

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Horry County

Honorable William H. Seals, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF OTIS ALFORD,

APPELLANT

APPELLATE CASE NO. 2018-001496

RECORD ON APPEAL

RECEIVED

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SC Court of Appeals

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT (AUGUST 6-7, 2018).....	1
OPENING STATEMENT BY MR. MORROW	35
OPENING STATEMENT BY MR. FALK	39
TESTIMONY	
GORDAN EDGAR BROWN, JR.....	45
THE STATE RESTS	123
MOTION FOR DIRECTED VERDICT.....	123
TESTIMONY (CONTINUED)	
OTIS ALFORD.....	128
THE DEFENSE RESTS	149
RENEWAL OF MOTION FOR DIRECTED VERDICT	150
RULING BY THE COURT.....	150
CLOSING ARGUMENT BY MR. MORROW	153
CLOSING ARGUMENT BY MR. FALK	165
CHARGE ON THE LAW	178
VERDICT	193
CERTIFICATE OF COUNSEL	197

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY) 2017-CP-26-02862

IN THE MATTER OF THE)
CARE AND TREATMENT OF)
OTIS ALFORD,)

STATE OF SOUTH CAROLINA,)

Petitioner,)

Transcript of Record

vs.)

August 6-7, 2018

OTIS ALFORD,)

Respondent.)

B E F O R E:

Honorable William H. Seals
Horry County Courthouse
Conway, South Carolina

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

Christopher A. Morrow, Esquire
Attorney for Petitioner

James K. Falk, Esquire
Attorney for Respondent

Kay H. Richardson
Circuit Court Reporter

Care and Treatment of Otis Alford - 17-CP-26-02862
INDEX

2

1	<u>I N D E X</u>	
2	<u>AUGUST 6, 2018 - DAY ONE</u>	<u>Pg.</u>
3	Voir Dire	4
4	Jury Selection	18
5	Motions	22
6	By the Court	32
7	Opening by Morrow	35
8	Opening by Falk	39
9	Gordan Edgar Brown	
10	Direct by Morrow	45
11	Voir Dire by Falk	50
12	By the Court	52
13	Direct by Morrow	52
14	Cross by Falk	90
15	Redirect by Morrow	118
16	Recross by Falk	121
17	By the Court	123
18	Motions	124
19	<u>AUGUST 7, 2018 - DAY TWO</u>	
20	Otis Alford	
21	Direct by Falk	128
22	Cross by Morrow	136
23	Redirect by Falk	149
24	Motions	150
25	Charge Conference	151

Care and Treatment of Otis Alford - 17-CP-26-02862
INDEX

3

1	<u>I N D E X</u>	
2		<u>Pg.</u>
3	Closing by Morrow	153
4	Closing by Falk	165
5	Charge to Jury	178
6	By the Court	187
7	Questions from Jury	188
8	Verdict of Jury	193
9	Certificate of Court Reporter	196

10

11

E X H I B I T S

12	<u>No.</u>	<u>ID</u>	<u>EV</u>
13	P1 Warrant, indictment, and sentencing sheet		58
14	87-GS-26-51		
15	P2 Indictment and sentencing sheet		69
16	16-GS-26-351		
17	C1 Note from Jury	188	
18	C2 Note from Jury	191	

19

20

21

22

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Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

4

1 **AUGUST 6, 2018 @ 11:40 A.M. - DAY ONE**

2 VOIR DIRE:

3 THE COURT: This is civil action number 2017-CP-26-2862,
4 in the matter of the care and treatment of Otis Alford,
5 concerning the long-term control, care, and treatment in a
6 secure facility. In that regard, has anybody read anything
7 about this case, talked to anybody about this case, heard
8 anything about this case; if you have any knowledge about this
9 case at all, please stand.

10 (REPORTER'S NOTE: No response.)

11 THE COURT: All right. No one stood.

12 And, Mr. Alford, if you'd be so kind as just to stand and
13 face the jury panel. All right. Thank you.

14 Is any member of the jury panel related by blood or
15 marriage or has a close personal or social relationship with
16 Mr. Alford? If so, please stand.

17 (REPORTER'S NOTE: No response.)

18 THE COURT: No one stood.

19 And, Mr. Morrow, if you would stand and introduce
20 yourself?

21 MR. MORROW: My name is Christopher Morrow. I am an
22 attorney general at the South Carolina Attorney General's
23 Office. I live in Columbia with my wife, Kate and our two
24 children.

25 THE COURT: Thank you.

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

5

1 Is any member of the jury panel related by blood or
2 marriage or has a close personal or social relationship with
3 Mr. Morrow or has ever been represented by him at any point in
4 time? If so, please stand.

5 (REPORTER'S NOTE: No response.)

6 THE COURT: All right. No one stood.

7 And, Mr. Faulk, if you would introduce yourself and the
8 members at your table.

9 MR. FALK: I'm James Falk. I'm an attorney from
10 Charleston. I was appointed by the Office of Indigent Defense
11 to represent Mr. Alford here today and my wife is sitting here
12 helping me also. She helps me at my office.

13 THE COURT: Thank you.

14 Is any member of the jury panel related by blood or
15 marriage or has a close personal or social relationship with
16 Mr. Falk or his wife? If so, please stand -- or has been
17 represented by them at any point in time, please stand.

18 (REPORTER'S NOTE: No response.)

19 THE COURT: All right. And no one stood.

20 And the witnesses on behalf of the State of South
21 Carolina will be a Dr. Gordon E. Brown, Jr. Is he in the
22 courtroom, Mr. Morrow?

23 MR. MORROW: He is not, Your Honor. He is in the
24 hallway.

25 THE COURT: And where is he from?

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

6

1 MR. MORROW: He's from Columbia, Your Honor.

2 THE COURT: All right. Is any member of the jury panel
3 related by blood or marriage or has a close personal or social
4 relationship with Dr. Brown? If so, please stand.

5 All right. No one stood.

6 Mr. Falk, do you have any witnesses other than your
7 client?

8 Mr. FALK: No, Your Honor.

9 THE COURT: All right. Thank you. Have you or anyone in
10 your immediate family ever been charged, accused or convicted
11 of a crime involving any kind of sexual abuse? If so, please
12 stand.

13 JUROR: Can you just repeat that for me?

14 THE COURT: Okay. And you can come forward if it
15 applies. Have you or anyone in your immediate family ever
16 been charged, accused or convicted of a crime involving any
17 kind of sexual abuse?

18 You may come forward, thank you.

19 (REPORTER'S NOTE: Bench conference is held on the record in
20 the presence of but outside the hearing of the jury.)

21 THE COURT: Give me your name and your number.

22 JUROR 34: Juror Number 34, Elizabeth Mendez.

23 THE COURT: Okay. How does that apply to you?

24 JUROR 34: My grandfather molested a lot of us
25 grandchildren. So, I was the only one that stood up and told

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

7

1 the police.

2 THE COURT: Okay. Well, good for you.

3 Mr. Falk, do you have any questions for her?

4 MR. FALK: Was he ever brought to trial?

5 JUROR 34: No, because it was past the -- like the
6 timeframe for it, but I was the only one that stood up.

7 THE COURT: How about you, Mr. Morrow, anything
8 specifically you want to know?

9 MR. MORROW: Nothing specific.

10 THE COURT: Taking that into account, could you listen to
11 the facts of this case and be fair and impartial to both
12 sides, the State, and the respondent? It's not a crime, it's
13 a civil trial just to see if he needs to be committed to a
14 facility or not or would that ---

15 JUROR 34: I'm not sure because I -- because of
16 everything I've gone through. I really do have a strong
17 opinion about it. I'm not sure if I ---

18 THE COURT: I'm going to excuse you for the purposes of
19 this trial. You just have a seat, you can go when this is
20 over with.

21 JUROR 34: All right. Thank you.

22 THE COURT: And you don't have to stand up for any more
23 questions.

24 JUROR 34: Okay.

25 THE COURT: Thank you for coming forward.

1 JUROR 34: And do I have to call -- and I have to all
2 again this week or anything?

3 THE COURT: You just sit down, and when we're done, you
4 can go.

5 JUROR 34: All right. Thank you.

6 THE COURT: Thank you.

7 (REPORTER'S NOTE: End of bench conference.)

8 THE COURT: Have you or anyone in your immediate family
9 ever been charged, accused or convicted of criminal sexual
10 conduct, CSC; if so, please stand?

11 (REPORTER'S NOTE: No response.)

12 THE COURT: Have you or anyone in your immediate family
13 ever been a victim of criminal sexual conduct or sexual abuse,
14 whether reported or unreported? If so, please stand.

15 All right. You may come forward.

16 (REPORTER'S NOTE: Bench conference is held on the record in
17 the presence of but outside the hearing of the jury.)

18 THE COURT: Good morning. Your name and your number if
19 you would?

20 JUROR 122: Melissa Fifield, 122.

21 THE COURT: Okay. And how does that question apply to
22 you?

23 JUROR 122: I was molested by babysitter's husband when I
24 was about seven.

25 THE COURT: Okay.

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

9

1 JUROR 122: It was not prosecuted, I guess you would say.

2 THE COURT: Any questions you have?

3 MR. FALK: I didn't hear how old she was at the time?

4 JUROR 122: Seven.

5 THE COURT: Anything you want to ask her?

6 MR. FALK: You're gonna ask the questions ---

7 THE COURT: Yes.

8 MR. FALK: No, sir.

9 THE COURT: How about you, Mr. Morrow?

10 MR. MORROW: Nothing specifically, Your Honor.

11 THE COURT: All right. Taking that into account, could
12 you sit on the jury in this case and be fair and impartial not
13 only to the state, but the respondent as well? Now, keep in
14 mind this is a civil trial. We're not here about guilt, you
15 know, or sending him to jail or anything like that. It's a
16 matter of whether or not he needs to go to a secure facility
17 for mental health treatment. If you're uncomfortable with
18 that ---

19 JUROR 122: Yeah.

20 THE COURT: That's fine, you just tell me if you think
21 you can be a fair and impartial juror?

22 JUROR 122: If you have other people available, I think
23 it'd be best, you know, that don't have any conflicts at all.

24 THE COURT: If you just have a seat, you can go when the
25 process is over and you don't need to stand up for anything

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

10

1 else.

2 JUROR 122: I'm sorry.

3 THE COURT: No, fine, thank you for coming forward. I
4 appreciate that. Two more.

5 All right. Good morning. Give me your name and your
6 number?

7 JUROR 86: I'm Mabel Cox.

8 THE COURT: And what's your number?

9 JUROR 86: 86.

10 THE COURT: 86. All right. Go ahead.

11 JUROR 86: Okay. I'm going to therapy now for sexual
12 military trauma.

13 THE COURT: Do you have any questions?

14 MR. FALK: I'm sorry, what does that mean? To be a
15 counselor or because you were the victim?

16 JUROR 86: Because I was the victim.

17 THE COURT: Like a workplace thing?

18 JUROR 86: Say it again, now?

19 THE COURT: A superior officer kind of thing?

20 JUROR 86: Yeah.

21 THE COURT: Anything else for her?

22 MR. MORROW: Nothing specific.

23 THE COURT: Taking that into account, could you sit on
24 the trial of this case and be fair and impartial to both of
25 these parties?

Care and Treatment of Otis Alford - 17-CP-26-02862 ,
VOIR DIRE

11

1 JUROR 86: Oh, yeah.

2 THE COURT: Okay. Thank you for coming forward. If
3 you'll just have a seat.

4 We're keeping her. We'll keep her.

5 Looks like we have one more. If you would, come on up.

6 Good morning. Give me your name and your juror number,
7 please?

8 JUROR 112: My juror number is 112. My name is Tammy Lee
9 Eddy.

10 THE COURT: Okay.

11 JUROR 112: I was 23 years old and I went to stay with my
12 uncle in Texas and he molested me. He also did other family
13 members, and he was supposed to go to a mental hospital for
14 help. I don't know whether he did because I came back to
15 Pennsylvania.

16 THE COURT: Uh-huh, (affirmative response).

17 JUROR 112: But when I became a Christian, I forgave him,
18 and he's passed away for 15, 20 years now.

19 THE COURT: All right. Taking that into account, if you
20 were selected to serve on the jury in this case, could you
21 hear the facts of this case and be fair and impartial to both
22 sides?

23 JUROR 112: Yes, because I believe in Jesus and I would
24 do the right thing, yes.

25 THE COURT: You can stay with us. Well, good, thank you.

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

12

1 JUROR 112: Yes.

2 THE COURT: I appreciate that. You just have a seat.

3 JUROR 112: Okay. Thank you.

4 THE COURT: Thank you.

5 Do y'all want to start after lunch or before lunch, it
6 doesn't matter to me?

7 MR. FALK: What I thought is we could start after lunch
8 and also there's another matter that I would like to address
9 on another issue in the case.

10 THE COURT: Okay. Not anything to do with this?

11 MR. FALK: Oh, no, no, but it needs to get ---

12 MR. MORROW: You want to do that tomorrow? We'll talk
13 about it once we ---

14 THE COURT: Let's get through with this.

15 (REPORTER'S NOTE: End of bench conference.)

16 THE COURT: Has any member of the jury panel been the
17 subject of or had a close personal friend or family member
18 that was the subject of a mental inquest warrant or other
19 civil commitment for mental health reasons? If so, please
20 stand.

21 (REPORTER'S NOTE: No response.)

22 THE COURT: Has any member of the jury panel ever worked
23 for or in any way been connected with a social services
24 agency, a guardian ad litem program, a foster care program, a
25 court appointed special advocate program, or any other entity,

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

13

1 either private or governmental, that investigates or counsels
2 victims of rape or sexual assault? If so, please stand.

3 JUROR: Could you repeat the question?

4 THE COURT: Has any member of the jury panel ever worked
5 for or in any way been connected with a social services
6 agency, a guardian ad litem program, a foster care program, a
7 court appointed special advocate program or any other entity
8 that investigates or counsels victims of rape or sexual
9 assault?

10 All right. Three of you. You can come forward if you
11 like.

12 (REPORTER'S NOTE: Bench conference is held on the record in
13 the presence of but outside the hearing of the jury.)

14 THE COURT: All right, sir, give me your name and your
15 number.

16 JUROR 164: It's number 164, Theron Hunter.

17 THE COURT: Okay. How does that question apply to you?

18 JUROR 164: My parents were involved with the local
19 foster care, which we ended up having an adopted brother from
20 that for a while.

21 THE COURT: Any other questions for this individual, Mr.
22 Morrow?

23 MR. FALK: No, Your Honor.

24 THE COURT: I called you, Mr. Morrow, Mr. Falk.

25 Mr. Morrow, any questions?

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

14

1 MR. MORROW: No questions.

2 THE COURT: You can have a seat. Thank you.

3 MR. FALK: I'll take that as a compliment.

4 THE COURT: Yes. See, he has the burden of proof. He's
5 supposed to be on the side closest to the jury.

6 Good morning.

7 JUROR 262: Good morning.

8 THE COURT: Give me your name and your number?

9 JUROR 262: Vanessa Nelson, 262.

10 THE COURT: Okay. How does this question apply to you?

11 JUROR 262: I'm not sure if it directly applies, but my
12 husband and I were considering being foster parents about six
13 years ago. We went through some of the training.

14 THE COURT: Uh-huh, (affirmative response).

15 JUROR 262: And were to the point of about to do the home
16 inspection before we moved here and we stopped.

17 THE COURT: Okay. Good.

18 JUROR 262: And then I also have a sister who has served
19 as a guardian ad litem.

20 THE COURT: All right. Well good. I appreciate you
21 coming forward.

22 Okay. We've got one more.

23 Good morning.

24 JUROR 52: My name is Daniel Brown, Juror Number 52. I'm
25 a trauma surgeon physician assistant at Grand Strand Medical

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

15

1 Center. I take care of the victims of sexual assault. I work
2 with psychiatrists and case managers that have these people
3 committed as well.

4 THE COURT: Taking that into account, if you were
5 selected to serve on the jury in this case, could you be fair
6 and impartial to both sides?

7 JUROR 52: I don't know.

8 THE COURT: What it is it's a civil involuntary
9 commitment, you know, whether or not he's going to be released
10 into society or not. It's not a criminal trial. It's not
11 throwing somebody in jail ---

12 JUROR 52: I don't know if I can be impartial.

13 THE COURT: Because your training would probably be
14 pretty good.

15 JUROR 52: Yes, sir.

16 THE COURT: But, if you don't think you can be fair and
17 impartial -- for what reasons could you not be fair and
18 impartial?

19 JUROR 52: Because I deal mostly with victims
20 specifically. And I know a lot of the case managers and
21 things and psychiatrists I recommend to these people and I see
22 a lot of the, as I'm sure you do as well Your Honor through
23 your side of these events. So ---

24 THE COURT: All right. I'll excuse you from this trial.
25 If you'll just have a seat, you can go when the process is

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

16

1 over.

2 JUROR 52: Yes, sir.

3 (REPORTER'S NOTE: End of bench conference.)

4 THE COURT: Okay. Does any member of the jury panel or
5 any member of your immediate family work for or with any law
6 enforcement agency; that could be city, county, state or
7 federal or with the solicitor's office? If so, please stand.

8 All right. Gentleman on the front, just give me your
9 name and your number.

10 JUROR 17: 17, Dutch Baker. My brother works with the
11 Horry County Police Department.

12 THE COURT: All right. Good. Thank you.

13 The lady that just came up here a minute ago, your name
14 and number one more time?

15 JUROR 262: Vanessa Nelson, 262.

16 THE COURT: Okay. How does that question?

17 JUROR 262: I have a brother who is a police detective in
18 another state and a sister who is an attorney in another
19 state.

20 THE COURT: All right. Well, thank you.

21 And the lady next to you, your name and number?

22 JUROR 15: Number 15, Laura Arrowood. My husband was a
23 police officer with the City of Myrtle Beach and also an Air
24 Force officer, Office of Special Investigations.

25 THE COURT: Okay. Thank you.

Care and Treatment of Otis Alford - 17-CP-26-02862
VOIR DIRE

17

1 And we have one more over on the right. Yes, sir, name
2 and number?

3 JUROR: I didn't catch if it was family only, but my
4 girlfriend works as a solicitor here.

5 THE COURT: Okay. And her name is?

6 JUROR: Leigh Andrew.

7 THE COURT: All right. Thank you. Has any member of the
8 jury panel contributed either time or money to any crime
9 prevention group or victim's rights group or any criminal or
10 law enforcement organization such as a Neighborhood Watch
11 Group, Citizens Against Violent Crimes, People Against Rape,
12 Rape Crisis Hotline, or Darkness to Light or anything of that
13 nature? If so, please stand.

14 Has any member of the jury panel been involved in a
15 prison ministry, prison outreach program or any other program
16 involving contact with incarcerated persons? If so, please
17 stand.

18 All right. Anything ---

19 JUROR 387: A long time ago when I was in college.

20 THE COURT: All right. Your name and your number?

21 JUROR 387: I'm sorry. Laura Whitfield, 387.

22 THE COURT: All right. Go ahead and tell me again how
23 that applies.

24 JUROR 387: When I was in college and they -- for you to
25 make money during the summer, I worked for a community college

Care and Treatment of Otis Alford - 17-CP-26-02862
JURY SELECTION

18

1 and we went to the prisons in North Carolina and state prisons
2 and gave placement tests.

3 THE COURT: Well, good. Thank you. I appreciate you
4 standing.

5 JUROR 387: Uh-huh, (affirmative response).

6 THE COURT: All right. Any other questions from the
7 state?

8 MR. MORROW: Nothing from the state, Your Honor.

9 THE COURT: Okay. Anything from the respondent?

10 MR. FALK: Nothing.

11 THE COURT: Except for those I have excused, I find the
12 jury panel qualified for this case.

13 If you'll give us 12 jurors and two alternates, since we
14 just have one case.

15 Are y'all ready to pick a jury or do you need a few
16 minutes?

17 MR. FALK: Could we have a few minutes?

18 THE COURT: Sure. Just let me know when you're ready.

19 Just let me know when you're ready, Mr. Falk?

20 MR. FALK: I'm sorry, Your Honor.

21 THE COURT: Take your time. Just let me know.

22 (REPORTER'S NOTE: Counsel reviews jury venire list.)

23 JURY SELECTION:

24 MR. FALK: Thank you, Your Honor.

25 THE COURT: You ready? All right.

Care and Treatment of Otis Alford - 17-CP-26-02862
JURY SELECTION

19

1 CLERK: Yes, sir. Begin with the state with the numbers
2 on the left.
3 MR. MORROW: The state strikes Juror 14.
4 CLERK: State, Number 14.
5 MR. FALK: The respondent strikes Juror Number 18.
6 CLERK: Respondent, Number 18.
7 MR. MORROW: State strikes Juror 3.
8 CLERK: State, Juror Number 3.
9 MR. FALK: Respondent strikes Juror Number 15.
10 CLERK: I'm sorry?
11 MR. FALK: Juror Number 15.
12 CLERK: Respondent, Number 15.
13 MR. MORROW: State strikes Juror 7.
14 CLERK: State, Juror Number 7.
15 MR. FALK: The respondent strikes Juror Number 21.
16 CLERK: Respondent, Number 21.
17 MR. MORROW: State strikes Juror 2.
18 CLERK: State, Juror Number 2.
19 MR. FALK: Strike, the respondent strikes Juror Number
20 10.
21 CLERK: Respondent, Juror Number 10.
22 Alternate Number 1, please.
23 MR. MORROW: State strikes Juror 23.
24 CLERK: State, Number 23.
25 MR. FALK: Respondent strikes Juror 24.

Care and Treatment of Otis Alford - 17-CP-26-02862
JURY SELECTION

20

1 CLERK: Respondent, Number 24.
2 Alternate Number 2, please.
3 MR. MORROW: State strikes Juror 26.
4 CLERK: State, Juror Number 26.
5 MR. FALK: Respondent, Juror 27.
6 CLERK: Respondent, Juror Number 27.
7 Review your your strikes, please. State strikes Jurors
8 Number 2, 3, 7, 14, 23, and 26.
9 MR. MORROW: That's correct.
10 THE COURT: Respondent strikes Jurors Number 10, 15, 18,
11 21, 24, and 27.
12 MR. MORROW: That's correct.
13 THE COURT: Let's go ahead and put them in the box.
14 CLERK: When I call your name and juror number, please
15 have a seat over in the juror box. Number 237, Daniel Meerdo.
16 Number 74, Judy Christiansen. Number 286, Ericka Pesta.
17 Number 304, Todd Reed. Number 199, Rhonda Langley. Number
18 55, Rebecca Brown. Number 138, Doretha Griggs. Number 43,
19 Aaron Badofsky. Number 150, Larry Hartsell. Number 240, Kim
20 Mihok Wade. Number 3, Raymond Adams. Number 295, Constance
21 Powell. Number 327, Jason Schmidt. Number 169, Shawn
22 Jefferson.
23 THE COURT: Any objections to the jury or the process
24 from which they were drawn?
25 Wat says the state?

Care and Treatment of Otis Alford. - 17-CP-26-02862
JURY SELECTION

21

1 MR. MORROW: Nothing from the state, Your Honor.

2 THE COURT: Respondent?

3 MR. FALK: Nothing from the respondent.

4 THE COURT: All right. Thank you very much.

5 The remainder of the jury panel, you are excused for the
6 week. I hope you have a good week.

7 (REPORTER'S NOTE: Remaining jury venire exits courtroom.)

8 THE COURT: 1:30 okay for a start time?

9 MR. MORROW: That works for me, Your Honor.

10 MR. FALK: Yes, Your Honor.

11 THE COURT: All right. Members of the jury, we're going
12 to break for lunch but I'll need you back by 1:30 to start
13 this trial. Furthermore, I want to let you know something,
14 when you leave this courtroom, do not talk about this case
15 with anybody, don't discuss it with anybody. Do not get on
16 the computer and Google anybody's name and try to look it up.
17 It's very important that everything you get is right here in
18 this courtroom. When it's over with, you can talk about it
19 all you want and do whatever you want, but not until then.
20 So, if you would, you're excused to be back at 1:30 and we'll
21 start this trial at that time.

22 Thank you.

23 (REPORTER'S NOTE: Jury exits courtroom @ 12:09 P.M. The
24 following takes place outside the presence of the jury.)

25 THE COURT: Anything we need to take up before we start

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

22

1 the trial?

2 MOTIONS:

3 MR. MORROW: Your Honor, the state has two brief motions.
4 First, Your Honor, the state seeks to basically prevent the
5 defense from referring to the secure facility as a prison or
6 the old death row unit or things in that inflammatory nature.
7 The -- it's a secure facility at the Department of Mental
8 Health.

9 THE COURT: Any objections to that, Mr. Falk?

10 MR. FALK: Your Honor, I never use death row, but I do
11 think it is also important that the jury knows that he's not
12 going to a mental hospital, so that ---

13 THE COURT: What is the official name of the facility
14 that he's going to?

15 MR. MORROW: South Carolina Sexually Violent Predator
16 Treatment Unit.

17 THE COURT: Why don't we just call it a treatment unit?

18 MR. FALK: That's fine.

19 THE COURT: All right with you. All right.

20 MR. FALK: But ---

21 THE COURT: Go ahead.

22 MR. FALK: I'd be more -- when we get to that part of the
23 jury instruction though ---

24 THE COURT: Uh-huh, (affirmative response).

25 MR. FALK: I want to make sure that we're saying that he

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

23

1 goes to secure facility and not to a treatment facility
2 because I -- I think that can be ---

3 THE COURT: We can call it a secure treatment unit.

4 MR. FALK: Thank you.

5 THE COURT: How about that?

6 MR. MORROW: That will work, Your Honor.

7 THE COURT: Okay. Sounds good.

8 MR. MORROW: The second motion the state has, Your Honor,
9 is more about the details of any future treatment that will be
10 provided to Mr. Alford. The state argues that, you know, it's
11 here to prove that Mr. Alford suffers from mental abnormality
12 and that mental abnormality makes him likely to commit sexual
13 offenses if not confined for treatment, in addition to having
14 been convicted of a sexually violent offense. Those are the
15 two elements the state has to prove. Having to prove the
16 success rate or the -- what future treatment he may get at the
17 facility would pose an additional burden on the state that is
18 not in the statute.

19 MR. FALK: Your Honor, the facts in this case are a
20 little bit different than some of the other ones and here is
21 -- here is my issue is that the diagnosis as I understand it,
22 that Dr. Brown is going to say is that he has an anti-social
23 -- my client has an anti-social personality disorder. He is
24 not diagnosing him as of having any type of specific
25 paraphilia, any type of sexual based personality or, you know,

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

24

1 and so from that point of view -- at some point, we're talking
2 about sending somebody to a treatment facility that's not
3 designed to treat somebody who has anti-social personality
4 disorder.

5 THE COURT: It seems to me that that would be after the
6 fact as to what the jury has to decide in this case. So, I
7 don't know how that would do ---

8 MR. FALK: Your Honor, I can tell you that -- I think
9 it's United States vs. -- no, it's *Louisiana vs. Foucha*, F-O-
10 U-C-H-A, and I've got the cite and I can pull it out. I
11 mean, that issue did come up about what -- and that was a case
12 where somebody was being held in a -- for continued -- it
13 wasn't under the SVP but is still being held as a violent
14 offender. And the issue was that the diagnosis that the
15 doctor at that time had was that he had antisocial personality
16 disorder. So, I mean, the Supreme Court in 1996, and I'll get
17 the cite -- it addressed this issue about whether or not
18 you're sending somebody for treatment for a place that is not
19 designed to treat them.

20 If you go back to look at the *Hendricks* and the *Crane*
21 cases, *Kansas v. Hendricks* and *Kansas v. Crane*, the whole
22 notion of this program -- the only reason why we don't have ex
23 post facto issues in here is because it's a mental disease
24 that the person is getting treatment for. And what I'm saying
25 is that we're talking about antisocial personality disorder,

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

25

1 which you could probably give the diagnosis to 40 percent of
2 the current population at SCDC because it's basically
3 summarizing what basic general criminal conduct is and tagging
4 a label on it saying that this is a mental disease, where it
5 basically will describe as I said, 40 percent of the -- ,60 to
6 40 percent of the people who are currently in there.

7 So, I'm just -- I think this jury needs to know that he's
8 going to a program that's designed to help pedophiles and
9 people who are -- it's designed to help pedophiles and people
10 who have a sexual dysfunction, which this doctor did say that
11 my guy did not have. I'll pull my case out for you.

