

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

J. Mark Hayes, II, Circuit Court Judge

RECEIVED

JAN 04 2018

S.C. SUPREME COURT

IN THE MATTER OF THE CARE AND
TREATMENT OF KEITH FITZGERALD BURRIS,

APPELLANT

APPELLATE CASE NO 2015-002122

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General
SC Bar No. 5098
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED OCTOBER 7-8, 2015	1
JURY VOIR DIRE	4
JURY SELECTION	30
STATE'S MOTION <u>IN LIMINE</u>	33
RESPONDENT'S MOTIONS <u>IN LIMINE</u>	35
PRE-TRIAL TESTIMONY	
MARIE GEHLE (IN CAMERA)	
Direct examination by Mr. Bogle	46
Cross examination by Ms. Good.....	54
OPENING STATEMENT BY MR. BOGLE	68
OPENING STATEMENT BY MS. GOOD	72
TESTIMONY	
MARIE GEHLE	
Direct examination by Mr. Bogle	75
Cross examination by Ms. Good.....	118
MOTION FOR DIRECTED VERDICT.....	142
RULING BY THE COURT.....	143
TESTIMONY	
JAMES MOORE	
Direct examination by Ms. Good.....	146
Cross examination by Mr. Bogle	148
Redirect examination by Ms. Good	149
KEITH BURRIS	
Direct examination by Ms. Good.....	150
Cross examination by Mr. Bogle	156

MOTION FOR DIRECTED VERDICT.....	159
RULING BY THE COURT.....	160
CLOSING ARGUMENT BY MR. BOGLE	161
CLOSING ARGUMENT BY MS. GOOD.....	169
CHARGE ON THE LAW	176
NOTE FROM THE JURY.....	189
VERDICT	191
MOTION FOR A NEW TRIAL.....	193
RULING BY THE COURT.....	193
VOIR DIRE/ <u>BATSON</u> SHEET DATED OCTOBER 7, 2015.....	195
YORK CIRCUIT COURT RANDOM STRIKE SHEET	196
STATE’S EXHIBIT # 1 (DEFENDANT’S 1/24/05 CONVICTION/CSC W. MINOR 2 ND).....	197
STATE’S EXHIBIT # 2 (DEFENDANT’S 1/24/05 CONVICTION/CSC W. MINOR 2 ND).....	200
STATE’S EXHIBIT # 3 (DEFENDANT’S 1/24/05 CONVICTION/CSC W. MINOR 2 ND).....	203
STATE’S EXHIBIT # 4 (DEFENDANT’S 11/13/14 CRIMINAL SOLICITATION OF A MINOR)	205
DEFENDANT’S EXHIBIT # 1 (FORENSIC PSYCHOLOGICAL EVALUATION).....	209
COURT’S EXHIBIT # 2 (JURY NOTE).....	239
COURT’S EXHIBIT # 3 (JURY NOTE).....	240
PETITION PURSUANT TO THE SEXUALLY VIOLENT PREDATOR ACT.....	241
PETITIONER’S FIRST MOTION IN LIMINE.....	285
PETITIONER’S SECOND MOTION IN LIMINE.....	288
ORDER OF COMMITMENT	292
CERTIFICATE OF COUNSEL	293

State of South Carolina.,) In the Court of Common
) Pleas for York
)
 County of York.) Case No.: 2015-CP-46-00758

State of South Carolina.,)
)
 Petitioner.,)
)
 -vs-) Transcript of Record
)
 In the Matter of the Care.,)
)
 and Treatment of)
 Keith Fitzgerald Burris.,)
)
 Respondent.)
)

October 7, 8, 2015
 York, South Carolina

B E F O R E:

The Honorable J. Mark Hayes, II., Judge, and a jury.

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

Mr. James G. Bogle, Junior
 Senior Assistant Attorney General
 Office of the Attorney General
 Post Office Box 11549
 Columbia, South Carolina 29231
 (803) 734-1173
Jbogle@scaq.gov
 For the Petitioner

ORIGINAL

Ms. Anna R. Good
 Attorney at Law
 2127 Park Street
 Post Office Box 7284
 Columbia, South Carolina 29202
 803-661-6758
anna@annagoodlaw.com
 For the Respondent

Wanda Nelson, CVR-M
 Official Court Reporter
 To the Honorable John C. Hayes, III

1 MR. BOGLE: Thinking we wouldn't get started right
2 away on some testimony.

3 THE COURT: Anything before we bring the jury up to
4 qualify 'em?

5 MR. BOGLE: No, your Honor.

6 MS. GOOD: No, sir.

7 THE COURT: Okay. All right, you want to bring 'em up
8 and I'll step in the back. Just call and I'll come in when
9 they get here.

10 (COURT AT EASE AT 10:25 AM.)

11 (JURY ENTERS COURTROOM AT 10:27 AM.)

12 (COURT BACK IN SESSION AT 10:30 AM.)

13 THE COURT: You may be seated. Good morning, ladies
14 and gentlemen. My name is Mark Hayes and I am a circuit
15 court judge and it is my pleasure to be with you during
16 this term of court here in York County. This term of
17 court, it's a short week since we had all the rain problems
18 but this term of court will last, if it last that long, it
19 will last - it will end on Friday. I want you to know that
20 we all understand the inconvenience a jury service causes
21 to your personal lives and we thank you for being here.
22 And we all do our best to be sure that we minimize the
23 inconvenience to you and hopefully make this as an
24 enjoyable and educational process as possible.

25 I'm sure you've met them but I want to be sure that

1 you understand that we do have bailiffs here in the
2 courtroom. This gentleman over here, you will also
3 probably see a couple of more around the courtroom, in the
4 event there is ever any emergencies that occur or you have
5 any questions that you feel like maybe I need to know
6 about, be sure you talk to one of the bailiffs and they
7 will be sure to try to assist you with that issue and get
8 the communications to me.

9 Our purpose at this point is to determine your
10 qualifications and eligibilities to serve as jurors. Now
11 jury qualification is done in several stages. You've
12 already had one process down stairs where the actual Clerk
13 of Court called the roll and so that part has been done.
14 And so now this part of jury qualification is a part where
15 I have the responsibility and duty to ask you certain
16 questions. I need you to listen to these questions. If
17 you need to respond to the questions I'm gonna ask if you
18 would to stand up and let me call on you one at a time.
19 Just don't everybody speak out at once but just stand up
20 and let me call on you.

21 I need to let you know that we are making a recording
22 of everything that happens here. The lady that's sitting
23 way over here to my right, she doesn't have respiratory
24 problem, she is actually recording everything that takes
25 place here so please speak up loud enough so that both she

1 and I can hear you.

2 I need to remind you that the Clerk of Court has
3 already placed you under oath and so you do have an
4 obligation to give us truthful answers to these questions.
5 Now if ever during this process if you cannot hear me,
6 immediately let me know and I will speak up as well.

7 Now here are the questions that determine your
8 qualifications. Is any member of the jury panel not a
9 citizen of the United States, if so, please stand at this
10 time?

11 (NO ONE STANDS.)

12 THE COURT: Is any member of the jury panel not
13 presently a resident and citizen of York County, if so,
14 please stand at this time?

15 (NO ONE STANDS.)

16 THE COURT: Is any member of the jury panel unable to
17 read, write, speak, or understand the English language, if
18 so, please stand at this time?

19 (NO ONE STANDS.)

20 THE COURT: Now, ladies and gentlemen, --

21 Yes, sir. What's your juror number?

22 A. Eighty-four.

23 THE COURT: All right. Sir, you want to approach
24 the bench for a moment? Just meet me right down here in
25 front of the court reporter if you would.

1 (COURT LEFT BENCH.)

2 THE COURT: Come right up here. All right, you don't
3 understand the English language?

4 JUROR EIGHTY-FOUR: No, and I can't read and write.

5 THE COURT: You can't read or write? Okay. How far
6 did you go in school?

7 JUROR EIGHTY-FOUR: I went up to the fifth grade.

8 THE COURT: Okay. All right. Do you have a job, Mr.
9 McWaters?

10 MR. MCWATERS: Yes, sir, I do background scenery for
11 TV news.

12 THE COURT: Oh, really?

13 MR. MCWATERS: Yeah.

14 THE COURT: What does that entail?

15 MR. MCWATERS: We do all kind of wood work stuff.
16 Counters and things like that. It's all woodwork stuff.

17 THE COURT: Okay. And you don't - And you can't read?

18 MR. MCWATERS: I had dyslexia when I was little.

19 THE COURT: Okay.

20 MR. MCWATERS: So back then they didn't know what to
21 do with people like me.

22 THE COURT: Okay.

23 MR. MCWATERS: And I learn to read, you know, little
24 small things.

25 THE COURT: Uh-huh. Okay. And I think what I'm gonna

1 do, Mr. McWaters, I'm gonna excuse you from jury service.
2 Okay.

3 MR. MCWATERS: Okay.

4 THE COURT: If you would please see the Clerk of
5 Court. Okay. See the Clerk of Court. Thank you for
6 coming today.

7 (COURT RETURNED TO THE BENCH.)

8 THE COURT: All right, ladies and gentlemen, I am now
9 gonna read the next three questions. Please listen to all
10 three of these questions. If you need to respond to these
11 questions I'm gonna ask you if you would to please stand
12 after the third question. Here are the next three
13 questions.

14 Does any member of the jury panel have less than a
15 sixth grade education or its equivalent? Is any member of
16 the jury panel unable because of a mental or physical
17 infirmity to render efficient jury service this week? And
18 has any member of the jury panel been convicted by a guilty
19 plea or trial in a state or federal court of record of a
20 crime punishable by imprisonment for more than one year and
21 your civil rights have not been restored by pardon or
22 amnesty? Now punishable by more than one year means that
23 you could have received a sentence of more than one year
24 regardless of what sentence you may have actually received.

25 Now if any of those three questions apply to you,

1 please stand at this time.

2 (WHITE MALE STANDS.)

3 THE COURT: Yes, sir, your juror number?

4 A. Seventy-nine.

5 THE COURT: You're Mr. McCluney?

6 MR. MCCLUNEY: Yes, sir.

7 THE COURT: Sir, meet me right up here at the court
8 reporter.

9 (COURT LEAVES THE BENCH.)

10 THE COURT: Just step right up here. Yes, sir,
11 Mr. McCluney.

12 MR. MCCLUNEY: I was convicted of a felony.

13 THE COURT: Were you convicted?

14 MR. MCCLUNEY: A bunch of stuff. Weed, drugs,

15 THE COURT: And did you - -

16 MR. MCCLUNEY: Regular assault besides is on my
17 record.

18 THE COURT: You received sentences that if you went to
19 prison it would be for more than one year?

20 MR. MCCLUNEY: Yeah.

21 THE COURT: Okay. Well, listen, sir, I appreciate
22 your coming in but I'm gonna have to excuse you from jury
23 service today. Thank you. Just tell the Clerk of Court.
24 Juror Number Seventy-nine will be excused from service.

25 (COURT RETURNS TO THE BENCH.)

1 THE COURT: Is any -

2 (BLACK FEMALE STANDS.)

3 Yes, ma'am, your juror number.

4 A. Thirty-five.

5 THE COURT: All right, ma'am, if you want to meet me
6 up at the Clerk of Court. I mean the court reporter.

7 (COURT LEFT BENCH.)

8 THE COURT: You're Ms. Evans?

9 MS. EVANS: Yes.

10 THE COURT: Yes, ma'am.

11 MS. EVANS: You said can't be convicted of a crime.
12 Right?

13 THE COURT: Correct.

14 MS. EVANS: I have a drug charge.

15 THE COURT: Okay. What kind was it?

16 MS. EVANS: Cocaine with intent.

17 THE COURT: Okay. And you received - And you pled
18 guilty to it?

19 MS. EVANS: Yeah. Probation and a fine.

20 THE COURT: Okay. And if you violated probation -

21 MS. EVANS: No.

22 THE COURT: No, if you did how much time were you
23 looking at?

24 MS. EVANS: Oh, I don't know. I don't think I went
25 that far. It's been some time ago.

1 THE COURT: How long ago?

2 MS. EVANS: I think it was in my twenties. From '62.

3 THE COURT: Okay. But it was the one you pled guilty
4 to was possession with intent to distribute cocaine?

5 MS. EVANS: Yeah.

6 THE COURT: Okay. Well thank you for coming in today,
7 Ms. Evans. I'm gonna have to excuse you from jury service
8 for that. Okay?

9 MS. EVANS: Okay.

10 THE COURT: Thank you for coming in. Just make sure
11 you tell the Clerk of Court.

12 Juror Number Thirty-five will be excused.

13 (COURT RETURNS TO THE BENCH.)

14 THE COURT: All right, ladies and gentlemen, is there
15 any member of the jury panel a clerk of deputy clerk of
16 court, constable, sheriff, or other commissioned law
17 enforcement officer, probate judge, county commissioner,
18 magistrate or other county officer or employed within the
19 walls of any courthouse, if so, please stand?

20 (NO ONE STANDS.)

21 THE COURT: Is any member of the jury panel - Is there
22 any member of the jury panel who has previously served on
23 jury duty in circuit court? Now that's not in a city; it's
24 not in a magistrate court, and it's not in a federal court
25 during this calendar year, if so, please stand at this

1 time?

2 (NO ONE STANDS.)

3 THE COURT: Has any member of the jury panel served as
4 a member of the York County Grand Jury during the past
5 several years, if so, please stand at this time?

6 (NO ONE STANDS.)

7 THE COURT: Ladies and gentlemen, we now move to what
8 is called jury exemptions. State law provides for several
9 exemptions to jury service. An exemption does not mean
10 that you are not qualified to serve; it simply means that
11 you have the right to say I choose not to serve. Those of
12 you who are sixty-five years of age or older may be
13 exempted from jury service. Those of you sixty-five years
14 of age or older represent a pool of tremendous talent for
15 jury service and we urge you to serve this week if you are
16 inclined to do so. But, if you wish to be exempted you may
17 certainly do so.

18 Is there any member of the jury panel who is sixty-
19 five years of age or older and who wishes to be exempt from
20 jury service this week, if so, please stand at this time?

21 (NO RESPONSE.)

22 THE COURT: Another exemption concerns prior jury
23 service. No person is required to serve as a juror more
24 often than once ever three calendar year; therefore, if any
25 member of the jury panel has served on jury duty during the

-14-

1 last two calendar years you may be exempt from services
2 this week if you choose to be exempted. But please note,
3 this exemption does not apply if your jury service was in a
4 magistrate court; in a city court, or in a federal court.
5 But if this exemption applies to you and you wish to be
6 exempt please stand at this time.

7 (NO RESPONSE.)

8 THE COURT: Persons who have served as grand jurors
9 during the last five calendar years may also be exempted
10 from jury service. If any member of the jury panel has
11 served on a grand jury during the last five calendar years
12 and you wish to be exempted on this basis please stand at
13 this time.

14 (NO RESPONSE.)

15 THE COURT: The next exemption deals with those of you
16 who may have small children. Please listen very carefully
17 to this exemption, it has several parts all of which must
18 apply for you to be exempted on this basis. You may be
19 exempted from jury service if you have a small child or
20 small children under the age of seven years. You have the
21 legal custody of your child or children. You have the
22 principle care, custody, and control of your child or
23 children, and you are unable to make arrangements for the
24 adequate care of your child or children while performing
25 jury duty.

1 Now if all of these requirements apply to you, and you
2 wish to be exempted on this basis, please stand at this
3 time.

4 (NO RESPONSE.)

5 THE COURT: The next exemption involves those of you
6 who may be attending school at this time or working in some
7 capacity with a school. If this exemption applies to you
8 and you wish to be exempted what we will do is we will
9 transfer your service to another term of court at a time
10 which will not conflict with your school responsibilities.

11 Is there any member of the jury panel who is a full
12 time student, school teacher, school crossing guard, school
13 bus driver, or who serves in any other school related
14 function who is unable to serve in jury duty this week as a
15 result of that school involvement, if so, please stand at
16 this time?

17 (NO RESPONSE.)

18 THE COURT: Is there any member of the jury panel who
19 is employed with the Department of Corrections at a
20 penitentiary, if so, and you wish to be exempted on this
21 basis, please stand at this time?

22 (NO RESPONSE.)

23 THE COURT: Ladies and gentlemen, there are also
24 exemptions for those of you who are responsible for a
25 severely disabled person or for an elderly person who are

-16-

1 not able to care for themselves while you are performing
2 jury duty. If you are that type of care taker and you wish
3 to be exempted on this basis please stand at this time.

4 (NO RESPONSE.)

5 THE COURT: Is there any member - Is there any member
6 of the jury who perform services for a business, commercial
7 or agricultural enterprise which is so essential to the
8 operation of the enterprise that if you were required to
9 perform jury duty the enterprise would have to close or
10 stop functioning, if so, and you wish to be exempted on
11 this basis, please stand at this time?

12 (WHITE MALE STANDS.)

13 THE COURT: Yes, sir, your juror number?

14 A. One Thirteen.

15 THE COURT: You want to meet me at the Clerk of Court
16 please. I mean the court reporter.

17 (COURT LEFT THE BENCH.)

18 THE COURT: Yes, sir. Tell me about it.

19 JUROR ONE THIRTEEN: I'm the director of IT for a
20 family practice group down in Columbia. We have a facility
21 that was flooded on Monday, the department has two people
22 and normally have a backup but he's also a national
23 guardsman and he's been deployed to work in Georgetown
24 indefinitely so I don't know when I'm getting him back so
25 we have a facility that we're putting back together this

1 afternoon so we can see patient's tomorrow.

2 THE COURT: Okay.

3 JUROR ONE THIRTEEN: I'm the computer guy so.

4 THE COURT: Well good luck. I'm not from Columbia but
5 I've seen it on television.

6 JUROR ONE THIRTEEN: See how it goes.

7 THE COURT: But thank you for coming in today. Thank
8 you.

9 Juror Number One Thirteen will be excused.

10 (COURT RETURNS TO THE BENCH.)

11 THE COURT: Ladies and gentlemen, now that concludes
12 the statutory list of qualifications and exemptions for
13 jury service. It may be that you will qualify and no
14 exemption applies to you but service this week would
15 constitute an extreme hardship on your for a particular
16 reason. I need for you to understand I cannot permanently
17 excuse a qualified juror from jury service. But under
18 extreme and compelling circumstances I may excuse a juror
19 from this term of court and transfer that juror to another
20 term of court particularly jurors who have not previously
21 been transferred. But please understand that a general
22 inconvenience is not a sufficient reason to transfer you to
23 another term of court. To justify a transfer to another
24 term of court service this week must constitute an extreme
25 hardship to you.

-18-

1 Ladies and gentlemen, this is now the chance for those
2 of you who did not respond earlier to any of the questions
3 that I ask and for those of you who have a compelling
4 reason to request a transfer of your jury service to
5 another week to come forward. Now if you believe that you
6 are disqualified, or exempt from jury service, or if you
7 have any questions as to whether you are disqualified or
8 exempt, or if you wish to discuss with me a compelling
9 reason why you would want to transfer to another term of
10 court I need for you to please stand at this time.

11 (NO RESPONSE.)

12 THE COURT: Thank you, ladies and gentlemen. The jury
13 panel is now qualified. I know you probably heard this,
14 you will probably hear it five or six more times, but don't
15 bring any cell phones with you into the courthouse. If you
16 do, the bailiffs would probably take them from you, you
17 will be able to get them back during any lunch breaks or at
18 the end of the day. It's probably best that you not bring
19 any cell phones or pagers or any types of communication
20 devices with you into the courthouse.

21 Now, Ladies and gentlemen, it's very important that
22 you have no contact at all with any of the parties, the
23 lawyers or possible witnesses in any case that might come
24 to court this week. They've been told they can't have any
25 contact with you so if you see them around about the

1 courthouse and you know them and they don't even say hello
2 to you they're not being rude they're simply following the
3 instructions that they cannot have any contact with you. I
4 need for you to be prompt if you are selected to be on a
5 jury and we have to start a case at a particular time it's
6 not fair to your fellow jurors for us to have to delay the
7 proceedings so please be on time.

8 Again, in the event that an emergency occurs, you need
9 to have some type of communication with the court, be sure
10 you see one of the bailiff's they'll be sure that that
11 types of communication takes place.

12 Ladies and gentlemen, that has concluded the
13 qualification process; very shortly we'll be picking the
14 first jury for the week. At this time I'm looking at that
15 clock back on the back wall, I'm gonna let you take about a
16 ten minute break, so if you want to get up and stretch your
17 legs you may but please be back in the courtroom by eleven
18 o'clock according to that clock, but right now we'll stand
19 at ease.

20 Can I see the lawyers? We'll stand at ease.

21 (COURT AT EASE AT 10:50 AM./BENCH CONFERENCE OFF THE
22 RECORD.)

23 (COURT BACK IN SESSION AT 11:01 AM.)

24 THE COURT: You may be seated.

25 (BENCH CONFERENCE OFF THE RECORD.)

-20-

1 THE COURT: Now, Ladies and gentlemen, just I want to
2 let you - frequently I have to have these bench conferences
3 with the lawyers. One of the reasons we do that is that
4 I'm not supposed to make comments about cases or about
5 issues that might come before and sometimes I have to make
6 comments with them so I'll do it properly with the lawyers
7 up here at the bench. I didn't want you to think we were
8 just trying to be rude to you and exclude you but that's
9 just the way that the process works sometimes with that and
10 I have to have those communications. So I apologize if it
11 appears I'm being rude; we don't mean to be rude. Give us
12 just a moment, Ladies and gentlemen, we'll begin with the
13 selection of the first jury of the week.

14 (PAUSE.)

15 THE COURT: All right, Ladies and gentlemen, we will
16 not begin the selection process of the first jury for the
17 week. I have some questions that I need to ask you but
18 before I can ask you these questions, I need for the Clerk
19 of Court to swear you in so if you would please stand and
20 raise your right hand.

21 (WHEREUPON, JURY PANEL SWORN

22 AT 11:03 AM.)

23 MADAM CLERK: Thank you. Please be seated.

24 THE COURT: All right, Ladies and gentlemen, we are
25 not gonna start the trial of In the Care and Matter

1 Treatment of Kenneth Fitzgerald Burgess. Mr. Burgess, if
2 you'll please stand and face the ladies and gentlemen of
3 the jury.

4 (DEFENDANT, KENNETH BURRIS STOOD.)

5 THE COURT: Ladies and gentlemen, this is Mr. Kenneth
6 Fitzgerald Burgess. The State has filed a petition
7 pursuant to the Sexually Violent Predator Act in regards to
8 Burgess. And, Ladies and gentlemen, do you - is there
9 anybody - any member of the jury panel that is related by
10 blood or marriage to Mr. Burgess or do you have a close
11 personal social relationship with Mr. Burgess; if so,
12 please stand at this time?

13 (NO RESPONSE.0

14 THE COURT: Thank you very much. All right, Ladies
15 and gentlemen, I'm now going to read a list of witnesses'
16 who may or may not be called as part of this case. I need
17 for you to please listen to these names. After I have
18 announced all of these names I'm gonna ask if you would to
19 please stand if you're related by blood or marriage to any
20 of these witnesses, or, if you have a close personal or
21 social relationship with these witnesses.

22 Here are the potential witnesses that may be called in
23 the trial of this case. We have Doctor Marie Gehle; we
24 have Brenda Burris, and if any of these witnesses are
25 present in the courtroom when I call your name if you would

-22-

1 please stand and face the ladies and gentlemen of the jury.

2 Brenda Burris. We have the Reverend William McClain.
3 We have Fletcher Crawford. Officer James Moore. Again,
4 Ladies and gentlemen, if you are related by blood or
5 marriage to any of these witnesses or if you have a close
6 personal or social relationship with any of these witnesses
7 please stand at this time?

8 (NO RESPONSE.)

9 THE COURT: Ladies and gentlemen, I'm now going to ask
10 the lawyers that will be participating in the trial of this
11 case, I'm going to ask if they would to please stand and
12 introduce themselves to you.

13 Yes, sir, Mr. Bogle.

14 MR. BOGLE: Thank you, your Honor.

15 My name is Jim Bogle, I'm with the Attorney General's
16 Office out of Columbia.

17 MS. GOOD: My name is Anna Good. I'm with the law
18 office of Anna Good out of Columbia.

19 THE COURT: Thank you very much. Ladies and
20 gentlemen, if you are related by blood or marriage to any
21 of these attorneys or if you have a close personal or
22 social relationship with any of these attorneys I need for
23 you to please stand at this time.

24 (NO RESPONSE.)

25 THE COURT: Ladies and gentlemen, if you have ever

1 been represented by any of these attorneys or a member of
2 their firm I need for you to please stand at this time.

3 (NO RESPONSE.)

4 THE COURT: Ladies and gentlemen, has any member of
5 the jury panel or any close personal friend or relative
6 ever been convicted - ever been a victim of a sexual
7 assault; if so, please stand at this time?

8 (NO RESPONSE.)

9 THE COURT: Has any member of the jury panel or a
10 close personal friend or relative ever been convicted of a
11 sexual assault; if so, please stand at this time?

12 (NO RESPONSE.)

13 THE COURT: Does any member of the jury panel have any
14 training or experience in the field of psychiatry,
15 psychology, or the law; if so, please stand at this time?

16 (WHITE FEMALE STOOD.)

17 THE COURT: Yes, ma'am, your juror number?

18 A. One forty-nine.

19 THE COURT: Excuse me. I'm sorry, this lady over
20 here. I'm sorry. Yes, ma'am, your juror number?

21 A. One forty-nine.

22 THE COURT: And it's Ms. Yousefian?

23 JUROR ONE FORTY-NINE: Yes.

24 THE COURT: Ma'am, and the fact that that has occurred
25 would that in any way affect your ability to give both the

1 State and the Respondent a fair and impartial trial in the
2 event you're selected as a member of this jury?

3 JUROR ONE FORTY-NINE: I don't see why.

4 THE COURT: Thank you, ma'am.

5 Yes, ma'am, your juror number?

6 A. Eighty-nine.

7 (WHITE FEMALE STOOD.)

8 THE COURT: You're Ms. Moore?

9 JUROR EIGHTY-NINE: Yes, sir.

10 THE COURT: Ma'am, the fact that that has occurred
11 would that in any way affect your ability to give both the
12 State and the Respondent a fair and impartial trial in the
13 event you are selected as a part of this jury?

14 JUROR EIGHTY-NINE: No, sir.

15 THE COURT: Thank you, ma'am, you may be seated.

16 Ladies and gentlemen, the fact that Mr. Keith
17 Fitzgerald Burgess has been convicted of a sexual offense
18 and has completed his criminal sentence related to that
19 conviction in any prevent you from being able to be a fair
20 and impartial juror in this trial; if so, please stand at
21 this time?

22 (NO RESPONSE.)

23 THE COURT: Is any member of the jury panel a member
24 of or contributor to any group which has as it's primary
25 concern the promotion of law enforcement or victim's

1 rights? Now those groups would include but certainly be
2 not limited to such groups as MADD, SADD, CAV, Citizen's
3 Against Violent Crimes, or anything like that; if so,
4 please stand at this time?

5 (NO ONE STANDS.)

6 THE COURT: Has any member of the jury panel read or
7 heard anything about this case either today or before
8 today; if so, please stand at this time?

9 (NO RESPONSE.)

10 THE COURT: Is any member of the jury panel related by
11 blood or marriage to a member of law enforcement agency; if
12 so, please stand at this time?

13 Yes, ma'am, we'll start here. The lady in the black
14 jacket, yes, ma'am, your juror number?

15 (BLACK FEMALE STANDING.)

16 A. Sixty-one.

17 THE COURT: You Ms. Hughes?

18 MS. HUGHES: Yes.

19 THE COURT: Ma'am, the fact that that has occurred
20 would that in any way affect your ability to give both the
21 State and the Respondent a fair and impartial trial in the
22 event you're selected as a member of this jury?

23 MS. HUGHES: It will not.

24 THE COURT: Thank you, ma'am, you may be seated.

25 Yes, ma'am, in the front.

1 (BLACK FEMALE STANDING.)

2 A. One Forty-eight.

3 THE COURT: You Ms. Young-Crockett

4 A. Correct.

5 THE COURT: Ma'am, the fact that that has occurred
6 would that in any way affect your ability to give both the
7 State and the Respondent a fair and impartial trial?

8 JUROR ONE FORTY-EIGHT: No, sir.

9 THE COURT: Thank you, ma'am, you may be seated.

10 Yes, ma'am, your juror number?

11 (WHITE FEMALE STANDING.)

12 A. One twelve.

13 THE COURT: You're Ms. Scoggins?

14 A. Yes, sir.

15 THE COURT: Ma'am, would that in any way affect your
16 ability to give both the State and the Respondent a fair
17 and impartial trial in the event you're selected as a
18 member of this jury?

19 JUROR ONE TWELVE: No, sir.

20 THE COURT: Thank you, ma'am, you may be seated.

21 Yes, ma'am, your juror number?

22 (WHITE FEMALE STANDING.)

23 A. Seventy-eight.

24 THE COURT: You're Ms. McClellan?

25 JUROR SEVENTY-EIGHT: Yes, sir.

1 THE COURT: Ma'am, the fact that that has occurred
2 would that in any way affect your ability to give both the
3 State and the Respondent a fair and impartial trial?

4 JUROR SEVENTY-EIGHT: No, sir.

5 THE COURT: Thank you, ma'am. You may be seated.

6 Yes, ma'am.

7 (WHITE FEMALE STANDING.)

8 A. Twenty-three.

9 THE COURT: You're Ms. Coon?

10 JUROR TWENTY-THREE: Yes.

11 THE COURT: Ma'am, the fact that that has occurred
12 would that in any way affect your ability to give both the
13 State and the Respondent a fair and impartial trial?

14 JUROR TWENTY-THREE: No.

15 THE COURT: Thank you, ma'am. You may be seated.

16 Yes, ma'am, in the pink.

17 (WHITE FEMALE STANDING.)

18 A. Seventy-two.

19 THE COURT: You're Ms. Livingston?

20 JUROR SEVENTY-TWO: Yes.

21 THE COURT: Ma'am, the fact that that has occurred
22 would that in any way affect your ability to give both the
23 State and the Respondent a fair and impartial trial?

24 JUROR SEVENTY-TWO: No.

25 THE COURT: Thank you, ma'am. You may be seated.

1 Yes, ma'am, your juror number?

2 (WHITE FEMALE STANDING.)

3 A. Twenty.

4 THE COURT: You're Ms. Clark?

5 JUROR TWENTY: Yes, sir.

6 THE COURT: Ma'am, the fact that that has occurred
7 would that in any way affect your ability to give both the
8 State and the Respondent a fair and impartial trial?

9 JUROR TWENTY: No.

10 THE COURT: Thank you, ma'am. You may be seated.

11 Yes, ma'am, your juror number?

12 (WHITE FEMALE STANDING.)

13 A. One Thirty-seven.

14 THE COURT: You're Ms. Wallace?

15 JUROR ONE THIRTY-SEVEN: Yes, sir.

16 THE COURT: Ma'am, the fact that that has occurred
17 would that in any way affect your ability to give both the
18 State and the Respondent a fair and impartial trial?

19 JUROR ONE THIRTY-SEVEN: No, sir.

20 THE COURT: Thank you, ma'am.

21 Yes, ma'am, your juror number?

22 (WHITE FEMALE STANDING.)

23 A. Thirty.

24 THE COURT: You're Ms. Dunlop?

25 JUROR THIRTY: Yes, sir.

1 THE COURT: Ma'am, the fact that that has occurred
2 would that in any way affect your ability to give both the
3 State and the Respondent a fair and impartial trial?

4 JUROR THIRTY: No, sir.

5 THE COURT: Thank you, ma'am.

6 Yes, ma'am, your juror number?

7 (WHITE FEMALE STANDING.)

8 A. Sixty-seven.

9 THE COURT: You're Ms. Jones?

10 JUROR SIXTY-SEVEN: Yes, sir.

11 THE COURT: Ma'am, the fact that that has occurred
12 would that in any way affect your ability to give both the
13 State and the Respondent a fair and impartial trial?

14 JUROR SIXTY-SEVEN: No, sir.

15 THE COURT: Thank you, ma'am.

16 Yes, sir, your juror number?

17 (WHITE MALE STANDING.)

18 A. Seventy-three.

19 THE COURT: You're Mr. Marchant?

20 JUROR SEVENTY-THREE: Yes, sir.

21 THE COURT: Sir, the fact that that has occurred would
22 that in any way affect your ability to give both the State
23 and the Respondent a fair and impartial trial?

24 JUROR SEVENTY-THREE: No, sir.

25 THE COURT: Thank you, sir. You may be seated.

-30-

1 Has any member of the jury panel discussed this case
2 or heard anyone else discuss this or a similar case either
3 today or before today; if so, please stand at this time?

4 (NO RESPONSE.)

5 THE COURT: Has any member of the jury panel formed or
6 expressed any opinion about any issue or matter that may be
7 involved in this case; if so, please stand at this time?

8 (NO RESPONSE.)

9 THE COURT: Is any member of the jury panel aware of
10 any bias or prejudice towards either the State or the
11 Respondent in this case; if so, please stand at this time?

12 (NO RESPONSE.)

13 THE COURT: Does any member of the jury panel know of
14 any reason whatsoever why he or she should not serve as
15 jurors in this case with a particular emphasis being placed
16 on your ability to be fair and impartial both to the State
17 and the Respondent in this case; if so, please stand at
18 this time?

19 (NO RESPONSE.)

20 THE COURT: Does the State have any additional
21 questions?

22 MR. BOGLE: Question nineteen on our voir dire, your
23 Honor. Nineteen and twenty, they go together.

24 THE COURT: Has any member of the jury panel or any
25 close relative or close friend ever been subject to a civil

1 commitment proceeding or voluntary or involuntary civilly
2 committed proceeding? I might have said that
3 inappropriately. If so, please stand at this time.

4 (NO RESPONSE.)

5 THE COURT: Does the Respondent have any additional
6 questions?

7 MS. GOOD: No, sir.

8 THE COURT: Thank you. All right.

9 All right, Madam Clerk, five and five?

10 MR. BOGLE: Four and four.

11 THE COURT: Four and four? Okay.

12 All right, Ladies and gentlemen, what we are doing
13 now, these ladies that are sitting in front of me, they are
14 with the Clerk of Court's office; they have a - all of your
15 names are into a system now and they are randomly selecting
16 a list that will be given to the attorneys and then we'll
17 start the strike process. The only reason I mention that
18 to you is that when I first was in private practice we
19 didn't have - we didn't have computers so I'm telling you
20 how old I am, and we actually had a wooden barrel and we
21 still have it at the courthouse back in Spartanburg. And
22 what we would do is we would put each of your names in a
23 little capsule, put it in the barrel, and we would bring in
24 a person that was visually challenged from the School for
25 Deaf and Blind; they would actually reach into the barrel

-32-

1 and pull out the names one at a time.

2 Sometimes the jury selection process could take half a
3 day or more just by going through that process. So I just
4 tell you that because I want to impose on your patience
5 just a little bit because the Clerk of Court is running her
6 program that is going to produce this list and then we will
7 start a striking process. Once the list is produced the
8 attorneys will have an opportunity to review that list.
9 I'll let you have a short break here in just a moment and
10 then we'll get back together and start the actual selection
11 process. And a few weeks back we had an outage in Columbia
12 to where we could not actually get access to the jury list
13 and we went back to the old process for a while. Shew!

14 It was interesting to say the least.

15 (PAUSE.)

16 THE COURT: All right, Ladies and gentlemen, again
17 taking a look at that clock on the wall, I'm gonna let you
18 take a ten minute recess. I'll allow the lawyers an
19 opportunity to review the list and we'll see where they
20 stand in about ten minutes, but at this time we'll stand at
21 ease. Be sure you're back in the courtroom by about eleven
22 thirty.

23 (COURT IN RECESS AT 11:20 AM.)

24 (COURT BACK IN SESSION AT 11:32 AM.)

25 THE COURT: Thank you. You may be seated.

1 The lawyers ready? Yes, ma'am.

2 MADAM CLERK: Using the numbers on the left we'll
3 start with the Plaintiff and we'll take the alternating
4 strikes.

5 MR. BOGLE: The State would strike number three.

6 MS. GOOD: Respondent strikes number two.

7 MR. BOGLE: State strikes number one.

8 MS. GOOD: Respondent strikes number eight.

9 MR. BOGLE: State strikes number five.

10 MS. GOOD: Respondent strikes number eleven.

11 MR. BOGLE: State strikes number nineteen.

12 MS. GOOD: Respondent strikes number four.

13 MADAM CLERK: Using numbers twenty-one through twenty-
14 three, I'll take your strikes beginning with the Plaintiff.

15 MR. BOGLE: The State strikes number twenty-two.

16 MS. GOOD: Respondent strikes number twenty-three.

17 MADAM CLERK: I'd like to confirm the strikes for both
18 sides. For the State I have the following strikes: Number
19 three, one, five, nineteen and as your alternate number
20 twenty-two; is this correct?

21 MR. BOGLE: That is correct.

22 MADAM CLERK: For the Respondent I have the following
23 strikes: Number two, eight, eleven, four and as your
24 alternate number twenty-three; is this correct?

25 MS. GOOD: Yes, that's correct.

-34-

1 MADAM CLERK: Thank you. Ladies and gentlemen, when I
2 call your name if you'll please gather your personal
3 belongings and come down and have a seat in the jury box to
4 my right at the direction of the bailiff.

5 Juror Number 1-0-1, Brittney C. Rawlins on.

6 (BLACK FEMALE COMING FORWARD.)

7 MADAM CLERK: Juror number Sixty-one, Adriene Hughes.

8 (BLACK FEMALE COMING FORWARD.)

9 MADAM CLERK: Juror number forty-eight, Yeshiva L.
10 Graham.

11 (BLACK FEMALE COMING FORWARD.)

12 MADAM CLERK: Juror Number twenty-seven, Onix L.
13 Delgado.

14 (HISPANIC MALE COMING FORWARD.)

15 MADAM CLERK: Juror Number thirty, Tonya R. Dunlop.

16 (WHITE FEMALE COMING FORWARD.)

17 MADAM CLERK: Juror Number sixty, Thomas G. Hucks,
18 Junior.

19 (WHITE MALE COMING FORWARD.)

20 MADAM CLERK: Juror one thirty-three, Richard C. Van
21 Haren.

22 (WHITE MALE COMING FORWARD.)

23 MADAM CLERK: Juror number 1-0-6, John E. Sageser.

24 (WHITE MALE COMING FORWARD.)

25 MADAM CLERK: Juror number twenty-nine, Jason S.

1 Downs.

2 (BLACK MALE COMING FORWARD.)

3 MADAM CLERK: Juror number sixty-nine, Dani M.
4 Kimbrell.

5 (WHITE FEMALE COMING FORWARD.)

6 MADAM CLERK: Juror number seventy-five, Shawn A
7 Maxville.

8 (WHITE MALE COMING FORWARD.)

9 MADAM CLERK: Juror number fifty-eight, Michael S.
10 Hines.

11 (WHITE MALE COMING FORWARD.)

12 MADAM CLERK: And serving as the alternate is juror
13 number nine, Christina L. Boucher.

14 (WHITE FEMALE COMING FORWARD.)

15 THE COURT: Anything concerning the manner or method
16 of selection of the jury from the State?

17 MR. BOGLE: No, your Honor.

18 THE COURT: Any from the Respondent?

19 MS. GOOD: No, sir.

20 THE COURT: Thank you. Ladies and gentlemen,
21 congratulations on being selected our first jury for the
22 week. Give me just a moment; I need to speak to those
23 unfortunate souls that did not get selected.

24 Ladies and gentlemen, thank you while we went through
25 the process of qualification the first jury selection. I'm

-38-

1 us explain to you what the law is in the case so that when
2 you actually engage in your deliberations they will be done
3 properly so don't do any type of independent research or
4 investigation in anything involved in the case as well.

5 With those preliminary instructions I've got to take
6 up a couple of matters with the lawyers that have to be
7 done outside of your presence and so I'm gonna let the
8 bailiff take you back into the jury deliberation room and
9 show you where that is, get acclimated to it and we'll get
10 you back out here just shortly. But if you will please
11 retire back to the jury deliberation room.

12 (JURY EXITS COURTROOM AT 11:37 AM.)

13 THE COURT: All right, I've got Motions in Limine
14 filed by the Petitioner; I've got the Petitioner's first
15 motion in limine; be more than happy to hear from you.

16 MR. BOGLE: Thank you, your Honor, May it please the
17 court. The first motion in liming has to do with basically
18 location. Bear in mind that the State is required to prove
19 two things to the jury. Number One: Has the Respondent
20 been convicted of a sexually violent crime? And Number
21 Two: Does he suffer from a mental abnormality or a
22 personality disorder that makes him likely to commit sexual
23 crimes - sexually violent crimes again unless he's confined
24 for long term control care and treatment?

25 MS. GOOD: And, your Honor, we can stream line this.

1 I don't object to his first motion in limine.

2 MR. BOGLE: Okay.

3 THE COURT: Okay.

4 MR. BOGLE: All right. We're good on that.

5 The second motion, the same thing I got to prove.

6 This has to do with discussions of treatment and
7 questions about the type of treatment he might get. That's
8 outside the realm of what we have to prove. It is
9 speculative at best because for two reasons: Until he gets
10 out there they don't know exactly what he needs and, second
11 of all, the State's expert Doctor Gehle she does not
12 determine the regiment for treatment and has not been
13 involved in treatment for some time. We would submit that
14 any allegations or testimony about the type of treatment
15 that he might get would confuse the jury and provide -
16 place an additional burden on the State so we would request
17 that the question in regard to treatment would not be
18 allowed.

19 MS. GOOD: Your Honor, the only thing I have for that
20 is I ask that we be allowed to go into whether she's
21 outpatient or in patient treatment. I mean obviously under
22 the statute it says if he's not confined in a secure
23 facility for long term control care and treatment I think
24 that in itself implicates it's inpatient treatment so I
25 would ask that we at least be able to use out patient

1 versus inpatient.

2 MR. BOGLE: I don't have a problem with that.

3 THE COURT: All right. Okay. Did the respondent have
4 motions in liming?

5 MS. GOOD: I do have a couple of motions, your Honor.
6 They have not been filled and under Rule 7(b) I don't
7 believe I had to file them in writing since we're here in
8 court. The first motion I have, your Honor, is that Doctor
9 Gehle not be able to go into any mention of charges that
10 Mr. Burris has had to have been dismissed or nol prosequi
11 that don't have to do with any of the cases that he was
12 convicted of. If there was a plea and one was dismissed in
13 exchange for a plea I'm okay with those; however, there's a
14 long list of ones that she goes into in her report that
15 were dismissed and I believe under Rule 608(b), your Honor,
16 that those would be prior bad acts that have not been
17 proven in any manner whatsoever. And some of them, your
18 Honor, have to do with contacting fifteen year olds or
19 threatening witnesses; that sort of thing, and I think it
20 would be prejudicial to allow those into evidence.

21 MR. BOGLE: Your Honor, we have a memorandum of law
22 regarding the type of evidence. It was emailed to you and
23 I can pass a copy up to you if you would like to see it.
24 Basically the question that she's raising right now was
25 dealt with by the Supreme Court in the *Ettel* case spelled

1 E-t-t-e-l. In the *Ettel* case in order to make the
2 diagnoses and establish the basis for her expert opinion,
3 the State's witness in that case who I believe was Doctor
4 Pamela Crawford, she testified the circuit judge properly
5 admitted testimony by her regarding prior sexual offenses
6 as well as a prior non-sexual conviction. In some of these
7 sexual offenses have not resulted in convictions. It's
8 relevant because Doctor Crawford there had relied upon them
9 in evaluating - meeting Mr. Ettel's need for success and
10 likelihood and treatment as well as his ability to control
11 his behavior.

12 It's all the more so likely in this case. As your
13 Honor knows the State's gotta prove a mental abnormality or
14 a personality disorder and in this case we have a
15 personality disorder and that is called antisocial
16 personality disorder. One of the things you have to have
17 to get to that diagnoses which our Doctor Gehle has to
18 explain to the jury is prior arrest, disregard for the
19 rules, getting in trouble all the time, as well as just
20 general antisocial conduct. For example, if the respondent
21 had misbehaved in prison - I'm not sure if he has but if he
22 had the fact that he would misbehave in a controlled
23 setting would also be relevant to that type of diagnoses.
24 So the *Ettel* case covers this I think right on point. The
25 Corley case, matter in treatment of Corley from 2003 talks

-42-

1 about the details behind the underlying charges and in that
2 case it was both a HABHAN which wasn't sexual and a
3 criminal sexual conduct. So the underlying details
4 outweighed any prejudice because the expert had to explain
5 how she got to her diagnosis by explaining those details
6 and how they relate to the diagnoses.

7 MS. GOOD: Your Honor, I think you distinguish all
8 these cases by the fact that they say convictions, that
9 have resulted in convictions. These prior ones, your
10 Honor, are not convictions and in fact they've been
11 dismissed and some of them are not even sexual in nature.
12 They're burglary third degree, disorderly conduct, failure
13 to return rented tools; DUI's, DUS's, threatening a witness
14 is not sexual in nature, your Honor, and in fact their not
15 convictions as in *Ettel*. It discusses only convictions and
16 some of those sexual offenses have not resulted in
17 convictions which these are not sexual offenses, your
18 Honor.

19 In addition Corley, your Honor, what they were
20 allowing in was also convictions, it didn't discuss non-
21 convictions. So it's our position that while these cases
22 may be on point they're on point as to convictions not non-
23 convictions; nor non-convictions that are sexual in nature.

24 MR. BOGLE: Both Corley and the White case from the
25 Court of Appeals from 2007 talked about convictions and

1 sexual offenses not resulting in convictions and past
2 criminal history. How directly past criminal history is
3 relevant to the case is, our position is the - particularly
4 in this type of diagnoses charges as well as convictions
5 are relevant to her making that conclusion about him.

6 THE COURT: And the Respondent wouldn't want to cross-
7 examine her as to non-convict - non of charges that were -
8 that he was not convicted of that were nol prosed or
9 dropped that are not sexual related as a basis of attacking
10 the expert's opinion?

11 MS. GOOD: If you were to allow them in I obviously
12 would, your Honor, but I think they would be prejudicial
13 just the sheer number of arrest that he has that were
14 dismissed. I mean I had by count, your Honor, twelve. I
15 think just by the sheer number of them it would prejudice
16 the jury's fact that he is continuously being arrested
17 despite the fact he's never been convicted of any of those
18 charges.

19 THE COURT: All right. I'll have to take a look at
20 these cases. I'm inclined not to allow the expert to go
21 into mention charges that he might have had that he got
22 arrested for that were nol prosed or he wasn't convicted
23 of; that they were dropped that are of a non-sexual in
24 nature. But let me take a look at these cases.

25 MR. BOGLE: If it's of any assistance we have the same

-44-

1 issue come up in Charleston last week. An antisocial
2 personality disorder and the expert there, not Doctor Gehle
3 but another expert, was testifying that you have to look at
4 all these arrests even the fact that a person doesn't get
5 convicted. A person can get arrested -

6 THE COURT: I believe that I've said I'm gonna take a
7 look at these cases ---

8 MR. BOGLE: Okay.

9 THE COURT: --- because to this court - to this court
10 - what happens to prior charges that get worked out by the
11 solicitor's office or the state and they get dropped for
12 whatever reason ---

13 MR. BOGLE: Yes, sir.

14 THE COURT: --- frequently that is done because there
15 is no evidence to support that. If I allowed evidence of
16 collateral matters to come into a case then we very well
17 could be spending days trying on those other matters.

18 MR. BOGLE: Thank you, your Honor.

19 THE COURT: Yes, sir.

20 MS. GOOD: And I have one more, your Honor, and I'll
21 make this just so you have it. I'm sure they'll put it
22 into evidence later. This is as I guess Defendant's
23 Exhibit One for identification at this point.

24 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER ONE, PREMARKED
25 FOR IDENTIFICATION.)

