

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County

Honorable Brian M. Gibbons, Circuit Court Judge

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SC Court of Appeals

IN THE MATTER OF THE CARE AND
TREATMENT OF JAMES WILLIAMS,

APPELLANT.

APPELLATE CASE NO. 2019-001058

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF LANCASTER

2018-CP-29-00525

In the Matter of the Care and Treatment of James Williams

Lancaster, South Carolina

June 24-25, 2019

Before the Honorable Brian M. Gibbons

APPEARANCES

For the State: Jim Bogle

For the Respondent: Geoff Dunn

Reported by: Michael C. Watkins

Official Court Reporter

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VOIR DIRE

1 THE COURT: All right. Ladies and gentlemen of the
2 jury panel, we're about to get into the trial of the case,
3 the name of it is in the matter and -- in the matter of the
4 care and treatment of James Williams, who is listed as the
5 respondent in this civil action. And the parties to this
6 lawsuit are the State of South Carolina, who is represented
7 by Mr. Jim Bogle of the Attorney General's Office here to my
8 left, that's Mr. Bogle. And to the right there's -- is that
9 Mr. James Williams?

10 MR. DUNN: It is, Your Honor.

11 THE COURT: And this is Mr. Geoff Dunn, okay? So you
12 may ask yourself that doesn't sound like a normal lawsuit.
13 Let me kind of give you an idea of what this case is about
14 because this will form the basis of some of the questions
15 that I'm about to ask you for the State and the respondent
16 to pick a potential jury. All right. Ladies and gentlemen,
17 the State has brought this case under what's called the
18 sexually violent predator law of South Carolina, there's a
19 whole statute and act concerning this. The State is seeking
20 what's called the civil commitment of James Williams, who is
21 known as the respondent in this case, and they're seeking a
22 civil commitment for long term control, care and treatment
23 in a secure facility. This is not a criminal proceeding.
24 This is not a criminal case where the State is seeking
25 incarceration, but it's rather a proceeding, or a legal

VOIR DIRE

1 proceeding where the State is seeking the civil commitment
2 of James Williams. Now, the State of South Carolina has
3 alleged or has claimed that Mr. Williams is a sexually
4 violent predator as defined under the law. Mr. Williams
5 denies that, and the burden of proof is therefore on the
6 State to prove by evidence sufficient to satisfy whoever the
7 jury is going to be beyond a reasonable doubt that Mr.
8 Williams is a sexually violent predator. So that's what the
9 case is about. It's not a criminal case, it's a civil case,
10 okay? So we will go through some questions that I will ask
11 you. If a question applies to you please stand where you
12 are and we'll ask further questions. I'll remind you that
13 you're still under oath. So the first question I have for
14 you, has anybody been represented by either of the lawyers
15 involved in this case, or does anybody have a close,
16 personal or social relationship with any of the lawyers
17 involved in this case? If so, please stand. All right. No
18 response. Is anybody related by blood or marriage or have a
19 close, personal or social relationship with Mr. James
20 Williams or his family? If so, please stand. All right.
21 Yes, sir, juror number?

22 THE JUROR: Forty-five.

23 THE COURT: All right. And how do you answer that,
24 Mr. Crosby?

25 THE JUROR: I go to church with his sister.

VOIR DIRE

1 THE COURT: Would that affect your ability to be fair
2 and impartial in the trial of this case?

3 THE JUROR: Yes.

4 THE COURT: All right. Thank you, sir, you may be
5 seated. All right. I'm going to give you some names of the
6 potential witnesses in the case. We have Joanna Wix with
7 the South Carolina Probation and Pardon and Parole
8 Department. Michael Williams. And Dr. Marie Gehle. Does
9 anybody recognize those names? And Gehle is spelled
10 G-e-h-l-e. So the same question as before, is anybody
11 related by blood or marriage or have any close, personal or
12 social relationship with any of those people? If so, please
13 stand. All right. No response. All right. Is any member
14 of the jury panel, relative or close friend ever been a
15 school teacher or a preschool teacher, daycare worker or
16 have any other child related jobs? If so, please stand.
17 All right.

18 THE JUROR: I just drive a school bus.

19 THE COURT: Hang on one second, I'm going to deal with
20 them in order. Yes, ma'am, what's your juror number? Stand
21 up please.

22 THE JUROR: Eight.

23 THE COURT: You said you drive a school bus? All
24 right. Would that affect your ability to be fair and
25 impartial in the trial of this case?

VOIR DIRE

1 THE JUROR: No.

2 THE COURT: All right. Thank you, ma'am, you can be
3 seated. Yes, ma'am?

4 THE JUROR: I teach preschool.

5 THE COURT: All right. What's your juror number?

6 THE JUROR: Five.

7 THE COURT: Would that affect your ability, Ms. Bailey,
8 to be fair and impartial in the trial of this case?

9 THE JUROR: I don't believe so.

10 THE COURT: All right. Thank you, ma'am. Yes, ma'am?

11 THE JUROR: Lancaster High School Truancy.

12 THE COURT: What's your juror number?

13 THE JUROR: Forty-one.

14 THE COURT: All right, 41. Would that affect your
15 ability to be fair and impartial in the trial of this case?

16 THE JUROR: No, sir.

17 THE COURT: All right, thank you. Yes, ma'am?

18 THE JUROR: I work with preschoolers.

19 THE COURT: What's your juror number?

20 THE JUROR: I forgot. Joy Miller.

21 THE COURT: Juror number 122. Would that affect your
22 ability to be fair and impartial?

23 THE JUROR: No, sir.

24 THE COURT: Thank you. Yes, ma'am?

25 THE JUROR: Second grade school teacher. 44.

VOIR DIRE

1 THE COURT: All right. 44? Would that affect your
2 ability to be fair and impartial?

3 THE JUROR: No.

4 THE COURT: All right. Thank you, ma'am. Yes, ma'am?

5 THE JUROR: 142. And I work for a daycare center.

6 THE COURT: All right. And what that affect your
7 ability to be fair and impartial?

8 THE JUROR: No, sir.

9 THE COURT: All right, thank you. Yes, ma'am, right
10 there?

11 THE JUROR: I work for the Lancaster County School
12 District, and I also work in child care at a church.

13 THE COURT: And what's your juror number?

14 THE JUROR: I'm sorry, 169.

15 THE COURT: And would that affect your ability to be
16 fair or impartial?

17 THE JUROR: I don't think.

18 THE COURT: All right. Thank you, ma'am. Yes, ma'am?

19 THE JUROR: I think it's 193. But I work in the school
20 district and the rec. center.

21 THE COURT: Would that affect your ability to be fair
22 and impartial?

23 THE JUROR: No, sir.

24 THE COURT: Has anybody in the jury panel ever seen the
25 TV show To Catch a Predator, or have a personal knowledge

VOIR DIRE

1 about watching that TV show To Catch a Predator? If so,
2 please stand. All right. All right. What's your juror
3 number, ma'am.

4 THE JUROR: 138.

5 THE COURT: How do you answer that?

6 THE JUROR: (Inaudible.)

7 THE COURT: Would that affect your ability to be fair
8 and impartial in the trial of this case?

9 THE JUROR: No.

10 THE COURT: All right, thank you. And everybody remain
11 standing, I'm going to get your juror numbers real quick.
12 What's your juror number?

13 THE JUROR: 183.

14 THE JUROR: 187.

15 THE COURT: All right. What's your juror number?

16 THE JUROR: 119.

17 THE COURT: What's your juror number?

18 THE JUROR: 139.

19 THE COURT: Is that too fast for all the lawyers?

20 MR. DUNN: A little bit.

21 THE COURT: All right. Start over again. 183?

22 THE JUROR: 187.

23 THE JUROR: 119.

24 THE JUROR: 139.

25 THE COURT: 139.

VOIR DIRE

1 THE JUROR: 167.

2 THE COURT: All right, 167.

3 THE JUROR: 169.

4 THE JUROR: 177, I believe.

5 THE JUROR: 17.

6 THE JUROR: 44.

7 THE JUROR: 146.

8 THE COURT: Yes, ma'am?

9 THE JUROR: I think it's 191.

10 THE CLERK: It's 192.

11 THE JUROR: 176.

12 THE COURT: All right. So my question is for anybody
13 who is standing, would that, the fact that you have seen the
14 show To Catch a Predator or know about it or see it
15 regularly, or have friends or family members talk to them
16 about that show, would that affect your ability to be fair
17 and impartial? If it would, remain standing, if not please
18 be seated. Thank you. Yes, sir?

19 THE JUROR: I didn't quite understand the first
20 question.

21 THE COURT: What's your juror number, sir?

22 THE JUROR: I don't know.

23 THE COURT: Number 50. All right. So the question was
24 has anyone on the jury seen the TV show To Catch a Predator
25 or spoken with friends or family members about the TV show

VOIR DIRE

1 To Catch a Predator.

2 THE JUROR: The prior question. I work at Lancaster
3 Children's Home, and me and my wife, we have a behavior
4 company and we work with troubled youth.

5 THE COURT: Would the fact that you do that keep you
6 from being a fair and impartial juror?

7 THE JUROR: No.

8 THE COURT: Thank you, sir. All right. Does anybody
9 have any moral or religious conviction which would make you
10 not be a fair and impartial juror in this case? All right.
11 No response. Has any member of the jury panel, relative or
12 close friend ever been the victim of any type of sex crime?
13 If so, please stand. No response.

14 THE CLERK: We got one standing, Judge.

15 THE COURT: Yes. Juror number?

16 THE JUROR: 167.

17 THE COURT: All right. How do you answer that? You
18 want to come up here?

19 THE JUROR: I would rather.

20 THE COURT: Would that affect your ability to be fair
21 and impartial in the trial of this case?

22 THE JUROR: Absolutely.

23 THE COURT: Thank you, ma'am, you can be seated. All
24 right. Yes, ma'am?

25 THE JUROR: The victim, I have a friend that's a

VOIR DIRE

1 victim.

2 THE COURT: You're a friend of someone who is a victim,
3 a close friend?

4 THE JUROR: Uh-huh.

5 THE COURT: And what's your juror number?

6 THE JUROR: Fifty-one.

7 THE COURT: And would that affect your ability to be
8 fair and impartial?

9 THE JUROR: No.

10 THE COURT: All right, thank you. Anybody else on that
11 question? All right. When you -- go back to your
12 childhood. Has any member of the jury, relative or close
13 friend ever been the victim of any crime that you committed
14 or knew about when you were a child, a childhood crime?
15 That's the question. All right. No response. There may be
16 testimony in this case that involves sexually explicit
17 language or sexually explicit details. Is there any member
18 of the jury panel who has a moral or religious problem with
19 that and thinks that they can't be fair and impartial
20 because of that? If so, please stand. No response. Does
21 any member of the jury panel tend to believe a
22 psychiatrist's opinion more so just because they're a
23 psychiatrist versus looking at everything and hearing from
24 everybody? If so, please stand. All right. No response.
25 Does any member of the jury panel know anything about the

VOIR DIRE

1 sexual offenses that Mr. James Williams was convicted of in
2 criminal court? If so, please stand. All right. No
3 response. Has any member of the jury panel ever heard about
4 James Williams and the stuff he was convicted of in criminal
5 court? If so, please stand. Would the fact that James
6 Williams has been convicted of sexual offenses, and the fact
7 that James Williams has completed his criminal sentence
8 related to that conviction in any way prevent you from being
9 able to be a fair and impartial juror in the trial of this
10 case concerning civil commitment? If so, please stand. No
11 response. Does any member of the jury panel have any
12 specialized training or experience in the fields of
13 psychiatry, psychology or the law? If so, please stand.
14 Yes, sir, juror number 50?

15 THE JUROR: Yes.

16 THE COURT: Would that affect your ability to be fair
17 and impartial?

18 THE JUROR: No.

19 THE COURT: Thank you. Has any member of the jury
20 panel been involved in a prison ministry, prison outreach
21 program or any other program involving contact with
22 incarcerated people? If so, please stand. Any further voir
23 dire from the State?

24 MR. BOGLE: Number 19 and number 22 if I could.

25 THE COURT: All right. Has any member of the jury

VOIR DIRE

1 panel or any of your close, personal friends or relatives
2 ever been subject to any civil commitment proceedings, or
3 has anybody in your family or close, personal friends ever
4 been voluntarily or involuntarily committed? If so, please
5 stand. All right. Yes, ma'am, juror number?

6 THE JUROR: 173.

7 THE COURT: All right. How do you answer that?

8 THE JUROR: Can I speak with you personally?

9 THE COURT: Yes, ma'am, come on up here.

10 (A bench conference was held with the lawyers outside
11 the hearing of the perspective jury panel.)

12 THE COURT: Yes, sir. How do you answer that question?

13 THE JUROR: Number 103. My grandfather was committed
14 for dementia and my uncle was committed forever Alzheimer's.

15 THE COURT: Would that affect your ability to be fair
16 and impartial?

17 THE JUROR: No.

18 THE COURT: Thank you. Is there any member of the jury
19 panel who is related by blood or marriage to anyone else who
20 is on the jury panel? Do we have any cousins or brothers or
21 sisters on the same jury panel? It happens. All right. No
22 response. Any further voir dire from the State?

23 MR. BOGLE: No. May we approach?

24 THE COURT: Yes, sir.

25 (A bench conference was held.)

VOIR DIRE

1 THE COURT: All right. One last question. Has any
2 member of the jury panel, a relative or close friend ever
3 been accused of or convicted of a sex crime? If so, please
4 stand. All right. Yes, ma'am, juror number?

5 THE JUROR: 104.

6 THE COURT: And how do you answer that?

7 THE JUROR: I'm not sure if this was right or not, but
8 my brother-in-law is a sexual predator.

9 THE COURT: Your brother-in-law has been found to be a
10 sexually violent predator.

11 THE JUROR: Yeah.

12 THE COURT: All right. How long ago was that?

13 THE JUROR: He's still in jail.

14 THE COURT: Okay. All right. Would that affect your
15 ability to fair and impartial in the trial of this case?

16 THE JUROR: I don't think so.

17 THE COURT: What's your juror again, ma'am?

18 THE JUROR: 104.

19 THE COURT: All right. Thank you. Any further voir
20 dire from the State?

21 MR. BOGLE: No, Your Honor.

22 THE COURT: Any further from the defense?

23 MR. DUNN: No, sir.

24 (A break was taken.)

25 MR. BOGLE: The State would strike number four.

VOIR DIRE

1 THE CLERK: State strikes four. Respondent?
2 MR. DUNN: Number five.
3 THE CLERK: Respondent strikes five.
4 MR. BOGLE: State strikes eight.
5 THE CLERK: State strikes eight.
6 MR. DUNN: Thirteen.
7 THE CLERK: Respondent strikes 13.
8 MR. BOGLE: State strikes 19.
9 THE CLERK: State strikes 19.
10 MR. BOGLE: Seven.
11 THE CLERK: Respondent strikes seven.
12 MR. BOGLE: State strikes 21.
13 THE CLERK: State strikes 21.
14 MR. DUNN: Seventeen.
15 THE CLERK: Respondent strikes 17.
16 THE COURT: All right. Y'all each get two apiece. We
17 will just only deal with one alternate since we had to move
18 the number down.
19 MR. BOGLE: State strikes 22.
20 THE CLERK: State strikes 22.
21 MR. DUNN: Twenty-six.
22 THE CLERK: Respondent strikes 26.
23 MR. BOGLE: 23.
24 THE CLERK: State strikes 23.
25 MR. DUNN: Twenty-four.

PRETRIAL MOTIONS

1 THE CLERK: Respondent strikes 24. I will go down the
2 list just to make sure we are all on the same page. The
3 State strikes four, eight, 19, 21, and 22 and 23; is that
4 correct?

5 MR. BOGLE: Yes.

6 THE JUROR: Respondent strikes five, seven, 13, 17, 24
7 and 26; is that correct?

8 MR. DUNN: Yes.

9 THE COURT: And the Court struck 15. All right. Mr.
10 Clerk, you may publish the names of the jury. And ladies
11 and gentlemen, listen for instructions as to what you are
12 supposed to do.

13 THE CLERK: When I call your name if you will follows
14 the bailiff to the jury room. 154, Martiza Rodriguez.
15 Juror 143, Emily Pritt. Juror 88, Terry Hilton. Juror 119,
16 Marcus Milburn. Juror 60, Norma Estridge. Juror 136,
17 Robert Peeler. Juror 109, Yvette Lopez. Juror 9, Timothy
18 Baker. Juror 153, Teddy Robinson. Juror 50, Wayne Curry.
19 Juror 98, Angelia Jones. Juror 17, Troy Boozer. Juror 29,
20 Anita Carter.

21 (The remaining panel was excused.)

22 (A lunch break was taken.)

23 THE COURT: All right. We have pretrial matters to be
24 heard.

25 MR. BOGLE: May it please the Court?

PRETRIAL MOTIONS

1 THE COURT: Yes, sir.

2 MR. BOGLE: Our first motion in limine has to do to
3 with the where. As you know, Your Honor, in this sexually
4 violent predator case the State is required to prove two
5 things. Number one, has the respondent been convicted of a
6 sexually violent crime, and number two, does he suffer from
7 a mental abnormality or a personality disorder that makes
8 him likely to commit these crimes in the future unless he is
9 confined in the secure facility for long term controlled
10 care and treatment. Now, that's all we have to prove. Any
11 location or reference to this being a life sentence, an
12 indeterminate sentence, or any attack upon the location
13 where he might go would be distracting the jury, it will not
14 be something we have to prove, it would be irrelevant to the
15 case. We would ask that the case not go that way. For Your
16 Honor's information, up until about six or seven months ago
17 people who went to the Sexually Violent Predator Treatment
18 Program were confined in two unused wings behind the wired
19 Broad River, since then a brand new facility has been built,
20 it is on the premises of Broad River but not behind the
21 wire. It is fenced as the law says the place has to be
22 secure, but a brand new facility has been built by the
23 company that administers the treatment, which is called Well
24 Path Solutions, formerly called Correct Care. They have the
25 contract with the Department of Mental Health to do all of

PRETRIAL MOTIONS

1 the treatment. So our first motion basically is to keep out
2 anything about this being a life sentence, an indeterminate
3 sentence, or attacking the location being at a prison or
4 behind the wire or a lockup or something like that. And
5 we'll stipulate you've got to be confined, no question about
6 that, but the actual details about it being a prison and
7 that sort of thing I think would distract and prejudice the
8 jury.

9 THE COURT: All right. What's your position, Mr. Dunn?

10 MR. DUNN: Your Honor, I think the jury should be able
11 to hear what's going to happen to Mr. Williams, as they have
12 the burden and duty to make this decision about the future
13 of his -- about his future. You know, we like to try to
14 make this as clinical and clean as possible, but in reality
15 it's Mr. Williams' life on the line. He's going to -- if
16 they make a decision finding that he meets that definition,
17 there is no idea of when he is going to get out, and I think
18 a jury should have that knowledge that that's part of their
19 decision making process that this is indefinite. As far as
20 I know some of those guys have been in there for years and
21 years and years, and I think the jury should know that, Your
22 Honor. As far as it being a prison, I mean, if it walks
23 likes a prison and quacks like a prison, it's probably a
24 prison, and I think that's the case here, Your Honor.

25 THE COURT: All right. Anything in reply from the

PRETRIAL MOTIONS

1 State?

2 MR. BOGLE: Just that any reference to this being a
3 prison would suggest it's a criminal case, it is not, it's a
4 civil commitment process. As far as how long the guys are
5 out there, I've seen guys get out after two, I've seen guys
6 still there after four, there's guys there that have been
7 there ten or 15. They just cannot cope with treatment, they
8 won't do it. Or in one case we have a guy who has dementia,
9 and the sad thing with him is whatever treatment he might
10 hear today, he won't know tomorrow, so essentially the
11 facilities become his nursing home. We're trying to find a
12 place -- he's been cleared for release after eight years
13 now, we can't find a place that will take him.