12 THE COURT: But how would that be relevant to the burden
13 of proof that the state has in this case?

14 MR. FALK: It think it's relevant to the
15 constitutionality of this whole process is that he's going to
16 a facility that's designed not to treat him. I mean, that's
17 why it's not ex post facto. That's not why it's double
18 jeopardy under the consent that the, what do you call it, the
19 concurring opinion in *Crane*.

20 THE COURT: So, what is it you're wanting to do at trial?

21 MR. FALK: I just want this doctor to know whether or not
22 they're designed to treat people with antisocial personality
23 disorder.

24 THE COURT: Let me hear from the state?

25 MR. MORROW: Your Honor, again, Dr. Brown is going to

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

26

1 testify today that Mr. Alford suffers from antisocial
2 personality disorder and that that personality disorder that
3 manifests itself into sexual offending history, which is what
4 -- which -- and that he needs confinement for treatment. That
5 is what the doctor is going to testify to today. Dr. Brown
6 isn't employed by Correct Care that -- the private company
7 that runs the facility. He doesn't have any say as to what
8 the treatment program is or what, what, what kind of treatment
9 it provides to Mr. Alford at the facility. He just reviews
10 the case.

11 THE COURT: Why don't we do this, why don't I let you ask
12 that question, let him answer, and let's just leave it at
13 that?

14 MR. FALK: Thank you, Your Honor.

15 THE COURT: How about that?

16 MR. MORROW: That would be fine.

17 THE COURT: And then if he answers like you just
18 answered, there's your answer.

19 MR. MORROW: Thank you, Your Honor.

20 THE COURT: All right. At least you can ask it.

21 MR. FALK: Your Honor, and there's -- I'm sorry, he's
22 still on deck here.

23 MR. MORROW: Those are the state's two motions, Your
24 Honor. We have nothing further.

25 THE COURT: Thank you.

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

27

1 All right. Mr. Falk?

2 MR. FALK: Your Honor, we've tried these cases before and
3 usually I want to talk about all of the prior offenses and my
4 client has numerous other non-sexual offenses that I'm sure
5 Dr. Brown is going to want to talk about. I don't know which
6 ones in particular he wants to talk about, but it in my
7 mind, we've got this juvenile offense that he's gonna want to
8 talk about and I think there's -- the Court needs to determine
9 whether or not an offense that somebody committed as a
10 juvenile is now going to be relevant in this trial.

11 My only argument is based on whether or not it's a
12 possibility for undue prejudice outweighs any probative value
13 that the testimony would have. So, I mean, on a 402 kind of
14 403 analysis of whether or not his juvenile facts is relevant
15 and whether it should be talked about. There is also a string
16 of offenses that are misdemeanor offenses that are non-
17 sexually related, mostly like drunk in public, those kind of
18 offenses, and again I think that the probative value is
19 outweighed by any risk of undue prejudice. I'm sure he's
20 gonna have to lay a foundation for them and we'll probably
21 have to talk about it when they come up.

22 THE COURT: All right. Let me hear from the state, do
23 you have any idea as to what he's ---

24 MR. MORROW: Your Honor, the -- the first conviction, I
25 believe that Mr. Falk is talking about is the -- is a

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

28

1 conviction from August of 1986 for criminal sexual conduct in
2 the first degree. That is a conviction from, from the Circuit
3 Court. And while he was a juvenile when convicted, he, he was
4 convicted in regular Circuit Court. I think that's fair for
5 him to talk about as far as the, the Sexually Violent Predator
6 Act is concerned and, and it's definitely relevant in that he
7 was convicted of a sexually violent offense.

8 As far as the other -- the other convictions, I know in
9 particular, there, there is the conviction from 1986; there is
10 a kidnapping and criminal sexual conduct charge from 2002 that
11 he was convicted of kidnapping on that offense; there is a
12 2005 sexual offender registry violation that Mr. Alford had; a
13 2000 -- another 2011 sex offender registry violation; and then
14 finally, his most recent conviction or from 2015 for criminal
15 sexual conduct in the second degree. He was also charged with
16 kidnapping in that event.

17 In addition to those, Your Honor, Dr. Brown relies in his
18 report on various arrests and convictions for misdemeanor
19 offenses that are part of his diagnosis, both conduct disorder
20 prior to age 15, which is part of the antisocial personality
21 disorder analysis and -- and his current diagnosis of
22 antisocial personality disorder. So, the offenses that have
23 happened, Dr. Brown, as part of the criteria for that
24 antisocial personality disorder, it has to -- criminal conduct
25 that -- or conduct that would be considered criminal or

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

29

1 arrests or anyway involving the law enforcement or -- it's
2 part of the criteria for that diagnosis. I think it's
3 relevant for what his diagnosis is in this case. I don't know
4 if you will mention specific offenses by name other than the
5 ones I mentioned -- listed out for you. But it is relevant to
6 talk about the fact that, you know, he's been arrested
7 numerous times, and however many those are and talk about what
8 the -- what some of those common offenses are as far as
9 diagnosis.

10 THE COURT: It seems to me, so long as he can tie the
11 arrest and the charges that you mentioned into his opinion
12 then it's fair game. If it's a speeding ticket, it has
13 nothing to do with his opinion and then it wouldn't be.
14 That's the way I see it

15 MR. MORROW: Thank you, Your Honor.

16 MR. FALK: But, Your Honor, what is see is that they say
17 any time you have a brush with law enforcement, that's
18 relevant. And then ---

19 THE COURT: You know, if it factors into his expert
20 opinion, it would be relevant. If it doesn't, then it's just
21 there to muddy the water, then it's not applicable. But I
22 haven't heard his opinion, so I don't know.

23 MR. FALK: Right, I mean I think that's gonna have to be
24 your call when they come up. That's why I was gonna address
25 them as they come up.

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

30

1 THE COURT: All right.

2 Anything else?

3 MR. FALK: Yeah, I do have something else and I
4 anticipate this happening. Two of the times that my client --
5 two of the convictions that my client has, he pled guilty
6 basically for a time-served sentence. And I anticipate what's
7 gonna happen is somebody is going to -- there's going to be a
8 discussion that, well, at the time that you pled guilty, you
9 raised your hand and the Judge said now you're pleading guilty
10 because you are guilty, and Mr. Alford obviously had to say
11 yes or the Judge wouldn't have gone forward with the plea.
12 And then he's going to possibly take the witness stand here
13 and he's going to say I pled guilty because I was getting a
14 time-served sentence.

15 Now, it's my opinion, based on South Carolina case of --
16 it is *Rollison v. State* it's 550 -- it's 346 S.C. 506 and it's
17 552 S.E. Reporter 2d-290 and just take the black type right
18 off of the -- if you go right to headnote 6, a defendant may,
19 as part of a plea bargain, agree to plead guilty to a crime
20 for which he has been indicted for which he was waived --
21 presented to the Grand Jury, but of which he is not guilty.
22 My client has a constitutional right to plead guilty. I think
23 it refers back to *North Carolina v. Alford*, you have the Fifth
24 Amendment right to plead *Alford*. So, I think it's going to
25 become very confusing for this jury if the state's allowed to

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

31

1 go down this path of were you lying then or are you lying now?
2 At that time, you raised your hand and said that you were
3 guilty, and now you're coming back in here and say I only pled
4 for a -- in order to get the benefit of a plea bargain, which
5 he had a constitutional right to do. So, I think it's an
6 unfair question and it's gonna be extremely confusing to the
7 jury and it's going to be highly prejudicial if they start
8 saying, well, you swore that time and now you're swearing this
9 time; which one is the lie.

10 THE COURT: State?

11 MR. MORROW: Your Honor, I think it comes to the issue of
12 credibility. Mr. Falk made an argument that his client or Mr.
13 Falk's client would be making an argument that he pled guilty
14 to just take the -- to take the time-served sentence. I think
15 the jury should hear the alternate explanation that he pled
16 guilty whether he was guilty in court.

17 THE COURT: I agree. I think your client can explain it.
18 He can say what he wants to say ---

19 MR. FALK: But I don't think it's ---

20 THE COURT: --- and then they can believe what they want
21 to believe.

22 MR. FALK: I think it's unfair to challenge him -- this
23 jury doesn't need to know that part of plea colloquy, that the
24 Court is going to ask him whether or not you're pleading
25 guilty because you are in fact guilty. This jury doesn't need

Care and Treatment of Otis Alford - 17-CP-26-02862
BY THE COURT

32

1 to know that. We know that that's what happens. I don't
2 think that that part of it is relevant. My client, yes.

3 THE COURT: Do you intend on getting into that or just
4 the fact that it is on his record and it's a part of the
5 diagnosis?

6 MR. MORROW: That is something that I would ask, Your
7 Honor, typically, but I can stay away from it, Your Honor, for
8 ---

9 THE COURT: Let's just play it by ear and see where it
10 goes?

11 MR. FALK: Thank you, Your Honor.

12 THE COURT: Part of me thinks that it is relevant, but --
13 all right. Anything else?

14 MR. FALK: That's all I got, Your Honor.

15 THE COURT: All right.

16 MR. MORROW: Nothing from the state, Your Honor.

17 THE COURT: We'll see you back at 1:30.

18 Thank you.

19 **RECESS @ 12:24 P.M.**

20 *****OFF THE RECORD*****

21 **(On the Record @ 1:39 P.M.)**

22 **BY THE COURT:**

23 THE COURT: All right. Go ahead and bring out the jury.

24 MR. MORROW: Your Honor, do you want us to stand when the
25 jury comes back in.

Care and Treatment of Otis Alford - 17-CP-26-02862
BY THE COURT

33

1 THE COURT: It's up to you. Whatever suits you is fine
2 with me. Some lawyers do and some don't.

3 (REPORTER'S NOTE: Jury enters courtroom @ 1:41 P.M.)

4 THE COURT: All right. And, Mr. Hartsell, I'm gonna make
5 you the foreman of the jury. If you would, come take this
6 front row, first seat. You can swap up.

7 JUROR 150: Thank you, Your Honor.

8 THE COURT: You're welcome.

9 And, Ms. Clerk, if you'll go ahead and swear them.

10 CLERK: Yes, sir.

11 Please stand and raise your right hands.

12 (REPORTER'S NOTE: Jury is duly sworn.)

13 CLERK: Thank you. Please be seated.

14 THE COURT: All right. Members of the jury, we're
15 getting ready to start this case, but before we do, I just
16 want to go over a few things with you to give you a little bit
17 of working knowledge to have at the beginning of this trial.

18 The first thing I want to tell you is that the state has
19 the burden of proof. They have to prove their case beyond a
20 reasonable doubt. I will explain that to you in great detail
21 at the end of this case. Furthermore, I want to explain to
22 you what your role is and what my role is and how they differ.
23 You as the jury are the judge of the facts. I am the judge of
24 the law. What that means is that you all determine what the
25 facts of this case are; not me, not my clerk, nobody in the

Care and Treatment of Otis Alford - 17-CP-26-02862
BY THE COURT

34

1 audience. Well, you ask yourselves, how do we determine what
2 the facts are? It's very simply, you look at the evidence in
3 this case. The evidence can be made up of two things. It can
4 be made up of the witnesses that come over here, they're sworn
5 in, they take that witness stand and they testify; and it can
6 be made up of any exhibits admitted into the record of this
7 case. That could be reports, photographs, things of that
8 nature. That is where you all determine what the facts of the
9 case are.

10 At the very end of this trial, I will instruct you on the
11 law applicable to this case. And I want you to understand
12 that you have to accept the law as I give it to you. If you
13 have any preconceived ideas as to what you think the law is or
14 what it ought to be and it doesn't agree with what I tell you
15 the law is, you have to abandon those preconceptions and
16 accept the law as I give it to you. And then only when I tell
17 you to begin your deliberations will you take your findings of
18 act, the law as I give it to you, put the two together and
19 make a decision therefrom. A lot of common sense in that
20 process.

21 Furthermore, this trial will be over with tomorrow. So,
22 we're not gonna finish today. You'll have to go home tonight
23 and we'll take certain breaks where you'll go back to the jury
24 room. There may be some things out here that I have to
25 discuss with the lawyers or we just simply need a break. But,

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY MORROW

35

1 at any point in time, when you're not in this courtroom, do
2 not discuss the case at all. And the reason I tell you that,
3 is it would be improper to prematurely discuss this case.
4 It's important that you hear from everything the state has to
5 show you and tell you and put up before you as well as the
6 respondent. And then you need to hear the law from me. Only
7 when you have everything, will you have what you need to start
8 deliberating on this case, so just don't talk about it. I'll
9 tell you when to specifically begin your deliberations and
10 that's when you'll start. Well, you ask yourselves, what can
11 we talk about? Talk about anything you want to talk about,
12 football, the weather, the rain, or whatever, but just not
13 this case until I tell you to.

14 I want you to relax. I want you just to sit back and
15 just your common sense and just listen to everybody as they
16 put forward their case. If you need a break or if you're not
17 feeling good or you want something to drink or eat and we're
18 not taking a break, just kind of wave your hand and get my
19 attention and I'll make sure you're taken care of. All right?

20 The state is recognized for your opening statement.

21 MR. MORROW: Thank you, Your Honor.

22 THE COURT: Thank you.

23 OPENING BY MORROW:

24 MR. MORROW: Good afternoon, ladies and gentlemen. First
25 of all, my name is Christopher Morrow and work for the South

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY MORROW

36

1 Carolina Attorney General's office. And you might be
2 wondering why am I here; why isn't somebody more local
3 handling this case? Well, there's a simple answer for that
4 and that's when this act, the South Carolina Sexual Violent
5 Predator Act, was passed, they assigned all cases falling
6 under this act be done by the South Carolina Attorney
7 General's office, so that's why I'm here today.

8 This case today has been brought by the state under the
9 Sexually Violent Predator Act. We are here because the state
10 is seeking the civil commitment of Mr. Otis Alford as a
11 sexually violent predator. Now, what is a sexually violent
12 predator? When the Sexually Violent Predator Act was passed,
13 the legislature defined what a sexually violent predator is
14 under the law. They said a person has to have been convicted
15 of a sexually violent offense and that that person also has to
16 suffer from a mental abnormality or personality disorder that
17 makes them likely to commit acts of sexual violence if they're
18 not committed to treatment in a secure facility protected from
19 -- to protect the public during the treatment process.

20 Now, the state contends that Mr. Otis Alford is one of
21 those individuals that meet the criteria under the South
22 Carolina Sexually Violent Predator Act. To prove that case to
23 you, we have to prove two basic elements. First, that Mr.
24 Alford has been convicted of at least one sexually violent
25 offense. Now, there are 16 offenses that qualify under the

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY MORROW

37

1 Sexually Violent Predator Act as sexually violent offenses.

2 And, under the statute I can tell you that Otis Alford has
3 been convicted of two sexually violent offenses. You'll hear
4 about those offenses today.

5 The second element the state has to prove to you is that
6 he suffers from a mental abnormality or personality disorder
7 that makes him to likely to commit future acts of sexual
8 violence if not confined for long-term care, control, and
9 treatment.

10 To that effect, the state's gonna offer the testimony of
11 Dr. Gordon Brown, who has diagnosed Mr. Alford with antisocial
12 personality disorder. You'll hear testimony from which you
13 can decide whether Otis Alford is -- lacks control over his
14 mental abnormalities under his personality disorder, whether
15 those disorders make him likely to commit acts of future
16 sexual violence if not confined for treatment.

17 Now, Dr. Brown is a psychologist who works with the
18 Department of Mental Health. You will hear how he spent a
19 significant amount of time reviewing Mr. Alford's case, which
20 included reviewing his records, conducting an actuarial
21 assessment of Mr. Alford's risk to reoffend, and interviewing
22 Mr. Alford. Dr. Brown will tell you that he suffers from a
23 personality disorder known as antisocial personality disorder
24 and based on his thorough evaluation, he believes that Otis
25 Alford is likely to commit another act of sexual assault if

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY MORROW

38

1 not confined for treatment. You'll also hear from any
2 witnesses that the defense may provide.

3 So, the question that will be presented to you is, after
4 listening to the testimony of the witnesses and assessing the
5 credibility and thoroughness and the extent of the evaluation
6 that was done, whether Otis Alford suffers from a mental
7 abnormality or personality disorder which makes him likely to
8 reoffend sexually if he is not confined to a secure facility
9 for care, control, and treatment.

10 Now, the burden of proof in this case is on the state.
11 The state welcomes that burden. The Judge will instruct you
12 that this is a civil case and not a criminal case. However,
13 under the Sexually Violent Predator Act, the state must prove
14 its case beyond a reasonable doubt. That's a higher burden
15 than in a normal civil case. Keep in mind that it's not
16 beyond all doubt or any doubt or every conceivable doubt; it's
17 beyond a reasonable doubt. Later you will be told that --
18 that proof beyond a reasonable doubt is proof that leaves you
19 firmly convinced.

20 These facts by their very nature tend -- these cases by
21 their very nature tend to contain lots of disturbing facts,
22 and this case is certainly no different in that regard. What
23 I ask you to do today is listen to the evidence in the case,
24 and at the end of the day I'm sure the verdict you will render
25 will become clear that Mr. Alford is a sexually violent

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY FALK

39

1 predator and should be committed to the Department of Mental
2 Health Sexually Violent Predator Treatment Unit.

3 Thank you.

4 THE COURT: Mr. Falk?

5 MR. FALK: May it please the Court?

6 OPENING BY FALK:

7 MR. FALK: Mr. Morrow, ladies and gentlemen of the jury,
8 my name is Jim Falk. I'm here from Charleston, South
9 Carolina. Commission for Indigent Defense retained me to
10 represent Mr. Alford in this case. I do several of these
11 cases throughout sort of the eastern part of the state.

12 Now, this is going to be a real quick trial. This trial
13 is going to last a day and a half and by general standings
14 that's pretty quick. But you have to appreciate this trial
15 can have some long-term consequences for my client. I'm
16 hoping that you can pay careful attention to how you hear the
17 evidence come in. I think that y'all have a really hard job.
18 And I think you have a hard job for two reasons. One, it's
19 your job to be fair. It's your job to put all your biases
20 aside and to be fair and to listen to the evidence and then
21 make a decision based on what you've heard here in the
22 courtroom and not on some kind of preconceived notions that
23 you may have had.

24 The reason why I think you've got a hard job is because a
25 lot of you might sort of have some ideas about people who have

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY FALK

40

1 committed sexually violent crimes. You know, you may think
2 that he didn't get a bad enough sentence the first time, but
3 you may have some -- you may come here with some baggage about
4 my client's criminal history and you might not be satisfied
5 with what's happened with him in the past. So, I mean, you've
6 got that kind of prejudice that you all -- everybody's going
7 to have in those kind of things; people who have committed
8 these kinds of crimes. You're going to not like that person.
9 But it's your job, it's your sworn duty to be fair. So,
10 you've just got to, while you're listening to the evidence and
11 while you're deliberating, you got to think, well we have to
12 be fair here. I've got to put that aside. What did I hear in
13 the courtroom?

14 I'll tell you the other reason why I think that you've
15 got a hard job. This is why this kind of case is unique. In
16 most trials, whether it is a criminal trial or whether it's a
17 typical civil trial where, you know, like civil trial with an
18 auto accident case, was the light red or yellow when the two
19 cars hit. You know what I'm saying, a civil trial like that.
20 What you're -- what you are doing is you are hearing what
21 happened in the past, and it's going to be a lot of confusing
22 facts, but you have to make a determination as to what
23 happened in the past and then render your verdict about
24 something that happened in the past.

25 Where if it's a criminal trial, you're gonna hear that --

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY FALK

41

1 you're gonna hear what the police officer said that the person
2 did and you're gonna hear what the defense counsel said, and
3 he may have some defense, but you're going to be making your
4 decision on what happened in the past. Same with an auto
5 accident case or a medical malpractice case, you're worried
6 about what happened in the past and you're making a
7 determination, because it's going to be a lot of confusing
8 facts and go sort through them. Your job here today is to try
9 to make a prediction about what's gonna happen in the future
10 because that's really the essence of what this case is.

11 The state has hired an expert from the Department of
12 Mental Health. He's giving an opinion saying that my client
13 is going to commit a crime of sexual violence if he's not
14 contained in a secure facility in the future. Now, that's why
15 I think this job is hard because you have to be pretty darn
16 sure when you're a prediction about what's going to happen in
17 the future. And I try to sort out the past. My client's past
18 is what it is. We'll admit that he's had -- that he's pled
19 guilty to crimes in the past, and he's pled guilty to sexually
20 violent crimes in the past. That's not really an issue. But
21 the expert is gonna try and tell you what happened in the
22 future, what -- excuse me, he's gonna tell you about what's
23 gonna happen in the future. That's a hard job.

24 Now, I would expect that at the end, Dr. Brown's
25 testimony he's gonna put together a pretty compelling story as

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY FALK

42

1 to why he thinks, based on the interview that he had with my
2 client, and based on, you know, his review of my client's
3 records, why he thinks his prediction for the future is
4 something that you should rely on in reaching your decision.

5 It kind of makes me think about my ideas, it's gonna be
6 kind of a big, pretty house that he's built for you to look at
7 and it's going to be impressive looking, and you would say
8 wow, that's a great house, that's a great story, that's great.
9 I like that story. I understand that story. I'll go along
10 with his prediction for the future. I don't know if y'all
11 have that problem up here in Horry County, I'm from
12 Charleston. There's an area called Folly Beach and some
13 people have built some magnificent, big, beautiful houses on
14 the beach out there. And it's kind of eroded away the sand
15 underneath the beaches -- underneath their houses and so these
16 houses are falling into the water. And the reason I'm talking
17 about that is because when you are listening to the opinion
18 from the expert, he's gonna give you a big story at the end,
19 but you need to sort of look at some of the things that he
20 built his opinion on. And, if you see little chinks in the
21 armor, if you see any problems with the foundation of his
22 opinion, then you have to be pretty cautious about whether or
23 not you want to invest in that house, if you want to invest in
24 his story about what's gonna happen in the future.

25 I believe that if you listen carefully to Dr. Brown and

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY FALK

43

1 maybe some of the issues I bring up with him on cross
2 examination, you'll find some real problems with the
3 foundation of his opinion and therefore you're gonna have some
4 issue, some real problems with his prediction for the future.
5 Because you have to remember, this case, what you're trying to
6 determine is whether or not my client has a mental disease
7 that causes him to commit crimes of sexual violence. Okay?
8 The fact that he's committed crimes of sexual violence is not
9 what really what we're talking about here; it's whether or not
10 it's this mental disease that makes him want to do it. It's
11 the mental disease that causes the problem.

12 And I kind of make it sort of a simplistic analogy, but I
13 think it's important to consider. And excuse me if this is
14 overly simplistic, but some kid goes into the BP Station,
15 Kangaroo Station, and steals a chocolate bar. That child
16 could really like chocolate, he could be hungry, or the
17 chocolate bar could have just been laying there kind of as a
18 crime of opportunity to grab it and he's gonna grab it and put
19 it in his pocket and walk out the door. Well, that's criminal
20 conduct and, in our society, you pay the price for that
21 criminal conduct. But that's not what we're talking about
22 here. In essence, what we're talking about here is this
23 person is stealing -- is stealing because he likes to steal
24 and it's he has kleptomania. He's the type of person that he
25 enjoys stealing for stealing sake. That's the difference.

Care and Treatment of Otis Alford - 17-CP-26-02862
OPENING BY FALK

44

1 My client has committed crimes in the past, you know,
2 crimes of opportunity, he's had motivations for committing
3 these crimes, motivations that maybe some of y'all can relate
4 to, maybe you can't. But, I submit to you that the motivation
5 for these crimes wasn't because he had some mental illness that
6 was forcing him to do this. That's the difference between
7 criminal conduct and what we're talking about here, somebody
8 who is a sexually violent predator, somebody who has a mental
9 disease that's making him commit these crimes.

10 I think at the end of the day, you'll find that my client
11 has committed crimes in the past. He's been punished by the
12 criminal justice system for the crimes that he's committed and
13 that should be the end of it, cause that's how we do things
14 here. You commit crimes, you go to trial and you're found
15 guilty or you plead guilty, you do the time, and you go on.
16 But what the state wants to say is no, we can't -- we can't be
17 satisfied with that because we're afraid something is gonna
18 happen in the future. At the end of the day, I think by the
19 time you look really hard at the foundation of Dr. Brown's
20 opinion, you might find plenty of room for reasonable doubt.
21 And I think you're going to be left with the conclusion that
22 the state has not met their burden of proof.

23 I want y'all to pay really close attention to this case,
24 because like I said, it's going to be a day and a half, but
25 it's gonna have long-term consequences for my client, because

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

45

1 if he is found to be a sexually violent predator, he's gonna
2 to go to the sexually violent predator treatment program,
3 which is a secure facility and it's not like -- he's not going
4 to a mental hospital; he's going to a secure facility and he
5 could be there indefinitely for an indeterminate period of
6 time. That's why the consequences are serious for my client.
7 That's why I really need y'all to pay close attention.

8 Thank you.

9 THE COURT: All right. Call your first witness.

10 MR. MORROW: Your Honor, the state would call Dr. Gordon
11 Brown to the stand.

12 CLERK: Raise your right hand and place your left hand on
13 the Bible.

14 GORDON EDGAR BROWN, JR., HAVING BEEN
15 DULY SWORN TESTIFIES AS FOLLOWS:

16 CLERK: Have a seat please, sir. State your name for the
17 Court please, sir.

18 DR. BROWN: Gordon Edgar Brown, Jr., B-R-O-W-N.

19 DIRECT EXAMINATION OF GORDON EDGAR BROWN, JR. BY MR. MORROW:

20 Q: Dr. Brown, what is your occupation?

21 A: I am a forensic psychologist.

22 Q: And how long have you worked in that capacity?

23 A: I've been a psychologist for about 35 years. I've been a
24 Forensic psychologist for probably 22 of those years.

25 Q: What degrees do you possess?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

46

1 A: I have PhD in clinical and community psychology from the
2 University of South Carolina.

3 Q: Dr. Brown, what is psychology?

4 A: Psychology is basically the study of human behavior,
5 study of the human mind.

6 Q: What is forensic psychology?

7 A: Forensic psychology is where we take the principles, the
8 theories, the practice of psychology and we apply that in a
9 legal context to try to help answer a legal question.

10 Q: Have you had any additional specialized training or
11 experience within the field of forensic psychology beyond your
12 doctorate degree?

13 A: I have. I've got about 200 hours with the American
14 Academy of Forensic Psychology, more than 50 hours through the
15 Global Institute for Forensic Research, some additional
16 workshops and training with the University Institute for Law,
17 Psychiatry and Public Policy.

18 Q: Any memberships in any professional organizations?

19 A: I do, a number of psychological associations: the
20 American Psychological Association; Southeastern Psychological
21 Association; Georgia Psych Association; Augusta Area
22 Psychological Association; the American Psychology Law
23 Society, which is a division of the American Psychological
24 Association; the Association of Treatment of Sexual Abusers;
25 and the Sexual Offender Civil Commitment Network Program.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

47

1 Q: Dr. Brown, does your work allow you to do forensic
2 evaluations of individuals?

3 A: It does.

4 Q: And do you have experience working directly with sex
5 offenders?

6 A: I do.

7 Q: What is that experience?

8 A: I've been with the Department of Mental Health for about
9 four-and-a-half years now and have been doing evaluations part
10 of that entire time. Most of those were annual review
11 evaluations. For the first two-and-a-half years of that time,
12 I also ran a treatment team, one of three treatment teams in
13 the sex offender treatment program, where we treated
14 approximately 180 residents that were committed to the Civil
15 Commitment Program.

