

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Chester County

Honorable Brian M. Gibbons, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ROBERT ISAIAH GRAHAM,

APPELLANT

APPELLATE CASE NO 2016-000425

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF CHESTER
2014-GS-12-00583

State of South Carolina
vs.
Robert Isaiah Graham

Chester, South Carolina
May 12, 2015
Before the Honorable Roger Young

APPEARANCES
For the State: Karen Fryar
For the Defendant: Mike Lifsey

Reported by: Michael C. Watkins
Official Court Reporter

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1 THE COURT: All right. Now, are you Robert Isaiah
2 Graham?

3 THE DEFENDANT: Yes sir.

4 THE COURT: Okay. Mr. Graham, we're here today
5 because you got indicted for murder and we are set to go to
6 trial and your lawyer tells me that you wish to plead
7 guilty to that; is that correct?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. Now, I'm going to ask you some
10 questions. I'm not trying to change your mind about your
11 decision but I have to make sure that you understand what
12 you're doing and I have to do that through a series of
13 questions. So your answers are all under oath, the clerk
14 just took your oath. If you can't hear anything that I
15 say, ask me to repeat it. We're in one of these
16 courthouses with the large ceilings and some times sound
17 bounces off and I'm a little hard of hearing myself, so if
18 you can speak up, I might ask you to repeat something. But
19 I'm not, again, trying to change your mind, I'm simply
20 trying to make sure that you understand what you're doing
21 and that your decision to plead guilty is freely,
22 voluntarily and intelligently made. Now, I'm holding in my
23 hands a copy of the indictment which is the State of South
24 Carolina versus Robert Isaiah Graham, it's indictment
25 2012 -- 2014-GS-12-583, and it's an indictment for murder.

1 And it alleges that you, Robert Isaiah Graham, did in
2 Chester County on or about July 16, 2014, feloniously,
3 willfully and with malice aforethought did kill and murder
4 Shyheim D. Kennedy by means of shooting him, and that the
5 said victim did die as a proximate result thereof in
6 violation of the common law of South Carolina in section
7 16-3-10 of the South Carolina Code of Laws 1976 as amended.
8 You understand what that indictment is for?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. And that is the charge that you
11 want to plead guilty to; is that correct?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. Now, you understand that when you
14 get charged for a crime in this state you have certain
15 rights that you give up, namely the right to remain silent
16 and the right to a jury trial, do you understand that?

17 MS. FRYAR: Yes, sir.

18 THE COURT: You also understand that this murder
19 charge carries a minimum of 30 years in prison, it also
20 goes up to life without parole. Under some circumstances
21 the State could seek the death penalty but they have not
22 sought the death penalty in this case, so the possible
23 sentencing range for the Court to impose is 30 years to
24 life without parole. Now, life without parole means you
25 could never get out of jail, you spend your natural life

1 there and the only way you get out is when they take you
2 out in a pine box, now that is one possible sentence. The
3 minimum sentence, though, is 30 years in the department of
4 corrections. Now, there's no time off for parole, there's
5 no credit for good behavior, it is 30 years day for day.
6 You do get credit for whatever time you've sat in the
7 county jail while you've been awaiting trial, all right?
8 But other than that the range of the sentence will be
9 somewhere between 30 years to life without parole. Do you
10 understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, they've asked me today because of
13 your age not to impose a sentence on you but that just to
14 accept your guilty plea, and after I accept your guilty
15 plea -- or if I accept your guilty plea then we will take a
16 couple of months and have an evaluation done. Your lawyer
17 has asked to have some ability to get some -- find out more
18 about your background and present that to the Court, have,
19 you know, different exams, different people that might want
20 to come and speak on your behalf. So we'll defer any
21 sentencing for later on down the road, possibly later in
22 the summer or early fall, but today is just for the purpose
23 of accepting your guilty plea, do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Now, as I said when you get

1 charged with a crime in this state you give up some rights,
2 namely it's the right to a jury trial but it's also your
3 right to remain silent. So when you get charged if you
4 want a trial all you have to do is say, "I've changed my
5 mind, I want a jury trial," and we're ready to do that
6 today. If the jury comes in at 2:00 we'll qualify them,
7 get 12 jurors, put them in the box and then we'll start the
8 trial, that's what we were prepared to do today. At that
9 point the State has to present enough evidence to convince
10 12 jurors that you are guilty of this charge beyond a
11 reasonable doubt. All 12 jurors would have to agree that
12 you are guilty of the charge, and if you are convicted you
13 would have the right to appeal. You could challenge any
14 evidence that the State puts up, you could call witnesses
15 to testify on your behalf, and you could put up a defense,
16 you could have your lawyer cross examine witnesses, all of
17 those things if you went to trial, but you give up all of
18 those rights if you plead guilty today, do you understand
19 that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. And you want to give up those
22 rights and plead guilty today?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you're pleading guilty to this charge
25 because you are guilty of it?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Now, are you under the
3 influence of any kind of drugs or alcohol today?

4 THE DEFENDANT: No, sir.

5 THE COURT: Do you take any sort of prescription
6 medication?

7 THE DEFENDANT: No, sir.

8 THE COURT: Do you have any physical, mental or
9 emotional conditions which keep you from understanding what
10 you're doing today?

11 THE DEFENDANT: No, sir.

12 THE COURT: All right. Now, you're standing next to
13 your lawyer and I want to ask you some questions about what
14 you and he have talked about before today. So again what
15 happens is that sometimes people later on down the road
16 have a change of heart, and you can't have a change of
17 heart after today so I want to make sure that everything is
18 above board and on the record. So he explained to you what
19 evidence the State has against you that they would present
20 at trial if you went forward with trial; is that correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And he told you what the law is on murder,
23 so in other words, explained to you what the State would
24 have to prove as a matter of law in order to get those 12
25 jurors to convict you; is that correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. And y'all talked about the
3 defenses. Sometimes you have things like you might want to
4 present a defense of self-defense or an alibi defense, in
5 other words you go, "Well I wasn't even there," things like
6 that. I'm not saying that you had those available to you,
7 but y'all talk about things like that. So he would ask you
8 questions and discuss it with you, tell you about, "Well, I
9 understand what you might be saying but here is what the
10 evidence is," and sometimes it don't look so good for you.
11 You had discussions like that; is that correct?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: We also have the ability to have your
14 lawyer suppress some of the evidence that the State puts
15 up. Sometimes they have confessions. I understand that we
16 were going to have a hearing this morning because you had a
17 confession on the record and he was going to try to get
18 some of it out, but whether or not it would be in or out I
19 don't know because again, when you plead guilty you give up
20 the right. But you talked about things like that, is that
21 right, whether or not you wanted to have him try to
22 suppress the evidence?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. You could also have the right
25 to testify. Now, you could get up and tell the jury your

1 side of the story if you want, that's a right that you
2 have, but you also have the right to not testify, and if
3 you didn't want to testify the judge, me, would tell those
4 jurors, "Look, this man has a constitutional right not to
5 testify and if he doesn't testify you are not to hold that
6 against him in any way while you deliberate the verdict of
7 guilty or not guilty," do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. But when you plead guilty you
10 give up that right to not testify, you also give up your
11 right to testify, do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. You could also ask your lawyer
14 to call witnesses on your behalf. Again, you give up that
15 right when you testify, do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, did he do everything you asked him to
18 do?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Are you satisfied with his representation?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Have you got any complaints that you want
23 to make about him today?

24 THE DEFENDANT: No, sir.

25 THE COURT: So you're satisfied with his

1 representation?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. Now, I told you the sentencing
4 range on this could go anywhere from 30 years to life
5 without parole. Other than -- or is there any -- were
6 there any promises made to you about what your sentence
7 would be if you pled guilty?

8 THE DEFENDANT: No, sir.

9 THE COURT: All right. Did anybody make any kind of
10 threats to you in order to get you to plead guilty?

11 THE DEFENDANT: No, sir.

12 THE COURT: So this decision to plead guilty is yours
13 and yours alone?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Have you had plenty of time to talk with
16 him about it?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you need anymore time to talk to him
19 about it?

20 THE DEFENDANT: Not at all.

21 THE COURT: Did you talk with your family about it?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You understand, you know, that you're an
24 18 year old man, that it's your decision now, your decision
25 alone.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. So you're 18; is that right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Have you ever been married?

5 THE DEFENDANT: No, sir.

6 THE COURT: How far did you get in school?

7 THE DEFENDANT: 10th grade, I got kicked out.

8 THE COURT: All right. Before you got arrested did
9 you have a job or work?

10 THE DEFENDANT: No, sir.

11 THE COURT: All right. Now, Mr. Lifsey, now you had
12 him evaluated by Dr. Frierson, I've read that report.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: In your opinion, does he understand what
15 he is doing here today?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you agree with his decision?

18 MR. LIFSEY: I do.

19 THE COURT: Is there anything that you need to bring
20 to my attention about his emotional condition, his mental
21 condition, his physical condition or anything that might
22 have to do with his intellectual capacity?

23 MR. LIFSEY: Not for the purposes of accepting the
24 plea today, I believe he is competent to stand trial. I
25 will present in the way of mitigation evidence about his

1 mental health, but I believe that he -- his mental health
2 issues do not make him incompetent to stand trial. I
3 agree -- he and I have discussed this case at great
4 lengths, he has asked intelligent questions and I believe
5 he's clearly competent to stand trial, so I agree with Dr.
6 Frierson's conclusions as to competency to stand trial.

7 THE COURT: All right. Well, based on that I find
8 that his plea is freely, voluntarily and intelligently
9 made, I will accept it if there's a substantial factual
10 basis for it. What would the State like to tell me about
11 the case?

12 MS. FRYAR: Your Honor, first of all I'm just going to
13 hand up what's been marked as State's Exhibit Number 1,
14 which is the findings of the evaluation by the Department
15 of Mental Health and I would ask that that be made part of
16 the record. Your Honor, this incident occurred on July
17 16th of 2014 about 9:30 at night on Pickney Street here in
18 the City of Chester. Sixteen year old Shyheim Kennedy was
19 shot in the chest and died on the scene there. An autopsy
20 was performed and the cause of death was a gunshot wound to
21 the chest and it was ruled a homicide. Mr. Robert Isaiah
22 Graham was developed as a suspect and ultimately confessed
23 to the shooting, and then led the officers to the gun used
24 as the murder weapon.

25 THE COURT: All right. Well, Mr. Graham, is there

1 anything about what she just said happened that you
2 dispute?

3 THE DEFENDANT: No, sir.

4 THE COURT: All right. Mr. Lifsey, anything that you
5 are aware of that is in dispute between what the State
6 presented as facts?

7 MS. FRYAR: No, sir. I believe that's what they would
8 have presented at trial, Your Honor.

9 THE COURT: All right. Well, based on that I find
10 that there is a substantial factual basis for the plea and
11 I will accept it. Now, Mr. Graham, I have accepted your
12 plea, we'll send you back over to the jail and your lawyer
13 will work up what he needs to present to me in mitigation
14 whenever we have a sentencing hearing, which again will
15 probably be either later in the summer or perhaps early
16 fall depending on how long it takes them to get it and
17 whether any schedule we can work out to get me back here to
18 Chester. All right. Is there anything else from the
19 State?

20 MS. FRYAR: Nothing from the State, Your Honor.

21 THE COURT: From the defense?

22 MR. LIFSEY: The only thing I would ask, Your Honor,
23 is that the Court make -- I handed up to the Court a copy
24 of the plea affidavit in this matter, I would ask that Ms.
25 Carpenter make that a part of the record in this matter.

1 THE COURT: All right. Madam Clerk, I'm going to hand
2 you that.

3 MS. FRYAR: We can call that Defense Exhibit 1.

4 THE COURT: All right.

5 MR. LIFSEY: Thank you, Your Honor, I don't have
6 anything further at this time.

7 THE COURT: All right. Good luck to you.

8 (End of the hearing.)

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1 I, the undersigned, Michael C. Watkins, Official Court
2 Reporter for the Sixth Judicial Circuit of the State of South
3 Carolina, do hereby certify that the foregoing is a true,
4 accurate and complete transcript of the proceedings had and
5 evidence introduced in the trial of the captioned case
6 relative to appeal in the Court of General Sessions for
7 Chester County, South Carolina, on the 12th day of May, 2015.

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

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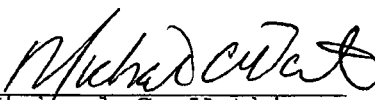
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July 28, 2016

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Michael C. Watkins

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Court Reporter

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF CHESTER
4 2014-GS-12-00583

5 State of South Carolina

6 vs.)

7 Robert I. Graham

8

9 Chester, South Carolina

10 February 22, 2016 (Sentencing Hearing)

11 Before the Honorable Brian M. Gibbons

12

13 APPEARANCES

14 For the State: Karen Fryar, Randy Newman, Julie Hall

15 For the Defendant: Mike Lifsey

16

17 Reported by: Michael C. Watkins

18 Official Court Reporter

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1 MS. FRYAR: The State is prepared to call the
2 sentencing hearing of Robert Isaiah Graham. Mr. Graham
3 pled guilty to the offense of murder on May 15th (sic) of
4 2015. We're ready to proceed with the sentencing hearing
5 that is required under Miller versus Alabama and Aiken
6 versus Byars and its progeny.

7 THE COURT: All right. State ready to proceed?

8 MS. FRYAR: Yes, we are.

9 THE COURT: How do y'all want to handle this hearing?

10 MS. FRYAR: I believe the State would go first
11 regarding this and giving the defendant the last
12 opportunity to speak to the Court before you make your
13 decision regarding sentencing. Because this case pled,
14 Your Honor --

15 THE COURT: Hang on to that. Do you agree with that,
16 Mr. Lifsey?

17 MR. LIFSEY: I do agree with that. I do have a matter
18 to take up prior to us beginning that.

19 THE COURT: All right, we'll do that in a moment.
20 Yes, ma'am?

21 MS. FRYAR: So Your Honor, the State just intends
22 to -- and I spoke with Mr. Lifsey about this -- present the
23 facts to the case, the officers are available in court.
24 But I will be referring to Investigator Lolita Fourney,
25 Investigator Chris Reynolds as well as Investigator Randy

1 Sinclair, and Investigator Moss is on his way just in case
2 you have any questions during this time, I do just intend
3 to present the facts, Your Honor. Then I intend to proceed
4 from there with witnesses that I think you should hear from
5 so you can determine what sentence you should issue under
6 the factors that you will be considering in Miller versus
7 Alabama and Aiken versus Byars.

8 THE COURT: Thank you. Mr. Lifsey?

9 MR. LIFSEY: Thank you, Your Honor. I agree with that
10 format, the State going first, then the defense. Your
11 Honor, prior to beginning this hearing my client has
12 informed me he wants to ask the Court to make a motion to
13 allow him to withdraw his guilty plea in this case. I
14 would ask Your Honor to hear from my client and let him say
15 whatever he wants to say in that regard if you wish to.

16 THE COURT: Y'all approach the bench. I mean right
17 here so I can hear from him. All right. Mr. Lifsey, your
18 client -- tell me what you want to do, I want to make sure
19 we make a good record here today.

20 MR. LIFSEY: Factually, Your Honor, we appeared in
21 front of Judge Young from Charleston who was here holding
22 court awhile back and my client -- at that time the State
23 was prepared to try the case, my client decided to enter a
24 guilty plea at that time, he did, he pled guilty,
25 sentencing was deferred so we could have a more involved

1 sentencing hearing pursuant to the United States Supreme
2 Court case Miller, and the South Carolina case of Aiken
3 versus Byars, and so in between the time he has been
4 sentenced in front of Judge Young and today experts and
5 research has been done preparing for today's hearing. My
6 client informed me several weeks ago that he wished to
7 withdraw his guilty plea. I told him that I would allow --
8 certainly allow him to say whatever he wanted to say in
9 that regard to Your Honor. I will tell you I think -- I
10 would rather -- let me let you hear from him and then I
11 will tell you what I wish to say.

12 THE COURT: Okay. Now Mr. Graham, I want to make sure
13 you understand that anything you say can and will be used
14 against you in court. This is the court, you understand
15 that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Certainly you can tell me
18 whatever you think I need to hear in regards to your
19 request for me to allow you to withdraw your guilty plea, I
20 just don't want you to hurt your case or hurt your defense
21 or hurt yourself in regards to the sentencing hearing which
22 we're about to start, do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. What is it then you would like to
25 tell me, or what would you like to request then in regards

1 to your guilty plea?

2 THE DEFENDANT: Number one, the only reason why I pled
3 guilty was because my lawyer told me that if I plead guilty
4 I'll end up getting 15 to 20 years, that is the only reason
5 I pled guilty and that's what he promised me, so that's the
6 only reason why I pled guilty. Mr. Lifsey done told me
7 numerous different type of things, all type of things where
8 he done told me so at this point forward I don't want him
9 to be my lawyer no more and I'm trying to withdraw my plea,
10 because I wouldn't even have pled guilty if he wouldn't
11 have told me that I would have gotten 15 or 20 years, so
12 now I would like to go to trial. Yeah, the case can't get
13 no worser than what it already is, you know what I'm
14 saying? So at this point I just want to go to trail. We
15 can go to trial right now or y'all can schedule a date for
16 me to go to trial. The main thing is if Mr. Kennedy
17 wouldn't have ran up on me then he would still be here,
18 that's the main thing about this case.

19 (Defendant turns and walks towards the victim's family

20 In the audience)

21 THE DEFENDANT: Y'all can say what y'all want to say,
22 you feel me? I don't even care. Y'all can say what you
23 want to say, I'm telling you because I'll turn up quick.
24 I'm telling you, if he wouldn't have run up on me then he
25 would still be here and still be straight-up. If he

1 wouldn't have ran up on me then he would still be here, now
2 my family got to go through what they're going through and
3 it irritates me.

4 THE COURT: Mr. Graham, don't address them.

5 THE DEFENDANT: Now my family have got to go through
6 what they're going through. My family over there, they
7 have got to go through what they're going through. I've
8 got a daughter and she ain't got her father out there
9 because somebody else want to run up on me and I did what I
10 had to do to protect myself, and it's that. I'm a man, I
11 will take responsibilities for my actions. If I did what I
12 did for whatever other reason then that's understandable,
13 but I did not just come at this man on no negativity. I
14 ain't in no gang, I ain't been never been in no gang, you
15 feel me? They're talking about this man escaped Chester to
16 get out from violence, this and that. Okay. Then why he
17 ran on me then? If that's why he escaped Chester then why
18 did this man come back to Chester and run up on me? And
19 that's he's not here to this day and they don't know
20 that --

21 THE COURT: So you want to withdraw your guilty plea?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Thank you. Mr. Lifsey?

24 MR. LIFSEY: Well, you know, one is I guess before I
25 even get to this argument I would say that one of the

1 Miller factors, the Court has to consider the
2 incompetencies associated with youth and decisions to make
3 poor decisions in regards to not only giving statements but
4 as to how to handle their court cases and this is probably
5 a prime example of one of those factors. Your Honor,
6 obviously I did not tell -- obviously I told him -- and I
7 don't have a transcript in front of me from the plea
8 hearing, but I believe Judge Young made it clear to him at
9 the time of his plea that if he pled guilty to murder the
10 minimum he could receive was 30 years in prison up to life
11 without parole, I don't know how to put it any plainer than
12 that. I told him that --

13 THE DEFENDANT: And then you tell me --

14 THE COURT: No, sir, don't talk anymore.

15 THE DEFENDANT: What else did you tell me?

16 THE COURT: Don't talk anymore.

17 THE DEFENDANT: Yeah, I'm a black man, so what? I'm a
18 back man. I don't even care no more.

19 THE COURT: Take him into lockup.

20 THE DEFENDANT: I'm a black man and I don't care, I
21 will stand up for what's right period (yelling.)

22 THE COURT: I know you're a black man, your color
23 doesn't matter to me. Take him back to lockup.

24 THE DEFENDANT: It doesn't matter, I'm going to stand
25 up for what's right (yelling.)

1 (At this time the defendant was removed from the
2 Courtroom and a break was taken.)

3 THE COURT: Mr. Lifsey, now that the courtroom has
4 been cleared, what, if anything, else would you like to say
5 on behalf of your client in regards to his motion to
6 withdraw the plea?

7 MR. LIFSEY: Well, I think his complaints -- his
8 complaint as far as my advice regarding sentencing and his
9 complaints that I think he was fixin' to get into before he
10 was removed from the courtroom concerning me are factors
11 that are probably best explored on post conviction relief.

12 THE COURT: Yes, sir.

13 MR. LIFSEY: But I will tell you that, you know, it
14 puts me in a pretty awkward position of -- in regard to his
15 cooperating with me in his sentencing hearing. I'm not --
16 I don't think he should be allowed to withdraw his guilty
17 plea, proceeding or not is another matter, I guess, in
18 light of what just happened that I need to think about a
19 minute, but I don't think there's any legal grounds for him
20 to withdraw his guilty plea, and that's my opinion.

21 THE COURT: All right. Anything from the State on his
22 request to be allowed to withdraw his guilty plea?

23 MS. FRYAR: Your Honor, his guilty plea was freely and
24 voluntarily given, he was notified about how much time that
25 that sentence potentially carried by Judge Young and we

1 would ask that you deny the motion.

2 THE COURT: All right. Let me make a few observations
3 before I rule on this motion to withdraw the guilty plea.
4 First of all, I don't know if the motion is properly made,
5 number one. I don't have jurisdiction, I believe, to hear
6 a motion to withdraw a guilty plea, but I'm not the plea --
7 when I'm not the judge who accepted the guilty plea, so on
8 that basis I would deny the motion. If I had jurisdiction
9 it would appear that the jurisdiction would be limited to a
10 post conviction relief type jurisdiction at which time Mr.
11 Graham could bring up alleged ineffective assistance of
12 counsel allegations he may make against you. Having said
13 that, I do find his allegations against you, Mr. Lifsey,
14 that you told him 15 to 20 years for a murder conviction to
15 be completely without merit. I'm sure that Judge Young,
16 Judge Roger Young from Charleston who's been on the circuit
17 bench for more than ten years, maybe 15 years, done many
18 murder cases, taken many pleas especially in Charleston
19 where he is from -- you know, one of the things we all
20 advise defendants before they go forward in the plea is
21 what the minimum penalty would be and what the maximum
22 penalty would be, especially on a case like this, as
23 serious as this, so that is completely without merit. And
24 Mr. Lifsey, I have known you for a long time and you're the
25 circuit public defender, appointed that way, been serving

1 in that capacity for a long time and I just do not find
2 that allegation by Mr. Graham to be credible whatsoever,
3 and the fact that he doesn't want you to be his lawyer, I
4 will deny that motion as well. You've done everything up
5 to this point that you're legally and ethically required to
6 do to represent your client's best interest, and you know
7 what? Bottom line, it appears he's just too hard headed to
8 understand that, okay? And I make that assessment having
9 reviewed the testimony that I'm going to receive today from
10 the defense expert which the State has as well as Dr.
11 Knight who interviewed him and back in January in
12 preparation for today's hearing. You know, he's 19 years
13 old now, he was 17 then, I kind of take it for what it's
14 worth, but I -- certainly you're going to remain to be --
15 you will remain his lawyer for the purposes of this
16 sentencing hearing. Now, having said that, I've got a
17 combative young man who it took about five or six officers
18 to restrain to get back into his holding cell, I'm
19 concerned about courtroom security. I mean, I will state
20 on the record that it appears that he -- he did turn
21 towards the victim's family and appeared to be walking
22 toward them talking the way he was talking. I'm concerned
23 about him being in the courtroom during the hearing, okay?
24 I want to hear from y'all on your thoughts about that.

25 MR. LIFSEY: I think he has a right to be present in

1 the courtroom, I know he does not have the right to disrupt
2 the courtroom. I would ask --

3 THE COURT: I think you're right on that. Let me hear
4 from the State real quick.

5 MR. NEWMAN: Your Honor, I agree, I think he's got a
6 right to be in here. I think he's cuffed, there's security
7 here. Certainly any further disruptions (sic) can be
8 addressed at that time. I believe if his attorney could
9 give him a short talking-to before he comes back in here I
10 believe it can be addressed at the appropriate time.

11 THE COURT: I am willing to give him one more chance,
12 Mr. Lifsey, but if he violates that opportunity we're going
13 to have to figure out some type of closed circuit
14 situation.

15 MR. LIFSEY: I understand.

16 THE COURT: I don't know if we have the capability to
17 do that in Chester.

18 MR. LIFSEY: I would ask the Court to -- my suggestion
19 to Your Honor would be let's take a brief break, let me
20 talk to him again, explain that the Court has denied his
21 motion to withdraw his guilty plea, and I will advise him
22 of your position regarding that he first of all has the
23 right to be in here, but also will not be allowed to
24 disrupt the proceedings. Let me talk to him in that regard
25 and then I think we should proceed and attempt to go

1 forward as normally scheduled. If actions occur that make
2 that impossible, I guess we could cross that bridge when we
3 get to it.

4 THE COURT: Also, let me go ahead and, you know -- as
5 he was leaving Mr. Graham yelled out, "I'm a black man." I
6 know he's a black man, that has nothing to do with this
7 case whatsoever regardless of what was in the media this
8 morning, regardless of what was on the front page of the
9 Herald this morning, that has nothing to do with the
10 Court's decision about what the appropriate sentence would
11 be for this young man, okay? I want the record to be clear
12 in that regard, okay?

13 MR. LIFSEY: I understand. If I thought there was
14 anything different I would ask the Court to be relieved and
15 I'm not, Judge. I have confidence in your ability to be
16 race neutral in this matter.

17 THE COURT: Thank you. I just want to make sure that
18 that wasn't a ground he was seeking to raise today.

19 MR. LIFSEY: You heard what I heard, Judge, I don't
20 want to comment any further on what he said.

21 THE COURT: Anything further from the State?

22 MR. LIFSEY: And I would say the victim, the decedent,
23 was a young black male as well, Your Honor.

24 THE COURT: I understand. That doesn't have anything
25 to do with anything.

1 MS. FRYAR: No, sir, it doesn't.

2 THE COURT: Death is death. We're in recess.

3 (A break was taken.)

4 THE COURT: All right. Mr. Graham is present, the
5 State may proceed.

6 MS. FRYAR: Thank you, Your Honor. May it please the
7 Court? Your Honor, let me give you a recitation of facts
8 of the case and what the State intended to prove at trial.
9 This incident occurred on July 16th of 2014 at about 9:30
10 in the evening on a Wednesday. Mr. Shyheim Kennedy, a 16
11 year old young African-American, left his home to walk down
12 the street to go to the Tater Store to get something to
13 eat. That store was, I think you're familiar with it, a
14 spot store, Your Honor, at the end of Pickney Street. Mr.
15 Kennedy had just spoken with his mother who was at her job
16 at Bojangles, Ms. Sylvia Kennedy who is present in court,
17 he talked with her on the phone, and apparently Shyheim
18 intended to go by his grandmother's house who is also in
19 the court, Ms. Jesse Graham, before returning home. She
20 lives on Pickney Street between the store and where his
21 mother lived, Your Honor. This incident did occur on
22 Pickney Street. Shyheim never made it to his designation,
23 Your Honor, because as he was walking back home from the
24 Tater Store he was shot in the chest and killed. According
25 to witnesses, Robert Isaiah Graham was with two other young

1 men on Pickney Street, Mr. Graham approached Shyheim who
2 was walking down the street on the other side. Witnesses
3 were prepared to testify that he -- that the defendant
4 fussed with the victim, argued, and an eye witness to the
5 shooting says the victim had his hands down by his side
6 like this demonstrating what she could see in his rear view
7 mirror when Mr. Isaiah Graham shot him. As soon as he was
8 shot, Your Honor, Chester Police Officers responded.
9 Chester officers along with the coroner went to the scene
10 where Shyheim was found to be deceased. Robert Isaiah
11 Graham was developed as a suspect in part, Your Honor,
12 because his mother had contacted the Chester Police
13 Department earlier on the day of the shooting asking for
14 some assistance with her son. Mr. Graham was on probation
15 at the time this incident occurred for a burglary, he had
16 violated conditions of his probation and there was an
17 active warrant from probation, pardon and parole to pick
18 him up at that time. Sergeant Moss of the Chester Police
19 Department went to Mr. Graham's home in an attempt to
20 locate him. Mrs. Graham said at that time that she was
21 afraid of her son and he was talking about wanting to kill
22 somebody. She and other witnesses were telling officers
23 that Mr. Graham had pointed a gun at a woman in front of
24 her child the night before and he was threatening to kill
25 everybody and had been wanting to kill somebody, she also

1 said he might have a gun with him, so he became further a
2 suspect for the Chester Police Department. Witnesses had
3 seen Mr. Graham with a gun and he had been showing it on
4 Mill Street prior to this, so Sergeant Moss and other
5 officers patrolled the streets in an effort to locate Mr.
6 Graham, this was in the afternoon hours. Sergeant Moss
7 gave Ms. Graham his cellphone number and he left work that
8 day. Ms. Graham did call Sergeant Moss that evening and
9 said that her son had come back home, so Sergeant Moss
10 contacted officers on duty and told them that Mr. Graham
11 had come back home and that they needed to go over there
12 and pick him up on the probation violation. At the time
13 Sergeant Moss was told by the officers that he was
14 contacted and that they could not go at that time because
15 they were tied up in a shooting incident, and that is going
16 to be the same shooting incident for what Mr. Graham has
17 been convicted of in this matter. So Sergeant Moss called
18 Ms. Graham back, she told Sergeant Moss that Mr. Graham had
19 left -- this is about 9:30 or 10:00 at night, Your Honor.
20 Sergeant Moss asked Ms. Graham if her son did anything
21 unusual when he came home and she said that he had taken
22 about a two minute shower and changed his clothes and went
23 out the back door. Sergeant Moss and Ms. Graham -- well,
24 he asked Ms. Graham to gather the clothes that Mr. Graham
25 had taken off and put them in a bag. Ms. Graham indicated

1 that she was afraid of what Mr. Graham would do when he
2 came home and saw his clothes missing but said she would do
3 it anyway and the clothes were gathered. Mr. Graham
4 returned to his home. The Chester Police Department went
5 there to apprehend him on a probation warrant. Sergeant
6 Lolita Fournery was assigned as the lead investigator of the
7 case. A search warrant was issued and a search of Ms.
8 Graham's home revealed a camo tank top, a camo jumpsuit, a
9 camo bandanna, a black flag and some brass knuckles but no
10 gun. The following morning, Your Honor, the Chester Police
11 Department became more involved in the investigation with
12 the assistance of the sheriff's department. They looked at
13 the video footage from two stores, one called the Tater
14 Store, I think its real name is Spot Food Store Number Two,
15 and the Check Cashing Store, which is also on Pickney
16 Street, I think the real name on that is Spot Store Number
17 One. In any event, the Tater Store and other store are
18 located on the same strip on Pickney Street, and in between
19 these two stores is where the shooting occurred. It's also
20 the distance between where Mr. Shyheim Kennedy had left his
21 mother's house, gone down Pickney Street and was going back
22 towards his grandmother's home when this incident occurred,
23 so they looked at these videos. The last living image of
24 Shyheim Kennedy was captured at the Tater Store where he
25 apparently purchased some biscuits. Images of Robert

1 Graham and other young men were captured -- and the other
2 young men were captured at about 9:27 just prior to the
3 shooting at the check cashing store right up the street,
4 and then an image of Mr. Graham was captured in front of
5 the Tater Store about two minutes after the shooting and he
6 was walking in the direction of his mother's home. The
7 identification of the defendant on the two tapes were made
8 by law enforcement officers, Sergeant Lolita Fourney and
9 other officers confirmed that this was indeed Mr. Robert
10 Graham on the videotape. He was well known to the Chester
11 Police Department officers. Incident reports from the
12 Chester Police Department reflect that officers had had
13 recent involvement with Mr. Graham since Christmas Eve of
14 2012 through June 22nd of 2014. He had incident reports
15 for allegedly pointing a pellet rifle at a family member, a
16 physical robbery of another 17 year old, verbally
17 threatening and assaulting his father, and then thereafter
18 burglarizing his father's home and stealing some items from
19 his fathers home. That was the thing he was on probation
20 for, Your Honor, he had pled guilty to the burglary. And
21 so he had had an extensive interview with Investigator
22 Fourney at the time of that burglary and that is why she
23 was able to notice him so quickly as being that of Mr.
24 Robert Isaiah Graham. She indicated that during that
25 interview with him at the burglary time that he admitted to

1 her that he was a member of the Roundtree Circle Gang. The
2 defendant was thereafter allegedly involved in an
3 assault -- another young man at the store and damaged his
4 father's home and a warrant had been issued on June 22nd,
5 keep in mind this happened on July 16th, Your Honor. So
6 Investigator Fourney had made the identification of Robert
7 Graham, so they went to the jail, the defendant was charged
8 with murder and he was interviewed by Investigator Fourney
9 and Investigator Chris Reynolds from the sheriff's
10 department and the police department. This whole interview
11 was video and audio recorded, Your Honor. The defendant
12 gave multiple stories with multiple discrepancies during
13 this interview process, first saying he didn't know nothing
14 about it, he was nowhere around, second saying he'd heard
15 some shots but he was nowhere around, then saying he was
16 nearby when the incident occurred and he was close to the
17 person who shot him, and then finally admitted to being the
18 person who shot Shyheim Kennedy. And I think this
19 interview is very insightful, Your Honor. We did have
20 it -- we did have it summarized in a shorter fashion than
21 the three hours in anticipation of a jury trial and I would
22 like for you to view the condensed version of this
23 statement, particularly in light of the things that you're
24 supposed to consider and the factors in which you are about
25 to impose sentence on Mr. Graham. I would like to also

1 enter the tapes into the Court's records, the full
2 video/audio confession of Mr. Graham so that you might
3 peruse it if you feel like this is not for you to make your
4 decision in considering all of the factors that you need to
5 do. After Mr. Graham admitted his guilt to killing
6 Shyheim, Chief Williams met with him and his mother and he
7 asked him where -- this was still under Miranda, Your
8 Honor -- asked him where the murder weapon was, at that
9 time he said that it was at his mama's house. When they
10 said we're going to get a search warrant and search your
11 mama's house he finally said, "I will tell you where it
12 is," and he showed the officers where he had hid the gun to
13 prevent them from going through and searching his mama's
14 home. Your Honor, the officers found the gun stashed in a
15 white plastic bag under some thick shrubbery and bushes on
16 Vance Street near Roundtree Circle, it was a .38 Special,
17 it was fully loaded and there were other bullets in the bag
18 in a cigarette pack. Mr. Graham told officers that he had
19 tossed the spent shell casing along the railroad track so
20 the casing would not be found with the gun, which I think
21 goes to his sophistication in this area, Your Honor. He
22 said he was careful not to get fingerprints on the casings
23 when he fully reloaded the gun. He told officers he had to
24 pull the trigger three times because the gun jammed on him,
25 and said while he was at the railroad tracks like this,

1 "click, click, boom," and then when the officers looked at
2 the gun there were hammer impression on at least one, if
3 not two bullets where it looked like the gun had misfired
4 as Mr. Graham had indicated. Your Honor, finally I would
5 indicate to you that at this time the State submits that
6 Mr. Graham is a documented gang member, he's admitted this
7 numerous times saying that Roundtree Circle is his family
8 in his video confession. We submit that he was attempting
9 to kill a person in a rival gang and mistakenly took
10 Shyheim for somebody else who looked very familiar or
11 similar. There is a witness who says -- that we have
12 presented and intended to present saying that even after
13 incarcerated he was saying that he knew who he was shooting
14 for but he shot the wrong person. And so Your Honor, I do
15 have a photograph that was taken of Mr. Graham during this
16 process on July 17th of 2014, it was pulled off of
17 Facebook, Mr. Lifsey has this as well as my entire file.
18 When officers looked at this photograph in which Mr. Graham
19 is portraying a hand signal, this has been identified by
20 gang investigator specialists as the Roundtree Circle
21 symbol. I would like to hand it up.

22 THE COURT: All right.

23 MS. FRYAR: Your Honor, we are prepared to present the
24 video for you at your leisure.

25 THE COURT: All right. Mr. Lifsey, anything in

1 response to the production of the video? This is the
2 sentencing hearing, I think the State is entitled to leeway
3 in presenting both facts and their position regarding
4 sentencing, certainly you are going to be afforded the same
5 opportunity.

6 MR. LIFSEY: Yes, sir Your Honor. I would only -- let
7 me just for the purposes of the record in this matter, I
8 will tell you that I retained the services of a private
9 investigator in this case to investigate the facts. I
10 believe we've had full access to the discovery in this
11 matter from the solicitor's office. Obviously you're
12 right, this is a plea and not a time to really argue the
13 facts. I will tell you that based on the investigation
14 conducted by my investigator and my review of the
15 documents, I think the murder plea was appropriate. The
16 only thing I quibble with a little bit with what the
17 solicitor said is calling this sophisticated. I don't
18 think there's anything sophisticated about this at all. I
19 think this is a depressingly common occurrence, Your Honor,
20 a confrontation between two young men that evolved into a
21 murder because one of them had a gun. But other than that
22 I think the facts are as the solicitor presents them, and
23 obviously she's entitled to show the video if she wishes
24 to.

25 THE COURT: All right. Solicitor?

1 MS. FRYAR: Thank you, Your Honor. If you would at
2 this time view the condensed video.

3 THE COURT: The condensed video shall be published for
4 the Court's information.

5 MS. FRYAR: This is Investigator Fourney and
6 Investigator Reynolds as well as the defendant on this tape
7 that you're about to hear.

8 THE COURT: Okay.

9 (The videotape was played.)

10 MS. FRYAR: Your Honor, this is a broken down of the
11 segments with the frames that you could look at if you
12 would care to review it, and I also have the two tapes in
13 there entirety and I would like to submit them as a State's
14 Exhibit.

15 THE COURT: Those will be State's Exhibit 1, 2 and 3.

16 MS. FRYAR: And then also the tape that you viewed?

17 THE COURT: And the redacted video as State's Exhibit
18 4 for sentencing purposes.

19 MR. LIFSEY: I don't have any objection.

20 (The videos were received as State's 1-4.)

21 MS. FRYAR: Your Honor, for the record, I marked
22 State's Exhibit 1 for the one that you heard that was
23 played in court.

24 THE COURT: That's the redacted one.

25 MS. FRYAR: Yes, sir. Your Honor, at this time --

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1 unless the defense has anything to say further regarding
2 this, we would like to call Ms. Lydia Young to the stand.

3 THE COURT: Okay. Call your witness.

4 MS. FRYAR: Ms. Lydia Young.

5 The witness, LYDIA YOUNG, was first duly sworn and
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MS. FRYAR:

9 Q Ms. Young, where are you employed?

10 A I'm employed with the South Carolina Department of
11 Juvenile Justice.

12 Q And what is your position there?

13 A I'm an intensive supervision officer.

14 Q And how long have you been in that position?

15 A Five years.

16 Q Prior to that were you also with the Department of
17 Juvenile Justice?

18 A I was.

19 Q And what was your position prior to then?

20 A Standard probation officer.

21 Q Tell the Judge the difference between a standard
22 probation officer and an intensive probation officer?

23 A Yes. With standard probation we supervise the
24 juveniles that have been sentenced by the family court.
25 They're normally placed on probation at home and they can

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1 supervise them by checking their school records and their
2 restitution, job sites and one standard home visit per
3 month. With intensive supervision I'm authorized to meet
4 with the juvenile more often more frequently, daily
5 contacts, evening contacts, weekend contacts as well just
6 because of the nature of the charge for the length of time
7 that the juvenile may have been sentenced for or repeat
8 offenses.

9 Q And in the year 2013, were you the supervising agent
10 for Mr. Robert Isaiah Graham?

11 A I was.

12 Q And prior to him coming into the Chester Department of
13 Juvenile Justice System, had he been in another juvenile
14 justice system?

15 A Yes, ma'am. He was in the York County Department of
16 Juvenile Justice.

17 Q And so I believe that probation was transferred to you
18 in January of 2013; is that correct?

19 A That's correct, yes, ma'am.

20 Q When you received his case, Ms. Young, did you have an
21 opportunity to review his reports and information in the
22 DJJ file and talk with his previous counselor regarding his
23 behavior situation and needs?

24 A I did.

25 Q So you have, in fact, reviewed the entire Department

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1 of Juvenile Justice files as you know it; is that correct?

2 A Yes, ma'am.

3 Q If you could tell the Judge, when did Robert Isaiah
4 Graham first become involved in the judicial system?

5 A Isaiah as he asked me to call him if that's okay, if
6 I can use the name Isaiah.

7 Q Yes, ma'am.

8 A Isaiah first came into the DJJ system in January of
9 2009 for a charge of assault and battery, simple assault
10 and battery, he was placed on probation in February of
11 2009; and his probation sentence requirements ended on
12 August 24th of 2009.

13 Q Okay. And regarding that first incident, January 29th
14 of 2009, he was charged with simple assault and battery,
15 that was done by the Rock Hill Police Department; is that
16 correct?

17 A That's correct.

18 Q And he was charged at that time with assaulting
19 another student at school; is that correct?

20 A That's correct.

21 Q And you indicated he was placed on probation. If you
22 could, tell the Judge what happened in court on February
23 17th of 2009?

24 A Judge Henry Woods placed Isaiah on probation for six
25 months, he was ordered to receive mental health services.

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1 Q Was he assigned to the DJJ York County Community
2 standard probation counselor, Ms. Olivia Smith?

3 A Yes, ma'am, he was.

4 Q If you could tell the Judge what the records reflect
5 that Ms. Smith attempted to do to assist Robert Isaiah
6 Graham?

7 A Robert was involved -- continued involvement in Youth
8 Net, it's a program that dealt with kids that had some
9 mental health issues.

10 Q Tell the Judge more about Youth Net.

11 A If I'm not mistaken Youth Net worked with the kids
12 who had mental health diagnosis, they tried to get them
13 interacted with other kids, and you know, just like a
14 mentor one-on-one kind of program and work with them to
15 try to get their social skills a little more appropriate.

16 Q And he'd been with Youth Net since the age of nine; is
17 that correct?

18 A That's correct.

19 Q And he had -- in that program he had a social worker
20 working with him, a mental health counselor working with
21 them as well as the DJJ worker; is that correct?

22 A Yes, ma'am.

23 Q During this period of time of probation.

24 A Yes, ma'am.

25 Q All right. During this period of time was there a

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1 manifestation hearing at the school he attended?

2 A Yes, ma'am, there was.

3 Q Tell the Judge about it.

4 A On April the 2nd of 2009 there was a manifestation
5 hearing at Saluda Trail Middle School, Isaiah had hit
6 another student. Manifestation is like they were
7 considering expulsion, he was continued in school. Based
8 on the school district if there is -- a child has an
9 emotional disability as per an IAP, the school has to
10 continue to work with them in some manner so they
11 continued to work with him in some manner at the school,
12 I'm not really sure how, but he was not expelled.

13 Q So he had a IAP in place at school because of an
14 emotional disability; is that correct?

15 A That's correct.

16 Q And at the time the school allowed him to continue to
17 stay in school; is that correct?

✓
18 A Yes, ma'am.

19 Q What else did Ms. Smith do in order to try to assist
20 Mr. Graham?

21 A Isaiah was referred to continual care in Gang Out,
22 his mother apparently had some concerns about gang
23 involvement. I think Gang Out is a program that works
24 with the kids who have a potential of being involved.
25 Continuing Care is an agency that prior to recently worked

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1 with kids -- well, they still work with kids with mental
2 health diagnosis to try to get them a mentor and some more
3 attention and get them the things they need to cope
4 appropriately in society.

5 Q All right. And isn't Continuing Care really the
6 highest form of managing a youth who is in the Department
7 of Juvenile Justice?

8 A It's a highest form of managing in youth that has a
9 lot of mental health diagnoses.

10 Q All right. And so Mr. Graham had been being serviced
11 by Catawba Family Services and Youthnet before the incident
12 occurred at school; is that correct?

13 A Yes, ma'am.

14 Q In fact, Mr. Graham had been involved with the Catawba
15 Family Services since he was about two years old; is that
16 correct?

17 A That's what the records state, yes, ma'am.

18 Q So then what happened on August the 24th, 2009?

19 A His probation requirement ended with the Department
20 of Juvenile Justice for that timeframe.

21 Q And at that time he left the Department of Juvenile
22 Justice with the referral to continuing care, referral to
23 Gang Out and the continuing services of Catawba Family
24 Services; is that correct?

25 A That's correct.

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1 Q As well as the Youthnet; is that correct?

2 A Yes, ma'am.

3 Q All right. So following the ending of his probation,
4 what was he next charged with?

5 A In December of 2009 he was charged with burglary
6 second degree. He attempted to -- he and a friend
7 attempted to steal a bike from a home, and also had two
8 other bikes -- stolen bikes in their possession.

9 Q All right. And did he come to court for the offense
10 of burglary second degree?

11 A He did.

12 Q And could you tell the Judge when he came to court and
13 what was the resolution of that?

14 A He came to court and pled to trespassing, he was
15 given a determinate sentence of two weekends followed by
16 indefinite probation. He was also ordered a community
17 evaluation and a 90 day review hearing.

18 Q And that was done by Judge Woods, correct?

19 A That's correct.

20 Q And so January 26th, 2010 he got the determinate
21 sentence of two weekends in jail, and then he also asked
22 for a community evaluation to come back in court in 90 days
23 to review the matter; is that correct?

24 A That's correct, yes, ma'am.

25 Q All right. Before we could get to the 90 days, did

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1 something happen?

2 A Yes, ma'am. On March 1st of 2010 -- sorry -- yes,
3 March 1st he was charged with assault and battery for
4 allegedly hitting his mother and sister.

5 Q Was there an incident report done by the Rock Hill
6 Police Department at that time?

7 A Yes, ma'am.

8 Q Was Mr. Graham detained at that time?

9 A He was detained at the -- he was detained at the --
10 he was taken to a short term placement with the South
11 Carolina Youth Advocate Program.

12 Q Please explain to the Court what South Carolina Youth
13 Advocate Program is.

14 A South Carolina Youth Advocate Program is an agency
15 that work with our kids, they will place him temporarily
16 in a foster home, and I believe the home that he was
17 placed in -- this is in lieu of or instead of going to the
18 detention center, and he was placed there -- I believe the
19 home was in Greenville.

20 Q So Mr. Graham was not detained in an incarcerated
21 facility but was allowed to be placed in a juvenile home in
22 Greenville. That's a therapeutic home, correct?

23 A It is a therapeutic foster home, yes, ma'am.

24 Q And in that particular situation Ms. Sylvia Nims was
25 the foster parent in that particular matter; is that

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1 correct?

2 A Yes, ma'am.

3 Q And so did anything else happen following that? Was
4 there a detention hearing on this matter?

5 A There was. On March the 9th Isaiah appeared before
6 Judge Wylie, was continued, placed into the juvenile
7 removal home until his review hearing with Judge Woods
8 that was scheduled for April 27th of 2010.

9 Q So when Judge Wiley heard the matter on detention
10 hearing he placed him back in the juvenile removal home and
11 just waited on Judge Woods' review hearing that's about to
12 come up on April the 27th; is that correct?

13 A Yes, ma'am.

14 Q And he had previously ordered a community evaluation.
15 Was that community evaluation taking place?

16 A Yes, ma'am. It was completed or conducted by Larry
17 Honeycutt on March 30th of 2010.

18 Q Did there come a time when Mr. Graham had to be
19 removed from the home of Ms. Nibbs (phonetically)?

20 A He did.

21 Q Could you tell the Judge about that?

22 A On April 24th of 2010 Isaiah was removed from Ms.
23 Nibbs, the therapeutic foster parent's home because he had
24 been involved in several fights. He was fighting at the
25 school, and then a fight broke out at the jail removal

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1 home in the yard, and the fight continued in Ms. Nibbs'
2 home.

3 Q So he had to be removed from Ms. Nibbs' because of
4 multiple fights at school and he had brought a fight from
5 the yard actually into her home; is that correct?

6 A Yes, ma'am.

7 Q And so was he detained at that time?

8 A He was -- his probation was continued.

9 Q Okay. So following this incident on April 24th he did
10 have that scheduled April the 27th hearing with Judge
11 Woods; is that correct?

12 A Yes, ma'am.

13 Q Was he brought to court before Judge Woods on that
14 day?

15 A He was.

16 Q And what did Judge Woods do at that time?

17 A At that time Isaiah's probation was continued and he
18 was referred to continuing care.

19 Q Okay. And he's already had participation in
20 continuing care.

21 A He has.

22 Q This is all ongoing, continuing care at Catawba Mental
23 Health and all of the other services; is that correct?

24 A Yes, ma'am.

25 Q So when he was placed on probation by Judge Woods on

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1 April 27, 2010, did he receive another charge thereafter?

2 A Yes, ma'am.

3 Q Tell the Judge what the next charge was, please.

4 A August the 1st of 2010 he was charged with assault
5 and battery third degree. A Rock Hill police incident
6 report states he grabbed a glass bottle and threatened to
7 kill his mother, which he admitted to and he was detained
8 at the Moss Justice Center.

9 Q So he was detained at the Moss Judicial Center
10 following that incident on August 1st. And did he have an
11 opportunity to appear or was there a resolution to the
12 detention by Judge Guess on August 3rd, 2010?

13 A There was.

14 Q Tell the Judge what Judge Guess did.

15 A Judge Guess -- they started a probation violation for
16 not abiding by the rules and regulations of the home,
17 sentenced to a 90 day determinate sentence suspended to
18 alternative placement and indefinite probation.

19 Q And was the Department of Juvenile Justice -- so he
20 was placed in the Department of Juvenile Justice in a
21 secure environment, but the judge said he could be allowed
22 out of that strict environment into an alternative
23 placement if it was deemed appropriate; is that correct?

24 A Yes, ma'am.

25 Q And given an indefinite probation; is that correct?

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1 A Correct.

2 Q And was the Department of Juvenile Justice able to
3 find alternative placement for Mr. Graham?

4 A Yes, ma'am. Alternative placement was found at Camp
5 White Pines, which is one of our AMI kids facilities --

6 Q And this is a behavioral modification home, isn't it?

7 A It's actually a placement, an actual camp.

8 Q What do they do there?

9 A They actually have a plan of care for the juvenile as
10 far as like obeying the rules and there are consequences
11 if they don't. There is things that they want them to do
12 as far as learning certain material, being obedient, they
13 have ranks that they have to make. I think they start off
14 as a recruit, they can make a private, lance corporal,
15 corporal, whatever the rank that was needed for him to
16 successfully complete it.

17 Q So the idea was to -- if they behaved well that they
18 would have more privileges basically --

19 A Correct.

20 Q -- and if they didn't behave well they would stay in
21 the lower ranks and have consequences.

22 A That's correct.

23 Q And how long was he at Camp White Pines?

24 A He was released from Camp White Pines on November 14,
25 2010.

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1 Q Okay. And so at that time was he continued on
2 probation per Judge Guess' order?

3 A Yes, ma'am.

4 Q Did there come a time after November 14th of 2010 when
5 he was charged with something else?

6 A Yes, ma'am. On January 18th of 2011 he was charged
7 with public disorderly conduct at school. The teacher
8 called the SRO stating that the student needed to be
9 removed from the classroom. Student was throwing things
10 around in the classroom, yelling at her, quote, "What the
11 hell are you going to do about it," and "Come on, come
12 on," in a threatening manner.

13 Q And so that's what he did with the teacher, "What you
14 going to do about it, come on, come on," in a threatening
15 manner. And that's per the incident report; is that
16 correct?

17 A That's correct.

18 Q And this was also documented in school records; is
19 that correct?

20 A That's correct.

21 Q And there was a manifestation hearing regarding that;
22 is that correct?

23 A Yes, ma'am.

24 Q I'm going to show you a document from Saluda Trail
25 Middle School regarding the manifestation hearing, and ask

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1 you to read to the Court why a manifestation hearing was
2 requested.

3 A Dated January 18th of 2011 by a Terrance Chisholm.
4 "Isaiah has refused to follow directions all day. He
5 continues to be disruptive, bullying other students,
6 refusing to get out of the other students' desk, talking
7 back to Mr. Chisholm, throwing paper at another student,
8 yelling and telling other students to shut up, not doing
9 his classwork, being silly. A student asked to go to the
10 restroom, a student left the classroom. Isaiah ran out of
11 the mobile unit chasing the other student. Isaiah chased
12 the student into the woods behind the mobile unit, picked
13 up a piece of cinder block to throw it at student to hit
14 him. In addition Isaiah went back into the classroom,
15 attempting to confront Mrs. Waters who he mistakenly
16 thought wrote the referral on him. Isaiah used profanity
17 towards Ms. Waters saying, 'That's some bull fucking
18 shit,' and charged towards her saying, 'What's up then?'
19 SRO Idle (phonetically) responded to the radio call and
20 removed Isaiah from the room.

21 Q And what was the result of the manifestation hearing?

22 A As a result of that hearing the school district
23 determined that student's behavior was not a manifestation
24 of his disability, meaning he was not expelled.

25 MS. FRYAR: I would like to enter this exhibit for the

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1 Court, Your Honor, for the sentencing hearing regarding the
2 school record. It's going to be number five.

3 THE COURT: All right. State's next in order in
4 regards to sentencing.

5 (The report was received as State's 5.)

6 Q Okay. And following this manifestation hearing, did
7 Mr. Graham return to court?

8 A Yes, ma'am. He came to court on March the 8th, 2011.

9 Q Regarding the disorderly conduct charge regarding the
10 school teacher, is that what this is about now?

11 A Yes, ma'am.

12 Q And he appeared before Judge Guyton at that time; is
13 that correct?

14 A Yes, ma'am.

15 Q What did Judge Guyton do for him?

16 A He ordered Isaiah to a determinate sentence of two
17 weekends, to continue him on probation, continue
18 counseling with Catawba Family Center including anger
19 management, and continued compliance with the Continuum of
20 Care.

21 Q So all of this time, all of this time he has been
22 involved in Catawba Family Center or Catawba Mental Health
23 as well as Continuum of Care; is that correct?

24 A Yes, ma'am.

25 Q So that happened -- he appeared before Judge Guyton on

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1 March 8th of 2011, is that correct, that you just testified
2 to?

3 A Yes, ma'am.

4 Q Did he get charged with something else on the 13th?

5 A Yes, ma'am, he did.

6 Q So that would be five days later?

7 A Yes, ma'am.

8 Q What was he charged with this time?

9 A The charge at this time was assault and battery third
10 degree.

11 Q Was he detained?

12 A He was.

13 Q On March 15th was there a detention hearing?

14 A Yes, ma'am, there was.

15 Q And who was the judge at that time?

16 A Judge Guess.

17 Q What did Judge Guess do?

18 A Judge Guess ordered Isaiah placed in a therapeutic
19 home in Camden, South Carolina, and he was there from
20 March 15th through April the 11th of 2011.

21 Q And so Judge Guess released him from incarceration and
22 allowed him to go to the therapeutic juvenile removal home
23 in Camden, this being different from the one he had been
24 with Mrs. Nibbs, correct?

25 A Yes, ma'am.

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1 Q And so on April 11th thereafter, less than a month
2 later, did Isaiah receive a contempt charge?

3 A He did.

4 Q Tell the Judge what that was about, please.

5 A Apparently Isaiah was not abiding by the rules of the
6 jail removal home on 4/10/11, he was removed for
7 threatening a foster parent with a fire extinguisher after
8 the foster parent turned off the television program he was
9 watching. The foster parent barricaded herself in the
10 bedroom and SCF was called. Juvenile punched holes in the
11 wall of the foster home.

12 Q Okay. So he threatened the foster home parent, he was
13 upset with the foster parent for turning off the television
14 show he was watching, she had to literally barricade
15 herself in her bedroom out of fear of him and what he was
16 doing and he destroyed or damaged her home; is that
17 correct?

18 A Yes, ma'am.

19 Q Was he detained for that?

20 A Yes, ma'am.

21 Q Could you tell the Judge what happened?

22 A He was detained --

23 Q And then did he have a hearing on April 13th?

24 A He did have a hearing on April 13th of 2011. Judge
25 Guess reviewed the minor's probationary sentence and he

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1 was detained further for another seven days.

2 Q All right. And so he was just detained for the seven
3 days and then he came back to court after that detention
4 period on April 19th. Did the Court make any action?

5 A Yes, ma'am. They found him in contempt for violating
6 his court order and he was sentenced to the Upstate
7 Evaluation Center for a secure evaluation.

8 Q So he had his first community evaluation in 2010 and
9 now he's going to have a secure evaluation at the Upstate
10 Evaluation Center; is that correct?

11 A That's correct.

12 Q So he did go to Union, South Carolina where that was
13 conducted; is that correct?

14 A Yes, ma'am, Jonesville.

15 Q Tell the Judge briefly for the record what that is all
16 about.

17 A With the secured evaluation, Your Honor, the intent
18 is to try to get a better feel of what's going on with the
19 juvenile. There are social workers and a psychologist --

20 MR. LIFSEY: Judge, I don't want to belabor the point,
21 I think we can take judicial notice you were a family court
22 judge and are aware --

23 THE COURT: For eight years, I'm well aware of the DJJ
24 process.

25 MS. FRYAR: I'm well aware, I was just protecting the

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1 record but I know you understand what it is.