1 THE COURT: And what is this?

2 MS. GOOD: This is Doctor Gehle's report, your Honor,
3 that I assume she's gonna be testifying from. To kind of
4 give you a little background of this case, your Honor, Mr.
5 Burris does have a history of sexual offenses which
6 obviously is why we're here. Doctor Gehle previously
7 evaluated him in 2012 for a Sexually Violent Predator Act
8 commitment. At that time she found him not to be a
9 sexually violent predator however during her examination in
10 2012 she gave him what is called a MMPI test which is a
11 personality test, your Honor, and as you're aware as Mr.
12 Bogle has already said the diagnoses in this case is purely
13 antisocial personality disorder. It is our position, your
14 Honor, that she should not be able to rely on the 2012 test
15 as it does not show as whether today 2015 he still is
16 diagnosed with that same diagnoses from 2012 that she used
17 that test on. And I'm relying, your Honor, on a recent
18 case from the Supreme Court State v. Taft. I'll hand it
19 up, your Honor.

20 (DOCUMENTS RECEIVED UP BY THE COURT.)

21 MS. GOOD: It came out recently in July of this year.
22 In this case the state's doctor could not get here to
23 testify and the state relied on a previous evaluation done
24 two years prior to Mr. Taft's trial. At that time the
25 respondent moved not to allow that pervious test and

-46-

1 evaluation to come in as it wasn't presently showing
2 whether he had a diagnoses and is likely to reoffend. At
3 the conclusion of the state's case the defense moved for a
4 directed verdict at which time it was denied by the circuit
5 court. Later upon appeal to the Supreme Court, your Honor,
6 they found that the directed verdict should have been done;
7 that an expert's evaluation from a prior criminal
8 proceeding is sufficient to prove an individual is a
9 sexually violent predator; they declined to accept that
10 argument and so obviate any possibility of rehabilitation
11 further it would violate the statutory scheme which
12 envisions a new civil commitment proceeding. Obviously we
13 are here for a new civil commitment proceeding but a lot of
14 her report, your Honor, she mentions it in her report, she
15 uses information from her 2012 evaluation including the
16 personality disorder test and that's the whole reason one
17 of the things they have to prove is that he currently has a
18 antisocial personality disorder which our position is she's
19 basing it on a 2012 test which is three years ago which is
20 more than their two years in State v. Taft that it should
21 not be allowed, your Honor, and it is out of date.

22 MR. BOGLE: The problem we had in Taft, your Honor,
23 the state's independent expert could not be in court at the
24 right time or hadn't done the report in time. We called a
25 back up expert who had done a preguilty plea evaluation of

1 the respondent Doctor Jeff McKee. Now the problem with
2 Doctor McKee was he could not perform a current and
3 accurate opinion about whether or not he was a sexually
4 violent predator at the time. He could not render a
5 diagnoses. It came in by the trial judge the court
6 reversed it in the incident case this case was flagged once
7 before. We filed a petition back in 2012, Doctor Gehle
8 evaluated Mr. Burris and came back saying he had not fit
9 the criteria to be a sexually violent predator. Then he
10 gets in trouble again and we have the current crime when
11 he's back in jail we now evaluate him the second time. So
12 I think Doctor Gehle explained her current evaluation; her
13 current diagnoses that he is a sexually violent predator.

14 Anything going about the prior evaluation really goes
15 to the weight of all of her testimony as opposed to it's
16 admissibility. We do not plan to introduce into evidence
17 the prior evaluation. We're gonna ask Doctor Gehle did you
18 evaluate him three years ago, you evaluate him now, do you
19 have different results why is that why are you saying yes
20 now and no back then? So its relevant to what's gonna
21 happen. I think it tells the whole story to the jury but
22 if anything practically the fact that she had a diagnoses
23 previously and used an MMPI which I think bears in this
24 case right now it goes to the weight of her testimony as
25 opposed to admissibility.

-48-

1. MS. GOOD: And, your Honor, to kind of piggy back
2 because I do have another pretrial that kind of is what he
3 mentioned about his prior sexual violent predator
4 evaluation. I would ask that the jury not be privy to the
5 fact that there was a prior SVP action filed and it was
6 dismissed against him as I believe that's very prejudicial.
7 And the fact that they think well he wasn't before and now
8 he's got a new conviction and he's back here again we have
9 to convict him or not convict him but commit him. I
10 believe that would confuse them greatly as the fact there's
11 been two SVP commitment proceedings and that - I mean if
12 she's allowed to go into the prior evaluation just that she
13 evaluated him and not that it was in the course of a SVP
14 commitment proceeding.

15 THE COURT: Do you have a comment about that one, Mr.
16 Bogle?

17 MR. BOGLE: Well, I - First I thought the defense was
18 gonna cross examine her extensively about the prior eval
19 and how she's being inconsistent by saying yes now and no
20 back then and now they don't want it in. Now I'm perfectly
21 happy not to mention the prior evaluation. Now she ran
22 some testing like the Static 99 or the MMPI and it relates
23 to his diagnoses right now. I think she's allowed to talk
24 about that. And the way the timing of that diagnoses just
25 relates to her opinion right now and goes to the weight of

1 her testimony. By the time - Not at the time of the
2 diagnoses - time of the actual test she ran the Static 99
3 R for him in the current evaluation and my understanding is
4 she also ran an MMPI for him or look at that same MMPI in
5 this evaluation.

6 THE COURT: All right. But the witness is able to
7 testify as to her prior evaluation. I think it does go to
8 the weight of her testimony not to the admissibility of it.
9 The State has agreed they will not state and bring it out
10 as part of a prior SVP type of case. If other objections
11 need to be made on this when we get into the trial based on
12 other grounds I'll be more than happy to hear those but
13 based on what's presented at this time I would allow the
14 witness to testify as to her prior evaluation.

15 MR. BOGLE: Just so I'm clear. If she testifies about
16 her prior evaluation, but not bring it up in the context of
17 being this type of case?

18 THE COURT: That you agreed to that.

19 MR. BOGLE: Yeah.

20 THE COURT: That you wouldn't say as part of the prior
21 sexual SVP case, you know, you didn't present some other
22 way.

23 MR. BOGLE: Okay, I'll go with that, yes, sir.

24 THE COURT: Okay. All right. Okay. And then
25 anything else before I go look at these cases?

-50-

1 MS. GOOD: And, your Honor, just to be clear. I don't
2 know what you're looking at cases wise. This is about the
3 2012 test. I just want to make sure we have a ruling on
4 the record exactly as to that.

5 THE COURT: The 2000 - 2012 test was her prior?

6 MS. GOOD: The MMI that she used now to get the
7 diagnoses for.

8 THE COURT: I think she would be allowed to testify to
9 it and then based on the objections that have been made at
10 this juncture it goes - in the Court's opinion it goes to
11 the weight of her opinion and the credibility of it that
12 is's subject to the jury's review.

13 MS. GOOD: Thank you, your Honor.

14 THE COURT: Uh-huh. All right, is that it?

15 MR. BOGLE: I believe so.

16 MS. GOOD: Yes, sir.

17 THE COURT: All right. I'll be right back.

18 (COURT IN RECESS AT 11:57 AM.)

19 (WHEREUPON, STATE'S EXHIBIT NUMBERS ONE THROUGH FOUR,
20 IDENTIFIED AND MARKED, STIPULATED TO AND RECEIVED INTO
21 EVIDENCE.)

22 (COURT BACK IN SESSION AT 12:17 PM..)

23 THE COURT: You may be seated. All right. Okay.
24 Thank y'all for your patience. I did take a look at those
25 cases. I'm still of the opinion that for non - that for

DOCTOR MARIE GEHLE: DIRECT BY MR. BOGLE - IN CAMERA

-53-

1 MR. SAGESER: Thank you.

2 (JURY FOREPERSON EXITS COURTROOM ON LUNCH RECESS AT
3 12:20 PM.)

4 THE COURT: Yes, sir.

5 MR. BOGLE: Thank you, your Honor. Go ahead and call
6 Doctor Marie Gehle.

7 THE COURT: Ma'am, just come right up here and let the
8 Clerk of Court swear you in.

9 MADAM CLERK: Doctor Gehle, if I can get you sworn in.
10 Place your left hand on the Bible and raise your
11 right.

12 (WHEREUPON, MARIE GEHLE,
13 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

14 MADAM CLERK: Watch your step up.

15 THE COURT: Just be careful stepping up there.

16 MR. BOGLE: If I may, your Honor, for the purpose of
17 this hearing, I'm gonna assume she's been qualified as an
18 expert and go straight to the heart of the matter.

19 MS. GOOD: We have no objection.

20 THE COURT: Okay.

21 MR. BOGLE: Okay.

22 DIRECT EXAMINATION - IN CAMERA

23 DOCTOR MARIE GEHLE BY MR. BOGLE:

24 Q. Now, Doctor, in conducting a precommitment
25 evaluation of this type, what is your protocol in

DOCTOR MARIE GEHLE: DIRECT BY MR. BOGLE - IN CAMERA

-54-

1 conducting the evaluation? What's your steps you have to
2 do?

3 A. When I receive the order from the Court to do the
4 evaluation I also receive a file full of information from
5 the Attorney General's Office and from the Multi-
6 Disciplinary Team which is the first step in the screening
7 process but that all comes from the Attorney General's
8 Office. It includes things like police reports, criminal
9 history reports, witness statements, any mental health
10 records. I'll get those if they're not already in the
11 chart. And I'll review all that schedule an interview and
12 sit down with the respondent and interview them and ask
13 them a bunch of questions. Usually interview them for
14 several hours. I will score an actuarial risk assessment.
15 I will look at other risk factors that are related to
16 sexual offending and I'll look at diagnosis and then write
17 a report and submit that to your office.

18 Q. In the course of looking through these documents do
19 you have access to - Is one of the things you get the
20 person's criminal history? And by that I mean his entire
21 criminal history, all of his arrest, convictions on all
22 kinds of crimes.

23 A. Yes.

24 Q. Okay. Now in this case you diagnosed him with a
25 thing called antisocial personality disorder; is that

1 correct?

2 A. That's correct.

3 Q. Would you explain for the record basically what that
4 is?

5 A. It's a long standing pattern of disregard and
6 violation of the rights of others.

7 Q. Now by long standing pattern, was it - is it necessary
8 to make such a diagnoses and look at - Well first off, the
9 convictions for sexually violent crimes which are relevant
10 to the case to begin with you have to look at those.
11 Right?

12 A. I have to look at those, yes.

13 Q. And you have saw in connection with those crimes you
14 also have to look at the background, the underlying details
15 of what happened to what victim; what they told the police,
16 what the police found?

17 A. Yes.

18 Q. And part of that is also when you interview the
19 respondent you ask him for his version not just what he
20 told the police then but what he's telling you right now?

21 A. Yes, that's correct.

22 Q. Okay. Now what about prior crimes where he's been
23 arrested for sexual, non-sexual crimes some of which got
24 dismissed, some which got nol prosed, or dismissed by the
25 solicitor, some where he got convicted, to make this type

DOCTOR MARIE GEHLE: DIRECT BY MR. BOGLE - IN CAMERA

-56-

1 of diagnoses do you look into that prior criminal history?

2 A. Yes.

3 Q. Is it important for this type of diagnoses?

4 A. Yes. One of the criteria is a pattern of disregard
5 in violation of social norms, rules, and laws so I have to
6 look at the whole criminal history to see, you know, the
7 variety of offenses that he's been charged and convicted of
8 and what certain areas those are. Are they in the
9 violation of other people, are they violent charges, are
10 they non-violent, are they property charges. Those kind of
11 things. Because it speaks to a criminal versatility which
12 is part of antisocial personality disorder.

13 Q. Now when you mention the criteria a minute ago, is
14 there a list of criteria for this diagnoses?

15 A. Yes.

16 Q. Is that in the Diagnostic and Statistical Manual
17 Edition V?

18 A. Yes.

19 Q. That we're using right now?

20 A. Yes, sir.

21 Q. And is the DAM V what we call it for short is that
22 basically the manual for diagnosis of all kinds of social -
23 Excuse me, personality disorders and mental abnormalities;
24 that's y'all's guidebook; is that right?

25 A. It is a guidebook to diagnose psychiatric illness or

1 mental illness.

2 Q. Now why is it important to look at the arrest where
3 the person wasn't convicted?

4 A. Well it's still interaction with the legal system and
5 that is - has been corroborated with convictions, later
6 convictions, in the research but it's important to look at
7 the variety of crimes that they're interacting with the
8 legal system. And if they're continuing to get in the same
9 types of trouble even if they don't get convicted.

10 Q. Uh-huh. Okay. And is this a customary way that
11 professionals like you deal with this diagnosis of
12 antisocial personality disorder?

13 A. Yes, it's essential to look at the criminal history.

14 Q. So I guess another way of asking you that, is this
15 the type of information typically and reasonably relied
16 upon by experts in your field?

17 A. Yes.

18 Q. And your field is forensic psychologist; that is
19 correct?

20 A. That's correct.

21 Q. And you've testified. Have you testified previously
22 in cases of this nature under this sexually violent
23 predator law where your diagnoses has been or has included
24 antisocial personality disorder?

25 A. Yes.

DOCTOR MARIE GEHLE: DIRECT BY MR. BOGLE - IN CAMERA

-58-

1 Q. And to make that diagnoses have you had to look at
2 the things we're talking about, prior arrest which resulted
3 in convictions?

4 A. Yes.

5 Q. And prior arrest which didn't result in convictions?

6 A. Yes.

7 Q. And as a forensic psychologist you're aware that
8 sometimes the prosecutor or the solicitor in this state has
9 to dismiss something because he just hasn't got evidence or
10 maybe he can't find a witness; is that right?

11 A. Correct.

12 Q. Okay. But does it still matter if those types of -
13 if those types of arrest happened and they were disposed of
14 that way, is it still necessary for you to look at it in
15 making your diagnoses of antisocial personality disorder?

16 A. Yes.

17 Q. Okay.

18 MR. BOGLE: Thank you, Doctor.

19 A moment, your Honor.

20 Q. Now, I notice in your report one of the things you
21 talked about on page 10 was a distrust of females and a
22 history of threats to kill women, on pages 10 and pages 10
23 and 11.

24 A. Yes.

25 Q. Was this something you had found with regard to the

1 sexually violent crimes that we're here on today or on
2 other crimes in his over all history?

3 A. Both.

4 Q. Okay. Did these also come out during your interview
5 with him?

6 A. Yes.

7 Q. Okay. And are these necessary things to make the
8 diagnoses that you did?

9 A. Well there are things that are considered. I mean not
10 every person has that in their background but in his case
11 it's absolutely, you know, important in regard to his
12 diagnoses. I think that this is a manifestation of his
13 diagnoses.

14 Q. And if you take it to the next level given he has
15 the diagnoses, is he such a danger to the community that he
16 needs to be civilly committed for long term control care
17 and treatment as opposed to being released by this jury; is
18 this type information relevant to making that
19 determination?

20 A. Yes. In the risk assessment that I do it considers
21 charges and convictions for certain - on certain questions.
22 So I have to look at the full complete history. I also ask
23 him, you know, the respondent any time I do an interview I
24 ask them about all the things that they've been charged
25 with. They usually just go, you know, straight through the

DOCTOR MARIE GEHLE: DIRECT BY MR. BOGLE - IN CAMERA

-60-

1 criminal history and get their take on it. So I'm looking
2 at their attitudes in relation to whatever offense they
3 were charged or convicted of and that can speak to just,
4 you know, whether they have any antisocial attitude and
5 antisocial personality disorder; whether that's how they
6 sort of view their history and so all those things become
7 very relevant.

8 Q. In this particular case did you make a diagnoses to a
9 reasonable degree of psychological certainty of antisocial
10 personality disorder?

11 A. Yes.

12 Q. And did you find that that personality disorder plus
13 the convictions for the sexually violent crimes in your
14 opinions to a reasonable degree of psychological certainty
15 fit the criteria for him to be committed as a sexually
16 violent predator?

17 A. Yes in conjunction with the risk assessment yes.

18 Q. Okay. This risk assessment, is that the Static 99 R?

19 A. Yes.

20 Q. Is that a common risk assessment tool used by
21 psychologist in this field?

22 A. Yes absolutely.

23 Q. Is it one of the most common used?

24 A. It's the most commonly used risk assessment tool for
25 sexual offenders.

DOCTOR MARIE GEHLE: DIRECT BY MR. BOGLE - IN CAMERA
CROSS BY MS. GOOD - IN CAMERA

-61-

1 Q. And is one of the things you score on that his prior
2 convictions? Does that include also non-sexual
3 convictions? I'm trying to think of the things he can get
4 a number on on that.

5 A. Okay. Let me see. There's a variety of questions
6 on that test and there is a question that considers is
7 question number five, prior sex offenses and it considers
8 charges and convictions. That's the only question on that
9 test that considers charges not just convictions.

10 Q. Okay. So that's looking back at criminal history
11 prior to the sexual crime we're talking about today?

12 A. That's correct.

13 Q. Okay. And is the use of the Static 99R a part of the
14 basis for your opinion that he needs to be civilly
15 committed?

16 A. Yes.

17 Q. Okay.

18 MR. BOGLE: Thank you for now. Please answer any
19 questions counsel may have or the judge may have.

20 CROSS-EXAMINATION - IN CAMERA

21 DOCTOR MARIE GEHLE BY MS. GOOD:

22 Q. Good afternoon, Doctor Gehle.

23 A. Good afternoon.

24 Q. You stated that one of the criteria you looked at
25 for antisocial personality disorder is violation of rules

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD - IN CAMERA

-62-

1 and laws. Correct?

2 A. Correct.

3 Q. And wouldn't you say that if somebody is not
4 convicted of something that is therefore not in violation
5 of the rule?

6 A. I think that if they're not convicted yes that's true.

7 Q. And you said you look at some of the things that were
8 not convictions because you look at the interaction with
9 the legal system, the variety of crimes, and the same type
10 of trouble if they're not convicted. But you just stated
11 during your risk assessments and number five that the only
12 one that you look at regarding prior charges is prior sex
13 offense charges and convictions. Correct?

14 A. That's actually two different sorts of uses. So the
15 risk assessment is one thing that considers just sexually
16 related charges. But when I'm looking at diagnoses it's
17 everything sexual and non-sexual.

18 Q. But you would agree that if he was not convicted of
19 something it would not be a violation of the rule.

20 Correct? As you just testified.

21 A. Yes. Unless he told me that it was, you know, that
22 he did do it but that he just didn't get convicted of it.

23 Q. And during your interview with him anytime you spoke
24 to him about some of the ones that were dismissed he
25 indicated he couldn't recall that charge. Correct? He

1 never indicated he actually did it.

2 A. I'd have to look specifically at each and every one
3 here. In regard to the 1994 charge, charge of harassment
4 and stalking he said he had no memory. In relation to the
5 1997 charges of harassment and stalking I believe that was
6 two separate charges this time, he said he did not remember
7 and then he added that he had been quote really really
8 really end quote drinking alcohol during this time.

9 In relation to the June 1997 burglary in the third
10 degree second offense and petty larceny, he said he took
11 his cousin's refrigerator when he moved out of her house
12 and that he sold it. He said he was upset about this
13 initially or he said his cousin was upset about this
14 initially and pressed charges but later requested the
15 charges be dropped. So he did say he took the refrigerator
16 out of her home and sold it.

17 And in relation to the last offense in June 2014 when
18 he was charged with criminal domestic violence that he was
19 convicted of and two counts of failure to stop at the blue
20 light, he told me a similar story that he ran from the
21 police, that he fled because he was suicidal and didn't
22 want to go back into jail.

23 Q. What about the 2003 threatening or intimidating a
24 witness? It's on page 14 if you look for it.

25 A. I'm looking at my notes. I don't have his account

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD - IN CAMERA

-64-

1 for that charge.

2 Q. In addition to the 2003 there was a report to police
3 right before the one you just looked at regarding phone
4 calls; that there were no charges brought on that one
5 either. Correct?

6 A. That's correct.

7 Q. And you stated as part of your diagnoses you're
8 looking at a violation of rights to others. Correct?

9 A. Correct.

10 Q. Driving under suspension, that's not a violation of
11 a right to others is it?

12 A. No I would not say so. But if you're asking if that's
13 important to the diagnoses of antisocial personality
14 disorder there's other criteria. That's just a general
15 statement about the disorder but there are, you know,
16 failure to follow social norms and laws and that can be
17 related to that but he was not convicted of that.

18 MS. GOOD: I beg the court's indulgence.

19 (PAUSE.)

20 MS. GOOD: No further questions, your Honor.

21 THE COURT: Any redirect limited to what she went
22 into?

23 MR. BOGLE: No, your Honor, thank you.

24 THE COURT: Thank you, ma'am, you may step down.

25 Be careful with that step.

1 (WITNESS LEAVING WITNESS STAND.)

2 THE COURT: All right. I'm still inclined to not
3 allow the witness to go into non-sexually related charges
4 that he had that he was not convicted of or found guilty or
5 somehow pled guilty to. Unless it came out during the
6 witnesses' actual interviews with the respondent as to I
7 think be able to give information as to what he would say
8 of that nature because I think anything he said to her
9 during the interview would not be - that she would be
10 allowed to testify to. I don't think it falls within the
11 gambit of the objection that's been made by the respondent.
12 Okay?

13 MR. BOGLE: Yes, your Honor. Thank you.

14 MS. GOOD: And I guess just so we can make it clearer
15 which ones those are. There is a 1994 harassment, stalking
16 that she testified to that he had no memory of and did not
17 agree to doing that was dismissed. As well as 1997
18 harassment stalking that had no disposition that he didn't
19 remember.

20 THE COURT: But yet she also said that he had been
21 drinking during that time so I think - and I don't know
22 whether that's relevant or not - so I would allow - I mean
23 her talking about him having that drinking problem or
24 talking about whatever he said I think would still not be
25 subject to my rule.

1 MS. GOOD: And then the 2003 report to law enforcement
2 about phone calls where no charges were even brought. As
3 well as the 2003 threatening a witness that was dismissed.
4 I think the burg third, your Honor, based on your ruling he
5 admitted to going in and taking and selling it.

6 THE COURT: Correct. Okay. Anything else before I
7 step down?

8 MR. BOGLE: So, you don't want me to mention those
9 four crimes at all or just have her explain why she - what
10 you said and whether or not what the charge was and how -
11 what he said to her?

12 THE COURT: My ruling would be she doesn't mention
13 them.

14 MR. BOGLE: Okay.

15 THE COURT: Because by mentioning them it throws that
16 out to the jury it raises I think the prejudicial argument
17 that they're making.

18 MR. BOGLE: The only exception might be the one where
19 he says I was drinking and I don't recall if we go there.

20 THE COURT: And if she could - Well, my ruling would
21 be that it not be mentioned; the actual charge, the fact
22 that he got charged but not convicted. But I don't want my
23 ruling to go to the extent that I think her observing or
24 getting from him that he's drinking. I think that would
25 still be - I don't know if it is relevant but pre that

1 could be relevant to the eventual opinions that she gave
2 and would not fall within the objection that they've made.

3 MR. BOGLE: Okay. Thank you.

4 THE COURT: If that makes any sense.

5 MR. BOGLE: So just don't mention the crime but talk
6 about drinking and his substance abuse issues?

7 THE COURT: Yeah. Uh-huh.

8 MR. BOGLE: Okay.

9 THE COURT: If that's relevant to her opinion yeah.

10 MR. BOGLE: Uh-huh.

11 THE COURT: Okay. I'll see you all back about two
12 o'clock then.

13 MR. BOGLE: Just to speed things up, we have four
14 exhibits to put in; the three CSC with a minor second
15 degree, and a fourth one is the solicitation of a minor. I
16 think there's an agreement that they come in and I've got
17 'em marked as evidence with no objection.

18 THE COURT: Those are the indictments?

19 MR. BOGLE: They will come in during Doctor Gehle's
20 testimony.

21 MS. GOOD: Those I stipulate to that, your Honor.

22 THE COURT: Okay.

23 MS. GOOD: They don't need to call the Clerk's office
24 for that.

25 THE COURT: Okay. All right. See you back about two.

1 MR. BOGLE: Two o'clock. Thank you.

2 (COURT IN LUNCH RECESS AT 12:41 PM.)

3 (COURT BACK IN SESSION AT 02:02 PM.)

4 THE COURT: All right. Anything else before we bring
5 the jury in?

6 MR. BOGLE: Nothing from the State, your Honor.

7 MS. GOOD: No, sir.

8 THE COURT: Let's bring the jury in.

9 Lawyers approach one moment.

10 (BENCH CONFERENCE OFF THE RECORD AT 02:02 PM..)

11 (JURY REENTERS COURTROOM AT 02:04 PM.)

12 THE COURT: All right, Ladies and gentlemen, we are
13 now ready to begin the trial of this case. Before we
14 receive the arguments from the attorneys and we begin with
15 the presentation of the evidence, the Clerk of Court needs
16 to swear you in so if you will please stand and raise your
17 right hand.

18 (WHEREUPON, PETIT JURY SWORN
19 AT 02:05 PM.)

20 MADAM CLERK: Thank you. You may be seated.

21 THE COURT: Ladies and gentlemen, before we begin the
22 trial I want to tell you that this trial will be different
23 than what you may expect. Many people do not have the
24 chance to attend an actual court session as you're doing
25 now and may think from watching television or movies or

1 reading books that trials are always full of high drama and
2 tense action and riveting circumstances. Now while all
3 these things may be true at times, this trial is not for
4 entertainment. It is a fundamental part of our democracy,
5 a search for the truth in an effort to make sure that
6 justice is done between the parties that are presently
7 before this court. Searching for the truth and making sure
8 that justice is done is often slow deliberate repetitive
9 just the opposite of what maybe you have seen in television
10 or movies or read about in books.

11 This courtroom is a place of honor dedicated to the
12 protection and preservation of citizen's rights through
13 what many have called the greatest justice system ever
14 created. The attorneys appearing before you they are
15 advocates for the parties they represent but first and
16 foremost they are officers of the court sworn to uphold the
17 integrity and fairness of our judicial system and to help
18 you in the search for the truth.

19 You should expect them to be professional competent
20 and ethical in their representation of their client's
21 interest. But remember that you have taken an oath to try
22 this case and reach and a fair and just verdict and you are
23 also expected to be professional and reasonable and
24 ethical. But I thank you for accepting the important
25 responsibility of jury service and for your contribution

1 today to our justice system.

2 Now, Ladies and gentlemen, what I will say now is
3 meant to serve as an introduction to the trial of this
4 case. My remarks are not a charge on the law of this case.
5 I will instruct you on the law at the end of this trial
6 before you retire to decide the case. Before the trial
7 begins I want to explain to you the procedures that we will
8 follow so that you can better understand what is happening.

9 You have been selected to be fair and impartial jurors
10 whose purpose is to find and determine the facts of this
11 case. You are the sole judge of the facts of this case.
12 If at any time I make any comment regarding the facts you
13 must disregard my comments. You are to determine the facts
14 of this case from the testimony you hear and any other
15 evidence that is presented during this case. You should
16 not be influenced by any opinions or statements you may
17 have heard outside of this courtroom. It is especially
18 important that you perform your duty of determining the
19 facts diligently and consciously because ordinarily there
20 is no way to correct an erroneous determination of facts
21 that is made by a jury.

22 Now when you comply with your oath to impartially
23 determine the facts of this case you will have fulfilled
24 your duty as jurors and no one will have the right to
25 criticize your verdict. But now on the other hand and with

1 equal emphasis the same law that makes you the facts of the
2 case makes me the judge of the law of this case. The law
3 as given by this court is the only law that you may
4 consider. You must accept it and follow it even though you
5 may disagree with it. I cannot tell you what the facts are
6 and you cannot disagree with me as to what the law is or
7 what the law should be. Your job is to take the law as I
8 give it to you and apply it to the facts as you find them
9 from the testimony of the witnesses and any other evidence
10 that is presented during the course of this trial.

11 After doing that you will render what's called a
12 verdict; a true and just verdict under the solemn oath that
13 you just took as jurors. Now as I've explained before
14 until I advise you to begin your deliberations you must not
15 discuss the case with anyone including your fellow jurors,
16 friends, family members, and anyone involved in this case.

17 As I've mentioned this includes discussions that's
18 face to face or those by telephone, email, text, blogs, or
19 any other type of method of communication. You may not use
20 a computer, a cell phone, or other electronic device with
21 communication capabilities at any time while in this
22 courtroom or during the deliberations. During your breaks
23 and meals and over night if necessary you may use these
24 devices. However, you may not at any time use these
25 devices to get or send information about this case. During

-72-

1 the trial I don't anticipate there being any type of news
2 coverage but in the event there is any type of news
3 coverage do not read, listen to, or watch any types of
4 reports about this case. This includes again anything that
5 maybe you would see in the newspaper, on the internet,
6 radio, or television or otherwise.

7 You must not consider anything you may have read or
8 heard about this case outside of this courtroom whether
9 before or during this trial. Now after the case is
10 submitted to you you must discuss it only in the jury room
11 with your fellow jurors. The attorneys and the parties in
12 this case have been advised that they are not to talk to
13 you at all. So as I mentioned before if you see any of
14 them around the courthouse coming and going and they do not
15 even say hello to you, they're not being rude or unfriendly
16 but they're simply following my instructions not to have
17 any contact with you.

18 Now it's important that you keep an open mind and not
19 decide any issues in this case until all of the evidence
20 has been presented, the parties have made their closing
21 arguments and I have instructed you on the law. Now in
22 just a moment the attorney for the state will make what is
23 called an opening statement. Now the attorney will explain
24 to you the issues in this case or at least what the
25 attorney thinks the issues are in this case. The attorney

1 representing the respondent will also make an opening
2 statement. I tell you that what the attorneys tell you in
3 their opening statements is not evidence in this case. It
4 is only their contention as to what the issues are. The
5 evidence in this case will be presented to you by testimony
6 of sworn witnesses from this witness stand and any exhibits
7 that might be presented during the course of this trial.

8 As I mentioned to you before from time to time you may
9 hear one of the lawyers say something like, your Honor, I
10 have - I believe I have a question of law to discuss with
11 you or a matter of law to take up with you. Or they may
12 say, your Honor, may we approach the bench. Or sometimes I
13 myself may find it necessary to excuse you from the
14 courtroom for a short while so that the attorneys and I can
15 discuss what's called matters of law.

16 Now the reason for this is because you are the judge
17 of the facts in this case and sometimes when I'm discussing
18 matters of law with the attorneys it may be necessary for
19 me to comment on the facts in connection with ruling on
20 whether or not a particular law applies or not. I'm not
21 supposed to tell you what I think of the facts so I will
22 excuse you from the courtroom while these discussions with
23 me and the attorneys take place so that you will not be
24 influenced by anything that I might say.

25 Now, Ladies and gentlemen, in determining what the

1 true facts are in this case, you just decide whether or not
2 the testimony of the witness is believable. It is my
3 responsibility to rule as a matter of law whether certain
4 testimony is admissible at all or not. But once the
5 testimony is admitted whether or not you believe it is
6 solely up for you to decide. In deciding whether to
7 believe a witness you have the right to consider whether
8 the witness has an interest in the result of the trial,
9 whether the witness is prejudiced towards either of the
10 parties; the opportunity for the witness to have seen the
11 matters and things about which the witness may testify and
12 also the way the witness acts on the witness stand.

13 You have a right to consider anything that is in the
14 record that will help you evaluate the testimony of the
15 witnesses. That means that it is your duty to pay close
16 attention to these witnesses; to observe the witnesses, to
17 listen to the witness and to pay close attention to the
18 attorneys and to the court. Do not let your thoughts
19 wonder but pay attention to the testimony so that at the
20 end of this trial you will be able to determine the true
21 facts to apply the law to those facts and render a true and
22 just verdict.

23 Now, Mr. Foreman, it will be your added duty to
24 preside in the jury's deliberation room and also to serve
25 as the jury spokesperson in this courtroom in the event

OPENING STATEMENT: BY MR. BOGLE

-75-

1 that becomes necessary. It will also be your added duty to
2 write the verdict but I will give you further instructions
3 on that at the end of this trial. Now, in order to
4 preserve everyone's rights I will give both parties an
5 opportunity to object to anything that I have said to you
6 at this point.

7 Any objections from the State?

8 MR. BOGLE: No, your Honor. Thank you.

9 THE COURT: Any from the respondent?

10 MS. GOOD: No, sir.

11 THE COURT: At this time, Ladies and gentlemen, we
12 will begin the trial of this case.

13 Yes, sir, Mr. Bogle.

14 MR. BOGLE: Thank you, your Honor. May it please the
15 court.

16 THE COURT: Uh-huh.

17 MR BOGLE: Ms. Good.

18 Okay. I introduced myself a while back. My name
19 again is Jim Bogle, I'm with the Attorney General's office.
20 When people see us doing these things they wonder why the
21 Attorney General, why not say our solicitor, county
22 attorney, or somebody local, and the reason is when the
23 General Assembly passed this law that you're gonna deal
24 with, they put our office in charge of presenting the case
25 to the jury's around the state.

OPENING STATEMENT: BY MR. BOGLE

-76-

1 There's two of us that do these. Cam Marwin and me,
2 we have the state divided in half and one of the circuits I
3 have is the Sixteenth Circuit which is York and Union
4 Counties. That's why it's me. Now when you got pulled
5 for jury duty, you got pulled for jury duty in the Court of
6 Common Pleas civil cases; not criminal, and your thought
7 was I might be doing a medical malpractice case or an
8 automobile accident or a product's liability or a fight
9 about a contract or something. Sorry, but that's not gonna
10 happen. This is very different. In this case against Mr.
11 Burris the State's contending that he is a sexually violent
12 predator under the Sexually Violent Predator law passed by
13 our General Assembly back in 1998.

14 Here's what they said. When they wrote this law they
15 said they made a finding that a mentally abnormal and
16 extremely dangerous group of sexually violent predators
17 exist who require involuntary civil commitment in a secure
18 facility for long-term control care and treatment. The
19 General Assembly further finds that the likelihood of these
20 sexually violent predators will engage in repeated acts of
21 sexual violence if not treated for the mental conditions is
22 significant. So it's not an auto wreck.

23 Here's what we have to do. We have to prove to you
24 two things. Number One: Has Mr. Burris been convicted of
25 what's called a sexually violent crime and he has. You'll

OPENING STATEMENT: BY MR. BOGLE

-77-

1 hear testimony about four different convictions. Criminal
2 sexual conduct with a minor in the second degree back in
3 2005; three convictions for that. The fourth conviction
4 was in 2014 for criminal solicitation of a minor. These
5 are classified as sexually violent crimes in the statute.
6 So that's the first thing we have to prove to you.

7 The second thing is does Mr. Burris have a mental
8 abnormality or a personality disorder, one of the two or
9 both; that makes him likely to commit acts of sexual
10 violence unless he's confined for long term control care
11 and treatment. So basically what that means is this is a
12 civil commitment process. The State is trying to commit
13 Mr. Burris to a facility for long-term control care and
14 treatment for these sexual problems that he has.

15 Now, what is it and what will you hear? Normally in a
16 civil case or any case witnesses can only testify about
17 things they see, things they hear, things they smell. Like
18 I saw that person run the red light or I heard the gun go
19 off that kind of thing. They can't give opinions. But in
20 special cases where a witness has a certain training and
21 expertise in an area that might help you the jury find a
22 certain fact that witness can be allowed to give an
23 opinion. And what you will hear from today on behalf of
24 the State is Doctor Marie Gehle sitting over there in the
25 blue suit. She was appointed by the Court to evaluate Mr.

OPENING STATEMENT: BY MR. BOGLE

-78-

1 Burris to see if based on his entire history and the kind
2 of crimes he's been convicted of and what he tells her he
3 has a mental abnormality or a personality disorder that
4 makes him likely to commit these types of crimes and is so
5 likely that he needs to be confined for treatment. And she
6 found that he did and you'll hear about that from her.

7 She found a diagnoses of what's called antisocial
8 personality disorder and she'll explain what that is and
9 how it links to his risk for reoffending.

10 Now in a normal civil case one party has to prove
11 their case by what's called preponderance of the evidence.
12 Think of a scale as fifty-one percent, one hand just above
13 the other. In this case it's different. When the General
14 Assembly passed this law they knew that, I think, when if a
15 person gets committed or take his liberty away, so the
16 burden of proof is higher. We have to prove our case to
17 you beyond a reasonable doubt and the judge will explain at
18 the end of the case what that burden of proof means. It's
19 a high burden and it ought to be. That's what we have to
20 prove. Has he been convicted of the right kind of crimes
21 and does he have that mental condition that makes him
22 likely to reoffend so badly that he needs to be committed
23 for care and treatment?

24 Now, let me say in advance because of the nature of
25 the case, and for Doc to be able to explain how she got to

OPENING STATEMENT: BY MR. BOGLE
BY MS. GOOD

-79-

1 that diagnoses it may be necessary for her to explain some
2 of the underlying details of the crimes he was convicted of
3 so some of the stuff you may hear may not be nice stuff to
4 hear. That kind of goes with the territory which is
5 necessary I believe for you to understand how she got to
6 that diagnoses and why it is he's one of these dangerous
7 crowd that we're talking about early on.

8 That's what the case is; that's the burden of proof on
9 behalf of the state. Use your common sense and we'll take
10 it from there.

11 Thank you, your Honor.

12 THE COURT: Yes, ma'am.

13 MS. GOOD: Thank you, your Honor.

14 Good afternoon. You just heard the Attorney General
15 say that there's two things that they have to prove to show
16 that Mr. Burris is a sexually violent predator. The first
17 I will go ahead and sit here and tell you right now, we're
18 not objecting to the fact that he's been convicted of
19 sexually violent offenses. That's a given. There's no
20 argument on that. What you're gonna be here to decide is
21 whether based on Doctor Gehle's evaluation of him whether
22 he is likely to reoffend as of today's date, ladies and
23 gentlemen.

24 I want you to pay attention to her because they're
25 gonna throw out terms to you like sexual assault, sexual

OPENING STATEMENT: BY MS. GOOD

-80-

1 exploitation, all these not nice things that Mr. Bogle was
2 just talking about and they're gonna bank on you hearing
3 those words in making a decision on that instead of the
4 actual facts and statistics that Doctor Gehle is gonna give
5 you in her evaluation.

6 I want you to pay attention to those statistics
7 because she has to prove, along with the state, that he is
8 likely to reoffend beyond a reasonable doubt. And to give
9 you a little bit more of what beyond reasonable doubt is,
10 it's something that leaves you firmly convinced that this
11 is what the result is. Ladies and gentlemen, I'm gonna
12 submit to you now and I'm gonna come back and talk to you
13 at the end of this case, it's impossible to predict what's
14 gonna happen in the future. You can't predict the day
15 you're gonna die. You can't predict who is gonna win a
16 ball game. They have odds in Vegas based purely on the
17 stakes that you can't predict what's gonna happen. The
18 under dog wins all the time or the favorite wins all the
19 time but you can't predict what's gonna happen so that's
20 why I want you to listen to the actual statistics when
21 Doctor Gehle testifies as to whether he is likely to
22 reoffend or not.

23 In addition I want you to listen to the timing of
24 where she gets some of her information. Whether it's from
25 today or whether it's from three years ago. I think that

OPENING STATEMENT: BY MS. GOOD

-81-

1 is going to make a difference and I want you to pay
2 attention to that when she testifies. I want you to listen
3 carefully to her; to the state's witnesses.

4 My name is Anna Good and I'm proud to represent Mr.
5 Burris in this case and I believe it's necessary that
6 somebody represent Mr. Burris in this case because the
7 State is not gonna be able to prove to you beyond a
8 reasonable doubt that he is likely to reoffend as of
9 today's date. So please listen to all the evidence and
10 when we come back to you at the end I'm gonna ask that you
11 find him not to be a sexually violent predator.

12 THE COURT: Is the State ready to call their first
13 witness?

14 MR. BOGLE: We are, your Honor.

15 THE COURT: Yes, sir.

16 MR. BOGLE: Thank you, your Honor. May it please the
17 court. The State would call Doctor Marie Gehle, please.

18 THE COURT: Ma'am, just come right up here and allow
19 the Clerk of Court the opportunity to swear you in.

20 MADAM CLERK: Doctor Gehle, if I can have you place
21 your left hand on the Bible and raise your right.

22 (WHEREUPON, MARIE GEHLE, BEING
23 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

24 MADAM CLERK: Come around and have a seat. Just watch
25 your step up.

DOCTOR MARIE GEHLE: BY MR. BOGLE

-82-

DIRECT EXAMINATION

DOCTOR MARIE GEHLE BY MR. BOGLE:

Q. Doctor Gehle, would you please state your full name and county of residence please?

A. My name is Marie Elizabeth Gehle, G-e-h-l-e, and I live in Columbia County in Georgia.

Q. Okay. That's Augusta, North Augusta?

A. It's Augusta areas.

Q. Okay. How are you employed at the present time?

A. I'm a Chief Psychologist at the South Carolina Department of Mental Health.

Q. What degrees do you possess, educational degrees?

A. I have a Bachelor's of Art in Psychology, a Master's of Art's in Clinical Psychology and a Doctorate in Clinical Psychology.

Q. Have you had any additional specialized training in the field of psychology?

A. Yes, I've done a lot of training throughout my years of education. In particular I did a predoctoral internship at Western State Hospital in Tacoma, Washington. There I did training at the special commitment center which is a sexually violent predator program in Washington State. I did treatment with sexually violent predators and detained individuals there. I also did I guess another eight months of forensic evaluations so evaluations of

1 competency to stand trial, criminal responsibility, and
2 risk assessments there. Then I did a post-doctoral
3 fellowship at East Central Regional Hospital in Augusta;
4 it's one of the state hospitals there. And did forensic
5 evaluations again criminal responsibility, competency to
6 stand trial, risk assessments. And I also did treatment
7 with people who were sent to the hospital by the courts.

8 Q. What states are you licensed to practice psychology
9 in?

10 A. I'm licensed to practice in Georgia and South
11 Carolina.

12 Q. Do you have memberships in any professional
13 organizations related to this field that you're talking
14 about?

15 A. Yes. I'm a member of the American Psychology on Law
16 Society. It's a division that deals with forensic
17 psychology. I'm also a member of the sex offender's civil
18 commitment program in that work. It's a group of
19 individuals who are involved with civil commitment sexually
20 violent predator programs.

21 Q. And, Doctor, what is basically the study of
22 psychology?

23 A. It's the study of behavior in the mind.

24 Q. Now, you mentioned the word, a phrase a minute ago
25 called forensic psychology. When we say forensic in

DOCTOR MARIE GEHLE: BY MR. BOGLE

-84-

1 connection to psychology, what are we talking about?

2 A. It's the application of the principles of psychology
3 applied to questions of the law.

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

6 A. Yes.

7 Q. And including all types of evaluations about how
8 many have you done?

9 A. Several hundred.

10 Q. And you mentioned a minute ago competency to stand
11 trial. Is that one?

12 A. Yes.

13 Q. And then criminal responsibility. Now what about -
14 What about in the area of sexually violent predators, how
15 many - Did you also do annual reviews of people already
16 committed to the treatment facility?

17 A. Yes.

18 Q. About how many annual review reports have you done
19 of folks already committed?

20 A. It's around ninety.

21 Q. Okay. Now in precommitment cases like the one
22 here, doing an evaluation to see whether or not a person
23 should be committed for treatment like the one involving
24 Mr. Burris today, about how many of those have you done?

25 A. I think just a few less than a hundred so ---

DOCTOR MARIE GEHLE: BY MR. BOGLE

-85-

1 Q. Okay.

2 A. --- between ninety-five and a hundred.

3 Q. Have you previously been recognized by the courts of
4 this state as an expert in the field of psychology and
5 forensic psychology?

6 A. Yes.

7 Q. About how many times?

8 A. More than eighty.

9 MR. BOGLE: We at this time offer Doctor Maria Gehle
10 as an expert witness in the field of psychology and
11 forensic psychology, your Honor.

12 MS. GOOD: No objection.

13 THE COURT: All right, Ladies and gentlemen, normally
14 a person cannot give opinion testimony. Normally when a
15 person testifies they must testify as to what either they
16 saw, heard, or sensed by smell or something of that nature.
17 However there is an exception when someone is qualified
18 because of education and experience. They are permitted to
19 give their opinion in certain areas of the court qualifies
20 them that way. This witness will be qualified in the area
21 of psychology and forensic psychology to give her opinion
22 in those areas. Now that does not mean that you must
23 accept the opinion but it is evidence for you to use in any
24 way that you see fit.

25 MR. BOGLE: Thank you, your Honor.

DOCTOR MARIE GEHLE: BY MR. BOGLE

-86-

1 Q. Doctor Gehle, how did you get involved in this case
2 involving Keith Burris?

3 A. I was appointed by the court to do the evaluation.

4 Q. And what type evaluation was done in this case?

5 A. It's a risk assessment for sexually violent - under
6 the Sexually Violent Predator Act. I consider it a
7 precommitment evaluation.

8 Q. Okay. Would you describe for the jury your protocol;
9 your step by step procedure in conducting evaluations of
10 this type?

11 A. Sure. First off I get the order and I get a file
12 full of information that often contains the police reports
13 of any past crimes, a full criminal history multi-state so
14 any criminal history that exist. It will - I will get any
15 mental health records that exist if they're still
16 available. And I'll review all that information then I'll
17 sit down with the person - with the respondent - and I'll
18 ask them questions. I'll sit down with them for several
19 hours. Sometimes I do psychological testing with them,
20 sometimes I don't but I'll listen to what they have to say.
21 I'll ask 'em all about their history; about their sexual
22 history, things that they're into sexually; things that
23 they find arousing. I'll ask them about their criminal
24 history and get an account from them on all the crimes that
25 are in the records. And I'll ask them about their plans,

1 you know, what they're take is on their offending. Things
2 like that. I'll take all that information that I get in
3 the file and everything that I can find and I'll write a
4 report and then I send that report to the Office of the
5 Attorney General. That's what the law says I have to do.

6 Q. Now have you on a previous occasion done the
7 evaluation of Mr. Burris?

8 A. Yes.

9 Q. In this particular situation did you have an occasion
10 to meet with - As part of this evaluation process you're
11 talking about right now did you meet with and interview
12 Keith Burris?

13 A. Yes.

14 Q. About how long - Well first off, is the man that you
15 interviewed present in the courtroom today?

16 A. Yes he is.

17 Q. Point him out.

18 A. Sitting in the blue shirt over there.

19 Q. Okay. Now, about how long did you meet with and
20 interview Mr. Burris?

21 A. Four and a half hours.

22 Q. Okay. In addition to meeting with Mr. Burris, and
23 interviewing him, what information did you receive? You
24 talked about collecting information a minute ago. Is that
25 a list of information you got about this case or do I have

DOCTOR MARIE GEHLE: BY MR. BOGLE

-88-

1 to expand on it?

2 A. Yes. I got all the information in regards to the
3 legal records so, police reports, witness statements,
4 booking reports, things like that. I got his records in
5 regard to how he did in prisons so from the Department of
6 Corrections. I got warrants and indictments, narratives,
7 summaries of the incidents for the non-police records. And
8 that was the large bulk of the information.

9 Q. Did you also look for any psychological or psychiatric
10 records about Mr. Burris if those things existed?

11 A. Yes.

12 Q. Okay. Is this the type information that's typically
13 and reasonably relied upon by experts in your field?

14 A. Yes.

15 Q. And did you consider it and rely upon all this
16 information together with the interview of Mr. Burris and
17 whatever testing or scoring you did on psychological test
18 about him in order to arrive at an opinion in this case?

19 A. Yes.

20 Q. Can you explain to the jury how a person's pas
21 sexual offense behavior links to future sexual offense
22 behavior?

23 A. Well their past behavior has been shown to be related
24 to future behavior. It just shows what somebody's capable
25 of; the lines that they'll cross, often that they'll cross

1 again; if they've crossed it once they'll often cross it
2 again.

3 Q. Okay. Well look at your report and one of the - in
4 the beginning part of your report on about page six of your
5 report you start talking about the personal history of Mr.
6 Burris. And I noticed in there it's some issues involving
7 his attitude toward animals.

8 A. Yes.

9 Q. Odd people with animals. Is that something important
10 to you in making a diagnoses of him particular in regard to
11 the sexually violent predator law?