16 Q: In that time, Dr. Brown, how -- how many sex offenders
17 have you evaluated?

18 A: About 75 different ones; some of them multiple times.

19 Q: What types of evaluations have you conducted in relation
20 to sex offenders?

21 A: Annual reviews as well as pre-commitments.

22 Q: Can you briefly talk about your experience as a forensic
23 psychologist?

24 A: Okay. I did my internship after I finished graduate
25 school in the army at Eisenhower Medical Center and that was a

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

48

1 general introduction to the practice of psychology, and there
2 was some introduction to forensic work as a part of that.
3 Then in 1986, I went to Third Army Division in Germany and
4 spent three years as a Third Army Division psychologist, and
5 that was more of a general psychological practice within a
6 military setting but had a few forensic cases that came up.
7 During that time a number of fitness evaluations for different
8 occupations within the military and a few court related cases
9 related to competency or criminal responsibility. After the
10 Army, I went to Harris Psychiatric Hospital in Anderson, South
11 Carolina and worked three years there and was the designated
12 examiner for the Probate Court. And in that capacity, I did
13 evaluations to determine, help to determine, if individuals
14 met civil commitment criteria through the Probate Court. Then
15 about 1995, I went to work with the Georgia Department of
16 Corrections. And in that setting, anytime an inmate who was
17 on the mental health caseload, had a disciplinary infraction,
18 we had to do an evaluation of their competency to go through
19 the disciplinary process and as well as the responsibility
20 part of behavior. I also did a number of probation and parole
21 evaluations while I worked with the Department of Corrections.
22 And in 2003, I went to East Central Regional Hospital in
23 Augusta, Georgia as the Forensic Program Director and really
24 had two different responsibilities in that capacity. I over
25 saw the inpatient treatment program. In that setting, we took

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

49

1 people who were not competent to stand trial, tried to get
2 them to the point where they were competent to stand trial and
3 then we also provided long-term housing for those -- long-term
4 hospitalization for those who could not become competent to
5 stand trial or who had been found not guilty by reason of
6 insanity. I also oversaw the outpatient forensic services and
7 their primary job was doing evaluations of competency to stand
8 trial for responsibility. In addition to supervising the
9 psychologist doing that, I did some of those evaluations
10 myself. And in 2005, I moved back to South Carolina and went
11 to work for the Department of Disabilities and Special Needs.
12 And for about the first half of my eight-and-a-half years
13 there, did primarily evaluations to determine if defendants
14 who had intellectual and developmental disabilities were
15 competent to stand trial. Then during the last half of that I
16 began overseeing supervising that process, supervising the
17 other psychologists that did those evaluations and also doing
18 evaluations of intellectual disability in death penalty cases.
19 And then in 2014, I took my current job at the Department of
20 Mental Health.

21 Q: Dr. Brown, can you briefly describe your background in
22 relation to sexually violent predator cases?

23 A: Sure. Again, for about the first two-and-a-half years of
24 the program, I ran one of three treatment teams, and we
25 provided treatment services -- I supervised treatment services

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - VOIR DIRE BY FALK

50

1 for about a third of the residents that were in the program at
2 that time. From the beginning, I've done annual reviews. The
3 statute requires, once a person is committed to the program,
4 they have to have an annual review to see if they've so
5 changed to then be released back to the community without
6 significant risk of reoffending. So, I continued doing those.
7 And then when the treatment part of the program was privatized
8 in 2016, I began just doing full-time evaluations and started
9 doing some pre-commitment evaluations as well.

10 Q: Dr. Brown, have you previously been recognized and
11 testified as an expert witness in the field of forensic
12 psychology?

13 A: I have.

14 Q: Approximately how many times?

15 A: About 50 times.

16 MR. MORROW: At this time, Your Honor, the state moves
17 that Dr. Brown be recognized as an expert in the field of
18 forensic psychology.

19 THE COURT: Any objections?

20 MR. FALK: May I ask a few questions?

21 THE COURT: You may.

22 VOIR DIRE OF GORDON EDGAR BROWN, JR. BY MR. FALK:

23 Q: Dr. Brown, you're not a medical doctor, you're a
24 psychologist; is that right?

25 A: That's correct.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - VOIR DIRE BY FALK

51

1 Q: Okay. And in psychology, like in medicine, are there
2 board certifications that you can be members of and -- for
3 forensic psychology?

4 A: There are.

5 Q: Are you a member -- are you board certified?

6 A: I am not.

7 Q: Okay. And you said that you started doing pre-
8 commitment, that's what we have here, this is a pre-commitment
9 case; is that right?

10 A: That's correct.

11 Q: And you've done those in the last two years?

12 A: In about the last year.

13 Q: How many pre-commitment cases have you testified in?

14 A: This is the first time I've testified in one.

15 Q: How many pre-commitment evaluations have you given?

16 A: I've completed four at this point.

17 MR. FALK: I have no further questions, Your Honor.

18 THE COURT: Any objections?

19 MR. FALK: Your Honor, obviously I have concerns that Dr.
20 Brown has very limited area as a -- doing pre-commitment
21 evaluations. Most of the times in these cases, we've had
22 people who've done 10 to 20 to 30 of them and this is first
23 case and his first trial; so, yes, we would object to his
24 qualifications.

25 BY THE COURT:

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

52

1 THE COURT: All right. Any response from the state?

2 MR. MORROW: Your Honor, Dr. Brown has an extensive
3 history in forensic evaluations. He's done forensic
4 evaluations since 1986 in different capacities. And as far as
5 in this capacity, he was -- head of one of the treatment teams
6 at the unit and has done -- participated in the treatment
7 process and he's done annual review evaluations and has been
8 recognized as an expert in annual review cases.

9 THE COURT: All right. I'm gonna overrule the objection.

10 MR. MORROW: Thank you, Your Honor.

11 THE COURT: Every expert has to start somewhere.

12 MR. FALK: Yes, Your Honor.

13 THE COURT: And this is case number one.

14 CONTINUATION OF DIRECT EXAMINATION OF GORDON EDGAR BROWN BY

15 MR. MORROW:

16 Q: Dr. Brown, how did you become involved in this case?

17 A: I was appointed by an order from the Court of Common
18 Pleas in Horry County.

19 Q: And were you paid to conduct your evaluation in this
20 case?

21 A: I'm paid an annual salary by the Department of Mental
22 Health. There's no extra pay for this case.

23 Q: Would you have been paid any differently if you did not
24 recommend commitment?

25 A: No, the pay is the same regardless of the recommendation.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

53

1 Q: Dr. Brown, what type of evaluation did you conduct in
2 this case?

3 A: This is what we call a pre-commitment evaluation.

4 Q: And when you were ordered to do this evaluation, what
5 were you asked to do?

6 A: It's to help determine whether Mr. Alford suffers from a
7 mental abnormality or a personality disorder that makes him
8 likely to engage in acts of sexual violence if he's not
9 confined in a secure facility for long-term control, care, and
10 treatment.

11 Q: Dr. Brown, can you describe the method by which you
12 conduct a pre-commitment evaluation?

13 A: Sure. We begin by reviewing records, and that begins
14 with records from the multidisciplinary team. This is a team
15 of five individuals that screens inmates before they're
16 released from the Department of Corrections, to determine
17 which ones need further evaluation to determine if they're a
18 sexually violent predator. So, we look at those records. We
19 then look at the recommendation from the prosecutor's review
20 committee, which is a group, another group that looks at it to
21 decide if it should go forward for further evaluation. We
22 look at the petition of the court that's written by the
23 Attorney General's office outlining how the person meets the
24 criteria, how they qualify and why it should proceed to court.
25 Then we look at legal records related to all of the criminal

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

54

- 1 charges. We look at the records from the Department of
2 Corrections. We look at any other records we might get from
3 Department of Mental Health, from schools, DJJ or any other
4 state agencies. And then finally, after reviewing all of
5 those records, you do an interview with the individual.
- 6 Q: Dr. Brown, as part of your evaluation, did you meet with
7 and interview Mr. Alford?
- 8 A: I did.
- 9 Q: And how long did you interview Mr. Alford?
- 10 A: I met with him for about five hours and 15 minutes over
11 two different dates.
- 12 Q: Is the man that you met with here in the courtroom today?
- 13 A: He is.
- 14 Q: Could you identify him for the Court?
- 15 A: He is wearing the blue shirt sitting beside Mr. Falk.
- 16 MR. MORROW: Your Honor, may the record reflect that Dr.
17 Brown identified Otis Alford?
- 18 THE COURT: Yes.
- 19 BY MR. MORROW:
- 20 Q: Did you explain the purpose of your evaluation to Mr.
21 Alford?
- 22 A: I did.
- 23 Q: Did he consent to the evaluation?
- 24 A: He did.
- 25 Q: Dr. Brown, in addition to meeting with and interviewing

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

55

1 Mr. Alford, what information did you rely upon in conducting
2 your evaluation?

3 A: In his case, we did have the records from the
4 multidisciplinary team that did the initial screening. I
5 looked at the recommendation from the prosecutor's review
6 committee. I looked at the Attorney General's petition,
7 looked at legal records from Myrtle Beach and from Horry
8 County, looked at the rap sheet from the National Criminal
9 Information Center, looked at the public index for Horry
10 County 15th Judicial District. We had records from Department
11 of Corrections, we had school records from Horry County, and
12 we had records for one admission to William Hall Psychiatric
13 Institute.

14 Q: And, Dr. Brown, how did you obtain this information?

15 A: Most of this information is provided through the Attorney
16 General's office. The DMH records and the school records we
17 did request separately.

18 Q: And is this the type of information that's typically and
19 reasonably relied upon by experts in your field?

20 A: It is.

21 Q: Did you consider and rely upon this information you
22 listed to the Court a moment ago and upon your interview with
23 Mr. Alford in rendering your conclusions in this case?

24 A: I did.

25 Q: Dr. Brown, can you explain to the jury how an

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

56

1 individual's past criminal sexual behavior relates to his
2 likelihood to commit criminal sexual acts in the future?

3 A: Well, as Mr. Falk pointed out, it's difficult to predict
4 future behavior. The best way to predict how someone is going
5 to act in the future is to look at how they acted in the past.
6 So, what we do is look at all the records that are available,
7 look at what the person's behavior has been in the past, we
8 look for patterns of behavior. And from that, we try to
9 determine which patterns, which behaviors are likely to
10 continue into the future.

11 Q: Dr. Brown, based on your interview with Mr. Alford and
12 your review of his file, could you tell if he had ever been
13 convicted of a sexually violent offense?

14 A: Yes, I could.

15 Q: In fact, you found he had been convicted of two sexually
16 violent offenses; is that correct?

17 A: That's correct.

18 Q: Criminal sexual conduct in the second degree in 1987; is
19 that one of them?

20 A: Yes.

21 Q: And criminal sexual conduct in the third degree in 2017;
22 is that correct?

23 A: That's correct.

24 Q: Did you consider his convictions for non-sexually violent
25 offenses as part of your -- as part of your evaluation?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

57

1 A: I did.

2 Q: Is it typical and reasonable for experts in your field to
3 do so?

4 A: It is.

5 Q: Why is it important to review and consider convictions
6 for both sexually violent offenses and non-sexually violent
7 offenses?

8 A: Well, there are a couple of reasons for that. One is we
9 know that the more sentencing dates a person has, the more
10 likely he is to have sentencing dates to commit offenses in
11 the future. So, we look not just at the sexually violent
12 offenses but the number of offenses, the number of sentencing
13 dates, because that is an important predictor. We're also
14 looking for -- like in this case, antisocial personality
15 disorder, we're looking for a pattern of behavior that would
16 support or not support a certain diagnosis.

17 Q: Dr. Brown, first let's talk about -- I want to show you a
18 document, Dr. Brown, I want you to take a moment to look at it
19 and see if you recognize it.

20 Your Honor, may I approach the witness?

21 THE COURT: You may.

22 Q: Dr. Brown, do you ---

23 A: I do recognize it.

24 Q: Have you seen these documents before?

25 A: I have.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

58

1 Q: And what are they?

2 A: This is an affidavit and arrest warrant, the indictment
3 and a sentencing sheet of where he pled guilty as charged to
4 criminal sexual conduct second degree.

5 Q: Is there anything on those documents to indicate their
6 authenticity?

7 A: There is. There's the stamp and seal of the Clerk of
8 Court.

9 Q: Did you consider them as part of your ultimate conclusion
10 in this case?

11 A: I did.

12 Q: Are they the types of documents that are typically and
13 reasonably relied upon by experts in your field?

14 A: They are.

15 MR. MORROW: Your Honor, at this time, the state would
16 introduce State's Exhibit 1 into evidence.

17 THE COURT: Any objections?

18 MR. FALK: This is '87 one.

19 MR. MORROW: 87.

20 MR. FALK: No objection, Your Honor.

21 THE COURT: State's Number 1 is in evidence without
22 objection.

23 STATE'S EXHIBIT NUMBER 1

24 ADMITTED INTO EVIDENCE

25 BY MR. MORROW:

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

59

1 Q: Dr. Brown, why is it necessary to review the details and
2 underlying facts of this conviction?

3 A: The legal charge gives us a general idea of the type of
4 behavior, the type of crime that was committed. But a charge
5 like criminal sexual conduct can cover a lot of different
6 types of behaviors. So, we need to review the details to know
7 exactly what it is that Mr. Alford did and, again, to look for
8 patterns in his behavior that may help us to determine whether
9 or not those kinds of behaviors are going to continue into the
10 future.

11 Q: Dr. Brown, when you reviewed those documents from his
12 1987 conviction of criminal sexual conduct in the second
13 degree, what did you find, what were the facts of that case?

14 A: Mr. Alford was accused of having oral sex with his four-
15 year-old niece. His sister, who was the mother of the victim,
16 found the victim lying on the sofa with blood on her. Records
17 from the MDT and the AG's petition also indicate that he had
18 sexual intercourse with the four-year-old victim. He was then
19 convicted of criminal sexual conduct with a minor in the
20 second degree.

21 Q: Dr. Brown, you mentioned earlier that it's important to
22 review all of Mr. Alford's criminal history and not just the
23 sexual offenses; is that correct?

24 A: That's correct.

25 Q: And why is that important again?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

60

1 A: Well, again, the more sentencing dates a person has, the
2 more likely they are to have more sentencing dates in the
3 future. And again, we're looking for patterns of behavior
4 that may help to determine a diagnosis for the person and
5 whether identify some of those patterns of behavior. And
6 also, some of the charges that are not technically sexual
7 offenses, can have a sexual component to them.

8 Q: Dr. Brown, is it important to review charges that
9 ultimately do not result in conviction?

10 A: It is.

11 Q: And why is that important?

12 A: That again is a part of trying to predict what may happen
13 in the future. It's not just the number of convictions, but
14 also the number of charges that help to predict whether or not
15 a person is going to have future offenses. The more charges,
16 regardless of whether or not there's a conviction, the more
17 likely that person is to engage in future offenses.

18 Q: In this case, Dr. Brown, do you find in your review of
19 the file and doing your interview with Mr. Alford, any charges
20 for sexually violent crimes that did not result in conviction?

21 A: I did.

22 Q: Did you find any convictions for non-sexually violent
23 offenses?

24 A: I did.

25 Q: Did you find any charges in -- or convictions from 2001

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

61

1 and 2002?

2 A: I did.

3 Q: Were these charges and convictions from 2001 and 2002
4 considered as part of your ultimate conclusion in this case?

5 A: Yes, they were.

6 Q: Are they the type of evidence that is typically and
7 reasonably relied upon by experts in your field?

8 A: They are.

9 Q: Was Mr. Alford arrested in 2001?

10 A: He was.

11 Q: And what was he arrested for?

12 A: He was arrested for kidnapping and criminal sexual
13 conduct.

14 MR. MORROW: Your Honor, may I approach the witness?

15 THE COURT: You may.

16 BY MR. MORROW:

17 Q: Dr. Brown, I'm going to show you now a document, please,
18 or several documents, please take a moment to take a look at
19 it and see if you recognize it.

20 A: Okay. Let me just put these in order of time. You want
21 me to address what they are?

22 Q: Yes.

23 A: And I have seen these before. This is ---

24 Q: What are they, doctor?

25 A: This is the sentencing sheet, arrest warrant, and

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

62

1 affidavit, and the indictment for a kidnapping charge in 2001.

2 Q: Thank you. And there's a second set of documents I

3 handed you; what were those?

4 A: This is the indictment, arrest warrant, and affidavit for
5 a criminal sexual conduct first degree charge in 2001, 2002.

6 Q: And have you seen those documents before?

7 A: I have.

8 Q: And is there anything on them that indicates their
9 authenticity?

10 A: There is the seal and stamp from the clerk of court.

11 Q: Did you review the documents as part of your evaluation?

12 A: I did.

13 Q: Did you consider them as part of your ultimate conclusion
14 in this case?

15 A: I did.

16 Q: And are they types of documents that are typically and
17 reasonably relied upon by experts in your field?

18 A: They are.

19 Q: Why is it necessary to review the underlying facts of
20 this arrest and conviction?

21 A: Well, again the name of the charge only gives us a
22 general idea of what the charge was. It was important to know
23 exactly what the person did or what the person was accused of
24 doing. Again, to look for patterns of behavior, and again, as
25 in some such as kidnapping, it could have a sexual component

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

63

1 even though it's not a sexual charge.

2 Q: And what were the facts and circumstances that led to Mr.
3 Alford's -- led to Mr. Alford's arrest in 2001 for criminal
4 sexual conduct in the first degree and kidnapping?

5 MR. FALK: Objection, Your Honor, I think this is
6 hearsay.

7 THE COURT: Response?

8 MR. MORROW: Your Honor, this is part of the basis of the
9 expert's opinion. He relied on these documents as part of his
10 evaluation in this case, and it is -- it is the basis or part
11 of the basis of his expert opinion in this case.

12 MR. FALK: I'm just saying that there are allegations
13 made by somebody as part of an affidavit; this is not a --
14 these are cases that went to trial, so there's a trial
15 transcript ---

16 THE COURT: These are documents that the expert relied on
17 for his expert opinion. I think there's an exception to that,
18 correct?

19 MR. FALK: Yes, Your Honor.

20 THE COURT: And under that exception, I'm going to
21 overrule the objection.

22 MR. FALK: Thank you, Your Honor.

23 BY MR. MORROW:

24 Q: What were the facts and circumstances of that case?

25 A: There were two separate incidents in 2001. In April on

1 April 17th, he grabbed a 23-year-old acquaintance from the
2 street, forced her into an abandoned building, forced her to
3 engage in sexual intercourse. Then in August of that year,
4 August 23rd, he's walking down the street with a 41-year-old
5 acquaintance as they were leaving a party, he grabbed her by
6 the throat, threatened to kill her, forced her to a secluded
7 area, forced her to remove her clothes and to have sexual
8 intercourse.

9 Q: What was the results of Mr. Alford's case in 2001?

10 A: For the April 17 incident, he was charged with criminal
11 sexual conduct first degree and kidnapping. Those charges
12 were remanded to Magistrate's Court, where he pled guilty to
13 breach of peace and simple assault and was sentenced to time
14 served.

15 For the August 23rd incident, he was also charged with
16 criminal sexual conduct first degree and kidnapping. The CSC
17 charge was not prosecuted, but he pled guilty to kidnapping,
18 received a sentence of time served, which in that case it had
19 been 604 days.

20 Q: Dr. Brown, in a pre-commitment evaluation, you consider
21 all prior offenses, not just sexual offenses, correct?

22 A: That's correct.

23 Q: And why is that?

24 A: Again, we're looking for patterns for behavior and the
25 higher number of prior offenses the more likely a person is

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

65

1 going to engage in future offenses.

2 Q: Dr. Brown -- Your Honor, may I approach the witness?

3 THE COURT: You may.

4 Q: Dr. Brown, I'm now going to show you a document; please
5 take a moment to examine it.

6 A: Okay.

7 Q: Sorry, Dr. Brown, I handed you the wrong document. I
8 apologize. Let me hand you this one. Do you recognize this
9 document?

10 A: Okay. I do.

11 Q: What is that document?

12 A: This is the indictment, the sentencing sheet, and the
13 arrest warrant and affidavit for a sex offender registry
14 violation in 2005.

15 Q: And did you rely on that document as part of the basis of
16 your expert opinion?

17 A: I did.

18 Q: And have you seen that document before?

19 A: I have, yes.

20 Q: Is there anything on it that indicates their
21 authenticity?

22 A: The stamp and seal of the clerk of court.

23 Q: And did you consider -- are these the type of documents
24 that are typically and reasonably relied upon by experts in
25 your field?

1 A: They are.

2 Q: Why is it important for you as an evaluator in this case
3 to look at convictions for sex offender registry violations?

4 A: Well, sex offender registry violations can indicate an
5 unwillingness to follow the rules or a refusal to do what a
6 person is supposed to do. It's more on evidence of the
7 pattern of misconduct and illegal behavior.

8 Q: Dr. Brown, again, you consider all offenses, not just the
9 sex offenses as part of your evaluation?

10 A: That's correct.

11 Q: And in fact, in this -- and you've explained that several
12 times why you do that?

13 A: Yes.

14 Q: I'm gonna ask the Court if I can approach the witness.

15 THE COURT: You may.

16 Q: Now, Dr. Brown, do you recognize that document?

17 A: I do.

18 Q: And what is that document?

19 A: This is the affidavit and arrest warrant, sentencing
20 sheet, and indictment for another sex offender registry
21 violation; this one in 2011.

22 Q: Have you seen those documents before?

23 A: I have.

24 Q: Is there anything on them that indicates their
25 authenticity?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

67

1 A: Yes, the stamp and seal of the clerk of court.

2 Q: Did you review those documents as part of your
3 evaluation?

4 A: I did.

5 Q: Did you consider them as part of your ultimate
6 conclusions?

7 A: I did.

8 Q: Are they the type of documents that are typically and
9 reasonably relied upon by experts in your field?

10 A: They are.

11 Q: Why is it important to look at convict -- again, why is
12 it important to look at convictions for sex offender registry
13 violations?

14 A: Well, again, it indicates an unwillingness to do what a
15 person is told or a refusal to follow the rules.

16 Q: Dr. Brown, did you also review Mr. Alford's 2017 -- his
17 most recent conviction?

18 A: I did.

19 Q: Your Honor, may I approach the witness?

20 THE COURT: You may.

21 Q: Have you seen those documents before?

22 A: I have.

23 Q: What are they?

24 A: This is the arrest warrant and affidavit, the indictment,
25 and the sentencing sheet for a criminal sexual conduct third

1 degree charge in 2015. And this is the arrest warrant,
2 affidavit, indictment for the kidnapping charge in 2015.

3 Q: Did you rely on those documents as part of the basis of
4 your expert opinion?

5 A: I did.

6 Q: And did you consider them as part of the ultimate
7 conclusion in this case?

8 A: I did.

9 Q: Are these the type of documents that are typically and
10 reasonably relied upon by experts in your field?

11 A: They are.

12 MR. MORROW: Your Honor, at this time, the state would
13 move to introduce into evidence the indictment and sentencing
14 sheet from his 2017 conviction for criminal sexual conduct in
15 the third degree?

16 A: Any objections?

17 MR. FALK: May we approach just briefly?

18 THE COURT: Yes.

19 (REPORTER'S NOTE: Bench conference is held on the record in
20 the presence of but outside the hearing of the jury.)

21 MR. FALK: I just have a concern because the victim --
22 each victim in that case, their name is on it. We didn't ask
23 the jury if they know the victim. I just want to redact the
24 name off of it.

25 MR. MORROW: I have no objection to that.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

69

1 THE COURT: All right. Let's do that.

2 Thank you.

3 (REPORTER'S NOTE: End of beach conference.)

4 MR. MORROW: Your Honor, at this time, we would move that
5 into evidence?

6 THE COURT: Any objections?

7 MR. FALK: None other than we discussed.

8 THE COURT: All right. It is into evidence and that
9 would be State's Number 2.

10 STATE'S EXHIBIT NUMBER 2

11 ADMITTED INTO EVIDENCE

12 BY MR. MORROW:

13 Q: Why is it necessary to review the underlying facts and
14 circumstances of his conviction for criminal sexual conduct in
15 the third degree?

16 A: Well, again the name of the charge only gives us a
17 general idea of what is involved. So, we need to know exactly
18 what it is that the person is accused of doing, and also look
19 at whether or not there's a sexual component to the crime, and
20 look for patterns of behavior.

21 Q: Dr. Brown, could you please describe to the jury the
22 details and facts and circumstances of Mr. Alford's 2017
23 conviction for criminal sexual conduct in the third degree and
24 his arrest for kidnapping?

25 A: That incident happened in September.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

70

1 MR. FALK: Same objection, Your Honor.

2 THE COURT: Overruled. I think it's Rule 703 that allows
3 experts to rely on that type of information.

4 MR. FALK: Yes, Your Honor.

5 A: That incident happened in September of 2015. A 52-year-
6 old female acquaintance reported that Mr. Alford had held her
7 against her will.

8 MR. FALK: Objection, Your Honor.

9 THE COURT: What grounds?

10 MR. FALK: This, I believe, is going beyond the latitude
11 given under Rule 703. Once we start actually repeating
12 hearsay statements, if you can look at the cases that are
13 reported under there.

14 MR. MORROW: Your Honor, I simply want Dr. Brown to
15 inform the jury of the facts of the documents that he read
16 that formed the basis of his expert opinion in this case.

17 THE COURT: I agree. I'm going to overrule the objection
18 unless you can tell me something.

19 MR. FALK: I could cite to I guess it's *Allegro v. Scully*
20 and it's the notes on Page 110 on my South Carolina Rules of
21 Evidence -- Rule 703 does not allow the admission of hearsay
22 evidence simply because an expert used it in forming his
23 opinion. The only -- the rule only provides the expert can
24 give an opinion based on the facts and data. And I still
25 think the Court still has the last say as being the

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

71

1 gatekeeper, under 402 and 403 as to ---

2 THE COURT: You know he relied on it to form his opinion
3 in this case, and *State v. Hutto*, 481 S.E.2d 432, specifically
4 states that an expert may base his opinion on hearsay evidence
5 so long as it is of a type reasonably relied upon by other
6 experts in the field, and I think he's already testified to
7 that fact.

8 MR. FALK: But, Your Honor, I think there's a difference
9 between repeating the hearsay testimony and saying he relied
10 on it.

11 THE COURT: He relied on it.

12 MR. MORROW: I can rephrase my question, Your Honor.

13 THE COURT: Let's do that. Then I agree with you; I
14 understand where you're coming from.

15 BY MR. MORROW:

16 Q: Dr. Brown, without -- without stating any statements that
17 anyone else said, what facts did you find in the evidence
18 about his conviction for criminal sexual conduct in the second
19 -- in the third degree and arrest for that?

20 A: I'm not sure what I can say about that other than what
21 was in the incident report and all of that included things
22 that the alleged victim in that case has said.

23 Q: What was your general understanding -- what was your
24 general understanding of what you read, not what anyone else
25 said?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

72

1 A: That he had dragged this woman into a house, had
2 threatened her, had assaulted her, had taken her phone and her
3 belongings and wouldn't let her escape.

4 Q: Thank you, Dr. Brown. Did you find any other arrests or
5 convictions significant to your ultimate diagnosis in this
6 case?

7 A: Yes, I did.

8 Q: And before we get into that, let's move on for a second
9 and we'll come back to that in a minute. What sentence did
10 Mr. Alford receive for his 2017 conviction for criminal sexual
11 conduct in the third degree?

12 A: He was sentenced to three years, but that was suspended
13 to time served, which in that case was 488 days.

14 Q: What was his behavior -- after he was released, was there
15 anything that was significant to your opinion in this case?

16 A: After he was released, he was -- he did five more
17 sentencing dates in Myrtle Beach after his release from prison
18 or from jail for that crime.

19 Q: What -- why is his behavior after his release relevant to
20 your diagnosis in this case?

21 A: Because that's recent. We're talking about behavior that
22 happened last year. This wasn't something that happened 10 or
23 20 years ago, this is something that happened last year after
24 he'd been released from the detention center.

25 Q: Are arrests and incidents with law enforcement the kind

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

73

1 of information that's typically and reasonably relied upon by
2 experts in your field?

3 A: They are.

4 Q: And how were these arrests, these specific ones,
5 significant to your diagnosis?

6 A: Well, again they -- they demonstrate the pattern of
7 behavior that we're saying is happening not just in the
8 distant past, but recently, which gives me more confidence
9 that those kinds of behaviors are going to happen in the
10 future. It adds more sentencing dates to an already long list
11 of sentencing dates, which is a predictor of future offenses.
12 And again, just the general pattern of disregarding the law
13 and not respecting the rules of society.

14 Q: Dr. Brown, did you also look at any disciplinary history
15 that Mr. Brown had while he was incarcerated as part of the
16 basis of your opinion?

17 A: I did.

18 Q: And why do you look at an individual's behavior while
19 they're incarcerated?

20 A: Well, some people can get their behavior under control
21 when they're in prison, when they're in a detention center,
22 when they're in a highly structured environment; others
23 continue to act out during that time. Mr. Alford didn't have
24 a lot of disciplinaries in prison, but he did have three
25 assault disciplinaries, and five non-assault disciplinaries

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

74

1 during that time. One of the assaults was considered to be
2 major; the other two were considered to be minor.

3 Q: And what, if anything, did you find significant about
4 that for the basis of your opinion?

5 A: Well, while it's not a huge number, it does indicate some
6 difficulty controlling his behavior even in a highly
7 structured environment like a prison.

8 Q: Did you review prior treatment records as part of your
9 evaluation in this case?

10 A: As far as sex offender treatment records, there were
11 none.

12 Q: There were none. What did Mr. Alford have to say about
13 his need for treatment?

14 A: Mr. Alford said he does not believe he needs treatment.
15 He doesn't think he has a problem and sees no need for
16 treatment.

