

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Michael G. Nettles, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF CARL DURRELL COOK,

APPELLANT

APPELLATE CASE NO. 2012-206369

RECORD ON APPEAL

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INDEX

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TRIAL TRANSCRIPT (DECEMBER 5 AND 7, 2011).....1

STATE EXHIBIT #1 (INDICTMENT).....167

STATE EXHIBIT #2 (INDICTMENT).....172

STATE EXHIBIT #3 (STATEMENT OF CARL DURRELL COOK)175

ORDER OF COMMITMENT (DECEMBER 7, 2011).....176

CERTIFICATE OF COUNSEL.....177

STATE OF SOUTH CAROLINA)	
)	COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)	2010-CP-32-03952

IN THE MATTER OF THE CARE)	
AND TREATMENT OF)	TRANSCRIPT OF RECORD
CARL DURRELL COOK)	
)	
_____ DEFENDANT)	

December 5 and 7, 2011
 Lexington, South Carolina

B E F O R E:

HON. MICHAEL G. NETTLES, Judge and a jury.

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

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 Attorney for the DEFENDANT

CAROL M. THUEME, RPR
 Official Court Reporter

I N D E X

OPENING STATEMENTS:	PAGE
Mr. Bogle	43
Mr. Hall	46
 WITNESSES:	
DR. REBECCA JACKSON:	
Direct Examination by Mr. Bogle	49
Cross Examination by Mr. Hall	77
Redirect Examination by Mr. Bogle	90
 SARAH SMITH:	
Direct Examination by Mr. Hall	93
Cross Examination by Mr. Bogle	96
 DENISE JACKSON:	
Direct Examination by Mr. Hall	100
Cross Examination by Mr. Bogle	102
 LAKESICHA GIBBES:	
Direct Examination by Mr. Hall	104
Cross Examination by Mr. Bogle	107
 CARL COOK:	
Direct Examination by Mr. Hall	109
Cross Examination by Mr. Bogle	116
CLOSING ARGUMENTS:	
Mr. Bogle	131
Mr. Hall	140
CHARGE OF THE COURT	146
VERDICT OF THE JURY	159
SENTENCE OF THE COURT	164
CERTIFICATE OF REPORTER	166

EXHIBITS

State's Exhibits

		ID	EVD
Exh.-1	Indictment	35	55
Exh.-2	Indictment	35	56
Exh.-3	Statement	128	128

1 THE COURT: All right. Mr. Hall, you're
2 recognized.

3 MR. HALL: Your Honor, if it please the Court.
4 I've spoken with Mr. Cook this morning in the
5 courtroom, and whatever, and I'm not -- I'm not sure that
6 he's satisfied with me as his attorney, and I would just
7 like to give him an opportunity to address his concerns to
8 the Court.

9 THE COURT: Okay. Let's let him have a seat at
10 the defense table over here.

11 Mr. Cook, before we do that, I'm going to ask
12 you to place your left hand on the Bible and raise your
13 right hand as the Clerk administers the oath.

14 CARL COOK, after being duly sworn, testified as
15 follows:

16 THE COURT: All right. Mr. Cook, I'm going to
17 ask you to stand right beside your lawyer there, and I'm
18 going to ask you a few questions.

19 THE DEFENDANT: Okay.

20 THE COURT: All right. Mr. Cook, I'm Michael
21 Nettles. I'm the resident judge for the 12th Judicial
22 Circuit, and I'm going to be presiding over the trial of
23 this case. My job is to ensure that you get a fair trial.
24 You understand that, don't you?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And I intend to do that.

2 The Clerk has indicated to me -- and your
3 counsel has indicated to me -- that you might not be
4 satisfied with his service.

5 Do you want Mr. Hall to continue to represent
6 you?

7 THE DEFENDANT: I did, Your Honor, but he was
8 supposed to come back to talk to me again and, you know,
9 we hadn't really -- we hadn't talked about this case at
10 all. He hadn't -- he came to visit me twice.

11 The first time he came to visit me, it didn't
12 last ten minutes because he started yelling at me. And I
13 wasn't pleased with that, and I told him he can't
14 represent me like that.

15 THE COURT: Okay.

16 THE DEFENDANT: It was unethical and
17 unprofessional, and I felt like, you know, I need somebody
18 that's going to hear me.

19 So he came back the second time. And I'm, like,
20 "What's -- what's going on?"

21 He said, "We're going to court."

22 I'm like -- so he started explaining to me. He
23 said he just got some phone numbers from -- of several of
24 my family members, and he say he was going to call them.

25 He said he was going to come back and visit me,

1 was on -- I think he said he'd be back that Friday. It
2 was on Wednesday and he said he was coming back that
3 Friday. Well, he never did come back. And so I was going
4 give him a chance and he never come back.

5 And I'm, like, this man don't even know nothing
6 about my case. He don't understand what I'm -- what's
7 going on, explain nothing to me. I don't even know what's
8 going on in this case. I don't understand it. But,
9 however, I was willing give him a chance but --

10 THE COURT: Very good.

11 All right. Mr. Hall, do you feel as though -- I
12 know the issues are pretty straightforward with regard to
13 this case. Do you feel as though you're ready to proceed
14 forward with this matter?

15 MR. HALL: Your Honor, I feel that way. But I
16 feel very, very, very uncomfortable having an adverse
17 client. I mean, that's -- that's going to put a double
18 burden on me to --

19 THE COURT: Okay. My question to you is --

20 MR. HALL: But my problem is I don't think this
21 case is ever going to get in a posture to where Mr. Cook
22 understands.

23 THE COURT: All right. Very good.

24 My question to you is essentially this: I know
25 you feel uncomfortable, but you've been appointed as an

1 officer of the court to represent Mr. Hall.

2 MR. HALL: Yes, sir.

3 THE COURT: My question to you is: Do you feel
4 that you've done everything that you can prepare this
5 case?

6 MR. HALL: Yes, sir.

7 THE COURT: All right. Very good.

8 All right. Mr. Cook, in the United States of
9 America, if a person is indigent and they cannot afford a
10 lawyer, one will be appointed free of charge, but
11 obviously you can't have the lawyer that you want. And
12 Mr. Hall has been appointed. He's a very competent member
13 of the Bar. He indicates that he is capable of proceeding
14 forward.

15 So your choices are this: You can proceed
16 forward with Mr. Hall as your lawyer. He's been to law
17 school. He's gotten years of experience with regard to
18 legal matters. He understands the Rules of Evidence. He
19 understands what needs to be done to protect your rights.

20 You can proceed forward with him, or you can
21 represent yourself. Or you can do it and you can use him
22 as an adviser. Those are your choices.

23 Do you want to proceed forward on your own, or
24 do you want Mr. Hall to represent you?

25 THE DEFENDANT: Well, I was in the process of

1 retaining one.

2 THE COURT: Okay. You have had two appointed
3 counsel as of today's date.

4 Is that correct, Mr. Hall?

5 MR. HALL: Yes, sir.

6 THE COURT: Is that correct, Mr. Cook?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. And you have not
9 retained counsel as of yet, and we're going to proceed
10 forward with your trial here today.

11 Do you want Mr. Hall to represent you, or do you
12 want to do it yourself?

13 THE DEFENDANT: Well, see, first of all, I mean
14 he said he can't help me. He said he can't help me. So I
15 mean --

16 THE COURT: Well, he might be very right in that
17 regard. I don't know anything about the evidence. I
18 don't know anything about the case. It might be that
19 there's overwhelming evidence against you. But,
20 nonetheless, he is a lawyer. He's in good standing with
21 the Bar. He tells me that he's done everything that he
22 can to prepare your case, and I believe him. And we're
23 going to proceed forward.

24 Your options are to proceed forward by yourself,
25 pro se, and do it on your own, or you can have Mr. Hall to

1 help you. Which do you want to do?

2 THE DEFENDANT: So you mean to tell me I can't
3 retain my --

4 THE COURT: Not at this juncture, no. You've
5 had an opportunity to do that. The case is ready to be
6 tried here today.

7 THE DEFENDANT: Okay.

8 THE COURT: Your choices are simply this: Mr.
9 Hall or by yourself. Which one do you want to do?

10 THE DEFENDANT: Can I speak?

11 THE COURT: You can answer my question. Then
12 you can -- do you want to go with Mr. Hall, or do you want
13 to represent yourself?

14 THE DEFENDANT: I don't know how to represent
15 myself.

16 THE COURT: Okay. Then Mr. Hall will represent
17 you. Very good.

18 MR. HALL: Thank you, Your Honor.

19 THE DEFENDANT: I'm not consenting to this.

20 THE COURT: Pardon?

21 THE DEFENDANT: But I'm not consenting to this.

22 THE COURT: I understand that. You're protected
23 on the record. You can object, and you are protected on
24 the record in that regard. We're proceeding forward.

25 All right. Anything further, Mr. Hall?

1 MR. HALL: No, sir.

2 THE COURT: Anything further, Mr. Bogle?

3 MR. BOGLE: There were two motions in limine
4 that we filed. One of them, this first motion in limine,
5 I'd like to withdraw.

6 THE COURT: Okay.

7 MR. BOGLE: It had to do with testimony about
8 the location where he might be. I'm going to withdraw
9 that.

10 THE COURT: Okay.

11 MR. BOGLE: The second motion in limine had to
12 do with -- I don't know if he's going to testify. But if
13 Mr. Cook elects to take the stand, we're moving that he be
14 not allowed to invoke his right against self-incrimination
15 regarding any prior convictions to which he pled guilty.
16 It's a civil case. Can't do that.

17 THE COURT: All right. We -- you know, it's
18 12 o'clock noon, and we need to select the jury. We need
19 to go ahead and proceed forward. We'll take up that
20 matter after we select the jury.

21 MR. BOGLE: Thank you, Judge.

22 THE COURT: Any motions before we select the
23 jury?

24 MR. HALL: None from the defendant, Your Honor.

25 THE COURT: All right. We're ready. If we

1 could bring the jury in.

2 THE DEFENDANT: Your Honor, may I be
3 acknowledged?

4 THE COURT: No, not at this moment. I'll -- you
5 can be heard later.

6 (The jury panel came into open court at
7 approximately 12:12 p.m.)

8 THE COURT: Good morning, ladies and gentlemen
9 of the jury panel. I'm Michael Nettles. I'm the resident
10 judge for the 12th Judicial Circuit, which encompasses
11 Florence and Marion County.

12 You have been subpoenaed to participate in a
13 one-week term of Common Pleas. Thank y'all for being
14 here.

15 Judge McMahon has engaged in the process of
16 qualification. Each of you have been qualified, and I'm
17 going to ask you a number of questions, a different series
18 of questions, to determine whether or not you can be fair
19 and impartial with regard to the trial of this case.

20 Ladies and gentlemen of the jury, we're about to
21 begin the civil case of 2010-CP-32-3952, and I'm going
22 to -- this is a case concerning the care and treatment of
23 Carl Durrell Cook. And this is a little bit different
24 type case. I'm going to tell you a little bit about that
25 in order to ask you some questions to determine whether or

1 not you can be fair and impartial.

2 Ladies and gentlemen of the jury, the State has
3 brought this case under the sexually violent predator law
4 of the state of South Carolina. The State seeks the civil
5 commitment of the respondent for long-term, controlled
6 care and treatment in a secure facility. This is not a
7 criminal proceeding seeking incarceration of the
8 defendant, but rather is a proceeding seeking civil
9 commitment.

10 The State of South Carolina alleges and claims
11 that the respondent, Carl Durrell Cook, is a sexually
12 violent predator under the law. The respondent denies
13 that he is a sexually violent predator. And the burden
14 is, therefore, on the State to prove by evidence
15 sufficient to satisfy each of you beyond a reasonable
16 doubt that the respondent is a sexually violent predator.

17 If the State is unable to meet that burden of
18 proof as to one or more of the elements of this claim, the
19 respondent's entitled to a finding that he is not a
20 sexually violent predator.

21 Ladies and gentlemen of the jury, that's what
22 this case is about, and I'm going to ask you a series of
23 questions to determine whether or not you could be fair
24 and impartial with regard to the trial of this case.

25 Having been made aware of the nature of this

1 case, does anybody know anything about this case? If so,
2 please stand.

3 (No response.)

4 THE COURT: Did anybody witness any of the
5 events that gave rise to the predicate offenses against
6 Carl Durrell Cook? If so, please stand.

7 (No response.)

8 THE COURT: Has anybody read anything about it
9 in the newspaper or seen anything in the news about it?
10 If so, please stand.

11 (No response.)

12 THE COURT: All right. No response.

13 Mr. Cook, I'm going to ask you, if you could, to
14 stand and face the jury panel.

15 Yes, sir, you may be seated.

16 This is Carl Durrell Cook. Is anyone related by
17 blood or marriage? Do you have a close social, business,
18 or personal relationship with him? If so, please stand.

19 Yes, sir. I'm going to ask, if you could, to
20 come forward and -- come forward, if you could, please,
21 sir. Tell you what I'm going to do if you'll bear with
22 me.

23 Yes, sir. Your full name?

24 PROSPECTIVE JUROR: Cory Dennis.

25 THE COURT: Cory Dennis. And what juror number?

1 PROSPECTIVE JUROR: Sixty.

2 THE COURT: He is Juror No. 60.

3 What is your relationship with the defendant?

4 PROSPECTIVE JUROR: On my mother's side of the
5 family, he is my second or third cousin.

6 THE COURT: Due to the fact that you're related
7 to him, I'm going to excuse you for the purposes of this
8 trial. Very good. You may return to the jury panel.
9 Thank you.

10 He's excused for the purposes of this trial.

11 THE BAILIFF: Juror 147, Your Honor.

12 THE COURT: You're free to leave, sir. Very
13 good. Thank you.

14 THE CLERK: That was Mr. Dennis, Cory Dennis?

15 THE COURT: Yes.

16 Give me your full name.

17 PROSPECTIVE JUROR: Mary Mims.

18 THE COURT: Mary Mims.

19 PROSPECTIVE JUROR: I know two family members.
20 I know the family, but I don't really know him personally.

21 THE COURT: All right. Very good. Just by
22 virtue of the fact that you might or might not know the
23 family would not preclude you from serving as a juror in
24 this case. If called upon to serve on this jury, could
25 you listen to the evidence presented in this case, or the

1 lack thereof, and give both the State and the defendant a
2 fair and impartial trial?

3 PROSPECTIVE JUROR: Uh-huh. Yes, sir.

4 THE COURT: You're qualified to serve. Thank
5 you.

6 THE CLERK: She's Juror No. 147.

7 THE COURT: She'll stay with us.

8 Mr. Bogle, potential witnesses in this case are
9 Dr. Rebecca Jackson. Any further from the State?

10 MR. BOGLE: No, Your Honor. She's the only one.

11 THE COURT: All right. And, Mr. Hall, any
12 potential witnesses for the defense?

13 MR. HALL: Yes, sir. We have the sister,
14 mother, and aunt and a gentleman from the NAACP.

15 THE COURT: Okay. Do they have names?

16 MR. HALL: I've given Mr. Bogle their names.

17 THE COURT: Okay. If I could have that list,
18 please.

19 MR. HALL: Eddie Smith, the stepfather; Sarah
20 Smith, the mother; Denise Jackson, the aunt; Lakescha,
21 L-A-K-E-S-C-H-A, Gibbes, the sister; and Sharell,
22 S-H-A-R-E-L-L, Harris from the NAACP.

23 THE COURT: Very good.

24 All right. Is anyone related by blood or
25 marriage or have a close social, business, or personal

1 relationship with any of these witnesses? If so, please
2 stand.

3 (No response.)

4 THE COURT: No response.

5 Does any member of the jury have an interest in
6 the outcome of this case? If so, please stand.

7 (No response.)

8 THE COURT: No response.

9 Has any member of the jury expressed or formed
10 an opinion about this case? If so, please stand.

11 (No response.)

12 THE COURT: No response.

13 Does any member of the jury have a bias or
14 prejudice for or against the plaintiff or the defendant?
15 If so, please stand.

16 (No response.)

17 THE COURT: Does any member of the jury know of
18 any reason why you could not give the plaintiff and the
19 defendant a fair and impartial trial? If so, please
20 stand.

21 (No response.)

22 THE COURT: I'm going to ask Mr. Bogle if you
23 would stand, identify yourself, where you work, for the
24 jury.

25 MR. BOGLE: Thank you.

1 My name is Jim Bogle. I live in Columbia. I
2 work for the Attorney General's office over in Columbia.

3 THE COURT: Is anyone related by blood or
4 marriage to Mr. Bogle? Do you have a close social,
5 business, or personal relationship with him?

6 I'm not certain if he's ever been involved and
7 engaged in the private practice of law. But if he has,
8 has anyone ever represented by him in the past?

9 If any of those things apply to you, please
10 stand.

11 (No response.)

12 THE COURT: No response.

13 Mr. Hall, could you stand and identify yourself
14 to the jury.

15 MR. HALL: My name's Ronald Hall. I'm in
16 private practice. My office is on Highway 378 in West
17 Columbia right across from Brooklyn Baptist Church in West
18 Columbia. I've been in private practice about 38 years.

19 THE COURT: All right. Is anyone related by
20 blood or marriage to Mr. Hall? Do you have a close
21 social, business, or personal relationship, or have you
22 been represented by him in the past or presently? If so,
23 please stand.

24 Yes, sir. If you could come forward.

25 Yes, sir. Your name and number.

1 PROSPECTIVE JUROR: Joseph Taylor, 220.

2 THE COURT: Joseph Taylor, 220.

3 PROSPECTIVE JUROR: One time he represented me
4 in a real estate matter.

5 THE COURT: All right. This does not have
6 anything to do with real estate. That matter has been
7 concluded?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Does he have any ongoing
10 representation of you?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: If you are called upon to serve on
13 this jury, can you set aside the fact that he's
14 represented you in the past and give both the plaintiff
15 and the defendant a fair and impartial trial?

16 PROSPECTIVE JUROR: Sure.

17 THE COURT: All right. You're qualified to
18 serve. Thank you.

19 He'll stay with us.

20 PROSPECTIVE JUROR: Thank you, sir.

21 THE COURT: Does any member of the jury panel or
22 one of your close friends or relatives ever been the
23 victim of a violent or sexual assault? If so, please
24 stand.

25 If each of you could come forward.

1 And, Counsel, feel free to come forward.

2 THE BAILIFF: Juror No. 230, Your Honor.

3 THE COURT: Yes, sir. Your full name?

4 PROSPECTIVE JUROR: Harold Vinson.

5 THE COURT: Harold Vinson.

6 PROSPECTIVE JUROR: Yes, sir. Brandon Vinson
7 was murdered in 1995, I believe, and he was my nephew.

8 THE COURT: All right. And this obviously does
9 not involve homicide or doesn't have anything to do with
10 the facts of that case. And this is not even a criminal
11 case.

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: This is a matter that involves civil
14 commitment.

15 If called upon to serve on this jury, could you
16 both listen to the evidence presented in this case, or the
17 lack thereof, and give both the plaintiff and defendant a
18 fair and impartial trial?

19 PROSPECTIVE JUROR: I believe so.

20 THE COURT: All right. You know, in polite
21 conversation we quite often qualify what we're saying. In
22 this matter we have to deal with absoluteness. My
23 question is a yes or no question. Could you be fair and
24 impartial?

25 PROSPECTIVE JUROR: I'm not sure about that.

1 THE COURT: All right. We'll allow you to be
2 excused. You are free to leave at this time.

3 PROSPECTIVE JUROR: Thank you.

4 THE COURT: He's excused for the purpose of this
5 trial.

6 Yes, sir.

7 THE BAILIFF: Juror No. 24, Your Honor.

8 THE COURT: Yes, sir. Your full name?

9 PROSPECTIVE JUROR: Talmadge Branham.

10 THE COURT: Talmadge Branham. Your number?

11 PROSPECTIVE JUROR: Twenty-four.

12 THE COURT: Juror No. 24. Yes, sir.

13 PROSPECTIVE JUROR: In '89 my sister was killed
14 in West Columbia.

15 THE COURT: Okay. You know, this is not a
16 criminal trial. The issues involve a civil commitment.
17 And this is a different fact than the facts of your family
18 member.

19 My question to you is, if called upon to serve
20 on this jury, could you set aside your life's experience,
21 listen to the evidence presented in case, or lack thereof,
22 and give the State and the defendant a fair and impartial
23 trial?

24 PROSPECTIVE JUROR: I didn't quite get when you
25 say --

1 THE COURT: This involves a civil commitment.
2 It's not a criminal offense. This has to do with a civil
3 commitment.

4 PROSPECTIVE JUROR: Okay. I think I could.

5 THE COURT: Okay. In polite conversation we
6 always qualify what we say. But in these matters, we have
7 to deal with absoluteness.

8 My question to you is, could you listen to the
9 evidence in this case and give a fair and impartial trial
10 to both the plaintiff and the defendant?

11 PROSPECTIVE JUROR: Uh-huh.

12 THE COURT: You're qualified to serve. Thank
13 you.

14 THE BAILIFF: Juror No. 146, Your Honor.

15 THE COURT: Dustin Miller, 146.

16 Yes, sir.

17 PROSPECTIVE JUROR: I had a very close friend
18 that was sexually assaulted several years ago.

19 THE COURT: Okay. You need to say it loud
20 enough so that she can hear you.

21 PROSPECTIVE JUROR: I had a very close friend
22 who was sexually assaulted several years ago.

23 THE COURT: Okay. Well, this case does not
24 involve that. Obviously it involves something else. And
25 it's not even a criminal charge, it's a civil commitment.

1 If called upon to serve on this jury, could you
2 listen to the evidence as presented in this case and give
3 both the plaintiff and defendant and a fair and impartial?

4 PROSPECTIVE JUROR: Uh-huh.

5 THE COURT: You're qualified to serve. Thank
6 you.

7 THE CLERK: Juror No. 13, Your Honor.

8 THE COURT: Yes, ma'am. Your name and number.

9 PROSPECTIVE JUROR: Kay Banks.

10 THE COURT: Kay Banks.

11 And your number?

12 PROSPECTIVE JUROR: Thirteen.

13 THE COURT: Juror No. 13.

14 PROSPECTIVE JUROR: My best friend in college
15 was sexually assaulted and, also --

16 THE COURT: You need to say it loud enough so
17 she can hear you.

18 PROSPECTIVE JUROR: My best friend in college
19 was sexually assaulted and then also I'm a college
20 administrator and I serve as a victim's advocate for
21 sexual assault victims.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: And I'm also chair on the
24 judicial board and hear sexual assault cases.

25 THE COURT: And in view of that and your life's

1 work, it might be difficult for you to be fair and
2 impartial, wouldn't it?

3 PROSPECTIVE JUROR: Yes, it would be.

4 THE COURT: Okay. I'm going to excuse you for
5 the purposes of this trial. You are free leave at this
6 time. Thank you.