12 A. Yes.

13 Q. And why is that?

14 A. Well I always look for whether the person has a
15 paraphelia. A paraphelia is something related to their
16 sexual arousal whether they're aroused to children, or
17 other sort of illegal acts and whether they have a pattern
18 of that behavior. That's one of the first things that I'm
19 looking for in their history. The second thing that I'm
20 looking for is personality disorders. And the primary
21 personality disorder related to sexually violent offending
22 and sexually violent civil commitment is antisocial
23 personality disorder. Now in order to make that diagnoses
24 I have to look way back into their childhood. In
25 particular in their behavior before age fifteen because I

DOCTOR MARIE GEHLE: BY MR. BOGLE

-90-

1 have to see if they've had a pattern of this behavior that
2 originated early. It has to originate in some way prior to
3 age fifteen. And so I look at the criteria for conduct
4 disorder which is - that's part of the antisocial
5 personality disorder, conduct disorder. That's a childhood
6 mental illness related to their, you know, a lot of
7 behavior problems.

8 One of the criteria for conduct disorder is cruelty to
9 animals. So I ask them all the questions and that's one of
10 them.

11 Q. Okay. What did you find out when you ask about that
12 particular issue?

13 A. Well he told me that - When I ask him if he ever
14 harmed animals he replied we would catch cats put them in a
15 sack throw them in the creek. It really didn't bother me.
16 When you come from the country and we had so many cats. He
17 said that he witnessed his uncle's torturing animals and
18 indicated that their behavior was normal to him. So he -
19 He definitely fit that criteria for conduct disorder in
20 regards to cruelty to animals.

21 Q. Now you would say criteria, is a specific list of
22 criteria things you're looking for to make a diagnoses?

23 A. Yes.

24 Q. And is a book called the Diagnostic and Statistical
25 Manual Edition V, the DSM V we call it, is that the latest

1 version of the manual that psychologist and psychiatrist
2 use to diagnose mental abnormalities and personality
3 disorders?

4 A. Yes.

5 Q. So when you talk about a criteria are you talking
6 about a list that's in that book?

7 A. Yes.

8 Q. Okay. Now, is substance abuse or a drinking history,
9 a history of consuming alcohol, is that something you look
10 for in a case of this nature?

11 A. Yes.

12 Q. And why is that?

13 A. Well that's sort of complicated. I look at it because
14 it's related to a risk factor called impulsivity; whether
15 they have trouble controlling their sort of general
16 behavior. But substance abuse in general has not been
17 shown to strongly related to sexual offending. So it's
18 related to impulsivity not really related to sexual
19 offending but I look at it none the less.

20 Q. Okay. Now in the course of your interviews with him
21 what did his attitude toward women in general appear to be
22 to you and how did he display it?

23 A. Well his attitude towards women was very prevalent
24 throughout the interview. First off he refers to women as
25 females and I ask him about that. And he said that he knew

DOCTOR MARIE GEHLE: BY MR. BOGLE

-92-

1 that it was demeaning. People had told him that before
2 that it was demeaning to say that and he wouldn't refer to
3 even a particular woman by her name. He would refer to her
4 as this female I was talking to; that kind of thing. And
5 he said that if he would say the name that other men would
6 know who the girl was and then they would go behind his
7 back and try to steal her because men often do that was his
8 opinion. He also said that he called them females because
9 most men call them sluts and whores and so he saw female as
10 a better choice.

11 So those examples in particular really speak to his
12 distrust of people and the ways that he thinks are normal
13 to treat women to refer to them in those manners. It
14 really spoke to his disrespect for women. He told me that
15 he had never been faithful to a female. That he never
16 really could be. He said he would sleep with four or five
17 women a day and have two or three orgasms with all of them
18 and that he would have a woman on his rotation. He would
19 just go house to house to houses is basically how he
20 explained it.

21 Q. Now based upon your review of his file, talking to
22 him, all the documents you've looked at, has he been
23 convicted of sexual offenses?

24 A. Yes.

25 Q. Now, first I would like to regarding the crime - the

1 sexual crimes I'm about to ask you about, did you review
2 the documents behind each crime you're gonna talk about?

3 A. Yes.

4 Q. Okay. Now are these the type of documents typically
5 and are reasonably relied upon by experts in your field?

6 A. Yes.

7 Q. Why is it necessary to examine the underlying details
8 behind a sexual crime?

9 A. Well because I have to look at whether he's targeting
10 males, females, the age of the person he's targeting; the
11 nature of the relationship. Was it a sexual offense
12 because of an age discrepancy so was it a consensual act
13 with an underage girl? Was it a consensual act or with a
14 teenager? What's the age of the victim? Was it a non-
15 consensual act meaning was it like a rape? Was there
16 violence involved? How many times it happened; where it
17 happened, all those factors I have to look at and consider.

18 Q. Now, Doctor, early in your report around page eleven
19 or so, you look into a 1997 charge of criminal sexual
20 conduct with a minor that resulted in a conviction for
21 assault and battery of a high and aggravated nature. What
22 we call ABHAN, A-B-H-A-N. Why was it necessary to look at
23 this?

24 A. Well this was initially charged as a sexually violent
25 offense, criminal sexual conduct with a minor, sexually

DOCTOR MARIE GEHLE: BY MR. BOGLE

-94-

1 violent offense and he pled that down to assault and
2 battery of a high and aggravated nature. So I needed to
3 look at, you know, what were the - what was the nature of
4 that offense. And what I found was the charges were
5 related to him having sex with a thirteen-year-old girl.
6 She said that it was voluntary and Mr. Burris was about
7 thirty years old at the time. And he also admitted to
8 having sex with her. He said he thought that the girl was
9 his cousin's girlfriend and that he was drunk and that one
10 thing led to another. She had run away and came to his
11 house. He gave some variant accounts but essentially he
12 said that he had sex with a thirteen-year-old girl.

13 Q. But, Doctor, the conviction of assault and battery of
14 a high and aggravated nature that's not a sexually violent
15 crime is it?

16 A. Correct.

17 Q. But it was necessary for you to look at this in making
18 your ultimate diagnoses?

19 A. Yes.

20 Q. Okay. Now turning to - I'd like to approach you
21 right now.

22 MR. BOGLE: If I may approach the witness, your Honor.

23 THE COURT: Yes, sir.

24 BY MR. BOGLE:

25 Q. I'd like to hand you certified copies of three

1 convictions here in York County for criminal sexual conduct
2 with a minor in the second degree. The first in State's
3 Exhibit One, convicted and sentenced on January 24 of 2005.
4 The second crime is another conviction for criminal sexual
5 conduct with a minor in the second degree, same conviction
6 date of January 24, 2005, State's Exhibit Two. And State's
7 Exhibit Three is a third conviction also for criminal
8 sexual conduct with a minor in the second degree here in
9 York County and the same date January 24, 2005.

10 Now, Doctor, those are certified records of his
11 convictions. Are these documents you looked at in the
12 course of your evaluation of Mr. Burris?

13 A. I looked at copies of these, yes.

14 Q. Okay. And does that client as charged in each one
15 of these three sentencing documents criminal sexual conduct
16 with a minor in the second degree; is that classified as a
17 sexually violent crime under our law?

18 A. Yes it is.

19 Q. Now, Doctor, would you please explain to the jury
20 in looking at these crimes do you examine the police
21 records?

22 A. Yes.

23 Q. Witness statements?

24 A. Yes.

25 Q. Do you look at what he told the police at the time

DOCTOR MARIE GEHLE: BY MR. BOGLE

-96-

1 he got arrested?

2 A. Yes if he made a statement I'll look at it.

3 Q. And do you interview him now to see what his version
4 is now about the case?

5 A. Yes.

6 Q. Okay. Would you please tell the jury about the
7 underlying details of these offenses that you found
8 necessary to make your diagnoses?

9 A. Yes. Specifically he was charged with having sex
10 with a female minor in three separate time periods so all
11 these offenses are involving the same person. He began
12 having sex with her when she was approximately twelve years
13 old and it continued until she was fifteen years old.

14 So they had three separate time ranges; when she was
15 twelve, and then another time period when she was between
16 thirteen and fourteen. And then another time period when
17 she was fifteen.

18 Q. And how old would he have been when this conduct all
19 started?

20 A. He would have been in his mid-thirties.

21 Q. Okay. What underlying details regarding each offense
22 because you find important in making your diagnoses of him?

23 A. Well basically he said that he had had a sexual
24 relationship with this girl for all those years so he
25 admitted to that. He described it as consensual and she

1 described it in positive terms at times. So in the earlier
2 years she apparently was having sex with him that was not
3 rape. Unfortunately she's too young to consent for the
4 laws of South Carolina. But the last incident was
5 different. So the last criminal sexual conduct with a
6 minor in the second degree was different. In that case she
7 reported that she had been staying at a friend's house and
8 that he came over to this friend's house uninvited. He
9 entered the house and he forcefully removed her - took her
10 carried her to his car drove her to somewhere she wasn't
11 sure where. He beat her about the face and the neck and
12 the arms; hit her head on his car, really just beat her up.
13 She said that she lost consciousness several times during
14 the assault. She believed that he penetrated her vagina.
15 She remembered that he threatened to kill her; he tore at
16 her clothing. Afterwards he drove her to her sister's
17 house. She reported that she didn't really remember a
18 sexual assault but when she regained consciousness she was
19 no longer wearing her bra and her panties and she couldn't
20 find them. She said that her vaginal area was very sore
21 and that she believed that she had been sexually assaulted.
22 She required medical attention. She had a sexual assault
23 examination; it's a very intrusive examination to collect
24 evidence in a sexual assault. And she was described as
25 having swelling, redness and bruising to her face, neck,

DOCTOR MARIE GEHLE: BY MR. BOGLE

-98-

1 wrist, hands, arms, and ribs; scratching and swelling on
2 the back of her head and tearing of her vagina.

3 It was indicated that, you know, he was upset with her
4 about something and that's why it progressed to that way;
5 that's why it wasn't a consensual sexual encounter like it
6 had been in the past. He was upset with her for being at
7 this house with other guys and thought she was cheating on
8 him or something like that so he went in the house and got
9 her.

10 Q. Now what did - You knew about all these crimes, not
11 just the one you're talking about now, but the other ones
12 as well. Right?

13 A. Yes.

14 Q. What did he say that you found significant when
15 responding to inquiries about these criminal convictions
16 that you're looking at right now?

17 A. Well he - He gave a different account than she did.
18 He said that, you know, he went to the house and got her
19 and that - I want to make sure. I want to make sure that
20 I'm not going on what he told the police so let me just
21 make sure I'm being clear here.

22 Okay. He said when I ask him about this that he
23 met this girl in the summer of 1999. He said her aunt
24 approached him in 2000 told him that the girl had a crush
25 on him; invited him over for a drink to meet the girl.

1 He said that in September 2000 they became intimate.
2 He thought she was twenty years old; she was twelve. He
3 said that she had been drinking, smoking, and hanging out
4 with other people so that's why he thought she was that
5 age. He said actually that he found out she was - He said
6 he didn't know that she was twelve until December of 1999
7 so after he met her but before he started having sex with
8 her. So he contradicted himself when I ask him about this
9 a little bit.

10 He said that when he met her she was sexually
11 developed and sexually active and those things could be
12 true. He said he knew that he could get in trouble with
13 the law in having sex with her but he thought that he had
14 her family's consent and that made it okay to have sex with
15 her. He said that he had sex with her several times a week
16 and he said and I quote she was on my rotation end quote.

17 In regards to the sexual assault that happened when
18 she was fifteen he said - and this is a quote - early that
19 day I had been drinking the day before the girl where the
20 house she was, so the friends house that this fifteen year
21 old girl where the victim was said they called me and
22 invited me over. The other girl was like sixteen or
23 seventeen. Later that night it was twelve midnight when I
24 went to knock on the door; the front door was open but the
25 glass door was open. I saw him meaning a male friend of

DOCTOR MARIE GEHLE: BY MR. BOGLE

-100-

1 the victim performing oral sex on another girl. When I
2 knocked she - meaning the victim - ran. When I went and
3 located her she was getting her clothes back on. He said
4 that she smelled like alcohol and marijuana and because of
5 this he wanted to take her out of the home and take her
6 back to her own home. So take her out of the friend's home
7 and take her back to her own home.

8 He said that he didn't force her leave and that he
9 didn't physically remove her so that was contrary to what
10 her report was. He said that when he took her home he
11 knocked on the door and nobody was home so he took her back
12 to her friend's house and all those other people were gone.
13 Then he took her to his cousin's house and ended up taking
14 her home in the morning. He said that they had sex that
15 night, consensual. When I ask him if he was responsible
16 for the sexual offense he said that she was responsible for
17 it. He said if she gave me her real age it never would
18 have led to it. I give her twenty percent of it and her
19 aunt twenty percent for not telling me her age.

20 Granted he told me that he knew her age prior to them
21 becoming intimate but after he met her and thought she was
22 older.

23 Q. So he told you he knew she was twelve back in '99?

24 A. Yes.

25 Q. Okay. The crime he was convicted of, the one

1 involving the physical damage done to the girl you just
2 testified about, the most recent one, was he pled guilty
3 that crime didn't he?

4 A. Yes he pled guilty to all three counts.

5 Q. Okay. What did you find significant regarding your
6 diagnoses - his account versus the other accounts - you
7 were reading of these crimes? What stood out to you?

8 A. Well you know she described a very brutal assault
9 where she's losing consciousness; where she feels like she
10 was kidnaped out of the home, out of that friend's home,
11 where he raped her and a lot of the evidence as I saw it
12 given that she was bruised up, scratched up, swollen,
13 supported her account. And his was just, you know, they
14 had sex and, you know, no worries. All of it was
15 consensual. She left voluntarily; all that kind of stuff.
16 So I found him to be very discredit.

17 Q. Now, Doctor, I'd like to approach you right now and
18 show you what's been marked as State's Exhibit Number Four;
19 a certified copy of a conviction in York County for
20 criminal solicitation of a minor. It's a guilty plea in
21 Jan - in November 13th, 2014. Is that a document you
22 examined pursuant to your evaluation of Mr. Burris?

23 A. I looked at copies of these documents.

24 Q. Okay. Is criminal solicitation of a minor also a
25 sexually violent crime under our law?

DOCTOR MARIE GEHLE: BY MR. BOGLE

-102-

1 A. Yes it is.

2 Q. Would you please tell the jury the underlying details
3 you found relevant to examining this particular conviction,
4 what happened and how to played out to you?

5 A. In regard to these charges they involved a fifteen-
6 year-old female acquaintance. Her initials are Z R and she
7 exchanged explicit text messages with her. He requested
8 that she send him pictures of herself topless and with her
9 pants down and she complied. He sent her pictures of his
10 penis. And I had copies of the text messages and read
11 those and in those he repeatedly said that he loved her
12 wanted to have sex with her; wanted to marry her, wanted to
13 have a baby with her. She' fifteen so under the age of
14 consent in South Carolina. And he was in his mid-forties
15 at the time.

16 They both denied that they had sex although there
17 was some messages indicating that at a minimum they planned
18 to have sex. And there was some evidence in those text
19 messages that they may have had sex. There was one where
20 he said something to the effect that I hope I'm the only
21 one you're sleeping with. On one occasion he picked her up
22 from school mid-day and she was absent for two classes.
23 And the messages just prior to him picking her up from
24 school while they were making the plans as to where to meet
25 and what not indicated that they intended to have sex on

1 that meeting date. He wanted to see how quote wild she
2 was. He planned on performing oral sex on her and he hoped
3 that she would show him her quote head game meaning oral
4 sex.

5 Q. Now, you interviewed him about these crimes. Right?

6 A. Yes.

7 Q. What did you find significant or different in the
8 version he tried to tell you versus the version you have in
9 front of you regarding all these text?

10 A. Well the way I normally approach my evaluations is
11 I'll ask 'em, you know, sort of give me your version of
12 things. And I won't really reveal how much I know. They
13 should assume that I know everything because I have - I
14 come into the interview room with this, you know, file of
15 information. But he initially told me that he never really
16 planned to talk to this girl; he didn't try to push to talk
17 to her. He said that there was nothing sexual in his
18 communications with her and so I confronted him about it
19 and gave him examples of the text that I read that were,
20 you know, had considerable sexual content.

21 He said that he never saw those text and that his
22 original criminal lawyer did not have copies of those text
23 messages. He indicated that he didn't know they even
24 existed because he was reportedly not shown those by his
25 criminal attorney. So I pointed out to him that, you know,

DOCTOR MARIE GEHLE: BY MR. BOGLE

-104-

1 given that he wrote the text; they were from his cell phone
2 number, that he should be aware that they exist regardless
3 of whether his attorney showed them to him or not and he
4 really didn't have anything to say in response to that and
5 he denied ever having sex with this girl.

6 When I ask him why he chose to be involved with this
7 girl, he said and I quote I was hoping she would change as
8 much as I would change. I think I should have stayed away
9 from my cousin's house all together and just hope I had
10 seen them out or something. So his cousin was the one who
11 introduced him to this fifteen-years-old girl per his
12 report. He apparently his cousin is the girl's step-father
13 so he wasn't related to this fifteen-year-old girl.

14 But he said that his cousin ask him to talk to the
15 girl about her history of stealing and gang affiliation.
16 And he agreed to do this and then proceeded to engage in
17 sort of a sexual relationship with her. He in some of the
18 messages talked about how she would be sexed into a game
19 where she would have to have sex with several people. He
20 signed his text messages with a folk nation related
21 signature indicating that he was still involved in a gang.

22 He told me that he was no longer involved in a gang
23 but he was using that signature that he didn't really even
24 think about why he was still using it. He said it was who
25 he used to be; that he wasn't active in it anymore. He did

1 say to the girl that she was in violation because she was
2 speaking to a friend of her's about the relationship that
3 she was having with Mr. Burris and that that girl could
4 potentially uncover the secret and he could get in trouble.
5 So he said that she was in violation of the gang rules.
6 And when I ask him about like why he used the term
7 violation in the text messages to her, he told me and I
8 quote he said when you affiliated and you lie it's a
9 violation. And he added when you call the violation you
10 chose the punishment. He said among other things a person
11 could be required to pay money, do exercise, or you could
12 get beat if it's a major violation.

13 So even though he was essentially invited into her
14 life to set her straight and get her out of the gang life
15 it seemed that he was pulling her in.

16 Q. Was there some issue about whether or not he bought
17 her a phone or didn't buy her a phone that came up in this
18 conversation?

19 A. Yes. There was talk that he bought her a phone
20 because she had apparently lost privileges to her cell
21 phone per her parents and so he wanted to buy her a phone
22 so they could continue to text message each other and
23 contact each other without anyone knowing. He told me that
24 she wasn't supposed to have a phone because her mom caught
25 her sending dirty pictures. There was also considerable

DOCTOR MARIE GEHLE: BY MR. BOGLE

-106-

1 jealousy that was talked about in the text messages. He
2 talked about having her Facebook password and sending
3 messages to boys that she was friends with and trying to
4 catch her into a lie - in a lie that she was cheating on
5 him.

6 Q. Doctor Gehle, this crime, criminal solicitation of a
7 minor, he pleaded guilty to. Right?

8 A. Yes.

9 Q. Okay. And that's a sexually violent crime under our
10 law?

11 A. It is.

12 Q Now, Doctor, a person commits a crime and gets
13 arrested while out on bond for something else; another
14 criminal offense, is that a factor of significance to you
15 in looking at these types of cases?

16 A. It's factored into a risk factor related to, you know,
17 again whether he can control his behavior when he's under
18 more scrutiny. But there is a specific risk factor that's
19 called - let me super specific here - resistance to rules
20 and supervision and that means violating terms of probation
21 and parole and being noncompliant with the conditions that
22 are imposed; things like that.

23 Q. In looking at page 20 of your report, while he was
24 out on bond for this criminal solicitation of a minor, did
25 he commit another offense that resulted in a conviction

1 that based on your analysis?

2 A. Yes.

3 Q. And was that the fact that he committed a crime while
4 on bond for something else was that important to you?

5 A. Yes.

6 Q. Okay. What was the other crime that he committed
7 while out on bond?

8 A. It was criminal domestic violence.

9 Q. Now, Doctor, is it also necessary for you to look at a
10 person's prison disciplinary history to see if they got any
11 kind of disciplinary problems while in prison?

12 A. Yes.

13 Q. Why is that necessary?

14 A. Well I look at it to see, you know, when they're
15 under intense scrutiny and when they're under, you know,
16 any confinement there's, you know, just so many rules and a
17 lot of supervision; I want to see how their behavior is
18 there when they're under, you know, a microscope
19 essentially.

20 Q. Now has this guy been in prison twice; once for the
21 2005 CSC with a minor convictions and once for the 2014
22 solicitation offense? Right?

23 A. Yes I think at least twice.

24 Q. Okay. Now did you find some prison disciplinary
25 fractions, violations he did while in prison that you found

DOCTOR MARIE GEHLE: BY MR. BOGLE

-108-

1 significant?

2 A. Yes.

3 Q. And what were those?

4 A. He was convicted of possession or attempt to possess
5 a cell phone. That's illegal in the Department of
6 Corrections. He was also convicted of possession of
7 contraband and abuse of privileges. And the abuse of
8 privileges was the one that was most significant to me.

9 Q. Why is that?

10 A. Well that was on a visit; his wife at the time who
11 he's not married to currently, she came for a visit and
12 apparently during this visit she approached the officer at
13 the desk in the visitation room; she requested to have her
14 pass back and stated that Mr. Burris was getting crazy
15 again and that he was not going to touch her child any more
16 so she had brought the child to visit him as well.

17 And it was noted that the officer looked towards the
18 table where Mr. Burris was sitting and observed him
19 forcibly holding the arm of his son. The son was crying
20 in an attempt to pull away from the inmate from the
21 inmate's grasp. So this was happening, you know, in the
22 visitation room right in the eye line of security guards he
23 was doing this. He also had a past conviction for similar
24 behavior, abuse of his child.

25 Q. Okay. Now, Doctor, did Mr. Burris complete any kind

1 of sex offender treatment while in prison?

2 A. Yes.

3 Q. Okay. What did you find out about that and how does
4 that play into your analysis?

5 A. Well he completed sex offender treatment prior to this
6 last offense so he's reoffended since sex offender
7 treatment.

8 Q. Let me back up a second. We have the 2005
9 convictions; he goes to prison for that. Is that when he
10 goes to sex offender treatment?

11 A. Yes.

12 Q. He gets out of prison and then gets in trouble with a
13 criminal solicitation conviction?

14 A. That's correct.

15 Q. So he had sex offender treatment in between the
16 prison stay ---

17 A. Yes.

18 Q. --- and the next prison stay? How is that significant
19 to you?

20 A. We had sex offender treatment in the - in between
21 the convictions.

22 Q. Okay.

23 A. While serving his prison sentence for the 2005,
24 three criminal sexual conducts with a minor.

25 Q. So the fact that he reoffended sexually despite the

DOCTOR MARIE GEHLE: BY MR. BOGLE

-110-

1 sex offender treatment what does it say to you?

2 A. Well it means that treatment didn't really work.

3 Q. Okay. Did that factor in your decision about him?

4 A. Yes to some degree.

5 Q. What did he say to you? Did you talk to Mr. Burris
6 about sex offender treatment?

7 A. Yes.

8 Q. And what did he say about that?

9 A. He said that he realized that he shouldn't be around
10 certain people any more, his old crowd that he used to hang
11 out with, that he really didn't trust females. He said he
12 learned how to control his anger. He learned what type of
13 arous - like what aroused him; what attracts him to women.
14 He said he learned how to have a good relationship with a
15 woman. He said that he learned that he should have
16 investigated more of what was going on in regard to the age
17 of the victim. He indicated that alcohol played a big role
18 in his actions because if it wasn't for alcohol he would be
19 more focused. So that was what he told me in large part
20 related to this sex offense or the - sorry, the sex
21 offender treatment.

22 Q. Does he think he needs more sex offender treatment?

23 Did he talk about that to you?

24 A. Well, he indicated that he would like to go to
25 treatment if he were released; that he would go to

1 treatment for many years and then he would do it
2 voluntarily.

3 Q. Okay. Did he show any kind of remorse about his
4 crimes for the victims?

5 A. No I didn't see any evidence of that.

6 Q. Were there any assessments, scoring or assessments
7 done as part of your evaluation?

8 A. Yes. I performed an actuarial risk assessment.

9 Q. Does a thing called a MMPI I also read about in your
10 report, had you done an MMPI on him at the previous
11 evaluation?

12 A. Yes.

13 Q. Okay. What is an MMPI? Did you do one again or ---

14 A. No.

15 Q. --- or whether he needs it?

16 A. No.

17 Q. Okay. What is an MMPI?

18 A. It's a five hundred plus question - questionnaire true
19 false questions that everything is all combined to
20 determine whether somebody has problems in certain areas
21 related to mental health problems or personality problems.
22 So it looks at their attitudes.

23 Q. Okay. Is it important for experts like you to
24 conduct this assessment?

25 A. I only do it sometimes in these evaluations.

DOCTOR MARIE GEHLE: BY MR. BOGLE

-112-

1 Q. Uh-huh.

2 A. So it's something that I consider but I don't give
3 it a lot of weight. It's certainly not something that I
4 would use as the sole reason to make a diagnoses.

5 Q. Uh-huh.

6 A. So it can be important but its not essential.

7 Q. Did you learn anything from the MMPI that assisted
8 you in the current evaluation we're here about today?

9 A. Well what I learned was that he has very strong
10 antisocial personality attitudes so the way he looks at the
11 world is very much in line with an antisocial personality
12 disorder. Just the way he sees things.

13 Q. Okay. Now that MMPI you just talked about was done
14 at a prior evaluation.

15 A. That's correct.

16 Q. Did you feel it necessary to redo the MMPI this time?

17 A. No. That's something that's stable over time so if
18 you give it once it takes, you know, it can take somebody a
19 couple of hours. It's very long. It's stable over time so
20 I give it once and I don't see the need to give it again.

21 Q. Okay. There's something in your report for this
22 case today called the Static 99R. Can you please tell the
23 jury what that is; what's - basically what it is and how it
24 works?

25 A. The Static 99R is an actuarial risk assessment tool.

DOCTOR MARIE GEHLE: BY MR. BOGLE

-113-

1 Q. Doctor, Doctor, Doctor.

2 A. I'll explain it.

3 Q. Let's get that back down to where I can understand
4 it.

5 A. Okay. It's a ten question test that I score based on
6 the records in large part and on his behavior and his
7 history. It's ten questions and it - the scores range from
8 anywhere from a negative three to a twelve. And actuarial
9 means that you can take the score that they get on this
10 test and you can look at a statistical table so a table
11 full of statistics to see when somebody has a certain score
12 what percentage of people with that score sexually
13 reoffend.

14 Q. Can you give us like an everyday example that we can
15 relate to when you talk about actuarial scores?

16 A. Well probably the largest area of actuaries are in
17 insurance. So if you want health insurance or let's say if
18 you want life insurance they're gonna look at your weight,
19 your age; they're gonna look at - you know they might even
20 come over to your house if you want a lot of health or a
21 lot of life insurance and they might take your blood
22 pressure, they might make you get on a scale and they'll
23 determine what your likelihood to die in a given period of
24 time is and they'll either decide not to give you life
25 insurance or they'll decide to give you life insurance.

DOCTOR MARIE GEHLE: BY MR. BOGLE

-114-

1 If they decide to give you life insurance some of
2 those factors might indicate how much you're gonna pay for
3 it. So for example if you're sixty-five you're much more
4 likely to die within the next twenty years than if you're
5 twenty-five so you're rates would be probably significantly
6 higher. So that's probably the largest field in which
7 actuarial measures are used.

8 Q. And is this Static 99R was this one developed using
9 studies of thousands of inmates at different prisons?

10 A. Yes. Thousands and thousands of sex offenders.

11 Q. And these people already convicted of a sex offense.

12 Right?

13 A. Yes. Basically what they did was they looked at
14 studies that had been done on sex offenders who had been
15 convicted and they wanted to know what factors
16 differentiated the people who were convicted, again, versus
17 those who never reoffended again. So they wanted to see,
18 you know, what's different between these groups of people;
19 the ones who offend and the ones who don't. So all the
20 people in the studies had been convicted of a sexual
21 offense so we got that sample. And then they
22 differentiate, you know, whose been convicted and who's not
23 been convicted, you know, within a given period of time.
24 So some of the studies they will look at a period of five
25 years or ten years or fifteen years. Some studies try to

1 look at time periods that are longer than that but that's
2 very difficult research to conduct.

3 Q. Is - Go ahead.

4 A. And so basically they looked at what factors
5 differentiate those two groups and we want to know, you
6 know, how we can predict who's likely to reoffend. So they
7 came up with the ten question test. Those were the things
8 that differentiate the groups. And basically what you do
9 on this test is you score the ten questions and you come up
10 with a total score so for example Mr. Burris came up with a
11 score of five so five out of twelve. And while you can get
12 a twelve it's really difficult to get a twelve. And after
13 about a six it's not really helpful anymore. So a six is
14 about where it tops out. Most of the largest sample or,
15 you know, almost - I think like ninety-eight percent of the
16 sample have a six or below.

17 So he has a five and that corresponds to moderate
18 high risk. That's what they, you know, given that
19 category. So moderate high risk. And what I do is then
20 look at a recidivism table and look at what percentage of
21 people with that score of five reoffended within five
22 years. And when I do that within five years twenty-one
23 point two percent of that sample reoffended so roughly
24 twenty percent.

25 Q. When you say reoffend, do you mean reoffend sexually?

DOCTOR MARIE GEHLE: BY MR. BOGLE

-116-

1 A. I mean reoffend sexually yes.

2 Q. Okay. Go ahead.

3 A. And if they looked at the time period for ten years
4 it was about thirty-two percent reoffended. So thirty-two
5 percent of the individuals with a score of five reoffended.
6 I can also give you a couple of other statistics with this
7 test. And one of those is if you look at the average sex
8 offender in the research sample so if they take the average
9 the average score of the sex offenders, whether they
10 reoffended or not, is a score of two on the test. So you
11 average every day sex offender will score two.

12 And so I wanted to see how does Mr. Burris' score of
13 five compared to that average score and what I found was is
14 that the expected recidivism rate for people with a score
15 of five is approximately two point seven times higher so
16 between two and three times higher than that average sex
17 offender.

18 Q. Now, Doctor, is it important for experts like you to
19 use this tool in predicting whether or not a person is
20 gonna reoffend sexually like we're trying to do today?

21 A. Yes.

22 Q. And is this a tool that is typically and reasonably
23 relied upon by experts in your field?

24 A. This is the most widely used and it's the most widely
25 used recidivism tool so recidivism just means whether

1 they're gonna do it again for sex offenders. And its also
2 been shown in the research to be the most accurate. Its
3 like - Like the attorney said in the opening arguments its
4 difficult to predict the future and this is the tool that's
5 been shown to be the most accurate. Its not perfect by any
6 means but it's been shown to be the most accurate so I
7 definitely want to use the most accurate thing that I can
8 even if its imperfect because its better than me just
9 guessing or using my clinical judgment. This type of tool
10 combines those risk factors which is hard for our brains to
11 so this is the best thing that I can do to estimate or
12 predict whether he's gonna reoffend again.

13 Q. Now, Doctor, there's something called risk factors
14 which you mentioned a little while back. What are risk
15 factors in conjunction with the case such as this?

16 A. Risk factors are just things that have been found in
17 the research to be related to sexual offending. So again,
18 they'll look at a group of sex offenders and then they want
19 to see what diffrenciates these individuals from the people
20 who reoffend and the people who don't reoffend so they want
21 to partial out those two groups.

22 Q. What type of risk factors did you find based on
23 your research about Mr. Burris and talking to him,
24 reviewing these records, what type of risk factors did you
25 find that affect Mr. Burris?

DOCTOR MARIE GEHLE: BY MR. BOGLE

-118-

1 A. Well first off there are the risk factors on the
2 Static 99R. He's been convicted of a prior sexually
3 violent offense. Or I'm sorry, he's been convicted of a
4 prior non-sexually violent offense so he's been convicted
5 of a domestic violence incident in the '80s. He's had
6 several prior sex offenses prior to the ones that I'm
7 looking at current - prior to the most recent that sexual
8 exploitation of a minor so that's what we call the index
9 offense so I have to look at things prior to that.

10 So he had several priors. He had more than four
11 sentencing dates. He had offended an unrelated victim and
12 so those were the factors that were indicated on the Static
13 99R. Then I also look at a list of things that are called
14 psychologically meaningful risk factors. And those are
15 things that have been related to sexual offending; we're
16 not really sure how they all factor in but these are things
17 that can be targeted in treatment so I always include them
18 in my evaluation just to be extra thorough.

19 So in his case I found a history or sexual
20 preoccupation; a sexual preference for pubescent females
21 and emotional congruence with minors. A history of
22 sexualized violence; offense supported attitudes; lack of
23 emotionally intimate relationships with adults; life style
24 impulsiveness; poor problem solving abilities; resistance
25 to rules and supervision; grievance and hostility; negative

1 social influences. He also had some risk factors that had
2 been deemed promising as they relate to sexual recidivism
3 meaning that they were found to be related to sexual
4 recidivism in some of the research studies but not in all
5 of them. In that regard he had hostile beliefs about
6 women, machiavellianism, and a lack of concern for others.

7 Q. Machiavellianism?

8 A. Yes.

9 Q. You've taken me back to my political philosophy
10 classes and I've forgotten. What does that mean?

11 A. Just that he finds that people are easy to manipulate
12 and believes that its sensible and appropriate to take
13 advantage of other people that, you know, that's how you
14 should approach the world. You know that's what makes
15 sense to do.

16 Q. Now, Doctor Ghee, let me ask you some questions to
17 a reasonable degree of psychological certainty based on
18 your research, your analysis of the documents and reviewing
19 Mr. Burris, the testing and psychological scoring that you
20 did on him on the Static 99R, do you have an opinion,
21 again, to a reasonable degree of psychological certainty as
22 to whether or not Keith Burris suffers from a mental
23 abnormality or a personality disorder?

24 A. Yes.

25 Q. And what is that opinion?

DOCTOR MARIE GEHLE: BY MR. BOGLE

-120-

1 A. My opinion is that he suffers from antisocial
2 personality disorder.

3 Q. Did you look for mental abnormalities; these
4 paraphilias; these sexual disorders you talked about?

5 A. Yes.

6 Q. And did you examine several you thought might relate
7 to him but they didn't?

8 A. Yes. First off, you know, he has sexual offenses
9 against minors so I looked to see whether he's a pedophile.
10 But a pedophile is somebody who's sexually aroused to
11 prepubescent children so somebody who's not even started
12 any sexual development. So by the accounts that I could
13 tell and usually consider age twelve and up for a female to
14 be the age of, you know, they'll almost assuredly have
15 started some level of sexual development. Sometimes I get
16 accounts about whether or what the level of sexual
17 development is but most girls by age twelve has started
18 some levels of sexual development. And his victims were
19 all between twelve and fifteen so they were pubescent most
20 likely. So he's not a pedophile. There's no offense
21 against prepubescent girls that I can tell. Or that have
22 come to my attention anyway.

23 The second thing I looked for was paraphilia which is
24 again a pattern of abnormal sexual arousal. I looked at
25 whether he sexually aroused by rape or having sex with non-

1 consenting people; whether that's what, you know, turns him
2 on. And I found that even though he had had sex with girls
3 who couldn't consent due to their age, they generally
4 consented except for that one incident that I described
5 with the fifteen-year-old; that violent assault and the
6 rape. But that's just one time. And I'm looking for a
7 pattern of behavior that last at least six months and so I
8 only found one incident of that. That's not a pattern. He
9 didn't tell me that that was something that he was into so
10 I couldn't make that diagnosis either. So no pedophilia
11 and no - the rape paraphilia's is what I refer to as
12 biastophilia or other specified paraphilic disorder non-
13 consent. He didn't have either of those.

14 Q. Okay. So - But you did find a personality disorder
15 called antisocial personality disorder. Right?

16 A. Yes.

17 Q. And define that for me. What is that? What does
18 that mean?

19 A. In broad terms it's a pervasive pattern of disregard
20 for and violations of the rights of others.

21 Q. Okay. And does this conduct have to be established
22 prior to a certain age as part of the diagnoses?

23 A. Well there has to be - Like I explained earlier there
24 has to be some evidence of conduct disorder so behavior
25 problems beginning prior to age fifteen. That's one piece

DOCTOR MARIE GEHLE: BY MR. BOGLE

-122-

1 of it. And then I have to look at current behavior and
2 current attitudes and see how he views the world and
3 behavioral markers.

4 Q. Now, Doctor, at this time do you also have an
5 opinion, again to a reasonable degree of psychological
6 certainty, as to whether Mr. Burris's antisocial
7 personality disorder affects his emotional or volitional
8 capacity so that he is predisposed to commit sexually
9 violent offenses in the future?

10 A. Yes its my opinion that his personality predisposes
11 him to commit a wide variety of criminal offenses that also
12 includes sexually violent offenses.

13 Q. And, again, to a reasonable degree of psychological
14 certainty, do you have an opinion as to whether or not this
15 propensity is of such an effect that it's caused a menace
16 to the health and safety of others?

17 A. Yes and I believe that it is.

18 Q. And does he have the propensity to be dangerous and
19 commit future sexually violent offenses, again, to a
20 reasonable degree of psychological certainty?

21 A. Yes it's my opinion that he does.

22 Q. Do you think that his antisocial personality disorder
23 and the risk factors you've talked about today do they make
24 Mr. Burris - do they cause Mr. Burris, again, to a
25 reasonable degree of psychological certainty, do they cause

1 Mr. Burris serious difficulty in controlling his behavior?

2 A. Yes.

3 Q. Do you have an opinion as to whether or not this
4 antisocial personality disorder makes Mr. Burris likely to
5 engage in acts of sexual violence unless he's confined for
6 long term control, care, and treatment?

7 A. Yes I believe he's likely.

8 Q. Do you think he needs to be confined for treatment?

9 A. Yes.

10 Q. Is outpatient treatment the right route for this guy?

11 A. I don't believe so.

12 Q. Why not?

13 A. Well he's - He really has a lot of difficulty
14 controlling his behavior. He offended shortly after
15 getting out of jail, prison, the last time. He just - He
16 just doesn't seem to be able to control his behavior
17 whether he's on probation or parole or not. It doesn't
18 seem to matter to him.

19 Q. Do you also have an opinion, again, to a reasonable
20 degree of psychological certainty, as to whether Mr. Burris
21 meets the legal criteria to be found to be a sexually
22 violent predator at this time?

23 A. Yes it's my opinion he does.

24 Q. Is he facing any kind of probation according to his
25 sentencing sheet the most recent crime?

DOCTOR MARIE GEHLE: BY MR. BOGLE

-124-

1 A. Yes he has five years of probation.

2 Q. Do you know if there's anything that could help him
3 get his sex offender treatment he needs right now on the
4 outside while on probation or being released?

5 A. It's typically ordered by the Probation Department so
6 he would be required to go to sex offender treatment
7 typically by probation.

8 Q. But that's outpatient. Right?

9 A. Yes.

10 Q. Is outpatient what this guy needs?

11 A. I believe that he needs inpatient or, you know, civil
12 commitment.

13 Q. Okay.

14 MR. BOGLE: Thank you, Doctor. Please answer any
15 questions counsel may have or the court may have.

16 THE COURT: Ladies and gentlemen, we're gonna take a
17 short break to allow you chance to stretch your legs. I'm
18 gonna remind you not to have any discussions among
19 yourselves about anything involving the case but you may
20 retire back to the jury assembly room and we'll get you
21 back in shortly.

22 (JURY EXITS COURTROOM AT 03:24 PM.)

23 THE COURT: All right, Doctor, you may step down. I
24 just need to remind you you are under oath so don't have
25 any discussions with anyone about the substance of your

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-125-

1 case. We'll come back just shortly.

2 (COURT IN RECESS AT 03:25 PM.)

3 (COURT BACK IN SESSION AT 03:29 PM.)

4 THE COURT: May I see the lawyers just a moment.

5 Just approach.

6 (BENCH CONFERENCE OFF THE RECORD AT 03:29 PM.)

7 THE COURT: Anything before we bring the jury back?

8 MR. BOGLE: No, your Honor.

9 THE COURT: I'll return.

10 (COURT LEFT THE BENCH MOMENTARILY AT 03:34 PM.)

11 (BACK ON THE RECORD AT 03:35 PM.)

12 THE COURT: All right, let's bring the jury in.

13 (JURY REENTERS COURTROOM AT 03:35 PM.)

14 THE COURT: Yes, ma'am.

15 MS. GOOD: May it please the court.

16 CROSS-EXAMINATION

17 DOCTOR MARIE GEHLE BY MS. GOOD:

18 Q. Doctor Gehle, you stated that this Static 99R that
19 you did, your test on Mr. Burris, you said that that's the
20 most accurate. Correct?

21 A. Yes.

22 Q. And in fact people with a score of five as Mr. Burris
23 had you said seventy-nine percent of the people with this
24 score will not commit any sex offense within five years?

25 A. Well, I said twenty-one point two percent of the

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-126-

1 people with that score so --

2 Q. Approximately seventy-nine ---

3 A. Yeah, approximately.

4 Q. --- go to twenty-one? So approximately seventy-nine
5 percent of the people will not reoffend within five years.
6 Correct?

7 A. They will not get caught for another offense within
8 five years that's correct.

9 Q. And the same people with Mr. Burris's score within
10 ten years, sixty-eight percent of them released will not
11 commit any sex offense within ten years. Correct?

12 A. Yeah, approximately.

13 Q. And isn't it your belief as stated on page 28 of
14 your report that estimates of reoffense risk are based on
15 group data that can't be directly applied to individual
16 respondents and you can't necessarily apply this data to
17 Mr. Burris. Correct?

18 A. I compare him to a group, that's correct.

19 Q. I want to go back a little bit to your background.

20 You currently work at South Carolina Department of
21 Mental Health. Right?

22 A. That's correct.

23 Q. Who pays you for these evaluations?

24 A. The South Carolina Department of Mental Health.

25 Q. And their branch of the government the state of South

1 Carolina?

2 A. Yeah, they're a state agency.

3 Q. And you said you've done approximately less than one
4 hundred of these evaluations?

5 A. Of the precommitment evaluations.

6 Q. Right.

7 A. So evaluations to decide whether somebody should go
8 into the program.

9 Q. Okay. And you in fact stated that you were on the
10 Sexual Predator Commitment Association. What is that?

11 A. No. The Sex Offenders Civil Commitment Program
12 Network. It's a group of people who are affiliated with
13 sexually violent predator programs because when these
14 things started back in the 90s people, you know, didn't
15 know exactly how to do these evaluations or know how these
16 programs should work because there were new laws. So it's
17 a group of people affiliated with that so they can learn
18 from each other; talk about how they go about things; do
19 research; understand what other programs are doing, things
20 like that.

21 Q. And you've been doing these evaluations since
22 approximately 2011; is that correct? Or have you been
23 doing them longer than that?

24 A. Well I've been doing sexually violent predator
25 evaluations since at least 2010 but in large part

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-128-

1 precommittment evaluations. I believe that was about 2011
2 I focused on doing those primarily in my job.

3 Q. Okay. So you've only been doing this about three
4 years; three to four years for precommittments?

5 A. For precommittments I would say yeah, four years or
6 so, three or four years.

7 Q. And you stated you create this report, you do a risk
8 assessment of Mr. Jenkins and you meet with him for - this
9 one for approximately four hours and thirty minutes.
10 Correct?

11 A. Mr. Burris, yes.

12 Q. And in fact didn't you take a lot of the information
13 regarding what he told you about the offenses from a 2012
14 evaluation that you did?

15 A. Yes.

16 Q. So you didn't reask those questions to see if his
17 attitude changed to see if anything was different about
18 what he would have said or taken more responsibility or
19 less responsibility?

20 A. Well I reviewed that information with him and ask him,
21 you know, is that your take on it still and that's how we
22 approached it.

23 Q. And in fact you informed him at the beginning that
24 he's not even required to speak to you about this.

25 Correct?

1 A. Correct.

2 Q. And he was open and cooperative with you?

3 A. He answered questions. Its my opinion that he
4 doesn't have to speak with me but it's a little up in the
5 air as to whether he could be forced to speak with me. My
6 choice would be that I wouldn't speak to somebody who's
7 forced but the courts have been, you know, I think able to
8 force somebody.

9 Q. But in that case that did not happen.

10 A. That's correct.

11 Q. He was completely open and cooperative.

12 A. Well he was open to answering questions, yes.

13 Q. I'm obviously not objecting to any of the prior
14 violent offenses, but I do want to show you the last one,
15 the sexual exploitation that you looked at and you said he
16 pled guilty to it. Correct?

17 A. Yes.

18 Q. And he received probation by the judge?

19 A. Well in part.

20 Q. Well, yeah, there was two years suspended to
21 probation?

22 A. He got ten years provided upon the service of two
23 years incarceration and the balance is suspended for
24 probation for five years.

25 Q. Okay. And in fact that was a negotiated sentence

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-130-

1 between the state of South Carolina and the defendant.

2 Correct?

3 A. Yes.

4 Q. So the state of South Carolina agreed he should be
5 on probation at that time?

6 A. Yes.

7 Q. And in fact he was released from incarceration before
8 being here today for a Sexually Violent Predator Act.

9 Correct?

10 A. Do you mean released after his last prison sentence?

11 Q. Yes.

12 A. Yes. Well he told me that he was - he was transferred
13 from the Department of Corrections to the York County
14 Detention Center on - on or about March 25th, 2015. He
15 said he was held there pursuant to the Sexually Violent
16 Predator Act and then released on April 14th due to some
17 procedural issues and then he was detained again under the
18 SVP Act - the Sexually Violent Predator Act - on April
19 21st. So he was out for approximately a week.

20 Q. And you're aware from your conversation with him that
21 during that week he actually began going to sex offender
22 treatment at Three Trees. Correct?

23 A. That's what he told me, yes.

24 Q. Okay. And as part of the actual sentence on the
25 sentencing sheet, was sex offender treatment ordered?

1 A. No.

2 Q. So he did that on his own volition although it may
3 be part of his probation?

4 A. I want to be accurate here so let me see.

5 I believe that he did that on his own volition.

6 Q. And at any point - You'd mentioned a lot of records
7 that you get to look at to help determine the risk
8 assessment, the risk factors, whether he's likely to
9 reoffend; that nature. Correct?

10 A. Yes.

11 Q. And one of the things that you discuss with him is
12 sex offender treatment and previous sex offender treatment
13 or anything he may have done. Correct?

14 A. Yeah, that's one thing that I talk to him about.

15 Q. And one thing you discussed was his sex offender
16 treatment in prison. Did you ever get those records to
17 see, you know, what he did while in that sex offender
18 program?

19 A. No I did not.

20 Q. And did you ever followup with Three Trees after he
21 told you he had gone there to sex offender treatment after
22 he'd been released to see if there was any records?

23 A. I believe I did but I also did not get those records.

24 Q. And one of the other risk assessments you said that
25 you look at is prior disciplinaries in prison. Correct?

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-132-

1 A. Yes.

2 Q. And in fact he's had two prison stays. Right?

3 A. Yes.

4 Q. The first one you said there was four - or there was
5 four previous disciplinaries but none of them were sexually
6 related were they?

7 A. That's correct.

8 Q. And in 2014 he had his prison stay he had no
9 disciplinaries while he was there at all. Correct?

10 A. Yes that's my understanding.

11 Q. And that's the most previous one that he's been in
12 there ---

13 A. That's the most current, yes.

14 Q. --- the closet in time he had no disciplinaries?

15 A. That's correct.

16 Q. Did you check with the York County Detention Center
17 to see if he's had any disciplinaries?

18 A. I did not.

19 Q. I want to get a little bit to some of the risk
20 assessments that you use. You said you take into account
21 the cruelty to animals. At what age was that reported to
22 you?

23 A. At what age was that reported to me or was - did he
24 report what age that was?

25 Q. Did he report what age that was or when it was.

1 A. Well let's see. I know it was prior to age fifteen
2 cause that's the way I ask the question to see if it was
3 related to conduct disorder. I don't know if I have a
4 specific age of that but it was prior to age fifteen.

5 Q. And you're not aware of anything after the age of
6 fifteen that has anything to do with animal cruelty.
7 Correct?

8 A. That's correct.

9 Q. In all these prior sex offenses he actually pled
10 guilty to. Correct?

11 A. Yes.

12 Q. He never denied and he went to trial and said I didn't
13 do it did he?

14 A. Not at trial, no.

15 Q. I want to get a little bit to this Static 99 as well
16 as your diagnosis of antisocial personality disorder.
17 Correct?