14 THE COURT: All right. I'm going to grant the State's
15 motion to exclude. I do find that that's irrelevant for the
16 jury to determine. The jury's sole role here is to
17 determine whether or not he shall be defined as a sexually
18 violent predator. What happens to him after that is none of
19 the jury's concern. Just like if this was the initial
20 trial, you know, what type of a sentence a person could get
21 is outside the discretion of the jury, that's the discretion
22 of Court. And so, you know, here the jury is supposed to
23 make a finding in a civil lawsuit as to whether or not he
24 meets the definition under the statute being a SVP, if so,
25 so be it. But as far as the type of -- where the facility

PRETRIAL MOTIONS

1 is going to be, how long it is going to be, whether or not
2 it's indeterminate or determinate, that's outside the
3 province of the jury, so I respectfully deny the defense's
4 position that it's not and grant the State's motion to
5 exclude any testimony or inkling of that. All right.
6 What's the next one?

7 MR. BOGLE: Thank you, Your Honor. The second motion
8 will have to do with treatment. Without repeating myself,
9 Your Honor is aware of the elements we have to prove, and
10 that's all we have to prove. Any testimony about the type
11 of treatment, whether or not, how long the treatment lasts,
12 how many sessions there are a week, the details involving
13 the treatment involved would be outside our expert's
14 knowledge. First off, she has been tasked to find out is he
15 a sexually violent predator, the crime and mental
16 abnormality or the personality disorder. Details of
17 treatment are solely left to the third party, which in this
18 case would be Well Path Solutions. Any testimony about
19 treatment we would submit is not relevant and it could cause
20 unnecessary confusion and mislead the jury. It would be
21 speculative at best because no one knows what type of
22 treatment he will need, or which of the four phases he would
23 have to start out in, we wouldn't know until he got there.

24 THE COURT: All right. Mr. Dunn?

25 MR. DUNN: Your Honor, my position would be that you

PRETRIAL MOTIONS

1 know, one of the common complaints I get from a lot of these
2 gentleman that I deal with them, not this end of it but the
3 later end, next year or the year after when they're being
4 reevaluated is they haven't had any treatment. But a lot
5 these folks can get treatment outside of the facility,
6 outside of the sex offender treatment as part of their
7 release. Again, it's one of those things that I think a
8 jury should hear. If they make a finding that he's a
9 sexually violent predator that he very well may sit down in
10 Columbia and not receive any treatment. It's not on him.
11 He's got no control over whether or not the third party
12 actually gives him treatment or not. He's got control over
13 whether or not he participates if there's treatment, but
14 whether or not that treatment is ever offered to him is
15 outside of his control, whereas if he's not released -- or
16 excuse me, if he is released and he has to deal with
17 community supervision and then later on is a registered sex
18 offender, there's treatment that he could go get and I think
19 the jury should be able to hear that.

20 THE COURT: All right. I respectfully disagree. I'm
21 going to grant the State's second motion in limine to
22 exclude any questioning about that, the type of treatment,
23 et cetera. You know, again, I think this case is basically
24 straight forward under the law. There may be a disagreement
25 about the facts but that's what the jury is for. But when

PRETRIAL MOTIONS

1 I'm charging the law, the code section, as both of y'all are
2 very well familiar with, says a sexually violent predator,
3 which is defined by statute, is a person who has been
4 convicted of a sexually violent offense and suffers from a
5 mental abnormality or a personality disorder that makes that
6 person likely to engage in acts of sexual violence if not
7 confined in a secure facility for long term control, care
8 and treatment. You know, the very charge that I'm going to
9 give the jury has in it the word secure facility, long term
10 care, control. So essentially what you're seeking to get in
11 front of the jury, Mr. Dunn, I certainly understand why, I
12 tell them that when I tell them what the law is going to be.
13 So they already know that the law says secured facility,
14 long term, so I think -- you know, I don't want to further
15 confuse the jury as to what their ultimate goal is here as
16 fact finders, so I'm not going to let you go into all of the
17 other stuff. All right. Let's hear the respondent's
18 motions in limine.

19 MR. DUNN: Your Honor, if it may please the Court? I
20 have three. The first one under the statute under 44-48-30,
21 it lays forth the crimes and the statutes that a defendant
22 has to violate in order to begin the process of being
23 considered a sexually violent predator, and there's no doubt
24 that Mr. Williams has met the definition on two occasions of
25 being charged with and convicted of criminal sexual conduct.

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1 In some various degree all of them are listed in that
2 statute. My concern, Your Honor, is if Mr. Williams has a
3 long history of other things that are not sexual in nature.
4 He's got a long history of things that lawyers and judges
5 would consider sort of minor, just little things, money kind
6 of things or property crimes, but there's two specifically
7 that he's got convictions that I think are going to create
8 issues with the jury. One is he's pled guilty to
9 manslaughter, and another one is that he has pled guilty to
10 carjacking, and both of them may have accompanying
11 kidnapping charges. There's more charges with each of them,
12 but the overall battery on each of those is manslaughter and
13 carjacking. I don't see in the definitions that he meets --
14 that those two convictions would meet the statutory
15 requirement for a sexually violent crime. There may be
16 speculation as to what the underlying motive was, but as far
17 as actual crime goes I don't believe there has been a
18 finding that sex was involved. I think that any reference
19 to those would be more prejudicial than probative and it
20 would just create a burden for Mr. Williams to overcome that
21 he should not have to have since the burden is on the State,
22 Your Honor. We would agree that there are two charges, he's
23 got two separate CSC cases, convictions for pleas, they meet
24 the definitions, these other ones do not.

25 THE COURT: Okay. Mr. Bogle?

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1 MR. BOGLE: Yes, Your Honor. And this may be necessary
2 for me to explain myself better to call Dr. Gehle for about
3 five minutes to let you know exactly what happened here.
4 But in most of these cases they diagnose a mental
5 abnormality, such as pedophilia disorder, for example. All
6 of these mental abnormalities require that the conduct or
7 the persistent urges that result in conduct last at least
8 six months. In this case Dr. Gehle, the court appointed
9 expert, looked real hard for a six month pattern for
10 behavior, could not find it. Now, he's got two sexually
11 violent convictions, both of them for criminal sexual
12 conduct in the first degree, so he's got the convictions, so
13 Dr. Gehle had to look at the other side of the statute. As
14 you know, the statute says a mental abnormality or a
15 personality disorder, and she diagnosed him with antisocial
16 personality disorder, along with some other personality
17 disorders relating to drug use or alcohol use. Now, to get
18 the diagnosis of antisocial personality disorder there are
19 several things you have to do, and she could perhaps state
20 it better than I. You have to look at, number one, the
21 person has to have some kind of criminal history prior to
22 age 15. This has to start young. The next thing is the
23 person has to have a long extensive pattern of criminal
24 history, not just sexually violent but also -- and I think
25 Dr. Gehle explained the words engaging in conduct or acts

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1 that are grounds for arrest. In other words, he's going to
2 be arrested and convicted sometimes, he's going to be
3 arrested sometimes, or maybe just does it and never gets
4 arrested. So that kind of conduct over and over again is
5 the grounds for antisocial personality disorder, and that
6 would include, of course, the two criminal sexual conducts
7 in the first degree. It would include a kidnapping along
8 with one of the women or the CSC, another kidnapping, that
9 same woman, but the carjacking was an attempt to assault
10 another woman. It did not result in a sexual assault but he
11 was convicted of carjacking and kidnapping on that victim.
12 And then finally you have the other criminal sexual conduct
13 in the first degree. Now, the case law in the past starting
14 Ettel case, E-t-t-e-l, from 2008. In that case the court
15 admitted Dr. Pamela Crawford, she was the court appointed
16 expert, she talked about prior sex offenses as well as prior
17 non-sexual convictions. She also talked about some crimes
18 that didn't even result in convictions, and the court says
19 this was necessary because Dr. Crawford relied on all of
20 these things in determining whether or not or evaluating the
21 Ettles need for and the likelihood of success of any kind of
22 treatment, particularly outpatient treatment, how it
23 wouldn't work. The court held that the probative value
24 underlying an -- which was not sexual, and the criminal
25 sexual conduct charges outweigh the danger of undue

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1 prejudice. In that case Dr. Donna Schwartz-Watts, now Dr.
2 Maddox, was testifying about past criminal history, and the
3 Court held that past criminal history is directly relevant
4 in establishing the definition of a sexually violent
5 predator. It also held that a lot of past crimes were
6 similar in nature. Here we have a number of crimes that I
7 just mentioned against women, all about -- woman all about
8 the same age. A lot of these -- to the two CSC's and the
9 homicide, which occurred in Richland County, also involved
10 choking. The victim died of choking. The two CSC victims
11 were both choked, one to the point of unconsciousness. So
12 there's a pattern of sexual behavior right here which moves
13 in the manslaughter conviction in Richland County as well
14 because of the way the woman died. So we would submit that
15 those two cases and the underlying facts, plus the basis of
16 the diagnosis she's trying to present to the Court would
17 allow her to testify about all of the crimes he's been
18 convicted as a basis for antisocial personality disorder, as
19 well as the underlying details relating to them to show a
20 pattern of behavior. There's some other case law in my
21 memorandum of law where at one point in looking at the type
22 of testimony you could make about offenses, it says, the
23 general assembly didn't define offenses, our court looked to
24 the Kansas Supreme Court since our law is basically a copy
25 of Kansas' law. And Kansas had a broad definition of prior

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1 conduct, charged and uncharged, as material evidence in a
2 sexually violent predator case. That was a matter of the
3 Kansas Supreme Court from 1998. So we would submit that all
4 evidence regarding all of the crimes were part of her
5 diagnosis, they need to come before jury. And I can put her
6 up to testify about that briefly if I've left anything out.

7 THE COURT: I don't think that's necessary. Anything
8 else on that issue?

9 MR. DUNN: No.

10 THE COURT: All right. Respondent's motion in limine
11 is denied based upon arguments of the State, which I find to
12 be persuasive. Of course, having said that, you make your
13 contemporaneous objection, it really depends on what she's
14 going to say during that and what I'm hearing depending on
15 if I qualify her as an expert and then I can rule then to
16 determine the prejudicial effect versus the probative value.
17 But at this point in time I don't see any reason to limit
18 the State from trying to elicit that testimony.

19 MR. DUNN: Yes, Your Honor.

20 THE COURT: What's the next one?

21 MR. DUNN: Number two is -- there's actually a typo.
22 The gist of is it, in 1997 Mr. Williams was arrested for
23 some type of CSC case, him and a codefendant. Ultimately
24 that charge, or it might have been '93, and it was dismissed
25 in '97, but at some point it got dismissed and there was no

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1 adjudication of the facts on that case.

2 THE COURT: Is there any issue with that, Mr. Bogle?

3 MR. BOGLE: Well, the same arguments apply. Prior
4 conduct, as I called it, acts which are grounds for arrest.
5 Now, obviously he was not convicted and Dr. Gehle knows that
6 and she puts it in the proper light considering that and
7 she'll tell the jury the weight that she gives this since he
8 wasn't convicted. But pattern of conduct is what we're
9 looking for here.

10 THE COURT: I'm going to let the convictions come in,
11 I'm not going let arrests come in, so you win that one.
12 Respondent's motion to exclude is granted on that.

13 MR. DUNN: Thank you, Your Honor. And then the last
14 one, as part of Dr. Gehle's evaluation she had to review a
15 pretty good chunk of Mr. Williams' history, a lot of it
16 police reports and that sort of thing. Your Honor, I would
17 argue that everything that is contained in those reports,
18 any conversations that she may have had with the arresting
19 officers 20 years -- these crimes all happened back in '01,
20 '02, '03, so we're talking almost 15 or 20 years ago, any
21 kind of reference to things that she read about in police
22 reports, conversations that she had with cops, if she had
23 them, Your Honor, I would -- all of that is hearsay and
24 wouldn't be proper to allow her to testify to what's in
25 those reports. Specifically, Your Honor, you know, it kind

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1 of goes back to my first argument, what the motives were for
2 the carjacking, what the motives were for the manslaughter,
3 nobody really knows, it's not really clear in the reports.
4 But even if it was clear in the reports I would argue that
5 that's hearsay, that that's not conduct that he's pled
6 guilty to, that it's speculation at best and a part of law
7 enforcement. But either way it's hearsay and it's
8 prejudicial to Mr. -- any kind of probative value evidence
9 is greatly outweighed by the prejudicial value of it since
10 there's no way for us to cross examine or deal with those
11 witnesses that are 15 or 20 years ago, Your Honor.

12 THE COURT: You're correct, it is hearsay, however it's
13 an exception to hearsay. Experts can use that in
14 considering their ultimate opinion as to whatever an expert
15 is going to say, and that goes to credibility of the
16 witness' testimony -- the expert witness' testimony rather
17 than to its admissibility, so I respectfully deny your
18 motion. All right. Anything else?

19 MR. BOGLE: Nothing further, Your Honor, that I have.

20 THE COURT: All right.

21 MR. DUNN: I don't believe so, Your Honor.

22 THE COURT: All right, thank you. We'll be starting
23 here in about ten minutes then, y'all take a quick break if
24 you need one.

25 (A recess was taken.)

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1 MR. BOGLE: A clarification if I may. And I apologize
2 for not bringing it up before, but after you took a break a
3 second ago my expert, Dr. Gehle, came to me and said, "Hey,
4 what about this?" In motion number two there was talk about
5 a 1993 arrest for CSC, it was later nolle prossed in 1997.
6 Now, here is the question, in prior -- I just asked this
7 point blank, in prior SVP cases you've tried, have you dealt
8 with experts who have testified about scoring a person on
9 something called at Static 99R?

10 THE COURT: Yes.

11 MR. BOGLE: Okay. In this particular case, Dr. Gehle
12 scored him on a Static 99R, as well as Static 2002R as a
13 predictor of whether or not persons with his characteristics
14 are likely to reoffend and that's part of the basis of her
15 diagnosis about him. Now, the Static 99R tally sheet that
16 she uses on him includes one matter, item five is called
17 prior sexual offenses, and the manual that tells her how to
18 do this says that includes sexual offenses even when there's
19 no conviction. So because of the 1993 arrest she had to
20 give him a one for that score, and that's part of her
21 scoring system. So I guess what I'm asking for, Your Honor,
22 is it happened, he got arrested for it, it did get nolle
23 prossed, but the book that tells her how to score the Static
24 the 99R says include that and she did.

25 THE COURT: If we just take away the one, would he have

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1 still scored? If we take away that one point, would he have
2 still scored in her opinion?

3 MR. BOGLE: He would have a two instead of a three.

4 THE COURT: Which would be what?

5 MR. BOGLE: Two is what an average sex offender gets, a
6 three is in the -- what's the phrase for it likely to or
7 more likely to?

8 THE COURT: Well, for the purpose this and while we
9 have time, let's briefly proffer her on that. And for the
10 purpose of this proffer, any objection to her
11 qualifications?

12 MR. DUNN: Not for purposes of proffering, Your Honor.

13 THE COURT: Thank you. All right. Ma'am, you can come
14 on up here.

15 The witness, DR. MARIE GEHLE, was first duly sworn and
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BOGLE:

19 Q Now, Dr. Gehle, just for the record, you were appointed
20 by the Court at a previous hearing to evaluate Mr. Williams,
21 correct?

22 A Yes.

23 Q And as part of that evaluation you collected police
24 reports, criminal history, witness statements, indictments,
25 sentencing sheets, everything you could find relating to his

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1 criminal history; is that correct?

2 A Yes, I did.

3 Q Okay. And as part of your evaluation, do you score a
4 person on an actuarial instrument called the Static 99R?

5 A Yes..

6 Q And there's another one by the same people called the
7 Static 2002R, correct?

8 A That's correct.

9 Q Now, in this particular case, did your research into
10 Mr. Williams' past criminal history show that he had been
11 arrested or charged with criminal sexual conduct back in
12 1993?

13 A Yes.

14 Q Okay. Now, is that classified as an act that results
15 in an arrest even though it didn't result in a conviction?

16 A Yes, it resulted in an arrest.

17 Q Okay. Aside from the Static 99R, would such an act be
18 part of one of the things you would have to count in forming
19 a diagnosis of antisocial personality disorder even though
20 he wasn't convicted of that charge?

21 A Yes. It's part of antisocial personality disorder
22 because that includes a history of behaviors that could or
23 do result in arrests.

24 Q So could result in arrests would fit this 1993 CSC
25 because he was arrested.

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1 A Yes.

2 Q Or if he had done it and not gotten arrested for it, it
3 would still fall within definition; is that correct?

4 A Yes. If it's something that he told me that he did and
5 he wasn't arrested for, yes.

6 Q So during your interview with him he might tell you in
7 the conversation that "I did this" and there's no record of
8 any arrest for it, but if it's against the law and he said
9 he did it that would go into your diagnosis.

10 A Yes.

11 Q Turning to the Static 99R. Let me hand you what you
12 gave me a copy of, your scoring sheet. Item number five.
13 Now, to score somebody on this instrument there's a big
14 manual that tells you how to do it, right?

15 A That's correct.

16 Q And you have to follow that manual.

17 A Yes.

18 Q And is the scoring of the Static 99 part of your
19 diagnosis or part of the basis of your opinion about Mr.
20 Williams?

21 A It's not part of my diagnosis, but it's part of the
22 basis of my opinion.

23 Q And your opinion in this case is that he should be
24 civilly committed for treatment.

25 A I think that he's likely to reoffend, yes.

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1 Q Okay. So your opinion is that he meets the definition
2 of a sexually violent predator.

3 A Yes.

4 Q Okay. Tell us how -- looking at item number five, tell
5 us now the 1993 arrest -- criminal charge for CSC, even
6 though it was nolle prossed in 1997, how does that figure
7 into your scoring as instructed by the manual by the people
8 who designed this thing.

9 A Okay. So item number five is called prior sex
10 offenses. And have you look at -- so prior to the index
11 offense, and the index offense is the most recent act, or in
12 Mr. Williams' case he actually has what's called an index
13 cluster, because he was not -- he wasn't charged for, I
14 believe, the December 2000 offense before he was charged for
15 the January 2001 offense, so those cluster together, that's
16 called the index cluster. So I have to look at behavior
17 prior to that when I'm talking about prior sex offenses, he
18 has one and that was in 1993. He was charged with --

19 Q So to back up, he has a cluster of index offenses?

20 A That's the --

21 Q And that's the CSC's and the homicide, the
22 manslaughter.

23 A Yes, the carjacking and the three kidnappings.

24 Q And the carjacking, yeah.

25 A Yes.

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1 Q Okay. So you're looking at those, but you're also
2 looking back for what did you call it, prior sex offense?

3 A Prior sex offense, yes.

4 Q How does the 1993 arrest for CSC, even though it was
5 nolle prossed or dismissed in 1997, how does that factor
6 into the definition of prior sex offenses for the purpose of
7 scoring this instrument?

8 A Well, in 1993 he was charged with criminal sexual
9 conduct in the first degree for an assault against a female
10 forcing her to perform oral sex, and that resulted in one
11 charge and no conviction. So the way that you score it per
12 the manual is you give them one charge, zero convictions,
13 and then there's a little table here, and you go at
14 whichever one is higher. So for it's charges it can be one
15 or two charges and one conviction, that results in one
16 point. So that goes into the total score for the Static.

