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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

ORIGINAL

Appeal from Saluda County

Honorable William P. Keesley, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF JASON BODIE,

APPELLANT

APPELLATE CASE NO. 2016-001043

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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1 State of South Carolina
2 County of Saluda

Court of Common Pleas

3
4
5 In the Matter of the)
Care and Treatment of)
6 Jason Bodie,)
7 _____ Respondent.)

Transcript of Record
14-CP-41-00143

8
9
10 April 25 & 26, 2016
11 Saluda, South Carolina

12 B E F O R E:

13 The Honorable William P. Keesley, Judge; and a
14 jury.

15
16 A P P E A R A N C E S:

17 Aimee J. Zmroczek, Esquire
Attorney for the Respondent

18 James G. Bogle, Jr., Esquire
19 Attorney for the State

20
21
22
23
24 Stacy L. Sheppard, RPR
25 Circuit Court Reporter

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1 (The following proceedings were held on
2 April 25, 2016.)

3 **THE COURT:** Members of the jury panel, please
4 give me your attention. As I mentioned to you
5 before the break, what we're going to do now is
6 we're going to turn our attention to a particular
7 case. And I'm going to be asking you questions, and
8 if the question applies to you or you have doubt
9 about whether it applies to you, you will need to
10 stand, similar to the matter that you did in the
11 previous proceeding. You will need to listen
12 carefully to the question I ask of you. After you
13 identify yourself, you need to answer the question
14 that I ask of you.

15 There may be times when I limit your response.
16 I may say, for example, just to answer a question
17 yes or no. If you feel, for any reason, you cannot
18 answer the question within the limitation I place on
19 you, let me know that and come down front and give
20 me the full answer, don't just blurt out your
21 answer, otherwise you defeat the purpose of my
22 limitation.

23 On some of these questions, I probably will not
24 give you an option, we will talk about them on the
25 side. But you'll need to identify yourself so that

1 I'll know who is -- who the question applies to or
2 who may have doubt about whether the question
3 applies to him or her.

4 Remember throughout all of this --

5 (Jurors enter the courtroom.)

6 **THE COURT:** Ladies and gentlemen, as I told you
7 before the break, we're going to turn our attention
8 now to a particular case and I'm going to be asking
9 you questions directed to that case. I had two
10 jurors come in late, so I've got to go through the
11 whole thing again.

12 These questions are designed to elicit from you
13 any possible connection you may have with the case
14 or anybody in it, whether you or someone similar to
15 you has ever been through an experience that might
16 affect your ability to be fair and impartial in the
17 particular case. It relates to questions that are
18 designed to elicit from you any beliefs or strongly
19 held beliefs you may have that might affect your
20 ability to be fair and impartial as a juror in the
21 case.

22 Now, what will happen is that I will pose these
23 questions to you. If you have doubt about whether
24 they apply to you or you feel like the question may
25 apply to you, you need to discuss it with me and let

1 me resolve the doubt. If I ask you things you
2 prefer to discuss more privately, just let me know
3 you want to come down front, we'll talk about it on
4 the side.

5 There will be times when I limit your
6 responses. I may say just to answer a question yes
7 or no. If you cannot answer the question fully
8 within the limitation I place on you, please come
9 down front, give me the full answer, don't blurt it
10 out in front of everybody, otherwise you defeat the
11 purpose of my limitation.

12 Also, there may be situations where I do not
13 give you an option, I may tell you that we're going
14 to discuss that particular question on the side, and
15 we'll talk about it over here on the side.

16 Now, ladies and gentlemen, I explained to you
17 at the outset that this is civil court. This is not
18 criminal court --

19 **MS. ZMROCZEK:** These are not jurors, Your
20 Honor. These are family members.

21 (Pause.)

22 **THE COURT:** And I want to make sure you
23 understand that I did not tell you anything
24 previously that was not true. This is civil court,
25 but the particular case that you're going to be

1 deciding, if you're on this jury, is a case that's
2 brought under what's called the Sexually Violent
3 Predator Act.

4 Now, what this is is a civil proceeding. And a
5 sexually violent predator is defined as a person who
6 has been convicted previously of a sexually violent
7 offense as defined under our state statutes. And
8 there's an allegation by the State that that person
9 suffers from a mental abnormality or a personality
10 disorder that makes him likely to engage in acts of
11 sexual violence if not confined to a secure facility
12 for long-term control, care and treatment.

13 So what the jury is going to be asked to
14 determine is whether the State has proven in this
15 proceeding that the Respondent is a sexually violent
16 predator; and if so, then the determination will be
17 one which involves commitment to the Department of
18 Mental Health for control, care and treatment until
19 such time as the person's abnormality or personality
20 disorder has so changed that it is safe to release
21 the person under conditions that are set forth in
22 the statute which include various reviews and things
23 of that nature, which don't really concern you as
24 jurors.

25 So you're going to be asked, if you're on this

1 jury, to make a determination of whether the State
2 has proven -- the jury is going to be asked to
3 determine whether the State has proven in this
4 proceeding that the Respondent is a sexually violent
5 predator under the act. And the proof, even though
6 this is civil court, it must be proven, my
7 understanding is, beyond a reasonable doubt.

8 So this case is captioned as being In the
9 Matter of the Care and Treatment of Jason Bodie, who
10 is the Respondent. I'll be asking you questions.
11 If any of these questions apply to you or you have
12 doubt about whether they apply to you, please stand
13 and follow the procedure that I outlined for you
14 earlier.

15 Now, Mr. Bodie, I need for you to please stand
16 and face in that direction so the jury can see you,
17 please.

18 Thank you very much, sir. You may be seated.

19 Is there any member of the jury panel who is
20 related by blood or marriage or connected by
21 employment with the Respondent in this case,
22 Mr. Jason Bodie; if so, please stand?

23 (There was no response.)

24 **THE COURT:** Mr. Bodie will be represented by
25 Ms. Aimee Zmroczek.

1 (Ms. Zmroczek stands.)

2 **THE COURT:** Thank you, ma'am.

3 Now, do any of you work in any capacity for the
4 State of South Carolina or any prosecuting entity or
5 for the Department of Mental Health; if so, please
6 stand?

7 (Juror stands.)

8 **JUROR:** If you work --

9 **THE COURT:** What's your name, sir?

10 **JUROR:** Justin Alveshire. If you work on these
11 facilities, does that matter? We do a lot of
12 contract work there.

13 **THE COURT:** Juror number 4, Mr. Alveshire. You
14 work in heating and air conditioning?

15 **JUROR:** Yes, sir.

16 **THE COURT:** And you work on the sites of some
17 of the facilities?

18 **JUROR:** Bryan Psychiatric being one, that's an
19 example.

20 **THE COURT:** Is there anything at all about your
21 employment or your experiences at any of these
22 facilities that might affect your ability to be a
23 fair and impartial juror in this case?

24 **JUROR:** Other than seeing patients there.

25 **THE COURT:** Is that a yes or a no?

1 **JUROR:** I don't know.

2 **THE COURT:** Okay. I'm not trying to be coy,
3 but only you would know. Is there anything about
4 your experiences or your occupation that might
5 affect your ability to be a fair and impartial juror
6 in this case?

7 **JUROR:** No. No, sir.

8 **THE COURT:** Do you have any doubt in your mind
9 about it?

10 **JUROR:** No, sir.

11 **THE COURT:** All right. Thank you, sir.

12 Juror number 4 is eligible to serve.

13 The State will be represented by Mr. James G.
14 Bogle, Jr. He is with the Attorney General's Office
15 in South Carolina.

16 (Mr. Bogle stands.)

17 **THE COURT:** Thank you, Mr. Bogle.

18 Do any of you know anything at all about this
19 matter? Do you know anything, to the best of your
20 knowledge, related to this particular civil action
21 or any prior criminal allegations or any prior
22 criminal matters; if so, please stand?

23 (There was no response.)

24 **THE COURT:** The State intends to call Dr. Marie
25 E. Gehle, who is the psychiatrist for the South

1 Carolina Department of Mental Health. Is Dr. Gehle
2 here? Would you please stand and face the jury so
3 the jury can see you?

4 Thank you, ma'am. You may be seated.

5 Is there any member of the jury panel who is
6 related by blood or marriage or connected by
7 employment with Dr. Marie E. Gehle; if so, please
8 stand?

9 (There was no response.)

10 **THE COURT:** Let me see the lawyers up here.

11 (Whereupon, a bench conference was held off
12 the record, in the presence of the jury panel, but
13 out of the hearing of the jury panel.)

14 **THE COURT:** All right. Ladies and gentlemen,
15 to the best of your knowledge, are any of you
16 related in any way or connected by employment with

17 Minor 1 who was born in of 1994, or

18 Minor 2 , who was born in

19 of 1990; if so, please stand?

20 (There was no response.)

21 **THE COURT:** All right. I've asked you if you
22 are related by blood or marriage or connected by
23 employment with various people, if you have any
24 association with any prosecuting agency or
25 Department of Mental Health. What I need to do now

1 is expand that out as far as I can and ask you if
2 you have any connection of any kind with anybody in
3 this matter, that is if you are friends, if you are
4 people that attend the same church or civic club, if
5 you're current or former clients of the Respondent's
6 attorney, if you've ever been involved in a case
7 involving the Attorney General's Office in any
8 capacity, if you've ever been involved in a case on
9 the opposite side of one of these attorneys or
10 anyone with whom they're affiliated, if you have any
11 connection of any kind with the Department of Mental
12 Health, those kinds of things, you need to tell us
13 about it, please stand.

14 (Juror stands.)

15 **THE COURT:** Your name, sir?

16 **JUROR:** Juror number 8, Theron Bailey.

17 **THE COURT:** All right. Mr. Bailey, what's your
18 situation?

19 **JUROR:** Yes, sir. Bailey's Music Company
20 operates coin-operated devices. And there were some
21 machines, the legality of certain machines, whether
22 they were poker machines or not, and I've been in
23 several cases with the AG's office with that.

24 **THE COURT:** Is there anything at all about your
25 experience in those matters or anything whatsoever

1 about the involvement of the Attorney General's
2 Office in this case that might affect your ability
3 to be a fair and impartial juror?

4 **JUROR:** No, sir.

5 **THE COURT:** Do you have any doubt whatsoever?

6 **JUROR:** No, sir.

7 **THE COURT:** Thank you, sir.

8 Mr. Bailey is juror number 8. He's eligible to
9 serve.

10 Anybody else?

11 (There was no response.)

12 **THE COURT:** Do any of you have any specialized
13 training or any experience working in fields of
14 psychiatry, psychology or the law; if so, please
15 stand?

16 (There was no response.)

17 **THE COURT:** Have any of you formerly worked in
18 any of those fields; if so, please stand?

19 (There was no response.)

20 **THE COURT:** Have any of you ever been involved
21 in any program such as a prison ministry program or
22 prison outreach program or any other program
23 involving contact with people who are incarcerated;
24 if so, please stand?

25 (Juror stands.)

1 **THE COURT:** Your name, sir?

2 **JUROR:** Gary Beihl, number 10.

3 **THE COURT:** Mr. Beihl, what's your situation?

4 **JUROR:** My church did a service at a prison one
5 time, I think it was Kirkland. It was a prison
6 ministry's outreach.

7 **THE COURT:** All right. Is there anything at
8 all about your experience, your relationship with
9 the church that would affect your ability or may
10 affect your ability to be a fair and impartial juror
11 in this case?

12 **JUROR:** No, sir.

13 **THE COURT:** Do you have any doubt in your mind?

14 **JUROR:** No, sir.

15 **THE COURT:** Thank you, sir.

16 Mr. Beihl, is juror number 10. He's eligible
17 to serve.

18 Anybody else?

19 (There was no response.)

20 **THE COURT:** Now, folks, as you probably have
21 gathered, this is in the nature of a civil
22 commitment proceeding. There are similar types of
23 proceedings that usually occur in probate court and
24 those -- the examples of those are where someone has
25 a mental illness and is committed for treatment

1 through a probate proceeding, through a court
2 proceeding where somebody suffers from some
3 addiction and is involuntarily committed for
4 treatment through a court proceeding.

5 If any of you have ever been involved in such a
6 proceeding, I need you to tell me about it, either
7 yourself or some family member or somebody very
8 close to you involved in any way in that proceeding,
9 such a proceeding, I need you to tell me about it,
10 we'll talk about it on the side; if so, please
11 stand.

12 (There was no response.)

13 **THE COURT:** Do any of you know anything
14 whatsoever about -- I've already asked this, but I'm
15 going to repeat it. Do any of you know anything
16 whatsoever about the underlying allegation of a
17 sexual offense committed by Mr. Jason Bodie; if so,
18 please stand?

19 (There was no response.)

20 **THE COURT:** Now, ladies and gentlemen, what --
21 the procedure under the Sexually Violent Predator
22 Act, when we get to this point, it typically
23 involves, as I understand it is, in this case, a
24 situation where Mr. Bodie was previously convicted
25 of committing what is defined as a sexual offense

1 under our statute and he has been sentenced to a
2 criminal sentence. And what I need for you to tell
3 me is is there anything at all about the alleged
4 fact that Mr. Bodie was convicted of a sexual
5 offense and has completed his criminal sentence
6 related to that conviction that in any way prevents
7 you from being able to judge this case fairly and
8 impartially and serve as a juror on it; if so,
9 please stand?

10 (There was no response.)

11 **THE COURT:** Is there anything at all about the
12 nature of the case, as I've explained it to you, the
13 fact that it is alleged to involve a prior
14 conviction for a sexual offense and where the State
15 is attempting to declare Mr. Bodie to be a sexually
16 violent predator, is there anything whatsoever about
17 the nature of the case, the involuntary commitment
18 aspect of it, anything whatsoever that might affect
19 your ability to be a fair and impartial juror in
20 this case?

21 (Juror stands.)

22 **THE COURT:** Come down front, please.

23 The lawyers may join me on the side.

24 (Whereupon, the following bench conference
25 was held on the record.)

1 **THE COURT:** What's your name please.

2 **JUROR:** Kelly Williamson, juror number 139.

3 **THE COURT:** Ms. Williamson, you have some doubt
4 about your ability to be fair and impartial?

5 **JUROR:** Yes, sir. I have worked numerous
6 cases -- well, two in particular, with young
7 children that the father was convicted, served time,
8 released and then he, you know, was --

9 **THE COURT:** Reoffended?

10 **JUROR:** Yes, sir.

11 **THE COURT:** You work at a day care?

12 **JUROR:** I was the childhood director.

13 **THE COURT:** Okay. You're free to go. Thank
14 you.

15 139, Ms. Williamson, is excused from jury duty
16 and excused from this case.

17 (The bench conference was concluded.)

18 **THE COURT:** Anybody else?

19 (Jurors stand.)

20 **THE COURT:** We need to talk about this down
21 here.

22 (Whereupon, the following bench conferences
23 were held on the record.)

24 **THE COURT:** What's your name, ma'am?

25 **JUROR:** 78, Carol Sue McGuire.

1 **THE COURT:** Okay. Ms. McGuire, what's your
2 situation?

3 **JUROR:** I hadn't -- up in New Jersey with my
4 daughters, there was an issue, and I don't know if I
5 can be objective.

6 **THE COURT:** Okay.

7 **JUROR:** I'm sorry.

8 **THE COURT:** No, ma'am. That's why I asked the
9 question. Do you need any kind of slip for work to
10 certify you were up here to give your boss?

11 **JUROR:** No. He already knows.

12 **THE COURT:** All right. You're through with
13 jury duty. You're free to go. Thank you.

14 Ms. McGuire is juror number 78. She's set
15 aside on this case and excused from jury duty.

16 Yes, ma'am, what's your name?

17 **JUROR:** 65, Denise Jones.

18 **THE COURT:** Ms. Jones is 65.

19 You have some doubt about your ability to be
20 fair and impartial?

21 **JUROR:** I do. I'm a dental hygienist, and I've
22 been used several -- or once in a case for oral
23 manifestations for sexual abuse. I don't think I
24 can be fair.

25 **THE COURT:** Do you need any kind of slip for

1 work?

2 **JUROR:** No.

3 **THE COURT:** You're free to go. Thank you.
4 You're through with jury duty.

5 Ms. Jones is 65. She's set aside on this case.
6 She's excused from jury duty.

7 (The bench conferences were concluded.)

8 **THE COURT:** Anybody else?

9 (There was no response.)

10 **THE COURT:** All right. Ladies and gentlemen,
11 the people who will be chosen on this jury will be
12 placed under a different oath. And under that oath,
13 those jurors will be promising us that they will
14 decide the case based on the evidence and the law.
15 And the jury will be instructed that if they have
16 conflicting ideas about what the law is or what it
17 should be, they have to abandon those.

18 Now, do any of you hold such strong beliefs
19 related to the sentence that a sex offender should
20 serve or such strong beliefs that alleged sex
21 offenders should not be freed after serving their
22 criminal sentences that it might affect your ability
23 in some way to serve as a fair and impartial juror
24 on the case, you need to let me know about that now?

25 (Jurors stand.)

1 **THE COURT:** Anybody else?

2 (There was no response.)

3 **THE COURT:** Lawyers may join me on the side.

4 (Whereupon, the following bench conferences
5 were held on the record.)

6 **THE COURT:** What's your name, please?

7 **JUROR:** Gena Cogswell, number 22.

8 **THE COURT:** Ms. Cogswell is 22.

9 All right. Ms. Cogswell, by responding
10 affirmatively to that, I have to set you aside.
11 You're free to go. Thank you.

12 Ms. Cogswell is juror number 22. She's set
13 aside from the trial of the case. She's released
14 from her jury duty.

15 Your name, please?

16 **JUROR:** Patricia Whitten. I think it's 132 or
17 133.

18 **MR. BOGLE:** 133.

19 **THE COURT:** Okay. Ms. Whitten.

20 **JUROR:** My daughter got raped when she was 12
21 years old --

22 **THE COURT:** You don't have to tell me.

23 **JUROR:** Okay.

24 **THE COURT:** You can if you want, but you don't
25 have to.

1 **JUROR:** She got raped when she was 12 years
2 old, and I just can't be fair about it.

3 **THE COURT:** That's understandable. I'll set
4 you aside on this case and you're through with jury
5 duty.

6 Ms. Whitten's 133 and she's set aside on the
7 trial of this case. She's excused from jury duty.

8 (The bench conferences were concluded.)

9 **THE COURT:** Anybody else?

10 (There was no response.)

11 **THE COURT:** Have any of you, any of your
12 immediate family members, anyone very close to you
13 whether related or not who has ever been accused of
14 committing a sexual offense or has been the victim
15 of a sexual assault of any kind? We'll talk about
16 it on the side. If that applies to you, please
17 stand now.

18 (There was no response.)

19 **THE COURT:** Have any of you formed or -- if you
20 have any children under the age of 11, would you
21 please stand and let me know that?

22 (Jurors stand.)

23 **THE COURT:** Mr. Alveshire is 4.

24 **JUROR:** Christopher Alveshire.

25 **THE COURT:** How old is your child or children?

1 **JUROR:** Two.

2 **THE COURT:** Two years old?

3 **JUROR:** Yes, sir.

4 **THE COURT:** Would having a small child in any
5 way affect your ability to be a fair and impartial
6 juror in this case to the best of your knowledge?

7 **JUROR:** Probably.

8 **THE COURT:** Okay. Do you need any kind of slip
9 for work?

10 **JUROR:** No, sir.

11 **THE COURT:** All right. You're free to go.
12 You're through with jury duty. Thank you.

13 Juror number 4 is set aside on this trial.
14 Your name, please?

15 **JUROR:** Fuller, 44.

16 **THE COURT:** Ms. Fuller is juror number 44.
17 How old is your child or children?

18 **JUROR:** Seven.

19 **THE COURT:** Is there anything at all about
20 having a small child that, to the best of your
21 knowledge, would affect your ability to be fair and
22 impartial in this case?

23 **JUROR:** Yes.

24 **THE COURT:** Do you need any kind of slip for
25 work?

1 **JUROR:** No.

2 **THE COURT:** You're free to go. Thank you.

3 Ms. Fuller is 44. She's set aside.

4 On the aisle, your name, please?

5 **JUROR:** Amber Alewine.

6 **THE COURT:** Juror number 2, Ms. Alewine.

7 How old is your child or children?

8 **JUROR:** Five years old.

9 **THE COURT:** To the best of your knowledge, is
10 there anything at all about having a small child
11 that might affect your ability to be a fair and
12 impartial juror in the case?

13 **JUROR:** Yeah.

14 **THE COURT:** Ms. Alewine is juror number 2.
15 She's set aside on this trial.

16 You're excused from jury duty. Thank you,
17 ma'am.

18 On the aisle.

19 **JUROR:** George Schumpert, juror number 108. I
20 have a two and a half year old and a three month
21 old.

22 **THE COURT:** Mr. Schumpert is 108.

23 To the best of your knowledge, is there
24 anything at all about having small children that
25 affects your ability to be a fair and impartial

1 juror in the case?

2 JUROR: No, sir.

3 THE COURT: Do you have any doubt in your mind?

4 JUROR: No, sir.

5 THE COURT: Thank you.

6 108 is eligible to serve.

7 In the blue, your name?

8 JUROR: Juror 49, Kelly Hall.

9 THE COURT: 49, Ms. Hall. How old is your
10 child or your children?

11 JUROR: Seven and five.

12 THE COURT: To the best of your knowledge, is
13 there anything at all about having small children
14 that affects your ability to be a fair and impartial
15 juror in this case?

16 JUROR: Probably.

17 THE COURT: 49 is set aside.

18 You're free to go, ma'am. Thank you.

19 Yes, sir, in the green.

20 JUROR: Juror number 5, William Amick.

21 THE COURT: Mr. Amick, how old is -- is number
22 5. How old is your child or children?

23 JUROR: Four and nine.

24 THE COURT: To the best of your knowledge, is
25 there anything at all about having small children

1 that affects your ability to be a fair and impartial
2 juror in this case?

3 **JUROR:** Yes, sir.

4 **THE COURT:** I'll set you aside. Thank you,
5 sir. You're free to go.

6 Juror number 5 is set aside on this trial and
7 excused from jury duty.

8 Yes, ma'am, in the stripes.

9 **JUROR:** Number 16, Shandra Brannon.

10 **THE COURT:** Ms. Brannon is juror number 16.
11 How old is your child or children?

12 **JUROR:** Eight.

13 **THE COURT:** Anything at all about having a
14 small child that affects your ability to be fair and
15 impartial as a juror in the case?

16 **JUROR:** Absolutely.

17 **THE COURT:** I'll set you aside on this trial.
18 You're free to go, ma'am. Do you need any kind of
19 slip for work?

20 **JUROR:** No, sir.

21 **THE COURT:** 16 is excused from the trial of the
22 case.

23 In the yellow shirt, your name, sir?

24 **JUROR:** Ricky Myers, juror number 88.

25 **THE COURT:** 88, Mr. Myers.

1 How old is your child or children?

2 **JUROR:** Seven, six, five and four.

3 **THE COURT:** Seven, six, five and four. Is
4 there anything at all about your having small
5 children that affects your ability to be a fair and
6 impartial juror in this case?

7 **JUROR:** It absolutely does.

8 **THE COURT:** Do you need any kind of slip for
9 work?

10 **JUROR:** No, sir.

11 **THE COURT:** Did you say yes or no? I'm sorry.

12 **JUROR:** No, sir.

13 **THE COURT:** You're free to go.

14 88 is excused from jury duty.

15 Your name, please, ma'am?

16 **JUROR:** Jessica Jackson, 61.

17 **THE COURT:** Ms. Jackson is 61.

18 And how old is your child or children, ma'am?

19 **JUROR:** Ten.

20 **THE COURT:** Is there anything at all about
21 having a small child that affects your ability to be
22 a fair and impartial juror in this case?

23 **JUROR:** Yes.

24 **THE COURT:** 61 is excused from jury service.
25 You're free to go, thank you.

1 And your name, sir?

2 **JUROR:** Theron Bailey, number 8.

3 **THE COURT:** Mr. Bailey is juror number 8.

4 And how old is your child or children?

5 **JUROR:** I have one that's under age 11 who's 9.

6 **THE COURT:** Is there anything at all about your
7 having a small child that affects your ability to be
8 a fair and impartial juror in this case?

9 **JUROR:** No, sir.

10 **THE COURT:** Have any doubt in your mind?

11 **JUROR:** No, sir.

12 **THE COURT:** Thank you.

13 Juror number 8 is eligible to serve.

14 Have any of you formed or expressed any
15 opinions about the case; if so, please stand?

16 (There was no response.)

17 **THE COURT:** Are any of you aware of any
18 interest, bias or prejudice that you might have for
19 or against the State, for or against Mr. Bodie, for
20 or against anyone or any entity involved in the
21 case; if so, please stand?

22 (There was no response.)

23 **THE COURT:** Can each of you give both
24 Mr. Bodie, the Respondent, and the Petitioner, the
25 State of South Carolina, a fair and impartial trial?

1 If you know of any reason why you cannot, please
2 stand now.

3 (There was no response.)

4 **THE COURT:** Further questions from the State?

5 **MR. BOGLE:** No, Your Honor.

6 **THE COURT:** Further questions from the
7 Respondent?

8 **MS. ZMROCZEK:** Your Honor, if we may approach?

9 **THE COURT:** Mr. Bogle.

10 (Whereupon, a bench conference was held off
11 the record, in the presence of the jury panel, but
12 out of the hearing of the jury panel.)

13 **THE COURT:** Ms. Cockrell, juror number 132, you
14 indicated that you're married to the chief deputy of
15 Saluda County Sheriff's Department?

16 **JUROR:** Yes, sir.

17 **THE COURT:** If evidence is presented during
18 this case related to a prior arrest of Mr. Bodie
19 that involved the Saluda County Sheriff's
20 Department, would that in any way affect your
21 ability to be fair and impartial?

22 **JUROR:** Yes, sir.

23 **THE COURT:** I'll set you aside. Do you need
24 any kind of slip for work?

25 **JUROR:** Yes, sir.

1 **THE COURT:** Check with the Clerk's staff down
2 here, please.

3 132 is excused from jury duty and set aside on
4 this case.

5 Further questions from the Respondent?

6 **MS. ZMROCZEK:** Nothing further.

7 **THE COURT:** All right. Anything else from the
8 State in light of that question, Mr. Bogle?

9 **MR. BOGLE:** No, Your Honor. Thank you.

10 **THE COURT:** Thank you. The jury panel is
11 qualified.

12 Is it four and four strikes?

13 **MR. BOGLE:** Four and four.

14 (Pause.)

15 **THE COURT:** All right. Ladies and gentlemen,
16 since this is civil court, the way we select juries
17 is that the Clerk will put your names now --
18 instruct the computer to put your names in a random
19 order and then that list will be given to the
20 attorneys. I usually give them about 20 minutes to
21 look it over, 15 to 20 minutes. If they finish
22 sooner, then we'll start back sooner.

23 And what they have to do, they may be perfectly
24 happy with all the names on the list, but from the
25 first 20, they're going to have to strike four each

1 to get us to 12.

2 And then, depending on the number above 20 that
3 we have, from 21, 22 and 23 on that list, they'll
4 strike one each to give us an alternate. And if we
5 have enough numbers, then from 24, 25 and 26 on that
6 list, they will strike a second alternate. So each
7 will get one strike. So that's what we're going to
8 be waiting on.

9 We're going to be at ease in just a few
10 minutes. You are not to discuss this case in any
11 way, don't talk about the people involved, don't
12 talk about the subject matter of the case, don't
13 talk about the case in any way with anybody,
14 including your fellow jurors.

15 All right. The jury panel is qualified.
16 Madame Clerk, give us a jury.

17 All right. Folks, we'll be at ease. If you
18 want to step outside, you may, but I need you back
19 in place in about ten minutes. So, please, don't
20 come straggling in like we just did. It means
21 you're going to be here longer. All right. Thank
22 you.

23 (Brief recess.)

24 (State's Exhibit Number 1, indictment and
25 sentence sheet, marked for identification.)

1 **THE COURT:** All right. We use the numbers in
2 the left-hand margins and not the juror numbers as
3 we proceed to strike.

4 Madame Clerk.

5 (The jury was duly impanelled at 12:54 P.M.)

6 **THE COURT:** Ladies and gentlemen, if you hear
7 your name called, please gather your personal
8 belongings, come down front and have a seat in the
9 jury box.

10 (The jury was seated.)

11 **THE COURT:** Are there any matters to take up,
12 including composition of the panel prior to the jury
13 being sworn, from the State?

14 **MR. BOGLE:** No, Your Honor. Thank you.

15 **THE COURT:** From the Respondent?

16 **MS. ZMROCZEK:** No, Your Honor.

17 **THE COURT:** Thank you.

18 All right. Ladies and gentlemen of the jury, I
19 need to talk with the attorneys and get my bearings
20 on the pretrial matters that I have to address. A
21 judge has to address pretrial matters in every case
22 and we don't usually talk about this until now. So
23 what I'm going to do in just a moment is I'm going
24 to ask you to step in the jury room while I talk to
25 them, find out how we expect to proceed with the

1 trial as far as the jury's concerned, and then I'll
2 bring you back out here and let you go to lunch,
3 you'll be on your own for lunch, and I'll tell you
4 what time I need you back.

5 Now, do not discuss this case in any way among
6 yourselves, don't talk about the people involved,
7 don't talk about the type of case it's alleged to
8 be, don't talk about the case at all. If you have
9 cell phones, do not access them, do not call
10 anybody, do not look up any law, do not do word
11 searches or name searches during the break. And
12 I'll give you further instructions on all of these
13 things when you come back in later.

14 Now, while you're back there, without
15 discussing the case, I want you to choose from among
16 the first 12 of you who you want to be your
17 foreperson. You're perfectly equipped to do the job
18 that you're going to be asked to do. You're just
19 going to be asked to listen attentively, follow the
20 law, determine the facts, apply the facts to the law
21 and make your decision, your verdict. In this case,
22 you'll be answering a question for us, it's called
23 an interrogatory, but that's a fancy legal word for
24 a question. You're going to be asked to answer a
25 question.

1 Now, the alternates are not eligible to serve
2 as foreperson. So you two ladies, you keep those
3 seats throughout the trial on the back row there,
4 either one is fine, either seat's fine. But from
5 among the 12 of you in the first two rows, I need
6 for you to choose who you want to be your
7 foreperson. I need you to write that on a piece of
8 paper with the juror's number on it and give that to
9 the bailiff. If you don't have a piece of paper,
10 they'll get you one.

11 Okay. I'll get back to you as quickly as I
12 possibly can. If you'll follow that lady right
13 behind you there, she'll take you in the jury room.

14 (The jury retires to the jury room.)

15 **THE COURT:** Members of the jury, if you were
16 not selected on this case, as I told you at the
17 outset, I only have the one case that requires a
18 jury. So in a moment, I'm going to let you go.

19 I want to thank you very much for your service.
20 They will mail you a little check. It'll be a very
21 small check. This is a service and we know that.
22 You're not going to be compensated anywhere near
23 what you're worth.

24 If you need a slip for work, if you'll check
25 with the Clerk's staff, they'll get that for you,

1 just check with them before you go. You're free to
2 leave if you wish to leave. If you want to stay,
3 you're welcome to stay, but you're through with jury
4 duty.

5 (The remaining jury panel was excused.)

6 **THE COURT:** Last week I received an e-mail from
7 the Attorney General's Office indicating there was a
8 motion in limine related to -- I assume it's a
9 motion in limine -- anyway, there was a memorandum
10 about allowing the details of the criminal sexual
11 acts and going beyond the sex, race and age of the
12 purported victims. There was a second category
13 dealing with evidentiary matters related to exhibits
14 that will be introduced or intended to be introduced
15 by the State. And there was a discussion about
16 prior nonsexual criminal convictions. Does he have
17 any of those?

18 **MR. BOGLE:** I don't believe so. I think he
19 may -- none that are really relevant in this matter,
20 Your Honor.

21 **THE COURT:** Okay. Then that's all I need to
22 know.

23 **MR. BOGLE:** Prior nonsexual convictions, no.

24 **THE COURT:** All right. And I was told by my
25 law clerk that the defense has some motions in

1 limine. So what motions do I have to decide? If
2 y'all can just tell me what they are without arguing
3 them.

4 **MR. BOGLE:** Well, from the State, you've got
5 two. The first one is to prohibit the defense from
6 arguing or questioning about the "where" that he
7 might go. As Your Honor knows, the SVP treatment
8 unit is behind the wall in Broad River and we try to
9 keep that out.

10 The second motion in limine by the State is
11 about treatment, to prohibit any -- the defense from
12 going into question or inquiries about the type of
13 treatment he might get. I'm not going to expand on
14 those until you're ready, but that's what the two
15 motions are. The copies should be in the file and
16 in the packet that I e-mailed to your law clerk.

17 **THE COURT:** And what motion in limine from the
18 Respondent?

19 **MS. ZMROCZEK:** One, Your Honor, is just a
20 matter of -- is to limit the things that Mr. Bogle
21 says in opening. He and I have done these a million
22 -- it feels like a million times. Just he refers
23 to, you know, he does a lot of bolstering, we don't
24 refer all cases, you know, the MDT meetings are open
25 to everyone. There are things that are -- I think

1 that bolster the case and some things that, like the
2 MDT is not open to everyone, that are not true, that
3 I just want to limit.

4 And then I have an issue, Your Honor, with them
5 going into the nol prossed conviction. I have a
6 motion to keep that out.

7 And then, Your Honor, he has marked as Exhibit
8 1 what we handed up when Your Honor was looking at
9 the -- it was the indictment, as well as the
10 affidavit. I feel like the indictment -- either the
11 arrest warrant affidavit or the indictment can go
12 in, but to have, and I'm okay with the sentencing
13 sheet, but to have both is cumulative. They say the
14 same thing, and it just repeats over and over acts
15 that I think are prejudicial -- highly prejudicial.
16 So that information is cumulative.

17 So if he wants to have the indictment and the
18 sentencing sheet or the arrest warrant and affidavit
19 and the sentencing sheet, I'm okay with one of
20 those, but not all three, if that makes sense.

21 **MR. BOGLE:** We're fine with the indictment and
22 the sentencing sheet, Your Honor. I'll take the
23 warrant and the affidavit out.

24 **THE COURT:** Do you know what she's talking
25 about about things you say in opening that she

1 considers to be improper bolstering?

2 **MR. BOGLE:** I think that's my cohort,
3 Mr. Morrow, that says those things. I don't believe
4 I do. I don't plan to, so that's --

5 **MS. ZMROCZEK:** Right. And if he doesn't plan
6 to, Your Honor, it's just some of the things, and I
7 think that Your Honor would recognize them and I
8 don't want to object in opening, but just, you know,
9 this is a program that we only -- only a few people
10 are selected for, I think that that's improper. I
11 think that things just relating to how the process,
12 how we got to this process, I think is improper.

13 **THE COURT:** All right.

14 **MR. BOGLE:** I think -- and, again, I'm not
15 going to talk about the MDT being open, but I mean,
16 the fact that what the General Assembly says,
17 they're after a certain class of people. I read the
18 statute to them in my opening argument, how this
19 statute intended -- the legislative intent for a
20 certain class of people.

21 **MS. ZMROCZEK:** But what it does, Your Honor, it
22 says, first, they get selected, then they get to the
23 MDT, then they have to be proven at the MDT, then
24 they get approved by this prosecutor review
25 committee. And what I think that does, Your Honor,

1 is just bolster, bolster, bolster, that -- but all
2 these ex -- all these lawyers and experts in this
3 field think that he's already an SVP, so that's how
4 we're here. And I believe that that's improper
5 bolstering as to why we're here.

6 I mean, the statute says what it says, but
7 that's not -- those aren't part of the elements, and
8 I don't think that that's proper. I think it's
9 highly prejudicial.

10 **MR. BOGLE:** I don't believe I go -- I don't
11 believe my style is to go into the preliminary
12 process, the MDT, the PRC review by the -- I mean,
13 in evidentiary arguments, I make that argument to
14 you, but not to the jury, the fact that MDT looked
15 at it and the PRC and the chief administrative judge
16 before we filed our petition, I don't do that with
17 them.

18 **THE COURT:** Well, I don't think you should.
19 I'm kind of ruling in the abstract as often in
20 limine motions are ruled within the abstract. It
21 sounds like both of you are saying that you're not
22 going into it.

23 **MR. BOGLE:** I think we are.

24 **THE COURT:** Just like for the same reason I
25 don't let Solicitors get up and talk about what a

1 grand jury did if there's an objection. You know,
2 that's just -- all they're doing there is try to
3 bolster the 18 people who have already looked at it
4 and they passed on it and it's going before you only
5 because of that. I just don't see where that has
6 anything to do with the trial jury's determination.

7 Now, with regard to prohibiting the defense
8 from questioning where the Respondent would go if he
9 is found to be a sexually violent predator, is that
10 something that I'm going to need to address?

11 **MR. BOGLE:** I don't know.

12 **THE COURT:** I'm asking her.

13 **MS. ZMROCZEK:** Your Honor, I mean, the only
14 thing that I do -- I mean, I think it's proper for
15 them to know that he's not going to a hospital --
16 he's not going to a hospital.

17 What I ask is that they're under the department
18 of DMH, but they're located behind the -- they're
19 located on the facilities of the prison center, and
20 I've done that in the past, just the location is on
21 Broad River Road, you have to drive through the
22 prison walls to get there. I understand that it's
23 run by DMH, but it's on SCDC grounds. And I think
24 that's important for the jury to know because the
25 way that it's encaptioned is that it's a treatment

1 hospital.

2 Oh, and the other thing is any information --
3 sometimes it comes out that, oh, it's an 18 to
4 24-month program, and I think that's come out
5 before, and that is absolutely not truthful. So I
6 hope that that does not come out. And I believe
7 that goes to the treatment, so I don't think that's
8 going to come out.

9 I know we're not going to ask about the
10 treatment, but I do want them to know that this
11 facility is not a hospital, it's on the prison
12 grounds and that they're not, you know, they're not
13 free to leave. I think that the jury needs to
14 understand what an involuntary civil commitment is.

15 **MR. BOGLE:** Judge, our position is it sounds
16 like we're in agreement on treatment. There's not
17 going to be questions about the type of treatment he
18 might get.

19 Do we agree on that?

20 **MS. ZMROCZEK:** Yes, we agree on that.

21 **MR. BOGLE:** Okay. That takes care of the
22 second motion in limine.

23 The first motion in limine, as Your Honor
24 knows, we've got to prove only two things: Has he
25 been convicted of the right kind of crime and does

1 he have the mental abnormality or the personality
2 disorder that makes him likely to reoffend unless
3 he's confined for long-term care and treatment?

4 Now, confined for long-term care and treatment
5 means what it says, he's placed somewhere and can't
6 get out until they say he is.

7 But getting to where though, the actual
8 facility they use for most of these guys is located
9 on the department of corrections property. Now, the
10 fact that it's at a prison, behind the wall, being
11 punished, that suggests punishment. This has been
12 -- our courts have said over and over this is a
13 civil commitment process for treatment. So it's not
14 our intention to ask where the location is.

15 And I think the "where", the fact that it's
16 behind a prison wall, would distract the jury. In
17 fact, it would unfairly prejudice the State's case.
18 It would take -- it would move the jury away from
19 what their job is to do, has he been convicted of
20 the right kind of crime and does he have a mental
21 condition that's so bad he can't control himself?
22 That's it. Anything else is beyond our burden of
23 proof. So we think it will be prejudicial to talk
24 about the "where" and will distract the jury from
25 what the case is about.

1 **THE COURT:** Anything else?

2 **MS. ZMROCZEK:** Nothing.

3 **THE COURT:** The statute I understand reads,
4 Secure facility. So it can be brought out that he
5 will be in a secure facility, that he's not free to
6 leave. But what facility, where it is located,
7 things of that nature have no significance to the
8 jury's determination in my view, and the only reason
9 for going into them would be to try to create
10 some...

11 **MS. ZMROCZEK:** I'm just making a constitutional
12 argument, Your Honor.

13 **MR. BOGLE:** Thank you, Your Honor.

14 **THE COURT:** I'm sorry. Go ahead.

15 **MS. ZMROCZEK:** I'm sorry. Obviously, I'm
16 making a constitutional argument, so that's why --
17 I'll be -- but I understand that I'm not to say it's
18 on the prison grounds.

19 **THE COURT:** You can bring out it's a secure
20 facility, he's not free to leave, his movements are
21 controlled, that sort of thing. I don't have any
22 problem with that because that's in the statute. It
23 says he's to be -- the State's got to prove that he
24 needs to be in a secure facility, so that's where he
25 would go if the State proves this case. But where

1 it is, the address, that it's on a campus where
2 there are prisons, none of that really matters to a
3 jury -- a jury's determination.