18 A. Okay.

19 Q. And you said that's the disregard for the rights of
20 others?

21 A. In general.

22 Q. And one of the test you gave was a MMPI-2. Correct?

23 A. Yes.

24 Q. And that was in 2012?

25 A. That's correct.

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-134-

1 Q. So three years ago?

2 A. Correct.

3 Q. All right. And you said that helps you to determine
4 on one level whether there's any mental disability or
5 personality problems. Correct?

6 A. Well that test doesn't look for all personality
7 problems and it doesn't look for all mental abnormalities.
8 It looks for sort of attitudes and patterns of behavior. It
9 comes with a lot of scales related to depression,
10 hypochondriasis; psychopathic deviant; schizophrenia;
11 social introversion, things like that, so it's one thing
12 that I give sometimes.

13 Q. Okay. And in fact you said it stabled over time but
14 it can change over time. Correct?

15 A. It could possibly.

16 Q. So people's attitudes could be different over three
17 years. Correct?

18 A. Yes.

19 Q. And you said it's a very long test. Is one of the
20 reasons you didn't give it to him cause you didn't want to
21 take up that time again?

22 A. Well I didn't want to give him that long test again.
23 You know its so long and I don't expect it to - the
24 evidence to change much or not - not the evidence I guess
25 but I don't expect the results to change much because it's

1 been shown to be very stable over time. And also it wasn't
2 necessary for me in regards to his antisocial personality
3 disorder because those attitudes and behavioral patterns
4 were very evident in the interview.

5 Q. And you said one of those was the fact that he uses
6 the term females. Correct?

7 A. Well that's one thing that's not necessarily - Some
8 people use females and that's just how they use it. For
9 him it was using it in a way that was very demeaning and
10 then we talked about that. So I ask him about, you know,
11 why do you call women females. You know if we're talking
12 about a specific person why don't you call them by their
13 name. You know tell me who you're referring to. And then
14 he gave me all those other sort of attitudes like he thinks
15 that if he says a name around a guy they'll automatically
16 go out and try to get with the girl. That, you know, he's
17 very distrustful of women; that he doesn't think that women
18 are very straight forward; he thinks they're manipulative,
19 cheats on him. So we talked about all those other
20 attitudes. So in and of itself it's, you know, it is just
21 a term but it was indicative of a lot of other attitudes
22 for him.

23 Q. And you use it as saying it was a hostility towards
24 women. However you just stated that it's one of the
25 reasons so a guy couldn't figure out who it was so to go

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-136-

1 steal them from him. Correct?

2 A. Yes.

3 Q. It had to do with a guy not a girl in that situation?

4 A. Yes. I think he has a general mistrust for people
5 and that's especially prevalent towards females.

6 Q. And in fact he didn't want to use the word slut or
7 whore. He wanted to use something that was a little more
8 politically correct.

9 A. Well that's what he said. He said most men call
10 women sluts or whores and female was better.

11 Q. In fact going through a little bit you took some of
12 the facts into consideration when determining the diagnoses
13 of his previous convictions. The first one in 1998 you
14 stated that while she was underage and can't consent under
15 the law, however it was consensual in the sense that she
16 wanted to do it. Correct?

17 A. Yes.

18 Q. And in fact she was already pregnant at that time by
19 somebody else who was twenty-eight years old?

20 A. Well that's what he told me.

21 Q. Okay.

22 A. I don't know if that's true.

23 Q. And the one in 2005 that is two sexual offenses, its
24 the same person. Correct? It's not two separate victims in
25 that case. Correct?

1 A. It's three, three sexual offenses and it's the same
2 victim in all three.

3 Q. But he only pled to two counts. Correct?

4 A. No. He pled to three. He pled to - He pled to
5 criminal sexual conduct with a minor between the ages of
6 eleven and fourteen in the second degree; two of those.
7 And then criminal sexual conduct with a minor victim under
8 sixteen, second degree and those were all with the same
9 girl and it was when she was between twelve and fifteen.
10 So that's why they're a little bit - named a little bit
11 differently depending on her age.

12 Q. Okay. They stated with the Static 99R that's
13 comprised of ten risk factors or ten questions to estimate
14 the likelihood. Correct?

15 A. Correct.

16 Q. And you ask all those ten questions of Mr. Burris?

17 A. Well they're not questions that you necessarily
18 ask.

19 Q. The things you look at I guess?

20 A. Yes. Yes.

21 Q. And you stated the scores range from negative three
22 to a twelve. Correct?

23 A. That's correct.

24 Q. And he had a five?

25 A. Correct.

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-138-

1 Q. Which is at a moderate to high risk; not the highest
2 risk. Correct?

3 A. That's correct.

4 Q. And what you state that in your experience doing
5 sexually violent predators is that the sexually violent
6 predator program is for the worst of the worst?

7 A. That's what the law says.

8 Q. Okay. And basically the worst of the worst would
9 probably be the highest risk. Correct?

10 A. Well it's - The law says that it's supposed to be
11 for an extremely dangerous and mentally abnormal group of
12 sex offenders who are dangerous likely to do it again.
13 They defined likely in the law as to such a degree as to
14 pose a menace to the health and safety of others. They
15 didn't give it a percentage; they didn't define it in more
16 absolute terms than that.

17 Q. And in your assessments doing the precommitment
18 evaluations, do you find, or even the ones who are actually
19 in annual reviews that are already committed into the
20 program do you find that they have a lot of prison sexual
21 disciplinaries, disciplinaries that are sexual in nature?

22 A. In my experience the vast majority do not have sexual
23 offenses in prison. There are a handful that I have
24 evaluated in the, you know, roughly in the two hundred
25 evaluations like this that I've done where somebody has

1 sexual offenses in prison. It's very very rare that
2 they're charged with a criminal offense in relation to
3 their sexual behavior but I have evaluated people who have
4 done them as well.

5 Q. In going back to the risk factors, you said some
6 things you look for is nonsexual violence on victims.
7 Correct?

8 A. Well it's a risk factor on the Static 99 and it has
9 to be scored in a very specific way so there's scoring
10 rules. There's a little manual and so one of the questions
11 that's question three it's - Well, sorry, it's question
12 number four. It's prior nonsexual violence any
13 convictions. So it's looking at whether they have a violent
14 offense that was not sexual in nature. And they give
15 examples as to what they consider violent.

16 Q. And how many points can you get on that?

17 A. Just one. You get a zero or a one.

18 Q. And in that case you gave him a one based on a CDV
19 from 1980. Correct?

20 A. Yes.

21 Q. So that was from approximately thirty-five years ago?

22 A. Yes.

23 Q. So one of his five points is from a CVD from 1980?

24 A. Yes.

25 Q. Don't you also look for points as to sex offenses

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-140-

1 against other males?

2 A. Yes. One of the questions is any male victims.

3 Q. And in this case he got a zero on that. Correct?

4 A. That's correct.

5 Q. Can you explain to me where all of his five points
6 come from?

7 A. Sure. Well the first question is age of release. And
8 so this has four options so you can get a score of one if
9 they're between eighteen and thirty-four point nine so
10 thirty-four years nine months. You can get a score of zero
11 or a point - you know zero points if you're thirty-five to
12 thirty-nine point nine months. You get a negative one if
13 you're between forty and fifty-nine point nine. And you
14 get a negative three if you're age sixty or older. So Mr.
15 Burris is forty-six and he got a negative one on that.

16 The second question is have they ever lived with a
17 romantic partner for at least two years; two consecutive
18 years. He got a - He has and so he got a zero on that so
19 we're still at a negative one.

20 Question Three: So I look at the index offense and
21 we define the index offense as the most recent sexual
22 offense and that was the sexual exploitation of a minor. I
23 look at whether he has any nonsexual violence, any
24 convictions so you're looking at whether somebody was
25 convicted of a violent offense that was nonsexual in nature

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-141-

1 at the same time they were convicted of the most recent
2 sexual offense. So sometimes that could be like, you know,
3 like a criminal sexual conduct which is essentially rape
4 and burglary cause burglary is considered a violent offense
5 so then they would get a point on that. For him he didn't
6 have that. He had that one conviction at that one time. At
7 the time of his last sexual offense no other convictions so
8 he got a zero for that so he still had a negative one.

9 For Number Four, I look at prior nonsexual violence,
10 any convictions. And on that he gets a point because he
11 has been previously convicted of a criminal domestic
12 violence; that's considered a violent offense per the
13 Static 99 scoring rules. So now we're at a zero.

14 For Question Five, that's prior sex offenses so prior
15 to the last sexual offense conviction I look at the number
16 of charges and the number of convictions. He can get a
17 score of zero, one, two, or three on this. He got a score
18 of three on that question because in 1998 he was charged
19 with a sex offense and convicted of a sex offense. And in
20 2003

21 Q. Let me stop you. That's the ABHAN, the assault and
22 battery of a high and aggravated nature?

23 A. Yes.

24 Q. Okay.

25 A. That's considered a sex offense per the Static ---

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-142-

1 Q. Right.

2 A. --- 99 scoring rules. In 2003 he was charged with
3 four sexually related offenses and convicted of three so he
4 has in total he has five prior sex offense charges and four
5 prior sex offense convictions. And so when I look at the
6 chart here for that question, you choose the one that will
7 give them the highest point and he has four convictions so
8 that gets a score of three on that question. So now we're
9 at a score of three in total.

10 Q. What would get you to a score of two on that?

11 A. Three to five charges or two to three convictions.

12 Q. Okay.

13 A. On Number Six its prior sentencing dates, so you're
14 looking at any prior - prior before the last sex offense
15 conviction; how many times has he been sentenced. You want
16 to see if there is three or less or four or more. If
17 there's four or more they get a point. He got a point on
18 that. He had multiple sentencing dates prior to that.

19 Q. Okay, I want to stop you right there just for second.

20 In fact if it's four or more those are for sexual
21 offenses?

22 A. No, for any offense.

23 Q. For any offense? Okay.

24 A. Any offense.

25 Q. Okay. Keep going for me.

1 A. And so they define that if it was just, you know, a
2 traffic violation or something that would count as a
3 sentencing date. It has to be a crime that would result in
4 - I think its approximately a month or more of
5 incarceration if they got the maximum so it's something
6 that a month or more would be available of jail time.

7 Q. Okay. So for example on sentencing dates that could
8 be the CDV from 1980. Correct?

9 A. Okay, 1989. What I wrote down here and then I
10 stopped was he has - these were just the first four - one
11 in 1989, one in 1990, one in 1993 and one in 1997.

12 Q. And none of those other than the AGHAN was sexual in
13 nature. Correct?

14 A. Correct. But it's just the way that the test is
15 scored. It doesn't have anything to do with sex offenses
16 on that or it can. It has just to do with any type of
17 sentencing dates on question six.

18 Q. Okay.

19 A. That's what the research said to be related to
20 recidivism.

21 Q. Okay.

22 A. Number Seven: So he got a point on that. I should
23 say we're at a score of four now. Number Seven: Any
24 convictions for noncontact sex offenses. And that's things
25 like indecent exposure, peeping tom, things where there was

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-144-

1 no contact. He didn't have any of those types of offenses
2 so he got a zero for that so we're still at a score of
3 four. Number Eight, any unrelated victims. So were they
4 related by, you know, were they family members or family
5 members by marriage; that kind of thing. He has offended
6 unrelated people so he gets a one for that so that brings
7 him up to the score of five.

8 Q. And what were eight, nine, and ten that he got zeros
9 on?

10 A. Okay. Well eight was any unrelated victims.

11 Q. All right. Number nine and ten.

12 A. So nine is any stranger victims. So did he offend any
13 strangers, people he didn't know for twenty-four hours
14 before the offense. He gets a no for that so zero points.
15 And Number ten is any male victims and he has no known male
16 sex offense victims. He gets a zero for that so he gets a
17 total score of five.

18 Q. And in fact six or higher is what is considered the
19 highest risk. Correct?

20 A. Six plus is what they label to be high.

21 Q. Okay. And you continue to look at your diagnoses and
22 you looked at things such as paraphilic that you described
23 to the jury earlier and pedophilia. And he did not have
24 any sexual disorder. Correct?

25 A. I looked at whether he had a paraphelic disorder

1 specifically whether he had pedophilic disorder which is
2 arousal towards prepubescent children and I didn't find a
3 pattern of that. I looked at whether he had a pattern of
4 arousal for coercive or nonconsensual or rape type
5 scenarios and I only found one incident of that. He didn't
6 self report any arousal towards that so he didn't have a
7 diagnosis related to that.

8 Q. And are you familiar with the - I don't even know how
9 to say this but I'm gonna do the abbreviations - the R-R-A-
10 S-A-O-R or the M-N-S-O-S-T-R or the SVR-20 as test?

11 A. So it's the RAZOR and the Mnsost; that's how we
12 call it.

13 Q. Okay.

14 A. Yes I'm familiar with those things.

15 Q. And do you use any of those?

16 A. No.

17 Q. And why not?

18 A. Well the RRASAOR is the precursor to the Static 99R.
19 It's also an actuarial risk assessment. It's based on like
20 I think four questions and the research to develop that
21 tool was incorporated into the Static 99. It was combined
22 with another risk assessment; both found to be good at
23 estimating or predicting recidivism so they combined those
24 into one single instrument and released the Static 99.

25 Q. Okay.

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-146-

1 A. The MnSOST is used by some people; it's been shown
2 to be - its another actuarial risk assessment. It's been
3 shown to be less accurate than the Static 99R so it's
4 really fallen out of favor with people who do this type of
5 work. And the SVR-20 is - it's not an actuarial risk
6 assessment. It's a way to I guess more systematically look
7 at risk factors and it's - it's been shown to have, you
8 know, to be I guess minimally to moderately predictive of
9 sexually violent offending or sexual offending but it's -
10 there's a lot of difficulty in researching that because the
11 way you score that is very subjective and it doesn't have a
12 lot of clear defining scoring rules and it's not associated
13 with actuarial tables so that's not used very often by
14 people who do this type of work.

15 Q. Okay. So the only scientific tool you used was the
16 Static 99. Correct?

17 A. The actuarial instrument that I used was the Static
18 99R.

19 Q. And when you used the Static 99R you came to the
20 conclusion that Mr. Burris is a five out of twelve.
21 Correct?

22 A. That's correct.

23 Q. And in that group seventy-nine percent of the people
24 will not commit a new sex offense within five years.

25 Correct?

DOCTOR MARIE GEHLE: CROSS BY MS. GOOD

-147-

1 A. That's correct.

2 Q. And sixty-eight percent will not commit a new crime
3 within ten years. Correct?

4 A. That's correct.

5 MS. GOOD: I beg the Court's indulgence.

6 (PAUSE AT 4:04 PM.)

7 Ms. GOOD: No further questions, your Honor.

8 THE COURT: Any redirect limited to what she went
9 into?

10 MR. BOGLE: No, your Honor. Thank you.

11 THE COURT: Thank you, Doctor. You may step down.

12 (WITNESS LEAVING WITNESS STAND.)

13 MR. BOGLE: Could Doctor Gehle be released, your
14 Honor?

15 THE COURT: Any problem --

16 MS. GOOD: No. No objection, your Honor.

17 THE COURT: Thank you, Doctor, you may be excused as
18 well.

19 DOCTOR GEHLE: Thank you.

20 THE COURT: Could I see the lawyers for just a moment?

21 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
22 THE JURY AT 04:04 PM.)

23 THE COURT: Yes, sir.

24 MR. BOGLE: Your Honor, at this time the State would
25 rest.

1 THE COURT: All right. Thank you, sir.

2 Ladies and gentlemen, at this time I've got to take
3 up matters of law with the attorneys outside of your
4 presence. Given the hour of the day this may take some
5 time so I'm going to - We're gonna let you go home for the
6 evening. I'm gonna ask if you would to please back in the
7 jury room deliberation room by 9:30 in the morning; we'll
8 resume the taking of the testimony.

9 I want to stress to you once again the importance of
10 my instruction to you that you cannot have any type of
11 discussions with anyone about anything involved in the
12 case. It's gonna be probably just human nature that you're
13 going to go home and a loved one's gonna say oh, you got
14 picked on a jury, what kind of case is it? You know, just
15 again very politely tell them that I'm under order from the
16 judge that I cannot have any discussions with you about the
17 case while the case is going on. You can let them know
18 once it's over you can talk to them until you're blue in
19 the face that's fine. But until the case is over don't
20 have any discussions with them or anyone else about
21 anything involved in the case.

22 Again, there have been some terms that's been used
23 today that maybe you don't think you quite understand; do
24 not go pull that dictionary off the shelf and look it up.
25 You know allow the lawyers the opportunity and me the

1 opportunity to be able to educate you as to what you need
2 to know when you begin your deliberations. But again,
3 thank you for your service so far today but at this time
4 we'll allow - I'll allow you to exit the courtroom and see
5 you at 9:30 in the morning.

6 (JURY EXITS COURTROOM AT 04:06 PM.)

7 THE COURT: Yes, ma'am.

8 MS. GOOD: Thank you, your Honor. At this time I
9 would renew all my pretrial motions as well as any
10 objections during pretrial motions and move for a directed
11 verdict at this time. In the light most favorable to the
12 State I don't believe the State has proved beyond or given
13 enough evidence to show that Mr. Burris is currently
14 presently likely to reoffend as their own doctor stated
15 there is only a twenty-one point two percent chance that
16 somebody his score of five would reoffend. In addition,
17 your Honor, we believe part of her diagnoses is based on a
18 2012 evaluation test of the MMPI which I believe is
19 outdated and does not accurately give her a actuarial view
20 of what his possible personality disorder is in 2015.

21 MR. BOGLE: Your Honor, in response, we would submit
22 that based on all the evidence we've heard so far right now
23 the State has established both elements to the satisfaction
24 - in reviewing the standard right now in the light most
25 favorable to the State we've got the sexually violent

-150-

1 crimes, four of 'em; we've got the testimony of the mental
2 abnormality, the foundation of her diagnoses, so we would
3 submit there is sufficient evidence at this time to go past
4 a directed verdict and to the jury.

5 THE COURT: Any reply?

6 MS. GOOD: No, sir, your Honor.

7 THE COURT: Given at the directed verdict stage of the
8 proceeding the standard which the court must apply in
9 viewing the evidence in the light most favorable to the
10 nonmoving party, I would have to deny the motions.

11 MS. GOOD: Thank you, your Honor.

12 THE COURT: All right. We'll begin at 9:30 in the
13 morning. Thank you all. And I'll let you know, there is a
14 realtor about to ring the neck of a bailiff if she didn't
15 get out of here so I appreciate you all's willingness to
16 close early. Apparently she's got some big sale going on.

17 All right. We'll see you in - Oh, I've got the jury
18 charges from the State. Does the respondent want to -
19 going to give us any?

20 MS. GOOD: I don't have any, your Honor, but I do have
21 a couple of comments about the proposed jury charge.

22 THE COURT: Okay. You ready to comment now?

23 MS. GOOD: Yes, sir.

24 On page - This is just a typo - on page 5 at the
25 bottom Mr. Brown, make sure its Mr. Burris. On page 6

1 discussing beyond a reasonable doubt, it states in the
2 middle if based on your consideration of the evidence you
3 are firmly convinced that Mr. Burris is a sexually violent
4 predator you must return a verdict for the State. On the
5 other hand it says you think there is a real possibility
6 that he's not a sexually violent predator, I would ask that
7 that be changed to the reciprocal of if you are not firmly
8 convinced that he is a sexually violent predator.

9 I believe the real possibility kind of lessens the
10 burden a little bit.

11 THE COURT: Okay.

12 MR. BOGLE: And this is word for word from charges
13 we've seen in - Let's see, Roger Young, Judge Young in
14 Charleston used it and Judge Jefferson used it and then it
15 got tweaked a little bit in Georgetown with Judge John. So
16 we stand by the language there, your Honor, we think it's
17 part of the accepted - -

18 THE COURT: All right. I'll take a look at it.

19 Anything else on the charge?

20 MS. GOOD: Just a second, your Honor.

21 THE COURT: Uh-huh.

22 MR. BOGLE: I apologize for the typo. We used it over
23 and over again so it's gonna happen.

24 MS. GOOD: Yeah, that's why I said that.

25 I believe that's it, your Honor.

-152-

1 THE COURT: All right. All right, if you all will
2 come up with any other jury charges give them to me as soon
3 as you can because I will be working on them. All right,
4 we'll step down. Thank you very much. And let me know if
5 you have any objections to the verdict form.

6 MS. GOOD: I will.

7 (COURT IN RECESS AT 04:10 PM.)

8 (COURT BACK IN SESSION THURSDAY, OCTOBER 8, 2015 AT
9 09:42 AM.)

10 THE COURT: I'm told that all the jurors are here.
11 Anything before we bring them in?

12 MR. BOGLE: Not from the State, your Honor.

13 MS. GOOD: The only thing, your Honor, is I anticipate
14 Mr. Burris is gonna be our second witness, we want to go
15 ahead now and settle the record about what Mr. Bogle can
16 cross-examine him about record wise. From looking at his
17 criminal history obviously the sex offenses that they've
18 mentioned and I believe that's it, your Honor.

19 MR. BOGLE: That's fine.

20 THE COURT: Okay.

21 THE COURT: All right, we'll limit it to that.

22 MS. GOOD: Thank you, your Honor.

23 THE COURT: Okay. Thank you.

24 Let's bring 'em in.

25 (JURY REENTERS COURTROOM AT 09:43 AM.)

OFFICER JAMES MOORE: DIRECT BY MS. GOOD

-153-

1 THE COURT: Is the respondent ready to call their
2 first witness?

3 MS. GOOD: Yes, sir.

4 THE COURT: Yes, ma'am.

5 MS. GOOD: At this time we call Officer James Moore.

6 THE COURT: Sir, just come right up here and let the
7 Clerk of Court swear you in.

8 MADAM CLERK: Mr. Moore, if I can have you place your
9 left hand on the Bible and raise your right.

10 (WHEREUPON, JAMES MOORE,
11 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

12 MADAM CLERK: Thank you, sir. Come around and have a
13 seat.

14 THE COURT: Step up here and be careful for that step.

15 DIRECT EXAMINATION

16 OFFICER JAMES MOORE BY MS. GOOD

17 Q. Good morning. Can you please state your name for the
18 jury?

19 A. James Moore.

20 Q. And, Mr. Moore, where are you currently employed?

21 A. York County Sheriff's Department.

22 Q. And how long have you been there?

23 A. Twenty-two years.

24 Q. And what are your duties there currently?

25 A. Currently my duties down there is to help take care

OFFICER JAMES MOORE: DIRECT BY MS. GOOD

-154-

1 of the inmates.

2 Q. So you're a security guard basically within the
3 Detention Center?

4 A. Pretty much, yes, ma'am.

5 Q. And how often have you been working? Like what are
6 your shifts?

7 A. My shifts are like twelve hour days. We rotate
8 every now and then. And the area that I most work is lock
9 down area which is in I Block.

10 Q. Okay. I Block. And are you familiar with the
11 respondent Mr. Keith Burris?

12 A. Yes, ma'am.

13 Q. And how are you familiar with him?

14 A. Working down there in the Block.

15 Q. And you've had contact with him approximately in
16 the past six months?

17 A. Yes, ma'am.

18 Q. And during your time about how much contact do you
19 have with him?

20 A. All the - All the time.

21 Q. And during all that time that you've had contact with
22 him have you ever had any problems out of him?

23 A. No, ma'am.

24 Q. Has he ever had any disciplinaries?

25 A. No, ma'am.

OFFICER JAMES MOORE: DIRECT BY MS. GOOD
CROSS BY MR. BOGLE

-155-

1 Q. Has he ever not followed the rules?

2 A. No, ma'am. He did everything that was ask of him.

3 Q. So he's followed all the rules; never disregarded
4 the rights of any of the others?

5 A. Yes, ma'am.

6 MS. GOOD: No further questions, your Honor.

7 CROSS-EXAMINATION

8 OFFICER JAMES MOORE BY MR. BOGLE:

9 Q. Did you mention a minute ago that the area you work
10 is called the lock down area?

11 A. Yes, sir.

12 Q. What's the total population at the Detention Center
13 right now?

14 A. Three, twenty-five.

15 Q. Three, twenty-five. And how many people in the lock
16 down area?

17 A. Give or take thirty sometimes. Yeah.

18 Q. What's the difference between the lock down area and
19 the rest of the jail? Why is it called the lock down area?

20 A. Why is it called lock down? It's certain areas of the
21 jail for disciplinary actions that's why they lock down.
22 But the area that he's in is called segregation.

23 Q. Okay. So there's three areas, lock down, segregation
24 and the rest of the jail?

25 A. Yes.

OFFICER JAMES MOORE: CROSS BY MR. BOGLE
REDIRECT BY MS. GOOD

-156-

1 Q. And why - What is the difference between segregation
2 and the rest of the jail? I understand lock down.

3 A. Uh-huh.

4 Q. But what's the difference between segregation and the
5 rest of the jail?

6 A. Segregation is where you just keep 'em from the
7 population. That's basically that's all.

8 Q. Okay. And how many guys were in the segregation
9 part of the jail?

10 A. It can number from one to twelve at the most.

11 Q. Okay. Thank you.

12 A. Uh-huh.

13 MR. BOGLE: No further questions.

14 THE COURT: Any redirect?

15 MS. GOOD: Yes, sir.

16 REDIRECT EXAMINATION

17 OFFICER JAMES MOORE BY MS. GOOD:

18 Q. The segregation for Mr. Burris, are you aware of the
19 reason for that?

20 A. Yes. To protect us but considered PC to protect 'em.

21 Q. To protect Mr. Burris?

22 A. Yes.

23 Q. Okay. So it's nothing that he was done to other --

24 A. No. No, no.

25 MS. GOOD: No further questions, your Honor.

KEITH BURRIS: DIRECT BY MS. GOOD

-157-

1 THE COURT: Thank you, sir, you may step down.

2 (WITNESS LEAVING WITNESS STAND.)

3 THE COURT: Any reason why the witness cannot be
4 excused?

5 MR. BOGLE: No, not at all, your Honor.

6 MS. GOOD: No, sir.

7 THE COURT: Sir, you may be excused. Thank you for
8 coming.

9 Is the respondent ready to call their next witness?

10 MS. GOOD: Yes, sir. Respondent calls Keith Burris.

11 THE COURT: Sir, just come right up here and allow the
12 Clerk of Court the opportunity to swear you in.

13 MADAM CLERK: Mr. Burris, can I have you place your
14 left hand on the Bible and raise your right.

15 ((WHEREUPON, KEITH BURRIS,
16 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:))

17 MADAM CLERK: Come around and have a seat and just
18 watch your step up.

19 THE COURT: Be careful of that step up.

20 DIRECT EXAMINATION

21 KEITH BURRIS BY MS. GOOD:

22 Q. If you could please state your name for the record?

23 A. Keith Fitzgerald Burris.

24 Q. You're gonna have to speak up a little bit so I can
25 hear you.

KEITH BURRIS: DIRECT BY MS. GOOD

-158-

1 A. Keith Fitzgerald Burris.

2 Q. And, Mr. Burris, how old are you?

3 A. Forty-seven.

4 Q. And are you currently married?

5 A. Yes, ma'am.

6 Q. And who are you married to?

7 A. Brenda Renee Burris.

8 Q. Okay. And how long have you been married to Ms.

9 Burris?

10 A. Two years.

11 Q. Currently you obviously know why you're here. You
12 have previous sex offenses. Correct?

13 A. Yes, ma'am.

14 Q. And for all those previous sex offenses, did you plead
15 guilty or did you go to trial?

16 A. I plead guilty.

17 Q. And you took responsibility for those?

18 A. Yes, ma'am.

19 Q. And after you committed this last crime before you
20 were convicted and pled, did you begin to make steps to
21 better yourself?

22 A. Yes, ma'am.

23 Q. And why did you begin to do that?

24 A. Well one, I got married and my wife was behind me
25 with all the situations that I was going through so I knew

KEITH BURRIS: DIRECT BY MS. GOOD

-159-

1 I had started messing up again and I wanted to correct my
2 errors instead of just continuing to go down the same road.
3 I had to change my ways.

4 Q. And in order to do that, what did you begin to do?
5 Did you begin any sex offender treatment?

6 A. Yes, ma'am.

7 Q. And under your last plea were you required to do
8 that?

9 A. No, ma'am.

10 Q. But you decided to do that on your own?

11 A. Yes, ma'am.

12 Q. And where were you going to do that?

13 A. Three Trees in Rock Hill off Cherry Road.

14 Q. Okay. And did you tell Doctor Ghele that?

15 A. Yes, ma'am.

16 Q. And before you were - How long when you were
17 released from the Department of Corrections on your last
18 case until you were picked up for the civil commitment, how
19 long were you out?

20 A. Seven days.

21 Q. And within that seven days you had already begun
22 to go to sex offender treatment?

23 A. Yes, ma'am.

24 Q. How many times had you been?

25 A. I had went to the first class which was on April the

KEITH BURRIS: DIRECT BY MS. GOOD

-160-

1 20th and I was picked back up on April 21st.

2 Q. And after you committed your last crime but before you
3 were actually convicted of it and pled, did you begin going
4 to school or trying to find a job?

5 A. Yes, ma'am. I was working at Performance Friction
6 here in Clover where they're still holding my job until
7 this is completed and I was going to school at Style Trends
8 and barber candidate to become a master barber.

9 Q. So you were working at Performance Friction?

10 A. Yes, sir..

11 Q. And what is that?

12 A. They make brakes, rotators for cars, race cars and
13 regular cars.

14 Q. You said you began going to Style Trends?

15 A. Yes, ma'am.

16 Q. And can you explain to the jury what Style Trends
17 is?

18 A. Style Trends is a barber academy just like Kenneth
19 Schillers but instead of learning cosmetology we just learn
20 to do hair, face and massages, but we mainly barbers.

21 Q. Okay. So you basically deal with men's hair?

22 A. Right.

23 Q. And were you doing anything job related regarding
24 barbering?

25 A. Yes, ma'am. I was doing McCain Barber Shop. I would

KEITH BURRIS: DIRECT BY MS. GOOD

-161-

1 go over there in the afternoon and cut hair. I would have
2 people come to my house and cut hair; do eyebrow arches, go
3 to people houses that wanted to get a haircut and stuff
4 like that.

5 Q. And how long had you been in school before you were
6 convicted of this last sex offense?

7 A. About six months. It takes a year to get your
8 license.

9 Q. So you have about six months left to go?

10 A. Yes, ma'am.

11 Q. When you were released - were released from prison
12 this last time were you set to go back to Style Trends to
13 finish?

14 A. Yes, ma'am. I was scheduled to go back the day that
15 I was picked up.

16 Q. You mentioned the sex offender treatment. Can you
17 explain to the jury what the plan was for your sex offender
18 treatment?

19 A. The way it was explained to me is that you go through
20 certain steps. You have to take a polygraph test after you
21 complete Phase I. If you fail the polygraph test they can
22 bring you back to court and have you sentenced to prison or
23 into a treatment program that's in - that you had to be
24 locked down in.

25 Q. And at Three Trees were you beginning Phase I?

KEITH BURRIS: DIRECT BY MS. GOOD

-162-

1 A. Yes, ma'am.

2 Q. And what did Phase I --

3 A. Phase I it consist of you admitted to your crime,
4 taking full responsibility of your crime, you learn the
5 triggers that run your crime about. It teaches you about
6 the alcohol abuse which was one of my substance - the only
7 substance that actually that I used for a very long time
8 but it teaches you about that. And you go from there to
9 Phase II which you have to get an accountable partner which
10 I had already had one of those.

11 Q. So you already had a partner?

12 A. Yes, ma'am.

13 Q. Okay. And since you have been in York Detention
14 Center have you had any disciplinary problems?

15 A. No, ma'am.

16 Q. Okay. And you've been there approximately six
17 months?

18 A. Six months.

19 Q. And if you were to be released and not civilly
20 committed, where would you be living?

21 A. I'd be living with my wife and my two step-daughters.

22 Q. Okay. And how old are the step-daughters?

23 A. Tyler would be seventeen the 23rd of this month.

24 Tontiananna would be fifteen the 2nd, no, the 1st of
25 February.

KEITH BURRIS: DIRECT BY MS. GOOD
CROSS BY MR. BOGLE

-163-

1 Q. And your wife is aware of your previous charges?

2 A. Yes, ma'am. So are my two daughters.

3 Q. Is she in the courtroom today?

4 A. Yes, ma'am, she is.

5 Q. Okay. And she's here supporting you?

6 A. Yes, ma'am, she's been supporting me throughout this
7 duration of this.

8 MS. GOOD: I beg the Court's indulgence.

9 (PAUSE.)

10 MS. GOOD: No further questions, your Honor.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 KEITH BURRIS BY MR. BOGLE:

14 Q. Mr. Burris, so I'm trying to work on a time line
15 here. You got sentenced for the crimes you pled guilty to
16 back in 2005. That's the criminal sexual conduct with a
17 minor, three charges there, and went to prison?

18 A. Yes, sir.

19 Q. Okay. And then you got out of prison and - When you
20 got out of prison you began going to this - this barber
21 academy training class.

22 A. Yes, sir.

23 Q. And then got rearrested for the criminal solicitation
24 of a minor?

25 A. Right.

KEITH BURRIS: CROSS BY MR. BOGLE

-164-

1 Q. So that got interrupted by you getting rearrested?

2 A. Right.

3 Q. Okay. You then did some time for the criminal
4 solicitation case and got out for a while; went to one
5 class at Three Trees, the orientation class?

6 A. No. It's actually a regular class.

7 Q. Okay. A regular class. And before you do anything
8 else you got picked up and put back in jail awaiting these
9 charges right here?

10 A. Right.

11 Q. Do they explain to you that the release of you and
12 the picking up a week later was basically due to a mistake
13 because you're supposed to be held in jail as long as this
14 type of case is pending? Did they tell you that?

15 A. No.

16 Q. Okay. Are you aware of that?

17 A. Yes, I am.

18 Q. Okay. Now your wife is present right here. I
19 misunderstood. When did you get married to her?

20 A. We got married on May the 10th of 2013 at 6:30.

21 Q. Okay. And how long - On May the 10th of 2013?

22 A. Yeah.

23 Q. And you testified a minute ago that if you are
24 released you'll be living with her and her two step-
25 daughters and they're ages are fifteen to seventeen.

KEITH BURRIS: CROSS BY MR. BOGLE

-165-

1 A. Fourteen and - - -

2 Q. Four - -

3 A. One fourteen and she'll be fifteen next year. The
4 other one will be seventeen.

5 Q. Okay. And of course we're all aware that that's the
6 age of your victims in this case we're talking about - - -

7 A. Right.

8 Q. - - - all day yesterday. Right?

9 A. Right.

10 Q. Okay. Now the woman that's your wife right now,
11 this is not the woman who was your wife when that
12 visitation problem happened at the prison ---

13 A. No it wasn't.

14 Q. --- talked about yesterday? That was a different
15 woman?

16 A. Yes.

17 Q. Okay. Where's that woman now?

18 A. She lives in Rock Hill.

19 Q. Okay. And she's got some children by you?

20 A. She's got a son.

21 Q. A son. Okay.

22 MR. BOGLE: Thank you, your Honor. No further
23 questions.

24 THE COURT: Any redirect limited to what he went into?

25 MS. GOOD: No, sir.

-166-

1 THE COURT: Thank you, sir, you may step down.

2 (WITNESS LEAVING WITNESS STAND.)

3 THE COURT: Respondent ready to call their next
4 witness?

5 MS. GOOD: Your Honor, the respondent rest.

6 THE COURT: All right. Any reply from the State?

7 MR. BOGLE: No, your Honor, thank you.

8 THE COURT: Ladies and gentlemen, this is one of those
9 times I have to take up a few matters of law with the
10 attorneys so I'm gonna ask you if you would please retire
11 back to the jury deliberation room. Do not have any
12 discussions among yourselves about the case but we'll get
13 you back just shortly.

14 (JURY EXITS COURTROOM AT 09:57 AM.)

15 THE COURT: I reviewed the jury charges that were
16 presented by the State and considered the objection that
17 was made by the respondent. I think as drafted they were -
18 that they would be - is the way I'm gonna present them to
19 the jury. Anything else on the jury charges?

20 MR. BOGLE: Nothing from the State, your Honor.

21 THE COURT: Any motions before we step down for a few
22 moments?

23 MS. GOOD: Yes, sir. Just real quick I'd like to make
24 another motion for a directed verdict based on all the
25 evidence that's been presented before your Honor. We don't

1 believe that the state has put forth the evidence that he's
2 presently likely to reoffend based on all the other
3 pretrial motions.

4 THE COURT: Yes, sir.

5 MR. BOGLE: We would just as of yesterday renew our
6 opposition to that. I think the state has presented a
7 sufficient case on the elements it has to prove to go to a
8 jury.

9 THE COURT: All right. And as I mentioned yesterday
10 I believe that the state has met their burden, the standard
11 that the court has to apply at this time so I deny those
12 motions. We'll step down for a few minutes and we'll be
13 back and we'll proceed with the closing arguments.

14 MR. BOGLE: Thank you, your Honor.

15 MS. GOOD: Thank you, your Honor.

16 MR. BOGLE: Did we talk about the verdict form?

17 THE COURT: She agreed to --

18 (COURT IN RECESS AT 10:00 AM.)

19 (COURT BACK IN SESSION AT 10:09 AM.)

20 THE COURT: You may be seated.

21 It's been a while I've done a SVP case. The State
22 opens?

23 MR. BOGLE: As I understand it like a regular civil
24 case I open in full; she does her thing; when she brings up
25 something new I can reply to it but that's it.

CLOSING ARGUMENT: BY MR. BOGLE

-168-

1 THE COURT: You all think you can do it in an hour?

2 MR. BOGLE: Oh, gosh yes.

3 THE COURT: Okay. Let's bring 'em in.

4 (JURY REENTERS COURTROOM AT 10:10 AM.)

5 THE COURT: All right, Mr. Foreman, ladies and
6 gentlemen, the parties state they have presented all the
7 evidence that will be presented as part of this case and it
8 is now time for the attorneys to present to you what's
9 called closing arguments. The closing arguments of the
10 attorneys are not evidence in this case; they are
11 statements - their statements and arguments are meant to
12 help you understand the evidence and apply the law to the
13 evidence. You should disregard any remark, statement, or
14 argument which is not supported by the evidence presented
15 during the trial or the law that I will explain to you
16 after their arguments. But at this time we will receive
17 the closing arguments from the attorneys.

18 CLOSING ARGUMENT BY MR. BOGLE:

19 MR. BOGLE: Thank you, your Honor. May it please the
20 court. Ms. Good.

21 Remember at the very beginning when I read to you part
22 of what the General Assembly said when they wrote this law?
23 They also said this. They said because the existing civil
24 commitment process is inadequate to address the special
25 needs of sexually violent predators, and the risk they

CLOSING ARGUMENT: BY MR. BOGLE

-169-

1 present to society, the General Assembly has determined
2 that a separate involuntary civil commitment process for
3 the long term control, care and treatment, of sexually
4 violent predators is necessary. And that's what we have
5 here today.

6 Every case kind of has a theme; something you hear
7 that kind of sticks with you. What I heard and what stuck
8 with me was the commit that Doctor Ghele made, "He knew she
9 was twelve". The girl in these convictions, the criminal
10 sexual conduct with a minor convictions back in 2005 when
11 it first started, he knew she was twelve before the sexual
12 activity even started. He knew she was twelve and he was
13 what, about thirty, when it all started?

14 Now, the way it works in a civil case like this is,
15 the State - I open and I argue you my full argument right
16 now and Ms. Good then gives you her full argument. If she
17 brings up something new I'm allowed to reply to it but that
18 rarely happens so this may be the last time today you hear
19 from me. I'd like to thank you for doing your duty for
20 Rock Hill, for York County, and for the state of South
21 Carolina and for Mr. Burris. You came down here, I know a
22 lot of us might like to be somewhere else right now, but
23 you're here, you're doing your job; you're watching the
24 testimony and that's what's expected of you.

25 The next thing is to apply the burden of proof the

CLOSING ARGUMENT: BY MR. BOGLE

-170-

1 judge explains to you. Remember we have to prove this case
2 to you beyond a reasonable doubt. In other words does all
3 the State's evidence, if it leaves you firmly convinced
4 that Keith Burris is a sexually violent predator, then
5 you're required by your oath to bring back a verdict for
6 the State. On the other hand if you're firmly convinced
7 he's not; that we haven't met the burden; haven't proved
8 one of the elements we have to prove to you then your
9 obligated to bring a verdict back for Mr. Burris.

10 What are the elements we have to prove? You'll have
11 back in the jury room copies of these convictions. Has he
12 been convicted of a sexually violent crime and the answers
13 yes four times. Three times for three different sets of
14 events on the same girl. One that started out when she was
15 twelve. Criminal sexual conduct with a minor in the second
16 degree, and you've got these right here. I recommend you
17 read 'em. Not just the sentencing sheet which tells the
18 sentence he got. Read the indictment; it tells exactly
19 what it was he did.

20 Finally there is the solicitation, criminal
21 solicitation of a minor, the texting messages trying to
22 seek out a sexual relationship with a girl who is underage.
23 That's the other sexually violent crime. You have these;
24 read them carefully when you're back there, see what
25 happened. So has he been convicted of a sexually violent

CLOSING ARGUMENT: BY MR. BOGLE

-171-

1 crime? Yes. Are these sexually violent crimes? Yes.

2 So now we turn on the expert testimony. And again,
3 like we talked about yesterday usually in a trial witness's
4 can just testify about things they see, they hear, they
5 smell; but an expert, a person who has had the kind of
6 training that we haven't had; the kind of expertise and
7 work in a field where she has acquired some expertise in
8 that field is allowed to give an opinion and that's what
9 Doctor Ghele did. She's a trained forensic psychologist;
10 she's worked in at least two states plus her prior work was
11 done up in Washington State. She's worked with sexually
12 violent predators both in Washington and here for a number
13 of years and she's the person doing these precommitment
14 evaluations like the one for this type of case.

15 Her job is to look at all the records, talk to the
16 guy, seek out additional records if she can get 'em. You
17 know she tried to get 'em from that Three Trees place and
18 for whatever reason they didn't send 'em so she had to work
19 with what she had. Her job then is to see whether or not
20 he has - as the law requires - either a mental abnormality.
21 And there she went into things called paraphelias; some
22 kind of sexual deviance. An example would be pediphelia
23 cause he's sexually attracted to prepubescent children.
24 He's not because the child victims in this case are over
25 that kind of age. But she gave him every benefit of the

CLOSING ARGUMENT: BY MR. BOGLE

-172-

1 doubt. She tried to find a paraphelia, a sexual
2 abnormality, couldn't find one. Tried to find one there
3 could not find one. She looked at at least two. One was
4 pediphelia, that didn't apply. The other was biastophelia,
5 basically rape, and that didn't apply.

6 So then she turned and looked at the other side of the
7 window which is does he have a personality disorder. And
8 remember, the State has to prove one or the other. Either
9 a mental abnormality or a personality disorder. And she
10 found abundance of evidence of anti-social personality
11 disorder. That's what she found and her findings are
12 pretty much I think unchallenged if you look at all the
13 testimony. That's what she had. Again with an expert you
14 can believe what you want but Doctor Ghele, her job, she's
15 paid by the state just like me. She doesn't get more pay
16 or less pay depending on how these things go. Her job is
17 to look at the guys and present what she finds and that's
18 what she did.

19 Did she run some other test that counsel examined her
20 about on cross examination? No. One of them wasn't
21 necessary because it had been supplanted by the Static 99R.
22 The other's wouldn't have helped and she ran the test she
23 thought were necessary. And what did she come up with?
24 She found that he met the criteria; a basically disregard
25 for the rules and that's what it is; a disregard for the

CLOSING ARGUMENT: BY MR. BOGLE

-173-

1 rules that we all have to live by shown by multiple times
2 of encounters with the law and by these types of crimes and
3 by his attitude. His attitude toward women; his attitude
4 toward his station in life and how he thinks he should deal
5 with people.

6 There's flags that kind of leaped out at me. The fact
7 that he was out on bond on the criminal solicitation of a
8 minor, out on bond, you know, facing a trial and not
9 knowing how much time he gets and he breaks the law, the
10 domestic violence conviction. The fact that after serving
11 time for the 2005 convictions not too long after that he
12 gets in trouble with the solicitation charge. So this
13 raises questions as to whether or not he can control his
14 behavior. And these are legitimate questions I think you
15 have to consider.

16 There was a lot of talk about the Static 99R. That is
17 one of the tools Doctor Ghele used in addition to reviewing
18 the documents from talking to the guy, to Mr. Burris. The
19 Static 99 has been used for years; it involves a study of
20 thousands of sex offenders and the question is, what
21 factors make these guys likely to reoffend? Okay. And
22 that's what - she went down that list and following the
23 manual she came up with a number five which is moderate to
24 high risk to reoffend. It wasn't the only thing she looked
25 at not by far, but it did influence her in making her call.

CLOSING ARGUMENT: BY MR. BOGLE

-174-

1 Now there is a lot of talk about the numbers there.
2 The numbers say that he has a twenty-one or twenty-two
3 percent chance of offending five years out and a thirty-two
4 percent chance ten years out. I'm thinking, okay, I've got
5 to prove this case to this jury beyond a reasonable doubt.
6 And you'd think that would be more than fifty percent;
7 we're just talking twenty-one or thirty-two percent. But
8 here's where you common sense comes in. Think a minute.
9 We're not talking about a thirty-two percent chance of
10 shoplifting again in five years. Okay. Or stealing
11 something from his neighbor. We're talking about a thirty-
12 two percent chance of a sexual crime; a sexually violent
13 crime within five or ten years and that is something we
14 can't all look away from.

15 Plus another way to look at it, if you look at the
16 average guy in the study of all these sex offenders,
17 convicted sex offenders who reoffended, the average guy,
18 this fellow Mr. Burris is two and a half times more likely
19 than the average guy to reoffend. And like one of the
20 crimes she had the score was a old CDV, a complaint thirty
21 years old. But she followed the manual; the manual for
22 this test says it doesn't matter how old the crime is; if
23 it exist its what you got to live with. But again, that's
24 one of the factors she used.

25 Now, from the Defense we heard that he was a good

1 prisoner at the jail here in town. He's had to been held
2 at the jail until this case is over with and that's where
3 he is right now. And apparently he's obeyed all the rules
4 there. That's wonderful. I'm so glad to hear that.
5 That's good. That speaks for him. Now you got to give him
6 credit for that. He also testified that he pled guilty to
7 these crimes; he admitted responsibility and his plans
8 afterward are to continue sex offender treatment.
9 Unfortunately he was released by mistake had to be picked
10 up again for this case and only got in one class. The
11 records to which Doctor Ghele tried to get and couldn't
12 get.

13 He's also lived with his current wife and her two
14 children who - I hate to say it, but they are in the range
15 of his victims. Those kids are. And you heard testimony
16 from him that her sitting over there is okay with that.
17 That's all you heard. But step back use your common sense.
18 He's been convicted of the right kind of crimes, four of
19 'em, he's got a personality disorder; he has issues
20 controlling his own behavior; his attitude toward women;
21 his being picked up and being convicted while out on bond
22 or while on probation. The question then is, has the State
23 met it's burden to you and I would submit that we have. I
24 would ask you to look at this with your common sense,
25 return a verdict for the State and find that it has proven

CLOSING ARGUMENT: BY MS. GOOD

-176-

1 beyond a reasonable doubt that Keith Fitzgerald Burris is
2 in fact a sexually violent predator. Thank you.

3 Your Honor.

4 THE COURT: Yes, ma'am.

5 MS. GOOD: Thank you, your Honor.

6 CLOSING ARGUMENT BY MS. GOOD:

7 Rebecca Solvate, a novelist I'm sure none of you have
8 ever heard of, nor have I, but she has once said that it is
9 amazing how people when presented with the facts or the
10 world view its amazing and interesting how many people
11 throw away the facts. In this case, ladies and gentlemen,
12 the facts presented to you are simple. They have not
13 proved to you that Mr. Burris is a sexually violent
14 predator.

