VOLUME SEVEN OF EIGHT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

Larry R. Patterson, Circuit Court Judge

RECEIVED
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S.C. Supreme Court

JOHN RICHARD WOOD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

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Q And would you refer to the third paragraph in that order?
A The third paragraph?
Q Yes.
A Text or not?
Q No, sir, in the third paragraph at the top, below the ---
A Yeah, I'm looking at that.
Q And is there -- well, it speaks for itself. Do you have concerns about the statement that consent to this order was given by counsel who's not counsel in a capital case?
A The language is that the Court found, based upon the defendant's consent through his Anderson County counsel, that's what it says. I mean, we were objecting to that, and we clearly were not happy.
Q Did Mr. Byrholdt meet as a team for the Greenville case with y'all to discuss the capital proceedings?
A No, no, we did not sit down with Mr. Byrholdt and ---
Q Did you authorize him to consent to the Greenville evaluation?
A No, I did not authorize him to consent to an evaluation at all.
Q Okay. And did you raise an objection to this order,

or the accuracy of this order as far as the Anderson counsel consenting to the Greenville charges?

A If ---

THE COURT: What are you going to do with his request to be evaluated in Greenville that you put into evidence?

MR. BROWN: Your Honor, that predated ---

THE COURT: I'm sorry?

MR. BROWN: Well, my argument on that, if Your Honor is inviting, would be that his request predates the defense that he made pre-request, which is a defense request. And then the defense at a later date objects.

THE COURT: Okay.

MR. BROWN: Which would maybe have changed their mind. Obviously their -- the request of the objection was made by different people.

THE WITNESS: Certainly any input in -- I did not want to keep anything from the Court, Your Honor.

THE COURT: Well, item ----

MR. BROWN: It's in the file.

THE WITNESS: I don't recall -- well, do you need an answer?

BY MR. BROWN:

Q Okay. I mean, yeah, he'll be -- obviously I lost track of the last question. What I was trying to find

out was, did you object or say, no, Your Honor, Mr. Byrholdt wasn't here, he's not on our team in the capital matter -- or capital -- or evaluations in a capital case, and whether to cooperate in that is literally a life and death decision, I think is one of the statements from ---

MR. WATERS: Your Honor, I object to the form of the question.

THE COURT: All right. I sustain the objection.

MR. BROWN: I can -- I'll rephrase it.

BY MR. BROWN:

Q Do you recall raising an issue with the judge about the fact that capital -- that the non-capital attorney had not actually consented to the evaluation in Greenville, or was not in a position to?

A I haven't -- while I have been sitting here on the stand, I haven't been able to look at the -- what occurred during that September 21st hearing. So I'll -- whatever is in there is in there.

Q Yes, sir.

A I recall that when the -- we had separate cases, and the attorney in the non-capital case had entered into a consent regarding an evaluation. And what I certainly would have -- I hope I would have objected to is that his authority to consent is fine as far as his own cases are concerned, but they shouldn't be made to the Greenville

County cases wherein counsel was affirmatively objecting.
Q Yes, sir.
A I hope it's in there. If it is not in there it certainly should have been. But I hope that I would have made that clear. Now, with regard to an objection to the language in the order?
Q Yes, sir.
A When it says, upon defendant's consent through his Anderson counsel, I don't remember entering an objection to that, but I certainly hope the record reflects that I did not agree with it.
Q If you did not enter an objection, do you feel like you should have?
A If I didn't?
Q To this order?
A Once again, once the defense objects and the Court somewhere down the road says that's somehow waived, my objection then would be very sad as far as I'm concerned, because I opposed that process from the word go.
Q Let me -- with a client of a personal wavier of rights, are you ever familiar with a situation where a client may wish to speak, I'll waive the right to remain silent, but invoke the right to counsel? In other words, I want a lawyer but then am willing to speak to the Court?

A You know, if you're asking me if that's ever happened during my career, there have been occasions when that type of distinction would be made.

Q And that's what was I going to ask. Do you know of any reason why Mr. Wood, if advised of his rights, that included a right -- or a wavier of the -- a wavier of his rights such that his examination information could be used at the sentencing, is that something where you might advise a client, if you were in that situation, present with him to say, well, we'll consent to have him speak but won't waive his rights to the use at sentencing?

A I'm not real sure I understand the question. The question is, am I aware of this being a possible invasion of rights?

Q Yes, sir.

A Yeah, I think that the right to counsel under those circumstances could be present under certain circumstances and waived under certain other circumstances. I do think that that could happen. I think it is certainly awkward. I think it creates an area where people are going to almost inevitably disagree, whether things were understood correctly, whether they were applied correctly. But on the other hand, in a vacuum do I believe it is possible that you could set up a factor like that?

Q Do you a -- would you prefer though that's a limited wavier?

A That would be -- that would be fine.

Q Okay. And let me ask you, are you aware of any case law that limits the use of examinations for purposes -- or be -- what's ordered in the order, are you aware of any case that limits that limitation? In other words, when a lawyer is not notified about the use at sentencing, such as a future dangerousness context, are you aware of any cases regarding that that says if you weren't made aware -- that the defense was not made aware that there would be a future dangerousness issue, or any other type of issue, that wavier would go beyond -- the wavier of the consenting to the evaluation would go beyond just the use at sentencing or a competency context?

A That's a long question.

MR. WATERS: I think I have to ---

MR. BROWN: I'll rephrase it.

THE COURT: Actually Mr. Mauldin can answer.

THE WITNESS: Well, I'm not really -- I hate to ask you to rephrase the question.

BY MR. BROWN:

Q I don't mind at all.

A I got a little lost in the question.

Q I apologize.
A Sure.
Q Are you aware of case law regarding the use of State evaluations by the prosecution in capital cases?
A I attempt to try to stay aware of that type of case law, and I may or may not pass this test so ---
Q And that's about all I'm going to ask you. Is there law out there dealing with that?
A Yeah, and to the -- I know that the -- the reason qualified, if you will, Miranda rights or Miranda rights that are different from the standard Miranda rights that an officer would give an arrestee, that there is litigation, ongoing litigation regarding limitations on the use of mental health testimony, limitations at trial, limitations at sentencing, whether Miranda rights could be -- I mean, in fact, there is even issues about whether the giving of Miranda rights to a person expected not to be competent doesn't makes any sense. So I do know that there is legislation -- I mean, litigation going on. So I'm aware of that.
Q Okay. And I guess including -- to back up to one of those points, you didn't attend any of the evaluations to assist Mr. Wood to navigate this channel?
A No, I did not. I was not present during any evaluations by the State Hospital people.

Q Now -- and if one of these evaluations was conducted in October of 2001, would there be any scheduling issues, or case load issues that may have played into the failure to assist Mr. Wood to navigate?

A Yes.

Q Would you explain to the Court what those are?

A There were two capital cases pending, and unfortunately we made motions for continuances before both of the judges and couldn't get relief. One of the cases was scheduled for October of 2001, and that one obviously would be -- had the additional difficulty of being less than a month after the terrorist attach, so we had that issue flying. The -- that case was scheduled for October and was tried during October. This case was scheduled for February of 2002, like three -- three and a half months later, and it went off as scheduled as well. So we did have -- and that is ordinary. We just had literally an overbearing capital case load going on at the same time.

Q And so if the evaluation -- but the evaluation order here was not signed until September 21 ---

THE COURT: Is what you're getting to is why he didn't go with Mr. Wood to the evaluation?

MR. BROWN: I'm going to ask would ---

THE COURT: Why didn't you or one of your lawyers go

with him to the evaluation?

THE WITNESS: We ---

THE COURT: That's the question I'm asking you.

THE WITNESS: Yeah.

THE COURT: That's where I think he's going.

THE WITNESS: The reason, Your Honor, is not only was it very, very difficult to try to work out from a scheduling point of view, but based upon our phone conferences with Mr. Wood we did not go to the evaluation.

THE COURT: You made the conscious decision not to go, you and your two associates also?

THE WITNESS: We were aware that they were taking place.

THE COURT: Okay.

THE WITNESS: And ---

THE COURT: I've heard him. He did not go.

MR. BROWN: I understand. The only thing I wanted to follow up, could there have been overlap between the other trial?

THE COURT: I mean, was there actually language ---

THE WITNESS: He ---

THE COURT: If he should have gone -- this is a death penalty, Mr. Brown, he spent hours on this thing, and your point is why did he not go to the evaluation?

Is that where you're going?

MR. BROWN: Well, the point is -- the first point is this ---

THE COURT: Okay. You could have gone, you did not, you chose not to go. He'll tell you that.

MR. BROWN: Yes, sir.

THE COURT: Or else Bannister or somebody else could have gone. Richey could have gone.

MR. BROWN: The only thing I would say is ---

THE COURT: He had a trial date here at the same time. So it wasn't actually a choice, because he couldn't go. He couldn't neglect his duties -- trial duties to go to it. The only reason he wasn't going is he couldn't neglect his trial duties in Greenville. That's the reason he did not go to this evaluation.

MR. BROWN: If they were that overlapping, because I think the dates may ---

THE COURT: What about Bannister and Richey?

MR. BROWN: They haven't gotten on the stand yet.

THE COURT: Why not -- did they not go? You made a decision. Okay. That's the question?

THE WITNESS: And if I was looking beyond the order, I think the first evaluation -- the first full trial ended the last week of September. And then if I'm not mistaken went to Pickens during the month of October.

The trial in the other case began the first week of October.

BY MR. BROWN:

Q You did not go because of the trial in the other case?

A That certainly was a consideration from a scheduling point of view.

MR. BROWN: That was a consideration. Thank you. We'll now move to the Ground F. I'll be brief.

BY MR. BROWN:

Q If you could have objected ---

THE COURT: Okay. Go ahead.

BY MR. BROWN:

Q If you could have objected to Dr. Narayan's reply testimony which is the offering of the Department of Mental Health testimony during the sentencing phase, was there any reason that you didn't do -- there was a valid reason to object, or did you have a valid reason not to object?

A I don't know what the record reflects about whether we actually entered an objection or not.

Q Yes, sir.

A So I can't say that we did not.

Q Yes, sir.

A But if we didn't, I certainly wish we had. Does

that answer the question?

Q That answers my question.

A If it says it in there or doesn't say it, if we did not object then we should have.

Q Okay. And that would not just be to his testimony but to the use of the Department of Mental Health information?

A We would have been objecting to the entire process, or at least attempting to present an objection to the entire process, from going down there, to the Miranda issues, to the ultimate use of the issues beyond the scope of the order. And if we did not make those objections clear, then we have to take responsibility for the failure to do so.

MR. BROWN: Okay. The next ground we go to, Your Honor, would be ground F.

THE COURT: All right. We're going to take a morning break before we go into that ground.

MR. BROWN: Thank you.

THE COURT: All right.

(A short recess was taken, after which, the trial continued as follows:)

THE COURT: What the intent of the last discussion, Mr. Byrholdt requested a competency, Mr. Brown. The -- to have a competency evaluation in the Anderson case and

the solicitor joined the Greenville case. Mr. Mauldin, as I read the transcript, specifically objected under the Fifth and Sixth Amendment ground. He stated that several times to Judge Kittredge. Judge -- the defendant, Mr. Wood, requested pro se that he be evaluated and his counsel be relieved. Mr. Wood was present for the motion hearing. Mr. Mauldin continued to object, and Judge Kittredge sent him down for an evaluation anyway. Mr. Mauldin did not accompany him. He says one of the reasons may be he was doing something else. But I don't know. Is that what you're trying to establish and the reason for that was what we went through and also he did not object to it when they came in, and that he did not object to the documents in the penalty case, the testimony?

MR. WATERS: Oh, they did not. He objected.

MR. BROWN: We differ therein on the contemporaneous objection to the testimony, Your Honor.

THE COURT: Whatever the transcript ---

MR. BROWN: But that's correct.

THE COURT: Now, is that a correct statement of what you presented, Mr. Brown?

MR. BROWN: As a matter -- yes, sir.

THE COURT: Okay.

MR. BROWN: And what we go to next ---

THE COURT: Is that the purpose, was that you believed he ---

MR. BROWN: I apologize. We believe the ground that there was a failure to object to the -- to the South Carolina Department of Mental Health information coming in sentencing.

THE COURT: He says he objected to it. I don't know. We'll cross that bridge when we get there.

MR. BROWN: That's correct. And the reason why I make that -- that type of claim, Your Honor, is that that was not raised on the direct appeal.

MR. WATERS: Again, I guess they're submitting something for the new post trial brief or something, but the record itself reflects that they objected to it. All the testimony came in because they called the mental health experts during the penalty case, at which point the judge said -- I'm sure Mr. Mauldin can correct me, from my recollection of the record, the judge said, all right, Dr. Narayan and the stuff that he has found in his report, which was previously off limits to the State, now the State has a right to use that in rebuttal, which the State then called Dr. Narayan for rebuttal. He testified at that point to his diagnosis of anti-social personality disorder. I believe that's a correct statement.

MR. BROWN: And to clarify, I do agree with that.

There was an objection and the objection was at -- at trial was to giving the Department of Mental Health information to the prosecutor, but at that point in time they did not -- Mr. Mauldin just did an incredible job of -- I mean, I must say that he did a very admiral job of keeping all of this stuff out of their hands, but when they offered testimony from a defense psychiatric expert then there basically, if I can use the kind of time out, and there -- some of the records are then provided to the prosecutor and that was over an objection. But we do not believe there was an objection to the testimony coming in. I believe the objection was couched separately, that the objection was they shouldn't be provided the records. And that may be a distinction without a difference.

THE COURT: Okay. Go ahead.

MR. BROWN: But that's the premise. Yes, sir. Next we would move to ground F, which is a ground that alleges that trial counsel was ineffective in failing to prevent access to Mr. Wood by the South Carolina Department of Mental Health.

BY MR. BROWN:

Q And to get briefly on that, Mr. Mauldin, what is your understanding of a defendant -- a criminal defendant's ability to invoke his rights in the face of an order for an evaluation?

A Well, and you know, I guess it's -- I feel like I'm taking a law exam or something but ---

Q I apologize.

THE COURT: Let's get down to this case, Mr. Brown. The question is what he did or did not do in this particular case.

BY MR. BROWN:

Q And then I'll move right to that. At some point there was a request -- was there a request from Dr. Narayan -- I apologize. I've got to pull that. There was a request from Dr. Narayan to have access to Mr. Wood?

A Was there a request for him to see Mr. Wood?

Q That's correct.

A And that was after the evaluation?

Q But before trial.

A Right. I do recall they wanted to see him again, I think.

Q Okay. And do you recall how that was resolved?

A My recollection is that I said, no, I was just -- I just said, look, you know, just stay away from our client.

Q And did the Court honor that request, or did they overrule it?

A Well, I can't recall. I just remember I was -- at

every step and every level, and I remember we went to the State Hospital, and I'm thinking -- I'm thinking he evidently went a second time. I may be mistaken about that. But then sometime very, very close to trial, I know they went two or three weeks before trial, and they actually wanted to see him again. I just said, you know, I believe -- I recall saying no, leave Mr. Wood alone, we are not agreeing to it. And at that particular point -- like they approached us about having access. I said no. It was not like another order, it was not like Judge Kittredge issued a subsequent order. I said no.

Q Does it -- would -- does it sound familiar that maybe they wanted to see him again because they found out he was being treated?

A I can't recall. I'll be glad to look at anything you want to show me to try to refresh my memory, but I know that -- that -- that there was -- it was very close to trial.

THE COURT: Just ask him why he said no and let's move along, Mr. Wood (sic).

BY MR. BROWN:

Q I'm going to the next. Did you write those kinds of letters back at the first ---

A When it was Court ordered?

Q Yes, sir.

A No, I did not.

Q And did you -- was there a reason that you did not write a letter saying my client is invoking his rights? Because I put it in the context of, were you aware that when he went down there they would offer him his rights when he went for an evaluation, that he would say ---

THE COURT: He objected on the Fifth and Sixth Amendments as strongly as he could. So I mean, he had to be aware of that.

BY MR. BROWN:

Q And I'm -- I guess that's the same kind of objection that you were raising in a letter of February of '02 where you said, don't talk to my client?

A Well, I guess to the extent there is a slightly different context. If I could describe it, if I ended up being mistaken, please correct me, we had it in September and I believe a followup evaluation in October. There was actually a hearing where we entered an official objection, and we stated Fifth and Sixth Amendment, everything we would -- we could think of. The judge essentially for all intense and purposes overruled our objection to the extent that he issued an order and our client was taken to the State Hospital. So I did not enter another letter, or an occasional objection at that time, other than what I had said at the hearing,

objection to the issuance of the order in the first place. What then happened closer to trial, just like a mere days before trial, either somebody approached us or somebody requested that our client once again meet with the State Hospital doctors. And that was not, if I'm remembering correctly, wasn't as a result of a hearing or an order, just a request. And we refused that request. We just said, no, we are not going to participate in any more of that. So that's my chronological recollection. Now, I -- and the reason I -- the reason I did not write a letter refusing the first time was because we had actually had a hearing.

Q And there would be an order made?

A Right.

Q But let me ask you this, did you not write a letter to the DMH saying my client is invoking his Sixth Amendment right to counsel?

A I think I did in February.

Q In February?

A Right.

Q But did you do that to DMH earlier?

A No, I don't think I did that. I don't think I sent a letter in the earlier evaluation time that resulted from that hearing.

Q Okay. And I'm not trying to beat a dead horse, but

you were aware they would ask him his rights?
A I say I know that if they followed appropriate protocol they would -- when they sat down to talk to him, they would talk to him about what his rights were at that time. I certainly would have hoped they would have done that.
Q Having been his lawyer at that time, could you not have asserted his rights as his spokesman, or spokesperson?
A I certainly could have attempted to, yes.
Q Okay. And again, at least your recollection is that was not done?
A I did not do that, I don't believe, unless the record proves me wrong. I do not believe that I made an additional assertion of his rights directly to the State Hospital people.
Q Or to their general counsel?
A Right, to counsel, or to the solicitor, or anybody else.
MR. BROWN: And that was dealing with ground F, Your Honor.
THE COURT: Okay.
BY MR. BROWN:
Q Then we go to the issue of ground G, which is trial counsel's failure to expose an incorrect diagnosis. Now,

at trial Dr. Narayan testified he suffered from anti-social personality disorder. Do you recall that?

A I do recall that.

Q Okay. Do you recall actually cross-examining -- well, first, to be put in context. Dr. Schwartz-Watts, testified, first, I guess, an attempt to draw the attention out or to -- to impeach Dr. ---

THE COURT: You're summarizing. You got to ask him questions.

BY MR. BROWN:

Q You asked her about why she did not find the anti-social personality disorder, did you not?

A Did I?

Q Yes.

A First of all, I believe that I questioned her. Does the record reflect that I was the one who questioned her?

Q Yes, sir.

A All right. Realizing that there was a possibility over our objection that the State Hospital report could end up being testified to, realizing that when we had Dr. Schwartz-Watts on the stand I certainly would hope that I addressed issues of anti-social personality disorder with Dr. Schwartz-Watts on direct examination. If I did not I certainly should have, but I seem to recall that I did.

Q Now, one of the things that anti-social personality

disorder, whether a conduct disorder prior to a certain age is one of the issues?

A According to the doctors.

Q Yes, sir.

A According the doctors, in order to be diagnosed with anti-social personality disorder as an adult you have to demonstrate what they describe in their diagnosis, DSM, whatever, to, quote, for a conduct disorder as a young person.

Q Would you have wanted to clarify any ambiguity in statements that may have been used to find the anti-social personality disorder ambiguous, actually be in favor ---

A Anything we could have done to reduce the credibility of Dr. Narayan's testimony about anti-social personality disorder we certainly should have done.

Q If Dr. Narayan replied upon information that said Mr. Wood had legal charges for shoplifting as a child, but if you found out that the child shoplifting charges were actually at the age of 19 to 20, would you have liked to have brought that out in the court proceeding to show that it was not prior to the age of 15?

A If he testified to a specific act of misconduct that he equated to be a conduct disorder.

Q Yes, sir.

A And that he was actually incorrect in the accuracy of that then I certainly would have wanted the jury to know that, that was not necessarily the case, particularly if that would in fact from a medical expert's point of view mean a conduct disorder could not be supported. So that's my answer to that I guess.
Q Sure. Sure. And that applies to just one example, but if there is string of things that ---
A Any -- any example where it was legitimately -- could be legitimately identified as a basis for his diagnosis and, it also could be legitimately identified that he was incorrect, and if that incorrect position meant that the conduct disorder had not been established to a degree of medical certainty, I think is the type of language they use.
Q Yes, sir.
A Then I certainly would have wanted to bring that to the jury's attention.
Q Did -- and I'm going to move on past that. Do you -- I'm going to move to something else. Are you familiar with Connie Jantz?
A Yeah, the sister.
Q That's correct.
A She testified. I saw her testify.
Q And would you have -- would you think it's

beneficial to have her testimony to support the -- the contrary findings offered by Dr. Schwartz-Watts?

A I would certainly have liked to have had her testimony for that reason, if she could have aided us, but for any number of other reasons.

MR. BROWN: And on that note, Your Honor, if you do not mind I may go into whether -- that would be ground H, which is the failure to present mitigation information.

THE COURT: He said he would have liked to have her testimony.

MR. BROWN: Yes, sir, I can go into that. There was -- it would be items B, that had been proffered which is an application for rental agreement, et cetera.

THE COURT: What point are you going to, Mr. Brown?

MR. BROWN: I'm going to whether he's familiar with those items.

THE COURT: What items?

MR. BROWN: Whether he had been in possession of his file or not.

THE COURT: What are they?

MR. BROWN: It's an application.

THE COURT: Just tell me.

MR. BROWN: It's an application for the rental agreement.

THE COURT: Okay. The application for rental with

the driver's license attached?

MR. BROWN: Yes, sir.

BY MR. BROWN:

Q Are you familiar with that?

A Could I look at them?

Q Yes, sir.

A I say item B, it's two ---

MR. BROWN: I apologize.

THE COURT: Okay.

THE WITNESS: I can't say that I'm personally familiar with this.

BY MR. BROWN:

Q At some point would you have an opportunity to review the file to see if you have that information in there? I guess I'm asking whether that is contained in your file or not?

A I cannot say whether it is or not. I would say that if it was gotten out of my file in preparation for this hearing I would acknowledge that that very well could have been in my file. So I'm not denying that.

Q And let me ask you, did you at some point -- were you an attorney or one of the attorneys for the Anderson County charges?

A I was.

Q So if it's contained in the Anderson County

discovery, would you have had the Anderson County discovery?

A Well, I made an effort to get the Anderson County discovery. I know I've got -- some of the materials in our file that came from Anderson County, but I cannot make any representation that he gave us everything that he should have or would have had we continued to represent him here. Now Mr. Byrholdt ended up with that case so ---

Q Yes, sir.

A --- I don't know what was in his file.

Q Well, I understand that. But did you ever get the Anderson discovery?

A I got quite a bit of the Anderson County information.

Q Okay. And are you familiar with a federal presentence report that was generated by a federal probation officer, Brian Bowen?

A I'm familiar with the fact that we got that, got material that was described as that. If you ask me questions about what was in that, I'm going to have go into the file and look.

MR. BROWN: Your Honor, if you don't mind, it's my recollection he actually has part of the file that has been broken down, so I don't believe it would take long

to pull all that file.

THE COURT: Do you want him to offer it?

MR. WATERS: I wouldn't know, because I haven't been allowed to see the file and be able to see if he did not know.

THE COURT: Well, we're spending hours on things that could be stipulated to. Okay. He -- I don't know. He hadn't seen it. I mean, that's either in his file, the mitigation expert or somebody has it, Mr. Brown. I know that. I know that everybody knows that.

MR. BROWN: Okay.

THE COURT: And the question is could they have used that to locate that woman. That's what where you're going?

MR. BROWN: Oh, there's no question that could already have been stipulated to that information.

THE COURT: It's not stipulated to, but I mean he had to be able to see the file. So I don't know. That's not my job. All right. Mr. Mauldin is going to have look for it.

MR. BROWN: That's fine. Now, if ---

THE COURT: You look at everything else you ask him about.

BY MR. BROWN:

Q If that material was contained either in the

Anderson discovery, the Greenville discovery, or reference to Connie Jantz' address is contained in Brian -- or the town of Harpers Ferry, Virginia is contained in Brian Bowen's presentence report, do you believe you could have used it to help locate her?

A Yes.

Q Okay. And she obviously testified that she lived there at the Harpers Ferry address after -- or did you hear her testimony that she lived there after his arrest?

A I did.

Q Okay. Are you aware of any efforts to reach her?

A Yes.

Q And do you know, are there any reasons why you did not put Ms. Jantz on the stand, or call her?

A The -- let me -- I personally did not make an effort. But there were people that were working with me in preparation of the case that were making an effort and reporting to me. So within that context the reports given to me were, was that letters to the address in Harpers Ferry were not being responded to and the telephone numbers had been disconnected. So -- and we had, as you see, an address in Townville, but -- Townville, South Carolina, because it was actually Harpers Ferry, Virginia, that was the post office box address. And so I'm saying that I did not actually write

the letters. I did not actually dial the phone. But what was reported to me was that the phone was disconnected and the letters were going unresponded.

Q Do you know who gave you that information?

A The -- that information came from -- to me -- well, once again through a person who was working with me on the case that the sister Betsy Martinez was making ongoing efforts to contact the sister in West Virginia, and those efforts were unsuccessful.

Q Let me ask you, you let some of your -- a person on your team trying to locate Ms. Jantz through a convicted felon?

A Betsy Martinez was the sister of the defendant.

Q Who was a convicted felon?

A Well, I have to take them as I find them. The -- what happened historically when the incident occurred Mr. Wood was taken into custody, Betsy Martinez, who lived I think in Anderson County, immediately came to our office wanting to help in any way she could for her brother. She certainly was not -- she didn't have the greatest record, criminal record or anything, but I certainly wasn't going to turn away a family member's help in locating another family member. So I can tell you that I didn't personally make a direct effort to reach Ms. Jantz, but that we were making efforts to reach her and

those efforts were unsuccessful.

Q Okay. And again to clarify, are you aware of any efforts to reach her that were not made through Ms. Martinez?

A I was giving my instruction to Paige Tarr who was the mitigation investigator to make whatever efforts she could to identify, locate any -- any mitigation witness. And I'm going to have to go to some extent out on a limb and say I'm assuming that this sister was one of those people. In other words, I would hope that Paige was also trying to find Ms. Jantz, but I know that Betsy Martinez, the sister, was actually trying to find her because we got reports back about her ability.

Q Now, to put it in the context of Ms. Jantz' testimony, do you think that direct contact from the defense team would have been more fruitful than Ms. Martinez, given -- given the testimony that Ms. Jantz tried to get away from the bad influence of Ms. Martinez?

MR. WATERS: Your Honor, I object.

THE COURT: I sustain the objection.

BY MR. BROWN:

Q Would direct contact be more fruitful than indirect contact efforts to make indirect contact?

A I did not make a direct effort to make a direct

contact, so I'm really not sure direct contact would have been fruitful or not. It may very well have been if I had written this woman a direct letter with my signature, she may have contacted me, but that would be to some extent speculative on my part. I would have to ask her -- I mean, I heard her testify.

Q Did she express concern about having contact with Ms. Martinez?

MR. WATERS: Your Honor, I object. He's asking him to ---

THE COURT: I sustain the objection. He cannot comment on somebody else's testimony.

BY MR. BROWN:

Q Did you receive any proof that letters being sent to Ms. Jantz were being returned?

A No, if I'm recalling correctly, all right. I do not remember whether Ms. Martinez said the letters were returned or whether they just simply were not being responded to. There is a difference. And I cannot under oath testify that they were actually being returned to sender. I just know that she was telling us that they could not get in touch with her sister and her letters were not being responded to. I can't say more than that.

Q From Ms. Martinez to you or Ms. Tarr?

A I think I believe that that particular piece of

information came from Ms. Martinez to the mitigation investigator, to the file, and to me.

Q Do you have those records in your file?

A You know, I certainly could find them if I was directed by the Court to do so. I'll try to look and see where those materialized. I would if I was asked to. But it was not that Ms. Martinez did not tell John Mauldin that, she told the person who was working for me on the case who then in turn told me. Now, whether or not it ended up in a written form, you know, I certainly -- I think it did, but I'm not real sure whether it did or not.

Q And to kind of just clarify some of the things, did you some have subpoena power that would, even in a criminal case, go out of state?

A I could have mailed a subpoena to the post office box in Harpers Ferry.

Q Once you located her, could you have sent a subpoena through interstate compact for a criminal case?

A I could have attempted to subpoena her but I did not.

Q Okay. That would have been able to at least bring her in to talk to her, or at least attempt to talk to her?

A Yes, that could have led to a face to face

conversation with her.

Q Okay. Beg the Court's indulgence. Now, one thing, Mr. Wood had a child born through the marriage of him and Ms. McCall, and some of that information came out at trial. Do you recall any of that?

A I recall a child being born during the pendency of the case.

Q Yes, sir.

A And I do recall some references to John's child during the trial.

Q Okay. And let me ask you to turn -- I apologize. I can -- beg the Court's indulgence why I try to get to this point. And if I could ask you to look at page -- two different pages, 1468, and one is 2192. If you will take a look on 1468. You recall cross-examining Ms. McCall and you asked her briefly, lines 12 through 13, 14, about the baby?

A Yes, sir.

Q And does it come out that this is his child?

A Yes.

Q Okay. And then if you will look at page 2192, take a look at what the prosecutor said in his argument in closing. Do you recall that argument being made?

MR. WATERS: Your Honor, I'm -- I have a relevance objection to this. I don't believe there has been any

issue plead about the solicitor -- or failure to object to the officer -- I'm sorry, I withdraw the objection. That is plead. My bad.

BY MR. BROWN:

Q If you'll just take a look. It's lines 15 through 16. Do you recall the prosecutor saying, he will see his baby every weekend and the baby will sit in his lap?

A Yes.

Q Do you recall making any argument that a child of a certain age is not allowed in the Department of Corrections?

A I do not recall making that statement or representation.

Q Do you recall making any argument about the impact of Mr. Wood's execution would have upon his child?

A I do not recall making that argument that the execution of the father would have a negative impact on the surviving child.

Q Is there a reason why you didn't make that argument?

A No.

MR. WATERS: Your Honor, I do object to the relevance on this. I thought he was going to the failure to object to the solicitor's argument, but there's not an issue plead that Mr. Mauldin failed to argue about the baby or anything of that nature. I think that for that

reason the testimony is irrelevant.

MR. BROWN: I still have it under ground H, Your Honor, which is mitigation. Now, I'll concede that this -- it is an open question about cross-jurisdiction, whether third party impact evidence is admissible in a penalty phase, a sentencing proceeding.

MR. WATERS: Oh, ground H. The only one plead was Connie Jantz. I didn't recall anything else about it. He dealt with this yesterday when Dr. Schwartz-Watts was here. I didn't recall any other issues plead other than -- other than ---

MR. BROWN: Your Honor, what the issue plead is trial counsel failed to give mitigation information.

MR. WATERS: I'm sorry, go ahead.

MR. BROWN: So that's the claim that we've plead. This evidentiary hearing as more evidence comes out -- I mean, what we're here to do is develop evidence.

MR. WATERS: I'll object to any attempt to amend the application at this time for an additional ground, if the issue prayed is that there was no pleas of mercy made.

MR. BROWN: There is not an additional ground, and in fact to pull up the second amended application ---

THE COURT: Okay. No pleas of mercy were made, is that right?

MR. WATERS: That's right. As he had that in that

application that went, Connie Jantz obviously didn't make a plea of mercy. We're starting to talk about Mr. Mauldin should have made a closing argument, a particular closing argument. He did of course make a very eloquent closing argument that plead for mercy. He talked about it, about the baby and the issue that's been plead. For that reason I certainly think his testimony in questioning is irrelevant.

MR. BROWN: And, Your Honor, my understanding of -- maybe I've got this wrong, but my understanding is the purpose of this hearing, just like any other trial, which is to present and develop evidence, and we have plead evidence he got between the -- the ---

THE COURT: Relevant evidence.

MR. BROWN: Yes, sir.

THE COURT: Not just any evidence.

MR. BROWN: Oh, there is no question we believe this is relevant to mitigation. This is my getting that his execution would impact just disproportionately a young child.

MR. WATERS: It's my position that that has to be relevant to the grounds that have been plead and the State's been put on notice of. Just to come to the hearing and start raising new stuff as a way to conform the proof, that cannot be done. And I would assert we

would object to it.

MR. BROWN: All we're saying is this is relevant -- well, at this point in ground H.

THE COURT: What is your question of Mr. Mauldin now?

MR. BROWN: Well, he already answered it, whether he argued that the execution would impact his young child.

THE COURT: Oh, he did. Okay. Okay. Go ahead.

MR. BROWN: Thank you, Your Honor.

THE COURT: Next question.

MR. BROWN: Yes, sir.

BY MR. BROWN:

Q And did you make an argument that Mr. Wood had the capacity to have any emotional values to his child even after incarceration if he was given a life sentence?

MR. WATERS: And I'm trying to find the original application before you rule again, because that's the kind of thing I'm objecting to.

MR. BROWN: Well, that's in there. It's capacity to be of emotional value to others in the amended application.

THE COURT: Okay. Did you argue that?

THE WITNESS: I don't recall arguing that particular context.

BY MR. BROWN:

Q Do you think that was a valuable argument to make?
A I do.
Q To show characteristics of the defendant which is worthy of giving a life sentence or a sentence less than death?
A Well, I think that's critical, the characteristics of the defendant. What he's going to end up getting one sentence or the other I believe is what the jury should be deciding. If I did not argue that I certainly should have. But as described in your question just a moment ago ---
Q Yes, sir.
A --- I don't recall arguing in that context that you have described.
Q Is there any strategic reason you chose not to either argue that execution would impact his child, or that he had the capacity to have an emotional value to others?
A I did not make -- is your question that I thought about it and decided not to say it?
Q That's correct.
A Not to -- no, I didn't think about it and decided not to say it. I just made the argument that's in the record and ---
Q Yes, sir.

A If that's not in there it's not because I thought about it and decided it wasn't worthy of comment. I think it was a very good point.
Q Thank you.
A But I apparently did not argue that in this case.
Q Yes, sir. Okay. And do you recall having any school records?
A Do I recall whether we had school records?
Q Yes, sir.
A I recall that in ---
MR. WATERS: Your Honor, I apologize. Again, I make a relevance objection. There is no ground plead that counsel failed to get and present school records.
MR. BROWN: Mitigating information. And Your Honor, I don't know how else I can plead it. I mean, my understanding ---
THE COURT: All right. Did you have school records?
THE WITNESS: I don't recall looking at school records.
THE COURT: Okay.
BY MR. BROWN:
Q Thank you.
A I know that we would have been attempting to get them. That's what Paige Tarr was hired to try to do, or part of her responsibilities would have been that. But I

do not recall having actually received school records.
Q If you had those and they would have been introduced in evidence, would they have been of some mitigating value to you then?
A I don't know they would have actually been -- ended up being introduced as an exhibit.
Q Yes, sir. But they would have gone to people like Donna Schwartz-Watts and others who were testifying regarding their expert opinion based upon records provided to them?
A Okay. Right.
Q Sure. All right. And that's something you would try to get as much of that information as you could?
A Absolutely.
MR. BROWN: Okay. We now move to ground I.
THE COURT: Okay.
MR. BROWN: This is plead as trial counsel's failure to object to the closing arguments.
THE COURT: Okay.
BY MR. BROWN:
Q And I apologize, while I shift over here. Okay. Now, we talked about earlier that there was a guilty phase argument about Mr. Wood not having the requisite intent to be found guilty of murder?
A Yes, sir.

Q Okay. And that's okay. Generally do you recall us speaking (sic)?
A We were certainly hopeful that that would be considered by the jury, yes, sir.
Q Okay. And if we can turn to page 1737 of the transcript and look at the last two lines. It's the last sentence, actually 24 and 25.
A Is this an -- is this closing argument in the guilt phase?
Q Yes, sir.
A All right. Let me look at that for just one moment.
Q Yes, sir. And Your Honor, if I may have a seat while he's looking at it.
MR. WATERS: And keeping it in context, I would request that he look at the next page too of the transcript.
THE COURT: Okay. He needs the next page.
THE WITNESS: All right.
MR. WATERS: Volume four.
THE COURT: All right.
BY MR. BROWN:
Q And I know a lot of times it's frowned upon to be making objections during other counsel's argument, but would you agree that a contemporaneous objection is required to preserve error?

A Yes.
Q Okay. Did you make a strategic decision not to object to that statement on burden shifting grounds?
A I did not. If I did not make a strategic decision not to object, I did not do that.
MR. BROWN: Your Honor, that's all I've got on this ground, but this is part of it.
THE COURT: Okay.
BY MR. BROWN:
Q And then the next thing I want you to look at is page 2191, I apologize, it's line 18.
A What line?
Q Line 18.
THE COURT: This is closing argument in the sentencing phase?
MR. BROWN: That's exactly right. It has -- well, that's correct, penalty phase.
BY MR. BROWN:
Q I just ask you, did you make any strategic decision not to object on that argument on the ground it's not one ground -- it's not supported by evidence in the record, I hate to use this phrase, cop killer, king in prison?
A Yeah, I did not make a strategic decision not to object to that.
Q Or any other ground that it could be improper?

A No, I did not object to it. And failure to object was not based on any strategic decision on my part.
Q And including a possibility that it demonstrates a condition of confinement?
A Including that.
Q Okay. I apologize, Your Honor. We are getting to the last two grounds here. And before we get to the ground J, I do want to ask you to take a look at, it's going to be 2191, 2192. I apologize. I'm handing you the same pages you already have. And if you would look at 2191 to 2192, starting, going to prison. Do you see that part? The bottom of 2192, line 25, and proceeds all the way to line 14 on 2192?
A Are you starting at the ---
Q Yes, sir, line 25.
A Next to the bottom, line 21?
Q Line 25 on 2191.
A All right.
Q Going to prison is like being in a big city?
A Yes, sir. All right. I see that.
Q It goes on, in a big city -- in a little city. You've got a restaurant.
A Right.
Q A canteen. It goes on, all the way down to line 14, you may not have a car to drive around, they may limit

your travel, but based on what John Richard Wood was doing, prison is just a change of address for him?

A Right.

Q It goes through, in between it talks about fields to work out in, contact visits with your family, TV, play cards and games, social structure.

MR. WATERS: Your Honor, is there a question? I'll object to the form of the question.

MR. BROWN: There is a question. I apologize, Your Honor.

BY MR. BROWN:

Q As far as failure to object to the closing arguments, did you fail to object to this information for any strategic reason?

A No.

Q Okay. Do you think an objection to the fact that it injects an arbitrary factor into sentencing might have been proper?

A I think that clearly would have been.

MR. BROWN: And to that fact, that, Your Honor, would also then go to my ground J, which is that he failed to object to an arbitrary factor.

THE COURT: Okay.

MR. BROWN: Directly, and while this is closing argument, is there -- I have to reference the Court, I

did not copy these 40 pages, but relying on the matter, the 1878 through 1918 is the testimony of Jimmy Sligh.

THE COURT: Okay.

BY MR. BROWN:

Q Do you recall Mr. Sligh being called in this case, Mr. Mauldin?

A Yes, I do.

Q And do you recall that he was -- do you recall him testifying prior to Jim Aiken?

A Yes.

Q And do you recall what was going through your mind at the time the State called Mr. Sligh?

A I do.

Q And can you tell the Court what that was?

A The -- the situation was this. We had Mr. Aiken contracted on our case to offer testimony about Mr. Wood's prison adaptability. We believed then and we still believe that prison adaptability, as it relates to an individual defendant, is admissible. The Court since John Wood's case was tried -- has put some limits on that about how broad that testimony can be. But my impression now, as it was then, that testimony that related to an individual's prison adaptability was admissible. I think it still is. We had Mr. Aiken available to testify in our presentation for mitigation. And if I recall

correctly he did testify. When Mr. Sligh was called during the State's presentation, this was prior to our mitigation, I did not know who Mr. Sligh was. I did not know that he was a Department of Corrections employee. We did not have an exchange of witness list or anything like that in this case. So when he came in the courtroom I did not know who he was. When he began to testify he identified himself as a Department of Corrections employee. He began to describe his experiences in the Department of Corrections. And I did not enter an objection because I was under the impression that this testimony was going to relate to whether or not John Wood individually would constitute a future danger, but it was a prison adaptability within the Department of Corrections setup. Looking back, if I knew that that was what the testimony was going to be, I probably would not object even now knowing what I know now, because with my witness to come in after him I would want to have the second bite at the apple so to speak. But all that really turned out to be different from what Mr. Sligh intended to testify to. And we did not realize that Mr. Sligh was there for the purpose he turned out to be.

Q Were you aware of what the relevancy limitations are in capital sentencing?

A Well ---

Q Again, not a law school question but I know it sounds like that.

A No, I certainly try to do the best I can at identifying whether or not something is or isn't relevant. The Court has pretty well clearly indicated that Mr. Sligh's testimony was inadmissible in another case where similar testimony was presented. Our Supreme Court said it is inadmissible. That case was decided after John Wood's trial. I did not have the benefit of that wisdom. But on the other hand, it certainly makes sense that this wouldn't be relevant, and I didn't object to it.

Q Does it mean -- but it didn't relate to either the circumstances of the crime or the characteristics of the defendant?

A If I understand the context, and you know, again, had Mr. Sligh testified as an expert in classification or so forth, that John Wood would not adapt to prison for the following individualized reasons, then I believe his testimony would likely be admissible on that basis. The testimony from Mr. Sligh doesn't relate to Mr. Wood at all. It was simply a description of life in prison if you have a life sentence. And so I again, definitely regret that I did not enter an objection. And if I had objected and that testimony had then been ---

Q I apologize.
A No, I apologize. I said that I regretted not having objected. But if I had objected the subsequent case law states that objection if overruled would have reversed the case. I mean, it would be error.
Q If it would have been granted it would be limited to the argument that was made by the prosecutor in closing?
A If that objection had been sustained, then this stuff that Mr. Ariail argues about how it would be nothing more than a change of address, that you showed me a moment ago, would never habe been able to be made, but it wouldn't be in the record. So I'll tell you that I have -- in reading the case law I'm absolutely convinced that I should have entered that objection and that objection would have been sustained, or if it had been overruled it would have ended up being reversed. Based -- I can't remember, but there's two or three cases in there that talk about prison adaptability and the limits placed on testimony. And in fact, those cases, if I'm not mistaken involve Mr. Sligh and Mr. Aiken. They are actually the witnesses being analyzed in those case decisions.

MR. BROWN: And Your Honor, at this time I don't not necessarily have any more questions for this witness, but I would like to pass up the copy of Barkhart

(phonetically) case, the statute cited in the Barkhart case, and Jimmy Sligh's testimony from the Barkhart case.

THE COURT: You don't have to put them in. I've read the case.

MR. BROWN: All right. Then I'll at least ---

THE COURT: I'll take judicial notice of the case law.

MR. BROWN: That's fine. I do have the testimony.

THE COURT: We'll break for lunch until two o'clock. You can come down. At two o'clock we'll start back.

MR. BROWN: Yes, sir, thank you.

(A short recess was taken, after which, the trial. continued as follows:)

THE COURT: All right. Mr. Waters.

MR. BROWN: Good afternoon, Your Honor. May it please the Court? We were ending with the best of my recollection a hard issue. And the only thing I had asked was to be able to provide the Court with a copy of the testimony of Mr. Sligh, and the Barkhart case. I don't believe that's available off the internet, just to show how close in comparison -- obviously the Barkhart opinion summarizes it, and I just thought it would make -- eliminate that issue a little bit. And again I copied -- I started with where there was an

objection raised under State v. Plat by the attorneys for Mr. Barkhart and it just runs through Mr. Sligh's testimony.

MR. WATERS: Your Honor, I don't believe it's necessary to have the transcript from another trial. We have case law which you can take -- take judicial notice of, and I think that's enough for analysis. So I would object.

THE COURT: I sustain the objection.

MR. BROWN: Again, we would offer that for your assistance, Your Honor. Thank you.

BY MR. BROWN:

Q If I could just briefly, I think we already talked about the fact that you did not raise an objection to Mr. Mauldin ---

A To Mr. Sligh's testimony? I did not object to the offer of testimony, nor did I object to the closing argument of the solicitor regarding the conditions of life in prison.

Q Okay. And that's stuff you did not do as a strategic choice?

A No, I did not take into account a strategic reason for failing to object. As I described prior to lunch, I miss-made an assumption when Mr. Sligh was -- once I figured out he was an SCDC employee, I made an assumption

about what he would ultimately be asked, and that would relate to prison adaptability of Mr. Wood individually. That turned out to be clearly not the reason why he was called, and the reason was pretty devastating to our case I thought.

MR. BROWN: Beg the Court's indulgence. Your Honor, we have no further questions of Mr. Mauldin. I would ask, as much as this can be tested, the issue as far as his access to Ms. Jantz' address, or whether he had access to the address in his file. This is something we talked about. Or Brian Bowen's pre-sentence report which references Connie Jantz.

THE COURT: You need to see if you can find that -- those documents with regard to the disconnected number and the attempt to reach her.

THE WITNESS: Yep. Yes, sir.

THE COURT: The driver's license or that rental agreement with the driver's license.

THE WITNESS: Yes, sir. I'll try to do that, Your Honor.

THE COURT: Okay.

MR. BROWN: And otherwise I rest. We rest -- excuse me. We are through with his questioning, but we would just like to be able to present that. Thank you.

THE COURT: Mr. Waters.

MR. WATERS: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WATERS:

Q Mr. Mauldin, how are you doing today?

A Good.

Q I know Judge Patterson obviously is very familiar, but just very, very briefly for the record could you just tell me how long you've been doing criminal defense work?

A I finished Emery Law School in '73. Was in the Army for a while. I was admitted in 1974. Was assistant public defender in Greenville for a couple of years. Went into private practice. And I along with others formed a law firm, a small law firm, until 1992. During that time I was handling both retained and was appointed to criminal cases including capital cases. I took on the position of the chief public defender in 1992, and have been in that position since. And my responsibilities do include representation in capital cases.

Q Okay. So roughly how long have you been involved in the representation of capital cases?

A I've actually got the test, if you will, back in the mid 70s as a third chair on a police officer killing in Greenville.

Q That was the Wakefield case?

A Wakefield, Charles Wakefield. That case ultimately

was remanded for resentencing to life. And since then I have had various cases along the way. So it's been quite a long time.

Q Okay. Thank you. Now, you were appointed pretty much right away to this, correct?

A Yes.

Q And how is it Jim Bannister come about to be on the case? Was he appointed after the death notice?

A Yes, sir.

Q Okay. And why did Mr. Richey get involved in the case?

A Mr. Bannister, and Your Honor, there is certain personal information so I won't be real specific, because there was ---

Q Very, very general.

A There was a family health issue, and we approached Judge Kittredge about that. And my suggestion was that we have a third counsel appointed almost as standby in the event Mr. Bannister found out he was not going to be able to perform because of that personal reason.

Q Okay. Now, your role of course though is lead counsel, correct?

A Yes, sir.

Q And I think there has been some testimony that you were primarily responsible for the sentencing phase, Mr.

Bannister was primarily responsible for the guilt phase?
A The use of primarily is the key there. There was not a clear division of labor. But most of Jim's focus was on issues that did relate to guilt evidence. Most of my focus was related to the sentencing evidence. But there certainly was a lot of cross over.
Q As lead counsel though, you remained involved in every decision of co-counsel?
A Yes, sir, I would have been the one who would have divided the labor anyway, so ---
Q And were you the final word, I guess, in any decisions, is that fair to say?
A Yes.
Q All right. Thanks. Just a few more general questions. Can you describe for us your defense team and what those individuals did?
A I would say that the defense team, if you will, was, I was lead counsel. Mr. Bannister was initially appointed second chair. For the reasons I have described, Mr. Richey was assigned to work with us.
Q Let's talk about Paige.
A Paige Tarr was retained by us to do the mitigation investigation involved in the case.
Q Um-hm. Would that be her responsibility?
A She would not have been a person who was being

prepared to testify as a witness.
Q Right. She was experienced in that kind of work?
A She was.
Q Experienced in mitigation investigation for a capital case?
A She had worked with me on previous capital cases.
Q Okay. And how about Robert Joseph?
A Who?
Q Robert Joseph? I might have wrote it down wrong.
A Robert Joseph. Bob Joseph was a fellow who has a private investigation operation in Greenville County. And he was the private investigator we hired. He would have been investigating primarily the guilt phase evidence. And so that was what his primary responsibility would have been.
Q Did he also assist in the sentencing phase, rounding up witnesses, things of that nature?
A I think that he certainly would have been subject to have been asked to do that. I can't say now a number of years later whether he actually was asked to do that in this case or not. But he would be on the team that -- where he -- we could have used that service if we needed to.
Q Okay. Then what about Jeff Youngman, who was he?
A Jeff Youngman, if I'm not mistaken, in this

particular case was a witness. He would have testified regarding the presentation of come -- bi-social assessment.

Q Bi-social assessment?

A That's essentially a social worker, and he's providing information about the history of the person charged. He gives a presentation to the jury describing his family, his education background, criminal history, anything like that.

Q He would have to take the information provided by the mitigation investigator and analyze that?

A That's a good description of the role, yeah.

Q Okay. Now, how about Jeff Plume (phonetically)?

A And I'm going to have make an assumption that Jeff would perhaps have assisted us in jury selection. He did not help us in the trial of the case, I know that. And he certainly wasn't a witness. And we normally would have wanted someone like Jeff to have assisted us in the selection of the jury. So I'm thinking back that Jeff did play that role in this case, a jury consultant, or assistant, or another person involved in the evaluation of the jurors.

Q And he's an attorney experienced in capital cases to your knowledge?

A Right.

Q Now, obviously you had Donna Schwartz-Watts who we've heard from, and testimony from Jim Aiken?
A Yep.
Q Okay. And Jim Aiken is an expert on prison adaptability, correct?
A That was the intention to present him for that purpose.
Q Okay. All right. He -- you have used him before, is that correct?
A I'm pretty sure I had used Jim a time or two before this case. This case was in 2002, so I believe I had used him before this.
Q All right.
A I was comfortable with Jim Aiken as the prison adaptability witness.
Q Did you employe a neurologist?
A If my recollection is correct, because -- we did, but that person would not necessarily have testified. The purpose of a neurologist would have been to take a neurological testing and film to make a determination about whether there was any other genetic issues neurologically with John Wood. Obviously it was important in this case because Mr. Wood had a bullet in his head, so we wanted to make a determination, or have a neurologist evaluate him, examine him, do an MRI, and a

CAT scan, and so forth to make a determination of whether there was something he could present to the jury that -- that would have been productive in our request that he be sentenced to life in prison.

Q Okay. Let's go ahead and move on to some specific allegations. The first allegation is ground A, is the allegation with regard to Karen McCall, impeaching Karen McCall. You considered a little bit whether or not you could have called police officers to the stand to -- during the defense case to attempt to impeach Ms. McCall's description of the manner in which the gun fight in Anderson occurred. I want to ask you if strategically you ever considered calling law enforcement officers in the defense case for that purpose in this particular case?

A Well, I think -- I don't -- it's dangerous, so I'll answer it this way. Our defense was not to necessarily trash Karen McCall unless she had gotten on the witness stand and formulated some story that was completely inconsistent with her written statement, or we had evidence that she was just blatantly lying to the jury, then I suspect we would have responded with impeachment for those purposes.

Q Right. Did that come to be?

A That we did not -- was not -- it did not rise to

that level. It was, you know, she gave -- indicated, I guess you could best describe it, some of the details, but the fact of the matter is that was not -- we did not believe that that would be a beneficial approach to -- to defending John Wood in what happened out off Woodruff Road.

Q Right. Is it fair to say that you treated her with kid gloves, for lack of a better way to phrase it? You were happy to have elicited from her Mr. Wood's irrational fear of police and his otherwise good behavior during the guilt phase?

A Again, I would take some issue with your terminology. I don't think that there was an issue of kid gloves, of gloves. We were not afraid and therefore supersensitive about how to handle her. We had interviewed her. We knew what we thought we were going to hear. We had evidence about what she had given in terms of information to the police. So I won't say that we handled her with kid gloves. We handled her carefully. And we felt like there were good points that we could elicit from her, if my recollection is correct. I haven't read her testimony before today -- tonight, but I recall at the conclusion of the cross-examination being relatively satisfied of what our goals were in terms of her as a witness.

Q Okay. Let's move on to ground B. And this ground, to sort of refresh your recollection, is failure to present sufficient evidence for the voluntary manslaughter instruction. And I guess you were asked a little bit about testimony -- or let me do this first. Your Honor, may I approach the witness?

THE COURT: Yes.

BY MR. WATERS:

Q Now, you were shown a supplemental report of the Greenville County Sheriff's Office. And in it it referred to Richard as being -- Carol Martin, and ---

A I don't think this is it.

Q That's the wrong report? This is -- here it is. This would be plaintiff's exhibit number 5. And do you recall whether or not at trial that testimony was actually elicited from a Richard Beveridge who described the stop as an aggressive stop?

A I do not recall that. I'll be glad to look and see if it's ---

Q If it's in the transcript then that would be consistent with what y'all were trying to do, get a voluntary manslaughter presentation, correct?

A If he had said that from the witness stand?

Q Right.

A Yes, that would be consistent with what he gave to

the police, and would be consistent to our subsequent claim that -- that raised his -- the level of support for a voluntary manslaughter instruction.

Q And similarly, if Carol Martin had testified that she described that the trooper was cutting Mr. Wood off, if that was elicited at trial, then that on cross-examination by the defense would be consistent with your attempt to -- your pursuing voluntary manslaughter, for lack of a better way to put it?

A Just to make sure I understand your question. You're saying if that is what is reflected in the record?

Q Correct.

A Yes, then that's right. It would be consistent with our attempt to get a voluntary manslaughter instruction.

Q All right. You were asked if your defense was a I didn't do it defense. And that's not quite correct, is it? Y'all never asserted Mr. Wood did not do the crime, correct, did not do the actual act?

A Let me -- it may be a fine distinction, but let me make sure I'm -- if what you're saying -- are you asking me did we attempt to show that John Wood was not involved in this incident, was not the person on the moped, for example?

Q Correct.

A We were going to make sure that the prosecution

proved he was the guy on the moped, but we were not dependent on their inability to do that. We were perfectly satisfied that they were going to present evidence that he was the person who was out there at the scene where Officer Nicholson ---

Q Certainly. I understand you're judging the case as to what was likely going to happen.

A Right. So to that extent -- I don't think it's fair to characterize our defense as he didn't do it. I mean, that really isn't a proper characterization of our defense. He did not do it is a factual presentation that would be inconsistent with our case.

Q All right. Now, as I -- you testified that pursuing voluntary manslaughter as a defense, for lack of a better way to put it, had two benefits. Number one, there was a chance that perhaps you could be successful. And then number two, in sentencing just that the concept of residual doubt would perhaps be beneficial in achieving a life sentence, is that correct?

A I think that's fair to say.

Q Okay. Now, you were asked a little bit -- let me go here. Did Mr. Wood ever concede guilt to you?

A Are you ---

Q Let's me rephrase. Did you ever discuss with Mr. Wood conceding guilt to this crime?

A I'm not really -- if I could ask for a point of clarification.

Q Sure.

A I'm trying to determine whether statements made by Mr. Wood to me are somehow protected. I'm not really sure exactly how to answer the question. I'll be glad to follow the Court's direction.

MR. BROWN: Well, Your Honor, the point is there is an allegation that counsel was ineffective for not conceding guilt. It seems there would obviously be some communications with the client before it would ever -- you know, is fair game for me on the allegations put in issue.

MR. WATERS: Our only response, Your Honor, would be that the idea about conceding guilt be based upon the evidence that the State had proof.

MR. BROWN: That's exactly what the issue was in the Florida versus Maxine case, although it's of course a question in that case whether the United States Supreme Court -- in that case counsel conceded guilt without asking their client. And they filed -- a PCR was filed on that. And long story short, the United States Supreme Court said that's okay. So counsel can concede guilt without the permission of their client. So I don't think that question is relevant. I mean, the question is

whether the decision to concede guilt was based upon a review of evidence. That may be something he could ask. I'm not trying to try his case for him, but look at this Maxine case I mentioned. I don't providing a cite for it. I did not bring it up. Again it's not --

MR. WATERS: Your Honor -- I'm sorry.

THE COURT: I think that in South Carolina I don't know about -- I'm not going to take the time to do that right now.

MR. BROWN: Yes, sir.

THE COURT: Look at those cases. But a defendant, even if he's guilty, does not have to prove himself innocent. He can plead not guilty. He can see if the State can prove him guilty beyond a reasonable doubt. I do not believe that a lawyer can concede guilt without permission of his client. I would overrule and order Mr. Mauldin to answer the question.

BY MR. WATERS:

Q Thank you, Your Honor. Go ahead.

THE COURT: He's claiming Mr. Mauldin was ineffective because he did not concede guilt. So go ahead. You made the motion. Go ahead.

THE WITNESS: Based upon my -- my meetings with Mr. Wood, I did not believe that it could be, and I did not believe that I could concede guilt.

BY MR. WATERS:

Q Okay. And you were actually asked a little bit about the debate in the capital litigation community about conceding guilt and said you were on one side, but did not specify which side that was. Now, which side is that?

A I think that if the -- your question is hypothetical?

Q Yes.

A All right.

Q Your general philosophy as a capital defense attorney?

A I think that while it is fact driven as to individual cases, you have to deal with the facts of your one individual case. But I would say in general a blanket concession of guilt at the first phase is not a good idea. I think that the better way is to attempt to determine if there is a legitimate and credible way to challenge the State's evidence without giving up too much credibility in what is likely to be a second phase, because what that does is it causes the jury to spend some energy and work at the first phase verdict. If you don't make them at least work at the first phase verdict, then the second phase verdict is the first time they really are doing any work. And I just don't think that's

a very good choice to make in these cases. But that answer is, Mr. Waters, clearly hypothetical. I don't want to assume that's what we applied in Mr. Wood's case.

Q That would be my next question.

A What is the next question?

Q Well, the next question is, that being the general philosophy of trying to face whatever you can get in the guilt phase, without losing credibility in the penalty phase, in this particular case this ultimately resulted in the voluntary manslaughter defense, for lack of a better way to put it?

A We wanted to make every effort to get a voluntary manslaughter instruction.

Q Right.

A It is consistent with my answer, or it does follow in line with my answer regarding the hypothetical of your previous question. We wanted a voluntary manslaughter instruction if we could get one. And -- and I think that that was sound reasoning. Based upon the facts of this case I do think that was sound reasoning. I don't think that the credibility -- loss of credibility was too damaging. Now, the jurors may very well disagree with me, so ---

Q All right. Now, you were asked a little bit about introduction of evidence that Mr. Wood was paranoid in

the guilt phase. Do you recall that?
A I remember being asked that, yeah.
Q Okay. And is it not fair to say that the introduction of evidence Mr. Wood's paranoia about police was part of your attempt to support a voluntary manslaughter charge based on the nature of the trooper's stop?
A We were hoping two things. We were hoping certainly that Judge Kittredge would end up giving us a voluntary manslaughter instruction to the extent that I based it upon to the perception of Mr. Wood regarding the danger of the situation and his perception of it based upon his paranoid feelings. That was great. We were happy to have him consider that as part of the justification for the voluntary manslaughter instruction. But we also frankly knew that there was a very, very good likelihood Mr. Wood would be convicted of murder and we wanted the jury to know prior to the sentencing phase that there was going to be some explanation, even if it did not constitute an excuse, it would at least constitute some explanation for why Mr. Wood had reacted the way he did out in the road. So there was two -- there were two purposes for that testimony. Hopefully to justify a voluntary manslaughter instruction and at least to give the jury some information going into a likely sentencing

phase.

Q And Donna Schwartz-Watts had told you that she considered that aspect very important to this case, is that correct?

A She did.

Q And you relied on her in that judgment, her expertise, correct?

A Well, I had -- I had an impression about what we were going to hear from Donna Schwartz-Watts when she was on the witness stand, so it does make sense that she would testify about John Wood's impairment, and I knew what the testimony was essentially going to be.

Q Did you have any problem discussing the facts of the case with Mr. Wood? I'm not asking for my specific discussions, but did y'all have a problem discussing the facts of the case?

A Can I ask a question, clarification, you're talking about in terms of Mr. Wood's cooperation with me?

Q Right.

A Is that what you mean by trouble?

Q Right, exactly.

A John was not -- he was not uncooperative. I wouldn't qualify that as a challenge. He cooperated with me with regard to my interviews with him and discussions with him about the case.

Q Okay. But y'all did have a disagreement about the course of representation?
A Some, some disagreements.
Q Okay. And one of those disagreements was over the Anderson case, correct?
A Yes, sir.
Q And can you describe to me exactly what the disagreement was about?
A Well, in this kind of a -- I'll just say this. There were two cases, Greenville and Anderson. Greenville was a capital case and Anderson wasn't.
Q Right.
A I asked Judge Kittredge to appoint me on the Anderson case, even though I was the Greenville public defender. And I quite frankly did that in order to try to take care of the Greenville case. I didn't want the Anderson case to damage the Greenville case. We had quite a bit of psychiatric evaluations and so forth going on with John in preparation for the Greenville case. When -- that's -- then they decided they wanted to try the Anderson County case first. Well, we -- from the defense team's point of view we thought that was a great idea because we could find out a lot of information. We could have all of this sworn testimony. And -- and then John and I, John Wood and I had disagreements about the

strategy in the Anderson County case. If I recall correctly the primary and main source of disagreement was John did not like the fact that I was telling him he shouldn't testify in Anderson County. I was telling him I didn't want to give the prosecutor an opportunity to cross-examine John in Anderson County when he had a capital case pending in Greenville.

Q All right.

A We had pretty serious disagreements about that. And it seems like there was another issue of disagreement.

Q The disagreement I think -- I don't want to rehash too much, but there was a disagreement of being evaluated as well, correct?

A Well, that he wanted -- and I get the chronology is real hard for me to deal with on this case, but when the case in Anderson was coming up, and there was a hearing -- there was a hearing that involved these issues, and so it's in all these transcripts somewhere. There was a hearing where the State was ordered out of the room and Judge Kittredge had a hearing on these issues about us being relieved because of a disagreement on strategy about how to handle the Anderson case. I will say that I believe you're correct that it did relate to the presentation of mental health evidence and they did want to do that in Anderson prior to the Greenville

County case, but I may be ---

MR. BROWN: Your Honor, speculation.

THE COURT: Okay.

THE WITNESS: I might be mistaken about that.

MR. BROWN: And a little bit of hearsay.

MR. WATERS: I believe he's testifying to the best of his recollection. We are talking about two I think disagreements between counsel and the defendant, particularly as it comes to an evaluation. The issues are raised. He was just saying the hearing speaks for itself. I think there was a hearing in Anderson. I don't have that transcript but ---

THE COURT: I'm going to let him testify as to what he recollects about it. Then if he's wrong you can cross-examine him on it. Okay.

MR. BROWN: I don't think I was provided the transcript but ---

THE WITNESS: I haven't seen it.

MR. WATERS: I haven't seen the transcript either. Obviously it wasn't part of this case. I don't ---

THE COURT: I did not see the note where Mr. Wood asked to be relieved.

MR. WATERS: We did have that.

THE COURT: I have no note here. I did not -- I never hear anything about what happened about that

but ---

MR. BROWN: I believe -- I believe -- I'm thinking it was a note be relieved in this case.

MR. WATERS: Correct. Yeah, it was about asking about the Anderson case because there was a motion there, obviously because Mr. Mauldin was relieved.

THE COURT: Well, I don't know about over there. Were you relieved in Anderson?

THE WITNESS: Yes, sir.

THE COURT: Okay. He was relieved in Anderson.

MR. BROWN: And -- but the hearing you were discussing in Anderson they had eventually, I have never been privy to that.

MR. WATERS: We were talking about the Anderson hearing. I was asking -- I think this is apparent, not only for background information as to their relationship but also about the issue of being evaluated, because I think the evidence is going to show that Mr. Wood was forceful about being -- having that evaluation.

THE COURT: I'll let him ask him that quickly.

MR. BROWN: Thank you, Your Honor.

BY MR. WATERS:

Q And in this case we were talking about disagreements between counsel and the defendant. On that, that was just to the best of your recollection?

A Right.
Q That was a source of disagreement between you and Mr. Wood? The mental health was a source of disagreement between you and Mr. Wood in the Anderson County case, correct?
A We had a private psychiatrist retained on our case that was doing work for us and John.
MR. BROWN: Your Honor, one other thing. At this point I may need it to be to -- that case is not here on PCR and therefore privilege on that case I would assert has not been broken.
THE COURT: All right. I'll overrule the objection. He's already testified. I've heard that statement before. But go ahead, Mr. Mauldin.
THE WITNESS: And my recollection is that there was a desire to be evaluated by the State Hospital and I had serious a disagreement with that and made it very clear we disagreed with that and we ultimately were relieved of counsel in the Anderson case.
BY MR. WATERS:
Q Okay. Would you say your disagreement was with Mr. Wood because he wanted to be evaluated?
A That's right.
THE COURT: We have that note in the file.
THE WITNESS: Well, Your Honor, we have in the

case ---

THE COURT: I think that note refers -- actually that doesn't refer to Anderson County, though I think.

MR. WATERS: There were -- let me ask.

THE COURT: I don't think it refers to any county.

