THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County, Court of General Sessions
The Hon. Brian M. Gibbons, Circuit Court Judge
Appellate Case No.: 2016-001387

The State,..... Respondent,

v.

Suzanna Brown Simpson,..... Appellant.

RECORD ON APPEAL (VOLUME II)

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State of South Carolina
County of Pickens

In the Court of General Sessions

State of South Carolina,

-vs-

Suzanna Brown Simpson,

Defendant.

2014-GS-39-0396-98

June 22, 2016

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Transcript of Record

B E F O R E:

The Honorable Brian M. Gibbons, Judge;
and a jury.

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For the Defendant:

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(WHEREUPON, court convened with all parties present and the following proceedings were had commencing at approximately 9:48 a.m.)

THE COURT: All right. Anything from the attorneys before we bring the jury in? Okay.

(WHEREUPON, the jury entered open court at 9:59 a.m.)

THE COURT: All right. All members of the jury are present.

Good morning, ladies and gentlemen. I hope you had a wonderful evening. We'll jump right into it this morning.

The State, as you recall, rested yesterday, and now the defense will put forth witnesses.

Ready to proceed, Mr. Mauldin?

MR. MAULDIN: Yes, I am. Thank you, Judge.

Michael Weight, come around, please.

MICHAEL WEIGHT,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: If you would have a seat and state your name for the record.

THE WITNESS: My name is Michael Weight.

DIRECT EXAMINATION

BY MR. MAULDIN:

Q Michael, where do you live?

A Pardon me?
Q Where do you live?
A Greenville, South Carolina.
Q Okay. And who are you employed by?
A Pickens County EMS.
Q Were you employed by the Pickens County EMS back in May of 2013?
A Yes, I was.
Q And what was your role or duties with EMS at that time?
A I'm a paramedic. What I do is I handle emergencies, whether it's an injury or illness.
Q All right. So you ride around in these EMS trucks and administer emergency care?
A Yes, sir.
Q Is that fair to say?
A Yes, sir.
Q All right. And was that your duty or was that a description of what you did for Pickens County EMS back in May of 2013?
A Yes, sir.
Q Did you, in the early morning hours, have the occasion in that capacity to proceed to Cherokee Trail in Dacusville?
A I'm sorry. I didn't understand your question.

Q All right. In the capacity as a Pickens County EMS, did you find yourself going to Cherokee Trail in Dacusville for a call?

A Yes, sir.

Q And do you recall that call?

A Yes, very well.

Q All right. I want you to tell the jury what your roll was and what you observed when you arrived at the scene.

A We were dispatched out for a motor vehicle accident. It was early in the morning. It was pretty close to the station. It was down by Dacusville Middle School.

When we arrived on scene, Dacusville fire and rescue was already on scene. There was one vehicle. It was a rollover. They were having a hard time making entry into the vehicle so they did have to use like the Jaws of Life to like pop the door.

Q Don't speak too fast. Slow down. Make sure that the jury can hear you. Go ahead.

A Sorry. When they made entry into the vehicle, of course, we did our first initial assessment, asked the patient if she was injured. The patient stated that her back hurt. That was her only complaint at the time. So we -- since it was a rollover, of course, we

went ahead and put the patient on a long spine board and C-collar and moved the patient to the ambulance.

Q All right. Did you participate in taking her out of the vehicle?

A Yes. To some degree, yeah. There was several people there.

Q All right. And she was laid on a piece of equipment designed for that type of injury?

A Yes, sir.

Q What then happened?

A Well, we got her to the ambulance. Of course, I started my assessment again to make sure that she was okay, checking for further injuries. When we were removing her from the vehicle, the only thing she would tell us was that her back hurt. She didn't really want to talk or explain anything else. I was concerned because it was early in the morning, it was a young woman, and she looked like she was in her pajamas. So I was looking for children. I didn't know. Because the truck rolled over, they could have been ejected.

Checking the scene, I noticed that she was running parallel to Cherokee, did not slow down, and she made her way back onto the road and then flipped the vehicle. But after noticing that and there was no children, I went ahead and started doing an evaluation

of her psych, make sure she didn't have any head injury or any other broken bones.

While doing that, she just didn't want to talk to me. She was very contrary. I was doing my assessment, put an IV in her. I kept asking her questions to evaluate her mentality, you know, her level of consciousness to determine whether or not she did, indeed, have a head injury.

And with my questioning, it irritated her, and then she blurted out what she did say.

Q And what did she say to you?

A "Okay. Okay. I shot my family."

Q All right. And was there any attempt at that time to determine where that had happened? I mean, did she -- was there any effort to find out where her family would be?

A Well, on scene there was bystanders. Everybody knew each other evidently in that little area, and they said that she lived just a couple doors down.

Q All right. Okay. What did you then do?

A Then I stopped the ambulance immediately and had the rescue driver at that time driving us return back to the scene which was only maybe a block or two down the road. And when I returned to the scene, I got out of the ambulance and I secured the scene. I told the

fire department, "Put up the yellow tape. Nobody goes past this line. This is a possible crime scene."

And while returning back to scene, I had called for the sheriff's department, told them we may have a crime, and they were there within a couple minutes. It was very fast. And when they arrived, I picked up the tape, they drove in, they went into the home quickly, secured it, and one officer came out and said, "We have one that's still alive. We need you in here immediately." So then I grabbed my equipment. I went into the house.

Q All right. And you discovered Michael Simpson was still alive?

A Yes, sir. Yes, sir.

Q Did you, after doing that activity, did you then end up back in the ambulance with Anna Simpson?

A Yes, sir.

Q All right. Did she make statements to you about why -- you know, why she had done this? What did she say to you about why she had done it?

A She just said that her family had told her to do it.

Q All right.

A And we didn't press her, of course, for -- it wasn't my job to ask her questions, but she was very

confused. She was crying a little bit, of course. She just didn't understand why -- what was going on.

Q She did not understand what was going on?

A Not really. She knew what she had did. She knew what she had did. She told us what she had did, but at the same time, she was confused. She really just --

Q All right. Did she make any statement to you regarding what she felt she was supposed to do?

A She said she was supposed to shoot her family. That's all she would say.

Q All right. Now, in preparation for this trial, this occurred three years ago?

A Yes, sir.

Q In preparation for this trial, I believe you had an opportunity to meet with the prosecutor when he discussed your potential testimony?

A Yes.

Q All right. Do you recall that meeting?

A Yes, sir.

Q Do you recall what you informed the prosecutor about -- do you recall what you informed the prosecutor back in May about what she specifically said to you about what she had done?

A Yes.

Q All right. And would you repeat that? Tell this

jury what you told the prosecutor.

A I don't know if I can do it word for word, but I'll give it a shot.

Q And I will hand you a document.

A Sure. That would be great.

Q I want you to look at this, and then I'll take it back and let you testify. Just to refresh your memory. Right here and here. Just refresh your memory, and when you've read it, hand it back to me and testify to the jury.

All right. Now, is your memory refreshed?

A Yes.

Q All right.

A She had said --

Q Okay. Mr. Weight, what did you tell the prosecutor that you recall her saying?

A That she was supposed to shoot her family. That she was told to shoot her family. Her family, you know, her family told her to shoot them. Them, basically. I'm sorry. I'm nervous.

Q Did she -- and I'll be glad to hand this back to you once again if you wish. Did she say to you, "I didn't do anything wrong"?

A Correct.

Q Is that what she told you?

A Yes, sir.
Q "I didn't do anything wrong. I did what my family told me to do"?
A Correct.
Q Okay.
A She said that in the ambulance.
Q And is that accurate?
A Yes, sir.
Q And is that exactly what she told you that day in the ambulance?
A Yes, sir.
Q Okay. Also in that meeting with Mr. Wilkins, did you -- how did you describe her? And, again, I'll hand you this document if you wish to have that refreshed.
A Sure.
Q Do you remember how you described --
A I would describe her as confused. To me, when I looked at her, it looked like something had broken. She had lost a little bit of reality. She knew what she did at the same time, but on the other aspect of it, she didn't understand, to me, what really happened.
Q Did you tell Mr. Wilkins that she just wasn't all there?
A Yes, sir.
Q Did you tell Mr. Wilkins that you could tell that

something about her just wasn't right?
A Yes, sir.
Q Okay. Thank you, Mr. Weight, for your testimony. Just answer any questions Mr. Wilkins might have for you.
MS. STROM: May I have that document, please?
THE COURT: All right.
Solicitor.
MS. STROM: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. STROM:
Q First of all, as to this document that he used to refresh your memory, that is a document -- it's, in fact, a letter that Mr. Wilkins, the Solicitor, wrote to Mr. Mauldin explaining to him what you told us?
A Yes, sir -- yes, ma'am. Sorry.
Q That's all right. Don't worry about it.
So it's something -- it's information we provided to the defense?
A Yes, ma'am.
Q Okay. Now, back when you're in that ambulance, when you first get to Anna Simpson, you said her first comments were about her back, correct?
A Yes, ma'am.
Q Her back was hurt?

A Correct.
Q You would ask her other questions and she wouldn't answer you?
A Yes, ma'am.
Q Okay. And then you said that ultimately she talked about shooting her kids, correct?
A Yes.
Q What did you tell her right before she told you about shooting her kids?
A I told her, I said, "Ma'am, you have to talk to me." Because after I did my assessment, I could find absolutely nothing wrong with her.
Q Okay.
A All her vital signs were completely normal. Her mentation appeared to be completely normal and intact. There was no injury to her head.
Q She had no injury to her head?
A Well, she had an abrasion, I believe, but nothing severe.
A Nothing severe?
A No, ma'am. And I could tell she was just agitated. She just did not want to talk to me. And I started to explain to her, I said, "Ma'am, if you don't talk to me and explain to me what's going on or answer my questions, that you will have to go to a higher

level of care." The trauma bay, is what we call it, where there is a great deal more medical attention. And then she shouted out, "Okay. Okay. I shot my family."

Q What did you specifically tell her about what would happen to her at trauma bay?

A I said that there is a lot of different procedures that's going to happen to you that's not going to be pleasant. When you go to the trauma bay, they, of course, they check rectal, they check -- well, basically, every orifice of your body to make sure there's no fluid, no blood, or any kind of injury. And then that's when she said, "Okay. Okay. I shot my family."

Q Thank you. I have no further questions.

MR. MAULDIN: All right. Come down, Mr. Weight. Thank you.

THE COURT: All right. Thank you, sir. You can step down.

Call your next witness.

MR. MAULDIN: Call Dr. Mulbry, please, Bill Mulbry.

LEONARD WILLIAM MULBRY, JR., M.D.,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: If you would have a seat and state

your name for the record, please.

THE WITNESS: My name is Leonard William Mulbry, M-u-l-b-r-y, Junior.

DIRECT EXAMINATION

BY MR. MAULDIN:

Q Dr. Mulbry, where are you employed?

A I'm currently in private practice, primarily in private practice, down in Charleston.

Q In Charleston?

A Yes, sir.

Q All right. Now, I'm going to ask you, make sure you direct your voice to the jurors so that they can hear you. All right.

And you're in private medical practice; is that right?

A I -- I have primarily a forensic practice. In other words, I do primarily forensic psychiatry. I treat patients about a third of the week, and I evaluate people for the courts about two thirds of the week.

Q And are you a doctor?

A I'm an MD, a medical doctor, yes.

Q Would you please describe your educational background for the jurors.

A Yes. I have a bachelor of science from

Williamette University in Oregon. I have a master's degree in neuropharmacology from the University of California Davis. I then went to medical school, University of Kentucky. I did an residency in orthopedic surgery at the University of Arizona, followed by a fellowship in hand and microsurgery at the Indiana Hand Center. I practiced hand and microsurgery down in Charleston for about -- well, in a couple cities, San Francisco, Denver, and Charleston, for about 18 years. I went back in 2004 and did a second residency, went back to the medical school at MUSC, and did a residency in general psychiatry followed by a fellowship in forensic psychiatry. And I've been practicing forensic psychiatry since that time.

Q And I want you to take just a moment and describe to the jury the distinction between general psychiatry and a speciality of forensic psychiatry. What does the term "forensic" mean at least in your capacity -- in your context?

A The word "forensic" really just means legal. And there is a whole branch of psychiatry that's dedicated to applying the principles of psychiatry, the research, the clinical skills, the knowledge base that psychiatry brings to bear to the courts. Turns out the courts

have a great deal of use to determine people's states of mind at various times. The bread and butter of the simple everyday stuff is what's called competency to stand trial. In other words, quite often people that are mentally ill commit crimes. And the question is do they have the capacity, the ability, to move through the judicial system in a fair fashion so that they can defend themselves. So that's really a large part of what I do forensically is are people competent to stand trial.

Another thing that we do is these kinds of evaluations. We call them criminal responsibility. In other words, what was the state of mind at the time of the charges. We do mitigation reports. In other words, does the mental illness play role in the crime, and if so, should that make a difference in what happens to the person in the court, in the judicial system.

And, of course, I don't do much work for the civil courts, but you can. I do a little bit of probate court, evaluating what people need, that being appointed a guardian, conservator, a little bit of work, you know, somebody is in a car accident and somebody says they have a head injury and they can't remember anything anymore, you might evaluate somebody

like that. For the most part, we use psychiatric skills and knowledge base to evaluate people and provide information to the court to guide them through cases.

Q Dr. Mulbry, do you also participate in teaching responsibilities, educational responsibilities regarding this speciality?

A I have two, two teaching responsibilities. I have a half-day clinic at the Medical University of South Carolina where I see regular psychiatric patients. There's some contact with residents there. I also teach the medical students. I teach the ethics -- I'm one of the people that teaches the ethics course. I also help evaluate -- all medical students have to be observed doing a clinical evaluation for about 20 minutes. So I help do those evaluations where you're evaluating their ability to sit down and talk to somebody for 20 minutes.

I also do -- we have a course called -- where we teach medical students how to approach delirium, which is a rather urgent medical problem, so I participate in that. So I do those three things for the medical university.

I also have an appointment as adjunct faculty at the Charleston School of Law. And another one of my

colleagues and myself teach a course called Psychiatry and the Law down at the law school.

Q Are you a member of any professional organizations that relate directly to the issues before this jury?

A I'm a member, of course, of the American Medical Association and the American Psychiatric Association. But my specialty ones are the American Association for Psychiatry and the Law, which is kind of the group for forensic psychiatrists. I'm also a member of ATSA because I do -- I evaluate sex offenders sometimes. So I'm a member of what's called ATSA, the Association for the Treatment of Sexual Abuse. And I'm a member of that. It's kind of an educational thing where it helps you keep track of your skills.

Q Are you board certified in forensic psychiatry, and assuming the answer is yes, I want you to explain to the jury the significance of being board certified.

A I'm board certified, of course, in general psychiatry and forensic psychiatry. There are two separate boards. The forensic board requires a year-long fellowship, which I did at MUSC. It also requires that you pass a test. They give you a test you have to do. And it requires a certain amount of experience. You get most of that in fellowship. And, again, it's a skill set. It's sort of over and beyond

the usual training that most of the psychiatrists get, and it's specifically to be able to answer questions for the courts.

Q Are you licensed to practice in South Carolina?

A I am, both. I am, yes.

Q Have you been qualified as an expert witness in the courts of South Carolina in the area of forensic psychiatry?

A In state, federal, and military, actually, about 65 times, I would estimate.

Q All right.

MR. MAULDIN: Your Honor, we offer Dr. William Mulbry as an expert in the field of forensic psychiatry.

THE COURT: Any further voir dire from the State?

MR. WILKINS: No further voir dire, Your Honor. Without objection.

THE COURT: All right. He is qualified as an expert in the field of forensic psychiatry.

Ladies and gentlemen of the jury, remember what I told you the past couple days about what an expert witness can do. An expert witness can, in addition to testify about whatever facts he or she may have perceived, they can also testify in the form of an opinion. Okay? And you can use that opinion and give

it whatever weight and credibility you believe it deserves with all the evidence in the case when you consider it. Okay? Thank you.

MR. MAULDIN: Thank you, Your Honor.

Q Dr. Mulbry, did I contact you about Anna Simpson's case?

A Yes.

Q And do you recall when I made that contact?

A I think February 21st, 2014.

Q And were you asked at that time by me to examine and evaluate Anna Simpson for criminal responsibility?

A Yes, I was asked to do that.

Q All right. And before we get into the results of that evaluation, was it your understanding at that time that any fees, costs or otherwise that would be incurred would have to be approved by the circuit judge before being paid by the State of South Carolina?

A Yes, sir.

Q All right. You understand that?

A Yes, sir.

Q All right. Can you explain very briefly to the jury what the -- what this examination or evaluation would consist of?

A Okay. In this case, we had rather extensive records which is unusual but good. And so I was sent a

stack of records, an extensive stack of records, mostly Ms. Simpson's medical, psychiatric, and other associated records.

And so the first thing I did is review all of the available records that I could. Once I had done that, I came up and evaluated Ms. Simpson. I went over to the detention center and talked to her. In this case, I actually saw her three times. On March 19, 2014, for about four and a half hours. I came back on May 5, 2014, for about one and three quarters hours. And I actually came back on November 30, 2015, and saw her for about an hour and a half. So --

Q All right. Before you go into that, you mentioned that you reviewed records in this case?

A Yes, sir.

Q I want to ask you why it is important for a person that's in your capacity as a forensic evaluator to review records.

A Oh. One, it helps establish whether there is a mental illness because you get the records of what other people have seen. Is this person really, truly mentally ill. But more importantly, how are they mentally ill. Does the mental illness they have the kind of mental illness that will play a role in whether someone is thinking clearly. Are they responsible at

the time of the charges.

So, for instance, certain mental illnesses really don't interfere very much with rational thought, but others do very much so. Once you establish that, you take it a step further. You go back and you look for a history of the kind of behaviors and kind of observations that other doctors, other trained doctors, psychiatrists in this case, have seen about that person. In other words, has -- have other psychiatrists observed irrational behavior, have they seen disturbance of thought, have they seen disturbance of mood because it establishes that it's present, that is has been present in the past. So you look -- that gives you some insight into whether what is alleged to have happened is consistent with those behaviors. And so review -- and is the things that have been said in emergency rooms, said to other doctors, are those things consistent with what you're hearing when you actually interview the individual.

Q And then you mentioned that you had met with her for three occasions?

A Right.

Q And, of course, that is important because of what you just described, right?

A Right.

Q The consistency?
A Very important, consistency, because when people tell the truth, there will be some consistency to it. In other words, not word for word, but people who are kind of making it up on the fly, it's hard to do it over long periods of time and keep your story consistent. So, typically, if it's a significant case, I'll interview people two or three times to make very certain that what they're telling me is consistent between interviews and to assess whether it's consistent between my interviews and the records I reviewed.
Q Dr. Mulbry, to a reasonable degree of medical certainty -- to a reasonable degree of medical certainty, did you or were you able to actually diagnose Anna Simpson?
A Yes.
Q And what was her diagnosis?
A The diagnosis I assigned that I thought she had was schizoaffective disorder bipolar type.
Q All right. Now, I'm going to have to ask you if you would to explain to the jury what schizoaffective disorder bipolar type means in, you know, language.
A The word "affective" is a doctor word for mood. And so the word "affective," is a classification that

we have called affective disorders, and they are depression, bipolar disorder, and things like that. That would be called affective disorders. They are people who have an illness that disturbs their mood.

Now, most commonly, and in this case we're talking about bipolar disorder, so bipolar disorder, those are people that go through long periods of very severe, usually very severe, depression. People with bipolar affective disorder have some of the most severe depressions that we treat. They have one of the highest suicides rates. It's a very, very serious illness.

That's the depressive side of it. The word "bipolar" means at least at some point in their lives, and usually more than once, they have had bursts of what are called mania. And if -- and I think depression people you can pretty much can recognize: Slow, quiet, can't talk, tearful, crying, giving up things that they enjoy, not able to function well in life. People describe it as being overtly painful.

Mania, just the opposite: Talking a mile a minute, thoughts going a mile a minute, usually happy for no particular reason, sometimes irritable, sometimes happy. Their thoughts speed along, and they become -- they just don't think clearly because they

don't link their thoughts very well.

These periods last for extended periods of time up to about a week, sometimes longer. When that happens, they don't sleep. And as many of you who have probably stayed awake more than 24 know, when you don't sleep for a couple of days, your thinking begins to increasingly deteriorate, kind of not do well, you can't think clearly. And it feels really bad, too. That first child you had, that first week or two you brought a child home, those kind of experiences.

So that's -- that is the affective side of it, the bipolar side of it. And she had been extensively treated for a long time for bipolar disorder with a wide variety of medications.

The other half of it comes from the word perhaps "schizophrenia," schizophrenia being another significant mental illness that is marked by loss of reality. You'll hear us drop the word "psychosis." Psychosis means loss of touch with reality. That's the hallmark of schizophrenia. The symptoms come in two forms, what are called positive symptoms, which are hallucinations, hearing voices that aren't there, seeing things that aren't there. Paranoia, the overwhelming fear that people around you, usually most everybody around you is out to harm you or get you for

what we call ideas of reference. You know, that guy that was just doing the nightly news said something and it has a special meaning just for me in my life. Or I can read people's minds. Those are ideas of reference. Those are the positive symptoms of schizophrenia where they're losing touch with the reality of what's going on.

They can also have what are called negative symptoms, which means their thoughts scatter. They can't link them together very well. They will start talking about something and then it just kind of falls away because they can't keep it in their minds long enough to finish the sentence or the thought. Or the thoughts jump from thing to thing to thing, and you just can't quite follow them. Those are the negative signs of schizophrenia. And people with schizophrenia usually have some combination of the positive symptoms and the negative symptoms.

Q Dr. Mulbry, were you able to formulate, looking at the records and with the various interviews, any idea of the length of time that Anna Simpson would have actually had this condition? Can you give us just a judgment on that?

A The symptoms started out relatively mild. They started out in college, in the late '90s, with some

relatively mild depression. She saw her family doctor. Her family doctor thought -- recognized that she was depressed. Some things had gone on in college that were problematic, and she was a little depressed. And she was known to have significant problems in school due to inattention. He diagnosed her with depression and ADHD -- or ADD in that case, I believe. He gave her the medications, appropriate medications, an antidepressant, and in this case I think Adderall. And she started on those two medications and had pretty good resolution of her symptoms. Pretty common kind of thing to happen. The -- she got better, though she continued the medications when she returned home and went to work in a bank. So after college, I think 2001, she returned back to the area, went to work in a bank, but found that at least the Adderall helped keep her concentration up so she can be able to work in the bank. Continued the medications.

And all was at least stable, it looks like, until after the birth of her daughter, 2006. And as is not uncommon, she developed what appears to be a fairly significant postpartum depression. Not the blues. Not just kind of being down a little bit for a week or so and then it goes away, but I mean a fairly significant depressive episode, which again her family doctor and

her OB-GYN treated. Seemed to at least get better, at least be stable.

Unfortunately -- unfortunately about nine months later, she suffered a miscarriage which apparently she took very, very hard. It was very difficult for her. A much more intense depression, much more significant. And when you talk to her friends, they -- most of them and her family will go back and mark that as sort of the beginning of when they began to recognize there was something sort of more serious going on here. Particularly knowing that bipolar disorder is a risk factor for postpartum depression because it is.

So as that 2006 goes, things seem to sort of stabilize a little bit, things seem to be pretty okay, sought -- her second child is born in 2008, I believe. Sort of holding her own, still on the Adderall, still on some antidepressants. She's, by the way, though, it's a little complicated. She's got migraines. And all through this period of time she's taking mood stabilizers in small doses as adjuncts for her migraines. So it gets a little -- but those are being given to her by a neurologist for migraines which she's had for years.

So where things really begin to take a turn is in 2010. There was a -- an incident in a dental office

where she, after the fact, concluded that she had a seizure during the dental procedure. I think her mom came and got her. She kind of fell apart, was emotional and very distraught, very upset, was quite sure that something terrible had happened. And everybody around her kind of looked at the situation. They didn't quite see it as being so terrible, but she was very distraught by it.

It's about that time that her trouble with sleep is becoming increasingly problematic. She's getting a little more fragmented. Her moods are swinging. She's going through long periods of depression, and then she's going through long periods when she's not sleeping.

So she finally consults Dr. Smith, who is a local psychiatrist. He immediately diagnoses her with bipolar disorder type 1, the more severe type. He says this is bipolar disorder, and he immediately starts working with medications to try to bring this under control. And you can see through his notes they tried antipsychotic mood stabilizers, anticonvulsant mood stabilizers, and they tried changing her stimulants to different types of stimulants. And you can see all through his notes he tries to bring these symptoms under control.

Q Dr. Mulbry, this treatment you're right now describing, would have begun in 2010 when she -- when the referral was made to a psychiatrist?

A He -- I believe he diagnosed her in the first note in March 2010 with bipolar and started treating her right away.

Q So prior to that there was no psychiatric treatment?

A Correct.

Q 2010 marked the time when the psychiatric treatment began?

A Right.

Q All right. And continued?

A Okay.

Q All right.

A So you can see through his notes where he's trying different medications, he's trying to stabilize her for these mood swings. Her thinking is there's some sort of paranoid ideation going on here that people are out to harm her, bad things are going to happen. Her thinking is very difficult for him to control, to keep together very well. And this goes on until about July of 2012. Kind of cycling. And notably cycling between depression, sleeplessness, confusion, irritability, difficulty with thoughts, sort of concerns that people

are out to get her.

And then in 2012 it becomes so severe and so bad that her family convinces her to go to St. Francis. And it has to do with her developing this belief that some of the members of her extended family are actually trying to harm her daughter. And she's becoming increasingly withdrawn. And people begin to realize that these thoughts are just not right.

Q For clarification, Dr. Mulbry, the reference to the extended family, would that include her in-laws?

A She developed the fear that -- her mother-in-law had taught her daughter the game Simon Says. And she got in her mind that that had a sexual purpose, that her daughter was being groomed for some kind of sexual activity. It's kind of a classic paranoia. It's the kind of thing that somebody who's psychotically paranoid would think.

Q Was there any real corroborating evidence of any such activity?

A Oh, goodness, no. No.

Q All right.

A Goodness, no. Everything I ever read suggested that her mother-in-law was great.

She began to develop beliefs that people were messing with the computers, that there were bugs in her

house, that there were people watching her from across the street, that people were out to harm her and her kids. And increasingly just the thoughts began to become increasingly fragmented. She's not sleeping, not sleeping well at all, which fragments her thinking. And, finally, her family convinces her to go over to St. Francis where she's evaluated in the emergency room and felt to be acutely manic and psychotic, i.e., has lost touch with reality.

They hold her in the emergency room for a few days and treat her with antipsychotic medication called Seroquel. And you can see the records. Over the next two to three days, she slowly improves and she gets somewhat better, but they're worried about her. That is what we call -- they're worried about her, and so they feel that she really needs an inpatient evaluation. So she remains on the Seroquel, and after a day or so, she then goes into the Carolina Center for Behavioral Health, a local hospital, where she spends -- where she's evaluated, consistent histories are found, she's felt to have at least bipolar disorder with psychosis, and they continue the treatment because the treatment seemed to be working. And she's kept for about three days, I believe, from August 5th to 8th, I believe, and then she's released back home.

Q Dr. Mulbry, is there -- and I'll just ask the question this way. Is there a cure that is actually like a -- if you have a cold, I know they say there's no cure for a cold, but you can take something that makes you better and then the cold goes away. Or if you have the flu, they give you the anti-flu stuff and you end up, you know, you don't have the flu anymore.

Is there a cure in the world of medicine for the condition that you're describing that Anna Simpson had then and has today? Is there a cure for it?

A There is no cure.

Q Will she have the same medical condition for the rest of her life?

A The condition will be lifelong. It may wax and wane some. And the longer and better it's treated, the better it tends to be, but she'll always have it, likely for the rest of her life.

Q Will she require mental health treatment for the rest of her life?

A Yes.

Q Now, Dr. Mulbry, I want to ask, once again, to a reasonable degree of medical certainty, were you able to make a determination and form an opinion if Anna, on the evening of May 13th and 14th of 2013, could distinguish between right and wrong conduct? Did you

form an opinion as to that question?

A I did.

Q And what is your opinion?

A My opinion is that she was, on that evening, unable to distinguish legal and moral right from legal and moral wrong.

Q All right. And could you give an explanation for that, the finding?

A Okay. I read all the records, came up and talked to her. What she describes -- and then actually interviewed some of her friends. What she describes on that evening is -- is consistent with psychosis, loss of touch with reality, confusion, paranoia, delusional thinking. That paranoia, confusion, disorganized thinking, can't keep your thoughts together, was completely consistent with her prior presentations at the hospital and with notes and with behaviors that three of her friends and her parents had all noted having gone on for quite a long time.

She described the events of that evening not with some eloquent story, but just as somebody who has trouble kind of keeping their thoughts together would. Confusion.

She had developed over the weeks and months an increasing concern that her children were in danger,

that something bad was going to happen. That's the essence of paranoia, something bad is going to happen. And her behaviors over the weeks and months leading up to this are increasingly sort of erratic, and they really begin to get out of control the three or four days prior to the evening of her charges. Increasing paranoia, delusions.

She pulls her kids out of school -- her daughter out of school one day because there is a correlation in her mind between that date and the day that the Newtown shootings took place. So she goes and takes her daughter out of school. She won't go to the Mother's Day luncheon at the church because she's got a bad vibe about the people at church and what they're up to.

She's increasingly sort of confused. The things that her kids are saying to her don't always make much sense and lead her to believe that they are in danger. That -- she's increasingly not thinking clearly.

That leads up to the night of the charges when she has a number of conversations with her mother, a phone call that has to do with whether or not people are in a better place once they're deed, about whether or not death is permanent. All of these couched in sort of very heavy religious beliefs. And that's in the early part of the evening.

She then sleeps. She goes to bed. She's sleeping. She wakes up at 4 o'clock in the morning confused, fearful, afraid something bad is happening. And if you've ever really, really been afraid, you know what that feels like. You're not thinking real clearly. It's really difficult. She wakes up fearful, frightened. Something bad is going to happen to the kids. She's in the context of beliefs about them not really dying and being in a better place.

She shoots her husband and children and then tries to shoot herself. Why? So that she can join them in this better place where it's safe and where it's okay. She fails. She's not able to load the weapon properly. She goes out and gets in the car. Why? She's going to Nate's house. I didn't bring up Nate, but Nate is a family friend who stopped by the day before. Scared her to death because he was wearing dark glasses. And for the last couple of months she's been believing if you can't see people's eyes, if they're wearing dark glasses, you can't see their core. And if you can't see their core, they're probably up to something.

So she gets in the car. Why? To go to Nate's house to check the garage because Nate had been over buying something or doing something about fixing his garage. So she went to meet her husband and kids at

the garage. She got to Nate's house. There's all these cars there. She realizes the family is not there and she goes and drives back home and decides to wreck the car.

Based on that, she tells the EMT what she did. You've heard that. She's seen in the emergency room, recognized to be psychotic. Everybody recognizes immediately that she's psychotic. She's delusional. And they put her back on medications fairly quickly.

Based on that, I don't believe that she understood legal and moral right from legal and moral wrong on the evening of those charges, and that's the basis of my opinion.

Q While the things that you've described we know are not real, are not really what was happening, but were they real to her? Was -- while unrealistic and there were no bugs and there was nothing to be paranoid about, was that feeling or those emotions real to her as a result of her mental impairment?

A Absolutely. And her description is so consistent with patients that come into the hospital -- sorry -- and are treated on a fairly regular basis, that pervasive fear that there's somebody under the house, there's somebody watching me from the across the street, there's satellites. It sounds kind of, you

know, it's kind of cliche. But in point of fact they really believe that, and they are scared. That's the real thing.

Paranoia means they're truly afraid. And think about the times you momentarily thought your life was in danger. Everybody has probably been through that. That's how they feel most of the time. That fear, that pervasive fear that something bad is going to happen to them, that's psychotic paranoia.

Q I'm going to ask you, Dr. Mulbry, I'm going to hand you Defendant's Exhibit Number 12 ask you to take a look at that. There's testimony in this record that that photograph was taken on Sunday evening, the Sunday evening before the Monday night, Tuesday morning incident. So that was 24 hours or plus.

A Yes, sir.

Q All right. Does that picture demonstrate the state of mind of Anna Simpson?

A I think it does. What you see is somebody who is distracted. In other words, they're fearful. They're watching what goes on around them because they sense danger. Not sure where it's coming from. And keeping in mind that they're having a hard time telling what is real and what is not because their mind plays tricks on them. And so we call it responding to unseen thoughts

or unseen others. They appeared distracted. And it's because they are. Their thoughts are going a mile a minute in there. Not about what's going on in the room, but about what their fears and disorganized thinking are doing in their heads.

Q Answer any questions the prosecutor might have for you, please.

MR. WILKINS: Your Honor, may it please the court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILKINS:

Q Good morning, Dr. Mulbry.

A Good morning.

Q You've never met me before, have you?

A No, sir. We talked very briefly on the phone but never met.

Q Did I try to call you on Friday or so to talk to you?

A You did.

Q But we never had a conversation about anything, did we?

A That is correct.

Q In your experience as a forensic psychiatrist, do you typically write reports on patients when requested to do evaluations?

A I write reports when the reports are requested. Not typically, no. A fair percentage of my evaluations do not -- I don't write reports.

Q Okay. So people ask you to -- do people pay you to evaluate patients?

A Well, yes. I'm a little careful about the word "patient" because when I evaluate them forensically, they're really not my patient, but I'll use the word "patient." But people do pay me to do evaluations for a variety of reasons other than treatment, and they sometimes don't want a report. They just want to know is this guy okay to go to court.

Q So you're referring to competency?

A That could be one.

Q Okay.

A But I'm oftentimes asked to evaluate people. They don't want -- honestly, I think they either don't need a report, they just want my opinion. And that's not at all uncommon.

Q Notwithstanding competency, because you would agree that your opinion you just gave this jury has nothing to do with competency, correct?

A Correct. It was for criminal responsibility.

Q This is not a competency hearing, is it?

A No, sir.

Q This has to do with criminal responsibility?
A Yes, sir.
Q So when you see an individual and they pay you to see that individual, you sometimes write a report?
A If they ask me to write a report, I write a report.
Q Because you have to tell whoever pays you that money what the results of your analysis is, correct?
A One way or the other. Usually -- sometimes they just want it on the phone, sometimes they want it in writing.
Q So in this case, you just relayed to Mr. Mauldin your opinion over the phone?
A Perhaps a little more lengthy than that, but yes.
Q Are you familiar with the rules of discovery in criminal cases in forensic psychiatry?
A Probably not as much as you.
Q No -- I'm not trying to -- I will concede you know more about psychiatry than I do. But are you familiar with the rules of discovery?
A I hate to say yes because it implies that -- I'm certain that you can ask me a question that I'm not going to know.
Q If you don't know the answer, that's perfectly okay.

A I don't consider myself much of an expert in discovery, no.

Q Do you know if you write a report, that has to be turned over to the other side?

A I knew that was true in civil cases.

MR. MAULDIN: Your Honor, I'm going -- the witness has said he did not write a report so I think the follow-up question on that regarding the court rules is irrelevant on the facts of this case. It may be relevant to the court about conduct, but it has nothing to do with the facts of case or the testimony of the witness.

THE COURT: What's the relevancy?

MR. WILKINS: The relevance is that he intentionally did not provide a report so we wouldn't have the information before trial.

THE COURT: Ask the questions and then the jury can make their determination about whether he withheld the report or whether the lawyer withheld the report. The jury can decide that.

To the extent of my ruling, it's overruled, then we'll go from there.

BY MR. WILKINS:

Q So you never provided a report to Mr. Mauldin?

A I did not.

Q So how much do you charge for these types of evaluations?
A $250 an hour.
Q And so how much in this particular case is your bill, just curious?
MR. MAULDIN: Your Honor, again, that would be irrelevant. He's described what he did. It's irrelevant what he's going to send to the court for approval.
MR. WILKINS: Your Honor, his --
THE COURT: Overruled.
THE WITNESS: Based on my review of the records, interviewing five or six people and three evaluations up here in Pickens, I charged $5,637.
BY MR. WILKINS:
Q $5,600?
A Yes, sir.
Q And do you get paid for mileage to and from Charleston, I assume?
A No. That includes all of the travel time and everything. That's everything I've been paid.
Q Did you consult with any other psychiatrists or forensic psychiatrists in this case?
A No.
Q You did not?

A I did not.
Q Now, Dr. Mulbry, did -- are you familiar with the legal -- you've opined as to her moral or legal right from wrong, whether she had knowledge of moral or legal right from wrong.
A Yes, sir.
Q Are you familiar with guilty but mentally ill?
A I am familiar with it, yes.
Q Have you ever written a report which finds somebody guilty but mentally ill?
A Yes.
Q Can you tell this jury what guilty but mentally ill means?

MR. MAULDIN: Your Honor, I object if the question is for this witness to define it. If Mr. Wilkins wants to ask him if he did an evaluation on it, that's fine. But defining a legal term is for the judge to do, not some witness to do.

MR. WILKINS: He's a forensic psychiatrist, Your Honor.

MR. MAULDIN: So I object to that.

THE COURT: Objection noted. Objection overruled. He's a forensic psychiatrist. He can give his opinion as to what he thinks guilty but mentally ill is.

But, ladies and gentlemen of the jury, I will

charge you the law as it pertains to guilty but mentally ill. Again, this goes to the credibility and the weight of the evidence for you to consider, so I will allow the doctor to answer the question.

THE WITNESS: In South Carolina, this state and a number of other states have a second -- have a second way to evaluate people. If you determine that they did not -- that they did know right from wrong, in other words, I opined it's my opinion she did not know right from wrong. She did not. But there have been other people in other situations that did know right from wrong, but their mental illness interfered with their ability to conform their behaviors. And in South Carolina, there is a classification for that. It's called GBMI or guilty but mentally ill. But it assumes from the outset that they recognize right from wrong, that they understand right from wrong, which is not the case here. She did not know right from wrong, so I did not do an evaluation for GBMI.

BY MR. WILKINS:

Q So guilty but mentally ill means they have a mental illness. And in this case she was diagnosed with bipolar disorder, according to her treating psychiatrist --

A Correct.

Q -- Dr. Jeff Smith?
A Right.
Q She was seen at St. Francis and diagnosed with bipolar disorder in 2012?
A Correct.
Q And then Dr. Jeff Smith continued to treat her subsequent to that?
A Correct.
Q She was treated for bipolar disorder at the Carolina Center for Behavioral Health in August of 2012 as well?
A Yes.
Q So she has a diagnosis of bipolar disorder?
A No. In my opinion she has --
Q In 2012 --
MR. MAULDIN: Objection. He's interrupting.
THE COURT: Let him answer the question.
Go ahead, sir. Answer the question.
THE WITNESS: I think if you talk to her friends and you talk to her family, they're going to describe to you that even in periods during that year, from 2012 to early 2013, that even when she was calm and not depressed and not manic, she was having significant thought disturbance. She was paranoid and delusional. People repeatedly, repeatedly describe it. Now --

BY MR. WILKINS:

Q Dr. Mulbry, if I could just stop you right there. If you could just answer my questions, I would appreciate it. And you can explain your answer once I ask you the question.

A Okay.

Q Is that okay with you?

A Yes, sir.

Q All right.

In 2012, when she went to the St. Francis ER, she was diagnosed with bipolar disorder?

A I believe that's true.

Q Okay. Would you like me to refer to the records?

A I believe it's true.

Q You agree with that, okay. Guilty but mentally ill means that somebody has a mental illness, correct?

A Yes.

Q And it means that they can have attributes of that mental illness, correct?

MR. MAULDIN: Your Honor, let me object.

THE COURT: Sustained.

Move on.

MR. WILKINS: Your Honor, what was the improper -- I don't know what the objection was.

THE COURT: Y'all approach.

(WHEREUPON, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Okay.

MR. WILKINS: All right.

Q All right. Dr. Mulbry, your job as a psychiatrist, forensic psychiatrist, was to evaluate Ms. Simpson, correct? And you were contacted in February of 2014?

A That's correct.

Q Okay. So that would be, what -- and when did you actually see Ms. Simpson?

A First time was on March 19, 2014.

Q So in March, so about nine months after -- after the incident?

A Yes, sir.

Q So you meet with her nine months later after all this has happened?

A Yes, sir.

Q And then it's your job to talk with her and review records and then come to a conclusion about your opinion?

A Yes, sir.

Q And you have to do that well after the fact, nine months later?

A That's how it works in this case, yes.
Q When you met with her, was she delusional when you met with her in March of 2014?
A Subtly. She still had some paranoid concerns. I was sort of struck with it. Not bad, not bad. They have been largely treated. They were largely under control. But, no, she had some kind of residual paranoid beliefs.
Q You were able to speak with her, weren't you?
A Oh, yes.
Q You were able to have a conversation with her?
A Absolutely, yes.
Q Was she able to respond to your questions?
A Yes.
Q Did you -- and you met with her a total of three or four hours over three days, three different days?
A No, sir. I met with her a total of about nine.
Q Nine hours?
A Eight or nine hours.
Q Over three days?
A Over three days.
Q And during that time, you never had any problem getting her to explain things to you? She was able to respond to your questions?
A No, that's not true. She's a little -- I mean, I

can give you examples if you want. She's a little bit disorganized. Again, trying to -- when you're asking questions about what happened nine months ago. If I ask her how she feels today, she's pretty okay. I mean, that was not an issue. Trying to get sort of a historical narrative about what happened in and around those weeks and months leading up to the charges and on the evening of the charges actually took a little bit of work because she still jumps a little bit.

Something that she'll say will remind her of something else that happened. And so, no, it was not -- it was still a little disorganized, still a little paranoid. I noticed it particularly in June. A little bit in May. I thought it was much better when I saw her a year later.

Q She was not legally insane when you met with her in March of 2014?

A I -- I can't answer that question.

MR. MAULDIN: I'm not sure, Your Honor, if he's asking this doctor to define legal insanity or mental insanity.

THE COURT: Rephrase your question.

I understand the question.

BY MR. WILKINS:

Q Did she know right from wrong on March 2014?

A I didn't assess for that.
Q All right. Fair enough.
A I did ask her -- I did ask her if she thought that harming her children was wrong, and she later, at the time I evaluated her, she did recognize that it was wrong.
Q So -- okay. So it's fair to say she did know right from wrong March of 2014?
A Yes.
Q And in subsequent meetings that you had with her?
A Yes.
Q When she was -- did you ever contact her treating psychiatrist, Jeff Smith?
A I did not.
Q Did you not think that it would be a good idea to talk to the person who was actively treating her during this time?
A I had all of his office notes to go by. I used those.
Q At no time did Dr. Jeff Smith find her in a state of delusion or psychosis, did he?
A He did not find that, no.
Q And he was meeting with her on a regular basis?
A Yes.
Q And, in fact, he met with her February of 2013?

A February 16th, I believe.
Q Three months before -- approximately three months before the incident?
A Approximately.
Q Okay. And there's no notation of any homicidal thoughts or suicidal thoughts by him?
A Not in the notes, that's correct.
Q Not in the notes. If someone is diagnosed bipolar, that doesn't necessarily mean they don't know right from wrong, correct?
A Who? They're all different things. Bipolar is a clinical diagnosis. People who are bipolar can not know right from wrong.
Q Sure.
A But it's a separate -- it's a separate assessment.
Q But you can very easily be bipolar and know right from wrong?
A Yes.
Q All right. Dr. Mulbry, when she went to St. Francis in 2012, she voluntarily went there, correct?
A With her family, yes, I believe so.
Q With her mother?
A Yes.
Q And then her husband joined her --

A Yes.
Q -- there?
All right. And she was assessed while in the ER by a treating psychiatrist?
A Yes, sir.
Q And they noted a number of delusions that she was having. There's no notation of any hallucinations in there?
A That's correct. It was mostly delusions and paranoia.
Q And her delusions were basically limited to fear for her children; is that correct?
A Yes -- not limited to. But that was the one, that was a prominent one.
Q The prominent delusion was fear of her children being molested by her mother-in-law?
A That was.
Q Or being groomed for a sex act by her mother-in-law?
A That's correct.
Q And that was -- that was her paranoia emanating out to the doctors, that was what she was describing to the doctors?
A Her family mostly described, but yes, she also talked about it, yes.

Q She -- Dr. Mulbry, she specifically described it to the registered nurse on two separate occasions regarding that prominent delusion; is that correct?
A That's the most prominent one, correct.
Q And, in fact, Dr. Craddock, who saw her, said that she was stabilized and improving significantly during her stay?
A I'm sorry. Repeat that.
Q Dr. Craddock, who discharged her, said she was stabilized and improving during her stay?
A After -- right. At the end of three or four days, yes.
Q And, again, I think you would agree she went in on July 31st --
A 29th.
Q 29th and discharged on?
A August 5th, I believe.
Q 3rd.
A 3rd, I'm sorry. It is August 3rd. August 5th she went into the hospital.
Q That's right. And her husband was at the emergency room with her some of that time, wasn't he?
A Yes.
Q And then she went home for two days?
A I believe -- yeah, that's correct.

Q And then voluntarily went to the Carolina Center for Behavioral Health?
A Yes.
Q For follow-up treatment. And she went there for follow-up treatment for bipolar disorder; is that correct?
A She went to the hospital -- wouldn't be follow-up treatment. The hospital.
Q Continued treatment?
A Continued treatment, yes, sir.
Q That's fair. She went to -- she voluntarily went to the Carolina Center for Behavioral Health for continued treatment for bipolar disorder?
A Correct.
Q And at the Carolina Center for Behavioral Health she was treated for three days for bipolar disorder?
A Correct.
Q And while there, she went over, and they did a family member assessment of the patient while she was there in 2012, correct?
A Yes.
Q Okay. They did a family assessment. They had Mike Simpson do a family assessment as well?
A Yes, sir.
Q And then they do a pain -- treatment plan for her

as well. They do an after care education plan for her as well. So she's educated on her bipolar disorder at this time?

A Yes.

Q And she's taught how to deal with her bipolar disorder?

A Yes.

Q You previously testified that you can't cure it with a shot like the flu, correct?

A Correct.

Q But you can treat bipolar disorder?

A Yes.

Q And, in fact, there are millions of people in this country that are treated for bipolar disorder every single day?

A Yes.

Q And, in fact, she received after care education on her bipolar disorder at the Carolina Center for Behavioral Health?

A Yes.

Q And that would -- you would agree that would include going to group sessions, managing your medication, talking with your family about your disease?

A I'm not sure about the group sessions, but it

would typically involve taking your medications, talking to your family, the latter things would typically -- I don't know -- my memory is not with that. I don't remember what that treatment thing said. I just can't remember off the top of my head. But, typically, they would say that. They would say take your medications, talk to your psychiatrist, talk to your family. I don't know about groups.

Q And real quick. She's also diagnosed with attention deficit disorder?

A She has been in the past. I believe that once -- the current diagnoses probably preclude the older diagnosis of ADHD.

Q She was on Adderall at the time of this incident?

A Yes.

Q And she had been on Adderall for many years prior to this incident?

A Yes.

Q So she was being treated for attention deficit disorder for many years?

A Yes, sir. Yes.

Q And she constantly -- constantly. But when she would meet with her physicians or her doctors, the family -- Pelham family practice doctor who put her on Adderall, as well as Psychiatrist Jeff Smith who

continued her on Adderall, complained of her inability to keep her thoughts, keep her focus, and get things done; is that correct?

A Correct.

Q And, now, those are symptoms of attention deficit disorder, are they not?

A They can be, yes.

Q They can be, okay. And she -- her attention deficit disorder required her to take 20 milligrams of Adderall in the morning; is that correct?

A She was on a variety of different doses, but that would be a typical dose that might be used.

Q 20 milligrams in the afternoon, and ten milligrams at night. So 50 milligrams total throughout the day.

A Yes, sir.

Q And Adderall, what is Adderall?

A Adderall is a, if memory serves me correctly, is a mixture of amphetamine salts. It's long acting. Most stimulants are short acting. Adderall is designed specifically to last longer. So it was a long-acting stimulant.

Q Is it amphetamine?

A Amphetamine.

Q And individuals who have attention definition disorder, is it akin to their brains firing in

different areas of their head at the same time and they need something to kind of calm it down so they can focus on something?

A Not very well understood. I hesitate just to say that empirically stimulants appear to be an effective treatment for ADHD.

Q Millions of Americans are on stimulants?

A Many, many, many, yes.

Q It's not an uncommon drug to be prescribed by family practice doctors or psychiatrists?

A Correct.

Q Now, back to the Carolina Center for Behavioral Health. I'm going to show you and you have reviewed these records, correct?

A I have.

Q And I'm going to show you a document, and you can read this document and then you can -- this is -- I need to mark it.

(WHEREUPON, State's Exhibit Number 89 was marked for identification.)

MR. WILKINS: State's Exhibit 89 for identification purposes only.

Q Do you recognize this document? Is this one of the documents that you reviewed?

A Yes. I believe I remember this.

Q All right. And what is that document?
A This is a physician progress note.
Q And what is her progress while at the Carolina Center for Behavioral Health?
A This is dated August 8, 2012, so this would be on the date of her discharge, and it indicates -- the part you've marked here?
Q Sure.
A "In good spirits. Not as hyperverbal. Mood good. Affect bright. No mention of concerns regarding kids. No SI, HI, AVH."
Q What does that mean?
A SI, suicidal ideation. HI is homicidal ideation. And AVH is auditory or visual hallucinations.
Q So it's fair to say she's not having any suicidal ideations, homicidal ideations, or any visual ideations?
A It's fair to say she denied them at that time, yes.
Q Are you suggesting that she would lie?
A No.
Q Okay. All right. So in 2012, when she leaves the Carolina Center for Behavioral Health, it's fair to say that she has -- she was successfully treating her bipolar disorder based on the physician's report?

A She was improving in the treatment of her schizoaffective disorder, yes.
Q Dr. Mulbry, at this time, in 2013, had anybody diagnosed her with schizoaffective disorder?
A No, not to my knowledge.
Q So in 2012 she leaves the hospital, and she continues to be under the care of a psychiatrist?
A Yes.
Q And that psychiatrist is Dr. Jeff Smith?
A Correct.
Q And he sees her throughout, until March of 2013?
A February 16th.
Q February of 2013. All right. Dr. Mulbry, you explained to this jury the story -- not the story, the statement of Anna Smith -- Anna Simpson on the day of May 13th and 14th. You told this jury what she told you happened on May 13th and May 14th of 2013?
A Yes, correct.
Q On May 13th, 2013, you said she went and got her kids out of school?
A That day or the day before. I want to be careful.
Q Yeah, May 13th.
A Okay.
Q You said she got her kids out of school?
A I think one had stayed home ill. She became

concerned, I believe, is when she went and got Carly, if memory serves me correctly.

Q That's correct. That's what you testified.

A Right.

Q But you were testifying in terms of that she was in a psychosis?

A She was -- she did that based on false -- on delusional thinking, paranoid delusional thinking.

Q And she did that through lying to the school about why she was getting her child out, correct?

A I believe -- yes. I believe she told them -- yes, I believe that's true.

Q So you believe she manipulated the school in an effort to get her child out? She lied to the school about the reason she got her children out?

A She -- correct.

Q And she came home and she saw Nate Stegall?

A Yes.

Q And was with him for about 30 minutes that afternoon?

A Correct.

Q And then she proceeded to have phone conversations with her mother-in-law and her mother that night?

A Yes.

Q And she has a phone conversation with her

mother-in-law about why do they not come over more? Why are they not around more?

A Right.

Q And is it your opinion she -- does she know right from wrong at that point in time?

A I didn't assess that.

Q Okay. So you just assessed it 12 hours later?

A Correct. It is that, yes. I --

Q So you assess it at a specific moment. You can't assess it six hours earlier or six hours later, just that specific moment?

A Yeah. It is most likely that at that time she would not have. But, no, it is that specific, and it's that specific because it all happened at 4 o'clock in the morning. In other words, the timing, the timing here may be fairly critical. What -- eight hours earlier her mood may have been different. It is entirely possible that how we are at 6 o'clock in the evening is not the same as we are at 4 o'clock in the morning. And so I do think time matters here. It is a significant factor in this case.

Q Did she know right from wrong when she called -- so you can't say whether she knew right from wrong --

A I don't know.

Q -- when she called her mother and asked -- her

mother-in-law and asked her why she is not around as much?

A I can't.

Q Did she know right from wrong when she called her mother and said John -- "Michael and I are doing great. We're going to talk to his parents"?

A That's the earlier phone call.

Q That's the earlier phone call.

A I -- again, I -- I don't know.

Q Did she know right from wrong when she called her mother-in-law -- I mean her mother back and said, John -- "Michael and I are through. He's through with me. He says I can't take care of the kids"?

A There's -- in one of those phone calls, there was a long discussion -- there are a couple of discussions that are really germane --

Q Dr. Mulbry, if you could just answer my question.

A Which is?

Q Did she know right from wrong when she --

A Based on information that you're not providing, I think I'm not sure she did, but I probably would have a difficult time saying. There are other parts of that conversation that lead me to believe that her thinking was disturbed at that time. And so I have concerns about it. But I'm talking about what happened at

4 o'clock in the morning that morning.

Q Did she know right from wrong when she woke up and obtained a .22 pistol and loaded it?

A I don't believe she knew right from wrong at that point.

Q Did she know right from wrong when she walked past both her children and into her husband's room and shot him?

A No.

Q Did she know right from wrong when she cut the alarm off to leave the house?

A No.

Q Now, if she didn't cut the alarm off, what would happen?

A I assume the alarm will go off.

Q Logical conclusion.

A Yes.

Q When she is met by -- you read the report. You read the statements of Scott and Amber Hart, correct?

A The neighbors?

Q The neighbors.

A Yes. My memory is a little unclear about them, but --

Q Okay. Did she know right from wrong when she recognized Scott Hart?

A No.
Q Did she know right from wrong when she said, "My back hurts. Don't leave me"?
A No.
Q Did she know right from wrong when she was concerned about her own well-being?
A No.
Q Did she know right from wrong --
MR. MAULDIN: All right. Your Honor, at this point I would object because now it becomes irrelevant as to this case. The question is right, wrong at the time of the event. And we could go on with another right or wrong questions for the rest of the month, and it's not relevant.
THE COURT: Okay.
Solicitor.
MR. WILKINS: Okay. One more question, then I'm going to move on, Your Honor.
THE COURT: Okay.
BY MR. WILKINS:
Q When she cuts that alarm off, is that not suggestive that she does not want to be detected by anybody?
A Or that she simply doesn't want the alarm to go off. It could suggest that. I guess it could suggest

that.

Q That suggests she's avoiding detection?

A There are a variety -- it could also be habit. It could also be sheer habit of shutting the alarm off when you walk out of the house. I'm not sure I'm willing to make the jump to that being a purposeful, thought-out avoid detection. That has implications that I don't think I agree with.

Q All right. Dr. Mulbry, have you read the notes of Dr. Wade Harris, the ER doctor?

A Carolina -- yeah.

Q And you would agree that Ms. Simpson remediated relatively quickly once she was arrived to the ER?

A No, I don't know that I would agree with that. I think it took two -- at least two to three -- it took two or three days and her delusionality didn't resolve until at least over in the hospital. It didn't for a week. She was still delusional at Carolina Behavioral Health.

Q No, no. I'm talking the day of the incident.

A Oh, I'm sorry.

Q Yeah, the day of the incident, yeah. So on May 14th, she goes to Greenville Hospital System.

A Okay.

Q She's seen by Dr. Wade Harris, and he's the ER

psychiatrist?

A Yes.

Q Along with she has an orthopedist doctor, and she remediated within 48 hours of her psychosis?

A Give me one second. I just don't have anything from -- maybe I didn't write that down. But I don't have that in my notes. I'd have to go back through the ER -- the records from Dr. Harris. I'm not saying that it isn't true, I just don't that have in my notes and so I don't know that I --

Q And you would agree it is very atypical for an individual to remediate that quickly if they are in a full-blown true psychosis?

A No. I'm not sure that I would agree with that. I think it is a little on the -- it is relatively rapid, but keeping in mind that "remediate" simply means you don't see the external symptoms, and so it doesn't tell you what's going on in people's minds and particularly when they are keeping their bizarre thoughts to themselves. So I'm not comfortable saying she remediated quickly. It could be somewhere in the records that I'm just not aware of, but that was not the impression I came away with when I read the records at all.

Q Can Adderall, overuse of Adderall, cause a

psychotic episode?

A Gross overuse, yes.

Q No further questions.

