 3 reported being sexually assaulted by Respondent and Respondent's brother. Victim 3 also stated that Respondent "showed a CD." However, the interviewer at the time indicated that Victim 3 appeared too embarrassed to describe the contents of the CD. The victims reported that this had occurred on multiple occasions, and the grandmother of the victims had interrupted these incidents at least twice, and had ordered Respondent to leave the residence. Respondent is the brother of the victims' mother's boyfriend and is the biological father of Victim 3. Respondent was initially charged with three counts of Criminal Sexual Conduct with a Minor in the First Degree violation of South Carolina Code 16-3-655 and one count of Assault with Intent to Commit Criminal Sexual Conduct with a Minor in the Second Degree in violation of South Carolina Code 16-3-656. On December 17, 2012, Respondent pled guilty to three counts of Lewd Act Upon a Child under 16 in Violation of South Carolina Code Section 16-15-140. Respondent received a concurrent sentence of 15 years incarceration suspended to time served and five years probation. **(PETITIONER'S EXHIBIT C)**. However, on April 5, 2013, Respondent was found to violate the terms of his probation due to technical violations, failing to report or to provide truthful reports, changing residence or employment without authorization or notification to his agent, and failing to follow the advice or instructions of his agent, and was sentenced to six months of incarceration. **(PETITIONER'S EXHIBIT D)**.

- (b) On July 26, 2007, an initial criminal complaint was filed against Respondent where a woman alleged that Respondent had sexually assaulted her son, **Victim 4 (5-years-old at the time of the offense)**. According to law enforcement documentation, the victim's mother reported the Respondent had pulled down Victim 4's pants, and had described what appeared to be Respondent ejaculating on Victim 4's buttocks. Victim 4 also said that Respondent had performed oral sex on him. Respondent was charged with Criminal Sexual Conduct with a Minor of the First Degree in Violation of South Carolina Code 16-3-655. Respondent, who was 16-years-old at the time, denied the allegations and the case was subsequently dismissed. **(PETITIONER'S EXHIBIT E)**.

(c) During Respondent's incarceration at the South Carolina Department of Corrections, Respondent has had one recorded disciplinary infractions. **(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 three 2012 conviction for Lewd Act Upon a Child Under 16 as set forth above. (**PETITIONER'S EXHIBIT C, *supra***).

B. The basis of his record of convictions and arrests in South Carolina dating back to at least 2009, including convictions for:

1. 06/23/2009 – Burglary 3rd Degree
2. 12/20/2010 – Violation of Probation
3. 02/01/2013 – Violation of Probation

(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) Offender age 18-24; 2) Never legally married or never lived with a lover for at least two years; 3) Male victim; 4) Length of sexual offending history one to six years; 4) Force or threat of force used; 5) Multiple acts on a single victim within a single contact ; 6) Two or more age groups victimized; 7) Victim age 13-15; 8) More than one victim; 9) 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 (SCDC). (**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

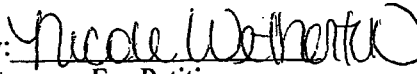
hearing to contest probable cause as to whether he is a Sexually Violent Predator;

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

June 28, 2013
Columbia, South Carolina

Petitioner's Exhibit A

SEXUAL PREDATOR REFERRAL FORM

Offender Name: DAQUAN JOHNSON Offender Number: 354906 Jurisdictional Agency: SCDC

Age: 22 County: RICHLAND Qualifying Offense(s): Lewd Act on Child Under 16 (3 counts) Guilty Plea: Trial:

Gender: Male No. of Incarcerations:

Adult 6 months / probation revocation Parole Eligibility Max-Out

Sentence: Date: Date: 06/03/2013

Juvenile Parole SFII

Guidelines: Release Date: Date:

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

VOTES TO REFER/NOT REFER TO PROSECUTOR'S REVIEW COMMITTEE:

YES	NO	ABSTAIN
4	0	0

The following Sexual Predator Multi-Disciplinary Team Members participated in the review process:

[Signature] SCDC -- CHAIRPERSON

[Signature] SCDPPS

Tiffany E. Musick, PhD, ABPP DMH

[Signature] JDG

[Signature] ATTORNEY

MULTIDISCIPLINARY TEAM

The offender's records were assessed by the Multidisciplinary Team on May 31, 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**

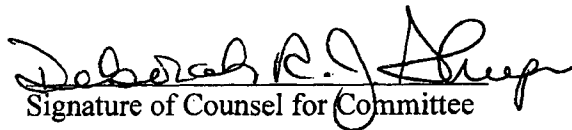
INMATE NAME:	INMATE NUMBER:	PRC REVIEW DATE:
JOHNSON, DAQUAN	354906	JUNE 25, 2013
		MEMBERS PRESENT:
		John McIntosh for Alan Wilson David M. Stumbo via telephone Beebe James via telephone

DATE RECEIVED FROM MULTIDISCIPLINARY TEAM: JUNE 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

300 OF SOUTH CAROLINA

COUNTY OF Richland
STATE VS.
DAQUAN JOHNSON

AKA: _____

Race: B Sex: M Age: 20 31

DOB: _____ SS#: _____

Address: _____

City, State, Zip: COLUMBIA, SC 29201

DL#: _____ SID#: 01847303

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

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS

☒ Defendant Waives Presentment to Grand Jury.

The charge is: ☐ As Indicted, ☐ Lesser Included Offense,

The plea is: ☐ Without Negotiations or Recommendation,

ATTEST: Margaret Fent Bodman 70937 SC Bar#

Bodman, Margaret Fent SC Bar#

WHEREFORE, the Defendant is committed to the

for a determinate term of 15 days/months/years or

and/or to pay a fine of \$ _____; provided that upon the service of

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with

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

by the State Department of Corrections.

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

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

§ 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

§ 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 (SCCJA Surcharge) \$5

§ 44-53-450(C) (Conditional Discharge) \$350

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter: James Jeanette McBride

SCCA/217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS4012128

A/W#: DP07392

Date of Offense: 7/14/2007 - 7/25/2007

S.C. Code §: 16-03-0655(A)(1)

CDR Code #: 0385

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

§ 17-25-45

w/minor 1st or Lewd Act)

(defendant's initials)

Recommendation by the State.

Negotiated Sentence,

Attorney for Defendant

SC Bar#

State Department of Corrections,

County Detention Center,

Youthful Offender Act not to exceed _____ years

days/months/years and/or payment

probation for _____

§ 24-13-40 to be calculated and applied

§ 17-25-135.

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

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

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other: lifetime GPS and

sexual offender registry

Condition Discharge, § 53-450(C) requires

\$350 be paid to the Clerk prior to case disposition

Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge

Judge Code: 2061

Sentence Date: 12/17/12

SOUTH CAROLINA

INMATE RECORDS OFFICE

2013 APR 22 AM 11:18

RECEIVED THE COPY

CLERK OF COURT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

301

COUNTY OF
STATE

Richland

VS.

Daquan R Johnson

AKA:

Race: B

Sex: M

Age: 20

DOB:

SS#:

Address:

City, State, Zip:

Columbia, SC 29201-1225

DL#:

SID#:

01847303

*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)

SENTENCE SHEET

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

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☒ Mandatory GPS(CSC☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is:

☐ As Indicted,☐ Lesser Included Offense,☒ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Margaret Fent

70937

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

15

days/months/years or

☐ under the

Youthful Offender Act

not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of

+15

days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with

probation

for

5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code by the State Department of Corrections.

§ 24-13-40 to be calculated and applied

☐ 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: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$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

\$

§ 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

\$

§ 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)

Presiding Judge

Judge Code:

Sentence Date:

☐ Condition Discharge. §53-450(C) requires

\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

INMATE RECORDS OFFICE
2013 APR 22 PM 11:18

Presiding Judge

Judge Code:

Sentence Date:

2061

12/17/11

RECEIVED TRUE COPY
FILED
CLERK OF COURT
SOUTH CAROLINA

302
STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS.
Daquan R Johnson

INDICTMENT/CASE#: 2011GS4001969
A/W#: K643504
Date of Offense: 2/4/2007 - 6/12/2010
S.C. Code §: 16-03-0655(A)(1)
CDR Code #: 0385

AKA: _____
Race: B Sex: M Age: 20-21
DOB: _____ SS#: _____
Address: _____
City, State, Zip: Columbia, SC 29201-1225
DL#: _____ SID#: 01847303

SENTENCE SHEET

*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 § 16-15-0140 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) ☐ §17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. (defendant's initials) 2011
The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Margaret Fent 70937 Daquan R Johnson 75388
Bolton, Margaret Fent 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 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of +15 days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2007-05-40 - 12/28
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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	\$
§ 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	\$
§ 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 (SCCA Surcharge)	\$5	\$
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/ Deputy Clerk Jeanette McBride
Court Reporter: Holmes
SCCA/217 (06/2010)

PTUP _____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

☐ Condition Discharge, §-53-450(C) requires \$350 be paid to the Clerk prior to case disposition
☐ Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge _____
Judge Code: 2561
Sentence Date: 12/17/12
SOUTH CAROLINA

INMATE RECORDS OFFICE
2013 APR 22 AM 11:18

CERTIFIED TRUE COPY
ORIGINAL FILED

303

WITNESSES

(S) INV MERRILL - Columbia Police
Department

ARREST WARRANT NUMBER

K643504

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: MAY 13 2011

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-40-01969

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MAY TERM 2011

92

THE STATE
VS.

DAQUAN R JOHNSON

Indictment for
CRIMINAL SEXUAL CONDUCT WITH A
MINOR
FIRST DEGREE

SC Code: 16-03-0655(A)(1)

CDR Code: 0385

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I Daquan R. Johnson
hereby appear in my own proper person and plead
guilty to the within indictment or to

Lowd Act

Defendant

Witness:

C.C.C. PLS. AND G.S.

2013 APR 22 AM 11:18
SOUTH CAROLINA
CLERK OF COURT
INMATE RECORDS OFFICE

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

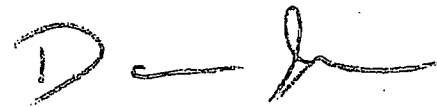
At a Court of General Sessions, convened on MAY 11, 2011, the Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

CDR: 0385 16-03-0655(A)(1)

That DAQUAN R JOHNSON did in Richland County, State of South Carolina, on or between February 4, 2007 and June 12, 2010, willfully and unlawfully engage in a sexual battery with a minor who is less than eleven (11) years of age, to wit: [REDACTED] in violation of Section 16-3-655(A)(1), [formerly Section 16-3-655(1)], S. C. 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.



DAN JOHNSON, SOLICITOR

ARREST WARRANT

KE43504 K-643504 101646B

STATE OF SOUTH CAROLINA

☐ County ☒ Municipality of
COLUMBIATHE STATE
against

DAQUAN R JOHNSON

Address: COLUMBIA SC 29201

Phone: SSN: 6-259
Sex: M Race: B Height: 6 Weight: 259DL Sta: SC0400100
DOB: Agency ORI#: CITY OF COLUMBIA

Prosecuting Agency: MERRILL INV. A7 M. FENT

Prosecuting Officer: CSC W/MINOR 1ST DEGREE

Offense: CSA
Offense Code: 16-3-655
Code/Ordinance Sec:This Warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☒ Municipality of
COLUMBIA. The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CITY OF COLUMBIA
CITY OF COLUMBIA
MUNICIPAL COURT
BOX 644
P.O. BOX 644
COLUMBIA, S.C. 29202
COLUMBIA, S.C. 29202

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIA

AFFIDAVIT

INV. A MERRILL

Personally appeared before me the affiant DAQUAN R JOHNSON who
being duly sworn deposes and says that defendant
did within this county and state on 02/04/2007 - JUNE 12, 2010 violate the criminal laws of theState of South Carolina (or ordinance of ☐ County/ ☒ Municipality of COLUMBIA)
in the following particulars: CSC W/MINOR 1ST DEGREE 16-3-655
DESCRIPTION OF OFFENSE: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 DEF DID AT CITY OF COLA SC RICHLAND CTY ENGAGE IN
SEXUAL ACTIVITY WITH THE VICTIM, A FIVE YEAR OLD BOY ON OR ABOUT
FEBRUARY 2007 THROUGH JUNE 12, 2010. DURING THE FORENSIC INTERVIEW
THE VICTIM DISCLOSED THAT HE WAS COERCED INTO SEXUAL ACTIVITIES WITH
THE DEF DURING THIS TIME.

Signature of Affiant

INV. A. Merrill
11 JUSTICE SQUARE

Affiant's Address: COLUMBIA SC 29201

Affiant's Telephone: 5453500

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIA

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 02/04/2007 - JUNE 12, 2010 defendant DAQUAN R JOHNSON
did violate the criminal laws of the State of South Carolina (or ordinance of☐ County/ ☒ Municipality of COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE: CSC W/MINOR 1ST DEGREE 16-3-655

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 12/16/2010

Judge's Address: CITY OF COLUMBIA, SC

Municipal Court, P.O. BOX 644 29202

Judge's Telephone:

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Judge Code: 403003

ORIGINAL

ARREST WARRANT

K643505 **K-643505** 1016468

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIATHE STATE
against

DAQUAN R JOHNSON

Address: 45-1-7
UMBPhone: SSN: 03-259
Sex: M Race: B Height: Weight: 259
Di State: DI

Agency ORI#

CITY OF COLUMBIA

Prosecuting Agency: MERRILL INV. A7 M.FENT

Prosecuting Officer: CSC W/MINOR 1ST DEGREE

Offense: CSA

Offense Code: 16-3-655

Code/Ordinance Sec: 16-3-655

This Warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of
COLUMBIAThe accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO

CITY OF COLUMBIA
MUNICIPAL COURT
P.O. BOX 644
COLUMBIA, S.C. 29202

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIA

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618INV. A MERRILL
Personally appeared before me the affiant DAQUAN R JOHNSON who
being duly sworn deposes and says that defendant 12/01/2004 - JUNE 12, 2010
did within this county and state on violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of COLUMBIA)
in the following particulars: CSC W/MINOR 1ST DEGREE 16-3-655
DESCRIPTION OF OFFENSE: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 DEF DID AT CITY OF COLA SC RICHLAND CTY ENGAGE IN
SEXUAL ACTIVITY WITH THE VICTIM, A TEN YEAR OLD GIRL ON OR ABOUT
DECEMBER 2004 THROUGH JUNE 12, 2010. DURING THE FORENSIC INTERVIEW THE
VICTIM DISCLOSED THAT SHE WAS COERCED INTO SEXUAL ACTIVITIES WITH
THE DEF DURING THIS TIME.

Signature of Affiant

INV. A Merrill

Affiant's Address: #1 JUSTICE SQUARE

COLUMBIA SC 29201

Affiant's Telephone: 5453500

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 12/01/2004 - JUNE 12, 2010 defendant DAQUAN R JOHNSON
did violate the criminal laws of the State of South Carolina (or ordinance of☐ County/ ☒ Municipality of COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE: CSC W/MINOR 1ST DEGREE 16-3-655

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 12/16/2010)

Signature of Issuing Judge (L.S.)

Signature of Issuing Judge

Ministerial Recorder

Judge's Address: CITY OF COLUMBIA, SC
MUNICIPAL COURT, P.O. BOX 644 29202

Judge's Telephone:

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on MAY 11, 2011, the Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
1ST DEGREE

CDR: 0385 16-03-0655(A)(1)

That DAQUAN R JOHNSON did in Richland County, State of South Carolina, on or between DECEMBER 1, 2004 AND JUNE 12, 2010 willfully and unlawfully engage in a sexual battery with a minor who is less than eleven (11) years of age, to wit: [REDACTED] in violation of Section 16-3-655(A)(1), [formerly Section 16-3-655(1)], S. C. 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.



DAN JOHNSON, SOLICITOR

INMATE RECORDS OFFICE
 2013 APR 22 AM 11:18

CERTIFIED TRUE COPY
 OF ORIGINAL FILED,
James H. Williams
 CLERK
 RICHLAND COUNTY
 SOUTH CAROLINA

WITNESSES

(S) INV MERRILL -- Columbia Police
Department

ARREST WARRANT NUMBER

K643505

ACTION OF GRAND JURY

TRUE BILL

Mena H. Gardiner
Foreperson of Grand Jury
Date: MAY 13 2011

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-40-01970

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MAY TERM 2011

92

**THE STATE
vs.**

DAQUAN R JOHNSON

**Indictment for
CRIMINAL SEXUAL CONDUCT WITH
MINOR, 1ST DEGREE**

SC Code: 16-03-0655(A)(1)
CDR Code: 0385

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

WITNESSES

(S) S.T. Narewski, CPD

ARREST WARRANT NUMBER

DP - 07392

ACTION OF GRAND JURY

TRUE BILL

Sharon Helms
 Foreperson of Grand Jury
 Date: DEC 13 2007

VERDICT

Foreperson of Petit Jury
 Date:

DOCKET NO. 2007-GS-40-12128

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2007

92

THE STATE
 vs.

DAQUAN JOHNSON

Indictment for

CRIMINAL SEXUAL CONDUCT
 WITH A MINOR 1ST

SC Code: 16-3-655(A) (1)
 CDR Code: 0385
 Class FEL/A(V)

After being fully advised as to my
 legal rights, I hereby waive presentment
 to the Grand Jury.

AM 11:18
 Defendant

I Daquan Johnson
 hereby appear in my own proper person and
 plead guilty to the within indictment or to

Lewd Act

Daquan Johnson
 Defendant

Witness:
 C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
 OF ORIGINAL FILED,
 12/13/07
 C.C.C. PLS. AND G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

ARREST WARRANT

K643506 K-643506 1016468

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIA

THE STATE

against

DAQUAN R JOHNSON

Addr: COLUMBIA SC 29201

Phone: _____ SSN: _____
 Sex: M Race: B Height: 6 03 Weight: 259
 DL: _____ DI: _____
 DOB: _____ Agency ORI#: SC0400100
 Prosecuting Agency: CITY OF COLUMBIA
 Prosecuting Officer: MERRILL INV. A/ M. FENT
 Offense: ASSAULT W/INTENT TO COMMIT
 CSC W/MINOR 2ND Offense Code: CSA
 Code/Ordinance Sec: 16-3-655

This Warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☒ Municipality of
 COLUMBIA The accused
 is to be arrested and brought before me to be
 dealt with according to law.

Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
 defendant _____
 on _____

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CITY OF COLUMBIA
 MUNICIPAL COURT
 P.O. BOX 644
 COLUMBIA, S. C. 29202

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIA

AFFIDAVIT

Personally appeared before me the affiant INV. A MERRILL
 being duly sworn deposes and says that defendant DAQUAN R JOHNSON
 did within this county and state on 11/12/2007-JUNE 12, 2010 violate the criminal laws of the
 State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of COLUMBIA)
 in the following particulars: ASSAULT W/INTENT TO COMMIT 16-3-655
 DESCRIPTION OF OFFENSE: CSC WITH A MINOR 2ND

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 DEF. DID AT CITY OF COLA SC RICHLAND CTY ATTEMPT
 TO SODOMIZE THE VICTIM BY POSITIONING HIMSELF AND THE VICTIM IN A
 MANNER DESIGNED TO FACILITATE ANAL INTERCOURSE. THE DEF KNEW THAT THE
 VICTIM WAS UNDER THE AGE OF (14) AT THAT TIME OF THE SEXUAL INTER-
 ACTION. THE DEF'S ATTEMPTED SEXUAL ASSAULT UPON THE MALE CHILD WAS
 DISCLOSED DURING A FORENSIC INTERVIEW. THE VICTIM STATES THIS OCCUR-
 RED ON OR ABOUT NOVEMBER 12, 2007 THROUGH JUNE 12, 2010. THE DEF IS
 KNOWN BY NAME AND SIGHT.

Signature of Affiant

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
 COLUMBIA)

Affiant's Address: #1 JUSTICE SQUARE
COLUMBIA SC 29201

Affiant's Telephone: 5453500

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
 on 11/12/2007-JUNE 12, 2010 defendant DAQUAN R JOHNSON
 did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☒ Municipality of COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE: ASSAULT W/INTENT TO COMMIT 16-3-655
 CSC WITH A MINOR 2ND

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 12/15/2010)

Signature of Recorder (L.S.)
 Ministerial Recorder
 Judge Code: 403003

Judge's Address: CITY OF COLUMBIA, SC
 MUNICIPAL COURT, P.O. BOX 644 29202
 Judge's Telephone: _____

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

ARREST WARRANT

K643503 K-643503 1016468

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIATHE STATE
against

D'ANGELO R JOHNSON

Address
COLUMBIA SC 29201Phone: _____ SSN: _____
Sex: M Race: B Height: 6'0" Weight: 220

DL St: _____ DOB: _____ 3 Agency ORI#: SC0400100

Prosecuting Agency: CITY OF COLUMBIA

Prosecuting Officer: MERRILL INV. A7 M. FENT

Offense: CSC W/MINOR 1ST DEGREE

Offense Code: CSA

Code/Ordinance Sec: 16-3-655

This Warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of
COLUMBIAThe accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant _____

on _____

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CITY OF COLUMBIA
MUNICIPAL COURT
P. O. BOX 644
COLUMBIA, S. C. 29202

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIA

AFFIDAVIT

Personally appeared before me the affiant INV. A MERRILL who
being duly sworn deposes and says that defendant D'ANGELO R JOHNSON
did within this county and state on 02/12/2009 - JUNE 12, 2010 violate the criminal laws of theState of South Carolina (or ordinance of ☐ County/ ☒ Municipality of COLUMBIA)
in the following particulars:

DESCRIPTION OF OFFENSE: CSC W/MINOR 1ST DEGREE 16-3-655

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 DEF DID AT CITY OF COLA SC RICHLAND CTY ENGAGE IN
SEXUAL ACTIVITY WITH THE VICTIM, A FIVE YEAR OLD BOY ON OR ABOUT
FEBRUARY 12, 2009 THROUGH JUNE 12, 2010. DURING THE FORENSIC INTERVIEW
THE VICTIM DISCLOSED THAT HE WAS COERCED INTO SEXUAL ACTIVITIES WITH
THE DEF MULTIPLE TIMES DURING THIS TIME.

