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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas
Honorable Donald B. Hocker, Circuit Court Judge

Appellate Case No: 2015-001955

In The Matter of the Care and Treatment of
Ronald Owen, Appellant

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
RONALD OWEN,)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
CASE NO. 2009-CP-36-0319

VOLUNTARY ORDER OF
COMMITMENT

FILED
NEWBERRY COUNTY
2010 FEB - 3 P. 11:10
CLERK OF COURT

The probable cause hearing in this case was held in the Newberry County Court of Common Pleas, the Court found probable cause and an evaluation was ordered, by order filed September 8, 2009.

The evaluation was conducted by Dr. Peggy C. Wadman, Forensic Psychiatrist. Dr. Wadman found and stated in her report dated October 14, 2009, that Mr. Owen suffered a mental abnormality and a personality disorder as follows: pedophilia, sexually attracted to both, limited to incest, nonexclusive type, and personality disorder not otherwise specified, 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.

A jury trial was begun the week of February 1, 2010 in the Newberry County Court of Common Pleas. The Respondent was present along with his attorney, Robert Anthony Russo. The State was represented by Senior Assistant Attorney General James G. Bogle, Jr. Respondent waived being present for jury selection, and waived his presence for the opening arguments and the initial qualification of Dr. Wadman as an expert witness.

During the State's case, introduced into evidence were court records as to the following convictions: (1) Lewd Act on a Minor, in violation of S.C. Code Ann. Section 16-15-140, Newberry County, sentencing date January 13, 2006; (2) Lewd Act on a Minor, Berkeley County, sentencing date July 21, 2005; (3) Failure to Register as a Sex Offender; Charleston County, sentencing date July 21, 2005; and (4) Unlawful Sexual Intercourse, Third Degree, State of Delaware, sentencing date 1994.

After Dr. Wadman's testimony, the Respondent, through his counsel, advised the Court that he would waive his rights as stated below and would not contest and would consent to his commitment pursuant to the Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10, *et seq* ("the Act.").

The Court inquired of the Respondent if he freely, voluntarily, intelligently and without coercion waived his rights, including, but not limited to, the right to this jury trial, and consented to be committed to long-term control, care, confinement and treatment in the Department of Mental Health pursuant to S.C. Code Ann. Sections 44-48-10, *et seq*. This is a true copy of the original on file in this office.

FEB 10 2010

Clerk of Court

The Respondent stated that he did so freely, voluntarily, intelligently and without coercion waive said rights and consented to long-term control, care, confinement and treatment under the Act.

The Court inquired of the Respondent whether he was making this decision after consultation with his counsel, and if he was satisfied with the representation of his attorney. The Respondent replied "Yes" to these inquiries.

The Court having heard presentation of the State's evidence and the statements of the Respondent makes the following findings of fact and conclusions of law pursuant to S. C. Code Ann. Sections 44-48-10 *et seq.*:

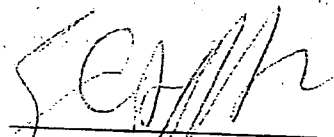
- (1) This Court has jurisdiction of this matter and to determine the merits of the State's case;
- (2) Respondent Ronald Owen freely, voluntarily, intelligently and without coercion has waived his rights as aforesaid and consented to long-term control, care, confinement and treatment pursuant to the Sexually Violent Predator Act;
- (3) The State has proven beyond a reasonable doubt that Respondent Ronald Owen is a sexually violent predator as that term is defined in S. C. Code Ann. Section 44-48-30;
- (4) Respondent Ronald Owen should be committed to the Department of Mental Health for his long term control, care and treatment pursuant to S. C. Code Ann. Sections 44-48-10, *et seq.*

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

- (a) Respondent Ronald Owen is committed to the Department of Mental Health for his long- term control, care and treatment; and
- (b) Respondent Ronald Owen is to be detained in the Newberry County Detention Center and transported, as soon as possible, by the Sheriff of Newberry County to a secure facility of the South Carolina Department of Mental Health.

AND IT IS SO ORDERED.

Feb 3, 2010
Newberry, South Carolina


The Honorable Eugene C. Griffith, Jr.,
Judge for the 8th Judicial Circuit
Court of Common Pleas

STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
RONALD OWEN,)
PETITIONER.)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
CASE NO. 2009-CP-36-00319

ORDER DENYING 2012-2013 AND 2013-2015
ANNUAL REVIEW TRIAL

FILED
NEWBERRY COUNTY
2015 SEP 11 AM 10:31
JACKIE S. BOWEN
CLERK OF COURT

This matter came before the Court on petition of Ronald Owen, for an order finding that there is probable cause to believe that Petitioner's mental abnormality or personality disorder has so changed that he is safe to be at large and, if released, is not likely to commit acts of sexual violence, and for an order requiring a trial on that issue pursuant to S. C. Code Ann. Section 44-48-110. An Annual Review hearing was held in the Newberry Court of Common Pleas pursuant to that statute on August 25, 2015. Petitioner was present along with his attorney Charles T. Brooks, III, of Sumter. The State of South Carolina was represented by Senior Assistant Attorney General James G. Bogle, Jr.

In this case Petitioner obtained an independent evaluation, and testimony on his behalf to that effect was received from Dr. Thomas V. Martin, psychiatrist, of Columbia. In response the State presented testimony from Dr. Amy C. Swan, psychologist, at the Department of Mental Health, who authored the Department's Annual Review Treatment Reports on Petitioner, dated October 4, 2013 and June 11, 2015.

Petitioner was committed to the Department of Mental Health, Sexually Violent Predator Treatment facility, on or about February 3, 2010. While his Annual Review for the period of November 26, 2012-September 24, 2013 was pending, he changed counsel and secured the independent evaluation from Dr. Martin. During that time he cycled through for another Annual Review, resulting in the report by Dr. Swan for the period September 24, 2013-May 11, 2015. As a result the hearing on August 25, 2015 was a combination of those two Annual Review periods.

Petitioner asserted that he has progressed in treatment to the extent that he can be released into the community, and be more appropriately treated as an outpatient without the necessity of the secure environment provided by the Sexually Violent Predator Treatment Program. Dr. Martin testified that Petitioner had progressed in the SVP program to that extent, finding that Petitioner was a low risk to reoffend, less likely to reoffend, and would require outpatient treatment.

Dr. Swan testified that while Petitioner had made good progress in many aspects of treatment, there were still issues remaining, and his mental abnormality and personality disorder had not so changed he was safe to be at large, and, if released, not likely to commit acts of sexual violence. Both experts diagnosed Petitioner with Pedophilic Disorder, Sexually Attracted to

[Handwritten signature]

Both, Nonexclusive Type. Dr. Swan also diagnosed Petitioner with Narcissistic Personality Disorder.

The burden here is upon Petitioner to show probable cause that his mental abnormality and personality disorder has so changed that he is likely to be at large, and is not likely to commit acts of sexual violence, S.C. Code Ann. Section 44-48-110. The probable cause standard is by definition low, somewhere between "suspicion" and "more likely than not." It is a flexible, common sense standard, requiring that the evidence presented would lead a reasonable person to believe than conscientiously entertain suspicion that the person meets the definition of a sexually violent predator, *Matter of Brown*, 372 SC 611, 643 SE2d 118 (2007). This Court recognizes that "less likely to reoffend" and "low risk to reoffend" are very close to the "not likely to reoffend" language in Section 44-48-110. However, the Court interprets Dr. Martin's testimony to mean, in other words, that outpatient treatment would be necessary for Petitioner to be at the level of "less likely" and "low risk."

The statute does not recognize outpatient treatment on the likelihood (or lack thereof) to reoffend. This would lead to the logical assumption that when outpatient treatment does not take place, the odds of reoffending increase. Accordingly, the Court, after considering all of the testimony and the record before it, finds that Petitioner has not met the burden of showing probable cause as set forth in Section 44-48-110.

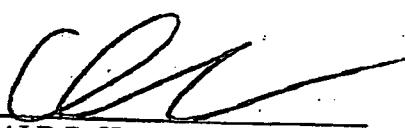
Accordingly,

IT IS THEREFORE ORDERED that the Petitioner, Ronald Owen, shall continue to be confined in a secure facility of the Department of Mental Health for long term control, care and treatment pursuant to the Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

IT IS FURTHER ORDERED that the Petitioner continues under the jurisdiction of this Court.

AND IT IS SO ORDERED.

9.9, 2015
Newberry, South Carolina


DONALD B. HOCKER
Chief Administrative Judge
Eighth Judicial Circuit Court of Common Pleas

#2

State of South Carolina)
County of Newberry)

In the Court of Common Pleas
Eighth Judicial Circuit
2009-CP-36-0319

In the Matter of the Care)
and Treatment of)
Ronald Owen,)
Petitioner.)

Transcript of Record

August 25, 2015
Newberry, South Carolina

B E F O R E:

The Honorable Donald B. Hocker, Judge

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

Charles T. Brooks, III, Esquire
Attorney for Petitioner

James G. Bogle, Jr., Esquire
Attorney for Respondent

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
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No Exhibits Marked During Proceeding.

TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 9:57 a.m.)

THE COURT: Okay. Gentlemen, we're on the record this morning in the matter of the *State of South Carolina v. Ronald Owen*. It's a 2009 case, File No. -319. Jim Bogle with the attorney general's office is -- is present, representing the state. Charles Brooks is present, representing Mr. Owen. The matter is before the Court for an annual-review hearing to determine whether or not probable cause exists for the matter to continue to a jury trial.

I met with the lawyers in chambers. And as I understand it, the only ones to testify will be the respective experts are on both sides. That correct, Mr. Brooks? Mr. Bogle?

MR. BROOKS: That's correct, Judge.

MR. BOGLE: That's correct ---

THE COURT: Okay.

MR. BOGLE: --- Your Honor.

THE COURT: All right. All right. Mr. Brooks, I'm going to turn it over to you and let you proceed.

MR. BROOKS: Yes, sir. Well, Judge, since the burden is on us, at this time, we will call our expert, who is Dr. Thomas Martin, who's seated in the courtroom.

THE COURT: Okay. Come around, Dr. Martin.

1 (Whereupon, the witness came forward.)

2 THE COURT: Are -- are both sides going to stipulate
3 to the qualifications of each expert?

4 MR. BOGLE: We'd like to make a short -- we'll
5 stipulate to it. At the same time, I'd like to make a
6 short record of just the qualifications of our expert, and
7 the same thing of Dr. Martin.

8 THE COURT: Okay. Very good.

9 THOMAS V. MARTIN, having been first duly sworn,
10 testified as follows:

11 MR. BROOKS: Ready, Judge?

12 THE COURT: You may proceed.

13 DIRECT EXAMINATION

14 BY MR. BROOKS:

15 Q Dr. Martin, how are you today?

16 A I'm fine, sir. How are you?

17 Q And we're going to stipulate to you as an expert, but
18 I'll ask you just some general background. What -- what is
19 your background, Doctor?

20 A I am a board-certified general and forensic
21 psychiatrist. I got my medical degree at the Uniform
22 Services University School of Medicine in 1988. I
23 graduated psychiatric residency in 1992. I completed a
24 forensic-psychiatric residency in 2000.

25 I'm board-certified by the American Board of

1 Psychiatry and Neurology in both general and forensic
2 psychiatry. About a third of my practice, which is now a
3 private practice, deals with the assessment and sometimes
4 treatment of people who have committed sexual crimes. I
5 have my primary practice in Columbia, South Carolina.

6 I have held other positions, such as chief
7 psychiatrist at the Sexually Violent Predator Treatment
8 Program, as well as the Southbridge Residential Treatment
9 Program for Juvenile Sexual Offenders, as well as the --
10 the director of medicine and psychiatry at the New Hope
11 Carolinas facility, which is also a residential treatment
12 program for sexual offenders.

13 Q Okay. And you have testified in the field of forensic
14 psychiatry before; is that correct?

15 A Yes, sir.

16 Q In court here in South Carolina; is that correct?

17 A Yes, sir.

18 Q And you have been deemed an expert in that field; is
19 that correct?

20 A That's correct.

21 Q Okay.

22 MR. BROOKS: Your Honor, I -- obviously, I would
23 submit him as a qualified expert in the field of forensic
24 psychiatry.

25 THE COURT: Okay. All right. Mr. Bogle, anything ---

1 MR. BOGLE: No ---

2 THE COURT: --- from you with respect to Dr. Martin's
3 qualifications?

4 MR. BOGLE: No objection, Your Honor.

5 THE COURT: Okay. Dr. Martin will be deemed a -- an
6 expert in the field of forensic psychiatry, related to
7 sexual criminal offenses.

8 Q Okay. Now, Dr. Martin, did you have an opportunity to
9 view records and evaluate one Ronald Owen?

10 A Yes, sir.

11 Q Okay. And could you tell us about what you actually
12 reviewed as a part of evaluating ---

13 A Certainly.

14 Q --- Ronald Owen?

15 A Your office had contacted me on behalf of Mr. Owen and
16 -- I believe in the early part of this year. And I
17 requested and received what I consider to be an attorney
18 general's packet, which includes a record of sexual
19 offenses and other offenses, as well as investigative
20 reports, witness statements, and so forth, that pertain to
21 his crimes, as well as materials that led to an evaluation
22 and eventual admission to the sexually-violent-predator
23 treatment program, which took place in, I believe, 2010.

24 And since then I've reviewed the records at the
25 sexually-violent-predator treatment program, to include

1 progress notes, staff notes, and group notes. And then I
2 met with Mr. Owen on May 7th of this year for three hours.

3 Q Now, prior to meeting with Mr. Owen, did you actually
4 have time to review all of the progress notes, treatment
5 summaries, and the prior annual-review reports of Dr. Gehle
6 and Dr. Swan?

7 A Yes, sir.

8 Q Okay. And obviously, you read the entire attorney
9 general's packet, as far as what sexual offense Mr. Owen
10 had committed that precipitated him to be placed into the
11 sexually-violent-predator program?

12 A Yes, sir.

13 Q And do you feel that you had everything about Mr. Owen
14 as a part of your evaluation?

15 A Yes, I think so.

16 Q Okay. And then you met with him in May of this year,
17 as you said, for about three hours; is that correct?

18 A That's correct.

19 Q And what did you -- could you tell about your meeting
20 with Mr. Owen?

21 A Primarily, these -- these meetings consist of -- and
22 this is the first time I met with Mr. Owen. Sometimes I've
23 seen folks multiple times. But on this assessment, I asked
24 him to review his sexual-offense history. I'd like to
25 understand -- and I do compare it to what has been

1 reported.

2 And then, I also like them, if they've been in the
3 program, to present to me their essentially dynamic
4 formulation of what eventually led up to each sexual
5 offense. So we covered that.

6 Then we covered material that he has acquired, in
7 terms of rehabilitation, since he was admitted to the
8 program in February of 2010. And so -- and then I
9 correlate that with the notes that I have reviewed. And I
10 also examine what his plans would be if he were released
11 and what type of support system and what kind of further
12 treatment and so forth that he'd look forward to if he was
13 released.

14 And I also perform a mental-status examination on him
15 and to see if there's any type of ongoing or debilitating
16 major mental illness and/or personality disorder that might
17 preclude a safe transition into the community.

18 Q Okay. And, Doc, I'm going to ask you to -- as -- as a
19 part of your review and evaluation of him, you -- you --
20 you stated earlier that you had seen all the stuff that
21 brought him into the program ---

22 A Yes, sir.

23 Q --- the case file, the prior annual reviews.

24 Can you summarize what Mr. Owen's problem was back
25 then ---

1 A Yes, sir.

2 Q --- as you saw it?

3 A Yes. He had serious interpersonal and intimate-
4 relationship problems. He had a number of failed intimate
5 relationships: marriages, divorces, and so forth. His
6 romanticism of -- of relationships was immature and
7 sometimes twisted.

8 I also believe that he had a very distorted impression
9 of what sex and sexual activity meant in a relationship --
10 in an adult, mature relationship. And his level of
11 security -- inner security, emotional security, and so
12 forth -- was not very good back in those days.

13 He -- I'd -- I'd covered some of the material about
14 his relationship with his biological father and the image
15 he had of him and his -- his problems and also what he has
16 ever done about getting any help for any of these problems.
17 He's been arrested on more than one occasion for a sexual
18 offense.

19 And I noticed that his effort -- or participation in
20 any type of sex-offender treatment was essentially nil and
21 his insight into why he was doing this was pretty much far
22 field. He did not really know.

23 And so those things, I believe, were -- were rather
24 pertinent that led to him having a -- a condition that I
25 called pedophilia, meaning he was sexually attracted to

1 children.

2 Q Okay. This is how Mr. Owen was prior to going into
3 the program?

4 A That's how he presented in the records that I
5 reviewed. And that's actually the way he presented himself
6 to me as well.

7 Q Okay. Now, since then he's been in the program for
8 over five years; is that correct?

9 A That's correct.

10 Q And what's your assessment of him now?

11 A Yeah. Well, the -- the condition that I have
12 diagnosed him with is -- from -- from a psychiatric
13 standpoint is that he has a form of a paraphilia, which is
14 a sexual-perversion disorder. And specifically, it's
15 pedophilia. That means that he has a history of sexual
16 arousal to children, minors; in this case, ages less than
17 13.