4 Have I dealt with all of them?

5 **MR. BOGLE:** Yes, sir. I think that's it,
6 Judge.

7 **MS. ZMROCZEK:** I believe so, Your Honor.

8 **THE COURT:** All right. Is there any
9 restriction on when the doctor is available to
10 testify?

11 **MR. BOGLE:** Dr. Gehle has been subpoenaed for
12 two days. And I -- what I anticipate -- when you
13 bring the jury back, opening arguments, I'll call
14 Dr. Gehle. She's the State's only witness, so I
15 would anticipate we'll be done with her testimony
16 today. The State does not -- there's a possibility
17 we might call Dan Lake from Probation and Parole to
18 testify about where he'll go if he gets released,
19 but I may not. I may be able to cover that with
20 Dr. Gehle because she's researched that issue
21 herself.

22 So the State has one witness. I would think
23 testimony would be done today if we start at say
24 about 2:00.

25 **THE COURT:** We're not going to start at 2:00.

1 **MS. ZMROCZEK:** And, Your Honor, I believe we
2 did have one more issue about the nol pros
3 conviction, which we have --

4 **THE COURT:** Well, is the expert going to rely
5 on that in her opinion?

6 **MR. BOGLE:** Part of her work is to look at
7 everything he's been charged with of all types,
8 certainly focus on the conviction, which is for a
9 sexually violent crime, but he was also charged with
10 another sexually violent crime involving another
11 victim and that case was nol prossed. And these
12 experts will testify it's necessary to look at
13 everything for them to form their opinion.

14 Now, this came before our Supreme Court -- this
15 is in our memo of law, Your Honor, and I can pass
16 up a hard copy if you need one.

17 **THE COURT:** I've read it.

18 **MR. BOGLE:** In the Matter of Care and Treatment
19 of Ettel, a 2008 case, the circuit judge admitted,
20 the court said properly, Dr. Pam Crawford's
21 testimony regarding prior sexual offenses and a
22 prior nonsexual conviction, murder conviction, and
23 some of the sexual offenses have not resulted in
24 convictions. And the deal was she relied on them in
25 evaluating his need for and likely treatment and the

1 fact that it was a pattern. And that's what
2 Dr. Gehle will testify is she has to look at all
3 these things to develop her expertise as to whether
4 or not there's a pattern of behavior and whether or
5 not he can or cannot control himself.

6 And now the fact that the charge was nol
7 prossed, she'll say that, that certainly goes to the
8 weight for the jury, but the fact that it exists and
9 is a formative part of her opinion, the basis for
10 her opinion, has been approved by our Supreme Court
11 in the Ettel case which came out in -- I'm sorry --
12 the Court of Appeals in 2008.

13 **THE COURT:** Yes, ma'am.

14 **MS. ZMROCZEK:** And my issue, Your Honor, is
15 this: I understand that she relies on it, so when I
16 go to cross-examine her, part of my job, especially
17 because it goes to the weight, is to say, okay, so
18 you don't know why it was nol prossed; was it nol
19 prossed because it wasn't an actual allegation? And
20 then, Your Honor, I get objections because, oh, she
21 doesn't know that. And that's -- then I'm
22 hamstrunged, Your Honor, because she's talking about
23 something that we don't know why it was nol prossed.

24 If it was nol prossed because it was part of a
25 deal, that's different than if it's nol prossed

1 because the victims wouldn't cooperate or there
2 wasn't enough evidence to sustain that conviction.

3 And so my concern is that all they're hearing
4 -- I mean, they're already going to hear some things
5 that people should not have to hear about, and now
6 we're throwing another one that's been nol prossed.
7 And unless they can tell us that, you know, it was
8 nol prossed because -- I mean, I do think it matters
9 as to the reason and I think I should be able to
10 explore that. And if she doesn't know those
11 answers, then I don't think she can properly rely on
12 that to form her testimony. If it was nol prossed
13 because they couldn't prove it, then she shouldn't
14 be able to rely on it as part of her -- as part of
15 her evaluation.

16 **THE COURT:** Anything else?

17 **MR. BOGLE:** Yes, Your Honor. Dr. Gehle
18 reminded me, and I apologize for not seeing it
19 before, as part of her evaluation in meeting with
20 Mr. Bodie, he admitted both offenses. So the fact
21 that it was nol prossed for whatever reason is not
22 really relevant to what we're here about today. The
23 fact that a charge was brought, how it got disposed
24 of doesn't matter. The important thing is he
25 admitted to both crimes.

1 There have been situations, not in the
2 commitment level, Your Honor, but at the probable
3 cause level when we had that first hearing in front
4 of the court, where our Supreme Court has ruled that
5 whether a case was nol prossed or plea bargained or
6 limited sentence or an agreed upon cap or something
7 like that is not relevant to the consideration of
8 whether or not a person is a sexually violent
9 predator.

10 Now, the cases that say that are in the
11 probable cause hearing stage not the commitment
12 stage, but I think the -- I think the logic applies.
13 The question is, and she'll develop this, was he
14 charged, he talked about it, he admitted these
15 crimes, not just the one he was convicted of, but
16 also the one that was nol prossed. In Ettel --
17 again, I go back to the Ettel case for offenses not
18 resulting in convictions.

19 **THE COURT:** Anything else?

20 In my view, in order for the State to be able
21 to put up its case, if -- if he puts up an expert
22 and the expert testifies that she relies upon that
23 information in forming her opinions, then she is
24 allowed to discuss both cases which have resulted in
25 a criminal conviction previously and cases which

1 have not resulted in a previous criminal conviction.

2 The remedy is cross-examination. Part of the
3 remedy -- part of the protections to the Respondent
4 would be cross-examination. And in order for
5 effective cross-examination to take place, it's
6 difficult for me to envision how I would prevent you
7 from questioning her about what her knowledge is
8 about those things. If she doesn't know, then I
9 think the jury has to be able to evaluate that in
10 assessing whether her opinion is based on a proper
11 foundation or something that's improper.

12 So the State can go into those matters which
13 did not result in criminal convictions and I'll just
14 have to rule on any objection that might arise as
15 they arise. All of these are in limine rulings
16 which means that you need to raise them during the
17 presentation to preserve them.

18 Is that it?

19 **MS. ZMROCEK:** That's it, Your Honor.

20 **MR. BOGLE:** Yes, Your Honor. Thank you.

21 **THE COURT:** Bring the jury in if they've chosen
22 their foreman.

23 (The jury returns to the courtroom.)

24 **THE COURT:** All right. Ladies and gentlemen,
25 I'm going to need you back in the jury room, please,

1 at 2:45. Don't come into the courtroom. When you
2 come back, you'll report to the other door on the
3 opposite side of that jury room. So when you leave,
4 go back through the jury room. They'll show you
5 where you report when you come back.

6 Now, before I let you go, I have to give you
7 some instructions. You're not to discuss this case
8 in any way among yourselves until I tell you to,
9 don't begin your deliberations until I tell you to,
10 that'll be at the very end of the trial. You'll
11 have no doubt about when that is. It'll be after
12 you know all the evidence in the case and you know
13 the law that applies.

14 So don't discuss the case in any way whatsoever
15 among yourselves until I tell you to, that includes
16 not discussing what you've just heard in the
17 courtroom about the facts of the case or what you
18 just observed, things like that. You have to resist
19 the temptation and not talk about it until the very
20 end of the trial.

21 Also, you're not to discuss this case with
22 anyone else, family members, friends, anybody at
23 all, until you've been discharged from jury duty.
24 So it's okay for you to tell a spouse or an employer
25 or a friend that you might have to tell that you're

1 on a jury, but you can't tell them who's in the case
2 or what the case is about, things like that. Don't
3 discuss the case in any way with anybody else until
4 the case is over and you've been discharged.

5 If anybody does attempt to contact you and
6 discuss this case with you, report that to me so
7 that I can deal with it, give me the best
8 description of who it was, how it occurred, that
9 sort of thing.

10 I do not anticipate media coverage of this
11 trial, but if there should be any media coverage,
12 get away from it, don't let yourselves be exposed to
13 it any further, report to me what you may have seen,
14 heard or read through the media.

15 Don't do any independent investigation. Don't
16 go look up anything on the Internet, don't look up
17 names, don't look up law, don't look up anything
18 related to this case at all. Don't do any
19 independent investigation.

20 Now, as you have seen, we go through a very
21 methodical process in selecting a jury to determine
22 that we've got a jury seated that's fair and
23 impartial. So if I tell you to be back at a certain
24 time and you're not here, I can't automatically just
25 jump to one of those alternates. I have to find out

1 what's going on.

2 So if there is some true emergency that arises
3 that prevents you from being back here on time,
4 either after this lunch break or any time in the
5 future, please have somebody call the Clerk's office
6 and let us know, because after about five minutes, I
7 start sending people to find you. So please let us
8 know if there's some true emergency that arises that
9 prevents you from being here. Please be respectful
10 of your fellow jurors' time and you all do your very
11 best, please, to be on time.

12 I'll give you updates as to how the case is
13 proceeding. I don't know if you'll get it today. I
14 can't imagine it going beyond tomorrow. I think
15 you'll either get it this afternoon or tomorrow. So
16 for planning purposes, you know as much as I do.

17 Okay. Juror number 73, Sharon Matthews, where
18 are you? Ms. Matthews, when y'all come back in, you
19 need to be the last one to come in. You need to
20 have a seat on the end of the aisle -- first row,
21 excuse me. The two alternates, as I mentioned, they
22 stay in those two seats.

23 Now, folks, you notice these chairs, I really
24 love these chairs, they'll be here long after I'm
25 gone. There is one little trick to them I've

1 noticed over the years when I was practicing law up
2 here and all the time I've been a judge, if you lean
3 back in them real far, they make you think you're
4 going to flip out of them.

5 So if you're one of those people that likes to
6 lean back in your chair, just -- it'll hold you.
7 I've never seen anybody break one, but it'll -- we
8 did have a situation in Lexington where a lady broke
9 her ankle going in the jury box. So I really ask
10 jurors please file all the way down to the end as
11 you come in. If you've got a favorite chair like
12 you do in church or something like that, just space
13 yourselves out before you walk in because I really
14 -- it bothers me when I see people walking across
15 each other because I'm afraid somebody's going to
16 fall and hurt themselves.

17 Also, every courthouse has its quicks. And as
18 I told you, I really love this courthouse. At
19 certain times of the year, the sun will come through
20 those blinds and will be right in your face. And if
21 that happens and it's distracting you and you need
22 to get up and move to one of those chairs in the
23 back, just do it as unobtrusively as possible. It
24 won't be a problem. I don't want you distracted by
25 being -- having the sun right in your eyes. I don't

1 know if this is one of those times of the year or
2 not. I never know till I see it happen.

3 Okay. If you'll follow the bailiff, please,
4 and be back here at 2:45. Thank you.

5 (The jury was excused for lunch.)

6 (Court's Exhibit Number 1, jury note, marked
7 for identification.)

8 **THE COURT:** Ladies and gentlemen, I say this in
9 every case just to make sure we don't have issues.
10 As I mentioned, if you have any interest in this
11 case at all, you should not have any contact with
12 any of the jurors.

13 Now, you need to be careful as you leave
14 because you may think that jurors clear out and go
15 and leave the courthouse. They don't always do
16 that. Some people don't eat lunch. Some people
17 call and wait on a ride. I mean, it's just one of
18 those situations where you cannot take for granted
19 that there may not be a juror around the corner. So
20 be careful as you leave that you're not talking
21 about the case or anybody in it in such a way that
22 it might be overheard by a juror.

23 Most small towns have limited options for lunch
24 and so if you choose a local restaurant, there's a
25 good chance that at least one of the jurors chose

1 the same restaurant. Be careful that you don't have
2 conversations about the case or anybody in it that
3 might be overheard by a juror, also that you don't
4 have any contact with a juror because they use the
5 same entrances and exits and elevators as everybody
6 else. Be careful.

7 I've left something in Edgefield I've got to go
8 get. I think I can be back at 2:45. Court's in
9 recess till then. Thank you.

10 (Whereupon, there was a luncheon recess.)

11 **MS. ZMROCZEK:** I have one thing before the jury
12 comes in.

13 **THE COURT:** Yes, ma'am.

14 **MS. ZMROCZEK:** I was rereading the evaluation
15 in just -- in preparation. And I remembered seeing
16 -- I remember seeing some information about juvenile
17 convictions. And I understand that it's Dr. Gehle's
18 position that he admitted to some juvenile
19 convictions, but when I reread the records that were
20 made available to her, there were no records from
21 DJJ.

22 So, Your Honor, I would contend that unless --
23 until and unless we put him on the stand, if she
24 only had his word to go by, that those juvenile
25 adjudications, because they were pled down, there

1 were a lot of different things that were involved
2 with these juvenile adjudications, I would submit
3 that those should not be properly in front of the
4 jury.

5 **MR. BOGLE:** Your Honor, may it please the
6 Court. This is kind of like what we argued about
7 before lunch. He does have a juvenile record.
8 There was an arrest. I believe the charges were nol
9 prossed. Dr. Gehle was aware of that, but she had
10 trouble getting any background record, so she just
11 asked him about it. He said he admitted -- he
12 admitted to the crime. So it's part of her
13 evaluation to study all kinds of offenses.

14 And as the Court knows, juvenile adjudications,
15 if there was one in this case, counts as a
16 conviction. So it's part of her overall testimony
17 to show a pattern of offending behavior kind of like
18 Dr. Crawford did in the Ettel case. So we would
19 submit it's like a nol prossed charge in general
20 sessions court. It's just part of her basis for her
21 opinion.

22 **MS. ZMROCZEK:** And I would argue it's actually
23 different from a nol pros in a general sessions
24 court because this is juvenile which obviously has a
25 much greater protection. And adjudications that are

1 nol prossed, Your Honor, I would argue are very
2 different.

3 **THE COURT:** Is she going to testify that he has
4 convictions or is she going to testify he has
5 offenses?

6 **MR. BOGLE:** She's going to testify that he has
7 offenses as a juvenile and they fit the same pattern
8 as these later offenses that he got convicted of.
9 And she's going to testify that exploring that is
10 part of the basis for her opinion. And when she
11 interviewed him about it, he admitted to the
12 juvenile offenses, the offenses occurred when he was
13 a juvenile.

14 **THE COURT:** The motion to exclude references to
15 prior offenses is denied. Now, if she doesn't know
16 if whether they're convictions or not, she can't
17 testify they're convictions.

18 **MR. BOGLE:** That's correct. As far as we know,
19 they weren't convicted -- or adjudicated guilty.

20 **THE COURT:** Is the State ready for the jury?

21 **MR. BOGLE:** Yes, Your Honor.

22 **THE COURT:** The defense -- I mean, the
23 Respondent?

24 **MS. ZMROCZEK:** I am.

25 **THE COURT:** Bring the jury.

1 (The jury returns to the courtroom.)

2 **THE COURT:** All right. Ladies and gentlemen,
3 the first order of business is, I have to have you
4 placed under a different oath, the oath of a trial
5 jury. If you would please stand and raise your
6 right hand, the clerk will administer your oath.

7 (The jury was duly sworn at 2:50 P.M.)

8 **THE COURT:** All right. I'm going to begin by
9 explaining to you how the case will proceed and then
10 I'm going to give you some instructions you have to
11 follow throughout the case.

12 The first thing you're going to hear are the
13 opening statements of the attorneys. In these
14 opening statements, the attorneys are not permitted
15 to engage in what we refer to as argument. An
16 opening statement is an introduction, an outline, an
17 overview of how each side believes the case will
18 proceed.

19 Once the opening statements are finished, then
20 I'll call upon the State to present its case. The
21 State has raised this case seeking to declare
22 Mr. Bodie to be a sexually violent predator and the
23 State has the burden of proof. The State has to
24 prove that to you beyond a reasonable doubt. And so
25 I'll recognize the State to present evidence in an

1 attempt to meet that burden.

2 When the State has finished presenting its case
3 in chief, the Attorney General will advise me that
4 the State rests. At that point, I have to send you
5 out of the courtroom. I have to discuss some legal
6 issues with the attorneys. And then you'll come
7 back in and then the Respondent, Mr. Bodie, is given
8 the opportunity to present evidence for you to
9 consider in deciding whether the State has met its
10 burden of proof or failed to meet its burden of
11 proof. If the Respondent offers evidence, then the
12 State can come back in reply, can't go back through
13 the whole case, but can respond to whatever the
14 Respondent may have brought out.

15 When all of the evidence is in, then I have to
16 send you back out of the courtroom, I have to
17 discuss some legal issues with the attorneys again.
18 And then I'll bring you back out, you'll hear the
19 closing arguments from the attorneys and then I will
20 tell you the law in something we call the charge.
21 So those are the landmarks you can look for as we
22 proceed through the case.

23 Now, it's really important that you understand
24 some things. That oath that you just took was one
25 in which you promised us that you're going to decide

1 this case based on the evidence and the law. So you
2 need to know where those things come from.

3 The evidence comes from the sworn testimony of
4 the witnesses. It also may come in the form of
5 exhibits. An exhibit can be anything tangible
6 that's marked in the record. It can be a report, a
7 map, a chart, a photograph, anything tangible. If
8 something is an exhibit, you will have it with you
9 in the jury room when you decide the case.

10 What the lawyers say is not evidence. I want
11 you to pay close attention to them, but what comes
12 out of their mouths is not evidence. The evidence
13 comes from the witnesses and the exhibits. There is
14 one exception to that rule about what the lawyers
15 saying not being evidence; if we come upon it, I'll
16 tell you about it, otherwise I won't burden you with
17 it.

18 So you know where the evidence comes from. The
19 law comes from me. It's my job to decide what law
20 applies to a case and instruct the jury on it at the
21 end of the trial.

22 Now, it's also important you understand there
23 are two judges in the courtroom. I'm the judge of
24 the law. I rule on legal issues, I instruct you on
25 the law at the end of the case, and I preside over

1 the trial.

2 You're the other judge. You are the only judge
3 of the facts. Only you are going to get to decide
4 such things as whether evidence is believable or
5 not. Only you get to decide what weight, if any, to
6 put on evidence. Those things are entirely your
7 prerogative. I will not invade your province.
8 You're the only judge of the facts.

9 Now, while you've promised us that you're going
10 to decide the case based on the evidence and the law
11 and you must do that, I'm not telling you to leave
12 your common sense at home. We want you to use your
13 common sense. We want you to use your sense of
14 logic and reason and your good judgment. It just
15 makes good common sense that you keep an open mind
16 about the case and you don't make up your mind until
17 you've heard all of the evidence and you know what
18 law applies.

19 So there's that rule I've already mentioned to
20 you and it's difficult to follow, but you must
21 follow it. That rule is you are not to discuss this
22 case in any way among yourselves until I tell you
23 to, don't discuss the people involved, the type of
24 case it's alleged to be, what just occurred in the
25 courtroom, don't talk about the case in any way

1 until I tell you to begin your deliberations and
2 then we wait on you.

3 Don't discuss the case with family members,
4 friends, anybody else until you've been completely
5 discharged from jury duty. If anybody attempts to
6 contact you and discuss the case, report it to me so
7 I can deal with it.

8 If there's any media coverage of the trial, get
9 away from it, don't let yourselves be exposed to it
10 and report to me at the first opportunity what you
11 might have seen, heard or read through the media.

12 Now, folks, I told you that you're not to do
13 any independent investigation. And I explained to
14 you some of the things I meant by that, don't go
15 look up law, don't go look up names on the Internet,
16 any kind of word searches. You're perfectly
17 equipped to do the job that you're asked to do. But
18 you promised us that you're going to decide the case
19 based on the evidence and the law, and those things
20 are going to come to you in this courtroom.

21 Now, in a moment, I'm going to have to read to
22 you something that our State Supreme Court states
23 that I have to read to every -- judge has to read to
24 every jury in every case, civil or criminal. And it
25 is a lot of repetition about what I've already been

1 over with you, a little bit more legalese than what
2 the Supreme Court had written.

3 But I do want to explain to you one of the
4 things that prompted this is social media. So I
5 want you to understand that we realize that some
6 folks live on social media. They put everything on
7 there that's going on in their lives and it's become
8 a habit for them and they don't really think about
9 that in a context of being on a jury.

10 Well, I'm telling you if you're on a jury and
11 you use Facebook or Instagram or Twitter or anything
12 like that, you can't talk about this case. You
13 can't write about this case on social media. It's
14 worse than if you went on the courthouse steps and
15 started screaming about the case at the top of your
16 lungs. Don't do that.

17 Now, when the case is over, you can do whatever
18 you like within reason, but you have to understand
19 that has been a problem in other states. Our
20 Supreme Court got on it real quick before it's
21 become a problem in South Carolina, but I think that
22 might explain to you some of the reason why I have
23 to read what I'm going to read to you.

24 There was some more sinister stuff going on in
25 some jurisdictions outside of South Carolina where

1 jurors were on these huge popular -- I don't know if
2 either one of those is a proper descriptive word --
3 but they were on cases that had a lot of public
4 interest, and so the jurors themselves became
5 celebrities and they took full advantage of it. And
6 that's just not -- there's no place for that in this
7 system.

8 So just use your common sense as I've asked you
9 to do before. And just understand that you have to
10 avoid social media during the trial and you can't
11 comment on what's going on in a trial or comment
12 about any officer of the court or attorney or anyone
13 else.

14 While I'm looking this up, I want to tell you
15 that I really appreciate your service. I want to
16 thank you. I'm not going to sit up here and
17 repeatedly thank you. I think that cheapens it when
18 I do that. You all have other places to be and
19 other things to do and I'm very mindful of that.

20 One of my big pet peeves is having a jury wait.
21 I can't stand it. It's something that may happen,
22 cases often involve hurry up and wait for the jury.
23 But what I can promise you is this: If you're ever
24 waiting on us, we'll be working. There will not be
25 a situation where we're out here goofing off and

1 you're back there waiting on us.

2 If I send you out of the courtroom because I
3 have to make a ruling, the reason I do that is
4 because I can do it quicker and I can get you back
5 out here sooner and the case can keep going. So
6 don't worry about what I'm doing out here, just let
7 me do my job and follow the instructions I give you
8 and we'll each perform our roles and we will do our
9 very best to have a fair and impartial trial.

10 Now, ladies and gentlemen, during your jury
11 service, until your service is concluded, you're not
12 to discuss this case with others, including other
13 jurors except as authorized by the Court.

14 You're not to read or listen to any news
15 reports about the case.

16 You're not to use a computer, a cell phone or
17 any other electronic device with communication
18 capabilities while attending the trial or during
19 deliberations. You may use such devices during
20 lunch breaks or extended breaks, but not to obtain
21 or disclose prohibited information.

22 You're not to use a computer, a cell phone or
23 any other electronic device with communication
24 capabilities, nor may you use any other method to
25 obtain or disclose information about the case when

1 you're not in court. And information about the case
2 includes, but is not limited to, the following types
3 of things: Any information about a party, a
4 witness, an attorney or a court officer, any news
5 accounts of the case, any information collected
6 through juror research on any topics raised or
7 testimony offered by any witness and any information
8 collected through juror research on any other topic
9 the juror might think would be helpful in deciding
10 the case.

11 Now, those last two cause me a little bit of
12 concern because -- the Chief Justice didn't ask me
13 how to word this and she's far more intelligent than
14 me, but I've told you don't do independent research,
15 so if you don't do it, you can't share it. Don't do
16 it at all. Don't do any independent investigation
17 or any independent research of the case.

18 With that said, ladies and gentlemen, I'll be
19 quiet now. I'll invite your close attention and
20 invite you to listen to the Attorney General and to
21 Respondent's counsel's opening statements.

22 Mr. Bogle.

23 **MR. BOGLE:** Thank you, Your Honor. May it
24 please the Court.

25 **THE COURT:** Yes, sir.

OPENING STATEMENT

MR. BOGLE: Ms. Zmroczek.

Ladies and gentlemen, my name is Jim Bogle. I'm with the Attorney General's Office in Columbia. People sometimes see us on these cases and I hear afterwards they wondering, why us? Why not the solicitor or the county attorney or somebody from Saluda County?

And the reason is when the General Assembly wrote this law, they wrote in there, The Attorney General's Office will present these cases to juries around the state. There's two of us, Cam Morrow and I, that do this. We each have the state divided in half. And I've got the Eleventh Circuit, which includes Saluda County. So that's why it's us.

Now, like the Judge said, this case is brought under the South Carolina Sexually Violent Predator Act. Here's what the General Assembly said when they wrote that law: They said -- they found that a mentally abnormal and extremely dangerous group of sexually violent predators exists who require an involuntary civil commitment in a secure facility for long-term control, care and treatment. The General Assembly further finds that the likelihood these sexually violent predators will engage in

1 repeated acts of sexual violence if not treated for
2 their mental conditions is significant. That's what
3 they wrote and that's what we're here about.

4 Now, here we are. Jason Bodie, sitting over
5 there, he committed a criminal sexual crime. It's
6 called criminal sexual conduct with a minor in the
7 second degree. And you will see, as the case
8 progresses, we will introduce into evidence a
9 certified copy of the conviction documents, because
10 here's what this case is about:

11 The State has to prove two things: Number one
12 is Mr. Bodie, has he been convicted of a sexually
13 violent crime? And the question {sic} is he was
14 convicted here in Saluda County back in 2007 of
15 criminal sexual conduct with a minor in the second
16 degree, and the statute defines that as one of the
17 16 sexually violent crimes. That's step one.

18 The second thing is, does he suffer from some
19 kind of mental abnormality or a personality disorder
20 that makes him likely to commit these types of
21 crimes again unless he's confined for long-term
22 control, care and treatment by the Department of
23 Mental Health? Now, what that means is he's
24 finished his prison term, we're done with that, been
25 convicted, done his time. The question now is, does

1 he have that mental abnormality that makes him
2 likely to reoffend?

3 So a few months ago the court appointed a
4 doctor, Dr. Gehle, she's sitting right over there in
5 the green coat. She was appointed by the court from
6 the Department of Mental Health to evaluate Jason
7 Bodie, look at the documents, look at the criminal
8 cases, talk to him, administer some psychological
9 tests and things like that, the kind of stuff these
10 people do, and give you an opinion. In her opinion,
11 as an expert in this field, does he have that mental
12 abnormality? And, yes, he does. She diagnosed him
13 as a pedophile, pedophilic disorder, a pedophile
14 sexually attracted to males. That means he has a
15 sexual interest in prepubescent little boys. So
16 that's the mental abnormality.

17 The next question is, is this condition such
18 that he has difficulty controlling himself if he was
19 let go? Does he need to be confined for treatment,
20 that means locked up, that means confined for
21 treatment, until such time as he's found safe to be
22 at large, until that mental abnormality changes
23 enough or he gets control over it where he's safe to
24 be at large? So that's what the case is about.

25 Now, because the ultimate end in this case

1 could be taking away Mr. Bodie's liberty, and that's
2 going to happen, it could happen if you find for the
3 State, when the General Assembly wrote this law,
4 they had to decide upon a burden of proof, what do
5 we have to prove the case by, how strong does our
6 case have to be? In civil court, normally you're
7 here doing medical malpractice cases, maybe an auto
8 accident case, a contract dispute or something like
9 that and the burden of proof is for one side to
10 prove their case by what's called preponderance of
11 the evidence. Think of a statue, scales of justice
12 tipping just one way, like 51 percent.

13 Well, in these cases, even though it's civil
14 court, the State is required to prove its case to
15 you beyond a reasonable doubt. And the Judge, at
16 the end of the case, he'll explain to you exactly
17 what that means. And we would submit that we're
18 able to meet that burden.

19 I would suggest that when you hear all the
20 testimony from the witness chair right here,
21 consider the exhibit that's coming in, the copy of
22 the conviction, and listen to the expert testimony
23 of Dr. Gehle, you will find that the State has met
24 its burden.

25 One last thing I'll mention is usually in

1 court, witnesses can only talk about things they
2 see, things they hear, things they smell. I saw the
3 light turn red and that guy ran the red light or I
4 heard the gunshot go off or I saw the man pick up
5 the gun, things like that.

6 But if a witness is determined by the Judge to
7 have special education and talent and studies to
8 where she is an expert in a particular field, that
9 person can give an opinion and that's what'll happen
10 today. We will qualify Dr. Gehle as an expert
11 witness in the field of forensic psychology, and
12 she'll explain what that means, to allow her to give
13 an opinion based upon her analysis of Mr. Bodie as
14 to whether or not he has this mental abnormality and
15 whether or not it causes him serious difficulty in
16 controlling himself. So that's what the case is.

17 I'd kind of like to apologize in advance, in
18 order for her to explain how she got there, she'll
19 have to talk about the documents she looked at, the
20 people she talked to, what the Respondent said, what
21 the police reports show, things like that. Some of
22 this may be unpleasant to hear, but if it's
23 necessary for her to form her opinion, she's got to
24 explain to you exactly how she got there.

25 Thank you very much. And I look forward to

1 presenting the case to you in a few minutes.

2 **THE COURT:** Thank you, Mr. Bogle.

3 All right. Ms. Zmroczek, you're recognized for
4 your opening statement.

5 **MS. ZMROCZEK:** Thank you, Your Honor. May it
6 please the Court.

7 **THE COURT:** Yes, ma'am.

8 **MS. ZMROCZEK:** Mr. Bogle.

9 Good afternoon. Judge Keesley explained to
10 y'all that we went through this very rigorous
11 process and we all got to ask questions about your
12 biases and your opinions and your thoughts because
13 they're yours and you're entitled to them. And a
14 lot of your jurors were dismissed because they said,
15 I can't be fair, because sex crimes are just so
16 awful. And sex crimes are awful, okay. And I'm not
17 here to defend sex crimes.

18 What I am here to do is to tell you that Jason
19 Bodie is not the worst of the worst. And what the
20 State has to prove to you is that he's going to
21 reoffend and that's why we have to lock him, confine
22 him away to protect him or the community because
23 he's the worst of the worst. And they're going to
24 show you one conviction. And they're going to tell
25 you that the solicitor negotiated a ten-year

1 sentence, and he did that ten years, but they're not
2 going to let him go now because now they want to
3 confine him for that one crime that he's been
4 convicted of.

5 Beyond a reasonable doubt, ladies and
6 gentlemen, they have to prove to you beyond a
7 reasonable doubt that he's going to commit acts
8 again. And you're going to hear from Dr. Gehle,
9 their expert, and she's going to tell you that
10 there's no way to predict. They rely on past
11 behaviors, they rely on tests that are moderately
12 accurate, but they cannot get up here and tell you
13 that he's going to reoffend.

14 Ladies and gentlemen, these are liberties,
15 freedom liberties that are designed to protect us
16 from the worst of the worst. Jason Bodie is not the
17 worst of the worst. And at the end of this trial --
18 we'll tell you right now he has the conviction,
19 we'll tell you right now we have no issue with his
20 diagnosis, but, ladies and gentlemen, what I want
21 you to focus on, as you're listening to the
22 testimony, is can they prove to you that beyond a
23 reasonable doubt he is going to commit another
24 crime? And I'll submit that the answer is no.
25 Thank you.

1 **THE COURT:** Thank you, Ms. Zmroczek.

2 Call your first witness, Mr. Attorney General.

3 **MR. BOGLE:** Thank you, Your Honor. May it
4 please the Court. The State would call Dr. Marie E.
5 Gehle.

6 **THE COURT:** Come around to the clerk, please,
7 Doctor.

8 MARIE E. GEHLE,
9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BOGLE:

12 **Q** Okay. Dr. Gehle, I need you to talk loud
13 enough for me to hear you all the way over here,
14 okay?

15 **A** Okay. I will do my best.

16 **Q** Would you please state your full name and
17 county of residence, please?

18 **A** My name is Marie Elizabeth Gehle. It's
19 G-e-h-l-e. And I live in Columbia County in
20 Georgia.

21 **Q** Okay. Who are you employed by at the present
22 time?

23 **A** South Carolina Department of Mental Health.

24 **Q** And what is your position with the Department
25 of Mental Health right now?

1 **A** I'm a chief psychologist with the Sexually
2 Violent Predator Program.

3 **Q** Okay. How many -- what type of degrees do you
4 possess, education degrees?

5 **A** I have a Bachelor's degree in psychology, a
6 Master's degree in clinical psychology and a
7 Doctorate in clinical psychology.

8 **Q** Have you had any specialized training in the
9 field of psychology beyond the degrees you mentioned
10 just now?

11 **A** Yes. All throughout graduate school, I did
12 practicum experiences, those are kind of work study
13 things. Then I did a predoctoral internship in
14 Washington state and I did a postdoctoral fellowship
15 at East Central Regional Hospital in Augusta,
16 Georgia.

17 **Q** Do you have memberships of any professional
18 organizations associated with what you do?

19 **A** I'm a member of the Sex Offender Civil
20 Commitment Program Network, American Psychology and
21 Law Society. Those are the primary ones.

22 **Q** What is basically the study of psychology?

23 **A** It's the study of the mind and human behavior.

24 **Q** Now, there's something called forensic
25 psychology. What does the word forensic mean when I

1 use it with the word forensic psychology?

2 **A** It just means applying the science of
3 psychology to matters of law, questions that the
4 courts might have.

5 **Q** Does your work as a forensic psychologist have
6 you conducting psychological evaluations of people?

7 **A** Yes.

8 **Q** What -- about how many evaluations of all types
9 have you done over the years?

10 **A** Probably around 3- or 400.

11 **Q** And what types, not just this type of case here
12 today, but what types of evaluations have you done?

13 **A** I've done competency to stand trial, criminal
14 responsibility, risk assessments and then sexually
15 violent predator evaluations.

16 **Q** Okay. Well, let's talk about what you do in
17 your history with the sexually violent predator law
18 in South Carolina. What type of evaluations have
19 you done in these types of cases like the one
20 involved with Mr. Bodie?

21 **A** With Mr. Bodie, I did an evaluation that is
22 called a precommitment evaluation. So it's to
23 determine whether somebody should be committed as a
24 sexually violent predator.

25 **Q** Okay. And about how many precommitment,

1 determining whether or not someone should be
2 committed as a sexually violent predator, about how
3 many of those types evaluations have you done in
4 South Carolina?

5 **THE COURT:** Hold on just a minute.

6 Yes.

7 **MS. ZMROCZEK:** Your Honor, I don't object to
8 this question, but -- may we approach?

9 **THE COURT:** Yes, ma'am.

10 (Whereupon, a bench conference was held off
11 the record, in the presence of the jury, but out of
12 the hearing of the jury.)

13 BY MR. BOGLE:

14 **Q** Dr. Gehle, back to where we are. In the
15 sexually violent predator field, you testified a few
16 minutes ago that you did a precommitment evaluation
17 of Jason Bodie and that's to see if he should be
18 committed under the law; right?

19 **A** Yes.

20 **Q** Okay. About how many of these precommitment
21 evaluations have you done under South Carolina's
22 law?

23 **A** I've completed 108 such cases.

24 **Q** Okay. Have you previously testified as an
25 expert witness before juries in South Carolina in

1 the field of psychology and forensic psychology with
2 regard to our sexually violent predator law?

3 **A** Yes.

4 **Q** Have you been declared an expert witness by the
5 courts of South Carolina regarding this particular
6 law?

7 **A** Yes.

8 **Q** About how many times?

9 **A** Over 80 times.

10 **Q** Okay.

11 **MR. BOGLE:** Your Honor, at this time, I'd like
12 to offer Dr. Marie Gehle as an expert witness in the
13 field of forensic psychology and psychology.

14 **THE COURT:** Do you wish to voir dire the
15 witness?

16 **MS. ZMROCZEK:** I don't. Without objection,
17 Your Honor.

18 **THE COURT:** She is so recognized. You may
19 continue.

20 **MR. BOGLE:** Thank you, Your Honor.

21 **BY MR. BOGLE:**

22 **Q** Dr. Gehle, how did you get involved in this
23 case involving Mr. Bodie?

24 **A** I was court appointed. So I received an order
25 instructing me to do this evaluation.

1 **Q** Okay. And, again, what type of evaluation was
2 this going to be?

3 **A** It's a precommitment evaluation pursuant to the
4 Sexually Violent Predator Act.

5 **Q** Okay. Could you tell the jury what your
6 protocol is, what your procedure is in doing
7 precommitment evaluations under the law like you did
8 with Mr. Bodie?

9 **A** Yes. First, when I get the order, it comes
10 with a file of information like you'll see here. I
11 review all that prior to scheduling an interview and
12 I'll make notes of the records, things that might
13 stick out to me, things that are missing, documents
14 that probably exist that aren't in there and I'll
15 make a list of those kind of things. And I will
16 prepare extra questions on things that I want to
17 really be keyed into when I interview the person.
18 Then I'll sit down and I will interview the person.

19 With Mr. Bodie, I interviewed him for over six
20 hours and I did some testing with him, so that was
21 incorporated in those six hours. And I asked him
22 questions all about his life, where he was born and
23 raised, how he grew up, things about his medical
24 history, mental health history, his sexual history.
25 I have to ask extremely detailed and intrusive

1 questions about their sexual history and things that
2 they find sexually arousing.

3 I got an account of his offenses from his
4 perspective. I asked him questions that were in the
5 records in contrast to what he told me in the
6 interview. I asked him questions about what his
7 plans were if he's released and sort of, you know,
8 what he hopes to do after if he is released and not
9 committed. And I take all that information,
10 everything that I can get my hands on, and I write a
11 report. And then I submit that report to the
12 Attorney General's Office and they submit it to the
13 other parties.

14 Q So, in this particular case, you received a
15 file of information about Mr. Bodie; is that right?

16 A That's correct.

17 Q And where did that file of information come
18 from?

19 A Well, it comes from your office.

20 Q Okay. Does that include his criminal records?

21 A Yes.

22 Q By criminal records, would that mean the police
23 reports?

24 A Yes.

25 Q Statements given by witnesses, by the cops, by

1 him, anything like that?

2 **A** Yes. If those things exist, they typically
3 come in that packet of information.

4 **Q** And in the course of your evaluation of all
5 these documents, if there's something you haven't
6 got and you think you want to get it to look at as
7 well, do you make a request to try and get
8 additional information?

9 **A** Yes, I do.

10 **Q** Okay. In this particular case, was there any
11 information that you wanted to get but couldn't get
12 and it's going to affect the result?

13 **A** Well, there was an offense that happened when
14 Mr. Bodie was a juvenile and the records on that
15 were very limited. Some records after, like, ten
16 years, they'll be destroyed, so nothing existed
17 anymore. I wished I would have had those records,
18 but I talked to Mr. Bodie about it and got his point
19 of view, so I feel okay with that. But I still like
20 to have everything on paper in black and white.

21 **Q** Well, is there anything that -- I guess, the
22 fact that you couldn't get those juvenile records
23 because they were so old, is that going to change
24 the result here for you?

25 **A** No.

1 Q Now, you mentioned that you interviewed
2 Mr. Bodie for over six hours; right?

3 A Yes.

4 Q Okay. Is the guy you talked to present in the
5 courtroom today?

6 A Yes.

7 Q Would you point him out for the jury just for
8 the record?

9 A He's sitting over there {indicating}.

10 Q Okay. Now, as far as things you looked at, is
11 there any additional information -- normally, at
12 this point, I like to ask you describe what you
13 looked at, but I think you've done that. Is there
14 any additional documents or information that you
15 haven't told us about that you did look at in
16 considering Mr. Bodie's case?

17 A I looked at his national criminal; like, rap
18 sheet, so his list of crimes and offenses. I looked
19 at a lot of things from corrections, so his records
20 from corrections from his time there. I looked at
21 warrants, affidavits, indictments, incident reports,
22 statements that were available. That is the basic
23 documents that I looked at.

24 Q Okay. Dr. Gehle, in order to form your opinion
25 about Mr. Bodie as to whether or not he should be

1 civilly committed under this law, you've mentioned
2 that it's necessary to look at sexual crimes where
3 he was convicted; right?

4 **A** Yes.

5 **Q** Okay. What about a crime that was charged, but
6 he wasn't convicted of? Is it necessary to look at
7 those things?

8 **A** Yes.

9 **Q** Now, why is it necessary to look at charge but
10 not convicted crimes involving Mr. Bodie? Why is
11 that necessary for you to form your opinion?