17 Q So in scoring him on the Static 99R, this 1993 CSC per
18 the manual and how to do it says to count it as a point.

19 A Yes.

20 Q Even though he wasn't convicted of it.

21 A Correct.

22 Q And is the scoring on the Static -- now, you also
23 scored him on a Static 2002R.

24 A Yes.

25 Q A separate instrument. Are the rules similar?

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1 A The rules are kind of different for that one. That one
2 looks more at convictions, so it doesn't affect the scoring
3 on the 2002R.

4 Q But it does on the 99R.

5 A Yes.

6 Q And that's part of the basis for your ultimate opinion
7 about Mr. Williams.

8 A Yes.

9 MR. BOGLE: Please answer any questions the Court may
10 have or counsel may have.

11 CROSS EXAMINATION

12 BY MR. DUNN:

13 Q The allegations in that 1993 CSC were different from
14 the allegation contained in the 2001 -- 2000 and 2001
15 incidents, correct? Meaning in the two that he pled guilty
16 to there were no codefendants, he was by himself, and in
17 both of them, I believe, there's allegations of choking,
18 right?

19 A Strangling.

20 Q Or strangling. Some kind of -- but in this 1993 one
21 there were no allegations of choking, it was just an
22 allegation of two individuals that raped this lady, correct?

23 A It was alleged that he -- the woman was forced to
24 perform oral sex on Mr. Williams while the woman was
25 restrained by a second man.

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1 MR. DUNN: Your Honor, I don't have any further
2 questions as it relates to this motion.

3 THE COURT: All right. Thank you, ma'am, you can step
4 down, thank you. All right, argument?

5 MR. BOGLE: Just that -- Your Honor, I apologize for
6 not bringing this up before. But part of the basis for her
7 ultimate opinion is his scoring on the Static 99R. She was
8 concerned that if questioned how did you get that score,
9 she's worried that -- and I believe that Your Honor was
10 excluding reference to a 1993 CSC, and yet the rules of that
11 scoring mechanism require her to list that charge even
12 though he wasn't convicted, so I'm kind of on the spot here.
13 Part of her diagnosis, part of the basis for her opinion is
14 the score on the Static 99R. To get that score by the rules
15 of that instrument you have to include the 1993 CSC charge
16 even though it didn't result in a conviction.

17 THE COURT: Got you. Any argument?

18 MR. DUNN: I just think it's not fair to individuals to
19 penalize them for behavior that they're not convicted of and
20 they didn't take responsibility for. You know, anybody can
21 make allegations or whatever. There was no adjudication.
22 He's already got enough crimes that the jury is going to
23 hear about, and I think that hearing anything else bad about
24 him is prejudicial. He did admit to it. He clearly didn't
25 agree to it 20 years ago or 25 year ago, and for whatever

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1 reason -- and it's speculation on my part and the Court's
2 part and Mr. Bogle's part as to why it went away but it went
3 away. I just don't see how that's fair to Mr. Williams for
4 that information to come in, and I would ask the Court to
5 keep that information out.

6 THE COURT: All right. I'm going to respectfully
7 overrule the defendant's request to keep that out again. My
8 general rule of thumb, and certainly I know I'm the
9 gatekeeper, I'm the gatekeeper of all evidence which comes
10 in, but you know, when in doubt let it in. That's kind of
11 the way I've always done and so I'm not -- I don't feel
12 100 percent confident, being honest since we're making a
13 good record here, I think that's a basis upon which the
14 doctor's ultimate opinion rests. I think, you know, the
15 jury can be able to -- they can understand the difference
16 between a conviction and, you know, what doctors use in
17 determining a diagnosis, you know. It's all subjective
18 stuff in the doctor's review for which she reaches her
19 ultimate opinion so I'm going to allow that in, that
20 testimony in about that, understanding, of course, that it's
21 not in the big scheme of things. I do find it to be more
22 probative than prejudicial. You're right, it is
23 prejudicial, there's no question about that, but it's more
24 probative, okay? All right. So all jurors are here, as I
25 understand. Are y'all ready?

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1 MR. BOGLE: Yes, sir.

2 MR. DUNN: Yes, sir.

3 THE COURT: Before we bring them in, were there any
4 matters of law regarding jury selection?

5 MR. BOGLE: Not from the State.

6 MR. DUNN: No, sir.

7 THE COURT: Okay. Thank you.

8 (The jury returned to the courtroom.)

9 THE COURT: All members of the jury are present. Good
10 afternoon, ladies and gentlemen of the jury.

11 (The jury was sworn.)

12 THE COURT: All right. Thank you, ladies and
13 gentlemen, and thank you again for doing this important
14 public service to both the State of South Carolina and to
15 Lancaster County and to the justice system as a whole. Let
16 me talk briefly with you before we start the trial, because
17 many people don't have the actual chance to -- or the chance
18 to attend actual court sessions, much less participate in
19 them as you're doing now. And people like that, probably
20 you before you actually came here this morning, think that
21 what you see on TV or what you see in the movies or read in
22 books is actually the way that real court is. Well, nothing
23 can be further from the truth, okay? This trial is not for
24 entertainment. This trial is a fundamental part of our
25 democracy to make sure that justice is done between the

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1 parties before the Court. You know, making sure that
2 justice is done can sometimes be a slow, deliberate and
3 repetitive process, the opposite of what you may be
4 expecting from just, you know, watching TV or seeing stuff
5 like that. This courtroom is a place of honor dedicated to
6 the protection and preservation of citizen's rights through
7 what many have called the greatest justice system created,
8 so thank you again for your jury service. Let me tell you
9 how a trial proceeds. The first thing that will happen is
10 that the attorney for the State -- or the attorneys actually
11 will have an opportunity to make an opening statement to you
12 to kind of give you an idea about what this case is about to
13 kind of outline to you what they think the evidence will
14 show, all right? After opening statements that's when we'll
15 proceed with receiving evidence. The evidence can come in
16 many forms. Sometimes it's like documents or sometimes it's
17 like things, or typically it's just testimony from this
18 witness stand here. And your job as the jury is to listen
19 to the evidence, listen carefully, pay attention because --
20 and when you look -- if there's any evidence to look at in
21 your jury room, look at that. Because your job as the jury,
22 you're the fact finders, okay? You determine what the facts
23 are, and I will give you the law at the end that you will go
24 by. I'm the judge of the law, you're the judge of the facts
25 and you'll use the law as I give it to you because you must

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1 accept as correct the law which I give you. And you will
2 use that in weighing the facts as you find them to be
3 important, and then you will make your verdict using that
4 method, okay? Now, after all of the evidence has been done,
5 that's when the lawyers again will be able to speak with you
6 by way of what's called a closing argument where they will
7 get to argue to you and try to persuade you as to what your
8 verdict should be, okay? Now, this as I said is a case
9 involving -- it's called -- it's styled in the matter of the
10 care and treatment of James Williams, respondent. And the
11 issue involved in this case is whether or not Mr. Williams
12 will be classified as what's called a sexually violent
13 predator. And the State bears the burden of proving that to
14 you by what's called beyond a reasonable doubt, okay? I
15 will -- so the State has the burden here. I will define to
16 you what beyond a reasonable doubt is at the conclusion of
17 you hearing all of the evidence, okay? Please keep an open
18 mind. Don't make up your mind as to what you hear, because
19 you're going to hear a lot of stuff, and only after you hear
20 everything you're allowed to start talking about it. You
21 can't talk about it with anybody, not even yourselves, your
22 fellow jurors, until you have received all of the evidence
23 and until you've heard the closing arguments and until
24 you've heard me give you the law. Now, we're not going to
25 finish the trial today obviously because we're starting here

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1 in the middle of the afternoon, so whenever we do finish for
2 the day you'll be able to go home. Now, when you leave this
3 courthouse you can't go on your phone or your laptop or your
4 I-pad or whatever and try to pull up information that's not
5 being presented in this courtroom because you just took an
6 oath to try this case, okay, and to come up with your
7 verdict. Your verdict has to be based solely on the
8 evidence received in this courtroom from that witness stand.
9 If you try to do any independent research or look at things
10 outside of what your role as a juror in this case, you're
11 violating your oath, okay? So don't do that and don't talk
12 to anybody about it, okay? I'm not naive. People are going
13 to say, "Oh, what kind of case are you sitting on?" Just
14 say, "It's a civil case, the judge said I can't talk about
15 it." Just blame it on me, I'm used to being the bad guy,
16 okay? So that's what you need to do. So at this point in
17 time before we actually get started -- we're going to try to
18 keep you in here but from time to time there may be times
19 when I will have to have you exit the courtroom to deal with
20 legal arguments. Again, that's because I'm the judge of the
21 law. We're not trying to keep anything from you. The whole
22 objective here is to make sure you as the fact finders have
23 the best evidence possible, so we have rules of court to
24 determine what can come into evidence or what can't come
25 into evidence. So when a lawyer thinks something is going

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1 to be coming into evidence that is not proper, that lawyer
2 can say, "Objection," okay? Y'all have all seen it on TV or
3 in the movies, and I will then rule on the objection. If I
4 sustain it that means the thing -- or the question can't be
5 answered or the thing can't come into evidence. If I
6 overrule it, that means the thing can come into evidence or
7 the question can be answered. So if I sustain something
8 don't speculate about what the answer would have been,
9 because again, you're taking matters outside of your role as
10 a jury. Your role as a juror is only to determine what has
11 rightly come into evidence, nothing else, okay? All right.
12 So at this point in time I'm going to ask that you give the
13 lawyers your full degree of attention as they speak to you
14 making opening statements. Mr. Bogle?

15 MR. BOGLE: Thank, Your Honor. May it please Court?
16 Mr. Dunn? I was introduced by the Judge earlier, my name is
17 Jim Bogle, I'm with the Attorney General's Office in
18 Columbia. People sometimes wonder why we're doing it as
19 opposed to say your local solicitor or county attorney or
20 someone like that, and the reason is real easy, when they
21 passed the law back in 1998 they said the attorney general's
22 office will do these cases. So there's two of us that
23 travel around the state doing different cases in different
24 counties and here we are, that's why it's us. Now, another
25 thing to think of is when you told your friends and

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1 neighbors I might be on jury duty and they asked you what
2 kind of cases you might hear, you might have thought, well,
3 I might be hearing an auto crash case or maybe a medical
4 malpractice case or contract case or something like that,
5 and that's not what this is. I'll just tell you right now,
6 this is a very different type of case. This is basically a
7 civil commitment case. The State is trying to commit Mr.
8 Williams to a secure facility for sex offender treatment.
9 Here's what it is, it's called the Sexually Violent Predator
10 Law, it was passed in 1998. And when the general assembly
11 said some things they made a point of saying this, they
12 said -- they made a finding that a mentally abnormal and
13 extremely different group of sexually violent predators
14 exist who require involuntary civil commitment in a secured
15 facility for long term control, care and treatment. And
16 they went on to say because the existing civil commitment
17 process is inadequate to address the special needs of
18 sexually violent predators and the risk they present to
19 society, the general assembly termed that a separate
20 involuntary civil commitment process is appropriate, and
21 they put it in the court of common pleas where we are today.
22 So that's the kind of case we have. Here is what the State
23 has to prove. Number one, has Mr. Williams been convicted
24 of sexually violent crime? And the answer is yes, he has
25 two of them, criminal sexual conduct in the first degree

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1 back in about in the early two thousands. He also had some
2 other crimes. And as part of this case it was reviewed a
3 few times, and at one point a few months ago a judge in this
4 courtroom appointed Dr. Marie Gehle sitting right there, she
5 is a chief psychologist with the Department of Mental
6 Health, her job was to evaluate Mr. Williams. Has he been
7 convicted of the right kind of crime, she's looking for
8 that. The next question is does he have a mental
9 abnormality or a personality disorder that makes him likely
10 to commit these types of crimes in the future unless he's
11 confined for what they call long term control, care and
12 treatment. Let's make no bones about it, we are essentially
13 trying to lock him up after he's finished with his prison
14 term, he's done with that. This is not a criminal case, it
15 is purely a civil case. And so she looked at them. She
16 looked at all of the documents she could find about prior
17 convictions of all types, any things he said to police, what
18 the victim said to the police, what the police found out
19 from him. She also tested him on some scoring mechanism
20 that she uses peculiar to her type of work, and her
21 recommendation or conclusion is that, yes, he fits the
22 criteria, is likely to reoffend unless he's confined for
23 long term controlled, care and treatment. Now, normally in
24 a court of law a witness can only testify about things they
25 perceive with their senses, things they see, things they

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1 hear or things they smell. "I saw the traffic light turn
2 red. I heard the gun go off. I saw the man with a knife,"
3 things like that. They can't give opinions. But in special
4 cases where a witness has the particular training and
5 expertise in a certain type of field where they can help the
6 jury make a conclusion, they can be allowed to give
7 opinions, and it is in that process that we will be
8 submitting Dr. Gehle as an expert witness. They call them
9 an expert witness if they qualify in the field of psychology
10 and forensic psychology, and she'll talk about what that
11 means later on. Now, like the Judge said, the State has to
12 prove this case to you not by the normal burden of proof you
13 see in common pleas cases, which is preponderance or think
14 of a 51 percent type scale. No, it's different here.
15 Because Mr. Williams' liberty is at stake we have to prove
16 our case to you beyond a reasonable doubt, and at the end
17 the Judge will explain to you exactly what that means. I
18 would suggest to you right now is after hearing the
19 evidence, after looking at the exhibits if you are firmly
20 convinced that Mr. Williams meets the criteria to be
21 determined a sexually violent predator, then you would
22 return a verdict committing him for treatment. That's what
23 the case is. Again, I thank you for your attendance, doing
24 your job for both the county and the State of South Carolina
25 and Mr. Williams. Your Honor?

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1 THE COURT: Thank you, sir. Mr. Dunn?

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

3 THE COURT: Yes, sir.

4 MR. DUNN: Good afternoon. My name is Geoff Dunn, I
5 live over in Chester and my office is in Rock Hill, I'm
6 happy to be here. Tomorrow afternoon when you're talking to
7 your loved ones about what kind of case you sat on, I
8 guarantee you as soon as you use the word sexually violent
9 predator everybody is going to give you the same reaction
10 that my family and my friends give me and other lawyers get
11 when they hear about these types of cases. This is a hard
12 case, it's a very hard case for y'all to sit in on and have
13 to listen to. In my opinion it is probably maybe the second
14 hardest case for a jury to have to listen to after child
15 abuse, child neglect, child sex kind of cases, because just
16 the subject matter is hard to hear. You're going to hear
17 that Mr. Williams, almost 20 years ago, raped two women.
18 You're going to hear that almost 20 years ago he killed
19 somebody, and now they're asking you -- the State is asking
20 you to make a determination that he needs to be in this long
21 term commitment and treatment at this point. It's hard.
22 It's hard because the easy response from the jury is to
23 check a yes box and be done with it, that's the easy thing
24 to do. You hear about these terrible things that Mr.
25 Williams did 20 years ago, we're just going to check yes,

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1 it's easy. But it's not supposed to be easy. When the
2 statute was designed 20 years ago, over 20 years ago at this
3 point, they made it beyond a reasonable doubt, and that's a
4 hard standard for the State to bear, and it's supposed to be
5 hard. It's supposed to cause the jury to pause and go,
6 "Well, maybe we shouldn't check a yes box." And there's
7 reasons why you don't need to check the yes box, and as this
8 case unfolds I think you're going to hear some of those
9 reasons why you, as a jury, need to pause before you start
10 checking the yes box. And then at the end of the trial when
11 the judge gives us an opportunity, Mr. Bogle and I an
12 opportunity to come back here and argue our side of the
13 case, I'll tell you what the reasons are, and I'll tell you
14 what those -- and those reasons are what we call reasonable
15 doubt, why you need to check no, that he does not meet the
16 definition, he does not need to go into this treatment
17 program. What I ask of you now today, Monday afternoon,
18 3:30 in the afternoon, we're tired and we've had lunch,
19 we're sort of sleepy, is just to pay attention and listen to
20 all of the evidence, keep an open mind and allow Mr.
21 Williams to have the trial he's entitled to under that
22 definition of beyond a reasonable doubt and not making up
23 their mind -- making up your mind now. Because like I said,
24 that's the easy thing to do. But this is a hard case and
25 I'm asking you to give him the benefit at this point and

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1 listen to all of the testimony. Thank you.

2 THE COURT: Thank you, Mr. Dunn.

3 MR. BOGLE: Thank you, Your Honor. May it please the
4 Court? The State would call Dr. Marie Gehle.

5 THE COURT: Ma'am.

6 The witness, MARIE GEHLE, was first duly sworn and

7 Testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BOGLE:

10 Q Dr. Gehle, would you please state your name and county
11 of residence, please?

12 A My name is Marie Gehle, it's spelled G-e-h-l-e and I
13 live in Richland County in Columbia, South Carolina.

14 Q And what is your job right now, how are you employed?

15 A I'm a chief psychologist at the South Carolina
16 Department of Mental Health.

17 Q And what degrees, or educational degrees do you
18 possess?

19 A I have a Bachelors Degree in Psychology, a Masters
20 Degree in Clinical Psychology, and a Doctorate in Clinical
21 Psychology.

22 Q Have you had additional specialized training beyond
23 these degrees that you talked about just now?

24 A Yes. I did a year long internship at Western State
25 Hospital in Tacoma, Washington. Part of that internship

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1 included training at their sexually violent predator
2 program. I also did a post-doctoral fellowship in forensic
3 psychology in East Central hospital in Augusta, Georgia.

4 Q Now, what states are you licensed to practice
5 psychology in?

6 A I'm licensed in South Carolina and Georgia.

7 Q Do you have professional memberships in organizations
8 relating to the study or practice of psychology?

9 A Yes. I'm a member of the American Psychological
10 Association, American Psychology and Law Society, and the
11 Sex Offender Civil Commitment Program Network.

12 Q What is basically the study of psychology?

13 A Well, it's the study of human behavior and the mind.

14 Q Now, sometimes you'll hear the word forensic along with
15 psychology, so I ask you, what is forensic psychology?

16 A Well, forensic psychology is a part of -- it's a
17 subspecialty of clinical psychology, which is dealing with
18 the assessment and treatment of mental illness, abnormal
19 behavior and other problems in life. In terms of forensic
20 psychology, it is the assessment and treatment of mental
21 illness, abnormal behaviors, things like that in a forensic
22 population. So it can be evaluations for the Court, it can
23 be treating people at the prison, it can be a lot of variety
24 of things.

25 Q In your job as a forensic psychologist, does it have

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1 you evaluating people, doing psychological evaluations of
2 people?

3 A Yes.

4 Q Okay. About how many types of people or types of
5 individuals have you evaluated, again, of all types of
6 evaluations over the years?

7 A I have evaluated probably between 400 and 500 people.

8 Q And what types of evaluations -- the broadest picture,
9 what types of evaluations would this have been?

10 A Competency to stand trial evaluations, criminal
11 responsibility, risk assessment, diagnostic and treatment
12 assessments, and then sexually violent predator assessments.

13 Q When you say risk assessment or criminal
14 responsibility, what does that mean?

15 A Criminal responsibility is determining if somebody is
16 not guilty by reason of insanity, or guilty but mentally
17 ill. And a risk assessment is answering a question in terms
18 of somebody having a risk to do a certain type of behavior,
19 usually it's a violence risk assessment. So somebody will
20 ask is this person likely to commit crimes in the future or
21 within a certain period of time.

22 Q Okay. Now, what about your background with regard to
23 the sexually violent predator law we're dealing with here
24 today?

25 A I have worked at the Department of Mental Health in the

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1 sexually violent predator program since 2009, so almost ten
2 years. And since I started there I supervised the treatment
3 of the sexually violent predators who are committed to the
4 program for the first couple of years that I was employed
5 there. And then since 2011 I have full-time done
6 evaluations for the Court under the Sexually Violent
7 Predator Act.