18 And I would clarify it further that they were of both
19 sexes. In fact, they were his biological children, as I
20 understand. And it was incestuous in nature.

21 And he has some parental role in their lives during
22 these times. And so I believe that he suffered at the time
23 from an acting out of a paraphilic disorder.

24 Q Okay. Now, what type of treatment does a person need
25 to have for that kind of disorder, in your opinion? What

1 ---

2 A Okay.

3 Q And -- and -- and kind of -- for those of us who are
4 just average lay -- you know, off-the-street Jane and John
5 Does who don't know what that stuff means ---

6 A Uh-huh.

7 Q --- and how it's treated, can you explain what needs
8 to happen in those situations for those individuals?

9 A Well, I'll certainly try. I run three treatment
10 groups that have fellas like Mr. Owen in them. And there
11 is no one cookbook answer to your question. It had to be
12 individualized.

13 But it's also carried out in a -- typically a group
14 modality, meaning group therapy. There has to be an
15 element of education, an understanding of rules and
16 boundaries in the social system, as well as an
17 understanding of one's own distortions of -- in the example
18 I gave, of how sex plays in a relationship. His was very
19 distorted.

20 It also, in a group setting, allows you to build a
21 healthier cohesion with other individuals who actually have
22 similar problems. So it -- it provides an open forum that
23 is not threatening, I would like to say, to explore these
24 things without fearing ridicule or retaliation.

25 The object of the treatment program is to make sure

1 that this person understands what led to these particular
2 offenses, what the triggers were, what the deviant or
3 cognitive distortions were, so that these could be
4 interfered with at a future time. It doesn't mean that
5 this is untreatable.

6 But the condition of pedophilia is considered chronic.
7 But it -- it's like alcoholism. You can still be sober for
8 30 years, but you're still alcohol-dependent by diagnosis.
9 Same thing with pedophilia. And so one needs to learn how
10 to live with that as well and then, also, how to build
11 healthier relationships to establish a safety support
12 network, how to maintain the understanding of relapse
13 prevention, and what the risks for reoffending would be.

14 And that's what the treatment programs should provide.
15 And typically, in a group setting, each person in the
16 group, who is typically an offender, and plus the
17 facilitators, are considered, in my opinion, experts in
18 some way because they're able to pick out and notice. And
19 that is the type of treatment that I would have recommended
20 for Mr. Owen. And that is what he is receiving.

21 Q Okay. And that's what he's basically received for the
22 last five years?

23 A Yes, sir.

24 Q Okay. So -- and along those lines of being able to
25 recognize his problem and being able to how --

1 understanding what you explained about relationships, in
2 your evaluation of him, you -- excuse me -- review of his
3 records, as well as the evaluation of him, has that changed
4 for the better?

5 A Yes. In Mr. Owen's case, he has a -- I would even go
6 as far to say, even though I didn't know him during his
7 time of commitment -- because in a fashion, he wasn't
8 exactly committed. He actually voluntarily waived his
9 commitment hearing to seek treatment, because it -- it
10 seemed, according to the records and by his own self-
11 report, the light came on around 2010. And he said, "I'll
12 just go."

13 Q Now -- and let me -- let me stop you there for a
14 minute, Doc.

15 A Uh-huh.

16 Q It's kind of like a -- as you mentioned, an alcoholic.
17 One of the first things an alcoholic needs to do is
18 recognize that he or she has got a problem. Isn't that
19 the, like, first step of recovery?

20 A Absolutely..

21 Q And so basically, he -- as far back as 2010, as you
22 said, the light came on -- that's when Mr. Owen realized,
23 Hey, I got a problem?

24 A Yes, sir.

25 Q And that's when he started -- and he voluntarily went

1 into the program?

2 A (No audible response.)

3 Q Okay. And that's when he started to work towards
4 correcting the problem; is that correct?

5 A That's what I believe. Yeah.

6 Q And that's a good thing?

7 A Yes. I think that that is -- as you're probably going
8 to get to, what are -- what are some of the factors that,
9 you know, led to my formulation of an opinion, that is --
10 that self-initiative and consistency with behavior in the
11 treatment program helps lower the chance of someone
12 reoffending. There is no 100 percent guarantee that -- you
13 know, because there's no model that we can say. But those
14 are some of the factors that we all look for, versus went
15 in kicking and screaming and then not participating for
16 years on end, which we've seen also.

17 Q Now, let me ask you this: As a part of the review of
18 his file, how -- how has he done at the program?

19 A He has -- I'd -- I would say it's been a steady
20 progression. He's at green level now. At least in May, he
21 was at green level, which is the next-to-the-highest level
22 in the program. To my knowledge, there were no serious
23 infractions on the program.

24 He's an active participant. His group notes reflected
25 a gain in insight into what we call an offense cycle into

1 the components of the offense cycle, which is imperative if
2 you're trying to implement relapse-prevention techniques,
3 as well as his maintaining a very healthy outside
4 relationship with his support group, which are family and
5 friends, some of whom are in the courtroom today, so that
6 when he transitions out -- see, he's been locked up since
7 at least 2002/2003. And ---

8 Q Right.

9 A --- so even -- no matter what his offenses, the
10 transition into the free world again would be a dramatic
11 one.

12 Q And that's for anybody?

13 A With any charge ---

14 Q With ---

15 A --- or a ---

16 Q --- even a ---

17 A --- conviction.

18 Q --- whether they had a sexual offense or not, if
19 they've been locked away in SCDC, there's going to be some
20 transition?

21 A That's correct.

22 Q For Mr. Owen he's been locked away in SCDC; and then,
23 furthermore, he's been in a confined facility at the South
24 Carolina Department of Mental Health for the last five
25 years.

1 A Correct.

2 Q So relationships he's had, such as with his mother and
3 friends -- and some of him -- some of them are here in the
4 courtroom -- there's been a certain limitation to that; is
5 that correct? With -- meaning that he's been confined.
6 It's like he's been out and about on weekend passes or
7 anything like that?

8 A Right. No -- no fault of the program or Mr. Owen, the
9 statute does not provide him a weekend furlough what he's
10 been taught and then come back to report, which is what you
11 might see in a substance-abuse-rehabilitation ---

12 Q So -- so ---

13 A --- program.

14 Q --- so there is no kind of "let's stick our foot in
15 the water to see how it works out before we get in"?

16 A No.

17 Q Okay. So what -- but based on the limits that the
18 program has and to Mr. Owen's situation, he has progressed?

19 A Yes, sir. In fact, he's developed relationships that
20 are of a leadership quality, in terms of mentorship with
21 other individuals in the program. What I do is I was
22 alluding to -- or in earlier is that I'd like to see how
23 they present, how they understand on their own. I'd -- I
24 -- my -- my three hours with individuals are not thousand
25 questions. I -- I -- I want them to present to me their

1 case, what they understand. And then I narrow it down to
2 how much you understand about the offenses, the people that
3 you've horribly hurt for the rest of their lives. Where
4 are they with that?

5 And early on he struggled a little bit with empathy.
6 I saw that in the record. And he was the first one
7 actually to tell me when we were in there during the
8 consultation. And he had it very well organized and very
9 well, in my opinion, understood, showing that he did have
10 insight.

11 He has gained this kind of ability to interact with
12 others that is thinking outside of just himself to where
13 he's become vice-president, president of the community.
14 He's also a liaison with the staff between the residents
15 and the staff. A psychopath would not get those positions
16 or carry out those kind of interests that include others
17 than themselves. And so ---

18 Q Okay.

19 A --- with the limitations that you've described,
20 meaning he can't go out on a furlough, he has demonstrated
21 to the best of, what I can understand, the ability to excel
22 while still in the confined facility.

23 Q Okay. Doc, in looking at his entire case file, the
24 prior annual reviews, prior reports, the treatment
25 summaries of the case manager, and the three hours in

1 evaluation in your meeting with Mr. Owen, have you -- do
2 you have an opinion in regards to whether or not he should
3 remain confined in the program?

4 A Yes, I do.

5 Q And is this opinion -- is it to a reasonable medical
6 -- a reasonable degree of medical certainty in regards to
7 whether or not he is a risk to reoffend?

8 A Yes.

9 Q And what is that opinion?

10 A I believe that Mr. Owen, at the time that I evaluated
11 him, had -- his mental condition had so changed that he was
12 less likely to sexually reoffend if not confined in a
13 secure treatment environment indefinitely; that I believe
14 that opinion and it's based on a reasonable degree of
15 medical certainty.

16 Q So in your opinion, he is now safe to be released into
17 the community; is that correct?

18 A I -- to transition into the community, yes, which I
19 believe is the same thing.

20 Q And now, that doesn't mean that, as you've talked
21 about, comparing to an alcoholic, that he doesn't -- that
22 -- what put him there is all of a sudden now vanished. He
23 still has these problems kind of like an alcoholic, as you
24 describe it; is that correct?

25 A Yes. He ---

1 Q Okay.

2 A He requires ongoing attention once released.

3 Q And as a matter of fact, that's what the treatment
4 program is designed for. It's designed to take an
5 individual like Mr. Owen, who has a problem, to treat them
6 and recover them on this problem so that they can go back
7 into the community; isn't that correct?

8 A That's correct.

9 Q If that person participates what they're supposed to
10 do; isn't that correct?

11 A That's correct.

12 Q And based on everything you've seen, Mr. Owen has done
13 that?

14 A Yes, sir.

15 Q Okay. And just to make sure I'm clear: Your opinion
16 is that his mental abnormality/personality disorder has so
17 changed that he is now safe to be let go; is that correct?

18 A That's correct.

19 Q Now, that doesn't mean that he is no -- he is a zero
20 risk; is that correct?

21 A That's also correct.

22 Q As a matter of fact, there's nobody that's a zero
23 risk; is that correct?

24 A That's right.

25 Q People that's walking around who's never had any..

1 criminal charges or anything like that, they are not zero
2 risk; is that correct?

3 A Yeah. I would never opine a zero risk ---

4 Q Right.

5 A --- for anyone.

6 Q So basically, your opinion is that now his situation
7 has so changed that he is now no -- he is no longer a high
8 risk to reoffend?

9 MR. BOGLE: Objection, Your Honor. He's testifying
10 for his client.

11 THE COURT: Right.

12 MR. BOGLE: I know we're in nonjury, but still ---

13 THE COURT: Rephrase your question, Mr. Brooks, if you
14 would, please, sir.

15 MR. BROOKS: Okay.

16 Q Is your -- is your opinion that he is no longer a
17 risk?

18 A I -- my opinion is that he is a low risk to sexually
19 reoffend.

20 Q Okay. All right. And he is -- in your opinion, he
21 should now have the opportunity to transition to the
22 community based on what the statute allows; is that
23 correct?

24 A Yeah. I believe he's ready to continue his practice
25 of treatment in the outpatient setting.

1 Q Now, at -- and in your evaluation of him, did he
2 express a desire to do outpatient treatment?

3 A Yes.

4 Q Okay. And as a matter of fact, you -- you do offer
5 outpatient; is that correct?

6 A If anyone needs it, they can come see me.

7 Q Okay.

8 A He ---

9 Q Now ---

10 A --- already -- he already has actually someone in the
11 local area that he can go see too.

12 Q And that's Dr. Burke; is that correct?

13 A That's correct.

14 Q And he expressed to you that he's already got a
15 situation set up; is that correct?

16 A That's correct.

17 Q Okay. Because you're in Columbia, and his plan is to
18 go all the way back down to Charleston?

19 A Well, Dr. Burke has a couple places in different
20 areas.

21 Q Well, in -- in the ---

22 A Yeah.

23 Q --- Lowcountry?

24 A Yeah.

25 Q Okay. But other than that, if he was in close

1 proximity to where your program is, he'd be welcome in your
2 program?

3 A I have no problem treating him if he wants to come see
4 me.

5 Q Okay.

6 MR. BROOKS: No other questions, Judge.

7 THE COURT: Okay. Cross-examination, Mr. Bogle?

8 MR. BOGLE: Thank you, Your Honor. May it please the
9 Court?

10 THE COURT: Certainly.

11 CROSS-EXAMINATION

12 BY MR. BOGLE:

13 Q Dr. Martin ---

14 A Yes, sir.

15 Q --- and just to make sure I'm on -- on the same page
16 here, in preparation for your testimony today, in addition
17 to interviewing Owen, you also had to review all prior
18 treatment records, correct?

19 A Yes, sir.

20 Q And then, all prior annual-review reports that were
21 done by whoever's been evaluating him since he's been in
22 there, right?

23 A That's correct.

24 Q And I think initially, it might've been someone else,
25 but most recently by Dr. Swan, correct?

1 A That's correct.

2 Q Okay. Did you do a written report in this case?

3 A No, sir, I did not.

4 Q Did not? Okay.

5 While this matter has been pending, are you aware that
6 Mr. Owen has changed attorneys, from Tommy Thomas to
7 Charles Brooks?

8 A I think he told me that.

9 Q Okay.

10 A Yes.

11 Q Did you talk to Tommy Thomas about any efforts he had
12 taken to have Mr. Owen evaluated while this annual review
13 has been pending?

14 A No. I haven't talked to Tommy Thomas about it.

15 Q Are you aware that Mr. Thomas retained a doctor named
16 Dr. Selman Watson who could not render a diagnosis ---

17 MR. BROOKS: Objection, Your Honor.

18 Q --- or assist ---

19 THE COURT: Okay. Wait.

20 Q --- in determining ---

21 THE COURT: I got an objection. Nature of your
22 objection?

23 MR. BROOKS: Nature of my objection is we don't have
24 any report from Selman Watson. He doesn't have any
25 information from Selman Watson as to whether or not he has

1 rendered an opinion in regards to Mr. Owen.

2 THE COURT: I think the question was whether or not
3 Dr. Martin is aware of any examination report from Dr.
4 Watson. And Dr. Martin says no -- then, he -- he says no.
5 I'll overrule the objection. May want to ---

6 MR. BOGLE: Thank you, Your Honor.

7 THE COURT: --- repeat the question, Mr. Bogle.

8 Q Are you aware that previous counsel, while this annual
9 review was pending, retained an expert named Dr. Selman
10 Watson?

11 A No.

12 Q And are you aware that Dr. Selman Watson could not
13 assist in this case?

14 A I wasn't aware there was Dr. Watson involved.

15 Q Okay. So you didn't reach out and talk to Dr. Watson
16 to find out why?

17 A I didn't, ---

18 Q Didn't know ---

19 A --- know ---

20 Q --- about him?

21 A --- Dr. Watson was involved.

22 Q Okay. Are you -- in reviewing all the records, are
23 you also aware of a hostility toward women in general --
24 forget the victims -- but the women in general that the
25 respondent [sic] appears to have?

1 A Historically, yes.

2 Q Okay. And that would include even an attempt to,
3 while he was in prison awaiting charges, to have the mother
4 of his victim and his victim, his son, killed; is ---

5 A Yes.

6 Q --- that right?

7 A We talked about that.

8 Q Talked about that?

9 A Yes.

10 Q Has he gotten past that somehow?

11 A Yes.

12 Q Okay. Did you also see records that -- for the crime
13 against his young daughter, which occurred in another
14 jurisdiction -- Delaware, I believe -- where he appeared to
15 blame the daughter for coming onto him? Did you see that?

16 A Yes, I did.

17 Q And is that typical of a pedophile's defenses to this
18 type of thing: "Oh, she came onto me"? A small child?

19 A Sometimes it is. Externalization of responsibility is
20 very common in many people who have committed crimes.

21 Again, that's historic.

22 Q Okay. And in this particular situation, your
23 diagnosis is that he is a pedophile. He remains a -- his
24 diagnosis has always been a pedophile, and that's your
25 diagnosis now, correct?

1 A That's correct.

2 Q And you would agree with me, I believe, that
3 pedophilia is a mental condition that cannot be cured?

4 A That's correct.

5 Q It can be treated, but cannot be cured?

6 A Correct.

7 Q And also, I believe you testified that the way our law
8 is written, there's no furloughs, no outpatient, no
9 "weekends off come back to the unit" type thing?

10 A That's correct.

11 Q You're either good to go or your not good to go; is
12 that right?

13 A Yes.

14 Q Okay. You mentioned characteristics of psychopathy.
15 Mr. Owen has never been diagnosed by anybody, in the
16 history of his involvement with this program, as a
17 psychopath, has he?

18 A Not that I've read.

19 Q Okay. And you say he's on the green level right now
20 ---

21 A At least ---

22 Q --- right?

23 A --- in May.

24 Q They have different colors, right?

25 A That's correct.

1 Q And there's a higher level for the blue level above
2 that, correct?

3 A That's correct.

4 Q He's not there yet?

5 A I don't know -- it -- I don't know since May.

6 Q Okay. You mentioned his release plans to see a Dr.
7 Burke, who has a -- who has a -- does sex-offender
8 treatment down in the Lowcountry; is that right?