MR. MAULDIN: Just a couple, Your Honor. Very short.

THE COURT: Okay.

REDIRECT EXAMINATION

BY MR. MAULDIN:

Q Dr. Mulbry, Mr. Wilkins asked you extensively about a report. I just simply want to make sure this jury understands. When I contacted you and asked you to evaluate my client, did I ask you to create a written report to me about that evaluation?

A No, sir.

Q Did I ever, during the time you have been working on this matter, ever ask you to produce to me for any purpose a written report about this evaluation?

A No, sir.

Q I did meet with you personally and discuss your findings?

A Yes, sir.

Q Did we have numerous telephone conversations with your findings?

A Yes, sir.

Q All right. Mr. Wilkins asked you about the money

in this case. When you -- you're a professional. You work for a living, right?

A Yes, sir.

Q All right. When somebody asks you, you expect to be compensated, do you not?

A Yes, sir.

Q Does your compensation have anything to do with the outcome of this -- the results of this case?

A Absolutely not.

Q And do you understand that when you send a bill or an invoice, the circuit judge has to review it and approve it before it is submitted to the State of South Carolina for payment?

A Yes, sir.

Q And did you understand that from the beginning?

A Absolutely.

Q All right. Now, Mr. Wilkins asked you whether Anna was essentially psychotic in March of 2014, nine months after the incident when you first met with her. He asked you about her condition?

A That's correct.

Q Do you understand or is it your understanding that from almost immediately after this incident, Anna began to be provided psychiatric treatment every day in the jail, in the county jail, and that that psychiatric

treatment has continued until this very day?
A Yes, sir.
Q Is that your understanding?
A Yes, sir.
Q During the entire time this matter has been pending, she has been under constant psychiatric treatment including appropriate medications?
A Absolutely.
Q And you actually had access and reviewed those medications?
A That's correct.
Q Mr. Wilkins asked you about the St. Francis hospitalization. And I'm going to ask you, talking about progress notes, I'm going to show you one of the progress notes and just ask you if you had an opportunity -- and I will point out this highlighted section. That's the section I'm going to read.
A Yes, sir. This is the consult note by Dr. Craddock dated August 2nd. She went in on the 29th. This is the date of August 2nd. It says, "Patient has continued to be psychotic. She is paranoid. Her associations are loose. She was able to sleep last night. She's not agitated. Continues Seroquel and commitment." In other words, she was held involuntarily.

Q All right. So this progress note from those records indicates that Anna was psychotic?
A And I've got in my notes that someone said because of her psychosis, she's dangerous, considered dangerous.
Q That she was dangerous?
A I've got that in my notes.
Q Out of those same records, right?
A Yes, sir.
Q All right.

Hang on. My boss is over here signaling me.

MR. MAULDIN: All right. I think that's it. Thank you, sir.

THE COURT: Any recross based upon redirect?

MR. WILKINS: Just briefly.

RECROSS-EXAMINATION

BY MR. WILKINS:

Q In those St. Francis notes, it specifically states on a number of occasions she has no suicidal ideations or homicidal ideations, does it not?
A Yes, it does.
Q That's contrary to her being dangerous, correct?
A No. No, not at all.
Q You said --

No further questions.

THE COURT: All right. Thank you, sir. You can step down.

Ladies and gentlemen of the jury, let's take our midmorning recess. Do not talk about the case, okay.

(WHEREUPON, the jury exited the courtroom at 11:34 a.m.)

THE COURT: Do y'all need him anymore?

MR. WILKINS: No, I don't need him.

MR. MAULDIN: He can be excused.

THE COURT: You're excused. Thank you, sir.

(WHEREUPON, recess taken from 11:34 a.m. to 11:52 a.m.)

THE COURT: Anything before we bring the jury in?

MS. STROM: Not from the State.

THE COURT: You think about 1 o'clock?

MR. MAULDIN: This witness, I would say just for protection, is probably going to be about the same length as the previous.

THE COURT: So we can take a lunch break, then, after this witness. Okay.

(WHEREUPON, the jury entered open court at 11:53 a.m.)

THE COURT: All right. All members of the jury are present.

Mr. Mauldin, you may call your next witness.

MR. MAULDIN: Thank you, Judge.

Dr. David Price.

DAVID PRICE, Ph.D.,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: If you would have a seat and state your name for the record, please.

THE WITNESS: David Price, P-r-i-c-e.

And, Your Honor, before I get started, could I get a glass of water?

THE COURT: Absolutely. How about a bottle?

THE WITNESS: That's even better. Thank you, sir.

DIRECT EXAMINATION

BY MR. MAULDIN:

Q Dr. Price, where are you from?

A I currently live in Greenville, South Carolina.

Q And are you planning for that to change?

A I recently purchased the old Bill Farm on Jones Mill Road in Central.

Q Is that Pickens County?

A That is in Pickens County.

Q All right. You intend to move there, build a house there, or what's your plan?

A That will be the last place I live.

Q What kind of work do you do?

A I am a forensic psychologist, clinical

psychologist, and neuropsychologist.

Q Are you licensed to practice in South Carolina in those fields?

A In South Carolina we just license psychologists. So I am licensed to practice in those fields, but I have just one license.

Q I want you to describe your educational background to the jury.

A I received my undergraduate degree from Clemson University. I have since paid for four other Clemson degrees since then. I received my master's and doctoral degree from Auburn University. I did my internship at the University of Pittsburgh, University Drive VA Hospital in Pittsburgh, Pennsylvania.

Q And, once again, your degrees are?

A I have a bachelor's degree in psychology and a master's and doctoral degree in clinical psychology.

Q And can you describe to the jury your work experience, just kind of in a nutshell, not everything you have ever done, but in a nutshell, give an idea of what kind of work you do.

A After my training, I was employed by the South Carolina Department of Mental Health before joining a private practice in Greenville, South Carolina, which was a general treatment practice. And then beginning

in 1990, I reduced my practice to forensic issues.
Q And the jury, by a previous witness, Dr. Price, has been brought to speed on what it means -- what "forensic" means, but I want you to just very, very briefly please just mention to the jury when you say you have a forensic practice, what does that mean?
A Well, my practice is a little bit different from Dr. Mulbry's. I -- basically, forensic means whether it's forensic accounting or forensic psychology, that you take the knowledge and research of that field and apply it to legal questions. My practice, while I have a significant criminal practice, I also have a significant civil practice in which I evaluate people with mental injuries or brain injuries or things of that nature. And I also consult with business and industry by doing fitness for duty evaluations in which an industry field, they have an employee that's a danger to themselves or others, they will refer them to me for an evaluation. And then I do consult some with probate court and family court. That's a very minor part of my practice. I evaluate people for disabilities, things of that nature.
Q Do you find yourself making presentations to various audiences, and if so, could you describe the types of audiences you might be speaking to?

A I lecture nationally, and I lecture on topics of some criminal issues, psychological injuries, brain injuries, posttraumatic stress disorders, and on the evaluation of malingering which means the feigning of disorders. And, basically, I have lectured to everybody from the NAACP to State Farm to the Justice Department. I've got like, I don't know, 28 pages of presentations on my CV.

Q With regard to your CV, I want to ask you to identify -- well, I haven't got a number here.

(WHEREUPON, Defendant's Exhibit Number 14 was marked for identification.)

BY MR. MAULDIN:

Q I'm going to ask you if you can identify what's been marked as Defendant's Exhibit 14.

A That's a copy of my current CV, or some people would know of it as a résumé.

Q This is a summary of education and so forth?

A Summary of education, work experience, presentations, and publications.

Q All right.

MR. MAULDIN: Offer this.

MR. WILKINS: Without objection, Your Honor.

THE COURT: Without objection, introduced as Defendant's Exhibit next in order.

(WHEREUPON, Defendant's Exhibit Number 14 was admitted into evidence.)

BY MR. MAULDIN:

Q Have you been qualified to testify in the courts of South Carolina for both the prosecution and the defense as an expert in the field of forensic psychology, clinical psychology, and neuropsychology?

A Yes, sir, I have.

Q All right.

MR. MAULDIN: Your Honor, we would offer --

Q Or how many times, Dr. Price? Can you estimate?

A I've been qualified to testify in probate court, family court, civil court, general sessions court, federal court hundreds of times. I've never not been qualified.

MR. MAULDIN: I offer Dr. Price as an expert in the fields of forensic psychology, clinical psychology, and neuropsychology.

THE COURT: Any further voir dire by the State?

MR. WILKINS: No voir dire, Your Honor.

THE COURT: All right. Thank you. He's so qualified, then, as an expert in the field of forensic psychology, neuropsychology, and clinical psychology.

And, ladies and gentlemen, remember what an expert can do.

BY MR. MAULDIN:

Q Dr. Price, did I contact you about Anna Simpson's case?

A Yes, sir, you did.

Q And before we speak specifically about her case, I want to ask you if it was your understanding that any fees, costs, or expenses incurred regarding your involvement in this case had to be submitted to the circuit judge for approval before being submitted to the State for payment? You understood that?

A Yes, sir.

Q All right. And that that payment had no connection with win, lose, or draw in this case?

A That's correct. It was payment for my time.

Q All right. When I contacted you about Anna's case, did I ask you to meet with Anna and evaluate her on the matter of criminal responsibility in this matter?

A Yes, sir, you did.

Q And that would be her ability to distinguish right from wrong on May 13th and 14th of 2013; is that correct?

A That's correct.

Q All right. When you were asked by me to do that, what does that evaluation entail from your work point

of view?

A You know, it's an important question that takes a lot of attention to detail to answer. What that requires is I was -- I think you contacted me in May of 2014, which is basically a year after this happened. So to evaluate her, you have to evaluate her historically, meaning prior to May 2013, and then evaluate her after that, and then try to do an evaluation using all that information on what occurred on May 13th, 2013.

Q Did you have the opportunity in that evaluation to review records?

A I reviewed hundreds if not thousands of pages of records. I've got a summary, a ten-page summary, that lists every record or anything I did in this case. So I reviewed endless records.

Q All right. And why is it important that you have an opportunity to evaluate and look at the history records of an individual when you're asked to do an evaluation like this?

A One of the reasons we look at the history of records is to see if a mental health -- a mental illness had been present before an incident in question, how long it had been present, how it manifested itself, and also the track it takes over

time. Does the injury -- does the illness follow a pattern we would expect that illness to have?

And to put that in contrast, if you've been diagnosed with an adjustment disorder with depressed mood, for example, very common mental disorder, it occurs within three months of the onset of a stressor and remits within six months, so we would not expect to see that. If you have a diagnosis such as schizophrenia that was made, say, in 1998, we would expect to still see some signs of that from the 18 years since then. Because they do wax and wane, but you would certainly see signs of that, and you look for its development.

Q So in the review of the records, it to some extent depends upon what the records reflect and whether they are consistent and ongoing depending upon what the condition is?

A That's correct. When we look at a significant mental disorder, one of the things we look for is that generally they have their onset or they start showing signs between the ages of 18 and 28. Sometimes 30. But we look in that range. So I would not expect a 35-year-old to walk into my office with a diagnosis of schizophrenia with no history of mental illness prior to that. If that's the case, then there's probably

another explanation for those symptoms.

Q Did you have an opportunity in this evaluation to not only -- not only review records but also meet with Anna personally?

A I met with Anna on nine different occasions, so I've spent a number of hours with Anna. I would estimate somewhere between 18 and 24.

Q And why do you feel like that is important for your -- and understanding that people, different people do it different ways, but why is it that you feel like that type of exposure to the individual is important for your opinion?

A Well, mental disorders tend to wax and wane, so if you see them over a number of times, you're likely to see a difference in their functioning. Also in complex cases -- and this is a case of somebody that was known to have paranoia and has often been assessed with having paranoid ideation, paranoid psychosis -- it takes a while to develop their trust and get them to open up to you and talk. The other reason you do it is one of the things that's important to everybody in this courtroom is the veracity of what she says and what the records say. And the best way to assess for that is to see them over time and get a good example or good feel for their honesty and how what they say matches up with

the records that you know and things of nature.

Q After -- did you have what you believed to be an adequate opportunity to meet with the client and review the records to form an opinion?

A I actually did more than that. I met with the client, I reviewed the records, I interviewed her parents together and individually, I interviewed her treatment providers, Jeff Smith and Wayne Hanna, so I had a very good feel.

Q All right. Now, within your field of expertise, to a reasonable degree of medical certainty, were you able to form an opinion as to Anna's ability to distinguish between right and wrong conduct at the time of this incident?

A I did.

Q And what was your opinion?

A I felt that she was not able to differentiate between right and wrong, moral right and wrong, or legal right and wrong on the night in question.

Q All right. I want you to take a few moments and explain to the jury why you believe that opinion is correct.

A Anna Simpson began to have mental symptoms while she was at Winthrop. And what we look for when we look at a significant disorder is oftentimes we have what's

called a prodromal period. And that means the person starts deviating from their baseline and gradually gets worse over time until they have a psychotic episode or major episode.

So one of the things you look for is that. And, generally, once they have had a psychotic episode, then they stay in what we call a residual phase, meaning they never get back to who they were. They can improve in functioning. They never get back to where they were, and those disorders tend to wax and wane until when you'll have another episode.

So in looking at her, I felt that there was no question about her psychosis. There's no question about her delusions. There was no question about her paranoia, and that she was acting under the presence of a significant delusion on the night in question when she shot her husband and killed her two children.

Q Was there -- and you were describing how you would be on a certain level and then you would drop and then you'd stay on that level and drop. Was there a noticeable and consistent pattern in your opinion from your review and your interviews with her, her psychiatrist, and others that there was a noticeable disintegration of her capability? And I don't know if that's a noticeable decline in and an increase in the

psychotic side of Anna Simpson.

A It was. You know, in talking with her, she began to show signs of the bipolar disorder when she was at Winthrop when she had a pretty significant depressive episode. She also indicated at that time that she started having some racing thoughts, some difficulties financially with spending sprees and some voices.

Now, that continued. She was receiving treatment. She's receiving treatment from her family practitioner, Dr. Wayne Hanna, who was treating her for attention deficit hyperactivity disorder, which she brought to the attention of herself when she was at Winthrop because she was just disintegrating. Started getting treated for that, and then started getting treated for depression.

And by the time in 2008 she starts being diagnosed with a panic disorder and an obsessive compulsive disorder. Sort of interesting, in a lot of times in bipolar disorders, particularly when they're manic, there's some obsessive compulsiveness to them. I think the panic disorder was related to the fearfulness and the paranoia. A lot of times when people are paranoid, they can have some anxiety.

I think Dr. Smith wound up, when she made her way over to see him in 2010, he diagnosed her with bipolar

disorder mixed type, meaning she's showing signs of both mania and depression, but also diagnosed her with the ADD and the anxiety disorder not otherwise specified.

Q Did you have an opportunity to review Dr. Smith's records and also have an interview with Dr. Smith about this patient?

A I had time to meet with Dr. Smith, I have reviewed all of his records and had time to talk about Anna, his treatment, things that happened. And as part of reaching my opinion and actually, well, within that meeting, Dr. Smith agreed with my opinion.

MR. WILKINS: Objection, Your Honor. He's about to opine as to what another doctor has -- diagnosis or --

THE COURT: Objection as to hearsay.

MR. MAULDIN: Well, the evaluator obviously talked to tens of people, that he is relating what they told him about the person being evaluated. I don't know how --

THE COURT: Is this something that was contained in the records?

THE WITNESS: It's what he told me directly, Your Honor.

MR. WILKINS: It's not in his medical records.

It's what he told him.

THE COURT: All right. Objection sustained.

BY MR. MAULDIN:

Q Don't say what Dr. Smith told you unless it actually is contained in Dr. Smith's records. Okay?

That continuation of that treatment was from 2010 until essentially she was still a patient of his when this incident occurred; is that right?

A That's correct.

Q All right. I want you to go forward to the date of or the dates of late July 2012. Was she a patient of Dr. Smith at that time? This would have been the time of the St. Francis hospitalization.

A Yes, sir.

Q All right. What can you tell us about what your evaluation indicated caused that hospitalization and whether it was voluntary, involuntary, or whatever, and for what?

A Well, actually, what had happened, to lead into that, is that she had gone to Asheville with her family. It was clear that she was manic. She was having these illogical discussions about various things. They wanted her to spend the night with them. She said no. She went home, then about midnight called them and said put the lights on, she was going to come

over there. It was obvious that she was having problems.

They called Dr. Smith's office. Dr. Goodbar was on call, who told them to take her to the emergency room. They took her to the emergency room at Bon Secours St. Francis which led to her being hospitalized for five days at St. Francis.

Q All right. And so the actual initiation of the hospitalization was that Anna's family called her treating psychiatrist, Dr. Smith?

A That's correct.

Q And the doctor that was on call told her family to take Anna to the emergency room immediately; is that right?

A That's correct.

Q Is that what the records reflect?

A I didn't --

Q And the interviews?

A The records and interviews reflected that, but there's no reflection in Dr. Smith's records about the St. Francis hospitalization. The only reference I saw in his records related to the Carolina Center for Behavioral Health. Subsequent admission was the admitting doctor at Carolina Center for Behavioral Health called his office to refer Anna back to a

therapist.

Q So there's no reference to the St. Francis hospital directive that they take her to the emergency room. That's -- you didn't see that in there?

A I didn't see that.

Q All right. Then what happened with her while she was at St. Francis?

A While she was at St. Francis, she actually saw three different psychiatrists. She saw Dr. Mario Galvarino, I think she saw Dr. Rick Myers, and she saw Dr. Jeffrey Craddock. They had -- they were so concerned about her at St. Francis, St. Francis kept a security guard in her room the whole time they were there.

The interesting thing about that is I'm not sure why they just didn't enact an involuntary commitment at that point if they felt the need to have her under that supervision. But she was delusional, had paranoid ideation, she had flight of ideas, which is real common in bipolar. The ideas are real jumbled up and they are hard to differentiate them. She had delusions, as we heard from Dr. Mulbry of her children being molested. She thought that she had some special powers, delusions of grandeur about being able to sense others. You've seen some of that with she didn't like people to wear

sunglass because she needed to see their eyes so she could see their core and then she felt she could evaluate who they were, good and evil, by being able to do that.

You know, while she was there, she had diagnoses of the bipolar disorder, but they also diagnosed her with a psychotic disorder. It's sort of interesting, and there's a number of ways to do diagnoses. When we talk about a schizoaffective disorder, which is what I ended up diagnosing her with as did Dr. Mulbry, we're saying that she has symptoms of schizophrenia and of a mood disorder, in this case a bipolar disorder. She's psychotic. Well, you could diagnose her as bipolar disorder and then psychosis, which is what Dr. -- what is what they did on her admission at St. Francis. Dr. Galvarino referred she needed -- that she was overtly psychotic and referral to inpatient hospitalization. And then, ultimately, when she went to Carolina Center for Behavioral Health, they diagnosed her with bipolar disorder with psychotic features. So people were seeing that she had this psychosis going on during that period.

Q And, you know, I'm going to ask to break just a moment and let's kind of define. When you're using a term like "psychosis" or "psychotic," can you give the

jury just a two-sentence -- and it may be impossible -- but just a little two-sentence definition of kind of what that reference to that term would mean?

A It's a broad term. In a nutshell, being psychotic is having a break with reality. No perception of reality. It can come as a number of things. You could have hallucinations, you could have delusions, you could be engaging in aberrant behavior. You know, it is a broad term. But it really means that the person mentally is in significant trouble and doesn't see the world like everyone else would see it.

Q So a person can be bipolar and not have psychotic or psychosis, right?

A That's correct.

Q And a person can be bipolar with psychosis in almost like a combined status, right?

A That's correct.

Q Okay.

A You can have more than one mental illness. So it's -- you know, that's actually not uncommon. And as we've seen with her, she's had multiple diagnoses over the past 20 years reflecting different mental illnesses.

So you could -- when someone is really manic, it's certainly possible for them to be psychotic. I felt

that she had two disorders, really. I felt that she had significant schizophrenic symptoms and disorder and then a mood disorder, the bipolar disorder.

Q And is that why you particularly diagnosed her as you did?

A Yes, sir.

Q And your diagnosis was specifically what?

A Schizoaffective disorder bipolar type.

Q All right. So that would be an example of when a person would have multiple types of conditions?

A That's correct.

Q Now, once again, briefly describe from the time she was released from the care -- she went from St. Francis to the Carolina Center?

A That's correct.

Q And when she was then released from the Carolina Center in August of 2012, give us a brief synopsis, please, of between that time and the first of May of 2013 leading up to the incident.

A She continued to believe in evil conspiracies against her. She -- you know, it's a number of different significant things, actually. Her paranoid ideation actually goes back to 2010 when she felt her computer was tapped and there's issues with her phone. She actually had a friend she worked with at the bank

who was a computer expert, Will Traxler, that she finally called too much about her computer that he just wouldn't return any more of her calls.

She tended to believe that she was being watched. She felt that somehow her ceiling fan had changed and it was now monitoring her behavior. She went from her home to Lowe's or Home Depot or a place like that to look at other ceiling fans to see if she could notice any difference between theirs and hers. She thought she was getting messages from the red light on her phone.

She felt that their cat Bam Bam would shapeshift, which is from the Twilight books, and her deceased aunt would shape into that cat and back. She felt that there's drug activity at the house across the street.

We've heard about how she was afraid of Nate Stegall because he wore sunglasses. Sort of a bizarre thing. He came over to borrow Mike's truck. She hid the keys, didn't want him to get in the house, had him out in the yard looking for the keys. Mike came home. They were all looking for the keys. Finally, when Nate left, she showed Mike where she had hid the keys and was relieved that he wasn't mad.

She continued to have concerns for her children. She went and got her child out of school, as discussed

earlier, because of the shootings in Connecticut. She was worried about their safety.

She was at the library one time with her children. When she left, she felt followed out of the library by an unknown woman. She gets in her car and the unknown woman stays in her car so she stays because she thinks that woman is following her.

She believes that the world is becoming unsafe. It's full of evil. And, really, that was the -- her belief was on the night of the 13th that she would shoot her family and then kill herself and they'd all be reincarnated in a better place.

And, actually, that's when she -- when she left, she felt her family was in Nate's garage. And if that seems irrational, that's part of having a mental illness. And so she was feeling like she was getting these messages. She thought she'd get messages from the Today show when she would watch it. I mean, she was having all of these ideas of reference, feeling the world was a dangerous place, and she was trying to protect her family.

Q The escalation and intensity of these, I'll call them delusions. I don't know if that's an accurate -- is that -- would that be considered delusional?

A That is a delusion.

Q But the escalation of these delusional thoughts, while perfectly unrealistic and totally false to you or I or others, did you believe that Anna felt that they were real, that this was real to her?

A When a person has a delusion, that's their belief or the reality of their world, and then their behavior is then consistent with that delusion. So the behavior would look inconsistent to us because we're not experiencing that delusion.

Q And it makes it difficult for us to understand because we're not mentally ill?

A That's correct. We don't share that delusion.

Q Dr. Price, when this incident occurred, just a moment ago you mentioned to the jury what she thought if she killed her family and killed herself what would happen, so I'm not going to go back through any of that. Is it your opinion that at the time these acts were committed by Anna, she was unable to distinguish between right and wrong conduct?

A Yes. That is my opinion.

Q All right. Nothing further.

CROSS-EXAMINATION

BY MS. STROM:

Q Good morning.

A Good morn -- good afternoon now.

Q Is it? Oh, it is. Good afternoon, Dr. Price. How are you?
A I'm doing great, Ms. Strom.
Q I just want to talk to you about a couple of things. You said you talked to her treating psychiatrist, Jeff Smith. When was that specifically?
A March 2, 2016.
Q March 2, 2016, okay. All right. And I just want to talk to you a couple -- about a few things. All these things that you're describing as far as she was telling you about shapeshifting, let's see, shapeshifting, ceiling fans, drug activity across the street, all those kind of things, there's not any notation in Dr. Smith's records that she shared any of this with him?
A That's correct.
Q Okay. And when we start hearing about this or when she starts telling a psychiatrist about this is after the fact?
A No. Dr. Smith's records reflect that she's having paranoid ideation. He doesn't go into depth about what paranoid ideation she's having, but he does note she's having paranoid ideation.
Q No doubt she's having paranoid thoughts. My question was you just stated there was nothing in

Dr. Smith's records about any of this shapeshifting, the werewolves or whatever, none of that?

A That's correct.

Q Okay. All right. But when she does talk to you, she talks to you about that, but there are also some things she talks to you about. She, in fact, tells you and other -- she tells you and I think Dr. Frierson and maybe even Dr. Mulbry that she knew how to shoot a gun. Mike had taught her how to shoot a gun?

A Mike had taught her how to shoot a gun, that's correct.

Q And she told you that, in fact, she and Mike had had a fight that night. The night before the killings, she and Mike had had a fight that night?

A Because when he came home --

Q Did they have a fight or not? Did she tell you they had a fight?

A They had a disagreement, that's correct.

Q Okay. And that disagreement was about the fact she could no longer take care of the children?

A That's correct.

Q You also are aware that, in fact, she made a phone call to her mother that night, her own mother, and said, "Mike is done with me. He says I can no longer take care of these children"?

A That's correct.
Q You're also aware that she told you and she told Dr. Harris in the ER, when she says why didn't she talk to Mike about these thoughts, about her issues, she's afraid he will lock me back up again. She told you that?
A She did do that.
Q And she told Dr. Wade Harris that?
A I think so. I don't recall that exactly.
Q You don't recall him saying --
Just one second, Your Honor. I've got it right here.
This is Dr. Wade Harris' report. If you will look on that, I have it underlined right there.
A And the question again, Ms. Strom?
Q Yes. Is that she told Dr. Wade Harris after she's admitted to the Greenville Memorial Hospital after she's killed her children and shot Mike, he asked her, "Do you talk to your husband about this?" And she says, "No, I'm afraid he will lock me back up again and he will leave me."
A Yes.
Q Thank you.
Just one quick second.
Thank you very much. I have no further questions.

MR. MAULDIN: Just one.

REDIRECT EXAMINATION

BY MR. MAULDIN:

Q I want to make sure there's a clarification about this "lock me back up." That's what the prosecutor said. Anna Simpson, according to your understanding, has no prior criminal record of any sort; is that correct?

A That's correct.

Q All right. So "lock me back up" apparently was referring to an involuntary hospitalization process; is that the only thing it could mean?

A That would be the only thing it could mean.

Q All right. Thank you.

THE COURT: Thank you, sir. You can step down.

Any objection to him leaving? Do you want him to leave or you need him?

MR. MAULDIN: I'm done with him, Your Honor.

MS. Strom: Fine.

MR. MAULDIN: If he can be excused.

THE COURT: Thank you, sir. You are free to leave.

Scheduling real quick. Let me talk to the lawyers.

(WHEREUPON, a bench conference was held off the

record in the presence of the jury, but out of the hearing of the jury.)

THE COURT: We're discussing y'all's schedule so hang on.

Here's what we're going to do. We're going to take a lunch today. It's going to be a little bit shorter lunch today based upon my previous commitment I told y'all about Monday. So I want you back in your jury room, ready to go, at 1:45. That's an hour and 15. That should give those of you who want to go home for lunch enough time to get back in time.

Remember, don't discuss the case with anybody. Don't look up news reports about the case or seek out any other information about the case other than what you've heard in this courtroom. Okay? Y'all have a good lunch. See you back at 1:45.

(WHEREUPON, the jury exited open court at 12:36 p.m.)

(WHEREUPON, Defendant's Exhibit Number 15 was marked for identification.)

THE COURT: Anything before we bring the jury in?

MR. MAULDIN: One quick administrative matter, Your Honor.

The court reporter, we were marking an exhibit, and the court reporter indicated that there had never

been an actual admission of the group of photos at the very first of the case involving the car wreck sequence of pictures.

THE COURT: Yeah.

MR. MAULDIN: The State had no objection to them, but I don't think they were ever formally introduced. So I am going to ask that they be moved in at this time.

MS. Strom: We have no objection.

THE COURT: They're into evidence.

Anything else before we bring the jury in?

MR. MAULDIN: No, sir.

THE COURT: All right.

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

THE COURT: All right. All members of the jury are present.

Mr. Mauldin, you can call your next witness.

MR. MAULDIN: Thank you, Your Honor.

Richard Frierson. Dr. Frierson, please.

RICHARD LESESNE FRIERSON, M.D.,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: If you would have a seat and state your name for the record, please.

THE WITNESS: My name is Richard Lesesne Frierson.

DIRECT EXAMINATION

BY MR. MAULDIN:

Q Dr. Frierson, where are you from?

A Originally, Sumter, South Carolina. Since 1980 I've been living in Columbia.

Q All right. And what do you do in Columbia?

A I am a professor of psychiatry at the University of South Carolina School of Medicine.

Q All right. And what is your -- is that your title, professor?

A Yes, professor of psychiatry.

Q All right. Are you an employee of the University of South Carolina or the State of South Carolina? Who is your employer?

A Well, I'm a state employee for the university.

Q All right. Are you a doctor?

A Yes.

Q And describe your educational background, please.

A Okay. After graduating public school in Sumter, I went to the -- I know I'm in Clemson territory. I went to the University of South Carolina and got a bachelor's of music degree in 1984. Then I went to medical school, got my MD from the University of South Carolina School of Medicine in 1988. I then completed four years in general psychiatry training at William S.

Hall Psychiatric Institute in Columbia, and then a one-year fellowship in forensic psychiatry at William S. Hall Psychiatric Institute.

Q Have you had, in addition to what you just described, any other specialized training in the field of psychiatry or forensic psychiatry?

A I go to lots of CME, continuing medical education meetings. So as far as that goes, that's how I keep current.

Q Do you yourself conduct psychiatric education and training?

A Yes. I've been an invited speaker at the American Academy of Psychiatry and the Law. I have been a speaker for the National College of District Attorneys. That's a national prosecutors group. I've been to Alaska and back for them and all over the country. I've been an expert for defense attorney groups to come lecture on mental illness with them as well.

Q Okay. I want to make sure that we've covered all of your responsibilities and duties, and I don't know whether we have or not. You would know. But are there any additional duties that you find yourself conducting on behalf of the State of South Carolina?

A Yes. I mean, my department has a contract with the Department of Mental Health in Columbia. And the

majority of my work is to assist the Department of Mental Health in performing evaluations for the court, either competency to stand trial, can they work with their lawyer, get through the trial process, or criminal responsibility such as I was asked in this case.

In addition to that, I also run the professional wellness program for the university. In other words, I evaluate physicians and nurses and other licensed professionals that are referred for an evaluation by the nursing board or the medical board for fitness for duty. I have a lot of teaching obligations within the school of medicine both for medical students, psychiatric residents. And I run the forensic fellowship, which is a one-year program that trains psychiatrists to be forensic psychiatrists, to do this type of work. And then, finally, I work part-time at the South Carolina Department of Corrections where I provide treatment to people that are incarcerated in the Department of Corrections.

Q Are you board certified in general and/or forensic psychiatry?

A I am board certified in both general and forensic psychiatry.

Q And, in particular, with regard to that board, are

you asked to do any particular and unusual responsibilities?

A Yes. The American Board of Psychiatry selected me to basically come to Chicago twice a year and write questions for the board certification examination. So the ones that -- the exam that people take to become board certified, I have been on the small committee that writes those exams.

Q So you conduct forensic psychiatry training, you furthermore provide the questions that applicants would have to answer in order to become board certified?

A Yes.

Q All right. Are you licensed to practice in South Carolina?

A Yes.

Q I'm going to ask you, Dr. Frierson, if you can identify what's marked as Defendant's Exhibit Number 15?

A This appears to be a copy of my what we call a CV, curriculum vitae. It's like a résumé.

Q It's like a résumé. All right.

MR. MAULDIN: We offer this.

MR. WILKINS: I hadn't seen it. Is that his CV?

MR. MAULDIN: Yeah.

MR. WILKINS: No objection.

THE COURT: Without objection, introduced into evidence.

(WHEREUPON, Defendant's Exhibit Number 15 was admitted into evidence.)

BY MR. MAULDIN:

Q Dr. Frierson, have you been qualified to testify in the courts of the state of South Carolina on the matters before this court today?

A Yes.

Q How many times have you been offered and qualified as an expert in the field of forensic psychiatry?

A Several hundred. I think it's probably about 500 at this point.

Q All right.

MR. MAULDIN: Your Honor, at this time I would offer Dr. Frierson as an expert in the field of forensic psychiatry.

MR. WILKINS: No voir dire. Without objection.

THE COURT: All right. Without objection, so qualified.

Ladies and gentlemen of the jury, remember what an expert can testify about.

BY MR. MAULDIN:

Q Dr. Frierson, in this particular matter, did the Department of Mental Health receive a court order to

conduct an evaluation on criminal responsibility for Anna Simpson?

A Yes.

Q Was that order issued at the request or on the motion of the prosecutor in this case?

A Yes. The prosecutor made the motion for the evaluation, and the judge ordered it.

Q And how then -- do you recall when that was or about the timing of when you -- well, how did you then -- the evaluation wasn't ordered for you to do it?

A No. It was just for someone from the Department of Mental Health.

Q So how did you get assigned that responsibility?

A You'd have to ask them. They told me to do it, so, you know, it's my job.

Q You got it through the normal course of assignment?

A Oh, yeah.

Q All right. And can you tell us about when that was?

A Well, the order was received on September 10th of 2014, and so sometime between then and February of 2015 I was assigned. I think probably sometime -- it might have been in December or January, probably.

Q All right. Are you being paid by either the

prosecutor or the defense for your report or information today?

A No.

Q You're a salaried employee doing your job?

A Correct.

Q When you commenced the process of conducting this court-ordered evaluation, describe to the members of the jury what your examination or evaluation consisted of.

A First of all, I reviewed the court order. Obviously, the arrest warrants. There were four charges in this case. I reviewed the indictments. I reviewed statements of probably 12 different people. I reviewed all the police reports. I reviewed the autopsy reports on the two deceased victims. I reviewed an attempted interview with the defendant in the emergency room. I interviewed -- I reviewed records from Dacusville Elementary School, the Children's Home of North Carolina related to the defendant's adoption when she was a child, employment records from First Citizens Bank, records from the Greenville County Schools for the defendant, medical records from her OB-GYN, her eye doctor, her dentist, Spartanburg Regional Medical Center, Piedmont Medical Center, Neurology Associates of Greenville, Pelham

Family Practice, Greenville Hospital System, St. Francis Hospital, the Carolina Center for Behavioral Health, the Pickens County Detention Center, the Greenville County Detention Center, the offices of Dr. Robert Richards, SLED crime scene investigative reports, SLED firearms reports, SLED DNA analysis, SLED latent prints report, a trace evidence report, the statement of Elizabeth Simpson, of Alison Simpson. Those are what I reviewed prior to interviewing the defendant.

Q Would the court order that we've referred to, that court order would have required or ordered both the State of South Carolina and the defense counsel, would have ordered both of us to provide you with information; is that right?

A That's my understanding, yes.

Q All right. And that's how you got all of this stuff. And plus the additional investigation that you conducted?

A Yes.

Q In this particular case, after you began your evaluation and meeting with the client and so forth, did you find this particular evaluation to require perhaps a little more than the normal evaluation would have and why?

A Yes. This evaluation is much more difficult and time consuming than -- this would be in the top two percent of all evaluations I've done as far as how much actual time it took to review all this information, to interview the defendant. Also, I interviewed in person the surviving victim, Mike Simpson. I interviewed in person his parents. I interviewed in person the parents of Suzanna Simpson in Columbia. They came down. I interviewed Dr. Wade Harris, who was the first psychiatrist who saw her in the emergency room at Greenville Memorial.

Q This would have been after the incident?

A After the alleged incident, yes,

Q How many times, Dr. Frierson, did you actually -- and you're in Columbia, and Anna has been in the Pickens County jail. Did you travel to the Pickens County jail or was she transported by authorities to Columbia?

A She was transported by authorities.

Q And how many times does your file indicate that you had an opportunity to meet personally with Anna Simpson?

A Three occasions.

Q On three occasions. Do you have any idea or reference about how long that -- how much time you

actually spent with her?

A Yes. On February 12th of 2015, I interviewed her for two and a half hours. Then on May 27th, 2015, I interviewed her for an hour and 30 minutes. They were late getting her to Columbia that day for some reason. And then after I spoke with her parents and the surviving victim and his parents, I wanted to do a follow-up with her, so I saw her again on June 12th for one hour.

Q All right. And why is it important or is it important that an evaluator that is under the order that you were under to actually have personal interviewing opportunities with the patient?

A Well, this is an evaluation of how the patient was thinking -- not the patient -- the defendant was thinking and acting at the time that this happened. And it's important that I ask her about her thoughts, what was going on, what does she recall, what does she remember, and also get a full history from her of her life and her history of treatment.

Q Did you, in addition to what you have described to this jury, have an opportunity to personally listen to the 911 tapes that were made with Mr. Scott Hart, the neighbor from across the street?

A Yes.

Q And do you recall with those 911 calls the general description that was given over those 911 calls?
A Yes.
Q All right. If you could describe that to the jury.
A My understanding is this was a neighbor who found the wreck or heard it and went outside and discovered that Ms. Simpson had wrecked the truck that she was in, and he was calling 911 to get emergency help. I do remember him telling 911 that -- 911 was asking him if she was speaking to him, and he said yes. And the 911 asked, "Well, so she's responsive?" And he said, "Well, I don't think she knows who she is or where she is. I think she may have hit her head and been knocked unconscious."
Q Dr. Frierson, having conducted this records review, interviews, and been provided information by both the prosecution and me, to a reasonable degree of medical certainty, have you been able to actually diagnose Anna Simpson psychiatrically?
A Yes.
Q And what is that diagnosis?
A The diagnosis that I assigned is schizoaffective disorder bipolar type.
Q I'm going to ask you because the jury has heard

from other witnesses this morning. Was your diagnosis of schizoaffective disorder bipolar type, was that wholly independent of the other two psychiatrists who have testified in this case?

A Yes. I have not spoken with the other experts in this case.

Q Now, I want you to very briefly --

A Let me clarify. I have spoken with them but not about this case.

Q And you did not consult with those experts to make any determination of whether y'all had come to the same conclusion?

A No.

Q All right. I want to ask you, if you would, and as I mentioned, the jury has heard the testimony from previous experts, so without going into a tremendous amount of detail, I want you to simply describe in your words the difference between a schizoaffective disorder and a bipolar disorder, a comparison of those two.

A Okay. Let's start with bipolar disorder. Bipolar disorder is a mood disorder. It's a disorder of mood. And it's characterized by having at least one period in your lifetime of mania, what we call a manic episode. A manic episode is a distinct period of time, lasting at least several days, maybe up to a week or more, when

a patient has a predominant euphoria or predominant irritability. Their mood, they're on top of the world or they're incredibly angry all the time. They have pressured speech which means they're speaking 90 miles an hour. They have racing thoughts. Their thoughts are going so fast, they have a hard time keeping up with those. They have a decreased need for sleep. They can go days without sleeping and still feel full of energy. They can become religiously preoccupied. They can become grandiose, thinking they have special abilities. So it's a period of time where someone has an abnormally elevated or irritable mood. That's enough to call someone bipolar disorder.

However, typically, you also have other periods of time when you have the opposite of that, you have depression. And Ms. Simpson had depression starting in college, then after the birth of each of her children, and especially after a miscarriage. So she has had periods of depression and had a manic episode when she was in Carolina Center for Behavioral Health. So that means she has met the criteria in the past for bipolar disorder.

However, the reason she has schizoaffective disorder is because in addition to that, during periods of time when she has not been manic and not been

depressed, her mood has been fine. She has had significant paranoid thinking, delusional thinking, that the dentist implanted a device in my filling that's spying on me. I mean, just bizarre -- I hate to use the word "crazy" because as a psychiatrist, we hate that word. But just really bizarre thoughts they believe is true. And you can try to convince them, "This isn't true, Anna," and you can't convince them otherwise.

So because she's had both symptoms in the absence of mood symptoms, that's what makes the diagnosis schizoaffective disorder. If you have those paranoid symptoms without mood symptoms at all, then it would be schizophrenia. But she has had significant mood disturbance, depressive episodes and at least one manic episode, that's the bipolar type. And then she has schizoaffective because she's had these paranoid thoughts when her mood has been fine.

Q Very quickly. How would you define, then, the delusion element of that? Is it just something that a normal person without the condition realizes is not true, but the person with the impairment believes it's true?

A That's exactly correct. Delusion is a fixed false belief. I'll give you an example. I had a guy once

from the jail who thought that they had implanted a device inside of his body that was sending him shockwaves. He underwent a colonoscopy -- you stick a long tube up your colon to look. It's not very pleasant -- an EGD, which they stick a tube down looking in your stomach. He underwent a CAT scan of his whole body. The doctors told him you do not have anything implanted in your body. I mean, that's proof to the contrary. And he still believed that it was, and that it must have a cloaking device.

Q With regard to a couple of follow-ups, then we'll talk about the criminal responsibility of Anna.

Does a person have to have the symptom, I'll describe it, of hearing voices in order to be psychotic? In other words, if a person is psychotic, does that mean they -- every person that's psychotic hears voices?

A No. Psychosis just means you're out of touch with reality. If you believe things that aren't true, you're out of touch with reality, whether you hear voices or not.

Q Do you believe, having evaluated Anna, that there were some occasions when she would have heard voices that were not real?

A Yes.

Q But that was not all the time?
A No.
Q All right. Finally, Dr. Frierson, did you, in your review of the records and interviews, determine whether Anna had had the conditions that she has today for a significant length of time?
A Yes. I think that the -- to make a long story short, I think her mental illness began when she was in college, and it started out as depression.
Q Is that unusual --
A No, no.
Q -- that an onset of a condition like that would occur?
A This is a major mental illness, and most major mental illnesses start in the late teens or early twenties. That's usually the age of the onset. We have a saying in psychiatry, if you've made it to age 40 or 35 and you haven't had to go into the mental hospital, maybe you're hopefully in the clear.
Q Is there a cure, and by cure, I mean something that is going to actually make Anna Simpson well for her condition?
A There's no cure for major mental illness. However, with appropriate psychiatric treatment, medication, therapy, the symptoms could be kept at bay.

The more troubling symptoms can usually -- not in all cases -- but can usually be improved.

Q Will she require mental health treatment for the rest of her life?

A Yes.

Q Now, Dr. Frierson, I'm going to ask you if you had, through this evaluation process, to a reasonable degree of medical certainty once again, were you able to determine if Anna Simpson, on the evening of May 13th, early morning hours of May the 14th of 2013, could distinguish right from wrong?

A Yes.

Q And what is your opinion?

A It is my opinion that at the time of the alleged crimes in this case Ms. Simpson, due to mental illness, could not distinguish legal or moral right from legal or moral wrong or recognize the specific acts that she was doing as legally or morally wrong.

Q Was that -- describe just briefly again how you drew that conclusion. What is your basis for that ultimate opinion in this case?

A Well, the basis of that is the fact that Ms. Simpson had paranoid delusional thoughts that hell had come to earth, that something evil had come to earth, and was specifically coming to earth at

nighttime. She believed that Nate Stegall was either the devil or the Antichrist. This is reflected in the text -- I mean, she texted Nate Stegall -- I hope I'm saying his name right because I've never heard it pronounced. But she texted him the night before this happened "hell on Earth." She had never texted him ever before that time.

Q Dr. Frierson, wait a minute. I'm going to hand you what's been admitted into evidence as Defendant's Exhibit Number 10. This is purported to be a photo of Nate Stegall's smart phone with a text message. Does that confirm what you're testifying to to the jury?

A Yes.

Q All right. Thank you.

All right. Go ahead.

A Let me clarify are you asking me to explain why I have the opinion that I have?

Q Yeah. I think the jury is entitled to that.

A Sure. And I certainly want to do that.

Part of the basis of my opinion is what Anna Simpson said to me when we talked about what happened. That is insufficient for me to render the opinion unless I find significant corroborating evidence that isn't from Anna Simpson. And I always enter these things with a -- in my line of work you have to have a

healthy degree of suspicion.

She told me -- let me go, first of all, to what she said during my evaluation because it's part of the basis of my opinion, that she was experiencing significant difficulties with her thinking around that time. On Monday May 13th, her son, Male Child, stayed home from school because he had a stomachache. That gets her to thinking, and she's thinking about the last time that Female Child stayed home from school. And she remembered specifically the last time Female Child stayed home from school sick because it was December 14th, 2012. December 14th, 2012, is the day Adam Lanza went into the Sandy Hook school and shot up the school and killed a bunch of first graders. Of course, she has these young children, and she believed that this was not just a coincidence, that the fact that Male Child stayed home on this particular day was not just a coincidence, that that meant -- and this is what mental illness does -- that meant that something bad was going to happen at the school or could happen at the school and that she needed to protect Female Child

Q Does that demonstrate -- does that type of thought process demonstrate the delusional, that while everybody in here knows that that just is totally imaginary --

A That's what happens in mental illness. That's what happens in psychosis. People read secret readings into the most benign events.

Q But to her it was real?

A To her it was real. So real enough that she had to go to school and get Female out. So she went and took Female out of school. The school records tell me that happened about 11:50 which, just for a point of reference in time, 11:50 in the morning. She did not tell her husband when he got home that she had removed Female from the school because of her premonition about something bad happening. She told her husband that Female had gotten sick.

And I could talk more about that, why I think that fits into other stuff she told me earlier about sometimes when -- she says when she would say some of her paranoid thoughts to family members, they would say, "That's crazy. Don't say that. That's not true. Shut up. I don't want to hear it," or, "We don't want to hear about that." So I think she learned to believe that people wouldn't believe her when she said these things.

She said that that afternoon that Nate Stegall came over to borrow her husband's truck, and she already had previous thoughts that he might be the

devil, and she became very afraid of him that day because he was wearing sunglasses. This has been a theme of her mental illness. Back in 2012 when she was at Carolina Center for Behavioral Health, there was a security guard wearing sunglasses, and she was deathly afraid of him.

Q Wait. I mean, do you have any kind of input for the jury about why that would necessarily --

A She believed that she has the ability to see people's core and to tell whether they're a good person or not a good person by looking in their eyes. This is a special ability that not everybody has, but she thought that she had it. And when people wear sunglasses, she couldn't.

Q So if the sunglasses were such that she couldn't see their actual eyes, this was a frightening thing for her?

A Yes. So frightening to her, she didn't want to go in the house with him. And so she didn't want to leave him outside with the children because she was afraid he was going to do something to the children.

Q Let me ask you and then we'll go back towards the conclusion of your testimony. We'll go back to the actual event, and you can describe what you believe Anna was experiencing. But I want to talk, because the

jury has heard a number of references about paranoia and about things that reflected or indicated an existence of paranoia.

I want to ask you about if you could give us some of these indicators of her paranoia, her fear, and also why that information, perhaps, was not given to a physician who she was supposedly seeing for psychiatric treatment.

A Okay. She became clearly delusional and paranoid. First thing that happened was when she was in the dentist office. And she had some sort of spell where she thought something nefarious was going on, bad, that maybe something -- and she wrote, actually, after this the dentist a very bizarre letter about, "Why didn't you call me personally to apologize for what you did to me? I don't know that I'll ever be able to trust the dentist again." And then it ends up by saying, "I love you and I hope you will see me as a patient." I mean, it's just bizarre. It doesn't add up. Doesn't make any sense to say opposite things.

But then she clearly became more progressively paranoid to the point that in 2012 she became convinced that her mother-in-law was teaching Female Child how to masturbate and was planning on somehow getting Carly involved in some sort of child sexual ring. Clearly

this is not true and was clearly delusional to the fact that it led to her hospitalization.

Q And that particular experience was what led to the St. Francis July of 2012 where they took her to the emergency room?

A Correct.

Q All right.

A And then subsequently she was admitted to Carolina Center for Behavioral Health where those delusions are clearly documented in the records that she was delusional.

After she gets out of the hospital, her husband, about two to three weeks after she leaves the hospital, her husband leaves the country for three weeks to go on a hunting trip to Africa leaving her with the kids. At one point she calls her mother-in-law, Ms. Simpson, and asks her if she believes that her husband was not coming back.

Q Coming back to the family?

A Right. Was abandoning her and the children. It concerned the mother-in-law enough that the mother-in-law calls Ms. Brown, who is Anna Simpson's mother. And they go over there and talk with her. Initially she's very agitated, but the longer they stayed there, the better she became. She calmed down

and was no longer quite having the paranoid thoughts. When someone is incredibly paranoid and you introduce some reality to the contrary, at some point they can -- sometimes they can say, "Okay. Maybe you're right. I'm not convinced you're right, but maybe you're right," and it calms them down. But then in the subsequent months that happened there's abundant evidence of paranoia. She carried her computer to a computer place because she thought somebody had been tampering with her computer. I don't remember if it was Geek Squad, but some computer place that works on computers.

She had taken a picture of her ceiling fan and taken the picture to Lowe's to look at ceiling fans of the same model because she believed that the ceiling fan in her home had been bugged and that people were spying on her through the ceiling fan. She believed that people were coming into the house at night, and the people were coming into the house at night doing nefarious things, tampering with her mail, doing stuff to the computer. She convinced -- well, her husband set up like a deer camera or some sort of camera device in the garage at nighttime to try to prove to her no one is coming in the house.

So I now have evidence that isn't from Anna's

mouth, from one of the victims in the family in this tragedy, that she was that paranoid that they were trying to do something to convince her. The thing is you can't convince somebody who believes these things that they're not true. I mean, you could try to convince them. It just doesn't work.

She believed that, in addition to her mail, she believed that she was being followed by government agents at times. She thought the fillings in her teeth had been bugged by her dentist and that the bugging of her teeth caused her breath to smell different. And she repeatedly asked her father to smell her breath, say, "Can't you smell it?" That is so bizarre of thinking that -- that's also sort of typical of major mental illness and psychosis. You frequently see themes of being bugged, being poisoned, being spied upon, things like that.

Q Let me ask you, Dr. Frierson, because we obviously -- the jury has heard a number of these from other witnesses, and then the list goes on. But let me, in the interest of time, ask you to let's start talking about the day of May the 13th and that night and May the 14th, and I want you to describe what you believe was going on in her state of mind that caused this horrible tragedy.

A Okay. So just so I'm clear, you don't want me to explain why Dr. Smith wasn't aware of these paranoid thoughts. You had asked me that. I never answered.

Q Right. I want you to make sure that this jury understands her state of mind. And if you feel like that's necessary before we place the inquiry at the scene of the crime.

A Okay.

Q Yeah.

A So I think we were doing that, and I think it had gotten to the point where she took -- where Female Child had come home and Nate Stegall had shown up to borrow the truck and she had hid the keys because she was paranoid about him.

That night -- let me get back to this part of my report. Excuse me.

Q And, by the way, you were ordered by the court to produce your report; is that correct?

A Yes. The court order says I have to produce a report.

Q And the report goes to the judge with copies to both of us. Is that the report you're talking about?

A Yeah. I wasn't aware that it's directly sent to the judge. I think it's sent to both of you, the prosecution and the defense.

Q Yeah. Go ahead.

A So she had played outside with the kids. And that was also confirmed to me with a statement from a neighbor. So I'm getting these statements from other people that are sort of confirming to me things that Ms. Simpson was saying.

She remembers she said that she had a bad day that day because she hadn't done any of the chores in the house that she needed to do. And that's because she's so obsessed in her thinking over what's going on, hell is coming to earth, I think he's the Antichrist, something bad is going is to happen. And I also don't think she ate that day because when she got to the hospital at Greenville Memorial, she had ketones in her urine, and she's not a diabetic. She weighed much less than she does now back then. She's probably gained 70 to 100 pounds as a side effect of the medicine she's taking for her mental illness.

But she had ketones in her urine which tells me she hadn't been eating or taking care of herself very well. She at that time also reported that she was receiving special messages from the television. This is a symptom known as ideas of reference. So this was going on that day. And then she also believed that she was receiving messages from God through this red light

on the telephone in her house even when the phone was on the hook.

When her husband got home at some point that day, he was upset that there was no dinner prepared, and she reports that they argued. There was no physical altercation, but this was not an uncommon occurrence that Michael might be upset. I mean, he's the breadwinner, he's out working, taking care of the family, he wanted a meal when he got home.

She gave the kids a bath, got their backpacks ready for school the next day. And that's interesting to me because she's very forward looking. You know, why would she get the backpacks ready for the next day if she was already thinking about doing something harmful to the children.

She and her husband watched television, and she texted Nathan Stegall the "hell on Earth" sometime that evening that she states was a reflection of what she was thinking. I asked her, "Why did you do that? He's never heard from you before."

She called her mother earlier that evening, and her mother confirms that she was talking about religion a lot, wanting to know if Heaven or hell was real. So once again, there is corroborating evidence from her mother that she had some sort of preoccupation with

religious confused ideas going on in her head.

She woke up -- she kissed her husband goodnight and went to sleep. And then she woke up at 4:00 a.m. feeling absolutely panicked. She reported to me that she walked around the room, the living room, several minutes and that she got a small light out and went to the gun safe which, unfortunately, was not secured. She got out her gun. What she calls "my gun."

Now, she's not able to tell me was it a .38, was it a 9mm, and I'm not a gun expert so I probably couldn't look at the gun and tell what you it is either, but she didn't know. She just knows, recognizes it as her gun because that's a gun that Nate (sic) had taught her how to shoot and they had been shooting together before.

She states that she wasn't sure what kind of gun it is, she doesn't remember anything that she was thinking right at the time but thinking that she was doing something very special that was going to protect her children and husband from the evil in the world and the hell on Earth that had come to earth.

What's very bizarre about this is she thought that, well, she shot her husband and then went to Male Child room and shot him in the head and Female Child room and shot her. Now, when she's telling me this back

when I first -- it was the second time I saw her that we went through all of this. I mean, she clearly now is remorseful. She's on medicine. She's no longer delusional. She realizes that the thinking she had that night was crazy.

Q Now, is that type -- is that unusual, what you just --

A No.

Q Is it unusual for a person subsequently, whether it's a day later or six months later, to have, I don't know what the word would be, restored or recompensated or whatever you would call it?

A I mean, to have -- every patient is different. Some patients get better very quickly when they get put on antipsychotic medication, within a matter of just a few days. In fact, the later the onset of psychosis in a person's life, generally the better they respond to treatment and the quicker they respond to treatment. And the first time she became psychotic was rather late in her life since I told you the psychosis normally can start in their late teens or early twenties. So that would be surprising in her given that.

Q At the time, Dr. Frierson, at the time that Anna Simpson went and got her gun, shot Michael, shot her children and killed them, was she able to distinguish

between right and wrong conduct?

A No. She thought she was doing the right thing. She also has stated that she heard voices of her parents telling her to do this. So a trusted voice. And she also told me that she wanted to kill herself to be with them. And she had the thought that they were going to some place to be together between Heaven and Earth. And that even though hell was on Earth, it was not going to be a permanent thing, that at some point hell was going to leave Earth, and that at that point they could come back and be just like they were before.

So I don't even think she realized the full extent of what she had done, much less that it was wrong. If you're shooting your children in the head, you don't think this is going to result in a permanent death.

Q And would that be the most profound example of a total delusion?

A Yes. I mean, I don't know what you mean by the most profound example. I mean, there are tons of examples in this case of delusions, but that is the specific delusion that impairs the knowledge of wrongfulness. You can be delusional about lots of things and still know right from wrong. I can think my wife -- well, I'm not married. But let's say my girlfriend has been replaced by a look-alike double,

and I go out and rob a bank and wear a mask and gloves. Even though I'm having a delusion, I still know it's wrong to rob the bank.

Q I want to just ask you a couple of final questions, Dr. Frierson. I know the evaluation is extraordinarily intense and a lot of material, a lot of material, but I want to go ahead --

A Well, let me just finish on what happened because I think what happened afterwards is also important.

She tried to load the gun, she says, several times, to shoot herself in the head. And she said the gun wouldn't work. I had SLED evidence that the gun was loaded with the wrong bullets. You could show me a 9mm bullet. I wouldn't though the difference. But it didn't work. Then she thought I must already be dead. Because the gun didn't work, so I must already be dead. So then she gets into the car thinking that her family was in Nate Stegall's garage. This is something that I cannot confirm that she drove to his garage, but she says that she did. And given the fact that everything else fits what I know, I have no reason to doubt that.

But, once again, that's just bizarre. If you think that's the Antichrist, why are you going to his garage to find your family? Which is also why I think she says, "I don't know. I don't know where my family

is," when she's asked at the scene of the wreck.