Signature of Affiant

INV. A Merrill
#1 JUSTICE SQUARE

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIAAffiant's Address
COLUMBIA SC 29201Affiant's Telephone
5453500

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 02/12/2009 - JUNE 12, 2010 at D'ANGELO R JOHNSON
did violate the criminal laws of the State of South Carolina (or ordinance of☐ County/ ☒ Municipality of COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE: CSC W/MINOR 1ST DEGREE 16-3-655

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 6/12/16/2010

Signature of Issuing Judge
(L.S.)

Judge Code: 403003

Judge's Address CITY OF COLUMBIA, SC

MUNICIPAL COURT, P. O. BOX 644 29202

Judge's Telephone

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

CHILD'S NAME: _____ **SEX:** Female

INTERVIEW DATE(S): 6/22/10 **RACE:** Black

DATE OF BIRTH: _____ **AGE:** 10

REFERRAL SOURCE/AGENCY/PHONE: Inv. April Merrill / CPD

INVOLVED AGENCIES: Enter specific personnel and agency name.

☒ Law Enforcement See above

☐ DSS _____

☐ Other _____

☒ Sexual Abuse
 ☐ Physical Abuse
 ☐ Neglect
☐ Psychological Abuse
 ☐ Witness
 ☐ Other

Identity of alleged perpetrator (include full name, age, race): [REDACTED]
 Relation to child: Step-father's brother;

Records reviewed / Available in chart:

☒ LE Records
☒ DSS Records
☒ ARC Intake
☒ Caregiver Questionnaire
☐ Other Records (specify):

If yes, by whom?

Media used in interview:

- ☒ Flipchart
☒ Anatomical Diagrams
☐ Other:

☐ TSCC
☐ TSCYC
☐ CBCL
☐ CSBI
☐ CAPI
☐ Other Symptom Measure:

☒ No

- ☐ Anatomical Dolls
☐ Competency Book:
 Proficient? ☐ Y ☐ N

INTERVIEW OUTCOME

☒ Disclosure of Maltreatment Typology: ☒ Sexual ☐ Physical ☐ Psychological ☐ Neglect ☐ Witness ☐ Other:	☐ No Disclosure of Maltreatment Typology: ☐ Denial ☐ Recantation of Prior Disclosure	Comments:
Opinion: ☒ Compelling ☐ Problematic	Opinion: ☐ Compelling ☐ Problematic	

Summary of abuse / event disclosure (Note: This is a summary. See video for child's complete statement.)

█████ was interviewed using the semi-structured interview protocol known by the acronym RATAC. She presented as friendly and cooperative but with some developmental delays and a short attention span. Interviewer accommodated for this by keeping questions simple and concrete. Interviewer made explicit the expectation of truth-telling. █████ named family members with whom she resides, including mother, father, and two brothers (█████ 5; █████ 13). She self-identified as female and named parts on drawings. She denied knowing names for vagina, penis, or breasts but did name "butt" for buttocks. She endorsed getting hugs, kisses, and tickles from mom and said her brother sometimes hits her arm.

Asked to point to parts others are not supposed to touch, she pointed to the vagina and butt on the girl and the penis and butt on the boy. Asked if someone has touched her on her vagina, she initially said no but then ended up saying that her brother █████ has touched her inside her pants on her vagina. This happened more than once and it happened at Grandma Odom's house, in her room. He made █████ touch his penis with her hand, too. Asked if someone ever showed her movies or pictures of people without their clothes on, she said "█████ did." He is Grandma Odom's son. He showed her and █████ his penis. Queried further, she stated that Daquan told her to "suck it." She did. She denied ejaculation. Happened more than once. He also told █████ to suck it and he did, but he not tell █████ to do it. It did sound like █████ may have been present for some of the sexual activity, but it was unclear whether anything was actually done to him. Daquan put his penis in █████'s butt "one time" and in █████'s butt more than one time. She stated "Daquan put his in █████ and █████ put his in my butt. Sometimes here, too (pointing to vagina)." Daquan may have been present for some of what █████ did to █████ but this was not completely clear. She could not explain whose idea it was for █████ to do the things he did to her; sometimes she seemed to say that Daquan was there (as in, in the home) but may not have been in the room.

She was not able to describe individual events but did say that one time Daquan's brother Snoop saw something going on and said he was going to tell on Daquan. █████ also seemed to indicate that Ms. Odom had some knowledge of the situation because she said that she would yell at Daquan to get out of her room and threaten to throw him out of the house. █████ said that Daquan would show them the movies of "girls with their butts up" in the living room. He hid the movies behind a table in the living room. █████ denied any other perpetrators. She denied any other locations than Grandma Odom's residence. She stated that she told her dad about what happened and he was very mad at Daquan. "I'm going to tell my mom, too." Interviewer queried about people she could tell in the future. She named interviewer, mom, or a teacher. Interviewer validated this and thanked her, ending interview.

Summary of Abuse (Continuation):**RECOMMENDATIONS TO TEAM AND / OR FAMILY:**

1. In spite of obvious developmental delays, [REDACTED] provided a compelling disclosure of multiple incidents of sexual abuse by both alleged perpetrators, all of which took place at the home where Daquan Johnson resides with his mother.
2. [REDACTED] should have no further contact with Daquan.
3. [REDACTED] and [REDACTED] are scheduled for ARC interviews.
4. [REDACTED] and [REDACTED] should be supervised carefully to avoid any further instances of sexual activity.
5. [REDACTED] should be engaged in a course of short term therapy to reinforce boundaries and assertiveness skills.
6. Mother and step-father have behaved protectively and supportively. There is some concern that Daquan's mother may have been aware of at least some of what Daquan was doing and did not report either to police or to the victims' parents. [REDACTED] alluded to this in her interview, though it was difficult to tell for sure. [REDACTED] should be queried on this matter when he is interviewed.

Evaluator Name : Alicia Benedetto, Ph.D.

Evaluator Signature: _____

Alicia Benedetto, Ph.D.

Date: _____

6/22/10



ASSESSMENT & RESOURCE CENTER CAREGIVER QUESTIONNAIRE

CHILD'S NAME: [REDACTED]

SEX: F

DATE OF BIRTH: [REDACTED]

AGE: 10RACE: Black

Who is filling out this form?

Name (Please print): [REDACTED]

Your signature and date:

06-16-10 06-22-10

Your phone number: [REDACTED]

Relationship to child:

☒ Legal Parent☐ GAL / CASA☐ CPS Caseworker☐ Foster Parent☐ Therapist☐ DSS Treatment Worker☐ Other legal guardian☐ Law Enforcement☐ DSS Foster Care Worker

1. Who lives with the child now?

Name	Age	Gender (Male or Female)	Relationship
[REDACTED]	<u>33</u>	M <u>(F)</u>	<u>Mother</u>
[REDACTED]	<u>35</u>	<u>(M)</u> F	<u>Step dad</u>
[REDACTED]	<u>13</u>	<u>(M)</u> F	<u>brother</u>
[REDACTED]	<u>5</u>	<u>(M)</u> F	<u>brother</u>
		M F	
		M F	
		M F	

Has the child recently moved? ☐ Yes ☒ No

If YES, Who lived with the child before?

Name	Age	Gender (Male or Female)	Relationship
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	

2. Does the child have any medical, developmental or learning problem? YES, please check the appropriate boxes below and explain.

☒ YES
☐ NO
☐ I DON'T KNOW

☐ Medical disorder:

☐ Mental health disorder:

☐ Speech / Language problem:

☐ Other: Learning - She is in a contained classroom where she is learning to catch up to her grade level with work and comprehension.

3. Has the child experienced any difficulties at school?

If YES, describe: She has some difficulty with comprehension and is not doing work on her grade level yet.

☒ YES
☐ NO
☐ I DON'T KNOW

4. Name of child's school: Lonnie B. Nelson

Current grade: upcoming 5th

5. Who is suspected of harming the child? (Give name, age) Daquan Johnson 19, [REDACTED]

6. How does the child know this person or persons? This is Lefon Adom's brother and [REDACTED] is her brother.

7. How often did the child see this person or persons, and when was the last contact?

She saw Daquan every weekend and her brother lives with us.

8. Tell us how you came to know there might be a problem. If the child said something to you, tell us what the child said, as close to the exact words as you can remember.

She approached her stepdad and said that she had something she wanted to tell him, but didn't know if she should tell him and he told her to tell him and she said her brother saw her private area. When her brother was questioned he admitted to it and told the whole story of how Daquan was showing him pornographic movies, ~~trying~~ trying to get him to do oral sex on him, and that Daquan masturbated in front of both of them when they were sleeping over Daquan's mother's house. He stated that Daquan had been doing this for awhile and threatened to kill him if he said anything. After watching the porn and other things after a time he tried to copy an act with his sister and she told. I immediately went to the police to press charges and get what I need done to put Daquan in jail for victimizing my children and get my children help for what happened. She stated to me that [REDACTED] tried to stick his d-i-ck (spelling it out) in me and when asked how she knew how to spell it she stated that Daquan taught her how to spell the word. My son said he tried to tell Daquan's mother what happened, but she wouldn't listen. That's when Daquan threatened him. &

9. What does the child know about coming to the ARC today? What was the child told?

Nothing

10. Have previous interviews been conducted?

If YES, describe: Briefly with Richland County and Columbia Police departments.

☒ YES
☐ NO
☐ I DON'T KNOW

11. Do you have concerns about how the child is doing?

If YES, describe: Only that she is not aware of the seriousness of the situation. She is still her fun loving, happy, self and I want to impress upon her how this is not OK, because I don't think she fully understands. She only gets upset when she sees me cry.

☒ YES
☐ NO
☐ I DON'T KNOW

12. Is the child receiving counseling or mental health services right now?

If YES, describe with whom and for what.

I am about to set her up with ASY Counseling as my son is already set up with them.

☐ YES
☒ NO
☐ I DON'T KNOW

13. Has there ever been a child abuse investigation involving this child or family before?

If YES, describe: Her school saw marks on her and reported it to DSS. The case was closed and she was returned home due to insufficient proof of abuse.

☒ YES
☐ NO
☐ I DON'T KNOW

14. What else would you like us to know about the child or the situation?

My daughter is always happy, playing, and smiling and I am letting her know she is supposed to let us know anytime something like this happens. I want my children interviewed ASAP because people like Daquan should not be capable to walk around freely to prey on children.

Thank you for answering these questions. The professionals who interview and / or examine the child will use this information to further guide the process. Do you have questions? Please write them below:

When can both of my children be interviewed because my son was a victim as well and is suffering over this just as much? He is sad and very sorry for what he has done, but I want him to get help and know that Daquan is not going to get away with this!!!

CHILD'S NAME: [REDACTED] SEX: Female
DATE OF INITIAL INTERVIEW: 11-15-07 RACE: African-American
DATE OF BIRTH: [REDACTED] AGE: 8
REFERRAL SOURCE/AGENCY/PHONE: Richland County DSS: Cindy McKenzie

☒ Law Enforcement Inv. Marsden Roe, Richland County Sheriffs Dept

☒ DSS Cindy Mckenzie & MaKesia Jordan, Richland County DSS (investigator and treatment workers)

☒ Other Child's therapist if family seeks counseling outside this agency.
Linda Crimmons, Guardian ad Litem, CASA

☐ Sexual Abuse ☒ Physical Abuse ☐ Neglect

☐ Psychological Abuse ☐ Witness ☐ Other _____

Identity of alleged perpetrator (include full name, age, race): Chanetra Clisby, 30yo, African American female
Lafon Odom, 31 year old African American male

Relation to child: Biological mother and her live-in boyfriend

☐ Y ☒ N
☐ N/A

Any identified concerns re: allegation distortion?

If yes, describe:

☐ Y ☐ N

- ☐ Fantastic / implausible elements
☐ Concerning for fabricated or contaminated statement
☐ Concerning for false denial / minimization / recantation
☐ Other:

Comments: see comments below

Given all available data, this forensic interview is considered:

☐ **Compelling for:**

☒ **Problematic for:**

- ☐ No abuse
☐ Sexual Abuse
☐ Physical Abuse
☐ Psychological Abuse
☐ Neglect
☐ Witness
☐ Other:

Comments:

- ☐ No abuse
☐ Sexual Abuse
☐ Physical Abuse
☐ Psychological Abuse
☐ Neglect
☐ Witness
☐ Other:

Comments: *Unable to participate in the forensic interview process, three attempts made. See photographic evidence in medical file/law enforcement records.*

Summary of abuse / event disclosure (See video for child's complete statement)

☒ No disclosure

Comments:

██████ was not able to participate in the forensic interview process, despite three attempts, due to her developmental and behavioral difficulties. Based on the ARC's pediatrician's review of the photographic evidence and information from law enforcement and the department of social services, as well as social services own indication of the case, it seems clear that ██████ was physically abused and her caregivers failed to report the abuse when discovered

██████'s particular combination of disabilities, behavioral and developmental, make her a particularly likely candidate for further abuse in the future and at risk for extreme harm or child homicide. Children with disabilities are more likely to be abused and are less likely to report the abuse. ██████ has demonstrated her limitations and inability to disclose abuse, and those limitations have been shown and proven beneficial for the perpetrator. She is extremely likely to be abused again, with increasing severity.

RECOMMENDATIONS TO TEAM AND / OR FAMILY:

1. **Home visits should be frequent and unannounced, should occur immediately if the child does not attend school on a regular school day, and should include a physical check of the child's body.** [REDACTED] has been returned home – despite that being the alleged site of her abuse and despite the caregivers' failure to protect and report. She is likely being cared for and disciplined by the person who gave her such clear marks of abuse before. This family should be monitored closely as interventions are put in place to protect the child and give the family the best shot at refraining from abusing her further.
2. [REDACTED] **should be monitored by social services as stated above until a thorough developmental screening can be completed, recommendations obtained and implemented.** It will be impossible to locate and refer this family to adequate and appropriate services without further information about [REDACTED]'s limitations and needs. The only school records made available were from February 2007 and included only testing information, nothing about interventions or supportive services put in place by the school system. A thorough evaluation by a developmental specialist is critical to determining the nature of [REDACTED]'s difficulties at home and in school. The school system cannot be expected to assess for and provide services for the home environment, where the abuse apparently occurred. It is recommended that the child be evaluated by the University of South Carolina's School of Medicine's Developmental Pediatric Clinic, 8301 Farrow Road, Columbia, SC 29208. The office telephone is 935-5604 and Fax is 935-5380. There may be a substantial wait for this evaluation by a competent professional, but it is absolutely in the best interests of the child. Once that evaluation is complete, it is recommended that social services assist the family in implementing recommendations prior to closing the treatment case.
3. **A referral to the Department of Disabilities and Special Needs, accompanied by the developmental evaluation results, will likely be appropriate and beneficial to the family.**
4. **Parent counseling and training should follow a known behavioral model for working with behaviorally disordered children and physical abuse, and should include both parents and the child.** One appropriate and available model offered in Columbia is Parent Child Interaction Therapy (PCIT). In cases of physical abuse, Protection Clarification Therapy is typically required before a child is returned to the offending caregiver. In this case it could occur at any time. The ARC can provide this type of treatment or make a referral to a known practitioner. In [REDACTED]'s case, the typical timeframe for these types of treatment would likely be extended, due to her difficulty paying attention and absorbing information. **These types of treatment are essential to decrease her risk of a repeat of her abuse.**
5. **The law enforcement case should not be closed if at all possible.** DSS has indicated the case for physical abuse, and the professionals involved agree that the photographic evidence shows abuse. It is possible that in the future [REDACTED] will be able to give more information about her abuse or that one or the other of the caregivers will be motivated to come forward with information pertinent to the case.

Evaluator Signature: _____

Melanie A. Trimble, MA, RDT/BCT, LPC-I

Date: 01/07/08



ASSESSMENT & RESOURCE CENTER CAREGIVER QUESTIONNAIRE FOR THE FORENSIC INTERVIEW

CHILD'S NAME: [REDACTED] SEX: F
 DATE OF BIRTH: [REDACTED] AGE: 8
 RACE: B1

Who is filling out this form?

Name: Chanetra Clisby

Relationship to child:

- ☒ Biological Parent ☐ Grandparent ☐ CPS Caseworker
☐ Adoptive Parent ☐ Other legal guardian ☐ Treatment Worker
☐ Foster Parent ☐ Law Enforcement ☐ Foster Care Worker

1. Who lives with the child now?

Name	Age	Gender (Male or Female)	Relationship
[REDACTED]	30	(M) F	mother
[REDACTED]	31	(M) F	step-father
[REDACTED]	11	(M) F	brother
[REDACTED]	2	(M) F	brother
		M F	
		M F	
		M F	
		M F	

Has the child recently moved? ☐ Yes ☒ No If YES, Who lived with the child before?

Name	Age	Gender (Male or Female)	Relationship
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	

2. Does the child have any medical, developmental or learning problems? If YES, please check the appropriate boxes below and explain.

☒ YES
☐ NO
☐ I DON'T KNOW

☐ Medical disorder:

☐ Mental health disorder:

☒ Speech / Language problem:

☐ Other:

3. Has the child experienced any difficulties at school?

If YES, describe: *Speech & processing
Developmental delays*

☒ YES
☐ NO
☐ I DON'T KNOW

4. Name of child's school: *Lonnie B. Nelson Elementary*

Current grade: *2*

5. Has there ever been a child abuse investigation involving this child or family before?

If YES, describe:

☐ YES
☒ NO
☐ I DON'T KNOW

6. Who is suspected of harming the child? (Give name, age) *[REDACTED] 30*

[REDACTED] 31

7. How does the child know this person or persons? *Mother, stepfather*

8. How often did the child see this person or persons, and when was the last contact? *every day*

9. Tell us how you came to know there might be a problem. If the child said something to you, tell us what the child said, as close to the exact words as you can remember.

*School called CPS
about bruises on body.*

9. (Continued, if needed):

10. What does the child know about coming to the ARC today? What was the child told?

That she is seeing a doctor for a doctor's appt.

11. Have previous interviews been conducted?

If YES, describe: DSS interviews

- ☒ YES
☐ NO
☐ I DON'T KNOW

12. Do you have concerns about how the child is doing?

If YES, describe:

- ☐ YES
☒ NO
☐ I DON'T KNOW

13. Is the child receiving counseling or mental health services right now?

If YES, describe with whom and for what.