8 Q Okay. What type of evaluations have you done under
9 this particular law?

10 A I have done precommitment evaluations, so giving an
11 opinion about whether somebody should be committed to the
12 program. I have also done annual review evaluations, and
13 that's determining when somebody is committed if they're
14 ready for release.

15 Q Okay. Have you previously been recognized as an expert
16 witness in the field of psychology and forensic psychology
17 by the courts of both South Carolina and Georgia?

18 A Yes.

19 Q About how many times in South Carolina?

20 A More than 115 times in South Carolina.

21 Q Thank you.

22 MR. BOGLE: At this time, Your Honor, I would like the
23 Court to recognize Dr. Marie Gehle as an expert witness in
24 the field of psychology and forensic psychology.

25 THE COURT: Any voir dire?

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1 MR. DUNN: No, sir.

2 THE COURT: All right, she's so qualified. Ladies and
3 gentlemen, as Mr. Bogle told you during the opening
4 statement, typically when a witness testifies in court they
5 testify about what they saw, who they saw, smelled, heard,
6 et cetera, okay? Those are typically called lay witnesses,
7 okay? However, when a witness has specialized training or
8 education or skill, that witness may be qualified in the
9 field of that particular knowledge. I have just qualified
10 this witness as an expert in the field of psychology and
11 forensic psychology, so she is now qualified to answer in
12 the form of an opinion, okay, she can give an opinion. Now,
13 just because a witness gives an expert opinion or an expert
14 witness gives an opinion doesn't mean you have to accept
15 that opinion, it's just something for you to consider when
16 you weigh all of the evidence when you get the case, okay?

17 BY MR. BOGLE:

18 Q Dr. Gehle, how did you get involved in the case
19 involving James Williams?

20 A I was appointed by the Court to evaluate him.

21 Q And what type of evaluation is this under the Sexually
22 Violent Predator Law?

23 A It's a precommitment evaluation.

24 Q Can you describe for the jury your protocol in doing
25 these types of evaluations, your step by step process?

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1 A Yes. The first thing I do is review the records that I
2 receive, and I go through those records and look and see if
3 there are missing things, like police reports or witness
4 statements that appear to exist. So I will request those
5 records, I get a thorough understanding of those, and then I
6 conduct an interview. So I interviewed Mr. Williams. In
7 this case I interviewed him on two separate occasions. I
8 scored two sex offender actuarial risk assessment tools. I
9 took all of the information from the records and from those
10 risk assessment tools, and I combined them into a 35 page
11 report that outlined my opinions in this case.

12 Q In this case, part of that includes, like you said,
13 interviewing Mr. Williams.

14 A Yes.

15 Q And that took place on two occasions.

16 A Yes.

17 Q Just for the record, is the guy you talked to present
18 in the courtroom today?

19 A Yes.

20 Q Just identify him for the record.

21 A He's over there in the white shirt sitting next to his
22 attorney.

23 MR. BOGLE: Please let the record reflect she's
24 identified Mr. Williams.

25 Q In your meetings with Mr. Williams, did you feel like

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1 you had enough with him to get what you wanted in conducting
2 this evaluation?

3 A Yes.

4 Q What about the documents you've got? Do you feel that
5 you received enough documents to look at to basically do
6 this evaluation?

7 A Yes, it was adequate.

8 Q Could you give a description to the jury of the type of
9 documents you did look at regarding Mr. Williams' situation?

10 A Yes. The first thing I look at is his national
11 criminal history report, that will be a list of his charges
12 and convictions, multistate, if he's had out of state
13 convictions. I look at police reports, investigative
14 records, witness statements, statements Mr. Williams made to
15 investigators, warrants, indictments, convictions and
16 sentence sheets, prison records. In this case I spoke to
17 homicide detectives with the Columbia Police Department. I
18 also went to the Columbia Police Department and reviewed the
19 investigative report of the homicide that Mr. Williams was
20 convicted of. I looked at his school records. I looked at
21 records from Morris Village, which is the substance abuse
22 treatment center. I contacted the South Carolina Department
23 of Probation, Pardon and Parole Services. Those are the
24 majority of the records that I looked at.

25 Q You mentioned a homicide a minute ago. Was one of the

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1 crimes Mr. Williams was convicted of a manslaughter charge?

2 A Yes.

3 Q And manslaughter is not a sexually violent crime as
4 defined -- is it?

5 A No, it's not.

6 Q But it was necessary in your review to go look at that
7 file.

8 A Absolutely.

9 Q And the file was located at the Columbia Police
10 Headquarters?

11 A Yes.

12 Q And you spent some time looking through those
13 documents.

14 A Yes. It was important to look at those because I was
15 not sure if that was a sexually related offense or not.

16 Q And so you were looking to see if there was a sexual
17 tie to that crime.

18 A Yes.

19 Q Okay. Now, are these documents that -- the things that
20 you have listed the last couple of minutes, are these the
21 type of documents that are typically and reasonably relied
22 upon by experts in your field?

23 A Yes.

24 Q And did you consider these documents, the stuff you
25 looked at along with the scoring of Mr. Williams on those

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1 two actuary instruments you mentioned a minute ago? We'll
2 get to that in detail later, the scoring, talking to him,
3 the documents, did you consider relying upon all of this in
4 reaching an opinion about Mr. Williams?

5 A I did.

6 Q Can you explain to the jury how a person's past sexual
7 offense behavior relates to future sexual offense behavior?

8 A Well, a person's past sexual behavior is the best
9 predictor of future sexual behavior, that's especially true
10 if there has been repetitive acts. And that applies just
11 generally overall human behavior, we tend to be creatures of
12 habit.

13 Q Okay. Now, based upon your reviewing the documents,
14 your interview of Mr. Williams, did you find whether or not
15 he had been convicted of any crimes that would classify in
16 the law as sexually violent crimes?

17 A Yes, I did.

18 Q What were they?

19 A He was convicted of two counts of criminal sexual
20 conduct in the first degree.

21 Q And when did the conviction occur?

22 A I know that the offenses occurred in 2000 and 2001. I
23 think that he was convicted, I believe it was maybe 2005.

24 Q Okay. We'll come back to that in a minute. Let me ask
25 you this, in this type of case, is it necessary to look at

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1 the person's entire criminal history?

2 A Yes.

3 Q Does that include crimes -- cases where he might have
4 been arrested and not convicted?

5 A Yes..

6 Q And arrested and convicted?

7 A Yes.

8 Q What about where he admits to you criminal conduct and
9 he never was charged, is that important to look at?

10 A That would also be important.

11 Q Why is it important to look at these types of things?

12 A It's important, for one, to see the person's timeline.
13 Their -- like the timeline of when they were in the
14 community, when they might have been in jail, what types of
15 crimes that they've committed, what types of things they've
16 been charged with. It looks at -- I want to see like the
17 variety of offenses because that can speak to a personality
18 disorder, or details of the different offenses can speak to
19 other mental abnormalities that may be present. So it's
20 really important to look at everything.

21 Q And by doing this, would this be part of the basis for
22 your opinion about Mr. Williams?

23 A Yes.

24 Q Okay. Starting with his criminal history, in order to
25 look at the entire picture, are you also looking for crimes

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1 he might have committed as a juvenile?

2 A Yes.

3 Q What did you find out there?

4 A Well, he told me that he was -- that he was convicted
5 of charges as a juvenile, and that he was sent to a juvenile
6 detention facility but he couldn't remember any other
7 details. I didn't have records of those offenses because
8 they're so old.

9 Q Doesn't DJJ, the Department of Juvenile Justice,
10 destroy records after a few years?

11 A Typically after -- most agencies will destroy records
12 after ten years, but there's certain caveats with juvenile
13 records, those can be destroyed earlier depending on the
14 person's age.

15 Q Okay. So beginning on your page 14 of your report, you
16 start looking at his criminal records. Now, is one of the
17 diagnoses you're considering in a case like this antisocial
18 personality disorder?

19 A Yes.

20 Q To meet the criteria for antisocial personality
21 disorder, what are you looking for?

22 A Well, antisocial personality disorder, just in general,
23 is a violation of the rights of others. And then there's
24 specific criteria that you have to meet, you have to meet a
25 certain number of them in order to be diagnosed with that

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1 disorder.

2 Q Okay. But to get there, to meet these criteria, is it
3 necessary to look at the guy's entire criminal history?

4 A Yes.

5 Q Like I said, this includes stuff he was arrested for
6 but not convicted, as well as convictions, correct?

7 A Yes.

8 Q And would that be the basis -- part of the basis of
9 your diagnosis?

10 A Yes.

11 Q In fact, in this case, did you diagnose him with
12 antisocial personality disorder?

13 A Yes, I did.

14 Q Let's start. On page 15 there's a Chester County
15 breaking and entering in 1975.

16 A Yes. He was convicted of multiple charges in that
17 case.

18 Q Okay. What's the next charge after that you have
19 listed?

20 A In October of 1978 he was charged with possession of a
21 sawed off shotgun and he was convicted of that.

22 Q That was in York County?

23 A Yes.

24 Q Okay. And what's next?

25 A In March 1979 he was arrested for burglary, resisting

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1 arrest and assault, and he was convicted of resisting
2 arrest.

3 Q Anything else in 1979?

4 MR. DUNN: Your Honor, I'm going to renew my
5 objections.

6 THE COURT: Objection noted, overruled.

7 A Yes, there's another charge in 1979.

8 Q What was that? And what town and county was that
9 involved in?

10 A He was arrested by the Rock Hill Police Department for
11 failure to stop for a police blue light and siren, and he
12 was convicted of that.

13 Q And after that?

14 A In 1980 he was arrested by the Rock Hill Police
15 Department for disorderly conduct, assault and resisting
16 arrest, and he was convicted of those three charges.

17 Q And as you go through these --

18 MR. DUNN: Your Honor, I have an objection. Can we
19 approach the bench for a second?

20 THE COURT: Okay.

21 (A bench conference was held.)

22 THE COURT: Objection noted, overruled.

23 Q Now, Dr. Gehle, as you're going through these different
24 things with him, are you asking him what he remembers, if
25 anything, about it?

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1 A Yes. When I interviewed him I asked him about all of
2 the charges that I knew about.

3 Q And up to this point in time is he remembering things
4 so far?

5 A He remembered some, but some he did not.

6 Q Okay. But going back to the 1980 disorderly conduct
7 charge, I believe that was in Rock Hill?

8 A Yes.

9 Q Okay. Was he convicted of that, or do you know?

10 A He was convicted of disorderly conduct, assault and
11 resisting arrest.

12 Q Did he have any recollection of that in your interview
13 with him?

14 A No.

15 Q What's the next one after that?

16 A In September of 1981 he was charged with petty larceny
17 and he was convicted of purchase/possession of beer or wine
18 by a minor.

19 Q Did he have any recollection of that one?

20 A No.

21 Q Okay. How about after that in Rock Hill?

22 A That was in 1984, he was charged and convicted of
23 assault and battery. He said he did not remember that.

24 Q What about 1985 in Chester?

25 A In 1985 he was arrested in the Chester County Sheriff's

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1 Office for a fraudulent check, and the disposition was not
2 listed in the records that I had. He remembered that
3 offense. He said a check was sent to him by a company that
4 he used to work for and he cashed it, and the check got
5 stopped and he was charged with forgery -- forging the
6 check. And he said that he served time for forging that
7 check.

8 Q So he remembered that one?

9 A Yes.

10 Q What about the 1989 one in Fort Lawn?

11 A He was charged with disorderly conduct and resisting
12 arrest and he was convicted of resisting arrest. He
13 remembered that offense as well.

14 Q And after that in Chester, another disorderly?

15 A Yes, in 1991.

16 Q Did he recall that one?

17 A No.

18 Q Was that a conviction or --

19 A He was convicted of disorderly conduct, yes.

20 Q And what's after that?

21 A In July of 1991 he was charged with resisting arrest by
22 the Chester County Sheriff's Office. And I don't know if he
23 was convicted of that, it was not listed on his criminal
24 history report. He did not remember that offense.

25 Q Okay. And in 1992?

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1 A Yes. He was arrested by the Chester County Sheriff's
2 Office with breach of peace and violation of beer and wine
3 ordinance. He was convicted of both of those charges and he
4 could not remember those offenses.

5 Q What about 1992 involving the secret service?

6 A He was arrested by the United States Secret Service in
7 May 1992 for forgery of United States treasury checks. He
8 was convicted of that offense. He said that was a check
9 that had his name on it and he said that -- I asked him if
10 it was a mistake, that the check was sent to him by mistake
11 he said, yeah, that it had come to his mailbox and that's
12 how he got it.

13 Q Now, we turn to July of 1993, a charge in Fort Lawn.
14 What is that?

15 A He was charged with criminal sexual conduct in the
16 first degree, receiving stolen goods and resisting arrest.

17 MR. DUNN: Your Honor, I renew my objection on the '93
18 arrest.

19 THE COURT: Noted, overruled.

20 Q Is criminal sexual conduct in the first degree a
21 sexually violent crime had he been convicted of it?

22 A Yes.

23 Q And he was charged in 1993. When was the ultimate
24 disposition of this charge?

25 A Those charges were nolle prossed, or dismissed.

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1 Q Do you know how much longer, how much later it was that
2 that happened?

3 A They were nolle prossed in July of 1997, so it was
4 about four years later.

5 Q Okay. Now, the list of crimes you've been giving the
6 jury so far, this is the first one that appears to have a
7 sexual tone to it. Is that important in your evaluation?

8 A Yes. All of the sexual offenses in somebody's history
9 is important.

10 Q Are you looking for a pattern?

11 A Yes.

12 Q Okay. Under what basic details of this crime did you
13 find in the police reports that you found important in
14 making your ultimate diagnosis of Mr. Williams?

15 A Well, it was a charge for a sex offense, so again, that
16 goes into antisocial personality disorder. I asked him
17 about the offense because he may -- even though he wasn't
18 convicted of it he may have admitted to it, but in this case
19 he said that he couldn't remember that, so that's how it was
20 important. It's something that I consider, but when they're
21 not convicted of an offense I don't take it that it was
22 conduct that he absolutely committed.

23 Q This involved one victim?

24 A Yes.

25 Q Was the victim a grown woman or a child or --

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1 A She was an adult female.

2 Q Okay. Now, there's also a 1993 Lancaster County charge
3 after that.

4 A Yeah. In November of 1993 he was arrested in Lancaster
5 County for public drunk, he was convicted of that.

6 Q Okay. Do you have any recollection of that one?

7 A No.

8 Q What about after that in 1994?

9 A Yes. In February of 1994 he was arrested by the
10 Chester County Sheriff's Office for public disorderly
11 conduct and he was convicted of that offense and he had no
12 recollection of it.

13 Q Are you seeing a lot crimes here involving alcohol or
14 beer or wine or something like that?

15 A That's how somebody gets a public disorderly conduct
16 frequently, so that was part of what I believed.
17 Especially -- I asked him about his legal history after I
18 had already asked him about his substance use history, and
19 he reported a long history of substance use.

20 Q Okay. Now, in 1994 there's a probation violation.
21 Could you tell the jury about that?

22 A Yes. In June of 1994 he was charged with a probation
23 violation related to the federal check forgery conviction
24 and he was sentenced to five months in prison.

25 Q Did he do that time?

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1 A Yes. It's my understanding that he served time in the
2 federal prison in Atlanta.

3 Q Now, is there any significance in your line of work in
4 diagnosing guys in these types of cases to a probation
5 violation?

6 A Yes. It's a risk factor for sexual offending.

7 Q Why is that?

8 A Well, that's what the research says, that it's a risk
9 factor. But it in part speaks to an attitude of disregard
10 to the laws and rules, things of that nature.

11 Q Because he's got a suspended sentence hanging over his
12 head.

13 A Yes.

14 Q And yet he does something to violate that and goes to
15 jail.

16 A Yes. So it speaks to whether somebody can control
17 their behavior and change their behavior when they know
18 they're under increased scrutiny and when they have a lot of
19 consequences, when they know that there will be
20 consequences.

21 Q Now, what's after that in 1999 in Lancaster?

22 A In 1999 he was arrested by the Lancaster Police
23 Department for -- the charge was named uttering publishing
24 forged instrument. He was also arrested for possession of
25 crack cocaine, and he was convicted of forgery value less

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1 than \$5,000, and possession of less than one gram of ice or
2 crack cocaine first offense.

3 Q Okay. And move ahead to February of 2000.

4 A To February of 2000?

5 Q Yeah. Is there anything in between -- we have the 1999
6 convictions, is there anything after 1999 before we get to
7 2000?

8 A I don't believe so.

9 Q Okay. Let's turn the clock then to February 10th of
10 2000. What happened then?

11 A It's actually December 10 of 2000.

12 Q I'm sorry, left the one off.

13 A That was an offense -- that's his first sexually
14 violent offense. This involved a victim, I refer to her by
15 her initials, her initials are [REDACTED]. She was an adult female
16 acquaintance of Mr. Williams, and the offense happened in
17 Lancaster County. So on December 10th, 2000, it was
18 reported that this woman, [REDACTED] she knew Mr. Williams, she had
19 used a room in his house for her prostitution activities.
20 She smoked crack cocaine with Mr. Williams on the day of
21 this incident, December 10th of 2000. When she was
22 finished, she got up to leave and Mr. Williams would not
23 allow her to leave, he tried to undress her. He then
24 manually strangled her, meaning he used his hands manually,
25 strangled her while she struggled and fought with him. He

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1 then strangled her with a belt, so he used a belt as a
2 ligature. And at one point she blacked out, passed out, she
3 lost consciousness. He told her that she needed to
4 surrender or he would kill her and he proceeded to rape her
5 until he ejaculated. And I believe that part of that rape
6 happened while she was unconscious. She repeatedly told him
7 no during this incident. Afterwards he threatened to kill
8 her if she reported the assault. He also reportedly
9 apologized to her and told her that he cared about her. It
10 was noted in the police reports that the victim believed
11 that Mr. Williams' sister and several of her children were
12 in the home when the incident occurred, and she was not sure
13 why they didn't hear the incident, or she was not sure why
14 they didn't intervene, so she believed they didn't hear the
15 incident because nobody intervened to help her.

16 Q Was there a nickname he was referred to by her or
17 anybody in this incident?

18 MR. DUNN: Your Honor, I'm going to object to the
19 nickname, 403.

20 THE COURT: Sustained.

21 Q Okay. Let's move on. Okay. So as a result of this
22 was he eventually convicted of criminal sexual conduct in
23 the first degree?

24 A Yes.

25 Q And this victim is called [REDACTED] is that right?

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1 A Yes.

2 Q Okay.

3 MR. BOGLE: I would like to approach the witness if I
4 may, Your Honor.

5 THE COURT: Okay.

6 Q I hand you a certified copy from the Lancaster Clerk of
7 Court of the indictment for criminal sexual conduct in the
8 first degree and the sentencing sheet. Indictment number
9 2001-GS-29-524. Have seen this document before?

10 A I've seen copies of these, yes.

11 Q Are these the documents you relied upon in assessing
12 whether or not he had been convicted of a sexually violent
13 crime?

14 A Yes.

15 Q Were they part your evaluation of Mr. Williams?

16 A Yes.

17 Q Is this the one involving victim **COMPLAINANT I**

18 A Yes.

19 Q Let's make sure. **COMPLAINANT I**

20 A Yes.

21 Q Is criminal sexual conduct in the first degree a
22 sexually violent crime under this law?

23 A Yes.

24 MR. BOGLE: Your Honor, at this time we move to
25 introduce into evidence the certified copies from the

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1 Lancaster County Clerk of Court of the conviction in this
2 matter?