15 Mr. BOGLE just got up here and explained that they
16 have to prove to you beyond a reasonable doubt two separate
17 things. And as I told you at the beginning we don't object
18 to the fact that he's had sexually violent crimes before.
19 That's a no brainer; that's nothing I'm gonna stand up here
20 and just try to convince you otherwise of. However, the
21 second part they have to prove to you beyond a reasonable
22 doubt is where we differ greatly.

23 And I want to tell you a little bit more about what
24 reasonable doubt is. The judge is going to explain to you
25 later but I want to give you a real life view; something

CLOSING ARGUMENT: BY MS. GOOD

-177-

1 when you hear reasonable doubt from TV it's just this term,
2 this legal term that you're not really sure what it means.
3 But I want you to think about it in the sense if you go to
4 a grocery store you buy a gallon of milk it has either sale
5 by or used by date on it. You get home you use it for a
6 week or so, that dates coming up, and as you get closer to
7 that date you worry about it so you take the lid off and
8 you smell it a little bit and you say, nah, I'm not quite
9 sure about this. That's similar to reasonable doubt,
10 ladies and gentlemen.

11 It may be the day before the sale by or use by date
12 but it smells a little bad so you're not sure about it and
13 you don't necessarily want to use it. I want you to apply
14 that, Ladies and gentlemen, to the second part that they
15 have to show you; that he has a personality disorder that
16 presently - and I want you to listen to the law when the
17 judge explains it to you - presently causes him likely to
18 reoffend. And they give you one witness who works for the
19 state of South Carolina and is paid by the state of South
20 Carolina to say that he has this personality disorder and
21 he's gonna reoffend.

22 I think what she says, Ladies and gentlemen, is very
23 important. The first thing she said on cross-examination
24 is that one of her statements from her report - I'm going
25 to quote it exactly - says estimates of reoffend risk are

CLOSING ARGUMENT: BY MS. GOOD

-178-

1 based on group data that cannot be directly applied to
2 individual respondent. It cannot be directly applied to an
3 individual finding to Mr. Burris and that's the Static 99
4 test in her opinion. And she relies mainly on two things
5 coming to her opinion as to whether he is presently likely
6 to reoffend.

7 One thing is that MMPI test we talked about which she
8 explained to you describes personality problems which is
9 exactly what she has diagnosed him with. Pay attention to
10 when that test was done was that in 2012 three years ago.
11 You're allowed to use your common sense. Think about how
12 much can happen in three years. How much can change good
13 or bad in three years? Three years is a long time and she
14 even stated that that test is usually stable but its
15 possible things can change when you get that test. She
16 said it's a very long test and she didn't feel like she
17 needed to give it again. But, Ladies and gentlemen, I
18 submit to you if she's gonna give you opinion she needs to
19 use the most present data. Who cares if it takes a long
20 time to resubmit a test. Do your job, do it in 2015, see
21 if it's the same.

22 And then she used the Static 99. I want you to pay
23 close attention to her testimony there because I made sure
24 to go through her exactly where her points for that Static
25 99 came from. And you heard it can have as high as a

CLOSING ARGUMENT: BY MS. GOOD

-179-

1 possible twelve and Mr. Burris only had a five, ladies and
2 gentlemen. It's not even in the highest category. She
3 says the highest category is six to twelve. He only had a
4 five and those five points, Ladies and gentlemen, she got
5 those but she said all these other things about these facts
6 and she went through detail after detail about his prior
7 crimes. And am I sitting here telling you that he's a good
8 man? Absolutely not. He committed those crimes there's no
9 doubt about that but if you're wrong, I'm not even gonna
10 say they were mistakes at times because he admitted he knew
11 that she was twelve. But the fact is presently has he
12 changed or is he likely to reoffend?

13 And one of the things that she said she looks at is
14 prison disciplinaries. But they don't want you to look at
15 that, ladies and gentlemen. For the first stay he had four
16 and none of 'em were sexual disciplinaries at all. The
17 second stay which is the one of this last crime, he had
18 none which means he was getting better. And thirdly ask or
19 said well did you check since he's been in York Detention.
20 And she no I didn't even check. We had to call Officer
21 Moore to sit here and tell you he's been great while he's
22 been in there. I submit to you that shows a change;
23 something that she refused to even look at the fact that
24 his prison disciplinaries got better after his last
25 conviction and continuing now.

CLOSING ARGUMENT: BY MS. GOOD

-180-

1 And then she focused on his convictions and Mr. Bogle
2 wanted you to look at these convictions. I want you to
3 look at this last one in particular. And you're gonna get
4 to take these back with you. And you're gonna notice that
5 this last one is a negotiated sentence between the state of
6 South Carolina and Mr. Burris for him to do a little bit of
7 time in prison and then probation for five years. He
8 wasn't ordered to do sex offender treatment on probation
9 and now the State's asking you to say never mind about the
10 probation, we want to simply commit him instead.

11 Ladies and gentlemen, he wasn't made to do sex
12 offender treatment when he got out. And he knew that he
13 was gonna be picked right back up. That he got out and he
14 was gonna be picked right back up for this but he decided
15 to go anyway knowing that, you know, maybe it won't help me
16 later but I got to go do this for myself; I need to start
17 getting myself in order just in case even though knowing
18 they would probably pick him back up again.

19 And even without having all that useful information
20 about his sex offender treatment that he presently tried to
21 do even though it was only one appointment because he's
22 only out for a week, without having his four disciplinaries
23 which she could have easily gotten she only came up with a
24 five and I want you to pay attention to those points. She
25 used one of those points was from a CDV from thirty-five

CLOSING ARGUMENT: BY MS. GOOD

-181-

1 years ago. Think about, ladies and gentlemen, thirty-five
2 years ago. That's probably older than some of you sitting
3 here; that's how long ago that is. If you take that one
4 away he's go four just even lower. And one of her other
5 points is cause he has four prior convictions. As Mr.
6 Bogle stated three of those are the same victim, the same
7 course of action. They were over a little bit of time yes
8 but it's not four separate victims. Does it make it
9 necessarily better? No. He still did it but technically
10 it could be considered one conviction. So if you take that
11 away it takes it down another point potentially.

12 I submit to you that five is already less to the
13 highest risk and I believe that five is a little bit
14 inflated if you look at what she actually used to get to
15 that five. And she didn't look at the facts. She said she
16 takes into account what his plan was. You didn't hear her
17 testify to anything about what his plan was; what she
18 talked to about what his plan was. And you heard from Mr.
19 Burris. After he committed that last offense he was
20 married to his wife and realized I got to get better. And
21 what did he do? He started going to school. He started
22 going to Style Trends so he could get some kind of stable
23 job. He started going to sex offender treatment. He
24 started taking the steps to say you know what, I'm gonna do
25 something right this time. She didn't take that into

CLOSING ARGUMENT: BY MS. GOOD

-182-

1 account or at least she didn't testify about it at all.

2 Buddha once said do not dwell in the past nor dream of
3 the future but concentrate your mind on the present. In
4 this case that's exactly what you have to do. You can't
5 dwell on his past convictions. He's done his time for
6 those. You have to consider them when determining whether
7 he's a sexually violent predator but you don't dwell on the
8 past and don't look to the future as is he gonna do this or
9 not. You have to look presently is he likely to reoffend
10 and the numbers, ladies and gentlemen, show seventy-nine
11 percent of the people in this five category which is not
12 even the highest, seventy-nine percent do not reoffend.
13 And you heard her say she cannot predict whether he's at
14 twenty-one or that seventy-nine percent. That's reasonable
15 doubt, ladies and gentlemen.

16 I grew up in Lexington, South Carolina, a little town;
17 it's much bigger now but when I was growing up it was
18 little, and I can't say I was a perfect child. Went to
19 college I changed a little bit growing up. I was terrified
20 of my daddy. And whenever I had to make a hard decision, I
21 ask my dad, Dad, what do I do? And he would always look at
22 me and he'd say, Anna, the right thing to do ain't always
23 the easiest thing to do. I'm not gonna tell you what to do
24 but the right thing ain't always the easiest.

25 I'm gonna sit here and submit to you, ladies and

CLOSING ARGUMENT: BY MS. GOOD
CHARGE OF THE COURT:

-183-

1 gentlemen, it's not gonna be easy to put a sex offender
2 back on the street. It's not gonna be easy to throw away
3 your emotions, your moral view about what his previous
4 charges are, but when you look at the actual facts and
5 statistics that you need to be looking at to determine
6 whether he's a sexually violent predator it's the right
7 thing to do to find him not to be a sexually violent
8 predator as the state has not proved their burden beyond a
9 reasonable doubt. Thank you.

10 THE COURT: Any reply?

11 MR. BOGLE: No, your Honor. Thank you.

12 JURY CHARGE

13 THE COURT: All right. Ladies and gentlemen, Mr.
14 Foreman, it is now my duty as the trial judge under the
15 constitution of this state to charge and instruct you on
16 the law applicable to this case. It is your duty as jurors
17 to accept and apply the law as I will not say it to you.

18 The State has brought this case under the Sexually
19 Violent Predator law of South Carolina. The State seeks
20 the civil commitment of Keith Fitzgerald Burris, the
21 respondent, for long-term control, care and treatment in a
22 secure facility. This is not a criminal proceeding seeking
23 incarceration, but rather a proceeding seeking civil
24 commitment.

25 The state of South Carolina alleges or claims that the

CHARGE OF THE COURT:

-184-

1 respondent Keith Fitzgerald Burris is a sexually violent
2 predator under the law. The respondent denies that he is a
3 sexually violent predator and the burden of proof is
4 therefore on the State to prove by evidence sufficient to
5 satisfy each of you beyond a reasonable doubt that Mr
6 Burris is a sexually violent predator.

7 If the State is unable to meet that burden of proof as
8 to one or more the elements of the claim the respondent is
9 entitled to a finding that he is not a sexually violent
10 predator.

11 Ladies and gentlemen, I want to make sure that you
12 understand that Mr. Burris is not accused of committing a
13 crime in this proceeding. As you heard from the testimony
14 he did have previous charges for which he was sentenced by
15 the Court. The respondent has now completed his sentence
16 for those charges and the State is now alleging that Mr.
17 Burris is a sexually violent predator. The State has the
18 burden of proof in this case and must prove this case
19 beyond a reasonable doubt. If you find that the State has
20 not met this burden the respondent will be released. If
21 you find that the State has met its burden and find that
22 the respondent is a sexually violent predator, he will not
23 be released, but will be committed to a secure facility, a
24 secure treatment facility in Columbia operated by the South
25 Carolina Department of Mental Health.

1 Ladies and gentlemen, during this trial you and I have
2 had separate duties to perform. As the trial judge, it is
3 my responsibility to preside over the trial, and I've also
4 had the duty to rule upon the admissibility of the evidence
5 offered during the process of this trial. In that regard,
6 you are to consider only the competent evidence that is
7 before you, and you are to disregard from your mind any
8 testimony that was ordered stricken from the record of this
9 case during the progress of this trial, if there in fact
10 there was any. You are to consider only the testimony
11 which has been presented from the witness stand, together
12 with any exhibits that have been admitted into the record
13 of this case.

14 Furthermore, I have the additional duty to charge you
15 on the applicable law of this case and in that regard, I am
16 the sole judge of the law of this case. It is your duty to
17 accept and apply the law as I now state it to you. If you
18 have any preconceived ideas as to what the law is, or what
19 the law ought to be, and it does not agree with what I tell
20 you the law is your obligation is to follow the law as I
21 now state it to you. You are obligated under your oath to
22 abandon any preconceptions, because you are sworn to accept
23 the law as I state it to you.

24 In this trial you are the sole and exclusive judge of
25 the facts, and I am the judge of the law. Do not infer

CHARGE OF THE COURT:

-186-

1 that I have any opinions about the facts in this case from
2 anything that I have said during the course of this trial
3 or in the ruling upon the admissibility of evidence or
4 otherwise, or from anything that I now say during the
5 course of this charge to you. In this regard, the law
6 simply does not permit me to have an opinion about the
7 facts. As jurors, it is your duty alone to determine the
8 effect, the value, the weight and truth of the evidence
9 presented during this trial.

10 Ladies and gentlemen, in most civil cases tried in the
11 Court of Common Pleas, as this is a Court of Common Pleas,
12 the burden of proving a claim is by the preponderance, or
13 greater weight, of the evidence. However, in this case
14 under this statute, the State's burden is greater than
15 that: Here it is beyond a reasonable doubt.

16 As already stated to you, the State has the burden of
17 proof. Under the law of this state, according to the
18 sexually Violent Predator statute, the State must prove its
19 case to a standard of proof beyond a reasonable doubt. If
20 the State fails to meet this burden, then you must find Mr.
21 Burris is not a sexually violent predator.

22 What is reasonable doubt? Reasonable doubt is proof -
23 Proof beyond a reasonable doubt is proof that leaves you
24 firmly convinced that the respondent is a sexually violent
25 predator. Ladies and gentlemen, there are very few things

CHARGE OF THE COURT:

-187-

1 in this world that we know with absolute certainty, and in
2 this type of case the law does not require proof that
3 overcomes every possible doubt. If based on your
4 consideration of the evidence, you are firmly convinced
5 that Mr. Burris is a sexually violent predator then you
6 must return a verdict for the State. If, on the other
7 hand, you think he is - you think there is a real
8 possibility that he is not a sexually violent predator, you
9 must give him the benefit of that doubt and return a
10 verdict for the respondent. Reasonable doubt may arise
11 from evidence that is in this case or from the lack of
12 evidence in this case. It is up to you, the jury, to
13 determine whether or not a reasonable doubt exist.

14 There are two types of evidence which are presented
15 during the course of a trial; that is direct evidence and
16 circumstantial evidence.

17 Direct evidence is the testimony of a person who
18 claims to have actual knowledge of a fact, such as an
19 eyewitness. It is evidence which immediately establishes
20 the main fact to be proved.

21 Circumstantial evidence is proof of a chain of facts
22 and circumstances indicating the existence of a fact. It
23 is evidence which immediately establishes collateral facts
24 from which the main fact may be inferred. Circumstantial
25 evidence is based on inference and not on personal

CHARGE OF THE COURT:

-188-

1 knowledge or observation.

2 The law makes absolutely no distinction between the
3 weight or value to be given either direct or circumstantial
4 evidence. Nor is a greater degree of certainty required of
5 circumstantial evidence than of direct evidence.

6 Now, Ladies and gentlemen, in determining what the
7 true facts are of this case, you must judge the credibility
8 of witnesses, which simply means the believability. And
9 you must also judge the value and the weight to be given to
10 that testimony. You alone must decide the force, effect
11 and the truth of the testimony. In making this decision
12 there are many things you may, and should, take into
13 consideration, such as: The appearance and the manner of
14 the witness on the witness stand, a characteristic often
15 referred to as the demeanor of a witness.

16 Whether the witness is forthright, hesitant.

17 Was the witness' testimony consistent or did it
18 contain discrepancies?

19 What was the ability of the witness to know the facts
20 about which he or she testified?

21 Was there some reason a witness would not want to give
22 testimony which would help or hurt one side or the other?
23 In other words, was the witness biased or prejudiced
24 towards one part or the other?

25 Was the testimony of the witness reasonable when

CHARGE OF THE COURT:

-189-

1 considering in the light of all the evidence in the case
2 and in the light of your own experience and common sense?

3 Was the testimony of the witness corroborated or made
4 stronger by other testimony and evidence, or was it made
5 waaker or impeached bny such other testimony or evidence?

6 As jurors please understand that you have the right to
7 believe a small portion of a witness' testimony and
8 disregard a larger portion, or vice versa. You may believe
9 all of a witness' testimony, or none. You may believe the
10 testimony of a single witness against that of many
11 witnesses, or the other way around.

12 And, of course, you do not determine the truch merely
13 by counting the number of witnesses presented by each side.

14 The fact that testimony is not controverted does not
15 mean that you must accept it as true and undisputed. You
16 still must gauge the credibility of the witness to
17 determine the believability or truth of the facts offered
18 through that testimony.

19 In exercising your mental process and attempting to
20 decide the truth, the law simply requires that you exercise
21 good judgment, your common sense, your sense of logic and
22 reason, and your experiences in life. You then apply these
23 attributes to the evidence and apply the law as I am now
24 going to state it to you, and thus arrive at a verdict.

25 During the course of this trial, you also heard the

CHARGE OF THE COURT:

-190-

1 testimony of an expert witness. The rules of evidence
2 ordinarily do not permit witnesses to testify to opinion or
3 conclusions. Instead, they can testify as to facts they
4 perceived, such as what they saw, smelled, heard or
5 something of that nature. However, an exception to the
6 rule exists for a witness that we call an expert witness.
7 A witness who has special knowledge, skill, experience,
8 training, or education in a particular field may state an
9 opinion as to relevant and material matters in which the
10 witness claims to be an expert.

11 In determining the weight to be given to such an
12 opinion, you should likewise consider the qualifications
13 and credibility of the expert and the reason given for the
14 opinion. You are not bound by such opinion, rather, you
15 should give it the weight, if any, which you think that it
16 deserves.

17 The value and effect of expert testimony is a matter
18 to be solely estimated by you, the jury. No opinion of an
19 expert can be accepted, in and of itself, as truthful, or
20 reliable, but must be weighed by you and convince you and
21 convince your judgment beyond a reasonable doubt and with
22 the same force and effect as other facts proved in a case
23 before you can rely upon it.

24 You must consider expert testimony in the same manner
25 as you do any other testimony and give it such weight as

CHARGE OF THE COURT:

-191-

1 you believe it is to be entitled when considered with all
2 the other evidence in the case. Such testimony is given
3 for the purpose of helping you and not for the purpose of
4 controlling your judgment.

5 The elements of sexually violent predator which the
6 State must prove beyond a reasonable doubt are one:

7 The respondent has been convicted of a sexually
8 violent offense. I charge you that the criminal sexual
9 conduct with a minor in the second degree and criminal
10 solicitation of a minor are sexually violent offenses.

11 And, two: That the respondent suffers from a mental
12 abnormality or personality disorder that makes him likely
13 to engage in acts of sexual violence if not committed in a
14 secure facility for long-term control, care, and treatment.

15 Inherent in these two elements is that the State must
16 prove the requirement that the respondent's mental
17 abnormality or personality disorder causes him serious
18 difficulty in controlling his behavior.

19 In other words, the State must prove beyond a
20 reasonable doubt that the individual it seeks to commit
21 suffers from a mental illness which he cannot sufficiently
22 control without the structure and care provided by a mental
23 health facility, rendering him otherwise likely to commit a
24 dangerous act.

25 In order for you to better understand the elements of

CHARGE OF THE COURT:

-192-

1 the State's cause of action, I'm going to define for you
2 some of the terms that I have just used.

3 One: Mental abnormality means a mental condition
4 affecting a person's emotional or volitional capacity that
5 predisposes that person to commit sexually violent
6 offenses. This mental abnormality or personality disorder
7 must cause Mr. Burris serious difficulty in controlling his
8 behavior.

9 Two: Likely to engage in acts of sexual violence;
10 that means that the person's propensity to commit acts of
11 sexual violence is of such a degree as to pose a menace to
12 the health and safety of others so that he is a danger so
13 he is dangerous to others.

14 Again, I remind you that the burden of proof is on the
15 State to satisfy - Excuse me - Again, I remind you that the
16 burden of proof is on the State to prove to your
17 satisfaction beyond a reasonable doubt that the respondent
18 has been convicted of a sexually violent offense as I have
19 instructed you, and also suffers from a mental abnormality
20 or personality disorder that makes him likely to engage in
21 acts of sexual violence if not confined to a secure
22 facility for long-term control, care, and treatment.

23 If the State carries its burden of proof and convinces
24 you beyond a reasonable doubt as to each of the two
25 elements of the cause of action, it is entitled to a

CHARGE OF THE COURT:

-193-

1 finding that Mr. Burris is a sexually violent predator. If
2 the State does not meet the burden of proof as to one or
3 both of the elements, the respondent is entitled to a
4 finding that he is not a sexually violent predator.

5 Now, Ladies and gentlemen, I am now drawing near to
6 the end of my charge and I want you to clearly understand
7 that you are not partisans or advocates for the state of
8 South Carolina, or, for the respondent. You do not serve
9 as jurors to reward your friends or punish your enemies. In
10 this regard you have been selected by both the State and
11 the Respondent to be fair and impartial jurors in this
12 case. And it is your duty by your joint deliberations to
13 determine the truth in this case, giving the respondent the
14 benefit of every reasonable doubt of each and every issue.
15 Then, to the facts which you determine them to the facts
16 which you determine to be true you should take and apply
17 the law which I have - which has been given to you by this
18 court and thus arrive at a verdict which speaks the truth.
19 In fact, the word verdict which has a Latin derivative,
20 means a true saying. Thus, when you have accomplished
21 these responsibilities you will have satisfied your oath as
22 jurors and you will have discharged your duty to this
23 court.

24 Now, Ladies and gentlemen, there are two possible
25 verdicts in this case. We prepared a verdict, Mr. Foreman,

CHARGE OF THE COURT:

-194-

1 we prepared a verdict form for your use in the jury room.
2 The fact that I have placed one above the other bears no
3 importance; it's just that I had to place one above the
4 other. Mr. Foreman, I need you to understand that the
5 jury's verdict needs to be unanimous, all twelve members
6 must agree. Your verdict cannot be based upon sympathy,
7 passion, prejudice, emotion, or any other consideration
8 that's not a part of this case.

9 Mr. Foreman, you are to conduct the jury deliberations
10 only when all twelve members of the jury are present. If
11 in fact someone needs to leave to use the restroom or make
12 a telephone call, for whatever reason, the deliberations
13 need to cease and not begin again until all twelve members
14 have returned.

15 Once the jury has reached their unanimous decision,
16 you will complete the form, however their decision is, sign
17 the form and date it. There's one other more important
18 thing that you must remember to do; that's to knock on the
19 door and let the bailiff know. One time I had a jury back
20 there for like half a day; we were wondering what's going
21 on and so finally we sent somebody and they said well you
22 didn't tell us what to do when you completed the form. So
23 please be sure to knock on the door and let the bailiff
24 know once the jury has reached it's unanimous verdict.

25 At this time, Mr. Bailiff, I mean, Mr. Foreman, I'm

CHARGE OF THE COURT:

-195-

1 gonna let the jury retire back to the jury deliberation
2 room but do not begin your deliberations until the bailiff
3 has come back and ask you to begin because there is a few
4 matters I might have to take up with the lawyers. But you
5 may retire back to jury deliberation.

6 (JURY EXITS COURTROOM TO DELIBERATE AT 10:48 AM.)

7 THE COURT: Any objections to the charge from the
8 State or the Respondent?

9 MR. BOGLE: No, your Honor. I do have one house
10 keeping matter. There was an objection yesterday to a
11 portion of the State's charge. On page six of this jury
12 charge, just to preserve the record can we make a copy of
13 the Stat's jury charge a Court's Exhibit for that purpose?

14 THE COURT: Uh-huh.

15 MR. BOGLE: Okay. Well if there is no objections
16 about the charges the court gave.

17 THE COURT: All right.

18 MR. BOGLE: Just that housekeeping question.

19 MS. GOOD: And, your Honor, from the Respondent, I
20 renew my previous objection, your Honor.

21 THE COURT: Okay. Mr. Bailiff, --

22 MR. BOGLE: Here's a copy of the charge and make it a
23 Court's Exhibit.

24 THE COURT: Sure. We'll make that a Court Exhibit.
25 Give it to the Court Reporter and Mr. Bailiff, I'll let you

-197-

1 particular jury and also for coming in this week and
2 participating in this jury process. But I will step down
3 and you can decide if you want to wait or leave. Okay.

4 Thank you very much.

5 (ALTERNATE JUROR DISMISSED AT 10:50 AM.)

6 (COURT IN RECESS AT 10:50 AM.)

7 (COURT BACK IN SESSION AT 11:25 AM.)

8 THE COURT: Wait. Don't bring 'em in yet.

9 MR. BOGLE: So this will be Court's Exhibit Two, I
10 guess?

11 MS. GOOD: Yeah, the jury instructions.

12 (WHEREUPON, COURT'S EXHIBIT NUMBER ONE, IDENTIFIED AND
13 MARKED, RECEIVED INTO EVIDENCE.)

14 (DEFENDANT REENTERS COURTROOM AT 11:28 AM.)

15 (COURT IN RECESS AT 11:29 AM.)

16 THE COURT: All right. Bring him in.

17 (JURY FOREMAN ENTERS COURTROOM AT 11:29 AM.)

18 THE COURT: Mr. Foreman, I have received your note
19 where the jury ask two questions. The first being the jury
20 would like to know how long Mr. Burris would be put away.
21 And the second question would be can we see his entire
22 criminal record?

23 The record of this case has been presented to the
24 jury. It is what it is and so you have - the jury needs to
25 confine it's factual determination based on what the record

1 has been presented to it. That's the best answer I can
2 give you.

3 MR. FOREMAN: Understood.

4 THE COURT: All right. Thank you, very much.

5 MR. FOREMAN: Thank you.

6 (JURY FOREPERSON EXITS COURTROOM AT 11:29 AM.)

7 THE COURT: All right, we'll make this Court's Exhibit
8 Two and step down to continue to wait.

9 (WHEREUPON, COURT'S EXHIBIT NUMBER TWO, IDENTIFIED AND
10 MARKED, RECEIVED INTO EVIDENCE.)

11 (COURT IN RECESS AT 11:29 AM.)

12 (COURT BACK IN SESSION AT 12:31 PM.)

13 THE COURT: All right. Anything before we bring the
14 jury in? Okay.

15 Let's bring the jury in.

16 (WHEREUPON, COURT'S EXHIBIT NUMBER THREE, IDENTIFIED
17 AND MARKED, RECEIVED INTO EVIDENCE.)

18 (JURY REENTERS COURTROOM AT 12:32 PM.)

19 THE COURT: Mr. Foreman, I'm informed that the jury
20 has

21 reached a verdict; is that correct?

22 MR. FOREMAN: It is, sir.

23 THE COURT: If you will give the verdict form to the
24 bailiff.

25 (VERDICT RECEIVED UP BY THE COURT.)

VERDICT

-199-

VERDICT

THE COURT: Madam Clerk, please publish the verdict.

MADAM CLERK: Yes, sir. State of South Carolina, County of York in the Matter of care and treatment of Keith Fitzgerald Burris, Case Number 2015CP4600758 Question: Has the petitioner in te State of South Carolina proved beyond a reasonable doubt that Keith Fitzgerald Burris is a sexually violent predator under the South Carolina Sexually Violent Predator Act? We the jury unanimously answer the question as follows: Yes, Keith Fitzgerald Burris is a sexually violent predator signed this day by John Says or October 8, 2015.

Ladies and gentlemen of the jury, if this is your verdict would you please indicate by raising your right hand? Thank you.

All hands are raised.

THE COURT: Anything before I dismiss the jury?

MR. BOGLE: Nothing from the State, your Honor.

MS. GOOD: No, sir.

THE COURT: Mr. Foreman, Ladies and gentlemen, I have the privilege of telling that you're jury service in this case is finished as well as your jury service for the week has concluded. We started the week with a large docket, the Clerk of Court's Office goes through and publishes probably almost a hundred different civil cases that come

1 up each term of court. As the cases get closer to time to
2 actually be tried, amazingly the lawyers begin working on
3 these cases a lot more aggressively than what it appears
4 that they've done before, so even though we only actually
5 call only one jury trial this week, because you and the
6 other people that were part of the jury panel that came in
7 earlier in the week and were willing to serve as jurors, we
8 were able to move a substantial amount of cases through the
9 system. I mention that because I want to put into focus
10 that your service, your work as jurors just didn't affect
11 one case; it affected all of the civil docket here in the
12 county but I want to thank you for that service.

13 You are free to go now. The Clerk of Court at some
14 point will be paying you a small snippet for your service,
15 so it's just a small way of saying thank you, we understand
16 the burden that jury service causes to your personal lives
17 and hopefully we have made this as an educational process
18 as possible. But at this time you're free to go and again,
19 if ever people start talking to you about the case and you
20 don't want them to talk to you contact one of the bailiffs
21 and the Clerk of Court will see to it that that type of
22 communication stops. But thank you very much, you may go
23 with the bailiff.

24 (JURY DISMISSED AT 12:36 PM.)

25 THE COURT: Anything before I step down?

-201-

1 MS. GOOD: Yes, sir, your Honor. For the record at
2 this time I'd like to make a motion for your Honor to
3 vacate the verdict based on the evidence presented by the
4 State using the pretrial motions and the fact that the 2012
5 MMPI was used in order to do a ---

6 (DISTURBANCE IN HALLWAY.)

7 MS. GOOD: --- personality disorder. And in view of
8 that, your Honor, if you were to deny we would also ask for
9 a new trial based upon my previous pretrial motions and
10 objections.

11 THE COURT: Yes, sir.

12 MR. BOGLE: Your Honor, the State would oppose these
13 motions. I think all matters were properly presented to
14 the jury; the evidence was what it was. The jury had a -
15 to decide what to believe and what not to. Based on the
16 same rational for denying the previous directed verdict
17 motions this is clearly a question of fact for the jury and
18 it was in their hands and they properly made a decision. I
19 can't see any - the weight to apply to the MMPI and when it
20 was used and whether or not it was necessary to be done
21 again was a question of weight for them to decide and
22 that's what they did. We would request that the motions be
23 denied.

24 THE COURT: All right. I am going not to grant the
25 motions. I do believe that my prior rulings were more

1 correct that it went to the weight, not to the
2 admissibility, so I will deny the motions.

3 But good luck to you, sir. Thank you very much.

4 MR. BOGLE: May I approach, your Honor?

5 THE COURT: Uh-huh.

6 (DEFENDANT EXITS COURTROOM AT 12:38 PM.)

7 MR. BOGLE: Thank you, your Honor.

8 (COURT ADJOURNED AT 12:40 PM.)

9 (END OF TRANSCRIPT OF RECORD.)

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

County: York
 Date: October 7, 2015

VOIR DIRE/BATSON SHEET

Case No.: 2015- CP-46-00758

Judge: Honorable J. Mark Hayes, II

Pl./State: State of South Carolina

Pl.State Atty's.: Sr. Asst. AG James Bogle, Jr.

Defendant: Keith Fitzgerald Burris

Defense Atty: Anna Good

Court Reporter: Wanda Nelson, CVR-M

<u>Juror No.</u>	<u>Name</u>	<u>Race</u>	<u>Sex</u>	<u>STRIKES</u>			
				<u>*Court</u>	<u>Plaintiff</u>	<u>Defense</u>	<u>Accept</u>
139	Setina L. Watson	B	F		X ²		
112	Margaret L. Scoggins	W	F			X ⁻¹	
149	Marzieh B. Yousefian	W	F		X ⁻¹		
91	Joanne G. Moyer	W	F			X ⁻⁴	
1	Jennifer K. Adams	W	F		X ⁻³		
101	Stephen D. Rainey	B	F				X
61	Adriene Hughes	B	F				X
70	Rhonda G. Lacorata	W	F			X ⁻²	
48	Yashiva L. Graham	B	F				X
27	Onix L. Delgado	H	M				X
78	Diane C. McClellan	W	F			X ⁻³	
30	Tonya R. Dunlap	W	F				X
60	Thomas G. Hucks, Jr.	W	M				X
133	Richard C. Van Haren	W	M				X
106 **	John E. Sageser	W	M				X
29	Jason S. Downs	B	M				X
69	Dani M. Kimbrell	W	F				X
75	Shawn A. Mayville	W	M				X
137	Margaret D. Wallace	W	F		X ⁻⁴		
58	Michael S. Hines	W	M				X
9	Christina L. Boucher	W	F				X
87	Lisa Miles-Garrod	W	F		X ⁻⁵		
23	Raeann L. Coon	W	F			X ⁻⁵	

*For the Court column, indicate who made the motion to strike the jurors for cause.

C-Court, P-Plaintiff, D-Defense

** Foreperson

York Circuit Court RANDOM STRIKE SHEET

JUDGE NAME : Hayes, II, J. Mark

TRIAL TYPE : Civil

PANEL ID : 2015CP4600758

COURTROOM CR2

DESCRIPTION : 2015CP4600758

Sorted by: Random

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1 Watson, Setina L	139	B	F	(X)-2	()	()	
2 Scoggins, Margaret L	112	W	F	()	(X)-1	()	
3 Yousefian, Marzieh B	149	W	F	(X)-1	()	()	
4 Moyer, Joanne G	91	W	F	()	(X)-4	()	
5 Adams, Jennifer K	1	W	F	(X)-3	()	()	
6 Rawlinson, Brittney C	101-1	B	F	()	()	()	
7 Hughes, Adriene	61-2	B	F	()	()	()	
8 Lacorata, Rhonda G	70	W	F	()	(X)-2	()	
9 Graham, Yashiva L	48-3	B	F	()	()	()	
10 Delgado, Onix L	27-4	H	M	()	()	()	
11 McClellan, Diane C	78	W	F	()	(X)-3	()	
12 Dunlap, Tonya R	30-5	W	F	()	()	()	
13 Hucks, Thomas G Jr.	60-6	W	M	()	()	()	
14 Van Haren, Richard C	133-7	W	M	()	()	()	
15 Sageser, John E	106-8	W	M	()	()	()	
16 Downs, Jason S	29-9	B	M	()	()	()	
17 Kimbrell, Dani M	69-10	W	F	()	()	()	
18 Mayville, Shawn A	75-11	W	M	()	()	()	
19 Wallace, Margaret D	137	W	F	(X)-4	()	()	
20 Hines, Michael S	58-12	W	M	()	()	()	
21 Boucher, Christina L	9-13	W	F	()	()	()	
22 Miles-Garrod, Lisa	87	W	F	(X)-5	()	()	
23 Coon, Raeann L	23	W	F	()	(X)-5	()	

(041L)

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF York

INDICTMENT/CASE#

197

2004-GS46-1461

STATE

VS.

KEITH FITZGERALD BURRIS

AKA:

Race: B

Sex: M

Age: 46

DOB: [REDACTED]

SS#: [REDACTED]

Address:

Rock Hill, S.C. 29730

DL#:

SID#: SC00717395

A/W#: G-391759

Date of Offense: 09-01-2000 *from 9-30-2000*

S.C. Code §: 16-3-655(2) SEP 25 AM 8:59

CDR Code #: 0396

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: **CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE**

in violation of § 16-3-655(2) of the S.C. Code of Laws, bearing CDR Code # 0396

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor:

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service 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 given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 470 days

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 - (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Surcharge)	\$	100.
§ 14-1-211(A)(2) (Surcharge)	\$	
§ 56-5-2995 (DUI Assessment)	\$	
3% to Count (if paid in installments)	\$	
§ 73.3, 1B TP (Law Enforce. Funding)	\$	25.
§ 33.7, 1B TP (Drug Court Surcharge)	\$	
§ 50-21-114(BUI Breath Test Fee)	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$	
TOTAL	\$	125.

Clerk of Court/Deputy Clerk

Court Reporter:

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ 80.00 *on App* paid to Public Defender Fund

Other: sex offender Registry

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

198

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK)

CERTIFIED TRUE COPY

2015 SEP 25 AM 8:59

DAVID HAMILTON

At a Court of General Sessions, convened on May 20, 2004 the Grand Jurors of York County present upon their oath:

YORK COUNTY, SC

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

That on or about or during the time period of September 1, 2000 through September 30, 2000, the Defendant Keith Fitzgerald Burris did willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree, in that the Defendant Keith Fitzgerald Burris did engage in a sexual battery with a minor victim who, at the time of the incident, was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: the Defendant Keith Fitzgerald Burris (Date of Birth: [REDACTED]) did commit the sexual battery of sexual intercourse upon and with the minor victim Minor I [REDACTED] (Date of Birth: [REDACTED]), a minor who was approximately twelve (12) years of age at the time of said offense. Said incident occurred in York County, South Carolina. All in violation of Section 16-3-655(2), of the Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

ARREST WARRANT

G-391759

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
York

THE STATE

against

Keith Fitzgerald Burris

Address: _____

Phone: _____ SSN: _____

Sex: M Race: B Height: 508 Weight: 190

DL State: _____ DL #: _____

DOB: _____ Agency ORI #: SC0460000Prosecuting Agency: YCSOProsecuting Officer: Beth TolsonOffense: Criminal Sexual Conduct W/Minor, 2nd Degree

Offense Code: _____

Code/Ordinance Sec. 16-3-655This warrant is **CERTIFIED FOR SERVICE** in the
☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant Keith Fitzgerald Burrison 10/21/03

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 General Sessions
200300031745

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of
York
Personally appeared before me the affiant Det. Beth Tolson whobeing duly sworn deposes and says that defendant Keith Fitzgerald Burrisdid within this county and state on or around September 2000 violate the criminal laws of theState of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____)

in the following particulars:

DESCRIPTION OF OFFENSE: Criminal Sexual Conduct W/Minor, 2nd Degree 16-3-655

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That the defendant did wilfully and unlawfully violate the laws of this state by committing a sexual battery upon
a minor, Minor 1, who was around 12 years of age at time of offense. This battery took place by
defendant engaging in sexual intercourse with said minor. This incident took place at a motel located inside of
York County. All against the peace and dignity of the state and all such laws so made and provided. Probable
cause is based upon victim and defendant's statements.

Sworn to and subscribed before me

on 10-21-03

Signature of Issuing Judge

(L.S.)

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
York

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on or around September 2000 defendant Keith Fitzgerald Burris

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☐ Municipality of _____) as set forth below:
DESCRIPTION OF OFFENSE: Criminal Sexual Conduct W/Minor, 2nd Degree 16-3-655

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.

Judge's Address MOSS JUSTICE CENTER

York, SC

Signature of Issuing Judge

Judge Code: 806

Judge's Telephone _____

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

 Form Approved by
S.C. Attorney General
July 26, 1990
SCCA-518

AFFIDAVIT

0396

 CERTIFICATE COPY
2015 SEP 25 AM 3:59
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

69

(JAIL)

2000 OF SOUTH CAROLINA

COUNTY OF York

STATE

VS.

KEITH FITZGERALD BURRIS

ORIGINAL

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#

2004-GS46-1462

AKA: _____
Race: **B** Sex: **M** Age: **36**
DOB: _____ SS#: _____
Address: _____
Hill, S.C. 29730
DL#: _____ SID#: SC00717395

A/W#: G-391760
Date of Offense: 01-01-2001
S.C. Code § : 16-3-655(2)
CDR Code #: 0396
☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: **CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE**

in violation of § 16-3-655(2) of the S.C. Code of Laws, bearing CDR Code # 0396

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor:

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service 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: 11/24/05

☒ The Defendant is given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the
State Department of Corrections. 470 days

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee

Payment Terms:

☐ set by SCDPPPS

Recipient: _____

*Fine: _____

§ 14-1-206 - (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Surcharge)	\$	100.
§ 14-1-211(A)(2) (Surcharge)	\$	
§ 56-5-2995 (DUI Assessment)	\$	
3% to Court (if paid in installments)	\$	
§ 73.3, 1B TP (Law Enforce. Funding)	\$	25.
§ 33.7, 1B TP (Drug Court Surcharge)	\$	
§ 50-21-114(BUI Breath Test Fee)	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$	
TOTAL	\$	125.

Clerk of Court/Deputy Clerk

Court Reporter: Thane Watson

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to clerk during probation.

PRESIDING JUDGE John Hays

Judge Code: 01014191

Sentence Date: 1-24-05

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK

CERTIFIED TRUE COPY
2015 SEP 25 AM 8:59

At a Court of General Sessions, convened on May 20, 2004 the Grand Jurors of York County present upon their oath: DAVID HAMILTON
YORK COUNTY, SC

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

That on or about or during the time period of January 1, 2001 through December 31, 2001, the Defendant Keith Fitzgerald Burris did willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree, in that the Defendant Keith Fitzgerald Burris did engage in a sexual battery with a minor victim who, at the time of the incident, was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: the Defendant Keith Fitzgerald Burris (Date of Birth: [REDACTED]) did commit the sexual battery of sexual intercourse upon and with the minor victim Minor 1 (Date of Birth: [REDACTED]), a minor who was approximately twelve (12) or thirteen (13) years of age at the time of said offense. Said incident occurred in York County, South Carolina. All in violation of Section 16-3-655(2), of the Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

ARREST WARRANT

G-391760

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
York

THE STATE
against

Keith Fitzgerald Burris

Address: _____

Phone: _____ SSN: _____

Sex: M Race: B Height: 508 Weight: 190

DL State: _____ DL #: _____

DOB: _____ Agency ORI #: SC0460000Prosecuting Agency: YCSOProsecuting Officer: Beth TolsonOffense: Criminal Sexual Conduct W/Minor, 2nd Degree

Offense Code: _____

Code/Ordinance Sec. 16-3-655This warrant is **CERTIFIED FOR SERVICE** in the

☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant Keith Fitzgerald Burrison 10/21/03

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
200300031745

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of
York

Personally appeared before me the affiant Det. Beth Tolson
being duly sworn deposes and says that defendant Keith Fitzgerald Burris
did within this county and state on During 2001 violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____)
in the following particulars:

DESCRIPTION OF OFFENSE: Criminal Sexual Conduct W/Minor, 2nd Degree 16-3-655

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That the defendant did wilfully and unlawfully violate the laws of this state by committing a sexual battery upon
a minor, Minor 1, who was around 12 years of age at time of offense. This battery took place by
defendant engaging in sexual intercourse with said minor. This incident took place at defendant's residence
located off Celanese Rd. which is in York County. All against the peace and dignity of the state and all such
laws so made and provided. Probable cause is based upon victim's statement and police investigation.

Sworn to and subscribed before me)
on 10-21-03)
Signature of Issuing Judge (L.S.))

Signature of Affiant

Affiant's Address 1675-2A York Hwy.York, SCAffiant's Telephone 628-3059

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
York

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on During 2001 defendant Keith Fitzgerald Burris
did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☐ Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE: Criminal Sexual Conduct W/Minor, 2nd Degree 16-3-655

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.)) Judge's Address: MOSS JUSTICE CENTER
York, SC

Signature of Issuing Judge

Judge Code: _____

Judge's Telephone _____

Issuing Court:

☒ Magistrate ☐ Municipal ☐ Circuit

Form Approved by
S.C. Attorney General
July 26, 1990
SCCA 618

202

ORIGINAL

SOUTH CAROLINA

OF York

VS.

KEITH FITZGERALD BURRIS

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#

203

2004-GS46-1463

A/W#: DT IND (IN RE: G-391755)

Date of Offense: 10-01-2003 *10-15-2003*S.C. Code § : 16-3-655(3) *2010 SEP 25 AM 8:59*

CDR Code #: 0397

☐ CASE RESTOREDSENTENCE *DAVID HAMILTON*☒ PLEA ☐ TRIAL *CLERK OF COURT YORK COUNTY SC*

AKA: _____

Race: B Sex: M Age: 36

DOB: _____ SS#: _____

Address: _____

Rock Hill, S.C. 29730

DL#: _____ SID#: SC00717395

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: **CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE**

in violation of § 16-3-655(3) of the S.C. Code of Laws, bearing CDR Code # 0397

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____

Solicitor: _____

Defendant: _____

Attorney for Defendant: _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service 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: 1/24/05☒ The Defendant is given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 470 days

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine: _____

§ 14-1-206 - (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Surcharge)	\$	100.
§ 14-1-211(A)(2) (Surcharge)	\$	
§ 56-5-2995 (DUI Assessment)	\$	
3% to Count (if paid in installments)	\$	
§ 73.3, 1B TP (Law Enforce. Funding)	\$	25.
§ 33.7, 1B TP (Drug Court Surcharge)	\$	
§ 50-21-114(BUI Breath Test Fee)	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$	125.

TOTAL

David Hamilton

Clerk of Court/Deputy Clerk

Court Reporter: *Mike Watson*

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to clerk during probation.PRESIDING JUDGE *John O. Haynes*Judge Code: 0110 14 19Sentence Date: 1-24-05

SCCA/217 (6/2003)

STATE OF SOUTH CAROLINA)

CERTIFIED TRUE COPY INDICTMENT

COUNTY OF YORK)

2015 SEP 25 AM 8:59

At a Court of General Sessions, convened on May 20, 2004 the Grand Jurors of York County present upon their oath:

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

That on or about or during the time period of October 1, 2003 through October 15, 2003, the Defendant Keith Fitzgerald Burris did willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree, in that the Defendant Keith Fitzgerald Burris did engage in a sexual battery upon and with Minor 1 (Date of Birth: [REDACTED]), a minor victim who, at the time of the incident, was fifteen (15) years of age. Said Defendant Keith Fitzgerald Burris (Date of Birth: [REDACTED]) was older than said minor victim at the time of said incident. Said incident occurred within York County, South Carolina. All in violation of Section 16-3-655(3), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

COUNTY OF YORK
STATE VS.

KEITH FITZGERALD BURRIS

AKA: Keith Burris, Keith Fitzgera Burris

Race: Black Sex: M Age: 46

DOB: [REDACTED] SS#: 2 [REDACTED]

Address: [REDACTED]

City, State, Zip: Clover, SC 29710

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Criminal Solicitation Of A Minor

In violation of § 16-15-0342 of the S.C. Code of Laws, bearing CDR Code # 2999

INDICTMENT/CASE#: 2014GS4601188

A/W: 2013A4610100546

Date of Offense: 05/15/2010

S.C. Code #: 16-15-0342

CDR Code #: 2999

SENTENCE SHEET

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Bethany P. Miles 76212
Bethany Miles, Asst. Attorney General SC Bar #[Signature]
Defendant[Signature] 77941
Attorney for Defendant SC Bar # 02655

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of 2 days/months/years and or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Sex Offender Registry Required
 Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100 -

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25 -

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5 -

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 130 -

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: *No Contact with Victim*

[Signature]

Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge: [Signature]

Judge Bar ID: _____

Sentence Date: 11-13-14Judge Code: 2113Clerk of Court/Deputy Clerk: *David Hamilton*Court Reporter: *Shirley Broom*

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

INDICTMENT

2015 SEP 25

AM 8:55

COUNTY OF YORK

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

CRIMINAL SOLICITATION OF A MINOR

At a Court of General Sessions, convened on April 17, 2014,
the Grand Jurors of York County present upon their oath:

That Keith Fitzgerald Burris, between April 1, 2013 and May 19, 2013, did willfully and knowingly commit the crime of Criminal Solicitation of a Minor. To wit: Keith Fitzgerald Burris, a person eighteen years of age or older, did knowingly contact and communicate with a minor under the age of eighteen, **Minor 2**, date of birth **██████████** in York County, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5), or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person reasonably believed to be under the age of eighteen. This is in direct violation of Section 16-15-342, 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.

OFFICE OF THE ATTORNEY GENERAL



ALAN WILSON (BBM)
ATTORNEY GENERAL

207

WITNESSES

Chris Bomar, SC Attorney General's Office

ARREST WARRANT NUMBER

2013-A-46-10100546

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 4/17/2014

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-46- 01188

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

APRIL 17, 2014 TERM

THE STATE

vs.