7 She's excused for the purposes of this trial
8 only.

9 THE BAILIFF: Juror No. 18, Your Honor.

10 THE COURT: Yes, ma'am. How are you doing?
11 Your name and number?

12 PROSPECTIVE JUROR: My name is Holly Blair. My
13 number is 18.

14 THE COURT: Very good. And tell me what your
15 situation is.

16 PROSPECTIVE JUROR: Abusive marriage: Violent,
17 sexual, physical, emotional, mental.

18 THE COURT: Okay. This case obviously does
19 not -- is a different set of circumstances.

20 If called upon to serve on this jury, could you
21 set aside your own life experiences and give both the
22 plaintiff and defendant a fair and impartial trial and
23 listen and apply the law as I charge it to you?

24 PROSPECTIVE JUROR: I would try to, sir.

25 THE COURT: All right. Well, in polite

1 conversation quite often we qualify what we say, but these
2 are matters that we have to deal in absolutes. And my
3 question to you really requires a yes or no answer.

4 My question to you is: Could you be fair and
5 impartial to both the plaintiff and the defendant?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: You are qualified to serve. Thank
8 you.

9 PROSPECTIVE JUROR: Thank you.

10 THE BAILIFF: Juror No. 132, Your Honor.

11 THE COURT: Yes, sir. Your full name.

12 PROSPECTIVE JUROR: Andrew Scott Mallory.

13 THE COURT: Andrew Scott Mallory.

14 And your number?

15 PROSPECTIVE JUROR: 132.

16 THE COURT: I tell you, in Lexington County
17 everybody remembers their number. That is very unusual.
18 I don't know what that is, but y'all are very good jurors.

19 All right. Very good.

20 PROSPECTIVE JUROR: A couple of months ago I was
21 the victim, me and my girlfriend were the victims of a
22 strong arm robbery.

23 THE COURT: He said a couple of months ago he
24 and his girlfriend were victims of a strong arm robbery.

25 If called upon to serve on this jury, this

1 doesn't involve that.

2 PROSPECTIVE JUROR: I'm uncomfortable.

3 THE COURT: Okay. Very good.

4 What I'm saying is that this obviously doesn't
5 have anything to do with Mr. Cook.

6 If called upon to serve on this case, could you
7 set aside your life's experience and listen to the
8 evidence presented in this case, or the lack thereof, and
9 give both the plaintiff and the defendant a fair and
10 impartial trial?

11 PROSPECTIVE JUROR: I believe I could.

12 THE COURT: All right. And once again, in
13 polite conversation we always qualify what we say, but
14 these are matters where we have to deal in absolutes.

15 My question to you is, Could you be fair and
16 impartial to both the plaintiff and the defendant, yes or
17 no?

18 PROSPECTIVE JUROR: I feel sure I can.

19 THE COURT: Okay. All right. I take that as a
20 yes?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: You're qualified to serve.

23 Very good. Any additional questions from the
24 State?

25 MR. BOGLE: Just, Your Honor, No. 11 on our voir

1 dire list.

2 THE COURT: I think it has been adequately
3 covered by other questions.

4 MR. BOGLE: Okay.

5 THE COURT: Anything from the defense, Mr. Hall?

6 MR. HALL: No, sir.

7 THE COURT: Very good.

8 Madam Clerk, give us a jury.

9 THE CLERK: No. 7 on the list has been excused.
10 No. 18 was excused. These are the numbers on the
11 left-hand side. And No. 24 has been excused.

12 So we will use the numbers -- regular jurors
13 will come from 1 through 22. We're going to need an
14 alternate?

15 THE COURT: Yes.

16 THE CLERK: Then we'll use Nos. 23 through 26
17 for an alternate.

18 Do you need any time to look over the list?

19 MR. BOGLE: Just a moment.

20 (Pause.)

21 MR. HALL: Defendant's ready.

22 MR. BOGLE: We're ready, Your Honor.

23 THE COURT: Very good.

24 THE CLERK: All right. We'll use the printed
25 numbers on the left-hand side of the page, not the juror

1 name or number. The State will strike first.

2 MR. BOGLE: No. 9.

3 THE CLERK: States strikes No. 9.

4 MR. HALL: Defendant strikes No. 1.

5 THE CLERK: Defendant strikes 1.

6 MR. BOGLE: State strikes No. 12.

7 THE CLERK: State strikes 12.

8 MR. HALL: Defendant strikes No. 8.

9 THE CLERK: Defendant strikes 8.

10 MR. BOGLE: State strikes No. 21.

11 THE CLERK: State strikes 21.

12 MR. HALL: Defendant strikes No. 3.

13 THE CLERK: Defendant strikes 3.

14 MR. BOGLE: State strikes 5.

15 THE CLERK: State strikes No. 5.

16 MR. HALL: Defendant strikes 13.

17 THE CLERK: Defendant strikes No. 13.

18 Okay. On your alternate, you each get one

19 strike.

20 MR. BOGLE: The State would strike No. 26.

21 THE CLERK: State strikes 26.

22 MR. HALL: I'm going down how far?

23 THE CLERK: To 26. Twenty-three, 25, and 26 are
24 the numbers.

25 MR. HALL: Defendant strikes 25.

1 THE CLERK: Defendant strikes 25.

2 Let's conform your strikes.

3 The State struck No. 5, No. 9, No. 12, and No.
4 21 on the regular, and the alternate is No. 26.

5 MR. BOGLE: That is correct, Madam Clerk.

6 THE CLERK: And the defendant struck No. 1, 3,
7 8, 13, and alternate No. 25.

8 MR. HALL: Yes, ma'am. That's correct.

9 THE COURT: Any objections with regard to the
10 jury selection process, Mr. Bogle, from the State?

11 MR. BOGLE: No, Your Honor, there are none.

12 THE COURT: Any from Mr. Hall?

13 MR. HALL: No, sir.

14 THE COURT: All right. Very good. If you could
15 produce the jury.

16 THE CLERK: When I call your name, please come
17 have a seat in the jury box. Make sure you bring all your
18 personal belongings with you.

19 Our first juror is 55, Rochelle Crawford-Ford
20 (Black female); No. 198, Dwight Sawyer (White male); 41,
21 Jonathan Campbell (White male); 139, Dennis McCullers
22 (White male); 99, Dale Heuer (White male); 79, Richard
23 Gavlin (White male); 49, Fredrick Collier (Black male);
24 200, Albert Schumann (White male); 146, Dustin Miller
25 (White male); 52, Earline Corder (White female); 24

1 Talmadge Branham (White male); 153, Gregory Morgan (White
2 male). And our alternate is No. 12, Yasmin Baltzegar
3 (White female.)

4 THE COURT: Ladies and gentlemen in the balance
5 of the jury panel, you are going to be released for the
6 week. Your jury service has been completed.

7 And I have some good news. Number 1, you're
8 going to be paid handsomely for your service.

9 Madam Clerk, how much is that?

10 THE CLERK: Ten dollars a day -- or \$15 a day,
11 28 cent a mile.

12 THE COURT: Very good.

13 And the other good news is that you've earned a
14 three-year exemption. You have participated in this
15 court, and you have earned a three-year exemption.

16 If you are subpoenaed to participate in either
17 General Sessions Court or Common Pleas Court here in
18 Lexington County within the next three years, you can tell
19 them that you served this week and you're entitled to an
20 exemption, and you'll be granted one.

21 It does not apply for federal court, doesn't
22 apply for municipal court or magistrate's court, but if
23 you're subpoenaed to participate in circuit court, you
24 have earned a three-year exemption.

25 I know that y'all are hungry and I know that

1 y'all are anxious to get along with your other affairs and
2 we're going to release you at this time. Thank you so
3 much for your service.

4 (The balance of the jury panel was excused at
5 12:42 p.m.)

6 THE COURT: Yes, sir. Your full name with the
7 burgundy shirt on?

8 JUROR: Richard Scott Gavlin.

9 THE COURT: Your last name?

10 JUROR: Gavlin.

11 THE COURT: All right. Mr. Gavlin, I'm going to
12 ask that you have a seat right here. I'm going to ask
13 that you serve as the foreman of this jury, Mr. Gavlin.

14 THE CLERK: He's Juror No. 79, Your Honor.

15 THE COURT: Juror No. 79.

16 Mr. Gavlin, you, like everyone else, when it
17 comes time to deliberate are going to have one vote. But
18 you're going to have an additional responsibility. You're
19 going to be required to preside over the deliberation
20 process. And that essentially is just to ensure that
21 everybody's voice is heard.

22 Throughout the trial of this case, there might
23 be questions or concerns that develop amongst the jury
24 panel. I'm going to ask if that does happen, for you to
25 communicate that to the foreman and he will relate it to

1 the bailiff, and if there's some question or concern I can
2 help you with, I'll be happy to do so.

3 In addition to that, there are going to be
4 strict instructions for you, Mr. Foreman, to enforce.

5 There will be no discussions about this case
6 throughout the trial of this case. It's only after you've
7 heard all the evidence and I charge you the law and I give
8 you instructions that you can talk about the case. Up
9 until that point, you can't talk about the witnesses, you
10 can't talk about the lawyers, you can't talk about
11 anything that transpires here in this courtroom. I'm
12 going to ask that you enforce that rule. There will be no
13 discussion about the case until I give you instructions to
14 do so.

15 Do you understand that, Mr. Foreman?

16 JUROR: Yes, sir.

17 THE COURT: Thank you so much.

18 At this time I'm going to ask each of you to
19 stand and raise your right hand as the clerk administers
20 the oath.

21 (Jury sworn at 12:44 p.m.)

22 THE CLERK: You may be seated.

23 THE COURT: I know that you-all have been
24 here -- there have been a number of delays and it's been a
25 long arduous process this morning, but thank you for your

1 patience. I'm going to release you for lunch and will ask
2 you to return back at 2:30.

3 Once again, I imagine many of you will go back
4 to your workplace. Maybe you will go back to your home.
5 And the people that you're around, whether it be your
6 co-workers or your significant other are going to say,
7 "Tell me what's happening in court." And this is one
8 occasion where you don't have to answer that question.
9 I'm going to order and instruct and demand that you not
10 talk about it, because it might be that the person that
11 would ask that question, you would engage in a
12 conversation might have an opinion about this type
13 litigation.

14 Ladies and gentlemen of the jury, you are called
15 upon to render your decision based on the evidence that's
16 presented in this case and the law as I charge it to you.
17 Do not discuss this case with anyone. If anyone were to
18 try to come and talk with you about it, that would be
19 inappropriate. I don't anticipate that will happen. But
20 if anyone were to try to come up and talk to you about
21 this case, you're to do one thing and one thing only, is
22 try to identify them as best you can, report it to me, and
23 I'll deal with them accordingly. It's inappropriate, it's
24 against the law, and I'll deal with them accordingly. But
25 I do not anticipate that would happen.

1 I'm going to release you and ask that you report
2 back at 2:30.

3 And I'm also -- you don't know anything about --
4 other than the general nature of this case. But I'm going
5 to ask and order and instruct that you not do any
6 independent investigation.

7 Ladies and gentlemen of the jury, there's not
8 anything that you can't look up on the Internet nowadays.
9 I'm going to order and instruct and demand that you not do
10 any independent research.

11 I'm not really familiar in great detail with
12 this thing they call Facebook and they call these
13 Tweetering and Twittering or whatever it is that they do,
14 LinkedIn, Facebook, and all that. Do not -- I'm going to
15 ask that you refrain from putting anything with regard to
16 your jury service on Facebook. Do not do that.

17 Do not do any independent investigation. Do not
18 communicate in any way, shape, or form.

19 There's not anybody -- most people have -- or a
20 lot of people have BlackBerrys. They have these smart
21 phones and iPhones where you can look up things on your
22 phone. Do not do that. Once again, you are to base your
23 decision on what transpires here in this courtroom.

24 Ladies and gentlemen of the jury, I'm going to
25 ask you to report back to the jury room at 2:30 sharp.

1 I'm going to ask that you wear your very
2 handsome badges that identify you as a juror. The reason
3 for that is that when you come into the courtroom, it
4 might be that some of these witnesses or some of the
5 lawyers might be there talking about the case and we don't
6 want you to overhear any conversations that don't
7 transpire within the confines of this courtroom. So that
8 will help identify you as a juror.

9 When you come back at 2:30, I'm going to ask you
10 to report immediately to the jury room so you aren't
11 tearing around the common areas, and try to avoid any
12 inappropriate contact in that regard.

13 I'm going to ask everyone to remain seated as
14 the jury exits the courtroom.

15 (The jury left open court at approximately
16 12:48.)

17 THE COURT: Anything from the State before we
18 recess for lunch?

19 MR. BOGLE: No, Your Honor.

20 THE COURT: Anything from the defense?

21 MR. HALL: No, Your Honor.

22 THE COURT: All right. I understand that we do
23 have a motion in limine, and we will -- what we're going
24 to do is when we get back, we're going to proceed forward
25 with the preliminary charge and opening statements. We'll

1 proceed forward with the State's first and only witness.
2 And then if we have enough time at the conclusion of her
3 testimony, we'll take up the motion in limine. If not,
4 we'll do that Wednesday morning.

5 Once again, we will not have court tomorrow. We
6 will reconvene Wednesday morning at 9:30.

7 But we obviously need to be back at 2:30, and
8 we'll proceed forward with the trial in this case.

9 MR. HALL: Yes, sir.

10 THE COURT: We'll stand at ease until 2:30.

11 MR. BOGLE: Thank you, Your Honor.

12 MR. HALL: Yes, sir.

13 (Lunch recess.)

14 (WHEREUPON, State's Exhibits Nos. 1 AND 2 were
15 marked for identification only.)

16 THE COURT: I understand that we're still
17 missing a juror. We've got some time constraints in that
18 I understand this expert witness needs to be on a plane at
19 3:45. Is that correct, Mr. Bogle?

20 MR. BOGLE: I think what she told me was she has
21 to, like, leave this building at 3:45 -- is that right --
22 to have enough time to get there.

23 THE COURT: All right.

24 MR. HALL: The defense will waive her testimony,
25 Your Honor.

1 THE COURT: I understand.

2 We're still missing one juror, and we're kind of
3 burning time as this goes forward.

4 If we were to go ahead and activate the
5 alternate juror, would the State be in a position to move
6 forward with less than 12 in the event we had some
7 difficulties with one of these jurors?

8 MR. BOGLE: Yes, Your Honor.

9 THE COURT: How about the defense, Mr. Hall?

10 MR. HALL: Sure.

11 THE COURT: Pardon?

12 MR. HALL: Yes, sir.

13 THE COURT: You need to stand up when you talk.

14 MR. HALL: Yes, sir.

15 THE COURT: All right. Does your client agree
16 in that regard?

17 MR. HALL: Do you agree?

18 THE DEFENDANT: With what?

19 MR. HALL: To go forward with less than 12
20 jurors.

21 You've got to speak up.

22 THE DEFENDANT: I'm thinking.

23 MR. BOGLE: So we've got 12 right now.

24 THE COURT: We've got 12 right now. I'm just
25 saying that in the event we have problems with one of the

1 existing jurors, are we willing to go forward with less
2 than 12? You indicate that --

3 MR. BOGLE: Yes, we're good.

4 THE COURT: -- the State is in a position to
5 agree to do that, but the defense is not. So we'll wait
6 until the other juror shows up.

7 THE CLERK: Do you know who's missing?

8 THE COURT: I do not. How can we make that
9 determination?

10 THE CLERK: I can call the roll.

11 THE COURT: Okay. Very good. Let's do that.

12 THE CLERK: And then try to contact the person
13 and see what's wrong.

14 MR. BOGLE: If they're in a car wreck or
15 something like that.

16 (Pause.)

17 THE CLERK: It's Juror 200, Albert Schumann. I
18 will see if we can locate him, Your Honor.

19 THE COURT: Thank you, ma'am.

20 (Pause.)

21 THE COURT: I tell you what we're going to do.
22 We're going to go ahead and proceed. I'm going to ask if
23 the sheriff's department can't locate this juror and bring
24 him here and I'll talk with him at the break.

25 Do not hold him in custody. I want you to keep

1 an eye on him. When you get a hold of him, make him have
2 a seat in the back of the courtroom.

3 THE BAILIFF: Yes, Your Honor.

4 THE COURT: Anything from the State before we
5 proceed?

6 MR. BOGLE: No, Your Honor.

7 THE COURT: Anything from the defense?

8 MR. HALL: No, Your Honor.

9 THE COURT: We're ready for the jury.

10 (The jury came into open court at approximately
11 3:01 p.m.)

12 THE COURT: Ms. Baltzegar, am I saying that
13 right?

14 JUROR: It's Baltzegar.

15 THE COURT: Baltzegar?

16 JUROR: Uh-huh.

17 THE COURT: You have been elevated to an active
18 juror and you, like everyone else, will participate in
19 deliberations.

20 I want to apologize to you for the delay. You
21 all were here at 2:30, ready to go. One of the jurors for
22 some unknown reason did not show up. Now, of course, we
23 selected an alternate in case there's a problem, someone
24 getting sick or if there's a conflict that develops, and
25 that's already happened. So I'm going to ask that each of

1 you -- and I feel like I'm preaching to the choir because
2 you-all were here -- but this is a very important case,
3 important to the State of South Carolina and it's
4 important to the defendant. I'm going to ask that you be
5 here and be here on time so we can proceed forward.

6 Ladies and gentlemen, we're about to begin the
7 trial of a case concerning the care and treatment of Carl
8 Durrell Cook, 2010-CP-32-3952.

9 I want to go over with you very briefly just
10 sort of -- for those of you who have not served on a jury
11 before and kind of tell you what's going to transpire.
12 This isn't a charge on the jury, but just sort of give you
13 an idea of how this is going to proceed.

14 First of all, Mr. Bogle, who represents the
15 State of South Carolina, the Attorney General's Office, is
16 going to stand up and kind of tell you what this case is
17 about, what evidence he anticipates presenting, and his
18 position. The defendant, Mr. Hall, is going to have an
19 opportunity to get up and present any evidence -- or
20 present a summary of the evidence he intends to produce to
21 establish any defenses that they might have.

22 And then we will start the trial of the case.
23 And that essentially is the taking of evidence. Evidence
24 primarily is the taking of the oral testimony. And they
25 will have a seat here on this witness stand. The

1 witnesses will take an oath, and they will be asked
2 questions on direct examination and cross-examination.

3 And evidence takes a number of forms. There's
4 oral testimony. Documents can be introduced through them,
5 photographs, models, stipulations, and sometimes
6 depositions. And if that is the case in this situation, I
7 will explain what a deposition is and how you may evaluate
8 that.

9 Mr. Foreman, I explained to you earlier there
10 are going to be breaks where we have to take up matters of
11 law outside your presence. I'm going to ask that you
12 enforce the rule that there be no discussion whatsoever
13 until I give you instructions to do so.

14 Mr. Foreman, ladies and gentlemen of the jury, I
15 am the arbiter of the law. This is a proceeding that's
16 governed by the Rules of Evidence and the Rules of Civil
17 Procedure. And it's my job to determine what evidence you
18 get to hear. At the conclusion of the case, I will charge
19 you on the law. Ladies and gentlemen of the jury, you are
20 required to accept and apply the law exactly as I state it
21 to you.

22 Just as I am the arbiter of the law, you are the
23 sole and exclusive arbiter of the facts, and you are
24 called upon in your job as jurors to evaluate the
25 credibility of witnesses who take this witness stand. And

1 since you're going to be the one to determine what the
2 truth is based on the testimony presented, you need to pay
3 very close attention. You need to ask yourself, when the
4 witnesses take the witness stand, whether or not this
5 testimony is in conflict with other evidence that's
6 presented, whether or not it's consistent with other
7 evidence. Use your good common sense in evaluating the
8 credibility of witnesses who take the witness stand.

9 The law establishes -- and I'll explain in
10 greater detail at the conclusion of the case -- when you
11 evaluate the credibility of the witnesses, you may ask
12 yourself what opportunity this witness had to observe the
13 things to which they testify, the manner in which -- the
14 manner in which they testify, their demeanor.

15 Any of you who have teenage children like
16 myself, sometimes it's important to pay attention to what
17 they say, but it's also important to pay attention to the
18 way they say it. And the law allows you to do that.

19 Use your good common sense in evaluating whether
20 or not an individual is credible. Ask yourself whether or
21 not it's corroborated with other evidence, whether it's in
22 conflict. You can believe one witness against many, many
23 against one. You can believe all of what one witness
24 says, none of what one witness says, or a portion thereof.
25 That's completely within your province as a jury to make

1 those determinations.

2 The plaintiff will go first, and then the
3 defendant's going to have an opportunity to present
4 evidence in a similar fashion. Then after that there will
5 be closing arguments. And the closing arguments are very
6 similar in form to opening statements. However, they will
7 be truly argumentative at that time because the evidence
8 will have been presented and they will be able to point to
9 the evidence that supports their relative position. What
10 they say is not evidence, but it will aid you immensely in
11 the deliberation process. So I'm going to ask, if you
12 could, to pay very close attention throughout the trial,
13 throughout the opening statement, the presentation of
14 evidence, and the closing arguments. At the conclusion of
15 the closing arguments, I will charge you the law in great
16 detail.

17 This is a civil action, and although it's a
18 civil action, it's an unusual case in that the plaintiff
19 ordinarily in a civil case only has to prove their case by
20 preponderance of the evidence, more likely than not. This
21 is an unusual case because it involves an involuntary
22 commitment and, therefore, the State not only has to meet
23 their burden of proof, they have to meet the burden of
24 proof that's the highest known to our judicial system,
25 proof beyond a reasonable doubt.

1 Ladies and gentlemen of the jury, you are the
2 triers of fact, and I'm the officer of the law. You are
3 participating in a time-tested system. You have taken a
4 solemn oath to fulfill your duty as the triers of fact in
5 this case, and I am confident you will do so.

6 Given the nature of the case and the length of
7 the case, I'm going to ask and direct that you not take
8 notes. Pay very close attention.

9 Mr. Bogle, you're recognized.

10 MR. BOGLE: Thank you, Your Honor. May it
11 please the Court, Mr. Hall.

12 THE COURT: Yes, Mr. Bogle.

13 MR. BOGLE: Ladies and gentlemen, I introduced
14 myself earlier. My name is Jim Bogle. I work for the
15 Attorney General's Office.

16 Often times people wonder what we're doing here
17 in these cases, why not the solicitor or why not your
18 county attorney. The reason is when the General Assembly
19 wrote this law, the law you're going to be applying today,
20 they specified that the Attorney General's Office does
21 these case. So me and another guy names Lloyd Flores, we
22 have the State divided in half, and I've got Lexington
23 County.