2 THE COURT: Thank you, Mr. Lifsey.

3 Q So he went up there for a secure evaluation, it's a
4 psychological evaluation that is performed, correct?

5 A Yes, ma'am.

6 Q He's there for 30 to 45 days; is that correct?

7 A That's correct.

8 Q And the folks at the evaluation center review all of
9 his records and determine what's best placement for him at
10 that time; is that true?

11 A Yes, ma'am.

12 Q Did Mr. Graham return to court on May 31st for a
13 dispositional hearing?

14 A He did.

15 Q And please tell the Judge what happened at that time.

16 A At that time Isaiah was sentenced to a determinate
17 sentence of 90 days suspended on alternative placement if
18 he qualifies, meaning that placement suspension and
19 placement was discretionary, and then he was sentenced to
20 indefinite probation as well.

21 Q Had the Department of Juvenile Justice case worker
22 also done a social summary on Mr. Graham with the last
23 entry of April 10th of 2011?

24 A Yes, ma'am.

25 Q I'll show you this and ask you if you can tell me what

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1 it is?

2 A Yes, ma'am.

3 Q What is this?

4 A This is a social summary done by the York County
5 Department of Juvenile Justice on pretty much Isaiah's
6 history with DJJ up until April 10th of 2011.

7 Q And they made recommendations for themselves; is that
8 correct?

9 A Yes, ma'am.

10 Q If you could tell the Judge what medications Mr.
11 Graham had been on per this summary from the Department of
12 Juvenile Justice?

13 A Medications that he was on --

14 Q Let's start when he was two years old. On March 26,
15 1999 what he was he placed on?

16 A Isaiah was placed on a Clonidine patch, a half a
17 patch once a week.

18 Q And then thereafter was he seen by William S. Hall and
19 placed on a different medication?

20 A Yes, ma'am.

21 Q What was he placed on?

22 A Prozac, Trileptal, Zyprexa, Clonidine..

23 Q All right. Then November 17th, 2005, what was he
24 placed on?

25 A Strattera 20 milligrams in the morning, 10 milligrams

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1 at noon, Risperdal .5 milligrams in the morning and at
2 noon.

3 Q January 9th, 2006 what was he on? The same thing?

4 A Strattera 10 milligrams, yes, ma'am, and Risperdal.

5 Q All right. Was his dosage of Strattera upped in May
6 of 2006?

7 A It was.

8 Q Tell the Judge what that was.

9 A 40 milligrams.

10 Q Strattera 40 milligrams and still the Risperdal; is
11 that correct?

12 A Yes, ma'am.

13 Q Was his medication changed on March 31st of 2009?

14 A Yes, ma'am. Continued on Strattera 40 milligrams
15 a.m. and Abilify 10 milligrams.

16 Q And then he removed from Strattera on May 3rd of 2010?

17 A He was.

18 Q And what was he on at that time?

19 A Abilify, 10 milligrams.

20 Q And as the last entry on this report on July 7th of
21 2011, what was Mr. Graham prescribed at that time?

22 A Abilify, 15 milligrams.

23 Q Okay. In this report did -- was it the Department of
24 Juvenile Justice summarize the incidents in Mr. Graham's
25 life from the first time that he was in Chester Mental

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1 Services?

2 A Yes, ma'am.

3 Q All right. If you could relate the incident from --
4 if you could start on page two, Ms. Young -- from July of
5 1998.

6 A July 1998 was first of all with Chester Mental Health
7 for aggressive and hyperactive behavior.

8 Q And he was age two at that time?

9 A Yes, ma'am.

10 Q What happened at age six of 2002?

11 A 2006 age six per his mother he pushed a child out of
12 a second story window.

13 Q What happened at age nine, 2005?

14 A Age nine of 2005 per mother he choked a child until
15 the child passed out.

16 Q What happened at age ten, 2006.

17 A Per his mother he hit a child with a beer bottle and
18 the child required 13 stitches.

19 Q What happened in January of 2009 when Isaiah was 12
20 years old?

21 A At that time he was charged with assault and battery
22 for punching another student in the face at school, placed
23 on probation for six months until August 24th of 2009.

24 Q And that was the first time we had any contact with
25 him from the Department of Juvenile Justice; is that

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1 correct?

2 A Yes, ma'am.

3 Q Further what happened after that on December 14th of
4 2009 when Isaiah was 13 years old?

5 A He was charged with burglary second degree along with
6 his friend for attempting to steal bicycles from a covered
7 patio, and they also had two other stolen bicycles in
8 their possession. The charge was reduced to trespassing,
9 he was placed on indefinite probation and sent to a jail
10 removal home. While at the jail removal home Isaiah was
11 suspended from school and later removed from the placement
12 for fighting with other residents in the home and
13 destruction of property.

14 Q All right. What other notations do you have from
15 this?

16 A Some time during 2009 when Isaiah was 13 he forced
17 his way into a 16 year olds girl's house and tried to
18 force himself on her, did not rape her. His grandmother
19 persuaded the girl's mother to not press charges.

20 Q And was the probation counselor with Department of
21 Juvenile Justice notified about this?

22 A Yes.

23 Q What happened on March 1st of 2010?

24 A March 1st of 2010 at the age of 13, charged for
25 assault and battery for pushing his mother onto a bed near

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1 a window in the second story of the house.

2 Q And what happened regarding the Department of Juvenile
3 Justice?

4 A He was continued on probation.

5 Q All right. Then we've reflected and you've testified
6 that on August 16th of 2010 at age 13 he was sent to Camp
7 Pines for a probation violation; is that correct?

8 A That's correct, at Camp White Pines, yes, ma'am.

9 Q And then we reviewed in January of 2011 at age 14 he
10 was charged apparently with what?

11 A Intimidation of school official for threatening his
12 assistant teacher in class.

13 Q And that's when he went to court on March 8th and the
14 Judge continued his probation; is that correct?

15 A Yes, ma'am.

16 Q What happened thereafter?

17 A February of 2011, age 14, he was caught in a
18 neighborhood church surveillance camera stealing a pair of
19 flip flops from a back pack, when confronted he later
20 returned the flip flops and the victim did not press
21 charges.

22 Q And the DJJ probation officer was notified regarding
23 that; is that correct?

24 A That's correct.

25 Q And then what happened on March 13th of 2011?

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1 A On March 13th of 2011 he was charged with assault for
2 pulling a knife on his mother, his mother pulled a knife
3 on him first and was charged assault. He was sent to a
4 jail removal home pending trial.

5 Q And then what has happened on April 10th, 2011?

6 A He was removed from the jail removal home for
7 threatening a foster parent with a fire extinguisher after
8 foster parent turned off the television program he was
9 watching.

10 Q And that is what we reviewed before when we were
11 talking about why he went back to when he went to detention
12 awaiting trial on that matter; is that correct?

13 A Yes, ma'am.

14 Q And if you would, just look -- well --

15 MS. FRYAR: Your Honor, I would just like to enter
16 this document as a record for the Court.

17 THE COURT: All right. That will be State's Exhibit
18 next in order.

19 MS. FRYAR: Number 6, Your Honor.

20 THE COURT: For sentencing purposes.

21 (The summary was received as State's 6.)

22 Q Now, we've come up current to when he went to the
23 evaluation center on May 31st, he returned from the
24 evaluation center for a dispositional hearing on the
25 contempt of court charge, and I believe that you had

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1 indicated to the Judge that he had received a 90 days
2 determinant sentence in the Department of Juvenile Justice
3 suspended on alternative placement, this is where you are
4 testifying before, Ms. Young, if he qualified. And you
5 indicated, where was he placed at that time?

6 A He was placed at the Upstate Evaluation Center at
7 that time.

8 Q Then on June 16th what happened?

9 A June 16 he was released and readmitted to Camp White
10 Pines from June 16th until September 14th of 2011.

11 Q So this is a second go around at Camp White Pines,
12 right?

13 A Yes, ma'am.

14 Q And so he stayed there from June 2011 until September
15 14th I believe is your testimony, and what happened at that
16 time?

17 A On September 14th he was released from Camp White
18 Pines and he continued on probation.

19 Q All right. Now, he was under the supervision of York
20 County Department of Juvenile Justice at that time; is that
21 correct?

22 A Yes, ma'am.

23 Q Have you had an opportunity to review records of where
24 he may have gone after and what services were provided to
25 him if any?

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1 A It looks as if he was admitted to the Carolina
2 Children's Home in Columbia on October 20, 2011.

3 Q I show you this document and ask you if you can tell
4 me what it is and what it says?

5 A Yes, ma'am. This is from Carolina Children's Home
6 dated September 7th of 2012 regarding Robert Isaiah
7 Graham. Isaiah was enrolled at Richland School District
8 One upon his admission in the Children's Home on October
9 20th of 2011 and he was withdrawn on May 20th, 2012, the
10 last day of school.

11 Q All right.

12 MS. FRYAR: And so I would like to put this in,
13 State's Number 7 for sentencing purposes, Your Honor.

14 THE COURT: All right. Entered into evidence.

15 (The document was received as State's 7.)

16 Q What is Carolina Children's Home, what is its purpose,
17 Ms. Young?

18 A It's a therapeutic group home that works with
19 children with mental health diagnoses. They receive
20 therapy depending on what their diagnosis is.

21 Q Okay. And so he stayed there -- he was admitted there
22 on October 20th of 2011 and he was withdrawn there the last
23 day of school; is that correct? /

24 A Yes, ma'am.

25 Q And where would he have gone to school during that

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1 period of time?

2 A Where would he have gone to school?

3 Q Yes, ma'am. A.C. Flora?

4 A Yes, ma'am.

5 Q And you have documentation as to that?

6 A Yes, ma'am.

7 Q And then on August 29th, 2012, the following school
8 year, where did he enter school?

9 A He entered school at South Pointe High School.

10 Q How long did he go to school there?

11 A He was up for expulsion and was dropped as a student
12 from the records as of November 13th of 2012. I don't
13 know when his actual expulsion date was.

14 Q So he began in school at South Pointe High School on
15 August 29, 2012, this is going to be the end of his school
16 career. If you could tell the Judge, did he have any
17 discipline referrals while he was there?

18 A Yes, ma'am. Let me find --

19 Q Let me do it this way, Ms. Young. Is this a document
20 that describes Mr. Graham's latest trials and tribulations
21 in the school system?

22 A Yes, ma'am. It's a discipline report from South
23 Carolina.

24 Q Could you tell us what happened on September 12th?

25 A Fighting another student in the bus parking lot --

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1 Q I'm sorry if I confused you on the date, I see where
2 you --

3 A Yes, ma'am.

4 Q What's the date? I apologize. It was September 13th;
5 is that correct?

6 A Yes, ma'am. September 13th of 2012 for
7 fighting another student in the business parking lot. He
8 was returned to school on a behavioral contract.

9 Q What is a behavioral contract?

10 A They will monitor his behavior. If he does well
11 he'll be taken off the contract, if he continued -- I
12 guess he has so many times to violate the contract and
13 then they'll take further actions.

14 Q All right. And he was still under the services of the
15 school under the IAP that he had undergone previously; is
16 that correct?

17 A Yes, ma'am.

18 Q What happened following him being placed on the
19 behavioral contract?

20 A Would that be October -- September --

21 Q No, it would be October 12th.

22 A October 12th?

23 Q Yes, ma'am.

24 A He was --

25 Q I apologize, I'm sorry, you're right, I apologize, I'm

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1 getting you out of order. What happened next? I'm sorry.

2 A September 27th?

3 Q Yes, ma'am.

4 A He had a writeup for harassment. The student claimed

5 that Isaiah approached her in a sexual manner and she did

6 not want him to touch her and he did.

7 Q And then what happened October 5th?

8 A October 5th, Mr. Graham engaged in sexual activity on

9 the back of the school bus.

10 Q And then what happened on October 12th?

11 A He underwent a -- an IAP committee meeting was

12 scheduled for manifestation and determination meeting.

13 Isaiah was involved in a sexual incident on the school bus

14 with a female student, been involved in several incidents

15 since arriving at South Pointe this year, fighting, sexual

16 aggression and profanity. He has a behavioral

17 intervention plan in place to address the current negative

18 behavior. The VIP addresses impulsive behavior, fighting

19 and sexual impulse incidents/behavior. Isaiah does

20 display aggression/impulsive behavior and poor judgment.

21 The VIP committee agrees that the disability is a factor

22 contributing to this incident. IAP committee recommends

23 that Isaiah receive six hours of AES weekly, to receive

24 credit for life skills, math and ELA. Mother states that

25 Isaiah refuses to take his medication. The parent has

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1 requested special transportation to the AES location.

2 Q Okay. So basically the school determined that his
3 behavior, his bad behavior regarding the incidents that you
4 described was part of his -- the manifestation of his
5 disability as being emotionally disabled; is that correct?

6 A Yes, ma'am.

7 Q And they precluded him from being released from the
8 school system; is that correct?

9 A Yes, ma'am.

10 Q And continue to educate him; is that correct?

11 A Yes, ma'am.

12 Q And that happened on October the 18th; is that
13 correct?

14 A Yes, ma'am.

15 Q What happened on October 25th?

16 A October 25th, writeup for fighting another student at
17 a bus stop, the driver saw the two students fighting as
18 she pulled off.

19 Q And ultimately was Mr. Graham expelled from school in
20 October/November of 2012?

21 A October --

22 Q Or November. I'm not asking you either/or, was it
23 sometime in October or November of 2012?

24 A Yes. I can't really see the date.

25 Q All right. And so now we're up to about November of

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1 2012. Did you have an opportunity to have his case
2 transferred from York County DSS to Chester Department of
3 Juvenile Justice?

4 A Isaiah was transferred to Chester DJJ in January of
5 2013.

6 Q And who was his case manager? Who was his -- what is
7 your title, ma'am?

8 A Intensive supervision officer.

9 Q Intensive supervision officer.

10 A Yes, ma'am.

11 Q And why is it that he received intensive supervision
12 at this time?

13 A Due to the fact that Isaiah has been involved with
14 our agency since he was approximately 12 or 13 years old,
15 that's one of the criteria for him being on an intensive
16 supervision, repeat offenses, continued involvement with
17 the department.

18 Q And prior to you taking over this client's needs, Mr.
19 Ray Moore had been involved with his services through the
20 York County Department of Juvenile Justice; is that
21 correct?

22 A That's correct.

23 Q Did you have an opportunity to talk with Mr. Moore
24 regarding Mr. Graham recently?

25 A Yes. Mr. Moore stated that --

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1 MR. LIFSEY: Wait a minute, I object to that, and
2 maybe I -- can I speak to the solicitor just one second?
3 Maybe I can resolve it.

4 THE COURT: Yeah.

5 (Break in proceedings.)

6 MR. LIFSEY: Your Honor, based on what the solicitor
7 told me I withdraw my objection.

8 THE COURT: Okay. Objection withdrawn.

9 MS. FRYAR: I'll streamline it, Your Honor.

10 Q Ms. Young, did Mr. Moore tell you that Mr. Graham had
11 been under the aegis of the Continuum of Care the entire
12 time that he had been with the department of Juvenile
13 Justice?

14 A He did.

15 Q Now that you have him in Chester County, please tell
16 the Judge about your first meeting with Mr. Graham.

17 A The day that I got the transfer for supervision
18 packet from York County, I got a call from Isaiah, and he
19 wanted to speak with his probation officer and I asked
20 him, I said, "I just sent you dad a letter today, I know
21 you didn't get it already." And he said, "No." I said,
22 Well, can you guys come over and meet with me?" So myself
23 and my supervisor, county director Richard Wessinger met
24 with Isaiah and his dad in my office and we went over the
25 criteria for his continued probation supervision.

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1 Q Okay. And what was Isaiah's attitude and behavior at
2 that time?

3 A He was reluctant to deal with a curfew, he was kind
4 of argumentative as far as he wasn't going to -- he didn't
5 feel like he needed to come in by a curfew time of 11:00
6 in the evening.

7 Q Was he attending school?

8 A He was not. We made an attempt to have an IAP review
9 since he had not been enrolled in Chester -- in school in
10 awhile. We did have an IAP review with the attendance
11 director and the special needs staff from Chester County
12 Schools. This meeting was held -- I'm not sure of the
13 date but it was held at the Chester County School District
14 office. Isaiah and his mom were in attendance as well.
15 We discussed -- I think they discussed meeting with Isaiah
16 a couple of times a week after school and they would set
17 up for a bus to come pick him up. Isaiah was reluctant
18 to -- he didn't want to ride the bus, he said he would get
19 his own way to school, or to wherever they were going to
20 give him instruction.

21 Q Okay. And so did he go to school following that?

22 A No, ma'am.

23 Q Not at all?

24 A No, ma'am, not that I'm aware of that he attended,
25 maybe not often.

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1 Q Did he admit to you that he had been smoking
2 marijuana?

3 A Yes, ma'am.

4 Q Did he admit that he did that pretty much daily?

5 A Very often.

6 Q And did he admit to smoking cigarettes?

7 A Yes.

8 Q Did he admit that he drank alcohol?

9 A Yes.

10 Q And so did you try to get him some assistance with
11 that?

12 A Yes, ma'am. I referred him to the Hazel Pittman
13 Center for Counseling as was part of his prior probation
14 order, he did not attend counseling.

15 Q Do you recall a time where you and Mr. Wessinger were
16 sitting around a conference table speaking with Mr. Graham
17 about his behavior?

18 A Yes, ma'am.

19 Q And tell the Judge what went on in that situation.

20 A Isaiah became very upset that we were -- my job is to
21 supervise his probation, whatever the Judge ordered for
22 him and I was just explaining to him that he was ordered
23 to have a 11:00 p.m curfew, attend school and go to drug
24 counseling. He stated that he had been locked up since he
25 was 10 years old and that he was not going to abide by a

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1 curfew and he just didn't not want to be restrained. He
2 wanted to do pretty much what he wanted to do.

3 Q What did he say about that 11:00 curfew?

4 A He said -- he would not abide by the 11:00 curfew, he
5 said the party doesn't start until 11.

6 Q And so was there any other indication of physical harm
7 to Isaiah when you saw him?

8 A On several occasion I attempted to see Isaiah at home
9 or call him in, and Ms. Susan Graham -- he was staying
10 with his mom, I saw him at Chester Homes or I would go by
11 the house to check on him to see how he was doing as per
12 his intensive supervision, and Ms. Susan would state that
13 she hadn't seen him, or if she did he came in late, and he
14 just wasn't doing too well under supervision in the
15 community.

16 Q And so ultimately did you have a probation violation
17 issued against Mr. Graham?

18 A We did.

19 Q Tell the Judge what happened with that.

20 A A violation was issued due to Isaiah's failure to
21 attend counseling, attend school, abide by his curfew.
22 After speaking with his mother she was very concerned
23 about Isaiah. He was coming home with burn marks and just
24 wounds and showing them off to her saying he was -- she
25 said as if he was proud of the wounds. She asked him was

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1 he involved in a gang and she said he told her no, but she
2 was afraid for him that he might get hurt or possibly hurt
3 someone. That's when we issued the probation violation
4 and a pickup order was issued to have him picked up when
5 he was found.

6 Q And so you issued the probation violation for failing
7 to attend his drug counseling -- had you given him a drug
8 test or had someone performed a drug test?

9 A We had not. I think we attempted to send him to the
10 Hazel Pittman Center and I don't have any records as to if
11 he actually went.

12 Q But he was charged with a probation violation for
13 failure to attend the drug counseling, failing to attend
14 school and failing to abide by the curfew; is that correct?

15 A Yes, ma'am.

16 Q He was picked up on an order of the court; is that
17 correct?

18 A Yes, ma'am.

19 Q And he was detained; is that correct?

20 A Yes, ma'am.

21 Q He was picked up on April the 26th of 2013; is that
22 correct?

23 A Yes.

24 Q What court action followed that?

25 A He was detained until May the 1st when he had a

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1 hearing and he was ordered to continue probation with
2 alternative placement.

3 Q Who was the judge in that case?

4 A The judge -- excuse me -- Judge Gibbons.

5 Q Yes, ma'am. What did Judge Gibbons order?

6 A He ordered probation continued with alternative
7 placement.

8 Q And where was placement found?

9 A It was found at Excalibur Youth Services, which is
10 located in Greenville, South Carolina.

11 Q So when he went to Excalibur -- please explain what
12 Excalibur is, what the Excalibur program is.

13 A It's probably one of our more secure group homes
14 where the young people go, and again, they're given
15 guidelines to follow. There's certain ranks or phases
16 they can reach and when they reach these certain phases
17 for doing what they're supposed to do they're given
18 further things -- they're given further opportunities to
19 do other things. He probably would have been eligible for
20 the work program where he could have gotten -- been
21 groomed to take job interviews and possibly get a job and
22 things of that nature.

23 Q Would you say it's an intensive program?

24 A It is.

25 Q Are there two different kinds of groups homes that

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1 young people can go through?

2 A There are actually about three, there's moderate and
3 intensive, and Excalibur is intensive.

4 Q And so did how long did Mr. Graham make it at the
5 Excalibur Group Home?

6 A He was removed on June the 21st of 2013, and ordered
7 detained. He was removed for possession of marijuana and
8 fighting.

9 Q And so he was detained from -- when we say detained,
10 we mean locked up in an incarcerated facility; is that
11 right?

12 A Yes, ma'am.

13 Q And he was removed on June the 21st, 2013. And was
14 there a hearing on June the 24th of 2013?

15 A Yes, ma'am, there was.

16 Q And that was going to be a detention hearing; is that
17 correct?

18 A Correct.

19 Q Regarding the probation violation; is that correct?

20 A Yes, ma'am.

21 Q Who was the judge?

22 A It was Judge Sprott.

23 Q And what did Judge Sprott order?

24 A He ordered a determinate sentence of 90 days, and
25 upon completion of this sentence released from DJJ

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1 supervision.

2 Q And so was he sent to the Upstate Evaluation Center
3 for placement recommendations at that time?

4 A He was, yes, ma'am.

5 Q This is going to be the third evaluation by the
6 Department of Juvenile Justice; is that correct?

7 A Yes. This would have been an observation and
8 assessment, meaning he's had an eval, it's been awhile so
9 they would just observe -- look over his old eval report,
10 see if there's any updates that needed to be done and then
11 send his packet out for employment.

12 Q And so where was he placed, ma'am?

13 A He was placed at the Collins Group Home.

14 Q And when did he turn 17 years old?

15 A He turned 17 years old -- he was placed on 7/26/13 --
16 he turned 17 on 9/8/13.

17 Q And then when was he released from the facility?

18 A He was released from Collins Group Home on 9/12 of
19 2013, and his determinate sentence was complete.

20 Q Can you tell us if there were any arrests after that
21 period of time?

22 A Not as a juvenile.

23 Q What about as an adult?

24 A As an adult he was arrested on August 1st.

25 Q Was that -- November 1st, ma'am?

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1 A Well, yes, November 1st of 2013.

2 MR. LIFSEY: I object. Aren't you having other people
3 testifying about this?

4 MS. FRYAR: I can if you would prefer.

5 MR. LIFSEY: I mean, it seems to me her role ought to
6 be restricted to juvenile matters.

7 THE COURT: I agree.

8 MS. FRYAR: All right. I did prepare a summary of --
9 not putting in all of the information but just of the court
10 hearings, for the record I would like to put that in --
11 summary.

12 THE COURT: Of her testimony?

13 MS. FRYAR: Yes.

14 THE COURT: All right. That's allowed. Next exhibit.

15 MS. FRYAR: That would be Number 8, Your Honor.

16 (The summary was received as State's 8.)

17 Q Ms. Young, you worked with Mr. Graham for several
18 months; is that correct?

19 A Approximately seven, yes, ma'am.

20 Q Did you fear him?

21 A I just felt -- I really felt that Isaiah needed more
22 counseling than the department was able to provide for
23 him. I didn't -- I felt that he might do something based
24 on his behaviors, that he might have a propensity for
25 violence based on his behaviors.

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1 MR. LIFSEY: I don't have any further questions.

2 THE COURT: Any questions.

3 MR. LIFSEY: If I can just briefly ask a couple of
4 things, Judge.

5 THE COURT: Yes.

6 CROSS EXAMINATION

7 BY MR. LIFSEY:

8 Q Ma'am, obviously you didn't become involved in --
9 Chester didn't take charge, for lack of a better word, of
10 this young man until 2013; is that correct?

11 A That's correct.

12 Q But in 2010 he was evaluated and received a community
13 evaluation; is that correct?

14 A Yes, sir.

15 Q Are you aware that the DJJ examiner noted, "His
16 parents past drug abuse, his mother's ongoing mental health
17 issues and current medical problems, and his reluctance to
18 return home suggests that Isaiah's home environment has
19 been lacking in structure, stability, nurturance and
20 adequate supervision. These relevant dynamics appear to be
21 intricately woven into Isaiah's pattern of maladaptive
22 behaviors." Are you aware of that?

23 A In his report yes, sir. From his community eval,
24 yes, sir.

25 Q And are you also aware that the examiner noted that

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1 assessment of family functioning indicates problematic
2 dynamics which have plagued the family for several years,
3 are you aware of that?

4 A Yes, sir.

5 Q Are you aware that examiner also noted Isaiah's
6 significant emotional issues and his insecure home
7 environment may have contributed to his problematic
8 behavior and substance abuse.

9 A Yes, sir.

10 Q And are you also aware that the examiner noted that
11 his offenses appear to be related to serious mental health
12 issues and an unstable home environment?

13 A Yes, sir.

14 Q Are you aware that -- obviously you're aware and you
15 testified that he'd received an actual R and E evaluation
16 in May of 2011?

17 A Yes, sir.

18 Q Are you aware that he indicated that he, "Feels family
19 life is tense and full of strife and little place to turn
20 for support;" is that correct?

21 A If you say it's in the report -- I'm sorry, I'm not
22 as familiar with this one.

23 Q Are you aware of a June 14, 2011 dated letter that was
24 referencing the DJJ evaluation where the letter indicated
25 that Mr. Graham adjusted well to the structure of the

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1 Upstate Evaluation Center?

2 A Would that be in his report, sir?

3 Q Yes.

4 A Yes, sir, it's right here.

5 Q In addition to indicating that he adjusted well in the
6 structure, it indicated that he, "Interacted well with his
7 peers, was courteous and respectful towards staff, followed
8 directives with limited resistance, was a good student and
9 not a behavioral problem."

10 A Uh-huh.

11 Q And do you know that it also notes that he completed
12 his work with little assistance, had a good attitude, was
13 cooperative and helpful, appears to have the stability to
14 function adequately in a structured environment?

15 A Yes, sir.

16 Q Are you aware if DSS was ever involved at any point?

17 A Not that I'm aware of, sir.

18 Q You indicated to the solicitor he didn't receive any
19 psychiatric medicine since he was but a toddler.

20 A Yes.

21 Q Are you aware of any long term studies or any kind
22 of -- what affect that has on toddlers in their
23 development?

24 A I'm not aware of that.

25 MR. LIFSEY: I don't have any further questions of

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1 this witness.

2 THE COURT: Anything else?

3 MS. FRYAR: No, Your Honor.

4 THE COURT: All right. Thank you, ma'am, you can step
5 down, you are also free to leave. Lunch recess until 1:45.

6 (A lunch break was taken.)

7 THE COURT: All right, all are present. Madam
8 Solicitor, you may call your next witness.

9 MR. LIFSEY: Thank you, Your Honor. The State calls
10 Dr. Lisa Williams.

11 The witness, DR. LISA WILLIAMS, was first duly sworn
12 and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. FRYAR:

15 Q Good afternoon, Dr. Williams.

16 A Good afternoon.

17 Q Dr. Williams, would you please tell the Court where
18 you're employed?

19 A South Carolina Department of Juvenile Justice at the
20 Upstate Evaluation Center.

21 Q And what's your position there?

22 A I'm the clinical director and supervising
23 psychologist.

24 Q And what do you do in your position there?

25 A I supervise staff of, I think, 11 psychologists and

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1 social workers who perform the court-ordered evaluations
2 on juveniles who have been adjudicated of a crime and sent
3 there for the 45 days evaluation period. And then we
4 provide other types of services like crises intervention,
5 small group therapy, those types of things.

6 Q How long have you been with the Upstate Evaluation
7 Center?

8 A I've been there six years, five years as the
9 supervisor.

10 Q If you could tell the Court a little bit about your
11 education, where did you get your undergrad degree?

12 A Undergrad, I got a BA in Psychology from Converse
13 College.

14 Q Following that, how did you pursue your education?

15 A Then I enrolled in a doctoral program where I
16 obtained my masters in clinical psychology on the way to
17 the doctorate in clinical psychology.

18 Q Do you have a doctorate in clinical psychology?

19 A Yes, ma'am.

20 Q Can you tell us a little bit about your clinical
21 experience in the field of psychology?

22 A I've had a number of different positions in both
23 evaluation and treatment. I have done court-ordered
24 evaluations of juveniles in two different evaluation
25 centers. I have worked with clients on disability who

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1 were trying to -- providing services for them,
2 psychological services. I have worked with clients with a
3 long history of trauma, child abuse victims and --

4 Q And regarding these psychological evaluations, these
5 are court-ordered evaluation that young people who have
6 been a adjudicated delinquent of criminal offenses, they
7 come to the evaluation center and they have a psychological
8 evaluation there; is that correct?

9 A Yes, ma'am.

10 Q About how many of those do you think you participated
11 in?

12 A I think we average around 300 a year and I supervise
13 them all. So I would guess 300 a year for the past five
14 years.

15 Q So thousands?

16 A Yeah..

17 MS. FRYAR: Your Honor, at this time I would ask that
18 Dr. Williams be qualified as an expert in the field of
19 psychology.

20 THE COURT: Any further voir dire?

21 MR. LIFSEY: No, sir.

22 THE COURT: All right, so qualified.

23 Q Dr. Williams, did you have an opportunity to review
24 the records of the evaluations that were performed on Mr.
25 Robert Isaiah Graham?

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1 A Yes, ma'am.

2 Q I'm going to hand you this and ask you if you could
3 tell me what this is? What is this, Dr. Williams?

4 A This is a community evaluation performed -- done by
5 the Community Psychologist Larry Honeycutt in York County.

6 Q And when was this evaluation done?

7 A The evaluation was on March 30th, 2010.

8 Q This was not done at the Upstate Evaluation Center
9 then.

10 A No, ma'am.

11 Q Explain this to the Court.

12 A When an juvenile adjudicated for a crime they can be
13 given -- they can be ordered to complete an evaluation
14 either in the community while they stay either with their
15 family or guardian, or while they reside in a temporary
16 foster home, and then can get their evaluation in the
17 community or they can be ordered to come to UEC for a
18 secure evaluation. The evaluations are the same, it's
19 just that they are done in different settings.

20 Q And so the first evaluation that you're referring to,
21 or I'm referring to, occurred when Mr. Graham was 12 years
22 old; is that correct?

23 A He was 13, I believe.

24 Q Okay. I believe the incidents occurred when he was
25 12. Let's talk about the incidents. The incidents for

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1 which he was there was a February 17th of 2009 assault and
2 battery charge for which he'd had probation, I think that
3 occurred when he was 12, and then he was there with you, as
4 you are correct, for the offense of trespassing; is that
5 correct?

6 A Yes. That's what Larry Honeycutt did the evaluation
7 on.

8 Q Okay. And what were the sources that Dr. Honeycutt
9 used for his evaluation?

10 A He used the file information, which is provided by
11 the probation officer or case worker in the local DJJ
12 office. And he interviewed Isaiah, he interviewed the
13 mother and the foster parent that he was living with
14 temporarily.

15 Q Was that Ms. Nibbs?

16 A Yes, ma'am.

17 Q All right.

18 A And he reviewed school records, the prior evaluation
19 done by the school system, and then he used a few
20 different tests in his evaluation process.

21 Q All right, ma'am. And you also reviewed the records
22 of the Catawba Community Health Center; is that right?

23 A Yes, ma'am.

24 Q What kind of personality and emotional functioning did
25 Mr. Honeycutt find that Isaiah had at the time?

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1 A He mainly focused on anger.

2 Q Okay.

3 A That seemed to be the biggest area that Isaiah was
4 struggling with at the time. His mother reported a number
5 of different instances of aggression and having been -- he
6 had gotten in trouble for instances of aggression.

7 Emotionally he did note periods of sadness, but his
8 overriding emotional state seemed to be anger.

9 Q And, in fact, the evaluator was informed that Mr.
10 Robert Isaiah Graham had set fire to the grass outside of
11 the apartment at some point and his aggressive behavior had
12 resulted in two children having had to go to the hospital;
13 is that correct?

14 A Yes, ma'am.

15 Q And the first incident of aggression that was noted
16 was in kindergarten when he rammed another child's head in
17 the wall; is that correct?

18 A Yes.

19 Q And so we took all of this information, and there is
20 more in the report, that's what Dr. Honeycutt looked at; is
21 that correct?

22 A Yes.

23 Q And what did he indicate regarding his school
24 disciplinary records?

25 A In the school information he indicated that he was in

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1 a self contained classroom for emotional disability, and
2 he was having a good number of behavioral problems in
3 school, primarily fighting. He reviewed the disciplinary
4 referrals and the IAP and the prior evaluation done by the
5 school district.

6 Q And so the school had determined that he had obtained
7 a general conceptional ability score of 80 which placed him
8 at the below average of intelligence. Can you discuss that
9 with us? What is that test?

10 A It's not a test that we use in our evaluations in the
11 eval centers, we use the Wechsler Test, so it is not a
12 test that I am overly familiar with. It's an IQ score.

13 Q Okay. And so he was found to be somewhat
14 average/below average at that time.

15 A Uh-huh.

16 Q Okay. And the other records at the school indicate
17 that he had some poor social skills, bullying behavior and
18 relationship problems with peers; is that right?

19 A Yes.

20 Q And so as Mr. Honeycutt proceeds with the evaluation,
21 what did he ultimately diagnose Robert with?

22 A He diagnosed mood disorder not otherwise specified,
23 oppositional defiant disorder and attention deficit
24 hyperactivity disorder not otherwise specified by history.

25 Q When someone says by history, does that mean that Mr.

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1 Honeycutt directly observed this or what?

2 A No. He would have used records and his prior
3 diagnosis of ADHD, and for the fact that he was medicated
4 during the time for ADHD symptoms, those things taken
5 together are what some people would use by history
6 diagnosis.

7 Q Okay. And if you could, explain to us what
8 oppositional defiant disorder is and what does it encompass
9 and what do you look at in making that diagnosis?

10 A Oppositional defiant disorder is a behavioral
11 disorder characterized by more oppositional and defiant,
12 obviously by the name, more -- not complying with rules,
13 being disrespectful, not necessarily the aggression as
14 seen in more serious disorders. The just overall
15 defiance, not following the rules, not paying attention to
16 what others told him to do, doing what he wants to do,
17 breaking curfew, not completing assignments in school.
18 Those were the types of behaviors.

19 Q Okay. It is not a mental illness, is it, Dr.
20 Williams? It is a conduct disorder. What's the
21 difference?

22 A Well, they're all included in the DSM, which is the
23 manual that psychologists use for diagnosing, but it is
24 behavioral.

25 Q So this is problems with behavior that Mr. Honeycutt

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1 is reporting in this, and indicating that Mr. Robert Graham
2 did receive the diagnosis of oppositional defiant disorder
3 at the time when he was 13 years old; is that correct?

4 A Yes, ma'am, it would encompass behaviors.

5 Q I would like to refer you now, ma'am, to the Upstate
6 Evaluation Center evaluation that was done --

7 MR. LIFSEY: May I ask just for clarity sake for the
8 scope of my cross examination, is it your intention to
9 introduce the report that you just had?

10 MS. FRYAR: In fact I need to, thank you, Mr. Lifsey.
11 At this time I would like to introduce this report that Dr.
12 Williams --

13 MR. LIFSEY: That's fine. And I say that, Judge,
14 because I trust in making your decision you will review
15 that exhibit and that way I don't have to cross examine you
16 about every point that I see as relevant.

17 THE COURT: I'm reviewing everything, I already have
18 eight exhibits, I've already reviewed all of them during
19 various testimony. I've already reviewed the 28 page
20 report that I received yesterday evening from your office,
21 so I'm certainly going to take all of this under
22 consideration before I sentence.

23 MS. FRYAR: I was just going to introduce them at the
24 end of her testimony, but I can introduce them
25 individually.

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1 THE COURT: Without objection you can go ahead and
2 have it marked if you want to. Just go ahead and put a
3 sticker on it, I think it would be State's 9.

4 MS. FRYAR: Yes, Your Honor.

5 (The evaluation report was received as State's 9.)

6 Q And while I'm up here, Dr. Williams, I'm showing you
7 this and asking you if you can identify what this is?

8 A That's a secure evaluation completed at the Upstate
9 Evaluation Center.

10 Q And was it completed in May of 2011?

11 A Yes, ma'am.

12 Q And was it the first evaluation that was conducted at
13 this Upstate Evaluation Center?

14 A At the Upstate, yes.

15 MS. FRYAR: Your Honor, at this time I would like to
16 put this into evidence.

17 THE COURT: All right, State's 9.

18 MS. FRYAR: It will be 10, Your Honor.

19 THE COURT: Next in order.

20 (The Upstate Eval was received as State's 10.)

21 Q When was Mr. Graham seen at the Upstate Secure
22 Evaluation Center the first time?

23 A On May 17th, 2011.

24 Q And who was the primary psychologist who made this
25 report?

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1 A Michael Nolan.

2 Q Is Mr. Nolan in the courtroom?

3 A Yes, ma'am.

4 Q And he is a psychologist at the Upstate Evaluation
5 Center, correct?

6 A Yes, ma'am.

7 Q All right. What sources of information did Mr. Nolan
8 use regarding his evaluation?

9 A He used similar DJJ records. He spoke to --
10 completed a clinical interview with Isaiah with his mother
11 by the telephone, also spoke to the DJJ community
12 specialist at the time, and spoke to Continuum of Care and
13 Catawba Mental Health. And then he also administered a
14 number of psychological tests.

15 Q And so if you could tell the Court, what did Mike
16 Nolan ultimately diagnose Robert Isaiah Graham with?

17 A Michael diagnosed conduct disorder.

18 Q Okay.

19 A Cannabis abuse.

20 Q Yes, ma'am.

21 A Nicotine dependence, and attention deficit
22 hyperactivity disorder, and borderline intellectual
23 functioning.

24 Q And so the psychologist at this time reviewing this,
25 he did look at all of the records of Catawba Mental Health

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1 and Continuum Care; is that correct?

2 A The records that he had, yes, ma'am.

3 Q And he also was told by Ms. Graham that Robert had
4 received services from Family Preservation and Family
5 Intervention to assist when managing her son's behavior; is
6 that correct?

7 A Yes.

8 Q All right. So he actually had the opportunity to talk
9 with the Continuum Care worker who had been working with
10 Mr. Graham for some period of time; is that correct?

11 A Well, I would like to clarify that at that time there
12 was also a social worker who she made outside contacts
13 like that, and she wrote that portion of the report. But
14 yes, she did speak to both of those people.

15 Q And at the time of this evaluation Mr. Graham had
16 already been placed outside of the home on three occasions
17 within the Department of Juvenile Justice; is that correct?

18 A I believe so.

19 Q I'm just trying to keep the timeline going, Dr.
20 Williams, for the Court. I believe that he had, if you can
21 find it in the report, already gone to the YAP program in
22 Greenville, the therapeutic home there, Camp White Pines
23 and another therapeutic foster home in Camden.

24 A Yes, ma'am.

25 Q That's when this evaluation is done, during that

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1 period of time.

2 A Yes, ma'am.

3 Q How did Mr. Graham seem during the time of his
4 evaluation regarding his mental status, how did he seem
5 during this period of time when his testing was done?

6 A He did not have any -- he did not endorse any
7 depressive symptoms. He did speak again about anger. He
8 had a favorable adjustment to the evaluation center in
9 terms of behavior. He did not have any writeups during
10 the time he was there and he functioned pretty well. He
11 functioned fairly well according to the report. He
12 functioned pretty well in terms of relating to the
13 evaluator and to his social worker while he was there.

14 Q Okay. If someone has had a lot of difficulties
15 frequently acting out in anger situations, volatility, is
16 it unusual for them to perform without too much incident
17 while at the evaluation center? Let me put it this way,
18 are they told at the beginning when they get there they are
19 going to be looked at and the Court is going to see how
20 they behaved in this period of time?

21 A Yes, ma'am, absolutely.

22 Q And I will refer you now to the behavior emotional
23 personality functioning. With regards to aggressive
24 behavior, Robert himself did report that he just last had a
25 fight while he was at the evaluation center, right?

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1 A Yes.

2 Q So we know he got in at least one fight while he was
3 at the evaluation center.

4 A Yeah. It didn't result in a writeup because of how
5 it happened.

6 Q But during the mental status evaluation, there weren't
7 any signs of mental confusion or psychotic thought
8 processes or anything like that; is that right?

9 A No, ma'am.

10 Q And he seemed to be alert and knew what he was doing
11 while he was being tested; is that right?

12 A Yes, ma'am.

13 Q Okay. During this period of time what kind of
14 medicine was he on?

15 A I believes he was on Abilify.

16 Q He was currently on Abilify, is that what you said?

17 A Yes, ma'am.

18 Q And in reviewing the records, did you determine or did
19 Mr. Nolan determine that he had been twice hospitalized
20 prior to coming to the evaluation center?

21 A That was in the record and in the prior report. We
22 didn't have the records but it was reported by the people
23 that the social worker spoke to and his mother.

24 Q So he'd been -- I'm reading from the report -- he had
25 been at Baptist Hospital and Williams S. Hall on two

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1 different occasions; is that correct?

2 A Yes, ma'am, years prior to his evaluation.

3 Q Once I believe when he was eight and another when he
4 was ten; is that correct?

5 A Seven and nine maybe.

6 Q And so ultimately Mr. Nolan diagnosed him with conduct
7 disorder; is that correct?

8 A Yes, ma'am.

9 Q Could you tell us what that is and what are the
10 elements that were required or for that kind of diagnosis
11 to be given?

12 A Yes, ma'am. Conduct disorder is a -- it's
13 characterized by a -- we would look for a pattern of
14 violations of others rights and aggression and more
15 serious behaviors including attacking someone with a
16 weapon, seriously injuring someone, attacking someone
17 unprovoked, a long history of running away, being cruel to
18 animals, fire setting behaviors are also a factor, a
19 characteristic of conduct disorder. Destruction of
20 property is a characteristic of conduct disorder, and
21 deceitfulness or theft, breaking and entering,
22 shoplifting.

23 Q And so obviously Mr. Nolan found signs of these in Mr.
24 Graham and thus this diagnosis.

25 A Yes, ma'am.

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- 1 Q And conduct disorder, that is not a mental illness; is
2 that correct?
- 3 A Well, it is diagnosed based on one's behaviors.
- 4 Q So a behavioral matter.
- 5 A Yes, ma'am.
- 6 Q Nothing wrong with the brain in other words.
- 7 A I can't necessarily say.
- 8 Q All right. And so following this evaluation, did he
9 have a subsequent evaluation?
- 10 A Yes, ma'am.
- 11 Q When was that evaluation done?
- 12 A That was in 2013.
- 13 Q And who did the evaluation of that?
- 14 A Oliver Kadel (phonetically.)
- 15 Q Who is Oliver Kadel?
- 16 A He is our admissions psychologist at the Upstate
17 Evaluation Center.
- 18 Q And what was his findings regarding Mr. Graham? I
19 will hand you this item, ma'am.
- 20 A His diagnoses were conduct disorder unspecified
21 onset, and cannabis abuse and alcohol abuse.
- 22 Q And so what are you looking at currently, Dr.
23 Williams?
- 24 A Sorry?
- 25 Q What are you looking at right now?

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1 A His admission evaluation.

2 Q What was his purpose of this final evaluation done at
3 the Upstate Evaluation Center?

4 A This evaluation is different from the prior
5 evaluation in that it was more for placement purposes
6 rather than to determine dispositional recommendations.

7 Q Okay. At this period of time Mr. Graham had already
8 been kicked out of the Excalibur Program in the series of
9 events.

10 A Yes, ma'am.

11 Q Did he indicate -- nevermind. Could you please report
12 to the Court under what -- under mental status the findings
13 were?

14 A Yes. He was aware, he did not display any confusion
15 or psychosis symptoms, he didn't seem confused and his
16 memory appeared to be adequate.

17 Q So he was able to -- he was able to function and speak
18 clearly to the psychologist about his situation.

19 A Yes, ma'am.

20 Q And you just described the conduct elements that are
21 used during this evaluation.. Isn't it reported that Robert
22 has a history of poor anger control, aggressiveness,
23 frequently fighting with others, being easily annoyed by
24 others, theft, deceitfulness and shoplifting; is that
25 correct?

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- 1 A Yes, ma'am.
- 2 Q And is that consistent with the conduct disorder that
- 3 was given to Mr. Graham?
- 4 A Yes, ma'am.
- 5 Q What did Mr. Graham say about his marijuana use and/or
- 6 other drugs?
- 7 A He endorsed using a large amount of marijuana daily.
- 8 Q All right, ma'am. And where did he say he got the
- 9 marijuana from?
- 10 A According to the report he said from his homeboys who
- 11 sell weed.
- 12 Q And so did he continue to use marijuana even when he
- 13 was placed in Excalibur?
- 14 A Yes, ma'am, he was.
- 15 Q And is that one of the reasons that he was removed
- 16 from that home?
- 17 A Yes, ma'am.
- 18 Q And at the time of this evaluation under cognitive and
- 19 academic functioning, isn't it a fact that he had been
- 20 expelled from South Pointe for fighting and engaging in
- 21 sexual behavior with a female student on the bus?
- 22 A Yes, ma'am.
- 23 Q Did you supervise this evaluation?
- 24 A Yes, ma'am.
- 25 Q So this -- you have -- while Mr. Kadel was doing this

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1 you were there with him at the time and oversaw all of
2 this?

3 A Yes, ma'am.

4 Q And did you concur with his findings that Mr. Graham
5 has conduct disorder?

6 A Yes, ma'am.

7 Q And his other findings?

8 A Yes.

9 MS. FRYAR: I don't have any further questions for
10 you.

11 THE COURT: All right. Mr. Lifsey?

12 MS. FRYAR: I would like to go ahead and put that last
13 one in.

14 THE COURT: All right. State's next in order.

15 MS. FRYAR: Number 11, Your Honor.

16 (The report was received as State's 11.)

17 MS. FRYAR: May I ask just a couple of questions real
18 quickly?

19 Q Is it a normal procession to go from oppositional
20 defiant disorder to conduct disorder?

21 A Not necessarily. Now, in the current you can have
22 both, oppositional defiance order and conduct disorder,
23 they are different in some ways. Oppositional defiant is
24 more -- is not necessarily going to lead to conduct.

25 Q But that oppositional defiance disorder is just when

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1 you don't obey authority.

2 MR. LIFSEY: I object to her leading the witness.

3 She's an expert, let her answer her questions.

4 THE COURT: Well, overruled to the extent this is a
5 sentencing hearing and so I will allow both lawyers to lead
6 witnesses to get it over with, okay? Go ahead.

7 Q Can you diagnose somebody with antisocial disorder,
8 antisocial personality disorder when they're 16 years old
9 when this young man was diagnosed --

10 A No, ma'am. You cannot diagnose antisocial until the
11 person is 18.

12 Q Is conduct disorder a precursor, though, to --

13 A Yes, ma'am.

14 Q Explain that.

15 A The behaviors that you see in conduct disorder are --
16 some of the criteria are the same for antisocial
17 personality disorder and they're -- I believe in
18 antisocial personality disorder. there must be some
19 evidence of conduct disorder behaviors prior to 18.

20 Q Okay. And what is antisocial personality disorder?

21 A Antisocial personality disorder is again a pattern --
22 a consistent pattern of violating other's rights,
23 aggression, more serious behaviors, using weapons to hurt
24 others. It's just a longer pattern of aggression and
25 violation of other traits.

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1 MS. FRYAR: I don't have any further questions, Dr.
2 Williams. Thank you.

3 THE COURT: Mr. Lifsey?

4 MR. LIFSEY: Just briefly.

5 CROSS EXAMINATION

6 BY MR. LIFSEY:

7 Q You've been in the courtroom all morning.

8 A Yes, sir.

9 Q Did you hear my cross examination of the other DJJ
10 employee?

11 A Yes, sir.

12 Q So you heard the questions I asked about certain items
13 that were contained in the evaluation.

14 A Yes, sir.

15 Q Those are accurate, my questions and her responses,
16 correct?

17 A For the most part. One of them I think that you
18 pointed out something in one section of the report that
19 made it seem like he stated that, which is that he just
20 marked true on a questionnaire rather than he stated that.
21 But other than that, yes, it was correct.

22 Q Can you show me what that is?

23 A He feels his family life is tense and filled with
24 strife with little places to turn for support.

25 Q Where did that question come from?

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1 A It's in his pattern of responses is what suggested
2 that but he didn't say those words. He didn't say
3 anything specifically about his family being not
4 supportive, I guess.

5 Q Who wrote that report?

6 A That was Michael Nolan.

7 Q So that would have been a conclusion Michael Nolan
8 drew from his interviews --

9 A From the one test.

10 Q From the testing and all.

11 A Yes.

12 Q Let me ask you a little bit about his IQ testing. It
13 looks like he got pretty different -- you have different
14 kinds -- different results on both times y'all IQ tested
15 him. What's your feeling about that?

16 A The first time I was not the supervisor, and that
17 first evaluation in 2011, I don't think is accurate -- I
18 don't think it's accurate, and I don't think it's accurate
19 because of -- do you have a letter from Tara Bennett in
20 your packet? She was the admission psychologist who wrote
21 the letter about why he was not included in a DDSN
22 referral because of his IQ. She wrote a very good
23 explanation, it's in his file, she wrote a very good
24 explanation why he does not meet the criteria for being
25 intellectually deficient in meeting the criteria to be

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1 certified DDSN.

2 Q When did she write that letter?

3 A I think she was looking for it. Tara Bennett was our
4 admission psychologist between the two evals, between the
5 first eval and the second.

6 Q And this is the portion where I asked that -- the
7 letter had indicated he appeared to have the ability to
8 functions adequately in a structured environment.

9 A Yes.

10 Q I've got you.

11 MR. LIFSEY: I would like to introduce this as Defense
12 Exhibit 1.

13 THE COURT: Make it a part of the record, I want to
14 make sure I read everything. That's Defense one/

15 (The letter was received as Defendant's 1.)

16 MR. LIFSEY: This is a letter from the Department of
17 Juvenile Justice dated June 14, 2011.

18 THE COURT: Okay.

19 MR. LIFSEY: There's some highlighting on it that I
20 presume was done by the solicitor's office, but other than
21 that it appears to be the original. I don't think I have
22 any further questions for this witness.

23 THE COURT: Anything else, Ms. Fryar, for this
24 witness?

25 MS. FRYAR: That's all for Dr. Williams.

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1 THE COURT: State can call its next witness.

2 MS. FRYAR: State calls Dr. Richard Frierson.

3 The witness, DR. RICHARD FRIERSON, was first duly
4 sworn and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. FRYAR:

7 Q Dr. Frierson, where are you employed?

8 A I am employed by the University of South Carolina
9 School of Medicine.

10 Q And what do you do for a living?

11 A I am a forensic psychiatrist.

12 Q And how long have you been a forensic psychologist?

13 A I'm sorry, a psychiatrist.

14 Q Psychiatrist, excuse me.

15 A Since 1993.

16 Q All right, sir. And have you performed forensic
17 psychiatric evaluations in the past?

18 A Yes.

19 Q Approximately how many do you think that you have
20 performed, Dr. Frierson?

21 A Several thousand.

22 Q All right, sir. And you've testified in court many
23 times?

24 A Yes.

25 MS. FRYAR: Your Honor, I would like to have Dr.

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1 Frierson qualified as an expert in the field of psychiatry.

2 MR. LIFSEY: I don't have any questions of him.

3 THE COURT: Without objection Dr. Frierson is
4 qualified in the field of psychiatry.

5 Q Dr. Frierson, did you have occasion to evaluate Mr.
6 Robert Isaiah Graham for competency pursuant to a court
7 order?

8 A Yes.

9 Q I'm going to show you this document and ask you if you
10 can tell me what it is.

11 A This is a copy of my six page report that was
12 submitted to the Court after the evaluation.

13 Q And if you could, sir, tell the Court what items you
14 would used to reach your findings.

15 A We had the arrest warrants related to the alleged
16 offenses that he was charged with. We had the autopsy
17 report on the alleged victim, Mr. Kennedy. We had the
18 incident report related to the crime. We had the
19 statement given by the defendant, statement of Deonte
20 Williams. Receipt for a gun purchase from a pawn shop.
21 An incident reported related to theft of a motor vehicle.
22 We had statements of other person's J. B. Leonard, Sara
23 Fairfox (phonetically), Jason Feaster. We had the NCIC,
24 National Crime Information Center, report of the
25 defendant. We had a history of the defendant's juvenile

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1 criminal record. We had various family court documents,
2 booking report, bail process proceeding form. Medical
3 records from Union County Mental Health Center. Records
4 from the South Carolina Department of Juvenile Justice.
5 Medical records from Williams S. Hall Psychiatric
6 Institute. Medical records from Palmetto Health Baptist.
7 And our social worker had contacted the defendant's mother
8 and obtained a social history prior to the evaluation.

9 Q And when you saw Mr. Graham, was he prescribed any
10 medications at that time?

11 A No.

12 Q And was he experiencing any symptoms of mental illness
13 in the detention center?

14 A Not to my knowledge.

15 Q All right, sir. You indicated you reviewed some
16 Catawba Mental Health records; is that correct?

17 A Union -- yeah. That would be Catawba -- Union County
18 branch of Catawba Mental Health.

19 Q All right, sir. And when did Mr. Graham begin
20 receiving services through Union County?

21 A July 28, 2011.

22 Q And had he been -- even as a little boy had he been
23 involved with behavioral issues?

24 A Yes. He was first taken to the mental health center
25 when he was 18 months old.

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1 Q All right, sir.

2 MS. FRYAR: And I have a copy of a psychiatric
3 evaluation that was performed at the Catawba Family Center
4 on 3/26/99. At this time Isaiah was two years old -- I
5 have shared this with Mr. Lifsey, I would like to enter it
6 into evidence.

7 MR. LIFSEY: Yes, sir. I just want to put on the
8 record that I'm not objecting to this information coming in
9 through Dr. Frierson because Ms. Fryar has represented to
10 me she could have had all of these custodian of records
11 here, so in an effort to just make the flow of this thing
12 better I'm not requiring her to call those individual
13 custodian of those records and so that's why I'm not
14 objecting.

15 THE COURT: Well, again at a sentencing hearing I
16 don't think you would necessarily need a custodian of
17 records, I'm the finder of fact.

18 MR. LIFSEY: Yes, sir.

19 THE COURT: And this isn't a jury trial.

20 MR. LIFSEY: I understand.

21 THE COURT: But your position is noted in the record.
22 Go ahead and mark that then as State's Number 12.

23 (The evaluation was received as State's 12.)

24 BY MS. FRYAR:

25 Q Dr. Frierson, in this record it indicates that Mr.

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1 Graham was participating in a group called Baby Nets and
2 had been prescribed the drug of Clonidine. Could you
3 please tell the Court what that is prescribed for?

4 A Yes. Clonidine is sometimes used in children to
5 treat attention deficit hyperactivity disorder, especially
6 the hyperactive behaviors.

7 Q And so if someone is prescribing that for Mr. Graham
8 of two years old, what does that say to you?

9 A Well, in general we don't give medicines to kids that
10 young for behavioral problems, so that would indicate to
11 me that likely the problems this very young child was
12 experiencing in his behavior appear aggressive.

13 Q And so if we progress through your evaluation, you
14 indicated that you had realized that he had been briefly
15 hospitalized at the mental health facility at Baptist when
16 he was eight years old; is that correct?

17 A Yes.

18 Q All right. And I'm going to show you a copy of
19 this --

20 MS. FRYAR: And so I have the record from the Baptist
21 Hospital, I would like to enter it into the Court's
22 findings, Court's evidence. Baptist Hospital, Your Honor.

23 THE COURT: Introduced as next the State's exhibit in
24 order.

25 (The medical records were received as State's 13.)

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1 Q If you will look at that document, Dr. Frierson, it
2 indicates that Mr. Graham was there because he threatened
3 his 12 year old neighbor with a knife after being hit by
4 him. And then he openly stated that no one was out to hurt
5 me, he did keep razors in his room to protect himself from
6 his siblings and other children, is that correct, under
7 behavior observations, sir?

8 A Yes.

9 Q All right. Tell me about this, why does it appear to
10 you that he was admitted and what was the findings of the
11 folks at the Baptist Hospital?