But she saw a bunch of cars at Nate Stegall's house, so she decided -- it made her nervous. She didn't want to go there. She drove back, she said, to the school parking lot and then knew that several weeks earlier someone had died in a car accident, which is my understanding, near the place where she had -- she purposely ran her car, the truck, off the road in an attempt to kill herself so that she could be with her family and that they would eventually come back to earth.

Q All right. You mentioned that you actually had the opportunity to speak directly with Mike, her surviving husband, and you also were provided by the prosecutor on April, 21, 2015, while you were conducting your evaluation, you were provided with this written statement by Michael Simpson. Does that look familiar to you?

A Yes.

Q All right. And I want you in particular to look at the final paragraph, the last three lines there on that statement. Let me show this to the prosecutor.

All right. I'll once again refer you to the last paragraph, and in particular the last sentence beginning with the word "I do not." If you would

simply read -- this was provided to you as part of your evaluation. It is the written statement of Mr. Simpson. If you would read that last sentence, please.

A "I do not recall having searched Zillow for any homes, nor do I recall there ever having been any marital problems between Anna and I."

Q And that was a just one of thousands, basically, of pages of material that you were provided?

A Yes.

Q All right. Couple final questions.

After you conducted your evaluation, you, I believe, had an opportunity to meet with me and Ms. Johnson about your findings?

A Yes.

Q You had an opportunity to meet with Mr. Wilkins and Ms. Strom about your findings?

A They drove to Columbia, and I met with them.

Q And you held meetings with both of us?

A Right.

Q Dr. Frierson, in your many years of experience, how many evaluations for criminal responsibility -- that issue, criminal responsibility -- would you estimate that you have conducted?

A This is a rough estimate. Probably, I'm sure,

over 1,000.

Q And out of that rough estimate of a thousand, how often is the person evaluated determined by you to be unable to distinguish right from wrong? Just what percentage?

A It's very, very unusual for me to have this opinion. 98, 99 percent of the time I end up opining that the person knew right from wrong because it's very hard to be so sick to have that degree of loss of reality. It is possible, but it's very rare to happen.

Q Are you an advocate for Anna Simpson?

A No.

Q What are you an advocate for?

A I'm advocating for my opinion and to defend my work in this case.

Q Under the law of South Carolina, was Anna Simpson criminally responsible for her actions when she shot her family?

A No.

MR. MAULDIN: Nothing further, Your Honor. Thank you.

THE COURT: All right. Solicitor.

MR. WILKINS: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WILKINS:

Q Good afternoon, Dr. Frierson.
A Good afternoon.
Q There's no blood test you can give Anna Simpson to decide if she knows right from wrong, is there?
A No. Not yet.
Q Not yet. Is it coming?
A There's actually -- well, there's some brain scanning research that is promising.
Q But today you can't do that?
A No.
Q Anna had good knowledge of guns, would you agree?
A I would not agree with that. I think she knew how to shoot her gun that Michael had taught her how to shoot.
Q Because you said she went and got --
A Her gun.
Q -- her gun, and that Michael Simpson told you that she had a good deal of experience with guns and had gone shooting with him before?
A Yes.
Q Is that correct?
A She had been shooting with him several times.
Q So she had shot numerous times, and she had what she referred to as her gun?
A Yes.

Q You read the report of Dr. Harris, Wade Harris, the ER doctor?
A I read the records from Greenville.
Q The records?
A Yeah.
Q And at one point do you recall that she claims that she did not really talk to her husband about what was going on because she was afraid he would lock her up -- by this she meant put in a psychiatric hospital -- and then would leave her? Do you recall that statement -- you reading that statement being made to Dr. Harris?
A I don't recall specifically that statement, but I'm sure if you're reading it from the record, you wouldn't mislead me.
Q I'm going to show you Dr. Harris' statement.
A Right.
Q It's underlined right here. You can just read it real quick.
A Yeah.
Q Is that what she said to Dr. Harris?
A That's what she told Dr. Harris. She told me that she never wanted to tell him about these paranoid thoughts, tell her husband, because it would upset him.
Q And you -- and in Dr. Harris' statement as well,

do you recall reading that she made several comments throughout the interview about just feeling trapped and not knowing what to do?

A Yes.

Q Is that fair and accurate?

A Yes.

Q In your statement, in your report that you've been referring to, she tells you that she did not take her Adderall that day; is that correct?

A Yes.

Q Now, you recently testified about ketones in her blood?

A In her urine.

Q I mean, I'm sorry, in her urine. Apologize. Are you aware that she had ADD medicine in her system when she arrived to the ER?

A I'm aware that she tested positive for amphetamines in the Greenville Hospital System. You know, that was -- I think you and I had that discussion, could amphetamines in some way be responsible for some of this and --

Q But my question to you was in your report, she said she didn't take that it day?

A Well, you know, she may have taken it the day before. It may still show up. It tends to be a fairly

short-acting drug, but it didn't surprise me that it was in there, and it doesn't make me think that necessarily she didn't take it -- that she did take it that day.

Q But --

A Maybe she was confused about whether she took it or not.

Q But in your report you say, "She reports that she was not using excessive Adderall around the time of the alleged offense. On the day prior to the alleged offense, had -- the day prior had missed taking this medication altogether."

A That's what she told me, yes.

Q And, then, you would agree psychotic episodes can be caused by excessive use or overuse of Adderall?

A Overuse of any amphetamine or abusing like methamphetamine, I'm sure everybody has heard of that, overuse of amphetamines can cause worsening of psychotic symptoms. We know in this particular case, however, that it is not the cause of her psychosis because when she was admitted to the St. Francis Hospital psychotic, she had no amphetamines in her system.

Q Correct.

A In 2012.

Q Right. Well, in 2012, though, the diagnosis was bipolar; isn't that correct, from St. Francis?
A Well, the bipolar with psychosis. It becomes schizoaffective when the mania goes away and the psychosis remains. That's when it changes from bipolar to schizoaffective disorder.
Q Did the doctors at St. Francis or the Carolina Center diagnose her with schizoaffective?
A No, because she was manic.
Q Did she admit to you in your report or did she admit to you that she has in the past overused or -- I don't want to say hoarded, but had used more Adderall than she was prescribed?
A Yes, but not excessively. I mean, she would say that, "When I had an important task to complete," that she might take an extra Adderall and that -- but, you know, clearly she wasn't calling her doctor for prescriptions early. There's no evidence from the pharmacy that she was trying to get --
Q Did you review any --
A I wasn't really concerned about abuse.
Q Did you review any pharmacy records?
A I reviewed the --
Q Prescriptions?
A Prescriptions.

Q But once she gets the prescription, we don't know what she does with it. You reviewed what was prescribed to her by her doctor, correct?
A Yes.
Q You also said that delusions -- you can have delusions and still know right from wrong; was that your prior testimony?
A Right. It depends on the content of the delusion and the specific act that you commit.
Q Are you aware that Michael Simpson doesn't have hardly any memory, any prior memory, of what happened to him prior to his injury?
MR. MAULDIN: Your Honor --
THE WITNESS: I disagree. That's not what he told me.
MR. MAULDIN: One moment. One moment, Dr. Frierson.
The question contains information that is not in the record in this case in evidence. There has been no offer of such evidence of that by anybody.
MR. WILKINS: His mama testified to that.
THE COURT: Objection overruled.
BY MR. WILKINS:
Q You interviewed Michael Simpson?
A Right. But he doesn't have a total loss of memory

from anything before his accident. He doesn't remember the incident. He doesn't remember several days or maybe a few weeks before he was shot in the head, which is what we would expect.

Q Okay.

A But you were implying that he doesn't remember anything.

Q No, no. I'm sorry. I apologize. I was not trying to imply that.

A Yes, he doesn't remember exactly what happened the day before.

Q Weeks before.

A I wouldn't be surprised -- I would expect that.

Q I'm not faulting it.

A He did tell me that they had a happy marriage. So one of the reasons that I wanted to interview him was this allegation that this was an unhappy marriage. But he recalled to me that their marriage had been fairly happy.

Q All right. And then, finally, if Ms. Simpson wanted to kill herself, could she have grabbed another gun from the safe and done it that way?

A I suppose so if they were loaded and she knew how to use it. She was familiar with shooting her gun. And I was provided evidence that she does not know how

to load guns from family members. So it would make sense to me that she gets the bullets she thinks are the right bullets, puts them in the gun and the gun won't work, which is what she told me happened, and that's also consistent with the SLED evidence that the gun was found near the vehicle where she was and loaded with the wrong bullets.

Q My question was, Dr. Frierson, she could have used another gun to effectuate that if she wanted to?

A I guess if she were thinking clearly enough to do that and if she felt comfortable using another gun.

MR. WILKINS: No further questions, Your Honor.

MR. MAULDIN: Just a couple, Your Honor.

One moment, Your Honor. Thank you.

REDIRECT EXAMINATION

BY MR. MAULDIN:

Q The prosecutor asked you whether it was of significance to you that the records indicated that Anna was reluctant to talk to Michael, her husband, about the paranoid indicators, indications, because he might lock her up in a mental hospital, I think was what the solicitor read from the medical report. And that -- there was that reluctance, was there not?

A Yes.

Q And is that reluctance consistent with being

paranoid, the fact that she was reluctant to talk to her husband because she was afraid what might happen to her?

A You could view that as paranoia. I tend to view that more as -- there is, to me, when I meet with all the family members here, I'm struck by the denial of her illness.

Q All right.

A We'll just wish it away. She wasn't that sick, you know. And whenever she would say something that was, "Don't talk about that. Don't say that." You know, "That's crazy. I don't want to hear that. That's crazy. I don't want to hear it." So it's sort of like she gets the message and she's told, "Don't say that to anybody else either. That's crazy."

Q Does that -- or could that, could that also explain why the references to these paranoid delusions, these specific paranoid delusions she was having, were not conveyed to Dr. Smith?

A Yes. That's one possibility. I'm surprised, quite frankly. I mean, his records, Dr. Smith's records, does say she has paranoid thinking, and he actually started her on risperidone, an antipsychotic medication, at one time. So, clearly, he identified the need for an antipsychotic medication, saw her as

psychotic. But the extent of all these paranoid things that I've gone through from the teeth filling to the ceiling fan to the computers, taking the computers multiple times to get them checked out, to putting the camera in the house to make sure no one is coming in, it just strikes me that no one says, "Let's pick up the phone --"

Q Yeah.

A "-- and call Dr. Smith." It's almost just sort of brush -- okay, that's just Anna being crazy.

Q Now, last question. The reference by the prosecutor was to explain the amphetamine issue. Now, when we hear the word "amphetamine," is that reference to the Adderall?

A Yes. That is Adderall. Adderall is dextroamphetamine. It's a combination, yeah.

Q And in your review, your overall review of the records and all the interviews, were you concerned about evidence or clear evidence of any overuse of the prescribed medications, and if so, what was the context?

A If I understand your question, the answer is no, I was not concerned about that. I was concerned in general that she was prescribed this medicine.

Q All right.

A Because once you get psychotic and you think that your mother-in-law is training your daughter to be part of a sex something, when you lose contact with reality, that's a relative contraindication to prescribing Adderall because Adderall can make those symptoms worse and --

Q Thank you, Dr. Frierson.

THE COURT: Thank you, sir. You can step down.

Defense can call its next witness.

MR. MAULDIN: That's the defense, Your Honor.

THE COURT: All right. The defense rests.

Ladies and gentlemen of the jury, at this time I'm going to have you step back into your jury room. Don't talk about the case. I'll get you back out here momentarily.

(WHEREUPON, the jury exited open court at 3:02 p.m.)

THE COURT: Do y'all need Dr. Frierson anymore?

MR. WILKINS: No.

MR. MAULDIN: No.

THE COURT: Dr. Frierson, you're free to leave if you want to.

Okay. The defense has rested, and I've sent the jury out to decide the issue which, Mr. Mauldin, you brought up about allowing the State to present any

rebuttal or reply.

So at this point in time I'll give you an opportunity -- it's my understanding that the State does intend to offer evidence in reply; is that correct?

MR. WILKINS: That's correct, Your Honor.

THE COURT: And what do y'all intend to offer?

MR. WILKINS: We intend to call Dr. Jeff Smith, her treating psychiatrist.

THE COURT: That would just be the one witness?

MR. WILKINS: Yes.

THE COURT: Mr. Mauldin, let me hear from you, then. I'm making the record, good record, for you.

MR. MAULDIN: Yes, sir.

Your Honor, first of all, I want, at this point on the record, to renew the motion for a directed verdict. I think that would be appropriate as a follow-up to the motion I made at the beginning of the case, at the end of the State's case. So I would make that motion, Your Honor, on the same grounds as stated.

THE COURT: That motion is denied.

MR. MAULDIN: The next question, Your Honor, is the opportunity for the State to present, and I understand that the witness would be Dr. Jeff Smith, as a rebuttal witness. And I will enter this particular

or enter this particular position with the assumption that the court is inclined to allow it. That's all -- I'll take that position.

THE COURT: Yes, sir.

MR. MAULDIN: Your Honor, I once again put on the record the notice provided by the defendant regarding placing sanity in question, state of mind is the principle issue in the case, sanity therefore can no longer be assumed. We believe that it should have been required to be addressed in the State's case and it was not, or at least it was not to the extent that we feel like it should have been, considering the notice of intention to claim not guilty by reason of insanity.

This arises because of the elements of the offenses charged being malice in the murder case and specific intent in the case of the attempted murder. The State relied upon or at least -- I won't speak for them -- but I get the impression that the State relies upon the fact that the burden of proving lack of criminal responsibility is on the defendant by a preponderance of the evidence. That's, I believe, their argument.

THE COURT: Well, the statute says that.

MR. MAULDIN: And we believe that that burden under state law in South Carolina as currently exists

is wrong, that it requires the defendant under the circumstances -- and this case seems to me to be alining as a perfect example. State produces a case. We are, under discovery rules, required to disclose our experts, produce reports if they have them. We did that, and yet under this circumstance by requiring the defendant to overcome that burden, it allows the State to now at the end of our case tell us who the rebuttal witness is and attempt to call him to the witness stand.

So I think that that's a fundamental denial of due process for the defendant under those circumstances. It is burden shifting and violates both state and federal constitutional provisions. So to the extent that that's what the rebuttal environment has created for us, that's our point.

THE COURT: I'm with you. In any other trial, let's forget sanity is an issue. The State has the right to call rebuttal or reply witnesses, correct?

MR. MAULDIN: They would. Yeah, they would if it was -- the way I understand rebuttal, Your Honor, is if they put up their case-in-chief and we put up evidence that raises a new question of some sort that was not addressed in their case-in-chief, then they have the right under state law to call a rebuttal witness to

address that new evidence.

THE COURT: Okay.

MR. MAULDIN: I'm kind of simple-minded.

THE COURT: I'm with you on that. I'm following you.

And, of course, I know, Mr. Wilkins, you're going to address this in a moment, but, I mean, I think there's -- of course, because I've denied your directed verdict information, motions, I mean, I think there is clearly enough evidence in the record -- circumstantial evidence, some direct evidence -- where the jury, a juror, can reasonably infer that the issue of sanity or insanity, okay. I mean, so you have the experts.

Yeah, you're right. You may have introduced expert testimony that she was insane, but the State has introduced other factual evidence which could reasonably compete with that expert testimony, and that's an issue for the jury to determine. And that's why I've denied your directed verdict. And I understand where you're going.

Go ahead.

MR. MAULDIN: Well, and that's where we are right as we stand here. I don't disagree with that. I mean, that's a matter for the court to determine. I'm either entitled to a directed verdict or I'm not. You've

denied it, and I respect it.

So now it's a question of the fact testimony that the State put up in their case-in-chief versus the expert testimony that we've put up in our defense. That's where we are at this stage.

The question now is does the State have the right to call a rebuttal witness. Now, here is the problem. Not only do we say that they should not and that it is created because of that burden shifting problem in the insanity defense arena, which is where we are.

But here is the problem with Dr. Jeff Smith who is now their -- that's who they're going to bring in to testify. Dr. Smith is a clinical psychiatrist. He is not a forensic psychiatrist. He is a doctor that works in a psychiatric practice that has patients. One of those patients at one point was Anna Simpson.

We raise the question of whether or not Dr. Smith has been authorized, consented to through counsel or the patient, has there been a waiver of any physician/patient privilege. This is not an independent evaluator like the three that you've heard already.

THE COURT: Yes, sir.

MR. MAULDIN: This is a person who was actually treating her over a period of time and receiving

payments or insurance, I mean, just like a regular doctor.

THE COURT: I see where you're going.

Can I order him to testify?

MR. MAULDIN: Pardon?

THE COURT: If he's going to claim that he's -- there's some type of privilege.

MR. MAULDIN: Right.

THE COURT: Okay. A physician/patient privilege, can't I nonetheless order him to testify if I find his information is relevant to the case?

MR. MAULDIN: Well, at this point --

THE COURT: Under Title 44 or whatever it is. I forget the statutory section.

MR. MAULDIN: Well, at this point his -- his -- I'll call it profile. His profile in the case is as a prior treating physician who has records that are privileged as to his -- his records.

Now, we've got a completely different argument that I'm going to allow my young associate, Jacob Goldstein, to clarify for you in a moment.

THE COURT: Hold that thought. Put a pin in it.

All right. Coming back to you, Mr. Solicitor.

MR. WILKINS: Yes.

THE COURT: First of all, what I'm trying to

get -- what do you want him to say? What do you think he's going to say?

MR. WILKINS: I think he's going to discuss his treatment of Anna Simpson from 2010 to March of 2013.

THE COURT: They can stipulate to that.

MR. WILKINS: He's going to talk about the individual sessions that he had with her. He's going to talk about the fact that he never saw any indication --

THE COURT: He's going to voluntarily talk about this?

MR. WILKINS: Yeah. He's ready, willing to come.

THE COURT: What about the privilege issue that they raise?

MR. WILKINS: 44-22-90 is the statute, Your Honor, I think we're referring to. These records have already been released to Dr. Frierson, a third party, and she's consented to that so the privilege has been waived.

THE COURT: Keep on going. I'm listening.

MR. WILKINS: I'm not sure how much more I have, Your Honor. So then he can come in here and testify as to his treatment of her and what he saw in her and what he --

THE COURT: And what opinion, if any, are you going to be seeking from him, if you're seeking one?

MR. WILKINS: Well, I don't think I can qualify him as a forensic psychiatrist.

THE COURT: Sure, but clinical psychiatrist.

MR. WILKINS: I can qualify him as a psychiatrist, and my question would be did you ever -- when you interacted with her, did she ever have attributes or did she ever show any --

THE COURT: To you that she knew right from wrong.

MR. WILKINS: That she knew right from wrong.

THE COURT: All right.

Can y'all stipulate to that?

MR. MAULDIN: He can't testify to that.

THE COURT: Okay. I understand. Hang on. Hang on.

What I'm trying to do, okay, y'all, obviously, it seems like the defense can stipulate, yes, he was a treating physician. His name has already been mentioned by two psychiatrists and one psychologist, okay. That he was the treating physician, treated her for three years, had numerous sessions with her.

MR. WILKINS: He's also going to testify, Your Honor, to remediation as well. It's been testified that she remediated in about 48 hours.

THE COURT: Okay.

MR. WILKINS: And he's going to say that that is

very atypical, it's not common for somebody who is in a true psychosis where they don't know right from wrong to be able to remediate out of that so quickly. He's never seen it in his 34 years. It's extremely atypical unless it is a voluntary intoxication-induced psychosis.

THE COURT: There we go.

MR. MAULDIN: A lot of stuff. A lot of meat on the bone here, Judge.

And we're kind of going up and down on my page here.

THE COURT: Right.

MR. MAULDIN: But Dr. Smith cannot be asked nor can he testify spontaneously regarding the legal standards of right or wrong or ability to conform. He can't testify to that.

THE COURT: Because you say he's not qualified to because he's not a forensic psychiatrist.

MR. MAULDIN: And, furthermore, he's the treating psychiatrist in this case.

THE COURT: I'll let you voir dire him under Rule 702, and I'll make that determination tomorrow.

MR. MAULDIN: With regard to the limitations --

THE COURT: We'll do that outside the presence of the jury tomorrow morning when the State offers him,

you can voir dire him on his qualifications, and we can make a determination about what he's qualified to testify to.

MR. MAULDIN: And, you know, I'll be glad to do that and I would want to do that if that was -- if the court is reluctant to just rule outright.

THE COURT: I don't know what he's going to say. I'm just saying, this is what Mr. Wilkins tells me he's going to say.

MR. MAULDIN: Here is what I know, and it ain't going to change between now and tomorrow. Dr. Smith is not a forensic psychiatrist.

MR. WILKINS: It goes to weight, not admissibility, Your Honor.

THE COURT: I understand that. I'm going to get around to that.

MR. WILKINS: You can assess all that.

MR. MAULDIN: So he is not going to be qualified to answer ultimate questions regarding right or wrong or ability to conform so those questions should be stopped before they're asked.

THE COURT: We'll deal with that tomorrow morning.

Here is the other thing that I can't fathom. The statute at play here, Title 17, whatever it is, 17-24-10, mentally ill or insane defendant, is 32 years

old. It's been around since 1984. And I haven't been handed up any case law from either one of y'all that talks about the rule of due process and burden shifting. I can't imagine, number one, that it's never been addressed in 32 years. If it has, then I'd like to know about it. If not, then I guess we've got a case. We've got a case that's going to test it. But y'all understand the quandary I'm in from a judicial perspective, but I just wanted to put that on the record, if y'all wanted to enlighten me.

Are y'all aware of any case law that addresses that issue?

MR. MAULDIN: I'm not. I've got a couple hardworking young lawyers here that might spend all night looking for one.

THE COURT: My law clerk couldn't find one. Let me just throw that out.

MR. WILKINS: All I know is Solicitor Bill Traxler back in the '80s went down to the legislature and said we need something between not guilty and NGRI, and this is what they came up with. That's all I know.

MR. MAULDIN: Now, but I do want to get some more on this record on this, Judge.

THE COURT: Yes, sir. And I will tell you, even though we're kind of jumping the gun here on my jury

charge, which I'm about ready to -- I'll give y'all copies of that. Y'all can digest overnight. I do talk about the burden, but I address it in a light that I think will be acceptable to both sides.

Having said that, go ahead.

MR. MAULDIN: Judge, the next angle, I think, that the calling of Dr. Smith creates, we've got the -- I'm watching that, Your Honor. We've got the privilege and we've got the authorization, and, of course, Solicitor Wilkins has very well responded.

The next question is records, medical records of my client. It's pretty sensitive now if a treating physician during a controversy provides copies of a party to the controversy's medical records, particularly mental health records, to someone without the authorization of the patient. That becomes a pretty slippery slope. And the question is whether or not if Dr. Smith is going to get on the witness stand and the State is calling him and the State has access to Dr. Smith's medical records, first of all, we are curious about whether or not the State contacted Dr. Smith to meet with him about records that they had in their possession, or did Dr. Smith provide them with records that he had in his possession.

And let me tell you why that's really sensitive in

this case. I'm going to introduce the point, then I'm going to allow Jacob to make sure the court follows it. I'm going to have this document marked for the record. And this is, obviously, a not-for-jury exhibit.

MR. WILKINS: Can I see that document just so I know what you're talking about?

THE COURT: So the purpose of -- this is for the purpose of the court deciding whether or not the State should be allowed reply testimony. Specifically under Section 17-24-10 and 20.

(WHEREUPON, Defendant's Exhibit Number 16 was marked for identification.)

MR. MAULDIN: Your Honor, I'm going to pass up to you a document, and I want to you just follow me, please, because this -- there is a sequence to this that is extraordinary, and we did not discover it -- we discovered this by accident. And here's what happened.

We were appointed to represent Anna Simpson on the morning of May the 15th, 2013, by Judge Verdin. Letitia Verdin was our administrative judge at the time. I immediately went to Greenville Memorial Hospital attempting to meet with my new client. Now, that creates the representation.

The normal -- in the normal course, we had our client sign general releases and HIPAA releases that we

then sent out to various medical providers including Piedmont Psychiatric Services. Those records were received by us, I don't know, probably within 30 days.

MR. GOLDSTEIN: June.

THE COURT: The records just began to kind of come in as they normally do, and within maybe 30 to 45 days we had received responses from these medical facilities. The five-page document that's marked as Defendant's Exhibit Number 16 for the court's exhibit was contained in the Piedmont Psychiatric Services records that they copied and sent to us. So that's how this came to our attention. We get the psychiatric records, and we look and we say, well, what is this stuff? So we began to look at it, and we began to notice that the same document had been sent by SLED to every one of the medical records that we were gathering for our client.

Now -- and this is something, Judge, that you might want to take a look at overnight because this is a novel issue. This is a brand-new issue. I've practiced law for 42 years, and I have never seen this tactic.

What happened was, if you look at the top of the page on 5-15-13 at 3:19 p.m., SLED faxed these five pages to this particular medical facility demanding the

records.

And now I'm going to ask Jacob if he could please describe to the court what our research has discovered about the use of this tactic. This is an illegal act. This calls for a criminal penalty. And SLED is the one that did it. So we've got -- all right. Come on up.

MR. WILKINS: Could I see the document? I've never seen it.

THE COURT: Yes, sir.

MR. GOLDSTEIN: Your Honor, may it please the court.

THE COURT: Yes, sir.

MR. GOLDSTEIN: As discussed by Mr. Mauldin, he asked me to take a look at this document and the purported justification from SLED for why these health care providers should be required to turn over these records.

Now, they cite both state law and federal law. And what they're saying, what they're misrepresenting to these providers is that you are required and we're asking you to provide these records, and these are the legal justifications. But if you actually peer behind these justifications cited in this document and read the statutes, both the state statute which is S.C. Code Section 63-11-1960, which is the child fatalities

law, and then you look at the HIPAA CFR regulations, this disclosure is not required at all, and, in fact, it's in contravention of law and the purpose of the statute. So if these are the two justifications, state and federal law. And if I may, Your Honor, I'm going to address each in turn.

Now, looking first at the state statute, what they have attached -- and I believe it is on page three, Your Honor, of the document that's been marked and handed up -- is Code Section 63-11-1960 which is entitled Access to Information.

Now, the thing is there's two subsections there. There's subsection 1 and subsection 2. Subsection 2 pertains to health care records that a government agency -- or more than health care records that they're required to provide. That's not at issue. What's at issue here is subsection 1.

It says, "Upon request of the department," which is SLED, "the department immediately must be provided by a provider of medical care access to information and records regarding a child."

Now, "child" is a term that is explicitly defined in 1910 meaning a person under 18 years of age.

THE COURT: They didn't ask for a child's records. They asked for the defendant's records.

MR. GOLDSTEIN: They asked for Ms. Simpson's records based on a statute that authorizes only the release of child records.

Now, that subsection that I had mentioned before pertained to a government agency and what they may or may not be required to provide. Admittedly, that's broad here in scope, but what that really tells us is the legislature knows how to legislate. They knew how to say when we're asking for the records of a child or when we're asking for records that might be broader than that, say a child and the child's family, they chose not to do that here.

So, Your Honor, the clear conclusion here under this statute that they sent to health care providers is that the disclosure of medical information regarding an adult. That was in contravention of law.

Now, the interesting thing, too, is that that statutory scheme actually makes this information confidential. So all information and records. So it's not just the records, but it's the information contained therein that is disclosed is confidential. So only the department is allowed to look at it. It can't be disclosed in a court proceeding or to anyone else. Again, this is 63-11-1990(a). And these records and information only may be disclosed as necessary to

carry out what the statute says is the duties and purposes of the department.

Now, the interesting thing is that, okay, so I look to the section and that statutory scheme discussing the duties and purposes of the department. None of those pertain to litigation, court proceedings, criminal prosecution.

THE COURT: All right. Well, let me cut to the chase. Number one, what's the remedy? Number two, weren't these records used by y'all's experts anyways? So why can't the State bring them up?

MR. GOLDSTEIN: Well, Your Honor, the conclusion here, that's more of a HIPAA thing. I guess under the state statute, the argument is they should not have been disclosed or obtained to begin with under the state statutory scheme. There's no justification for it.

But as far as our experts using or relying on the records, well, they obtained them legally and lawfully with the consent of our client. And, of course, our client is entitled to put on a defense and have an expert testify and to form opinions based on lawfully obtained records. But it's different when the other side or the State obtains the records unlawfully.

THE COURT: So the remedy is they shouldn't be

allowed to present the witness to testify about these records.

MR. GOLDSTEIN: Yes, sir. I mean, that would be the ultimate conclusion I'm getting to after the HIPAA discussion as well. And like Mr. Mauldin said, this is a novel issue. It hasn't been addressed in South Carolina. I did find case law from New York that was dealing with a similar issue. Admittedly, it wasn't in the criminal context. But it was discussing mental health issues. But they said the remedy for violation of HIPAA -- and I haven't gotten to HIPAA yet -- would be suppression of the records, of the information contained therein.

And then there was another case decided after that from New York as well that said, okay. If the records are inadmissible and they can't come in, the conclusion they draw is that the expert who based his opinion on those illegally obtained records, the expert can't testify either. So that is the remedy that we're asking for. The records are not admissible --

THE COURT: But the expert here is the one who created these records. Didn't -- I'm not familiar with the case you're talking about because it's from New York. I mean, there's a difference between an expert reviewing illegally obtained records versus the person

who actually created the record talking about his own records. Do you understand what I'm saying?

MR. GOLDSTEIN: Yes, sir, I do. And then the argument I would make is that especially under HIPAA, I mean, Ms. Simpson is entitled to privacy in her medical records, and they cannot be disclosed in this courtroom or otherwise absent her consent or a lawful exception that applies.

THE COURT: But did you open the door by a psychologist and two psychiatrists relied upon those records in giving their ultimate opinion?

MR. GOLDSTEIN: Yes, sir. And I understand. And my response --

THE COURT: That's the issue. If you relied on them, you may absolutely be correct. And certainly it appears the South Carolina statutory, without getting to the HIPAA thing, the South Carolina statutory reference -- I haven't heard from this side yet -- but it certainly appears on a prima facie review, you know, they cited the wrong statute when they served this request upon Piedmont Psychiatric Associates. So I understand what you're saying about that.

MR. GOLDSTEIN: Yes, sir.

THE COURT: I follow your line of reasoning. But from a bigger scale, in looking at this case as a

whole, the totality of the circumstances, it would seem, even though y'all don't have to prove anything except under the statutory scheme we have in South Carolina you've got to prove by a preponderance of the evidence insanity, okay. I mean, that's what you have to do. When you open the door to something, you know, it cuts both ways.

MR. GOLDSTEIN: Yes, sir.

THE COURT: Do you wish to address that?

MR. GOLDSTEIN: I do. And like I said before, Your Honor, I think that my client is entitled to present a defense which includes expert testimony. And I think what's interesting about this case is that the order is a bit off in how the State is presenting its evidence. I think in a normal case where we weren't dealing with reply testimony, which is not a matter of right but in the discretion of the court.

THE COURT: Okay. What if I let y'all call another witness after they go again?

MR. MAULDIN: Do we intend to call another witness?

THE COURT: What if I give you the opportunity?

MR. MAULDIN: Well, you know, I mean, that's a matter of discretion. If they -- I don't know what this reply witness that I'm so aggressively fighting is

going to say.

MR. WILKINS: Yes, you do, John. You know what he's going to say.

MR. MAULDIN: Doggone I'm going to have somebody available for surrebuttal, and I don't know whether I will have the opportunity or right to do that or not.

THE COURT: Well, that's always in the back of my mind. I mean, that could be some type of judicial remedy here if there is any defect, which I'm not sure there is, but if there is any defect.

Hang on. Let me hear from them.

MR. WILKINS: Well, Your Honor, the first thing I say, I'm so happy that it says South Carolina Law Enforcement Division on that thing and not 13th Circuit Solicitor's Office on that request. That made me feel a lot better about it. That's the first time I saw that document. I think that's an issue for them. That's an issue for SLED. It sounds like SLED might have messed up a little bit in their drafting of that letter and sending it out. Don't know.

For purposes of this trial, and tomorrow in the records that we intend to go over with our witness, she's already waived it. I mean, that's the bottom line. She's waived it through Frierson and consenting to the psychiatric evaluation previously. Those

records are all over the testimony to this court. I mean, they have been in our case-in-chief and their defense so it's been waived. I'm not sure how they can argue those records -- if they wanted to keep those records out, then they would have had to not allow them to be utilized by anybody. They don't get to use them and then not allow us to discuss them. I don't think they get it both ways, so.

THE COURT: Okay. All right. Let me digest it overnight, and I'll rule in the morning.

MR. MAULDIN: Your Honor, we have our client's medical records by the most simple and fundamental customary practice that we do in every case.

THE COURT: Sure.

MR. MAULDIN: The State has our client's medical records on their desk right now obtained by SLED illegally. I haven't waived the illegal acts of the State Law Enforcement Division by providing my client's records to my witnesses.

THE COURT: Following that line of reasoning, then, what if Dr. Smith brings his own medical file tomorrow?

MR. MAULDIN: Well --

THE COURT: And testifies from his original record, not copies illegally, in quotation marks,

obtained by SLED? Wouldn't that cure the issue?

MR. GOLDSTEIN: Well, Your Honor, I mean, she would still be provided under the federal law. Under HIPAA, she's entitled to privacy in her medical records unless either a lawful exception applies in the disclosure, which we would contend there's not, or if she consents, which she hasn't. So I would say that that doctor cannot disclose those privileged medical records just like my doctor couldn't come to this proceeding without my consent and disclose my records in front of a TV camera.

MR. WILKINS: She's already consented to Dr. Frierson reviewing those records. She's consented to two other psychiatrists that her lawyers have called --

THE COURT: That's because they're saying what the defense wants them to say. I understand that.

MR. WILKINS: That's right.

THE COURT: And I say that in jest, okay, but it's a fundamental fairness issue on both sides, is the way I'm trying to look at it, okay. Certainly, you know, the defense has all kinds of rights, and I'm going to do everything I've got to do to protect those rights under the constitution. But at the same time, you know, the State has rights as well, and I've got to

walk that slippery slope.

All right. Let me read this. I'm going to read it, and I understand where your argument is going with HIPAA. I'll look over that, and I'll rule on this tomorrow morning.

MS. Strom: Also Rule 703 in that analysis, if you don't mind, Your Honor, about the basis of the opinion by testimony of the experts. I mean, if they relied on it -- and 705, the disclosure of that underlying facts and data upon which they rely.

THE COURT: Okay. We'll reconvene tomorrow at 9 o'clock in the morning. I'm going to tell the jury -- see, they're back there right now. I need to get them back out here and tell them what's going on and tell them we'll see them in the morning. I'm not going to have them here anticipating arguments. We'll have them here at 9:30, okay. So be ready to go with whatever else happens, whether there be reply testimony or closing arguments at 9:30, and then we'll go from there.

Now, Mr. Clerk, are we going to call in lunch tomorrow for the jury? I anticipate them working through lunch.

My goal, Counsel, is to after -- in the event I do allow reply testimony or whatever, we're going to argue

and charge prior to lunch. That way the jury can go in there and eat lunch and start deliberating.

MR. WILKINS: Yes, sir.

MS. Strom: Yes, sir.

THE COURT: Having said that, I have -- I don't know where he went. He's back there working on charges, I guess. I'm going to give each side a copy of my proposed charges, okay. I'm going to let y'all digest those overnight. And then we will deal with all the charges, reply testimony issue, between the hours of 9:00 and 9:30. We're going to start something on this trial at 9:30. Sound good?

MR. MAULDIN: So your law clerk is going to --

THE COURT: Law clerk is going to come back out here in a second, and we're going to print it out, and I'm going to hand it to you. Then y'all can think about it and see what we're going to do. We'll put that on the record in the morning.

MR. MAULDIN: Thank you, Judge.

MS. Strom: Thank you.

THE COURT: So we're in recess -- not yet. I've got to deal with them. Hang on.

All right. Bring them in.

(WHEREUPON, the jury entered open court at 3:39 p.m.)

THE COURT: All members of the jury are present.

Thank you very much, ladies and gentlemen. Sorry for the delay. Now is a good time. I was dealing with some matters of law with the attorneys as well as some scheduling issues.

My anticipation -- I'll let you know we're going to go ahead and stop for the day, okay, because I have a prior scheduled meeting later this afternoon. Number two, we're going to be here tomorrow morning at 9:00 dealing with some other issues. I want y'all here at 9:30 tomorrow morning. Okay?

Now, my plan, I will tell you, is to reach closing arguments as well as jury charge to you late tomorrow morning, maybe early tomorrow afternoon, and we'll provide lunch for you tomorrow. So go ahead and make plans, okay. Then y'all can start deliberating this case early tomorrow afternoon. That's at least my plan and the schedule we're going to work on.

Having said that, I'm going to release you from the evening. Remember the charge I've given you every day and at everyday break. Don't discuss this matter with anybody. Don't do any independent research. Don't watch or read news reports about the case. Your sole job in this case is to determine the facts, and you do that by the testimony presented in this

courtroom and this courtroom only. Okay? Thank you very much. Have a wonderful evening. We'll see you tomorrow morning at 9:30.

(WHEREUPON, the jury exited open court at 3:42 p.m.)

THE COURT: All right. We're in recess, then, until tomorrow morning. If y'all just give a couple of minutes to let the jury get out of the courtroom, I'd appreciate it.

(WHEREUPON, proceedings adjourned at 3:42 p.m.)

Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Pickens County, South Carolina, on the 22nd day of June 2016.

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

October 14, 2016

Diane L. Marcengill

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

State of South Carolina
County of Pickens

In the Court of General Sessions

State of South Carolina,

-vs-

Suzanna Brown Simpson,

Defendant.

2014-GS-39-0396-98

June 23, 2016

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Transcript of Record

B E F O R E:

The Honorable Brian M. Gibbons, Judge;
and a jury.

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

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Jacob Goldstein, Esquire
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Diane L. Marcengill, RPR, CRR
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E x h i b i t s

For the State:

Marked	Description	I.D.	Admitted
None offered.			

For the Defendant:

Marked	Description	I.D.	Admitted
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(WHEREUPON, court convened with all parties present and the following proceedings were had commencing at approximately 9:00 a.m.)

THE COURT: Okay. First things first. Let's revisit the issue that we were speaking about yesterday before we recessed for the day. That's the issue of any reply evidence from the State along with the issue of the confidentiality of the records from, I believe it's Piedmont Psychiatry Associates.

Yes, sir.

MR. MAULDIN: Your Honor, I think that we had put on the record our objections and our position regarding those issues. I guess the only additional inquiry that I have picked up from the State's arguments and comments, that there will be no attempt to qualify the treating psychiatrist as a forensic psychiatrist. And if that is the case, then that in and of itself creates a serious limitation on the testimony that he can be asked or answer.

THE COURT: Okay.

MR. MAULDIN: And if that's where we are, then I think we made our positions clear.

THE COURT: All right. In your opinion, what can a forensic psychiatrist qualified as an expert in court testify to differently from a clinical psychiatrist

qualified as an expert in clinical psychiatry?

MR. MAULDIN: Basically, Your Honor, if the court is inclined to allow the treating psychiatrist to testify --

THE COURT: Let's assume I do.

MR. MAULDIN: All right. He can testify to observations that he made regarding his treatment of that patient, prescriptions, diagnosis, he can testify to what he was treating her for and how he was treating her and how often he saw her and whether the treatment was successful. That is testimony of a treating psychiatrist.

A forensic psychiatrist can testify that their observations and reviews and interviews led them to form a conclusion from a legal standards point of view, that is, right or wrong, ability to conform. Those are psychiatry as it relates to law.

The treating physician cannot testify to psychiatry as it relates to law and, therefore, if the State intends to ask him questions about whether or not he has an opinion on her ability to --

THE COURT: Conform to the law.

MR. MAULDIN: -- distinguish right from wrong, that's an objectionable question. He is not qualified as a forensic psychiatrist.

If the State intends to ask the witness does -- is she able to conform her conduct or is she not able to conform her conduct, those are forensic questions, and that is what he is not qualified to answer.

THE COURT: Okay.

MR. MAULDIN: So that's the distinction. One is observations, treatment plan, prescriptions, appointment -- number of appointments, how often, what was her diagnosis as far as he was concerned. On the other hand, the other is opinions as to ultimate issues regarding the relationship between the psychiatric condition of the client and the relation with legal principles.

THE COURT: Gotcha. All right. I just want to make sure -- I understood what it was, but I wanted to make sure the record was clear for the record's sake.

Yes, sir.

MR. WILKINS: Your Honor, the State obviously disagrees with that. We intend to qualify Dr. Jeff Smith as an expert in psychiatry. He is a practicing psychiatrist for 34 years. What he does for a living is diagnose individuals and opines as to their state of mind based on their mental illness or lack of mental illness.

In addition, during his residency, he has done

criminal responsibility and ability to conform opinions as well as competency hearings. He's testified in probate court, depositions, civil cases as to mental illness, lack of mental illness, what their state of mind is at the time of a particular incident or whatever. He does exactly what a forensic -- I mean, he does everything that a forensic psychologist does as well, he's just not board certified. That's the only -- only difference.

THE COURT: All right.

MR. WILKINS: But it's all the same psychiatry. It's all the same perceptions. He's a doctor just like they are.

THE COURT: Okay.

MR. WILKINS: And, again, it would go to the weight of the evidence. And Mr. Mauldin can bring out the fact that, "You're not a forensic psychiatrist." I'm not board -- you know, it's a weight -- the jury can decide how much weight they want to give Dr. Smith versus the other experts or not. That's really up to them. But I think he meets the Daubert standard for being able to testify as to her criminal responsibility and her ability to conform.

MR. MAULDIN: Your Honor, then if that is the case, if -- it appears now at this moment that the

solicitor is intending to offer him as a forensic psychiatrist --

MR. WILKINS: No. I'm offering him as a psychiatrist.

THE COURT: Okay.

MR. MAULDIN: But he intends to elicit testimony from that treating doctor that amounts to forensic relationship between that doctor's patient and the law, and that raises an extraordinarily serious ethics question. It is -- it's unethical for a private psychiatrist who is treating a patient to then be called by the State to testify in a forensic manner against his own patient.

THE COURT: Well, but a doctor has to -- that's the doctor's --

MR. WILKES: That has no place in this courtroom, Your Honor.

THE COURT: All right. Here is what we're going to do. Let me cut y'all off because I've heard enough of what I need to hear to form a decision on this.

All right. First of all, after considering all arguments of counsel, I am going to allow the State to present reply evidence. I believe the statutory scheme is clear.

Again, I make this decision taking seriously into

consideration the defendant's position of fundamental due process possible violation with the way the statutory scheme is drafted of burden shifting. Okay. I understand that 100 percent. But I'm constrained by the arguments and by fundamental fairness both -- well, to the State as well to allow the reply testimony.

All right. Having considered -- having ruled that I am going to allow the reply testimony, I specifically find for the record that the privilege, if -- the privilege that Ms. Simpson would have had with the doctor that's going to be testifying for the State has been waived.

These records that this doctor generated that the State intends to call were used by three defense experts to help establish her defense, and as such, I believe that has opened the door for the State to allow -- to allow the State to use that evidence.

I make no finding as to the way SLED retrieved the evidence. That matter is reserved for review, obviously, by a higher court. And I have taken into consideration both Title 63 as well as the HIPAA argument that you presented. And I reviewed that yesterday evening, and I find that I am going to allow the doctor to testify.

Now, as to his qualifications and what he can

testify about, it appears that I'm going to qualify him as an expert in the field of psychiatry or whatever -- of course, I haven't made that decision yet because I haven't heard what all his qualifications are. But let's just assume I qualify him as an expert in the field of psychiatry.

At that time, Mr. Mauldin, certainly, you know, you could voir dire him further in front of the jury and make your point, like you've made to me, that you don't think he's qualified to offer an opinion as to the issue of distinguishing right from wrong.

And then, of course, if they do ask -- if the State does ask that, you enter your objection, and I will make a ruling at that time on whether or not he's allowed to testify. I mean, I haven't heard it yet. I haven't heard what his qualifications are. I'll have to, you know, go through those evaluative factors under Rule 702, 703, 705, and the case law. I believe it's called the Council factors --

MR. WILKINS: *State v. Council*, Your Honor.

THE COURT: -- Council factors to determine whether or not that evidence -- and, again, it very well, like the solicitor indicates, it very well may go to credibility and weight of the evidence rather than admissibility.

And I understand my role as the trial judge. I'm the gatekeeper. I certainly understand that. And it's in light of all that that I make the ruling that I do.

All right. Let's move on now. I've ruled on that. Let's move on now then to the issue of jury charges and verdict form. Let's deal with one at a time.

First, let's deal with the verdict form.

MR. WILKINS: State's good, Your Honor.

THE COURT: Okay. State likes my verdict form.

Mr. Mauldin, I will let you revisit your issue of having the four options. Go ahead.

MR. MAULDIN: I believe this is actually premature, and I'll tell you why. Because we still have testimony that's going to be offered, and I think that what jury instructions are given to the jury and what verdict forms reflect always relate to the existence of evidence, to what has been presented in the case.

THE COURT: Okay. We can do this after the reply.

MR. MAULDIN: I actually believe that this dialogue actually needs to happen when the evidence is over.

THE COURT: That's fine.

MR. MAULDIN: And I apologize, but I just think

that's sound reasoning.

THE COURT: Not a problem. Not a problem. I just -- what I was looking to get to, just like we were -- y'all were making arguments about testimony we haven't even heard yet, I wanted to go ahead and give y'all an option at this time to make arguments about something that may as well be premature as well.

MR. MAULDIN: Right. I could, Your Honor, at least since we've got a few minutes, I could go ahead and put on the record a position that is not going to have anything to do with this next gentleman's testimony, so I believe it's okay to put it on now.

THE COURT: Sure.

MR. MAULDIN: The court, at the pretrial hearing, the State moved and the court granted a request that the jury not be instructed regarding consequences of verdicts.

THE COURT: The penalty of verdict.

MR. MAULDIN: Yes, sir. And at that time we took issue, and we now at this time are going to ask the court to consider adding to the jury instructions, and the reason -- like I say, it has really nothing to do with what this next witness will testify to.

The consequence of that ruling, Judge, is this. The jury is going to be told that one of the verdicts

is guilty. And it's just basic, sensible and common knowledge that if a person is guilty of murder, they go to prison. Again, I don't think the jury is going to be curious about what would happen to a person who's found guilty of murder or guilty but mentally ill of murder. In other words, guilty means prison.

A straight not guilty verdict, I think the jury is -- has common sense, and they're going to interpret that as meaning the State failed to prove the case, the person charged leaves the courthouse and goes on their way.

The problem and uniqueness of this situation is the not guilty by reason of insanity. There is a South Carolina Supreme Court protocol in place that specifically directs you, the trial court, to take certain steps in the event of the return of a not guilty by reason of insanity verdict. It's not like that verdict would come in and then we're all going to sit down and say, "What do we do now?" That's not going to happen.

What's going to happen is this court, under the authority created and authorized by the supreme court, is going to operate under the protocol, she is going to be placed in, essentially, the custody of the Department of Mental Health.

THE COURT: For a period of 120 days.

MR. MAULDIN: That's right. And then they're going to report back to this court, and that this court is going to monitor that --

THE COURT: Not me. The chief administrative judge. I'll be gone.

MR. MAULDIN: Oh, is that what it says?

THE COURT: That's what it says. Within 15 days after receipt of this report by the court, the chief administrative judge of the circuit in which the trial was held -- that's Judge Miller -- will hold a hearing whether or not the person should continue to be hospitalized.

MR. MAULDIN: Right. So -- and I'm clarified on that. I appreciate that, Judge.

But the fact of the matter is there is something in place that actually tells us what we're going to do so that if she's convicted of murder, she goes to prison. If she's found not guilty, she goes home. If she's found not guilty by reason of insanity, she goes under the protocol. And I'm not suggesting that the entire protocol be read, but that the jury be informed that there is a process in place.

THE COURT: Come up with a proposed charge on what you're arguing. Let the State look at it, and then

I'll make a decision when we have the charge conference.

Come up with something basically, you know, without having to read the entire statute, just plain and simple.

MR. MAULDIN: My intention, Your Honor, is to have a one-sentence instruction.

THE COURT: I understand.

MR. MAULDIN: So that the jury doesn't go back in the jury room and say, "Well, wait a minute. Let's go back out in the courtroom and ask the judge what's going to happen if we find her not guilty," and you say, "Y'all can't think about that." That's just blind to the realities of jury deliberations. It is blind to the fact that -- about the way normal people think.

THE COURT: Again, Mr. Mauldin, you have been trying these cases -- well, not these particular type of cases, but trying cases 42 years, as you've discussed. I understand all that. This is a very unique case, as I believe all the lawyers understand.

First one you have ever done, if I'm not mistaken, that's gone for trial, Solicitor?

MR. WILKINS: My first one. Betty Strom has got the most experience of anybody here.

THE COURT: Just because of the four different

possible verdicts. So the issue -- in a normal criminal trial, for the benefit of everybody in the courtroom, you know, you don't discuss penalty or punishment. It doesn't -- that's a matter of law. That's a matter of law for the judge.

MR. MAULDIN: I acknowledge that, Your Honor.

MR. WILKINS: Your Honor, that's a fundamental --

THE COURT: Solicitor, go ahead. I'm coming to you now for your argument. Of course, like Mr. Mauldin says, it's kind of premature to talk about the charge. We'll do that here after the reply testimony.

MR. WILKINS: I don't need to say a lot, Your Honor. We'll look at a charge. I'm going to tell you we're going to vehemently object. It's a fundamental principle that the jury does not take into consideration. In every case I have ever tried, it is faux pas number one to let them know there is a mandatory sentence, there's not a mandatory sentence, what are they going to get. And I've had plenty of jury instruction, what they get should not go into your deliberations. What happens to the person if they are convicted, not convicted should not be considered by the jury. That's not their role. It is outside the scope. It's extremely prejudicial.

THE COURT: It's kind of like trying a shoplifting

up here in this court. Shoplifting up here means it's third property offense or higher. Up to ten years in prison for shoplifting a coffee mug.

MR. WILKINS: Bazooka Joe bubble gum, looking at ten years, you know.

THE COURT: All right. I'll take all that into consideration.

Anything else for the next ten minutes?

MR. MAULDIN: The -- well, you know, something did come up last night that I was thinking about when I was preparing my closing. Because the defendant in this case has the burden by a preponderance to establish the question of whether she knew right or wrong, the question then becomes whether or not the defendant's entitled to final argument.

I've always understood that the State has final argument because they have the burden, and I get that. I mean, I've had the final argument in death penalty cases. I've had not the final argument in noncapital cases. But I was thinking, okay. If I have the burden of establishing the affirmative defense, so to speak, then I raise the question about whether or not that then creates a right in the defendant, particularly because it's really -- and I don't know. I'm assuming the State would -- it is the issue in this case.

THE COURT: That's an interesting point.

Solicitor, I mean, this is unlike the usual criminal trial where the State gets the last word under the rules. And I know we had a rule formulating, percolating in the supreme court in general assembly this year to make them more like the federal system.

Go ahead.

MR. WILKINS: I was a federal prosecutor for five years, Your Honor. And it is state, defense, state rebuttal. And that's the way it is in every case in the federal system, and that's fine if that's what the legislature wants to do.

But the fact that he has to prove beyond a preponderance of the evidence of his affirmative defense, we would submit it's not burden shifting. I still have to prove my burden as I always would in every single case beyond a reasonable doubt. I have to prove. That just allows the jury to consider the affirmative defense.

Self-defense. You can't get a charge of self-defense unless there is evidence in the record that the judge would allow a self-defense charge.

Well, it's the same thing here except they have just put it in a statute. And we don't see any difference. So there's no burden shifting here from

our perspective. I have to prove beyond a reasonable doubt that she did, in fact, commit murder and attempted murder. I have to prove beyond a reasonable doubt that -- I'm assuming --

THE COURT: You have to prove beyond a reasonable doubt that she was not insane at the time.

MR. WILKINS: That she knew right from wrong or didn't. Either way. You know, that she was not legally insane or that she knew right from wrong, however you want to phrase it.

THE COURT: Okay.

MR. WILKINS: So beyond a reasonable doubt is still the burden. We get last argument, Your Honor. Those are the rules that are in effect today at this time. If the legislature wants to go tweak them and go to the fed system, I know a lot of my solicitor brethren will object to that. From one who's been in the fed system, you know, I kind of like it. It's kind of nice. But that's for the legislature to discuss. I am not a legislator, thank God, and I'll do whatever they tell me to do and whatever you tell me to do.

THE COURT: All right. Well, considering your argument, Mr. Mauldin, I'm going to reject your position. And, of course, you'll, when we get to the closing argument stage, you will go first, and the

State will have the opportunity to go last.

All right. What else? The jury is here, I've been advised.

MR. MAULDIN: They are here?

THE COURT: Yes.

What I intend to do is after this for y'all, before we move into -- this is just one witness, right?

MR. WILKINS: Yes, sir, your Honor.

THE COURT: Okay. So after this one witness, we'll take a brief recess, let you get your thoughts together and then we'll do closing arguments.

MR. MAULDIN: And, Your Honor, at that time --

THE COURT: Go ahead. I'm listening.

MR. MAULDIN: At that time --

THE COURT: When we take our break after the witness, we'll have the charge conference, then y'all move into closing arguments and then I charge on the law, and then they start deliberating. Okay?

Anything else y'all think y'all need me to address before we bring the jury in?

MR. WILKINS: Not from the State, Your Honor.

MR. MAULDIN: (Shaking head.)

THE COURT: All right. Bring the jury in.

(WHEREUPON, the jury entered open court at 9:25 a.m.)

THE COURT: All right. All members of the jury are present.

Good morning, Madam Forelady, ladies and gentlemen of the jury. I hope you had a nice evening last night. We'll jump right into it this morning. The defense has rested.

Solicitor, do you have any witnesses in reply?

MR. WILKINS: Your Honor, we do.

We would call to the stand Dr. Jeff Smith.

THE COURT: All right.

Sir.

JEFFREY K. SMITH, M.D.,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

MR. MAULDIN: We do renew and reserve our objection.

THE COURT: Objection noted for the record.

THE CLERK: If you would have a seat and state your name for the record.

THE WITNESS: My name is Dr. Jeffrey K. Smith.

DIRECT EXAMINATION

BY MR. WILKINS:

Q Hey, Dr. Smith. What is your education?

A I earned my undergraduate degree and medical degrees from the University of Alabama. I did my psychiatry residency at the William S. Hall Psychiatric

Institute in Columbia, South Carolina, and I've been in private practice in psychiatry, next month, July 9th, will be 26 years.

Q And so are you a doctor?

A Correct.

Q And, again, explain to this jury what kind of practice you have.

A I'm in private practice, exclusively outpatient private practice. At one point early in my career I did inpatient and outpatient psychiatry, now exclusively outpatient psychiatry.

Q And tell this jury what kind of -- have you done any continuing education? Do you do continuing education programs to maintain your license?

A Absolutely. It's mandatory in South Carolina for all physicians to do a minimum of 30 hours of continuing education each year to maintain their medical license.

Q Explain to this jury what kind of practice you have. What kind of patients do you see?

A I essentially see patients from 18 to 118, essentially from all adult patients with a variety of diagnoses, depression, bipolar disorder, anxiety disorders, attention deficit disorder, substance abuse issues, really the entire spectrum of adult forensic

mental illnesses.

Q As part of that practice, how do you treat those patients? What are your principal duties in treating them?

A Our practice, as it's set up, the physicians and I have -- there's one other psychiatrist, my partner. We also have a physicians assistant who is allowed to evaluate patients. We see patients for initial visits. We then do the medication prescribing and subsequent visits. If it is deemed that this patient may benefit from psychotherapy and counseling in addition to their medications, we offer that through one of six psychotherapists in our office. Or if the patient is already seeing a therapist outside of our office or has a preference of seeing a therapist outside of our office, they're allowed to do so.

Q And in diagnosing your patients, do you have to determine their states of minds?

A Yes.

Q Do you have to, in evaluating your patients, you have to determine if they are suffering from any mental illness or not?

A Absolutely. That is the reason they're there, to ascertain if they are suffering from mental illness and what that mental illness may be.