17 Q: Dr. Brown, in your evaluation of Mr. Alford, were you
18 able to diagnose him with a relevant mental abnormality or a
19 personality disorder?

20 A: Yes, I was.

21 Q: And what diagnosis did you assign Mr. Alford?

22 A: I gave him a diagnosis of a personality disorder;
23 specifically, antisocial personality disorder.

24 Q: Dr. Brown, what is antisocial personality disorder?

25 A: The diagnostic manual describes them as a pervasive

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

75

1 pattern of disregard for and violation of the rights of others
2 occurring since the age of 15 years.

3 Q: And, Dr. Brown, when you were talking about the
4 diagnostic manual, were you talking about the diagnostic --
5 what is that, what is the diagnostic manual?

6 A: It's the -- we call it the DSM-5. It's the fifth edition
7 for the Diagnostic and Statistical Manual of Mental Disorders
8 published by the American Psychiatric Association.

9 Q: And is that a learned treatise in your field?

10 A: It is. It is the accepted manual for diagnosis of mental
11 disorders, personality disorders, developmental disorders.

12 Q: And that is what you use when you're making a diagnosis,
13 correct?

14 A: That's correct.

15 Q: Okay. What are the criteria that you look at to diagnose
16 someone with antisocial personality disorder?

17 A: There are several. The person has to be at least 18
18 years old. There has to be evidence of conduct disorder prior
19 to the age of 15. And then there are seven specific criteria
20 that we have to look at and the person has to meet at least
21 three of those seven criteria to qualify for the diagnosis.
22 And I'll read quickly through the seven to be sure I get them
23 right. The first one is failure to perform to social norms
24 with respect to lawful behaviors as indicated by repeatedly
25 performing acts that are grounds for arrest. The second

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

76

1 criteria is deceitfulness. The third is impulsivity or
2 failure to plan ahead. The fourth is irritability and
3 aggressiveness as indicated by repeated physical fights or
4 assaults. Number five is reckless disregard for safety of
5 self and others. Six is consistent irresponsibility as
6 indicated by repeated failure to sustain consistent work
7 behavior or to honor financial obligations. And then seven is
8 lack of remorse.

9 Q: Now, Dr. Brown, how does Mr. Alford meet the criteria for
10 antisocial personality disorder?

11 A: He meets the criteria for at least four of those, and the
12 four that I think he meets criteria are failure to conform to
13 social norms with respect to lawful behaviors and impulsivity
14 or failure to plan ahead, irritability and aggressiveness, and
15 consistent irresponsibility. It also requires evidence of
16 conduct disorder and I ---

17 Q: So, if I understand correctly, Dr. Brown, in order to
18 diagnose antisocial personality disorder, Mr. Alford had to --
19 he first had to have evidence that Mr. Alford had conduct
20 disorder prior to age 15; is that correct?

21 A: That's correct.

22 Q: And so, you did find evidence of that?

23 A: I did.

24 Q: And what evidence did you find?

25 A: Well, the most clear evidence, we have records from

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

77

1 William Hall Psychiatric Institute in Columbia. He was there
2 for about three weeks in October to November of 1986, and one
3 of his discharge diagnoses at that time was conduct disorder
4 undersocialized, aggressive type by history. So, he was given
5 a diagnosis, I think he was 17 at that point, but had a long
6 history of juvenile behaviors that would support that
7 diagnosis prior to that.

8 Q: So, in addition to evidence of conduct disorder prior to
9 age 15, he has to meet at least three of the seven delineated
10 criteria that you went through a moment ago?

11 A: That's correct.

12 Q: And that criteria comes from the DSM-5, correct?

13 A: That's correct.

14 Q: And of the seven listed criteria, you found four that he
15 met?

16 A: At least four, yes.

17 Q: And you listed -- you listed failure to conform with
18 social norms with respect to lawful behaviors. How does Mr.
19 Alford meet that criteria?

20 A: Well, one of the ways of meeting that is by having
21 repeated arrests, repeated behaviors that result in arrest.
22 He has been arrested -- I don't know how many times -- found
23 at least 30 convictions. So, he has a long history of being
24 arrested for various types of crimes. He just doesn't follow
25 the laws.

- 1 Q: And you mentioned impulsivity or failure to plan ahead.
2 What evidence did you find that Mr. Alford met that criteria?
- 3 A: Well, he didn't complete school. He's had no real job
4 training. He has no real employment history other than
5 temporary things. He's talked about going to hustler's corner
6 as a day laborer and picking up whatever work he could pick
7 up. He hasn't had a stable place to live, so, he hasn't had
8 any of the kinds of responsibility that most people would take
9 on as a responsible adult. We also see in terms of
10 impulsivity, a lot of his crimes were not real highly
11 sophisticated crimes. A lot of them were crimes of
12 opportunity, impulsive kinds of things and he's not really
13 looking at the possible consequences of his behaviors. He's
14 not thinking ahead, planning ahead to what the consequences of
15 those behaviors may be.
- 16 Q: Dr. Brown, you also mentioned impulsivity or irritability
17 and aggressiveness; is that correct?
- 18 A: Correct.
- 19 Q: What evidence did you find to support Mr. Alford met that
20 criteria?
- 21 A: Well, that was actually a part of his conduct disorder.
22 It was labeled at that time as aggressive type. We see
23 several charges for things like fighting, threatening
24 violence, criminal domestic violence, and even some
25 disciplinary infractions as far as assaults while in prison.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

79

1 Q: Finally, Dr. Brown, you mentioned consistent
2 irritability. What evidence did you find to support Mr.
3 Alford met that criteria?

4 A: Consistent irresponsibility.

5 Q: All right, consistent irresponsibility, I'm sorry.

6 A: We see that as well in his criminal history. We see a
7 long abuse of alcohol. He doesn't work, he doesn't have a
8 stable place to stay, he hasn't taken on the responsibilities
9 of being an adult.

10 Q: And so antisocial personality falls under the DSM-5, and
11 that's the criteria you used in this case?

12 A: That's correct.

13 Q: And you found that he met -- and you found that he had
14 conduct disorder prior to age 15?

15 A: That's correct.

16 Q: And you also found evidence that he met four of the seven
17 delineated categories?

18 A: At least four, yes.

19 Q: What does a diagnosis of antisocial personality disorder
20 have to do with Mr. Alford's likelihood to reoffend in a
21 sexually violent way?

22 A: What it has to do with it is, you know, here we have
23 someone who has committed a large number of crimes in the
24 past. Some of those have been sexual crimes; some of those
25 have been sexually violent crimes. It doesn't take a

1 psychologist to look at the pattern of behavior that Mr.
2 Alford has exhibited and predict that he's going to continue
3 to exhibit those kinds of behaviors and to violate laws in the
4 future and based on having committed some sexual crimes as
5 part of that pattern, it's a logical conclusion to me, that he
6 would be likely to continue engaging into it in future and
7 he'd be likely to commit some sexual offenses.

8 Q: So, Dr. Brown, would it be fair to say that Mr. Alford's
9 antisocial personality disorder has manifested itself in the
10 past in sexually violent offenses?

11 A: Yes, that's -- that's one of the ways in which it has
12 manifested.

13 Q: And to you, that would suggest a pattern of behavior?

14 A: Yes, it would.

15 Q: Dr. Brown, you also looked at Mr. Alford's risk to
16 reoffend sexually as part of your evaluation, correct?

17 A: That's correct.

18 Q: How do experts such as yourself measure risks?

19 A: What we try to do is we look at a person's behavior, we
20 look at the way they've acted in the past to try to predict
21 from that the way they're going to act in the future. And in
22 terms of predicting risks for sexual offenses, we know that
23 people with certain factors in the past are more likely to
24 reoffend in the future than people that don't have those
25 factors.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

81

1 Q: Dr. Brown, are there multiple types of risk factors that
2 you look at?

3 A: There are.

4 Q: And what are -- what are the multiple types of factors?

5 A: We typically talk about two different types of risk
6 factors. One is static risk factors, and by static we mean
7 these are risk factors that are not going to change. This
8 includes things like the offense history, the characteristics
9 of the victims, fixed aspects of the offender's history.
10 That's not going to change no matter what. The history is
11 what it is, it's happened, that's a matter of the record.
12 Dynamic risk factors, we sometimes call psychologically
13 meaningful risk factors, these are things that we have found
14 through research correlate with the likelihood of reoffending.
15 These are things like relationship status, sexual interests,
16 compliance with supervision, things that the person can change
17 in treatment going forward.

18 Q: Dr. Brown, how do you experts measure static risk
19 factors?

20 A: The most common way that we do it, in looking at sexually
21 violent offenses, sexual offenses, are two measures we call
22 the Static 99-R and the Static 2002-R. These are what we call
23 actuarial risk assessments, and they are both designed to be
24 used with people who have been convicted of or at least
25 charged with at least one sexual offense as an adult. And the

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

82

1 idea is that we want to find some way to -- we psychologists
2 like numbers -- we want to find some way to quantify this and
3 put some kind of a number on it so that we can compare this
4 group's risk of reoffending with other -- with a risk of
5 reoffending in other groups. So, we're looking at the
6 relative risk compared to other sex offenders. In doing that
7 -- and I can use an analogy. If we're looking at risks for
8 heart disease, you could come up with an actuarial measure for
9 that. If you're male, you're going to have a higher risk for
10 heart disease. If you smoke, you're going to have a higher
11 risk for heart disease. If you're obese, you're going to have
12 a higher risk for heart disease. We also look at diet, we
13 look at exercise habits, those kinds of things, and the more
14 of those factors you have, the more likely you are to develop
15 heart disease.

16 So, it's based on what we know from large groups of
17 people that predict the likelihood of getting heart disease in
18 the future. Same thing if you apply for life insurance. If I
19 go out as a 60-something-year-old guy and try to apply for
20 \$100,000 life insurance, that's gonna cost me a lot of money.
21 Because the chance that I would die within the next 15 to 20
22 years is pretty high. If a 25-year-old guy goes out he's
23 healthy and applies for a \$100,000 life insurance policy, it
24 might not be that expensive because he's got a lot longer to
25 live and he's not likely to die as soon. So, that's the kind

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

83

1 of thing we're looking at here is being able to put numbers on
2 what we know to be risk factors or are pending in the future.

3 Q: All right. So, you mentioned the first test that you
4 used was the Static 99-R; is that correct?

5 A: Correct.

6 Q: And is that the type of test that is typically and
7 reasonably relied upon by experts in your field?

8 A: It is.

9 Q: And did you use that in Mr. Alford's case?

10 A: I did.

11 Q: And was it part of the basis of your expert opinion?

12 A: It was.

13 Q: And what, if anything, did you find about Mr. Alford from
14 the Static 99-R?

15 A: When I scored that measure, he came up with a score of 6,
16 which is in the well above average range.

17 Q: So, what it is the score of 6 on the Static 99-R
18 indicated Mr. Alford's risk for re-offense.

19 A: Well, the first thing, as I said, this is the well
20 above average range and by that we mean it's perceptively
21 higher risks than the average sex offender. If we look at
22 routine samples of sex offenders, and these are not, you know,
23 your friends and neighbors and the people you go to church and
24 work with, these are people who have been convicted of or
25 charged with sex offenses. He scored, I'm getting ahead of

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

84

1 myself here. He scored higher than about 92 percent of sex
2 offenders on this particular item. If we look at groups of
3 offenders with a score of 6 between about 18 and 23 would
4 reoffend within five years. Out of 100 sex offenders between
5 18 and 23 with that score in the research sample reoffended
6 within five years.

7 Now, the other side of that is that between 18 -- I'm
8 sorry -- between 77 and 82 would not reoffend. The other way
9 we like to look at this number, offenders with a Static 99
10 score of 6, have a recidivism rate and is 3.77 times the rate
11 of offenders in the middle of the risk distribution. So,
12 offenders with a score of 6 reoffended almost four times as
13 often -- at a rate as four times as much as those who were in
14 the middle or the other sex offender.

15 Q: And to be clear, Dr. Brown, I just want to make sure I
16 understand this correctly, the Static 99 compares Mr. Alford's
17 risk to groups of other individuals who have been convicted of
18 sex offenses?

19 A: That's correct.

20 Q: And he scored, if I understand this correctly, higher
21 than 92 percent of most routine sex offenders?

22 A: That's correct.

23 Q: And what is the Static 2002-R?

24 A: The Static 2002-R is a very similar measure. It looks at
25 some of the same items in a slightly different way, but it

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

85

1 also adds a section on persistence of sexual offending, how
2 frequently is this person offending, has a section on deviant
3 sexual interests and general criminology. So, it adds those
4 items to what we see in the Static 99. And, you know, the
5 experts in the field are telling us we really should use both
6 measures to come with the most accurate risk assessment.

7 Q: So, what was Mr. Alford's score or -- what was Mr.
8 Alford's score on the static 2002-R?

9 A: His score was a 7 on the 2002-R.

10 Q: What does a score of 7 on the Static 2002-R indicate
11 about Mr. Alford's risk to reoffend?

12 A: That's also in the well above average range. The five-
13 year recidivism rate for that score is between about 23 and 30
14 percent, and that's of course higher than 92 percent of
15 routine samples of sexual offenders. So, recidivism rate, the
16 rate of reoffending was about three and a half times the rate
17 of offenders in the middle of the risk distribution.

18 Q: And again, this instrument compared Mr. Alford's risk to
19 that of other convicted sex offenders?

20 A: That's correct.

21 Q: And you found ---

22 A: Well, let me correct that. It's not comparing Mr.
23 Alford's risks individually. What we know is people with that
24 score has proved to reoffend at that rate.

25 Q: You also mentioned dynamic risk factors that you looked

1 at?

2 A: That's correct.

3 Q: What kinds of dynamic risk factors were you able to
4 identify with Mr. Alford?

5 A: And again, by dynamic risk factors, you look at factors
6 that we have found through research correlate with the
7 likelihood of reoffending. The ones identified with him were
8 sexualized violence, a lack of emotionally intimate
9 relationships with adults, lifestyle impulsiveness, poor
10 problem solving, resistance to rules and supervision, what we
11 call hostility thinking and possibly some hostility toward
12 women.

13 Q: Dr. Brown, sexualized violence is a risk factor; what
14 does that mean?

15 A: That includes an interest in what we call sexual sadism
16 or really violent sexual behavior. It can also mean a
17 preference for coercive sex or forcing someone to have sex
18 over having sex with someone who's consenting to have sex.

19 Q: Dr. Brown, how did you find that Mr. Alford had
20 demonstrated sexualized violence?

21 A: What I read about his offenses, they did involve violence
22 towards the victims in those cases and beyond just being
23 violent for the victims, you know, he acknowledged in
24 interview that he had willing sexual partners at the time, he
25 was willing and able to pay for sex from other women. So,

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

87

1 even with the ability of other consenting sexual partners, he
2 still was very violent toward the sexual partners that he
3 forced to have sex.

4 Q: You also mentioned a lack of emotional intimate
5 relationships with adults. What does that mean in layman's
6 terms?

7 A: That means either not having close intimate relationships
8 or having relationships or just how he conflicted and involved
9 a lot of conflict.

10 Q: All right. And how did you find that that applied to Mr.
11 Alford?

12 A: He said his longest relationship was five years and he
13 described that and his word as hell. He said other than that,
14 he had not been able to maintain a stable relationship beyond
15 a year.

16 Q: Dr. Brown, you also talked about lifestyle impulsiveness
17 as a dynamic risk factor; what is that?

18 A: Right. That's low self-control, just instability in
19 employment, instability in housing, making irresponsible
20 decisions.

21 Q: And how did Mr. Alford demonstrate lifestyle
22 impulsiveness?

23 A: Well, that kind of describes him. He's not had stable
24 housing for most of his life, he's not had a stable job for
25 most of his life, he's made very poor decisions in some of his

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

88

1 choices that got him in trouble with the law.

2 Q: I believe you also mentioned grievance hostility. How
3 did Mr. Alford demonstrate grievance hostility?

4 A: Okay. Grievance hostility thinking is basically
5 perceiving that we've done wrong by others and blaming our
6 problems on other people. Mr. Alford complains that his
7 victims lied about him. When he pled guilty, he said he pled
8 guilty because he had poor legal representation at the time.
9 He blames the Myrtle Beach Police for targeting. He basically
10 said you can't go to Myrtle Beach without getting arrested.
11 So, even minor violations, he feels like the police pick on
12 him for those. He blames his problems with women on the types
13 of women that he chooses was not a -- he's responsible for
14 those problems because he's choosing the wrong types of women.

15 Q: Dr. Brown, you also talked about resistance to rules and
16 supervision; what is that?

17 A: That's someone who just doesn't follow the rules and we
18 see sex offender registry violations as a way of not adhering
19 to the supervision a person is supposed to have, a person who
20 is not following the laws, who is not following the rules in
21 prison.

22 Q: And again, how did you find that Mr. Alford met
23 resistance to rules and supervision?

24 A: Well, and again, not following the laws. There was at
25 least one probation violation that he was convicted of, sex

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - DIRECT BY MORROW

89

1 offender registry violation.

2 Q: All right. How do these static and dynamic risk factors
3 relate to Mr. Alford's risk to reoffend sexually, if not
4 confined to a secure facility for treatment?

5 A: The static risk scores are in the category called well
6 above average. So, when we look at groups of people with his
7 static scores, those groups tend to reoffend at a
8 significantly higher rate than the average sex offender does.
9 We know that people with these dynamic risk factors are also
10 more likely to reoffend. So, not only does he have a high
11 risk of reoffending based on his static scores, there's also a
12 high risk of reoffending based on those dynamic risk factors.

13 Q: To be clear, Dr. Brown, is your expert opinion that Mr.
14 Alford suffers from personality disorder?

15 A: It is.

16 Q: And that personality disorder is antisocial personality
17 disorder?

18 A: That's correct.

19 Q: And that diagnosis is made based on a reasonable degree
20 of psychological certainty?

21 A: It is.

22 Q: Do you have an opinion as to whether Mr. Alford's
23 antisocial personality disorder causes him serious difficulty
24 in controlling his behavior?

25 A: I believe that it does.

1 Q: Do you have an opinion as to whether Mr. Alford's
2 antisocial personality disorder is likely to commit -- makes
3 him likely to commit future acts of sexual violence?

4 A: I believe that it does.

5 Q: Do you have an opinion as to whether Mr. Alford's
6 antisocial personality disorder makes him likely to engage in
7 acts of sexual violence if not confined to a secure facility
8 for long-term control, care, and treatment?

9 A: I believe that it does.

10 Q: Dr. Brown, do you have an opinion as to whether Mr.
11 Alford meets the criteria to be found to be a sexually violent
12 predator?

13 A: I believe that he does.

14 Q: And are all of these opinions based on a reasonable
15 degree of psychological certainty?

16 A: They are.

17 Q: Thank you, Dr. Brown. Please answer any questions that
18 the Court or Mr. Falk may have for you.

19 THE COURT: Mr. Falk?

20 MR. FALK: Your Honor, I could work from my bench --
21 could the court reporter hear me from here? I just have too
22 many papers spread out here.

23 CROSS EXAMINATION OF GORDAN EDGAR BROWN, JR. BY MR. FALK:

24 Q: Dr. Brown, can you hear me from here?

25 A: I can.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

91

1 Q: All right. Great. You had talked at the beginning about
2 you've done a lot of annual reviews with the Department of
3 Mental Health; is that correct?

4 A: That's correct.

5 Q: All right. Now, when you're doing an annual review,
6 you're really looking to see -- you're really looking to see
7 if people have changed; is that correct?

8 A: Correct.

9 Q: Did you -- is it fair to say that what you're really
10 trying to do here is making a diagnosis? I'm sorry. Now
11 we're in a commitment proceeding; is that right?

12 A: That's correct.

13 Q: And you're really making a diagnosis here?

14 A: That's correct.

15 Q: As opposed to just charting, you know, where somebody
16 started and where he is later, whether or not there's been
17 change; you're making a diagnosis?

18 A: That's correct.

19 Q: Is there -- are those two different types of opinions?

20 A: They are very different questions. When we do the annual
21 review, the person has already been committed. So, whether I
22 agree with that commitment or disagree with it, whether I
23 agree or disagree with the diagnosis, the person is in the
24 program. The question I have to answer in an annual review is
25 has the person so changed that they're now safe to be released

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

92

1 back to the community.

2 Q: Okay. I really probably should have looked at some more
3 of your annual review opinions, but you've given annual review
4 opinions on people who have been in that program six to seven
5 years; is that correct?

6 A: That's correct.

7 Q: How often do you give an annual review opinion when
8 somebody gets released the next year; is that very common?

9 MR. MORROW: Objection.

10 THE COURT: What grounds?

11 MR. MORROW: Relevance, Your Honor.

12 MR. FALK: I think we've already talked about that he's
13 done annual reviews, he's talked to the treatment; I think
14 it's all very relevant.

15 THE COURT: All right. I'm gone overrule it. Go ahead.

16 A: I'm not sure how to answer the question the way you asked
17 it. I have recommended that seven be released. Not all of
18 them -- well, two actually died before they were released. We
19 have one other one that has nowhere to go. But, I have in
20 four-and-a-half years recommended seven for release.

21 BY MR. FALK:

22 Q: I'm just -- how often -- have you ever reviewed people
23 who've been there for their first annual review since being
24 committed?

25 A: I have.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

93

1 Q: How often do they get released?

2 A: Well, it has happened, but it's not a frequent thing.

3 Q: Now, you said that you've been part of a treatment team,
4 that you led the treatment team?

5 A: That's correct.

6 Q: Okay. I know they keep -- something used to be called
7 the Rockwell model and then there's this and a that; what was
8 the treatment? You know, is that a multi-year program or is
9 that a multi-year -- you know, I'm trying to come up with the
10 words -- curriculum, is that like a multi-year curriculum that
11 they go through for the treatment?

12 A: Well, it's changed significantly since I was part of the
13 treatment team. The treatment program has been privatized.
14 It's now run by a company called Correct Care Recovery
15 Systems, and they do have a four-phase multi-year treatment
16 program.

17 Q: Okay. And there's like stages; you graduate from one
18 stage and go to the other. Is that correct?

19 A: Correct.

20 Q: Okay. Now, this is the first time that you have done a
21 pre-commitment evaluation where you testified in court?

22 A: Correct.

23 Q: Did anybody, I don't know if this is common in your -- in
24 this field but, you know, since this was your first time sort
25 of doing this diagnostic report, did anybody audit your work

1 who had more experience?

2 A: Actually, I don't think I've ever done a report in any
3 field without having someone look over it. We do that
4 frequently for each other. So, Dr. Gothard (spelled
5 phonetically), my supervisor, I think read all of the pre-
6 commitment reports and made suggestions, and you know, as a
7 team, we do that for each other. So, yes, that's common.

8 Q: What were her comments about this report?

9 A: I don't remember specifically.

10 Q: Now, you have to -- when you were looking at -- you were
11 making your opinion based on, I think your terminology was you
12 sort of know what he was charged with, what the offense was,
13 in order for you to use it as a part of your opinion; is that
14 correct?

15 A: Correct.

16 Q: And the raw data that you were looking at, were like
17 affidavits or whatever his -- whatever the arrest warrant,
18 whatever the indictments were; is that correct?

19 A: That's correct.

20 Q: Okay. He never went to trial in any of those cases of
21 the sexually violent offenses, he never went to trial, did he?

22 A: That's correct.

23 Q: So, there was no -- you only really had an opportunity to
24 go on in effect -- just sort of the allegations; is that
25 correct?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

95

1 A: That's what I look at as far as the records, but I do
2 also ask Mr. Alford about his version of the events in the
3 interview.

4 Q: But you have to assume that those allegations are
5 correct; is that right?

6 A: I don't know that I have to assume they're correct. I
7 have to assume that they're the basis for the guilty plea.

8 Q: Okay. But we don't really know the actual facts that
9 were the basis -- we don't really know what actually
10 occurred, we just know what the guilty plea was about; is that
11 correct?

12 A: That's correct.

13 Q: Because in each of those cases, he got a time-served
14 sentence other than -- other than the thing when he was a
15 juvenile, the first one, that was the '86 conviction?

16 A: Correct.

17 Q: And he was a juvenile; how old was he at that time?

18 A: He was, I think, 17.

19 Q: Okay. So, other than that one, where he did actually
20 have a longer sentence, he got time-served sentences on his
21 other charges; is that right?

22 A: I think that's correct on all of them.

23 Q: Okay. And one of them was actually a criminal sexual
24 conduct was actually bumped down to a magistrate level
25 disposition?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

96

1 A: That's correct.

2 Q: Is it your understanding that magistrate level, that's
3 kind of like misdemeanor court?

4 A: That's my understanding, but I'm not a lawyer.

5 Q: Okay. So, is it your understanding that criminal sexual
6 conduct could carry a very high sentencing range?

7 A: Yes, sir.

8 Q: Okay. And in each of these times, he got off with a
9 relatively -- he got off -- what's your understanding of what
10 a time-served sentence is?

11 A: Basically, they're released from jail or detention center
12 for the time they've already spent ---

13 Q: Like that day?

14 A: --- in that setting. That day, yes.

15 Q: Yeah. Well, doctor, when you've had -- I know this was
16 your first sort of time you've done one of these pre-
17 commitments, but is it possible that people plead guilty to
18 charges that they haven't committed?

19 A: Sure.

20 Q: Which could've happened in this case; is that right?

21 A: That's correct.

22 Q: Because you didn't do any other kind of research into the
23 facts surrounding the 2001 case, did you?

24 A: We -- we ---

25 Q: Please answer and finish.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

97

1 A: We do as much research as we can. In this case, there
2 wasn't a lot to follow up on.

3 Q: Did you contact any victims?

4 A: We don't typically contact victims in these cases. We
5 don't want to re-traumatize them and having them go through
6 all the material. And our focus at this point is on the risk
7 of reoffending.

8 Q: Sure.

9 A: So, it's unlikely victims would be able to address the
10 question of how likely is a person to reoffend.

11 Q: No, but if your concern is whether or not the event
12 actually took place. It's very relevant for the risk to
13 reoffend, isn't it? That the event didn't take place or
14 didn't take place the way it was alleged that he pled guilty
15 to, that's relevant to the risk to reoffend, is it not?

16 A: I wouldn't say it's not relevant, but at the same time,
17 it's not my job to determine what did or didn't happen.
18 That's a matter of what has already been through the court
19 system.

20 Q: Right, so you kind of go on the assumption that what was
21 pled did happen; is that correct?

22 A: Or something close to that, yes.

23 Q: Okay. All right. Because you did not, for example, I
24 can appreciate not wanting to re-traumatize the alleged
25 victims, but you didn't talk to any of the law enforcement in

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

98

1 those cases, did you?

2 A: Well, these are old cases and law enforcement goes
3 through a lot of cases. So, again, wouldn't typically talk to
4 law enforcement as much as rely on the legal documentation
5 that we have.

6 Q: But the 2015 case, you didn't talk to law enforcement,
7 did you?

8 A: No.

9 Q: Now, you had talked -- what was your comment about he
10 spent some time, three weeks, in a facility when he was 16?

11 A: Correct.

12 Q: Okay. And what was that again?

13 A: That was William Hall Psychiatric Institute, and that was
14 around the time he faced the charges as far as his first
15 sexual offense conviction. It was an evaluation of competency
16 to stand trial and criminal responsibility.

17 Q: Okay. Certainly, juveniles really aren't held to the
18 same sort of standard as adults; is that correct?

19 A: He was tried as an adult in that case, though.

20 Q: There is a recognition among forensic psychologists that
21 juveniles don't necessarily have the same development and
22 should be held to some of the same standards as an adult?

23 A: Oh, yes; that's correct, yes.

24 Q: You are, I know as a forensic psychologist, you do some
25 keeping up with some of the legal decisions that are relevant

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

99

1 to your cases, right?

2 A: I try to.

3 Q: Okay. And so, *Miller v. Alabama*, are you familiar with
4 that case?

5 A: You'll have to remind me. I recognize it, but ---

6 Q: How about if we just talk about the facts and that's a
7 case where they talked about death penalty sentences ---

8 A: Okay.

9 Q: --- and life without parole sentences for juvenile
10 offenders, where they talk about -- May I approach the
11 witness?

12 THE COURT: You may.

13 Q: I'm going to show you this section, that highlighted
14 footnote.

15 A: Okay.

16 Q: And if you could just, I wouldn't expect you to know the
17 name of the case, but I mean, just what they're talking about
18 there, does that make sense to you?