MR. BROWN: I'm sorry, it's addressed to Mr. Wickensimer. I apologize.

MR. WATERS: It's a note to the evidence to Greenville, but in it Mr. Mauldin is already communicating with Mr. Wood in Anderson County with regard to being evaluated.

THE WITNESS: If I look at the chronology, the issues involving being relieved in Anderson County were back in late summer.

MR. BROWN: Correct. He ended up being relieved and this order of evaluation with Byrholdt as his lawyer in Anderson County in August. The letter that was delivered to the judge on September the 13th, which is clearly -- his request was to be relieved in the Greenville case at that point.

BY MR. WATERS:

Q Right. And my question though, he had also sent similar pro se correspondence in Anderson requesting to be evaluated?

A I can't confirm what correspondence he might have

sent, but I would tell you he wanted me off the case and he got me off the case.

Q All right.

MR. BROWN: We would renew our objection to the breach of attorney/client privilege and matters for the record.

THE COURT: I'll overrule the objection. Go ahead.

BY MR. WATERS:

Q Is it fair to say you took into consideration for Mr. Wood voluntary manslaughter, we talked about self-defense, you took the facts that were given to you and came to the best resolution that you could? Is that a fair characterization? How would you characterize it?

A I would characterize it as there was quite a bit of fact information back and forth, that conclusions about whether it constituted self-defense or manslaughter would have been my responsibility as the lawyer, but there was in fact discourse relating to whether or not there were lesser-includeds or defenses to the charge.

Q I wanted to ask a little bit about the reference in the record to the judge's offer to charge the jury, or to instruct the jury on the voir dire as to our statute. And if you don't mind turn to page 1005 in the record. That would be in volume three. May I approach the witness?

THE COURT: Yes.

THE WITNESS: All right.

BY MR. WATERS:

Q And looking down at the lines -- we've read this earlier, just to refresh your recollection, looking down at lines 20 to 23, or just 20 to 25. Now, if the judge -- I'll give you a chance to read it.

A All right.

Q My question is this, if the judge had offered or the judge did offer -- let me rephrase. You wanted a charge to the effect of, quote, Mr. Wood wishes to plead guilty in this case but in order to have a jury sentencing he had to plead not guilty?

A The -- that would have not been a legal charge in my view under any circumstance because that's a charge essentially on the facts of the case.

Q You would not want a charge that if this individual -- this individual wished to plead guilty but in order to give the sentencing issue to the jury we've got to go through a process of a trial first. You would not want that charge as phrased I understand, but something similar to that as phrased, would you have wanted that?

A The answer to your question is no, but I feel I'm compelled to explain.

Q Absolutely.
A This requested charge would not have been that Mr. Wood in fact wished to plead guilty, but in order to have a jury sentencing he had to plead not guilty. That would not have been my requested instruction. My requested instruction would have been the statute in South Carolina requires in a case of this nature that in order to have a sentencing by a jury the defendant in the case must enter of plea of not guilty and go through both phases of the trial.
Q But you never requested that instruction, correct? I mean, you moved to quash the death notice based on it was unconstitutional, because it required a defendant to plead not guilty to get a jury sentencing, correct?
A That was my motion for the most part.
Q Then the judge denied that?
A Right.
Q But offered to instruct the jury on that concept in voir dire, correct?
A Right.
Q Okay. So you never made a request for any sort of instruction, you just never took him up on that offer to instruct the jury in voir dire?
A And that's what troubles me about what I read. It appears from this transcript that Judge Kittredge was

offering to do what I had asked, at least from an instruction to the jury that that's what the law was.

Q Right.

A And I just somehow forgot to ask him. Was this page 1005, is that a pretrial motion hearing?

Q That is following voir dire. I don't believe -- if my representation is correct, I don't believe there was any objections following voir dire and motions prior to the beginning of the case in chief.

A So this is a renewal opportunity for me to renew motions?

Q Exactly.

MR. BROWN: That's right.

THE WITNESS: Well, then I'll say I must not have understood what this record seems to be saying Judge Kittredge told me. Had I understood that he was offering to give that instruction I would have said, great, Judge, that's what we want you to do.

BY MR. WATERS:

Q You were only offering to tell the jury that John Wood wanted to plead guilty but had to plead not guilty because he wanted a jury sentencing? You would not have wanted that, correct?

A If it was that specific as the judge says in that statement. And I don't read that as being that specific.

But you're right, I think the judge would be committing error if he actually charged on the facts of the case before the jury.

Q Right.

A But if he says what the law is, which was what I was trying to ask him to do, I think that would not constitute error, that would be correct, and that -- I'm just shocked that I didn't say, Judge, please do that.

Q Okay. Well, let's explore -- Judge, may I approach the witness? On page 2513, volume six. It's the little volume.

THE COURT: 2513?

MR. WATERS: Yes, sir. It's the order.

THE WITNESS: 25 what?

BY MR. WATERS:

Q 2513 to 2514.

A 2513.

Q I'd just like you to read item five down at the bottom of the page which is the portion of the order denying this particular motion at issue.

A Right, I see that.

Q Okay. All right. So even there in the order itself the judge expressly conditioned his offer on the nature of admitting guilt, the specific nature of admitting guilt, is that not correct?

A Well, I think he says it says according to the defense counsel in a hypothetical case a defendant desiring a jury determination and so forth and so on. So I believe that that in fact, when we were arguing in that motion, that was not necessarily -- it would be specific as to Mr. Wood's desire. It is statutory, and it was our presentation that that statutory flaw goes over to the jury because they believe that a defendant is basically trying to get away with it and in essence he cannot get away with it now he wants mercy.

Q Right.

A And that is what has always struck me as just simply not sensible. I respect the fact that this Court has rejected that argument about the case law. Now, in this particular order I don't think Judge Kittredge is saying that he -- his instruction would have had to apply to John Wood personally. I don't think that's what he's saying at all.

Q Okay. Well, isn't the argument that he was referring to, that you made to the judge was that the defense is being denied the mitigating evidence of an admission of guilt because of the way our statute is constructed? And if that is the case isn't what the judge saying, that expressly is the practical consideration that the judge in his order was offering to

instruct the jury on?

MR. BROWN: Your Honor, let me break it apart. I apologize. Calls for speculation, Judge.

THE WITNESS: I can -- I can only respond based on what I see in this paper. And the question is, I don't know that -- what Judge Kittredge would have meant.

THE COURT: Well, he says, I was -- I was willing to tell the jury that the individual wished to plead guilty. To me that means that John Wood would plead guilty and you can -- y'all can go on from there.

MR. WATERS: Thank you.

THE COURT: That's what he says.

MR. BROWN: I agree, the record speaks for itself.

THE COURT: And I don't see how the judge can just dismiss and not explain to Mr. Mauldin what his strategy was. He couldn't dismiss the case until it's applicable to that case. If Mr. Wood, one, wanted to plead guilty then this issue was not in front of him. He just can't dismiss on the portion of the statute that may be unconstitutional. You made a real lengthy motion to dismiss it and the assumption would be that Mr. Wood was willing to plead guilty. That's the only way that I could see that a judge could dismiss that particular case.

THE WITNESS: The motion at trial, Your Honor, was a

motion attacking the formulation of the statute.

THE COURT: The statute itself couldn't come under attack until you have a case to attack it in.

THE WITNESS: Well, we took the position that if the State seeks the death penalty under that statute, which is what we were doing ---

THE COURT: It ought to be dismissed. This couldn't be attacked that the -- the best analogy of course was subject to attack. Don't you think you have to establish that your client was going to plead guilty, then he was denied that right, and then -- for there to be justiciable issue?

THE WITNESS: I don't think -- I would say that I don't believe to create a controversy I would have had to have my client confirm his intention to plead guilty.

THE COURT: Well, you told me one of the options were that Judge Kittredge could let him plead guilty and then give him a trial in front of the jury.

THE WITNESS: I believe ---

THE COURT: You said there were three things that Judge Kittredge could have done?

THE WITNESS: The three things that I believe that the judge could have done as an alternative to do, to -- one, to hold the statute as unconstitutional. Number two, to deny the motion and just go on with the trial.

And the third would have been to say in this particular case I'm going to allow the defendant if he so chooses to enter a plea of guilty and still have a jury sentence him. Now, that remedy in fact is contrary to a case. I don't remember the name of the case. But we actually have a case that says that was error. But those are the three possible things that could have come out of that.

THE COURT: Okay.

THE WITNESS: Yes, sir.

MR. WATERS: Thank you, Your Honor.

BY MR. WATERS:

Q Now, I want to ask you a little bit about ground B. Ground B is failure to object to use the of the SC DMH report in the case. Just to clarify something, I want to show you the transcript of September the 21st, 2001. I think it's been admitted into evidence already. And on page nine of that, I would like to start from line two, just to refresh your recollection as to if there was in fact a pro se motion in Anderson County as to request to be evaluated?

A Can I ask if this is the Greenville hearing?

Q Correct.

A Of September the 21st?

Q There was just a discussion there. I just want to see if that refreshes your recollection at all as to

whether or not there was a pro se motion in Anderson County to be evaluated?

A Well, it appears from this that the Court was saying that he had a motion from the defendant himself through counsel, and so that's -- it's confusing whether it was through counsel or pro se. I can't tell from this language. And then I asked, in the other county, which would be referring to Anderson, and the Court did confirm that that was in the other county of Anderson.

Q Is that the independent recollection or not?

A Pardon me?

Q Do you have any independent recollection or not?

A Well, it's certainly that there was a pending request for an evaluation in Anderson County. Now, it ended up being acted upon -- I believe if I'm not mistaken, ended up being signed by both counsel for the defendant and the defendant personally wanting the evaluation in Anderson County.

Q You were asked a little bit if you advised Mr. Wood of his Fifth Amendment rights when he went for that evaluation. And your testimony was he -- you did it?

A I do not have a recollection of -- when it was ordered that he be evaluated?

Q Um-hm.

A I do not have a recollection that I sat down with

Mr. Wood and told him at that time what his Fifth and Sixth Amendment rights were.

Q You had told him you did not want him to do that, correct?

A I definitely told him not to do it.

Q You told him you did not want him to do it because the State is going to get that information and it's going to be used against you, correct?

A Well, I certainly felt like there was a possibility that they could. In fact, they ended up using it in a big way.

Q That was precisely expressed to Mr. Wood, and this was a source of one of your disagreements, correct?

A Clearly.

Q Okay. You were asked a little bit about attending the evaluation. And is that something you always do, or something you sometimes do? Was the reason why you didn't go in part because of the disagreement over this and the fact that you had been kind of relieved out of your decision on this?

A I can refresh a little bit more. I had a trial going on. I think that it would be -- I don't -- I can't answer with any clarity as to specific considerations that I made about not being present for his evaluation. And I think that's a combination of, number one, of the

length of time. It's been -- I really can't -- I can't remember. And no, I did not make any notes about it that would refresh my memory about why I did not attend. I just know that now it could have been a combination of a number of things. But I do believe I testified under oath about that it would be some level of speculation that I just didn't think that would be proper. I just can't answer with specificity about that.

Q Is that something you always do, or do you usually -- typically object to any evaluation?

A Well, I'll tell you that this is the only case I can recall where my client sought an evaluation over my objection and won.

MR. WATERS: Okay. Your Honor, Court's indulgence one moment. Judge, we're looking for the Court's exhibit 16 which had been labeled in the collection file as Hall advisement of rights forms that were given to Mr. Wood prior to his evaluation. I can't find them right this minute but ---

MR. BROWN: May it please the Court? Your Honor, I believe I've got a copy of a similar advice of rights form. It is attached as an exhibit to his deposition, Dr. Narayan's deposition. Just for the purposes of expediting the question. It is in something I would like to deal with at a later time. It would need to be

made -- it's got Court's 16 on it. It's the same one he's talking about. It's also marked as Petitioner's 9 in a deposition we had taken.

THE COURT: All right. If there's an objection -- just question him on this and ---

MR. BROWN: We can make a copy.

THE COURT: I don't know if it's necessary to put it in as a Court's exhibit from a prior deal. Judicially just refer to them. If it can't be located I guess it would be necessary to put in another copy.

MR. BROWN: I agree with that 100 percent, Your Honor.

THE COURT: Okay. All right. Whatever exhibit the 16 is we'll take judicial notice of it.

MR. BROWN: Yes, sir, Court's exhibit.

THE COURT: This is an -- it is proposed to be a copy of it.

MR. WATERS: All right. Thank you, Your Honor.

BY MR. WATERS:

Q Let me hand it to you and show you what's been marked as exhibit 16 from the original trial and see if you recall what that is.

A This is ---

THE COURT: When it says Court's exhibit, it is a Court's exhibit in the trial of the State versus John

Wood in Greenville County on capital charges, is that what Court's exhibit this is?

MR. WATERS: That's correct.

THE COURT: All right.

THE WITNESS: And the question was, do I recognize it?

BY MR. WATERS:

Q Recognize it, yes.

A Recognized only -- I recognize the form of it.

Q So in your review in preparation for the trial, Mr. Wood wasn't in fact given an advisement of rights form and didn't in effect sign his evaluation, correct?

A I don't have knowledge that he was not read those rights or signed that form.

Q Was it not presented at the trial during the Blare hearing?

A Well -- and again, I'm really not sure. I'll be glad to look in the -- if you'll give me a page reference I'll confirm that. I don't know. That issue -- that wasn't ---

MR. BROWN: And we don't take issue that that is what it is, Your Honor, as far as whether Mr. Mauldin is aware that Mr. Wood may have seen something like that. We do have some issues that -- I don't know what the exact question is as far as whether or not it was

introduced in the court at some point as Court's Exhibit 16. We ---

MR. WATERS: Well, now having the exhibit I'm trying to backdoor it a little bit. But the point, number one, Mr. Mauldin clearly expressed his concerns to Mr. Wood. Number two, Mr. Wood was in effect given an advisement of rights that referenced no sentencing. That's directly to the point. An allegation would be raised to that point. And I think I'm done. I'm ready to move on.

MR. BROWN: And I appreciate that argument but we don't agree with everything he said. But thank you.

THE COURT: Okay.

BY MR. WATERS:

Q Now, when I read the transcript, and I'm going to -- obviously the record speaks for itself, but your recollection though is that Judge Kittredge, when the evaluation report was in fact released, only gave the State what was specifically relevant to competent criminal responsibility, is that correct?

A That was my understanding, yes.

Q Okay. And the State throughout the trial repeatedly made motions attempting to get the rest of that report during the trial, is that correct?

A I recall that, yes.

Q And you objected, I think you said you objected like

crazy?
A Like crazy.
Q Every chance you got, is that correct?
A Right.
Q And ultimately it was only until you called your mitigation witnesses that the judge agreed to allow the State access to the remainder of that competency report, is that correct?
A I think the record would reflect when we ended up doing it it was after the mitigation testimony.
Q Is that something y'all considered as y'all prepared the mitigation case, that ultimately the judge was going to let them have the rest of that report? Let me just clarify, Donna Schwartz-Watts, Jesse Youngman, those folks, but you did have that concern?
A I think we were certainly taking into consideration the dangers contained in that report.
Q But you decided to go forward anyway?
A Yeah, I guess that's the best way to describe it.
Q Okay. All right. You were asked just a little bit about -- and let's just move on to ground F. This is the supposed failure to define ---
A That's 16, yeah?
MR. BROWN: I guess, judicial notice -- or if the Court will take judicial notice instead of moving this

into evidence. Again, I think it's already been done. All of the records in the proceeding below are part of this proceeding.

MR. WATERS: Absolutely, it's just more housekeeping to clarify. Thank you.

BY MR. WATERS:

Q This is the -- this question regards the time period between September of 2001 and February of '02. September of 2001 being when the evaluation took place, and the trial of course was in February of 2002. And my question is, is you were asked a little bit about your failure to deny access to the South Carolina Department of Mental Health to Mr. Wood during that time period. And I believe, as I understand, you had already objected all you could to the evaluation, and there was nothing more that you could do once it took place, is my assessment of what you testified to?

MR. BROWN: Asked and answered.

MR. WATERS: Well, I'm trying to set up clarification as well, Your Honor, and I'm on cross. I don't want to rehash too much, but ---

THE COURT: Repeat your question. I'm not sure I understood it.

BY MR. WATERS:

Q It was not well asked. Why didn't you take -- did

you see a need to take further steps after -- after all of your efforts to stop Mr. Wood's from being evaluated in September, 2001, were ultimately unsuccessful?

A And that's if you were to compare what we did the first week of February?

Q Right.

A All right. And I think I see the question. When we had a hearing in September, the way the parties, if you will, were lining up, if you will, in the hearing, I was objecting to the evaluation. The State wanted the evaluation, and so did Mr. Wood. So as awkward as that might sound, I was objecting in the position of my own client. When the judge ordered that he be evaluated I do think there was a letter, if you will, to the Department of Mental Health stating that my client did not want them to have access to him and that was within my power.

Q Okay.

A That today doesn't make any sense because the way the parties lined up at the hearing that actually would not have been the truth.

Q Right.

A The letter in February where the Department of Mental Health wanted once again to meet with my client, I felt like that letter where I said you couldn't see him or we weren't going to allow you to see him, or whatever

the letter was, it's been presented here today, was actually an accurate representation of the truth. So therein lies the difference in the reaction.

Q It was only after you got to the trial and you were essentially back in control and Dr. Narayan wanted to have subsequent access to Mr. Wood that you felt you could at that time reassert your original position that you did not want them anywhere near your guy, is that correct?

A Well, I took the position to some extent on my own that that's what I should try to do, and fortunately on that occasion it worked out, but a little too late.

Q I just want to show you exhibit 17 from the original trial which is that letter which you ---

A One moment. Yeah, I recognize that letter.

Q Okay. That's -- what we're talking about now was during the pretrial matters, that sort of thing, correct?

A If I'm not mistaken February 8th was the day the jury selection started. They wanted access to my client while I was picking the jury, and I just said I -- that was going to be denied.

Q All right, sir. The next allegation deals with the failure to, I guess, expose the diagnosis of Dr. Narayan. And you have been asked about the issue of him having a sufficient conduct disorder of a young age in order to

support the diagnosis of anti-social personality disorder. My first question is, what steps did you take to get the records from Mr. Wood's youth?

A Well, we would have taken the steps that we would normally take and that is a search of his criminal history. The next step would have been the filing of a rule five I believe it was A and B motion, not C and D, but A and B. Only those two paragraphs of rule five require that the State provide us with any statement of our client to anyone and his prior criminal history so ---

Q I'm talking more juvenile stuff, school records, juvenile record, things like that, and how it relates to maybe Ms. Tarr, or whoever you got to do the mitigation investigation.

A And so the question is what efforts did we make to get them?

Q Right.

A What I would have given Paige was the responsibility of going, early in the case, and attempting to gather all information we could have with John in every way, including criminal records, school records and so forth.

Q You hired her very early in this case and told her to get started?

A I don't have a date of the hiring, but it would have

been early. It would have been months, months -- it would have been months and months before the trial.

Q Because it's impossible to try to get those things at the last minute, correct?

A Well, no, we do not rely upon our ability to get them at the last minute.

Q All right. And would you meet periodically with Ms. Tarr, get updates about her progress, give her deadlines, find out any problems she may be having?

A Yes.

Q Did she ever express any difficulty in getting the records from Mr. Wood?

MR. BROWN: Hearsay.

THE WITNESS: Yes.

MR. WATERS: I think this is relevant for ---

MR. BROWN: It's still hearsay, whether she would have told him about, did they tell you about problems.

MR. WATERS: I'm asking if -- how he conducted his representation and ---

THE COURT: I'm going to overrule the objection. Go ahead.

BY MR. WATERS:

Q I believe the answer was yes. Did she express why she was having problems?

A And the answer is yes.

Q Okay. And you of course were satisfied with her qualifications to do this job, correct?
A I felt she was qualified.
Q And if she was reporting to you she was having difficulty, you were confident this was not by her being slack, correct?
A I certainly would have hoped that was the case.
Q You worked with her before and since, correct, worked with her on other occasions?
A I can say for sure that I have worked with her before. I'm not -- I'll just simply say I've worked with her before.
Q Okay. All right. There was no indication to you that you that -- that insufficient efforts was being expended to attempt to obtain these records?
A Nothing was apparent to me that there was insufficient effort.
Q Okay. And she never came to you and said, you know, I can't get so and so because they're giving me a bunch of grief, and you just never did anything about it, correct?
A I never did what you just described.
Q Was there ever a time she came to you and -- for help and you didn't provide it in obtaining the records or other information?

A I do not have a recollection of -- of turning down any -- anything she may have asked from me.

Q Is it fair to say she made an attempt to get every single record you can get your hands on about Mr. Wood?

MR. BROWN: Your Honor, I'll object to that. That calls for knowledge beyond Mr. Mauldin's personal knowledge. That question calls for more of his -- more than personal knowledge.

THE COURT: You asked him ---

MR. WATERS: Let me rephase it, Your Honor.

BY MR. WATERS:

Q You have been in capital work a long time. You've established how important it is to get things like school records in preparing for a capital sentencing hearing?

A Yes.

Q Were you aware of that at the time of this trial?

A Yes.

Q Is it important to get things like juvenile records in preparing for a capital sentencing hearing?

A Yes.

Q Were you aware of that at the time of this trial?

A Yes.

Q Is it important to get things like medical records for a capital sentencing hearing?

A Yes.

Q Were you aware of this at the time of this trial?
A Yes.
Q Is it important to get things like Social Service records for a capital sentencing hearing.
A Yes, sir.
Q Were you aware of that at the time of trial?
A Yes.
Q Mental Health records?
A Yes.
Q Were you aware of that at this time?
A Yes.
Q Have you discussed those types of things with Paige Tarr as y'all prepared the mitigation investigation?
A I had an -- I'll say that there -- we were very concerned about our inability to locate a lot of records in this case. These cases takes months and months, and a lot of times you have boxes full of records about someone's history. And I recall in John's case that the records were just so thin, if you would, they were just -- there was very little as a result from efforts of our investigator to locate records. We just weren't reaping the results. But you know, I can't say that -- I'm not blaming her for not trying. I'm -- I just remember this case as having very, very, very few records.

Q All right. And that -- from your judgment that was not from a lack of effort?

A I couldn't say that was a lack of effort. Most everyone leaves a paper trail of some sort and -- but in Mr. Wood's case it was just very, very difficult to locate records. And I kept encouraging our investigator to find them if she could.

Q All right. Now, do you recall actually examining Dr. Schwartz-Watts on the fact that in her opinion the diagnosis of anti-social personality was supported because there was no evidence of any kind of conduct disorder at the requisite early age?

A I haven't read the transcript. I'm -- that -- I would be -- I would certainly like to have an opportunity to see it before I answered under oath.

Q Okay. I'm referring to page 2084. This is volume five of the record.

A Let me -- what page?

Q 2084.

A 2084.

Q Reading from 2086 (sic) line ---

A What line of 2086?

Q Starting at line 22?

A All right.

Q Okay. So you did examine her on that very point,

did you not?

A Well, yes, sir. The record reflects that I asked questions on direct regarding her disagreement with their -- the expected testimony from the State Hospital doctors.

Q And that was based on the lack of any records as to a conduct disorder at the early age, correct?

A Yeah. Let -- that speaks for itself, what her answer was. I'm not a doctor but it says -- she explains right there.

Q Let me ask you this. You're pretty familiar with Dr. Schwartz-Watts, aren't you?

A I am.

Q You have worked with her on a number occasions, is that correct?

A Yes.

Q How do you go about handling interaction with Dr. Schwartz-Watts, providing her information, getting her diagnosis?

A In just any case or in ---

Q Just in this case.

A What we would do, you know, retain her. And she normally needs to know something actually about the offense itself. So if Donna Schwartz-Watts or any other psychiatrist that we might involve in a case wants a copy

of an indent report, or warrant, or a statement of a defendant, or something, then we certainly provide that to her -- them to familiarize them with the -- with the actual crime incident. We then ask the Court -- the doctor to meet with the client. The doctor invariably will question us about mental health history, whether or not the client had been seen by any mental health professional, has a history, whether or not the client had been seen by a psychologist, whether the client had been evaluated by a neurologist. These are questions that I would expect for a witness like Donna Schwartz-Watts to ask me.

Q Right.

A I would then inventory the record for what she has asked for and provide them to her. I then ---

Q She has to have access to the client though too, correct?

A Pardon me.

Q She'll have access to the client?

A Oh, yeah. I give her full access, as many meetings with the client as she wishes to have, to formulate a diagnosis.

Q She comes up with that on her own obviously?

A The diagnosis? Oh, yeah.

Q Right.

A Then I -- I have actually identified other records and asked a psychiatrist whether they would want to see those records, and on certain occasions they have said no, they don't, some kind of -- like an employment record or something like that. The witness may even say that they don't need them. Now, I don't recall in this case that Ms. -- Dr. Schwartz-Watts said she didn't want anything we had, because we had so very little ---

Q Right.

A --- in John's history. But that's the way a relationship involvement in a case would go.

Q All right. Now, I want to talk a little bit about getting a family mercy witness for Mr. Wood. And I believe you testified that you were relying upon your investigators to seek out these individuals, and they were reporting back to you what if anything they were finding. Is that fair to say?

A That's generally true, yes, pretty much true.

Q Okay. Do you recall any family members they were able to contact who wanted to testify on the stand in the sentencing proceedings?

A Do I recall family members that we actually contacted who wanted to testify?

Q That the defense team was able to get in touch who wanted to get on the stand and testify?

MR. BROWN: Your Honor, calls for hearsay.

THE COURT: I don't know what he knows.

MR. WATERS: I think the allegation is that he did not present Mrs. -- any witness and what they were able to discover is very relevant.

THE COURT: I'll overrule the objection. Go ahead.

THE WITNESS: As I understand your question, the answer is, no, I cannot recall any family witness who wanted to testify in the mitigation phase.

BY MR. WATERS:

Q What do you recall about the defendant's mother and how cooperative or not cooperative she may have been?

A I recall that John's mother was very uncooperative.

Q Okay. And she did not express any desire to participate, is that fair to say?

A That's fair to say.

Q Now, what about Betsy Martinez? You had -- did you have communications with her?

A A good bit of communication with Ms. Martinez.

Q She did attempt to assist you in getting some -- some information, is that correct?

A She was -- if I recall correctly, Karen, the co-defendant who was in jail in Anderson, was pregnant and had a child while she was incarcerated.

Q Right.

A So there was a lot of who was going to care for the child, where was the child going to stay because both mother and father were in jail. And Betsy was very involved. Betsy Martinez was very involved in trying to what we at least interpreted make -- manage the family issues regarding that, as well as the location of her sister Connie.

Q What about her as a mercy witness, do you recall any discussion about that?

A Actually ---

MR. BROWN: I object to this. I mean, when -- he's asking whether he recalls a discussion from other people. That's hearsay, Your Honor. It's not for the truth of the matter asserted. It's offered to show his decision of whether or not to put up witnesses. The allegation is they did not present mercy witness. First, it's -- not available or cooperative directly effects his ---

THE COURT: I'll overrule the objection in -- for that limited purpose. Okay. For that purpose that he stated.

MR. BROWN: Thank you.

THE WITNESS: May -- could you repeat the question?

BY MR. WATERS:

Q Betsy Martinez, you had contact with her?

A Right.

Q But she was not put on the stand, and I was just curious ---

A She was not called as witness.

Q Okay. I was just curious as to the decision behind that?

A I cannot specifically recall the decision being made, no, we weren't going to call her, or yes, we were going to call her. I don't remember sitting down and talking about that with the rest of the folks working on the case. So I'll just answer it this way, I would take responsibility for her not testifying. The manner in which I would handle the case I certainly hope I would have thought about offering her, but I did not, so I don't know why I did not, but I didn't. I must have had reasons then. I don't know what they were.

Q Did you have -- receive any contact from Connie Jantz, you personally?

A No.

Q Did she show up at trial?

A No.

Q Okay. Did she call you after the trial?

A No.

Q Let's move on a little bit about and talk about closing argument issues that have been raised. And you were asked -- shown an exhibit. Let me go ahead and grab

those. I'm going to show them to you one at a time. But as to each one you stated you didn't make a strategic -- they would not be an exhibit. One second, Mr. Mauldin. Court's indulgence. Show you page 1737 of the transcript. That would be in volume four.

A 17, 17 what?

Q 37, volume four. This was starting at line 24 -- or 22. This is reference to factual support. I believe you were asked why you didn't object as burden shifting. I want to ask you why you did not object if you found it objectionable?

MR. BROWN: Your Honor, I think this was asked and answered on direct. Certainly I understand he has a right to cross-examine him, but I think this is asking for a strategic reason not to object.

MR. WATERS: Just thought his answer was phrased very specifically. I want to broaden it a little bit. There's more than just one answer to that.

THE COURT: Okay. I'll let him answer why you didn't object.

THE WITNESS: This is one of those examples where you read it after the fact and it really does look bad. That paragraph going on at line 21 on page 1737, that appears to be the burden shifting reference and I don't see an objection. I don't have any explanation for it.

You know, sometimes you look back and you wish -- well, you wish you could have, or you wish you would have. It sure looks bad on paper. And I do admit that that does look like a burden shifting paragraph and I didn't object. I have no explanation for it.

BY MR. WATERS:

Q All right. You usually though, I believe, told me you usually focus on things pretty close or try to listen for those things pretty closely?

A Yeah, I certainly try to do the best I can in these cases.

Q And that's one thing you specifically listened for, correct?

A Burden shifting is an -- unfortunately if I can phrase it, it's a tactic of the prosecution sometimes that I think is inappropriate and we try to be mindful of it.

Q For whatever reason it just didn't grab you at the time?

A Yeah, I mean, I go back and read this and wonder what I was thinking at the time for not objecting to that.

Q All right. You were asked a little bit about page 2192. That will be if volume five. This is during the sentencing phase. This is the reference to a killer

being a kingpin in prison?
A 2192?
Q Right.
A All right.
Q All right.
A All right. That would be line three?
Q 13 to 20. All right.
A Okay.
Q Why didn't you object to that, do you recall? Is this another one that slipped by you and you didn't object to that?
A Well, I'm not the brightest guy in the world for sure.
Q Neither am I, wouldn't claim to be.
A I read that, and while I certainly think that that's bordering on -- I'm not even real sure I'd object to it if it happened today. Maybe I'm just -- maybe that's inadmissible. I just don't realize it.
Q Okay. So you're not sure if you would even object to it today?
A Yeah, I mean, that's a very persuasive argument. It's a forceful argument. And if there is a case that says that's inadmissible, and if I objected and it would have been sustained, then I'm guilty. I did not do it. But ---

Q It's possible you might not have objected to it because you had introduced the Jim Aiken evidence, that Mr. Aiken theorized Mr. Wood would be an object of predators in prison and that he would likely be the low man on the totum pole involving predators in the prison?

A Well, if this -- this was a responsive argument on the part of the prosecutor on that. Reading this today I do not recall having that state of mind just described. On the other hand, if they were making this argument because it was in response to some testimony, then just so be it. But I can tell you that I don't believe I was sitting there thinking that that argument is being made and is admissible because it's responsive to testimony. I don't recall having that state of mind about it.

Q Okay. And if you do not recall that though, if in fact that testimony had been elicited, is that the kind of thing you would say, well, that's borderline, I'm not going to object to that directly responsive stuff we put out?

A Well, like I said a moment ago, I'm really not sure I'd object to it right now.

Q Okay. Fair enough. I'll move on. Let's talk a little bit about Mr. Jimmy Sligh. And as I understand your testimony, you didn't know who Jimmy Sligh was,

correct?
A And that's my recollection. I did not recognize that name. And if I recall, when he came in the courtroom I wasn't really sure what he was going to testify to.
Q All right. And so you thought -- you were under the impression he was going to testify to Mr. Wood's lack of adaptability to prison?
A For the most part that was it. Once he became identified as a Department of Corrections person involved in the administrative type areas, it was -- I sat at the table and I was concluding that that must be what he's going to talk about, is whether John Wood could be expected to be adaptable to prison.
Q Okay. Now, you didn't know what he was going say about that?
A But that's the area in which I thought he was going to attempt to testify.
Q Okay. And the condition of confinement?
A And not what he ended up testifying to, right.
Q Is this -- okay. All right, let me ask you, first do you know ---
A What page.
Q 1876 of the report on appeal. This is the discussion -- this is volume four, page 1876. This is

the discussion -- very discussion when Mr. Sligh was introduced.

A 1876?

Q Begins at line three, and would end on the next page at line 19. I would ask you to review that, please, and see if that refreshes your recollection about Mr. Sligh's testimony before it was presented.

A Yes, sir.

Q Read those pages?

A I'm reading it now. Yes, sir.

Q Okay. I'm sorry.

A Yes, sir.

Q Okay. You've read over to 1877?

A Yes, sir.

Q Okay. And in looking at that passage, does it refresh your recollection about the discussion here?

A And -- yeah, it does clearly indicate in this record that there was a reference to his testimony, that his testimony would relate to the conditions of confinement.

Q Doesn't say anything about adaptability, it just says conditions of confinement. The record specifically -- the way -- it says, you have decided -- after the discussion we've decided we are not going to object to this testimony, is that correct?

A Yes, sir.
Q Okay. Now that your recollection has been refreshed, do you recall why you decided not to object to it?
A Well, you know, looking back I certainly cannot conceive why I would have done that. It has been proven by the case law in our state to have been an error, you know that.
Q Well, under -- putting aside the subsequent cases that just came out about that, but I mean obviously you're making a strategic decision here, correct? Put aside their valued decision, you're obviously make a strategic decision there, correct, as reflected in the record?
A Yeah. And the page that you have referred me to where it was announced this fellow would testify to the conditions of confinement.
Q Um-hm?
A And then I say at line 12, we are not going to enter an objection at this point to this witness.
Q Right. I think the Court even goes to find it relevant.
A True. And the Court does say it was already -- I think it would be relevant. But notwithstanding what the Court said, I actually said that we were not going to

enter an objection to this witness at this time.
Q Right.
A And I simply cannot imagine what would have made me think -- or take that position about that testimony.
Q It even reflects y'all were off the record with co-counsel in a discussion before you made that decision?
A Yes.
Q Clearly y'all discussed about what you should do about this, would -- how it was good for you, how it was bad for us, right?
A Well, it certainly would -- yeah, my recollection was not even this -- in other words, my understanding, I was under the impression -- again, my testimony yesterday was that the witness came in and was actually testifying before we were aware of the perimeter.
Q Right.
A This clearly is different from that.
Q Right.
A It clearly indicates that there was an announcement by the solicitor that this witness would be called to testify about conditions of confinement.
Q What I wanted to provide is, before we even go down this road, does that refresh your recollection, I guess, that's my question? Just generally you were talking when

y'all decided to let it in, would that be fair?
A I don't recall. It indicates we was off the record with co-counsel. We were talking about something. And then I did state on the record that I wasn't going to object to -- I just can't imagine what in the world would have caused me to take that position.
Q Was it potentially that y'all thought y'all could score some points in another way on cross-examination about how difficult life in prison is? Or perhaps through introduction of James Aiken presenting the testimony that y'all presented on the difficulty in prison and the horrible things that would await John Wood if he were sentenced to life in prison and placed in general population?
A Well, now in looking back, it appears that I made a conscious decision, and that conscious decision was blatantly in error. And what happened as a result was an arbitrary factor was introduced in the sentencing phase that I cannot escape on this witness stand.
Q Right.
A Well, with -- with -- I don't really know. I can't remember. I do not remember deciding that we were going to try to show that the witness was not being truthful, or that we were going to be able to counter with Mr. Aiken. I just think that was a flagrant error for me to

do that, and I just apologize.

Q Okay. So you just don't think it is -- couldn't be a consideration to let the solicitor go down that road and we'll go right down the road, it favors us more than it favors them?

A If I had to sit back and try to decide what I could have been thinking, we did call Jim Aiken and his testimony was in this record. And I guess I'm just going to let the record speak. I can't speculate on how I have -- would have evaluated the position that I ended up taking on the record. And now it -- it's kind of obvious yesterday I was trying -- I was mistaken about the actually timing.

Q I understand that it's been a long time since ---

A Right. So having been mistaken, I certainly cannot imagine trying to figure out -- now that I have been straightened out, I can't imagine how I have done it the way it appears on the record here.

MR. WATERS: Your Honor, I think I'm about done. If I could just have a moment to look over my notes.

THE COURT: All right.

BY MR. WATERS:

Q Mr. Mauldin, just a couple more questions then I'll be done. You have of course been here for most of the hearing, is that correct?

A I have been kind of in and out, but yeah, I have been here to hear the witnesses, during most of them.

Q And we are about -- I think we're about done, but unless I have to call you later.

A Yes, sir.

Q I'll try not to unless I have to. You were asked a little in the beginning about whether or not to get Connie Jantz. You were asked about whether you had subpoena power to force somebody to come from out of state down to South Carolina and testify as a mercy witness. I just wanted to show you an affidavit in an action. I thought that would be the family member, by all information you had received ---

MR. BROWN: Your Honor, we object to that cross-examination, because that's not made by this witness. In other words, what he's been told he made an objection about some hearsay and what he's been told through someone else, that using -- that's for the truth of the matter assert.

MR. WATERS: I'll rephrase, Your Honor.

MR. BROWN: Thank you.

BY MR. WATERS:

Q You testified earlier that y'all had made an attempt to -- your team had made an attempt to contact Connie Jantz, and ---

A Yes.
Q Okay.
MR. BROWN: The only thing I would object, my recollection is was Ms. Martinez was used to contact Ms. Jantz. She's not a member of the team. And so just subject to clarify that, I mean, I don't compute some attempt to contact Ms. Jantz that can be made through Ms. Martinez.
BY MR. WATERS:
Q Let me -- now, through the mitigation investigator and the family members, through which you bear, there were attempts made to contact Ms. Jantz, correct?
A The mitigation investigator was directed, instructed by me to located Ms. -- anybody involved in this case, including family members.
Q Right.
A I trust that she was making those efforts when she said she couldn't locate this sister, but I wasn't with her at the time so I don't know what efforts -- you know, in other words, she was coming back saying they couldn't locate -- was not having any success. We therefore were attempting to use the sister, Betsy Martinez, to do that. And Betsy Martinez was reporting back to us that she had -- she had letters ---
MR. BROWN: This is hearsay, objection.

MR. WATERS: Again, just totally on the basis of his decisions on how to proceed based on the representations that she made.

THE COURT: I guess I would overrule the objection. Go ahead.

THE WITNESS: We were being advised that the telephone was disconnected and that the letters were not being responded to.

BY MR. WATERS:

Q Okay. Now, you're looking for a witness to be a mercy witness, and they are not responding to repeated attempted communications?

MR. BROWN: Your Honor, that's using that information for the truth of the matter asserted, hypothetically based on it.

THE COURT: All right.

BY MR. WATERS:

Q I'll rephase the question. I apologize. Would you have subpoenaed Ms. Jantz -- let me ask. Why didn't you subpoena Connie Jantz after her communications -- or communications to her went without response?

MR. BROWN: Again, Your Honor, using it for the truth of the matter asserted that there was no response coming in here through statements by Ms. Martinez.

THE COURT: I'll let him testify as why he didn't

subpoena Ms. Jantz.

BY MR. WATERS:

Q Do you understand that question?

A Yes, sir.

Q Go ahead.

A The family in this particular case was in my view, at least in my interpretation, was ordinarily dysfunctional. There was a lot of differences and disconnects among family members. The idea of forcing a family member to come to South Carolina and testify for her own brother by the power of a subpoena was not what I considered to be reasonable way of trying to get that type of testimony.

BY MR. WATERS: Okay. Thank you. Your Honor, I have nothing further at this time, although I've released Mr. Mauldin from his subpoena.

THE COURT: Okay. Let's take a short recess. Okay. Ten or 15 minutes and we'll start back.

(A short recess was taken, after which, the trial continued as follows:)

MR. BROWN: May it please the Court, Your Honor? I need to wait for my client.

THE COURT: Yes, sir.

MR. BROWN: May it please the Court? I have just a few questions.

REDIRECT-EXAMINATION

BY MR. BROWN:

Q The first one, you had mentioned that your view of the family was a dysfunctional family, there was some disconnect. Is that the kind of family where you'll rely upon the convicted felonious sister to contact the other good sister?

A It certainly was unsuccessful. Our efforts to reach Connie were clearly unsuccessful. We never talked to her or got her involved in the case.

Q Did you find her testimony -- did you hear her testimony?

A I was present during her testimony but I can't really comment on it.

Q Well ---

A Go ahead. What's the question.

Q Well, I think then we discussed on direct yesterday about it, but her testimony would have been favorable to you?

A It seems like it would have been.

Q Okay. And I'm going to go back now to the order that he asked -- went through some of this stuff as far as the advisement of rights. One thing that was discussed that did you advise Mr. Wood about generally that the information he provided could be used against

him. And that's -- I'm going to ask you questions but that's my understanding. What I heard on cross-examination, you generally advised him that the information he provided could be used against him. And what my -- I'm going to ask you about, did you advise him that it could be used against him in the sentencing specifically?

A It's difficult to go back and try to reconstruct, or recollect conversations of years ago. I can tell you quite candidly I just discouraged as strongly as I could this idea of having an evaluation by the State Hospital. And in doing that discouraging ---

Q Yes, sir.

A I certainly would have told John that -- that the information that they put together in their report would be used against him in trying to get him to change his mind about wanting this evaluation. We did not intend to claim that he wasn't competent to stand trial or he was insane and therefore not criminally responsible. Therefore because of that any use of that evaluation would by necessity having been at the sentencing phase. It wasn't going to be used at the guilt phase. And -- but I don't know that I necessarily told him that would have been used against him at the sentencing phase.

Q Now, were y'all under the impression the State

couldn't get that information in without raising these issues?

A I don't know whether I got that specific with him regarding the intricacy of the law.

Q Okay. But you were under that impression that in order for -- there was colloquy with the trial judge that they had mentioned where he says if you had told me you weren't going to use this maybe I wouldn't have disclosed it?

A It was kind of flipping the rules. The -- if Mr. Wood had not essentially insisted on being evaluated he would not have been evaluated. Therefore, when we put our witness up in the penalty phase the State would not have had that witness, Dr. Narayan, available to them because he would never have seen my client. I -- that was kind of my view of how the case would be -- would progress, but that view was changed.

Q I'm going to ask my follow up which is what my next question is. Did you believe that the Court order is limited to competency, criminal responsibility, was it going to be used outside of that stated purpose?

A Well, the -- I objected to Dr. Nayaran in every way I could think of. I'll have to just let the record reflect the grounds upon which I was asserting. I do not recall, Mr. Brown, if the record is different from this.

Please allow me to be once again incorrect. I do not recall telling the Court during my objections that there was a limitation on the use, and this would only be used on a competency or criminal responsibility issue.

Q Yes, sir.

A I don't recall citing that in the record, but the record says I did, but I'm happy about that. I think that would have been an appropriate objection to make.

Q Okay. I think that answers my question. Yes. With the proper objection then everything could be limited?

A I think that the issue can be raised that if a Court orders a defendant to be evaluated for competency to stand trial and criminal responsibility, and this is contained in the four corners of the document ---

Q Yes, sir.

A --- and the defense doesn't then raise competency to stand trial or insanity as a defense, or guilty but mentally challenged would be the inability to conform your conduct ---

Q Yes, sir.

A --- if none of those issues are raised, then I question whether or not the State should be allowed to use the evaluation for that stated purpose?

Q And that was -- therefore that would be a valid objection you should have made at trial if you did not?

A Well, it would be up to the Court to decide whether it was valid. I certainly think it would be sensible.
Q Yes, sir.
A I don't know if the record reflects that I made that objection or not. If I did not I should have.
Q Thank you. To go to the issue about the king in prison, do you recall any evidence supporting that argument? I understand that it's borderline argument. I would agree it's strong argument for the State. Obviously the prosecutor is allowed to advocate his position. And obviously Mr. Aiken makes the contrary, or provides contrary evidence. Do you recall any evidence from Mr. Sligh, or from cross-examination of Mr. Aiken that says a police officer -- a person who's convicted of murdering a police officer is a king in prison, or at the top of the hierarchy?
A I'm going to rely upon the transcript. I do not -- I'll say this. My failure to object to that I'm not going to say was because there had been testimony in the record supporting that. I don't remember that being the case.
Q Yes, sir.
A I don't know if I'd object if I heard it right now so ---
Q I understand that, sure. Certainly. The last

couple things. School records. Are you familiar with Tabernacle Christian School, in Greenville?
A Am I familiar with that school?
Q Have you heard of it?
A I'm familiar with that there was a school by that name. I don't know whether it's still here or not. I don't remember when it was here or what, but I have heard of that name.
Q Would there be anything preventing you from writing a letter requesting records from that school? I mean, I know it's an easy question. I apologize for asking you such an elementary school question.
A No.
Q You could have written a letter for the release?
A There would be no reason why I couldn't have written a letter to any school asking for any records.
Q Would that include another school such as Calvary Baptist Church in New Bern, North Carolina?
A That would include that. I could have written letters to the dark side of the moon.
Q Yes, sir. And the last thing here goes to the issue about Jimmy Sligh's testimony regarding conditions of confinement. Now, there is two -- one thing is that it appears in the record there was some decision not to object, and I'm going to ask you one thing. Could it be

the decision had been made based on the belief that you were talking about that you would rather have a second bite at the apple as far as Mr. Sligh's testimony about the adaptability, and not with the direct awareness of how damaging, or how admissible, or inadmissible the evidence of conditions of confinement would be?

A The transcripts reflects prior to that witness taking the witness stand the solicitor advised about the confines of which he would testify.

Q Yes, sir.

A And I'll -- as I said a few moments ago, that really surprised me when you read that transcript just from this witness stand. I cannot imagine a reason -- I can't imagine a reason, and the fact is as -- after the reference in the transcript, we had a meeting with co-counsel and I then put on the record that we were not going to object. I just cannot imagine what the heck I was thinking. And the -- if you look at it, the next sentence by the judge says that he believed it was relevant. And let me just say this, if I had objected and the judge had overruled that objection this case would be reversed.

Q And I'm reluctant to ask one point, are you familiar with case State versus Platte? And I can go a little further. He referenced the Barkhart case, but are you

familiar with the fact that you cannot subpoena the electric chair down, or talk about other conditions of execution?

MR. WATERS: Your Honor, I object to the form of that question.

THE COURT: I sustain the objection.

BY MR. BROWN:

Q What is your understanding of the limitation upon admissibility of conditions of execution?

A Well -- and I'm just hoping that -- I mean, right here with regard to the record in this case, but I would believe that there would be a pretrial motion filed in this case where I asked to be allowed to bring the electric chair into the courtroom. And if there wasn't then I'll testify that that it is my normal practice to make that motion. That motion is routinely and consistently denied. And it is denied based upon the case law that says that -- that the condition is not appropriate for the consideration by the jury.

Q And those talking about the condition of execution?

A Right.

Q Okay. And it could be that your decision not to object that was referenced in your cross was based upon an erroneous understanding of law related to what is admissible about conditions of sentence? In other words,

you may have believed it applied to conditions about execution but not confinement?

MR. WATERS: Your Honor, he's already testified ---

THE COURT: I would sustain the objection. He said he couldn't ---

BY MR. BROWN:

Q And this is my last question. Could it be that your -- you did not believe that the case law restricted testimony regarding conditions of confinement?

A I'll say that the transcript is crystal clear that the witness was going to be offered for the stated purpose by the State. And I'll say that that stated purpose should have been -- led me to enter an objection. It just -- I can't say it any other way. I should have objected. The objection should have been sustained. Mr. Sligh's testimony should not have been allowed. The argument by Mr. Ariail in closing about the conditions of confinement, serving life in prison, got a child sitting in his lap, all of that stuff was just -- what I right now will say constituted an arbitrary factor based upon a case that's not even a month old. I don't think -- I think it's been decided since the last time we here.

Q It was, I believe.

THE COURT: I don't remember the name of the case, or I can't remember whether it's Barkhart, Beaumont or

something else, but I know y'all are more familiar with case names than I am.

BY MR. BROWN:

Q I guess just to sum up, you're saying -- you're saying even though there appears to be a decision it wasn't one you believe is reasonable?

A Well, I think it was clearly error.

MR. WATERS: Your Honor, I object to that. It's speculative. Move to strike.

THE COURT: All right. I would sustain the objection.

MR. BROWN: I missed the ground.

MR. WATERS: Well, I think that, number one, he's testified repeatedly he didn't recall the reason that he objected. It's been speculative at this point, just engaging in legal argument.

THE COURT: Yeah, just -- I mean, the record speaks for itself. That's the way it is. And his various opinions about this and that, he's got to be more specific as to this particular case.

MR. BROWN: All I'm trying to find out is whether he made the distinction he believes is reasonable.

THE COURT: If what now?

MR. BROWN: Believes the decision not to object was reasonable.

THE COURT: What he believes is not the real issue in this case. It is what he did or did not do that counts.

MR. BROWN: I certainly understand that. Your Honor, that's all we have of this witness. I don't know if there is any re-cross. Again, we would like for him to be -- search his files on the way to see if he can find if there was contact information on Connie Jantz and the Brian Bowen federal presentence report he had mentioned earlier.

MR. WATERS: Nothing further.

THE COURT: Thank you, Mr. Mauldin.

MR. BROWN: Just for clarification. Once he finds out if that information is or is not in the file ask if -- if we could get that back up with Your Honor.

THE COURT: He'll just came back and report back to the Court whether it's in the file or not.

MR. BROWN: Thank you, Your Honor.

MR. WATERS: Your Honor, obviously we still have Mr. Mauldin under subpoena, but I don't mind if he remains on standby.

THE COURT: He's going to remain on standby until -- I think he's got a flight out Saturday morning or something like that.

THE WITNESS: I do, Your Honor. I had mentioned

that my daughter is getting married on Saturday. My night out until Sunday morning, but my daughter is getting married on Saturday, and we have rehearsal dinner on Friday night. So I hope you're not going to be holding court on Friday night.

THE COURT: Well, I'm not going to promise but more than likely we may not. Thank you.

THE WITNESS: Thank you, Judge.

MR. BROWN: Thank you, Mr. Mauldin. Your Honor, we have several witnesses here. Gosh I feel bad. I feel like one or two are going to complain. I would suggest this, Mr. Byrholdt has been here not just the two days this week but also back in January. So I'm going to ask that I can call him first. I'd like to be able to get through four of the witnesses sitting back here in the gallery.

THE COURT: I cannot promise, but we'll see how far we get. They are all from out of town.

THE CLERK: Place your left hand on the Bible and raise your right hand.

BRUCE BYRHOLDT

THE CLERK: Thank you. You may be seated. State your name and spell your last name for the record.

THE WITNESS: Bruce, middle initial A, Byrholdt, B-y-r-h-o-l-d-t.

THE CLERK: Thank you.

MR. BROWN: I wish to approach the witness with a copy of plaintiff's exhibit 12.

THE COURT: Okay.

DIRECT EXAMINATION

BY MR. BROWN:

Q Mr. Byrholdt, if you will take a look at that briefly.

A All right.

Q If you'll look at the third paragraph on that order. I'm talking about the third paragraph below the caption.

A Yes, sir.

Q Does that mention that there is consent through Anderson County counsel?

A I see that.

Q Okay. And the caption indicates Greenville?

A Yes.

Q And the date on it is September 21st?

A Yes.

Q And were you the Anderson County counsel, Mr. Byrholdt, at that time?

A Court appointed by Judge Kittredge in the Anderson County cases.

Q At this time you were his attorney?

A Yes, sir.

Q Did you recall providing consent related to a capital case?

A I did not. I provided consent to an order that was signed in Anderson. And I believe it was signed by Judge Kittredge on August the 4th of 2001. I believe it was consented to by myself, Ms. White was the solicitor, and Mr. Wood was my client.

Q If I may approach, Your Honor? Is that the order you're referring to, just plaintiff's 13?

A Plaintiff's exhibit 13 is the order that I consented to.

Q All right. And the last thing I've got regarding the discussions you have had with Mr. Wood, did you ever discuss with him the impact that an evaluation, or his being evaluated would have on capital sentencing proceedings?

A I did not. I was not representing him in the capital proceeding.

MR. BROWN: No further questions, Your Honor.

CROSS-EXAMINATION

BY MR. WATERS:

Q Mr. Byrholdt, how are you doing today? Ready to go home?

A Yes, sir.

Q All right. So you were appointed I believe in

August of 2001, is that correct?
A Either July or August of 2001, after Mr. Wood made a request that Mr. Mauldin be relieved from the Anderson County cases.
Q Okay. And so you then had a meeting with Mr. Wood, correct?
A After being -- well, after being approached by Judge Kittredge right after being appointed, yes, I had a meeting with John.
Q Okay. Did y'all discuss his desire to be evaluated?
A Yes, we did.
Q Okay. What was his desire at that time?
A He wanted to be evaluated.
Q And based on your personal observation, did you think that there was a basis for that?
A I think as his attorney I was concerned about his behaviors, and I didn't -- I had no objection to him being evaluated, no, sir.
Q Based -- as his counsel you thought it was an appropriate thing based on the way he presented himself to you?
A Yes, sir.
Q Of course you also knew he had been wounded in the head in this incident as well, correct?
A Yes, sir.

MR. WATERS: I have nothing further, Your Honor.

MR. BROWN: No further questions, Your Honor. I'd ask that Mr. Byrholdt be excused.

THE COURT: Thank you.

THE WITNESS: Thank you, Judge.

THE COURT: I appreciate your testimony. You were much quicker than Mr. Mauldin.

MR. BROWN: Your Honor, the next witness we would call is Dr. Steedman.

THE CLERK: Dr. Steedman, place your left hand on the Bible, raise your right hand.

JOHN STEEDMAN

Having been first duly sworn, testified as follows:

THE CLERK: Thank you. You may be seated.

DIRECT EXAMINATION

BY MR. BROWN:

Q Good afternoon, Dr. Steedman.

A Good afternoon.

THE CLERK: State your name for the record, please, spell your last name?

THE WITNESS: It's John George Steedman. It's S-t-e-e-d-m-a-n.

THE CLERK: Thank you.

BY MR. BROWN:

Q And Dr. Steedman ---

MR. WATERS: Your Honor, before we begin with this witness, of course earlier I had requested that Court's exhibit 19, which is the evaluation, be unsealed, and I think getting into some of the doctors I think it would be appropriate at this time for me to be privy to that entire record.

MR. BROWN: And again, the only caveat I would ask that -- if he gets a new sentence it's going to come back with the same issue, who should have access. I don't have a problem with him having access, but it's -- I admit it's unfair to make the argument he didn't have access to it, but I would ask that it be restricted. I'm not looking to move this into evidence. I'm going to ask one question about the two pages.

THE COURT: Whose record is it? I don't know.

MR. BROWN: It's my client's sealed ---

THE COURT: Whose report is it?

MR. WATERS: That's the report of Dr. Narayan, who will be testifying tomorrow. One of their issues is that Dr. Narayan diagnosed Mr. Wood inappropriately with ASPD reflected in that very report over there.

THE COURT: I'm going to order you have access to it.

MR. WATERS: Thank you, Your Honor.

MR. BROWN: Thank you, Your Honor.

BY MR. BROWN:

Q Dr. Steedman, do you have a copy of your two page report?

A I'm sorry, I left it behind on the bench there.

Q If I may approach, Your Honor, I'll ---

A The copy that I was faxed this morning was a little -- just slightly incomplete so I -- I'm ready.

Q Thank you. And if you'll note on the second page of that report there is a paragraph, social, educational, developmental history?

A Right.

Q Okay. And at that last line there is a sentence that starts with, he reports legal charges for shoplifting as a child?

A Yes, sir.

Q Okay. Would it surprise you to find out that Mr. Wood had charges for shoplifting, that he was arrested at age 19?

A I'm not sure what you mean by would it surprise me. Nothing would surprise me frankly. I've got a large experience ---

Q Is that consistent?

A --- in the world.

Q What you have found here?

A Sir, say again what age are you talking about?

Q At age 19.
A Okay. Now, what I say here is that he told me.
Q Yes, sir.
A I missed out the patient, the patient reports.
Q Yes, sir.
A What I mean, the patient reports legal charges for shoplifting as a child. In other words, I'm reporting his speech to me, I had charges for shoplifting when I was a child.
Q I understand that, and there is some -- some question as to the context of -- let me back up. Your report went to Dr. Narayan?
A My report was requested by Dr. Narayan, and yes, I sent it back to him. He was the requesting referral. He requested consultation.
Q And it's something he would rely upon?
A I wouldn't speculate about that, sir.
Q Okay. And he's going to come testify later on. But you don't have an age in which this shoplifting charge arose, do you?
A No. Well, I don't know whether there was a shoplifting charge, just a report that the patient told me that.
Q Okay. I guess what I'm saying, you don't know whether it's 15, or before, or whether it's 19?

A 19 would not be a child under South Carolina law.
Q And I'll agree with that. But you don't know what he's referring to as a child, do you?
A Sorry?
Q I mean, you don't know whether he's saying as a juvenile, as a child, I don't mean legally juvenile?
A He used the word child. I'm not going -- because my memory -- because my memory of this is almost nil. I'm just saying that he said as a child.
Q I understand that. You don't know whether that's prior to 15 or 19?
A No, I don't know whether it's true at all. I don't know whether it's true or false, whether he ever -- that's why I put in words like reports, because ---
Q Let me ask on that note, were there some things he told you you did not believe?
A No, I don't think I get that flavor from it. Sometimes I do produce reports which indicate I might not believe something. And I don't see that was something I was thinking about.
Q Well, as far as seeing ghosts, like faces coming out of walls, voices, him driving a lawnmower off the back of the truck?
A You mean that was the tone which implies that I think he might be exaggerating a bit or something?

Q Yes, sir. It's just not quite accurate?
A I really can't remember. I think I was just trying to say what he said.
Q And I guess all I'm asking, did you find him to be the type person who would be credible enough to make an important decision that you would base -- support a decision of your own life?
MR. WATERS: Your Honor, objection.
THE COURT: I sustain the objection.
THE WITNESS: Well, I would say that I was -- all right.
BY MR. BROWN:
Q Would you say that if there is evidence that contradicts that statement about shoplifting as a child, Mr. Wood's statement would still be a credible statement?
MR. WATERS: Your Honor ---
THE COURT: I sustain the objection to the question.
THE WITNESS: And again, I'm here to testify to -- to what I mean if it's not clear.
BY MR. BROWN:
Q Again, you had no idea what age he's referring to?
A Well, usually when people say as a child they mean before adolescence, you know.
Q Did you try to corroborate ---
A Before age of 18.

Q Before the age of 18?
A Um-hm.
Q Okay. Not necessarily before the age of 15?
A Are you talking about what I think is a child?
Q Well, just commonly before the age of 18?
A I believe so.
Q Before adolescence?
A It's a person born ---
Q Younger than 18, is it not? Well, I'm throwing a legal definition on you. Just it could be interpreted to be any number of age?
A It could be nine years old.
Q Or 18, 17?
A Before the age of 18, I believe.
Q Some states are even different than that, isn't it?
MR. WATERS: Your Honor, objection.
THE COURT: I sustain the objection.
BY MR. BROWN:
Q But you don't necessarily know if this was before the age of 15?
A I don't know if it is what?
Q You -- do you have any indication this is before the age of 18?
A No, no, I don't have any indication about it.
MR. BROWN: Thank you. No further questions.

MR. WATERS: Your Honor, I have no questions.

THE COURT: All right.

MR. BROWN: We have no problem with him being excused.

THE COURT: All right, sir.

THE WITNESS: Thank you.

MR. BROWN: The next witness I would call would be Dr. Tezza.

THE CLERK: Place your left hand on the Bible, raise your right hand.

CAMILLA TEZZA

Having been first duly sworn, testified as follows:

THE CLERK: Thank you. You may be seated. State your name for the record and spell your last name.

THE WITNESS: Camilla, C-a-m-i-l-l-a, Tezza, T-e-z-z-a.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. BROWN:

Q Good afternoon, Dr. Tezza.

A Good afternoon.

Q And in this case you were part of the team from the Department of Mental Health that at least conducted an evaluation as a whole on John Wood?

A Yes, I participated in Mr. Wood's evaluation. I was

not present at every interview, but I was a participant.
Q Did you compile some notes?
A I did.
Q Okay. And Your Honor, if I may approach? Just ask her if these notes -- I have lots of notes.
A This happens to be in the form of a consultation brief, a brief summary of what I did that was given to Dr. Narayan. I had prior to that prepared a psychological testing section which I had sent to him, but he wanted me to do it the old way. This was to get a full consult note in addition to what he already had given me. So I can did send the consultation note as well.
Q So at this point in time Mr. Wood came -- or you met with Mr. Wood?
A I had seen Mr. Wood two times at the point of that writing.
Q Okay. At the point -- okay. You're reducing your notes from your meeting with him on this page?
A Yes.
Q Okay. And there is a report where you talk about his prior problematic behavior?
A Yes.
Q I think is the word that you used. Can you give us a date of the problematic behavior? A date, I don't mean

a date, calendar date, but an age for him? Can you date that behavior?

A I'd have to look through my notes for that. I recall that he reported being placed in a home for wayward children at 11th grade because of some problematic behaviors. So the problematic behaviors would occur prior to that placement. Again the -- I cannot date them in looking back now over what I have.

Q Yes, sir (sic).

A I cannot date these problematic behaviors as occurring prior to the age of 15. What I do recall ---

Q Yes, ma'am.

A --- is when this case was getting closer -- moving closer to trial, I did not participate in the final draft of the full report that went to the Court. I had an opportunity to look that over, knowing we may already have gotten some subpoenas or it was pending. I recall looking at the report and going through my notes. And I recall going to Dr. Narayan, I have a clear memory of this, and asking him could he date the conduct disorder behaviors because for whatever reason I did not have ages listed in my notes. Dr. Narayan assured me, yes, that he did have evidence of conduct disorder prior to 15. He had that in his notes. That's my recollection. So I have to ---

Q Okay.
A --- I would have to direct you to Dr. Narayan to age those particular behaviors down. I have no knowledge of a time frame when those behaviors were done.
Q Okay. And so to make sure I understand, you don't have the dates but he told you he had the dates?
A That is correct.
Q Okay. And ---
A Well, he said he had evidence of conduct disorder behavior prior to the age of 15.
Q Okay.
A That's the phrase I recall him using.
Q I got you. Now, let me back up and ask you a couple things. One is, if a person in South Carolina who's emancipated, do you know, at 17, would they be in a group home?

MR. WATERS: Your Honor, I object.

THE COURT: I would sustain the objection.

BY MR. BROWN:
Q Let me back up. Could there be -- it could be the case that Mr. Wood was in a group home because his parents ran it?

MR. WATERS: Your Honor, objection.

THE COURT: I sustain the objection.

BY MR. BROWN:

Q Did you ask him under what circumstances led him to be in a group -- group home?

A I recall that -- that came -- I think was my follow up interview with him. I remember doing the second interview early in November. I remember -- I think he said that he dropped out of school or was having problems in the 11th grade. I asked what kind of problems. I think he got a little into that. He said that he had been placed in a home for wayward children, I believe is the term he used. It sounded like a resident detention placement for misconduct. I don't recall exploring further on that. I don't mean -- I don't recall more than that at this point in time looking back.

Q So we don't know whether it was because of his behavior?

MR. WATERS: Your Honor, object to the leading.

THE COURT: I would sustain the objection.

BY MR. BROWN:

Q And maybe I can get you to repeat your response, but I'm not quite clear, you said that you assumed it was because of his behavior?

A Let me ---

Q The record will reflect what you said, but I apologize for not ---

A I certainly don't want to misspeak.

Q It's late in the day so ---
A In fact, I'm going to go to the notes so if you'll be patient with me.
Q Yes, ma'am, I sure will.
A I can back up. The conduct -- well, I'll do -- the conduct disorder behaviors we got during the October interview, this person represents, 11th grade was, I just did not get along with anybody. I had been asking about grades repeated. I have a list here, broke window, fighting, stealing, sneaking out at night. Okay. He followed up with a second interview on November the 5th, 2001. I was asking him about school. If you have all those old notes from the file it would be page one of the interview marked 11/5/01, Mr. Brown.
Q Bear with me one second. I'm looking through the deposition record. I'm going to wait to speak. I'm just skimming over this section. There are some notes, Camilla Tezza, and ---
A Does it not say C. T. and does did have underneath up in the left top, 11/5/01, F, followup appointment with John Wood? That's then 201?
Q Okay. I don't appear to have those notes here but go ahead?
A Okay. All I can give you is my little section of notes here.

Q Yes, ma'am.
A I'll tell you I can't verbatim, I don't know short hand, but the best I can reconstruct -- or I'll just go with what's down here.
Q Whose are these notes?
A They're my notes.
Q Okay.
A We are had been talking about school, second, third grade, best subjects, how was he on tests. I asked him about test anxiety which is clearly problems in people. He talked about cooking the year, talked about working, getting off at 1:00 a.m. How was his grades in school, was -- now, I'm sure what my question was but he starts talking about a boys home, mostly a boys home, children's home, Tabernacle Christian, probably mostly for wayward kids. I asked him then had he been wayward before that. He said he got in a little trouble shoplifting, ended up losing my job though a friend just under the legal age who had told on him. Then goes on to talk about shoplifting. I asked about fights, et cetera, et cetera. So that's what I have there in relation to your question. I hope I have answered it.
Q Okay. I'm going to follow up. Is there -- do you have anything in there that indicates it was 15 or earlier?