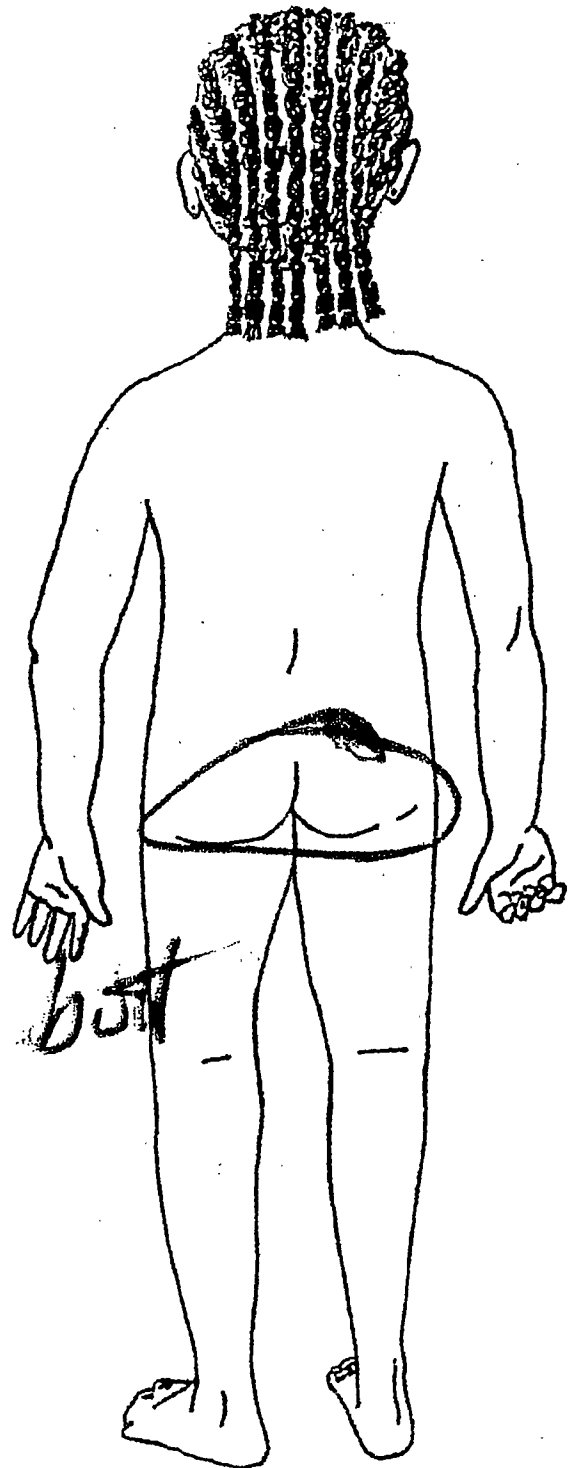
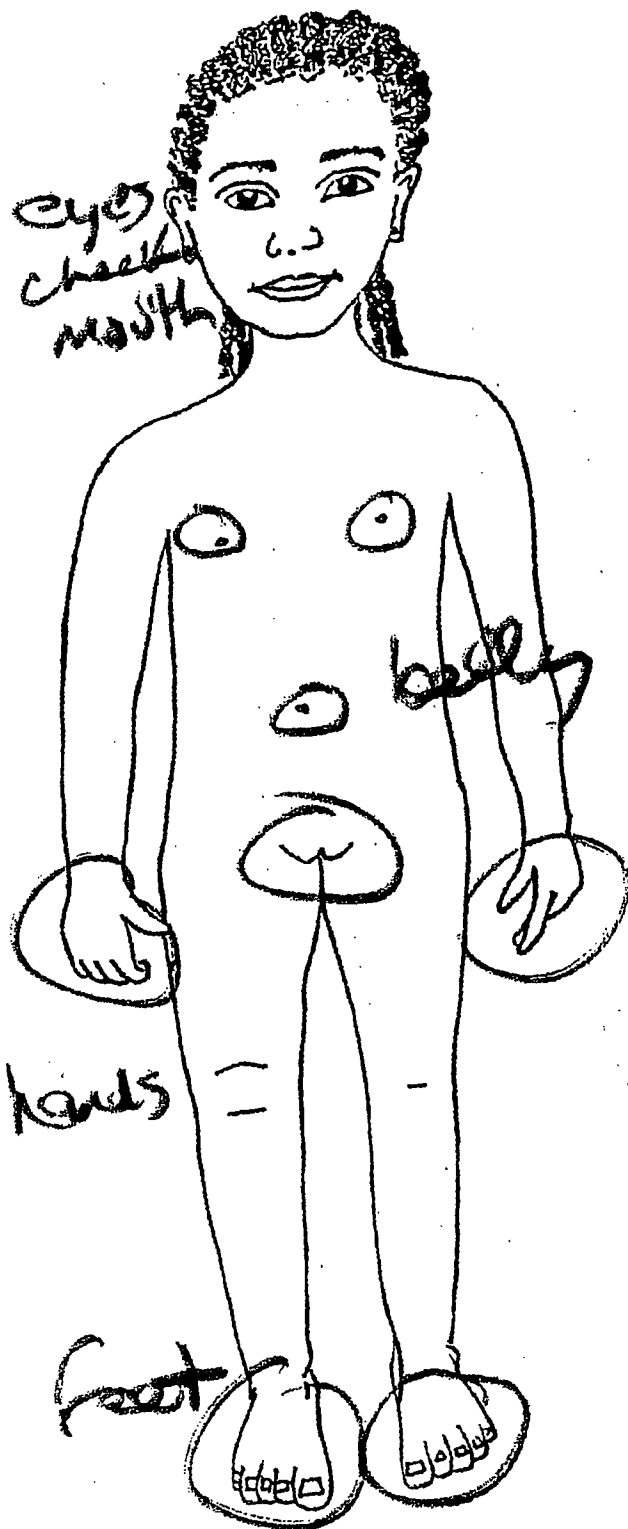
ASV counseling
 recommended by family & DSS for this
 situation.

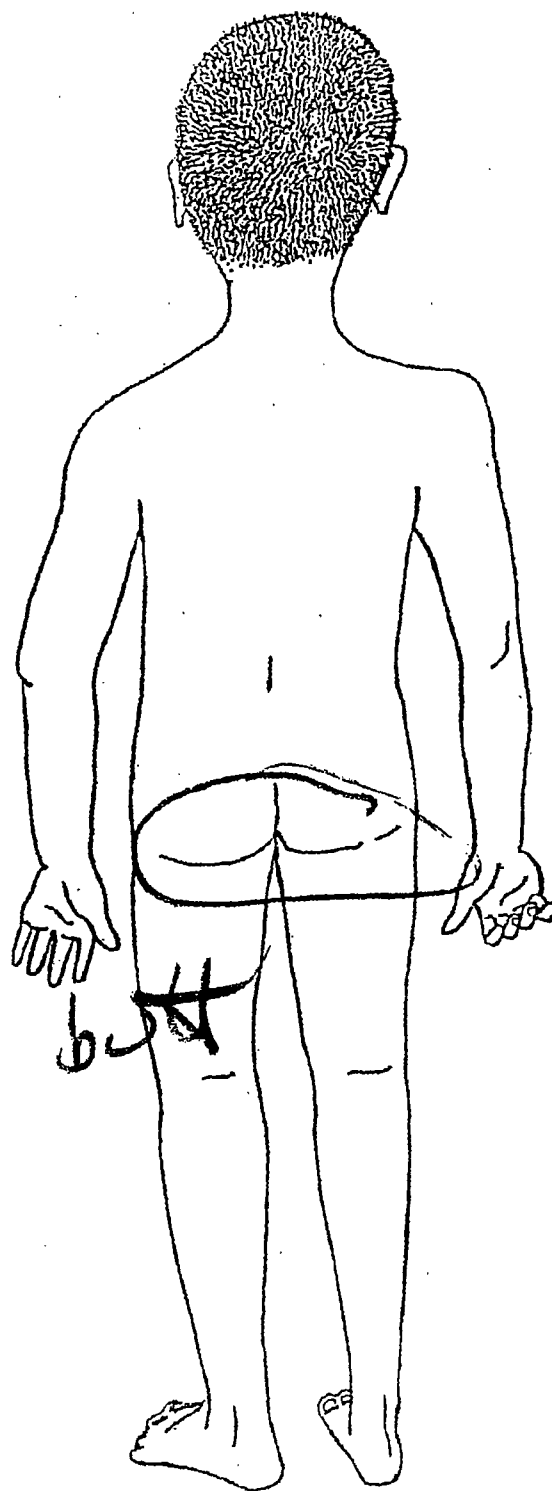
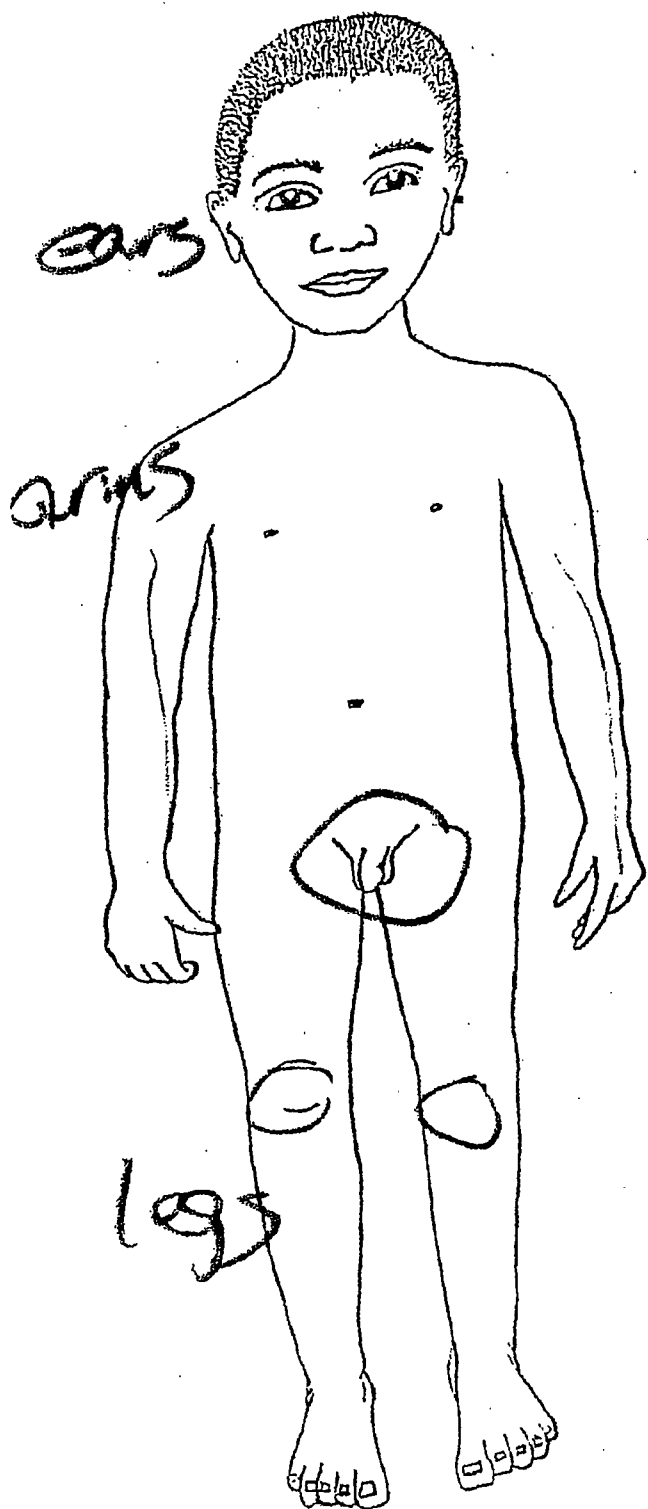
- ☒ YES
☐ NO
☐ I DON'T KNOW

14. What else would you like us to know about the child or the situation?

Only her processing skills of information
 being received and information given out
 which the speech therapist at school
 is working with her on.

Thank you for answering this questionnaire. The professional who interviews the child will use this information to further guide the process. Do you have questions? Please write them below:





New Case

General Information *

Alleged Victim/Client Name	Presenting - Reason for Referral	Presenting - Alleged Maltreatment(s)	Date Case Received by CAC	CAC Case Number	Alleged Victim/Client County
[REDACTED]	Allegation of Abuse	Sexual abuse	06/15/2010	2010-272	Richland County

Child Demographics *

Alleged Victim/Client Date of Birth	Alleged Victim/Client Age	Alleged Victim/Client Gender	Alleged Victim/Client Race (NCA)	Alleged Victim/Client SSN	Alleged Victim/Client Address
[REDACTED]	10 years	F	Black/African American	[REDACTED]	[REDACTED]

Co- Victims *

Name	Age at Time of Referral	Date of Birth	Gender	Relationship to Victim/Client
[REDACTED]	13 years		Male	Step-brother
[REDACTED]	5 years		Male	Unknown

Referral Information *

Presenting - Referral Source (Personnel)	Presenting - Referral Source (Agency)	Presenting - Referral Source Personnel Contact Info	Receiving Intake
April Merrill	Columbia Police Department	Phone: 545-3516 Cell: (803) 413-3516	Nikki Williams

Description *

Presenting - Incident Narrative Description

[REDACTED] (13) has disclosed to his mother that his uncle Daquan (19) has exposed himself to [REDACTED] and his 10-year-old step-sister [REDACTED]. According to the incident report [REDACTED] states that Daquan has also shown both children pornography and on one occasion attempted to get both children to perform oral sex on him. There is also a current RCSD case in which [REDACTED] has disclosed being fondled by [REDACTED]. Inv. Merrill of CPD is investigating the case involving Daquan and is requesting that all the minor children in the home be interviewed regarding the inappropriate conduct in the home.

FI Appointment *

FI Session - Date	FI Session - Start Time	FI Session - Status
06/22/2010	08:45 AM	Scheduled

Medical Appointment *

Med Visit - Date	Med Visit - Start Time	Med Visit - Status
06/16/2010	08:45 AM	Attended

Law Enforcement *

LE - Investigator (Agency)	LE - Investigator (Personnel)	Contact Number	LE - Case Number
Columbia Police Department	April Merrill	803-413-9253	100016468

CPS *

CPS - Investigator (Agency)	CPS - Investigator (Personnel)	Contact Number

Caregiver Information *

Caregiver Name	Caregiver Relationship to Alleged Victim/Client	Caregiver Address	Caregiver Home Phone Number	Caregiver Cell Phone Number	Caregiver Race	Caregiver Work Phone Number
[REDACTED]	Biological Mother	[REDACTED]	[REDACTED]	[REDACTED]	Black/African American	
[REDACTED]	Mother's paramour / ex-paramour	[REDACTED]	[REDACTED]		Black/African American	

Alleged Offender Information *

Alleged Offender Name	Alleged Offender Relationship to Alleged Victim/Client	Alleged Offender Age at Time of Referral	Alleged Offender Date of Birth	Alleged Offender Gender	Alleged Offender Race	Alleged Offender Address	Alleged Offender County	Convictions - Sex Offender
Johnson, DaQuan	Other Family	19 years		M	Black/African American	Columbia, SC 29229	Richland County	

Insurance Information Primary *

Ins. - Primary Company Name
SOVA

Accompanied By: *

Accompanied by:
[REDACTED] - mom

Interpreter Service *

Interpreter Service
Not Required

Confirmed
(nu)
6-21-10

This report is private and confidential.

1/7/08 MDT Staffing on [REDACTED]

— loop on belly + marks on back
especially seem to be inflicted
not excrena

— indicated but unknown perp.
also failure to protect

— mom was confronted by CE that it is
not excrena and had to offered expl.

[Hrttplan] - Getting counseling at ASY - (? parenting?)
- eval at ARCO

Jan 10th Court

Guardian ad litem - recommends closing the
case. GAL says child does better
at school when at home.

Linda
Crimmins

(CASA)

No court order re: dev disability / eval, extra
in-home services.

Jan 10th — can add to court order:

→ Specify clear counseling types.

→ protection clarification

— PCIT?

— more frequent surprise visits / skin checks.

— Ref to eval for developmental — Dr Wuori

New Case**General Information: (Copy)**

Alleged Victim/Client Name	Presenting - Reason for Referral	Presenting - Alleged Maltreatment(s)	Date Case Received by CAC	CAC Case Number
[REDACTED]	Allegation of Abuse	Physical abuse	10/17/2007	2007-58

Child Demographics: (Copy)

Alleged Victim/Client Date of Birth	Alleged Victim/Client Age	Alleged Victim/Client Race	Alleged Victim/Client Gender	Social Security Number	Alleged Victim/Client Address	Alleged Victim/Client County	Accompanied by:
11/02/1999	7 Years	Black/African American	Female	[REDACTED]	[REDACTED]	Richland County	DSS worker
11/02/1999	7 Years	Black/African American	Female	[REDACTED]	[REDACTED]	Richland County	
11/02/1999	7 Years	Black/African American	Female	[REDACTED]	[REDACTED]	Richland County	

Co- Victims (Copy)

No data found.

Referral Information: (Copy)

Presenting - Referral Source (Personnel)	Presenting - Referral Source (Agency)
Cindy McKenzie	Richland County DSS

FI Appointment: (Copy)

FI Session - Date	FI Session - Start Time
11/15/2007	08:45 AM

Medical Appointment: (Copy)

Med Visit - Date	Med Visit - Start Time
10/19/2007	10:00 AM

Description: (Copy)

Presenting - Incident Location Type	Presenting - Incident Location Description	Presenting - Incident Narrative Description
		On Oct. 3rd [REDACTED]'s teacher noticed bruising on her arms and took her to the nurse. The nurse observed additional bruising on [REDACTED]'s chest, back, thighs, buttocks, and backs of her legs. Law Enforcement took [REDACTED] into emergency protective custody. To this point [REDACTED] has denied that her mother or mother's boyfriend caused the bruises. [REDACTED] informed law enforcement that she "fell down." Both law enforcement and DSS have photos of the bruising.

Law Enforcement (Copy)

LE - Investigator (Agency)	LE - Investigator (Personnel)	Contact Number	LE - Case Number
Richland CO Sheriff's Dept	Marzden Roe		

CPS (Copy)

CPS - Investigator (Agency)	CPS - Investigator (Personnel)	Contact Number
Richland County DSS	Cindy McKenzie	

Caregiver Information: (Copy)

Caregiver Name	Caregiver Relationship to Alleged Victim/Client	Caregiver Address	Caregiver Home Phone Number	Caregiver Race

1

INTERVIEW OUTCOME

☒ Disclosure of Maltreatment Typology: ☒ Sexual ☐ Physical ☐ Psychological ☐ Neglect ☐ Witness ☐ Other:	☐ No Disclosure of Maltreatment Typology: ☐ Denial ☐ Recantation of Prior Disclosure	Comments:
Opinion: ☒ Compelling ☐ Problematic	Opinion: ☐ Compelling ☐ Problematic	

Summary of abuse / event disclosure (*Note: This is a summary. See video for child's complete statement.*)

Interview was conducted using a semi-structured interview protocol known by its acronym, RATAc. Asked if he knows why he is here today, [redacted] states that he and his sister had some problem over at his step-father's mother's house. He says her name is Wanda Odom and she lives in Riverside Apartments. He doesn't know the apartment number. He says Wanda's 19 year old son DaQuan Johnson was showing them a porno movie "and then he was trying to make us suck his thing, and then he was trying to poke us." [redacted] says there was another time they saw him in his mom's room with no clothes on and "he was jacking his thing" in front of him, [redacted] and [redacted]. He says this happened last year in October. He says DaQuan lives there with his mother. [redacted] says they would spend the weekends there and this started when he was about ten or eleven years old. [redacted] says that prior to October of last year, DaQuan would be nasty by showing them his thing and showing them nasty movies. He would show these movies on the living room TV and he would have the movies on top of the TV or under one of the DVRs or in his room. He describes one of the movies having three cheerleaders that were "playing with themselves." He says they were grown-ups. [redacted] says it was more than one time that he would show these movies.

[redacted] states again that DaQuan wanted him and [redacted] to "suck" his thing. [redacted] says he would pull his pants down and tell them to come here and suck it and they would say no. [redacted] says that when they would say no, DaQuan would try to force them to do it by telling [redacted] that if he didn't do it or if he told DaQuan would kill him and telling [redacted] that if she didn't do it or told on him, that he would hit her. [redacted] denies that DaQuan's penis ever went in his mouth. He says that as far as he knows he doesn't know that his penis went inside of [redacted] mouth either. [redacted] says DaQuan's pants were down in front of them and they could see his thing. [redacted] says DaQuan said he wanted to "poke" them. [redacted] denies DaQuan ever doing anything with his clothes or with [redacted]'s clothes. [redacted] says that DaQuan would try to put his thing in his behind and would be naked but [redacted] clothes would still be on. [redacted] says this would happen in the living room. He says Wanda would be outside somewhere when this stuff would happen.

[redacted] says that one time he remembers hearing DaQuan talking to [redacted] about doing this stuff but he doesn't think [redacted] did anything. He heard this from the living room. [redacted] says that the last time they saw DaQuan was last month. [redacted] says [redacted] told their mom first and that is how she found out about it.

When asked if DaQuan ever tried to get them to do things to each other, [redacted] says yes. Asked to tell about that, he says [redacted] was sucking [redacted] thing because DaQuan told her to do that. He also says that DaQuan told him to put his thing inside [redacted] behind. He says "it didn't go in" "because it wouldn't fit." He says "she didn't want me to do it." He says DaQuan was there and that he was laughing and that he was touching himself. He says DaQuan was telling them what to do. [redacted] says DaQuan tried to put his thing in [redacted] front part and in her

Summary of Abuse (Continuation):

back part. He says DaQuan was not able to do that but "he couldn't put it in because it wouldn't fit." He says [REDACTED] was trying to push him away and telling him to stop. He denies any pictures being taken or anything. [REDACTED] says he heard something about it also happening to a kid named [REDACTED]. He says [REDACTED] would sleep over there while his mom was working.

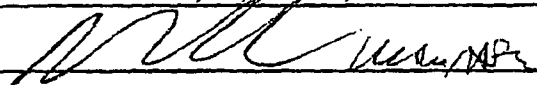
Follow-up interview conducted on October 22, 2010 at the request of April Merrill, CPD.

[REDACTED] does not disclose any additional abuse or additional perpetrators during this interview. He continues to deny that "Snoop" or DeAngelo was involved in any way. He says he would be surprised to hear that Snoop was involved, if he was.

RECOMMENDATIONS TO TEAM AND / OR FAMILY:

1. Therapy is recommended for [REDACTED] and a referral will be made through the ARC treatment coordinator.
2. Cooperate with LE investigation.
3. No contact with the alleged perpetrator.