12 **A** Well, sometimes it's more important in a case
13 than other times. In this case, it was extremely
14 important because I asked him about those things
15 that he wasn't charged with and he admitted to
16 committing those offenses. So I look at all that
17 stuff to establish a pattern of behavior and so I
18 can make a diagnosis. And I also look at those
19 things, whether they admit to committing those
20 offenses or not, in terms of scoring an actuarial
21 risk assessment.

22 **Q** Okay. We'll get to that in a second. But as
23 far as things you're looking at, if he was charged
24 with a crime and the solicitor's office, for
25 whatever reason, dropped the charge, okay, is that

1 something you still have to look at?

2 A Yes.

3 Q And why is that?

4 A Well, first off, it goes into scoring the
5 actuarial. Second, it shows, you know, what types
6 of things he's been accused of, and it gives me
7 something that I'll ask about in the interview, and
8 it helps to establish a pattern of behavior.

9 Q Now, what about offenses he might have
10 committed as a juvenile, meaning under 17 years of
11 age? If you couldn't find enough reports about it,
12 is it still part of your evaluation to look into
13 that type of stuff?

14 A Yes.

15 Q And did you do that here?

16 A Yes.

17 Q Why is that necessary as part of the overall
18 evaluation process?

19 A Well, again, it's something that is considered
20 in the actuarial risk assessment. It does not
21 matter if they were juvenile offenses or adult
22 offenses. And it was something that I talked to
23 Mr. Bodie about and stuff that he admitted to
24 committing.

25 Q Okay. Is the information you looked at the

1 type of stuff that is typically and reasonably
2 relied upon by other experts in your field?

3 **A** Yes.

4 **Q** And did you consider and rely upon this
5 documentary information along with the interview of
6 Mr. Bodie and the testing you did in forming an
7 opinion about this matter?

8 **A** Yes.

9 **Q** Okay. Can you explain to the jury how a
10 person's past sexual offense behavior relates to
11 future sex offense behavior?

12 **A** Well, it depends on the person, but if somebody
13 has done it in the past, that's the kind of stuff
14 that they're into and that's what they're most
15 likely to do in the future.

16 **Q** Look at Mr. Bodie's personal history, and I'm
17 on about page three of the first part of your
18 report. Is it typical to look at personal history
19 and make an evaluation in this case? Is that
20 something done by experts in your field?

21 **A** Yes.

22 **Q** What did you find out about his personal
23 history, early stages, that you found significant?

24 **A** Well, first off, he told me about that offense
25 or that he'd had some sexual behavior with a younger

1 cousin when he was pretty young. He told me that
2 he'd had pretty good behavior as a kid, that he
3 wasn't in too much trouble, but that this sexual
4 thing did come up.

5 **Q** Now, the second --

6 **MS. ZMROCZEK:** Your Honor, I just renew my
7 objection, previous.

8 **THE COURT:** All right. So noted.

9 **MS. ZMROCZEK:** Thank you.

10 BY MR. BOGLE:

11 **Q** The sexual behavior he had when he was younger
12 with that cousin you mentioned, how old would the
13 cousin have been and how old would Mr. Bodie have
14 been when this was going on?

15 **A** He was -- Mr. Bodie, the Respondent, was around
16 11, 12 years old at the time, and his cousin was
17 around five years old at the time.

18 **Q** Okay. Did he also mention to you any sexual
19 activities of his while at the department of
20 corrections that you found significant?

21 **A** Well, at the department of corrections, he --
22 well, he told me that, at the department of
23 corrections, he had sex with several inmates, male
24 inmates, and that was the first time that he'd had
25 sexual contact with adult males.

1 **Q** Was that important to you?

2 **A** Yes, because I have to look at whether he is
3 exclusively attracted to children or whether he is
4 also attracted to adults in terms of making a
5 diagnosis. So if somebody has a long history of
6 sexual acts with children and then engages in sexual
7 acts with adults for the first time in prison, that
8 indicates to me that they may be an exclusive
9 pedophile.

10 **Q** Okay. And by exclusive pedophile, what does
11 that -- what does the term exclusive mean in that
12 context?

13 **A** Exclusive means that his sexual attraction is
14 exclusive for prepubescent children, children who
15 haven't had any sexual development yet.

16 **Q** Okay. Now, the thing with the cousin when he
17 was very young, did that result in a juvenile arrest
18 or was the juvenile arrest something in addition to
19 that that you looked at?

20 **A** It's my understanding that he was charged with
21 it.

22 **Q** Okay.

23 **A** Yes.

24 **Q** You mentioned pedophile a minute ago. Does he
25 have a history of pedophilic or pedophile type --

1 I'm sorry, I can't get that word out. Does he have
2 a history of arousal -- pedophilic urges that you
3 documented in this case?

4 **A** Well, yes, he told me that he did. He told me
5 that he had a long history of that sort of arousal,
6 but that it stopped abruptly when he entered the
7 department of corrections.

8 **Q** Okay. Now, the department of corrections just
9 houses adults; right?

10 **A** They might house some 17 year olds on occasion,
11 but they, you know, typically nobody under that age.

12 **Q** Okay. Did he indicate to you that this
13 pedophilic arousal he had had stopped?

14 **A** He said it stopped abruptly, yes.

15 **Q** When did it stop abruptly?

16 **A** When he entered corrections.

17 **Q** Okay. Did he say -- make any comments or
18 phrases to you that you found significant in talking
19 about this pedophilic arousal and whether or not it
20 was still going on?

21 **A** Yes. Although he said that it stopped and he
22 indicated that it just, you know, stopped when he
23 entered corrections, he said things like he has to
24 keep his foot on it or he keeps his foot on it, on
25 his arousal towards children. And so I asked him,

1 you know, why do you have to keep your foot on it if
2 it's gone? And he said things like, you know, he
3 was trying to find an answer or he didn't know or,
4 you know, things like that.

5 He gave a lot of discrepant responses in the
6 evaluation. So he would say one thing and then I
7 would push a little bit more and then he would say
8 something else and it would be very contradictory.

9 **Q** Would you give the jury some examples of those?

10 **A** Yes. One -- in one part of the evaluation, I
11 was asking him about, you know, looking at
12 pornography and he said that when he was a kid, he
13 looked at pornography and it was just straight
14 pornography. So Mr. Bodie has identified himself as
15 a homosexual. He says he's exclusively attracted to
16 men.

17 And he told me that when he was a kid, he was
18 looking at straight porn, so -- heterosexual porn,
19 you know, so sex between men and women. He said
20 that he was not sexually aroused by it, but that he
21 looked at the magazines a lot.

22 And so I asked, you know, well, why would you
23 look at them a lot if you're not even sexually
24 aroused by it? He said he looked at it for arousal.

25 So very contradictory. It didn't make much

1 sense to me. I confronted him about this. That's
2 part of what I do in my evaluations is I'll confront
3 him, you know, well, which is it? What do you, you
4 know, what's the truth here? And he said, and I'll
5 quote, I was uncomfortable about myself then. I
6 guess you can say I was confused is the best way I
7 can describe it. I wasn't absolutely sure what I
8 was.

9 I asked him some questions about, you know,
10 again, why would you look at this? And he said
11 something to the effect of I was accusing him of
12 being bisexual and I was saying that he's not, in
13 fact, gay and that I'm -- that I was saying he was
14 living a lie, which was not anything that I had
15 indicated at all. I was just asking about the
16 contradictions.

17 So he said, you know, well, what teenager
18 wouldn't get aroused by porn? You know, like that.
19 And I said, Well, maybe a gay one wouldn't get
20 aroused by, you know, men and women having sex if
21 that's not what you're into. And he just said that
22 that's what he looked at because that's what was
23 laying around and that's what he had access to.

24 It was -- throughout the interview, there was,
25 you know, multiple examples like that where if I

1 pushed a little bit, he would admit to stuff that
2 would be in contradiction to what he had just said.

3 Q Now, Dr. Gehle, did he also describe anything
4 about any characteristics that his victims had when
5 it came to deciding which victim to go after, which
6 victim not to?

7 A Well, he told me that he chose vulnerable
8 victims, kids that he thought that he could, you
9 know, help and sort of save from their family
10 situation.

11 Q Okay. How many victims did he admit to with
12 you?

13 A Three.

14 Q Three? Okay.

15 Now, based upon your review of these files, did
16 you find that he'd been charged with, in adult
17 court, general sessions court like we're in today,
18 charged with and convicted of at least one sexually
19 violent offense?

20 A Yes.

21 Q And did you also find a case where he was
22 charged with and then the case was nol prossed or
23 dismissed by the State?

24 A Yes.

25 Q Okay. Now, in talking about criminal

1 convictions, what I'm about to go into right now,
2 did you review the documents relating to them as
3 part of your evaluation?

4 **A** Yes.

5 **Q** And are these the type of things that are
6 typically relied upon by experts in your field?

7 **A** Yes.

8 **Q** And why is it necessary to review the
9 underlying documents, the police reports, the
10 witness statements, the statements the defendant
11 gave, things like that? Why is it necessary to look
12 at all that stuff?

13 **A** Well, part of what my job is is to come to a
14 diagnosis. And with certain mental health
15 diagnoses, especially those that are related to
16 sexual offending, you have to look at what the basic
17 facts of the crime are, you know, was the person a
18 male or a female, was the victim a male or a female,
19 how old was the victim, was it a rape, or was it
20 something that involved a prepubescent child, did it
21 involve a baby, did it involve a 8 year old, did it
22 involve a 12 year old, a 16 year old? You have to
23 look at all those facts so that I can establish a
24 pattern of behavior because that's essential in
25 making a diagnosis.

1 If you have sex with a 12 year old one time,
2 that's not a diagnosis or you shouldn't be coming to
3 a diagnosis based on one instance. You have to look
4 at a pattern of behavior that lasts around six
5 months or more in order to establish that they have
6 a disorder in regards to like paraphilias, which are
7 arousal disorders or things that -- you're aroused
8 to things that are illegal or hurtful to other
9 people.

10 **Q** So that's what a paraphilia is?

11 **A** Yes.

12 **Q** Okay. You talked about the six months and
13 things like that. Is there a book called the
14 Diagnostic and Statistical Manual Edition Five?

15 **A** Yes.

16 **Q** What is -- we call it the DSM-5 for short?

17 **A** Yes.

18 **Q** What is the DSM-5?

19 **A** It's a manual that has all the mental illnesses
20 listed and it has the criteria. So it's what you
21 look at to see if somebody meets criteria for a
22 diagnosis. If I was meeting with somebody who was
23 depressed and I want to see if they have depression,
24 I would look at that to see what the criteria is and
25 see if they've met the criteria. So I compare their

1 symptoms against what the symptoms are listed in the
2 book.

3 Q Like a checklist?

4 A Yes.

5 Q Now, in this particular case -- I'd like to
6 show you this right now, what's been marked as
7 State's Exhibit Number 1 for identification purposes
8 only. It's a certified copy of indictment
9 2006-GS-41-231. Is this something you looked at in
10 the course of your investigation? You've got his
11 sentencing sheet and the indictment.

12 A I looked at copies of this, yes.

13 Q Okay. What does this document show to you
14 happened to Mr. Bodie with regard to the criminal
15 justice system?

16 A This shows that he was convicted of criminal
17 sexual conduct with a minor in the second degree.
18 He was convicted on April 26, 2007, and he was
19 sentenced to ten years in prison.

20 Q Okay. And that's on the sentencing sheet,
21 which is the first document?

22 A Yes.

23 Q And the second page of it, the indictment right
24 here back in front, does that tell you what the
25 crime was?

1 **A** Yes. It gives the narrative of the crime or
2 some basic details.

3 **Q** What county did this conviction happen in,
4 according to the sentencing sheet?

5 **A** In Saluda County.

6 **Q** Here in Saluda?

7 **A** Yes.

8 **Q** Okay. And, as a forensic psychologist, is
9 criminal sexual conduct with a minor in the second
10 degree is that one of the crimes classified as a
11 sexually violent crime in our law?

12 **A** Yes, it is.

13 **MR. BOGLE:** Your Honor, move to introduce the
14 indictment, sentencing sheet of CSC with a minor in
15 the second degree as State's Exhibit 1.

16 **MS. ZMROCZEK:** Without objection, Your Honor.

17 **THE COURT:** Mark it in evidence, please, Madame
18 Court Reporter.

19 (State's Exhibit Number 1, indictment and
20 sentencing sheet, admitted into evidence.)

21 BY MR. BOGLE:

22 **Q** Now, what were the underlying facts about this
23 conviction that you found significant in reaching
24 your diagnosis of Mr. Bodie? Would you explain that
25 to the jury?

1 **A** Yes. So there were several things that were
2 important in this offense in my overall opinion.
3 First off, this was with a male who was around 11 to
4 12 years old at the time. And Mr. Bodie was accused
5 of engaging in sexual acts with him for, I believe,
6 a period of time that would be listed there, between
7 August 1st, 2005, and June 1st, 2006, so almost the
8 period of a year. So that right there tells me that
9 the court proved that he engaged in sexual acts with
10 11 to 12-year-old male for a period lasting over six
11 months.

12 **Q** How old would Mr. Bodie have been when these
13 crimes happened?

14 **A** He was an adult.

15 **Q** Over 21?

16 **A** Oh, definitely.

17 **Q** Okay. Go ahead.

18 **A** You're going to make me do the math?

19 **Q** Not today.

20 **A** Thank you. He was around 23 or 24, I guess.

21 It was also important to note that he was
22 released from custody on another sex charge when he
23 began engaging in sex acts with the victim for whom
24 he was convicted. So he had been charged with a
25 previous sex crime, was in jail, bonded out and then

1 started a sexual relationship with this other boy.
2 And he told me in his own words that he had been out
3 on bond only for a couple weeks when he established
4 the other sexual relationship.

5 So that stuff's important because I want to see
6 -- part of what I'm asked to do is talk about
7 whether they can control their arousal, their
8 desires, their impulses. And this is somebody who
9 was in custody, who was charged with a sex crime,
10 very serious, and within a couple of weeks of being
11 released from jail with that charge still hanging
12 over his head, could not control his impulses, could
13 not tell himself not to do this, could not tell
14 himself, you know, jail's not worth it, that sort of
15 thing, and he acted anyway.

16 **Q** Okay. Now, was there another charge here in
17 Saluda County also involving a juvenile that was nol
18 prossed or dismissed by the solicitor's office that
19 you found it necessary to look at?

20 **A** Yes. That was the one that I was just
21 referring to.

22 **Q** Okay. I'm going to approach you right now, if
23 I can, and just show you a copy of -- I'm just going
24 to go to the indictment, indictment number
25 2006-GS-41-007, nol prossed or dismissed by the

1 solicitor.

2 **A** Yes.

3 **Q** But is this the other indictment you're talking
4 about where he was out on bond for this one when he
5 committed the crime that's in evidence?

6 **A** Yes. He was charged with criminal sexual
7 conduct with a minor in the second degree for a
8 different boy who was around 13 to 14 years old at
9 the time.

10 **Q** Okay. And Mr. Bodie would have been, again, in
11 his 20s when this happened, at least in his 20s?

12 **A** Yes. And it's my understanding that this
13 charge wasn't nol prossed until maybe 2011, I
14 believe. So it took a while for them to, you know,
15 dispose of that charge.

16 **Q** What did you find significant about -- are you
17 talking about this offense, the one I'm holding
18 right now, the charge --

19 **A** Yes.

20 **Q** -- that got eventually dismissed?

21 **A** Yes.

22 **Q** Did he admit to it?

23 **A** Yes.

24 **Q** What did you find significant about the
25 underlying facts you can tell the jury about?

1 **A** Well, that charge had a lot of significant
2 details. First off, Mr. Bodie told me that he was
3 introduced to that victim, so that 13 or 14-year-old
4 boy, by another sex offender.

5 He said that that victim, I call him Minor2 in my
6 reports, I just refer to them by their initials, so
7 that victim, Minor2, was the, I guess, victim of
8 another sex offender and had been for several years.
9 And I think that maybe that -- maybe he was getting
10 too old and that other sex offender didn't care for
11 him anymore or whatever, but Mr. Bodie described
12 that other sex offender doing a handoff of this
13 young child to him. So Mr. Bodie said that this
14 other sex offender pretty much gave him this child
15 so that he could then sexually offend him.

16 I asked him, Well, how did that other guy --
17 how did that other offender know that you were into
18 children? And he said, it was stuff that they
19 talked about. They sat around and made conversation
20 about it, about what they were into. There were
21 times where they got together, all of them. The
22 other offenders knew a victim, and Mr. Bodie and
23 Minor2, all four of them, would get together.

24 And it was a very shocking thing to hear. I've
25 done these evaluations quite a bit. This is my

1 full-time job. This is all I do. And I never heard
2 somebody be so blatant about what they'd said, you
3 know, handing off a child. I assumed that this kind
4 of thing happened, but I was surprised to hear it.

5 **Q** Did he say anything to you about whether or not
6 he felt his victims were responsible for his crimes?
7 Did he blame his victims?

8 **A** I asked him, I ask everybody, you know, what
9 part are you responsible for and what part are they
10 responsible for? And he said it was around 50/50.
11 He claimed that all of the victims essentially
12 wanted to do this, that they often initiated the
13 sexual contact, even the five year old initiated the
14 sexual contact with him at times. He said that they
15 were into it. He never forced anybody to do
16 anything. So he said it was 50/50 them and him.

17 **Q** And what significance do you attach to those
18 type of remarks?

19 **A** Well, I look at, you know, it could be true.
20 Some young kids could be, you know, they could like
21 the sexual contact. So I don't know whether -- I
22 don't know whether the victims liked it or not. I
23 know that the victims reported and disclosed that
24 they were being abused. I know that Minor², the
25 victim who was handed off from one sex offender to

1 another, was asked what he wanted to have happen to
2 Mr. Bodie.

3 **MS. ZMROCZEK:** Objection, Your Honor.

4 **THE COURT:** Hold on just a minute.

5 Yes.

6 **MS. ZMROCZEK:** I believe this goes beyond the
7 scope of hearsay.

8 BY MR. BOGLE:

9 **Q** Is what you're getting into --

10 **THE COURT:** Hold on a second. Do y'all need me
11 to rule or are you going --

12 **MR. BOGLE:** Let me rephrase the question. Let
13 me ask another question and see if it prompts the
14 same objection.

15 BY MR. BOGLE:

16 **Q** Dr. Gehle, in looking into these statements
17 these victims gave the police, is this something you
18 have to do to develop your evaluation of, in this
19 case, Mr. Bodie?

20 **A** Yes. I want to see what their perspectives are
21 from the victims for sure.

22 **Q** And is this stuff that is typically looked upon
23 in developing opinions by experts in your field,
24 other experts besides you?

25 **A** Yes.

1 **Q** Okay. And it's something reasonably relied
2 upon by those experts?

3 **A** Yes.

4 **Q** Is it necessary to look at these kind of
5 comments and stuff in order to form an opinion or a
6 diagnosis about Mr. Bodie and an opinion as to
7 whether or not he should be committed for treatment?

8 **A** It doesn't necessarily go to diagnosis. It
9 goes to what sort of barriers did the person have to
10 overcome in order to commit the offenses, which is
11 necessary when I'm looking at volitional impairment,
12 you know, how -- how are they aroused, what can they
13 control about their behavior, what can't they
14 control.

15 **Q** Because is one of the things you have to
16 evaluate whether or not they can control themselves?

17 **A** Yes.

18 **Q** So having said all of that, what information do
19 you have about this victim and what he said?

20 **MS. ZMROCZEK:** Your Honor, I believe we have a
21 matter of law that I'd like to argue.

22 **THE COURT:** Ladies and gentlemen, please step
23 in the jury room. Don't discuss the case.

24 (The jury retires to the jury room.)

25 **THE COURT:** Doctor, what is it you want to

1 testify about?

2 **THE WITNESS:** Well, it's a witness statement.

3 **THE COURT:** What was the statement?

4 **THE WITNESS:** And the victim stated that he
5 wanted them to go to jail for a long period of time.
6 That was what I was going to say.

7 **MS. ZMROCZEK:** Your Honor, my objection is
8 this: First of all, he stated he wanted one of them
9 to go to jail for a long period of time. We're
10 talking about -- and just so that the Court and the
11 record is clear, we're talking about the offense
12 that was nol prossed, okay. So this is not even an
13 offense that was adjudicated or -- it was nol
14 prossed in general sessions. And there were two
15 offenders and -- so there's no --

16 The statement that she wants to say that, you
17 know, one of them to go to jail for a long time,
18 Your Honor, it's -- I understand that they can rely
19 on hearsay, but this hearsay is so far removed from
20 what I think could go in front of a jury because
21 there's a whole nother offender that was involved,
22 this charge was not -- this is not a conviction,
23 this is not a conviction -- the conviction for which
24 the State is relying on for this program.

25 I understand that she considered the nature of

1 the conduct, but she did not interview this witness
2 so there's no clarity on that statement. I believe
3 it's highly prejudicial, more prejudicial than
4 probative in this case.

5 **THE COURT:** Mr. Bogle.

6 **MR. BOGLE:** Thank you, Your Honor. We would
7 rely upon the Ettel case I've already talked about
8 as far as going into things that aren't resulting in
9 convictions. But the Corley case from 2003 where
10 the court -- the Supreme Court held that the
11 probative value of the details underlying, in this
12 case, a nonsexual ABHAN, as well as sexual conduct
13 convictions, outweigh any danger of undue prejudice.

14 In that case, the other side, I believe, tried
15 to stipulate the previous convictions. And the
16 court allowed that, the requirements of Rules 401
17 and 403, observing those. The court held that past
18 criminal offense for history is directly relevant to
19 future history. And the State, in trying to show
20 the guy is likely to reoffend, had to get into this
21 type of background information.

22 The diagnosis of pedophilic behavior, which we
23 have here, shows -- has to show a period of time
24 involving young prepubescent boys. She's doing
25 that.

1 If she has to rely upon information not
2 admissible in and of itself, if it's part of the
3 basis for her expert opinion, she should be allowed
4 to testify about it. From going there to the basic
5 case law in expert witnesses, Rule 703, and State
6 versus Cutro, a 2005 case, where it talks about the
7 type relied upon by experts in the field, those --
8 that information need not be admissible in and of
9 itself.

10 **THE COURT:** How old is this victim?

11 **THE WITNESS:** He was 13 to 14 years old.

12 **THE COURT:** 13 to 14?

13 **THE WITNESS:** He was most likely 14 when --

14 **THE COURT:** You need to speak where she can --

15 **THE WITNESS:** I'm sorry. He was 13 to 14 when
16 the offenses occurred. So he would have been around
17 14 when this statement was given.

18 **THE COURT:** Do you have anything else?

19 **MS. ZMROCZEK:** I do, Your Honor. I think that
20 it would have been different if he said, I want
21 Mr. Bodie to go to jail for a long time, but he
22 said, One of them to go to jail for a long time.
23 And I don't think that that ambiguity should be
24 allowed to be presented to the jury because we don't
25 know which one he was talking about. She didn't

1 interview him and he's not here and --

2 **THE WITNESS:** He didn't say one of them. He
3 said, Wanted them.

4 **MS. ZMROCZEK:** Wanted them.

5 **THE WITNESS:** Wanted them, not one of them.

6 **MS. ZMROCZEK:** Right. Wanted them.

7 **THE WITNESS:** Yes. But she is correct, there
8 were two people involved.

9 **MS. ZMROCZEK:** What that does, Your Honor, is
10 that opens the door to me to be able to -- because
11 we don't know -- I don't know anything --

12 **THE COURT:** This is from a statement that the
13 child gave or this is from a statement that the
14 police said that the child made?

15 **MS. ZMROCZEK:** The police said the child made
16 is my understanding.

17 **THE COURT:** Is that --

18 **THE WITNESS:** Yes.

19 **MS. ZMROCZEK:** It's not an ARC interview.

20 **THE WITNESS:** It might also be in the
21 statement, I'm not sure, but that was how I reported
22 it in my report.

23 **MS. ZMROCZEK:** The way I saw it, Your Honor, it
24 was in a police report that -- not handwritten, but
25 it was what the police were relaying what the child

1 had said to the police and then the police wrote it
2 down. I was never provided any ARC interviews or
3 anything like that.

4 **MR. BOGLE:** Let's see what -- she's looking in
5 her report right now. Let's see what she's
6 referring to.

7 (Pause.)

8 **THE WITNESS:** I believe that I only have it in
9 a police report.

10 **MR. BOGLE:** Your Honor, I can move on from
11 that.

12 **THE COURT:** Well, it appears to me that if 703
13 is what you said it is, then I have to do a Rule 403
14 analysis, and I'm concerned about the unfair
15 prejudice prong of a 403 analysis. So -- I mean, if
16 you're going to move on, that's fine, but the
17 objection is sustained.

18 **MR. BOGLE:** Thank you, Your Honor.

19 **THE COURT:** Don't talk about what the police
20 said that the victim said about what he wanted to
21 happen to this Respondent, please.

22 **THE WITNESS:** Okay. With the next victim, I
23 have a police statement of him saying he wants to
24 press charges. Is that okay to talk about?

25 **MR. BOGLE:** The next victim, the one he was

1 convicted of?

2 **THE WITNESS:** Yes.

3 **MR. BOGLE:** Well, we've already got the fact
4 that he's been convicted of the crime. I'm not sure
5 I need to ask that.

6 **THE WITNESS:** Because that's where I would have
7 -- that's where I would have went next.

8 **MR. BOGLE:** Okay.

9 **THE COURT:** Bring the jury in, please.

10 (The jury returns to the courtroom.)

11 **THE COURT:** All right. The objection's
12 sustained.

13 You may continue, Mr. Bogle.

14 **MR. BOGLE:** Thank you, Your Honor.

15 BY MR. BOGLE:

16 **Q** Dr. Gehle, just to kind of recap where we are,
17 I'd like to show you the indictment number 2006-007.
18 It was brought and later dismissed. Okay?

19 **A** Okay.

20 **Q** And the victim here goes by Minor 2
21 is that right?

22 **A** Yes.

23 **Q** When did the crime occur? What does the
24 indictment say the crime occur -- what date did it
25 occur in?

1 **A** January 1st, 2004, to July 31st, 2005.

2 **Q** Okay. And the victim was born in what year?

3 **A** 1990.

4 **Q** So that makes him about 14 or 15 when the crime
5 happened? 13 or 14?

6 **A** Yes.

7 **Q** Okay. And then the Respondent, Jason Bodie,
8 who committed the crime, was born in 1982?

9 **A** That's correct.

10 **Q** He was eight years older than this boy?

11 **A** Yes.

12 **Q** Okay. And then the crime for which he was
13 convicted, the sexually violent crime, State's
14 Exhibit Number 1, indictment number 2006-231, in
15 this indictment, we have the crime occurring in what
16 year?

17 **A** 2005 to 2006.

18 **Q** And when was the little boy born?

19 **A** 1994.

20 **Q** Okay. Which makes him about 10 or 11 when it
21 happened?

22 **A** Yeah.

23 **Q** Okay.

24 **A** 11 to 12 or -- yeah.

25 **Q** 10 or 11, around that range?

1 **A** Yeah.

2 **Q** Okay. Did the Respondent ever talk about
3 drugs, impulses, drugs or something like that that
4 you found significant?

5 **A** Yes.

6 **Q** What did he say and how does it work into your
7 opinion? What did you find significant about it?

8 **A** Give me a second here because it's something
9 that I asked him about in the evaluation.

10 **Q** Page 15 maybe?

11 **A** Yes. I asked him questions about if he tried
12 to stop himself from committing the sexual offenses
13 and he told me that he tried to talk himself out of
14 it plenty of times. I asked him what he would tell
15 himself and he said, quote, You know, you're going
16 to jail basically, that was the thought that was
17 always in the back of my mind, end quote.

18 When asked why he still proceeded to commit the
19 sexual offenses, he said, I quote, It was an
20 impulse; it was a need just like caffeine, alcohol,
21 drugs.

22 I pointed out to him that caffeine, alcohol and
23 drugs are not needs and that no one needs those kind
24 of drugs, nobody needs that kind of stuff. And he
25 said, and I quote, To a druggy you do.

1 I asked if he was addicted to pedophilic
2 behavior, so sexual behavior with prepubescent
3 children, and he shook his head yes.

4 When I asked him how he was sure, like, these
5 things weren't going to come back when he had access
6 to children again, because he's not had access to
7 children when he's been in corrections or -- or I'm
8 not sure if he's -- he's probably never even seen a
9 child while he's in corrections. Sometimes they do
10 in visiting, but it would be very limited. So I
11 asked him, like, if he has access to children, how
12 is he sure that these same impulses won't come back?
13 And he said, I won't put myself in that situation.

14 He told me that he didn't like to look at
15 children on the television.

16 **Q** I'm sorry. Did or did not?

17 **A** He did not like to look at children on
18 television. He said, I don't get aroused by them; I
19 just don't want to look at them. And I asked him
20 why and he just -- he was frustrated and he sighed
21 and he didn't want to answer the question.

22 **Q** So he said he was addicted?

23 **A** Yes. I asked him if he was and he shook his
24 head yes.

25 **Q** Okay. Any other comments he made to you during

1 this interview that you found significant in
2 reaching your diagnosis?

3 **A** Well, one thing that I always do is ask what
4 situations would put him at risk, would put a person
5 at risk to commit another sex offense. I want to
6 see, one, what they say, whether they can identify
7 anything. A lot of sex offenders will say, you
8 know, there's nothing that'll put me at risk.

9 I asked him, like, what situations would he be
10 at risk to commit another sex offense? And he said,
11 I wouldn't put myself in that situation, which
12 really didn't answer my question. So I clarified,
13 you know, what situations are you referring to that
14 you wouldn't put yourself in? And he said, A family
15 gathering that would be one, the mall, church, a
16 whole number of places; it could be on a bus
17 somewhere.

18 So he said things like that that gave me a lot
19 of pause as to, on one hand, he says, I don't have a
20 problem, I'll be fine. And on the other hand, he's
21 saying, Well, I'll have to avoid all these places
22 and I'll just, you know, you can't really avoid
23 every place where a child could be.

24 **Q** So if he says, I'll avoid family gatherings,
25 yet none of his victims were family, were they?

1 **A** One was. The first one was.

2 **Q** But the others weren't?

3 **A** That's correct.

4 **Q** Okay. Then his next response is, I'll avoid
5 malls, buses, churches just --

6 **A** A number of places.

7 **Q** -- the world?

8 **A** Potentially.

9 **Q** Did he have disciplinary infractions while he
10 was in prison?

11 **A** Just a couple.

12 **Q** Are these things you look at in your
13 evaluation?

14 **A** Yes.

15 **Q** Why are they important?

16 **A** Well, for some people, they're important and,
17 for some people, they're not. One, I want to see if
18 they've had sexual behavior that's caused them
19 problems in prison. I'll -- like, whether they
20 masturbated publicly or things like that or whether
21 they've been caught having sex with other people.
22 But, really, it's the indecent exposure that is
23 important and that's because it's considered in the
24 actuarial.

25 **Q** Okay. In this particular case, he had three, I

1 believe, three offenses while in prison?

2 A Yes.

3 Q And none of them were sexual, were they?

4 A That's correct.

5 Q Okay. Now, you did say earlier he testified
6 about having sex with a number of men while he was
7 in prison; is that right?

8 A Yes.

9 Q So indications are he never got caught on
10 those?

11 A Yes.

12 Q Do the nonsexual prison disciplinarys, did
13 they matter to you? Are they part of your
14 evaluation?

15 A Well, it -- I mean, if somebody has a bunch of
16 disciplinary infractions, I want to see what they're
17 about. It could speak that they have an antisocial
18 personality disorder. So, again, with some people,
19 it matters and with some people, it doesn't. It's
20 really just how it fits into their sort of view of
21 the world, how they interact with the world. So
22 with Mr. Bodie, it wasn't very significant.

23 Q Okay. Okay. Now, did he complete any kind of
24 sex offender treatment while he was at the
25 department of corrections?

1 **A** No.

2 **Q** Do they offer it?

3 **A** They offer it.

4 **Q** Did that factor into your ultimate conclusion
5 about Mr. Bodie?

6 **A** Well, what they offer is something that, you
7 know, may or may not help people, so I don't factor
8 it in too greatly. He told me that he turned it
9 down basically. He was asked if he wanted to go,
10 and I guess before he had time to consider whether
11 he wanted to go to treatment or not, the woman, he
12 said, Shot me down.

13 **Q** But the bottom line is he sought and received
14 no sex offender treatment offered by the department
15 of corrections while he was there for ten years;
16 right?

17 **A** That's my understanding, yes.

18 **Q** Okay. What about did he show any kind of
19 remorse or being sorry for what he did to these
20 people --

21 **MS. ZMROCZEK:** Objection, Your Honor.

22 **THE COURT:** Yes, ma'am.

23 **MS. ZMROCZEK:** Relevance.

24 **THE COURT:** Do you wish to be heard?

25 **MR. BOGLE:** I think his overall attitude toward

1 the offenses, which she's been developing now,
2 includes whether or not he shows remorse or any
3 responsibility for what he's done or is he evasive,
4 is he defensive, that kind of thing, that factors
5 into her opinions and it's kind of where she's been
6 going several times before.

7 **THE COURT:** She testified, has she not, about
8 her opinion related to -- ladies and gentlemen, step
9 in the jury room. Don't discuss the case.

10 (The jury retires to the jury room.)

11 **THE COURT:** I didn't want to use the wrong
12 terminology in front of the jury. Hadn't she
13 testified about blame shifting?

14 **MR. BOGLE:** She has.

15 **MS. ZMROCZEK:** She testified about it was
16 50/50. And then he asked her is that normal, and
17 she said it could be -- I mean, she said that could
18 be, but -- it could have been 50/50, she didn't
19 know.

20 But I think to talk about remorse goes beyond
21 the scope of anything that she uses to -- I mean, he
22 pled guilty, so, you know, he entered a plea, so he
23 accepted responsibility. So I don't know if
24 necessarily -- I didn't see in her report if she
25 asked him specifically if he was remorseful or not,

1 and it was a very thorough report, so -- that's why
2 I objected, Your Honor, because that's something
3 that I hadn't been prepared for an answer. And I
4 don't like questions being asked that I don't know
5 the answers to.

6 **MR. BOGLE:** I guess what I'm getting at -- we
7 may have already gone through this, if we have, I
8 apologize -- is his invasiveness with her about
9 accepting responsibility for what it is he did to
10 the point where she had no sense of, I think you've
11 already said this, no sense of how bad he is. I
12 think you already testified to that, didn't you?

13 **MS. ZMROCZEK:** Then I would argue it's --

14 **THE WITNESS:** I don't know.

15 **THE COURT:** It seems to me that this question
16 -- I mean, normally, you avoid the word remorse like
17 the plague in court, but this is kind of a hybrid
18 situation because you've got to prove something
19 beyond a reasonable doubt, and it's a civil
20 commitment process.

21 But it seems to me that the idea here about
22 remorse is similar to the idea about who's fault it
23 is, what I called blame shifting a moment ago,
24 saying that the children wanted to participate in
25 the offense. So I don't think it's -- I don't think

1 the State is prohibited from going into it.

2 **MR. BOGLE:** Thank you, Your Honor.

3 **THE COURT:** So the objection is overruled.

4 Do y'all need a break now or do y'all want to
5 keep going?

6 **MS. ZMROCZEK:** If we can --

7 **THE WITNESS:** I'm ready to keep going.

8 **MS. ZMROCZEK:** Yeah, it's up to the Court I
9 guess. I mean, I'd like to review the report to see
10 if it's been asked.

11 **THE COURT:** The court reporter says she wants a
12 break.

13 You may step down, Doctor, if you like. You
14 may stay there, but you may not discuss your
15 testimony with anybody during the break.

16 All right. We'll take five minutes or so.

17 (Brief Recess.)

18 **THE COURT:** State ready for the jury?

19 **MR. BOGLE:** Yes, Your Honor. Thank you.

20 **THE COURT:** Bring in the jury.

21 (The jury returns to the courtroom.)

22 **THE COURT:** The objection's overruled. You may
23 continue.

24 **MR. BOGLE:** Thank you, Your Honor. May it
25 please the Court.

1 **THE COURT:** Yes, sir.

2 BY MR. BOGLE:

3 **Q** Dr. Gehle, I was asking you, in the course of
4 your interviews with this guy, with Mr. Bodie, did
5 he show any remorse or acceptance, responsibility
6 for what he'd done?

7 **A** I would say -- I would say that he provided
8 some contradictory responses for that as to whether
9 he felt bad about it, as to whether he wanted to
10 change it, as to whether he took responsibility.

11 **Q** Was he defensive toward you?

12 **A** Throughout the interview, yes.

13 **Q** Okay. What did that -- what was the
14 significance of that to you?

15 **A** Well, it meant that I had to work a little bit
16 harder to try to, you know, get him to open up and
17 to, you know, respond to things and to be
18 consistent, which, you know, he never really was
19 consistent.

20 **Q** Did he present to you an attitude as to a sense
21 of his effect on these people or what the sense of
22 his own attitude was toward his victims?

23 **A** Well, I mean, what I really got from him was he
24 really lacked insight into how his behavior affected
25 people and how abnormal and deviant his sexual

1 interest and attitudes are.

2 Q What was it he said that made you -- other than
3 what he got convicted of and what he's admitted to,
4 what was it he said to you that really brought that
5 home?

6 A Well, he told me about -- so the first person
7 that he was accused of offending when he, himself,
8 was a child and the victim was about five years old,
9 he said that he was -- I told him he was charged,
10 because I had some -- I had a document saying that
11 he was charged, he didn't think that he was charged,
12 but I showed him that he was -- and he said that he
13 and his cousin were kept apart for two or three
14 years and then they got back together. They started
15 having more contact and they started to engage in
16 sexual acts again. So his cousin would have been,
17 by his account, would have been around seven or
18 eight and he would have been around, you know, 14,
19 15 or so.

20 He said that they continued to have sex and sex
21 acts over the years, and that if he wasn't in
22 prison, they would probably still be doing it. He
23 said that if he brought it up to his cousin, like if
24 they brought it up, it would be like reminiscing and
25 his cousin and him would have a good laugh about it.

1 And I found that very surprising. And that to
2 me -- he's talking about having sexual contact, oral
3 sex, with a five year old when he's twice that
4 child's age as it would be something they would
5 reminisce about and laugh about. And I just -- I
6 found that very unlikely and very disturbing. It
7 could be true, maybe they would reminisce about it,
8 but, in that case, that would be very deviant.

9 **Q** Does this guy realize what he is to young boys?

10 **A** I think that there's a part of him that might
11 realize that and then a part of him that he pushes
12 back. I think sometimes it comes to the surface a
13 little bit and he might get it, but my opinion is
14 that he really doesn't understand. He pushes that
15 down and tries to ignore it and tries to, you know,
16 he told me that the offender who gave him the child,
17 that that guy was ten times worse than him. And
18 maybe that is true, I'm not sure, but he seemed to
19 have very little insight into how deviant his sexual
20 arousal is.

21 **Q** Now, Doctor, one of the tests, I'll call them
22 tests, that's my word, one of the things you
23 mentioned in your report that you had done on this
24 guy, Mr. Bodie, was something called the MMPI.
25 Could you tell the jury what that means and what it

1 does?

2 **A** The MMPI is the Minnesota Multiphasic
3 Personality Inventory. It's a paper and pencil test
4 that you can give to somebody. And it has over 400
5 true and false questions and it assesses sort of
6 attitudes and symptoms and things like that. So I
7 had Mr. Bodie fill that out.

8 **Q** Okay. And is that something used by experts in
9 your field?

10 **A** It's used in general psychological functioning
11 sort of way. It's not typically used in sex
12 offender risk assessments or it doesn't speak to the
13 specific issues in sex offender evaluations, but
14 it's something that I wanted to see, with his
15 evasiveness and defensiveness, how he would do on
16 that test because it has scales on it that tells you
17 just how exactly how somebody is being defensive and
18 how willing they are to open up and be honest and
19 admit to normal sorts of everyday problems and
20 things of that nature.

21 **Q** What did you learn from that assessment of
22 Mr. Bodie?

23 **A** Well, it was very consistent with what I saw in
24 the interview. He was defensive. He was evasive.
25 And he's somebody who will likely have some

1 difficulty in treatment because they're sort of
2 unwilling to listen and consider feedback.

3 He tried to present in a way that made himself
4 look favorable. But that test -- that test is able
5 to detect when you are not even admitting to things
6 that normal everyday people admit to that are sort
7 of normal problems to have, and he didn't admit to
8 those sorts of things. So it showed that he -- he
9 really was defensive and evasive on that instrument
10 as well.