12 A Well, he had not been listening to his teacher or his
13 mother, was angry frequently with his 13 year old sisters,
14 father and his brother. And after threatening the
15 neighbor with a knife they sent him in for an evaluation.

16 Q And in his personality testing, what were the
17 findings? I'm referring to the bottom of page one.

18 A That he was -- in the personality testing he
19 presented himself similar to other youth who was angry and
20 impulsive. He was upset -- I'm sorry, he was frequently
21 violent threatening peers and showed little remorse over
22 the use of the weapon.

23 Q All right, sir. And in reviewing this report -- and
24 you took this into consideration when you made your final
25 diagnosis; is that correct?

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1 A Yes.

2 Q What was the findings and diagnosis of the folks at
3 the Baptist Hospital at the release of Mr. Graham?

4 A Attention deficit disorder, attention deficit
5 hyperactivity disorder and oppositional defiant disorder.

6 Q And if you could tell the Court what oppositional
7 defiant disorder means.

8 A Oppositional defiant disorder is a disorder behavior
9 found in certain children and adolescence. It's not as
10 severe as conduct disorder but it's children who typically
11 fail to follow rules, argue back with authority figures,
12 are in general oppositional, they're difficult kids to
13 deal with, they don't like to be told what to do. But
14 they're not the ones that are out necessarily engaging in
15 criminal activity or assaulting people or stealing things,
16 they're just in general oppositional with teachers and
17 authority figures.

18 Q And so is oppositional defiant disorder a precursor to
19 conduct disorder, or can it be?

20 A It can be.

21 Q All right, sir. I would like to lead your attention
22 now to the next admission of Mr. Graham to an institute.
23 He went to William S. Hall Psychiatrist Institute when he
24 was nine years old and I would like to enter that report
25 into evidence for the Court's review for sentencing.

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1 THE COURT: All right.

2 (The records were received as State's 14.)

3 Q And did you review this too as part of your findings
4 for your report, Dr. Frierson?

5 A Yes.

6 Q And why was he admitted to the hospital when he was
7 nine years old?

8 A He was viewed by the Catawba Mental Health Center as
9 being dangerous to others and there had been a failure
10 about patient treatment. He was in a fight the day of
11 admission, had tried to destroy someone's property
12 recently and had broke a glass window.

13 Q Okay. And this incident -- there was an incident at
14 school for fighting on this particular day at which time
15 Mr. Graham admitted that he was choking another peer; is
16 that correct?

17 A Yes. He had been choking another peer and the staff
18 at the school really was afraid if they hadn't separated
19 him he would have killed the other boy.

20 Q And this was at the age of nine, correct?

21 A Yes.

22 Q And so in reviewing this in the past records can you
23 tell us, was he on any medication?

24 A Yes.

25 Q Tell us about the medication he was on.

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1 A At the time this happened?

2 Q Yes, sir. Or at the time of the Baptist Hospital
3 admission.

4 A I'm not exactly sure without referring to that record
5 what he was on when he was admitted there, but their
6 record indicates that he had been tried on a lot of
7 different medicines.

8 Q And when you look at these medicines, Prozac,
9 Trileptal, Zyprexa, Clonidine, what are those medicines
10 for?

11 A Well, they're all different. Prozac is an
12 antidepressant. Trileptal is a seizure medicine. Zyprexa
13 is an antipsychotic, and Clonidine is also used to treat
14 hyperactivity, it's also a blood pressure medicine in
15 adults. Basically a lot of medicines have been thrown at
16 Mr. Graham I think in an effort to try to find something
17 to help him control his anger.

18 Q And so what is your overall perception of him at this
19 age when you read this report?

20 MR. LIFSEY: Your Honor, I object to that. I don't
21 have any --

22 THE COURT: Sustained.

23 Q Did he have problems while he was at the Baptist
24 Hospital even with aggression toward peers?

25 A If I recall directly he did.

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1 Q So even in the confounds of Baptist Hospital I believe
2 on November 10th and November 16th he pushed a peer and
3 required verbal intervention by the staff; is that correct?

4 A Yes. This was right after admission, he was noted to
5 be extremely hostile and aggressive.

6 Q Okay. And if you can tell us about the diagnosis that
7 was given to him at that time.

8 A Are we talking about Baptist or Hall?

9 Q At Hall?

10 A At Hall.

11 Q Yes, sir.

12 A In 2005 at the age of nine the final diagnosis was
13 oppositional defiant disorder, attention deficit
14 hyperactivity disorder, and rule out borderline IQ or
15 borderline intellectual functioning.

16 Q You've had the opportunity to look at all the records,
17 including department of juvenile justice records; is that
18 correct?

19 A Yes.

20 Q What is your position regarding Mr. Graham's
21 intellectual functioning?

22 MR. LIFSEY: I object to that.

23 THE COURT: Sustained.

24 Q And did you make a report, Dr. Frierson, for a
25 competency evaluation that was ordered for you to do?

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1 A Yes.

2 Q What was your findings regarding his intelligence?

3 A I found that given -- reviewing the intelligent
4 scores and his presentation, vocabulary, all of that kind
5 of stuff, that he likely falls in the range borderline
6 intellectual functioning, which is lower than average and
7 higher than intellectually disabled.

8 Q And what were your findings regarding his diagnosis?

9 A I made several diagnosis, the first was alcohol
10 dependence. He was using large amounts of alcohol daily,
11 which would indicate physiological tolerance. If I drank
12 as much as he reported he could drink I would be on the
13 floor, so he certainly has alcohol dependence. He also
14 was using large amounts of marijuana on a daily basis,
15 which would meet the diagnose criteria for cannabis
16 dependence. I noted that he had this longstanding history
17 of attention deficit hyperactivity disorder that's been
18 reflected in numerous prior medical records, although he
19 was able to sit and focus during my evaluation so I didn't
20 see active symptoms of it for the time I interviewed him,
21 which was really only an hour and twenty minutes, but he
22 was able to focus during that period of time, that's what
23 I put my history. As mentioned previously borderline
24 intellectual functioning. And the laugh diagnosis I
25 assigned was antisocial personality disorder.

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1 Q Did Mr. Graham describe any symptoms of a major mental
2 illness while you were evaluating him?

3 A No.

4 Q Did he have any psychosis or delusions or
5 hallucinations or anything like that?

6 A No.

7 Q Did he appear to be doing his best during your
8 evaluation?

9 A Yes.

10 Q And your findings at the end of the day was that he
11 was competent to stand trial; is that correct?

12 A Yes, that's what I was asked to evaluate.

13 Q And to assist his counsel in the trial and proceedings
14 in court; is that right?

15 A Yes.

16 Q All right. Can you please describe to the Court or
17 explain to the Court what the antisocial personality
18 disorder is?

19 A Antisocial personality disorder is a pervasive
20 pattern of behavior that is unlawful, that fails to
21 conform to social norms. It's characterized by
22 deceitfulness, impulsivity, failure to plan ahead,
23 reckless disregard for the safety of himself or others.
24 Consistent irresponsibility for a failure to sustain
25 consistent work behavior. Lacking remorse for certain bad

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1 acts. You have to be at least 18 years of age. You will
2 also have to have had evidence of a conduct disorder with
3 the symptom onset prior to age 15.

4 Q Okay. And so when you reviewed these records you went
5 from the time he was two years old until the time that you
6 saw him, did it appear to you that people had tried to help
7 Mr. Graham?

8 MR. LIFSEY: I object to that, it is irrelevant. I
9 object to that as irrelevant.

10 THE COURT: Why?

11 MR. LIFSEY: Because one, it's -- let me put it -- two
12 things. One it's irrelevant, because I don't see why if
13 people had tried to help him is relevant or not to the
14 determination of what the appropriate sentence ought to be.
15 Secondly, I think it's beyond the scope of his competency
16 evaluation, which like I say, I've not objected to some of
17 it just to avoid the chain of custody issues to allow it to
18 go forward. But I think -- I think it's outside the scope
19 of the order that the Court signed for him to be evaluated
20 for competency to stand trial allows and I think it's
21 beyond what the statute contemplates him testifying to.

22 THE COURT: Okay. Solicitor, what is your response to
23 that objection?

24 MS. FRYAR: Your Honor, I think that Dr. Frierson has
25 been qualified as an expert in this field and that he has

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1 the opportunity to look back through the records and
2 observe what the other folks have done for this young man.
3 He's reviewed all the department of juvenile justice
4 records including the records that have been put into the
5 record here today and the other records that exist on Mr.
6 Graham, and I think that he's in a position to give his
7 opinion as to whether or not that --

8 THE COURT: Have you let Mr. Lifsey know that you were
9 offering this expert to give an opinion on what everybody
10 else said, or was he -- or did Mr. Lifsey think he was just
11 being called to testify about what he did for him and what
12 he found and Mr. Graham to be?

13 MS. FRYAR: When the Court determined that Dr.
14 Frierson was an expert then I felt like his opinion under
15 the rules was --

16 THE COURT: He can give an opinion on any relevant
17 matter, the issue is whether or not it's relevant to the
18 issue of sentencing. You're offering his testimony on a
19 combination of what everybody else did to a reasonable
20 degree of psychiatric certainty.

21 MS. FRYAR: Yes, sir. And I find -- the last of the
22 factors that the Court has to consider is rehabilitation
23 and I think it's important for the Court to know not only
24 what services were provided, but if they were the best that
25 could be done for Mr. Graham.

DR. RICHARD FRIERSON - DIRECT

1 THE COURT: All right. Going back to you.

2 MR. LIFSEY: Well, I stand -- as to her what you just
3 said about critiquing other people's work, I stand by my
4 prior objection. As to rehabilitation, I do object
5 because -- I would renew my objection as to any testimony
6 from that with Dr. Frierson considering that's not the
7 purpose for which he was evaluated and that's not the
8 purpose for which I think the statute contemplates his
9 evaluation, I think it's solely as to competency to stand
10 trial. So I don't think it is -- only Dr. Frierson if he's
11 able -- I don't know if he's able to, but if he is able to
12 give an opinion as to whether or not my client can be
13 rehabilitated one day, I object to that as being outside
14 the scope of both the Court's order for his evaluation and
15 what the statute contemplates as to competency.

16 THE COURT: You have an expert that's going to testify
17 about rehabilitation.

18 MR. LIFSEY: Yes, sir.

19 THE COURT: All right. Do you want to lay a better
20 foundation? Has he reviewed that report? Has he reviewed
21 the defense's expert's report?

22 MS. FRYAR: No, he has not, Your Honor. We can sit
23 him down and let him put her up and then we can put him
24 back up if that's the way the Court wants to do it.

25 THE COURT: Mr. Lifsey, what else do you want to say?

DR. RICHARD FRIERSON - DIRECT

1 MR. LIFSEY: I don't have anything else to say, I
2 stood up in case you had some question to ask me.

3 THE COURT: Anything else you want to add to that,
4 Karen?

5 MS. FRYAR: Okay. Well, obviously Dr. Frierson hasn't
6 viewed the report since it was sent to everybody at 6:15
7 last night, and so I do believe that we can -- that Dr.
8 Frierson is in a position as -- in his expertise that he
9 can discuss this with the Court at this time.

10 THE COURT: Okay.

11 MS. FRYAR: If Mr. Lifsey wants him to read the other
12 report before he does that then if that's what the Court
13 orders then that's what we can do, but I think we can
14 proceed on and get the necessary information for the Court.

15 THE COURT: Here's the thing, we have a packed
16 courtroom and for the benefit of all of those who have been
17 here and listened and for the purpose of this record, this
18 is a new thing, this drawn out sentencing hearing because
19 of the U.S. Supreme Court rules, okay? This is something
20 that, you know, I know I've never done one of these
21 sentencing hearings, I've sentenced many a people but I've
22 never had a long hearing like this, and I don't know how
23 many of my colleagues have done it either since this is so
24 new, so this is new ground we're breaking here
25 unfortunately for some, and fortunately for others. But

DR. RICHARD FRIERSON - DIRECT

1 I'm the one -- the trial judge has the absolute discretion
2 in sentencing, okay? And so as -- since I'm the one who
3 has absolute discretion in sentencing I determine what I
4 want to hear and what I don't want to hear, and in my
5 opinion I don't need to hear what he has to say about the
6 ultimate issue to be decided by me. I have the defense's
7 expert and I have everything the State has presented to me,
8 so on that basis I sustain the objection.

9 MS. FRYAR: Very well, Your Honor.

10 Q So let's just go forward with the antisocial
11 personality disorder, and going forward then instead of
12 behind. What is the significance of Mr. Graham and his
13 history of fighting in your determination with that
14 diagnosis?

15 A Well, aggressiveness towards others, fighting, is a
16 behavior that leads -- one of many behaviors that are
17 necessary to establish that diagnosis.

18 Q And can fire-starting be a part of that diagnosis?

19 A Well, you're talking about conduct disorder symptoms
20 that have to be present prior to age 15 in order to make a
21 diagnosis of antisocial personality.

22 Q So you can't get to antisocial personality disorder
23 until you've already had the diagnosis of conduct disorder;
24 is that correct?

25 A Or at least significant evidence of conduct disorder.

DR. RICHARD FRIERSON - DIRECT

1 Maybe you don't need every single criteria conduct but
2 you've got a lot of them.

3 Q Can you give somebody medication for antisocial
4 personality disorder to make them better? Is there a
5 prescription for that?

6 A No.

7 Q Because why?

8 A Well, it's a behavior disorder and there's no
9 effective medication.

10 Q Are people with personality disorders more likely to
11 commit crimes?

12 A I would not say all personality disorders, this
13 particular one, yes.

14 MS. FRYAR: I don't have any further questions for Dr.
15 Frierson.

16 MR. LIFSEY: Please the Court, Your Honor?

17 THE COURT: Yes, sir.

18 CROSS EXAMINATION

19 BY MR. LIFSEY:

20 Q Dr. Frierson, solicitor asked you about antisocial
21 personality disorder, whether there was a medicine for it.
22 I mean, of course, the medicine of time can help cure
23 antisocial personality disorder or eliminate its affects,
24 correct?

25 A I don't know about cure, but I think that maybe

DR. RICHARD FRIERSON - CROSS

1 certain interventions could lead to a person gaining some
2 skills to better control their anger and aggression.

3 Q Would you discuss the affect of time on aging on
4 antisocial personality disorder?

5 A I'm not sure that there's research, but common
6 perception among psychiatry is that with time
7 antisocial -- persons with antisocial personality disorder
8 become less violent as they age. Violence and aggression
9 is a young phenomena, it's much more common in a 20 to 30
10 year old than a 50 or 60 year old, and a lot of that is
11 because as they age they become less likely to win if they
12 engage in fights or aggression, so they tend to become
13 less violent in that way.

14 Q It's the reason that people commit crimes at a higher
15 rate in their teens and twenties than they do in their
16 forties, fifties or sixties, violent crime; isn't that
17 correct?

18 A Yes.

19 Q And the diagnosis of antisocial personality disorder
20 is not an unusual one among people who are in prisons.

21 A Correct.

22 Q There are lots and lots of people in prison who are
23 diagnosed with antisocial personality disorder.

24 A Yes.

25 MR. LIFSEY: I don't have any further questions,

DR. RICHARD FRIERSON - REDIRECT

1 Doctor.

2 REDIRECT EXAMINATION

3 BY MS. FRYAR:

4 Q Dr. Frierson, is the prognosis worse for folks who
5 have early onset of conduct disorder in the long run? The
6 earlier you start having oppositional defiant behaviors and
7 conduct disorders the prognosis is worse for those people
8 to continue in those types of behaviors; is that correct?

9 A Well, we have a rubric that the earlier the onset the
10 worse the prognosis, and that's with anything in
11 psychiatry, schizophrenia, depressive disorders and
12 behavioral disorders, like conduct disorder and
13 oppositional defiant.

14 Q And so with time you indicated to Mr. Lifsey that the
15 antisocial behaviors are not as volatile sometimes as what
16 the research shows. And when does that usually occur, at
17 what age does research show?

18 A Like I said I think I made a point of saying I'm not
19 quoting research, but it's just the common perception
20 among psychiatrists is that people with antisocial
21 personality disorder age, the older they get the less
22 likely they're to engage in violent behavior.

23 Q So are you saying if somebody is 50 or 60 years old
24 they're less like that than someone who is --

25 A Twenty or 30, yes.

DR. RICHARD FRIERSON - REDIRECT

1 Q And what can you tell us about the combination of
2 somebody with antisocial personality disorder and low
3 functioning disabilities? Is there a correlation with
4 their --

5 A You mean borderline?

6 Q Yes, sir.

7 A Studies have shown that the combination of antisocial
8 personality disorder and low intelligence, that those
9 individuals tend to be more violent long term than people
10 with antisocial personality disorder or low IQ alone, the
11 combination.

12 MS. FRYAR: Okay. Thank you, Dr. Frierson.

13 THE COURT: All right. Thank you, sir, you can step
14 down, you are also free to leave if you would like to.

15 MS. FRYAR: I would offer Dr. Frierson's report as
16 well.

17 THE COURT: That's the competency evaluation.

18 MR. LIFSEY: I think it's in evidence already.

19 MS. FRYAR: I think it is in there.

20 THE COURT: Let's bring it in as 15.

21 (Dr. Frierson's report was received as State's 15.)

22 MS. FRYAR: State calls Molly Leake.

23 The witness, MOLLY LEAKE, was first duly sworn and
24 testified as follows:

25 DIRECT EXAMINATION

DR. RICHARD FRIERSON - REDIRECT

1 BY MS. FRYAR:

2 Q Ms. Leake, where are you employed?

3 A I'm employed with the South Carolina Department of
4 Probation, Parole and Pardon Services.

5 Q How long have you been there?

6 A I've been employed for 22 years.

7 Q What is your position there?

8 A I'm currently the agent in charge for the Chester
9 County field office.

10 Q And were you in that same position back in 2013 and
11 2014?

12 A Yes.

13 Q If you could tell us, was Mr. Robert Isaiah Graham
14 placed on probation with your department?

15 A He was.

16 Q And if you could tell the Court when he was placed on
17 probation?

18 A Mr. Robert Graham was placed on probation on January
19 22nd of 2014 under indictment 2014-GS-12-069 for burglary
20 third. He received a YOA sentence not to exceed five
21 years, five years probation.

22 Q Okay. And so the indictment I believe is for burglary
23 first and he pled to burglary third on that date; is that
24 correct?

25 A That's correct.

MOLLY LEAKE - DIRECT

1 Q At what agent was assigned to supervise Mr. Graham?

2 A Corey Campbell.

3 Q And did you supervise him?

4 A I did.

5 Q And when someone is put on probation, do they sign
6 some standard conditions forms, and did Mr. Graham sign
7 them on that day, January 22nd of 2014?

8 A He did.

9 Q Can you please tell the Judge -- well, let me just ask
10 you this, what is the condition to be on probation
11 regarding having a firearm?

12 A That falls under our standard conditions of
13 supervision, the form 1239, condition four advises the
14 offender that he cannot possess or purchase any firearm or
15 any other dangerous weapons, and that he shall not
16 associate with a person who has a criminal record, or any
17 person that the agent would instruct him to avoid.

18 Q And so when Mr. Graham was told that he should not
19 have a firearm while he was on probation nor associate with
20 any person with a criminal record, did he indicate that he
21 did currently have a firearm?

22 A He did that when he was actually signing another form
23 at that same time, project cease fire, form 1386.

24 Q What is project cease fire form 1386?

25 A That form puts probationers -- notifies them it is

MOLLY LEAKE - DIRECT

1 unlawful for them to possess any firearm, ammunition or
2 any other dangerous weapon based on their conviction in
3 court that day and then the possible punishments if they
4 would possess.

5 Q And what, if anything, did Mr. Graham say regarding
6 that?

7 A It's actually not -- at the form -- there's a portion
8 of the form at the bottom of the form, it allows the
9 offender to disclose if they have a firearm, and at that
10 point in time he did disclose that he had in his words a
11 Glock 40.

12 Q And where did he say he had it?

13 A He said he had it at a stash spot.

14 Q What was he advised to do regarding having the .40
15 Glock in his stash spot?

16 A He was advised that he would have to discuss that
17 with his agent and that he would not be allowed to possess
18 a firearm and he stated that he understood.

19 Q Would you please relate for the Court the appointment
20 dates that y'all had with Mr. Graham and what if anything
21 happened during these different subsequent appointments?

22 A His first appointment was canceled due to inclement
23 weather, the state was under a hazardous weather in
24 February of 2014. The first time his agent met with Mr.
25 Robert Graham and his mother was actually during a home

MOLLY LEAKE - DIRECT

1 visit conducted on February 21st where Mr. Robert Graham
2 was at home with his mother. They discussed the need to
3 reschedule his intake and instructed him -- Mr. Graham
4 told his agent at that time, reported no problems, no
5 issues. He then came into our office on February 26th
6 where they reviewed his sentence, his special conditions
7 of the Court. He was referred for GED counseling to work
8 towards obtaining his GED. He tested positive for and
9 confessed to using marijuana. He was advised by his agent
10 to refrain from using marijuana while on probation and
11 also advised that any future tests or confessions could
12 result in a referral and/or legal process.

13 Q During the month of January, isn't it true that he had
14 been restrained from any contact with the victims in this
15 case?

16 A It was -- his sentence sheet actually read that no
17 contact with victim unless approved by the probation
18 department or his probation agent.

19 Q And was it reported to you that he had violated that
20 condition on January 28th by being at his father's home
21 with the victim in that case?

22 A That's correct.

23 Q And his father and Ms. Sanders were actually the
24 victims of the crime for which he was found guilty; is that
25 correct?

MOLLY LEAKE - DIRECT

1 A That's correct.

2 Q Continue on past February date, what was done
3 thereafter?

4 A He missed two appointments that were scheduled with
5 our office. He then came in on March the 18th, had a
6 discussion with his agent at that time, they discussed the
7 need for him to continue with his GED counseling, and they
8 discussed the need for Mr. Graham to maintain his
9 appointments as scheduled. That was his last report in
10 March. He came back into the office April 1st. On April
11 the 1st he was drug tested, he was again positive for
12 marijuana and a referral was made for treatment.

13 Q During this period of time was he to get his GED?

14 A He was to be working towards obtaining his GED, he
15 was actually going to classes at Celebrate Recovery here
16 in town.

17 Q Okay. And so continue on regarding your -- the
18 supervision of this case with Mr. Corey Campbell's
19 supervision.

20 A Mr. Campbell notes that on April 4th, 2014 he was
21 advised by the Chester Police Department that Mr. Graham
22 was on trespass notice at Ramsey Grove Apartments. It was
23 then reported on April 17th, 2014 that Mr. Graham was
24 currently in custody at the Chester County Detention
25 Center, he was arrested two charges of possession of

MOLLY LEAKE - DIRECT

1 marijuana and possession of alcohol by a minor. He was
2 one of five persons in a vehicle that was stopped, he ran
3 from law enforcement at that time but he was arrested a
4 few days later and subsequently convicted, pled guilty to
5 possession of marijuana and possession of alcohol by a
6 minor and receive a sentence of 15 days on each charge.

7 Q I'm going to show you this appointment ledger report
8 from April 17th of 2014 and ask if you can read those first
9 two paragraphs.

10 A This is a document taken from Agent Campbell where he
11 is speaking with Mr. Robert Graham's mother, she's
12 advising that he's currently incarcerated. She called to
13 express her concerned with Robert Graham's behavior. She
14 started by giving background information on him and said
15 that he had been diagnosed with ADHD with violent
16 tendencies since he was three years old. She also said he
17 is a borderline personality disorder and severe mood
18 disorder. She states that he goes into fits of rage and
19 has assaulted her several times. He has also sent two
20 children to the hospital after assaulting them when he was
21 younger. She says that he needs to be going to a
22 psychiatrist but he denies that anything is wrong with
23 him. Recently he comes home drunk and high and also with
24 cuts and scrapes all over him after getting into a fight.
25 He is very involved in the Roundtree Circle Gang and Agent

MOLLY LEAKE - DIRECT

1 Campbell has put in parenthesis that Mr. Robert Graham has
2 admitted this to his agent before. She states he would
3 stay away from home for days on end and she worries that
4 he is dead when this occurs. And then they go into that
5 fact of his charges and where he is at and they talk about
6 the fact that Campbell has referred him.

7 Q And so he had been charged with what at that time, Ms.
8 Leake?

9 A What happened after that was that Agent Campbell
10 staffed his case with myself, we issued a notice of
11 violation. This is an in-house sort of written reprimand
12 that advised Mr. Graham that he's violated his supervision
13 and that conduct doesn't need to continue.

14 Q Okay. And so what followed after that?

15 A That actually happened on April the 28th, that notice
16 of violation was issued for the law enforcement contact.
17 Mr. Graham failed to report on May 6th of 2014. On May
18 13th of 2014 he did come in and report, he talked about
19 attempting to obtain employment at Taco Bell, talks about
20 that he attends Christ Central. And the agent that took
21 the report, I believe it was Agent Whiteside, notes that
22 he appears to be working towards compliance.

23 Q So things are looking better. What happens after
24 that?

25 A On May 27th he reported in our office. He had been

MOLLY LEAKE - DIRECT

1 instructed several times to bring residence verification,
2 he failed to do so. Mr. Robert Graham reports that he is
3 stressed out due to not having a job, power has been
4 turned off at his home and his mother being in and out of
5 the hospital. He states he's not going to Christ Central.
6 At that point in time he was referred to Alston Wilkes
7 Society and he stayed for an employment class at that time
8 on May the 27th.

9 Q And then it turns out he had stopped going to Christ
10 Central for his GED counseling; is that correct?

11 A That's correct.

12 Q What happened after that?

13 A He was scheduled to report into our office for DNA
14 collection on June the 9th, he failed to do so. On June
15 23rd Agent Campbell conducted a home visit at his house
16 where he found Mr. Robert Graham at home sleeping. He
17 advised Mr. Graham that he had missed his last scheduled
18 report. Agent Campbell advised Mr. Graham that he had
19 received reports that he was carrying a gun, agent was
20 allowed to look around the home and search the home.
21 Agent Campbell talks about where he looked in his
22 residence and that he did not find the weapon. Agent
23 Campbell noted that Mr. Robert Graham continues to be
24 non-compliant and does not appear to have the necessary
25 motivation to better himself, that he is actively involved

MOLLY LEAKE - DIRECT

1 in the Roundtree Circle Gang and, in fact, admitted
2 running from law enforcement the day prior.

3 Q It was from those law enforcement officers that Mr.
4 Campbell was looking for a gun after talking with law
5 enforcement officers the previous day?

6 A Yes.

7 Q Continue, please, ma'am.

8 A He was at that point in time -- Agent Campbell left
9 the residence and Mr. Graham was instructed to report to
10 the office the following day and he failed to do so.

11 Q All right. What happened after that?

12 A June 27th, Agent Campbell took a phone call from Mr.
13 Robert Graham's mother, she was upset regarding her son,
14 Agent Campbell and myself had then staffed the case. It
15 was discovered that Mr. Robert Graham had been involved in
16 a traffic stop with the Rock Hill Police Department on
17 June 24th.

18 Q Can you tell the Judge about the circumstances of
19 that?

20 A Yes. According to the Rock Hill Police Department
21 incident report, on June 24th of 2014 Mr. Robert Graham
22 was one of four occupants of a vehicle that was stopped by
23 the police department, the officer noticed the smell of
24 marijuana coming from the vehicle, talks about that
25 occupants of the car were searched including Mr. Graham.

MOLLY LEAKE - DIRECT

1 Mr. Graham was the right rear passenger of the vehicle,
2 found on Mr. Graham was an unmarked pill bottle filled
3 with white pills. Mr. Graham, according to the incident
4 report, stated that he sometimes sells them, talks about
5 the other individuals in the car that are minors.

6 Q And was there another adult in the car?

7 A There was, the driver of the car was Quintin
8 McClinton.

9 Q All right. Continue, please.

10 A The officer reports that all of the suspects were
11 detained. The officer discovered a weapon in the vehicle,
12 it was a stolen gun out of Chester. The stolen gun was
13 actually found on the 16 year old that was in the car,
14 that 16 year old was arrested and charged with unlawful
15 carrying of a handgun and possession of a stolen vehicle,
16 a stolen pistol. Mr. McClinton was arrested for
17 possession of marijuana second. Mr. Graham was arrested
18 for unlawful possession of prescription drugs and
19 transported to the Rock Hill City jail. It was during the
20 transport that the officer that transported Mr. Graham
21 could smell fresh marijuana coming from Mr. Graham. After
22 searching him twice Mr. Graham admitted to hiding an
23 amount of marijuana on him. At that point in time he was
24 issued a citation for possession of marijuana first
25 offense and the vehicle was towed.

MOLLY LEAKE - DIRECT

1 Q All right. And then thereafter was there further law
2 enforcement contact, or was there another incident report
3 regarding Mr. Graham?

4 A There was. There was an incident report with Chester
5 Police Department involving a malicious injury of property
6 with Mr. Robert Graham and his father, Mr. Robert Earl
7 Graham, where it states that Mr. Robert Graham was at his
8 father's home, they got into an argument. Upon exiting
9 the residence Mr. Robert Graham did kick the storm door as
10 he left. The officer taking the report did observe the
11 damage to the door and Mr. Graham, the father, stated that
12 he did wish to pursue charges against his son, and that a
13 warrant would be requested for him, that was on June 22nd.

14 Q I am referring to page 13 of 15 of the appointment
15 ledger report, ma'am. Mr. Graham stated that his 17 year
16 old son, Isaiah, came to his house and was acting strange.
17 He stated that he believed that Isaiah was on some type of
18 drug because of strange behavior and that is when the
19 damage to the door occurred; is that correct?

20 A That's correct, yes.

21 Q Following that incident what occurred? He was charged
22 with malicious injury to personal property; is that
23 correct?

24 A It just says, the officer's notes, is that the father
25 wanted to press charges and a warrant will be requested

MOLLY LEAKE - DIRECT

1 for Isaiah Graham is what it says.

2 Q Please continue on. Here we are at the end of June,
3 continue on.

4 A Agent Campbell then issued a warrant for Mr. Robert
5 Graham's arrest. He charged him with failing to follow
6 the advice and instructions of his agent, failing to
7 refrain from violating state law as associating with
8 people with a known criminal record, and possessing a
9 controlled substance based on a preponderance of the
10 evidence as outlined in the incident reports from the
11 Chester County Sheriff's Office. On June 22nd of 2014 in
12 the Rock Hill Police Department and on June 24th of 2014
13 for failure to immediately notify his agent of law
14 enforcement contact in reference to both incidents. For
15 failing to report as instructed, he missed two scheduled
16 reports dates, prior to that June 27th date he failed to
17 report on June the 9th and June 24th. For failing to work
18 diligently at a lawful occupation, having been unemployed
19 for the duration of his supervision, and providing no
20 verification otherwise. For failing to attend his court
21 ordered GED counseling, and for failing to make complete
22 and truthful reports to his agent having lied about
23 attendance to GED counseling, for failure to pay his court
24 ordered obligations.

25 Q All right, ma'am. And so at that time what was the

MOLLY LEAKE - DIRECT

1 date that the probation violation was issued, ma'am?

2 A June 27th.

3 Q So from June 27th on there is an active probation
4 warrant for this young man; is that true?

5 A That is.

6 Q What happened on July the 8th? I'll refer you to your
7 appointment ledger.

8 A Received a phone call from Mr. Robert Graham's
9 mother, she states that she's extremely frustrated with
10 her son. She reports that she is disabled and in poor
11 health. She became upset and cried and states that he has
12 been arrested 19 times and he is only 17 years old. She
13 states that he was supposed to go to court yesterday at
14 5:00 p.m. in regards to the case against his father, I'm
15 assuming that's the malicious injury to property case.

16 Q But he did not appear at that time; is that correct?

17 A It does not appear so.

18 Q What happened thereafter?

19 A Mr. Graham came into the probation office. When you
20 enter in our probation office you have to immediately sign
21 in for who you are there to see. Mr. Graham came in the
22 probation office, signed in, went to the lobby and then
23 left.

24 Q And so you didn't have an opportunity to serve your
25 warrant; is that correct?

MOLLY LEAKE - DIRECT

1 A No, ma'am, he left before we could see him. And then
2 he called the office -- if you'll see on July 11th, we
3 take a telephone call from Mr. Robert Graham. In response
4 to telling him to come into the office he reports he's
5 unable to do that right now, but states that he will
6 report on Tuesday, July the 15th. And he also added that
7 he has no good reason why he left the probation and parole
8 office earlier this week without being seen.

9 Q And so that last phone call was on July 11th of 2014?

10 A Yes.

11 Q And y'all were attempting to put a probation violation
12 warrant on him at that time; is that correct?

13 A Yes, ma'am.

14 Q Were you able to serve the probation warrant on him?

15 A Only after he was in the custody of the sheriff's
16 office.

17 Q So the murder of Shyheim Kennedy occurred on July
18 16th. When were you able to finally put your hands on him
19 and put the warrant on him?

20 A He was served on July 18th.

21 MS. FRYAR: I don't have any further questions for
22 you, Ms. Leake.

23 MR. LIFSEY: Just very briefly.

24 CROSS EXAMINATION

25 BY MR. LIFSEY:

MOLLY LEAKE - CROSS

1 Q The burglary case that he was on probation for
2 involved his father; is that correct?

3 A That's correct.

4 Q If fact, he was accused of burglarizing his father's
5 home?

6 A Correct.

7 Q And you mentioned at least one or maybe more cases
8 that involved another man named Quintin McClinton?

9 A Correct.

10 Q Quintin McClinton is an older individual, is that
11 correct, older than my client certainly?

12 A Yes.

13 Q And he is someone that you and law enforcement in
14 Chester County I'm assuming have had regular, regular
15 contact with, correct?

16 A Correct.

17 THE COURT: All right.

18 MS. FRYAR: I want to followup on that.

19 REDIRECT EXAMINATION

20 BY MS. FRYAR:

21 Q And to your knowledge in law enforcement, Mr. Quintin
22 McClinton is the leader of the Roundtree Gang; is that
23 correct?

24 A That's correct.

25 MS. FRYAR: Thank you.

WAYNE ALLEY - DIRECT

1 THE COURT: Thank you, ma'am, you may stand down. We
2 will take a ten minute recess.

3 (A recess was taken.)

4 THE COURT: You may call your next witness.

5 MS. FRYAR: Yes, Your Honor. The State calls Major
6 Wayne Alley.

7 The witness, WAYNE ALLEY, was first duly sworn and
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MS. FRYAR:

11 Q Major Alley, where are you employed?

12 A Chester County Sheriff's Office.

13 Q And what do you do for the sheriff's department?

14 A I am the jail administrator.

15 Q And have you been the custodian of the jail, or you
16 are the director of the jail here in Chester County; is
17 that correct?

18 A Yes, ma'am.

19 Q And have there been disciplinary infractions involving
20 inmate Robert Graham?

21 A Yes, ma'am.

22 Q If you could, please tell the Court when he first
23 arrived there on July 20th, was there an incident where he
24 had ripped a sheet and wrapped it around a telephone in his
25 cell?

WAYNE ALLEY - DIRECT

1 A Yes, ma'am.

2 Q And during that period of time was someone called to
3 speak with him regarding his mental health situation?

4 A Yes, ma'am.

5 Q And during that time didn't he just say he was
6 exercising with it?

7 A Yes, ma'am.

8 Q And so y'all did put him in a suicide spot just to be
9 on the safe side; is that correct?

10 A Yes, ma'am, as a precaution.

11 Q And then on August 29th there was some action by Mr.
12 Graham. Could you please tell the Court what happened
13 during that time?

14 A Mr. Graham knocked the sprinkler head lose, he
15 proceeded to flood the cell that he was housed in. At
16 first he refused to come out of the cell, coaxed out by
17 Officer Graham, was handcuffed and escorted to another
18 area, and while being escorted Mr. Graham resisted
19 officers and at that point even attempted to run away from
20 the officers by --

21 THE COURT: Slide that microphone to you. There you
22 go, that should be better.

23 Q So you were saying that at one point he attempted to
24 run from the officers and he got stopped by the locked
25 doors. What happened thereafter, sir?

WAYNE ALLEY - DIRECT

1 A An altercation ensued with officers and Mr. Graham,
2 and Graham yelled, "I'm going to kill you and that's a
3 Roundtree promise." Graham was placed on max security,
4 continued to say over the intercom to the officer in the
5 control room that he, Graham, was going to kill "those
6 mother fuckers --"

7 Q Meaning the officers, is that correct, sir?

8 A Meaning the officers, yes, ma'am, "And that's a
9 Rountree promise." Graham continued to yell obscenities
10 over the intercom until the officers in the control room
11 cut the intercom off to Graham's cell.

12 Q What happened to him as a result of those infractions?

13 A He was placed on maximum security for 14 days.

14 Q And those actions are threatened the staff at the
15 facility, the destruction of the property, disrespect to
16 the staff and the use of profanity; is that correct?

17 A Yes, ma'am.

18 Q Did something occur on September the 10th, sir?

19 A Yes, ma'am. He was interfering with facilities
20 security.

21 Q Okay.

22 A Mr. Graham walked up to the control desk, got up on
23 the side of it via the step and turned the cell block
24 lights off.

25 Q Turned the lights off?

WAYNE ALLEY - DIRECT

- 1 A Yes, ma'am.
- 2 Q And what happened to him with that?
- 3 A Lock down in his cell for 24 hours.
- 4 Q Did he lose visitation privileges as well?
- 5 A Yes, ma'am, loss of visitation.
- 6 Q That same day did something else happen?
- 7 A Yes, ma'am.
- 8 Q What else happened?
- 9 A Disrespect to staff, use of profanity. Mr. Graham
- 10 asked if he still had visits scheduled, officer informed
- 11 Graham that his visits had been canceled because of his
- 12 behavior and the incident on the same day. Graham then
- 13 said "fuck you" and continued to use profanity against the
- 14 officer.
- 15 Q Nine days later do we have a situation with Mr. Graham
- 16 involving a weapon?
- 17 A Yes, ma'am.
- 18 Q Tell the Judge about it, please.
- 19 A During the search of the cell block shake down
- 20 officers found a 12-inch shank made of a broken broom
- 21 handle in Graham's cell. Shank was found behind Graham's
- 22 bunk. While being escorted for disciplinary purposes
- 23 Graham pulled away from the officers and lunged toward the
- 24 officer. Graham resisted attempts to restrain him.
- 25 Q And so what happened to him as a result of that, Major

WAYNE ALLEY - DIRECT

1 Alley?

2 A Lost all privileges seven days, placed in isolation
3 and segregation from all other inmates.

4 Q Okay. So seven days you isolated and segregated him
5 from other inmates; is that correct?

6 A Yes, ma'am.

7 Q And so then thereafter was there an incident in
8 December of 2014?

9 A Yes, ma'am.

10 Q Tell the Judge about it.

11 A While officers conducted head count Graham refused to
12 remove the blanket hanging in front of his cell door.
13 Graham refused to stand at his cell for count. When
14 officers spoke to Graham, Graham said, "Fuck you, I'm not
15 doing a damn thing and I'm not fucking going anywhere."
16 When officers opened Graham's cell door Graham threw a
17 checker board and pieces through the door at the officers.

18 Q What was the result of that, Major Alley?

19 A Lockdown for three days and loss of visitation
20 privileges.

21 Q Was he trying to hang a blanket in front of his cell
22 door so you couldn't see what he was doing inside, is that
23 what that was about?

24 A I'm assuming, ma'am.

25 Q What happened on March the 29th?

WAYNE ALLEY - DIRECT

1 A Graham involved in a fight with another inmate, after
2 the incident while Graham was escorted back to the cell
3 Graham punched a glass window at the entrance of the cell
4 block and cut his hand.

5 Q So he broke the glass when he punched it and cut his
6 own hand?

7 A Yes, ma'am.

8 Q And what was result of that?

9 A He was locked in his cell.

10 Q And what happened May 2nd of 2015?

11 A Officer told Graham and another inmate to quit the
12 horse playing. Graham stated, "We ain't doing nothing."
13 Officer again instructed Graham and other inmate to stop
14 or they would have their TV cutoff for the night. Graham
15 then screamed loudly, "Man, fuck that, I don't give a
16 fuck." Officers at that point had to point taser at
17 Graham and handcuff Graham in order get him to return to
18 his cell. During the incident Graham stated, "You ain't
19 nothing without that taser."

20 Q And did he get lockdown for that offense, Major Alley?

21 A Yes, 24 hours.

22 Q What happened following that on May the 21st?

23 A Robert Graham and another inmate locked themselves in
24 the cell and were throwing water and hygiene products at
25 each other, officer told Graham to go to Graham's cell.

WAYNE ALLEY - DIRECT

1 As officer attempted to place Graham in his cell Graham
2 became noncompliant and tried to break through the
3 officers to the get to another inmate.

4 Q What happened as a result of that? What action was
5 taken?

6 A 72 hours loss of privileges.

7 Q On May the 26th then was there an assault on staff,
8 use of profanity, disrespect to staff, interfering with
9 staff duties and disruptive behavior?

10 A Yes, ma'am.

11 Q What happened to cause that?

12 A Officers observed a blanket hanging over his cell
13 door and three inmates were fighting, officers broke up
14 the fight. Inmate one said that he was jumped by Graham
15 and inmate two. Graham stated that he, Graham, was only
16 trying to break up the fight. Officer began to escort
17 Graham to his cell, Graham then spit on inmate one.
18 Graham then stated that he wanted to make a phone call and
19 went to the phone in the cell block, officers hung the
20 phone up and Graham started trying to make a call after,
21 officer told Graham again to go to his cell. When Graham
22 got to the front of the his cell Graham refused to go in
23 and he started swinging and punching at the officers.
24 Graham punched the officer three times with his right
25 fist, hit the officer in the face, officer ended up on the

WAYNE ALLEY - DIRECT

1 floor on his back with Graham on top. Two officers then
2 grabbed Graham and Graham fell on the ground still
3 fighting.

4 Q Fighting the officers.

5 A The officers, yes. Officers restrained Graham so he
6 could place him in handcuffs. Graham continued to use
7 profanity and spit on one of the officers.

8 Q And so what happened after that?

9 A Lockdown 14 days, loss of privileges.

10 Q Okay. Same day did something else happen?

11 A He had disrespect staff, was perverted sex act.
12 Graham unplugged his camera in his cell, smeared something
13 all over the camera throughout the night of 5/27 of '15.
14 Graham had also exposed his penis to female officer while
15 doing their rounds. Graham was masturbating on one of the
16 female rounds and just having his penis exposed. While a
17 female officer was passing out breakfast, Inmate Graham
18 had his penis and put it out through the hole in the box
19 while standing directly in front of his cell door.

20 Q What happened as a result of that?

21 A Additional three days after the 14 day lockdown in
22 his cell.

23 Q Was there another disrespect to staff and perverted
24 sex act the following day?

25 A Yes, ma'am, on the 27th.

WAYNE ALLEY - DIRECT

1 Q Tell the Judge.

2 A At 11:30 a.m. female officer picking up food trays,
3 Graham laying down on his bunk on his bed holding his
4 penis.

5 Q And what was result of that?

6 A Three days extended lockdown.

7 Q All right, sir. Then June 3rd, 2015, was there
8 another disrespect to staff perverted sex act?

9 A Yes, ma'am.

10 Q Please tell the Judge about it.

11 A 5/30 while female officers picking up trays Graham
12 was standing in his cell in the bars, his boxers on the
13 floor masturbating with one hand holding the tray with the
14 other.

15 Q And what happened as a result of that?

16 A Extended lock down eight days.

17 Q All right, sir. Keep on locking him down and not any
18 results; is that correct?

19 A At the time, no.

20 Q June 8th of 2015, did we have another disrespect to
21 staff and perverted sex act?

22 A Yes, ma'am.

23 Q Tell the Judge about it.

24 A When officers were picking up trays Graham asked for
25 more tea, when officer was trying to get Graham's cup to

WAYNE ALLEY - DIRECT

1 fill it Graham was standing in his cell with his private
2 parts hanging out of his boxers.

3 Q And did we do an additional lockdown after that?

4 A Extended eight days.

5 Q Then after that, after he was locked down and released
6 July 3rd of 2015, was there another incident?

7 A Yes, ma'am. Officer told Graham to get off the
8 bench, Graham stated, "Man, you need to leave me the fuck
9 alone, I ain't got time for this shit, I'm trying to do my
10 little bit of time and get the hell out of here."

11 Q And what was the result of that?

12 A Loss of telephone privileges.

13 Q And then July 24th, was there disruptive behavior and
14 interfering with staff duties?

15 A Inmates were told repeatedly throughout the shift to
16 get off the tables and stop yelling, inmates refused the
17 commands. The incident also involved Quintin McClinton.

18 Q And what happened on that?

19 A Loss of rec. for one day.

20 Q July the 30th, was there disrespect to staff,
21 disrespectful behavior?

22 A Yes, ma'am. Inmates yelling and officer asked them
23 to quiet down, inmates began yelling louder and officer
24 again asked them to quiet down. Inmates ordered by
25 officers to quiet down, began yelling even louder.

WAYNE ALLEY - DIRECT

1 Incident involved Quintin McClinton.

2 Q That incident involved Quintin McClinton. And what
3 was the action on that, sir?

4 A Loss of privileges.

5 Q And just for one day, correct?

6 A Yes, ma'am.

7 Q And then what happened on September 7th of 2015?

8 A During visitation with his mother Graham got into a
9 verbal argument with his mother, officer terminated visit
10 and Graham refused to be handcuffed. Graham walked down
11 the hallway towards the cell block being very loud and
12 disruptive and started shouting out loud profanities and
13 threatening remarks against officers.

14 Q And after threatening the officer, what was the
15 repercussion for that?

16 A Loss of visitation.

17 Q Sir, September 6th of 2015 were the actions that
18 threatened staff facility and assault on staff, disrespect
19 to staff, disruptive behavior and creating a riot or
20 participating in a riot. If you could tell the Court about
21 that.

22 A 1:17 a.m. inmates began to yell, kick doors, slamming
23 trash can over and beeping over the intercom stating they
24 were going to fight all officers. Disobeyed all commands
25 to stop. Graham was kicking the main door. When officers

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1 attempted to escort Graham back to the cell, Graham yanked
2 his arm away and demanded an officer touch him. He said
3 he would have to be tased before he was put back in his
4 room. Graham began to get close to officers, Graham was
5 then tased and handcuffed, Graham then started spitting in
6 officers' faces. When officers attempted to place a spit
7 mask on Graham, Graham bit down. Incident also involved
8 Quintin McClinton.

9 Q And so this incident, even though that he had spit in
10 the officers faces while the officers were attempting to
11 put a -- is it a net, spitting mask, is that what that is?

12 A Partially solid on one part of it and the top part
13 was mesh.

14 Q And while the officer was trying to put that on him,
15 that's when he bit the officer on the finger; is that
16 correct?

17 A Yes, ma'am.

18 Q Let's go to what happened to him -- and that involved
19 Quintin McClinton. What was the action taken after that?

20 A Lockdown and loss of all privileges.

21 Q All right, sir. And was he locked down for three
22 days?

23 A Yes, ma'am.

24 Q What happened on that very same day? Was there
25 another incident?

WAYNE ALLEY - DIRECT

1 A There was, same day as the above report. During cell
2 search on 8/22 Graham became aggressive as officer asked
3 him to put his hands behind his back. Officer observed
4 smoke in the cell next to the toilet. Officers found
5 cigarette lighter in Graham's jumpsuit and when being
6 escorted Graham began to yell loudly. Graham spit on
7 officers twice.

8 Q And what was the repercussions for that?

9 A Lockdown extended three days.

10 Q And then on September the 9th, was there another
11 incident?

12 A Yes, ma'am. Mr. Graham was yelling when being
13 escorted back to his cell.

14 Q And he lost his telephone privileges for that; is that
15 correct?

16 A Yes, ma'am.

17 Q On December 30th, was there another incident?

18 A Yes, ma'am. During incident officers report covering
19 up all intercoms with toilet paper so the intercoms would
20 not function. Incident involved Quintin McClinton also.

21 Q So what's this all about? They covered up the
22 intercoms with toilet paper so they were not functional?

23 A The intercom systems is a two-way type system, it can
24 be clicked on to hear what's happening in the cell plus
25 inmates can talk two ways to the officer.

WAYNE ALLEY - DIRECT

1 Q And so y'all were not able to hear the conversation
2 between he and Mr. McClinton at that time then?

3 A I don't know if it was an active monitoring of the
4 conversations, the officers just found it doing their
5 rounds.

6 Q On January the 6th of this year what happened?

7 A Interfering with security, tampering cell, covered up
8 all intercoms in the cell blocks, intercoms were not
9 functioning. Incident also involved Quintin McClinton.

10 Q And what was the result -- what action was taken by
11 you?

12 A Loss of telephone privileges 24 hours.

13 Q All right. And then on January 7, 2016, what was the
14 infraction?

15 A Marijuana was found in the cell, a lighter. This
16 incident also involved Quintin McClinton.

17 Q And so was that resulting in the loss of privileges as
18 well?

19 A Yes, ma'am.

20 Q Investigator -- excuse me, Major Alley, do you have a
21 report that you're reading from, disciplinary infractions
22 of the Chester County jail involving Robert Graham?

23 A Yes, ma'am.

24 Q Is that what you have been reading in part from during
25 your testimony?

WAYNE ALLEY - DIRECT

1 A Some of it.

2 MS. FRYAR: Your Honor, I would like to have this
3 marked and entered.

4 THE COURT: Admitted as State's next in order.

5 (Jail record was received as State's 16.)

6 THE COURT: Anything further from this witness?

7 MS. FRYAR: Nothing from the State, Your Honor.

8 MR. LIFSEY: Very briefly.

9 CROSS EXAMINATION

10 BY MR. LIFSEY:

11 Q Major Alley, did any of these incidents that you
12 described result in criminal charges against my client?

13 A No, sir.

14 Q And I just want to contrast, you run the detention
15 center, correct?

16 A Yes, sir.

17 Q The detention center is not a prison, at least not the
18 section that my client is in, correct?

19 A No, sir.

20 Q In other words, there are significant differences
21 between the Chester County Detention Center and an
22 institution in the South Carolina Department of
23 Corrections, correct?

24 A Yes, sir.

25 Q In fact, the South Carolina Department of Corrections

WAYNE ALLEY - CROSS

1 there is a -- for lack of a better word there are things
2 for clients to do. They put them to work, they earn
3 privileges, they escalate to different jobs based on how
4 they behave, correct?

5 A Yes, sir.

6 Q A very structured situation.

7 A Correct.

8 Q Your facility, because your job is different than the
9 prison, is just a holding facility, correct?

10 A Yes, sir.

11 Q You're basically holding these defendants until they
12 can come to court and have their charges resolved.

13 A Yes, sir.

14 Q You also mentioned a number of these incidents
15 occurred when my client was associated with someone named
16 Quintin McClinton; is that correct?

17 A Yes, sir.

18 Q And Mr. McClinton is older than my client, correct?

19 A To my knowledge, yes, sir.

20 MR. LIFSEY: Thank you.

21 THE COURT: All right. Thank you, sir, you may step
22 down, you are also free to leave if you want to. State can
23 call its next witness.

24 MS. FRYAR: Your Honor, at this time the State would
25 like to present a member or two from Mr. Kennedy's family

1 who would like to address the Court. In speaking with Mr.
2 Lifsey he does not care to cross examine these folks.

3 THE COURT: So the presentation of witnesses is over
4 from the State?

5 MS. FRYAR: The presentation at this time from the
6 State.

7 THE COURT: Okay. I will be certainly glad to hear
8 from the victim's family in regards to sentencing before I
9 hear from the defense in mitigation, absolutely.

10 MS. FRYAR: I am sorry to say that my -- the lady who
11 was representing the family had to go get her child and is
12 not back yet, can we delay that portion of the proceeding?

13 THE COURT: Okay. Mr. Lifsey, are you ready to
14 proceed with your witness?

15 MR. LIFSEY: Yes, sir.

16 THE COURT: You may call your witness.

17 MR. LIFSEY: Thank you, Your Honor. I will just begin
18 by saying I am going to call one witness to the stand,
19 Susan Knight momentarily. I will tell you the rest of my
20 presentation will be by way of statements similar to what
21 the solicitor intended to do.

22 THE COURT: Sure.

23 (Break in proceedings.)

24 MR. LIFSEY: Your Honor, I understand the State's
25 people are here now.

1 THE COURT: Okay.

2 MR. LIFSEY: I'm fine with Dr. Knight -- if it suits
3 the Court for Dr. Knight to sit up there a minute while we
4 finish that portion.

5 THE COURT: Okay.

6 MS. FRYAR: Your Honor, the State would just like to
7 make this brief presentation on the issue of the impact
8 that this has had on the family of Mr. Shyheim Kennedy.
9 Your Honor, Mr. Kennedy was 16 years old. We would like
10 for you to hear first from a member of his family, Ms.
11 Olesha (phonetically) Campbell. In addition we have some
12 photographs that we have that I have shared with Mr.
13 Lifsey, it's just photographs of Shyheim during his
14 growing-up years showing some of his compliments, Your
15 Honor. Shyheim was an accomplished wrestler in middle
16 school, I think he got second in the state at one point at
17 a tournament, and also he was a promising football player,
18 and I have shown these photographs and these documents to
19 Mr. Lifsey. In addition, Your Honor, at the end there is a
20 photograph of Mr. Kennedy that I will be handing up to the
21 Court that was made for that members of the community wore
22 in remembrance of Mr. Kennedy. And if I could just hand
23 these to the Court and if you would then hear from Ms.
24 Olesha Campbell.

25 THE COURT: Ms. Campbell, if you will, the solicitor

1 will show you where to go, ma'am, if you will just stand
2 right there at that corner for me.

3 THE SPEAKER: I just wanted to start off by saying --
4 and I will try not to break down -- but if you met him, to
5 meet him was to love him. You know, he had no enemies, you
6 know, he was just one of a kind. You would never meet
7 anyone else like him ever. He was always smiling, happy,
8 laughing. If you were having a bad day or sad you couldn't
9 help but smile when you seen his face because that's him,
10 goofy, he wanted everybody to be happy. And he'll never be
11 able to get to do things that I think was entitled for him
12 to do as a human being. He will never be able to have a
13 child finish college or nothing, you know, anything like
14 that. He's not here anymore so he can't do that. And it's
15 been really hard on his mother, it's been really hard, she
16 can't even get up and talk. And my grandmother is so --
17 she just can't even eat now, that's just how tore up she is
18 about him. He was snatched away from us for no reason at
19 all in a blink of an eye. As you can see from what I'm
20 hearing today of the past behavior of him it's not going to
21 stop, it's not going to stop.

22 THE DEFENDANT: Don't judge me because you don't know
23 me to judge me. (Defendant stands.)

24 THE COURT: Mr. Graham, you'll get to talk, just
25 settle down. She's not going to judge you, I'm going to

1 judge you. Just relax, I'm going to let you talk at the
2 end.

3 THE SPEAKER: With that being said, that's my example.
4 So just please take that -- you could be saving a lot of
5 peoples lives, a lot. It's not going to stop unless you
6 stop it.

7 THE COURT: Yes, ma'am. All right. Thank you for
8 being here.

9 MS. FRYAR: Your Honor, Ms. Graham (sic) would like to
10 address the Court. This is Sylvia Kennedy Chalk.

11 THE SPEAKER: My son was very well mannered and
12 everybody knowed him, everybody loved him. He never
13 disrespect anybody, he never hurt anybody, he never been in
14 any kind of trouble. Only thing he ever wanted to do was
15 play football. I always tried to tell him did he have a
16 backup plan but that's all he ever wanted was football,
17 been playing since he was five years old. And this to
18 happen to him has just destroyed our life, not the same
19 anymore. I can't even do the stuff I want to do with my
20 other kids because it just don't feel right because I did
21 with all of them. When I take him to school in the
22 morning, stop by McDonald's, take him to get breakfast, now
23 I can't even do that because he's not here. Just
24 everything changed, everything. He came back -- he was
25 just visiting from North Carolina seeing his dad and he

1 said he wanted to come back down here to see his niece get
2 born and he didn't get a chance to see that, that's what he
3 wanted. His life was stripped for nothing, no reason at
4 all and I don't understand it and it's not fair. That's
5 all I would like to say. My son was a good child.

6 THE COURT: Yes, ma'am. Thank you for being here.

7 MS. FRYAR: One more, Your Honor. This is going to be
8 his aunt, Ms. Clarissa Curry.

9 THE SPEAKER: My name is Clarissa Curry, I'm Shyheim's
10 aunt. To know Shyheim, I would say the S would stand for
11 the sunshine and the smile that he would give everybody.
12 When he just walked into the room it would be bright. If
13 you was having a bad day he was going to make it good
14 because he always have an encouraging word to the family,
15 he was like the family baby, and the impact that -- it
16 really changed all of our life, but you know, still I know
17 that it have to go on. But it's just that, you know, we
18 love him so much, and you know, we would like justice to be
19 served fairly. And he was just the inspiration to
20 everybody. But, you know, if you knew him, if he did
21 something bad if you told him not to then this would be his
22 thing, "Aunt Clarissa, I'm not going to do that no more
23 because I love you, I'm not going to be bad no more," and
24 that would be the end and he wouldn't do it in more. But
25 he was just a good kid.