9 A Yes, he does.

10 Q Are you aware that Dr. Burke was previously -- had
11 testified at one of Mr. Owen's prior annual-review
12 hearings, a contested annual-review hearing?

13 A I believe I remember him doing an assessment in 2009
14 of him. I -- you'll have to remind me about a previous ---

15 Q Well ---

16 A --- hearing.

17 Q Did you talk to the trial attorney who tried the case
18 when Mr. Owen voluntary-committed back in 2010?

19 A No.

20 Q Were you aware that Dr. Burke was retained as an
21 expert and present in the courtroom during that trial?

22 A No. I did -- wasn't aware.

23 Q Were you aware that after the testimony of the state's
24 expert, Dr. Burke, upon hearing something he didn't know
25 about, couldn't help and so Mr. Owen decided to voluntary-

1 commit on the advice of his attorneys?

2 A I didn't know that.

3 Q Okay. And then, at a subsequent annual-review hearing
4 in 2011, Dr. Burke testified at that, but the Court found
5 that they had not met their burden. Are you aware of that?

6 A I believe Mr. Owen told me that.

7 Q Okay. Now, as I understand your conclusion, you said
8 that -- it's three things: one, that if he is released, he
9 is less likely to reoffend?

10 A That's correct.

11 Q Okay. And later, you said that he does require
12 outpatient treatment?

13 A That's correct too.

14 Q Okay. And that could be offered by you or by other
15 sources?

16 A That's correct.

17 Q Okay. And finally, I believe you also said he was a
18 low risk to reoffend if he is released?

19 A That's correct.

20 Q Okay.

21 MR. BOGLE: A moment, Your Honor?

22 THE COURT: Sure. Take your time.

23 MR. BOGLE: Thank you, Your Honor. That's all.

24 THE COURT: Anything in redirect, Mr. Brooks?

25 MR. BROOKS: Yes, sir.

REDIRECT EXAMINATION

1
2 BY MR. BROOKS:

3 Q Dr. Martin, you're not aware of whether or not Dr.
4 Selman Watson actually completed an evaluation of him, are
5 you?

6 A I think I'm learning about some of this right now.

7 Q You may ---

8 A So ---

9 Q --- not have -- he may not have even completed the
10 report and completed the evaluation of Mr. Owen?

11 A Not to my knowledge.

12 Q All you got is the stuff that's at the treatment
13 facility; is that correct?

14 A And provided by the attorney general's office.

15 Q But it -- through us; is ---

16 A Yeah.

17 Q --- that correct?

18 A Uh-huh.

19 Q Okay. And I knew Mr. Bogle asked you a question about
20 whether or not you talked to his former trial attorney. Do
21 you see any need to talk to who his trial attorney was five
22 years ago?

23 A I don't usually do that. No.

24 Q Okay.

25 A So I -- I never do, actually, as far as I can

1 remember.

2 Q As a matter of fact, you've gotten the report from Dr.
3 Peggy Wadman from 2009 that was the first report, as far as
4 the -- when they filed the petition against ---

5 A Yeah.

6 Q And you got all of the reports from Dr. Gehle and Dr.
7 Swan since that time; is that correct?

8 A To the best of my knowledge. Yeah.

9 Q That would consist of all the evaluations done of Mr.
10 Owen?

11 A The -- yes, that's correct.

12 Q Okay. Is -- that's all you usually get, right?

13 A Typically.

14 Q Okay. And as we indicated, your opinion of Mr. Owen
15 is the same as you testified earlier; is that correct?

16 A That's correct.

17 Q And when you talk about outpatient, that doesn't mean
18 that -- that -- a person that goes into outpatient, that's
19 to reinforce the things that they learned while they were
20 inpatient; is that correct?

21 A That's correct.

22 Q In order to continue to keep that risk low?

23 A That's correct.

24 Q That's an ongoing thing, because there's no cure to
25 the pedophilia; is that correct?

1 A That's correct.

2 Q Kind of like an alcoholic continuing to going to
3 Alcoholics Anonymous?

4 A That's exactly the same.

5 Q Thank you.

6 THE COURT: Anything in recross, Mr. Bogle?

7 MR. BOGLE: Just one, Your Honor.

8 RE CROSS-EXAMINATION

9 BY MR. BOGLE:

10 Q Dr. Martin, I believe on your direct examination
11 awhile back, you testified that during his original trial,
12 a light came on -- that's the word you used -- and he
13 realized he -- he needed treatment, when in reality, had
14 you talked to his attorney, you would've realized that they
15 had an expert here and their expert suddenly realized they
16 couldn't help him midtrial and that's why he voluntary-
17 committed.

18 A I'll just have to take your word for it ---

19 Q All right.

20 A --- Mr. Bogle.

21 Q All right.

22 MR. BOGLE: Thank you, Your Honor.

23 THE COURT: Okay.

24 MR. BOGLE: That's all.

25 THE COURT: Thank you for your testimony, Dr. Martin.

1 THE WITNESS: Yes, sir.

2 THE COURT: You can step down.

3 (Whereupon, the witness exited the witness stand.)

4 THE COURT: Anything further from you, Mr. Brooks?

5 MR. BROOKS: Judge, that's the respondent's case for
6 probable cause.

7 THE COURT: Okay. All right. Thank you very much.
8 Mr. Bogle, you ready to proceed?

9 MR. BOGLE: Yes, Your Honor. The state would call Dr.
10 Amy Swan.

11 MR. BROOKS: Judge ---

12 THE COURT: Come around, Dr. Swan.

13 MR. BROOKS: Before we do that, I would want to put my
14 objection on the record. And we talked about back in
15 chambers about the state being able to bring up a witness.
16 The burden is on us to establish probable cause.

17 Generally, in a probable cause, all we have to do is put up
18 enough evidence to show probable cause. We feel we've done
19 that. And for the state now to bring in an expert, we
20 think that it's unnecessary -- irrelevant for the nature of
21 this proceeding.

22 THE COURT: Thank you very much. Your objection is
23 noted for the record and overruled.

24 MR. BOGLE: Thank you, Your Honor. Dr. Swan?

25 (Whereupon, the witness came forward.)

1 AMY SWAN, having been first duly sworn, testified
2 as follows:

3 (Off the record briefly.)

4 DIRECT EXAMINATION

5 BY MR. BOGLE:

6 Q Okay. Dr. Swan, I'm going to go through your
7 qualifications very quickly, like -- like has been done
8 before. You are a forensic psychologist; is that correct?

9 A That's correct.

10 Q And your practice is -- is in both South Carolina and
11 in Florida?

12 A That's correct.

13 Q You're licensed both states?

14 A Yes. As well as in Missouri.

15 Q Okay. And in your capacity as a -- a forensic
16 psychologist, have you also worked with sex offenders in
17 treatment?

18 A Yes, I have.

19 Q Have you been qualified as an eyewitness in -- in
20 courts as to your qualifications regarding treatment of sex
21 offenders?

22 A Yes, I have.

23 Q Have you also been qualified as an eyewitness, both in
24 South Carolina and elsewhere, in precommitment cases or
25 annual-review -- or -- and annual-review cases of people

1 already committed to a sexually-violent-predator program?

2 A Yes, I have.

3 Q And that was both in Florida and South Carolina; is
4 that correct?

5 A And Missouri.

6 Q And -- and Missouri? Okay.

7 And about how many times you've been so qualified as
8 an expert on precommitment cases and people already in,
9 whether or not they should stay in or get out, like today's
10 hearing?

11 A 198 times.

12 Q Okay. Under what circumstances were you required to
13 testify as an expert regarding sex-offender treatment? How
14 did that come to be?

15 A Typically, that occurs in the annual reviews. Because
16 obviously, if you're going to assess whether someone's
17 benefitted enough from treatment to be released, you have
18 to know something about treatment.

19 Q Okay. Have you worked directly with sex offenders in
20 the course of your career?

21 A Yes, I have. For about 26 years. I was the first
22 psychologist hired at the civil commitment center in
23 Florida to ---

24 Q Uh-huh.

25 A --- do treatment.

1 Q Okay. Have you also testified on behalf of people
2 who've been committed to a sexually-violent-predator
3 program?

4 A Yes, I have. When I find that they no longer meet
5 criteria, I testify on their behalf.

6 Q And in South Carolina, in the course of doing annual
7 reviews for the Department of Mental Health, have there
8 been occasions when you've determined the person has
9 completed treatment, is no longer a risk, and can be
10 released into the community?

11 A Yes, I have.

12 Q Okay. Have you ever recommended somebody for release
13 from a sexually-violent-predator program, be it Florida or
14 South Carolina?

15 A Yes, I have. About 27 times.

16 Q Okay.

17 MR. BOGLE: Your Honor, we'd like to ask that Dr. Swan
18 be recognized as an eyewitness in the field of forensic
19 psychology.

20 THE COURT: Okay. Mr. Brooks?

21 MR. BROOKS: No objection.

22 THE COURT: Okay. All right. Dr. Swan is found to be
23 an expert in the field of forensic psychology as it relates
24 to sexual criminal offenses.

25 Q Now, in this particular situation here, were you

1 called upon by the Department of Mental Health here in
2 South Carolina to conduct an annual review of Mr. Owen?

3 A Yes, I was. Both in 2013 and in 2015.

4 Q Okay.

5 MR. BOGLE: And if I can approach the witness and just
6 show you ---

7 THE COURT: Sure.

8 Q Your first report was for the period of time November
9 of 2012 to September of '13. Is that a copy of it?

10 A That is correct.

11 Q Okay. And then, while this was pending, Mr. Owen
12 cycled through for another annual-review cycle; is that
13 right?

14 A That is correct.

15 Q And you did a report for the period of time September
16 of '13 to May of '15; is that right?

17 A Yes, I did.

18 Q Okay. When he was committed to the program back in
19 2010, what was his mental abnormality or personality
20 disorder that put him in?

21 A He was diagnosed with pedophilia, sexually attracted
22 to both -- which means male or female ---

23 Q Uh-huh.

24 A --- nonexclusive type, which means he also has a --
25 adult -- appropriate adult partners. He was also diagnosed

1 with personality disorder, not otherwise specified, with
2 narcissistic features.

3 Q Okay. As part of your evaluation of Mr. Owen, did
4 that also include meeting with him?

5 A Yes. I've met with him on three different occasions.

6 Q Okay. And about how long would these interviews
7 happen when you did meet with him?

8 A Usually a couple of hours.

9 Q Okay. Now, as part of your evaluation, did you
10 diagnose him with a mental abnormality or a personality
11 disorder or both?

12 A Both. I diagnosed with him pedophilia, sexually
13 attracted to both, nonexclusive type. And I diagnosed him
14 with narcissistic personality disorder.

15 Q Okay. Tell the Court and tell me: What do you mean
16 by narcissistic personality disorder? What are the traits
17 of that?

18 A Well, a personality disorder is a maladaptive way of
19 relating to your environment. And narcissistic personality
20 disorder is a personality disorder in which there's a
21 pervasive pattern of either grandiosity in either fantasy
22 or behavior, a need for admiration, and a lack of empathy.
23 These are individuals who typically believe that the world
24 revolves around them and that other people are important
25 only if they can gratify this individual's needs.

1 Q Now, is that different from the personality disorder
2 he was diagnosed with back in 2010, or is it an expansion
3 of it?

4 A In 2010 he had the not otherwise specified with --
5 with narcissistic features. So that individual did not
6 believe that he met the full criteria for ---

7 Q Uh-huh.

8 A --- narcissistic personality disorder. But I found
9 that he did.

10 Q Okay. Now, you also mentioned pedophilic disorder,
11 sexually attracted to both. As I understand this case, his
12 two victims would consist of his very young daughter -- he
13 was convicted up in Delaware -- and his very young son for
14 conviction in South Carolina; is that correct?

15 A That's correct.

16 Q So what are the characteristics for the diagnosis of
17 pedophilia?

18 A Well, for the diagnosis of pedophilic disorder, over a
19 period of six months, the individual must have recurrent,
20 intense, sexually arousing fantasy, urges, or behavior
21 involving sexual activity with prepubescent children, which
22 typically means under the ---

23 Q Uh-huh.

24 A --- age of 13.

25 Q In this case the records show that the sexually

1 activity occurred over a number of years for both children

2 ---

3 A That is ---

4 Q --- is that correct?

5 A --- correct.

6 Q Is this something that's curable?

7 A No, it's not.

8 Q Can it be treated?

9 A Yes, it can.

10 Q Now, in doing this type of evaluation, what are you
11 looking for?

12 A I'm looking to see if this person's mental abnormality
13 or personality disorder has so changed that he's safe to be
14 at large and, if he's released, he's not likely to commit
15 acts of sexual violence.

16 Q And is that the requirement of our statute?

17 A Yes, it is.

18 Q Does our statute have any phrase in it that lends to
19 less likely to commit acts of sexual violence or not -- or
20 -- or maybe not so much likely or anything like that?

21 A No, it doesn't. It's sort of ---

22 Q It's just plain not likely, right?

23 A Not likely.

24 Q Okay. Does our statute have any tie-in to outpatient
25 treatment that you're safe to be at large if you get

1 outpatient treatment?

2 A No, it does not.

3 Q Okay. We're stuck with our statute the way it's
4 written, are ---

5 A That's ---

6 Q --- we not?

7 A --- correct..

8 Q Does our -- our law have any provisions for furloughs
9 or outpatient test drives or releases for a small amount of
10 time and then you come back in the evening?

11 A No, it does not.

12 Q All right. Just out of curiosity, does Florida, where
13 you practice?

14 A Absolutely not..

15 Q Okay. Do some states have that, to your knowledge?

16 A Not to my knowledge. There is an outpatient facility
17 in Texas, where all of their work is done outpatient.

18 Q Uh-huh.

19 A But most of the civil-commitment centers around the
20 country are you're there and that's where you stay until
21 you're released.

22 Q In this particular case, in order to conduct your
23 evaluation, did you receive a file of information about Mr.
24 Owen?

25 A I did.

1 Q Okay. You did?

2 Did you also talk with his treatment providers at the
3 SVP unit?

4 A Yes, I did.

5 Q And are you satisfied you received enough information,
6 both written treatment notes, documentary medical
7 diagnoses, that type of categories, to form an opinion
8 about Mr. Owen as to whether or not he's safe to be at
9 large?

10 A Yes, I did.

11 Q Okay. Is there anything you tried to get and could
12 not get?

13 A No, there's not.

14 Q Okay. And his treatment records you reviewed, this
15 would be going all the way back to his commitment in 2010;
16 is that right?

17 A Yes. That's correct.

18 Q Is this the type of information that's typically and
19 reasonably relied on by experts in your field?

20 A Yes, it is.

21 Q And was all this stuff part of the basis for your
22 opinion?

23 A Yes, it was.

24 Q Now, you mentioned interviewing Mr. Owen. Did you
25 also review his criminal history that I've referred to

1 already?

2 A I did.

3 Q Okay. The details briefly of his sexual crimes -- we
4 have a daughter and we have a son.

5 A Yes.

6 Q What are the brief details regarding this sexual
7 history that you found relevant in assessing him right now?

8 A His daughter reported that she was between the ages of
9 3 and 5 when he started abusing her and that she was 10
10 years old when she disclosed the abuse. She indicated that
11 Mr. Owens [sic] fondled her, forced her to perform oral sex
12 on him, performed oral sex on her, digitally penetrated her
13 vagina with his fingers, simulated sex with her, and
14 attempted to have vaginal intercourse with her.

15 Q And these were crimes that got him convicted up in
16 Delaware; is that right?

17 A That's correct.

18 Q Okay. What about in South Carolina regarding his
19 minor son?

20 A His son reported when he was 11 that Mr. Owen had been
21 anally raping him since he was 6 years old. He said that
22 the abuse stopped in 2003, when he told his mother ---

23 Q Uh-huh.

24 A --- and then the -- then the police.

25 Q And as ---

1 A He said ---

2 Q --- I understand, Mr. Owen was a truck driver who'd
3 take his son along on truck-driving?

4 A That's correct. And he -- the son indicated that
5 these anal rapes occurred in the back of the truck.

6 Q Okay. And they were identified -- they were -- they
7 were -- is it correct, they were able to identify two
8 different counties where these crimes happened?

9 A That's correct.

10 Q So his guilty pleas occurred both in Berkeley County
11 and here in Newberry County?

12 A That's correct.

13 Q Okay. What was significant about the underlying facts
14 of these crimes to you?

15 A Well, it -- it tells us a good deal about his -- the
16 nature of his sexual interest in having sex with children.
17 And also, it tells us that he has, as I said, the
18 narcissistic personality disorder. And he tends to believe
19 that whatever he wants, that he deserves to have it, no
20 matter who he hurts.

21 Q Has he taken responsibility for his sexual offending?

22 A I don't believe he's fully taken responsibility. He
23 -- in my two evaluations of him, he minimally accepted
24 responsibility. He denied many of the acts that the
25 victims allege.

1 When I met with him a second time on June 8th, I -- I
2 told him that it was unlikely that I'd be able to recommend
3 release for him unless he, you know, told the truth about
4 his crimes. And at that time he grudgingly admitted that
5 all the acts that the children reported were true. And he
6 admitted at that time that he raped his girlfriend, April.