Q Have you ever been deposed for any types of civil cases?
A Hundreds of times.
Q And briefly explain what type of testimony you were providing in those civil cases.
A I've been deposed in child custody cases, divorce cases, workman's comp cases, medical malpractice cases, and other civil litigation for wrongdoing. I have only testified in one criminal case and this occurred shortly after the end of my residency training. I did a -- all the psychiatry residents are required to do a certain portion of forensic training, whether they choose to become a forensic psychiatrist or not. I had prepared a report concerning this person's mental state prior to a murder trial. The patient decided that he wished to plead guilty. It just so happened my attending physician was out of the country who had signed off on the report so I was the next closest person. So I was actually already in private practice in the Upstate but was called to a different county, and my evaluation was whether this patient was competent to agree to a life sentence plea.
Q Have you ever opined as to criminal responsibility?
A Yes.

Q How many times?
A I would say approximately five times in my residency. Those reports were prepared by me. They were signed off and approved as being accurate and correct by my attending physician.
Q Have you ever testified about someone's ability to conform or not to conform?
A I have not testified in court. I have rendered an opinion but those trials, because my forensic rotation as a resident was so near the end of my residency, those cases went to trial after I had completed residency so my attending physician would have been the one to testify, except in this one case when he was out of the country that I previously alluded to.
Q Have you testified in probate court?
A Yes.
Q Okay. All right.

MR. WILKINS: Your Honor, I would move to have this expert qualified in the field of psychiatry.

THE COURT: All right. Any further voir dire from the defense?

MR. MAULDIN: Just a few questions.

THE COURT: Okay.

VOIR DIRE EXAMINATION

BY MR. MAULDIN:

Q Dr. Smith, you said that your experience with regard to these requests for your opinion occurred during your residency?

A Only the criminal cases. Civil cases have all been postresidency.

Q Right. But during your residency training, you had what I wrote down was five times when you actually stated what your opinion was in a criminal matter?

A Correct.

Q All right. And when -- how long did you say you had been a psychiatrist?

A Well, to more easily answer your question, those opinions would have been rendered in the year 1990.

Q These five times were in 1990?

A That is correct.

Q Okay. So in -- so 26 years ago you had on five occasions the opportunity to express an opinion regarding a criminal matter that then was reviewed by your supervisor of your residency?

A That is correct.

Q I mean, 26 years ago did you actually come into a courtroom?

A Only on one occasion, in a murder case.

Q All right. And that was 26 years ago?

A Correct.

Q All right. And at the time you came into court that one time, which was 26 years ago, were you declared qualified by whoever was presiding in that court as an expert to testify in that matter?

A I was declared as an expert witness in psychiatry. Now, I was not declared an expert forensic psychiatrist, and I think there is a very important distinction to be made there. Forensic psychiatrists choose to do an additional year of their residency which is known as a fellowship to specialize in forensic psychiatry. The reason he or she does that is that they wish to devote all or the majority of their time to forensic psychiatry, the interface between law and psychiatry, not to treat patients in a clinical setting. However, all psychiatrists have forensic training and all psychiatrists are expected to have a fundamental understanding of legal matters. All psychiatrists should be able to testify to testamentary capacity such as in a will, to someone's competency as to whether or not they need to have a guardian or a conservator appointed for them. They should be able to know the McNaughton statute, depending upon the jurisdiction of the court, the American Law Institute statute and the Guilty But Mentally Ill statute which is not applicable in every state, but my understanding

is in South Carolina.

So not being boarded in forensic psychiatry does not mean you do not know about forensic psychiatry, you do not study about that, and you do not make rulings related to forensics or decisions -- not rulings -- decisions related to forensics matters on a frequent basis.

Q The fact of the matter is, Dr. Smith, you have never been qualified by a court in the state of South Carolina to testify as an expert witness on issues of forensic psychiatry; isn't that true?

A That is true.

Q All right. And, furthermore, you said to the prosecutor when he asked you if you had ever testified, you said that you had been deposed. Was that your answer?

A I have testified in court in civil matters, I have been deposed in civil matters, probate matters, but, to my knowledge, I have not been deposed and I certainly have not testified in a criminal case.

Q And when you say you've been deposed, that's -- that means that you were served with a subpoena to appear at a location and answer the questions of the lawyers regarding a civil matter that you would have actually had personal involvement in; isn't that

correct?
A Can you did define what you mean, "personal involvement"?
Q Well, I mean, like if you got sued, if you got sued --
A No, I've never. No, no.
Q -- for malpractice?
A No. I have never been sued for malpractice. None of those I had any personal involvement in. My role was to formulate opinions concerning the patient's mental status, so I had no personal involvement other than supplying an opinion.
Q So the depositions that you've been required to testify to have related to your own patients?
A Correct. In most cases. I have been asked in some cases to review other cases and offer an opinion so they have not been exclusively my patients, but have been, the majority of them, have been mine.
Q All right. Now, regarding this matter, regarding the matter of the State of South Carolina versus your patient, Suzanna Simpson, were you asked prior to coming to court today to review any medical records regarding my client, Suzanna Simpson, other than your own records? Were you asked to review or take a look at any records involving my client?

A The only records that I had available to me were my own chart notes on the patient prior to being subpoenaed.

Q All right. And after being subpoenaed, were you then asked to review, examine, read, look at any other medical records of Anna Simpson?

A Yes.

Q You were?

A Yes.

Q And what -- all right. Okay. I'm going to ask for -- to have a moment with the court.

THE COURT: Okay. All right.

Ladies and gentlemen of the jury, I need to deal with some matters outside of your presence. If you will go back to your jury room. Don't talk about the case.

(WHEREUPON, the jury exited open court at 9:39 a.m.)

THE COURT: All right.

Yes, sir. Do you want to keep asking him?

MR. MAULDIN: Yes, sir.

THE COURT: Go ahead.

VOIR DIRE EXAMINATION (Resumed)

BY MR. MAULDIN:

Q Dr. Smith, you confirmed a moment ago after you

had been subpoenaed, apparently, you were either instructed or requested or whatever to take a look at additional information regarding Anna Simpson. And what I want to know is if your file there reflects what you were asked to look at. Just give the Court an itemized list of the things that you were shown, the things that you were exposed to or in any other manner asked to review regarding your involvement as a possible witness in this case.

A I will be glad to do that. First of all, I was not asked to look at anything. I asked myself -- or I asked the solicitor if I were going to testify, that the following items, that I would like to look at myself so that I could gain a full understanding of the evaluations of the forensic psychiatrists and psychologists.

Q All right.

A Prior to that time, the only thing that I had reviewed and I had reviewed exhaustively were my clinical notes that ranged from the 8th of March 2010 through the 26th of February 2013 during which time I treated Ms. Simpson over the course of 34 visits. I requested to -- and I apologize. I'll add one other thing. I did have a copy of her Carolina Center notes that were sent to me because she was in the hospital

during the time I was treating, so I did review those as well. I asked then to be allowed to review the notes from the emergency room taken by Dr. Harris on the day of the incident. I asked to be allowed to review the reports that were made available by any of the other forensic examiners. That includes Dr. Frierson and Dr. Price. And so those were all the additional records I asked for. I was not urged to review those. I asked for them because I wanted to be able to give a comprehensive and informed opinion.

Q All right. So prior to the subpoena, you had your own records?

A Correct.

Q Right. After you were subpoenaed and apparently, I guess, conversations took place about the need for you to be available to testify, right?

A Well, I was subpoenaed. I wasn't given any choice.

Q No. I mean, when you had the subpoena, you would have then had a conversation with somebody that, "Hey, you may be called as a witness"?

A Correct.

Q All right. And that is when, if I'm making notes correctly, you requested access to the Greenville Hospital System records that related to any

conversations she would have had with anyone after she was hospitalized in May of '13?

A I did. Let me qualify that by saying in early March of this year Dr. Price, who I understand testified for the defense, told me that he realized that my records had been looked at by many people but no one had ever spoken to me, so he made an appointment with me. He briefly allowed me to review Dr. Frierson's report which I thumbed through that he kept. He told me what the findings of both forensic psychiatrists and the forensic psychologist were. So that was the first contact I had had from either defense or prosecution, and that was in early March of this year.

Q And you --

MR. WILKINS: Your Honor, I'm going to object. How does this go to his qualifications as being qualified as an expert? We're in voir dire here outside the jury. I mean, we're going way down a road that I'm not sure that affects his ability to testify.

MR. MAULDIN: Your Honor, the inquiry I'm making is access to records that were illegally obtained by the State and that those records have been -- or this witness has been provided access to records that were illegally obtained and, therefore, he is disqualified

as a witness.

MR. WILKINS: Your Honor's ruled on this issue.

MR. MAULDIN: I've got to make that record.

THE COURT: No, sir. I've already ruled on that issue, Mr. Mauldin. I mean, we're not going down that road. Okay? I mean, right now you're voir diring him about his qualifications. Okay? And I sent the jury out and what I've heard him testify now to is that one of the defense doctors came and talked to him and shared information with him and that he's relying upon his own notes in making whatever opinion he's going to make today. I haven't heard anything about him being provided with any notes from SLED.

MR. MAULDIN: Well, that's why I want to ask the question.

THE COURT: I'll ask him.

Doctor, were you provided any notes or anything that SLED requested from you, were you provided anything from SLED for you to make whatever opinion you're making here today?

THE WITNESS: No. SLED, shortly after the commission of the crime, requested a copy of the records. They sent a long submission form that indicated that in felony cases that HIPAA regulations did not apply and we turned over the records of the

patient to SLED.

THE COURT: Okay. Any further questions based upon my questions to him?

MR. MAULDIN: Yes, your Honor.

Q Did you -- didn't you say just a minute ago that you reviewed the records from St. Francis Hospital? Didn't you say that just a second ago?

A I certainly did.

Q All right. And those records that you reviewed from St. Francis were -- that you received access to and reviewed those after your subpoena?

A Correct.

Q And they were provided to you for review by somebody?

A Yes, sir, provided by the solicitor's office at my request.

Q All right. You asked for those records and the solicitor gave you records of Anna Simpson's hospitalization at St. Francis Hospital in August of 2012?

A Correct.

Q All right.

MR. MAULDIN: All right. Then, Your Honor --

THE COURT: All right. I'm with you. I understand where you're going.

BY MR. MAULDIN:

Q Okay. And you understood -- you mentioned a moment ago, Dr. Smith, that you had a conversation with Dr. Price?

A Correct.

Q And you understood that Dr. Price was a forensic psychologist, was conducting interviews in an effort to process a forensic evaluation of Anna Simpson. You understood that was what he was actually doing?

A No, I did not understand that specifically. What I understood was and what Dr. Price explained to me was three different forensic examiners, two psychiatrists, one psychologist, had pored through my notes and no one had ever bothered to contact me ever about this, and he felt like that he should add that to the interview portion of his report. And, in fact, his report, if you look at it, was compiled and typed after -- I think I'm the last interview listed on all of the interviews and records that he reviewed.

Q All right.

MR. MAULDIN: Then, Your Honor, now I'm going to question him specifically as to forensic evaluation. That's all the questions I'm going to ask him about the access to records. I think I've got that record pretty well preserved about how he reviewed those records.

They were provided to him by the solicitor and we now how the solicitor got them.

So now I'm going to ask him regarding forensic evaluations because that's where these questions are going to end up coming from the solicitor.

THE COURT: Okay.

BY MR. MAULDIN:

Q Dr. Smith, you did review some records?

A Oh, absolutely.

Q Did you conduct -- in preparation for your offer of testimony today, did you conduct any interviews with any family members, witnesses or any other people regarding the matter at hand?

A Well, first of all, I would somewhat object to offering testimony. I was subpoenaed to testify. I'd much rather be anywhere else but here right now, but no, I was not asked to evaluate that. That would have required either a court order or the defense asking me to do that, so I was never contacted by the defense until approximately, you know, three months ago. I assume that I was a forgotten entity in this tragic case.

MR. WILKINS: Your Honor, could we bring the jury back in? I don't know if this is still outside the scope of the jury here. We're in voir dire. I'm not

sure what Mr. Mauldin is trying to do.

THE COURT: We kind of moved from voir dire on to --

MR. WILKINS: No man's land.

THE COURT: -- on to proffering a witness.

MR. MAULDIN: He's proffering the witness as an expert in psychiatry.

THE COURT: Right.

MR. WILKINS: That's right.

MR. MAULDIN: We absolutely anticipate that questions of a forensic nature are going to be asked this witness.

THE COURT: Right.

MR. WILKINS: Right.

MR. MAULDIN: And I am going to establish by these questions that this witness is not qualified. Might as well -- if we don't ask --

THE COURT: You don't want to do that in front of the jury?

MR. MAULDIN: Well, if we ask him -- he's going to ask the questions and I'm going to have to object to them as being beyond the scope of his expertise.

THE COURT: Yes, sir.

MR. MAULDIN: Then we're going to have to send the jury out and do all this over.

THE COURT: Mr Wilkins.

MR. WILKINS: I think you're going to rule on it. After we complete voir dire, you're going to qualify him as an expert. Or not.

THE COURT: Yes. We completed voir dire. I'll go ahead and tell you, yes, based upon what I've heard, he's qualified to testify as an expert in psychiatry.

MR. WILKINS: Okay. So the elephant in the room is I'm going to ask him about criminal responsibility as to her and as to whether she had the ability to conform as to the defendant. Now that's not my only questions, but it is going to be a question, and I think that that's what Mr. Mauldin is objecting to. So that needs to be ruled on. So if you want to let him go down the driveway as far as he wants to go so we can rule on that.

THE COURT: I understand this. We're out of the presence of the jury.

Doctor, do you believe you're qualified to testify as an expert to render an opinion as to criminal responsibility?

THE WITNESS: Yes, I do.

THE COURT: Okay.

Start asking questions as to why he thinks that.

BY MR. MAULDIN:

Q Have you ever been -- and I think I already asked him if he had ever been qualified and he said no.

THE COURT: He said no, never been qualified as an expert in court before, and the jury has heard that. Okay? They did before we sent them out.

MR. WILKINS: They did.

MR. MAULDIN: Well, I didn't -- oh, okay.

THE COURT: Yes, sir. See, that's where it goes toward the weight and the credibility. I'm still sitting here looking at the Council factors deciding whether or not I'm going to allow it, but the question hasn't been asked what is his opinion yet.

BY MR. MAULDIN:

Q All right. Then the questions to this witness would be were you provided any documents of a law enforcement nature, SLED documents, police reports, witness statements, any warrants, any supplemental reports, any 911 telephone calls, any -- were you provided anything from the defense, did you ask for anything from the defense regarding the facts of this case, did you get any of that information?

A No. Now, I did not ask for that, did not receive that. Now, some of those things were alluded to in the forensic reports of the psychologist and psychiatrist I read, but I did not specifically look at any law

enforcement records, any -- any other records other than what I just enumerated previously.

Q Did you meet with counsel? That would be -- that's Teal Johnson, the lady seated at the table there. I'm John Mauldin. Did you meet or discuss with us anything about this case?

A No. I was never contacted by anyone on the defense side, to my knowledge, other than Dr. Price.

Q But you were never asked to conduct a forensic evaluation, were you?

A I was asked to do nothing until two weeks ago.

Q And two weeks ago were you asked to conduct a forensic evaluation?

A Not directly of the patient. The patient was not available to me. I was asked what my opinion was about her diagnosis, and I was asked about what my opinion was concerning her lack of knowledge of right and wrong, which I had previously formulated on my own because of the tragic nature of this case. In nearly 26 years of practice, I have never had anything surprise me as much as this case did, and I've done considerable self-education going back and going through these records prior to that time. I had arrived at an opinion of my own that I thought that would never be solicited in court prior to ever meeting

the solicitor.

Q Well, I mean, what was it? I mean, you say you struggled with it. So what was the opinion?

A I struggled with what?

Q Never mind. I'll withdraw that question.

THE COURT: Okay.

MR. MAULDIN: Your Honor, at this point -- one moment.

THE COURT: Okay.

(WHEREUPON, an off-the-record discussion was had between defense counsel.)

MR. MAULDIN: All right.

MR. WILKINS: Your Honor, I'm willing to ask him the question so you can make a ruling on it, whether he can answer it or not. Just haven't had a good opportunity to do that yet, seeing how we're only in voir dire.

THE COURT: All right. Do you have anything else to ask him or do you want to make argument now?

MR. MAULDIN: I will make argument.

THE COURT: Before you do that, you had a follow-up question while we're proffering.

MR. WILKINS: While we're proffering.

VOIR DIRE EXAMINATION

BY MR. WILKINS:

Q Dr. Smith, what would be your opinion as to Anna Simpson's criminal responsibility on May 14, 2013?
A It is my opinion that she knew right from wrong but was unable to conform her conduct -- conform her conduct to the requirements of the law.
Q Does that mean guilty but mentally ill?
A That is the guilty but mentally ill statute, as I recall it.

MR. WILKINS: That would be his ultimate opinion.

THE COURT: Right. I'm not going to let you ask, "Does that mean guilty but mentally ill?" That's the ultimate issue the jury has to determine. That's his opinion. We all know what his opinion is now. Let's hear argument.

MR. MAULDIN: Yes, sir. Your Honor, the State vs. Harris, 318 S.C. 178.

THE COURT: Okay.

MR. MAULDIN: 1995 opinion. The basis, in a nutshell, is a treating physician psychiatrist who is not trained or certified in forensic psychiatry and not performing a forensic evaluation at the time is not qualified to render forensic testimony which is rooted in the understanding of the law how legal concepts apply to a particular patient's case. I mean, there's nothing more absolutely and specifically on line than

that. He is a treating psychiatrist.

THE COURT: South Carolina Supreme Court case?

MR. MAULDIN: Mine is all marked up.

THE COURT: Is that it?

MR. MAULDIN: I got all kind of emphasis here.

MS. STROM: Did you make copies for counsel?

THE CLERK: I can make copies.

MS. STROM: Thank you.

THE CLERK: How many do we need, two sets?

THE COURT: That's a court of appeals case. Has it gone up to the supreme court? Did y'all Shepardize it?

MR. MAULDIN: Well, we kind of are in the courtroom right now, so we're doing the best we can.

THE COURT: All right. From where were you -- what part of the -- all right. In that case the defense offered a therapist as a witness and the Court held that the therapist wasn't qualified much like we're doing here. There was a bench conference and an in-camera hearing. She was not qualified as a psychologist or a psychiatrist. She had a master's degree in clinical counseling from the center and had been treating Harris and worked at Dorchester Mental Health Center, and she was being offered as an expert by the defense. The State objected, and that's what

that case was.

Don't you think that case is kind of distinguishable here? We have a board certified psychiatrist -- now we got it right. Just from a factual standpoint don't you think it's distinguishable.

MR. GOLDSTEIN: Yes, your Honor, but at the same time, I mean, the expert at issue there had been working as a mental health care professional for four years and had been treating that particular defendant for six months, and yet in spite of his background, the court said that she failed to explain what her training involved or what specific experience, if any, she gained through her employment or through treating the defendant that would allow her to comment on his state of mind at the time of the incident, i.e., to render an ultimate opinion. So in spite of the fact that she was a treating mental health care professional, for this particular defendant, she could not comment on the ultimate issue, his state of mind.

THE COURT: Okay. I gotcha.

Any argument from the State on that?

MR. WILKINS: I'm just now reading the opinion, but my understanding is she's a therapist.

THE COURT: Yes.

MR. WILKINS: Okay. Well, he's a psychiatrist. And he's had training in this area, too.

THE COURT: All right. Here's what we're going to do -- yes, sir.

MR. GOLDSTEIN: Your Honor, if I may.

THE COURT: Go ahead.

MR. GOLDSTEIN: And there's one section in the opinion that says an expert's qualifications to render --

THE COURT: Where are you?

MR. GOLDSTEIN: -- an expert opinion --

THE COURT: What page, five of six?

MR. GOLDSTEIN: On the printout that I have, it says 181.

THE COURT: Okay.

MR. GOLDSTEIN: So this is right after I said that she failed to elaborate on her specific experience.

THE COURT: Okay.

MR. GOLDSTEIN: But the court says, there's a citation that says, "An expert's qualification to render an expert opinion on a subject must depend upon the nature and extent of his knowledge and not upon his claim to a particular title, i.e., doctor or psychiatrist. It's specific knowledge and the ability to testify as to the ultimate opinion.

MR. WILKINS: Your Honor, his knowledge is about ten times more than their forensic experts. He saw her for 34 times over a three-year period. He's also reviewed records from Carolina Center for Behavioral Health, St. Francis ER, during the date of the incident, St. Francis in 2012, as well as both forensic reports by their forensic psychiatrists.

THE COURT: All right. Okay. Thank you. I don't need to hear anything further. I've heard enough. I think we've beat this horse enough. All right.

Here is what we're going to do. Okay? You know, I've heard the doctor's testimony. We have had the in-camera hearing. He's been proffered. I do find, you know, in considering the Council factors, considering the case law handed up, first of all, with the case law, I believe the case law that the defense handed up, State vs. Harris, is distinguishable from this case because in this case we have a practicing psychiatrist who clearly, in this Court's opinion, is qualified to testify as a psychiatrist and, therefore, render an opinion. I'm also satisfied with his explanation about the difference between psychiatry versus forensic psychiatry. Okay?

Now, having said that, I find, then, that he is qualified to testify as an expert and offer an opinion

that the State seeks. Now, whether or not this jury is going to accept that opinion considering the fact that you have three, they have one -- I'm going to tell them they can't really consider the number of witnesses. That's the general credibility argument. But that goes to the weight and credibility of the evidence, not to the admissibility. And in making this decision, I want the record to be clear, I have considered not only his qualifications, but I've considered the State vs. Council factors, and for the benefit of any appellate court which may review this decision if it goes any further, I will state those into the record.

Number one, when admitting scientific evidence under Rule 702, the trial judge must find the following: A, the evidence will assist the trier of fact. I believe this evidence will assist the jury in making a determination. B, the expert witness is qualified. I have made the determination that I believe the expert witness is qualified. And, C, the underlying science is reliable. All right. Considering reliability, the publications peer reviewed, prior application of the method to the type of evidence involved in the case, quality control procedures used to assure reliability, and the consistency of the method with recognized scientific

laws and procedures. He's testified that he's treated the defendant for some 34 different occasions, has good knowledge of her in his treatment of her. He's been practicing for 26 years. I mean, I've already heard from the defense side everything that goes into making an opinion concerning whether or not someone knows the difference between right and wrong and can conform conduct, so I find that the evidence is reliable.

Lastly, and the main issue, at least where the defense is concerned, is the balancing, whether it's more prejudicial than probative. Okay? Clearly this testimony is prejudicial to the defense. I understand that. Okay? But, you know, any time somebody is charged with a crime, it's prejudicial to the defense.

The State, considering and balancing fundamental fairness issues, I believe the probative value of this evidence outweighs the prejudicial effect and, again, this Court finds that this evidence is admissible. You can argue all day long, and you're doing so very effectively in the Court's opinion, Mr. Mauldin. I'm not a juror, but I think you're making very effective arguments and very effective cross-examination of this witness' testimony, and I'm sure the jury is going to consider all that. And I know they will. Okay?

So having specifically ruled under the State vs.

Council factors and considered each of the factors as I've just enumerated them, I find this witness is qualified, I find this witness can be asked the opinion, and that's over the defense's objection, that's over the case law handed up to me. I will allow you to cross-examine him just like you're going to cross-examine, just like I know you're going to do. And, of course, he hasn't been asked his opinion yet in front of the jury, so when the State asks his opinion, you make your objection, okay, I will rule on it then, and then, of course, then we can go through the rest of his cross-examination.

Okay? We all good?

Bring the jury in.

MR. WILKINS: Thank you, your Honor.

(WHEREUPON, the jury entered open court at 10:08 a.m.)

THE COURT: All right. All members of the jury are present. Ladies and gentlemen, thank you very much for your patience.

Any further voir dire from the defense of the psychiatrist?

MR. MAULDIN: No further voir dire, Your Honor.

THE COURT: Thank you.

MR. WILKINS: Your Honor, I'll continue.

THE COURT: Well, there was a motion to qualify him as --

MR. WILKINS: I believe I was going to -- we move to qualify him, Dr. Jeff Smith, as an expert in psychiatry.

THE COURT: All right.

MR. MAULDIN: We object, Your Honor.

THE COURT: All right. The defense objects. Based upon the testimony and evidence in the record, I do find this witness is qualified as an expert in the field of psychiatry.

Ladies and gentlemen, I have described to you what an expert can do. Just remember my description to you about what an expert can testify to. Okay?

MR. WILKINS: Thank you, your Honor.

DIRECT EXAMINATION (Resumed)

BY MR. WILKINS:

Q All right, Dr. Smith. Were you the treating psychiatrist for the defendant, Anna Simpson?

A Yes.

Q All right. Can you tell this jury when about you became the treating psychiatrist and how you became the treating psychiatrist?

A She was referred to me on the 8th of March 2010 by Dr. Wayne Hanna, who is a primary care family practice

doctor in Greenville for evaluation of, quote, ADHD and depression. He had attempted to treat her prior to that time and was not -- did not feel the treatment had been successful so he made that referral to me.

Q And did you begin treating her?

A Yes.

Q And tell this jury how your treatment process began and continued.

A Well, I diagnosed her for the first time, to my knowledge, with bipolar disorder. She had previously been diagnosed as having depression and ADD and anxiety. While I believe that she did indeed have ADHD and anxiety, I felt that the depression was a misdiagnosis and that her mood disorder was more consistent with bipolar disorder which requires a different approach medically to stabilize that condition.

Q Okay. Tell this jury what bipolar disorder is.

A Well, bipolar disorder is the modern day term for manic depressive disorder where individuals' moods cycle from one extreme to another. Bipolar means two poles, like the North Pole and South Pole. And the South Pole are depressed phase, the person has depressed mood, may have lack of energy, lack of motivation, lack of interest, social withdrawal, lack

of libido, crying spells, suicidal ideations.

On the manic end of the pole, it's diametrically opposed to depression. The patient often has a euphoric mood. It doesn't have to be euphoric but most often is, but it can be an irritable, extremely irritable mood. They typically have racing thoughts. They have very rapid speech. They write extensively. They have what are called loose associations where they go from point A to point G bypassing B through F, jumping from one place to another. They can often get by with minimal amount of sleep. They often are very impulsive in what they say and what they do. They're often prone to overspending money. And in extreme cases on both the manic and depressed end of the pole, patients can become psychotic where they can experience auditory hallucinations and delusions in very severe cases.

Q And how -- what was your treatment of her?

A Well, the first visit, I continued her on Adderall which is a stimulant medication for attention definition disorder. I started her on a mood stabilizer. And to my understanding, it was the first time, having taken a history of her previous medications, that she had ever been on a mood stabilizer. And a mood stabilizer is absolutely

fundamental to treating someone with bipolar disorder. You cannot stabilize their condition without it. It would be like baking a cake without flour. You could have all the eggs, milk, sugar and butter you want, but if you don't have flour, you can't make a batter and make a cake, and the mood stabilizer is the flour in this pharmacology formula. I also continued her on Topamax. Topamax is an medicine that was originally designed for seizures. Neurologists often use it to treat migraine headaches, which is what it was prescribed for. Topamax does have some mild mood stabilizing properties. It's not really as effective as the Lamictal, but certainly I felt it could possibly help the Lamictal a bit in mood stabilization.

Q And when you first meet with a patient, especially their first visit or their intake into your office, do you get any history that comes along with that, prior medical history or diagnoses or anything like that?

A Yes. I try to get an understanding of how long the person has experienced these symptoms. I want to elicit all the symptoms that they're experiencing to make sure that some have not been overlooked in the past. I want to get a history of what medications they have been on in the past and what the response may be. I want to get a general medical history. Do they have

other medical problems, do they have drug allergies, is there a family history of forensic illness, a little bit about background history. So it's a fairly comprehensive evaluation.

Q And did you do that in this case?

A Yes, sir.

Q Can you give an overview of her prior medical history?

A Well, it's my understanding that she had previously been diagnosed with depression and ADD, and the depression first had been noted sometime in the vicinity of her college years and had been exacerbated on at least one occasion in the postpartum period. But all treatment to date had been for either depression, ADD or anxiety and none for bipolar disorder.

Q And, just briefly, did you know her educational background? Did you look at that?

A My understanding is a college graduate I believe in finance from Winthrop University, if I remember correctly.

Q And was she working at the time?

A I do not recall if she was working at the time. My understanding was that she had worked at one time in a bank.

Q Do you also look at potential stressors that could

exacerbate or enhance any of her mental illness symptoms?

A Yes.

Q Okay. On the day that you saw her, the initial day that you saw her on March 8, 2010, were there any stressors that you indicated?

A Yes. She mentioned having two children ages four and two, and she specifically mentioned that she often got in conflict with her husband because of her inattentiveness which is a symptom of ADHD, and, quote, I guess blamed a lot from the husband.

Q So during your treatment of her, how many times did you see her as her psychiatrist?

A I saw her 34 times. There were seven cancellations and three no-shows so there was a potential for there having been 44 total appointments, but I actually saw her in person on 34 occasions.

Q And describe -- was she the exact same way every time she came to you or were there differences in her presentation?

A No. There were differences. There were times when her condition was, I thought, very stable including the last time I saw her in February of 2013. But there were certainly times when things were not stable, and an examination of my records will show we

made a lot of medication changes and adjustments because we were dealing with three separate forensic problems, and, specifically, when you're treating bipolar disorder and ADHD, it's a very tricky thing to do because ADD medicines in the absence of a mood stabilizer will make bipolar disorder much worse so you have to balance the medications out very carefully to get the level of stability that you want.

Q Would she consistently take her medications during the three-year period?

A My belief is that she, from what she was telling me, she was. There was at least one occasion that she admitted to having stopped the medication to me in the office and it resulted in a marked worsening of her symptoms. In fact, that was the second of three times that she admitted to having any kind of psychotic symptoms, specifically paranoia.

Q In 2012, it's previously been testified that late July of 2012 she was admitted to the emergency room at St. Francis and subsequently on to the Carolina Center for Behavioral Health. Were you able to review those records of that admittance?

A Yes.

Q And you saw her subsequent to that?

A Yes, I saw her --

MR. MAULDIN: Doctor, excuse me. I do renew my motion with regard to access to those records.

THE COURT: Yes, sir. Motion noted and objection noted. Objection overruled.

MR. MAULDIN: Thank you.

THE WITNESS: Can you restate your question?

MR. WILKINS: Sorry. Yes, sir.

Q Subsequent to her admittance to those two hospitals, did you see her subsequent to that?

A Yes. My understanding is she was first at St. Francis Hospital. They were in the emergency room for, I believe, roughly about three days because they were having difficulty locating an inpatient forensic bed. She was then admitted to Carolina Center for Behavioral Health, which is forensic hospital in Greer, and was there for, I believe, three days. Very short hospitalization. And then I saw her as an outpatient within ten days of that discharge from the hospital.

Q And what was your analysis of that episode and what occurred?

A Well, I think that there was evidence of psychosis; however, in reviewing those records, there was mentioned by the treating clinicians at St. Francis that she had stopped taking her mood stabilizer which could have indeed explained those symptoms,

particularly if -- and we really have no way of knowing this, but if she continued to take the stimulant medications without the mood stabilizer, that would significantly contribute to the psychosis.

Q And you said -- so was she having a psychosis when she went to St. Francis and Carolina Center for Behavioral Health?

A By the -- in St. Francis Hospital, according to the -- I did not see her myself -- according to the treating clinicians, there were psychotic symptoms. Those had largely resolved by the time she went to the Carolina Center, and her stay at the Carolina Center was very brief.

Q So when you saw her, what was your diagnosis of her when you saw her subsequent to those?

A My diagnosis was the same throughout the course of treatment, that she had bipolar disorder, attention deficit hyperactive disorder, and an anxiety disorder, so my diagnoses did not change throughout the course of treatment.

Q If someone is having -- and you stated you saw her while she was having some psychotic features; is that correct?

A On -- twice in person, once reported in by telephone to my medical assistant as a possible

reaction to a new medication we had started, and we stopped that medication by the time she came for her next appointment that had -- paranoia, psychosis had resolved, but in person, one on one, two occasions.

Q And if someone has psychotic features, does that mean that they do or do not know right from wrong?

A Not necessarily.

Q So you can have psychotic features and still know right from wrong?

A Absolutely.

Q Were you able to review the reports of Dr. Frierson and Dr. Price in this case?

A Yes, sir.

Q You read those reports?

A Yes.

Q Did you ever meet with any of them?

A I met in person with Dr. Price in early March of this year. He allowed me to briefly look over the report that Dr. Frierson, the forensic psychiatrist, had prepared, and he also told me what his findings were. I don't think he had dictated his report at that time. He asked my opinion. I said, "Well, based upon what you were seeing at that time, I can see how you arrived at your decision," but I was very pointed in telling Dr. Price that this is an entirely different

individual than the one I saw for 34 visits. There is nothing about this that is similar in clinical presentation. I was so struck by that, that within a few days I actually telephoned Dr. Frierson in Columbia. I know Dr. Frierson, have utmost respect for him. I saw him when he was a medical student and I was a resident. And, again, he -- I had only perused his report. I had not had time to look at it in great detail, but he told me how he arrived at the report, and I reiterated to him that I had never seen anything like this in 26 years of practice. It was like we were talking about two different individuals.

Q So elaborate on that. What are you referring to, their report and what they said in their report versus what you were seeing for 34 visits up until February of 2013?

A Well, in those 34 visits with me, there was only two face-to-face reports of paranoia. And when asked about the paranoia, it was, "I think people are talking about me," okay, which is a generalized, vague paranoia. The extent of the delusions that are enumerated in the forensic psychiatrist and forensic psychologist reports were never revealed to me by the patient, nor did the patient's family ever contact me independently to say, "Wow, this person has got really

severe delusions, you know, that are extremely bizarre." So, at most, again, I saw was vague reference to paranoia but nothing about bugs in ceiling fans, about shift shaping changes, about the Illuminati, about just any variety of things. I could enumerate those by finding my notes and looking at them, but nothing of that complex and bizarre nature did I ever witness. Is it possible she concealed that from me? Certainly. Anything is possible, but if she did, it's the first time it's ever happened in 26 years.

Q When did the forensic psychiatrist talk to Anna Simpson for the first time?

MR. MAULDIN: Your Honor, let me ask just for clarification, when he says when did the forensic psychiatrist first talk to Anna Simpson, if he can identify who he is --

MR. WILKINS: I'm sorry.

Q When did Dr. Frierson first meet, according to his report, first meet with Anna Simpson?

A According to his report, and that's all I can rely upon, he met with her on three occasions in February, May and June of 2015.

Q That would be after the incident that we're here about?

A Close to two years after the incident.
Q And Dr. Price?
A According to Dr. Price's report, he met with the patient between June 14th -- between June of 2014 and June of 2015. He did not, unless I misread the report, did not specify the exact number of visits.
Q Did any -- did you ever get any information from any family members about hallucinations or issues that they referred to in that report?
A No, and I sorely wish that I had.
Q Did any family members ever accompany Anna Simpson to her visits, any of her 34 visits?
A I have no recollection of that.
Q Did you review the Dr. Wade Harris' notes from the Greenville Hospital System emergency room from May 14, 2013?
A Yes.
Q What did you notice about -- anything that you noticed about those records that you took -- that you had taken into consideration?
A Well, he certainly is the -- is a board certified psychiatrist. He is certainly, among anyone who's testified or been alluded to, had the closest, most direct access to this patient in proximity to the commission of the crime. Now, his records indicate

that she would not say that she tried to kill herself. She did say that she tried to shoot herself but the gun wouldn't go off, which was contradictory to not answering whether she was trying to kill herself. He learned from the coroner that she had previously admitted to shooting her family. He noted that she felt like there was some sort of conspiracy against her, things were closing in on her, her children were behaving in abnormal ways, that she was fearful and scared. Again --

MR. MAULDIN: Dr. Smith --

THE COURT: Is there an objection?

MR. MAULDIN: Yeah. We object to the witness just simply sitting there reading the medical records. I mean, if he's got something to say about those medical reports, perhaps he can answer the question, but for him to just sit there and read medical reports is inappropriate.

THE COURT: All right.

BY MR. WILKINS:

Q Just cut to the chase.

A Cut to the chase is that she did not admit to hearing voices. There was some evidence of paranoia and as Dr. Harris concluded, but, again, his description of her psychosis is not nearly as severe as

what is reflected in the forensic psychiatrists and psychologists reports.

Q And we'll get back to those two reports in just a second. What about her remediation at the Greenville Hospital System, did that strike you as something you took into consideration?

A Yes. I think that her rapid resolution or, if not complete resolution, lessening of her psychotic symptoms in such a short period of time, both at St. Francis Hospital earlier and at the emergency room that day, I've never seen someone with a functional psychosis -- and when I say functional psychosis, I'm talking about something like schizophrenia, bipolar disorder with psychosis, depression with psychosis -- respond that quickly to medications. We're talking within hours to a few days. I have seen people who have an organic psychosis. When I say organic psychosis, I'm talking about dementia or stroke or a drug-induced psychosis that will sometimes respond fairly rapidly to medication, but this is an atypical response to a functional psychosis.

Q Did you consider her actions prior to the May -- the morning of the May 14th incident into garnering a conclusion?

A Yes.

Q What did you take issue with about her actions prior to May 14th?

A That -- a number of things. I think that the day prior to the event that -- and, again, I'm relying on the forensic examiners' reports that in a conversation with the mother-in-law, she was described as sounding normal in one of three or four -- I think it said four in one place, and I think five in another report -- that she sounded normal. The other times she sounded bizarre, in trouble. Again, it would be very unusual for someone who is that psychotic to be coming in and out of it and sounding clear in one phone call and psychotic in another.

Q Could it be possible for someone who's suffering from mental illness to do that?

A Possible but not likely.

Q Okay. Go ahead.

A I would question the one troubling statement, to me, that was apparently made to the patient's mother prior to the night before the incident in reference to her husband is, "Mike is done," quote/unquote. That could be the product of psychosis, but that is open to interpretation and a troubling statement. There again, it's a suggestion of premeditation by taking one of the children out of school the day before. There is a

suggestion of premeditation by shooting husband first to disable him to keep him from keeping her from shooting the children. So there are some things there that very much suggest that there was some planning and that planning directly suggests that one --

MR. MAULDIN: Dr. Smith.

Your Honor, object to --

THE COURT: Sustained.

BY MR. WILKINS:

Q All right. Let's move on.

Dr. Smith, what is your opinion as to Anna Simpson's criminal responsibility?

MR. MAULDIN: Objection.

THE COURT: Objection noted. Objection overruled.

THE WITNESS: It is my opinion that she knew right from wrong but was unable to conform her conduct to the behavior of the law.

BY MR. WILKINS:

Q Thank you, Dr. Smith. Answer any questions Mr. Mauldin may have.

THE COURT: Mr. Mauldin, your witness.

MR. MAULDIN: Subject to my objections, Your Honor.

THE COURT: Absolutely.

CROSS-EXAMINATION

BY MR. MAULDIN:

Q First of all, Dr. Smith, we can conclude that you disagree with Dr. Frierson, Dr. Mulbry, and Dr. Price in their forensic evaluations; is that right?

A Yes.

Q All right. You had mentioned a telephone conversation with Dr. Frierson?

A Correct.

Q And you mentioned a meeting with Dr. Price?

A Yes. The meeting with Dr. Price was solicited by him. The phone conversation with Dr. Frierson was solicited by me after speaking with Dr. Price.

Q And at the time you had the meeting with Dr. Price and at the time you had the telephone conversation with Dr. Frierson, you were not in the process of performing a forensic evaluation?

A No. At that point some three years had lapsed. I had not been contacted by anyone on defense, prosecution, law enforcement or anyone. I basically considered myself a nonentity in this case at that point.

Q All right. And, in fact, let's talk just a little bit about your qualifications to be offering this ultimate opinion regarding your former patient.

You have never, not one single time in -- how long

have you been a doctor?

A Well, let's see. I've been a doctor since 1986. I believe that's 40 years, if I'm doing my math right. Or is it 30 years?

Q I don't know. It's one of them.

A It's been a long time.

Q Long time.

A Yeah.

Q You have been a doctor for a long time and not one single time have you ever been qualified as an expert to offer testimony as a forensic psychiatrist; is that right?

A I have not nor have I ever been asked to do so.

Q Right. You have never been asked to conduct a forensic evaluation, you have never been asked to be qualified as an expert to testify about forensic evaluations?

A Let me qualify this because I know you're very, very heavy on specifics here. I have never been asked in a murder case except on the one occasion I previously alluded to. I had been asked to render forensic opinions in civil cases multiple times.

Q All right. So you have been asked to render opinions when people get sued. Lawsuits between Mr. Jones and Mr. Smith, that's a civil?

A It might be a civil lawsuit. It might be a child custody case. It might be a divorce. It might be a workman's comp. It might be a social security case. It might be a medical malpractice case involving another physician, so there are a variety of different civil suits that I've been asked to either testify in court or testify in deposition. Some of those have been videotaped depositions that were shown in court.

Q Well, and let me then make sure we're getting a yes or no here. Have you ever under any circumstances been declared by a judge to be an expert in forensic psychiatry in courtroom testimony? Have you ever had that?

A No.

Q So the answer is no. The answer is no; is that right?

A The answer is --

MR. WILKINS: Your Honor, asked and answered.

MR. MAULDIN: All right.

THE COURT: All right.

MR. MAULDIN: Thought I heard.

Q When -- well -- well, okay. When were you served with a subpoena in this case?

A On March -- excuse me, on June 7th of this year. So I think it's 13 days before the opening of the

trial, I believe.

Q All right. Let me ask that question again. When you were served with a subpoena?

A As I said before, June 7, 2016.

Q June 7th. All right. That's 13 days before the trial started on Monday?

A That is my understanding.

Q Okay. Okay. And when you were served with that subpoena, did you then meet and discuss the subpoena and the case with the prosecutor?

A Yes. The following week, on Tuesday night -- I'm not sure the exact date, but it was a week prior to the opening of this trial, I met with Mr. Wilkins and Ms. Strom.

Q So that would have been June 14th?

A 14th, 15th, 13th, somewhere in that neighborhood.

Q It was less than a week before the beginning of the trial?

A Correct. It was the Tuesday before the beginning of the trial.

Q And so in your effort to be prepared to offer an opinion about the ultimate issue in this case, and that is Anna Simpson's criminal responsibility which you've testified to just a moment ago, that effort to prepare to offer that testimony began less than a week ago?

A Incorrect.
Q All right. Was it back when you got the --
A No. I think I previously testified that after having spoken with Dr. Price and with Dr. Frierson and talking with them, I was again so struck by the differences between what they found in their evaluation and what I saw, I went back through these records again for several hours and parsed them very closely, and it was my opinion that, were I asked that, my opinion would be guilty but mentally ill as opposed to not guilty by reason of insanity. So, no, I did not make that decision just in six days.

Now, was my decision reinforced by examining documents in the days leading up to the trial that I had not previously seen, yes, it reinforced my opinion.
Q All right. Let's talk about the reinforcement of your opinion. When you had the conversations with Dr. Price and Dr. Frierson --
A Correct.
Q -- you say that you were concerned and you just could not believe what had happened. You could not believe that Anna had just deteriorated to that point and you looked at your records -- your records?
A Well, it goes back before that even when I can distinctly remember the date of this crime coming home

from work and the television news being on, and I was reading or doing something else --

Q Hold on. Hold on, Dr. Smith. I don't know where you're going to go with that, but I'm not really sure -- one, I don't know if it's responsive. If you want to say as a result of something you might have seen, that's fine, but don't go into what you may or may not have seen on television.

A How can I answer your question longitudinally --

THE COURT: No, sir. Let him ask the question. He asks, you answer. Let's roll.

BY MR. MAULDIN:

Q All right. When you -- all right. When you were served with your subpoena -- all right. Prior to being served with your subpoena, were you aware that you would be testifying in this case?

A Absolutely not.

Q Okay. So prior to the subpoena, you did not know that you would be here today?

A Correct.

Q And after you were served with the subpoena, I believe you said the next Tuesday, which was Tuesday of last week?

A Correct.

Q You consulted with the prosecutor about the

subpoena?
A Correct.
Q And you -- and at that time, at that time or since then, in the last week, last five days, did you have the opportunity to review records of my client and your former patient? Did you have an opportunity to review medical records of my client and your former patient?
A Yes. I mean, I've -- do you have in mind any specific medical records you're talking about?
Q Well, I don't know what you've reviewed.
A I've already told you. I already testified to the fact of everything I've reviewed from day one. I'll be glad to restate those for you, but I've already testified to everything, every document that I've reviewed from day one.
Q Well, I don't think the jury was in the room when you did that if I'm -- unless -- he didn't do that on direct.
MR. WILKINS: I believe he did, Your Honor.
THE COURT: I don't know. Can't remember.
MR. WILKINS: It's Mr. Mauldin's witness.
MR. MAULDIN: I'll specifically refer.
THE COURT: Sure.
BY MR. MAULDIN:
Q You reviewed the Greenville Hospital records May

of 2013?
A Yes.
Q All right. You -- and those records were provided to you by the prosecutor?
A They were supplied to me by the prosecutor, but I also -- those were supplied to me by Dr. Harris shortly after the event, so I had those prior to that time.
Q You had received those records back in 2013?
A Within a day or two of the incident.
Q Okay. And you received those records prior to her appointment with you -- no, no. You're talking about in May of 2013?
A No. I received those records -- I couldn't have received them because she wasn't available for an appointment after the incident, so it was after the crime.
Q All right. And you had never seen Anna Simpson in terms of meeting with her or consulting with her or talking with her since February of 2013, three months before the incident out in Dacusville?
A That is correct.
Q Did you have an opportunity to review law enforcement records? That would be such things as witness statements, supplemental reports, police reports, EMS reports, 911 phone calls. Did you have an

opportunity to gather all of that data and listen to it and analyze it?

A As I previously answered, no.

Q As you previously answered?

A You asked me that question earlier.

Q But the -- if the jury wasn't in here --

THE COURT: Just answer the question yes or no, Doctor.

THE WITNESS: No.

THE COURT: Thank you.

BY MR. MAULDIN:

Q All right. So you haven't had an opportunity or you did not have an opportunity to do any of that?

A No.

Q All right. Did you have an opportunity to meet and have a face-to-face meeting with the family members involved in this matter? That would be Michael Simpson, her husband who survived this incident, Mr. and Mrs. Brown, who are the parents of your former patient, Anna Simpson, Mr. and Mrs. Simpson, who are Michael's parents. Did you have an opportunity in the last five, six days to meet with them and consult with them about the accuracy of expressing your forensic opinion in this courtroom?

A No. I have never met with any of them.

Q Never met with anybody. Did you consult with me or Teal Johnson, attorneys for Anna Simpson? Did you meet with us and discuss before you formed your opinion?

A I did not. My understanding is that's your responsibility.

Q That what?

A That is your responsibility to get in touch with potential witnesses, not witnesses to seek out the attorney. I did not plan to be a witness, so I made no effort to contact you. There was no reason for me to do so.

Q Oh, Dr. Smith, if you were formulating a forensic opinion, it was your responsibility to gather the appropriate information; isn't that correct? Isn't that correct?

MR. WILKINS: Your Honor, objection.

THE WITNESS: Can you restate that question? I'm not sure.

MR. WILKINS: Badgering the witness.

MR. MAULDIN: I admit it and I apologize.

THE COURT: All right.

THE WITNESS: I accept.

THE COURT: Move on.

BY MR. MAULDIN:

Q You had never met or consulted or discussed this matter about which you have expressed your ultimate opinion on the issue. You never met with me, you never met with Teal Johnson, my co-counsel, and you never met since February of 2013 with your former patient, Anna Simpson, before forming that opinion; is that right?

A No. The last time I saw Ms. Simpson, we scheduled a four-month follow-up visit because her condition was stable and I felt like it was of such stability that a four-month interval would be appropriate, but she is, just like any of my patients are instructed, if their condition changes, they are to contact me immediately before that. So that's the last contact I had with the patient. I've never had any contact, much to my regret, with the family, particularly prior to the incident.

Q We're going to get back to that February meeting you had with her, but did you just testify that you met with her in February of 2013 and set her up for a four-month period because she had stabilized; is that what you just said?

A Yes.

Q Well, that obviously ended up being wrong, didn't it, Dr. Smith?

A Yes.

Q It sure did. Ended up being bad wrong.

MR. WILKINS: Your Honor --

THE COURT: Sustained.

BY MR. MAULDIN:

Q You didn't meet with us but you did meet with them, right?

A Correct.

MR. WILKINS: Your Honor, asked and answered.

THE COURT: Sustained. Move on.

BY MR. MAULDIN:

Q Okay. You saw Anna as a patient beginning in 2010 and continuing through February of 2013, correct?

A That is correct.

Q And you saw her initially in March of 2010, and I believe you saw her for about 37 minutes. If you want to look at your records, I would be glad to give you an opportunity to do so.

A I don't recall the time frame. The initial visits are set up for 50 minutes, but I would have no way of giving you exactly how many minutes they were other than it was likely not more than 50 minutes.

Q So you can't -- so let me, just for clarification, so in your records, it does not indicate the time frame that you would have spent with the patient? I mean, how do you bill -- how do you send a bill to the

insurance company for that? You just estimate them or --

A No. You set aside -- some codes are billed on timing, some are based on the nature of the visit. This was a new patient visit. That's not a timed visit. We set aside a certain amount of time in our schedule. It's 50 minutes to see a new patient, but, no, there would be no reason. I've never recorded the amount of time that I spend with a patient in a note.

Q Your notes do not indicate the amount of time; is that what you just said?

A Correct.

Q Okay. I'll follow up with that in just a moment, Dr. Smith.

In June of 2010 you prescribed Geodon, I think, or Geodon. I don't know how to pronounce that medicine. Take a look at that.

A Yes. On June 21st, 2010, I prescribed -- I changed mood stabilizers from Lamictal to Geodon.

Q And Geodon is an antipsychotic?

A It is an antipsychotic, but most all of the new generation antipsychotics are also effective mood stabilizers. So it's not just used to treat psychosis, it's used to treat bipolar disorder with or without psychosis.

Q Okay. And were you treating her for bipolar disorder without psychosis?
A At that time, yes, there was no evidence of psychosis.
Q But during the time that she was a patient of yours, there were occasions when there were clearly evidence of psychosis and it was confirmed by your own records?
A There were, according to my analysis, three times it was noted that there was psychosis. One was via telephone which remitted after a medicine had been added. The other two times that psychosis were noted, antipsychotic medicines were used, so.
Q All right. And you -- then you continued to see her, and I think you had her set up monthly; is that right?
A Usually it was about three weeks if her condition was not stable. We went as long as three or four months if her condition was stable with a provision that she can, whether I say three days, three weeks or three months, she is to call back, you know, if she's not doing well.
Q Well, I think you said you met with her 34 times and it was a period of less than three years. So we're talking about approximately an average of once a month;

is that fair?

A I would have to look at the exact dates and average them out to say because there were times when there were three-week intervals, there were times when there were three-month intervals, so I think a month would be probably as good a calculation I could do without going through every note one by one and doing the math.

Q All right. In March -- I mean, sorry, August of 2011, August of 2011, you indicated that she had developed paranoid ideations, hypermanic, speech is pressured, paranoid ideations; is that correct? That was August of 2012?

A Can you specify? I have two August notes, August 2nd -- are you talking about 2010 or 2011?

Q '11. 2011.

A Okay. Excuse me. Give me a moment to locate those. I apologize to the Court. I dropped these earlier today and they fell out of chronological order.

All right. I have a note from -- you're referring to August 23rd, 2011.

Q Yes. And it indicates that she had paranoid ideations, correct?

A Correct.

Q And affect was hypermanic?

A Hypomanic.
Q Hypomanic. And you prescribed Risperdal?
A Correct.
Q Which is an antipsychotic?
A And also a mood stabilizer.
Q Okay. All right. But the paranoid ideations, did that have any -- was that a justification to change her medicine to another antipsychotic?
A It was a portion of it. Number one, she was mentioning -- that was the only -- that was the first time in a face-to-face meeting she had ever mentioned paranoid ideations, so that played a factor, but she also was hypomanic which indicated the existing mood stabilizer, the lamotrigine was not working effectively so the change to Risperdal was made to help stabilize the mood and to treat the paranoid ideations.
Q So the treatment at that point, it was concerning because it wasn't being -- it wasn't managing her. It wasn't controlling her psychiatric condition, was it? I mean, otherwise you wouldn't be changing the medications, right?
A It wasn't, but may I qualify that by saying if you want to look at all the notes, and there's an omitted word in here. She had stopped her medications in successive months prior to that meeting and her mood

swings had started to worsen so it was not working. She had been back on the lamotrigine, but the initial problems she was having were likely provoked by having stopped the medications.

Q And isn't it true, Dr. Smith, that one of the ongoing challenges and continuing challenges for anyone who practices medicine in the field of psychiatry is whether or not the medications are properly taken and so forth by the patient? Isn't that an ongoing problem?

A I would say that's an ongoing problem not just in psychiatry, the entire field of medicine.

Q All right. And so that's not an unusual situation when a patient either fails to take their medicine or takes too much of it; that's common in your business, isn't it?

A Yeah. I would not testify to that being unusual. I would testify to that being causative, potentially causative.

Q All right. Two months later, on November of 2011, you noted that she was having some paranoia?

A Correct.

Q You added Latuda?

A Yes. And let me -- again, I don't want to piecemeal these notes because I think you have to look

at them in their entirety. She had felt nauseated and had stopped the mood stabilizer and antipsychotic Risperdal. And as you note in my note, I put, "Not surprisingly, she is having mood swings and she's having some paranoia." So, again, there was some causative factor being off the medications that likely worsened her condition. So it was, indeed, replaced with Latuda which is an antipsychotic and a mood stabilizer.

Q So we've got a change to a different antipsychotic?

A That and mood stabilizer, yes.

Q All right. Now I'm going to bring you forward to July 2012. You knew -- you knew that Anna Simpson had been taken to the emergency room at St. Francis for a psychotic episode and has been kept under guard with a security guard in her room while she was at St. Francis; you knew about that happening, didn't you?

A Not until she told me. I had not received those records prior to that time because usually discharge summaries are sometimes a week or two before they're dictated so she informed me of that.

Q Was -- so your notes do not indicate that her family contacted your office and whoever was on call told the family to take her immediately to the

emergency room at St. Francis? Your records do not actually show that that happened?

A No.

Q Should they show that if it did happen, if somebody called in the middle of the night and were told by the doctor on call to take that person to the emergency room? Wouldn't that be in your records?

A Not necessarily. If they called and it was a situation where one of the clinicians in my practice made a change in the medication themselves and recommended they call the next day, that would be documented. If they felt the patient was sick enough to be in the hospital, that may or may not be documented.

Q And the reason that I raise this question, Dr. Smith, you're what I would describe as her ongoing treating psychiatrist at that time, and she is taken to an emergency room under a psychotic episode and housed at St. Francis for three days, and you are essentially telling us that you knew nothing about any of that?

A That is correct.

Q You ultimately were made aware of it, and did you -- were you also made aware of the fact that she was transferred to a forensic hospital, the Carolina Center?

A Yes. I later received the discharge summary from Carolina Center detailing her treatment which is routine, but often because of however long it takes the physician to dictate that report, it may be ten, 14 days after the person is discharged. So ultimately I did receive that report. The St. Francis records, no, I did not receive those until the past week.

Q So -- so your testimony, then, is that it could be ten to 14 days before the psychiatrist who is the treating psychiatrist knows that his patient is in a forensic hospital in the same -- right down the street?

A If you're depending upon the paperwork alone. I knew it well before that because the patient came to see me shortly after that discharge and informed me that she had been there. But, yes, depending upon the doctor who is treating her at the hospital, how fast they dictate the discharge summary, whether they initiate a phone call, yes, it could certainly be that time period.

Q All right. And she came to your office not because she was forced to, but on August the 16th, 2012 -- please find those notes. Do you have them, August 12th, 2012?

A Are you sure you're on the year and the date? I've got August 16, 2012.

Q August 16th, 2012. I'm sorry, did I read that wrong?
A That's the note we've been talking about already.
Q Okay. All right. She came to see you that day. And is that, I guess, when you found out she had been in St. Francis and in Carolina Center?
A Yes. She was -- when she was discharged from Carolina Center, an appointment was made for her to see me for a medication follow-up visit, also was made for her to see a psychotherapist in our office as well.
Q All right. And she did both of those?
A No, she did not. She did not keep the psychotherapist appointment. She cancelled that.
Q Okay. August -- and look at your records -- August the 16th, 2012, it says "visit date," that date, at 10:27 a.m. You see that, up there at the top there, you see where I'm looking at? I'll show it to you.
A I see it. You don't have to come any closer. I got it.
Q You see it?
A Yes, sir.
Q And then it says, if you look down, it says, "Electronically signed by Jeffrey Smith, M.D. on August 16, 2012, 10:35 a.m."?
A Correct.