1 THE COURT: Thank you.

2 MS. FRYAR: And finally, I would just add to that,
3 Your Honor, I have checked with the Department of Juvenile
4 Justice, Mr. Kennedy had no record at all with anybody and
5 no indication that he had done anything bad. He just was a
6 regular kid. He enjoyed going to the movies, playing cards
7 with his family and these folks. I have met with them a
8 few times, they have told me everything in their life has
9 changed, they can't have any kind of get together without
10 sadness being all around them because of the loss of
11 Shyheim. And Your Honor, Mr. Anthony Kennedy is his
12 brother, he is in the marines and he is not here to talk
13 with you today but I had the opportunity to talk with him
14 before he left to go in the marines and he wanted me to
15 express to you how much the loss of his brother has meant
16 to himself and the family. And present in the court as
17 well are his grandparents and other members of the family,
18 Your Honor. And we just want to let you know this was a
19 good young man and his loss is very much felt. Thank you.

20 THE COURT: All right. Thank you very much, Madam
21 Solicitor, for the thorough presentation on behalf of the
22 State. We will now shift the focus -- yes?

23 MS. HALL: I just have one question or procedural
24 clarification since this is the first one out of the gate.
25 We will have a chance to come back at the end and argue the

1 law as Aiken v. Byars is laid out based on the testimony of
2 Dr. Knight and everybody else.

3 THE COURT: Absolutely.

4 MS. HALL: I wanted to make sure, it didn't seem
5 appropriate for us to do it now.

6 THE COURT: The lawyers will absolutely have an
7 argument at the end concerning the Miller factors,
8 concerning Aiken versus Bridges (sic) as well as any
9 mitigation as well as anything else you wish for me to
10 consider at the end.

11 MS. HALL: Thank you very much.

12 THE COURT: All right. We will now proceed with the
13 defense case in regards to sentencing. Madam witness,
14 you've been sworn in. Mr. Lifsey?

15 MR. LIFSEY: Thank you, Your Honor.

16 The witness, DR. SUSAN CAROLINE KNIGHT, was first duly
17 sworn and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. LIFSEY:

20 Q First of all, Dr. Knight, would you state your full
21 name, please?

22 A Susan Caroline Knight.

23 Q What do you do for a living, ma'am?

24 A I'm a forensic psychologist.

25 Q Would you tell the Judge a little bit about your

1 background?

2 A Yes. I have a Bachelor's Degree in Psychology from
3 Trinity University in San Antonio, Texas. A Master's
4 Degree in Clinical Psychology from the University of
5 Louisville in Kentucky, and a Ph.D. Doctorate in Clinical
6 Psychology from the University of Louisville in Kentucky.
7 And during that time I worked at the Kentucky State
8 Reformatory, which is a male prison in Kentucky. I then
9 completed a predoctoral internship at the Buckner Facility
10 with the U.S. Department of Justice, the Federal Bureau of
11 Prisons where I worked with inmates and conducted forensic
12 evaluations. And then after that completed a
13 post-doctoral fellowship at the Keck School of Medicine in
14 Los Angeles in Forensic Psychology, while there working at
15 the Los Angeles County Jail for several years. In January
16 of 2008 I came to South Carolina and started a position at
17 the Medical University of South Carolina as a full-time
18 faculty member. I worked there for six years in their
19 department of psychiatry, the division of forensic
20 psychiatry, and I taught medical students and residents
21 about forensic psychology while I was there. During that
22 six years I was a state examiner conducting competency to
23 stand trial, criminal responsibility and evaluations for
24 the state during those six years. And then in August of
25 2013 I'm in private practice in Charleston conducting

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1 forensic evaluations.

2 Q Have you testified in court before?

3 A Yes.

4 Q Have you been qualified as an expert before?

5 A Yes.

6 MR. LIFSEY: Your Honor, I would move that Dr. Knight
7 be qualified as an expert in the field of forensic
8 psychology.

9 THE COURT: Any further voir dire as to the doctor's
10 qualifications?

11 MS. FRYAR: No.

12 THE COURT: So ordered. You are qualified as an
13 expert in that field.

14 Q Dr. Knight, at my request did you conduct an
15 evaluation of my client?

16 A Yes.

17 Q Was that for the purpose of evaluating him and making
18 presentations to the Court regarding the applicability of
19 what, for lack of a better word, I'll call the Miller
20 factors?

21 A Yes.

22 Q Are you familiar with the case of Miller -- the Miller
23 case from the United States Supreme Court?

24 A Yes, I am.

25 Q And you were familiar with that concerning juveniles

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1 and potential sentences for juveniles charged -- facing
2 life in prison, correct?

3 A Yes.

4 Q During the course of your evaluation, did you consult
5 any number -- actually did you consult 71 different sources
6 of information?

7 A Yes, I did.

8 Q Did you prepare a report?

9 A I did.

10 Q Do you have a copy of that report?

11 A Yes.

12 Q So you emailed me yesterday evening sometime a scanned
13 copy of this report; is that correct?

14 A Yes, this is actually the original.

15 Q You emailed me yesterday evening sometime a scanned
16 copy of this report; is that correct?

17 A Uh-huh.

18 Q This is the original; is that correct?

19 A Yes.

20 MR. LIFSEY: Your Honor, I would mark this as Defense
21 Exhibit I think it would be 2.

22 THE COURT: All right. Defendant's Exhibit 2 admitted
23 into the record.

24 (The report was received as Defendant's 2.)

25 MR. LIFSEY: And this is, other than being the

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1 original signature, the same document that I forward to
2 you, your law clerk and the solicitor yesterday evening.

3 THE COURT: I have it.

4 Q Dr. Knight, I would ask you to take a look at that
5 report. You're familiar with it obviously since you just
6 sent it to me last night, correct?

7 A Yes.

8 Q I just want to ask you just about a few things,
9 because I knew the Judge as he stated has reviewed this
10 report in its entirety. But I would ask you, what are the
11 Miller factors, the factors the Court says we should
12 consider when considering whether a juvenile deserves life
13 in prison?

14 A Well, I use the factors set out by the South Carolina
15 Supreme Court in Aiken v. Byars. So those factors would
16 be the hallmark features of youth, the home and family
17 environment of the juvenile, the circumstances of the
18 homicide, the incompetencies of youth, and the possibility
19 of rehabilitation.

20 Q Let's take those sort of one at a time, and I know
21 you've written it out, but give me a brief summary of what
22 your opinions were and what opinion you have in regards to
23 each of those factors, beginning with the chronological age
24 and the hallmark features of youth. Explain what that
25 means basically.

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1 A Youthfulness or adolescence is characterized by
2 certain traits, and these are all traits that we are
3 familiar with. We have teenagers, we work with teenagers,
4 risk taking, recklessness, impulsivity, poor emotion
5 control -- and this is all relative to adults --
6 immaturity of reasoning, immaturity of judgment, not being
7 able to think through to the long term consequences of
8 their actions, focusing more on an immediate reward.

9 Q Is there data that supports that regarding brain
10 development and other things? If you would explain a
11 little bit about that.

12 A So we know that the adolescent brain is different
13 than the adult brain, and we know that from imaging
14 studies. And what happens with the brain in adolescence
15 is that it is developing from back to front, and the
16 front -- the pre-frontal cortex is the last to mature and
17 that is the area of the brain that is responsible for
18 reasoning and judgment and planning and organization. And
19 so in an adolescent brain that's not fully formed
20 researchers now think that that's not fully formed really
21 until somebody's early to mid twenties is when that starts
22 to really kick in.

23 Q What did you find specifically -- since you've
24 outlined what that means, what did you find specifically in
25 that regard as to Mr. Graham based on your review of

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1 records and your interview with him?

2 A So what I just described is the typical youth. Even
3 the mentally healthy youth would have a brain that's
4 immature as compared to an adult. But with Mr. Graham he
5 has several adverse developments in his life that would
6 subject him to experience those features in a more
7 amplified manner, and so two in particular is that he was
8 exposed in utero to cannabis, or marijuana. So his mother
9 smoked marijuana during the pregnancy, she smoked
10 frequently beginning in the early -- the first trimester
11 of her pregnancy, so we know that babies exposed to
12 cannabis in utero, we know that they have neuro
13 developmental problems. They are more hyperactive, they
14 have depression, they are lower functioning cognitively.
15 And so that -- so out of the gate he already had that kind
16 of going on in his brain. And the other thing was with
17 Mr. Graham is he was born extremely premature.

18 Q Go ahead and explain to the Judge about that.

19 A Sure. So he was born at six months, he weighed two
20 pounds and seven ounces at his birth. He was described as
21 significantly ill by the doctors at the hospital, he was
22 kept in the hospital for seven weeks, and so when they've
23 done studies on babies born that premature as they grow
24 older and cognitive deficits are apparently comparing the
25 children who are born full term. And so one study they've

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1 done is looking at these kids when they're 18 years old
2 and those cognitive deficits are still there, the deficits
3 in thinking and reasoning and planning when they test
4 these kids on psychological assessment measures compared
5 to normal kids.

6 Q So just to recap then, you're saying any child, a for
7 lack of a better word normal, but someone raised in a
8 household without any problems is going to make -- not
9 going to be good at decision-making involving risk or
10 things like that just because at their chronological age at
11 17 years old, correct?

12 A Correct.

13 Q And you're saying these factors you have observed and
14 gotten from the records including the use of marijuana
15 while he was in utero and the extreme premature birth make
16 those worse, is that what you're saying? Or explain that.

17 A Yes, relatively to a healthy juvenile. He would be
18 behind them if we extrapolate from the research about what
19 we know about the brains of those babies.

20 Q The second Miller factor talks about family and home
21 environment. Can you tell me a little bit about what --
22 first of all, what did you use to find out this information
23 about the family and home environment?

24 A Well, I interviewed Mr. Graham. He was not the best
25 historian with information so I interviewed his mother for

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1 about two and a half hours, I sat down with her. I
2 interviewed other family members by phone, his father, his
3 older brother, his maternal grandmother. I interviewed a
4 mentor, somebody that worked for the South Carolina
5 Department of Mental Health that had worked with Mr.
6 Graham as a child to get an outside of the family
7 perspective. And I reviewed all of the developmental
8 records that you sent me; birth, medical, psychiatric,
9 juvenile justice, all of the records listed in the report.

10 Q Based on all of those things, what did you determine
11 regarding that factor from Byars, his family and home
12 environment, what conclusions were you able to reach?

13 A So Mr. Graham's -- if we go back before his birth --
14 when we look at family we want to go back and look at the
15 generations before him, and within his family on both
16 sides, paternal and maternal, there is mental illness.
17 There's is low cognitive function, low cognitive
18 impairment. There's a lot of substance abuse, drug and
19 alcohol abuse, and so genetically that becomes important
20 and that was the environment which he was born in to. His
21 records note that his family life was chronically
22 dysfunctional, a lot of conflict. His mother was a single
23 parent for the most part, there was no father in the home.
24 His mother struggled with repeated relapse on crack
25 cocaine which affected her parenting which then affected

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1 Mr. Graham. He was a special needs child given his
2 prematurity and all of that, so he really needed a
3 consistent supportive family environment and he did not
4 have that. The other factor with his home environment was
5 his mother's mental illness. She had -- was under active
6 psychiatric treatment while he was growing up as well
7 which also impacted the family household.

8 Q Third factor in the Byars case it talks about is the
9 circumstances of the homicide itself. Now, how does what
10 you reviewed of the file -- obviously you're not a police
11 investigator, but from what you reviewed of the file, what
12 relevance does the facts of the homicide have to Mr. Graham
13 in particular?

14 A Well, from what I read of discovery and from what Mr.
15 Graham told me it seemed to be an impulsive retroactive
16 event, in other words an impulsivity, a reactivity and
17 poor emotion control. Anger dyscontrol are within the
18 hallmarks features of youth amplified with Mr. Graham, so
19 it fit with that picture.

20 Q Okay. Incompetencies associated with youth, what does
21 that mean? What is that term?

22 A Well, juveniles going through the adult penal system
23 are more vulnerable when we talk about the competencies,
24 the competency to stand trial, competency to waive
25 Miranda, competency to deal with law enforcement,

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1 competency to make a plea, all of those things. Because
2 of a juvenile's traits and immaturity they may have a
3 little bit more difficulty navigating those things than an
4 adult, so I think that's what the Court is talking about
5 with the incompetencies of youth.

6 Q What, if anything, did you notice in regards to Mr.
7 Graham and that factor?

8 A Well, Mr. Graham, he has two strikes against him in
9 that regard. He was 17 at the time waiving his Miranda
10 rights, but he's also low functioning. We have IQ scores
11 as low as 65 on Mr. Graham, and those are two classic
12 populations that we know from research that have
13 difficulty comprehending Miranda rights and appreciating
14 them and applying them to their own situation.

15 Q And in general I assume they have difficulty making
16 wise decisions regards their criminal case; is that
17 correct? That's another way to put it.

18 A Yes.

19 Q For example, showing out the day of sentencing,
20 yelling in a courtroom, are those things that are typical
21 of someone showing the incompetencies associated with
22 youth?

23 A Yes. And also that fits with the nature of Mr.
24 Graham's mental disorder.

25 Q Explain that to the Judge, what you mean.

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1 A Through his records impulsivity is poor impulse
2 control. He's very quick to react emotionally, and so
3 when something sets him off he has difficulty putting the
4 brakes on in his brain to stop that reaction.

5 Q The fifth category concerns possibility of
6 rehabilitation. What did you notice, if anything, in
7 regards to Mr. Graham that is important for the Court to
8 consider on that issue?

9 A Well, the simple fact of his youth, of his juvenile
10 status, 17 at the time. Kids are more amenable to
11 rehabilitation than an older adult. We don't know who is
12 going to continue a criminal career and who is not when
13 somebody is still a juvenile, their character is not
14 completely formed and so we have no way of knowing if this
15 kid is going to grow up and to be this kind of adult or
16 not, but what we do know in that respect is looking at the
17 age the crime occurred. This is a very robust finding in
18 the social science, that people age out of crime, they age
19 out of violence faster than general crime but they also
20 age out of violence. So it peaks in adolescence, it
21 slowly goes down throughout their twenties and by the
22 fourth decade we see a flatline basically. Not to say
23 that everybody stops criminal activity, but if we put
24 offenders on that age crime curve it's generally what we
25 see.

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1 Q And that age crime curve that you've described is
2 based on actual research, correct?

3 A Correct.

4 Q Not just a feeling among psychologists or anything.

5 A Correct.

6 Q There's research to support that, correct?

7 A Yes.

8 Q And explain again what you said about the incidents of
9 violent crime by the time somebody reaches their forties as
10 compared to someone in their late teens?

11 A Well, rates of violence are higher for teenagers
12 versus somebody in their forties and there is a lot of
13 reasons for that, and this holds true in incarcerated
14 populations as well.

15 Q I was just about -- that was one of the things I was
16 going to ask you. Is that the society as a whole or have
17 there been studies regarding incarcerated folks on this
18 issue?

19 A Yes. So they plotted the same curve with folks in
20 prison. Approximately 75 percent to 80 percent of inmates
21 have an antisocial personality disorder and it holds true
22 for those folks as well.

23 Q And in fact I'm glad you mentioned that because that
24 brings me to another question. There has been a lot of
25 talk of antisocial personality disorder. Is that an

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1 unusual diagnosis among of people who are in prison?

2 A No, it's very common..

3 Q And in fact, what do the statistics show as far as
4 what research do you know about statistics of how many
5 people, or what percentages of people could meet the
6 criteria to be diagnosed as antisocial personality disorder
7 or who are in prison?

8 A It's estimated at about 75 to 80 percent of males.

9 Q There's been talk and you reviewed my client's record
10 from both DJJ and the Chester County Detention Center.
11 Now, from the records there's certainly a lot of difference
12 between those -- his behavior in those two settings, is
13 that correct, fair to say?

14 A Yes.

15 Q What do you know based on your experience working in
16 prisons and working in settings like this and studying
17 adolescence and prisoners as a whole, what do you know
18 about the prison setting as compared to where he has been
19 so far?

20 A Well, prison has more freedoms, prison has more
21 privileges to work for. You can work yourself into a
22 character dorm, which has a lot more privileges. There is
23 educational opportunities, work opportunities versus jail
24 which is a holding facility not designed for that. Prison
25 is a much different environment, and in SCDC specifically

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1 there are different levels of mental health treatment for
2 Mr. Graham to help him with some of these symptoms.

3 Q Explain a little bit about that. What kind of mental
4 health treatment is available in the department -- in the
5 South Carolina Department of Corrections?

6 A Well, there's four levels. The first is Gilliam
7 Psychiatric Hospital, and that is for pretty severely
8 mentally ill folks and they can go there and they can be
9 medicated, and then they don't typically stay there very
10 long, they are transitioned into an intermediate care
11 service, ICS. And that is a unit where all of those guys
12 are kept. They have counselors assigned to them,
13 psychiatrist that watches them very closely over their
14 mental health needs, there's a psychiatrist dedicated to
15 them, so there's a lot of close oversight in ICS, and then
16 you decrease the oversight from there. So I believe the
17 area of mental health is next where the guys are seen
18 about every three months, and then there's outpatient
19 mental healthcare which is about every couple of months.

20 Q Regardless of what sentence the Judge imposes today,
21 do you think it is important that Mr. Graham receive mental
22 health treatment in the department of corrections?

23 A Yes. From age 18 to 21 months he has been on
24 psychiatric medication up to the time he was 15 years old.
25 When I spoke with Mr. Graham he told me that medication

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1 does help him with his anger, and so I think at the very
2 least he should be seen by a psychiatrist when he gets to
3 SCDC so that they can talk about that and to see what
4 medication might be appropriate.

5 Q There's also been -- and now I'm going to backtrack a
6 little bit because I neglected to cover this at one point.
7 There's been some talk of another man named Quintin
8 McClinton, an older individual. Would you kind of discuss
9 in your experience the role of older inmates to younger
10 inmates, especially in situations where there aren't --
11 where there have been difficulties in the home prior to
12 incarceration?

13 A Well, kids, youth, teenagers especially if they don't
14 have a supportive family environment seek out another
15 family, and sometimes that's a gang type -- gang
16 community, and usually that happens by recruitment from
17 older peers. And I think -- I'm not quite sure, I think
18 he's about seven years older than Mr. Graham, and so Mr.
19 Graham may have looked up to him as a father figure of
20 some sort because he didn't have one. But for a younger
21 kid to become involved with an older more experienced
22 dealing with peer is not unusual.

23 Q All right. And while you've given me a brief
24 overview, a lengthier discussion of your recommendations
25 and your findings is in this 27 page report that we've

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1 introduced into evidence; is that correct?

2 A That's correct.

3 MR. LIFSEY: Your Honor, I don't have any further
4 questions at this time.

5 CROSS EXAMINATION

6 BY MS. HALL:

7 Q Dr. Knight, you said that you did have an opportunity
8 speak with Mr. Graham -- you met with Mr. Graham once at
9 the detention center?

10 A Yes.

11 Q Approximately how long did you spend in that
12 interview?

13 A Two and a half hours.

14 Q And were you supposed to go back and meet with him
15 subsequent to that?

16 A Yes.

17 Q How many more times?

18 A Well, we had planned on at least one more, but given
19 what we accomplished at the second meeting there may have
20 been a third, I'm not sure, at least one more.

21 Q But did you ever accomplish anything at that second
22 meeting?

23 A No. So the second meeting -- even though Mr. Graham
24 and I discussed meeting again, when I went to the jail for
25 the second meeting he declined meeting with me that day.

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1 Q So apart from that first two, two and a half interview
2 you haven't been able to really complete your interview
3 process with him; is that correct?

4 A Correct. So the second interview was really to
5 complete the interview, but also to conduct intellectual
6 testing, and so that was a goal of the second interview so
7 we were not able to do that.

8 Q I want to go first -- I think we're going to have to
9 work backwards but it's going to be pretty quick. I want
10 to talk about the stuff -- you were talking about people in
11 prison who the curve -- I forgot what you called it, the
12 age crime curve?

13 A Yes.

14 Q And you were saying earlier that that age crime curve
15 has -- it's a statistics -- there was a study done of
16 people who were incarcerated, and I would assume, and
17 correct me if I'm wrong, that these people were just chosen
18 randomly; is that correct?

19 A Well, there have been lots of studies, yes.

20 Q But we don't really know how many people with
21 antisocial personality disorder were actually included in
22 those studies; is that correct?

23 A Well, if they're taking the studies from the
24 incarcerated samples then we can estimate about 75
25 percent.

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1 Q Okay. But we don't really know if the people were
2 picked randomly from the prison, we don't know if they
3 capture that population or not.

4 A Statics is on our side in saying that.

5 Q And you've worked in a lot of prisons. Is it your --
6 have you found that most of these people with antisocial
7 personality disorder, are they incarcerated for would you
8 say violent crimes, non-violent crimes, how would you
9 classify that?

10 A People with antisocial personality disorder run the
11 gamut, so it could be violent, it could be property
12 crimes, it's not specifically tied to the diagnosis.

13 Q And you heard Dr. Frierson, I believe, when he
14 testified earlier and I can't find my notes right now but I
15 will just kind of go from memory. He had talked about
16 people with antisocial personalities disorder, that there
17 haven't really been any studies with regard to that age --
18 I know you say it's embedded in the study that you're
19 talking about in the age that crime declines and the
20 percentage of people who have continued to reoffend after
21 certain ages are attained, that has not been broken out
22 with people in antisocial personality disorder, correct?

23 A Well, there's one study in here that I talk about
24 that comes very close to that. And so this was a study
25 that followed a group of boys that were sent to reform

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1 school in the 1940's I believe, so reform back then would
2 be just look our juvenile justice now, so they were
3 considered the worst of the worst youth then, and they
4 followed these kids to age 70. So with that study I would
5 say yes.

6 Q But you heard Dr. Frierson testify that it's a common
7 perception among psychiatrists that with time people with
8 antisocial personality disorder become less violent, but
9 that's not necessarily the case always, there's got to be
10 exceptions to the rule.

11 A Sure. Not every single person with antisocial ,
12 personality disorder, their symptoms will remit by the
13 fourth decade.

14 Q And he also talked about -- I believe you heard him
15 say this -- the combination of antisocial personality
16 disorder with low functioning IQ causes -- or there's an
17 indication that these people -- those people with those
18 combined situations, they stay violent for a longer period
19 of time.

20 A Well, I don't know about that. People with
21 antisocial personality disorder as a general rule have a
22 lower intellectual functioning, so most of them do, so I'm
23 not sure about what Dr. Frierson said about that.

24 Q And you heard him say earlier that the oppositional
25 defiant situations and what was the other one that he said,

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1 the -- what's the other behavior?

2 A Conduct disorder.

3 Q Conduct disorder. That when those two things are
4 found earlier on that that seems to be an indication that
5 things will continue on past that age curve thing, there's
6 no way to tell one way or the other, right?

7 A Well, he's correct in the sense that any illness that
8 starts earlier usually has a more disturbed or serious
9 course. When we're talking specifically about conduct
10 disorder, children that have conduct problems earlier tend
11 to have conduct problems past adolescence but they still
12 fall along the age crime curve when they hit their
13 forties. So it just means that a child who starts to act
14 out in adolescence will probably stop by the time they're
15 20 for example, a child who starts earlier may go a little
16 further, but they are still going to follow the age crime
17 curve.

18 Q But there's really no way to tell at what point that
19 starts to drop off. What Miller actually contemplates, and
20 you touched on this earlier, is a typical youth; is that
21 correct? The Aiken v. Byars, the criteria laid out in
22 that, they're really contemplating a typical youth when
23 they're setting forth these criteria for determining how
24 long to sentence someone; is that correct?

25 A I believe so.

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1 Q And you've heard and you've reviewed, I think Mr.
2 Lifsey said, 71 documents or something close to that, would
3 you classify Mr. Graham as a typical youth?

4 A Well, I don't know what you mean by typical youth.

5 Q Well, I mean would you classify his situation, his
6 upbringing, what he's been through and his diagnosis at the
7 age of 18 months, was that a typical thing that you see in
8 your practice?

9 A No. That is very early to start receiving mental
10 health treatment. His family circumstance was extremely
11 traumatic, there's not a lot of youth that are raised in
12 that sort of family environment.

13 Q So I would assume when you went to talk with Mr.
14 Graham the first time that he understood on some level that
15 you were there to help him, correct?

16 A Yes.

17 Q But you can't make him -- you can't make him --
18 obviously you can't make him eat with you or talk with you.

19 A No.

20 Q And he has -- he would have to want to work with
21 someone in order for them to help him, correct, regardless
22 of whether it's with you, the department of mental health,
23 the department within the South Carolina Department of
24 Corrections wherever he is, he's going to have to want to
25 work with somebody in order to get help; is that right?

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1 A That's correct. And he has done that in DJJ
2 settings.

3 Q But he has continued to reoffend obviously.

4 A Yes.

5 Q And once he comes out of SCDC, wouldn't it be fair to
6 say that you cannot force him to take the prescribed
7 medications that are prescribed to him? Whether he's there
8 or not, you can't make him take his prescribed medication
9 whether he's in SCDC or outside of SCDC.

10 A Well, the only place where they could force medicate
11 him is at Gilliam Psychiatrist Hospital and they do have
12 protocol to force medication.

13 Q And you stated that you thought that -- it was your
14 opinion I think you stated to Mr. Lifsey earlier that the
15 prescribed medication would help him with his anger.

16 A Yes.

17 Q But he has to take it.

18 A Yes.

19 Q And isn't it true that the best indicator of future
20 behavior is the past behavior?

21 A Yes.

22 MS. HALL: Thank you. I don't have any further
23 questions.

24 MR. LIFSEY: May I just briefly follow-up?

25 THE COURT: Sure.

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1 REDIRECT EXAMINATION

2 BY MR. LIFSEY:

3 Q The solicitor asked you about typical people under
4 Aiken versus Byars. We're not going to be having this
5 conversation about anybody unless they're facing life
6 without parole, correct? Aiken versus Byars apply to
7 people who are under 18 facing life without parole for a
8 homicide. Because it couldn't be for a non-homicide
9 because that's unconstitutional, so it has to be juveniles
10 charged with murder, correct?

11 A Correct.

12 THE COURT: Thank you, ma'am, you may step down, you
13 are free to leave if you would like to. I have Defendant's
14 1 and 2. I've already reviewed Defendants 2 in preparation
15 for today's hearing. All right. Anything further from the
16 defense as far as witnesses?

17 MR. LIFSEY: I don't have witnesses. I do have some
18 documents, a letter, couple of letters, some things like
19 that in connection with his family talking, but I'm done as
20 far as witnesses, Judge.

21 THE COURT: I'll be glad to hear from the family now.
22 And remember, at the end of everything that's when the
23 lawyers again will have their opportunity to address the
24 Court.

25 MR. LIFSEY: The first person you will hear from

1 briefly is his mother Susan Graham. I also want to tell
2 you, there are people here as well, Your Honor, that I want
3 to just identify. Some of these have been in and out all
4 day. That's Robert Graham, his father, he may say a word
5 or two to you in a moment briefly. Susan Graham, his mom
6 obviously right here. Jeremy McClinton, did Jeremy have to
7 leave? He was here most of the morning, that's his
8 brother. Tiquasha (phonetically) Harden, she's here,
9 that's his sister. Britney Kirkland, a friend of the
10 family was here earlier. Bernice Aldridge, an aunt. And I
11 think there's another person who are two back there, family
12 members that are here. I say that to tell you that Mr.
13 Graham is without -- is not without family members that
14 care about him, Judge. So I would ask you to hear briefly
15 from his mom and what his mom wants to tell you.

16 THE COURT: Yes, ma'am.

17 THE SPEAKER: I love my son very much. This is very
18 unfortunate. I want the family to know my heart go out to
19 the family everyday, I cry and pray for them everyday. I
20 love my son very much and I want the Court to know this
21 difficult for both families, because I understand that they
22 have lost their loved one and I'm trying to save mine. And
23 I know it doesn't seem fair, but I love my son very much
24 and I don't want him to go away for the rest of his life.
25 I will never get to see him alive. I'm disabled, I'm sick,

1 I don't know how long, none of us know, but I'm already
2 afraid. I'll never see him free again, but --

3 THE COURT: How old are you, ma'am?

4 THE SPEAKER: I'm 47. I have been disabled for eight
5 years. But whatever time he gets, if he gets time or
6 whatever I'm going to see him, we're going support him,
7 we're going to see him, write him, and it has been very
8 difficult, it's has been a long hard road. But I want you
9 to know that he has family that loves him and supports him.

10 THE COURT: Thank you, ma'am.

11 MR. LIFSEY: Thank you, Your Honor. And I would add
12 regards -- thank you, Ms. Graham, that this is a -- and let
13 me begin by saying nothing -- I want nothing I say to be
14 taken away from the pain the family is feeling in this
15 case, so nothing I'm about to say --

16 THE COURT: You're doing your job as a defense lawyer,
17 Mr. Lifsey.

18 MR. LIFSEY: But I will tell you that this has been
19 extremely painful for Ms. Graham. The nature of this
20 inquiry that we're required to make has required her to
21 reveal things that are uncomfortable, that are unpleasant
22 and she's had to listen to things said about her, and I'm
23 sorry she's had to. She has probably handled it as well as
24 anybody could in the terrible situation she's in. I would
25 like Robert Graham, if he would to say a word or two

1 briefly to you about his son. This is why we call him
2 Isaiah, this is Robert.

3 THE COURT: Mr. Graham, if you will come on up,
4 please, sir, so I can make sure I hear you. Yes, sir?

5 THE SPEAKER: I'm sorry things happened like this. I
6 love my son no matter what and I will be there for him no
7 matter what. That's all have I to say.

8 THE COURT: Thank you for being here for his support.

9 MR. LIFSEY: Your Honor, I'm going to hand up to
10 you -- this is a letter from Michael Williams who is an
11 individual -- I would like it marked as the next Defense
12 Exhibit, please.

13 (The letter was received as Defendant's 3.)

14 MR. LIFSEY: Mr. Williams is someone that -- and I
15 hate that he couldn't be here. I've talked with him on the
16 phone, I know that other members of my staff have talked to
17 him. Dr. Knight talked to him, I hate that Mr. Williams
18 could not be here, he had intended to be here up until just
19 a couple of days ago, or probably last week when we
20 determine that he couldn't. Mr. Knight is -- I mean, Mr.
21 Williams is someone who has been a mentor to Isaiah and I
22 would like you to read that.

23 (The letter was read by the Court.)

24 MR. LIFSEY: The next letter is from Clayton Moten. I
25 had it marked as Defendant's Exhibit 4. Mr. Moten is now

1 the assistant principal at Saluda Trail Middle School, he
2 had interactions with Isaiah when he was in middle school.
3 I would like you to take a look at that.

4 (The letter was received as Defendant's 4 and read by
5 The Court.)

6 THE COURT: All right.

7 MR. LIFSEY: Thank you, Your Honor. I got a couple of
8 more exhibits I kind of wanted to shift a little bit into
9 my argument if that's okay.

10 THE COURT: Do you want the State to argue first and
11 then you sum up at the end? And then, of course the last
12 person I'll hear from will be Mr. Graham prior to
13 sentencing. Do you want to do it that way?

14 MR. LIFSEY: I'll be fine talking with you, Judge, if
15 that's suits.

16 THE COURT: Okay.

17 MR. LIFSEY: The three cases, Your Honor -- and you
18 know, this -- I just want to put it on the record -- the
19 three cases I think that are important are, of course,
20 Miller versus Alabama, the 2012 case that gets this ball
21 rolling to where we are today, Aiken versus Byars, which is
22 the South Carolina's take on Miller. And also the case,
23 Your Honor, of Montgomery versus Louisiana which was
24 decided in January of this year which basically reaffirmed
25 the idea that Miller is retroactive, which we had already

1 had. But I mention it because -- the two supreme court
2 cases kind of quote each other. And I think as you read
3 those two cases, the main thrust of what the United State
4 Supreme Court says -- and I think this is echoed by our
5 court in Byars, is that life without parole for a juvenile
6 should be an extremely, extremely rare event, what they
7 describe as the hallmark features of youth, what they
8 discuss and both of those cases discuss -- all three of
9 those cases discuss is that those features mean that
10 juveniles must be treated differently and they must be
11 viewed differently. In our standard of sitting here today
12 of judging the actions and behaviors of a juvenile are not
13 the same as we would judge the actions and behaviors of an
14 adult, and that's due not to just some kind of judicial
15 fiat but due to the science which the supreme court
16 recognizes. Montgomery says that only "the rare juvenile
17 offender who exhibits such irretrievable depravity that
18 rehabilitation is possible and life without parole is
19 justified." The Court talks about the finding that to
20 justify life without parole on the assumption that the
21 juvenile offender forever will be a danger to society
22 requires the sentencer to make a judgment that the juvenile
23 is incorrigible, the characteristics of juveniles make that,
24 questionable. So what I'm saying is it's hard -- and I'll
25 give you -- they talk about -- the Court talks about the

1 great difficulty of distinguishing at this early age
2 between the juvenile offender whose crime reflects
3 unfortunate yet transient maturity, and the rare juvenile
4 offender whose crime reflects irreparable corruption. I
5 tell you all of that to know -- and I will tell you
6 forthrightly I'm quite thankful that Your Honor is here.
7 And I'm not saying that to flatter anybody but because you
8 have experience in the family courts, and having had those
9 years of experience I believe and hope you would recognize,
10 and I believe you do, that the supreme court is correct,
11 that juveniles are different and juveniles behavior, not
12 only at the time and the commission of the crime, but their
13 behavior subsequently needs to be judged through that
14 lense. I bring that up because I want to be forthright
15 that I wish my client would have behaved better today, but
16 his poor decision this morning and how to act in court and
17 continuing a little bit this afternoon is really exactly
18 what Miller is talking about. There's not a better example
19 of what Miller and Aiken versus Byars talk about when they
20 talk about the incompetencies of youth. They talk about it
21 in the context of youths who waive their right to Miranda,
22 but I think it also equally applies to youths who behave
23 badly in a court of law, and it's because their brains
24 don't work the same way that adults do. And the difference
25 is -- and I have no doubt having appeared in front of Your

1 Honor that if a juvenile acted up in the family court you
2 would punish them, but here the punishment exceeds anything
3 you could do in the family court. So I guess my position
4 is that we must begin with the intellectual position that
5 the presumptions are against the life without parole
6 sentences, and that life without parole sentences for
7 juveniles are inappropriate in all but the rarest of
8 circumstances. Now, what would make this a rare -- one of
9 those rare circumstances? Well, we could begin with the
10 facts of the crime. Now, nothing I'm saying is taking away
11 from the tragedy of a murder, but I would argue to you
12 there's nothing unusual about this crime, sadly, I wish it
13 was, but there's nothing particularly -- I think the
14 solicitor used the word sophisticated at some point in
15 describing this, there's nothing sophisticated about this
16 at all. The crime that we have here is really a shockingly
17 common occurrence in the 25 years I have been practicing
18 law and been a public defender, which is a young man makes
19 a snap decision and what probably 30 or 40 or 50 years ago
20 would have been a fist fight turns into a killing, and it's
21 a tragedy and people deserve to be punished. But I think
22 there's nothing particularly -- all murders -- obviously by
23 pleading to murder he admits the existence of the legal
24 concept of malice aforethought, which there clearly was in
25 this case, but I don't see any extraordinary wickedness

1 that would distinguish it from any large number of other
2 homicides that have stood right in front of this bar. Your
3 Honor, I have prepared a chart I'm going to have marked as
4 the next defense exhibit. Obviously one of the things we
5 have to think about -- and I'm not implying anything at
6 all, but I think it's important to think about -- I think
7 it is important to consider how other homicides have been
8 handled. Now, let me tell you what this is.

9 THE COURT: This is all Chester County?

10 MR. LIFSEY: This is Chester County homicides for the
11 last ten years that I am aware. Now, I will tell you that,
12 Judge, it is possible that I have skipped one, but it has
13 not been intentional. To the best of my knowledge I feel
14 confident this is every homicide our office has handled
15 since 2009. I feel fairly confident it's most of the
16 homicides in this last ten year period, I can't think of
17 any others. And I would like you to look at, and there's a
18 couple of things that are striking to me about this. One
19 is how rare it is for anybody to be convicted of murder or
20 forced to plead to murder. I'm not saying that this is not
21 a murder, but I'm telling you some of these others were
22 too, okay? And I say that not to criticize anybody, but to
23 point out that the State has already taken a hard line in
24 this case by insisting that he plead to murder. Refusing
25 to reduce this case to voluntary manslaughter was in itself

1 a perfectly reasonable use of the prosecutorial discretion,
2 but what I'm saying is that's already been the hard line in
3 this case. The other thing, to the best of my knowledge,
4 we haven't heard murder stay a murder. You have the three
5 young men charged in the death of Jimmy Paul, who was stuck
6 to murder, and you had Casey Perkins in 2008 who stuck to
7 murder. Now maybe I'm missing somebody, and I might have,
8 but I can't think of another homicide in Chester County
9 that's done that. I note that there are to the best of my
10 knowledge have been only two defendants in Chester County
11 that I'm aware of in the last ten years or so -- and once
12 again, maybe I'm missing one but -- that get more than 30
13 years. To the best of my knowledge you had Casey Perkins
14 got 50 years. Casey Perkins went to trial, my client pled
15 guilty, Judge, and spared us from going to trial. Casey
16 Perkins went to trial, Casey Perkins was an adult 33 year
17 old registered sex offender who raped and murdered his
18 neighbor and the victim died as a result of the injuries in
19 the sexual assault, the worst case I think I've ever heard
20 of in this county. My client is not that. The only other
21 one that I'm aware of that got more than 30 years is
22 Jeffrey Bradley who I represented, who was a 32 year old
23 man who crushed -- a 27 year old man who crushed the skull
24 of an 11 month old child and received 32 years in prison.

25 THE COURT: I did that.

1 MR. LIFSEY: Yes, sir, you did.

2 THE COURT: That was homicide by child abuse.

3 MR. LIFSEY: That's correct, and I included that. But
4 I included two cases that were not originally charged with
5 murder because I thought they were applicable. I included
6 Jeffrey Bradley and I included Aris Nichols who stabbed his
7 pregnant girlfriend, killed a viable fetus, could have been
8 a murder charge, solicitor chose to allow him to plead to
9 death of fetus in utero and he received 25 years, that's
10 despite Mr. Nichols being 40 years old at the time of that.
11 When I look at this case and I compare it -- of course you
12 have to make your own decision, but when I compare it to
13 other cases I think of what makes this case bad? What's
14 the worse about the crime itself? Well, to me from my
15 perspective you can't argue that by firing shots on a
16 streetway -- on a street there was a threat to the general
17 public. You know, I thought about it and I thought had we
18 had other cases in this county of a similar nature. I will
19 tell you I represented Keith Keener in 2012 who opened fire
20 in a crowded parking lot of a nightclub, much more
21 dangerous situation than here, there must have been 50 to
22 100 people in that parking lot when Keith Keener opened
23 fire. Keith Keener was allowed to plead to voluntary
24 manslaughter and received a sentence of 27 years. William
25 Graham was 21 years old at the time, opened fire in the

1 breezeway of the Chester County Hospital while people were
2 brining injured into the hospital, he was allowed to plead
3 to voluntary manslaughter and received a sentence of 20
4 years. I look at age. Have we ever had 17 year olds
5 charged with murder and what they faced? As best I can
6 tell -- and once again if I've missed one I've missed
7 one -- but the best I can tell Clayton Watts was 17 when he
8 and the 18 year old and 19 year old engaged in a conspiracy
9 to kill their grandparents and actually killing the
10 grandmother, and but for I guess the luck of when he walked
11 in not killing the grandfather too. In my mind if you're
12 looking for a case that talks about wickedness, that the
13 facts of the case indicate evil, hiring someone to kill
14 your grandmother strikes me as much worse than losing your
15 temper on the roadway. Both of them deserve to go to
16 prison, Judge.

17 THE COURT: But weren't all of those negotiated pleas?

18 MR. LIFSEY: Yes, sir.

19 THE COURT: In other words, the Judge couldn't give
20 anymore than 30.

21 MR. LIFSEY: That's correct. But what I'm having
22 trouble distinguishing is why this isn't a negotiated 30
23 year sentence. I'm not echoing anybody in the media, I'm
24 not making any criticisms that way, but I'm saying is if
25 you look at it from the crime itself what is worse? I

1 would argue to you we've had numerous crimes worse than
2 this that have gotten less sentences than 30 years. I
3 would argue to you that we have at least one defendant who
4 did a worse crime who was the same age that got 30 years.
5 I say all of this not to argue that you can't decide
6 whatever you want to decide in this case, and the solicitor
7 can take whatever possession they're entitled to take
8 because that is their constitutional right under our
9 system, but I do think consistency in the judicial system
10 is a desired trait, and I would ask the Court to consider
11 how the similarly situated homicides have been handled, and
12 the way homicides in general have been handled in Chester
13 County. Your Honor, I would also hand up to the Court --
14 and I will mark this as the next exhibit. This is gleaned
15 from the Freedom of Information Act request of the South
16 Carolina Department of Corrections. Judge, this is a list
17 between the calendar years of 2009 through 2011 of deaths
18 by natural causes for males in the South Carolina
19 Department of Corrections. You will see each year -- now,
20 I don't have the last three years but I don't know of any
21 reason statistically 2009 through 2011 would have been any
22 worse. I say this to point out to you that while -- I'm
23 older than 47 now, I'm not sure if Your Honor is or close,
24 while you and I aspire I hope to reach a ripe old age, that
25 is not often the fate of people who go to the South

1 Carolina Department of Corrections. I will tell you that
2 in that three year calendar period the average age at
3 natural death for a black male was 50, the average age for
4 a white male was 53. I say that because I want you to know
5 that even if you agree with me, Your Honor, that this is
6 not a case that cries out for a sentence of life without
7 parole, that the Court be mindful that Your Honor at a
8 certain number is effectively giving him a life without
9 parole sentence regardless of what we call it. I ask you
10 to keep all of that in mind. Your Honor, I would like if
11 it's possible -- I think that's kind of where I want to
12 leave it right this second. If you would give me the
13 opportunity to have, since they're seeking my client go to
14 prison the rest of his life, the last word or two I would
15 appreciate you.

16 THE COURT: Sure, I will do that. Solicitor?

17 MS. FRYAR: The State is not taking a hard line in
18 prosecuting this case as a murder, Your Honor. This was a
19 murder, it was a heinous murder. It is a murder that
20 terrifies us or everybody in America who have children
21 walking down the street to the store. Children should be
22 able to walk down the street in their neighborhood to get
23 some biscuits at the Tater Store without fear of getting
24 murdered by someone, and we take this very seriously. And
25 we think that this person deserves to spend his life in

1 prison without the possibility of parole. Not everybody is
2 the same and that's what Aiken versus Byars and Miller and
3 Alabama -- versus Alabama and other prodigy talk about that
4 you, sir, should look at. And children are not the same.
5 There are some children who are still playing with G.I.
6 Joes when they're 15 years old, and then there's some
7 children who are playing with guns. Mr. Graham got started
8 at an early age hurting other people, and he hurt other
9 people to where he cut people, people had to get stitches,
10 people had to have to go the hospital twice --

11 (Defendant stands.)

12 THE COURT: All right. Hang on. Mr. Graham, I'm
13 going to let you stay in the courtroom but you need to just
14 stay where you are. I'm going to give you the last word,
15 okay? I promise you I will give you the last word. Y'all
16 just stay there around him so he can be in here while we
17 hear from the solicitor, but if you disrupt again I'm going
18 to make you sit in the holding cell while we do the rest of
19 this, okay? All right. Go ahead.

20 (Defendant sits down.)

21 MS. FRYAR: Choking other people. Choking someone in
22 a school to the point where the teachers thought he was
23 going to kill him when he was nine years old. This is not
24 your typical child/youth/young person, and that's what I
25 think this case wants you to look at, the individual child,

1 and the child-like behavior. I'm not going to reiterate
2 the whole thing for you because you heard it all. You have
3 seen for yourself, Your Honor, that this person has no
4 remorse for anything that he's ever done and will continue
5 and has shown that he will continue on this path for as
6 long as he lives. And the State of South Carolina got
7 involved with him at an early age and tried and tried and
8 tried to help him, but either he didn't want to be helped,
9 is what I submit, or he can't be helped and that's
10 unfortunate. There's no magic pill we can give Mr. Graham.
11 As you heard, Dr. Frierson said with his two diagnoses he's
12 just going to be at a risk to be violent for the rest of
13 his life. It is the State's position that we are different
14 from all of these other defendants that Mr. Lifsey has
15 talked about because I personally -- and I've done a lot of
16 prosecution and defense in family court -- am shocked by
17 the number of incidents this young man has been in through
18 his whole life, and he's gotten to the point where he
19 crossed over the child line into adult line. He's been
20 engaging in pseudo adult activities for a very long time,
21 Your Honor, and he should be perceived that way by you,
22 sir. I would like to briefly just look at the factors.
23 Yeah, you can look at his chronological age, but if you
24 look at his age through the system, he knows the system.
25 He is not someone that the police -- he's not easily

1 frightened by the police. When I say he's sophisticated,
2 he's sophisticated in his criminal thinking, Your Honor,
3 and in that way I think he should be treated like other
4 adults and he should be feared like other adults. Your
5 Honor, I think that as we look at the first offense -- the
6 first indicator here that you're supposed to look at, sir,
7 the chronological age of him and his propensities and his
8 immaturity and his ability to appreciate risk and
9 consequences, Mr. Graham has been taking risks and
10 receiving consequences all of his life. This is not the
11 first time, "Oh, I didn't realize that I'm doing something
12 wrong and I shouldn't do that and I'm going to get in
13 trouble," and the record is replete with that. I would
14 like to go to the second factor now, the family home and
15 environment that surrounded the offender. Your Honor, the
16 State of South Carolina has placed this young man in two
17 therapeutic group homes with foster parents that were
18 either assaulted or had fights brought into their home by
19 this young man. He's been placed in numerous -- Camp
20 Pines -- Camp White Pines, Excalibur, anything you can
21 think of, he was in the Carolina Children's Home for a
22 year, so it's not just his environment. Yes, there are
23 some things that contributed to him being in this position,
24 but he is in this position nonetheless. He is violent and
25 he is scary and he needs to be incarcerated for life

1 without parole. Number three, Your Honor, you're supposed
2 to consider the extent of his participation. Your Honor,
3 this was gang motivated. He had been talking about he
4 wanted to kill somebody and he was going to kill somebody.
5 You've heard that he had just the night before put a gun to
6 somebody's head, he wanted to kill somebody and he did.
7 And in that vain, in number three, his participation in the
8 conduct, he is the only one who walked up to Shyheim
9 Kennedy, pulled out a gun and shot him dead in the street,
10 Your Honor. Mr. Lifsey may argue that that's not wicked
11 and evil, I will leave that up to you to decide. And as
12 I've already talked about factor number four, Your Honor,
13 he has quite the ability to deal with police officers and
14 prosecutors in courts because he has been doing it his
15 whole life. And finally, Your Honor, as to the possibility
16 of rehabilitation, you've been a family court judge, you
17 have seen what can be done and what we have offered him for
18 years, in my opinion and the State's opinion there is no
19 hope for rehabilitation. He will continue as he has today
20 doing this, making people scared of him because that's what
21 he likes to do, he likes hurting people, and I would ask
22 you to protect us by giving him life without parole. I
23 think Solicitor Newman might want to speak to you.

24 THE COURT: Solicitor?

25 MR. NEWMAN: Your Honor, I just add, contrary to what

1 you may have read in the Rock Hill paper today or what Mr.
2 Lifsey may have said, there are literally no similarities
3 between this Paul murder with three defendants and this
4 case that we're before you for today. I think that victim
5 said it best -- the victim's family said it best awhile ago
6 when she said, "It's in your hands. You can put a stop to
7 him today." I hope, Your Honor, that you will consider not
8 only everything you've heard today but everything that
9 you've seen out of that young man today. That's an evil
10 young man who deserves life in prison, and if his actions
11 and his record don't shock your conscious, Your Honor, I
12 don't know what will. Again, Your Honor, the State is
13 asking for life without parole, and I will have a seat.

14 THE COURT: Thank you. Mr. Lifsey?

15 MR. LIFSEY: Let me just respond briefly to a couple
16 of things that have been said without belaboring the point
17 anymore. You know, there's no question that the solicitor
18 said the State of South Carolina has done all they could to
19 help him. He certainly received medication from an early
20 age, we have thrown every pill we can at him. The idea
21 that -- you know, he was 3 feet, one inches tall and 31
22 pounds when we prescribed psychiatric medicine for him,
23 unbelievable to me. I don't mean any disrespect to our DJJ
24 because I think we got it late, I don't know what you have
25 to do to get committed in DJJ in York County based on what

1 I heard today, Judge. I will tell you that he did, as best
2 I can tell okay when he was at R and E, why wasn't he
3 committed at some point? I don't know. None of that
4 has -- I just don't understand it, but I do think to
5 characterize the State is doing great things for him is
6 inaccurate. Solicitor mentioned he's experienced dealing
7 with courts and prosecutors. Please. He's been in front
8 of courts plenty. If he's experience he's the worse one
9 I've ever had, because anybody with a lick of sense would
10 have behaved differently than he did today. That's the
11 whole thing that Byars talks about is his making of poor
12 decisions in a courtroom setting is typical of these kinds
13 of defendants. The Solicitor mentioned that this case was
14 gang related, and then at the same time she says he was the
15 only one involved which, I mean, to me just seems
16 ludicrous. By their own incident reports they say there
17 were two other people there, there's two other people on
18 the scene, they have witnesses that put people there that
19 they've never charged. Now, I know my client pulled the
20 trigger, okay, and he's pled to that, but to act as if this
21 17 year old who has suffered mightily from mental problems
22 and medications and a dysfunctional home environment and a
23 lack of a father figure in the home regularly would not be
24 adversely influenced by older gang members is to shut our
25 eyes to what the reality of what the gang structure is in

1 here. My client is not going to like me saying it but I'm
2 going to say it, the person who deserves life in prison out
3 of this is Quintin McClinton. You'll notice how many of
4 the troubles that my client has gotten into in the jail
5 came out of Quintin McClinton. The best thing that can
6 happen for this young man is for him to go to the
7 department of corrections and not be involved with him
8 again, and he will have it. Your Honor, I'm not asking you
9 to turn him lose tomorrow. What we're asking you -- and I
10 will admit that both the Solicitor and I have no crystal
11 balls, we can't look in it, we're trying to project out to
12 what this 17 year old will be like when he is 47 or 57 or
13 67 or ever if he were to live that far. It's my
14 contention, Judge, that the clear reading and implication
15 of Miller, of the Louisiana case, Montgomery, and of Aiken
16 versus Byars is that life without parole for a juvenile
17 should be reserved for the worst of the worst, and I
18 believe that's not only the worst of the defendants, but
19 the worst of the crimes. This is a serious crime, but
20 Judge, if you were to give him a 30 year sentence -- first
21 of all, I think based on statistics there's a more than
22 reasonable chance that he will not live 30 years in the
23 department of corrections but at least there will be some
24 possibly of him surviving. I think with all due respect to
25 the Court if you give him much more than 30 you are

1 effectively giving him a life sentence whether you use
2 those words or not. I would ask the Court to take into
3 account all of the factors, you know, the factors described
4 by the Miller case and Aiken versus Byars, do not punish my
5 client for his immaturity in this courtroom as much as it
6 deserves to be punished, do not punish him by throwing away
7 the rest of his life. Because I can guarantee you, if he's
8 fortunate enough to live to be 47 years old I'm sure he,
9 like all of us who have reached that age, with regret the
10 things we did. I would ask you to take all of that into
11 consideration, Your Honor, in this matter.

12 THE COURT: Thank you, Mr. Lifsey. Before I impose
13 sentence on Mr. Graham I am going to give him an
14 opportunity to speak with me. Let me go ahead and speak to
15 the victim's family directly at this point in time and let
16 you know that no matter what I do up here it will never get
17 any easier for you to shake this tragic loss in your
18 family. You know, people talk all of the time about
19 closure, you hear that word, there is no closure when you
20 lose a loved one whether it's from a loved one being
21 tragically killed or from a loved one dying, there is no
22 closure. I will tell you that over time God will allow you
23 to remember more of the good times than just the tragic
24 loss, and that's the great promise that we all have in God.
25 Your son is in a better place, he has no pain, okay? All

1 right. Having said that I would ask Mr. Graham to approach
2 the bench, and I would like law enforcement to come as
3 well. All right. Mr. Graham, I will give you an
4 opportunity before I impose sentence to tell me whatever
5 you would like to tell me. This is your last opportunity
6 to speak with me before I impose sentence upon you, okay?

7 THE DEFENDANT: First thing I want to say is I thank,
8 my family for coming out here and supporting me for
9 everything I'm going through. And, you know, the solicitor
10 was talking about me not feeling no remorse, but during
11 that video of my interview when I first got locked up they
12 skipped parts of that audio and video, I shedded tears for
13 Mr. Kennedy, you know what I'm saying? And I didn't want
14 to kill Mr. Kennedy, I done been in the same room with Mr.
15 Kennedy. And I waited to say this just for this moment
16 right here, I done been in the same room with Mr. Kennedy
17 sitting right beside Mr. Kennedy. He has a sister named
18 Aiesha (phonetically) Stratford. Me and his sister had
19 something going on, you know what I'm saying? So my
20 intentions wasn't to kill this man, you know what I'm
21 saying? It hurt me that he gone just -- well, I'm not
22 going to say just as much as it hurt his family but it
23 still hurt me as much. All of this what's going on, yeah,
24 it's because of my actions that Mr. Kennedy not here. The
25 only thing I'm trying to prove is if Mr. Kennedy wouldn't

1 have came at me how he came at me then this man would still
2 have been here, you know what I'm saying, sir? I done got
3 shot at, I done got jumped on, I did not know what Mr.
4 Kennedy was about to do. I done had people turn on me and
5 do things to me. I done been chilling with Mr. Kennedy, he
6 done seen me and his sister together numerous times. His
7 mama yelling at Aiesha, "Aiesha, you better not have nobody
8 in that room," and she didn't even know that this is me,
9 the same one that she was talking to, this was me that was
10 in the room with her daughter. And it's crazy because,
11 yeah, this is a murder but I don't feel like I deserve no
12 life sentence point blank, period, because I did not plan
13 to kill Mr. Kennedy with malice aforethought. All of this
14 happened out of the blink of an eye, you know what I'm
15 saying? And it's not my fault -- it's my fault if I would
16 have been in the house this wouldn't have happened, I
17 understand that, but if this man wouldn't have came at me,
18 you know what I'm saying, this would not have happened.
19 And that's why I done blew up so many times in this
20 courtroom. And a lot of this stuff that all of these
21 people saying in here, some of those things are true and
22 some of those things are not true. And the little bit of
23 time I was sitting right there calm, it took a lot more for
24 me to do that, Your Honor. It's hurt me what I'm going
25 through and it hurt my family as well and it hurt my little

1 girl that I have got. So solicitor, for you to sit there
2 and say I don't feel no remorse just because I'm not up
3 here boohooing crying or boohooing this and that and
4 breaking down is because I'm trying to be strong about the
5 situation. And everything what she said it got to me
6 because she don't know what she's talking about. She is a
7 solicitor, her job is to destroy somebody whether they're
8 innocent or guilty, it doesn't matter, and I understand
9 that. So yes, I do feel remorse. You could put the audio
10 and video up and look at the remorse that I showed for Mr.
11 Kennedy when I started crying. So don't sit there and talk
12 about somebody or say something and you don't even know
13 what you're talking about. You can't judge a book by its
14 cover. Get to know me, really get to know me, then you
15 will understand me once you get to know me. I'm sorry for
16 the loss of y'all's family. That's all I've got.

17 THE COURT: Thank you, Mr. Graham.

18 THE DEFENDANT: I've got to say one more thing. As
19 soon as I said that they want to smile. I thought this was
20 a sad moment for y'all, I thought y'all going through it by
21 losing y'all little brother or little cousin or whatever,
22 so just because I'm up here pouring my heart out and they
23 over there smiling. This supposed to be a sad moment for
24 them, you know, but obviously it's not to me.

25 THE COURT: It's a sad moment for everybody, wouldn't

1 you agree with that?

2 THE DEFENDANT: It should be, you shouldn't be smiling
3 in a courtroom.

4 THE COURT: All right. Thank you, sir. All right.
5 Based upon the testimony and evidence presented in the
6 court today and after considering all evidence and exhibits
7 offered, specifically considering the applicable Miller
8 factors as the Court is required to do under our U.S.
9 Supreme Court, the sentence of the court 45 years. Good
10 luck to you, sir. Credit for time served.