7 Q When you say "grudgingly admitted," what do you mean
8 by grudgingly?

9 A He was reluctant to do that. And he ---

10 THE COURT: Okay. Let me just stop.

11 MR. BOGLE: Yes, Your Honor.

12 THE COURT: (To Ms. Foster) Ma'am, I -- I -- I know
13 that this is difficult for you. And -- but you're going to
14 need to control your emotions. And -- and if you can't, I
15 can understand that and I appreciate that. But I would ask
16 that you leave the courtroom, okay?

17 MS. FOSTER: (No audible response.)

18 THE COURT: Did you hear me, ma'am?

19 MS. FOSTER: Yes, Your Honor. Yes, sir.

20 THE COURT: Okay. Thank you very much. You may
21 proceed, Mr. Bogle.

22 Q I think I was going to ask you -- you said
23 "grudgingly."

24 A Yes.

25 Q What did -- what does that adjective mean in the

1 context of how he said it to you?

2 A He only admitted it because he thought it would impair
3 his ability to be released. And even in -- at that point,
4 I was not able to get much information about the sexual
5 assaults on April.

6 Q Okay. What type of -- speaking generally, what type
7 of treatment do they use at the sexually-violent-predator
8 unit here in South Carolina?

9 A They use a modified Rockwood model. And the advantage
10 of this model is that there are 17 modules that every
11 person there complete. But they also have a -- assignments
12 that are specific to their offense history and their
13 particular needs. Often, a resident will say, "Well, I'm
14 finished. I completed all the Rockwood models."

15 But that's insufficient to make someone ready for
16 release. They also have to focus on their individual
17 characteristics.

18 Q Has he done well in treatment? Or has he made
19 progress in treatment?

20 A Between 2012 and 2013 when I saw him, I did not
21 believe that he had made much progress.

22 Q Uh-huh.

23 A However, between 2013 and 2015, I believe that he did
24 make significant progress during that time.

25 Q What type of things has he completed, as far as the

1 different stages or different assignments he's had to work
2 on?

3 A Yes. He's done his autobiography, the disclosure, his
4 dynamic risk factors. And to his credit he also completed
5 some assignments that he did on his own. There's a pass
6 program, which is typically for individuals in prison. And
7 it's just helping an individual deal with criminal
8 thinking. And he also completed exercises in *The Road to*
9 *Freedom*, which is an excellent book ---

10 Q Uh-huh.

11 A --- for sex offenders.

12 Q Has he had some problems, though, in his treatment and
13 complying (phonetic) certain goals -- accomplishing certain
14 goals?

15 A He has had some problems. The most recent problem
16 that I've seen is that he still has some difficulty
17 accepting responsibility for his actions, as I said, about
18 being forthcoming with his offenses. But I don't believe
19 that he has worked on that offense history sufficiently in
20 group because he hasn't been as forthcoming, I believe, as
21 he should.

22 He continues to have attitudes of entitlement. That's
23 a feature of his personality disorder. And while we may
24 lessen that to some degree, you know, that's pretty
25 entrenched. And that's not likely to change a whole lot.

1 There was an incident during this review period where
2 Mr. Owen was unhappy with his case manager -- or his group
3 facilitator, I guess. And he used his high blood pressure
4 to manipulate to get out of that group. And he signed into
5 the -- or he was going to sign into the general track.

6 Q When you say "group," you're talking about a group
7 therapy ---

8 A Yes.

9 Q --- person assigned by one case manager who's charge
10 of that group?

11 A Yes.

12 Q Okay. So what ---

13 A And ---

14 Q --- happened next?

15 A And so he used that to manipulate to get out of the
16 group. He said, because of health reasons, he was going to
17 go into the general track. In the meantime that case
18 manager left the program. And so then he wanted to go back
19 into the regular track. And when his treatment providers
20 came to him and said, you know, basically, you have a
21 choice of either going into the general track like you said
22 you were going to do ---

23 Q Uh-huh.

24 A --- or just completing individual assignments, but you
25 can't come back to group, he signed the statement, saying

1 that he is going to the general track. But he said he was
2 being forced to do it.

3 Q Okay.

4 A So rather than accepting responsibility for his
5 manipulation, he again tried to blame it on someone else.

6 Q Is this the only -- have there been other instances
7 where he's tried to manipulate people within the unit?

8 A Manipulation is one of his patterns. And it's a
9 deeply ingrained pattern. And he did provide me with
10 assignment that he'd done on manipulation. And I think
11 that he's making some progress ---

12 Q Uh-huh.

13 A --- on that. But as I said, it's a pretty deeply
14 entrenched pattern. So I believe that he has more work to
15 do on that.

16 Q In the current evaluation, do -- was he required -- or
17 he -- was part of the evaluation having him make a report
18 to you of the details of the underlying crimes, detailed of
19 sexual offenses?

20 A Yes. That's one of the things that I ask every person
21 that in the evaluate.

22 Q And how did that go, as far as that evaluation?

23 A Well ---

24 Q That part of the -- as far as that part of the
25 evaluation?

1 A When I saw him on May 11th, he was not forthcoming.
2 And he was still denying some of the acts that his victims
3 reported when I saw him on June 8th and basically said --
4 laid it out that, you know, I -- it was unlikely I'd
5 recommend his release as -- as long as he wasn't
6 straightforward about it. Then that's when he made some
7 additional admissions. But I don't believe it's a full
8 admission.

9 Q Okay. What about his narcissistic personality? Has
10 he made any progress there? Does he believe he's changed
11 it, or has he believed -- has it -- has it changed?

12 A Well, he believes he has changed. In fact, he
13 believed he'd changed it when he was in prison, because in
14 one of his quarterly progress reports, he said that he no
15 longer has an inflated view of himself because he kicked it
16 to the curb when he was in prison.

17 Q Uh-huh.

18 A However, it's apparent that that continues to be an
19 issue for him.

20 Q Because of this deeply ingrained personality disorder,
21 how is that impacting upon his ability to get treatment for
22 the -- the pedophilia?

23 A Well, I -- I think that it does -- it's a -- it's an
24 obstacle. It's not insurmountable. But it definitely is
25 an obstacle, because he doesn't think that he's like the

1 other sex offenders in the group, to ---

2 Q Uh-huh.

3 A --- some degree. And he doesn't fully understand, I
4 believe, the impact of his crimes. As I said, I believe he
5 has made progress over that last review period. But I
6 still think he has some more work to do on that.

7 Q What about the issues of having sexual fantasies about
8 young children? Is that a problem for Mr. Owen?

9 A Well, he admitted that prior to abusing his children,
10 he did have fantasies.

11 Q Uh-huh.

12 A And that was one of the areas of progress that I saw.
13 Because when I saw him in 2013, he denied that.

14 Q Okay.

15 A So that was an important recognition or admission to
16 me.

17 Q So what, then, would be the -- the -- the motivation
18 for his sexual offenses, if -- if the fantasies are not
19 there?

20 A Well, I believe that part of the motivation for his
21 offenses is the narcissistic personality disorder and that
22 when he wants something, he takes it; he believes he's
23 entitled to it, no matter who it harms.

24 Q Okay. What issues, in your opinion, need to be
25 addressed by him as he progresses through the treatment

1 offered by the sexually-violent-predator treatment unit?

2 What has he got left to do?

3 A Well, one of the issues that I believe he needs to do
4 more work on is that he did not show a sexual interest in
5 children on some physiological testing that was done. And

6 ---

7 Q Would that be, like, the PPG?

8 A The PPG, yes.

9 Q Okay.

10 A And that's not uncommon for an incest perpetrator who
11 molests their own children. But what he did show was an
12 arousal to sadistic-masochistic behavior toward adult
13 females. And as I said, his girlfriend, April, indicated
14 that he had raped her. And he raped her anally while she
15 resisted him and cried and told him to stop.

16 Q Was there also a time, when he was in prison, when he
17 conspired with another inmate or talked to another inmate
18 about having April, the girlfriend and the mother of child,
19 killed? This ---

20 A That's ---

21 Q --- also happened?

22 A That's correct.

23 Q So are you finding some evidence of a sadistic or evil
24 intent toward women with this man?

25 A I believe that that is there. And that is one of the

1 dynamic risk factors, the hostility toward women. And he
2 -- as I said, recently he did some work on those dynamic
3 risk factors. But I don't believe that he fully
4 understands the degree of that sadistic-masochistic
5 behavior.

6 And as I said, I -- he has not dealt with that in
7 treatment. He's dealt with the children in treatment, but
8 I don't believe that he's dealt with that particular aspect
9 of what he did to April. And he indicated that he engaged
10 in some of that behavior with other women that he had
11 sexual encounters with. He didn't frame it as the
12 sadistic-masochistic, but he vaguely said that he treated
13 them badly.

14 Q Okay. So are there -- in the course of his
15 disclosures to you, does it appear to you there's other
16 victims that were not reported or that he never got legally
17 sanctioned for?

18 A That's correct. And I believe that as he deals with
19 what he did to April in treatment, that ---

20 Q Uh-huh.

21 A --- he will begin to address some of those other
22 victims as well.

23 Q Any other matters that he needs to treat them but he
24 has yet to complete or needs to address?

25 A I believe that that pretty much covers it. He told me

1 that he was going to lay it out on the line and just be
2 truthful. And as I said, I don't think he's fully done
3 that. That being said, I don't think that absolutely full
4 disclosure is related to his risk. But I do believe that
5 it's important that he understands his risk and dealing
6 with these issues will bring that home to him.

7 Q Does he have a -- certain dynamic risk factors?

8 A He does.

9 Q Why is it important for a person in his situation to
10 understand -- or important to know what their risk factors
11 are?

12 A Well, we know that individuals who commit sexual
13 crimes go through stages before that crime is committed.
14 And if they're aware of that -- those stages, they can
15 interrupt it before it gets to an actual offense. You
16 know, the static risk factors, such as an interest in
17 children or the narcissistic personality disorder, those
18 things are not likely to change much.

19 However, there are some other dynamic risk factors
20 that we believe are changeable. And those are where we
21 want to intervene as his current state so that he won't
22 reoffend when he gets out.

23 Q Because the word dynamic means changeable ---

24 A Changeable.

25 Q --- correct?

1 A That's correct.

2 Q Where static is something that's fixed in time; you
3 can't change it?

4 A Yes.

5 Q What type of dynamic risk factors do you find exist
6 with Mr. Owen?

7 A And these are the ones that he identified, and I
8 concur with him. I think he was right on target with them.
9 It would be sexual preoccupation, a sexual preference for
10 prepubescent children, lack of emotionally intimate
11 relationships with adults, poor problem solving,
12 Machiavellianism -- which is a tendency to take advantage
13 of people who are weaker than he is -- callousness, or lack
14 of concern for others, dysfunctional coping, sexualized
15 coping, and hostile beliefs about women.

16 Q What is -- just out of curiosity, the phrase
17 "sexualized coping," what does that mean?

18 A That means using sex to solve nonsexual problems.

19 Q Did you score Mr. Owen on an actuarial instrument
20 known as the Static-99R?

21 A I did.

22 Q Is that a actuarial instrument based upon prior
23 static, unchangeable factors on a person?

24 A That is correct.

25 Q And it's based on a study of, I guess, thousands of

1 sex offenders from multiple countries; is that right?

2 A That is correct.

3 Q Based on his score -- what score did Mr. Owen get on
4 the Static-99R?

5 A He received a score of 3. And ---

6 Q Okay.

7 A --- that's in the moderate-low-risk range.

8 Q Now, to a reasonable degree of psychological
9 certainty, does that low score of 3, that moderate-risk
10 range, does that fully address his situation?

11 A I don't believe it does.

12 Q Okay. Has he completed all of his treatment? And
13 again, I'm asking this question to a reasonable degree of
14 psychological certainty.

15 A No. I believe he has more work to do.

16 Q What does he need to work on, as far as stuff do you
17 think that still needs to be addressed?

18 A I believe he still needs to work on his offense
19 history and his history of violence toward women; his
20 dynamic risk factors, because although he identified them,
21 I don't believe he's done sufficient work on them. I
22 believe that he has historically had a poor understanding
23 of his deviant sexual thoughts and fantasy. While he did
24 make progress by acknowledging the role of sexual fantasy
25 in his offenses, I still has -- think he has a little more

1 work to do on that.

2 Q Okay. Do you think he understands his risk factors
3 for reoffending ---

4 A Not ---

5 Q --- again to a reasonable degree of psychological
6 certainty?

7 A Not fully..

8 Q Does he have appropriate coping strategies, in effect,
9 to prevent him from reoffending?

10 A I don't believe he does at the present time.

11 Q In your opinion, to a reasonable degree of
12 psychological certainty, has the mental abnormality and
13 personality disorder of Mr. Owen so changed that he is safe
14 to be at large and, if released, not likely to commit acts
15 of sexual violence?

16 A It's my opinion that it has not.

17 Q Okay. Thank you, Doctor. Please answer questions
18 that the Court may have or Mr. Brooks.

19 THE COURT: Okay. Mr. Brooks, any cross-examination,
20 sir?

21 MR. BROOKS: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. BROOKS:

24 Q Dr. Swan ---

25 A Hi.

1 Q --- it's getting to be a regular thing with you,
2 Doctor.

3 A It is. We're going to have to stop meeting like this.
4 Uh-huh.

5 Q All right. All right. Doctor, you -- you've
6 evaluated my client, Mr. Owens. I believe this is your
7 second evaluation; is that correct?

8 A That's correct.

9 Q And basically, what I'm hearing from you in a nutshell
10 is he's made progress, he's doing work, but he is not ready
11 yet?

12 A That's correct.

13 Q Okay. And it's fair to say that people in your field,
14 sometimes you have different views; is that correct?

15 A That's correct.

16 Q Okay. And sometimes people believe your view and
17 sometimes people believe the other person's view, the
18 counter view; is that correct?

19 A That's correct.

20 Q Okay. And it's fair to say that that's happened
21 before; is that correct?

22 A That's correct.

23 Q Okay. Now, basically, to -- to simply this even
24 further, what you're saying is it sounds like Mr. Owen has
25 made a lot of progress, done a lot of things as it relates

1 to occupation for children -- preoccupation for children?

2 A That's correct.

3 Q Prepubescent children, I believe that's how you framed
4 it?

5 A Yes.

6 Q But the -- you talked about the assault on his
7 girlfriend. And I believe you used the word sado -- what
8 is it?

9 A Sadomasochistic.

10 Q Sadomasochistic.

11 A I'm sorry. I -- I think it's sadistic.

12 Q Sadistic?

13 A Yes.

14 Q You said that that, in your opinion, is what is his
15 biggest problem that he needs to address and he needs to
16 continue to work on; is that fair to say?

17 A That is one of his problems. That's the area that I
18 don't think he's really addressed much at all. Because
19 like I said, he hasn't been forthcoming about that. And so
20 I think that that's an area that he definitely needs more
21 work on.

22 Q Okay. And you said he has a ---

23 A Uh-huh.

24 Q --- narcissistic personality?

25 A That's correct.

1 Q Now, you know, a lot of people walk around on the
2 street with narcissistic personalities?

3 A That's correct.

4 Q Okay. So that ---

5 A Uh-huh.

6 Q --- by itself doesn't mean that a person needs
7 treatment?

8 A Or confinement.

9 Q Or confinement?

10 A That's correct. Yes.

11 Q Otherwise, we'd have a lot of people confined?

12 A Everyone would be confined pretty much.

13 Q All right. And you -- if Mr. Owen has a -- if -- if
14 you were to find out that he has a girlfriend, would that
15 perhaps help in regards to his dynamic factor, if he has a
16 girlfriend which he's having some emotional intimacy with?

17 A Well, he did tell me that he has established a
18 relationship with a woman and right now, you know, because
19 of his situation, they're friends but that potentially she
20 could be a relationship partner. So I think that that's a
21 good thing because obviously, he needs relationship skills.
22 And he is not free to get out and really develop those
23 skills. So this is a good start for him.

24 Q Okay. And I think you also remarked in your report he
25 had taken the PPG?

1 A Yes.

2 Q And what is the PPG again?

3 A The penile plethysmograph is a physiological measure
4 in which an individual has a gauge attached to his penis
5 and they're -- they hear audio and video of different
6 scenarios, like coercive sex, sex with children, normal
7 adult interactions, and their -- their arousal to those --
8 those things are noted.

9 Q And in your report you remark that the results of that
10 show that he did not have any arousal to children, at least
11 when he was taking that PPG?

12 A That's correct. And ---

13 Q And that's a good thing?

14 A Well, yes. As I said, it's pretty common that in
15 incest perpetrators, that -- the -- it's not the
16 preferential sexual arousal to children that we see in some
17 other offenders.

18 Q So is it fair to say, Doc, that the primary thing, in
19 your opinion, that's keeping you from rendering an opinion
20 that he has so changed and should be released is the
21 sadistic-sadomasochistic ---

22 A Yes.

23 Q Am I pronouncing it correctly?

24 A Yeah.

25 Q As it relates to women and to past history with women,

1 is that more of the -- I heard you say that's what he
2 really needs to focus on. Is that right now the -- what --
3 what would consider to be the obstacle to him getting out,
4 in your opinion?