KEITH FITZGERALD BURRIS

D.O.B. [REDACTED]

Indictment for

**CRIMINAL SOLICITATION
OF A MINOR**

SC Code: 16-15-342

CDR Code: 2999

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ARREST WARRANT

2013A4610100546

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

THE STATE
against

Keith Fitzgerald Burris

address:

York, SC 29745-

Phone: _____ SSN: _____
Sex: M Race: B Height: 5 9 Weight: 171

DL State: _____ DL #: _____

JOB: _____ Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: C. Bomar - B5804

Offense: Minor / Criminal solicitation of a minor

Offense Code: 2999

Code/Ordinance Sec: 16-15-0342

This warrant is **CERTIFIED FOR SERVICE** in the
☐ County/ ☐ Municipality of _____
 The accused
 s to be arrested and brought before me to be
 dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to

Defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions

1675 York Hwy

York, SC 29745

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

Personally appeared before me the affiant C. Bomar

being duly sworn deposes and says that defendant Keith Fitzgerald Burris

did within this county and state on or about 5/15/2010

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

York

and the following particulars:

DESCRIPTION OF OFFENSE: Minor / Criminal solicitation of a minor

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

The defendant, Keith Fitzgerald Burris did willfully and unlawfully violate our South Carolina Code of Laws by engaging in sexual communication via text plus which is an application on a smart phone during April 1, 2013 through May 19, 2013. Defendant did text about masturbation and other sexual activities with a minor female child who was fifteen years of age during the time of the texting. Defendant also sent a picture of his private area to the minor via cell phone. This occurred at _____, Rock Hill, South Carolina. Probable cause based upon defendant statements and police investigation.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

Affiant's Address Moss Justice Center

York, SC 29745-7428

Affiant's Telephone (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/15/2010 defendant Keith Fitzgerald Burris

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of York

) as set forth below

DESCRIPTION OF OFFENSE: Minor / Criminal solicitation of a minor

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
 Sworn to and subscribed before me

on 6/12/2013

Signature of Issuing Judge

Lynne Horton Benfield

Judge Code: 5806

Judge's Address Moss Justice Center

York, SC 29745-7423

Judge's Telephone (803)628-3029

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

208

who

FILED-RECEIVED

2013 JUN 14

AM 11:19

DAVID HAMILTON
C.C.C.R. & G.S.
YORK COUNTY, SC

2999

RECEIVED
 2013 JUN 12 PM 1:40
 OFFICE OF THE SHERIFF
 DETENTION DIVISION
 YORK, SOUTH CAROLINA

RECEIVED
 2013 SEP 25 AM 8:38
 DAVID HAMILTON
 C.C.C.R. & G.S.
 YORK COUNTY, SC

VAL

ORIGINAL

ORIGINAL

ORIGINAL

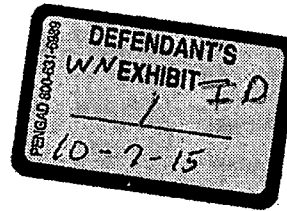
ORIGINAL

ORIGINAL

ORIGINAL

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC PSYCHOLOGICAL EVALUATION
PURSUANT TO THE SOUTH CAROLINA SEXUALLY VIOLENT PREDATOR ACT

Name: **KEITH FITZGERALD BURRIS**
Case Number: 2015-CP-46-00758
Date of Birth: [REDACTED]
Evaluator: Marie E. Gehle, Psy.D.
Date of Report: May 22, 2014



REFERRAL INFORMATION

Keith Fitzgerald Burris is a 46-year-old African American male who has been convicted of a sexually violent offense and is approaching release from total confinement. Related to his possible release, a petition was filed by the State of South Carolina alleging that he is a sexually violent predator (SVP) as defined by the *Sexually Violent Predator Act (SVP Act)*, which focuses on a "mentally abnormal and extremely dangerous group of sexually violent predators" who require involuntary commitment to a secure facility. Following a showing of probable cause for this allegation, the York County Court of Common Pleas issued an order on April 24, 2015 ordering an evaluation of Mr. Burris to help determine whether he "suffers from a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment." Pursuant to this order, Mr. Burris was evaluated on an outpatient basis at the South Carolina Department of Mental Health (SCDMH) Crafts-Farrow campus in Columbia. Following the evaluation, he was returned to the York County Detention Center.

Mr. Burris said he was transferred from SCDC to the York County Detention Center on or about March 25, 2015 and released on April 14. It was his understanding that his attorney pursued his release because he had not been "properly served" and because the Probable Cause hearing was not held within 72 hours. He indicated that he was again detained under the SVP Act on April 21, 2015.

NOTIFICATION

At the outset of the evaluation, Mr. Burris was informed of its nature, purpose, and limits of confidentiality. The general course of SVP proceedings was explained. This respondent's questions about this information were answered and he stated that he understood it. He demonstrated understanding by paraphrasing the information and correctly answering questions. He indicated he does not have nor does he want a copy of the SVP petition; he said he does not want a copy because he "just want[s] to move forward." He willingly agreed to participate in the evaluation.

SOURCES OF INFORMATION

1. Interview of Mr. Burris on April 30, 2015 for 4 hours and 30 minutes;
2. Order for Evaluation from the York County Court of Common Pleas dated April 24, 2015;
3. Probable Cause Order from the York County Court of Common Pleas dated March 23, 2015;
4. Petition Pursuant to the Sexually Violent Predator Act dated March 5, 2015;
5. Prosecutor's Review Committee Probable Cause Determination dated February 19, 2015;
6. Sexual Predator Referral Form dated January 22, 2015;
7. Sexual Predator Synopsis Form undated (related to 2015 review);
8. Records from the South Carolina Department of Corrections (SCDC);
9. National Criminal Information Center (NCIC) criminal history report for Mr. Burris;
10. Order for Evaluation from the York County Court of Common Pleas, dated December 8, 2011;
11. Petition Pursuant to the Sexually Violent Predator Act, dated October 11, 2011;
12. Prosecutor's Review Committee Probable Cause Determination, dated September 20, 2011;
13. Sexual Predator Referral Form, dated July 21, 2011;
14. Sexual Predator Synopsis Form, undated (related to 2011 review);
15. Interview of Mr. Burris on January 3, 2012 for 4 hours and 45 minutes for the purpose of the 2012 SVP precommitment evaluation;
16. Precommitment evaluation by Marie E. Gehle, Psy.D., South Carolina Department of Mental Health dated May 1, 2012;
17. York County Court of Common Pleas Order for case 2011-CP-46-3875 dated June 28, 2012;
18. Records from G. Werber Bryan Psychiatric Hospital for November 3, 1996 to November 7, 1996 and June 15, 1997 to June 23, 1997;

19. Records from the York County Public Index retrieved on April 28, 2015;
20. South Carolina Victim Impact Statement completed by D.L.'s mother dated November 7, 2003;
21. South Carolina Victim Impact Statement completed by Patricia Burris dated December 3, 2004;
22. Sentence Sheet for indictment 2014-GS-46-01188 dated November 13, 2014;
23. York County Arrest Warrant 2013A4610100546 issued on May 15, 2013;
24. York County Arrest Warrant 2013A4610100545 issued on May 15, 2013;
25. York County Sheriff's Office General Sessions Case File Summary for Incident Report 201300016229;
26. Voluntary Statement of Keith Burris dated June 12, 2013;
27. Indictment 2014-GS-46-01189;
28. Indictment 2014-GS-46-01188;
29. Indictment 2014-GS-46-01190;
30. South Carolina ICAC Task Force Arrest Information;
31. York County Sheriff's Office Case Report Summary for case 2013-00018229;
32. Officer Notes for case 2013-00018229 (which included copies of text messages between Mr. Burris and Z.R. on May 19, 2013);
33. York County Sheriff's Office General Sessions Case File Cover Sheet for case number 2014-17069;
34. Voluntary Statement of A.T. dated June 6, 2014;
35. York County Sheriff's Office General Sessions Case File Summary for Incident Report 2014-17069;
36. York County Sheriff's Office Case Summary for case number 2014-00017069;
37. York County Sheriff's Office Case Report Summary for case number 2014-00017069;
38. York County Sheriff's Office Narrative Supplement Form for case number 2014-00017069;
39. York County Sheriff's Office Arrest Report dated June 2, 2014;
40. York County Sheriff's Office Booking Report dated June 2, 2014;
41. York County Arrest Warrant 2014A46102008;
42. York County Sheriff's Office General Sessions Case File Summary for Incident Report 201400017064;
43. York County Sheriff's Office General Sessions Case File Cover Sheet for Incident Report 201400017064;
44. York County Sheriff's Office Case Report for case 201400017064;
45. York County Arrest Warrant 2014A4610200869 issued and returned on June 2, 2014;

46. Copies of text messages between an unknown person (possibly Mr. Burris) and Z.R. (2 pages) between February 28, 2013 and March 10, 2013;
47. Copies of text messages between Mr. Burris and Z.R. (10 pages) between April 16, 2013 and May 19, 2013;
48. York County General Sessions Court Bond Order for Indictments 2014GS4601188, 2014GS4601189, and 2014GS4601190 dated May 13, 2014;
49. York County General Sessions Court Bail Processing Form II for Indictments 2013A46101000545 and 2013A46101000546 dated October 9, 2013;
50. Acknowledgement of Defendant Form (related to item 46) signed by Mr. Burris on October 9, 2013;
51. Commitment order dated June 12, 2013;
52. Summary Court Discharge order dated October 9, 2013;
53. Sentence Sheet for Indictment 2004-GS-46-1461 dated January 24, 2005;
54. Indictment 2004-GS-46-1461;
55. Sentence Sheet for Indictment 2004-GS-46-1462 dated January 24, 2005;
56. Indictment 2004-GS-46-1462;
57. Sentence Sheet for Indictment 2004-GS-46-1463 dated January 24, 2005;
58. Indictment 2004-GS-46-1463;
59. Sentence Sheet for Indictment 2004-GS-46-3805 dated January 24, 2005;
60. Indictment 2004-GS-46-3805;
61. Arrest Warrant G-391759 issued and returned on October 21, 2003;
62. Arrest Warrant G-391760 issued and returned on October 21, 2003;
63. Arrest Warrant G-391768 issued on October 12, 2003 and returned on October 20, 2003;
64. Arrest Warrant G-391755 issued on October 16, 2003 and returned on October 20, 2003;
65. York County General Sessions Court Transcript of Record for Indictments 2004-GS-46-1461, 2004-GS-46-1462, and 2004-GS-46-1463;
66. York County Sheriff's Office General Sessions Case File Summary for Incident Report 200300031746;
67. York County Sheriff's Office Incident Report for case 200300031746;
68. York County Sheriff's Office Supplemental Incident Report for case 200300031746;
69. York County Sheriff's Office Interview of D.L. on October 13, 2003;
70. York County Sheriff's Office Interview of witness Jennifer on October 17, 2003;
71. Voluntary Statement of Keith Burris dated October 20, 2003;

72. Letter from Keith Burris related to 2003 offenses undated;
73. York County Sheriff's Office Incident Interview Report for case 200300031746 dated October 12, 2003;
74. York County Sheriff's Office Incident Interview Report for case 200300031746 dated October 12, 2003;
75. Voluntary Statement of Demetrius Thompson dated October 14, 2003;
76. Witness Statement (name redacted) dated October 29, 2003;
77. Sentence Sheet for 98-GS-46-4070 dated June 10, 1999;
78. Indictment 98-GS-46-4070;
79. Municipality of York Arrest Warrant F-992098 issued and returned on October 12, 1998;
80. York Police Department Incident Report for case 9801663;
81. York Police Department Supplemental Incident Report for case 9801663;
82. Statement of M.R. unsigned and undated (date may be missing due to poor copy quality);
83. Statement of Keith Burris dated October 12, 1998;
84. Municipality of York Arrest Warrant D-680183 issued on March 6, 1994 and returned on April 26, 1994;
85. York Police Department Incident Report for case 9400348;
86. York Police Department Supplemental Incident Report for case 9400348;
87. York County Sheriff's Office Incident Report for case 0097001400;
88. York County Sheriff's Office Supplemental Incident Report for case 0097001400;
89. York County Sheriff's Office Incident Report for case 0097002268;
90. York County Sheriff's Office Supplemental Incident Reports for case 0097002268;
91. York County Sheriff's Office Incident Report for case 200300030328;
92. York County Sheriff's Office Supplemental Incident Reports for case 200300030328;
93. York County Arrest Warrant 2014A4610200869 issued and returned on June 2, 2014;
94. York County Arrest Warrant 2014A4610200870 issued and returned on June 2, 2014;
95. York County Sheriff's Office General Sessions Case File Summary for case 2014-17069;
96. York County Sheriff's Office Narrative Supplement Form for case 2014-17069;
97. York County Sheriff's Office General Sessions Case File Summary for case 2014-17064;
98. York County Sheriff's Office Case Report for case 2014-17064;

214

BACKGROUND INFORMATION

Unless otherwise noted, the following information is based on the Mr. Burris's self-report; therefore, the veracity of the information is limited by his own credibility. The majority of this history is repeated from the 2012 evaluation completed by the undersigned. Mr. Burris reviewed and confirmed the accuracy of this information in the current interview. Additions were made where appropriate.

Family and Childhood History: Mr. Burris was born and raised in York County. He was raised primarily by his mother. His parents were married; they divorced when he was around 5 or 6 years old. He is the fourth of seven children born to his parents. He denied ever being physically or sexually abused. He denied being neglected, but said, "With that many kids we were all neglected in some way." He said he was never removed from the home.

When asked what kind of child he was, Mr. Burris said, "Rebellious. I worked with my uncles, gave money to my mother to help out around the house. I started drinking early; smoking reefer. Other than that, that is basically it." He said he started drinking at age 10 and regularly drank "four or five times out of a week." He started smoking "reefer" at age 12 or 13 and smoked most weekends. He said, "It was a phase, it didn't even last long... maybe a year, at the most." He said he had many friends as a child. He said he easily made friends.

Mr. Burris said he has "always" had trouble following rules. He denied problems related to skipping school, staying out after curfew, running away from home, setting fires, or stealing as a child. While he said he "never really" started any fights, but he was involved in several. He said he hurt others two to three times. When asked if he ever harmed animals, he replied, "[We would] catch cats, put them in a sack, throw them in the creek. It really didn't bother me. When you from the country and we had so many cats." He also described witnessing his uncles torturing animals and indicated their behavior was normal. He said he lied "a lot as a kid" to get money to "shoot dice" or to get his uncles to buy him shoes. Mr. Burris denied any involvement in the juvenile justice system.

Educational History: Mr. Burris graduated high school in 1988. He said he had to attend night school to get his diploma due to failing courses and not having enough credits. He said he did not care about school and only "did enough to get by." He denied having any learning problems. He denied being enrolled in special education. He said his grades were typically C's, D's, and F's; he received A's and

B's in "building and construction" because he "liked" those subjects. When asked if he was ever suspended or expelled, Mr. Burris said he was suspended "maybe 10" times. He elaborated,

Most of the time I didn't get suspended because my mom worked in the school district and she would come and paddle me in front of the principle. Bringing beer to school, talking junk to the teacher, cursing -- lot of times for cursing. Only time you ever caught me fighting was when my brother or something got into it.

Mr. Burris said he attended "barber school" between November 2013 and June 2014. He was on course to graduate in November 2014. He was training to be a "master barber" and he explained there is no difference between a master barber and a cosmetologist. He said he learned how to cut and color hair; perm, relax, and style women's hair; and perform manicures, pedicures, and facials. He said he was taught "basically everything you do inside a barbershop." He planned to buy or rent an established business that had a barbershop on one side and liquor store on the other. He said he and several of his classmates planned to retain the barber shop and convert the liquor store into a beauty salon. While he was in school, his wife paid for all the living expenses for the family. He said he made money at school by selling sodas and chips he purchased with his food stamps.

Employment History: Mr. Burris worked in various manufacturing jobs, constructions work, truck driving. He estimated he held 10 to 15 jobs over the years. He said the longest he held a job was for "maybe a year, year and a half." His longest period of unemployment was "probably about 6 months." He said he never worried about money because his family would give him money and he had a cousin who sold drugs. He said he did not have to tolerate a job he did not like. He said he detailed cars during periods of unemployment. After his release in 2012, he worked in the shipping and receiving department for a car rim manufacturer. He left that position to take a job at a brake factory. He was fired when he was arrested in 2013. After being released on bond, he attended barber school.

Medical History: Mr. Burris reported no current medical problems. He denied a history of heady injuries, losses of consciousness, or seizures. He reported being involved in a work accident in 1991. He was pinned between a "manhole pipe" and a truck. He said his arm was "crushed" and one of his lungs collapsed. He said, "I was gone for 15 minutes, they did whatever they did and I was back." He said he was treated at the University of North Carolina at Chapel Hill Trauma Unit and was

hospitalized for "about 4 months." He said he required extensive reconstructive surgery and rehabilitation. He was tearful when talking about the accident.

Mental Health History: Mr. Burris reported a limited mental health history. He said he was psychiatrically hospitalized on one occasion. He elaborated, "I had mixed some medication and had been drinking. At the time I was in a suicidal mood because of a girl I was dating." He said he had to have his stomach pumped. He was not prescribed any medication at the hospital. He denied any subsequent mental health treatment.

Mr. Burris said at the time of his 1991 accident, he believed he was going to die. He said he lost a lot of blood. He had nightmares following the accident. He said he began drinking large quantities of alcohol to deal with the "tension." He said in 2012 that he continued to avoid situations that remind him of the accident and he had nightmares "every now and then."

According to records from G. Werber Bryan Psychiatric Hospital, Mr. Burris was twice psychiatrically hospitalized by emergency probate court order. He was admitted on November 3, 1996 secondary to suicidal and homicidal ideation. He threatened to kill his girlfriend because she was planning to end their relationship; he had accessed a firearm. He planned to commit suicide by overdose. He was diagnosed with Relational Problem and Alcohol Abuse, Episodic. He was discharged on November 7, 1996. Mr. Burris was again admitted on June 15, 1997 secondary to a suicide attempt by overdose and 3 days of heavy and consistent alcohol consumption. He was diagnosed with Alcohol Intoxication; Polysubstance Dependence; and Personality Disorder, Not Otherwise Specified with antisocial and narcissistic traits. He was discharged per probate order on June 23, 1997.

Substance Abuse History: Mr. Burris described a significant history of alcohol use. He said he started drinking at age 10 and regularly drank "four or five times out of a week" as a juvenile. He reported increased drinking following the 1991 accident. He said, "Mainly I was an alcoholic on the street. I would wake up in the morning drinking, go to sleep drinking. I was going to work drinking... I drunk cases, gallons." He used marijuana regularly for a year beginning at age 12 or 13. He denied using other illegal substances or abusing prescription medications.

Mr. Burris said he typically drank four fifths of brandy and two to three cases of beer per day. He began drinking upon waking and continued to drink through his waking hours. He drank alone and

could not recall if he blacked out. He said he did not interact with others, so his behavior was not observed by others. He was unsure if he lost consciousness from drinking. He said if he abstained from alcohol, he felt like he "might go crazy, like [he] couldn't cope with the day." Mr. Burris stated that he drank every day until he was incarcerated. He denied drinking during his incarceration. He last drank in 2008. He said "it would be nice" if he could drink while imprisoned. He said, "I hope to have a cold one as soon as I step out the gate" in order "to celebrate" his freedom. He said, he "hopes not to fall back into drinking." As previously noted, he has been diagnosed with Alcohol Intoxication; Alcohol Abuse; and Polysubstance Dependence.

Mr. Burris said he did not drink alcohol immediately upon his release from jail in 2012. He said that getting a job motivated him to abstain. He said he drank "sometimes" while in the community, although he then explained it was only one time that he had one drink. He explained that his new wife is a Jehovah Witness and she would not allow him to drink. He was arrested for Driving under the Influence on or about April 20, 2013. He said he was texting while driving and he dropped the phone and swerved when he reached to pick it up.

Relationship History: Mr. Burris said he has been involved in three long-term romantic relationships. He has married twice and divorced once. He is currently married. He has not fathered any children, though he adopted his ex-wife's son. He said he has lived with six or seven different women.

Mr. Burris began dating his current wife, "Brenda," in October 2012. They married on May 10, 2013. Brenda is the mother of three girls: a 14-year-old and a 16-year-old who lived with them and a 26-year-old who lives in Colorado. He said he told Brenda that he spent 10 years in prison for Criminal Sexual Conduct with a Minor. He said he never told her any specific information related to the conviction. He said that Brenda's father learned of his conviction and "called DSS and they looked into it." He indicated that nothing came of it. In regard to how his wife felt about the 2012 sexual offense charges, he said, "She was mad because of what I was charged with. We were moving forward to have a better life, a better relationship." He said Brenda's youngest daughter "took me in as a father figure." He said he was involved in sexual relationships with at least two other women before he "got with" his wife.

Mr. Burris lived with his cousin, "Jennifer," upon his release in 2012. He lived with her until he got married in 2013. He again lived with Jennifer when he was briefly released from custody in April 2015. He said he did not spend time with his wife during that time. He said he last had face-to-face contact

218

with his wife on June 2, 2014. He said his wife was "mad" at him because he "wasn't writing" to her. He said that toward the end of his sentence, she wrote to him and said they could try to "work things out" when he returned to the community.

Mr. Burris said he married "Patricia" in 1999, separated in 2002, and divorced in 2003. He said they "stayed together" until 2007. He adopted her 1-year-old son. He said they dated for 3 months before moving in together. He said he "stayed gone" for significant portions of the marriage. For example, he said he worked as a long haul truck driver and remained on the road between January and June of 2000. He said he and his wife "got along good." He said they were sexually compatible. He said they had financial problems. He said his wife supported him financially, at times. When asked why they divorced, he said, "I was drinking. I like to stay gone."

Mr. Burris said he was involved with "Tiffany" between 1990 and 1991. He said they had a "good" relationship until her mother forced her to have an abortion and join the military. He said they were sexually compatible. They never lived together.

Throughout the interview in 2012, Mr. Burris referred to women as "females" and said he uses this term "instead of slut or whore." When these statements were revisited in the 2015 evaluation, Mr. Burris said that "most men call women a slut or a whore." When asked why he did not refer to a woman by her name, he said, "Most guys when they find out who talk to, they try to go behind your back and get with them. He indicated that he had been told by friends and acquaintances that referring to women as *females* is demeaning to them. Nonetheless, he continued to refer to women as *females* in the 2015 evaluation. In general, he has a deep mistrust of people. He believes they are malicious and deceptive. It appears that from his perspective, these attitudes and beliefs are especially true of women.

In 2012, he said he has "never been faithful to a female" and "never could be settled with one." He also said, "[I] don't think I ever loved a female." In 2015, he indicated he was faithful to his wife; however, this is contradicted by the behavior leading to his last criminal conviction. When this was pointed out to him, he indicated he was only faithful to her after he was arrested for the sexual offenses.

Mr. Burris has a history of threatening to kill several women. By 2012, he was charged with threatening and harassing three different women. The following example of this behavior is quoted from a 1996 discharge summary from G. Werber Bryan Psychiatric Hospital (BPH),

The patient admitted having suicidal and homicidal thoughts prior to admission to BPH because his girlfriend was planning to leave him. They had been together 2 ½ years. He claimed he spent over \$30,000 on her and they had problems in their relationship... His girlfriend is in high school... He stated that if he had a gun available, he would have shot his girlfriend and then himself...

In 2014, he was convicted of domestic violence involving his wife and her two teenage daughters.

Sexual History: Mr. Burris said his first sexual memory involved having intercourse for the first time. He was 13 years old. He said he had sex with a 12-year-old girl from his neighborhood. He said she was sexually developed. When asked when he first masturbated, he said, "probably in my 20's." He explained, "[I had] too many females I was chasing behind. Didn't really have to do that."

Mr. Burris said he has had 40 to 50 sexual partners. Of these, he estimated that 10 were prostitutes. He denied frequenting strip clubs or massage parlors. He denied viewing pornography. When asked if he is preoccupied with sex, he said, "Pretty much, yeah." He said most days he had sexual intercourse with four to five different women. He estimated he ejaculated two to three times with each woman; though this fluctuated given his mood and his level of intoxication. Mr. Burris denied any problems with his sexuality. He said he is "exclusively" heterosexual. He denied any deviant or paraphilic interests or arousal. He said that during his incarceration he satisfied his sexual needs by masturbating. He said he typically masturbated "once a month" which was "less than normal" for him. He attributed the decreased frequency to not having adequate stimulation. He said he typically fantasized about sexual encounters he had with his ex-wife.

LEGAL HISTORY

According to available records, Mr. Burris's criminal history began when he was 21 years old. He has been charged with eight sexually related offenses and convicted of five. He has been convicted for sexual offenses against three minor female, ages 12 to 15. He was not related to the victims by blood or marriage; he was familiar to them prior to the sexual offenses, meaning they were not strangers. He has been charged, though not convicted, of harassment and stalking charges. Mr. Burris has been

convicted of both nonviolent and violent offenses. The following is a summary of his criminal history in chronological order (convictions are underlined).

In October 1989, Mr. Burris was charged with Criminal Domestic Violence. He was convicted and ordered to pay a \$68 fine.

In May 1990, Mr. Burris was charged with Failure to Return Rental Property. The charged was amended to Failure to Return Rented Tools; it was *nolle prossed* in October 1994. On or about December 18, 1990, he was charged with Violation of South Carolina Gun Law and Presenting a Firearm. He was convicted of Pointing a Firearm and Possession of Unlawful Firearm. He was sentenced to 2 years of incarceration, suspended to 3 months, and 2 years of probation; and 2 years of probation and a \$350 fine (suspended), concurrent, and 1 year of probation, consecutive, respectively. On or about December 24, 1990, he was charged with Disorderly Conduct. He was convicted and sentenced to time served.

In March 1993, Mr. Burris was charged with Driving under Suspension – First and Driving under Suspension – Second. He was convicted and sentenced to 60 days of incarceration and a \$500 fine, suspended to 10 days and \$200, and 1 year of probation.

In November 1994, Mr. Burris was charged with Harassment/Stalking. The victim was a 19-year-old female (S.S.), who ended a romantic relationship with Mr. Burris one year prior to the alleged incident. According to police and court documents, Mr. Burris repeatedly phoned and came to the victim's place of employment despite being told not to. He told the victim's coworker that he would kill him and the victim if he was prevented from seeing her. The charge was *nolle prossed* in March 1995. In the 2012 evaluation, he said he had no memory of this charge.

On January 21, 1997, Mr. Burris called 911 and stated he was planning to kill K.F, an 18-year-old female, with whom he had been involved in a romantic relationship. He told officers that K.F. was harassing him. When officers questioned the victim, she told them that Mr. Burris called her and told her he was coming to her home to kill her. The victim's mother stated in the week prior to this incident, she had obtained warrants against Mr. Burris for similar threats. He was charged with *Harassment* and *Stalking*. In the 2012 evaluation, Mr. Burris said he does not remember any

information pertaining to these charges. He elaborated that he was "really really really" drinking alcohol during this time.

In June 1997, Mr. Burris was charged with Burglary in the Third Degree -- Second Offense and Petty Larceny. The charges were *nolle prossed*. In the 2012 evaluation, Mr. Burris explained that he took his cousin's refrigerator when he moved out of her house; he subsequently sold it. He said she was upset about this initially and pressed charges, but later requested the charges be dropped.

In December 1997, Mr. Burris was charged with Resisting Arrest, Trespassing, and Public Disorderly Conduct. He was convicted and sentenced respectively to 1 year of incarceration, suspended to 1 year of probation, and a \$100 fine; 30 days of incarceration; and 10 days of incarceration or a fine of \$189. In the 2012 evaluation, Mr. Burris said, "I think I was in the townhouses drunk one night. I think that is when that occurred."

In January 1998, he was charged with Driving under Suspension, 3rd Offense or More. He was convicted and sentenced to 6 months of incarceration, suspended upon the service of 90 days of incarceration and 1 year of probation.

In October 1998, Mr. Burris was charged with Criminal Sexual Conduct with a Minor and Obtaining under False Pretense. The charges were amended to Obtain Sign/Prop under False Pretenses and Assault and Battery of a High and Aggravated Nature. The first charge was *nolle prossed*. He was convicted of the second charge and sentenced to 5 years of incarceration, suspended on time served and 3 years of probation. According to police and court records, Mr. Burris had sexual intercourse with M.R., a 13-year-old female. The victim reported she voluntarily engaged in sexual intercourse with Mr. Burris. Mr. Burris told officers he had sex with the victim. At the time of the sexual offense, M.R. was pregnant with the child of Mr. Burris' 28-year-old roommate. He reported he did not use a condom because he knew she was "already pregnant."

When asked to provide an account of this offense in the 2012 evaluation, Mr. Burris said, "I had just got back from Northern Virginia, me and the girl's cousin.... I was intoxicated and one thing led to another and her uncle came. She had run away, come to find out she had run away that night." He went on to say that the girl entered his bedroom and it was "dark" and they did not exchange any words. He thought it was the girl he was dating at the time. He said they started having sex. He said

he later discovered that the girl was actually the 13-year-old victim. He said he knew this girl prior to the sexual acts. This account contradicts the statement he gave to police during the investigation of the offense. At that time, he reported the victim was invited to his home; they talked, and then engaged in consensual sexual intercourse. Afterwards, they fell asleep. The victim's grandmother informed police that her granddaughter, who was a runaway, was at Mr. Burris's residence. Officers went to the home and observed the victim naked in his bed. His prior account was similar to that of the victim. His explanations in 2012 also contradict each other (i.e., not using a condom because he knew M.R. was pregnant vs. believing he was having sex with the girl he was dating at the time).

In October 2002, he was charged with Public Disorderly Conduct. He was convicted and ordered to pay a \$50 fine.

In April 2003, Mr. Burris was charged with Assault with a Concealed Weapon. The charge was amended to Violation of Protective Order. He was convicted and sentenced to 30 days incarceration or pay an \$800 fine (it was noted on the NCIC that he went to jail). There were no incident reports in the discovery materials detailing this offense.

Mr. Burris was convicted of Unlawful Neglect of Child/Helpless Person. He was sentenced to time served. The incident occurred on or about July 12, 2003 and involved Mr. Burris's 4-year-old son. Court records indicate that Mr. Burris struck the child on the arm, leg, thigh, and buttocks several times with a leather belt. The child was taken to the emergency room for treatment.

On September 27, 2003, D.L., a 15-year-old female, reported to police that Mr. Burris had been calling her residence "all night and all day after being told not to." He did not threaten to harm her in these phone calls, though it was reported that he had threatened to harm her on previous occasions.

On or about October 20, 2003, Mr. Burris was charged with Threaten or Intimidate Witness to Child Abuse. The charge was amended to Intimidation of a Court Official, Jurors, or Witness. The charge was *nolle prossed* in January 2005.

On or about October 12, 2003, Mr. Burris was charged with Criminal Sexual Conduct in the First Degree; Kidnapping; and two counts of Criminal Sexual Conduct in the Second Degree. Specifically, he was charged with having sex with a female minor (D.L.) in three separate time periods. The first was

on or about September 2000, when the victim was 12 years old; the second was "During 2001" when the victim was 13 to 14 years old; the last occurred on October 12, 2003 and entailed Criminal Sexual Conduct in the First Degree and Kidnapping. He pled guilty to two counts of Criminal Sexual Conduct with a Minor (11-14 years) in the Second Degree and Criminal Sexual Conduct with a Minor (under 16) in the Second Degree in January 2005. He was sentenced to concurrent terms of 10 years of incarceration.

According to incident reports and witness statement, the victim (D.L.), a 15-year-old female, reported that she had been sexually assaulted by Mr. Burris and that she had an ongoing sexual relationship with him since she was 12 years old. On or about October 12, 2003, D.L. was staying at a friend's home. During the morning hours, Mr. Burris went to this home uninvited. He entered and forcefully removed D.L. from the residence. He carried her to his car, drove to an unknown location; beat her about the face, neck, and arms. He hit her head on his car. She lost consciousness several times during the assault. He penetrated her vagina with his penis or an unidentified object. He threatened to kill her. He tore her clothing. Following the assault, Mr. Burris drove D.L. to her sister's home. D.L. did not recall being sexually assaulted; however, she reported that when she regained consciousness she was no longer wearing her bra and panties and she could not find them. She also noted that she was sore in her vaginal area and believed she had been sexually assaulted. D.L. required medical attention for her injuries. According to the sexual assault examination, D.L. had swelling, redness, and bruising to her face, neck, wrist, hand, arms, and ribs; scratches and swelling on the back of her head; and tearing of her vagina.

When questioned by officer during the investigation of these incidents, Mr. Burris stated the following,

I started a sexual relationship with [D.L.] 3 or 4 years ago... I asked her at the time I first met her how old she was. She told me old enough. [D.L.] and I would usually have sex at her house... When I found out how old she was I told her that I could get 30 years in prison. She told me not to worry and that she loved me.

According to his statement, Mr. Burris reported that the following events occurred the day prior to the sexual offenses,

... Me and [D.L.] started arguing and I picked her up and carried her to my car... We left out of driveway and I parked around the curve from Jennifer's house. We had sex, intercourse, in my car and I went down, oral sex, on her. I didn't have anything to drink that night... I took her back to Jennifer's and stayed another 20 minutes or so.

He said he returned to Jennifer's home the next evening to see D.L. At the residence, he observed two people having sex. He questioned D.L. and she denied "messaging with anybody." They began arguing. He said D.L. went to his car with him voluntarily. He said he was "drunk." He said,

When we got to the car I fingered [D.L.] and she did oral sex on me. I do remember grabbing [D.L.] but I don't remember slapping her. I had a car seat in the back seat of my car. I had driven to a nearby ball field and this is where I fingered her and and [sic] she had oral sex on me. I don't remember her passing out on me.

According to a witness statement of a friend of Mr. Burris [L.D.E.], Mr. Burris was observed grabbing and choking D.L. 4 to 5 weeks prior to the sexual assault.

When asked to provide an account of the offenses in the 2012 evaluation, Mr. Burris said he met D.L. in the summer of 1999. He said, "Her aunt approached me in 2000, she said she has a crush on you and invited me over to drink with her and her boyfriend and meet the girl. September 2000 is when we first became intimate." He thought she was 20 years old. He said she was always drinking and smoking and hanging out with older people. He said she was 12 years old at the time, though he did not know this until December of 1999. He said when he first met her, she was sexually developed and sexually active. He said he knew he could get in trouble with the law, but thought the family's consent made it "okay." He said he had sex with her several times a week. He elaborated, "She was on my rotation."

In regard to the specific incident, Mr. Burris said,

Early that day, I had been drinking. The day before, the girl where the house she was, they called me and invited me over. The other girl was like 16 or 17... later that night it was 12 midnight. When I went to knock on the door, the front door was open, but the glass door was open. I saw him [a male friend of the victim] performing oral sex on another girl. When I knocked she [D.L.] ran... when I went and located her, she was getting her clothes back on.

He indicated that she smelled as if she had been drinking alcohol and smoking marijuana. Because of this, he wanted to take her home. He denied forcing her to leave or physically removing her from the residence. He said,

When we left, I took her home. Knocked on the door, nobody was home. I took her back to her friend's house, they were all gone. Took her to my cousin's house. She wanted to go home in the morning. She was straight.

He said they had sex during the night. When asked who was responsible for the sexual offense, Mr. Burris said, "She is responsible for it. If she gave me her real age, it would never have led to it. I give her 20% of it and her aunt 20% for not telling me her age." He added that D.L. had a history of sexual abuse while in foster care and while in the community and this somehow made her responsible for the offenses. It should be noted that Mr. Burris's account in the 2012 evaluation indicates he knew D.L.'s true age before they had sex for the first time.

Mr. Burris was evaluated by the undersigned pursuant to the SVP Act in 2012. At that time, it was opined that he did not meet criteria for SVP commitment. His case was dismissed on June 28, 2012 and he was released from custody.

On or about April 21, 2013, Mr. Burris was charged with Driving Under the Influence "16 or Higher 1" Offense." He was convicted and sentenced to pay a fine or serve 30 days in jail.

By warrants dated June 12, 2013, Mr. Burris was charged with Criminal Solicitation of a Minor, Sexual Exploitation of a Minor in the Second Degree, and Dissemination of Obscene Material to a Person under 18. On November 13, 2014, Mr. Burris pled guilty to the solicitation charge and he was sentenced to 10 years in prison suspended upon the service of 2 years of incarceration and 5 years of probation. He was ordered to have no contact with the victim and to register as a sex offender. The remaining charges were *nolle prossed*. He entered SCDC on November 18, 2014.

The charges involved a relationship Mr. Burris had with Z.R., a 15-year-old female acquaintance, between April 1, 2013 and May 19, 2013. Mr. Burris exchanged text messages with Z.R. that indicated they were involved in a consensual relationship. Mr. Burris requested that Z.R. send him pictures of herself "topless" and with her "pants down." She complied. He sent her pictures of his penis. He

repeatedly told her that he loved her, wanted to have sex with her, wanted to marry her, and wanted to have a baby with her. Both Mr. Burris and Z.R. denied that they had sex. It was clear in the messages that they planned to meet for sex at a minimum. There is some evidence to suggest they did have sex. In a text message dated April 22, 2013, he wrote to her "Tho on de real i hope im de only one u sleepin wit." Also, on May 6, 2013, they exchanged messages about meeting and he picked her up from school midday; she was absent for two classes. The messages just prior to him picking her up indicated they intended to have sex, he wanted to see how "wild" she was, he planned on performing oral sex on her, and he hoped she would show him her "head game."

In the messages, Mr. Burris expressed considerable jealousy in relation to Z.R.'s current and past relationships with other men. He monitored and controlled these relationships by insisting she give him the login information to her Facebook account. He sent messages from her account to her male friends in order to determine the nature of her relationship with them. He told these men that Z.R. "had a man." He told her that he "deleted every dude" from her Facebook account. He accused Z.R. of having sex with and dating other men.

Mr. Burris repeatedly told Z.R. that they needed to keep their relationship secret. He told her to "make sure" she deleted the texts and that he would "spoil" her by buying her things though she would have "to hide" them. He told her that he bought her a cell phone but that he did not know how to get it to her without anyone knowing.

Mr. Burris attached a signature to his text messages that read "274 60\$ life," which he explained to Z.R. "Blacc Gangsta Disciple [sic]."¹ He used the signature "B.O.S.S.274"² on some texts. Both signatures are related to the Black Gangster Disciples, a recognized national gang that is part of the Folk Nation. Z.R. told investigators that Mr. Burris wanted her to join his gang. He told her that she would be "sexed in by six other guys." He texted her that she was in "violation" for having contact with her friend A.T.; he prohibited Z.R. from having contact with A.T. because he did not trust her and believed she would disclose their relationship. He repeatedly insisted that Z.R. conceal their relationship and her activities from others.

According to a case report summary, Mr. Burris was initially questioned by investigators at SCDPPPS office in York. The following was noted,

Keith denied any pictures or speaking to her about sex but after Probation and Parole was locking him up for violating the terms of his probation, Keith stated he wanted to talk with me at Detention.

Keith Burris stated in the interview that he did text back and forth with [Z.R.], and they did text about masturbation and other sex acts and even talked about meeting up. Keith stated he never had sex with her but she did send various nude pictures of herself to him some were sexual in nature. Keith also admitted he sent a picture to [Z.R.] of his private part to her through the cell phone.

At the outset of the interview, Mr. Burris said of his most recent conviction, "It never really occurred to me. I never really thought I was going to talk to that girl...I never even tried to push to talk to this individual...I wasn't even looking for anyone when I come home." When asked about the offenses, Mr. Burris initially denied everything in relation to this offense. He said that there was nothing sexual in his communication with Z.R. When confronted with contradictory information and given examples of texts with considerable sexual content, he said that he never saw those texts and that his original criminal lawyer did not have copies of those texts. He indicated that he did not know they existed because he was reportedly not shown them by his criminal attorney. He had no significant response when it was pointed out that since he wrote the texts, he should be aware of their existence regardless of what his lawyer showed him. He denied ever having sex with Z.R.

Mr. Burris said he met Z.R. when his cousin, her stepfather, asked him to talk to her about her behavior in regard to stealing and being involved in gang activity. Z.R.'s stepfather reportedly wanted Mr. Burris to "set her straight." He said that Z.R.'s stepfather told him that she was 16 years old. He said he told Z.R. and her family that he was in prison for a sexual offense. When asked why he chose her, he said, "I was hoping she would change as much as I would change. I think I should have stayed away from my cousin's house altogether and just hoped I seen him out or something."

Mr. Burris denied ever buying Z.R. a phone. When read the texts indicating he had bought her a phone, he said he bought her a phone, but never gave it to her. He said his texts pertaining to not wanting anyone to know that he gave her a phone were because he did not want her to get in trouble for having a phone. He said, "She wasn't supposed to have a phone because her mom caught her sending dirty pictures."

In regard to his sending messages to her male friends on Facebook, Mr. Burris indicated that he wanted to see their responses to messages they believed were from her. He said that he "heard" that she was promiscuous and he "wanted to catch her in a lie." When asked about his jealousy and his concern that she was involved with other men when he was involved in another relationship and actually got married in the midst of his relationship with Z.R., he said, "I was going to get married regardless." He said that Z.R. did not know that he was in a relationship; she did not know that he was about to get married; and she did not know that he got married.

When asked if he is a member of a gang in the current evaluation, Mr. Burris said, "I used to be, yes." He said, "I stopped hiping really in 2010 when I was in prison." He said, "Always going to be a part of life. I'm not active in it. I don't deal with it on the streets... That's my signature [referring to the text message signature]. That is who I used to be." When asked why use the signature if he was not active in the gang, he said, "I don't even know. It was a signature I just put down." When asked about his use of the term "violation" in the text messages to Z.R., he said, "When you affiliated and you lie, it's a violation." He said, "When you call the violation, you choose the punishment." He said among other things, a person could be required to "pay money, do exercise" or "you get beat if it's a major violation." Because he was holding her to the rules of the gang, it suggests that he recognized Z.R. as "affiliated" and that he was still actively involved in the gang.

On June 1, 2014, while out on bond for the offenses involving Z.R., Mr. Burris was involved in an altercation with his new wife (Brenda) and her two teenage daughters. According to the York County Sheriff's Office Case Summary Report, Mrs. Burris reported that she "confronted her husband about his infidelity" and he "got mad" and left. Five minutes later, he returned. Mrs. Burris was talking on the phone when Mr. Burris choked her from behind and told her "stop telling everyone his business." One of the teenage girls heard the yelling and observed Mr. Burris on top of her mother choking her; she pushed him off. He then "got in her face and started yelling at her." The other girl ran into the room and "punched" Mr. Burris in the back. He continued to yell at them and he threatened to kill all of them and his wife's mother. He chased his wife while the girls tried to keep him away from her. Mr. Burris was able to grab his wife's hair and he "yanked her away from her two daughters." The girls began hitting him and he then "started coming after them." One of the girls got a knife from the kitchen. Mr. Burris threatened to "burn down the house and kill everyone" and he left. Law enforcement was called. It was noted that Mr. Burris called the home "numerous times" when law enforcement was on the scene. When officers spoke to him, he disclosed "putting his hands on" them

but "also mentioned her kids didn't have any right to hit him or pull a knife on him." It was noted, "Mr. Burris also mentioned that he would not go back to jail, and that he would make us (Sheriff's Office) kill him first."

Mr. Burris was observed driving by his wife's home in the hours after the assault. When officers attempted to stop his vehicle, he fled, and a chase ensued. Mr. Burris drove over the state line into North Carolina and the pursuit was terminated. Mr. Burris called the Sheriff's Office and again stated that he would not return to jail and, if needed, he would commit suicide if officers continued to pursue him. Later on that date, law enforcement initiated a traffic stop on Mr. Burris. He again fled to North Carolina. The "ACT TEAM" took him into custody from a motel later that day. He was charged with Criminal Domestic Violence and two counts of Failure to Stop for Blue Light. He pled guilty to the domestic violence charge and was sentenced to time served. The other charges were *nolle prossed*.

PRISON DISCIPLINARY HISTORY

According to SCDC records, Mr. Burris has been convicted of four disciplinary infractions during his previous incarceration; records retrieved on January 13, 2015 show no disciplinary infractions in the 2014 period of incarceration. He has not been convicted of any sexually related disciplinary charges at SCDC. He was twice convicted of Possession or Attempt to Possess Cell Phone, which is considered a major infraction. He was also convicted of Possession of Contraband and Abuse of Privileges. The following account pertains to the Abuse of Privileges infraction and was noted in the SCDC records in April 2006,

... Inmate Keith Burris #307243 was on visit with his wife Patricia Burris. Ms. Burris approached the [officer] Desk and requested her pass and stated that the inmate was getting crazy again and he was not going to touch her child anymore. The [officer] looked towards the table and observed inmate forcefully holding the arm of his son. The son was crying and attempting to pull away from the inmates [sic] grasp...

SEX OFFENDER TREATMENT AND SELF-ESTIMATED RISK

According to SCDC records, Mr. Burris participated in sex offender treatment between November 2, 2011 and February 9, 2012. He had "Good Participation." Specific records pertaining to his treatment were requested, but not received. Mr. Burris said he began sex offender treatment at Three Trees during his week in the community in April 2015. He indicated that he had only one appointment.

In the 2012 interview, he said of his treatment, "It's good. I learned a lot." When asked to name his risk factors pertaining to sexual offending, he said, "none"; however, later he said, "As far as risk factors, not to be around certain people any more... the old crowd I used to hang out with. I don't even really trust females anymore." He said, "I learned how to control my anger. I learned what type of arousal, what aroused me, what attracts me to females; I learned how to have a good health relationship with a female, what plays a part of a bad relationship." He said a healthy relationship entailed "communication" and "honesty." When asked what he learned about his most recent sexual offense, he said, "I should have investigated more instead of going on what the girl's aunt was saying, what the girl was saying... I should have been more observant to my surroundings." He elaborated, "Alcohol played a big role into my actions. If it wasn't for the alcohol, I would have been more focused."

In the current evaluation, Mr. Burris said that he has changed since he was last convicted of a sexual offense. He said, "I realized there was more in life than being out there in the streets." He said his perspective changed because he saw how men looked at his stepdaughters and he did not like it. He said, "I gave my life over to Jehovah." He said he started going to services with Brenda in April 2012 or 2013. He said he went to services for "months" prior to getting married. He said, "I gave life over to Jehovah. [It] help me to change to be a better person, to provide for my household like I'm supposed to, and be a productive citizen."

FUTURE PLANS

In the current evaluation Mr. Burris said that if he is released he plans to finish his education. He plans to live with his cousin, Jennifer. He plans to participate in sex offender treatment at Three Trees

for the entire 5 years he is on probation, even if he is not required. He indicated he wanted others to benefit from his experience and he stated, "If I can succeed, then I can help other people succeed."

In the 2012 evaluation, Mr. Burris said he had to serve 2 years of supervision upon his release. When asked if he believed he needed sex offender treatment, he said, "not really. As far as being with older females, I might be wrong for skipping around on them. I don't feel I need a treatment." He said, [I] can't keep beating myself up behind it. I have to register for the rest of my life, that is punishment enough for me." When asked how he planned to his sexual needs, he replied, "To be honest with you, I haven't even thought about it. My main focus is to get out and get situated on the streets." Mr. Burris said he planned to work for his cousin and finish writing two books. He said he was writing "books about some gang activity and one of the guys in the hood who lost his life. It is like a dedication book for the life he lost." He said he was "waiting to hear back on a contract to get them published."

CURRENT CLINICAL PRESENTATION

Mr. Burris is a 46-year-old African American male whose hygiene and grooming appeared adequate. He was well oriented. His mental status was within normal limits. He described his mood as "fair." His affect was euthymic and congruent with the topic. His speech was normal in volume, rate, and tone. His short and long-term memory was intact. He denied recent or current suicidal or homicidal ideation. He was overly conciliatory at times. Although in general, he denied problems and behaviors. When he was questioned further and/or confronted with the source of the information, he often would partially admit to and then make excuses for the problem or behavior.

PSYCHOLOGICAL TEST RESULTS

The MMPI-2, a self-report measure of personality and psychopathology, was administered to Mr. Burris on January 3, 2012. Mr. Burris said he had no significant problems with the test. He denied problems with reading or seeing the test items.

There were no validity scale elevations to suggest that Mr. Burris responded in a random or inconsistent manner. There was no evidence to suggest that he attempted to present himself in an overly positive or negative manner. He endorsed a wide variety of psychological problems.

Persons who respond similarly to Mr. Burris show a marked disregard for social standards and values, exhibit antisocial behavior, have poorly developed consciences, and demonstrate loose morals and fluctuating ethical values. They tend to see others as selfish and dishonest, which justifies acting as they do. They believe people have hidden motivations behind their behavior. They believe others are selfish and use others. They are resentful of the demands made by others. They show poor judgment and may act without considering the consequences of their actions. They seemingly fail to learn from punishing experiences. They typically have low frustration tolerance, irritability, and anger. They tend to keep others at a distance emotionally and appear incapable of deep emotional ties. They often feel misunderstood, alienated, isolated, and estranged from others. They view their family with hostility and hatred. They have difficulty accepting responsibility for their behavior and typically blame others for their behaviors. They rationalize their own shortcomings and failures and blame their difficulties on others. They tend to be depressed in that they have few interests, lack energy, and are not motivated; they may have little hope for the future and wish they were dead. They tend to have negative attitudes towards mental health treatment. Not wanting to change. They prefer to give up rather than face a crisis or difficulty. Their legal, work, or relationship problems tend to persist over time.