11 (End of the hearing.)

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Nikki Haley
Governor
State of South Carolina

June 14, 2011

To Whom It May Concern:

This letter is in response to questions raised regarding Robert Graham's ability to function adequately in an alternative placement setting despite his level of intellectual functioning. Although Robert's Full Scale-4 IQ score on the WASI fell within the deficient range (FSIQ = 65), his Verbal IQ score fell within the borderline range (VIQ = 72). Additionally, in 2005, Robert was administered a full battery (i.e., the WISC-IV) and achieved a Full Scale IQ of 80. Robert receives special education services, but is classified as a student with an Emotional Disability. He does not meet criteria for a diagnosis of mental retardation.

Robert adjusted well to the structure of the Upstate Evaluation Center in June 2011. He was noted to have interacted well with his peers, was courteous and respectful towards staff, and followed directives with limited resistance. Educational staff noted that he was a good student and was not a behavior problem. He completed his work with little assistance, had a good attitude and was cooperative and helpful. Robert appears to have the ability to function adequately in a structured environment. If there are any additional questions or concerns, please feel free to contact me at (864) 429-3610 ext. 220.

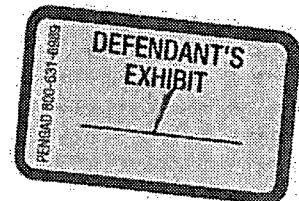
Sincerely,

Tara M. Bennett, M.S., LPC/I

Tara M. Bennett, M.S., LPC/I
Psychologist III

Todd L. Morton, Ph.D.

Todd L. Morton, Ph.D.
Supervising Psychologist



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Susan C. Knight, Ph.D., ABPP
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 Board-Certified Forensic Psychologist
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FORENSIC PSYCHOLOGICAL EVALUATION

Examinee: GRAHAM, Robert Isaiah

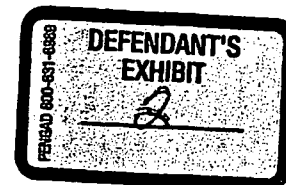
Birth Date:

Case Name/No#: *State of South Carolina vs. Robert Isaiah Graham / #2014-0921*

Examinee Interview: January 5, 2016

Examiner: Susan C. Knight, Ph.D., ABPP

Others Present: Michael Lifsey, Esq., Defendant's Attorney (January 5, 2016)



IDENTIFYING DATA: Mr. Robert Isaiah Graham is a 19-year-old African-American male, currently in custody, and charged in Chester County with Murder and Possession of a Firearm During Commission of a Violent Crime, in violation of *S.C. Codes §16-3-10 and §16-23-0490*. He also faces a charge of Probation Violation. The allegations and associated charges stem from an incident on July 16, 2014, when Mr. Graham was 17 years of age. Mr. Graham's attorney requested a forensic psychological examination for the purpose of evaluating Mr. Graham's historical functioning, including developmental, social and psychological; present mental state; and any pertinent issues related to his charge and sentencing given his juvenile status at the time of the allegations. The evaluation was initiated within the context of the United States Supreme Court's holding in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), and the subsequent holding of the South Carolina Supreme Court in *Aiken v. Byars*, 410 S.C. 534 (2014). Therefore, on the above listed date, Mr. Graham was evaluated pursuant to *Miller* and *Byars*, at the Chester County Detention Center in Chester, South Carolina.

PSYCHOLOGICAL-LEGAL SUMMARY OPINION: Based on the totality of the data gathered in the evaluation, to include a clinical interview with Mr. Graham; interviews with his mother, brother, grandmother, and former 'mentor'; a review of legal discovery documents and recordings; and a review of collateral records, including medical, psychiatric, and academic records; the following is opined as summarized.

Mr. Graham was born significantly premature at 27 weeks (6 months) gestation, weighing two pounds, seven ounces. His mother used cannabis frequently during her pregnancy beginning in the first trimester. He exhibited respiratory distress, jaundice, and congenital hypothyroidism at birth. Given this history, his risk for neurological impairment and resulting behavioral disorders was significant. He first received mental health treatment at 21 months, due to poor sleep, hyperactivity, impulsivity and behavior outbursts. From 21 months to 15 years, Mr. Graham received consistent mental health care, including psychiatric medication and hospitalizations. Academic records indicate significantly lowered intellectual functioning, with academic skills testing well below grade level. Records reference significant family conflict and dysfunction, with generations of mental illness, substance abuse and cognitive impairment. His mother was mentally ill, repeatedly relapsed on crack cocaine, and his father was absent from his life.

It was within this developmental context of neurological vulnerabilities, mental disorder, low intellectual ability, negative environmental influence, parental substance abuse and parental mental illness, which Mr. Graham experienced and was exposed. It is opined that these formative dynamics significantly impacted his life trajectory through the time of his charges, and inform application of the 'Miller' factors per *Aiken v. Byars*.

Name: GRAHAM, Robert Isaiah
Date of Birth:

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SOURCES OF INFORMATION: The following sources of information were reviewed in forming the opinions found in this report:

1. State of South Carolina Municipality of Chester Arrest Warrant 2014A1220100112 for Murder, dated July 18, 2014;
2. State of South Carolina Municipality of Chester Arrest Warrant 2014A1220100113 for Possession of a Weapon During Violent Crime, dated July 18, 2014;
3. State of South Carolina County of Chester 'Probation' Arrest Warrant W-12-14-0014 and Affidavit, by [name of probation officer, illegible] dated June 27, 2014;
4. York Pathology Associates Autopsy Report of S. D. Kennedy, by Craig Hart, M.D., dated August 19, 2014;
5. Affidavits for Criminal Warrants for Murder and Possession of a Weapon During a Violent Crime, signed by Ms. Lolita Fournery, dated July 18, 2014;
6. Booking Report [Probation, Pardons, and Parole] for R. I. Graham, dated July 17, 2014;
7. State of South Carolina County of Chester Bail Proceeding Form(s) II for R. I. Graham, dated July 19, 2014;
8. State of South Carolina County of Chester Bond Hearing Certification Office of Municipal Court, dated July 19, 2014;
9. State of South Carolina County of Chester Notice of Right to Preliminary Hearing, dated July 19, 2014;
10. City of Chester Police Department Incident Report by Ptl. Gladden, dated July 16, 2014;
11. Handwritten note included with discovery materials, undated, author unidentified;
12. Chester Police Department Form detailing property of S. Kennedy, dated July 17, and July 18, 2014;
13. Chester Police Department Form detailing property of R. I. Graham, dates illegible;
14. Chester Police Department Form detailing property seized from 200 York St. Apt. G-3, found/recovered from R. I. Graham, date illegible;
15. Chester Police Department Form detailing property from Pinckney St. Chester, SC, found/recovered from S. Kennedy, dated July 22, 2016;
16. Chester Police Department Form detailing property/items recovered from S. Kennedy, dated July 17, 2014 and July 18, 2014;
17. Chester Police Department Form detailing property found/recovered from S. Kennedy at Pickney Street, dated July 18, 2014;
18. Chester Police Department Form detailing property found/recovered from S. Kennedy and/or R. I. Graham, dated July 18, 2014;
19. Chester Police Department Miranda Rights of R. I. Graham, dated July 18, 2014;
20. Chester Police Department Statement Form of R. I. Graham, dated July 18, 2014;
21. Chester Police Department Voluntary Statement of D. Williams, dated July 17, 2014;
22. Photocopied Receipt from Sportsman Gun & Pawn, from D. Williams, dated June 2, 2014;
23. Chester County Sheriff's Office Incident Report and Incident Report Supplemental by Sgt. Cummings, dated July 17, 2014;
24. Chester Police Department Statement Form of J. Leonard, dated July 16, 2014;
25. Handwritten notes from 'Interview Room #1, Chester County Sheriff's Office, 'Tay Sanders,' dated July 17, 2014;
26. Chester Police Department Voluntary Statement Form of S. Fairfax, dated July 16, 2014;

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27. Chester Police Department Consent to Search forms, *re*: 200 York St., Apt. G-3, signed by R. I. Graham and S. Graham dated July 18, 2014;
28. Chester County E911 CAD Incident Detail, dated July 16, 2014 to July 17, 2014;
29. Chester County Sheriff's Office Rights Form for V. Sanders, dated July 17, 2014;
30. Photocopy of two photographs of an individual, unidentified and undated;
31. ICHR Request for Rap Sheet / SLED Response for R. I. Graham, dated July 18, 2014;
32. Handwritten note included in discovery materials, undated dated and author unidentified;
33. Photocopied images of unidentified individual(s) outside of a gas station, undated and author unidentified;
34. Chester County Sheriff's Office Rights Form for J. D. Feaster, dated July 17, 2014;
35. Chester County Sheriff's Office Report of Interview of J. Feaster, by Major McDaniel, presumed date of July 17, 2014;
36. Photocopied images for identification procedure, undated and author unidentified;
37. SLED Photo Lineup Request Form, undated;
38. Photocopied photographs and social media postings, unidentified, date of access July 17, 2014;
39. Electronic correspondence from L. Mosley (SLED) to M. S. Tobias, dated July 17, 2014;
40. Photocopied image of unidentified individuals, date of electronic access July 17, 2014;
41. Audio/Video recording of Mr. R. I. Graham's interview with law enforcement on July 18, 2014;
42. Multiple news articles pertaining to the defendant and the allegations, dated July 18, 2014 and July 19, 2014;
43. Documents entitled 'Robert Isaiah Graham Family Chronology,' 'Robert Isaiah Graham Family History and Summary of Psychiatric Hospitalization Records,' and 'Robert Isaiah Graham Risk Factors,' by D. Glass, LBSW, undated;
44. Interview notes from interview with R. I. Graham by D. Glass, LBSW, undated;
45. Medical (birth) records from Spartanburg Regional Medical Center, dated from
to
46. Discharge Summary from the Spartanburg Regional Medical Center, for an admission from January 8, 1997 to January 11, 1997;
47. Letter from E. Walsh, MD, with the South Carolina Department of Health and Environmental Control (DHEC) to V. Iskersky, MD, dated September 19, 1996;
48. Letter from C. Nesmith, MA/QP with the Catawba Community Mental Health Center, to 'Whom It May Concern' dated January 21, 2010;
49. Psychiatric records from the Catawba Community Mental Health Center/Catawba Family Center, dated from January 5, 1998 to October 12, 2011;
50. Records from Baptist Health Hospital, dated June 30, 2005; July 11, 2005; and July 15, 2005;
51. Discharge Summary from the William S. Hall Psychiatric Institute, admission dates of November 2, 2005 to November 17, 2005;
52. 'Capacity to Stand Trial Evaluation' by the Forensic Evaluation Services of the South Carolina Department of Mental Health (SCDMH), by R. Frierson, MD, date of evaluation January 26, 2015;
53. Rock Hill School District Three Exceptional Student Education 'Summary Report of Results of Evaluation and Educational Implications' for I. Graham, by M. Snowber-Marini, S.S.P., (Certified School Psychologist II), dated January 19, 2006;

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54. Rock Hill School District Special Services Center Confidential Psychoeducational Evaluation of I. Graham, by M. Snowber-Marini, S.S.P., (Certified School Psychologist II) date of evaluation, November 1, 2005;
55. Rock Hill School District Three Emotional Disability Team Report for R. I. Graham, dated January 30, 2006;
56. Rock Hill School District Three of York County, Social Summary for R. I. Graham, by P. Barnhill, Home-School Coordinator, dated October 10, 2005;
57. Rock Hill School District Three Exceptional Student Education 'Confidential Psychological Evaluation' of R. I. Graham, by T. Gourdine, Ed.S. NCSP, dates of evaluation November 24, 2008; and December 5, 2008;
58. Letter from R. Bennett, M.S., LPC/I, Psychologist III, with the South Carolina Department of Juvenile Justice (SCDJJ), dated June 14, 2011;
59. South Carolina Department of Juvenile Justice (SCDJJ) Community Psychological Evaluation of R. I. Graham, date of evaluation March 30, 2010 by L. C. Hunnicutt, Jr., MA, LPC and K. Irmiter, Ph.D., report dated April 5, 2010;
60. South Carolina Department of Juvenile Justice (SCDJJ) Comprehensive Psychological Evaluation, by C. Black, LMSW, M. Nolan, MS and T. Morton, Ph.D., date of evaluation May 17, 2011;
61. South Carolina Department of Juvenile Justice (SCDJJ) Psychological Evaluation, by O. Keadle, Jr. M.S. and L. Williams, Psy.D., dates of evaluation June 28, 2013; July 3, 2013;
62. Records from the Chester County Jail, dated from July 20, 2014 to January 7, 2016;
63. Letter from Mr. Graham's former 'mentor,' Mr. Michael D. Williams, to 'Whom it May Concern' regarding Mr. Graham's sentencing hearing, undated;
64. Clinical Interview with Mr. Graham, lasting approximately two and one half hours, on January 5, 2016;
65. Interview with Mr. Graham's mother, Ms. Susan Graham, lasting approximately two and one half hours, on January 14, 2016;
66. Attempted second interview and testing with Mr. Graham on January 14, 2016;
67. Interview (by telephone) with Mr. Graham's prior 'mentor,' Mr. Michael D. Williams, on February 8, 2016;
68. Interview (by telephone) with Mr. Graham's maternal grandmother, Ms. Edna Mae Gordon, on February 16, 2016;
69. Interview (by telephone) with Mr. Graham's older brother, Mr. Jeremy McClinton, on February 16, 2016;
70. Interview (by telephone) with Mr. Graham's father, Mr. Robert Graham, on February 16, 2016;
71. Letter from Clayton Morton, Asst. Principal at Saluda Trail Middle School, dated February 18, 2016.

DISCLOSURE OF NON-CONFIDENTIALITY: Prior to the evaluation, Mr. Graham was provided information regarding the purpose and non-confidential nature of the evaluation. He was informed that any information he provided would not be confidential and would be provided to his attorney, which, at his attorney's discretion may be distributed to the court. He was also informed that the nature of the evaluation did not include a treatment relationship with the examiner and treatment would not be provided. Mr. Graham acknowledged understanding the parameters of the evaluation, and provided his consent to proceed.

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Date of Birth:

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HISTORICAL DATA/INTERVIEW SOURCES: Pertinent historical data is provided below as gathered from interview sources. Interview data gathered from the defendant, the defendant's mother, additional family members, and a mental health worker who worked closely with Mr. Graham as a child is presented.

▪ *Developmental History - Interview Data [Defendant]*

It should be noted that Mr. Graham was a poor historian, who lacked insight into his developmental, environmental and mental health factors during his childhood and adolescence. He was also protective of his mother, and his family, which seemed to impede significant provision of detail regarding his upbringing. Further efforts to interview him were not successful; therefore, information gathered from him is sparse. As such, collateral records were heavily relied upon for a more complete picture of his historical circumstance.

Mr. Graham reported that his mother raised him, with his siblings, in multiple places in Rock Hill and Chester, South Carolina. Growing up was "hard" but he seemed to have difficulty elaborating, alluding to family conflict in the household. He later described conflict with his mother's family members and gave the example that at age 8, his maternal uncle "put a gun to my head, he was drunk, I was scared, didn't want to move." He described multiple residential moves, as his mother could no longer pay the rent. He also noted, "men would come and go from the house" when he was a child. He acknowledged his mother had substance use issues, and that he "saw her drink and use crack." He observed her use of the latter substance at age 5 or 6, and again at age 17 just before his arrest. He reported attending "NA meetings" with her at various times throughout his childhood.

Regarding his own substance use, he first tried alcohol at age 8, and increased his use during his teenage years, but would only quantify his use as "now and then." At age 12, he began smoking marijuana, which eventually became a daily occurrence. He reported never experimenting with cocaine, or other drugs.

During his upbringing, he reported very frequent "whoopings" from his mother, "seven times a day." When he was age 11, she "hit me in the face" after he got in trouble in school for fighting. When directly asked, he reported no instances of physical or sexual abuse during his upbringing, as he did not consider his mother's actions abusive. His father was "not in my life like a father should have been" and he saw him only "every now and then." He resumed a relationship with him only after his arrest. He also reported his mother as now disabled from "fibromyalgia, and has mental issues."

Mr. Graham reported a history of mental health treatment due to "my anger, I used to get mad like that back then," acknowledging he had difficulty thinking through the consequences before he acted. When he was not angry, he was "really depressed." He stated medications used to "stop me from getting mad so quick" and believes he last had medication around age 14 or 15 years old. Presently (at the time of the interview) he was not prescribed any medication at the detention center, nor was he under mental health care. He reported his current mood as "stressed out, and angry every day because in jail," but denied symptoms when out of detention.

▪ Developmental History- Interview Data [Mother]

Ms. Susan Graham is 47 years old, and was born and raised in Chester, South Carolina. Her mother abandoned her when she was two years old, and from ages two to ten, an unrelated "older couple" raised her. At age 10, her caretaker died, and she was relocated to reside with family members. At this age, she began using drugs and alcohol, stating her mother and stepfather also abused substances. She described that, "poverty set in," with no running water in the home. At age 11, her stepfather "pimped me out for drugs" and she reported sexual abuse, physical abuse and neglect. By age 12, she was essentially living on her own, and at age 16, she became pregnant by a 33-year old. At age 18, she first tried crack cocaine and "really struggled with drugs and alcohol" until her pregnancy with Mr. Graham.

Ms. Graham was 27 years old when she gave birth to Mr. Graham. She denied cocaine use during her pregnancy. She described having urinary tract infections while pregnant for which she took medication, and at "six months, my water broke." Mr. Graham weighed "two pounds, 7 ounces" at birth, and remained in the hospital for weeks. She endorsed visiting him frequently. She took him home on a "breathing and heart monitor...then he got RSV, developed pleurisy...he stopped breathing" which prompted their return to the hospital several times.

When Mr. Graham was 8 months old, she began to notice, "something was wrong," as he had great difficulty "being contained" in car seats or the like. She stated, "everything was discontent" and that Mr. Graham was very difficult to calm and soothe. When Mr. Graham was 11 months old, she relapsed on crack cocaine, alcohol and marijuana, after a 4-year period of sobriety from cocaine. At ages 16 to 17 months, she noticed he was very hyperactive and impulsive, with frequent "tantrums." At ages 16 to 18 months, Mr. Graham "stopped sleeping" and she took him to the local mental health center where they "put him on a clonidine patch."

When he was approximately 3 years of age, she noted severe attachment problems as "he screamed for an hour when I left." When he was three and a half years old, she took him to reside in a residential substance treatment facility in Greenville, South Carolina, where she obtained treatment for drugs and alcohol for six months. When Mr. Graham was 5 years old, she again relapsed on crack cocaine, with her use lasting until he was approximately 10 years old. At age 8, Mr. Graham began receiving disability compensation for "mental health issues," which continued until he was 18 years old.

As a child, his mother described Mr. Graham as "always angry...had a lost look, always out of place, never content, I knew something was wrong with him." She noted hyperactivity and aggression throughout his development. She "hit him with switches" for discipline, but it was not effective. She continued taking him to mental health treatment, where they tried different medications. She stated, "he was allergic to stimulants [medication for attention/hyperactivity disorders], so they tried anti-psychotic and anti-convulsant medication." She believed the medication, Risperdal, was the most effective in improving his behavior. She reported he had difficulty in school, and by the second grade, "he was in self-contained classes, rode the special needs bus, which made him angrier." He also had an "IEP" and was on "homebound" schooling at times.

Regarding his childhood, Ms. Graham stated, "all that time, I'm suffering from mental illness." She recounted her diagnoses as "Major Depressive Disorder, Generalized Anxiety Disorder, Borderline Personality Disorder and Posttraumatic Stress Disorder" for which she was under psychiatric treatment. She noted her mental decompensation from these disorders made it much harder to adequately care for a special needs child, particularly as a single parent. She stated, "his father was not in the picture at all...a deadbeat."

When Mr. Graham was 14 years old, he went to Carolina Children's Home for 11 months. He came home at age 15, and refused to take any type of psychiatric medication. Therefore, she believes he last had any psychiatric medication at age 15. At the time of the charges in July 2014, when Mr. Graham was 17 years old, Mr. Graham was residing with his mother in Chester.

▪ Developmental History – Interview Data [Father, Brother, Grandmother]

Mr. Graham's father, brother, and maternal grandmother confirmed the reports of Mr. Graham's mother. His older brother noted Mr. Graham had "mental problems from an early age" and "required extra attention" with his schoolwork. He also confirmed their mother's struggle with drugs, "crack cocaine." His grandmother described behavioral concerns as a child, and problems with "always has to be on the go, attention-span is short." She believes he needs "counseling and medication." His father described him as "real hyper from the start," angry and easily frustrated. He confirmed he "wasn't around" during Mr. Graham's upbringing, but is now seeing him weekly at the detention center.

▪ Developmental History – Interview Data ['Mentor']

Mr. Michael D. Williams worked with Mr. Graham as a child in his role as a "behavior specialist" through the South Carolina Department of Mental Health. He presently works as a juvenile probation officer in Atlanta, Georgia. Mr. Williams estimated working with Mr. Graham from ages 8 to 13. He saw Mr. Graham "three or four times a week" and "would sit in his classes, hang out after school, take him places, church, sporting events." Mr. Williams was able to involve Mr. Graham in "little league football," which was his "first organized sport" where he did well with team members and coaches. He noted that when he first began working with Mr. Graham, Mr. Graham's mother was a "recovering drug addict, in the process of rehabilitating herself." He believed "she was focused on herself and her treatment" instead of Mr. Graham's needs. He noted Mr. Graham did not have an adult male figure in the home and that he never met Mr. Graham's father.

Mr. Williams described Mr. Graham as "had a hard time focusing in school, difficult time coping with his anger, very hard to use his coping skills when angry...he did not think about consequences, just acted out." In the classroom, Mr. Williams would "help him out, keep him on track, he had a lack of focus, attention-seeking, acting out, doing things without thinking..." Mr. Williams believed "he really needed somebody there consistently for him to stay on track," which he believed Mr. Graham did not have. Mr. Williams last saw Mr. Graham possibly five years ago, however, Mr. Graham has periodically contacted him by phone. In those contacts, it still seems to Mr. Williams that Mr. Graham has an "inability to think about consequences, not able to process that in his mind."

HISTORICAL DATA/COLLATERAL SOURCES: Pertinent developmental and historical data from collateral sources is provided below in chronological order of events. Familial factors are first reviewed, followed by developmental stages to include the prenatal period, birth/infancy, childhood, and adolescence.

▪ *Developmental History- Collateral Data [Familial]*

Mental health records indicate that Mr. Graham's extended paternal family members have "low cognitive functioning" and a history of mental disorder. School records note, "several of Isaiah's paternal relatives receive SSI as a result of mental instability." Records also repeatedly refer to alcohol and drug dependency with his father, and his mother reported in records that his father "is an alcoholic and also uses drugs."

Mental health records indicated Mr. Graham's "maternal family [is] marked by addiction, Schizophrenia and criminal violence." Mental health records indicated that Mr. Graham's mother "has a long history of crack cocaine, marijuana and alcohol abuse." Records indicate she acknowledged that, during Mr. Graham's upbringing, she was "negligent and emotionally unavailable" during times of substance abuse. School records indicated that his mother was a "recovering addict."

▪ *Developmental History – Collateral Data [Prenatal]*

Collateral records from Baptist Hospital indicate that Mr. Graham was exposed to marijuana in utero, as his mother used marijuana during her pregnancy. Mental health records indicate that his mother reported using marijuana "very early in the pregnancy;" and additional records indicated she reported using marijuana "frequently" during her pregnancy. She also reported having smoked cigarettes. Mental health records further indicate that Mr. Graham's mother experienced multiple urinary tract infections during her pregnancy, and took several different kinds of antibiotics (specific medications unknown) while pregnant with Mr. Graham.

▪ *Developmental History – Collateral Data [Birth/Infancy]*

Mr. Graham's birth records from the Spartanburg Regional Medical Center indicate that Mr. Graham was born on _____ at 27 weeks gestation, by cesarean section "for breech presentation." Prior to his birth, his mother had been transferred from Chester County Hospital "for management of premature spontaneous rupture of membranes, preterm labor, breech presentation." At birth, he exhibited breathing difficulties, noted as "significant respiratory distress," due to "repeated apnea and retractions." He required "intubation" and "was quickly transferred to Intensive Nursery Care." His birth weight was "1130 gm," or approximately 2 lbs, 7 ounces, with a body "length" of 35.5 cm (13 inches).

Diagnostic impressions at birth were "Neonatal respiratory distress syndrome" and "possible sepsis." Medical staff described Mr. Graham as "significantly ill." Records note that, after his birth, he spent "seven weeks in the NICU [Neonatal Intensive Care Unit] with four days on ventilator after delivery."

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On **September 19, 1996**, a letter was written to Spartanburg Regional Hospital by a physician medical consultant from DHEC regarding Mr. Graham's newborn screening results. The letter stated, "the newborn screening on this child revealed a positive screen for congenital hypothyroidism." It further stated, "it is important that this child be rescreened as soon as possible," with a request for another specimen to be mailed to DHEC. In the provided records, there is no follow-up to this issue, and it is unclear if another specimen was submitted, or if Mr. Graham was treated for this condition. Untreated congenital hypothyroidism can result in irreversible neurological impairment, manifesting as intellectual disability.

After his birth, Mr. Graham was held in the hospital for approximately seven weeks, until **October 22, 1996**. During that time, he was treated for respiratory issues, and jaundice. His growth during the hospitalization was noted as "very good" with a discharge weight of 2144 grams (4 lbs., 7 ounces), and a discharge length of 43 centimeters (16 inches). His discharge diagnoses were "Premature Birth, 1130 grams, 27 weeks gestation, appropriate for gestational age male infant;" "hyaline membrane disease" (also known as respiratory distress syndrome); "chronic pulmonary insufficiency of the premature;" and hyperbilirubinemia [jaundice]. He was discharged on an apnea monitor for continued breathing difficulties.

From **December 20, 1996 to December 26, 1996**, Mr. Graham was re-admitted to the hospital for six days due to "bronchiolitis," a condition characterized by obstructed airways usually caused by a viral infection. He exhibited shortness of breath, and later tested positive for RSV (respiratory syncytial virus).

At **4 months of age**, from **January 8, 1997 to January 11, 1997**, Mr. Graham was hospitalized secondary to respiratory problems, "respiratory syncytial virus bronchiolitis and apnea;" as well as an "umbilical hernia and history of prematurity." Prior to his admission, there was a "report of one apnea episode lasting one minute earlier in the day." He was treated and discharged on medication to assist with breathing and nebulizer treatments were continued.

At **16 months of age**, mental health records indicate that his parents separated with "very inconsistent contact" with his father after that time.

▪ *Developmental History – Collateral Data [Childhood]*

Age 21 months – June 1998 [Mental Health Treatment]: At 21 months old, on June 5, 1998, Mr. Graham's mother sought mental health services for Mr. Graham at the Catawaba Community Mental Health Center due to poor sleep, aggression and destructive behavior. The clinician believed Mr. Graham was a "premature-fragile child" who needed "structure in a child-proof home, and consistent caregiver discipline." The clinician noted multiple stressors contributing to Mr. Graham's behavior, including "mother under stress re: his health since his birth; parents divorced; financial stress; and *extended family conflict on a daily basis.*" The clinician further noted, "mother extremely stressed by child's demanding, aggressive behavior...*Robert may be family scapegoat...Mother admits at times feels she might hurt him in effort to control him.*" He was diagnosed with Disruptive Behavior Disorder, Not Otherwise Specified. Further mental health evaluation, family treatment, and medication evaluation was recommended.

Age 2 years, 6 months – March 1999 [Mental Health Treatment]: On March 26, 1999, when he was 2 years and 6 months old, Mr. Graham's mother brought him for a psychiatric evaluation at the Catawba Family Center due to aggression, hyperactivity and defiance. She reported excessive temper tantrums with property destruction. She acknowledged having used a "switch" for punishment and having to hold him down to enforce "time out" punishments. His attention span was noted as "very limited" and he was "very impulsive and hyperactive." He was noted to have hit himself when frustrated. His mother also reported a seizure like episode during which Mr. Graham was awake, but unresponsive for approximately 45 seconds.

During the evaluation, he was observed to be "very active" requiring "significant redirection" with "attention and concentration very limited." He was started on a clonidine patch for symptom control. A "complete neurological consultation" was also recommended to rule out seizure activity or other neurological disorder. The evaluating physician further noted, *"I would wonder if [his] early exposure to cannabis during the first trimester of her pregnancy may not also be contributing to his behavioral presentation;"* and, regarding his mother whipping him with a switch, the physician wrote, *"I would wonder if this early modeling may not have also contributed to some of this client's aggressive behavior."*

Ages 4 to 8 – 2001 to January 2005 [Mental Health Treatment]: Mental health notes from 2001, age 4 indicated that, in addition to clonidine, he was started on Risperdal (used for psychosis, mood stability, and agitation), with Adderall (stimulant used to improve concentration, distractibility and impulsivity) added to his medication regimen. Defiance, anger, and hyperactivity were all problems of clinical concern. His mother reported "frequent rages" that he "talks in sleep all night" and "has occasional night terrors."

A mental health 'Update' note from March 2002, when Mr. Graham was **5 years old** indicated he was still being seen for mental health services at Catawba Mental Health, and at this time, was prescribed clonidine and risperidone. It was noted that his mother was *"pressured by extended family members to give whippings more when Isaiah's behavior isn't good."* During the session, the clinician described him as "very very active, running, jumping, out of control" despite having taking medication. His diagnoses as of this date were Attention Deficit Hyperactivity Disorder (ADHD), Combined Type, and Oppositional Defiant Disorder.

A mental health note from May 15, 2003, at **age 6**, indicated a medicine for bedwetting was added to his regimen. In June 2004, **age 7**, notes indicated "ongoing behaviors cause much distress for mom, who was recently hospitalized for depression and OD [presumably overdose]." He was taking Risperdal, and Straterra (used for attention/concentration deficits), and the psychiatrist noted, *"although lowering Risperdal may be possible in the future, I will not consider this until the family system has an extended time of stability."*

At **age 8 years old**, by January 2005, Mr. Graham was "stable" on a combination of Risperdal and Straterra. However, in January 2005 the "doctor wanted to try him off medication to reassess symptomatology." He became significantly worse after the medication was discontinued, with increased impulsivity and behavioral problems.

Age 8 – June/July 2005 [Psychiatric Hospitalization]: At age 8, Mr. Graham was emergently hospitalized at Baptist Hospital from June 28, 2005 to July 6, 2005. He had been referred from the Catawba Mental Health Center for treatment noncompliance for “severe behavioral problems.” At this time, he was bedwetting (nocturnal enuresis) nightly. Upon initial examination, Mr. Graham was described as “thin” with “unkempt grooming,” “restless psychomotor activity,” “poor attention span,” “initial insomnia and diminished appetite,” with “threats of suicide, very low self-esteem.”

Psychological testing indicated the following. Although he was “advancing to the third grade” in the fall of 2005, achievement testing indicated that his reading and spelling skills were on the first grade level. Testing further indicated a strong possibility that “a significant attention problem exists,” with presentation similar to youth who are “angry and impulsive.” An EEG performed was “normal.” An MRI of the brain to “rule out organic disorders” indicated “some mild dilation of the right ambient cistern which is not thought to be a significant finding” with the impression “no significant abnormalities.”

During his hospitalization, he required an injection of medication due to hostility and aggression, after refusing to take oral medication. He was treated with a new medication, Focalin, which was successful in “improving concentration, attention, decreasing distractibility” and in “improve[ing] his thought processes.” He was discharged home to his mother, with diagnoses of “Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder.”

Age 9 – November 2005 [Psychiatric Hospitalization]: At age 9 years old, Mr. Graham was admitted to the William S. Hall Psychiatric Institute from November 2, 2005 to November 17, 2005, after a referral from Catawba Mental Health for “being dangerous to others, failure of outpatient treatment.” He was admitted to the Children’s Unit with problem areas targeted to include 1) Aggressive Behavior, with his episodes “gradually...decreased to minimal;” 2) Irritable Mood and Poor Sleep, with “mood much improved by the time of discharge;” and 3) Disruptive Behavior and ADHD Symptoms, with “no significant disruptive behavior” during his hospitalization. His medications were changed, which accounted for some of his improvement. He was discharged to his mother, with diagnoses of “Oppositional Defiant Disorder;” “Attention-Deficit/Hyperactivity Disorder Combined;” “Rule Out Borderline IQ;” and “Patient Preemie Exposed to Cannabis in Utero.” Discharge medications included Risperdal and Straterra, with “recommend structure and positive reinforcement” for additional intervention.

Age 9 – November 2005 [Psychoeducational Evaluation]: At age 9 years old, on November 1, 2005, and in the third grade, Mr. Graham was administered psychoeducational testing by the Rock Hill School District due to “significant emotional and behavioral difficulties.” He obtained a Full Scale IQ of 80; a Verbal IQ of 79; and a Performance IQ of 90; using the Wechsler Intelligence Scale for Children, Fourth Edition (WISC-IV). On November 2, 2005, behavior assessment scales indicated “clinically significant” behavior concerns. On November 28, 2005, achievement testing indicated that Mr. Graham’s reading and math skills tested at the second grade level, with his writing skills at the first grade level. The evaluator described Mr. Graham as having “low frustration tolerance” with a “disorganized and impulsive style to tasks and problem solving,” along with diminished ability to concentrate, being easily distracted and impulsive. Results were considered a “valid estimate” of his functioning.

Of the results, it was noted that Mr. Graham “performed in the low average to significantly below average range of academic aptitude, the significantly below average to severely below average range of academic achievement and the clinically significant range of adaptive behavior.” As “significant emotional and behavioral difficulties” were thought to be primary reasons for his poor academic performance, he was found eligible as an “*Emotionally Disabled*” student.

Ages 9 to 11 – January 2006 to October 2007 [Mental Health Treatment]: On January 31, 2006, at age 9, a mental health note indicated that he “continues to struggle with academic performance and specifically an ability to retain information, reading comprehension and completing assignments independently.” He “has just been declared emotionally disabled and will now attend school in a specialized self-contained class designed to modify behavior and strengthen academic capabilities.” His diagnosis was noted as Disruptive Behavior Disorder, Not Otherwise Specified, with “limited intellectual functioning.” He was noted to need improvement in “improve anger management, impulse control, peer conflicts, follow rules at home and school and improve academic performance.” Mental health records further indicated that, at this age, Mr. Graham shared a bedroom with his 17-year old brother, who was already a “parent” at that age.

Mental health records from 2006 and 2007, **ages 9, 10, and 11** indicate that he continued to take psychiatric medications for anger, hyperactivity, and impulsivity.

Age 12 – November/December 2008 [Psychoeducational Evaluation]: Mr. Graham was re-evaluated by the school district at age 12, in November and December 2008, in the 6th grade. The evaluation was initiated to determine continued eligibility for the classification of ‘Emotionally Disabled.’ At the time of his testing, he “continues to present with significant behavioral weaknesses.” He presented as “polite and cooperative” with good effort, and test results were considered a valid representation of his functioning.

His intellectual and cognitive functioning was assessed with the Differential Ability Scales (DAS), and his overall intellectual functioning fell within the ‘*Below Average*’ range, with a General Conceptual Ability (GCA) score of 80. On a test of visual-motor integration, his performance was in the ‘*Deficient*’ range as compared with his peers, with a score of 75, at the 5th percentile rank. His overall reading skills tested “*within the Deficient range*” and “as a result, he will likely struggle with addressing grade level reading material.” His overall math skills fell within the ‘*Average*’ range, which indicated a relative strength in this area. His writing skills fell within the ‘*Very Deficient to Deficient*’ range, and although possibly an underestimate of his abilities, “he may struggle with addressing grade level material” in writing tasks. Behavior assessment rating scales completed by his teacher indicated clinically significant scores in the areas of Aggression, Attention Problems, Conduct Problems, and Externalizing Problems (disruptive behavior).

The evaluator concluded that he would continue to benefit from a specialized education program outside of the regular classroom. Specifically, “mental health counseling with an emphasis on social skills training as well as coping skills” was recommended.

▪ Developmental History – Collateral Data (Adolescence):

Age 12 and 13 – January 2009-March 2010 [Mental Health Treatment]: Mental health notes from 2009 and 2010, ages 12 and 13, indicate that Mr. Graham was still taking psychiatric medication, had been expelled from school, and was beginning to experience legal difficulties through the juvenile justice system

Age 13 – March 2010 [SCDJJ Psychological Evaluation]: On March 30, 2010, at age 13, Mr. Graham underwent a 'Community Psychological Evaluation' by the South Carolina Department of Juvenile Justice (SCDJJ). He had been adjudicated delinquent on a charge of Trespassing (reduced from Burglary, Second Degree). At the time of the evaluation, he was living in a therapeutic placement with a "caregiver." He told the DJJ examiner that "I don't want to go back home. I want to stay with her [foster mother]." The DJJ examiner noted: *"His parents' past drug abuse, his mother's ongoing mental health issues and current medical problems, and his reluctance to return home suggest that Isaiah's home environment has been lacking in structure, stability, nurturance, and adequate supervision. These relevant dynamics appear to be intricately woven into Isaiah's pattern of maladaptive behaviors."*

During the evaluation, Mr. Graham was administered a battery of psychological tests. He was described as "polite, respectful and cooperative, though fidgety and restless" with "good work ethic." Therefore, the results of the testing were considered valid. Results indicated the presence of social difficulties; manipulation; maladaptive behaviors; concerns about his mother; feelings of worry, sadness, anger, and boredom; and "little insight into his psychological makeup and how others perceive him."

In conclusion, the examiner noted, *"assessment of family functioning indicates problematic dynamics which have plagued the family for several years...Isaiah's significant emotional issues and his insecure home environment have contributed to his problematic behavior and substance abuse."* He was diagnosed with Mood Disorder Not Otherwise Specified; Oppositional Defiant Disorder; and Attention Deficit/Hyperactivity Disorder, Not Otherwise Specified by History. He was referred to Continuum of Care through SCDMH as his *"offenses appear to be related to his serious mental health issues and an unstable home environment."*

Age 14 – May 2011 [SCDJJ Psychological Evaluation]: On May 17, 2011, when he was 14 years old, he underwent a Comprehensive Psychosocial Evaluation by SCDJJ at the Upstate Evaluation Center, after being adjudicated for Contempt of Court for violation of a prior court order. At this time, he has been placed outside of the home on three occasions, from January 2010 to April 2010 (Youth Advocate Program); from August 2010 to November 2010 (Camp White Pines); and from March 2011 to April 2011 (Therapeutic Foster Home).

During testing, he was "polite, worked cooperatively and appeared motivated to perform his best," therefore test results were considered valid. On the Wechsler Abbreviated Scales of Intelligence (WASI), he obtained a Full Scale IQ of 65, falling within the *'Intellectually Deficient'* range (1st percentile); a Verbal IQ of 72 (3rd percentile); and a Performance IQ of 62 (1st percentile). Reading and math skills also tested "below normal levels for his age."

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Testing indicated behavioral problems adhering to socially acceptable standards of behavior, that he "prefers to be in control," his "behavior is unpredictable," with "difficulty controlling his mood for long periods of time...*feels his family life is tense and full of strife with little places to turn for support.*" The examiner further noted, "*he is emotionally impulsive and tends to react rather than contemplate consequences before acting.*" He was diagnosed with Conduct Disorder; Cannabis Abuse; Nicotine Dependence; ADHD, by history; and Borderline Intellectual Functioning. Recommendations included, but were not limited to. continued mental health treatment, outside home placement, and a mentoring program.

On **June 14, 2011**, a letter was written from SCDJJ referencing Mr. Graham's above admission to SCDJJ for his evaluation. The letter that indicated Mr. Graham "adjusted well to the structure of the Upstate Evaluation Center..." He "interacted well with his peers. was courteous and respectful towards staff, and followed directives with limited resistance...was a good student and was not a behavior problem." It was further indicated that he "completed his work with little assistance, had a good attitude and was cooperative and helpful...[he] appears to have the ability to function adequately in a structured environment."

Age 14 – July 2011 [Mental Health Treatment]: On July 28, 2011, at age 14, he was seen at SCDMH via a court order due to a placement at SCDJJ's Camp White Pines. He was taking Abilify, 15 mg for "ADHD" as he is allergic to stimulant medications. He was noted as "*emotionally handicapped.*" He was diagnosed with Conduct Disorder; Cannabis Abuse; ADHD, by History; and Borderline Intellectual Functioning.

Age 16 – June/July 2013 [SCDJJ Psychological Evaluation]: On June 28, 2013 and July 3, 2013, at age 16, Mr. Graham underwent a psychological evaluation by SCDJJ at the Upstate Evaluation Center. He had been adjudicated delinquent for a charge of Probation Violation. Test results obtained were considered valid and reliable. Intellectual testing completed with the Kaufman Brief Intelligence Test, 2nd Edition (KBIT-2) indicated a Full Scale IQ of 77, falling 'Below Average' and at the 6th percentile rank. A Verbal IQ of 70 and Nonverbal IQ of 90 were also obtained. His academic skills tested below grade and age level, and a test of visual motor integration indicated this area is "delayed for his age." He was diagnosed with Conduct Disorder Unspecified Onset, Moderate; Cannabis Abuse; and Alcohol Abuse.

Age 17- January 22, 2014 [Placed on Probation]: Mr. Graham was placed on probation for his first adult charge of "Burglary, 3rd Degree, 1st Offense" with a sentence of "YOA NTE 5 years suspended to five years probation."

Age 17 – April 2014; June 2014 [Legal Charges]: In three separate incidents, Mr. Graham incurred misdemeanor charges of Purchase/Possession of Alcohol by a Minor; Possession of Marijuana; Possession of Dispose/Distribute Prescription Drugs; and Malicious Injury to Personal Property.

Age 17 - July 16, 2014 [Present Charges- Murder]: On July 17, 2014, Mr. Graham was arrested in Chester County. He spoke with law enforcement on July 18, 2014, and was subsequently charged with Murder, Possession of a Weapon During Commission of a Violent Crime, and Probation Violation. He has been detained in the Chester County Jail since his arrest.

Table Summarizing Mr. Graham's Prior Intellectual Testing Results during Childhood and Adolescence:

Test	Year/ Age	Examining Agency	*Full Scale IQ / Classification	% Rank	*Verbal IQ / Classification	% Rank	*Performance IQ / Classification	% Rank
WISC-IV	2005/ 9 y.o	School District Psychologist	80 / (Significantly Below Average)	9 th	79 / (Significantly Below Average)	8 th	90 / (Low Average)	25 th
DAS	2008/ 12 y.o.	School District Psychologist	80 / (Below Average)	9 th	98 / (Average)	45 th	72 / (Deficient)	3 rd
WASI	2011/ 14 y.o.	SCDJJ Examiner	65 / (Intellectually Deficient)	1 st	72 / (Borderline)	3 rd	62 / (Intellectually Deficit)	1 st
KBIT-2	2013/ 16 y.o.	SCDJJ Examiner	77 / (Below Average)	6 th	70 / (Below Average)	2 nd	90 / (Average)	25 th

*(IQ scores have a mean of 100 and a standard deviation of 15).

Table Summarizing Mr. Graham's History of Psychiatric Diagnosis During Childhood and Adolescence:

Year/Age	Evaluating Agency	Diagnoses
1998 / 21 months	Catawba Mental Health	Disruptive Behavior Disorder, Not Otherwise Specified
2002 / 5 years	Catawba Mental Health	Attention Deficit Hyperactivity Disorder (ADHD), Combined Type, and Oppositional Defiant Disorder
2005 / 8 years	Baptist Hospital	Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder
2005 / 9 years	William S. Hall Psychiatric Institute	Oppositional Defiant Disorder; Attention-Deficit/Hyperactivity Disorder Combined; Rule Out Borderline IQ; and Patient Premie Exposed to Cannabis in Utero.
2010 / 13 years	SCDJJ Psychologist	Mood Disorder Not Otherwise Specified; Oppositional Defiant Disorder; and Attention Deficit/Hyperactivity Disorder, Not Otherwise Specified by History
2011 / 14 years	SCDJJ Psychologist	Conduct Disorder; Cannabis Abuse; Nicotine Dependence; ADHD, by history; and Borderline Intellectual Functioning
2013 / 16 years	SCDJJ Psychologist	Conduct Disorder Unspecified Onset, Moderate; Cannabis Abuse; and Alcohol Abuse
2014 / 18 years	SCDMH / Forensics	Alcohol Dependence, Cannabis Dependence, Attention Deficit Hyperactivity Disorder, by History; Borderline Intellectual Functioning, Antisocial Personality Disorder

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MENTAL STATUS EXAMINATION: During the interview on January 5, 2016, Mr. Graham presented as appropriately dressed in jail-issued attire, with adequate attention to grooming and hygiene. He appeared immature for his age, with mannerisms and verbalizations more akin to a younger adolescent. At the start of the evaluation, his attorney was present in the interview room. In interacting with his attorney, Mr. Graham was easily agitated and frustrated when discussing his case. His speech was loud and rapid, and he was difficult to interrupt or redirect. He exhibited overt mood lability, with low frustration tolerance prompting verbal outbursts when he could not comprehend his attorney's responses. He had difficulty reasoning through his attorney's points, often impulsively interrupting, or exhibiting perseveration on the same thought or argument. His thought process was simplistic and concrete, with no bizarre content noted.

When his attorney left the examination room, Mr. Graham calmed somewhat, as the examiner directed him away from his case, to discuss historical factors. However, he lacked insight into his background, was protective of his family, and sensitive to divulging anything that he believed could be construed as a weakness (e.g., poverty, neglect or abuse). Thus, he provided scarce detail, with little elaboration. Throughout the interview, overt restlessness was noted, as Mr. Graham constantly moved in his seat, with poor sustained concentration and focus on the questions. After some time, Mr. Graham requested to end the interview, as he was restless and tired, with a short attention span. Although he agreed to meet with the examiner again to complete the interview and conduct intellectual testing, he declined the meeting when the examiner returned to the detention center.

DIAGNOSTIC FORMULATION: Due to the premature termination of the evaluation, a brief cognitive examination was not completed, nor a full review of psychological symptoms. Mr. Graham did indicate significant negative mood states while detained, but denied symptoms when not detained. Regarding diagnosis, he has received multiple diagnostic labels over the course of his development, summarized by the table above.

History of Diagnosis: As the table reflects, Mr. Graham's early childhood diagnostic picture was formally characterized by behavior problems, defiance with adults, inattention, difficulty concentrating/focusing, hyperactivity, impulsivity, mood lability, and sub-average intellectual functioning. At least one hospitalization noted factors of pre-term birth and in utero exposure to cannabis as contributing to the diagnostic picture. In early to mid adolescence, substance disorders (alcohol and marijuana) began to be diagnosed. At age 18, his behavioral problems were diagnosed using adult diagnoses (Antisocial Personality Disorder) rather than child or adolescent labels (e.g., Disruptive Behavior Disorder or Conduct Disorder).

Present Evaluation: Prior testing clearly shows recurring intellectual and cognitive test scores within the significantly sub-average range, therefore a diagnosis of *Borderline Intellectual Functioning* is appropriate. Further, he was observed to be restless, impulsive, easily distracted, and irritable during the interview. Therefore, given his presentation and history, symptoms of *Attention Deficit Hyperactivity Disorder* appeared present. His prior diagnoses of Disruptive Behavior Disorder, Oppositional Defiant Disorder, and Conduct Disorder are almost exclusively utilized in childhood and/or adolescence; therefore, adult anti-social labels are now used (*Antisocial Personality Disorder*) to denote a history of violation of social norms and aggression.

'MILLER' Factors Analysis: As Mr. Graham was 17 years old at the time of his charges, an analysis of the 'Miller' factors per *Miller v. Alabama*, as outlined by the South Carolina Supreme Court in *Aiken v. Byars*, was conducted per Mr. Graham's historical and case circumstance. The above historical data per interviews and collateral sources, in addition to relevant literature, were utilized for the following analysis.

I. Chronological Age and the Hallmark Features of Youth – "immaturity, impetuosity, and failure to appreciate risks and consequence"

'Youth' or the time period of adolescence is characterized by certain 'hallmark features,' which increase the likelihood of making poor decisions and engaging in risky conduct. As a result, the youth's chances of perpetrating actions harmful to himself or others are also increased. Such features are disproportionate in adolescents as compared to adults, and include impulsivity and reactivity; recklessness; risk-taking; decreased ability to regulate emotions; difficulty considering long-term consequences, with an overvaluing of immediate rewards; and an immaturity in reasoning, decision-making and judgment.¹ The predominance of these features during adolescence is believed to reflect the nature of adolescent brain development.²

Specifically, the brain continues to develop through one's early to mid-twenties, with the 'prefrontal' area the last to mature.³ The 'prefrontal' area is responsible for 'higher-order' cognitions, including reasoning, judgment, planning, organization, impulse control, emotion regulation, and decision-making.⁴ Therefore, juveniles are less able to implement these skills than adults, particularly when under stress or increased emotion.^{5,6} Regarding the latter, heightened emotional volatility due to hormonal changes is another hallmark feature of adolescence. Further, studies indicate that adolescents are more reward-sensitive, particularly to immediate reward, and without the cognitive 'brakes' necessary for mature behavioral self-regulation. In other words, "the motivational system, which underlies risk and reward-based behavior, develops earlier than the cognitive control system, which regulates such behavior."⁷ Therefore, adolescents "may be less able to deploy their cognitive capacities as effectively as adults in exercising judgment in their everyday lives when decisions are influenced by emotional and social variables."⁸

¹ Brief for the AMA and the AACAP as Amici Curiae in Support of Neither Party, *Miller v. Alabama*, 132 S. Ct. 2455 (2012).

² Laurence Steinberg, *Should the Science of Adolescent Brain Development Inform Public Policy*, 64 Am. Psychol. 739 (2009).

³ B.J. Casey, Sarah Getz & Adriana Galvan, *The Adolescent Brain*, 28 Dev. Rev. 62 (2008).

⁴ Harvey B. Milkman & Kenneth W. Wanberg, *Criminal Conduct and Substance Abuse Treatment for Adolescents: Pathways to Self-Discovery and Change* (2nd ed. 2012).

⁵ Elizabeth Cauffman & Laurence Steinberg, *Immaturity of Judgment in Adolescence: Why Adolescents may be less culpable than adults*, 18 Beh. Sci. Law, 741 (2000).

⁶ Dustin Albert & Laurence Steinberg, *Judgment and Decision Making in Adolescence*, 21 J. Research on Adolescence, 211 (2011).

⁷ Brief for the AMA & the AACAP, *supra* note 1, at 13.

⁸ Laurence Steinberg, *Adolescent Development and Juvenile Justice*, 5 Annu. Rev. Clin. Psychol, 459, 468 (2009).

As Mr. Graham fell within the category of 'adolescent' at the time of his charges, he was thus subject to the above 'hallmark features.' In his case, such features were significantly amplified given his history of neurological impairment, significantly lowered intellectual functioning, and mental disorder. Traits of impulsivity, hyperactivity, disinhibited behavioral control and poor emotion regulation are well documented throughout his development, thus, impairing his abilities in these areas to a greater degree than an otherwise healthy juvenile. For Mr. Graham, such traits have been caused to some extent, or amplified, by multiple adverse events in his development, which increased his susceptibility to the 'hallmark features' of youth.

For example, per records, it is clear that he was prenatally exposed to cannabis "frequently" and in the first trimester. Further, when he was age two and a half years, an evaluating physician questioned, "*if [his] early exposure to cannabis during the first trimester of [mother's] pregnancy may not also be contributing to his behavioral presentation.*" In utero cannabis exposure has been linked with the development of cognitive deficits, depression, attention deficits, impulsivity and hyperactivity in the developing child. Research indicates, "cannabis consumption during pregnancy has profound variable effects on offspring in several areas of cognitive development..."⁹ Such findings "suggest that maternal consumption has interfered with the proper maturation of the brain"¹⁰

Further, Mr. Graham was born extremely pre-term at 27 weeks, weighing only two pounds, seven ounces at birth. Approximately 55% of all babies born at 27 weeks have some sort of disability, with 35% having a 'mild disability' including learning disabilities, deficits in attention and concentration and poor impulse control.¹¹ This may be a function of decreased cerebral volume found in follow-up studies of children and adolescents born preterm with the "frontotemporal and hippocampal regions" the most vulnerable.¹²

Individuals born preterm have "high rates of long-term neurological" problems given the immaturity of the brain at birth, with "most studies show[ing] continued sequela such as cognitive deficits, academic underachievement, grade failures, and the need for increased remedial assistance during mid-childhood and adolescence."¹³ Particularly, deficits in executive function have been found, which is "important in a child's cognitive functioning, behavior, emotional control, and social interaction."¹⁴ Further, rates of ADHD have been found to be twice as high in children born preterm compared to full-term children.¹⁵

⁹ Chia-Shan Wu, Christopher P. Jew & Hui-Chen Lu, *Lasting impacts of prenatal cannabis exposure and the role of endogenous cannabinoids in the developing brain*, 6.4 Future Neurol. 459, 462 (2011).

¹⁰ *Id.* at 467.

¹¹ *Birth at 27 Weeks of Gestation*, <https://penut-trial.org/node/45> (last accessed February 4, 2016).

¹² Laura R. Ment & Betty R. Vohr, *Preterm birth and the developing brain*, 7 Lancet Neurol. 378, 378 (2008).

¹³ Saroj Saigal & Lex W. Doyle, *An Overview of Mortality and Sequelae of Preterm Birth from Infancy to Adulthood*, 371 Lancet 261, 263 (2008).

¹⁴ *Id.*

¹⁵ Megan N. Scott, et al., *Behavior Disorders in Extremely/Preterm/Extremely Low Birth Weight Children in Kindergarten*, 33 J. Dev. Behav. Pediatr. 202, 208 (2012).

Higher rates of “Oppositional Defiant Disorder and enuresis ...emotional disturbance, problems in behavior self-control, and defiant/disruptive behaviors” were also found.¹⁶ Such behavioral disturbances were more prevalent in boys and in children from lower socioeconomic environments.¹⁷

In longitudinal analyses, research was conducted with adolescents at age 18, who had been born preterm. Those born ‘extremely preterm’ at 23 to 27 weeks, as Mr. Graham, exhibited significant cognitive deficits into adulthood. Therefore, the researchers “conclude that extremely preterm birth per se poses a risk for long-term cognitive outcome, particularly in executive functions” and that “the effect had not diminished but rather strengthened over time.”¹⁸

Therefore, both his exposure to cannabis in utero, and his preterm birth would have predisposed Mr. Graham to experience an increased vulnerability to the ‘*hallmark features of youth*,’ particularly in regards to impulse control, executive function, and emotion regulation. His history of mental disorder and lowered intellectual functioning, would have also exacerbated such ‘*features*.’

II. Family and Home Environment

Mr. Graham’s family and home environment, as detailed above, was reflective of chronic dysfunction and conflict. Mental health records throughout his development reference such conflict with one psychiatrist noting there was “*extended family conflict on a daily basis*,” and another psychiatrist unwilling to decrease his medication “*...until the family system has an extended time of stability*.” As a teenager, another examiner noted, “*assessment of family functioning indicates problematic dynamics which have plagued the family for several years*.” It was also noted that his juvenile offenses, in part, were related to “*an unstable home environment*.”

Mr. Graham himself has reported familial dysfunction throughout the years, as noted in one evaluation that he “*feels his family life is tense and full of strife with little places to turn for support*.” At one point, he expressed a desire not to return home, but to stay in his foster home. This suggested his home environment was “*lacking in structure, stability, nurturance, and adequate supervision*,” with the nature of his home environment “*intricately woven into Isaiah’s pattern of maladaptive behaviors*.”

Specifically, records note evidence of punishment by “whippings” in the home environment beginning from an early age. By 21 months, it was noted that, “*Mother admits at times feels she might hurt him in effort to control him*.”

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Aiko Lundequist et al., *Cognitive outcome varies in adolescents born preterm, depending on gestational age, intrauterine growth and neonatal complications*, 104 Acta. Paediatr. 292, 297-298 (2015).

By two and one half years, it was noted that she was using a “switch” for punishment and later in his life, when he was 5 years old, that she was “*pressured by extended family members to give whippings more.*” The early reports caused one physician to question, “*if this early modeling may not have also contributed to some of this client’s aggressive behavior.*” This is consistent with the ‘social learning theory’ of behavior in which children are believed to learn from observing their environment, and to model their observations in their own interactions.¹⁹ Further, harsh discipline in childhood is a known risk factor for the development of later aggressive conduct.²⁰

In addition, there is ample evidence that his home environment was heavily influenced by his mother’s dependency and repeated relapse on crack cocaine. In records, she acknowledged being “*negligent and emotionally unavailable*” during times of drug use. The mental health worker assigned to Mr. Graham also believed that his mother’s struggle with drug addiction prevented adequate care and supervision on her part. Further, the height of her relapse coincided with a worsening of his symptoms and behaviors, in which he incurred two psychiatric hospitalizations, one at age 8 and one at age 9. He also told law enforcement at the time of his arrest for the current charges, that his mother had begun using crack cocaine again as he had recently “found a spoon in her drawer.” In addition to substance abuse, his mother was diagnosed with multiple mental disorders that required ongoing treatment, and which would have disrupted and adversely impacted her parenting abilities. Poor parental supervision is a risk factor often associated with delinquent youth.