A No, I do not. And not clearly -- and that's why I went to Dr. Narayan and said, do you have this, because I don't have any ages clearly recorded.

Q Okay. Now, would it surprise you to find out that he was home schooled for the high school time period?

MR. WATERS: Your Honor, I object to relevance. I'm not sure ---

THE COURT: I sustain the objection as to the question.

BY MR. BROWN:

Q Did you know he graduated number one in his class?

A No, he did not report that.

MR. WATERS: Your Honor, again, object to the relevance of that.

THE COURT: All right. I would sustain the objection as to that question.

BY MR. BROWN:

Q And how old -- let me stop. Did he indicate to you he repeated several grades?

A Second, third, 11th by his report.

Q So that would mean he was 20 years old in the 11th grade?

A I don't know.

Q Let's see if we can go back and kind of look at that. If he was six years old in the first grade?

MR. WATERS: Your Honor, I object to this line of questioning.

THE COURT: I sustain the question. You're just pulling things out of the air like being 20 in the 11th grade. He had some home schooling. You can ask what she knows.

MR. BROWN: Okay.

THE COURT: It's got to be a question based on the evidence in the case. All right.

MR. BROWN: Okay.

THE COURT: You got to establish a basis for it.

MR. BROWN: Yeah, I certainly understand that, Your Honor. Thank you.

BY MR. BROWN:

Q You have indicated where he had repeated three grades?

A Well, my ---

Q According to what he told you?

A When I look through the notes I can look back through Dr. Torres' social work notes and it was what I have in my notes, was, second comma third comma and 11th grade. I think it was indicated in another place, second or third and 11th grade would be repeated by -- this was all by his report. So it would be, based on my notes, three repeated grades. Based on someone else's notes

possibly repeated two grades.
Q Possibly two, probably three?
A Right.
Q Okay. Would that effect his age in those grades?
MR. WATERS: Your Honor, I would object.
THE COURT: I sustain the objection to the last question. I don't think -- I guess that would affect the age. He knows how old he was in the 11th grade. Let's move on, Mr. Brown.
MR. BROWN: Those are all my questions ---
THE COURT: I mean, there is no way unless she asked how old he was when he was in the 11th grade, there's just no way she can know that. Then he was home schooled. I mean, ask questions you know she can answer.
BY MR. BROWN:
Q The last thing I'll ask you, do you reference other legal charges in your report?
A Adult legal charges? I mention some problematic behaviors in his teens per his report. In terms of formal legal charges, those are all at an adult age.
Q Okay. And things such as possession with intent to distribute drugs, or items like that?
A Right.
Q Okay. And more recently he got arrested for grand

theft, grand theft auto?

A Correct, that's since 19 and upwards.

MR. BROWN: Okay. All right. Well, thank you.

CROSS-EXAMINATION

BY MR. WATERS:

Q Dr. Tezza, how you doing today?

A Okay.

Q Good. All of this information you have is from self reporting of the defendant, correct?

A This information that we've been talking about, about his prior troubles, correct.

Q Okay. And when you reported the problematic behaviors as a teen, fighting, stealing, property damages, breaking curfew, what you're saying now is that you just can't remember a specific age that he might have committed those?

A Knowing this would be a question here today I really tried to search my memory. I don't recall. I don't recall if that was nailed down or if he couldn't specify. I'm not sure why I don't have ages by those behaviors. That's something I typically do. My notes don't have that in this case. I don't know why but my recollection is not quite that good. All I can say is there are not ages listed by these particular things. I have some kind of marker, trouble at 17, home for wayward kids, which

may or may not be true, him being in a home for wayward kids. That was just his report. But I can't speculate. What I can say is that it was clear, you know, that it happened in his teens. That's as close as I can get to nailing it down. That's why ultimately I left it with Dr. Narayan.

Q Right, but you're reading your notes, and then you kind of left off I guess where you were getting into you talked about he reported trouble and just went into getting -- just specifically if you can recount what was in your notes at that time? Your Honor, can I approach the witness?

A Okay. There -- the first hearing with Dr. Narayan, it's listed very briefly. I wasn't taking copious notes there.

MR. BROWN: Your Honor, may I approach also? I apologize.

THE COURT: Sure.

THE WITNESS: Here, the October interview, I wasn't doing lots and lots of writing, just kind of jotting down facts as reported by self report from Mr. Wood. I broke windows, fighting, stealing, sneaking out at night.

BY MR. WATERS:

Q Right. I would have you to look through again and see if those fleshed out. I would like you to look

through this, I don't know, it might be 20 pages now.
A That goes on to say shoplifting, the adult -- he's near adult charges.
Q Then on notes -- I believe there's some more specific references on the next page?
A I don't think they're in lots of detail.
Q Going on to talk about fighting, was over stupid stuff and ---
A I got shoplifting, 17, this is when he was -- had been wayward before ---
Q Right.
A --- placement in the home for wayward children.
Q Okay.
A Yes, shoplifting at 17, then ends up losing my job, friend, legal, had told on me he was under age to -- should I go on?
Q Please.
A About shoplifting, in little fights, male boxing (sic), specifically shoplift, recreates any questions but I asked something about shoplifting, what I had written down in terms of his response. Anything that -- perhaps I asked what kinds of stuff did you take and why. Money was something I wanted, is what he replied. I asked him about fights in school, what would the fights be over. I'm reconstructing that question for you. I can

reconstruct based on the words here.
Q I understand you're testifying about ---
A I don't even remember, mostly stupid stuff. One time someone hit him from behind with a rock, no problem prior with this individual. Usually got my butt kicked. Then I might have asked a question here. Based on what you see you try to get a sense of how bad it was, was it a real bad fight, or a worse fight, but then get the sense of how sharp the weapon was, or if he had been rushed to the hospital?
Q Um-hm.
A I'm trying to speak so I don't get far from the microphone. But let me -- if you can't hear me let me know. Problem, did not hurt anybody else too bad, fists only. In other words, no weapon. He did not -- then I asked about vandalism, mail boxes, et cetera.
Q He said yes?
A Yes.
Q Okay. And windows?
A Windows at an old abandoned place, that's it.
Q Um-hm.
A Then he went on to -- I'm not sure of why the transition. Went -- started talking he had a MVA, where he hit his head again the window, that's as much exploring as I did. I did urge a second interview.

Q All right.
A I got three so I stopped, three pattern reports, three apparently different types of conduct disorder behavior. But again, the place came specifically before the age of 15.
Q When usually you were asking these questions how did you phrase it, tell me what was going on when you were growing up, tell me about what life was like when you were young?
A Well, this is an -- I'm specifically asking him about conduct disorder behaviors here, so it's kind of a -- you hit areas. So you kind of ask about fighting, then you might ask about vandalism. So you start with the mail boxes, then breaks windows, you're looking for certain behaviors off the list, and so that's why I touched base on how he would have been wayward before, was to kind of lead him to tell me about the problem behaviors he had. And so I just asked directly have -- did you ever shoplift, or tell me about shoplifting. I guess I must have said it because he had already mentioned that himself. Then I just automatically went to asking a few other conduct disorder behaviors, fights, vandalism. I stopped -- just stopped there. I guess I felt like I had enough there. We were moving on -- the purpose of bringing him in was just to have some followup

to questions I had asked at a prior interview or flush things out, also to do some other testing. He had been generally fatigued the first time we saw him. We did so much testing kind of in the afternoon, and I needed to redo one of the tests, but he was clearly too fatigued at the end of the first interview time.

Q All right. Now, you're a psychologist, correct?

A That's correct.

Q You're familiar with the DSM 4?

A I am.

Q Do you use it regularly?

A I do.

Q Okay. Do you make diagnosis out of it?

A I do.

Q Okay. Now, if you had an individual who displayed sufficient other qualities and traits for anti-social personality disorder but couldn't -- you couldn't find evidence of conduct order at the age of 15, what would be an alternative diagnosis then at that point?

A Well, on access two, which is where you put the personality disorder diagnosis, I would use anti-social -- actually I would say anti-social traits.

Q Right.

A Which is at the end of the anti-social personality disorder. Or you possibly could say personality

disorder, NOS, not otherwise specified, common anti-social traits.

Q Okay. And then also consistent of DSM 4 adult anti-social behavior?

A Right.

Q Okay. All right. Then other personal ---

A That's correct, yes.

Q Other personality disorders that might have some overlap with anti-social personality disorder is borderline personality disorder, things like that?

A Sure. But just one -- or part one doesn't preclude others, there is some that tend to occur.

Q Let me ask if you -- did you have evidence of conduct disorder at say age 15 and one month? I mean, obviously 15 -- 15 is just a general guide of age, is that not correct?

A Well, DSM 4 says 15. So 15 they really want you to -- the criteria are what they are. The criteria doesn't say before the age of 15. Now, if you look at the anti-social personality disorder criteria you will see, I'm not sure what letter it is under, evidence of conduct disorder before the age of 15. Some folks interpret that to mean you have to have fully completely met the criteria for conduct disorder, which means you have to have essentially very simply put,

just simply participating in three of the problematic behaviors.

Q Correct.

A Three or more during this certain at least year period. If you look on the page 702, I believe it is under anti-social personality disorder, there is not just a box that gives you the criteria for the disorder. There is a whole text -- I'm sorry, I'm going on at length here. There is a whole text that describes kind of the in process characteristics of anti-personality disorder. What you will see on 702 in the text is some symptoms of conduct disorder must be present before age 15. So people interpret that to be some folks say you have to have three problematic behaviors before 15 to fully meet -- fully meet the criteria for a conduct disorder before you can then move on and diagnose anti-social personality disorder. Some folks, some experts say, well, some symptoms it does not say three, it has some symptoms. So there has been some argument in the past, I don't know whether it stands now, some symptoms -- it depends on how you read the text, sir.

Q I guess what I'm going at, this is called the diagnostic statistical manual?

A Correct. In means essentially a consensus -- the

best consensus that could be reached document. There is a lot of debate, disagreement about the diagnosis in here even. So sometimes there is great disagreement even with practicing physicians and in their individual judgment may look at the different requirements differently. I know it was the case where I worked that there has been in the path at least discussion about how to interpret some symptoms of conduct disorder, or is it -- I think we probably had some discussion like before this case went to trial, some discussion about is it symptoms of all three.

MR. WATERS: I appreciate it, Dr. Tezza. Thank you very much.

MR. BROWN: Very briefly.

REDIRECT-EXAMINATION

BY MR. BROWN:

Q That debate between whether it has to be all three before 15 or whether it is some, does that affect whether the opinion about the diagnosis can be made to a reasonable degree of medical certainty if there is still a debate about what the criteria is?

A I -- I don't think there's much difference, well, between having two of problematic behaviors, or having three behaviors before the age of 15. That's how I can respond as an expert. What my opinion -- it is my

practice as I read through the DSM 4 -- I don't -- I know among professionals that I work with we have at least in the past had talked about the matter.

Q What's the majority view?

A I don't know actually. I don't know what the majority view is on that among psychiatry or even psychology. I can' speak for all professionals. Perhaps I would have do a little research to see if there's anything published on that, other than part from speaking to my colleagues, and folks I work with.

MR. BROWN: I understand that the other experts -- thank you. I appreciate your attendance, Dr. Tezza.

MR. WATERS: Thank you, Dr. Tezza.

THE COURT: Okay. Thank you.

MR. BROWN: Your Honor, we now call Mr. Carlos Torres. First concern, Dr. Tezza is excused?

MR. WATERS: No objection.

THE COURT: Thank you.

THE CLERK: Place your left hand on the Bible, raise your right hand.

CARLOS TORRES

Having been first duly sworn, testified as follows:

THE CLERK: State your full name for the record.

THE WITNESS: Carlos Miguel Torres, T-o-r-r-e-s.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. BROWN:

Q And Mr. Torres, at one point in time were you employed by the Department of Mental Health?

A Yes, sir.

Q And just to kind of bring this full circle, did you assist Dr. Narayan and the Department of Mental Health and other folks, including Dr. Tezza in their evaluation of Mr. Wood?

A Assisted in getting social history information, yes.

Q You served as -- in what capacity did you serve on that team?

A I was getting the social history report.

Q What would you say your title would have been?

A I was a social worker.

Q Okay. And are you currently in medical school?

A Yes, sir.

Q Okay. Are you familiar with your psychiatric social work admission assessment?

A Yes, sir.

Q And as far as that assessment, did you speak with Mr. Wood regarding his -- I apologize. Just my last page on this, but where it says legal history, I've got it as page seven of 10.

A As far as getting -- speaking with him directly, I

can't say that I asked him directory, or if I -- when he was being interviewed and either Dr. Tezza or Dr. Narayan asked him I wrote down his response to their questions.

Q Do you recall taking these notes regarding what's listed as a legal history?

A I wrote these notes definitely. As far as I asked him questions directly myself, I can't say that I did.

Q Okay. And is it not accurate to say the patient stated that he began legal problems around age of 20 with shoplifting?

A That's what I got from -- from -- I wrote down an answer, yes, that's correct. Then at age 25 to 26 he was arrested for grand theft auto, possession of marijuana with intent to distribute and forgery.

Q He did burglaries in his 30s, counterfeiting.

A Yells.

Q Okay. And do you recall any comments about legal charges for shoplifting as a child being prior to that age 20?

A At the time this information was gathered I do not recall any comments of criminal activity before the age of 20.

Q Do you recall any other information that was contained within this assessment regarding conduct disorder prior to the age of 15?

A I do not recall any, sir.

MR. BROWN: No further questions Your Honor.

MR. WATERS: No questions, Your Honor.

THE COURT: Okay. Thank you, sir.

MR. BROWN: We would ask that Mr. Torres be excused.

THE COURT: All right.

MR. BROWN: Your Honor, we did at some point ask for Dr. Narayan to come, but I think that may be resolved, I'm not sure.

MR. WATERS: I haven't talked to Dr. Narayan. Just while I've been in court I had a message from him that, you know, he had been initially told tomorrow. He had all these evaluations he was in middle of. He was going to try to come. Since I wasn't the one who contacted him and we've been in court, I have not called him. I back told Mr. Brown about it. I don't know if he's coming or not.

MR. BROWN: I haven't called him back. But, Your Honor, you mentioned scheduled was your concern.

THE COURT: We'll see -- get him tomorrow.

MR. BROWN: Yes, sir. We do have two short law enforcement officer witnesses. I say short. We are talking about a number of witnesses, also the federal probation officer witness, and then we do have an issue again with school records. Maybe I can ask Mr. Godfrey

if he would like to try to bring up one request we may have regarding that, and it doesn't deal with our concerns or situation maybe we can propose a solution to the Court, but I'm just trying to tell you that looks like our case.

THE COURT: All right. I'll see you at 9:30 in the morning.

MR. BROWN: Thank you, Your Honor.

MR. WATERS: Thank you.

(Court adjourned for the evening.)

(The following proceedings were held on March 8, 2007, as follows:)

THE COURT: Okay. Mr. Brown.

MR. BROWN: May it please the Court, Your Honor? At this time we would call Officer Tim Jones.

THE COURT: Okay.

THE CLERK: Officer Jones, step up here please. Place your left hand on the Bible, raise your right hand.

TIMOTHY JONES

Having been first duly sworn, testified as follows:

THE CLERK: Thank you. You may be seated. State your full name for the record.

THE WITNESS: Timothy William Jones.

THE CLERK: Thank you.

MR. BROWN: May it please the Court, Your Honor?

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. BROWN:

Q Officer Jones, were you involved in the investigation of the Greenville County matter involving John Richard Wood?

A Yes, sir.

Q And can you tell us a little about your knowledge of the seizure of any computer equipment in this case?

A Yes, sir. I guess a day or two after Mr. Wood had been arrested, we were contacted by a secret service agent in Alabama who said that Mr. Wood and Ms. McCall had been in Alabama at a residence and had left all types of computer equipment, and all -- just all kinds of belongings at a residence of a relative, and that they were wanting to turn it over to us.

Q Did you take custody of that equipment?

A I did.

Q Okay. You have some of those documents related to that with you today?

A I do.

Q Okay. And can you tell the Court just generally what -- whether there were any actual computers taken into evidence?

A Yes, sir, there was a Hewlett Packard brand computer

that was taken into evidence, along with its keyboard, and mouse, and monitor, and that.

Q Now, is that computer still held in the Greenville County Sheriff's Department?

A No, I see that it's -- it was released on March 30, 2004, to a Donald Edward McCall.

Q Are you aware of any other computer items or computer related items, such as floppy disks, or things like that?

A Well, yeah, down there there was several floppy disks, and scanners, and printers and stuff like that. It seems like there was a hard drive in the Jeep that they were in, but I can't seem to find it right now on my property and evidence sheets, but it seems like there was another hard drive too.

Q Do you have any record of that being released?

A I do not.

Q Do you know who would have taken the items out of the Jeep and who would have had knowledge of where they were entered into?

A If you give me one second, I'm going to try to find it. I was looking for it a while ago and I couldn't find it.

Q Thank you.

A This might be it where it says computer terminals,

300 megahertz, IBM Aptiva, and -- that may not be right. Hold on one second. I don't believe I have that P and E sheet. I don't recall me taking it out of there but it was probably one of our forensics.

Q Let me ask you, have you ever been contacted by a Jeff Naylor recently?

A It was about two months ago I believe.

Q Okay. And did he discuss with you trying to have access to some computer equipment?

A Yes, sir, I gave him Paul Silvaggio's name.

Q Okay.

A Because once I took all this into evidence I -- Investigator Silvaggio was the lead in this case, and I didn't have anything else to do with it.

Q Okay. Are you aware of the collection of any other computer information besides what you got from Alabama?

A No.

Q Okay. And besides the release of that one Hewlett Packard computer, are you aware of any other items for lack of a better term ---

A No, sir.

Q --- that have been released?

A No, sir, I'm not.

Q Okay. Now you said the date of that release was?

A I believe it was March 30, 2004.

Q Okay. And do you know whether any attorney for Mr. Wood was contacted before that item was released?

A I do not know. I did not sign the release on it. Investigator Silvaggio did.

MR. BROWN: Okay. Beg the Court's indulgence. I don't have any other questions of Officer Jones.

CROSS-EXAMINATION

BY MR. WATERS:

Q How you doing, Officer Jones?

A Good.

Q You said that you were contacted by the secret service about this computer, is that correct?

A Yes.

Q And why was the secret service contacting you about it?

A The Pitmans that were in Alabama, they got in touch with a county deputy out there, and I can't remember his name. He was sick at the time and was out of work.

MR. BROWN: Your Honor, I -- and I don't have much concern, but I would suggest that this is hearsay, may get into some -- several layers of hearsay. And the only reason I suggest that is it may open up redirect that then would invite me to ask for hearsay, or several layers of hearsay.

MR. WATERS: Your Honor, if I could respond? I

think there's -- there's three layers to deal with. The first layer is I don't think there's been any allegation about failure to provide a computer, and I believe I made that objection earlier. But since it's been joined we have the expert up, Dr. Schwartz-Watts testified about it, and I think the idea is is that this computer might have been helpful to Dr. Schwartz-Watts somehow in doing a diagnosis. But I think the evidence is going to show that there was plenty of evidence of other criminal activity involved with this computer and other items that were recovered from Alabama, and I think that that is very important in showing why counsel would want no part of any of this. So I think it's important to explore ---

THE COURT: I would admit it to show not what was on the computer but maybe why they wanted it.

MR. BROWN: And Your Honor, with -- would that also then allow me to also go into some of that same information?

THE COURT: Okay.

MR. BROWN: Thank you.

THE COURT: Well, we'll just have to see what your question is first, Mr. Brown.

MR. BROWN: I understand, yes, sir. Thank you, Your Honor.

BY MR. WATERS:

Q Okay. So you were saying about how the secret service came and ---

A Right.

Q --- contacted you about this?

A Right. The deputy was sick and couldn't come to their house. He called the secret service agent, and the secret service agent went out there and met with him and actually he seized a lot of this stuff on his own and then brought it back to his office. That's when he called us.

Q Okay. What information ---

THE COURT: Okay. He just said that the secret service agent seized it because the deputy couldn't be there?

MR. BROWN: Yes, sir.

THE COURT: All right.

BY MR. WATERS:

Q Okay. And so as a result of this, you went out to Alabama, is that correct?

A Yes, sir.

Q Okay. And while you were out in Alabama, did you collect other items instead of just this computer?

A Oh, yes, sir.

Q Okay. And what sorts of other items did you find? Did you find any evidence of say disguises?

A Yes, we had found several wigs, a blond wig, a black wig. We found a wig that you use for a fake beard.

Q Um-hm.

A There was -- along with that computer there was some blank checks I guess where you would make your own, I'm not sure.

Q There was evidence of forging documents?

A Yes, there was some books there that they had contained -- one of them was called, document fraud and other crimes of deception. One of them was, the modern identity changer, the international fugitive, the real world of alternate ID acquisition. And one of them was called, advanced fugitive. And one was called, scram. That definitely tells something there.

Q Um-hm. And did you find any firearm type related items?

A We found a Glock -- Glock 17, the box and the brush and the manual that the Glock pistol would have come in.

Q Okay. Now, let me ask you this. What was reported to you -- and I'm just offering this just for the purposes of why you did your investigation. What was reported to you about these items that made you want to go out there? I mean, was there anything significant that the deputy that was reported to that initial deputy that made you have concern that there might be

evidentiary value to these items?

MR. BROWN: And Your Honor, this is hearsay.

MR. WATERS: Again, I'm just offering it for the purposes of his investigation.

MR. BROWN: This is exactly hearsay. It's offered to prove that that's why he went out there.

MR. WATERS: Exactly.

THE COURT: I'm going to let him answer the question, why did you go out there to get the computer? Isn't that where he picked it up? Okay. I'm going to let you answer that, why you went out there to get the computer, or these items and whatever.

THE WITNESS: I was told by the secret service agent that when Ms. McCall was arrested in Anderson she called her brother in Alabama and told him to burn, or get rid of everything that they had at that residence. Instead of doing that he called the deputy who called the secret service agent. When I went out there I then took a statement from her brother stating the same thing.

THE COURT: And that's -- that's the reason you went out there and got the stuff?

THE WITNESS: It might have evidentiary value toward the homicide. We didn't know until we got there.

THE COURT: And you got the computer out there?

THE WITNESS: Yes, sir.

THE COURT: Okay.

MR. WATERS: Thank you, Your Honor.

BY MR. WATERS:

Q Okay. And my final question, I guess, would be, prior to the murder of Trooper Eric Nicholson, had there been robberies of banks committed in the upstate by someone on a moped?

MR. BROWN: Your Honor, this would be irrelevant to this hearing and it would be speculative unless this officer has firsthand knowledge about that.

MR. WATERS: Your Honor, I think -- and it's even reflected in the record and there was -- certainly trial counsel said we wanted to make sure nothing about any other robberies in Greenville comes out in this trial, but I think that there was certainly concern on the part of law enforcement and I'd let Mr. -- Officer Jones testify to that if he would like, that Mr. Wood was in fact coming from Alabama into Greenville County and robbing banks, and that was a concern that was expressed. And I think this is also relevant to why trial counsel would not want to go anywhere down this road with all this stuff from Alabama. That's the only reason I offer it and not any other. Not even as much to assert that Mr. Wood necessarily committed those crimes, I'm just offering it to show that -- the kind of information that

trial counsel was having to deal with and why this -- this particular area might be one that he did not relish.

MR. BROWN: And my only response, Your Honor, is that these items were in the custody of law enforcement, the items we're talking about. As far as whether trial counsel wanted to go look at them, law enforcement has them. I mean, he's choosing not to look at evidence that they've already got. I don't understand why -- how the tying in of this information to other crimes goes to whether trial counsel was reasonable in looking at the computer. I mean, if it shows -- if the computer has evidence of them committing bank robberies and trial counsel didn't want to look at it he's ineffective for not looking at the evidence even if it's bad for his client. I mean, just because trial counsel ignores bad evidence doesn't make him effective. And whether -- and so the real question is what he's trying to do is to get out from this witness, oh, law enforcement in the area believed Mr. Wood was involved in armed robberies.

MR. WATERS: Your Honor ---

MR. BROWN: That's what this officer I don't believe is qualified to testify to.

MR. WATERS: Your Honor, I don't believe that that would have any effect on you in just to try to say that Mr. Wood was committing other armed robberies. I'm just

trying to show that the prosecution decided it didn't need to go down this road, and I think trial counsel was very happy with that. And that's all I'm trying to show. But to be honest I'll withdraw the question. I think I've made the other points valid.

THE COURT: All right. He's withdrawing the question.

MR. BROWN: Thank you.

MR. WATERS: And I have no further questions, Your Honor. Thank you.

THE COURT: I was just -- the reason I was hesitating I was just trying to see how it might have affected Mr. Mauldin's cross-examination of the lady, Ms. McCall, but ---

MR. BROWN: And Your Honor, that's an issue we'll probably have to argue in our brief, because they did bring it out now that Ms. McCall had called and said -- made some ---

THE COURT: Statements to her brother.

MR. BROWN: That's exactly right. And these certainly would invite some idea that she is guilty. I mean, that's an action of a guilty party to say burn all this stuff, which goes to our ground A, which is she should have been impeached.

MR. WATERS: I think ---

MR. BROWN: We will plan to argue that. I mean, I don't know if today is the proper time. I don't have any other questions for officer Jones.

THE COURT: What's the best thing to do, to impeach her on something like that or have her testify about him doing all this other stuff in front of that jury? It won't effect his death sentence, Mr. Brown.

MR. BROWN: And I -- well, again ground C is alternately they should have conceded guilt.

MR. WATERS: I think that's what Mr. Mauldin said, was that all this would do -- it's not going to diminish the guilt of my client any, it's just going to bring out more aggravating stuff, so ---

THE COURT: He could have been concerned about it bringing out more aggravating stuff against Mr. Wood rather than impeach her. So it was a strategic decision apparently, is what Mr. Mauldin's testimony was, not to go into the impeachment of her. So we'll explore that.

MR. BROWN: Yes, sir.

THE COURT: Whatever you have.

MR. BROWN: We understand their argument, their position, yes, sir.

THE COURT: Okay.

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

THE COURT: Thank you, sir.

MR. BROWN: Thank you.

THE WITNESS: Thank you.

MR. BROWN: Next we would call Detective Silvaggio. And Your Honor, we would excuse Officer Jones from our subpoena.

THE COURT: Okay.

THE CLERK: Place your left hand on the Bible, please.

PAUL SILVAGGIO

Having been first duly sworn, testified as follows:

THE CLERK: Thank you. You may be seated. State your full name for the record, please, and spell your last name.

THE WITNESS: Paul Andrew Silvaggio, S-i-l-v-a-g-g-i-o.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. BROWN:

Q Investigator Silvaggio, how are you?

A Fine, thank you, sir.

Q You heard Officer Jones' testimony just before you. And is he accurate that you were the lead investigator on this case?

A Yes, sir.

Q Okay. There's just a couple things I want to ask you about. One is about the computer equipment. Besides the computer equipment seized in Alabama, are you aware of other equipment that was taken into evidence in this case?

A Yes, I am.

Q Can you give the Court some idea of what that evidence is?

A Yes. If I may reflect on my notes?

Q Yes, sir.

A On December the 13th, 2000 (sic), of course we have the items from Commerce Montgomery, Alabama, that Investigator Jones testified to. Then on December the 7th, 2000, several items were seized from the Jeep Wagoneer that was used in the commission, not only the shooting death of Trooper Nicholson but also the subsequent shooting incident in Anderson County.

Q Yes, sir. Would you give the Court a brief description of the items, and doesn't necessarily need to include -- I know you're not a computer guy, but something that either has data on it, or in-store data? So I'm not necessarily looking for a monitor or printer, but if there is a computer, a hard drive, floppy disk, or any kind of storage devices is what I'm looking for.

A Yes, sir. Under that, the date December the 7th,

2000, item CB-L, it indicates quantity of two computer terminals, 1-300 megahertz IBM, and then it's Aptiva. And then there is two -- it indicates two, 233 megahertz IBM Aptiva's. It provides the serial numbers and model numbers for those as well. Again, that's listed on Greenville County Sheriff's Office property and evidence sheet under CB-L, case number is 1-00-146522.

Q Are you aware whether those items were then released or are they still to your knowledge in evidence?

A Those are still at the Greenville Law Enforcement Center in the property and evidence room.

Q Do you know if anybody has had -- or has accessed any of the hard drives outside of those terminals, or inside those terminals more accurately, whether anybody has a copy of them?

A Are you referring to items CB-L that I just testified to?

Q Yes, sir.

A And you're asking me?

Q Has anybody -- has anybody gone inside and looked at the data that you're aware of?

A Not to my knowledge, no.

Q Okay. Are there any other items that were taken?

A In respect to the impoundment at the Anderson County Sheriff's Office impoundment lot from the Wagoneer, is

that what you're referring to?
Q Well, or any other items taken in this case. We obviously know what was taken from Alabama. And we know what was taken on the 7th from the Jeep.
A Correct.
Q Are there any floppy disks or other type of ---
A The only indication of being floppies, CDs and an A book is where Investigator Jones, under item TJ -- it looks like TJ 93, under the same reference case number, seized in Montgomery, Alabama, from the secret service, a bag of miscellaneous papers, floppy disks, CDs and an A book. That is -- remains in the custody of the Greenville sheriff's office at the law enforcement center here in Greenville.
Q Okay. Are you aware of anybody accessing the data on those items?
A Not to my knowledge.
Q Okay. The last thing I want to ask you -- well, the next thing I want to ask you about I guess would be -- well, let me stop on that. Is there anything else computer related that you're aware of in this case?
A I'm aware of the items seized from Montgomery, Alabama. I'm aware of the items that I just testified to with respect to the Jeep Wagoneer.
Q Yes, sir.

A But nothing other than that.

Q Okay. The last thing I want to ask you about is any accident reconstruction on this case. Are you aware of an accident -- when I say accident, or a scene reconstruction that was done related to the stop of the Honda Elix? Are you familiar with what I'm talking about?

A Yes, I am.

Q Can you tell the Court a little bit about that report and how it was generated, when it was generated? And I don't mean the technical parts of it because I don't think you did that report, but ---

A That's correct. And in the several meetings I've had with your co-counsel that subject matter was not referenced as far as what my testimony would be. So I'm not prepared for that segment without being able to retrieve my case file and come forward to the Court. I know we had a city police officer, Greenway, with the Greenville City Police traffic division respond to the scene. We had traffic engineers from the City of Greenville respond. We had to isolate the highway patrol from any active role in the investigation, and that was per my direction. Their expertise is certainly in that avenue, but this was one of their troopers who was shot and killed.

Q Yes, sir.
A So I eliminated that, their involvement on a professional sense, and focused on the Greenville City Police Department responding to the scene under my direction to assist in processing the scene with their technology in traffic reconstruction.
Q Did you eventually -- were you -- was law enforcement provided with a reconstruction?
A Through City Police Officer Greenway we were provided with his investigative documents.
Q Do you recall a general sense from the time of the arrest to the time of trial, which was about 14 months apart, 15 months, do you recall where in that timeline this report was generated?
A I do not recall.
Q Do you have a copy of that somewhere in your file?
A I'm sure that I do, yes, sir.
MR. BROWN: I don't have any other questions on direct. Thank you, Your Honor.
MR. WATERS: Your Honor, I don't believe I have any questions. Thank you.
MR. BROWN: Thank you.
THE COURT: Thank you, sir.
THE WITNESS: Thank you, Your Honor.
MR. BROWN: And Your Honor, he may be -- he's

excused from our subpoena.

THE COURT: You may be excused. Thank you.

THE WITNESS: Thank you.

MR. BROWN: Thank you.

MR. WATERS: Your Honor, Court's indulgence for one second? Thank you.

MR. BROWN: Next we would call US Probation Officer Brian Bowen.

THE CLERK: Place your left hand on the Bible, please, raise your right hand.

BRIAN BOWEN

Having been first duly sworn, testified as follows:

THE CLERK: Thank you. You may be seated. State your full name for the record, please, spelling your last name.

THE WITNESS: All right. Brian Trammel B-o-w-e-n.

THE CLERK: Thank you.

THE COURT: You look a little bit like a Trammel too. He's from Piedmont. I know all of his family on both sides, but it won't effect me.

MR. BROWN: Oh, I know.

THE COURT: I don't think. Okay.

MR. BROWN: We don't consider him a hostile witness, Your Honor.

THE COURT: Would not be with his daddy.

MR. BROWN: Yes, sir.

DIRECT EXAMINATION

BY MR. BROWN:

Q Officer Bowen, let me ask you, are you familiar with an individual named John Richard Wood?

A I am.

Q Would you explain to the Court how you're familiar with him?

A As a US Probation Officer at the time that Mr. Wood came into the federal system I was writing pre-sentences, and I prepared the presentence report for the Court prior to his sentencing.

Q Do you have a copy of that report with you?

A I do.

Q First let me ask you, do you remember who were co-defendants with Mr. Wood in that case?

A According to my report it was Elizabeth Jean Wood Martinez, his sister; Ruby May Wood, his mother; Robert Kyle Horn and Cindy Griffin.

Q Okay. Now, are you familiar with another sister, or at least have reference to another sister in that report?

A Yes, I do. In the personal history of Mr. Wood I've got in there that he has a sister by the name of Connie Jantz, J-a-n-t-z, who resided in Harpers Ferry, West Virginia.

Q And do both her name and that address appear in that report? I don't mean a physical -- I don't mean a street address, or a P. O. Box, but the town and state?
A That's correct, yes.
Q Okay. Do you recall providing a copy of this report to Mr. Mauldin?
A I did notice in the notes that were in the file that it was -- the presentence report was provided to the solicitor's office at the time.
Q To the solicitor's office?
A It may have been supplied to Mr. Mauldin too, I didn't see that.
Q Okay. Okay. Now, let me ask you one other thing, and this is going to be kind of a general question. I don't know how much you can tell me. But one thing, when you conduct presentence reports do you look into an offender's history?
A Yes.
Q And that's relevant to sentencing because relevant conduct in sentencing in federal cases is pretty broad?
A Yes.
Q So y'all look at things including adult convictions?
A Correct.
Q I don't mean to lead Your Honor but I'm trying to make this quicker. You also look to juvenile

adjudications?
A Correct.
Q You also look to other arrests?
A Yes.
Q Do you also look to other conduct that might evidence criminal activity which would under-represent -- if a person's rap sheet so to speak under-represents how bad they've been?
A Yes.
Q Okay. And y'all have pretty strong access to information?
MR. WATERS: Your Honor, I object to the leading at this point.
MR. BROWN: Okay.
THE COURT: All right, sir.
BY MR. BROWN:
Q How far is the reach of the federal probation department, generally speaking, to obtain this information?
A If a law enforcement agency has records they will release them to us.
Q Okay. No matter whether it's juvenile?
A No, doesn't matter.
Q Okay. And do y'all have the opportunity to speak to other people if you need to?

A Yes.
Q To find out relevant conduct?
A Yes.
Q And can you give an example?
A Well, the case agents who investigate the cases may have more information than we know of.
Q If you know an individual has lived in a certain area would you -- and I don't mean necessarily Mr. Woods' case, but would you ever go and contact them to find out a little background about the person?
A Depends on what the involvement in the case is.
Q All right. If the person is a notoriously bad person would that trigger that?
A Mainly in a presentence report we're just worried about the investigation of the incident at hand. And unless we have other information, specifically from like a law enforcement agency, we would not go talk to neighbors I would think. I don't recall ever doing so.
Q Do you know whether anyone else has ever done so?
A I'm not aware.
Q Do you ever speak to the offender?
A Oh, yes. We interview the offenders prior to writing up a presentence report.
Q And do you ask them about things, such as their history?

A I ask them about criminal history, yes, personal background.
Q And that would include un-adjudicated, or uncharged activity?
A Yes.
Q Again that goes in -- is that somehow relevant?
A The judge takes into consideration in federal court the person's criminal history. And that's why we investigate the history to come up with a calculation of their criminal history score.
Q And again, I don't want to beat a dead horse, but the criminal history, would you include not just legal criminal history?
MR. WATERS: Your Honor, I object to the leading.
THE COURT: I would sustain the objection. You need to ask him really what he did in this case.
BY MR. BROWN:
Q Did you, in this case, speak to Mr. Wood?
A Yes, I did.
Q Okay. Did you ask him about his involvement in activity that was against the law?
A Yes, I reviewed the -- from -- what I do with anybody that I have a presentence report to do is I review the criminal record with them and -- to see if they had any more insight into it.

Q Did you find Mr. Wood to be somewhat forthcoming?
A God, that was 11 years ago. I really don't remember.
Q Were you called to testifying in this trial -- in the trial of Mr. Wood in Greenville?
A No, I was not.
Q Okay. Were you ever interviewed by Mr. Mauldin or any of his defense team?
A If I was I don't remember.
MR. BROWN: Your Honor, that's all the questions I have of this witness.
MR. WATERS: Your Honor, very briefly.

CROSS-EXAMINATION

BY MR. WATERS:
Q How you doing, Agent Bowen?
A All right.
Q So as I understand it, as far as investigating the criminal history of Mr. Wood, including the adult and juvenile problems, you essentially pulled his rap sheep or whatever y'all use, correct?
A Correct.
Q And then you ask Mr. Wood about his history, correct?
A Correct.
Q And when you say you asked him about his history,

you -- in looking at the report on page 11 you essentially went through each reported conviction and asked him about it, correct?

A Correct.

Q Okay. And that was the extent of your investigation and contact with Mr. Wood's on his criminal history, is that correct?

A Probably so, yes, sir.

MR. WATERS: Thank you, Your Honor. Thank you, Agent Bowen.

MR. BROWN: And Your Honor, just again, I'm not trying to beat a dead horse here.

REDIRECT-EXAMINATION

BY MR. BROWN:

Q But are there times when you ask them whether there was other criminal history computation or other matters? I mean, is that one of the things that a judge can take into consideration?

A Yes, they can take into consideration the amount of criminal history they have and decide whether or not that the criminal history score doesn't clearly represent their criminal background.

Q Okay. So would you, as a standard practice or habit, ask if there was anything else that you haven't told me about?

A Not that I can think of.

Q Okay. Did you ever speak to anybody from the Department of Mental Health?

MR. BROWN: Your Honor, I would object. This is outside the scope of my redirect -- or cross.

THE COURT: It is outside. I'm going to let him answer that question. I think he said he just talked to Mr. Wood and looked at the criminal history.

MR. BROWN: And actually -- and I'll be honest ---

THE COURT: Did you talk to anybody at Mental Health?

THE WITNESS: I don't recall talking to anybody at Mental Health. I do remember asking Mr. Wood if he had any prior mental history. And as I stated in my report he said he never suffered from any mental health problems.

MR. BROWN: Okay. And actually I apologize. His objection, I'll be candid, might be proper.

BY MR. BROWN:

Q But did you speak to anybody from the Department of Mental Health after this report but before the Greenville trial?

A Not that I ---

MR. WATERS: Your Honor, I just wanted to renew my objection but I understand your ruling.

MR. BROWN: We'll withdraw the question. I mean, unless you allow ---

THE COURT: I understood him to testify the only thing he did was talk to Mr. Wood and review the criminal record, whatever they had.

MR. BROWN: Now I would like to follow up on one thing of that.

BY MR. BROWN:

Q When you reviewed the criminal rap sheet, we're not talking about the one that's available to the public so to speak, like on SLED?

A No, the one I obtained is from the FBI.

Q And that includes like I said sealed matters -- or would that include ---

A Yeah, it would include anything on his criminal record.

Q Juvenile?

A Um-hm.

Q Charges as a child?

A I'm trying to -- it's been a long time since I did presentences, but I have remembered in the past of investigating criminal records from juveniles, but it's not very often that we would do it because we don't -- there's so few people we have that have juvenile records that are put on the record. As a matter fact, I don't

recall 100 percent that his juvenile record was even on NCIC. I don't believe they put it on NCIC.

Q And let me ask you. Is there a section on page 11, paragraph 39?

A Yes.

Q And that's entitled?

A Juvenile adjudications. And I have none.

Q And none as opposed to access not available?

A Yeah. Well, if it wasn't on the record we didn't -- we just put none. And we don't know if there were some we just don't know about. And we can't predict that there's some in there and we didn't know about them. If it wasn't on the record we just didn't put any.

Q And I guess it's kind of an obvious question. You try to give the judge as much as information as you have access to?

A Yeah.

MR. BROWN: No further questions.

MR. WATERS: Nothing further, your Honor.

THE COURT: Thank you, Mr. Bowen.

MR. BROWN: And we would ask that he be excused, be excused from our subpoena.

THE COURT: Okay.

MR. WATERS: No objection.

THE COURT: All right. Thank you.

MR. BROWN: Thank you, Officer Bowen. Your Honor, at this time we would call -- and we've got two different people here. We have an out of town doctor. I don't mind excusing Mr. Bannister temporarily because he's closer, and I would like to take Dr. Narayan next from out of town. I didn't call him because I know there -- a couple days ago the Court had mentioned I need to have all my witnesses here. If I can let Mr. Bannister go.

THE COURT: I don't want Mr. Bannister to go too far.

MR. BROWN: And maybe with your advice, I don't know how to handle this.

MR. BANNISTER: I don't know, Judge. If you let me run loose I might be gone past. I'll be close. I'll be at my office. I can be here in five minutes.

THE COURT: Okay. Just so you can be here in five minutes.

MR. BANNISTER: You can e-mail me, Judge.

THE COURT: I'm not going to do anything to get you here. They can.

MR. BANNISTER: I understand. Thank you.

MR. BROWN: Thank you, Your Honor. We would call Dr. Narayan.

THE CLERK: Doctor, place your left hand on the Bible ---

DR. NARAYAN: I'd like to affirm, please. I'd like to affirm.

PRAPAP NARAYAN

Having affirmed, testified as follows:

THE CLERK: Thank you. You may be seated.

THE WITNESS: Good morning, Your Honor.

THE COURT: Good morning.

THE CLERK: State your name for the record, please, and spell your last name.

THE WITNESS: The name is Prapap, spelled P-r-a-p-a-p, Nayaran, N-a-r-a-y-a-n.

THE CLERK: Thank you.

MR. BROWN: May it please the Court?

DIRECT EXAMINATION

BY MR. BROWN:

Q Good morning, Dr. Narayan.

A Good morning, Mr. Brown.

Q And we've actually spoken before about this case?

A We have.

Q And there was a deposition that was conducted?

A There was.

MR. BROWN: And Your Honor, just for what it's worth, I had offered to shorten this examination by offering the entire deposition, but I think there's some objection to that.

MR. WATERS: I would object to that. I think we have Dr. Narayan here, we should take his testimony.

THE COURT: Yeah, I'd feel more comfortable hearing his testimony than having to read his deposition.

MR. BROWN: No problem, Your Honor. I just suggest that as a matter of efficiency.

THE COURT: Of course you can use his deposition to impeach him if you want to.

MR. BROWN: Oh, I intend to, sir. Well ---

THE COURT: If you need to.

MR. BROWN: Impeachment may be a strong word.

THE COURT: You don't have to use it though.

MR. BROWN: I understand. Impeachment may be a strong word, but I do intend to question him.

THE COURT: The best evidence is his testimony to the Court.

MR. BROWN: Yes, sir, no question. Again offering that as a way to shorten things.

BY MR. BROWN:

Q You -- do you recall the case involving John Richard Wood?

A Yes, I do.

Q What do you recall your involvement being?

A I recall that we were asked or ordered by the Court of General Sessions, Greenville County and Anderson

County to do a forensic mental health evaluation of Mr. Wood. And I believe that was in 2001.

Q Okay. And you received -- let me stop. Who else assisted you with that evaluation?

A There were a number of people. The first -- I actually met with Mr. Wood twice, I believe. And the first time, one of our social workers Mr. Carlos Torres, spelled T-o-r-r-e-s, was with me. The second time I believe Dr. Tezza, T-e-z-z-a, and one of her students, and Ms. Cason, C-a-s-o-n, were with me. And in addition to that Dr. Tezza conducted a psychological evaluation on Mr. Wood. I referred him to Dr. Steedman who conducted a neurological evaluation on him. And then there were a number of other administrative staff and paralegals in the department of mental health that also assisted in obtaining information and getting the reports out and so on and so forth. I also forgot to mention the people that transcribed the report from dictation. So I guess that would be most of them.

Q All right. Now, as far as the people who actually received information as a type of self-report, who would those people be? I say self-report, self-report for Mr. Wood to DMH?

A That would be me, Mr. Torres, and Dr. Tezza, I believe, and Dr. Steedman.

Q Okay. All right. Any other people that you can think of that you considered information they obtained from self-report?

A At this point I know we relied on records that were provided to us. And I think that came from the prosecutor's office. I know we got records from the detention center, but I'm not clear at this point whether we got it before or after we met with Mr. Wood, or even before or after we sent the report out. Other than that I can't really recall anybody else of significance. However, as I mentioned during the deposition, it's been over five years and my recollection could be a lot better personally.

Q Sure. And on that note have you been provided a copy of the deposition?

A I did get a copy. I believe it was last week or the week before, that's right.

Q And as a matter of housekeeping kind of outside of this, you had asked to be able to read and sign that. And have you ever to this date received a call from the court reporter about that?

A From the court reporter, no.

Q Okay. About asking you to read over it before she sent out a copy?

A No. Actually and those -- I was mentioning to Mr.

Waters there are actually a number of errors. A lot of them are typographical, spelling errors. Some appear to be contextual, and so -- I mean, I don't know.

Q I understand that. Okay. I, just for housekeeping, thought I would put that out there. Now, let's go to one thing. One of the first things you do when a person goes for an evaluation, do y'all -- explain the advisement of rights to the Court?

A The process of doing that has changed somewhat and -- over the last two or three years. But at the time we interviewed Mr. Wood the practice was to provide them with a copy of the Miranda Rights, read it out to them, make sure that they understood it and then have them sign it.

MR. BROWN: And do you have -- are you familiar with -- actually beg the Court's indulgence?

THE COURT: I think that's exhibit 16.

MR. BROWN: Yes, from the trial, 16. If I may?

MR. WATERS: It was missing as I recall.

THE COURT: Sorry?

MR. WATERS: It was missing as I recall.

THE COURT: We found it.

MR. WATERS: Oh, you did? Great.

THE COURT: I mean, we had it. I held it up. I guess you didn't see it.

MR. WATERS: I'm sorry, Your Honor.

THE COURT: That's all right. We're going to take a 15 minute recess.

MR. WATERS: Thank you, Your Honor.

THE COURT: While y'all look at that.

(A short recess was taken, after which the hearing continued as follows:)

MR. BROWN: May it please the Court, Your Honor?

THE COURT: Okay.

BY MR. BROWN:

Q And I had asked you before the break, if I may approach Your Honor, about the Miranda. And if I can show you what's been marked as Court's Exhibit 16. And is that familiar to you?

A Yes, it is.

Q And were you present for the interviews for which this warning, or these warnings were read to Mr. Wood?

A The first set with the dates 10/29/01, and I believe 9/25/01 were the ones which I was present. The 11/5/01, for that one I was not.

Q And I'll go ahead and ask you a question kind of off topic, but the two interviews that you conducted were dated September 25th of '01 and the other one was October the 29th of '01?

A That's correct.

Q Okay. And do you know what the November 5, 01?
A That would have been when Dr. Tezza met with him for psychological testing.
Q Such as the SIRS testing?
A I believe so.
Q Okay. And that's spelled S-I-R-S?
A That's correct.
Q Now, do you have notes of your meeting, of the September 25th meeting?
A I do.
Q Okay. And can you refer to those notes, please?
A I have them here.
Q And if you'll look at those, does -- the top of the notes on the page marked page one?
A That's correct.
Q Would you tell the Court what rights -- what notes you have under the catch phrase rights?
A I have marked number one, you have the right, period, period, period, not to speak. And two, anything I say, period, period, period, can be used against me in court. And three, I have Bruce Byrholdt, Anderson; John Mauldin, Jim Bannister, Greenville.
Q And then after that it starts a new section?
A That's correct. That's called -- that's entitled CST.

Q And that's competency to stand trial?
A That's correct.
Q Okay. And then do you have notes from the October the 29th interview?
A I do. I do.
Q And is there also a section there entitled rights?
A Yes, there is.
Q And can you read that section -- or would you read that section?
A Item one, I have the right to shut up. Item two, anything I say can be used against me. Item three, I have the right to talk to a lawyer. And then I have, has attorneys, John Mauldin and Bill Bannister for charges in Greenville County, current eval.
Q Okay. And then below that it starts different section?
A Correct.
Q Okay. And that's against titled?
A CST.
Q Competency to stand trial?
A Correct.
Q Okay. And on that note would you tell the Court what -- what the scope of this evaluation was and your opinion?
A Actually we started off doing two evaluations.

Q Yes, sir.
A The one that we started on 9/25/2001, was in response to an order from the Anderson County Court of General Sessions.
Q Yes, sir.
A The one from October of 2001 was from Greenville County Court of General Sessions. And the evaluations at that time, all of the Court orders we received pretty much asked us for the same issues, or an evaluation of the same issues, which will be competency to stand trial, criminal responsibilities, and capacity to conform conduct, in addition to a general mental evaluation and diagnostic assessment.
Q And do you have a copy of the order for the evaluation in this case?
A I'm almost certain I do. I have one from Anderson dated August 4, 2001. I'm pretty sure the other one is in there too. I just have to look for it.
Q If I may approach, Your Honor? I believe it's already entered in one of ours.
A I have it here. That's the one that's dated September 21, 2001, from the Greenville County courthouse.
Q And does that look like what's been entered as Plaintiff's Exhibit 12 for these proceedings?

A Yes, it does.
Q Okay. And does that not have three sections on there regarding the scope of this evaluation?
A Yes, it does.
Q Okay. One is whether or not there's a mental capacity to stand trial, competency to stand trial?
A Correct.
Q That's section A. B was McNaulton, criminal responsibility?
A Correct.
Q And then C is capacity to conform conduct?
A Correct.
Q And at this time would -- are you aware of any standard, or form orders related to evaluations that were in effect at this time?
A By in effect ---
MR. WATERS: Your Honor, one moment. Are you -- just for clarification, is he asking at the time that Mr. Wood's evaluation was conducted?
MR. BROWN: Yes, that's correct.
MR. WATERS: I don't have any objection.
THE WITNESS: Were there form orders at the time that Mr. Wood's evaluation was conducted? I don't know. I don't know.
BY MR. BROWN:

Q Okay.
A I'm not sure what you mean by the term form order.
Q And I know what he's objecting to and I'm not trying to go into that, because I know you have already ruled on that issue with other witnesses regarding -- and Your Honor, if we had a jury I'd approach for side bar to explain. I don't know how else to talk about it.
A Let me see if I can clarify. Are you asking me if the orders we received at that time for evaluations were worded differently from different Court's?
Q That sounds fair.
A Yes.
Q Okay.
A There was not one standard type of form.
Q That answers my question. Okay. And are you familiar with orders -- have you seen an order that would what I may phrase as Hitopolous (phonetically) language, or Meyers language?

MR. WATERS: Your Honor, I would raise an relevance objection at this point. I'm not sure what issue this would go to and how this is relevant.

MR. BROWN: This is an objection to the testimony. And I'll be honest with you, it's going to take a second to find which ground, but one of our grounds is an issue of objecting to the testimony being allowed at trial.

THE COURT: What was that now?

MR. BROWN: Bear with me and I'll tell you.

THE COURT: We got Judge Kittredge's order, whatever that is. I mean, they have given us a form order, which I detest form orders. Anybody that read that thing, every time that we have to sign that for mental competency evaluations, I don't know who reads it.

MR. BROWN: Yes, sir.

THE COURT: But be that as it may, that's the wording that's in there. There is a form order, but then -- I don't know whether Kittredge used the form order. We got Judge Kittredge's order, whatever it is.

MR. BROWN: And I'm agreeing with you. And what I'm asking him is if he's familiar with at that time having received -- because the form orders now are what they are. I mean, they're not admitted at this hearing.

THE COURT: What we're dealing with is what ---

MR. BROWN: And his objection to my question was relevancy. I believe my question is relevant to ground E.

THE COURT: What is ground E? I have it right here.

MR. BROWN: Which is failure to object to testimony from medical providers.

THE COURT: Failure to object to testimony from where?

MR. BROWN: From the medical providers of the Department of Mental Health.

MR. WATERS: Your Honor, if I may? I think it's the one about the failure to allow -- to object to Mr. -- Dr. Narayan testifying in rebuttal. But again, I don't see how whether or not an order had -- I don't know if I can say the word, you know, if certain language in it has anything to do that proves any fact in consequence with regard to that ground.

MR. BROWN: And I'm just going to ask -- all I'm asking him if he's familiar with orders around that time that would have Hitopolous language in it. It appears that he does because he's -- --

THE COURT: Has what in it?

MR. BROWN: Hitopolous language in it. And he knows what I'm talking about. That's a case ---

THE WITNESS: Actually I don't. I mean, off the top of my head, I'm familiar with the name, but I don't know specifically what language that case contains.

BY MR. BROWN:

Q Okay. You're familiar with the phrase Hitopolous referring to ---

A Yes.

Q --- the ability to disseminate information that is gathered?

A I'm not sure about that either.
Q Okay.
A I've seen the name in the Court order.
Q Okay. That's -- I wanted to ask. That's fine.
A Because as far as we're concerned, we were concerned at that point, we would focus on what specifically the judge was asking us to do.
Q Yes, sir.
A And as far as we were concerned, all the rest of it was for our office of general counsel, and for counsel for the defendant, and the prosecution. If there were anything specific that we were required to do, normally the office of general counsel would notify us, or flag an order and say, such and such needs to be added in this or that. But for the most part we just got the standard kind of issues that the Court asked for, and those are what we usually address.

MR. BROWN: Your Honor, may I briefly follow up on that?

THE COURT: Okay.

BY MR. BROWN:

Q At that period time would you sometimes get orders that said, or were flagged to say, watch out, this order has specific language in it?
A Sometimes, yes. Unusual circumstances sometimes,

and sometimes we would get an order that would say something like, the result of this evaluation should be sent only to the defense, or something like that. There would be some additional instruction there for us that we would be asked to comply with.

Q And there was some of that in this case, and you may not recall?

A Not in the order itself that I could see but ---

Q Yes, sir.

A --- but later on things did transpire.

Q Let's go back to the Court 16, which is the Miranda form. We talked about this during your deposition. But what is your understanding about a criminal defendant's ability to provide a limited wavier?

MR. WATERS: Your Honor, I'd object. I don't know how that could be relevant, his understanding of a defendant's ability to ---

MR. BROWN: And if I may follow up a little bit, Your Honor? Certainly if you want to strike it all, the way -- the only way I can ask it is if Mr. Wood wanted to let's say waive his right to remain silent and waive his right to an attorney, could he have struck the provision five about allowing use at sentencing.

MR. WATERS: Your Honor, the only thing ---

THE COURT: I don't think the doctor is -- he's

required to follow Judge Kittredge's order. And he did what he did, which had him sign this form. That's what he did. He's not a lawyer.

MR. WATERS: I think he can be asked what did Mr. Wood do, but I don't think what's your understanding is of legal issue.

THE COURT: What his understanding is is not important. What he did and what Mr. Wood did is what's relevant in this case. If you've got some legal argument you can make it later.

MR. BROWN: Yes, sir.

BY MR. BROWN:

Q What would you have done if Mr. Wood would have struck sentence five?

MR. WATERS: Your Honor, I object.

THE COURT: I sustain the objection. That's speculative. It's what actually happened that we're concerned with, Mr. Brown, and whether anything was wrong. I mean, I need to know what actually happened. You can argue the law all you want to.

BY MR. BROWN:

Q Do you have letters -- well, let me stop and go back to this. Did Mr. Mauldin or Mr. Bannister appear at his ---

THE COURT: They did not. I can tell you that they

did not.

MR. BROWN: Okay. Thank you.

THE COURT: I'll take judicial notice ---

MR. BROWN: Thank you.

THE COURT: --- that they did not appear.

MR. BROWN: Thank you, Your Honor. I'm trying to get through this. I apologize. I appreciate it.

THE COURT: I don't know what your question is. I know they were not there. So ---

BY MR. BROWN:

Q Okay. And when a person refuses to cooperate, or waive his rights, what can DMH do to conduct an evaluation?

MR. WATERS: Your Honor ---

THE COURT: I sustain the objection. I'm going to restrict it to what happened in this case.

BY MR. BROWN:

Q Did you explain the significance of part five of that wavier to Mr. Wood? Part five, the line five on Court's 16.

A Well, normally what we used to do is give people this form and asked them to read it and tell us if they had any questions. I don't recall specifically addressing any these items with any of the people I evaluated unless they had some specific confusion about

what it meant, or they had a question about whatever. However, I just wanted to bring your attention to the form that states your rights that's marked page one of Court's Exhibit 16. Like I testified during the deposition, the part that goes below the -- or that appears below the signature portion of the form is information provided to people that we evaluate. We're not asking them to see whether they agree with these or not. That's not part of what we're doing. That's information basically if you were to look at it, the signature part only up to I have read or reread these statements of my rights, I understand what my rights are, which is the Miranda. Below that it says before agreeing to answer any questions I understand that, and if they don't understand some of that they would ask us and we'd clarify. Then we would give them this wavier of rights form, which Mr. Wood signed, which basically is a form that has two parts, titled waiver of rights at top and refusal at the bottom. And basically at that point during that evaluation Mr. Wood signed the above part and did not sign the refusal part, and we proceeded to go ahead with the evaluation.

Q On the -- and it's got -- self-evident, but your report you were not allowed to release this report to the prosecutor, were you?

A I don't believe so. I think the judge had a specific thing at the end of that order that said it was only supposed to go to the Court.

Q Now, that contradicts this form, right, doesn't it?

MR. WATERS: Your Honor, I would object to that.

THE COURT: I sustain the objection.

MR. BROWN: And Your Honor, just to perfect the record ---

THE COURT: Are you telling me that the judge's order contradicted what he was doing or something like that?

MR. BROWN: No, no, no, no.

THE COURT: What's your statement? What did you state into the record just ---

MR. BROWN: That the judge's restriction on the dissemination of the report contradicts the advisement that Mr. Wood had that it would be given to the prosecutor.

THE COURT: I sustain the objection. He cannot answer that question.

MR. BROWN: And I understand that. Of course it's -- what we've got is already in the record.

THE COURT: Just ask him questions.

MR. BROWN: Certainly, Your Honor.

BY MR. BROWN:

Q Let me turn to the issue of anti-social personality disorder. Was that your -- what was your diagnosis of Mr. Wood particularly on access two?

A I believe that was -- let me find my report. Let me look at our report. Our diagnosis did you say?

Q Yes, sir.

A On access one was alcohol, cocaine and hallucinogen abuse by history, cannabis abuse, anti-social personality disorder, and status posed gunshot wound to head.

Q And although we've already talked about this in the preceding days, is conduct disorder not one of the criteria for a diagnosis of anti-social personality disorder?

A Are you talking about the establishment of a diagnosis of conduct disorder? No, it's not.

Q Would you explain what the criteria for anti-social personality disorder diagnosis is according to DSM-IV?

A Before we do that I should talk to you a little bit about the DSM-IV, which is what we're referring to when we talk about criteria. The DSM-IV is a diagnostic and statistical manual of mental disorders that is used widely by clinicians in the mental health field in this country and other places. However, the DSM-IV is very clear that it is a classification of mental disorders that was doled out for use in clinical, educational and

research settings.

And I'm reading from page 32, roman numerals. The diagnostic categories criteria and textile descriptions are meant to be employed by individuals who have appropriate clinical training and experience in diagnosis. It is important that the DSM-IV not be applied mechanically by untrained individuals. The specific diagnostic criteria included in DSM-IV are meant to serve as guidelines to be informed by clinical judgment and are not meant to be used in a cookbook fashion. And it goes on to say several other things about how the manual should specifically be used.

Then we get to the section on personality disorders. And what the DSM-IV says about personality disorders in general of which anti-social personality disorder is one, is that the personality disorder is an enduring pattern of inter-experience and behavior, and I'm reading from page 685, that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time and leads to distress or impairment.

On page 686, it talks about the different criteria where we're looking at diagnostic features. The section titled criterion A says, essential -- the sentence titled criterion A says, essential feature of a personality

disorder is an enduring pattern of inter-experience and behavior that deviates markedly from the expectations of the individual's culture and is manifested in at least two of the follows areas, so on and so forth. Criterion B is about how inflexible and pervasive it should be. Criterion C is about the mistrust it's supposed to cause. Criterion D specifically addresses the issue of duration. It says the pattern is stable and of long duration. It's onset can be traced back at least to adolescence or early adulthood.

Specifically the criteria for anti-social personality disorder mentions as criterion A, there's a pervasive pattern of disregard for and violation of rights of others occurring since age 15, as indicated by three or more of the following, and it talks about various issues, such as failure to conform to social norms, deceitfulness, reckless disregard, et cetera, et cetera. Criterion B is that the individual is at least 18 years of age at the time of diagnosis of course. Criterion C is there's evidence of chronic disorder with onset before the age of 15. Criteria D is the occurrence of anti-social behaviors not exclusively during the course of schizophrenia or a manic episode.

Q Now, let's focus on criteria C.

A Sure.

Q Would you reread that?
A There is evidence of chronic disorder with onset before age 15.
Q Okay. And now, do you have a section in the DSM-IV on conduct disorder?
A I do.
Q And I've got a condensed version of it. I don't know -- and of course, Your Honor, if you'd like to take judicial notice of it as a learned treatise, I don't have a copy of the DSM-IV to enter in the record. It may shorten some of it.

THE COURT: Can't put it in the record but he can refer to it. Okay.

MR. BROWN: Okay, but it's a learned treatise. Okay.

THE COURT: What are you talking about?

MR. BROWN: At some point later on we can argue -- or use that as a reference.

MR. WATERS: He's got his own copy there that he can refer to.

MR. BROWN: Certainly. And I guess at some point I would ask the Court to take notice that this is a learned treatise so that we can use this -- this manual later on in our briefing and argument.

THE COURT: It's recognized as it's recognized by

the experts who have testified.

MR. BROWN: Thank you. Thank you.

THE WATERS: Yeah. I would just say that in as much as we've discussed the DSM-IV I think it would be in the context of the experts who have testified. I guess that's what Your Honor just said.

THE COURT: However -- ever how the experts testified that they would rely on it.

MR. BROWN: Okay.

MR. WATERS: Thank you, Your Honor.

BY MR. BROWN:

Q And Dr. Narayan, would you rely on it for the definition of conduct disorder?

A As -- as guidelines, yes, I would.

Q Okay.

A As a cookbook I wouldn't.

Q As a what?

A As a cookbook I wouldn't.

Q Okay. And would you also rely on it for the anti-social personality disorder?

A Well, I'm talking about the entire book.

Q All right. And one of the things -- or would you describe what the conduct disorder guidelines according to your testimony are?

A The diagnostic criteria which is what you're talking

about, which is a condensed version.

Q Yes.

A Basically talked about a repetitive and persistent pattern of behavior in which the basic rights of others are major age appropriate society norms or rules are violations as manifested by the presence of three or more of the following criterion in the past 12 months, with at least one criterion present in the past six months. It talks about the major sections are aggression to people and animals, destruction of property, deceitfulness or theft, serious violations of rules. Then it talks about criterion B which is the disturbance and behavior called the significant -- clinically significant appearance, social, academic or occupational functioning. And C if the individual is 18 years or older criterion not meant for anti-social personality disorder.

Q And now under part A there are several subject categories, are there not?

A Those are examples of the behaviors characterizing each section, that's right.

Q And it also includes some examples that are not also, doesn't it? In other words, some of them would be whether there was theft of property in front of a person, or in their presence, the other would be theft of property when they're not there?

A You mean, like when they're confronting a victim?
Q Um-hm, yes, sir.
A That's right, yes.
Q Still not -- and it actually uses terms like of non-trivial value, without confronting a person?
A Right. It says has stolen items of non-trivial value without confronting a victim, example shoplifting but without breaking and entering, and forgery.
Q Again it's qualified with the word non-trivial?
A Sure.
Q Okay.
A But non-trivial -- it doesn't say in whose perception.
Q No, but what I'm asking is ---
A Correct.
Q --- like for this example stealing items without confronting the victim, such as shoplifting is qualified by the phrase non-trivial?
A It says that, yes.
Q Okay. And to -- to meet the criteria as given by the guidelines there has to be evidence of it, right?
A Which in our professional assessment is any one example of behavior that would qualify for -- you know, or serve as an example of what might be there as a chronic disorder.

Q I guess what I'm asking is, it's not something that can be assumed, is it?
A Assumed in what way?
Q Well, is uses the word evidence and that's a legal word in some context, but in this case I don't know how the medical community perceives the word evidence.
A Basically I don't think we presume anything when we're making clinical assessments.
Q Okay.
A I think the presumption is actually not -- I mean, you can speculate all you want, but I don't think that would serve well towards making a diagnosis.
Q Okay. And then that brings me to the next point. Did you review the notes, the social assessment from doctor -- from Mr. Torres?
A I did.
Q And we've got a copy of that in Dr. Stevens' report?
A Correct.
Q And Dr. Tezza's notes?
A Yes.
Q Okay. And you reviewed those when you were trying to come with your diagnosis?
A I did not review Dr. Tezza's notes I don't think, but I did have Dr. Steedman's report and Mr. Torres' report. I did not have his notes from the interview if

he took any.
Q Now, you took notes from two different interviews?
A I did.
Q And I apologize, Your Honor, some of this we may have gone through before the break, and I'm just trying to get back in my own mind. Now, your notes -- do you have a page or a spot in your notes where you talked to Mr. Wood, and I guess I can refer you to page three of your notes from 9/25/01 to make this a little faster.
A Sure.
Q And at the top of the page it has a little bit of history and it talks the third of three siblings?
A That's right.
Q And below that it says, grew up, it says, parents and sisters?
A Right.
Q Then below that it says without abuse?
A That's right.
Q Then below that it says, 11th grade, no special ed.?
A It says 12th grade.
Q 12th grade, roman numerals. I apologize. No special ed.?
A That's right.
Q Okay. And then below that it says, history of fighting?