Q All right. I mean, that's eight minutes?
A That does not -- electronically signed does not mean necessarily the appointment ended there. Electronically sign is when I hit a button after I had accumulated written data. We could still be talking about something. So that is not -- 10:27 through -- or 10:27 a.m. through 10:35:37 seconds could not be construed as the entire length of that appointment.
Q Well, tell me what the entire length of that appointment was?
A I have no way of knowing this far back.
Q Well, the records say it was eight minutes.
A No. The records say that I electronically signed off after eight minutes, which does not mean the appointment ended after eight minutes.
Q It says that -- all right. It says that you electronically signed off in eight minutes, right?
A Electrically signed off means that I hit a button on my computer. I'll be glad to have you come to my office and look at my electronic medical records and show that to you in detail, but that is not -- cannot be construed as being the exact length of that appointment. Could be, could not be.
Q Well, how long was that appointment, Dr. Smith?
A Given there were 34 visits over three years, for

me to give you the exact precise minutes of each appointment with each patient would be absolutely impossible.

Q The note says she was in Carolina Center for Behavioral Health for three days earlier this month after apparently having a psycho -- psychotic manic episode, right?

A That is correct.

Q Did I read that correctly?

A You did good.

Q And you have no way of telling this jury how long you spent with her after learning --

MR. WILKINS: Your Honor, asked and answered.

THE COURT: Sustained. Move on.

BY MR. MAULDIN:

Q You were aware at that moment, at that moment in August of 2012, that your current patient had been in St. Francis Hospital for three days with a security guard and in Carolina behavioral health for three more days which is a mental hospital?

A My recollection is that she did not mention the St. Francis portion of that because I, in all likelihood, would have written that in the note. I was fully aware of the three days of being in CCBH. I learned about the St. Francis situation much later.

Q On August 23rd, 2012, please, sir.
A Are we still talking about the same --
Q That's, what, a week later?
A Well, we were talking about August 16, 2012.
Q We were. And now I'm talking about August the 23rd, 2012.
A And I am looking to see. The next note I have, unless it's fallen out of sequence, is October 1st, 2012. If you can show me that note, I would be certainly glad to comment on it.
Q I will show it to you, and you can see if you can find it.
A She was not seen by me. She was seen by the therapist.
Q That's correct. I hadn't asked the question yet. Do you see that report in your records?
A No, I don't know -- the only thing in my electronic records was that she had cancelled that report, so this is the first time I have seen this.
Q All right. I want you to take a good close look at it, Dr. Smith.

MR. WILKINS: Your Honor, objection. If that's not his note, how can he opine on it?

MR. MAULDIN: I'll be glad to --

THE COURT: Is it contained in his record?

MR. WILKINS: He said it was not contained in his records.

THE COURT: All right.

MR. MAULDIN: Your Honor, let me see that just a moment, please, sir.

MR. WILKINS: And I've never seen it either.

THE COURT: Well, show it to the solicitor.

MR. MAULDIN: This -- these records that I'm referring to are the records that were provided to us by Piedmont Psychiatric, which is who he is --

THE WITNESS: No, there's --

MR. MAULDIN: -- two and a half --

THE COURT: Don't talk.

MR. WILKINS: This is a record from Carol Rentz Mitchell, not Dr. Smith.

THE COURT: Okay. Objection overruled.

BY MR. MAULDIN:

Q All right. Do you know who Carol Rentz Mitchell is?

A Oh, yes. That's, no doubt, a note from my office. I have just never seen it. She was then a therapist in my office.

Q Didn't you testify just a few moments ago that Anna Simpson had failed to follow up with the therapist?

A That was my understanding because I do have in my notes that she cancelled an appointment with a therapist. That note, I don't know, did not come up in my system when I pulled it, but I will be glad to look at it and comment on it.

Q Just take a look at it.

A Okay.

Q All right. You have had an opportunity to look at it?

A Correct.

Q All right. I'm going to ask you a couple of questions about it. Does this record indicate that Anna Simpson was seen by your therapist, this person that works with or for you, on August 23rd, 2012? That's the next week.

A Yes.

Q It indicates that she did keep that therapist appointment, doesn't it?

A That particular one, yes.

Q All right. And it indicates, furthermore, and I'll be glad to have you look at it while I read it. I don't want to -- all right. I'll show you right here where it, under the exam, you see that?

A Yes, sir.

Q And you tell me if I'm reading this correctly.

She reported the presence of anxiety, worrisome thoughts, a sense of fearfulness, frustration, racing thoughts. Her thought processes indicated the presence of obsessive thinking, paranoid, suspicious thoughts, worry, distractibility and suspicion. Did I read that correctly?

A You read that correctly.

Q And that's what was reported in your records August the 23rd, 2012?

A By the therapist in my office, correct.

Q By the therapist. All right. Dr. Smith, just a few final questions, and I appreciate the Court's indulgence with my cross-examination.

THE COURT: Yes, sir.

BY MR. MAULDIN:

Q Over the period from -- this is after the initial consultation in March of 2010, the initial intake. If I looked at the records that I obtained from you and I calculated off those records the amount of time that those records indicate that Anna Simpson was seen while she was at Piedmont Psychiatric, and it turned out that over the period of those 34 visits the average time was 7.4 minutes, do you deny that?

A Yes, because I would want to know how you're making that calculation because, as I indicated before,

using sign-off times on the notes is not an accurate perception of the amount of time spent. So it could have been seven minutes, it could have been ten, it could have been 12, it could have been 15 depending upon how the patient is doing. It's not a fixed time. It is how the patient is doing, what changes we're making, and I'm always explaining to each of my patients why we're making those changes and what the options are. So if you use that calculation based upon this beginning and ending thing, no, I would not agree with that.

Q All right. You would, however, agree that it appears that it was approximately three weeks to a month average between?

MR. WILKINS: Your Honor, we have gone down this road. Asked and answered.

MR. MAULDIN: I have further questions, Your Honor, on that particular --

THE COURT: Just restate your question.

BY MR. MAULDIN:

Q All right. You would agree that over the period, the average was about three weeks to a month between appointments?

A I would say it would come closest to that because the majority of the time that I saw her, we were making

med changes. And when you change forensic medicines, they take about eight to 12 weeks to achieve their full effect, but usually in about three to four weeks you can get a pretty good idea if what you have just done is helping. So when we're actively making med changes, yes, it's usually a three to four-week interval between appointments.

Q And here is the follow-up to it, Dr. Smith. You saw her in August of 2012, and I've asked you those questions about those notes. Your therapist saw her August 23rd of 2012 indicating paranoia and all other sorts of issues, right? Right?

A None of which were things that had not been observed previously, but yes.

Q And you don't know whether you ever even saw that. You said it's not in your notes so -- it came to me, but you don't know whether you ever saw it?

A When I -- my staff printed those notes out, that note did not come out, and there was a note that came out that there was a cancellation of that appointment, so I was -- the first time I've ever seen that note was today, so that was a clerical error on whoever printed them out, but --

Q Well, now, you're not questioning whether it was accurate. I mean, it's --

A No, it's accurate. That's, without a doubt, she was seen, but that note was just not printed out at any time for me to have seen, and that was apparently a clerical error on the part of my staff.

Q All right. In November of 2012 you saw her. November of 2012 you saw her?

A You are referring to November 27, 2012, correct?

Q Right.

A Yes, sir.

Q And at that time you set her next appointment for three months. You set a three-month window?

A That is correct.

Q All right. The last visit you had with her before this incident in Dacusville was February of 2013?

A That's correct, February 28th.

Q And you set her return at that time for four months?

A That is correct.

Q Window. All right. And, of course, four months was beyond the date of this incident?

A That's correct.

Q No record in your file that indicates that your patient at that time, Anna Simpson, was overmedicating herself with her prescription; your records do not show that?

A No.

Q Dr. Smith, of course, hindsight can be 20/20.

MR. WILKINS: Is there a question, Your Honor?

THE COURT: Yeah. He's getting to it.

MR. WILKINS: Okay.

BY MR. MAULDIN:

Q But it would appear that you were not aware or did not realize how sick Anna Simpson was; is that fair to say?

A That is fair to say. She never reported to me that she was anywhere approaching that level of psychosis and no one in her family ever contacted me to suggest that this person's doing a lot worse than you think they are. They're not telling you the truth, and I've had that happen hundreds of times over the course of 26 years where the patient says everything is hunky-dory and it's not. The family calls and we set up a meeting to have a family member come back with the patient to get the true story.

So to answer your question, she never gave me indication of any type of a delusional system that was this sick. In fact, the last two visits I saw her, when you look from the standpoint of bipolar disorder, standpoint of absence of paranoia, standpoint of concentration and focus being good, standpoint of her

anxiety being well controlled where she was doing excellent, so that's why we went from three months to four months. The duration between the appointments is a direct correlation of how well the patient is doing. So she looked great on the 22nd -- I mean on the last visit in 2013.

Q So in February of 2013, she's doing great?

A Yes.

MR. MAULDIN: Nothing further.

THE COURT: Thank you.

Any redirect?

MR. WILKINS: No, your Honor.

THE COURT: Thank you, sir. You may step down.

Any objection to this witness leaving?

MR. WILKINS: No, your Honor.

THE COURT: All right.

Thank you, sir. You're free to leave.

THE WITNESS: Thank you.

THE COURT: All right. Any further witnesses from the State?

MR. WILKINS: None from the State.

THE COURT: Thank you.

Ladies and gentlemen, let's take about a ten-minute comfort recess, and then we'll get you back in here and we'll move on to the next phase.

Thank you very much. Don't talk about the case.

(WHEREUPON, the jury exited open court at 11:22 a.m.)

THE COURT: All right. Court's in recess.

(WHEREUPON, a recess was taken from 11:23 a.m. to 11:33 a.m.)

(WHEREUPON, Defendant's Exhibit Number 17 was marked for identification.)

THE COURT: All right. Let's come to order. We're back on the record. All right. Before we bring the jury in for closing arguments, I do wish to go over with the lawyers the proposed charge. I have provided, due to the uniqueness of this trial -- I don't normally provide a written copy of the jury charge to counsel to sit on overnight, but I thought I'd do that. So now you have had it, you have had an opportunity to look at it. So each page is numbered.

So at this time, first I want to hear from the State. Any objections to proposed charges? If there are any, just refer to page number, or if you wish for me to add something, tell me that. All right.

Solicitor.

MR. WILKINS: Your Honor, I didn't have any major objections or any specific objections. I didn't get my red pen out and put verbiage and terminology, which is

basically syntax, not substance, so I don't have any substance objections to this. I think Mr. Mauldin does. He's looked at it, so we can deal with his.

THE COURT: So we'll go to Mr. Mauldin then. So none from the State.

Mr. Mauldin, we'll go to you, then, in regards to the proposed charges.

MR. MAULDIN: Your Honor, if the record could reflect that I have renewed my motion for a directed verdict.

THE COURT: Motion for a directed verdict has been renewed. You are clearly protected in the record, and that motion is denied.

MR. MAULDIN: Thank you, Judge.

THE COURT: Yes, sir.

MR. MAULDIN: The instructions, Judge, page 18.

THE COURT: Okay.

MR. MAULDIN: Beginning with the word of the last paragraph, "inferred malice."

THE COURT: Yes, sir.

MR. MAULDIN: "May also arise when the deed is done with a deadly weapon. A deadly weapon is," and I don't need to read it all. We object to that in that it, essentially, read in conjunction with the rest of the charge, it basically means that if there was a

weapon used, their burden to prove malice beyond a reasonable doubt is resolved. It's like that takes --

THE COURT: Is that the *Belcher* case?

MR. MAULDIN: Yeah. And I'm not --

THE COURT: Is it the *Belcher* case that says you can't charge inferred malice with use of a deadly weapon when there's evidence of any type of self-defense or anything? But, of course, in this case there's none of that, which is why I left it in there.

But your point on the objection is?

MR. MAULDIN: We object because -- to the inference of malice based upon the use of a deadly weapon. We object that.

THE COURT: Okay.

Solicitor.

MR. WILKINS: Your Honor, it says "may," so the jury still has the option either way. It's for inferred malice, so we don't see any problem with it.

THE COURT: So if I took that out and just said that, "Malice may be inferred from conduct showing a total disregard for human life," period, what's the State's position?

MR. WILKINS: I don't have a problem with it.

THE COURT: All right. I will take -- I will just say that sentence, and I will not instruct inferred

malice from use of a deadly weapon.

MR. MAULDIN: The next one, Your Honor, is page 19, specifically the last paragraph, first sentence.

THE COURT: Yes, sir.

MR. MAULDIN: "Specific intent to kill is not an element of attempted murder." We object to that. We believe that attempted murder is a specific intent crime, and proof of specific intent in the attempted murder charge of Mr. Simpson, that the victim is required as an element of the offense.

THE COURT: Solicitor.

MR. WILKINS: I think he's right. I think attempted murder is a specific intent crime.

THE COURT: So you want me to keep that in there?

MR. WILKINS: I think specific intent to kill is an element of attempted murder.

MS. STROM: I think it's in the statute.

MR. WILKINS: I think it's in the statute.

THE COURT: All right. This is right out of the charge book.

MR. WILKINS: Is it?

THE COURT: Of course, this may be the older version of the charge book.

MR. WILKINS: I think specific intent is required for attempted murder, Your Honor.

THE COURT: Okay. "A specific intent to kill is" -- so you want me to say, "is an element of attempted murder"?

MR. WILKINS: Uh-huh.

MR. MAULDIN: Yes, sir.

MR. WILKINS: And then just --

THE COURT: "Specific intent to kill is an element of attempted murder," period.

MR. WILKINS: Period.

THE COURT: Okay. All right. So the State and the defense agree on that. And I will get rid of the serious bodily injury. And then I'll talk about, "Intent means intending the result," blah, blah, blah.

MR. WILKINS: That's right.

THE COURT: You okay with that, Mr. Mauldin?

MR. MAULDIN: Yes, sir.

THE COURT: Okay. All right. Next.

MR. MAULDIN: One moment, Your Honor. Let me -- I made a note on this one, but I don't understand my own note, so let me try to -- I think I understand what I'm trying to say, but we'll see.

THE COURT: What page?

MR. MAULDIN: It's the page 24 involving the guilty but mentally ill.

THE COURT: Yes, sir.

MR. MAULDIN: And I think it's more -- instead of language, it's more just a general objection to that being included in this case.

THE COURT: Yes, sir.

MR. MAULDIN: The -- and, of course, this has to some extent changed on account of the admission of this last witness' testimony. I think last night when I was preparing this argument, Dr. Smith had not testified. I get that. I get the fact, but even I have objected to Dr. Smith, and what I would like to do is at least put on the record that had that objection been sustained, then it becomes relevant what my argument is about the guilty but mentally ill. So I don't know if that's --

MR. WILKINS: Sorry?

THE COURT: I understand where you're going with this. Previously you had -- you had asked me not to include guilty but mentally ill in the verdict form as a choice of verdicts. And that was based upon the evidence that had been received in the record where the State, in its case-in-chief, had not, based upon your argument, introduced evidence satisfying that burden.

MR. MAULDIN: Satisfying the portion about not being able to conform your conduct.

THE COURT: Yes, sir.

MR. MAULDIN: And that's what -- and I know this is somewhat convoluted, and this has been a hard week for all of us, but I do feel like I have to protect this record.

THE COURT: Yeah.

MR. MAULDIN: The testimony of Dr. Smith is clearly in contest. I am preserving all of my objections, and I think that because of that, for example, Your Honor, the appeals court can say Dr. Smith should not have been allowed to testify. However, the guilty but mentally ill issue was not adequately expounded on, and so that's why I feel like I've got to put something here.

THE COURT: Sure.

MR. MAULDIN: Had Dr. Smith not testified, then the record would not have had reference to the standard inability to conform conduct to the requirements of the law. That was not in this case until this morning. Therefore, if Dr. Smith had not testified, that would not have been in this case. And what I say is under those circumstances, giving a jury the option of guilty but mentally ill would have been legal error because it is not supported by the record. And reliance upon the statute that we've talked about about the four verdicts is a violation of separation of powers.

THE COURT: Correct. I got that. You are clearly protected on the record.

Mr. Wilkins, what is your response to that?

MR. WILKINS: Same argument. I think you have already ruled on that, Your Honor.

THE COURT: Right. And I do believe there was enough evidence in the record prior to Dr. Smith testifying for the jury to make that decision as to the issue of guilty but mentally ill. Okay? So that's the position of the court reflected in the record. All right.

MR. WILKINS: Thank you, your Honor.

THE COURT: All right. What next?

MR. MAULDIN: Couple more quick ones, Your Honor. We have passed up --

THE COURT: Defendant's 17, which is the proposed charge. This is not an exhibit which goes back to the jury. This is an exhibit for argument, plus to protect your record.

"Upon entry of this verdict, the court will implement the not guilty -- in the event of a verdict of not guilty by reason of insanity, the court will implement the NGRI procedures/protocol in effect in this state." That's what the defense wishes for me to charge.

MR. MAULDIN: That's what we want.

MR. WILKINS: We absolutely object to any of that. You want to open -- you can't crack the door, Your Honor. Let's crack it. How long does she go? What are the procedures? Where does she go? What does she do? How long does she stay there? Can she get out? What's going to happen if she's guilty but mentally ill? Where does she go? You can't open the door. You can't crack the door.

THE COURT: The State's objection is sustained. I will not charge that over defense's motion. All right.

What's next?

MR. MAULDIN: We do continue to express an objection to the verdict form.

THE COURT: Yes, sir.

MR. MAULDIN: And that's about all I can object to.

THE COURT: That's good. I just want -- I understand. In all seriousness, and I understand -- I want you to make a complete record, okay. This is a highly unusual case, tragic case, as everybody understands, and that's why I'm -- I call it bending over backwards to allow the defense to make an adequate record. And I want to make sure everything you want to bring up is in this record because you can't appeal

something that ain't in the record in the event of an adverse verdict. Okay? I'm going to give you a few moments before we --

MR. MAULDIN: Just a couple.

THE COURT: I'll give you a couple of minutes to confer with your co-counsel. Y'all let me know if there's anything else you want me to deal with before we go to closing arguments. Okay?

(WHEREUPON, a recess was taken from 11:45 a.m. to 11:47 a.m.)

THE COURT: All right. Anything further from the State?

MR. WILKINS: Your Honor, nothing from the State.

THE COURT: Thank you.

And, Mr. Mauldin, anything further from the defense as far as issue preservation?

MR. MAULDIN: No, sir.

THE COURT: Before we proceed, in case I forget to tell all of you, I want to thank the lawyers for a very thorough presentation of this case. Specifically, I'm speaking to you, Mr. Mauldin, and your co-counsel. I believe no stone has been left unturned. And I think that's certainly necessary in a case like this. So thank you very much for all your efforts, for what that's worth.

MR. MAULDIN: Thank you, Judge.

THE COURT: All right.

Quarter till 12:00. Any possibly of the jury getting the case by 1:00? I'm going to take 20 minutes.

MS. STROM: Judge, generally, I'm no longer than 30.

THE COURT: Okay.

MR. MAULDIN: Mine's going to be tough. I talk slow, Judge.

(WHEREUPON, the jury entered open court at 11:49 a.m.)

THE COURT: All the members of the jury are present.

Ladies and gentlemen of the jury, thank you again so much for your patience. We have finished the testimony and evidence phase of the trial, okay. We're now moving into the final stage of the trial, which is closing arguments, okay.

Both sides will be allowed to present closing arguments to you. At the conclusion of that, that's when I will instruct you on the law of South Carolina as it pertains to these issues.

Now, ladies and gentlemen, please pay very close attention to the lawyers as they're presenting their

arguments to you. Okay? Thank you very much.

Mr. Mauldin.

MR. MAULDIN: On May the 14th of 2013 in Dacusville, a breathtaking and horrible incident occurred. Female Child and Male Child two beautiful and innocent children, were shot and killed in their home and their father was seriously wounded. I told you that Monday and I tell you that again because it's true and it was an insane and senseless act that brought us to this court.

Anna Simpson killed her children. On Monday I said, "How can that be? How can a mother kill her own children?" And for the last four days now you've heard testimony from witnesses in an attempt to draw some sense into this terrible tragedy, some sense into this senseless tragedy. I asked you then to be patient with this case. I asked you to be prepared for a heartbreaking story about innocent children, about a family completely just imploding, a very emotional, a very graphic and very sad case. I talked to you at that time about testimony from doctors, about complicated issues that are really not issues that are in our day-to-day vocabulary.

This is stuff, when you came for jury service on Monday, you probably had no idea you were going to hear

all of this technical stuff. But this is really stuff that is around us every day, all the time. You know, these kinds of conditions and these kinds of impairments exist in our society. And, you know, you had to hear it from the witness stand, and I hope you had a sense of understanding. We knew this would be difficult for you. It is difficult for us. But it's really hard work for the jurors in this case to attempt to serve in such an emotional and chaotic, and it's just a hard situation. And to do that without any passion or emotion and set it aside and try to be impartial and fair, that's a pretty tall order. It's a pretty tall order.

I thank you for giving Anna a fair trial. That's what she is entitled to. That's what we are all entitled to. Nothing more, nothing less. We've got no friends to reward, no enemies to punish in this court of law. So I express my appreciation. I express my appreciation for your tolerance for a wild guy like me. I apologize about getting kind of crazy sometime. If you think I've handled myself inappropriately, blame me, blame the governor, do whatever you want to but don't penalize my client for it.

This case is about criminal responsibility. It's about criminal responsibility. It's about the state of

mind of the person accused of clearly committing a violation of a fundamental law. When that person could not distinguish between right and wrong, the law says they're not to be held responsible. That's just really the rule. That's the rule of law. And that's one of the tough questions that you folks are going to be deliberating about after the judge gives you your instructions.

Let me speak as I go for a minute or two into the testimony. Let me speak a minute about motive. Whenever we watch television and we see these cases and everybody is kind of curious about, well, why did that happen? Let me say, Mr. Wilkins or whoever is going to be speaking, they don't have a burden of proving motive. That's not an element of the offense. You've got to check off the elements, and motive doesn't -- isn't on that list. But what motive does is it's persuasive. When you know why somebody did something, then it kind of, "Oh, okay. That kind of makes sense. Oh, I see." And, you know, it kind of reminds me 20 years ago, 20 or more years ago, the girl over in Union drown her children in that lake, and everybody, "Oh, gosh, it's horrible. Mother killed her children." But it turned out she had a motive. She wanted to get rid of those children so she could run off with that

rich boyfriend whose daddy owned the mill over there in Union. And that's how that thing, you know, it was like, "Oh, okay." It connected the dots in the case. That's why she did it.

Anna Simpson has no motive. She has no motive to kill her children. She wasn't -- she didn't have some rich boyfriend that she was going to run off with. She didn't have life insurance she was going to try to collect. Anna was driven by delusion. Anna at that time and right now today, is already encaged with a life sentence in a prison of insanity. She's already there. And she had nothing to gain. She tries to kill herself. She can't get that done. She tries to wreck her car and kill herself like the man had done a couple of months before right at the same tire tracks. The guy said, "Well, those are the old tire tracks. These are the new tire tracks." She tried to kill herself. I mean, so the motive was to kill everybody and kill herself and they would all go wherever people go. It was an insane and senseless act.

Talk a little bit now about the evidence you heard. You saw the witnesses. You heard them. They testified from this witness stand, and I'm not going to go witness by witness and talk about one witness said this, one witness said that. I'll rely on what you

heard. You're the trier of fact in this case. The judge has already told you that. And I have confidence that you'll do the right thing.

But looking at the facts, and I'll talk a little bit about this information regarding paranoia, information about what other little facts in this case that indicate that Anna Simpson was extraordinarily paranoid. It was in everybody's records, even this doctor that came in here this morning. His records were full of references to paranoia, paranoid, paranoid ideations -- paranoid ideations. I mean, they're all over the case. This case, there's no question there's serious mental illness. There's no question that illness includes paranoia. There's no question about that.

Camera in the garage. She tells her husband, "Got to put a camera in the garage. People coming in our house, going on our computer, putting bugs in the ceiling fan." Drug dealers across the street. Not an ounce of evidence of any of that. There's not an ounce of evidence of any drug dealer. In-laws mistreating the children. In-laws molesting the children, in-laws teaching the children all kind of horrible things. These are all good people. There's no evidence of that. Not one ounce of evidence of it in terms of it

being true. But the doctors said we know they're not true, but the person who has the condition, they're real to them.

Security guard in her hospital room at St. Francis. People following her out of parking lots. She didn't want to tell her husband about the paranoid delusions because she thought he might put her back in the state hospital. She thought he might lock her back up, put her back in the forensic ward. She didn't want to tell her doctor about it. He said today, "I didn't see anything about that." Didn't want to tell him about it because she thought he might put her away. I mean, but that's paranoid. That's why -- I mean, that is exactly a perfect example of being paranoid.

Her paranoia escalated. July of 2012 she goes to St. Francis through the emergency room. Dr. Smith said there was no record of them making that referral, but that's how she ended up there. I don't know how he keeps his records, but that's how she got there. Ends up going to Carolina Center for Behavioral Health. And you heard the testimony about those visits. So I'm not going to go into the paranoid ideation stuff and what they were finding. And Carolina Center recommended they secure the guns, secure the guns in the house, secure the guns. I mean, this is a red flag the size

of a doublewide.

Mother's Day of 2013, the day before the incident, Anna goes to dinner with her two children and her husband and her mother and father. And her mother told you that there was -- she -- something wasn't right. Something wasn't right. And I put into evidence Defendant's Exhibit Number 12 and you looked at it when I put it in, and Anna's mother said something just wasn't right. And I want you, as you deliberate, to take a look at the face of Anna Simpson. This is just staring and just blank. Something's not right. And, unfortunately, of course, we know that things were horribly wrong. But it just wasn't handled.

Female Child out of school the next day. She's scared for her children. The school shooting, reference to some other school shooting when somebody was out of school. It was just an imagination gone completely wild. And it was delusional. It was unreal to me and you, but real to her. She believed it.

The shooting, folks, that occurred in that house is essentially beyond description. There was so many guns, so much ammunition, so much loss, so much tragedy. It was like -- I mean, there were gun shells everywhere from different guns and three guns in evidence and ammunition and misfires and, you know, and

Michael, of course, cannot testify to tell us what he recalls and Anna can't testify, so we just -- I mean, I can tell you one thing. I can tell you that Anna killed her children. I can tell you that Anna shot her husband, that the prosecution, perhaps -- I don't know. I don't know what they're going to say. They get to speak last and then I'm done, so I ain't going to get to come up here and say, "Hey, wait a minute. That ain't right." I don't get that right. They get the last word.

But if they say she wasn't trying to kill herself, I want you to look at the photos that I put in about that car wreck. And I want you to look at that truck and the broken back. I want you to take into account the misfired ammunition. I mean, that is not credible. It really is not credible. The fact that there was a 9mm that was fully loaded in the safe or on the carpet there. The fact that she didn't pick that up and try that gun, I don't know. Nobody knows. Nobody will ever know and it's obviously pure speculation. But I think there's pretty good, solid evidence that there was an attempt to kill herself.

Did Anna really believe that she was going to somehow join her children and her husband in some better place? That's what Dr. Frierson said that he

had concluded, that she went up the road in that truck and that she came back to that scene to die right there, right down the road, and this picture is very small but you'll have these pictures in the jury room. This is the house where those children died. And here is Anna's truck in the ditch. It's 100 yards maybe. Is that what she was doing when she went back and attempted to mimic that wreck because she wanted to die right there at the same place? I'm not a psychiatrist so I'm not going to try to speculate. But if she, with the misfires in this case, if that was some sort of effort for her to try to get away with this, if her running that truck literally over a tree and into a ditch was somehow an effort to try to fool people about her intention, then that just does not make sense. How are we supposed to make sense of that? How are we supposed to make sense of that? The prosecutor called Scott Hart. He's the first witness. Scott Hart is the neighbor from across the street. Scott Hart is the person who made the 911 calls. Scott Hart testified about, "Well, she was complaining about her back and, you know, and then every time would I say something about her family, 'I don't know. I don't know. I don't know.'"

There was no 911 call played for you. But let me

tell you what the 911 calls said because this is what Dr. Frierson told you. He was provided the 911 calls because in order to do an evaluation like this, you need as much information as you possibly can have from every source possible to make your evaluation correct or as close to correct as possible. Dr. Frierson said that the 911 caller, Scott Hart, said she didn't know who she was. She didn't know where she was, and she didn't know what was going on. This was the moment, the first piece of evidence. Dr. Frierson testified that he listened to the 911 call from Mr. Hart and he said she did not know who she was, she did not know where she was, and she did not know what was going on.

Mr. Sanders is another witness that I'd like for you to rethink. Mr. Sanders was the witness at Dacusville Elementary School. And the concern that I want to raise with you on Mr. Sanders is this: The prosecutor called him and the prosecutor had in his file a copy of Mr. Sanders' written sworn statement that Mr. Sanders gave to the police on the 16th of May, the next day. He gave a sworn statement to recollection about Dacusville, about the bookbag, the interaction at the office there waiting on Carly. And here's the problem. They had a copy of that statement. I had a copy of the statement, and when Mr. Sanders was

testifying, I was looking and following along. And here's what Mr. Sanders said from the witness stand based on his questions. Asked the question about the book, he said, "Well, she's going to get her bookbag." And Mr. Sanders said Anna Simpson said, "Where she's going, she won't be needing a bookbag." That's what Mr. Sanders testified under oath Monday or Tuesday. And I looked at his statement, said why is he saying that? Why would he say such a thing? Why would he embellish the statement against Anna Simpson three years after he had given the police the statement the day after it happened? So I had him look at his statement. "She doesn't need her bookbag. We just need to go." I guess you can say, "Well, so, what's the big deal?" What is the big deal? Why didn't the prosecutor correct him? If they really want justice in this case, if they want truth in this case, are they going to sit there and let a witness make something a hundred thousand times worse when they had given a sworn statement to police and they called this witness and they're vouching for this witness' credibility and I have to get up and correct him? Is that what this kind of justice is all about?

The State referenced marital problems. The State referenced, "Well, they must have been having marital

problems." Nate Stegall, "Oh, I didn't want to get involved, get in the middle of all that stuff." Michael Simpson could not testify. And he was a victim in this case. Mike Simpson had given a sworn statement to the police one month after this incident after he had made the initial report from his injury. And Michael Simpson, the victim in the case, the victim that the prosecutor is in here prosecuting for, "I do not recall having searched Zillow for any homes, nor do I recall there ever having been any marital problems between Anna and I." That was the truth. Why do they want to give inferences that there's something other than that when their own victim is telling them that? Just because he can't testify, does that mean we don't get to know that and I have to bring it out on the questions to my doctor who reviewed those records in deciding his forensic evaluation? I mean, is that what kind -- what kind of hide the ball is this? That's not fair. It's not fair.

Michael Weight was an EMS worker. I mean I think the fire department got there first and then the ambulance got there and Michael Weight was in that ambulance and he's there trying to get her out, put her on the board. I mean, he's the first person, basically, except for the 911 call. He's the first

person in contact with this psychotic woman. What did Michael Weight tell you? Wait. Before I go into what he told you, who subpoenaed Michael Weight? I did. I subpoenaed Michael Weight because the State chose not to. Because the State didn't want this into evidence. How much of that do we have to take? Michael Weight told the prosecutor back in May of this year, a month before this trial, and that prosecutor wrote me this letter summarizing what Mr. Weight said. And as he is required by law to do, he's required by law to send me this. The defendant stated what? What? "I did what they told me to do. I didn't do anything wrong. I did what my family told me to do." And in describing her appearance, Mr. Weight says, "She was just not all there. You could tell something was just not right." That witness you heard from because I subpoenaed him and I put him on the witness stand because I think you're entitled to know that.

And is this a win-at-all-costs situation? Is this just a winning-and-losing proposition that we're dealing with in this case? I think not. This courtroom is not about winning and losing. This courtroom is a place of honor, it is a place of justice. And you don't do things in order to try to win at all costs.

We, and I'm going to just be brief about the forensic testimony because you heard Dr. Mulbry, you heard Dr. Price, you heard Dr. Frierson. I realize that you heard a lot of repetition and so forth, but that's what the complications of this mental illness was all about. You needed to hear that. You needed to try to understand that so we put the best doctors you can find. These doctors have reputations of absolute first quality. These are expert forensic psychiatrists and psychologists. They're the best I could find. Because the first day I met Anna Simpson, I knew she was insane and I ain't got no doctor degree. I know it when I see it. I know it when I see it. The prosecutor, when I had my two doctors, the prosecutor said, "Hey, wait. We need another doctor," so they got Dr. Frierson an order from the judge, Dr. Frierson. I said "no objection" because it was obvious and Dr. Frierson said they're right. They could have asked for another doctor if they wanted. They could go doctor shopping all they want to. But they knew that Dr. Frierson was going to come in here and say that Anna could not distinguish between right and wrong, and they knew the power of that testimony.

So what they do, what they do, after my case was over, after I finished my case, they bring in

Dr. Smith. And I'm going to let you just -- you can evaluate his testimony all you want to. He has never been qualified as a forensic evaluator. Never has. He decided, apparently, when he got subpoenaed, and then he talked to the prosecutor a week ago this Tuesday, and they decided he was going to become, basically, a forensic psychiatrist. He's going to come in here and start testifying to all that stuff. And I'm going to let you measure his credibility. I know one thing he didn't did do. He didn't correctly treat that woman. He can come in here and talk to you about all his opinions until the cows come home, but he made a major mistake. And he's talking about civil court, that's probably where he's going to end up because he just blew that. He didn't even know what was in his own records. I had his records, and I had to show him his records, and he said, "Oh, I don't think I have ever seen that before." Well, what kind of records is that for a psychiatrist? This woman was put in the emergency room of St. Francis and held under a guard. She then went to a mental facility for three days, the Carolina Center for Behavioral Health, for three more days, and he is her psychiatrist and he doesn't know nothing about it? I mean -- and then he still doesn't know nothing about it so he has to get the records from

the prosecutor? I mean, what kind of railroad is that?

And I apologize. I apologize for my demeanor. I get a little excited, so please.

Give me a few more minutes, Your Honor. I apologize.

THE COURT: Yes, sir.

MR. MAULDIN: Talk for a minute -- I'm going to talk -- I'm going to talk for a minute about the burden of proof. And this is something the judge is going to explain to you. And if I say something that's different from him, he's the law.

The burden of proof in a criminal case is always on the prosecutor. We're all presumed innocent of any wrongdoing, and the prosecutor has to come forward with the evidence and prove to your satisfaction to the exclusion of any and all reasonable doubt the guilt of the defendant. That's the rule.

Reasonable doubt is a doubt that would make a reasonable person hesitant to act. It's a doubt that you have a reason for having, basically. If you have a doubt about something and you say the reason I doubt that is so and so, then that's a reasonable doubt.

Now, in this particular case, it's unusual because we have claimed or asserted a not guilty by reason of insanity issue into the case. Where is the burden on

that? We have that burden. I have the burden of establishing to your satisfaction that Anna Simpson did not know the difference between right and wrong the morning hours of May the 14th. But not beyond a reasonable doubt. That burden -- and, again, it switches back and forth so you have to pay attention to the Court's instructions. The burden on the defendant is by what's called a preponderance and that is kind of like a scale. You put all the evidence over here and all the evidence over here, and if it tilts, basically that's what that means by a greater weight of the evidence. There's absolutely no question, at least, and I'm a little biased about this, obviously, but there appears to me to be no question that the three doctors you heard from yesterday were pretty emphatic about their opinions and that Anna did not know the difference from right and wrong at the moment of the incident. That's the key. That's the critical key. So we're confident that you're going to decide that she has established that.

The prosecutor, then, has the burden of proving beyond a reasonable doubt her sanity. And that is that that's wrong. They have to prove that beyond a reasonable doubt. And here is the important fact I'll finish with on that. If you have a doubt as to whether

we have proved the preponderance, you must give the benefit of the doubt to the defendant. In other words, if you're not sure Anna is entitled to the benefit of the doubt, if you're not sure that they have proven their case beyond a reasonable doubt, you must give every benefit to the defendant. That's the presumption of innocence part. And I want you to listen to the judge about that.

The verdict form that the judge will give you is going to have four possible verdicts on each one of the charges. It will be not guilty, not guilty by reason of insanity, guilty, and guilty but mentally ill, and they will be listed on each one of the offenses. Let me talk a minute about that and then I'm going to close.

Guilty in this case, guilty or guilty but mentally ill is prison.

MS. STROM: Objection, your Honor.

MR. WILKINS: Objection.

THE COURT: Sustained. Just stay within the record. Stay within the record.

THE COURT: Have a seat.

MR. MAULDIN: One of the verdicts would be guilty of murder. And I'll just let the judge give you instructions on what that means. Are we, in this

society, are we in this society going to sign on to warehouse people who have severe --

MS. STROM: Objection, Your Honor.

THE COURT: Sustained.

Mr. Mauldin, that's inappropriate to talk about with the jury.

MR. MAULDIN: No, I --

MS. STROM: I request --

THE COURT: No. No. I don't need to hear any argument about that. Stay within the record. Finish your closing. Thank you.

MR. MAULDIN: All right, Your Honor.

THE COURT: Thank you.

MR. MAULDIN: You know, guilty but mentally ill, the judge will give you a definition of it for you to consider. Let me give you another definition of it. Guilty but mentally ill means responsible but not responsible. Guilty but crazy means responsible but irresponsible. It makes no sense. It makes not one ounce of sense. But the prosecutor is going to offer you the easy way out of this case --

MS. STROM: Objection, your Honor. That is totally inappropriate.

MR. MAULDIN: I want to be heard on that, Your Honor.

THE COURT: All right. Ladies and gentlemen, go back to your jury room. Do not discuss the case.

(WHEREUPON, the jury exited open court at 12:28 p.m.)

THE COURT: All right.

MS. STROM: Your Honor, that is highly inappropriate. We went over this prior to -- we've been going over this since the beginning of this trial. There was to be no mention -- no mention of the consequences of any verdict, and for him to lessen a verdict by calling it the easy way out is astonishing to me that he would be allowed to get away with that in front of this jury.

THE COURT: All right.

MR. MAULDIN: I'm not trying to get away with anything. What I'm saying to this jury is that they're going to have a tough choice. They're going to have a choice of guilty, not guilty by reason of insanity, or guilty but mentally ill. And that the easy way out is to just sign off and go on home. That's the -- and then I'm going to follow with how difficult the not guilty by reason of insanity verdict is. It has nothing to do with the sentence. It has nothing to do with what the judge is going to do to her or the protocol. It is a question --

THE COURT: See, the problem is -- I understand where you're going with that. The problem is, Mr. Mauldin, you have already twice inappropriately argued to the jury what the possible consequences are of a guilty but mentally ill verdict. Okay? You have already indicated to them that that means prison. Okay? And, you know, I thought we were all crystal clear that neither side could do that. Okay? And you've done it twice. And, you know, my patience is about right there, and I have the patience of Job, I believe, and I'm not going to allow it any further. Okay? So here is what's going to happen.

Anything further from the State?

MS. STROM: Your Honor, I'm going to consider requesting a specific charge. I'm thinking about that right now as to a specific charge to the jury that the consequences of the various verdicts are of no concern to them.

THE COURT: Those are matters of law.

MS. STROM: Those are matters of law.

THE COURT: Okay. Here is what's going to happen. We're going to bring the jury back in -- not yet. We're going to bring the jury back in. You're going to wrap up your closing argument. Okay? You're not going to mention again what the consequences of any verdict

are, and I am going to entertain and grant the State's motion to specifically charge that, based upon what I've heard, short of a mistrial, I think that's the proper remedy in this case. Okay?

MR. WILKINS: Your Honor, will you give us time to discuss the curative charge because it's a little bit of a catch-22 for us.

THE COURT: Obviously, to protect the record, I'll let the defense have input into the curative charge as well and make a record.

MR. WILKINS: I don't want to make it any bigger deal than it already is, but I also way want a curative charge.

THE COURT: Simple as, "The consequences of any verdict are not an issue to be determined by the jury." That's specifically an issue of law for the Court. "You are the judge of the facts, not the judge of the verdict." Does that sound good? Write that down or I'll forget it.

MR. WILKINS: I'll get it from her.

MR. MAULDIN: Your Honor, in looking at my notes to complete, I don't have any other references with regard to that. I'm telling the -- I do intend to tell the jury that I understand that the addressing of mental illness is difficult, it's -- that's a hard

thing and I understand that.

THE COURT: You can say that and you can implore them and ask them for a verdict of not guilty by reason of insanity.

MR. MAULDIN: Right. Right. Right.

THE COURT: But you can't talk to them about what the consequence of that verdict is.

MR. MAULDIN: All right.

THE COURT: You can't -- just like the guilty but mentally ill means prison. That's an inappropriate -- you understand where I am on that?

MR. MAULDIN: All right, sir.

THE COURT: All right. Y'all get that charge from Diane.

All right. Before we bring them back in, any objection from the defense as to that curative charge?

MR. MAULDIN: Could you read it?

MR. WILKINS: Basically, it will say, "The consequence of any verdict are not an issue to be determined by the jury. That specifically is an issue of law for the Court. You are the judge of the facts."

THE COURT: "And I am the judge of the law."

MR. WILKINS: "And the judge is the judge of the law."

THE COURT: Period.

MR. MAULDIN: I have to restate the objection because I have asked you to charge them on consequence of the verdict.

THE COURT: Yes, sir.

MR. MAULDIN: So I can't consent to that, so I do object.

THE COURT: You're protected in the record Objection overruled.

Are we ready?

Write that down for me.

MR. WILKINS: All right.

(WHEREUPON, the jury entered open court at 12:34 p.m.)

THE COURT: All members of the jury are present.

Again, thank you very much for your patience.

Mr. Mauldin.

MR. MAULDIN: Thank you, Judge. I'm going to make a few final remarks to you, but I did forget something, and so I'm going to kind of fly back just a second, then I'll finish.

We were talking about the evidence and what we brought in on our side. And we brought in the photograph of Nate Stegall's telephone, the hell on Earth message. And Dr. Frierson described the significance of that to you and how it was essentially

consistent with the flaming paranoid schizoaffective that was going on with her that night. So I did want to mention that.

This week good families have filled this courtroom. Good families have filled both sides of this courtroom. And the fact of the matter is there are no winners in this tragedy. Everybody in this courtroom, in their own way, is suffering. There have been lives lost, there has been lives changed forever including jurors' lives, I suspect. I think the experience is something you folks will never forget.

Mental illness exists in our society and it is real. The testimony that you've heard in this courtroom comes from reality not technicality. This is a harsh reality of psychotic conditions, and it's hard for us, as what I will describe normal people, even though my wife would say maybe I'm not all that normal, but it's hard for us, as normal people, to understand how this can be possible.

What is obvious to us as total fantasy is absolutely real in the mind of the mentally ill. We have to stop denying it. We have to stop turning our back on it. We have to stop ignoring it. We have to stop thinking, "Well, he just ain't right." Or, "Well, that's just the way he acts." And I understand that

this jury is not empowered to send out notice to the world that from now on mental illness is going to be dealt with in a different way. That's not your job. That's not my job, his job, his job. But we've got to start somewhere.

This morning, when I looked in the mirror getting ready to come over here, and I wondered, quite frankly, if I was worthy to stand before you and advocate for Anna Simpson, who obviously can't advocate for herself, and I thought when I was having these thoughts about this responsibility. I thought, okay. I imagined growing up in Ware Shoals. I was little and being in a classroom with a group maybe of 12 year olds. I'm just imagining, you know, along and look in the mirror and imagining. And I'm thinking about sitting in a classroom, a bunch of young kids like me, and I'm thinking and imagining that a teacher in that classroom might say to the class, "Which of you, which of you will stand up when times are their toughest and plea for what's right? Which of you kids? Which one of you kids are going to be willing to stand up and speak in the toughest times for what's really right?" And I imagined John Mauldin would have stood up. But that was all just a delusion, I guess. I never really imagined that I would actually really be doing it. But

that's what I'm doing.

It is an honor, it is a privilege for me to have an opportunity to present this statement for Anna Simpson. Because it's right. Whatever you do to the least of my brothers you do unto me. Whatever we do in our society to the least of us we do to ourselves. I'm going to ask you to take the hard road in this case. I'm going to ask you, I'm going to challenge you to take the hard road, the road less traveled, if you will. I'm going to challenge you to take the high road. I'm going to ask you to stand up for what is right and it's going to take courage. But nothing this important would ever be easy. And I'm going to ask you to find Anna Simpson not guilty by reason of insanity.

THE COURT: Thank you, Mr. Mauldin.

Solicitor.

MS. STROM: May it please the court, Your Honor.

THE COURT: Yes, ma'am, Madam Solicitor.

MS. STROM: I'm going to move this podium. I'm not quite as tall as Mr. Mauldin, even in these heels. So I'm going to move this out of my way.

Probably one of the few things that Mr. Mauldin and I agree with, and we've been trying cases against each other for years, is that this is a tragic and horrific case. The mere fact that two little children

are shot in the head in their beds after their mother has gone and shot her husband, that is horrific. That is tragic. And it's instinctive to sometimes want to go, "Well, only a crazy person would do that. Only someone in their -- not in their right mind would do that."

But, unfortunately, ladies and gentlemen, we see it all the time. We see it all the time. And nobody is up here in this courtroom trying to tell you that Anna Simpson did not have mental illness. She had mental illness. There's no doubt she had a mental illness. But mental illness does not equal insanity.

People walk around every day working, raising families, doing everything right, doing everything within the law, because they're not insane. Mental illness, psychosis, bipolar, ADHD, all those are mental health terms, psychiatric terms. Insanity is a legal term. We're going to get to all of that a little bit later, and you've been hearing about it, but I think we just have to have the fundamental understanding that mental illness, bipolar, schizoaffective does not equal, does not mean insanity.

His Honor is going to charge you the law on what is insanity and what is guilty but mentally ill, what we've been talking about. So I just wanted to sort of

get that baseline started. And I know. We've watched -- we watch y'all as you come in, as you go out, we watch you as the testimony is being heard and the evidence is being received. We notice how attentive all of y'all have been, and everyone here appreciates that because we do recognize this was hard evidence to hear. This was hard testimony to hear. And we appreciate the attention that you gave it.

Now, as we talked about, I want to address one thing. Mr. Mauldin got up here and started talking about hiding the ball and fairness and all this about the witnesses and, well, Mr. Sanders didn't put that in his original statement. Why is he up here exaggerating today? Well, it's not an exaggeration. People remember things differently from the moment when it first happens to later. Mr. Weight, the EMS guy -- the EMS guy -- what he testified to on the stand was not in his statement. How do we know that? Because we wrote Mr. Mauldin the letter to tell him.

Mr. Weight also says this. Nobody is hiding the ball from anybody, all right. And it is -- it was surprising. It was surprising that that's the best they've got. That's the best they've got, accuse me of hiding the ball.

Ladies and gentlemen, also on that point, he

accused me of hiding the ball because we talked about marital discord, okay. Said, "The prosecutor is up here talking about marital discord, and even Mike Simpson, in his statement, said it was a happy marriage." Mike Simpson took multiple bullets to the head, one of which is still in his head. Dr. Frierson said, "I expect his memory to be altered." That's not where we're getting the marital discord. We're getting it from Anna Simpson's own mouth. What does she say that night? "Mike is done with me. He is done with me. He says I can no longer take care of these children." So for Mr. Mauldin to sit here and stand before you and try to lay that out, again, it just absolutely surprises me.

But let's get to the facts of this case and what we've got to do here today. The judge is going to charge you as to the particular crimes in this case. And the first one is murder. Anna Simpson is charged with two counts of murder.

Murder, the judge will tell you, is the unlawful killing of another person with malice aforethought, okay. Malice aforethought. Doesn't require any premeditation. Doesn't require any, "Oh, I'm going to kill you," boom, anything like that, but malice aforethought.

Malice is ill will towards another person. It is -- sometimes it's often charged as a heart fatally bent on mischief. But what it is, it's meanness. It's just meanness. And in this case, you're sitting here going, "But what about all this mental illness we're hearing about?" Yeah. She's got mental illness. She has bipolar. Doesn't affect her ability to form malice because when you look at the facts of this case, and we're going to go through it a little bit later, there is malice all over this case.

When she goes into the master bedroom and shoots Mike Simpson six times -- she shoots at him six times. We're not sure how many times he's hit. But he's shot. She goes and gets a different gun -- a different gun -- and shoots those children. She pulls the trigger four times towards Male Child head. She pulls that trigger towards Female Child five times, hitting her once in the back and at least twice in the head. That is malice. That is malice.

She's also charged with attempted murder. And attempted murder is simply you intend to kill someone but you don't succeed. And that's exactly what she did with Mike. She didn't succeed.

Now, as to -- you'll also have a charge of possession of a weapon during the commission of a

violent crime. His Honor will charge you that's if you commit a violent crime and you do so with a weapon, a pistol, whatever, then you can also be found guilty of that. I think it pretty much speaks for itself.

But as to all of those charges, each of those charges, you will decide each one individually. There are four verdicts. Four verdicts, possible verdicts.

First one, not guilty. Anna Simpson did not commit these murders. If you find she didn't commit them, find her not guilty.

You've got not guilty by reason of insanity. Not guilty by reason of insanity means she did not -- because of a mental disease or defect at the time of the murder she did not know the difference between right and wrong. She did not know that her particular actions were wrong.

You have guilty. Guilty is Anna Simpson committed these murders, and either, A, she has no mental illness, or that mental illness did not affect her abilities. Okay. If you find she's just straight-out guilty, you can find her guilty.

Then you have guilty but mentally ill. Guilty but mentally ill is the defendant has a mental disease or defect, okay. She committed the crimes, no doubt she committed the crimes, but because of a -- she has a

mental disease or defect, but it does not affect her ability to know right from wrong. She knows right from wrong, but she just can't control herself. She just can't conform. She can't follow the law. She knows it's wrong, she just can't follow the law because of that mental disease or defect.

Ladies and gentlemen, as I said before, no one is denying that she has mental illness. No one is denying that she was having paranoid thoughts. No one is denying that she was having racing, jumbled thoughts. That is clear from all of the evidence. She's been diagnosed since 2010 with Dr. Smith of bipolar. She was diagnosed prior to that with depression.

And like I said before, just because it's a mental illness doesn't mean you're insane. Look at all those years, all those years she functioned, she ran her household, she worked. Mental illness does not equal insanity.

Mr. Mauldin would have you believe that, okay, I put up these three doctors, and these three doctors said she's insane, so okay. All right. You don't add up witnesses and say, Okay. They put up three people to say X, and this one put up one person to say Y, so it must be X.

Ladies and gentlemen, as the judge charged you

from the moment you heard from the first expert, the first expert, which I believe was the SLED agent who processed the crime scene -- I think she was the first expert -- he said, "An expert is just someone who gives an opinion, who's allowed in this courtroom to give an opinion." And you know the old adage about opinions. We've all got one, okay. All right. Their opinion is no more important than your opinion. And, in fact your opinion collectively as a jury and as a juror carries far more importance than any opinion from that witness stand. And that judge will tell you that you can believe all of that expert's opinion, you can believe none of it, you can believe parts of it, not believe other parts of it. It's what you feel the weight should be given to that testimony.

And then, ladies and gentlemen, you look at you're going to have to form an opinion. You, as a jury collectively, are going to have to form an opinion as to whether Anna Simpson knew right from wrong. Did she know right from wrong at the time of this crime.

Before I get to those facts, I want to say a couple more things about those experts because, like I said, experts are experts. They're going to say what they're going to say. All right.

Dr. Mulbry and Dr. Price, they both talked to you

about -- this is 98 percent of their practice now is just doing these forensic evaluations, okay. You go, "Wait a minute. What about Dr. Frierson? Dr. Frierson was the court-ordered psychiatrist." And I started thinking. And I started looking at this. And Dr. Frierson talked -- stated that he was court ordered about late 2014, I think he says somewhere near December of 2014. He first met with her in February of 2015.

Now, remember, this crime occurred May of 2013. Her psychiatrist doesn't even talk to her until October of -- no, it was even later than that. It's about ten months after that. It was ten months after the murders that her doctors first talked to her.

But by the time Dr. Frierson has the opportunity to talk to her, she has been seen by Dr. Price seven times. Seven times. She had been seen by Dr. Mulbry twice.

They want to say that Jeff Smith didn't review the autopsy reports, he didn't review the police reports, he didn't review the witness statements. He had been treating her for over two years. Who is in a better position to know the mental state? What did he tell you? Not one time, not one time did she mention these delusional thoughts. She talked about paranoid

thoughts. "People are talking about me. There is a conspiracy out to get me." But never these delusional thoughts, never these hallucinations, never these shapeshifters that came up sometime when she was talking to Dr. Price, I think. None of that was ever, ever revealed. Not only not by Anna Simpson, but not by any member of either family.

When you look back at the fact at that Anna Simpson was hospitalized, who was it that took her? It was her mother, Ms. Brown. Because she was having these racing thoughts. She was having this racing speech. She was jumping from topic to topic to topic. It was so bad that her mother said, "We've got to take her to the hospital. We've got to do that."

Does anybody do that this time? And it sounds like I'm blaming them. I'm not. I'm not at all. What I'm saying is it wasn't there. We know that if it was as severe, if it were as severe as it was before, they would have been taking her to the hospital.

Yes, she's having thoughts. But not to the extent that these psychiatrists want y'all to believe that she is in this psychosis, this total loss with reality that she does not know right from wrong.

And one of the things that the doctor said is that you look at evidence and actions consistent with the

delusions. So we're going to be talking about that a little bit when we get into the facts, and I'm going there now.

It may seem a little funny that, you know, we put in all these casings and projectiles and all that. They got up and said she did it. We still have to prove that she did it. Okay. We still have to prove it. But more importantly, that's where you're going to get your information to determine whether she knew right from wrong is from the facts of this case. Because Anna Simpson can tell these doctors whatever she wants ten months after the event, ten months after the murders, two years after the murders. The facts are going to stay the same. The evidence is going to stay the same.

And let's look at what we know about the evidence in this case. First of all, we know that the day before she went and got Female Child out of school. All right. She didn't go down there, jerk Female Child off the playground, stick her in the car and go home. What did she do? She followed the rules. The rules are you go to the office, you sign her out, they go and get her, and you go home. That's what she did. She's following the rules.

But what also does she do? She lies. She lies.

She says she's getting Female Child out because Male Child is sick and Female Child may be sick or is sick or whatever. She tells her psychiatrist that it was something about the last time the kids stayed out, that was the day of Sandy Hook so I thought there was going to be this problem at the school, this big shooting at the school.

Well, ladies and gentlemen, if you're in the delusion and you're in the psychosis as deeply as these doctors want you to believe that she is, when people are that sick, they believe it. And they don't care whether you believe it or not. Okay. When they're that sick, they believe it. It is their reality. And they don't her that you don't believe it. "You're just not as smart as I am. You're just not as insightful as I am when you don't believe what I believe."

You believe that there is going to be a shooting at an elementary school, and what you decide to do is go down there and get your one child out of school? If you believe -- I mean I'm talking if you believe there is going to be a shooting in that school, you don't care whether people think you're crazy. You go and say, "There is something bad going to happen at this school. I want my kid. I want it now. And y'all need to get these other kids out of here." That's not what she did. She lied. She manipulated. And why?

Because she didn't really believe it. She may have been having a thought, but she knew it wasn't real.

And then she comes back home. And they're out playing in the yard. And Nate Stegall comes by. And what she told her psychiatrist is Nate Stegall is the devil incarnate. He's the devil. Well, actions inconsistent with your delusion. You believe Nate Stegall to be the devil, and you are going to sit there and chit-chat with him about how his daughter is doing? You're going to sit there and talk to him for 20 to 30 minutes out in the yard? To the devil himself? That is -- that is not consistent with being in that psychotic delusional state. That is not consistent.

And what does Nate say? He talks about the fact -- and I didn't particularly like the term, but it's his term, not mine -- she looked like an angry wife. Okay. She was acting like an angry wife and fussing at the kids, saying, "I don't want to have to tell Mike when he comes home." Does that sound like a woman who is concerned about something horrible happening to her children? Come on.