24 The case is about what's called predators. This
25 is a civil commitment process involving Carl Cook, Carl

1 Durrell Cook. He's sitting over there at counsel table.
2 The question is -- the job of the State, our evidence is
3 to convince you beyond a reasonable doubt that Carl Cook
4 is a sexually violent predator.

5 Now, what does that mean? About 12 years ago
6 the General Assembly passed a law called the Sexually
7 Violent Predator Act. And what they thought about --
8 there's some considerations they had. The first thing was
9 there's certain people in our state who suffer from mental
10 abnormalities or personality disorders that make them
11 likely to commit sexually violent crimes even after they
12 finish their prison terms, and they're dangerous because
13 of that, and these people need treatment in a secure place
14 until they're released and determined to be safe to be at
15 large. And so that's what we have here.

16 Mr. Cook is one of those people, the State would
17 contend. He's been convicted of criminal sexual conduct
18 in the second degree and criminal sexual conduct in the
19 third degree, two separate crimes occurring about a year
20 apart. What disturbs us is the fact that he was on bail,
21 out on bail for one of them when convicted of the other.
22 And the 2002 conviction involved his 73-year-old
23 grandmother.

24 Now, some of the facts you may hear may be
25 disturbing, but that's the nature of this case. We have

1 to get the details to you so that you can make an informed
2 decision as to whether or not the State has met its burden
3 of proof.

4 To be a sexually violent predator, two things
5 have to happen. First, you've got to be convicted of a
6 sexually violent crime. And that's happened here, the two
7 crimes I just mentioned. Second, does Mr. Cook have the
8 mental abnormality or the personality disorder that makes
9 him likely to reoffend in the same way unless he's
10 confined for treatment?

11 Dr. Rebecca Jackson, sitting behind me over
12 here, she was appointed by the Court to conduct an
13 evaluation of Mr. Cook. And we will present her testimony
14 to testify about exactly what she found, what mental
15 abnormality she found, what it means to have this, and why
16 that is the kind that makes him a sexually violent
17 predator.

18 So that's what the case is. Like the judge
19 said, use your common sense, listen to all of the
20 evidence, and I think when you finish and we're done with
21 this thing, we'll have met our burden beyond a reasonable
22 doubt that Mr. Cook is indeed a sexually violent predator
23 and needs to be committed to a place for secure treatment
24 run by the Department of Mental Health.

25 Your Honor.

1 THE COURT: Thank you, Mr. Bogle.

2 Mr. Hall, you're recognized.

3 MR. HALL: May it please the Court.

4 THE COURT: Yes, sir.

5 MR. HALL: Ladies and gentlemen of the jury, my
6 name is Ronald Hall, and I represent Mr. Cook here. And I
7 want to clear the runway, so to speak, right out front,
8 and that is, Mr. Cook was convicted of two sexually
9 violent crimes, okay, ten years ago. Not yesterday, not
10 last week, not last month, ten years ago.

11 A lot of things have changed in ten years. For
12 one, he's been under lock and key. He's been in prison
13 for ten years.

14 At the time that he committed these crimes --
15 and Mr. Cook would be the first to admit this -- he was
16 heavily involved in drugs and alcohol, heavily involved in
17 drugs and alcohol. When he was arrested, when it came
18 time for him to be judged by the Court, he pled guilty.
19 He accepted responsibility. He said, "I did it. I'm
20 sorry I did it. I'm guilty. I throw myself on the mercy
21 of the Court." He was sentenced. He served his sentence.
22 And now he's ready to resume his role in society, move
23 back in society.

24 Our legislature, in their broad, unfathomable
25 knowledge, has decided that certain people -- to which

1 they classify Mr. Cook as one of those people -- "no, you
2 can't go back into society. We're going to classify you
3 as a sexually violent predator. We're not going to let
4 you go back into society."

5 Now, this is a man -- he's served ten years in
6 prison, okay? He's ready to resume his role in society.
7 The State says, "No, we're not going to let you do that.
8 We're not going to let you do that." And that's why we
9 are here today. He's ready to be released from jail and
10 go rejoin his family and his friends and resume a normal
11 life.

12 Okay. And some of his family's in court today.
13 And you will hear from them. They have no fear of him.
14 They aren't worried about him doing anything untoward, or
15 toward another female, or whatever. Okay.

16 And like I say, he admitted ten years ago he did
17 it. He was involved in drugs and alcohol, took control of
18 him, and he committed these acts.

19 But he's paid his dues to the State. He was
20 sentenced by the Court. He served that time. Now he's
21 ready to be let out, but the State is compelling him to go
22 through this procedure because they're saying, "No, we're
23 not going let you out. You're a sexually violent
24 predator."

25 You know, that's like you running a stop sign

1 and the State taking away your driver's license, saying
2 "You're never going to get your driver's license back
3 because you ran a stop sign. We don't care if you paid
4 the fine or you went to jail. You're not going to get
5 your license back."

6 All right. So it's in your hands to make the
7 determination. As the judge says, he's the arbiter of the
8 law. But you're the trier of the facts. And when you
9 hear the facts that we're going to present and that the
10 State's going to present, we feel you'll say, "Okay. This
11 man did a bad, bad thing. He admitted he did a bad, bad
12 thing. He pled guilty to doing a bad, bad thing. He
13 served his time in prison. Now it's time for him to be
14 let back out in society and resume his normal life."

15 Thank you.

16 THE COURT: Thank you, Mr. Hall.

17 Mr. Bogle, you're recognized. You may call your
18 first witness.

19 MR. BOGLE: Thank you, Your Honor. We'd call
20 Dr. Rebecca Jackson.

21 THE COURT: Dr. Jackson, if you could come
22 forward. I'm going to ask you to place your left hand on
23 the Bible and raise the right hand as the clerk
24 administers the oath.

25 DR. REBECCA JACKSON, after being duly sworn,

1 testified as follows:

2 THE COURT: Yes, ma'am. If you could pull up a
3 seat right there. Pull up real close to that microphone.
4 Speak loudly, clearly, and slowly in order that we can
5 hear everything that you've got to say. I'm going to ask
6 that you start with your full name.

7 THE WITNESS: Rebecca Jackson.

8 THE COURT: Very good.

9 Mr. Bogle, you're recognized.

10 MR. BOGLE: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. BOGLE:

13 Q Dr. Jackson, would you please state your current
14 employment right now?

15 A Right now I'm the assistant clinical director at the
16 Florida Civil Commitment Center.

17 Q Okay. And where in Florida is that located?

18 A It's in Arcadia.

19 Q Prior to working down in Florida, where did you work
20 in South Carolina?

21 A The Department of Mental Health in Columbia.

22 Q And what was your job with the Department of Mental
23 Health in Columbia?

24 A I was a chief psychologist, and I conducted the
25 precommitment sexually violent predator evaluations for

1 the state of South Carolina.

2 Q Is that the kind of evaluation ordered by the Court
3 to do here?

4 A Yes.

5 Q Okay. Now, what professional and education degrees
6 do you hold?

7 A I have a bachelor's degree in psychology. I have a
8 master's degree in psychology, and I have a Ph.D. in
9 clinical psychology.

10 Q And for -- just to help us out to make a good record,
11 what is the study of psychology as it relates to people?

12 A Broadly speaking, psychology is the study of human
13 thinking, emotions, and behavior.

14 Q And we talk about the word "forensic" psychology. If
15 we put those two words together, what does "forensic
16 psychology" mean?

17 A Well, "forensic" simply means having something to do
18 with the law. So "forensic psychology" is using the
19 principles of psychology to answer questions that the
20 legal system poses.

21 Q Now, Dr. Jackson, have you been previously recognized
22 by the courts of South Carolina to testify as an expert
23 witness in the field of psychology and forensic psychology
24 in the courts of this state?

25 A Yes.

1 Q About how many times?

2 A Roughly a dozen.

3 MR. BOGLE: Your Honor, at this time we would
4 like to offer Dr. Jackson as being qualified as an expert
5 witness in forensic psychology.

6 THE COURT: Any query with regard to her
7 qualifications?

8 MR. HALL: No, sir.

9 THE COURT: All right. Mr. Foreman, ladies and
10 gentlemen of the jury, normally a person cannot give
11 opinion testimony. Normally when a person testifies, they
12 must testify as to what they either saw, heard, or sensed
13 by smell. However, there is an exception when someone is
14 qualified because of their education or experience.
15 They're permitted to give their opinion in certain areas
16 that the Court qualifies them that way.

17 This witness will be qualified in the area of
18 psychology and forensic psychology to give opinions in
19 that area. That does not mean that you must accept the
20 opinion, but is evidence for you to use in any way you see
21 fit.

22 Mr. Bogle, you're recognized.

23 MR. BOGLE: Thank you, Your Honor.

24 BY MR. BOGLE:

25 Q Now, Dr. Jackson, when you were working here in South

1 Carolina, did your job have you evaluating people under
2 the Sexually Violent Predator Act, like Mr. Cook?

3 A Yes.

4 Q Approximately how many people did you conduct
5 evaluations of, being ordered by the Court to do so?

6 A About 45 evaluations.

7 Q And of those, about how many, or what percentage
8 approximately, did you find did not meet the criteria to
9 be sexually violent predators?

10 A That did not meet criteria?

11 Q Yes, ma'am.

12 A About 70 percent of those.

13 Q In this particular case, were you ordered by the
14 Court to evaluate Carl Durrell Cook?

15 A Yes.

16 Q And did you -- as part of that evaluation, did you
17 meet and interview Mr. Cook?

18 A I did.

19 Q Is the man you met with and interviewed present here
20 in the courtroom today?

21 A Yes. He's seated next to Mr. Hall.

22 MR. BOGLE: Thank you.

23 Let the record reflect she's pointed out the
24 respondent.

25

1 BY MR. BOGLE:

2 Q Now, prior to meeting with him, and as part of this
3 evaluation, did you receive a file of information about
4 Mr. Cook?

5 A Yes.

6 Q What type of information was in that file?

7 A The file contains a police report, incident report,
8 victim statements, information from the arrest record, a
9 criminal history on the respondent, records from the
10 Department of Corrections, records from the Department of
11 Mental Health if the individual had ever been
12 hospitalized, and a series of legal and investigative
13 documents both toward the original offenses as well as the
14 sexually violent predator petition process.

15 Q Okay. Now, is this the type of information that is
16 relied upon typically and reasonably by experts in your
17 field?

18 A Yes.

19 Q Is it -- and did you consider and rely upon this
20 information, in addition to conducting an interview with
21 Mr. Cook, in developing your evaluation of him?

22 A Yes.

23 Q Is there anything that you wanted to get as part of
24 your -- this information that you couldn't get and you're
25 unhappy about that or you couldn't get and it would keep

1 you from completing your evaluation?

2 A No. I received all the documents I asked for.

3 Q Now, based upon your interview of Mr. Cook and your
4 review of the file that you received, was he convicted of
5 a sexually violent offense?

6 A Yes.

7 Q Okay. I would like to hand you what's been marked as
8 Exhibit No. 1, a sentencing sheet for criminal sexual
9 conduct in the second degree dated July 20, 2004.

10 MR. BOGLE: I believe we've agreed these can
11 come into evidence.

12 MR. HALL: Sure.

13 MR. BOGLE: Okay.

14 BY MR. BOGLE:

15 Q Do you recall examining this document right here?
16 I've got the sentencing sheet, the indictment, and the
17 arrest warrant.

18 A Yes.

19 Q Okay.

20 THE COURT: Mr. Hall, have you seen this
21 document?

22 MR. HALL: Sir?

23 THE COURT: Have you seen this document?

24 MR. HALL: Yes, sir.

25 THE COURT: Any objection with regard to its

1 being admitted into evidence?

2 MR. HALL: No, sir.

3 THE COURT: All right. State's Exhibit No. 1;
4 is that correct?

5 MR. BOGLE: Yes, Your Honor.

6 THE COURT: Is into evidence without objection
7 from the defense.

8 (WHEREUPON, STATE'S Exhibit No. 1 was admitted
9 into evidence.)

10 BY MR. BOGLE:

11 Q Now, in that -- what is the crime that he was
12 convicted of right there, in the document you're looking
13 at right now?

14 A Criminal sexual conduct.

15 Q To which degree was he convicted of, which degree of
16 criminal sexual conduct?

17 A He was charged with first degree, but pleaded to
18 second degree.

19 Q Okay. And when was the guilty plea? What date did
20 the guilty plea occur upon?

21 A July 20, 2004.

22 Q Was it here in Lexington County?

23 A It was.

24 Q Okay. I would like to hand you what's been marked as
25 State's Exhibit No. 2 and ask you if you've seen these

1 documents, this indictment and this sentencing sheet right
2 here, on Mr. Cook?

3 A Yes.

4 Q Okay.

5 MR. BOGLE: Your Honor, we'd move to introduce
6 in evidence right now the sentencing sheet for criminal
7 sexual conduct in the third degree that Mr. Cook pled
8 guilty to.

9 THE COURT: And that's State's Exhibit 2?

10 MR. BOGLE: That is correct, Your Honor.

11 THE COURT: Have you seen this document,
12 Mr. Hall?

13 MR. HALL: Yes, sir. No objection.

14 THE COURT: Okay. State's Exhibit No. 2 is in
15 evidence without objection from defense.

16 MR. BOGLE: Thank you, Your Honor.

17 (WHEREUPON, STATE'S Exhibit No. 2 was admitted
18 into evidence.)

19 BY MR. BOGLE:

20 Q Dr. Jackson, is that also a conviction that you
21 reviewed as part of your evaluation?

22 A Yes.

23 Q Now, are these two convictions, criminal sexual
24 conduct in the second degree and the third degree, are
25 they listed as sexually violent convictions under the

1 sexually violent predator law?

2 A They are.

3 Q Could you tell the jury about the details of the
4 first one, the criminal sexual conduct, let's say, in
5 the -- which one would you like to start with?

6 A The first offense.

7 MR. HALL: Well, Your Honor, now we don't mind
8 putting the documents in evidence, but we're going to
9 object to her testifying as to the circumstances of the
10 crime. I think that's hearsay.

11 THE COURT: All right. I'm going to sustain the
12 objection in that regard.

13 MR. BOGLE: If I could respond, Your Honor,
14 outside the presence of the jury.

15 THE COURT: You-all can approach the bench.

16 (A bench conference was held with the judge and
17 attorneys in the presence of the jury but out of the
18 hearing of the jury.)

19 THE COURT: I do want to mention that when we
20 have conversations at the bar and the bench outside of
21 your presence, the reason for that is that this is a
22 proceeding that's governed by the Rules of Evidence and
23 it's my job to determine what evidence you get to hear and
24 what evidence is inadmissible. And in that process,
25 sometimes it requires I comment on the facts. And, of

1 course, the law doesn't allow me to have an opinion about
2 the facts. So for that reason, those conversations take
3 place outside of your presence and that's -- at the
4 conclusion of the case, if there's a particular question
5 you have about a point of law, I'll be happy to tell you
6 about that at that time, but it would be inappropriate to
7 do it during the trial.

8 Mr. Bogle, based on the arguments and the law
9 that's been presented, Mr. Hall, I'm going to allow him to
10 get into the underlying facts to the extent that it's
11 relevant to her rendering an opinion, that very limited
12 circumstance.

13 MR. HALL: Yes, sir.

14 MR. BOGLE: Thank you, Your Honor.

15 BY MR. BOGLE:

16 Q Let me ask you a different question, if I may,
17 Dr. Jackson.

18 In performing these evaluations and rendering
19 your opinion under those standards of your profession, is
20 it necessary for you to study and be aware of the
21 underlying details behind the particular conviction?

22 A It is, yes.

23 Q And why is that?

24 A Well, the behavior during a particular offense often
25 speaks to risk-relevant information, how risky this

1 individual is, what he's actually doing or saying before,
2 during, and after the offense is usually quite relevant.

3 Q Okay. And for that reason was it necessary for you
4 to study the details of these two convictions?

5 A Yes.

6 Q Okay. Start with -- let's start with the one that
7 occurred in -- the incident that occurred in 2002.

8 A In 2002?

9 Q Yes, ma'am. Or which one would you like to start
10 with? Whichever one in your order.

11 A 2002 is perfectly fine.

12 Q Okay. Would you tell the jury about the underlying
13 details of that conviction that you found important to you
14 to render an opinion about whether or not Mr. Cook is a
15 sexually violent predator.

16 A The first thing that was relevant was that Mr. Cook
17 was actually out on bond when he committed this offense.
18 He was out on bond for a charge for a sexual offense that
19 was committed back in November of 2001. So he was
20 charged -- arrested and charged and bonded out. He went
21 home to live with his grandmother while he was out on
22 bond.

23 And then one night -- this is according to the
24 victim's statement, so this was her perspective on the
25 offense.

1 That Mr. Cook entered her room and said to her,
2 "Grandma, I'm going to get me some."

3 She indicated that she was naked. He climbed on
4 top -- he was naked, and he climbed on top of her. She
5 said that she attempted to stop him from penetrating her,
6 but was unsuccessful because he held her hands above her
7 head and then put a pillow over her face in order to
8 achieve penetration.

9 Following the assault, he threatened her with a
10 knife, and he actually then assaulted her a second time
11 during those events.

12 She also said that she suspected he was
13 intoxicated on drugs or alcohol or both at the time.

14 So he was initially charged with two counts of
15 criminal sexual conduct. And as we said, he pleaded at a
16 later date.

17 Q And what he finally pled guilty to on this case was
18 criminal sexual conduct in the second degree; is that
19 right?

20 A Exactly.

21 Q Okay. What was the date of the offense, the date the
22 offense occurred?

23 A August 28th, 2002.

24 Q And how old was his victim when this crime took
25 place?

1 A She was 73.

2 Q Now, looking at the other indictment, the other
3 sentencing sheet for criminal sexual conduct in the third
4 degree --

5 A Uh-huh.

6 Q When did that crime -- what details about that crime
7 were necessary for you to read and understand and share
8 with this jury in order to give them your opinion about
9 whether or not Mr. Cook is a sexually violent predator?

10 A On that occasion -- that was back in November,
11 November 17th, 2001. The incident report indicates that
12 the victim, who was a 28-year-old female acquaintance of
13 Mr. Cook, was asked for a ride home by Mr. Cook.

14 She indicated to the police that she did agree
15 to give him a ride, but turned the car around when she
16 realized that he was kind of directing her down a deserted
17 road, or a dirt road. She attempted to turn the car
18 around and he grabbed the keys from the ignition and they
19 struggled a bit. She reported that Mr. Cook then raped
20 her.

21 Following the assault, he asked her if they
22 could date or be a couple, and when she told him that she
23 had a boyfriend, she reported that Mr. Cook then raped her
24 a second time.

25 She also reported to the police that he

1 threatened to kill her if she reported the incident to
2 anyone.

3 Q Now, in this particular case, how old was that
4 victim?

5 A She was 28.

6 Q Okay. And you mentioned earlier about him being out
7 on bond, out on bail, if you will, for one case when the
8 other crime occurred.

9 A Right. He was out on bail on this offense when he
10 went home to live with his grandmother and then committed
11 the second offense.

12 Q Okay. And when he pled -- and these convictions,
13 were they both guilty pleas?

14 A They were, yes.

15 Q Okay. Were there any -- anything else about his --
16 let me back up and state this: What is substantial to
17 you -- what's important to you -- about these two crimes
18 as it relates to whether or not Mr. Cook's future behavior
19 could be a problem?

20 A Several things. As we already mentioned, he was out
21 on bail, which suggests pretty high-risk behavior that
22 you're willing to commit a second sex offense when you're
23 already -- have pending charges for one.

24 It's certainly relevant that in both of these
25 cases, he sexually assaulted the victims twice. So he was

1 able to use force, achieve an erection, commit a sexual
2 assault, and was sufficiently still aroused by that to
3 complete the act a second time with both of these victims.

4 It was relevant that he used coercion and
5 threats of force to -- not only to gain compliance with
6 the victim but then also to keep her from reporting
7 afterwards.

8 On at least one offense he used a weapon, which
9 does indicate increased use of violence along with sexual
10 assault.

11 Q Were these both people that he knew, were acquainted
12 with him?

13 A Yes.

14 Q Is that -- so they -- so could they identify him
15 after the crime occurred?

16 A Yes.

17 Q Is that significant, the fact that he would do it to
18 someone who knows him?

19 A It does suggest that he's willing to offend in
20 high-risk situations, yes.

21 Q Okay. How -- does past sexual behavior, sexual
22 offense behavior, relate to future sexual offense
23 behavior?

24 A Sure.

25 Q Could you tell us about that, about how that relates,

1 how that hooks together?

2 A Really it's like any kind of behavior. What you've
3 done in the past is going to predict what you are going to
4 do in the future. It's certainly not a foolproof strategy
5 for knowing what you'll do, but chances are if you've done
6 something several times, you're more likely to do that
7 same thing in the future.

8 Q Now, in doing evaluations like this, is it also
9 necessary for you to look at other conduct that was
10 charged but wasn't convicted?

11 A Yes.

12 Q And why is that important?

13 A Again, it does point to a pattern of behavior.
14 Certainly somebody being charged with an offense does not
15 indicate that he's guilty of that offense, but looking at
16 a pattern of behavior often puts the puzzle together even
17 more.

18 Q Were there any prior incidents that you looked at
19 regarding Mr. Cook where he was charged with a sexual
20 offense, but not convicted, that you found significant
21 enough to look at?

22 A He does have a charged sexual offense from 1989 that
23 was eventually dismissed, yes.

24 Q Okay. And what's the characteristic of the victim in
25 that case?

1 A She was an 18-year-old female. He was charged with
2 both criminal sexual conduct and contributing to the
3 delinquency of a minor.

4 My understanding from the documentation is that
5 the victim of the sexual offense is an 18-year-old female,
6 but he also provided alcoholic beverages to her
7 15-year-old sister, which resulted in the contributing
8 charge as well. But, again, both of those were dismissed.

9 Q Okay. But were they important for you to consider in
10 looking at the overall picture about Mr. Cook?

11 A It was relevant. Use of force on an adult female
12 seemed to be a pattern of behavior for Mr. Cook.

13 Q Did the records you examined indicate whether or not
14 Mr. Cook got any sex offender treatment while at the
15 Department of Corrections?

16 A I saw no records of sex offender treatment.

17 Q Is that significant to you that he had no sex
18 offender treatment during all this time he was
19 incarcerated?

20 A Sure. Had he received sex offender treatment, it
21 would speak to potentially a reduced risk if he had
22 participated in a quality program and completed that.

23 Q Are the risk factors you talked about a few minutes
24 ago, the prior incident with the 18-year-old girl, the two
25 crimes, being out on bail for one when he does another,

1 are these all significant to your ultimate opinion about
2 Mr. Cook?