Finally, by all accounts, his father was absent during his upbringing due to alcohol and drug dependency, distance, and involvement in another family unit. Therefore, Mr. Graham was raised without a strong paternal influence for guidance, supervision and discipline. Male children raised without such influence may be at greater risk to adopt negative peer models, and thus, at risk for delinquency.

III. Circumstances of the Homicide Offense

Discovery documents indicate that the victim was a 16-year old male, “reportedly found lying face down in the road on Pickney Street in Chester at 9:40 p.m. on July 16, 2014.” He was found “unresponsive and declared dead at the scene.” The autopsy report indicates he died from a “distant gunshot wound to the left upper chest.” Per the affidavit, “the victim was shot with a .38 caliber handgun which resulted in his death.” A “black in color I.N.A. 38 special” was later found “in [the] bushes” on a local street.

Per the Booking Report, Mr. Graham was arrested on July 17, 2014, at 2:58 a.m. He was questioned by law enforcement on July 18, 2014, at approximately 1:00 p.m. He waived his Miranda rights and spoke with law enforcement. Per his written statement, he indicated that the victim “pushed me and I pushed him back so he started reachen [*sic*] so I pull out my gun and shoot.”

¹⁹ Albert Bandura, *Social learning theory* (1977).

²⁰ H. B. Milkman & K.W. Wanberg, *supra* note 4.

He wrote that prior to that incident, the victim “was talked [sic] about me and my family” and “was sayen [sic] he was go [sic] hurt me and my family.” In his recorded interview with law enforcement, Mr. Graham stated, “I had to shoot him before he shot me.” In speaking with the examiner, he believed the victim was “reaching” for a gun, and therefore, “I felt like I had to protect myself.”

As referenced in discovery, and per the defendant’s self-report, the incident seemed to be one of an impulsive over-reaction or a perceived defensive action, described as a ‘spur of the moment’ reactionary event without consideration to the potential consequences. It appears in line with the ‘hallmark features’ of youth, including impulsivity, acting and reacting without thinking through consequences, immature decision-making, and recklessness. The characteristics of the homicide are also in line with Mr. Graham’s history of mental disorder, including impulsivity and difficulty processing his emotional reactions.

IV. Incompetencies Associated With Youth

After his arrest, Mr. Graham waived his rights and spoke with law enforcement, one of whom he knew from a prior charge, and interacted familiarly with him. The waiver form was read to him, with the officer asking if he understood each point, to which Mr. Graham immediately stated, “yes.” In speaking with him, he stated he did not know why he waived his rights and spoke without an attorney. Although he had been arrested before, most charges were handled through family court, with one prior felony charge as an adult.

During the interrogation itself, Mr. Graham is observed to have difficulty controlling his emotions, becoming easily upset and emotional, with verbal impulsivity, immaturity and restlessness. At one point, in line with his adolescent status, he referenced his mother, stating, “my mama feels like I’m a bad dude, I don’t want to do bad, I want to do good.” He eventually provided an incriminating statement, implicating himself in the homicide. Mr. Graham’s statement to law enforcement was a critical piece of evidence, as there were no apparent witnesses to the incident. Should he have invoked his Miranda rights, and declined to give a statement, he may have been better situated for a defense, with more legal options available.

Youth, as well as individuals of limited intellectual/cognitive function, are well established as populations vulnerable to poor comprehension and interpretation of Miranda rights.²¹ The literature in this area has identified certain developmental traits of adolescents, and those with lowered intellectual functioning, that make this waiver more likely and more problematic.

Regarding the former, juvenile offenders are more apt to value the “immediate gains” of ending the questioning by waiving their rights, “without due consideration of long-term negative consequences” such as “convictions and lengthy sentences.”²²

²¹ Heather Zelle et al., *Juveniles’ Miranda Comprehension: Understanding, Appreciation, and Totality of Circumstances Factors*, 39 *Law Human Behav.* 281, 291 (2015).

²² Richard Rogers, et. al., *The Comprehensibility and Content of Juvenile Miranda Warnings*, 14 *Psychol. Public Policy Law* 63, 67 (2008).

Their focus on immediate rewards versus long-term consequences is heightened by traits of impulsivity and immature judgment. Researchers have theorized that, "maturation of several areas of the brain (e.g., prefrontal cortex) is required before youths can imagine outcomes of actions, understand consequences and prioritize long-term outcomes of decisions over short-term gains."²³

Regarding the latter, individuals with lowered intellectual functioning are also an at-risk group in poor comprehension of Miranda with "an IQ less than 80" suggested as a "reasonable cut-off" for questioning their comprehension.²⁴ And, as particularly applicable to Mr. Graham, research has found that, in addition to his juvenile status, "the synergistic effects of poor reading comprehension, low intelligence, and comorbid mental disorders are likely to have catastrophic effects on Miranda comprehension and subsequent reasoning."²⁵ As collateral records indicate that all of these factors were present for Mr. Graham, he may have been more susceptible to the 'incompetencies of youth' as discussed by *Miller and Aiken*.

Further, in observing Mr. Graham interact with his attorney, he had difficulty processing the long-term impact of decisions, and weighing the consequences of decisions. He approached their interaction with a much more impulsive and immediate decision-making style. Affective dysregulation and high levels of frustration were also apparent during their interaction, which seemed to cloud his cognition, judgment and reasoning.

V. Possibility of Rehabilitation

In consideration of rehabilitation, youth are considered more malleable and amenable to rehabilitation efforts given they are still within a period of evolving maturity. Further, in regards to a continuation of criminal behavior, the Court observed, "*it is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.*"²⁶ Science simply cannot predict with accuracy those juveniles who will continue to engage in criminality and aggression as they mature, and those who will not, given that their character is not 'well-formed' at the time of the juvenile offense. This is a particularly difficult task when considering this issue over the course of thirty years or so.

However, the typical progression of criminal activity is for one to 'age out' over the life-course, with the intensity and frequency of violent and criminal acts declining as one ages. As such, the 'age-crime curve' is a well-established finding in the empirical study of criminology, and is described as "...crime rates rise rapidly in the teenage years, peak in late adolescence, then decline through the life course."²⁷

²³ Zelle et al., *supra* note 19.

²⁴ Stanley L. Brodsky & Allyson D. Bennett, *Psychological Assessments of Confessions and Suggestibility in Mentally Retarded Suspects*, 33 J. Psychiatry Law 359, 362 (2005).

²⁵ Rogers et al., *supra* note 20, at 80.

²⁶ *Roper v. Simmons*, 543 U.S. 551, 573 (2005).

²⁷ Steve Bosick, *Operationalizing crime over the life course*, 55 Crime Delinq. 472, 472 (2009).

This finding has been described as “the most important empirical regularity in criminology”²⁸ and “has been consistently observed in both men and women, for most types of crimes, and across several nations and historical periods.”^{29, 30} Research indicates that “the shape of this curve encompasses four components: (1) a rapid increase in mid-adolescence, (2) a peak in the curve in late adolescence, (3) a precipitous decline in early adulthood, and (4) a gradual, monotonic decline thereafter and throughout the life-course.”³¹

The age crime curve also holds strong for incarcerated populations, with a sharp decline in institutional infractions and violence after age 30.³² This decline occurs despite an estimate that approximately 75% of incarcerated males meet criteria for Antisocial Personality Disorder (ASPD).³³ One extensive study examined serious, persistent offenders from ages 7 to 70, and found that “the classic age-crime pattern is replicated even within a population that was selected for their serious, persistent delinquent activity.”³⁴ Researchers concluded that, “aging out of crime is thus the norm—even the most serious delinquents desist.”³⁵

Contributing to the decline is the diminishing rates of Antisocial Personality Disorder (ASPD) with age, as inmates over 45 are less likely to continue to meet diagnostic criteria despite having met criteria when younger.³⁶ This attenuated age course is also supported by the DSM-5, which states that ASPD “may become less evident or remit as the individual grows older, particularly in the fourth decade of life.”³⁷

As an example, Mr. Graham would be approximately 47 years old at the time of release from a 30-year prison sentence. Therefore, he would be outside the range for peak criminal activity as reflected by the ‘age-crime curve’ both in community and incarcerated populations; with traits of ASPD becoming less prominent by his 40’s. Thus, his criminal activity and aggression would be expected to slow and cease as he reaches and progresses through adulthood.

²⁸ Daniel S. Nagin & Kenneth C. Land, *Age, Criminal Careers, and Population Heterogeneity: Specification and Estimation of a Nonparametric, Mixed Poisson Model*, 31 *Criminology* 327, 331 (1993).

²⁹ Daniel M. Blonigan, *Explaining the Relationship Between Age and Crime: Contributions from the developmental literature on personality*, 30 *Clin. Psychol. Review* 89, 90 (2010).

³⁰ Travis Hirschi & Michael Gottfredson, *Age and the Explanation of Crime*, 89 *Am. J. of Sociol.* 552 (1983).

³¹ Blonigan *supra* note 27.

³² Mark D. Cunningham & T.J. Reidy, *Integrating Base Rate Data in Violence Risk Assessments at a Capital Sentencing*, 16 *Beh. Sci. Law* 71 (1998).

³³ Mark D. Cunningham & T. J. Reidy, *Antisocial Personality Disorder and Psychopathy: Diagnostic Dilemmas in Classifying Pattern of Antisocial Behavior in Sentencing Evaluations*, 16 *Beh. Sci. Law* 333 (1998).

³⁴ Robert J. Sampson, *Life-Course Desisters? Trajectories of Crime Among Delinquent Boys Followed to age 70*, 41 *Criminology* 301, 311 (2016).

³⁵ *Id.* at 315.

³⁶ Timothy J. Harpur & Robert D. Hare, *Assessment of Psychopathy as a Function of Age*, 103 *J. Abnorm. Psychol.* 604 (1994).

³⁷ American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* 661 (5th ed. 2013).

In addition to the anticipated remittance of ASPD in the fourth decade, symptoms of Attention Deficit Hyperactivity Disorder in children and adolescents often remit in adulthood, with only a certain percentage of adults continuing to meet criteria. Rates of symptom persistence into adulthood have been estimated anywhere from 5% to 66%.³⁸ As impulsivity is a defining symptom of this disorder, and is heavily implicated in theories of offending behavior, remittance of such symptoms would be an important consideration. This disorder is also amenable to treatment and symptom reduction with the proper medication.

Further, in consideration of rehabilitation, records indicate that, as a youth, Mr. Graham responded much better in structured settings than in community or home environments. For example, when he was 14 years old, records from SCDJJ stated that he *"interacted well with his peers, was courteous and respectful towards staff, and followed directives with limited resistance...had a good attitude and was cooperative and helpful...[he] appears to have the ability to function adequately in a structured environment."* His improved behavior in structured settings could have been due to the dysfunction in his own home/family life, which exacerbated his behavior problems. His history of a positive response to structure may be a good indicator that he will be amenable to rehabilitation in the structured setting of prison.

It should be noted that, whereas juvenile records reflect a positive response to structured settings, jail records indicate he has been exhibiting conduct problems at the detention center. This discrepancy may be a function of environment. Whereas the juvenile settings were less restrictive, with programming and treatment readily available, the detention center is designed as a holding facility, without the freedoms, programming or therapeutic environment of SCDJJ.

Relatedly, SCDC would be a very different environment than his current detention in regards to offering rehabilitation specific to Mr. Graham's needs, as SCDC has multiple treatment levels available for mentally disordered inmates. For more acutely ill male inmates, Gilliam Psychiatric Hospital is utilized for voluntary and involuntary psychiatric treatment, including medication, therapeutic intervention, and supportive counseling. A less restrictive 'outpatient' program is 'ICS' or Intermediate Care Services, which provides intensive outpatient mental health services, with the assignment of a counselor, and close oversight of an inmate's functioning and special mental health needs. Two additional levels are also available, 'Area Mental Health' and 'Outpatient Mental Health.' For the large majority of his life, from ages 2 to 15, Mr. Graham has been under consistent mental health care, therefore, it is imperative that he be assessed for mental health needs upon incarceration, with remand to one of the levels as indicated. Proper and attentive mental health treatment can aid in rehabilitation as he continues to mature. Further, work and educational opportunities would also be available, as he becomes more mature, and stabilized.

³⁸ Salvatore Mannuzza, Rachel G. Klein, & John L. Moulton III, *Persistence of Attention-Deficit/Hyperactivity Disorder into Adulthood: What Have We Learned From the Prospective Follow-up Studies?*, 7 J. Atten. Disord. 93 (2003).

SUMMARY and CONCLUSION: Based on the totality of the data gathered in the evaluation, to include a clinical interview with Mr. Graham; interviews with his mother, brother, grandmother, and former 'mentor;' a review of legal discovery documents and recordings; and a review of collateral records, including medical, psychiatric, and academic records; the following is opined.

Mr. Graham was born significantly premature at 27 weeks (6-months) gestation, weighing two pounds, seven ounces. He was described as "significantly ill" and hospitalized for approximately seven weeks, with respiratory distress and jaundice. Extremely 'preterm' babies have been found to have decreased cerebral volume, with lasting cognitive deficits into adulthood. Behavioral sequela associated with preterm children and adolescents include hyperactivity, impulsivity, disruptive behaviors, and poor emotion regulation.

Further, records from DHEC note that he tested positive for congenital hypothyroidism at birth, with no follow-up on this report found in available records. If left untreated, this condition can cause neurological impairment, manifesting as intellectual disability. His mother also used cannabis frequently during her pregnancy beginning in the first trimester. Babies exposed to cannabis in utero are at risk of impaired brain maturation, with higher rates of hyperactivity, cognitive deficit, and depression.

Mr. Graham first received mental health treatment at 21 months, due to poor sleep, hyperactivity, impulsivity and behavior outbursts. At this time, he was placed on a medication 'patch' to assist with his symptoms. Until he was 15 years old, Mr. Graham was under consistent outpatient mental health care with regular mental health appointments. He was prescribed various types of psychiatric medication to control sleep disturbance, mood lability, anger outbursts, aggression towards others, impulsivity, and hyperactivity. His symptoms were severe enough to require two psychiatric hospitalizations as a child, at ages 8 and 9 years old. He improved during these hospitalizations with psychiatric treatment and intervention. At age 15, he began refusing medication, although he acknowledged it assists in reducing his anger dyscontrol.

Records reference significant family conflict, with generations of mental illness, substance abuse and cognitive impairment. During his childhood, his mother was mentally ill and under psychiatric treatment. She repeatedly relapsed on crack cocaine, prompting periods of residential rehabilitation and outpatient intervention. She acknowledged unavailability and negligence in parenting during her periods of relapse. She also had great difficulty managing Mr. Graham's mental disorder, and related symptoms, resorting to "whippings." Records indicate harsh punishment (e.g., whipping), which may have served as a model for future aggressive conduct. His father was essentially absent from his life, with a history of substance abuse.

Academic records indicate significantly lowered intellectual functioning, with academic skills testing well-below grade level. Available records indicate that he was referred for a psycho-educational evaluation at age 9, and classified as a child with an 'Emotional Disability.' IQ scores range from 'Below Average' to 'Significantly Below Average' to 'Intellectually Deficient.' His academic skills were commensurate, and he tested below grade level in areas of reading, reading comprehension, math and spelling.

Behavior problems were also apparent in school settings, with expulsion on at least one occasion. Further, he had interaction with the juvenile justice system for various infractions, including assaultive conduct, violating probation, and trespassing, with multiple placements in juvenile evaluation centers, therapeutic foster homes, jail diversion facilities and wilderness camps.

It was within this developmental context of neurological vulnerabilities, mental disorder, low intellectual ability, negative environmental influence, juvenile placement, parental substance abuse and parental mental illness, which Mr. Graham experienced and was exposed. It is opined that these formative dynamics significantly impacted his life trajectory through the time of his charges, and inform application of the 'Miller' factors per *Aiken v. Byars*. Such factors include the '*hallmark features of youth*'; '*home and environment*'; '*circumstances of the homicide*'; the '*incompetencies of youth*'; and the '*possibility of rehabilitation*.'

As a function of age and, thus, immature brain development, Mr. Graham would have been subject to the '*hallmark features of youth*' to include poor impulse control; reduced emotion regulation; heightened risk-taking; immaturity of reasoning, judgment, and decision making; difficulty considering long-term consequences; and a heightened sensitivity to reward. His particular history of pre-term birth, in utero exposure to cannabis, mental disorder and impaired intellectual ability would have intensified these 'features' beyond that of a mentally healthy adolescent, further impacting his decisions and behavior.

His '*home environment*' was characterized by chronic family dysfunction and conflict; poor parental supervision due to his mother's mental illness and repeated relapse on crack cocaine; and the lack of a paternal figure for guidance and supervision. Such an environment was outside of his control, with voluntary extrication not possible given his juvenile status.

The '*circumstances of the homicide*' appeared characterized by impulsivity and anger dyscontrol, in line with both the '*hallmark features*' of youth, as well as his history of mental disorder. Once arrested, the '*incompetencies of youth*,' as well as his lowered intellectual functioning and mental disorder, may have been implicated in Mr. Graham's decision to waive his Miranda rights and provide a statement to law enforcement.

Regarding the '*possibility of rehabilitation*,' Mr. Graham is still within a period of developing maturity, and thus, more amenable to rehabilitation. Although behavioral and affective dysregulation due to youth and mental disorder presently hinder his ability to manage his conduct and emotions, continued maturity and mental health treatment may ameliorate these factors. For example, as he matures in a structured setting, with continued brain development, his behavior and emotion regulation will likely improve. Further, SCDC has various levels of mental health services available to inmates, including medication to manage his symptoms of impulsivity, anger and emotion dysregulation. As he ages, the impact of the age-crime curve and likely remittance of antisocial pathology will aid in improved behavior, and assist with rehabilitation.

Application of the above factors as specific to Mr. Graham's circumstance provide support for the "diminished culpability and greater prospects for reform" inherent in youth, illustrating the crux of the Court's recent decisions on juvenile sentencing.³⁹

Respectfully Submitted,



Susan C. Knight, Ph.D., ABPP
Licensed Clinical Psychologist
Board-Certified Forensic Psychologist

2/21/16

Date Signed

³⁹ Miller v. Alabama. 132 S. Ct. 2455, 2461 (2012).

To Whom It May Concern:

I, Michael D. Williams, would like to submit a letter of reference on behalf of Isaiah as I will unfortunately not be able to attend his court hearing in person on February 22, 2016.

When I first began working with Isaiah he was in the third grade and his mother was a recovering drug addict attempting to get her life on the right track. During that process, I sincerely believe that Isaiah's own well-being took a back seat. In my time with him as a mentor, I worked with Isaiah to expose him to extracurricular activities, place him in a positive environment and assist him with trying to cope with managing his emotions.

When Isaiah was being exposed to these different activities he enjoyed himself, was eager to learn, listen, and participate. I'll never forget the year Isaiah played little league football. He stood out from the rest during practice and during games. He got along with his teammates and coaches and even made the all star team that year. Isaiah seemed to improve in other areas of his life when he was involved in these activities.

During my time working with Isaiah it became obvious that he was unable to deal with his emotions once he reached a certain point. He rarely thought about the consequences of his actions. His main response was physical aggression when he became upset. Isaiah was unable to see the wrong he did back then and I believe he's unable to process the wrong he has done regarding this case. He mentally cannot process his actions. This was a main concern when he was in third grade and became a bigger issue as he matured. He attended counseling sessions but his behavior and ability to cope with emotions never seemed to improve.

His mother would contact me periodically and I would drop by the house occasionally after I stopped working with Isaiah. The reports would be the same every time I spoke with her; Isaiah is getting big, he's not listening at home or in school, and he's hanging with the wrong crowd.

Isaiah needed help ten years ago and he needs help even more right now. Isaiah was definitely a troubled child that battled mental health issues and never had an opportunity to succeed in life. He was born with three strikes against him but when given exposure to positive activities, consistent attention, and love you could see signs of hope. Unfortunately that love and attention wasn't always available.

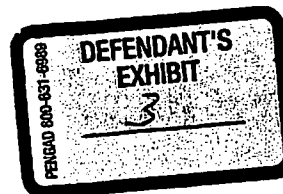
I would like to petition the court to ask that Isaiah receives mental health assistance while he is incarcerated. I have seen signs of hope with Isaiah and I pray with your decision that you will consider rehabilitative options while he's incarcerated to further encourage his development towards entering back to society.

If I may provide any additional insight into the time I spent with Isaiah during his formative years, please let me know.

Sincerely,



Michael D. Williams
Williams_michaeld@yahoo.com
803.331.1565



From the Desk of
Clayton Moton
 Assistant Principal
 Saluda Trail Middle School
 Rock Hill School District Three of York County, South Carolina

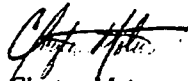
February 18, 2016

To whom it may concern:

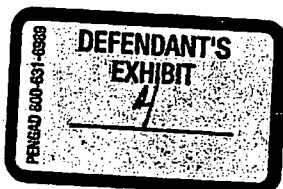
The purpose of this letter is to express my working relationship with Robert Isaiah Graham as his grade level administrator at Saluda Trail Middle School. I am well aware of the circumstances created by Graham's actions and decisions and only offer this letter as my perspective of him during his tenure at my school under my supervision.

I recall working with Isaiah on several occasions, some pleasant and some, unfortunately, due to impulsive decisions he made that led to trouble for him. Often Isaiah would express frustration whenever others did not respect or acknowledge his point of view in a situation and would act out impulsively. Often his point of view was not appropriate in itself, thus the conflict when others did not take to his viewpoint. The majority of his behavior infractions would come in the form of inappropriate language and explosive expression. He and I would converse about his actions and the appropriate consequences as a result. I recall that our conversations would not always begin cordially as Isaiah would be upset in the moment. However, he would always express remorse and understanding of where he veered away from our behavior expectations, even if it came well after it was too late to change what happened. Working with his teacher, counselor, and case worker, we attempted to employ preemptive measures and strategies to help Isaiah recognize when he was about to lose control of his thoughts and behaviors. We saw some successes and would rely upon said successes whenever he would abandon these techniques and find himself in trouble again for inappropriately speaking or acting out. My staff took a genuine liking to him despite his troubles and pledged always be there for him; pulling for him to be the pleasant, intelligent person that we saw more often than not. Athletically talented, he would often talk about his aspirations to play football and basketball in high school and beyond. With his goals in mind, we worked really hard to help him develop the ability to think before he spoke or acted before it was too late to take back his words or actions. We took care to support him when he was doing well, but to hold him accountable when he made poor decisions.

As he left our care at Saluda Trail Middle School, it was our hope that we had a positive impact on the young boy that first walked into our doors extremely troubled and angered about his life circumstances at an early age. However, I recognize the gravity of the situation based on his unlawful action and the impact said action has had on so many lives in the community in which we all live. Again, I only offer this letter as a perspective of the student with whom I worked several years ago. It is my hope and prayer that the actions that take place for Isaiah are just and appropriate.


 Clayton Moton

Assistant Principal



School: Saluda Trail Middle School

Term: 10-11 Year

Start Page > Student Selection > Log Entries

(Last Login: 3/7/2011 at 2:45 PM) Wright, Gina



Log Entries

Graham, Robert Isalah 8 940010004332 STMS

Edit Discipline Alert



Date	Description
1/25/2011	Matry, Jason - Manifestation Result; AES Placement (45) - During the manifestation hearing it was agreed by all parties that Isalah's behavior on 1/18/2011 was not a manifestation of his disability. Isalah will be placed at AES for a period of 45 days. He will return to STMS on March 23 and resume his half day schedule upon return.
1/18/2011	Chisolm, Terrance - Disorderly Conduct; Manifestation Request - Isalah has refused to follow directions all day, he continues to be disruptive, bullying other students, refusing to get out of other students desk, talking back to Mr. Chisolm, throwing paper at another student, yelling and telling students to "shut up", not doing his classwork, being silly. A student asked to go to the restroom and when the student left out of the class, Isalah ran out of the mobile unit chasing the other student. Isalah chased the student into the woods behind the mobile unit. Isalah picked up a piece of a cinder block to throw it at the student to hit him. In addition, Isalah went back into the classroom and attempted to confront Mrs. Waters, whom he mistakenly thought wrote a referral on him. Isalah used profanity towards Mrs. Waters, saying "That's some bull-fucking-shit!" and charged towards her saying "What's up then!" SRO Idol responded to the radio call and removed Isalah from the room.
11/23/2010	Graves, Marsha - Google search - Isalah came to class tardy with a note. I had tech working on my network and I spotted Isalah with his monitor turned. As I approached he quickly closed. I went to history and discovered he had been searching inappropriate information in Google. Isalah denied. I am sending a printed screen to administration for proof. Isalah did not even have permission to be on the Internet!
11/18/2009	unknown - Inciting Others - Isalah attempted to jump on another student in the hallway that he said pushed him entering the 7th grade house. There were six adults in the nearby area, including Mrs. Collins and Mrs. Ford, who both witnessed this incident.
11/14/2009	unknown - Other - It was determined by the committee that Isalah will be on a half-day schedule.
11/10/2009	unknown - Fighting - Isalah was involved in an altercation in class. He attempted to instigate a fight with another student. He hit the student twice. The first time the student attempted to walk away, but Isalah hit him again in the face. The student then tried to get to Isalah but was stopped by Ms. Hall.
10/27/2009	unknown - Disruptive Beha - Isalah was disruptive in class. He constantly aggravated another student. He was removed from class. Isalah was originally sent to BIC but cause a major disruption and was put out immediately.
10/15/2009	unknown - Disruptive Beha - Running down the hallway, slapping others in the head. Lied about being the one who did it at first, but eventually told the truth.
10/5/2009	DePinto, Brooke - Letter Home - Back the Pack permission returned
9/30/2009	unknown - Disruptive Beha - Isalah caused a disturbance in class by constantly harassing another student in attempt to be funny.
9/29/2009	unknown - Bus Violation - The bus driver states, Isalah was throwing objects, playing and too loud on bus). Isalah received a warning from Mr. Hamm.
9/18/2009	unknown - Profanity - Isalah got mad when Mrs. Unger would not let him go to his locker and said to her "I don't need your shit today!"

Robert "Isaiah" Graham

April 10, 2011

- Removed from jail removal home for threatening foster parent with fire extinguisher after foster parent turned off television program he was watching; foster parent barricaded herself in bedroom and SC Yap was called; Isaiah punched holes in walls; when SC Yap worker arrived he threatened her with a bar stool
- In detention awaiting trial

March 13, 2011 (Age 14)

- Charged with Assault for pulling knife on mother (Mother pulled knife on him first and was also charged with Assault)
- Sent to jail removal home pending trial

February 2011 (Age 14)

- Caught on neighborhood church's surveillance cameras stealing pair of flip-flops from backpack
- When confronted he later returned flip flops and victim did not press charges (Probation Officer was notified)

January 2011 (Age 14)

- Charged with intimidation of School official for threatening his Assistant Teacher in class
- Went to court on March 8th and judge continued probation

August 16, 2010 (Age 13)

- Sent by DJJ to Camp White Pines for Probation violation until November 13, 2010
-

March 1, 2010 (Age 13)

- Assault & Battery for pushing his mother onto a bed near a window on 2nd story of house
- Continued probation

*****Sometime during 2009 when Isaiah was 13 yrs old, he forced his way into 16 yr old girl's house and tried to force himself on her; he didn't rape her and his Grandmother persuaded the girl's mother not to press charges; Isaiah's Probation Officer was notified of this

December 14, 2009 (Age 13)

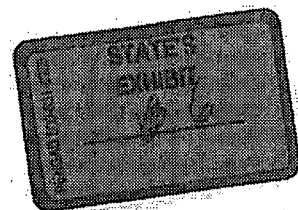
- Charged with Burglary, 2nd degree along with his friend for attempting to steal bicycle from a covered patio & they had 2 other stolen bikes in their possession
- Reduced to Trespassing, placed on indefinite probation and sent to jail removal home
- While at jail removal home, Isaiah was suspended from school and later removed from that placement for fighting with other residents in home and destruction of property

January 2009 (Age 13) 12

- Charged with Assault & Battery for punching another student in the face at school
- Placed on 6 month probation until August 24th 2009

2006 (Age 10)

Per Mother he hit a child with a beer bottle and child required 13 stitches



2005 (Age 9)

Per Mother he choked a child until child passed out

2002 (Age 6)

Per Mother he pushed a child out of a 2nd story window

July 1998 (Age 2)

- First Involved with Chester Mental Health for aggressive and hyperactive behavior

THERAPEUTIC PLACEMENTS

11/02/2005 (Age 9 years old)

William S. Hall Psychiatric Institute

For: Aggressive behavior (choking student at school); Irritable mood, disruptive behavior and poor sleep

Discharged: 11/17/2005

06/28/2005 (Age 8 years old)

Palmetto BMCC

For: Threatening 12 year old neighbor with knife after being hit by him

Discharged: 07/06/2005

MEDICATIONS

July 7, 2010

Abilify 15 mg

May 3, 2010

Abilify 10 mg

March 31, 2009

Abilify 10mg

Strattera 40mg in AM

May 1, 2006

Strattera 40mg in AM

Risperdal 1 mg ½ tab

January 9, 2006

Strattera 10 mg in AM and PM

Risperdal 1 mg ½ tab

November 17, 2005

Strattera 20 mg in AM and 10mg at noon

Risperdal 0.5 mg in morning and at noon

Per William S Hall Discharge Summary:

He has been tried on Prozac, Trileptal, Zyprexa and Clonidine without much help

March 26, 1999 (2 yrs old)

Clonidine ½ patch once a week

SOCIAL SUMMARY**DATE:** March 8, 2011**NAME:** Robert Isaiah Graham**PRESENT STATUS:**

Robert is currently on probation.

PRIOR COURT HISTORY:

<u>Date:</u>	<u>Charge:</u>	<u>Disposition</u>
2/17/09	Assault and Battery	Ordered to comply with a community evaluation, and DJJ may convert evaluation to six months probation with Catawba Family Center and obey rules of mother, per Judge Woods.
8/24/09	Probation Release	
1/26/10	Trespassing	Placed on indefinite probation, given two suspended forty-eight hour weekend sentences, ordered to comply with Gang Out, comply with a community consult, cooperate with Catawba Family Center, be restrained from co-defendants, and a review to be held in ninety days, per Judge Woods.
4/27/10	Disposition	Continue on probation as previously ordered and comply with Continuum of Care, per Judge Woods.
8/3/10	Violation of probation	Given a ninety-day determinate sentence, continued on probation, and

49

mother to comply with DJJ,
per Judge Guess.

12/14/10

Assault and Battery 3rd

Nolle prossed, per Solicitor.

FAMILY HISTORY:

Mother's name: Susan Graham
Age: 42
Criminal History: False Information to
Public Housing

Address: Level Street
Rock Hill, SC 29730
Employer: Unemployed

Father's name: Robert Graham
Age: 48
Criminal History: n/a

Address: Mill Street
Chester, SC 29706
Employer: Unemployed

STRENGTHS:

1. He likes football and basketball.
2. He enjoys playing videogames.

RISK SCORE: 9

EDUCATIONAL HISTORY:

Isaiah is in the eighth grade at Saluda Trail Middle School. Records were requested, but haven't been received.

SIBLINGS:

1. Jeremy McClinton, half-brother, age 22, past history for CDV of a High and Aggravated Nature.
2. Tyquasha Hardin, half-sister, age 19, no prior court history.

AGENCY INVOLVEMENT:

Agency:

1. Catawba Family Center
2. Continuum of Care
3. Department of Social Services

Service:

- He is receiving services.
- He is receiving services.
- He receives medicaid.

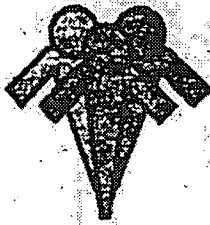
DJJ RECOMMENDATION:

Isaiah was last in court on August 3rd, 2010, for a Violation of Probation. At that time, Judge Guess ordered a ninety-day determinate sentence, continued Isaiah on probation with his mother under order to comply with DJJ.

Since that time, Isaiah completed placement successfully at Camp White Pines. Isaiah has been attending school regularly and seeing Ms. Cathy Nesmith at school for counseling services. Because Isaiah was expelled for 45 days from Saluda Trail Middle School, Isaiah is attending Phoenix Academy in the interim. Isaiah has been accepted into Continuum of Care and is currently receiving services.

Because this incident occurred while Isaiah was on probation, there is a great deal of concern that Isaiah will continue to exhibit negative behavior. Therefore, if he is adjudicated delinquent, the Department of Juvenile Justice recommends the following:

1. Isaiah shall be placed on nine months probation.
2. Isaiah shall continue to cooperate with counseling services through Catawba Family Center and any recommendation they make.
3. Isaiah shall serve two forty-eight hour determinate sentences.
4. Isaiah shall continue to cooperate with Continuum of Care services.
5. Isaiah shall receive a suspended commitment to the Upstate Evaluation Center.



Carolina Children's Home®

September 7th, 2012

Regarding: Robert Isaiah Graham

Isaiah was enrolled in Richland School District One upon his admission to Carolina Children's Home on October 20th, 2011. He was withdrawn on May 20th, 2012, the last day of school.

3201 Trenholm Road • PO Box 4485 Columbia, SC 29204 • www.carolinachildrenshome.org



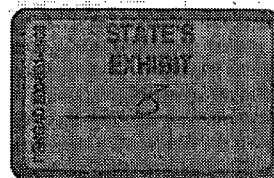
State v. Robert GrahamFamily Court and DJJ Time-Line

Date of birth:

Date of Murder Incident: 7-14-2014

Date of Arrest of Defendant: 7-18-2014

1-29-2009	Charged with Simple Assault & Battery 3 rd (Rock Hill).
2-17-2009	Court: pled before Judge Woods and Placed on Probation.
8-24-2009	Probation ended.
12-14-2009	Charged with Burglary 2 nd (Rock Hill)
1-26-2010	Court: pled to Trespassing before Judge Woods-Determinant sentence of two weekends followed by indefinite probation. Ordered a Community Evaluation and a 90 day review hearing.
3-1-2010	Charged with Assault and Battery 3 rd (Rock Hill) and Detained. Placed in Therapeutic Jail Removal Home (JRH).
3-9-2010	Court: Detention Hearing with Judge Wylie. Placed back at JRH until 90 day Review Hearing scheduled by Judge Woods
3-30-2010	Community Evaluation by Larry Hunnicutt, MA, LPG
4-24-2010	Juvenile Detained. Disrupted his JRH.
4-27-2010	Court: Judge Woods- Probation continued; referred to Continuum of Care.
8-1-2010	Charged with Assault and Battery 3 rd (Rock Hill). Detained.
8-3-2010	Court: Judge Guess- Probation violation – Determinate sentence suspended to alternative placement + Indefinite Probation.



8-8-2010	Alternative Placement at White Pines Camp White Pines, from 8-8-2010 thru 11-4-2010
11-14-2010	Released from Camp White Pines & still on probation
1-18-2011	Charged with Disorderly Public Conduct (Rock Hill)
3-8-2011	Court: Judge Guyten-Pled to Disorderly Conduct Determinate sentence – 2 weekends. Continue on Probation.
3-13-2011	Charged with Assault and Battery 3 rd and was Detained.
3-15-2011	Court: Judge Guess-Released from detention – placed in therapeutic Foster Home in Camden, from 3-15-2011 thru 4-11-2011
4-11-2011	Contempt of Court. Detained.
4-13-2011	Court: Judge Guess Continued Detention for 7 more days.
4-19-2011	Court: Juvenile found in Contempt. Secure Evaluation at Upstate Evaluation Center Ordered.
5-31-2011	Court: -Dispositional Hearing following UEC evaluation. Determinate sentence 90 days suspended on Alternative Placement if Juvenile qualifies (Discretionary) + indefinite probation.
6-16-2011	Released from determinate sentence, & readmitted to Camp White Pines. from 6-16-2011 thru 9-14-2011.
9-14-2011	Released from Camp White Pines – on probation.
10-20-2011	Admitted to Carolina Children's Home in Columbia per school records. 10-20-2011 through 5-20-2012.
1-29-2013	Probation Transferred to Chester DJJ.
4-25-2013	Detained per Court's Pick-up Order for Probation Violation (submitted by Lydia Young).

5-1-2013	Court: Judge Gibbons- Probation Violation admitted. Alternative placement and continue on probation until release from placement – placed in Excalibur program
6-21-2013	Removed from Excalibur program. Detained.
6-24-2013	Court: Judge Sprott found Probation Violation Determinate sentence of 90 days and release from probation upon completion Upstate Evaluation Center for placement recommendation
7-26-2013	Determinate sentence – suspended and placed at Pinelands Group Home
9-8-2013	Turned 17 years old
9-12-2013	Determinate sentence complete

Post-Family Court and DJJ Relevant incidents.

11-1-2013	Arrested for Burglary 1 st
1-22-2013	Pled to Burglary 3 rd in General Sessions Court – Sentenced to YOA suspended to 5 years probation
4-12-2014	Arrested for Minor in Possession of Alcohol and Simple Possession of Marijuana
6-24-2014	Arrested for Possession With Intent to a Controlled Substance (prescription drugs)
6-26-2014	Arrested for Malicious Injury to Real Property
7-18-2014	Arrested for Murder

**SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
CONSULTATION AND EVALUATION SERVICES
COMMUNITY PSYCHOLOGICAL EVALUATION**

Name:	Robert Isaiah Graham	Date of Evaluation:	03/30/2010
JJMS NO:	363840	Date of Birth:	
Evaluator:	Larry Hunnicutt, MA, LPC	Date of Report:	04/05/2010
County:	York	Community Specialist:	Ray Moore

REFERRAL STATEMENT:

Robert "Isaiah" Graham is a 13-year-old African American male, who was adjudicated delinquent in the Family Court of York County on January 26, 2010, by the Honorable Henry T. Woods, for the charge of Trespassing. The Court Order contained a referral for a local evaluation prior to a dispositional hearing, and the juvenile was placed on an indefinite period of Probation. Specific referral questions for the evaluation included an explanation of factors contributing to the juvenile's behavior. This is an evaluation in order to make recommendations regarding the most appropriate interventions which might hold him accountable for his current offense and reduce the likelihood of future offending. This evaluation and recommendations contained herein are submitted to the Court in honor of the request for a local evaluation of the juvenile to assist in the disposition of this case.

Before the evaluation, Isaiah was informed of the purpose, what type of information would be requested, and how it would be used. He was also told that the results of the evaluation were not confidential and that the results would be shared with the SCDJJ staff, Family Court officials, the attorneys, qualified professionals, and others involved from a legal perspective. He was informed that suspected child abuse or neglect must be reported to the Department of Social Services. He indicated that he understood the limits of confidentiality and expressed his willingness to cooperate with the evaluation.

Notice:

This report is meant for the use of qualified professionals only and others involved from a legal perspective with this psychological evaluation for disposition. No unauthorized disclosure of this report or information contained in this report is allowed, and any person who without proper authorization discloses information contained in this report assumes all liability associated therewith. Some individuals and family members may tend to misunderstand and/or distort the information presented herein, resulting in significant distress to the individual, or possibly interfering with rehabilitative services. For individuals with self-destructive or aggressive tendencies, the consequences of disclosure may be serious.

DJJ File and Summary of Current Charges:

Isaiah first became involved with the legal system on January 8, 2009, when he received the charge of Assault and Battery for punching another student in the nose and face. On February 17, 2009, he was placed on probation for six months and ordered to cooperate with the Catawba Family Center. He successfully completed probation on August 24, 2009. He received the charge of Burglary Second Degree on December 14, 2009. The Incident Report states that Isaiah and another juvenile attempted to steal bicycles from



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Name: Robert Isaiah Graham

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the enclosed patio of the victim's home. When he was apprehended, the officers seized two additional bicycles, which had been stolen. Isaiah was adjudicated delinquent of the charge of Trespassing (reduced from Burglary Second Degree) on January 26, 2010. He was given an indefinite period of Probation and was placed in a Jail Removal Home in the Greenville area. Additionally, he has a pending charge of Assault and Battery, which reportedly occurred on March 1, 2010. Allegedly, Isaiah pushed his mother onto a bed while she was trying to discipline him.

Sources of Information:

DJJ file

Clinical interviews with Robert Isaiah Graham, Juvenile; Age 13

Telephone conversations with:

Susan Graham, Mother; Age 41

Sylvia Nibbs, Temporary foster mother

School Records

Psychological Evaluation Report from the Rock Hill School District, dated 11/24 and 12/5/08

Mental Health Summary from the Catawba Community Mental Health Center, dated 01/21/10

Incident Reports/Supplemental Reports

Family Genogram

Behavioral Observations

Psychological testing:

Reynolds Adolescent Depression Scale (RADS-2)

Rotter Incomplete Sentences Blank (RISB)

Jesness Inventory - Revised (JI-R)

BACKGROUND INFORMATION:

Isaiah is the younger of two children born to Robert Earl Graham, age 47, and Susan Graham, age 41. His parents married in 1995, separated in 1997, and divorced in 2007. Mr. Graham is a high school graduate, and was reported to have been "a slow learner" in school. He is employed at BMW and lives in Chester, S.C. with a girlfriend. Ms. Graham, Isaiah's mother, is a high school graduate and is unemployed. Reportedly, she is diagnosed with fibromyalgia, a hiatal hernia, high blood pressure, and high cholesterol, and has been disabled since November of 2009 due to these medical problems. Isaiah's older sister, Tyquasha, is age eighteen and attends the eleventh grade. Ms. Graham stated that Tyquasha has been diagnosed with Attention-Deficit/Hyperactivity Disorder (AD/HD). Isaiah also has a twenty-one year-old half-brother, Jeremy, from a prior relationship by the mother. Jeremy dropped out of school in the twelfth grade and later obtained his GED.

A significant family history of substance abuse, criminal behavior, sexual abuse, physical abuse, and mental health issues was reported. Isaiah's father has a history of crack cocaine and alcohol abuse. His criminal history includes Failure to Pay Child Support and one DUI. Isaiah's mother has a long history of crack cocaine, marijuana, and alcohol abuse. She stated that she stopped all alcohol and drug use four years ago and currently attends Narcotics Anonymous. His mother also related a history of being physically abused as a youth by her stepfather and sexually abused by her sister's boyfriend. Additionally, she reported that she has been receiving mental health

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treatment for the past twenty years due to "major depression and a Borderline Personality Disorder". Although she denied any legal involvement, DJJ files indicate that Ms. Graham is presently in Pre Trial Intervention for the offense of Providing False Information for Public housing. Isaiah's half-brother, Jeremy, is currently incarcerated for Simple Possession of Marijuana. Ms. Graham reported, "Everybody in both families is addicted on some level or another", while adding, "Physical abuse has been the norm". It was stated that Isaiah's maternal grandparents, his great-grandfather, and "all of his (maternal) aunts and uncles abused alcohol". It is also stated that Isaiah's maternal aunt has Bipolar Disorder, and that a paternal great-uncle is reportedly diagnosed with schizophrenia and has been in prison for much of his life for the offense of murder.

Historically, Isaiah was raised by his biological parents until the age of one, when his parents separated. Following his parents' separation, he lived with his mother and siblings, and had visitation with his father every other weekend. Ms. Graham admitted that when she was using drugs, she was "more negligent and emotionally unavailable at times". Although she believes that she was an effective parent during her period of drug abuse, this appears to be highly unlikely. She insisted that she was "clean" for four years, but relapsed into a 1½ year period of drug abuse when Isaiah was age seven. She related that she stopped all drug use when he was nine years old. Ms. Graham has had one boyfriend, who lived in the home "on several occasions". She stated, "He and Isaiah did not bond". Isaiah previously lived with his mother and sister in a neighborhood, where drug activity is present. For the past two months, he has resided in a JRH placement with his caregiver, Ms. Nibbs, and her two daughters.

Ms. Graham reported that she experienced a severe urinary infection during her pregnancy with Isaiah, which resulted in an emergency Caesarian delivery. She admitted that she smoked cigarettes and marijuana during her pregnancy. Ms. Graham stated that Isaiah was born thirteen weeks prematurely and weighed two pounds at birth. Following his birth, he remained hospitalized for two months due to jaundice and "built-up carbon dioxide", for which he received six blood transfusions. At the age of three months, he was again hospitalized for two weeks due to RSV. Isaiah stated that he had symptoms of asthma as a child, but currently has no known medical problems and is prescribed no medication.

Isaiah has a significant history of mental health issues. According to his mother, his behavioral problems began when he was six months old; she stated, "He could not be contained in anything...a crib or playpen". She related that she sought treatment for him at the Catawba Mental Health Center when he was eighteen months old and that he was prescribed medication to increase sleep when he was twenty months old. Isaiah stated that he was diagnosed with Attention-Deficit/Hyperactivity Disorder (AD/HD) at the age of three and that he has been attending the Catawba Mental Health Center since that time. He was most recently receiving counseling from a school-based mental health worker. He stated that he has been prescribed Risperdal in the past and that he currently is prescribed Abilify and Strattera, which "keeps me calm." Ms. Graham stated that at the age of eight, Isaiah was sent to the Baptist Hospital in Columbia for assessment due to anger issues, and that at the age of nine, he was briefly placed at William S. Hall Psychiatric Institute because of his problematic behavior. She explained that no severe mental issues were identified during these two hospitalizations, because "Isaiah has a honeymoon syndrome", during which he can display appropriate behavior "for two to three weeks until he becomes comfortable". Home Preservation Services and Family Intervention have previously been provided for the family, and Isaiah has

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received the services of three mentors. It was stated that one mentor was close to Isaiah for four years, but moved out of state three years ago. Mental health records indicate that Isaiah is diagnosed with a Mood Disorder and Oppositional Defiant Disorder. Treatment has focused on reducing his angry outbursts, establishing appropriate boundaries, and learning social skills.

Isaiah has been attending the seventh grade at Beck Academy while living in his Jail Removal Home. He began the school year at Saluda Trail Middle School in Rock Hill, S.C. He denied ever repeating a grade. He was first evaluated in the third grade due to behavioral problems, and he was been attending self-contained special education classes since that time. His psychological evaluation report indicates that he is currently classified as having an Emotional Disability, and currently has a Behavioral Intervention Plan. Isaiah stated that he made average grades in elementary school and middle school and is currently passing all of his courses. He reported a long history of behavioral problems in the school setting, beginning in kindergarten. He admitted that he has received suspensions every school year, primarily for fighting or "for somebody messing with me, and I flip out." He has received no referrals during his two months at Beck Academy. School records indicate that while attending Saluda Trail Middle School earlier this school year, he received eight disciplinary referrals, which included three behavioral interventions, two manifestation hearings, and one out-of-school suspension. His referrals were the result of profanity, disruptive behavior, and fighting.

Isaiah likes to spend his free time playing sports and video games. He previously participated in two years of organized football and one year of basketball. He is currently involved in no extracurricular activities and does not attend church. He said that he was previously a member of the Crips. However, his description of gang membership indicated a loose association with neighborhood friends rather than an organized gang. He stated, "I started young, at age ten. My brother was in it. We just stopped the gang one year later." Isaiah reported that he first drank alcohol at the age of nine and that he has consumed alcohol on five occasions. He denied ever drinking to intoxication and stated that he last drank alcohol one month ago. He revealed that he began smoking marijuana at the age of eleven and was smoking three to four times a week from the age of eleven to age twelve. He remarked, "It makes me feel good." He began smoking cigarettes at the age of eleven and reportedly now smokes "when I can get em". He related he had his first sexual experience when he was eleven years old and that he has had "probably more than ten partners". He reported inconsistent use of condoms for protection.

Family Functioning:

Isaiah's emotional issues and behavioral problems are significant and have contributed to conflicts at home and in the school setting. Ms. Graham described Isaiah as "a pathological liar", and stated, "He does what he wants when he wants to." She reported that he displays verbally and physically aggressive behavior in the home and has "physically abused" his sister. According to Isaiah, "Somebody is always blaming stuff on me. Me and my sister argue every day." Isaiah reported that he is usually disciplined for "arguing with my sister and not listening to my mother", whereas Ms. Graham said that she usually dispenses disciplines because of "emotional behavior problems at school and being disrespectful". She related that consequences consist of grounding him and restricting his cell phone, video games, and television privileges. "She noted, "Nothing ever works." Isaiah admitted, "She is fair. Some of that stuff I deserve." Ms.

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Graham remarked that Isaiah's father "mainly yells", and has never used corporal punishment. She commented that when his father was previously using drugs, she did not allow him to be around the children because he was "an angry drunk". Isaiah's chores include emptying the trash, washing the dishes, and cleaning his room, and he reportedly completes these tasks "when he is told". His curfew is to be home before dark, although he does not always keep his curfew. He said that when he fails to come home on time, he is not allowed to go outside the next day.

X Ms. Graham appears to lack parental authority and control, and Isaiah appears to have a distant relationship with his father. Isaiah insisted that he wants to remain with his foster family and not return to his mother's home. He stated, "I don't want to go back home. I want to stay with her (Ms. Nibbs). It's just fun. Plus, I want to go to college." He explained, "I always got in trouble in Rock Hill, everywhere I go, (because of) the people I am around that I call my friends." He added, "I don't want to stay with Momma until I get things straight." Isaiah related that since he has been at his foster home, he has talked to his mother on a weekly basis, but has had no family visits. His parents' past drug abuse, his mother's ongoing mental health issues and current medical problems, and his reluctance to return home suggest that Isaiah's home environment has been lacking in structure, stability, nurturance, and adequate supervision. These relevant dynamics appear to be intricately interwoven into Isaiah's pattern of maladaptive behaviors.

PSYCHOLOGICAL ASSESSMENT AND INTERPRETATION:**Behavioral Observations:**

Isaiah was brought to the evaluation by an adult, who then left without providing any information. Isaiah was seen alone for the evaluation, and additional information was obtained from a telephone conversation with his mother. Isaiah presented with a clean and casual appearance. He was polite, respectful, and cooperative, although at times he appeared fidgety and restless. His affect was appropriate to the situation. He answered all questions posed, and his speech was logical, coherent, and goal-directed. No indications of hyperactivity or distractibility were noted. He indicated that he had taken his medication prior to the evaluation. He showed a good work ethic during the interview and appeared to provide sufficient effort on the written tests. Adequate rapport was established for the purpose of the evaluation.

Mental Status:

Isaiah was oriented to person, place, time, and purpose of his assessment. He was alert and oriented. He was able to identify three objects after five minutes, and he was able to name the current President and to recall the past President. He was unable to name the first President of the United States. He correctly spelled the word 'world' forwards and backwards. He denied ever being physically or sexually abused. He admitted to having problems with anger but does not believe that he overreacts to situations. He noted that he gets especially angry when somebody puts their hands on him or talks about his family. He also reported having mood swings and to sometimes feeling sad. He denied having any suicidal or homicidal ideation, and he denied ever experiencing ideas of reference, persecutory thoughts, or auditory or visual hallucinations. During the interview and psychological testing, his thought processes appeared to be logical, sequential, and reality-based. Sufficient participation was noted for this to be judged a

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valid and reliable estimate of Isaiah's current functioning ability.

Juvenile's Account of Offense/Acknowledgement of Harm Caused:

Isaiah reported that he committed his first offense, when he struck a boy at school. He stated, "I just hit this boy for no reason. He was messing with my girlfriend. People were saying I wouldn't hit him, so I hit him one time." He acknowledged, "I shouldn't have hit him."

Concerning his most recent offense, Isaiah stated, "Me and my friend wanted to go and steal some bikes. We were going to steal two bikes from his (the victim's) porch." He admitted that he had previously stolen three bikes, and revealed that he has also stolen candy, snacks, and video games in the past. He said that when his mother discovered these items in his room, he would lie to her. He admitted that his actions were wrong.

Cognitive/ Academic Functioning:

Isaiah was most recently evaluated by the Rock Hill School District in November of 2008. The Psychological Evaluation report states that he was administered the Differential Ability Skills (DAS) and the Woodcock Johnson Tests for Achievement, Third Edition (WJ-III). He obtained a General Conceptual Ability score of 80, which placed him in the Below Average range of intelligence. Results indicated a marked discrepancy between his verbal reasoning skills (Verbal Cluster SS = 98) and his nonverbal reasoning skills (Nonverbal Cluster SS = 72). Achievement test results indicated that his math ability is in the Average range, while his reading and writing abilities are in the Below Average range.

Personality/ Emotional Functioning:

Isaiah's behavioral problems reportedly began at a very early age. Ms. Graham stated that when he was age five, he set fire to the grass outside their apartment, which then spread to the apartment. His aggressive behavior has resulted in two children having to go to the hospital. In kindergarten, he once "rammed a boy's head into a brick wall", and on another occasion he threw a broken beer bottle, which cut a boy. Ms. Graham related that he has urinated on children and has put detergent in family members' drinks. Ms. Nibbs, his temporary JRH caregiver, stated that Isaiah has difficulty abiding by her curfew. She also reported that Isaiah recently stole \$5 from a boy in the neighborhood and spent it.

Isaiah has difficulty controlling his anger and managing his behavior. His mother stated that medication has reduced his rages to approximately twice a month, but that when he is not medicated, he goes into rages on a daily basis. She described the duration of his rages as "five to ten minutes". His school disciplinary record indicates poor social skills, bullying behavior, and relational problems with peers.

The results of various psychological assessments administered confirmed the presence of social difficulties, concern about his mother, manipulation, and maladaptive behavior. The results of the RADS-2, a self-report measure of depressive symptomatology in adolescents, did not indicate clinically significant symptoms of anxiety or depression. However, he reported that he sometimes worries about school and sometimes feels sad, angry, and bored. Responses on the RISB, a semi-projective sentence completion

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measure for students, indicated regret for harming his mother and concern about his mother's health. His statements included: "I regret what I did to my mom"; "A mother is something you need"; "What pains me is when my mom is crying"; "My greatest worry is when my mom is sick"; "My father treats me good"; "What annoys me when people get on my nerves"; and "Sometimes I feel happy and mad".

Isaiah was also administered the JI-R, a self-report measure of personality, attitudes, and behaviors of juveniles who display delinquent behavior. Isaiah's JI-R profile was determined to be valid. Results indicated that Isaiah has an awareness of pro-social norms and values, but is inclined to ignore them. He appears to have a self-satisfied attitude, is self-centered, and is superficial in his relationships with others. Because he perceives the world in terms of power and control, he attempts to gain control or manipulate those in power. He tends to use manipulation persistently even when it seems to be to his disadvantage. He is quick to lose his temper, and is calloused and manipulative with peers. It is likely that he has little insight into his psychological makeup and how others perceive him.

SUMMARY:

Isaiah Graham is a 13-year-old African American male, who was adjudicated delinquent for the charge of Trespassing (reduced from Burglary Second Degree), and was placed on an indefinite period of Probation..) This charge was initiated when Isaiah attempted to steal a bicycle from the enclosed porch of the victim's home. He has had one prior charge of Assault and Battery, for which he successfully completed Probation. A charge of Assault and Battery is pending.

According to his most recent intellectual assessment, Isaiah is performing in the Low Average range of intelligence, with a DAS General Conceptual Ability score of 80. His verbal reasoning skills appear to be significantly more developed than his nonverbal reasoning skills. Isaiah is classified as being Emotionally Disabled due to his angry outbursts and his aggressive behavior in the school setting. He has attended self-contained classes since the third grade.

Historically, Isaiah has been raised by his biological mother. His mother and father, as well as numerous extended family members, have histories of alcohol and drug abuse. His mother reports a four-year history of sobriety. Assessment of family functioning indicates problematic dynamics that have plagued the family for several years. His mother has been unable to control his aggressive behavior, and parental supervision appears to be inadequate. Discipline in the home has been ineffective in reducing his problematic behavior at home, school, or in the community. His mother has mental health issues and medical problems, which have likely added to the unstable home environment.

Isaiah's significant emotional issues and his insecure home environment have contributed to his problematic behavior and substance abuse. He has been receiving mental health treatment since the age of three and has most recently been seeing a school-based counselor. Previous family intervention and mentoring services have been unsuccessful in changing Isaiah's inappropriate behavior. Isaiah needs to understand the seriousness of his actions and make a more concerted effort to act appropriately. Intervention strategies need to include continued mental health counseling and Family-Based Services. A referral to the Continuum of Care is recommended.