Evaluator Name : Raymond Olszewski, Jr., LMSW, AFSW

Evaluator Signature: 

August 11, 2010
Date: October 22, 2010

LIMITED CONTACT SHEET - SHORT FORM
(FOR LESS THAN 5 SERVICE DAYS OR LESS THAN 30 CALENDAR DAYS)

1. PATIENT'S NAME AND I.D.#

2. EXTENT OF SERVICE REQUIRED

- a. ☐ ASSESSMENT/THERAPY - LIMITED CONTACT
 b. ☐ EMERGENCY/SCREENING
 c. ☐ OTHER (SPECIFY) -

3.a. REFERRAL SOURCE

b. REASON FOR REFERRAL

April Merrill, Columbia PD Allegation of sexual Abuse

4. IDENTIFYING DATA AND PERTINENT CLINICAL INFORMATION

Child's age, race & gender: *13 y.o., B, M*Grade and name of school: *8th E.L. Wright*Significant developmental, medical or mental health history: *NR*Family composition: *live w/ (no HSE)*Suspected abuse: ☒ Sexual ☐ Physical ☐ Psychological ☐ Witness ☐ Other:

5. BRIEF CLINICAL NOTE (SPECIFY SERVICES PROVIDED)

Mental Status: ☒ Oriented ☐ Orientation problems* | Affect (observed): ☐ WNL ☐ Other*
 Mood (self-described): ☐ WNL ☐ Other* | Motor activity: ☒ WNL ☐ Hyperactive ☐ Other*
 Speech: ☒ WNL ☐ Difficulties noted* | Suicidality / Homicidality: ☒ None ☐ Suicidality* ☐ Homicidality*
 * Describe mental status problems or concerns here:

Data sources: ☒ ARC Intake ☒ LE / DSS Records ☒ Caregiver Questionnaire ☒ Caregiver Interview
☒ Interview of Child ☐ TSCC ☐ TSCYC ☐ Other Symptom Assessment
☒ Team Consultation ☐ Other:

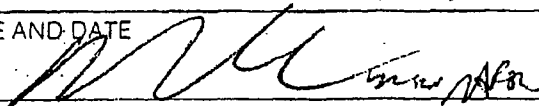
6. DISPOSITION AND RECOMMENDATIONS (SPECIFY SHORT TERM TREATMENT PLAN AND GOALS IF ADDITIONAL CONTACTS NEEDED)

Diagnostic Impressions: Axis I: *985.53 Child Sexual Abuse*
 Axis II: *Delayed*
 Axis III: *none*
 Axis IV: *Delayed*
 Axis V: *Delayed*

- ☒ See ARC Report for detailed summary and recommendations
☐ Brief summary and recommendations are as follows:

Ray Olszewski, L.M.S.W.

7.a. PROVIDER'S SIGNATURE, TITLE AND DATE



10-22-10



ASSESSMENT & RESOURCE CENTER CAREGIVER QUESTIONNAIRE

CHILD'S NAME:

SEX:

DATE OF BIRTH:

AGE:

RACE:

Who is filling out this form? Name (Please print):

Your signature and date:

Your phone number:

Relationship to child:

☒ Legal Parent☐ GAL / CASA☐ CPS Caseworker☐ Foster Parent☐ Therapist☐ DSS Treatment Worker☐ Other legal guardian☐ Law Enforcement☐ DSS Foster Care Worker

1. Who lives with the child now?

Name	Age	Gender (Male or Female)	Relationship
[REDACTED]	33	(M) F	Mother
[REDACTED]	35	(M) F	Stepdad
[REDACTED]	10	M (F)	Sister
[REDACTED]	5	(M) F	brother
		M F:	
		M F	
		M F	
		M F	

Has the child recently moved? ☐ Yes ☒ No

If YES, Who lived with the child before?

Name	Age	Gender (Male or Female)	Relationship
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	

2. Does the child have any medical, developmental or learning problem? If YES, please check the appropriate boxes below and explain.

☐ YES
☒ NO
☐ I DON'T KNOW

- ☐ Medical disorder:
☐ Mental health disorder:
☐ Speech / Language problem:
☐ Other:

3. Has the child experienced any difficulties at school?

If YES, describe: *Social problems lately with the other children with making friends, focusing in class, failing grades*

☒ YES
☐ NO
☐ I DON'T KNOW

4. Name of child's school: *Summit Pkwy.*

Current grade: *upcoming 8th*

5. Who is suspected of harming the child? (Give name, age) *Daguan Johnson, 19*

6. How does the child know this person or persons? *[redacted]'s brother that lives with their mother who watched them on the weekends at times.*

7. How often did the child see this person or persons, and when was the last contact? *Every Friday night right before Saturday.*
Last contact was ~~there~~ ^{right before} we filed a report with the Columbia PD.

8. Tell us how you came to know there might be a problem. If the child said something to you, tell us what the child said, as close to the exact words as you can remember.

[redacted]'s sister made us aware. When we asked [redacted] he stated that Daguan was showing him pornography, trying to get them to give him oral sex, masturbating in front of them, saying he was going to "poke" him, and hitting on him. He described the pornographic movies and where Daguan had them from his mother. He also stated that he tried to tell his mother, but she would not listen to him. He stated that Daguan threatened him and he was scared of Daguan.

9. What does the child know about coming to the ARC today? What was the child told?

He knows that he's going to be interviewed. Nothing

10. Have previous interviews been conducted?

If YES, describe: The Columbia PD and Richland County spoke with him briefly.

☒ YES
☐ NO
☐ I DON'T KNOW

11. Do you have concerns about how the child is doing?

If YES, describe: He is withdrawn sometimes when he's away from us, but when he's home he seems happier. When he gets in trouble at school he takes it extremely personal.

☒ YES
☐ NO
☐ I DON'T KNOW

12. Is the child receiving counseling or mental health services right now?

If YES, describe with whom and for what. He had one session recently on behavioral issues in school.

☒ YES
☐ NO
☐ I DON'T KNOW

13. Has there ever been a child abuse investigation involving this child or family before?

If YES, describe: No investigation with him, but with my daughter.

☒ YES
☐ NO
☐ I DON'T KNOW

14. What else would you like us to know about the child or the situation?

Overall, [redacted] is a good child, but seems to need regular counseling to deal with emotional issues he has lately. We did not know what was bothering him, but now we know since he has opened up more about what has happened.

Thank you for answering these questions. The professionals who interview and / or examine the child will use this information to further guide the process. Do you have questions? Please write them below:

No. What are the next steps after the interview process? I want justice for my children.



ASSESSMENT & RESOURCE CENTER FORENSIC INTERVIEW REPORT

CHILD'S NAME: [REDACTED] SEX: Male

INTERVIEW DATE(S): 6/30/10 RACE: Black

DATE OF BIRTH: [REDACTED] AGE: 5

REFERRAL SOURCE/AGENCY/PHONE: Inv Anril Merrill/CPD

INVOLVED AGENCIES: Enter specific personnel and agency name.

☒ Law Enforcement See above

☐ DSS _____

☐ Other _____

TYPE OF ABUSE / EVENT SUSPECTED (Check):

☒ Sexual Abuse ☐ Physical Abuse ☐ Neglect

☐ Psychological Abuse ☐ Witness ☐ Other _____

Identity of alleged perpetrator (include full name, age, race): Daquon Johnson

Relation to child: Uncle

CHILD INTERVIEW and SUMMARY OF DATA:

Records reviewed / Available in chart:

Collateral Information:

☒ LE Records
☒ DSS Records
☒ ARC Intake
☒ Caregiver Questionnaire
☐ Other Records (specify):

Was interview observed?

If yes, by whom? Inv. Merrill

Media used in interview:

☒ Flipchart
☒ Anatomical Diagrams
☐ Other:

Symptom Assessment:

☐ TSCC
☐ TSCYC
☐ CBCL
☐ CSBI
☐ CAPI
☐ Other Symptom Measure:

☒ Yes
☐ No

☐ Anatomical Dolls
☒ Competency Book:
Proficient? ☐ Y ☐ N
2/4; 4/4

INTERVIEW OUTCOME

☒ Disclosure of Maltreatment
 Typology: ☒ Sexual
☐ Physical
☐ Psychological
☐ Neglect
☐ Witness
☐ Other:
☐ No Disclosure of Maltreatment
 Typology: ☐ Denial
☐ Recantation of
 Prior Disclosure

 Comments: Sha'marr disclosed
 sexual abuse involving two
 perpetrators, as described in the
 narrative below.

 Opinion: ☒ Compelling
☐ Problematic

 Opinion: ☐ Compelling
☐ Problematic

Summary of abuse / event disclosure (Note: This is a summary. See video for child's complete statement.)

[REDACTED] was interviewed using the RATAC protocol. He participated in the interview process commensurate with his age. He sometimes stated that he didn't want to say something for fear that he would get someone in trouble or that his "mama would flip out." Interviewer provided reassurance and in some cases was able to elicit further information. [REDACTED] stated that he lives with his parents and brother [REDACTED] and sister [REDACTED]. He completed the truth-lie assessment (2/4 difference; 4/4 moral imperative). Interviewer made explicit the expectation of truth-telling here today. [REDACTED] stated "I never tell lies." Interviewer introduced anatomical drawings. He self-identified as male and named body parts on both genders. He did not want to name genital areas or buttocks on either gender, but did give the name "private part" for penis. Interviewer queried about touches. He endorsed giving hugs to his parents, getting kisses from mom, and tickles from [REDACTED]. Asked about touches that hurt, he said that Snoop used to hit him, so they don't go over there anymore. Snoop lives with Daquon, and Grandma. Interviewer asked [REDACTED] to identify parts that others are not supposed to touch. He pointed on the drawings to the penis, buttocks, and vagina. Interviewer asked if someone ever touched or did something to his private part and he said no. Interviewer asked if someone ever showed him their private part and he named Daquon. He was hesitant to discuss this area, but said that he and his sister and brother all saw Daquon touching his private. Asked if someone ever made him do something to their private, he said "Snoop said to suck it." Asked if Snoop did make him suck it, he initially said "no" then immediately added "Psych. Yes." Interviewer clarified and [REDACTED] repeated that Snoop made him suck his thing. White stuff came out. Sha'marr saw the white stuff. At first he would not say where the white stuff went, but then said "I stopped (meaning he stopped sucking it)." He pointed on the drawing to indicate that the white stuff came out and was on Snoop's "thing" (penis). This happened more than once. He talked about it happening in the front room at Snoop's house. [REDACTED] went on to say that Snoop made [REDACTED] and [REDACTED] suck his thing, too. He also stated that Daquon made them suck his thing. Interviewer attempted to clarify to be sure that [REDACTED] was implicating both Snoop and Daquon with both of his siblings. He indicated that he was. He further stated that [REDACTED] told [REDACTED] to take her pants off and she did. That was Daquon's idea and he was there when it happened. [REDACTED] touched [REDACTED]'s private with his hands. [REDACTED] saw this because he "sneaked in" to the room. He denied anyone doing anything else to his body or anyone putting a "thing" anyplace on him except his mouth. He did say that Daquon also showed them all a "cd" that [REDACTED] seemed embarrassed to describe. He talked about Snoop having told Daquon one time to "stop messing with those kids." He also mentioned some kind of argument between Daquon's dad and Grandma that had something to do with all of this but it wasn't clear. At another point, [REDACTED] indicated that his dad saw what Snoop was doing, but then it didn't end up sounding like dad was actually there. [REDACTED] said he could tell his "grandma" (not clear which one he was referring to) or his parents if somebody touches him inappropriately. Interviewer thanked him and ended interview.

Summary of Abuse (Continuation):**RECOMMENDATIONS TO TEAM AND / OR FAMILY:**

1. [REDACTED] named both "Snoop" and Daquon as perpetrators. Snoop was not named as a perpetrator by the other two siblings, both of whom did name Daquon. The MDT will discuss to determine whether [REDACTED] and [REDACTED] need to be re-interviewed to clarify this apparent discrepancy.
2. [REDACTED] and his siblings will be referred for therapy to address sexual abuse.
3. [REDACTED] mentioned a "cd" (probably the pornographic dvds described by the other two children) that Daquon would show them. It may be possible to retrieve these from the residence.
4. [REDACTED] and his siblings should have no contact with the alleged perpetrators or their family. Mother states that all contact has been cut off.

Evaluator Name : Alicia Benedetto, Ph.D.

Evaluator Signature: Alicia Benedetto, PhD Date: 6/30/10



ASSESSMENT & RESOURCE CENTER CAREGIVER QUESTIONNAIRE

CHILD'S NAME: [REDACTED] SEX: M
 DATE OF BIRTH: [REDACTED] AGE: 5
 RACE: B1

Who is filling out this form? Name (Please print): [REDACTED]

Your signature and date: [REDACTED]

Your phone number: [REDACTED]

Relationship to child:

☒ Legal Parent	☐ GAL / CASA	☐ CPS Caseworker
☐ Foster Parent	☐ Therapist	☐ DSS Treatment Worker
☐ Other legal guardian	☐ Law Enforcement	☐ DSS Foster Care Worker

1. Who lives with the child now?

Name	Age	Gender (Male or Female)	Relationship
[REDACTED]		M ☒ F	mother
[REDACTED]		☒ M F	father
[REDACTED]		☒ M F	brother
[REDACTED]		M ☒ F	Sister
		M F	
		M F	
		M F	

Has the child recently moved? ☐ Yes ☒ No If YES, Who lived with the child before?

Name	Age	Gender (Male or Female)	Relationship
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	

2. Does the child have any medical, developmental or learning problems? If YES, please check the appropriate boxes below and explain.

☐ YES
☒ NO
☐ I DON'T KNOW

- ☐ Medical disorder:
☐ Mental health disorder:
☐ Speech / Language problem:
☐ Other:

3. Has the child experienced any difficulties at school?
 If YES, describe:

☐ YES
☒ NO
☐ I DON'T KNOW

4. Name of child's school: *Will be Polo Rd. Elementary*
 Current grade: *Kindergarten*

5. Who is suspected of harming the child? (Give name, age) *Daquon Johnson*

6. How does the child know this person or persons? *uncle*

7. How often did the child see this person or persons, and when was the last contact? *every weekend*
The weekend before we filed a report with the Columbia Pol.

8. Tell us how you came to know there might be a problem. If the child said something to you, tell us what the child said, as close to the exact words as you can remember.

The only thing [redacted] has said is that Daquon is always mean to him and hits him with his hands. He stated that he does not like Daquon. He told Richland County that Daquon called him bad words but he whispered them in his ear so I didn't hear what the words were.

9. What does the child know about coming to the ARC today? What was the child told?

Nothing

10. Have previous interviews been conducted?

If YES, describe:

He briefly talked to Richland County

- ☒ YES
☐ NO
☐ I DON'T KNOW

11. Do you have concerns about how the child is doing?

If YES, describe:

- ☐ YES
☒ NO
☐ I DON'T KNOW

12. Is the child receiving counseling or mental health services right now?

If YES, describe with whom and for what.

- ☐ YES
☒ NO
☐ I DON'T KNOW

13. Has there ever been a child abuse investigation involving this child or family before?

If YES, describe:

Not for him, but his sister in OT

- ☒ YES
☐ NO
☐ I DON'T KNOW

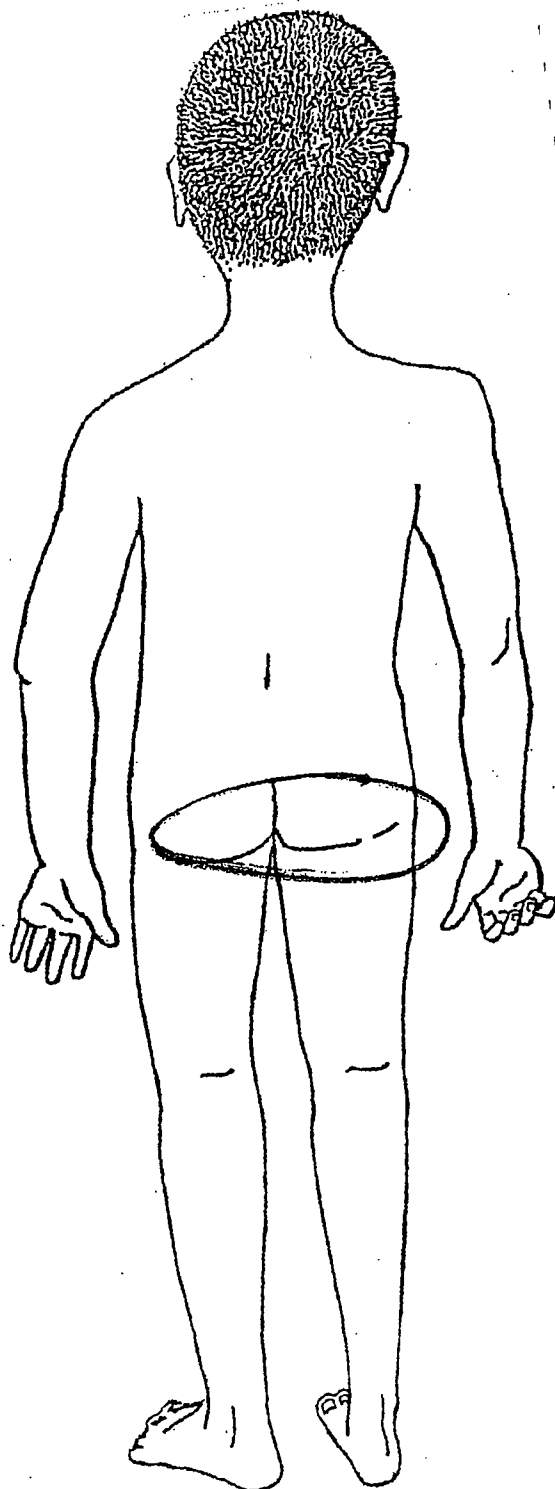
14. What else would you like us to know about the child or the situation?

[REDACTED] is very smart for his age. He is able to communicate very well and is growing as expected. I do not think he was affected by this situation as much as my other two children.

Thank you for answering these questions. The professionals who interview and / or examine the child will use this information to further guide the process. Do you have questions? Please write them below:

What are the next steps after the interview process?

Boy

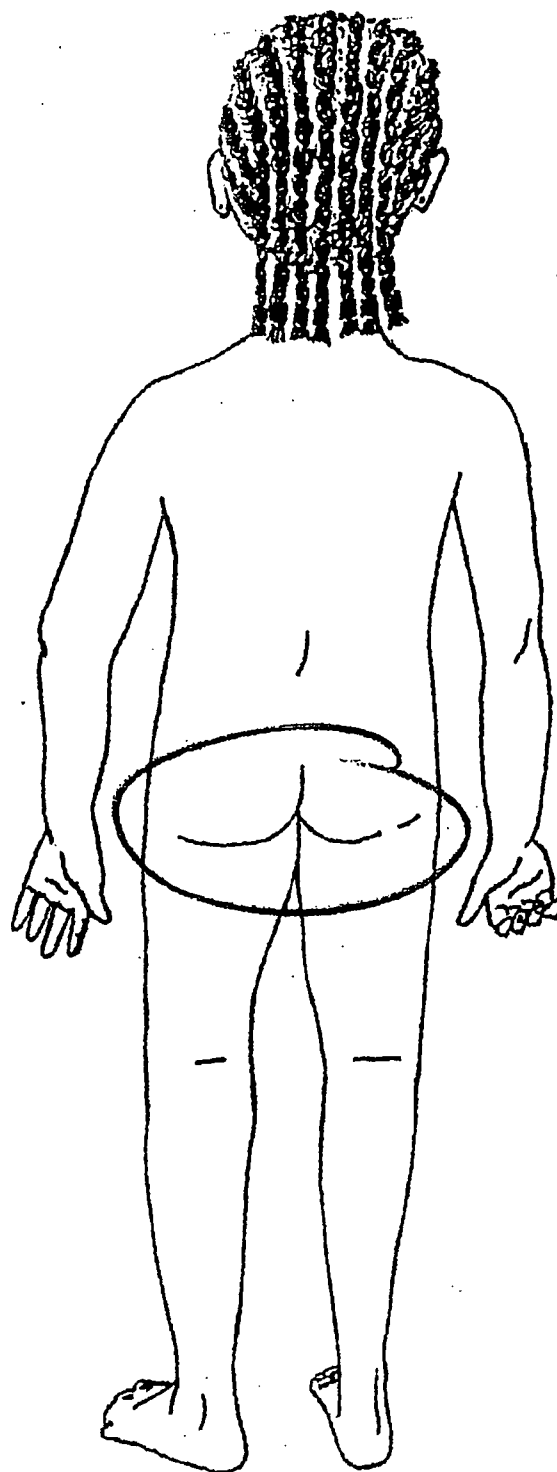
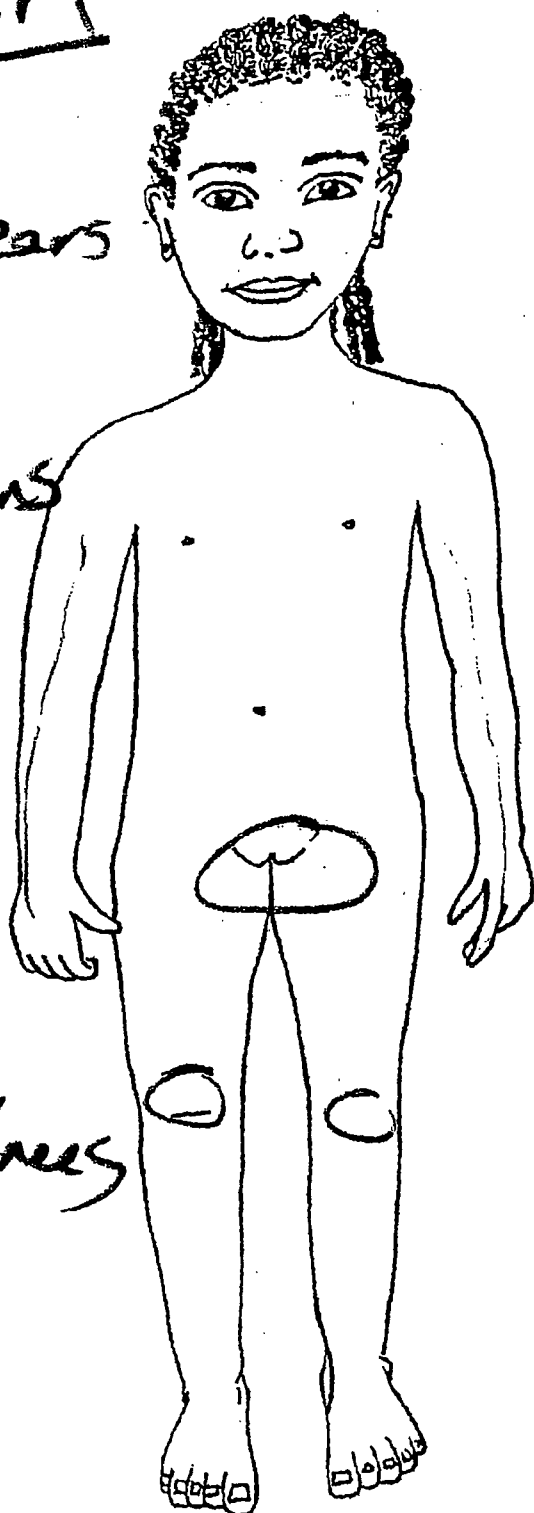