3 A Yes.

4 Q And why is that?

5 A There are a series of risk factors that we can look
6 at to help us sort of estimate how likely somebody is to
7 reoffend in a sexual manner. And there are certainly
8 aspects of Mr. Cook's history in his behavior that
9 indicate an elevated risk.

10 Q Now, what about -- I notice in your report some of
11 the things you looked at involved prior relationships.

12 A Uh-huh.

13 Q What's the relevance of looking at prior
14 relationships with women or kids you've had or something
15 like that? Why is that important --

16 A Sure.

17 Q -- in developing these kind of reports?

18 A The research in general on sex offender recidivism or
19 re-offense rates, speaks to specific risk factors that, if
20 present, can increase somebody's risk to reoffend and, if
21 absent, could potentially decrease their risk. And
22 research has identified a series of stable historical
23 factors that increase a person's risk, and they also -- it
24 also has identified more changeable factors that increase
25 or decrease risk. And these changeable factors then

1 become the treatment target in sex offender treatment.

2 And one of the most robust changeable factors is
3 something that is called "intimacy deficits," or lack of
4 intimate relationships. And this risk factor generally
5 means an individual who has not, for whatever reason,
6 engaged in healthy and appropriate adult intimate,
7 romantic relationships.

8 For Mr. Cook this seems to be a relevant factor
9 for him. He has had multiple sexual partners at the same
10 time. He has had several adult relationships,
11 heterosexual relationships that have resulted in children
12 from different women. He's lived with a few different
13 women, but none for more than a year at a time.

14 He actually did explain to me that during one of
15 his offenses, he was at the home of an ex-girlfriend when
16 he committed the offense because he was trying to have sex
17 with her, but his fiancée was living in North Carolina at
18 the time. So there seemed to be multiple relationships
19 occurring as well as impersonal sexual behavior in the
20 context of those relationships.

21 So putting those pieces together, it would seem
22 that he lacks the ability or at least a history of having
23 healthy, appropriate adult intimate relationships; again,
24 a factor research has identified as relevant for risk.

25 Q Now, in your report do you also, in order to form

1 this opinion about him -- we've talked about the sexually
2 violent crimes. We've talked about those.

3 Do you also look at a person's overall criminal
4 history or criminal activities that they've done?

5 A Yes.

6 Q Why is that important?

7 A Again, one of the risk factors identified in the
8 literature is antisocial attitudes. And "antisocial" in
9 this sense means against society, someone who lives a
10 pro-criminal kind of lifestyle, has offense-supported
11 beliefs, who has antisocial peers, a disregard for the
12 law, not conforming to rules and supervision, of general
13 antisocial orientation towards life, and a criminal
14 history is a piece of that.

15 Q And what did you find regarding that area as it
16 applies to Mr. Cook?

17 A Mr. Cook has an adult criminal history dating back to
18 1987. He has multiple substance abuse charges for
19 possession as well as distribution of substances --
20 cocaine, crack, marijuana -- several arrests and
21 convictions for resisting arrest, as well as an assault
22 and battery and public disorderly conduct charges and
23 convictions.

24 Q And, Doctor, did you perform any psychological
25 testing or scoring with regard to Mr. Cook?

1 A I did score a formal risk assessment instrument.

2 Q What's it called?

3 A It's called the Static-99 Revised.

4 Q Okay. And would you explain to the jury exactly what
5 that is?

6 A Sure. The Static-99 is a research-based instrument
7 that the authors of this instrument have identified ten
8 historical risk factors that are the most robust factors
9 of future sexual offending. And these items were chosen
10 based on a very large sample of sexual offenders
11 internationally, roughly 28,000 released sexual offenders
12 in the developmental sample. And by looking at --

13 Q By "developmental sample," what are you talking
14 about? What does that mean?

15 A That this particular instrument and these ten items
16 were scored on these 28,000 individuals and then they were
17 followed up. So at five years and at ten years, the
18 authors went back and looked at of these 28,000
19 individuals, how many reoffended and what did they score
20 on this instrument.

21 Q Okay.

22 A So the higher scores is the riskier individuals.
23 Those in the highest ends reoffend at the highest rates.

24 Q Okay. And how would you -- how can we -- can we
25 compare that to something that we might see in our normal

1 everyday lives, those of us who aren't involved in this
2 process?

3 A Yeah. A useful way of thinking about static risk
4 factors, there are those historical risk factors that a
5 person can't do much about. So an example from everyday
6 life would be someone's risk of a heart attack. We
7 certainly know that there are historical attributes or
8 qualities that a person has that increases their risk; for
9 example, being male, being over 60, having a family
10 history of heart disease. Those things all elevate your
11 risk of having a heart attack. You can't do much about
12 them at this point, but they are what they are and they
13 increase your risk.

14 And you contrast that with the dynamic, or
15 changeable, factors that we were talking about a moment
16 ago. And those are the factors that you do have control
17 over. So in talking about risk of a heart attack, it
18 would be things like do you smoke, do you eat a lot of red
19 meat, do you exercise, that having a healthy diet and a
20 good lifestyle is going to decrease your risk, whereas if
21 you smoke and eat bacon at every meal, you are going to
22 increase your risk.

23 And that's very similar when we're looking at
24 risk factors for sexual violence. We have those
25 historical factors, but then we also have these more

1 changeable factors, like relationship factors and those
2 type of things. They play together.

3 Q Okay. And in this particular situation, what scoring
4 did Mr. Cook have on that assessment tool, that Static-99
5 Revised you talked about a minute ago?

6 A The range of scores on that instrument is negative
7 three to a 12. And Mr. Cook scored a six on that
8 instrument.

9 Q Where does that put him in this population of 28,000
10 sex offenders? The worst in a certain percentage, better
11 than a certain percentage? Where does that put him?

12 A Among those 28,000 sex offenders, roughly 90 percent
13 of them scored below a six.

14 Q Okay. So how does that factor into your opinion as
15 to whether or not he is a sexually violent predator?

16 A What it does tell me is that he's riskier than
17 roughly 90 percent of sexual offenders who were released
18 in that research sample.

19 Q Okay. And does this Static-99 Revised, is this
20 something that is commonly used by people in your
21 profession in conducting these types of evaluations?

22 A It's the most commonly used instrument in these
23 evaluations.

24 Q Now, Dr. Jackson, based upon your review of the file,
25 your interview of Mr. Cook, and the other work you did,

1 have you formed an opinion, to a reasonable degree of
2 psychological certainty, as to whether or not Carl Cook
3 has a mental abnormality or a personality disorder?

4 A Yes.

5 Q And what is it?

6 A Well, based on documentation, the offense history,
7 the interview with Mr. Cook, the diagnosis on -- I
8 diagnosed Mr. Cook with a paraphilia, not otherwise
9 specified, non-consent.

10 And what that means is -- paraphilias are the
11 broad diagnostic category for sexual behavior that falls
12 outside the norm. And there can be many different kinds
13 of paraphilias. Ones you're probably familiar with are
14 things like pedophilia, maybe exhibitionism, voyeurism.
15 These are all considered paraphilias. They are used to
16 describe sexual behavior that is outside of the norm.

17 In Mr. Cook's case, his sexual arousal seems to
18 be to non-consenting adult sexual behavior and that this
19 pattern of behavior where he is coercing sexual activity,
20 even in the presence of lots of other sexual partners and
21 willing sexual partners around him, that he's choosing to
22 use coercion to achieve sexual gratification suggests some
23 preference for that kind of activity. Based on that
24 information, I felt the paraphilia, non-consent was an
25 appropriate diagnosis.

1 Q And is this something that can be treated?

2 A Yes, it can be treated.

3 Q Now, do you have an opinion -- again, to a reasonable
4 degree of psychological certainty -- as to whether or not
5 Carl Cook's paraphilia affects his emotional or volitional
6 capacity so that he is predisposed to commit sexually
7 violent offenses?

8 A It does appear so, yes.

9 Q Okay. Do you have an opinion, again to a reasonable
10 degree of psychological certainty, as to whether this
11 propensity to be dangerous and commit sexually violent
12 offenses presents a menace to others?

13 A It appears to, yes.

14 Q Do you have an opinion -- again, to a reasonable
15 degree of psychological certainty -- as to whether or not
16 Mr. Cook has serious difficulty in controlling his
17 behavior regarding these propensities to commit sexually
18 violent offenses?

19 A Again, it appears he does have difficulty controlling
20 that behavior.

21 Q And why is that? We talked about risk factors. Am I
22 covering the same ground? Why is that, then, that he has
23 serious difficulty? What do you see that points that out
24 to you?

25 A The fact that it has occurred more than once is

1 problematic; the fact that he was out on bail when this
2 occurred.

3 There's also -- in his Department of Corrections
4 record -- we haven't hit on this yet -- that he does have
5 an infraction while in prison for public masturbation.
6 And, again, given the tight controls over an individual's
7 behavior in prison, knowing when count time is, knowing
8 when the officers come by, the fact that he was engaged in
9 public masturbation during high-risk times suggests,
10 again, additional difficulty controlling his sexual
11 behavior.

12 And we've touch on, more than once, the fact
13 that he was already out on bond when committing an
14 offense, and that's certainly relevant.

15 Q And, Doctor, do you also have an opinion -- again, to
16 a reasonable degree of psychological certainty -- as to
17 whether or not this mental abnormality or personality
18 disorder -- you've talked about antisocial personality
19 disorder. Do these things make him likely to engage in
20 acts of sexual violence unless he's confined in a secure
21 place for treatment?

22 A Based on his history, his -- the risk assessment that
23 I performed, he does seem at high risk to commit another
24 sexual offense. And he has not had either sex offender
25 treatment or any other kind of treatment that would

1 reduce, or mitigate, that risk. So I am left to conclude
2 that he remains a high risk to reoffend.

3 Q Okay. And is he of such a high risk that he needs to
4 be committed to a secure place for long-term control,
5 care, and treatment?

6 A In my opinion, yes.

7 In some cases outpatients sex offender treatment
8 is a possibility. Unfortunately, Mr. Cook has not
9 demonstrated the ability to follow rules, whether it be in
10 an institution or in the community. And it's a good
11 possibility that he would not be able to follow the rules
12 of sex offender treatment in the community as well.

13 Q Okay. And, finally, the last opinion question, if
14 you will, do you also have an opinion -- again, to a
15 reasonable degree of psychological certainty -- as to
16 whether or not Carl Cook fits the criteria to be found a
17 sexually violent predator?

18 A Yes.

19 Q If the jury finds him to be one, would he be offered
20 treatment for the mental abnormality and the personal
21 disorder?

22 A Yes.

23 Q And where would he -- would he be committed to
24 treatment?

25 A Yes.

- 1 Q Who operates the treatment place where he would go?
- 2 A He would be committed to a facility that's run by the
3 Department of Mental Health.
- 4 Q And once he's there, would he have the right to
5 petition the Circuit Court, the court we're sitting in
6 right now, for release, to get out?
- 7 A Every year, yes.
- 8 Q What happens every year?
- 9 A Every year there is another evaluation that's
10 performed by a psychologist or a psychiatrist, and the
11 individual has the right to petition the Court for release
12 at that time.
- 13 Q Now, to your knowledge, has Mr. Cook completed the
14 criminal sentence he got for these crimes, this criminal
15 sexual conduct in the second and third degree?
- 16 A Yes.
- 17 Q Has he done his time?
- 18 A Yes.
- 19 Q Do you know of anything that can guarantee the
20 appropriate sexual offender treatment for him, if he's
21 released, other than being committed to the secure
22 facility?
- 23 A No guarantees, no.
- 24 Q Do you know if he's facing probation? If he walks
25 out of here today or tomorrow, is he facing probation?

1 A Yes. He did receive five years of probation.

2 Q Could probation, in your opinion, guarantee him the
3 kind of treatment that you think he needs based upon your
4 review and the records that you looked at?

5 A It can't guarantee it, no.

6 Q Who would be at risk if he is released without
7 further treatment?

8 A Adult females of a wide age range.

9 MR. BOGLE: Okay. Thank you, Doctor. Please
10 answer any questions Mr. Hall may have or the judge may
11 have.

12 THE WITNESS: Of course.

13 THE COURT: Cross-examination.

14 MR. HALL: May it please the Court.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. HALL:

18 Q Doctor, now, you stated that you are aware that
19 Mr. Cook is looking at five years' probation; is that
20 right?

21 A Yes.

22 Q All right. And isn't it possible that medical or
23 mental health or whatever kind of treatment he needs could
24 be made a condition to his probation and if he violates
25 that, he goes back to jail?

1 A Yes. Certainly sex offender treatment can be
2 ordered. Unfortunately, nothing can compel him to attend
3 sex offender treatment. Mr. Cook does have a history of
4 not conforming to rules in the community and in
5 institutions, so it would be sort of a high-risk situation
6 to ask him to go to sex offender treatment in the
7 community.

8 Another issue with that is, unfortunately, sex
9 offender treatment is often a lengthy process. Talking
10 about these really ingrained habits and personality
11 characteristics and sexual interests take a long time to
12 change. And if he's in the community while attempting to
13 make these changes, people remain at risk while he's out.

14 Q All right. But the compelling factor would be
15 violation of your parole and go back to prison, right? I
16 mean, if he didn't take the mental health treatment -- if
17 he was released on probation --

18 A Uh-huh.

19 Q -- and as it says -- that's what it says on the
20 sentencing sheet, right? Department of Corrections
21 probation with mental health treatment.

22 A Right. But if he violated that probation, either by
23 not attending treatment --

24 Q Right.

25 A -- or committing another sexual offense --

1 Q Right.

2 A -- or using substances, yes, he could go back to
3 prison.

4 Q And in your testimony, listening to it very
5 carefully, you reported that there was one incident in the
6 ten years he was in prison that he does not follow the
7 rules, and that's that public masturbation that one time.

8 A That was the sexual infraction.

9 Q Yes.

10 A He has other infractions while incarcerated for -- I
11 have it here. One moment and I can tell you what they
12 are.

13 He has other infractions while in prison for
14 threatening to inflict harm on another inmate, refusing to
15 obey orders, and failing to obey orders.

16 Q Anything unusual about those three infractions from
17 any other inmates in prison? I mean, are we saying that
18 Mr. Cook by violating those -- doing those -- committing
19 those three infractions, separates him from the general
20 population in prison? Aren't there fights all the time
21 and threats all the time in prison?

22 A Not necessarily in and of themselves, no, but
23 certainly as part of a larger pattern of behavior they
24 were relevant for me.

25 Q All right. But there are -- other prisoners commit

1 the same offenses, right?

2 A Absolutely, yes.

3 Q Okay. So why is it that treatment necessarily
4 requires confinement?

5 A Treatment does not necessarily require confinement.
6 Sex offender treatment is available in the community for
7 certain individuals.

8 Q Okay. And you stated that he had been -- he had some
9 substance abuse charges and he --

10 A About a half a dozen convictions.

11 Q Right. And all that was while he was out of prison,
12 he wasn't in prison, and when he was committing these
13 sexually violent acts he had problems with substance
14 abuse?

15 A That's correct.

16 Q All right. But he hasn't had any in the last ten
17 years because he's been in prison, right?

18 A That's my understanding, yes.

19 Q Okay. And you said that he exhibited evidence of
20 antisocial behavior and intimacy deficiency.

21 A Uh-huh.

22 Q Again, is that that much unusual from other inmates
23 that are behind bars for long periods of time?

24 A Yes. Actually, it is.

25 Certainly having a history of criminal behavior

1 is not unusual in a prison environment. That's certainly
2 for sure.

3 But looking at the sex-offender-specific
4 literature and aspects or qualities of an individual that
5 puts them at risk for sexually reoffending again, we find
6 intimacy deficits and antisocial orientation along with
7 non-cooperation with rules, that those are very robust
8 predictors of future sexual offending.

9 Q Would you -- would you admit, Doctor, that his
10 evidence of antisocial behavior never manifested itself in
11 physical acts against another inmate? He may have made
12 threats or he might have done this or done that, but
13 nothing that manifested itself into a physical
14 confrontation between him and another inmate.

15 A While incarcerated? Not to my knowledge, he didn't
16 receive any infractions for that, no.

17 Q And since he's locked up in prison behind bars with a
18 bunch of other men, we really don't want him to develop
19 intimate contact, right? Right?

20 A I'm not sure I understand the question.

21 Q Well, you said that he evidenced signs of intimacy
22 deficiency.

23 A Uh-huh.

24 Q And I'm saying he's been locked up behind bars with
25 other men for the last ten years. We really don't -- I

1 mean, the authorities don't really want him to develop
2 intimate relationships, right?

3 A Well, interestingly enough, the risk factors still
4 hold whether you're homosexual or heterosexual. So if he
5 were engaged in a healthy, appropriate homosexual
6 relationship, that would also mitigate his risk, but --

7 Q Behind bars?

8 A -- but presuming he's a heterosexual male, which I
9 believe that he is, his behavior in the community is
10 certainly more relevant in this case.

11 Q All right. And you will admit that he accepted
12 responsibility, right, for his crimes? He pled guilty?

13 A Well, that's interesting. He did plead guilty. As
14 you mentioned in your opening, he did plead guilty.
15 However, when I interviewed him, he denied the sexual
16 offense against the 28-year-old victim. He indicated that
17 they made love in exchange for drugs, that it wasn't a
18 sexual offense.

19 And regarding the offense with his grandmother,
20 simply said he didn't remember it, that he had been
21 drinking all day, drinking and/or doing drugs, and was
22 intoxicated to the point where he didn't remember what
23 happened until he woke up in a police car and was told
24 that he had raped his grandmother.

25 Q And when you were reading the circumstances and the

1 event, his grandmother said that he was intoxicated?

2 A That's right.

3 Q All right. He might not have even recognized that
4 was his grandmother, right?

5 A Well, except for the fact that in his -- in the
6 victim's statement, she says he said, "Grandma, I'm going
7 to get me some." So I would assume he knew it was her.

8 Q Okay. Doctor, could you weigh -- are you able to
9 weigh the relevance of the records of his past offense
10 from ten years ago versus your analysis that you did
11 recently, or within the last year?

12 What would you say weighed the most? The past
13 records or the analysis, recent analysis?

14 A And it is difficult, that he's been incarcerated for
15 ten years, to assess how someone's current functioning is.
16 As you pointed out, he hasn't had access to his victim
17 pool in ten years. He hasn't had access to drugs and
18 alcohol to the degree that he would in the community. So
19 it is difficult to assess.

20 Often what happens in these cases is you look at
21 a person's behavior in the community in looking at the,
22 you know, qualities, attributes, behaviors of that
23 individual, and attempt to see how they may have changed
24 over time through treatment, through aging, through other
25 kinds of interventions. Because Mr. Cook does have quite

1 a few risk factors that have not been treated, it is
2 difficult to say that he's changed.

3 Q What would those be, the risk factors that have not
4 been treated?

5 A Well, we mentioned some of them before, but certainly
6 the non-cooperation with supervision, lack of compliance
7 with the rules. That's a research-based risk factor. His
8 lack of intimate relationships we already covered, his
9 antisocial lifestyle, violation of the rules, antisocial
10 peers, history of substance abuse, also selling and
11 manufacturing as well as possession and use, history of
12 assault and violence, that all of these things are
13 research-based risk factors for future sexual offending,
14 in particular.

15 Q All right. Doctor, can I ask: What sort of training
16 did you do for this -- to qualify you to do the Static-99R
17 analysis?

18 A I've gone to multiple workshops and training sessions
19 on risk assessment across the board, including the
20 Static-99R.

21 Q Okay. Over what period of time?

22 A I began training in sex offender risk assessment in
23 about 2003, so I've been doing it for about eight or nine
24 years.

25 Q And you could -- it's a continuing thing?

- 1 A Yes, it is a continuing thing, yes. The research
2 changes periodically, so at least once or twice a year I
3 attend workshops or conferences for updated information,
4 keep up with the literature. I do quite a bit of writing
5 and publishing myself, so it compels me to stay up on the
6 literature.
- 7 Q All right. And you said that Mr. Cook -- I think you
8 said he scored, what, a six?
- 9 A He scored a six.
- 10 Q Out of a possible 12 points?
- 11 A That's right.
- 12 Q Doesn't that kind of throw him in the middle?
- 13 A Actually, no. And if you looked at those 28,000
14 individuals, the average score was a three; and the median
15 score, meaning half the samples scored above, half the
16 samples scored below, was a two. So a six is actually the
17 90th percentile. Ninety percent of those people scored at
18 a six or lower.
- 19 Q Do you have your Static-99R results?
- 20 A I do.
- 21 Q Would you pull those out? Number one, age at
22 release, age 40 to 59 gives you a minus one?
- 23 A Yes.
- 24 Q So he gets a minus one?
- 25 A Yes.

1 Q Ever lived with a lover for at least two years, what
2 did you score him there?

3 A He has not, so I scored him a one.

4 Q I thought you said in one of the cases he had a
5 fiancée.

6 A He did. He's never lived with a lover. At least he
7 reported to me having never lived with a woman for more
8 than a year.

9 Q All right. And index non-sexual violence, any
10 convictions, you scored him a one there?

11 A Right. He was not convicted of non-sexual violence
12 for his index offense. It was a sex-offense-only charge,
13 conviction.

14 Q Well, shouldn't he have gotten a zero there for no?

15 A He got a zero for a no.

16 Q Okay. And then prior non-sexual violence, any
17 convictions, zero for no, yes for one?

18 A Yes. He received a one on that.

19 Q And what conviction was that?

20 A He has an assault conviction in 1998.

21 Q 1988?

22 A 1998.

23 Q '98. Okay. Five years before the sexual thing?

24 A Yes.

25 Q So the time between --

1 A Three years before committing the first one -- excuse
2 me -- yes.

3 Q Okay. And then prior sex offenses.

4 A Uh-huh.

5 Q It looks like you get a score from zero to three.
6 What did you score him there?

7 A He received a three.

8 Q Well, that would be six charges or four convictions.

9 A That is correct. And he was charged with two counts
10 of criminal sexual conduct, first degree; two counts of
11 incest; kidnapping; criminal domestic violence; another
12 count of kidnapping; criminal sexual conduct, third
13 degree; contributing to the delinquency of a minor; and
14 criminal sexual conduct.

15 Q Yes. But these charges are all on two victims,
16 right?

17 A Charges are convictions.

18 Q So even though they would -- all the charges resulted
19 from assaults on two victims, you count them as six-plus
20 charges?

21 A That's correct, according to the scoring manual. And
22 his charges as well as his convictions, so this item
23 actually brings in the charged victim from the 1989
24 offense that was eventually dismissed. Those charges
25 actually count for scoring of the instrument.