5 A That's one of them. As I said, I think he still needs
6 to work on those dynamic risk factors because although he
7 identified them, I didn't see that he has actually done any
8 assignments or really worked on them. And the abuse of
9 adult victims as well, I believe he needs to work on that.

10 Q Right.. That would go to that ---

11 A --- sadomasochistic ---

12 Q --- assault ---

13 A Yeah.

14 Q Thank you. Thank you, Doc. Because I happened to get
15 a little tongue-tied.

16 Now, in the program how has his behavior been?

17 A Well, his behavior is -- except for that manipulation
18 thing with the case manager, his behavior has been
19 excellent. He is mentoring some of the other lower-
20 functioning individuals.

21 Q So that's a good thing?

22 A That is a good thing.

23 Q Okay.

24 A That's really important too because for someone who's
25 narcissistic, it does help them develop a feeling for other

1 people and maybe set aside some of that self-importance
2 that they have.

3 Q Okay. So -- so that's been good for him to be in that
4 group therapy and perhaps help out the guys who are not
5 quite as adept and as learned as much. That -- that's a
6 good thing; that shows ---

7 A --- excellent.

8 Q --- excellent progress; is that correct?

9 A It does show progress. Yes.

10 Q Okay. And so what I'm basically hearing is he hadn't
11 had any major infractions while he's been there?

12 A No.

13 Q And that's important, too, because we know a lot of
14 people -- well, I won't say a lot of people -- a few people
15 who get a lot of infractions there.

16 A That's correct.

17 Q So -- and usually, when somebody has some type of
18 mental abnormality or personality disorder, even though
19 they may be away from the type of victim that they
20 associated with, they tend to act out in different ways;
21 isn't that correct -- or act out in a -- in another way;
22 isn't that correct?

23 A There are subsets of individuals that do that.

24 Q And to Mr. Owen's credit, like we said before, he's
25 not had any major infractions; is that correct?

1 A No, he's not.

2 Q And a person to be able to restrain their behavior,
3 even in a confined facility where he's there obviously with
4 nurses, case managers, public safety officers, as well as
5 other residents, is very important; isn't that correct?

6 A It is. And that's part of the treatment process, is
7 that, as I said, my concern was the -- some of the adult
8 women. And, you know, he's interacting with adult women.
9 He's doing it appropriately on the unit, with the exception
10 of the case manager. And so that's progress for him too.

11 Q Now, you -- you talked about an issue with one
12 particular case manager; isn't that correct?

13 A One case manager.

14 Q Now, it -- and -- and how many other case managers has
15 he had since he's been there?

16 A He's had at least five that I'm aware of.

17 Q And those other case managers, has there ever been any
18 problems with them that have come -- that have shown up in
19 your report and evaluation of him?

20 A Not to my knowledge.

21 Q Okay. And that case manager that -- and that case
22 manager that he had a problem with that you've cited as the
23 manipulation, that case manager is no longer there?

24 A That's correct.

25 Q Okay. All right. And even though you don't ever want

1 to hear a resident say, "Oh, it was somebody else's fault,"
2 Department of Mental Health has had some -- some issues in
3 the past; isn't that correct?

4 A Well, I've been doing this long enough to know that
5 although we would like our treatment providers to be
6 perfect, that that just doesn't happen.

7 Q Okay. So, I mean, is it possible, even though we --
8 we -- we're very skeptical of a resident, it's possible
9 that he may have had good reason to avoid this case manager
10 when he's done everything and never had any problem with
11 all the other case managers?

12 A And while that may be true, I believe that the way he
13 handled it is the issue and not -- not the fact that he was
14 having a problem with the case manager.

15 Q And just -- I -- Doc, since you mention it, what
16 would've been the better way to handle that?

17 A The better way to handle it would be to address it
18 through the treatment team, address it with the case
19 manager directly.

20 Q Okay. He -- and -- and could there have been any type
21 of reprisal from that case manager?

22 A Well, I think that's always possible.

23 Q Okay. Just that -- that is a -- that is a
24 possibility. But basically, what I'm hearing is you
25 would've preferred him to -- to challenge it another way

1 and that would've helped with the manipulation that you
2 cite?

3 A That's correct.

4 Q Okay. All right. And you talked about his Static-99
5 being a 3; that's a moderate to low risk?

6 A That's correct.

7 Q Okay. And what you felt was that he -- you first met
8 with him in May. He held some things back. Then, when you
9 said, "Hey, you said you're going to lay it out on the line
10 -- you say you're going to lay it out on the line," that's
11 when he grudgingly admitted some more things?

12 A That's correct.

13 Q Okay. That's one of the things that cause you
14 concern, particularly as it relates to adult women?

15 A That is correct.

16 Q Okay. And I'm sending a theme here, Doc. You tell me
17 if I'm wrong. The acceptance and admitting of the problems
18 with adult women and the sadomasochistic ---

19 A Yes.

20 Q --- behavior of women, that, what I'm hearing, is --
21 is the obstacle right now; am I right?

22 A One of them, along with his dynamic risk factors that

23 ---

24 Q Okay.

25 A --- we discussed.

1 Q All right. Now, the dynamic risk factors, I heard you
2 say the sexual preoccupation with prepubescent children.

3 A Well, those are two separate things.

4 Q Okay.

5 A Sexual interest in prepubescent children ---

6 Q Okay.

7 A --- and the sexual preoccupation are two different
8 things.

9 Q Okay. You talked about the lack of emotional -- I
10 thought I heard intimacy.

11 A Intimate relationships ---

12 Q Intimate ---

13 A --- with adults. Yes.

14 Q So now you -- did you happen to talk to that friend
15 that Mr. Owen told you about to see whether or not there
16 really is a genuine relationship there?

17 A Well, I don't think you can really have a general
18 relationship when you're visiting someone in confinement.

19 Q I understand.

20 A Because, you know, you put your best foot forward.
21 You don't really see all of the warts and all that you have
22 when you get out and really know the person. But as I
23 said, I think it's a really good step for him ---

24 Q Uh-huh.

25 A --- that, you know ---

1 Q But now ---

2 A --- you ---

3 Q --- you didn't -- and I don't mean to cut you off.

4 But you didn't talk to that person?

5 A I did not.

6 Q Okay. And -- and I understand what you're saying.

7 Given the certain limitations, obviously, he's confined and

8 obviously, you don't know the -- the depth of the

9 relationship when one person is confined and the other

10 person is out. I -- I -- I understand.

11 The -- the hostility and the -- I think you termed
12 this as using sex to resolve a nonsexual problem?

13 A That's correct.

14 Q What did you call that again?

15 A Sexualized coping.

16 Q Sexualized coping? Got it.

17 And -- and what I'm sensing here, Doc, is that still
18 the big general theme as it relates to these dynamic
19 factors is the hostility to women and the sadomasochistic
20 behavior. I see that as the predominant theme, even as it
21 relates to the dynamic risk factors.

22 A I -- I -- I think that that is the case, because his
23 work in treatment has been focused on the children aspect.

24 Q Okay.

25 A And I think that this is a part that he hadn't really

1 addressed yet.

2 Q Now, and the reason I ask that, Doc, is, you know,
3 there are -- I mean, we live in the world with grown folks
4 here. There are some situations where there are couples
5 that engage in that type of behavior. Wouldn't -- I mean,
6 that's a fair statement; is that correct?

7 A That's correct. And if both partners are consenting,
8 then certainly, you know, I can't say anything about that.
9 But we do have evidence that, by his own admission, that he
10 has done those sorts of things with nonconsensual partners.
11 And so therefore, that's why it's in -- a topic of therapy.

12 Q I see. Okay. Now, has he ever been charged with
13 those?

14 A No.

15 Q But these are part of the things that he admitted
16 while he's in the program?

17 A That's correct.

18 Q Okay. And it's -- in your opinion, it's been
19 grudgingly admitted. And as such, that's what he needs to
20 primarily focus on or to work to improve to get out -- in
21 order to get your blessing for your opinion ---

22 A Yes.

23 Q --- that he ---

24 A I ---

25 Q --- is ---

1 A --- would like to see more progress in that area.

2 Q Okay. But again, now, he -- he -- just to summarize
3 this, no major infractions; in your opinion, he has
4 progressed; he has done well there.

5 A Yes.

6 Q He's done well in regards to what he was sent there
7 primarily for, which is what he was found guilty of: the
8 -- the -- the problems with the children. He's done work
9 on that?

10 A That's correct.

11 Q The issues of the women, those are things that he has
12 never been charged with.

13 A That's correct.

14 Q But part of being in the program is to admit to
15 victims we know about and victims we don't know about.

16 A That's ---

17 Q When I ---

18 A --- correct.

19 Q --- say "we," Department of Mental Health; is that
20 correct?

21 A That's correct.

22 Q Okay. Right.

23 MR. BROOKS: No more questions, Judge.

24 THE COURT: Any redirect, Mr. Bogle?

25 MR. BOGLE: Just one, Your Honor.

REDIRECT EXAMINATION

1
2 BY MR. BOGLE:

3 Q Counsel has focused a lot upon the sadomasochistic or
4 sexual issue regarding the rape of the girlfriend. You've
5 mentioned that that's not -- that's the -- not the only
6 problem keeping him from getting out, is it?

7 A Oh, no, it's not.

8 Q And are there still issues relating to the dynamics
9 that caused him to offend against those young children as
10 well?

11 A There are.

12 Q And his risk factors, which you also summarized?

13 A That's correct.

14 Q Is having a combination of a mental abnormality such
15 as pedophilia and a personality disorder such as the
16 narcissistic personality disorder, does that create what I
17 might call a "double whammy"?

18 A It is. Because obviously, if you have the sexual
19 disorder, you're more at risk. But then, if you have
20 personality disorder which leads you to believe that you're
21 entitled to anything you want, that increases the risk.

22 Q Thank you, Doctor.

23 THE COURT: Recross?

24 MR. BROOKS: No, sir.

25 THE COURT: Okay. Thank you, Dr. Swan, for your

1 testimony. You can step down.

2 (Whereupon, the witness exited the witness stand.)

3 THE COURT: Mr. Bogle, anything further from the
4 state?

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

6 THE COURT: Okay. All right. Thank you very much.
7 I'm going to take this matter under advisement. I
8 appreciate the lawyers' hard work in this matter. And I'll
9 notify them of my decision in the very, very near future.
10 Thank you very much. This hearing is adjourned.

11 MR. BOGLE: Your Honor, I would also make reference --
12 there's two reported cases on annual reviews that we're
13 aware of.

14 THE COURT: Okay.

15 MR. BOGLE: I've got copies I can pass up.

16 THE COURT: Great. Wonderful. Thank you very much.
17 Yeah. Hand ---

18 MR. BOGLE: One is ---

19 THE COURT: --- them up.

20 MR. BOGLE: --- the *Tucker* case from our Supreme
21 Court. And the other is the *Corley* case from our Court of
22 Appeals.

23 THE COURT: Okay. Yeah. If you'd hand those up, I
24 appreciate it.

25 MR. BROOKS: And, Judge, obviously, our position is

1 the burden is on us to establish probable cause.

2 THE COURT: I understand.

3 MR. BROOKS: We feel we have more than adequately done
4 that. Obviously, it's -- our position is that the
5 difference between Dr. Swan's testimony and Dr. Martin's
6 testimony is an issue for the jury to decide ---

7 THE COURT: Right.

8 MR. BROOKS: --- as we have actually had cases where
9 these two doctors have had differences of opinion, very
10 similar situated, and a jury decided the issue. And, of
11 course, they actually decided that respondent should be
12 released.

13 So obviously, our position is that you've got two
14 dueling experts in this situation. We feel that probable
15 cause is clearly established by -- by the respondent.

16 THE COURT: Right.

17 MR. BOGLE: If I may briefly, Your Honor, 44-48-110 is
18 the statute that govern these hearings. And the question
19 there is, as Dr. Swan testified, has his mental abnormality
20 or personality disorder so changed that, if released, he is
21 not likely to commit acts of sexual violence and he's safe
22 to be at large; not less likely, not sort of likely, not
23 likely if he gets treatment. It's an all-or-nothing-type
24 situation under our statute. And I don't think they've met
25 their burden.

77

1 MR. BROOKS: Yeah. Judge ---

2 THE COURT: Right.

3 MR. BOGLE: Thank you, Your Honor.

4 THE COURT: And I -- I understand that. And I
5 appreciate that very much.

6 MR. BROOKS: Since obviously, the burden is on me,
7 Judge, I would appreciate having the last word. Obviously,
8 Dr. Martin testified in accordance with the statute.

9 THE COURT: Okay. All right. Thank you very much.
10 (Whereupon, the proceeding was concluded at 11:20 a.m.)

11 --- END OF TRANSCRIPT OF RECORD ---
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CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT
COURT FOR NEWBERRY COUNTY, SOUTH CAROLINA, ON THE 25TH
DAY OF AUGUST, 2015.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

FEBRUARY 10, 2016



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair
Joan Moore, Vice Chair
Beverly Cardwell
Jane B. Jones
Everard Rutledge, PhD
J. Buxton Terry
Sharon L. Wilson

STATE DIRECTOR

John H. Magill

Division of Inpatient Services
Sexually Violent Predator Treatment Program
7901 Farrow Road, Building #3
Columbia, SC 29203
Information: (803) 935-5751

June 16, 2015

The Honorable Donald B. Hocker
Chief Administrative Judge
Eighth Judicial Circuit
PO Box 972
Laurens, SC 29360

Re: Owen, Ronald
Case No: 2009-CP-36-0319

Dear Judge Hocker:

Mr. Ronald Owen was committed to the South Carolina Department of Mental Health, Sexually Violent Predator Program, on February 3, 2010, pursuant to SC Code of Laws 44-48-100, Sexually Violent Predator Act.

Pursuant to SC Code of Laws §44-48-110, "The court shall conduct an annual hearing to review the status of the committed person." Therefore, please find enclosed the required documents in order to conduct such a hearing:

1. Annual Examination and Review Hearing, Annual Notice of Right to Petition for Release and Elections to Waive or Exercise Rights form.
2. Annual Treatment Review Summary, dated June 11, 2015.

MISSION STATEMENT

To support the recovery of people with mental illnesses.



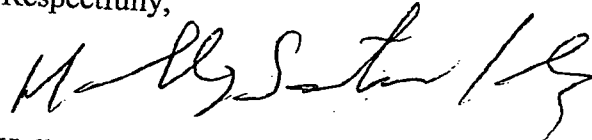
Based on our re-evaluation of Mr. Owen, it is our recommendation, to the Courts, that Mr. Owen remain in inpatient treatment in the South Carolina Department of Mental Health, Sexually Violent Predator Program.

Pursuant to Order of the South Carolina Supreme Court and guidance provided by the SC Commission on Indigent Defense, please have the Clerk of Court appoint an attorney from the list of contract attorneys provided by Indigent Defense.

The Attorney General's Office will contact you if a hearing needs to be scheduled to address Mr. Owen's review hearing.

If I can be of further assistance to the Court, please feel free to contact me or Ms. Cathy B. Garner, Paralegal, (803) 935-5540.

Respectfully,



Holly Scaturro

Director

Sexually Violent Predator Treatment Program
(803) 935-5530

c James Bogle, Assistant Attorney General
David Stumbo, Solicitor, Eighth Judicial Circuit
Charles Brooks, Attorney at Law
Jackie S. Bowers, Clerk of Court, Newberry County
Jeffrey E. Musick, Ph.D., Multidisciplinary Team
Ronald Owen, Resident, SVPTP

**ANNUAL NOTICE OF RIGHT TO PETITION FOR RELEASE
ELECTIONS TO WAIVE OR EXERCISE RIGHTS**

TO: Ronald Owen
Name of Resident

FROM: Tiffany Jones, Case Manager

DATE: 6-15, 2015

II. ANNUAL NOTICE OF RIGHT TO PETITION FOR RELEASE

Pursuant to Section 44-48-110 and 130, South Carolina Code of Laws,

- A. You have the right to petition the Court for release at any time, with or without the approval of the Department of Mental Health. However, it is important that you understand that if you do petition the Court for release without the approval of the Director of the Department of Mental Health, and the Court finds that either: (1) the petition was frivolous or (2) your condition has not changed so that you (the petitioner) are now safe to be at large, then the Court may deny any subsequent petitions without a hearing unless the petition contains facts upon which a Court could find your condition has so changed as to warrant a hearing.

Please initial and check the box below:

☒ I am aware of the fact that I have the right to petition the Court for release at any time and I am aware that this document does not constitute a "Petition for Release."

III. ACKNOWLEDGMENT

I have received and reviewed the foregoing ANNUAL NOTICE OF RIGHT TO PETITION FOR RELEASE form.

Ronald M Owen
Resident: PRINT Name

Ronald M Owen 6-15-15
Resident: SIGN Name Date

Tiffany Jones
Witness

6/15/15
Date

Or, resident refused to sign.