19 A: Yes, this does make sense, and I am familiar with this.

20 Q: Okay. And so, what I'm saying, this whole -- because
21 somebody committed something when they're a juvenile, there's
22 certainly some understanding that a juvenile brain, maybe even
23 a juvenile male brain, is probably not fully developed until
24 they're 24 years old or so; is that correct?

25 A: Yes, that's correct.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

100

1 Q: All right. Thank you. As part of your evaluation, did
2 you do any type of -- you did some type of IQ testing, did he
3 not?

4 A: No, not IQ testing. There was some reference to IQ
5 testing in the William Hall records.

6 Q: And what was the results of that?

7 A: His scores, looking at -- well, I say William Hall, that
8 may've been in the school records. There was a very early
9 test where they did an evaluation and gave him a diagnosis of
10 possible, at that time what we called mental retardation. But
11 if you look at the pattern and the scores later improved, and
12 at one point, I think it was noted William Hall said he might
13 even have above average intelligence. So, he's had some
14 academic difficulties and there were some questions about his
15 intelligence early on.

16 Q: And wasn't there also -- isn't there some concern about
17 his reading ability; did you see the scores?

18 A: Yes.

19 Q: And SCDC tested him when he went in?

20 A: I'm sorry?

21 Q: SCDC does some reading ability tests, do they not, as
22 part of their ---

23 A: They do. I don't recall right offhand what those were.

24 Q: It was like about a third grade level; would that ---

25 A: That sounds correct.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

101

1 Q: Okay. Could somebody's -- could maybe somebody's
2 inability to read at grade level and maybe some other
3 intellectual deficiencies be some of the reason for not being
4 able to find stable employment?

5 A: I think that would be a contributing factor, but not
6 necessarily a major one.

7 Q: Okay. We had talked about, this some -- sort of the
8 Bible in your field or it's a pretty authoritative source?

9 A: I think that's a fair statement.

10 Q: Okay. Now, this book has a big chapter, a big section in
11 there that are called paraphilic disorders; is that correct?

12 A: Yes, sir; it does.

13 Q: Okay. And what is a paraphilic disorder?

14 A: Well, I want to be sure I've got the terminology right.
15 Paraphilia is an intense persistent sexual interest other than
16 sexual interest in general stimulation or preparatory fondling
17 with a typically normal, physiologically mature consenting
18 human partners. And what that means in layman's terms is to
19 -- having paraphilia is somebody that has to have some kind of
20 a sexual interest in something other than a normal consensual
21 adult sexual relationship.

22 Q: Okay.

23 A: A paraphilic disorder is a paraphilia that's causing some
24 kind of current distress to the individual or has caused harm
25 or risk of harm to other people.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

102

- 1 Q: All right. So, the event in 1986, the victim there was
2 four years old?
- 3 A: Correct.
- 4 Q: But you did not diagnose it -- diagnose my client as
5 having pedophilia; is that right?
- 6 A: I did not.
- 7 Q: Because there's no basis for that diagnosis; is that
8 correct?
- 9 A: I don't see a pattern. As far as I can tell from his
10 history, that's a one-time incident. I don't see a pattern of
11 attraction to children.
- 12 Q: Because if he had that, you would've expected to see that
13 as how he would act out?
- 14 A: I would expect to see more child victims, yes.
- 15 Q: Okay. So, you really don't think that that's an issue?
- 16 A: As far as I can tell, no.
- 17 Q: Okay. Now, although it's not listed as a paraphilic
18 disorder, you are familiar with -- and I know you are, but
19 biastophilia, that's a term; is that right?
- 20 A: I am.
- 21 Q: And what does -- what is biastophilia?
- 22 A: Biastophilia is basically a paraphilic disorder based on
23 non-consent, the person that engages in that typically has
24 rape fantasies, they fantasize about raping women, they have
25 urges about raping women, and then in some cases they follow

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

103

1 through on those fantasies and urges.

2 Q: Okay. And one time, the DSM-4 they talked about coercive
3 paraphilic disorder, sort of that same type of thing?

4 A: Correct.

5 Q: Somebody whose arousal pattern was in place because of
6 the non-consensual nature of the contact?

7 A: Correct.

8 Q: Okay. You did not diagnose my client with any type of
9 paraphilic disorder relating to an interest in non-consensual
10 conduct, did you?

11 A: No, because I don't see any evidence of those kinds of
12 fantasies, those kinds of urges. He denies them. I can't
13 know what goes on his mind, but I certainly don't see enough
14 evidence there to give a diagnosis in that category.

15 Q: All right. There -- is there some disagreement or is
16 there some -- is there a minority of you possibly about
17 whether or not antisocial personality disorder is in fact a --
18 something that should be in the DSM-5 as a disease?

19 Q: I don't know that I would classify it as a disease; I
20 think in a very broad sense, it may fit under that category.
21 No, I'm just saying, are there -- is there a school of
22 thought, a minority school of thought or anything that would
23 argue that antisocial personality disorders that should not be
24 any type of personality disorder listed in the DSM-5?

25 A: There is -- I don't know if you'd call it a minority

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

104

1 opinion. There are people who think that it's more a pattern
2 of criminal behavior, and that it's more criminal than it is a
3 mental issue.

4 Q: Because it's really just criminal people do criminal
5 things?

6 A: That's -- that's the argument, yes.

7 Q: As opposed to having some kind of compulsion driving him
8 to commit the crimes.

9 A: Correct.

10 Q: Now, there was a DSM-4 prior to the DSM-5; is that
11 correct?

12 A: That's correct.

13 Q: Are you familiar with a psychologist, Allen Frances?

14 A: I've heard the name.

15 Q: Is it your recollection, that he was sort of the editor
16 of the DSM-4?

17 A: That sounds correct.

18 Q: Okay. And are you aware that it's his opinion that the
19 antisocial personality disorder should not be used as part of
20 the sexually violent predator commitment proceedings?

21 A: I can't address him specifically, but I am aware that
22 there are people who have that, that attitude, yes.

23 Q: Sort of the notion that antisocial personality disorder
24 is really kind of what you just said, it's too far overlapping
25 with just simple criminality; is that correct?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

105

1 A: Correct.

2 Q: Okay. Because actually when you look at the DSM-5,
3 there's a paragraph in here that I cannot understand and maybe
4 you can help me with.

5 One moment, Your Honor.

6 Let me just take a sidetrack. Again, when we're talking
7 about cases in this field, you're familiar with *Kansas v.*
8 *Crane*?

9 A: Yes.

10 Q: Okay. And at one point, when they're reaching the
11 decision in *Kansas v. Crane*, one of the -- one of the
12 opinions, I think it's part of Kennedy's opinion, notes a
13 study where they say that 40 to 60 percent of the male prison
14 population is diagnosed with antisocial personality disorder.
15 Now, whether it's 40 to 60 percent, do you think that it's
16 fair to say that you could diagnose a high percentage of the
17 male prison population with having antisocial personality
18 disorder?

19 A: I, I wouldn't know how to begin to put a percentage on
20 it, but I think a, a high percentage of the prison population
21 probably does qualify for that diagnosis.

22 Q: At least fits under that criteria. Do you have the DSM-
23 5?

24 A: I do.

25 Q: Can you look at Page 663?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

106

1 A: Okay.

2 Q: Do you see the last paragraph right above the discussion
3 of borderline personality disorder, communicate behavior not
4 associated with this personality disorder?

5 A: Correct.

6 Q: Okay. Can you explain what that -- what they're talking
7 about there?

8 A: Well, what it says is antisocial personality disorder
9 must be distinguished from communicate behavior undertaken for
10 gain that is not accompanied by the personality features
11 characteristic of this disorder. Only for an antisocial
12 personality these traits or inflexible, maladaptive and
13 persistent and cause significant functional impairment or
14 subjected to stress do they constitute antisocial personality
15 disorder. And this is where it gets really difficult to
16 understand sometimes. We do have criminals who are going to
17 keep on committing crimes. Some of those will have antisocial
18 personality disorder, some won't. A personality disorder is
19 basically a maladaptive way of experiencing the world, looking
20 at the world, thinking about the world, interacting with other
21 people, and that's per -- not just in the criminal aspect. So,
22 I think to qualify for the diagnosis, it has to involve more
23 than just the criminal element. It has to involve more than
24 just a pattern of committing crimes.

25 Q: And so, how does that relate with your diagnosis

Care and Treatment of Otis Alford - 17-CP-26-02862 107
GORDAN EDGAR BROWN - CROSS BY FALK

1 specifically with my client; what is that more?

2 A: I think a lot of it has been in -- and again, the
3 environment, housing, there are things he does that are part
4 of the personality disorder that aren't necessarily related to
5 committing crimes. Because it's not having stability in
6 employment, not having stability in housing, not really
7 planning ahead for those kinds of things.

8 Q: As a part of your opinion, you were given what's called a
9 MDT package; is that correct?

10 A: Correct.

11 Q: And that is sort of a summary of all the documents that
12 really you reviewed on, that you reviewed, right, those are
13 all the documents that you were given?

14 A: The MDT summary is really a much briefer ---

15 Q: Okay.

16 A: --- synopsis of the history relevant to that team at that
17 point in the decision making process.

18 Q: Well, let me just ask you this. Did you have an
19 opportunity to look at whether or not he was subject to a
20 proceeding in 2007?

21 A: I did.

22 Q: Okay. And what did you learn about that?

23 A: And that proceeding was dismissed. That petition was
24 dismissed.

25 Q: Now, did you -- did you look at all of the -- and so, in

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

108

1 2007, it was dismissed. So, his offense in 1986, that was --
2 he had already obviously committed that and you would assume
3 that the group in 2007 knew about that offense when they
4 dismissed this case in 2007; is that fair?
5 A: Well, the MDT didn't dismiss it at that point.
6 Q: No -- well, how did it get dismissed?
7 A: That I don't know that I can be real clear on. I know
8 the court did eventually dismiss the petition.
9 Q: Okay. But prior to when this was dismissed in 2007, he
10 had already committed the offense obviously in 1986?
11 A: Correct.
12 Q: And he had already committed the offense -- the offenses
13 in 2001 and 2002?
14 A: 2001.
15 Q: Is that correct?
16 A: Correct.
17 Q: And it's probably -- that was probably the triggering
18 event for this proceeding in 2007; would that be fair?
19 A: That's correct.
20 Q: Okay.
21 A: I think one of the 2001 offenses was sentenced in 2007.
22 Q: Okay. So, at that time, nobody thought he had -- he was
23 a sexually violent predator; is that fair?
24 A: I, I don't know that that's fair. Obviously, the legal
25 decision was to dismiss the petition and not to proceed at

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

109

1 that point.

2 Q: Okay.

3 A: The legal reason behind that, I don't know.

4 Q: Well, had you given an opinion up to 2007, let's just say
5 if you had, you know, your records, if your review stopped in
6 2007, what would you have done?

7 A: It's really hard to look back and say this is what I
8 would've done then, but the only real change since that time
9 would be the 2015 offense.

10 Q: Okay.

11 A: I, I'm going out on a limb here, but I'm suspecting my
12 opinion would have been the same in 2007 as it is now.

13 Q: Okay. But as far as committing a sexual offense since
14 2007, the only thing there is what happened in 2015; is that
15 fair?

16 A: Correct.

17 Q: I mean, he failed to register, which is not really what
18 we're talking about today, but the only sexually violent crime
19 that he pled guilty to since 2007 was the event in 2015; is
20 that accurate?

21 A: That's correct.

22 Q: Okay. And when you read the -- let me just ask you one
23 other thing. I'll come back to that.

24 May I approach the witness?

25 I'm gonna show you two pages that I believe you probably

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

110

1 had an opportunity to look at.

2 A: Okay.

3 Q: Is when you reviewed the MDT; does that look familiar to
4 you?

5 A: It does.

6 Q: And does one of those pages seem to be programs that he
7 took while he was at SCDC?

8 A: It is.

9 Q: And what are some of those programs that he took?

10 A: He completed self-development training, referral to
11 substance abuse and alcohol/drug orientation. The other two
12 say released, so I'm not sure if that's something he completed
13 or ---

14 Q: Okay.

15 A: --- I'm not sure what that means.

16 Q: Well, what were those?

17 A: Those two were problem solving, decision making, and
18 self-esteem.

19 Q: Okay. So, he did -- it looks like he got some type of
20 exposure to some type of rehabilitation training while he was
21 there; is that correct?

22 A: Correct.

23 Q: And that was all since 2001. Do they have the completion
24 dates or dates of entering those programs?

25 A: The dates were, oh, two in 2007; one in 2008; and then

1 the one says released are 2016.

2 Q: Okay. And that other page that I showed you, do you
3 recognize that?

4 A: I do.

5 Q: I'm not sure I've seen one of those before. How did --
6 you kind of know when that -- how that would get generated?

7 A: This is something that is generated for the MDT, I'm not
8 sure exactly. This would come from someone in corrections,
9 I'm sure.

10 Q: Okay. So, you've seen those?

11 A: I have seen this before, yes.

12 Q: I'm just saying, is it common for them to -- and then
13 there's that highlighted section that I had -- does it show
14 whether or not he has a diagnosis of any type of paraphilia?

15 A: It does not.

16 Q: Okay.

17 A: But I don't know where in the system at that point he
18 would've gotten one.

19 Q: Does it show the date on that document?

20 A: It looks like October 2007.

21 Q: Okay. All right. Did you -- when you were reviewing
22 this you said you looked at some of the -- tried to find out
23 the underlying facts behind the cases to which he pled guilty
24 to. Did you look at some of the arrest reports?

25 A: I did.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

112

1 Q: Okay. Did you find anything that was a concern for you
2 in the arrest report for the 2015 offense? Did it seem as
3 though that victim was hesitant to come forward?

4 A: It did.

5 Q: Did you look to see whether or not that victim went to
6 the hospital?

7 A: She did not.

8 Q: And there's a -- let me just -- if you could just look at
9 this last paragraph. First of all, is that one of the arrest
10 reports that you might've looked at?

11 A: It is.

12 Q: And you see that sort of last big paragraph there, I've
13 got one sentence highlighted in that?

14 A: I do.

15 Q: Is that an indication that there was a nonconsensual --
16 does it seem that she's alleging that it was nonconsensual
17 conduct there, after he put on a condom?

18 A: I don't really understand what the sentence is saying.
19 It says victim claims she asked Alford to have sex with her,
20 but held her down and did it anyway after putting on a condom.
21 So, I'm not sure if she's saying she asked him to or she asked
22 him not to because it does say he held her down. So, I don't
23 know what to think of that sentence.

24 Q: And then he put on a condom?

25 A: Right.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

113

1 Q: Okay. I mean, those kind of facts when they come up in
2 one of these, does that sort of make you wonder the veracity
3 of her account?

4 A: It would raise some questions.

5 Q: Is it not your understanding that these two were somewhat
6 of a couple at the time or that they had -- this was not a
7 stranger to him -- is that correct -- the 2015 victim, they
8 were not strangers?

9 A: Mr. Alford said they were strangers. He said that she
10 knew him, but he did not know her.

11 Q: But that she -- and she came in a couple of times or she
12 came in at least once to try and recant that story; is that
13 correct?

14 A: That's my understanding, yes.

15 Q: Okay. Now, were there issues with some of the 2001
16 events that maybe had you wonder about the veracity of
17 victims' statements in those cases?

18 A: I don't remember anything specific right offhand.

19 Q: There were two victims in -- there were two alleged
20 victims in 2001; is that correct?

21 A: Correct.

22 Q: Okay. And one of them has initials M.D.

23 A: I think that's correct.

24 Q: Okay. And did you, when you were reviewing the report on
25 that, did you have an opportunity to look over the DNA testing

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

114

1 that was provided?

2 A: I did.

3 Q: And did you find anything that necessarily implicated
4 Mr. Alford? Did the DNA results ---

5 A: My memory is that it did not implicate him.

6 Q: Okay. And then also there was a -- there was a
7 toxicology report on the victim in that case; was there not?

8 A: There was, I don't remember the results on that.

9 Q: May I approach?

10 A: Right.

11 Q: Okay. So, and what was -- now you've had a chance to
12 refresh your memory, what's your recollection of what the
13 toxicology was?

14 A: .195 percent.

15 Q: Okay. You can't drive a car at 195, can you?

16 A: That's correct.

17 Q: Okay. And so in the M.D. which is one of those two for
18 2001, there was no forensic evidence that necessarily pointed
19 to my client?

20 A: That's my understanding.

21 Q: Okay.

22 A: But again, it's not my job to determine guilt or
23 innocence.

24 Q: No, but it is your job to determine whether or not the
25 events took place because you're assuming they've taken place

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

115

1 when you're doing your opinion, do you not?

2 A: There is -- there's an assumption that something
3 happened. The facts were not always clear.

4 Q: Okay. Because there's probably no doubt that sexual
5 conduct took place; is that correct? I mean, in both of
6 these, the issue is probably consent; is it not?

7 A: That's correct, yes.

8 Q: Yeah, I mean there's probably no doubt that some type of
9 sexual conduct took place, there's just no consent issue?

10 A: That's correct.

11 Q: Okay. And so, then you had M.D. -- and what I was
12 fumbling for is I don't have the initials for the other person
13 in 2001, but you remember there was another person, right?

14 A: Yes.

15 Q: Okay. And if I could approach, this the Myrtle Beach
16 case.

17 A: Okay.

18 Q: Does that kind of refresh your memory of that?

19 A: The doctor who completed the victim exam advised
20 reporting officer there were no findings.

21 Q: Yeah, okay. So, on the other 2001 case, she went to the
22 doctor but there was no findings of anything to support that
23 there was a sexual assault?

24 A: Well, I would assume that's what it means. I'm not -- I
25 can't be a hundred percent sure that's what it means.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - CROSS BY FALK

116

1 Q: Did you look -- because the findings were in the MDT, did
2 you look through those?

3 A: I'm sorry?

4 Q: The actual sexual assault report was in there; did you
5 have an opportunity to look at that?

6 A: I did.

7 Q: It's my recollection that it showed no abrasion in any of
8 the areas where you would expect to see abrasions?

9 A: I think that's correct.

10 Q: Yeah. Okay. So, my recollection from looking at the
11 report is there was nothing on the actual report that showed
12 lacerations, contusions, tearing, the whole -- is that
13 correct?

14 A: That's correct.

15 Q: Okay. So, nothing again to support an allegation -- not
16 saying it didn't happen, but there's nothing in that report
17 that supported an allegation of nonconsensual sex?

18 A: That's my understanding.

19 Q: Okay. And the 1986 case, I really haven't been able to
20 find much else of that case?

21 A: There's not much there that I could find.

22 Q: There are not a lot of records there, are they?

23 A: Correct.

24 Q: So, the only thing we know about that is that he was 16
25 at the time and there was no other conduct that we have found

Care and Treatment of Otis Alford - 17-CP-26-02862 117
GORDAN EDGAR BROWN - CROSS BY FALK

1 with children?

2 A: That's correct.

3 Q: Okay. And the sexual offenses that he's been charged
4 with, the sexually violent crimes that he's pled guilty to, is
5 the 1986 when he was 16, 2001, and the 2015; is that correct?

6 A: That's correct.

7 Q: And the 2001, he got a time-served sentence, and what was
8 his sentence in 2015 -- on the second one?

9 A: In the ---

10 Q: 2015, was that also a time served?

11 A: That was also time served, yes.

12 Q: Okay. So, both those times, he pled guilty and walked
13 out the door?

14 A: That's correct.

15 Q: Do you have to consider the possibility that there was no
16 non -- that there was no forced sexual conduct in 2001 and
17 2015?

18 A: I always have that in the back of my mind that that's a
19 possibility.

20 Q: And what led you to rule in that?

21 A: It's not so much ruling out whether any one incident did
22 or did not happen or whether it did or didn't happen that
23 particular way, it's just more that the pattern of behavior
24 over time.

25 Q: Well, as far as pattern you have 1986, 2001, and 2015?

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - REDIRECT BY MORROW

118

1 A: Correct.

2 Q: So, those are sort of large gaps?

3 A: Well, those are the ones we know about, and I -- we don't
4 know what else may have happened in that time.

5 Q: You have absolutely no basis to think anything else
6 happened other than these, do you?

7 A: No, sir; I don't.

8 MR. FALK: May I have a moment, Your Honor?

9 Your Honor, I have no further questions at this time.

10 THE COURT: Redirect?

11 MR. MORROW: Briefly, Your Honor.

12 REDIRECT EXAMINATION OF GORDAN EDGAR BROWN, JR. BY MR. MORROW:

13 Q: Dr. Brown, Mr. Falk talked to you briefly about juvenile
14 offenses and likely to reoffend, and he brought up several
15 other cases; is that correct?

16 A: That's correct.

17 Q: Okay. Let's talk about the facts of this case. Mr.
18 Alford was charged and pled guilty in 1986 to CSC second
19 degree; is that correct?

20 A: That's correct.

21 Q: He was 17 at that time?

22 A: That's correct.

23 Q: He was charged as an adult and pled guilty in Circuit
24 Court?

25 A: That's correct.

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - REDIRECT BY MORROW

119

1 Q: Later in 2001, he was charged with CSC first and
2 kidnapping in 2001, in April of 2001; is that correct?

3 A: That's correct.

4 Q: And that was pled guilty to -- down to a magistrate level
5 offense; is that correct?

6 A: That's correct.

7 Q: Later than same year in August of 2001, he was charged
8 with kidnapping and CSC first degree; is that correct?

9 A: That's correct.

10 Q: He pled guilty to kidnapping in that case?

11 A: That's correct.

12 Q: In 2005, he pled guilty to a sex offender registry
13 violation; is that correct?

14 A: That's correct.

15 Q: In 2011, he pled guilty to another sex offender registry
16 violation?

17 A: That's correct.

18 Q: And then finally, in 2017, he pled guilty to CSC third
19 degree?

20 A: That's correct.

21 Q: And that's for the 2015 offense?

22 A: Correct.

23 Q: He also had violations of his probation; is that correct?

24 A: That's correct.

25 Q: On his record. And all that has occurred since he was 17

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - REDIRECT BY MORROW

120

1 years old, correct?

2 A: That's correct.

3 Q: He also talked about paraphilic disorders versus
4 personality disorders. You're familiar with South Carolina
5 Sexually Violent Predator Act, aren't you?

6 A: I am.

7 Q: Does the South Carolina Sexually Violent Predator Act
8 allow a diagnosis for personality disorder?

9 A: It does; a mental abnormality or a personality disorder.

10 Q: And you found that he suffers from antisocial personality
11 disorder?

12 A: I'm sorry?

13 Q: You found he suffers from antisocial personality
14 disorder?

15 A: Yes, that's correct.

16 Q: And there was some talk about about how 40 to 60 percent
17 of the prison population or a significant portion of the
18 prison population suffers from antisocial personality
19 disorder?

20 A: I've seen a wide range of percentages. I don't know what
21 the true percentage is. I don't know how we would determine
22 that.

23 Q: But in this case, Mr. Alford's case, the facts in that
24 case show that his antisocial personality disorder has
25 manifested repeatedly in him being charged with criminal

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - RECROSS BY FALK.

121

1 sexual conduct; is that correct?

2 A: That's correct.

3 MR. MORROW: I have no further questions, Your Honor.

4 THE COURT: All right.

5 Recross?

6 RECROSS EXAMINATION OF GORDAN EDGAR BROWN, JR. BY MR. FALK:

7 Q: Mr. Morrow asked you about the antisocial personality
8 disorder would fit under the law in the South Carolina ---
9 right?

10 A: I'm sorry?

11 Q: Mr. Morrow asked you about antisocial personality
12 disorder and your knowledge of the SVP laws in the state of
13 South Carolina; is that correct?

14 A: Yes, sir.

15 Q: Do you know what other states would not allow a diagnosis
16 of antisocial personality disorder?

17 A: The only one I'm familiar with, I know in New York State,
18 the statute does not specifically include personality
19 disorder. I'm not familiar with all the states, of course.

20 Q: So, there's a possibility that if this proceeding was in
21 New York, he would not be considered a sexually violent
22 predator because antisocial personality disorder is not
23 qualifying?

24 A: Well, that's one of the debates in New York. It's just
25 not specifically named in the statute, but that wouldn't

Care and Treatment of Otis Alford - 17-CP-26-02862
GORDAN EDGAR BROWN - RECROSS BY FALK

122

1 necessarily disqualify it. I don't think there's any
2 diagnosis that is categorically excluded.

3 Q: Are you familiar with the case law in New York? And I'm
4 gonna refer you to *State v. Donald DD*, if I could show you
5 this case?

6 A: Okay.

7 Q: Let me find the section for you. That might not be one
8 that you'd come to, and if you don't know that case, that's
9 fine. I'm just curious if you ---

10 A: I have heard of it, yeah.

11 Q: Okay. And it's that case, they're actually saying that
12 you can't distinguish the definition of criminal -- just a
13 pattern of criminal conduct versus a disorder that would
14 constitute sexually violent predator commitment; is that
15 correct?

16 A: That's what they say in New York; that's correct.

17 Q: All right. Thank you.

18 COURT REPORTER: May I see that just a second?

19 MR. FALK: I said Donald DD.

20 COURT REPORTER: DD?

21 MR. FALK: Yeah.

22 COURT REPORTER: Okay.

23 MR. FALK: No further redirect.

24 THE COURT: All right. You may step down.

25 Any other witnesses from the state?

Care and Treatment of Otis Alford - 17-CP-26-02862
BY THE COURT

123

1 MR. MORROW: None from the state, Your Honor.

2 THE COURT: All right. You may step down.

3 Does the state rest?

4 MR. MORROW: The state rests its case, Your Honor.

5 THE COURT: All right. And would you like your man up
6 today or tomorrow?

7 MR. FALK: Well, I assume we have a motion to make and
8 then what I would like to do is that maybe he could be advised
9 of his rights. I'd like to put him up tomorrow.

10 BY THE COURT:

11 THE COURT: All right. Members of the jury, if you would
12 -- well, you're dismissed for today. I'll see you back at
13 9:30 in the morning. Do not discuss the case. Do not
14 research the case.

15 (REPORTER'S NOTE: Jury exits courtroom @ 3:46 P.M.)

16 THE COURT: All right. Any motions from the respondent?

17 MR. FALK: Your Honor, could we take a five-minute break
18 and then can I come back with my motion?

19 THE COURT: Sure.

20 MR. FALK: Thank you.

21 RECESS @ 3:47 P.M.

22 *****OFF THE RECORD*****

23 (On the Record @ 3:51 P.M.)

24 MOTIONS:

25 MR. FALK: At this time, we would move for a directed

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

124

1 verdict. We think the state is spinning their entire case on
2 whether or not a diagnosis of antisocial personality disorder
3 alone is sufficient to justify to a commitment to the sexually
4 violent predator treatment program and I believe that it is
5 not, and the basis for my belief is that the diagnosis of
6 antisocial personality disorder is just not specific enough
7 and if I could just read into the record the New York Court in
8 *State v. Donald DD*, which is cited as 21 N.E.3d 239, and I'm
9 just reading from the court's opinions. A diagnosis of ASPD
10 alone, that is when the ASPD diagnosis is not accompanied by a
11 diagnosis of any other condition, disease, or disorder, unless
12 they constitute a mental abnormality simply does not
13 distinguish the sex offender whose mental abnormality subjects
14 him to civil commitment from the typical recidivist convicted
15 in an ordinary criminal case. ASPD means little more than the
16 deep seated tendency to commit crimes. And that sort of
17 certainly highlights the language in the court's opinion in
18 *Kansas v. Crane*, which justified Kansas' sexually violent
19 predator treatment program in that underscoring the
20 constitutional importance of the distinguishing a dangerous
21 sexual offender subject to civil commitment from other
22 dangerous persons who are perhaps clearly dealt with
23 exclusively through criminal proceedings meaning this is
24 supposed to separate people who've got a mental disease as
25 opposed to people that have a history of criminal conduct. He

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

125

1 does not have a paraphilia -- and I thought it was interesting
2 because -- because Dr. Brown's suggestion was he has this
3 interest in sort of coercive sex. I think he made some kind
4 of allegation to that. But yet, he did not diagnose him of
5 having biastophilia, which is what is in the DSM-5. It's what
6 has been -- it is what has been argued in other cases of
7 people who get sexually aroused by the act of having coercive
8 sex.