1 Q All right. But then convictions, in order to get a
2 score of three, you have to have four, right?

3 A It's charges or convictions.

4 Q Oh, charges or convictions?

5 A Exactly, yes.

6 Q I see. And so you chose to take the charges instead
7 of convictions?

8 A The manual instructed me to take the charges, not the
9 convictions, yes.

10 Q All right. And then prior sentencing dates, what did
11 he get there, a one?

12 A He received a one because he has four or more
13 sentencing dates, so he gets a one.

14 Q Four or more?

15 A Four or more sentencing dates equals a score of one.

16 Q I thought he only had two.

17 A No, he has -- it's all of the sentencing dates. So
18 for all of the drug offenses or his resisting arrest
19 charge -- convictions, the manufacturing and distribution,
20 distributing crack within proximity of a school
21 conviction, public disorderly conduct, those all count for
22 sentencing because it's sentencing dates for anything.

23 Q All right. So it doesn't distinguish between sexual
24 and non-sexual?

25 A It does not.

1 Q And then any convictions for non-contact sex
2 offenses. Did he get a one there?

3 A No. He got a zero there because he was never
4 convicted of a non-contact sexual offense.

5 Q And, of course, any unrelated victims, he got a one
6 there.

7 A Yes.

8 Q Any stranger victims?

9 A He got a zero.

10 Q Okay. And, of course, any male victims, he got a
11 zero.

12 A He has not had male victims, no.

13 Q All right. So, Doctor, what you're saying -- and I
14 respect your credentials and your -- the effort you put
15 into this case and, of course, appreciate your time in
16 coming up today and sharing your knowledge with us.

17 But it is possible, is it not, that since it's
18 on his sentencing sheet, he could undergo probation with
19 mental health treatment?

20 A He could be ordered to -- yes, he could be ordered to
21 sex offender treatment.

22 MR. HALL: Okay. No further questions.

23 THE COURT: Any redirect, Mr. Bogle?

24 MR. BOGLE: Just one to clarify -- two questions
25 to clarify two things.

1 REDIRECT EXAMINATION

2 BY MR. BOGLE:

3 Q When you were talking about the intimate
4 relationships, and the lack of, and how that affects it,
5 were you examining his time outside of prison or his time
6 inside of prison?7 A I primarily was looking at his time in the community
8 outside of prison.9 Q Okay. And as far as treatment and this probation
10 issue, is it your opinion that the treatment he needs,
11 needs to be in a confined setting?

12 A That is my opinion.

13 Q Okay. Based on all the stuff we talked about this
14 afternoon?

15 A Right.

16 MR. BOGLE: Okay. Thank you, Judge. Thank you,
17 Your Honor. That's all.18 THE COURT: Any objection to this witness being
19 excused?

20 MR. HALL: No, sir.

21 THE COURT: All right. You are free to leave at
22 this time. Thank you, ma'am.

23 THE WITNESS: Thank you very much.

24 THE COURT: Mr. Bogle, you may call your next
25 witness.

1 MR. BOGLE: Your Honor, at this time the State
2 would rest.

3 THE COURT: Very good.

4 Mr. Foreman, ladies and gentlemen of the jury,
5 we have some legal matters that we need to tend to. And
6 we will not reconvene tomorrow, but we need you to be here
7 Wednesday at 9:30. Wednesday at 9:30 we will resume the
8 trial of this case.

9 Now, I reiterate: It's very important that each
10 of you be here at 9:30 and be here on time. And I
11 anticipate we'll probably conclude this matter on
12 Wednesday. Can't say that with absolute certitude, but
13 hopefully we will.

14 Thank you so much for your attention and your
15 patience. Once again, do not discuss the case amongst
16 yourselves, with anyone else. We will see you. No need
17 to be here in the courthouse or anywhere here in the
18 courthouse tomorrow, but 9:30 Wednesday morning. 9:30
19 Wednesday morning.

20 Everyone remain seated as the jury exits the
21 courtroom.

22 (The jury left open court at approximately 4:06
23 p.m.)

24 (A discussion was held off the record.)

25 THE COURT: Anything from the State before we

1 until recess Wednesday morning at 9:30?

2 MR. BOGLE: No, Your Honor, there's not.

3 THE COURT: Any motions at this time from either
4 side?

5 MR. HALL: No, sir.

6 MR. BOGLE: No, sir.

7 THE COURT: All right. We will reconvene on
8 Wednesday morning at 9:30 and the defense will be in a
9 position to present any defense that they might have.

10 MR. HALL: Yes, sir.

11 THE COURT: We'll stand at ease until 9:30
12 Wednesday morning.

13 MR. BOGLE: Thank you, Your Honor.

14 (The proceedings were concluded for the day to
15 be reconvened on Wednesday, December 7, 2011.)

16 THE COURT: We're ready for the jury.

17 (The jury came into open court at approximately
18 9:34 a.m.)

19 THE COURT: Mr. Foreman, ladies and gentlemen of
20 the jury, thank you so much for being here and being here
21 on time.

22 The State has concluded the presentation of
23 their case, their evidence.

24 At this time, Mr. Hall, you're recognized.

25 MR. HALL: Yes, sir. We'd call Sarah Smith.

1 THE COURT: Ms. Smith, please come forward.

2 Ms. Smith, I'm going to ask you, if you could,
3 to place your left hand on the Bible and raise your right
4 hand as the clerk administers the oath.

5 SARAH SMITH, after being duly sworn, testified
6 as follows:

7 THE CLERK: When you're comfortably seated,
8 state your full name for us.

9 THE COURT: Yes, ma'am, Ms. Smith. Come up here
10 and have a seat. I'm going to ask that you pull up real
11 close to that microphone and speak loudly, clearly, and
12 slowly in order that we can hear everything you've got to
13 say and we're going to ask that you start with your full
14 name, please, ma'am.

15 THE WITNESS: Sarah B. Smith.

16 THE COURT: Very good. Thank you, Ms. Smith.

17 Mr. Hall, you're recognized.

18 DIRECT EXAMINATION

19 BY MR. HALL:

20 Q Where do you reside, Ms. Smith?

21 A [REDACTED] Lexington.

22 Q And that's in Lexington County?

23 A Yes, sir.

24 Q All right. And do you know Mr. Carl Cook?

25 A Yes, sir.

1 Q How do you know him?

2 A That's my son.

3 Q Okay. And when's the last time he was at home?

4 A Ten years ago.

5 Q All right. And, Ms. Smith, you're aware of the
6 circumstances that landed him in jail?

7 A Yes, sir.

8 Q Okay. And how have things been in the household
9 since that incident?

10 A No different, except he's not there.

11 Q Okay. And you understand why he's here today?

12 A Yes, sir.

13 Q Okay. The State is saying that he needs additional
14 medical mental treatment and they're asking that he be
15 incarcerated for a period of time to receive that
16 treatment. Do you understand that?

17 A Yes, sir.

18 Q Okay. But, Ms. Smith, if the jury finds in
19 Mr. Cook's favor, he will be released. Of course, he's
20 going to be on five years probation. Do you understand
21 that?

22 A Yes, sir.

23 Q And a condition of his probation will be that he seek
24 mental health treatment. Do you understand that?

25 A Yes, sir.

1 Q All right. Do you have a place for Mr. Cook to live
2 if he is released?

3 A Yes, sir.

4 Q Okay. Back in your home?

5 A Yes, sir.

6 Q All right. But previously I think he was -- what, he
7 was living with your mother?

8 A Yes, sir.

9 Q His grandmother?

10 A Yes, sir.

11 Q Okay. But if he's released, he'll live back in your
12 home?

13 A Yes, sir.

14 Q Okay. And, Mrs. Smith, do you have any fear or
15 trepidation or concerns about him being released and
16 living in your home?

17 A No, sir.

18 Q Would you be willing to assist him in seeking the
19 treatment, the mental health counseling or whatever it is,
20 with the psychologist?

21 A Yes, I will.

22 Q You would help him that?

23 A Yes.

24 Q Okay. Do you have a means of transportation?

25 A Yes, sir.

1 Q Okay. So you could see that he got transported back
2 and forth?

3 A Yes, sir.

4 Q Okay. Do you think that Mr. Cook would have any
5 trouble finding a job, being gainfully employed?

6 A No, sir.

7 Q Was he employed before he went to prison?

8 A He was working off and on, yes, sir.

9 Q What was he doing?

10 A Detailing cars.

11 Q Okay. And you feel that he could resume that
12 activity or some other activity?

13 A Yes, sir.

14 Q Okay. And to ask you this, you don't have any fear
15 of him being released back into your care?

16 A No, sir.

17 MR. HALL: Okay. Answer any questions the State
18 may have.

19 THE COURT: Mr. Bogle, you're recognized.

20 MR. BOGLE: Thank you, Your Honor. May it
21 please the Court.

22 CROSS-EXAMINATION

23 BY MR. BOGLE:

24 Q Ms. Smith, was Mr. Cook living on [REDACTED] back
25 when these crimes happened?

- 1 A Yes, sir.
- 2 Q Is that the location where his grandmother lives?
- 3 A Yes, sir.
- 4 Q And that's the woman he offended against. You know
5 about that?
- 6 A Yes, sir.
- 7 Q Okay. When Counsel referred to mental health
8 treatment, has any appointment been lined up for mental
9 health treatment as of today's date, for a place for him
10 to go and someone to see if he is released?
- 11 A Not to my knowledge.
- 12 Q Now, what about sex offender treatment? That's a
13 different thing from mental health treatment, isn't it?
14 Wouldn't sex offender treatment be a different type of
15 treatment than mental health treatment?
- 16 A I really don't know.
- 17 Q Okay. Has anyone been lined up for him to go see
18 pretty soon after he gets released for sex offender
19 treatment, like a psychologist or psychiatrist or a case
20 worker or somebody involved in sex offender treatment?
21 Has anything like that been lined up?
- 22 A You said is it lined up?
- 23 Q Yes, lined up.
- 24 A Not through me it's not.
- 25 Q Okay. Do you have in mind a person he could go see

1 for sex offender treatment?

2 A I can help find someone, but I don't have it in mind.

3 Q What about for mental health treatment? Do you have
4 anybody in mind that you all have gotten together and --

5 THE COURT: Mr. Bogle, that's not her
6 responsibility to do that. Probation sets that up.

7 MR. BOGLE: Thank you, Your Honor.

8 BY MR. BOGLE:

9 Q Do you know whether or not your son has received
10 any -- has joined any organizations like Narcotics
11 Anonymous or Alcoholics Anonymous for his substance abuse
12 problems?

13 A He's been to Alcoholics Anonymous before.

14 Q Okay. Was that before he went to prison?

15 A Yes, sir.

16 Q Okay. So that was about ten years -- more than ten
17 years ago?

18 A Yes, sir.

19 Q Okay. He did have a pretty serious substance abuse
20 problem back in those days, didn't he?

21 A Drug abuse?

22 Q Yes, drug abuse.

23 A Yes, sir.

24 Q He did cocaine, he sold cocaine, and he did alcohol.
25 Wasn't that the case?

1 A I don't know if he sold it, but I know he did it.

2 Q Okay. Who else lives in the home with you right now,
3 the home that he would go to live in?

4 A My children.

5 Q How old are they?

6 A My daughter is 25 and one of them is 45.

7 Q Okay.

8 A I'm sorry, 35.

9 Q Okay. Is one of them Ms. Gibbes, Lakesicha Gibbes?
10 Is she one of them?

11 A Yes, sir.

12 MR. BOGLE: Okay. Thank you, ma'am. That's all
13 I have.

14 THE COURT: Any redirect, Mr. Hall?

15 MR. HALL: No, sir.

16 You can come down, Ms. Smith.

17 THE COURT: Ms. Smith, you may step down and
18 you're free to leave or you're free to stay if you'd like.
19 Thank you, ma'am.

20 THE WITNESS: Thank you.

21 MR. HALL: We'd call Denise Jackson.

22 THE COURT: Yes, ma'am, if you could come
23 forward.

24 I'm going to ask, if you could, to place your
25 left hand on the Bible and raise your right hand as the

1 clerk administers the oath.

2 DENISE JACKSON, after being duly sworn,
3 testified as follows:

4 THE COURT: Yes, ma'am. Pull up real close to
5 that microphone and speak loudly and clearly and slowly so
6 we can hear everything you've got to say. I'm going to
7 ask, if you could, to start with your full name, please,
8 ma'am.

9 THE WITNESS: My full name is Denise Cook
10 Jackson.

11 THE COURT: Mr. Hall, you're recognized.

12 DIRECT EXAMINATION

13 BY MR. HALL:

14 Q Ms. Jackson, where do you live?

15 A Lexington. [REDACTED] Lexington, South
16 Carolina.

17 Q And that's in Lexington County?

18 A Yes.

19 Q And are you related to Carl Cook?

20 A Yes.

21 Q How are you related?

22 A His mother's my sister.

23 Q Okay. And so his mother and you had both the same
24 mother?

25 A Yes.

- 1 Q Mr. Cook's grandmother?
- 2 A Yes.
- 3 Q And you're here today to testify on his behalf?
- 4 A Yes.
- 5 Q Okay. Do you have any small children?
- 6 A Yes.
- 7 Q What ages?
- 8 A Twelve.
- 9 Q Just one?
- 10 A Yes.
- 11 Q Okay. Who else lives in the house with you?
- 12 A I got a son and a daughter, a granddaughter.
- 13 Q A son and a granddaughter?
- 14 A Yes, a son in a wheelchair and a granddaughter.
- 15 Q Your son's disabled?
- 16 A Yes, uh-huh.
- 17 Q And, Ms. Jackson, you're aware of the circumstances
18 of Mr. Cook's behavior ten years ago?
- 19 A Yes, I am.
- 20 Q Okay. And you're familiar with what happened and who
21 was offended as well?
- 22 A Yes, I am.
- 23 Q If he were to be released on probation, do you have
24 any fear or concern about him being released back into
25 your family?

1 A No, I sure don't.

2 Q Okay. You feel that he can -- that the family
3 through working together with him can see that he lead a
4 fruitful and productive life and doesn't offend anybody or
5 hurt anybody?

6 A Yes.

7 Q Okay. And you understand he would have to undergo
8 mental health treatment or sexual predator treatment or
9 whatever, some kind of treatment set up by the probation
10 office?

11 A Yes.

12 Q Okay. Would you be willing to pitch in and help to
13 see that he got that treatment?

14 A Yes.

15 Q Okay. And would you be willing to pitch in and see
16 that Mr. Cook found employment?

17 A Yes, as much as I could, uh-huh.

18 MR. HALL: Okay. I have no further questions.

19 Answer any questions Mr. Bogle may have.

20 THE COURT: Cross-examination, Mr. Bogle.

21 MR. BOGLE: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. BOGLE:

24 Q Ms. Jackson, the residence you listed where you live,
25 is that the same place where Mr. Cook's mother lives or is

1 that a different location?

2 A Different location.

3 Q How far apart are the two?

4 A I would say about two miles, two and a half miles.

5 About three miles.

6 Q So fairly close, not that far?

7 A Uh-huh.

8 Q Okay. Are you employed outside the home?

9 A No.

10 Q Okay. Are there any other adults in the home besides
11 you? You mentioned your children. Is there anybody else
12 in the home besides the kids?

13 A Yes. I got a son.

14 Q Okay. The one you mentioned a minute ago?

15 A Yes.

16 Q Okay. Prior to today's hearing, have you been in
17 touch with anybody from the probation office to see what
18 kind of treatment or where they might set something up for
19 Mr. Cook?

20 A No, because we didn't know what circumstances since
21 he was still in jail.

22 MR. BOGLE: Okay. Thank you, ma'am. That's
23 all.

24 THE COURT: Any redirect?

25 MR. HALL: Nothing further.

1 THE COURT: You may step down.

2 Mr. Hall, you may call your next witness.

3 MR. HALL: We'd call Ms. Lakesicha Gibbes.

4 THE COURT: Ms. Gibbes, please come forward.

5 Ms. Gibbes, please place your left hand on the
6 Bible and raise your right hand as the clerk administers
7 the oath.

8 LAKESICHA GIBBES, after being duly sworn,
9 testified as follows:

10 THE CLERK: When you're comfortably seated,
11 state your full name and spell your first name for me,
12 please, ma'am.

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Pull up real close to that
15 microphone and speak loudly, clearly, and slowly in order
16 that we can hear everything that you've got to say. Let's
17 start with your first name, your full name.

18 THE WITNESS: Lakesicha F. Gibbes. The first
19 name, L-A-K-E-S-I-C-H-A.

20 THE COURT: Mr. Hall, you're recognized.

21 DIRECT EXAMINATION

22 BY MR. HALL:

23 Q State your address, Ms. Gibbes.

24 A [REDACTED] Lexington.

25 Q And that's -- you live with your mother --

- 1 A Yes, sir.
- 2 Q -- I think she testified?
- 3 A Yes, sir.
- 4 Q Who else lives in the house?
- 5 A Just my mother and my stepfather and my 25-year-old
6 sister and I have a baby who's six weeks old.
- 7 Q Six weeks old?
- 8 A Yes.
- 9 Q Your baby?
- 10 A Yes.
- 11 Q Okay. And you're related to Mr. Cook how?
- 12 A He's my brother.
- 13 Q Okay. And you sat through the proceedings here
14 Monday and today?
- 15 A Yes.
- 16 Q Okay. So you understand why we're here?
- 17 A Yes.
- 18 Q Okay. Now, if Mr. Cook were released on probation,
19 would you be willing to help see that he attended whatever
20 treatment schedule the probation office may set up?
- 21 A Absolutely.
- 22 Q Do you have any fear or concern -- because you said
23 that you have a small baby -- do you have any fear or
24 concern of Mr. Cook living in the same house as you and
25 your child?

1 A No, sir.

2 Q You don't fear that he would become untoward toward
3 your child or you or anybody else?

4 A No, sir.

5 Q Okay. And you're wishing that he is released on
6 probation, right?

7 A Yes, sir.

8 Q Okay. And are you employed?

9 A Yes.

10 Q Where do you work?

11 A At Amazon.com.

12 Q Okay. And you think that you could help Mr. Smith
13 (sic) find gainful employment?

14 A Mr. Smith?

15 Q I mean Mr. Cook find gainful employment?

16 A I would try my best, yes, sir.

17 Q Okay. Do you have your own transportation?

18 A Yes, sir.

19 Q Okay. So you would be able to assist him with
20 transportation?

21 A Yes, sir.

22 Q To and from treatment sessions or whatever he had to
23 go for?

24 A Yes, sir.

25 MR. HALL: Okay. Answer any questions Mr. Bogle

1 may have for you.

2 MR. BOGLE: Thank you, Your Honor. Your Honor,
3 may it please the Court.

4 CROSS-EXAMINATION

5 BY MR. BOGLE:

6 Q Ms. Gibbes, when you said Amazon, is that that new
7 Amazon.com facility that just opened fairly recently in
8 Lexington County?

9 A Yes, sir.

10 Q Is that a full-time job or a part-time job?

11 A It's full time four days a week, ten-hour shifts.

12 Q Okay. So are they morning shifts or is it nighttime
13 shifts?

14 A Morning.

15 Q So what time do you have to be there and what time do
16 you come home in the evening?

17 A 7:30 a.m. to 6 p.m.

18 Q Okay. So if you were going to assist Mr. Cook in any
19 transport, that would have to occur on days other than
20 those hours, right?

21 A Yes.

22 Q Because that's kind of a full-time job.

23 I apologize for this question if it seems
24 indelicate, but let me ask you this. The lady that
25 Mr. Cook offended against, his grandmother, this was ten

1 years ago and she was 73 then. Is she still living?

2 A Yes, she is.

3 Q She's alive?

4 A Yes, she is.

5 Q Okay. Is she here today?

6 A No, she isn't. She's not able. She wanted to be.

7 Q Okay. Have you made any contact with the Department
8 of Probation and Parole to see what kind of treatment or
9 where or when they might could set up for Mr. Cook if he's
10 released?

11 A No, sir. Again, we didn't know the circumstances.
12 We were never told why he was held past his release date.

13 Q Okay. When he was in prison, were you all able to
14 visit him in prison?

15 A Yes.

16 Q Okay. Was he at different locations or just the one
17 prison the whole time?

18 A He was at different locations. He was at Allendale
19 Connectional Center and, if I'm correct, he was also at
20 Ridgeland at one point and then back to Allendale.

21 MR. BOGLE: Okay. Thank you, ma'am.

22 Thank you, Your Honor.

23 MR. HALL: Nothing further.

24 THE COURT: Very good. You may step down.

25 Mr. Hall, you may call your next witness.

1 MR. HALL: We'd call Mr. Carl Cook.

2 THE COURT: Mr. Cook, please come forward.

3 Mr. Cook, place your left hand on the Bible and
4 raise your right hand as the clerk administers the oath.

5 CARL COOK, after being duly sworn, testified as
6 follows:

7 THE COURT: Mr. Cook, please come forward and
8 have a seat in the witness chair. Pull up real close to
9 that microphone and speak loudly, clearly, and slowly in
10 order that we can hear everything that you've got to say.

11 THE WITNESS: Yes, sir.

12 THE COURT: And let's start with your full name,
13 Mr. Cook. Pull up real close to that microphone.

14 THE WITNESS: Okay. My name is Carl Durrell
15 Cook.

16 THE COURT: Very good.

17 DIRECT EXAMINATION

18 BY MR. HALL:

19 Q Spell that middle name, Mr. Cook.

20 A D-U-R-R-E-L-L.

21 Q All right. Mr. Cook, you're the defendant in this
22 action, right?

23 A Yes, sir.

24 Q Okay. And you've been incarcerated in the South
25 Carolina Department of Corrections since when?

1 A 2004, August.

2 Q No. You've been incarcerated for the last nine
3 years, right?

4 A Yes, sir. My bad. Excuse me. 2002. Excuse me.

5 Q And, Mr. Cook, you understand the proceedings today,
6 why you're here?

7 A Yes, sir.

8 Q You understand that this jury of 12 men and women --

9 A Yes, sir.

10 Q -- are going to make a decision as to whether or not
11 you're a sexually violent predator?

12 A Yes, sir.

13 Q Mr. Cook, do you feel that you are a sexually violent
14 predator?

15 A No, sir, not at all.

16 Q Okay. Do you feel that you need some kind of mental
17 health treatment or counseling or whatever the probation
18 office may decide you need?

19 A Sir, I don't feel like that, but I'm going to do it
20 because, I mean, it was required for me to do it, and I
21 have no problem with it just to prove, you know, the
22 simple fact that I'm not a sexual predator. I never meant
23 to hurt anybody.

24 It was -- see, what it is, the problem is,
25 nobody understands that I was on drugs then. You know,

1 that's ten years ago I had this problem.

2 I've been in the Department of Corrections
3 around drugs every day. I've had roommates that were
4 doing drugs and having drugs, selling drugs, drinking
5 alcohol. I never touch that stuff anymore. And the
6 reason being is because we was -- we had to be drug tested
7 every -- at random.