11 Q Okay. Now, a couple of times during your
12 testimony you've used the word actuarial.

13 A Yes.

14 Q Now, there's something you use in your report
15 called the Static-99R?

16 A Yes.

17 Q Would you tell the jury what that is and how it
18 works?

19 A So the Static-99R is an actuarial risk
20 assessment.

21 Q Now, Dr. Gehle --

22 A I'll explain all those terms.

23 Q -- give me some language that this lawyer from
24 Decatur, Georgia, can understand.

25 A It's an assessment that consists of ten

1 questions that have been found in the research to --
2 when you combine them, they help you understand
3 whether somebody is likely to commit another sex
4 offense. So actuarial means that you get a score
5 and then you can use tables. So I can take his
6 score and I can look at, you know, people with this
7 score, this -- this percentage reoffended.

8 It's something that's been long used in the
9 insurance field. So if you call up somebody to get
10 car insurance, they're going to ask you a bunch of
11 questions, they're going to put those answers into a
12 table and then they're going to give you a rate.

13 In this case, the Static-99R is a tool that's
14 specifically designed to estimate the likelihood
15 that somebody is going to commit another sex
16 offense.

17 Q Is the Static-99R something that's been based
18 on the testing of thousands of people over multiple
19 countries?

20 A Yes.

21 Q Okay. These are people who have committed a
22 sex offense and then done it again, been convicted
23 again; right?

24 A Well, they look at anybody who's been convicted
25 of a sex offense and then they look to see who's

1 done it again versus who hasn't done it again, and
2 that's how they figure out which factors are
3 important to look at. So they want to differentiate
4 the groups between the people -- the sex offenders,
5 because they're all sex offenders who go in the
6 pool, but they want to know who reoffended and who
7 hasn't reoffended.

8 **Q** Is this a tool that is commonly used in your
9 field?

10 **A** Yes. It's the most widely used tool in
11 estimating recidivism. Recidivism is who does it
12 again.

13 **Q** Is it important for you to use such a tool in
14 evaluating somebody like Mr. Bodie?

15 **A** Yes, I believe it is.

16 **Q** And why is that?

17 **A** Well, one thing, it's best practice to do this,
18 otherwise I would be guessing or using -- looking at
19 risk factors and not looking at them in any systemic
20 sort of way. This is one of the most accurate
21 approaches in order to estimate whether somebody's
22 likely to do it again, so that's what I think is
23 important to use.

24 **Q** Okay. And on this Static-99 score range,
25 what's the lowest score you can get and the highest

1 score you can get?

2 **A** Well, it's a ten question item. In one
3 question, you can score a zero, one, two or three.
4 So you can get anywhere from a negative three,
5 because on another question, you can get a one, a
6 zero, a negative one or a negative three, so you can
7 get from a negative three to a 12.

8 **Q** Okay. And when you scored Mr. Bodie based upon
9 the things on the -- that he had that were on that
10 test, what score did he get?

11 **A** He got a score of five.

12 **Q** What things on the test -- could you go down
13 the list? Do you have it there in front of you?

14 **A** Sure.

15 **Q** Tell me the things that he got a score for and
16 the things he got a zero for and a negative number.

17 **A** Okay. So question one is his age at release.
18 And that question is important because younger
19 offenders tend to reoffend more often than older
20 offenders, so it's one of the weighted items. And
21 he scored a one because he's between age 18 and
22 34.9. So he's between basically 18 and 35. And
23 he's about 30, I think, 3 years old. He'll be 34
24 next month. So he got a one on that item.

25 Question two is whether he has ever lived with

1 a romantic partner for at least two years. And he
2 has never done that. He reported he had never lived
3 with a romantic partner, so he got a one on that.
4 And the theory is that if you don't live with a
5 romantic partner, if you're not establishing
6 long-term relationships like that, then you're more
7 likely to do this kind of thing again.

8 Number three whether he had on his index
9 offense -- so his index offense was the criminal
10 sexual conduct in the second degree that he was
11 convicted of, that was his last convicted offense,
12 so that's called his index. Did he have also with
13 that a nonsexually violent charge? And he did not,
14 so he got a zero for that. So we're at a score of
15 two so far.

16 On question four, it was whether he had any
17 prior nonsexual violence, any convictions. And he
18 has no other charges other than sexual, so he
19 doesn't have anything that's prior nonsexual
20 violence. He got a zero on that. So we're still at
21 a two.

22 On question five, that was prior sex offenses.
23 This one is calculated to look at the charges and
24 convictions. He had two prior charges, no prior
25 convictions, that correlates to a score of one on

1 that item. So we're at a score of three.

2 On question six, prior sentencing dates. So
3 they want to see how many times they've been
4 sentenced to a crime, a serious crime, prior to the
5 most recent conviction, and it's either three or
6 less or four or more. And he's not been convicted
7 of anything prior to his last conviction, so he got
8 a zero. So we're still at a score of three.

9 Question seven, any convictions for noncontact
10 sex offenses. Noncontact is things like indecent
11 exposure, peeping Tom, things where there was no
12 contact and there was never -- contact was not the
13 goal of the offense. He has no offense like that
14 and so he got a zero on that. So we're still at a
15 three.

16 Number eight is any unrelated victim, so
17 somebody -- did he victimize anybody he was not
18 related to by blood or marriage? And he did, so he
19 got a point for that. And so that brings his score
20 to a four.

21 On question nine, that's whether he offended
22 any stranger and he did not, so he got a zero for
23 that. So we're still at a four.

24 And then number ten is whether he had any male
25 victims and he did. All of his victims were male,

1 and so he got a one on that. And that brings us to
2 a total of a score of five.

3 **Q** What does a five -- how does a five rate in the
4 scoring system for the Static-99R? What does that
5 tell you?

6 **A** A score of a five is in the moderate-high
7 range. So the average score on the static, if you
8 took, you know, a group of sex offenders, which they
9 did in these studies, the average score is a score
10 of two. So his is higher than the average score.
11 And when you get to a six or a seven, anything
12 beyond that really doesn't help you much. So a six
13 or a seven is, I think, in the 90 percentile,
14 somewhere around there. So most people score below
15 a six.

16 So with him I can go, because it's an
17 actuarial, I can go and give you a percentage. So
18 when I look at the tables, people with a score of
19 five, 19.6 percent of those people reoffended within
20 five years, and 27.7 percent of the people with a
21 score of five reoffended within ten years.

22 **Q** Is a person with a five score worse than a
23 certain percentage of the people in the sample?

24 **A** Yes. With a score of five, you're at about the
25 81st percentile. So, you know, 81 percent of the

1 offenders score with less risk than you do.

2 Q Doctor, what are risk factors?

3 A Risk factors are just anything that have been
4 shown to be related to sexual offending.

5 Q Does Mr. Bodie have risk factors that you found
6 significant, and if so, what are they?

7 A Yes. He had a long list of them.

8 So he had a history of sexual preoccupation.

9 So he, you know, extra focused on sex. He has a
10 history of preference for prepubescent and pubescent
11 children. He has offense supportive attitudes, a
12 lack of emotionally intimate relationship with
13 adults, resistant to rules and supervision,
14 grievance and hostility, negative social influences.
15 And then he had a couple that have been shown in
16 some studies and not shown in other studies to be
17 related to sexual offending and that is
18 dysfunctional coping and sexualized coping.

19 What I do is I look at -- there's meta-analysis
20 that takes a bunch of studies on risk factors
21 related to sexual offending and they look at all of
22 the factors that are out there and all of these
23 studies and then they combine it. It's called a
24 meta-analysis. It does a lot of work for me. It
25 means I don't have to read a hundred studies, I can

1 just read this one, and it'll cumulate the results.

2 So I look at the risk factors that were shown
3 to be significant from that study, and he had most
4 of them that were found in that study to be related
5 to sexual offending.

6 **Q** So how does that impact upon your ultimate
7 conclusion?

8 **A** It's hard to say because the actuarial is still
9 the most accurate way to say whether somebody's
10 likely to do it again or not. These risk factors
11 are things that can be targeted in treatment and
12 change potentially, but we're not exactly sure how
13 they add to the risk from the actuarial.

14 I know it's not good if somebody has a lot of
15 those risk factors. It means that almost anything
16 that's been found to be significant is something
17 that's going on with him, so that's not a good
18 thing. I can't tell you, like, percentage-wise how
19 it factors into my decision.

20 **Q** Okay. But you did find them significant, the
21 fact that they're out there?

22 **A** Yes.

23 **Q** And if you weigh that with the actuarial -- the
24 Static-99R score, weigh that with what he told you,
25 weigh that with the underlying documents, that's

1 what you're doing; aren't you?

2 **A** Yes. Looking at everything that I can and sort
3 of merging things and balancing it all.

4 **Q** The good and the bad?

5 **A** The good and the bad.

6 **Q** Dr. Gehle, do you have an opinion, to a
7 reasonable degree of psychological certainty, as to
8 whether or not Jason Bodie suffers from a mental
9 abnormality or a personality disorder or both?

10 **A** Yes.

11 **Q** What is it?

12 **A** Well, my opinion is that he meets criteria for
13 a pedophilic disorder sexually attracted to males.
14 I'm not sure whether he is exclusively attracted to
15 prepubescent children or whether he is also
16 attracted to adults and prepubescent children. It
17 is --

18 **MS. ZMROCZEK:** Your Honor, I would object
19 because he said to a medical degree of certainty,
20 and I heard the words, I'm not sure.

21 **MR. BOGLE:** I think I said psychological degree
22 of certainty. I'll rephrase it if you like.

23 **THE COURT:** She's saying she has an opinion to
24 a reasonable degree of psychiatric and psychological
25 certainty, but then she says she doesn't know. I

1 think that's the objection.

2 **MR. BOGLE:** Let me rephrase the question, if I
3 may.

4 **THE COURT:** Yes, sir, you may.

5 BY MR. BOGLE:

6 **Q** Dr. Gehle, do you have an opinion, to a
7 reasonable degree of psychological certainty, as to
8 whether or not Jason Bodie suffers from a mental
9 abnormality or a personality disorder or both?

10 **A** Yes.

11 **Q** And what is that opinion?

12 **A** My opinion is that he meets criteria for a
13 pedophilic disorder. Now, I can stop there, but
14 what I was trying to explain were the two qualifiers
15 that are not -- that doesn't -- that doesn't take
16 away from his diagnosis of pedophilic disorder. He
17 meets criteria for that. He told me that he was
18 sexually --

19 **MS. ZMROCZEK:** Your Honor, at that point, I
20 would object because I believe that she's made her
21 opinion, but the remainder of the opinion she's
22 unsure about. So the pedophilic disorder we don't
23 disagree with, and we understand that that's her
24 opinion. We would ask that anything else that she's
25 unsure of would be not testified to.

1 **MR. BOGLE:** I think she's giving her complete
2 diagnosis and explaining how she got there.

3 **THE COURT:** Well, the problem is I need to hear
4 what she's going to say and I need to hear it
5 outside the presence of the jury before I can rule.

6 If y'all will step back in the jury room,
7 please.

8 (The jury retires to the jury room.)

9 **THE COURT:** What were your qualifiers, Doctor?

10 **THE WITNESS:** Yes, I'm sorry, I didn't even
11 think about that, but he meets criteria for
12 pedophilia. He's sexually attracted to males. And
13 I'm not sure if he is also attracted to adults,
14 that's what I'm not sure about, whether it's
15 exclusive or a nonexclusive type, but that is
16 something that, by the rules of DSM-5, I don't need
17 to even, you know, determine.

18 IN CAMERA EXAMINATION

19 BY MR. BOGLE:

20 **Q** So giving him the full benefit of the doubt,
21 he's a pedophile sexually attracted to males --

22 **A** You can stop --

23 **Q** Okay. And whether or not that's exclusive to
24 young males or old males, you don't know?

25 **A** Correct.

1 **Q** You can't be sure based on what you have?

2 **A** Correct.

3 **Q** But he is a pedophile attracted to males?

4 **THE COURT:** Do you object to that?

5 **MS. ZMROCZEK:** I don't object to that.

6 **THE COURT:** Bring the jury back.

7 **MS. ZMROCZEK:** It was the I'm unsure part that
8 was --

9 **THE COURT:** I understand. You didn't know what
10 was coming up.

11 (The jury returns to the courtroom.)

12 **THE COURT:** The objection is withdrawn.
13 Pose your question again, please.

14 DIRECT EXAMINATION CONT.

15 BY MR. BOGLE:

16 **Q** Okay. Dr. Gehle, do you have an opinion, based
17 upon the evaluation you've done and all the things
18 you've talked about, do you have an opinion, to a
19 reasonable degree of psychological certainty, as to
20 whether or not Jason Bodie suffers from a mental
21 abnormality or a personality disorder or both?

22 **A** Yes.

23 **Q** And what is that opinion? What is that
24 diagnosis you reached?

25 **A** He meets criteria for pedophilic disorder

1 sexually attracted to males.

2 Q Okay. Now, is that exclusive or nonexclusive
3 or do you know?

4 A I'm not sure.

5 Q Okay. And what is pedophilic disorder sexually
6 attracted to males? What does that mean in plain
7 language?

8 A That means that he has shown a pattern of
9 sexual arousal lasting over six months towards
10 prepubescent males. Prepubescent meaning kids who
11 have had no level of sexual development as of yet.

12 Q Okay. Do you also have an opinion, again, to a
13 reasonable degree of psychological certainty, as to
14 whether this diagnosis, pedophilic disorder sexually
15 attracted to males, affects Mr. Bodie's emotional or
16 volitional capacity so that he is predisposed to
17 commit acts of sexual violence in the future?

18 A Yes.

19 Q And what is that opinion?

20 A My opinion is that his sexual attraction to
21 prepubescent males definitely affects his volitional
22 capacity. I believe that, he called it an
23 addiction, that he has impulses that he couldn't
24 control. He offended shortly after sanction, after
25 he was arrested. He offended within weeks getting

1 out on bond. And he's shown, you know, no ability
2 to control his behavior in that regard.

3 Q Dr. Gehle, do you also have an opinion, again,
4 to a reasonable degree of psychological certainty,
5 as to whether or not Mr. Bodie, his situation, that
6 he has the propensity to be dangerous and commit
7 future sexually violent offenses?

8 A Yes.

9 Q And what is your opinion?

10 A My opinion is that he does have that
11 propensity.

12 Q Does this propensity, is it of such a
13 magnitude, again, to a reasonable degree of
14 psychological certainty, is this propensity of such
15 a magnitude that it causes a menace to the health
16 and safety of others?

17 A I believe it does.

18 Q Do you believe he has serious difficulty in
19 controlling his behavior, again, to a reasonable
20 degree of psychological certainty?

21 A Yes.

22 Q And is this lack of difficulty sufficient for
23 his propensities to be dangerous?

24 A Yes.

25 Q Does -- again, to a reasonable degree of

1 psychological certainty, does Mr. Bodie's diagnosis
2 of pedophilic disorder, pedophilia, which you talked
3 about earlier, does that make him likely to engage
4 in acts of sexual violence if he is not confined for
5 long-term control, care and treatment?

6 **A** It's my opinion that it does.

7 **Q** In your opinion, again, to a reasonable degree
8 of psychological certainty, does Jason Bodie meet
9 the criteria to be found by this jury to be a
10 sexually violent predator at this time?

11 **A** It's my opinion that he does meet the criteria
12 to be considered a sexually violent predator.

13 **Q** If he is released, would anyone be at risk?
14 Who would be at risk?

15 **MS. ZMROCZEK:** Objection, Your Honor;
16 speculation.

17 **THE COURT:** Do you wish to be heard?

18 **MR. BOGLE:** Let me rephrase the question.

19 **THE COURT:** All right.

20 BY MR. BOGLE:

21 **Q** Do you have an opinion, based upon what you've
22 looked at and the diagnosis you found, again, to a
23 reasonable degree of psychological certainty, as to
24 whether or not there were -- people would be -- a
25 certain type of people or class of people would be

1 at risk from this man if he was released by the
2 jury?

3 **A** Yes.

4 **Q** Who would be at risk?

5 **A** I believe that given his reported attraction,
6 that, you know, prepubescent males would be at risk.
7 You know, obviously, they would be the ones that are
8 in his proximity.

9 **MR. BOGLE:** Thank you, Dr. Gehle. Please
10 answer any questions counsel may have or the Judge
11 may have.

12 **THE COURT:** Cross-examination?

13 **MS. ZMROCZEK:** Thank you.

14 CROSS-EXAMINATION

15 BY MS. ZMROCZEK:

16 **Q** Good afternoon, Dr. Gehle. Tell this jury when
17 Mr. Bodie will reoffend?

18 **A** I don't know.

19 **Q** Tell this jury if Mr. Bodie will reoffend.

20 **A** I also don't know.

21 **Q** You talked about car insurance, you used that
22 example, and explained the actuary tables; correct?

23 **A** Correct.

24 **Q** So if I were a bad driver when I was a kid and
25 I got my license taken away for ten years, they

1 would base me being a bad driver based on what I did
2 ten years previous; correct?

3 **A** I'm not exactly sure how that works, but I
4 would imagine that they would, you know, factor in
5 all those things.

6 **Q** You interviewed Mr. Bodie over a year ago;
7 correct?

8 **A** I believe so, yes.

9 **Q** Have you done any followup since then?

10 **A** No.

11 **Q** So you don't -- you know that he has been
12 housed in the Saluda County Jail for a year?

13 **A** That's my understanding.

14 **Q** With no infractions?

15 **A** I don't know how he's done in the Saluda County
16 Jail.

17 **Q** So if I say he has no infractions, you wouldn't
18 know otherwise?

19 **A** I wouldn't know if that's incorrect or correct.

20 **Q** You wouldn't know that -- that the one victim
21 that he pled and took responsibility for is also in
22 jail?

23 **MR. BOGLE:** Objection, Your Honor; relevancy.

24 **THE COURT:** What's your question? I didn't
25 hear you. You turned that way.

1 **MS. ZMROCZEK:** I'm sorry. The question was the
2 one victim that he pled guilty and took
3 responsibility for is now in jail. And I believe
4 that he objected to relevance, but it goes to the
5 50/50 and the remorse and the blaming {sic}
6 shifting.

7 **THE COURT:** Do you wish to be heard?

8 **MR. BOGLE:** First, I think it's assuming a lot
9 of facts not in evidence. Second, I don't think
10 it's relevant.

11 **THE COURT:** Overruled.

12 BY MS. ZMROCZEK:

13 **Q** Have you done any followup? So would you know?

14 **A** Would I know if the victim of that crime is in
15 jail now? No, I would not.

16 **Q** Those would be important things to consider
17 when you're determining, for example, your
18 description of blame shifting; correct?

19 **A** No, I don't think so.

20 **Q** Okay. You said that he didn't show remorse or
21 that it was confusing?

22 **A** I'm not exactly sure what I said, my exact
23 words, but I think that he was contradictory on that
24 point.

25 **Q** He told you he felt stupid about his offenses?

1 **A** That's correct.

2 **Q** He told you if he could go back, he would have
3 never done it?

4 **A** Yes.

5 **Q** He told you he would have sought help and go
6 back to the age of 23 and get help?

7 **A** Yes.

8 **Q** He admitted that he did have a problem with
9 sexual offending?

10 **A** On one hand, he did, yes.

11 **Q** Asked whether it was a problem now, he said no?

12 **A** Correct.

13 **Q** People can change?

14 **A** They can.

15 **Q** You know that when he is released from prison,
16 that he will be on a Sex Offender Registry?

17 **A** Yes.

18 **Q** He will be heavily monitored?

19 **A** I don't know about heavily monitored.

20 **Q** You're not familiar with the agreement that he
21 signs that requires intensive monitoring?

22 **A** What agreement are you referring to?

23 **MS. ZMROCZEK:** Beg the Court's indulgence.

24 **THE COURT:** Yes, ma'am.

25 (Pause.)

1 **MS. ZMROCZEK:** May I approach, Your Honor?

2 **THE COURT:** Yes, ma'am.

3 BY MS. ZMROCZEK:

4 **Q** Have you had an opportunity to review that
5 again?

6 **A** Well, I glanced at them.

7 **Q** Okay. Are you familiar that he will be on the
8 Sex Offender Registry?

9 **A** Yes.

10 **Q** Now that you have the agreement in front of
11 you, have you reviewed the documents to show that he
12 will be on an intensive monitoring program?

13 **A** He will be on an intensive monitoring program
14 or a community supervision program until August
15 23rd, 2016, so I guess for a couple months.

16 **Q** Okay. That was signed over a year ago however;
17 correct?

18 **A** It was signed January 26, 2015.

19 **Q** So you're unaware that that time would not
20 start until he actually gets out?

21 **MR. BOGLE:** Objection, Your Honor.

22 **THE COURT:** Yes, sir.

23 **MR. BOGLE:** It assumes a fact not in evidence.

24 **THE COURT:** Overruled.

25 **THE WITNESS:** I've actually been told that the

1 time does start when they get out of prison whether
2 they go to the jail or to the community. So it's my
3 understanding that his supervision, regardless of
4 whether, you know, he was in jail or not, will end
5 regardless on August 23rd, 2016.

6 BY MS. ZMROCZEK:

7 Q But his supervision as a sex offender will not?

8 A What do you mean his supervision as a sex
9 offender?

10 Q He'll be a registered sex offender for the
11 remainder of his life?

12 A Okay. Registration means -- I mean, that's not
13 supervision, that's -- he'll go and he'll report his
14 address and get a picture taken every so often, and
15 that's not supervision.

16 Q And he has restrictions on where he can live?

17 A That's my understanding.

18 Q And he has restrictions on where he can visit?

19 A I don't know if that's the case.

20 Q You're not familiar that sex offenders are
21 prohibited to go to malls and playgrounds?

22 A No.

23 Q Those aren't records that you review as part of
24 your determination?

25 A I'm not sure what records you're referring to.

1 Q Records of Probation, Pardon and Parole?

2 A Yes, but that is -- Probation, Pardon and
3 Parole has nothing to do with the Sex Offender
4 Registry.

5 Q Okay. And registration regarding Saluda
6 County's requirements? County requirements and
7 statewide requirements for registration?

8 A I have looked at those before, but I have not
9 looked at them for a while.

10 Q Okay. You talked a lot about a five-year-old
11 victim when he was 10 or 11, but the DSM manual says
12 that you're not to consider those when diagnosing
13 pedophilic disorder; correct?

14 A No, that does not count towards my diagnosis of
15 pedophilia at that time.

16 Q And you say he was charged with that?

17 A Yes.

18 Q Do you have that charge form?

19 A Yes, it's right here.

20 Q And does it show that he was adjudicated?

21 A It shows that it was nol prossed.

22 Q And explain to the jury what nol prossed means.
23 We use fancy words.

24 A It just means dismissed.

25 Q And things are dismissed -- you're not sure why

1 they're dismissed, are you?

2 **A** No.

3 **Q** Things can be dismissed because part of an
4 agreement?

5 **A** Yes.

6 **Q** Things can be dismissed because they can't
7 prove it?

8 **A** That's correct.

9 **Q** We don't know why this was dismissed?

10 **A** That's correct. That's why I ask the
11 Respondent those questions when I do the interview.

12 **Q** The interview that he gave conflicting answers?

13 **A** Yes.

14 **Q** And he took responsibility and pled guilty in
15 this courtroom and received a ten-year sentence for
16 one of the criminal sexual conduct acts?

17 **A** Yes.

18 **Q** And the other one was not pressed again,
19 dismissed?

20 **A** That's correct.

21 **Q** And you don't know why that was dismissed?

22 **A** That's correct.

23 **Q** So we can't tell this jury that -- the reason?

24 **A** Correct.

25 **Q** Okay. You said that that sexual behavior when

1 he was a child showed a pattern of behavior?

2 **A** Well, what it was is he told me that he engaged
3 in that sexual behavior with that victim multiple
4 times over the years even into his adult years. So,
5 at some point, it did qualify for pedophilic
6 behavior because you have to be 16 or older and with
7 a younger child to be -- for it to be considered
8 pedophilic behavior.

9 At some point, he was 16 and the child would
10 have been much younger and so it qualified then.
11 So, yeah, it did speak to a pattern.

12 **Q** And so he spoke to you and he was honest about
13 that?

14 **A** Well, he never contradicted himself about that
15 sexual behavior with his cousin. He was very
16 consistent about that.

17 **Q** But everything else had some sort of
18 contradictory behavior?

19 **A** I never said that everything else had some sort
20 of contradictory behavior. He contradicted himself
21 numerous times, but not with everything.

22 **Q** Okay. An attraction to males is not a
23 disorder, is it?

24 **A** No.

25 **Q** So that has no -- what's the purpose of

1 attraction to males being said over and over when it
2 comes to this diagnosis and his volitional control?

3 **A** Well, in terms of pedophilic disorder, it's a
4 qualifier, it's a specifier. It's what the DSM,
5 this book {indicating}, requests that you clarify
6 whether they're -- whether the person is sexually
7 attracted to males, whether sexually attracted to
8 females or whether they're sexually attracted to
9 both sexes. So that's why it's been repeated. And
10 offenders who offend males are, male children, are
11 more likely to reoffend than those who offend
12 females.

13 **Q** And you base that on the Static-99 and other
14 criteria?

15 **A** I base that on the Static-99, but it's also
16 been found in research in various studies.

17 **Q** You would agree with me that the Static-99 is
18 only moderately accurate?

19 **A** That's correct.

20 **Q** So someone who has a score that Mr. Bodie had
21 is 19.6 likely to reoffend within five years?

22 **A** Said accurately, people with a score of five,
23 if you look at that group with a score of five on
24 the Static-99, are 19 percent, 19.6 percent or
25 whatever it was you just said, that percentage of

1 that group is who reoffends within five years.

2 **Q** So 1.9 every 10 is likely to reoffend?

3 **A** Are you saying 1.9 people out of every 10?

4 **Q** Right.

5 **A** Yeah, roughly two are likely to reoffend within
6 five years, yes.

7 **Q** And then ten years it was 20 -- I don't want to
8 misquote the number.

9 **A** I don't want to misquote it either. I believe
10 it was 27.

11 **Q** I had 27.7.

12 **A** It's 27.7, yes.

13 **Q** So 2.7 or maybe 3 out of 10 will reoffend
14 within 10 years?

15 **A** Yes.

16 **Q** What about 15 years?

17 **A** They just go to the ten-year mark. Some
18 studies have looked at offenders out that far; it's
19 harder. It's typically the longer period of time
20 you look at it, if you look at 15 years, 20 years,
21 25 years, it'll be a larger percentage of offenders
22 who reoffend.

23 **Q** So it's a guessing game really?

24 **A** I wouldn't say that it's a guessing game, no.

25 **Q** So you can tell which of these offenders will

1 reoffend?

2 **A** No.

3 **Q** The Sexually Violent Predator Act is for the
4 worst of the worst?

5 **A** For an extremely dangerous group of sex
6 offenders is what the law says.

7 **Q** You would agree with me that the worst of the
8 worst sexually violent predators would have a
9 history of numerous offenses and convictions?

10 **A** It would depend on what the nature of the
11 offense was.

12 **Q** And when we -- let's talk about that, sexually
13 violent offense. Violent doesn't mean there was
14 violence; correct?

15 **A** No. The term violent in the Sexually Violent
16 Predator Act doesn't necessarily mean violent. You
17 can actually have a hands-off offense and it can be
18 considered sexually violent under the statute.

19 **Q** And there were no acts of violence with this
20 conviction that Mr. Bodie pled to?

21 **A** Not that I recall.

22 **Q** I just wanted to make sure that that was clear.
23 Mr. Bodie was in prison for ten years and he
24 had three disciplinary actions?

25 **A** Yes.

1 **Q** And that, to you, showed a history of inability
2 to control himself in a confined environment?

3 **A** No, it didn't.

4 **Q** Okay. He had no sexual offenses in prison?

5 **A** Correct.

6 **Q** Okay. You said that one of the factors that
7 you looked at was resistant to rules and
8 supervision?

9 **A** Yes.

10 **Q** But you would agree with me that three
11 infractions and no sexual infractions within ten
12 years doesn't describe somebody who can't conform
13 their behavior; correct?

14 **A** Well, when I'm speaking to these risk factors,
15 I have to look at what the definition was in the
16 research study. And in that research study,
17 resistance to rules and supervision meant violating
18 terms of bond, terms of parole, terms of probation
19 and that's what he did with his second offense. So
20 that's how he gets that risk factor. It's not --
21 you can't just look at what the words say on the
22 face of it, you have to look at what the definition
23 was used in the research.

24 **Q** You also have to look practically at somebody's
25 behavior when you apply it to these definitions;

1 correct?

2 A Well, you look at their behavior when you apply
3 it to the definitions for sure.

4 Q Okay. You testified to -- that he had no
5 ability to control his behavior?

6 A I think he has very little ability to control
7 his behavior in terms of sexual offending.

8 Q Even though he had no sexual offenses for the
9 last ten years?

10 A Well, there are no children in the prison and
11 he's attracted to children. And when he was out, he
12 was offending the whole time.

13 Q The whole time?

14 A Yeah. He told me that he went from, you know,
15 his cousin, who he offended for numerous years or
16 who he had sex with for numerous years, and then to
17 the next victim. And then when he got out on bond,
18 within a couple of weeks, he started offending the
19 last victim.

20 Q And you had all of the information from the
21 police; correct?

22 A I have -- I mean, I don't know if I have all of
23 the information that exists, but I have, you know, a
24 considerable amount.

25 Q And you were aware that there were other people

1 charged with this offense on these alleged victims?

2 **A** No.

3 **Q** You weren't?

4 **A** I mean, when you're saying offenses on these
5 alleged victims, you're going to have to clarify
6 more because I don't know that there was other
7 people charged with offending the cousin, I don't
8 know if there was other people charged with
9 offending the last victim.

10 **Q** You read each and every page of the discovery?

11 **A** Yes.

12 **Q** Then tell the jury who Mr. Bedenbaugh is.

13 **A** He was the offender who handed off the second
14 victim to Mr. Bodie. If you would say victim, I
15 would be happy to answer yes. Yes, there was
16 somebody else who was charged with that offense.

17 **Q** And you're unaware if they were charged with
18 the offense that he was not convicted of?

19 **A** I know that that offender ended up in prison
20 for criminal sexual conduct. I looked him up in the
21 inmate search. I am not sure if he was convicted of
22 offending that specific boy. I know that he was
23 convicted -- he started serving his sentence in
24 October 3rd, 2011, which was several years after the
25 offenses involving the victim who he was also

1 involved with with Mr. Bodie. So I'm not sure if he
2 was convicted of another charge. I don't even, you
3 know, I don't know if it was that victim or a
4 different victim.

5 **Q** And how many years did he receive?

6 **A** Twelve years.

7 **Q** So two more?

8 **A** For a lewd act on a minor under 16.

9 **Q** Two more years for a lesser crime?

10 **A** I don't know what the nature of that crime
11 specifically was.

12 **Q** Okay. Mr. Bodie's 30 -- about 33, 34?

13 **A** Yes.

14 **Q** So next year he will actually go from a five to
15 a four just because of his age on the Static-99;
16 correct?

17 **A** When he turns 35, if nothing else has changed,
18 yes, he'll go down a point.

19 **Q** The categories that the Static-99R, a one is
20 considered what kind of risk?

21 **A** Are you talking in terms of labels?

22 **Q** Correct.

23 **A** A one is low risk.

24 **Q** And two and three?

25 **A** Are low-moderate.

1 **Q** And then four and five?

2 **A** Are moderate-high.

3 **Q** Okay. And that's where he falls, the
4 moderate-high?

5 **A** Moderate-high, yes.

6 **Q** Okay. I want to talk about impulse control and
7 criminality for a moment. What's the diagnosis
8 of -- what is a diagnosis of intermittent explosive
9 disorder?

10 **A** What do you mean what is it -- in what context
11 -- do you want a definition?

12 **Q** Yes.

13 **A** I can look it up?

14 **Q** Yes.

15 **A** It's a long definition. It's a recurrent
16 behavioral outburst representing a failure to
17 control aggressive impulses as manifested by either
18 of the following: Verbal aggression, e.g., temper
19 tantrums, tirades, verbal arguments or fights, or
20 physical aggression towards property, animals or
21 other individuals occurring twice weekly on average
22 for a period of three months. The physical
23 aggression does not result in damage or destruction
24 of property and does not result in physical injury
25 to animals or other individuals.

1 Three behavioral outbursts involving damage or
2 destruction of property and/or physical assault
3 involving physical injury against animals or other
4 individuals occurring within a 12-month period.

5 The magnitude of aggressiveness expressed
6 during the recurrent outburst is grossly out of
7 proportion to the provocation or to the
8 precipitating psychosocial stressors.

9 The recurrent aggressive outbursts are not
10 premeditated, i.e., they're not impulsive and/or
11 anger based and are not committed to achieve some
12 tangible objective, e.g., money, power,
13 intimidation.

14 The recurrent aggressive outbursts cause either
15 marked distress in the individual or impairment in
16 occupational or interpersonal functioning or are
17 associated with financial or legal consequences.

18 Chronological age is at least six years or
19 equivalent developmental level.

20 The recurrent aggressive outbursts are not
21 better explained by another mental disorder, e.g.,
22 major depressive disorder, bipolar disorder,
23 disruptive mood regulation disorder, a psychotic
24 disorder, antisocial personality disorder,
25 borderline personality disorder, and are not

1 attributable to another medical condition, e.g.,
2 head trauma, Alzheimer's disease, or to the
3 physiological effects of a substance, e.g., a drug
4 of abuse, a medication.

5 For children ages 6 to 18 years, aggressive
6 behavior that occurs as part of an adjustment
7 disorder should not be considered for this
8 diagnosis.

9 There's also a note, This diagnosis can be made
10 in addition to the diagnosis of attention deficit
11 hyperactivity disorder, conduct disorder,
12 oppositional defiant disorder or autism spectrum
13 disorder when recurrent, impulsive, aggressive
14 outbursts are in excess of those usually seen in
15 these disorders and warrant independent clinical
16 attention.

17 **Q** So expressly addresses impulses?

18 **A** It expressly addresses verbal and physical
19 aggression and outbursts that, I mean, I guess occur
20 in the variety of ways that I just outlined in the
21 definition.

22 **Q** And Mr. Bodie wasn't diagnosed with this?

23 **A** No.

24 **Q** And he was not diagnosed with antisocial
25 personality disorder?

1 **A** No. I felt that he probably had some sort of
2 personality disorder, but I wasn't sure what
3 specifically it was, so I didn't make that
4 diagnosis.

5 **Q** Okay. So what you have on paper is one
6 conviction for criminal sexual conduct with a minor
7 in the second degree; correct?

8 **A** What do you mean what I have on paper?

9 **Q** What we have for a conviction?

10 **A** For a conviction, yes, that is the only
11 conviction. That's his only criminal conviction
12 from my understanding.

13 **Q** Which he pled guilty to; he didn't go to trial?

14 **A** That's correct.

15 **Q** Okay. And the Static-99 is the most valid
16 predictor regarding sex offenses not just sexually
17 violent offenses; right?

18 **A** That's correct. It is designed to estimate
19 sexual offense recidivism. And the studies
20 primarily originate in Canada where they do not have
21 sexually violent predator laws and they don't just,
22 for our purposes, look at the kind of crimes that
23 we're looking at.

24 **Q** And, again, it's only moderately accurate?

25 **A** It's only moderately accurate.

1 **Q** And, in fact, not every state has sexually
2 violent predator laws; correct?

3 **A** That is correct.

4 **Q** He -- when you met with him for those six hours
5 over a year ago, you advised him -- and he knew that
6 your determination was going to decide whether or
7 not he lost his liberty or not; correct?

8 **A** I never told him that my determination would
9 decide whether he lost his liberty. I do a full
10 disclosure when I sit down with somebody. I want
11 them to understand exactly what's going to happen in
12 this interview and what the information is going to
13 be, like, what the purpose of my interview is and
14 what the evaluation purpose is. And there are
15 second opinions that people are allowed to get after
16 my opinion. So my opinion is not the only opinion
17 that can be had and it's not dispositive on this
18 issue.

19 **Q** Okay. And that's what I was getting to. Tell
20 the jury what you mean when you say, It's not
21 dispositive on this issue.

22 **A** What I say is not what has to go. You guys get
23 to make the decision. It's not my decision to make.
24 I testify as an expert because these are the
25 things --

1 **MR. BOGLE:** Your Honor, can we take up a matter
2 of law outside of the jury, please? I have an
3 objection.

4 **THE COURT:** Yes, sir.

5 Ladies and gentlemen, please step in the jury
6 room. Don't discuss the case.

7 (The jury retires to the jury room.)

8 **THE COURT:** Yes, sir.

9 **MR. BOGLE:** Yes, Your Honor. First, I don't
10 think it's proper or relevant for counsel to ask
11 Dr. Gehle about what happens after today's trial.
12 It can cause the jury to speculate. This issue of a
13 second opinion, him getting a second opinion, the
14 fact it's something that's -- their job right now is
15 between them and you, not between the witness and
16 them. Their job is to hear the facts and decide the
17 case.

18 Now, the law does provide for him to get a
19 second opinion, but that's a separate matter down
20 the road and not relevant to their decision today
21 for the same reasons I was not allowed to bring up
22 the fact that the multidisciplinary team, the
23 prosecuting review committee and a circuit court
24 judge thought this case was sufficient to go
25 forward, not relevant.

1 What we're here about today is has he been
2 convicted of the right kind of crime and does he
3 have the mental abnormality to the point where he
4 can't control himself and that's it. I think going
5 beyond that is causing the jury to speculate and
6 taking them outside the realm of the burden of
7 proof.

8 **THE COURT:** Yes, ma'am.

9 **MS. ZMROCZEK:** Your Honor, I'm not sure that
10 that's where that was going. I just asked her to
11 explain -- I mean, honestly, I was a little bit
12 surprised that she said you can get a second
13 opinion, which I kind of brushed over.

14 What I focused on, Your Honor, was she said, My
15 determination is not dispositive. And I simply
16 asked her to explain that, and she said, That's a
17 determination for the jury to make whether or not he
18 belongs in the program or not. And then that's when
19 he objected.

20 **THE COURT:** Anything else?

21 **MS. ZMROCZEK:** That's all I have.

22 **THE COURT:** Anything else?

23 **MR. BOGLE:** No, Your Honor. Thank you.

24 **THE COURT:** Objection's overruled.

25 Bring the jury back in.

1 (The jury returns to the courtroom.)

2 **THE COURT:** The objection's overruled. You may
3 continue.

4 BY MS. ZMROCZEK:

5 **Q** I think you can continue with the answer.

6 **A** What I was saying is, is my opinion is not
7 dispositive, it's not -- if I -- whatever I say is
8 not what's absolutely going to happen in the case
9 and that is for the Court and the jury to decide.

10 **Q** Thank you.

11 **MS. ZMROCZEK:** I have no further questions.
12 Thank you.

13 **THE COURT:** Redirect.

14 REDIRECT EXAMINATION

15 BY MR. BOGLE:

16 **Q** In the course of your investigation, you
17 mentioned, during your direct testimony, about
18 asking him about his plans if he was released and
19 you talked about how realistic those did or did not
20 sound to you. But here's my question, he's facing
21 some kind of community supervision upon finishing
22 his prison term; is that right?

23 **A** Yes, which he finished already in 2015.

24 **Q** Okay. So he maxed out when he finished his
25 prison term back in 2015; right?

1 **A** Yes.

2 **Q** And does the law require that he remain
3 confined in the jail until we could have this trial?

4 **A** The law requires that he remain confined in the
5 jail or in the prison if he -- but -- in the jail
6 after he finishes his term until the case is
7 disposed. So until he's either -- the case is
8 dismissed or until he is committed, so -- doesn't
9 always have to result in a trial.

10 **Q** Based upon your investigation as a forensic
11 psychologist, the clock for his two years of
12 community supervision with Probation and Parole,
13 when did that clock start running?

14 **A** It started when he maxed out his prison
15 sentence. So, at that point, he was sent to the
16 county jail. It doesn't matter if he was in the
17 community or in the county jail; they just know he
18 wasn't in prison and that's when it starts.

19 **Q** So based upon your research into this, when
20 does his community supervision end?

21 **A** August 23rd, 2016. After that, he will be free
22 and clear besides the Sex Offender Registry.

23 **Q** So if there's any requirement that he get sex
24 offender treatment while on community supervision,
25 will the ability to enforce that end August 23 of

1 2016?

2 A Yes.

3 Q Now, he will have to register for his life as a
4 sex offender; right?

5 A I don't -- I mean -- I don't know if he has to
6 register for his whole life or if the law will
7 change or if he has, you know, I'm not sure exactly
8 what the status is of whether it's lifetime or
9 whether it's time limited these days.