3 MR. DUNN: I haven't seen them yet.

4 THE COURT: Any objection?

5 MR. DUNN: No, sir.

6 THE COURT: All right. Without objection introduced
7 into evidence.

8 (The indictment was received as State's 1.)

9 Q Now, we turn to the next criminal sexual conduct charge
10 you talked about earlier on, you said there were two. When
11 did the next one occur?

12 A Well, the next one occurred on January 24th of 2001, so
13 it was about six weeks later.

14 Q Was he out on bail or anything for some of these things
15 when the other ones happened?

16 A Well, if I can just go back here and explain that,
17 because --

18 Q Yeah. Take us through the timeline if you would,
19 please.

20 A It's a little bit complicated. So the offense happened
21 on December 10 of 2000. In the days following the incident
22 the victim was at home, she had reported the offense so the
23 police were aware of it, and at her home -- Mr. Williams
24 came over to her home and she felt very threatened. And it
25 was also reported that he was making statements to people in

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1 the neighborhood that he was going to deal with her because
2 she was --

3 MR. DUNN: Your Honor, I'm going to object to that as
4 hearsay, also speculation as to what neighbors said or
5 didn't say.

6 THE COURT: All right. Sustained.

7 Q Okay. Go ahead. What do you have from the police
8 reports?

9 A I can still explain without saying that, but --

10 Q Now, which victim is it we're talking about now?

11 A **COMPLAINANT I**

12 Q **COMPLAINANT I**

13 A So she eventually with help of the victim's rights
14 advocate and law enforcement, she left town on
15 December 14th. On December 15th law enforcement met with
16 Mr. Williams at his home and talked to him about the
17 offense, and they asked that the **COMPLAINANT I** come into the
18 police station for a photo lineup but she was unable to make
19 it that day, so he didn't get charged until the day after
20 the January 24th, 2001 offenses. So for the offenses
21 against **COMPLAINANT I** he was charged six weeks later.

22 Q So another charge happened and then he gets charged
23 after that with the first one.

24 A Yes.

25 Q So he had already been questioned on the first one.

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1 A Yes.

2 Q And then he commits the second one, they arrest him for
3 that and they arrest him for the first one.

4 A Yes.

5 Q I would like to approach you again and show you a
6 certified copy from the Lancaster Clerk of Court, indictment
7 number 2001-GS-29-526, and the sentencing sheet for
8 indictment involving **COMPLAINANT 2**

9 A Yes.

10 Q If you would look at these. Are they what I've
11 described, the conviction, the sentencing sheet?

12 A Yes, and the indictment warrant.

13 Q Okay. And that involves **COMPLAINANT 2**

14 A Yes.

15 Q Are these copies of documents you looked at as part of
16 your investigation?

17 A Yes.

18 Q Did you rely upon these as part of your diagnosis and
19 evaluation of Mr. Williams?

20 A Yes.

21 MR. BOGLE: Move to introduce indictments on **COMPLAINANT 2**
22 into evidence as Petitioner Number 2.

23 MR. DUNN: No objection, Your Honor.

24 THE COURT: Without objection, introduced.

25 (The indictment was received as State's 2.)

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1 Q Just so I got this straight, this timeline, the police
2 bring him in to talk about **COMPLAINANT 1**

3 A They didn't bring him in, they met with him at his
4 house.

5 Q To talk about allegations he committed criminal sexual
6 conduct again **COMPLAINANT 1**

7 A Yes.

8 Q So what happened -- and then later he commits the crime
9 against **COMPLAINANT 2**

10 A Yes.

11 Q And then which ones -- and he's arrested for that one.

12 A Yeah. He's arrested for the crime against the second
13 **COMPLAINANT 2** on the same day that it happened.

14 Q Okay. And then when did they arrest him for the crime
15 again **COMPLAINANT 1**?

16 A Well, he's in the jail, arrested on the second offense
17 and then they file the charges for the first offense, so
18 January 25th of 2001.

19 Q And what underlying details did you find important on
20 the second case, the second -- you talked about the first
21 **COMPLAINANT 1** what about **COMPLAINANT 2**? What underlying details did you
22 find important to your diagnosis, your investigation of Mr.
23 Williams?

24 A Well, this offense again occurred at Mr. Williams'
25 home. He was at -- they were at a friend's house and Mr.

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1 Williams walked [REDACTED] home from the party. On the way home she
2 mentioned she was hungry and Mr. Williams invited her to his
3 house, he said he would make her a sandwich. He made her a
4 sandwich, invited her into his bedroom to eat it. While she
5 was eating he began touching her in a sexual manner, she was
6 not interested and she told him she was going to go home.
7 He told her that she had to repay for walking her home, had
8 to repay him. They began to essentially wrestle. He pulled
9 off her clothing and tore off her underwear, she began
10 screaming and they continued to struggle and then he
11 strangled her, first with his hand. And then he pulled a
12 cord from a radio and strangled her with that, like a cord,
13 so it's very thin, which causes a lot of pressure on a very
14 thin ligature like that, it causes a lot of pressure. She
15 lost consciousness, he began having intercourse with her,
16 raping her. She regained consciousness, so she appeared
17 like she was in and out of consciousness. At some point he
18 ejaculated. She asked him if he was finished and he said
19 no. He started hitting her in the head with his fists. He
20 strangled her again while having intercourse the second
21 time. She struggled throughout this assault. She scratched
22 at his chest, drew blood. After the rapes were completed he
23 made her clean her genitals with soap and water. And he
24 also ran a toothbrush through her pubic hair. He refused to
25 give her back her own clothing and he gave her somebody

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1 else's clothing to wear. And he apparently told her that he
2 would give her \$200 the next time that he was paid if she
3 did not tell anybody what happened. One of the most
4 significant things about this case was the amount of harm
5 that was caused to her. One of the reporting officers, when
6 he first met with her he noticed that she had what's called
7 petechial hemorrhaging in her eyes. Petechial means burst
8 blood vessels in her eyes.

9 Q What causes that?

10 A Strangling. It's a sign that she had been strangled.

11 Q But the first woman, you didn't mention anything about
12 that with her.

13 A No. And it's in part -- it can happen in any type of
14 cases where you're strangling somebody, but the fact that
15 you're using a narrow cord, it applies more pressure on that
16 small surface area. It applies more pressure so the damage
17 can be worse. And in the hospital records they noticed that
18 she had broken blood vessels in her eyes, which were very
19 noticeable, also in her ears and her neck area.

20 Q So in both of these cases we have strangulation --

21 A Yes.

22 Q -- with hands, a belt, and then also a cord, a narrow
23 cord?

24 A Yes.

25 Q We have the petechial hemorrhages showing up in the

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1 second case.

2 A Yes.

3 Q Okay. Now, was there also an incident after that
4 involving a carjacking?

5 MR. DUNN: Your Honor, renew my objection.

6 THE COURT: Objection noted, overruled.

7 Q Let me back up for a second. Are there any other
8 details that you find significant about these two criminal
9 sexual conduct in the first degree that we've talked about
10 so far that you would like to share with the jury? Have you
11 covered everything so far?

12 A Well, it's the strangulation, that amount of harm, in
13 his own home. One had other people around who may have
14 intervened. They're both adult females and they both
15 involve lots of violence and lots of struggling, and, you
16 know, clearly nonconsensual sexual activity.

17 Q And if there are other people around, doesn't that
18 increase your chance of getting caught?

19 A Yes.

20 Q Is that a risk factor that you look at in these types
21 of cases?

22 A It's something that I look at in terms of whether he
23 can control his behavior and do what's in his best interest.

24 Q Uh-huh. We turn to November -- I think it's
25 November 1st of 2001, **COMPLAINANT 3** is that right?

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1 A It's November 11th, 2001.

2 Q What happened regarding that victim that you found
3 significant?

4 A Well, [REDACTED] was an adult female acquaintance, they knew
5 each other. Mr. Williams saw her driving by and asked her
6 for a ride, he said he would pay her \$5 so she agreed. She
7 drove him to an apartment building, and when they got there
8 he said that no one was home based on the cars in the
9 parking lot that he was looking for weren't there. So he
10 requested that she drive him to a different location and he
11 directed her where to go. He directed her to drive down a
12 dirt road, and when she was driving down the road she saw
13 that there was a dead end sign, so she said to him that
14 there were no houses down that road. She stopped the car to
15 put it in reverse, and at that time he reached across and he
16 put the car into park and he grabbed the key out of the
17 ignition. He pulled out a box cutter and grabbed her arm,
18 and he said to her that she wasn't going anywhere. She
19 managed to open the car door and she tried to escape but
20 Mr. Williams dragged her across the seat. This is actually
21 an older car that still had a bench seat, so he was able to
22 pull her across, you know, there was no center console or
23 anything to inhibit that. So he dragged her across the seat
24 and would not let her go. She managed to get free again and
25 she ran, and Mr. Williams chased her and threw her to the

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1 ground, he put a knee into her back and he said the next
2 time that she tried to run he would kill her. He got her
3 off the ground and grabbed her by the shirt, he asked her if
4 she had a trunk key. So this was an older car. It was a
5 1987 Pontiac 6000. So if you remember, if you're old enough
6 to remember cars used to have two keys, one would be a
7 square top, it was for the ignition, and one was a round top
8 and it would be for the trunk, it would be for the doors and
9 it would be for the glove box if that locked. She was
10 asking her for the trunk key, and they're standing by the
11 trunk. She only had an ignition key for this car. He tried
12 to open the trunk with the ignition key but that didn't work
13 obviously. So she managed to break free while he was doing
14 this and she ran and he caught her a second time. He began
15 hitting her in the head and back with his fist, he cut her
16 arm. He forced her into the passenger seat. He got into
17 the driver's seat, he held her arm and told her, you know,
18 don't even try to run again. So he began -- he put the car
19 in reverse and began to drive, and she got out of his grasp
20 and she jumped from the moving vehicle and ran to a house
21 that was right there and she pounded on the door and then he
22 drove off.

23 Q Okay. So for all of the bad things he was doing it
24 didn't end in a sexual assault, or it didn't end in a
25 criminal sexual conduct in the first degree, he didn't get

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1 that far, right?

2 A No, I mean, the victim escaped.

3 Q The victim escaped. Why is it significant in looking
4 at this behavior you've seen so far to look at this case
5 when there wasn't a completed sexual assault?

6 MR. DUNN: Objection, Your Honor. The State has to
7 speculate as to motive of that carjacking.

8 Q Let me rephrase the question. Why is it important at
9 all to look at this particular case? I believe the victim
10 named would have been [REDACTED] is that correct?

11 A Yes.

12 Q Why is it important to look at that?

13 A Well, one of the most important things --

14 THE COURT: Let me stop you right there. Objection
15 overruled.

16 A One of the most important things is that he had charges
17 for the first two sexual offenses and he was out on bond. I
18 don't know when he got out on bond, but obviously he was out
19 because he had those charges, they had been filed. He
20 had -- for each rape he was charged with criminal sexual
21 conduct in the first degree and a kidnapping charge, those
22 are very serious charges. So he had those hanging over his
23 head. These happened within a year of those charges. That
24 was important. It was also important what he did after
25 these offenses. He left the area. I know that he went to

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1 Columbia at some point. He was wanted for the carjacking
2 and he was charged with carjacking and kidnapping for the
3 offenses against [REDACTED] so he was wanted for those charges. He
4 was out on bond, he had those four other charges hanging
5 over his head. All of those things were important.

6 Q Okay. So he's got the carjacking, the -- he's got the
7 criminal sexual conduct and kidnapping against [REDACTED] and [REDACTED]
8 hanging over his head, out on bond, and he commits this
9 crime of carjacking and the kidnapping against [REDACTED]

10 A Yes.

11 Q Does this -- what does this say to you about his
12 ability to control his behavior?

13 A Well, these offenses happened within a relatively short
14 period of time. They are very serious charges. So to me
15 it's showing that he's not able to control his behavior,
16 he's not able to stop himself from acting.

17 Q Okay. Now, let's move to Richland County. Initials
18 [REDACTED] I believe; is that right?

19 A Yes.

20 Q You testified earlier you looked at a homicide that
21 happened in Richland County.

22 A Yes.

23 Q What was he eventually -- now, before we go there,
24 you've already testified he was convicted of the two
25 criminal sexual conduct in the first degree here in

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1 Lancaster, correct?

2 A Well, he was convicted of all of these offenses at one
3 time.

4 Q Right. But for two of them so far you've talked
5 about -- you've mentioned he was convicted of CSC in the
6 first degree involving [REDACTED] and [REDACTED] that's here in
7 Lancaster County.

8 A Yes.

9 Q If I could approach again, just one more thing. In
10 these cases, were these guilty pleas or trials? Did he
11 plead to them?

12 A They were guilty pleas.

13 Q Okay. And when did the sentencing date occur?

14 A It was April 29, 2005.

15 Q Now, was he also convicted of kidnapping charges
16 relating to these two woman, [REDACTED] and [REDACTED]

17 A Yes. He was convicted of those at the same time.

18 Q That would have been the same day?

19 A Yes.

20 Q Okay. Now, what about the carjacking and kidnapping
21 charge against [REDACTED]? Was he also convicted of those?

22 A Yes. He plead guilty to those charges as well.

23 Q And did those convictions also occur on or about the
24 same day?

25 A Yes.

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1 Q And you looked at the pleadings -- I'm not going to
2 show you right now, but you looked at the carjacking and
3 kidnapping charge documents as well; is that right?

4 A Yes.

5 Q Okay. But those are not sexually violent convictions
6 but they're convictions you're looking at in the greater
7 scheme of the case; is that right?

8 A Yes.

9 Q Now, let's talk about Richland County. You testified
10 at the beginning of your testimony that one of the things
11 you looked at was a homicide file, a dead person, a killing,
12 it happened in Richland County. Tell us about that and how
13 it relates to your investigation involving these other
14 matters.

15 A Okay. So while Mr. Williams had two criminal sexual
16 conduct in the first degree, carjacking and three counts of
17 kidnapping hanging over his head, he had those charges. So
18 July 21st, 2003 a 40 year old woman was found dead lying
19 near a railroad track near an overpass in Columbia and she
20 was killed due to blunt trauma due to a beating. She had
21 many, many injuries, including rupture of her right eye and
22 petechial in the left eye which is that evidence -- both of
23 those are evidence of strangling. Multiple lacerations
24 wounds to the head. She was missing a tooth, it was pulled
25 clean out. Her brain matter was exposed. She had been

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1 beaten very, very badly.

2 Q Was Mr. Williams eventually convicted of voluntary
3 manslaughter regarding the death of this woman?

4 A Yes.

5 Q On the same day as everything else happened?

6 A Yeah. He was charged with murder and then he was
7 convicted, he pled guilty to voluntary manslaughter.

8 Q That was a guilty plea, not a trial.

9 A Correct.

10 Q Go on. Why look at this case? It's a homicide, it's
11 another county, what made you look at this case?

12 A Well, again, it all happened in that same sort of
13 cluster of offenses, that same sort of time period. He had
14 not been convicted of those earlier rapes when this
15 happened, and it was important to me to understand if this
16 was sexually related at all. There was some evidence in the
17 records that I looked at that the charge was a rape/murder
18 it had been called. A rape kit was performed on the victim.
19 But when I talked to investigators who were involved with
20 the case, they were not convinced that it was a sexually
21 motivated crime. The rape kit was never tested, though.

22 Q But there were strangling?

23 A There was strangling.

24 Q That petechial hemorrhaging in the eye?

25 A Yes. And one of her eyeballs was actually ruptured.

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1 Q Okay. So moving ahead to April 29th of 2005, is that
2 when he pleads guilty and gets convicted of all of these
3 things?

4 A Yes.

5 Q The criminal sexual conduct in the first degree that
6 occurred here in Lancaster.

7 A Yes.

8 Q The voluntary manslaughter for the girl in Columbia?

9 A Yes.

10 Q And the carjacking here in Lancaster with the other
11 girl, and that also involved a kidnapping charge.

12 A Yes. Three counts of kidnapping charge in total.

13 Q You would have reviewed all of these indictments and
14 sentencing sheets as part of your evaluation; is that
15 correct?

16 A Yes.

17 Q Is it necessary to look at the underlying details as
18 you explained them to us?

19 A Yes.

20 Q Are you finding a pattern here that draws your
21 attention?

22 A Yes.

23 Q What is that pattern?

24 A Well, the pattern is the extreme violence that he used.

25 The charges, you know, more offenses before resolution of

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1 other offenses. So it's -- it doesn't seem to matter to him
2 if he has charges pending or if he's on bond or things like
3 that, his behavior just continued. The strangling is
4 especially dangerous, that is a very dangerous offense type
5 of behavior kind of thing to do to somebody. Because you
6 can die from strangling without having external evidence
7 that you've been strangled because it can hemorrhages to the
8 brain, things of that nature. People can regain
9 consciousness and still die days later from strangling.
10 It's a very dangerous, violent, serious, risky kind of
11 behavior to engage in.

12 Q In your interviews with Mr. Williams, what was his
13 version of the events that led to all of these convictions?

14 A Well, he had kind of an overall explanation, and that
15 was -- it was drugs and money for sex, and that's what it
16 was. Even though in the cases that he described to me, he
17 didn't actually pay the women or give them drugs, he was
18 deceitful about that in those interactions. He also told me
19 that he said it's like, "I paid you, you've got to do what
20 you said you were going to do." So he was justifying why he
21 was doing it with no regard for what the victims wanted, and
22 I don't even know if I believe that explanation. But that
23 was the explanation that he gave.

24 Q How would "I paid you," or a comment like that -- I
25 understand he might think he's entitled to sex with them,

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1 but choking? I'm sorry, I'm having trouble figuring out
2 where the choking figures in.

3 A Well, individuals can be sexually engaging in behaviors
4 like that. So one of the things that I look at in my
5 evaluation is what type of dynamics are going on in the
6 offense? So what type of non-consent are the victims
7 showing? Are they fighting? Are they screaming? Are they
8 crying? Are they acquiescing? Those things are really
9 important, because I want to know what sort of conditions
10 the person was able to rape somebody. So they to have an
11 erection, they have to be sexually aroused to have an
12 erection, and he ejaculated in those cases. So I know that
13 he was sufficiently sexually aroused to ejaculate. And with
14 the second victim, which seems more severe violence than
15 even with the first victim, he raped her twice and
16 ejaculated twice. So those things are very important. It
17 can be part of a deviant sexual interest and part of a
18 mental abnormality.

19 Q And choking was involved in both criminal sexual
20 conducts and the homicide.

21 A Yes.

22 Q In your personal interview with him, I went to page 27
23 of your report, anything come out to you of interest in your
24 personal interview with him about the way he responded to
25 your questions?

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1 A Yes. When I asked questions, especially about his
2 substance abuse history and about his sexual history, he
3 required that I explain why I was asking the questions
4 before he would answer them. And when I asked him about his
5 sexual history, I asked about a wide variety of different
6 behaviors, a lot of them deviant behaviors and some kind of
7 normal sexual behaviors, before I would finish asking the
8 questions he would say, no. So I didn't believe that I was
9 going to get honest information in that way because he
10 didn't listen to the full question. These are questions
11 that you don't hear everyday, he couldn't have known what I
12 was going to ask.

13 Q Did you ask him about sex offender treatment in the
14 future?

15 A Yes. He said that he didn't need that.

16 Q Okay. What about his future plans? Did you talk with
17 him about his future plans? Say the jury today or tomorrow
18 finds he is not a sexually violent predator, what's he going
19 to do?

20 A He said he was going to live with his father in Fort
21 Lawn. He planned to get his social security benefits
22 reinstated. And that was about the extent of his plans.