8 Put it this way, they did a random check. They
9 can come up and check you anytime. They'd do it, like,
10 3:30 in the morning, you know, so whatever. The time
11 didn't matter. But what I'm saying is they always, you
12 know, check you any time, you know, without knowledge.
13 And this yard is full of alcohol and drug users, abusers.

14 And I was telling you about Ms. Hendrickson that
15 did an evaluation on me before I left prison. She
16 evaluated me and she seen how I was --

17 MR. BOGLE: Objection, Your Honor.

18 THE COURT: I sustain the objection.

19 BY MR. HALL:

20 Q You can't say what somebody said.

21 A I'm sorry. I didn't know that. Excuse me.

22 THE COURT: All right.

23 THE WITNESS: But anyway, I went to several
24 classes.

25

1 BY MR. HALL:

2 Q While you were in prison?

3 A Yes, sir. And they said it's not on record, but I
4 did, I went to classes. But they only had them, I say,
5 probably like four or five times a year.

6 I went to school, and then once I went to school
7 for about two years -- well, excuse me, not two years,
8 close to a year and a half I'd say, I was about to get my
9 diploma and they cut me --

10 Q You were working toward a high-school diploma?

11 A Yes, sir. And they cut -- I think I had like three
12 weeks before I was going to take the test and they took it
13 out the system, out the yard, so I didn't get to --

14 Q Took the school program out?

15 A Yes, sir, so I didn't get to complete that. You
16 know, I was trying do everything I could for myself.

17 I worked ever since I've been in prison. I
18 took -- I sent money home to --

19 Q What did you do? You say you worked. What did you
20 do?

21 A I worked at PI Industries. We was scraping wood with
22 like a knife probably about that long. It's got a razor
23 on it that curves up under it. If I'm going to -- you
24 know, I feel like if I'm a dangerous person, I wouldn't
25 even have been working there, you know, around that stuff.

1 But anyway, we had to do this and we did this
2 from 5 o'clock in the morning until 3 in the afternoon.--
3 I mean 3 in the evening. So I basically stayed busy
4 trying to do this thing, help my family out.

5 And my sisters when they was down, I sent money
6 home to them. I sent my momma \$500 for Mother's Day, you
7 know. I conspired with all my family.

8 See, my family, we're real close, we're real
9 tightknit. And see, the thing is, it's like a spiritual
10 warfare that was against our family, trying to divide us
11 and tear us apart.

12 Because, see, what we're not oblivious of is
13 that in the spiritual realm, Satan is the cause of
14 division and our family was so well knitted and tight
15 together that we'd have cookouts every week and we was
16 doing all these good things together.

17 I lived with my grandmama all my life and ain't
18 never had no thought to do anything like this to hurt my
19 grandma. I love that woman. And every time I look in the
20 mirror, it hurts me.

21 And, like, Monday when I left from here, I
22 looked in the mirror myself and I got sick thinking I did
23 this to my grandma, the one I love, the one we'd been at
24 all the time. I never wanted to hurt that woman. I love
25 that woman.

1 Q Mr. Cook, did you go to church in prison?

2 A Yes, sir, all the time.

3 Q All right. Would you be willing to obey the rules
4 and regulations set down by the probation and parole
5 department if you were released?

6 A Oh, I am going to. I mean, it's up to them. I
7 can't -- you know, I don't know --

8 Q You'll attend the counseling that you're supposed to?

9 A Yes, sir.

10 Q You understand that if you violate that, if you don't
11 attend the counseling, you can go back to prison?

12 A Yes, sir. And I'm glad you brought that up.

13 The sentencing you all was telling about, I was
14 sentenced to 20 years. It's suspended to ten years. And
15 after that, I did my ten-year sentence, I have to do five
16 years probation. Two years of those have to be
17 supervised. And then I have 90 days -- when I'm released,
18 I have to go on 90 days on what is monitored, an ankle
19 monitor. That's my first 90 days. I mean, all these
20 stipulations that's over my head, I can't mess up. I
21 don't want to mess up. It never was in my -- it's never
22 in me to do so in the first place.

23 I mean, I'm just like -- I guess just like --
24 you know, I've been studying my Bible ever since I've been
25 incarcerated. I'm on my 24th time of reading it. I got

1 stuck to it. I believe God compelled the spirit in me to
2 continue with it. It was the only thing that I could live
3 with.

4 Because I couldn't accept the fact of what I had
5 done, they say I had done. I had no knowledge of this,
6 and I thank God for it, but it happened. She said it
7 happened, and I believe it. That's why I pleaded guilty
8 to it. I accept -- I did my time for this.

9 I mean, I love my family, man. I really love
10 them. I want to be with them. I got four new nieces I
11 ain't seen and just got a new nephew I ain't seen. I miss
12 my family.

13 I've got my daughter graduating next year. She
14 turns 18 next month. My son is going to college. He want
15 me to be there to watch him play football.

16 I mean, I messed it up, but that was ten years
17 ago. And I'm sorry it happened. I want to apologize to
18 everybody who knows me or who don't know me. I'm sorry it
19 happened. If I had any control of that, it wouldn't have
20 even happened.

21 MR. HALL: Mr. Cook, answer any questions
22 Mr. Bogle may have for you.

23 THE WITNESS: Yes, sir.

24 THE COURT: Mr. Bogle, you're recognize for
25 cross-examination.

1 MR. BOGLE: Thank you, Your Honor.

2 If I may approach, Your Honor.

3 THE COURT: You may.

4 CROSS-EXAMINATION

5 BY MR. BOGLE:

6 Q Mr. Cook --

7 A Yes, sir.

8 Q This is State Exhibit No. 1, the sentencing sheet
9 when you pled guilty to the criminal sexual conduct,
10 second degree, the one involving your grandmother.

11 A Yes, sir.

12 Q Okay. And down at the bottom where the judge wrote
13 things to do if you get out, it says -- would you read
14 with me -- it says "possible mental health" --

15 A Where you at?

16 Q Right down here.

17 A All right.

18 Q It says, "Possible mental health issues, prior
19 suicide attempt." Is that what it says, prior suicide
20 attempt?

21 Let's skip down here. It says, "Mental health
22 while DOC, Department of Corrections, and probation."

23 A What does that mean when it says possible mental --

24 THE COURT: Mr. Cook, he asks the questions and
25 you provide the answers.

1 THE WITNESS: Okay. I don't understand it,
2 though.

3 THE COURT: I'm going to ask that you rephrase
4 the question.

5 BY MR. BOGLE:

6 Q Okay. Let me rephrase the question.

7 Would you agree with me that it says "possible
8 mental health issues" and down at the bottom the judge
9 wrote, "Mental health while in DOC," which means
10 Department of Corrections, "and probation"?

11 A Yes, sir.

12 Q So the judge wants you to get mental health treatment
13 while at prison and if you're on probation?

14 A Can I explain that?

15 Q Is that what it says?

16 A Yes, sir. But can I explain that?

17 I was supposed to go to what they call the ATU
18 program that you're supposed to go through for 90 days.

19 Q Uh-huh.

20 A But before I was put into this place -- then they say
21 you have to go to another prison for this, though. But
22 before I was put there in, I was trying to go to, you
23 know, little side classes, you know, until that time came.
24 But when time came for me to be ready to be released, they
25 never put me in it, placed me in it, so, I mean, it wasn't

1 my fault.

2 Q So it's their fault that you didn't go to mental
3 health treatment in prison?

4 A Yes.

5 Q Okay. Now, it doesn't say on there -- it says mental
6 health treatment, right?

7 A Yes, sir.

8 Q You just read it on there?

9 A Yes.

10 Q It doesn't say sex offender treatment, does it?

11 A No, sir.

12 Q Okay. I was writing down my notes here and let me
13 make sure I got this right. I believe you said when your
14 attorney was asking you questions that you didn't feel
15 like you needed mental health treatment but you'd get it
16 if you had to. Is that basically --

17 A No, no, no, no, that's wrong. I said I will just to
18 prove the point, I'm going to. I said I didn't feel like
19 that I needed to, you know, because I know me.

20 Q So you don't feel like you need it but you will go --

21 A I'm going. There's no problem. I ain't got no
22 problem with it.

23 Q All right. Now, back when this all happened, when
24 the police took you into custody for the offense involving
25 your grandmother --

1 A Yes, sir.

2 Q -- that would have been in 2002, correct?

3 A Yes, sir.

4 Q And you were out on bail for the 2001 offense when
5 this happened, right?

6 A Yes, sir.

7 Q Because the 2001 offense, you'd been arrested for it
8 but hadn't been convicted or gone to trial?

9 A Yes, sir.

10 Q So when the thing happened with your grandmother, you
11 were out on bail for the first one, right?

12 A Yes, sir.

13 Q And do you remember giving a statement to the police
14 when they brought you into custody?

15 Let me show you this and see if you recognize
16 your signature.

17 Is that your signature down at the bottom right
18 there?

19 A Yes, sir.

20 Q And August 28th, '02 would have been the date that
21 the crime happened; is that right?

22 A I don't know. Yeah, I think that's so.

23 Q Okay. Is this a copy of the statement you gave the
24 police back when you were arrested? Do you remember
25 signing it there?

1 A I remember that.

2 Q Okay. What does it say right there?

3 A It says, "I need help because I had sex with my
4 grandmother. Please, God, this would never happen again.
5 Please help me."

6 Can I explain it?

7 Q Okay. So you admitted to the police that you'd done
8 this, right?

9 A Listen, the reason it -- what happened here, he asked
10 me what happened. I said, "I don't know what happened."
11 He said, "Yes, you do. Yes, you do." He said, "You know
12 you raped your grandma."

13 Q Well, let me -- let me --

14 A I said, "I raped my grandma? God, please help me."

15 THE COURT: Mr. Bogle, let him answer.

16 BY MR. BOGLE:

17 Q All right.

18 A I said, "Oh, God, please help me. This is what I
19 did?" And he said, "Well, you know that's what you did."
20 I said, "No, couldn't have been. I raped my grandma?" He
21 said, "Yes, you did." I said, "Man, God, please don't
22 tell -- I didn't do that. Please, Lord, help me."

23 And he said, "Will you put that down on a
24 statement because that's what we need to know, that you
25 asking God to help you." And I said, "Yeah, I put it down

1 on there." So I put it -- wrote that there.

2 Q Well, I guess my question is, did you rape your
3 grandmother twice or did you not?

4 A I don't know, man. I can't tell you. I ain't going
5 to lie to nobody.

6 I'm under the -- and might like to add this:
7 That when I was reading, studying the Bible, I asked God,
8 I said, "Why was I allowed to do this if this happened,
9 since this happened? They saying she said this happened.
10 Why was I allowed to do this?" And I was reading the
11 scripture and it says that he told Abimelech if he touch
12 Abraham's wife, he said, "You're a dead man." Okay. And
13 he said, "Because you did this with a clear conscious."

14 So I kept on, "Why you allow me, God? Why you
15 allow me to do this to my grandmother? Why you allow me
16 to hurt this woman, Lord? Please answer me."

17 So he showed me that I wasn't in the right
18 conscious, I didn't have the right state of mind. Okay.
19 And it goes back to how we all sin.

20 And then you say, how can a man be changed? The
21 man in Mark V, a demonic man, he was -- nobody -- he
22 couldn't be tamed. He was bound with feathers and chains.
23 Nobody couldn't chain him. He was locked up and he broke
24 loose. And when they let him out, he did this and did
25 that. But when he met Jesus, he was changed.

1 Just like me. I met the Lord and I felt -- when
2 I found out what happened, I got down in my cell and I
3 prayed. I said, "Lord, no more my will be done. Let your
4 will be done in my life." And God helped me from that.
5 He took me and he led me on. And from this day on I've
6 been compelled by the spirit that whatever he asked me to
7 do I've been compelled to do it, and I did it.

8 And I'm still doing pretty good -- doing good
9 actually since I've been incarcerated. I have no fear --
10 I mean nothing in my mind to hurt nobody. I don't hate
11 nobody. I don't hate nobody for what they feel about me
12 because I understand that if y'all -- if I looked at y'all
13 like that -- I mean, I don't care how people feel about me
14 no more. It's over with.

15 I kept living with this. It took me four and a
16 half years to try to get over this.

17 My uncle wrote me a letter, my uncle-in-law, my
18 Aunt Denise's husband, and he wrote me a letter. He said,
19 "Carl, if you don't let this go," he said, "Satan's going
20 to kill you." And I had to let it go, man. So, I mean,
21 it's over with me.

22 Me and my grandmother, she came to see me while
23 I've been incarcerated. We've been conspiring together
24 and all this right here. We don't -- she don't fear me
25 and I'm not going to harm her. I have no thoughts of

1 doing it. Please, God, hear me. Somebody hear me.

2 That's all I'm asking, please.

3 Q All right. But at the guilty plea when you pled
4 guilty to these charges, it was in a courtroom just like
5 this one, right?

6 A Yes, sir.

7 Q In front of a judge just like Judge Nettles right
8 here?

9 A Yes, sir.

10 Q And during that guilty plea you had to admit your
11 guilt, did you not?

12 A Yes, sir.

13 Q And the guilt was that you had sexually assaulted
14 your grandmother?

15 A Yes, sir.

16 Q And then you also pled guilty to the other crime
17 involving the 20-something-year-old girl, you pled to
18 sexually assaulting her?

19 A I didn't plead to that. I plead guilty to that one.

20 Q Okay. You're saying you didn't plead guilty to the
21 crime involving the girl?

22 A It was like being coerced to go along with both
23 pleas.

24 Q Okay.

25 A I mean you had to go along with the plea. That's why

1 it was done that way.

2 MR. BOGLE: Well, if I may approach, Your Honor.

3 BY MR. BOGLE:

4 Q State's Exhibit 2 is the sentencing sheet for the
5 CSC, criminal sexual conduct in the third degree.

6 A Uh-huh.

7 Q That's a crime that occurred on November 17th, 2001.
8 Do you see that?

9 A Yes, sir.

10 Q And that's the other girl, not your grandmother, the
11 other girl.

12 A Yes, sir.

13 Q And you pled guilty to that because that's your
14 signature right there.

15 A Yes, sir.

16 Q Okay.

17 A That's why I said it had to be --

18 Q So you're saying you got tricked into pleading
19 guilty?

20 A No, that was with the plea bargain, to sign them
21 both, you had to go both ways.

22 Q Okay. So they reduced the charges from criminal
23 sexual conduct in the first degree down to criminal sexual
24 conduct in the third degree.

25 A On one, yes. On one.

1 Q On both of them, didn't they?

2 A No, no, no.

3 Q Well, let's talk about that. Because on this one
4 here where you pled to third degree, the original
5 indictment was first degree, was it not?

6 A One of them was first and it was dropped to second
7 and the one to second was dropped to third.

8 Q Well, let's look at this one here.

9 A Do you have the transcript?

10 Q State's Exhibit 2, criminal sexual conduct in the
11 first degree and it's dropped to what you pled to,
12 criminal sexual conduct, third.

13 A Third.

14 Q Okay?

15 A Yes, sir.

16 Q And the other one, State's Exhibit 1 involving Eileen
17 Cook, grandmother, criminal sexual conduct, first degree,
18 and you were allowed to plead to criminal sexual conduct,
19 second degree. So it was reduced from first to second?

20 A That's what I said.

21 Q Okay. When you were at the Department of
22 Corrections, did you get yourself involved with Alcoholics
23 Anonymous or Narcotics Anonymous, any of those groups
24 about drugs?

25 A Yes, sir.

1 Q Okay. There's nothing in the records about that, so
2 I'm just wondering when you did that.

3 A See, that's what I'm saying. They didn't -- this
4 wasn't a thing that you had to undergo, you had to undergo
5 it. It was just like you go volunteer.

6 So what they did, when we went, they called
7 everybody over the speaker and said if you want to go to
8 this, so we just go in. It's like a walk-in.

9 Q Okay.

10 A It's not something you have to have on record, I
11 guess. I don't know how they did it.

12 Q Well, I guess I'm -- I'm a little confused about the
13 way you presented it a few minutes ago.

14 The thing involving your grandmother and this
15 other girl, are you saying that Satan made you do this or
16 demons made you do this or did you do this?

17 A What I'm trying to say is the drugs that I was on,
18 all drugs and alcohol -- the spirit -- I might be saying
19 this --

20 Q So the drugs made you do this, and the alcohol?

21 A It wasn't me. I wouldn't have done it. I mean, as
22 who I am now, you know, and who I was before I got on
23 that, I would have never did it. I never thought -- like
24 I said, I lived with my grandmother all my life.

25 Q So if I understand what you're saying is, doing

1 cocaine or crack and drinking alcohol, that made you
2 sexually assault your grandmother?

3 A Well, see, I'm going to explain something else to
4 you, too. I forgot. I'm glad you brought it back up.

5 Q Is that what you're saying? I mean, I just want to
6 be sure --

7 A This is what I'm saying.

8 Q -- we're on the same page. Are we on the same page
9 here?

10 A Yes, we're on the same page.

11 It was reported to my family that an additional
12 drug was put in there which was called Ecstasy was put in
13 there and that's --

14 Q Okay.

15 A -- what I assume must have kicked it off or whatever.
16 I don't know. But I don't recall taking this, but they
17 went around making a joke about it, the guys went around
18 making a joke about it, what they had given me, you know.

19 Q You think you took some Ecstasy mixed in with the
20 cocaine --

21 A Yeah, that's what they saying.

22 Q -- that made you pull a knife and assault your
23 grandmother?

24 A That's what they said.

25 Q I'm asking what you believe.

1 A I mean, that's what was in -- man, my grandmama ain't
2 going to lie, man, you know. I don't believe that.

3 MR. BOGLE: Okay. Your Honor, at this time I'd
4 move to introduce into evidence this statement he gave the
5 police.

6 MR. HALL: No objection.

7 MR. BOGLE: We talked about it a few minutes
8 ago.

9 THE COURT: It's into evidence without objection
10 from the defense. That's State's Exhibit No. 3 into
11 evidence without objection.

12 (WHEREUPON, State's Exhibit No. 3 was marked for
13 identification and received into evidence.)

14 BY MR. BOGLE:

15 Q Mr. Cook --

16 A Yes, sir.

17 Q -- in preparation for this hearing, of course, you
18 were interviewed by Dr. Jackson who testified on Monday?

19 A Yes, sir.

20 Q Do you remember her? She testified Monday.

21 A Yes, sir.

22 Q Okay. And in preparation for this hearing, were you
23 also transported to see another doctor?

24 A Uh-huh.

25 Q Dr. Burke?

1 A Uh-huh.

2 Q Okay. And did you meet with this Dr. Burke as well
3 as Dr. Jackson?

4 A Yes, sir.

5 Q This was something set up by your attorney for you;
6 is that correct?

7 A Uh-huh.

8 Q Okay. Did he produce any kind of report on you?

9 A Did he --

10 MR. HALL: I'm going to object to that.

11 THE COURT: That's sustained.

12 MR. BOGLE: Thank you, Your Honor. No more
13 question on that, then.

14 MR. HALL: Nothing further. Come down,
15 Mr. Cook.

16 THE WITNESS: Okay.

17 MR. HALL: Defendant's rest.

18 THE COURT: Very good.

19 Mr. Foreman, ladies and gentlemen of the jury,
20 the defense has concluded their presentation of the
21 evidence. I'm going to ask that you retire to the jury
22 room momentarily. Do not discuss the case.

23 Thank you.

24 (The jury left open court at approximately 10:11
25 a.m.)

1 THE COURT: Mr. Hall, you have seen the jury
2 charges that have been proposed in this case. Do you have
3 any objection to the jury charge?

4 MR. HALL: No, sir.

5 THE COURT: Do you have any additional requests
6 for instructions to the jury?

7 MR. HALL: No, sir.

8 THE COURT: Mr. Bogle, any -- you have seen
9 these proposed jury charges. Do you agree with the jury
10 charge?

11 MR. BOGLE: Yes, Your Honor.

12 THE COURT: Do you have any additional requests?

13 MR. BOGLE: You're referring to the ones that I
14 presented to the Court earlier?

15 THE COURT: Yes, sir.

16 MR. BOGLE: No, sir.

17 THE COURT: Very good. We're in a position to
18 proceed forward with closing arguments. Do you all need
19 some time to gather your thoughts or are you all ready to
20 proceed?

21 MR. HALL: Defense is ready, Your Honor.

22 MR. BOGLE: We're ready, Your Honor.

23 THE COURT: We're ready for the jury.

24 Counsel, if you'd approach the bench for a
25 moment.

1 (A bench conference was held with the judge and
2 attorneys.)

3 (The jury came into open court at approximately
4 10:15 a.m.)

5 THE COURT: Mr. Foreman, ladies and gentlemen of
6 the jury, you've heard all of the evidence that's been
7 presented in this case, and this is an opportunity that
8 the lawyers are going to have to present closing
9 arguments. And they're very similar in form to opening
10 statements; however, these presentations will be truly
11 argumentative in nature because all of the evidence has
12 been made a part of the record and the lawyers are going
13 to have an opportunity to point to the evidence that
14 supports their relative positions.

15 What they have to say is not evidence, but they
16 have spent a lot time in this case. Their arguments will
17 aid you immensely in your deliberation process. I'm going
18 to encourage you to pay very close attention.

19 Under the rules of procedure, the plaintiff will
20 open in full; the defendant will have an opportunity to
21 respond; the plaintiff, if they elect to do so, may reply.

22 Mr. Bogle, you're recognized.

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

25 Okay. We're at the end now of the presentation

1 of the evidence. You've heard everything as far as
2 testimony goes. And you'll have to take in your jury room
3 three exhibits which have come into evidence. They
4 consist of the indictments, the sentencing sheets for the
5 two sexually violent crimes Mr. Cook was convicted of, and
6 then that statement he gave the police back in 2002 when
7 he was arrested for the offense against his grandmother.

8 There was a lot of talk at the beginning of this
9 thing, and you may hear it again, about how he's served
10 his time and we're trying to lock him up again. Well,
11 what the General Assembly -- let me read you very briefly
12 what the General Assembly has said when they passed this
13 law back in 1998. This is out of Section 44-48-20 of the
14 Code of Laws. And they said that they find that "a
15 mentally abnormal and extremely dangerous group of
16 sexually violent predators exist who require involuntary
17 civil commitment in a secure facility for long-term
18 control, care and treatment." They go on to say that
19 "because the existing civil commitment process is
20 inadequate to address the special needs of sexually
21 violent predators and the risk they present society, the
22 General Assembly has determined that a separate
23 involuntary commitment process for long-term control, care
24 and treatment is necessary." That's kind of where we are
25 today. That's why -- and that's the law.

1 He has completed his prison term. The question
2 is, under this law, has he been convicted of a sexually
3 violent offense. That is something we have to prove to
4 you beyond a reasonable doubt. And the answer is clearly
5 yes because we've got the two convictions for criminal
6 sexual conduct in the second degree and criminal sexual
7 conduct in the third degree.