A Right.
Q Denied suspensions?
A Right.
Q Truancy, fire setting, cruelty to animals?
A Right.
Q And then below it it says, reports occasional destruction of property?
A Correct.
Q Then you have parenthesis, then quotations, broke some windows?
A Right.
Q Then history of stealing slash shoplifting?
A Correct.
Q Excuse me. Is there an age written in your notes beside those findings?
A No.
Q Okay. And then below that you've got some legal history?
A Right.
Q And it says shoplifting times two?
A Correct.
Q Grand theft, grand theft auto?
A That's correct.
Q Burglaries, and it says, no juvenile records, et cetera?

A That's right.

Q Okay. I beg the Court's indulgence. Your Honor, there -- excuse me, Dr. Narayan, there is one last question I'd like to ask you. Did you ever find out whether Mr. Wood lived with his parents while they ran a church boys home, or a missionary boys home?

A I don't recall it. I may have, but I don't recall it.

MR. BROWN: No further questions, Your Honor.

MR. WATERS: Thank you, Your Honor. May it please the Court?

CROSS-EXAMINATION

BY MR. WATERS:

Q Dr. Narayan, how you doing today?

A Good. How are you, sir?

Q Now, you were talking a little bit about the DSM and how it should be used. And you mentioned that it should not be used as a cookbook. And I wonder if you can expand on that, particularly in relation to the criterion in the anti-social personality disorder referencing a conduct disorder prior to age 15?

A Well, I think the problem that we are dealing with with the DSM-IV is that untrained clinicians often, and I'm not just talking about non-medical people, I'm talking about medical people that don't have any

background in mental health, like primary care providers and so forth, tend to print out a copy of the criteria page and then just check them off to come up with a diagnosis.

Q Um-hm.

A Unfortunately they can't put it into a clinical context. They are unable to use experience, or clinical judgment to infer whether or not the information they have would accurately fit such a criterion or not. Let me give you an example. When we're talking about, for example Mr. Brown mentioned the thing about chronic disorder. Now, the anti-social personality disorder diagnosis mentions evidence of chronic disorder before the age of 15. The problem is if you were to look elsewhere in the DSM, if you were to look at for example the chronic disorder section, one of the criteria for chronic disorder are not printed in the description, is that the diagnosis of chronic disorder cannot be made after age 16, which means it could be made until the age of 16. And so the problem that clinicians often deal with is how fast and firm are these so called cutoffs.

Q Okay.

A And the DSM-IV specifically addresses that issue. If you were to look at the section on mental retardation, if you'll give me a moment I'll look that up, it offers

criteria for mental retardation, which basically have to do with impairment or significantly subaverage intellectual functioning, and then adaptive functioning and so forth. But if you were to look further down you would look at the IQ levels. And the reason why they're not giving an absolute cutoff in the IQ level, for example mild mental retardation it says, IQ level to 50 to 55 to approximately 70. Now, and it goes on to do the same thing with the other categories. Now, professionally I think our understanding as a collective group of people that practice this -- or practice in this field, we take all of the criteria in the DSM-IV as guidelines. So if somebody is supposed to meet a certain time criterion, for example depression present for at least two weeks, there could be speculation about whether two weeks is 14 days or 15 days. And if you were to split hairs in a legal setting I guess that could make a difference. However, in a clinical setting it wouldn't.

Q Yeah.

A It could be 12 days. But if you were to look at the impairment in general, we would say, yes, I think that would be the criteria, which is one of the caveats I was reading to you earlier that all of this should be taken in context of clinical judgment.

Q So if I understand correctly, what you're saying is

it's up to a clinician in a clinical setting to judge whether or not a particular patient's presentation sufficiently complies with the -- with the disorder to make that particular diagnosis and not to look at it as a specific cookbook type of check list?

A Correct.

Q Is that correct?

A Absolutely.

Q Okay. Now, I do want to ask you as far as the information that you have about Mr. Wood and any sort of chronic disorder, or misbehavior at a young age. And specifically did you receive any information from Karen McCall about that in -- in your review and ---

A Not before we did the report.

Q Okay.

A But we did receive information from Ms. McCall just before the trial. And I have to apologize to Mr. Brown because during the deposition I had said I never spoke -- at least I cannot recall speaking to Karen McCall. Apparently from my discussion with Dr. Tezza it turns out that I did the talking, she did the recording, which is why her notes were probably a little more elaborate than mine. But yes, we did both talk to, or at least listen to what Ms. McCall had to say.

Q Okay. And often for purposes of how you arrived at

your diagnosis what information did you get from Karen McCall?

A We had already arrived at our diagnosis because we had information from Mr. Wood. The evidence of chronic disorder we acquired, which Mr. Brown pointed out to earlier, and he also asked if I had an age written next to that. As I pointed out in the deposition it was my practice not to write the age of 15 unless none of this was actually going to be relevant, because the only reason we ask those questions pertaining to chronic disorder was to establish that they occurred around the age of 15, or before the age of 15. And if for example I had gotten information that, say he broke these windows at age 17 and a half, I would have noted it down to make sure it would not apply towards the criteria for -- or at least the symptoms of chronic disorder I was looking for. But we already had information which pointed out to onset of anti-social behavior in his teens, presumably his early to mid-teens. And what we're required for a diagnosis of anti-social personality disorder, is that it's a pervasive, inflexible, maladaptive pattern that -- that starts somewhere in adolescence or early adulthood, and then pushes on until the time he is evaluated, which was the case in this particular situation.

Q So the information that you got from Mr. Wood that

you were otherwise able to gather, you identified that pervasive pattern starting at some point in adolescence and then continuing on to present -- to the time of the incident?

A Based on what I have I think it was before the age 15, because I would have written it down if it wasn't.

Q Okay.

A But also when we spoke with Ms. McCall she said the same thing, was that he had told her ---

MR. WATERS: Your Honor, I object to hearsay at this point. His report was not generated by that. He indicated that this interview did not happen until after his report.

MR. BROWN: Well, let me ask a context question.

THE COURT: I think -- he said it was before the trial though?

MR. BROWN: He did say it was before the trial, but it was after the report.

MR. WATERS: Your Honor can I -- let me lay some foundation for that.

BY MR. WATERS:

Q Dr. Narayan, after you initially did your report, and you were then advised that you would be called to testify in the Blare hearing, correct?

A Yes, that was I think a week before.

Q Okay. And at that time you wanted to of course reassess Mr. Wood to ensure that he was still -- that your initial conclusion that he was criminally responsible and competent to stand trial was accurate, correct?

A Well, we wanted to reevaluate him to ensure that he continued to remain competent, and to ensure nothing had changed since we had issued the report -- or since the time of the report, that's correct.

Q Okay. All right. And then in the context of doing that, did you gather some more information with regard to Mr. Wood?

A Well, first what we did was -- usually what we do is we call the detention center, or try to get information pertaining to mental health first, because that's really the crux of what we testify to, or the essential element that we testify to. In Mr. Wood's case we got information from I think one of the nurses at the detention center that he had been placed on medications, anti-social ---

Q Let me ask you this. Had he been placed on medications any time prior to that?

A Not -- not when we had seen him. He had not been on medications for nine or 10 months, I believe.

Q Had he been placed on any medications when he was in

the Bureau of Prisons?

A Not that I'm aware.

Q Okay. Please continue.

A And we found out that he had been prescribed an anti-psychotic medication and mood stabilizer medication approximately two to three weeks before we called. And that was a concern to us because obviously if Mr. Wood's mental status had changed then there could be conceivable reason to expect a possible change in his level of competence too. So I asked the detention center to see if they could have Mr. Wood to sign a release of information for us and send us the records. Apparently Mr. Wood did not want to sign a release of information. And those were the days when we were still using the signed release of information by defendants, which practice we have moved away from now because the Court orders now give us the authority to make those contacts without defendant's agreeing to it.

But in any event, Mr. Wood apparently did not want to release those records. The administrator of the detention center apparently stated that they would not be able to send us the records and we had to get it through the Court. I contacted Mr. Ariail and I believe Mr. Mauldin's office and told them that in view of the fact that we had unearthed information that suggested a change

in Mr. Wood's mental status we would like to review all current medical records. Mr. Ariail indicated that there was no way he was going to be able to get that information to us. Mr. Mauldin I don't think provided us that information either. Then we were left with the situation where we know something is going on, we don't know what, we don't know how exactly, to reassess, or assess that more completely, except what the detention center staff was telling us that there was no significant change in behavior that they had noticed either before when medication was started, or at the time we called. There was not a change.

MR. BROWN: At some point this is hearsay.

MR. WATERS: Your Honor, first of all, I think this is in the record. Second of all, I think this series of events is part and parcel to two of their allegations, as to exactly what happened with the -- the conduct of the evaluation, how the evaluation was used at trial, and then subsequently Dr. Narayan's ultimate testimony at trial. So I think it's important for him to describe the series of events and how it occurred.

MR. BROWN: I have no doubt it may be relevant, but he's still got to get it in through proper channels. There's a second issue I have, he's talking about what the medical folks told him. And he's already said that

he didn't have a release for that information. And so my client has some privacy issues related to that and it still hasn't been resolved.

MR. WATERS: Well, Your Honor ---

THE COURT: I'm overruling the objection. Go ahead.

MR. WATERS: Thank you, Your Honor.

THE WITNESS: Let me establish that point too. Part of what we usually look at when we call the jail for information is not specifically about medical information if they're not willing to provide that to us, but we're usually looking at administrative stuff, disciplinary infractions, interpersonal behavior, inability to follow instructions, those kinds of things, and those are part of the administrative record. We also consulted with the general counsel of the department of corrections recently and he apparently indicated that at least the department of corrections perceives ---

MR. BROWN: And Your Honor, just so I'm clear ---

THE COURT: As to that testimony I would sustain the objection. That's him just talking to the department of corrections.

MR. BROWN: Just so I could be clear, Your Honor, is he talking about he spoke to them recently now or recently at that time.

THE COURT: I think he just -- what he indicated was

he had talked to them recently.

MR. BROWN: Okay.

BY MR. WATERS:

Q Yeah, just focus right now prior to the trial and leading up to the trial?

A Yes, sir. So anyway, we had no information suggesting a change in behavior. We did have incidents of medication not being prescribed. We did not know why. We did not have access to anybody that could provide us information that we tried to get contact information back. That included I think Mr. Wood's sisters, his mother. We couldn't get any of that information. And we called Mr. -- I forget his name, the attorney that represented Ms. McCall and asked him if he would be willing to let us talk to Ms. McCall. He said he would consult with her and get back with us and apparently he did and she was willing to talk to us and so we called and spoke with her.

Q Okay.

A And the reason why we called her was to ask about information that she could maybe relate to us about Mr. Wood's behavior prior to the alleged incident that might suggest some form of mental illness that we had not been able to detect until that point.

Q Okay. And then as part of that did you receive any

information from Ms. McCall that would strengthen or add to your diagnosis of anti-social personality disorder?

A Well, essentially Ms. McCall told us that he had told her that since the age of 15 he had been in and out of trouble. I don't know if I'm paraphrasing that exactly, but that's just what she said. And that was actually documented in Dr. Tezza's notes I believe.

Q All right. So you had the information from Karen McCall. You had the self-reporting from the defendant prior to when you interviewed him, correct?

A Correct.

Q And both of those you felt in your clinical judgment, coupled with the pattern of maladaptive behavior he had displayed up until the time of incident, including this incident ---

A Correct.

Q --- justified a clinical diagnosis of anti-social personality disorder?

A That's correct.

Q Okay.

A There were two other bits of information as well. One was Mr. Wood was evaluated by a Dr. Martin at the Greenville County Detention Center approximately five days after the alleged incident.

Q Okay. And is this the kind of thing you rely on?

A We do, that's correct. These are records that we got from the detention center when Mr. Wood initially came to us. He had allowed us access to those documents. And Dr. Martin's assessment was that Mr. Wood was not suffering from significant mental illness, and that his diagnosis I believe was personality disorder, sociopathic, which is a synonym for anti-social personality disorder that we use. The other information of course is what Mr. Brown has already brought up before, is which that Dr. Steedman independently got similar information from Mr. Wood.

Q Okay. Let me ask you this. Had you received information from a family member that at the age of nine or 10 or so Mr. Wood had shoplifted a cap pistol, would that at all factor into your diagnosis of anti-social personality disorder?

A I would not be surprised of that because that just would be further corroboration of what we already knew at that time that Mr. Wood had an enduring and persistent pattern of anti-social behavior that began in early adolescence or probably even childhood.

Q So if you have the pattern in adulthood of maladaptive behavior you're just looking for one symptom in early childhood, is that a fair way to characterize it?

A Well, typically symptoms don't occur in isolation.
Q Right.
A Behaviors don't occur in isolation. So if there's one instance of behavior that's detected, it's conceivable that there are many others that are not detected or haven't been brought to the attention of the authorities, that have not been reported. And so it would not be inconceivable for us to expect that there actually would be a pattern of everybody that commits those kinds of barren acts, or illegal acts in childhood don't necessarily get caught every time. And so no ---

MR. BROWN: Your Honor, I've got -- that's speculation, I would have to object to that.

MR. WATERS: I think he's talking about in the context of a clinician making a diagnosis.

MR. BROWN: I still think that's very speculative to say just because somebody done an act one time that there may be many times that they've done it. That's speculation.

MR. WATERS: We're not offering it to say Mr. Wood ---

MR. BROWN: They are. That's exactly what they're offering it for.

MR. WATERS: No, we're offering it for why Mr. ---

THE COURT: I'll let you ask him about that on

cross-examination, Mr. Brown.

MR. WATERS: Thank you, Your Honor.

THE COURT: Or redirect.

BY MR. WATERS:

Q Just to go -- just to go back to that. What you're saying though is you're just looking for symptoms in early conduct because your focus is on the persistent pattern of maladaptive behavior that you do have records for from Mr. Wood that started clearly at age -- his first charge which was in his late teens, correct?

A I believe it was 17.

Q All right.

A That's correct.

Q Okay. So if you have that long standing pattern of repeated criminal action and then you find at least some of evidence of earlier conduct, then in your clinical view that is sufficient for you make that diagnosis of anti-social personality disorder?

A That's correct.

Q Okay. Thank you. Now -- beg the Court's indulgence for a moment, Your Honor? All right. Dr. Narayan, I just have one last series of questions. I just want to ask you about -- and this is leading up during your interactions with Mr. Wood leading up to the trial. And I want to ask you about your observations of him and how

that relates to the diagnosis of bipolar disorder, or what you would think of as a diagnosis of bipolar disorder?

A Our interactions with Mr. Wood didn't really suggest any significant mood or psychotic disorder. He underwent a mental state exam twice when I interviewed him. And he also was interviewed in detail by Dr. Tezza as well as psychological testing. And in addition to that he had some interviewing with Dr. Steedman. Now, the information we had from all of those indicated neither a behavioral or a thought component, or mood component suggestive of bipolar disorder at that time. Mr. Wood himself denied any previous history as well on one of the occasions that I saw him. And on the other occasion he reported symptoms that we later discovered were malingering.

Q Okay.

A So essentially to put everything together, no, we did not have evidence to support a diagnosis of bipolar disorder.

Q So you saw no evidence of mania?

A No, sir.

Q And you saw no evidence of major depressive symptoms?

A No, sir.

Q Certainly no evidence of cycling between the two?
A No, sir.
Q Okay. Now, you were also -- you also recently evaluated Mr. Wood, is that correct?
A Well, we attempted to.
Q All right.
A We met him with briefly. I think the meeting lasted probably under five minutes, and it was about two weeks ago, two and a half or three weeks ago.
Q And you would agree that Mr. Wood has paranoid traits, is that -- or how would you characterize that?
A I would say Mr. Wood definitely has signs, suspicions -- or suspicions, but whether those are what we would term traits in the sense of personality disorder, that's debatable because in order for a trait to be a personality disorder trait, or a behavior to be a personality disorder trait it has to be pervasive.
Q Right.
A Meaning it has to be present in all spheres of a person's activity. And people with anti-social personality disorder are often suspicious because they are concerned about other people's motives and that's a psycho-dynamic way of projecting on other people their own insecurities and concerns. And certainly when somebody is indulging in behavior potentially that could

lead to criminal sanctions or consequences, it would be very reasonable to expect an anti-social personality disorder person to be very suspicious. However, we saw no evidence to suggest that he had any paranoid traits as defined by personality disorders, or as -- as defined by anti-personality disorders.

Q Okay. And I'm sure you recall Dr. Schwartz-Watts testifying at trial about Mr. Wood's supposed hyper fear of police, do you recall that?

A I don't recall that.

Q Okay.

A I know we heard about it somewhere, somebody's testimony, but I don't recall that.

Q Well, did you detect any sort of hyper paranoid fear of police in Mr. Wood?

A No, sir. We've actually seen Mr. Wood twice at that time in the accompany of law enforcement officials and we did not see any evidence of paranoia or fear at that time. Information that we had from the -- I don't remember who gave us -- who made the statement, but there was some information from the hospital where he was when he was shot at, where he was actually joking with the police office, or the -- I believe it was a police officer that was kind of supervising him, or in whose custody he was at the time he was in the hospital. There

was no evidence of fear in those interactions, no evidence of suspiciousness.

Q Okay. And when exactly was it that you recently seen Mr. Wood for purposes of evaluation as to this proceeding?

A It was on the 5th of February.

Q Okay. And at the time did Mr. Wood display any sort of signs of mental illness, or any sort of distress that might cause you concern?

A We -- we had observed Mr. Wood very briefly in the observation -- in the waiting room. And then we met him for under five minutes with Mr. Brown.

MR. BROWN: And Your Honor, it may be appropriate at this time for me to renew an objection that we had raised between the last hearing and this hearing through a serious of motions that were to withdraw the request to assert our rights to preclude the State from evaluating him. They did send a report back I think saying they were unable to render an opinion. Certainly I think Your Honor has that, but I think now they're attempting to use the attempt to evaluate him. And so I think it would be appropriate -- timely for me to enter an objection to this testimony, because it appears they did in fact gather information from the evaluation process that we objected to. So I understand you've previously overruled

those motions but I think it's now ripe for me to object.

MR. WATERS: Your Honor, this is ---

THE COURT: I'll overrule the objection.

MR. BROWN: Thank you.

MR. WATERS: Thank you, Your Honor.

BY MR. WATERS:

Q If you could continue about what you observed of Mr. Wood at your last meeting?

A Well, we didn't see any behavioral evidence of distress that stood out. There was nothing suggestive of, you know, hyper activity, decreased thought processes, mood instability, mood swings. We didn't really see much of anything. It appeared Mr. Wood was somewhat irritated about the process, which I can understand, because he was being made to participate in a procedure that he and his attorney had decided they didn't want to have done. And essentially he indicated that he did not want to talk to us. And after talking to him for a few minutes we wanted to make sure that that refusal was not because of a mental illness. And after having talked to him for a couple minutes and made sure he understood the consequences of what he was doing and what we were going to do about it and so forth, we felt that it was a knowing and voluntary refusal at that point.

Q So he responded appropriately to the questions?
A He did.
Q And interacted appropriately with people in the room?
A That's correct, he did.
Q Okay. Now, I want to ask you a final question. Like every lawyer I say I had only one more and usually means about three more. If in fact there was insufficient evidence of a conduct disorder at an early age, but if an individual such as Mr. Wood had exhibited such a long pervasive pattern of maladaptive behavior that is supported or clearly supported by the legal records, are there alternative diagnosis that would come into play?
A Yes, depending on whether the anti-social behavior was the primary element for which the person was brought to the attention of the mental health person or not. And if it was then the diagnosis would be something called adult anti-social behavior, which would be in an appendix of the DSM-IV under a section called, other conditions that may be the focus of clinical attention, I believe. And if it was not the reason why the person was brought to the attention of a mental health person, and there was something else that was going on, then potentially the diagnosis would be a personality disorder not otherwise

specified, which is a category of the DSM-IV which basically means that we have tried but we don't have all the information we need to pigeon hole that person into a particular category.

Q So -- and for something like a personality disorder not otherwise specified, do those often also include common anti-social traits, or paranoid traits, or some sort of dominate type of ---

A It could. It depends on what the person has. It could be a mixture of different personality disorders which might be why the person doesn't neatly fit into any one category. So it could be with anti-social paranoid traits, or it could be with anti-social traits, or you know, just borderline traits, or whatever. But the distributor is basically just to qualify what the specific traits were that were found, but were not sufficient for a full diagnosis, if you will, quote, unquote, according to DSM-IV.

Q Okay. Now, personality disorder being an access two type of thing is essentially a characterization of a person's personality makeup, I guess, is that fair to say?

A Yep, that's correct.

Q But we've heard some testimony that anti-social personality disorder is not treatable. Are any

personality disorders treatable, or is that accurate?
A They are not curable, let me put it that way. None of the personality disorders is curable. They are all treatable to some extent or other, including anti-social personality disorder. And of course there have been many, many attempts made to treat all the different types of personality disorders. Some of the personality disorders, in what we call cluster A, which is paranoid personality disorder, schizophrenic personality disorder, and schizoid personality disorder are often treated with medications in addition to behavior therapy, or some kind of psycho-therapy. Personality disorders that belong in what we call cluster C, which are more anxious, avoidance, those kinds of personality disorders, are often co-existent with depression, therefore they are potentially treated with a combination of anti-depressants, or anti-anxiety medication and psycho-therapy. Cluster B, which comprises of narcissistic personality disorder, anti-social personality disorder, histrionic personality disorder, and obsessive compulsive, or obsessive compulsive personality disorder, unfortunately does not lend itself to easy treatment with medications, although certainly it's not for lack of trying. People have tried different types of medications. If the predominate traits are

something that could potentially be treatable, then certainly medication could be used. For example, if a person with anti-social personality disorder has the predominate trait of impulsivity, then they could potentially be helped with some kind of mood stabilizer, or some other kind of medication, or anti-epileptic medication. So it's not fair to say they're not treatable, but the degree of success of treating personality disorder -- disorders of any kind is actually pretty low.

MR. WATERS: Okay. Thank you, Dr. Narayan. I have nothing further, Your Honor.

MR. BROWN: Your Honor, I have a few questions on followup.

REDIRECT-EXAMINATION

BY MR. BROWN:

Q One thing you mentioned about use of the DSM-IV and it should not be used by an untrained person, even if it's an untrained medical technician?

A That's correct.

Q Dr. Schwartz-Watts would certainly be a person trained appropriately to use that?

A Sure.

Q Now, do you have a copy of the notes of the phone conversation with Ms. McCall?

A I believe you sent them to me. I don't have a copy of that, but let me see.

Q And if you'll refer to your deposition, plaintiff's 7?

A Give me one minute and I will see if I can find it as well.

Q Did you review those before -- I apologize.

A What section did you say?

Q Plaintiff's 7, it's in the back.

A Oh, yeah, that's where -- that's what I'm looking at. Okay.

Q And did you review those before you came here?

A I'm sorry, before?

Q Did you review those before your testimony?

A Today? Actually I discussed these with Dr. Tezza I think last week.

Q And one of the reasons I asked is, you mentioned earlier, at the deposition you actually said that she did the questioning?

A Correct.

Q But now it appears that you did this questioning?

A I may have. I still don't recall it.

Q Okay. And that's fine. Okay. And when you were asked about whether or not Ms. McCall provided information about conduct disorder, or about activity

when he was a teen -- and I just want to clarify that, don't these notes say that he said when he was 15?

A Right.

Q Okay. Not before 15?

A I don't know that we actually specified that. The notes don't say that we did. So I must presume we didn't.

Q Let -- well, let me refer to page one of that plaintiff's 7?

A Yeah, I saw that.

Q Okay.

A Juvenile records, question mark. And it says he said when he was 15, from then on was in and -- on and off.

Q Okay. But there is no indication on that -- those two lines that there was anything before 15?

A No, there is not.

Q Okay. And then a little bit about bipolar. Is the inability to sleep, or lack of desire to sleep, or lack of sleep a symptom or a trigger so to speak in a clinician's mind to take a look at bipolar or a mood disorder?

A I'm sorry you'll have to -- is inability to sleep a symptom of ---

Q Bipolar?

A It could be.
Q Okay. Now, let me ask you to take a look at page four of the same exhibit in the deposition. And I apologize, some of these copies have post-it-notes that were on there that were copied over.
A Actually this one does too.
Q And I apologize. But at the bottom of that page it's not covered up, and it says, asks him about how often he would sleep?
A Correct.
Q And right above it, it says he -- very seldom?
A Sleeps I guess.
Q Yeah, it looks like it says he very seldom sleeps?
A That's correct.
Q Okay. And then beside it it says, a couple of days out of every eight to 10 days?
A That's right.
Q So if that's true he was going maybe six days out of eight without sleep?
A Well, if that's true.
Q Yes, sir.
A It's probably not true because nobody can do that.
Q Well, let me stop and ask you that. This is the same source of information that ---
A That's right.

Q --- you're talking about that's ---
A Absolutely.
Q --- providing information of conduct disorder?
A That's right.
Q Okay. So whether that source is accurate is a question?
A Well, that's pretty much true of most sources of information that we have.
Q Okay. And let me ask you about the sisters. You said that you did not have -- you could not get information from the sisters?
A I don't think we knew how to reach them.
Q Okay. Did you receive information -- and we talked about this at your deposition. Did you receive information from Melita Graham of the prosecutor's office, I think that's where she works?
A I think you asked me that. I remember that.
Q Did you not receive a fax that included items such as a federal presentence report?
A We did get that federal presentence report, that's correct.

MR. BROWN: Okay. And again, Your Honor, I don't need to ask the next question because you already know the answer about what's contained in that.

BY MR. BROWN:

Q Did y'all -- well, I will ask this question. Did y'all follow up and try to locate the family through the information contained in that federal presentence report?
A I don't remember if we did or not, because one of the things was that the social worker was trying to help us make those contacts with family and from what Mr. Torres wrote in his report, I think he wrote he couldn't make contact. And I don't have any further recollection of that, but I don't have it documented, I'm sorry.
Q Okay. You don't know for sure?
A I don't know for sure at all.
Q Okay. Let me ask you one last thing. When the DSM-IV talks about stealing items of non-trivial value without confronting a victim, and it says IE or IG, shoplifting?
A Correct.
Q Okay. Is a cap pistol of non-trivial value or trivial value?
A You're asking me my opinion?
Q Yeah.
A In my opinion it's trivial.
Q Thank you.
A But in the opinion of a person at the age of eight, it may not have been trivial, and I have no way of saying one way or the other.

Q So this is whether the value is trivial to the person taking it?

A Correct. It's just like when we're talking about the person overdosing, we're doing a suicide assessment, and if the person overdoses on Tums, to the average person that would indicate that this was a non-lethal attempt. However, to the person that took it, if you expected to die, then that attempt will be considered very lethal.

Q Let me ask you a little bit about -- and I hate to open up this can of worms, but a child of the age of eight has -- knows the difference between right and wrong legally?

MR. WATERS: Your Honor, I would object. I don't know if that's relevant to a diagnosis.

THE COURT: I would sustain the objection to the question. Okay.

BY MR. BROWN:

Q What concerns would you have about the criminal responsibility of a child that young?

MR. WATERS: Your Honor, again, I don't think that's relevant to a diagnosis of ---

MR. BROWN: He asked about the -- the objection I understand was sustained but ---

THE COURT: I sustain the objection.

MR. BROWN: What was the ground? I apologize, Your Honor.

MR. WATERS: I don't think that whether the legal standard for criminal responsibility is relevant to a conduct disorder and a diagnosis.

THE COURT: I would sustain the objection.

BY MR. BROWN:

Q Would there ever be concerns about a child's activity being at such a young age that it would not meet the criteria of a conduct disorder, or not match those types of conduct?

A Well ---

Q Such as fighting between two year olds?

A It depends. I think -- I think it has to be taken in context.

Q Okay.

A If you have two five year olds that are pulling at each other's clothes, and are rolling on the ground fighting for whatever reason, and I'm a child psychiatrist, I'm not specialized in that area, but my assessment would be that it wouldn't be very significant. However, if one of the children pulls out a switchblade, I think that that would be very significant no matter at what age. So I think it has to do with the context in which the alleged behavior occurred. And you know,

additional information would definitely be required.

Q Okay. So it's contextual for one thing?

A Yes, it always is.

Q But the age is also a concern?

A Sometimes the ages are. And somebody that does a lot of work for family court would be able to tell you better about how they do things there about these issues.

MR. BROWN: No further questions of this witness, Your Honor.

MR. WATERS: Nothing further, Your Honor.

MR. BROWN: And we would excuse Dr. Narayan from our subpoena.

THE WITNESS: Thank you, Your Honor.

THE COURT: Thank you.

MR. BROWN: And our next witness is Mr. Bannister. I would say Mr. Richey, but I don't see Mr. Richey. Mr. Bannister was just here. And that would conclude the testimony that we're prepared to present today. At this point we do have some other matters, Your Honor, we want to bring up as far as documents and things of that nature. But I guess we'll start right now with Mr. Bannister. Unless you want to ---

THE COURT: We'll take five minutes. Let us change gears before we start with Mr. Bannister, because I figure he'll take at least 30 minutes.

MR. WATERS: Thank you, Your Honor.

(A short recess was taken, after which, the trial continued as follows:)

THE COURT: Okay. Do you want to put him under oath.

JAMES BANNISTER

Having been first duly sworn, testified as follows:

THE CLERK: Thank you. You may be seated. State your full name for the record, please.

THE WITNESS: James W. Bannister.

THE CLERK: Thank you.

MR. BROWN: May it please the Court, Your Honor?

DIRECT EXAMINATION

BY MR. BROWN:

Q Mr. Bannister, do you recall John Richard Wood?

A I do.

Q And you represented him back in 2000 -- or 2000, 2002?

A Yes.

Q Okay. And what I'm going to do is talk to you a little bit about some claims we've got and even though I'm not going to go into the same detail that I did with lead counsel, I am going to try to do it in plenty of time, tell the Court that. And I don't know, were you ever provided a copy of the transcripts?

A I think that I was, yes.
Q And I'm trying to go through some housekeeping. Let's start with this. As far as the division of labor, Mr. Mauldin was the lead lawyer?
A He was.
Q And can you tell the Court what your role was?
A I was second chair, and as we divided the case up my primary responsibilities were during the guilt phase, and then I think I was given two witnesses during the sentencing phase. The first being the individual that we produced on direct about Mr. Wood's history, social history, that sort of thing.
Q Would that be Mr. Youngman?
A I think so, yes. And then I was initially designated to cross Dr. Narayan. I got that name right. But then because where we ended up in a legal situation I -- Mr. Mauldin ended up taking over that cross-examination as well.
Q Okay. And let me -- and again, these questions have been asked, but I feel like I to have ask them for you. There's a claim in our application regarding the failure to cross-examine Karen McCall. Now, it's good to be brief. You didn't conduct her cross-examination, did you?
A No.

Q Okay. Now, can you tell me if you understand any reasons, or you're aware of any reasons why she was not cross-examined regarding, A, her possible involvement in the activity in Anderson? And I'll start with that.
A Why she was not cross-examined regarding her activity in Anderson?
Q Yeah, I guess the question is, what do you recall about strategy on it, and if you don't remember that's ---
A Well, the strategy on what happened in Anderson was primarily, let's get it out in the guilt phase so that we can let the jury hear it would be very unlikely that all these witnesses will be called back for the sentencing phase. The judge had issued an opinion that said we would -- we could keep that out during the guilt phase if we wanted to, but it was a decision that Mr. Mauldin made that we were going to go ahead and bring all that out. I mean, that was the strategy decision we had to make.
Q Okay. Now, one of the things that -- it's at all crimes is a question of identity, that's one of the elements more or less. I mean, one of the elements of the crime is alleged -- or one of the elements whether a certain person was the perpetrator of the crime. Do you recall the defense's position -- or your understanding of the defense's position on identity?

A There were two different thoughts on how we were going to handle the guilt phase. One was to front load the guilt phase, bring in Donna Schwartz-Watts to testify about the mental issues with really the -- the goal being to see if we could get a charge on manslaughter. That would have meant that we would have kept out all the information in Anderson. We would have had Donna Schwartz-Watts testify on the front end of the trial. We -- I spoke with all of the lay witnesses and we visited the scene. And it just -- I mean, identity just did not seem to be a real viable issue for us about whether or not it was this defendant or not who committed the crime. It really boiled down to if we had an issue on the guilt phase trial it was the intent. Ultimately Mr. Mauldin made the decision that we were not going to do that, we were going to use the guilt phase to kind of get some of this other stuff out, let the jury hear it so it wouldn't prejudice us during the sentencing phase.

Q Taking that in mind did y'all have some feeling that y'all would end up in a penalty phase? I mean, not just some possibility but some likelihood?

A I think that Mr. Mauldin certainly believed that we were going to be in the sentencing phase no matter what we attempted on the front end. Maybe I was little bit naive. I thought that we had a shot at potentially

having a charge for manslaughter, but I was not lead counsel, he was. So I -- that was the strategy and, you know, I followed the line with Mr. Mauldin.

Q And this is obvious but to get to the guilt phase there would have to be a conviction of murder?

A Certainly, certainly.

MR. BROWN: Okay. Now, let me go through and ask you about a few things. And your Honor if I may approach? If I may hand Mr. Bannister Plaintiff's 3. And again, Your Honor, we take the position that that was provided to trial counsel. I'm sorry, that's the SLED report, gunshot residue report.

MR. WATERS: I've already admitted -- I mean ---

THE COURT: All right. It's already in evidence.

MR. BROWN: Again, we take the position that it was provided to trial counsel to try to get through some of that, because he doesn't have Mr. Mauldin's file, I assume.

THE COURT: I think Mr. Mauldin said he had it.

MR. WATERS: Mr. Mauldin testified to that, I believe.

BY MR. BROWN:

Q Okay. Having said that, the decisions that y'all talked about identity not being a viable issue, you also -- that would have been made with the awareness of

the fact that Ms. McCall also tested positive for gunshot residue on the front and back of her hands?

A Yes.

Q Okay. Do you recall anything else, does anything else come to mind regarding the decision to leave untouched some cross-examination that could been done of Ms. McCall?

A I have no independent recollection of the cross of Ms. McCall. And I don't have any recollection of us discussing how that was going to be handled. So I can't answer the question I don't think.

Q That's fine. All right. Moving on to ground B, Your Honor. In ground B we allege -- there's an allegation that -- of ineffectiveness related to inability to obtain an instruction on voluntary manslaughter. Now, you mentioned that a little bit earlier. Would you tell the Court a little bit about your feelings on why you might be entitled to an involuntary manslaughter instruction and of course obviously looking at it pretrial?

A Right. I guess my feeling about whether or not we would be entitled to a manslaughter instruction sort of crystalized through the -- through the trial. I felt like it was at least a -- certainly a colorable argument given the low standard threshold of a scintilla of

evidence to be able to get in a charge. And that was the argument that I believe I made to Judge Kittredge. I thought that the jury ought to have been able to consider that given the aggressiveness of the stop. And that was based on the length of the skid marks on the scooter and how the patrol vehicle had been pulled in front of the scooter to stop the scooter. We had lay witnesses who had basically seen the whole chase, to my recollection, from virtually the beginning to end. And putting them together I believed that it was possible that a jury could have considered the way in which the car was stopped and the motion that was going on inside the car from Trooper Nicholson, and that the defendant may have thought he was reaching for his gun or something of that nature.

Q And of course I think that part of your argument did involve a reasonable mistake about lifting the radio back up, hang up the mic. ---

A Right.

Q --- appearing to be another object. Does that sound accurate?

A That does. And I'd refer back to my closing argument because I think that's what I focused on in my closing argument was they hadn't proved intent, and to the extent I'm having trouble articulating it here today

I would refer back to that, to let you know what I was thinking at that time.

Q Now, let me ask you, when you mentioned the manner of the stop, do you have information to suggest that the stop was not conducted according to law enforcement policy and procedures?

A It was -- it was always my thought that the stop itself may have put the Trooper Nicholson a lot closer to John Wood than, you know, you would probably want to see a trooper stopping somebody. But given the nature of the chase I don't think we were aware of any specific regulations or something like that that he had violated.

Q And of course even if there's some violation of the policy and procedures could it be that wouldn't make it sufficient provocation? In other words, I guess if the policy requires the trooper to put his hat on before he gets out of the car, just because he doesn't do that that wouldn't be legal provocation, or would it? I mean to suggest to you that (sic).

A Well, I mean, my thought was I really believed had we wanted to front load the guilt phase we would have needed Dr. Watts to testify in the front -- I mean in the guilt phase about what was going on with Mr. Wood. I knew that getting a manslaughter verdict -- sorry, manslaughter charge without that information was a -- was

a long shot, but I really felt like at the end of the day we had maybe put in enough evidence. But obviously the Court of Appeals thought differently.

Q And you know, I guess I can go ahead and give you kind of the softball question here. Is there any other evidence, or are you aware of any other evidence that would have supported a manslaughter charge that y'all did not present?

A Well, I think we presented all of the evidence that we had. I think it was just a matter of presenting it during the guilt phase or during the sentencing phase. I mean, what Donna Schwartz-Watts testified to is what she testified to. And you know, I guess my position would have been maybe looking back on it what if we would have put that in on the front end. But like I said that was a strategy decision that Mr. Mauldin made and I followed with it.

Q And let me ask you on two -- because one of the things that a manslaughter instruction involves, is it not, that there is some legal provocation that invites an action?

A That's -- that's true. Now that I'm thinking back on it, I believe we also had taken the position that the moped itself was not an illegal vehicle to be on the highway. If my recollection is right, we brought in an

individual who testified that it had to be a certain cc engine. And although the trooper thought that the vehicle was illegal it turned out it was legal for highway use, is again my recollection.

Q Now, if I may approach, Your Honor? And ask you to look at plaintiff's 4. And what I specifically would like you to look at on that, does that not indicate that the registration to that vehicle was stolen approximately a week before this stop?

A It appears to indicate that on page two.

Q And the fact that a vehicle was being operated with a stolen plate on it, would that not provide law enforcement some justification for a stop?

A Certainly.

Q And then let me refer you to -- and I have to apologize. I had pages, single pages selected out. And the best thing I think I can do, Mr. Bannister, is provide you with my copies of the transcript.

A Okay.

Q Because I'm going to refer you to some sections. I don't know where those little page sections that I gave up have gone to. Now, having your memory refreshed, sir, with that, do you recall arguing to the judge of four charges were given, that there's no evidence in the record that the tag on the scooter was illegal?

A Can you point me to which ---
Q 1712, line 21, and runs through the next page, on 1713, line two.
A All right.
Q And I guess didn't that report somewhat contradict that statement?
A The report contradicts the statement.
Q Okay. And there's some other testimony, which is in the transcript, that actually came out during testimony of Ms. McCall, and I guess the Court, that Judge Kittredge himself references that, but basically she said that she did not believe the registration was proper?
MR. WATERS: Your Honor, I'd object to the line of questioning.
THE COURT: I would sustain ---
MR. BROWN: I was trying to hurry it along.
THE COURT: I would sustain the question.
MR. BROWN: That's fine. Let's -- I'll get back to that. Then would you refer to page 1459 of the transcript. I apologize. I'm just trying to move things along.
MR. WATERS: I just think it's better if he can actually read the testimony if you're going to ask him about.
MR. BROWN: I have no problem.

THE WITNESS: Okay. Where she's saying the red motorcycle, what is ever properly registered, she didn't know sir, we had problems with that?

BY MR. BROWN:

Q That's correct. And if you'll keep that right there, and if you'll also look at 1483.

A Okay.

Q And if you'll look at 10 through 20 which is the recross -- or redirect, excuse me, by Ariail.

A Okay. I'm looking at it.

Q Okay. And doesn't that seem to also provide a legal basis for the stop?

A Well, the position I was taking was that Karen didn't know what the tag was, and whether or not Mr. Wood had put a proper tag on there. And so when I was arguing to the judge that I thought it was more than a lack of evidence, and the inferences we were making off of that it was that while there had been some testimony that Karen said they had trouble getting the scooter tag put into place, ultimately what she's saying is she didn't know where the tag came from that was on there. So the inference I was looking for in the light most favorable to the defendant is he had put a proper tag on there, so there just wasn't any -- nobody from -- again, this was a long time ago, so it may be in the record somewhere, but

I didn't recall there being any testimony that the tag that was on there was in fact improper from somebody in either the highway department, or police officers, or that, but ---

Q And now let me ask you this, you're saying nobody testified during the trial?

A Right.

Q Because Ms. McCall just says I don't have any idea?

A That's my recollection. Now, I'm assuming -- and if I was wrong when I was arguing to the judge it was because of my own mis-recollection of what had been stated, but I would suspect that I argued that to the judge because I felt like that was something that had not been tied up by the solicitor's office.

Q Okay. And basically they didn't -- even though Detective Silvaggio took the stand he never testified to what's in that report?

A I can't remember that sitting here today, but I would assume I wouldn't have made that argument if I had thought that somebody had completely cleared that up.

Q Fair enough. Your Honor, I'm going to move to ground C. And let me -- I should have asked you this earlier, Mr. Bannister. Have you had an opportunity to review the second amended application in this case? And I don't believe I sent you a copy of it.

A Then, no, I haven't.
Q Okay. And I only mention that just so I can -- this regards concession of guilt. Now, it's page 1053, you begin your opening statement in this case?
MR. WATERS: I'm sorry, what page?
MR. BROWN: 1053.
THE WITNESS: Okay.
BY MR. BROWN:
Q And there you kind of lay out the first sentence to the jury is that you either want an acquittal -- or I say this, I mean it's implied that your side would like an acquittal or a conviction of something lesser which would be -- I think the only thing in South Carolina would be voluntary manslaughter?
A No, I think what I was saying was at that point, we didn't know whether or not we were going to get a charge for manslaughter. And so I was trying to leave open the possibility for the jury that we would get a charge for manslaughter. So I don't -- I'm not reading this to say I'm asking for an acquittal. I'm reading this to say I was telling the jury that, you know, you're going -- hopefully you'll have more choices than just murder.
Q Okay. And let me ask you, as a practical matter in South Carolina what other choices are out there in a murder case?

A Well, I'm not quibbling with you on the manslaughter, I'm just saying I don't think I was asking for an acquittal. I think I was asking that they consider a lesser included offense.
Q Okay. Now, and to tie that in now, if we end up at the end of the case where there's not a manslaughter charge ---
A Um-hm.
Q --- and there's no question of identity, what can you tell me about consideration of conceding guilt?
A I'm not sure I understand your question, Mr. Brown.
Q In other words, what strategic decisions, or thoughts may have gone through your head about, or discussions with other lawyers about, you know, hey, we're not going to get a lesser included maybe we can save some face and just concede guilt, we've got our jury sentencing because we had a trial ---
A I think ---
Q That's in the guilt phase.
A I think we knew that getting a charge for the manslaughter was potentially a long shot given the fact that we were not going to front load the mental health issues, or mental illness issues, but we might be in a position to still get a manslaughter charge, and that the assumption was then that potentially even if they

convicted him of murder, which we I think believed was the more likely outcome, that there may be a few on the jury who would have been reluctant to do that, and therefore would have been -- as we flipped over into the sentencing phase, would have said, look, I went with y'all on murder but I'm not going to go with you on the death sentence.

Q Would you characterize that as residual doubt?

A I think so, yes.

Q Now, I say that when you had that -- or made that decision were you basing that in part upon the argument that you made in the closing? And I can refer you to your closing which generally starts at 1747, 1748, 1752, and I've got some better closing cites, but I want to talk about the argument that you made to try to get an acquittal.

A Okay. What was your question?

Q Okay. And to start with when we get to page -- well, for example 1747, I'm talking about line 23 and it runs -- spills over to 1748, line three.

A Okay.

Q Then also on 1748, 18 to 25, and then on 1752, line four, to 1753, line one.

A Okay.

Q Now, specifically looking at 1752 to 1573, the

argument about the intent is that we want to focus on that nano-second not on that lying in wait type of premeditation?

A Right, I'm with you.

Q Okay.

A I'm remember -- this part of the trial I do remember pretty clearly.

Q Certainly, okay. Now, let me ask you, at some point doesn't the judge then come in and tell you, and I guess I can turn to 1773 when y'all have a post charge jury note. If you'll like at lines 23 to 25 on 1773?

A Okay.

Q Do you recall that?

A Oh, yes, I recall that.

Q Do you feel like that it's possible that the defense may have lost some credibility points by arguing a theory which the -- in the judge's own words he says contradicts the law, which the way I see it, would have contradicted his statement to the jury? In other words, you made a statement to the jury about intent that he -- or malice, and the amount of time must exist, that he gives his charge and if the jurors say, hey, that's not the same, that maybe the idea of not conceding guilt instead of arguing that standard of law is contradictory to the judge's charge may have lost points in the defense?

A Are you asking me what the jury thought?

MR. WATERS: Your Honor, I would object to that.

THE COURT: That was a real long question.

MR. WATERS: Object to the form.

MR. BROWN: Sure, and now that we're in context I don't minimum asking a different question. I'll withdraw that one.

THE COURT: He made the argument, you allege it was contrary to the judge's charge?

MR. BROWN: That's -- and I think Judge Kittredge alleges it's contrary to his charge too, Your Honor. Yes, sir.

THE COURT: What you want to find out from him about that?

MR. BROWN: I want to find out that -- could that have been an unreasonable decision to make, to make that argument?

THE WITNESS: You're asking me whether I thought the decision was unreasonable?

BY MR. BROWN:

Q Your decision to make that argument? Given the -- and I could even back up and say this, are you aware of any issues about whether just the fact that a deadly weapon was used creates an inference of malice?

A Yes, I'm aware of that.

Q Okay. There's actually some argument that that doesn't sound right, or it's unconstitutional?
A Are you asking me a question, Jim?
Q Well, I am. I mean, are you aware that that's the debate?
A Yes.
Q But you would agree that the state of law at least at the time of that proceeding was that use of a deadly weapon creates an inference?
A Yes.
Q Okay. Now, and with that in mind is it possible that it was -- the argument here about the nano-second, dealing with the intent, was not a reasonable argument?
A I can -- all I can tell you is why -- my thought processes on making that argument. We had gone over what the judge's charge was going to be as to the specific intent. I tried to use the words that the judge gave us that he was going to use in the charge. The thought process that I had, and I assume I discussed this with Mr. Mauldin, is that even though we were not going to give -- to get a charge on manslaughter, that we would like to make it as difficult as possible for the jury to want to convict him, go to that specific intent to commit murder. All I can tell you is that at the end of the case the jury stayed out for -- I think they stayed out

for almost my recollection is two and a half hours on whether they were going to convict him of the murder. And when they came back into the courtroom at one point it looked like there was dissension among them after they had come back with that. I mean, you could visibly see, I remember two of the jurors looking at one of the others and rolling their eyes like I can't believe you're -- you're making that argument. So I mean, that's what I saw, that's what I perceived, that's the reason I made the argument.

Q Let me ask you this, can you conceive of any benefits from conceding guilt?

A Yes.

Q And could you not still explain all of your distinctions between an extremely premeditated murder and the nano-second shooting while still conceding guilt? Could you not stand in front of the jury and do the same argument, and say, hey, he is guilty of murder?

A Anything is possible.

Q Okay. And ---

A I mean ---

THE COURT: Some things aren't possible.

THE WITNESS: Well, I guess I can -- I could have made any type of argument based on the facts that we had in the case and the law that was there. So I mean,

you're asking me is there a different type of argument I could have made, sure.

BY MR. BROWN:

Q Have you ever heard of the idea that arguing inconsistent theories between the guilt phase and the penalty phase can be harmful?

A Well, I think -- I think I would have to concede that there was some dispute between us internally about whether or not to front load this case during the sentencing phase, or just make it about nothing -- I'm sorry, the guilt phase, or make it about nothing but whether or not he was going to get the death penalty in the sentencing phase. And maybe that manifested itself in the presentation on the guilt phase tried to kind of split it down the middle. But it -- I mean, if that's what it was, that's what it was.

Q Fair enough. That's -- Your Honor, we're now going to move onto ground D. And you have already mentioned that primarily the penalty phase was handled by Mr. Mauldin?

A That's correct.

Q Do you recall there being discussions about -- or what do you recall about discussions among the defense team about requesting an instruction to the jury along the lines that a defendant can't get jury sentencing if

he pleads guilty?

A That was Mr. Mauldin's issue, and I'd have to defer to him. I didn't -- I don't think I handled that issue either in the research or in the arguing of it. I left that totally to him.

Q Did you play any role in the decision related to that?

A No, other than if he was bouncing ideas off of me, that was it.

Q You didn't play a decision maybe not to request it (sic), or not to object to the failure to charge it?

A No, that -- I played no part in that.

Q Thank you. Now we're going to ground E. And I think it's -- could you tell me your concerns about the Department of Mental Health testimony in the trial?

MR. WATERS: Your Honor, I object to that question. I think it's too vague.

THE COURT: What is the question?

MR. BROWN: Well, I asked him what concerns the defense would have about the admission of Department of Mental Health testimony at the trial.

THE WITNESS: We didn't want it.

BY MR. BROWN:

Q Okay. And do you recall an argument that was made -- I'm going to refer you to some pages. If you'll

look at 2437. Your Honor, this is a pretrial motion.
A Okay.
Q Okay. And if you'll like at lines three to six.
THE COURT: What page?
MR. BROWN: 2437, Your Honor, I apologize. And those little sheets I handed up yesterday, I'm sorry I don't have another set to hand out again.
THE COURT: That might be a pretrial motion, 2437.
MR. BROWN: I'm sorry?
MR. WATERS: They're in the record at the end, Your Honor.
MR. BROWN: Yes, sir.
MR. WATERS: They're put in at the end by appellate defense.
THE COURT: Okay.
MR. BROWN: Yes, sir.
THE COURT: All right.
BY MR. BROWN:
Q And let me ask you, before we go into that, did -- did you attend any of the mental health evaluations with Mr. Wood?
A I did not, no.
Q Okay. Were there any reasons why you did not attend them?
A I'm not sure we ever knew when the evaluation was

taking place.
Q Fair.
A I don't have any recollection that anybody consulted us about when it was going to take place or any of that. I mean, it was sort of the Anderson case that Mr. Byrholdt was handling.
Q And the Anderson case wasn't a capital, was it?
A No, no, it was not.
Q So there was no sentencing proceeding concerns in that case?
A That's correct.
Q Okay. And would you look at your -- your argument on 2437, three through six?
A Okay.
Q And just to put it in the record, we take the position that the defendant was never advised of his Fifth Amendment right regarding the sentencing phase of the case for certain?
A Right.
Q Okay.
A I mean that's what I said.
MR. BROWN: Yes, sir. If I may approach? Your Honor, I'm looking for the trial 16.
THE COURT: Which one?
MR. BROWN: The Miranda form.

THE COURT: 16, right.

BY MR. BROWN:

Q Thank you. Ask you to look at what's been entered as Court's Exhibit 16 from the trial. Would you look at the bottom line on that?

A Yes, sir, okay.

Q Doesn't that somewhat contradict the argument that you made?

A It may. I'm not sure whether I had this at the time. But it appears to, looking at it, yes.

Q And you weren't there -- sorry, that's already been answered. I withdraw that. Well, I will ask this. Would have possibly offered more contemporaneous advice to Mr. Wood had you been there and seen that they were providing that type of wavier?

A On the -- if I had ---

Q Been with Mr. Wood at the evaluation?

A I would have advised him at the evaluation not to do the evaluation.

Q More contemporaneous than any other advisements you may have given him?

A Yes.

Q Because that would have been -- I'm sorry?

A It would have been consistent with each of the advisements we had given him.

Q And I understand that. I guess what I'm getting to is, when you actually see in writing that that's the kind of wavier that the State's hospital is taking, how would that have affected your -- the strenuousness of your advice?

MR. WATERS: Your Honor, I'd object to that question. I think -- I don't know if it's relevant whether he would be more strenuous. He's already testified he -- they told him multiple times don't do the dad-gum evaluation.

THE COURT: All right. I would -- I'm going to sustain the objection to that question.

BY MR. BROWN:

Q Well, let me back -- I'm sorry. Let me back up then. Again, but at the time you were advising him -- well, okay. You advised him that you weren't happy or did not want him to do the evaluation, I'm paraphrasing, I assume that's what kind of advice you gave him?

A Yes.

Q Okay. But in the motion that was done after -- the motion that was included on 2437, that's after the evaluation, is it not? And you've got my transcript, I can't give you the exact date, I apologize.

MR. WATERS: I'll stipulate it was after the evaluation.

MR. BROWN: Thank you.

BY MR. BROWN:

Q Okay. And the reason I asked you that is that at the time that you were giving him advice pre-evaluation, obviously you couldn't have been advising him of his Fifth Amendment right regarding the sentencing phase, because that's what you tell the judge later on?

A Are -- you lost me.

Q Okay. How could you have given him pre- -- pre-evaluation advice about the sentencing phase use of his evaluation if you later on tell the judge on 2437 that he was never advised about the Fifth Amendment right related to sentencing phase?

A I was referring to the advice the -- what I believe to be the wavier of rights that he signed down there, not to my personal advice to him. I know it looks like I'm saying you've never been advised of your Fifth Amendment rights regarding the trial phase of the case, but I'm referring to the specific documents that I thought that the Department of Mental Health was providing him.

Q Okay. And ---

A I'm not talking about my -- we talked about the fact that his going down there to the Department of Mental Health was a bad idea for every phase of the trial in Greenville, guilt phase and sentencing phase.

MR. WATERS: Your Honor, could I just request for completeness that he be asked to go ahead and read the next paragraph as well?

THE COURT: Okay. On page ---

MR. WATERS: 2437, lines nine to 16 -- I'm sorry, nine to 20.

THE COURT: On 37?

MR. WATERS: Yes, sir.

THE COURT: Okay. So he personally didn't have any forms at the time, based on Mr. Bannister's statements.

MR. WATERS: Right. Apparently they had subpoenaed somebody. They knew there was probably a form and they wanted to find out what it was. He was just making the argument that the person hadn't shown up, and that's what the record reflects.

THE COURT: Okay. All right.

MR. WATERS: It just seems like he should have be -- have a chance to read that before we continue down this line.

THE COURT: All right.

MR. BROWN: That's not your standard ---

THE COURT: Have you read that, Mr. Bannister?

THE WITNESS: I have. Thank you, Judge.

THE COURT: Okay.

THE WITNESS: I was doing pretty good on my own.

THE COURT: She didn't show up, right?

THE WITNESS: We didn't have the documents, I know that. I know that.

THE COURT: Okay.

BY MR. BROWN:

Q Let me ask you, have you ever seen that type of advisement of rights form before?

A It seems like my recollection is we had a form that had come from the Department of Mental Health and on that form -- it was just a blank form that maybe we had from a previous case or something, but that didn't have an advisement about the sentencing phase. You know, if I had seen this I think I probably still would have taken the position that it's not specific enough, talking about life and death, regarding sentencing phase being adequate advisement. But, you know, without the form we were making the arguments that we could.

Q Now, let me refer you to page 2505, which is also I believe at the same motion hearing. Specifically lines eight through 12.

A All right. He -- to make this a little faster, tell me what your question is, let me read, and then I can ---

Q You got it. Why didn't y'all tell Judge Kittredge that you were not going to raise a competency or criminal responsibility issue, or a capacity to conform conduct

issue?
A I think the simple answer to that, we thought that was -- that was trial strategy and attorney work product and therefore we didn't have to.
Q And why didn't y'all object to Judge Kittredge's statements here that appears to flip the rule, and I say that -- I mean, you're aware that there is a notice requirement when you raise a mental status defense?
A Right, but I don't think we were out that point yet.
Q Okay.
A And I don't know, you'd have to go ---
Q This on the eve of trial. You got my book so I ---
MR. WATERS: Your Honor, I'll object to that statement.
THE WITNESS: My recollection is this particular hearing took place some period of time before we actually started the trial of the case. Now, I could be wrong but we had a whole separate day set aside for a motions hearing.
BY MR. BROWN:
Q I want to say January the 28th, but y'all have my volume. I apologize.
MR. WATERS: It is January 28th. I'll stipulate to that. This is a transcript from a pretrial hearing on January 28, 2002.

THE COURT: January the 28th.
BY MR. BROWN:
Q And by that time you would have had to raise those defenses?
A If we -- well, I know we got into those issues so if we -- we must have by then.
Q I guess what I'm saying, if you were going to raise a mental status defense you would have had, under the rules, to notify them by that time?
A We would have complied with the rules. However that works out with on the calendar, I can't recollect at this point.
Q Yeah, I understand. And I'm not trying to beat you up here. I guess what I'm saying is, did y'all say anything to Judge Kittredge -- well, I mean, why didn't you say anything to Judge Kittredge, Judge Kittredge, if we don't raise it it's automatically not an issue, in light of his statements on line eight through 12 on page 2505?
A Sitting here today I can't say that -- I can't say why we would or would not have objected to Judge Kittredge, I guess the assumption was that the record would speak for itself, and what Judge Kittredge's position would be was either going to be correct legally or incorrect, and therefore, you know, that issue was set

in stone, and we were past it.

Q So y'all took the position that this was adequately preserved? Because he's saying, as I read it, that the report maybe wouldn't have been disclosed if y'all had told him it wasn't going to be an issue?

A We -- I don't think we conceded that any issue was not appropriately resolved for trial that we were of -- preserved for appeal that we were aware of.

Q So you thought this was appropriately preserved?

A I would think so, yes.

Q Okay. Fair enough. Now, you mentioned that you were originally going -- going to undertake the cross-examination of Dr. Narayan?

A That's correct.

Q Okay. Do you know why an objection to the use of his testimony was not raised related to the Fifth or Sixth Amendment grounds during the trial?

A I just have no independent recollection of that.

Q Okay. That's fair enough. Let me ask you, had y'all already switched assignments at that point?

A No, that -- that switch occurred literally right before Dr. Narayan was going to be cross-examined. My -- again, my recollection is that there was a discussion with Judge Kittredge about what could be gone into and what could not, and I think I finally turned to Mr.

Mauldin and said, somebody's going to have to give me a clear understanding of what I can and can't do, because I just don't understand at this point where we are. And ultimately Mr. Mauldin said, well, then I'll handle the cross-examination of Dr. Narayan.

Q Now, let me ask you this, are you familiar with any case law that would limit the use of psychiatric inf- -- or information gained by the psychiatric hospital in Columbia, or the Department of Mental Health?

A Are you talking about today?

Q Such as State v. Hitopolous, or Hudgins versus Moore?

A I have no independent recollection of individual cases regarding the subject sitting here testifying today. I know that there was -- we had done a good bit of research on that at the time, and those -- that research I believe would be in the file with Mr. Mauldin. I'd just have to refer back to that for what we believed the state of law would be at that time.

Q Do you recall a reason, strategic reason why you did not file an objection, or note an objection to the -- to that type testimony coming in under those cases?

A You're talking about to Dr. Narayan's testimony?

Q That's correct.

A I think we objected to Dr. Narayan's testimony from

beginning to end. It was my assumption that we had done that, if we didn't do it in pretrial motions we did it at both in the pretrial and then contemporaneously with his testimony.

Q And if the record shows that you had not, should you have done so?

A All of the objections we were making throughout the case, I believe -- well, I thought we had preserved for appeal. So if there was some issue that we raised either in pretrial motion or at the trial that ultimately we didn't preserve we should have. And without -- I mean, I just don't -- I can't answer your question other than that.

Q That answers my question. Okay. Your Honor, at this time I'm going move on to ground F. Now, do you recall Dr. Narayan attempting to speak to Mr. Wood the week or two before trial?

A Vaguely.

Q Okay. And you may not have any knowledge of this, do you recall Mr. Mauldin sending a letter saying don't talk to our client?

A I don't have an independent recollection of that.

Q Okay. Do you know of any reason, strategic reason why y'all failed to write a similar type letter to DMH before the evaluations that took place in the fall of

2001?

A I don't know of any strategic reason, no.

MR. BROWN: And Your Honor, one thing I would draw the Court's attention to, it's not a question, I think it's appropriate, to look at the State's return on page 20, the second full paragraph. That's the first little sentence.

THE COURT: The State's return, what now?

MR. BROWN: The second full paragraph, the first full sentence, and that's related to this issue F.

THE COURT: What about it?

MR. WATERS: I'm not sure why we're doing this.

MR. BROWN: Because I'm going to move on, but I thought I would note that for Your Honor.

THE COURT: Okay. All right.

MR. BROWN: I think it's related to this issue. And I would ask him a question but I don't think it's really -- he wasn't aware of the states position.

MR. WATERS: Of my return?

MR. BROWN: Obviously Mr. Bannister at the time of trial wasn't aware of his position, but I would ask you to take note of it.

MR. WATERS: I'd object to relevance. Obviously the return is there as a pleading, but I'm not ---

MR. BROWN: And it's their position. We think it's

relevant to this ground. But that's it. At this time we're going to move -- we'll certainly move on to the next ground, which would be ground G.

BY MR. BROWN:

Q And Mr. Bannister, in ground G we deal with the diagnosis. Now, you do recall at trial -- or do you recall at trial that the diagnosis between Dr. Schwartz-Watts and Dr. Narayan were fairly marked -- markedly different?

A Yes, I recall that.

Q Okay. And again, since you were at some point going to cross-examine Dr. Narayan, do you remember there being an issue about whether he met the criteria for anti-social personality disorder?

A Mr. Mauldin would have to -- I -- I don't recall.

Q Fair enough. Fair enough. Okay. And did y'all make any efforts to cross-examine Dr. Narayan, excuse me, regarding the notes of Dr. Tezza or Carlos Torres?

A Again, I think that's a question for Mr. Mauldin, because once he was going to do cross-examination that was -- I don't have a recollection of those notes or that information.

Q Do you recall any strategic reason why they were not, those notes were not prepped for use? And again, I'm assuming that the switch was made at the time Dr.

Narayan was called?

A It was made pretty close to it. I don't recall whether it was -- it seems like we had -- it happened at the end of the day and we picked up the next day, but I can't remember exactly.

Q Is there any strategic reason why y'all did not prep those notes for cross-examination?

A No, none that I know of.

Q Okay. Do you recall any reason why Dr. Schwartz-Watts was not asked to comment on the notes of Dr. Tezza and Dr. Torres as it related to Narayan's ultimate opinion?

A No.

Q Do you recall what the defense efforts were to reach a sister named Connie Jantz?

A That would have been I believe Paige Tarr who would have been making efforts to reach her. It seems like where we ended up is that, and I don't recall the name, but the sister who had his child, who had custody of the child ---

Q Could that be Betsy Martinez?

A Right. She was able to be there but she did not want to participate in the trial in any other way. And then the other sister, I'm assuming if we got in contact with her, she just made it -- she didn't want us to --

didn't want to participate. And I know -- I think the mother just sort of disappeared.

Q Now, let me back up. You said the other sister, that would be Ms. Jantz?

A I'm guessing, I don't know that.

Q And you said if you contacted her, if you were able to contact her, is that what you said?

A And I'm referring to Paige Tarr.

Q Okay. Right. I'm just trying -- and I just didn't hear you. Did you saw if?

A Yes, if we had been able to contact her. I don't know whether we did or not. At least I don't remember sitting here today.

Q Fair enough. Did y'all make -- y'all didn't make any strategic decision not to put Ms. Jantz up, did you?

A Again, is that the sister that we had in the courtroom or the other one?

Q This is the ---

A I mean, I just don't remember.

Q I don't want to get an objection either.

A Let me just say, if it was the sister that was in the courtroom ---

Q No.

A --- yes, we made a strategic decision not to put her up because we thought that was -- she was -- she just --

she just didn't want to participate.

Q And she was also a convicted felon and a co-defendant of Mr. Wood in another matter, wasn't she?

A I don't recall that.

Q Okay. This is not that sister.

A Right. The other individuals in the family that were available to us, that was it. That was the only one we had that we could get in touch with during the time of the trial. That's my recollection.

Q As far as the efforts that you're aware of?

A Yes.

MR. BROWN: Okay. And Your Honor, we would move to ground H?

THE COURT: We'll take a break and start back at two o'clock.

MR. BROWN: Thank you, Your Honor.

(A short recess was taken, after which, the trial continued as follows:)

MR. BROWN: Please the Court, Your Honor.

THE COURT: I've been anxiously awaiting this testimony again, Mr. Bannister.

THE WITNESS: Thank you, Your Honor.

THE COURT: I'm sure he read the transcript during lunch.

THE WITNESS: Yeah, I skipped lunch for that very

purpose, Your Honor. I -- well, not really. I am under oath.

THE COURT: Okay.

MR. BROWN: May it please the Court, Your Honor?

(A discussion was held off the record.)

THE COURT: So lawyers have to be careful what they say, Mr. Bannister.

THE WITNESS: Yes, sir.

THE COURT: Maybe in closing arguments.

THE WITNESS: Apparently.

THE COURT: Okay. Go ahead.

MR. BROWN: May it please the Court, Your Honor?