DIAGNOSES

Given the nature of the evaluation and Mr. Burris's self-reported and criminal history, two paraphilic disorders, a personality disorder, and a substance use disorder were considered. Paraphilic disorders are recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving a set of behaviors, a specific class of victims, or nonhuman objects that occur over a period of at least 6 months. The person has either acted on these sexual urges or the sexual urges or fantasies cause marked distress. The focus in pedophilia involves sexual activity with a prepubescent child or children. The focus in a paraphilia related to nonconsent is sexual arousal towards coercive sexual activity with a nonconsenting person. Antisocial Personality Disorder is a pattern of disregard for, and violation of, the rights of others. Alcohol Use Disorder is a pattern of symptoms that indicate the person continues to use the substance despite significant and consequential problems.

Mr. Burris has been convicted of engaging in sexual activity with three minor females. He violently sexually assaulted a 15-year-old girl with whom he had noncoercive sex for the 3 years prior. He had a noncoercive sexual intercourse one time with a 13-year-old female acquaintance. For a period of several week, he engaged in noncoercive sexually charged communication with a 15-year-old female acquaintance. These incidents occurred over the span of many years. Given the ages of the victims, Mr. Burris's account, and the report that the 13-year-old victim was pregnant at the time of the sexual offense, it is believed that all of the victims were sexually developed or post pubescent. As such, there is no evidence to suggest Mr. Burris has a pattern of sexual arousal towards prepubescent children. Meaning, he does not meet criteria for Pedophilic Disorder.

While all of the victims were too young to legally consent to sexual activity, they reportedly engaged in non-coercive sexual activity (the last victim denied that they had sex, the activity is limited to communication in a sexual context) with Mr. Burris. He reported being involved in a romantic relationship with one of the victims when she was between ages 12 to 15; documentation suggests that the relationship was viewed positively by the victim, at times. When this victim was 15 years old, Mr. Burris brutally beat her and sexually assaulted her. He was subsequently convicted of Criminal Sexual Conduct; however, the act of rape, in and of itself, does not merit a diagnosis of a paraphilia. Essential to the diagnosis is a pattern of arousal to the nonconsensual nature of the sexual act. Apart from this one known incident, there is insufficient evidence to establish that he has an arousal pattern to engaging in sexual acts with nonconsenting victims. As such, Mr. Burris does not meet criteria for a Other Specified Paraphilic Disorder – nonconsent.

Mr. Burris's history is consistent with a diagnosis of Antisocial Personality Disorder. He has displayed a pervasive pattern of disregard for and violation of the rights of others since childhood. He has displayed a pervasive pattern of disregard for and violation of social norms, rules, and laws. He lies, deceives, and manipulates others for his own benefit and with little to no regard for the consequences. He has been irresponsible and exploitive in his relationships with women. He is secretive in his relationships with women; he often engaged in numerous ongoing sexual relationships with women at the same time. He has exhibited a reckless disregard for the rights and safety of others. He lacks remorse and fails to take responsibility for his behavior. He readily blames others for his problematic behavior and for the consequences of his actions. As such, he meets criteria for Antisocial Personality Disorder.

Mr. Burris reported a significant history of alcohol consumption. He described developing great tolerance to the effects of alcohol. He drank upon waking and throughout the day. He described subjective feelings of needing to drink to maintain his sanity and being unable to function without drinking. He said his alcohol consumption contributed to the failure of his marriage and his judgment as related to his second sexual offense. He denied problematic use following his release in 2012; however, he was convicted of a DUI in 2013. Based on his self-reported use and symptoms, he meets criteria for Mild to Moderate Alcohol Use Disorder, In Sustained Remission, In a Controlled Environment.

RISK ASSESSMENT

The Static-99R is an instrument designed to assist in the estimation of sexual and violent recidivism for sexual offenders. It is the most widely used measure of sexual recidivism. The recidivism estimates were derived from new charges and reconvictions of groups of individuals; as such, these estimates do not directly correspond to the recidivism risk of an individual offender. Mr. Burris's score on the Static-99R (5) places him in the Moderate-High risk category relative to other adult male sex offenders. Because of his history of prior evaluation under the SVP Act and his involvement in sex offender treatment, his score was compared to the "High Risk/High Need" reference group. Within this sample of sex offenders with a score of 5, the 5-year sexual recidivism rate is 21.2% (range of 18.0% to 24.8%) and the 10-year recidivism rate is 32.1 (range of 26.7% to 37.9%). In regard to relative risk ratios (the ratio of two recidivism rates), the expected recidivism rate for individuals who have the same score as Mr. Burris is 2.70 times higher than the expected recidivism rate of the average sexual offender in routine samples.

Psychologically meaningful risk factors (sometimes called dynamic risk factors or criminogenic needs) are psychological or behavioral features that are related to increased risk to reoffend and that are potentially changeable. It is unclear from the current research to what to degree, if any, additional factors impact risk estimates derived from the Static-99R. Empirically supported risk factors include sexual preoccupation, sexual preference for prepubescent or pubescent children, sexualized violence, multiple paraphilias, offense-supportive attitudes, emotional congruence with children, lack of emotionally intimate relationships with adults, lifestyle impulsiveness, poor problem solving, resistance

to rules and supervision, grievance/hostility, and negative social influences (Mann, Hanson, and Thornton, 2010ⁱⁱⁱ).

Mr. Burris has many empirically-supported psychologically meaningful risk factors. He reported a long history of sexual preoccupation as evidenced by his history of engaging in secret sexual relationships with multiple partners at any given time, having sex with multiple partners on a given day, and having sex for the sake of it without regard for others. His history suggests he may have a sexual preference for pubescent females; however, he reported engaging in many sexual relationships with adult partners. He seems to have an emotional congruence with minors as he continues to engage in relationships with them and reportedly does not view them by their true age. He engaged in sexualized violence in one known instance; this does not appear to be his preferred type of sexual activity. He holds offense-supportive attitudes in that he believes engaging in sexual relationships with minors under the age of consent is not problematic if he does not get caught. Mr. Burris has a lack of emotionally intimate relationships with adults as his relationships are fraught with repeated infidelity and conflict. He has a history of lifestyle impulsiveness in that he had unstable employment and housing, seemingly unrealistic long-term goals, a history of significant substance abuse, and he seems to give little thought before acting. He appears to have poor problem solving abilities in that he has deficiencies in recognizing problems and he lacks consequential thinking. He has resistance to rules and supervision as he has repeatedly exhibited oppositional behavior, been noncompliant with the rules of supervision, and has violated the terms of probation and conditional release. He has grievance/hostility as he believes others are responsible for his behavior, he fails to understand or consider other's points of view, and he anticipates that others will wrong him. He has negative social influences as he reportedly is a member of a criminal gang and his social network supports his illegal behavior.

Mann et al (2010)^{iv} identified several "promising" risk factors for sexual recidivism. The promising risk factors that apply to Mr. Burris include hostile beliefs about women, Machiavellianism, and lack of concern for others. He believes that women are manipulative and deceptive in their interactions with men; his associated attitudes and references suggest he sees women primarily as sexual objects and not worthy of trust and respect. His attitudes suggest he finds people easy to manipulate and believes it is sensible and appropriate to take advantage of others. He tends to engage in instrumental rather than affectively warm relationships; he appears indifferent to the rights and needs of others and has little to no empathy.

There may be a variety of reasons unrelated to paraphilic sexual interests that may explain his repeated contact with underage pubescent females. One such reason highlighted in the last sexual offense is that he may target underage girls because they are prime candidates for gang recruitment. In the 2012 evaluation, this information was not known and therefore not considered. Mr. Burris may seek relationships with underage girls because he may view them as especially vulnerable; naïve; easy to manipulate and control; and willing to risk their health, safety, and freedom. He was apparently sanctioning an underage girl (who was unable to give legal consent) to engage in sexual acts with multiple partners.

According to Knox (2008)^v, gangs tend to promote hypermasculine gender roles in which violence and exploitation are normalized, functional, and collective behaviors. Sexual violence and exploitation of women is an extension of these behaviors and may be a consequence of associating with gang members or a function of the gang itself. Mr. Burris's last victim disclosed that he wanted her to join his gang and that she would be "sexed in" by six male gang members. Being *sexed in* to a gang is a ritualistic process that is inherently exploitive, coercive, and violent. Moreover, it is believed to result in long-term disrespect and degradation of individuals who undergo this type of initiation. This type of treatment of women fits Mr. Burris's personality and behavioral history.

OPINION ON STATUS AS A SEXUALLY VIOLENT PREDATOR

Whether Mr. Burris is a sexually violent predator is a legal decision to be made by the legal fact finder. As such, the following opinion is not intended to be dispositive on this issue, but to assist the fact finder in the decision-making process. It is noted that examiners' opinions are limited by several factors. For example, estimates of reoffense risk are based on group data that cannot be directly applied to an individual respondent. Furthermore, some terminology in the SVP statutes (such as "likely" to engage in acts of sexual violence) and in relevant Supreme Court decisions (such as "serious difficulty" in controlling sexual behavior in *Kansas v. Crane*) is not precisely defined.

The purpose of this evaluation is to inform the trier of fact regarding whether Mr. Burris "suffers from a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment." He is diagnosed with Antisocial Personality Disorder. He does not meet criteria for a paraphilia. His antisociality manifests

in a variety of ways that are illegal and immoral. He seems to believe that rules and laws do not apply to him. He fails to consider and/or disregards the personal consequences of his behavior and the harm that his behavior causes others. The disregard he has for others is prevalent in his sexual behavior. It appears that engaging in sexual acts that are illegal and sexually violent offenses is the result of specific features of his personality disorder. This disorder is prevalent among all types of criminals, which makes it inherently difficult to determine if it predisposes him commit acts of sexual violence. Given the repetition of his criminal behavior, the repeated acts of sexual violence, and his known violence towards women, it appears his personality disorder predisposes him to commit a wide variety of criminal offenses that include sexually violent offenses.

For the prediction of sexual recidivism, the most accurate approach is to use an actuarial tool designed specifically for sexual recidivism, such as the Static-99R (Hanson and Morton-Bourgon, 2009^{vi}). In large samples of sex offenders, 21.2% of individuals with the same score as Mr. Burris on the Static-99R recidivated within 5 years and 32.1% recidivated within 10 years. Research indicates that the sexual recidivism rate of sexual offenders is 10% to 15% at 5 years (Hanson and Bussière, 1998^{vii}; Harris and Hanson, 2004^{viii}). His risk to sexually recidivate is 2.7 times higher than the typical sex offender in routine samples per the Static-99R. Mr. Burris has a number of relevant risk factors not accounted for by the Static-99R (i.e., sexual preoccupation, sexual preference for pubescent minors, lifestyle impulsiveness, resistance to rules and supervision, and negative social influences, emotional congruence with minors, offense-supportive attitudes, lack of emotionally intimate relationships with adults, poor problem solving abilities, grievance/hostility, negative social influences, hostile beliefs about women, Machiavellianism, and lack of concern for others).

In regard to evidence of volitional impairment, Mr. Burris has been convicted of several cycles of offending. Meaning, he has offended after legal sanction. He has offended while on probation and while on bond. He has offended within a short time of his release from total confinement. He indicated that he "should have stayed away from" his cousin's house "altogether and he would have avoided committing the sexual offense coupled with his texts to the victim to keep their communication and relationship secret suggests that he knew his behavior was wrong and he could not stop himself from pursuing her. His lack of control appears to stem from his antisociality, sexual preoccupation, insatiable sex drive, and disregard for women. As such, he appears incapable of conforming his behavior to that of the law.

In consideration of all these factors, it is opined that Mr. Burris's personality disorder makes him likely to engage in acts of sexual violence if not confined for long-term control, care, and treatment.



Marie E. Gehle, Psy.D.
Chief Psychologist

ⁱ 274 is used to denote the placement in the alphabet for the letters B, G, D. <http://www.dc.state.fl.us/pub/gangs/sets4.html>

ⁱⁱ B.O.S.S. means brothers of the struggle or brothers of the strong struggle. <http://www.dc.state.fl.us/pub/gangs/sets4.html>

ⁱⁱⁱ Mann, R.E.; Hanson, R.K.; & Thornton, D. (2010). Assessing Risk for Sexual Recidivism: Some Proposals on the Nature of Psychologically Meaningful Risk Factors. *Sexual Abuse: A Journal of Research and Treatment*, 191-217.

^{iv} Mann, R.E.; Hanson, R.K.; & Thornton, D. (2010). Assessing Risk for Sexual Recidivism: Some Proposals on the Nature of Psychologically Meaningful Risk Factors. *Sexual Abuse: A Journal of Research and Treatment*, 191-217.

^v Knox, G.W. (2008). Females and Gangs: Sexual Violence, Prostitution, and Exploitation. National Gang Crime Research Center: Chicago, IL. Retrieved from <http://www.ngcrc.com/ngcrc/profilem2.htm>

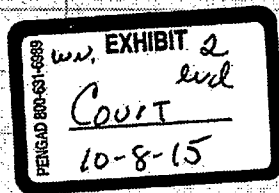
^{vi} Hanson, R.K., & Morton-Bourgon, K.E., (2009). The accuracy of recidivism risk assessments for sexual offenders: A meta-analysis of 118 prediction studies. *Psychological Assessment*, 21 (1), 1-21.

^{vii} Hanson, R. K., & Bussière, M. T. (1998). Predicting relapse: A meta-analysis of sexual offender recidivism studies. *Journal of Consulting and Clinical Psychology*, 66 (2), 348-362.

^{viii} Harris, A., & Hanson, R.K. (2004). *Sex offender recidivism: A simple question* (Corrections User Report No. 2004-03). Ottawa, Ontario, Canada: Public Safety Canada.

The jury would like to know how long Mr. Burgess would be put away.

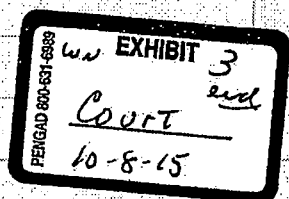
Can we see his entire criminal record?



@ 11:25 AM

240

We have a verdict.



© 12:28 PM

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

IN THE MATTER OF THE CARE)
AND TREATMENT OF:)

CIVIL ACTION NO. 2015-CP-46- 758

KEITH FITZGERALD BURRIS,)

PETITION PURSUANT TO THE
SEXUALLY VIOLENT PREDATOR
ACT

RESPONDENT.)
_____)

FILED-RECEIVED
2015 MAR 10 PM 2:29
DAVID HARTSON
C.C.P.
YORK COUNTY, SC

COMES NOW, Petitioner, State of South Carolina, by and through the undersigned, and for its cause of action herein alleges and states as follows:

1. This action is filed pursuant to the South Carolina Sexually Violent Predator Act, S.C. Code Ann. Sections 44-48-10 *et seq.* (hereafter, the Act).
2. The South Carolina Department of Corrections (SCDC), having determined that Keith Fitzgerald Burris (hereafter, Respondent) had been convicted of at least one Sexually Violent Offense, referred Respondent to the Multi-Disciplinary Team for assessment pursuant to S.C. Code Ann. Section 44-48-40. **Respondent's max-out date is currently on or about April 28, 2015.** His SCDC Inmate Number is 307243, and he was born in 1968.
3. The Multi-Disciplinary Team (MDT) on January 22, 2015 determined after assessment that Respondent satisfied the definition of a Sexually Violent Predator as set forth in S.C. Code Ann. Section 44-48-30, and referred Respondent to the Prosecutor's Review Committee for a determination pursuant to S.C. Code Ann. Section 44-48-60 as to whether probable cause exists to believe Respondent is a Sexually Violent Predator (attached as **PETITIONER'S EXHIBIT A**). The assessment of the Multi-Disciplinary Team is based on a review of existing records, which may include, but are not limited to the following: description of the qualifying offense(s); history of other sexual assault(s); history of other criminal convictions/adjudications; documentation, if any, of mental disorder(s); community and institutional adjustment; and risk factors.
4. The Prosecutor's Review Committee (PRC) on February 19, 2015 determined that there is probable cause to believe that Respondent is a Sexually Violent Predator as defined by statute (**EXHIBIT B**). The Prosecutor's Review Committee bases its determination on the records and reports provided by the Multi-Disciplinary Team including any information provided by the agency that prosecuted the qualifying offense.
5. The Petitioner now alleges that Respondent is a Sexually Violent Predator

as defined by S.C. Code Ann. Section 44-48-30 (1), to wit:

QUALIFYING CONVICTION (EXHIBIT C):

- A. Type of Conviction: Criminal Solicitation of a Minor.
- B. Date of Conviction: on or about November 13, 2014.
- C. Trial or Plea: guilty plea in York County.
- D. Sentence Received: 10 years suspended to two years,
five years' probation.
- E. Original Charges: Sexual Exploitation of a Minor 3rd Degree, and
Solicitation of a Minor.
- F. Brief Facts:

Victim 1: 15-year-old Female acquaintance.

The Mother of Victim 1 brought her daughter to the Moss Judicial Center in York County, where the Sheriff's Office is located, to talk about the text messages being sent and received from Respondent, who was and is a Registered Sex Offender. The Mother felt that Victim 1 may have been having sexual relations with, or was in the process of preparing to do so with Respondent.

An investigation revealed nude pictures on Victim 1's cell phone that she had taken of herself, and a picture Respondent had sent to Victim 1 of himself exposing his penis. Victim 1 admitted to receiving and sending the text messages and nude pictures to Respondent. She stated she and Respondent had talked about meeting somewhere to engage in sexual relations, but never did.

Criminal Solicitation of a Minor is a Sexually Violent Crime as provided for in the Act, at Section 44-48-30(2), as it is a violation of Article 3, Chapter 15 of Title 16 involving a minor.

Respondent admitted to receiving and sending Victim 1 inappropriate text messages and nude pictures, but stated that they had never engaged in sexual relations. Respondent was on probation from a prior sexual offense at the time. *See Prior Sexually Violent Conviction below.*

PRIOR SEXUALLY VIOLENT CONVICTIONS, AND VIOLENT CONVICTIONS:

- A. Type of Convictions: Criminal Sexual Conduct with a Minor in the Second Degree (3 counts); and Unlawful Conduct Toward a Child (EXHIBIT D).
- B. Date of Convictions: on or about January 24, 2005.
- C. Trial or Plea: guilty plea.
- D. Sentence Received: 10 years.
- E. Original Charges: Criminal Sexual Conduct in the First Degree (2 counts);
Criminal Sexual Conduct with a Minor in the Second Degree

(2 counts); Kidnapping (2 counts).

F. Max-out date: on or about April 9, 2012.

G. Brief Facts:

Victim 2: 12- to 15-year-old Female.

Victim 2 was spending the night with a friend on or about October 12, 2003. Respondent came to the residence uninvited and pushed his way in. He grabbed Victim 2 and took her to his vehicle. She struggled with him, but was unable to free herself. Respondent repeatedly beat Victim 2 about the face and head with his fists. Respondent then drove to an unknown location and continued beating Victim 2 until she lost consciousness.

Victim 2 later told law enforcement that she remembered being in the back seat of the vehicle, and Respondent pulling down her pants. After the assault, Respondent dropped Victim 2 off at her sister's house. She no longer had on her underwear and her vaginal area was sore. A sexual assault exam indicated trauma to her vaginal area.

During an interview, Victim 2 told law enforcement that Respondent and she had been engaging in a sexual relationship since she was about 12. Respondent admitted to the sexual relationship, but denied kidnapping Victim 2 or sexually assaulting her on October 12, 2003.

Victim 3: 4-year-old Male (Son).

On or about July 12, 2003, Respondent beat Victim 3 several times with a leather belt. The assault left marks and bruises on Victim 3's body. He was taken to a hospital for treatment.

A. Type of Conviction: Assault and Battery of a High and Aggravated Nature
(ABHAN), **EXHIBIT E.**

B. Date of Conviction: on or about June 10, 1999.

C. Trial or Plea: guilty plea.

D. Sentence Received: five years, suspended to time served, and three years' probation.

E. Original Charge: Criminal Sexual Conduct with a Minor.

F. Brief Facts:

Victim 4: 13-year-old Female.

Victim 4 was reported as a runaway and found by police at Respondent's residence. Police found Victim 4 lying nude on a bed.

PRIOR REVIEW UNDER THE ACT (EXHIBIT F):

The MDT reviewed Respondent on or about July 21, 2011, and referred the case to the Prosecutors' Review Committee on or about August 18, 2011. The

PRC found probable cause on or about September 20, 2011, and a sexually violent predator civil commitment action was filed on or about October 15, 2011. The court appointed evaluator, Chief Psychologist Dr. Marie E. Gehle of the Department of Mental Health, diagnosed Respondent with antisocial personality disorder but concluded he was not of such a risk to reoffend in a sexually violent manner as to warrant commitment. The case was dismissed pursuant to a motion for summary judgment on or about June 28, 2012.

PRIOR/OTHER OFFENSES (OTHER THAN SEXUAL) (If Known):

A. Type of Conviction: Criminal Domestic Violence.
 B. Date of Conviction: 11/02/1989.
 C. Sentence Received: \$68 fine.
 D. Brief Facts: Unknown.

A. Type of Offense: Failure to Return Rented Tools.
 B. Date of Offense: 04/20/1991.
 C. Disposition: *Nolle Pros'd*.
 D. Brief Facts: Unknown.

A. Type of Conviction: Pointing a firearm (Charge 1);
 Possession of unlawful firearm (Charge 2).
 B. Date of Conviction: 03/11/1991.
 C. Sentence Received: Charges 1 and 2: Two years' probation, \$350 fine.
 D. Brief Facts: Unknown.

A. Type of Conviction: Disorderly Conduct.
 B. Date of Conviction: 01/20/1991.
 C. Sentence Received: Time Served.
 D. Brief Facts: Unknown.

A. Type of Conviction: Driving Under Suspension, Second (2 counts).
 B. Date of Conviction: 04/26/1993.
 C. Sentence Received: 60 days and \$500 fine, suspended to 10 days, \$200 fine
 fine and one year's probation.
 D. Brief Facts: Unknown.

A. Type of Offense: Harassment/Stalking.
 B. Date of Offense: 11/26/1994.
 C. Disposition: *Nolle Pros'd*.
 D. Brief Facts:

Victim 5: 19-year-old Female (ex-girlfriend).

On or about March 6, 1994, Victim 5 reported to law enforcement that she had been receiving harassing phone calls from Respondent. She stated she had dated Respondent for approximately one year. However, he kept calling her,

hoping to continue their relationship. Respondent travelled to Victim 5's workplace and told a co-worker he was going to kill Victim 5 and the co-worker if he was prevented from seeing Victim 5 (**EXHIBIT G**).

- A. Type of Offense: Harassment/Stalking.
- B. Date of Offense: 01/13/1997.
- C. Disposition: Unknown.
- D. Brief Facts:

Victim 6: 18-year-old Female (ex-girlfriend).

On or about January 27, 1997, Victim 6 reported to law enforcement that Respondent had called her and told her he was coming to her house to kill her. Victim 6's mother had previously filed warrants against Respondent for similar threats to the family. Respondent had begun making the threats in or about 1996 (**EXHIBIT H**).

Also attached as **EXHIBIT I** are records about a Threat/Intimidation charge, under a different Sheriff's case number, from an incident on or about January 21, 1997.

- A. Type of Offense: Burglary 3rd (Charge 1);
Petit Larceny (Charge 2).
- B. Date of Offense: 04/08/1997.
- C. Disposition: *Nolle Pros'd*.
- D. Brief Facts: Unknown.

- A. Type of Conviction: Trespassing (Charge 1),
Resisting Arrest (Charge 2), and
Disorderly Conduct (Charge 3).
- B. Date of Offense: 12/12/1997.
- C. Sentence Received: Trespassing: 30 days.
Resisting Arrest: 1 year suspended on 1 year's probation,
suspended to \$100 fine. Disorderly Conduct: \$189 fine
or 10 days.
- D. Brief Facts: Unknown.

- A. Type of Conviction: Driving Under the Influence.
- B. Date of Conviction: 02/23/1998.
- C. Sentence Received: 6 months, on 90 days balance, suspended to probation for
one year.
- D. Brief Facts: Unknown.

- A. Type of Conviction: ABHAN.
- B. Date of Conviction: 06/10/1999
- C. Sentence Received: five years, suspended to time served and 3 years'
probation.
- D. Brief Facts: Unknown.

A. Type of Conviction: Public Disorderly Conduct.
 B. Date of Conviction: 11/14/2002.
 C. Sentence Received: \$50 fine.
 D. Brief Facts: Unknown.

A. Type of Conviction: Violation of Protective Order.
 B. Date of Conviction: 05/13/2003.
 C. Sentence Received: 30 days.
 D. Brief Facts: Unknown.

A. Type of Offense: Threatened or Intimidated Witness to Child Abuse.
 B. Date of Offense: 10/20/2003.
 C. Disposition: *Nolle Pros'd*
 D. Brief Facts: Unknown.

A. Type of Conviction: DUI.
 B. Date of Conviction: 05/06/2013.
 C. Sentence Received: \$1022 or 30 days.
 D. Brief Facts: Unknown.

A. Type of Conviction: Failure to Stop for Blue Light (Charge 1),
 Criminal Domestic Violence (Charge 2); warrants and case
 report attached as **EXHIBIT K**.
 B. Date of Conviction: 07/02/2014.
 C. Sentence Received: Unknown.
 D. Brief Facts: Unknown.

Also attached is an incident report from September 27, 2003, concerning Telephone Harassment (**EXHIBIT J**). Respondent's full NCIC Report is available to the Court as a sealed exhibit at a Probable Cause hearing, if necessary, and will be provided to any Court-appointed evaluator.

SCDC RECORDS: Four disciplinary infractions as follows (**EXHIBIT L**) -
 - Possession or Attempt to Possess (2).
 - Possession of Contraband.
 - Abuse of Privileges.

SEX OFFENDER TREATMENT WHILE AT SCDC:
 No Sex Offender Treatment on File

Risk factors common to cases of this nature include: (1) not related to victim, (2) male victim, (3) four or more prior sentencing dates, (4) length of sexual offending history one to six years, (5) force or threat of force used, (6) victim age

13-15, (7) four or more prior sentencing dates, (8) major discipline reports while incarcerated, (9) victim age 11 or younger, (10) offender history of threat of death, and (11) adult antisocial behavior.

(a) Sufficient evidence exists or will exist to determine that Respondent suffers from a mental abnormality or personality disorder which makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, and that the Respondent has serious difficulty in controlling his behavior, or sexual desire impulses.

(b) In support of the State's allegations that the Respondent has a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, the State, in addition to any other evidence which Petitioner may present to the Court hereafter, submits the following for consideration:

i. According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, the diagnostic criteria for **Pedophilic Disorder** are:

A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).

B. The person has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.

C. The person is at least age 16 years and at least 5 years older than the child or children in Criterion A. (**EXHIBIT M**).

ii. According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, the diagnostic criteria for **Paraphilic Disorder** are:

A. Any intense and persistent sexual interest other than sexual interest in genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners

(EXHIBIT M).

- ii. “[P]revious instances of violent behavior are an important indicator of future violent tendencies.” *Kansas v. Hendricks*, 521 U.S. 346, 358, 117 S. Ct. 2072, 2080 (1997). The Respondent’s instances of violent and non-violent behavior are:
 - A. The basis of his 2014 conviction for Criminal Solicitation of a Minor (EXHIBIT C, *supra*).
 - B. The basis of his 2005 convictions for Criminal Sexual Conduct with a Minor in the Second Degree (EXHIBIT D).
 - C. The basis of his 1999 conviction for ABHAN, which was originally charged as Criminal Sexual Conduct with a Minor (EXHIBIT E).
 - D. The basis of his arrest and/or investigation for harassment, stalking, threats, and failure to stop for a blue light (EXHIBITS G – K), as well as his criminal record in general, as set forth above.
 - E. The basis of his disciplinary infractions while at SCDC (EXHIBIT L).
- iii. The facts of the Respondent’s offenses could also indicate the existence of a mental abnormality in that they could involve recurrent sexual urges, or behaviors involving an underage child occurring over a period of at least six months.

WHEREFORE, Petitioner requests that based on the above information the Court find there is probable cause to believe Respondent Keith Fitzgerald Burris is a Sexually Violent Predator and order that:

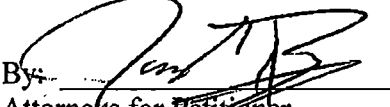
1. Respondent be taken into custody and confined in a secure facility, if he has not already been so confined;
2. Respondent be notified by the Court of the opportunity to appear in person at a hearing to contest probable cause as to whether he is a Sexually Violent Predator;
3. A hearing to contest probable cause be held within 72 hours after Respondent is taken into custody, but only if he is not already in custody;

4. Counsel be appointed for Respondent if necessary;
5. If probable cause is found at that hearing, that Respondent remain in custody and be transferred to an appropriate facility for an evaluation as to whether Respondent is a Sexually Violent Predator;
6. The Court appoint a qualified expert for such an evaluation if probable cause is found;
7. If probable cause is found a trial be held on all issues, and if Respondent is found to be a Sexually Violent Predator that he be committed to the custody of the South Carolina Department of Mental Health for long term control, care, and treatment, until such time as Respondent's mental abnormality or personality disorder has so changed that Respondent is safe to be at large and has been released pursuant to the requirements of S.C. Code Ann. Section 44-48-10 *et seq.*, and
8. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

JAMES G. BOGLE, JR.
Senior Assistant Attorney
General

By: 
Attorneys for Petitioner
S. C. Bar No. 755
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
V: 803.734-1173
F: 803.734-6679
A.G. File No. 20151282
jbogle@scag.gov

March 4, 2015
Columbia, South Carolina

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

PETITIONER'S EXHIBIT

A

SEXUAL PREDATOR REFERRAL FORM

Offender Name: KEITH FITZGERALD BURRIS	Offender Number: 307243	Jurisdictional Agency: SCDC
Age: 46	County: YORK	Qualifying Offense(s): Guilty Plea: Trial:
Gender: Male	No. of Incarcerations: 1	Criminal Sexual Conduct with Minor 2nd (3 counts), Criminal Solicitation of a Minor
Adult 10 years suspended to 2 years	Parole Eligibility	Max-Out
Sentence: with 5 years probation	Date:	Date: 04/28/2015
Juvenile	Parole	SFII
Guidelines:	Release Date:	Date:

The review of this case is based on the offender's records which include, but are not limited to, the following information: description of the qualifying offense(s); history of other sexual assault(s); history of other criminal convictions/adjudications; documentation of mental disorder(s); community and institutional adjustment; and risk factors. Findings are strictly based on the legal criteria set forth in Section 44-48-30 of the Sexually Violent Predator Act, and are not to be interpreted as a clinical assessment.

VOTES TO REFER/NOT REFER TO PROSECUTOR'S REVIEW COMMITTEE:

YES	NO	ABSTAIN
<u>4</u>	<u>0</u>	<u>1</u>

The following Sexual Predator Multi-Disciplinary Team Members participated in the review process:

<u>[Signature]</u>	SCDC -- CHAIRPERSON
<u>Edward A. Anton</u>	SCDPPS
<u>Tiffany E. Musick, PhD, ABPP</u>	DMH
<u>[Signature]</u>	JDG
<u>[Signature]</u>	ATTORNEY

MULTIDISCIPLINARY TEAM

The offender's records were assessed by the Multidisciplinary Team on January 22, 2015, and based upon that assessment, we find that:

- ☒ The offender satisfies the definition of a sexually violent predator and a review by the Prosecutor Review Committee is warranted.
- ☐ The offender does not satisfy the definition of a sexually violent predator and a review by the Prosecutor Review Committee is not warranted.

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

PETITIONER'S EXHIBIT

B

**PROSECUTOR'S REVIEW COMMITTEE
PROBABLE CAUSE DETERMINATION**

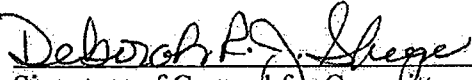
INMATE NAME:	INMATE NUMBER	PRC REVIEW DATE:
KEITH FITZGERALD BURRIS	307243	FEBRUARY 19, 2015 MEMBERS PRESENT: Barry Bernstein for Alan Wilson David M. Stumbo via telephone Beebe James via telephone

DATE RECEIVED FROM MULTIDISCIPLINARY TEAM: JANUARY 26, 2015

The Multi-Disciplinary Team referred this case to the Prosecutor's Review Committee pursuant to S.C. Code Ann. § 44-48-50, for review to determine whether probable cause exists to believe this person is a sexually violent predator. S.C. Code Ann. § 44-48-60. The Prosecutors Review Committee reviewed all information received from the Multi-Disciplinary Team, including without limitation: documentation of the qualifying offense as well as other sexual assault(s) or criminal convictions/adjudications; documentation of mental disorder(s); community and institutional adjustment; and risk factors.

PROBABLE CAUSE DETERMINATION:

By a vote of 3-0, the Prosecutor's Review Committee found probable cause to believe that this individual has been convicted of a sexually violent offense, and suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.


Signature of Counsel for Committee

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

PETITIONER'S EXHIBIT

C

STATE OF SOUTH CAROLINA

COUNTY OF YORK
STATE VS.

KEITH FITZGERALD BURRIS

AKA: Keith Burris, Keith Fitzgerald Burris

Race: Black Sex: M Age: 46

DOB: [REDACTED]

City, State, Zip: Clover, SC 29710

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Criminal Solicitation Of A Minor

In violation of § 16-15-0342 of the S.C. Code of Laws, bearing CDR Code # 2992

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014CS4601188

A/W: 2013AJ610100346

Date of Offense: 03/13/2010

S.C. Code §: 16-15-0342

CDR Code #: 2992

ORIGINAL

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or 1st Ord Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury, (Def.'s Initials)The plea is: ☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTORNEY:

Bethany R. Miles 78212
 Bethany Miles, Asst. Attorney General SC Bar #

[Signature]
 Defendant

[Signature] 77904
 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of 2 days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service 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 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 16-23-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: No Contact withVictim[Signature]

Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2993 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (DUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

Proviso 90.3 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk: David HamiltonCourt Reporter: Shirley Green

SCCA/217 (03/2011)

Presiding Judge: [Signature]

Judge Bar ID: _____

Sentence Date: 11-13-14Judge Code: 2113

WITNESSES

Chris Bomar, SC Attorney General's Office

ARREST WARRANT NUMBER

2013-A-46-10100546

**ACTION OF GRAND JURY
TRUE BILL**Foreperson of Grand Jury
Date: 4/17/2014**VERDICT**Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-46- 01188

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

APRIL 17, 2014 TERM

THE STATE

vs.

KEITH FITZGERALD BURRIS
D.O.B. [REDACTED]

Indictment for

**CRIMINAL SOLICITATION
OF A MINOR**SC Code: 16-15-342
CDR Code: 2999After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

INDICTMENT

CRIMINAL SOLICITATION OF A MINOR

At a Court of General Sessions, convened on April 17, 2014,
 the Grand Jurors of York County present upon their oath:

That Keith Fitzgerald Burris, between April 1, 2013 and May 19, 2013, did willfully and knowingly commit the crime of Criminal Solicitation of a Minor. To wit: Keith Fitzgerald Burris, a person eighteen years of age or older, did knowingly contact and communicate with a minor under the age of eighteen, ~~Deleay~~, date of birth ~~August 11, 1997~~, in York County, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5), or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person reasonably believed to be under the age of eighteen. This is in direct violation of Section 16-15-342, 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.

OFFICE OF THE ATTORNEY GENERAL


 ALAN WILSON (BBM)
 ATTORNEY GENERAL

DOCKET NO. 2014-GS-46- **01189**

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

APRIL 17, 2014 TERM

THE STATE

vs.

KEITH FITZGERALD BURRIS
D.O.B. [REDACTED]

Indictment for

**SEXUAL EXPLOITATION OF A MINOR,
 SECOND DEGREE**

SC Code: 16-15-405(A)
CDR Code: 0380

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

WITNESSES

Chris Bomar, SC Attorney General's Office

ARREST WARRANT NUMBER

Direct Presentment

ACTION OF GRAND JURY

TRUE BILL

[Signature]
 Foreperson of Grand Jury
 Date: **4/17/2014**

VERDICT

Foreperson of Petit Jury
 Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

INDICTMENT

SEXUAL EXPLOITATION OF A MINOR,
SECOND DEGREE

At a Court of General Sessions, convened on April 17, 2014,
the Grand Jurors of York County present upon their oath:

That Keith Fitzgerald Burris, between April 1, 2013 and May 19, 2013, did willfully and knowingly commit the crime of Sexual Exploitation of a Minor, Second Degree. To wit: Keith Fitzgerald Burris, did knowingly distribute, transport, exhibit, receive, sell, purchase, exchange, and/or solicit material that contains a visual representation of a minor engaged in sexual activity, as defined by Section 16-15-375(5) of the South Carolina Code of Laws. This incident occurred within the County of York, State of South Carolina, and is in direct violation of Section 16-15-405(A) 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

OFFICE OF THE ATTORNEY GENERAL


ALAN WILSON (BBM)
ATTORNEY GENERAL

DOCKET NO. 2014-GS-46- 01190

WITNESSES

Chris Bomar, SC Attorney General's Office

The State of South Carolina

County of York

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

APRIL 17, 2014 TERM

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

Direct Presentment

THE STATE

Defendant

vs.

Witness:

KEITH FITZGERALD BURRIS
D.O.B. [REDACTED]

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: 4/17/2014

VERDICT

Indictment for

**DISSEMINATION OF OBSCENE
MATERIAL TO PERSON UNDER AGE
EIGHTEEN**

South Carolina Common Law and
SC Code: 16-15-345
CDR Code: 0375

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK)

DISSEMINATION OF OBSCENE MATERIAL
TO PERSON UNDER AGE EIGHTEEN

At a Court of General Sessions, convened on April 17, 2014,
the Grand Jurors of York County present upon their oath:

That Keith Fitzgerald Burris, between April 1, 2013 and May 19, 2013, did willfully and knowingly commit the crime of Dissemination of Obscene Material to Person under the age of Eighteen. To wit: Keith Fitzgerald Burris, a person eighteen years of age or older, did knowingly disseminate to a person under the age of eighteen, ~~XXXXXX~~, date of birth ~~XXXXXX~~ 1997, in York County, material which he knew or reasonably should have known to be obscene within the meaning of Section 16-15-305, of the South Carolina Code of Laws (1976), as amended. This is in direct violation of Section 16-15-345 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.

OFFICE OF THE ATTORNEY GENERAL

Alan Wilson
ALAN WILSON (BBM)
ATTORNEY GENERAL

ARREST WARRANT

2013A4610100545

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

THE STATE

2013-10229

against

Keith Fitzgerald Burris

Address:

York, SC 29745-

Phone:

SSN:

Sex: M

Race: B

Height:

5

9

Weight:

171

DL State:

DL #:

DOB: 09/26/96

Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: C. Bomar - B5804

Offense: Sex / Sexual exploitation of a minor, Third degree

Offense Code:

0381

Code/Ordinance Sec:

16-15-0410(A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2010
SCCA 516

Personally appeared before me the affiant C. Bomar

who

being duly sworn deposes and says that defendant Keith Fitzgerald Burris

did within this county and state on or about 5/15/2013

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

York

in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Sexual exploitation of a minor, Third degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant, Keith Fitzgerald Burris did willfully and unlawfully violate our South Carolina Code of Laws by receiving photos of a fifteen year old minor female nude. One of these photos depicts the minor female spreading her vagina with her fingers. This occurred at [redacted], South Carolina, County of York on or about May 15th & 16th 2013. Probable cause based upon photos recovered from the female minor's cell phone and statements from the defendant.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

Affiant's Address: Moss Justice Center

York, SC 29745-7428

Affiant's Telephone: (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/15/2013

defendant Keith Fitzgerald Burris

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of York

) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Sexual exploitation of a minor, Third degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 6/12/2013

Signature of Issuing Judge

(L.S.)

Lynne Horton Benfield

Judge Code: 5806

Judge's Address: Moss Justice Center

York, SC 29745-7423

Judge's Telephone: (803)628-3029

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ARREST WARRANT

2013A4610100546

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

THE STATE

2013-10220

against

Keith Fitzgerald Burris

Address: [REDACTED]

Phone:

SSN: [REDACTED]

Sex: M Race: B Height: 5 9 Weight: 171

DL State: DL #:

DOB: 09/968

Agency ORI: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: C. Bomar - B5804

Offense: Minor / Criminal solicitation of a minor

Offense Code: 2999

Code/Ordinance Sec: 16-15-0342

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(1-3)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2009
SCCA 615

Personally appeared before me the affiant C. Bomar

who

being duly sworn deposes and says that defendant Keith Fitzgerald Burris

did within this county and state on or about 5/15/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of York)

in the following particulars:

DESCRIPTION OF OFFENSE: Minor / Criminal solicitation of a minor

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant, Keith Fitzgerald Burris did willfully and unlawfully violate our South Carolina Code of Laws by engaging in sexual communication via text plus which is an application on a smart phone during April 1, 2013 through May 19, 2013. Defendant did text about masturbation and other sexual activities with a minor female child who was fifteen years of age during the time of the texting. Defendant also sent a picture of his private area to the minor via cell phone. This occurred at [REDACTED] Hill, South Carolina. Probable cause based upon defendant statements and police investigation.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

Affiant's Address Moss Justice Center

York, SC 29745-7428

Affiant's Telephone (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/15/2010

defendant Keith Fitzgerald Burris

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of York

) as set forth below:

DESCRIPTION OF OFFENSE: Minor / Criminal solicitation of a minor

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.
Sworn to and subscribed before me on 6/12/2013Judge's Address Moss Justice Center
York, SC 29745-7423
Judge's Telephone (803)628-3029
Issuing Court ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

YORK COUNTY SHERIFF'S OFFICE
GENERAL SESSIONS CASE FILE SUMMARY

Incident Report #: 201300016229

Lead Investigator: Chris Bomar, Detective

Defendant(s): Keith Fitzgerald Burris

Charges / Warrant #: Solicitation of a Minor & Child Exploitation (2013A4610100546 & 2013A46101545)

Witness List: ~~Marie Wade~~

Summary:

On May 19, 2013, Marie Wade who is the biological mother of ~~Keith Fitzgerald Burris~~ found text messages between her daughter and a Keith Burris. The mother new Keith Burris was a registered sex offender and felt the context of the text messages that her daughter may have been having sex or was in the process of having sex with this Keith Burris. Investigating Officer, Chris Bomar, did find pictures on ~~Keith Fitzgerald Burris~~ cell phone memory card of nude pictures she had taken of herself. It was also learned later in an interview with the suspect Keith Burris, she had sent those pictures to him which some of those pictures show her private area with her finger on and about her private area. Also, the suspect, Keith Burris, admitted to texting about sex and he had also sent a picture of his private to her. Detective Bomar was also able to get Keith Burris' text messages from TextPlus.com which also showed they discussed about having sex and meeting up with each other.

OFFICER NOTES ... CASE 201300016229

Interview with [REDACTED]

Date: 6/6/2013 at 9:10 AM

The mother brought [REDACTED] to the Moss Justice Center to talk to her about the text messages being sent and received from Keith Burris who is a registered Sex Offender with our agency. Also wanted to talk to [REDACTED] about the nude pictures I found on the SD card attached to her T-Mobile phone with phone number of (800) 999-0000. [REDACTED] stated Keith and her met when he came over to their house back in April 12, of 2013. Keith Burris and her dad are cousins but they have had little contact with each other. [REDACTED] stated he told her and her mom that he wanted to take them shopping since he was unable to do anything while in prison. [REDACTED] claims he said money was no option and he could spend up to \$2,000.00. [REDACTED] stated it was later on she got his number and they began to text each other using the Text + application. His cell phone number he was using was (800) 999-0000 and he was using the name of "sweat Burris" under the Text + application. [REDACTED] stated he then wanted her to join his gang "Folk Nation" and described to her how she would be sexed in by six other guys. [REDACTED] stated she did send nude pictures of herself to a cousin of Keith Burris but didn't know his name but thought he would be one of the six to sex her into the gang. [REDACTED] stated she thought about joining the gang because of the money she would get. When I asked her if she had a sexual relationship with Keith Burris she stated no but she did admit to having sex with four or five other guys before in the past, all under the age of eighteen years of age.

Here are the pictures she said she has sent to various people and to the cousin with file name of IMG_20130515_230344, 230357, 231106, 232730". The nude photos were taken May 15, 16, & 17, 2013. The text messages between her and Keith Burris was on May 19, 2013.

Text Messages:

sweat Burris ... "Hw u gne txt me" on May 19, 2013 at 11:20 AM

[REDACTED] ... "This txt plus I thought I needed an internet connection but I guess I dnt" on May 19, 2013 at 12:05 PM

sweat Burris ... "Wyd" on May 19, 2013 at 12:30 PM

[REDACTED] ... "Cleaning" on May 19, 2013 at 1:00 PM

sweat Burris ... "Who there nd whose fone u got. Plus u kno u n violation for being wit asia u said u wldnt" on May 19, 2013 at 1:03 PM

[REDACTED] ... "Mll old fone an every body" on May 19, 2013 at 1:09 PM

sweat Burris ... "Wht they gve it bk to u" on May 19, 2013 at 1:09 PM

[REDACTED] ... "Nahh" on May 19, 2013 at 1:19 PM

sweat Burris ... "Y u takin so long to txt bk nd u do kno I luv u rite" on May 19, 2013 at 1:20 PM

[REDACTED] ... "Caz this thing slow wit out WI-Fi an I luv u to" on May 19, 2013 at 1:22 PM

sweat Burris ... "So wht u think ur violation should b nd hw long u gne hve dat fone" on May 19, 2013 at 1:25 PM

Zh... ... "Scared to answer that It's up to u an as long as I keep it hidden" on May 19, 2013 at 1:26 PM

sweat Burris ... "After wht asia said she'll tell on us I dnt trust her nd ur violation is to find a way to spent one full day wit me" on May 19, 2013 at 1:28 PM

Zh... ... "Hw lma do that" on May 19, 2013 at 1:29 PM

Zh... ... "Or u can come get me nw" on May 19, 2013 at 1:30 PM

sweat Burris ... "Datz on u u got six days to figure it out nd y u not usin asia wifi. not tryin to drive I got my DL bk wed" on May 19, 2013 at 1:31 PM

Zh... ... "She not hme" on May 19, 2013 at 1:36 PM

sweat Burris ... "Well kno dat de nxt tyme u trip on my lyk u did yesterday I will neva tlk to u again bc u kno I luv u nd want u wht to u actin lyk a woman" on May 19, 2013 at 1:38 PM

Zh... ... "I no I.m sriry I juss lost it" on May 19, 2013 at 1:40 PM

sweat Burris ... "Y did u really think I widnt b wit u bc u not hvin a bby. As long as u do wht u say lma always b wit u no matta wht. And stop lettling Asia kno ur business b4 she use dat shyt against u" on May 19, 2013 at 1:43 PM

Zh... ... "Ok lyk I said I juss got all mad" on May 19, 2013 at 1:45 PM

sweat Burris ... "For wht im wait u nd de reason I feel u tikin to otha dudes is b cl cnt c u lyk I wanna plus I need u more thn u think" on May 19, 2013 at 1:47 PM

Zh... ... "I no" on May 19, 2013 at 2:07 PM

sweat Burris ... "In tyme we will b togetha fo lyf believe dat" on May 19, 2013 at 2:09 PM

Zh... ... "I believe it :-)" on May 19, 2013 at 2:14 PM

sweat Burris ... "Bby u jus need to kno dat u r ml world nd u need to stop lettling ppl kno wht u doin" on May 19, 2013 at 2:16 PM

Zh... ... "What this andre" on May 19, 2013 at 2:21 PM

Case Report Summary



Print Date/Time: 03/28/2013 09:44

Login ID: bomarc

Case Number: 2013-00018229

Officer ID: Bomarc, Supplement Narrative

6/12/2013 Christopher L. Bomar Arrested, 18 and Over

York County Sheriff's Office

ORI Number:

SC0480000

Incident Type: Sex Offense

Victim: ~~Zh'Meyah Wade~~

While suspect, Keith Burris, was at the Probation Office in York, South Carolina, I came by the office to perform an interview. I spoke to Keith about the text messages and pictures ~~Zh'Meyah~~ had on her phone. Keith denied any pictures or speaking to her about sex but after Probation and Parole was locking him up for violating the terms of his probation, Keith stated he wanted to talk with me at Detention. After Keith was being booked in, I brought Keith Burris into the interview room in the Detention Facility and advised him of his rights which he signed a waiver form to speak with me. Keith Burris stated in the interview that he did text back and forth with ~~Zh'Meyah~~, and they did text about masturbation and other sex acts and even talked about meeting up. Keith stated he never had sex with her but she did send various nude pictures of herself to him some were sexual in nature. Keith also admitted he sent a picture to Zh'Meyah of his private part to her through the cell phone. After talking, Keith wrote a hand written statement concerning the things he mentioned verbally in our interview. I then took out two warrants, one for Criminal Solicitation of a Minor and the other Exploitation of a Minor 3rd degree and served those warrants on Keith. I then called the victim's mother, Marie Wade, about the arrest.