10 Q But he has to register?

11 A Yes.

12 Q But the registration -- does the registration
13 as a sex offender prevent him from going to a place
14 he shouldn't go?

15 A No.

16 Q And he could choose -- could he choose to
17 violate the terms of the Sex Offender Registry if he
18 wants to?

19 A Sure.

20 Q Did his sex offender -- I'm sorry, let me
21 rephrase that.

22 (Pause.)

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

24 THE COURT: Recross?

25 MS. ZMROCZEK: Thank you.

1 RECROSS-EXAMINATION

2 BY MS. ZMROCZEK:

3 Q If he chooses to violate the Sex Offender
4 Registry, what happens to him?

5 A He can be violated and what I have seen in my
6 experience is that people will typically go to
7 prison for 60 or 90 days.

8 Q So he can keep getting in trouble?

9 A If he violated, it would be a charge. He would
10 get charged if he was caught. So he would get
11 charged.

12 Q And Mr. Bogle asked you specifically about
13 outpatient treatment. How many registered sex
14 offenders are there in South Carolina?

15 MR. BOGLE: Objection. Question was not
16 answered -- I mean, was not asked by me.

17 MS. ZMROCZEK: I'll rephrase the question, Your
18 Honor.

19 THE COURT: All right.

20 BY MS. ZMROCZEK:

21 Q How many sex offenders are participating in
22 outpatient treatment?

23 A I have no idea.

24 Q Are you aware that there is outpatient
25 treatment?

1 **MR. BOGLE:** Objection, Your Honor. It's not
2 responsive to what I went into on redirect.

3 **THE COURT:** Do you wish to be heard?

4 **MS. ZMROCZEK:** We can do it briefly. The
5 question was specifically, after he is released from
6 community supervision in August, he's not required
7 to do sex offender treatment. So that's where this
8 is going that there was sex offender -- that there
9 was outpatient sex offender treatment.

10 **THE COURT:** Do you wish to be heard, Mr. Bogle?

11 **MR. BOGLE:** The question was, Is there any way
12 they could make it -- enforce it after August 23?
13 And she said, No, they can't.

14 **THE COURT:** Anything else?

15 **MS. ZMROCZEK:** My question simply, Is it
16 available?

17 **THE COURT:** I'll allow it. Go ahead.

18 BY MS. ZMROCZEK:

19 **Q** Is there outpatient sex offender treatment
20 available?

21 **A** Yes. And that's also what they get on
22 community supervision is outpatient.

23 **Q** That's not required for outpatient treatment?

24 **A** Are you asking if the only way a sex offender
25 can get outpatient treatment is if they're on

1 community supervision?

2 Q Correct.

3 A No.

4 Q Okay. They can get outpatient treatment if
5 they're out?

6 A They can. It is hard to find and it's
7 expensive.

8 Q But they can get it?

9 A Yes.

10 MS. ZMROCZEK: Thank you.

11 THE COURT: Anything further of the witness?

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

13 THE COURT: Thank you, Doctor. You may step
14 down.

15 Is she free to leave?

16 MR. BOGLE: She is, Your Honor, as far as we're
17 concerned. We'd ask permission for her to be
18 excused.

19 MS. ZMROCZEK: No objection.

20 THE COURT: You're free to go.

21 Do you have any other witnesses?

22 MR. BOGLE: No, Your Honor. At this time, the
23 State would rest.

24 THE COURT: Ladies and gentlemen, I told you
25 when the State rests, I have to confer with the

1 attorneys about legal issues, so I would have to
2 send you out of the courtroom at this point. In
3 view of the hour, we'll just break for the day and
4 I'll ask you to be back tomorrow.

5 Now, I have tried to schedule things on all
6 three of those lists that I had, the jury, the
7 nonjury and the motions, and so I've scheduled
8 something in the morning at 10:00 A.M. It actually
9 is a criminal case, some motions related to it. And
10 I'm hopeful we can do it in 30 minutes, so I'm going
11 ask you to be here at 10:30 in the jury room. If
12 you're back there longer than 30 minutes, it won't
13 because of me; it'll be because of how long the
14 lawyers choose to talk, but it should be over in 30
15 minutes in my estimation. But it has nothing to do
16 with this case at all, it's completely unrelated.
17 It's a matter the chief judge has asked me to handle
18 for him and so I worked it in this week.

19 Okay. Remember all of those admonitions I gave
20 you. And if you have some true emergency that
21 arises, let us know. But I need you in the jury
22 room, please, at 10:30 in the morning. You should
23 get the case tomorrow morning. Thank you.

24 (The jury was excused for the day.)

25 **THE COURT:** Motions?

1 **MS. ZMROCZEK:** Your Honor, at this point, we
2 would move for a directed verdict based on the very
3 limited and very -- hearsay testimony of Dr. Gehle,
4 that they have not met their burden. I know that
5 this is a hybrid -- it's a civil case, but it's kind
6 of hybrid, Your Honor. And I know -- I understand
7 that the burden is beyond a reasonable doubt for the
8 jury, but I still believe that they haven't met by a
9 preponderance of the evidence, proven that he is a
10 sexually violent predator and able to control his
11 behavior.

12 **THE COURT:** They're jury issues for the jury to
13 decide, so your motion's respectfully denied.

14 Do you intend to offer evidence?

15 **MR. BOGLE:** Thank you, Your Honor.

16 **MS. ZMROCZEK:** Thank you.

17 And, Your Honor, I've been conferring with my
18 client and he is going to testify. And I know that,
19 again, it's a civil matter versus a -- but with some
20 criminal context, and so it's my understanding that
21 they don't -- oh, I also wanted to renew my
22 objections, I think that they're renewed.

23 **THE COURT:** Thank you.

24 **MS. ZMROCZEK:** But I don't believe that -- I
25 don't know that they have any other Lyle stuff other

1 than what's already been introduced, but if they do,
2 Your Honor, I'd ask that they tell me now.

3 And I'd still ask you to do the colloquy of
4 whether or not he'd like to testify. Even though
5 it's a civil -- even though it's a civil case, it
6 still has the criminal aspects to it. And some
7 judges ask -- I've done a lot of cases and some
8 judges have done it differently, but if you want to
9 do the plea -- or the testimony colloquy, I believe
10 it's in your purview if you want to ask it or not.

11 **THE COURT:** Mr. Bodie, raise your right hand,
12 please.

13 JASON BODIE,
14 having been duly sworn, testified as follows:

15 **THE COURT:** Thank you. Have a seat.

16 Mr. Bodie, your lawyer wanted me to ask you
17 about whether you wish to testify or not testify.
18 The decision about whether you testify or not is
19 your decision to make and yours alone. You
20 understand that?

21 **MR. BODIE:** Yes, sir.

22 **THE COURT:** And nobody can force you to
23 testify. You understand?

24 **MR. BODIE:** Yes, sir.

25 **THE COURT:** So if he testifies, do you intend

1 to ask him anything on the issue of impeachment
2 related to his criminal record?

3 **MR. BOGLE:** The only criminal conviction we're
4 concerned about is the one where he's been
5 convicted. I'm not going to ask him questions about
6 the stuff where he was charged unless -- I mean, I
7 may question him depending on if he contra -- if he
8 says contradictory things as compared to what he
9 told Dr. Gehle, then, yeah, I'll have at him.

10 **THE COURT:** It would just be convictions. If
11 there was an inquiry and this is a criminal case, it
12 would just be limited to convictions, but if he
13 takes the stand, you're going to be able to ask him
14 relevant questions about --

15 **MR. BOGLE:** Yes, sir, about the convictions.

16 **THE COURT:** -- matters that pertain to events
17 that could have been charged possibly as criminal
18 cases.

19 I don't know how to do this in a civil context
20 except for the two questions I've already posed, and
21 that is, Mr. Bodie, it's your decision to make. You
22 can confer with your attorney, you can confer with
23 family members, friends, anybody whose opinion you
24 value on important decisions, but this is your
25 opportunity if you wish to testify. But if you

1 choose not to, they've rested, so they can't call
2 you as a witness. You understand all that?

3 **MR. BODIE:** In other words, I can't be crossed
4 by him?

5 **THE COURT:** No, you can be crossed by him if
6 you take the witness stand. What I'm saying is in a
7 civil case normally -- it's different than a
8 criminal case. In a civil case, the lawyer on one
9 side can call the party on the other side. They've
10 rested, so they didn't call you. And if you don't
11 take the witness stand, they're not going to call
12 you. You follow me?

13 **MR. BODIE:** Yes, sir.

14 **THE COURT:** And the other thing you need to
15 understand is basically, as far as the jury is
16 concerned, this is the opportunity.

17 **MR. BODIE:** I understand.

18 **THE COURT:** I'm sure your attorney has talked
19 to you about this, but depending on what the jury
20 decides, if they were to decide you are a sexually
21 violent predator, then from this point on, the
22 inquiries are different. They're done by the court
23 and they're not jury trials typically. You
24 understand?

25 **MR. BODIE:** Yes, sir.

1 **THE COURT:** So whatever decision you make about
2 testifying, it will be your decision and yours
3 alone?

4 **MR. BODIE:** Yes, sir.

5 **MS. ZMROCZEK:** And, Your Honor, I just -- if we
6 may, I just want to confer with him a tiny bit more,
7 but I believe if he does -- if I do put on a case,
8 it will simply be him in the morning, Your Honor.

9 And then I do have just a PowerPoint
10 presentation, which Mr. Bogle has seen before, I'll
11 gladly show it again to him tonight, for my closing.
12 It just keeps me on track because otherwise I tend
13 to ramble.

14 **THE COURT:** Okay. I need you folks here
15 tomorrow at 10:30. Thank you.

16 **MR. BOGLE:** Judge, if I may add, the only case
17 that's ever dealt with the issue about a guy
18 testifying in one of these cases is called Canupp,
19 2009, and it does -- what happened there was the guy
20 wanted a jury charge saying that he didn't have the
21 -- that he could refuse to take the stand, they
22 couldn't hold it against him, and the court declined
23 to do that. It was a civil case.

24 They do talk about the parameters of
25 examination. For example, if he's on the stand and

1 I ask him a question about something that he thinks
2 might incriminate himself, of course, he'd have to
3 take the Fifth Amendment. But they kind of give
4 some parameters of where that cross-examination can
5 go in a civil case. It does remind us all that
6 these are civil and not criminal. That's the only
7 case dealing with the topic that I've been able to
8 find.

9 **THE COURT:** Okay. All right. Well, I mean,
10 there is no statute of limitations in South Carolina
11 on criminal activity. So if you get on the stand
12 and they ask you about something that involves the
13 ability to charge you with a criminal offense that
14 you haven't already been -- has not already been
15 dealt with in a final forum, then you have to assert
16 your right under the Fifth Amendment in order to
17 stop that inquiry from going further. If you have
18 questions about that, you need to talk to your
19 lawyer about it.

20 **MS. ZMROCZEK:** And I'll be here before 10:30,
21 Your Honor. I'll be here at least by 9:45 so that
22 he and I can discuss that further.

23 **THE COURT:** Do you understand what I'm talking
24 about, Mr. Bodie?

25 **MR. BODIE:** Yes.

1 **MS. ZMROCZEK:** And I believe -- have you
2 already e-mailed your proposed charges?

3 **MR. BOGLE:** Yeah, last week to everybody and I
4 handed his law clerk a paper copy.

5 **MS. ZMROCZEK:** And I have a couple amendments
6 which I'll e-mail to the law clerk this evening and
7 we can discuss those.

8 (Pause.)

9 **THE COURT:** Court's in recess until 10:30.
10 Thank you.

11 **MR. BOGLE:** Thank you, Your Honor.

12 **MS. ZMROCZEK:** Thank you.

13 (The proceedings were concluded for April
14 25, 2016.)

15 (The following proceedings were held on
16 April 26, 2016.)

17 **THE COURT:** All right. We're back on the
18 record on the Matter of the Care and Treatment of
19 Jason Bodie. Does the Respondent have any evidence
20 to offer?

21 **MS. ZMROCZEK:** We don't, Your Honor.

22 And the only objections we had were I think
23 yesterday you might have read his charges where it
24 talks about appeal process, I just -- I've tried one
25 of these cases and the jury was out for a while and

1 then they came back and they said, now, can he
2 appeal if we -- and I just -- I don't want them to
3 even have that option to consider to put it off on
4 somebody else. Because it says in the -- if you
5 read in the charge, it says --

6 **THE COURT:** Oh, in his charge?

7 **MS. ZMROCZEK:** Yeah, in his charge.

8 **THE COURT:** I'm not using his charge.

9 **MS. ZMROCZEK:** Oh, okay.

10 **THE COURT:** I'm going to give y'all a copy of
11 it, if I can get it printed out, and let you look
12 over it. It's got much the same thing in it.

13 **MR. BOGLE:** Our charge is kind of a hodgepodge
14 of Judge Jefferson and Judge Young, you know, over
15 the years put together. That's where it came from.

16 **THE COURT:** It's very well done; it's just not
17 mine.

18 **MR. BOGLE:** Okay.

19 **MS. ZMROCZEK:** Thank you, Judge.

20 **THE COURT:** I mean, I try to write it in the
21 style that I speak. I'm not critical of the charge,
22 but I don't have anything in there about appeal and
23 I didn't pick that up when I read it.

24 **MS. ZMROCZEK:** Okay. Thank you, Judge. And we
25 will not -- we're not --

1 **THE COURT:** Mr. Bodie, your lawyer's telling me
2 you're not wanting to testify; is that right?

3 **MR. BODIE:** Yes, sir.

4 **THE COURT:** Are you sure?

5 **MR. BODIE:** Yes, sir.

6 **THE COURT:** You understand this is a civil
7 case?

8 **MR. BODIE:** Yes, sir.

9 **THE COURT:** And I'm not trying to convince you
10 to testify or not testify. I just want to make
11 sure, this is your own decision, made of your own
12 free will; is that correct?

13 **MR. BODIE:** Yes, sir.

14 **THE COURT:** You've had enough time to talk to
15 your lawyer about this?

16 **MR. BODIE:** Yes, sir.

17 **THE COURT:** Are you confused about anything we
18 discussed yesterday about testifying?

19 **MR. BODIE:** No, sir.

20 **THE COURT:** So you're sure you want to choose
21 not to testify?

22 **MR. BODIE:** Yes, sir.

23 **THE COURT:** Has anybody forced you in any way,
24 exercised any type of undue influence to get you to
25 choose to testify or not testify?

1 **MR. BODIE:** No, sir.

2 **THE COURT:** You're clearheaded today; you know
3 what you're doing?

4 **MR. BODIE:** Yes, sir.

5 **THE COURT:** Okay.. Thank you.

6 Now, it's a civil case. I won't be giving an
7 instruction about him not testifying, not being held
8 against him.

9 **MR. BOGLE:** No, Your Honor. I understand.

10 **THE COURT:** Well, let me -- you renewed all
11 your objections that were previously made and you
12 renew your motion to dismiss the case?

13 **MS. ZMROCZEK:** Right.

14 **THE COURT:** All right. It's denied. I don't
15 think you had to, but --

16 **MS. ZMROCZEK:** I didn't think I did either, but
17 -- yes. Thank you, Your Honor.

18 **THE COURT:** We're at ease.

19 Would you tell the jury it's probably going to
20 be about 15 more minutes?

21 (Brief Recess.)

22 **THE COURT:** Have y'all had a chance to read the
23 proposed charge?

24 **MR. BOGLE:** Yes, Your Honor. The State has no
25 objections.

1 **MS. ZMROCZEK:** No objection from the
2 Respondent.

3 **MR. BOGLE:** Same thing with the verdict form,
4 we've looked at that -- I've looked at that. I have
5 no objection to that.

6 **THE COURT:** I changed the verdict form slightly
7 from what you proposed because I felt like the jury
8 could have a reasonable doubt and answer the
9 question no even though they would not necessarily
10 find him not to be a sexually violent predator.
11 Now, you and I know, the lawyers and I know, under
12 the law, that's really not a distinction, but I was
13 just concerned about confusion, so that's why I just
14 changed that wording a little bit.

15 The proposed thing said, yes, he is a sexually
16 violent predator; no, he is not a sexually violent
17 predator. They don't really have to find he is not;
18 they just have to have a reasonable doubt as to
19 whether he is. It's a fine distinction, but --

20 **MR. BOGLE:** We have no objection to it, Judge.

21 **MS. ZMROCZEK:** And none for the Respondent.

22 I understand that the bond hearing is here now.

23 **THE COURT:** We're going to go ahead with the
24 jury case.

25 Do you open and close, Mr. Bogle?

1 **MR. BOGLE:** As I understand it, in a civil case
2 I open in full and then Ms. Zmroczek follows me.
3 And if she brings up something new that I didn't
4 cover, I can do a brief reply.

5 **THE COURT:** Yeah, you can reply to what she
6 brought up.

7 **MR. BOGLE:** Only if she brings up something
8 new. I can't just get up and repeat what I've
9 already said.

10 **THE COURT:** That's the way it's supposed to be
11 done, yes.

12 **MR. BOGLE:** You don't usually hear from me in
13 reply.

14 **THE COURT:** Well, I usually hear from other
15 civil lawyers in reply.

16 **MR. BOGLE:** Well, they're getting paid by the
17 hour, Judge.

18 **THE COURT:** Some do, some are on contingency.
19 Are y'all ready to argue?

20 **MR. BOGLE:** Yes, Your Honor.

21 **MS. ZMROCZEK:** Yes, Your Honor. Do we need to
22 rest formally?

23 **MR. BOGLE:** In front of the jury may be a good
24 idea.

25 **THE COURT:** I can ask if you have anything and

1 then I'll tell them that they have all of the
2 evidence.

3 All right. Bring in the jury.

4 (The jury enters the courtroom at 10:50
5 A.M.)

6 **THE COURT:** Good morning, ladies and gentlemen.
7 Does the defense have any evidence to offer?

8 **MS. ZMROCZEK:** We don't.

9 **THE COURT:** All right. Ladies and gentlemen,
10 the Respondent has indicated that they're not going
11 to present any evidence. So you now have all the
12 evidence you're going to have to decide the case.
13 And what remains now are the closing arguments and
14 the charge.

15 The way this is going to work is that the
16 Attorney General will go first. He has to close in
17 full. After he finishes, then Ms. Zmroczek will
18 give her closing argument. And the Attorney General
19 then has the option, if he wishes, to respond to
20 what she may have said. After all of that is
21 finished, I always take a brief break, get set up
22 out here and then I bring you back and tell you the
23 law. And then shortly after that, you're going to
24 have the case to decide. So you should get the case
25 some time around lunch, okay.

1 All right. I invite your close attention.

2 Mr. Bogle, you're recognized.

3 **MR. BOGLE:** Thank you, Your Honor. May it
4 please the Court.

5 Ms. Zmroczek.

6 CLOSING ARGUMENT

7 **MR. BOGLE:** I was thinking about this on the
8 drive up here this morning. And this may sound kind
9 of silly, but think for a minute, when we're all
10 done today, when I go outside, try to start my car,
11 it starts, put it in gear, it won't back up, I think
12 I've got a transmission problem. Who am I going to
13 call? Am I going to call the court reporter here?
14 Probably not. She's a fine court reporter. What
15 I'm going to do is walk back in the courthouse and
16 ask somebody who in Saluda is good at transmission
17 repair. Well, because you go to the person that
18 knows what they're doing about something.

19 Here's what we have here: That's kind of what
20 Dr. Gehle is. In this case, the Court appointed
21 Dr. Gehle for the Department of Mental Health.
22 Based upon her qualifications and experience, he
23 declared her to be an expert witness and, therefore,
24 allowed her to give an opinion about something, her
25 professional opinion to a degree of psychological

1 certainty as to whether or not Jason Bodie should be
2 confined for treatment, and I'll talk about that
3 more in just a second. But you go to the experts,
4 and that's what we had here.

5 Now, when I read to you the statute the other
6 day, let me read the next paragraph. When the
7 General Assembly wrote this law, they said -- in the
8 second paragraph, they said, Because the existing
9 civil commitment process is inadequate to address
10 the special needs of sexually violent predators and
11 the risk they present to society, the General
12 Assembly has determined that a separate, involuntary
13 civil commitment process for the long-term control,
14 care and treatment of sexually violent predators is
15 necessary. And that's what we're doing today.

16 Now, you've heard all the evidence. You've
17 heard the testimony of Dr. Gehle. You'll have back
18 in the jury room Exhibit Number 1 for the State,
19 which is the sexually violent crime.

20 Let's back up a second. What does the State
21 have to prove to you beyond a reasonable doubt? And
22 remember, that's the burden. It's not a simple
23 burden; it's a heavy burden upon the State, and keep
24 that in mind, beyond a reasonable doubt. And the
25 Judge explained to you what that means.

1 What I've heard judges say often times and what
2 I've read is if you are firmly convinced based on
3 all the evidence that Jason Bodie is a sexually
4 violent predator, then you must return a verdict for
5 the State. If, on the other hand, you have some
6 doubt that you can give a common sense reason for
7 that leaves you not firmly convinced, you're
8 obligated to return a verdict for him.

9 What do we have here? Well, first, has he been
10 convicted of a sexually violent crime? No question
11 about that, there it is. Criminal sexual conduct
12 with a minor in the second degree is classified as a
13 sexually violent crime.

14 Now, counsel tried to argue that there was no
15 physical violence like stabbing and cutting and
16 things like that. That's not what we're here about.
17 In South Carolina, under this law, there are 16
18 crimes called sexually violent and one of them is
19 this one. That's all we have on that and that's
20 what it is.

21 The next question is, does he have a mental
22 abnormality, some kind of deviant sexual
23 abnormality? And he does. He's a pedophile
24 sexually attracted to males. And what that means is
25 he is hardwired, his sexual interest is young boys,

1 little boys.

2 And we have a conduct that's been going on, it
3 looks like, since he was about 11 and started with a
4 five-year-old cousin. And then after that, he
5 continued with the other victims, including the one
6 that's subject to that case right there. And it
7 seems to have gone on unstopped with the only break
8 being the time he was in prison where there are no
9 little boys and the time when he's been in the
10 county jail awaiting this trial, again, where
11 there's no little boys.

12 So that's what we have here. He's got the
13 mental abnormality. And the question is, is it such
14 that he cannot sufficiently control it to where he
15 needs to be confined for treatment?

16 Well, what are the options? We know that the
17 law requires, and there was testimony from
18 Dr. Gehle, because she researches this as the
19 forensic psychologist, remember the word forensic
20 means connecting the law to psychology, so she had
21 to look this up, and he has, I think, two years of
22 community supervision with Probation and Parole
23 after he walks out of prison. But he left prison a
24 while back, so his two years runs out in August of
25 this year. So maybe they can make him go or try him

1 going to some kind of sex offender treatment, but
2 after August 23, that's it. So that's all you got.

3 And I think Dr. Gehle's testimony and the
4 opinion she gave was that, no, this guy cannot
5 control himself to the extent that he needs to be
6 confined for, what they call, long-term control,
7 care and treatment by the Department of Mental
8 Health in a secure facility. Three victims at --
9 that he admits to. He admitted to these crimes to
10 Dr. Gehle even the ones where he wasn't formally
11 convicted such as the other charge that happened in
12 -- that was not pressed or dismissed by the
13 solicitor's office in 2011.

14 We also had this diagnostic tool she talked
15 about. Now, she used two things to look at, one,
16 that MMPI, that Multiphasic Inventory, to get a feel
17 for his personality and why he was being evasive and
18 defensive and things like that.

19 But another one was something called the
20 Static-99R, and that is something used by
21 psychologists in sex cases like this nationwide.
22 It's a reliable tool that they use. Is it perfect?
23 Is it absolute? Can she positively say that he's
24 going to offend sexually? No, of course, not. And
25 she was quite candid about that, didn't try to hide

1 anything.

2 But the Static-99R is one of the tools, not the
3 only one, but one of the tools that they use. And
4 what did it say? The score he got said that he has
5 a 19.6 percent chance of sexually reoffending in
6 five years, and 27.7 percent chance within 10 years.

7 Well, I know what you're thinking. The State's
8 got to prove this case beyond a reasonable doubt,
9 that's pretty high. 19 percent, 27 percent, 2 out
10 of 10, 3 out of 10 doesn't seem that high. Well,
11 we're not talking about a 20 percent chance of
12 committing a shoplifting offense or knocking off a
13 convenience store; we're talking about a 20 percent
14 chance of offending against another little boy. So
15 you've got to put it in that perspective.

16 And another way to look at this number was his
17 score was worse than about 80 percent of the people
18 in the sample they used to come up with these
19 things.

20 Now, how does this work? She calls it an
21 actuarial scoring thing. I hate that word. I
22 barely know what it means. But look at it this way:
23 Let's say you're having chest pains, you've got a
24 fever, you're not feeling good, you wonder if you're
25 having a heart problem, you go to a cardiologist, a

1 heart expert. Now, he knows there's certain things
2 he looks for, chest pains, sharpness of breath, do
3 you have high blood pressure, are you -- is there an
4 issue with your diet, is there a family history?
5 And how does he know these things? Because they've
6 done thousands of studies of heart patients all over
7 the globe who have these conditions and if they do,
8 he knows from his education that they're more than
9 likely to have a heart attack and so he may
10 prescribe medicine.

11 Or let's say you're applying for a life
12 insurance policy and they say go get a physical
13 exam. If that physical exam comes back with certain
14 bad things about your health, they're going to
15 charge you a higher premium. And they know that not
16 because of just you, but because they've done
17 studies of thousands of people who have these
18 conditions.

19 That's what we're talking about here. That's
20 what the Static is. What kind of characteristics
21 can we look for in sex offenders? And she found
22 that based on the scoring system they use, he came
23 up with a five, which is moderate to high. And I've
24 talked about the numbers just now.

25 She also observed, and I think her words were,

1 He does not know how deviant he is. His words to
2 her was, It's like a druggy, like being addicted to
3 drugs; I'm so addicted to this. And like I said,
4 it's something that's been going on since he was
5 about 11.

6 I would submit to you that the overall look of
7 all the evidence, the scoring on the Static, the
8 risk factors that she found independent of that, the
9 things he has said to her during the interview
10 including admitting to sexual crimes against people
11 he wasn't even convicted of, this is a guy who's got
12 a problem. He's got a problem he can't control.
13 And if he can't control it, then the solution is he
14 needs to be confined for treatment so that he can
15 get better. And at such time if that treatment can
16 be under control, then he can be released, but not
17 now.

18 He'd have to register as a sex offender if he's
19 -- if he's released by you, the jury. Yes, he's got
20 to go to whatever Probation and Parole requires like
21 sex offender treatment, but that expires in August,
22 two more months, three more months, that's it. Yes,
23 he's got to register as a sex offender, but that's
24 registration. And when you register as a sex
25 offender, obviously there's certain places you

1 cannot go, but the law can't prevent you from going
2 there. If you get caught, you might get arrested
3 for it, you might go back to jail, but it can't
4 prevent you from doing that.

5 The kind of help Jason Bodie needs is in a
6 secure facility where he can get this kind of
7 treatment and not be a risk for little boys on the
8 outside. That's what the case is. That's the good
9 and bad of it.

10 Your job now is you've heard all of the
11 testimony, all of the evidence, you're going to have
12 that document back in the jury room, your job is to
13 look at all of this and come up with a unanimous
14 verdict. And I would suggest that the appropriate
15 verdict would be that Jason Bodie is a sexually
16 violent predator. Thank you so much.

17 **THE COURT:** Thank you, Mr. Bogle.

18 Ms. Zmroczek, you're recognized for your
19 closing argument.

20 **MS. ZMROCZEK:** Thank you, Your Honor. May it
21 please the Court.

22 **THE COURT:** Yes, ma'am.

23 **MS. ZMROCZEK:** Good morning.

24 The protection of children of our society from
25 sexual violence is a laudable goal. That's why our

1 Legislature came up with the Sexually Violent
2 Predator Act. But to base and condemn and confine
3 involuntarily a person who has committed and been
4 convicted -- convicted of one crime on some bad
5 science is dangerous.

6 Dr. Gehle testified very, very, very, very
7 truthfully from here. She said, It's moderately
8 accurate. And the moderately accurate tool, the
9 moderately accurate tool could only say that he may,
10 may reoffend 1.9, or 2 out of 10 people in that
11 category.

12 I asked her, and if you recall, she answered
13 very honestly, Dr. Gehle, when is he going to
14 reoffend? I can't tell you that. Is he going to
15 reoffend? I can't tell you that.

16 Ladies and gentlemen, I saw a movie a while
17 back that I never thought that, A, I would be a Tom
18 Cruise fan or, B, that I would be discussing it with
19 14 people, but the movie was Minority Report, and
20 that's what I feel like the State is asking you to
21 do. The State is asking you to rely on a Magic 8
22 Ball or some people who really want to come up with
23 some numbers for this red ball to drop because they
24 want to be the thought police to think that
25 Mr. Bodie's going to go out and commit a crime that

1 he's already done ten years for, and that's
2 dangerous, ladies and gentlemen.

3 Mr. Bogle talked to you about actuarial
4 assessments and if you go to the heart doctor. And
5 if I go to the heart doctor and I have X, Y and Z
6 and A, B, C and D risk factors, I can go home and I
7 can follow his advice just like outpatient sex
8 offender treatment. If my life insurance company
9 wants to charge me a premium because I have a lot of
10 risk factors, I can go home and work on those risk
11 factors. And Mr. Bodie with his one conviction is
12 not the worst of the worst, and he should go home,
13 and he should work on his issues.

14 Judge Keesley's going to read you the law and I
15 want to talk to you a little bit about what he's
16 going to tell you. Obviously, I don't want to
17 repeat it. But, ladies and gentlemen, Benjamin
18 Franklin said it the best, They that can give up
19 essential liberty to obtain a little bit of
20 temporary safety deserve neither liberty nor safety.

21 We've got the best, the best judicial system in
22 the world. And this is not an easy job because
23 defense attorneys are not up here advocating for
24 people to go out on the streets and hurt children,
25 but Mr. Bodie with his one conviction is not the

1 worst of the worst.

2 The State has to prove that he has a conviction
3 for a sexually violent offense, one conviction. You
4 heard about the co-defendant got more years for a
5 lewd act. They want -- and they kept talking and
6 talking and talking about this child adjudication
7 that there wasn't any finality to. They want to
8 talk about this other offense that was dismissed by
9 the State of South Carolina, and there's no evidence
10 up here to tell us why. But we have one conviction.
11 One conviction is not the worst of the worst. It's
12 a mistake, and it's bad. And Mr. Bodie did ten
13 years behind bars for that, as he should have.

14 We submit that they've proved the first
15 element. We submit that they've proved the second
16 element, the mental abnormality. Sure, he's a
17 pedophile. He has pedophilic disorder. I asked
18 Dr. Gehle, Why do you keep saying attraction to
19 males? I submit it was just to pull on your
20 emotions because that's not normal, according to
21 this book. And I'm going to stay away from judging
22 people's choices.

23 The third element, and this is the element that
24 I'm asking you to focus on, that makes him likely to
25 engage in acts of sexual violence if not confined to

1 a secure facility for long-term control and
2 treatment. Makes him likely to engage. I want to
3 talk about that for a minute.

4 For ten years, he had three infractions, in ten
5 years. He can control his behavior. He's been in
6 Saluda County Jail waiting for this trial for over a
7 year. Don't you think if he had infractions, we
8 would have heard about those? He can control his
9 behavior. He made mistakes and he admitted them.

10 The words that he used with Dr. Gehle were
11 turned around and used against him. But if you
12 remember, I specifically asked her, Didn't he say if
13 he could go back, he would change it? Well, sure;
14 wouldn't we all? But he can't go back. He can't
15 change it, but he has done his time and he can get
16 treatment outside.

17 Judge Keesley will read you the definitions.
18 Likely to engage in acts of sexual violence. His
19 propensity is such a degree to pose a menace to the
20 health and safety of others. One conviction, ten
21 years. I know it's not something that we want to
22 talk about, but it's one conviction.

23 The purpose of the act is to involuntarily
24 commit a limited subclass of dangerous persons,
25 limited. Ten years, three infractions, none of

1 those were sexual infractions. He does have the
2 community supervision. Dr. Gehle said she believed
3 that it started when he was imprisoned or put back
4 in jail. Either way, he's got at least till August.

5 Required treatment, that doesn't mean it
6 doesn't stop after that. He has sex offender
7 registry.

8 He has the support of his family. He is not a
9 threat to this community. These sex offender laws
10 are made -- well, the registry laws are made to keep
11 sex offenders away from schools, away from malls.
12 Dr. Gehle wasn't sure of all of the restrictions,
13 but that's why we have these.

14 There are dangerous sex offenders out there.
15 And there are dangerous sex offenders that are
16 sexually violent predators that fall within the
17 definition of this act, but Jason Bodie is not one
18 of them.

19 Just like I said when I was watching the
20 Minority Report, it's terrifying to think that a
21 guess based on a moderately accurate, moderately
22 accurate actuarial tool can put him involuntarily
23 committed for an indeterminant amount of time. He's
24 done his sentence. He has paid his time. He
25 admitted to what he did.

1 Remember Dr. Gehle said, very honestly, what
2 her opinion is is for y'all to consider.

3 I know that my job is unpopular. I know that
4 most people that represent defendants and
5 respondents is an unpopular job, but protecting the
6 constitutional rights of sex offenders who have
7 served their sentence is not just a matter of
8 fairness to them, it is necessary to protect the
9 integrity of the judicial system and all rights of
10 Americans.

11 Judge Keesley's going to read to you the three
12 elements that are required in this case. They have
13 to prove beyond a reasonable doubt, beyond a
14 reasonable doubt, that's not with no doubt, and
15 Judge Keesley's going to explain what the definition
16 is, but if you have a doubt that he is a sexually
17 violent predator, the Judge will tell you how to
18 rule. They have to prove that he is likely to
19 engage in acts of sexual violence. The propensity
20 is such a degree that it poses a menace to the
21 health and safety of others, that he has serious
22 difficulty in controlling his behavior. And, again,
23 I ask you to look at the last ten years and the
24 three infractions.

25 Ladies and gentlemen, dangers bring fears and

1 fears bring more dangers. And I agree that there's
2 a necessary, necessary group, limited group of
3 people that the Legislature created this act for,
4 and I would submit that Jason Bodie is not one of
5 them. And after listening to Judge Keesley, I ask
6 that you set your emotions aside and that you look
7 at the facts and you find that he is not a sexually
8 violent predator. Thank you.

9 **THE COURT:** Thank you, Ms. Zmroczek.

10 Do you have any response, Mr. Bodie?

11 **MR. BOGLE:** No, Your Honor. Thank you.

12 **THE COURT:** Thank you.

13 Ladies and gentlemen, I'm going to send you in
14 the jury room for about three to five minutes. I'm
15 going to bring you back out, I'm going to tell you
16 the law, and then shortly after that, you'll get the
17 case to decide. Please don't discuss the case yet.
18 Follow the bailiff.

19 (The jury retires to the jury room.)

20 **THE COURT:** All right. We're at ease for just
21 a few minutes.

22 (Brief Recess.)

23 **THE COURT:** All right. During the charge,
24 please stay still and stay quiet, don't distract the
25 jury in any way by making sounds or movements.

1 Absent an emergency, please remain still and quiet.

2 Bring the jury.

3 (The jury returns to the courtroom.)

4 CHARGE OF THE COURT

5 **THE COURT:** Members of the jury, all of the
6 evidence has been presented, you've heard the
7 arguments of counsel and now it's time for me to
8 instruct you on the law that applies to the case.
9 Please continue to pay close attention during this
10 next stage.

11 Now, first, you need to understand some basic
12 ground rules. You, the jury members, are the sole
13 judges of the facts. You decide all of the issues
14 of fact. You alone determine the truth of the
15 evidence, its effect, its value and its weight. You
16 alone judge the credibility of the witnesses, in
17 other words, whether or not a witness' testimony is
18 believable.

19 Now, in this regard, you may believe all that a
20 witness said or none of it; you may believe part of
21 what a witness said and not believe the balance; you
22 may believe one witness against many or many against
23 one; you may consider any interest, bias or
24 prejudice you feel that a witness has in the case;
25 you may consider the demeanor and the appearance of

1 the witness and the opportunity for knowledge that
2 the witness had; you may consider whether a witness
3 has been consistent or inconsistent.

4 But you're not to exercise these considerations
5 arbitrarily. What I want you to do is to use your
6 common sense, use your sense of logic and reason and
7 your good judgment.

8 It's not proper for me to give you a charge on
9 the facts of the case. I'm not permitted to convey
10 to you an impression as to what, if any, personal
11 opinions I may develop about a case as it goes
12 along. So if, during any stage of this trial, you
13 develop an impression that I have a personal opinion
14 about the facts, you must remove that totally from
15 your mind. You're the sole judges of the facts.

16 I am the judge of the law that applies to the
17 case. And under your oath, you must accept and
18 apply the law as I give it to you. That means if
19 you have conflicting ideas about what the law is or
20 what it should be, you must abandon those. I give
21 you the law, you apply it to the facts as you
22 determine them to be, and in that way, you'll reach
23 your verdict or decision.

24 It's also my job to decide what evidence is
25 admissible. If I've ruled something inadmissible or

1 instructed you to disregard something, you're not to
2 consider those things in arriving at your verdict.
3 Base your decision on the competent evidence before
4 you, consider the testimony of the witness and the
5 exhibits admitted in the trial.

6 Now, I need to explain to you that there are
7 two types of evidence that are generally presented
8 during a trial. There's direct evidence and there's
9 circumstantial evidence. Direct evidence directly
10 proves the existence of a fact and does not require
11 deduction. Circumstantial evidence is proof of a
12 chain. It's proof of a chain of facts and
13 circumstances indicating the existence of a fact. A
14 fact may be proven by circumstantial evidence.

15 The law makes no distinction between the weight
16 or the value to be given to either direct or
17 circumstantial evidence. However, to the extent
18 that the State relies on circumstantial evidence,
19 all of the circumstances must be consistent with
20 each other and when taken together, they must point
21 conclusively to the determination that the
22 Respondent is a sexually violent predator beyond a
23 reasonable doubt. If the circumstances rise only to
24 the level of suspicion, the proof has failed.

25 The burden of proof is upon the State to prove

1 that the Respondent is a sexually violent predator
2 beyond a reasonable doubt, and that burden rests
3 with the State regardless of whether the State
4 relies on circumstantial evidence, direct evidence
5 or some combination of the two.

6 The rules of evidence allow for opinion
7 testimony to be given under certain circumstances.
8 One area where that's allowed is where someone by
9 virtue of education, training or experience is
10 allowed to testify as an expert witness.

11 Now, the mere fact that an expert witness is
12 allowed to give opinions under our rules does not
13 mean that you must accept the opinions given if you
14 choose not to do so. You may accept or reject the
15 testimony of an expert witness just as you may any
16 other witness in whole or in part.

17 Now, the State has brought this case under the
18 Sexually Violent Predator Act. The State is the
19 Petitioner and seeks to have the Respondent, Jason
20 Bodie, involuntarily committed for a long-term care,
21 control and treatment in a secure facility. As I
22 have explained to you, this is not a criminal case,
23 it is a civil commitment process. The State must
24 prove to you that Mr. Bodie is a sexually violent
25 predator beyond a reasonable doubt.

1 Now, proof beyond a reasonable doubt is proof
2 that leaves you firmly convinced that Mr. Bodie is a
3 sexually violent predator. Every essential fact in
4 issue must be established by the State beyond a
5 reasonable doubt. And here you'll be asked to tell
6 us whether the State has proven that Mr. Bodie is a
7 sexually violent predator. Yes or no.

8 The Respondent, Mr. Bodie, is entitled to every
9 reasonable doubt arising in the entire case.

10 There are few things in the world that we know
11 with absolute certainty and in a case of this sort,
12 the law does not require proof that overcomes every
13 possible doubt. If, based on your consideration of
14 the evidence, you are firmly convinced that the
15 State has proven that the Respondent is a sexually
16 violent predator beyond a reasonable doubt, then you
17 are to answer the question yes. However, if after
18 considering all of the evidence, you think there is
19 a real possibility that he is not a sexually violent
20 predator, you must give him the benefit of the doubt
21 and answer the question no.

22 There is no obligation on the part of the
23 Respondent to raise any doubt or any other
24 possibility. The burden of proof is entirely on the
25 State. The State has to prove that the Respondent

1 is a sexually violent predator to the exclusion of
2 any other real possibility. So let me explain to
3 you in more detail what requirements are necessary
4 to declare someone to be a sexually violent
5 predator.