9 There's no question that my client has extreme anti-
10 social activities. A lot of drunken public kind of offenses,
11 and I think he's led a life as a vagrant for a certain amount
12 of time. I'm certain he was roused out of some public parks
13 at Myrtle Beach on numerous occasions and, you know, he
14 probably is not the star citizen of Myrtle Beach, but whether
15 or not he's got a mental disease that needs to have him put in
16 there, I do not think the state has met their burden. There
17 is no mental disease here. They're just -- it's almost --
18 it's got a great name, antisocial personality disorder, but if
19 you look at the diagnostic criteria that's basically saying
20 he's a criminal. He has an interest in a criminal lifestyle.
21 And when you compound that with what I think are some rather
22 strong suspicion that some of these offenses in 2001 and 2015
23 may not've happened the way that they were alleged. Again,
24 there is nothing wrong with consensual sex in those
25 situations. It wasn't a, you know, an inappropriate sexual

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

126

1 partner. The whole issue was whether or not the sex that
2 happened with M.D., and the other person in 2001, and a lady
3 in 2015, the question is whether or not it was consensual.
4 And I think certainly there is plenty in there to think that
5 that might not even have been nonconsensual conduct. You
6 know, everybody agreed and they changed their mind afterwards.
7 Again, Dr. Brown is not saying he's got a paraphilia. He
8 does not say he's got a sexual disorder. He said he's got a
9 habit of some criminal conduct and, in the past, he has acted
10 out with some sexual offenses. But, the pattern has gone
11 from '86 when he was 16 years old, 2001, and the 2015. It's
12 not necessarily a highly reoccurring pattern. He has
13 reoccurring offenses, more typical with somebody living
14 somewhat of a vagrant lifestyle. He's had some trespassing,
15 burglary third, nonviolent, you know, those kind of offenses.
16 I do not think the state has met their burden.

17 THE COURT: All right. Mr. Morrow?

18 MR. MORROW: Your Honor, considering the motion for
19 directed verdict, the Court's concerned with whether they're
20 existing, it's not whether it's -- but Mr. Falk has mentioned,
21 it goes to the weight of the evidence. In this case, we
22 provided an expert who said on the witness stand -- he said
23 that Mr. Alford suffered from antisocial personality disorder
24 which is a recognized disorder in the field. He said that his
25 antisocial personality disorder has manifested specifically in

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

127

1 his sexual reoffending history. He testified to that on the
2 stand. He, he gave a Static-99 score and talked about the
3 risks for recidivism. The state has provided enough evidence
4 for the jurors to consider that Mr. Alford is a predator.

5 THE COURT: All right. I think there's a question of
6 fact for the jury and I'm gonna submit it to the jury.

7 Any other motions?

8 MR. FALK: No, Your Honor.

9 THE COURT: All right. We'll see y'all back at 9:30 in
10 the morning.

11 Thank you.

12 **RECESS - 3:56 P.M. - END OF DAY ONE**

13 *****OFF THE RECORD*****

14 (On the Record.)

15 **AUGUST 7, 2018 @ 9:51 A.M. - DAY TWO**

16 THE COURT: Go ahead and bring out the jury. You just
17 have one witness?

18 MR. FALK: Yes.

19 (REPORTER'S NOTE: Jury enters courtroom @ 9:51 A.M.)

20 THE COURT: All right. The respondent is recognized.

21 MR. FALK: Your Honor, we would call Otis Alford to the
22 stand.

23 CLERK: Raise your right hand, place your left hand on
24 the Bible.

25 OTIS ALFORD, HAVING BEEN DULY SWORN

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - DIRECT BY FALK

128

1 TESTIFIES AS FOLLOWS:

2 CLERK: You may have a seat. State your name for the
3 Court.

4 MR. ALFORD: My name is Otis Alford.

5 DIRECT EXAMINATION OF OTIS ALFORD BY MR. FALK:

6 Q: How do you spell your last name?

7 A: A-L-F-O-R-D.

8 Q: Thank you. Mr. Alford, in 2000, you had -- were accused
9 of some crimes in 2001; is that correct? ^

10 A: Correct.

11 Q: All right. And so, what happened to you? Were you
12 arrested and did you do some time in jail?

13 A: Yes, sir.

14 Q: About how much time were you in jail after that arrest?

15 A: Thirteen months.

16 Q: Okay. And then what happened?

17 A: Then I got PR bond.

18 Q: Okay. Because I notice the sentencing sheets say that
19 you were sentenced for those offenses in 2007. So, you were
20 out on the street on a PR bond for five years, six years or
21 so?

22 A: Correct.

23 Q: Okay. And so, what happened, they picked you back up or
24 they just told you to come back into court?

25 A: They picked me back up.

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - DIRECT BY FALK

129

1 Q: All right. And so, you got into the courtroom and what
2 was going on? What did -- what happened next? Did you talk
3 to your lawyer?

4 A: Yes, sir.

5 Q: And what did your lawyer -- without -- so, based on your
6 conversation with your lawyer, what did you do?

7 A: Well, I took a plea.

8 Q: Okay. And why did you take a plea?

9 A: Basically, to get it over with, you know, because I could
10 have actually won the case.

11 Q: Why do you think you could've won the case?

12 A: Because for one thing, they didn't have no grounds really
13 for keeping incarcerated.

14 Q: Okay. Well, there was one victim -- do you remember --
15 we're trying to use the initials -- one of them didn't go to
16 the hospital, right?

17 A: Correct.

18 Q: Okay. And so, so what happened with that? Did you know
19 that lady?

20 A: Yes, sir.

21 Q: Okay. And had y'all been together for a while?

22 A: She was my girlfriend.

23 Q: She was your girlfriend at the time?

24 A: Yes, sir.

25 Q: And then why don't you tell me what happened with the

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - DIRECT BY FALK

130

1 other victim -- with your other accuser. There were two of
2 them in 2001, right?

3 A: Yes, sir.

4 Q: Okay. So, why don't you sort of tell me your story about
5 each of those two accusers?

6 A: Let's see, let's see, M.D. ---

7 Q: Okay.

8 A: Okay. She had claimed that I had grabbed her by the neck
9 and forced her off the sidewalk on the street to an abandoned
10 place and raped her. That was not true.

11 Q: What happened?

12 A: Well, we was at a party to my cousin house, that's where
13 I met her at.

14 Q: Yeah.

15 A: And, well, of course, there was a lot of alcohol and
16 stuff.

17 Q: Yeah.

18 A: And me and her danced about, I think, two times. Then I
19 told her -- I had told her that, well, I'm getting ready to go
20 up the road for a while and talk to some friends of mine. She
21 said, well, I'm going in that direction. I said, all right,
22 then we'll walk together. So, we had walked about -- it's not
23 even -- it wasn't even a block. So, she stopped and say I got
24 to take a leak, I got to use the restroom. I say all right.
25 So, she dashed behind the building. So, I stood on the edge

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - DIRECT BY FALK

131

1 of the building, it was like on the side, I stood on the edge
2 to watch her back. I had my back turned to her. So, after a
3 while she had called my name, so I looked back and she was
4 like out her clothes. Then she walked ---

5 Q: Did you assault her?

6 A: No.

7 Q: And that's the one where I think Dr. Brown said there was
8 no forensic evidence on that one, there was no DNA test or
9 anything for that one; is that right?

10 A: Correct.

11 Q: Okay. Then how about the other lady?

12 A: Okay.

13 Q: That's the eight dollars?

14 A: Yeah.

15 Q: Why don't you tell me that story?

16 A: Well, she had -- well, I met her -- I met her -- where I
17 I met her at? I met her -- I met her ---

18 Q: Wasn't she in the park?

19 A: No, sir.

20 Q: Okay.

21 A: I met her at somebody house, I believe. Anyway, so she's
22 like a street girl, you know what I'm talking about, a street
23 girl?

24 Q: Yeah.

25 A: But she's like a crack ---

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - DIRECT BY FALK

132

- 1 Q: She was looking for some drugs, maybe?
- 2 A: Yeah.
- 3 Q: And what happened there?
- 4 A: So, we just talked and struck up a bargain ---
- 5 Q: Y'all had sex?
- 6 A: Yeah, we did.
- 7 Q: Okay. And I think that's the one where Dr. Brown said
- 8 when you looked at the reports, there was no sign of forcible
- 9 ---
- 10 A: Force.
- 11 Q: --- the medical reports didn't show there was any force
- 12 on that one?
- 13 A: None.
- 14 Q: Yeah, okay. All right. Then let's talk about the last
- 15 one, 2015.
- 16 A: Okay.
- 17 Q: Had y'all been together for a while?
- 18 A: That's the one, yes.
- 19 Q: And what was her name?
- 20 A: **Complainant**
- 21 Q: Okay. And y'all had been together for a while?
- 22 A: Yes, sir.
- 23 Q: So, I think Dr. Brown said that y'all didn't know each
- 24 other, but y'all did know each other, right?
- 25 A: Yes, sir.

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - DIRECT BY FALK

133

1 Q: Okay. So -- so, y'all had sex and you -- you had a
2 sexual relationship with her, right?

3 A: Yes, sir.

4 Q: Did you force yourself on her?

5 A: No, sir.

6 Q: Okay. Why did you plead guilty that time?

7 A: Basically, to get out. I had been in jail for like 16
8 months.

9 Q: Okay.

10 A: And it seemed like it wasn't going nowhere and they
11 wasn't trying to take me court no time soon. And basically,
12 if I hadn't have did that, I probably would've sat back in
13 jail for about three years before I even saw court.

14 Q: Okay.

15 A: So, I just took the plea.

16 Q: How long have you been in now -- since these proceedings
17 started, how long have you been in custody?

18 A: Now?

19 Q: Yeah.

20 A: Nine months.

21 Q: Okay.

22 A: I had 10 months out, then they locked me back up.

23 Q: And then they locked you back up and you've been here for
24 10 months waiting for this trial to come up?

25 A: Yes, sir.

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - DIRECT BY FALK

134

1 Q: Okay. Now, you had some other problems, though. You'd
2 failed to register as a sex offender?

3 A: Yes, sir.

4 Q: Why don't you tell me about that?

5 A: Basically, yeah, I ain't really had a stable place to
6 stay, so I was bouncing from place to place and it just got
7 out of hand.

8 Q: But you did register -- but you were registering at
9 times, but you failed sometimes; is that right?

10 A: Yes, sir.

11 Q: Okay. So, you skipped some of your times to come in to
12 register; is that the way to say it?

13 A: Yes, sir.

14 Q: And you were also some community supervision; is that
15 right?

16 A: Yes, sir.

17 Q: And you got that revoked?

18 A: Yes, sir.

19 Q: And what was the reason of the revocation of your
20 community service?

21 A: Well, I got a little slack.

22 Q: Did you have a place to stay or were you staying at the
23 same address, were you giving your probation officer your
24 address?

25 A: Well, at the time, I didn't -- it was about the same time

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - DIRECT BY FALK

135

1 I didn't have a place to stay, not steadily.

2 Q: If you got out today, where are you going to stay?

3 A: Back where I was at before they locked me up.

4 Q: And where was that?

5 A: On [REDACTED] Road.

6 Q: Okay. Is that a place you're renting or who owns that
7 place?

8 A: A friend of mine.

9 Q: Okay. Now, if you got out today, would you be able to go
10 to work tomorrow?

11 A: Yes, sir.

12 Q: Where would you -- what kind of skills do you have for
13 that?

14 A: Construction.

15 Q: That's a broad term; like a framer, mason?

16 A: Brick mason.

17 Q: Okay.

18 A: Brick mason.

19 Q: Is there much construction work around Conway right now
20 or were you out at the beach, at Myrtle Beach?

21 A: The beach.

22 Q: Okay. So, is there work out there?

23 A: Yes, sir.

24 Q: I have no further questions. Please answer anything that
25 Mr. Morrow asks you. Thank you.

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

136

1 CROSS EXAMINATION OF OTIS ALFORD BY MR. MORROW:

2 Q: Mr. Alford, on January 13th, 1987, you pled guilty to
3 criminal sexual conduct in the third degree; is that correct?

4 A: Correct.

5 Q: And you were originally charged in that case with
6 criminal sexual conduct in the first degree?

7 A: Correct.

8 Q: And you received a sentence of 15 years?

9 A: Correct.

10 Q: Now, but you're -- now, when you talked to Dr. Brown
11 about this offense, you told him you pled guilty because you
12 didn't understand the system, that you were tried as an adult
13 and that you had a "sorry ass public defender" who told you if
14 you pled guilty, that the charges would be dropped?

15 A: Correct.

16 Q: Okay. So, you believe it was the public defender's
17 fault?

18 A: Well, actually he did take advantage of me because I was
19 16. I didn't know nothing about the ways of trial or -- no, I
20 didn't know nothing about none of that. And I didn't know
21 what to believe, so, I had to believe everything he told me
22 and made that error.

23 Q: So, you believe that if you stood up in court and said
24 that you committed a crime, the Judge would thank you for
25 being honest and not send you to jail?

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

137

1 A: Run that by me ---

2 Q: You just basically said that you believed that if you
3 pled guilty in court, your charges would go away?

4 A: That's what he had me thinking. I mean, for one thing,
5 I'm not guilty of it. There's no proof of it. He just -- he
6 had tricked me to pleading guilty, which is true. He just
7 used psychology or reverse psychology or psychology, whatever
8 you call it.

9 Q: Okay. So, Mr. Alford, when you pled guilty to that
10 offense, you did that in front of a judge, right?

11 A: Yes, sir.

12 Q: All right. And so, there was your attorney there and you
13 were there; is that correct?

14 A: Yes, sir.

15 Q: And on the other side was the solicitor; is that correct?

16 MR. FALK: Objection, Your Honor, may I approach?

17 THE COURT: Sure.

18 (REPORTER'S NOTE: Bench conference is held on the record in
19 the presence of but outside the hearing of the jury.)

20 THE COURT: All right. I know what's his next question.

21 MR. MORROW: I was basically asking him how a guilty plea
22 is, how he's describing -- he had a lawyer and there was a
23 lawyer on the other side, the solicitor, there was a judge on
24 the bench. I was gonna continue to ask, you know, was he
25 advised of his rights at the time, did he plead guilty ---

Care and Treatment of Otis Alford - 17-CP-26-02862 138
OTIS ALFORD - CROSS BY MORROW

1 MR. FALK: I was anticipating the next question. Maybe
2 I'll wait till he actually asks it.

3 THE COURT: Let's go ahead and clear it up now. You're
4 gonna ask him ---

5 MR. MORROW: Yeah.

6 MR. FALK: Your Honor, I think that he's got a
7 constitutional right to make a guilty plea. I think it's a
8 Fifth Amendment right. I think that being able to draw any
9 kind of negative inference by that by exercising your right,
10 we're now saying he's now -- because obviously, you're having
11 an *Alford* plea, which is something ironic here but ---

12 THE COURT: Did he plea *Alford*?

13 MR. FALK: No, he didn't, he ---

14 THE COURT: All right. That's not an issue.

15 MR. FALK: No, but I mean, so, you plead, you're to plea,
16 you're allowed to take an advantage of a plea deal and that's
17 what the South Carolina case says. You know, that case wasn't
18 an *Alford* case. You're allowed to take advantage of a plea
19 deal. They talk, it's a contract negotiation, you're just
20 allowed to decide what's in your best interest. But to then
21 try and draw an inference that you're either lying then or
22 you're lying now, I think is equivalent to when a police
23 officer in a criminal case says, well, I asked him this
24 question, you know, during an interrogation, police officers
25 can't say, well, I asked Mr. Alford this and that's when he

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

139

1 invoked his right to remain silent. And I think it's the same
2 type of trying to draw a negative inference from being able to
3 exercise a right that you have to then say that you were
4 either lying then or you're lying now because ---

5 THE COURT: But I mean his credibility as to whether or
6 not he's telling the truth is an issue in this case today
7 because he's saying one thing that's adverse to the state,
8 that he did something in the past that perhaps is adverse to
9 him. I don't know which is true or not, but that's what these
10 12 people are supposed to do is judge his credibility. I
11 don't think we can just cut it off since you've brought it up
12 and just not allow him to be cross examined. He can answer
13 all day long and he can contradict him all day or he can stick
14 to the story all day long. But I think it's something -- I
15 mean, you brought it up and opened the door. I think it's
16 open especially since it is an issue that

17 MR. FALK: Okay.

18 THE COURT: And I know what you're saying and what he's
19 saying and I know what he's trying to do but that's for those
20 12 people to figure it out ---

21 MR. FALK: Okay.

22 THE COURT: --- is the way I see it.

23 Do you have anything different to say?

24 MR. MORROW: No, no, Your Honor.

25 MR. FALK: So, just my objection is preserved for the

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

140

1 record for when he asks the question?

2 THE COURT: That's fine with me.

3 MR. FALK: Okay.

4 THE COURT: And I understand where you're coming from and
5 I think his credibility is at issue and he can ask him, I'm
6 not gonna cut him off.

7 MR. FALK: Okay.

8 THE COURT: You can redirect.

9 (REPORTER'S NOTE: End of bench conference.)

10 BY MR. MORROW:

11 Q: Mr. Alford, you had guilty plea, correct, you were in
12 front of a Judge, you had a lawyer there; is that right?

13 A: Yes, sir.

14 Q: And on the other side was the solicitor, correct?

15 A: Yes, sir.

16 Q: And up on the bench was the Judge?

17 A: Yes, sir.

18 Q: Okay. And when you pled guilty to that offense, the
19 Judge asked you if you were pleading guilty because you were
20 guilty; is that correct?

21 A: I believe so.

22 Q: And you were placed under oath at the time of your guilty
23 plea?

24 A: Yes, sir.

25 Q: And he asked you if you had been coerced or ---

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

141

1 A: Yes, he asked me that.

2 Q: He asked you if you were satisfied with your lawyer?

3 A: I just went by whatever my lawyer told me to say.

4 Q: Are you telling this Court and the jury that you stood up
5 in court and admitted a crime you did not commit and somehow
6 you thought the charges would just go away?

7 A: I was 16, what did I know? But, I didn't know nothing --
8 I didn't know nothing about the ways of court or the system.

9 How could I? And everything he told me to say, I told the
10 Judge. I pled to it and I had agreed with the Judge that he
11 did not coerce me or everything the lawyer told me to say.

12 Q: Let's talk about the April 2001 offense you were charged
13 with. You were originally charged with CSC first degree and
14 kidnapping; is that correct?

15 A: Correct.

16 Q: And you pled guilty eventually to breach of peace and
17 simple assault in magistrate's court?

18 A: Correct.

19 Q: Okay. And you told Dr. Brown at first that you didn't
20 remember that offense; is that correct?

21 A: Correct.

22 Q: And then you told Dr. Brown in a later statement that you
23 had sex with her, but you paid her \$8; is that correct?

24 A: Correct.

25 Q: Okay. Let's talk about August 2001. In August 2001, you

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

142

1 were charged with kidnapping and criminal sexual conduct in
2 the first degree; is that correct?

3 A: Correct.

4 Q: And when talking with Dr. Brown about that offense, you
5 told him it was a set up from the beginning; is that correct?

6 A: Correct.

7 Q: You told him the victim just took off all her clothes and
8 when you saw, you just ran away?

9 A: I didn't run, she did.

10 Q: But you told Dr. Brown that you did run off; is that
11 correct?

12 A: No, I was standing there, you know, stunned.

13 Q: Mr. Alford -- may I approach the witness, Your Honor?

14 THE COURT: You may.

15 Q: I want you to take a look at that document for a moment.
16 What's the title of that document?

17 A: Forensic psychological evaluation.

18 Q: Does it have -- anywhere does it indicate that the
19 evaluator was Gordan Brown?

20 A: Yes, sir.

21 Q: Does it say -- was it your evaluation?

22 A: Yes, sir.

23 Q: Okay. Could you turn to Page 11 of that evaluation?

24 MR. FALK: Your Honor, may I approach?

25 THE COURT: Yes, sir.

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

143

1 (REPORTER'S NOTE: Bench conference is held on the record in
2 the presence of but outside the hearing of the jury.)

3 MR. FALK: He's gonna try and impeach him with a prior
4 inconsistent statement from a piece of evidence that's not --
5 from a report that's not in evidence. I mean, I think if he
6 wants call Dr. Brown back up here and impeach with the
7 statement, but you cannot -- I do not believe under whatever
8 it is, 615 -- you know what I'm saying ---

9 THE COURT: It's standard ---

10 MR. FALK: The prior inconsistent statement, what they're
11 trying to use is -- not trying to use Dr. Brown's report,
12 which is not in evidence, he gave testimony. He may or may
13 not have given testimony and the court reporter will know
14 that. Certainly, it's not a sworn statement to a police
15 officer -- it's not a police officer's statement, it's ---

16 THE COURT: The statement is not hearsay if he testifies
17 at the trial and is subject to cross examination concerning
18 the statement and the statement is consistent with the
19 declarant's testimony. So, it's not hearsay.

20 MR. FALK: I know, but what we're talking about, the
21 intrinsic evidence that he's gonna try and use is this report
22 from Dr. Brown, which is not in evidence.

23 THE COURT: It doesn't have to be in evidence now.

24 MR. FALK: I wasn't anticipating this until a second ago,
25 so let me just get a minute.

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

144

1 THE COURT: Sure. And it's his statement, right?

2 MR. MORROW: It is his statement to Dr. Brown.

3 THE COURT: My clerk brought up 803(4), statement for the
4 purposes of medical diagnosis or treatment. I don't think it
5 is hearsay. And even if it were hearsay, I think there's an
6 exception for it. So, it's doubly allowed, I think.

7 MR. FALK: But without me having the ability to cross
8 examine the person who -- this is ---

9 THE COURT: This is his statement.

10 MR. FALK: No, this is Dr. Brown's statement of what his
11 statement is.

12 THE COURT: So, it's his statement.

13 MR. FALK: I know, but I have no ability to cross examine
14 Dr. Brown as to ---

15 THE COURT: But you do him. I don't know. I may be
16 wrong but it seems to me it's not hearsay. It's a prior
17 inconsistent statement.

18 MR. FALK: I know, but what we're talking about is what
19 is acceptable extrinsic evidence that you're allowed to prove
20 it with.

21 THE COURT: What have you got to say?

22 MR. MORROW: I think it's a prior inconsistent statement
23 and it falls under 613, I guess it is.

24 THE COURT: It would be 801(d), statements which are not
25 hearsay. 801(d)(1).

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

145

1 MR. FALK: Okay. I guess maybe the -- in challenging on
2 what he said, you can't put the report in, though. You can't
3 put any ---

4 THE COURT: We're not putting the report in.

5 MR. MORROW: No, we're not.

6 MR. FALK: Okay. All right.

7 THE COURT: Just what he said.

8 MR. FALK: He said. Okay.

9 (REPORTER'S NOTE: End of bench conference.)

10 BY MR. MORROW:

11 Q: Mr. Alford, do you see on Page 11, the second paragraph
12 there?

13 A: Yes, sir.

14 Q: In there as it said, does it say that Mr. Alford said, he
15 and M.D. had gone to a party, and at some point she said she
16 had to pee.

17 A: Yeah.

18 Q: They went to an abandoned building and you had your back
19 turned to her while she was supposedly urinating. He said, I
20 didn't know she was taking her clothes off. He said, when he
21 next saw her, she was buck naked and took off running down the
22 street. Described it as like a set up from the beginning; is
23 that your statement to Dr. Brown?

24 A: Yes, sir.

25 Q: Thank you. You ultimately pled guilty to kidnapping for

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD -, CROSS BY MORROW

146

1 that offense; is that correct?

2 A: Yes, sir.

3 Q: And you received a sentence of 604 days; is that correct,
4 time served?

5 A: Yes, sir.

6 Q: Then while you were in -- then in 2005, you were charged
7 with a sex offender registry violation; is that correct?

8 A: Yes, sir.

9 Q: And you pled guilty to that offense?

10 A: Yes, sir.

11 Q: And then you were charged in 2011 with a sex offender
12 violation; is that correct?

13 A: Yes, sir.

14 Q: And you pled guilty to that then?

15 A: Yes, sir.

16 Q: In September of 2015, you were again charged with
17 kidnapping and criminal sexual conduct in the first degree; is
18 that correct?

19 A: Yes, sir.

20 Q: And you pled guilty to criminal sexual conduct third
21 degree?

22 A: Yes, sir.

23 Q: Now, when you were talking to Dr. Brown about this
24 offense, you said that the victim did the bruises herself,
25 that she was a drunk, who was always falling down; is that

Care and Treatment of Otis Alford - 17-CP-26-02862.
OTIS ALFORD - CROSS BY MORROW

147

1 correct?

2 A: That's correct.

3 Q: So, that wasn't your fault either, it was just a drunk
4 lady lying about you?

5 A: Actually, she was a drunk, and it said she had bruises on
6 her leg and arm, minor bruises. I mean, she claimed I had
7 dragged her somewhere. She should've had bruises around her
8 neck from a scuffle or something, but it's not -- I mean, what
9 I'm telling you is true, she did do it to herself.

10 Q: Now, about some of your other arrest and convictions for
11 misdemeanor level offenses, you told Dr. Brown ---

12 MR. FALK: Objection, Your Honor, relevance.

13 THE COURT: What was the question?

14 MR. MORROW: Asking Mr. Alford about his statements to
15 Dr. Brown about some of his misdemeanor level offenses, Your
16 Honor.

17 THE COURT: Come on up here.

18 (REPORTER'S NOTE: Bench conference is held on the record in
19 the presence of but outside the hearing of the jury.)

20 THE COURT: All right. You're saying it's irrelevant ---

21 MR. FALK: And he didn't talk about these other -- I
22 don't believe there's much in Dr. Brown's testimony about
23 these misdemeanor level offenses and the statements he made to
24 him, so I don't know how they can be basis of his opinion, and
25 it's only relevance is for the basis of this opinion.

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - CROSS BY MORROW

148

1 THE COURT: Go ahead.

2 MR. MORROW: Your Honor, the issue is here the
3 credibility of the witness. He has claimed each time that
4 he's been charged with some offense that it is someone else's
5 ---

6 THE COURT: But didn't Dr. Brown talk about this?

7 MR. MORROW: Yeah, he did talk -- what I'm -- something
8 that Dr. Brown said when he was talking grievance hostility,
9 in that portion of his testimony, he referred to something he
10 said about the Myrtle Beach Police Department being after him
11 or singling him out for minor offenses. So, I just wanted to
12 ask him about that.

13 THE COURT: Yeah, what I remember is Dr. Brown talked
14 about a lot of these things, not in great detail, but he did
15 bring them up for the purposes of showing that he couldn't
16 conform to society's norms. I don't think he got into them in
17 any kind of detail.

18 MR. MORROW: No.

19 THE COURT: So, I don't think, I don't think it would be
20 fair to get into them in any detail. The fact that they're
21 there is one thing and I think that's good enough.

22 MR. MORROW: I'll move on, Your Honor.

23 THE COURT: All right.

24 (REPORTER'S NOTE: End of bench conference.)

25 MR. MORROW: Thank you, Your Honor, I have no further

Care and Treatment of Otis Alford - 17-CP-26-02862
OTIS ALFORD - REDIRECT BY FALK

149

1 questions for this witness.

2 THE COURT: All right. Redirect?

3 REDIRECT EXAMINATION OF OTIS ALFORD BY MR. FALK:

4 Q: Just one thing, Mr. Alford. Who took off running in that
5 event?

6 A: M.D.

7 Q: She took off running?

8 A: Yes, sir.

9 Q: Okay. Not you?

10 A: No.

11 Q: So, you were not being untruthful with Dr. Brown?

12 A: No, sir.

13 Q: She took her clothes off and took off running?

14 A: Yes, sir.

15 Q: Thank you. No further questions.

16 THE COURT: All right. Anything else?

17 MR. MORROW: Nothing further from the state, Your Honor.

18 THE COURT: All right. You may step down.

19 MR. ALFORD: Thank you.

20 THE COURT: Call your next witness.

21 MR. FALK: Your Honor, at this point, the respondent will
22 rest.

23 THE COURT: All right. Members of the jury, we have to
24 take up some matters outside of your presence. If you would
25 step into the jury room for just a few minutes, we'll come

Care and Treatment of Otis Alford - 17-CP-26-02862
MOTIONS

150

1 back and conclude this case.

2 (REPORTER'S NOTE: Jury exits courtroom @ 10:20 A.M. The
3 following takes place outside the presence of the jury.)

4 MOTIONS:

5 THE COURT: All right. Motions from the respondent?

6 MR. FALK: Before we start, I just want to make sure that
7 those conversations that we had, were they recorded?

8 THE COURT: They're recorded.

9 MR. FALK: We don't have to -- okay. All right. Your
10 Honor, at this time, for the same reasons I gave before, I
11 would renew my motion for directed verdict.