BY MR. BROWN:

Q We're now at ground H, which deals with mitigating information. And most of what I'm going to ask you about was answered I think in the last ground. But again, the Connie Jantz information, if she had favorable information, would you have wanted to put that information before the Court during penalty phase?

A Yes.

Q Okay. And in this case especially -- or was it exacerbated in this case because of the fact that y'all didn't have any other first-hand non-expert mitigating information?

A Right. I mean, I think we knew we were slim on the

mitigation side of things.

Q And so certainly when you had nothing then a little bit is better than nothing?

A Yes.

Q Okay.

A Some things.

Q Some things, sure.

THE COURT: Going into it you knew you were slim on the mitigation side, is that your testimony?

THE WITNESS: Right. We knew we were a little bit slim on the mitigation side. I mean, we ---

THE COURT: But you felt like you needed to work on that a lot, right?

THE WITNESS: We did. I mean, that's -- that's kind of after we had worked on it a lot. We still -- I mean, we wanted more if we could have had it. But after working as long as we had we still felt like it was -- you know, we wished we had more. I mean obviously you always want more mitigation. If I'm answering your question, Your Honor.

THE COURT: So all -- your whole team you think spent a lot of time trying to work on mitigation?

THE WITNESS: Yes, I thought so.

THE COURT: Okay.

BY MR. BROWN:

Q And let me ask you this, would you have liked somebody to have come in and taken the stand and said, I'm the sister of Mr. Wood and I would ask for you to spare his life?

A Yes, we would have like to have had some of the family come in and help us during the sentencing phase of the trial.

Q And there is no strategic reason that y'all chose not to do that, not to present that type testimony?

A Yes.

MR. WATERS: Object -- I'm sorry, go ahead.

THE WITNESS: Yes, there was because we had his sister, one of his sisters there. And we had -- his child was there. And after talking with her it just became apparent that she was not going to be -- we couldn't use her.

BY MR. BROWN:

Q And you're speaking of Betsy Martinez?

A Whichever one was in the courtroom with us. I can't remember their names, Mr. Brown, back and forth, but she's the one that had custody of the child at the time we had the trial.

Q Okay. And she's the one that was living in Anderson?

A Yes.

Q Or in this area?

A Yes, she was the one living in the area, yes.

Q Okay. Okay. Were you aware there was a sister that lived outside of the area?

A I think we were, yes. I mean, I think we were, yes.

Q And I'm only trying to make the record clear, Your Honor, which sister we're referring to. Let me ask you this, knowing the fact that he had a child that was born at that time, do you know of any strategic reason why there were not any arguments made to the fact that sparing his life would allow him to contribute to his child?

MR. WATERS: Your Honor, again, I objected to this question when it was posed to Mr. Mauldin and I would object again on relevance, that there's been no ground plead specifically due to the failure to make a certain argument. The only ground plead was the failure to present Ms. Jantz. And I believe Your Honor allowed ---

THE COURT: Yeah, I'm going to let in because there was some -- one of the grounds talked about emotional ---

MR. BROWN: That was it. That's right, ground H. Same one, Your Honor.

MR. WATERS: I just wanted to renew my objection.

THE COURT: All right.

MR. BROWN: Thank you, Your Honor.

BY MR. BROWN:

Q And again, I know you didn't do this closing argument, but I guess what I'm saying is the jury wasn't informed of the fact that he had this child, and obviously one of the things that you can put up is the character of the defendant. Was there any strategic reason why you didn't argue that giving him a life sentence would allow him to contribute to society by having some influence on his child's life?

A Well, obviously this was Mr. Mauldin's closing argument.

Q If you don't ---

A And I don't recall us having any discussions about that particular aspect of it. That just wasn't my part of that trial.

Q Fair enough. And do you recall any reason why -- you may have just answered this, but any reason why you would not have argued that Mr. Wood's execution would adversely impact his child's development?

A I don't know of any reason for that, no.

Q For not arguing that?

A I don't have any reason. I don't know of any reason. Again, that was Mr. Mauldin's closing to make.

MR. BROWN: And Your Honor, at this point I'm going to move to ground I.

THE COURT: Okay.

BY MR. BROWN:

Q And this deals with the objections to closing arguments. And now you did the closing arguments in the guilt phase, or guilt/innocence phase?

A Correct.

Q Or verdict phase? Would you look at page 1737, and if I can focus you to lines 24 and 25?

A Okay.

Q And this is the closing argument by the prosecutor.

A Okay.

Q Now, having made closing argument wouldn't it be your -- procedurally your call to object?

A Yes, I think initially we had -- Judge Kittredge had asked whoever was the lawyer that was, you know, handling that witness would be the one to object. Now, I'm almost certain there were a number of occasions where -- that that wasn't a hard fast rule.

Q Sure. It's kind of a custom?

A Right. But yes, I mean, it would have been my place to object.

Q Okay. Would you consider that argument to be a burden shifting argument, given your defense that there was not the requisite intent, no proof of requisite intent?

A No.
Q Is that the reason that you decided not to object to that argument?
A You're asking me ---
Q I'm asking whether you consider the sentence on line 24, 25, you're looking for factual support to support the suggestion that he didn't have the requisite intent?
A Right. Actually I take that to mean that that's right in line with what they should be doing under reasonable doubt.
Q Now, this is the argument by the prosecutor?
A Right, I know it. If he's looking for -- if they're supposed to be looking for factual support that he did not have the requisite intent, that's exactly what I had asked them to do, is go through the record looking -- I mean, that's what I was saying to them, he didn't have the requisite intent. The way I perceive that he's asking -- telling the jury you're looking for factual support to support any suggestion he didn't have the requisite intent.
Q But -- well, let me ask you this, does -- does the defense have to prove factual support for their defense?
MR. WATERS: Your Honor, I object. I think obviously any legal issues are for Your Honor. He's already said he didn't see a problem with it, and

that's why he didn't object. I think that's as far as he needs to go with the fact witness. Now, if Your Honor wants ---

THE COURT: I'm going to sustain the objection to that question.

MR. WATERS: Thank you, Your Honor. The -- you're talking about the guilt phase here. There is no burden for the defendant to do anything. They can question that.

MR. BROWN: Sure. And I would agree there is no burden for the defendant to do anything in the guilt phase.

THE COURT: Well, I assume that Mr. Bannister has already made his argument and Mr. Ariail is responding to it.

THE WITNESS: I think actually we got to go -- maybe we got to go last. But in any event ---

THE COURT: You didn't put up any evidence?

THE WITNESS: No, we did put up -- I just can't remember.

THE COURT: Who went first and who was last?

MR. WATERS: Your Honor, I think in a capital trial is the defendants do get second.

THE COURT: They get the last argument?

MR. WATERS: Right, right. Because it's a capital.

THE COURT: In every phase, that's right.

MR. BROWN: Yes, sir.

MR. WATERS: Yes, sir.

THE COURT: You're right. Okay.

BY MR. BROWN:

Q But again, I guess what I'm asking is, the fact that you don't believe that's burden shifting is that why you did not object?

A Yes, but I guess -- let me be clear. I don't see that line as being burden shifting.

Q And is that the reason you didn't object?

A Yes. I see this line as saying, you, the jury, are looking for factual support to support any suggestion that he did not have the requisite intent. That is the argument I made, that he did not have the requisite intent. If he said, any suggestion that he did have the requisite intent, that I think would have been burden shifting. That's the way I interpret it.

Q I know there are a lot of negatives in there, but isn't he asking the jury to find support for your defense?

MR. WATERS: Your Honor, I would object to this. Now he's asking for an interpretation of the solicitor's remarks. I think he's already answered this. He doesn't see ---

THE COURT: Okay. His answer is he didn't think that was burden shifting and he didn't object to it.

THE WITNESS: Right.

BY MR. BROWN:

Q And that's fine. I understand that. Okay. Let me move to the arguments made in the penalty phase. And again, I understand at that point it was made by Mr. Mauldin. But again, we talked about the fact that it was not a hard and fast rule on that. And so we've got 2191.

A All right. I'm on page 2191.

Q And let me ask you to take a look at the part where it says, it's lines 18 through line 20.

A I'm with you. I read it.

Q Do you know of any factual support in the record for that argument?

A No.

Q And would you agree that if there is no factual support through either evidence or inferences that an argument is not supposed to be made on that?

MR. WATERS: Your Honor, I object. Again, I think that's a legal issue for Your Honor to determine. And he can ask him if he objected or not.

BY MR. BROWN:

Q Did you have a strategic reason for not objecting? I'm sorry.

A No, I didn't have a strategic reason for not objecting to that.

MR. BROWN: And I would agree, it's up to Your Honor, whether or not that's improper or not.

THE COURT: He said he had no reason for not objecting.

MR. BROWN: Right. Yes, sir, Your Honor. I'm going to ask the next question. Whether it's proper I think it is relevant.

BY MR. BROWN:

Q Let me also ask you to take a look -- and I apologize to the Court. There is one section in here. Do you recall -- I apologize, Your Honor, it's in my application but not my other notes. Do you recall part of the argument in closing penalty phase that, quote, this is not Susan Smith, this is not a man who's going to be sitting in prison worrying about having killed her two children? And you've got my books and I apologize. It's not ---

A It seems like I do remember him mentioning Susan Smith.

Q Do you have any strategic reason for not objecting to that argument?

A No.

Q And let me -- then let me refer you back to 2191 and

on to 2192, and it starts at the last line on 2191 and it goes over to 2192, line 14. And I guess I can give you a second to read that.

A I've read it.

Q Okay. Is there any strategic reason for not objecting to that argument?

A No.

Q And Your Honor, what I'm going to do now is move into the next ground, which is ground J, which is the final ground I'm going to have with this witness. And just -- Mr. Bannister, to stay on that same argument, do you recall the testimony of Jimmy Sligh?

A Yes.

Q And do you recall why no objection was raised regarding the introduction of conditions of confinement evidence through Jimmy Sligh?

A From my standpoint that was Mr. Mauldin's client -- I'm sorry, not client, but witness to handle. He was the one who also handled Jim Aiken, so in a sense in my mind the issue about prison adaptability was his issue. So I had -- I suspect at that point I was probably -- I may have not even been in the courtroom. I may have been working on trying to get ready for Dr. Narayan, depending on when it came in the testimony. But while he was handling some of that I was in and out. And so I don't

have any reason why he didn't object to that.
Q Okay.
A I mean, I just wasn't part of that decision making process.
Q Okay. Fair enough. So you don't have a strategic reason for not objecting?
A No.
Q Okay. And again, that would be -- let me back up. And if there would have been an objection and that -- to that testimony and it would have been sustained, then arguably, that prison is a big city, the argument that goes on through, his baby will sit on his lap and it's nothing more than a change of address ---
A Yeah, we didn't like that.
Q And that could -- you could have possibly kept that out if the evidence would not have been admitted through Mr. Sligh?
A We did not -- I thought that was not helpful to us for sure. I didn't want it in, personally, but ---
Q And if y'all had had a reason to keep it out would you have liked to have argued that?
A Yes.
Q Okay. In hindsight do you consider that to be an arbitrary factor, the conditions of confinement?
MR. WATERS: Your Honor, I would ---

THE COURT: I would sustain the objection.

MR. BROWN: I understand. Beg the Court's indulgence?

BY MR. BROWN:

Q Your Honor, the last thing I want to ask you about, it probably should have been asked earlier. First of all, you may have heard, have you ever heard of Tabernacle Christian School, in Greenville?

A I may have heard of it.

Q And have you ever heard of Bob Jones Elementary?

A Yes.

Q And have you ever heard of Calvary Baptist Church School?

A I don't recollect Calvary Baptist Church School, but ---

Q Do you recall seeing those schools referenced in a federal presentence report that Mr. Brian Bowen generated for John Wood?

A I've got a vague recollection of Bob Jones potentially having some school records, but other than that I don't recall.

Q Do you recall whether y'all ever obtained those records?

A I don't specifically recall whether we obtained those records or not. And again, that would have been, I

believe, Paige Tarr would have been the one that would have -- would have first-hand knowledge about that.

Q Are you familiar with records of the other two schools? I mean, I ---

A No, not sitting here today, no.

MR. BROWN: No further questions of Mr. Bannister.

THE COURT: Mr. Bannister, let me ask you one question. Before this Department of Corrections person was called, was his name Sligh?

MR. BROWN: Sligh, yes, sir.

THE COURT: Before he was called, Mr. Ariail apparently from the record, indicated why he was calling him, and Mr. Mauldin had some question about whether he should object or not. And they went off the record. And according to the record he had a discussion with his co-counsel. And after that discussion he came back on the record and says, we have no objection. You don't recall having the discussion with Mr. Mauldin about that?

THE WITNESS: I don't recall that specific discussion. You got to remember that Rodney Richie was also an attorney that was representing ---

THE COURT: I knew there were three of each side.

THE WITNESS: Right, representing Mr. Wood.

THE COURT: I'm not saying -- I'm just wondering if you remember it?

THE WITNESS: Here's -- the only thing I have a specific recollection of is I would probably recognize Mr. Sligh if I saw him. I remember him talking about them being able to watch TV, and I remember that it was Mindy Hervey that was doing the direct.

THE COURT: The only question I wanted, is do you remember any conversation with Mr. Mauldin about what y'all should do about that witness?

THE WITNESS: No, I don't remember that, Judge. I just don't remember.

MR. WATERS: Thank you, Your Honor. May it please the Court? And Your Honor, if you don't mind, I'm just going to go ahead and show him that very passage in hopes that it may jog is memory, but I don't know expect it to.

THE COURT: Okay.

CROSS-EXAMINATION

BY MR. WATERS:

Q This begins -- this is page 1876 of the record, on line three, and it goes over to the next page. And that's the portion that the judge was just talking about.

MR. BROWN: Your Honor, just briefly? May I obtain my copies of the transcript back?

THE COURT: Yeah.

MR. BROWN: And let him do his questioning with his copies.

THE COURT: Yeah.

BY MR. WATERS:

Q Doesn't jog any memory?

A No, I'm sorry. I just don't remember. I don't remember that being a discussion between us.

Q Okay. Clearly though, if you were part of that discussion, y'all weren't talking about baseball or something like that, right?

A Oh, no, no.

Q Y'all would have been discussing strategically whether or not to admit this testimony or ---

A If that was me having the discussion that would be what we were discussing.

Q Okay. All right. Just real quick, I know Judge Patterson is well familiar with you, but for the record would you, just very short version, how long have you been an attorney, how long have you been in criminal defense?

A I have been practicing now for I guess 11 and a half years. Of that nine of it has been primarily criminal defense. Last probably seven has been almost exclusively criminal defense. First two years I was a law clerk with Judge Herlong in Federal District Court.

Q Okay. And as I understand it, you were appointed after the notice of intent to seek the death penalty was

filed?
A That's correct.
Q Okay. And also as I understand it, Mr. Mauldin was lead counsel?
A Yes, that's certainly correct.
Q Okay. And y'all sort of had a division of labor, where you were kind of focusing on the guilt phase and he was focusing on the sentencing phase?
A That's correct.
Q But y'all both remained involved in all aspects of the representation for the most part?
A We did. Yes, we did.
Q Okay. And Mr. Mauldin was kind of the final word on any ultimate decision?
A Yes, absolutely. I mean, that was -- we had that clear from the very beginning.
Q All right. Now, as I understand it to from y'all's perspective, y'all objected to Mr. Wood being evaluated by the Department of Mental Health, correct?
A Absolutely.
Q And you're of the opinion that nothing good could come of that?
A Yes.
Q And you expressed that to Mr. Wood during your discussions, correct?

A On a number of occasions.
Q Okay. And you told him that very thing, that if you went to that evaluation it could end up being bad for you at your trial?
A It was a little stronger terms than that, but yes.
Q What kind of terms was it?
A We said it is going to be bad for you at trial. There is nothing good that can come from this.
Q Okay. And that was -- and during those discussions, that also included the possibility of sentencing as well, correct?
A Yes, I'm sure it did.
Q Okay. All right. So he was made well aware from y'all that talking to these doctors from y'all's perspective was a bad idea?
A Yes.
Q Okay. All right. And at trial y'all continued to pursue that -- that objection to -- to the evaluation and then ultimately to its use as much as you could?
A Yes.
Q Do you recall that the judge initially just disclosed the report only on the competency and criminal responsibility and capacity issues to the solicitor?
A I know that it started coming out sort of piecemeal. Once he had had the evaluation, you know, we felt like

any disclosure of anything was going to open Pandora's box. And so -- I can't recall exactly what came out when, but ---

Q Do you recall though that it was -- once y'all decided to put up Dr. Schwartz-Watts, that ultimately then Dr. Narayan, the report, the full report was disclosed and Dr. Narayan was allowed to testify?

A Right. And that was the point in time where I was discussing earlier where I said, I'm not sure where we are in terms of where the ruling is on what can and can't be asked of Dr. Narayan, and that's when I just said I need some help here.

Q But y'all were aware from your repeated discussions of this issue with the judge, that once you put up your mental health testimony, you were running a risk then the judge was going to open the door to Dr. Narayan?

A Yes, we were -- we knew we were running a risk of that, yes.

Q And you made the strategic decision that it was more important to go ahead and present your mental health evidence in mitigation despite that risk, is that correct?

A That's correct. I mean, my position would have been we didn't have a choice because we had to put up Dr. Schwartz-Watts. We didn't have much mitigation without

her.

Q Okay. All right. And as I understand it though, there was a little discussion about the idea of quashing the death statute on the basis of the fact that a defendant who pleads guilty gets sentencing by the bench. And you just -- you don't recall having any specific involvement in that, is that correct?

A Other than Mr. Mauldin telling me that was an issue, explaining it to me, but that was an issue that I knew he had raised in a number of capital cases and that was his -- that was his issue.

Q Right. But your frame of mind on this is that you wanted to go forward with the voluntary manslaughter defense for lack of a better way to put it?

A Well, and I'll -- it was a discussion we had, because after I had finished interviewing the lay witnesses I can remember I had a discussion with John, I said, look, they're all telling me that the stop that was made was a pretty aggressive stop. I said, can we get a manslaughter charge out of that. And then we would bounce back and forth ideas about how we would, you know, hypothetically if that was the position we put up, wouldn't we have to front load the guilt phase.

Q Guilt phase.

A And by that I mean bring in Dr. Schwartz-Watts, talk

about what Mr. Wood's state of mind was at the moment that he got pulled over, you know, put in some scintilla of evidence about what his intent was to help us get around --- or to get into the manslaughter charge. Did I answer your question?

Q I believe so, yeah. An so ultimately though you saw this defense as having two benefits. Number one, there was the shot that maybe a jury could ultimately could go for voluntary manslaughter, but more importantly making them kind of work for that verdict in the guilt phase you thought would have a beneficial effect in the sentencing phase, correct?

A Right. That was -- those were some of the arguments for doing that type of a guilt phase strategy.

Q All right. I guess also consideration as well on the Anderson County evidence would be that by bringing it out in the guilt phase the farther you got away from it in time from the jury, when it got to the sentencing phase, the better?

A Right.

Q Is that correct?

A That's correct.

Q Okay. Now, were you involved -- did you have discussions with Mr. Wood during the course of coming up with this strategy?

A Yes.
Q Okay. So he was involved in your discussions and aware of them?
A He was -- yes, he was involved and aware of what we were trying to do.
Q And he would give you his version of the facts and y'all did your best to come up with what you could do from that?
A Yes.
Q Was there any discussion of pleading guilty whether legally pleading guilty or pleading guilty as a de facto matter in context of a jury proceeding in a capital case?
A Yes.
Q And what was -- what was the discussion along those lines?
A It was -- we had -- I think we had an ongoing list of items to discuss, kind of a brainstorm, and let's go through them and knock them out. And one of the -- one of the items on there was potentially pleading Mr. Wood guilty in front of Judge Kittredge and then of course Judge Kittredge would have to do the sentencing.
Q Right.
A We ultimately decided against that, but that was one of the options we discussed.
Q And you decided against that in consultation with

your client, is that correct?
A I don't know that I had those conversations with him, but certainly Mr. Mauldin and I discussed that.
Q Okay. But Mr. Wood never said, I want to plead guilty, and y'all said, whatever, we're not going to do that?
A No, no.
Q Okay. As far as though doing a concession of guilt in a jury sentencing, did you ever have that discussion?
A Yes. And I mean like I said before, maybe we were trying to kind of split it a little bit down the middle and that is give a concession of guilt and potentially see if we can get a manslaughter charge as well.
Q But I mean a concession of guilt of murder?
A In what context though? You're talking about letting the jury hear ---
Q Right.
A --- that we're not asking you to find him not guilty, we're ---
Q Right. Right. But I'm sure there -- there have been cases where -- let me rephrase that. Yeah, just a concession of guilt in the context of a jury proceeding where you do not actually technically plead guilty but you tell the jury that we're guilty of murder in the context of that proceeding?

A Right. I think we discussed that.
Q Okay. And ultimately in consultation with the client y'all decided against that?
A Well, I would say it was -- it was more Mr. Mauldin and I having that discussion about how we were going to present the case in the guilt phase.
Q Okay. Let me ask you a little about bit how things proceeded with regard to the Anderson County charges. As I understand it Drew Ann White, the solicitor at the time over there, wanted to proceed first in the Anderson County case, is that correct?
A Yes.
Q And what did y'all think about that?
A We thought that was great.
Q Right. And why was that?
A Because it meant that we were going to get to see everything they had, hear all the witnesses, conduct basically a discovery type of case with -- down in Anderson. And there wasn't anything that Mr. Ariail could do to combine the two cases because of the way the case law worked.
Q Right.
A And so it was kind of a free shot for us. I mean, there wasn't -- I mean, when you got the death penalty sitting up here in Greenville, there's really like a --

it was just a free ---

Q Right. Kind of an opportunity for discovery and make the State show their hand?

A That's right, yes.

Q Okay. Now did something happen specifically relating to your client that kind of threw a monkey wrench into that?

A Yes.

Q And what was that?

A We were ready to go trial in Anderson, and Mr. Wood had -- I think he had sent the judge a note that said we were not presenting a defense that he wanted to present.

Q And that was a mental health defense?

A That was a mental health defense.

Q And y'all did not want to do that?

A Not only did we not want to, but I think Mr. Mauldin said, I'm not going to do it.

Q All right. What happened after that?

A Then Judge Kittredge removed us from the case in Anderson, and then after that I know that Mr. Byrholdt got appointed to represent Mr. Wood. But you know, I wasn't there for any of the rest of it.

Q But subsequently to that then Judge Kittredge put the Anderson County case on hold and y'all went ahead with the capital trial in Greenville, is that correct?

A That's correct.
Q Okay. All right. Now, we talked a little bit about you were doing the voluntary manslaughter defense, if I can call it that. Let me ask you this, if the judge had been willing to charge or instruct the jury words to the effect of, Mr. Wood wished to plead guilty but he -- in order to get jury sentencing he has to plead not guilty under our statute. Would you have wanted that consistent with the defense you were presenting in the guilt phase of this trial?
A I don't know the answer to that question sitting here right now. I mean, there was a lot going on in our decision making process. If he did offer to do that and we said no, then we said that for a reason. I mean, we didn't just willy-nilly come out of the blue with no, we don't want to take that.
Q Because you were -- you were not going to plead him guilty, correct?
A Right, correct.
Q And you were not going to concede guilt, correct?
A Not entirely, no.
Q I mean, you were going to concede he committed the act but you were not going to concede guilt of murder, correct?
A That's correct. That's correct. That's a better

way to put it.
Q Right. So you were going to go forth before the jury and hopefully you were going to ask them to find the lesser included offense, correct?
A We thought we had an outside chance of that, yes.
Q Okay. And then ultimately though the judge denied the charge and so you were left with making an intent argument?
A That's correct.
Q All right. And I think ultimately -- and you were asked a little bit about this, but ultimately you kind of got away with a little bit on that intent argument, do you recall that?
A I recall getting chewed out pretty good by the judge, yes.
Q But he even said, man, I can't believe you let him make that argument, Solicitor, and never objected, I've never had that happen. Do you recall that?
A I do recall that.
Q Okay. And then ultimately ---
A I recall the tone of his voice more than I do what he said.
Q Okay. But ultimately you made that argument without any objection, correct?
A I did.

Q And even though -- would you characterize the evidence in this case as strong for the State, the guilt phase evidence?

A Yes.

Q Okay. And even though the evidence was strong, ultimately the jury deliberated for a long time and even sent out notes about this, correct?

A We had a good jury, yes.

Q Okay. So ultimately -- well, I guess I couldn't -- I'll withdraw that. All right. I want to ask you a little bit, you were asked a little bit about your opening statement. And I'm going to ask you to turn to page 1053 of the transcript. That will be in volume three. This is the passage that Mr. Brown asked you about a few minutes ago.

A I'm sorry, did you say 1053?

Q Yeah.

A Okay.

Q We're looking at lines 18 through 19. Is it fair to say that you tried to be sufficiently vague with this opening statement to the jury in the guilt phase, just in case the judge ultimately did not give you that voluntary manslaughter instruction?

A Yes.

Q And that's the reason why it's phrased the way it

is?

A Yes.

Q Okay. And that was a conscious decision on your part to phrase it that way, is that correct?

A It was. I didn't want to say manslaughter and then us end up without the manslaughter charge, and then, you know, get myself in a hole, I guess.

Q Get into a credibility issue with the jury?

A Right.

Q Okay. Now, you were asked a little bit about your argument to Judge Kittredge on the voluntary manslaughter charge, and whether there was evidence from Karen McCall that the tag on the scooter was not proper. Mr. Brown ask you about that a few minutes ago, correct?

A Right.

Q And do you recall any evidence in the case that the trooper, when he pulled Mr. Wood over, thought that the tag was illegal and that's why he was pulling him over?

A No. I'm pretty sure the trooper thought it was illegal to have the moped on ---

MR. BROWN: Your Honor, I have to object.

THE WITNESS: --- the highway.

MR. BROWN: That really calls for speculation. What the trooper thought ---

THE COURT: I thought there was something in the

record to indicate that the highway patrolman informed the dispatcher as to why he was pulling the moped over?

MR. BROWN: And I have no problem with what is in the record, but his question is what did the trooper think, did he think that the tag was illegal.

MR. WATERS: Let me rephrase it.

MR. BROWN: And we don't know what he thought.

MR. WATERS: I guess what I'm asking is is when he was arguing with the judge -- to the judge about the evidence that was in the record to support a charge what was his view of the evidence and the testimony that had been presented. And I guess that's where I'm going, but let me rephrase.

BY MR. WATERS:

Q Do you recall any evidence in this case that the trooper advised dispatch or any other officer that he was going to pull over this scooter because it had an illegal tag?

A I recall that he had -- he had called in to see whether or not it was illegal to drive a moped on the highway. And then I don't recall what he got back, but that seemed to be what he was ---

MR. WATERS: And Your Honor, again, we got a little speculation. I understand that the question is what Mr. Bannister recalls, but then we're going into what it

seems to be that the trooper did, and I think that's what was his words right there, and I think that's ---

THE WITNESS: Let me say it was my perception, how about that.

THE COURT: Okay.

MR. BROWN: But it sounds like to me that it was Mr. Bannister's perception of what the trooper's perception was, which is where it gets into speculation. Listen, the record says what it says, what's in it is in it, and certainly they can brief it to Your Honor.

THE COURT: I thought the record indicated that the trooper was going to pull him over because he thought the moped should not be on the interstate, and I thought that was confirmed to him by the dispatcher.

MR. BROWN: And the only thing I would ---

THE COURT: And then he went ahead and pulled the moped over.

THE WITNESS: That's correct.

THE COURT: Now, that was somewhere.

MR. WATERS: That's absolutely correct.

MR. BROWN: And we don't dispute that fact. There are some other things that come into play.

THE COURT: That's what he was getting ready to say that he thought -- I thought. That's what he just ---

MR. BROWN: Well, there's a lot of "I think he

thought" kind of statements.

THE COURT: Okay. Well, I don't want any you think or you thought then.

THE WITNESS: Yes, sir.

THE COURT: How about that?

THE WITNESS: Okay.

MR. WATERS: Let me just ask you ---

THE COURT: What you knew at the time.

THE WITNESS: Yes, sir.

THE COURT: Or thought you knew, that's a thought.

BY MR. WATERS:

Q In making your argument to Judge Kittredge, under your view of the fact -- whether or not the tag on the scooter illegal was irrelevant because there was no evidence that the trooper thought the tag was illegal, and that's why he pulled the scooter over?

THE COURT: I'm wondering about this whole thing. I don't know how in the world the trooper could have known it was an illegal tag until he got to -- until he talked to somebody and found out.

MR. BROWN: Well, one thing, Your Honor, is that there is a doctrine called the collective knowledge doctrine, and a long story short, it says what law enforcement knows is imputed to every officer.

THE COURT: Is what now?

MR. BROWN: It's imputed to every officer. That's a strange one. But in other words, it's imputed to law enforcement that the tag is illegal, all of them ---

THE COURT: I don't know -- I don't know how you're going to make it apply to this case. I mean, we've got a trooper out there pulling the moped over because he thinks it's not supposed to be on the interstate.

MR. BROWN: Well, then it sounds to me like that it's maybe not an illegal stop, it would be a self-defense argument not a voluntary manslaughter argument. If it's a legal stop that's something that can be resisted.

MR. WATERS: Well, Your Honor, again, we're getting into a legal argument, but I would disagree with that. You could totally be in the right but you get blue lighted the statute requires you to pull over.

THE COURT: I think you got to pull over.

MR. BROWN: Well, there is case law that says -- or I'm sorry, that's something we can argue later on.

THE COURT: You can argue that a little bit later.

MR. BROWN: Yeah, Your Honor, let me suggest this, because it is contemporaneous with this, we now seem to be opening the possibility of another claim, that they were ineffective for not arguing the right to use self-defense to resist an unlawful arrest. And that's

something that has been discussed by petitioner and his counsel. I'll put that out there, but we are now right in the middle of it trying it here right now. And that's what rule 15 of civil procedures says, that if we start developing facts we get to amend the application. They have fought amendments, but we are -- I suggest it because we are crawling right into that.

MR. WATERS: Your Honor, I totally disagree with that. They asked him about the specific passage. I'm simply responding to that, and I have no intention, and I will strongly object if he attempts to add any new issues, particularly anything about self-defense.

MR. BROWN: Well, I don't know what his answers are. He seems to be ---

THE COURT: Well, we're just talking now, wasting time, Mr. Brown. I don't think we're going to add anything. Go ahead, Mr. Waters.

BY MR. WATERS:

Q All right. And do you recall my question? Probably not at this point.

A Ask it again. That would be the safest thing.

Q Okay. When you were making your argument to Judge Kittredge, seeking a voluntary manslaughter instruction, the fact that there had been some testimony from Karen McCall that the tag on the scooter was not proper was

irrelevant to your view because there was no evidence that the trooper thought the tag was illegal when he pulled Mr. Wood over?

A Yes, to this extent. There was two reasons. One of them was that I thought in my mind the trooper pulled him over because of the fact he thought the moped was illegally on the highway. Second, I didn't feel like Karen McCall had clarified whether or not at the moment the officer saw the moped that everybody knew that tag was illegal. I didn't feel like there was any testimony that the tag was illegal at that moment. Now, I realize, and I think I said this in an argument, you know, that's viewing the inferences truly in the light most favorable to the defendant.

Q Okay. All right. Thank you. Let's talk a little bit about Karen McCall. It's fair to say that had she not testified in the guilt phase y'all would have called her in the sentencing phase, correct?

A I really don't know, because it didn't happen that way. So I mean, we weren't going to call her twice.

Q But you did want to call her to get out of her this idea that he kind of flipped out uncharacteristically because he had this fear of police?

A Yes, we did want that.

Q And you knew she was going to be able to provide

that information, and you thought that was very important to your voluntary manslaughter defense in the guilt phase, correct?

A Yes.

Q All right. Then ultimately that idea was supported by Donna Schwartz-Watts in the sentencing phase, and dovetailed into your mitigation evidence, is that correct?

A Yes, I think that is correct.

Q Okay. And so I think you were trying to go for sort of a perfect storm theory, I think you might have described it, is that correct?

A Well, as if -- well, we described it amongst ourselves as if it was like a combination lock.

Q Right.

A You know, it was the coming together of a number of different things for John Wood that caused him to snap on that particular day. And that but for the precise turning of that combination and hitting just those exact numbers, he wouldn't have been that way. And we were trying of course to show the jury that this is not a monster, this is not an animal, this is not somebody you're going to have to worry about. Once we can control his environment you don't have to worry about that combination getting tripped again.

Q Right. And you danced around that as best you could during your closing argument in the guilt phase in your intent argument, and you hit it head on in the sentencing phase, is that fair to say?

A Yes, we were walking a bit of a tightrope, but yes.

Q Okay. And on that voluntary manslaughter defense is it fair to say the testimony ultimately from the eye witnesses at trial proved to be a lot better than you thought it was going to be, correct?

A As ---

MR. BROWN: Your Honor. Your Honor, that calls for an opinion.

MR. WATERS: It's an opinion about his representation.

MR. BROWN: Nonetheless he's not testifying as an expert.

MR. WATERS: Your Honor, I'm asking this. They have called into question their decision to pursue a voluntary manslaughter defense.

THE COURT: All right. I'm going to let you answer that in regard to pursuing that defense?

THE WITNESS: The witnesses on the stand testified by in large to almost exactly what I had discussed with each one of them in my interviews of them. So there were no surprises from those witnesses. So it was what we

expected it to be.

BY MR. WATERS:

Q Right. With references to aggressive stop?

A Yes.

Q Cutting him off?

A Yes.

Q And that was the stuff that you liked that you thought was good for you in the voluntary manslaughter defense?

A Right. That was the stuff I liked. What crystalized for me much later as we moved through the case was how the officer's movements inside the vehicle could be translated into somebody looking down in there as him moving his right hand across his body where his gun was located and could have thought he was reaching for his weapon.

Q Right. And you actually did make that argument in your guilt phase closing, didn't you?

A I did make that argument in the closing, yes.

Q And that kind of does get a little close to self-defense, doesn't it, without having a charge on it?

MR. BROWN: And Your Honor, I -- I'm not objecting to it. I'm just saying we're inviting an amendment here and that's -- I just would like to point that out.

THE COURT: I would overrule the objection. I'll

let you -- go ahead.

MR. WATERS: I'll withdraw the question. If he thinks that's going to invite an amendment I'm going to withdraw the question. I don't see how it's that important.

MR. BROWN: I mean, it was his statement. I'm not asking it be struck. I never objected.

MR. WATERS: Well, I've withdrawn it.

MR. BROWN: It wasn't a question. It was a statement.

THE COURT: Okay. He's withdrawing the question. I'm going to let him do that.

BY MR. WATERS:

Q Let me ask you to turn to page 1856. That will be in volume four of the record on appeal. You were asked -- ask you to ---

MR. BROWN: And Your Honor, I hate to interrupt. Just to clarify, I understand you've -- he's withdrawn the question, but just so I can be clear, does that -- it's not stricken from the record, the statement he made, is it?

THE COURT: I don't know.

MR. BROWN: The statement of counsel? You didn't rule it be struck? I understood he withdrew it, but it's still going to be in the record?

MR. WATERS: Well, it was not a statement, it was a question. It's a cross-examination question. I'm entitled to lead. And I said you made certain argument, didn't you.

MR. BROWN: Well, I think he made a comment it could get close to self-defense.

MR. WATERS: Well, it was clearly a question and I withdrew it. That would be my position, Your Honor.

MR. BROWN: And I'm just asking the state of the record.

THE COURT: Whatever the record is it's in the record.

MR. BROWN: Thank you, Your Honor.

THE COURT: He withdrew the question.

MR. BROWN: Thank you.

BY MR. WATERS:

Q All right. You were asked a little bit, and I'd like you to read first from lines four to 13. And this is -- actually this is the opening statement of Mr. Mauldin in the sentencing phase, for reference. And just let me know when you're ---

A Okay.

Q You were asked earlier if you had had a strategic reason for not objecting to the prosecutor's argument on Susan Smith. And my question is if in fact y'all had

made a Susan Smith argument prior to that would you not think it proper to object when a responsive argument was made later?

A I don't know. I mean, I don't know. That's -- that's somebody's else call.

Q Fair enough. All right. I want to ask just a few questions about your efforts to get mitigation. And it's fair to say that you had a real problem getting sufficient documents for a timeline of Mr. Wood's life, is that correct?

A We had a problem getting documents in general on Mr. Wood's life, yes. And that's what was conveyed to me by Paige Tarr who was doing that part of the case.

MR. BROWN: Your Honor, and now we've got hearsay.

MR. WATERS: Your Honor, again, we're offering this as part of the defense team communication.

MR. BROWN: No, that's -- I don't believe that's an exception to the rule. I mean, it's -- he's offering it to prove that Ms. Tarr said she had problems getting the records. They can call Ms. Tarr. We know where she lives. They have an entire case to put up.

THE COURT: Well ---

MR. WATERS: Well, Your Honor, I think it's certainly permissible for counsel to discuss the type of things that he and the defense team ran into in the

course of representation. I think that's done in PCRs all the time.

MR. BROWN: But they can't talk about what another -- prove she couldn't get something.

THE COURT: He didn't try to do it, but as far as he knows they didn't get it. I'll let him ---

MR. BROWN: Thank you, Your Honor.

THE WITNESS: Right. I mean, we wanted as much as we could, and didn't get a whole lot. I wasn't in charge of getting those documents, but what we had was -- there just wasn't much.

MR. WATERS: Court's indulgence on moment.

BY MR. WATERS:

Q And is it fair to say that you had some difficulty getting cooperation with the family?

A Yes.

Q Okay. And it's fair to say -- I think you already testified, that the sister you did have, y'all made a decision not to call her, correct?

A Yes.

Q And it's fair to say that through -- that you had made an effort to contact the other sister and that was unsuccessful, correct?

MR. BROWN: Your Honor ---

THE WITNESS: I didn't make those efforts so I can't

answer that question.

BY MR. WATERS:

Q Okay. Were you informed as a member of the defense team that that had been done and it was unsuccess?

MR. BROWN: Your Honor. Your Honor, that calls for hearsay. That's asking for him to provide the answer which would rely on exactly the words the truth of the matter what was told to him.

MR. WATERS: The ultimate issue is trial counsel's decisions and what they do and whether it's reasonable. And obviously the information imparted to them, just like an expert relies on hearsay information ---

MR. BROWN: It's relevant.

MR. WATERS: --- is very relevant.

MR. BROWN: I think it's relevant. My objection is hearsay. They can call the rest of the defense team.

THE COURT: I need to know why Mr. Bannister didn't do it. All right. I'm going to let him testify to that. Okay.

MR. WATERS: Thank you, Your Honor.

THE WITNESS: My recollection is that the other members of the family, we couldn't find. I mean, we had had some contact very early in the case with his mother. She I think had actually come into our -- or the public defender's office and spoken with some of the members of

the mitigation investigation. I'm not aware and don't recall that there was any conversations or contact with the other sister. There may have been, but I just don't remember sitting here today.

BY MR. WATERS:

Q Okay. As part of preparing y'all's case y'all hired a mitigation investigator, right?

A Yes.

Q All right. And that's Paige Tarr, correct?

A Yes.

Q And her job was to go out and track down social history information, correct?

A Correct.

Q And would that include family members?

A Yes.

Q School records?

A Yes.

Q Mental health records?

A Yes.

Q Medical records?

A Yes.

Q Jail records?

A Yes.

Q Any kind of record she could get ahold of that were relevant to Mr. Wood?

A We wanted anything and everything.
Q Okay. And this was a person that was experienced in this kind of work, correct?
A To my knowledge.
Q Okay.
A I mean that was represented to me.
Q All right. And during the course of the representation y'all would have meetings and during which you would discuss the progress of the case, is that fair to say?
A Yes.
Q Okay. And part of that would be discussions with your mitigation investigator as to what progress or lack of progress she was able to make, correct?
A That's correct.
Q And she would report back those results to you at that time?
A Yes, she was primarily reporting to Mr. Mauldin, because again, remember that was his portion of the trial in divvying up the work. He was primarily responsible for that.
Q Okay. But ultimately y'all hired a person to do this investigation and -- and supervised her and relied on her to -- to perform that investigation, correct?
A That's correct.

Q Okay. Were you ever at any time unhappy that she was not doing a good enough job?
A I do remember one occasion where Mr. Mauldin had some pretty strong words with her that we were -- she was not where he wanted her to be in having the documentation to give to our expert who has going to testify to the social history.
Q Right. That was Jeffrey Youngman?
A Yes.
Q Okay. And what was the result of that?
A My recollection is that she said she would try to get the documentation that we were looking for.
Q Right. And so that was one issue and that was resolved at that time?
A I mean, I really wasn't part of that conversation necessarily. I mean, I kind of was in and out of the office is my recollection.
Q But I guess my point is that you as the attorney still retained direction and control over the efforts of this investigator, correct?
A Not me personally, but Mr. Mauldin was the one directing her. I mean, I just wasn't involved in telling Paige where to go and what to do.
Q I understand. All right. I want to ask you a little bit about a computer in this case. Do you recall

there being a computer retrieved by law enforcement from Alabama?

A Yes.

Q Okay. And what was your assessment of what the defense team needed to do with that computer, if anything?

A It was, like all evidence, an issue to be dealt with, but I don't recall it being particularly good for us.

Q Right. You were concerned that it was going to shed further evidence of criminal activity?

A Right.

Q And y'all didn't want to have any part of that, correct?

A Right.

Q Because that would just provide the State with more evidence in aggravation, correct?

A Well, it wasn't good.

Q Right. And if they weren't going to bring it in y'all didn't want to bring it in either, correct?

A That's correct.

MR. WATERS: Okay. Your Honor, Court's indulgence for one moment. I believe that might be it. Your Honor, I have nothing further.

MR. BROWN: Briefly, Your Honor.

REDIRECT-EXAMINATION

BY MR. BROWN:

Q First, Mr. Bannister, let me ask you, would you consider it to be adequate investigation to not know what the prosecution could bring in off of that computer?

A I'm sorry, can you repeat that question?

Q Sure. Maybe I'll break it down a little bit. First, what's on the computer?

A Oh, I have a recollection that there was some information on the computer that had to do with trying to commit some forgeries on checks.

Q And who provided that information?

A I believe that law enforcement provided that to us, or it came in discovery, something along those lines, is my recollection.

Q Okay. This would have been stuff that was contained with the computer, such as books on forgery?

A I'm sorry, are you making a distinction between ---

Q What was seized and ---

A I don't understand your question.

Q Sure. The computer was seized -- there was a computer seized from Alabama according to the documents that Investigator Silvaggio had. And so the question is, do you ever recall receiving a copy of the hard drive, a copy of any of the floppy disks, having a computer

forensic analyst pull that stuff off the computer?
A No, I don't recall doing any of that.
Q Okay. So do you -- can you say whether or not the defense team ever knew what was on this computer?
A No, I can't say we knew exactly what was on the computer.
Q Okay. And so let me ask you this, if it has information that would have been of benefit to let's say Jeff Youngman, or Dr. Schwartz-Watts, wouldn't it have been helpful to get that off?
A If it had, yeah, it would have been helpful. I mean, if it had helpful information, it had helpful information.
Q If it had hurtful information wouldn't it be reasonable at least to know what's out there?
A Well, in my -- for me as a defense lawyer, they're going to have to provide that information to me if it's going to be hurtful. I mean, in this case we were getting -- it was kind of an open book for us. The solicitor was giving us everything that he had. And so if it was hurtful information that they were going to introduce then I was certain that we would be provided with that before they tried to introduce it. So if it was hurtful information on it at the point where we were that didn't -- I was glad the solicitor didn't pull it

off and show us and say we're going to use it.
Q Okay. And so to follow with that by the prosecutor not saying -- by him saying we have a computer, you're assuming that he hadn't looked at what's on the computer?
A I'm assuming that he had look at the computer, I couldn't hear you.
Q No, had not.
MR. WATERS: Your Honor, I object to the question. He's asking what the prosecutor ---
MR. BROWN: No, I'm asking what he assumed, what he assumed.
THE COURT: He assumed.
MR. WATERS: Well, he assumed -- I'll withdraw ---
BY MR. BROWN:
Q No, what his assumption was by not -- in other words, the prosecutor sent you information that says we seized these items, do you recall that?
A Right.
Q Okay. And that included computer stuff, to be general about it?
A It included a computer, or some computers. I mean, it was computer equipment or whatever.
Q All right. Right. Did you ever get information that says these -- the information on this computer includes, you know, their tax forms for the last 10

years, or their family photos, or the family tree, or the family mental history, or his school records, or did you receive any information from the prosecutor about what was on it?

A If we did it's in the file.

Q Do you recall receiving any information about what was on it?

A I don't recall.

Q Okay. Now, wouldn't you agree that in theory the prosecutor could tell you that there's a computer down in evidence, and he's not required to pull the information off of it and give it to you? In other words, if you got a drug case and he says, we've got a pound of crack, he doesn't have to send you a copy of the pound of crack in the mail to comply with discovery, does he?

A No.

Q But you still may want to go take a look at it?

A I might.

Q Just to see what the evidence looks like?

A Depending on the case.

Q And I understand that. And certainly I understand the danger of inviting the prosecutor to also look at the computer, but isn't there also a danger with the prosecutor having a box with something in it and you don't know what's in it either?

A Well, in this case I didn't particularly think the computer was a big issue. I mean, the case in my mind on -- and again, I was focusing on the guilt phase of the case, boiled down to what happened 30 minutes before Mr. Wood shot the trooper, what happened when the trooper pulled him over, and then, you know, what happened in those seconds when they had there -- where he shot him. That was where my focus was. Because I just didn't see -- I didn't see how the computer was going to be relevant to that.

Q Sure. Now, are you familiar with people keeping personal information -- I mean, information related to their livelihood on the computer, personal information on the computer, photos, or family photos, or notes, or correspondence?

A Sure.

Q At sometimes they're mixed in?

A Can be.

Q Okay. And isn't some of that personal information exactly what you were looking for for mitigation? You mentioned being thin on mitigation evidence.

A Right. But again, that -- when you say me, I'm thinking of me personally, the guy who's sitting here. Mitigation was not what I was focused on. That -- I would have viewed that as being either being Paige Tarr's

responsibility or John Mauldin's responsibility. I mean, that just wasn't where my focus was.

Q And you mean Paige Tarr's responsibility as an agent for Mr. Mauldin?

A Right. I mean, that was -- that was where they were working. I was focused on something totally different.

Q And I certainly understand what you're saying.

A So for the guilt phase of the trial, the computer to me was a non-issue.

Q I certainly ---

A Other than -- other than to keep it out from showing any other criminal conduct.

Q And I understand that decision. But isn't there again a concern that -- that the prosecutor could have information that you don't -- that you haven't prepared for for trial ---

MR. WATERS: Your Honor, asked and answered.

THE COURT: I sustain the objection.

THE WITNESS: I don't know.

BY MR. BROWN:

Q Okay. Now, let me move from the computer to the idea that this was a combination lock incident, and that only when all the numbers are dialed in did Mr. Wood commit an act of this level toward another human being. Instead -- I'm sorry.

THE COURT: Before we leave the computer, did you discuss with Karen McCall why she left these items with her brother in Alabama?

THE WITNESS: My recollection was that -- a discussion with Karen McCall.

THE COURT: The testimony has been that Karen McCall left items with her brother in Alabama.

THE WITNESS: Yeah. Right.

THE COURT: I believe the computer was a part of them.

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

THE WITNESS: Right, and you're asking ---

MR. BROWN: One of the computers, Your Honor.

THE WITNESS: Did I have ---

THE COURT: Did you discuss that with Karen McCall?

THE WITNESS: Gosh, I'm not sure whether I discussed it with Karen McCall, but I think ultimately we knew that they were -- potentially she was trying to get her brother to get rid of that stuff for whatever reason.

MR. BROWN: And Your Honor ---

THE WITNESS: And I don't recall discussing with Karen -- I mean, I'm trying ---

THE COURT: Well, you were -- I think she -- didn't she testify in the -- in your phase of the case?

THE WITNESS: Yes, yes, yes, yes, yes, yes. And

whatever we asked her on the stand would be, you know, what she told us about it. But discussing with her prior to the testimony, I'm sorry, I don't understand?

THE COURT: Well, I thought y'all -- my understanding was y'all talked to her before she testified.

THE WITNESS: We did. And I was just trying to remember whether I knew something about the computer when we were talking to her there or not. I'm sure we did though. I mean, we wouldn't have not -- I mean, we were trying to cover all of our bases about what was going on.

THE COURT: And what she told you about leaving that whatever she left with her brother, part of it being a computer, hard drive, or something, did that have any bearing on your decision not to be concerned about what was on the computer?

THE WITNESS: Well, we would have taken anything she said into consideration about the computer. So ultimately I would say the answer is yes to that.

THE COURT: Okay.

MR. BROWN: And Your Honor, the only thing I would point out is that the computer that Karen McCall asked to have burned is the one that is not in evidence right now. It was the one that was returned, according to our earlier testimony, I'm telling you this not to interject

but just to keep the Court straight about the testimony from Detective Silvaggio.

THE COURT: Yeah, I don't know what -- I'm just listening to what y'all are presenting. But I mean, you've got two sides that really don't know what's on that computer, and anything could be on it.

MR. BROWN: I'm agreeing with you, Your Honor.

THE COURT: I'm not sure -- from what he tells me, it sounds like they didn't want to open anything up in that regard.

MR. BROWN: And I certainly understand that, but on post conviction my client can't get a worse sentence than death, and I -- I guess what I'm saying ---

THE COURT: Well, they were talking to him about all that stuff, and maybe what was on the computer. I don't know. I mean ---

MR. BROWN: I don't know. They've been asked. I mean, the computer has been asked about.

THE COURT: He said he wasn't interested in it.

MR. BROWN: And all I was going to say is the computer that Ms. McCall tried to have burned is not in evidence any more.

THE COURT: Your theory is -- it's all speculation. Your theory is all these good things are probably on it?

MR. BROWN: No, my theory is there could be some

beneficial things on it, A.

THE COURT: And there could be some bad things on it.

MR. BROWN: And B, there could be bad things that would have influenced ---

THE COURT: And we don't know sitting here today.

MR. BROWN: --- them to concede guilt.

THE COURT: The truth is we just don't know.

MR. BROWN: That's correct. And of course at some point, Your Honor, I am going to ask to renew my motion to have a forensic analyst review it. But I mean, we've got right into this and it's come up, but Your Honor, we've ---

THE COURT: Let's finish with him so he can go home.

MR. BROWN: Yes, sir. Thank you, Your Honor. Back to the combination lock.

THE COURT: I'm worried that he might be submit some kind of statement to the office of Indigent Defense if we don't hurry up. Okay.

THE WITNESS: I'm considering it.

THE COURT: Go ahead.

BY MR. BROWN:

Q The combination lock analogy had come up as a paradigm for how Mr. Wood may have committed an act of this degree compared to the paper crimes ---

A I'm with you, combination.
Q Okay. And so I guess my question is, one of our -- excuse me, arguments here, claims is there should have been a concession of guilt. Couldn't that combination lock argument be made to the jury?
A Could have.
Q And I'm just -- it still in essence would have been a concession of guilt?
A Could have.
Q Okay. In saying, look, the guy suffers from all this -- I know you've talked about how you made a decision to front load it or not, but y'all -- that's an argument y'all could have made that would have conceded guilt in a slow kind of way?
A We could have done it differently.
Q Okay. Now, let me ask you this. Are you familiar with the case law regarding legal provocation for manslaughter, specifically related to stops by law enforcement?
A I was a lot more familiar with it back when we were trying this case, but I'll try to answer your questions as best I can.
Q Okay. And my question for you is, do you believe that being an aggressive stop, or being cut off is legal provocation?

A Sitting here today do I believe that the cutting him off was legal provocation? I certainly would try to make that argument in a case that involved that if I thought it fit with the rest of the theory of the case.

Q And then I'm going to follow up. Doesn't legal -- isn't it true that the exercise of a legal right by the deceased is never legal provocation? In other words, Trooper Nicholson was exercising his legal right? He had a -- and ---

A If that's the case law, that's the case law. I mean, you're ---

Q Okay. That's fair enough.

A You're asking me here today. I mean, if you give me the case law and let me read it I'll give you my interpretation.

Q If I try he's going to object.

MR. WATERS: I object just on the basis he's already said he thought this was the best defense. If Your Honor ultimately determines that these facts just never could have fit in a million years, it was totally unreasonable to go down that road, that's a legal determination ---

MR. BROWN: And that's ---

COURT REPORTER: One at a time.

THE COURT: Okay. All right. I would sustain the objection.

BY MR. BROWN:

Q Thank you. And you would agree that the standard to stop a vehicle is reasonable suspicion?

A Yes.

Q And would you agree that if there is no reasonable, articulate -- reasonable suspicion based upon articulable facts, then it's not a valid stop?

A I certainly make that argument a number of times.

MR. BROWN: Thank you. Bear with me, Your Honor. I think this may conclude it. I just want to look back over it.

BY MR. BROWN:

Q Now, the last thing I want to ask about was, in Anderson when this case was brought up on cross-examination, you were asked about the Anderson case, and you were asked about the fact that Mr. Wood wanted to raise a mental status defense there, and that Mr. Mauldin said, I think quote, they would not present this defense, Mr. Mauldin would not present this defense?

A That's correct.

Q Okay. And do you believe it's appropriate that an attorney can say -- and I'm not talking about a decision to plead or go to trial, but an attorney can decide strategically which theory of defense to present?

A In this case I did.

Q Okay. And would that also mean that the defense attorneys could decide to concede guilt even if the defendant did not want to do so?

MR. WATERS: Your Honor, I would object. I think that's ultimately the legal issue for you to determine.

THE COURT: Okay. I would sustain the objection.

MR. BROWN: Your Honor, we don't have any other questions of this witness.

MR. WATERS: Your Honor, I'll be very brief. And I would like to point out that on the computer and any issue of trial by consent, I objected to the relevance of the computer when Mr. Naylor was here the first day. And -- but obviously when the testimony comes in, depending on any ultimate ruling, I've got to respond. I certainly don't want at any time indeed on any amendment, I think I've been clear since day one on that, to be deemed to have tried anything by consent. But obviously I have to respond given the evidence that is coming out, just in case ultimately Your Honor doesn't decide to consider a point or not. And that's the only basis I've done so.

MR. BROWN: And Your Honor, we had a summary judgement hearing in the fall, five, six months ago, and the issue about the computer was raised at that time before Your Honor. And I can say that we have from --

and that was when Mr. Culbertson was my co-counsel. And we have from that time to the present time tried to get the data off of that hard drive. And I just point out that because this is not a surprise.

RECROSS-EXAMINATION

BY MR. WATERS:

Q Just a couple questions, Mr. Bannister, and then we'll let you get out of here. You talked to your client though about the computer and all that other stuff that was in Alabama, correct?

A I think so, yes.

Q Okay. And y'all -- you discussed what it was, and what might be there, and things like that, correct?

A I remember the stuff in Alabama gave us some concerns, yes.

Q Okay. And you also knew, in fact had been informed by the State that they were not going to use all of that stuff, correct?

A I don't know if they specifically said we're not going to use it or not, but it just wasn't an issue for us.

THE COURT: In discovery they hadn't ---

THE WITNESS: They never provided it.

THE COURT: --- told you they were going to present anything?

THE WITNESS: That's right. And I guess my position was, if they were going to present it then I certainly would have wanted to know exactly what it was they were going to present, where did it come from, and that may have opened that up. But when they didn't get into it, we didn't either.

THE COURT: Okay.

MR. WATERS: Nothing further, Your Honor. Thank you, Mr. Bannister.

THE COURT: Okay. Let's take a short recess.

MR. BROWN: He's excused from our subpoena obviously?

THE COURT: All right. Leave your cell phone number in case we need you.

(A short recess was taken, after which, the trial continued as follows:)

THE COURT: All right, Mr. Brown.

MR. BROWN: Thank you, Your Honor. May it please the Court, Your Honor? At this time we would call Mr. Rodney Richey to the stand.

THE COURT: Okay.

THE CLERK: Place your left hand on the Bible, raise your right hand.

RODNEY RICHEY

Having been first duly sworn, testified as follows:

THE CLERK: You may be seated. And state your name for the record, please.

THE WITNESS: Rodney Wade Richey.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. BROWN:

Q Mr. Richey, do you recall Mr. John Wood?

A Yes, sir.

Q And this may be obvious, but you served as one of his attorneys in the Greenville death penalty case?

A Yes, sir.

Q Okay. And can you tell the Court a little bit about how you came to be involved in that case?

A He had been appointed originally two lawyers. At the time one of the lawyers, Mr. Bannister's wife had cancer, and they didn't know whether he would be able to, you know, stay in the case, so Judge Kittredge kind of appointed me as kind of standby counsel. That was my participation.

Q Okay. And let me -- let me kind of go through a few things. If you don't recall because it wasn't your assignment, then that's fine. Some of the stuff has been thoroughly flushed out I think, but I do kind of want to go through it.

A Okay.

Q Do you recall Karen McCall as being sort of a co-defendant of Mr. Wood, at least as far as the Anderson charges?

A Yes, sir.

Q Okay. Do you know of any strategic reason why she was not cross-examined, or impeached with her involvement in the criminal activity over in Anderson County?

A No, that wasn't my duty. That was John's.

Q Okay. That was ground A, Your Honor. And I'm -- just to make this fast I'm going to go through each ground with you. Ground B dealt with the presentation of evidence regarding voluntary manslaughter. Are you aware of any evidence that would support a voluntary manslaughter charge that y'all did not present?

A No, not -- and again, that's -- that whole strategy, that was Jim and John's. I was just doing as they told me.

Q Okay.

A Because I say this, and I guess it's -- when Jim's wife, when it was determined his wife was going to be okay and he was going to be able to do it ---

Q Yes, sir.

A --- then, you know, I was not trying to tell these two lawyers how to try a case they had been involved with for a year or so, however long it was.

Q Yes, sir.
A Okay.
Q And let me ask you briefly, about how long were you involved in it?
A Four months, five months, at max.
Q Okay. And that may actually deal with some of the other issues. When you became involved had there already been in place an order regarding a mental health evaluation?
A I don't -- I would think so, because I remember John ranting and raving about it, upset about it, but I don't know when they got it. I just know he was upset about it when I got in the case.
Q I gotcha. So it sounded like it had already happened?
A He might have.
MR. BROWN: Okay. Okay. Would you happen to have a date -- and Your Honor, if I may just take a brief moment?
BY MR. BROWN:
Q Mr. Richey, do you have an appointment order, or anything that may resolve the issue of your date of your involvement?
A It's -- it's an appointment order. It's in the record somewhere. I don't know what the dates are, but

it's in the record.
Q And I'll skip on through that right now, Your Honor. During the -- the guilt phase, and again that -- you mentioned that Mr. Bannister really had that, are you aware of any reason why they didn't -- that your team didn't concede guilt? And I don't mean plead guilty, but just say, listen, you know, we can't get a jury sentencing without a jury trial, or we're not here to kid y'all, there's a lot of evidence against our client?
A I don't know why it wasn't conceded. I mean, like I said, John put forth the strategy. And I -- you know, in the case, my role, John and Jim, they did the strategy, you know, I did what they asked me to do. You know, I mean, that's kind of where -- I did what I was told.
Q Sure, and I'm not trying to beat you up on it.
A Oh, I understand, no problem.
Q Let me ask you this, what -- do you recall any specific assignments that you were provided?
A I was told to cross-examine I think a couple of the officers in the trial about what happened over there. I mean, they wanted me just to get in the case and not just sit over there like a bump, so I just cross-examined a couple officers.
Q Sure. And were these mainly officers from Anderson County?

A Yes, sir.
Q Okay. Now, do you know of any reason why a request wasn't made to charge the jury that a defendant cannot plead guilty and get jury sentencing?
A No, I don't. That's John's.
Q Okay. Now, I think you answered this a little bit. Did you ever speak to Mr. Wood about the effect of Hall evaluation and his fit -- the effectiveness of it in the use at sentencing?
A John did all of that extensively. I mean, Mr. Wood that was -- I'll repeat this. That wasn't my -- John and Jim, they had a good relationship with him from what I seen, and they discussed it, went through it with him, you know. I didn't do any of that, but I know it was done from my recollection.
Q Okay. Well -- and let me ask you, did you provide any Fifth or Sixth Amendment advisement about issues of ---
A No, no.
Q Okay. Did you ever write letters to the Department of Mental Health saying, please, don't speak to our client, he wants to invoke his right, or ---
A No, that would be ---
Q --- I want to invoke his rights, or ---
A That would be John's responsibility.

Q And do you know of any reason why the notes of Dr. Torres or -- excuse me, Dr. Tezza, Mr. Torres, or Dr. Steedman were not used to either support Donna Schwartz-Watts or to contradict Dr. Narayan's diagnosis?
A That was John's baby.
Q Now, would you have liked as a defense lawyer in the case to have been able put up a family member, a credible family member to say, spare my brother?
A Yeah, sure.
Q And there wasn't any of that information out there, was there?
A I guess the record -- whatever is in the record would speak for it, but I would like to have that, yeah, of course.
Q Okay. Okay. And do you know of any reason why the argument wasn't made that -- that Mr. Wood, given a life sentence, could be of emotional value to his son?
A I don't why that wasn't. I mean, I don't know why it wasn't presented. I mean, I just know that John had prepared, and whatever he prepared to do that's what they did.
Q And how about an argument that execution of John Wood would have a negative impact upon his son?
MR. WATERS: Your Honor, object.
THE WITNESS: I mean, I don't know whether it's made

or not, but the record would tell whether it was made. Oh, I'm sorry, excuse me.

MR. WATERS: I just wanted to have an objection to that ever since the beginning, and I just wanted renew it.

THE COURT: All right, sir.

BY MR. BROWN:

Q Okay. You don't know of any reason why?

A No, I don't know of any reason why, no, sir.

Q Okay. Thank you. And how about the presentation -- obtaining the presentation of school records?

A I mean, that was the social worker in this case I believe, and John and them dealt with him, so I didn't have any play of doing it.

Q Okay.

MR. WATERS: And again, Your Honor, just for the completeness of the record, I also object to any grounds regarding school records.

BY MR. BROWN:

Q And for that matter, how about the fact that Mr. Wood and Ms. McCall were married?

A Can you repeat that first part? I don't understand the first part of it.

Q I may not have made it clear. Do you know of any reason why the jury wasn't presented with the fact that

Mr. Wood was married at the time of sentencing?

A No, I don't know.

MR. WATERS: Your Honor, I think that's a new one, but again, I would object that that's not plead. I think it's irrelevant.

MR. BROWN: Your Honor, I've got it not as a fact listed in the application, but not as a fact, but as -- I think it's relevant to ground H, about mitigating information. It's mitigating somebody has a child, it's mitigating they have a wife.

THE COURT: I don't recall that question ever being asked until right now.

MR. BROWN: And I have skipped it the entire time, but I do believe it's relevant to mitigating information, mitigating somebody has people who care for them, like a wife.

THE COURT: Well, she testified. I didn't -- I hadn't ---

MR. BROWN: I don't know if it's clear to the jury.

THE COURT: What?

MR. BROWN: I don't believe it was clear they were married.

THE COURT: Well, I'm not sure that I knew it until you just mentioned it, if they are married, I don't know. All right. So he didn't know that, why that wasn't

presented.

MR. BROWN: Okay. And ---

THE COURT: Did they call her as his wife when they put her on the stand.

MR. BROWN: I don't believe so, Your Honor. Not to my recollection.

THE COURT: Did they know she was -- they were married? I don't know.

MR. BROWN: As an officer of the Court it's on the birth certificate record of the child.

MR. WATERS: I recall, Your Honor, it certainly was -- there was testimony brought out that there was obviously a relationship between them.

THE COURT: There was a relationship but I saw somewhere when y'all were going through all this, I did see somewhere that they referred to her as his girlfriend, and she had a child by him.

MR. BROWN: Your Honor ---

THE COURT: That much is in the record. Now, whether they were married or not, I have no idea. You got a good faith basis for that and if you can -- I don't know. If it's in the record they were married then it's in the record, if not it's not there.

MR. BROWN: As far as a good faith basis to ask the question, Your Honor. My question was whether there was

a reason why they didn't tell the jury they were married. My good faith basis was on the birth certificate for the child it says husband John Wood. It says John Wood and in relationship it says husband. That's my good faith basis for the question. Now, I didn't say that was evidence. I'm just -- you had mentioned a good faith basis, and I do have it, Your Honor.

THE COURT: Okay. Go ahead.

BY MR. BROWN:

Q Thank you. As far as closing arguments, if there was a burden shifting argument during the guilt phase of the trial, were you aware of any reason, strategic reason why there was not an objection raised?

A No.

Q Okay. If there was argument in the penalty phase of the trial from the prosecutor that had argued matters that would be -- that would -- that would ask -- invite the jury to -- to consider matters that were either prejudicial, or arbitrary, or create a result that would be based on passion or prejudice, would you know of any strategic reason not to object to those?

A I mean, no, but I'm not the lawyer doing the objecting. I mean, but I'm saying just sitting there, I'm sure if -- I mean, I don't know any reason. They didn't come to me and discuss it with me. John didn't.

John was going to do that. I mean, I wasn't going to be able to stop John to object or not to object.

Q I understand. And I mean, I feel like I've got ask.

A No, that's fine. You're okay.

Q And now, let me go to ground J, Your Honor, and this I am able to go into a little depth, in -- a little in depth here. And if you've got a copy of the transcript, I can refer you to page 1878?

A What volume is that?