23 Q What about probation? He's been convicted, he got
24 these sentences, he served his time, is he facing any
25 supervision by the probation department that you could tell?

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1 A He will have community supervision, which is specific
2 programs with the Department of Probation, Parole and Pardon
3 services, so it's similar to probation.

4 Q Okay. How long will that last, do you know?

5 A Well, as of right now it will last until December 30,
6 2020. If he violates any condition of probation they can
7 have a hearing and they can revoke him and put him into
8 prison for up to one year, but he could not be on any
9 community supervision past September 16th, 2021, that's when
10 his full sentence would be completed and so he would not be
11 under any supervision after that.

12 Q What about wearing a GPS monitor, having to wear one of
13 those things around your ankle?

14 A Well, I talked to the probation officer who is assigned
15 to him, and she was unclear if he would have GPS monitoring
16 or not. If he does it will be short term.

17 Q Okay. Now, let's talk about diagnosis. The statute
18 says a mental abnormality or a personality disorder. Did
19 you look for a mental abnormality on this guy?

20 A Yes.

21 Q Were you able to find one?

22 A Well, I diagnosed him with two substance abuse
23 disorders, which are -- you can consider them mental
24 abnormalities. I also looked to see if he met criteria for
25 a paraphilic disorder, which is like a pattern of deviant

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1 sexual arousal that lasts over six months.

2 Q That would be -- an example might be say people that
3 offend against children, which didn't happen here, but
4 offend against children will be called pedophilic disorder,
5 and if it lasts more than six months you could make a
6 diagnosis. Is that basically what you're talking about?

7 A Yes.

8 Q Did you try to see if you could diagnose a sexual
9 deviancy on this guy?

10 A Yes.

11 Q And were you able to?

12 A No. Because I looked at those two sexual offenses as
13 the only offenses that I knew were sexually motivated. I
14 suspect that the other ones were sexually motivated but I
15 wasn't clear, so to give him the benefit of the doubt I
16 didn't include those. So what I had is two sexual offenses
17 that occurred six weeks apart. His offenses were indicative
18 of sexual sadism, which is sexual arousal towards causing
19 pain or humiliation to other people. That's the type of
20 paraphilic behavior he was engaging in.

21 Q Paraphilic means deviant?

22 A Yes, sexually deviant.

23 Q Go ahead.

24 A But I didn't have enough evidence that there was a six
25 month pattern of that behavior, so I didn't give him that

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1 - diagnosis.

2 Q Now, the statute says mental abnormality or personality
3 disorder. I asked you earlier if you diagnosed him with a
4 personality disorder. Again, did you, and what was it?

5 A I diagnosed him with antisocial personality disorder.

6 Q And what were the criteria for that and how did he meet
7 it?

8 A Antisocial personality disorder is a pervasive pattern
9 of disregard for and violation of the rights of others
10 occurring since age 15 as indicated by three or more of the
11 following, so there's seven criteria. Number one is failure
12 to conform with social norms with respect to lawful
13 behaviors as indicated by repeatedly performing acts that
14 are grounds for arrest.

15 Q Did he meet that one?

16 A Yes.

17 Q Okay.

18 A Number two is deceitfulness, as indicated repeated
19 lying, uses of aliases, conning others for personal profit
20 or pleasure. He met that criteria as well.

21 Q Okay.

22 A Number three, impulsivity, failure to plan ahead.
23 There was evidence that he was impulsive in his day to day
24 behavior. Number four is irritability and aggressiveness as
25 indicated by repeated physical fights or assaults. He had a

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1 number of assaults in the past and the current sexual
2 offenses, the homicide, all of those things means that he
3 met that, so he had been very aggressive. Number five is
4 the reckless disregard for the safety of self and others,
5 and he met that criteria as well. Number six is consistent
6 irresponsibility as indicated by repeated failure to sustain
7 consistent work behavior or honor financial obligations. He
8 had some evidence of that. He used substances while he
9 worked, he drank a lot, all of those things. And number
10 seven was lack of remorse as indicated by being indifferent
11 to or rationalizing having hurt, mistreated or stolen from
12 another. On one hand he expressed remorse, he said that he
13 was sorry that he hurt people. He seemed to be, I don't
14 know, genuine in that remorse. But then on the other hand
15 he said that the victims were raped because they didn't do
16 what they had agreed to do. Even though he didn't actually
17 pay them he said that "I paid you, you should do what you
18 said you're going to do," even though he actually didn't pay
19 them or give them drugs. He rationalized the way that he
20 hurt people, how he mistreated people. Many of the offenses
21 he said he didn't remember that. Even though he had an
22 overall explanation he said he didn't remember those
23 specific events, but I thought that he met that criteria as
24 well.

25 Q Okay. In addition to the diagnosis of antisocial

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1 personality disorder, did you diagnose him with any other
2 disorders?

3 A I diagnosed him with two substance abuse disorders.

4 Q Okay. For what?

5 A And this was based on his self report, and then some
6 information that was in the records. I diagnosed him with
7 severe alcohol use disorder and moderate crack cocaine use
8 disorder.

9 Q Now, were there any assessments performed as part of
10 your evaluation? At the beginning when I was asking you
11 about your protocol you mentioned some actuarial
12 assessments. Did you do some of those?

13 A Yes, I did. I did two actuarial assessments.

14 Q And what were they called?

15 A The first one is the Static 99R, and the second one is
16 the Static 2002R.

17 Q Now, when you say actuarial assessments, what does that
18 mean?

19 A So it takes -- an actuarial assessment takes risk
20 factors. It's called actuarial because you combine those
21 risk factors into a score, and I can only actually go into
22 an actuary table and it will tell me individuals with that
23 score, how many of them reoffend within a certain period of
24 time.

25 Q Can you tell us an example of that type of thing that

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1 we might run into in our everyday lives?

2 A Actuarial tables are used by insurance companies. But
3 in terms of risk assessments one way to understand it is if
4 you have a heart attack you can talk to your doctor about
5 what your risk factors are to have another heart attack. So
6 if you smoke, if you drink, if you're overweight, if you
7 don't exercise your doctor can say, okay, you don't do these
8 things or you do do these things, and here is what your
9 chances are to have another heart attack. So it looks at
10 individuals with those risk factors that have heart attacks,
11 this certain amount of percent, or this percentage of the
12 time.

13 Q And that's based on studies of thousands of people with
14 those symptoms who had heart attacks, not necessarily the
15 guy sitting in front of the doctor.

16 A Correct.

17 Q All right. Looking at the Static 99R and the Static
18 2002R, were they based on thousands of sex offenders from
19 multiple countries who have been convicted and gotten
20 reconvicted of sex offenses?

21 A Well, it was based on thousands of sex offenders, but
22 only some of them got convicted of sex offenses after their
23 assessment. So what you do to create these kind of
24 instruments is you take a big pool of sex offenders, and
25 then you want to look at a variety of risk factors that are

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1 informed by a research, you know, what has been related to
2 increase sexual offending in the research, so they looked at
3 those. And then they want to see how out of that big group,
4 how many go on to reoffend, and do these risk factors
5 differentiate those individuals that do reoffend versus
6 those who do not.

7 Q And is it important for experts like you to use these
8 assessments in cases like this?

9 A Absolutely. Those are the most objective accurate ways
10 to assess somebody's risk to commit another sex offense.

11 Q And are assessments like this, the 99R and the 2002R,
12 are they both commonly used in your profession?

13 A Yes.

14 Q And are they commonly used in cases where you're trying
15 to predict a person's likelihood to sexually reoffend?

16 A Yes.

17 Q What scores did he get on those two instruments, those
18 two things, the Static 99R and the Static 2002R?

19 A He got a score of three on both of those instruments.

20 Q And what does this tell you based on the tables you
21 looked as far as his likelihood to reoffend?

22 A So on the Static 99R, his score of three places him in
23 the average risk category. And with a score of three,
24 7.9 percent of those individuals went on to reoffend within
25 five years. On the Static 2002R, 6.8 percent reoffended

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1 within three years. These scores would be different if the
2 other offenses were determined to be sexually related, but
3 for this purpose because I wasn't sure I was conservative
4 and I didn't calculate those as sexual offenses.

5 Q So the homicide, had there been a sexual component to
6 it, same thing with the carjacking, that might have made a
7 difference in the score?

8 A Yes.

9 Q And is the Static 99 and the Static 2002R part of an
10 overall evaluation?

11 A Yes.

12 Q It's not the only other thing you're hanging your hat
13 on.

14 A That's correct.

15 Q Now, you said static describing both of those. What's
16 a static risk factor?

17 A Static risk factors are things that can't be changed.
18 So there are things like age, your history of living with a
19 romantic partner, past convictions for nonsexual violence,
20 whether there was nonsexual violence at the time you were
21 convicted of the sex offenses, your prior sex offenses. How
22 many sentencing dates you've had in the past. Whether
23 you've been convicted for a noncontact sex offense like
24 indecent exposure. Some victim information. Whether your
25 victims were related or unrelated to you, whether he had any

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1 stranger victims, and whether he had any male victims.

2 Q Okay. In your report you also talk about something
3 called dynamic risk factors. What does that mean?

4 A Dynamic risk factors are factors that are concerning a
5 person's character or their preference, life-style choices
6 and they're related to increased to sexual reoffending.
7 Those are the ones that are typically the targets in
8 treatment that can be changed.

9 Q What dynamic risk factors did Mr. Williams have?

10 A Well, he had a dynamic risk factor that was called
11 sexual preoccupation. Because he was having sex for the
12 sake of it, he was having multiple simultaneous sexual
13 relationships, and he viewed sex as a transaction, so that
14 meets that definition of sexual preoccupation. He had one
15 that's called sexualized violence. He was abusive,
16 domineering and violent during sexual encounters. He had
17 another one that was called offense supportive attitudes.
18 That speaks to his beliefs that women can be violently raped
19 and strangled, that they deserved it, that he paid them even
20 though he didn't actually pay them, that he's entitled to
21 have sex and he'll be violent in order to get it. And that
22 the women that he chooses, especially woman who use drugs
23 and work as prostitutes, deserve that kind of treatment. He
24 has another one that's called of lack of emotionally
25 intimate relationships with adults. And that speaks to the

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1 quality of the relationships that he had, and his
2 relationships involved lots of conflict and infidelity. He
3 has a risk factor called life-style impulsiveness. He had
4 low self-control over his drug use, over his alcohol use,
5 instability in housing and work and a lack of long term
6 goals. He has poor problem solving in that he avoids
7 dealing with his problems directly, and he has difficulty
8 generating effective solutions to everyday kind of problems.
9 He has one that's called resistance to rules and
10 supervision, and that was his repeated criminal behavior
11 while on bond and a probation violation. He has grievance
12 hostility because he blames other people for his problems.
13 And he has negative social influenced in that he surrounds
14 himself with chronic drug users and other people who do not
15 promote good behavior in him. Those risk factors come from
16 a metanalysis that was done. These aren't things that are
17 made up, they come out of many, many, many research studies.

18 Q Are these dynamic risk factors significant to you in
19 your ultimate evaluation of Mr. Williams?

20 A Yes.

21 Q Okay. Now, Doctor, looking at this thing, you said
22 earlier you look for a paraphilic or deviant sexual disorder
23 but couldn't find it, correct?

24 A That's correct.

25 Q And the problem was it wasn't at least six months long.

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1 A That's correct.

2 Q Okay. There's a thing called the Diagnostic and
3 Statistical Manual Edition 5, which we call -- shortened it
4 I call it the DSM5. Is that book the -- basically the Bible
5 for psychologists and psychiatrists about defining mental
6 abnormalities and personality disorders?

7 A Yes. It lists all of the mental illnesses that are
8 recognized and the criteria that you have to have in order
9 to meet the diagnosis.

10 Q Okay. So in this case you couldn't find a paraphilia
11 disorder, but were you able to a reasonable degree of
12 psychological certainty to diagnose Mr. Williams with a
13 personality disorder?

14 A Yes.

15 Q What was it again?

16 A Antisocial personality disorder.

17 Q And then there were two other things related to
18 cocaine, crack cocaine and alcohol; is that correct?

19 A Yes.

20 Q Do you also have an opinion again to a reasonable
21 degree of psychological certainty as to whether or not these
22 diagnoses, the diagnoses that he has, does it affect his
23 emotional or volitional capacity so that he is predisposed
24 to commit future sexual violent offenses?

25 A Yes, it's my opinion that he does.

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1 Q And when I say volitional, what am I saying? What does
2 that mean in that context?

3 A It's his ability to control his behavior, whether he
4 has control over his behavior.

5 Q Do you also have an opinion again to a reasonable
6 degree of psychological certainty as to whether or not
7 Mr. Williams has the propensity to be dangerous and commit
8 future sexually violent offenses?

9 A Yes, I believe that he does.

10 Q Do you also have an opinion again to a reasonable
11 degree of psychological certainty as to whether or not this
12 propensity to commit future sexually violent offenses, is it
13 of such a degree that it poses a menace to the health and
14 safety of others?

15 A Yes, it's my opinion that it does. And that was a big
16 part of my opinion was the definition of likely, in that the
17 types of offenses that he engaged in, the violence that he
18 used in all of the offenses are so, I guess, dangerous and
19 risky to the health of the victim that it pushed it even
20 farther in my mind and satisfied that criteria that he's
21 likely. Because I believe that he poses a significant risk
22 a menace -- or he poses a menace to the health and safety of
23 others. Yes.

24 Q Do you also have an opinion as to a reasonable degree
25 of psychological certainty, and you may have covered this

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1 but I'll ask it again, does Mr. Williams have serious
2 difficulty in controlling his behavior and those
3 propensities to be dangerous?

4 A Yes, I believe that he does.

5 Q And that is shown by the repeated conduct, the violence
6 of the conduct, conduct while out on bail?

7 A Yes. In addition to he offended victims who could
8 readily identify him and report him to the police. He
9 physically harmed his victims in a significant manner, which
10 increases the likelihood that they'll report the rapes. He
11 committed the second rape after being questioned by law
12 enforcement for the first offense, so he knew that that had
13 been reported and that he was being investigated for that.
14 He showed a disregard for the personal consequences and
15 repeatedly offended while he was on bond, while he was under
16 investigation. He's very susceptible to use drugs and
17 alcohol upon his return to the community. Those types of
18 disorders have an extremely high relapse rate. It's very
19 hard to stay sober over the long term, and his substance use
20 contributed to his sexual offending. He also has not
21 participated in any sex offender treatment.

22 Q Okay. Did he go through any kind of sex offender
23 treatment while in prison?

24 A No.

25 Q Do you also have an opinion again to a reasonable

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1 degree of psychological certainty, does this antisocial
2 personality disorder and all of the factors you've been
3 talking about today, do these things make him likely to
4 engage in future acts of sexual violence unless he's
5 confined in a secure facility for long term control, care
6 and treatment?

7 A It's my opinion that the answer to that is yes, that he
8 is likely to commit acts of sexual violence if he is not
9 confined in a secure facility.

10 Q And finally, do you have an opinion again to a
11 reasonable degree of psychological certainty, does Mr.
12 Williams meet the criteria to be found by this jury to be a
13 sexually violent predator?

14 A It's my opinion that he meets the criteria of a
15 sexually violent predator.

16 Q You've talked about the probation he might be -- he is
17 facing. Is this guy a good candidate for outpatient
18 treatment in the community?

19 A I don't believe so, no.

20 Q Okay. The reason you've stated before about his risk?

21 A Well, it's about his -- the menace that he poses to the
22 health and safety of others. If he has another victim, the
23 harm to that victim would be very significant. The fact
24 that he's engaging in strangulation is extremely dangerous,
25 he could easily kill a victim, so that factors into it.

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1 That's a big part of it, I guess.

2 MR. BOGLE: Okay. Thank you, Doctor. Please answer
3 any questions counsel may have or the Judge may have.

4 THE COURT: Before we start cross examination, let's
5 take a brief recess, ladies and gentlemen. Don't talk about
6 the case, you haven't heard everything yet, but certainly
7 feel free to get some refreshments back there while we take
8 our break, okay? Thank you very much. Before you exit
9 while I'm talking to you and while I'm thinking about it,
10 Ms. Britt, that's you?

11 THE JUROR: Yeah.

12 THE COURT: You're going to be the forelady of the
13 jury, okay?

14 THE JUROR: Okay.

15 THE COURT: Thank you for volunteering. I always look
16 to see jurors who are zoned in and you looked to be paying
17 very good attention, all of you were, which is good, that's
18 what you're supposed to do. I'm appointing you as the
19 forelady of the jury. You'll be the jury spokesperson here
20 in court and you'll also be the only one who can sign and
21 date the verdict form when you get it. I will go over all
22 of that at the end of the process. Thank you very much.
23 Y'all take your break, don't talk about the case.

24 (The jury left the courtroom and a recess was taken.)

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

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1 present. Your witness, Mr. Dunn.

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

3 THE COURT: Yes.

4 CROSS EXAMINATION

5 BY MR. DUNN:

6 Q So earlier you testified that in order for somebody to
7 have antisocial personality disorder that they have had to
8 have had issues since the age of 15; is that correct?

9 A Well, there has to be evidence of conduct disorder
10 prior to age 15.

11 Q And it was your testimony that Mr. Williams had said
12 that he had gotten in trouble as a juvenile, right?

13 A Yes.

14 Q Were you ever actually able to find evidence or a
15 dispositional evidence of him being in trouble as a
16 juvenile?

17 A No.

18 Q All right. And it's fair to say that his ability to
19 remember a lot of what happened to him is poor. He's a poor
20 historian, correct, as far as his record goes?

21 A He was a poor historian in certain aspects and he was a
22 descent historian in other aspects.

23 Q All right. And so as far as what we have here for your
24 evaluation we have two known sexual victims, correct?

25 A Yes.

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1 Q All right. And just as a matter of -- at some point it
2 looked like he had been convicted of a resisting arrest, but
3 when you asked him about it it sounded like you said it was
4 his cousin and not him; is that correct?

5 A You would have to clarify which resisting arrest you're
6 talking about.

7 Q I will point you in the right direction. I believe it
8 was the Fort Lawn case.

9 A Yes. In August of 1989 I think on page 17 of my report
10 is what you're --

11 Q And so when you questioned him about it he said it
12 wasn't him, it was actually a cousin and they got confused,
13 right?

14 A Yes.

15 Q Okay. And it's fair to say that when you're going
16 through and you're making your evaluations and you're
17 looking at Mr. Williams and everything that went on with
18 him, that you're relying on him -- good information from
19 police reports, right? Correct?

20 A I'm relying on those police reports. To give the
21 structure of the criminal history I rely on the national
22 criminal history report.

23 Q Right. And as far as the police reports go, you didn't
24 create any of those police reports, correct?

25 A That's correct.

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1 Q Police officers at some point in the past created them,
2 correct?

3 A Yes, or sheriff's deputies.

4 Q Sheriff, city police, FBI, all of the other people that
5 we've talked about with Mr. Williams, correct?

6 A Yes.

7 Q And so what I'm getting at is if the information that
8 is contained in it is not factually accurate then your
9 opinion is being built upon a shaky foundation.

10 A Potentially.

11 Q Okay. As far as your evaluation you went back and you
12 pulled all of Mr. Williams' SCDC, department of corrections
13 disciplinary records, correct?

14 A Yes.

15 Q He didn't have any, right?

16 A He had no disciplinary infractions in SCDC.

17 Q Eighteen years -- 2005 to 2014, what, 14 years of it,
18 15 years he has -- whatever the number is he has --

19 A It is 2019 now, but 14 years.

20 Q He has no disciplinary record, correct?

21 A Yeah, that's correct.

22 Q And that's an important thing in part of your
23 evaluation, right, that he's followed the rules up until
24 today since he has been in trouble?