Girl

ears

anus

Knees



COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORMPage 1 of 1Date: 12-14-10 Time: 12:35pm Place: 1 Justice SquareI am [REDACTED] My birthday is [REDACTED]My address and phone number are: [REDACTED]I am giving this statement concerning [REDACTED]to [REDACTED] who has identified himself as [REDACTED]

(Snoop) is my younger brother Da'angelo Johnson, Da'quan has never been called (Snoop) I've been ^{taking} my son [REDACTED], my stepdaughter [REDACTED], & stepson [REDACTED] since winter of 2004.

and subscribed to me this
day of December 2010PUBLIC OF SOUTH CAROLINA
MISSION EXPIRES: 17 Jan 2017/SI/ [REDACTED]/SI/ [REDACTED]received a copy of statement consisting of 1 pages/SI/ [REDACTED]

it consisti

FOOT

INCIDENT REPORT

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. 16-15-0140 SEX/LEWD ACT, DISSEMINATION 11D				YES NO	YES NO	RESIDENCE/HOME		☒ Individual ☐ Business ☐ Financial Inst ☐ Government ☐ Relig. Orgn. ☐ Sec./Public ☐ Other ☐ Unknown ☐ Police Off.
2. 16-15-0400, 16-15-0420 *OBSCENE/DISSE MATERIAL TO MINOR-1ST OFF 370				YES NO	YES NO	RESIDENCE/HOME		
3.				YES NO	YES NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) 3245 LUCIOUS ROAD, B 7, COLUMBIA, SC						ZIP CODE 29210-0000	WEAPON TYPE	
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK			LOCATION NO.
05/01/2010	08:00		06/12/2010	22:00	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART TIME
					06/14/2010	09:21	09:28	13:00
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
				#1 AQ #2 #3		S	B	F
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.
								299
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
				#1 SB #2 #3		S	B	F
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.
								299
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				
410	065	BLK	BRO					
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.
								299
VS BATTERY (MCT.1) YES NO UNK EXPLAIN				COMPLAINANT OF ANY NON-VS BATTERIES YES NO UNK				
VICTIM (NO.1) USING: ALCOHOL YES NO UNK DRUGS: YES NO UNK TYPE:								
TWO MAN VEH ONE MAN VEH DETECTIVE/PLASMT. OTHER ALONE ASSISTED				*J-This Jurisdiction S-State O-Out of State U-Unknown.				
☒ SUSPECT	NAME (LAST, FIRST, MIDDLE)			RACE	SEX	AGE	ETH.	DATE OF BIRTH
	JOHNSON, DAQUAN			B	M	19	N	
☐ RUNAWAY	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.			HEIGHT	WEIGHT	HAIR	EYES	
				603	225	BLK	BRO	
☐ WANTED	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	
				COLUMBIA	SC	29210-0000	538	
☐ WARRANT	DATE/TIME OF OFFENSE			DATE/TIME OF ARREST				
☐ ARREST	SUBJECT (NO.1) USING ALCOHOL YES NO UNK DRUGS YES NO UNK TYPE			TOTAL # ARRESTED				
☐ JAIL	DAY OF THE WEEK			HOW REPORTED	A= OFFICER DISPATCHED ON CALL	D= COMPLAINT WRITTEN IN	DIFF. FACTOR	A= RESISTANCE/OSTILITY
	S M T W T F S UNK				B= REPORT TAKEN BY PHONE	E= OFFICER INITIATED		B= WEAPONS
☐ SUMMONS					C= COMPLAINANT WALKED IN	F= OTHER		C= UNFOUNDED CALLS
								D= MENTAL SUBJECT
								E= COMPLAINANT PRE-QUENTLY INTOXICATED
								F= DOMESTIC
								N= NORMAL

VICTIM #2 STATES THAT THE SUSPECT ON NUMEROUS OCCASION HAD SHOWED BOTH VICTIMS PORNOGRAPHIC MOVIES AND TOOK HIS PENIS OUT AND ASKED VICTIM 1 & #38; 2 TO PERFORM ORAL SEX ON HIM WHILE HE WAS MASTURBATING. WHEN THE WITNESS (SUSPECT'S MOTHER) CAME UP STAIRS, THE SUSPECT RAN BACK INTO HIS ROOM. THE VICTIMS TOLD THE WITNESS WHAT HAPPENED AND SHE TOLD THE SUSPECT TO LEAVE THE RESIDENCE. ON ANOTHER OCCASION THE SUSPECT ENTERED THE BEDROOM NAKED WHERE BOTH VICTIMS WERE SLEEPING AND ASKED THEM TO PERFORM ORAL SEX ON HIM, BUT THEY REFUSED. THE VICTIM'S MOTHER ONCE AGAIN INTERRUPTED THE SITUATION AND TOLD THE VICTIM TO LEAVE THE LOCATION.

VICTIM #2 STATED THAT THE SUSPECT'S HIDES THE BOOTLEG PORNOGRAPHIC MOVIES IN THE LIVING ROOM ON TOP OF THE

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
TYPE (GROUP)							TOTAL VALUE
STOLEN							\$0.00
DAMAGED							\$0.00
BURNED							\$0.00
RECOVERED							\$0.00
SEIZED							\$0.00

SUBJECT IDENTIFIED ☒ YES ☐ NO	SUBJECT LOCATED ☐ YES ☒ NO	S. F. ☐ AI ☒	☒ ACTIVE ☐ ADM. CLOSED	☐ UNFOUNDED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
REASON FOR EXCEPTIONAL CLEARANCE 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRACTION DENIED 4. VICTIM DECLINES COOPERATION 5. JUVENILE NO CUSTODY						
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
SCOTT WILLIAM J	06/14/2010	12697	WALKER JOHN W	06/14/2010	10232	
FOLLOWUP INVESTIGATION ☐ YES ☐ NO			OFFICER			

ADDITIONAL NARRATIVE

Agency Name:	Columbia Police Dept	CRI #:	SC0400100	Report Date/Time:	05/01/2010 08:00	CCA #:	100016468

UNDERNEATH THE PILE OF ITEMS ON TOP OF THE TV AND ALSO IN HIS ROOM ON TOP OF THE TV UNDERNEATH THE DVD PLAYER. THE VICTIM STATES THAT THE MOVIES ARE SOMETIMES IN DIFFERENT LOCATIONS IN THE HOUSE SO THAT THE SUSPECT'S MOTHER WOULD NOT FIND THEM.

A SEXUAL ASSAULT MAY HAVE ALSO OCCURRED BETWEEN VICTIM #1 AND #2 THAT OCCURRED IN RICHLAND COUNTY'S JURISDICTION. VICTIM #3 MAY ALSO BE A VICTIM, BUT NEEDS TO BE INTERVIEWED.

SGT WALKER WAS NOTIFIED. CPL SAXON AND INV MERRILL RESPONDED.

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORM

Page ____ of ____

Date: 12/14/10 Time: 12:35pm Place: 2 Justice SquareI am [REDACTED] My birthday is [REDACTED]My address and phone number are: [REDACTED]I am giving this statement concerning [REDACTED]to Inv. A. Merrill who has identified himself as Police Investigator

Since 2005, I've been taking my son [REDACTED] stepson [REDACTED], stepdaughter [REDACTED] to my mother's house. (Columbia, SC.) She since moved to [REDACTED] changed named. Residents of the apt. are my mother Wanda Odom, my brother De' Antonio Johnson, my brother De'quan Johnson, & my brother De'angelo Johnson. De'angelo Johnson aka (Snoop). The incident at hand was told to me by [REDACTED] (my stepdaughter). She told me that she had something to tell me, but at the time she was laughing saying it. So I thought that she was joking. But then, later on that day she said that she had something to tell me & began telling me about: "how [REDACTED] (her brother) tried to have sex with her in my Mom's bedroom". (At the time that I will take them over to my mom's house, their sleeping arrangements would sometimes be that [REDACTED] slept in my mom's bedroom & [REDACTED] sleeps on the couch

Sworn and subscribed to me this
____ day of _____ISI [Signature]NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

ISI _____

____ received a copy of this statement consisting of ____ pages

from _____ ISI [Signature]

RICHLAND COUNTY SHERIFF'S DEPARTMENT INCIDENT REPORT

AGENCY I.D.
ICORI 400009

E NUMBER

0310022907

NCIC

INQ ENTD

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
1. EPC		☒ YES ☐ NO	☐ YES ☒ NO	20		☐ INDIVIDUAL ☐ BUSINESS ☐ FINANCIAL INST ☐ GOVERNMENT ☐ RELIG. ORGN. ☐ SOC/PUBLIC ☐ OTHER ☐ UNKNOWN ☐ POLICE OFFICER	
2. Child Abuse		☐ YES ☐ NO	☐ YES ☐ NO				
3.		☐ YES ☐ NO	☐ YES ☐ NO				
INCIDENT LOCATION (SUBDIVISION, ADDRESS, ETC.) (NAME AND NUMBER)				SUBDIVISION	ZIP CODE	WEAPON TYPE	
						Unknown	
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	NIGHT DATE		DAYTIME DATE
10-02-07	1430		10-03-07	1000	10-03-07		1045
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT	RACE	SEX	AGE	ETH.	DAYTIME PHONE
		RU	J	B	F	34	N
ADDRESS		CITY	STATE	ZIP CODE			
		Columbia	SC	29223			
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT	RACE	SEX	AGE	ETH.	DAYTIME PHONE
		CH	J	B	F	7	N
HEIGHT		WEIGHT	HAIR	EYES	FACIAL MARKS, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		
3'9"		65	Blk	Bro	DOB [REDACTED]		
ADDRESS		CITY	STATE	ZIP CODE	LOCATION		
VISIBLE INJURY (VICT. 1) ☐ YES ☐ NO		EXPLAIN: Bruises to Right Arm, Left Arm, Upper Chest and Back		COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☐ NO			
VICTIM NO. 1 USING ALCOHOL ☐ YES ☐ NO ☐ UNK		DRUGS ☐ YES ☐ NO ☐ UNK		TYPE			
☐ TWO-MAN VER. ☐ ONE-MAN VER. ☐ DET./SPEC. AGENT ☐ OTHER		☐ ALONE ☐ ASSISTED		J=THIS JURISDICTION S=STATE O=OUT OF STATE U=UNKNOWN			
SUBJECT		NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH
☐ RUNAWAY			B	F	30	N	
☐ WANTED		FACIAL MARKS, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		NIGHT NUMBER			
☐ WARRANT		ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.
☐ ARREST							
☐ JAIL		SUBJECT NO. 1 USING ALCOHOL ☐ YES ☐ NO ☐ UNK		ARRESTED NEAR OFFENSE SCENE: ☐ YES ☐ NO		DATE / TIME OF OFFENSE	
☐ SUMMONS		DRUGS ☐ YES ☐ NO ☐ UNK TYPE		TOTAL # ARRESTED:		10-02-07/1430	

On 10-03-07 at approximately 10:20am the school Principal Dr. Price contacted me in reference to the (victim) [REDACTED] being brought into the Health Room after several bruises were seen on both her arms by her teacher Ms. Blevins. In the health room the school nurse Mrs. Brower looked over and noted that there were bruises and scratches on several other areas of her body. Mrs. Brower then contacted the school administration.

EVIDENCE NUMBER		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
HOLD ROOM		EVIDENCE ROOM			
SEIZED	\$	BURNED	\$	DAMAGED	\$
SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED	
				☐ UNFOUNDED	
				☐ ARRESTED UNDER 18	
				☐ EX-CLEAR UNDER 18	
REASON FOR EXCEPTIONAL CLEARANCE		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION	
		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION	
REPORTING OFFICER(S)		DATE		DEPT. NO.	
Mayo, Zina		10-03-07		1180	
FOLLOW UP INVESTIGATION		OFFICER		DATE	
☐ YES ☐ NO					

RICHLAND COUNTY SHERIFF'S DEPARTMENT SUPPLEMENTARY REPORT

AGENCY I.D.
SCOR: 400000

E NUMBER

0310022907

NCIC

INQ ENTD

☐ ORIGINAL REPORT☒ SUPPLEMENTAL REPORT☒ INVESTIGATIVE FOLLOW UP☐ ADDITIONAL STOLEN
PROPERTY

PAGE 2 OF 2 PAGES

☐ MODIFIES ORIGINAL☐ CASE STATUS CHANGE☐ ADDITIONAL RECOVERED
PROPERTY

NARRATIVE

██████ is a special education student with limited communication skills. Ms. Blevins did tell me that the bruises were not there on yesterday. I spoke with ██████ with her teacher present to make ██████ more comfortable talking to me. I stated off by talking about her day at school and how she was doing to get a feel of her level of understanding. I asked her about what she did when she went home yesterday and she said that she played football with her brother. I asked ██████ how she got the bruises on her arms and she said that she fell down. I asked her if anyone had hurt her arm and she said no. I asked her did she get spankings when she is bad and she again replied no. Her teacher informed me that ██████ did not have an overall good day at school yesterday and that she sent a note home about it. I then asked ██████ how her day was yesterday and she said good. I asked her did she get a note sent home yesterday and she said yes. I asked her did her mother get the note and she said yes and that her mommie was happy.

I observed several bruises on both of ██████ arms. I also observed a bruise on the upper left part of her chest near her collar bone and several bruises and scratches on her back. On other areas of her body such as her thighs, her buttock (especially on the right side which was very dark and she said it was sore) and the back of her legs, it looked as if there was old bruising and scratch marks. After seeing the amount of bruising and also the amount of what appears to be old bruising and marks I determined that it was in the best interest of ██████ to do an EPC. I spoke with Lt. Amaro to make the duty investigative supervisor aware of the case and he advised me to also make contact with Sgt. Strange in investigations.

I contacted Social Services and spoke with intake operator David McCollam, who informed me that DSS case worker Cindy McKenzie would be assigned to the case. I spoke with Mrs. McKenzie by phone and transported ██████ to the social service office.

ADMINISTRATIVE

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☒ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE:		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION	
5. ☐ JUVENILE - NO CUSTODY		REPORTING OFFICER(S)		DATE		DEPT. NO.		APPROVING OFFICER	
Mayo, Zina		09-07-06		1180					
						FOLLOW UP INVESTIGATION		OFFICER	



SOUTH CAROLINA
Department of Social Services
Medical Response System

Child Maltreatment Protocol

Demographics

Child's Name [REDACTED] DOB [REDACTED] Age 7 Sex ☐ M ☒ F
 Healthcare Provider Susan Luberoft, MD Location ARC Date of Evaluation 10-19-07
 Legal Guardian Richland County DSS Relationship to Child _____
 Child Brought By Crystal Knox Relationship to Child Richland County DSS
 Forensic Interviewer (if applicable) _____
 School Name (if applicable) _____ Location _____ Grade _____

Agencies Involved/ Referral Information

DSS County Richland County DSS Case Worker Cindy McKenzie
 Phone Number 714-7575 Alternate Phone Number _____
 LE City/ County Richland County Sheriff Department Officer Investigator Marzden Roe
 Case Number 0310022907 Phone Number 576-3069 Alternate Phone _____
 Referral Source (if different from above) Cindy McKenzie
 Agency Richland County DSS Phone Number 714-7575

Reason for Referral
 (give brief history of
 allegation as provided by
 referral source and indicate
 alleged perpetrator and
 relationship to child, if
 known)

On Oct. 3rd [REDACTED] teacher noticed bruising on her arms and took her to the nurse. The nurse observed additional bruising on [REDACTED] chest, back, thighs, buttocks, and backs of her legs. Law Enforcement took Akiya into emergency protective custody. To this point [REDACTED] has denied that her mother or mother's boyfriend caused the bruises. [REDACTED] informed law enforcement that she "fell down." Both law enforcement and DSS have photos of the bruising.

Healthcare Provider's Initials [Signature]
 Date of Evaluation 10-19-07

Child's Name Akiya GoodwinDOB 11-02-1999**Physical Examination**Person (s) present at examination PA Jones, CLS; Crystal KnoxRelationship to the child ARC staff; DSS**Vital Signs**

Pulse _____ Respiratory Rate _____

Weight 52 %tile _____ Height 48 1/2 %tile _____ HC (< age 2) _____ %tile _____**General Appearance/ Demeanor** ☐ Thin ☒ WDNW ☐ Overweight ☒ Clean ☐ Poor Hygiene ☐ Active
(check all that apply)☐ Shy ☐ Crying ☐ Cooperative ☐ Hostile ☐ Apprehensive ☐ Withdrawn

	WNL	ABN	Comments
Development	☐	☒	Would not allow touch of any type. Unusual behaviors for age, including fascination with band-aids, refusal to engage for exam, response to very repetitious language (encouraged repetition by examiner). Very oppositional. Exam took more than 45 minutes, due to behavior.
Skin (if abnormal, document findings on appropriate diagrams)	☐	☒	
Eyes/ Fundi	☒	☐	
Ears, Nose, Mouth, Throat	☒	☐	posterior portion of mouth not seen
Lung (Respiratory)	☐	☐	could not evaluate
Heart (Cardiovascular)	☐	☐	could not evaluate
Abdomen (Gastrointestinal)	☒	☐	normal to visual inspection; child would not allow touching
Musculoskeletal	☒	☐	
Neurological Exam	☒	☐	

Healthcare Provider's Initials AKCDate of Evaluation 10-19-09

Child's Name Akiya GoodwinDOB 11-02-1999**Female Anogenital Examination**

Tanner: PH ☐	B ☐	Colposcope: ☐ Exam ☐ Photos	Positioning: ☐ Supine ☐ Prone KC ☐ Other

	WNL	ABN	Comments
Labia Majora	☐	☐	
Labia Minora	☐	☐	
Urethra	☐	☐	
Clitoris	☐	☐	
Hymen (describe shape and injuries if present)	☐	☐	
Vaginal Vault (presence of discharge)	☐	☐	
Fossa Navicularis	☐	☐	
Posterior Fourchette	☐	☐	
Perineal Area	☐	☐	
Anus (visual inspection for anal wink, rugae pattern)	☐	☐	

*could not
accomplish*

Male Anogenital Examination

Tanner: PH ☐	G ☐	Colposcope: ☐ Exam ☐ Photos	Positioning: ☐ Supine ☐ Prone KC ☐ Other

	WNL	ABN	Comments
Penis	☐	☐	
Urethral Meatus	☐	☐	
Scrotum	☐	☐	
Testicles	☐	☐	
Perineal Area	☐	☐	
Anus (visual inspection for anal wink, rugae pattern)	☐	☐	

Healthcare Provider's Initials SL
Date of Evaluation 10-19-09

Petitioner's Exhibit D

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Richland
STATE VS.