Q Let me start -- let's do this. If I can refer you to page 2191 and 2192, which would be volume five.

A Okay. Volume five. 21, say that again?

Q 2191. It actually starts at the very last line on the page, line 25.

A Okay. I'm here.

Q Okay. And if you'll read over into page 14 on the next page (sic).

A Okay.

Q Okay. And are you aware of any strategic reason why an objection was not made to that argument?

A No.

Q Okay. Now, let me refer you to the testimony of Jimmy Sligh, and it does start on page 1878, which would be volume four.

A Okay. I got four. Can you tell me the page again,

please, sir? What page, I'm sorry?

Q 1878.

A 1878, okay. I'm there.

Q Okay. And do you recall what Jimmy Sligh -- the fact that Jimmy Sligh testified to conditions of confinement?

A Yeah.

Q Okay. Are you aware of any strategic reasonable, strategic reason that an objection was not made to that line of testimony?

A I don't know, but like I said, I'm not the one that's doing the strategy, but I don't know of any reason why. But I mean, John could have had a reason, but I don't know.

Q Okay. And if you spoke to him you don't remember what it was?

A No, I don't remember. If I did, I don't know.

MR. BROWN: Your Honor, I know -- I don't have any other questions of Mr. Richey.

MR. WATERS: Thank you, Your Honor. I'll be very brief.

CROSS-EXAMINATION

BY MR. WATERS:

Q How you doing, Mr. Richey?

A Good.

Q Just very quickly can you just give us a short version of your legal expense, criminal defense, just for the record?

A I've got 12 years of criminal defense experience. That's with -- from speeding tickets to death penalty. I think I've worked with three death penalty cases with John, including this one. Tried a bunch of felonies.

Q All right. Thanks. And you of course are familiar with Donna Schwartz-Watts?

A Very familiar with her, yes.

Q And she's worked with John Mauldin and you before, correct?

A Yeah, sure.

Q Okay. And it's fair to say that she and John are, from your observations as being part of this defense teams in which they are both involved, that they work pretty well together, correct?

A I mean, they're on the same page. I mean, they're on the same page.

Q Okay. And they -- I think it's even true that she kind of has a hot line into his office to your knowledge, is that correct?

A They are -- they are -- and I use the phrase, they're on the same mission. They're on the same mission.

Q All right. Have you ever worked on Paige Tarr before?
A Yeah.
Q Was it just on this case or other cases?
A Other cases.
Q Okay. And to your knowledge she is an experienced mitigation investigator, correct?
A Fairly experienced.
Q Okay. And she knows how to get records and other things that y'all need for these mitigation cases, correct?
A She knows a lot. She is real good.
Q Okay. All right. Now, I want to show -- or ask you to turn to page 1876 of the record. That's in volume four. And before you read that, just go ahead and find the page.
A I've got the page.
Q Okay. Now, you of course said you were initially appointed kind of as standby counsel in case something happened with Mr. Bannister, correct?
A That's correct.
Q A family issue?
A That's correct.
Q Okay. And ultimately though it was resolved, but you remained in the case to kind of help out however you

could?
A Yes, sir.
Q And you would then do whatever Mr. Mauldin asked you to do to assist in the case, is that correct?
A That's correct.
Q Okay. And do you recall cross-examining Jimmy Sligh in this case? I know it's been a while.
A I don't recall it, but if it's in here, if you could tell me kind of ---
Q Sure. And at this point I'd like you to read starting on 1876, line three, and if you'd just read over to 1877, line 13.
A Okay.
Q And I know it's been a while, and I just want to ask if you recall what y'all were talking about during that off the record with co-counsel portion that led to the decision to go ahead and hear the testimony of Jimmy Sligh?
A I don't -- I mean, it says off the record with co-counsel. I don't even know if I was even a part of the discussion.
Q Right.
A Because a lot times in this case Jim and John, you know, they did a lot of that. So I don't know if this was a discussion that the three of us was there or just

the two of them.
Q I understand.
A So I can't answer that.
Q It's fair to say y'all weren't talking about baseball or something like that?
A No, no, no.
Q Y'all would be talking about whether or not to strategically to admit this testimony, correct?
A Yeah, yeah.
MR. WATERS: All right. I have nothing further, Your Honor.
MR. BROWN: Nothing further, Your Honor.
THE COURT: All right. Thank you, Mr. Richey.
MR. BROWN: He can be excused from our subpoena. Your Honor, we don't have any other witnesses at this time. And I say that because we do have some school records that we had mentioned earlier. And I'm going to turn this over to Mr. Godfrey. And I don't know how far we're going to get with some of this, but I'll let him take over at this point.
THE COURT: Are you going to have any other witnesses?
MR. BROWN: Well, if we don't get the records -- these school records in without the testimony of witnesses while -- excuse me, while we've been here we've

contacted the Tabernacle Christian School. And it wasn't me, it was done by one of our paralegals who was the paralegal who was here yesterday. And in response they called back and said we're not willing to come without a subpoena. And the problem I've got is that she then -- I didn't find that out until she had already left to go back to Beaufort. I can't serve the subpoena. I don't think Mr. Godfrey can serve it. I think the rules are counsel can't serve their own subpoenas. So we haven't served them. All we need them to say is that these are the records to get them in.

MR. GODFREY: May it please the Court?

MR. BROWN: Thank you. You can take over.

MR. GODFREY: I'll try not to be as verbose as I've been the first two or three days of this trial. Judge, we have here the Tabernacle Christian School records. And we also have the records from Calvary Baptist School. Judge, I would ask your permission to allow me to ask to revisit this issue. As I remember what we did on Tuesday, there was an objection by the attorney general regarding having these school records admitted. I believe that under the rules of evidence that they should be admitted. I would like to ask your permission to set a basis for that at this time.

THE COURT: I don't know what context that came up

in, to be honest with you, or if they were offered or somebody was referring to them.

MR. WATERS: And I believe, if I'm not mistaken, I believe they initially came up in Donna Schwartz-Watts' testimony. And I think I objected, number one, on relevance in that there had been no issue plead for failure to submit school records, number two based on authentication, and that was my objection at the time.

MR. GODFREY: Well, may it please the Court? I will go to the authentication problem. I believe under rule 901(A), which states the requirement for authentication, or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what the proponent claims. Under (B)(8), ancient documents are data compilation. The rules state that evidence that a document or data compilation in any form is in such condition as to create no suspicion concerning its authenticity was in place where it, if authentic, would likely be, and has been in existence 20 years or more at the time it is offered.

Judge, both these school records are greater than 20 years old. The request for the submission of the school records was sent to the respective schools. We have the envelope which the records were sent back to Jim Brown

in. The records themselves are 20 years of age -- or over 20 years of age. I believe that it fits under the ancient documents or data compilation.

And also, Judge, under 803-16, the ancient document rule is an exception to the hearsay rule, and they would be admitted on that basis. In addition, Judge, this does not apply to the Tabernacle Christian School. It applies to the Calvary Baptist Church School. They did in fact put a seal on here and it is signed currently. I think in that particular case that it potentially would fit under rule 902-8 as an acknowledged document, documents accompanied by a certified -- certificate of acknowledgement executed in the manner provided by law, by a Notary Public or other officer authorized by law to take -- to take acknowledgement.

Judge, in most instances in admissions offices, if transcripts are requested, seals and a current signature of someone from that office is an authentication. So based upon the ancient documents rule and also based upon 902-8 as far as Calvary Baptist Church, and the exception under 803-16 to the hearsay rule, we would request that these records be admitted.

THE COURT: Well, why you putting them in to start with?

MR. GODFREY: Go ahead.

MR. BROWN: And Your Honor, first off, we believe ---

THE COURT: Well, first off, he's objecting to relevancy, you didn't plead it.

MR. BROWN: Yes, sir. And we understand ---

THE COURT: And we let Dr. Schwartz-Watts testify that she reviewed the records.

MR. BROWN: Yes, sir.

THE COURT: She had seen them.

MR. BROWN: Yes, sir.

THE COURT: Now, why you giving them to me?

MR. BROWN: Because we had plead failure to present mitigating information. And I think we asked the attorneys whether the school records is the kind of mitigating information, and they had talked about the fact that they were thin on records.

THE COURT: You've had your expert review them, so why ---

MR. BROWN: Well, they can actually present them to the school, and one thing that Dr. Schwartz-Watts mentioned is that it may indicate that the childhood -- there was not as it ---

THE COURT: It may, I don't know. Am I going to look at them and determine that? She's supposed to determine what value the school records are, not me.

MR. BROWN: And Your Honor, if I may?

THE COURT: It could be all As, there could be all Fs. What difference is it going to make to me? I just have to go based on what she testified to. That's the way I see it, Mr. Brown. I don't know how, otherwise, the records are going to help one way or the other.

MR. BROWN: I understand.

THE COURT: We've had brilliant people in the Love Liphold (phonetically) trial in Chicago, with a famous plea for mercy by Clarence Davor (phonetically). They were geniuses.

MR. BROWN: Yes, sir.

THE COURT: Then in this other case you've had people -- had the Hall case in Pickens, very marginal person. You've got all kinds of people that get involved in crimes. How's that going to help me?

MR. BROWN: What I think it shows ---

THE COURT: I mean, and also, there could be writings on there ---

MR. BROWN: Yes, sir.

THE COURT: --- that are not admissible under the hearsay rule. Things -- statistics or things that are ordinarily kept on every student, but -- subjective opinions of teachers, that would have to be an exception to the hearsay rule too. Both things have to meet the

exception for that kind of stuff to come in.

MR. BROWN: There is no question.

THE COURT: It just appears to me, you need to explain to me why it wasn't better to present them with Dr. Schwartz-Watts?

MR. BROWN: If I may? That's not the only way, because she talked about them. There's no question. There's no question. Mr. Youngman didn't have them.

THE COURT: I don't know. Youngman hadn't been here.

MR. BROWN: But we know this much. We know that they had no school records. We've asked. We've asked trial counsel whether they had any school records.

THE COURT: Well, the question is if they had had them and got them, what -- what good -- what would that have done?

MR. BROWN: Well, we have to prove -- and this is one thing, we have to prove as a general matter in this case that there was some below par performance, and that but for that below par performance the outcome would have been different. Now, one thing that's in a PCR is you can consider the cumulative effect. So it's not just -- so you can consider that there were a lot of little tiny errors and Mr. Wood's death verdict was as a result of a million cuts.

THE COURT: How many years was he in school, and how many years was he home schooled? I don't know that.

MR. BROWN: Well, the only school records I've got is for about three years or four years, and ---

THE COURT: Out of how many years ---

MR. BROWN: And according to Connie Jantz most of that was home schooled.

THE COURT: So you're going to put in three or four years of his life in school?

MR. BROWN: That's all we've got. And here's what it shows, if I may, Your Honor? It shows that he got Fs when he went to a real school, but he got all As and was valedictorian when his mother was schooling him.

THE COURT: You got that testimony in evidence from his sister.

MR. BROWN: We sure did. But we don't know whether you're going to find her to be credible. And we think actually it bolsters her credibility, which would be another reason. But we do think it's mitigating information.

THE COURT: I'm not sure that her credibility on that issue was questioned ---

MR. BROWN: I don't know.

THE COURT: --- by the attorney general. If it wasn't then it's in evidence.

MR. BROWN: I understand. I don't think we'll know until you make a ruling, but I feel ---

THE COURT: I don't know, but ---

MR. BROWN: And I'm not trying to argue with Your Honor. I mean, you've certainly ruled and we ---

THE COURT: I just want to know -- I don't know what you want me to do. You're putting them in evidence and you want me to do something with them.

MR. BROWN: We're putting them in evidence because they're mitigating information. They may not be -- it may not be information that he had some kind of organic brain problem that kept him from functioning above a third grade level. It may not have that in there. But it is some mitigating information. It also contradicts some of the information that Dr. Narayan testified to, that -- about him having problems in the 11th grade and being suspended. He wasn't suspended, he was home schooled.

THE COURT: I don't know. I mean, just because you don't have the records, I don't -- I mean, I guess they can argue -- I don't know. We'll just have to take somebody's word for the fact that he was home schooled, I guess.

MR. BROWN: Well, that's what this is. I mean, this shows he was in a correspondence program. He was ---

THE COURT: Where did those come from?

MR. BROWN: From Calvary Baptist Church School out of New Bern, North Carolina. Which Your Honor, I don't have out of state subpoena power to get the North Carolina school to come down here and testify.

THE COURT: Which is ---

MR. BROWN: I'm not sure where New Bern is.

THE COURT: If they're -- if it's correspondence schools that they didn't administer, and all that was administered at home, I'm not letting them in. That's triple hearsay.

MR. BROWN: They've accepted the courses is what I'm saying.

THE COURT: Well ---

MR. BROWN: What this -- all it has is this is the grades that the school awarded.

THE COURT: If it was correspondence, they're not coming in.

MR. BROWN: Can we look ---

THE COURT: If it was home schooling.

MR. BROWN: Yes, sir.

THE COURT: You can proffer them, but -- and have it marked, but they're not coming in as far as I'm concerned.

MR. BROWN: Thank you, Your Honor. If I may just

proffer them.

THE COURT: Just let her mark them.

MR. BROWN: Yes, sir, Your Honor. And if may I proffer them as separate exhibits, because I think they -- one has a raised seal. One has a ---

THE COURT: I don't care how you proffer them. Just go on with your next statement and we'll get beyond this point.

(Plaintiff's Exhibit Numbers 14 and 15 were marked for identification.)

MR. BROWN: Thank you, Your Honor. And I would note for the record, as on officer of the Court, that we have an outstanding request of Bob Jones Elementary School. We've been in constant contact with Bob Jones Elementary School. They do have records going back to 1970. In 1970, Mr. Wood would be between the ages of two and three years of age. They have records from 1970 on. They have yet to provide us those, but they tell me that even though they have all those records they have no index. I have not subpoenaed them. I tell Your Honor that because they tell me they still have had difficulty locating his records within their records. Even if I were to have provided them a subpoena instead of a letter seven or eight weeks ago ---

THE COURT: What kind of records would they have on

him if he was two or three years old?

MR. BROWN: No, no, I'm explaining to Your Honor that at the time they started their records he was only two or three. He attended thereafter. I believe Ms. Jantz said about '77 or '78. And so they should have records there. We would ask the Court to allow us to continue to try to get those records from Bob Jones even if ---

THE COURT: I deny that motion.

MR. BROWN: Your Honor, we would also renew our -- and Mr. Mauldin was here, and now he's gone -- I'm sorry. While we wait for him to come back in, we've got a motion to have the computer examined. And you did say that may be able to be revisited. I do mention that. Again, it may show my client robbed Fort Knox, but on the other hand he can't get more than one execution, and I don't know that he can be executed for robbing Fort Knox.

THE COURT: The question is, under this particular case ---

MR. BROWN: Yes, sir.

THE COURT: --- did Mr. Mauldin -- have a seat, Mr. Mauldin, whether or not counsel was ineffective by not having the computer examined. Was he prejudiced in any way by his ineffective assistance of counsel. But for his errors is there a reasonable probability the result

at trial would have been different. My ruling is they were not ineffective in having the computer examined. They gave their reasons for it. That stuff was placed down in the -- based on the evidence and testimony I've heard, that was placed down there for a reason, in Alabama. And neither Mr. Mauldin nor Mr. Bannister wanted to open that box because it could have been used in the courtroom. That was a decision on their part, which was not ineffective assistance of counsel. I'm denying your motion to have the computer opened up and examined.

MR. BROWN: And I appreciate your ruling, Your Honor. May I note that we have made a request prior to this hearing. I mean, it wasn't just today or anything like that. And I tell Your Honor that because we did send in ---

THE COURT: Well, I'll let you put it in over his objection. And I heard from Dr. Donna Schwartz-Watts' husband, who is a forensic computer analyst, or whatever.

MR. BROWN: Yes, sir.

THE COURT: And they had their reasons for not going into that. And to me it sounded like pretty sound reasoning.

MR. BROWN: And I understand that.

THE COURT: And they were able to communicate with

their client. And actually they interviewed this -- the -- Karen McCall also, who put those items down there. So they decided not to go into the computer, or they didn't care about that. Okay.

MR. BROWN: Thank you, Your Honor. Mr. Mauldin, I assume is here to tie up the issue about whether or not he had, there were two items, one was the set of materials which is a rental agreement and a driver's license, which was under B, which we had proffered according to -- I say B, two, which we have proffered. The second thing, nothing has been entered about whether or not he had in his file Brian Bowen's presentence report which has Connie Jantz' town and state in it.

THE COURT: Do you have that Mr. Mauldin?

MR. MAULDIN: Do you want me to come around, Your Honor?

THE COURT: No -- well ---

MR. MAULDIN: I'll come around.

THE COURT: The only thing -- the only reason -- the only thing we ask -- well, you can come around and testify. You're still under oath though.

MR. MAULDIN: Yes, sir. We have -- I have looked in my file. With regard to the second item, we have a presentence report, and a quite lengthy federal probation file. Contained in it is a presentence report. I'm not

going to say whether or not the information regarding Connie Jantz was in that or not. It either is or isn't. I didn't look to see if it -- but I did find that presentencing report. So I'll confirm that I had it.

The other thing I was asked to look for was something that had a rental application in the name of Elizabeth Martinez, and then a copy of a driver's license. It was a 17 page fax, and I ran the first six pages of it that included what you've asked me to identify. When I looked at it it actually looked to some extent different from what I saw in the courtroom, but I'll let the Court decide that. I'll just hand it up.

MR. BROWN: And Your Honor, if ---

MR. MAULDIN: This I will say under oath was run on my copy machine about 10 minutes ago, right out of my trial file. That's it right there.

THE COURT: That's six of 17 pages?

MR. MAULDIN: It is the first six of a 17 page fax.

THE COURT: What was the rest of the fax?

MR. MAULDIN: And I'll be glad to go get it -- go get that if the Court wanted it. I didn't even look at the other pages. I went to the point where I saw that driver's license and stopped.

THE COURT: Okay.

MR. BROWN: And if I may point out to Your Honor,

what we have proffered as Plaintiff's 2 is labeled the same fax date, and it's pages two, three and six. So in other words what we proffered is three of the pages.

MR. MAULDIN: Can I look at that?

MR. BROWN: Because we thought that was what was necessary to tie up the fact.

THE COURT: Okay. I understand all that, Mr. Brown.

MR. BROWN: Oh, okay.

THE COURT: Mr. Waters, what do you ---

MR. MAULDIN: Can I see this a minute, Your Honor?

MR. WATERS: Your Honor, it appears to be the same document. And if he says it's from his file, I guess it's from his file. I obviously -- you know, as long as it's simply admitted for something that was in his file, how that affected his representation, that's fine. But I certainly would object to any kind of hearsay, or, you know, any kind of representation like that.

THE COURT: I think it -- as I understand it it's being offered as to show that he should have had some reason to -- some kind of way to contact this lady.

MR. BROWN: Right.

THE COURT: That's the reason he's putting it in.

MR. WATERS: Of course as she testified she was gone from that address by the time this trial started. So I think that would be something for Your Honor to decide,

but ---

THE COURT: Yeah. Right.

MR. BROWN: She was gone just -- she was gone not until the fall before this trial started.

THE COURT: I understand she was gone ---

MR. BROWN: She said summer or fall of '01, I believe.

THE COURT: She went -- she was gone before the trial, I believe.

MR. BROWN: I agree with that.

MR. WATERS: That's what she testified to.

THE COURT: And the testimony was that she was not receiving any mail or any contact from any family members, anybody -- anyone after she got custody of the child, whenever that was.

MR. WATERS: And she stated that she was affirmatively trying to hide from her mother as I recall her testimony.

MR. BROWN: Yes.

THE COURT: That's what she said.

MR. BROWN: We agree with that, Your Honor.

MR. MAULDIN: Do you wish to actually have this, Your Honor?

THE COURT: Well, do you want -- does it make any difference to whether we ---

MR. WATERS: Your Honor, he can keep that, since it's the same thing. The documents they submitted are sufficient.

THE COURT: Since he went to the trouble making copies, I'm going to let him leave. Thank you, Mr. Mauldin.

MR. MAULDIN: Your Honor, can I asked to be excused?

MR. BROWN: And Your Honor, if I may clarify?

THE COURT: The wedding is not -- the rehearsal is not until tomorrow night.

MR. MAULDIN: I know.

MR. BROWN: And I'm not trying to make him turn orange, but ---

THE COURT: We might need you in the morning. Okay.

MR. MAULDIN: So I'm still under subpoena? All right. Thank you, Your Honor.

MR. BROWN: And Your Honor, there's just one thing. He had mentioned that he didn't know if it included -- the presentence report included the Connie Jantz' information. I would just ask if the one in his file, on page 14, paragraph 51, has Connie Jantz' residing in Harpers Ferry, West Virginia?

MR. MAULDIN: Can I look at what you're asking me to look at?

MR. BROWN: Whether the one in his file has that in

there?

MR. WATERS: Well, he hadn't provided that. All he said was, is I have a file on federal, you know, probation or whatever, and we haven't looked at it. I have no reason to question whether or not it's different, but he didn't bring that with him, so ---

MR. BROWN: He put a caveat on it, that's why I'm trying to clear that up.

MR. MAULDIN: I'll be glad to answer any questions you've got, Judge. I -- I looked and I found a federal probation file. But the representation being made that it has -- contains a certain piece of information, I cannot confirm that.

THE COURT: Okay.

MR. MAULDIN: Yes, sir. I mean, I don't know whether it does or not. I'll be glad to go get it. I mean ---

THE COURT: I thought Brian Bowen testified that he had it in his presentencing report?

MR. WATERS: He did.

MR. BROWN: He did, and if it's not an issue, it's not an issue. But I don't later want to come to find out Mr. Mauldin excluded Ms. Jantz' address, and Mr. Bowens did or something. I mean, if it's not an issue, it's not an issue.

THE COURT: Mr. Bowen says it was included in his presentence report.

MR. BROWN: Yes, sir.

THE COURT: There -- was it the same address that was on the driver's license?

MR. BROWN: It just ---

MR. WATERS: It doesn't have an address. It just says Harpers Ferry.

THE COURT: It just says Harpers Ferry?

MR. WATERS: Right. That of course is the city she had left.

THE COURT: Okay. That's -- that's undisputed evidence right now.

MR. BROWN: Thank you, Your Honor. That's it. And we excuse him from our subpoena, if that's what he's under, and ---

MR. WATERS: See you tomorrow, Mr. Mauldin.

MR. MAULDIN: Okay. It's just a pleasure.

(Plaintiff's Exhibit Number 2A was marked for identification.)

MR. BROWN: Your Honor, may it please the Court?

THE COURT: Yeah.

MR. BROWN: At this time, the petitioner would rest.

MR. WATERS: All right. Your Honor, the State is comfortable with the information presented during the

applicant's case, so we have no witnesses.

THE COURT: You have no witnesses?

MR. WATERS: I think we've, through our cross-examination of trial attorneys and other witnesses, we presented the information we would have presented in our direct case. So since they called them we're happy we already got out our stuff too.

THE COURT: Okay. So ---

MR. BROWN: We would ask that all our motions that should be made in a civil case, to preserve objections, or to move for summary judgement, the Court might consider those. I know technically a lot of times the rules are relaxed in a PCR, but they don't seem to have been too relaxed in this PCR. So I think it's proper for me to make those. And I know the Court may just want to take all those under advisement, but that's however Your Honor wishes.

THE COURT: Okay. The Court has before it the -- well, for the last two days I have been looking at the petition that was filed, and I've heard all the testimony, and -- okay. I have reviewed all -- and I'm aware of all the grounds. And I'm going to be careful about any rulings that -- there maybe just certain -- some of the testimony that I want to read in regard to some of the grounds. But some of the -- I have to

address, as I understand it, every ground that's addressed in the petition. And I am convinced in my own mind to a certain extent about some of the grounds clearly, and I'm -- and I intend to ask the Attorney General to prepare an order on those grounds. But I'm not going to state those until I might want to look at a little bit of the testimony at this time, and then send a copy of that to the defense counsel of the order.

But what I'm going to ask that y'all do is under Strickland versus Washington, and if that's 104 Supreme Court 20 52, it could be a -- is this just one page? The case is 33 pages. So if any of this is not the law you can tell me. But if it's the law and if you want to write me any short memorandum or whatever about it, before I make a decision, I would be glad to review it. If I need any more input from either side I feel it would be on these issues.

Reading from the case the Supreme Court, and we have reviewed this and highlighted some of it, and I have reviewed it earlier. The Court says, we believe that the defendant need not show that counsel's deficient conduct more likely than not altered the outcome in the case. I'm aware of the issues raised in this case in regard to, I believe it's the Barkhart case. Justice Moore states there, that was a direct appeal to the Supreme Court. It

was not a PCR. And I want the -- I want the Supreme Court to know that regardless of how I rule that we're aware of the case law. Two opinions were written, Moore and Waller wrote the majority of the opinion, as I recall it. And in looking and thinking about that case a good bit of the time, and I would accept the fact that -- I don't -- I'm not really sure that this is admissible, but a statement was made during the proceedings that, is it Mr. Sligh's testimony was pretty much identical in that case to this case (sic). Well, whether it was or not, as soon as I read that case I knew that it was similar to the testimony in this case. And the majority of the -- Justice Pleicones wrote a concurring opinion in that case for some reason. He just didn't join Waller and Moore's opinion in the case. He -- have I got the judges right?

MR. BROWN: Yes, sir.

MR. WATERS: Yes, sir, Your Honor.

THE COURT: And then Justice Pleicones stated that because the admission of that evidence, I believe, was a violation of the statute that it should not be subject to the harmless error rule. Well, this was a direct appeal. And Justice Toal and Justice Burnett wrote dissenting -- Justice Toal I believe wrote the dissenting opinion joined by Justice Burnett saying that it was a -- should be subject to the harmless error standard.

Now, I have given this a considerable amount of thought and -- and wondered why Justice Pleicones wrote the concurring opinion. He did it to make a point for some reason. It appears to me that the harmless error rule and the standard in a post conviction relief case may be on different levels. And this evidence, based upon the hindsight of the attorneys who testified, they say they should have been objected to it, and under that case law, we've all heard Mr. Mauldin's testimony, he did not object to it after conferring with counsel about Mr. -- what Mr. Sligh testified to.

I think I need to review the entire record in this regard, and that's the reason I'm not going to rule on all of the other issues, even though I have a feeling about it, and I've indicated that about some of the other issues -- some of the other grounds raised in the petition. I will -- may have to go over the entire record to understand what questions were asked in voir dire about life without parole. It appears to me, and I don't want to be bound by this, a little bit like Judge Kittredge and his statements about it in the record. Now, I want to have a right maybe to change my mind, but it appears to me that Judge Kittredge felt like this evidence was relevant, from what I've read in the testimony -- in the record. He felt like it was going to

come in anyway based on his comments, because he felt like the issue in front of the jury was life in prison without parole and death. Now that was his comment.

And maybe that doesn't have any bearing on the case, but what I'm telling you is Strickland versus Washington gives us the standards that I feel like that I have to go by. And they state that we believe that a defendant need not show that counsel's deficient conduct more likely than not altered the outcome in the case. The outcome determinative standard has several strengths. It defines the relative inquiry in a way familiar to the Court's, though the inquiry as -- is inevitable is anything but precise. The standard also reflects the profound importance of finality in criminal proceedings.

Now, they recognize the importance of careful review of this trial in a post conviction relief action. And they state that an ineffective assistance claim against a lawyer asserts the absence of one of the crucial assurances that the result of the proceeding is reliable. And they say that finality concerns are weaker, and the appropriate standard of prejudice should be somewhat lower. The result of a proceeding can be rendered unreliable and hence the proceeding itself unfair, even if the errors of counsel cannot be shown by a preponderance of the evidence to have determined the

outcome. They state that the appropriate test for prejudice finds its roots in the test for materiality of exculpatory information not disclosed to defense by the prosecution. The defendant must show that there is a reasonable probability that but for counsel's unprofessional errors the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the proceeding.

Now, the assessment of prejudice should proceed on the assumption -- and prejudice cannot be presumed in this case. The assessment of prejudice should proceed on the assumption that the decision maker, that would be the jury in this case, is reasonably, conscientiously and impartially applying the standards that govern the decision, that is the decision that they made.

In this case, in all honesty, we're focusing on the death sentence rendered in this case. When a defendant challenges a death sentence, such as the one at issue in this case, this is the Supreme Court, the question is whether there is a reasonable probability that absent the errors the sentencer, the jury in our state, including an appellate court, to the extent it independently reweighs the evidence, would have concluded, when they say reweighing the evidence would the sentencer have

concluded, balancing aggravating and mitigating circumstances, that it did not warrant death.

The question is whether there is a reasonable probability that absent the errors the sentencer to the extent it independently reweighs, that may be me in this case, reweighs the evidence would have concluded that the balance of aggravating and mitigating circumstances did not warrant death. I think that in order to prove prejudice the applicant must show that but for counsels' errors there is a reasonable probability the result at trial would have been different.

So in considering the testimony of Mr. Sligh and what he said about prison, and in considering the argument by Mr. Ariail in his statement on page 2191 and 2192, that y'all referred to, in those lines, but I can't take it out of context, I have to consider what was said immediately after that, what was said immediately before that. I have to consider that and independently reweigh the evidence and consider the aggravating circumstances and mitigating circumstances along with this and determine whether or not the result at trial would have been different. A reasonable probability that the result at trial would have been different is a probability, a probability sufficient to undermine competence in the outcome of the trial.

Now, do you have anything you want to say about whether or not that should be the standard we apply or do you want to think about it, Mr. Waters?

MR. WATERS: No, sir, Your Honor, that's been applied by our State Supreme Court in Jones as well, the prejudice standard that you referred to. And referring to the reweighing aggravating and mitigating evidence, that was the question.

THE COURT: Okay. I ---

MR. WATERS: I think ---

THE COURT: If -- I want y'all to tell me whether or not under the law, and you can do by it memorandum or argument, or whatever, if -- if -- is this the same thing as harmless error?

MR. WATERS: Well, Your Honor, the State's position that -- well, we would have arguments as to the fact that there's no deficiency here either, but I think -- obviously I think both sides would agree this is obviously the most sticky issue in the case. And if Your Honor would you like us to brief that I'd be happy to do it, or we can orally argue it now, whichever you prefer.

THE COURT: No, I'm going to let y'all submit something to me on this, because I'm not sure I want to make a decision on that point today. I mean, this is -- that is the -- this is one of the toughest decisions in

this case.

MR. WATERS: And Your Honor, with regard to that precise question, I think they are separate and the case law is full of instances where something may have been error on direct appeal, but ultimately then when you get to Strickland then you do analyze it under the Strickland standard, because it's -- just like you were talking about the Supreme Court said about concerns of finality, that's why they have that prejudice standard in there to assure that even if something would have been technically error on direct appeal and would have resulted in a reversal, we're not going to reverse a case that's already gone through that stage unless you can get to that prejudice standard in the Strickland context.

And in this case you look at the fact that the defense brought out James Aiken, and he -- and the issue was fully joined, and obviously consciously fully joined by both sides. I think if you look at the case, the Bryant case that I argued, as well as Bowman, and that came out about two weeks ago, maybe it was last week. And in that point, in Bryant they admonished the defense this time on James Aiken and testimony like that, getting into how horrible life in prison is. And so both sides got to get their points across on this. And that would be our position that it was not prejudicial, certainly

under the standard that -- that you were just expressing.

THE COURT: Okay.

MR. BROWN: And if I may, Your Honor, briefly? One thing I would ask you to consider is that the reason why Pleicones said it's not subject to harmless error is that the legislature has set up a scheme for capital punishment.

THE COURT: The only thing admissible are the circumstances of the crime and the characteristics of the defendant.

MR. BROWN: Exactly.

THE COURT: I ---

MR. BROWN: And -- I'm sorry.

THE COURT: Go ahead.

MR. BROWN: And my point of that is is that the way I read his argument, and of course that's a concurring opinion, is that anything that is not death -- a death verdict based on that is not within the legislature's empowerment of the Court's to give a death sentence.

THE COURT: That's Pleicones' opinion. He said that, and Moore, in just this case, he goes out of his way to point that out.

MR. BROWN: Yes, sir.

THE COURT: To me that makes -- it's apparent that maybe the other members of the court don't agree with

him.

MR. WATERS: Yes, sir.

MR. BROWN: And the way I look at it is that I would agree that the descent doesn't agree with it. They also even go forth and say, we don't think it's an arbitrary factor whether or not harmless error applies. I would suggest that Moore and Waller don't discuss it. They just don't think it's ripe in that case because I guess it's -- would pass harmless error even if that was the standard.

MR. WATERS: And the way appellate courts work though, the reason why Justice Pleicones wrote that concurrence is because Moore and Waller wouldn't agree to having that in their opinion.

THE COURT: They would not agree to have that in their opinion. So that leaves me out there ---

MR. WATERS: He's but one vote.

THE COURT: --- with one vote.

MR. BROWN: But it doesn't mean ---

THE COURT: On that issue, if we want to talk about it that way, but ---

MR. BROWN: But Your Honor, you are allowed to interpret the law as well. In other words, they don't tell you that that's wrong. There are no three justices telling you that Pleicones' view is wrong. And so your

case maybe the first one that hits that issue, no doubt, but I'm asking you to consider that the way Pleicones views it is a correct way, that the legislature says that death has to be based on those factors, if it's based on those factors there is no legislative empowerment to the judiciary to give a death sentence, whether that's through the jury function or however it may be.

MR. WATERS: Your Honor, though, and we would still take the position that even if that is the case, still once a case is beyond direct appeal and into collateral attack it goes through Strickland, no ifs, ands or buts. That's just the way it is. And Strickland requires prejudice determination. That is what we do here, is ineffective assistance of counsel.

THE COURT: Okay. Why don't y'all address that issue for me. That is a very important issue.

MR. BROWN: Yes, sir.

THE COURT: And I think it's got to be clearly addressed.

MR. BROWN: Yes, sir.

THE COURT: Realizing how important this case is for Mr. Wood.

MR. BROWN: Yes, sir.

THE COURT: Okay. Thank y'all very much.

MR. WATERS: Thank you, Your Honor.

MR. BROWN: Thank you. Your Honor, briefly? There is a matter, I bring it up now, because I think I'm suppose to at last ask or invite them to be here. I had submitted a request regarding authorization for some attorney fees back in January.

MR. WATERS: Your Honor, at this point I have no objection to y'all having any ex-parte communications about that.

MR. BROWN: And I would at least ask if I can address that previous request with Your Honor. It doesn't have to be on the record. I would prefer it not be because it does go into some other issues.

THE COURT: I reviewed all that carefully and was not satisfied with it based on my knowledge of what Mr. Culbertson and I'm putting -- and what had been done up to that point. I'll address it with you when this thing is over. We'll issue an order awarding what I think is a fair and reasonable fee based on everything that transpired. I do not intend to award a fee for Mr. Culbertson because Mr. -- he withdrew for some reason. I don't know what. And Mr. Godfrey came in and -- if he did anything, and I'm informed he had a -- the only thing delivered to Mr. Godfrey was the transcript. I'll go into that more in detail privately with y'all, but he had to do all the work over again, if anything was done by

Mr. Culbertson. But I will award reasonable and appropriate fees to everyone that's been involved.

MR. BROWN: Your Honor, may we -- you mentioned discussing it privately, may we do that just briefly?

THE COURT: Not today, no. Thank you.

MR. BROWN: Thank you.

MR. WATERS: Thank you, Your Honor.

- - -END OF TRANSCRIPT OF RECORD- - -

C E R T I F I C A T E

I, the undersigned Mary E. DiGirolamo, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 6th through the 8th days of March, 2007.

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

November 23, 2009

Mary E. DiGirolamo
Official Court Reporter

3409



25 Nov 03
15:12:03
PAGE 1

K.C.I. LABORATORY CX9 SN8779
4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210
DIRECTOR: M.DAVIS 896-2050

NAME: WOOD, JOHN
PATIENT ID: 6005
AGE:
DATE OF BIRTH:
SEX: M
LOCATION: LCI
PAT. COMMENT: LIPEMIC SPECIMEN
SAMPLE COMMENT: FAST/NON-FAST NOT STATED
INST CODES:

SAMPLE ID:
SAMPLE TYPE: Serum
DOCTOR: PALMER
DRAW DATE/TIME: Nov 24 03 20:35
RUN DATE/TIME: Nov 25 03 14:20
SEC/CUP/REP: 11/4

CHEMISTRY	RESULTS	UNITS	REFERENCE RANGE	REMARKS
CHOL	203	mg/dL	0 - 199	HIGH
TG	429	mg/dL	0 - 199	HIGH
HDLD	32.7	mg/dL	35.0 - 135.0	LOW

CALCULATED VALUES:	RESULTS	UNITS	REFERENCE RANGE	REMARKS
VLDL	[redacted]	mg/dL	5 - 40	HIGH
LDL	[redacted]	mg/dL	0 - 129	

The calculation for the VLDL & LDL Cholesterol is not valid when Triglyceride level is >400 mg/dL

⊗ Note:
Nurse Diamondstone unable to verify fasting state of inmate.

MH

26 Sep 03
11:05:40
PAGE 1

K.C.I. LABORATORY CX9 SN8779
4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210
DIRECTOR: M.DAVIS 896-2050

NAME:	WOOD, JOHN	SAMPLE ID:	
PATIENT ID:	5005	SAMPLE TYPE:	Serum
AGE:		DOCTOR:	CUSACKS
DATE OF BIRTH:		DRAW DATE/TIME:	Sep 24 03 15:15
SEX:	M	RUN DATE/TIME:	Sep 26 03 10:55
LOCATION:	LCI	SEC/CUP/REP:	4/3
PAT. COMMENT:			
SAMPLE COMMENT:	FAST/NON-FAST NOT STATED		
INST CODES:			

CHEMISTRY	RESULTS	UNITS	REFERENCE RANGE	REMARKS
AST	17	IU/L	10 - 42	

12 Aug 03
13:50:04
PAGE 1

K.C.I. LABORATORY CX9 SN8779
4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210
DIRECTOR: M.DAVIS 896-2050

NAME:	WOOD, JOHN	SAMPLE ID:	
PATIENT ID:	6005	SAMPLE TYPE:	Serum
AGE:		DOCTOR:	CUSACK
DATE OF BIRTH:		DRAW DATE/TIME:	Aug 11 03 14:30
SEX:	M	RUN DATE/TIME:	Aug 12 03 13:20
LOCATION:	LCI	SEC/CUP/REP:	8/2
PAT. COMMENT:			
SAMPLE COMMENT:			
INST CODES:			

CHEMISTRY	RESULTS	UNITS	REFERENCE RANGE	REMARKS
AST	60	IU/L	10 - 42	HIGH
VPA	less than 100 [redacted]	ug/mL	50.0 - 100.0	LOW

Re discontinue valproic acid: repeat in 4 months. by Aug 03

VPA [redacted] by repeat testing

3412

13 May 03
16:17:49
PAGE 1

K.C.I. LABORATORY CX9 SN8779
4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210
DIRECTOR: M.DAVIS 896-2050

NAME: WOOD, JOHN
PATIENT ID: 6005
AGE:
DATE OF BIRTH:
SEX: M
LOCATION: LCI
PAT. COMMENT:
SAMPLE COMMENT:
INST CODES:

SAMPLE ID:
SAMPLE TYPE: Serum
DOCTOR: CUSACK
DRAW DATE/TIME: May 12 03 17:15
RUN DATE/TIME: May 13 03 16:03
SEC/CUP/REP: 5/2

CHEMISTRY	RESULTS	UNITS	REFERENCE RANGE	REMARKS
AST	38	IU/L	10 - 42	
ALT	33	IU/L	10 - 60	
VPA - less than 10.0 - ~~RESULTS SUPPRESSED~~				OIR LOW

VPA results verified by repeat testing

9 Jul 02
14:53:54
PAGE 1

K.C.I. LABORATORY CX9 SN8779
4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210
DIRECTOR: M.DAVIS 896-2050

NAME:	WOOD, JOHN	SAMPLE ID:	
PATIENT ID:	6005	SAMPLE TYPE:	Serum
AGE:		DOCTOR:	CUSACK
DATE OF BIRTH:		DRAW DATE/TIME:	Jul 8 02 16:03
SEX:	M	RUN DATE/TIME:	Jul 9 02 14:07
LOCATION:	LCI	SEC/CUP/REP:	11/7
PAT. COMMENT:			
SAMPLE COMMENT:	FAST/NON-FAST NOT STATED		
INST CODES:			

CHEMISTRY	RESULTS	UNITS	REFERENCE RANGE	REMARKS
AST	15	IU/L	10 - 42	
VPA	42.8	ug/mL	50.0 - 100.0	LOW

11 Apr 02
14:48:50
PAGE 1

K.C.I. LABORATORY CX9 SN8779
4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210
DIRECTOR: M.DAVIS 896-2050

NAME: WIDD, [redacted] HN
PATIENT ID: 6005
AGE:
DATE OF BIRTH:
SEX: M
LOCATION: LCI
PAT. COMMENT:
SAMPLE COMMENT: FAST/NON-FAST NL STATED
INST CODES:

SAMPLE ID:
SAMPLE TYPE: Serum
DOCTOR: CUSACK
DRAW DATE/TIME: Apr 10 02 13:09
RUN DATE/TIME: Apr 11 02 14:31
SEC/CUP/REP: 10/3

CHEMISTRY	RESULTS	UNITS	REFERENCE RANGE	REMARKS
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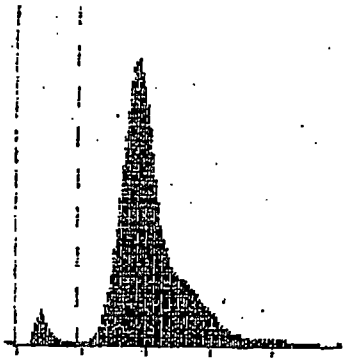
VPA [illegible] verified by repeat testing

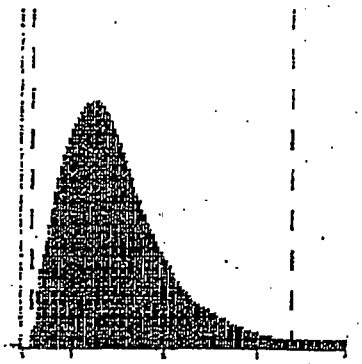
K.C.I. LABORATORY
4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210
DIRECTOR: M. DAVIS phone number

Specimen ID 6005.CI
Patient WOOD,JOHN
Sex DOB
Dr SRIBNICK
Param: 2 Limits: 1

Feb 20 2002 14:19
Operator ID ENJ
Sequence # 6616
Closed Sampler

SUSPECT
WBC 8.16 K/uL (WOC)
NRBC NA
SPECIMEN >24 HOURS OLD





RBC 5.33 M/uL
HGB 15.7 g/dL
HCT 48.0 %
MCV 90.1 fL
MCH 29.5 pg
MCHC 32.7 g/dL
RDW 13.8 %

PLT 404. K/uL
MPV 10.1 fL

MS 2/22/02

	PATIENT	LIMITS SET 1		
WBC 3.30-10.5		RBC 4.35-5.90	PLT 130.-400.	
NEU 1.80-7.80	40.0-74.0 %N	HGB 13.7-16.7	MPV 6.80-10.6	
LYM .700-4.50	24.0-46.0 %L	HCT 40.5-49.7		
MONO .100-1.20	2.00-12.0 %M	MCV 79.7-97.0		
EOS 0.00-.700	0.00-7.00 %E	MCH 26.1-33.3		
BASO 0.00-.300	0.00-3.00 %B	MCHC 32.2-35.8		
		RDW 11.0-14.6		

MANUAL DIFFERENTIAL		RBC MORPHOLOGY	
NEU	META	NORMAL	MICRO
BAND	MYELO	PLYCHROM	MACRO
LYMPH	PRO	HYPOCHROM	ANISO
MONO	BLAST	POIK	BASOSTIP
EOSIN	VAR LYM	TARGET	
BASO	TOXGRAN	SPHERO	NRBC

COMMENT:

DIFF BY DATE

LIEBER MEDICAL
12/29/2006 14:47 18038963755

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

THERAPEUTIC DIET PRESCRIPTION

Name: John Wood SCDC #: 6005

Date: 01-06-04

CHECK ONE
( ) In Patient
(✓) Out Patient

DIET: Type 4 x60 Days

Comments:

Doctor or Authorized Signature

SCDC M-4 (Rev. August, 1977)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Health Services
Lab Reports

S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LABORATORIES

TELEPHONE
(803) 896-0800

8231 PARKLANE ROAD
COLUMBIA, S.C. 29223

CLIA #42-D0658606

H10128 **CONFIDENTIAL LABORATORY REPORT** 00000320

NAME: WOOD, JOHN PT ID: WDH
BIRTH: 04/08/47 SEX: M RACE: B PRINT DATE: 02/25/02

SPEC #: W024101 PRI: ?
LOC: KIRKLEVER CH 8003
SPC TYP: BLOOD
COLL DT: 02/19/02
RECD DT: 02/22/02

CPT NO	TEST NAME	RESULT
	HIV ANTIBODY	
86701	EIA	
	NON-REACTIVE	

MS 2/28/02

3418

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DIVISION OF HEALTH SERVICES
MEDICAL SCREEN

NAME: Wood, John Richard SCDC#: 60005 INSTITUTION: Lieber (SK)
This questionnaire should be filled in by a trained person who interviews the inmate when he/she is received at the Institution.

1. Do you have any medical/mental health/emotional or dental problems? YES ✓ NO ___
IF YES, DESCRIBE: Bifocals

high blood pressure: NO allergies: NO seizures: NO
diabetes: NO heart trouble: NO special diet: NO
ulcer: NO recent surgery: yes other: ___

2. Are you on any medication? YES ___ NO ✓ IF YES, LIST: ___

3. Have you ever attempted suicide? YES ___ NO ✓ IF YES, WHEN? ___

4. Are you presently thinking about suicide? YES ___ NO ✓
(IF YES, REFER TO MEDICAL IMMEDIATELY)

Inmate Signature: John R. Wood Date: 2/18/02

OBSERVATIONS: Completed by trained employee

GENERAL APPEARANCE:

Physical deformities? YES ___ NO ✓ IF YES, DESCRIBE: ___

Evidence of trauma i.e. bruises, abrasions? YES ___ NO ___ IF YES, DESCRIBE: ___
Forehead & Nose (Scar)

BEHAVIOR:

Cooperative: YES ✓ NO ___
Alert to person, place & time? YES ✓ NO ___

DISPOSITION OF INMATE/PLACEMENT RECOMMENDATION:

Room and/or Dorm RB 125A
Signature of Person completing form: E Hadson Date: 2/18/02

COMMENTS: ___

cc: Inmate Health Record
Inmate Institutional Record

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DIVISION OF HEALTH SERVICES
MEDICAL SCREEN

NAME: John Richard Wood SCDC#: 5065 INSTITUTION: Lieber

This questionnaire should be filled in by a trained person who interviews the inmate when he/she is received at the Institution.

****

1. Do you have any medical/mental health/emotional or dental problems? **YES** ✓ **NO** ____
IF YES, DESCRIBE: Bi Polar, paranoid

high blood pressure: NO **allergies:** NKA **seizures:** NO
diabetes: NO **heart trouble:** NO **special diet:** NO
ulcer: NO **recent surgery:** SCAR ON LEFT CHEEK TO NOSTRIL 4 YR AGO **other:** NO

2. Are you on any medication? **YES** ✓ **NO** ____ **IF YES, LIST:** Depakote 500 ER, pink pill??

3. Have you ever attempted suicide? **YES** ____ **NO** ✓ **IF YES, WHEN?** ____

4. Are you presently thinking about suicide? **YES** ____ **NO** ✓
(IF YES, REFER TO MEDICAL IMMEDIATELY)

Inmate Signature: John R. Wood Date: 2/16/02

****

OBSERVATIONS: Completed by trained employee

GENERAL APPEARANCE:

Physical deformities? **YES** ____ **NO** ✓ **IF YES, DESCRIBE:** ____

Evidence of trauma i.e. bruises, abrasions? **YES** ____ **NO** ✓ **IF YES, DESCRIBE:** ____

BEHAVIOR:

Cooperative: **YES** ✓ **NO** ____

Alert to person, place & time? **YES** ✓ **NO** ____

DISPOSITION OF INMATE/PLACEMENT RECOMMENDATION:

Room and/or Dorm ____

Signature of Person completing form: T Mary Spruce RN **Date:** 2/16/02

****

COMMENTS: ____

cc: Inmate Health Record
Inmate Institutional Record

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Health Services

Sick Call Clinic Notes

DATE	TIME	
2/14/02	1650	34 yr. old wm from Greenville admitted to SK unit, A+Ox3, lungs clear, HRR, skin WD. VS T. 98.4- 88-20-114/86. states he's on medication for bi-polar & paranoia, small white scar noted on (R) side of nose d/t GSW. Denies any SI or HI, denies any seizures. Cooperative. No acute distress noted @ this time. — MSpruce RN

SCDC # 6005 Inmate's Name: John Richard Wood

SCDC M-16 (Rev. August, 1988)

LIEBER CORRECTIONAL INSTITUTION
MEDICAL STAFF ROSTER
2004

NAME/TITLE	SIGNATURE	INITIALS	DATE
Pat Demumbreum, RN	Pat Demumbreum RN	PD	8-27-04
Dempsey Howard, RN	Dempsey Howard RN	DH	9-9-04
Darrell Hasinger, RN	Darrell Hasinger RN	DH	9-8-04
Tegan Egger, RN	Tegan Egger RN	TE	8-31-04
Teneane Foster, RN	Teneane Foster RN	TF	8/30/04
Michelle Gales, RN	Michelle Gales RN	MG	8/26 & 8/27
Susan Rosario, RN	Susan Rosario RN	SR	9/8/04
Judy Roulette, RN	Judy Roulette RN	JR	8/28/04
Karen Steen, RN	Karen Steen RN	KS	8-27-04
Diana Taylor-Hunt, RN	Diana Taylor-Hunt RN	DH	9-7-04
Marina Scott, RN			
Lois Graham, RN/LPN	Lois Graham LPN	LG	8-31-04
Brenda Keay, LPN	Brenda Keay	BK	9-7-04
Gloria Sanders, LPN	Gloria Sanders LPN	LPN	9/3/04
Janice Schnee, LPN II	Janice Schnee		9/8/04
Brandice Scott, LPN	Brandice A. Scott LPN	BS	8/27/04
Sara Chisolm, CNA/LPN	Sara A. Chisolm	SC	8/26/04
Madlin Drayton, CNA	Madlin Drayton		9/3/04
Evelyn Gadson, CNA	Evelyn Gadson	EG	9-3-04
Sonja Glenn, CNA	Sonja Glenn	SG	9-14-04
Katherine Scott, CAN	Katherine Scott	KS	8-27-04
Vickie McDaniel, RA I	Vickie McDaniel	VM	9/2/04
Jose Tamayo, MRA	Jose Tamayo	JT	8-27-04

PRINT NAME	SIGNATURE	INITIALS	DATE
Margaret Allen	Margaret Allen	MA	9-1-04
Lorraine Johnson	Lorraine Johnson	LJ	9-1-04
JoAnn Hassinger	JoAnn Hassinger	JH	9-7-04

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

LIEBER CORRECTIONAL INSTITUTION

M.A.R. SIGNATURE ROSTER-----YEAR 2001

PLEASE PRINT, SIGN AND INITIAL IN THE BLOCKS BELOW.

PRINTED NAME	SIGNATURE	INITIALS
Patricia Bozelli, R.N.	Patricia Bozelli	PB
Yasminnie Morales	Yasminnie Morales	Y
MARTHA GEDERT	Martha Gedert	MG
Tonya Coleman	Tonya Coleman	TC
TEGAN EGGER	Tegan Egger	TE
Lily M. Dunmeyer	Lily M. Dunmeyer	LD
Dempsey C. Howard	Dempsey C. Howard	DCH
[redacted]	[redacted]	[redacted]
C. Johnson Jr.	C. Johnson Jr.	CJ
SUSAN J. COBB	Susan J. Cobb	SC
HALCYON PINHEIRO	Halcyon Pinheiro	HP
DAVID BAER	David Baer	DB
Mary K Sprouse RN	Mary K Sprouse RN	MKS

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 11/2006

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Order Date 08/28/06 RISPERDAL 2MG TAB #60 Renewed 11/1/06 Exp. Date 11/25/06 RX # 703914 TAKE 1 TABLET(S) TWICE DAILY	0800																														
	2000																														
Order Date 08/28/06 HYDROXYZINE PAMOATE 25 MG CAP #180 Renewed 11/1/06 Exp. Date 11/25/06 RX # 703915 TAKE THREE CAPSULE(S) TWICE DAILY FOR ANXIETY	0800																														
	2000																														
Order Date 11/1/06 Exp. Date 4/29/07 RX # Vistaril 25mg 3 capsules at hs	2000																														
Order Date Exp. Date RX #																															
Order Date Exp. Date RX #																															
Order Date Exp. Date RX #																															
Order Date Exp. Date RX #																															

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: [redacted] HT: 5' 10" WT: 171 Allergies: none Diagnosis: CKD

Unit: RA0249A

PIN Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CHIAK

3423

LIEBER MEDICAL 18038963755 PAGE 02

11/2006 14:47

3424

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 10/2006

Prescriptions	Time	1	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30
Order Date 08/28/06 Exp. Date 11/25/06 RX # 703914 — RISPERDAL 2MG TAB #60 — TAKE 1 TABLET(S) TWICE DAILY (1)	0800																
	2000																
Order Date 08/28/06 Exp. Date 11/25/06 RX # 703916 — HYDROXYZINE PAMOATE 25 MG CAP #180 — TAKE THREE CAPSULE(S) TWICE DAILY FOR ANXIETY (5)	0800																
	2000																
Order Date / Exp. Date / RX #																	
Order Date / Exp. Date / RX #																	
Order Date / Exp. Date / RX #																	
Order Date / Exp. Date / RX #																	
Order Date / Exp. Date / RX #																	

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 171 Allergies: NKA Diagnosis: NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: Physician:

LIEBER MEDICAL

12/29/2006 14:47 18038963755

PAGE: 1

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LIEBER MEDICAL 18038963755 14:47 2006

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 05/2006

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 11/29/05 RISPERDAL 2MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY Exp. Date 05/27/06 RX # 605853	0800																															
	2000																															
Order Date 11/29/05 HYDROXYZINE PAMOATE 25MG CAP #180 TAKE THREE CAPSULE(S) TWICE DAILY FOR ANXIETY Exp. Date 05/27/06 RX # 35854	0800																															
	2000																															
Order Date																																
Exp. Date																																
RX #																																
Order Date																																
Exp. Date																																
RX #																																
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RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 171 Allergies: Diagnosis: NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006006 Physician: CORR

3425

3426

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 04/2006

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	3
Order Date 11/29/05 RISPERDAL 2MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY Exp. Date 05/27/06 RX # 605863	AM																															
	PM																															
Order Date 11/29/05 HYDROXYZINE PAMOATE 25MG CAP #180 TAKE THREE CAPSULE(S) TWICE DAILY FOR ANXIETY Exp. Date 05/27/06 RX # 605854	AM																															
	PM																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOI: HT5' 10" WT:171 | Allergies: NKDA | Diagnosis: HKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD | Registration #00006005 | Physician: COBB

LIEBER MEDICAL

12/29/2006 14:47 18038963755

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Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 03/2006

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 11/29/05 Exp. Date 05/27/06 RX # 605853 — RISPERDAL 2MG TAB #60 — TAKE 1 TABLET(S) TWICE DAILY																																
Order Date 11/29/05 Exp. Date 05/27/06 RX # 08854 — HYDROXYZINE PAMOATE 25MG CAP #180 — TAKE THREE CAPSULE(S) TWICE DAILY FOR ANXIETY																																
Order Date / Exp. Date / RX #																																
Order Date / Exp. Date / RX #																																
Order Date / Exp. Date / RX #																																
Order Date / Exp. Date / RX #																																
Order Date / Exp. Date / RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 6' 10" WT: 171 Allergies: NKDA Diagnosis: NKD

Unit: RA0248A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #00006005 Physician: CORR

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Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 02/2006

Prescriptions	Time	1	2	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Order Date 11/28/05 — RISPERDAL 2MG TAB #60																														
Exp. Date 05/27/06 — TAKE 1 TABLET(S) TWICE DAILY	0900																													
RX # 605853	2100																													
Order Date 11/29/05 — HYDROXYZINE PAMOATE 25MG CAP #180																														
Exp. Date 05/27/06 — TAKE THREE CAPSULE(S) TWICE DAILY FOR ANXIETY (3)	0900																													
RX # 605854 (2)	2100																													
Order Date 2/6/06 — Lisinopril 40mg																														
Exp. Date 9/1/06 — 90 tab	0900																													
RX # 630191																														
Order Date																														
Exp. Date																														
RX #																														
Order Date																														
Exp. Date																														
RX #																														
Order Date																														
Exp. Date																														
RX #																														
Order Date																														
Exp. Date																														
RX #																														

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 171 Allergies: NKDA Diagnosis: NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00008005

LIEBER MEDICAL 18038963755 12/29/2006 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 01/2006

Prescriptions	Time	1	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30
Order Date 11/29/05 Exp. Date 05/27/06 RX # 605853	RISPERDAL 2MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY HS	0800 1900															
Order Date 11/29/05 Exp. Date 05/27/06 RX # 605854	HYDROXYZINE PAMOATE 25 MG CAP #180 TAKE THREE CAPSULE(S) TWICE DAILY FOR ANXIETY HS	0800 1900															
Order Date Exp. Date RX #																	
Order Date Exp. Date RX #																	
Order Date Exp. Date RX #																	
Order Date Exp. Date RX #																	
Order Date Exp. Date RX #																	

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 171 Allergies: NKDA Diagnosis: NKD

Unit: RA024yA

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: COBB

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LIEBER MEDICAL

1803963755

2006 14:47

3429

PAGE: 1

3430

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 12/2005

Prescriptions	Time
Order Date 09/12/05 — HYDROXYZINE PAMOATE 25 MG CAP #60 — TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY — Exp. Date 12/10/05 — RX # 577414	0800, 1900
Order Date 09/29/05 — RISPERDAL 2MG TAB #60 — TAKE 1 TABLET(S) TWICE DAILY — Exp. Date 12/27/05 — RX # 583894	0800, 1900
Order Date 11/29/05 — Hydroxyzine Pamoate 25mg 3 PO BID — Exp. Date 5/27/06 — RX # 605854	0800, 1900
Ord.Date 11/29/05 — RISPERDAL 2MG TAB #60 — TAKE 1 TABLET(S) TWICE DAILY — Exp. Date 12/27/05 — RX # 605853 — WOOD, JOHN RICHARD 00006005 — T. COBB (5)Refills	0800, 1900
Order Date 11/29/05 — Hydroxyzine Pamoate 25mg 3 PO Bid (3) — Exp. Date 5/27/06 — RX # 605852	0800, 1900
Order Date — Exp. Date — RX #	
Order Date — Exp. Date — RX #	

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: [redacted] HT: 5' 10" WT: 171 Allergies: NKA Diagnosis NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSAK

LIEBER MEDICAL 18038963755 12/29/2006 14:47

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 11/2005

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 09/12/2005 HYDROXYZINE PAMOATE 25 MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY Exp. Date 12/10/05 RX # 577414	0500																															
	1400																															
Order Date 09/29/05 RISPERDAL 2MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY Exp. Date 12/27/05 RX # 583894	0500																															
	1400																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 171 Allergies: NKDA Diagnosis: NKD

Unit: RA0248A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSAK

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P# 3432

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 10/2005

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 08/18/05 RISPERDAL 2MG TAB #60 Exp. Date 10/14/05 TAKE 1 TABLET(S) TWICE DAILY RX # 566822	0500																															
	1900																															
Order Date 08/12/05 HYDROXYZINE PAMOATE 25 MG CAP #60 Exp. Date 12/10/05 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY RX # 577414	0500																															
	1900																															
Ord.Date 09/28/05 RISPERDAL 2MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY Exp. Date 11/27/05 RX # 583894 WOOD, JOHN RICHARD 00006005 J. CUSAK (2)Refills	0500																															
	1900																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: Diagnosis NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSAK

LIEBER MEDICAL 18038963755 12/29/2006 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 09/2005

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 08/30/05 Exp. Date 09/27/05 RX # 649780 HYDROXYZINE PAMOATE 25 MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY	0500																															
	1900																															
Order Date 08/18/05 Exp. Date 10/14/05 RX # 566822 RISPERDAL 2MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY	0500																															
	1900																															
Ord.Date 09/12/05 Exp.Date 12/10/05 LIEBER Rx # 577414 HYDROXYZINE PAMOAT 25 MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY WOOD, JOHN RICHARD 00006005 J. CUSAK (2)Refills	0500																															
	1900																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: NKDA Diagnosis: NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005

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3433

PAGE: 1

3434

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 08/2005

Prescriptions	Time
Order Date 05/18/05 — RISPERDAL 1MG TAB #58 — Exp. Date 08/15/05 — TAKE 1 TABLET(S) TWICE DAILY (RECEIVED ORDER ON 6/05/05) — RX # 533941 — ✓BC	0500 / 1400
Order Date 08/30/05 — HYDROXYZINE PAMOATE 25 MG CAP #60 — Exp. Date 09/27/05 — TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY (1) — RX # 549780 — ✓BC	0500 / 1400
Order Date 8-16-05 — Risperdal 2mg — Exp. Date 10-7-05 — tabl T P.O — RX # 564387 — bid	0500 / 1400
Ord.Date 08/16/05 — RISPERDAL 2MG TAB #60 — TAKE 1 TABLET(S) TWICE DAILY (1) — Exp.Date 10/14/05 — RX # 566822 — WOOD, JOHN RICHARD 00006005 — T. COBB (1)Refills	0500 / 1400
Order Date — Exp. Date — RX #	
Order Date — Exp. Date — RX #	
Order Date — Exp. Date — RX #	

2	4	6	8	10	12	14	16	18	20	22	24	26	28	30
SJ	SB	L	L	SJ	SB	L	SB	KK	L	L	SJ	SB	L	L
SJ	SB	L	SJ	SB	L	L	N	SJ	L	SB	SJ	SB	L	SB
								KK	L	L	SB	SB		
								SJ	L	SB				

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: NKDA Diagnosis: NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSAK

LIEBER MEDICAL

12/29/2005 14:47 18038963755

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 07/2005

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 04/14/05 HYDROXYZINE PAMOATE 25 MG CAP #60 Exp. Date 07/12/05 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY RX # 521216 VSh	① 0800																															
	① 2700																															
Order Date 05/18/05 RISPERDAL 1MG TAB #60 Exp. Date 08/15/05 TAKE 1 TABLET(S) TWICE DAILY (RECEIVED ORDER ON 5/05/05) RX # 533841 VSh	① 0800																															
	① 2200																															
Order Date 6/30 Vistaril 25mg Exp. Date 9/27 Take 1 Cap 2x daily RX # (Sg)	1000																															
	2200																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5'10" WT: 165

Allergies: NKDA

Diagnosis: NKD

Unit: RA0249A

Pt. Line#:

Pt. Name: WOOD, JOHN RICHARD

Registration #: 00008005

Physician: GUSAK

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LIEBER MEDICAL

18038963755

3435 2005 14:47

3436

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 06/2005

Prescriptions	Time	1	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30
Order Date 04/14/05 — HYDROXYZINE PAMOATE 25 MG CAP #60																	
Exp. Date 07/12/05 — TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY	0500																
RX # 521216 — √SN	2200																
Order Date 05/18/05 — RISPERDAL 1MG TAB #60																	
Exp. Date 08/15/05 — TAKE 1 TABLET(S) TWICE DAILY (RECEIVED ORDER ON 5/05/05)	0500																
RX # 533641 — √SN	2200																
Order Date																	
Exp. Date																	
RX #																	
Order Date																	
Exp. Date																	
RX #																	
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Exp. Date																	
RX #																	
Order Date																	
Exp. Date																	
RX #																	
Order Date																	
Exp. Date																	
RX #																	

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: NKDA Diagnosis: HKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSAK

LIEBER MEDICAL 18038963755 12/29/2005 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 01/2005

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date HYDROXYZINE PAMOATE 25 MG CAP #60 Exp. Date TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY AND EPS ✓ 02/13/05 RX #	0800																															
	2000																															
Order Date RISPERDAL 1MG TAB #60 Exp. Date TAKE 1 TABLET(S) TWICE DAILY ✓ 07/13/05 RX #	0800																															
	2000																															
Order Date Exp. Date RX #																																
Ord.Date 12/25/04 RISPERDAL 1MG TAB #60 Exp.Date 03/24/05 TAKE 1 TABLET(S) TWICE DAILY [RECEIVED ORDER ON 12/22/04] LIEBER Rx # 479123 WOOD, JOHN RICHARD 00006005 J. CUSAK (2)Refills																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: WT: Allergies: NKDA Diagnosis:

Unit: 5' 10" 165 NKD

PIII BA0249A Pt. Name: Registration #: Physician:

WOOD, JOHN RICHARD 00006005 CUSAK

PAGE 19 LIEBER MEDICAL 18038963755 12/23/2005 14:47 3437

3438

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 05/2005

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date Exp. Date RX # RISPERDAL 1MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY JSH	0800																															
	2400																															
Order Date Exp. Date RX # HYDROXYZINE PAMOATE 25 MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY JSH	0500																															
	2400																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: | HT: 5' 10" | WT: 165 | Allergies: NKDA | Diagnosis: NKD