12 THE COURT: I think there's a question of fact and I'm
13 going to deny that motion.

14 All right. Anything else?

15 MR. FALK: No, Your Honor.

16 THE COURT: Anything from the state?

17 MR. MORROW: Nothing from the state, Your Honor.

18 CHARGE CONFERENCE:

19 THE COURT: Why you don't come take a look at the charge
20 and the verdict form and make sure it's in order with the two
21 of you.

22 MR. FALK: Your Honor, I am asking for you to charge this
23 Number 6, which is new since the ones I sent to you. And I'll
24 show it to Mr. Morrow.

25 MR. MORROW: I don't have a problem with that.

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE CONFERENCE

151

1 MR. FALK: I'm never good at how you want to filter that
2 in there, but ---

3 THE COURT: Just slide it in where you think it's
4 necessary and I'll do it.

5 MR. MORROW: I think we're ready.

6 THE COURT: Okay. Let's go ahead and bring in the jury.

7 MR. FALK: What language did we use? What did we say,
8 secure treatment facility; is that what we agreed to?

9 MR. MORROW: Yeah.

10 THE COURT: Check and make sure ---

11 MR. FALK: Yeah, you said secure treatment. Okay.

12 And that's technically not correct but I have no problem
13 with it because it's actually run by Correct Care and I didn't
14 go into it and I don't think we need to go into it. Right?

15 THE COURT: I don't think so. If you two are good with
16 it; I'm good with it.

17 MR. FALK: Yeah, I mean, it's overseen, I guess, by DMH
18 and that's fine with me.

19 And then where's the reasonable doubt language?

20 Where's the definition of reasonable doubt?

21 THE COURT: That's it right there.

22 MR. FALK: Okay. Just absolutely certainty, okay.

23 Okay.

24 And what did we say about experts and -- I mean, you gave
25 that standard language, you can accept all non ---

Care and Treatment of Otis Alford - 17-CP-26-02862;
CHARGE CONFERENCE

152

1 THE COURT: You can look at it and just make -- whatever
2 -- just your standard expert stuff.

3 MR. FALK: Yeah.. Just that they're free not to ---

4 THE COURT: Exactly.

5 MR. FALK: Yeah, I'm fine. As long as we can do that, it
6 just came to me when I was getting ready and I think those are
7 good ---

8 THE COURT: Slide it in wherever you want it to be,
9 wherever you think it's right.

10 MR. FALK: I know where it would make sense is where he's
11 pled guilty, right, because he's been convicted of ---

12 Judge, I don't want to sort of blow the flow here but I
13 think it needs to come, you know, right after this paragraph
14 or right when you get to the very end of this.

15 THE COURT: That's what -- at the very end.

16 MR. FALK: Yeah, okay.

17 THE COURT: All right. And here's the verdict form..
18 Make sure that's ---

19 MR. FALK: Okay.

20 THE COURT: All right. Are y'all ready to go or do you
21 need a break real quick?

22 MR. FALK: I think we're ready.

23 THE COURT: Okay. Let's go ahead and bring in the jury.

24 (REPORTER'S NOTE: Jury enters courtroom @ 10:28 A.M.)

25 THE COURT: All right. The state is recognized.

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

153

1 MR. MORROW: Thank you, Your Honor.

2 THE COURT: Yes, sir.

3 CLOSING BY MORROW:

4 MR. MORROW: Good morning, ladies and gentlemen.

5 Otis Alford is a sexually violent predator. The
6 respondent in this case wants you to believe the Otis Alford
7 is a man who made a mistake, that he's paid the price for that
8 mistake and that the big bad state is here unfairly putting
9 Mr. Alford through this trial.

10 Let's think about a mistake for moment. A mistake could
11 happen to anybody. A person might, for example, forget they
12 had a really important appointment and be late for it, or they
13 might accidentally share something with a friend that another
14 friend told them in confidence, or they might even forget to
15 pay a bill when it's due. Those are all mistakes and they all
16 have consequences.

17 Now, there's a difference between making one mistake and
18 repeating the same mistake over and over again. The person
19 who forgets that important appointment once, that's a mistake.
20 You repeat the same mistake over and over again over a
21 prolonged period of time and that person is unreliable. If a
22 person accidentally shares something with a friend that they
23 told them in confidence once, that's a mistake. If they do it
24 over and over again, they're a gossip. The person who forgets
25 to pay a bill once, they made a mistake. If you repeatedly

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

154

1 forget to pay your bills, you're gonna have your power shut
2 off or your water shut off or your house foreclosed on or
3 electricity cut off. Repetition is evidence of having -- of
4 behavior especially when repetition happens after already
5 suffering the consequences of that mistake.

6 This case is an example of repetition evidencing a
7 pattern of behavior. Otis Alford was convicted in 1987 for
8 criminal sexual conduct in the second degree. The victim was
9 his four-year-old niece. He was sentenced 15 years in prison
10 for that offense. He went to prison, he knew the
11 consequences, and he's dealt with them.

12 Well, what happened? In April of 2001, Mr. Alford was
13 arrested this time for criminal sexual conduct in the first
14 degree and kidnapping. His charges were pled down to breach
15 of peace and simple assault. His victim in this case was a
16 female acquaintance. The victim claimed that Mr. Alford
17 grabbed her by the neck and took her to an abandoned building
18 and raped her.

19 Next, in 2001, Mr. Alford is again charged with
20 kidnapping and criminal sexual conduct in the first degree.
21 He eventually pled guilty to kidnapping in that case. The
22 victim in that case was a 41-year-old female, who alleged Mr.
23 Alford grabbed her by the throat, forced her to a secluded
24 area, and raped her.

25 In 2005, Mr. Alford, had a sex offender registry

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

155

1 violation and pled guilty to that offense. In 2011, he pled
2 guilty to another sex offender registry violation, and
3 finally, in 2017, he was again charged with kidnapping and
4 criminal sexual conduct in the first degree and pled guilty to
5 criminal sexual conduct in the third degree.

6 Mr. Alford did not stop when he was convicted of CSC in
7 the second degree in 1987. He did not stop. Later on when he
8 had been charged with CSC first and kidnapping in 2001 in
9 April. He didn't stop when he was charged in 2001 in August
10 of kidnapping and CSC in the first degree. And he didn't stop
11 in August of -- in 2017 when he pled guilty to criminal sexual
12 conduct in the third degree. Mr. Alford simply can't stop.
13 He's consistently demonstrated through his actions, that he is
14 an offender who will offend against women in a sexually
15 violent way.

16 The state -- why are we here today? The state is here
17 today because we are seeking the civil commitment of Mr.
18 Alford to the Department of Mental Health's Sexually Violent
19 Predator Treatment Unit. It is not about punishment; it's
20 about treatment in a secure facility during the treatment
21 process. The state has to prove to you that he has been
22 convicted of at least one sexually violent offense. And then
23 he suffers from a mental abnormality or personality disorder
24 that makes him likely to reoffend sexually if not confined for
25 treatment.

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

156

1 Now, the Judge is going to talk to you in a minute about
2 what proof beyond a reasonable doubt is. But proof beyond a
3 reasonable doubt, I want you to keep in mind is not proof
4 beyond all doubt or any doubt or every possible doubt. There
5 are few things we can know with absolute certainty and the law
6 doesn't require that. Proof beyond a reasonable doubt is
7 proof that leaves you firmly convinced. The evidence provided
8 by the state is the following: He's been convicted of a
9 sexually violent offense; that element has been met. You will
10 have both is 1987 conviction and his most recent conviction
11 from 2017 to look at. It's been entered into evidence with
12 certified copies from the clerk of court. The state has met
13 that element of its case.

14 Proof that he suffers from a mental abnormality and
15 personality disorder that makes him likely to reoffend
16 sexually if not confined for treatment. The state has
17 provided you with the testimony of Dr. Gordan Brown. Dr.
18 Brown testified that he diagnosed Mr. Alford with a relevant
19 personality disorder known as antisocial personality disorder.
20 Dr. Brown is a forensic psychologist who has been a practicing
21 psychologist for 35 years, 15 of those in forensic psychology.
22 He has a PhD in psychology and over 200 additional hours of
23 training through the American Academy of Forensic Psychology
24 and additional training from the University of Virginia
25 Institute of Law, Psychiatry, and Public Policy. He's a member

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

157

1 of the American Psychological Association, Southeastern
2 Psychological Association, and the Association for the
3 Treatment of Sexual Abusers. He's completed over 70
4 evaluations under the Sexually Violent Predator Act alone.
5 Dr. Brown went through his methodology for doing one of these
6 reports. He talked to you about how he reviewed records
7 relating to the criminal history, mental health, disciplinary
8 history, prior treatment, medical history, education history,
9 and occupational history involving Mr. Alford. Conducting --
10 he conducted an in-person interview with Mr. Alford and he
11 used a Static 99-R and a Static 2002-R risk assessment to
12 determine what his risks would be to reoffend.

13 Let's talk about his diagnosis. He diagnosed Mr. Alford
14 with antisocial personality disorder, which required two
15 things. The evidence of either disorder prior to age 15, Dr.
16 Brown testified that he found records where Mr. Alford was
17 diagnosed with conduct disorder prior to age 15 and that he
18 began acting out at age 11. And, he must have at least three
19 of delineating criteria that are listed in the Statis -- or
20 the DSM-5. Dr. Brown testified that he met four of those
21 criteria, including the failure to perform in social norms
22 with respect to lawful behaviors, impulsivity and failure to
23 plan ahead, irritability and aggressiveness, and consistent
24 irresponsibility. So, Dr. Brown diagnosed him with antisocial
25 personality disorder. He talked about how he met each of

Care and Treatment of Otis Alford - 17-CP-26-02862-
CLOSING BY MORROW

158

1 those offenses.

2 He also used what's called an actuarial instrument,
3 scoring instrument, and what he found is that on the Static
4 99-R, Mr. Alford's score was a 6. That's three -- and he
5 found that that was three times the reoffense rate of the
6 average convicted sex offender. And his score is higher than
7 92 percent of other offenders.

8 He used the Static 2002-R, and he's found that his score
9 is a 7 in that case. On that assessment, he found the risk
10 for reoffending was also three times the offense rate of the
11 average sex offender, and his score is higher than 92 percent
12 of other sex offenders. He looked at dynamic risk factors for
13 reoffense in which he said, sexualized violence is one of
14 those, and interest in sadism, or in Mr. Alford's case,
15 preferring coercive sex over consenting sex. Dr. Brown
16 testified that he found Mr. Alford's offenses occurred when he
17 had accessed a willing sexual partners and when he was willing
18 to pay for sexual favors, yet he still chose coercive sex.

19 A lack of emotional intimate relationships with adults,
20 and Dr. Brown defined that as I am not having intimate
21 relationships or had any relationships since they involve a
22 lot of conflict or infidelity. In this case, Dr. Brown found
23 that his longest lasting relationship was five years and that
24 Mr. Alford described his relationship as hell, and observed
25 that he was not able to maintain his most stable relationship

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

159

1 beyond a year.

2 Lifestyle impulsiveness, low self-control -- was defined
3 by Dr. Brown as low self-control, prime instability in
4 employment and housing and making irresponsible decisions.
5 Dr. Brown cited his -- his criminal history demonstrated
6 irresponsible decisions and that he had never held stable
7 employment.

8 He also talked about grievance hostility or thinking.
9 Grievance or hostility thinking is the perception of having
10 been done wrong by the world, feeling that others are
11 responsible for all of Mr. Alford's problems. Mr. Alford
12 claims that his victims lie on him, that his guilty pleas were
13 caused by poor legal representation and, and -- and that all
14 of this factors created his present situation. He also -- Dr.
15 Brown also talked to you about -- talked about hostility
16 towards women.

17 Let's talk about the defense's case. The defense in this
18 case, cross examination of Dr. Brown, wants to make his case
19 about what they say are defects in his evaluation. Cross
20 examination of Dr. Brown focused on what he didn't do. He
21 asked him why he didn't call the victims. They asked him why
22 he didn't call the investigators and solicitors that handled
23 the case. They asked him essentially why he didn't reopen an
24 investigation into Mr. Alford's criminal convictions. Because
25 when Dr. Brown got assigned this case by the Court, he was

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

160

1 ordered to do an evaluation to see if Mr. Alford had a mental
2 abnormality or personality disorder that makes him likely to
3 reoffend sexually if not confined for treatment. Dr. Brown
4 reviewed every police report, every court document, every
5 witness statement, victim's statement, and document that
6 existed about Mr. Brown's offenses. He didn't contact the
7 victims for two reasons and he testified to this. First, he
8 didn't want to traumatize them further; and second, he didn't
9 need to. He had everything, the police reports, solicitor's
10 reports, the victims' statement. He had all the documents
11 from the courts and statements that existed at the time that
12 the offenses occurred, not 20 years later when memories
13 started to fade. Dr. Brown didn't contact the solicitors and
14 investigators for the same reason. He had everything that he
15 needed to look at this case. He didn't have to rely on
16 somebody's memory because he had everything he needed on
17 paper, all written down, preserved from the time that Mr.
18 Alford originally was charged with those offenses and pled
19 guilty to some of them. He didn't reopen an investigation and
20 every allegation made against Mr. Alford because he didn't
21 need to. Mr. Alford pled guilty in open court in 1987 and in
22 2017 to sexually violent offenses and to related offenses in
23 2001. He admitted his guilt at the time under oath. Now, Mr.
24 Alford claims that none of the allegations ever happened in
25 spite of the fact that in 1987, he pled guilty and was

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

161

1 sentenced to 15 years in prison. You see, he says he really
2 have a bad public defender who told him that the charges would
3 just magically go away if he -- if he said in open court in
4 front of a judge, in front -- with witnesses there that he
5 committed that offense. That's not believable. No one would
6 believe that if they stood in court and said that they
7 molested a four-year-old girl that they would just say, okay,
8 thanks Mr. Alford for being honest. We're gonna let you go
9 now. That's simply ludicrous.

10 Mr. Alford claims that in April of 2001, he was charged
11 with kidnapping and criminal sexual conduct in the first
12 degree and pled guilty to breach of peace and simply assault
13 all because he paid someone \$8 for sex. And in the same year
14 in August of 2001, he was charged with CSC first degree and
15 kidnapping because the victim set him up, that she lured him
16 to an abandoned building, stripped off all her clothes. And
17 when he saw this, he ran away, and he pleaded guilty to
18 kidnapping anyway.

19 In 2017, he was charged with criminal sexual conduct in
20 the first degree and kidnapping, pled guilty to criminal
21 sexual conduct in the third degree. Mr. Alford said that in
22 this case that she lied and that she was a drunk who did the
23 bruises herself. Yet again, in court in 2017, he pled guilty
24 to criminal sexual conduct third degree under oath on the
25 record.

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

162

1 To believe Mr. Alford's claims, you have to believe that
2 a vast conspiracy exists against him, that over a period of 31
3 years from 1987 until 2017, all the public defenders, victims,
4 detectives, probation agents, and solicitors all had nothing
5 better to do with their time than single out Mr. Alford and
6 repeatedly charge him with criminal sexual conduct first
7 degree and kidnapping. Or, there might be a more likely
8 explanation, that Mr. Alford suffers from a personality
9 disorder called antisocial personality disorder. One where he
10 has a diagnosis of conduct disorder prior to age 15 and he
11 meets the four delineated criteria in the DSM-5, that he meets
12 impulsive -- and failure to plan ahead by the fact that he did
13 not complete school, had no job training, seemed to live day
14 to day, and when he has worked it has been mostly as a day
15 laborer. Most of his crimes appear to have been poorly plan
16 and he didn't anticipate the consequences of it. That he
17 meets the irritability and aggressiveness criteria, which was
18 part of his chronic disorder and, as addressed -- Dr. Brown
19 testified to that. Also, he had several charges for things
20 like threatening violence, CDV, and even some disciplinary
21 infractions for assault in prison, all which Dr. Brown
22 testified to. That he meets consistent irresponsibility and
23 that could be seen through his criminal history. You'll see
24 that evidence of his abuse of alcohol, he doesn't work,
25 doesn't have a stable place to live. All that is evidence of

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

163

1 his consistent irresponsibility.

2 This -- that his testimony today is not part of some
3 elaborate conspiracy against him, but rather the product of a
4 personality disorder and a risk factor for reoffense,
5 specifically grievance hostility. Dr. Brown talked about
6 grievance hostility. It's believing that the world has done
7 you wrong and feeling that others are responsible for your
8 problems. He complains that his 'victims' lie about him, that
9 his guilty pleas were due to poor legal representation, and
10 that he -- that he shouldn't have gotten entangled with any of
11 those girls.

12 So, is it more likely that Mr. Alford pled guilty to
13 numerous charges he didn't commit under oath, one which sent
14 him to prison for 15 years, or that he doesn't want to give us
15 his freedom and go to sex offender treatment at the sexually
16 violent predator treatment unit.

17 Repetition is evidence of a pattern of behavior. Mr.
18 Alford is a sexually violent predator. Through his actions,
19 he has proven time and again and his behavior shows that he
20 has a disregard for the rights of the others and if left to
21 his own devices without treatment, will reoffend. All you
22 have to do is look at his history. He was convicted in 1987,
23 he gets out. He's charged in 2001 with CSC first and
24 kidnapping and pleads guilty to breach of peace and simple
25 assault, he gets out. He's charged in August of that same

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY MORROW

164

1 year with CSC first degree and kidnapping, he pleads guilty in
2 2007 to kidnapping, he gets out. During that time, he has
3 also had two sex offender registry violations in 2005 and
4 2011. He's released and during this time he has five separate
5 occasions after his guilty plea for criminal sexual conduct
6 third degree, which he received a sentence. He was released
7 and he has five separate occasions where he is picked up by
8 police for magistrate level offenses.

9 Mr. Alford has demonstrated a pattern of behavior. That
10 pattern of behavior is that he is a sexually violent predator.
11 The state has met its burden of proof in this case. He's been
12 convicted twice for sexually violent offenses, he suffers from
13 antisocial personality disorder, and the state asks that you
14 find Mr. Alford is a sexually violent predator and send him to
15 the sexually violent predator treatment unit so that he can
16 get the treatment that he needs and to protect the public
17 during the treatment process.

18 Thank you.

19 THE COURT: Mr. Falk?

20 MR. FALK: May it please the Court?

21 THE COURT: Yes, sir.

22 CLOSING BY FALK:

23 MR. FALK: Ladies and gentlemen of the jury, I don't
24 think we're here today because my client is consistently
25 irresponsible. I don't think you're supposed to do anything

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

165

1 with my client because he's consistently irresponsible. He's
2 not a sexually violent predator. In order to believe he's a
3 sexually violent predator, what I said before, we have to look
4 at Dr. Brown's opinion. That's really the foundation of the
5 state's case is Dr. Brown's opinion because y'all today are
6 being tasked to predict what's gonna happen in the future for
7 my client. And is there any problem -- is there any change in
8 the foundation of Mr. Brown's opinion.

9 Well, first of all, this is the first time that he had --
10 although he has given many evaluations under the psych eval
11 and predator laws, this is the first time he's done an
12 original or a pre-commitment evaluation, meaning this is the
13 first time there's been a diagnosis. You remember, he talked
14 before that those are really two different things. He's given
15 an annual review reports, but this is the first time he's
16 testified where he has given a pre-commitment evaluation and
17 that's a diagnosis difference. He said that when you're doing
18 the annual reviews, you're just trying to see, you know, he's
19 somebody who has already been in the system and been convicted
20 of being a sexually violent predator and have they made enough
21 progress. And he admitted that this is really kind of a
22 completely different animal. This is the first time he's
23 trying to see if he can diagnose if there's a problem and this
24 is the first time he's given a diagnosis in court.

25 And you know, if you've done 70 of these reports and

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

166

1 every time it's always been a sexually violent predator,
2 you're worried about whether or not he's done enough to get
3 out, and now this is the first time they're looking at
4 somebody who -- he has to make that determination initially.
5 Maybe Dr. Brown sort of suffers from that idea that when
6 you're a hammer, everything looks like a nail. He's used to
7 looking at -- he's used to evaluating people who are being
8 convicted of sexually violent predators. That's what he's
9 used to seeing; that's what he sees every time. I contend
10 that's what he saw this time.

11 But what did he not say? He did not say that my client
12 suffers from any type of sexual disorder. So, this is a
13 sexually violent predator treatment proceeding, but my client
14 doesn't suffer from any sexually -- any type of sexual
15 disorder and there's a couple of them that would've been
16 possible diagnoses. We talked about pedophilia, and he said
17 there was no evidence that my client suffers from pedophilia.
18 And that's, as you can guess, that's somebody who is sexually
19 attractive to children. There's no evidence of that in this
20 case.

21 And we also talked about something that -- the scientists
22 do have something that's called a paraphilia where you're --
23 the basis of your sexual arousal is based on forcing somebody
24 to have sex with you and they call that biastophilia, and
25 that's not what he found in this case either. This is not

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

167

1 somebody who is, you know, enjoys doing that.

2 He diagnosed him with having antisocial personality
3 disorder. And he said because he's got this personality
4 disorder, which is not alone enough to convict -- put him in
5 the program, because he's got to prove that because he has
6 anti-personality disorder, he is predisposed. This disorder
7 that he may or may not have predisposes him to commit these
8 crimes in the future.

9 Well, let's look at his criminal history. 1986, there's
10 not a lot of facts. I wasn't able to do much research. Dr.
11 Brown wasn't able to do much research on what happened in
12 1986. He admitted there weren't many records. And, okay.
13 So, he was a 16-year-old kid and he pled guilty on that.
14 Maybe he did it; maybe he didn't do it; maybe he had a bad
15 public defender; maybe he had Clarence Darrow representing
16 him, but he did it. And if you want to put him away for
17 something he did he was 16, that's gonna be your decision.

18 But let's look at -- we want to look at the rest of the
19 criminal pattern. So, 1986, and about -- in this pattern
20 driven by Dr. Brown says it's, you know, an uncontrollable
21 urge to commit these sexual offenses. The next one comes 15
22 years later and that's in 2001. And then after 2001, the next
23 one, another 15 years later. I'm not sure that that's a
24 pattern.

25 But now let's look at what happened in 2001. Two alleged

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

168

1 victims -- in one case, there was no DNA evidence and that's
2 the one where he said that they never had sexual conduct. And
3 then the other case, there's some question about whether or
4 not this woman was looking for drugs or looking for money and
5 he did have sexual conduct and he admits to that. The issue
6 is whether or not it was nonconsensual.

7 In 2015, this the one that I think you really need to
8 focus on. And he said, Dr. Brown, the extent of his
9 evaluation and his investigation here is he wanted to look at
10 the police reports. He didn't really have a good explanation
11 for this sentence that was in one of the police reports that
12 he read from the stand. He said -- and this was regarding the
13 offense that happened in 2015. The victim claimed that she
14 asked Alford to have sex with her, but held her down and did
15 it anyway after putting on a condom. Now, if I was trying to
16 make this determination that this is somebody who really has
17 this compulsion to have nonconsensual sex with people, that
18 statement right there would give me some kind of pause. That
19 would maybe raise a red flag in my mind. Then it would be in
20 addition to the red flags, I think what also has been raised
21 in my mind is about the two events in 2001 where there's some
22 allegation about whether or not this a sex for drugs kind of
23 situation and whether or not the other one even ever happened.
24 These are the red flags.

25 This is why I'm concerned. I understand that Dr. Brown

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

169

1 can't reopen the investigation. I get that and that's fine.
2 However, he is basing his opinion about whether or not he's a
3 sexually violent predator, about whether or not those events
4 ever happened, and the proof that these events ever happened
5 is because my guy exercised the right that he has to take a
6 plea deal and he accepted a plea bargain in these kind of
7 cases. You heard him testify. He said that they didn't
8 happen. That's what we're talking about here. Those are
9 where the red flags are in this case. That's where I think
10 part of the problem in Dr. Brown's opinion because he's got to
11 accept that those events happened and not necessarily
12 questioning whether or not they did happen.

13 And again, this is not a question, in two of those cases,
14 my client admitted that they had sex. The question is whether
15 or not it was nonconsensual sex. And as I -- you did -- I
16 mean, there's a difference between of course opening up a
17 whole full blown investigation but for possibly talking to the
18 police officer from the case that just happened three years
19 ago. He could've called somebody about the 2015 case, but he
20 didn't. But, based on what he read on these police reports,
21 he makes this assumption, and he said, well, I'm assuming that
22 something did happen. I think that was his testimony from the
23 stand. Well, let me tell you, I think there's an equally
24 plausible inference that you can draw from the events in 2001
25 and the events in 2015; I think that's equally plausible

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

170

1 inference is that nothing serious happened. And the reason
2 why I think you can is because the solicitor in this case and
3 the judge in this case, in those cases in 2001 and 2015 were
4 all fine with him pleading guilty to a time-served sentence
5 and walking out the door. I mean, criminal sexual conduct are
6 serious offenses, they carry serious jail time, but everybody
7 was fine with him pleading guilty and getting a time-served
8 sentence and walking out the door. And in fact, you heard him
9 testify on the event from 2001. He was out on bond. He was
10 out on a personal recognizance bond for six years and then
11 they came back in and had him, you know, plea to these
12 charges. And then one of the cases gets pled down by the
13 police in misdemeanor court, in Magistrate Court. I think the
14 inference I want you to consider from that is that the
15 solicitor wasn't just worried about those cases; they didn't
16 think they were serious charges. That's why they let it get
17 resolved that way. I think that's an equally valid inference
18 from reading these police reports as it is that my client had
19 nonconsensual sex with those two women in 2001 and in 2015.

20 And here's another thing I want you to consider.
21 Remember, Dr. Brown testified that in 2007, they started these
22 proceedings against my client in 2007, the same kind of
23 action, Sexually Violent Predator Treatment Program -- I mean,
24 commitment proceeding. That happened in 2007, and that they
25 agreed to dismiss the charges. So, really what's the

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

171

1 difference between 2007 and 2018? Well, really the only
2 sexual offense, the only sexual allegation, between those two
3 times is this thing that happened in 2015. And that's where
4 you've really got to wonder what happened in 2015 when the
5 victim claimed that she asked Albert to have sex with her but
6 held her down, and he put a condom on anyways, and they still
7 had sex, which just doesn't sound to me necessarily that
8 that's the type of coercive sexual conduct that he's talking
9 about.

10 Now, I will admit Mr. Alford is probably not a model
11 citizen. He had long periods of not having a steady job, he's
12 probably had long periods of not having a steady place to
13 live. And, you know, he's a guy that's gotten jobs hanging
14 out at the corner and getting jobs, you know, construction
15 jobs where, you know, contractors will come up and they'll
16 hire somebody for the day to help them work. He's probably
17 not a great guy, but the question today is whether or not he's
18 a sexually violent predator and have you heard anything here
19 that makes it sound like he his sexually praying on people?
20 Does he have a sexual disorder?

21 Now, the Judge is gonna give you the law on this and I
22 may misstate it and whatever the Judge says, is, what the
23 Judge -- is what the law is. But, I think what sort of
24 paraphrases the issue is whether or not he has a sexual
25 disorder that causes him serious difficulty in controlling his

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

172

1 behavior to commit crimes of sexual violence. So, it's not
2 just that he's got this sexual disorder or not that he has a
3 disorder, but whether or not he has the desire, this urge,
4 this uncontrollable urge, or is it because he's got a sexual
5 -- because he has a personality disorder of some type that
6 that causes him to commit crimes of sexual violence.

7 He gave you the definition of antisocial personality
8 disorder. I think he would probably admit that he's given you
9 the definition that would fit about -- a high percentage, I
10 think was his testimony, a high percentage of the adult male
11 prison population. Yet, there are people who, you know, are
12 impulsive and, you know, have a chip on their shoulder or
13 however else -- whatever else -- but whether or not that's the
14 -- if he is telling you that he suffered from any kind of
15 conduct that has this urge and got to do this. I just don't
16 think that they've satisfied that.

17 Now, what Dr. Brown wanted to rely on are the statistical
18 tests that he did, these actuarial models. And now, which
19 remember what he did not tell you is anything -- anything
20 specific about Mr. Alford, about the specific risks that he
21 would commit a crime in the future. He said that Mr. Alford
22 falls into a category of people, and people in this category
23 are more likely than people in that category to commit crimes,
24 but he didn't tell you anything specific about him.