Officer ID: Williamsj, Narrative

Ms. Wade brought her daughter to the office when she found out that she had been exchanging text messages with a 48 year old man, Keith Burris. She suspected a physical relationship was going on but her daughter denied engaging in that type of activity. I called Mr. Burris and advised him not to have any further contact with Ms. Wade's daughter.

Routings:

Zip: 22245

Form: Statement 1

SLED
CF002 5/95

PAGE NO. 1 OF 1 PAGES

**VOLUNTARY STATEMENT
(NOT UNDER ARREST)**

I, Asia Thompson am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to SI Lucinda H McKellar / SI Chris Bunk. I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 20 years of age, and I live at 2061 Rutherford Rd.
I can read and write and completed the 12th grade in school. DOB: 7/94

AT He was going with her I never seen them together. She told me that had sex but then lied and said they didn't. He tried to talk to me to see what I talk to him but I cussed when cut and he got mad. He tried to play things right by saying he would buy me a cell phone. She claim that her step dad told her to wait until she was 17 to talk to him. She said he lied about her age. She was 15 or 16 at the time she started talking to Keith. She said that her step dad need to be questioned because he's the one that told Keith who she was. Keith ~~he~~ said he wanted to have a game with me and ~~that~~ but he got denied. AT

AT

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 1:52 M. on the 6th day of June, 2014.

SWORN TO AND SUBSCRIBED TO BEFORE
ME THIS DAY OF , 20

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires:

Signature of person giving voluntary statement

WITNESS: Lucinda H McKellar

WITNESS: Chris Bunk

I certify that I have been given a copy of this statement consisting of 1 pages. Asia Thompson

TP	TIMESTAMP	CONVERSATION	TC MESSAGE	PHONE NUMBER
	2013-02-28 16:25:12:37	719040310	Srry mil textplus actin crazy *TyquansGurl*	8000000071
	2013-02-28 17:47:32:41	719040310	Who this	
	2013-02-28 17:48:34:94	719040310	Shantell this mil new fone yo bro aint tell u *TyquansG	8000000071
	2013-02-28 18:00:36:83	719040310	No	
	2013-02-28 18:01:54:59	719040310	O well diz mli numba *TyquansGurl*	8000000071
	2013-02-28 18:20:40:71	719040310	K	
	2013-02-28 18:24:51:04	719040310	Were yo crazy bro anyway *TyquansGurl*	8000000071
	2013-02-28 18:34:03:56	719040310	Listening to music	
	2013-02-28 18:35:42:38	719040310	Tell him to answer his fone *TyquansGurl*	8000000071
	2013-03-02 16:33:32:37	719040310	Hey	8000000071
	2013-03-02 17:05:38:85	719040310	Hey babe	
	2013-03-02 17:06:38:84	719040310	Heeeeyyy hw u doin	8000000071
	2013-03-02 17:07:22:60	719040310	Great hbu and ur booo	
	2013-03-02 17:09:08:25	719040310	We straight	8000000071
	2013-03-02 17:18:59:59	719040310	I know y'all ain't gay	
	2013-03-02 17:20:19:21	719040310	Wooow u crazy that's not wat i ment	8000000071
	2013-03-02 17:27:54:20	719040310	I'm kidding but wat u doin	
	2013-03-02 17:28:27:03	719040310	Ruin watchin tv wby	8000000071
	2013-03-02 17:37:57:38	719040310	I'm desperate for chicken	
	2013-03-02 17:39:06:80	719040310	Wat u want me to do bout	8000000071
	2013-03-02 17:47:47:09	719040310	Say that u r a hot chick	
	2013-03-02 18:00:21:18	719040310	Umm lol ok	8000000071
	2013-03-02 18:08:04:59	719040310	U didn't say it lol :-)	
	2013-03-02 18:20:44:44	719040310	Umm im a hot chick	8000000071
	2013-03-02 18:26:56:81	719040310	I know u r	
	2013-03-02 18:28:37:22	719040310	Awww	8000000071
	2013-03-02 18:29:27:48	719040310	How my fam	
	2013-03-02 18:30:06:12	719040310	Good	8000000071
	2013-03-02 18:32:23:32	719040310	Where u	
	2013-03-02 18:32:42:75	719040310	My room	8000000071
	2013-03-02 18:48:09:74	719040310	Getting horny in that room of yours	
	2013-03-03 01:13:31:94	719040310	No. Snuck out.	8000000071
	2013-03-03 05:53:29:70	719040310	Y	
	2013-03-04 17:29:45:23	719040310	www.gii.me/c/_33XL07	
	2013-03-04 17:30:12:74	719040310	www.gii.me/c/_33XL4T	

2013-03-04 17:32:21:67	719040310	Hey babe
2013-03-10 18:36:56:25	719040310	Hey babe

Sheet1

TP Timestamp (PST)	Conversation ID	Message	Phone Number
2013-04-16 05:26:44:295	766017304	www.gii.me/c/_3AYDSN Hey	3367939853
2013-04-22 05:14:10:902	766017304	Hey	800-455-018
2013-04-22 05:57:37:531	766017304	Who is dis 274 60\$ life	800-455-018
2013-04-22 06:00:14:111	766017304	Shantell r u ok	800-455-018
2013-04-22 06:01:52:521	766017304	Yea send me a pic if u cn i luv u 274 60\$ life	800-455-018
2013-04-22 06:05:48:049	766017304	www.gii.me/c/_3BUR1E Luv u 2	800-455-018
2013-04-22 06:17:00:373	766017304	Did u get it	800-455-018
2013-04-22 06:55:09:348	766017304	Yea btd whn u cn 274 60\$ life	800-455-018
2013-04-22 06:58:50:859	766017304	I can btd nw if u wnt	800-455-018
		Hell i want u so bad rite nw. Tho on de real i hope im de only one u sleepin wit.	800-455-018
2013-04-22 07:02:20:815	766017304	And plzzzzz make sure u delete our tds 274 60\$ life	800-455-018
2013-04-22 07:03:08:558	766017304	I thought ur phone wuz off 274 60\$ life	800-455-018
2013-04-22 07:03:24:632	766017304	Im usin mii btd plus no one can get n it	800-455-018
2013-04-22 07:04:22:517	766017304	Skool wifi	800-455-018
		Ok still delete it to b on de safe side nd u need to do rite bc i wanna b able to	800-455-018
2013-04-22 07:08:39:734	766017304	take u places. U kno i wus goin to try an make luv to u saturday once w	800-455-018
		e got to mi house. And i stayed hard. Question is there any way u cn send me a	800-455-018
2013-04-22 07:08:46:471	766017304	pic topless 274 60\$ life	800-455-018
2013-04-22 07:09:39:666	766017304	I no. That's y u was trynna take us to yo house	800-455-018
2013-04-22 07:10:27:672	766017304	Probably idk	800-455-018
2013-04-22 07:10:52:138	766017304	Was Ur mom nd dad mad 274 60\$ life	800-455-018
2013-04-22 07:11:33:942	766017304	No	800-455-018
		Well kno dat do want u n my life to b real i was gon get u to skip skool one day	800-455-018
2013-04-22 07:15:46:940	766017304	dis week nd stay-wit me til bout tyme for skool to get out so u wld catc	800-455-018
2013-04-22 07:15:53:448	766017304	h de bus hme lke u were at skool. But whtz up wit a topless plc 274 60\$ life	800-455-018
2013-04-22 07:18:08:808	766017304	ll try but i cnt send it till nxd black tho	800-455-018
		Ok i hope u send me alot of pic so i cn hve dem to look at all day i luv u dn't	800-455-018
2013-04-22 07:19:44:473	766017304	doubt dat 274 60\$ life	800-455-018
2013-04-22 07:20:00:935	766017304	Some dude btdn me sayin he gone hurt me	800-455-018
2013-04-22 07:20:53:945	766017304	Whtz de number I'll call him if u want me too 274 60\$ life	800-455-018
2013-04-22 07:21:39:099	766017304	No i dnt wnt u hurting anyone	800-455-018
		Ok cn u change dat number if so do it i gotta go btd me round 1:30 i will b on	800-455-018
2013-04-22 07:23:40:902	766017304	lunch thn nd send me alot of pic i luv u nd hope we cn make a life a 274 60\$	800-455-018
2013-04-22 07:24:24:298	766017304	life	800-455-018
		And a family together i want a baby wit u ok 274 60\$ life	800-455-018

Sheet1

2013-04-22 07:30:29:144	766017304	Ok i will luv u too	8034190018
2013-04-22 07:49:48:704	766017304	Damn i need to make luv to u bad 274 60\$ life	8034190018
2013-04-22 07:52:21:327	766017304	Bay dnt start im already ready	8034190018
2013-04-22 08:18:45:765	766017304	www.gil.me/c/_3BV0PR	8034190018
2013-04-22 10:08:28:383	766017304	Ima buy u a phone maybe dis week i jus hope u dn't b gvin ur number out or	8034190018
2013-04-22 10:12:28:498	766017304	sendin dudes pics of ur body 274 60\$ life	8034190018
2013-04-22 10:14:35:950	766017304	I want this is only for u i promise	8034190018
2013-04-22 10:15:37:364	766017304	plzz dn't lie to me bc i will take gud care of u as long as u not fuccin or succin	8034190018
	766017304	no other dudes diccs 274 60\$ life	8034190018
	766017304	i won't im serious	8034190018
2013-04-22 10:17:47:578	766017304	Ok as long as u do rite u will neva want for shyt tho u may hve to hide shyt i	8034190018
	766017304	buy but i will spoil u. i cn't stop thinkin bout u every since dat f 274 60\$ life	8034190018
2013-04-22 10:19:13:969	766017304	1rst day we meet i knu i wanted u. If u let me i will make u happy nd i jus hope u	8034190018
2013-04-22 10:19:27:509	766017304	dn't cheat on me. 274 60\$ life	8034190018
2013-04-22 10:20:30:184	766017304	Aww i feel special	8034190018
2013-04-22 10:20:43:642	766017304	U r a queen so i will treat as a queen 274 60\$ life	8034190018
	766017304	Aww	8034190018
2013-04-22 10:23:40:467	766017304	I dn't wanna lose u so tell me hw u feel. Plus i hope u will txd every day while u	8034190018
	766017304	at skool nd send me pics every day 274 60\$ life	8034190018
2013-04-22 10:26:12:651	766017304	Ima hate whn u go hme today Ima miss bdn u but do hve ur pics nw to look at	8034190018
2013-04-22 10:27:26:359	766017304	274 60\$ life	8034190018
	766017304	I feel ur the rite one for me an i dnt have anything to worry about with u	8034190018
2013-04-22 10:31:01:181	766017304	Im glad to hear dat bc i want u n mi life. Tell me sum'ern nd dn't lie whn did u	8034190018
	766017304	start hvin sex nd hw many guys hve u fucced nd succed 274 60\$ life	8034190018
2013-04-22 10:33:11:399	766017304	Started when i was 7 an mii whole life like 3 or 4 caz i ddnt fucc wit dudes like	8034190018
	766017304	that	8034190018
2013-04-22 10:33:56:244	766017304	I woke up dis mumin thinkin bout u nd had two jacc off twice man whn i natted i	8034190018
2013-04-22 10:34:36:667	766017304	wished it was n u 274 60\$ life	8034190018
2013-04-22 10:35:43:002	766017304	Where u raped or sum'um 274 60\$ life	8034190018
	766017304	Lol an no	8034190018
2013-04-22 10:37:25:672	766017304	So y did u start so young hell u didn't kno wht a pussy or dicc was at dat age.	8034190018
2013-04-22 10:37:55:321	766017304	274 60\$ life	8034190018
2013-04-22 10:38:46:274	766017304	Juss something i wnted to try	8034190018
2013-04-22 10:39:03:185	766017304	Well i hope im de only person u goin to fucc nw 274 60\$ life	8034190018
	766017304	Yes daddy :-)	8034190018

Sheet1

2013-04-22 10:39:55:341	766017304	Y u call me daddy 274 60\$ life	800-155-118
2013-04-22 10:40:58:533	766017304	ldk juss felt like it if u dnt wnt me to call u that i wont	800-155-118
2013-04-22 10:41:02:476	766017304	I need one more pic wit ur pants dwn ok 274 60\$ life	800-155-118
2013-04-22 10:41:25:538	766017304	Um ok	800-155-118
2013-04-22 10:45:20:790	766017304	www.gil.me/c/_3BVDYZ	800-155-118
2013-04-22 11:44:53:561	766017304	U cn call me anytyme u like im ur man remember dat 274 60\$ life	800-155-118
2013-04-22 11:46:01:068	766017304	I dnt have tik tym	800-155-118
2013-04-22 11:47:48:969	766017304	Ok btd me whn u get hme if u cn i luv u 274 60\$ life	800-155-118
2013-04-22 11:48:53:113	766017304	Luv u 2 o i have a question	800-155-118
2013-04-22 12:19:16:411	766017304	Whitz ur question 274 60\$ life	800-155-118
2013-04-22 12:22:48:346	766017304	Damn u sexy as fucc 274 60\$ life	800-155-118
2013-04-22 12:44:11:702	766017304	Wat does it signature mean	800-155-118
2013-04-22 12:46:26:804	766017304	Blacc Gangsta Disciple. Damn u r one sexy ass gurl i luv ur body itz hot. Plzz	800-155-118
2013-04-22 12:47:50:481	766017304	dnt b showin other guys ur body. 274 60\$ life	800-155-118
2013-04-22 12:48:18:710	766017304	I wont gtta go tik to u later	800-155-118
2013-04-22 12:48:42:170	766017304	K luv u 274 60\$ life	800-155-118
2013-04-23 03:47:17:248	766017304	Luv u 2	800-155-118
2013-04-23 05:19:04:171	766017304	Gud mumin mi luv hope u cn send me sum pics today like u did yesterday i luv	800-155-118
2013-04-23 05:20:04:908	766017304	u 274 60\$ life	800-155-118
2013-04-23 05:20:47:868	766017304	Luv u 2	800-155-118
2013-04-23 05:25:48:764	766017304	Txt me ur whole name ima get it tattoo on me 274 60\$ life	800-155-118
2013-04-23 05:25:55:153	766017304	Minor 2	800-155-118
2013-04-23 05:27:40:615	766017304	U gon send me sum pics today nd i got u a phone last night its a go phone an	800-155-118
2013-04-23 06:31:38:746	766017304	anroid smart phone i will get it turned on today or friday tho we gotta figu	800-155-118
2013-04-23 06:37:16:054	766017304	re out hw u gon get it witout anyone knowin 274 60 life	800-155-118
2013-04-23 07:05:23:693	766017304	Just come to the house an bring it wit u caz u left yo drank dwn there	800-155-118
2013-04-23 07:09:52:462	766017304	Cn't drive yet 274 60\$ life	800-155-118
2013-04-23 07:10:32:550	766017304	Dang u gtta ride	800-155-118
2013-04-23 07:11:08:968	766017304	I gotta ride but i dnt want anyone to kno dat i gave u a phone. So whitz up wit	800-155-118
2013-04-23 07:11:31:800	766017304	sum picz so i cn c hw mi wifey lookun today 274 60\$ life	800-155-118
2013-04-23 07:14:04:921	766017304	I go to lunch at 1:00 274 60\$ life	800-155-118
2013-04-23 07:14:27:967	766017304	Ok ima send u some	800-155-118
	766017304	Thanks i luv u 274 60\$ life	800-155-118
	766017304	Welcome luv u 2	800-155-118
	766017304	I cn't wait to make luv to u 274 60\$ life	800-155-118
	766017304	Me too im ready as eva	800-155-118

Sheet1

2013-04-23 07:15:19:454	766017304	Hope so bc i wanna make a baby 274 60\$ life	800-111-1118
2013-04-23 07:16:06:130	766017304	That's actually wat i wanted to tik to u about	800-111-1118
2013-04-23 07:16:42:558	766017304	Whit u not ready for any kids 274 60\$ life	800-111-1118
2013-04-23 07:18:01:373	766017304	No i am that's wat i was gne tell u i juss ddnt no if u were ready or not an i aint	800-111-1118
2013-04-23 07:18:01:846	766017304	wanna b like i wnt yo baby an u look at me like wat..	800-111-1118
2013-04-23 07:18:56:383	766017304	So i gotta use condoms 274 60\$ life	800-111-1118
2013-04-23 07:23:42:342	766017304	OK i glad to hear u say dat 274 60\$ life	800-111-1118
2013-04-23 07:42:43:713	766017304	Im serious	800-111-1118
2013-04-23 07:43:00:726	766017304	www.gil.me/c/_3C08EM	800-111-1118
	766017304	www.gil.me/c/_3C08F7	800-111-1118
2013-04-23 08:59:43:724	766017304	Dis baby thing we need to tik bout if u cn a phone whn u get hme u need to call	800-111-1118
2013-04-23 09:01:55:583	766017304	me bc Im dead serious bout makin a family 274 60\$ life	800-111-1118
2013-04-23 09:03:02:042	766017304	U kno dat i really do luv u nd i want dis to wrk between us 274 60\$ life	800-111-1118
2013-04-23 10:04:59:622	766017304	I kno an i love u to on dah real an i dnt wanna loose u	800-111-1118
2013-04-23 10:12:11:759	766017304	Tell me dis hw u gon get away so we cn wrk on makin a baby 274 60\$ life	800-111-1118
2013-04-23 10:12:57:242	766017304	Idek	800-111-1118
2013-04-23 10:17:11:249	766017304	We gotta wrk on gettin u out 274 60\$ life	800-111-1118
2013-04-23 10:18:45:834	766017304	U must crn't tik today. O so u kno damn u wearin those jeans 274 60\$ life	800-111-1118
2013-04-23 10:19:48:040	766017304	Lol u silly	800-111-1118
2013-04-23 10:20:04:773	766017304	Im serious. U r one sexy ass woman 274 60\$ life	800-111-1118
2013-04-23 10:21:13:151	766017304	Thnx	800-111-1118
2013-04-23 10:22:01:665	766017304	Naw thank u for bein part of mi life 274 60\$ life	800-111-1118
2013-04-23 10:24:23:661	766017304	U welcome im not goin no were either	800-111-1118
2013-04-23 10:25:06:016	766017304	Hope not bc i need u more thn eva 274 60\$ life	800-111-1118
2013-04-23 10:26:54:641	766017304	Aww that's sweet	800-111-1118
2013-04-23 10:27:35:545	766017304	U da one sweet. Man one thing i wish is dat we cid live together so i cn hold u	800-111-1118
2013-04-23 10:29:32:580	766017304	at night while we sleep. 274 60\$ life	800-111-1118
2013-04-23 10:30:25:202	766017304	U gne make me cry	800-111-1118
2013-04-23 10:31:56:089	766017304	If u cry i will b there for u 274 60\$ life	800-111-1118
2013-04-23 10:32:27:267	766017304	Ur juss not like any guy i've ever dated	800-111-1118
2013-04-23 10:33:27:015	766017304	Hope not i jus wanna c u happy dats y u need to get ur grades up 274 60\$ life	800-111-1118
2013-04-23 10:33:41:366	766017304	I kno i promise they comin up	800-111-1118
2013-04-23 10:35:51:918	766017304	Ok ill lady. U r mi future so do rite for us 274 60\$ life	800-111-1118
	766017304	Ok i will	800-111-1118
	766017304	We need to b married for real bc u will make a gud wife 274 60\$ life	800-111-1118

Sheet1

2013-04-23 10:36:30:994	766017304	Aww	
2013-04-23 12:39:35:958	766017304	Luv u 274 60\$ life	80[REDACTED]18
2013-04-23 12:41:16:143	788017304	Luv u 2 lik to u later	
2013-04-23 12:42:09:861	766017304	Try to call me plzz 274 60\$ life	[REDACTED]18.
2013-04-23 12:42:30:747	766017304	Ight	[REDACTED]8
2013-04-23 12:43:16:753	766017304	Damn I wish u where here wit me 274 60\$ life	[REDACTED]8
2013-04-23 12:43:33:356	766017304	Me to i miss u	
2013-04-23 12:44:17:840	766017304	I miss u as well luv u lil lady 274 60\$ life	80[REDACTED]18
2013-04-23 12:45:36:834	788017304	Minor 2 Buris 274 60\$ life	80[REDACTED]18
2013-04-23 12:45:53:021	766017304	Luv u 2 ill try to call tonite	
2013-04-23 12:46:23:732	766017304	Ok I'll b waitin 274 60\$ life	80[REDACTED]18
2013-04-23 12:46:29:786	766017304	Zh'Meyah Shamtel Buris	
2013-04-23 12:46:33:338	766017304	Ok	
2013-04-23 12:47:39:961	768017304	K ur name sound gud wit mi last name 274 60\$ life	80[REDACTED]18
2013-05-04 16:32:45:503	766017304	Snuck an got the old fone an asked mi daddy to turn on wifi u. Should come	
2013-05-04 16:33:47:929	766017304	ova he outside working an mi mom an il bro gneto church	
2013-05-04 16:35:08:292	766017304	Naw call dem dudes on ur fb B.O.S.S.274	80[REDACTED]18
		Wat u talkin bout	
2013-05-04 16:37:13:921	766017304	Dreadhead said u succed nd fucced him nd his cuz. Thn G Roblson Jr said yall	
2013-05-04 16:38:22:141	766017304	supposed to b datin yea I read ur fb messages B.O.S.S.274	80[REDACTED]18
		Mii page is dwn an that was like 4 or 5 months ago I dnt fucc wit them	
2013-05-04 16:40:07:402	766017304	Look it was today bc I deleted all ur messages last nite nd I told dem today u	
2013-05-04 16:40:58:647	766017304	had a man B.O.S.S.274	80[REDACTED]18
2013-05-04 16:41:31:275	766017304	Yea I have a mann so y dah fucc u think im trynna get wit them	
2013-05-04 16:41:50:508	766017304	Look on ur page B.O.S.S.274	80[REDACTED]18
		Ight	
2013-05-04 16:46:33:573	766017304	I dnt have shit to do wit that he all fucced up i dnt talk to him no mo so forget.	
2013-05-04 16:50:46:178	766017304	Them	
		Y do u keep lyin to me B.O.S.S.274	80[REDACTED]18
2013-05-04 16:52:24:866	766017304	Aint nobody liein plze come dwn he.re caz he bout to turn off his wifi an i have	
2013-05-04 16:53:24:720	766017304	to tell u something	
2013-05-04 16:53:50:001	766017304	Tell me nw bc I dnt hve a way B.O.S.S.274	80[REDACTED]18
		Found a way to do mi 4.15	
2013-05-04 16:56:08:626	766017304	Wit whu dreadhead or de otha dude plz stop yryin to play me lyk a fool bc	
		dreadhead said he jus fucced actually he said dey ran a train on u B.O.S.S.274	8034155018

Sheet1

2013-05-04 16:57:12:371	766017304	Dahtz a damn lie an u no i mean wit u	
2013-05-04 16:59:23:516	766017304	Dey mad bc i deleted every dude on ur fb page nd y u blocced me B.O.S.S.274	803-111-18
2013-05-04 17:00:55:703	766017304	No i didn't i just deleted the whole account	
		No u didnt ive been on ur fb page all day since last night nd i saw where u	
2013-05-04 17:02:39:486	766017304	blocced me B.O.S.S.274	803-111-18
2013-05-04 17:03:23:549	766017304	I haven't even been on since the nite i deleted it	
		Yes u hve bc dreadhead said he only nboxed u bc u sent him a message	
2013-05-04 17:04:44:876	766017304	B.O.S.S.274	803-111-18
		When i havent even had a way on fb u can even ask Asia Look stay out of	
2013-05-04 17:06:44:033	766017304	wrk Monday ima stay out of skool	
		Go to court monday nd de last tyme u were on fb tkin to both dose dudes was	
2013-05-04 17:08:44:711	766017304	4/28 B.O.S.S.274	803-111-18
2013-05-04 17:09:35:016	766017304	I swear to god no i wasn't wat was said	
2013-05-04 17:09:58:145	766017304	Y u stayin outla skool two were u gne b at while dre hme B.O.S.S.274	803-111-18
2013-05-04 17:09:59:854	766017304	Wal court	
2013-05-04 17:11:26:978	766017304	I forgot but u nd one robinson sald yall were datin. My ticket B.O.S.S.274	803-111-18
		Meet me at te's that morning bout 720 an i can stay wit u alday yall can take	
2013-05-04 17:11:45:966	766017304	me to the skool so i can ride the bus hme	
2013-05-04 17:12:03:269	766017304	Whu dating	
2013-05-04 17:13:18:186	766017304	U nd g robinson jr look on ur page nd u will c wht he said B.O.S.S.274	803-111-18
		Hw ima do dat whn i cnt drive shyf if i cld drive tyme i read dat shyf i wld hve	
2013-05-04 17:14:37:044	766017304	been at ur house B.O.S.S.274	803-111-18
		I saw it an he was tkin bout me an him dating nxd year but it ain't gne happen	
		look at mli message to him i tld him to leave me alone an u scared to tl yo	
2013-05-04 17:16:06:729	766017304	cuazo who i am or something	
		Don't get me wrong it really wld b nice to hve u wit me all day. Wht dey say	
2013-05-04 17:16:10:438	766017304	whn u got hme yesterday B.O.S.S.274	803-111-18
2013-05-04 17:17:36:538	766017304	Naw he kno who u r to me B.O.S.S.274	803-111-18
2013-05-04 17:19:02:287	766017304	Well he aint a damn thing to me	
		Didnt u said not to tell mi cuazo bout u. Look ima try to cum get u monday but	
2013-05-04 17:21:17:179	766017304	gets gotta b after i go to court or cn u make it on a different day bc dat	803-111-18
2013-05-04 17:21:24:213	766017304	way i cn make sure shyr goes rite B.O.S.S.274	803-111-18
2013-05-04 17:21:28:952	766017304	Nuin made up a lie an tld them my friend dropped me off	
		O i wanted to go get a room u shld hve saw de look on ur face whn u saw me	
2013-05-04 17:22:53:937	766017304	cumin B.O.S.S.274	803-111-18

Sheet1

2013-05-04 17:24:44:727	766017304	Wat tym u get out court an i was happy to c u	
2013-05-04 17:27:30:039	766017304	I go to court at 8:30 nd was glad to c u tho nw i dnt kno wht to do B.O.S.S.274	803-111-1118
2013-05-04 17:32:30:613	766017304	I c u changed ur password dats kool hve a gud life B.O.S.S.274	803-111-1118
2013-05-06 03:58:04:647	766017304	Dis is a 4.15 i want ur fb info so i cn keep checc on it B.O.S.S.274	803-111-1118
2013-05-06 05:02:04:428	766017304	Ok username:zhmeyahrahey@yahoo.com. password:shontelrahey	
2013-05-06 05:03:07:394	766017304	U do kno im suppose to stay at ur house thursday night B.O.S.S.274	803-111-1118
2013-05-06 05:03:32:558	766017304	For real	
2013-05-06 05:06:02:423	766017304	Yea but i dnt kno if i want to bc i want u wit me friday i was gon cum get u dis mumin but u didnt bd me yesterday nd i thought u said if u stay o B.O.S.S.274	803-111-1118
2013-05-06 05:07:19:380	766017304	Out dey call ur house so hw u plan to stop dat call. And y u didnt cum n de bathroom saturday nite B.O.S.S.274	803-111-1118
2013-05-06 05:07:49:122	766017304	Come get me tomorrow caz i have midterms Wednesday. Thursday. an Friday	
2013-05-06 05:08:32:947	766017304	Frm where nd wht tyme B.O.S.S.274	803-111-1118
2013-05-06 05:09:17:587	766017304	Tc's bout 720 caz i leave the house at 715	
2013-05-06 05:10:45:847	766017304	U need to hit me tonite so i cn make sure i got de house all day tomorrow nd wht i gotta drop u off B.O.S.S.274	803-111-1118
2013-05-06 05:11:36:837	766017304	Hw ima bd u remember i have to use wifi	
2013-05-06 05:14:36:525	766017304	U need to find a way so i cn let u kno if to b there or not. Still need to kno wht tyme u gotta b dropped off nd where B.O.S.S.274	803-111-1118
2013-05-06 05:15:59:887	766017304	Front of the skool bout 3	
2013-05-06 05:16:40:523	766017304	U kno saturday i got mad at miself bc i had two chances too cum n u nd i didnt do it B.O.S.S.274	803-111-1118
2013-05-06 05:17:08:311	766017304	Damn nw im mad	
2013-05-06 05:17:21:071	766017304	Wht bout dat call hme hw u gne handle dat B.O.S.S.274	803-111-1118
2013-05-06 05:18:40:330	766017304	Think bout we cld hve on de side of de house thn again n de bathroom B.O.S.S.274	803-111-1118
2013-05-06 05:18:56:889	766017304	If i ride the bus hme its gne make them think i was at skool	
2013-05-06 05:19:26:810	766017304	Oooo i lyk	
2013-05-06 05:21:05:908	766017304	Ok B.O.S.S.274	803-111-1118
2013-05-06 05:21:47:389	766017304	So ill c wat i can do	
2013-05-06 05:50:26:700	766017304	Man cn u skip rite nw so we cn go bk to mi house today B.O.S.S.274	803-111-1118
2013-05-06 06:01:11:740	766017304	I cnt go anywhere till 10	
2013-05-06 06:06:34:534	766017304	Damn guess ima go to wrk B.O.S.S.274	803-111-1118

Sheet1

2013-05-06 06:10:24:779
2013-05-06 06:12:41:723
2013-05-06 06:23:03:596

766017304
766017304
766017304

Wait till 10 an come get me
Ok b at bk across de street B.O.S.S.274
On mi way B.O.S.S.274

803 [REDACTED]
803 [REDACTED]

2013-05-06 06:25:29:016
2013-05-06 06:26:50:188
2013-05-06 06:27:29:446
2013-05-06 06:28:24:554
2013-05-06 06:28:38:772
2013-05-06 06:29:06:548
2013-05-06 06:29:32:782

766017304
766017304
766017304
766017304
766017304
766017304
766017304

U gne have to come to the skool caz if they c me wik off campus i will get
expelled so we gtia make it look lyk i got signed out of skool if someone c us
Ok b out front whn i get there B.O.S.S.274
Ok wat u gne do sit out front an wait till 10.
I will b theree at ten B.O.S.S.274
Ok
Hope u not bs B.O.S.S.274
Im not im going wit u

803 [REDACTED]
803 [REDACTED]
803 [REDACTED]

2013-05-06 06:31:44:249
2013-05-06 06:32:09:253
2013-05-06 06:32:56:191
2013-05-06 06:34:44:302
2013-05-06 06:35:32:507
2013-05-06 06:35:48:519
2013-05-06 06:36:28:475
2013-05-06 06:37:49:488
2013-05-06 06:38:32:981
2013-05-06 06:42:43:423

766017304
766017304
766017304
766017304
766017304
766017304
766017304
766017304
766017304
766017304

Im tikin bout makin a baby nd i wanna c hw wild u really r so dnt hold bk whn
we do dis B.O.S.S.274
O trust me im not
We gne c B.O.S.S.274
Ok c u at 10
U definitely will B.O.S.S.274
Ok luv u
Sho me once we r alone B.O.S.S.274
Ok
bout there B.O.S.S.274
Ok

803 [REDACTED]
803 [REDACTED]
803 [REDACTED]
803 [REDACTED]
803 [REDACTED]
803 [REDACTED]

2013-05-06 06:48:52:670
2013-05-06 06:50:36:235
2013-05-06 06:51:30:022
2013-05-06 06:55:23:808
2013-05-06 07:03:03:620
2013-05-06 07:03:51:393
2013-05-06 10:39:03:091
2013-05-06 10:40:58:208
2013-05-06 10:41:25:788
2013-05-06 10:41:51:742
2013-05-06 10:42:16:791
2013-05-06 10:43:16:860

766017304
766017304
766017304
766017304
766017304
766017304
766017304
766017304
766017304
766017304
766017304
766017304

Im at bk eatin so b out front if u not there ima leave. O i hope u gne sho me ur
head game bc i plan to go dwn on u foreal B.O.S.S.274
I got u
U got nine minutes B.O.S.S.274
I no
Coming
Bout to go u said ten B.O.S.S.274
I got it bck
I c wht was u nd dat gurl tikin bout B.O.S.S.274
Witch one
Out front B.O.S.S.274
O she was asking me who u were
Wht u tell chu B.O.S.S.274

803 [REDACTED]
803 [REDACTED]
803 [REDACTED]
803 [REDACTED]
803 [REDACTED]
803 [REDACTED]
803 [REDACTED]
803 [REDACTED]

Sheet1

2013-05-06 10:43:50:498	766017304	I was like u was mii cuzo an she was like nah	
2013-05-06 10:44:30:408	766017304	So wht she thinkin B.O.S.S.274	803 [REDACTED]
2013-05-06 10:44:49:732	766017304	We dating	
2013-05-06 10:46:04:103	766017304	Wht she wanna get at me not gne happen B.O.S.S.274	803 [REDACTED]
		Nah she was like damn if dahts yo man u good caz he can come get u an stuff	
2013-05-06 10:47:12:031	766017304	caz u got a car	
		Yea tell ha she cn chill wit us as long as she dnt b lkn tellin ha bizness nd shyt	
2013-05-06 10:53:33:305	766017304	B.O.S.S.274	803 [REDACTED]
2013-05-06 10:54:17:828	766017304	Nahh can she gtta big mouth an she only 14	
2013-05-06 10:59:40:622	766017304	U rite bout dat make sure u delete dis shyt B.O.S.S.274	803 [REDACTED]
2013-05-06 11:04:34:767	766017304	I will	
2013-05-06 11:05:05:217	766017304	K B.O.S.S.274	803 [REDACTED]
2013-05-06 11:05:30:914	766017304	Luv u had fun today	
2013-05-06 11:06:31:474	766017304	Same here cnt wait to do it again B.O.S.S.274	803 [REDACTED]
2013-05-06 11:06:47:968	766017304	I no rite	
2013-05-06 11:11:24:387	766017304	ltz cumin B.O.S.S.274	803 [REDACTED]
2013-05-06 11:11:45:037	766017304	I b glad when it do	
2013-05-06 11:14:03:152	766017304	N do tyme nd whn it do ltz gne G all day B.O.S.S.274	803 [REDACTED]
2013-05-06 11:14:57:295	766017304	An ima luv it	
2013-05-06 11:15:31:351	766017304	Kno u will B.O.S.S.274	803 [REDACTED]
2013-05-06 11:16:29:730	766017304	Yep	
2013-05-06 11:17:52:924	766017304	Jus de thought go me ready B.O.S.S.274	803 [REDACTED]
2013-05-06 11:20:45:042	766017304	Ooo	
2013-05-06 11:22:37:402	766017304	Alilllght do sum wrk hope to c u later B.O.S.S.274	803 [REDACTED]
2013-05-06 11:24:37:745	766017304	lght	
2013-05-07 05:02:42:057	766017304	Good mornig	
2013-05-07 06:23:49:921	766017304	I got expelled for yesterday	
2013-05-07 06:59:56:912	766017304	Hw de hell dat happen B.O.S.S.274	803 [REDACTED]
2013-05-07 07:01:04:748	766017304	Caz i missed two classes nw mil moma gne flip an ima get put out	
2013-05-07 07:01:58:332	766017304	Cn dey prove anything B.O.S.S.274	803 [REDACTED]
2013-05-07 07:02:49:490	766017304	No they juss no i wasn't n class	
		If dey prove nuffin thn fight it. O y dudes keep nboxin u lkin bout sex	
2013-05-07 07:04:18:493	766017304	B.O.S.S.274	803 [REDACTED]
		Idek but i seen were mil ex tried to get buck wit u he still tryinna date me but	
2013-05-07 07:08:01:636	766017304	ain't gne happen	
2013-05-07 07:13:40:557	766017304	Yea he jus dn't kno mi fam waitin on wrd to taken out B.O.S.S.274	803 [REDACTED]

Sheet1

2013-05-07 07:14:51:482	766017304	Aye mii friend wnna b FOLK but she said she dnt wnna file wat else can she do
2013-05-19 00:05:05:598	766017304	Baby found a way to tik to u love u
2013-05-19 08:17:38:985	766017304	Hw B.O.S.S.274
2013-05-19 09:09:45:217	766017304	Txd plus
2013-05-19 09:27:57:746	766017304	I got dat too B.O.S.S.274

80 [REDACTED]

80 [REDACTED]

Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

PETITIONER'S EXHIBIT

D

COUNTY OF York
STATE VS.
KEITH FITZGERALD BURRIS

AKA: _____
Race: B Sex: M Age: 30
DOB: 09-01-2000 SS#: 2400 1111 1111
Address: Rock Hill, S.C. 29730
DL#: SC00717395

INDICTMENT/CASE#

283

2004-GS46 1161

NW#: G-391759

Date of Offense: 09-01-2000 thru 9-30-2000

S.C. Code § : 16-3-655(2)

CDR Code #: 0396

☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: **CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE**

in violation of § 16-3-655(2) of the S.C. Code of Laws, bearing CDR Code # 0396

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor:

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service 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 given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 470 days

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient: _____

*Fine: _____ \$

§ 14-1-206 - (Assessments 107.5 %) _____ \$

§ 14-1-211(A)(1) (Surcharge) _____ \$ 100

§ 14-1-211(A)(2) (Surcharge) _____ \$

§ 56-5-2995 (DUI Assessment) _____ \$

3% to Court (if paid in installments) _____ \$

§ 73.3, 1B TP (Law Enforce. Funding) _____ \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) _____ \$

§ 50-21-114(BUI Breath Test Fee) _____ \$

§ 56-5-2942(J) (Vehicle Assessment) _____ \$ 125

TOTAL _____ \$ 250

Clerk of Court/Deputy Clerk

Court Reporter: Michelle Williams

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning

\$ 20.00 App. paid to Public Defender Fund

Other: Sex Offender Registry

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to clerk during probation.

PRESIDING JUDGE

Judge Code: 0101419

Sentence Date: 1-24-05

WITNESSES

YCSD /B. Tolson

lgc

ARREST WARRANT NUMBER

G-391759

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2004-GS-46-

1461

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

May 20th Term 2004

THE STATE

vs.

KEITH FITZGERALD BURRIS

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR, SECOND DEGREE

SC Code: 16-3-655(2)
CDR Code:0396

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I Keith Fitzgerald Burr
hereby appear in my own proper person and
guilty to the within indictment or to

as charged

Defendant

Witness:

C.C.C. PLS. AND G.S.

284

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK	)	CASE NO. 2015-CP-46-00758
IN THE MATTER OF THE CARE	)	
AND TREATMENT OF	)	PETITIONER'S FIRST MOTION IN
KEITH FITZGERALD BURRIS,	)	LIMINE
	)	
RESPONDENT.	)	

To: Anna R. Good, Esquire, Attorney for Respondent.

You will please take notice that the State moves before the Court to prohibit any reference to the location or residence where Respondent would receive sex offender treatment should he be committed, including but not limited to it being at a "prison," as well as a prohibition against describing Respondent being "punished" or being civilly committed "for life," or words to that effect. In support of this Motion the following is offered:

*already
will
know
York City.
disciplin.*

1. Petitioner is seeking the civil commitment of Respondent to the South Carolina Department of Mental Health ("Department") as a Sexually Violent Predator. Should a jury find he is a sexually violent predator, he would be confined for long term care, control and treatment at the Sexually Violent Predator Unit, operated by the South Carolina Department of Mental Health, at either of at least two locations, including one on the property of the Broad River Correctional Institution.
2. One of the Sexually Violent Predator Treatment Units is located on Department of Corrections property at the Edisto Unit, which was the former "Death Row."

3. Treatment at the Sexually Violent Predator Treatment Unit will last until Respondent's mental abnormality or personality disorder has so changed that he is safe to be at large, and no longer likely to engage in acts of sexual violence, S. C. Code Ann. Sections 44-48-110 and 44-48-120. The statute is a civil, non-punitive scheme, for treatment, *In the Matter of the Care and Treatment of Matthews*, 345 S.C. 638, 550 S.E.2d 311 (2001).
4. A jury in the instant matter will determine whether Respondent is a sexually violent predator. A sexually violent predator, which is defined by statute, is a person who has been "convicted of a sexually violent offense, and suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long term control, care, and treatment." See S.C. Code Ann. Section 44-48-30 (1) (a) and (b).
5. Based on the foregoing, the issue before the Court is a factual and medical issue, and not one involving the conditions where Respondent would be confined. Testimony about "Death Row," the Department of Corrections, a prison, being there for life, being punished, other residents of the program, and general conditions of the locations where Respondent would be confined are not relevant to these proceedings, and would distract the jury from its mission. Under Rule 401 of the Rules of Evidence in South Carolina, "relevant evidence" means "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or

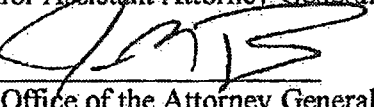
less probable than it would be without the evidence." Under Rule 403, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. It is submitted that testimony and comments as outlined above are unfairly prejudicial to the State, and would mislead the jury.

WHEREFORE, it is respectfully requested that this Court order that counsel and witnesses refrain from making description of the actual locations where Respondent would be confined for sex offender treatment, describing it as a "prison," that he will be there for "life," that he is being punished, or words to that effect as requested above, or grant such relief as is just and proper.

Respectfully Submitted,

ALAN WILSON
Attorney General

JAMES G. BOGLE, JR.
Senior Assistant Attorney General

By: 
Office of the Attorney General
Post Office Box 11549
Telephone: (803) 734-3243
Columbia, South Carolina 29211

September 23, 2015
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTEENTH JUDICIAL CIRCUIT
	)	
COUNTY OF YORK	)	CASE NO. 2015-CP-46-00758
	)	
IN THE MATTER OF THE CARE	)	
AND TREATMENT OF	)	PETITIONER'S SECOND MOTION IN
KEITH FITZGERALD BURRIS,	)	LIMINE
	)	
RESPONDENT.	)	
	)	

To: Anna R. Good, Esquire, Attorney for Respondent.

You will please take notice that the State moves before the Court to prohibit any reference as to the details of any and all future treatment Respondent would receive if committed to the Sexually Violent Predator Program. In support of this Motion the following is offered:

1. A jury in the instant matter will determine whether Respondent is a sexually violent predator. A sexually violent predator, which is defined by statute, is a person who has been "convicted of a sexually violent offense, and suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long term control, care, and treatment." See S.C. Code Ann. Section 44-48-30 (1) (a) and (b). The State is only required to prove the required elements above, and by allowing Respondent to pose arguments and questions as to his future treatment places an additional burden on the State to prove the potential for treatment success. The United States Supreme Court has stated that "...it would be of little value to require treatment as a precondition for civil confinement of the dangerously insane when no

*allowed
outpatient
v.
inpatient*

acceptable treatment existed. To conclude otherwise would obligate a State to release certain confined individuals who were both mentally ill and dangerous simply because they could not be treated for their afflictions.” *Kansas v. Hendricks*, 117 S.Ct. 2072, 138 L.Ed.2d 501 (1997). Therefore, based on *Kansas v. Hendricks*, even if the actual future treatment offered to Respondent would be ineffective, it does not indicate that Respondent should not have been initially committed into the SVP Program.

2. Furthermore, relevant evidence is defined as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” SC.R.E. 401. As stated above, the actual treatment offered if Respondent was committed to the Sexually Violent Predator Program does not aid a juror in determining the criteria as to whether Respondent satisfies the definition of a Sexually Violent Predator, and is irrelevant.

- a. In the alternative, even if evidence regarding treatment is relevant, such evidence should would cause unnecessary confusion and mislead the jury. “Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of evidence.” SC.R.E. 403. As stated above, the State is only required to

prove Respondent has been convicted of a 1) sexually violent offense, and 2) has a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long term control, care, and treatment. See S.C. Code Ann. Section 44-48-30 (1) (a) and (b). Allowing evidence regarding treatment creates an additional element for the State to prove for confinement and indicates that the treatment must be effective, which can potentially confuse and mislead the jury.

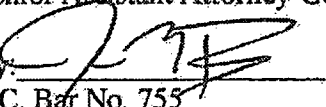
3. In addition, any testimony proffered as to treatment from the State's witness, Marie E. Gehle, Psy.D., would be speculative. In this case, Dr. Gehle will be offered as an expert in forensic psychology and will discuss whether Respondent meets the criteria to be admitted into the Sexually Violent Predator Treatment Program. Dr. Gehle does not determine a treatment regimen for incoming residents, and only makes a determination for initial commitment proceedings and whether the resident has progressed to be considered safe at large during the resident's annual review. Since Respondent has not been admitted into the program, it would be speculative for Dr. Gehle to determine what the course of treatment Respondent would actually receive. In addition, Dr. Gehle has not participated as a member of the treatment team on the Sexually Violent Predator Unit for some time. Therefore, she would be unaware of what course of action and particular treatment Respondent would receive even if admitted to the program.

WHEREFORE, it is respectfully requested that this Court prohibit Respondent to prohibit any reference as to the details of any and all future treatment Respondent would receive if committed to the Sexually Violent Predator Program. Petitioner would also seek any such relief as is just and proper.

Respectfully Submitted,

ALAN WILSON
Attorney General

JAMES G. BOGLE, JR.
Senior Assistant Attorney General

By: 
S.C. Bar No. 755
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
V: 803.734-1173
F: 803.734-6679
jbogle@scag.gov

September 23, 2015
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)
)
 IN THE MATTER OF THE CARE)
 AND TREATMENT OF)
 KEITH FITZGERALD BURRIS,)
 RESPONDENT.)

IN THE COURT OF COMMON PLEAS
 SIXTEENTH JUDICIAL CIRCUIT

RECEIVED

CASE NO. 2015-CP-46-00758

OCT 14 2015

ORDER OF COMMITMENT

SC Court of Appeals

The trial of this case was held in the York County Court of Common Pleas the week of October 5, 2015. A jury of citizens from York County heard this case pursuant to a request for a jury trial filed by the State. Senior Assistant Attorney General James G. Bogle, Jr. represented the State of South Carolina. Anna Good, Esquire, represented the Respondent. The jury having heard the presentation of the evidence made the following findings of fact pursuant to S. C. Code Ann. Sections 44-48-90 and 44-48-100:

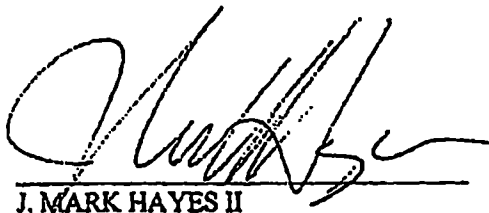
The State has proven beyond a reasonable doubt that Respondent, Keith Fitzgerald Burris, is a sexually violent predator as that term is defined in S. C. Code Ann. Section 44-48-30.

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

(a) Respondent Keith Fitzgerald Burris is committed to the Department of Mental Health for his long-term control, care and treatment;

(b) Respondent Keith Fitzgerald Burris is to continue to be detained at the York County Detention Center, and then transported to the secure facility of the South Carolina Department of Mental Health, at 4460 Broad River Road, Columbia, SC 29210. The Detention Center is to transport Respondent on such scheduled date as it coordinates with the Department of Mental Health.

AND IT IS SO ORDERED.



J. MARK HAYES II
 Sixteenth Judicial Circuit
 Court of Common Pleas

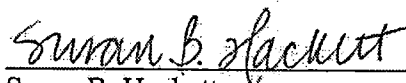
10/17, 2015
 York, South Carolina

FILED-RECEIVED
 2015 OCT -8 PM 12:41
 CLERK OF COURT
 S.C. J.C.P. & S.S.
 YORK COUNTY, SC

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 26th day of January, 2017.