Unit: | Pill Line: 249A | Pt. Name: WOOD, JOHN RICHARD | Registration #: 00006005 | Physician: CUSAK

LIEBER MEDICAL 18038963755 12/29/2006 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 04/2005

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date Exp. Date RX #	HYDROXYZINE PAMOATE 25 MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY	0500 2000																														
Order Date Exp. Date RX #	RISPERDAL 1MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY	0500 2000																														
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: NKDA Diagnosis: NKD

Unit: PIII LR60249A Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSAK

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LIEBER MEDICAL 18038963755

12/29/2006 14:47

3439

3440

LIEBER MEDICAL 18038963755 12/29/2006 14:47

Facility:

Medication Administration Record

Month/Year:

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	3
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Ordered: Ord.Date 04/14/05 — HYDROXYZINE PAMOAT 25 MG CAP #60 — TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY

Exp: [illegible]

R Rx # 521216 — WOOD, JOHN RICHARD 00006005 — J. CUSAK (2)Refills

Documentation Codes:	H - Hold	R - Refused	DC - Discontinued Order	S - Self Administered	NS - No Show	O - Other
DOB:	HT:	WT:	Allergies: NKDA		Diagnosis:	
Unit:						
Pill Line#:	Pt. Name: Wood, John Richard		Registration #: 6005		Physician:	

AGE: 1

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LIEBER MEDICAL

18038953755

12/28/2005 14:47

3441

Medication Administration Record

Facility: LIEBER (421G)

Month/Year: 02/2005

Prescriptions	Time	1	2	4	6	7	8	10	12	13	14	16	18	19	20	22	24	26	28	30
Order Date HYDROXYZINE PAMOATE 25 MG CAP #60 Exp. Date TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY AND EPS RX #																				
Order Date RISPERDAL 1MG TAB #60 Exp. Date TAKE 1 TABLET(S) TWICE DAILY (RECEIVED ORDER ON 12/22/04) RX #																				
Order Date March Hydroxizin Pamoate 25mg Exp. Date + P.O. BID RX #																				
Ord.Date 03/10/05 RISPERDAL 1MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY Exp. Date 03/07/06 LIEBER Rx # 507380 WOOD, JOHN RICHARD 00006005 J. CUSAK (2)Refills																				
Order Date Exp. Date RX #																				
Order Date Exp. Date RX #																				
Order Date Exp. Date RX #																				

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: NKDA Diagnosis: NKD

Unit: PHARMACY Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSAK

PAGE: 1

3442

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 12/2004

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Ord.Date 11/15/04 HYDROXYZINE PAMOATE 25MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY AND EPS Exp.Date 02/12/05 LIEBER Rx # 464357 WOOD, JOHN RICHARD 00006005 J. CUSAK (2)Refills	0900																															
	2000																															
Ord.Date 11/20/04 RISPERDAL® 1MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY Exp.Date 02/18/05 LIEBER Rx # 468572 WOOD, JOHN RICHARD 00006005 J. CUSAK (1)Refills	0900																															
	2000																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB
Unit: 0
Pill Times: QAM
HT: 5' 10"
WT: 165
Pt. Name: WOOD, JOHN RICHARD
Allergies:
Registration #: 00006005
Diagnosis: NKD
Physician: CUSAK

LIEBER MEDICAL 18038963755 12/29/2006 14:47

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LIEBER MEDICAL
18038963755
12/23/2005 14:47
3443

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 11/2004

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date RISPERDAL 1MG TAB #60 Exp. Date TAKE 1 TABLET(S) TWICE DAILY RX # 1-19-05	0500																															
	1100																															
Order Date HYDROXYZINE PAMOATE 25MG CAP #60 Exp. Date TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY AND EPS RX # 2-15	0500																															
	2000																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: | HT: 5' 10" | WT: 165 | Allergies: | Diagnosis: NKD

Unit: 0 | Pill Line: 1740249A | Pt. Name: WOOD, JOHN RICHARD | Registration #: 00006005 | Physician: CUSAK

PAGE: 1

3444

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 10/2004

Prescriptions	Time	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30
Order Date RISPERDAL 1MG TAB #60 Exp. Date TAKE 1 TABLET(S) TWICE DAILY RX #	0500															
	2000															
Order Date HYDROXYZINE PAMOATE 25MG CAP #60 Exp. Date TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY AND EPS RX #	0500															
	2000															
Order Date Exp. Date RX #																
Order Date Exp. Date RX #																
Order Date Exp. Date RX #																
Order Date Exp. Date RX #																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB:
Unit: 7
Pill Box#: 49A
HT: 5' 10"
WT: 165
Pt. Name: WOOD, JOHN RICHARD
Allergies:
Registration #: 00006005
Diagnosis: NKD
Physician: CIISAK

LIEBER MEDICAL 18038963755 12/29/2006 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 09/2004

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 08/11/04 Exp. Date 11/08/04 RX # 430534 — RISPERDAL 1MG TAB #60 — TAKE 1 TABLET(S) TWICE DAILY																																
Order Date 08/11/04 Exp. Date 11/08/04 RX # 430535 — HYDROXYZINE PAMOATE 25MG CAP #60 — TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY AND EPS																																
Order Date / Exp. Date / RX #																																
Order Date / Exp. Date / RX #																																
Order Date / Exp. Date / RX #																																
Order Date / Exp. Date / RX #																																
Order Date / Exp. Date / RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: Diagnosis: HKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CLISAK

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LIEBER MEDICAL

18038953755

12/29/2006 14:47

3445

3446

LIEBER MEDICAL

12/29/2006 14:47 18038963755

Facility:

Medication Administration Record

Month/Year: 8/11

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 8-11- Exp. Date 11-11-0 RX # Risperdal 1 mg Bid X 90 days	0800										7				KK		4		KK													
	2100										>				K	4		K		M												
Order Date 8-11-0 Exp. Date 11-11 RX # Vistaril 25 mg Bid X 90 days	0800														KK		4		K													
	2100												>		K	4		K		M												
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: WT: Allergies: Diagnosis:

Unit: SR

Pill Line#: Pt. Name: Wood, John Registration #: 6665 Physician: Patmon

PAGE: 1

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LIEBER MEDICAL

18038963755

14:47

3447

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 01/2004

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 10/20/03 Exp. Date 01/05/04 RX # RISPERDAL 1MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY D'cd																																
Order Date 10/20/03 Exp. Date 01/11/04 RX # HYDROXYZINE PAMOATE 50MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY D'cd																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: 10/20/1970 HT: 5' 10" WT: 165 Allergies: NKD Diagnosis:

Unit: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician:

PAGE: 1

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Facility LIEBER (421G)

Medication Administration Record

Month/Year: 08/2003

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 07/18/03 RISPERDAL 1MG TAB #60 Exp. Date 10/18/03 TAKE 1 TABLET(S) TWICE DAILY RX # 294179	0500	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
	2000	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
Order Date 07/19/03 VALPROIC ACID 250MG CAP #60 Exp. Date 10/15/03 TAKE 1 CAPSULE(S) TWICE DAILY DCd 8/19/03 RX # 294180	0500	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	DC'd									
	2000	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	8/19/03									
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB:
Unit: 5' 10"
Pill Line: 0249A
HT: WT: 165
Pt. Name: WOOD, JOHN RICHARD
Allergies:
Registration #:
Diagnosis: NKD
Physician:

LIEBER MEDICAL 18038953755 12/29/2006 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 09/2003

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Order Date 07/22/03	RISPERDAL 1MG TAB #60	0800	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
Exp. Date 10/15/03	TAKE 1 TABLET(S) TWICE DAILY	2000	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
RX # 9-15																															
Order Date																															
Exp. Date																															
RX #																															
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RX #																															

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: Un
HT: 5' 10"
WT: 165
Allergies:
Diagnosis: NKD
Pill Check: A
Pt. Name: WOOD, JOHN RICHARD
Registration #: 00006005
Physician: CUSAK

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LIEBER MEDICAL 18038963755

2006 14:47

3449

PAGE: 1

3450

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 10/2003

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Ord.Date 10/08/03 RISPERDAL* 1MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY LIEBER Rx # 321089 WOOD, JOHN RICHARD 00008005 J. CUSAK (2)Refills	500	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK
	1000	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK
Ord.Date 10/08/03 HYDROXYZINE PAMOATE 50MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY LIEBER Rx # 323003 WOOD, JOHN RICHARD 00008005 J. CUSAK (2)Refills	500	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK
	1000	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK	KK
Order Date																															
Exp. Date																															
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RX #																															
Order Date																															
Exp. Date																															
RX #																															

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: Diagnosis: NKD

Unit: Pill Strength: Pt. Name: WOOD, JOHN RICHARD Registration #: Physician:

LIEBER MEDICAL 18038963755 12/29/2006 14:47

PAGE: 1

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LIEBER MEDICAL 18038963755 14:47 12/29/2006

3451

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 11/2003

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Order Date RISPERDAL 1MG TAB #60 Exp. Date 11/5/04 TAKE 1 TABLET(S) TWICE DAILY RX #	0500	H	G	H	H	K	K	G	H	K	K	G	G	K	K	H	G	K	H	K	G	G	G	H	H	R	R	R	R	R
	2000	H	H	H	K	K	G	G	K	K	K	G	G	K	K	H	G	K	H	G	G	G		H	G	R	R	R	R	R
Order Date HYDROXYZINE PAMOATE 50MG CAP #60 Exp. Date 11/11/04 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY RX #	0500	G	G	H	K	K	G	G	K	K	K	G	G	K	K	G	G	K	H	K	G	G	G	H	H	R	R	R	R	R
	2000	G	H	K	K	K	G	G	K	K	K	G	G	K	K	H	G	K	H	G	G	G		H	G	R	R	R	R	R
Order Date Exp. Date RX #																															
Order Date Exp. Date RX #																															
Order Date Exp. Date RX #																															
Order Date Exp. Date RX #																															
Order Date Exp. Date RX #																															

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOP:
Uni
Pill Line#: KANAGA

HT: 5' 10"
WT: 165

Pt. Name: WOOD, JOHN RICHARD

Allergies:

Registration #: 00006005

Diagnosis: NKD

Physician: CHSAK

PAGE: 1

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Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 12/2003

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date RISPERDAL 1MG TAB #60 Exp. Date 11/5/04 TAKE 1 TABLET(S) TWICE DAILY RX #	0500	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	Q	
	2000	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		
Order Date HYDROXYZINE PAMOATE 50MG CAP #60 Exp. Date 11/5/04 TAKE 1 CAPSULE(S) TWICE DAILY FOR ANXIETY RX #	0500	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		
	2000	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: | HT: 5' 10" | WT: 165 | Allergies: | Diagnosis: NKD

Unit: | PIII [illegible]A | Pt. Name: WOOD, JOHN RICHARD | Registration #: 00008005 | Physician: CHSAK

LIEBER MEDICAL 18038963755 12/29/2006 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 07/2003

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Ord.Date [redacted] RISPERDAL* 1MG TAB #60 TAKE 1 TABLET(S) TWICE DAILY Exp.Date [redacted] RX # [redacted] LIEBER Rx # WOOD, JOHN RICHARD J. CUSAK 291179 00008005 (2)Refills	0 0500 2000	KK	KK																												
Ord.Date 07/18/03 VALPROIC ACID* 250MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY Exp.Date 10/16/03 RX # 291180 LIEBER Rx # WOOD, JOHN RICHARD J. CUSAK 291180 00008005 (2)Refills	0500 2000	KK	KK																												
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | O - No Show

DOB: [redacted] HT: 5' 10" WT: 165 Allergies: NKD Diagnosis:

Unit: [redacted] Pill Line#: [redacted] Pt. Name: WOOD, JOHN RICHARD Registration #: 00008005 Physician: CUSAK

LIEBER MEDICAL 1803953755 PAGE 35 14:47 3453

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 06/2003

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date Exp. Date 7/22/03 RX #	RISPERDAL 1MG TAB #60 TAKE 1 TABLET(S) EACH MORNING AND AT BEDTIME	0800 2000																														
Order Date Exp. Date 7/22/03 RX #	VALPROIC ACID 250MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY	0800 2000																														
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | O - No Show

DOB: HT: 5' 10" WT: 165 Allergies: NKD Diagnosis:

Unit: Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: Physician:

LIEBER MEDICAL 18038963755 12/29/2005 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 05/2003

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 04/24/03 Exp. Date 07/22/03 RX # 260846 RISPERDAL 1MG TAB #60 TAKE 1 TABLET(S) EACH MORNING AND AT BEDTIME	0800																															
	2000																															
Order Date 4/29/03 Exp. Date 7/27/03 RX # 262562 Depakote 250mg PO bid	0800																															
	2000																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | O - No Show

DOB: HT: 5' 10" WT: 165 Allergies: Diagnosis: NKD

Unit: [redacted] Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: [redacted]

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LIEBER MEDICAL 18038963755

2006 14:47

3455

PAGE: 1

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Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 04/2003

Prescriptions	Time	1	2	4	6	8	10	12	14	16	18	20	21	22	24	26	28	30	31
Order Date Exp. Date RX # RISPERDAL 2MG TAB #30 TAKE ONE TABLET(S) AT BEDTIME D/d 4/24/03 gm	08:00																		
Ord.Date 04/24/03 RISPERDAL 1MG TAB #60 TAKE 1 TABLET(S) EACH MORNING AND AT BEDTIME LIEBER Rx # 262562 WOOD, JOHN RICHARD 00006005 J. CUSAK (2)Refills	08:00 20:00																		
Ord.Date 04/29/03 VALPROIC ACID 250MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY Exp. Date 07/27/03 LIEBER Rx # 262562 WOOD, JOHN RICHARD 00006005 J. CUSAK (2)Refills	08:00 20:00																		
Order Date Exp. Date RX #																			
Order Date Exp. Date RX #																			
Order Date Exp. Date RX #																			
Order Date Exp. Date RX #																			

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | O - No Show

DOB:

Unit:

Pill Line#: 49A

HT: 5' 10"

WT: 165

Pt. Name: WOOD, JOHN RICHARD

Allergies:

Registration #: 00006005

Diagnosis: NKD

Physician: CUSAK

LIEBER MEDICAL 18038963755 12/29/2006 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 10/2002

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 07/23/02 Exp. Date 10/20/02 RX # 169163 RISPERDAL 3MG TAB #30 TAKE ONE TABLET(S) AT BEDTIME																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | O - No Show

DOB: HT: 5' 10" WT: 165 Allergies: Diagnosis: NKD

Unit: RA0249A

PIII Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSACK

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LIEBER MEDICAL 18038963755

2006 14:47

3457

PAGE: 1

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Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 09/2002

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 07/23/02 Exp. Date 10/20/02 RX # 169163 RISPERDAL 3MG TAB #30 TAKE ONE TABLET(S) AT BEDTIME DCd 9/27	1400	H	H	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	S	R	R	R	R	R					
Order Date 08/22/02 Exp. Date 09/04/02 RX # 179035 TRIFLUOPERAZINE 5MG TAB #28 TAKE TWO TABLET(S) EACH DAY DC'd 9/27	0800	H	H	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R					
	1400	H	H	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R					
Order Date 08/22/02 Exp. Date 09/04/02 RX # 179036 DIPHENHYDRAMINE 50MG CAP #14 TAKE ONE CAPSULE(S) EACH DAY DCd 9/27	0800	H	H	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R					
Order Date 08/22/02 Exp. Date 09/04/02 RX # 179037 DIPHENHYDRAMINE 25MG CAP #14 TAKE ONE CAPSULE(S) EACH DAY DCd 9/27	0800	H	H	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R					
Order Date 08/22/02 Exp. Date 09/04/02 RX # 179038 FLUOXETINE 20MG CAP #14 TAKE ONE CAPSULE(S) EACH DAY DCd 9/27	0800	H	H	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R					
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | O - No Show

DOB: HT: 6' 10" WT: 165 Allergies: Diagnosis: NKD

Unit: RA0249A RA 12e

Pt Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSAK

LIEBER MEDICAL 18038963755 12/29/2006 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 08/2002

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 08/19/02 Exp. Date 08/17/02 RX # 157659 **PSEUDOEPHEDRINE 60MG TAB #90** **TAKE ONE TABLET(S) THREE TIMES A DAY AS NEEDED**																																
Order Date 08/28/02 Exp. Date 09/25/02 RX # 161432 **VALPROIC ACID 250MG CAP #60** **TAKE 1 CAPSULE(S) TWICE DAILY** Dcd 8/22 Exp 03	07:00 19:00																															
Order Date 07/23/02 Exp. Date 10/20/02 RX # 169083 **RISPERDAL 2MG TAB #30** **TAKE 1 TABLET(S) EACH MORNING** Dcd 8/16/02	07:00																															
Order Date 07/23/02 Exp. Date 10/20/02 RX # 169163 **RISPERDAL 3MG TAB #30** **TAKE ONE TABLET(S) AT BEDTIME** DCd 8/16/02	19:00																															
Order Date 8/22/02 Exp. Date 9/6/02 RX # Stelazine 10mg po qhs (DOT)	19:00																															
Order Date 8/22/02 Exp. Date 9/7/02 RX # Remeron 15mg po qhs (DOT)	Hs																															
Order Date 8/22/02 Exp. Date 9/7/02 RX # Prozac 20mg po qhs (DOT)	10:00																															

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | O - No Show

DOB: 7 HT: 5' 10" WT: 165 Allergies: Diagnosis NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSACK

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LIEBER MEDICAL

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3459

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 07/2002

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 7/8/02 (03/14/02) Exp. Date 1/28/03 (07/07/02) RX # 135252 — VALPROIC ACID 250MG CAP #48 — TAKE 1 CAPSULE(S) TWICE DAILY	0700																															
	1400																															
Order Date 7/26/02 (04/03/02) Exp. Date 1/28/03 (07/07/02) RX # 135255 — RISPERDAL 1MG TAB #72 — TAKE 1 TABLET(S) EACH MORNING AND TAKE 2 TABLET(S) AT BEDTIME — D/C'd 7/23/02	0700																															
	1400																															
Order Date 06/19/02 Exp. Date 07/08/02 RX # 157558 — CEPHALEXIN 500MG CAP #60 — TAKE ONE CAPSULE(S) THREE TIMES A DAY																																
Order Date 06/19/02 Exp. Date 08/17/02 RX # 157559 — PSEUDOEPHEDRINE 60MG TAB #90 — TAKE ONE TABLET(S) THREE TIMES A DAY AS NEEDED	0700																															
Order Date 7/23/02 Exp. Date 10/23/02 RX # Enc# 029 — Risperdal 1mg 2 tabs. PO Am 3 tabs. HS x 30 days 2 Refills	0700																															
	1400																															
Order Date / Exp. Date / RX #																																
Order Date / Exp. Date / RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | O - No Show

DOB: HT: 5' 10" WT: 165 Allergies: Diagnosis: NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: JUDSON

LIEBER MEDICAL 18038963755 12/29/2006 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 06/2002

Prescriptions	Time
Order Date 04/09/02 — VALPROIC ACID 250MG CAP #60 — TAKE 1 CAPSULE(S) TWICE DAILY — Exp. Date 07/07/02 — RX # 135252	0700, 1400
Order Date 04/09/02 — RISPERDAL 1MG TAB #90 — TAKE 1 TABLET(S) EACH MORNING AND TAKE 2 TABLET(S) AT BEDTIME — Exp. Date 07/07/02 — RX # 135255	0700, 1400
Order Date 5/20/02 — Benadryl 50mg 1 cap PO HS — Exp. Date 8/18/02 — RX #	1400
Order Date 5/20/02 — Prozac 20mg 1 cap PO Daily — Exp. Date 8/18/02 — RX #	0700
Order Date 6/19/02 — Sudafed 1 po tid prn — Exp. Date 167559 — RX # 8/17/02	0700
Order Date 6/19/02 — Keflex 500mg 1 po tid — Exp. Date 7/3/02 — RX # 167558	
Order Date — Exp. Date — RX #	

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | O - No Show

DOB: HT: 5' 10" WT: 165 Allergies: NKA Diagnosis: NKD

Unit: RA0249A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSAK

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LIEBER MEDICAL

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PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 05/2002

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 02/21/02 Exp. Date 05/21/02 RX # 120701 DIPHENHYDRAMINE 50MG CAP #30 TAKE ONE CAPSULE(S) AT BEDTIME																																
Order Date 02/21/02 Exp. Date 05/21/02 RX # 120704 FLUOXETINE 20MG CAP #30 TAKE ONE CAPSULE(S) EACH DAY																																
Order Date 04/08/02 Exp. Date 07/07/02 RX # 135262 VALPROIC ACID 250MG CAP #60 TAKE 1 CAPSULE(S) TWICE DAILY																																
Order Date 04/08/02 Exp. Date 07/07/02 RX # 135265 RISPERDAL 1MG TAB #90 TAKE 1 TABLET(S) EACH MORNING AND TAKE 2 TABLET(S) AT BEDTIME																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: [redacted] HT: 5' 10" WT: 165 Allergies: NKA Diagnosis: NKD

Unit: RA8126A Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00000005 Physician: CUSAK

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LIEBER MEDICAL
18038953755
12/29/2006 14:47

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LIEBER MEDICAL 18038963755

3463 2005 14:47

PAGE: 1

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 04/2002

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 02/21/02 DIPHENHYDRAMINE 50MG CAP #30 Exp. Date 05/21/02 TAKE ONE CAPSULE(S) AT BEDTIME RX # 120701																																
Order Date 4-9-02 02/21/02 RISPERDAL 1MG TAB #30 Two Exp. Date 7-9-02 05/21/02 TAKE ONE TABLET(S) AT BEDTIME RX # 120702	0800																															
Order Date 02/21/02 FLUOXETINE 20MG CAP #30 Exp. Date 05/21/02 TAKE ONE CAPSULE(S) EACH DAY RX # 120704	0800																															
Order Date 4-9-02 Risperdal 1mg Exp. Date 7-9-02 1 Tab PO q AM RX #	0700																															
Order Date 4-9-02 Valproic Acid Exp. Date 7-9-02 250mg PO BID x 90d RX #	0800 1700																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: NKA Diagnosis: NKD

Unit: RA0126A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSACK

3464

Facility: LIEBER (421G)

Medication Administration Record

Month/Year: 03/2002

Prescriptions	Time	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Order Date 02/21/02 Exp. Date 05/21/02 RX # 120701	DIPHENHYDRAMINE 50MG CAP #30 **TAKE ONE CAPSULE(S) AT BEDTIME**																															
Order Date 02/21/02 Exp. Date 05/21/02 RX # 120702	RISPERDAL 1MG TAB #30 **TAKE ONE TABLET(S) AT BEDTIME**																															
Order Date 02/21/02 Exp. Date 05/21/02 RX # 120704	FLUOXETINE 20MG CAP #30 **TAKE ONE CAPSULE(S) EACH DAY**																															
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																
Order Date Exp. Date RX #																																

Documentation Codes: H - Hold | R - Refused | DC - Discontinued Order | S - Self Administered | NS - No Show | O - Other

DOB: HT: 5' 10" WT: 165 Allergies: NKA Diagnosis: NKD

Unit: RA0126A

Pill Line#: Pt. Name: WOOD, JOHN RICHARD Registration #: 00006005 Physician: CUSACK

LIEBER MEDICAL 18038963755 12/29/2006 14:47

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DIVISION OF HEALTH SERVICES
Daily Medication Administration Record

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LIEBER MEDICAL 18038963755 14:47 2006

Medication-Strength-Route-Schedule MONTH: 02 YEAR: 02 INSTITUTION: HCI DORM: RB125

Start Date	Stop Date		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
2/21/02	5/20/02	PROZAC 20mg 1 Tab PO Daily																				→		X	X	X	X	X	X			

Medication-Strength-Route-Schedule MONTH: YEAR: INSTITUTION: DORM:

Start Date	Stop Date		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
2/21/02	5/20/02	RISPERDAL 1mg 1 Tab PO HS																				→		X	X	X	X	X	X			

Medication-Strength-Route-Schedule MONTH: YEAR: INSTITUTION: DORM:

Start Date	Stop Date		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
2/21/02	5/20/02	Diphenhydramine 50mg 1 Tab PO HS																				→		X	X	X	X	X	X			

Medication-Strength-Route-Schedule MONTH: YEAR: INSTITUTION: DORM:

Start Date	Stop Date		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31

NURSES' SIGNATURES

SCDC M-10 (November, 1986)

RB125 SCDC # SK 6005 NAME: WOOD, JOHN

3465

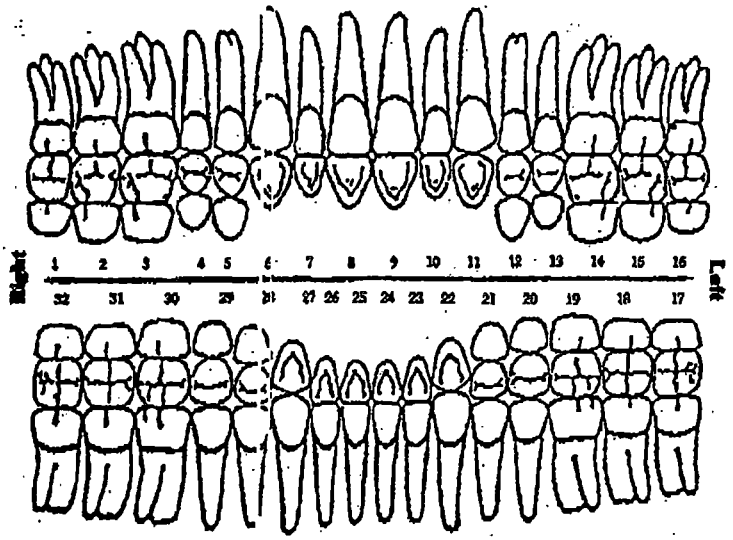
Name: Wood, John

SCDC No. 6005

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Medical and Professional Health Services

Dental Health Records

1. RESTORATIONS AND MISSING TEETH

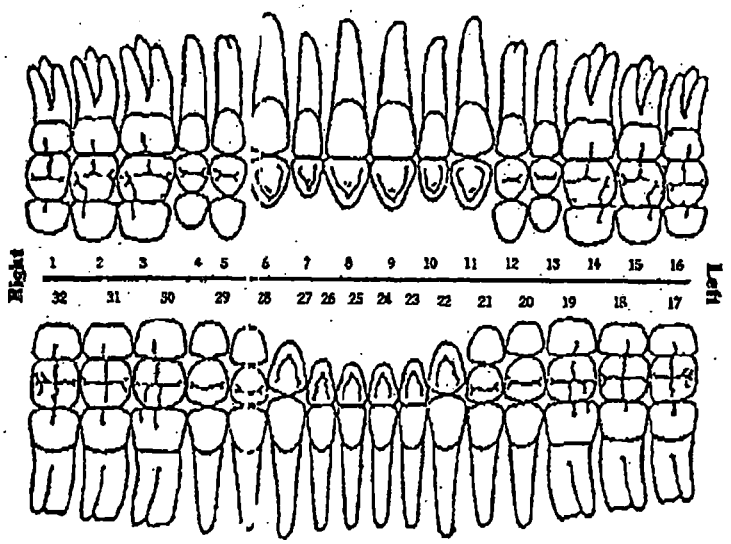


A. REMARKS:

B. DENTURES

FULL		PARTIAL	
U	L	U	L

2. CARIES, DISEASES, AND ABNORMALITIES



DATE OF LAST EXAM: 9-8-05

A. SOFT TISSUE EXAM

B. ORAL HYGIENE

ADEQUATE	POOR

C. CALCULUS

SLIGHT	MODERATE	HEAVY

D. PERIODONTAL STATUS

INCIPIENT	MODERATE	SEVERE

E. REMARKS:

SCDC #: 5K6005 NAME: Wood, John

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Medical and Professional Health Services

Dental Health Records

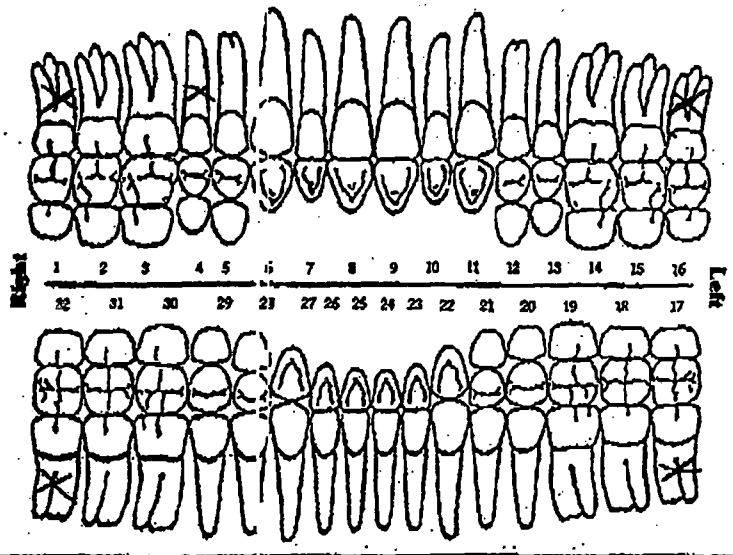
Date	Time	Diagnosis/Treatment	Code	Sig. of Dentist/DHD
2/20/02	1330	IOE, charting and OHI	II	
9/8/05	HTP	POE, and charting not done due to refusal - refusal to be signed on call block	II	

SCDC #: SK 6005 NAME: Wood, John Richard

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Medical and Professional Health Services

Dental Health Records

1. RESTORATIONS AND MISSING TEETH

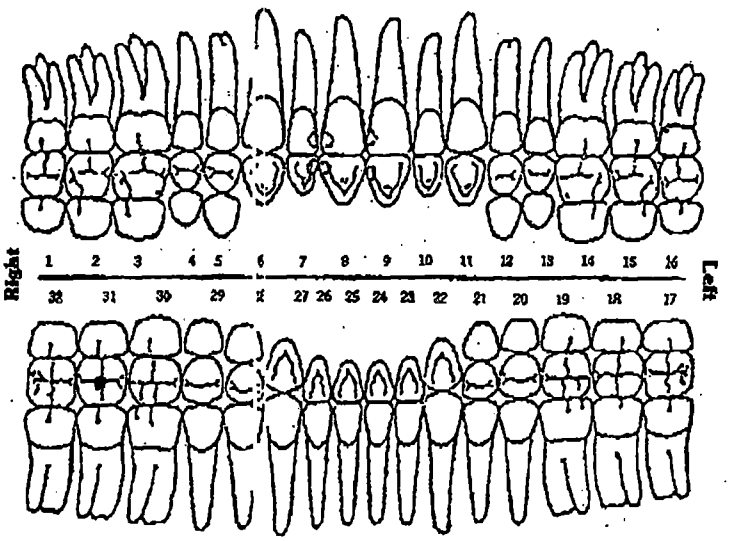


A. REMARKS:

B. DENTURES

FULL		PARTIAL	
U	L	U	L

2. CARIES, DISEASES, AND ABNORMALITIES



DATE OF LAST EXAM: 2-20-02

A. SOFT TISSUE EXAM

WNL

B. ORAL HYGIENE

ADEQUATE	✓ POOR

C. CALCULUS

SLIGHT	MODERATE ✓	HEAVY

D. PERIODONTAL STATUS

INCIPIENT	MODERATE ✓	SEVERE

E. REMARKS:

SCDC #: sk6005 NAME: Wood, John Richard

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LIEBER MEDICAL
12/29/2006 14:47 18038963755
3469

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
MENTAL HEALTH SERVICES
Treatment Plan

Name: John Wood SCDC#: 6605 Admission Date: _____ Discharge Date: _____

Strengths: _____ Diagnosis: Please see below

Caseworker: Carolyn Bynes Supervisor: Melvin Ransom Reason for Referral: UT-2

DATE	Staff Assessment of problem	Objective	Approach
4/12/06	37 Y/O WM sentenced to death, history of hallucinations(auditory),	Pt/m will be 100% compliant with all medications	CCC will provide case management, counseling & medication monitoring monthly.
	self injury. DX impression pending affective d/o, Antisocial personality d/o	Pt/m will report all psychotic and depressions of mental illness accurately.	
	Pt/m is currently prescribed: Risperdal and Cogentin.	Pt/m will refrain from self injurious behaviors.	CCC will provide medication information/education. as needed.
			next update 7/12/06
			J. McCants, CCC
			C. Bynes CCC

PAGE 52 3470 Death Row - Area

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
MENTAL HEALTH SERVICES
Treatment Plan

Started 2-16-02

Name: John Richard Wood SCDC#: 6005 Admission Date: _____ Discharge Date: _____

Strengths: _____ Diagnosis: Schizoaffective Disorder, ASPD

Caseworker: Steve Compton Supervisor: Dr. Melvin Ransom Reason for Referral: _____

Date	Staff Assessment of Problem	Objective	Approach
1/ /06	37 40 Male	Reviewed. Next 4-12-06	Risperdal 2mg BID, Vistaril
	Hx of A/V hallucinations,	No incidents of violence	75 mg BID
	poor hygiene, Hx of self-	against self or others,	
	injury (banging head on cell wall)	good hygiene	Monthly Counsely
			C. Boyce HSC
			J. Mclendon HSC
			M. Thompson HSC

LIEBER MEDICAL 18038963755 12/29/2006 14:47

DEATH ROW

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
MENTAL HEALTH SERVICES
Treatment Plan

Name: John Wood SCDC#: 6005 Admission Date: _____ Discharge Date: _____

Strengths: _____ Diagnosis: Mood Disorder, NOS

Caseworker: Steve Compton, CA Supervisor: _____ Reason for Referral: _____

Date	Staff Assessment of Problem	Objective	Approach
2/9/05	TREATMENT REVIEW – next review 5/05		
	Elevated energy, delusions,	Report no delusions, no	Risperdal, Vistaril Rx by Dr. Cusack
	pressured speech, psychomotor agitation	observable agitation	Monthly counseling Compton
			J. Healy, HSC

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
MENTAL HEALTH SERVICES
Treatment Plan

medium

Name: WOODS John SCDC#: 60055 Admission Date: 2/19/02 Discharge Date: _____

Strengths: Cooperative Diagnosis: Depression

Caseworker: Tony Whitaker Supervisor: S Compton Reason for Referral: MT

Date	Staff Assessment of Problem	Objective	Approach
12/19/02	Depression Suicidal tendencies	Remain compliant with meds + treatment	Review monthly Tony Whitaker 12/19/02
	35 year old w/m Greenville County		
	[signature]		
	Comp CCC Supt, CCC		

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
MENTAL HEALTH SERVICES
Treatment Plan

Name: Woods John SCDC#: 6005 51c Admission Date: 2/21/02 Discharge Date: _____

Strengths: Make good adjustment Diagnosis: Depression

Caseworker: Terry Whittaker Supervisor: Steve Compton Reason for Referral: MI-E mental health Hx

Date	Staff Assessment of Problem	Objective	Approach
2/21/02	Depression - Suicidal Hx - Mentions	Maintain Rules and Regulations of the Unit	Refer to Dr. Cusack and Review monthly
	Completed - Drug Alcohol TCDDC -	comply with all Prescribed medications	Terry Whittaker 2/21/02
	Poly substance Abuse Cocaine Cannibis		
	Bipolar by History Use Elavil Cocaine		
	Paranoia - 34 year old White male		
	Team Members Dr. Cusack T.J. Johnson Steve Compton Beverly Byrd		

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Division of Human Services

Referral/Action Taken Form

I. Referral

A. Referred From: Medical

B. Referred To: Mental Health

C. Inmate Name: Wood John

D. Inmate Number: SC 6005

E. Institution: Lieber Location: Death Row #123 Job Assign.: N/A

F. Reason for Referral: New ARRIVAL on death Row

G. Priority Referral (action requested within one day): X Tonya Coleman

Non-Priority Referral (action requested within ten days): _____

Date: 2/16/02 S/ Tonya Coleman

II. Action Taken

A. Feedback Provided To: Medical

B. Initial Assessment: I was in the Greenville County Jail for over a year. I have a history of Bi-polar and I feel paranoid at times. I take Depakote. No Suicidal ideation or Homicidal thoughts. Depression

C. Recommendations/Follow-Up: Refer to Dr Cusack for further evaluation for medications. Discuss other treatment terms.

Date: 2/19/02 S/ Terry D Whitaker CCC

I will/will not accept treatment at this time.

Date: _____ S/ _____

White: Referral Source
Canary: Action Source
Pink: Referral Source

** ENCOUNTER: 136 NARRATIVE 11/30/06 8:05 LTEBER COMP
TNMATES STATES HE HAS SIGNED NUMEROUS REFUSAL FORMS TO HAVE MEDTATIONS S
TOPPED. TNMATE FURTHER STATES THAT THE DOCTORS ARE NO HELP TO HIM. DEFER
TO MD TO DISCONTINUE VISTARIL AND RISPEDAL MED ORDER.
SIGNED OFF ON 11/30/06 @ 12:14 BY PATRICIA F KELLY, LICENSED PRACTICAL NURSE
NEEDS TO SEE PSYCHIATRY CONCERNING THESE MEDS.
SIGNED OFF ON 11/30/06 @ 12:52 BY ROBERT E BARB, UNCLASSIFIED
SIGNED OFF ON 11/30/06 @ 15:30 BY RUTH A SELTZER, LICENSED PRACTICAL NURSE
PATIENT TO BE EVALUATED BY COUNSELOR.
DISCONTINUE: RISPERDAL AND VISTARIL PER INMATE REQUEST.
J.R. CUSACK, M.D.
SIGNED OFF ON 11/31/06 @ 13:05 BY JOHN CUSACK, PHYSICIAN I
RISPERDAL AND VISTARIL D/CD AS ORDERED PER MD. D. COLLINS, LPN
NOTED.
SIGNED OFF ON 11/27/06 @ 7:29 BY DEMPSEY C HOWARD, UNCLASSIFIED

** ENCOUNTER: 135 MENTAL HEALTH CLINIC 11/01/06 12:44 LTEBER COMP
INMATE IS A 37 YEAR OLD WHITE MALE WITH A HISTORY OF SCHIZOAFFECTIVE DISORD
ER WHO IS SEEN FOR FOLLOW UP. IM HAS NO C/O. STATES HE IS DOING "FINE." D
ENIES SIGNS/SYMPTOMS PSYCHOSIS OR MOOD DISTURBANCE. DENIES MED SE'S.
MSE: YOUNG WHITE MALE, APPEARS OLDER THAN STATED AGE, THOUGH HEALTHY. CALM
AND COOPERATIVE WITH GOOD EYE CONTACT. THOUGHTS LINEAR. NO EVIDENCE O PE
RCEPTUAL DISTURBANCE, SI/HI. MOOD "FINE", AFFECT GUARDED AND RESTRICTED.
I/J FAIR.
A: AS ABOVE.
P: CONTINUE RISPERDAL 2 BID, HYDROXYZINE 75 QHS EPS. F/U 2 MONTHS OR SOONE
R PRN.
CHRISTOPHER MYERS, M.D.
P> RISPERDAL 2MG
P> STG:ONE TAB PO BID
P> SIG:
P> START DATE: 11/01/06 TOTAL DAYS: 90
P> MD:MYERS,CHRISTOPHE
P> HYDROXYZINE PAMOATE 25MG
P> STG:THREE TABS PO QHS (EPS)
P> STG:
P> START DATE: 11/01/06 TOTAL DAYS: 90
P> MD:MYERS,CHRISTOPHE
SIGNED OFF ON 11/01/06 @ 13:47 BY CHRISTOPHE MYERS, PHYSICIAN II
SIGNED OFF ON 11/01/06 @ 12:50 BY PATRICK C LABBE, REGISTERED NURSE I

** ENCOUNTER: 134 MENTAL HEALTH CLINIC 10/17/06 15:36 LTEBER COMP
LATE ENTRY FOR 13 OCT.
O: MET WITH INMATE AT HIS CELL DOOR IT WAS APPREANT THAT INMATE WAS ASLEEP.
INMATE REPORTED NO CONCERNS OR COMPLAINTS HE REPORTED HE WAS COMPLIANT WITH
MEDICATION REGIMENT.
A: DX. IMPRESSION PREVIOUSLY STATED GAF 70
INMATE DENIES S/H IDEATIONS OR A/U HULLCINATIONS. SPEECH CLEAR AND COHERENT
THINKING IS PRESENT, A/O X 3. MOOD CALM.
P: MENTAL HEALTH F/U 4-6 WEEKS OR AS NEEDED.

CAROLYN H. BYNES, CCC
SIGNED OFF ON 10/17/06 @ 15:46 BY CAROLYN H BYNES, HUMAN SERVICES COORD I

** ENCOUNTER: 133 DOCTOR'S CLINIC 08/38/06 14:43 LIEBER COMP
P> RISPERDAL 2MG
P> STG:1TAB PO BID
P> STG:
P> START DATE: 08/38/06 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
P> HYDROXYZINE PAMOATE 25MG
P> STG:3TABS PO BID X90DAYS. (ANXIETY)
P> STG:
P> START DATE: 08/38/06 TOTAL DAYS: 90
P> MD:CUSAK;JOHN -
J.F. CUSACK, D.O.
SIGNED OFF ON 08/38/06 @ 14:44 BY JOHN CUSACK, PHYSICIAN I
SIGNED OFF ON 08/28/06 @ 15:19 BY PATRICK C LABBE, REGISTERED NURSE I

** ENCOUNTER: 133 NARRATIVE 08/26/06 16:50 LIEBER COMP
HYDROXYZINE 25MG PO THREE TABS BID AND RISPERDAL 2MG PO BID UNTIL EXPIRE ON 8/27/06, DO YOU WISH TO RENEW. WILL LEAVE OPEN TO CCC TO FORWARD TO MD PLEASE.
SIGNED OFF ON 08/34/06 @ 16:52 BY JILL SOVACOOL, REGISTERED NURSE I
COMPLETED. J.F. CUSACK, D.O.
SIGNED OFF ON 08/38/06 @ 14:43 BY JOHN CUSACK, PHYSICIAN I

** ENCOUNTER: 131 MENTAL HEALTH CLINIC 08/11/06 15:43 LIEBER COMP
LATE ENTRY FOR 3 AUG, MET WITH INMATE FOR MENTAL HEALTH F/U. INMATE REPORTS THING ARE GOING WELL AT THIS TIME. HE STATED HE IS COMPLIANT WITH MEDICATIONS. HE IS PLEASE WITH THE CARE THAT HE IS RECEIVING. HE STATES THAT HE HAS NO CONCERNS OR COMPLAINTS.
A: DX. PREVIOUSLY STATED. GAF 70.
INMATE DENIES S/H IDEATION OR A/V HALLUCINATION. SPEECH CLEAR AND COHERENT. THINKING IS PRESENT, A/O X 3, MOOD CALM, GOOD EYE CONTACT.
P: MENTAL HEALTH F/U 4-6 WEEKS OR AS NEEDED.
CAROLYN H. BYNES, CCC
SIGNED OFF ON 08/11/06 @ 15:51 BY CAROLYN H BYNES, HUMAN SERVICES COORD I

** ENCOUNTER: 130 MENTAL HEALTH CLINIC 06/27/06 11:28 LIEBER COMP
37 Y/O INMATE ON DEATH ROW WITH SCHIZOAFFECTIVE DISORDER. STABLE ON REGIMEN OF RISPERDAL AND VISTARIL. SEEN TODAY AT WINDOW. HAD NO COMPLAINTS. MOOD WAS GOOD; AFFECT FULL, THOUGHTS LINEAR AND LOGICAL. NO SI/HI, NO A/VH, COGNITION INTACT. HAS DONE WELL ON CURRENT REGIMEN AND HAS HAD NO COMPLAINTS THROUGHOUT HIS CARE WITH ME.
A. SCHIZOAFFECTIVE DISORDER, BIPOLAR TYPE, STABLE
ASPD
P. CONTINUE CURRENT MEDICATION REGIMEN. F/U IN ONE MONTH AS NEEDED.
TGCOBBMD
SIGNED OFF ON 06/37/06 @ 11:30 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 129 MENTAL HEALTH CLINIC 06/06/06 8:24 LIEBER COMP
MET WITH INMATE FOR MENTAL HEALTH F/U. INMATE WAS ASLEEP WHEN CCC BYNES AND OFFICER HAYNES APPROACH HIS CELL DOOR. HE STATED THAT HE WAS JUST TAKING AN AFTERNOON NAP. IN REPORTED THAT HE IS DOING WELL. HIS SLEEPING WELL AND HIS APPETITE IS GOOD AT THIS TIME. HE REPORTS NO COMPLAINTS OR CONCERNS. HE IS COMPLIANT WITH HIS MEDICATION AND IS PLEASE WITH THE REGIMENT.
A: DX: IMPRESSION SCHIZOPHRENIA D/O STABLE
GAF 75
INMATE DENIES SUICIDAL/HOMICIDAL IDEATIONS OR A/V HALLUCINATIONS. SPEECH IS CLEAR AS WELL AS COHERENT, THINKING IS PRESENT, A/O X 3, AFFECT FAIR, MOOD CALM AND PLEASANT AND GOOD EYE CONTACT.
P: MENTAL HEALTH F/U 4-6 WEEKS OR AS NEEDED.
CAROLYN H BYNES CCC
SIGNED OFF ON 06/06/06 @ 8:33 BY CAROLYN H BYNES, HUMAN SERVICES COORD I

** ENCOUNTER: 128 MENTAL HEALTH CLINIC 05/30/06 10:53 LIEBER COMP
37 Y/O INMATE WITH A HISTORY OF SCHIZOAFFECTIVE D/O STABLE, MEDICATIONS REC ENTLY EXPIRED. VISTARIL 25MG BID, RISPERDAL 2MG BID. HAD NO COMPLAINTS. GOOD MOOD, AFFECT FULL; THOUGHTS LINEAR AND LOGICAL, NO SI/HI, NO A/VH, COG NITION INTACT.
A. SCHIZOAFFECTIVE D/O STABLE
ASPD
P. WILL RENEW MEDICATIONS. F/U IN ONE MONTH OR SOONER AS NEEDED.
TGCOBBMD
P> HYDROXYZINE PAMOATE 25MG
P> STG:TAKE THREE TABLETS BY MOUTH TWICE A DAY FOR ANXIET
P> STG:Y
P> START DATE: 05/30/06 TOTAL DAYS: 90
P> MD:COBB,THOMAS -
P> RISPERDAL 2MG
P> STG:TAKE ONE TABLET BID
P> STG:
P> START DATE: 05/30/06 TOTAL DAYS: 90
P> MD:COBB,THOMAS -
SIGNED OFF ON 05/30/06 @ 10:56 BY THOMAS COBB, PHYSICIAN II
MEDS TO PHARMACY. D.HOWARD,RN.
SIGNED OFF ON 05/30/06 @ 13:53 BY DEMPSEY C HOWARD, UNCLASSIFIED

** ENCOUNTER: 127 MENTAL HEALTH CLINIC 05/09/06 16:03 LIEBER COMP
37 Y/O INMATE WITH A HISTORY OF SCHIZOAFFECTVE D/O STABLE. SEEN BRIEFLY I N CELL. HAD TO BE AWOKEN. NO COMPLAINTS. NO SI/HI, NO A/VH , COGNITION INT ACT WITH LINEAR AND LOGICAL THOUGHTS PATTERN.
A. AS ABOVE.
P. CONTINUE CURRENT MEDICATION REGIMEN. F/U IN 2-4 WEEKS OR SOONER AS NEED ED.
TGCOBBMD
SIGNED OFF ON 05/09/06 @ 16:04 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 126 MENTAL HEALTH CLINIC 05/03/06 11:24 LIEBER COMP
INC. NOTE: TREATMENT TEAM UPDATE T/P WITH THE FOLLOWING RECOMMENDATION MENT

AL HEALTH STAUS REMAIN THE SAME WITH DX. IMPRESSION SCHIZOAFFECTIVE D/O AAN D ANTISOCIAL PESONALITY D/O. PLEASE SEE HARD COPY IN MEDICAL RECORD FOR MOR E DETAILS. NEXT 7/12 06. THOSE IN ATTENDANCE TANYA MCCANTS AND CAROLYN BYNE S.
TREATMENT TEAM
M. RANSOM
T. MCCANTS
S. COMPTON
C. BYNES
CAROLYN H. BYNES CCC
SIGNED OFF ON 05/03/06 @ 11:32 BY CAROLYN H BYNES, HUMAN SERVICES COORD I

** ENCOUNTER: 125 MENTAL HEALTH CLINIC 04/25/06 14:41 LIEBER COMP
D: MET WITH INMATE AT HIS CELL DOOR FOR MENTAL HEALTH F/U. INMATE REPORTS T HAT HE DOING WELL. HE STATES HIS MEDICATIONS ARE WORKING AND HE SLEEPING AN D EATING GOOD. HE HAS NO CONCERNS OR COMPLAINTS AT THIS TIME.
A: DX. IMPRESSION SCHIZOAFFECTIVE D/O STABLE
GAF 70
INMATE DENIES S/H IDEATION OR A/V HALLUCINATIONS. SPEECH CLEAR AND COHERENT THINKING IS PRESENT, GOOD EYE CONTACT AND MOOD CALM AND PLEASANT.
P: MENTAL HEALTH F/U 4-5 WEEKS OR AS NEEDED.
CAROLYN H. BYNES CCC
SIGNED OFF ON 04/25/06 @ 14:45 BY CAROLYN H BYNES, HUMAN SERVICES COORD I

** ENCOUNTER: 124 MENTAL HEALTH CLINIC 03/28/06 11:50 LIEBER COMP
37Y/O INMATE WITH A HISTORY OF SCHIZOAFFECTIVE DISORDER CURRRENTLY STABLE. DISCUSSED CRIME OF SHOOTING POLICE OFFICER. OTHERWISE, DOING WELL. NO CO MPLAINTS. MOOD "ALRIGHT", AFFECT FULL, THOUGHTS LINEAR AND LOGICAL. NO SI /HI, NO A/VH COGNITION INTACT.
(
A. SCHIZOAFFECTIVE D/O STABLE
P. CONTINUE CURRENT MEDICATION REGIMEN. F/U IN 2-4 WEEKS.
TGCOBBMD.
SIGNED OFF ON 03/28/06 @ 11:52 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 123 MENTAL HEALTH CLINIC 02/28/06 14:14 LIEBER COMP
37.Y/O INMATE WITH A HISTORY OF SCHIZOAFFECTIVE D/O STABLE ON RISPERDAL AND VISTARIL. THIS TIME ENGAGED ME AT THE DOOR RATHER THAN FROM BED. REPORTS NO PROBLEM WITH MEDS, MOOD GOOD, AFFECT SILLY, THOUGHTS LINEAR, NO SI/HI, NO A/VH COGNITION INTACT.
A. SCHIZOAFFECTIVE D/O
ASPD
P. CONTINUE CURRENT MEDICATION REGIMEN. F/U IN 2-4 WEEKS OR SOONER AS NEED ED.
TGCOBBMD
SIGNED OFF ON 02/28/06 @ 14:16 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 122 MENTAL HEALTH CLINIC 01/20/06 14:43 LIEBER COMP
TREATMENT TEAM MENT ON 1-12-06 AND CONTINUED CARE PLAN. INMATE TAKES RIPERDAL, VISTARIL TO CONTROL VIOLENT, SELF-DESTRUCTIVE BEHAVIOR AND TO

QUIET AUDITORY HALLUCINATIONS. PRESENT WERE COUNSELORS RANSOM, BYNES, MCCANTS, AND COMPTON. NEXT REVIEW 4-12-06.
STEVE COMPTON,CCC
SIGNED OFF ON 01/20/06 @ 14:44 BY STEPHEN F COMPTON, HUMAN SERVICES COORD I

** ENCOUNTER: 121 MENTAL HEALTH CLINIC 01/20/06 14:39 LIEBER COMP
D-INMATE SEEN AT HIS CELL DOOR ON DEATH ROW ON 1-11-06. HE IS A 37 YEAR OLD WHITE MALE WITH A HISTORY OF AUDITORY HALLUCINATIONS, POOR HYGEINE, SELF-INJURY. HE REPORTS COMPLIANCE WITH BID RISPERDAL AND VISTARIL.
A-SCHIZOAFFECTIVE DISORDER; ANTISOCIAL PERSONALITY DISORDER, APPEARS TO BE STABLE AND MEDICATION COMPLIANT.
P-SEE MONTHLY.
STEVE COMPTON,CCC
SIGNED OFF ON 01/20/06 @ 14:43 BY STEPHEN F COMPTON, HUMAN SERVICES COORD I

** ENCOUNTER: 120 MENTAL HEALTH CLINIC 01/17/06 13:13 LIEBER COMP
37 YEAR OLD INMATE WITH A HISTORY OF SCHIZOAFFECTIVE DISORDER STABLE ON RISPERDAL AND VISTARIL. DECLINED TO TALK TO PSYCHIATRIST. STATED HE WAS FINE. NO REPORTS OF DIFFICULTY.
A. SCHIZOAFFECTIVE D/O STABLE
P. CONTINUE CURRENT MEDICATION REGIMEN. F/U IN 1-3 MONTHS.
(
TSCOBBMD
SIGNED OFF ON 01/17/06 @ 13:14 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 119 MENTAL HEALTH CLINIC 11/29/05 13:11 LIEBER COMP
37 YEAR OLD INMATE ON DEATH ROW. HISTORY OF SCHIZOAFFECTIVE DISORDER. HAS NO COMPLAINTS. NO SI/HI, NO A/VH MOOD "FINE." SPOKE TO THIS DOCTOR FROM B ED. REMAINS STABLE ON RISPERDAL 2MG BID AND VISTARIL 75MG BID. WILL RENEW MEDS TO EXPIRE IN 5/38/06.
A. SCHIZOAFFECTIVE D/O
ASPD
P. RENEW AND CONTINUE CURRENT MEDICATIONS. F/U IN ONE MONTH OR SOONER AS NEEDED.
TSCOBBMD
SIGNED OFF ON 11/29/05 @ 13:13 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 118 DOCTOR'S CLINIC 11/29/05 13:09 LIEBER COMP
CHANGE DOSING
P> HYDROXYZINE PAMOATE 35MG
P> SIG:TAKE THREE TABLETS BY MOUTH TWICE A DAY
P> SIG:
P> START DATE: 11/29/05 TOTAL DAYS: 180
P> MD:COBB,THOMAS -
SIGNED OFF ON 11/29/05 @ 13:10 BY THOMAS COBB, PHYSICIAN II
SIGNED OFF ON 11/29/05 @ 13:24 BY SUSAN E HADLEY, LICENSED PRACTICAL NURSE

** ENCOUNTER: 117 DOCTOR'S CLINIC 11/29/05 13:05 LIEBER COMP
RENEW MEDICATIONS
P> RISPERDAL 2MG

P> STG:TAKE ONE TABLET BY MOUTH TWICE A DAY
P> SIG:
P> START DATE: 11/29/05 TOTAL DAYS: 180
P> MD:COBB,THOMAS -
P> HYDROXYZINE PAMOATE 50MG
P> SIG:TAKE ONE AND 1/2 TABLET TWICE A DAY (TOTAL DOSE 75
P> STG:MG)
P> START DATE: 11/29/05 TOTAL DAYS: 180
P> MD:COBB,THOMAS -
SIGNED OFF ON 11/29/05 @ 13:08 BY THOMAS COBB, PHYSICIAN II
SIGNED OFF ON 11/29/05 @ 13:24 BY SUSAN E HADLEY, LICENSED PRACTICAL NURSE

** ENCOUNTER: 116 MENTAL HEALTH CLINIC 10/18/05 10:34 LIEBER COMP
37 YEAR OLD INMATE ON DEATH ROW WITH A HISTORY OF SCHIZOAFFECTIVE DISORDER
. CURRENTLY STABLE ON RISPERDAL 2BID AND VISATARIL 75MG BID. SEEN AT WIND
OW AND INMATE IN BED HAD NO COMPLAINTS. CONVERSATION SHORT, NO PROBLEMS W
ITH MEDICATION. F/U IN 1-2 MONTHS.
MEDS RENEWED UNTIL DECEMBER
TSCOBBMD
SIGNED OFF ON 10/18/05 @ 10:35 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 115 INSIDE APPOINTMENT 09/29/05 7:52 LIEBER COMP
P> RISPERDAL 2MG
P> STG:TAKE 1 PO BID X 30 DAYS ; 3 REFILLS.
P> STG:
P> START DATE: 09/29/05 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
SIGNED OFF ON 09/29/05 @ 7:53 BY SUSAN E HADLEY, LICENSED PRACTICAL NURSE
J.R. CUSACK, D.O.
SIGNED OFF ON 09/29/05 @ 14:08 BY JOHN CUSACK, PHYSICIAN I
NOTED IN MAR
SIGNED OFF ON 09/29/05 @ 14:27 BY SUSAN E HADLEY, LICENSED PRACTICAL NURSE

** ENCOUNTER: 114 MENTAL HEALTH CLINIC 09/20/05 10:39 LIEBER COMP
37 YEAR OLD WHITE MALE ON DEATH ROW. HAS HISTORY OF SCHIZOAFFECTIVE DISORD
ER CURRENTLY STABLE ON RISPERDAL 3MG BID AND VISTARIL 25MG BID. INMATE TAL
KED FROM BED AND HAD NO COMPLAINTS . NO SI/HI, NO A/VH STATED MOOD WAS ST
ABLE.
A. SCHIZOAFFECTIVE DISORDER BIPOLAR TYPE STABLE
P. CONTINUE CURRENT MEDICATION REGIMEN
RENEW RISPERDAL 2MG BID
VISTARIL 25MG BID
TSCOBBMD
SIGNED OFF ON 09/30/05 @ 10:41 BY THOMAS COBB, PHYSICIAN II
ADDENDUM, MEDS EXPIRE 10/15
SIGNED OFF ON 09/30/05 @ 10:43 BY THOMAS COBB, PHYSICIAN II
NOTED
SIGNED OFF ON 09/30/05 @ 13:19 BY SUSAN E HADLEY, LICENSED PRACTICAL NURSE

** ENCOUNTER: 113 INSIDE APPOINTMENT 09/13/05 8:32 LIEBER COMP

P> HYDROXYZINE PAMOATE 25MG
P> STG:TAKE 1 PO BID FOR ANXIETY X 30 DAYS ; 2 REFILLS.
P> SIG:
P> START DATE: 09/12/05 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
STGNED OFF ON 09/12/05 @ 8:33 BY SUSAN E HAILEY, LICENSED PRACTICAL NURSE
J.R. CUSACK, D.O.
STGNED OFF ON 09/13/05 @ 9:49 BY JOHN CUSACK, PHYSICIAN I
T/M TO RECIEVE MEDS AT THE PILL LINE.
STGNED OFF ON 09/13/05 @ 14:37 BY SUSAN C ROSARIO, REGISTERED NURSE II

** ENCOUNTER: 113 FOLLOW-UP DENTAL 09/08/05 11:23 LIEBER COMP
A) DENTAL EXAMINATION
PT REFUSED POE---REFUSAL TO BE STGNED ON CELL BLOCK
SIGNED OFF ON 09/08/05 @ 11:23 BY JOHN S ZIMMERMAN, DENTIST

** ENCOUNTER: 111 MENTAL HEALTH CLINIC 08/30/05 11:07 LIEBER COMP
37 YEAR OLD WHITE MALE WITH A HISTORY OF MOST LIKELY SCHIZOAFFECTIVE DISORD
ER. RECENTLY INCREASED RISPERDAL TO 2 MG BID. F/U WITH INMATE TODAY. REP
ORTED DOING WELL ON MEDICATION. MOOD MORE EVEN. NO MAJOR COMPLAINTS. NO
SI/HI, NO A/VH, COGNITION INTACT. NO SIDE EFFECTS REPORTED.
A. SCHIZOAFFECTIVE DISORDER, STABLE.
P. CONTINUE RISPERDAL 2MG BID AND VISTARIL 25MG BID. MEDS EXPIRE 9/28
F/U 3-4 WEEKS.
TGCOBBMD
STGNED OFF ON 08/30/05 @ 11:09 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 110 DOCTOR'S CLINIC 08/16/05 11:01 LIEBER COMP
INCREASE MEDICATION
P> RISPERDAL 2MG
P> STG:TAKE ONE TABLET BY MOUTH TWICE A DAY
P> SIG:
P> START DATE: 08/16/05 TOTAL DAYS: 60
P> MD:COBB,THOMAS -
STGNED OFF ON 08/16/05 @ 11:03 BY THOMAS COBB, PHYSICIAN II
PHARMACY NOTIFIED OF ABOVE ORDER.
STGNED OFF ON 08/16/05 @ 13:11 BY SANDI ZURLO, LICENSED PRACTICAL NURSE

** ENCOUNTER: 109 MENTAL HEALTH CLINIC 08/16/05 10:57 LIEBER COMP
37 YEAR OLD INMATE F/U FROM LAST WEEK. SCIZOAFFECTIVE D/O VS PSYCHOSIS NOS.
DISCUSSED INCREASING MEDS LAST WEEK. ON RISPERDAL 1MG BID. C/O "DELUSIONS
OF GRANDEUR" LAST WEEK. AWOKEN FROM BED TODAY WITHOUT MAJOR COMPLAINTS. L
ABILE AFFECT. NO SI/HI. AGREED TO INCREASE IN MEDICATION.
A. SCHIZOAFFECTIVE D/O VS PSYCHOSIS NOS
P. INCREASE RISPEERDAL TO 3MG BID AND F/U IN 2 WEEKS.
TGCOBBMD
STGNED OFF ON 08/16/05 @ 10:59 BY THOMAS COBB, PHYSICIAN II
PHARMACY NOTIFIED OF ABOVE ORDER.
STGNED OFF ON 08/16/05 @ 15:42 BY SANDI ZURLO, LICENSED PRACTICAL NURSE

** ENCOUNTER: 108 MENTAL HEALTH CLINIC 08/09/05 14:31 LIEBER COMP
37 YEAR OLD WHITE MALE WITH A HISTORY OF PSYCHOSIS NOS VS BPAD. LAST SEEN ON CRISIS WATCH DUE TO APPEAL DENTAL. STATED OTHERS THINK HE HAS "DELUSION S AND THAT HE SEES AND HEARS THINGS. HE REPORTED BEING GRANDIOSE AND HAD S ILLY AFFECT. REPORTED MOOD AS O.K. NO SI/HI. THOUGHTS LINEAR CURRENTLY O N RISPERDAL 1MG BID AND VISTARIL
A. PSYCHOSIS NOS VS SCHIZOAFFECTIVE D/O
P. WILL DISCUSS INCRESING MEDICATION WITH INMATE AS STILL HAVING SYMPTOMS. F/U IN 1-2 WEEKS.
TGCOBB MD
SIGNED OFF ON 08/09/05 @ 14:33 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 107 DOCTOR'S CLINIC 08/09/05 14:30 LIEBER COMP
RENEW RISPERDAL
P> RISPERDAL 1MG
P> SIG:TAKE ONE TABLET BY MOUTH TWICE A DAY
P> SIG:
P> START DATE: 08/09/05 TOTAL DAYS: 60
P> MD:COBB,THOMAS -
SIGNED OFF ON 08/09/05 @ 14:30 BY THOMAS COBB, PHYSICIAN II
NOTED IN MAR
SIGNED OFF ON 08/09/05 @ 14:34 BY SUSAN E HADLEY, LICENSED PRACTICAL NURSE

** ENCOUNTER: 106 DOCTOR'S CLINIC 06/30/05 10:24 LIEBER COMP
P> HYDROXYZINE PAMOATE 25MG
P> SIG:1TAB PO BID X30DAYS; 2REFILLS. (ANXIETY)
P> SIG:
P> START DATE: 06/30/05 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
J.R. CUSACK, D.O.
SIGNED OFF ON 06/30/05 @ 10:25 BY JOHN CUSACK, PHYSICIAN I
SIGNED OFF ON 06/30/05 @ 10:43 BY SANDI ZURLO, LICENSED PRACTICAL NURSE

** ENCOUNTER: 105 DOCTOR'S CLINIC 05/18/05 13:04 LIEBER COMP
P> RISPERDAL 1MG
P> SIG:1TAB PO BID X30DAYS; 2REFILLS.
P> SIG:
P> START DATE: 05/18/05 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
J.R. CUSACK, D.O.
SIGNED OFF ON 05/18/05 @ 13:04 BY JOHN CUSACK, PHYSICIAN I
SIGNED OFF ON 05/18/05 @ 14:23 BY CHRISTINE MCFADDEN, LICENSED PRACTICAL NU

** ENCOUNTER: 104 DOCTOR'S CLINIC 04/14/05 13:49 LIEBER COMP
P> HYDROXYZINE PAMOATE 25MG
P> SIG:1TAB PO BID X30DAYS; 2REFILLS. (ANXIETY)
P> SIG:
P> START DATE: 04/14/05 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
J.R. CUSACK, D.O.