Indictment Number:

11 -GS- 40 - 1970
Probation C/W#s: W-40-13-0043AKA: Daguan Johnson
Race: B Sex: M
DOB: 12/1/13
SSN: 1847303
SID#: 1847303Name of Original Offense: Lewd Act
Original A/W#: K643505
Date of Original Offense: 12/1/04 - 6/12/11
Conviction S.C. Code §: 16-15-0140
Conviction CDR Code #: 2141618
Original Sentence: 15 yrs ss on TS and 5 yrs probation
ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 12/17/12 in the Court of General Sessions of Richland County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 2/1/13, as set forth in the attached warrant(s) or citation(s) dated 2/1/13. After hearing the evidence and being duly advised, in the ~~presence~~ absence of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit) 1, 2, 9 and 10

Therefore, IT IS ORDERED that:

- ☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years, the remainder of the original sentence, and/or pay \$ _____.
- ☒ the suspended sentence be revoked and the above named defendant be required to serve 10 months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- ☐ Financial Obligations: Order satisfies: ☐ Department fees (arrestage) Civil judgment: ☐ Department fees
☐ Fines and other fees (arrestage/balance) ☐ Fines and other fees
☐ Restitution (and 20%) (arrestage/balance) ☐ Restitution (and 20%)
- ☐ Additional Conditions ordered by the Court:

- ☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- ☒ The defendant has previously served 2 months/years on this sentence.
(split sentence time and/or prior partial revocation time)
- ☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 05 day of April, 2013
Columbia, SCPresiding Judge: W. L. Fordham
Fifth Judicial Circuit

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

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

Offender's Signature: [Signature]Witnessed by: W. L. FordhamSigned this 5 day of April, 2013, at Columbia, SC
Day Month Year City

Fordham 32

STATE OF SOUTH CAROLINA

County of Richland
STATE VS.Daguan Johnson

AKA:

Race: B Sex: M

DOB:

SSN:

SID#: 1847303

IN THE COURT OF GENERAL SESSIONS

Indictment Number: 11 -GS- 40 - 1969
Probation C/W#: W-40-13-0043Name of Original Offense: Lewd ActOriginal A/W#: K643504Date of Original Offense: 2/4/07 - 6/12/10Conviction S.C. Code §: 16-15-140Conviction CDR Code #: 2 1 4 1 6 1 8Original Sentence: 15 yrs ss on T.S. and 5 yrs probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 12/17/12 in the Court of General Sessions of Richland County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 2/1/13, as set forth in the attached warrant(s) or citation(s) dated 2/1/13. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit) 1, 2, 9 and 10

Therefore, IT IS ORDERED that:

- ☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years, the remainder of the original sentence, and/or pay \$ _____.
- ☒ the suspended sentence be revoked and the above named defendant be required to serve 10 months of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- ☐ Financial Obligations: Order satisfies: ☐ Department fees (arrearage) Civil judgment: ☐ Department fees
☐ Fines and other fees (arrearage/balance) ☐ Fines and other fees
☐ Restitution (and 20%) (arrearage/balance) ☐ Restitution (and 20%)
- ☐ Additional Conditions ordered by the Court:

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

☒ The defendant has previously served 2 months on this sentence.
(split sentence time and/or prior partial revocation time)

☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 05 day of April, 2013,
Columbia, SC

Presiding Judge: [Signature]
[Signature] Judicial Circuit

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

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

Offender's Signature: [Signature]Witnessed by: [Signature]

Signed this 5 day of April, 2013, at Columbia, SC
 Day Month Year City

Fordham 36

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Richland
STATE VS.AKA: Daquan Johnson
Race: B Sex: M
DOB: _____
SSN: _____
SID#: 1547303Indictment Number: 07 -GS- 40 - 12128
Probation C/W#s: W-40-13-0043
Name of Original Offense: Lewd Act
Original A/W#: DP07392
Date of Original Offense: 7/14/07 - 7/25/07
Conviction S.C. Code §: 16-15-140
Conviction CDR Code #: 2 1 4 1 6 1 8
Original Sentence: 15 yrs ss on TS and 5 yrs probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 12/17/12 in the Court of General Sessions of Richland County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 2/1/13, as set forth in the attached warrant(s) or motion(s) dated 2/1/13. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit) 1, 2, 9 and 10

Therefore, IT IS ORDERED that:

- ☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years, the remainder of the original sentence, and/or pay \$_____.
- ☒ the suspended sentence be revoked and the above named defendant be required to serve 10 months/years of the original sentence and/or pay \$_____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- Financial Obligations: Order satisfies: ☐ Department fees (arrearage) ☐ Civil judgment: ☐ Department fees
☐ Fines and other fees (arrearage/balance) ☐ Fines and other fees
☐ Restitution (and 20%) (arrearage/balance) ☐ Restitution (and 20%)
- ☐ Additional Conditions ordered by the Court:

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

☒ The defendant has previously served 2 months/years on this sentence.
 (split sentence time and/or prior partial revocation time)

☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 05 day of April, 2013,
Columbia, SC

Presiding Judge: W. H. Cooper
Rich Judicial Circuit

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

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

Offender's Signature: [Signature]

Witnessed by: [Signature]

Signed this 5 day of April, 2013, at Columbia, SC
 Day Month Year City

Fortham

Petitioner's Exhibit E

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 12, 2007, the Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR 1ST DEGREE

That Daquan Johnson did in Richland County on or between July 14, 2007 and July 25, 2007, willfully, feloniously and unlawfully commit a sexual battery against a minor who at the time was less than eleven (11) years of age to wit: [REDACTED]; all in violation of Section 16-3-655 (A) (1), S.C. 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.


Warren B. Giese, SOLICITOR

ADDITIONAL NARRATIVE

Agency Name:	Columbia Police Department	CRI #:	SC0400100	Report Date/Time:	07/14/2007 18:00	OCA #:	070024473

09-17-2007 I/O RECEIVED THE REPORT FROM DICKERSON CENTER FOR CHILDREN (SLED AGENT CALDWELL) WHICH PROVIDED DETAILS THE INTERVIEW OF THE VICTIM AND THE INDICATIONS THAT THE SUBJECT PERFORMED FELLATIO UPON THE VICTIM. ASOL SMYRL WAS CONSULTED AND BASED UPON THAT CONVERSATION THE CHARGE WAS CHANGED TO CSC WITH A MINOR UNDER AGE 11 (CSC 1ST). WARRANT K-290462 WAS OBTAINED AGAINST THE SUBJECT.

09-18-2007 I/O MET WITH DEPUTY WOODS AT AC FLORA HS AFTER HAVING THE WARRANT COUNTERSIGNED AT 1400 HUGER ST. DEPUTY WOODS INDICATED THAT THE SUSPECT WAS NOT PRESENT AT SCHOOL THAT DAY AND LAST WEEK THE SUSPECT HAD BEEN CAUGHT STEALING FROM A COUNSELOR AT THE SCHOOL. I/O CONTACTED NORTH REGION CRT (SGT MARSH AND CPL BLENDOWSKI) AND PROVIDED THEM A COPY OF THE WARRANT AND SUSPECT'S PICTURE. AT 1445 HOURS I/O WAS ADVISED BY CPL BLENDOWSKI THAT THE SUSPECT WAS IN CUSTODY AND ENROUTE TO CPD. SUSPECT WAS TAKEN TO AN INTERVIEW ROOM AND ADVISED OF HIS RIGHTS. AFTER THE SUSPECT SIGNED THE RIGHTS WAIVER IN THE PRESENCE OF INV BEHNEY AND INV NAREWSKI AN INTERVIEW WAS INITIATED. THE SUSPECT STATED THAT HE IS ALWAYS IN HIS MOTHER'S PRESENCE AND THAT HE WAS NEVER ALONE WITH THE CHILD. THE SUBJECT DID STATE THAT HE WAS IN COURT EARLIER THIS DAY CONCERNING A LARCENY CHARGE. THE SUBJECT THEN STATED THAT HE HAD ADD, ADHD, ODD AND WANTED TO TALK TO HIS MOMMA. THE INTERVIEW WAS UNPRODUCTIVE AND WAS TERMINATED. THE SUBJECT WAS TAKEN BY PTL WATSON TO ASGDC. MS. ODOM (SUSPECT'S MOTHER) WAS PRESENT AT CPD AND WAS ADVISED OF THE JAIL'S PHONE NUMBER AND THE NEED TO CONTACT THEM ABOUT MEDICATION DELIVERY AND THE BOND HEARING.

INCIDENT REPORT

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	ITS ENTERED	TYPE VICTIM							
1.	16-15-0140 *Sex/Lewd Act, com/attempt upon child <14 11D FORCIBLE FONDLING	YES NO	YES NO	RESIDENCE/HOME		☒ Individual ☐ Business ☐ Financial Inst ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.							
2.		YES NO	YES NO										
3.		YES NO	YES NO										
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) 3245 LUCIUS RD, COLUMBIA, SC				ZIP CODE 29210-0000	WEAPON TYPE								
INCIDENT DATE 07/14/2007	24 HR. CLOCK 18:00	TO DATE 07/25/2007	24 HR. CLOCK 18:00	DISP. DATE 07/26/2007	DISP. TIME 15:10	TIME ARRIVED 15:22	DEPART. TIME 18:34	LOCATION NO. 539					
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) [REDACTED]		RELATIONSHIP TO SUBJECT #1 OF #2 #3		RESIDENT J	RACE B	SEX F	AGE 23	ETH N	DAYTIME PHONE [REDACTED]	EVENING PHONE [REDACTED]			
ADDRESS [REDACTED]		CITY [REDACTED]		STATE [REDACTED]	ZIP CODE [REDACTED]		LOCATION NO. 299						
VICTIM'S NAME (LAST, FIRST, MIDDLE) [REDACTED]		RELATIONSHIP TO SUBJECT #1 ST #2 #3		RESIDENT J	RACE B	SEX M	AGE 5	ETH N	DAYTIME PHONE [REDACTED]	EVENING PHONE [REDACTED]			
HEIGHT 108	WEIGHT 45	HAIR BLACK	EYES BROWN	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
ADDRESS [REDACTED]		CITY [REDACTED]		STATE [REDACTED]	ZIP CODE [REDACTED]		LOCATION NO. 299						
VIOLENCE (VCT.1) YES NO EXPLAIN- Other				COMPLAINANT NON-VIOLENCE YES NO									
VCT. (NO. 1) USING ALCOHOL YES NO UNK. DRUGS YES NO UNK. TYPE:													
TWO-MAN VEH. ONE-MAN VEH. DETECTIVE PLASMT. OTHER ALONE ASSISTED				*J-This Jurisdiction. S-State. O-Out of State. U-Unknown.									
☒ SUSPECT	NAME (LAST, FIRST, MIDDLE) JOHNSON, DEYQUAN, RICARDO			RACE S	SEX M	AGE 16	ETH N	DATE OF BIRTH	HEIGHT 509	WEIGHT 205	HAIR BLACK	EYES BROWN	
☐ RUNAWAY	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.												
☐ WANTED	DAYTIME PHONE [REDACTED] EVENING PHONE [REDACTED]												
☐ WARRANT	ADDRESS [REDACTED] CITY COLUMBIA STATE SC ZIP CODE 29201- LOCATION NO. 539												
☐ ARREST													
☐ JAIL	SUBJECT (NO. 1) USING ALCOHOL YES NO UNK. DRUGS YES NO UNK. TYPE: TOTAL # ARRESTED 1 DATE/TIME OF OFFENSE 7/14/2007 6:00:00 PM. DATE/TIME OF ARREST 9/18/2007 2:45:00 PM												
☐ SUMMONS	CRUISE YES NO UNK. TYPE: DATE/TIME OF OFFENSE 7/14/2007 6:00:00 PM. DATE/TIME OF ARREST 9/18/2007 2:45:00 PM												
DAY OF THE WEEK S M T W T F S UNK		HOW REPORTED		A= OFFICER DISPATCHED ON CALL B= REPORT TAKEN BY PHONE C= COMPLAINANT WALKED IN		D= COMPLAINT WRITTEN IN E= OFFICER INITIATED F= OTHER		DIFF. FACTOR N		A= RESISTANCE/HOSTILITY B= WEAPONS C= UNFOUNDED CALLS D= MENTAL SUBJECT		E= COMPLAINANT FRE- QUENTLY INTOXICATED F= DOMESTIC N= NORMAL	
COMPLAINANT STATES BETWEEN LISTED DATES AND TIMES THE LISTED SUSPECT SEXUALLY ASSAULTED HER SON VICTIM 1. COMPLAINANT STATES HER SON INFORMED THE COMPLAINANT OF THE INCIDENT ON 07262007 AT 1800 HRS. COMPLAINANT STATES HER SON VICTIM 1 STATES THAT THE LISTED SUSPECT PULL HIS PANTS DOWN BELOW VICTIM KNEES THEN URINATED ON VICTIM 1 BUTTOCKS. COMPLAINANT ALSO STATES THE VICTIM 1 STATES SUSPECT SUCK VICTIM PENIS. COMPLAINANT STATES SHE DO NOT KNOW HOW LONG THE SITUATION HAS BEEN GOING ON. COMPLAINANT STATES AT THE TIME OF THE INCIDENT VICTIM WAS VISITING HIS AUNT. COMPLAINANT STATES SHE WILL PROSECUTE THE SUSPECT FOR THE OFFENSE. CPL CRIBB WAS NOTIFIED IN REGARDS TO THE INCIDENT. SGT O'CONNELL OF MAJOR CRIMES WAS NOTIFIED.													
				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY					
TYPE/GROUP												TOTAL VALUE	
STOLEN												0	
DAMAGED												0	
BURNED												0	
RECOVERED												0	
SEIZED												0	
SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☐ YES ☒ NO		S. F. CJ		☒ ACTIVE ☐ ADM. CLOSED		☐ UNFOUNDED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18	
REASON FOR EXCEPTIONAL CLEARANCE 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRADITION DENIED 4. VICTIM DECLINES COOPERATION 5. JUVENILE NO CUSTODY													
REPORTING OFFICER(S) NAREWSKI STEPHEN T		DATE 9/18/2007 6:00:00 PM		UNIT NUMBER 13181		APPROVING OFFICER O'CONNELL BRIAN K		DATE 10/3/2007		UNIT NUMBER 08309			
FOLLOWUP INVESTIGATION ☐ YES ☒ NO													

ADDITIONAL NARRATIVE

Agency Name:	Columbia Police Department	ORI #:	SC0400100	Report Date/Time:	07/14/2007 18:00	OCA #:	070024473

Supplemental - CRIMINAL SEXUAL CONDUCT

OFC J GRANT &#38; OFC M WATSON

Petitioner's Exhibit F

South Carolina Department of Corrections

Classification Summary Reports

Date: Friday, May 17, 2013

Classification Summary Reports

Inmate Number 354906

Submit

Classification Summary Report for JOHNSON, DAQUAN :

Create PDF

CLASSIFICATION SUMMARY REPORT DATED 05/17/2013

SCDC# 00354906

JOHNSON, DAQUAN

FBI# 7811CD4

OFFENDER ADULT-STRAIGHT
TYPE: SENTENCE

INSTITUTION: KIRKLAND

SECURITY/CUST: INTAKE R&E
INMATES

CURR INCARC 0 YRS 6 MOS 0
SENT: DAYS

VICTIM
WITNESS: Y SEPREQ:N.

MED MED PROB/NO WORK
CLASS: RESTRICT

INST OUTPATIENT MENTAL
RESTRICT: HEALTH

MENTAL
CLASS: MH-4 (OUTPATIENT)

CURRENT NO CURRENT
PROGRAM: PROGRAM

SEX REGISTRY: Y

DNA: C

AGE: 22



RESIDENT
STABILITY: NA

DORMROOMBUNK_CODE: A2 0024 X

PROJ MAXOUT
DATE: 06/03/2013

PROJ PAROLE DATE: -

EWC JOB: NO CURRENT JOB

ASSIGNMENT: R & E CENTER

EWC
LEVEL: 0 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

LEWD ACT/CHILD UNDER 16	0	6	0	RICHLAND	02/01/2013 V	4	11GS401970
LEWD ACT/CHILD UNDER 16	0	6	0	RICHLAND	02/01/2013 V	4	11GS401969
LEWD ACT/CHILD UNDER 16	0	6	0	RICHLAND	02/01/2013 N	4	07GS4012128

COMPLETED OFFENSES

NO COMPLETED OFFENSES

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINERS (HOLD,WANTED,NOTIFY):

CRIM SEX COND W/MINOR(1ST	NOTIFY	OPEN ARREST NOTIFICATION	CATEG:5
BURGLARY-1ST DEGREE	NOTIFY	OPEN ARREST NOTIFICATION	CATEG:4
LEWD ACT/CHILD UNDER 16	HOLD	IRO	CATEG:4

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:

05/02/2013 REFUSING OR FAILING OBEY ORDERS CONVICTED ADMINISTRATIVE RESOLUTION

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

04/09/2013 KIRKLAND INCARCERATED NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

NO HISTORY OF EARNED WORK CREDIT ASSIGNMENTS

HISTORY OF EARNED EDUCATION CREDITS:

NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****

Create PDF

Source : SummaryReport.jsp

Copyright © 2007-2013 South Carolina Department of Corrections. All rights reserved.
[Version: 1.4.4 Built: 08/23/2012 09:37:57 AM Time: 10:16:40 AM]

Petitioner's Exhibit G

Development and Course

Individuals with sexual sadism in forensic samples are almost exclusively male, but a representative sample of the population in Australia reported that 2.2% of men and 1.3% of women said they had been involved in bondage and discipline, "sado-masochism," or dominance and submission in the previous year. Information on the development and course of sexual sadism disorder is extremely limited. One study reported that females became aware of their sado-masochistic orientation as young adults, and another reported that the mean age at onset of sadism in a group of males was 19.4 years. Whereas sexual sadism per se is probably a lifelong characteristic, sexual sadism disorder may fluctuate according to the individual's subjective distress or his or her propensity to harm nonconsenting others. Advancing age is likely to have the same reducing effect on this disorder as it has on other paraphilic or normophilic sexual behavior.

Differential Diagnosis

Many of the conditions that could be differential diagnoses for sexual sadism disorder (e.g., antisocial personality disorder, sexual masochism disorder, hypersexuality, substance use disorders) sometimes occur also as comorbid diagnoses. Therefore, it is necessary to carefully evaluate the evidence for sexual sadism disorder, keeping the possibility of other paraphilias or mental disorders as part of the differential diagnosis. The majority of individuals who are active in community networks that practice sadistic and masochistic behaviors do not express any dissatisfaction with their sexual interests, and their behavior would not meet DSM-5 criteria for sexual sadism disorder. Sadistic interest, but not the disorder, may be considered in the differential diagnosis.

Comorbidity

Known comorbidities with sexual sadism disorder are largely based on individuals (almost all males) convicted for criminal acts involving sadistic acts against nonconsenting victims. Hence, these comorbidities might not apply to all individuals who never engaged in sadistic activity with a nonconsenting victim but who qualify for a diagnosis of sexual sadism disorder based on subjective distress over their sexual interest. Disorders that are commonly comorbid with sexual sadism disorder include other paraphilic disorders.

Pedophilic Disorder

Diagnostic Criteria

302.2 (F65.4)

- 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 individual has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.
- C The individual 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 whether:

Exclusive type (attracted only to children)

Nonexclusive type

gely based on
n, prevalence
in the United
mitted sex
o 75%.

Specify if:

- Sexually attracted to males**
- Sexually attracted to females**
- Sexually attracted to both**

Specify if:

- Limited to incest**

Diagnostic Features

The diagnostic criteria for pedophilic disorder are intended to apply both to individuals who freely disclose this paraphilia and to individuals who deny any sexual attraction to prepubertal children (generally age 13 years or younger), despite substantial objective evidence to the contrary. Examples of disclosing this paraphilia include candidly acknowledging an intense sexual interest in children and indicating that sexual interest in children is greater than or equal to sexual interest in physically mature individuals. If individuals also complain that their sexual attractions or preferences for children are causing psychosocial difficulties, they may be diagnosed with pedophilic disorder. However, if they report an absence of feelings of guilt, shame, or anxiety about these impulses and are not functionally limited by their paraphilic impulses (according to self-report, objective assessment, or both), and their self-reported and legally recorded histories indicate that they have never acted on their impulses, then these individuals have a pedophilic sexual orientation but not pedophilic disorder.

Examples of individuals who deny attraction to children include individuals who are known to have sexually approached multiple children on separate occasions but who deny any urges or fantasies about sexual behavior involving children, and who may further claim that the known episodes of physical contact were all unintentional and nonsexual. Other individuals may acknowledge past episodes of sexual behavior involving children but deny any significant or sustained sexual interest in children. Since these individuals may deny experiences impulses or fantasies involving children, they may also deny feeling subjectively distressed. Such individuals may still be diagnosed with pedophilic disorder despite the absence of self-reported distress, provided that there is evidence of recurrent behaviors persisting for 6 months (Criterion A) and evidence that the individual has acted on sexual urges or experienced interpersonal difficulties as a consequence of the disorder (Criterion B).

Presence of multiple victims, as discussed above, is sufficient but not necessary for diagnosis; that is, the individual can still meet Criterion A by merely acknowledging intense or preferential sexual interest in children.

The Criterion A clause, indicating that the signs or symptoms of pedophilia have persisted for 6 months or longer, is intended to ensure that the sexual attraction to children is not merely transient. However, the diagnosis may be made if there is clinical evidence of sustained persistence of the sexual attraction to children even if the 6-month duration cannot be precisely determined.

Associated Features Supporting Diagnosis

The extensive use of pornography depicting prepubescent children is a useful diagnostic indicator of pedophilic disorder. This is a specific instance of the general case that individuals are likely to choose the kind of pornography that corresponds to their sexual interests.