And then later on after Nate leaves, later on that day, she's having phone conversations with, first of all, I think she had some with her mother, but then she calls Alison Simpson, the mother-in-law, the woman who

is supposedly molesting her child. That's one of the delusions she talks about is that, "My mother-in-law was grooming my child for sexual industry or sexual games. She's molesting my child." Do you call that woman and say, "Hey, why don't y'all come over and help us more often? Y'all come over and help us more often." That would be the last person, if you truly believed that delusion. If you truly believed that, that would be the last person would you call. And call to invite over.

And then she has conversations with her own mother. First, it was about the fact that she and Mike were going to talk to someone. And she asked her because they were going to talk to Alison and John. She said, "Well, do you trust Alison and John?" And her mother said yes. If you truly believe the delusion, you don't just go, "Oh, okay, Mama. You trust them, okay." You go, "Well, wait a minute, Mama. Why are you trusting them?"

And that's my point. I'm not saying she doesn't have thoughts, but it's not to the extent that these psychiatrists are wanting you to believe it is. She is not having a loss of touch with reality. She is not.

The second call to her mother, which was about 9 o'clock, 8:45 was, "Mike is done with me. He is done

with me. He says I can no longer take care of my children." And that's consistent with what she told Frierson, what she told Price, what she told Mulbry, what she told Dr. Wade Harris in the emergency room that day. "I was afraid to talk to my husband about this. I was afraid he would lock me back up again." Her biggest fear was going back to that hospital. "I was afraid he would lock me back up again."

And what does she tell her mother at 9 o'clock? "He's done with me. He says I can no longer take care of my children." It's not a leap, ladies and gentlemen, to sit here and think what's going to happen tomorrow? What's going to happen tomorrow?

What happened that night? She says they went to bed. She got some sleep, woke up at 4:00 panicked. I bet she was panicked knowing you have only a few more hours before you're going to be sent back to a hospital, someone else raising your children. And what does she do? And these are all going to go to did she know right from wrong.

The first thing she does, she says she does, is she goes and gets this headlamp. I call it a runner's lamp. Some people call it a hunter's lamp or whatever. Stick it on your head. Why? Why? She doesn't turn on a single light in that house. Not one light. Why?

You don't want to wake anybody up. What happens if somebody wakes up? They are going to stop you. They're going to stop you.

So she goes, puts on a headlamp. Then she goes to this safe, the safe, and manipulates the combination to the safe. She's in this deep psychosis and she's going to manipulate a combination to a safe?

She gets the .22 and goes back to this area right here and loads it. How do we know that? There is a live round found right here. Remember Tony Robinson talking about finding it in the sink in the laundry room? And what's right here? The holster to that .22.

Why not just load it out there in the living room? Get farthest away from Mike. Because who's going to be the first person most likely to wake up if he hears something? Not those kids. It's going to be Mike. It's going to be Mike.

And what does she do? She walks down that hallway with that headlamp on, and she goes into that master bedroom and she shoots Mike. And she shoots him in the head. What delusion did she have about Mike? Nobody was molesting him, no. She had to kill him first. She had to kill him first because otherwise he would have stopped her. If she had shot one of those kids first, he would have awakened, he would have come and he would

have stopped her and she knew that. She knew what she was doing was wrong.

And then, ladies and gentlemen, she goes and gets another weapon. All right. Why? Why get the .40? I submit to you, remember what Tommy Camp said when he came in, he was the first officer on the scene. He said, "When I walked in that kitchen door, I could hear somebody struggling to breathe. I could hear somebody struggling to breathe."

You know what, ladies and gentlemen, if he could hear it there, she heard it in that house. And she's walking around that house. That .22 didn't do the job. He's still alive. He's still breathing.

She goes and gets that .40. That 40-caliber weapon. Ladies and gentlemen, that's a pretty heavy gun. And what did the ballistics expert tell you about it? You had to pull that trigger every single time. Every single shot to those children.

Oh, but wait a minute, now. She tried to kill herself. She tried to kill herself because we have misfired bullets. Well, we do. We have misfired bullets.

Before we go there, I want to go back to one thing on this. She shoots Male Child four times, shoots at Female Child five times, and then right here we have a fired

40-caliber casing. And right here at M we have a fired .22 casing. We have got two holes in the wall right here. And remember the fragments that they talked about that were right there that were consistent with .40 and consistent with .22? Why shoot down the hall? Why shoot down the hall? Are you manipulating the crime scene, make it look like something that it's not? Are you clearing the weapons? Are you clearing the weapons so that then you can reload it? She knew about guns. She had been shooting with Mike. "Oh, well, you know. This was just frantic. It was frantic. She just, you know." Well, when you want to kill your husband, you load the right bullets. When you want to kill your children, you load the right bullets. But when you want to kill yourself, you don't?

And let's say, let's just for argument's sake it was incidental that she loaded the wrong bullets. What do we know about that gun that was found down by the truck? It had two misfired rounds in it, correct? What did that ballistics expert say? You're going to have to manually eject those misfires. They don't come out automatically.

We also have a misfired 9 right here in the foyer. You go, "Well, what does that mean? That's a misfire." Ladies and gentlemen, she would have had to eject,

manually eject those misfired rounds, pick them up, take out the magazine, load them back in, put it back into the gun. She knows before she leaves that house that gun is not working. She knows before she leaves that house. Otherwise we wouldn't have the misfired in the foyer. But what am I going to do? I'm going to go walk back through here past this arsenal of weapons to include this loaded 9mm. I'm going to pass all this so I can go get in a truck and try to kill myself. No. No. If you truly want to kill yourself, you grab that 9 and you put it to your head.

Oh, but wait a minute. She was going to go to Nate's, all right, because the kids were reincarnated in Nate's garage. Okay. She goes, and what does she tell the psychiatrist? "I didn't go in because there were too many cars." And that goes back to actions inconsistent with the delusion. If you are delusional and you are in that psychosis and your children have been reincarnated in that garage, there is nothing stopping you from getting in that garage. If you want to be reunited with your children, nothing would stop you from getting in that garage.

But no, what she tries to do, according to her, is to kill herself by driving down a particular pathway that someone else had driven down months before. But

interestingly, and you'll have these with you, she missed the tree that killed the fellow before. Mr. Hart said she clipped the side of one tree, she missed these other trees, went between these trees and the telephone pole, okay.

And then what happens when the people get there? First thing she said is, "My back. Oh, my God, my back." Not, "Oh, my God, I've just saved my children. I have just sent my children to a better place." No. Her words were, "Am I going to be okay?" Begging Scott Hart not to leave her. And when asked specifically, "What about your husband and your children?"

"I don't know. I don't know. I don't know."

You do know. If you believe that delusion, you say, "I just sent them to a better place. Why am I not with them? Take me to them." Not, "Am I going to be okay."

And that self-protective, self-preservation selfish attitude continued. She gets to the hospital. Well, even with the EMS guy, Michael Weight. What happened? She won't answer. She won't tell anything. Okay. Well, it's only until Weight tells her, "I can't help you unless you let me know what happened."

"Oh, okay. All right. I shot my family. I shot my family."

All right. Still self-protecting. She can't get the help she needs unless she tells what's going on. And that happened in the ER as well. But even more importantly in the ER, it's not she just doesn't answer. She's asked specifically by John Conway and Dr. Wade Harris, "What happened?"

"I don't want to talk about it. I don't want to talk about it."

Ladies and gentlemen, if someone is in a psychotic delusional state such that they believe it and it's their reality, they would be yelling it from the mountaintop. "I just saved my children. I saved my children from this hell on Earth." But no. It was, "I don't want to talk about it."

And what did Conway say with regards to her being in there? She talked more when law enforcement wasn't near. It's when law enforcement either went out of the room or went closer to the door that she would talk more. Those are things that you can use, and I've missed some. I keep trying to refer to my notes. I know I missed some.

You get back in that jury room, and you look for that evidence, what it tells you. If collectively you do not believe she knew right from wrong, sign that verdict not guilty by reason of insanity.

We have talked a lot about Anna Simpson's state of mind because that's -- it can somehow be looked at that, you know, that's the issue in the case. Well, it is. And Mike Simpson, [redacted] Simpson, [redacted] Simpson deserve their day in court as well. They deserve justice. And not based on any passion, not based on any sympathy. That's justice for no one. I'm speaking of justice based upon the facts of this case. And the facts of this case tell you she knew what she was doing was wrong, she did everything she could not to be detected. Now, granted she may not have been able to control herself, but she knew what she was doing was wrong.

Thank you, your Honor.

THE COURT: Thank you, Madam solicitor.

Ladies and gentlemen, my charge to you is going to take approximately 20 minutes, okay. And because of that, there may be some of you who need to refresh yourselves. I know I do, okay.

So let's take a quick five minutes. Lunch is going to be back there waiting for you as soon as I charge you the law. It may already be there. So hold off on eating until I give you the law. Give me five minutes and we'll reconvene. Don't talk about the case. You have not heard the law yet.

(WHEREUPON, the jury exited the courtroom at 1:23 p.m.)

(WHEREUPON, recess taken from 1:23 p.m. to 1:30 p.m.)

(WHEREUPON, the jury entered open court at 1:30 p.m.)

THE COURT: All members of the jury are present.

Ladies and gentlemen, I'm going to ask that you pay close attention to what I tell you because this is the law that you must go by in order to reach your verdict. And I know it's a little difficult because I'm not right up on you like the lawyers are. Typically, I do when I have the opportunity to talk to juries that way when I charge, but I feel like I'm close enough to you. So y'all just please pay attention. You're going to see me look down from time to time referring to my notes. I know there's nothing worse than just looking at a talking head talking at you, okay. So I promise you I'll try to look at you as much as possible. But what I tell you is very important, and I want to make sure I get it absolutely correct, so I will be looking down from time to time, okay.

Now, Madam Forelady, members of the jury, you've heard the testimony and the evidence and the arguments

of both the State and the defense. I will now explain to you the law that applies to this case.

Under the constitution and laws of South Carolina, you are the finders of fact in this case. I do not have the right to pass upon the facts or even to express any opinion that I may have as to what the facts are because that's a matter solely for you, the jury, to determine.

As jurors, then, it is your duty to determine the effect, the value, the weight, and the truth of the evidence presented during the trial. As the trial judge, it has been my responsibility to preside over the trial and to rule upon the admissibility of various evidence that has been offered during this trial.

Like I've told you numerous times this week, you are to consider only the testimony which has been presented from this witness stand together with any other exhibits which have been made part of the record. You will have those back in the jury room.

I have the additional duty, as I am doing now, to charge you the law applicable to this case, and as the presiding judge, I am the sole judge of the law. It's your duty as jurors to accept as correct and to apply the law as I now state it to you and use that to reach a verdict. Now, the fact that I may instruct you on

various subjects in this case must not be taken by you as indicating what you think my opinion of the facts are.

Finally, I charge you you should not be concerned with what you think the law ought to be or, rather, what I charge you the law is. Now, the fact that the defendant was arrested, charged, and indicted is not evidence in this case and cannot be considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt.

The indictment, as I've told you several times, is simply the formal written instrument which contains the charges made against the defendant. An indictment is merely the formal written document by which a case is brought into court.

You're the judges, the sole judges, of what's called the credibility, also known as the believability of the witnesses who have testified and of the credibility of the evidence which has been presented during this trial. In passing upon credibility, you could take into consideration many things such as the demeanor or the manner in which the witness testified, whether or not a witness had reason to be biased or prejudiced, whether or not a witness' testimony was contradicted on the one hand or maybe supported or

corroborated on the other hand. All of these things you will consider bearing in mind that you should give the defendant the benefit of any reasonable doubt. It becomes your duty, then, as jurors to analyze and to evaluate the evidence and determine that evidence which convinces you of its truth.

Let's talk about evidence in general. There's two types of evidence presented during the trial. The first is called direct evidence. Secondly is circumstantial evidence, okay. Direct evidence -- I'm going to give you some law school definitions, then I'll explain it to you.

Direct evidence directly proves the existence of a fact and doesn't require any deduction. Circumstantial evidence is proof of a chain of facts and circumstances which indicate the existence of a fact, okay.

For example, if on a winter night -- I also use this example -- you go to bed and you wake up and -- well, you go to bed. Before you go to bed, you look out at your front lawn. You see your brown grass in your front lawn. You wake up the next morning and see snow and you see some footsteps through your front lawn in the snow. Well, you know, you can infer that it snowed. Secondly, you can infer that somebody has been walking on your lawn. See, these are things you can

infer even though you didn't see it snow and even though you didn't see somebody on your lawn. All right? That's a good way to illustrate circumstantial evidence.

Now, crimes can be proven by circumstantial evidence. And the law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. Now, however, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilty of the excused beyond a reasonable doubt. Now, if these circumstances merely portray the defendant's behavior as suspicious, the proof has failed.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two, okay. So that's evidence in general.

Let's talk about expert witnesses. Of course, I gave you the charge on those two days ago, I believe. Let me give you the long charge on expert witnesses, okay.

The rules of evidence ordinarily do not permit

witnesses to testify as to opinions or conclusions. Normally, when a person testifies, they have to testify about what they saw or heard or smelled or something like that. However, there is an exception when someone is qualified because of education or experience. Those witnesses are permitted to give their opinion in certain areas if the court qualifies them that way.

This exception exists for witnesses called expert witnesses. Y'all heard several expert witnesses in this case. It's a witness who, by education and experience, has been become an expert in some art, science, profession, or calling may state an opinion as to a relevant and material matter in which the witness claims to be an expert who may also state his or her reasons for at that opinion.

Ladies and gentlemen, this doesn't mean that you have to accept the opinion. But it is evidence for you to use -- remember, as judges of the facts -- for you to use in any way you see fit and give it the weight and credibility you believe is appropriate.

An expert witness' testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion even though it may not be contradicted.

Now, the indictments in this case allege four different offenses or charges against the defendant. The charges are: Murder, murder, possession of a weapon during a violent crime, and attempted murder. Each indictment charges a separate and distinct offense. You must decide, ladies and gentlemen, each indictment separately on the evidence and the law applicable to it uninfluenced by your decision as to any other charge or indictment.

The defendant can be convicted or acquitted on any or all of the offenses charged. You will be asked to mark a separate verdict for each indictment. And I'll explain that to you when you get down to the verdict form.

Now, let's talk about presumption of innocence. The defendant has pled not guilty to the charges in the indictments, okay, and that plea has placed the burden on the State to prove the defendant guilty.

Now, a person charged with committing a criminal offense in South Carolina is never required to prove herself innocent. I charge you, ladies and gentlemen, that it is an important rule of law that a defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be not guilty of the crime for which the indictment was issued unless

guilt has been proven by evidence satisfying you, the jury, of that guilt beyond a reasonable doubt.

Now, this presumption of innocence does not end when you begin your deliberations, but it accompanies the defendant throughout the trial until you have reached a verdict. Imagine -- you see the robe I'm wearing now. Imagine that robe placed about the shoulders of the defendant. We call it the robe of righteousness, okay. Imagine that robe around the shoulders of the defendant, and that robe of righteousness will remain with her until it has been stripped from her or from the defendant by evidence satisfying you of the defendant's guilt beyond a reasonable doubt.

Now, this presumption of innocence, ladies and gentlemen, is not just a mere legal theory. It's not just a legal phrase. It is a substantial right to which every defendant is entitled unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

I've said "beyond a reasonable doubt" at least 20 times. Let's finally define what a reasonable doubt is, okay.

A reasonable doubt is a doubt which makes an honest, sincere, conscientious juror in search of the

truth to hesitate to act. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs.

Now, proof beyond a reasonable doubt can also be described as proof that leaves you firmly convinced of the defendant's guilt. Now, there are very few things we know in this world with absolute certainty. And in criminal cases, the law does not require proof that overcomes every possible doubt. If, based upon your consideration of the evidence, you're firmly convinced that the defendant is guilty, then you must find her guilty. If, on the other hand, you think there is a real possibility that she is not guilty, you must then give her the benefit of the doubt and find her not guilty. The same standard applies to the issue of the defendant's sanity as well which I will define in greater detail in a few moments.

Now, I instruct you, ladies and gentlemen, and emphasize to you that the fact that the defendant did not testify is not a factor to be considered by you in any way in your deliberations and in your consideration on the question of the guilt or innocence of the defendant. It must not be considered by you in any

manner whatsoever.

A defendant has the constitutional right to remain silent, and the assertion of this right must not be considered by you in your deliberations. So I repeat: Under your oath, you are to draw no conclusion whatsoever from the fact that the defendant in this case did not testify. The fact that the defendant did not testify should not even be discussed in the jury room.

The burden of proof, as I have stated to you several times, is on the State. The defendant is not required to prove innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Let's talk about intent, and then we'll get into the crimes, and then we'll talk about sanity and insanity.

In order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness, criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt.

Criminal intent is always a matter that must be determined by a jury from the circumstances surrounding

a situation. There is no way to prove intent to a mathematical certainty. There's no way that medical science can dissect a person's brain and determine what the person had in mind so the law says that criminal intent may be inferred from the circumstances which have been shown to have existed.

This is how you make a determination of whether or not the element requiring intent was present. It's not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other fact, by taking into consideration all the facts and circumstances of the case. Criminal intent is a mental state, a conscious wrongdoing. It is up to you to determine what the defendant intended to do based on the circumstances shown to have existed.

The defendant is charged with murder. The State must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought. Malice is hatred, ill will, or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law will infer an evil intent.

Malice aforethought does not require that malice

exist for any particular time before the act is committed, but malice must exit in the mind of the defendant just before and at the time of the act being committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought can be express or inferred. Now, these terms, "express" and "inferred" do not mean different kinds of malice but merely the manner in which the malice may be shown to have existed. That's either by direct evidence or by inference from the facts and circumstances which have been proven.

Express malice is shown when a person speaks words which express hatred or ill will for another or when the person is prepared beforehand to do the act which was later accomplished. For example, express malice is like lying in wait for a person or any other acts of preparation going to show that the deed was within the defendant's mind, that's an example of express malice. Malice can also be inferred from conduct showing a total disregard for human life.

The defendant is charged with attempted murder. In order to prove this crime, the State must prove the defendant attempted to kill another person with malice aforethought, either expressed or implied. I've already given you the standards and definition of

malice.

If facts are proved beyond a reasonable doubt sufficient to raise an inference of malice to your satisfaction, ladies and gentlemen, this inference would simply be an evidentiary fact to be considered by you, the jury, along with the other evidence in this case, and you may give it the weight you decide it should receive.

A specific intent to kill is an element of attempted murder. An intent means intending the result which actually occurs, not accidentally or involuntarily. Intent may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent.

Evidence of the character of the act, the character of the instrument used, the manner in which it was used, the purpose to be accomplished, and the resulting wound or injuries may be considered by you in determining intent with which the act was committed.

Intent may also be inferred when it is demonstrated that the defendant voluntarily and willfully commits an act, a natural tendency of which is to destroy another's life.

The last crime for you to consider is possession of a weapon during the commission of a violent crime.

The defendant has been charged with possession of a weapon during the commission of a violent crime. The State must prove beyond a reasonable doubt that the defendant was in possession of a firearm during the commission of a violent crime. A firearm means any revolver, pistol, or weapon which will, is designed to, or may be readily converted to expel a projectile.

In order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of either committing a violent crime or attempting to commit a violent crime. Murder is a violent crime under the law. The State must prove beyond a reasonable doubt that the weapon further advanced or helped in the commission of the crime.

That's it for the crime portion of the charge. We'll now move forward to the insanity portion.

The defendant has raised the defense of insanity. I've already told you about criminal intent. Criminal intent is required to prove that the defendant is guilty of the crime charged. A person who is insane cannot have criminal intent and, therefore, cannot be found guilty of a crime.

In order to be found not guilty by reason of insanity, it must be shown that at the time of the

crime or crimes, the defendant had a mental disease or defect which made her unable to distinguish moral or legal right from wrong or to recognize the crimes as morally or legally wrong.

And by raising this defense of insanity, the defendant does not necessarily admit the crimes were committed. The State must still prove beyond a reasonable doubt that the defendant committed the crimes, then the defendant must prove insanity by what's called a preponderance or greater weight of the evident.

Preponderance of the evidence simply means the greater weight of the evidence or more likely than not. This is different from the State's higher standard of proof of beyond a reasonable doubt.

So if you find from the evidence in the record that at the time the crimes were allegedly committed it is more likely than not that, because of a mental disease or defect the defendant did not know the alleged crimes were morally or legally wrong, the State must then prove beyond a reasonable doubt that the defendant was sane, in other words, that she did know right from wrong or morally or legally right from wrong.

It is for you to decide, ladies and gentlemen,

what the state or condition of the defendant's mind was at the time the alleged crimes were committed.

Now, there are four possible verdicts that you could return in this case: Not guilty, not guilty by reason of insanity, guilty, guilty but mentally ill.

There is no significance whatsoever in the order in which I state these possible verdicts. It's simply that one must be stated first.

If you have any reasonable doubt as to the defendant's guilt after considering all the evidence, then you must find her not guilty.

If you have no reasonable doubt that the defendant committed the crimes, but you find that it is more likely than not that, because of a mental disease or defect the defendant could not distinguish moral or legal right from wrong or recognize the crimes as morally or legally wrong, you must find her not guilty by reason of insanity.

Another possible verdict is guilty but mentally ill. A defendant is guilty but mentally ill if, at the time of the crimes, the defendant was able to distinguish moral or legal right from wrong or to recognize her act as being morally or legally wrong, but because of a mental disease or defect the defendant did not have the sufficient ability to follow the law.

If you have no reasonable doubt that the defendant committed the crimes and you find that the defendant had the mental capacity to distinguish moral or legal right from wrong or to recognize the crimes as morally or legally wrong, but it's more likely than not because of a mental disease or defect that the defendant could not follow the law, you would find the defendant guilty but mentally ill.

The final possible verdict in the case is guilty. You may only find the defendant guilty if the State has proven beyond a reasonable doubt that the defendant committed the crimes and that the defendant was able to distinguish moral and legal right from wrong and to recognize the crime as morally and legally wrong and that the defendant was able to follow the law.

Now, ladies and gentlemen, the consequence of any verdict is not an issue to be determined by you, the jury. That is specifically an issue of law for the court. You are the judge of the facts. I am the judge of the law.

Now, let me say something about your deliberations. The word "deliberation," ladies and gentlemen, is defined as a careful consideration, weighing up with a view to a decision. The genius of our jury system is that it allows 12 good people, both

men and women, from differing backgrounds, life experiences and perspectives to consider the evidence, talk about it, and ultimately reach a verdict.

The task of a juror is called deliberations for a reason. You, the jurors, are to consider the evidence in this case carefully and deliberately and to discuss it in a calm, thorough, and courteous manner. Now, remember you're not partisans or advocates for either side, favoring one side over the other. You are the judges of the facts. Your sole duty is to sort through the information that you've received in this trial and find the truth from the evidence presented in this courtroom.

The supreme law of our land, the United States Constitution, affords everyone a day in court and a fair trial. So this case is very important to both sides because it is their day. I charge you, ladies and gentlemen, to listen to the views of your fellow jurors, carefully consider their viewpoints, and courteously discuss the evidence. Remember, if you're doing something deliberately, you're in no big hurry, and you are tasked with a duty of utmost importance. Further, your verdict cannot be based on sympathy, passion, prejudice, emotion, or any other consideration that's not in evidence in this case.

In conclusion, ladies and gentlemen, you have been selected by both the State and the defense to be fair and impartial jurors. It is your duty, then, in your deliberations to determine the truth in this case, giving the defendant the benefit of every reasonable doubt on these charges and from the facts which you determine to be true, you take and apply the law which I've just given you and thus arrive at a verdict which speaks the truth in this case.

I've told you the standards you have to apply to the charges in the indictments as well as the standards you have to apply to the four possible verdicts.

You've heard the evidence, and now you've heard the law. Whatever your verdict is as to the indictments, either guilty, not guilty, not guilty by reason of insanity, or guilty but mentally ill, Madam Forelady, you will indicate it by marking the jury's decision in the respective blanks on the verdict form. You will then sign and date the verdict form down at the bottom.

Now, remember, everybody, that although the forelady is the only juror who can write on the verdict form, it is not her verdict alone.

Madam Forelady, you are not authorized to write on the verdict form until there is a unanimous verdict.

That means all 12 of you must agree to each verdict under each charge, okay.

And, again, here is the verdict form. I know it's kind of hard to see from where you are, but you will see it lists each charge: Murder, murder, possession of a weapon during the commission of a violent crime, and attempted murder. And then under each one of those, beside each one, it says "mark one." You can either mark it with a checkmark, an X, your initials, doesn't matter. Just mark beside each possible verdict, then sign it and date it down at the bottom.

All right. Now, ladies and gentlemen, I'm going to send you to your jury room, but do not begin to discuss the case until you receive the exhibits, all those exhibits, and the verdict form.

Once you receive those exhibits and the verdict form, that's going to be your signal to start deliberating. And once you start deliberating, you're going to deliberate until you have reached a verdict at which time you will knock on the door, advise the bailiff, and we'll bring you out here to receive your verdict. Thank you very much.

You may now retire to the jury room except for the alternates. If my alternates will please stay here with me.

(WHEREUPON, the jury exited open court at 1:58 p.m.)

THE COURT: This is Oglesby and Ms. Bargeron. Y'all stay here with me.

Y'all look like you're cold.

Madam Alternates, your service as jurors has now ended. Thank you so very much for your service on this case.

It's almost 2 o'clock. I know you may be hungry. The Pickens clerk of court here has provided lunch for you today, so please feel free to enjoy that. You can't go back to the jury room, okay.

ALTERNATE JUROR: Can we get our purses?

THE COURT: The bailiff will be able to get your purses and stuff.

If you wish to stick around, you may certainly do that if you want to. But you don't have to, okay.

Also, you don't have to discuss your feelings or opinions about the case either with anybody if you don't want to, okay. So don't feel pressured about doing that, okay.

So at this time you're free to leave. Thank you very much for your service to Pickens County and the State of South Carolina, okay. Thank you very much.

(WHEREUPON, the alternates were excused.)

THE COURT: Yes, sir.

MR. MAULDIN: Your Honor, once again, I want to renew our request for the protocol charge that we've asked for regarding not guilty by reason of insanity. We understand that's on the record, but I do renew it.

THE COURT: Yes, sir. Motion denied.

MR. MAULDIN: And we also, once again, enter our objection to the guilty but mentally ill charge that resulted from the testimony of Dr. Smith's offer in rebuttal.

THE COURT: Yes, sir. You're protected in the record. That motion is denied as well or objection overruled.

MR. MAULDIN: And then finally, I guess just to be on the safe side, renew our motion for a directed verdict.

THE COURT: All right. All motions are in, and that motion is denied.

Any other exceptions to the charge other than what we've previously talked about?

MR. WILKINS: None from the State, Your Honor.

THE COURT: Your position on the guilty but mentally ill is in the record and protected. That motion is denied.

MR. MAULDIN: Yes, sir.

THE COURT: All right. Y'all come check out the evidence and we're in recess until we have a verdict.

(Court in recess, pending verdict, from 2:15 p.m. until 3:16 p.m.)

THE COURT: All right. We're back on the record.

I received a note from the jury. It's been marked and entered as Court Exhibit Number 2. And it says the following, "We want a clarification between guilty and guilty but mentally ill."

So, in response to that question, I plan on charging -- recharging the jury on what guilty but mentally ill means as well as what guilty means, and that would be contained on pages 24 and 25 of the court's instructions.

MR. MAULDIN: All right. I'm going to ask that the court reinstruct on all four of the verdicts as opposed to just those two.

THE COURT: All right.

Anything further from the State on that?

MR. WILKINS: No objection, Your Honor.

THE COURT: Okay. I'll instruct on all four, then.

All right.

(WHEREUPON, the jury entered open court at 3:24 p.m.)

THE COURT: All right. All members of the jury are present.

Madam Forelady, I received your note. You want a clarification between guilty and guilty but mentally ill.

What I'm going to do is I'm going to go ahead and recharge all the possible verdicts to you at this time. Listen very carefully as we go through them, okay.

There are four possible verdicts that you may return in this case: Not guilty, not guilty by reason of insanity, guilty but mentally ill, or guilty.

There's no significance whatsoever in the order which I state in the verdicts. It's simply one has to be started first. All right.

If you have any reasonable doubt as to the defendant's guilt after considering all the evidence, then you must find the defendant not guilty. All right.

The next one is if you have no reasonable doubt that the defendant committed the crimes, but you find that it is more likely than not that, because of a mental disease or defect, the defendant could not distinguish moral or legal right from wrong or recognize the crimes as morally or legally wrong, you must find the defendant not guilty by reason of

insanity.

The third option is guilty but mentally ill. A defendant is guilty but mentally ill if, at the time of the crimes, the defendant was able to distinguish moral or legal right from wrong or to recognize the act as being morally or legally wrong, but because of a mental disease or defect the defendant did not have the sufficient ability to follow the law. If you have no reasonable doubt that the defendant committed the crimes, and if you find the defendant had the mental capacity to distinguish moral or legal right from wrong or recognize the crimes as morally or legally wrong but that it's more likely than not, because of a mental disease or defect she could not follow the law, you would find the defendant guilty but mentally ill.

The final possible verdict in this case is guilty. You may only find the defendant guilty if the State has proven beyond a reasonable doubt that the defendant committed the crimes, that the defendant was able to distinguish moral and legal right from wrong and to recognize the crimes as morally and legally wrong and that the defendant was able to follow the law.

Okay? So there's my answer to your question. Please return to your deliberations. Thank you.

(WHEREUPON, the jury exited open court at

3:27 p.m.)

THE COURT: All right. We'll remain in recess.

(Court in recess, pending verdict, from 3:27 p.m. until 4:26 p.m.)

THE COURT: All right. Everyone is present. It's my understanding we have a verdict.

Bring the jury in.

(WHEREUPON, the jury entered open court at 4:38 p.m.)

THE COURT: All right. All members of the jury are present.

Madam Forelady, it's my understanding the jury has been able to reach a verdict; is that correct?

JURY FORELADY: Yes, sir.

THE COURT: And is the verdict unanimous?

JURY FORELADY: Yes, sir.

THE COURT: Did you mark it accordingly on the verdict form?

JURY FORELADY: I did.

THE COURT: If you will please hand it at this time to the clerk of court.

All right. Mr. Clerk, you may publish the verdict.

THE CLERK: This is Case Numbers 2014-GS-39-396, 397 and 398, State of South Carolina versus Suzanna

Simpson. We, the jury, unanimously find as follows for Defendant Suzanna Brown Simpson:

As to the charge of murder, Indictment Number 2014-GS-39-396, guilty.

As to the charge of murder, Indictment Number 2014-GS-39-397, guilty.

As to the charge of possession of a weapon during the commission of a violent crime, Indictment Number 2014-GS-39-397, guilty.

As to the charge of attempted murder, Indictment Number 2014-GS-39-398, guilty.

Is this your verdict and still your verdict, so say y'all by raising your right hand.

Thank you very much.

THE COURT: All right. Ladies and gentlemen of the jury, thank you very much again for your service to Pickens County and the State of South Carolina. Your jury service has now ended.

I will ask you at this time that you please go back to your jury room for just a few moments, okay. Thank you very much.

(WHEREUPON, the jury exited open court at 4:40 p.m.)

THE COURT: All right. Anything further for the record --

MR. MAULDIN: Your Honor --

THE COURT: -- prior to sentencing?

MR. MAULDIN: -- defendant does renew motions previously made during the trial regarding directed verdict and other matters. We move at this time to set aside the verdict and request a new trial for the record.

And the only additional motion, Your Honor, is that we would move that the court take note that the jury chose to find Anna guilty and not guilty but mentally ill, and we think that that's relevant in terms of what I would consider to be an act of nullification on the part of the jury so we do make a motion for a new trial.

THE COURT: All right.

Anything on behalf of the State?

MR. WILKINS: No, your Honor.

THE COURT: All right. Those motions are taken under advisement. Those motions are denied. And all objections previously overruled are overruled, remain overruled, and those sustained remain sustained. You're protected in the record. All right.

That concludes the actual trial of the case. We'll now move forward to sentencing. As to that, we're going to take a brief recess while y'all prepare

whatever you need to prepare. And if y'all wish to have people speak on behalf of your client, you can arrange that now. We'll be down for about ten minutes while we prepare for sentencing. Thank you very much.

(WHEREUPON, a recess was taken from 4:42 p.m. to 4:54 p.m.)

THE COURT: All right.

Solicitor, I'll be glad to hear from the State first before I hear from the defense regarding any possible sentence.

MR. WILKINS: Okay. Your Honor, yes, sir. May it please the Court. Ms. Alison Simpson is here representing the family, and she has a brief statement on behalf of the entire family and her son Michael.

THE COURT: All right.

Yes, ma'am.

MS. ALISON SIMPSON: My name is Alison Simpson. I'm the mother of Michael and the grandmother of Female Child and Male Child. Our family has been impacted forever in ways that we could never have imagined. We lost two of the most beautiful grandchildren who had great potential for their futures. Female Child was my little soulmate. She was a gifted artist and dancer, full of life, and loves school. Male Child was full of fun and loved to be outdoors with his daddy. We have two holes

in our heart that can never be filled. They will never be forgotten. We never had the chance to tell them how much we loved them before they were taken. Our lives have been shattered. We think of them every day.

Michael's critically injured, and even though the miracle of his survival is amazing to witness, his potential as a father and a provider have been brutally ended. His whole family has been taken away from him. He is totally dependent on others for support. He was a true outdoorsman, hunting, fishing, kayaking, gardening, civil war history, and loved to take family and friends along. His short-term memories have been erased. His recollection of his children's lives have been severely impacted as well as the activities he really enjoyed. He loved his job. He had a great career potential and was very successful in developing new opportunities for his employer.

Our retirement years were brutally interrupted by Anna's actions. Instead of nurturing and supporting a young and growing family like Michael's, we are now full-time caregivers and therapists for Michael. Family holidays and birthdays are strained events. His brother and sister and their families find it difficult to freely celebrate without the lost children that they miss and are not here.

THE COURT: Thank you, ma'am.

MR. WILKINS: That's all we have from the State.

THE COURT: Mr. Mauldin.

MR. MAULDIN: Your Honor, I'm going to recognize Anna's uncle who is here and been here through the trial. He has expressed an interest in making comments to the court.

THE COURT: Yes, sir. Thank you, sir.

MR. GOLDSTEIN: If it please --

MR. MAULDIN: Identify yourself.

MR. JERNIGAN: I'm Russ Jernigan. I'm Susan Brown's brother, Anna's uncle.

I hadn't planned to speak, but I just want to say to the Simpson family that our hearts are heavy for you all. I have been very close to Mike and his daddy. Alison even was nice enough to hand paint me a picture. They're good people.

But I want everybody in here to know that the Simpson family is not the only persons that has lost. My wife and I don't have any children. And we love those kids like they were ours. And our whole life has been disrupted and saddened and changed, and we want the same things. And if there was ever a case in which there are no winners, no practical remarks, I think this is a classic example. I hope that all of the

parties involved can have a healing process. Thank you.

THE COURT: Thank you, sir.

MR. MAULDIN: Your Honor, I would only repeat that there are -- that this courtroom's filled with good families and that the good families suffered an extraordinary loss. And there truly are no winners.

And we understand the court's responsibility to impose sentence. We respect that. We respect this trial. We respect this court, and we commend -- to the extent that it's appropriate, we commend the State for their presentation in this case. We made every effort to make sure that Anna's case was presented, and we just feel that the room is filled with losses at this point, and we understand the court will impose sentence.

THE COURT: Thank you, sir.

Y'all give me a moment.

All right. At this time, I'll ask that the defendant please stand.

I'm going to keep my comments short. Everybody in this courtroom is aware of what's happened here this week, and I can tell you in my 11 years on the bench, this is probably the worst thing I've ever heard. The jury has spoken. I cannot imagine a worse scenario

than what I've heard here this week.

Having said that, I'm obligated to impose the harshest sentence that I could impose, and I'm going to do that.

As to Indictment 14-GS-39-396, having been convicted of murder, the sentence of the court is life in prison.

As to Indictment 14-GS-39-397, having been convicted of murder, the sentence of the court is life in prison consecutive.

As to Indictment 14-GS-39-398, having been convicted of attempted murder, the sentence of the court is 30 years in the South Carolina Department of Corrections consecutive.

As to Indictment 14-GS-39-397, Count Two, possession of a weapon during commission of a violent crime, the sentence of the court is five years consecutive.

Good luck to you, ma'am, and God have mercy on your soul.

That concludes the trial of this case.

(WHEREUPON, proceedings adjourned at 5:04 p.m.)

Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Pickens County, South Carolina, on the 23rd day of June 2016.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

October 14, 2016

Diane L. Marcengill

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF Pickens)
STATE VS.)
Suzanna Brown Simpson)
AKA:)
Race: WHITE Sex: F Age: 38)
DOB: SS# [redacted])
Address:)
City,State,Zip: Easley, SC 29640-7923)
DL#: SID#:)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

RECEIVED
JUN 30 2016
SC Court of Appeals

INDICTMENT/CASE#: 2014GS3900597
A/W#: 2013A3910300228
Date of Offense: 5/14/2013
S.C. Code § : 16-03-0010, 0020
CDR Code #: 0116

30-Life

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS
TO: Murder (gs)
in violation of § 16-03-0010, 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: _____
Strom, Betty 15305 SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant ~~is commited~~ to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of LIFE 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**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 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	$
§ 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)		$ 3.90
TOTAL		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
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: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Harold P. Wilson
Court Reporter: Diane Mowrey, II
Presiding Judge
Judge Code:
Sentence Date: 6/23/2016

STATE OF SOUTH CAROLINA)
COUNTY OF Pickens)
STATE VS.)
Suzanna Brown Simpson)
AKA:)
Race: WHITE Sex: F Age: 38)
DOB: SS#:)
Address:)
City,State,Zip: Easley, SC 29640-7923)
DL#: SID#:)
CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS3900397
A/W#: 2013A3910300231
Date of Offense: 5/14/2013
S.C. Code § : 16-23-0490
CDR Code #: 0549

SENTENCE SHEET 0-5

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS
TO: Weapons / Poss. Weapon During Violent Cr

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☑ 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: Strom, Betty | 15305 SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 5 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** 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**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
_____
Recipient: _____

Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 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	$
§ 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)		$ 3.90
TOTAL		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
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: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk _____
Court Reporter: Diane Marcengill
Presiding Judge _____
Judge Code: _____
Sentence Date: 6/23/2016

SCCA 217 (03/2011)

WITNESSES

Chuck James

Pickens County Sheriff's Office

5/21/2013

ARREST WARRANT NUMBER

2013A3910300228
2013A3910300231

ACTION OF GRAND JURY

TRUE BILL
Date FEB 18 2014

Christopher Byers
Foreperson of Grand Jury

VERDICT

guilty

Teresa Durham
Foreperson of Petit Jury
Date: 6/22/14

DOCKET NO. 2014-GS-39- 0397
BCS

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

FEB 18 2014 **TERM 2014**

THE STATE

vs.

SUZANNA BROWN SIMPSON

Indictment for

0116, 0549

COUNT I
MURDER

COUNT II
POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-03-0010, 0020
VIOLATION 16-23-[illegible]

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
COUNT I
MURDER

COUNT II
POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on FEB 18 2014 the Grand Jurors of Pickens County present upon their oath:

COUNT I

That SUZANNA BROWN SIMPSON did in Pickens County, on or about the 14th day of May, 2013, unlawfully and with malice aforethought kill [redacted] (5 year old male) by means of shooting the victim in the head, and that [redacted] died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT II

That SUZANNA BROWN SIMPSON did in Pickens County, on or about the 14th day of May, 2013, possess or visibly display a .40 caliber pistol during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of Section 16-23-490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Pickens)
STATE VS.)
Suzanna Brown Simpson)
AKA:)
Race: WHITE Sex: F Age: 38)
DOB: [redacted] SS#: [redacted])
Address: [redacted])
City,State,Zip: Easley, SC 29640-7923)
DL#: [redacted] SID#: [redacted])
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS3900396
A/W#: 2013A3910300227
Date of Offense: 5/14/2013
S.C. Code § : 16-03-0010, 0020
CDR Code #: 0116

SENTENCE SHEET 30 - life

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS
TO: Murder (gs)

in violation of § 16-03-0010, 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: Strom, Betty 15305 SC Bar# _____ Defendant _____ Attorney for Defendant _____ SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of LIFE 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**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
_____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 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	$
§ 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)		$ 3.90
TOTAL		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
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: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Harold P. Watson
Court Reporter: Diane Mowrey
Presiding Judge [signature]
Judge Code: 36
Sentence Date: 06/23/2016

DOCKET NO. 2014-GS-39- 0396
BCS

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

FEB 18 2014 TERM 2014

THE STATE

vs.

SUZANNA BROWN SIMPSON

Indictment for

0116

MURDER

VIOLATION § 16-03-0010, 0020

WITNESSES

Chuck James

Pickens County Sheriff's Office

5/21/2013

ARREST WARRANT NUMBER

2013A3910300227

ACTION OF GRAND JURY

TRUE BILL

Date FEB 18 2014

Christopher Byleo

Foreperson of Grand Jury

VERDICT

guilty

Teresa Durham

Foreperson of Petit Jury

Date: 6/22/14

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on FEB 18 2014 the Grand Jurors of Pickens County present upon their oath:

That SUZANNA BROWN SIMPSON did in Pickens County, on or about the 14th day of May, 2013, unlawfully and with malice aforethought kill [redacted] (7 year old female) by means of shooting the victim in the head, and that [redacted] died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Pickens)
STATE VS.)
Suzanna Brown Simpson)
AKA:)
Race: WHITE Sex: F Age: 38)
DOB: SS# [redacted])
Address:)
City,State,Zip: Easley, SC 29640-7923)
DL#: SID#:)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS3900398
A/W#: 2013A3910300229
Date of Offense: 5/14/2013
S.C. Code § : 16-03-0029
CDR Code #: 3410

SENTENCE SHEET 0-30

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS
TO: Murder/Attempted Murder
in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ 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: [signature] Strom, Betty | 15305 SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 30 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**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms:
☐ Set by SCDPPPS _____
Recipient:

Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$ 100.00
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$ 25.00
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$
3% to County (if paid in installments)		$ 5.00
TOTAL		$ 3.90
		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
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: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Harold F. Walker Jr.
Court Reporter: Dana Mahaffey II

Presiding Judge: [signature]
Judge Code: 2978
Sentence Date: 9/23/16

DOCKET NO. 2014-GS-39- 0398
BCS

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

FEB 18 2014 TERM 2014

THE STATE

vs.

SUZANNA BROWN SIMPSON

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

WITNESSES

Chuck James

Pickens County Sheriff's Office

5/21/2013

ARREST WARRANT NUMBER

2013A3910300229

ACTION OF GRAND JURY

TRUE BILL

Date FEB 18 2014

Christopher Byers

Foreperson of Grand Jury

VERDICT

Guilty

Teresa Durham

Foreperson of Petit Jury

Date: 6/22/16

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on FEB 18 2014 the Grand Jurors of Pickens County present upon their oath:

That SUZANNA BROWN SIMPSON did in Pickens County on or about the 14th day of May 2013, unlawfully with malice aforethought and with the intent to kill, attempt to kill MICHAEL JOHN SIMPSON. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR

STATE OF SOUTH CAROLINA) IN THE GENERAL SESSIONS COURT

COUNTY OF PICKENS) THIRTEENTH JUDICIAL CIRCUIT

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
2013 MAY 30 A 8:38

STATE OF SOUTH CAROLINA	)	
	)	
	)	NOTICE OF MOTION AND
vs.	)	MOTION FOR
	)	DISCOVERY AND INSPECTION
	)	
SUZANNA BROWN SIMPSON,	)	
	)	
	)	WARRANT NO. 2013A3910300227, -0228, 0229, 0231

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through the undersigned counsel of record, pursuant to Rule 5(a)(1)(A) & (B) of the South Carolina Rules of Criminal Procedure moves prosecution to permit Defendant to inspect and copy or photograph, within thirty days of service of this Motion and at least within ten days prior to trial, including, but not limited to, the following, with the express provision that the duty of disclosure be a continuing one in the event that any such material come into existence or become available after initial disclosures:

A. Any written or recorded statements made by the Defendant, or copies thereof, within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution;

B. The substance of any oral statement made by the Defendant, whether before or after arrest, in response to investigation or interrogation by any person then known to the Defendant to be a prosecution or law enforcement agent;

C. A Copy of the Defendant's prior criminal record, if any, as is within the possession, custody, or control of the prosecution, the existence of which is known, or by exercise by due diligence may become known, to the attorney for the prosecution;

D. The statement of any witness or prospective prosecution witness, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution.

Upon failure of the prosecution to so comply, the Defendant will move before the Presiding Judge for an Order prohibiting the prosecution from introducing at trial evidence not

disclosed, and if the foregoing is denied, an Order permitting the discovery and inspection requested, or a continuance of the trial, or such Order as the Court in its discretion deems just under the circumstances.

For purposes of this Motion, the Defendant asserts that any item requested in Paragraphs (a), (b), (c),and (d) above is material to the preparation of the defense of this case.

Respectfully submitted,

John I. Mauldin
Attorney for the Defendant

Pickens, South Carolina

5/29, 2013

h:\simpson\r5a&b

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2013 MAY 30 A 8:41

STATE OF SOUTH CAROLINA COUNTY OF PICKENS	IN THE COURT OF GENERAL SESSIONS
THE STATE, -VS- SUZANNA BROWN SIMPSON, DEFENDANT.	NOTICE OF MOTION AND MOTION FOR THE PRODUCTION AND INSPECTION OF EVIDENCE AND INFORMATION WHICH MAY LEAD TO EVIDENCE WARRANTS # 2013A3910300227, 0228, 0229, 0231

TO: WALT WILKINS, 13th Circuit Solicitor

YOU WILL PLEASE TAKE NOTICE that as counsel for the above named, we are requesting, under the authority of Brady vs. Maryland, 373 U.S. 83 (1963); Napue vs. Illinois, 360 U.S. 364 (1959); Alcorta vs. Texas, 355 U.S. 28 (1957); Mooney vs. Holohan, 294 U.S. 103 (1935); Giglio vs. U.S., 405 U.S. 150 (1972); Moore vs. Illinois, 408 U.S. 786 (1972); and Kyles vs. Whitley, 514 U.S. 419 (1995), that your office supply to us, or make available for inspection, all evidence which may be favorable to the Defendant with regard to the offense with which she has been charged.

The Defendant is requesting access to such favorable information as is in your custody as well as that being held by investigating officers or agencies. Such information would include but would not be confined to the following:

1) All written statements of the Defendant, whether signed or unsigned;

2) All written statements made by witnesses or any other persons, whether signed or unsigned, which relate to this case;

3) All tape recordings made by witnesses or any other persons in connection with this case;

4) Any and all written reports to the State Law Enforcement Division (SLED) Criminalistics Laboratory; Federal Bureau of Investigation Laboratories; City or County Police Department Criminalistics Identifications personnel, concerning an examination made by said laboratories and/or personnel thereof, of any physical, photographic or written evidence concerned with the investigation of this case;

5) Any and all photographs taken of the Defendant;

6) Any and all photographs taken at the scene of the alleged crime and/or the victims, or otherwise relating to this case;

7) Photographs that have been exhibited to any person for the purpose of establishing the identity of the perpetrator of the crime charged and the name and address of the person(s) to whom the photographs were shown;

8) Handwritten notes or memoranda made by police, investigating officers, or psychiatrists or other connected medical and/or mental health examiners, of their conversations with the Defendant;

9) Handwritten notes made by police or their investigating officers of their conversations or interviews with witnesses;

10) All transcripts made of tape recorded statements made by the accused and by potential prosecution witnesses, as well as any handwritten notes;

11) Names and addresses of all witnesses having knowledge of the offense charged or any other persons who have been interviewed by the Solicitor, his investigators, his staff or the investigating officers, whether subpoenaed or not, in the crime charged;

12) A copy of the crime or incident report, together with copies of all supplemental reports written by officers investigating the crime involved in the above entitled action;

13) Right to inspect and/or copy or photograph all items of any kind and nature seized and removed as a result of any search of the Defendant, of any premises formerly occupied by the Defendant, if any, or any vehicle associated with the alleged crime;

14) Record of arrests and convictions of any and all witnesses known to the Solicitor's Office, in relation to this case;

15) All notes or memoranda, by police officers or other investigating officers of their conversations with persons who the State expects to or has called before the Grand Jury proceedings in connection with this case;

16) Autopsy reports and pathologist's reports to include any and all photographs of the victims; patient records provided to the pathologists; histological reports; toxicological studies; emergency room records, (including notations as to any medications administered as well as resuscitative measures instituted, if any);

17) Any physical or tangible item in the possession of the Solicitor's Office which may have relevance to the guilt or innocence of this Defendant;

18) Photographs of latent fingerprints found at the crime scene, and latent fingerprints discovered and lifted at the scene of the incident, or upon objects alleged to have been used in the crime alleged; and, any written reports of comparisons made;

19) All reports from the State Law Enforcement Division, Sheriff's Office, or any other law enforcement agency, including the Federal Bureau of Investigation, concerning fingerprint analysis in connection with this case;

20) Any criminalistics reports or results of tests including but not limited to ballistics testing performed upon items requested in Paragraph 4 above;

21) The right to inspect and examine any and all video/audio tapes made at the scene of the crime alleged herein and to obtain a copy thereof.

Recognizing that Brady vs. Maryland, supra, and other authorities cited require that only information favorable to the

Defendant be made available, and further recognizing that a genuine disagreement may arise as to whether or not a particular item of evidence is favorable, it will be requested that the Court Order provide for an in camera inspection of the items sought to be discovered should you feel that such items are not favorable to the Defendant. By permitting the Court to examine the items requested, the legitimate interests of the State will be protected in that no disclosure in excess of Brady, et al, will occur. Further, it will be requested of the Court that said Order will be a continuing one, providing that in the event any items sought to be discovered herein become available subsequent to the making of the Order pursuant to this motion, said items will be made available to the Defendant's attorney forthwith if discovered during trial, or no later than 12:00 noon on the first day following its acquisition if discovered before trial.

The purpose of said motion is to enable the Defendant herein to properly prepare a defense to the offenses charged and to properly prepare for the examination of any witnesses who may testify in this case. Defendant would show that the failure to produce any of the foregoing evidence or information by the law enforcement agency involved would result in a violation of the Fifth, Sixth and Fourteenth Amendments of the Federal Constitution of the United States.

Respectfully submitted,

John I. Mauldin
Attorney for the Defendant

Pickens, South Carolina

29 day of May, 2013

STATE OF SOUTH CAROLINA)
) IN THE GENERAL SESSIONS COURT
COUNTY OF PICKENS)
) THIRTEENTH JUDICIAL CIRCUIT

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2016 MAY 20 P 2:53

STATE OF SOUTH CAROLINA)
)
vs.) NOTICE OF MOTION AND
) MOTION FOR
) DISCOVERY AND INSPECTION
) (Rule 5 Disclosure)
SUZANNA BROWN SIMPSON,)
)
) WARRANT NO. 2013A3910300227,
-0228, 0229, 0231

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through the undersigned counsel of record, requests compliance by the State with the provisions of Rule 5 of the Rules of Criminal Procedure regarding any and all charges presently pending against the Defendant which the State intends to introduce as evidence in the trial of the Defendant.

Upon failure of the prosecution to so comply, the Defendant will move before the Presiding Judge for an Order prohibiting the prosecution from introducing at trial evidence not disclosed, and if the foregoing is denied, an Order permitting the discovery and inspection requested, or a continuance of the trial, or such Order as the Court in its discretion deems just under the circumstances.

Respectfully submitted,

John I. Mauldin
Attorney for the Defendant

Pickens, South Carolina
May 20, 2016

h:\simpson\r5

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF PICKENS)

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2016 MAY 20 P 2:53

The State,)
)
v.) CERTIFICATE OF SERVICE
)
SUZANNA BROWN SIMPSON,)
Defendant.)
)

I, John I. Mauldin, Public Defender for the 13th Circuit, do hereby certify that I have served the pleading listed below on Walt Wilkins, Solicitor, by causing the same to be hand-delivered to his office in the Pickens County Courthouse, Pickens, South Carolina this 20th day of May, 2016.

Pleading:

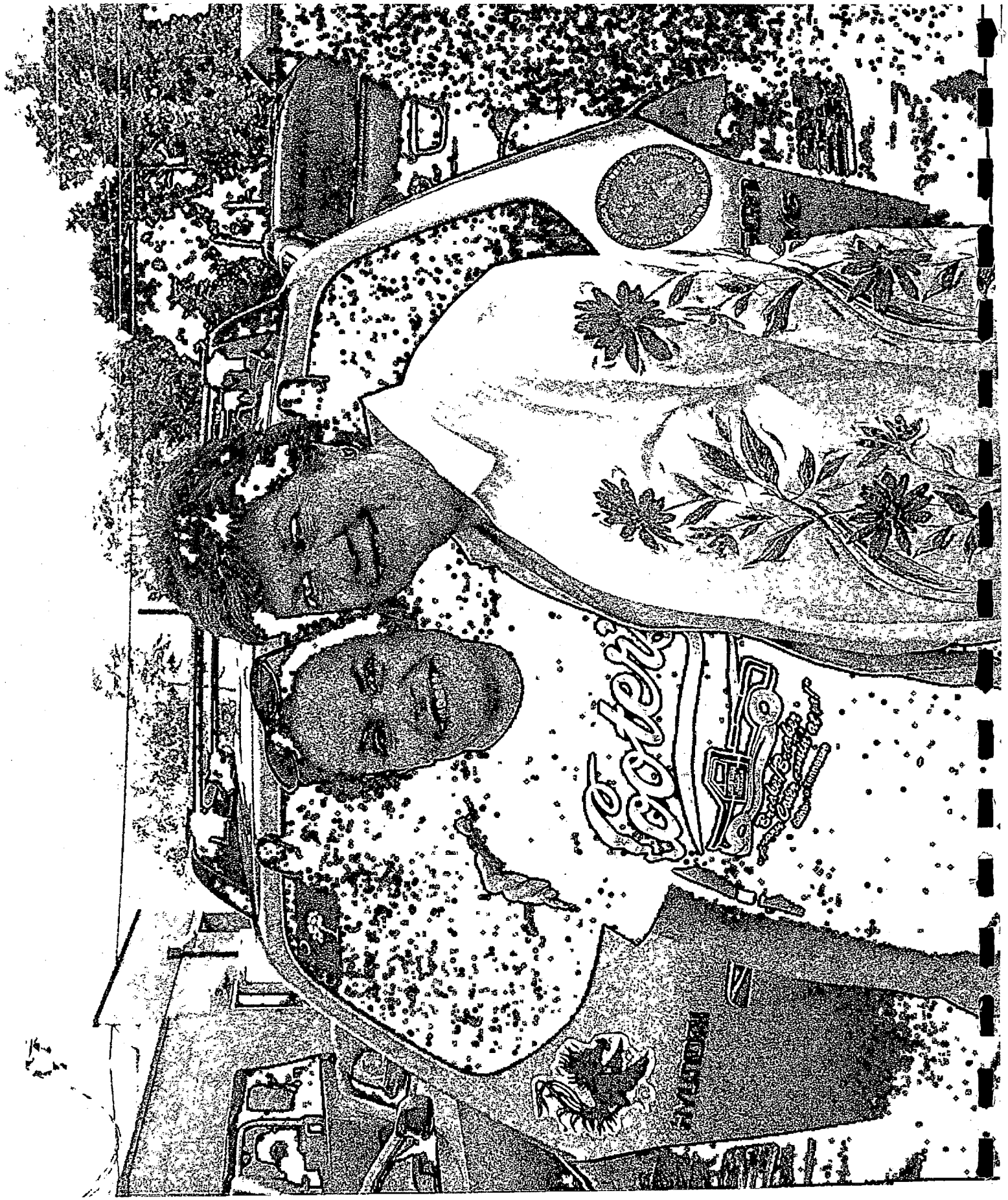
RULE 5 MOTION

John I. Mauldin
Public Defender

h:\simpson\af-ser-cert.doc

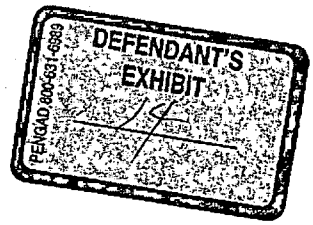
[Defendant's Ex. 10]

[Defendant's Ex. 11]



[Defendant's Ex. 12]

[Defendant's Ex. 13]



DAVID RICHARD PRICE, PH.D.