6 In order for the State to commit Mr. Bodie
7 under the Sexually Violent Predator Act, the State
8 must prove three essential elements each beyond a
9 reasonable doubt. First, the State must prove to
10 you that Mr. Bodie has been convicted of a sexually
11 violent offense. I charge you that criminal sexual
12 conduct with a minor in the second degree is defined
13 as a sexually violent offense under South Carolina
14 law.

15 The second element is that the State must prove
16 to you that Mr. Bodie suffers from a mental
17 abnormality or personality disorder.

18 And the third element is that the State must
19 prove beyond a reasonable doubt that because of that
20 mental abnormality or personality disorder,
21 Mr. Bodie is likely to engage in acts of sexual
22 violence if not confined in a secure facility for
23 long-term control, care and treatment.

24 Now, regarding the first element, a person has
25 been convicted when the person pleads guilty to the

1 offense.

2 Regarding the second element, the term mental
3 abnormality means a mental condition affecting a
4 person's emotional or volitional capacity that
5 predisposes a person to commit sexually violent
6 offenses.

7 And regarding the third element, likely to
8 engage in acts of sexual violence means the person's
9 propensity to commit acts of sexual violence is of
10 such a degree as to pose a menace to the health and
11 safety of others. In order to prove this element,
12 the State must prove that the Respondent has serious
13 difficulty in controlling his behavior. The State
14 must prove that the Respondent suffers from a mental
15 condition that he cannot sufficiently control
16 without the structure and care provided by a mental
17 health facility rendering him likely to commit a
18 dangerous act of a sexual nature if he is not
19 confined and treated in such a facility.

20 The term mental abnormality means a mental
21 condition affecting a person's emotional or
22 volitional capacity that predisposes the person to
23 commit sexually violent offenses. The mental
24 abnormality or personality disorder must be of such
25 a nature that it causes serious difficulty in

1 controlling behavior.

2 And this is repetitive, but the term likely to
3 engage in acts of sexual violence means that the
4 person's propensity to commit acts of sexual
5 violence is of such a degree as to pose a menace to
6 the health and safety of others so that he is
7 dangerous to others.

8 So to recap this, in order to prove its case,
9 the State must establish beyond a reasonable doubt
10 that Mr. Bodie has previously been convicted of a
11 sexually violent offense and that he suffers from a
12 mental abnormality or personality disorder that
13 makes him likely to engage in acts of sexual
14 violence if he is not confined to a secure facility
15 for long-term control, care and treatment.

16 This is not a criminal case. The criminal
17 matters involving Mr. Bodie have already been
18 handled, and Mr. Bodie has already been punished for
19 the criminal act to which he pleaded guilty. It
20 would be improper for you as jurors to consider
21 punishment in any manner during your deliberations.
22 Your focus must be on whether or not the State has
23 proven the elements I have just explained to you
24 from the Sexually Violent Predator Act. When or
25 under what circumstances Mr. Bodie might be released

1 is not a matter for your concern.

2 Now, the final thing I have to tell you about
3 the law is the Respondent is entitled to every
4 reasonable doubt arising in the entire case. If you
5 have a reasonable doubt upon any issue of fact
6 essential to a determination that Mr. Bodie is a
7 sexually violent predator, you must resolve that
8 doubt in favor of the Respondent.

9 However, if upon reviewing the entire case, you
10 have a reasonable doubt as to whether the State has
11 proven the Respondent to be a sexually violent
12 predator, he is entitled to that reasonable doubt
13 and a determination that he is not a sexually
14 violent predator.

15 On the other hand, if upon reviewing the entire
16 case, you find that the State has proven every
17 element and established that Mr. Bodie is a sexually
18 violent predator beyond a reasonable doubt, it is
19 equally your duty to find that he is a sexually
20 violent predator.

21 That's the law.

22 Folks, when you go back to the jury room,
23 you're going to have this verdict form and you're
24 going to have any exhibit that's been admitted in
25 the trial.

1 Now, the verdict form is, in legal terms,
2 called an interrogatory verdict form. And as I
3 mentioned to you at the outset of the trial, an
4 interrogatory is just a fancy word for a question.
5 We're going to ask you a question. And it's on this
6 verdict form and here's how it reads:

7 Has the Petitioner, the State of South
8 Carolina, proved beyond a reasonable doubt that
9 Jason Bodie is a sexually violent predator under the
10 South Carolina Sexually Violent Predator Act? And
11 then it reads: We, the jury, unanimously answer the
12 question as follows. You may choose to find, yes,
13 that he is a sexually violent predator under the act
14 or you may choose to find, no. In other words, you
15 may have a reasonable doubt as to whether the State
16 has proven him to be a sexually violent predator.

17 Now, the order in which I stated those is not
18 meant to suggest to you in any manner one over the
19 other. I've got to list one option first and one
20 option second.

21 But, Madame Foreman, part of your job is to
22 record the verdict of the jury. I think you'll find
23 the form self-explanatory, just choose the option
24 chosen by the jury. And there's a signature line
25 there I need you to sign.

1 Folks, how you go about your deliberations, how
2 you go about taking your votes, those kind of
3 things, that's all in your discretion subject to
4 this requirement: The decision must be unanimous.
5 All 12 of you must agree in order for the Foreperson
6 to record your decision. When you have reached your
7 decision and the Foreperson has filled out the form,
8 knock on the door, the bailiff will respond to your
9 knock.

10 I probably told you now a dozen times or so not
11 to discuss the case until I tell you to. Well, it's
12 not time yet. The law says that I have to go over
13 with the attorneys what I just told you, and that's
14 common sense. We don't want you back there deciding
15 the case using the wrong law. So I have to give
16 them a chance to discuss with me anything they may
17 disagree with me about on the law.

18 Now, the truth is that we've already been over
19 this. I've given them a draft of it; we've been
20 through it; it shouldn't take long. But as you
21 probably noticed, I never read these things
22 verbatim. Sometimes I say things I don't even know
23 I said. So if I -- if I feel like, after talking
24 with them, that I need to come back -- have you come
25 back out and correct something, I'll have that done.

1 Otherwise, this is the signal you need to look
2 for: If I'm satisfied with what I've told you, I'm
3 going to have the bailiff bring in the exhibits and
4 verdict form, I'm going to have the bailiff bring
5 the two alternates out. When that door closes and
6 it's just the 12 of you in there and you've got
7 those forms, you don't have to wait one more second,
8 you can start talking about the case, but don't talk
9 about it until then.

10 Thank you so much for your attention. You may
11 retire to your jury room.

12 (The jury retires to the jury room.)

13 **THE COURT:** All right. Please state for the
14 record exceptions, additions or objections to the
15 charge, from the State?

16 **MR. BOGLE:** There are none, Your Honor.

17 **THE COURT:** From the Respondent?

18 **MS. ZMROCZEK:** There are none.

19 **THE COURT:** Thank you very much. I appreciate
20 the respect everyone's shown the Court during the
21 trial and we'll put it in the jury's hands and let
22 them decide it. Check the verdict form, check the
23 exhibit. When you're satisfied, give those to the
24 bailiff.

25 (Pause.)

1 **THE COURT:** All right. Bring the alternates
2 out, please.

3 (The alternates enter the courtroom.)

4 **THE COURT:** Ms. Edwards and Ms. Davis -- no, I
5 got it wrong -- Ms. Edwards and Ms. Jaramillo,
6 sorry, we made it through the trial without losing
7 any of the 12 jurors, so I do not need you any
8 further. We use an alternate in about half the
9 cases we do, so I hope you don't feel like we had
10 you sitting over there for nothing.

11 We needed you to be there in case somebody got
12 sick or there was some issue that arose. Sometimes
13 we get in a trial and somebody realizes something
14 that they need to tell me about that they should
15 have told me about at the beginning.

16 So, anyway, you're through with jury duty. You
17 don't have to come back, you don't have to call in.
18 If you need a slip for work, just check with
19 Ms. Holmes here and she'll get that for you. If you
20 want to stay around, you're welcome to stay.

21 You have an exemption for three calendar years.
22 So you don't have to serve on a jury 2016, '17 or
23 '18 at this level. It won't help you in federal
24 court or city court or county court or magistrate's
25 court. You have a disqualification for one year at

1 this level since you actually sat on a trial jury,
2 so try to remember when you served in case you get
3 another notice down the road. Thank you very much.

4 (The alternates were excused.)

5 **THE COURT:** All right. We're at ease pending a
6 verdict on this case.

7 (Whereupon, the jury commenced its
8 deliberations at 11:38 A.M.)

9 (A recess transpired.)

10 (Court's Exhibit Number 2, jury note, marked
11 for identification.)

12 (The following occurred during jury
13 deliberations at 12:31 P.M.)

14 **THE COURT:** I received a note from the jury
15 with a question that reads, What are the five-year
16 and ten-year reoffend percentages for a score of
17 four on the Static-99 actuarial table?

18 Obviously, all I can do is offer to replay the
19 testimony. I don't know if that all occurred in one
20 location or if it's in different locations.

21 **MR. BOGLE:** Judge, Dr. Gehle scored him a five
22 on the test, and she testified what the five year
23 and ten year numbers were on five. There was no
24 testimony at all as to what the numbers would have
25 been on a four. So what they're asking for is not

1 in evidence.

2 **MS. ZMROCZEK:** What I think they're doing,
3 Judge, is what I did is ask a question about when he
4 turns 35 or something, then it'll go down a number.
5 And so I think that's where -- I assume that's where
6 they're generating their question from, but she
7 didn't testify as to -- as to what the recidivism
8 rates were for a four.

9 **MR. BOGLE:** I agree. And when he turns 35, it
10 will drop down a number from a five to a four. And
11 Ms. Zmroczek did ask -- cover that fact that it
12 would drop, but she never testified as to what the
13 five-year and ten-year rates were, were for.

14 **THE COURT:** So are you wanting me to offer to
15 play back testimony or you want me -- how do you
16 want me to proceed?

17 **MR. BOGLE:** I would recommend you tell them
18 that -- well, in essence, it's a question you can't
19 answer because they've heard all the evidence
20 they're going to hear; it's not in the record. And
21 they're asking for something to be put in the record
22 that's not there. I'm not sure what the exact
23 language is, but, essentially, I believe you'd be
24 saying that you've heard all the testimony; you've
25 got to decide the case from the testimony you've

1 heard, something to that effect.

2 **MS. ZMROCZEK:** I think also where I may have
3 confused them, Your Honor, is I asked like a low --
4 a one is a low, two and three are low to moderate,
5 four to five are moderate to high, but -- and I
6 don't know the answer to this question. I don't
7 know if four and five have the same recidivism
8 rates, so I don't know that -- but I know that she
9 specifically didn't testify as to what the
10 recidivism rates would be for a four.

11 **MR. BOGLE:** What I've experienced in doing
12 these before is the rates do vary depending on the
13 number.

14 **THE COURT:** Bring in the jury.

15 (The jury returns to the courtroom at 12:34
16 P.M.)

17 **THE COURT:** All right. Members of the jury,
18 I've received the question that reads, What are the
19 five-year and ten-year reoffend percentages for a
20 score of four on the Static-99 actuarial tables?

21 Madame Foreman, is that the jury's question?

22 **FORELADY:** Yes.

23 **THE COURT:** Ladies and gentlemen, you have to
24 decide the case based on the evidence that was
25 presented. If you are asking for additional

1 information on something that was not presented, I
2 can't -- I can't give that to you, it's not there.
3 You have to decide the case based on the record that
4 was presented.

5 If you want to hear the backup audio of the
6 witness, we can replay that for you. The -- and I'm
7 not trying to discourage you in this, but I can play
8 the whole thing over, I can have the court reporter
9 play the whole thing over. We can try to pick
10 sections of it. The problem is that sometimes it's
11 covered in one place in direct and another place in
12 cross and that puts us in a position of trying to
13 figure out where it is and make sure we cover
14 everything you might be concerned about, so usually
15 we prefer to err on the side of giving you all of
16 it.

17 But you can let me know if you want to hear any
18 or all of the testimony replayed and we'll do our
19 best to accommodate that. But from what I'm
20 understanding, you're asking for what the score is
21 on a four and that evidence was not presented.

22 If you have anything additional, you can write
23 it down, I'll try my best, but you have to decide
24 the case based on the evidence presented to you.
25 Thank you. Follow the bailiff.

1 (The jury retires to the jury room to
2 continue its deliberations at 12:37 P.M.)

3 **THE COURT:** Exceptions, additions, objections?

4 **MR. BOGLE:** None from the State, Your Honor.

5 **MS. ZMROCZEK:** None from the Respondent.

6 **THE COURT:** Thank you.

7 All right. We're at ease pending a verdict.

8 (A recess transpired.)

9 **THE COURT:** I've been informed the jury has a
10 verdict. Obviously, I have no way of knowing what
11 the jury has decided. I will say that's one of the
12 most intelligent questions I've ever had posed by a
13 jury, so they obviously are taking their
14 responsibility very seriously.

15 Please do not show any sign of approval or
16 disapproval with the verdict, don't make any noises,
17 don't shake your head in agreement or disagreement,
18 just please stay still and stay quiet.

19 Bring the jury in, please.

20 (The jury returns to open court to report
21 its verdict at 12:44 P.M.)

22 **THE COURT:** All right. Madame Clerk.

23 **THE CLERK:** Madame Forelady, do you have a
24 verdict?

25 **FORELADY:** I do.

1 **THE CLERK:** Would you please pass it to the
2 bailiff?

3 (The Clerk hands the verdict to the Judge.)

4 VERDICT OF THE JURY

5 **THE COURT:** State of South Carolina, County of
6 Saluda, In the Matter of the Care and Treatment of
7 Jason Bodie, Respondent, case number
8 2014-CP-41-00143. The question posed to the jury
9 is, Has the Petitioner, the State of South Carolina,
10 proved beyond a reasonable doubt that Jason Bodie is
11 a sexually violent predator under the law -- under
12 the South Carolina Sexually Violent Predator Act?
13 We, the jury, unanimously answer the question as
14 follows: The answer is yes. Signed by the
15 Foreperson.

16 Madame Foreperson, ladies and gentlemen of the
17 jury, if I've accurately stated your verdict, please
18 signify by raising your right hand.

19 All 12 hands are raised.

20 Are there any matters to take up prior to the
21 jury being discharged, from the State?

22 **MR. BOGLE:** No, Your Honor. Thank you.

23 **THE COURT:** From the Respondent?

24 **MS. ZMROCZEK:** No. Would that be the same as
25 polling the jury?

1 **THE COURT:** I'm sorry?

2 **MS. ZMROCZEK:** By having them raise their hand,
3 is that the Court's way of having the jury polled?

4 **THE COURT:** No. Do you want it polled? I'll
5 poll the jury. Do you want the jury polled?

6 **MS. ZMROCZEK:** Please.

7 **THE COURT:** Okay.

8 Ladies and gentlemen, what's going to happen
9 now is that the Clerk is going to call your name.
10 As she calls your name, raise your hand so she knows
11 where to look. You can put your hand down once she
12 makes eye contact with you. And she's going to ask
13 you either two separate questions or a compound
14 question. The question's going to be basically
15 this, Was this your verdict and is it still your
16 verdict? Just answer her truthfully. All right?

17 Madame Clerk.

18 **THE CLERK:** Gary Beihl, was this your verdict
19 and still your verdict?

20 **JUROR:** Yes.

21 **THE CLERK:** Mark Widowski, was this your
22 verdict and still your verdict?

23 **JUROR:** Yes, ma'am.

24 **THE CLERK:** Brenda S. Sapp, was this your
25 verdict and still your verdict?

1 **JUROR:** Yes.

2 **THE CLERK:** Angela D. Hammond, was this your
3 verdict and still your verdict?

4 **JUROR:** Yes.

5 **THE CLERK:** Bryan L. Staten, was this your
6 verdict and still your verdict?

7 **JUROR:** Yes.

8 **THE COURT:** Y'all speak up a little bit. The
9 court reporter has got to take down what you say.
10 All right?

11 **THE CLERK:** John R. Thomas, was this your
12 verdict and still your verdict?

13 **JUROR:** Yes.

14 **THE CLERK:** Eugenia D. Spain, was this your
15 verdict and still your verdict?

16 **JUROR:** Yes.

17 **THE CLERK:** Kelsalie S. McMillan, was this your
18 verdict and still your verdict?

19 **JUROR:** Yes.

20 **THE CLERK:** Sharon D. Matthews, was this your
21 verdict and still your verdict?

22 **JUROR:** Yes.

23 **THE CLERK:** Sarah L. Minick, was this your
24 verdict and still your verdict?

25 **JUROR:** Yes.

1 **THE CLERK:** Erwin B. Summer, was this your
2 verdict and still your verdict?

3 **JUROR:** Yes, ma'am.

4 **THE CLERK:** Jennifer S. Joaquin, was this your
5 verdict and still your verdict?

6 **JUROR:** Yes, ma'am.

7 **THE CLERK:** Thank you.

8 **THE COURT:** All jurors indicating in the
9 affirmative.

10 Anything else prior to the jury being
11 discharged?

12 **MS. ZMROCZEK:** Nothing.

13 **MR. BOGLE:** No, Your Honor. Thank you.

14 **THE COURT:** All right. Ladies and gentlemen,
15 that concludes your jury service. You are through
16 for the week. You're through for, actually, 2016,
17 '17 and '18. You do not have to serve on State
18 Court Jury Duty again until 2019 at the earliest.

19 Now, that's an exemption. If you're willing to
20 serve and they summon you to serve, we're delighted
21 to have you stay and serve; however, since you
22 actually sat on a trial jury, the law provides that
23 you're disqualified for a year. The computers are
24 supposed to be set up so that you get purged for
25 three years from the list of possible jurors, but it

1 doesn't always work that way, so try to remember
2 when you served.

3 Now, if you need a slip for work, if you'll
4 wait back in the jury room, the Clerk will come back
5 there and get you what you need. Otherwise, I thank
6 you very much for your service and you're free to go
7 as soon as you wish to go. Thank you.

8 (The jury was excused.)

9 **THE COURT:** Are there any motions?

10 **MS. ZMROCZEK:** Just, Your Honor, we would ask
11 that the verdict be set aside in light of -- and the
12 basis for that, Your Honor, is that at 12:34, we
13 were notified -- well, we were notified earlier, but
14 they came out at 12:34, and you gave them the
15 question about -- and I agree with you, I thought it
16 was a very intelligent question about the recidivism
17 rate for a four, which they were told they can't
18 answer and asked if they'd like to listen to any or
19 all of the testimony over again, and then less than
20 ten minutes later, Your Honor, they came out with a
21 verdict.

22 It just raises cause for concern in their
23 understanding of the beyond a reasonable doubt
24 because, I mean, we don't know the answer, but
25 common sense would say that the recidivism rates

1 were lower, but since that wasn't testified to and
2 they weren't allowed to consider that or at least
3 rehear the testimony as to what they thought they
4 heard, we would just ask that the verdict be set
5 aside.

6 **THE COURT:** I don't know if they thought they
7 heard it or they were wanting additional
8 information.

9 I'm interpreting your motion to set aside the
10 verdict and grant a new trial on the basis that the
11 jury -- there's not evidence to support the jury's
12 verdict and that it's indicative -- the situation is
13 indicative that the verdict is based on some
14 improper determination or influence such as passion,
15 caprice, prejudice or some other improper
16 consideration by the jury. There's ample evidence
17 to support the jury's verdict. The motion's
18 respectfully denied.

19 Anything else?

20 **MR. BOGLE:** May I approach, Your Honor?

21 **THE COURT:** Yes.

22 **MR. BOGLE:** I've got a proposed order.

23 **THE COURT:** Okay.

24 (Pause.)

25 **THE COURT:** All right. Mr. Bodie, I've signed

1 this order. What I'm going to do is when the Clerk
2 comes back in, I'm going to get her to take it
3 downstairs, file it and bring back certified copies.
4 So I'm going to give one to you, one to your
5 attorney, one for the Attorney General.

6 If you wish to appeal anything from this
7 proceeding, it has to be in writing and it has to be
8 done promptly. So you instruct Ms. Zmroczek, if you
9 have any desire whatsoever to appeal, to go ahead
10 and file the notice of appeal. If you're unable to
11 afford an attorney, an appellate attorney, the State
12 will appoint one to represent you at the appellate
13 level.

14 **MS. ZMROCZEK:** I've advised him, Your Honor,
15 that I will file the appeal.

16 **MR. BOGLE:** Appellant Defense, even though it's
17 not a criminal case, Appellant Defense has a lawyer
18 assigned to do commitment appeals.

19 **THE COURT:** Okay. Thank you.

20 Do you understand all of that, sir?

21 **MR. BODIE:** Yes, sir.

22 **THE COURT:** All right. Thank you very much.
23 Don't leave here until you have this in your hand.

24

25

END OF PROCEEDINGS

1 C E R T I F I C A T E

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF SALUDA

5

6 I, the undersigned, Stacy L. Sheppard, Circuit
7 Court Reporter for the Eleventh Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the trial of the
12 captioned cause, relative to appeal in the Circuit
13 Court for Saluda County, South Carolina, on the 25th
14 and 26th of April, 2016.

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

17

18

June 27, 2016

19

20

s/Stacy L. Sheppard

21

22

Stacy L. Sheppard, RPR
Circuit Court Reporter

23

24

25

FILED
 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
 COUNTY OF SALUDA) ELEVENTH JUDICIAL CIRCUIT
 2014 JUL -8) AM 8:57

IN THE MATTER OF THE CARE) CIVIL ACTION NO. 2014-CP-41- 143
 AND TREATMENT OF:)
 JASON BODIE,) PETITION PURSUANT TO THE
) SEXUALLY VIOLENT PREDATOR
) ACT
 RESPONDENT.)

COMES NOW, Petitioner, State of South Carolina, by and through the undersigned, and for its cause of action herein alleges and states as follows:

1. This action is filed pursuant to the South Carolina Sexually Violent Predator Act, S.C. Code Ann. Sections 44-48-10 *et seq.* (hereafter, the Act).
2. The South Carolina Department of Corrections (SCDC), having determined that Respondent, Jason Bodie (hereafter, Respondent), had been convicted of at least one Sexually Violent Offense, referred Respondent to the Multi-Disciplinary Team for assessment pursuant to S.C. Code Ann. Section 44-48-40. **Respondent's max-out date is currently on or about February 22, 2015.** His Inmate No. is 321531, and he was born in 1982.
3. The Multi-Disciplinary Team (MDT) on or about May 29, 2014 determined after assessment that Respondent satisfied the definition of a Sexually Violent Predator as set forth in S.C. Code Ann. Section 44-48-30, and referred Respondent to the Prosecutor's Review Committee for a determination pursuant to S.C. Code Ann. Section 44-48-60 as to whether probable cause exists to believe Respondent is a Sexually Violent Predator (attached as **PETITIONER'S EXHIBIT A**). The assessment of the Multi-Disciplinary Team is based on a review of existing records, which may include, but are not limited to the following: description of the qualifying offense(s); history of other sexual assault(s); history of other criminal convictions/adjudications; documentation, if any, of mental disorder(s); community and institutional adjustment; and risk factors.
4. The Prosecutor's Review Committee (PRC) on June 26, 2014 determined that there is probable cause to believe that Respondent is a Sexually Violent Predator as defined by statute (**EXHIBIT B**). The Prosecutor's Review Committee bases its determination on the records and reports provided by the Multi-Disciplinary Team including any information provided by the agency that prosecuted the qualifying offense.
5. The Petitioner now alleges that Respondent is a Sexually Violent Predator as defined by S.C. Code Ann. Section 44-48-30 (1), to wit:

QUALIFYING CONVICTION (EXHIBIT C):

- A. Type of Conviction: Criminal Sexual Conduct with a Minor in the Second Degree.
- B. Date of Conviction: April 26, 2007.
- C. Trial or Plea: guilty plea in Saluda County.
- D. Sentence Received: 10 years.
- E. Original Charges: Same.
- G. Brief Facts:

Victim 1: 11- to 12-year-old Male.

On numerous occasions between on or about August 2005 and June 2006, Respondent engaged in sexual battery with Victim 1 by fondling his genital area and performing oral sex on him.

Victim 1's father was concerned that something was bothering his son. He asked a neighbor and family friend to talk with the young man. Victim 1 disclosed to the neighbor the sexual assaults by Respondent. When the neighbor confronted Respondent, he initially denied the allegations, but then advised the neighbor he had pending charges for sexually assaulting another young boy and was afraid of going to jail for fear of what happens to "people like him," or words to that effect, in jail.

OTHER SEXUALLY VIOLENT OFFENSES:

- A. Type of Offense: Criminal Sexual Conduct with a Minor in the Second Degree.
- B. Date of Offense: from on or about January 1, 2004 until July 31, 2005.
- C. Disposition: indicted in 2006, *nolle pros'd* on October 26, 2011.
- D. Brief Facts:

Victim 2: 13-year-old Male.

During the times above, Respondent performed oral sex on Victim 2 (EXHIBIT D).

South Carolina Department of Juvenile Justice records show a prior arrest in Saluda County on or about March 1, 1995 for Criminal Sexual Conduct with a Minor. Respondent was about 12 years old at the time of the arrest. This charge was *nolle pros'd*.

PRIOR OR OTHER OFFENSES (OTHER THAN SEXUAL) (If Known):

None.

SCDC RECORDS:

While incarcerated Respondent was convicted of three disciplinary infractions, two for Disrespect and one for Stealing (**EXHIBIT E**).

SEX OFFENDER TREATMENT WHILE AT SCDC:

None on file.

GENERAL NOTES:

Risk factors common in cases of this nature include: (1) offender age 18 to 24.9, (2) offender never been legally married or never lived with a lover for at least two years, (3) not related to victim, (4) male victim, (5) prior sexual offense, (6) length of sexual offending history one to six years, (7) force or threat of force used, (8) victim age 13-15, (9) more than one victim, and (10) victim age 11 or younger.

(a) Sufficient evidence exists or will exist to determine that Respondent suffers from a mental abnormality or personality disorder which makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, and that the Respondent has serious difficulty in controlling his behavior, or sexual desire impulses.

(b) In support of the State's allegations that the Respondent has a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, the State, in addition to any other evidence which Petitioner may present to the Court hereafter, submits the following for consideration:

i. According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, the diagnostic criteria for **Pedophilic Disorder** are:

A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges,

or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).

B. The person has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.

C. The person is at least age 16 years and at least 5 years older than the child or children in Criterion A. **(EXHIBIT F).**

ii. According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, the diagnostic criteria for **Paraphilic Disorder** are:

A. Any intense and persistent sexual interest other than sexual interest in genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners **(EXHIBIT G).**

ii. "[P]revious instances of violent behavior are an important indicator of future violent tendencies." *Kansas v. Hendricks*, 521 U.S. 346, 358, 117 S. Ct. 2072, 2080 (1997). The Respondent's instances of violent and non-violent behavior are:

A. The basis of his 2007 conviction for Criminal Sexual Conduct with a Minor in the Second Degree **(EXHIBIT C, supra).**

B. The basis of his arrest and 2006 indictment for Criminal Sexual Conduct with a Minor in the Second Degree sex offender registry conviction in 2008 **(EXHIBIT D).**

C. The basis of his arrest while a juvenile for Criminal Sexual Conduct with a Minor.

D. The basis of his disciplinary infractions while incarcerated at SCDC **(EXHIBIT E).**

E. The basis of his lack of sex offender treatment while incarcerated.

F. Respondent's NCIC record is attached as **EXHIBIT H**.

- iii. The facts of the Respondent's offenses indicate the existence of a mental abnormality in that they could involve recurrent sexual urges, or behaviors involving an underage child occurring over a period of at least six months.

WHEREFORE, Petitioner requests that based on the above information the Court find there is probable cause to believe Respondent Jason Bodie is a Sexually Violent Predator and order:

1. Respondent be taken into custody and confined in a secure facility, if he has not already been so confined;
2. Respondent be notified by the Court of the opportunity to appear in person at a hearing to contest probable cause as to whether he is a Sexually Violent Predator;
3. A hearing to contest probable cause be held within 72 hours after Respondent is taken into custody, but only if he is not already in custody;
4. Counsel be appointed for Respondent if necessary;
5. If probable cause is found at that hearing, that Respondent remain in custody and be transferred to an appropriate facility for an evaluation as to whether Respondent is a Sexually Violent Predator;
6. The Court appoint a qualified expert for such an evaluation if probable cause is found;
7. If probable cause is found a trial be held on all issues, and if Respondent is found to be a Sexually Violent Predator that he be committed to the custody of the South Carolina Department of Mental Health for long term control, care, and treatment, until such time as Respondent's mental abnormality or personality disorder has so changed that Respondent is safe to be at large and has been released pursuant to the requirements of S.C. Code Ann. Section 44-48-10 *et seq.*, and
8. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

(Signatures continued on following page.)

JAMES G. BOGLE, JR.
Senior Assistant Attorney
General

By: 
Attorneys for Petitioner
S. C. Bar No. 755
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
V: 803.734-1173
F: 803.734-6679
A.G. File No. 20143743
jbogle@scag.gov

June 30, 2014
Columbia, South Carolina

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

Petitioner's EXHIBIT A

SEXUAL PREDATOR REFERRAL FORM

Offender		Offender	Jurisdictional
Name: JASON BODIE		Number: 321531	Agency: SCDC
Age: 31	County: SALUDA	Qualifying Offense(s): Guilty Plea: Trial:	
Gender: Male	No. of Incarcerations:	Criminal Sexual Conduct with Minor 2nd	

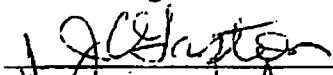
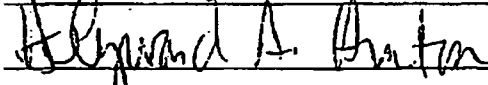
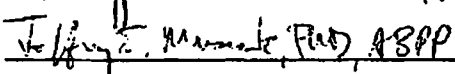
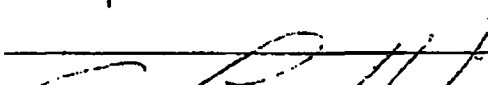
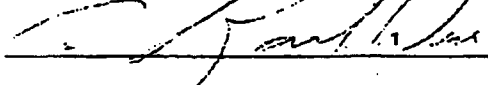
Adult 10 years	Parole Eligibility	Max-Out
Sentence:	Date:	Date: 02/22/2015
Juvenile	Parole	SFII
Guidelines:	Release Date:	Date:

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

VOTES TO REFER/NOT REFER TO PROSECUTOR'S REVIEW COMMITTEE:

YES	NO	ABSTAIN
4		

The following Sexual Predator Multi-Disciplinary Team Members participated in the review process:

	SCDC -- CHAIRPERSON
	SCDPDS
	DMH
	JDG
	ATTORNEY

MULTIDISCIPLINARY TEAM

The offender's records were assessed by the Multidisciplinary Team on May 29, 2014, and based upon that assessment, we find that:

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

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

Petitioner's
EXHIBIT B

**PROSECUTOR'S REVIEW COMMITTEE
PROBABLE CAUSE DETERMINATION**

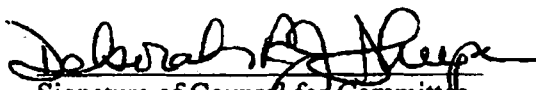
INMATE NAME:	INMATE NUMBER	PRC REVIEW DATE:
Jason Bodie	00321531	June 26, 2014
		MEMBERS PRESENT:
		Barry Bernstein for Alan Wilson David M. Stumbo via telephone Laura Hudson for Beebe James

DATE RECEIVED FROM MULTIDISCIPLINARY TEAM: June 2, 2014

The Multi-Disciplinary Team referred this case to the Prosecutor's Review Committee pursuant to S.C. Code Ann. § 44-48-50, for review to determine whether probable cause exists to believe this person is a sexually violent predator. S.C. Code Ann. § 44-48-60. The Prosecutors Review Committee reviewed all information received from the Multi-Disciplinary Team, including without limitation: documentation of the qualifying offense as well as other sexual assault(s) or criminal convictions/adjudications; documentation of mental disorder(s); community and institutional adjustment; and risk factors.

PROBABLE CAUSE DETERMINATION:

By a vote of 3-0, the Prosecutor's Review Committee found probable cause to believe that this individual has been convicted of a sexually violent offense, and suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.


Signature of Counsel for Committee

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

Petitioner's EXHIBIT C

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF SALUDA

) INDICTMENT/CASE#:

STATE

VS.

) 2006 - GS - 41 - 231

JASON BODIE

) A/W# J 140256

AKA:

) Date of Offense: 8/1/05 - 6/1/06

Race:

W

Sex:

M

Age: 24

) S.C. Code §: 16-3-655(2)

DOB:

82

SS#

) CDR Code #: 0396

Address

City/State/Zip

SENTENCE SHEET

DL#:

SID#

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO CRIMINAL SEXUAL CONDUCT WITH A MINOR SECOND DEGREE

In violation of § 16-3-655(2) of the S.C. Code of Laws, bearing 0 1 3 1 9 1 6

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

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury (defendant Initial)

The plea is: ☒ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center for a determinate term 10 days/months/years or ☐ under the Youthful Offender Act not to exceed Years and/or to pay a fine of \$; provided that upon the service days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Heard. ☐ Waived. ☐ Ordered

PTUP

Total: \$ plus 20% \$

 Days/hours Public Service Employment

Payment Terms:

☐ set by SCDPPPS

Obtain GED

Attend Voc Rehab. Or Job Corps

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

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

Pmts. of \$ Beginning

\$ paid to Public Defender Fund.

Other: All contact with victim

☐ Appointed PD or appointed other counsel. §35.13 TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

Recipient

*Fine: \$

§ 14-1-206 - (Assessments 107.5%)

\$

§ 14-1-211 - (A)(1) (Conv. Surcharge)

\$ 100

§ 14-1-211 - (A)(2) (DUI Surcharge)

\$ 100

§ 56-5-2995 (DUI Assessment)

\$ 12

§ 35.13 (Public Def Prob)

\$ 500

§ 73.3. 1B TP (Law Enforce. Funding)

\$ 25

§ 33.7. 1B TP (Drug Court Surcharge)

\$ 100

§ 50-21-114 (B)(1) Breath Test Fee

\$ 50

§ 56-5-2942(J) (Vehicle Assessment)

\$ 40 ea

3% to County (if paid in installments)

\$

TOTAL

\$ 125.75

Clerk of Court/Deputy Clerk

Court Reporter:

PAGE 03

WITNESSES

Padget

SCSO

DOCKET NO. 2006-GS-41- 231

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

AUGUST TERM 2006

THE STATE

vs.

JASON BODIE

ARREST WARRANT NUMBER

J 140256

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

AUG 9 2006

VERDICT

CDR# 0396

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR
2nd DEGREE

DONALD V. MYERS, SOLICITOR

CLERK OF COURT

8644453772

09:26

07/01/2014

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF SALUDA)
INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR
2ND DEGREE

At a Court of General Sessions, convened on August 9, 2006 the Grand Jurors of Saluda County present upon their oath:

That JASON BODIE did in Saluda County between August 1, 2005 and June 1, 2006, unlawfully commit a sexual battery with a minor, to wit: the Defendant, Jason Bodie, DOB May 29, 1982, did fondle the genitalia of and/or penetrate the anus of and/or perform fellatio upon the victim, [REDACTED] DOB [REDACTED] 1994, who was then fourteen years of age or less but who was at least eleven years of age, and the defendant was older than the victim, in violation of Section 16-3-655(2) of the Code of Laws of South Carolina, 1976, as amended.

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


ASSISTANT SOLICITOR

ARREST WARRANT

J140256

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

SALUDA COUNTY

THE STATE
against

BODIE JASON

Address: **259 CROOKED CREEK ROAD**
SALUDA, SC 29138

Phone: _____ SSN _____

☒ M Race: ☒ W Height: **5' 10"** Weight: **175**

DL State: _____ DL #: _____

DOB: **1982** Agency OR#: **SC0410000**

Prosecuting Agency: **SALUDA SHERIFFS OFFICE**

Prosecuting Officer: **C.B. PADGET**

Offense: **CRIM. SEXUAL CONDUCT w/ MINOR**

Offense Code: **G159**

Code/Ordinance Sec. **16-3-635 (1)**

This warrant is **CERTIFIED FOR SERVICE** in the
☐ County/ ☐ Municipality of

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

Signature of Judge (L.S.)

Date _____

RETURN

A copy of this arrest warrant was delivered to
defendant **BODIE JASON**

on **Aug 13, 2006**

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

D. BRUCE HORNE
108 SOUTH RUDOLPH STREET
SALUDA, SC 291380000

STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
SALUDA COUNTY)

AFFIDAVIT

Personally appeared before me the affiant **CPL C.B. PADGET** who
being duly sworn deposes and says that defendant **BODIE JASON**
did within this county and state on **AUG 01, 2005 Thru JUN 01, 2006** violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of **SALUDA COUNTY**)
in the following particulars:

DESCRIPTION OF OFFENSE:
CRIM. SEXUAL CONDUCT w/ MINOR
16-3-635 (1)

I further state that there is probable cause to believe that the defendant named above did commit the
crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT.

Signature of Affiant

STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
SALUDA COUNTY)

Affiant's Address **108 LAW ENFORCEMENT DRIVE**
SALUDA, SC 29138
Affiant's Telephone **(864) 445-2112**

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on **AUG 01, 2005 Thru JUN 01, 2006** defendant **BODIE JASON**
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of **SALUDA COUNTY**) as set forth below:

DESCRIPTION OF OFFENSE:
CRIM. SEXUAL CONDUCT w/ MINOR
16-3-635 (1)

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

Sworn to and subscribed before me)
on **AUG 13, 2006**)

Signature of Issuing Judge (L.S.)

Judge Code: **606**
D. BRUCE HORNE

Judge's Address **108 SOUTH RUDOLPH STREET**
SALUDA, SC 291380000

Judge's Telephone **(864) 445-4500**

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

CASE #: 200606734

Furn. Affidavit by
S.C. Attorney General
April 21, 2003
SCCA 618

FILED
Clerk of Court
SALUDA CO. SC
JUN 14 2006

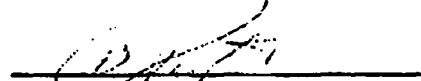
STATE OF SOUTH CAROLINA**AFFIDAVIT****COUNTY OF SALUDA**

PERSONALLY APPEARED BEFORE ME, JUDGE OF THE COURT, THE AFFIANT, CPL. C.B. PADGET, WHO BEING DULY SWORN, DEPOSES AND STATES THAT THE DEFENDANT, BODIE, TOMMY JASON, DID WITHIN THE COUNTY OF SALUDA, STATE OF SOUTH CAROLINA, COMMIT THE FOLLOWING OFFENSE.

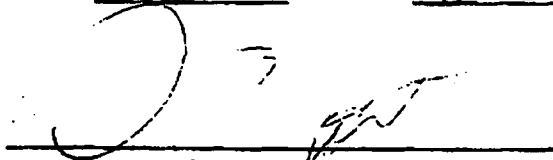
**CRIMINAL SEXUAL CONDUCT W/MINOR
16-3-655(A)(2)**

THE DEFENDANT DID BETWEEN THE DATES OF AUGUST 2005 AND JUNE 2006 VIOLATE THE ABOVE LAW BY WILLFULLY ENGAGING IN A SEXUAL BATTERY WITH A VICTIM WHO WAS LESS THAN FOURTEEN YEARS OF AGE (VICTIM'S DOB: ~~1994~~ 1994). BUT AT LEAST ELEVEN YEARS OF AGE. SAID INCIDENT TOOK PLACE AT 259-CROOKED CREEK RD WARD, SC IN SALUDA COUNTY. THIS IS A VIOLATION OF THE SOUTH CAROLINA CODE OF LAWS, SECTION 16-3-655(A)(2) AS AMMENDED.

SIGNATURE OF AFFIANT



SWORN TO AND SUBSCRIBED BEFORE ME
THIS 13th DAY OF June 2006



MAGISTRATE FOR SALUDA COUNTY

8644458829

03:08:51 p.m. 05-06-2014

6/10

SALUDA COUNTY SHERIFF'S OFFICE

J. Booth, Sheriff

VOLUNTARY STATEMENT

STATEMENT OF: [REDACTED]

PAGE 1 / 1

Jason Bodie was sexually harassing me for
about a year August 2005 till 3 weeks
ago we was sucking but please and I want
to press charges 259 C Food & Drink my house
Block Building SUPPLY is where he works

J.C.C.