Prevalence

The population prevalence of pedophilic disorder is unknown. The highest possible prevalence for pedophilic disorder in the male population is approximately 3%–5%. The population prevalence of pedophilic disorder in females is even more uncertain, but it is likely a small fraction of the prevalence in males.

Development and Course

Adult males with pedophilic disorder may indicate that they become aware of strong or preferential sexual interest in children around the time of puberty—the same time frame in which males who later prefer physically mature partners became aware of their sexual interest in women or men. Attempting to diagnose pedophilic disorder at the age at which it first manifests is problematic because of the difficulty during adolescent development in differentiating it from age-appropriate sexual interest in peers or from sexual curiosity. Hence, Criterion C requires for diagnosis a minimum age of 16 years and at least 5 years older than the child or children in Criterion A.

Pedophilia per se appears to be a lifelong condition. Pedophilic disorder, however, necessarily includes other elements that may change over time with or without treatment: subjective distress (e.g., guilt, shame, intense sexual frustration, or feelings of isolation) or psychosocial impairment, or the propensity to act out sexually with children, or both. Therefore, the course of pedophilic disorder may fluctuate, increase, or decrease with age.

Adults with pedophilic disorder may report an awareness of sexual interest in children that preceded engaging in sexual behavior involving children or self-identification as a pedophile. Advanced age is as likely to similarly diminish the frequency of sexual behavior involving children as it does other paraphilically motivated and normophilic sexual behavior.

Risk and Prognostic Factors

Temperamental. There appears to be an interaction between pedophilia and antisociality, such that males with both traits are more likely to act out sexually with children. Thus, antisocial personality disorder may be considered a risk factor for pedophilic disorder in males with pedophilia.

Environmental. Adult males with pedophilia often report that they were sexually abused as children. It is unclear, however, whether this correlation reflects a causal influence of childhood sexual abuse on adult pedophilia.

Genetic and physiological. Since pedophilia is a necessary condition for pedophilic disorder, any factor that increases the probability of pedophilia also increases the risk of pedophilic disorder. There is some evidence that neurodevelopmental perturbation in utero increases the probability of development of a pedophilic orientation.

Gender-Related Diagnostic Issues

Psychophysiological laboratory measures of sexual interest, which are sometimes useful in diagnosing pedophilic disorder in males, are not necessarily useful in diagnosing this disorder in females, even when an identical procedure (e.g., viewing time) or analogous procedures (e.g., penile plethysmography and vaginal photoplethysmography) are available.

Diagnostic Markers

Psychophysiological measures of sexual interest may sometimes be useful when an individual's history suggests the possible presence of pedophilic disorder but the individual denies strong or preferential attraction to children. The most thoroughly researched and longest used of such measures is *penile plethysmography*, although the sensitivity and specificity of diagnosis may vary from one site to another. *Viewing time*, using photographs of nude or minimally clothed persons as visual stimuli, is also used to diagnose pedophilic disorder, especially in combination with self-report measures. Mental health professionals in the United States, however, should be aware that possession of such visual stimuli, even for diagnostic purposes, may violate American law regarding possession of child pornography and leave the mental health professional susceptible to criminal prosecution.

Differential Diagnosis

Many of the conditions that could be differential diagnoses for pedophilic disorder also sometimes occur as comorbid diagnoses. It is therefore generally necessary to evaluate the evidence for pedophilic disorder and other possible conditions as separate questions.

Antisocial personality disorder. This disorder increases the likelihood that a person who is primarily attracted to the mature physique will approach a child, on one or a few occasions, on the basis of relative availability. The individual often shows other signs of this personality disorder, such as recurrent law-breaking.

Alcohol and substance use disorders. The disinhibiting effects of intoxication may also increase the likelihood that a person who is primarily attracted to the mature physique will sexually approach a child.

Obsessive-compulsive disorder. There are occasional individuals who complain about ego-dystonic thoughts and worries about possible attraction to children. Clinical interviewing usually reveals an absence of sexual thoughts about children during high states of sexual arousal (e.g., approaching orgasm during masturbation) and sometimes additional ego-dystonic, intrusive sexual ideas (e.g., concerns about homosexuality).

Comorbidity

Psychiatric comorbidity of pedophilic disorder includes substance use disorders; depressive, bipolar, and anxiety disorders; antisocial personality disorder; and other paraphilic disorders. However, findings on comorbid disorders are largely among individuals convicted for sexual offenses involving children (almost all males) and may not be generalizable to other individuals with pedophilic disorder (e.g., individuals who have never approached a child sexually but who qualify for the diagnosis of pedophilic disorder on the basis of subjective distress).

Fetishistic Disorder

Diagnostic Criteria

302.81 (F65.0)

- A. Over a period of at least 6 months, recurrent and intense sexual arousal from either the use of nonliving objects or a highly specific focus on nongenital body part(s), as manifested by fantasies, urges, or behaviors.
- B. The fantasies, sexual urges, or behaviors cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- C. The fetish objects are not limited to articles of clothing used in cross-dressing (as in transvestic disorder) or devices specifically designed for the purpose of tactile genital stimulation (e.g., vibrator).

Specify:

Body part(s)

Nonliving object(s)

Other

Specify if:

In a controlled environment: This specifier is primarily applicable to individuals living in institutional or other settings where opportunities to engage in fetishistic behaviors are restricted.

In full remission: There has been no distress or impairment in social, occupational, or other areas of functioning for at least 5 years while in an uncontrolled environment.

Petitioner's Exhibit H

Paraphilic Disorders

Paraphilic disorders included in this manual are voyeuristic disorder (spying on others in private activities), exhibitionistic disorder (exposing the genitals), frotteuristic disorder (touching or rubbing against a nonconsenting individual), sexual masochism disorder (undergoing humiliation, bondage, or suffering), sexual sadism disorder (inflicting humiliation, bondage, or suffering), pedophilic disorder (sexual focus on children), fetishistic disorder (using nonliving objects or having a highly specific focus on nongenital body parts), and transvestic disorder (engaging in sexually arousing cross-dressing). These disorders have traditionally been selected for specific listing and assignment of explicit diagnostic criteria in DSM for two main reasons: they are relatively common, in relation to other paraphilic disorders, and some of them entail actions for their satisfaction that, because of their noxiousness or potential harm to others, are classed as criminal offenses. The eight listed disorders do not exhaust the list of possible paraphilic disorders. Many dozens of distinct paraphilias have been identified and named, and almost any of them could, by virtue of its negative consequences for the individual or for others, rise to the level of a paraphilic disorder. The diagnoses of the other specified and unspecified paraphilic disorders are therefore indispensable and will be required in many cases.

In this chapter, the order of presentation of the listed paraphilic disorders generally corresponds to common classification schemes for these conditions. The first group of disorders is based on *anomalous activity preferences*. These disorders are subdivided into *courtship disorders*, which resemble distorted components of human courtship behavior (voyeuristic disorder, exhibitionistic disorder, and frotteuristic disorder), and *algolagnic disorders*, which involve pain and suffering (sexual masochism disorder and sexual sadism disorder). The second group of disorders is based on *anomalous target preferences*. These disorders include one directed at other humans (pedophilic disorder) and two directed elsewhere (fetishistic disorder and transvestic disorder).

The term *paraphilia* denotes any intense and persistent sexual interest other than sexual interest in genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners. In some circumstances, the criteria "intense and persistent" may be difficult to apply, such as in the assessment of persons who are very old or medically ill and who may not have "intense" sexual interests of any kind. In such circumstances, the term *paraphilia* may be defined as any sexual interest greater than or equal to normophilic sexual interests. There are also specific paraphilias that are generally better described as *preferential* sexual interests than as intense sexual interests.

Some paraphilias primarily concern the individual's erotic activities, and others primarily concern the individual's erotic targets. Examples of the former would include intense and persistent interests in spanking, whipping, cutting, binding, or strangulating another person, or an interest in these activities that equals or exceeds the individual's interest in copulation or equivalent interaction with another person. Examples of the latter would include intense or preferential sexual interest in children, corpses, or amputees (as a class), as well as intense or preferential interest in nonhuman animals, such as horses or dogs, or in inanimate objects, such as shoes or articles made of rubber.

A *paraphilic disorder* is a paraphilia that is currently causing distress or impairment to the individual or a paraphilia whose satisfaction has entailed personal harm, or risk of harm, to

others. A paraphilia is a necessary but not a sufficient condition for having a paraphilic disorder, and a paraphilia by itself does not necessarily justify or require clinical intervention.

In the diagnostic criteria set for each of the listed paraphilic disorders, Criterion A specifies the qualitative nature of the paraphilia (e.g., an erotic focus on children or on exposing the genitals to strangers), and Criterion B specifies the negative consequences of the paraphilia (i.e., distress, impairment, or harm to others). In keeping with the distinction between paraphilias and paraphilic disorders, the term *diagnosis* should be reserved for individuals who meet both Criteria A and B (i.e., individuals who have a paraphilic disorder). If an individual meets Criterion A but not Criterion B for a particular paraphilia—a circumstance that might arise when a benign paraphilia is discovered during the clinical investigation of some other condition—then the individual may be said to have that paraphilia but not a paraphilic disorder.

It is not rare for an individual to manifest two or more paraphilias. In some cases, the paraphilic foci are closely related and the connection between the paraphilias is intuitively comprehensible (e.g., foot fetishism and shoe fetishism). In other cases, the connection between the paraphilias is not obvious, and the presence of multiple paraphilias may be coincidental or else related to some generalized vulnerability to anomalies of psychosexual development. In any event, comorbid diagnoses of separate paraphilic disorders may be warranted if more than one paraphilia is causing suffering to the individual or harm to others.

Because of the two-pronged nature of diagnosing paraphilic disorders, clinician-rated or self-rated measures and severity assessments could address either the strength of the paraphilia itself or the seriousness of its consequences. Although the distress and impairment stipulated in the Criterion B are special in being the immediate or ultimate result of the paraphilia and not primarily the result of some other factor, the phenomena of reactive depression, anxiety, guilt, poor work history, impaired social relations, and so on are not unique in themselves and may be quantified with multipurpose measures of psychosocial functioning or quality of life.

The most widely applicable framework for assessing the strength of a paraphilia itself is one in which examinees' paraphilic sexual fantasies, urges, or behaviors are evaluated in relation to their normophilic sexual interests and behaviors. In a clinical interview or on self-administered questionnaires, examinees can be asked whether their paraphilic sexual fantasies, urges, or behaviors are weaker than, approximately equal to, or stronger than their normophilic sexual interests and behaviors. This same type of comparison can be, and usually is, employed in psychophysiological measures of sexual interest, such as penile plethysmography in males or viewing time in males and females.

Voyeuristic Disorder

Diagnostic Criteria

302.82 (F65.3)

- A. Over a period of at least 6 months, recurrent and intense sexual arousal from observing an unsuspecting person who is naked, in the process of disrobing, or engaging in sexual activity, as manifested by fantasies, urges, or behaviors.
- B. The individual has acted on these sexual urges with a nonconsenting person, or the sexual urges or fantasies cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- C. The individual experiencing the arousal and/or acting on the urges is at least 18 years of age.

Specify if:

In a controlled environment: This specifier is primarily applicable to individuals living in institutional or other settings where opportunities to engage in voyeuristic behavior are restricted.

Petitioner's Exhibit I

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
SEXUAL PREDATOR MULTI-DISCIPLINARY TEAM**

REFERRAL DATA

INMATE: Johnson, Daquan

SCDC # 354906

INSTITUTION: Kirkland

SSN#:

VICTIM/WITNESS: Yes

DOB/AGE: (22 y/o)

SCDC ARRIVAL DATE: 04/09/2013

MAX OUT DATE: 06/01/2013

SENTENCE START DATE:
JUVENILE SENTENCE: N/A

**SUPERVISED FURLOUGH
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):
Three counts of Lewd Act/child under 16
Prior SCDC #'s: None
Prior Conviction(s): none
Parole Revocation(s): N/A
Probation Revocation(s): N/A
Other Information:

INSTITUTIONAL ADJUSTMENT:

Disciplinary(s): Total: 0 Assaultive: 0
Narrative(s): None
Work History: Educational
Other Information: No Problems in SCDC

Sexual Misconduct: 0

SP Multi-Disciplinary Team
Johnson, Daquan - 354906
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: 000

Mental Retardation: Yes

Disability/Other Known Impairment:

Wide Range Achievement Tests (WRAT)

Grade Level: Reading: 11.5

Math: 7.6

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: None in file (not enter)

Medical Problem(s): Yes Work Restriction(s): No

Institutional Assignment: None in file

SP Multi-Disciplinary Team
Johnson, Daquan - 354906

Page 3

HEALTH INFORMATION AND HISTORY:

Physical Health/Condition: N/A

Medications:

Other Information:

MENTAL HEALTH INFORMATION AND HISTORY:

Diagnosis: N/A

Medications: Risperdal 1mg

Problems/Compliance: N/A

Treatment History: Inmate has not seen the psychiatrist at KCI at this time. Medication is being renewed until Inmate Johnson is seen in the psychiatric clinic.

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: None in the file

	TYPE	DATES	STATUS
Phase I:			
SOTP GROUP:			
Phase II:	Education		
Phase III:	Education		
OTHER			
RTU:	Intensive Residential Treatment		

Admission of Sex Offense(s):

Other Information:

SP Multi-Disciplinary Team
Johnson, Daquan - 354906
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
Sylvia Roberts, MSW HSC II

Date: 11/8/13

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DIVISION OF MENTAL HEALTH SERVICES

INSTITUTIONAL REVIEW OF INMATE RECORDS

INMATE NAME: Johnson, Daquan SCDC#: 354706INSTITUTION: Kirkland F115A 6/3/13

Record Review:

History of mental health diagnosis, assessments, treatments,
*(Physicians/Psychiatrist Diagnosis ONLY) see 5/9/13
*(Copy of last Clinical Note)5/9/13

Psychological

5/9/13Note: Please initial if information is not recorded in Mental
Health record or OMS-Mental Health ClinicNA

Hard Copy Medical Record

Volume No. _____

NA

Gilliam Psychiatric Hospital

Volume No. _____

NA

Other _____

Volume No. _____

NAClyde D. Holliday HSCI
Signature of Reviewer05/20/13

Date of Review

Clyde D. Holliday
Print Name of Reviewer5/20/13 Fax
Date & Method of Submission
(i.e. fax, Agency Mail, Hand Deliver, etc.)

Date Received - Reviewer

Signature of SPMT Representative

COMMENTS: Daquan was assessed - He reported ofMental illness. He also reported no mental healthhospitalization at Allen S. Hall psy Hosp & Alameda Psych for
anger problem.

Forward To:

Sylvia Roberts, MSW
Broad River SOTP Program
(803) 896-2200 Ext. 2105
(803) 896-2192 Fax#

MDCI820D SCD: HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 05/20/13
SCDC#: 354906 JOHNSON, DAQUAN - CURR LOC: KIRKLAND HOLIDAY
ENC LCC: KIRKLAND ENC#: 00021 DATE: 05/09/13 TIME: 12:58 COMP PAGE: 001
22 YO AA MALE SEEN FOR PSYCH INTAKE. SEE ENC 7. DC PENDING IN 3 WEEKS.
PRESENTS FROM ASGDC ON RISPERDAL 1MG BID. JAIL TRANSFER FOR LISTEN DIS OF
ADHD AND BPD.
REPORTS RISPERDAL FOR ANGER MANAGEMENT ISSUES, TEMPER TANTRUMS, BREAKING
OBJECTS, ETC SINCE CHILDHOOD.
GIVES INCONSISTENT SELF-REPORT. IMMEDIATELY REQUESTED SLEEP MED, REMERON SP
SPECIFICALLY: "I HEARD GOOD THINGS ABOUT IT AND Y'ALL GIVE IT FOR SLEEP".
STARTED REPORTING HE WAS "DEPRESSED TOO" WHEN TOLD PSYCH DOES NOT TREAT
INSOMNIA AND REMERON IS FOR DEPRESSION. RATES MOOD 3/10. HOWEVER, NOT ENDOR
SING OTHER DEPRESSIVE SYMPTOMS. NO SI/HI. NO AVH'S.
QUERIED ON RISPERDAL, WAS INITIALLY VAGUE ABOUT WHEN/WHERE RX'D, EITHER REC
ENTLY IN JAIL OR IN COMMUNITY. STATED HE REC'D RISPERDAL "BY SHOT" FROM DR.
JONES AT COLUMBIA AREA MHC - INITIALLY INDICATED THAT IT WAS LAST ABOUT 3
YEARS AGO BUT THEN INDICATED LAST SHOT WAS NOV '12 ARREST, BUT HE ALSO
WAS IN JAIL X2YRS FOR ANOTHER CHARGE BEFORE DECEMBER.
PAST PSYCH: PAST PSYCH HOSP'S AT WSHPI, BAPTIST AS TEEN.
MSH: AA, IN NAD. L/L/GD. APPEARED EUTHYMIC. REALITY BASED. NO EVIDENCE OF
PSYCHOMOTOR AGITATION OR RET OR PSYCHOSIS.
A/ MEDS AND HK MAY BE C/W CONDUCT DISORDER ISSUES. NO EVIDENCE OF PSYCHOSIS
SOAP NOTES/NARRATIVE DISPLAYED.

PF2 => PREV ENC PF3 => NEXT ENC PF7 => PREV PAGE PF8 => NEXT PAGE
4-0 1 Set 1 167.7.50.33 SCDC1087 1/1

Petitioner's Exhibit J

382



Messages

Menu - Refresh Screen

Check messages (1) below for: ATTSC406

Date	Title
May 31, 2013 at 15:09:58	ICHR 003FE20AF1 from SCCH

Delete All Checked Messages

Print All Checked Messages

Submit

ICHR 003FE20AF1 from SCCH - May 31, 2013 at 15:09:58

ATTSC406

.ICHR.003FE20AF1.SCCH.20130531 15:09:58

TO: ATTSC406-54 20130531 15:09:58 003FE20AF1
FROM: SCCH-14813937 20130531 15:09:58

ICHR REQUEST FOR RAP SHEET

ORI-SC040015A FBI- 7811CD4 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-05/31/2013 TIME-15:12:36

REQ ORI-SC040015A ATTORNEY GENERALS

SID-SC01847303 FBI- 7811CD4

NAME-JOHNSON, DAQUAN RICARDO SEX-M RACE-B

HEIGHT-601 WEIGHT-225 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC- HENRY-

PHOTOGRAPH AVAILABLE

PALM PRINTS AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--10/10/2008 DATE OF LAST UPDATE--04/09/2013

ADDITIONAL IDENTIFIERS

BIRTH

NAME

DATES MARKS

SOC SEC

MISC NUM

JOHNSON, DAQUAN

CONTRIBUTOR/SUBJECT

DOA/RCVD CHARGE/DISPOSITION/ETC

JOHNSON, DAQUAN RICARDO

09/11/2008

SC0400400 FOREST ACRES PD

CASE-FA39908

ATN-990000439923

WARR-I291625

CIT-16-17-420-MISDEMEANOR

ARREST CHARGE 01-DISTURBING
SCHOOLS

SC040035G RICHLAND PPP
CASE-SC0400
CIT-16-11-313-FELONY

06/23/2009 CUSTODY STATUS-PROBATION
START DATE-06/23/2009

OFFENSE DATE-07/16/2008
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

COURT CHARGE 01-BURGLARY-3RD
DEGREE 1ST OFFENSE
COURT DISP-CONVICTED;3 YSR
SS TO 14 MONTHS PROBATION
ATN-40P000501593

JOHNSON, DAQUAN RICARDO
SC0400000 RICHLAND CNTY SO
CASE-1545272
ATN-40D200014002
WARR-I901313 *
CIT-59-15-260(A)-FELONY

11/09/2010

ARREST CHARGE 01-LOTTERY/DEFR
AUD, ALTER, ETC COUNTERFEI
T TICKET
OFFENSE DATE-11/09/2010
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

JOHNSON, DAQUAN RICARDO
SC0400100 COLUMBIA PD
CASE-10-0016468
ATN-40D100033949
WARR-K291841
CIT-16-11-311

A11/09/2010

ARREST CHARGE 01-BURGLARY -
FIRST DEGREE
OFFENSE DATE-12/26/2007
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

WARR-I901313 *
CIT-59-15-260(A)-FELONY

ARREST CHARGE 02-LOTTERY/DEFR
AUD, ALTER, ETC COUNTERFEI
T TICKET
OFFENSE DATE-11/09/2010

WARR-K290462
CIT-16-3-655(C)(1)-FELONY

ARREST CHARGE 03-CRIM SEX
CONDUCT W/MINOR <11YRS
OLD 1ST DEGREE
OFFENSE DATE-07/16/2008

WARR-I291625 *
CIT-16-17-420-MISDEMEANOR

ARREST CHARGE 04-DISTURBING
SCHOOLS
OFFENSE DATE-09/11/2008

JOHNSON, DAQUAN RICARDO
SC040015G CENTRAL PPP
CASE-1547177
ATN-40D100034009

12/20/2010

384

WARR-W40100743
CIT-24-21-450-UNCLASSIFIED

ARREST CHARGE 01-VIOLATION
OF PROBATION (USED BY PPP
ONLY)
OFFENSE DATE-12/20/2010
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