Witness

Date

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
SEXUALLY VIOLENT PREDATOR PROGRAM

ANNUAL EXAMINATION AND REVIEW HEARING NOTICE

TO: Ronald Owen
Name of Resident

FROM: Tiffany Jones, Case Manager

DATE: 6-15, 2015

I. ANNUAL EXAMINATION AND REVIEW HEARING

Pursuant to Section 44-48-110, South Carolina Code of Laws,

A. You are entitled to an annual re-examination of your condition. A report of such examination is attached and will be furnished to the Court which committed you, the Attorney General, the Solicitor in the Circuit you were convicted of the qualifying offense(s), your attorney (unless you do not have one), and the multi-disciplinary team.

B. The Court conducts an annual hearing to review your status.

Please initial and check one (1) box below:

I am aware that I have the right to an annual hearing to review the status of my case.

☐ I choose to waive my right to an annual hearing. **Do NOT complete I. C. or D.**

☒ I do not waive my right to an annual hearing.

C. You have the right to have an attorney represent you at the hearing, but you are not entitled to be present at the hearing. If you do not have an attorney and are indigent, you may request the Court to appoint an attorney to represent you at the review hearing.

Please initial and check one (1) box below:

I am aware that I have the right to be represented by an attorney at the annual hearing to review the status of my case.

☐ I choose to waive my right to representation by an attorney.

☐ I will exercise my right to counsel by hiring an attorney to represent me.

☐ I want to exercise that right, do not have an attorney, I am indigent, and request the Court to appoint an attorney for me.

☒ Charles Brooks is my Court appointed attorney.

- D. You may retain or, if you are indigent and so request, the Court may appoint a qualified expert to examine you, and the expert shall have access to all your medical, psychological, criminal offense and disciplinary records and reports.

Please initial and check one (1) box below:

I am aware that I have the right to have a qualified expert examine me and that I may present the results of that examination to the Court at the annual review hearing.

☐ I choose not to exercise that right at this time.

☒ I choose to exercise that right and will hire a qualified expert to examine me.

☐ I am indigent and I wish to have the Court appoint a qualified expert to examine me. I understand that the appointment of an expert is discretionary with the Court.

III. ACKNOWLEDGMENT

I have received and reviewed the foregoing ANNUAL EXAMINATION AND REVIEW HEARING form.

Ronald M. Cwen
Resident: PRINT Name

Ronald M. Cwen 6-15-15
Resident: SIGN Name Date

[Signature] 6/15/15
Witness Date

Or, resident refused to sign.

Witness Date

**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
SEXUALLY VIOLENT PREDATOR PROGRAM**

**ANNUAL REVIEW
Pursuant to §44-48-110**

Name:	Ronald Owen
SCDMH #:	10189145
SCDC #:	310404
Date of Birth:	12/10/60
Date of Commitment:	2/3/10
Date of Admission:	2/17/10
County:	Newberry
Date of Evaluation:	5/11/15 and 6/8/15
Review Period:	9/24/13 to 5/11/15
Date of Report:	6/11/15
Evaluator:	Amy C. Swan, Psy. D.

IDENTIFYING INFORMATION AND REASON FOR EVALUATION:

Ronald Owen is a 54-year-old male who was committed to the Sexually Violent Predator Program (SVPP) of the South Carolina Department of Mental Health (SCDMH) after adjudication as a Sexually Violent Predator (SVP), pursuant to statute.

This evaluation is being completed pursuant to South Carolina Code §44-48-110, which provides for individuals committed as SVPs to have a current annual examination attesting to their mental abnormality. This evaluation is provided to assist the court in determining whether there is probable cause to believe that the:

- a) individual's mental abnormality or personality disorder has so changed that the person is safe to be at large
- b) and, if released, is not likely to commit acts of sexual violence.

South Carolina Code §44-48-30 defines mental abnormality as a mental condition affecting a person's emotional or volitional capacity that predisposes the person to commit sexually violent offenses. "Likely to commit acts of sexual violence" is statutorily defined as the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

NOTIFICATION:

The nature and purpose of this evaluation were explained to Mr. Owen at the beginning of the interview. He was notified that the information obtained during this evaluation would not remain confidential and that anything he disclosed could be included in a report to the Court, the Attorney General's office, his attorney, and the SVPP treatment

team. Mr. Owen demonstrated an adequate understanding of the purpose of the evaluation and the limits of confidentiality, and he agreed to proceed with the evaluation.

SOURCES OF INFORMATION:

1. Legal records, including police reports, statements of victims and witnesses
2. Records from South Carolina Department of Corrections (SCDC)
3. Precommitment Evaluation, by Peggy Wadman, M. D., dated 10/14/09
4. Annual Review, by Marie E. Gehle, Psy. D., dated 3/31/11
5. Annual Review, by Marie E. Gehle, Psy. D., dated 11/26/12
6. Annual Review, by Amy C. Swan, Psy. D., dated 10/4/13
7. Penile Plethysmograph Report, by Michael Gassen, Psy. D., dated 10/15/09
8. Records from the Sexually Violent Predator Program (SVPP)
9. Treatment Summary, by Case Manager, Tiffany Jones, dated 3/4/15
10. Interview with Mr. Owen on 5/11/15 for 2 hours and 10 minutes (9:00A-11:10A) and on 6/8/15 for 15 minutes (4:10P-4:25P)

BRIEF PERSONAL HISTORY:

Mr. Owen reported that he was born in Germany at a military hospital at Bitburg Air Force Base, as his father was in the Air Force. He related that his mother was French and his father was American. He said that his parents divorced when he was five or six years old because his father was an alcoholic who did not come home for days at a time. He spent his time carousing and having sex with other women. He said that his biological father was a truck-driver. Mr. Owen said that he visited his father as an adult, and his father drank continuously and was very abusive. He said that for the entire two days his father cursed him and called him names. He related that the last time that he saw his father was when he dropped him off at an alcohol rehabilitation center in Augusta, Georgia.

Mr. Owen related that his mother and biological father moved the family to Summerville, South Carolina where his mother worked in a sewing factory and later as a union representative for Levi-Strauss Corporation. He said that his mother has been remarried for 46 years, and he considers his stepfather to be his real father. He related that his stepfather is Philipino and a retired U.S. Navy Chief Petty Officer. According to Mr. Owen, his biological father died in 1985 of alcoholism. His stepfather died on 4/22/15. Mr. Owen reported that he has one older brother who is a truck driver.

Mr. Owen reported that he was a good student and that he had a 3.8 grade point average in high school. He denied having any behavioral problems in school except for one fight in which he punched another boy because the boy called his girlfriend a "slut." He said that he was suspended for this fight. The information that Mr. Owen provided to

Dr. Wadman differed greatly. He told her that he was "a little hellion" when he was a child and adolescent. He said that he was truant from school five or six times, he shoplifted twice, and he stole a rocket sling shot when he was 14 or 15 years. Mr. Owen denied any juvenile arrests.

Mr. Owen said that he completed high school in Moncks Corner, South Carolina. He indicated that he attended Wesleyan University and the Community College of the Air Force. He said he is one course short of having a Bachelor of Arts degree in Business Management.

Mr. Owen reported that he enlisted in the Air Force when he was 17 years old, and he served for 10 years. He indicated that he was a load master on C-5 military planes, hauling cargo all over the world. He said that his highest rank was E-5. He stated that he was involved in combat in Somalia. He recounted that in 1987, when he was stationed in the Azores, he was attacked off base by a gang, and he was repeatedly struck in the head with a baseball bat. As a result, he could not work, and he received an Honorable Discharge. Mr. Owen said that he was having an outstanding career in the Air Force until the attack, and he would have remained in the military for life. He stated that when he got out of the military, he did not know the extent of his brain damage, and he never received rehabilitation for his brain injury. He said that he made poor decisions such as leaving his home and family.

Mr. Owen reported that between 1998 and 1999, he worked for Westinghouse Corporation rebuilding transformers. He said that that this job ended, as the plant closed. He related that prior to his incarceration in 2003, he owned several transport trucks, and he had several drivers working for him. He stated that he drove the trucks as well, primarily in the southeast. He indicated that he is also a carpenter and that he builds custom furniture.

Mr. Owen said that he began dating Corinne when he was 18, and she was 17. He said that he was 20 when they got married in 1982, and they remained married for 10 years. He related that she was a very good woman, a good mother, and a good cook. He denied any history of substance abuse or domestic violence in the relationship. He said that after his brain injury, he ran off with a 19-year-old girl, as he had an unquenchable sexual desire. However, he subsequently said that he had an unquenchable sexual desire before his brain injury. He said that he has one daughter from this relationship who is currently 25 years old. He indicated that he has no relationship with her.

Mr. Owen related that his second significant relationship was with April, the girl for whom he left his first wife. He indicated that he was 30, and she was 19 when the relationship began. He said that he was involved with her for seven years. He denied any history of substance abuse in the relationship. Mr. Owen admitted that he was physically, emotionally, and sexually abusive to her throughout their relationship. One

son was born to the relationship. Mr. Owen said that the relationship ended when he caught April with another man. However, April said that on 3/21/92, three days after the birth of their son, Mr. Owen drove her and the baby to a relative's house in Greenwood, South Carolina and never returned to get them. According to April, Mr. Owen re-established contact with her when their son was approximately four years old, as he said that he wanted to have a relationship with his son. However, after a few visits, she permitted Mr. Owen to visit with his son unsupervised, and he kidnapped the boy for approximately four months. She said that Mr. Owen took their son to Tennessee where he was living with his second wife. Mr. Owen's criminal history does not show a charge for kidnapping.

Mr. Owen said that he married Tammy when he was 37, and she was 33. He related that she would not work and she could not cook. He said that she found someone else while he was on the road, adding, "I didn't appreciate her." He said that they divorced after seven years, and they had no children together. However, according to records, Mr. Owen and Tammy "illegally adopted" a female child under the age of five with whom Mr. Owen was not allowed to have contact as part of the divorce agreement.

Mental Health History:

Mr. Owen denied any history of counseling, suicide attempts, psychiatric hospitalizations, or psychotropic use.

Substance Abuse History:

Mr. Owen reported that he first consumed alcohol when he was 13 or 14 years old, but he has never been a big drinker. He said that he got drunk a few times, as he drank more than usual when he was in the military. However, he asserted that he did not like alcohol because of his father's alcoholism. Mr. Owen indicated that he first smoked marijuana when he was 18 or 19. He said that he smoked it here and there, but never regularly, as he did not like the paranoia and the feeling of not being in control. He denied the use of any other illicit drugs.

LEGAL HISTORY:

Mr. Owen's criminal history includes seven charges with three convictions for sexual offenses. He has two known victims, his son and daughter. At the time of the sexual offenses, the victims were between 3 and 11 years of age. Mr. Owen has a criminal sexual history in Delaware, Florida, and South Carolina.

Mr. Owen was indicted for three counts of Unlawful Sexual Intercourse in the First Degree by the Kent County Superior Court in Delaware. The charges indicated that Mr. Owen engaged in sexual intercourse with his daughter between 8/2/89 and 10/31/90.

However, Mr. Owen's daughter stated that Mr. Owen began sexually abusing her when she was between the ages of three and five years old and continued for several years. She was 10 years old when she disclosed the abuse. She indicated that the abuse occurred in several different places in Delaware and South Carolina.

- Regarding his Delaware charge, Mr. Owen stated, "It was not listed correctly. It was a third degree felony and it was correctly changed to a misdemeanor." Mr. Owen stated, "Don't know if it was eight to ten when it initially started. It could've been three or five. There is no reason for her to lie. I know it was very young."

Records indicate that a school counselor telephoned Corrine, Mr. Owen's ex-wife and mother of the victim, to inform her that her daughter had reported several incidents of sexual abuse by her father. The victim told her counselor and later the police that Mr. Owen had taken her into his bedroom on several occasions in 1990 and made her "suck his penis." In her statement to police, his daughter said that she knew the sexual abuse started when she was three years old because it coincided with her contracting the chicken pox, which she had when she was age three. She said that over a period of several years, Mr. Owen fondled her, forced her to perform oral sex on him, performed oral sex on her, digitally penetrated her vagina with his fingers, simulated sex with her, and attempted to have penile-vaginal intercourse with her. As part of a plea bargain, dated 1/29/94, Mr. Owen pled guilty to one count of Unlawful Sexual Intercourse in the Third Degree. The state of Delaware nolle-prossed the two remaining charges. Mr. Owen was sentenced to three years of incarceration, suspended to five years of probation. The probation was transferred to the State of South Carolina where Mr. Owen was residing at the time of his arrest. The terms of his probation included having no contact with the victim, submitting to a psychological evaluation, and successfully completing all treatment recommendations. The plea agreement stated, "The Defendant's guilty plea to this charge shall not be treated as or is not an admission to alleged sexual intercourse charges to the victim in South Carolina." Mr. Owen was arrested in St. John's County, Florida on an out-of-state fugitive warrant in December 1999 for failing to meet his probationary requirements.

- During his 2013 interview Mr. Owen provided the following account. He reported that the sexual offenses against his daughter were an escalating thing. He said that when he gave her showers, she would run around the house naked. He said that she would jump in bed with him and his wife. He indicated that his wife would get up to take a shower, and his daughter would curl up next to him. Feeling her warm skin caused him to become sexually aroused. He said that the first few times, he pushed her away. He indicated that he should have done something right then to avoid what happened, but he did not. He stated that he "slick-legged" her. He related that the abuse extended over a six to eight-month period of time. Mr. Owen related that it would have happened more, but he was on the road. He explained that he was taking diet pills to stay awake while he was

driving his truck, and he could not obtain or sustain an erection with his wife. He said that his wife thought that he did not love her, and he felt insecure. He stated that although he could not get an erection with his wife, he could with his daughter. He said that he could also get an erection with his girlfriend. He related that infidelity was always a major issue for him. He said that the acts that he engaged in with his daughter included fondling, giving and receiving oral sex, simulated sex, digital-vaginal penetration, and attempted penile penetration. Mr. Owen said that the charges were dropped to a misdemeanor, and he was sentenced to five years of probation. He related that he was picked up in Florida and returned to South Carolina. He indicated that he waited three or four months, but he never received his probation paperwork. He said that 10 years later, he was arrested for Violation of Probation in St. Augustine, Florida. He said that when he went to court the judge suspended the sentence because he had ten years without being arrested again. He related that he did not actually serve a single day of probation for his crime against his daughter.

- Regarding being a fugitive from justice, Mr. Owen said, "Was in Florida. Got picked up for probation violation. Taken back to Delaware and the charges were dropped."

In 2003, Mr. Owen was investigated by several counties in South Carolina and by the Federal Bureau of Investigation (FBI) for sexual offenses against his minor son. Mr. Owen's son stated that Mr. Owen engaged in sexual intercourse with him on numerous occasions in several counties and states.

In 2003, Mr. Owen was arrested for Lewd Act upon a Minor in Newberry County and two counts of Criminal Sexual Conduct with a Minor in the First Degree in Berkeley County. In a plea agreement, the two counts in Berkeley County were reduced to one count of Lewd Act on a Child under 16, and Mr. Owen entered an Alford Plea. On 7/21/05, he was sentenced to 15 years of incarceration, suspended to 12 years. He pled nolo contendere to the offense in Newberry County. On 1/13/06, he was sentenced to 12 years of incarceration to run concurrent with the sentence issued by the Berkeley County court.

In Charleston County, Mr. Owen was charged with Failure to Register. The charge stemmed from the earlier offense against his daughter in which he failed to register as a sex offender in South Carolina. He was sentenced to 90 days of incarceration concurrent to his other sentences. In Spartanburg County, Mr. Owen was charged with Criminal Sexual Conduct in the Second Degree. After an investigation, the charges were withdrawn, as the victim could not identify the specific place that the sexual assault occurred. Mr. Owen was subsequently arrested in Florida on two outstanding Delaware warrants—Fugitive from Justice and Violation of Probation. He was returned to Delaware. The disposition of this matter is unclear from available records. In addition,

he was convicted of Failure to Register, and he was arrested for violating his probation and being a fugitive from justice.

Mr. Owen's 11-year-old son said that Mr. Owen anally raped him numerous times beginning when he was six years old. He related that the abuse stopped in September 2003 when he told his mother and the police. Mr. Owen's son told police that the sexual assaults took place in various locations while he was traveling with his father in RVs and semi-trucks owned and operated by Mr. Owen. In a voluntary statement dated 10/11/03, the boy told police that his father "put his penis inside my rectum. I remember telling my father that it hurt when he did that to me. He told me not to tell anyone especially my mom." The victim told police that this happened "many times." He said that when he was 8 or 9 years old, his father anally raped him at least 10 different times at his paternal grandparents' home (mother and stepfather of Mr. Owen). He said that his father would "tell me not to scream...he would just keep putting his (penis) inside of me until he was finished...it was painful. It is difficult to describe the pain." In his statement, the victim described other time periods and locations when the abuse occurred. A medical examination of his son revealed rectal scarring consistent with sexual abuse. He and his mother also accused Mr. Owen of physically abusing both of them on numerous occasions.