Sworn Before Me This Day of 30

J. Booth

Signature of Affiant

Notary Public - State of South Carolina

Date

8644458629

03:09:59 p.m. 05-06-2014

8/10

SALUDA COUNTY SHERIFF'S OFFICE

J. Booth, Sheriff

VOLUNTARY STATEMENT

STATEMENT OF: JAMES W. TolbertPAGE 1 / 1

for ON JUNE 12, 2006, I WAS CONTACTED BY SHAG HERRON AT MY HOME AT 2156 LAWRENCE RD. LENOIR, S.C. 29070. MR. HERRON STATED THAT HIS SON [REDACTED] WAS UPSTAIRS AND HAD CALLED HIM OUT AND ASKED IF I WOULD COME OUT AND TALK TO HIM.

WHILE TALKING TO [REDACTED], I COULD TELL THAT HE WAS REALLY BOTHERED BY SOMETHING.

AND I WENT DOWN TO MY HOUSE NEXT DOOR AND WE TALKED FOR AWHILE AND A RED BARNCO PULLED INTO THE YARD NEXT DOOR AND JRA SAID THAT IT WAS JASON BODIE.

AT THIS TIME I WALKED DOWN AND MET JASON IN THE YARD. WHILE TALKING TO JASON I ASKED HIM IF HE HAD ANY PROBLEMS WITH LITTLE BOYS, HE STATED THAT HE HAD NOT, AND THEN HE (JASON) GOT REALLY NERVOUS AND DUCKED HIS HEAD.

I TOLD JASON THAT I WOULD CALL AND CHECK IF HE WAS LYING. AT THIS TIME HE STATED THAT HE HAD CHARGES PENDING ON HIM FOR SEXUAL ABUSE ON ANOTHER YOUNG BOY. AT THIS TIME I TOLD HIM TO LEAVE.

JASON STATED THAT HE HAD A LOT OF [REDACTED] CLOTHES AND STUFF AT HIS HOUSE AND HIS TRUCK, HE GAVE ME A [REDACTED] HUNTER AND BAIT THAT BELONGED TO [REDACTED] AND THAT HE WOULD BEING THE REST OF [REDACTED] CLOTHES AND STUFF TO MY HOUSE ON 06-13-06 AT 6:00 P.M.

JASON LEFT THE AREA AT THIS TIME AND SAID THAT HE WOULD NOT CALL OR TRY TO SEE HIM ANY MORE.

Sworn Before Me This ____ Day of _____, 20__

James W. Tolbert
Signature of Affiant

Notary Public - State of South Carolina

06-12-06

Date

B644158879

03:10:40 p.m. 05-06-2014

9/10

06-13-06

Ref # 200606-

ON 06-13-06 AT 1850 JASON BODIE CAME TO MY RESIDENCE AT 2156 LEWIS RD, LEESVILLE, S.C. 29070. MR. BODIE WAS BRINGING CLOTHES AND OTHER ITEMS THAT BELONG TO [REDACTED].

WHILE MR. BODIE WAS AT MY RESIDENCE, HE MADE THE STATEMENT THAT HE HAS GOT HIMSELF IN A MESS AND DIDN'T KNOW HOW TO GET OUT OF IT. AT THIS TIME I TOLD HIM TO TRY TELLING THE TRUTH, THAT IT MIGHT HELP.

MR. BODIE STATED THAT HE WAS SCARED OF TELLING THE TRUTH BECAUSE OF HIS PARENTS AND IF GOING TO JAIL. HE SAYS HE KNOWS WHAT HAPPENS TO PEOPLE LIKE HIM IN JAIL.

MR. BODIE + I TALKED FOR A WHILE ABOUT [REDACTED] AND HIS MOM + DAD AND THAT MR. BODIE FELT THAT [REDACTED] PARENTS WERE NOT GOOD FOR JOE AND HE (BODIE) WAS ONLY TRYING TO HELP JOE BY BEING HIS FRIEND.

MR. BODIE STATED TO ME THAT HE HAD AN INCIDENT WITH HIS COUSIN OF A SEXUAL NATURE WHEN THE COUSIN WAS (5) FIVE YEARS OLD. THE FAMILY FILED CHARGES AGAINST BODIE BUT LATER DROPPED ALL CHARGES.

MR. BODIE STARTED CRYING AND STATED THAT HE HAD SEXUAL CONTACT WITH (3) THREE BOYS IN THE PAST YEAR OR SO. ONE NAME WAS [REDACTED], THE OTHER WAS HIS [REDACTED] FRIEND [REDACTED] AND THE THIRD WAS [REDACTED].

B644458829

03:11:35 p.m. 05-06-2014

10/10

Ref. 200606-

Mr. Bodie told me that he had oral sex with [redacted] and [redacted] and [redacted] and that he (Bodie) had [redacted] penetrate him in the rear, this has happened several times, Total number unknown per Bodie.

Mr. Bodie stated that he had a problem with girls in school and never really liked girls but would like to have a girlfriend some times but he always found himself getting along with boys better than girls.

After this conversation I called the Salina Co. Sheriff's Dept. and told them of the conversation and the information given to me by Mr. Jason Bodie.

After a period of time (30-45 min) Mr. Bodie was afraid to drive home by himself after he saw the parents of [redacted] ride by the house, Mr. Bodie called his mom & dad to get them to come down and follow him home. They were reluctant per Mr. Bodie so I told him I would follow him home and I did, stayed in contact with Salina Sheriff Dept. the way to his house.

During the conversation with Mr. Bodie on several occasions he mentioned suicide or just disappearing but he was scared to do that. My wife Carol Talbert also heard part of the comments that Mr. Bodie was making at one point.

John W. (Jim) [redacted]

Sexually Violent Predator Act, S.C. Code Ann. Sections 44-48-10 *et seq.*

Petitioner's
EXHIBIT D

PAGE 03

CLERK OF COURT

8644453772

04/18/2014 09:37

WITNESSES

Byrd

SCSO

ARREST WARRANT NUMBER

J 140008

ACTION OF GRAND JURY

TRUE BILL:

Norma P. Gibson
Foreperson of Grand Jury
Date: JAN 09 2006

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2006-GS-41- 227

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

JANUARY TERM 2006

THE STATE

vs.

JASON BODIE

CDR# 0398

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR
2ND DEGREE

DONALD V. MYERS, SOLICITOR

Nolle prosequi
[Signature]
10/26/11

STATE OF SOUTH CAROLINA)
COUNTY OF SALUDA)
INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR
2ND DEGREE

At a Court of General Sessions, convened on January 9, 2006, the Grand Jurors of Saluda County present upon their oath:

That JASON BODIE did in Saluda County between January 1, 2004 and July 31, 2005, unlawfully engage in a sexual battery with a minor, to wit: the Defendant, Jason Bodie, DOB [REDACTED] 1982, did engage in oral sex with the victim, [REDACTED] DOB [REDACTED] 1990, who was fourteen years of age or less but who was at least eleven years of age, and the defendant was older than the victim, in violation of Section 16-3-655(2) of the Code of Laws of South Carolina, 1976, as amended.

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


ASSISTANT SOLICITOR

ARREST WARRANT	
J140008	
STATE OF SOUTH CAROLINA	
☒ County	☐ Municipality of
41 SALUDA COUNTY	

THE STATE
against
BODIE JASON

Address: _____
Phone: _____ SSN: _____
M: M Race: W Height: _____ Weight: _____
DL State: _____ DL #: _____
DOB: _____ Agency ORID: SC0410000
Prosecuting Agency: SALUDA SHERIFFS OFFICE
Prosecuting Officer: S. BYRD
Offense: CRIM. SEXUAL CONDUCT
Offense Code: G159
Code/Ordinance Sec. 16-3-635(a)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

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

SEP 2 7 2005 (L.S.)
Signature of Judge
Date
SALUDA COUNTY
SHERIFF S. G. H. A.
RETURN

A copy of this arrest warrant was delivered to
defendant BODIE JASON

on 10-28-05
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
D. BRUCE HORNE
108 SOUTH RUDOLPH STREET
SALUDA, SC 291380000

STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
41 SALUDA COUNTY)

AFFIDAVIT

CASE #: 200501320

Firm Approved by
S. C. Attorney General
April 21, 2003
SCCA 818

Personally appeared before me the affiant CPL. STEPHEN BYRD who
being duly sworn deposes and says that defendant BODIE JASON
did within this county and state on JAN 01, 2004 Thru JUL 31, 2005 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of 41 SALUDA COUNTY)
in the following particulars:

DESCRIPTION OF OFFENSE:
CRIM. SEXUAL CONDUCT
16-3-635(a)

I further state that there is probable cause to believe that the defendant named above did commit the
crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT:

FILED
Clerk of Court
Saluda Co. SC
OCT 3 1 2005

Signature of Affiant
STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
41 SALUDA COUNTY)

Affiant's Address 100 LAW ENFORCEMENT DRIVE
SALUDA, SC 29138
Affiant's Telephone _____

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on JAN 01, 2004 Thru JUL 31, 2005 defendant BODIE JASON

did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of 41 SALUDA COUNTY) as set forth below:

DESCRIPTION OF OFFENSE:
CRIM. SEXUAL CONDUCT
16-3-635(a)

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

Sworn to and subscribed before me
on SEPTEMBER 2A, 2005
(L.S.)
Signature of Issuing Judge
Judge Code: 606
D. BRUCE HORNE

Judge's Address 106 SOUTH RUDOLPH STREET
SALUDA, SC 291380000
Judge's Telephone (864) 445-4500

Issuing Court ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

01/18/2014 09:27 8644453773

CLERK OF COURT

PAGE 01

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SALUDA

PERSONALLY APPEARED BEFORE ME, JUDGE OF THE COURT, CPL STEPHEN BYRD OF THE SALUDA COUNTY SHERIFF'S OFFICE, WHO BEING DULY SWORN, DISPOSES AND SAYS THAT THE DEFENDANT, JASON BOOIE, DID WITHIN THE STATE OF SOUTH CAROLINA AND THE COUNTY OF SALUDA, VIOLATE THE CRIMINAL LAWS OF SOUTH CAROLINA TO WIT:

CRIMINAL SEXUAL CONDUCT WITH A MINOR

§ 16-03-0655(D)

IN THE YEAR 2004 MONTH UNKNOWN, THE DEFENDANT, JASON BOOIE, DID HAVE ORAL SEX WITH [REDACTED] (14 YOA) AND THE JV PERFORMED ORAL SEX ON JASON BOOIE. THIS HAS CONTINUED INTO JULY OF 2005 AT

SALUDA COUNTY AND IN VIOLATION OF SECTION CODE 16-03-0655(D) OF THE SOUTH CAROLINA CODE OF LAWS AS AMENDED.

CPL Stephen Byrd
AFFIANT

SWORN BEFORE ME THIS 27 DAY OF SEPTEMBER 2005.

[Signature]
MAGISTRATE - SALUDA COUNTY, SOUTH CAROLINA

**Saluda County Sheriff's Office
INCIDENT REPORT**

AGENCY ID
SC0410000

CASE NUMBER
200501320

INCIDENT TYPE		COMPLETE FORCED ENTRY		PREMISE	UNITS ENTD	TYPE VICTIM	
1. CHILD MOLESTING		Yes	No	20	0	X Individual	
2.					0	Business	
3.					0	Financial Ins	
INCIDENT LOCATION					ZIP CODE	WEAPON TYPE	Government
					29006	90	Relig. Org.
INCIDENT DATE 24hr CLOCK (TO) DATE 24hr CLOCK (DISP DATE) 24hr CLOCK (TIME ARRIVE) DEPART TIME LOCATION NO							
09/21/2004 12:00 09/21/2005 15:30 09/21/2005 15:30 15:30 18:00							
COMPLAINANT'S NAME		RELATIONSHIP TO SUBJ		RES	RACE	SEX	AGE
SEEYLE, ROBIN		#1 #2 #3		S	W	M	43
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO	
		GILBERT		SC	29006		
VICTIM'S NAME		RELATIONSHIP TO SUBJ		RES	RACE	SEX	AGE
		#1 #2 #3		S	W	M	15
HEIGHT		WEIGHT		HAIR		EYES	
505		109		BRO			
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO	
		GILBERT		SC	29054		
VISIBLE INJURY (VICT. I) YES X NO EXPLAIN:				COMPLAINT OF ANY NON-VISIBLE INJURIES: YES X NO			
VICTIM (NO. I) USING: ALCOHOL YES NO X UNK DRUGS: YES NO X UNK TYPE:							
TWO-MAN VEH ONE-MAN VEH DETECTIVE/SPECIAL OTHER ALONE ASSISTED				J-This Jurisdiction S-State O-Out of State U-Unit			
NAME (LAST, FIRST, MIDDLE) BEDENBAUGH, RONALD EUGENE				RACE SEX AGE ETH DATE OF BIRTH HEIGHT WEIGHT HAIR EYES			
				W M 35 N 1970 507 160 BRO			
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
ADDRESS				CITY			
				BATESBURG			
ALCOHOL: YES NO X UNK				ARREST NEAR SCENE YES DATE/TIME OFFENSE DATE/TIME ARREST			
				X NO 09/21/2004 10/28/2005			
DRUGS: YES NO X UNK TYPE:				TOTAL # ARRESTED 0 12:00 12:30			
ON 09-21-05 R/O SPOKE WITH THE COMPLAINANT AT THE SALUDA COUNTY SHERIFFS OFFICE IN REFERENCE TO A CHILD BEING MOLESTED BY THE SUSPECTS. THE J/V STATED THAT SUB#1 HAD BEEN GIVING HIM HEAD(ORAL SEX) FOR 6 YEARS AND HE HAD PERFORMED ORAL SEX ON BOTH SUBJECTS ALSO. THE VICTIM STATED THAT HE MET THE SUBJECT#1 AT ADVANCED AUTO PARTS IN BATESBURG. SUBJECT#1 LEFT ADVANCE AUTO WENT OUT OF TOWN FOR A WHILE AND THEN WENT TO WORK FOR TIRE OIL DRIVING A TRUCK AND THE VICTIM STATED THAT SUBJECT#1 HAD CAME BY HIS AND PICKED HIM UP AND TOOK HIM ON THE ROAD WITH HIM VICTIM STATED THAT WAS THE FIRST TIME SUBJECT#1 MOLESTED HIM. SUB#1 INTRODUCED THE J/V VICTIM TO SUB#2 THE VICTIM STATED THAT HE HAS ONLY KNEW SUB#2 FOR ONLY 1 YEAR AND THEY HAD ORAL SEX TOGETHER AT THE SUBJECTS#2 HOUSE ON CROOKED CREEK RD IN SALUDA COUNTY. THE J/V VICTIM WAS VERY NERVOUS AND DID NOT WANT TO TALK TO LAW ENFORCEMENT NO CALLED SLED AND SET A INTERVIEW FOR THE J/V ON MONDAY.							
JURISDICTION OF THEFT				JURISDICTION OF RECOVERY			
LAW ENFORCEMENT AGENCY				LAW ENFORCEMENT AGENCY			
3							
TOTAL VALUE							
TYPE (GROUP)							
STOLEN							
DAMAGED							
BURNED							
RECOVERED							
SEIZED							
COUNTERFEIT							
UNKNOWN							
SUBJECT IDENTIFIED		SUBJECT LOCATED		X ACTIVE		ADM CLOSED	
Yes		No		UNFOUNDED			
						ARRESTED UNDER 18	
						X ARRESTED 18 AND OVER	
						EX-CLEAR UNDER 18	
						EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE:							
OFFENDER DEATH		NO PROSECUTION		EXTRADITION DENIED		VICTIM DECLINES COOPERATION	
REPORTING OFFICER(S)		DATE		UNIT #		APPROVING OFFICER	
BYRD, S CPL		09/21/2005		C13			
SHEALY, DONOVAN		09/21/2005		C7		FOLLOW-UP OFFICER	
						INVESTIGATION No	
						10/03/2005	

SUPPLEMENTAL INCIDENT REPORT

AGENCY ID
SC0410000CASE NUMBER
200501320ORIGINAL
REPORTSUPPLEMENTAL
REPORTADDITIONAL
VICTIMSADDITIONAL
STOLEN PROPERTY

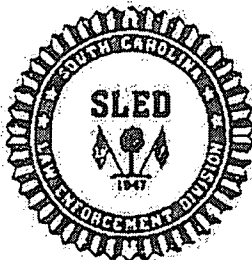
PAGE 1

MODIFIED
ORIGINALCASE STATUS
CHANGEX ADDITIONAL
OFFENDERSADDITIONAL
RECOVERED PROPERTY

COMPLAINANT VICTIM	NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RACE	SEX	AGE	DATE OF BIRTH	ETH.
	BODIE, JASON			#1	#2	#3	J	W	M	23	982
X SUBJECT 2 RUNAWAY WANTED WARRANT ARREST JAIL SUMMONS	ADDRESS			CITY			STATE	ZIP CODE	LOCATION#	DAYTIME PHONE	EVENING PHONE
	SALUDA			SC			29138			H B	H B
VICTIM VISIBLE INJURY YES X NO EXPLAIN:	COMPLAINT OF NON-VISIBLE INJURIES			VICTIM: ALCOHOL X NO YES LNK DRUGS: X NO YES LNK TYPE:			TWO-MAN VEH ONE-MAN VEH ALONE DETECTIVE/SP ASSISTED OTHER				
	SUBJECT: ALCOHOL X NO YES LNK DRUGS: X NO YES LNK TYPE:									UNK	
COMPLAINANT VICTIM	NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RACE	SEX	AGE	DATE OF BIRTH	ETH.
SUBJECT RUNAWAY WANTED WARRANT ARREST JAIL SUMMONS	ADDRESS			CITY			STATE	ZIP CODE	LOCATION#	DAYTIME PHONE	EVENING PHONE
										H B	H B
VICTIM VISIBLE INJURY YES X NO EXPLAIN:	COMPLAINT OF NON-VISIBLE INJURIES			VICTIM: ALCOHOL X NO YES LNK DRUGS: X NO YES LNK TYPE:			TWO-MAN VEH ONE-MAN VEH ALONE DETECTIVE/SP ASSISTED OTHER				
	SUBJECT: ALCOHOL X NO YES LNK DRUGS: X NO YES LNK TYPE:									LNK	
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY											
JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY											
STATES		TYPE		VIN AND/OR LICENSE NO.				BOAT HULL NO. AND/OR REG. NO.			
☐ STOLEN		☐ VEHICLE		SERIAL AND/OR OWNER APPLIED NO.				STATE			
☐ RECOVERED		☐ GUN		YEAR OF REG.		YEAR OF EXP.		YEAR		MAKE	
☐ FOUND		☐ BOAT		MODEL		STYLE		COLOR		BRAND NAME	
☐ TOWED		☐ LICENSE PLATE		NRC NO.		DENOMINATION		ISSUER		SECURITIES DATE	
☐ SUSPECT		☐ SECURITIES/BONDS/STOCKS		MISCELLANEOUS							
☐ VICTIM		☐ ARTICLE									
TYPE (GROUP)				TOTAL VALUE							
STOLEN											
DAMAGED											
BURNED											
RECOVERED											
SEIZED											
COUNTERFEIT											
UNKNOWN											
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE UNFOUNDED		ADM CLOSED		ARRESTED UNDER 18		EX-CLEAR UNDER 18	
								ARRESTED 18 AND OVER		EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE:											
OFFENDER DEATH		NO PROSECUTION		EXTRADITION DENIED		VICTIM DECLINES COOPERATION		JUVENILE NO CUSTODY			
REPORTING OFFICER(S)		DATE		UNIT #		APPROVING OFFICER		DATE		UNIT #	
BYRD, S CPL		9/22/2005		C13							
						FOLLOW-UP INVESTIGATION		YES X NO		OFFICER	

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

October 28, 2005

INVESTIGATIVE REPORT

TO: File 32-05-0116

FROM: Senior Agent Laurie V. Caldwell, MSW

RE: [REDACTED] (v)
Bedenbaugh, Ronald Eugene(s)
Bodie, Jason (s)

COUNTY: Saluda

Introduction

On 09/22/05, Cpl. Stephen Byrd of the Saluda County Sheriff's Office (SCSO) requested investigative assistance into the alleged sexual assaults of [REDACTED] (age 15) by two men, Ron Bedenbaugh (age 35) and Jason Bodie (approximate age 23). Reportedly, Bedenbaugh and Bodie performed oral sex on [REDACTED] and made him return the sexual act on them. [REDACTED] mother, Robin Seeyle reported the allegations to the SCSO on 09/21/05 (Attachment 1). Specifically, State Law Enforcement Division (SLED) Senior Agent (SR/A) Laurie Caldwell was requested to conduct a forensic interview with [REDACTED]. Lt. Doug Hixon authorized the request for SR/A Caldwell to assist in the investigation.



An Accredited Law Enforcement Agency
P.O. Box 21398, South Carolina 29221-1398
(803) 737-9000 Fax (803) 896-7041

File: 32-05-0116

Page 2

Summary

SR/A Caldwell interviewed [REDACTED] on 09/26/05 at the SCSO. [REDACTED] reported the following information:

[REDACTED] was born in Michigan. He relocated to Gilbert, South Carolina as a young child with his parents, Gary Ray and Robin Lynn Seelye. [REDACTED] has three siblings, [REDACTED] (age 23), [REDACTED] (19), and [REDACTED] (age 24). It should be noted that [REDACTED] was unsure about the spelling of Kuzma. [REDACTED] lives with [REDACTED] and his parents [REDACTED] is in the ninth grade at Gilbert High School. He does not like school and would rather be outside working construction with his father. [REDACTED] stated that he liked working with big machinery.

SR/A Caldwell asked [REDACTED] what he was told about coming to the SCSO. He related that it was about what Ronald "Ron" Bedenbaugh and Jason Bodie had done to him. SR/A asked [REDACTED] to focus on Bedenbaugh first. [REDACTED] stated that he met Bedenbaugh when he was nine years old at the Advance Auto Parts Store. Bedenbaugh was employed there until he moved to Texas. Bedenbaugh moved back to Saluda when [REDACTED] was twelve years old and began driving an eighteen-wheel truck for the Tire and Oil Company. Bedenbaugh befriended [REDACTED] and his brother, [REDACTED]. Their parents thought Bedenbaugh was being a "big brother" to the boys. [REDACTED] eventually stopped hanging around Bedenbaugh. One night when [REDACTED] was twelve years old, he spent the night at Bedenbaugh's house. Bedenbaugh shared a three-bedroom house with his brother's family. [REDACTED] slept on the bed in Bedenbaugh's bedroom. He chose not to sleep on the floor because of Bedenbaugh's dog. [REDACTED] stated that he woke up because his "ding a ling" was hurting. [REDACTED] clarified "ding a ling" as his "dick". It was at this point he realized that Bedenbaugh had given him [REDACTED] "head". [REDACTED] clarified "head" as a "blow job". [REDACTED] did not confront Bedenbaugh. The next morning Bedenbaugh made the comment to [REDACTED] "I had something good to eat last night." When asked what Bedenbaugh meant by the comment, [REDACTED] hid his face, shrugged his shoulders, and said that he did not know. [REDACTED] stated that since the age of twelve, Bedenbaugh has given him "blow jobs". The "blow jobs" stopped recently when his parents found out. [REDACTED] brother, [REDACTED] told his parents. [REDACTED] stated

File: 32-05-0116

Page 3

that he would "cum" in Bedenbaugh's mouth when given a "blow job". [REDACTED] first denied that Bedenbaugh made him do anything sexually; however, then disclosed that he was made to give Bedenbaugh "blow jobs". [REDACTED] denied that Bedenbaugh ever ejaculated in his mouth or that Bedenbaugh had engaged in any other type of sexual contact with [REDACTED]. [REDACTED] stated that Bedenbaugh instructed him to never tell anyone about the oral sex and that he [REDACTED] had been too scared to tell anyone what had been happening. Bedenbaugh told [REDACTED] that he (Bedenbaugh) had been in trouble in the past for "doing this". [REDACTED] stated that Bedenbaugh gave him money, allowed him to drive, took him to Frankie's Fun Park, bought him clothes, and took him to the movies. Bedenbaugh also gave [REDACTED] alcohol to drink. The alcohol was Mike's hard Lemon-aid and Wine Coolers. On one occasion, Bedenbaugh gave [REDACTED] \$100.00; however, his mother made him give the money back. Most of the sexual contact took place in Bedenbaugh's bedroom; however, it sometimes happened in Lexington County. [REDACTED] was unsure where in Lexington County because it was always outside in or near the woods. When [REDACTED] was fourteen years old, Bedenbaugh introduced him to Jason Bodie. Bodie then started hanging around them both. On one occasion, Bedenbaugh and Bodie took [REDACTED] and another boy named [REDACTED] (LNU) to the movie theater near Columbiana Center. [REDACTED] was unable to remember what movie they went to see. On the way home from the movie, the boys were taken to a sand pit near Exit 44. [REDACTED] did not know which Interstate they had been traveling on. He thought that the sand pit actually sold sand to people. At the sand pit, Jason gave [REDACTED] a "blow job" and Bedenbaugh did the same to [REDACTED]. [REDACTED] denied having to give Jason a "blow job". [REDACTED] was unable to identify [REDACTED] full name; however, stated that [REDACTED] lived with his mother and brother near a hospital. It was about an hour drive from Bedenbaugh's house to [REDACTED] house. [REDACTED] described another incident with Bodie. He was made to give Bodie a "blow job" in a small building next to Bodie's house. Bodie lived with his parents in Saluda County. Bodie also made [REDACTED] give him a "blow job" in a field near Bodie's grandmother's house. She also lived in Saluda County.

SR/A Caldwell asked [REDACTED] what he wanted to happen to Bedenbaugh and Bodie. He stated that he wanted them to go to jail for a long period of time. No further information was obtained during the interview. [REDACTED] full name is [REDACTED] home address [REDACTED]
[REDACTED]

File: 32-05-0116

Page 4

A copy of this report will be submitted to Cpl. Byrd as a supplement to his investigative file.

File: 32-05-0116
Page 5

Attachments

- 1 SCSO Incident Report

ATTACHMENT 1

09/22/2005 15:21

8644458829

8644458829

SALUDA COUNTY

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Saluda County Sheriff's Office
INCIDENT REPORTAGENCY ID
SC0410000CASE NUMBER
200501320

1. CHILD MOLESTING		INCIDENT TYPE		COMPLETE FORCED ENTRY: PREHIRE		UNITS ENTD		TYPE VICTIM	
2. _____				Yes No 20		0 0 0		X Individual	
3. INCIDENT LOCATION		ZIP CODE		WEAPON TYPE				Business	
120 WOODHALL RD		29006		90				Financial In	
INCIDENT DATE 24hr CLOCK 10 DATE		24hr CLOCK DIS DATE DIS TIME		ARRIVE DEPART TIME		LOCATION NO		Government	
09/21/2004 12:00 09/21/2004 15:30 09/21/2004 15:30 15:30		15:30 15:30		18:00				Relig. Org.	
COMPLAINANT'S NAME		RELATIONSHIP TO SUBJ		RACE SEX AGE		ETH DAYTIME PHONE		Evening PHO	
SEEYLE, ROBIN		AQ 1 2 3		S W M 43		N		H B	
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO	
[REDACTED]		GILBERT		SC		29006			
VICTIM'S NAME		RELATIONSHIP TO SUBJ		RACE SEX AGE		ETH DAYTIME PHONE		Evening PHO	
[REDACTED]		AQ 1 2 3		S W M 43		N		H B	
HEIGHT WEIGHT HAIR EYES		FACIAL HAIR SCARS TATOOS		GLASSES CLOTHING		PHYSICAL PECULIARITIES, ETC.			
505 109 BRO									
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO	
[REDACTED]		GILBERT		SC		29004			
VISIBLE INJURY (VICT 1) YES X NO EXPLAIN:		COMPLAINT OF ANY NON-VISIBLE INJURIES: YES X NO							
VICTIM (NO. 1) USING ALCOHOL: YES NO X UNK		DRUGS: YES NO X UNK		TYPE:					
TWO-MAN VEH ONE-MAN VEH		DETECTIVE/SPECIAL OTHER		ALONE ASSISTED		J-This Jurisdiction S-State O-Out of State U-I			
NAME (LAST, FIRST, MIDDLE)		RACE SEX AGE ETH		DATE OF BIRTH HEIGHT WEIGHT HAIR EY					
REDENBAUGH, RONALD EUGENE		W M 35 N		1970 507 160 BRO					
SUSPECT		FACIAL HAIR SCARS TATOOS		GLASSES CLOTHING		PHYSICAL PECULIARITIES, ETC.			
RUNAWAY									
WARRANT		ADDRESS		CITY		STATE		ZIP CODE LOCATION	
ARREST		120 WOODHALL RD		HATLSBURG		SC		29006	
JAIL		SUBJECT(S) USING ALCOHOL: YES NO X UNK		ARREST NEAR SCENE YES DATE/TIME OFFENSE DATE/TIME ARRI					
SIMMONS		DRUGS: YES NO X UNK		TYPE:		TOTAL # ARRESTED		0 12:00	
ON 09/21-05 R/O SPOKE WITH THE COMPLAINANT AT THE SALUDA COUNTY SHERIFFS OFFICE IN REFERENCE TO A CHILD BEING MOLESTED BY THE SUSPECTS. THE J/V STATED THAT SUB#1 HAD BEEN GIVING HIM HEAD FOR 6 YEARS AND THE ONLY REASON HE HAD NOT SAID NOTHING BECAUSE HE WAS AFRAID THAT SUB#1 WOULD HURT HIM. SUB#1 INTRUDICED THE J/V VICTIM TO SUB#2. THE VICTIM STATED TH SUB#2 HAD BEEN GIVING HIM HEAD FOR 1 YEAR. THE J/V VICTIM WAS VERY NERVOUS AND DID NOT WANT TO TALK TO LAW ENFORCEMENT. R/O CALLED SLED AND SET A INTERVIEW FOR THE J/V ON MONDAY.									
JURISDICTION OF THEFT					JURISDICTION OF RECOVER				
LAW ENFORCEMENT AGENCY					LAW ENFORCEMENT AGENCY				
TYPE (GROUP)								TOTAL VAL	
STOLEN									
DAMAGED									
BURNED									
RECOVERED									
SEIZED									
COUNTERFEIT									
UNKNOWN									
SUBJECT IDENTIFIED		SUBJECT LOCATED		X ACTIVE		ADM CLOSED		ARRESTED UNDER 18	
Yes		No		UNFOUNDED				ARRESTED 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE:								EX-CLEAR UNDER 18	
OFFENDER DEATH		NO PROSECUTION		EXTRADITION DENIED		VICTIM DECLINES COOPERATION		EX-CLEAR 18 AND O	
REPORTING OFFICER(S)		DATE		INITIAL		APPROVING OFFICER		JUVENILE NO CUST	
BYRD, S C		09/21/2005		C13				DATE UN	
SHEALY, DONOVAN		09/21/2005		C1		FOLLOW-UP		OFFICER	
						INVESTIGATION NO			

ATTN

803-609-3283

09/22/2005 15:21

8644458829

8644458829

SALUDA COUNTY

PAGE 03

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
200501320

AGENCY ID
SC0410000

**ORIGINAL
REPORT**

**MODIFIED
ORIGINAL**

**SUPPLEMENTAL
REPORT.**

**CASE STATUS
CHANGE**

**ADDITIONAL
VICTIMS**

**ADDITIONAL
OFFENDERS**

**ADDITIONAL.
STOLEN PROPERTY**

**ADDITIONAL
RECOVERED PROPERTY**

PAGE 1

[illegible]

STATUS		TYPE		VIN AND/OR LICENSE NO.				BOAT HULL NO. AND/OR REG.		STATE	
☐ STOLEN	☐ VEHICLE			SERIAL AND/OR OWNER APPLIED NO.				YEAR MAKE		TYPE	
☐ RECOVERED	☐ GUN			YEAR OF REG.		YEAR OF EXP.		COLOR		BRAND NAME CALL	
☐ FOUND	☐ BOAT			MODEL		STYLE		INSUR		SECURITIES DATE	
☐ TOWED	☐ LICENSE PLATE			NIC. NO.		DENOMINATION					
☐ SUSPECT	☐ SECURITIES/BONDS/STOCKS			MISCELLANEOUS							
☐ VICTIM	☐ ARTICLE									TOTAL V	
TYPE (GROUP)											
STOLEN											
DAMAGED											
BURNED											
RECOVERED											
SEIZED											
COUNTERFEIT											
UNKNOWN											
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADJ. CLOSED		ARRESTED UNDER 18		EX-CLEAR UNDER 18 AND OVER	
				UNFOUNDED				ARRESTED 19 AND OVER			
REASON FOR EXCEPTIONAL CLEARANCE:				EXTRADITION DENIED		VICTIM DECLINES COOPERATION				JUVENILE NO CU	
OFFENDER DEATH NO PROSECUTION				UNIT #		APPROVING OFFICER				DATE	
REPORTING OFFICER(S)		DATE									
BYRD. S CPL		9/22/2005		CL3				OFFICER			
						FOLLOW-UP INVESTIGATION		YES X NO			

SALUDA COUNTY SHERIFF'S OFFICE

J. Booth Sheriff

CONFIDENTIAL

VOLUNTARY STATEMENT

JUVENILE

STATEMENT OF: GARY S PAGE 1 / 1

9-19-05 After Getting out of Jail in Lexington
 Found out [REDACTED] (son) has been sexually
 assaulted by Jason Bodie + Ron. When talked
 to [REDACTED] - he Told me they said to keep it as
 a secret, because he could be taken away + put
 in DJJ. [REDACTED] Told me they only did
 Oral Sex on him. That he did not do this to
 them, they only did this to him.

Sworn Before Me This 21st Day of Sept, 2005

Donovan S. Realy
 Notary Public - State of South Carolina

My Commission Expires: 02-14-2011

Gary S.
 Signature of Affiant

9-21-05

Date

SALUDA COUNTY SHERIFF'S OFFICE
J. Booth Sheriff

CONFIDENTIAL**VOLUNTARY STATEMENT****JUVENILE**STATEMENT OF: Roden JPAGE 1

On 9-13-05 I found out that my son [redacted] had been sexually molested. It came out in the open because my 23 yr old son Jimmy began called [redacted] a fucking fag and said why can't you tell Mom what you & Jason do. So later that night after Jimmy left I took [redacted] in to my bedroom and asked him if Jason had ever touched him. [redacted] started crying and said yes. I asked [redacted] when did it start and he said with Ron. I asked him what they do to him he said all they did was give him head. I then asked [redacted] if they made him do the same to them and he said no. I also asked [redacted] if they ever put anything up his butt he said no. [redacted] also told me that I asked [redacted] how did it start with Ron. He said when he was in the big rig with Ron, that Ron told him that he needs dick and then Ron did it to him.

Sworn Before Me This 21st Day of Sept. 2005

Dorovan Leahy
 Notary Public - State of South Carolina

My Commission Expires: 02-14-2011

Robert J. Leahy
 Signature of Affiant

9-21-05

Date

Saluda County Sheriff's Office

INCIDENT REPORT

CASE NUMBER

200501320

AGENCY ID

SC0410000

INCIDENT TYPE		COMPLETE FORCED ENTRY PREMISE		UNITS ENTD	
1. CHILD MOLESTING		Yes No		50 0	
INCIDENT LOCATION		ZIP CODE		WEAPON TYPE	
120 WOODHALL RD		29006		()	
INCIDENT DATE 24hr CLOCK TO DATE 24hr CLOCK DISP DATE DISP TIME TIME ARRIVE DEPART TIME LOCATION NO		09/21/2004 12:00 09/21/2005 15:30 09/21/2005 15:30 1800 01			
COMPLAINANT'S NAME		RELATIONSHIP TO SUBJ		RACE SEX AGE ETH DAYTIME PHONE EVENING PHONE	
SEELYE, ROBIN		#1 #2 #3		H B H B	
ADDRESS		CITY		STATE ZIP CODE LOCATION NO	
		GILBERT		SC 29006	
VICTIM'S NAME		RELATIONSHIP TO SUBJ		RACE SEX AGE ETH DAYTIME PHONE EVENING PHONE	
		#1 #2 #3		H B H B	
HEIGHT WEIGHT HAIR EYES FACIAL HAIR SCARS TATTOOS GLASSES CLOTHING PHYSICAL PECULIARITIES ETC					
505 109 BRD					
ADDRESS		CITY		STATE ZIP CODE LOCATION NO	
		GILBERT		SC 29034	
VISIBLE INJURY (VICT. I) YES X NO EXPLAIN:		COMPLAINT OF ANY NON-VISIBLE INJURIES: YES X NO			
VICTIM (NO. 1) USING ALCOHOL YES NO X UNK DRUGS: YES NO X UNK TYPE:					
TWO-MAN VEH ONE-MAN VEH DETECTIVE SPECIAL OTHER ALONE ASSISTED This Jurisdiction S-State O-Out of State U-UNK					
NAME (L, ST, FIRST, MIDDLE)		RACE SEX AGE ETH DATE OF BIRTH HEIGHT WEIGHT HAIR EYES			
DEDENE, AUGIE, RONALD EUGENE		W M 35 N 1970 507 160 BRD			
SUSPECT RUNAWAY WANTED WARRANT ARREST JAIL SUMMONS		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.			
ADDRESS:		CITY		STATE ZIP CODE LOCATION	
120 WOODHALL RD		BATESBURG		SC 29006	
SUBJECT (N) USING ALCOHOL: YES NO X UNK ARREST NEAR SCENE: YES DATE/TIME OFFENSE DATE/TIME ARREST					
X NO 09/21/2004					
DRUGS: YES NO X UNK TYPE:		TOTAL # ARRESTED		0 12:00	

ON 09-21-05 RC SPOKE WITH THE COMPLAINANT AT THE SALUDA COUNTY SHERIFF'S OFFICE IN REFERENCE TO A CHILD BEING MOLESTED BY THE SUSPECTS. THE IV STATED THAT SUBJECT1 HAD BEEN GIVING HIM HEAD ORAL SEX FOR 6 YEARS AND HE HAD PERFORMED ORAL SEX ON BOTH SUBJECTS ALSO. THE VICTIM STATED THAT HE MET THE SUBJECT1 AT ADVANCED AUTO PARTS IN BATESBURG. SUBJECT1 LEFT ADVANCE AUTO WENT OUT OF TOWN FOR A WHILE AND THEN WENT TO WORK FOR TIRE OIL DRIVING A TRUCK AND THE VICTIM STATED THAT SUBJECT1 HAD CAME BY HIM AND PICKED HIM UP AND TOOK HIM ON THE ROAD WITH HIM VICTIM STATED THAT WAS THE FIRST TIME SUBJECT1 MOLESTED HIM. SUBJECT1 INTRODUCED THE IV VICTIM TO SUBJECT2 THE VICTIM STATED THAT HE HAS ONLY KNEW SUBJECT2 FOR ONLY 1 YEAR AND THEY HAD ORAL SEX TOGETHER AT THE SUBJECT1'S HOUSE ON CROOKED CREEK RD IN SALUDA COUNTY. THE IV VICTIM WAS VERY NERVOUS AND DID NOT WANT TO TALK TO LAW ENFORCEMENT AND CALLED SLED AND SET A INTERVIEW FOR THE IV ON MONDAY.