EDUCATIONAL HISTORY

1982	Auburn University	Auburn, Alabama 36849
	Major:	Clinical Psychology
	Degree:	Doctor of Philosophy
	Dissertation:	Conversation Skills Training with Chronic Psychiatric Patients
	Chair:	James F. McCoy, Ph.D.
1979	Auburn University	Auburn, Alabama 36849
	Major:	Clinical Psychology
	Degree:	Master of Science
	Thesis:	Concurrent Validity of an Early Childhood Screening Instrument. The Comprehensive Early Evaluation Profile, Research Edition
	Co-Chair:	James F. McCoy, Ph.D. Samuel B. Green, Ph.D.
1977	Clemson University	Clemson, South Carolina 29631
	Major:	Psychology
	Minor:	Sociology
	Degree:	Bachelor of Arts with Honor
	Honors:	Psi Chi 1977 Sigma Phi Epsilon Honorary 1976-1977 South Carolina Psychological Association Award for Undergraduate Research 1977

LICENSURE

License Number 330 to practice Clinical Psychology issued by the South Carolina Board of Examiners in Psychology on October 8, 1983.

CLINICAL POSITIONS

1991-present — Private Practice
304 W. Stone Avenue
Greenville, South Carolina 29609

Duties: Private practice offering psychotherapy, psychological and neuropsychological evaluations, and forensic consultation. Organizational consultation, intervention, and development.

1991-present — The Forensic Network
304 W. Stone Avenue
Greenville, South Carolina 29609

President: Senior Analyst
Duties: Forensic consultation and psychological and neuropsychological evaluations in civil and criminal cases. Claims analysis/review. Fitness for Duty evaluations.

2010-2013 — The Assessment Center
304 W. Stone Avenue
Greenville, South Carolina 29609

Duties: Evaluate childhood developmental disorders including Autism through structured observations on specific tasks and administration of a battery of tests to assess language, sensory processing, adaptive behavior, and cognitive abilities.

1983-1991 — Behavior Resources, Inc.
217 East Park Avenue
Greenville, South Carolina 29601

Private Practice: Principal member
Duties: Personality, vocational, and neuropsychological assessment. Individual, behavior, family, and marital therapy. Case analysis, forensic consultation, and expert testimony at the local, state, and federal level.

1982-1983 Psychology Service
South Carolina State Hospital
2100 Bull Street
Columbia, South Carolina 29202

Staff Psychologist
Duties: Diagnostic assessment. Crisis intervention, brief psychotherapy, and group therapy. Consultant to treatment team in an acute care psychiatric admission unit. Program evaluations.

Supervisor: Linda S. Moore, Ph.D., Chief Psychologist

1981-1982 Psychology Services (116B)
University Drive
Veterans Administration Medical Center
Pittsburgh, Pennsylvania 15240

Clinical Psychology Intern (APA Approved)
Duties: Personality, vocational, and neuropsychological assessment. Stress management, biofeedback and hypnotherapy/relaxation training. Medical/Consultative liaison. Individual, group, behavior, family, and marital therapy.

Supervisor: Arnold Freedman, Ph.D., Chief Psychologist

1979-1981 Psychology Service (116B)
Veterans Administration Medical Center
Tuskegee, Alabama 36083

Psychology Technician. Half-time GS-9 Civil Service position
Duties: Individual, group, and behavior therapy. Personality, neuro-psychological, and diagnostic assessment. Consultation to treatment team.

Supervisor: David A. Herbert, Ed.D., Chief Psychologist

1978-1979 Lee County Head Start
Auburn, Alabama 36830

B.A. Level Psychologist. Half-time position.
Duties: Individual, group, and behavioral assessment. Program design and evaluation. Consultation to speech and education departments.

Supervisors: James F. McCoy, Ph.D., Consultant
Joseph G. Cunningham, Ph.D., Consultant

1977-1979 Psychology Department
Auburn University, Alabama 36849

Instructor
Duties: Teach Introductory Psychology and Developmental Psychology

Supervisor: Philip Lewis, Ph.D., Professor and Department Head

ACADEMIC POSITIONS

2003- Adjunct Associate Professor
Department of Social and Behavioral Sciences
University of South Carolina Spartanburg
800 University Way
Spartanburg, South Carolina 29303

Duties: Teach lower and upper level undergraduate psychology courses.

1996- Adjunct Associate Professor
Department of Psychiatry and Behavioral Sciences
Medical University of South Carolina
171 Ashley Avenue
Charleston, South Carolina 29425-0742

Duties: Lecture psychiatric students on all forensic areas germane to a psychiatric practice. Administrative Director of the Forensic Psychiatry Research Foundation.

TEACHING APPOINTMENTS

2003-	Adjunct Associate Professor. Department of Social and Behavioral Sciences, University of South Carolina Spartanburg, 800 University Way, Spartanburg, South Carolina.
1996-	Adjunct Associate Professor, Forensic Psychiatry Program, Department of Psychiatry and Behavioral Sciences, Medical University of South Carolina. Charleston, South Carolina.
1998-	Attorney General's National Advocacy Center. U.S. Department of Justice. Columbia, South Carolina.
1997	Ira C. Eaker College for Professional Development, Air Force Judge Advocate General School. Montgomery, Alabama.
1983-1984	Limestone College, Gaffney, South Carolina.
1982	Midlands Technical College, Lexington, South Carolina.
1977-1979	Auburn University, Auburn, Alabama.

PRESENTATIONS

Ballenger, Ballenger, J.C. & Price, D.R. Evaluating the Expert and the Expert's Examination Protocol. Psychological and Psychiatric Injury Claims Seminar. Sponsored by the Forensic Psychiatry Program, Medical University of South Carolina. March, 1997.

Blackwelder, I. & Price, D.R. The Legal Context of Mental and Emotional Injury Compensatory Claims in Employment Litigation. Invited lecture presented at the United States Postal Service Law Department Conference. November, 1993.

Fabia, R., Price, D.R., & Presant, N. Analysis of Psychological Injury Claims. Panel discussion presented at the Compensatory Damage Claims in Federal Sector EEOC Cases. February, 1997.

Kerrigan, R.E., Read, G.C., Price, D.R. & Herman, A.F. Practical Tips on Why and When You Hire a Defense Medical Opinion. Invited lecture at the Damages Seminar sponsored by the Defense Research Institute. March, 1997.

Lees-Haley, P.R. & Price D.R. Evaluating Posttraumatic Stress Disorder. Invited lecture at the Society of Claim Law Associates Sixth Annual Conference and Seminar. September, 1997.

McDonald, J.J., Jr., Price, D.R. & Smith, R.D. Ethics: Do What, When, Where, and How? Annual Psychiatric, Psychological and Neuropsychological Injury Claims Conference and Seminar. November, 2002.

McCoy, J.F., McGee, G.G., Price, D.R., & Mason, D. Social Skills Training For Aggressive Children While Playing Competitive Games. Paper presented at the meeting of the Association for the Advancement of Behavior Therapy. November, 1980.

McCoy, J.F., Price, D.R., Herring, S.T., & McGee, G.G. Social Skills Training For Aggressive Children in a Summer Day Camp. Paper presented at the meeting of the Southeastern Psychological Association. March, 1982.

Mross, A. & Price, D.R. Special Issues: Managing the Mentally Ill Employee, the Personality Disorder Employee, and the Substance Abuse Employee Under the ADA and the Enforcement Guidance. Invited lecture presented at the National Symposium on Psychiatric Disabilities and the EEOC's New Enforcement Guidance Under the Americans with Disabilities Act, sponsored by the Government Training Institute Foundation. June, 1999.

Mross, A. & Price, D.R. Special Issues: Managing the Mentally Ill Employee, the Personality Disordered Employee, and the Substance Abuser Employee Under the ADA and the Enforcement Guidance. Invited lecture presented at the National Symposium on Psychiatric Disabilities and the EEOC's New Enforcement Guidance Under the Americans with Disabilities Act, sponsored by the Government Training Institute Foundation. November, 1999.

Price, D.R. A Survey of Prisoners' Past Participation in and Attitudes Towards Sports. Paper presented at the meeting of the South Carolina Psychological Association. April, 1977.

Price, D. R. Behavior Therapy in General Medical and Surgical Hospitals. Paper presented at Psychiatry Grand Round, University Drive Veterans Administration Medical Center. February, 1982.

Price, D.R., In-service Training. The Use of Brief Forms of MMPI: The Use and Abuse of the Mini-mult. Presented to the staff of the Unit 1, Psychology Service, South Carolina State Hospital, September, 1982.

Price, D.R., In-service Training. An Introduction to Basic Neuro-anatomy and Neuropsychology. A series of lectures presented to the staff of Unit 1, Psychology Service, South Carolina State Hospital. October-November, 1982.

Price, D.R. Witness Preparation: The Professional in the Courtroom. Invited seminar presented at the meeting of the Council on Child Abuse and Neglect. September, 1989.

Price, D.R. Defending Against Claims of Psychological Injury Involving Claims of Depression, Anxiety, Organic Brain Syndrome or Trauma. Invited seminar presented at the meeting of the Atlanta Claims Association. April, 1990.

Price, D.R. The Analysis and Limitation of Damages. Keynote speech at the Defense of Damages Conference and Seminar. February, 1992.

Price, D.R. Psychological, Neuropsychological, and Psychiatric Disorders in Mitigation. Invited seminar and case clinic at the offices of the Public Defender of Indiana. July, 1992.

Price, D.R. The Analysis and Limitation of Damages. Keynote speech at the Defense of Damages Conference and Seminar. August, 1992.

Price, D.R. The Analysis of Psychological Injury Claims. In-house seminar at Selective Insurance Company of the Southeast. January, 1993.

Price, D.R. The Analysis of Psychological Injury Claims. In-house seminar at Central Insurance Company. February, 1993.

Price, D.R. The Analysis of Psychological Injury Claims. In-house seminar at Gulf Insurance Group. February, 1993.

Price, D.R. The Analysis and Limitation of Damages. Keynote speech at the Defense of Damages Conference and Seminar. April, 1993.

Price, D.R. Issues in Malingering and Factitious Disorders. Defense of Damages Conference and Seminar. April, 1993.

Price, D.R. Standards of Care in the Evaluations of Claims of Sexual Harassment. Defense of Damages Conference and Seminar. April, 1993.

Price, D.R. Claims Analysis. In-house lecture at Central Insurance Company. April, 1993.

Price, D.R. Defending Claims of Psychological Injury. Invited speech at the Southeastern Claims Association. June, 1993.

Price, D.R. The Analysis of Psychological Injury Claims. In-house seminar at Gulf Insurance Group. July, 1993.

Price, D.R. Medical Signs and Symptoms. NAACP Legal Defense Fund Annual Capital Punishment Conference. July, 1993.

Price, D.R. Use of the Diagnostic and Statistical Manual, Third Edition Revised (DSM-III-R) and its Revision (DSM-IV) in Diagnosing Mental Illness. NAACP Legal Defense Fund Annual Capital Punishment Conference. July, 1993.

Price, D.R. The Analysis of Claims of Closed Head Injury. Defending Claims of Closed Head Injury Seminar sponsored by the Atlanta Claims Association. August, 1993.

Price, D.R. The Analysis and Limitation of Damages. Keynote speech at the Defense of Damages Conference and Seminar. October, 1993.

Price, D.R. Issues in Malingering and Factitious Disorders. Defense of Damages Conference and Seminar. October, 1993.

Price, D.R. Evaluating Claims of Head Injury. Paper presented at The Annual Symposium on Head Injury Claims. December, 1993.

Price, D.R. Defending Head Injury Claims. Invited in-house seminar at A.I. Management and Professional Liability Claim Adjusters, Medical Malpractice Claims. January, 1994.

Price, D.R. The Most Problematic Psychological Injury Claims. Invited keynote speech at Second Annual Mid-Atlantic Regional RIMS Conference. June, 1994.

Price, D.R. Mental Conditions to Consider. Invited lecture at The Benefits and Challenges of Representing Capitol Defendants in the 90's seminar sponsored by The Association of the Bar of the City of New York. June, 1994.

Price, D.R. The Analysis and Limitation of Damages. Keynote speech at the Defense of Damages Conference and Seminar. July, 1994.

Price, D.R. Defending Claims of Psychological Injury. Invited lecture at The Arkansas Association of Defense Counsel 1994 Annual Meeting and Seminar. August, 1994.

Price, D.R. Psychological Injury, a General Orientation. Keynote speech at The South Carolina Claims Association Fall meeting. October, 1994.

Price, D.R. The Analysis and Limitation of Damages. Keynote speech at the Defense of Damages Conference and Seminar. November, 1994.

Price, D.R. Evaluating Claims of Head Injury. Defense of Damages Conference and Seminar. November, 1994.

Price, D.R. Defending Psychological Injury Claims. Invited lecture at a Johnson and Higgins of Ohio seminar. Cleveland, Ohio. November, 1994.

Price, D.R. Introduction to Brain Anatomy and Head Injury. Invited lecture presented at the Handling Head Trauma Cases From The Questionable To The Catastrophic Seminar sponsored by the Atlanta Claims Association. February, 1995.

Price, D.R. The Analysis and Defense of Claims of Head Injury. Invited lecture presented at the Handling Head Trauma Cases From The Questionable To The Catastrophic Seminar sponsored by the Atlanta Claims Association. February, 1995.

Price, D.R. Defending Psychological Injury Claims. Invited lecture at a Johnson and Higgins of Ohio seminar. Columbus, Ohio. April, 1995.

Price, D.R. Defending Psychological Injury Claims. Invited lecture at a Johnson and Higgins of Ohio seminar. Cincinnati, Ohio. April, 1995.

Price, D.R. Defending Psychological Injury Claims. Invited lecture at a Johnson and Higgins of Ohio seminar. Toledo, Ohio. April, 1995.

Price, D.R. Trends and Red Flags in Psychological Injury Claims. Southeastern Electric Exchange Claims Meeting. April, 1995.

Price, D.R. Analysis of the Psychological Injury Claim. Self-Insurers Association Members Only Conference. April, 1995.

Price, D.R. Mental and Emotional Injury Claims in Employment Litigation. South Carolina Bar Annual Meeting. June, 1995.

Price, D.R. Psychological Injury Claims: Future trends. Piedmont Claims Association. June, 1995.

Price, D.R. Evaluating Psychological Injury Claims. Invited in-house seminar presented to the State Accident Fund Claims and Legal Departments. June, 1995.

Price, D.R. Psychological Injury Claims in the Workplace. National Workers' Compensation and Occupational Medicine Seminar. July, 1995.

Price, D.R. The Defense of Mental and Emotional Injury Claims in Employment Litigation. In-house seminar presented to Haynsworth, Baldwin, Johnson and Greaves. August, 1995.

Price, D.R. The Analysis and Limitation of Damages. Keynote speech at the Defense of Damages Conference and Seminar. August, 1995.

Price, D.R. Psychological Injury Claims. Dallas Claims Association. September, 1995.

Price, D.R. Evaluating Psychological Injury Claims. In-house seminar presented to the Legal Department of The New York Transit Authority. September, 1995.

Price, D.R. The Analysis and Limitation of Damages. Keynote speech at the Defense of Damages Conference and Seminar. November, 1995.

Price, D.R. Analysis and Evaluation of Posttraumatic Stress Disorder and Other Psychological Injury Claims. Invited lecture at the Defense and Evaluation of PTSD and Other Psychological Injury Cases Arising from Injury or Employment Situations Seminar sponsored by the Defense Research Institute. November, 1995.

Price, D.R. Evaluating Claims of Head Injury. The Annual Symposium on Head Injury Claims. November, 1995.

Price, D.R. Defending Psychological and Neuropsychological Injury Claims. In-house seminar presented to National Indemnity Company. February, 1996.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. In-house seminar presented to Nationwide Insurance Company. February, 1996.

Price, D.R. Defending Psychological and Neuropsychological Injury Claims. In-house seminar presented to Westchester Specialty Group. March, 1996.

Price, D.R. Identifying the "Red Flags" in a Traumatic Brain Injury Claim. Invited lecture at the Traumatic Brain Injury: A Plaintiff and Defendant's Perspective Seminar sponsored by Lorman Education Services. March, 1996.

Price, D.R. Twenty-five Defense Tips in the Evaluation of the Brain Injury Claim. Invited lecture at the Defense and Evaluation of Brain Damage Claims Seminar sponsored by the Defense Research Institute. April, 1996.

Price, D.R. Psychological Injury Claims. The Virginia's Self-Insurers Association, Inc. April, 1996.

Price, D.R. Evaluating Closed Head Injuries and Psychological Injury Claims. In-house seminar presented to Nationwide Insurance Medical Coordinator Seminar. May, 1996.

Price, D.R. The Analysis and Evaluation of Brain Injury Claims. Invited lecture at the Defense Trial Counsel of West Virginia 1996 Annual Convention. June, 1996.

Price, D.R. The Analysis of the Psychological Injury Claim. The Annual Mental and Emotional Injury Claims Conference and Seminar. July, 1996.

Price, D.R. The Analysis and Evaluation of Psychological Injury Claims. Invited lecture at the Psychological Injury Claims Seminar sponsored by the Defense Research Institute. November, 1996.

Price, D.R. Evaluating Claims of Head Injury. The Annual Symposium on Head Injury Claims. November, 1996.

Price, D.R. The Role of the Consulting Defense Expert in the Evaluation of Brain Injury Claims. Invited lecture at the Evaluation and Settlement of Claims Involving Acquired Brain Injury seminar sponsored by The Brain Injury Association of North Carolina Second Annual Trial Lawyers Conference. January, 1997.

Price, D.R. Evaluation of the Psychological Injury Claim. Psychological and Psychiatric Injury Claims Seminar. Sponsored by the Forensic Psychiatry Program, Medical University of South Carolina. March, 1997.

Price, D.R. Psychological and Neuropsychological Tests. Psychological and Psychiatric Injury Claims Seminar. Sponsored by the Forensic Psychiatry Program, Medical University of South Carolina. March, 1997

Price, D.R. Mild Traumatic Brain Injuries. Psychological and Psychiatric Injury Claims Seminar. Sponsored by the Forensic Psychiatry Program, Medical University of South Carolina. March, 1997.

Price, D.R. The Role of Financial Incentives in the Production of Mental and Emotional Symptoms. Invited lecture at the Damages Seminar sponsored by the Defense Research Institute. March, 1997.

Price, D.R. Twenty-five Defense Tips in the Evaluation of the Brain Injury Claim. Invited lecture at the Damages Seminar sponsored by the Defense Research Institute. March, 1997.

Price, D.R. Evaluating Neurological, Psychological and Psychiatric Injury Claims. In-house seminar presented to General Accident Insurance Company. April, 1997.

Price, D.R. Twenty-five Defense Tips in the Evaluation of the Brain Injury Claim. Invited lecture at the Brain Damage Institute sponsored by the Defense Research Institute. April-May, 1997.

Price, D.R. Investigation and Defense of Closed Head Injury Trauma Cases. Invited lecture at the PRO NET 5th Annual Meeting. June, 1997

Price, D.R. Evaluating Neurological, Psychological, and Psychiatric Injury Claims. In-house seminar presented to Peerless Insurance Company. July, 1997.

Price, D.R. The Analysis of the Psychological Injury Claim. The Annual Mental and Emotional Injury Claims Conference and Seminar. July, 1997.

Price, D.R. Psychiatric Disabilities and the EEOC's New Enforcement Guidance Under the Americans with Disabilities Act. The National Symposium on Federal EEO Law, Process and Procedures. Washington, D.C. September, 1997.

Price, D.R. Psychiatric Disabilities and the EEOC's New Enforcement Guidance Under the Americans with Disabilities Act. The National Symposium on Federal EEO Law, Process and Procedures. Los Angeles. September, 1997.

Price, D.R. Twenty-five Defense Tips in the Investigation and Evaluation of Brain Injury Claims. Presented at The Hot Topics in Worker's Compensation client seminar sponsored by Gibbes, Gallivan, White and Boyd. October, 1997.

Price, D.R. Posttraumatic Stress Disorder Claims. Invited lecture at The Trucking Industry Defense Association's 5th Annual Industry Seminar. October, 1997.

Price, D.R. Twenty-five Defense Tips on the Evaluation and Defense of Psychological Injury Claims. Invited lecture at the Defense and Evaluation of Psychological Injury Cases Seminar sponsored by the Defense Research Institute. November, 1997.

Price, D.R. Analysis of Psychological Injury Claims. Invited lecture at the Compensatory Damages Claims in Federal Sector EEO Cases Seminar sponsored by the Government Training Institute. December, 1997.

Price, D.R. The EEOC's Enforcement Guidance: Issues, Questions and Concerns From a Clinician's Perspective. National Symposium on Psychiatric Disabilities and the EEOC's New Enforcement Guidance Under the Americans with Disabilities Act sponsored by the Government Training Institute. January, 1998.

Price, D.R. Mental and Emotional Injury Claims in Employment Litigation. Invited lecture presented to the Employment and Labor Law Section at The South Carolina Bar Mid-year Meeting. January, 1998.

Price, D.R. Ten Most Common Mistakes Made by Plaintiff's in ABI Cases. Invited lecture at the Mild Acquired Brain Injury: Proving it is Real seminar sponsored by The Brain Injury Association of North Carolina 3rd Annual Trial Lawyers Conference. January, 1998.

Price, D.R. Evaluating Psychological Injury Claims. Invited in-house seminar presented to F.A. Richard and Associates, Inc/ Ingalls Shipbuilding, Inc. March, 1998.

Price, D.R. Twenty-five Defense Tips in the Investigation and Evaluation of Brain Injury Claims. Presented at The 31st Annual Convention of The Georgia Defense Lawyers Association. April, 1998.

Price, D.R. Posttraumatic Stress Disorder Claims. Invited lecture at The Attorney General's National Advocacy Center. U.S. Department of Justice. May, 1998

Price, D.R. Analyzing Psychological Injuries. Invited lecture at The Attorney General's National Advocacy Center. U.S. Department of Justice. July, 1998.

Price, D.R. Psychological Impact of Work Related Injury. Invited lecture at the Hand Care in The Workplace seminar sponsored by The Carolina Hand Center. July, 1998.

Price, D.R. Analyzing Psychological Injury Claims. Invited lecture at the South Carolina Defense Trial Attorneys' Association and Claims Management Association of South Carolina Joint Meeting. July, 1998.

Price, D.R. The EEOC's Enforcement Guidance: Issues, Questions and Concerns From a Clinician's Perspective. National Symposium on Psychiatric Disabilities and the EEOC's New Enforcement Guidance Under the Americans with Disabilities Act. Invited lecture for Sedgwick Claims Management Services, Inc. August, 1998.

Price, D.R. The Analysis of the Psychological Injury Claim. The Annual Mental and Emotional Injury Claims Conference and Seminar. August, 1998.

Price, D.R. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at SAFECO Insurance Group sponsored by the PLRB/LIRB Extension Program. October, 1998.

Price, D.R. Analysis of Neuropsychological Injury Claims. Invited lecture at the Handling Psychological and Neuropsychological Injury Claims Seminar, sponsored by Lorman Education Services. November, 1998.

Price, D.R. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at Highlands Insurance Group sponsored by the PLRB/LIRB Extension Program. November, 1998.

Price, D.R. Handling Psychological and Neuropsychological Injury Claims. Invited lecture to the Advanced Casualty Classes at Royal Sun Alliance Insurance Co. November, 1998.

Price, D.R. Psychological Injury Claims and Fraud. Invited lecture at the National Council on Compensation Insurance, Incorporated, West Coast Forum and Fraud Conference. November, 1998.

Price, D.R. Tips for the Evaluation of the Closed Head Brain Injury Claim. Invited lecture at the Psychological and Neuropsychological Injury Claims: From PTSD to Closed Head Injury Claims Seminar sponsored by the Defense Research Institute. November, 1998.

Price, D.R. Discovery of Emotional Distress Injuries and Evidence in Compensatory Damages Cases. Invited lecture at the Compensatory and Consequential Damages and Federal Sector Cases Seminar sponsored by the Government Training Institute Foundation. March, 1999.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Invited lecture at the South Carolina Claims Association's Spring Meeting. April, 1999.

Price, D.R. The Ethical Evaluation of Psychological Injury Claims. In-house seminar presented at Edward, Ballard, Bishop, Sturm, Clark and Keim. June, 1999.

Price, D.R. The Ethical Discovery, Analysis, and Conceptualization of Psychological Injury Claims. The Annual Psychological and Neuropsychological Injury Claims Conference and Seminar. August, 1999.

Price, D.R. Expert Witnesses and Testimony. Invited lecture at the Judge Advocate General Negotiations and Settlement Seminar at the Ira C. Eaker College for Professional Development, Air Force Judge Advocate General School. August, 1999.

Price, D.R. Analyzing Records and Conceptualizing Psychological Injury Claims. Invited lecture at the Mild/Moderate Traumatic Brain Injuries and Psychological Injury Seminar sponsored by the Defense Research Institute. August, 1999.

Price, D.R. Analysis of Brain Injury Claims. Invited lecture at the Traumatic Brain Injury Seminar sponsored by the Atlanta Claims Association. November, 1999.

Price, D.R. Handling Psychological Aspects of Personal Injury Claims. Invited lecture at the Third Annual Claims Exposition and Conference. November, 1999.

Price, D.R. Evaluating the Potentially Violent Employee. Invited lecture at the National Symposium on Psychiatric Disabilities and the EEOC's New Enforcement Guidance under the Americans with Disabilities Act sponsored by the Government Training Institute Foundation. November, 1999.

Price, D.R. The Defense of Mild Traumatic Brain Injury Cases. Invited lecture at the Damages Seminar sponsored by the Defense Research Institute. March, 2000.

Price, D.R. Analysis of Mental and Emotional Injury Claims. Invited lecture at the Damages Seminar sponsored by the Defense Research Institute. March, 2000.

Price, D.R. Analysis of Psychological Injury Claims. Invited lecture at the Compensatory and Consequential Damages in Federal Cases Seminar sponsored by the Government Training Institute. March, 2000.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Invited lecture at the Ninth Annual Worker's Compensation and Occupational Medicine Seminar sponsored by S·E·A·K. March, 2000.

Price, D.R. Evaluating Symptom Magnification, Deception and Malingering. Invited lecture at the Ninth Annual Worker's Compensation and Occupational Medicine Seminar sponsored by S·E·A·K. March, 2000.

Price, D.R. Analysis of Psychological Injury Claims. Invited lecture at the Compensatory and Consequential Damages in Federal Cases Seminar sponsored by the Government Training Institute Foundation. April, 2000.

Price, D.R. Evaluating Psychiatric Injury Claims for Compensatory Damages in Personnel Cases. Invited lecture at the OAGC (M&RA) CPL Seminar for the Department of the Navy. August, 2000.

Price, D.R. The Ethical Discovery, Analysis and Conceptualization of Psychological Injury Claims. Annual Mental and Emotional Injury Claims Conference and Seminar. October, 2000.

Price, D.R. Handling the Psychological Aspects of Claims. Invited lecture at the Annual Claims Exposition and Conference. October, 2000.

Price, D.R. The Emotional Side of Asbestosis, Lung Cancer, and Mesothelioma. Invited lecture at the Asbestos Personal Injury Litigation Seminar sponsored by the Defense Research Institute. November, 2000.

Price, D.R. The Ethical Discovery, Analysis, and Conceptualization of Psychological Injury Claims. Annual Mental and Emotional Injury Claims Conference and Seminar. November, 2000.

Price, D.R. Psychological Injury Claims: Overview, Analysis and Evaluation. Psychiatric, Psychological and Neuropsychological Claims Conference and Seminar. July, 2001.

Price, D.R. Psychological and Brain Injury Claims. Tennessee Farmers Insurance Companies. August, 2001

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Defending Traumatic Brain Injury Claims Seminar sponsored by Mabry & McClelland. September, 2001.

Price, D.R. The Psychological Aspects of Claims. Invited lecture at the Annual Claims Exposition and Conference. October, 2001.

Price, D.R. Evaluating Psychological Injury Claims. Invited lecture at the Louisiana Claims Association Eighth Annual Educational Conference. May, 2002.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Invited lecture at Sharon W. Ware & Associates. April, 2002.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Invited lecture at Hartford/Omni Insurance Company. August, 2002.

Price, D.R. A Review of Federal Employment Mental Health Issues: From a Psychiatrist's Perspective. Invited lecture at the 2002 EXCEL: Examining Conflicts in Employment Laws Conference. Sponsored by the EEOC. August, 2002.

Price, D.R. Evaluating Claims of Brain Injury. Invited lecture at the Evaluating Traumatic Brain Injury Seminar sponsored by Mabry & McClelland. September, 2002.

Price, D.R. Analysis and Evaluation of Psychological and Neuropsychological Injury Claims. Annual Psychiatric, Psychological and Neuropsychological Injury Claims Conference and Seminar. November, 2002.

Price, D.R. Evaluating Brain Injury Claims. Invited lecture at the McAngus, Goudelock & Courie, LLC Client Seminar. November, 2002.

Price, D.R. Dealing with Psychological Injury Claims in Employment Cases. Invited lecture at the Civilian Personnel Law Seminar for the Department of the Navy. February, 2003.

Price, D.R. Posttraumatic Stress - Real or Fake. Invited lecture at the Case Management Society of America (CMSA), Birmingham Alabama Chapter, Ninth Annual Conference. April, 2003.

Price, D.R. Psychiatric, Psychological and Neuropsychological Injury Claims. Invited lecture at Travelers Insurance Company, Charlotte, North Carolina. May, 2003.

Price, D.R. Evaluating Psychological Injury Claims. Invited lecture at the Louisiana Claims Association Ninth Annual Educational Conference and Expo, Biloxi, Mississippi. May, 2003.

Price, D.R. The Science of Neuropsychology: Evaluating Mild Brain Injury Cases. South Carolina Defense Trial Attorneys' Association and Claims Management Association of South Carolina, Thirty-Sixth Annual Joint Meeting. July, 2003.

Price, D.R. Federal Employment Mental Health Issues: From a Psychologist's Perspective. Examining Conflicts in Employment Laws Conference sponsored by the EEOC. August, 2003.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Invited in-house seminar presented to Carolina Casualty Insurance Company. September, 2003.

Price, D.R. Malingering. Invited lecture at The Oregon Chapter International Association of Special Investigations Unit 9th Annual Insurance Fraud Conference. April, 2004.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Invited lecture at Citizens Insurance Company. May, 2004.

Price, D.R. Primer on Evaluating Psychological Injury Claims. Invited lecture presented at the Society of Insurance Trainers and Educators. June, 2004.

Price, D.R. Educating the Trainers on Teaching How to Evaluate Psychological and Neuropsychological Injury Claims. Invited lecture presented at the Society of Insurance Trainers and Educators. June, 2004.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Invited in-house seminar presented at the Gainey Corporation. July, 2004.

Price, D.R. Identification of Fraudulent Psychological and Neuropsychological (Brain) Injury Claims. Invited lecture presented at the 2004 Asia Pacific Fraud Convention and Trade Show. September, 2004.

Price, D.R. Investigating and Detecting Fraudulent Stress Claims. Invited lecture presented at the 2004 Asia Pacific Fraud Convention and Trade Show. September, 2004.

Price, D.R. Evaluating Workplace Stress Claims. Invited lecture at the Managing Stress: A Multi-Disciplinary Approach Seminar. September, 2004.

Price, D.R. Posttraumatic Stress Disorder Claims. Invited lecture at the Insurance Fraud Executive Council. November, 2004.

Price, D.R. Evaluating Claims of Pediatric Brain Injury. Invited Lecture at the Brain Injuries Seminar, sponsored by Mabry & McClelland, January, 2005.

Price, D.R. Detecting Fraudulent Psychological and Neuropsychological Injury Claims. IASIU 20th Annual Seminar and Expo on Insurance Fraud. September, 2005.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Invited in-house seminar presented to State Farm Insurance Company. (Please note this seminar was presented twice by request.) September, 2005.

Price, D.R. Evaluating Psychological and Neuropsychological Injury Claims. Invited in-house seminar presented to State Farm Insurance Company. (Please note this seminar was presented twice by request.) September, 2005

Price, D.R. Evaluating Traumatic Brain Injury Claims. Invited lecture at Sharon W. Ware & Associates. December, 2005.

Price, D.R. Evaluating the Invisible Injury Claim - Posttraumatic Stress Syndrome Disorder. Invited lecture presented at the Damages Seminar sponsored by the DRI Trial Tactics Committee. March, 2006.

Price, D.R. Malingering and Fraud in Psychological and Neuropsychological Injury Claims. Invited lecture presented at the Damages Seminar sponsored by the DRI Trial Tactics Committee. March, 2006.

Price, D.R. Evaluating Malingering in Workers' Compensation. Invited lecture at the South Carolina Workers' Compensation Update 2006 Seminar sponsored by the Council on Education in Management. May, 2006.

Price, D.R. Evaluating Brain Injury Claims. Invited lecture at Crawford University sponsored by Crawford & Company. June, 2006.

Price, D.R. Evaluating Malingering in Psychological and Neuropsychological Injury Claims. Presented at the 21st Annual Seminar & Expo on Insurance Fraud sponsored by the International Association of Special Investigation Units. September, 2006.

Price, D.R. Evaluating Claims of Mild Traumatic Brain Injury. Presented at the Atlanta Claims Association. November, 2006.

Price, D.R. Detecting Malingering, Symptom Exaggeration and Fraud in Psychiatric and Neuropsychological Claims. The NHCAA Institute for Health Care Fraud Prevention, 2006 Annual Training Pre Conference Program. November, 2006.

Price, D.R. Detecting Malingering, Symptom Exaggeration and Fraud in Psychological, Psychiatric and Neuropsychological Claims. The NHCAA Institute for Health Care Fraud Prevention, 2006 Annual Training Conference. November, 2006.

Price, D.R. Evaluating for Fraudulent Psychological and Neuropsychological Injury Claims presented at the Mental Health Fraud and Substance Abuse Issue Seminar sponsored by The National Health Care Anti-fraud Association Institute of Health Care Fraud Prevention. February, 2007.

Price, D.R. Malingering in Psychological, Psychiatric and Neuropsychological Injury Claims. Invited lecture at Carolina Casualty Insurance Company. April, 2007.

Price, D.R. Analysis of Psychological, Psychiatric, and Neuropsychological Claims. Presented at the 2007 Claims Conference sponsored by Mountain West Farm Bureau Insurance Company. June, 2007.

Price, D.R. "I Can't Even Think of Driving Again"; PTSD Claims. Trucking Industry Defense Association Worker's Comp Seminar. August, 2007

Price, D.R. Detecting Fraudulent Psychological and Neuropsychological (Brain) Injury Claims. Presented at the 22nd Annual Seminar & Expo on Insurance Fraud sponsored by the International Association of Special Investigation Units. September, 2007.

Price, D.R. Investigating Fraudulent Psychological Claims. The United States Postal Service and the Office of Inspector General, 2nd National Injury Compensation Symposium & Training Conference. April, 2008.

Price, D.R. Malingering. The United States Postal Service and the Office of Inspector General, 2nd National Injury Compensation Symposium & Training Conference. April, 2008.

Price, D.R. Detecting Fraudulent Psychological and Neuropsychological (Brain) Injury Claims. International Association of Special Investigation Units (IASIU), 23rd Annual Seminar & Expo on Insurance Fraud. September, 2008.

Price, D.R. Arson and The Criminal Mind. Carolina Fire Investigators Association. September, 2008.

Price, D.R. Malingering in Mental and Emotional Injury Claims. International Claims Association Annual Education Conference. September, 2008.

Price, D.R. Evaluating Mental and Emotional Injury Claims. International Claims Association Annual Education Conference. September, 2008.

Price, D.R. How to Interpret and Use Neuropsychological Testing. DRI Complex Medicine Seminar. November, 2008.

Price, D.R. Detecting Malingered Fraud in Psychological and Neuropsychological (Brain) Injury Claims. NC Insurance Crime Information Exchange 17th Annual Training Conference. February, 2009. (Please note this seminar was presented twice by request.)

Price, D.R. Detecting Malingered Fraud in Psychological and Neuropsychological (Brain) Injury Claims. NC Insurance Crime Information Exchange 17th Annual Training Conference. February, 2009. (Please note this seminar was presented twice by request.)

Price, D.R. Detecting Fraudulent Psychological and Neuropsychological (Brain) Injury Claims. International Association of Special Investigation Units (IASIU). 24th Annual Seminar and Expo on Insurance Fraud. September, 2009.

Price, D.R. The Evaluation of PTSD: Causes and Symptoms. Making The Case For Life XII: Mitigation and Jury Selection in Capital Cases sponsored by the Southern Center for Human Rights and the National Association of Criminal Defense Lawyers. September, 2010.

Price, D.R. The Evolution of Posttraumatic Stress Disorder. Invited lecture at the Charlotte Claims Association. November, 2010.

Price, D.R. The Evolution of Posttraumatic Stress Disorder. Invited lecture at the Houston Claims Association. December, 2010.

Price, D.R. The Evolution of Posttraumatic Stress Disorder and Malingering. Invited lecture at the Chicago Claims Association. March, 2011.

Price, D.R. Dealing with Difficult Clients. Invited lecture at the Public Defender Investigators Conference. March, 2011.

Price, D.R. PTSD/Traumatic Brain Injury Claims, Future Trends. South Carolina Defense Trial Attorneys' Association & Claim Management Association of South Carolina. 44th Annual Joint Meeting. July, 2011.

Price, D.R. Managing Stress in the Private Investigator. Invited lecture at the Public Defenders Conference. March, 2012.

Price, D.R. Managing Stress in the Private Investigator. Invited lecture at the South Carolina Association of Legal Investigators. May, 2012.

Price, D.R. Evaluating Traumatic Brain Injury Claims. Invited lecture at the 2014 South Carolina Farm Bureau Claims Conference. March, 2014.

Price, D.R. Trends in PTSD and TBI Claims DSM-5™ and Beyond. Invited lecture at Canal Insurance Company. June, 2015.

Fox, W.S. & Price, D.R. Evaluating Brain Injuries. Invited lecture at Home Depot. May, 2006.

Kamanski, J.B. & Price, D.R. Catastrophic Injury Defense. Presented at the 2011 Claims Conference of Northern California. September, 2011.

Price, D.R. & Beaudoin, D. Posttraumatic Stress Disorder. Invited lecture at the PLRB/LIRB Crossroads 2005 Claims Conference. April, 2005. (Please note this speech was presented twice by request.)

Price, D.R. & Beaudoin, D. Posttraumatic Stress Disorder. Invited lecture at the PLRB/LIRB Crossroads 2005 Claims Conference. April, 2005. (Please note this speech was presented twice by request.)

Price, D.R. & Blackwelder, I. Defending Mental and Emotional Injury Claims in Employment Litigation. Invited lecture presented at the United States Postal Service Law Department Conference. November, 1993.

Price, D.R. & Brannon, W. Head Trauma Damage Claims. Invited lecture at the South Carolina Defense Trial Attorneys' Association and Claims Management Association of South Carolina Joint Meeting. July, 1996.

Price, D.R., & Campbell, D.A. Overcoming Stress and Achieving Self-motivation. Invited seminar presented at the Administrative Management Society Area IV Conference. October, 1988.

Price, D.R. & Cohen, L. Evaluating Neurological, Psychological and Psychiatric Injury Claims. In-house seminar presented to Great West Casualty Company. April, 1996.

Price, D.R. & Darroch, R.M. "Traumatic Brain Injuries" - Claim Handling Guidelines & Coverage Issues. Atlantic Claim Executives Association Spring Conference. April, 2013.

Price, D.R. & Dowies, C. Managing Stress in the Claims Profession. Invited lecture at the PLRB/LIRB 2011 Claims Conference. April, 2011. (Please note this speech was presented twice by request.)

Price, D.R. & Dowies, C. Managing Stress in the Claims Profession. Invited lecture at the PLRB/LIRB 2011 Claims Conference. April, 2011. (Please note this speech was presented twice by request.)

Price, D.R. & Fox, W.S. Malingering and Symptom Exaggeration. Presented at the 2008 Claims Conference & Insurance Seminar Expo sponsored by PLRB/LIRB. April, 2008. (Please note that this speech was given two times on consecutive days by request.)

Price, D.R. & Fox, W.S. Malingering and Symptom Exaggeration. Presented at the 2008 Claims Conference & Insurance Seminar Expo sponsored by PLRB/LIRB. April, 2008. (Please note that this speech was given two times on consecutive days by request.)

Price, D.R. & Kerr, L.S. Psychological and Neuropsychological Injury Claims. Invited lecture at the PLRB/LIRB 2011 Claims Conference. April, 2011. (Please note this speech was presented twice by request.)

Price, D.R. & Kerr, L.S. Psychological and Neuropsychological Injury Claims. Invited lecture at the PLRB/LIRB 2011 Claims Conference. April, 2011. (Please note this speech was presented twice by request.)

Price, D.R. & Kerr, L.S. Traumatic Brain Injuries. Invited lecture at the PLRB/LIRB 2012 Claims Conference. April, 2012. (Please note this speech was presented twice by request.)

Price, D.R. & Kerr, L.S. Traumatic Brain Injuries. Invited lecture at the PLRB/LIRB 2012 Claims Conference. April, 2012. (Please note this speech was presented twice by request.)

Price, D.R., Crowley, B., Gold, L.H. & McDonald, J.J. Inter-Profession Ethics: The Ethical Interplay Between Psychologist, Psychiatrists and Attorneys. Psychiatric, Psychological and Neuropsychological Claims Conference and Seminar. July, 2001.

Price, D.R., Fox, W.S. & Kerr, L.S. Malingering and Symptom Exaggeration. Presented at the 2007 Claims Conference & Insurance Seminar Expo sponsored by the PLRB/LIRB. March, 2007. (Please note that this speech was given two times on consecutive days by request.)

Price, D.R., Fox, W.S. & Kerr, L.S. Malingering and Symptom Exaggeration. Presented at the 2007 Claims Conference & Insurance Seminar Expo sponsored by the PLRB/LIRB. March, 2007. (Please note that this speech was given two times on consecutive days by request.)

Price, D.R., Fox, W.S. & Kerr, L. Malingering and Symptom Exaggeration. PLRB/LIRB 2009 Claims Conference and Insurance Services Expo. March, 2009. (Please note this lecture was presented twice by request.)

Price, D.R., Fox, W.S. & Kerr, L. Malingering and Symptom Exaggeration. PLRB/LIRB 2009 Claims Conference and Insurance Services Expo. March, 2009. (Please note this lecture was presented twice by request.)

Price, D.R. & Hiers, J.B. Evaluating Claims of Brain Injury. The Annual Symposium on Head Injury Claims. Sponsored by the Forensic Psychiatry Program, Medical University of South Carolina. December, 1997.

Price, D.R.; Kamanski, J.B and Morgan, S. Catastrophic Injury Defense, Including Mild Traumatic Brain Injury Claims. Presented at the 24th Annual Combined Claims Conference. March, 2012.

Price, D.R. & Lees Haley, P.R. An Introduction to Psychological Injury Claims. Defense of Damages Conference and Seminar. August, 1995.

Price, D.R. & Lees Haley, P.R. An Introduction to Psychological Injury Claims. Defense of Damages Conference and Seminar. November, 1995.

Price, D.R., Lees-Haley, P.R. & McDonald, J.J. The Defense of Mental and Emotional Injury Claims in Employment Litigation. In-house seminar presented to Fisher and Phillips. February, 1995.

Price, D.R., Lees-Haley, P.R., & Smith, R.D. Handling Psychological Injury Claims. Invited in-house seminar presented to the Delta Air Lines, Inc. Claims Department. February, 1995.

Price, D.R., & McCoy, J.F. Conversation Skill Training with Chronic Psychiatric Patients. Paper presented at the meeting of the Southeastern Psychological Association. March, 1982.

Price, D.R. & McDonald, J.J. The Defense of Mental and Emotional Injury Claims in Employment Litigation. In-house seminar presented to Fisher and Phillips. April, 1993.

Price, D.R. & McDonald, J.J. The Defense of Mental and Emotional Injury Claims in Employment Litigation. Invited lecture at the Advanced Labor and Employment Law Practitioners Seminar at the Ira C. Eaker College for Professional Development, Air Force Judge Advocate General School. June, 1997.

Price, D.R. & O'Connell, B. A. Posttraumatic Stress Disorder Claims. Invited lecture for Sedgwick Claims Management Services, Inc. August, 1998.

Price, D.R. & Simon, R.I. The EEOC's Enforcement Guidance: Issues, Questions and Concerns from a Clinician's Perspective. Invited lecture at the National Symposium on Psychiatric Disabilities and the EEOC's New Enforcement Guidance under the Americans with Disabilities Act sponsored by the Government Training Institute Foundation. June, 1999.

Price, D.R. & Simon, R.I. The EEOC's Enforcement Guidance: Issues, Questions and Concerns from a Clinician's Perspective. Invited lecture at the National Symposium on Psychiatric Disabilities and the EEOC's New Enforcement Guidance under the Americans with Disabilities Act. November, 1999.

Price, D.R. & Smith, R.D. Handling Psychological Injury Claims. Invited lecture at the PLRB/LIRB 1997 Claims Conference. April, 1997. (Please note that this speech was given twice on consecutive days by request.)

Price, D.R. & Smith, R.D. Handling Psychological Injury Claims. Invited lecture at Erie Insurance Company sponsored by the PLRB/LIRB Extension Program. October, 1997. (Please note that this speech was given twice in two consecutive three-hour sessions by request.)

Price, D.R. & Smith, R.D. Handling Psychological Injury Claims. Invited lecture at Grange Insurance sponsored by the PLRB/LIRB Extension Program. November, 1997.

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at MARTA (Metropolitan Atlanta Rapid Transit Authority). November, 1997.

Price, D.R. & Smith, R.D. Handling Psychological Injury Claims. Invited lecture at Kemper Insurance Company sponsored by the PLRB/LIRB Extension Program. November, 1997.

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at the PLRB/LIRB/CPCU/ AICPCU 1998 Claims Conference. April, 1998. (Please note that this speech was given three times on consecutive days by request.)

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at the PLRB/LIRB/CPCU/ AICPCU 1998 Claims Conference. April, 1998. (Please note that this speech was given three times on consecutive days by request.)

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at the PLRB/LIRB/CPCU/ AICPCU 1998 Claims Conference. April, 1998. (Please note that this speech was given three times on consecutive days by request.)

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at AMICA Mutual Insurance Company, sponsored by the PLRB/LIRB Extension Program. November, 1998.

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at the PLRB/LIRB/CPCU/ AICPCU 1999 Claims Conference. March, 1999. (Please note that this speech was given three times on consecutive days by request.)

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at the PLRB/LIRB/CPCU/ AICPCU 1999 Claims Conference. March, 1999. (Please note that this speech was given three times on consecutive days by request.)

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at the PLRB/LIRB/CPCU/ AICPCU 1999 Claims Conference. March, 1999. (Please note that this speech was given three times on consecutive days by request.)

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture sponsored by the PLRB/LIRB Extension Program. October, 1999.

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at the Claims Conference 2000 sponsored by the PLRB/LIRB/ CPCU/ AICPCU. March, 2000. (Please note that this speech was given two times on consecutive days by request.)

Price, D.R. & Smith, R.D. Analysis of Psychological Injury Claims. Invited lecture at the Claims Conference 2000 sponsored by the PLRB/LIRB/CPCU/AICPCU. March, 2000. (Please note that this speech was given two times on consecutive days by request.)

Price, D.R. & Smith, R.D. Psychological and Neuropsychological Injury Claims. Invited lecture at the Claims Conference 2001 sponsored by the PLRB/LIRB/CPCU/AICPCU. March, 2001. (Please note that this speech was given two times on consecutive days by request.)

Price, D.R. & Smith, R.D. Psychological and Neuropsychological Injury Claims. Invited lecture at the Claims Conference 2001 sponsored by the PLRB/LIRB/CPCU/AICPCU. March, 2001. (Please note that this speech was given two times on consecutive days by request.)

Price, D.R. & Smith, R.D. Evaluating Mental and Emotional Injury Claims. Invited lecture at the PLRB/LIRB/CPCU/AICPCU 2002 Claims Conference and Insurance Services Expo. April, 2002.

Price, D.R. & Smith, R.D. Evaluating Traumatic Brain Injury Claims. Invited lecture at the PLRB/LIRB/CPCU/AICPCU 2002 Claims Conference and Insurance Services Expo. April, 2002.

Price, D.R. & Smith, R.D. Evaluating Mental and Emotional Injuries. Invited lecture at the PLRB/LIRB Crossroads 2003 Claims Conference & Insurance Services Expo. April, 2003.

Price, D.R. & Smith, R.D. Detecting Fraudulent Mental and Emotional Injury Claims IASIU 18th Annual Seminar on Insurance Fraud sponsored by the International Association of Special Investigation Units. September, 2003. (Please note this lecture was presented twice by request.)

Price, D.R. & Smith, R.D. Detecting Fraudulent Mental and Emotional Injury Claims IASIU 18th Annual Seminar on Insurance Fraud sponsored by the International Association of Special Investigation Units. September, 2003. (Please note this lecture was presented twice by request.)

Price, D.R. & Smith, R.D. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at the Chambers, Mabry, McClelland and Brooks Client Seminar. May, 1998.

Price, D.R. & Smith, R.D. Psychological and Neuropsychological Injury Claims Evaluation. Invited lecture at the PLRB/LIRB Crossroads 2004 Claims Conference and Insurance Services Expo. March, 2004. (Please note this lecture was presented twice by request.)

Price, D.R. & Smith, R.D. Psychological and Neuropsychological Injury Claims Evaluation. Invited lecture at the PLRB/LIRB Crossroads 2004 Claims Conference and Insurance Services Expo. March, 2004. (Please note this lecture was presented twice by request.)

Price, D.R. & Smith, R.D. Detecting Fraud in Emotional and Psychological Injury Claims. IASIU 19th Annual Seminar and Expo on Insurance Fraud. September, 2004.

Price, D.R., Smith, R.D. & Kerr, L.S. Malingering and Symptom Exaggeration. Invited lecture at the 2006 PLRB/LIRB Claims Conference. April, 2006. (Please note that this speech was given on two consecutive days by request.)

Price, D.R., Smith, R.D. & Kerr, L.S. Malingering and Symptom Exaggeration. Invited lecture at the 2006 PLRB/LIRB Claims Conference. April, 2006. (Please note that this speech was given on two consecutive days by request.)

Liberatore, J. & Price, D.R. Evaluating Claimed Traumatic Brain injuries. PLRB/LIRB Large Loss Conference. November, 2009. (Please note that this speech was given on two consecutive days by request.)

Liberatore, J. & Price, D.R. Evaluating Claimed Traumatic Brain injuries. PLRB/LIRB Large Loss Conference. November, 2009. (Please note that this speech was given on two consecutive days by request.)

Smith, R.D. & Price, D.R. Handling Psychological and Neuropsychological Injury Claims. Invited lecture at CNA Commercial Insurance. August, 1998.

Smith, R.D. & Price, D.R. Reviewing and Analyzing Educational Records In Brain Injury Cases. Annual Mental and Emotional Injury Claims Conference and Seminar. October, 2000.

Smith, R.D. & Price, D.R. Brain Injuries. Invited lecture at the PLRB/LIRB Crossroads 2003 Claims Conference and Insurance Services Expo. April, 2003.

Smith, R.D. & Price, D.R. Evaluating Brain Injuries. Invited seminar at Philadelphia Insurance Company. June, 2005.

Taff, E.W. Cross-Examination of the Neuropsychologist. Preeminent Lawyer - Superstars of Trial Seminar. Sponsored by Defense Research Institute. September, 2006.

Walker, R.J. & Price, D.R. Direct Examination of the Plaintiff's Neuropsychologist. Preeminent Lawyer - Superstars of Trial Seminar. Sponsored by Defense Research Institute. September, 2006

Watson, R. & Price, D.R. The Not-So-Obvious Injury: Posttraumatic Stress Disorder and Closed Head Injury. Invited lecture at the North Carolina Academy of Trial Lawyers 35th Annual Convention. June, 1999.

PUBLICATIONS

Burke, W.H., Price, D.R. & Price, D.C. Claims Analysis of Rehabilitation Plans in Mild Closed Head Injury, Claims Magazine, June, 1993, 68-75.

Law, J., Price, D.R., & Herbert, D.A. A Study of WAIS, Quick Test, and Premorbid Estimates of Intelligence for Neuropsychiatric Patients. Perceptual and Motor Skills, 1981, 52, 909-911.

Price, D.C., Raskin, D.E., & Price, D.R. Malingering. In Burke, W.H. (Ed.) The Handbook of Forensic Rehabilitation. Houston: HDI Publishers. 1994.

Price, D.R. Teens, Sex, Education, and You: Avoiding a Far-Reaching Tragedy. Family Connections, Vol. 1, No. 3, Fall, 1987.

Price, D.R. Children and Divorce: They Can Survive. Family Connections, Vol. 2, No. 1, Winter, 1988.

Price, D.R. The Evolution of Malingering. Claims Magazine. July, 1993, 37-42.

Price, D.R. The Evolution of PTSD Claims. Claims Magazine. January, 1994, 30-32.

Price, D.R. PTSD Diagnostic Criteria Evolves Again. Claims Magazine. February, 1994, 30-32, 88.

Price, D.R. Personality Disorders and Traits. In McDonald, J.J. & Kulick, F.B. (Eds.) Mental and Emotional Injuries in Employment Litigation. Washington: Bureau of National Affairs, 1994.

Price, D.R. Case Analysis in Forensic Rehabilitation. In Burke, W.H. (Ed.) The Handbook of Forensic Rehabilitation. Houston: HDI Publishers. 1994.

Price, D.R. Evaluating Claims of Postconcussional Disorder. Claims Magazine. March, 1995.

Price, D.R. Case Analysis in Psychological Injury Claims. In Price, D.R. & Lees-Haley, P.R. (Eds.) The Insurer's Handbook of Psychological Injury Claims. Seattle, Claims Books. November, 1995.

Price, D.R. Personality Disorders in Psychological Injury Claims. In Price, D.R. & Lees-Haley, P.R. (Eds.) The Insurer's Handbook of Psychological Injury Claims. Seattle, Claims Books. November, 1995.

Price, D.R. Evaluating Claims of Head Injury. In Price, D.R. & Thorness, B. (Eds.) The Proceedings of The Annual Symposium on Head Injury. Seattle, Claims Books. December, 1995.

Price, D.R. Evaluating Claims of Head Injury. In Price, D.R. & Thorness, B. (Eds.) The Proceedings of The Annual Symposium on Head Injury. Seattle, Claims Books. November, 1996.

Price, D.R. The Insurance/Defense Network's Deposition and Examination Guide for Psychological Injury Claims. Greenville, SC, I/DN Press. November, 1997.

Price, D.R. Clinical Evaluation and Case Formulation of Mental and Emotional Injury Claims. In McDonald, J.J. & Kulick, F.B. (Eds.) Mental and Emotional Injuries in Employment Litigation, 2nd Edition. Washington. Bureau of National Affairs, 2002.

Price, D.R. 2002. Fraudulent Claims of Psychological Injury. Today's Insurance Professional. Winter 14-16.

Price, D.R. Evaluating Claims of Pediatric Brain Injuries. The Legal Edge. Volume VIII, Issue Three, Page 1.

Price, D.R. Posttraumatic Stress Disorder and Mild Traumatic Brain Injury Claims. The Defenseline. Volume 32, No. 1, 11-13.

Price, D.R. Evaluating Injury Claims. Claims Magazine. March, 2007.

Price, D.R. Overcompensating. Claims Advisor. Fall, 2010.

Price, D.R. Evaluating Injury Claims. Property Casualty 360, March, 2007.

Price, D.R. The Expanding Definition of PTSD. Claim Management Magazine, February, 2011.

Price, D.R. Feigning Spell. Claim Management Magazine, March, 2011.

Price, D.R. & Boutot, M.R.. Crisis Management Series: Managing Psychological Injury Claims. Risk Management Magazine. July, 2002, 46-52.

Price, D.R., Burke, W.H. & Price, D.C. Identification of Fictitious Closed Head Injury Claims. Claims Magazine. May, 1993, 37-40.

Price, D.R., Greene, H.W. & Price, D.C. Red Flags For Psychological Injury Claims. CPCU Journal. Vol. 47, No. 3, September, 1994.

Price, D.R., Herbert, D.A., Walsh, M.A. & Law, J. A Study of WAIS-R, Quick Test, and PPVT IQs for Neuropsychiatric Screening Purposes. Perceptual and Motor Skills, 1990, 70, 1320-1322.