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Diagnostic Impression

Axis I: 296.90 Mood Disorder Not Otherwise Specified
313.81 Oppositional Defiant Disorder
314.9 Attention-Deficit/Hyperactivity Disorder, Not Otherwise Specified,
By History
Axis II: Diagnosis Deferred
Axis III: None
Axis IV: Legal problems; Academic problems; Family discord
Axis V: GAF = 52

Needs and Recommendations:

1. Isaiah needs to continue on Probation, where he can be adequately supervised by the Department of Juvenile Justice. He should have no out-of-school suspensions and no unexcused absences. His guardian should be made a party to all court actions.
2. Continued mental health treatment is needed to address his anger and his poor behavioral control. He also needs to continue receiving psychiatric services to monitor his medications.
3. Isaiah should be referred to the Continuum of Care due to the seriousness of his anger issues and his behavioral problems. In the absence of appropriate therapeutic services, Isaiah is considered to be at high risk of other maladaptive behaviors that may be criminal. While he does not appear to have embraced an antisocial lifestyle, his actions indicate that he is spiraling out of control. He and his family will need intensive services to head off future problems. Isaiah's offenses appear to be related to his serious mental health issues and an unstable family environment. It is therefore recommended that the Department of Mental Health or Continuum of Care be the primary agency in addressing Isaiah's needs. If his maladaptive behavior continues, Therapeutic Foster Care or other out of home placement needs to be considered.
4. Family-Based Services are recommended to address dysfunctional dynamics within the family and to increase parental authority and control.
5. Isaiah should complete Community Service work in order to have objective consequences to his actions.
6. Isaiah should be referred for substance abuse assessment. Services should include random drug testing and a determination as to the most appropriate manner of substance abuse treatment.

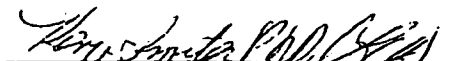
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Larry C. Hunnicutt, Jr., MA, LPC
Psychologist III


Kevin Irmiter, Ph.D.
Licensed Supervising Psychologist

DD: 04/05/2010

DT: 04/05/2010

Job: 2001027

MT: 99547

CONFIDENTIAL
SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
UPSTATE EVALUATION CENTER
COMPREHENSIVE PSYCHOSOCIAL EVALUATION

NAME: Robert Graham

DATE: 05/17/11

JJMS: 363840

AGE: 14

DOB:

DATE OF COMMITMENT: 04/19/2011

COUNTY: York

DATE OF RELEASE: 06/01/11

DISCHARGE TO: York

DETENTION ORDER: No

ALERT: None

DISPOSITIONAL RECOMMENDATION:

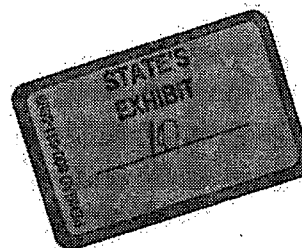
☐ Diversion ☒ Probation ☐ Suspended Commitment
☐ Monetary Restitution ☐ Community Service ☐ Commitment

PLACEMENT RECOMMENDATION:

☐ Home Placement ☒ Alternative Placement ☐ DJJ Institution

ATTACHMENTS:

☒ FORM 5
☒ COURT ORDER
☒ PSYCHOSOCIAL EVALUATION
☐ PSYCHIATRIC EVALUATION
☒ STUDENT TRANSCRIPT
☒ HEALTH EXAMINATION RECORD
☐ MEDICAL LAB REPORT



CASE MANAGEMENT PLAN (P)

STATE OF SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE		Date of Initial Formulation: 11/17/2010	
Child's Full Name: Isaiah Graham		180 Day Required Review: / / Initials:	
Medicaid Number:		Reformulation Due NLT 365 Days: 11/17/2011	
Reassessment as needed: / / Initials / / Initials / / Initials / / Initials / / Initials / / Initials		JJMS #: 363840	
STRENGTHS OF JUVENILE AND FAMILY: 1. Isaiah is strong and athletic. 2. Isaiah wants to earn his high school diploma.			
NEEDS OF JUVENILE AND FAMILY	SERVICES AND ACTIONS TO MEET THE NEEDS, FREQUENCY AND RESPONSIBLE AUTHORITY	PROJECTED COMPLETION DATE	ACTUAL COMPLETION DATE
1. Isaiah needs to understand the value of an education. 2. Isaiah needs to address anger management and impulse control issues. 3. Isaiah needs to surround himself with positive peers and prosocial activities.	1. Isaiah will attend school regularly. 2. Isaiah will comply with counseling services with Ms. Cathy Nesmith. 3. Isaiah will become involved with an extracurricular activity such as athletics.	6/2011 6/2011 6/2011	
Juvenile Signature: Isaiah Graham		Date: 11-18-10	
Parent/Guardian Signature:		Date:	
Case Manager Signature/Title: Judy M. Hiskelly		Date: 11-17-10	
Supervisor Signature:		Date: 11/17/10	

CHILD ASSESSMENT & EVALUATION (CAE)

STATE OF SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE				3. Date of Initial Completion: March 1, 2011	
1a. Child's Name & Address: GRAHAM, ROBERT ISALAH LEVEL STREET ROCK HILL SC 29730 York USA		1b. Alias: GRAHAM, ISALAH (Male) GRAHAM, ZAY (Male)		4. Initial Signature: O. Smith	
		1c. Child's Phone Number: Home:		5a. Updated (6 month): Initials:	
				5b. Updated (12 month): Initials:	
				5c. Updated (18 month): Initials:	
2a. Legal Guardian's Name & Address: Mother: GRAHAM, SUSAN LEVEL STREET ROCK HILL SC 29730		2b. Phone:		6. MIS Number: 363840	
				7. Medicaid Number:	
				8. Social Security Number:	
9. DOB:	10. Age: 14	11. Sex: Male	12. Race: Black	13. Eye Color: Brown	14. Height: 5'10"
15. Identifying Marks: NONE				16. Weight: 160	17. Hair Color: Black
18. Directions to Residence: See attached map					
19. Describe Neighborhood: City limits, house, some drug and gang activity					

FAMILY INFORMATION

	Natural Mother	Natural Father	Step Parent	Other
Name	20a. GRAHAM, SUSAN	21a. GRAHAM, ROBERT EARL	22a. N/A	23a. N/A
Address	20b. LEVEL STREET ROCK HILL SC 29730	21b. MILL ST CHESTER SC 29706	22b.	23b.
Phone	20c.	21c.	22c.	23c.
Marital Status	20d. Divorced/Separated	21d. Divorced/Separated	22d.	23d.
DOB	20e.	21e.	22e.	23e.
Employer/ Income	20f. UNEMPLOYED/ \$15,000-\$19,999	21f. UNEMPLOYED/Under \$5,000	22f.	23f.
Employer Phone #	20g.	21g.	22g.	23g.
24. Number of adults in household 01				
25. Number of children in household 01				
26. Does anyone within the household have a criminal history? Yes ☒ No ☐ If so, list name and offense: See side 4				

SCHOOL INFORMATION				
27. School Name, Address & Phone #:				
School: Saluda Trail Middle , Address: 2300 Saluda Road Rock Hill SC 29730 ,Phone: 803-981-1800				
28. Current Grade: 8th		29. Grades Repeated: None		30. Attendance: Good
31. Special Placement Classes: Emotionally Handicapped				
32. IQ Scores, if available: FS: N/A Date/Source: N/A VP: N/A Date/Source: N/A P: N/A Date/Source: N/A				
33. Comments/Extenuating Circumstances: Has an IEP				
CHILD HISTORY				
34. Child's behavior in home/community: Good days and bad days		35. Parent/child relationship: Sometimes gets along well with each		
36. Child's strengths/interests: football, basketball, video gaming		37. Has child ever been employed? Yes No ✓		
		Comments: Unemployed, No Previous Work		
38. Child's placement history: White Pines 8/16/10-11/14/10				
39. Child's health history: Asthma/ Premature (2 lbs)- C-section				
40. History of substance abuse? Yes No ✓		41. History of running away? Yes No ✓		
Describe: {NoData}		Describe:		
42. Has the immunization record been received? Yes ✓ No				
43. Does the child have a primary care physician? Yes ✓ No		44. Does child have a dentist? Yes No		
If so, name: North Central		If so, name: Dentist at School		
If not, how are child's needs being met?		If not, how are child's needs being met?		
(Explain on page 4)		(Explain on page 4)		
45. Indicate child's involvement with any of the following: --"P" for past or "C" for current:				
C CCEDC	N/A P&A	N/A DDSN	N/A DVR	N/A OTHER (Explain on page 4)
N/A PVT.C	C DMH	N/A DHEC	N/A DAODAS	
C DSS (If involved describe on page 4)	N/A F.P	N/A CCRS	N/A Prior SMI/SMR Inclusion?	
46. Does child have any physical or mental conditions that impair meeting basic needs? Yes No ✓ If yes, describe:				
47. Past or present psychiatric diagnosis? Yes ✓ No Specify diagnosis, source and date: Diagnosed with ODD and ADHD at the age of 3 by Catawba Family Center				
48. Does the child suffer from social withdrawal/isolation, or physical symptoms of panic attacks (intense fear, dizziness, nausea, shortness of breath, heart palpitation & sweating). Yes No ✓ Details:				
49. Marked increase or decrease in eating, sleeping, or involvement in activities with others / frequent nightmares or "flashbacks" about traumatic events? Yes No ✓ Details:				

Child's Name: GRAHAM,ROBERT ISAAH

MIS #: 363840

50. Significant mood changes? Yes ☐ No ☒		51. Auditory or visual hallucination? Yes ☐ No ☒	
Details: Mood fluctuates		Details:	
52. History of suicidal ideation or self-destructive behavior such as self-mutilation or purposefully placing self at risk? Yes ☐ No ☒			
Details:			
53. Does child exhibit compulsive, repetitive or ritualized behavior? Yes ☐ No ☒			
Details:			
54. Has the child been diagnosed or exhibit behaviors such as short attention span or poor concentration? Yes ☐ No ☒			
Details: Has ADHD			
55. Is the child presently taking medication or has the child previously taken medications? Yes ☒ No ☐			
If so, indicate type, dosage, and purpose: See side 4			
56. History of fire setting? Yes ☐ No ☒		57. History of brain disease or severe head injury? Yes ☐ No ☒	
Details: At the age of 5, he set the woods on fire at Catawba Pointe Apartments because he was trying smoke grass in paper		Details:	
58. History of risky sexual behavior? Yes ☐ No ☒		59. History of physical and/or sexual abuse? Yes ☐ No ☒	
Details:		Details:	
Are referrals needed? Yes ☐ No ☒			
60. Have child ever received family planning and health education services? Yes ☒ No ☐			
If yes, when? School health and family planning			
61. Is the child pregnant? Yes ☐ No ☒		62. If pregnant, is the child receiving prenatal care? Yes ☐ No ☒	
63. If pregnant and not receiving prenatal care, have appropriate referrals been made? Yes ☐ No ☒			
64. Is Serious Mental Illness (SMI) or Serious Mental Retardation (SMR) suspected? Yes ☐ No ☒			
If yes, refer to psychologist for consultation:			
Date referred: Date staffed:			
65. Level II Assessment recommended: Yes ☐ No ☒			
If yes, give date of assessment:			
66. Describe child's attitude during interview:			
Polite, cooperative			

67. Describe any other risk factors not listed and indicate if referrals are needed:

26. Jeremy McClinton, 20, currently on probation for CDV of a high & aggravated nature; Mother- currently on PTI for false information for public housing; 24. Jeremy McClinton, 20, , half brother, lives in the home; 25. Tyquasha Hardin, 17, , sister, lives in the home; Natural mother- born in Chester County, high school diploma, some college; Natural father- born in Chester County, high school diploma; 55. Current- Risperdal- 3mg (1mg @ AM; 2mg @ PM); Strattera- 40mg 1 a day; Past- Zyprexa at the age of 5 for ADHD/ ODD; Wants to receive his high school diploma and become a jail guard. 45. CFC- sees Cathy Knee Smith & Dr. Coleman; Continuum of Care worker is Ms. Dawne.

Receives Medicaid

363840**GRAHAM, ROBERT ISAIAH**

4/28/2011 10:42:41 AM

Alias: GRAHAM,ISAIAH; GRAHAM,ZAY;

County: York

Home Address: LEVEL STREET | ROCK HILL | SC | 29730

Race: Black

Sex: Male

SSN:

Medicaid #

Home Phone:

Age: 14

DOB:

DOB Verified: Yes

Schooling: 2011/03/01 | Saluda Trail Middle | Attending Day School | Grade: 8th | Attendance: Good | Special: Emotionally Handicapped

Contacts

Father: GRAHAM, ROBERT EARL

Home Phone:

Office Phone: ;

MILL ST - CHESTER, SC 29706

Mother: GRAHAM, SUSAN

Home Phone:

; Office Phone:

LEVEL STREET - ROCK HILL, SC 29730

DJJ Personnel

Probation/Parole Counselor Miskelly, Tracy M

York

06/04/2010

Social Worker

Black, Cynthia A

Willow Lane

04/27/2011

Juvenile's Traits

019 - DNA Test Required No

DNA Test Complete No

021 - Registry Required No

Legal History**Referral Date Description****Source/Action By**

04/11/2011

04/11/2011 Contempt: Contempt of Court by Child (Criminal)
04/11/2011 -- Rule To Show Cause Issued -- Solicitor 16th Circuit
04/19/2011 -- Evaluation (Secure) -- Guyton, David G

(York

03/13/2011

03/13/2011 Assault: Assault & Battery 3rd degree
03/13/2011 -- Prosecute -- Solicitor 16th Circuit

Rock Hill PD

03/08/2011

03/08/2011 Determinate Sentence Order

Guyton, David G

01/18/2011

01/18/2011 Disorderly: Public disorderly conduct
02/18/2011 -- Prosecute -- Solicitor 16th Circuit
03/08/2011 -- Determinate Sentence -- Guyton, David G
-- Probation Continued -- Guyton, David G

Rock Hill PD

08/03/2010

08/03/2010 Determinate Sentence/DISCRETIONARY Suspended to
Alternative Placement and Probation Order

Guess, Robert E

08/02/2010

08/02/2010 Probation: Violation for Cat. V - Misd.
08/02/2010 -- Rule To Show Cause Issued -- Solicitor 16th Circuit
08/03/2010 -- Determinate Sentence/DISCRETIONARY Suspended to
Alternative Placement and Probation -- Guess, Robert E

York

08/01/2010 Assault: Assault & Battery 3rd degree
08/02/2010 -- Prosecute -- Solicitor 16th Circuit
12/14/2010 -- Not Prosecuted -- Solicitor 16th Circuit

Rock Hill PD

03/08/2010

03/01/2010 Assault: Simple Assault and Battery
08/02/2010 -- Prosecute -- Solicitor 16th Circuit

Rock Hill PD

01/26/2010

01/26/2010 Determinate Sentence followed by Probation Order

Woods, Henry T

12/30/2009	12/14/2009 Trespassing: Entry on another's land for various purposes without permission - 3rd or sub. offense	Rock Hill PD
	01/26/2010 -- Prosecute -- Solicitor 16th Circuit	
	-- Determinate Sentence followed by Probation -- Woods, Henry T	
	-- Other Special Conditions -- Woods, Henry T	
	04/27/2010 -- Other Special Conditions -- Woods, Henry T	
	-- Probation Continued -- Woods, Henry T	
02/17/2009	02/17/2009 Probation Order	Woods, Henry T
	08/24/2009 -- Probation Requirement Ended -- Woods, Henry T	
01/29/2009	01/29/2009 Assault: Simple Assault and Battery	Rock Hill PD
	02/02/2009 -- Prosecute -- Solicitor 16th Circuit	
	02/17/2009 -- Probation -- Woods, Henry T	
	-- Other Special Conditions -- Woods, Henry T	

CONFIDENTIAL
SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
UPSTATE EVALUATION CENTER
COMPREHENSIVE PSYCHOSOCIAL EVALUATION

DATE: 05/17/11

NAME: Robert Graham

JJMS: 363840

DOB:

COMMITTING COUNTY: York

OFFENSES: Incurrigible

REFERRAL STATEMENT

Robert Graham was committed to the Upstate Evaluation Center by the Family Court of Richland County, on 04/19/2011 for a comprehensive evaluation, in order to make recommendations regarding the most appropriate custodial or correctional care and any other interventions which might hold the juvenile accountable for the current offense and reduce the likelihood of future offending

NOTICE

This report is confidential and should only be released to those with a legal right to know or the written consent of relevant parties. Release should be limited to that information pertinent to the needs of the requesting party and should be in a form that is understandable to the requesting party (i.e., jargon and scores may need to be omitted or explained thoroughly).

Some individuals and family members may tend to misunderstand and/or distort the information enclosed in this report. This may result in significant psychological distress to the individual or may interfere with any treatment and eventual recovery from psychological illness, if present. For individuals with self-destructive or assaultive tendencies, the consequences of ill-advised disclosure of this report may be serious.

Robert Graham was informed of the purpose of the evaluation and was informed that the results would be shared with the SCDJJ staff and family court officials, as well as any others with the legal right to know. He was informed that suspected child abuse or neglect must be reported to the Department of Social Services. Robert indicated that he understood the limits of confidentiality.

SOURCES OF INFORMATION

Clinical interview with Robert Graham, juvenile
Collateral telephone interview with Susan Graham, Mother
Email and/or phone contact with York County DJJ Community Specialist, Oliver "Ray" Moore
Phone Contact with Continuum of Care Worker, Dawn Moore
Phone Contact with Catawba Mental Health, Kathy Nesmith
DJJ File information
Psychological Testing
Millon Adolescent Clinical Inventory (MACI)

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Graham, Robert -JJMS: 363840

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Multidimensional Anxiety Scale for Children (MASC)
Reynolds Adolescent Depression Scale - 2nd Edition (RADs-2)
Substance Abuse Subtle Screening Inventory-Adolescent, 2nd Ed. (SASSI-A2)
Wechsler Abbreviated Scale of Intelligence (WASI)
Wechsler Fundamentals Academic Skills (WFAS) selected subtests

DJJ HISTORY AND SUMMARY OF CURRENT CHARGE

Robert has been committed to the Upstate Evaluation Center after being adjudicated for Contempt of Court for violation of prior court order dated 4/19/2011. However, he was admitted to the Upstate Evaluation Center on April 27, 2011. The April 11, 2011 Juvenile Petition indicates Robert was placed under court order to be released to a Jail Removal Home on March 15, 2011 by Judge Guess. As of April 11, 2011, he has not cooperated with the Jail Removal Home and has damaged the residence. In addition, Robert failed to abide by his curfew and school attendance order.

Robert has a referral history with the Department of Juvenile Justice which began in January 2009 in which he was charged with Assault and Battery and was placed on probation. Robert was charged with Trespassing on December 30, 2009 and he received a determinate sentence followed by probation. On August 01, 2010, he was charged with Assault and Battery 3rd Degree but the charge was Not Prossed. On August 2, 2010, Robert was charged with Probation Violation and received a determinate sentence which was suspended to alternative placement. Robert was charged with Public Disorderly Conduct on January 18, 2011, he which he received a determinate sentence and continued probation. On March 13, 2011, Robert was charged with Assault and Battery, charge still pending.

Juvenile's Account of the Offense

Regarding his current charge of Contempt of Court, Robert stated, "I left the house after my mother said I couldn't. She called my probation officer and the police picked me up at my mom's house and brought me straight to UEC. The last time I was in court the judge let me go home, but told me if I got in any trouble I'd be sent to UEC."

FAMILY FUNCTIONING

Prior to being committed to UEC, Robert resided with his biological mother, Susan Graham (age 42) and his sister, Tyquasha (age 19). Robert has an older brother, Jeremy (age 23) who is currently in jail for Violation of Probation. Robert's father, Robert E. Graham (age 47) resides in Chester, SC. According to Ms. Graham, she and Mr. Graham were married but have been divorced for four years. Ms. Graham reported Mr. Graham is court ordered to pay child support, but he is behind with his payments. She stated Mr. Graham has limited contact with Robert.

Ms. Graham reported she has been unemployed since August 2009. She stated she is disabled by way of arthritis, fibromyalgia, high blood pressure, and a dislocated hip. She reported she is currently prescribed twelve medications.

Ms. Graham described having a volatile relationship with Robert. She indicated he does not abide by the rules of her home and is extremely disrespectful. She reported several incidents in which Robert became verbally and physically aggressive towards her. The latest incident occurred in March 2011, in which she reported Robert had two butcher knives and was

attempting to harm her. She admitted she also had a knife to protect herself from her son. She stated the police were called and both of them were arrested. However, she stated the charges against her were dropped on April 13. Ms. Graham stated Robert has rage and anger problems, which she believes he is unable to control. She reported Robert has been arrested at least seven times for assault and three of those times were for assaults on her.

Ms. Graham stated Robert and his sister, Tyquasha do not get along. She stated Robert attempts to be grown and has gotten to the point where he does not want to listen to anyone. She stated Robert has a lot of "issues" and has damaged his sister's property for no reason. She added Robert can be vindictive when things do not go his way.

Ms. Graham reported Robert is responsible for chores in the home such as washing the dishes, emptying the trash, and cleaning his room. However, she reported he rarely completes his chores. She reported Robert had an 8 p.m. curfew, which was ordered by the court, but he did not abide by his curfew. Ms. Graham reported that Robert's behavior problems began at the age of two. She admitted when Robert was younger she used to discipline him by spanking him, but indicated he appeared to get worse despite being spanked. She has also used time out, but this form of discipline was ineffective as well.

Ms. Graham reported mental illness is prevalent on both sides of the family. However, she stated Robert's paternal side of the family has mental health issues but they refuse to seek assistance and have not been officially diagnosed. Ms. Graham reported she has been diagnosed with depression and Borderline Personality Disorder. In addition, Ms. Graham stated she has an uncle who is diagnosed with schizophrenia and a sister who is diagnosed with Bipolar.

Juvenile's Report of Family Functioning

Robert's report of family functioning was generally consistent with his mother's report. He stated he has a good relationship with his father and gets to see him on the weekends. He admitted that there are problems between him and his mother. However, he took the responsibility for their problems by blaming it on his anger and difficulty controlling his temper.

Robert reported his mother makes the rules in the household, which include obeying his curfew and completing his chores. He reported his curfew is 8 p.m. during the week and 10 p.m. on the weekends. He stated his chores include cleaning his bedroom, bathroom, and living room, and washing dishes. If he breaks a rule in the household, he reported, "I get put on punishment and can't go outside or use the computer."

Regarding a family history of mental health, substance abuse, and legal difficulties, Robert reported he has a half-brother who has been arrested for selling Marijuana. He also reported his mother was arrested after she pulled a knife on Robert, who admitted pulling one on her during the same incident. However, he stated his mother had a knife first, so he grabbed a knife to defend himself.

ADOLESCENT FUNCTIONING**Relevant History**

Ms. Graham reported Robert was born at twenty-seven weeks and weighed only two pounds. She stated he was on a breathing and heart monitor until he was seven months old. Ms. Graham stated Robert did well reaching his physical developmental milestones, but she noticed his cognitive development was extremely slow. Robert denied any history of physical abuse, sexual abuse, fire setting behavior, or cruelty to animals. He denied DSS has ever been involved with him or his family. He denied major trauma, serious head injury, seizures, major accidents, serious illnesses or diseases. He reported no recent major stressors.

Robert noted he been receiving counseling from Catawba Mental Health since he was younger, he could not remember the exact age. According to Ms. Graham, she took Robert to the mental health center as early as eighteen months because she knew something was not right with Robert. Information from the Continuum of Care Worker, Ms. Moore, confirmed Catawba Mental Health has been involved with the Graham family since Robert was eighteen months old. Robert reported he was diagnosed with ADHD when he was 2-years-old. He started taking Abilify when he was 13-years-old and is still currently taking it. According to Ms. Graham, Robert was taken off of Risperdal about a year ago due to the side effects. In addition, he previously was prescribed Strattera and Zyprexa. Ms. Graham reported Robert has been prescribed psychotropic medication since the age of four. Robert denied ever being hospitalized for his behavior or emotions. However, Ms. Graham stated Robert was placed at Baptist Hospital at the age of seven in which he stayed two weeks and was placed at William S. Hall at the age of ten in which he stayed three weeks. Ms. Graham reported both facilities told her nothing was wrong with Robert and discharged him. Ms. Graham reported Continuum of Care has been involved since February 2011 when Robert was referred to them by Catawba Mental Health. Per Ms. Graham and Ms. Moore, Robert has been approved to receive 25-30 hours of behavior modification services thru the Continuum of Care. Ms. Graham also indicated she has received services from Family Preservation and Family Intervention to assist her with managing Robert's behavior.

According to the juvenile records Robert has been placed outside of the home three times. He was placed with YAP in Greenville from January 3, 2010 until April 27, 2010; Camp White Pines from August 8, 2010 to November 4, 2010, and YAP-Therapeutic Foster Home, Camden, SC from March 15, 2011 to April 11, 2011.

Current Symptomatology

Ms. Graham reported she has no knowledge of Robert drinking alcohol or using drugs. However, Robert reported using alcohol, Marijuana, and cigarettes. He stated he tried alcohol once when he was 12-years-old. He reported first smoking Marijuana at age 13 and last smoking Marijuana two months ago. He stated he usually smoked two or three times a day. He started smoking cigarettes at age 12 and was smoking three cigarettes a day before coming to UEC. He denied using any other illegal drugs, selling drugs, or helping anyone else sell drugs. Robert's scores on the SASSI-A2, a screener for substance and alcohol abuse, indicate there is a low probability of him having a substance abuse or substance dependence disorder. However, in his responses he denied using any drugs in the past six months. Given his self-admitted Marijuana use, it is likely he has a substance abuse disorder.

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Robert does not endorse experiencing hallucinations, suffering from delusions, or having any odd beliefs. He stated he feels happy most of the time. He denied symptoms of depression, manic or hypomanic episodes. He denied ever trying to harm himself in any way. He described his appetite as good and does not indicate difficulties with getting to, or staying, asleep. Robert's responses on the RADS-2, a measure designed to assess symptomatology associated with depression, indicate he is not currently experiencing clinically significant levels of depression.

Robert denied frequent worrying, unusual fears, social anxiety or panic attacks. His responses on the MASC, a measure designed to assess symptomatology associated with anxiety, indicate he is not currently experiencing clinically significant levels of anxiety.

In regards to those behaviors seen as disruptive, Robert acknowledged being easily distracted. While being easily distracted is typically seen as a hallmark of ADHD, this is the only symptom that Robert admitted experiencing. While the Abilify may be controlling any other ADHD symptoms, Robert should be assessed by a psychiatrist to determine the need for Abilify. Robert also admitted he loses his temper easily, is easily annoyed by others, has used a weapon to hurt others, has stolen from others, and has shoplifted. These behaviors are indicative of a disruptive behavior disorder, specifically conduct disorder.

Behavioral Observations

Robert is a young, African-American, male who appeared his stated age of 14. He appeared to be clean and well groomed, dressed in a blue jumpsuit that fit loosely. He displayed normal fine-motor and gross-motor behavior with no signs of clumsiness, tremors, tics, psychomotor agitation, or psychomotor retardation. Enunciation, tone and volume were clear and normal. He was polite and cooperative at all times. Rapport was easily established. Mood exhibited was good and affect was appropriate to mood. He was polite, and worked cooperatively, and appeared motivated to perform his best. He worked persistently and did not give up easily, even on difficult items. His attention seemed focused on, and adequate for, the tasks presented. Sufficient participation was noted for the results of this assessment to be deemed reliable estimates of Robert's current level of intellectual and psychological functioning.

Mental Status

During the psychological evaluation, Robert seemed aware of his surroundings, the nature of his offenses, and the time involved. There were no signs of mental confusion or psychotic thought processes. He was alert, responsive, and exhibited adequate orientation of time, place, and situation. Long-term, short-term, and intermediate working memories were adequate.

Behavioral/Emotional/Personality Functioning

With regards to aggressive behavior, Robert reported the last fight in which he engaged occurred while at UEC. He stated another juvenile kicked him without provocation, so he punched said juvenile. He denied any current or past homicidal ideation. He denied being verbally aggressive.

Robert reported he is not popular with his peers, explaining, "I just choose not to be." He stated he is easily bored and needs activities to be exciting for him to enjoy them. His statements and history indicate he is emotionally impulsive and tends to react rather than contemplate consequences before acting. Robert reported he feels good, self-confident, about himself and is

good at football, basketball, and video games. He stated he believes he will be able to behave legally in the future as his plan is to go to school, play organized sports, and listen to his mother.

Robert reported that when he is faced with difficulties, he generally talks to someone about it. With respect to Robert's attitude towards authority, he stated, "I won't listen to them if they are telling me to not do something I really want to do."

On the MACI, a self-report inventory designed specifically for assessing adolescent personality characteristics and clinical syndromes, Robert responded to the items in a manner, which indicated he tends to act in an antisocial manner and resists efforts to make him adhere to socially acceptable standards of behavior. He questions the rights of others and prefers to be in control. He is indifferent to others' rights and will violate them to achieve his own goals. He is impatient with others and is unkind towards them. His behavior is unpredictable. He is outgoing one minute and hostile the next. He appears to have difficulty controlling his mood for long periods of time. He feels his family life is tense and full of strife with little places to turn for support.

Cognitive Functioning and Academic Achievement

During the current evaluation, Robert was administered the Wechsler Abbreviated Scale of Intelligence (WASI) in order to assess his global intellectual abilities. According to this instrument, Robert is functioning in the Intellectually Deficient range of cognitive ability as indicated by a WASI Full Scale 4 score of 65. The results of this assessment reflected a statistically significant discrepancy between Robert's performance on the Verbal subtests (measures of verbal/abstract reasoning skills) and his performance on the Performance subtests (measures of visual/perceptual abilities); therefore, verbal/abstract reasoning abilities appear to be better developed in comparison to visual/perceptual abilities. With respect to same-aged peers, Robert performed at the 1st percentile. Robert obtained the following WASI scores:

Verbal	Scaled Score (Ave.=10 +/-3)	Performance	Scaled Score (Ave.=10 +/-3)
Vocabulary	4	Block Design	3
Similarities	4	Matrix Reasoning	1
IQ Scores	IQ	Range of Ability	Percentile Rank
Verbal	72	Borderline	3
Performance	62	Intellectually Deficient	1
Full Scale-4	65	Intellectually Deficient	1

Robert's academic achievement in reading and math, as measured by the WFAS, is below normal levels for his age, but is at the level expected given his current intellectual functioning (Reading Standard Score = 74; Math Standard Score = 68).

SCHOOL/JOB FUNCTIONING

Robert was last enrolled at Saluda Trail Middle School in the 8th grade. Robert denied ever repeating a grade for any reason. He admitted he has been in a self-contained class since the

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fourth grade due to his anger and behavioral problems. Robert is emotionally disabled. He has an IEP which was last reviewed in February 2011. According to school records, Robert has difficulty maintaining appropriate behavior in the learning environment and is often oppositional and defiant. He has struck his peers and has destroyed property. He has difficulty accepting responsibility for his behavior and often makes threats towards his peers and authority figures. Robert reported he typically makes average grades in his coursework. However, his last report card was unavailable for review during this evaluation. According to Ms. Moore, Robert was placed on Home Bound in February 2011 for forty five days due to threatening a teacher aide and throwing a chair.

Robert acknowledged if he got into trouble at school it was usually for fighting. He admitted being suspended for fighting, but denied ever being expelled for any reason. He denied intentionally skipping school. His school disciplinary record was unavailable for review during this evaluation. Robert stated positive feelings about school, explaining, "I love school."

PEER RELATIONS

Robert reported he has one close friend, Carlton, age 17, whom he has known for about three years. Ms. Graham reported one of Robert's friends is a female named Katie who is 14-years-old. She reported Katie's mother allows Robert to sleep over despite Ms. Graham's disapproval. She stated Robert would leave the house at 11 p.m. to go over to Katie's house. She reported she has spoken to Katie's mother about this but she continues to allow Robert to sleep over. Robert stated he and his friends like to play football and basketball for fun. He reported one of his friends has been involved in illegal behavior. He denied being involved in a gang or hanging out with any gang members.

Robert stated he has no girlfriend at the present time. He reported his longest relationship lasted for about 18 months. He reported having had one past serious relationship and "a lot" of past nonserious relationships. Ms. Graham reported she is aware that Robert is sexually active and is having sex with Katie and has joked about Katie being pregnant. Robert admitted his first consensual sexual relationship occurred at age 12 and claimed to not know how many people he has had sex with. He stated he has never attended sex education classes, but acknowledged using condoms during sex. He reported his mother has advised him to be careful and always use protection.

COMMUNITY FUNCTIONING

Ms. Graham reported the family resides in a rented three bedroom house. She stated they have lived in this house for three years. She indicated various economic levels reside in the neighbor. She described the neighborhood as quiet and within close proximity to shopping areas. She reported Robert is a behavior problem in the community. Ms. Graham reported the neighbors complain to her about Robert, such as when he takes the trash out. He allegedly does not put it in the garbage bins but dumps it in the neighbor's yards. In addition, she reported that Robert stole items from the church's youth house. However, she stated when she asked him about it he would deny it despite being seen on camera/video.

ADJUSTMENT TO THE EVALUATION CENTER PLACEMENT

Robert made a positive adjustment to the structure of the Upstate Evaluation Center. Overall, he did not present behavioral problems in the residential setting and interacted well with peers.

Robert was courteous and respectful towards staff and followed directives with limited resistance. The educational staff reported Robert as a good student. He was not a behavior problem and completed his work with little assistance. He had a good attitude and was cooperative and helpful.

SUMMARY

Robert is a 14-year-old African American male who has been committed to UEC after being adjudicated for Contempt of Court for Violation of Prior Court Order. Robert's history with DJJ includes charges in January 2009 for Assault and Battery, Trespassing on December 30, 2009, and Assault and Battery 3rd Degree on August 01, 2010. On August 2, 2010, Robert was charged with Probation Violation and received a determinate sentence which was suspended to alternative placement. Robert was charged with Public Disorderly Conduct on January 18, 2011, for which he received a determinate sentence and continued probation. On March 13, 2011, Robert was charged with Assault and Battery, charge still pending.

Prior to being committed to UEC Robert resided in the home with his biological mother, Susan Graham (age 42) and sister, Tyquasha Hardin (age 47). He also has a brother Jeremy (age 23) who is currently incarcerated for Probation Violation. His father, Robert L. Graham (age 47) currently resides in Chester, SC. According to Ms. Graham, Mr. Graham is court ordered to pay child support but is behind with the payments. Robert has a strained relationship with his mother and sister. Robert has been verbally and physically aggressive towards his mother. According to Ms. Graham, the latest incident occurred in March 2011, in which Robert attempted to assault his mother with two butcher knives. Ms. Graham reported Robert has been arrested seven times for assault and three of the assaults were against her. She reported Robert has destroyed his sister's personal property and has threatened her. Robert usually resorts to physical aggression to handle conflicts and when something does not go his way.

Robert's current intellectual functioning is estimated to be within borderline to intellectually deficient range. His scores in reading and math, while below average for his age, are commensurate with his intellectual functioning.

Robert has been receiving mental health services since he was 18-months old. He was diagnosed with ADHD around that time and has been taking psychotropic medications since he was 4-years-old. He is currently prescribed Abilify. He has also been hospitalized twice, once at Baptist Hospital and once at William S. Hall. He was reportedly discharged by both hospitals because they did not feel he needed hospitalization. He is also currently involved with Continuum of Care and will receive behavior modification services from them upon his return home. Robert appears to currently be having difficulties with Marijuana and cigarettes. He smokes around three cigarettes a day and also smokes Marijuana multiple times a day every day. He has also tried alcohol, though he claims it was only one time. It would be in his best interest that he receives substance abuse counseling to help him cease using substances and help ensure he does not start using any other substances.

STRENGTHS

1. Ability to be polite and cooperative in a one-on-one setting
2. Self-confident

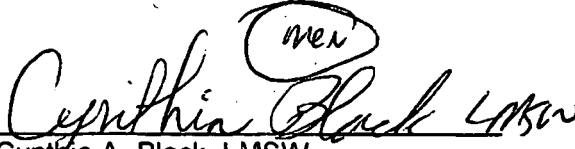
Psychosocial Evaluation - 06/01/11
Graham, Robert -JJMS: 363840
9

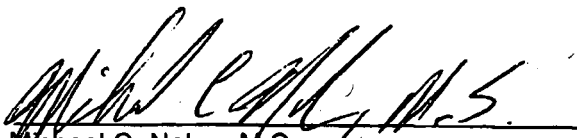
DSM-IV DIAGNOSTIC IMPRESSIONS

Axis I: 312.89 Conduct Disorder
305.20 Cannabis Abuse
350.10 Nicotine Dependence
314.9 Attention-Deficit/Hyperactivity Disorder, by history
Axis II: V62.89 Borderline Intellectual Functioning
Axis III: None acute or chronic
Axis IV: Problems related to the legal system/crime
Problems related to educational setting
Axis V: Current GAF = 68

NEEDS AND RECOMMENDATIONS

1. Robert would benefit from a structured environment and due to the volatile home situation alternative placement is being recommended.
2. Robert needs to continue with mental health services to assist him with managing his anger and to resolve conflict situations appropriately. A behavior modification specialist is also recommended thru the Continuum of Care. Counseling should also assist Robert in improving his decision making skills, increasing her positive social skills, as well as assist him in improving his ability to communicate effectively with others.
3. Family therapy is recommended to assist Ms. Graham in developing appropriate expectations while also working with the family on improving how they communicate with each other and help them to understand how their actions impact each other.
4. Participation in substance abuse counseling is recommended at this time. Upon release Robert should continue to undergo random drug screenings to ensure he is no longer using substances.
5. Participation in a mentoring program may also provide Robert opportunities to interact with, and develop relationships with, more positive peers and positive male role models.


Cynthia A. Black, LMSW
Social Worker V


Michael C. Nolan, M.S.
Psychologist III


Todd Morton, Ph. D.
Supervising Psychologist
Director of Clinical services

**South Carolina Department of Juvenile Justice
Evaluation Center Transcript**

Student's Name: Robert I. Graham

Date of Birth: _____ **Grade:** 8

Date Enrolled: April 27, 2011 **Date Released:** June 1, 2011

Days Present: 25 **Date of Report:** May 16, 2011

Note: The curriculum at the Evaluation Center is aligned with the South Carolina Curriculum Standards but is presented at the student's individual instructional level. Teachers use whole-class, small group, and individualized instructional methods. Grades reflect achievement at the student's functional level.

Subjects and Grades

88 English/Language Arts

X Reading/Literature
X Writing/ Grammar
 _____ Speaking
X Listening
 _____ Research

76 Science

_____ Inquiry
X Life Science
X Earth Science
 _____ Physical Science
X Health

89 Mathematics

X Numbers and Numeration Systems
X Numerical/Algebraic Concepts/Operations
X Patterns, Relationships, Functions
 _____ Geometry and Spatial Sense
 _____ Measurement
 _____ Probability and Statistics

80 Social Studies

_____ American History
 _____ S.C. History
 _____ Geography
X Law-Related Education
 _____ Character Education

Grading Scale: 93 - 100 = A; 85 - 92 = B; 77 - 84 = C; 70 - 76 = D; 69 and Below = F

**Instructional Level, as Determined by Administration of the California
Achievement Test (C.A.T.) Locator 1 or 2:**

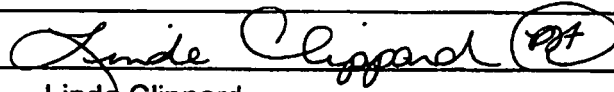
Reading Range: 5.6-7.2

Math Range: 4.6-6.2

Signature of Lead Teacher:

Print Name:

Telephone Number:


 Linda Clippard

-429-3610

**SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
EVALUATION CENTER EDUCATIONAL ADJUSTMENT SUMMARY**

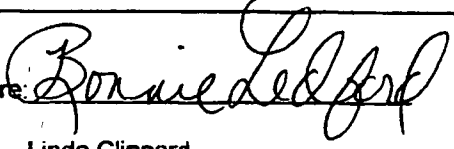
Student: Robert Graham

Date: 5/16/2011

<u>Classroom Observations</u>	<u>Frequently</u>	<u>Sometimes</u>	<u>Rarely</u>
1. Follow oral directions	☒	☐	☐
2. Respects authority	☒	☐	☐
3. Respects the rights of others	☒	☐	☐
4. Adapts to class structure & rules	☒	☐	☐
5. Demonstrates self control	☒	☐	☐
6. Demonstrates responsibility	☒	☐	☐
7. Demonstrates age appropriate social skills	☒	☐	☐

Educational Observations:

Robert is a good student. He is not a behavior problem and completes
his work with little assistance. He has a good attitude and is
cooperative and helpful. I have enjoyed having him in my class

Teacher Signature: 

Lead Teacher: Linda Clippard

Telephone Number: -429-3610 ext 231

**SC Department of Juvenile Justice Health Services
Health Examination Record**

NAME: Graham, Robert **AGE:** 14 **GENDER:** MALE **RACE:** Black
JJMS: 363840 **CAMPUS:** UEC **DORM:** Tyger

Height: 5'10" **Weight:** 170# **TPR:** 98.8 83 16 **BP:** 110/55

Vision: Without glasses: Left: 20/ 25 Right: 20/ 20-1

With glasses: Left: 20/ Right: 20/

Is the juvenile wearing contact lens? Yes / No

Hearing: Attach Hearing Screen

Urine pregnancy test: Positive Negative N/A /

Review of immunizations for updates? No Yes / (See Immunization Record)

PHYSICAL EXAMINATION:

Subjective:

Objective: Explain if abnormal

	Normal	Abnormal
1. Integument	<u>X</u>	
2. HEENT	<u>X</u>	
3. Mouth	<u>X</u>	
4. Dental	<u>X</u>	
5. Circulation	<u>X</u>	
5. Respiratory	<u>X</u>	
6. GU	<u>X</u>	
7. Abdomen/GI	<u>X</u>	<u>INBM - a couple of days ago</u>
8. GYN		
9. Musculo/Skeletal	<u>X</u>	
10. Emotional/Mental	<u>X</u>	<u>Friendly + Cooperative</u>
11. Neurological	<u>X</u>	
12. Nutrition:	<u>X</u>	
14. Breast (Tanner # 4)	<u>X</u>	
15. Ext. Genitalia (Tanner # 4)	<u>X</u>	
16. Int. Genitalia	<u>X</u>	<u>Testes H. for male, & scrotum</u>
17. Wet prep		

Assessment: Non Male Adol Exa

Ym Cohen ^{NP}
Signature of physician or nurse practitioner

4/30/11
Date

SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
Evaluation/Commitment/Transfer Checklist

Robert Isaiah Graham

Juvenile's Name

Date of Birth

363 840

County

York

Type: ☒ Evaluation Commitment ☐ DJJ Commitment ☐ Probation Parole Transfer ☐ Change of Venue

Please find enclosed the following information:

Information	Included	Not Available	Not Applicable	To Be Sent
Letter of Justification for Transfer of Supervision Form 5	✓			
Records and Information Release Authorization	✓			
Permission to Receive Volunteer Services	✓			
Notice of Privacy Practices & Rights to Protected Health Info.	✓			
Victim Impact Statement			✓	
Juvenile Medication Information	✓			
Child Assessment & Evaluation	✓			
Court Order (s)	✓			
DJJ Pre-Dispositional Evaluation Report				
Pre-Confinement Time Credit Report			✓	
Psychological Evaluation	✓			
Psychiatric Evaluation		✓		
Medical Evaluation		✓		
Disability Information	✓			
Education Records	✓			
Plan for Services	✓			
Circumstances of Commitment Offense	✓			

☒ Yes ☐ No Juvenile is prescribed to take medication. ☐ Yes ☒ No Prescription medication is accompanying juvenile to facility. (All current prescription medication in its original prescription bottle/package).

☐ Yes ☒ No Required DNA Inclusion? Offense Requiring DNA Inclusion:

☐ Yes ☐ No Sample has been collected and submitted. If Yes, date submitted:

County Case Manager Signature

Date

County

Telephone #

Supervisor Signature

Date

Comments:

363840

GRAHAM, ROBERT ISAIAH

4/22/2011 9:11:22 AM

Alias: GRAHAM, ISAIAH; GRAHAM, ZAY; County: York
 Home Address: LEVEL STREET | ROCK HILL | SC | 29730
 Race: Black Sex: Male SSN: Medicaid # Home Phone:
 Age: 14 DOB: DOB Verified: Yes
 Schooling: 2011/03/01 | Saluda Trail Middle | Attending Day School | Grade: 8th | Attendance: Good | Special: Emotionally Handicapped

Contacts

Father: GRAHAM, ROBERT EARL Home Phone: Office Phone:
 MILL ST - CHESTER, SC 29706
 Mother: GRAHAM, SUSAN Home Phone: Office Phone:
 10 LEVEL STREET - ROCK HILL, SC 29730

DJJ Personnel

Probation/Parole Counselor Miskelly, Tracy M York 06/04/2010

Juvenile's Traits

019 - DNA Test Required No DNA Test Complete No
 021 - Registry Required No

Legal History

Referral Date	Description	Source/Action By
04/11/2011	04/11/2011 Contempt: Contempt of Court by Child (Criminal) 04/11/2011 -- Rule To Show Cause Issued -- Solicitor 16th Circuit 04/19/2011 -- Evaluation (Community) -- Guyton, David G	York
03/13/2011	03/13/2011 Assault: Assault & Battery 3rd degree 03/13/2011 -- Prosecute -- Solicitor 16th Circuit	Rock Hill PD
03/08/2011	03/08/2011 Determinate Sentence Order	Guyton, David G
01/18/2011	01/18/2011 Disorderly: Public disorderly conduct 02/18/2011 -- Prosecute -- Solicitor 16th Circuit 03/08/2011 -- Determinate Sentence -- Guyton, David G -- Probation Continued -- Guyton, David G	Rock Hill PD
08/03/2010	08/03/2010 Determinate Sentence/DISCRETIONARY Suspended to Alternative Placement and Probation Order	Guess, Robert E
08/02/2010	08/02/2010 Probation: Violation for Cat. V - Misd. 08/02/2010 -- Rule To Show Cause Issued -- Solicitor 16th Circuit 08/03/2010 -- Determinate Sentence/DISCRETIONARY Suspended to Alternative Placement and Probation -- Guess, Robert E	York
	08/01/2010 Assault: Assault & Battery 3rd degree 08/02/2010 -- Prosecute -- Solicitor 16th Circuit 12/14/2010 -- Not Pressed -- Solicitor 16th Circuit	Rock Hill PD
03/08/2010	03/01/2010 Assault: Simple Assault and Battery 08/02/2010 -- Prosecute -- Solicitor 16th Circuit	Rock Hill PD
01/26/2010	01/26/2010 Determinate Sentence followed by Probation Order	Woods, Henry T

12/30/2009	12/14/2009 Trespassing:Entry on another's land for various purposes without permission - 3rd or sub. offense 01/26/2010 -- Prosecute -- Solicitor 16th Circuit -- Determinate Sentence followed by Probation -- Woods, Henry T 04/27/2010 -- Other Special Conditions -- Woods, Henry T -- Other Special Conditions -- Woods, Henry T -- Probation Continued -- Woods, Henry T	Rock Hill PD
02/17/2009	02/17/2009 Probation Order 08/24/2009 -- Probation Requirement Ended -- Woods, Henry T	Woods, Henry T
01/29/2009	01/29/2009 Assault:Simple Assault and Battery 02/02/2009 -- Prosecute -- Solicitor 16th Circuit 02/17/2009 -- Probation -- Woods, Henry T -- Other Special Conditions -- Woods, Henry T	Rock Hill PD

**SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
CONSULTATION AND EVALUATION SERVICES
PSYCHOLOGICAL EVALUATION**

Name:	Robert Graham	Date of Evaluation:	06/28, 07/03/2013
JJMS #:	363840	Date of Birth:	
Evaluator:	Oliver Keadle, Jr., M.S.	Date of Report:	07/03/2013
County:	Chester	Community Specialist:	Lydia Young

REFERRAL STATEMENT:

Robert Graham is a 16-year-old male who was given a 90-day Determinate Sentence. The court adjudicated the minor delinquent for the offense of Probation Violation and committed him to the Upstate Evaluation Center.

Before the evaluation, Robert was informed what type of information would be requested and how it would be used. He was also told that the results of the evaluation were not confidential, and would be shared with the attorneys, family court, and DJJ personnel. He expressed his willingness to cooperate with the evaluation.

Notice:

This report is meant for the use of qualified professionals only and others involved from a legal perspective with this psychological evaluation for disposition. No unauthorized disclosure of this report or information contained in this report is allowed, and any person who without proper authorization discloses information contained in this report assumes all liability associated therewith. Some individuals and family members may tend to misunderstand and/or distort the information presented herein, resulting in significant distress to the individual, or possibly interfering with rehabilitative services. For individuals with self-destructive or aggressive tendencies, the consequences of disclosure may be serious.

Sources of Information:

DJJ file, form five, court order

Clinical interview with:

Robert Graham, age 16, juvenile

Psychological tests:

Adverse Childhood Experiences (ACE)

Beery-Buktenica Developmental Test of Visual-Motor Integration, 6th Edition (VMI-6)

Kaufman Brief Intelligence Test, 2nd Edition (KBIT-2)

Millon Adolescent Clinical Inventory (MACI)

Multidimensional Anxiety Scale for Children (MASC)

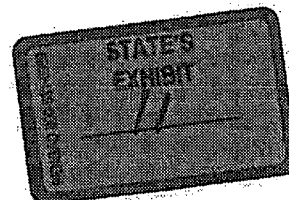
Reynolds Adolescent Depression Scale 2nd Edition – RADS-2

Substance Abuse Subtle Screening Inventory – Adolescent, 2nd Edition (SASSI-A2)

Wechsler Fundamentals: Academic Skills (WF:AS) – Selected Subtests

Numerical Operations

Reading Comprehension



PSYCHOLOGICAL EVALUATION: CONFIDENTIAL

Name: Robert Graham

JJMS#: 363840

Page # 2

DJJ HISTORY AND SUMMARY OF CURRENT OFFENSE

Robert first became involved with DJJ in January 2009 and has received charges of Simple Assault and Battery, Trespassing, Probation Violation, Public Disorderly Conduct, and Contempt of Court over the last four years. Two counts of Assault and Battery Third Degree have been nol prossed on separate occasions. Robert has received multiple determinate sentences that resulted in brief commitments to UEC, placement in a therapeutic foster home through the Youth Advocate Program, placement at Camp White Pines on two occasions, and was most recently in placement at Excalibur Youth Services from 05/01/13 to 06/21/13. He was charged with Probation Violation for being unsuccessfully discharged from Excalibur and was committed for a 90-day determinate sentence on 06/24/13.

Juvenile's Account of the Offense

Regarding his current offense of Probation Violation, Robert reported he violated his probation by getting kicked out of Excalibur Youth Services. He reported he was kicked out because he was "caught smoking weed." He further reported that "one of the staff was letting us smoke weed." He reported he refused to say who the staff person was, as he did "not want to get him in trouble. He wouldn't be able to take care of his family." He reported there were other juveniles smoking marijuana as well and that he got the marijuana from one of them. Robert also admitted he had been fighting while in placement at Excalibur.

According to the DJJ Event Report dated 06/20/13, Robert was found to have "a Black and Mild [cigar] and a lighter in his bed frame." No information was provided regarding Robert being caught or suspected of smoking marijuana while at Excalibur.

FAMILY FUNCTIONING

Prior to coming to UEC, Robert was detained for four days at the DJJ Detention Center and before that he had been in placement at Excalibur Youth Services since 05/01/13. Robert stated he normally lives at home with his mother, maternal grandmother, and maternal uncle. He noted his uncle has lived with them for several years as he helps take care of his [uncle's] mother, who has numerous health problems, including fibromyalgia and diabetes. Like his grandmother, Robert stated his mother also has health problems, including fibromyalgia, and is currently on disability. He noted his father lives in Chester and he sees him almost every day when Robert is at home.

Robert described having a good relationship with his mother. He reported he feels at times that his mother is "hard on [him], but knows she just wants [him] to do right." He reported his mother no longer imposes consequences on him for inappropriate behaviors. He explained, "She lets me make my own decisions" and he has to deal with the consequences of those decisions, "good or bad." Overall, Robert described having a good relationship with the other members of his household. He admitted he and his mother have previously gotten into a heated argument in which they both pulled kitchen knives on each other. He noted neither one of them attempted to hurt the other and the police were eventually called, but no one was charged.

PSYCHOLOGICAL EVALUATION: CONFIDENTIAL

Name: Robert Graham

JJMS#: 363840

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ADOLESCENT FUNCTIONING**Relevant History**

Robert reported he previously received anger management counseling from Catawba Mental Health Center during middle school. He also stated he has previously been prescribed various psychotropic medications, including, Abilify, Risperdal, and Straterra for Attention-Deficit/Hyperactivity Disorder, but has not taken any medicine in at least two years. He denied ever being psychiatrically hospitalized. He reported he had surgery as an infant due to complications from being born premature, but was unaware as to the specific reason for the surgery. He stated he also received stitches on his leg for two separate cuts, but denied any other significant medical illnesses and/or injuries. He further denied histories of abuse, neglect, or DSS involvement.

Behavioral Observations

Robert is 16-year-old male of normal height and weight. He presented as clean and well groomed. He displayed normal fine-motor and gross-motor behavior with no signs of clumsiness, tremors, tics, psychomotor agitation, or psychomotor retardation. He was polite and cooperative at all times. Rapport was easily established. Mood appeared sad with blunted affect. He appeared to put forth good effort on all tests, with the exception of the Reading Comprehension subtest of the WFAS, which he completed in approximately ten minutes. His attention seemed focused on, and adequate for, the tasks presented. Sufficient participation was noted for the results of this assessment to be deemed reliable estimates of Robert's current level of intellectual and psychological functioning.

Mental Status

During the testing phase of the psychological evaluation, Robert seemed aware of his surroundings, the nature of his offenses, and the time involved. There were no signs of mental confusion or psychotic thought processes. Long-term, short-term, and intermediate working memories were adequate.

Current Symptomatology

In regards to emotional concerns, Robert denied symptoms of psychosis including delusional thoughts and hallucinations. Moreover, he denied significant mood disturbances. He further denied suicidal ideation or self-injurious behavior. Sleep disturbances were also denied and he described his appetite as good. Robert's responses on the RADS-2, a measure designed to assess symptomatology associated with depression in children and adolescents, indicated that he is not currently experiencing clinically significant levels of depression.

Robert admitted frequently worrying about his mother and grandmother, both of whom reportedly have numerous health problems. He did not indicate that this was overly upsetting to him, nor did it interfere with daily functioning. He denied worrying about other things, having unusual fears, social anxiety or panic attacks. He denied experiencing any traumatic events or having any posttraumatic stress symptoms. His responses on the MASC, a measure designed to assess symptomatology associated

PSYCHOLOGICAL EVALUATION: CONFIDENTIAL

Name: Robert Graham

JJMS#: 363840

Page # 4

with anxiety in children and adolescents, indicated that he is not currently experiencing clinically significant levels of anxiety.

In regards to behavioral issues, Robert admitted being easily distracted, but denied any other significant symptoms associated with Attention-Deficit/Hyperactivity Disorder. He reported he was previously prescribed medication to address this, but has not needed to take any medicine in more than two years. With regards to disruptive behaviors, Robert has a history of poor anger control, aggressiveness, frequently fighting with others, being easily annoyed by others, theft, deceitfulness, and shoplifting. These behaviors are consistent with Conduct Disorder.

In regards to a history of substance abuse, Robert described a significant history of substance abuse. He reported smoking one-half pack of cigarettes each day and drinking alcohol two or three times each week. He reported he would either drink "to get tipsy" or until he was drunk. Robert admitted smoking marijuana every day and stated he would usually smoke 10 grams of marijuana per day. He reported he would get the marijuana from his "homeboys who sell weed." He reported he continued to use marijuana while in placement at Excalibur and last used in June. He also acknowledged selling marijuana briefly in the ninth grade. He denied any other substance use. His scores on the SASSI-A2, a screener for substance and alcohol abuse, indicated that there is a high probability of his having a substance abuse disorder.

Personality Functioning

Robert was administered the MACI, a self-report measure of personality functioning, expressed concerns, and clinical syndromes. Findings were deemed valid. His responses are similar to adolescents who tend to be indifferent to the welfare of others to achieve their personal ends, often lack empathy and show little interest in building warm personal ties. His responses are also similar to adolescents who have a propensity for engaging in delinquent behaviors and have a history of abusing substances.

Cognitive/ Academic Functioning:

Robert reported he last attended the tenth grade at South Pointe High School in York County prior to his family moving to Chester County. He noted he was expelled from South Pointe for fighting and engaging in sexual behavior with a female student on the bus. He reported he has never failed a grade, but is not sure if he will receive enough credits to be promoted to the eleventh grade. He expressed a desire to graduate and attend a community college so that he can get a job to help support his child that is due to be born in September.

Robert was administered the KBIT-2 in order to assess his global intellectual abilities. His Verbal score is in the Below Average range while his Nonverbal score is in the Average range. His IQ Composite fell in the Below Average, but is not a good indicator of his true intellectual abilities given the significant discrepancy between his Verbal and Nonverbal scores. Robert obtained the following KBIT-2 scores:

PSYCHOLOGICAL EVALUATION: CONFIDENTIAL

Name: Robert Graham

JJMS#: 363840

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IQ Scores	IQ	Range of Ability	Percentile Rank
Verbal	70	Below Average	2
Nonverbal	90	Average	25
IQ Composite	77	Below Average	6

Robert's academic achievement in reading and math, as measured by the WFAS, is relatively consistent with his intellectual functioning (Reading Comprehension Standard Score = 70; Numerical Operations Standard Score = 74).