- During his 2013 interview Mr. Owen provided the following account. Mr. Owen reported that the FBI investigated because the molestation occurred in more than one county, and his son could not say where it happened. He related that most of the counties dropped the charges, but Newberry and Berkeley counties charged him. Mr. Owen said that the offenses occurred in his semi-trailer in the sleeper compartment. He said that it happened several times over the course of a year. He said that at one time, his son was riding with him for three continuous weeks. He said that the sexual acts included oral sex both ways and attempted anal sex. He indicated that when he tried to anally penetrate his son, he would move, and Mr. Owen would pull back. He adamantly asserted that the abuse did not begin when his son was 6 because his girlfriend would not let him see his son until he was 11. He said that before he went to court to obtain visitation, he had not seen his girlfriend or his son for 10 years and most of the time he did not even know where they resided. He said that he was married to Tammy at the time, and he attempted to obtain custody of his son. He said that he could not get custody, but he was awarded visitation. He said that he received a phone call from his son's adopted grandmother, who told him that his son was visiting her and asked if Mr. Owen would like to see him. He said that he and April got back together for less than a year. He indicated that he and his son stayed at his mother and stepfather's residence for a few nights, and Mr. Owen abused him there.

- During the current evaluation, Mr. Owen stated, "The abuse went on. It ended when he was 12 and started when he was 8 or 9—anally penetrated him. It's a hard realization to come to." When the examiner noted that his son indicated that it started at 6 and included repeated anal sex, Mr. Owen admitted that everything in the police report was probably correct.
- Regarding his charge in Charleston for Failure to Register, Mr. Owen stated, "I never lived in Charleston. Had a motor home in storage in Charleston, but I lived in Berkeley County and was registered in Berkeley County."

Non-sexual Offenses:

During the time that Mr. Owen was awaiting trial, his cellmate (Joseph Turner) made allegations that Mr. Owen had tried to hire him to kill April and his son, so they would be unable to testify against him. The cellmate gave police a detailed description of April's car and directions to her house. Investigators found the story to be credible, believing that the cellmate would have no way of knowing this information had Mr. Owen not told him. Police took the threats seriously enough to warn April that her life and the life of her son might be in danger. Records indicate that the Laurens County Sheriff's Office assigned an extra patrol to April's neighborhood in response to the threat. However, there is no indication from available records that charges were filed against Mr. Owen for any offense related to such a threat.

- Mr. Owen reported that he was extremely angry at April because she cheated on him. He said that he knew it sounded ridiculous that he was angry at her when he was having sex with every woman he came across. He said that when he was in jail he probably said "several thousand times" that he wanted April dead. Mr. Owen said that he was in a medical ward due to his fractured wrist, and they put Turner in his cell to get information. He indicated that he thought that Turner was trying to get him to admit that he hired him. He related that no charges were ever brought.

PREVIOUS SEX OFFENDER TREATMENT:

According to SCDC records, Mr. Owen did not complete any prison or outpatient sex offender treatment programs. Mr. Owen stated that he volunteered for treatment a couple times in SCDC, but there was no space in the group. There are no records to indicate that he participated in sex offender treatment in the community.

PREVIOUS EVALUATIONS AND DIAGNOSES:

Mr. Owen underwent an evaluation by Peggy Wadman on 9/24/09 to determine if he met criteria for commitment under the Sexually Violent Predator Act. Dr. Wadman

concluded that he met criteria as a Sexually Violent Predator. In that evaluation he was diagnosed with Pedophilia, Sexually Attracted to Both, Limited to Incest, Non-Exclusive Type and Personality Disorder, Not Otherwise Specified.

Previous Physiological Assessment:

In October 2009, as part of the precommitment evaluation, Mr. Owen underwent a penile plethysmograph (PPG). The report stated, "No circumferential changes were measured during the first seven trials, and Mr. Owens removed and then repositioned the transducer during the seventh trial. Subsequently, circumferential changes were measured, but the changes were very small and resulted in a notably flat profile. There were no significant differences between his largest mean score on a non-deviant category and his largest mean score on a deviant category."

PHYSICAL HEALTH STATUS:

Mr. Owen said he sustained a right frontal head injury when he was attacked in the military. He said that a gang accosted him and two other servicemen. He indicated that he was hit in the head with a baseball bat, and he sustained a laceration that required 86 external sutures and 56 internal sutures to close. Mr. Owen stated that he lost 57% of his hearing in both ears, and his vision in his right eye was damaged. He indicated that he forgets dates and he has lost his math skills. In the previous annual review, Mr. Owen linked his sexual offenses to the brain injury. However, in the current evaluation, he admitted that his offenses were not related to his head injury.

Mr. Owen said that he sustained a back injury when he was stationed at Fort Pope Air Force Base. He said that he was in a motor vehicle accident, and he has chronic right ankle pain following surgery to repair ligaments in the ankle. He related that he has right shoulder pain from the accident as well. Medical records indicate that he has an adhesive capsule in his right shoulder. He indicated that he also had bilateral heel surgery to remove bone spurs. Mr. Owen said that he had malignant melanoma on his back in 2000, and he had surgery to remove it.

Mr. Owens has current diagnoses of: hypertension, gastroesophageal reflux disease (GERD), dyslipidemia, right shoulder pain, and allergies. Mr. Owen is currently receiving hydrochlorothiazide (hypertension), Tenormin (hypertension), Zocor (dyslipidemia), Clonidine (hypertension), Prilosec (GERD), Buspar (anxiety), Atarax (anxiety), and Claritin (allergies).

According to a Letter from the Department of Veteran's Affairs, Result of Disability Determination, dated 1/29/13, Mr. Owen's has numerous service connected disabilities, including: Anxiety disorder with traumatic brain injury (TBI); right ankle fracture;

degenerative joint disease; bilateral hearing loss; headaches secondary to TBI; excision exocytosis left heel; residuals of head injury; and pilonidal cysts.

TREATMENT PROGRESS AND OVERALL BEHAVIOR:

According to Mr. Owen's Case Manager, Tiffany Jones, Mr. Owen is currently enrolled in the general treatment track group, which focuses primarily on current behaviors, including understanding how patterns of current unhealthy behaviors developed. This treatment track does not require him to discuss sex offender specific issues. Mr. Owen requested to be placed in this group as a way to be taken out of his process group as he was not getting along with his previous case manager. He submitted a request to staff (RTS) on 6/8/14 requesting to be transferred to the general treatment track, citing health related issues. He signed the consent for the general treatment track on 7/16/14, at which time his previous case manager left the program. After discovering that his previous case manager was no longer with the program, he expressed to his new case manager that he no longer wished to be transferred to the general treatment group. His current case manager and his group facilitator met with Mr. Owen to address how his behaviors were being perceived as manipulative. He was given the option to attend the general treatment group as he requested, or work on individual assignments provided by his case manager. He submitted the consent form to his case manager, with a clause indicating that staff was making him attend the general treatment group, not acknowledging that he initiated the request for the transfer. He ultimately voluntarily signed the consent form, and started general treatment group on 7/23/14. He was provided with assignments that address manipulative behaviors, which he has to submit to his case manager before being considered for return to sex offender specific treatment. On numerous occasions, he has expressed that he is ready to return to the process group as he has learned his lesson about using manipulative behaviors to get what he wants.

Mr. Owen received an unexcused absence from process group on 7/21/14. His last documented process group note was on 5/7/14, as it appears he stopped attending group after that date until he started the general treatment group 7/23/14.

Mr. Owen submitted assignments on his manipulative behaviors to his case manager, and he was asked to revise them as the assignments displayed a narcissistic tone and did not address his manipulative behaviors. He revised the assignments and resubmitted them to his case manager on 2/5/15. He has submitted additional assignments on dynamic and immediate risk factors, and an assignment that he titled "Self Work," that he has worked on independently. He has not presented these assignments in group, and he will be encouraged to present once he returns to sex offender specific groups. He has yet to submit any assignments to his case manager that are outlined in his Master Treatment Plan. Since being placed in the general treatment group, group facilitators report that Mr. Owen is an active participant, takes on

a leadership role, and is helpful to the lower functioning group members. It was noted that at times, he tends to control the group as if he is a co-facilitator, e.g., the facilitators may ask the group a question, and Mr. Owen would interject and say, "Why don't y'all answer this," and pose a different question. When he displays this type of behavior, he is redirected by the facilitators.

Mr. Owen currently has two clinical goals outlined in his Master Treatment Plan: Explore the Impact of Entitlement, and Identify the Impact of Own Behavior on the Feelings of Others, and Modify Behavior Out of Concern for Others Feelings. He has not submitted any assignments to his case manager that are outlined in his treatment plan. Instead he has been working independently on assignments that are not highlighted in his current treatment plan.

The treatment team met with Mr. Owen on 9/4/14 to discuss his progress in general treatment. He reported that he is doing well. He reported that he is learning a lot about himself based on being around "guys that aren't well rounded" as himself. He reported that the general treatment group is not challenging. He said that since being in this group, he has started helping peers on the unit that are intellectually challenged, and he "never realized before the challenges they face." He expressed that he prefers being in the process group and agreed that six months is a reasonable amount of time to be in general treatment. He submitted certificates for a PASS course, citing that he took classes to learn more about himself, and he believes that it is a worthwhile program.

The treatment team also met with Mr. Owen on 3/5/15 to discuss his progress in general treatment. He reported that he has learned a lot while being in this group, and he has "never considered the human condition." He talked about peers (intellectually disabled) in the group, stating, "What they overcame, I never had to overcome, and it really opened my eyes." When asked why he was in general treatment group, he talked about having problems with his previous case manager and requested to be removed from the group, which was unsuccessful. He acknowledged that he used his medical issues as a way to manipulate and get removed from his process group. He reported that he submitted his assignments on manipulation to his current case manager. When asked what he learned from preparing the assignment, he stated, "Six months ago I didn't believe I had entitlement issues." He said that he believed that he deserved what he had. He also said that he exploited others weaknesses to get what he wanted.

He identified one of his clinical goals as entitlement, but he was unable to verbalize his other clinical goal. He identified his risk factors as entitlement, manipulation, and relationship/trust issues. He said that he had an "all about me" mindset. He also said that he sought sex as his only gratification. When asked to identify some coping skills to help manage his urges, he responded, "Everyone should go through the general treatment group." When asked how he would handle disagreements with case

managers or facilitators in the future, he said that he would "talk it out." He said that he is ready to return to process group because he is ready to get on with his treatment. Yet, he said, "I think what I needed to learn, I learned in general treatment." He was asked to identify other areas that he believes that he needs to work on in treatment, and he reported that he needs to talk more about his offenses, as he tends to shy away from it because it's humiliating to talk about. However, he is ready to talk about his offenses now. Treatment team pointed out that his version of his offenses noted in his last annual review were vastly different than the legal record. He stated, "I'm over trying to minimize my offenses," indicating that he minimized the details of his offenses. He said that the next time that he has an evaluation he is going to "put it on the line and lay it out." He reported that he should be ready to be discharged from the program by the time he has his next evaluation. When treatment team noted that his next evaluation will be within the next few weeks, he said he will still be ready. He also reported that he has never had interest in other children.

Mr. Owen received a negative BON on 1/21/14 for trading/sharing food with peer. He received a verbal warning.

MENTAL STATUS EXAMINATION:

Mr. Owen was interviewed in a private room at the SVP Unit at Broad River Correctional Institution for 2 hours and 25 minutes. He was notified of the purpose of the evaluation and the limits of confidentiality. Mr. Owen demonstrated an understanding of the purpose of the evaluation and the limits of confidentiality. He appeared his stated age of 54. His hygiene was good. He made good eye contact. His facial expression was animated. His emotional expression was upbeat and positive. His speech was normal in rate, tone, and volume. He was very talkative. Mr. Owen thanked the examiner repeatedly and said that he would have never learned the things about himself that he learned in the last year if it had not been for her.

Mr. Owen was oriented to person, place, and time, e.g., he could identify relevant persons, he knew where he was, and he knew the date and time. His judgment was deemed to be fair, and his problem solving abilities fair. He was cooperative during the evaluation. He denied any current psychiatric symptoms, and no overt symptoms were observed. He denied recent or current suicidal or homicidal thoughts. Mr. Owen was able to sustain his attention throughout the interview. His fund of information was good. He was able to do simple calculations. His recent and remote memories appeared to be intact. He appeared to be functioning in the Average Range of general intelligence. There were no overt indications of a thought disorder.

INTERVIEW:

Mr. Owen reported that his case manager is Ms. Jones and that his relationship with her is "going well." He said that he is reviewing every Quarterly Progress Report and doing everything that he is supposed to do.

Mr. Owen reported that he currently resides on the Edisto Unit. He said that he has been sleeping well, and he has a good appetite. He said that he has not had any problems with other residents, and he described his relations with staff as "excellent." He stated that he has not earned any disciplinary infractions. He said that his participation scores are now five and six. He said that his previous case manager was the one that gave him low scores. He indicated that he attends 100% of his treatment groups, and he only missed one day due to his father's funeral. He said that his father had full military honors. He indicated that he spends his free time working on assignments like the Road to Freedom. He said that he is also involved in a gardening group and art classes. He said that he takes every class offered. He indicated that he is in a pre-entry class.

Mr. Owen related that he works at the canteen, and he has for years. Regarding visitors he stated that his mother and father who live in Summerville have visited him. He said that his close friend, Yvonne, who is 47 also visits him, as well as his brother and his wife. He said that his brother is a trucker who lives outside of Orlando.

When asked why he was committed to the SVP Program, Mr. Owen said, "I voluntarily committed myself. I know what I felt for my children was wrong, and I needed help." He said that he now believes that he is ready to be released. He stated that there is nothing about his commitment that he believes is unfair or inappropriate.

When asked when he first noticed his deviant arousal, Mr. Owen said, "Never aroused to other children than my own. Never thought I was aroused to children until my "Oh my God" moment after I came here. When I was abused, it got to the point where I didn't want to do it anymore, so I stopped going over. My kids didn't have that opportunity. If I was home more, it would have happened more. Sad to think of it. I'm not sure my primary arousal was to children. I think it was a facet of my sexual preoccupation. I had to have sex and anyone was fair game. Children—children were easy marks. They trusted me because I was dad. Never realized emotions were part of life because I stuffed them so long."

Mr. Owen stated that he received approval from his treatment team, and he completed the Prisoner Assistance Scholastic Service (PASS) program for personal psychological development. He indicated that this was approved by the treatment team.

Mr. Owen reported that Dr. Burke and Dr. Martin both said that he should be released. He indicated that it has been 13 years since his last sexual offense.

Mr. Owen provided the examiner with his assignments and the additional work that he completed in the PASS program and the Road to Freedom. Mr. Owen stated, "The victim impact was very helpful." With regard to the Road to Freedom, "I see now what I never had before—especially my denial." He said that as a result, he began changing. He indicated that he also became aware of his lack of intimacy. He said that he could not accept what he was. He said that he did not consider what happened to him as sexual abuse at the time, but now he knows that having sex with his older brothers was sexual abuse."

Regarding his primary attractions and fantasies, Mr. Owen stated that he is aroused to younger women, like Victoria Secrets' models. He said that he realized that the women he dated were too young for him. He stated that his "perfect victim" was between the ages of 20 and 26 years old. He said that he read about aversive conditioning in the Road to Freedom, so he said that he began using red pepper seeds any time that he had deviant thoughts about women who were too young. He said that he was really excited that it worked.

When asked how often he masturbates, Mr. Owen stated, "When on Zoloft, less. I masturbate every three weeks to a month." When asked what he fantasizes about when he masturbates, Mr. Owen said, "Yvonne." He said that she is a potential relationship partner, adding, "She has been a rock for my mother." When asked about the last time he had a fantasy about children or rape, Mr. Owen said, "Three to four years ago thoughts about my daughter popped up. Not so much my son..." He stated that he groomed his children, and he has to watch out for this.

Mr. Owen said that he was furious with the examiner when she did not recommend his release at his last annual review. He related that he now realizes that he was not ready the last time, but he did not recognize it. He said, "You're the reason I decided to make sure I was ready this time. I did PASS and the Road to Freedom. I'm aware that I victimized a lot of women, especially in the Orient. It is not consensual because they do it for a living." Regarding the PASS Program, he said that it involves 10 modules. He said that it is "so deep." He indicated that it was written by a man in California. He said that he does not think they deal with sex offenders much, as it is geared toward making parole in California. He said that he applied the gang module to the military so that it would apply to him.

With regard to his placement in the general track, he said that his former group leader kept pointing out that he was white when all the group members were black. He indicated that she seemed to believe that he could not understand the type of life that she or the other group members had, and he believes that she was biased. He

indicated that his blood pressure would rise before group. He said that initially he was placed on bedrest, but he eventually transferred to the general track for six months. He acknowledged that the group leader left shortly thereafter, and he did not want to transfer into the general group. He admitted that he used his blood pressure in a manipulative manner to get into another group.

Mr. Owen said that he started a college fund for his two girls for restitution. He said that it is unlikely that he will ever have contact with the daughter that he victimized.