8 When the General Assembly wrote this law, they
9 listed about 15 crimes that are called sexually violent
10 offenses, and that's two of them.

11 The next question is, does he have a mental
12 abnormality or a personality disorder that makes him
13 likely to do the same type of crime again unless he's
14 confined for treatment. And the treatment here would be
15 run by the Department of Mental Health like Dr. Jackson
16 testified.

17 Well, let's look at where we are. We've heard
18 from Dr. Rebecca Jackson. She was qualified by the judge
19 as an expert to give an opinion on Mr. Cook.

20 Now, like the judge said at the beginning and
21 like he'll probably tell you again, expert witnesses can
22 give their opinion on something. It doesn't have to mean
23 you believe them. Just like any witness, you, the jurors,
24 apply your common sense to what you've heard from that
25 witness stand and you decide how much to believe. You can

1 believe all of it, part of it, none of it, or whatever
2 portion you believe is important to you.

3 So I'm not trying to say that because she's an
4 expert she is a know-it-all on everything, but you've got
5 to look at what she said in qualifications. She was
6 qualified as an expert based on her experience. She's
7 evaluated some 40 people under this law. Seventy percent
8 of the time she says no, despite the fact that he's been
9 convicted of these crimes, whatever it is, they don't fit
10 the criteria. So it sounds like to me someone like
11 Mr. Cook must fit in that extra category that's worse than
12 all these others.

13 She was very clear about in order to make
14 predictions about the future -- and no one can be absolute
15 on this -- but you've got to look at the past behavior.
16 We all know that from our common sense. What you've done
17 in the past is kind of a good predictor as to how you'll
18 react in the future to anything.

19 So what do we have here? We have the two
20 crimes, the first one against his grandmother. He used a
21 knife to threaten her and was so aroused by the sexual
22 events that he did it twice within a short period of time.
23 That was a risk factor for Dr. Jackson. That's very out
24 of the norm. That's just -- if he were going to rape
25 people, you'd like to think they'd go after age

1 appropriate people. That didn't happen here.

2 The second one, CSC third, was a 28-year-old
3 female, threatened also and also raped. Respondent seems
4 to take issue with that, that he was forced to plead
5 guilty or something like that. Well, you look at these
6 sentencing sheets. He pled guilty in court. They reduced
7 the charge. He got a deal. But he pled guilty in front
8 of a judge just like this one in a courtroom just like the
9 one we're in today.

10 Now, the risk factors, the disturbing things
11 are, he was out on bail for the 2001 crime when he
12 committed the crime against his grandmother. And you'd
13 think if you're out on bail for a crime and bail can be
14 revoked and you can be put back in jail, then that's the
15 time to be on your best behavior. That didn't happen
16 here.

17 We also have the sexual misconduct in prison
18 that he was found guilty of, the masturbation, the public
19 masturbation in prison. And again, you'd think to think
20 that in prison, a secure place like that, that's where
21 you're going to have to be on your best behavior to get
22 whatever benefits or work release or whatever you get to
23 be on your best behavior. Well, that didn't happen here
24 and that's a control issue.

25 She talked about the lack of an intimate

1 relationship lasting longer than a certain period of time.

2 You know, we all have friends who can't really
3 get settled with a wife or a husband, but in this type of
4 context, involving someone convicted of these types of
5 crimes, that's one of the things they look at. And why do
6 they do it? They're looking for some kind of stability,
7 stability in intimate relationships, and that's a fact
8 that they didn't find here.

9 She found a history of crimes, criminal
10 convictions for other things going back to 1989.

11 She looked at the prior charges that had been
12 dropped. It's important to look at even charges that are
13 dropped because if they're sexual charges, they're
14 important in examining the guy's overall character. And
15 there was one back in 1989.

16 Now, he's behaved in prison, it sounds like,
17 except for the misconduct I talked about. Like he said,
18 he's tried to be a good prisoner. And there's nothing
19 else we have on him about being a bad prisoner except that
20 one incident. But remember, prison's a controlled
21 situation. You've got walls, you've got guards. It's not
22 like the public. It's not like getting out on the streets
23 of Lexington County where there's access to alcohol and
24 the same kind of drugs he might have done before and stuff
25 like that.

1 No sex offender treatment while in prison.

2 The sentencing sheet from the judge, when he
3 sentenced the guy he said, "Get mental health treatment."
4 For some reason the judge didn't mention sex offender
5 treatment, and I would suggest to you that's a different
6 kind of animal. And he needs it and he didn't get it in
7 prison.

8 Now, Dr. Jackson also scored him on that thing
9 called a Static-99 Revised or Static-99R. And like she
10 told you -- if you're like -- look at me. I'm 63 years
11 old, okay? I'm a male, I'm over 60. So because of those
12 two factors alone, I have a risk for heart disease. Now,
13 if I also had a family history of heart disease, that
14 would mean even more. And those are things I can't
15 change. Can't change my age, can't change the fact that
16 I'm a guy. And if I had a family history, can't change
17 that. Those are what you call static factors, things you
18 can't change.

19 Then there's dynamic factors, things you chose
20 to do: If I chose to smoke, if I chose to eat the wrong
21 kind of foods. If I chose not to exercise, that would
22 increase my risk for heart disease.

23 Well, use your common sense. How do they know
24 that? How does the doctor know that? They study
25 thousands of people with the same type of symptoms and

1 have found whether or not there's an increased chance of
2 heart disease.

3 Well, that's what this is. Thousands upon
4 thousands of sex offenders that they've studied, if they
5 have these risk factors, they're more likely to commit the
6 crime when they get out.

7 How did he score? He scored worse than 90
8 percent of the people in the sample. Of the 28,000 some
9 odd sex offenders in several countries, he scored worse
10 than 90 percent of them. So he's a pretty high risk just
11 based on that test that she evaluated him on.

12 And the bottom line is, the kind of treatment he
13 needs is not the kind you can get out in the community.
14 He needs to be confined for it to make sure he gets the
15 right treatment at the right time and the right place and
16 the Department of Mental Health has a place exactly for
17 that.

18 In addition to being convicted of the right kind
19 of crime, the sexually violent crime, you have to find --
20 we have to prove to you beyond a reasonable doubt that he
21 has a mental abnormality that makes him likely to do it
22 again. And the mental abnormality she diagnosed was
23 called paraphilia, not otherwise specified, a mental
24 abnormality that make you want to attack or have sexual
25 contact with unconsenting people, and that's what happened

1 here.

2 Is he credible? You know, when he talked to Dr.
3 Jackson, he denied one of the offenses, the thing with the
4 girl. He said he didn't know about the thing with his
5 grandmother. You heard him testify today, so you've got
6 to decide about his credibility in this particular case.

7 So, what do we have? We have two sexually
8 violent crimes, we have the mental abnormality, we have
9 all the risk factors I've talked about this morning, and
10 we have the fact that the General Assembly has determined
11 under the law there are some people who are so dangerous
12 and probably likely to do it again that they need to be
13 confined for treatment, and that's where we are.

14 So, I would submit to you that we have proved to
15 you beyond a reasonable doubt, maybe even more than that,
16 that Mr. Cook is a sexually violent predator under the
17 law. He's been convicted of the right kind of crimes, he
18 has a mental abnormality, he's a risk factor to do it
19 again, and for that we're asking you to render a verdict
20 and find that he is a predator. He will then be committed
21 to a secure place run by Mental Health for long-term
22 control -- which means they keep him there -- care and
23 feed him, and the treatment that he needs.

24 Thank you, Your Honor.

25 THE COURT: Mr. Hall, you're recognized.

1 MR. HALL: Yes, sir. Thank you, sir.

2 Ladies and gentlemen of the jury, I want to
3 thank you for your time and your patience. I'm sorry that
4 you were exposed to such a distasteful subject. You know,
5 I'm sure that this thing will remain in your mind for a
6 long time to come, and I apologize for that. But it's
7 necessary, okay, because of the benevolent wisdom of our
8 legislature.

9 Now, if you're like me, ever since I got
10 involved in this case, there's one disturbing factor about
11 it, and I'm sure you probably had the same disturbing
12 factor in your mind. We're putting the cart before the
13 horse.

14 This man has been in prison for ten years. He
15 hasn't committed any violent sexual acts in ten years. He
16 committed a violent sexual act ten years ago. Why did we
17 not have this hearing ten years ago? Then it would have
18 been relevant, right? Then we would have no problem.
19 We'd say, "Hey, Mr. Cook did this, Mr. Cook did that, he's
20 guilty, he's a violent sexual predator, let's have him
21 committed to a mental institution."

22 If a defendant is arrested for a crime in this
23 state or in this country and it's determined he's unfit to
24 be tried, he goes to a mental institution, right? I mean,
25 we see that all the time on TV, read it newspapers, on the

1 Internet or whatever. Why did we not have -- why was a
2 hearing like this not held ten years ago? Then he was a
3 violent sexual predator. Then he should have been
4 committed to a mental institution.

5 Now, as Mr. Cook said, I don't know how many of
6 you are familiar with prisons and how they operate or
7 whatever, but when they point you in a direction, that's
8 the direction you go, okay? You don't have the option to
9 say oh, no, I don't want to go that direction. I want to
10 go this direction. No. The State controls your movements
11 and your functions, okay?

12 Mr. Cook could not say, "I need help with my
13 mental abnormality. I need mental health treatment. I
14 need this, I need that." He can't do that. The State
15 said, "No, we're going to tell you what you need." So
16 like I say, we should have had this hearing ten years ago
17 because then he was a violent sexual predator and then
18 probably the mental health treatment or care or counseling
19 or medication even, whatever, would have been of a benefit
20 to Mr. Cook.

21 But now he's appearing before you after serving
22 almost ten years in prison, okay, and the State is saying,
23 "Aha, you did something ten years ago and we're going to
24 lock you up again. We're going to put you in an
25 institution. We're going to see that you get mental health

1 treatment."

2 We're going to see that you get mental health
3 treatment now, ten years later? He should have gotten it
4 ten years ago, not now, not ten years later.

5 You heard his family members, his sister, his
6 mother, his aunt come up here. And his mother and his
7 aunt, that's their mother that he committed this heinous
8 act on. And it was a heinous act. And Mr. Cook admitted
9 it was a heinous act. He pled guilty to it. He didn't
10 know why he did it, he didn't remember he did it. But the
11 man today is not a violent sexual predator. He's been in
12 prison for ten years.

13 There's no evidence been presented to you of any
14 violent acts in prison. If he was a violent sexual
15 predator, don't you think he would have done something to
16 somebody in prison, okay? But he hasn't done anything for
17 ten years except obey the orders, obey the rules, and
18 except for that one administrative incident in prison he's
19 been basically a productive prisoner.

20 Okay. He told you he worked, he went to -- he
21 was trying to get his GED, that the State for budget
22 reasons or whatever dropped the program or whatever, but
23 today he -- this is not the same man that committed those
24 acts ten years ago.

25 The man that committed those acts ten years ago

1 was admittedly under the influence of drugs and alcohol,
2 admittedly under the influence of drugs and alcohol. And
3 as he said, he didn't remember doing this thing to his
4 grandmother. He didn't remember doing that.

5 He had a defense for the other crime to the
6 28-year-old girl, but he agreed to plead guilty to that
7 crime in order to get a better deal from the Solicitor's
8 office.

9 Okay. If he is released on probation, he has
10 that sword of Damocles hanging over his head, okay, of a
11 20-year term in prison. If he screws up, if he molests a
12 young lady or his grandmother or his sister, anybody, any
13 young lady, bam, he goes back for a 20-year sentence.

14 The doctor testified that she didn't feel that
15 there was any compelling reason why he should undergo
16 mental health treatment if he's released on probation. I
17 submit to you that if you're looking at losing 20 years of
18 your life, and he's in his 40s now, so you're talking
19 about he would be in his 60s by the time he got out. If
20 you're looking to lose 20 years of your life if you mess
21 up, that is a compelling reason.

22 The man would do what he was told to do. He
23 would take the treatment that he was supposed to take.
24 That's a compelling reason.

25 It's not necessary to send him back for an

1 indeterminate sentence -- and make sure that you
2 understand that -- an indeterminate sentence, okay? He is
3 reviewed once a year annually. He may stay in there 20
4 years, 30 years, 40 years. It's an indeterminate
5 incarceration, okay?

6 He's already served his time the State said he
7 has to serve. Now they want to put him in a facility with
8 no limit on the time he can stay there. No limit on the
9 time he can stay there. That's a terrible thing to look
10 forward to, okay, a terrible thing to look forward to.

11 It's being like taking a prisoner of war during
12 a war or in a combat zone or something, you don't know
13 when you're going to be released, if you're ever going to
14 be released, okay? So please consider that.

15 And please consider the fact that the crimes
16 that they're accusing him of -- and he did not deny that
17 he did them. The crimes they're accusing him of happened
18 ten years ago. This is an entirely different Carl Cook
19 appearing before you today. This is not the Carl Cook
20 that was on drugs and alcohol ten years ago.

21 Thank you.

22 THE COURT: Thank you, Mr. Hall.

23 Mr. Bogle, you're recognized.

24 MR. BOGLE: Thank you, Your Honor.

25 Very briefly, I think I said we'd hear this

1 again, I think we just did.

2 This is not -- as the judge may tell you, your
3 job is to apply the law as the judge explains it to you.
4 And sometimes I've had jurors tell me after court, "You
5 know, I wish the law was changed or I wish the law was
6 different on something, but I had to apply the law as the
7 judge told me." And that's what we have here.

8 Now, he has done his time. He's served his time
9 for these crimes he's pled guilty to. The way the law is
10 written, this type of hearing cannot -- this process can't
11 start until he's about 270 days from the end of his
12 incarceration. That's why we're doing it now instead of
13 earlier. That's just the way the law is written.

14 And the word about incarceration, locking him
15 up, what did Dr. Jackson say? He would be committed,
16 civilly committed, that's what we're doing here. We're
17 not in General Sessions court upstairs. We're not in
18 criminal court, we're in civil court. He'd be committed
19 to a mental health facility, once a year he'd be reviewed,
20 and he would have the chance to petition the Court to get
21 out if he thought he was good to go when that year comes
22 up.

23 Is it forever? I don't know. But use your
24 common sense. That's going to be up to Mr. Cook. He's
25 the one that needs to decide whether or not he needs

1 treatment. And if he agrees to treatment, I would suggest
2 to you that whatever stay he's going to have, that it
3 would be a lot shorter than otherwise.

4 Anyway, thank you very much for your time. It's
5 been a long couple of days, you've done your job, you're
6 watching, you've been listening, and that's all we could
7 expect.

8 Thank you very much, Your Honor.

9 THE COURT: Thank you, Mr. Bogle.

10 Mr. Foreman, ladies and gentlemen of the jury,
11 you've heard all of the evidence, you've heard the closing
12 arguments, and now it's my responsibility to charge you
13 the law.

14 There's no easy way to do that. I've noticed
15 that you've paid very close attention throughout the trial
16 of this case and you've fulfilled your duty in that
17 regard, but in order for you to fulfill duty as a juror,
18 you have to listen to the evidence in order for you to
19 deliberate about it and find out what the truth is and
20 apply it to the law. And you're going to be responsible
21 for applying the facts to the law, so it's important that
22 you pay very close attention.

23 Mr. Foreman, ladies and gentlemen of the jury,
24 the State has brought this case under the Sexually Violent
25 Predator Law of South Carolina. The State seeks the civil

1 commitment of the respondent for long-term control, care
2 and treatment in a secure facility. This is not a
3 criminal proceeding seeking incarceration but rather a
4 proceeding seeking civil commitment.

5 The State of South Carolina alleges and claims
6 that the respondent, Carl Durrell Cook, is a sexually
7 violent predator under the law. The respondent denies
8 that he is a sexually violent predator. And the burden of
9 proof is therefore on the State to prove by evidence
10 sufficient to satisfy each of you beyond a reasonable
11 doubt that respondent is a sexually violent predator.

12 If the State is unable to meet the burden of
13 proof as to one or more of the elements of this claim,
14 respondent's entitled to a finding that he is not a
15 sexually violent predator.

16 I want to make sure that the jury understands
17 that Mr. Cook is not accused of committing a crime in this
18 proceeding. As you've heard from the testimony, he did
19 have previous charges for which he was sentenced by the
20 Court. He has now completed his sentence for those
21 charges.

22 The State is now alleging that he is a sexually
23 violent predator. The State has the burden in this case
24 and must prove its case beyond a reasonable doubt.

25 If you find that the State has not met this

1 burden, respondent will be released. If you find that the
2 State has met its burden of proof and find the respondent
3 is a sexually violent predator, the respondent will not be
4 released but will be committed to a secure treatment
5 facility in Columbia operated by the Department of Mental
6 Health.

7 Under South Carolina law, respondent will have
8 the right to petition the Court annually for review on his
9 case to determine that respondent is safe to be at large
10 and unlikely to commit acts of sexual violation.

11 Under the Constitution and laws of South
12 Carolina, you are the sole finders of the facts in this
13 case. I may not intimate to you in any way what I may
14 think about the claims in this case. You also are the
15 judges of the credibility and believability of the
16 witnesses who have testified.

17 In passing upon the credibility, you may take
18 into consideration many things such as, what was the
19 manner and an appearance of the witness who testified?
20 Was he or she straightforward or was he or she hesitant in
21 answering? How did the witness come to know the facts
22 that he or she testified to or what was his or her ability
23 to know these facts? Is there some reason a witness would
24 want to give testimony which would help or hurt one side
25 or the other; in other words, was the witness biased or

1 prejudiced? Was the testimony of a witness strengthened
2 or weakened by other testimony or evidence?

3 You, the jury, may believe as much or as little
4 of a witness's testimony as you think proper. You may
5 believe the testimony of a single witness against that of
6 many witnesses or just the opposite, you may believe part
7 of a witness's testimony and disbelieve the rest. And, of
8 course, do not determine the truth merely by counting the
9 number of witnesses presented by each side.

10 The fact that the testimony is not controverted
11 does not mean you must accept it as true and undisputed.
12 You still must gauge the credibility of witnesses to
13 determine the believability or truth of the facts offered
14 through the testimony.

15 Keep in mind throughout this process that you
16 have but one objective, to seek the truth, regardless of
17 the source from where it comes.

18 You have heard the testimony of a witness who
19 has special knowledge, skill, experience, training or
20 education in a particular field and who has given her
21 opinion as an expert as to matters in which she is
22 skilled.

23 In determining the weight to be given to such an
24 opinion, you should consider the qualification and
25 credibility of the expert and the reasons given for the

1 opinion. You're not bound by such opinion. Give it the
2 weight, if any, to which you deem is it entitled.

3 The value and effect of expert testimony is a
4 matter to be solely determined by you, the jury. No
5 opinion of any expert can be accepted in and of itself as
6 truthful or reliable but must be weighed by you and
7 convince you beyond a reasonable doubt and with the same
8 force and effect as any other fact proved in this case
9 before you can rely upon it.

10 You must consider expert testimony in the same
11 manner as you do any other testimony and give it such
12 weight as you believe it is entitled to when considered
13 with all of the other evidence in this case. Such
14 testimony is given for the purpose of helping you, not for
15 the purpose of controlling your judgment.

16 As the sole fact finders, you should have
17 listened closely to the evidence presented and weigh the
18 evidence using your good judgment and common sense.
19 Weighing the evidence is entirely a mental process.
20 Evidence weighs with you when it convinces you of its
21 truth regardless of from where it came. Your objective
22 here today is to find the truth.

23 Now, the same Constitution and law that makes
24 you the finders of fact and the evidence as I have
25 discussed with you makes me, as the judge, the sole and

1 only instructor in the law. You must accept and apply the
2 law as I charge it to you.

3 If you should make -- if I should make an error
4 in the law as I instruct it to you, there is another time,
5 another place and another court in which that error can be
6 considered and, if necessary, corrected. But for the
7 purpose of this case today, you must accept the law as I
8 charge it to you.

9 In that regard, I tell you that neither you nor
10 I, for that matter, should be concerned about what we
11 think the law ought to be, but only concern yourself what
12 I charge you the law is, in fact, here today.

13 In most civil cases tried in the Court of Common
14 Pleas, the burden of proving a claim is by the greater
15 weight of the evidence or the preponderance of the
16 evidence. However, in this type of case under this
17 particular statute, the State's burden is greater than
18 that. Here it must be beyond a reasonable doubt.

19 As I already stated to you, the State has the
20 burden of proof. In this case, according to the Sexually
21 Violent Predator Statute, the State must prove its case to
22 the standard of proof beyond a reasonable doubt. If the
23 State fails to meet this high burden, then you must find
24 the respondent is not a sexually violent predator.

25 I will define for you what reasonable doubt is.

1 Reasonable doubt is a doubt that makes an
2 honest, sincere, conscientious juror in search of the
3 truth in a case hesitate to act. Proof beyond a
4 reasonable doubt is proof that leaves you firmly convinced
5 that the respondent is a sexually violent predator.

6 There are very few things in this world that we
7 know with absolute certainty. In this type of case, the
8 law does not require proof that overcomes every possible
9 doubt. If based on consideration of the evidence you're
10 firmly convinced that the respondent is a sexually violent
11 predator, then you must return a verdict for State. If,
12 on the other hand, you think there is a real possibility
13 that he is not a sexually violent predator, then you must
14 give the benefit of the doubt and find for the defendant.

15 Reasonable doubt may arise from evidence as in
16 case from the lack or absence of evidence in this case.
17 It is for you, ladies and gentlemen of the jury, to
18 determine whether or not a reasonable doubt exists in this
19 case.

20 I'm going to define for you what a sexually
21 violent predator is.

22 The elements which the State must prove beyond a
23 reasonable doubt are: One, respondent has been convicted
24 of a sexually violent offense. I charge you that criminal
25 sexual conduct in the second and third degree are sexually

1 violent offenses.

2 Respondent suffers from a -- and the second
3 factor is that the respondent suffers from a mental
4 abnormality or personality disorder that makes respondent
5 likely to engage in acts of sexual violence if not
6 confined in a secure facility for long-term care, control
7 and treatment.

8 Inherent in these two elements is that the State
9 must prove the requirement that respondent's mental
10 abnormality or personality disorder causes him serious
11 difficulty in controlling his behavior. In other words,
12 the State must prove beyond a reasonable doubt that the
13 individual it seeks to commit suffers from a mental
14 illness which he cannot sufficiently control without the
15 structure and care provided by a mental health facility,
16 rendering him otherwise likely to commit a dangerous act.

17 In order for you to better understand the
18 elements of the State's cause of action, I'm going to
19 define for you some of the terms I have just used.