SIGNED OFF ON 04/14/05 @ 12:50 BY JOHN CUSACK, PHYSICIAN I
MEDIATION NOTED.
UTLL START WHEN MEDS ARRIVE IN PHARMACY.
SIGNED OFF ON 04/14/05 @ 15:32 BY LOIS K GRAHAM, LICENSED PRACTICAL NURSE

** ENCOUNTER: 103 SICK CALL 04/13/05 14:51 LIEBER COMP
S> I HAVE A RASH ON THE SIDE OF MY FACE THAT ITCHES A LOT.
O> TEMP=098.2 PULSE= 82 RESP=18 BP=136/ 78 WEIGHT=171 PPD= 0
O> I/M PRESENTS HIMSELF TO MEDICAL FOR SICK CALL. UPON ASSESSMENT FOUND WHAT A
O> PPEARS TO BE RINGWORM TO THE LOWER ASPECT OF I/M R JAW. SITE POSS. FOR ERYT
O> HEMATOUS, SCALY PATCH ROUND IN SHAPE.LESION IS RAISED.
A> RINGWORM (TINEA CORPORIS)
P> 1. SEE S.O. #18
P> 2. WASH LESIONS WITH SOAP AND WATER, DRY VERY THOROUGHLY AND SPARINGLY
P> APPLY LOTRIMIN CREAM BID X 4 WEEKS.
1 TUBE OF LOTRIMIN CREAM GIVEN. ADVISED I/M ON ABOVE. I/M UNDERSTANDS ABOVE
SIGNED OFF ON 04/13/05 @ 14:56 BY ASTERIO BASOBAS, LICENSED PRACTICAL NURSE
SIGNED OFF ON 04/20/05 @ 2:03 BY TEGAN EGGER, REGISTERED NURSE I

** ENCOUNTER: 102 DOCTOR'S CLINIC 03/10/05 12:51 LIEBER COMP
P> RISPERDAL 1MG
P> STG:1TAB PO BID X30DAYS; 2REFILLS.
P> SIG:
P> START DATE: 03/10/05 TOTAL DAYS: 90
P> MD:CUSAK,JOHN --
J.R. CUSACK, D.O.
SIGNED OFF ON 03/10/05 @ 12:51 BY JOHN CUSACK, PHYSICIAN I
NOTED.
SIGNED OFF ON 03/10/05 @ 16:37 BY LOIS K GRAHAM, LICENSED PRACTICAL NURSE

** ENCOUNTER: 101 INSIDE APPOINTMENT 02/25/05 18:28 LIEBER COMP
RX EXP 03
/03/24/05
0 REFILLS
RISPERDAL
SIGNED OFF ON 02/25/05 @ 18:38 BY SUSAN PALMER HATLEY, LICENSED PRACTICAL NUR
COMPLETED. J.R. CUSACK, D.O.
SIGNED OFF ON 03/15/05 @ 13:44 BY JOHN CUSACK, PHYSICIAN I

** ENCOUNTER: 100 DOCTOR'S CLINIC 02/24/05 12:45 LIEBER COMP
RENEW MED
P> HYDROXYZINE PAMOATE 25MG
P> STG:TAKE ONE TABLET BY MOUTH TWICE A DAY.
P> SIG:
P> START DATE: 03/24/05 TOTAL DAYS: 60
P> MD:COBB,THOMAS -
SIGNED OFF ON 02/24/05 @ 12:46 BY THOMAS COBB, PHYSICIAN II
NOTED.
SIGNED OFF ON 02/24/05 @ 13:17 BY LOIS K GRAHAM, LICENSED PRACTICAL NURSE

** ENCOUNTER: 99 MENTAL HEALTH CLINIC 02/16/05 14:45 LIEBER COMP
D-INMATE SEEN ON DEATH ROW ON 2-8-05, SAID HE WAS RECEIVING MEDICATION AND WAS DOING WELL.
A-BIPOLAR DISORDER VS. PSYCHOSIS,NOS. INMATE REPORTS COMPLIANCE AND GOOD SYMPTOM MANAGEMENT.
P-SEE AGAIN MARCH.
STEVE COMPTON,CCC
SIGNED OFF ON 02/16/05 @ 14:48 BY STEPHEN F COMPTON, HUMAN SERVICES COORD I

** ENCOUNTER: 98 NARRATIVE 02/15/05 5:53 LIEBER COMP
VISTARIL 25 MGS. TWICE DAILY HAS EXPIRED.
SIGNED OFF ON 02/15/05 @ 5:53 BY BRENDA K KEAY, LICENSED PRACTICAL NURSE
RENEWED
SIGNED OFF ON 02/24/05 @ 12:47 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 97 MENTAL HEALTH CLINIC 02/09/05 14:45 LIEBER COMP
TREATMENT TEAM: REVIEWED AND CONTINUED CARE PLAN, RECEIVES RISPERDAL AND VISTARIL. PRESENT FOR REVIEW WERE COUNSELORS SHEALY AND COMPTON. NEXT REVIEW 5/05.
STEVE COMPTON,CCC
SIGNED OFF ON 02/09/05 @ 16:49 BY STEPHEN F COMPTON, HUMAN SERVICES COORD I

** ENCOUNTER: 96 MENTAL HEALTH CLINIC 01/24/05 14:54 LIEBER COMP
37 YEAR OLD WHITE MALE ON DEATH ROW. HE IS ON SUICIDE WATCH AFTER HAVING FIRST APPEAL DENIED. REPORTED NO SUICIDAL IDEATION, NO THOUGHTS OF WANTING TO HARM OTHERS. LOOKING FORWARD TO HIS PCR HEARING. MOOD OK, NO A/VH, AFFECT NORMAL. THOUGHTS LINEAR AND LOGICAL.
A: HISTORY OF MOOD D/O NOS ON SUICIDE PRECAUTION PER PROCEDURE
P. PATIENT NOT IN NEED OF SUICIDE PRECAUTIONS. CONTINUE CURRENT REGIMEN, F/U IN 1-2 MONTHS.
TGCOBB MD
SIGNED OFF ON 01/24/05 @ 14:57 BY THOMAS COBB, PHYSICIAN II
SIGNED OFF ON 01/26/05 @ 9:19 BY THOMAS COBB, PHYSICIAN II

** ENCOUNTER: 95 NARRATIVE 12/25/04 3:49 LIEBER COMP
P) RISPERDAL 1MG
P) SIG:TAKE ONE TAB BY MOUTH TWICE EVERY DAY X 30 DAYS, 2
P) SIG: REFILLS
P) START DATE: 12/25/04 TOTAL DAYS: 90
P) MD:CUSAK,JOHN -
RENEW RISPERDAL PER V/O J. CUSAK, MD/J. SOVACOOL, RN.
SIGNED OFF ON 12/25/04 @ 3:50 BY JILL P. SOVACOOL, UNCLASSIFIED
J.P. CUSACK, D.O.
SIGNED OFF ON 12/28/04 @ 12:05 BY JOHN CUSACK, PHYSICIAN I
SIGNED OFF ON 12/28/04 @ 23:04 BY BRENDA K KEAY, LICENSED PRACTICAL NURSE

** ENCOUNTER: 94 MENTAL HEALTH CLINIC 12/06/04 14:04 LIEBER COMP
D. THIS IS A 37 YEAR OLD, SINGLE, WHITE MALE. HE IS A DEATH ROW INMATE. HE HAD NO PHYSICAL OR PSYCHOLOGICAL COMPLAINTS.

MENTAL STATUS EVALUATION REVEALED A SLEEPY APPEARING WHITE MALE STANDING INSIDE HIS CELL DOOR. NO S/H. NO DEMONSTRATIVE NEUROVEGATTIVE SIGNS OF DEPRESSION. NO OVERT PSYCHOTIC DISTORTIONS OF LANGUAGE OR BEHAVIOR. HE IS COMPETENT.
A. AS PREVIOUSLY LISTED.
P. SUGGESTED RECHECK IN 3-4MONTHS.
J.R. CUSACK, D.O.
SIGNED OFF ON 12/06/04 @ 14:06 BY JOHN CUSACK, PHYSICIAN I

** ENCOUNTER: 93 NARRATIVE 11/20/04 21:27 LIEBER COMP
P> RISPERDAL 1MG
P> SIG:*TAKE ONE TABLET TWICE A DAY.
P> STG:
P> START DATE: 11/20/04 TOTAL DAYS: 60
P> MD:CUSAK,JOHN -
SIGNED OFF ON 11/20/04 @ 21:30 BY LOIS K GRAHAM, LICENSED PRACTICAL NURSE
REFILL
SCHEDULE TO F/U WITH DR CUSACK.
SIGNED OFF ON 11/28/04 @ 11:16 BY CHARLOTTE GRECCO, NURSE PRACTITIONER III
SIGNED OFF ON 11/29/04 @ 1:58 BY LOIS K GRAHAM, LICENSED PRACTICAL NURSE
J.R. CUSACK, D.O.
SIGNED OFF ON 11/29/04 @ 9:37 BY JOHN CUSACK, PHYSICIAN I
SIGNED OFF ON 11/30/04 @ 1:03 BY BRENDA K KEAY, LICENSED PRACTICAL NURSE

** ENCOUNTER: 93 FOLLOW-UP SICK CALL 11/15/04 23:48 LIEBER COMP
O> TEMP=000.0 PULSE= 0 RESP= 0 BP= 0/ 0 WEIGHT= 0
P> HYDROXYZINE PAMOATE 25MG
P> SIG:TAKE ONE CAPSULE TWICE DAILY FOR ANXIETY AND EPS
P> STG:
P> START DATE: 11/15/04 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
SIGNED OFF ON 11/15/04 @ 23:50 BY BRENDA K KEAY, LICENSED PRACTICAL NURSE
J.R. CUSACK, D.O.
SIGNED OFF ON 11/16/04 @ 11:20 BY JOHN CUSACK, PHYSICIAN I
SIGNED OFF ON 11/17/04 @ : 5 BY BRENDA K KEAY, LICENSED PRACTICAL NURSE

** ENCOUNTER: 91 PPD 09/24/04 14:47 LIEBER COMP
PPD PLACED IN LEFT ARM.
SIGNED OFF ON 09/24/04 @ 14:47 BY LORRAINE C JOHNSON, REGISTERED NURSE I

** ENCOUNTER: 90 MENTAL HEALTH CLINIC 08/11/04 11:57 LIEBER COMP
D. THIS IS A 37 YEAR OLD, SINGLE, WHITE MALE. HE IS A DEATH ROW INMATE. HE COMPLAINS, "I HEAR AND SEE SOME THINGS THAT AREN'T HERE."
MENTAL STATUS EVALUATION REVEALED A LEAN, UNKEMPT, WHITE MALE WHO WAS INTERVIEWED AT HIS CELL DOOR IN DEATH ROW. THE CELL SMELLED OF TOBACCO. THE CELL WAS DARKENED AND UNTIDY. HE APPEARED DISSHELVED AND QUIETLY BEWILDERED. HE WAS TALL AND SOMEWHAT FRIGHTENED IN AFFECT. HIS HAIR WAS SHORT. SPEECH WAS TERSE AND UNELABORATIVE. NO S/H. HE ENDORSED HALLUCINATIONS.
A. POLYSUBSTANCE DEPENDENCE (CANNABIS, COCAINE, HALLUCINOGENS)

STATUS-POST GUNSHOT WOUND TO FACE
BIPOLAR DISORDER VS. PSYCHOSIS NOS
P. SUGGESTED RECHECK IN 1MONTH.
J.R. CUSACK, D.O.
SIGNED OFF ON 08/11/04 @ 12:02 BY JOHN CUSACK, PHYSICIAN I

** ENCOUNTER: 89 DOCTOR'S CLINIC 08/11/04 11:54 LTEBER COMP
P> RISPERDAL 1MG
P> STG:1TAB PO BID X30DAYS; 3REFILLS.
P> STG:
P> START DATE: 08/11/04 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
P> HYDROXYZINE PAMOATE 25MG
P> STG:1TAB PO BID X30DAYS; 3REFILLS. (EPS, ANXIETY)
P> STG:
P> START DATE: 08/11/04 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
J.R. CUSACK, D.O.
SIGNED OFF ON 08/11/04 @ 11:56 BY JOHN CUSACK, PHYSICIAN I
NOTED IN MAR.
SIGNED OFF ON 08/12/04 @ 13:38 BY SUSAN C ROSARIO, REGISTERED NURSE I

** ENCOUNTER: 88 MENTAL HEALTH CLINIC 08/04/04 15:30 LTEBER COMP
D-INMATE SEEN TODAY AT CELL DOOR ON DEATH ROW, HE SAID HE NEEDS HIS DEPAKOT
E AND RISPERDAL RESTORED, THAT HE IS EXPERIENCING ELAVATED ENERGY SPELLS,
THAT HE IS BEGINNING TO EXPERIENCE "DELUSIONS". HE SAID HE DID NOT KNOW WHY
HIS DEPAKOTE WAS D/C, THAT HE REFUSED HIS RISPERDAL "BECAUSE THERE WAS NO
USE IN TAKING IT WITHOUT THE DEPAKOTE". HE WAS PLOTTE, SMILING, PACED
ABOUT IN THE CELL AND WAS IN CONSTANT MOTION DURING THE BRIEF INTERVIEW,
SPEECH WAS SOMEWHAT PRESSURED.
A-R/O BIPOLAR DISORDER, R/O MOOD DOSRDER,NOS.
P-DISCUSS WITH TREATMENT TEAM, LIKELY WILL NEED ASSESSMENT FROM DR. CUSACK.
STEVE COMPTON,CCC
SIGNED OFF ON 08/04/04 @ 15:24 BY STEPHEN F COMPTON, HUMAN SERVICES COORD I
REVIEWED. J.R. CUSACK, D.O.
SIGNED OFF ON 08/05/04 @ 10:31 BY JOHN CUSACK, PHYSICIAN I

** ENCOUNTER: 87 LAB CLINIC 07/21/04 4:40 LTEBER COMP
REFUSED TO HAVE LABS DRAWN FOR CHOLESTEROLAND TG, REFUSAL SIGNED , AND IN C
HART.
SIGNED OFF ON 07/21/04 @ 4:41 BY BRENDA K KEAY, LICENSED PRACTICAL NURSE

** ENCOUNTER: 86 DOCTOR'S CLINIC 01/06/04 9:15 LTEBER COMP
SEEN AT CELL WINDOW FOR SECURITY REASONS.TG ELEVATED. HAS AGREED TO TYPE 4
DIET FOR 4 MONTHS AND PLEASE REDRAW CHOL AND TG AT THAT TIME.
DISCUSSED ROLE OF DIET THX IN REDUCING SERUM TG.
SIGNED OFF ON 01/06/04 @ 9:17 BY EILEEN B PALMER, NURSE PRACTITIONER III
LAB. REQ. FILLED OUT AND PLACE IN LAB DOOR. E. GADSON CNA.
SIGNED OFF ON 01/06/04 @ 10:35 BY EVELYN GADSON, MEDICAL ASSISTANT TECH I
DIET CARD FILLED OUT, COPIED, AND SENT TO KITCHEN WITH CRT MESSAGE.....

.....T DEWEESE, RN
SIGNED OFF ON 01/06/04 @ 10:47 BY TIFFANI L. DEWEESE, UNCLASSIFIED

** ENCOUNTER: 85 NARRATIVE 12/26/03 20:34 LIEBER COMP
THIS I/M HAS NOT TAKEN HIS MED IN 45 DAYS. MAY WE D/C.
SIGNED OFF ON 12/26/03 @ 20:35 BY BRENDA K KEAY, LICENSED PRACTICAL NURSE
J.R. CUSACK, D.O.
SIGNED OFF ON 12/30/03 @ 14:00 BY JOHN CUSACK, PHYSICIAN I
NOTED T.J JOHNSON RN
SIGNED OFF ON 12/30/03 @ 14:59 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 84 MENTAL HEALTH CLINIC 12/15/03 8:13 LIEBER COMP
D:I FEEL THE MEDICINES AREN'T WORKING FOR ME ANYHOW. MY PROBLEM IS MY
DIGESTIVE TRACT. THE MEDICINE WAS MAKING ME SICK TO MY STOMACK. ORIENTED.
A:DEPRESSION-- NO SUICIDAL OR HOMICIDAL THOUGHTS. HYGIENE WAS UP TO PAR.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 1/04.
SIGNED OFF ON 12/15/03 @ 8:16 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 83 LAB CLINIC 12/04/03 5:33 LIEBER COMP
REPEAT FASTING LIPIDS DRAWN W/OUT DIFFICULTY.
SIGNED OFF ON 12/04/03 @ 5:34 BY TEGAN EGGER, REGISTERED NURSE I

** ENCOUNTER: 82 MENTAL HEALTH CLINIC 12/01/03 14:46 LIEBER COMP
SEE ENC 81...REFUSING RISPERDAL AND VISTARIL....CONTINUE OR DC..?
TJ JOHNSON RN
SIGNED OFF ON 12/01/03 @ 14:47 BY THOMAS K JOHNSON, UNCLASSIFIED
LEAVE THE MEDICATION STANDING. TELL T.J. THAT I NEED TO SEE THIS
INDIVIDUAL. J.R. CUSACK, D.O.
SIGNED OFF ON 12/01/03 @ 15:41 BY JOHN CUSACK, PHYSICIAN I
NOTED T.J JOHNSON RN
SIGNED OFF ON 12/01/03 @ 16:06 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 81 FOLLOW-UP SICK CALL 11/30/03 22:47 LIEBER COMP
I/M IS REFUSING MEDICATION. STATES IT IS DOING HIM NO GOOD.
SIGNED OFF ON 11/30/03 @ 22:48 BY BRENDA K KEAY, LICENSED PRACTICAL NURSE
PLEASE REFER TO T.J AND DR. CUSACK
SIGNED OFF ON 12/01/03 @ 7:47 BY RYAN B HUTCHISON, PHYSICIAN II
REFERRED
SIGNED OFF ON 12/01/03 @ 11:09 BY MARTHA L GEIERT, NURSE ADMINISTRATOR/MGR II

** ENCOUNTER: 80 LAB CLINIC 11/24/03 22:49 LIEBER COMP
LIPID PROFILE DRAWN W/OUT DIFFICULTY
SIGNED OFF ON 11/24/03 @ 22:49 BY TEGAN EGGER, REGISTERED NURSE I

** ENCOUNTER: 79 MENTAL HEALTH CLINIC 11/21/03 10:30 LIEBER COMP
D:I'M NOT TAKING ANY DEPAKOTE RIGHT NOW AND I'M DOING FINE. I HAVE NO
PROBLEMS ON THE FLOOR AND MY FAMILY MATTERS ARE GETTING BETTER. ORIENTED.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. HYGIENE HAS IMPROVED.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 12/03.
SIGNED OFF ON 11/21/03 @ 10:33 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 78 MENTAL HEALTH CLINIC 11/06/03 11:37 LTEBER COMP
DISCUSSED VPA WITH DR CUSACK...WILL CONTINUE TO LEAVE OFF THIS MED FOR NOW.
..APPEARS TO BE DOING WELL.....TJ JOHNSON RN
SIGNED OFF ON 11/06/03 @ 11:38 BY MARTHA L GEBERT, NURSE ADMINISTRATOR/MGR II
J.R. CUSACK, D.O.
SIGNED OFF ON 11/06/03 @ 14:38 BY JOHN CUSACK, PHYSICIAN I

** ENCOUNTER: 77 DOCTOR'S CLINIC 10/29/03 7:55 LTEBER COMP
PT SEEN 10/24, CONCERNED ABOUT "BLOOD WORK" AND STARTING VPA AGAIN. IN REV
IEW OF CHART, AST WAS ELEVATED IN AUG; IN SEPT, IT WAS WNL. PLEASE REFER
THIS ISSUE TO DR. CUSACK
SIGNED OFF ON 10/29/03 @ 7:56 BY RYAN B HUTCHISON, PHYSICIAN IT
WILL SEND TO DR. CUSACK.....T DEWEESE, RN
SIGNED OFF ON 10/29/03 @ 9:34 BY TIFFANY L DEWEESE, UNCLASSIFIED
WILL REVIEW. THANK YOU: J.R. CUSACK, D.O.
SIGNED OFF ON 10/29/03 @ 15:06 BY JOHN CUSACK, PHYSICIAN I

** ENCOUNTER: 76 FOLLOW-UP SICK CALL 10/14/03 14:36 LTEBER COMP
P> HYDROXYZINE PAMOATE 50MG
P> STG:TAKE 1 CAP P.O. BID X 30 DAYS,RF X 2 ANXIETY
P> STG:
P> START DATE: 10/14/03 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
SIGNED OFF ON 10/14/03 @ 14:37 BY THOMAS K JOHNSON, UNCLASSIFIED
J.R. CUSACK, D.O.
SIGNED OFF ON 10/14/03 @ 14:45 BY JOHN CUSACK, PHYSICIAN I
NOTED TRANSCRIBED TO MAR TJ JOHNSON RN
SIGNED OFF ON 10/14/03 @ 14:48 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 75 MENTAL HEALTH CLINIC 10/14/03 13:54 LTEBER COMP
D:I WAS ON DEPAKOTE FOR A LONG TIME AND I HAVE PROBLEMS WITH MY INTESTINES.
I WILL TRY SOME VISTARIL WITH THE RESPIRDAL. I HAVEN'T SLEPT WELL EITHER.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. INMATE WAS ALERT-ORIENTED.
P:SPOKE WITH DOCTOR CUSACK FOR PRESCRIPTION FOR VISTARIL. REVIEW MONTHLY.
SIGNED OFF ON 10/14/03 @ 14:00 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 74 FOLLOW-UP SICK CALL 10/08/03 13:48 LTEBER COMP
P> RISPERDAL 1MG
P> STG:TAKE 1 TAB P.O. BID X 30 DAYS,RF X 3
P> STG:
P> START DATE: 10/08/03 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
MAR SHOWS 100% COMPLIANCE TJ JOHNSON RN
SIGNED OFF ON 10/08/03 @ 13:49 BY THOMAS K JOHNSON, UNCLASSIFIED
J.R. CUSACK, D.O.
SIGNED OFF ON 10/09/03 @ 13:07 BY JOHN CUSACK, PHYSICIAN I
NOTED TRANSCRIBED TO MAR TJ JOHNSON RN
SIGNED OFF ON 10/09/03 @ 13:31 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 73 FOLLOW-UP SICK CALL 10/07/03 1:54 LIEBER COMP
S) I/M WOULD LIKE TO RESTART DEPAKOTE..WOULD YOU LIKE TO RX?
O) TEMP=000.0 PULSE= 0 RESP= 0 BP= 0/ 0 WEIGHT= 0
SIGNED OFF ON 10/07/03 @ 1:55 BY TEGAN EGGER, REGISTERED NURSE I
REFER TO T.J. J.R. CUSACK, D.O.
SIGNED OFF ON 10/07/03 @ 10:30 BY JOHN CUSACK, PHYSICIAN I
NOTED ...WILL DISCUSS WITH DR CUSACK.....TJ JOHNSON RN
SIGNED OFF ON 10/07/03 @ 12:47 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 72 LAB CLINIC 09/24/03 33:20 LIEBER COMP
AST DRAWN W/OUT DIFFICULTY.PER PSYCH CLINIC PROTOCOL.
SIGNED OFF ON 09/24/03 @ 33:31 BY SARAH F CHISOLM, MEDICAL ASSISTANT TECH I

** ENCOUNTER: 71 MENTAL HEALTH CLINIC 09/17/03 8:19 LIEBER COMP
D:I WOULD LIKE TO GET MY DEPAKOTE BACK IT REAL HELPED ME WITH DEPRESSION.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. ORIENTED AND ALERT.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 10/03.
SIGNED OFF ON 09/17/03 @ 8:22 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 70 MENTAL HEALTH CLINIC 08/20/03 10:22 LIEBER COMP
D:MR. WHITTAKER MY MEDS WERE DISCONTINUED FOR SOME REASON. I'M DOING GOOD.
I NEED MY MEDS THEY HAVE BEEN HELPING. RESPONSIVE WITH APPROPRIATE AFFECT.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. INMATE UNDERSTANDS THAT
BLOOD LEVEL WAS HIGH WITH MEDICATIONS AND THE MEDS WERE DISCONTINUED FOR
APPROXIMATLY ONE MONTH; INMATE HAD NO MAJOR COMPLAINTS.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 9/03.
SIGNED OFF ON 08/20/03 @ 10:30 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 69 MENTAL HEALTH CLINIC 08/19/03 15:09 LIEBER COMP
DC VPA AND REPEAT AST IN ONE MONTH...ADVISE WHITTAKER CCC
V/O DR CUSACK TJ JOHNSON RN
SIGNED OFF ON 08/19/03 @ 15:11 BY THOMAS K JOHNSON, UNCLASSIFIED
DISCUSSED MED DC WITH MR WHITTAKER THIS AM..WILL LET I/M KNOW OF SITUATION
TJ JOHNSON RN
SIGNED OFF ON 08/20/03 @ 8:35 BY THOMAS K JOHNSON, UNCLASSIFIED
REVIEWED. J.R. CUSACK, D.O.
SIGNED OFF ON 08/20/03 @ 9:52 BY JOHN CUSACK, PHYSICIAN I

** ENCOUNTER: 68 LAB CLINIC 08/11/03 14:56 LIEBER COMP
VAL.PROIC ACID AND AST DRAWN W/OUT DIFFICULTY.
SIGNED OFF ON 08/11/03 @ 14:57 BY SARAH F CHISOLM, MEDICAL ASSISTANT TECH I

** ENCOUNTER: 67 MENTAL HEALTH CLINIC 08/01/03 10:09 LIEBER COMP
VPA AST PER PROTOCOL.....REQUEST SENT TO LAB TJ JOHNSON RN
SIGNED OFF ON 08/01/03 @ 10:10 BY THOMAS K JOHNSON, UNCLASSIFIED
REVIEWED. J.R. CUSACK, D.O.
SIGNED OFF ON 08/05/03 @ 10:51 BY JOHN CUSACK, PHYSICIAN I

** ENCOUNTER: 66 FOLLOW-UP SICK CALL 07/18/03 11:34 LIEBER COMP
P) RISPERDAL 1MG

P> STG:TAKE 1 TAB P.O. BID X 30 DAYS,RF X 3
P> STG:
P> START DATE: 07/18/03 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
P> VALPROIC ACID 250MG
P> SIG:TAKE 1 CAP P.O.BID X 30 DAYS,RF X 3
P> STG:
P> START DATE: 07/18/03 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
MAR SHOWS 100% COMPLIANCE LAST VPA LEVEL I. DUE 815 TJ JOHNSON RN
SIGNED OFF ON 07/18/03 @ 11:36 BY THOMAS K JOHNSON, UNCLASSIFIED
J.R. CUSACK, D.O.
SIGNED OFF ON 07/18/03 @ 13:50 BY JOHN R CUSACK, UNCLASSIFIED
NOTED TRANSCRIBED TO MAR TJ JOHNSON RN
SIGNED OFF ON 07/18/03 @ 13:00 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 65 MENTAL HEALTH CLINIC 07/18/03 8:59 LIEBER COMP
D:I HAVE BEEN FEELING MUCH BETTER WITH ALL MY SURROUNDINGS AND MY FAMILY.
I REALLY HAVE NO MAJOR COMPLAINTS AND THE MEDICINES ARE WORKING. I FEEL
A LITTLE BETTER ABOUT MY CIRCUMSTANCES. HYGIENE NOTED IMPROVEMENT, ALERT,
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS- INMATES CONCENTRATION GOOD
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 8/03.
SIGNED OFF ON 07/18/03 @ 9:03 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 64 MENTAL HEALTH CLINIC 06/11/03 11:49 LIEBER COMP
D:I HAVE NO COMPLAINTS. I HAVE BEEN GETTING OUT FOR RECREATION. ORIENTED.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. SHOWS MED COMPLIANCE.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 7/03.
SIGNED OFF ON 06/11/03 @ 11:52 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 63 MENTAL HEALTH CLINIC 05/14/03 8:21 LIEBER COMP
D:I FINALLY HEARD FROM MY WIFE AND SHE IS DOING OK. THAT WAS CAUSING ALOT
OF THE STRESS I WAS HAVING. I DIDN'T WANT HER TO BE INCARCERATED.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. NO MAJOR COMPLAINTS.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 6/03.
SIGNED OFF ON 05/14/03 @ 8:24 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 62 LAB CLINIC 05/13/03 17:40 LIEBER COMP
AST,ALT AND DEPAKOTE DRAWN W/OUT DIFFICULTY.
SIGNED OFF ON 05/13/03 @ 17:46 BY SARAH F CHISOLM, MEDICAL ASSISTANT TECH I

** ENCOUNTER: 61 DOCTOR'S CLINIC 04/29/03 13:28 LIEBER COMP
P> VALPROIC ACID 250MG
P> STG:1TAB PO BID X30DAYS; 3REFILLS.
P> SIG:
P> START DATE: 04/29/03 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
LABS: AST, ALT AND DEPAKOTE LEVEL IN 3-3WEEKS.
J.R. CUSACK, D.O.
SIGNED OFF ON 04/29/03 @ 13:30 BY JOHN R CUSACK, UNCLASSIFIED

NOTED TRANSCRIBED TO MAR REQUEST SENT TO LAB....TJ JOHNSON RN
SIGNED OFF ON 04/29/03 @ 13:40 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 60 MENTAL HEALTH CLINIC 04/29/03 13:25 LTEBER COMP
D. THIS IS A 35 YEAR OLD, MARRIED, WHITE MALE. HE IS A DEATH ROW INMATE. HE REQUESTS DEPAKOTE.
MENTAL STATUS EVALUATION REVEALS A UNSHAVEN APPEARING WHITE MALE. HE WAS STANDING BY HIS CELL DOOR. THE CELL WAS DARKENED. NO S/H. NO PSYCHOTMOTOR AGITATION. HE APPEARED SLEEPY. NO DELUSIONS, CLINICAL PARANOIA OR HALLUCINATIONS. AFFECT WAS SUBDUED.
A. AS PREVIOUSLY LISTED.
P. SUGGESTED RECHECK IN 2-3MONTHS.
J.R. CUSACK, D.O.
SIGNED OFF ON 04/29/03 @ 13:28 BY JOHN R CUSACK, UNCLASSIFIED

** ENCOUNTER: 59 MENTAL HEALTH CLINIC 04/28/03 9:08 LTEBER COMP
D:I GET MY RESPIRDAL IN THE MORNING I WOULD ALSO LIKE IT IN THE EVENING. I WANTED TO BE PUT BACK ON MY DEPAKOTE ALSO. THESE MEDICINES HELP ME.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. WELL ORIENTED TO PLACE.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 5/03.
SIGNED OFF ON 04/28/03 @ 9:12 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 58 FOLLOW-UP SICK CALL 04/24/03 9:42 LTEBER COMP
P> RISPERDAL 1MG
P> STG:TAKE 1 TAB P.O. IN AM AND 1 TAB P.O. HS X 30 DAYS,
P> STG:RF X 3
P> START DATE: 04/24/03 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
DISCUSSED IN TRTMT TEAM
PER T/M REQUEST
DC PREVIOUS RISPERDAL ORDER DONE V/O DR CUSACK TJ JOHNSON RN
SIGNED OFF ON 04/24/03 @ 9:44 BY THOMAS K JOHNSON, UNCLASSIFIED
J.R. CUSACK, D.O.
SIGNED OFF ON 04/24/03 @ 12:37 BY JOHN R CUSACK, UNCLASSIFIED
NOTED TJ JOHNSON RN
SIGNED OFF ON 04/24/03 @ 14:02 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 57 NARRATIVE 03/25/03 18:28 LTEBER COMP
THIS T/M WAS CALLED TO HTN CLINIC TO BE SEEN, BUT HE STATES HE IS NOT ON ANY ANTI HTN MEDS AT THIS TIME, AND HAS'NT BEEN FOR A WHILE. VS' WNL. TO BE TAKEN OFF OF HTN CLINICS.
SIGNED OFF ON 03/25/03 @ 18:30 BY SUSAN M CHEN, REGISTERED NURSE I

** ENCOUNTER: 5A MENTAL HEALTH CLINIC 03/20/03 8:23 LTEBER COMP
D:I WOULD LIKE TO KNOW IF I CAN WRITE OR TALK TO MY WIFE. SHE ALSO IS INCARCERATED AT GRAHM INSTITUTION. I WROTE THE WARDEN ACOUPLE OF REQUEST AND HAVEN'T HEARD ANYTHING YET. RESPONSIVE WITH APPROPRIATE AFFECT.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. THE CHAPLAIN IS TRYING TO WORK OUT AN ARRANGEMENT WITH THE WARDENS OFFICE SO INMATE CAN CONTACT WIFE. INMATE WAS OBSERVED PLAYING BASKETBALL WITH A GROUP OF COMPANIONS.REC YARD.

P:WILL FOLLOW UP WITH PASTOR AND REVIEW MONTHLY- NEXT REVIEW IS 4/03.
SIGNED OFF ON 03/30/03 @ 8:29 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 55 NARRATIVE 03/08/03 22:58 LIEBER COMP
INMATE STATES THAT HE HAS BEEN GETTING RISPERDAL 2MG BID.
COULD THIS BE A MISTAKE? THANKS GRAHAM
SIGNED OFF ON 03/08/03 @ 33:00 BY LOIS K GRAHAM, LICENSED PRACTICAL NURSE
NO, READ THE PSYCH NOTE.
SIGNED OFF ON 03/11/03 @ 13:55 BY EILEEN B PALMER, NURSE PRACTITIONER III
SIGNED OFF ON 03/11/03 @ 15:45 BY MARTHA L GEDERT, NURSE ADMINISTRATOR/MGR II

** ENCOUNTER: 54 DOCTOR'S CLINIC 03/04/03 11:21 LIEBER COMP
P> RISPERDAL 2MG
P> SIG:1TAB PO HS X30DAYS; 3REFILLS.
P> SIG:
P> START DATE: 03/04/03 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
J.R. CUSACK, M.D.
SIGNED OFF ON 03/04/03 @ 11:22 BY JOHN R CUSACK, UNCLASSIFIED

** ENCOUNTER: 53 MENTAL HEALTH CLINIC 03/04/03 11:07 LIEBER COMP
D. THIS IS A 35 YEAR OLD, MARRIED, WHITE MALE. HE IS A DEATH ROW INMATE.
HE REQUESTED TO BE PRESCRIBED RISPERDAL AND DEPAKOTE.
THIS IS A MIDDLE-AGED, WHITE MALE. HE WAS INTERVIEWED AT HIS CELL DOOR
HE HAD BEEN SLEEPING. THE CELL IS ORDERED AND TIDY. NO S/H. NO
DEMONSTRATIVE NEUROVEGATIVE SIGNS. HE INSISTED RISPERDAL IMPROVES HIS
THOUGHT PROCESSES. NO PSYCHOMOTOR AGITATION. NO OVERT PSYCHOSIS.
A. POLYSUBSTANCE DEPENDENCE (COCAINE, CANNIBIS, HALLUCINOGENS)
STATUS-POST GUNSHOT WOUND TO THE FACE
MAJOR DEPRESSIVE DISORDER WITH PSYCHOTIC FEATURES VS. BIPOLAR DISORDER,
DEPRESSED PHASE- IMPROVED
P. SUGGESTED RECHECK IN 3-3MONTHS.
PLAN: TRIAL DOSE OF RISPERDAL AT LOWER DOSAGE.
J.R. CUSACK, M.D.
SIGNED OFF ON 03/04/03 @ 11:21 BY JOHN R CUSACK, UNCLASSIFIED

** ENCOUNTER: 52 MENTAL HEALTH CLINIC 02/07/03 13:34 LIEBER COMP
D:I'M FRUSTRATED BECAUSE I CAN'T AND I'M UNABLE TO CONTACT MY WIFE. MY WIFE
IS AT THE WOMENS CENTER IN COLUMBIA. THE COURTS SET IT UP WERE WE CAN'T
COMMUNICATE WITH EACHOTHER. I HAVE WRITTEN THE WARDENS TO SEE IF I COULD AT
LEAST WRITE A LETTER. THIS IS WHY I'M ACTING OUT. NO RESPONSE FROM ANYBODY.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. INMATE WAS QUESTIONED ON H
HIS GROOMING APPEARENCE. INMATE IS WEARING A BEARD AND THE HAIR NEEDS CUT-
TING. INMATE WAS RESPONSIVE AND APPROPRIATE IN SPEECH.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 3/03.
SIGNED OFF ON 02/07/03 @ 13:40 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 51 MENTAL HEALTH CLINIC 01/14/03 13:15 LIEBER COMP
D:MR. WHITTAKER MY FLAP IS CLOSED BECAUSE I ASKED THE OFFICER TO PUT ME IN
THE SHOWER AND SHE WOULDN'T DO IT. I JUST WANTED IN THE SHOWER. MY FLAP HAS

BEEN LOCKED OVER A MONTH NOW. I DID GRABB THE OFFICERS SHIRT. I GOT UPSET.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. INMATES HYGIENE AND SLEEPI
NG HABITS NEED TO BE ADJUSTED FOR THE GOOD. POOR MED COMPLIANCE.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 2/03.
SIGNED OFF ON 01/14/03 @ 13:23 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 50 MENTAL HEALTH CLINIC 12/19/02 11:32 LIEBER COMP
D:I GOT SOME GOOD NEWS ABOUT MY FAMILY SO I'M DOING ALOT BETTER. RESPONSIVE.
A:DEPRESSION MILD- NO SUICIDAL IDEATIONS OR HOMICIDAL THOUGHTS. UPDATED
TREATMENT PLAN AND WILL WORK ON SOME FAMILY ISSUES. REFUSES MEDICATIONS.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 1/03.
SIGNED OFF ON 12/19/02 @ 11:34 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 49 MENTAL HEALTH CLINIC 11/15/02 11:31 LIEBER COMP
D:I HAVE BEEN OK. I HAVE KEPT MY STRONG EMOTIONS DOWN ALITTLE BIT BETTER.
A:DEPRESSION MILD- NO SUICIDAL OR HOMICIDAL THOUGHTS. MED COMPLIANT.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 12/02.
SIGNED OFF ON 11/15/02 @ 11:33 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 48 SECURITY INIT 11/12/02 20:38 LIEBER COMP
I/M SEEN AT REQUEST OF SECURITY AFTER I/M WAS PLACED IN RESTRAINT CHAIR -
PERIPHERAL EXTREMITIES W/OUT S/S OF CIRCULATORY COMPROMISE, NO S/S OF DIS-
STRESS, I/M VOICES NO COMPLAINTS OF DISCOMFORT.
SIGNED OFF ON 11/12/02 @ 20:40 BY TEGAN EGGER, REGISTERED NURSE I
LATE ENTRY: I/M SEEN FOLLOWING EXTRACTION FROM RESTRAINT CHAIR. + PERIPH-
ERAL PULSE SITES, SKIN INTACT AT WRISTS & ANKLES.
SIGNED OFF ON 11/13/02 @ 21:23 BY TEGAN EGGER, REGISTERED NURSE I

** ENCOUNTER: 47 MENTAL HEALTH CLINIC 10/16/02 8:31 LIEBER COMP
D:I HAVE BEEN DOING ALITTLE BETTER. I HAVE NO COMPLAINTS RIGHT NOW. TRYING
TO DO DAY TO DAY. RESPONSIVE WITH APPROPRIATE AFFECT. ORIENTED AND CALM.
A:DEPRESSION- NO SUICIDAL OR HOMICIDAL THOUGHTS. POSITIVE ADJUSTMENT.
P:WILL REVIEW MONTHLY- NEXT REVIEW IS 11/02.
SIGNED OFF ON 10/16/02 @ 8:24 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 46 MENTAL HEALTH CLINIC 09/27/02 11:26 LIEBER COMP
SEE ENC 044...MAR SHOWS COMPLETE NC WITH ALL MEDS...REFUSING
DC AT THIS TIME.....V/O DR CUSACK TJ JOHNSON RN
SIGNED OFF ON 09/27/02 @ 11:28 BY THOMAS K JOHNSON, UNCLASSIFIED
PLEASE, DISCONTINUE. J.R. CUSACK, D.O.
SIGNED OFF ON 10/01/02 @ 9:31 BY JOHN R CUSACK, UNCLASSIFIED
NOTED ON MAR
SIGNED OFF ON 10/01/02 @ 10:00 BY MARTHA L GEDERT, NURSE ADMINISTRATOR/MGR TI

** ENCOUNTER: 45 MENTAL HEALTH CLINIC 09/13/02 10:01 LIEBER COMP
D:I HAVEN'T TAKEN MEDICINE BECAUSE I FEEL I CAN HANDLE THE STRESS ON MY OWN
I HAD SOME ISSUES GOING ON WITH MY WIFE THAT ARE GETTING ALITTLE BETTER NOW
I JUST DON'T WANT THE MEDICINE. INMATES HYGIENE HAS IMPROVED ALONG WITH HIS
DEPRESSION. INMATE WAS INSTRUCTED AND ENCOURAGED TO TAKE HIS MEDS SO HE WOU
LD FEEL BETTER AND BE ABLE TO FUNCTION ON THE CELLBLOCK.

A:DEPRESSION; NOS- NO SUICIDAL OR HOMICIDAL THOUGHTS. DENIES ANY HALLUCINA TIONS. IS EATING MEALS AND APPEARANCE HAS IMPROVED. INMATE INSTRUCTED THAT IF HE DECOMPENSATES A GILLIAM ADMISSION IF HE DOES NOT COMPLY WITH TREATMEN T WILL BE INVOLUNTARY ADMISSION.
P:REVIEW MONTHLY, NEXT REVIEW 10/06.
SIGNED OFF ON 09/13/06 @ 10:12 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 44 MENTAL HEALTH CLINIC 09/11/06 15:41 LIEBER COMP
I/M REFUSING MEDS....MAR SHOWS SAME....MOST EXPIRED 9/4.....
CONTINUE OR DC....ADVISE ME....!!!THANKS TJ JOHNSON RN
SIGNED OFF ON 09/11/06 @ 15:42 BY THOMAS K JOHNSON, UNCLASSIFIED
J.R. CUSACK, D.O.
SIGNED OFF ON 09/12/06 @ 13:46 BY JOHN R CUSACK, UNCLASSIFIED

** ENCOUNTER: 43 MENTAL HEALTH CLINIC 08/28/06 13:41 LIEBER COMP
D:I'M ALRIGHT WHITTAKER I JUMPED INTO THE SHOWER. I HAVEN'T TAKEN MEDS YET. INMATE APPEARED ALITTLE MORE DOWN TO EARTH THIS MORNING WITH MORE OF A POSI TIVE OUTLOOK. IS STILL NON-COMPLIANT WITH MEDICATION.
A:PSYCHOSIS NOS- DENIES SUICIDAL OR HOMICIDAL THOUGHTS. HALLUCINATIONS STILL PRESENT AND STILL UNDER 15 MINUTE CELL CHECKS.
P:WILL MONITOR DAILY AND ENCOURAGE TO TAKE MEDS..
SIGNED OFF ON 08/30/06 @ 13:47 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 43 MENTAL HEALTH CLINIC 08/27/06 13:11 LIEBER COMP
D. THIS IS A 35 YEAR OLD, MARRIED, WHITE MALE. HE IS A DEATH ROW INMATE CURRENTLY SECURED IN A DIRECT OBSERVATION CELL. HE INSISTS HE NO LONGER WANTS TO TAKE PSYCHOTROPIC MEDICAITONS.
THIS IS A DISHEVELED APPEARING, MIDDLE-AGED, WHITE MALE. HE WAS LYING ON HIS BUNK. HE WORE NO UNDERSHIRT. NO S/H. HE ADMITTED TO AUDITORY AND VISUAL HALLUCINATIONS. HIS EYE CONTACT WAS GLARING. SPEECH WAS SPARSE AND NONELABORATIVE. FOREHEAD ABRASIONS HAVE HEALED. HE WAS IN NO PHYSICAL DISTRESS. AFFECT WAS ESSENTIALLY BLANK. ABRUPTLY DURING THE CONVERSATION, HE TURNED AND RETURNED TO HIS BUNK.
A. MAJOR DEPRESSIVE EPISODE WITH PSYCHOTIC FEATURES VS. BIPOLAR DISORDER- DEPRESSED PHASE
POLYSUBSTANCE DEPENDENCE (COCAINE, CANNIBIS, HALLUCINOGENS)
STATUS-POST GUNSHOT WOUND TO THE FACE
P. CLOSELY OBSERVE. CONTINUE TO ENCOURAGE PATIENT TO TAKE PRESCRIBED MEDICATIONS. GILLIAM HOSPITALIZATION MAY BE NECESSITATED.
J.R. CUSACK, D.O.
SIGNED OFF ON 08/27/06 @ 13:20 BY JOHN R CUSACK, UNCLASSIFIED

** ENCOUNTER: 41 MENTAL HEALTH CLINIC 08/27/06 12:01 LIEBER COMP
D:I WILL BE ALRIGHT, I'M NOT GOING TO TAKE THE MEDICINES, I REFUSE. INMATE WAS APPROACHED ON THE CELLBLOCK BY COUNSELOR AND PSYCHIATRIST. HE REFUSES TO TAKE THE PRESCRIBED MEDS AND HYGIENE NEEDS TO BE IMPROVED. HE WAS STARRI NG AND WAS UNSHAVEN. HE WAS ENCOURAGED TO TAKE THE MEDICINES SO HIS CONDI- TION WILL NOT WORSEN. HE CLAIMS TO SEE VISIONS OF BUGS AND OBJECTS CRAWLING ON THE CELL FLOOR ALONG WITH VOICES. HE WAS TOLD THAT IF DECOMPENSATION AND SICKNESS CONTINUES DUE TO NON- COMPLIANCE TO TREATMENT HE WOULD BE SENT TO

THE GILLIAM CENTER INVOLUNTARY FOR MEDICATIONS.
A:PSYCHOSIS- POST INCARCERATION TRAUMA- BIPOLAR, DEPRESSION, MULTIPLE FAMIL
Y STRESSORS WITH WIFES INCARCERATION. DECOMPENSATION- REMAIN IN OBSEVATION
CELL- DENIES SUICIDAL OR HOMICIDAL THOUGHTS.
P:WILL MONITOR DAILY AND REMAIN IN OBSERVATION CELL. IF CONDITION DOES NOT
IMPROVE WILL CONTACT GILLIAM FOR HOSPITALIZATION.
SIGNED OFF ON 08/27/02 @ 13:21 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 40 NARRATIVE 08/26/02 12:12 LIEBER COMP
IM VISITED THIS IM. HIS APPEARANCE IS IMPROVED SINCE LAST WEEK BUT VOICES N
O CONCERN IN MAINTAINING HYGIENCE.MY INQUIRIES ARE UNWELCOME AND HE TERMINA
TED THE INTERVIEW ABRUPTLY BY RETURNING TO BED. OBJECTS TO PRESENCE OF CAME
RAS/ LIGHTS ON AT NIGHT. FLAT AFFECT, MASK-LIKE FASCIES.
SIGNED OFF ON 08/26/02 @ 13:14 BY DAVID R BAER, REGISTERED NURSE I
WILL BE MONITORED BY MENTAL HEALTH.
SIGNED OFF ON 08/27/02 @ 8:03 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 39 NARRATIVE 08/26/02 7:01 LIEBER COMP
MAKE APPPT FOR I/M TO DISCUSS RP
SIGNED OFF ON 08/26/02 @ 7:02 BY ETLEEN B JUDSON, NURSE PRACTITIONER ITI
NOTED, COPY OF THIS ENCOUNTER FORWARDED TO MS GADSEN TO SCHEDULE APPT
SIGNED OFF ON 08/27/02 @ 20:30 BY YASMINNIE MORALES, LICENSED PRACTICAL NUR

** ENCOUNTER: 38 NARRATIVE 08/23/02 13:35 LIEBER COMP
AS/ DR CUSACK, IM TO TAKE MEDS UNDER DOT.
SIGNED OFF ON 08/23/02 @ 13:36 BY DAVID R BAER, REGISTERED NURSE I

** ENCOUNTER: 37 DOCTOR'S CLINIC 08/22/02 13:36 LIEBER COMP
P> TRIFLUOPERAZINE 5MG
P> STG:2TABS PO DAILY X14DAYS.
P> STG:
P> START DATE: 08/22/02 TOTAL DAYS: 14
P> MD:CUSAK,JOHN -
P> DIPHENHYDRAMINE 50MG
P> STG:1TAB PO DAILY X14DAYS.
P> STG:
P> START DATE: 08/22/02 TOTAL DAYS: 14
P> MD:CUSAK,JOHN -
P> DIPHENHYDRAMINE 25MG
P> STG:1TAB PO DAILY X14DAYS.
P> STG:
P> START DATE: 08/22/02 TOTAL DAYS: 14
P> MD:CUSAK,JOHN -
P> FLUOXETINE 20MG
P> STG:1TAB PO DAILY X14DAYS.
P> STG:
P> START DATE: 08/22/02 TOTAL DAYS: 14
P> MD:CUSAK,JOHN -
DISCONTINUE: RISPERDAL AND DEPAKOTE.
J.R. CUSACK, D.O.

SIGNED OFF ON 08/22/02 @ 13:39 BY JOHN R CUSACK, UNCLASSIFIED
NOTED TRANSCRIBED TO MAR TJ JOHNSON RN
SIGNED OFF ON 08/22/02 @ 14:16 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 36 MENTAL HEALTH CLINIC 08/22/02 13:14 LIEBER COMP
D. THIS IS A 35 YEAR OLD, MARRIED, WHITE MALE. HE IS A DEATH ROW INMATE. LAST EVENING, HE BEGAN BANGING HIS HEAD ONTO THE CELL WALL. PHYSICAL HYGIENE HAS BEEN WANTING. HIS BEHAVIORS WERE NOTED TO BE PECULIAR. HE HAS BEEN NONCOMLIANT WITH PRESCRIBED MEDICATIONS.
THIS PATIENT WAS INTERVIEWED AT HIS CELL DOOR. HE HAD BEEN SLEEPING. HE APPEARED BEWILDERED. HIS EYES GLARED AT EACH EXAMINER. IN THE MIDDLE OF CONVERSATION, HE OCCASIONALLY TURNED ABRUPTLY AND BEGAN WALKING AIMLESSLY WITHIN HIS CELL. HE WAS UNSHAVEN AND MALODOROUS. WHEN QUERIED, HE STATED, "GOD TOLD ME NOT TO TAKE THE MEDICINES..., GOD TOLD ME TO HIT MY HEAD." THERE WERE FOREHEAD ABRASIONS. NONSYSTEMATIZED DELUSIONS AUDITORY AND VISUAL HALLUCINATIONS WERE ENDORSED. THOUGHT BLOCKING WAS EVIDENT. AFFECT APPEARED BAFFLED. (AN INMATE IN THE ADJOINING CELL, CLAIMED THE PATIENT WAS DEPRESSED SUBSEQUENT TO THE SENTENCING OF HIS SPOUSE.)
A. MAJOR DEPRESSIVE EPISODE WITH PSYCHOTIC FEATURES VS. BIPOLAR-DISORDER-DEPRESSED PHASE
POLYSUBSTANCE DEPENDENCE (CANNIBIS, COCAINE, HALLUCINOGENS)
STATUS-POOST GUNSHOT WOUND TO FACE
P. SUGGESTED RECHECK DAILY BY CLINICAL STAFF: ENCOURAGE PATIENT TO
P. TO TAKE MEDICATIONS. (CURRENTLY, HE REFUSES MEDICATIONS.)
PLACE ON CLOSE OBSERVATION. EVENTUAL TRANSFER TO GILLIAM MAY BE NECESSITATED IF PSYCHOTIC DETERIORATION DOES NOT IMPROVE. BATH DAILY.
J.R. CUSACK, M.D.
SIGNED OFF ON 08/22/02 @ 13:34 BY JOHN R CUSACK, UNCLASSIFIED

** ENCOUNTER: 35 MENTAL HEALTH CLINIC 08/22/02 11:45 LIEBER COMP
D:I DON'T WANT TO TAKE ANY MEDICINES AND I WAS HITTING MY HEAD ON THE WALL. GOD TOLD ME TO STOP TAKING THE MEDICINES. HE WILL TAKE CARE OF ME. INMATE HAS TWO ABRASIONS ON HIS FOREHEAD FROM BUMPING THE WALL. THIS INMATE LOOKS WORN AND FATIGUED FROM STRESS AND ANXIETY. SOFT SPOKEN IN CONVERSATION.
A:ANXIETY WITH OVERWHELMING FRUSTRATIONS- DELUSIONAL THINKING AND REPEATED THAT HE WAS ALRIGHT, DENIED ANY SUICIDAL OR HOMICIDAL THOUGHTS.
P:WILL MONITOR BEHAVIOR AND RECOMMEND 15 MINUTE CELL CHECKS.
SIGNED OFF ON 08/22/02 @ 11:54 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 34 NARRATIVE 08/22/02 11:43 LIEBER COMP
THIS IM'S APPEARANCE HAS DETERIORATED OVER THE PAST FEW DAYS. HAS NOT SHAVED, TEETH UNBRUSHED, CELL IS RELATIVELY UNKEMPT FOR HIM. REFUSING TO TAKE RISPERDAL. THIS LATTER POINT HAS BEEN RELATED TO MENTAL HEALTH LAST WEEK. THE NEWER OBSERVATIONS WERE RELATED AT THE MENTAL HEALTH MEETING THIS AM. THIS MORNING, IM HAD 2 CIRCULAR ABRASIONS ON PATE. WHEN I INQUIRED WHAT HAPPENED, HE STATE THAT HE HIT HIS HEAD ON THE WALL. WHEN I INQUIRED WHY, HE STATED THAT GOD TOLD HIM TO DO IT. INFORMED DR. CUSACK OF THIS NEW INCIDENT. HE ISSUED ME A VERBAL ORDER TO PLACE THE IM IN A CELL WHERE HE WOULD BE MORE VISIBLE TO THE C.O.S.MR ADDISON ADVISED OF SAME AND TOLD ME THAT THERE WERE

NO MORE OBSERVATION CELLS AVAILABLE AT THIS TIME. I TOLD MR. ADDISON THAT A REGULAR CELL WOULD BE ACCAEPTABLE AS LONG AS IT HAS MORE FOOT TRAFFIC PAS T IT. MR ADDISON CLAIMED THAT NO CELLS AVAILABLE AT THIS TIME
SIGNED OFF ON 08/26/02 @ 12:09 BY DAVID R BAER, REGISTERED NURSE I
REVIEWED BY DR. CUSACK AND CCC.
SIGNED OFF ON 08/27/02 @ 8:01 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 33 MENTAL HEALTH CLINIC 08/14/02 10:44 LIEBER COMP
PREVIOUSLY ORDERED PROZAC AND DIPHENHYDRAMINE...WAS ORDERED BUT NOT TRANSMITTED SO THEREFORE HASN'T RECEIVED FOR SOME TIME....MR BAER ADVISED AND CLAIMS HE HASN'T ASK FOR IT AND ALSO DOESN'T WISH TO TAKE HIS RISPERDAL EITHER DC? YES DC PROZAC/BENADRYL/RISPERDAL (NC) V/O DR CUSACK
DONE TJ JOHNSON RN
SIGNED OFF ON 08/16/02 @ 10:48 BY THOMAS K JOHNSON, UNCLASSIFIED
J.R. CUSACK, D.O.
SIGNED OFF ON 08/16/02 @ 12:08 BY JOHN R CUSACK, UNCLASSIFIED

** ENCOUNTER: 32 NARRATIVE 08/13/02 13:57 LIEBER COMP
IM REQUESTS MED TO FACILITATE FALLING ASLEEP.PLEASE ADVISE
THANKS
DB
SIGNED OFF ON 08/13/02 @ 13:57 BY DAVID R BAER, REGISTERED NURSE I
SLEEP MEDICATIONS ARE NO LONGER PRESCRIBED BY SCDC POLICY. J.R. CUSACK, DO
SIGNED OFF ON 08/16/02 @ 9:25 BY JOHN R CUSACK, UNCLASSIFIED
NOTED TJ JOHNSON RN
SIGNED OFF ON 08/16/02 @ 11:09 BY THOMAS K JOHNSON, UNCLASSIFIED

** ENCOUNTER: 31 MENTAL HEALTH CLINIC 08/08/02 10:36 LIEBER COMP
D:MR. WHITTAKER I TAKE SOME RISPERDAL AND I THOUGHT THE DOCTOR WAS GOING TO GIVE ME SOME SIDE AFFECT MEDICATION. I HAVE TAKEN SOME BENADRYL IT DOESN'T SEEM TO WORK. I REALLY JUST NEED SOMETHING TO HELP ME SLEEP.
A:PSYCHOSIS NOS- NO SUICIDAL OR HOMICIDAL THOUGHTS. WELL ORIENTED TO PLACE AND TIME. RESPONSIVE WITH APPROPRIATE AFFECT. COMPLIANT WITH MEDICATIONS.
P:WILL REVIEW MONTHLY, NEXT REVIEW 9/02.
SIGNED OFF ON 08/08/02 @ 10:40 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 30 BLOOD PRESSURE CLINI 08/07/02 13:25 LIEBER COMP
B/P = 148/100 PULSE = 102 WEIGHT = 170
B/P CLINIC COMPLIENTS WITH MEDS. HOWEVER I/M STATES THAT HE IS OUT OF HIS B/P MEDS.TEACHING ALSO DONE ON EXERCISE DIET AND HE VOICED HIS UNDERSTANDING OF ALL TEACHING.
SIGNED OFF ON 08/07/02 @ 13:38 BY MADLIN C DRAYTON, MEDICAL ASSISTANT TECH I
SIGNED OFF ON 08/29/02 @ 14:41 BY EILEEN B JUDSON, NURSE PRACTITIONER III

** ENCOUNTER: 29 DOCTOR'S CLINIC 07/23/02 10:19 LIEBER COMP
P> RISPERDAL 1MG
P> STR:2TABS PO AM AND 3TABS HS X30DAYS; 2REFILLS.
P> SIG:
P> START DATE: 07/23/02 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -

DISCONTINUE: EARLIER RISPERDAL PRESCRIPTION.
J.R. CUSACK, D.O.
SIGNED OFF ON 07/23/02 @ 10:31 BY JOHN R CUSACK, UNCLASSIFIED
NOTED. RX CHANGES MADE IN MAR.
SIGNED OFF ON 07/24/02 @ :33 BY ZELDA H FICKENS, MEDICAL ASSISTANT TECH I
SIGNED OFF ON 07/24/02 @ 3:48 BY TEGAN EGGER, REGISTERED NURSE I

** ENCOUNTER: 38 MENTAL HEALTH CLINIC 07/23/02 10:10 LTEBER COMP
D. THIS IS A 35 YEAR OLD, MARRIED, WHITE MALE. HE IS A DEATH ROW INMATE. HE MAINTAINS HE WOULD PREFER RISPERDAL TO BE INCREASED. "IT KEEPS ME FROM GETTING PARANOID. I CAN BE IN MY ROOM AND FEEL SOMEBODY IS COMING TO GET ME."
THIS IS A FATIGUED APPEARING, WHITE MALE. HE WAS INTERVIEWED AT HIS CELL DOOR. HE HAD JUST AWAKENED AND WORE NO SHIRT. SPEECH IS CLEAR YET SOFTLY TONED. NO S/H. NO DEMONSTRATIVE NEUROVEGATIVE SIGNS. HE ENDORSES UNSYSTEMATIZED PARANOIA. THERE IS NO PSYCHOMOTOR AGITATION.
A. POLYSUBSTANCE DEPENDENCE (CANNIBIS, COCAINE, HALLUCINOGENS)
STATUS-POST GUNSHOT TO FACE
BIPOLAR DISORDER- BY HISTORY; NO OBJECTIVE CLINICAL EVIDENCE VS. SUBSTANCE INDUCED MOOD AND PSYCHOTIC DISORDER VS. INTERMITTENT EXPLOSIVE DISORDER.
P. SUGGESTED RECHECK IN 3-4MONTHS.
J.R. CUSACK, D.O.
SIGNED OFF ON 07/23/02 @ 10:18 BY JOHN R CUSACK, UNCLASSIFIED

** ENCOUNTER: 37 MENTAL HEALTH CLINIC 07/12/02 11:08 LTEBER COMP
D:I HAVE BEEN DOING FINE. INMATE HAD CONCERNS ABOUT REACHING HIS FAMILY.
A:DEPRESSION MILD, NO SUICIDAL OR HOMICIDAL THOUGHTS. RESPONSIVE. NO SUICIDAL IDEATIONS OR HOMICIDAL THOUGHTS. COMPLIANTS WITH MEDICATIONS.
P:WILL REVIEW MONTHLY. NEXT REVIEW IS 8/02.
SIGNED OFF ON 07/12/02 @ 11:11 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 36 LAB CLINIC 07/08/02 20:25 LTEBER COMP
VALPROIC ACID LEVEL AND SBGT DRAWN WITHOUT DIFFICULTY.
SIGNED OFF ON 07/08/02 @ 20:26 BY SARAH F CHISOLM, MEDICAL ASSISTANT TECH I

** ENCOUNTER: 35 MENTAL HEALTH CLINIC 07/08/02 9:39 LTEBER COMP
VPA/SBGT PER PROTOCOL...,REQUEST SENT TO LAB...,V.O DR CUSACK/T.J JOHNSON RN
SIGNED OFF ON 07/08/02 @ 9:40 BY THOMAS K JOHNSON, UNCLASSIFIED
REVIEWED. J.R. CUSACK, D.O.
SIGNED OFF ON 07/08/02 @ 9:55 BY JOHN R CUSACK, UNCLASSIFIED

** ENCOUNTER: 34 FOLLOW-UP SICK CALL 06/28/02 12:23 LTEBER COMP
P> VALPROIC ACID 250MG
P> STG:TAKE 1 CAP P.O. BID X 30 DAYS,RF X 2
P> SIG:
P> START DATE: 06/28/02 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
P> RISPERDAL 1MG
P> SIG:TAKE 1 TAB AM AND 2 TABS AT HS X 30 DAYS,RF X 2

P> SIG:
P> START DATE: 06/26/02 TOTAL DAYS: 90
P> MD:CUSAK,JOHN -
MAR SHOWS 99% COMPLIANCE
SIGNED OFF ON 06/26/02 @ 13:25 BY THOMAS K JOHNSON, UNCLASSIFIED
J.R. CUSACK, D.O.
SIGNED OFF ON 07/01/02 @ 8:39 BY JOHN R CUSACK, UNCLASSIFIED
NOTED. RX CHANGES MADE IN MAR.
SIGNED OFF ON 07/02/02 @ :46 BY ZELDA H FICKENS, MEDICAL ASSISTANT TECH I
SIGNED OFF ON 07/02/02 @ :53 BY TEGAN EGGER, REGISTERED NURSE I

** ENCOUNTER: 23 DOCTOR'S CLINIC 06/19/02 11:34 LIEBER COMP
S> SEEN FOR NASAL CONGESTION AND THINKS HE HAS GLASS IN HEAD FROM ONE YR AGO W
S> HEN HE WAS SHOT.
O> TEMP=098.3 PULSE= 80 RESP=20 BP=130/ 80 WEIGHT= 0
O> A&O WM IN NAD. AFFECT APPROPRIATE. NORMOCEPHALIC. WELL HEALED INCISION
O> ON LEFT R NARES W/ SEPTAL DEVIATION. HARD NODULE ON FOREHEAD THAT IS DRAIN
O> NG CLOUDY SEROUS FLUID/ AND PAINFUL TO PALPATION. EAR CANALS BLOCKED W/
O> CERUMEN. . NASAL MUCOSA PINK.
A> INFECTED FOREIGN BODY CERUMEN IMPACTION
P> CEPHALEXIN 500MG
P> STG:TAKE ONE PO TID X 10 DAYS 1 REFILL
P> SIG:
P> START DATE: 06/19/02 TOTAL DAYS: 20
P> MD:JUDSON,EILEEN -
WARM SOAKS TO FOREHEAD
REEVAL NEXT WEEK
GIVE T/M H2O2 AND MINERAL OIL FOR EARS AND EVAL NEED FOR IRRIGSATION
AFTER 3 DAYS OF SELF TREATMENT;
APPT FOR NEXT WEEK
SIGNED OFF ON 06/19/02 @ 11:48 BY EILEEN B JUDSON, NURSE PRACTITIONER ITI
MD APPT. 6/26/02 IN MD BOOK. CRT MESSAGE WILL BE SENT TO MAX NURSE BAER ADP
UT EARS,I/M WILL RECEIVE HIS MEDS FROM RA NURSE BAER WHEN IT ARRIVALS. E. G
ADSON CNA.
SIGNED OFF ON 06/19/02 @ 12:00 BY EVELYN GADSON, MEDICAL ASSISTANT TECH I
SIGNED OFF ON 06/20/02 @ 5:50 BY TEGAN EGGER, REGISTERED NURSE I

** ENCOUNTER: 33 MENTAL HEALTH CLINIC 06/05/02 10:01 LIEBER COMP
D:I FEEL FINE, MUCH BETTER THAN THE LAST TIME YOU SPOKE TO ME. I GET NERVOU
S WORRYING ABOUT STUFF WITH MY FAMILY THAT I HAVE NO CONTROL OVER.
A:PSYCHOSIS- SUBSTANCE INDUCED. NO SUICIDAL OR HOMICIDAL THOUGHTS. OVERALL
ADJUSTMENT HAS BEEN IMPROVING WITH FEW COMPLAINTS.
P:WILL MONITOR BEHAVIOR, NEXT REVIEW 7/02.
SIGNED OFF ON 06/05/03 @ 10:06 BY TERRENCE E WHITTAKER, HUMAN SERVICES COORD

** ENCOUNTER: 31 LAB CLINIC 05/20/02 10:43 ANDERSON CO COMP
VPA 4/11/02 <12 (50.0-100-0) IDE LEVEL 7/11/02 PER PROTOCOL
T.J JOHNSON RN
SIGNED OFF ON 05/20/02 @ 10:44 BY THOMAS K JOHNSON, UNCLASSIFIED
WILL CLOSE OUT OLD 2002 POPEN ENCOUNTER