When asked why he committed his offenses, Mr. Owen said, "When I was abused, I enjoyed it. Never realized it stopped me from pursuing normal relationships. I became sexually preoccupied with my children. My daughter is in contact with my mother. Her relationships have suffered. She has two children—two different fathers. Not married to either one. I told my daughter every day I was dad, so how can she trust any other man? She would initiate [the sex] because she knew that's what I wanted. I know I have to avoid my grandchildren. Haven't heard about my son. My daughter said my son got married and had a child."

When asked what his risk factors are for committing another sexual offense, Mr. Owen stated, "Entitlement, stuffing feelings, and children." Mr. Owen reported that he just turned in a 14-page exercise on Manipulation and Entitlement. He said that women with children are a risk. He does not plan to go to the mall after school. He said that he is not attracted to other children, but he does not want to take that chance.

When asked if he thinks he has changed since he has been in treatment, Mr. Owen said, "by leaps and bounds. I didn't know anything about myself before I came here. No intimacy in my life. No one ever saw the emotional side of me." He said that he was reared in a military family, and emotions are of no value in the military. He said that he had a lifelong pattern of regimentation, and he was not able to cry. He said that if he cried, he was told to man-up.

Regarding his future plans, Mr. Owen said that his father died on 4/22/15 of an inoperable brain tumor. He stated that his mother is doing okay. They were together 50 years. He said that it is "tough because I didn't get to be there." He said that he talked to his roommate about his feelings, and he has never able to talk before. When asked what kind of employment he is planning upon his release, Mr. Owen said, "I'll make enough on disability so I won't have to work. Will live with mom and take care of her. Dad willed me the house. I'm very close to mom. She needs me, desperately. The relationship we had is what I want." When asked what kind of supports he will have to address his needs, Mr. Owen stated, "Both Dr. Burke and Dr. Martin have offered to be on my support team. The VA will pay for all mental health. Dr. Burke has group every Friday. Dr. Martin every two weeks." Mr. Owen stated that he has been approved to receive 100% disability by the Department of Veteran's Affairs. When asked what

obstacles might get in his way, Mr. Owen stated, "Not many—I have a house and vehicle, sex offender treatment, money, and medical care."

RISK ASSESSMENT:

The key factors empirically supported through the research as contributing to sexual offense recidivism are typically divided into static and dynamic factors. Static factors (e.g., offense and victim characteristics) are relatively fixed aspects of an offender's history, and, therefore do not change with treatment interventions, environmental changes, or in terms of relationship to risk. Dynamic Factors, sometimes referred to as psychologically meaningful factors are changeable and amenable to treatment and/or environmental manipulations and can help mitigate risk if adequately managed or intervened upon.

Static Risk Factors:

The Static-99R is an instrument designed to assist in estimating the risk of sexual and violent recidivism for sexual offenders. The recidivism estimates were derived from new charges and reconvictions of groups of individuals; as such, these estimates do not directly correspond to the recidivism risk of an individual offender. Mr. Owen's score of 3 on the Static-99R places him in the moderate low risk category relative to other adult male sex offenders. Mr. Owen's status as an adjudicated SVP indicates that he has been deemed sufficiently high risk to warrant indefinite civil commitment. Therefore, his score on the Static-99R was compared to a reference group identified as High Risk/High Need. The recidivism rate of offenders with the same score as Mr. Owen would be expected to be approximately 1.39 times the recidivism rate of the typical offender. Offenders with a score of 3 from the Preselected for High Risk/High Need samples have been found to be reconvicted at a rate of 14.0% at five years' post release and 22.9% at ten years' post release.

Dynamic Risk Factors:

The following items have been empirically supported as contributing to sexual recidivism: having a sexual preoccupation, having a sexual preference for prepubescent or pubescent children, having sexualized violence, having multiple paraphilias, having offense-supported attitudes, having emotional congruence with children, having a lack of emotionally intimate relationships with adults, having lifestyle impulsiveness, exhibiting poor problem solving, demonstrating resistance to rules and supervision, having grievance/hostility, and having negative social influences (Mann, Hanson, & Thornton, 2010). Additionally, there are several factors found to have significant predictive value for sexual recidivism but have less empirical support to date. These are: having hostility toward women, having Machiavellianism, possessing a callousness/lack of concern for others, and displaying dysfunctional coping.

Sexual Preoccupation:

Sexual preoccupation refers to an abnormally intense interest in sex that *dominates* psychological functioning. Sex is engaged in for itself, as a way of defining the self, or as self-medication. The problematic type of sexual preoccupation is not that associated with romantic love or intense attraction to a specific person. The sexually preoccupied man usually feels sexually dissatisfied despite engaging in high levels of (mainly impersonal) sexual behavior. Mr. Owen admitted that he had a long history of engaging in compulsive sex over a long period of time. He said, "I had become addicted to sex and the thought of sex. I was used to getting my way with women. Sex was the foremost thing on my mind and the means of attaining it was a priority."

Sexual Preference for Prepubescent Children:

Mr. Owen has demonstrated a sexual preference/sexual interest in prepubescent children. He abused his son and his daughter over a period of years while the victims ranged in age between 3 and 11. Mr. Owen denied ongoing sexual thoughts or fantasies about children, and he denied recent masturbation to such fantasies in the current interview. He acknowledges that children are a risk factor for him. Sexual interest in children is the most significant predictor of sexual recidivism.

Lack of Emotionally Intimate Relationships with Adults:

Mr. Owen has had multiple relationships with adult women, but he indicated that he was on the road 24/7, and he only returned home when his truck broke down. He indicated that he obtained sex everywhere except at his home. He related that he wanted sex for the sake of sex without the relationship or intimacy. He was unfaithful to all of his relationship partners. Thus, it appears that he has never had an emotionally intimate relationship with an adult.

Poor Problem-Solving:

Mr. Owen appears to have problems in generating and identifying effective solutions to the problems of everyday living. He tends to avoid addressing obvious problems, and he typically utilizes ineffective problem-solving skills when problems are addressed. He admitted that he is often emotionally frustrated and stressed, and he often responds inappropriately. For example, he said that he never thought through his problems properly. Rather, he permitted seemingly irrelevant decisions to turn into major issues before confronting them.

Resistance to Rules and Supervision:

Resistance to rules and supervision entails rule breaking and opposition to external control. There are to be two facets of resistance to rules: a defiant attitude to authority and a history of oppositional behavior (e.g., failing to follow direction, missing or arriving late for appointments, deceiving the supervisor). The underlying propensity here is conceptualized as the defiant attitude to authority, with oppositional behavior being a manifestation of this underlying propensity. Mr. Owen identified that he constantly broke rules by speeding, illegally logged trips, illegal hours, and infidelity. He linked this to his sense of entitlement, as he did not think the rules applied to him.

The following risk factors are considered promising risk factors for future research. However, Mr. Owen provided the examiner with an assignment that he completed which addressed his dynamic risk factors. The following promising risk factors were included in his assignment, so they are included here as well. The characteristics that he described seemed to accurately describe his former life, and, at times, his current life. He was able to identify how those characteristics impacted his current treatment, especially his manipulation.

Machiavellianism:

Machiavellianism combines two factors: 1) a view of others as weak, cowardly, selfish, and easily manipulated, and 2) an interpersonal strategy in which it is viewed as sensible and appropriate to take advantage of others. Mr. Owen indicated that he "might have" some of these characteristics, as he said that if the opportunity presented itself and someone showed weakness, he felt inclined to exploit that advantage. He has recently engaged in manipulation on the unit to change to another group.

Lack of Concern for Others (Callousness):

Lack of concern for others is characterized by egocentricity; a tendency to engage in instrumental, rather than affectively warm relationships; poor empathy; and a lack of sympathy for others. Men with this profile are described as selfish, cynical, and willing to be cruel to meet their needs. They appear indifferent to other people's rights or welfare, except as it influences their own interests. Mr. Owen acknowledged that he saw many of these characteristics in his former life. He described himself as egocentric and selfish. He said that he had difficulty maintaining relationships because of these traits. He said that he saw himself as a "catch," and he never thought about his partners' feelings or how they would be hurt if he had affairs.

Dysfunctional Coping:

Dysfunctional coping is defined as the way in which sexual offenders manage negative emotions such as anger, anxiety, rejection and humiliation, which are related to their risk of sexual recidivism. The two forms of dysfunctional coping most relevant to risk assessment involve responding to stress (a) through sexual responses or (b) through externalizing behaviors more generally. Mr. Owen has difficulty developing appropriate strategies to actively approach and solve problems. He appears to have utilized sexual responses to deal with most of his problems, as he said, "My decisions were based primarily on desire. I was a womanizer and committed adultery at every available time. I spent numerous hours trying to get 'lucky.'" He has demonstrated some improvement in this area, but this continues to be a risk factor for him.

Sexualized Coping:

Sexualized coping is defined as the use of sex to manage negative emotions and stressful life events. The sexual behavior may be normal or deviant, although typically it involves impersonal sexual behavior, as this strategy involves the use of sex, not necessarily intimacy. Those who engage in sexualized coping show increased sexual activity during periods of stress or dysfunction. A link between negative emotion and sex is common among those who engage in high-risk sexual behavior as it is among child molesters. Mr. Owen's sexual preoccupation seems to have functioned as a mean of medicating his negative emotions.

Hostile Beliefs About Women:

Hostile beliefs about women involve viewing women as malicious and deceptive in their interactions with men. Those holding these views believe that women like making fools of men, that women seldom express their true feelings directly, and that if a woman appears sexually interested in a man, the expression is probably deceitful and manipulative. Mr. Owen acknowledged that he viewed women as deceptive in their interactions, and he believed that they used him for his money and his possessions. He related that he blamed all women for his "stupid thinking." He said that if women appeared interested in sex, he thought that they had ulterior motives, e.g., that all women were gold-diggers.

DIAGNOSES:

Mr. Owen's daughter reported that he sexually assaulted her for 7 years between the ages of 3 and 10. His son reported that he sexually assaulted him between the ages of 6 and 11. Mr. Owen admitted that he was sexually attracted to his children. He has no known victims apart from his biological children. Thus, he meets diagnostic criteria for

Pedophilic Disorder, Sexually Attracted to Both, Limited to Incest, Non-Exclusive Type (DSM-5 302.2).

According to the Diagnostic and Statistical Manual of Mental Disorders—Fifth Edition, (DSM-5), the diagnosis of Pedophilic Disorder requires:

- 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 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 16 years and at least 5 years older than the child or children in Criteria A.

Mr. Owen has shown a sense of entitlement, grandiose sense of self-importance, interpersonal exploitation in his relationships with others, and lack of empathy in his relationships. He was physically abusive toward his son and toward at least one of his ex-partners. He demonstrated a significant lack of remorse for the harm he caused his victims. Based on this information, he meets criteria for Narcissistic Personality Disorder (DSM-5 301.81)

According to the Diagnostic and Statistical Manual—Fifth Edition (DSM-5), the essential feature of Narcissistic Personality Disorder is a pervasive pattern of grandiosity (in fantasy or behavior), need for admiration, and lack of empathy beginning by early adulthood and present in a variety of contexts as evidenced at least five (5) of the following:

- Has a grandiose sense of self-importance, e.g., exaggerates achievements and talents, expects to be recognized as superior without commensurate achievement.
- Is preoccupied with fantasies of unlimited success, power, brilliance, or ideal love
- Believes that he is special and unique and can only be understood by or should associate with other special or unique, high status persons
- Requires excessive admiration
- Displays a sense of entitlement, e.g., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations
- Is interpersonally exploitative, e.g., takes advantage of others to meet own ends
- Lacks empathy, e.g., he is unwilling to recognize or identify with the feelings and needs of other
- Is often envious of others or believes others are envious of him.

- Shows arrogant or haughty behaviors or attitudes.

CONCLUSIONS:

Based on evidence that Mr. Owen has a mental abnormality or personality disorder and is likely to sexually reoffend, the Court previously determined that he met criteria as a Sexually Violent Predator. He was committed to the SVPP for control, care, and treatment to attempt to help him change such that he would be safe to be at large. His diagnoses of Pedophilic Disorder, Sexually Attracted to Both, Limited to Incest, Non-Exclusive Type and Narcissistic Personality Disorder are considered chronic disorders. He has static and dynamic risk factors that continue to put him at risk for reoffending.

There was an incident during this review period in which Mr. Owen was unhappy with his case manager, and he used his high blood pressure as an excuse to request a transfer out of her group to the general track. However, when he found that she had left the program, he wanted to cancel the transfer. When he was informed of his options to either go into the general track or do independent assignments, he signed the transfer request, but he added that he was being forced to enter the general track. Mr. Owen is determined to get what he wants when he wants it. He has done exercises on manipulation. However, this is such a deeply ingrained pattern that it is unlikely to be remedied merely by these assignments. This incident reflects his self-reported dynamic risk factors of poor problem-solving, resistance to rules and supervision, and grievance/hostility.

In the current evaluation, Mr. Owen's report of his sexual offenses eventually conformed somewhat to the reports of his son and daughter, but he did not spontaneously reveal this information until questioned directly. Mr. Owen has acknowledged the role of sexual fantasy in his offenses since his last annual review. He acknowledged relevant factors in his sexual crimes, e.g., his entitlement, his callousness, his Machiavellianism, and his sexual preoccupation.

To his credit, Mr. Owen has also spent a great deal of time completing the PASS program and The Road to Freedom. The PASS program has some benefit, but clearly not as much as The Road to Freedom, which is an excellent workbook for sex offenders. The examiner read all of his work from those undertakings and considered it in her current assessment. However, the work was a good start, but it did not have enough depth to result in meaningful change. In fact, Mr. Owen currently believes that he changed those features, as he said in his most recent Quarterly Progress Report that he no longer has an "inflated view of self" as he "kicked it to the curb" when he went to prison. However, it is apparent that this continues to be an issue for him. Because of Mr. Owen's deeply engrained personality disorder, it is unlikely that completing this work will change those features. It was noted in his Quarterly Progress Report that while he did complete the above noted assignments that he wanted to work on, he did not complete

the assignments that his treatment team assigned him. This is another example of having to have it his way.

Mr. Owen did not demonstrate sexual arousal to children on the PPG completed by Dr. Burke on 1/29/10. Nor did he show arousal to children on the Abel Assessment of Sexual Interest. While he periodically admitted that he had fantasies about his children, it is likely that a great deal of the motivation for his sexual offenses is his narcissistic and antisocial features. When he wants something, he takes it without regard for who he harms, and he feels entitled to do so. Because of these characteristics, it is essential that he be subjected to the group process wherein he must present in group and receive feedback. In this examiner's view, it is this process that is most likely to assist Mr. Owen in understanding how others view him and how his behavior impacts others.

While Mr. Owen did not show sexual interest in children on physiological measures, he did show an interest in sadistic/masochistic behavior toward adult females. His former girlfriend, April, indicated that he raped her anally while she cried or resisted him. Mr. Owen reluctantly admitted that he physically, emotionally, and sexually abused her. However, he has not fully addressed her victimization. While he has indicated that he was promiscuous and treated women as merely objects from whom to obtain sexual gratification, it does not appear that he has addressed the sadistic aspect of his sexual behavior. He has done his disclosure with regard to his child victims. While incest offenders are typically lower risk for re-offense, it appears that he has had more victims than he has acknowledged even though he was not legally sanctioned for them.

Mr. Owen told his treatment team that the next time that he has an evaluation he is going to "put it on the line and lay it out." However, he has not done that completely at this time. Mr. Owen has more resources than most to be successful in the community when he is released. However, he will need to do what he said that he was going to do, so that he can actually progress enough for release.

In consideration of all the available information, it is this examiner's opinion that Mr. Owen continues to meet the definition of a Sexually Violent Predator. His present mental condition seriously impairs his ability to control his sexually violent behavior. As such, at this time, there is insufficient basis to opine that his mental abnormality or personality disorder has so changed that he is now safe to be at large and no longer likely to engage in acts of sexual violence.

Amy C. Swan

6-11-15

Amy C. Swan, Psy. D.
Licensed Psychologist (South Carolina – 1154)

Date

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Honorable Donald B. Hocker, Circuit Court Judge

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Case No: 2009-CP-36-00319

SEP 17 2015

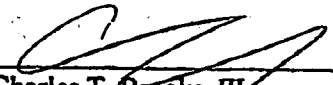
In the Matter of the Care and Treatment of

S.C. SUPREME COURT

RONALD OWEN

NOTICE OF APPEAL

Ronald Owen, appeals his Order Denying 2012-2013 and 2013-2015 Annual Review Trial. The Order was imposed and signed by the Honorable Donald B. Hocker on September 9, 2015, which I, Charles T. Brooks, III, received on September 14, 2015.


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September 15, 2015

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2015-001955

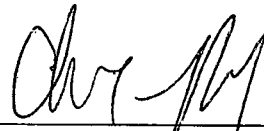
Ronald Owen, ... Appellant,

v.

State of South Carolina, ... Respondents.

CERTIFICATE OF COUNSEL

The undersigned certified that this Record on Appeal complies with Rule 267,
SCRAP.



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