Robert's score on the VMI-6 (Standard Score = 73) falls in the low range of functioning, suggesting his visual-motor integration is delayed for his age.

SUMMARY:

Robert Graham is a 16-year-old male committed to UEC for a 90-day determinate sentence for Probation Violation. He was initially placed on probation on 01/26/10 for a charge of Trespassing. Additional charges include Simple Assault and Battery, Contempt of Court, and multiple Probation Violations. Two counts of Assault and Battery Third degree were not processed. He has received multiple determinate sentences, including therapeutic foster care through the Youth Advocate Program, placement at Camp White Pines on two occasions, and was most recently at Excalibur prior to his current commitment.

Robert stated he normally lives at home with his mother, maternal grandmother, and maternal uncle. Both his mother and grandmother have multiple health problems, including fibromyalgia. He noted his father lives in Chester and sees him regularly. Overall, he described having a good relationship with his family members. He did not describe any significant behavioral problems at home. He did state his mother no longer imposes consequences on him as a disciplinary measure due to his age and lets him endure the normal consequences for his decisions.

Testing indicated Robert is functioning in the below average to average range of intellectual ability. His academic achievement in reading and math is consistent with his current intellectual functioning. His visual-motor integration appeared to be delayed for his age. Robert reported he last attended the tenth grade and was expelled from school. He is unsure if he will receive enough credit to be promoted to the eleventh grade.

At present, Robert does not appear to be experiencing any significant psychological problems. He denied significant symptoms of anxiety, depression, mania or hypomania. He admitted frequently worrying about the health of his mother and grandmother, but did not indicate this caused distress for him. He has reportedly been previously diagnosed with and treated for ADHD, but does not currently describe experiencing any significant symptoms of ADHD. He has a history of poor anger control, aggressiveness, frequently fighting with others, being easily annoyed by others, theft, deceitfulness, and shoplifting, all of which are consistent with Conduct Disorder. He described a significant history of substance abuse, including drinking alcohol two or three times per week and reportedly smoking 10 grams of marijuana per day. Testing indicated that substance abuse appears to be a significant problem for Robert and he would most likely benefit from involvement in a substance abuse treatment program.

PSYCHOLOGICAL EVALUATION: CONFIDENTIAL

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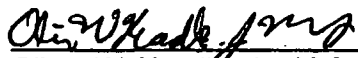
Name: Robert Graham

JJMS#: 363840

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DSM-IV DIAGNOSTIC IMPRESSIONS

Axis I: 312.89 Conduct Disorder, Unspecified Onset, Moderate
305.20 Cannabis Abuse
305.00 Alcohol Abuse
Axis II: No Diagnosis
Axis III: None Reported
Axis IV: Problems related to legal system
Axis V: GAF = 70


Oliver W. Keadle, Jr., M.S.
Psychologist III


Lisa Williams, Psy.D.
Clinical Director/Licensed Psychologist



PSYCHIATRIC EVALUATION

CATAWBA FAMILY CENTER

Robert "Isaiah" Graham
DOB: 1/1/97

DATE OF EVALUATION: 3/26/99

VITAL SIGNS: Ht: 3'1" Wt: 31 pounds Pulse: 96 BP: 80/56

SOURCES OF INFORMATION: Client, mother (Ms. Graham), casemanager and chart.

CHIEF COMPLAINT: "Outright defiant" per mother.

HISTORY OF THE PRESENT ILLNESS: Isaiah is a two year, six-month-old African-American male who presents with his mother secondary to concerns about increased aggression and defiant behavior. Isaiah was born prematurely (twenty-seven weeks) and his mother reports that he has always had difficulties with aggressive and hyperactive behavior. She reports that he often hits peers and adults and has fifteen to twenty temper tantrums a day. The client often does not listen and destroys household items and occasionally will curse. She states that his behavior is somewhat worse after visits with his biological father. His mother acknowledges that she used to use a "switch" for punishment but saw that this was leading to increased aggression with the client. She reports that she is now using time-out and this used to work but now the frequency of time-out has increased to three to four times per hour. She states that Isaiah occasionally has to be held down in order to receive his time-out. Sleep was reported to be usually within normal limits. He does sleep with his mother. She states he did wake up in the middle of the night kicking and screaming and did not seem to be responding to her, but otherwise denies any consistent nightmares. She also reports approximately one and a half weeks ago that Isaiah was leaning over the table and for a period of about forty-five seconds appeared to be "catatonic." She states that he did not respond to her, to her voice or shaking him, which scared her. She reports that after about forty-five minutes he did seem to be "come out of it" but had no memory for this event. Attention span was described to be very limited. She reports that he changes activities often and was also described as very impulsive and hyperactive. Appetite was reported to be good. Energy was reported to be increased most of the time. Mood was described as "frustrated" per mother. The client has hit himself before, especially when frustrated. Crying spells were reported only when the client was not getting his way.

PAST PSYCHIATRIC HISTORY: The client was first evaluated by Baby Net in May of 1998 but was not found to be eligible for services. He became involved with the Chester Mental Health Center in July of 1998. There have been no prior psychotropic medication trials. Prior psychological testing may have been done through Baby Net, although the mother is unsure of this.

CATAWBA FAMILY CENTER
Robert "Isaiah" Graham
3/26/99
Page 2

PAST MEDICAL HISTORY: The client does have problems with environmental allergies and has frequent sinusitis. At the age of two he had an umbilical hernia repair. No history of seizures, head injuries or loss of consciousness was reported. Current medications include: Claritin syrup, 1/4 teaspoon p.o. q day; Sulfatrim suspension, 1 teaspoon p.o. b.i.d.; Sulfacetamide one percent, 1 to 2 drops in each eye q.i.d. No known drug allergies were reported.

DEVELOPMENTAL HISTORY: His mother reports that she experienced several urinary tract infections during her pregnancy with Isaiah. She states that she had to take several antibiotics during this pregnancy and also reports that very early in the pregnancy she did use some marijuana. His mother states that her water broke early and that she went into labor at twenty-seven weeks gestation. Isaiah was delivered by Caesarean section and weighed two pounds, seven ounces. He was hospitalized approximately for two months after delivery. With regards to developmental milestones, Ms. Graham states that Isaiah sat up at the age of eight to nine months, crawled at approximately ten months, walked around sixteen months, "babbled" at around ten months and reports that he now says whole sentences. He is not yet toilet trained. No history of physical, sexual or emotional abuse was reported.

FAMILY HISTORY: Is significant for a maternal grandfather with diabetes mellitus and a maternal grandmother with a history of hypertension. His biological father has a history of alcohol dependence, and there are several maternal relatives including both maternal grandparents with a history of polysubstance abuse. His biological mother acknowledges that she does have a history of alcohol, cannabis and crack abuse but denies current use. She also states that there is a maternal great-uncle with "mental problems" and a maternal aunt with a history of Bipolar Affective Disorder and a seizure disorder.

SOCIAL HISTORY: Isaiah's parents separated when the client was approximately sixteen months old. She reports that he has very inconsistent contact with his biological father and has not seen him in two months. Isaiah currently lives with his mother, a ten-year-old maternal half-brother and a seven-year-old maternal sister in Chester, South Carolina. Isaiah stays at home with his mother and is not involved in day-care. Activities that the client enjoys include coloring, watching TV and singing.

MENTAL STATUS EXAM: Isaiah is a two year, six-month-old African-American male who is very cute and appeared slightly younger than his stated age. He displayed good eye contact. Some articulation difficulties were noted and some profanity was noted as well. He was very active during this examination and changed activities often. He required significant redirection during the course of this examination and often had to be placed in time-out by his mother. Overall affect was bright with a generally good mood. No self-injurious behaviors were observed. No evidence of response to internal stimuli was noted. Attention and concentration were very limited. Fund of knowledge was somewhat difficult to assess. The client did know some body parts and was able to tell me his correct age. Insight and judgment were limited due to his age.

CATAWBA FAMILY CENTER
Robert "Isaiah" Graham
3/26/99
Page 3

SUMMARY: Isaiah is a two year, six-month-old African-American male with a history of premature birth who presents secondary to disruptive behavior. There also appear to be some concerns about some developmental delays, in particular, speech delay. Isaiah is very hyperactive and did require a significant amount of redirection during this examination. The client was not found to be eligible for Baby Net Services. Past medical history is significant for frequent sinusitis and environmental allergies. His mother also reports an incident where she felt the client was unresponsive to her. This client's family history is significant for a maternal aunt with a history of seizure disorder and I feel that it would be beneficial for Isaiah to rule out any evidence of possible seizure activity as well. Past medical history is also remarkable for several relatives with a history of polysubstance abuse including both biological parents. His maternal aunt also has a history of Bipolar Affective Disorder. His mother acknowledges that she used cannabis very early during her pregnancy with Isaiah, and I would wonder if this early exposure to cannabis during the first trimester of her pregnancy may not also be contributing to his behavioral presentation. She also acknowledges having used a "switch" for punishment which she acknowledged led to increased aggression with the client. Although she now appears to be using appropriate consequences in parenting technique, I would wonder if this early modeling may not have also contributed to some of this client's aggressive behavior.

ASSESSMENT:

AXIS I - Disruptive Behavioral Disorder, NOS.
Rule out Pervasive Developmental Disorder, NOS.
Rule out Attention Deficit Hyperactivity Disorder.
AXIS II - Deferred.
AXIS III - History of premature birth (twenty-seven weeks gestation), early in utero exposure to cannabis.
AXIS IV - Moderate to severe.
AXIS V - 50 (current).

PLAN AND RECOMMENDATIONS: Obtain and review old records from Baby Net Program, especially any prior psychological testing that may have been done. Options, risks, benefits and side effects of Clonidine TTS-1 were discussed with the mother who agreed to begin with a half a patch to skin once a week. A lead level was also ordered. I would recommend a complete neurological consultation to rule out any evidence of possible seizure activity or other neurological disorder. Continue to work with Isaiah's mother on behavioral interventions in order to manage this client's behavior more effectively. If possible, I would consider enrollment in Head Start or some other type of developmentally appropriate program as soon as possible. Observe for changes in symptoms of hyperactivity, aggression and impulsivity. Isaiah is to return to the Chester Mental Health Center for a medication monitoring in two weeks and for a FMA at the Catawba Family Center in eight weeks for further assessment and continuation of this evaluation.


Kelly R. Hobgood, M.D.

"Reviewed for accuracy only when signed."

KRH:bc
D/T: 4/12/99

Psychological Evaluation

GRAHAM, ROBERT I - B000698587

295

Result type: Psychological Evaluation
Result date: 11 July 2005 16:10
Result status: Auth (Verified)
Result title: PE
Encounter info: B0517901389, Bap Behavioral, PYB-Mental Health Inpatient, 06/28/05 - 07/06/05
Contributor system: Softmed

Transcription

DICTATED: July 11, 2005

REASON FOR REFERRAL: Robert Graham was referred for a psychological evaluation to aid in the differential diagnosis. Testing to determine his academic achievement level and to rule out attention deficit disorder was also requested.

BEHAVIORAL OBSERVATIONS: Robert Graham, an 8 year old black male, was direct in the evaluation. He told me of being admitted to Palmetto BMCC due to not listening to his teacher or his mother. He also described being angry with his 13 year old sister, his father and brother. Probably was opened about having a long history of severe behavioral problems. He threatened his 12 year old neighbor with a knife after being hit by him. While Robert openly stated that no one was out to hurt me, he did keep razors in his room to protect himself from his siblings and other children.

Robert currently lives with his mother, his 13 year old sister, and his 17 year old half brother. His family lives with his mother's mother for about two weeks by his report. Robert's father lives with his own wife, and he sees him about once every two to four weeks.

Robert is currently advancing to the third grade at Rosewood Elementary. He told of being sent to the office two or three times last year for fighting or standing on the bus. Robert told of having a number of age 12 year old males and females as his friends.

TESTS ADMINISTERED: The Conners Continuance Performance Test, the Wide Range Achievement Test-III, the Children's Incomplete Sentence Blank, and the Children's Apperception Test (Animal Form).

TESTS ANALYSIS: Currently advancing to the third grade, Robert is performing below his grade placement level. He obtained a reading grade score of 1.8 (6th percentile), a spelling grade score of 1.7 (12th percentile) and an arithmetic grade score of 2.4 (19th percentile). On the Conners Continuance Performance Test, Robert performed similar to youth who have attention difficulties. The chances are 98 out of 100 doubt a significant attention problem exists.

In personality testing, report presented himself similar to youth who are angry and impulsive. He was up and about, violent, threatened to peers, he showed little remorse over the use of weapon. He openly stated that he wished his father would respect my mother. Nocturnal enuresis has been occurring nightly by his report.

Printed by: Hamlin, Brenda F
Printed on: 01/08/15 08:56



Page 1 of 2
(Continued)

INTERVIEW AND TEST DATA: Consist of the following diagnostic impression:

1. Impulse control disorder.
2. Attention deficit disorder, N.P.O.S.
3. Rule out conduct disorder.
4. Rule out enuresis.

Mark D. Sloan, Ph.D./mf
Clinical Psychologist
Certified School Psychologist, II

D: 07/11/2005 2:59 P T: 07/11/2005 4:10 P
Job #: 001369969 T Job#: JobID Doc #: 555436
cc: Mark D. Sloan, Ph.D.

Completed Action List:

Discharge Summary

GRAHAM, ROBERT I - B000698587

Result type: Discharge Summary
 Result date: 15 July 2005 10:11
 Result status: Auth (Verified)
 Result title: DS
 Encounter info: B0517901389, Bap Behavioral, PYB-Mental Health Inpatient, 06/28/05 - 07/06/05
 Contributor system: Softmed

* Final Report *

Transcription

This 8-year-old African-American male was admitted on an emergency basis upon referral from the Catawba Mental Health Center where he has been seen for the past 6 years with a history of severe behavioral problems, mood swings, aggression, fire-setting, and threatening others recently with knives, noncompliant with outpatient treatment via the Catalpa Mental Health Center.

Historically he was born premature via cesarean section, reportedly mom using marijuana prenatally. I reviewed the old records, current record, performed a complete psychiatric assessment and formulated a treatment plan at the time of admission. During this extended initial evaluation and on mental status examination at the time, I noted the mental status examination to reveal thin appearance, unkempt grooming, cooperative attitude, normal speech, restless psychomotor activity level, full range of affect. Mood, "I get angry." Initial insomnia, diminished appetite, no dyskinetic movements or extrapyramidal symptoms or confusion. Hyperactive energy level, 3+ anxiety, no obsessive-compulsive symptoms. He denied hallucinations or delusions. No insight. Threats of suicide, very low self-esteem. Oriented in 3 spheres. Poor attention span. Normal language, visual, spacial pattern. Intact memory.

PHYSICAL EXAMINATION: Performed by the hospital's nurse practitioner, consultation done and matter of medical record by the nurse practitioner. Psychological assessment performed by Mark Sloan, PHD, notes impulse control disorder, attention deficit disorder, rule out conduct disorder, and rule out enuresis. The patient is noted to be reading on grade level 1.8, spelling grade level 1.7, arithmetic grade level is 2.4. Conner's Continuous Performance Test consistent with attention disorder.

LABORATORY: Laboratory studies done during his hospitalization to rule out underlying medical impairment, studies were ordered, done, and reviewed, nothing CBC complete results not a matter of the medical record, but a synopsis of the studies notes hemoglobin 12.7, hematocrit 39.7, normal indices. T4 is 1.401, TSH 3.580. Urine drug screen negative. Urinalysis normal. RPR nonreactive. Serum lead level less than 3, normal range. Metabolic screening negative. MRI of brain, no significant abnormalities, and normal EEG.

COURSE OF HOSPITALIZATION: The patient was entered into individual and group activity therapy, family therapy, assertiveness training, recreational therapy, art therapy, music therapy, and school program. I met with the patient in Long unit daily 1 hour, during which time reviewed

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Page 1 of 2
 (Continued)

2

complete chart and treatment plan, met with nursing staff, reviewed status and updated with parent regularly throughout the hospitalization. The patient after coming onto the unit was noted to be extremely hostile and aggressive, refusing p.o. Vistaril and was given an injection of Vistaril IM after consulting and consent previous prior to giving treatment by guardian given. I recommended a trial of Focalin to the mother and she concurred. Given 5 mg of Focalin in the morning and noon. We adjusted medication actively throughout hospitalization and he tolerated the Focalin in terms of improving concentration, attention, decreasing distractibility, no insomnia, anorexia, or headaches noted or reported. Discussed use and side-effect of this medication at length with guardian and seemed to be quite helpful. It did help him to improve his thought processes. The patient continued to be seen daily throughout the hospitalization. The patient was successfully discharged home from the hospital on July 6, 2005, free of suicidal or homicidal ideations. No active evidence of psychosis, on Focalin 5 mg a.m., new #16, no refills. Followup at Catawba Mental Health Center.

DISCHARGE DIAGNOSES:

1. Attention deficit.
2. Hyperactivity disorder.
3. Oppositional deviant disorder.

David Downie IV, M.D./hs

D: 07/14/2005 7:32 A T: 07/15/2005 10:11 A

Job #: 000372533 T Job#: JobID Doc #: 556901

cc: David Downie IV, M.D.

Completed Action List:

2

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WILLIAM S. HALL PSY INSTITUTE

DATE OF ADMISSION: 11/02/05
DATE OF DISCHARGE: 11/17/05
HOSPITAL WARD: 256, Taylor East

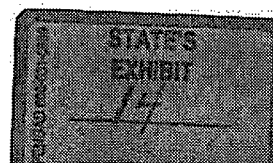
IDENTIFYING DATA: Robert Isaiah Graham is a 9-year-old, Afro-American male, 3rd grade student, was referred by Catawba Mental Health Center for being dangerous to others, failure of outpatient treatment. As per patient, "I'm here for fighting today and lying to mom, trying to destroy somebody's property, breaking a glass window."

HISTORY OF PRESENT ILLNESS: Robert "Isaiah" Graham is a 9-year-old African American male with history of ODD and ADHD who has a past history of violent behavior, fire setting, aggressiveness and oppositional behaviors that started at age 7. He was on Risperdal. He was started on Strattera in 2004 which improved his school performance also. He was stable on this combination until January 2005 when the doctor wanted to try him off medication to reassess symptomatology. He started developing rage, outburst, defiant behaviors, stealing, paranoid about being laughed at, worsening school performance, fighting at school. He put his foot through a window about three weeks ago on 10/23/05 causing him to be badly cut. Mother feels he was showing off. He has had more impulsivity. He has been smoking cigarettes since February 2005. He is admitted today after a fight at school in which he was choking a peer who was picking on him. The staff at school felt Isaiah would have killed the other boy. Outpatient Treatment: Seen at the local mental health center since he was 18 months, wasn't sleeping well then. Recently, treated by Dr. Coleman at Catawba Family Center, had the diagnosis of ODD and ADHD. Past admission at Baptist Hospital in July 2005. He has been tried on Prozac, Trileptal, Zyprexa and Clonidine without much help. At the time of admission, he was on Risperdal 1 mg tablet ½ in the morning, ½ at 4 p.m. and ½ at bedtime, Albuterol Inhaler 2 puffs by mouth p.r.n. shortness of breath, Strattera 40 mg in the morning. Allergies: Stimulants (Ritalin, Dexedrine) cause psychosis, hives and fever of 104, seasonal allergies. There is family history of mental illness and substance abuse. Mother has history of cocaine, alcohol, THC with depression, was on Prozac, Desyrel and Atarax. Maternal great uncle with paranoid schizophrenia. Sister has ADHD and depression. No history of attempted suicide. Family Medical History: Maternal uncle, aunt and grandfather have asthma, mother with hypertension. He was born at 27 weeks gestation age, was on vent for four days, had hyperbilirubinemia, had RSV at age 4 months and has asthma.

MENTAL STATUS EXAMINATION: Normal appearance, calm, cooperative. Movements and speech normal. Alert and awake. Oriented to "November 2nd, Wednesday, 2005, South Carolina." Thought Process: Linear, goal directed. No preoccupations. Can spell name forward and backward. No obsessions or delusions. No AV hallucinations. Mood described as "happy." Affect congruent. Memory: Registration 3/3 immediate recall. Fund of knowledge: President is "George Washington" in the past and current President is "George Bush." Judgment: Would help a child if playing on railroad tracks. Insight: Feels no need for help with anger.

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FINAL SUMMARY 1. 2022

GRAHAM, ROBERT I.
988-6073



medicine will help. Dangerous Behaviors: History of attacking others, none at time admission. Abstraction: *Heart of gold* – "I don't know."

PHYSICAL AND NEUROLOGICAL EXAMINATION: Physical examination was not clinically significant except right lower leg with V shaped wound, sleeps okay, appetite okay, previous episodes of asthma about a month ago. Neurological Examination: Not clinically significant.

INITIAL DIAGNOSES: AXIS I: Oppositional Defiant Disorder.
Attention-Deficit/Hyperactivity Disorder.

AXIS II: No Diagnosis.

AXIS III: Asthma.

AXIS IV: School difficulties.

AXIS V: Admission GAF: 30.

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LABORATORY AND DIAGNOSTIC STUDIES: Comprehensive Metabolic Profile: Not clinically significant. RPR: Nonreactive. Thyroid Function Test: Not significant. Urine Drug Screen: Negative. EKG was questionable. Interpretation was normal for his age and size and recommended that it needs to be evaluated by Peds cardiologist; however the report was pending at time of discharge.

CONSULTATIONS: None.

HOSPITAL COURSE: Patient was admitted to the Children's Unit and placed on Behavioral Program. Basic labs, Sleep Charts, Mood Charts and SNAP-IV's were ordered. The patient was given the following diagnoses: Axis I: ODD; ADHD; Rule Out Bipolar; Rule Out Generalized Anxiety Disorder; Axis II: Rule Out Borderline IQ; Axis III: History of Asthma; Premature Birth, Exposure to Cannabis; Axis IV: Family history of psychiatric illness and substance abuse, conflicts at school with peers, patient has academic difficulties; Axis VI: GAF 30, Past Year unknown.

The following problems were focused on and treated:

Problem #1: Aggressive behavior. Recently choked a peer at school prior to admission. Patient was placed on Unit Behavioral Program to provide structure and support. He was assessed for medication and was started on Risperdal 0.5 mg in the morning and at bedtime and Strattera 20 mg each morning and 10 mg at noon to stabilize behavior. Supportive therapy was provided and was placed in Anger Management and Communication Skills Groups to improve coping and verbal skills. Robert continued to have occasional physical aggression initially. On 11/10/05 and 11/16/05, he pushed a peer and required verbal intervention by staff. He was getting Strattera

GRAHAM, ROBERT I.
988-6073

20 mg in the morning and 10 at noon. Gradually, his episodes of aggression decreased to minimal. There were no side effects of Risperdal.

Problem #2: Irritable mood and poor sleep. He was placed on Mood Charts and Sleep Charts. He was able to sleep at 7 to 8 hours per night. He had reported his mood as mostly cheerful. Definitely his mood was much improved by the time of discharge.

Problem #3: Disruptive behavior and ADHD symptoms. Patient was to have Yellow or Green level four out of seven days. Robert was able to obtain this level for the first week and the next week, he was on level three out of seven days. No significant disruptive behavior. SNAP-IV's were not significant as he was Strattera 20 mg in the morning and 10 at noon.

Problem #4: Discharge planning. Social worker and myself met with patient's family to discuss patient's progress and discharge planning. Ms. Rullman spoke with patient's mental health center case worker, Nicole Priolen, at Catawba Mental Health Center. A family meeting was scheduled for 11/17/05 to discuss discharge planning. During the family meeting, positive parenting skills were discussed.

Problem #5: History of asthma. During the stay here, he did not display any symptoms of asthma, no wheezing, no shortness of breath.

CONDITION AT DISCHARGE: No physical aggression, stable mood, improved concentration, SNAP-IV's not significant, patient on level three out of seven days.

DISCHARGE MEDICATIONS: Strattera 20 mg in the morning; #30, no refill; Strattera 10 mg at noon; #30, no refill; Albuterol Inhaler with Spacer 2 puffs p.o. q 6 hours p.r.n. shortness of breath; Risperdal 0.5 mg in the morning and at noon.

DISCHARGE INSTRUCTIONS TO PATIENT/FAMILY: Disposition: Home. Recommend structure and positive reinforcement. Appointment at Catawba Mental Health Center, 250 Piedmont Blvd, Rock Hill, SC on 11/17/05 with Nicole Priolen, at 3:00 p.m., telephone 803-379-3177.

PROCEDURES: None.

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GRAHAM, ROBERT I.
988-6073

FINAL DIAGNOSES: AXIS I: Oppositional Defiant Disorder.
 Attention-Deficit/Hyperactivity Disorder, Combined.
 AXIS II: Rule Out Borderline IQ.
 AXIS III: History of Asthma, Asymptomatic.
 Patient Premie Exposed to Cannabis in Utero.
 AXIS IV: Family history of psychiatric illness and substance abuse,
 conflicts at school with peers, patient has academic problems.
 / AXIS V: Admission GAF: 30.
 Discharge GAF: 58.

Deepa Sobti MD

Deepa Sobti, M. D.
Attending Psychiatrist

DS/cj

D: 12/06/05
RT: 12/07/05
FT: 12/08/05

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State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Allison Y. Evans, PsyD, Chair
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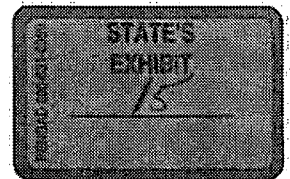
January 29, 2015

Division of Inpatient Services
G. Werber Bryan Psychiatric Hospital
Forensic Evaluation and Treatment Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-6586

STATE DIRECTOR

John H. Magill
Chris Taylor
Assistant Solicitor
PO Box 728
Chester, SC 29706

Re: The State of South Carolina vs. Graham, Robert
DMH CASE #: 988-6073
Chester County, Court of General Sessions



Dear Assistant Solicitor Taylor:

In accordance with the court order issued by the Honorable Brian Gibbons, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 7 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

1/29/15
Date

Jeffrey E. Musick, PhD, ABPP
Jeffrey E. Musick, Ph.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

cc: Michael Lifsey, Attorney at Law, PO Box 132, Chester, SC 29706

JM/t1

MISSION STATEMENT

To support the recovery of people with mental illnesses.



**CAPACITY TO STAND TRIAL EVALUATION
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)**

DATE OF EVALUATION: January 26, 2015

PRESIDING EXAMINER: Richard L. Frierson, M.D., Professor of Clinical Psychiatry,
University of South Carolina School of Medicine

SECOND EXAMINER: Joseph Gaskins, M.D., Resident in Psychiatry,
University of South Carolina School of Medicine

OTHERS PRESENT: Hannah Percell, Fourth Year Medical Student,
University of South Carolina School of Medicine

Michael H. Lifsey, Attorney for the Defendant

DIAGNOSES: **AXIS I:** Alcohol Dependence, in a Controlled Environment
 Cannabis Dependence, in a Controlled Environment
 Attention-Deficit/Hyperactivity Disorder, By History
 AXIS II: Borderline Intellectual Functioning
 Antisocial Personality Disorder
 AXIS III: No Diagnosis

OPINION REGARDING CAPACITY TO STAND TRIAL: Mr. Graham has the capacity to stand trial.

DISPOSITION: Mr. Graham was returned to the Chester County Detention Center at the completion of this evaluation.

IDENTIFYING INFORMATION: Robert Isaiah Graham is an 18-year-old African American male who was seen at the Forensic Evaluation Service pursuant to a court order from the Chester County Court of General Sessions. This court order requests an evaluation of his competency to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976). He is currently charged with Murder, Possession of a Weapon During a Violent Crime and Violation or Probation. According to the order, it was issued for the following reasons: "Family history of mental illness. Client began receiving treatment from the Catawba Mental Health when only eighteen months old and has continued into adolescence. William S. Hall and Continuum of Care involved with the client as a juvenile."

GRAHAM, ROBERT ISAIAH
9886073
OUTPATIENT EVALUATION

SOURCES OF INFORMATION:

1. Court Order requesting the evaluation.
2. Autopsy on Shyheim DeAngelo Kennedy from York Pathology Associates.
3. Arrest Warrant #2014A1220100112 for Murder.
4. Arrest Warrant #2014A1220100113 for Possession of a Weapon during a Violent Crime.
5. Arrest Warrant #W-12-14-0014 for Violation of Probation.
6. Incident Report related to the alleged offenses.
7. Statement given by the defendant.
8. Statement of Deyante Williams.
9. Receipt from a gun purchase from the Sportsman Gun and Pawn Shop dated June 2, 2014.
10. Incident Report related to Theft of Motor Vehicle.
11. Statement of Jammie Leonard.
12. Statement of Sara Fairfax.
13. Statement of Jason Feaster.
14. National Crime Information Center (NCIC) record on the defendant.
15. The defendant's juvenile criminal history.
16. Family Court documents.
17. Booking Report.
18. Bail Proceeding Form.
19. Medical records from the Union County Mental Health Center dated July 28, 2011 through October 12, 2011.
20. Request of records from Coastal Empire Mental Health Center.
21. Records from the South Carolina Department of Juvenile Justice.
22. Medical records from William S. Hall Psychiatric Institute dated November 2, 2005 through November 7, 2005.
23. A Social History obtained from the defendant's mother.
24. Medical records from Palmetto Health Baptist dated June 28, 2005 through July 6, 2005.
25. A one hour and twenty minute clinical forensic interview on today's date.

STATEMENT REGARDING NONCONFIDENTIALITY: Prior to participating in the evaluation, Mr. Graham was informed of the limitations of confidentiality. He was informed that the evaluation was court ordered. He was informed that the evaluators were paid by the Department of Mental Health and were not being paid by his attorney or the solicitor in his case. He was informed that after the evaluation, a report would be submitted to his attorney, the judge, and the solicitor. Finally, he was also informed that the evaluators could be called to court to testify at a hearing related to his competency to stand trial. Mr. Graham was able to answer questions about this material correctly and he voluntarily agreed to participate in the evaluation.

CLINICAL AND PSYCHIATRIC HISTORY: Mr. Graham is currently incarcerated at the Chester County Detention Center. He reports that he is on no medications in the detention center. He reports that being incarcerated is stressful, but he described his overall mood as okay. He states, "I have a routine. I just try to get through the day." He states that he is currently housed in a cell with

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OUTPATIENT EVALUATION

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE 2 68413

three other inmates and they are getting along without difficulty. He reports that he has a very good appetite. He has a reverse sleep pattern where he sleeps during the day and stays up all night. He reports he had difficulty when he first got to jail with some fights and arguments with correctional officers, but he has been doing very well for the past three months. He is currently prescribed no medications. He reports that he is not experiencing symptoms of mental illness in the detention center. He denied psychotic symptoms such as auditory or visual hallucinations or delusions. He denied symptoms of depression or mood instability. He denies current suicidal ideas, but reports, "If I end up going to prison, I don't see the point of living - I feel like my life is over."

Mr. Graham has a long history of treatment for behavioral difficulties that began at a very young age. According to his mother, he was seen at the mental health center as early as eighteen months of age. She reports that he was eventually diagnosed with Attention-Deficit/Hyperactivity Disorder by age three and treated with a variety of medications. He continued to get in trouble in school despite intervention with medications for Attention-Deficit/Hyperactivity Disorder.

He was hospitalized on two occasions around the age of 8 or 9. He was hospitalized very briefly at Palmetto Health Baptist when he was 8 years old. This was from June 28, 2005 through July 6, 2005. At that time, he had been threatening others with a knife. He received the diagnoses of Attention-Deficit/Hyperactivity Disorder and Oppositional Defiant Disorder. According to records from William S. Hall Psychiatric Institute, he was hospitalized there at age 9 from November 2, 2005 through November 7, 2005. He was sent there for evaluation of violent behaviors, fire setting, aggressiveness, and oppositional behaviors. He once again received the discharge diagnoses of Oppositional Defiant Disorder and Attention-Deficit/Hyperactivity Disorder. He was also noted to have Borderline Intellectual Functioning.

Mr. Graham was followed by the Catawba Mental Health Center for many years. He was found to be unable to tolerate stimulant medications for Attention-Deficit/Hyperactivity Disorder so he was actually treated with several antipsychotic medications. They report that he had three out of home placements over the years for behavioral problems. In 2010, he was placed in a group home in Greenville. He was also sent to a wilderness camp, Camp White Pines, in 2010. He was also placed in a therapeutic foster home for one month. He reports that he had great behavioral difficulties and particular difficulties in school. He states, "I would do violent things when angry or whenever people messed with me." He states that the medicines he was prescribed as a child did not help with his behavior. He states, "I was a handful and too much for my mother to handle."

ALCOHOL AND SUBSTANCE USE HISTORY: He reports that he can drink two cases of beer in a day. He also reports that he frequently drinks liquor. The description of the amount that he uses would indicate significant physiological tolerance to the effects of alcohol. He denied DUI's or arrests related to his use of alcohol.

He also reports that he would smoke up to an ounce of cannabis a day. He states that he could smoke \$150 worth or sixteen blunts in a day. This would also indicate significant physiological to the effects of cannabis.

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He denied the use of cocaine, crack cocaine, ecstasy, or other illicit substances. However, he reports that he once tried a drug called "Molly" before going to a party. He reports that his use of this drug was rare and it likely represents some form of ecstasy.

MEDICAL HISTORY: He reports that he had asthma as a child and used to require an inhaler, but no longer has breathing problems. He was born prematurely at twenty-seven weeks and only weighed two pounds at birth. He was in the Neonatal Intensive Care unit for several months. He required numerous surgeries as a newborn, including a herniorrhaphy. He also required blood transfusions. He reports that he is allergic to stimulant medications.

FAMILY HISTORY: His mother, Susan Graham, is 45 years of age and has a history of cocaine addiction. She also has a history of Major Depression and Borderline Personality Disorder. She has been diagnosed with Fibromyalgia. She is currently filing for disability. His father, Robert Graham, is 52 years of age and suffers from gout, but has no history of mental illness. He has a distant history of alcoholism with resultant liver damage. According to the defendant, his father is currently receiving disability. He has one older brother and one older sister. There is no other known family history of mental illness, although the defendant's mother reports that his maternal great uncle was diagnosed with Schizophrenia.

SOCIAL HISTORY: He was born in Spartanburg and raised by his mother. He was born prematurely at twenty-seven weeks gestation and only weighed two pounds at birth. He was placed a Neonatal Intensive Care Unit for several month before he was able to go home. He had mild delays in his developmental milestones and did not speak until sixteen months of age. However, he appeared to catch up. His parents separated when he was eighteen months of age.

He began developing behavioral problems from a very early age. He reports that he would get in trouble beginning in kindergarten. He states that he would get in frequent fights. He was disciplined with corporal punishment, but he states it was not effective. He reports frequent suspensions from school and reports in the 6th grade he was suspended twenty-one times. He was eventually kicked out of the 10th grade at South Point High School for fighting. During his schooling, he was placed in Anger Management and Self-Contained Classes.

He has a history of other behavioral difficulties. He has a history of fire setting and theft. He has also used a weapon (brass knuckles) in a fight as a juvenile. He denies being in a formal gang but makes references to being affiliated with others from his neighborhood. He was arrested and sent to the Department of Juvenile Justice for ten months for assault. He was also evaluated by the Department of Juvenile Justice on other occasions. According to their records, his psychological evaluation at the Department of Juvenile Justice revealed a Full Scale IQ of 65, which would be in the range of Intellectual Disability. However, psychological testing from the school district revealed that his measured IQ at that time was 80, which is in the range of Borderline Intellectual Functioning. On clinical interview, Mr. Graham appears to function in the range of Borderline Intellectual Functioning. As an adult, he was arrested for Burglary and received a Youthful Offender Act (YOA) sentence which

GRAHAM, ROBERT ISIAH
9886073
OUTPATIENT EVALUATION

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
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was suspended if he served five years of probation. Apparently, he was on probation at the time of his current arrest.

He has never married, but has one sixteen month old daughter. He describes a heterosexual orientation. He reports very early sexual experiences beginning at age 9. He has never held competitive employment.

MENTAL STATUS EXAM: On today's date, he was alert and oriented to person, place, day, date and time. He was neatly groomed and cooperative with the interview. He made good eye contact. His speech was normal in rate, rhythm and volume. There were no abnormal movements noted. He was able to register three objects and he recalled two of them after five minutes. He was able to recall the third object when given a prompt. He was able to recall significant past personal information and we found no evidence of clinically significant long or short term memory impaired. He demonstrated a good fund of knowledge as evidenced by his ability to name nine NFL Teams. He was aware of current events as evidenced by his ability to report that one of the Super Bowl teams is accused of deflating footballs in the AFC championship game. He was able to concentrate as evidenced by his ability to spell the word *world* backwards. He was unable to perform a calculation correctly. He demonstrated the capacity for abstract reasoning as evidenced by his interpretation of two proverbs and his comparison of two objects in abstract categories. His judgment to a hypothetical situation was fair. His mood was described as "alright" and he rated it as a 6 ½ or 7 on a scale of 1 to 10 with 1 being severely depressed and 10 being euphoric. He denied current suicidal or homicidal ideas. His affect was full in range and appropriate to conversation. He denied psychotic symptoms including auditory hallucinations, visual hallucinations, ideas of reference, or other delusions. His thinking was logical and goal directed without loosening of associations or flight of ideas. We found no evidence of disturbed thought processes or thought content.

OPINION REGARDING CAPACITY TO STAND TRIAL: Mr. Graham is aware of the Murder charge against him. He was informed of the Possession of a Weapon During a Violent Crime charge and the Violation of Probation charge, but states that he was aware of them. He was able to state the acts in which he is accused. He appreciates the seriousness of the charges including the potential sentence that he could receive if he were to be convicted.

He was able to state his attorney's name and he understands the role of his attorney in assisting him in a defense. He states the job of his attorney is "to help you beat the case." When asked what his lawyer might do if he cannot beat the case, he states, "Bring it down." He was able to further define that he meant to lessen the sentence. He states that he has met with Mr. Lifsey on several occasions and can tell him everything he knows about the allegations against him.

He understands the adversarial role of the solicitor and stated that the solicitor was there "to make you look bad - wants to see me get life." He states that the solicitor would do what he had to do to make sure that he received a life sentence.

GRAHAM, ROBERT ISAIAH
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He states that the judge is there to "determine how much time you get." He also understood the role of the judge in determining what is admissible in court and in setting a bond.

He states that the jury consists of twelve people who either find him guilty or not guilty. He was not aware of the unanimous requirement for a jury verdict, but he was able to understand this information when it was explained to him.

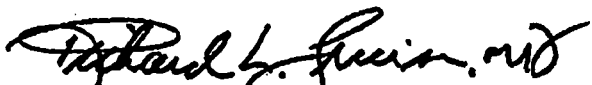
He was able to state the pleas that are available to him and correctly define them. He states a plea bargain is "when your time dropped if you say you're guilty." He was able to discuss potential plea offers in his case and what he would find an acceptable plea bargain and what he wouldn't.

He was able to solve a hypothetical problem involving the courtroom and involving a lying witness. He was able to define the requirements of probation and understands that he would have to take drug tests and follow what his probation officer told him. He also understands that he would have to pay a supervisory fee.

He describes evidence as "something somebody has on you." He was able to give a hypothetical situation where if someone stole something from a store, there might be video footage as evidence. He was able to discuss potential evidence in his case and states that the gun would be evidence as well as the statement that he gave the police. However, he was able to state reasons he thought his statement should be found inadmissible and alleges that the authorities put too much force on him and forced him into giving a false statement. He appeared capable of appreciating the strength of the case against him.

Additionally, he understands that he cannot be forced to testify. He was able to spontaneously state his Miranda Rights including the right to remain silent. He is aware of the term "plead the fifth", but was not aware that this refers to the Fifth Amendment of the United States Constitution.

Mr. Graham has had prior legal experience in both Family Court and General Sessions Court. It is our opinion that Mr. Graham has a sufficient factual understanding of the legal system and a rational ability to assist his attorney in the preparation of defense. Therefore, it is our opinion that he is current competent to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976).



Richard L. Frierson, M.D., DFAPA
Professor of Clinical Psychiatry
University of South Carolina School of Medicine
RLF/cj

D: 01/26/15
RT/EM: 01/27/15
F/EM: 01/27/15 (RLF)

GRAHAM, ROBERT ISAIAH
9886073
OUTPATIENT EVALUATION

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE 6 68413

State v. Robert Graham

Disciplinary Incidents at Chester County Jail Involving Inmate Robert Graham.

Date of Murder Incident

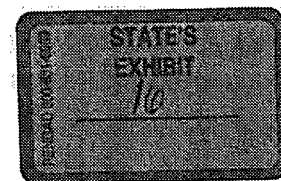
7-14-2014

Date of Arrest of Defendant

7-18-2014

Summary of Disciplinary Incidents:

Assault on staff:	4
Actions that threaten staff or facility:	3
Disrespect of staff:	14
Disruptive behavior:	10
Possession of illegal weapon - shank:	1
Possession/Use of illegal drugs:	1
Possession of contraband - lighter:	1
Destruction of property:	2
Perverting sexual act:	4
Use of profanity:	6
Creating a riot or participating in a riot:	1
Interfering with staff duties:	2
Interfering with security/Tampering with cell:	2
Not standing for headcount:	1
General incident:	3



7-20-2014 General incident.

Report: In a holding cell, Graham ripped his sheet and wrapped it around the telephone in the cell. Graham was removed from the cell and handcuffed. Officers decided to place Graham in a "suicide-smock." Graham verbally resisted to be dressed out in suicide-smock. Officer presented taser and Graham complied. Once placed in his cell, Graham began kicking the cell door.

Action: Placed on suicide watch.

8-29-2014 Assault on staff.

Actions that threaten staff or facility.

Destruction of property.

Disrespect to staff.

Use of profanity.

Report: Graham "knocked off the sprinkler head in his cell flooding the cell and setting off the fire alarm. At first he refused to come out of his cell but was coaxed out by (officer). Graham was handcuffed and escorted to another area. While being escorted, Graham resisted the officers and "at one point even attempted to run away from the officers but was stopped by locked doors." During the fight with officers, Graham screamed: "I'm gonna kill you and that's a Round Tree promise." When Graham was placed in maximum-security, he continued to say over the intercom to the officer in the control booth that he (Graham) was going to "kill those motherfuckers (officers) and that's a Round Tree promise." Graham continued to yell obscenities over the intercom until the officer in the control booth cut off the intercom to Graham's cell.

Action: Placed in Maximum-Security for 14 days.

9-10-2014 Interfering with facility security.

Report: Graham walked over to the control desk, got up on the side of it, and turned the cell-block lights off.

Action: Lock-down in cell for 24 hours. Loss of visitation.

9-10-2014 Disrespect to staff.Use of profanity.

Report: Graham asked if he still had a scheduled visit. Officer informed Graham that the visit had been cancelled because of Graham's behavior in the above incident on same date. Graham then said: "Fuck you" and continued to use profanity against the officer.

Action: Lock-down for additional 24 hours.

9-19-2014 Possession of a weapon/ Possession of illegal contraband – shankActions that threaten staff.

Report: During search of cell and "shakedown," officers found a 12-inch shank made of a broken broom handle, in Graham's cell. The shank was found behind Graham's bunk. While being escorted for disciplinary purposes, Graham pulled away from the officer, and lunged towards the officer. Graham resisted attempts to restrain him.

Action: Loss of all privileges for 7 days. Placed in Isolation and segregation from other inmates.

12-10-2014 Disrespect to staff.

Use of profanity.

Not standing for headcount.

Report: While officers were conducting a head-count, Graham refused to remove a blanket hanging in front of his cell door, and Graham refused to stand at the cell door for count. When officer instructed Graham to stand for count, Graham said: "I'm not doing a damn thing and I'm not fucking going anywhere." When officer closed Graham's cell door, Graham threw a checker board and pieces through the door at the officer.

Action: Lock-down in cell for 3 days and loss of visitation for the week.

3-29-2015 Disruptive behavior.

Destruction of property.

Report: Graham involved in fight with another inmate. After the incident, while Graham was escorted back to his (Graham's) cell, Graham punched a glass window at the entrance of the cell-block and cut his hand.

Action: Lock-down in cell.

5-2-2015 Disrespect to staff.

Disruptive behavior.

Use of profanity.

Report: Officer told Graham and another inmate to quit their "horseplay" and Graham stated: "We ain't doing nothing." Officer again instructed Graham and the other inmate to stop or they would have their TV cut off for the night. Graham then screamed loudly: "Man, fuck that. I don't give a fuck." Officers had to point taser at Graham and handcuff Graham in order to get him (Graham) to return to his cell. During the incident, Graham stated: "Man, you ain't nothing without that taser."

Action: Lock-down in cell for 12 hours.

5-21-2015 Disruptive behavior.

Disrespect to staff.

Report: Graham and another inmate (who had locked himself in his cell) were throwing water and hygiene products at each other. Officer told Graham to go to his (Graham's) cell. As officers attempted to place Graham in his (Graham's) own cell, Graham became non-compliant and tried to break through the officers to get at the other inmate.

Action: Lock-down in cell for 72 hours with loss of all privileges.

5-26-2015 Assault on staff.

Use of profanity.

Disrespect of staff.

Interfering with staff duties.

Disruptive behavior.

Report: At 7:10am, officer observed blanket hanging over cell door and that three inmates were fighting. Officers broke up the fight. Inmate-1 said he was "jumped" by Graham and Inmate-2. Graham stated he (Graham) was only trying to break up the fight. Officer began to escort Graham to his cell and Graham then spit on Inmate-1. Graham then said that he wanted to make a phone call and went to the phone in the cell-block. But officer hung up the phone as Graham started to try to make the call. Officer again told Graham to go to his cell. "When Graham got to front of his (Graham's) cell, Graham refused to go in and he (Graham) started swinging and punching at (officer)." Graham "punched (officer) three times with his (Graham's) right fist to officer's left face." Officer ended up on the floor on his back with Graham on top. Two other officers then "grabbed Graham and Graham fell to the ground still fighting (the officers)" Officers restrained Graham so he could be placed in handcuffs. Graham continued to use profanity and spit on one of the officers.

(note: two separate reports comprise this one incident).

Action: Lock-down in cell for 14 days. Loss of all privileges.

5-26-2015 Disrespect to staff.

Perverved sexual act.

Report: Graham repeatedly told to uncover the camera in his cell, and then Graham "smeared something all over the camera. Throughout the night and morning (of 5-27-2015), inmate Graham had also exposed his penis to (female officer) while doing her rounds. Inmate Graham was masturbating during one of (a female officer's) rounds and just having his penis exposed during others. While (a female officer) was passing out breakfast inmate Graham had his penis pulled through the hole in his boxers exposing himself to her while standing directly in front of his cell door."

Action: Lock-down in cell for additional 3 days after the initial 14-day lock-down

5-27-2015 Disrespect to staff.

Perverved sexual act.

Report: At 11:30am, female officer was picking up food trays, Graham "was laying down on his bed holding his penis."

Action: Lock-down in cell for additional 3 days after the initial lock-down.

6-3-2015 Disrespect to staff.

Perverved sexual act.

Report: At 5:30am, while female officer was picking up food trays, Graham "was standing in his cell near the bars with his boxers on the floor masturbating with one hand and holding the tray with the other."

Action: Lock-down in cell for additional 8 days after the initial lock-down.

6-8-2015 Disrespect to staff.
Perverved sexual act.

Report: At 5:15pm, female officer was picking up food trays, and Graham asked for more tea. As officer turned to get Graham's cup to fill, Graham "was standing in his cell with his private parts hanging out of his boxers."

Action: Lock-down in cell for additional 8 days after the initial lock-down.

7-3-2015 Disrespect to staff.
Use of profanity.
Disruptive behavior.

Report: Officer told Graham to get off the bench, Graham stated: "Man, you need to leave me the fuck alone. I ain't got time for this shit. I'm trying to do my little bit of time and get the hell out of here."

Action: Loss of telephone privileges for 24 hours.

7-24-2015 Disruptive behavior.
Interfering with staff duties.

Report: Inmates "told repeatedly throughout the shift to get off the tables and stop yelling." Inmates refused commands. Incident also involved Quinton McClinton.

Action: Loss of recreation time for 1-day.

7-30-2015 Disrespect to staff.
Disruptive behavior.

Report: At 2:40am, inmates yelling and officer asked them to quiet down. Inmates began yelling louder and officer again asked to quiet down. Inmates ordered by officer to quiet down, and began yelling even louder. Incident also involved Quinton McClinton.

Action: Loss of TV privileges for 1-day.

9-2-2015 Disruptive behavior.

Report: During visitation with his mother, Graham got in a verbal argument with his mother. Officers terminated the visit and Graham refused to be handcuffed. Graham walked down the hallway towards his cell-block, being "very loud and disruptive" and "started shouting loud profanities and threatening remarks" against the officers.

Action: Visitation privileges lost for one scheduled visit.

9-6-2015 Actions that threaten staff or facility.Assault on staff.Disrespect to staff.Disruptive behavior.Creating a riot or participating in a riot.

Report: At 1:17am, inmates began to "yell, kick doors, slam trash cans over, and beeping on the intercom stating that they were going to fight all officers." Disobeyed all commands to stop. Graham was kicking the main door and covering camera. When officer attempted to escort Graham back to his cell, Graham "yanked his arm away and demanded (that) no officers touch him and said he would have to be tased before he was put in his room and began to get too close to (officer)." Graham tased and handcuffed. Graham "then started spitting in officers' faces." When officers attempted to place 'spit-mask' on Graham, he (Graham) 'bit down on the spit guard and on (officer's) finger." Incident also involved Quinton McClinton.

Action: Lock-down in cell for 3-day. Loss of all privileges.

9-6-2015 Assault on staff.Disrespect to staff.Possession of contraband.Disruptive behavior.

Report: On same date as above Report, during cell search at 8:22pm, Graham "became aggressive as officers asked him to put his hands behind his back." Officers observed smoke in the cell and ashes in the toilet. Officers found cigarette lighter hidden in Graham's jumpsuit. When being escorted, Graham began yelling loudly. Graham spit on officer twice.

Action: Lock-down for additional 3-days.

9-9-2015 General incident.

Report: Yelling when being escorted back to his cell.

Action: Loss of telephone privileges.

12-30-2015 General incident.

Report: Covered up all the intercoms with toilet paper so that the intercoms were not functional. Incident also involved Quinton McClinton.

Action: Warning.

1-6-2016 Interfering with security / Tampering with cell.

Report: Covered up all the intercoms in the cell-block so that the intercoms were not functional. Incident also involved Quinton McClinton.

Action: Loss of TV privileges for 24-hours.

1-7-2016 Possession/Use of illegal contraband – drugs.

Report: Marijuana found in cell: 1 joint and 1 roach, and cigarette lighter. Incident also involved Quinton McClinton.

Action: Loss of canteen privileges.

All incident reports are admissible as evidence per *State v. Whipple*, 324 S.C. 43, 476 S.E.2d 683 (1996).

WITNESSES

Lolita Fourney (CPD)

H. Lawton

ARREST WARRANT NUMBER/DOA

2014A1220100112 (DOA- 7-18-14)

ACTION OF GRAND JURY

TRUEBILL

Foreperson of Grand Jury

Date: *10-7-14*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-12- 583

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

OCTOBER TERM 2014

THE STATE

vs.

Robert Isiah Graham

Indictment for

Murder

SC Code: §16-3-10

CDR Code: 0116

Class: Felony, EXM

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

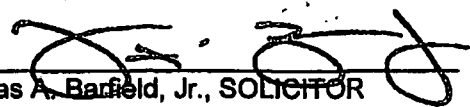
INDICTMENT

At a Court of General Sessions, convened on October 7, 2014, the Grand Jurors of Chester County present upon their oath:

MURDER

That Robert Isiah Graham did in Chester County on or about July 16, 2014, feloniously, willfully and with malice aforethought kill and murder Shyheim D. Kennedy by means of shooting him, and that the said victim did die as a proximate result thereof, in violation of the common law of South Carolina and §16-3-10, *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.



Douglas A. Barfield, Jr., SOLICITOR

Plea accepted only by Judge *Yager* on *5/12/15* - sentencing deferred for *90 Days* *Fg*

STATE OF SOUTH CAROLINA
COUNTY OF Chester
STATE VS.
Robert Isaiah Graham

AKA:
Race: BLACK Sex: M Age: 18
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Chester, SC 29706
DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#: 2014GS12583
A/W#: 2014A1220100112
Date of Offense: 7/16/2014
S.C. Code: § 16-03-0010; 16-03-0020
CDR Code #: 0116

2016 FEB 24 A 9 32

SENTENCE SHEET FEB 29 2016

FILED SC Court of Appeals

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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

ATTEST: Karen Fryar 10385 SC Bar# [REDACTED] Defendant [REDACTED] Attorney for Defendant [REDACTED] SC Bar# 015154

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered. PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:
§ 14-1-206 (Assessments 107.5%) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00
§ 50-21-114 (BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ 8.40
TOTAL \$ 288.40

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: The Court held a hearing on 2/22/16 prior to sentencing. The Court has reviewed and considered all Miller factors as argued by the State and Defense.

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation

Clerk of Court/ Deputy Clerk Lisa H. Carpenter
Court Reporter: Mike Walkers

Presiding Judge [Signature]
Judge Code: 2106
Sentence Date: 2/22/16

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of General Sessions

Brian M. Gibbons, Circuit Court Judge

Case No. 2014-GS-12-583

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FEB 29 2016

SC Court of Appeals

 The State,

Respondent,

v.

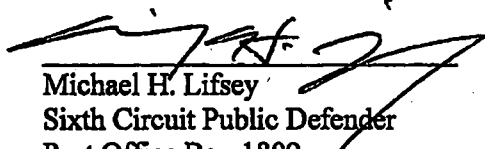
Robert Isiah Graham,

Appellant.

NOTICE OF APPEAL

Robert Isiah Graham appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Brian M. Gibbons on February 22, 2016.

February 24, 2016


Michael H. Lifsey
Sixth Circuit Public Defender
Post Office Box 1809
Lancaster, South Carolina 29721
(803) 285-5585
Attorney for Appellant

Other Counsel of Record:
Karen Fryar
Assistant Solicitor
Post Office Box 728
Chester, South Carolina 29706
(803) 377-1141
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of General Sessions

Brian M. Gibbons, Circuit Court Judge

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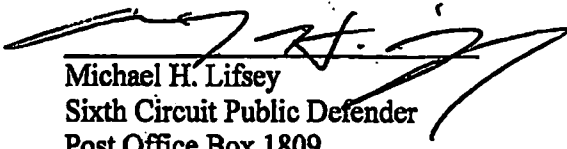
Appellant.

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FEB 29 2016
SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on The State by personally delivering a copy of it to its attorney of record, Karen Fryar, at her office at the Chester County Courthouse, 140 Main Street, Chester, South Carolina 29706, on February 24, 2016.

February 24, 2016


Michael H. Lifsey
Sixth Circuit Public Defender
Post Office Box 1809
Lancaster, South Carolina 29721
(803) 285-5585
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of General Sessions

Brian M. Gibbons, Circuit Court Judge

Case No. 2014-GS-12-583

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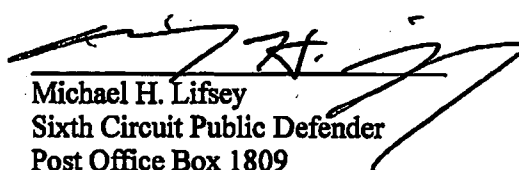
Appellant.

STATEMENT PURSUANT TO RULE 203(d)(1)(B)(iv)

Robert Isiah Graham pled guilty on May 12, 2015 in front of the Honorable Roger M. Young, Sr. to a Murder that had been committed when he was 17 years old. Sentencing was deferred so that evidence could be presented pursuant to the South Carolina Supreme Court decision in *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014). A sentencing hearing was held and a sentence of 45 years was imposed on February 22, 2016 by the Honorable Brian M. Gibbons. Appellant believes the following three issues can be raised on appeal.

1. Appellant moved to withdraw his guilty plea and proceed to trial. This motion was denied by Judge Gibbons.
2. Appellant moved to fire his appointed counsel. This motion was denied by Judge Gibbons.
3. Appellant was sentenced to 45 years in prison. Appellant believes this was excessive and not in conformity with *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014).

February 24, 2016



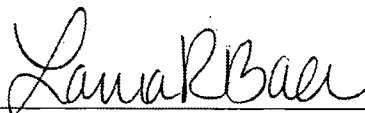
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Attorney for Appellant

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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,

A handwritten signature in cursive script, reading "Laura R. Baer", is written over a horizontal line.

Laura R. Baer
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 25th day of October, 2017.

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,



Laura R. Baer
Appellate Defender

South Carolina Commission on Indigent Defense
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PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 25th day of October, 2017.

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