25 And he talked about the analogy of heart disease, and I

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

173

1 think that's perfect for us to consider. And if he'd not
2 brought it up, I'd probably still be telling you this right
3 now because I think that is exactly a great analogy here. He
4 said that people can have risks for heart disease and they
5 could have these factors, and people who are overweight,
6 smoking, you know, high blood pressure, high cholesterol, they
7 all have a risk of getting heart disease. I accept that. And
8 people with those risk factors probably should exercise more.
9 You know, when they go out, they should order the salmon and
10 not the ribeye steak. They should -- they should make those
11 kind of sacrifices and they should do that. They should quit
12 smoking and they should exercise. That's all fine. I've got
13 a cardiologist and the cardiologist will tell me, the
14 cardiologist would tell you that, you know, I should --
15 instead of going to a football game, I should go out and
16 exercise more. I mean, I should make these kind of sacrifices
17 in order to -- because I fall into a risk pattern. I should
18 make these kind of sacrifices, so he tells me this. But, the
19 thing that's different between making this cardiology analogy
20 and the whole analogy to heart disease and risks of getting
21 heart disease is false because forensic psychologists do not
22 have access to the same type of sort of sophisticated medical
23 test devices that a cardiologist has.

24 And I'm just going to tell you this story. It happened
25 in July of last year. So, I go into a cardiologist -- I go

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

174

1 into my regular doctor to get me an EKG test, you know, where
2 you're walking on the treadmill and he saw something kind of
3 funny on that. And he said, Mr. Falk, based on this, I'm
4 kinda concerned. I want you to go have another test. So, I
5 went about a week later and had another test where they shot a
6 dye through me and then they put me through an MRI machine.
7 And he came back and he said, Mr. Falk, you know, kind of
8 based on what we see here, I'm concerned that you want to
9 maybe take this next level test. And at this point, I'm not
10 having to put too much at risk yet. I can see now, I have
11 some kind of personalized risk factor, something that's
12 talking about me, specifically, but yeah, I maybe have to take
13 this next test. Maybe, I ought to go and have a heart
14 catheterization, which is a kind of mild procedure. You're in
15 the hospital one day and you're out that next day and they put
16 the tube up your arm and they can go in there and take a
17 picture of the inside of your heart. And if you happen to
18 have a blockage, they can put a stint in it and open up your
19 artery. And, you know, that's not that risky of a procedure
20 and based on what he's told me, I think it's okay. I'll take
21 that risk. I wake up from having the catheterization test and
22 I said, doctor, how many stents did you have to put in, and he
23 said, oh, no, Mr. Falk, you're gonna have to have open heart
24 surgery. Now, here's the thing. Now, at this point, I could
25 appreciate beyond a reasonable doubt that I need to take the

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

175

1 next risk here. I need to take the risk of having a doctor
2 come in, open up my chest, put me on a heart bypass machine,
3 and fix my arteries. That's where I think we are here. Sure,
4 he might have some kind of risk factors, but what do you know
5 that's personalized about him. You can't make this analogy
6 and this is not the same kind of solid medical science that
7 forensic psychologists deal with. But yet, the consequences,
8 the sacrifice that they want to have my client face is to have
9 him go away to a facility to have treatment, which he may or
10 may not need. And Dr. Brown told you that that's a multi-
11 year program. People rarely get out in the first year. He
12 told you that he's done annual review -- I mean, people can be
13 in the eight, nine years. And are we sure now, today, do we
14 have enough information to make this kind of prediction for
15 the future?

16 Now, I appreciate that every day we make predictions and
17 you make choices about what we think is gonna happen tomorrow.
18 You know, you wake up and -- you know, yesterday was 85
19 degrees; so, tomorrow you think it's going to be 85 degrees so
20 you're gonna put shorts on. Yeah, that's okay. You're not
21 putting that much at risk facing your prediction for the
22 future. What I'm getting back to is talking about this heart
23 analogy. Am I gonna -- I mean, certainly if I go in to the
24 doctor on the very first time and the doctor says you got high
25 cholesterol, you really need open heart surgery. He's a

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

176

1 doctor, he's a professional, but that's not enough information
2 for me to take make that kind of decision, you know, risk that
3 kind of future. And it's not until I got some really specific
4 information that related to just to me before I can take that
5 kind of risk. And I can -- that's what we need to be
6 deciding today. Are you sure about today? Do you have any
7 doubt -- I mean, do you have proof beyond a reasonable doubt
8 of what is gonna happen to my client tomorrow? I submit you
9 don't have that. You have Dr. Brown's opinion, which I think
10 has some flaws in it. I think he's making some assumptions,
11 and he is comparing my client to some actuarial table that he
12 sort of facing these same kind of risk factors. And because
13 he fits in these kind of risk factors, we're gonna send him
14 off to this treatment facility.

15 Now, my client may have antisocial personality disorder;
16 I don't know, I'm not a doctor. But it's not like saying that
17 he had pedophilic disorder where he is attracted to children.
18 I mean, you still have to reach that connection that whatever
19 my client has, he may -- he may just be a bad citizen. He may
20 be kind of a jerk, whatever it is, he may have antisocial
21 personality disorder but is it causing him real serious
22 problems controlling his impulses that can cause him to commit
23 a crime of sexual violence in the future.

24 He may or may not have done something in 1986, something
25 might've happened in 2001, but I think there's plenty of

Care and Treatment of Otis Alford - 17-CP-26-02862
CLOSING BY FALK

177

1 reason to doubt whether or not that was a criminal sexual
2 conduct, some type of rape. I think there's plenty reason to
3 doubt whether the 2015 was some kind of rape. I don't think
4 there's a pattern here. I don't think there's anything
5 showing any kind of drive to commit crimes of sexual violence.
6 I think the state has failed to prove beyond a reasonable
7 doubt that not only does my client suffer from antisocial
8 personality disorder, but that there's something about this
9 antisocial personality disorder that causes him sort of this
10 uncontrollable desire to commit crimes of sexual violence.
11 This is a very serious decision that you all have
12 certainly regarding my client's liberty. Your decision is
13 going to decide whether or not my client is going to go free
14 or whether or not he's going to a place to get treated. Sex
15 offender treatment for somebody who has antisocial personality
16 disorder. And there's one thing, I will admit, my client
17 admits that he failed to register as a sex offender and --
18 obviously, he's been having to register since 1986, he's had
19 two times that he hasn't; that's a problem for him. That's
20 criminal conduct. If he does it again in the future, that's
21 criminal conduct and he'll suffer criminal sanctions. Getting
22 sex offender treatment is not gonna do anything for that.
23 It's sort of what I was talking about before, at the very
24 beginning, when I kind of made that analogy about the
25 chocolate bar is does he have -- if you go with the kid who

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE TO JURY

178

1 steals he chocolate bar from the gas station. Now, is that
2 kid just, you know, want some chocolate or is he hungry or
3 does he have some kind of kleptomania, some kind of desire
4 that he really enjoys stealing things. That's the difference.
5 You've got -- you know, you got -- you know, he's had criminal
6 -- he has a long criminal record. He's got a lot of stuff,
7 but he doesn't really have any sexual -- there's no habit of
8 sexual violence here.

9 My client does have any kind of irresistible,
10 uncontrollable urges, no impulses that he's got to commit
11 crimes of sexual violence. He's a criminal, he's done
12 criminal things, but it's your decision today is whether or
13 not he's got a mental disease and whether that mental disease
14 causes him to commit crimes of sexual violence. I think the
15 state has completely failed to prove their case.

16 THE COURT: State?

17 MR. MORROW: Nothing further from the state, Your Honor.

18 CHARGE TO JURY:

19 THE COURT: Members of the jury, the State of South
20 Carolina has brought this case under the sexually violent
21 predator law of this state. In this regard, the state seeks
22 the involuntary civil commitment of Otis Alford for long-term
23 control, care, and treatment in a secure facility. You need
24 to understand that this is not a criminal proceeding seeking
25 incarceration, rather it is a proceeding seeking civil

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE TO JURY

179

1 commitment.

2 The State of South Carolina alleges that Otis Alford is a
3 sexually violent predator under the law. Mr. Alford denies
4 that he is a sexually violent predator. Therefore, the burden
5 of proof is on the state to prove that evidence sufficient to
6 satisfy each of you beyond a reasonable doubt that Mr. Alford
7 is a sexually violent predator. In this regard, if the state
8 is unable to meet the burden of proof as to one or more of the
9 elements of this claim, then Mr. Alford is entitled to a
10 finding that he is not a sexually violent predator.

11 Please understand that Mr. Alford is not accused of
12 committing a crime in this proceeding. As you heard from the
13 testimony, he did have previous charges for which the Court
14 sentenced him and he has now completed his service for those
15 charges. The state is now alleging that he is a sexually
16 violent predator. The state has the burden of proof in this
17 case and must prove its case beyond a reasonable doubt. If
18 you find that the state has not met this burden of proof, then
19 Otis Alford will be released. However, if you find that the
20 state has met its burden proof and find that Otis Alford is a
21 sexually violent predator, then he will not be released, but
22 will be committed to a secure treatment facility in Columbia
23 operated by the Department of Mental Health.

24 Now, during this trial, you and I have separate duties to
25 perform. As the Trial Judge, it is my responsibility to

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE TO JURY

180

1 preside over this trial and I also have the duty to rule upon
2 the admissibility of the evidence offered during the process
3 of this trial. In that regard, you are to consider only the
4 evidence before you and you are to disregard from your mind
5 any testimony ordered stricken from the record of this case
6 during the progress of this trial, if there was any. You are
7 to consider only the testimony which has been presented from
8 this witness stand together with any exhibits admitted into
9 the record of this case as evidence.

10 Furthermore, I have the additional duty to charge you on
11 the applicable law of this case and, in that regard, I am the
12 sole judge of the law in this case. It is your duty to accept
13 and apply the law as I now state it to you. If you have any
14 preconceived ideas as to what the law is or what you think the
15 law ought to be and it does not agree with what I tell you the
16 law is, then you are obligated under your oath to abandon
17 these preconceptions because you are sworn to accept the law
18 precisely as I now state it to you.

19 In this trial, you are the sole and exclusive judge of
20 the facts and I am the judge of the law. Do not infer that I
21 have any opinion about the facts in this case from anything I
22 have said or done during the course of this trial. In this
23 regard, the law simply does not permit me to have an opinion
24 about the facts. As jurors, it is your duty alone to
25 determine the effect, value, weight, and accuracy of the

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE TO JURY

181

1 evidence presented during the course of this trial.

2 In most civil cases tried in the Court of Common Pleas,
3 the burden of proof is a claim of the greater weight or the
4 preponderance of the evidence. However, in this type case,
5 under the Sexually Violent Predator Statute, the state's
6 burden is higher than that. Here the state has the burden of
7 proof to prove its case beyond a reasonable doubt. Proof
8 beyond a reasonable doubt is proof that leaves you firmly
9 convinced that the respondent is a sexually violent predator.
10 There are few things in this world that we know with absolute
11 certainty, so, in this type of case, the law does not require
12 proof that overcomes every possible doubt. However, if based
13 on your consideration of the evidence, you are firmly
14 convinced that Mr. Alford is a sexually violent predator, then
15 you must return a verdict for the state and circle yes on the
16 verdict form. If on the other hand, you believe there is a
17 real possibility that he is not a sexually violent predator,
18 you must give him the benefit of the doubt and find a verdict
19 for Mr. Alford by circling no on the verdict form.

20 Reasonable doubt may arise from the evidence which is in
21 the case, or from the lack or absence of evidence in the case.
22 It is up to you to determine whether or not reasonable doubt
23 exists in this case.

24 Furthermore, evidence may be direct or circumstantial.
25 Direct evidence is testimony by a witness about what the

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE TO JURY

182

1 witness personally saw or heard or did. Circumstantial
2 evidence is indirect evidence. In other words, it is proof of
3 one or more facts from which one can find another fact. You
4 may consider both direct and circumstantial evidence equally.

5 Furthermore, it is your job as jurors to determine the
6 credibility and believability of the witnesses who have
7 testified in this case. You must evaluate the evidence and
8 determine which evidence convinces you of its truth. In
9 determining the believability of witnesses who have testified
10 in this case, you may believe one witness over many or many
11 over one. You may believe a part of the testimony of a
12 witness and reject the remaining part. You may believe the
13 testimony of a witness in its entirety or reject it in full.
14 You may consider whether the witness has an interest in the
15 result of the trial, whether the witness is prejudice toward
16 either party, the opportunity for the witness to have seen the
17 matters and things about which the witness may testify and the
18 way the witness acts on the witness stand.

19 Furthermore, the rules of evidence ordinarily do not
20 permit witnesses to give their opinion or conclusions. An
21 exception to this rule exists for witnesses we call expert
22 witnesses, a witness who by education and experience has
23 become an expert in some art, science, or profession, may give
24 an opinion as to the subject matter in which the witness
25 claims to be an expert and may also give the reasons for the

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE TO JURY

183

1 opinion. You should consider an expert's opinion given by a
2 witness and like any other evidence, give it the weight you
3 think it deserves. If you decide that the opinion of an
4 expert witness is not based on sufficient education or
5 experience, or if you decide that the reasons given in support
6 of the opinion are not sound or that the opinion is outweighed
7 by their evidence, you may disregard the expert's opinion
8 entirely. An expert witness' testimony is to be given no
9 greater weight than that of any other witness simply because
10 the witness is an expert. Furthermore, you are not required
11 to accept an expert's opinion even though it is not
12 contradicted.

13 The elements which the state must prove beyond a
14 reasonable doubt are that Otis Alford has been convicted of a
15 sexually violent offense. Convicted of a sexually violent
16 offense means a person has been found guilty of a sexually
17 violent offense. I charge you that criminal sexual conduct
18 third degree and criminal sexual conduct second degree are
19 sexually violent offenses. And the state must prove beyond a
20 reasonable doubt that Otis Alford suffers from a mental
21 abnormality or personality disorder that makes him likely to
22 engage in acts of sexual violence if not confined in a secure
23 facility for long-term control, care, and treatment.

24 Inherit in these two elements is that the state must
25 prove the requirement that Otis Alford's mental abnormality or

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE TO JURY

184

1 personality disorder causes him serious difficulty in
2 controlling his behavior. In other words, the state must
3 prove beyond a reasonable doubt that the individual it seeks
4 to commit suffers from a mental illness, which cannot be
5 sufficiently controlled without the structure and care
6 provided by a mental health facility rendering him otherwise
7 likely to commit a dangerous act.

8 In order for you to better understand the elements of the
9 state's cause of action, I'm going to define for you some of
10 the terms which I have just used. Mental abnormality means a
11 mental condition affecting a person's emotional capacity that
12 predisposes the person to commit sexually violent offenses.
13 This mental abnormality or personality disorder, must cause
14 the person serious difficulty in controlling his behavior.
15 Likely to engage in acts of sexual violence means the person's
16 propensity to commit acts of sexual violence is of such a
17 degree as to posing menace to the health and safety of others
18 so that he is a danger to others.

19 Again, I remind you that the burden of proof is on the
20 state to prove to your satisfaction beyond a reasonable doubt
21 that Otis Alford has been convicted of a sexually violent
22 offense as I have instructed you and also suffers from a
23 mental abnormality or personality disorder that makes him
24 likely to engage in acts of sexual violence if not confined in
25 a secure facility for long-term control, care, and treatment.

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE TO JURY

185

1 If the state carries its burden of proof and convinces
2 you beyond a reasonable doubt as to each of these two elements
3 of the cause of action, it is entitled to a finding that Otis
4 Alford is a sexually violent predator. However, if the state
5 does not meet the burden of proof as to one or both of these
6 elements, then Otis Alford is entitled to a finding that he is
7 not a sexually violent predator.

8 Furthermore, it is important to understand that a plea
9 bargain is the result of contract negotiations between the
10 state and a criminal defendant. If a criminal defendant
11 believes that accepting the terms of a plea offer is in his
12 best interest, then he has the right to plead guilty to a
13 crime for which he is not in fact guilty.

14 Ladies and gentlemen, I'm now drawing near the end of my
15 charge and I want you to clearly understand that you are not
16 partisans or advocates for the state or the respondent. You
17 do not serve as jurors to reward your friends or punish your
18 enemies. In this regard, you have been selected by both the
19 parties to be fair and impartial jurors.. It is your duty by
20 your joint deliberations to decide this case. Then to the
21 facts as you find them, you should take and apply the law,
22 which has been given to you by this Court and thus arrive at a
23 verdict. When you have accomplished these responsibilities,
24 you will have satisfied your oath as jurors and you will have
25 discharged your duty to this Court.

Care and Treatment of Otis Alford - 17-CP-26-02862
CHARGE TO JURY

186

1 Ms. Clerk, if you would hand the foreman the verdict
2 form.

3 Now, Mr. Foreman, I have handed you the verdict form.
4 When you arrive at a verdict in this case, you will write your
5 verdict on the form and sign and date it. The verdict that
6 you render in this case, must be the verdict of each and every
7 juror. It must be your unanimous verdict. All 12 jurors must
8 agree on the verdict which you authorize the foreman to write
9 for the jury. Furthermore, ladies and gentlemen, please
10 understand that even though I have given the verdict form to
11 the foreperson, it is not his verdict alone. It is the
12 verdict of all 12 of you and emphasize again it must be
13 unanimous.

14 In a moment, you will retire to the jury room. However,
15 I would ask that you do not begin your deliberations until I
16 tell you to do so. The law requires that I first consult with
17 these attorneys. After I have done so, the bailiff will bring
18 in the items of evidence and instruct you to begin your
19 deliberations at that time. Also, should you have any
20 questions during your deliberations, you must put them in
21 writing and send them to me by way of the court bailiff. The
22 court bailiff will be placed immediately outside of the jury
23 room door. Once you have reached your verdict, please knock
24 on the jury room door and ask the bailiff to advise the Court
25 that you have reached a verdict.

Care and Treatment of Otis Alford - 17-CP-26-02862
BY THE COURT

187

1 Thank you and you may retire to the jury room at this
2 time, but do not begin your deliberations until told to do so.
3 (REPORTER'S NOTE: Jury exits courtroom @ 11:20 A.M. The
4 following takes place outside the presence of the jury.)

5 BY THE COURT:

6 THE COURT: Any objections from the state as to the
7 charge given?

8 MR. MORROW: Nothing from the state, Your Honor.

9 THE COURT: Respondent?

10 MR. FALK: Nothing from respondent, Your Honor.

11 THE COURT: All right. Why don't we take a look at the
12 items that are into evidence and make sure they're suitable
13 with you. We will send them in, bring out the alternates, and
14 tell them to begin at that time.

15 (REPORTER'S NOTE: Counsel reviews and stipulates to exhibits
16 to be submitted.)

17 THE COURT: All right. Bring the alternates out.

18 (REPORTER'S NOTE: Deliberate commence @ 11:22 A.M. Alternate
19 Jurors enter courtroom.)

20 THE COURT: All right. I want to let the alternates know
21 you've completed your duty. You two were the backup
22 quarterbacks. If any of those 12 members had gotten sick, had
23 a baby or a death in the family or got in a car wreck and
24 couldn't be here, you had to come in and take up the slack.
25 But we have all 12 people, they're here and they're working

Care and Treatment of Otis Alford - 17-CP-26-02862
QUESTION FROM JURY

188

1 now, so, you are free to go. You've earned a three-year
2 exemption by being here and I appreciate your service.

3 I hope you have a good rest of the week.

4 Thank you.

5 RECESS @ 11:23 A.M.

6 *****OFF THE RECORD*****

7 (On the Record @ 11:55 A.M.)

8 QUESTION FROM JURY:

9 THE COURT: We have one question. All right. It says,
10 Please state what the burden of proof is under the state. I
11 guess that would be reasonable doubt.

12 MR. FALK: Yeah. I guess -- I have no problem rereading
13 that part of the ---

14 THE COURT: How about the state; you good with that?

15 MR. MORROW: I'm good.

16 THE COURT: Okay. Let me pull it out real quick and
17 let's see.

18 COURT'S EXHIBIT NUMBER 1

19 MARKED FOR IDENTIFICATION

20 THE COURT: Let's go ahead and bring them out.

21 (REPORTER'S NOTE: Jury enters courtroom @ 11:57 A.M.)

22 THE COURT: All right. I'm gonna go over the burden of
23 proof in this trial again. I'm gonna read it to you so you'll
24 have it before you.

25 In most civil cases tried in the Court of Common Pleas,

Care and Treatment of Otis Alford - 17-CP-26-02862
QUESTION FROM JURY

189

1 the burden of proving a claim is by the greater weight of the
2 evidence or the preponderance of the evidence. However, in
3 this type of case, under the sexually violent predator
4 statute, the state's burden is higher than that. Here the
5 state has the burden of proof to prove its case beyond a
6 reasonable doubt. Proof beyond a reasonable doubt is proof
7 that leaves you firmly convinced that the respondent is a
8 sexually violent predator. There are few things in this world
9 that we know with absolute certainty. So, in this type of
10 case, the law does not require proof that overcomes every
11 possible doubt. However, if based on your consideration of
12 the evidence, you are firmly convinced that Otis Alford is a
13 sexually violent predator, then you must return a verdict for
14 the state and circle yes on the verdict form. If on the other
15 hand, you believe there is a real possibility that he is not a
16 sexually violent predator, you must give him the benefit of
17 the doubt and find a verdict for Otis Alford by circling no on
18 the verdict form.

19 Reasonable doubt may arise from the evidence which is in
20 the case or from the lack or absence of evidence in the case.
21 It is up to you to determine whether or not reasonable doubt
22 exists in this case.

23 All right. With that being said, if you would go back to
24 the jury room. Do not begin your deliberations again until I
25 tell you. I'll check with the lawyers first.

Care and Treatment of Otis Alford - 17-CP-26-02862
QUESTION FROM JURY

190

1 (REPORTER'S NOTE: Jury exits courtroom @ 11:59 A.M. The
2 following takes place outside the presence of the jury.)

3 THE COURT: Any objections from the state?

4 MR. MORROW: Nothing from the state, Your Honor.

5 MR. FALK: No objection, Your Honor.

6 THE COURT: All right. Tell them to go ahead and start.

7 CLERK: Yes, sir.

8 THE COURT: All right. We'll be at ease until we have
9 another question or a verdict.

10 (REPORTER'S NOTE: Deliberations resume at 12:00 P.M.)

11 RECESS @ 12:00 P.M.

12 *****OFF THE RECORD*****

13 (On the Record @ 12:09 P.M.)

14 THE COURT: Everybody have a seat. They want the
15 statute.

16 MR. FALK: What's that?

17 THE COURT: The statue, the two things that have to be
18 proved.

19 MR. FALK: Okay.

20 THE COURT: Okay if I just read it to them?

21 MR. MORROW: Yes, sir.

22 MR. FALK: Do you want me to bring my guy in for that?

23 THE COURT: Yeah, it says what two points did the state
24 need to prove. Has he committed a sexually violent offense
25 and ---

Care and Treatment of Otis Alford - 17-CP-26-02862
QUESTION FROM JURY

191

1 MR. MORROW: Are you gonna read the rest of it?

2 THE COURT: I'm just gone read that whole thing.

3 All right. There you go Ms. Court Reporter.

4 COURT REPORTER: Thank you.

5 COURT'S EXHIBIT NUMBER 2

6 MARKED FOR IDENTIFICATION

7 (REPORTER'S NOTE: Jury enters courtroom @ 2:37 P.M.)

8 THE COURT: The elements which the state must prove
9 beyond a reasonable doubt are: One, that Otis Alford has been
10 convicted of a sexually violent offense. Convicted of a
11 sexually violent offense means a person has been found guilty
12 of a sexually violent offense. I charge you, that criminal
13 sexual conduct third degree and criminal sexual conduct second
14 degree are sexually violent offenses. And two, the state must
15 prove beyond a reasonable doubt that Otis Alford suffers from
16 a mental abnormality or personality disorder that makes him
17 likely to engage in acts of sexual violence if not confined in
18 a secure facility for long-term control, care, and treatment.

19 Inherit in these two elements is that the state must
20 prove the requirement that Otis Alford's mental abnormality or
21 personality disorder causes him serious difficulty in
22 controlling his behavior. In other words, the state must
23 prove beyond a reasonable doubt that the individual it seeks
24 to commit suffers from a mental illness which he cannot
25 sufficiently control without the structure and care provided

Care and Treatment of Otis Alford - 17-CP-26-02862
QUESTION FROM JURY

192

1 by a mental health facility rendering him otherwise likely to
2 commit a dangerous act. In order for you to better understand
3 the elements of the state's cause of action, I'm going to
4 define for you some of the terms I have just used.

5 Mental abnormality means a mental condition affecting a
6 person's emotional capacity that predisposes the person to
7 commit sexually violent offenses. This mental abnormality or
8 personality disorder must cause the person serious difficulty
9 in controlling his behavior.

10 Likely to engage in acts of sexual violence means the
11 person's propensity to commit acts of sexual violence is of
12 such a degree as to pose a menace to the health and safety of
13 others, so that he is dangerous to others.

14 Again, I remind you that the burden of proof is on the
15 state to prove to your satisfaction beyond a reasonable doubt
16 that Otis Alford has been convicted of a sexually violent
17 offense, as I have instructed you, and also suffers from a
18 mental abnormality or personality disorder that makes him
19 likely to engage in acts of sexual violence, if not confined
20 in a secure facility for long term control, care, and
21 treatment.

22 If the state carries its burden of proof and convinces
23 you beyond a reasonable doubt as to each of the two elements
24 of its cause of action, it is entitled to a finding that Otis
25 Alford is a sexually violent predator. However, if the state

Care and Treatment of Otis Alford - 17-CP-26-02862
VERDICT OF JURY

193

1 does not meet the burden of proof as to one or both of these
2 elements, then Otis Alford is entitled to a finding that he is
3 not a sexually violent predator.

4 All right. With that being said, if you would, go back
5 into the jury room. Any objections from the state?

6 MR. MORROW: No objections from the state.

7 THE COURT: Respondent?

8 MR. FALK: No objection.

9 THE COURT: And you can go ahead and begin your
10 deliberations.

11 (REPORTER'S NOTE: Jury exits courtroom @ 12:14 P.M.)

12 THE COURT: All right. Let me know when something else
13 happens.

14 RECESS - 12:14 P.M.

15 *****OFF THE RECORD*****

16 (On the Record @ - 2:36 P.M.)

17 (REPORTER'S NOTE: Jury enters courtroom @ 2:36 P.M.)

18 VERDICT OF JURY:

19 THE COURT: All right, Mr. Foreman, has the jury reached
20 a verdict?

21 JUROR 150: Yes, sir.

22 THE COURT: If you would hand it to the bailiff, please,
23 sir.

24 Thank you.

25 All right. The Clerk will publish it.

Care and Treatment of Otis Alford - 17-CP-26-02862
VERDICT OF JURY

194

1 CLERK: The State of South Carolina in Conway of Horry in
2 the matter of the care and treatment of Otis Alford, as the
3 respondent, has the petitioner, the State of South Carolina,
4 proved beyond a reasonable doubt, Otis Alford is a sexually
5 violent predator under the South Carolina Sexually Violent
6 Predator Act? We, the jury, unanimously answer the question
7 as follows: Yes, Otis Alford is a sexually violent predator.
8 Foreperson, signed by Larry Hartsell.

9 Mr. Foreman and members of the jury, is this your
10 verdict? Please signify by raising your right hand.
11 (REPORTER'S NOTE: Jury unanimously indicates by raising right
12 hands.)

13 CLERK: Thank you.

14 THE COURT: All right. Need for further polling from the
15 respondent?

16 MR. FALK: We have none, Your Honor.

17 THE COURT: All right. Members of the jury, I thank you
18 for your service. You have completed your service for the
19 week. You've earned a three-year exemption by being here and
20 you will be paid. It will not be a lot. If you're not
21 satisfied with what you're paid, blame this man right here.

22 I hope you all have a good day and thank you for being
23 here and thank you for working so hard.

24 (REPORTER'S NOTE: Jury exits courtroom @ 2:37 P.M.)

25 THE COURT: All right. Any motions from the respondent?

Care and Treatment of Otis Alford - 17-CP-26-02862
VERDICT OF JURY

195

1 MR. FALK: None at this time, Your Honor.

2 THE COURT: All right. Thank you very much. I enjoyed
3 working with you both. You did a good job.

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5 ADJOURNED @ 2:38 P.M.

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Care and Treatment of Otis Alford - 17-CP-26-02862
CERTIFICATE OF COURT REPORTER

196

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of In the Matter of the Care and Treatment of Otis Alford, held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on August 6-7, 2018.

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



Kay H. Richardson

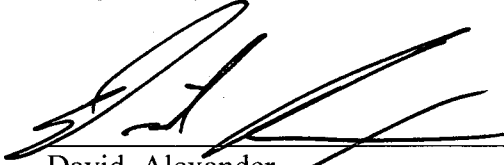
Official Court Reporter

October 15, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 16th day of April, 2019.