20 Mental abnormality means a mental condition
21 affecting a person's emotional or volitional capacity and
22 predisposes a person to commit sexually violent offenses.
23 This mental abnormality or personality disorder must cause
24 respondent serious difficulty in controlling his behavior.

25 Two, likely to engage in acts of sexual violence

1 means the person's propensity to commit acts of sexual
2 violence is of such a degree as to pose a menace to the
3 health and safety of others so that he is a danger to
4 others.

5 Again, I remind that the burden of proof is on
6 the State to prove to your satisfaction beyond a
7 reasonable doubt that respondent has been convicted of a
8 sexually violent offense and, as I instructed you, and
9 also suffers from a mental abnormality or personality
10 disorder that makes respondent likely to engage in acts of
11 sexual violence if not confined in a secure facility for
12 long-term control, care and treatment.

13 If the State carries its burden of proof and
14 convinces you beyond a reasonable doubt as to each of the
15 two elements of this cause of action, it is entitled to a
16 finding that respondent is a sexually violent predator.
17 If the State does not meet the burden of proof as to one
18 or both of these elements, respondent is entitled to a
19 finding that he is not a sexually violent predator.

20 Ladies and gentlemen of the jury, I'm going to
21 come forward, if I could, and share with you the verdict
22 form.

23 Mr. Foreman, I'm going to ask if you could stand
24 up and I'm going to show you this document.

25 State of South Carolina, County of Lexington:

1 It's In the Matter of the Care and Treatment of Carl
2 Durrell Cook, Respondent.

3 This is a civil action, as it indicates, in the
4 Court of Common Pleas and this document is entitled
5 Verdict Form. It's very straightforward. It says: "Has
6 the State of South Carolina proven beyond a reasonable
7 doubt that Carl Durrell Cook is a sexually violent
8 predator under the South Carolina Sexually Violent
9 Predator Act?" And it's got two difference options for
10 you. "We, the jury, unanimously answer the question as
11 follows: Yes, Carl Durrell Cook is a sexually violent
12 predator. No, Carl Durrell Cook is not a sexually violent
13 predator."

14 There's no significance to the order in which
15 these are put. One has to go first. So they're
16 arbitrarily set forth in that manner.

17 There's a place for you to sign it and the date.

18 Mr. Foreman, it's very important for you to
19 under that this form requires that it be unanimous. It
20 can't be eleven to one, it can't be six to six, eight to
21 four. Everyone has to agree. It has to be unanimous.

22 I'm going to give you this verdict form and ask
23 you to have a seat.

24 Throughout your deliberations there might be
25 questions that come up. And I will tell you from the very

1 outset an important question in this case is a factual
2 question for you to determine, whether or not he's a
3 sexually violent predator. That's the question that you
4 called upon to answer.

5 If there's a legal question that you have about
6 the law or anything such as that, if you would write that
7 down, indicate it to the foreman and if you'll write it
8 down on a piece of paper, give it to the bailiff, he'll
9 present it to me and I'll be able to answer it.

10 If there's a question in your mind as to whether
11 or not it's a legal question or a factual question, write
12 it down anyway, give it to the bailiff, and I'll make the
13 determination. If it's something I can answer, I will.
14 Once again, the difficult question you're going to have to
15 answer.

16 I'm going to ask that you retire to the jury
17 room, but do not begin deliberations because I'm going to
18 have to talk with these very fine lawyers to determine
19 whether or not there are any objections to the manner in
20 which I charged the law or if I inadvertently left
21 something out and I'll bring you in and make those
22 connections. However, if I don't pull you back into the
23 courtroom, I'm going to give the bailiff all the
24 documentary evidence and perhaps a piece of paper and a
25 pencil to aid you in the deliberation process and tell you

1 to begin deliberations. But do not begin deliberations
2 until I give you instructions to do so.

3 Mr. Foreman, I'm going to ask you retire to the
4 jury room and do not begin deliberations until the bailiff
5 gives you instructions to do so.

6 Thank you very much.

7 If everyone will remain seated as the jury exits
8 the courtroom.

9 (The jury left open court at approximately 10:50
10 a.m.)

11 THE COURT: Any objections with regard to the
12 manner in which I charged the jury?

13 And I'll hear from the State first, Mr. Bogle.

14 MR. BOGLE: No, there are none, Your Honor.

15 THE COURT: All right. Mr. Hall, any objections
16 from the defense or any additional requests to charge?

17 MR. HALL: No, sir.

18 THE COURT: All right. I'm going to ask, if you
19 could, come forward and I'm going to ask you to look at
20 all the documents that are right beside the court reporter
21 and I want you to examine those individually and determine
22 whether or not everything that's in that pile is in
23 evidence and make sure that there's not anything in that
24 pile that's not in evidence.

25 MR. BOGLE: Everything looks satisfactory, Your

1 Honor. There's no -- everything looks the way it came in.

2 THE COURT: Very good. All right. Mr. Bogle,
3 you agree that everything in that pile is in evidence?

4 MR. BOGLE: That's correct, Your Honor.

5 THE COURT: Is there anything in that pile
6 that's not in evidence?

7 MR. BOGLE: No, Your Honor.

8 THE COURT: All right. Mr. Hall, is everything
9 in that pile in evidence?

10 MR. HALL: Yes, sir.

11 THE COURT: Is there anything in the pile that's
12 not in evidence?

13 MR. HALL: No, sir.

14 THE COURT: All right. Mr. Bailiff, I'm going
15 to ask if you can carry this documentary evidence to the
16 jury and you may give them a piece of paper and a pencil
17 to aid them in the deliberation process and tell them to
18 begin deliberations.

19 Let the record reflect it is ten minutes to 11.

20 (WHEREUPON, the jury began deliberations at
21 approximately 10:51 a.m.)

22 (A break was taken while the jury deliberated.)

23 THE COURT: I understand that the jury has
24 reached a verdict. And I want to speak to everyone here.

25 I don't anticipate there being any problems.

1 Everybody's conducted themselves in a very appropriate
2 fashion. But my job is to preside over this case and also
3 one of my responsibilities is to maintain order in this
4 court.

5 And I don't anticipate there being a problem,
6 but regardless what the verdict is, I'm going to ask that
7 everybody not show any reaction. If you do so, I'm going
8 to instruct the deputies to take you into custody. I
9 cannot have any kind of outbursts whatsoever.

10 We're ready for the jury.

11 (The jury came into open court at approximately
12 11:22 a.m.)

13 THE COURT: Mr. Foreman, have you reached a
14 verdict?

15 THE FOREPERSON: We have, Your Honor.

16 THE COURT: Is it indeed unanimous?

17 THE FOREPERSON: Yes, Your Honor.

18 THE COURT: I'm going to ask, if you could, to
19 give the verdict form to the bailiff.

20 All right. The verdict form seems to be in
21 order. Madam Clerk, I'm going to ask that you publish it.

22 THE CLERK: May it please the Court.

23 The verdict in the case of 2010-CP-32-3952, In
24 the Matter of the Care and Treatment of Carl Durrell Cook,
25 Respondent, it says, "We, the jury, unanimously answer the

1 question as follows: Yes, Carl Durrell Cook is a sexually
2 violent predator."

3 Mr. Foreman, ladies and gentlemen of the jury,
4 if this be your verdict say so by each of you raising your
5 right hands.

6 All hands are raised, Your Honor.

7 THE COURT: All right. Any additional requests
8 for polling?

9 MR. HALL: None from the defense.

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

11 THE COURT: Very good.

12 Mr. Foreman, I want to thank you for your
13 service. I know that you all had places you'd rather be
14 this week. You all have work that you needed to attend to
15 and personal matters, it's close to the holidays. I want
16 to thank you for your service. I know that it's been an
17 inconvenience for you, but you were subpoenaed.

18 And I know that a lot of times judges thank
19 jurors for coming. It's kind of odd to do that because it
20 kind of gives the impression that y'all are responding to
21 an invitation. But you all were sort of drafted to be
22 here.

23 And Winston Churchill mentioned that jury
24 service is -- there's no greater civic duty than jury
25 service other than perhaps service in the military, and

1 for that I'm grateful.

2 And, you know, if you think about it, although
3 it was inconvenient, sometimes it's appropriate to sort of
4 think about it in a different way.

5 You know, we're just a breath away from
6 litigation ourselves. We could be in a position where we
7 would have to bring a civil lawsuit against someone else
8 or someone could sue us in a moment's notice. And
9 unfortunately we're not immune from criminal prosecution
10 ourselves.

11 We all ought to be grateful when we lay our head
12 down on the pillow at night that we have jurors who make
13 these type of determinations and it's not the government
14 that does.

15 I don't think that we would receive the same
16 justice if judges were the fact finders in our judicial
17 system. I don't think professional jurors would do as
18 well. And if you think about it, the only way to do it is
19 to issue subpoenas and require that you be here.

20 If you think about it, the only other
21 alternative would be for the clerk to go out in the street
22 and find 12 people who had absolutely nothing better to
23 do. I don't think that we would get the same standard of
24 wisdom and justice that you've provided for us here today.

25 How many of you have never served on a jury

1 before?

2 (Jurors raise hands.)

3 THE COURT: Good gracious.

4 You know, I practiced law for 20 years and
5 lawyers are not exempt from jury service, but for whatever
6 reason I was never subpoenaed to serve on a jury, and it
7 was just a couple of months ago that I was subpoenaed for
8 the very first time to serve on a jury.

9 I know some people get them for magistrate's
10 court and municipal court and federal court and you're
11 always back and forth to the courthouse it seems like.
12 But I've always wanted to do it, because as a lawyer I
13 wanted to see the magic that happens in a jury room, but
14 was never afforded the opportunity to do that.

15 Hopefully since this is your first experience
16 that it's been a learning experience and an interesting
17 one.

18 I told you from the outset, that if you had any
19 questions about any points of law or any other questions,
20 I'll be happy to answer them.

21 Does anybody have any questions or comments?

22 (No response.)

23 THE COURT: All right. I've got good news for
24 you. You've earned a three-year exemption. If you're
25 subpoenaed to participate in Common Pleas Court or General

1 Session Court within the next three years, you can tell
2 them that you've served this week and you'll be entitled
3 to an exemption. You can serve if you want to, but you're
4 entitled to an exemption and you can opt out of it if
5 subpoenaed to participate in Common Pleas or General
6 Sessions. Just let them know what month and week, what
7 day and month you served and tell them that I presided and
8 tell them the case that you were involved in and you'll be
9 entitled to an exemption.

10 The other good news is you're going to be paid
11 handsomely for your service.

12 Madam Clerk, how much do they receive?

13 THE CLERK: \$15 a day and 28 cents a mile. I
14 told them on Monday they wouldn't get rich.

15 THE COURT: Okay. That's right. That's hardly
16 enough to buy a new pair of britches or a new frock or
17 anything, but it's a small token of our appreciation for
18 you on behalf of the State of South Carolina.

19 I want to thank you so much for your time and
20 your consideration in this matter.

21 I'm going to ask that everyone remain seated as
22 the jury exits the courtroom.

23 You're free to leave for the week.

24 (The jury was excused from open court at
25 approximately 11:29 a.m.)

1 THE COURT: I'll be happy to entertain any
2 motions at this time, Mr. Bogle.

3 MR. BOGLE: No, Your Honor, none.

4 THE COURT: Any from defense, Mr. Hall?

5 MR. HALL: No, sir.

6 THE COURT: All right. Very good.

7 MR. BOGLE: May I approach, Your Honor?

8 THE COURT: Yes, you may.

9 MR. BOGLE: This is a proposed order of
10 commitment.

11 MR. HALL: No objection.

12 MR. BOGLE: Judge, I'll take it downstairs and
13 file it and make sure it gets to the sheriff's department
14 so they can handle transport.

15 THE COURT: Mr. Cook, having been determined by
16 this jury to be a sexually violent predator, you are to be
17 committed to the Department of Mental Health for long-term
18 care, control and treatment. And you're to be detained
19 here at the Lexington County Detention Center until such
20 time as there is a bed available at the South Carolina
21 Department of Mental Health.

22 Mr. Cook, you will be subject to evaluation
23 every year thereafter. I'm going to ask that you
24 cooperate with them in what they ask you to do. Hopefully
25 with the right attitude you'll be released in a short

1 period of time.

2 I do wish you the best of luck.

3 (The proceedings were concluded.)

4 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT - FIRST DEGREE
§16-3-652

At a Court of General Sessions, convened in AUGUST, 2003 the Grand Jurors of LEXINGTON County present upon their oath:

**CRIMINAL SEXUAL CONDUCT FIRST DEGREE
§16-3-652**

That **CARL DURRELL COOK**, did in Lexington County on or about August 28, 2002, commit a sexual battery with and upon the body of [REDACTED], to wit: sexual intercourse; and that the sexual battery was accomplished thru the use of aggravated force and/or the victim, [REDACTED], submitted to the sexual battery under circumstances where she was also the victim of forcible confinement, kidnapping, robbery, extortion, burglary, housebreaking, or another similar act or offense in violation of §16-3-652 of the South Carolina Code of Laws.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A TRUE COPY
[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

[Signature]
Dep. SOLICITOR
STATE'S EXHIBIT
1
12-5-11 *[initials]*

SALVY HENRY

WITNESSES

LCSD

Peake, D.

ARREST WARRANT NUMBER

H-127183

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 8/11/03

VERDICT

Foreperson of Petit Jury

Date:

168

DOCKET NO. 2003 -GS-32- 3219

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

AUGUST TERM 2003

THE STATE

vs.

CARL DURRELL COOK

PLD CSC 2nd

CDR# 160

Indictment for

CRIMINAL SEXUAL CONDUCT - FIRST
DEGREE
§16-3-652

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
STATE VS
Carl D. Cook
AKA:
Race: B Sex: M Age:
DOB: [Redacted]
Address: [Redacted]
City, State, Zip: Lexington
DL# SID#

INDICTMENT/CASE#: 2003 -GS- 32 - 3219
A/W#: H-177183
Date of Offense: 8/28/02
S.C. Code §: 16-3-652
CDR Code #: 0 1 1 6 1 0
 CASE RESTORED
SENTENCE
 PLEA TRIAL 0.20 yrs

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: CS 2nd
in violation of § 16-3-653 of the S.C. Code of Laws, bearing CDR Code # 0 1 1 6 1 1
 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: [Signature] Solicitor, [Signature] Carl Cook Defendant, [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 20 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 10 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 Services standard conditions of probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 set by SCDPPPS _____

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: Possible Mental Issues prior suicidal att
ATU for Ryland Alford -
Mental Health while in DOC & Probation -
NO CONTACT WITH VICTIMS unless victims request
 Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.

Recipient: _____
*Fine: _____ \$
\$14-1-206 (Assessments 107.5%) \$ _____
\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
\$56-5-2995 (DUI Assessment) \$12 \$ _____
§ 35.13 (Public Def/Prob) \$500 \$ _____
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____
\$50-21-114(BUI Breath Test Fee) \$50 \$ _____
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
3% to County (if paid in installments) \$ _____
TOTAL \$ 125.00

Thomas H Comerford
Clerk of Court/ Deputy Clerk
Court Reporter: S. Perry

PRESIDING JUDGE: [Signature]
Judge Code: 01 0 1 4 1 9
Sentence Date: 7-20-04

A TRUE COPY

ARREST WARRANT

H-127183 H-127183

STATE OF SOUTH CAROLINA

County/ Municipality of Lexington

THE STATE against

CARL DURRELL COOK

Address: Phone: SSN: Sex: Race: Height: Weight: DL: DOB: Agency ORI#: Prosecuting Agency: Prosecuting Officer: Offense: Code/Ordinance Sec.

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

BRUCE RUTLAND 650 KNOX ABBOTT DR. CAYCE, SC 29033 803-796-7100

STATE OF SOUTH CAROLINA

County/ Municipality of Lexington

AFFIDAVIT

DUANE PEAKE

Personally appeared before me the affiant being duly sworn deposes and says that did within this county and state on State of South Carolina (or ordinance of) in the following particulars: DESCRIPTION OF OFFENSE:

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:

ON AUGUST 28, 2002 THE DEFENDANT CARL COOK DID PHYSICALLY HOLD DOWN THE VICTIM BEING HIS GRANDMOTHER PINNING HER TO THE BED NOT ALLOWING HER TO GET UP AND LEAVE. THE DEF. THEN FORCEFULLY HELD OPEN VICTIM'S LEGS AND PENETRATED HER VAGINA WITH HIS PENIS. THE DEF. THEN WAITED FOR A SHORT TIME AND GOT BACK ON TOP OF THE VICTIM AND HELD HER AGAINST HER WILL WHILE HE AGAIN PENETRATED HER VAGINA WITH HIS PENIS. THE DEF. THREATENED THE VICTIM WITH A KNIFE TO THE POINT THAT SHE WAS AFRAID FOR HER LIFE.

Sworn to and subscribed before me on Signature of Issuing Judge (L.S.)

Signature of Affiant Affiant's Address Affiant's Telephone

STATE OF SOUTH CAROLINA

County/ Municipality of Lexington

ARREST WARRANT

Lex. Co. C.C.C.P., G.S. & F.C.

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 did violate the criminal laws of the State of South Carolina (or ordinance of) as set forth below:

DESCRIPTION OF OFFENSE: CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

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 Code:

Judge's Address Judge's Telephone Issuing Court: Magistrate Municipal Circuit

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT FIRST DEGREE
§16-3-652

At a Court of General Sessions, convened in July 2002, the Grand Jurors of LEXINGTON County present upon their oath:

CRIMINAL SEXUAL CONDUCT FIRST DEGREE

§16-3-652

That **CARL D. COOK**, did in Lexington County on or about November 17, 2001, engage in sexual battery, upon and with the body of [REDACTED] to wit: the defendant forced the victim to have sexual intercourse, without her consent. Such sexual battery was accomplished by the use of aggravated force and/or the sexual battery was accomplished during a forcible confinement, in violation of Section 16-3-652 of the South Carolina Code of Laws of 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A TRUE COPY

[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

[Signature]
SOLICITOR

STATE'S EXHIBIT

#2
12-5-11 ct

173

J. Henry

WITNESSES

LCSD

Rainwater

ARREST WARRANT NUMBER

G-643287

TRUE BILL
SIGN OF GRAND JURY

Clyde Hart Jr.
Foreperson of Grand Jury
Date: 7/15/02

VERDICT

Foreperson of Petit Jury
Date:

DOCKET 2002-GS-32- *2417*

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2002

THE STATE

vs.

CARL D. COOK

PLD CSC 3RD

CDR# 160

Indictment for

CRIMINAL SEXUAL CONDUCT FIRST
DEGREE
§16-3-652

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF Lexington)
 STATE Carl D. Cook vs)
 AKA:)
 Race: B Sex: M Age:)
 DOB: [redacted] SS#: [redacted])
 Address: [redacted])
 City, State, Zip Lexington)
 DL# [redacted] SID# [redacted])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2002-GS-32-2417
 A/W#: G-643287
 Date of Offense: 11/17/01
 S.C. Code §: 16-3-657
 CDR Code #: 0 1 16 10
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS 0-10 yrs
 TO: CSC 814
 In violation of § 16-3-654 of the S.C. Code of Laws, bearing CDR Code # 0 1 16 1 2
 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: [Signature] Solicitor Carl Cook Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms:
 set by SCDPPPS _____

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: _____

Recipient: _____

*Fine:	\$	
\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$ 35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$
TOTAL		\$ 175.00

Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.

Thomas H. Comerford
 Clerk of Court/ Deputy Clerk

PRESIDING JUDGE [Signature]
 Judge Code: 0101419
 Sentence Date: 7-20-04

Court Reporter: S. Robby
A TRUE COPY
[Signature]
 Lex. Co. O.C.C.P., G.S. & F.C.

Pg 1 of 1 pgs

B/m



DATE Aug 28, 2002 PLACE LCS D TIME STARTED 10:30 A.M.

I, the undersigned, CARL DURRELL COOK, am 36 years of age, my date and place of birth being the day of , 19 , at Columbia SC. My present address

Before answering any questions or making any statements, DUAN PEAKE, a person who identified himself as a DETECTIVE DUANE PEAKE

DULY WARNED AND ADVISED ME:

- cc ① That I have the right to remain silent and not make any statement at all.
- cc ② That any statement I do make can be used against me in court.
- cc ③ That I have the right to have an attorney present at any time during questioning.
- cc ④ That if I cannot afford an attorney, I can apply to the court to have one appointed at no cost to me.
- cc ⑤ That if I decide to talk to an officer without an attorney present, I may stop at any time and request an attorney be present for further questioning.

UNDERSTANDING THESE RIGHTS, I MAKE THE FOLLOWING STATEMENT:

My I needed help. Because I had sex with my grandmother please God! This will never happen again! Please help me cc.



Witness Duan Peake

Carl Cook
Person giving Statement

Notary Public _____

8-28-02
Date

My Commission expires _____

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
CARL DURRELL COOK,)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-32-03952

ORDER OF COMMITMENT

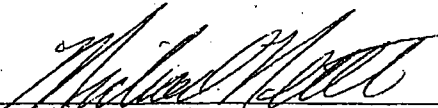
The trial of this case was held in the County of Lexington in the Court of Common Pleas the week of December 5, 2011. A jury of citizens from Lexington County heard this case pursuant to a request for a jury trial filed by the State. Senior Assistant Attorney General James G. Bogle, Jr. represented the State. Ronald R. Hall, 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, Carl Durrell Cook, is a sexually violent predator as that term is defined in S. C. Code Ann. Section 44-48-30.

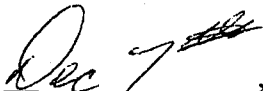
NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

- (a) Respondent is committed to the Department of Mental Health for his long-term control, care and treatment;
- (b) Respondent is to be detained in the Lexington County Detention Center and transported, as soon as possible, by the Sheriff of Lexington County to the secure facility of the South Carolina Department of Mental Health, at 4460 Broad River Road, Columbia, SC 29210. The Sheriff is to transport Respondent on such scheduled date as the Sheriff's Office (or the Detention Center) coordinates with the Department of Mental Health;

AND IT IS SO ORDERED.



Michael G. Nettles
Judge for the Eleventh Judicial Circuit
Court of Common Pleas


_____, 2011
Lexington, South Carolina

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

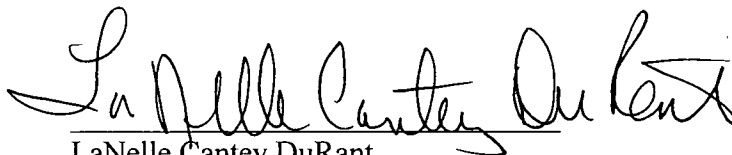
2011 DEC - 7 A 11: 38

FILED

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

December 10, 2012



LaNelle Cantey DuRant
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

DEC 10 2012

SC Court of Appeals