SC040035G RICHLAND PPP
CASE-SC0400
CIT-16-15-140-FELONY

01/29/2013 CUSTODY STATUS-PROBATION

COURT CHARGE 01-COMMIT/ATTEMP
T LEWD ACT ON CHILD <16
COURT DISP-CONVICTED;15 YRS
SS ON 5 YRS PROBATION
ATN-40P000504437

CIT-16-15-140-FELONY

COURT CHARGE 02-COMMIT/ATTEMP
T LEWD ACT ON CHILD <16
COURT DISP-CONVICTED;15 YRS
SS ON 5 YRS PROBATION

CIT-16-15-140-FELONY

COURT CHARGE 03-COMMIT/ATTEMP
T LEWD ACT ON CHILD <16
COURT DISP-CONVICTED;15 YRS
SS ON 5 YRS PROBATION

JOHNSON, DAQUAN RICARDO
SC040015G CENTRAL PPP
CASE-1589819
ATN-40D100049189
WARR-W40 13 0043
CIT-24-21-450-UNCLASSIFIED

02/01/2013

ARREST CHARGE 01-VIOLATION
OF PROBATION (USED BY PPP
ONLY)
OFFENSE DATE-02/01/2013
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

SC040015C SC DEPT CORRECTIONS
CASE-003549
CIT-16-15-140-FELONY

04/09/2013 CUSTODY STATUS-RECEIVED
START DATE-04/09/2013

COURT CHARGE 01-COMMIT/ATTEMP
T LEWD ACT ON CHILD <16
COURT DISP-CONVICTED;3 CTS
VOP 6 MTHS EA CC
ATN-50D100013707

* - WARRANT OCCURS IN MORE THAN ONE ARREST CYCLE UNDER THIS SID NUMBER

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/ 7811CD4
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

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. **

Top of page or Menu

[Delete] [Copy] [Print]

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	
IN THE MATTER OF THE CARE	)	CASE NO. 2013-CP-40-03805
AND TREATMENT OF	)	
DAQUAN JOHNSON,	)	ORDER OF COMMITMENT
RESPONDENT.	)	
	)	

The trial of this case was held in the County of Richland in the Court of Common Pleas the week of September 15, 2014. A jury of citizens from Richland 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. David E. Belding, 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, Daquan Johnson, 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 Richland 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
 Fifth Judicial Circuit
 Court of Common Pleas

September 16, 2014
 Columbia, South Carolina

RICHLAND COUNTY
 FILED
 2014 SEP 16 PM 2:40
 JEANNETTE W. MCBRIDE
 C.C.P. & G.S.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2613 CP- 3805

State of SCDaquan Johnson

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☒ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCPP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

ORDER INFORMATION

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 17th day of Sept., 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Nicole WethermDavid Belding

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

389

WITNESSES

(S) INV MERRILL - Columbia Police
Department

ARREST WARRANT NUMBER

K643505

ACTION OF GRAND JURY

TRUE BILL

Mena H. Gardiner
Foreperson of Grand Jury
Date: MAY 13 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011-GS-40-01970

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MAY TERM 2011

92

**THE STATE
vs.**

DAQUAN R JOHNSON

**Indictment for
CRIMINAL SEXUAL CONDUCT WITH
MINOR, 1ST DEGREE**

SC Code: 16-03-0655(A)(1)
CDR Code: 0385

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ARREST WARRANT

KE43505 **K-643505** 101E468

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIATHE STATE
against**DAQUAN R JOHNSON**Address: **COLUMBIA SC 29201**Phone: _____ SSN: _____
Sex: **M** Race: **B** Height: **6'0"** Weight: **259**DL SI: _____ SC0400100
DOB: _____ Agency Orig: _____Prosecuting Agency: **CITY OF COLUMBIA**Prosecuting Officer: **MERRILL INV. A/ M. FENT**Offense: **CSC W/MINOR 1ST DEGREE**Offense Code: **CSA**
Code/Ordinance Sec: **16-3-655**

This Warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of**COLUMBIA**The accused
is to be arrested and brought before me to be
dealt with according to law._____
Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant _____
on __________
Signature of Constable/Law Enforcement OfficerRETURN WARRANT TO: **CITY OF COLUMBIA**
MUNICIPAL COURT
P. O. BOX 644
COLUMBIA, S. C. 29202

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIA

AFFIDAVIT

INV. A MERRILL

Personally appeared before me the affiant **DAQUAN R JOHNSON** who
being duly sworn deposes and says that defendant **DAQUAN R JOHNSON**
did within this county and state on **12/01/2004 - JUNE 12, 2010** violate the criminal laws of theState of South Carolina (or ordinance of ☐ County/ ☒ Municipality of **COLUMBIA**)
in the following particulars:DESCRIPTION OF OFFENSE: **CSC W/MINOR 1ST DEGREE 16-3-655**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 DEF DID AT **CITY OF COLA SC RICHLAND CTY ENGAGE IN**
SEXUAL ACTIVITY WITH THE VICTIM, A TEN YEAR OLD GIRL ON OR ABOUT
DECEMBER 2004 THROUGH JUNE 12, 2010. DURING THE FORENSIC INTERVIEW THE
VICTIM DISCLOSED THAT SHE WAS COERCED INTO SEXUAL ACTIVITIES WITH
THE DEF DURING THIS TIME.

Signature of Affiant

Affiant's Address

COLUMBIA SC 29201

Affiant's Telephone

3453500

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 **12/01/2004 - JUNE 12, 2010** defendant **DAQUAN R JOHNSON**
did violate the criminal laws of the State of South Carolina (or ordinance of☐ County/ ☒ Municipality of **COLUMBIA**) as set forth below:DESCRIPTION OF OFFENSE: **CSC W/MINOR 1ST DEGREE 16-3-655**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 **12/16/2010**_____
(L.S.)
Ministerial Recorder

Judge's Address

CITY OF COLUMBIA, SC**MUNICIPAL COURT, P.O. BOX 644 29202**

Judge's Telephone

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS.
Daquan R Johnson

AKA: _____

Race: B Sex: M Age: 20

DOB: _____ SS#: _____

Address: _____

City, State, Zip: Columbia, SC 29201-1225DL#: _____ SID#: 01847303*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 § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Margaret J. Bodman 70937 Daquan R Johnson 75388

Bodman, Margaret Jent Bodman 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 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ _____; provided that upon the service of +15 days/months/years and/or paymentof \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code by the State Department of Corrections.2007-05-40-12128
§ 24-13-40 to be calculated and applied☐ 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 \$

§ 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 \$

§ 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 \$

§ 44-53-450(C) (Conditional Discharge) \$350 \$

3% to County (if paid in installments) \$

TOTAL \$

Clerk of Court/ Deputy Clerk Cecilia W. McBrideCourt Reporter: Holmes

SCCA/217 (06/2010)

INDICTMENT/CASE#: 2011GS4001970A/W#: K643505Date of Offense: 12/1/2004 - 6/12/2011S.C. Code §: 16-03-0655(A)(1)CDR Code #: 0385

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Margaret J. Bodman 70937 Daquan R Johnson 75388

Bodman, Margaret Jent Bodman 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 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ _____; provided that upon the service of +15 days/months/years and/or paymentof \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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 \$

§ 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 \$

§ 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 \$

§ 44-53-450(C) (Conditional Discharge) \$350 \$

3% to County (if paid in installments) \$

TOTAL \$

Clerk of Court/ Deputy Clerk Cecilia W. McBrideCourt Reporter: Holmes

SCCA/217 (06/2010)

Presiding Judge

Judge Code: 2061Sentence Date: 12/17/11

SOUTH CAROLINA

INMATE RECORDS OFFICE
2013 APR 22 PM 11:18☐ Condition Discharge. §-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk during probation.

RECEIVED TRUE COPY
FILED
12/17/11
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on MAY 11, 2011, the Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

CDR: 0385 16-03-0655(A)(1)

That DAQUAN R JOHNSON did in Richland County, State of South Carolina, on or between February 4, 2007 and June 12, 2010, willfully and unlawfully engage in a sexual battery with a minor who is less than eleven (11) years of age, to wit: [REDACTED] in violation of Section 16-3-655(A)(1), [formerly Section 16-3-655(1)], S. C. 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.


DAN JOHNSON, SOLICITOR

WITNESSES

(S) S.T. Narewski, CPD

ARREST WARRANT NUMBER

DP - 07392

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

DEC 13 2007

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2007-GS-40-12128

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2007

92

THE STATE

vs.

DAQUAN JOHNSON

Indictment for

CRIMINAL SEXUAL CONDUCT
WITH A MINOR 1ST

SC Code: 16-3-655(A) (1)

CDR Code: 0385

Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

2013 APR 22
DefendantI, Daquan Johnson
hereby appear in my own proper person and
plead guilty to the within indictment or to

Lewd Act

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF CRIMINAL FILED,
C.C.C. PLS. AND G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 12, 2007, the Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR 1ST DEGREE

That Daquan Johnson did in Richland County on or between July 14, 2007 and July 25, 2007, willfully, feloniously and unlawfully commit a sexual battery against a minor who at the time was less than eleven (11) years of age to wit: ;
all in violation of Section 16-3-655 (A) (1), S.C. 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.



Warren B. Giese, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
 STATE VS.
DAQUAN JOHNSON

AKA: _____

Race: B Sex: M Age: 20 31DOB: 0 SS#: _____

Address: _____

City, State, Zip: COLUMBIA, SC 29201DL#: _____ SID#: 01847303*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)

INDICTMENT/CASE#: 2007GS4012128A/W#: DP07392Date of Offense: 7/14/2007 - 7/25/2007S.C. Code §: 16-03-0655(A)(1)CDR Code #: 0385

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC) ☐ §17-25-45
 w/minor 1st or Lewd Act)

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

ATTEST: Margaret Fent Bodman 70937 75388
 Bodman, Margaret Fent 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 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of 15 days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

month/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
 by the State Department of Corrections.

§ 24-13-40 to be calculated and applied

☐ 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	\$
§ 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	\$
§ 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	\$
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$
TOTAL		\$

Clerk of Court/ Deputy Clerk: James J. McBratneyCourt Reporter: James J. McBratney

SCCA/217 (06/2010)

PTUP _____
 _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: lifetime GPS andsexual offender registry

☐ Condition Discharge, §53-450(C) requires
 \$350 be paid to the Clerk prior to case disposition.

☐ Appointed PD or appointed other counsel,
 §47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge: James J. McBratneyJudge Code: 2061Sentence Date: 12/17/12

INMATE RECORDS OFFICE
 2013 APR 22 AM 11:18
 SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT

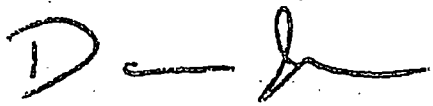
At a Court of General Sessions, convened on MAY 11, 2011, the Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
1ST DEGREE

CDR: 0385 16-03-0655(A)(1)

That DAQUAN R JOHNSON did in Richland County, State of South Carolina, on or between DECEMBER 1, 2004 AND JUNE 12, 2010 willfully and unlawfully engage in a sexual battery with a minor who is less than eleven (11) years of age, to wit: [REDACTED] in violation of Section 16-3-655(A)(1), [formerly Section 16-3-655(1)], S. C. 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.



 DAN JOHNSON, SOLICITOR

INMATE RECORDS OFFICE
 2013 APR 22 AM 11:18

CERTIFIED TRUE COPY
 OF COURT FILED,
James H. Smith
 JUDGE
 RICHLAND COUNTY
 SOUTH CAROLINA

ARREST WARRANT

K-843505 1015468

STATE OF SOUTH CAROLINA

County/ Municipality of

THE STATE
against

DARQUAN R. JOHNSON

Address:

Phone: SSN: 237
Race: Height: Weight:

DL State: SC2406129

DOB: Agency ORI#

Prosecuting Agency: CITY OF COLUMBIA

Prosecuting Officer: CEL W/MINOR 1ST DEGREE

Offense: Offense Code: 16-3-557

Code/Ordinance Sec: 16-3-557

This Warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

COLUMBIA The accused

is to be arrested and brought before me to be

dealt with according to law.

Signature of Judge (L.S.)

RETURN

A copy of this arrest warrant was delivered to
defendant MAURICE BELLon 12-17-2010

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

County/ Municipality of

AFFIDAVIT

INV. A MERRILL

Personally appeared before me the affiant DARQUAN R. JOHNSON
being duly sworn deposes and says that defendant JUNE 12, 2010
did within this county and state on JUNE 12, 2010 violate the criminal laws of theState of South Carolina (or ordinance of County/ Municipality of COLUMBIA)
in the following particulars: CEL W/MINOR 1ST DEGREE 16-3-557

DESCRIPTION OF OFFENSE:

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 DEF DID AT CITY OF COLA SO RICHLAND CTY EMERGE IN
SEXUAL ACTIVITY WITH THE VICTIM. A TEN YEAR OLD GIRL ON OR ABOUT
DECEMBER 2004 THROUGH JUNE 12, 2010. DURING THE FORENSIC INTERVIEW THE
VICTIM DISCLOSED THAT SHE WAS COERCED INTO SEXUAL ACTIVITIES WITH
THE DEF DURING THIS TIME.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

COLUMBIA

Affiant's Address

COLUMBIA SC 29204

Affiant's Telephone

843-557

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 JUNE 12, 2010 defendant DARQUAN R. JOHNSON
did violate the criminal laws of the State of South Carolina (or ordinance ofCounty/ Municipality of COLUMBIA) as set forth below:DESCRIPTION OF OFFENSE: CEL W/MINOR 1ST DEGREE 16-3-557Having 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 12-17-2010

Signature of Issuing Judge (L.S.)

Signature of Issuing Judge

Judge Code: 10000000

Judge's Address

CITY OF COLUMBIA, SC

Municipal Court P.O. Box 544 29202

Judge's Telephone

Issuing Court:

☐

Magistrate

☒

Municipal

☐

Circuit

20 DEC 29 PM 5:52

JEANETTE W. BRIDE

RICHLAND COUNTY

FILED

C.O.P. & G.

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Daquan R Johnson

AKA:

Race: B

Sex: M

Age: 20

DOB:

SS#:

Address:

City, State, Zip:

Columbia, SC 29201-1225

DL#:

SID#: 01847303

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

2468

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☒ Mandatory GPS(CSC☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is:

☐ As Indicted,☐ Lesser Included Offense,☒ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is:

☐ Without Negotiations or Recommendation.☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Margaret Fent
Bozman, Margaret Fent70937
SC Bar#

Defendant

Attorney for Defendant

7538
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,

for a determinate term of

15

days/months/years or

☐ under the

Youthful Offender Act not to exceed

and/or to pay a fine of \$

; provided that upon the service of

+15

days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with

probation for

5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code

§17-25-135.

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

\$

§ 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

\$

§ 14-1-213 (Drug Court Surcharge)

\$150

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(I) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCCJA Surcharge)

\$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 GENERAL SESSIONS

INDICTMENT/CASE#:

2011GS4001970

A/W#:

K643505

Date of Offense:

12/1/2004 - 6/12/2011

S.C. Code § :

16-03-0655(A)(1)

CDR Code #:

0385

SENTENCE SHEET

☐ CONVICTED OF or☒ PLEADSINITIAL RECORDS OFFICE
2013 APR 22 PM 1:10

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Condition Discharge. §-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel.

§47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

12/17/11

TRUE COPY
FILED
CLERK OF COURT
SOUTH CAROLINA

36C

WITNESSES

(S) INV MERRILL - Columbia Police
Department

ARREST WARRANT NUMBER

K643504

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MAY 13 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011-GS-40-01969

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MAY TERM 2011

92

THE STATE
vs.

DAQUAN R JOHNSON

Indictment for
CRIMINAL SEXUAL CONDUCT WITH A
MINOR
FIRST DEGREE

SC Code: 16-03-0655(A)(1)
CDR Code: 0385

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I Daquan R. Johnson
hereby appear in my own proper person and plead
guilty to the within indictment or to

Lewd Act

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECEIVED TRUE COPY
FILED
APR 22 2011
AM 11:18
INMATE RECORDS OFFICE
SOUTH CAROLINA

ARREST WARRANT

K643504 **K-643504** 1016468

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIATHE STATE
against**DAQUAN R JOHNSON**Add: **32**
IA SC 29201Phone: _____ SSN: _____
Sex: **M** Race: **B** Height: **6'03"** Weight: **259**
DL State: _____ DOB: _____
Agency ORI#: **SC0400100**
Prosecuting Agency: **CITY OF COLUMBIA**
Prosecuting Officer: **MERRILL INV. A/ M. FENT**
Offense: **CSC W/MINOR 1ST DEGREE**
Offense Code: **CSA**
Code/Ordinance Sec: **16-3-655**This Warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☒ Municipality of
COLUMBIA The accused
is to be arrested and brought before me to be
dealt with according to law._____
Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant _____
on __________
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CITY OF COLUMBIA
MUNICIPAL COURT
BOX 644
P.O. BOX 644
COLUMBIA, S.C. 29202

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIA

AFFIDAVIT

Personally appeared before me the affiant **INV. A MERRILL** who
being duly sworn deposes and says that defendant **DAQUAN R JOHNSON**
did within this county and state on **02/04/2007 - JUNE 12, 2010** violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of **COLUMBIA**)
in the following particulars: **CSC W/MINOR 1ST DEGREE 16-3-655**
DESCRIPTION OF OFFENSE: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 DEF DID AT **CITY OF COLA SC RICHLAND CTY. ENGAGE IN**
SEXUAL ACTIVITY WITH THE VICTIM, A FIVE YEAR OLD BOY ON OR ABOUT
FEBRUARY 2007 THROUGH JUNE 12, 2010. DURING THE FORENSIC INTERVIEW
THE VICTIM DISCLOSED THAT HE WAS COERCED INTO SEXUAL ACTIVITIES WITH
THE DEF DURING THIS TIME.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
COLUMBIAAffiant's Address: **#1 JUSTICE SQUARE**
COLUMBIA SC 29201
5553500
Affiant's Telephone: _____

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 **02/04/2007 - JUNE 12, 2010** defendant **DAQUAN R JOHNSON**
did violate the criminal laws of the State of South Carolina (or ordinance of☐ County/ ☒ Municipality of **COLUMBIA**) as set forth below:DESCRIPTION OF OFFENSE: **CSC W/MINOR 1ST DEGREE 16-3-655**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 **12/15/2010**_____
Signature of Judge (L.S.)**MINISTER RECORDER**
Judge Code: **403003**Judge's Address: **CITY OF COLUMBIA, SC**
MUNICIPAL COURT, P.O. BOX 644 29202
Judge's Telephone: _____Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
 STATE VS.
Daquan R Johnson
 AKA:
 Race: B Sex: M Age: 20
 DOB: SS#:
 Address:
 City, State, Zip: Columbia, SC 29201-1225
 DL#: SID#: 01847303

INDICTMENT/CASE#: 2011GS4001969
 A/W#: K643504
 Date of Offense: 2/4/2007 - 6/12/2010
 S.C. Code §: 16-03-0655(A)(1)
 CDR Code #: 0385

SENTENCE SHEET

*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)

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC) ☐ §17-25-45
 w/minor 1st or Lewd Act

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Margaret Fent 70937 Defendant Attorney for Defendant 75388
 Bodman, Margaret Fent 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 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of +15 days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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	\$
§ 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	\$
§ 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	\$
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

Clerk of Court/ Deputy Clerk

Court Reporter: Holmes

SCCA/217 (06/2010)

PTUP _____ days/hours Public Service Employment
 Obtain GED ☐
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling ☐
 Random Drug/Alcohol testing ☐
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

☐ Condition Discharge, §53-450(C) requires \$350 be paid to the Clerk prior to case disposition
☐ Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2561

Sentence Date: 12/15/11

CERTIFIED TRUE COPY

FILED

12/15/11

RICHLAND COUNTY

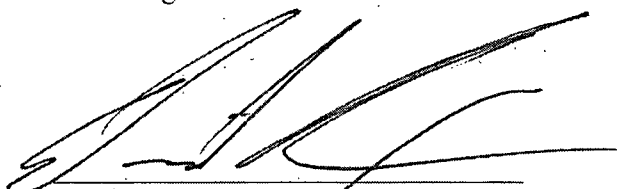
SOUTH CAROLINA

INMATE RECORDS OFFICE
 2013 APR 22 AM 11:18

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the 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."

May 2nd, 2016



David Alexander
Appellate Defender

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

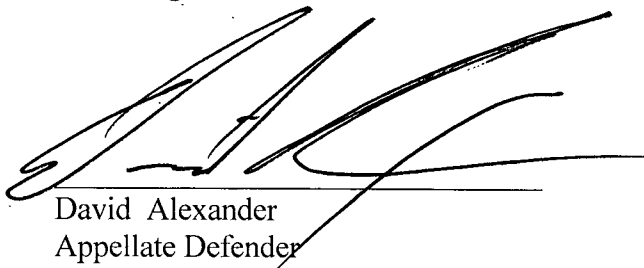
ATTORNEY FOR APPELLANT

RECEIVED

CERTIFICATE OF COUNSEL FOR APPELLANT

MAY 09 2016
SC Court of Appeals
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the 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."

May 2nd, 2016



David Alexander
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