25 A It's something that I look at, yes.

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1 Q And that can't be said about everybody that you
2 evaluate. A lot of the folks that go to SCDC pick up
3 various infractions because they can't follow the rules,
4 right?

5 A Yeah. I don't know that I could put a percentage on it
6 and I don't know that I would say a lot. I've evaluated
7 quite a few people who don't have any infractions, then I
8 have evaluated people who have dozens and dozens, maybe even
9 close to 100 infractions, so it's a wide variety.

10 Q And, in fact, even when they get down to the program
11 and they're going through it, even then some of those guys
12 have trouble following the rules and get written up for
13 various things, correct?

14 A In the program?

15 Q Yes.

16 A I believe so.

17 Q Mr. Williams' age is an important factor in this, is it
18 not?

19 A Yes.

20 Q He is what, 61 now?

21 A He is 61 yes.

22 Q And the fact that he is over 60 is the important
23 number, correct?

24 A Yes.

25 Q And, in fact, you get a pretty significant benefit on

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1 those static tests because of your age, correct?

2 A Yes. On the Static 99R age actually subtracts points.

3 He had six positive points on that instrument, so he had six

4 points but he lost three points for his age.

5 Q And is physical health also important -- physical

6 health is also an important characteristic -- something for

7 you when you're looking at these individuals to see if

8 they're going to reoffend, correct?

9 A It can be, it depends. It has to be pretty significant
10 health problems.

11 Q Obviously somebody who is in poor physical health is

12 not going to get out and -- probably not going to get out

13 and be able to go places to create new victims if they're

14 physically restrained or left at home, right?

15 A It depends on the severity of the medical problems as

16 to whether that would interfere, it really does depend.

17 Q All right. And as part of your evaluation, Mr.

18 Williams does have physical infirmities, correct?

19 A If you'll let me refer to my report. Yes. Some of

20 those things were present before he was incarcerated, and I

21 believe some were identified while he was there, while he

22 was in prison.

23 Q All right. And have you updated your report to see if

24 he's had any additional physical complaints in the last

25 couple of months?

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1 A No.

2 Q It's fair to say that alcohol and drugs are available
3 in prison?

4 A Yes.

5 Q If somebody really wanted to do drugs while he's in
6 prison he could have probably found the drugs to do, or the
7 alcohol?

8 A That's my understanding.

9 Q All right. And again, he's had no write-ups in the
10 last 15 or 16 years, right?

11 A Correct.

12 Q And the fact that he hasn't had any substance abuse
13 issues, that's a positive to his advantage, is it not?

14 A Well, he hasn't had any write-ups so he hasn't gotten
15 in trouble for that behavior. He could have been engaging
16 in that behavior, I don't know for certain that he wasn't.
17 But if he was clean and sober during that time, that's a
18 great benefit for him.

19 Q And as part of your evaluation with him, did y'all talk
20 about the things that he did while he was in prison as far
21 as the jobs he held or the programs that he had to go
22 through, or did go through?

23 A I looked at his prison employment records. I don't
24 know if I asked him about that. But he did tell me about
25 being in the character based housing unit at Evans when it

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1 was getting off the ground and it was starting, and that he
2 had gone through classes there and that he had gone through
3 classes at Broad River Correctional Institution. When I do
4 these evaluations I always invite the person that I am
5 evaluating to send me any certificates or any evidence of
6 those things, because they're not in their prison records,
7 but I didn't get anything from him.

8 Q Did he tell you that his last job was working in the
9 Chaplin's office at I believe it was Kershaw?

10 A No. I don't believe that I -- that he told me that,
11 no.

12 Q Is it fair to say that a lot of the individuals who are
13 in SCDC have some kind of -- if given tests or would be
14 evaluated will have some kind of antisocial personality
15 disorder? I mean, that's why they're unable to -- they have
16 broken rules and broken laws, that's why they end up in
17 prison?

18 A I don't know.

19 Q Okay. You said earlier that he was -- maybe I just
20 misheard you, you said he was having sex for the sake of
21 having sex?

22 A Yes.

23 Q At the risk of sounding risqué, isn't that why a lot of
24 people have sex?

25 A It can be. But in this term in this case when we were

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1 looking at dynamic risk factors for sex offenders, that's
2 part of what that sexual preoccupation is. It's not being
3 preoccupied, that's not the full definition of it. It is
4 the type of sex that they have. Are they engaging in sex
5 with a romantic partner, or is there a lot of sex that's
6 directed to other people outside of a romantic partner. He
7 was, from what he -- the way he described it, he was in the
8 streets looking for sex. He was having sex with people he
9 was using drugs with and people who were, you know,
10 prostitutes. These were not romantic relationships. He
11 also had at the same time what he told me were romantic
12 partners, so people that he could have had sex with and he
13 was going outside of those relationships to have other
14 sexual relationships.

15 Q Both of the sexual victims it sounds like from going
16 through police records, that there was drug use involved not
17 only by Mr. Williams but also by the ladies, correct?

18 A I know that it was present with [REDACTED] I'm not sure if it
19 was with [REDACTED]

20 Q And the lady who was killed, she had it in her system
21 during her autopsy, right?

22 A That's correct. She was positive for cocaine on her
23 autopsy. And there was reports that she was smoking crack
24 cocaine with Mr. Williams in the area where her body was
25 found and the time around what they estimated her time of

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1 death to be.

2 Q And when looking at the -- especially his criminal
3 history towards the end, the violent stuff of things that
4 causes concern, it looks like drugs were a part of Mr.
5 Williams' when he was doing them, right? He was on drugs
6 while he was performing -- committing these crimes.

7 A Yes, that's what he said. And he indicated that his
8 substance use were the cause of those offenses.

9 Q So two of the documents that you use, or two of the
10 tests that you use are the Static 99R, correct?

11 A Yes.

12 Q And the Static 2002R, correct?

13 A Right.

14 Q And on both of them you said that he had a score of
15 three, correct?

16 A Yes.

17 Q And on both of them a three, I believe, is a level --
18 translates into a level three as far as the tests are
19 concerned as well, correct?

20 A Yes. It's level three average risk.

21 Q And on -- speaking towards the 99R, there's actually
22 five levels on that one; is that correct?

23 A There's really, I guess -- yeah, five.

24 Q There's a level one, a level two, a level three, and
25 then they have a level four that it looks like they break

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1 into a A and a B, they can't make up their mind if it's a
2 four or five, I guess. And his score puts him at the three,
3 right?

4 A Yes.

5 Q And one of the things that you told -- you testified to
6 a little while ago is that he has -- at least as far as the
7 Static 99R is concerned he has a 7.9 percent chance of
8 reoffending, correct, statistically?

9 A That's not exactly the way that it is. It's people
10 with the score of three, 7.9 percent of them reoffended
11 within five years. I can't quite say it the way that you
12 said it.

13 Q So 7.9 percent of those folks reoffend.

14 A Yes.

15 Q Which means that 92.1 percent of them don't reoffend?

16 A They're not caught for another sexual offense.

17 Q And I think your number on the other one was 6.8, or
18 six point something, right?

19 A Yes.

20 Q And so that means almost 93 percent of those folks are
21 either not caught or don't reoffend, correct?

22 A That's correct.

23 Q And when you look at the recidivism rate for folks who
24 start scoring four, five, six, seven, eight, that number
25 jumps up drastically, correct, that recidivism rate?

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1 A It increases with each number, and then it tops out, I
2 think, maybe seven or eight. It doesn't add much more if
3 you get a score beyond that. The scores on the Static 99
4 range from negative three to 12..

5 Q But what I'm getting at is the lower the score you go
6 the lower the recidivism rate, correct?

7 A That's correct.

8 Q But it's not like you -- if you go from a level three
9 to a level four it just adds a point or two of percentage
10 points. The number jumps up -- and then jumps up from four
11 to five, and it jumps even higher from five to six, does it
12 not?

13 A So if you have a -- let me make sure I have the right
14 one. I would rather be specific in answering this question
15 so let me find it and see if I have that table with me. So
16 if you have a score of four it's 11 percent reoffend within
17 five years. With a score of five, 15.2 percent reoffend
18 within five years. A score of six, 20.5 percent reoffend
19 within five years.

20 Q And then seven is 27.2, eight is 35.1, nine is 43.8 and
21 ten is 53 percent, correct?

22 A That's correct.

23 Q Like I said, it starts jumping up -- it starts jumping
24 up expedientially as the higher numbers you go.

25 A Yes.

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1 Q And you can't get any higher than a ten, correct? Ten
2 is the highest.

3 A Well, you can get a score of 12, but hardly anybody
4 gets anything above ten and it really doesn't add much.

5 Q Okay. And in the literature for the 99R, the Static
6 99R when they're going through and they're trying to give
7 folks -- or give an idea of what the risk levels are at a
8 one, a two, three, four, et cetera, they're trying to assess
9 a risk factor for each one of these levels. Isn't that what
10 the whole purpose of the 99R is to do is to give a risk, or
11 be able to try to put some kind of quantitative risk for
12 each one of these levels?

13 A I think -- when you're saying levels I think about it a
14 little bit differently. So I come up with a score, and the
15 score is what you use to apply to the actuarial table. The
16 level is something that the Static developer came up with in
17 conjunction with some government agency in the United States
18 to come up with that one very low risk, two below average
19 risk, those numbers and those categories. But I'm looking
20 at more of the score. So the score of three isn't a level,
21 it's just a score, it's just a total of adding up the point.

22 Q Right. And I guess what I'm trying to get at is just
23 so we can, in lay people's terms, try to get a feel for what
24 these levels mean. Level three you basically said was
25 average, right, or the risk level was sort of average?

DR. MARIE GEHLE - CROSS

1 A Yes.

2 Q Level four is above average, or at that point you're
3 above average, I guess, right?

4 A Yeah. A level 4A is above average, and a level 4B is
5 well above average.

6 Q And we've already heard the numbers as far as
7 recidivism rates go with those numbers, right?

8 A Yes.

9 Q When you were going through all of these police reports
10 and stuff, I know that the victim stated there was
11 ejaculation, but was there ever DNA evidence recovered from
12 COMPLAINANT or COMPLAINANT where there were DNA reports generated by SLED?

13 A I would have to refer to the records. I'm not sure if
14 those rape kits were taken or if they were tested. Do you
15 want me to look at that?

16 Q It would be significant as part of your evaluation
17 whether or not there was DNA left behind by Mr. Williams?

18 A Not necessarily. The victims reported that he
19 ejaculated, so that's evidence. But he also pled to those
20 charges, pled guilty to those charges.

21 Q Have you ever been -- you testified that you're a
22 forensic psychiatrist, have you ever been involved in a
23 courtroom process where defendants plead to charges?

24 A I'm a forensic psychologist. But I have observed
25 pleadings a couple of times just because I happened to be in

DR. MARIE GEHLE - CROSS

1 the courtroom for other matters.

2 Q And part of that process is defendants don't always
3 agree with the facts but they're agreeing to the sentence,
4 correct?

5 A Well, when I have observed I have heard the facts read
6 into evidence, or the facts read before the Court, and I've
7 heard the defendants agree with those facts and then plead
8 guilty and they go through the questions about whether
9 that's voluntary and --

10 Q And then later on, I guess, when you're talking to
11 these folks do they go, "No, it really didn't happen like
12 that. I just did it because it was part of plea deal and I
13 had agree to it or they wouldn't have taken my plea deal,"
14 right?

15 A Yes. People have said that to me before in the past
16 before, yes.

17 Q And you didn't get copies of the transcripts as
18 actually what was alleged during his plea negotiations,
19 correct?

20 A No, I did not get copies of those.

21 Q And just so we can all be on the same page, there was
22 two victims, correct, two sexual victims, correct, that you
23 can identify.

24 A Yes.

25 Q He hasn't been in trouble since he's been in prison.

DR. MARIE GEHLE - CROSS

1 A Correct.

2 Q As far as he says, and there's nothing that would say
3 this is not true, that he's been substance free since he's
4 been in prison, correct?

5 A Yes.

6 Q That he does not meet any of the paraphilic definitions
7 as far as a DSM5 is concerned, correct?

8 A There was insufficient evidence of a six month pattern
9 for a paraphilic disorder.

10 Q Age is important, right?

11 A Yes.

12 Q And as far as whether or not there was bad behavior
13 prior to age 15, we don't have any documentation, we just
14 have what Mr. Williams said.

15 A He reported evidence of conduct disorder, I took that
16 from his self report. He reported those symptoms related to
17 conduct disorder.

18 Q One last thing. The Static 99R, African Americans
19 score higher than Caucasian individuals on that testing,
20 correct?

21 A I have no knowledge if that's true or not.

22 MR. DUNN: I don't have any further questions, Your
23 Honor.

24 THE COURT: All right. Any redirect?

25 MR. BOGLE: No, Your Honor. Thank you.

1 THE COURT: All right. Thank you, ma'am, you may step
2 down.

3 MR. BOGLE: May she be excused, Your Honor?

4 THE COURT: Yes. The State may call its next witness.

5 MR. BOGLE: Your Honor, at this time the State would
6 rest.

7 THE COURT: The State would rest. Ladies and gentlemen
8 of the jury, there's some matters of law I need to take up
9 with the lawyers. There is one more witness under subpoena
10 which we would like to get in today, so for that reason we
11 are going to deal with that one witness, I'm told it's an
12 extremely short witness, okay? I'm aware of the time, I
13 know that y'all are staring at the clock right across the
14 wall, okay? I'm not naive. But in light of that I'm going
15 to have y'all go back to your jury room and take up some
16 matters with the lawyers. Y'all don't talk about the case,
17 I will get you right back out here, okay? Thank you.

18 (The jury left the courtroom.)

19 THE COURT: Mr. Dunn?

20 MR. DUNN: May it please the Court, Your Honor. I move
21 for a finding of -- I don't guess this is a directed verdict
22 since it is common pleas. Statute 44-24, which is the
23 legislative finding part of the statute, basically says the
24 reason why the statute exists is because there are -- that
25 there's certain individuals who are so abnormal and

1 extremely dangerous that if we don't involuntarily commit
2 them into a secured facility, controlled term and care, all
3 that kind of stuff, that they're likely -- the their
4 likelihood to reengage -- that likelihood that these
5 sexually violent predators will engage in repeated acts of
6 sexual violence if treated is significant. Your Honor, I
7 would argue that -- and then the second part of this
8 argument, Your Honor, is not only when the general assembly
9 drafted this law and came up with this law, they realized
10 that this is a very extreme outcome for folks going through
11 this process, and because of that their liberty is going to
12 be denied to them in the event that a jury finds that they
13 meet the definition of SVP and because of that the jury --
14 even though we're in a common pleas courtroom setting, the
15 general assembly has changed the burden that the moving
16 party carries. Normally it is more likely than not or
17 51 percent sort of burden and we moved it to the same burden
18 that we have in a criminal setting, which is beyond a
19 reasonable doubt. Your Honor, I would argue that the
20 testimony that you've heard, that the chances of the folks
21 with these Static 99R and 2002R diagnoses will only result
22 in a 6.8 percent or a seven percent recidivism -- 6.8
23 percent of those folks or 7.3 percent of those folks will
24 reoffend. Your Honor, I would argue that his level of risk
25 just doesn't rise to the level of what the general assembly

1 was looking at when they drafted these laws. That some of
2 these folks, their recidivism rate jumps into the double
3 digits, 20, 30, 40 or 50 percent, and I think that's what
4 the general assembly was looking at when they drafted this
5 and the language that they put into statute, not for
6 somebody who is in the single digits of possibly
7 reoffending. And as such, Your Honor, I would argue that
8 there's simply not enough evidence for this to go forward,
9 that the State just simply can't meet the burden that they
10 have to meet under the idea of a reasonable doubt and it
11 shouldn't go to the jury, and the Court should direct a
12 verdict and dismiss this action.

13 THE COURT: Thank you. Mr. Bogle?

14 MR. BOGLE: Thank you, Your Honor. Looking at the
15 directed verdict in the light most favorable to the
16 non-moving party, the State has proven the existence of two
17 sexually violent convictions. It has also shown an ongoing
18 pattern of conduct. Assaults against at least four women,
19 one was just a carjacking, it wasn't completed, assaults
20 against two women where there was a conviction, and finally
21 the homicide. Three of those four women had the same trait
22 in that all three of them, the homicide, and the two CSC
23 victims were all strangled, one to the point of losing
24 consciousness and causing a petechial hemorrhage in the eye
25 which can only happen when you're really, really strangled.

JOANNA WIX - DIRECT

1 I think we showed he used a belt first or a broad cloth at
2 first, and then a narrower type of string or a type of cord
3 to do it. In any event, I think the State has shown a
4 pattern of violent behavior. I'm glad he's been a good guy
5 in prison, I'm glad he hasn't offended in prison, but the
6 question is what will he do on the outside and can he
7 control his behavior out in the community? I think the
8 State has shown sufficient evidence to go to a jury given
9 the elements we have to prove.

10 THE COURT: All right. I agree with the State. I'm
11 going to respectfully deny your motion, Mr. Dunn, under the
12 any evidence standard. I think there is substantial
13 evidence in the record which would support the State's
14 theory. Having said that, I mean, your argument really goes
15 to the credibility and the weight of the evidence against
16 your client, so that is an excellent jury argument, which
17 I'm sure you intend to make. But directed verdict is not
18 the time for a jury argument. Any other motions?

19 MR. DUNN: I don't believe so, Your Honor.

20 THE COURT: All right. Bring the jury back out.

21 (The jury returned to the courtroom.)

22 THE COURT: All members of the jury are present. The
23 State has rested and now it's the respondent's case. Mr.
24 Dunn?

25 The witness, JOANNA WIX, was first duly sworn and

JOANNA WIX - DIRECT

1 Testified as follows:

2 DIRECT EXAMINATION

3 BY MR. DUNN:

4 Q Please state your full name.

5 A My name is Joanna Marie Wix.

6 Q And who are you employed by?

7 A I'm employed by the South Carolina Department of
8 Probation, Parole and Pardon Services.

9 Q And what geographic area are you assigned to?

10 A I'm the agent in charge in the Chester County field
11 office.

12 Q All right. And as part of your job duties and
13 functions you supervise folks who are sex offenders?

14 A At this time I do. Eventually that case load will go
15 to our new agent, but until that position is filled I still
16 maintain those cases.

17 Q And I subpoenaed you to be here, correct?

18 A You did.

19 Q And I asked you to bring -- as part of it there was
20 going to be some documents that you were going to supply as
21 well, correct?

22 A Correct.

23 Q I took the luxury of printing those out. Are those the
24 documents that I asked you to bring?

25 A They are.

JOANNA WIX - DIRECT

1 Q All right. And can you just identify what they are in
2 general?

3 A The first one is the South Carolina Department of
4 Probation, Parole and Pardon Services standard sex offender
5 conditions. The other is our computer and internet use
6 agreement for sex offenders.

7 Q And so when Mr. Williams was deemed -- about to get out
8 of SCDC, was this case a -- was this case assigned to you?

9 A It was, because at the time I had the case load and I
10 managed our sex offender population.

11 Q And he was going to be living in Chester County,
12 correct?

13 A Correct.

14 Q And as part of when folks come out that are sex
15 offenders, is there certain protocol or things that they
16 have to do with your office?

17 A There are. They do have to comply with those
18 conditions that I provided you with. He is on a community
19 supervision release, so he also has special conditions, one
20 of those being that he attends sex offender counseling.