Price, D.R. & Lees-Haley, P.R. (Eds.) The Insurer's Handbook of Psychological Injury Claims. Seattle, Claims Books. November, 1995.

Price, D.R. & Lees-Haley, P.R. Defending Claims of Postconcussion Syndrome. Defense Counsel Journal. Vol. 62, No. 4, October, 1995.

Price, D.R. & McDonald, J.J. False Claims of Clergy Sexual Abuse. Risk Management Magazine. January, 2003, 48-51.

Price, D.R. & Price, D.C. Understanding DSM-III-R, the Standard Classification System for Mental Health Disorders. In the DRI monograph, Defending Cases Involving Psychological and Head Injuries. Vol. 1992, No. 3, August, 1992.

Price, D.R. & Smith, R.D. Evaluating Psychological Effects of MVA's. Claims Magazine. June, 2002, 71-74.

Price, D.R. & Smith, R.D. MVAs and PTSD: Does One Follow the Other? Trucking Industry Defense Association (TIDA) Newsletter. Fall/Winter, 2002.

Price, D.R. & Thorness, B. (Eds.) The Proceedings of The Annual Symposium on Head Injury. Seattle, Claims Books. December, 1995.

Price, D.R. & Thorness, B. (Eds.) The Proceedings of The Annual Symposium on Head Injury. Seattle, Claims Books. November, 1996.

COMMENTARIES:

Price, D.R. The Clinician's Corner. LCA Commentary. Volume 1, Issue I. September, 2007.

Price, D.R. The Clinician's Corner. LCA Commentary. Volume 1, Issue II. October, 2007.

Price, D.R. The Clinician's Corner. LCA Commentary. Volume 1, Issue III. November, 2007.

Price, D.R. Clinician's Corner: Posttraumatic Stress Disorder, Part I: A Brief History and Overview, *3 Litigation Commentary & Rev. 57* (August/September 2010).

Price, D.R. Clinician's Corner: Posttraumatic Stress Disorder, Part II; The Evolution of Posttraumatic Stress Disorder - Criterion A, *3 Litigation Commentary & Rev. 85* (November/December 2010).

Price, D.R. Clinician's Corner: Posttraumatic Stress Disorder, Part III: The Evolution of Posttraumatic Stress Disorders - Criteria B-H, *4 Litigation Commentary & Rev. 10* (January/February 2011). .

Price, D.R. Clinician's Corner: Posttraumatic Stress Disorder, Part IV: Stressors that Cause PTSD, *4 Litigation Commentary & Rev.* (March/April).

Price, D.R. The Clinician's Corner. Posttraumatic Stress Disorder, Part V: PTSD and Kidnapping, *4 Litigation Commentary & Rev. 76* (June/July 2011).

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Columbia, S.C. 29203
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(803) 434-2985 (fax)
richard.frierson@uscmed.sc.edu

EDUCATION

1984 B.M. (Music), University of South Carolina, Columbia, S.C., *magna cum laude*

1988 M.D., University of South Carolina School of Medicine, Columbia, S.C., *cum laude*

POST GRADUATE TRAINING

1988-92 Residency in General Psychiatry, University of South Carolina School of Medicine / William S. Hall Psychiatric Institute, Columbia, S.C.

1992-93 Fellowship in Forensic Psychiatry, University of South Carolina School of Medicine / William S. Hall Psychiatric Institute, Columbia, S.C.

ACADEMIC APPOINTMENTS

2012- **Professor of Clinical Psychiatry and Vice Chair for Education**
Department of Neuropsychiatry and Behavioral Science
University of South Carolina School of Medicine
Columbia, S.C.

Oversees all medical student education, residency training programs, and fellowship training programs

Program Director, Forensic Psychiatry Fellowship: Coordinate all forensic psychiatry training for the medical school, general psychiatry residency, and forensic psychiatry fellowship including didactic seminars and clinical experiences

Development of intradepartmental and interdepartmental initiatives

Director, University of South Carolina Professional Wellness Program

2007- **Professor of Clinical Psychiatry**
Department of Neuropsychiatry and Behavioral Science
University of South Carolina School of Medicine
Columbia, S.C.

Program Director, Forensic Psychiatry Fellowship: Coordinate all forensic psychiatry training for the medical school, general psychiatry residency, and forensic psychiatry fellowship including didactic seminars and clinical experiences

Director, University of South Carolina Professional Wellness Program

Director, Forensic Psychiatry Consultation Service

Develop case material for the National College of District Attorneys at the National Advocacy Center and oversee the provision of expert psychiatric testimony for the National College of District Attorneys and the United States Department of Justice at the National Advocacy Center

Consultant to South Carolina Department of Corrections, Gilliam Psychiatric Hospital

Chair, Appointments, Promotions and Reappointments Committee

2001-2007 **Associate Professor of Clinical Psychiatry**
Department of Neuropsychiatry and Behavioral Science
University of South Carolina School of Medicine
Columbia, S.C.

Coordinate all forensic psychiatry training for the medical school, general psychiatry residency, and forensic psychiatry fellowship (fellowship training director), including didactic seminars and clinical experiences

Director, Forensic Psychiatry Consultation Service

Develop case material for the National College of District Attorneys at the National Advocacy Center

Oversee the provision of expert psychiatric testimony for the National College of District Attorneys and the United States Department of Justice at the National Advocacy Center

1999- **Director, Forensic Psychiatry Fellowship**
University of South Carolina School of Medicine

Directs and Supervises PGY-5 residents in forensic psychiatry and oversees curriculum, accreditation, and recruitment in forensic psychiatry fellowship

Oversees all forensic psychiatry training for General Psychiatry Residency

2003- **Adjunct Associate Professor**
Department of Psychiatry and Behavioral Sciences
Medical University of South Carolina (MUSC)
Charleston, S.C.

Direct elective rotation in forensic psychiatry for general psychiatry residents and provide lecture(s) in the forensic psychiatry seminar for general psychiatry residents; supervise forensic fellows at mock trial exercises held at the National Advocacy Center in Columbia

1994-2001 **Assistant Professor of Clinical Psychiatry**
University of South Carolina Department of Neuropsychiatry and Behavioral Science / William S. Hall Psychiatric Institute

Course Director, Outpatient Forensic Psychiatry, Fourth Year Medical Student Elective Rotation

Director, General Topics in Forensic Psychiatry Lecture Series, Forensic Psychiatry Fellowship (1995-96)

Director, The Psychiatrist in Court Lecture Series, Forensic Psychiatry Fellowship (1997-present)

Caseload Supervisor, General Psychiatry Residency Training Program

Clinical Supervisor for Outpatient Forensic Evaluations, Forensic Psychiatry Fellowship

1993-94 **Instructor in Psychiatry**
University of South Carolina
Department of Neuropsychiatry and Behavioral Science/William S. Hall Psychiatric Institute

Lecturer, "Introduction to Forensic Psychiatry", Lecture Series for Third Year Medical Student Psychiatric Clerkship

Case Load Supervisor, General Psychiatric Residency Training Program

Member of Residency Training Committee and Examiner for Annual Oral

Examinations, General Psychiatry Residency Training Program

1991-92 **Chief Resident in Psychiatry**
University of South Carolina
Department of Neuropsychiatry and Behavioral Science

Clinical Tutor for Third Year Medical Students

Course Director, Psychopharmacology in Clinical Practice,
General Psychiatry Residency Training Program

Coordinator of Emergency Psychiatry Consultation Service, Richland Memorial Hospital

Director of Chief Resident's Grand Rounds Seminar

Group Leader of Psychopathology Course for Third Year Medical Students

CLINICAL APPOINTMENTS

2012- **University of South Carolina Professionals Wellness Program**
Director

Oversee fitness for duty evaluations referred by South Carolina Department of Labor Licensing and Regulation (SCLLR) and private hospitals, including doctors, other primary care providers, nurses, and allied licensed health providers

2003- **University Specialty Clinics**
Private practice of general and forensic psychiatry

Supervision of General Psychiatry Residents and Forensic Psychiatry Fellows in the provision of services

Consultant, S.C. Board of Medical Examiners

2003- **Psychiatric Medical Staff Member, Palmetto Health Alliance**
Consulting Courtesy Privileges

Provide forensic consultation – risk assessments, competency determinations, etc.

2003- **Staff Psychiatrist**
Gilliam Psychiatric Hospital, South Carolina Department of Corrections

Psychopharmacology consultant for patients hospitalized for psychiatric treatment within the Department of Corrections

1999-2003 **Director, Forensic Psychiatry Education**
South Carolina Department of Mental Health: Division of Education, Training, and Research

Responsible for all educational activities within the Forensic Division of the South Carolina Department of Mental Health, including education of third and fourth year medical students, general psychiatry residents, and forensic psychiatry fellows.

1995-99 **Chief of Outpatient Forensic Services**
William S. Hall Psychiatric Institute

Supervised Outpatient Forensic Service including two other psychiatrists and coordinated scheduling of outpatient forensic evaluations

Member, Credentials Committee

Physician Consultant, Ethics Committee

1993-95 **Teaching Psychiatrist**
William S. Hall Psychiatric Institute

Conducted outpatient forensic examinations on defendants and provided court testimony

Treated privately insured patients on Shearouse Unit

Member, Pharmacy and Therapeutics Committee and Quality Care Review Board

OTHER PROFESSIONAL APPOINTMENTS

2006 **Invited Faculty, National Habeas Institute**
National Institute of Trial Advocacy
Atlanta, GA

2001- **Faculty, National College of District Attorneys**
National Advocacy Center
Columbia, S.C. and Arlington VA

2007 **Member, Task Force on the Development of a Curriculum for the**

Training in the Prosecution of Elder Abuse
National College of District Attorneys
Columbia, S.C.

BOARD CERTIFICATIONS AND ACTIVITIES

1994 Diplomate, **Psychiatry**, American Board of Psychiatry and Neurology, January 1994, Certificate No. 38807

1994 Diplomate, **Forensic Psychiatry**, American Board of Psychiatry and Neurology, October 1994, Certificate No. 77

2002 Recertified, **Forensic Psychiatry**, November 2002-December 31, 2014

2013 Recertified, **Forensic Psychiatry**, April 2013 – April 2023

1999- Examiner, Part II Oral Examinations in Psychiatry, American Board of Psychiatry and Neurology (30 Examinations)

2000-2008 Member, Committee on Examination in the Subspecialty of Forensic Psychiatry, American Board of Psychiatry and Neurology

2008- Member, Committee on Recertification Examination in Psychiatry, American Board of Psychiatry and Neurology

2012- Ambassador, American Board of Psychiatry and Neurology Maintenance of Certification Program

FORENSIC EXPERIENCE

2014 Consultant, State of Kentucky Attorney General

2012- Subject Matter Expert, Threat Management Services, Law Enforcement and Safety, University of South Carolina

2011 Qualified as Expert in Forensic Psychiatry in Superior Court of Monmouth County, New Jersey

2006 Invited expert for mock trials, National Habeas Institute, Atlanta, GA.

2002- Consultant in Medical Malpractice cases, including standard of care, damages, and issues related to informed consent

2002- Consultant in Forensic Psychiatry, United States Air Force, 20th Fighter

Wing, Office of Staff Judge Advocate

2002- Faculty, numerous national courses for the National College of District Attorneys

2001- Forensic Consultant and Evaluator of Impaired Physicians for the South Carolina Board of Medical Examiners

2001- Qualified as an Expert in Forensic Psychiatry in U.S. District Court

1998- Invited expert for mock trials, United States Department of Justice at the National Advocacy Center

1998- Invited expert for mock trials, National College of District Attorneys at the National Advocacy Center

1994- Consultant in evaluations to determine competency to withdraw death penalty appeals

1994- Conducted competency to proceed in Post Conviction Relief (PCR) evaluations and provided testimony at PCR hearings, including federal capital litigation cases

1994- Conducted psychiatric disability evaluations and Independent Medical Examinations (fitness for duty) for private industry

1994- Conducted competency evaluations for conservator and guardian appointments for Probate Courts in Richland and Sumter Counties

1994 Conducted psychiatric evaluations for the Federal Department of Probation

1994 Conducted pre-sentencing psychiatric evaluations for United States District Court

1992- Provided psychiatric testimony in over 300 trials in Circuit Courts and Family Courts throughout South Carolina

1992- Completed over 2000 court ordered Competency to Stand Trial and Criminal Responsibility evaluations of criminal defendants from throughout South Carolina

OTHER PROFESSIONAL ACTIVITIES

2014 Task Force on Technology for Educational Purposes, American Academy of Psychiatry and the Law

2014	Accreditation Council for Graduate Medical Education: Working Committee for Development of Educational Milestones in Forensic Psychiatry
2013 - 2014	Vice President, American Academy of Psychiatry and the Law (AAPL)
2013 - 2015	President, Association of Directors of Forensic Psychiatry Fellowships (ADFPF)
2012 - 2013	Secretary, American Academy of Psychiatry and the Law (AAPL)
2012 - 2018	Associate Editor, *Journal of the American Academy of Psychiatry and the Law*
2011 - 2013	Vice-President, Association of Directors of Forensic Psychiatry Fellowships (ADFPF)
2011 - 2013	Conflict of Interest Committee, American Psychiatric Association (APA)
2011 -	Co-Chair, Education Committee, American Academy of Psychiatry and the Law (AAPL)
2010 - 2012	Isaac Ray Award Committee, American Psychiatric Association (APA)
2009 - 2012	Executive Councilor, American Academy of Psychiatry and the Law (AAPL)
2009 - 2011	Nominating Committee, American Academy of Psychiatry and the Law (AAPL)
2008 – 2010	S.C. Representative to the Assembly of the American Psychiatric Association (APA)
2008 -	Member, Education Committee, American Academy of Psychiatry and the Law (AAPL)
2008 -	Reviewer, *Journal of Forensic Sciences*
2007 – 2008	President, South Carolina Psychiatric Association (SCPA)
2006 – 2007	President-Elect and APA Deputy Representative to the Assembly, South Carolina Psychiatric Association
2005 – 2006	Vice President, South Carolina Psychiatric Association
2005-	Reviewer, *Journal of Psychiatric Practice*
2004-	Reviewer, *Psychosomatic Medicine*
2004-	Reviewer, *Psychiatric Services*
2004	Chair, ADFPF Task force on Autonomy and ADFPF relationship with AAPL
2003 – 2005	Secretary/Treasurer, South Carolina Psychiatric Association
2002-	Task Force for the Development of Practice Guidelines for Competency to Stand Trial Evaluations, American Academy of Psychiatry and the Law
2002 – 2015	Program Committee, American Academy of Psychiatry and the Law
2000-	Reviewer, *Journal of the American Academy of Psychiatry and the Law*
1999-	Member, Association of Directors of Forensic Psychiatry

	Fellowships
1999 – 2001	Ethics Committee, American Academy of Psychiatry and the Law
1995 – 1996	President, Midlands Chapter of the South Carolina Psychiatric Association
1994 – 1995	Secretary, Midlands Chapter of the South Carolina Psychiatric Association

HONORS / AWARDS

University of South Carolina School of Music

1984	Magna Cum Laude Graduate
1984	Valedictorian, School of Music
1984	Pi Kappa Lambda
1984	Phi Beta Kappa
1984	Theodore Presser Scholar - Outstanding Senior Music Major Award
1980-84	Music Scholarship
1980-84	Alumni Scholarship

University of South Carolina School of Medicine

1988	Cum Laude Graduate
1988	Lange Medical Series Award
1988	Joseph Collins Foundation Scholar (New York, N.Y.)
1986-88	Todd Memorial Foundation Scholarship
1984-88	William B. Douglas Medical Scholarship

University of South Carolina, Psychiatric Residency

1992	Outstanding Psychiatric Resident Award
1990	Joe E. Freed Award in Research, Outstanding Resident Paper, William S. Hall Psychiatric Institute

Post Graduate Career Awards

2015-2016	Best Doctors in America® selection
2014-2015	Best Doctors in America® selection
2013-2014	Best Doctors in America® selection
2012-2013	Best Doctors in America® selection
2013	Teacher of the Year Award, General Psychiatry Residency, University of South Carolina School of Medicine
2011	Distinguished Visiting Professor (DVP), Wilford Hall Medical Center, Lackland Air Force Base, San Antonio, Texas, February 1-4, 2011
2011-2012	Best Doctors in America® selection
2010-2011	Best Doctors in America® selection

2009-2010	Best Doctors in America® selection
2009	Stephen L. Von Riesen Lecturer of Merit Award, presented June 3, 2009, National College of District Attorneys
2007-2008	Best Doctors in America® selection
2007	Distinguished Fellow, American Psychiatric Association
2006	Recipient of the Annual Award for Most Outstanding Teacher in a Forensic Psychiatry Fellowship, American Academy of Psychiatry and the Law, Chicago, Illinois, October 27, 2006
2006	Distinguished Visiting Professor (DVP), Wilford Hall Medical Center, Lackland Air Force Base, San Antonio, Texas, May 8-11, 2006
2005-06	Teacher of the Year Nominee, General Psychiatry Residency Program, University of South Carolina School of Medicine
2004	Distinguished Fellow, American Psychiatric Association
2003-04	Teacher of the Year Award, General Psychiatry Residency Program, University of South Carolina School of Medicine
2002-03	Teacher of the Year Nominee, General Psychiatry Residency Program, University of South Carolina School of Medicine
2003	Alpha Omega Alpha – faculty inductee, University of South Carolina School of Medicine
2002	Fellow, American Psychiatric Association
2002	Distinguished Visiting Professor (DVP), Wilford Hall Medical Center, Lackland Air Force Base, San Antonio, Texas, February 5-7, 2002

PUBLICATIONS

Hatters-Friedman S, Appel JM, Ash P, **Frierson RL**, Giorgi-Guarnieri D, Martinez R, Newman AW, Pinals D, Resnick PJ, Simpson AIF: Unsolicited Emails to Forensic Psychiatrists. *Journal of the American Academy of Psychiatry and the Law*, accepted, in press

Epright MC and **Frierson RL**: Chapter 37: Death, Dying and the Law. In *Principles and Practice of Forensic Psychiatry, Third Edition,* Rosner R and Scott C, ed., in press 2016

Frierson RL, Boyd M, Harper A: The Mentally Ill Defendant and Mental Illness Verdicts: Perceptions of the Criminal Bar. *Journal of the American Academy of Psychiatry and the Law,* 43:483-91, 2015

Frierson RL, Srinivasan S: Chapter 20: Evaluation of the Elderly in the Criminal Justice System. In *Geriatric Forensic Psychiatry,* Holzer J, ed., Oxford University Press, New York, in press 2016

Hastie CL, **Frierson RL**: Legal Digest: Sentence of Life without Parole for a Juvenile Convicted of Homicide Upheld. *Journal of the American Academy of Psychiatry and the Law*, 43:398-9, 2015

Gaskins ME, **Frierson RL**: Legal Digest: Brain Injury, Intellectual Disability, and the Death Penalty. *Journal of the American Academy of Psychiatry and the Law*, 43:396-8, 2015

Glancy G, Ash P, Bath EPJ, Buchanan A, Fedoroff P, **Frierson RL,** Harris VL, Hatters Friedman SJ, Hauser MJ, Knoll J, Norko M, Pinals D, Price M, Recupero P, Scott CL, Zonana HV: AAPL Practice Guideline for the Forensic Assessment. *Journal of the American Academy of Psychiatry and the Law,* 43:2:263-263, 2015

Frierson RL: Chapter 4: Psychiatric Evaluations of Individuals in the Criminal Justice System. In *DSM-5 and the Law: Changes and Challenges,* Scott C. ed., Oxford University Press, New York, 2015

Chapman S and **Frierson RL**: Legal Digest: Competency to Proceed *Pro Se* is Not a Higher Standard than Competency to Stand Trial. *Journal of the American Academy of Psychiatry and the Law,* 42:509-11, 2014

Pinals D and **Frierson RL**: The Educational Mission in Forensic Publishing. *Journal of the American Academy of Psychiatry and the Law* 42:290–6, 2014

Watson L and **Frierson RL**: Legal Digest: Competency to Stand Trial and Right to Substitute Counsel, *Journal of the American Academy of Psychiatry and the Law,* 41:576-8, 2013

Hansen S and **Frierson RL**: Legal Digest: Reducing a Federal Sentence Cannot be Based on Factors Other Than Substantial Assistance to the United States, *Journal of the American Academy of Psychiatry and the Law*, 41:575-6, 2013

Frierson RL: Commentary: Police Officers and Persons with Mental Illness, *Journal of the American Academy of Psychiatry and the Law,* 41:356-8, 2013

Frierson RL: Combat Related Posttraumatic Stress Disorder and Criminal Responsibility Determinations in the Post-Iraq Era: A Review and Case Report, *Journal of the American Academy of Psychiatry and the Law,* 41:79-84, 2013

Frierson RL: Chapter 14: Legal Issues and Forensic Psychiatry, in *National Medical Series: Psychiatry, 6th edition,* Thornhill, JT ed. Lippincott, Williams and Wilkins: Media, PA, 2011

Ferlauto MJ and **Frierson RL**: Involuntary Civil Commitment in South Carolina and the Probate Judge: A Survey, *Journal of the American Academy of Psychiatry and the Law,* 39:209–16, 2011

Law KB and **Frierson RL:** Legal Digest: Constitutionality of the Federal Sex-Offender Law, *Journal of the American Academy of Psychiatry and the Law,*

38:615-617, 2010

Buckland JJ and **Frierson RL**: Legal Digest: Constitutionality of the Federal Sex-Offender Commitment Law, *Journal of the American Academy of Psychiatry and the Law,* 37:556-8, 2009

Frierson RL and Campbell NN: Commentary: Core Competencies and the Training of Psychiatric Residents in Therapeutic Risk Management, *Journal of the American Academy of Psychiatry and the Law,* 37:165-167, 2009

Freeman B and **Frierson RL**: Legal Digest: Court Mandated Long-Acting Antipsychotic Medication as a Condition of Supervised Release, *Journal of the American Academy of Psychiatry and the Law,* 37:268-70, 2009

Morris DR and **Frierson RL**: *Pro Se* Competence in the Aftermath of *Indiana v. Edwards, Journal of the American Academy of Psychiatry and the Law,* 36:551-7, 2008

Frierson RL and Jacoby KA: Legal Aspects of Dementia, in *Dementias – Vol. 89 in Handbook of Clinical Neurology, 3rd edition*, Litvan I and Duyckaerts C, Eds. Elsevier Publishing, London, 2008

Mossman D, Noffsinger SG, Ash P, **Frierson RL**, Gerbasi J, Lewis CF, Pinals DA, Scott CL, Sieg K, and Wall B: Practice Guideline: Forensic Psychiatric Evaluation of Competence to Stand Trial, *Journal of the American Academy of Psychiatry and the Law*, 2007, 35(4Supp.)

Frierson RL, Dwyer, RG, Bell CC, Williamson JL: The Mandatory Registration of Juvenile Sex Offenders and Commitment of Juveniles as Sexually Violent Predators: Controversies and Recommendations. *Adolescent Psychiatry: The Annals of the American Society for Adolescent Psychiatry,* 30:55-62, 2007

Dwyer, RG, Bell CC, **Frierson RL**, Williamson JL: Use of Assessment Data for Research in Juvenile Justice: An Exploratory Study of Sex Offenders. *Adolescent Psychiatry: The Annals of the American Society for Adolescent Psychiatry,* 30:63-68, 2007

Williamson JL, Bell CC, Dwyer RG, **Frierson RL**: Toward a Better Juvenile Justice System: A City-State Partnership. *Adolescent Psychiatry: The Annals of the American Society for Adolescent Psychiatry,* 30:47-53, 2007

Frierson RL. The Suicidal Patient: Risk Assessment, Management, and Documentation. *Psychiatric Times* (special peer-reviewed edition), April 24 (5):29-32, 2007

Freeman B, Buckland JJ, Dwyer RG, **Frierson RL**. Hypnotics and Driving. *Current Psychiatry*, 6:38-53, 2007

Joshi KG, **Frierson RL**, Gunter TD: Shared Delusional Disorder and Criminal Responsibility: A Review and Case Report of *Folie à Trois, Journal of the American Academy of Psychiatry and the Law*, 34:511-517, 2006

Frierson RL: Chapter 12: Legal Issues and Forensic Psychiatry, in *National Medical Series: Psychiatry, 5th edition,* Thornhill, JT ed. Lippincott, Williams and Wilkins: Media, PA, 2006

Markowitz J and **Frierson RL**: The Prosecution and Civil Commitment of Pregnant Women Who Abuse Drugs: A Review and Commentary, *American Journal of Forensic Psychiatry*, 27(2):33-44, 2006

Dwyer RG and **Frierson RL**: The Presence of Low IQ and Mental Retardation among Murder Defendants Referred for Pretrial Evaluation, *Journal of Forensic Sciences*, 51(3): 678-82, 2006

Schwartz-Watts DM and **Frierson RL**: Crisis Stabilization in Correctional Settings, in *Clinical Practice in Correctional Medicine, 2nd edition*, M Puisis, Ed. Mobley Elsevier Publishing, Philadelphia, PA, 2006

Sloat LM and **Frierson RL:** Juror Knowledge and Attitude Regarding Mental Illness Verdicts, *Journal of the American Academy of Psychiatry and the Law*, 32(2): 208-213, 2005

Frierson RL and Finkenbine RD: Psychiatric and Neurological Characteristics of Murder Defendants Referred for Pretrial Evaluation, *Journal of Forensic Sciences* 49(3): 604-9, 2004

Young SA, **Frierson RL**, Dwyer RG, and Shah A: Commitment versus Confinement: Therapeutic Passes in the Management of Insanity Acquittees. *Journal of the American Academy of Psychiatry and the Law* 30 (4): 563-7, 2002

Frierson RL, Melikian M, and Wadman PG: Principles of Suicide Risk Assessment: How to interview depressed patients and tailor treatment. *Postgraduate Medicine* 112(3): 65-71, 2002.

Frierson RL, Shea SJ, and Shea MB: Competence-to-Stand-Trial Evaluations of Geriatric Defendants. *Journal of the American Academy of Psychiatry and the Law* 30(2): 252-56, 2002.

Frierson RL and Binkley MW: Prosecution of Illicit Drug use During Pregnancy: *Crystal Ferguson v. City of Charleston. Journal of the American Academy of Psychiatry and the Law* 29(4): 469-73, 2001.

Frierson RL: Chapter 12: Legal Issues, in *National Medical Series: Psychiatry, 4th edition,* Scully, JH ed. Lippincott, Williams and Wilkins: Media, PA, March

2001

Frierson RL, Schwartz DM, Morgan DM, and Malone TG: Capital versus Noncapital Murderers. *Journal of the American Academy of Psychiatry and the Law* 26(3): 403-410,1998

Frierson RL and Faulkner LR: Book Review: Evaluation of the Psychiatric Patient: A Primer, by Seymour Halleck, M.D. *Academic Psychiatry* 16(1):52-53, 1992

INVITED PRESENTATIONS

Frierson RL. Evaluation of the Elderly Criminal Defendant. Grand Rounds, University of Auckland. January 28, 2016, Auckland, New Zealand

Frierson RL, Ash P, Hansen A, Newman W. The AAPL Landmark Cases: New Updates and Teaching Strategies. 46th Annual Meeting, American Academy of Psychiatry and the Law. October 21, 2015, Ft. Lauderdale, FL

Frierson RL. Mental Defenses in Capital Litigation. Prosecuting Death Penalty Cases – National District Attorneys Association Course. August 12, 2015, Oklahoma City, OK

Frierson RL, Persons With Mental Illness as Perceived by the Legal System, Behavioral Health Conference 2015. South Carolina Department of Corrections. January 9, 2015, Columbia, S.C.

Holmberg T, Gardner N, **Frierson RL**: Physician, Heal Thyself? 45th Annual Meeting of the American Academy of Psychiatry and the Law, October 24, 2014, Chicago, Illinois

Frierson RL, Epright C: The Execution of Persons Incapable of Conforming, 45th Annual Meeting of the American Academy of Psychiatry and the Law, October 24, 2014, Chicago, Illinois

Frierson RL, Faulkner L, Pinals D: ABPN Maintenance of Certification (MOC): An Update, 45th Annual Meeting of the American Academy of Psychiatry and the Law, October 23, 2014, Chicago, Illinois

Frierson RL, Persons With Mental Illness as Perceived by the Legal System, Psychiatry Grand Rounds, Georgia Regents University, April 14, 2014, Augusta Georgia

Frierson RL, Srinivasan S: DSM-5: What you Need to Know. Second Tuesday Series, University of South Carolina Department of Social Work. March 11,

2014, Columbia, SC

Raley J, **Frierson RL**, Campbell J, Richardson AC, Lee M, Eaton V: The Insanity Plea: A Mock Trial, South Carolina Psychiatric Association Annual Meeting, February 1, 2014, Charleston, SC

Frierson RL: Fitness for Duty Evaluation of Licensed Professionals, 44th Annual meeting of the American Academy of Psychiatry and the Law, October 24, 2013, San Diego, CA

Frierson RL: Sexual Disorders Related to Sexual Crimes, Prosecuting Sexual Assault and Related Crimes Course, National District Attorneys Association, Denver, CO, August 22, 2013

Frierson RL: Sexual Assault Victimology and Victim Behavior, Prosecuting Sexual Assault and Related Crimes Course, National District Attorneys Association, Denver, CO, August 21, 2013

Frierson RL: Insanity and Guilty But Mentally Ill: The Science and the Law. Capital Case Litigation Conference, Lexington, KY, May 23, 2013

Frierson RL: Intellectual Disability and Personality Disorders. Capital Case Litigation Conference, Lexington, KY, May 23, 2013

Frierson RL: Combat Related Posttraumatic Stress Disorder and Criminal Responsibility Determinations in the Post-Iraq Era: A Review and Case Report, 43rd Annual Meeting of the American Academy of Psychiatry and the Law, Montreal Quebec, October 25, 2012

Frierson RL, Faulkner L, Pinals D, and Wills C: Lifelong Learning and ABPN Maintenance of Certification. 43rd Annual Meeting of the American Academy of Psychiatry and the Law, Montreal Quebec, October 25, 2012

Frierson RL: Forensic Services: Opportunities for Revenue Generation, Administrators in Academic Psychiatry 2012 Spring Meeting, Charleston SC, April 20, 2012

Frierson RL: The Role of Delusion in the Determination of Criminal Responsibility, Psychiatry Grand Rounds, Georgia Health Sciences University, Augusta, GA, March 14, 2012

Martone C, Yang S, Soliman L, and **Frierson RL:** Psychiatric Characteristics of a Representative Sample of Homicide Defendants, 42nd Annual Meeting of the American Academy of Psychiatry and the Law, Boston, MA, October 29, 2011

Frierson RL: Meeting Mental Health Defenses, Mental Retardation in Capital Litigation, Oklahoma District Attorneys Council, Oklahoma City, OK, June 2, 2011

Frierson RL: Cross Examination of the Mental Health Expert, Strategic Cross-Examination and Witness Issues in Domestic Violence Cases, Alaska Department of Law, Anchorage, AK, April 18-21, 2011

Frierson RL: PTSD and Legal Insanity, Psychiatry Grand Rounds, Wilford Hall Medical Center, Lackland AFB, TX, February 3, 2011

Frierson RL: Persons with Mental Illness as Perceived by the Legal System, Psychiatry Grand Rounds, University of Texas Health Sciences Center, San Antonio, TX, February 1, 2011

Frierson RL: Unusual Defenses: Anticipating and Overcoming Mental Health Defenses, Forensic Evidence Course, National District Attorneys Association, San Antonio, TX, December 7, 2010

Frierson RL and Knight SC: The Insanity Defense in South Carolina, 2010 Judges and Attorneys Substance Abuse and Ethics Seminar, Charleston, SC, December 3, 2010

Frierson RL: The Mentally Ill Defendant and Mental Illness Verdicts: Perceptions of the Criminal Bar, 41st Annual Meeting of the American Academy of Psychiatry and the Law, Tucson, AZ, October 22, 2010

Pinals D and **Frierson RL:** Preparing for Maintenance of Certification, 41st Annual Meeting of the American Academy of Psychiatry and the Law, Tucson, AZ, October 21, 2010

Frierson RL: Mental Retardation and Competence to be Executed. Capital Litigation Seminar, National College of District Attorneys, Columbia, SC, September 27, 2010

Frierson RL: Meeting Mental Defenses. Capital Litigation Seminar, National College of District Attorneys, Columbia, SC, September 27, 2010

Frierson RL: Thirty-five Years after *Tarasoff*. The Duty to Protect in South Carolina, South Carolina Department of Mental Health Annual Day Long CME Activity, September 17, 2010

Frierson RL: Anticipating and Overcoming Mental Health Defenses, Unusual Defenses and Brain Scan Evidence. Forensic Evidence Course, National College of District Attorneys, San Diego CA, December 7, 2009.

Campbell J, **Frierson RL:** Attitudes of Correctional Officers toward the Mentally Ill. 40th Annual Meeting of the American Academy of Psychiatry and the Law, Baltimore, MD, November 1, 2009.

Frierson RL: Psychiatric Malpractice: An Overview, Psychiatry Grand Rounds, Medical College of Georgia, Augusta GA, February 19, 2009.

Frierson RL: Mental Defenses. Tennessee District Attorneys General Conference Annual Fall Meeting, Knoxville, TN, October 30, 2008.

Buckland JJ, **Frierson RL**: Psychiatrists' Response to The Duty to Protect. 39th Annual Meeting of the American Academy of Psychiatry and the Law, Seattle, WA, October 22, 2008.

Frierson RL: Meeting Mental Health Defenses. Career Prosecutor Course, National College of District Attorneys, Charleston, SC, June 4, 2008

Frierson RL: The Inclusion of Juvenile Sex Offenders in Sex Offender Registries and Sexual Violent Predator Programs. 2008 Annual Meeting of the American Society of Adolescent Psychiatry, Boston, MA, March 27, 2008

Frierson RL: The Mentally Ill Criminal Defendant: What Do Jurors and Lawyers Think? Medical College of Georgia, Augusta GA, November 15, 2007.

Frierson RL: The Guilty But Mentally Ill Verdict in South Carolina. 2nd Annual Conference, South Carolina Department of Corrections Division of Mental Health Services, Columbia, SC, November 2, 2007

Frierson RL: Meeting Mental Defenses. Contemporary Prosecution Course, National College of District Attorneys, New Orleans, LA, October 29, 2007

Nichita EC and **Frierson RL**: Psychotic vs. Non-psychotic Murder Defendants referred for Pretrial Evaluation, 38th Annual Meeting of the American Academy of Psychiatry and the Law, Miami, FL, October17, 2007.

Frierson RL: DSM IV – Lost in Translation. Experts Course: National College of District Attorneys, San Antonio, TX, May 10, 2007

Frierson RL: Malingering – "Professional Lie Detectors". Experts Course: National College of District Attorneys, San Antonio, TX, May 9, 2007

Dwyer RG, Saleh F, **Frierson RL**, Grudzinkas A, and Laufersweiler-Dwyer D: Juveniles on Sex Offender Registries: Good or Bad Idea? 44th Annual Meeting of the Academy of Criminal Justice Sciences, Seattle, WA, March 15, 2007

Frierson RL: Posttraumatic Stress Disorder and Legal Insanity. Georgia

Psychiatric Physicians Association 2007 Annual Winter Meeting, Atlanta, GA, February 24, 2007

Ferlauto M and **Frierson RL**: Involuntary Commitment and the Probate Judge: A Survey. 37th Annual Meeting of the American Academy of Psychiatry and the Law, Chicago, IL, October 27, 2006

Dwyer RG and **Frierson RL**: Overview of Pharmacological Treatment of Adult Sexual Offending Behaviors, 4th Annual CME Conference: "A Psychiatric Update on Comorbid Conditions", University of South Carolina School of Medicine and Palmetto Health Alliance, Columbia, SC, September 15, 2006

Frierson RL: The Evolution and Evaluation of Legal Insanity. Psychiatry Grand Rounds, East Tennessee State University, Johnson City, TN, August 17, 2006

Frierson RL: Criminal Responsibility and the Insanity Defense, Psychiatry Grand Rounds, Medical College of Georgia, Augusta, GA. June 15, 2006

Frierson RL: Fundamentals of Risk Assessment in Patients Threatening Violence, Psychiatry Grand Rounds, Wilford Hall Medical Center, Lackland AFB, TX, May 11, 2006

Frierson RL: The Evolution and Evaluation of Legal Insanity. Psychiatry Grand Rounds, University of Texas Health Sciences Center San Antonio, San Antonio, TX, May 9, 2006

Frierson RL: Mental Health Issues in Capital Litigation, Florida Prosecutors Association Capital Litigation Seminar, Gainesville, FL, February 7, 2006

Frierson RL: Juror and Lawyer Understanding of Mental Illness Verdicts and their Attitudes Towards Mentally Ill Defendants, Psychiatry Grand Rounds, Palmetto Health Alliance, University of South Carolina School of Medicine, Columbia, SC, January 20, 2006

Frierson RL: Forensic Psychiatry: Special Claims Regarding Insanity - A View From the Experts Eyes, National College of District Attorneys, Prosecuting Homicide Cases Program, San Diego, CA, November 2, 2005

Frierson RL, Boyd M, Harper A: Attorney Knowledge and Attitudes About Mental Illness: A Survey, 36th Annual Meeting of the American Academy of Psychiatry and the Law, Montreal, Quebec, October 30, 2005

Nichita EC and **Frierson RL**: Evidenced Based Informed Consent with Antipsychotic Treatment, 36th Annual Meeting of the American Academy of Psychiatry and the Law, Montreal, Quebec, October 28, 2005

Joshi K, **Frierson RL,** and Gunter TD: Shared Delusional Disorder and Criminal Responsibility: A Review and Case Report of *Folie à Trois*, 36th Annual Meeting of the American Academy of Psychiatry and the Law, Montreal, Quebec, October 27, 2005

Frierson RL: Criminal Responsibility and Legal Insanity, Forensic Day of Discovery, Medical University of South Carolina, Charleston, SC, May 12, 2005

Frierson RL: The Initial Assessment and Management of Persons Threatening Violence, Annual Spring Meeting of the Iowa Psychiatric Association, Des Moines, IA, April 9, 2005

Frierson RL: Violence Risk Assessment: A Practical Approach, Psychiatry Grand Rounds, Medical College of Georgia, Augusta, GA. February 17, 2005

Frierson RL: Risk Assessment in Patients Threatening Violence, Psychiatry Grand Rounds, University of Iowa, Iowa City, IA. November 23, 2004

Finkenbine RD, Weiss KJ, **Frierson RL**, Miller BA, and Jacoby KA: Workshop: Competency to Confess Assessment and Report Writing, 35th Annual Meeting of the American Academy of Psychiatry and the Law, Phoenix, AZ October 22, 2004

Frierson RL: When a Patient Threatens Violence: The Clinician's Duty, An Update on Suicide and Aggression: Second Annual Day Long CME Conference, South Carolina Department of Mental Health / University of South Carolina School of Medicine, Columbia, SC. October 15, 2004

Frierson RL: The Duty to Protect and Violence Risk Assessment, Psychiatry Grand Rounds, West Virginia University, Morgantown, WV. September 8, 2004

Dwyer RG, Bell CC, Williamson JL, and **Frierson RL**: The Juvenile Justice System: Assessment, Services, and Data Use, 157th Annual Meeting of the American Psychiatric Association, New York, NY. May 4, 2004

Dwyer RG, Laufersweiler-Dwyer DL, and **Frierson RL**: Identifying Capital Murder Defendants with Mental Retardation, 41st Annual Meeting of the Academy of Criminal Justice Sciences, Las Vegas, NV. March 11, 2004

Dwyer RG and **Frierson RL**: Neuropsychiatric Characteristics of Mentally Retarded Murder Defendants, South Carolina Department of Disabilities and Special Needs, Forensic Conference, Columbia, SC. January 22, 2004

Dwyer RG and **Frierson RL**: Mental Retardation and the Murder Defendant, 34th Annual Meeting of the American Academy of Psychiatry and the Law, San Antonio, TX. October 2003

Frierson, RL: Murder: Diagnosis, Weapon Choice, and Victimology, 34th Annual Meeting of the American Academy of Psychiatry and the Law, San Antonio, TX. October 2003

Frierson RL: Psychiatry and the Death Penalty, Forensic Day of Discovery, Medical University of South Carolina, Charleston, SC. March 2003

Frierson RL, Melikian M, and Faubion MW: Fetal Rights: A Primer for Mental Health Clinicians, Psychiatry Grand Rounds, Palmetto Health Alliance, University of South Carolina School of Medicine, Columbia, SC. January 2003

Frierson RL, Faubion MW, Finkenbine RD, and Melikian M: The Fetus-As-Person: Criminal and Civil Issues, 33rd Annual Meeting of the American Academy of Psychiatry and the Law, Newport Beach, CA. October 2002

Sloat L and **Frierson RL:** Juror Understanding of Mental Illness Verdicts. 33rd Annual Meeting of the American Academy of Psychiatry and the Law, Newport Beach, CA. October 2002

Frierson RL: The Duty to Protect and the Unborn, Special Topics in Forensic Psychiatry Seminar, Department of Neuropsychiatry and Behavioral Science, University of South Carolina, Columbia, SC. February 20, 2002

Frierson RL: Suicide Risk Assessment and Management in the Depressed Patient. Psychiatry Grand Rounds, Wilford Hall Medical Center, Lackland Air Force Base, San Antonio, TX. February 7, 2002

Frierson RL: "Violence Risk Assessments", Dinner Meeting of the combined University of Texas Health Sciences Center/Wilford Hall Medical Center Psychiatry Residents, San Antonio, TX. February 6, 2002

Frierson RL: Psychiatry and the Death Penalty, Psychiatry Grand Rounds, University of Texas Health Sciences Center, San Antonio, TX. February 5, 2002

Frierson RL and Shugart M: Biopsychosocial Characteristics of Juvenile Murderers."32nd Annual Meeting of the American Academy of Psychiatry and the Law, Boston, MA. October 2001

Schwartz-Watts DM, **Frierson RL,** Clayton B, and Morgan DM: Comparing Capital Murder Trials. 32nd Annual Meeting of the American Academy of Psychiatry and the Law, Boston, MA. October 2001

Frierson RL: Psychiatry and the Death Penalt", Psychiatry Grand Rounds, Wake Forest University, Winston- Salem, NC. March 16, 2001

Frierson RL and Baker T: Forensic Evaluation of Persons with Mental Illness and Mental Retardation. The Forensic Forum, Columbia, S.C. October 2000

Frierson RL and Finkenbine R: Research in Progress: Psychiatric and Neurological Characteristics of Murderers. 31st Annual Meeting of the American Academy of Psychiatry and the Law. Vancouver, B.C. October 2000

Frierson RL, Powell A, Winter E: Civil and Emergency Commitment in South Carolina, Psychiatry Grand Rounds, Palmetto Health Alliance, University of South Carolina School of Medicine, Columbia, SC. July 2000

Frierson RL: The Duty to Protect: *Tarasoff* Revisited, Psychiatry Grand Rounds, Palmetto Health Alliance, University of South Carolina School of Medicine, Columbia, SC. June 2000

Frierson RL: *Bishop v. DMH*: The Duty to Protect in South Carolina, Forensic Special Topics Seminar, William S. Hall Psychiatric Institute, University of South Carolina School of Medicine, Columbia, SC. March 2000

Frierson RL: Psychiatry and the Death Penalty, Grand Rounds, William S. Hall Psychiatric Institute, University of South Carolina School of Medicine, Columbia, SC. March 2000

Frierson RL, Shea SJ, Behrmann TW, and Crawford PM. Trial Abilities in Geriatric Defendants. 30th Annual Meeting of the American Academy of Psychiatry and the Law. Baltimore, MD. October 1999

McKee GR, **Frierson RL**, Shea SJ, and Pickens R: Multidisciplinary Assessment of Malingering. 29th Annual Meeting of the American Academy of Psychiatry and the Law. New Orleans, LA. October 1998

Barth E, Schwartz DM, and **Frierson RL**: Harassing Telephone Callers. 28th Annual Meeting of the American Academy of Psychiatry and the Law. Denver, CO. October 1997

Frierson RL: Ethical Issues in Forensic Psychiatry, Psychiatry and the Law Seminar. Columbia, SC. April 1997

Frierson RL: Criminal Forensic Evaluations. The Forensic Forum. Columbia, S.C. October 1996

Frierson RL, Schwartz DM, Morgan DM, and Malone TG: Capital versus Noncapital Murderers. 27th Annual Meeting of the American Academy of Psychiatry and the Law. San Juan, Puerto Rico. October 1996

Frierson RL: Competency to be Executed, Psychiatry and the Law Seminar.

Columbia, SC. May 1995

Frierson RL: Physician Assisted Suicide and the Development of Obitiatry, Psychiatry and the Law Seminar. Columbia, SC. March 1994

Frierson RL: Parasomnias in Childre", William S. Hall Psychiatric Institute Child Grand Rounds. Columbia, SC. March 1991

Frierson RL: Treatment of Depression in the Elderly, William S. Hall Psychiatric Institute Grand Rounds. Columbia, SC. November 1990

Frierson RL: Depression in the Elderly, Dorn Veterans Administration Medical Center. Columbia, SC. June 1990

PROFESSIONAL MEMBERSHIP

Group for the Advancement of Psychiatry (GAP)	2013-
American Medical Association	2007-
American Psychiatric Association	1988-
South Carolina Psychiatric Association	1988-
American Academy of Psychiatry and the Law	1992-

OTHER MEMBERSHIP

National Alliance for the Mentally Ill – Midlands Chapter	2006-
Board of Trustees, Washington Street UMC Foundation	2013-

MEDICAL LICENSE South Carolina #14444

SLED – SPECIAL VICTIMS UNIT – PO BOX 21398,
COLUMBIA, SC 29221-1398

DEFENDANT'S EXHIBIT

FACSIMILE TRANSMITTAL SHEET

TO: **ATTN: Records Department**	FROM: Special Victims Unit – Child Fatality Investigations Phone: 803-240-0932 Fax: 864-847-5842 **S/A Christine Cauthen**
COMPANY: Piedmont Psychiatric Services Dr. Jeffery Kent Smith	DATE: 05-15-13
FAX NUMBER: 864-676-9432	TOTAL NO. OF PAGES INCLUDING COVER: 5
PHONE NUMBER: 864-676-9211	RE: All Medical Records for Suzanna Simpson

☐ URGENT ☐ FOR REVIEW
☐ PLEASE COMMENT X PLEASE REPLY

NOTES/COMMENTS:

Please call me when the records are available and we may be able to set up a time for me to come by and pick them up.

Thank You,
Chris

CONFIDENTIALITY NOTICE

This transmission is intended only for the use of the individual or entity to which it is addressed and may contain information which is privileged and confidential. If the reader of this message is not the intended recipient you are hereby notified that any disclosure, distribution, or copying of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately by calling the above telephone number. Thank you for your assistance and cooperation.

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

NIKKI R. HALEY
Governor

MARK KEEL
Chief

May 15, 2013

Piedmont Psychiatric Services
Dr. Jeffery Kent Smith
2094 Woodruff Road
Greenville, SC 29607

RE: All Medical Records from **Piedmont Psychiatric Services** pertaining to **Suzanna Brown Simpson.**

Dear Records Manager:

Pursuant to the South Carolina Child Fatalities Law, S.C Code Section 63-11-1960, the South Carolina Law Enforcement Division (SLED) is requesting **All Medical Records** on the following person::

Name:	**Suzanna Brown Simpson**
Date of Birth:	01/26/1978

Please mail records to:
SLED, S/A Christine Cauthen
208 Sweetgum Circle
Williamston, SC 29697

You are reminded of the full and immediate disclosure requirements imposed by S.C. Code Section 20-7-5930, a copy of which is included. This Department is aware of the Patient Privacy Protections as afforded by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), but a closer look at the *Standards for Privacy of Individually Identifiable Health Information* as developed by the Department of Health and Human Services (HHS) as mandated by the United States Congress will show that disclosure of the requested records are allowed to this Department. See enclosed Federal Regulation 164.512(f)(1)(i). Other reference material is provided for your understanding.

Thank you for your cooperation in this matter.

Sincerely,

Christine Cauthen
Special Agent
S.C. Law Enforcement Division
Special Victim's Unit-Child Fatality Investigations
(803)240-0932

CALEA

SOUTH CAROLINA CODE OF LAWS

SECTION 63-11-1950. Purpose and duties of Committee.

(A) The purpose of the State Child Fatality Advisory Committee is to decrease the incidences of preventable child deaths by:
(1) developing an understanding of the causes and incidences of child deaths;
(2) developing plans for and implementing changes within the agencies represented on the committee which will prevent child deaths; and
(3) advising the Governor and the General Assembly on statutory, policy, and practice changes which will prevent child deaths.
(B) To achieve its purpose, the committee shall:
(1) meet with the department no later than one month after the department receives notification by the county medical examiner or coroner pursuant to Section 17-5-540 to review the investigation of the death;
(2) undertake annual statistical studies of the incidences and causes of child fatalities in this State. The studies shall include an analysis of community and public and private agency involvement with the decedents and their families before and subsequent to the deaths;
(3) the committee shall consider training, including cross-agency training, consultation, technical assistance needs, and service gaps. If the committee determines that changes to any statute, regulation, policy, or procedure is needed to decrease the incidence of preventable child deaths, the committee shall include proposals for changes to statutes, regulations, policies, and procedures in the committee's annual report;
(4) educate the public regarding the incidences and causes of child deaths, the public role in preventing these deaths, and specific steps the public can undertake to prevent child deaths. The committee shall enlist the support of civic, philanthropic, and public service organizations in performing the committee's education duties;
(5) develop and implement policies and procedures for its own governance and operation;
(6) submit to the Governor and the General Assembly, an annual written report and any other reports prepared by the committee, including, but not limited to, the committee's findings and recommendations. Annual reports must be made available to the public

SECTION 63-11-1960. Access to information.

Upon request of the department and as necessary to carry out the department's purpose and duties, the department immediately must be provided.

(1) by a provider of medical care, access to information and records regarding a child whose death is being reviewed by the department, including information on prenatal care;

(2) access to all information and records maintained by any state, county, or local government agency, including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the child or family, including information made strictly confidential in Section 63-7-940 concerning unfounded reports of abuse or neglect.

Federal Registry / Vol. 65, No. 250: 45 CFR Parts 160 and 164
Standards for Privacy of Individually Identifiable Health Information

§ 164.512 Uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required.

A covered entity may use or disclose protected health information without the written consent or authorization of the individual as described in §§ 164.506 and 164.508, respectively, or the opportunity for the individual to agree or object as described in § 164.510, in the situations covered by this section, subject to the applicable requirements of this section. When the covered entity is required by this section to inform the individual of, or when the individual may agree to, a use or disclosure permitted by this section, the covered entity's information and the individual's agreement may be given orally.

(a) *Standard: Uses and disclosures required by law.* (1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

(2) A covered entity must meet the requirements described in paragraph (c), (e), or (f) of this section for uses or disclosures required by law.

* * *

(f) *Standard: Disclosures for law enforcement purposes.* A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.

(1) *Permitted disclosures: Pursuant to process and as otherwise required by law.* A covered entity may disclose protected health information:

(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or

(ii) In compliance with and as limited by the relevant requirements of:

(A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

(B) A grand jury subpoena; or

(C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought, and

(3) De-identified information could not reasonably be used.

* * *

§ 164.514 Other requirements relating to uses and disclosures of protected health information.

(2) *Implementation specifications: Verification.* (i) *Conditions on disclosures.* If a disclosure is conditioned by this subpart on particular documentation, statements, or representations from the person requesting the protected health information, a covered entity may rely, if such reliance is reasonable under the circumstances, on documentation, statements, or representations that, on their face, meet the applicable requirements.

(A) The conditions in § 164.512(f)(1)(ii)(C) may be satisfied by the administrative subpoena or similar process or by a separate written statement that, on its face, demonstrates that the applicable requirements have been met.

(B) The documentation required by § 164.512(i)(2) may be satisfied by one or more written statements, provided that each is appropriately dated and signed in accordance with § 164.512(i)(2)(i) and (v).

(ii) *Identity of public officials.* A covered entity may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:

(A) If the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;

(B) If the request is in writing, the request is on the appropriate government letterhead; or

(C) If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.

(iii) *Authority of public officials.* A covered entity may rely, if such reliance is reasonable under the circumstances, on any of the following to verify authority when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:

(A) A written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such legal authority;

(B) If a request is made pursuant to legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.

(iv) *Exercise of professional judgment.* The verification requirements of this paragraph are met if the covered entity relies on the exercise of professional judgment in making a use or disclosure in accordance with § 164.510 or acts on a good faith belief in making a disclosure in accordance with § 164.512(j).

Federal Registry / Vol. 65, No. 250: 45 CFR Parts 160 and 164
Standards for Privacy of Individually Identifiable Health Information

Comments found in the Final Rulings of the DEPARTMENT OF HEALTH AND HUMAN SERVICES - Office of the Secretary

Section 164.512—Uses and Disclosures for Which Consent, Authorization, or Opportunity to Agree or Object Is Not Required

Section 164 512(a) Uses and Disclosures Required by Law

Comment. Numerous commenters addressed directly or by implication the question of whether the provision permitting uses and disclosures of protected health information if required by other law was necessary. Other commenters generally endorsed the need for such a provision. One such commenter approved of the provision as a needed fail-safe mechanism should the enumeration of permissible uses and disclosures of protected health information in the NPRM prove to be incomplete. Other commenters cited specific statutes which required access to protected health information, arguing that such a provision was necessary to ensure that these legally mandated disclosures would continue to be permitted. For example, some commenters argued for continued access to protected health information to investigate and remedy abuse and neglect as currently required by the Developmental Disabilities Assistance and Bill of Rights, 42 U.S.C. 6042, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801.

Some comments urged deletion of the provision for uses and disclosures required by other law. This concern appeared to be based on a generalized concern that the provision fostered government intrusion into individual medical information.

Finally, a number of commenters also urged that the required by law provision be deleted. These commenters argued that the proposed provision would have undermined the intent of the statute to preempt state laws which were less protective of individual privacy. As stated in these comments, the provision for uses and disclosures required by other law was "broadly written and could apply to a variety of state laws that are contrary to the proposed rule and less protective of privacy. (Indeed, a law *requiring* disclosure is the least protective of privacy since it allows for no discretion.) The breadth of this provision greatly exceeds the exceptions to preemption contained in HIPAA."

Response. We agree with the comments that proposed § 164.510(a) was necessary to harmonize the rule with existing state and federal laws mandating uses and disclosures of protected health information. Therefore, in the final rule, the provision permitting uses and disclosures as required by other law is retained. To accommodate other reorganization of the final rule, this provision has been designated as § 164.512(a).

We do not agree with the comments expressing concern for increased governmental intrusion into individual privacy under this provision. The final rule does not create any new duty or obligation to disclose protected health information. Rather, it permits covered entities to use or disclose protected health information when they are required by law to do so.

We likewise disagree with the characterization of the proposed provision as inconsistent with or contrary to the preemption standards in the statute or Part 160 of the rule. As described in the NPRM, we intend this provision to preserve access to information considered important enough by state or federal authorities to require its disclosure by law.

The importance of these required uses or disclosures is evidenced by the legislative or other public process necessary for the government to create a legally binding obligation on a covered entity. Furthermore, such required uses and disclosures arise in a myriad of other areas of law, ranging from topics addressing national security (uses and disclosures to obtain security clearances), to public health (reporting of communicable diseases), to law enforcement (disclosures of gun shot wounds). Required uses and disclosures also may address broad national concerns or particular regional or state concerns. It is not possible, or appropriate, for HHS to reassess the legitimacy of or the need for each of these mandates in each of their specialized contexts. In some cases where particular concerns have been raised by legal mandates in other laws, we allow disclosure as required by law, and we establish additional requirements to protect privacy (for example, informing the individual as required in § 164.512(c)) when covered entities make a legally mandated disclosure.

We also disagree with commenters who suggest that the approach in the final rule is contrary to the preemption provisions in HIPAA. HIPAA provides HHS with broad discretion in fashioning privacy protections. Recognizing the legitimacy of existing legal requirements is certainly within the Secretary's discretion. Additionally, given the variety of these laws, the varied contexts in which they arise, and their significance in ensuring that important public policies are achieved, we do not believe that Congress intended to preempt each such law unless HHS specifically recognized the law or purpose in the regulation.