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
TYPE (GROUP)		TOTAL VALUE	
STOLEN			
DAMAGED			
BURNED			
RECOVERED			
SEIZED			
COUNTERFEIT			
UNKNOWN			
SUBJECT IDENTIFIED	SUBJECT LOCATED	X ACTIVE	ADM CLOSED
Yes	No	UNFOUNDED	
REASON FOR EXCEPTIONAL CLEARANCE:		ARRESTED UNDER 18 AND OVER	
OFFENDER DEATH NO PROSECUTION EXTORTION DENIED VICTIM DECLINES COOPERATION JUVENILE NO CUSTODY		EX-CLEAR 18 AND OVER	
REPORTING OFFICER(S)	DATE	UNIT #	APPROVING OFFICER
BYRD, SCPL	09/21/2004	C13	
SHEALY, DONOVAN	09/21/2005	C7	
FOLLOW-UP INVESTIGATION No		OFFICER	

JUVENILE

SUPPLEMENTAL INCIDENT REPORT

AGENCY ID:

SC0410000

CASE NUMBER:

20050520

ORIGINAL REPORT	SUPPLEMENTAL REPORT	ADDITIONAL VICTIMS	ADDITIONAL STOLEN PROPERTY	PAGE 1
MODIFIED ORIGINAL	CASE STATUS CHANGE	ADDITIONAL OFFENDERS	ADDITIONAL RECOVERED PROPERTY	

COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RACE	SEX	AGE	DATE OF BIRTH	ETH.
	BODIE, JASON								00		N
VICTIM	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR	SCARS	TATTOOS	GLASSES	CLOTHING	PHYSICAL PECULIARITIES	
SUBJECT	ADDRESS			CITY	STATE	ZIP CODE	LOCATION	DAYTIME PHONE	EVENING PHONE		
	SALUDA			SC	29138						
WANTED	VICTIM VISIBLE INJURY			COMPLAINT OF			VICTIM:			TWO-MAN VEH	
ARREST	YES X NO			NON-VISIBLE INJURIES			ALCOHOL X NO			YES UNK	
JAIL	EXPLAIN:			YES X NO			DRUGS: X NO			YES UNK	
SUMMONS	SUBJECT: ALCOHOL X NO			YES UNK			TYPE:			OTHER	
	-DRUGS: X NO			YES TYPE:						UNK	

COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RACE	SEX	AGE	DATE OF BIRTH	ETH.
VICTIM	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR	SCARS	TATTOOS	GLASSES	CLOTHING	PHYSICAL PECULIARITIES	
SUBJECT	ADDRESS			CITY	STATE	ZIP CODE	LOCATION	DAYTIME PHONE	EVENING PHONE		
WANTED	VICTIM VISIBLE INJURY			COMPLAINT OF			VICTIM:			TWO-MAN VEH	
ARREST	YES X NO			NON-VISIBLE INJURIES			ALCOHOL X NO			YES UNK	
JAIL	EXPLAIN:			YES X NO			DRUGS: X NO			YES UNK	
SUMMONS	SUBJECT: ALCOHOL X NO			YES UNK			TYPE:			OTHER	
	-DRUGS: X NO			YES TYPE:						UNK	

JURISDICTION OF THEFT		JURISDICTION OF RECOVERY	
LAW ENFORCEMENT AGENCY		LAW ENFORCEMENT AGENCY	
STATUS	TYPE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.
☐ STOLEN	☐ CHURCH	GENERAL AND/OR OWNER APPLIED NO.	STATE
☐ RECOVERED	☐ CAR	YEAR OF REG.	YEAR OF CAR
☐ FOUND	☐ BOAT	YEAR MAKE	TYPE
☐ TOWED	☐ LICENSE PLATE	HOUSE	STYLE
☐ SUSPECT	☐ SECURITIES BONDS STOCKS	COLOR	BRAND NAME
☐ VICTIM	☐ ARTICLE	VIC. NO.	DENOMINATION
MISCELLANEOUS		ISSUER	SECURITIES DATE

TYPE (GROUP)		TOTAL VALUE	
STOLEN			
DAMAGED			
BURNED			
RECOVERED			
SEIZED			
COUNTERFEIT			
UNKNOWN			
SUBJECT IDENTIFIED	SUBJECT LOCATED	ACTIVE	ADM CLOSED
REASON FOR EXCEPTIONAL CLEARANCE	EXTRADITION DENIED	ARRESTED UNDER 18	EX-CLEAR UNDER 18
OFFENDER DEATH	NO PROSECUTION	ARRESTED 18 AND OVER	EX-CLEAR 18 AND OVER
REPORTING OFFICER(S)	DATE	UNIT #	APPROVING OFFICER
BYRD, S CPL	9/22/2005	CL	
FOLLOW-UP INVESTIGATION		YES X NO	OFFICER

CONFIDENTIAL

JUVENILE

12:13:00 Thursday, May 14, 2014

00311000

SCLC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM05/29/14
LARRYMI

SCDC ID: 321531

DISPLAY INMATE OFFENSE HISTORY

BODIE, JASON -

CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV

CASE#	DESCRIPTION	TYPE	OFFENSE DATE	HEARING DATE	NET GT	SHO	OFF
00005	DISRESPECT	ADMINIST	02/06/14	02/11/14	00000	CONVICTED	3
00004	STEALING	ADMINIST	01/30/14	02/05/14	00000	CONVICTED	3
00003	DISRESPECT	ADMINIST	08/02/13	08/07/13	00000	CONVICTED	3
00002	OUT OF PLACE	OTHER AC	04/24/10	04/27/10	00000	CLOSED	3
00001	REFUSING OR FAILING O	OTHER AC	08/16/07	/ /	00000	CLOSED	3

END OF LIST

PAGE 0001

SELECT A RECORD AND PRESS <ENTER> TO DISPLAY OR <PF04> TO MODIFY

PF4-MODIFY PF6-DISMISSED/NOT GUILTY

PF11-QUIT PF10-MAIN MENU

15:11:08 Thursday, May 30, 2014

DISC1101
QNDISCASDIC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM
OFFENSE INQUIRY05/29/14
LARRYMC

SDIC#CASE#: 321531 - 00005

BODIE, JASON -

CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT

OFFENSE

CHARGED OFFENSE...: 836 DISRESPECT

DATE: 02/06/14 TIME: 05:00 PM

OFFENSE LOCATION...: 0411 ALLENDALE

OFFENSE CAT LVL.: 3

LOCATION IN INST.: 03 GAMMA LIVING AREA

ASSLT WITH WEAPON:

ASSLT STAFF/INMATE:

ACCUSING OFFICIAL: [REDACTED]

TYPE ACTION.....: 08 ADMINISTRATIVE RESOLUTION CHARG. OFF CHAR:

HEARING LOC.....: 0411 ALLENDALE

ACTUAL HEARING DATE: 02/11/14

WITNESS/OFFICIAL REQUIRED: COUNSEL SUBST. REQ.:

SCHED HEAR DATE: 02/11/14

DND HEARING DEC: C CONVICTED

PLEA.....: G GUILTY

CONVICTED OFF...: 836 DISRESPECT

CONVICT. OFF CHAR.:

DATE DROPPED....:

TOT GT LOST....: 00000 APPRV.:

APPEAL DEADLINE: 02/26/14

GT RESTORED....: 00000

CREATED BY.....: [REDACTED]

02/10/14

LAST UPDATED BY: [REDACTED]

02/18/14

PF4-MODIFY DISC. PF5-NARRATIVE INQUIRY PF8-NEXT DISCIP

11:13:15 Thursday, May 19, 2011

DIS1150C
DIS1150M

SCDC OFFENDER MANAGEMENT SYSTEMS
INMATE DISCIPLINARY SYSTEM
DISPLAY OFFENSE CODE TEXT

05/20/14
LARRYNE

NARRATIVE...>

OFC. [REDACTED] WAS ASSIGNED TO HAMPTON A WING. HE WAS OUT FRONT MONITORING THE HAMPTON UNIT INMATES COMING BACK FROM CHOW. ONE I/M SAID [REDACTED], WHY ARE YOU OUT HERE? OFFICER [REDACTED] REPLIED DOING MY JOB. THE INMATE WAS JASON BODIE, SCDC #321531 AND THE INMATE REPLIED "TRYING TO FIND SOMETHING TO SUCK."

ADMINISTRATIVE HEARING HELD 2/11/14 BY CAPT. [REDACTED]
ENTERED LATE DUE TO HAZERDIOUS WEATHER SHUT DOWN
RESTRICTIONS: COUNSELING
CANTEEN AND VISITATION: 30 DAYS

CREATED BY..... [REDACTED]
LAST UPDATED BY: [REDACTED], [REDACTED]

02/10/14
02/18/14

(END)

DISCIPLINARY TEXT DISPLAYED

PF4=MODIFY NARRATIVE PF7=PREV PG PG=NEXT PG

10:12:10 Thursday, May 10, 2014

DIS11100
LNDIS00ASUDS OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM
OFFENSE INQUIRY05/10/14
LARRYMI

SUDS#PAGE#: 321531 - 00004

BODIE, JASON -

CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT

OFFENSE

CHARGED OFFENSE...: 819 STEALING

DATE: 01/30/14 TIME: 02:30 PM

OFFENSE LOCATION...: 0411 ALLENDALE

OFFENSE CAT LVL...: 3

LOCATION IN INST...: 35 OTHER

ASSLT WITH WEAPON:

ASSLT STAFF/INMATE:

ACCUSING OFFICIAL...: [REDACTED] OFC.

TYPE ACTION...: 08 ADMINISTRATIVE RESOLUTION CHARG. OFF CHAR:

HEARING LOC...: 0411 ALLENDALE

ACTUAL HEARING DATE: 02/05/14

WITNESS/OFFICIAL REQUIRED: COUNCIL SUBST. REQ.: SCMD HEAR DATE: 02/05/14

WHO HEARING DEC: C CONVICTED

PLEA...: G GUILTY

CONVICTED OFF...: 819 STEALING

CONVICT. OFF CHAR..

DATE DROPPED...:

TOT GT LOST...: 00000 APPRV..

APPEAL DEADLINE: 02/20/14

GT RESTORED...: 00000

CREATED BY...: [REDACTED]

02/05/14

LAST UPDATED BY: [REDACTED]

02/05/14

PPM-MODIFY DISC. PPS-NARRATIVE INQUIRY PPS-NEXT DISCIP

15:13:11 Thursday, May 14, 2014

DISCIPLIN
OFFENSE

3030 OFFENDER MANAGEMENT SYSTEMS
INMATE DISCIPLINARY SYSTEM
DISPLAY OFFENSE CODE TEXT

05/29/14
LARRYMI

NARRATIVE....

WHILE ON SHAKING DOWN INMATES ALONG WITH OFC. [REDACTED] AND OFC. [REDACTED], OFC [REDACTED] WAS SEARCHING INMATE JASON BODIE #321531 W/M AND FELT SOMETHING HARD IN THE FRONT OF HIS PANTS. HE SAID IT WAS HIS PENIS. HE CALLED FOR ASSISTANCE AND OFC. [REDACTED] AND HE TOOK HIM TO THE B-BUILDING HOLDING CELL AREA AND ASKED HIM TO STRIP. INSIDE HIS UNDERWEAR WAS A SHAMPOO BOTTLE FILLED WITH WOOD GLUE.

ADMINISTRATIVE HEARING HELD 02/05/14 BY MAJOR [REDACTED]
HEARING RESULTS: 30 DAYS VISITATION RESTRICTION

CREATED BY..... [REDACTED]
LAST UPDATED BY: [REDACTED]

02/05/14
02/05/14

(END)

DISCIPLINARY TEXT DISPLAYED

PF4=MODIFY NARRATIVE PF7=PREV PG F8=NEXT PG

15:13:30 Thursday, May 16, 2014

DIS11105
QMDISSASCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM
OFFENSE INQUIRY05/23/14
LARRYMI

SCDC# / CASE#: 321531 - 00003

BODIE, JASON -

CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT

OFFENSE

CHARGED OFFENSE...: 836 DISRESPECT

DATE: 08/02/13 TIME: 12:15 PM

OFFENSE LOCATION...: 0411 ALLENDALE

OFFENSE CAT LVL.: 3

LOCATION IN INST.: 03 GAMMA LIVING AREA

ASSLT WITH WEAPON:

ASSLT STAFF/INMATE:

ACCUSING OFFICIAL.: [REDACTED] OFC

TYPE ACTION.....: 08 ADMINISTRATIVE RESOLUTION CHARG. OFF CHAR:

HEARING LOC.....: 0411 ALLENDALE

ACTUAL HEARING DATE: 08/07/13

WITNESS/OFFICIAL REQUIRED:

COUNCIL SUBST. REQ.: SCHD HEAR DATE: 08/07/13

3RD HEARING DEC: C CONVICTED

PLEA.....: G GUILTY

CONVICTED OFF...: 836 DISRESPECT

CONVICT. OFF CHAR.:

DATE DROPPED....:

TOT GT LOST...: 00000 APPRV.:

APPEAL DEADLINE: 08/22/13

GT RESTORED...: 00000

CREATED BY.....: [REDACTED]

08/07/13

LAST UPDATED BY: [REDACTED]

08/08/13

PF4-MODIFY DISC. PF5-NARRATIVE INQUIRY PF8-NEXT DISCIP

15:13:35 Thursday, May 19, 2014

DIS151D
DIS113MSCDC OFFENDER MANAGEMENT SYSTEMS
INMATE DISCIPLINARY SYSTEM
DISPLAY OFFENSE CODE TEXT05/29/14
LARRYMI

NARRATIVE...

OFC. [REDACTED] WAS STANDING ON THE ROCK GIVING DIRECTIVES FOR ALL INMATES TO REPORT TO THEIR CELLS WHO WASN'T GOING OUT FOR CHOW. WHEN INMATE JASON BODIE SCDC #321531 W/M ENTERED THE UNIT SHE TOLD HIM THAT HE NEEDED TO GO TO HIS CELL UNTIL THE MAJORITY OF THE INMATES RETURNED FROM CHOW. INMATE JASON BODIE IN TURN TOLD HER THAT SHE WAS THE ONLY MOTHERFUCKER ON THIS YARD THAT WAS ENFORCING THIS DAMN RULE. INMATE JASON BODIE THEN BEGAN YUELLING TO OTHER INMATES "YALL DON'T HAVE TO GO TO YALL CELL. THAT THE PROBLEM IN THIS MOTHERFUCKING PLACE NOW THESE DAMN C/O LIKE BOSSY US AROUND AND ME I'AM TIRED OF THE DAMN SHIT" SHE TOLD INMATE JASON BODIE THAT THIS WAS A PART OF HER JOB DUTY AND SHE WAS GOING TO DO IT TO THE BEST OF HER ABILITY. OFC [REDACTED] ASKED INMATE JASON BODIE FOR HIS ID AND WHEN SHE RETURNED IT HE TOLD HER THAT HE HOPED SHE HAD ENOUGH INK IN HER PEN TO COMPLETE HIS WRITE UP BECAUSE NO ONE WAS GOING TO DO SHIT TO WITH HIM ANYWAY.

ADMIN HEARING RESULTS:

CASE # 03 WAS HEARD BY CAPT. [REDACTED] ON 8/7/13

CREATED BY.....: [REDACTED]

08/07/13

(MORE)

LAST UPDATED BY: [REDACTED]

08/08/13

DISCIPLINARY TEXT DISPLAYED

PF4=MODIFY NARRATIVE PF7=PREV PG F8=NEXT PG

13:13:49 Thursday, May 13, 2014

DIS11500
DIS11500

SCDC OFFENDER MANAGEMENT SYSTEMS
INMATE DISCIPLINARY SYSTEM
DISPLAY OFFENSE CODE TEXT

05/29/14
LARRINE

NARRATIVE....

ADMIN HEARING RESULTS:

CASE # 03 WAS HEARD BY CAPT. [REDACTED] ON 8/7/13

COUNSELING/INSTRUCTIONS OR DIRECTIVES/VERBAL REPRIMAND

CANTEEN/VISITATION: 20/20 DAYS EACH

CREATED BY..... [REDACTED]

08/07/13

(END)

LAST UPDATED BY: [REDACTED]

08/08/13

DISCIPLINARY TEXT DISPLAYED

PF4-MODIFY NARRATIVE PF7-PREV PG F8-NEXT PG

13:14:34 Thursday, May 20, 2010

DIS11100
UNDISCASCDM OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM
OFFENSE INQUIRY03/22/14
LARRYMT

SCDM#CASE#: 321531 - 00001

BODIE, JASON -

CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT

OFFENSE

CHARGED OFFENSE...: 825 REFUSING OR FAILING OBEY DATE: 08/16/07 TIME: 07:05 AM

OFFENSE LOCATION...: 0411 ALLENDALE

OFFENSE CRT LVL.: 3

LOCATION IN INST.: 03 GAMMA LIVING AREA

ASSLT WITH WEAPON:

ASSLT SCAFF/INMATE:

ACCUSING OFFICIAL.: [REDACTED], CO

TYPE ACTION.....: 03 OTHER ACTION TAKEN/INFORM CHARG. OFF CHAR:

HEARING LOC.....: ACTUAL HEARING DATE:

WITNESS/OFFICIAL REQUIRED: COUNSEL SUBST. REQ.: SCHD HEAR DATE: 08/24/07

ING HEARING REC: L CLOSED

PLEA.....:

CONVICTED OFF...:

CONVICT. OFF CHAR.:

DATE DROPPED...:

TOT GT LOST...: 00000 APPRV.:

APPEAL DEADLINE:

GT RESTORED...: 00000

CREATED BY.....: [REDACTED]

08/23/07

LAST UPDATED BY: [REDACTED]

08/24/07

PFA-MOVIEW DISC. PFB-NARRATIVE INQUIRY IFR-NEXT DISCIP

10:14:08 Thursday, May 26, 2011

DIS11500
DIS11500

SDCC OFFENDER MANAGEMENT SYSTEMS
INMATE DISCIPLINARY SYSTEM
DISPLAY OFFENSE CODE TEXT

08/23/14
LARRIMI

NARRATIVE...

INMATE BODIE REFUSED TO STAND DURING COUNT.

INFORMALLY RESOLVED ON 08/24/07 - CANTEEN AND VISITS SUSPENDED 10 DAYS;
10 DAYS CELL RESTRICTION. 20 HOURS EXTRA DUTY.

CREATED BY.....
LAST UPDATED BY:

08/23/07
08/24/07

(END)

DISCIPLINARY TEXT DISPLAYED

PF4-MODIFY NARRATIVE PF7-PREV PG F8-NEXT PG

11:13:46 Thursday, May 14, 2014

DIST1100
ONDISCAJDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM
OFFENSE INQUIRY05/13/14
LARRYMI

SCDC#CASE#: 321531 - 00002

BODIE, JASON -

CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT

OFFENSE

CHARGED OFFENSE...: 828 OUT OF PLACE

DATE: 04/24/10 TIME: 07:30 AM

OFFENSE LOCATION...: 0422 MACDOUGALL CORR INST

OFFENSE CAT EVL.: 3

LOCATION IN INST.: 04 ALPHA/GAMMA AREA

ASSLT WITH WEAPON:

ASSLT STAFF/INMATE:

ACCUSING OFFICIAL...: [REDACTED]

TYPE ACTION.....: 03 OTHER ACTION TAKEN/INFORM CHARG. OFF CHAR:

HEARING LOC.....: 0422 MACDOUGALL C

ACTUAL HEARING DATE: 04/27/10

WITNESS/OFFICIAL REQUIRED:

COUNCIL SUBST. REQ.: SCHD HEAR DATE: 04/27/10

CHD HEARING DET: L CLOSED

PLEA.....:

CONVICTED OFF...:

CONVICT. OFF CHAR.:

DATE DROPPED...:

TOT GT LOST...: 00000 APPRV.:

APPEAL DEADLINE:

GT RESTORED...: 00000

CREATED BY.....: [REDACTED]

04/27/10

LAST UPDATED BY: [REDACTED]

04/27/10

PF4-MODIFY DISC. PF5-NARRATIVE INQUIRY PF8-NEXT DISCIP

15:13:01 Thursday, May 19, 2010

DISC1500
DISC1500

SCDC OFFENDER MANAGEMENT SYSTEMS
INMATE DISCIPLINARY SYSTEM
DISPLAY OFFENSE CODE TEXT

05/19/10
LARRYMC

NARRATIVE....

ON APRIL 24, 2010, APPROX 7:30 A.M., INMATE SHANNON BOBIAN, SCDC #321531, DID NOT REPORT TO THE PILL LINE WHEN RELEASED. HE IS CHARGED WITH 828 - OUT OF PLACE.

4/27/10 - INFORMAL RESOLUTION - ASSOC WARDEN [REDACTED]
CELL RESTRICTION = 6 DAYS
VISITATION RESTRICTION = 6 DAYS

CREATED BY..... [REDACTED]

04/27/10

(END)

LAST UPDATED BY: [REDACTED]

04/27/10

DISCIPLINARY TEXT DISPLAYED

PF4=MODIFY NARRATIVE PF7=PREV PG F8=NEXT PG

15:37:12 Thursday, May 29, 2014

DIS11090

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

05/29/14

SCDC ID: 321531

DROPPED OFFENSES

LARRYMI

BODIE, JASON -

CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT

OFFENSE DESCRIPTION	OFFENSE DATE	HEARING DATE	NET ST COST	SHO DECISION
END OF LIST				

PAGE 0001

SELECT A RECORD AND PRESS <ENTER>...

PF11-QUIT PF10-MAIN MENU PF7-BACKWARD PF8-FORWARD

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

Petitioner's
EXHIBIT F

Development and Course

Individuals with sexual sadism in forensic samples are almost exclusively male, but a representative sample of the population in Australia reported that 2.2% of men and 1.3% of women said they had been involved in bondage and discipline, "sodomasochism," or dominance and submission in the previous year. Information on the development and course of sexual sadism disorder is extremely limited. One study reported that females became aware of their sadomasochistic orientation as young adults, and another reported that the mean age at onset of sadism in a group of males was 19.4 years. Whereas sexual sadism per se is probably a lifelong characteristic, sexual sadism disorder may fluctuate according to the individual's subjective distress or his or her propensity to harm nonconsenting others. Advancing age is likely to have the same reducing effect on this disorder as it has on other paraphilic or normophilic sexual behavior.

Differential Diagnosis

Many of the conditions that could be differential diagnoses for sexual sadism disorder (e.g., antisocial personality disorder, sexual masochism disorder, hypersexuality, substance use disorders) sometimes occur also as comorbid diagnoses. Therefore, it is necessary to carefully evaluate the evidence for sexual sadism disorder, keeping the possibility of other paraphilias or mental disorders as part of the differential diagnosis. The majority of individuals who are active in community networks that practice sadistic and masochistic behaviors do not express any dissatisfaction with their sexual interests, and their behavior would not meet DSM-5 criteria for sexual sadism disorder. Sadistic interest, but not the disorder, may be considered in the differential diagnosis.

Comorbidity

Known comorbidities with sexual sadism disorder are largely based on individuals (almost all males) convicted for criminal acts involving sadistic acts against nonconsenting victims. Hence, these comorbidities might not apply to all individuals who never engaged in sadistic activity with a nonconsenting victim but who qualify for a diagnosis of sexual sadism disorder based on subjective distress over their sexual interest. Disorders that are commonly comorbid with sexual sadism disorder include other paraphilic disorders.

Pedophilic Disorder

Diagnostic Criteria

302.2 (F65.4)

- A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).
- B. The individual has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.
- C. The individual is at least age 16 years and at least 5 years older than the child or children in Criterion A.

Note: Do not include an individual in late adolescence involved in an ongoing sexual relationship with a 12- or 13-year-old.

Specify whether:

Exclusive type (attracted only to children)

Nonexclusive type

Specify if:

- Sexually attracted to males**
- Sexually attracted to females**
- Sexually attracted to both**

Specify if:

- Limited to incest**

Diagnostic Features

The diagnostic criteria for pedophilic disorder are intended to apply both to individuals who freely disclose this paraphilia and to individuals who deny any sexual attraction to prepubertal children (generally age 13 years or younger), despite substantial objective evidence to the contrary. Examples of disclosing this paraphilia include candidly acknowledging an intense sexual interest in children and indicating that sexual interest in children is greater than or equal to sexual interest in physically mature individuals. If individuals also complain that their sexual attractions or preferences for children are causing psychosocial difficulties, they may be diagnosed with pedophilic disorder. However, if they report an absence of feelings of guilt, shame, or anxiety about these impulses and are not functionally limited by their paraphilic impulses (according to self-report, objective assessment, or both), and their self-reported and legally recorded histories indicate that they have never acted on their impulses, then these individuals have a pedophilic sexual orientation but not pedophilic disorder.

Examples of individuals who deny attraction to children include individuals who are known to have sexually approached multiple children on separate occasions but who deny any urges or fantasies about sexual behavior involving children, and who may further claim that the known episodes of physical contact were all unintentional and nonsexual. Other individuals may acknowledge past episodes of sexual behavior involving children but deny any significant or sustained sexual interest in children. Since these individuals may deny experiences, impulses or fantasies involving children, they may also deny feeling subjectively distressed. Such individuals may still be diagnosed with pedophilic disorder despite the absence of self-reported distress, provided that there is evidence of recurrent behaviors persisting for 6 months (Criterion A) and evidence that the individual has acted on sexual urges or experienced interpersonal difficulties as a consequence of the disorder (Criterion B).

Presence of multiple victims, as discussed above, is sufficient but not necessary for diagnosis; that is, the individual can still meet Criterion A by merely acknowledging intense or preferential sexual interest in children.

The Criterion A clause, indicating that the signs or symptoms of pedophilia have persisted for 6 months or longer, is intended to ensure that the sexual attraction to children is not merely transient. However, the diagnosis may be made if there is clinical evidence of sustained persistence of the sexual attraction to children even if the 6-month duration cannot be precisely determined.

Associated Features Supporting Diagnosis

The extensive use of pornography depicting prepubescent children is a useful diagnostic indicator of pedophilic disorder. This is a specific instance of the general case that individuals are likely to choose the kind of pornography that corresponds to their sexual interests.

Prevalence

The population prevalence of pedophilic disorder is unknown. The highest possible prevalence for pedophilic disorder in the male population is approximately 3%–5%. The population prevalence of pedophilic disorder in females is even more uncertain, but it is likely a small fraction of the prevalence in males.

Development and Course

Adult males with pedophilic disorder may indicate that they become aware of strong or preferential sexual interest in children around the time of puberty—the same time frame in which males who later prefer physically mature partners became aware of their sexual interest in women or men. Attempting to diagnose pedophilic disorder at the age at which it first manifests is problematic because of the difficulty during adolescent development in differentiating it from age-appropriate sexual interest in peers or from sexual curiosity. Hence, Criterion C requires for diagnosis a minimum age of 16 years and at least 5 years older than the child or children in Criterion A.

Pedophilia *per se* appears to be a lifelong condition. Pedophilic disorder, however, necessarily includes other elements that may change over time with or without treatment: subjective distress (e.g., guilt, shame, intense sexual frustration, or feelings of isolation) or psychosocial impairment, or the propensity to act out sexually with children, or both. Therefore, the course of pedophilic disorder may fluctuate, increase, or decrease with age.

Adults with pedophilic disorder may report an awareness of sexual interest in children that preceded engaging in sexual behavior involving children or self-identification as a pedophile. Advanced age is as likely to similarly diminish the frequency of sexual behavior involving children as it does other paraphilically motivated and normophilic sexual behavior.

Risk and Prognostic Factors

Temperamental. There appears to be an interaction between pedophilia and antisociality, such that males with both traits are more likely to act out sexually with children. Thus, antisocial personality disorder may be considered a risk factor for pedophilic disorder in males with pedophilia.

Environmental. Adult males with pedophilia often report that they were sexually abused as children. It is unclear, however, whether this correlation reflects a causal influence of childhood sexual abuse on adult pedophilia.

Genetic and physiological. Since pedophilia is a necessary condition for pedophilic disorder, any factor that increases the probability of pedophilia also increases the risk of pedophilic disorder. There is some evidence that neurodevelopmental perturbation in utero increases the probability of development of a pedophilic orientation.

Gender-Related Diagnostic Issues

Psychophysiological laboratory measures of sexual interest, which are sometimes useful in diagnosing pedophilic disorder in males, are not necessarily useful in diagnosing this disorder in females, even when an identical procedure (e.g., viewing time) or analogous procedures (e.g., penile plethysmography and vaginal photoplethysmography) are available.

Diagnostic Markers

Psychophysiological measures of sexual interest may sometimes be useful when an individual's history suggests the possible presence of pedophilic disorder but the individual denies strong or preferential attraction to children. The most thoroughly researched and longest used of such measures is *penile plethysmography*, although the sensitivity and specificity of diagnosis may vary from one site to another. *Viewing time*, using photographs of nude or minimally clothed persons as visual stimuli, is also used to diagnose pedophilic disorder, especially in combination with self-report measures. Mental health professionals in the United States, however, should be aware that possession of such visual stimuli, even for diagnostic purposes, may violate American law regarding possession of child pornography and leave the mental health professional susceptible to criminal prosecution.

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Differential Diagnosis

Many of the conditions that could be differential diagnoses for pedophilic disorder also sometimes occur as comorbid diagnoses. It is therefore generally necessary to evaluate the evidence for pedophilic disorder and other possible conditions as separate questions.

Antisocial personality disorder. This disorder increases the likelihood that a person who is primarily attracted to the mature physique will approach a child, on one or a few occasions, on the basis of relative availability. The individual often shows other signs of this personality disorder, such as recurrent law-breaking.

Alcohol and substance use disorders. The disinhibiting effects of intoxication may also increase the likelihood that a person who is primarily attracted to the mature physique will sexually approach a child.

Obsessive-compulsive disorder. There are occasional individuals who complain about ego-dystonic thoughts and worries about possible attraction to children. Clinical interviewing usually reveals an absence of sexual thoughts about children during high states of sexual arousal (e.g., approaching orgasm during masturbation) and sometimes additional ego-dystonic, intrusive sexual ideas (e.g., concerns about homosexuality).

Comorbidity

Psychiatric comorbidity of pedophilic disorder includes substance use disorders; depressive, bipolar, and anxiety disorders; antisocial personality disorder; and other paraphilic disorders. However, findings on comorbid disorders are largely among individuals convicted for sexual offenses involving children (almost all males) and may not be generalizable to other individuals with pedophilic disorder (e.g., individuals who have never approached a child sexually but who qualify for the diagnosis of pedophilic disorder on the basis of subjective distress).

Fetishistic Disorder

Diagnostic Criteria

302.81 (F65.0)

- A. Over a period of at least 6 months, recurrent and intense sexual arousal from either the use of nonliving objects or a highly specific focus on nongenital body part(s), as manifested by fantasies, urges, or behaviors.
- B. The fantasies, sexual urges, or behaviors cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- C. The fetish objects are not limited to articles of clothing used in cross-dressing (as in transvestic disorder) or devices specifically designed for the purpose of tactile genital stimulation (e.g., vibrator).

Specify:

- Body part(s)
- Nonliving object(s)
- Other

Specify if:

In a controlled environment: This specifier is primarily applicable to individuals living in institutional or other settings where opportunities to engage in fetishistic behaviors are restricted.

In full remission: There has been no distress or impairment in social, occupational, or other areas of functioning for at least 5 years while in an uncontrolled environment.

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

Petitioner's
EXHIBIT G

Disorders

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Paraphilic Disorders

Paraphilic disorders included in this manual are voyeuristic disorder (spying on others in private activities), exhibitionistic disorder (exposing the genitals), frotteuristic disorder (touching or rubbing against a nonconsenting individual), sexual masochism disorder (undergoing humiliation, bondage, or suffering), sexual sadism disorder (inflicting humiliation, bondage, or suffering), pedophilic disorder (sexual focus on children), fetishistic disorder (using nonliving objects or having a highly specific focus on nongenital body parts), and transvestic disorder (engaging in sexually arousing cross-dressing). These disorders have traditionally been selected for specific listing and assignment of explicit diagnostic criteria in DSM for two main reasons: they are relatively common, in relation to other paraphilic disorders, and some of them entail actions for their satisfaction that, because of their noxiousness or potential harm to others, are classed as criminal offenses. The eight listed disorders do not exhaust the list of possible paraphilic disorders. Many dozens of distinct paraphilias have been identified and named, and almost any of them could, by virtue of its negative consequences for the individual or for others, rise to the level of a paraphilic disorder. The diagnoses of the other specified and unspecified paraphilic disorders are therefore indispensable and will be required in many cases.

In this chapter, the order of presentation of the listed paraphilic disorders generally corresponds to common classification schemes for these conditions. The first group of disorders is based on *anomalous activity preferences*. These disorders are subdivided into *courtship disorders*, which resemble distorted components of human courtship behavior (voyeuristic disorder, exhibitionistic disorder, and frotteuristic disorder), and *algotagmic disorders*, which involve pain and suffering (sexual masochism disorder and sexual sadism disorder). The second group of disorders is based on *anomalous target preferences*. These disorders include one directed at other humans (pedophilic disorder) and two directed elsewhere (fetishistic disorder and transvestic disorder).

The term *paraphilia* denotes any intense and persistent sexual interest other than sexual interest in genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners. In some circumstances, the criteria "intense and persistent" may be difficult to apply, such as in the assessment of persons who are very old or medically ill and who may not have "intense" sexual interests of any kind. In such circumstances, the term *paraphilia* may be defined as any sexual interest greater than or equal to normophilic sexual interests. There are also specific paraphilias that are generally better described as *preferential* sexual interests than as intense sexual interests.

Some paraphilias primarily concern the individual's erotic activities, and others primarily concern the individual's erotic targets. Examples of the former would include intense and persistent interests in spanking, whipping, cutting, binding, or strangulating another person, or an interest in these activities that equals or exceeds the individual's interest in copulation or equivalent interaction with another person. Examples of the latter would include intense or preferential sexual interest in children, corpses, or amputees (as a class), as well as intense or preferential interest in nonhuman animals, such as horses or dogs, or in inanimate objects, such as shoes or articles made of rubber.

A *paraphilic disorder* is a paraphilia that is currently causing distress or impairment to the individual or a paraphilia whose satisfaction has entailed personal harm, or risk of harm, to

others. A paraphilia is a necessary but not a sufficient condition for having a paraphilic disorder, and a paraphilia by itself does not necessarily justify or require clinical intervention.

In the diagnostic criteria set for each of the listed paraphilic disorders, Criterion A specifies the qualitative nature of the paraphilia (e.g., an erotic focus on children or on exposing the genitals to strangers), and Criterion B specifies the negative consequences of the paraphilia (i.e., distress, impairment, or harm to others). In keeping with the distinction between paraphilias and paraphilic disorders, the term *diagnosis* should be reserved for individuals who meet both Criteria A and B (i.e., individuals who have a paraphilic disorder). If an individual meets Criterion A but not Criterion B for a particular paraphilia—a circumstance that might arise when a benign paraphilia is discovered during the clinical investigation of some other condition—then the individual may be said to have that paraphilia but not a paraphilic disorder.

It is not rare for an individual to manifest two or more paraphilias. In some cases, the paraphilic foci are closely related and the connection between the paraphilias is intuitively comprehensible (e.g., foot fetishism and shoe fetishism). In other cases, the connection between the paraphilias is not obvious, and the presence of multiple paraphilias may be coincidental or else related to some generalized vulnerability to anomalies of psychosexual development. In any event, comorbid diagnoses of separate paraphilic disorders may be warranted if more than one paraphilia is causing suffering to the individual or harm to others.

Because of the two-pronged nature of diagnosing paraphilic disorders, clinician-rated or self-rated measures and severity assessments could address either the strength of the paraphilia itself or the seriousness of its consequences. Although the distress and impairment stipulated in the Criterion B are special in being the immediate or ultimate result of the paraphilia and not primarily the result of some other factor, the phenomena of reactive depression, anxiety, guilt, poor work history, impaired social relations, and so on are not unique in themselves and may be quantified with multipurpose measures of psychosocial functioning or quality of life.

The most widely applicable framework for assessing the strength of a paraphilia itself is one in which examinees' paraphilic sexual fantasies, urges, or behaviors are evaluated in relation to their normophilic sexual interests and behaviors. In a clinical interview or on self-administered questionnaires, examinees can be asked whether their paraphilic sexual fantasies, urges, or behaviors are weaker than, approximately equal to, or stronger than their normophilic sexual interests and behaviors. This same type of comparison can be, and usually is, employed in psychophysiological measures of sexual interest, such as penile plethysmography in males or viewing time in males and females.

Voyeuristic Disorder

Diagnostic Criteria

302.82 (F65.3)

- A. Over a period of at least 6 months, recurrent and intense sexual arousal from observing an unsuspecting person who is naked, in the process of disrobing, or engaging in sexual activity, as manifested by fantasies, urges, or behaviors.
- B. The individual has acted on these sexual urges with a nonconsenting person, or the sexual urges or fantasies cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- C. The individual experiencing the arousal and/or acting on the urges is at least 18 years of age.

Specify if:

In a controlled environment: This specifier is primarily applicable to individuals living in institutional or other settings where opportunities to engage in voyeuristic behavior are restricted.

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

Petitioner's
EXHIBIT H



Menu - Refresh Screen

Messages

Check messages (2) below for: ATTSC406

	Date	Title
☐	June 2, 2014 at 11:02:49	QWA 000617F8C4 from NC2K
☐	June 2, 2014 at 11:02:43	ICHR 003F0521C7 from SCCH

Check All

☐ Delete All Checked Messages☒ Print All Checked Messages

Submit

QWA 000617F8C4 from NC2K - June 2, 2014 at 11:02:49

ATTSC406

.QWA.000617F8C4.NC2K.20140602 11:02:49

TO: ATTSC406-42 20140602 11:02:49 000617F8C4

FROM: NC2K-1571912 20140602 11:02:48

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***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.

Top of page or Menu

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ICHR 003F0521C7 from SCCH - June 2, 2014 at 11:02:43

ATTSC406

.ICHR.003F0521C7.SCCH.20140602 11:02:43

TO: ATTSC406-41 20140602 11:02:43 003F0521C7

FROM: SCCH-336327 20140602 11:02:43

ICHR REQUEST FOR RAP SHEET

ORI-SCC40015A FBI-565127KC1 PUR-C

ATTN-[REDACTED]

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-06/02/2014 TIME-11:00:30

REQ ORI-SCC40015A ATT GENERAL

SID-[REDACTED] FBI-565127KC1

NAME-BODIE, TOMMY JASON

SEX-M RACE-W

HEIGHT-510 WEIGHT-175 EYES-GRN HAIR-BRO SKIN-

BORN-GA

FPC-

HENRY-

PHOTOGRAPH AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--11/10/2005 DATE OF LAST UPDATE--11/07/2011

ADDITIONAL IDENTIFIERS

BIRTH

NAME

DATES MARKS

SOC SEC MISC NUM

BODIE, JASON

1982

CONTRIBUTOR/SUBJECT

DOA/RCVD CHARGE/DISPOSITION/ETC

BODIE, TOMMY JASON
SC0410000 SALUDA CNTY SO
CASE-NA
ATN-990000122105
WARR-J140008
CIT-16-3-652-FELONY

10/26/2005

ARREST CHARGE 01-CRIMINAL
SEXUAL CONDUCT - FIRST
DEGREE
OFFENSE DATE-01/01/2004
PHOTOGRAPH AVAILABLE

CIT-16-3-655(1)(3)-FELONY
DOC-006841
WARR-J140008

COURT CHARGE 01-CRIMINAL SEX
CONDUCT W/MINOR(<16YRS)2ND
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COURT DATE-10/26/2011
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BODIE, TOMMY JASON
SC0410000 SALUDA CNTY SO
CASE-17599
ATN-990000202169
WARR-J140256
CIT-16-3-655(A)(1)-FELONY

06/13/2006

ARREST CHARGE 01-CRIM SEX
CONDUCT W/MINOR-<11YRS
OLD-1ST DEGREE
OFFENSE DATE-06/13/2006
PHOTOGRAPH AVAILABLE
ARREST INFO- SC01704120 CONSO
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SC040015C SC DEPT CORRECTIONS
CASE-200705
CIT-16-3-655(2)-FELONY

05/02/2007 CUSTODY STATUS-RECEIVED
(START DATE-05/02/2007

COURT CHARGE 01-CRIM SEX
CONDUCT W/MINOR(11-14YRS)-
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BASED ON SEARCH OF SLED CJIS CGH FILE USING FBI/565127KC1

REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING HANDGUN IN
SOUTH CAROLINA

INFORMATION SUBMITTED TO SLED CCH PURSUANT TO 16-23-10 (C) AND 23-31-110
(C) OF THE SOUTH CAROLINA CODE OF LAWS INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A CRIME OF VIOLENCE AND IS NOT PERMITTED TO POSSESS OR
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INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY
FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS
DEFINED BY THE GUN CONTROL ACT OF 1968 (18 USC 922(G)).

** S C CJIS END OF RECORD **

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Question:

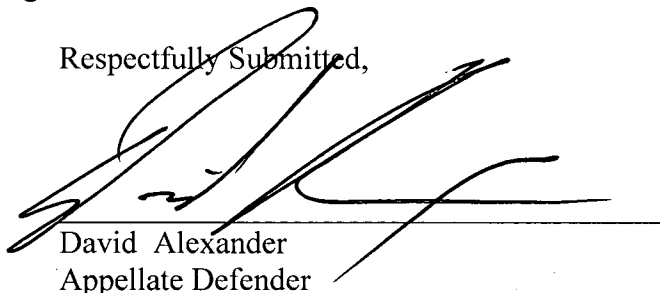
What are the 5 year and
10 year re-offend percentages
for a score of "4" on the
static 99 actuarial tables?



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 30th day of December, 2016.

RECEIVED
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SC Court of Appeals