21 Q Okay. And --

22 A And have no victim contact.

23 Q And as far as the sex offender treatment goes, was that
24 something that you do?

25 A No.

JOANNA WIX - DIRECT

1 Q You just supervise him to make sure he's doing what
2 he's supposed to be doing?

3 A Correct.

4 Q And if he doesn't comply and go through the sex
5 offender treatment, what happens to him?

6 A We would take him back to a hearing. It would be an
7 administrative hearing initially, then the administrative
8 hearing officer, who is a hearing officer within our
9 department, would determine if he had willfully violated the
10 conditions of his supervision, and then forward him back to
11 a general sessions court judge for a final review.

12 Q And if that happens, what is Mr. Williams looking at at
13 that point?

14 A Mr. Williams is on a community supervision program,
15 based on that he could be revoked for up to one year. He
16 only has about 18 months remaining, so he could be -- if he
17 had a year remaining he could be revoked for up to one year,
18 and then anything remaining he would be ordered to continue,
19 which could be up to six months depending on when the
20 revocation took place.

21 Q And so if he doesn't do what he's supposed to do he's
22 looking at prison time, correct? If he doesn't follow
23 through with the sex offender treatment, correct, he's
24 looking at prison.

25 A Only the remaining amount of time, it would be 18

JOANNA WIX - DIRECT

1 months.

2 Q But if he does what he's supposed to do, if he goes
3 through the treatment and he participates like he's supposed
4 to he could live wherever he tells you he is living,
5 correct?

6 A There are other conditions beyond just sex offender
7 counseling and living where he is supposed to.

8 Q He can't get in trouble, correct? Legal trouble.

9 A Would you like me to read them?

10 Q Just generally. He can't get arrested, he has got to
11 stay away from alcohol and drugs.

12 A He has to register. He would have to attend and
13 actively participate in and not get cause to be terminated
14 from treatment. He would not have any victim contact. He
15 would not have any contact with persons under the age of 18
16 with the exception of any immediate family. He could not
17 enter into, loiter or work within a thousand feet of any
18 area frequented by people under the age of 18. He not be
19 allowed to purchase, possess or use any sexually stimulating
20 or sexually explicit materials, nor go into any facilities
21 that sale this kind of thing. He would permit an agent
22 within the department to search his computer and any kind of
23 smart phone he may have. I brought the computer internet
24 use agreement for that purpose because it's noted in these
25 conditions. He will abide by any kind of curfew. He would

JOANNA WIX - CROSS

1 maintain a suitable residence. He would not consume any
2 alcoholic beverages, any kind of drugs. And he would comply
3 with the department's requirements for any electronic
4 monitoring program.

5 Q And the documents that you're looking at are documents
6 that are created by probation, pardon and parole services;
7 is that correct?

8 A That's correct.

9 Q And these are just the standard forms that you use on a
10 daily basis with other offenders, correct?

11 A Other sex offenders, yes.

12 MR. DUNN: Your Honor, at this time I would move for
13 those to be marked as -- well, moved into evidence as
14 Respondent's 1 and 2, Your Honor.

15 THE COURT: Any objection?

16 MR. BOGLE: No objection.

17 THE COURT: Without objection introduced as 1 and 2.

18 (The documents were received as Respondent's 1 and 2.)

19 MR. DUNN: I have no further questions for this
20 witness.

21 MR. BOGLE: Mr. Bogle, any questions?

22 CROSS EXAMINATION

23 BY MR. BOGLE:

24 Q Ms. Wix, good afternoon. How long have you been with
25 probation and parole?

JOANNA WIX - CROSS

1 A Just over four and a half years.

2 Q Have you always been stationed in this area or been in
3 other counties?

4 A I've always been at the Chester field office.

5 Q One of the things he has to sign off on is an agreement
6 about computer and internet use, but are you aware of the
7 crimes that got him in this courtroom to begin with for
8 today's trial?

9 A I am.

10 Q And they're not computer related, are they?

11 A They're not.

12 Q And is he supposed to -- is he now -- Jesse's Law --
13 there's a law called Jesse's Law, right?

14 A Correct.

15 Q And if you were convicted after Jesse's Law was passed
16 of certain crimes you've got to wear a GPS device on you at
17 all times, right?

18 A That's correct.

19 Q His conviction predates Jesse's Law because he was back
20 in 2005.

21 A That's correct.

22 Q And Jesse's Law came back in 2006?

23 A Correct.

24 Q So he would not have to wear a GPS tracking device.

25 A As per the special conditions of his CSP release, one

1 of the conditions is that he wear a GPS monitor not less
2 than six months. So he could feasibly wear it for the
3 remaining 18 months, but at the close of his community
4 supervision program the GPS unit would be removed.

5 Q But because of the timing of his conviction, does he
6 have to go before a circuit judge and have a hearing on
7 whether or not the GPS is reasonable?

8 A I believe only -- the last legal update that I got I
9 believe stated that it would only be if a judge deemed it
10 appropriate, but also I believe he had to be in violation of
11 his supervision.

12 Q Okay. And what the GPS monitor, if he's wearing it,
13 would do is it would send a signal telling you where he is.

14 A Correct.

15 Q Not what he's doing.

16 A Correct.

17 MR. BOGLE: Thank you ma'am.

18 THE COURT: Anything else?

19 MR. DUNN: No, sir.

20 THE COURT: All right. Thank you, ma'am, you may step
21 down. The respondent may call its next witness. You want
22 to recess?

23 MR. DUNN: I think it would be a good time to recess,
24 Your Honor.

25 THE COURT: Sounds good. Ms. Wix, you're free to leave

1 as well, you're not under subpoena anymore. All right.
2 Ladies and gentlemen of the jury, we are going to end for
3 the day. I want you back in your jury room tomorrow morning
4 at 9:30 in the morning and we'll start back then, okay?
5 Again, remember what I said about being away from the
6 courthouse, don't do any independent research, don't google
7 anybody's names and try to look up things yourself, you'll
8 be violating your oath as a juror. You have to decide that
9 based upon the evidence presented here, and don't talk to
10 anybody about the case until I tell you to.

11 (The jury left the courtroom.)

12 THE COURT: All right. Anything else for the good of
13 the cause today?

14 MR. BOGLE: No, Your Honor.

15 MR. DUNN: No, sir.

16 (Court recessed for the day and resumed at 10:00 a.m.
17 On Tuesday, June 25, 2019.)

18 THE COURT: Ready for the jury?

19 MR. BOGLE: Yes, sir.

20 MR. DUNN: Yes, sir.

21 THE COURT: All right. Thank you. Bring them in
22 please.

23 (The jury returned to the courtroom.)

24 THE COURT: Good morning, ladies and gentlemen, I hope
25 you had a nice evening. Sorry for the slight delay, we had

CLOSING ARGUMENTS

1 some issues on another matter I had to deal with this
2 morning and I'm sorry. I know y'all were all here on time,
3 I was here 15 minutes late, I apologize, but the delay was
4 caused by some other matters not related to this case that I
5 had no control over so I apologize, thank you for your
6 patience. All right. Mr. Dunn?

7 MR. DUNN: Your Honor, the respondent rests.

8 THE COURT: All right, respondent rests. Anything in
9 reply?

10 MR. BOGLE: No, Your Honor, thank you.

11 THE COURT: All right. Well, ladies and gentlemen, we
12 have now completed the testimony and evidence phase of the
13 trial, meaning that what's left is the lawyers are going to
14 do closing arguments to you, I ask that you give them your
15 undivided attention. After they argue I will then instruct
16 you on the law that pertains to the issues which have arisen
17 in this case, and that is when you will be able to begin
18 deliberating your verdict, okay? So at this time I allow
19 the lawyers to do closing argument.

20 MR. BOGLE: Thank you, Your Honor. May it please the
21 Court? Mr. Dunn? First off I would like to thank you for
22 your patience, your time and your attention to the details
23 of this case. This has been a very important case not only
24 to Mr. Williams but the State and also to Lancaster County.
25 I'm one of these lawyer that has to use notes, I'm not one

CLOSING ARGUMENTS

1 of these TV lawyers, so forgive me if I have to refer to a
2 piece of paper once in a while. But here is where we are in
3 the case, okay? The testimony is done, the exhibits have
4 been introduced into evidence, which you will have back in
5 the jury room. So that's the case. The way it works in
6 civil court is the moving party, which is the State in this
7 case, I make my argument, opposing counsel will then do his,
8 and if there's anything in reply you may hear from me again,
9 probably you won't, pretty much this will be it. So this is
10 the argument for the State in favor of our case. Again,
11 let's look at the law here and look at the intent behind the
12 law. The general assembly in that section that I read
13 yesterday have determined that there is a specific group of
14 people out there who are so dangerous that they needed to be
15 dealt with by involuntary civil commitment process, and
16 that's what we have here against Mr. Williams. The elements
17 the State has to prove to you is number one, has he been
18 convicted of a sexually violent crime, and the answer is
19 yes, there's two of them over here. Criminal sexual conduct
20 in the first degree, two separate victims. The doctor
21 called them by their last names, [REDACTED] and [REDACTED]. The next thing
22 is does he have a mental abnormality or a personality
23 disorder that makes him likely to commit these same types of
24 crimes again unless he's confined in a secure facility for
25 long term control, care and treatment. And what the doctor

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1 diagnosed him with here, you heard Dr. Gehle testify, she
2 was appointed by the court sometime ago, and like I said
3 yesterday, normally people who testify can only talk about
4 things they see, things they hear, things they smell, things
5 like that. But if they're qualified based on their training
6 and their experience in a particular field, in this case
7 psychology, they can testify as to what's called an expert
8 witness. Now, at the same time remember, like the Judge
9 said, your job is to listen to the testimony and give all of
10 it whatever credibility you think it's due. You can believe
11 everything a witness says, none of what a witness says or
12 anything in between, and that applies to expert witnesses as
13 well as lay witnesses. So your job is to decide
14 credibility. But I would submit to you, Dr. Gehle has done
15 a lot of these in the past, she has been qualified as an
16 expert many, many times in the courts of South Carolina, and
17 she has no ax to grind, and I'll talk about that in a
18 second. Her job was to look at the records, look at the
19 guy, run these tests on him that she gives, and decide
20 whether or not in her opinion as an experienced psychologist
21 under this law he was likely to reoffend, and she concluded
22 that he did have a personality disorder called antisocial
23 personality disorder, and, of course, some other disorders
24 relating to cocaine use and alcohol use. So that's what we
25 have. Look at the timeline. We have the December 2000

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1 criminal sexual conduct crime against the COMPLAINANT. The
2 police talked to the respondent so he knew he was under
3 investigation for something but he wasn't arrested yet.
4 Then my notes indicate that in January of 2001, not two
5 months later, we have the second criminal sexual conduct
6 against the woman called COMPLAINANT known by initials COMPLAINANT. He gets
7 arrested now, he's arrested for both of them. While he's
8 out on bail awaiting trial on those cases he commits the
9 carjacking and kidnapping charge against COMPLAINANT, grabs the
10 woman's car, jumps in the car with her, drives her down to
11 his dirt road, tries to -- I thought the facts looked like
12 he was trying to sexually assault her, but I'll leave that
13 to your conclusions. In any event, she gets away somehow,
14 she flees the car and gets away. Then while he's still out
15 on bail for that charge and the two other criminal sexual
16 conducts, we have a homicide in Richland County where the
17 woman known as DECEDENT is found dead. Now, what do these things
18 have in common? Dr. Gehle, to her credit, she tried to find
19 a sexual connection between that homicide and the
20 respondent, was it a sexual crime or was it an accidental?
21 Was it intentional? Whatever it was. She tried to find it
22 as a rape/murder, she looked for that because the police
23 reports initially described it as that. But she talked to
24 the investigating officers. She went to Columbia and looked
25 at the police file, and in her opinion she had to give the

CLOSING ARGUMENTS.

1 respondent the benefit of the doubt, she couldn't really
2 call that a sexual crime. But what did it have in common
3 with the others? It's the choking. The choking. Remember
4 the word -- I think it's called petechial hemorrhage. If
5 you are choked so badly that you lose consciousness, then
6 afterwards there's little blood spots in your eyes, and
7 that's evidence of a person being choked very, very badly.
8 This first woman, choked with a belt. The second woman,
9 initially a belt and then a cord to the point where she
10 loses consciousness. And the third woman, the woman who
11 died in Richland County, also evidence of choking as well as
12 beating, but choking as well. So we have not just the sex,
13 we have the violence, okay? The threats, the violence, the
14 kidnapping. Because in addition to the charge of criminal
15 sexual conduct, he was also convicted of kidnapping of both
16 [COMPLAINANT] and [COMPLAINANT] and then kidnapping and carjacking of [COMPLAINANT] the
17 woman whose car he jumped in and tried to drive her down the
18 road some place. So I think what Dr. Gehle was focusing on
19 is the violence involved in the sexual acts, not just the
20 fact that he had nonconsensual sex with this woman but there
21 was violence involved in it. Choking, the threats, the
22 cord, the belt, the petechial hemorrhaging I talked about.
23 Now, to make a diagnosis of antisocial personality disorder,
24 you have to find basically a lifetime of crime, either
25 criminal convictions, criminal arrests or committing the

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1 kind of things that could get you arrested, that's what the
2 book says. The diagnostic manual has certain criteria that
3 he had to meet for that. So she found a juvenile record
4 based on his own report, and she traced about 19 different
5 arrests sometimes for multiple charges over a period of 28
6 years, from 2000 -- from 1975 to 2003, and the juvenile
7 convictions he admitted to prior to age 15. So that led to
8 the diagnosis of antisocial personality disorder, and that's
9 what you have on this guy right here. So you've got the
10 crimes and you've got the diagnosis. There's also talk
11 about the Static 99. I think she also gave you examples for
12 persons having chest pain or something like that and you go
13 to a heart doctor, he asks you a series of questions, he
14 takes your blood pressure, he asks you about family history,
15 he asks you about your diet, about your exercise, things
16 like that, and based on those factors the doctor can tell
17 you whether or not you're likely to have a heart attack. He
18 can't say you're going to have one, can't say that for sure,
19 but he knows from studies with thousands of people with
20 those symptoms that people with those symptoms are likely to
21 have a heart attack, and that's what the Static 99 and the
22 Static 2002 are. Based on the studies of sex offenders who
23 have reoffended, if they have these factors in their lives,
24 these unchangeable factors about their lives, then they get
25 a certain score. Now, the score on this guy was a 3. And

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1 she said the percentages are 7.9 percent on the Static 99,
2 7.9 percent chance of offending five years out, the next
3 five years. On the Static 2002 I believe was a 6.8 percent.
4 Now, you're thinking, okay, the State has got to prove this
5 case beyond a reasonable doubt, 7.9 percent doesn't seem
6 very high. But look at the perspective that we're taking it
7 in. This is a 7.9 percent chance of committing a violent
8 sexual crime in the next five years, not a 7.9 percent
9 chance of say knocking off a convenience store or
10 shoplifting or robbing somebody. This is serious stuff.
11 And also you have to look at the Static 99 and the 2000 in
12 perspective. If that's all she'd done I think she would
13 have gone home and we wouldn't even be here today, but
14 they're part off an overall comprehensive evaluation that
15 didn't just run those tests on him, but also looked at his
16 history and what he did with these women and it comes back
17 to the choking. You can't ignore that. Now, to his credit
18 he's facing probation, two years of community supervision,
19 which expires some time in 2020. He was a good prisoner,
20 didn't commit misconduct while in prison, and that's a
21 credit. In a lot of these cases the guys commit a lot of
22 bad things while in prison, he did not, he behaved. You
23 might argue, well, there were only two victims, that's not
24 many. But look at what happened to these victims. He's got
25 some things on his side, but are they enough? Will he be

JURY CHARGE

1 wearing a GPS monitor? I tried to examine Ms. Wix about
2 that to see exactly what the rule was and I don't think she
3 was really sure if you're required to wear one or not. But
4 even if he did, what does that tell you? It tells you where
5 somebody is, it doesn't tell you what they're doing, and it
6 only lasts until, I think, 2020. So, that's the case.
7 We've got the convictions, we've got the mental abnormality
8 in the form of the antisocial personality disorder diagnosis
9 done by someone who does this for a living, who has done 100
10 or so of them. And the question is, have we proven this to
11 you beyond a reasonable doubt? And the Judge will explain
12 what that means. I think somewhere in that definition you
13 might hear the words after hearing all of the evidence and
14 looking at the documents, are you firmly convinced that
15 Mr. Williams is a sexually violent predator? If you're
16 firmly convinced then yes, you would return a verdict for
17 the State. If you have some reasonable doubt he might not
18 be, give him the benefit of the doubt, find a verdict for
19 him, turn him loose. But in this particular case, I would
20 submit that given what you've heard and the evidence put in,
21 we have indeed met the burden. Thank you very much. Your
22 Honor?

23 THE COURT: Thank you, Mr. Bogle. Mr. Dunn?

24 MR. DUNN: If it may please the Court? Good morning.

25 I told you yesterday that you would have a hard job, and I

JURY CHARGE

1 don't think I was wrong in my assessments. One of the
2 things that the general assembly when they passed this
3 law -- Mr. Bogle was talking about intent, and when the
4 general assembly passed this law 20 years ago, they found
5 when they passed this particular statute that there was a
6 likelihood -- find that the likelihood that these sexually
7 violent predators would engage in repeated acts of violence
8 when if not treated for their mental conditions is
9 significant. You know, the general assembly wasn't trying
10 to catch everybody in this statute, they were targeting a
11 very specific group of people. And because of that they
12 made a very high burden for the State to overcome when
13 making the decision, which is beyond a reasonable doubt,
14 which is the same burden that you have to have when you're
15 in a criminal case. And so the question always becomes for
16 a jury, what is reasonable doubt? In a couple of minutes
17 the Judge is going to read the law to you and he's going to
18 tell you what reasonable doubt is, but I will go ahead and
19 give you a preview of it. Reasonable doubt is doubt that
20 causes a reasonable person the hesitation to act. Well, who
21 is a reasonable person? Our law says you are, that's why
22 you're our jurors. You vote, you have driver's licenses,
23 that's where we pick our jurors from, those two rolls. And
24 so the question becomes what should you do in a couple
25 minutes? You're going to have two choices. Your choice one

JURY CHARGE

1 would be to check yes and your choice would be to check no,
2 and my argument to you is you should be checking no. There
3 are certain things that were testified to yesterday that
4 caused reasonable doubt to exist, and because of that
5 reasonable doubt you have no choice but to check the no box.
6 So what are reasonable doubts? Well, first is the
7 statistics. 7.9 percent of folks are likely to reoffend,
8 which means 92.1 percent of the folks are not going to
9 reoffend. That's a huge number, that's reasonable doubt.
10 The nine out of ten is not going to go back and do anymore
11 crimes. Number two, on his scoring Dr. Gehle talked about
12 there's five levels; one, two, three, four, and then there's
13 two fours, so one, two, three and then two fours. Mr.
14 Williams is number three, he's in the middle. It's a low
15 number. And then she gave the recidivism rates of level 4A
16 and level 4B and they were substantially higher rates as she
17 went through. You know, she said there was a 7.9 percent
18 chance for him at level three, four was over 11 percent, you
19 get to six it's 20 percent, eight is 35 percent, ten is
20 where the cutoff is. Ten, 11 and 12 is 53 percent, those
21 are big numbers, 7.9 is a smaller number. If he was so
22 dangerous that he should be in this program he should be
23 scoring higher on the Static 99R, he should be in that range
24 where he's in the 20, 30 to 40 percent, instead he's under
25 10 percent. He's 61 years old at this point. Dr. Gehle

JURY CHARGE

1 testified that age is a very important factor, it's so
2 important that you get three points taken off your score
3 because of age. There's lots of reasons for it, not the
4 least of which you just get old and as you get older in life
5 your behavior calms down. There is no doubt that 20 years
6 ago Mr. Williams was a bad person. His record is terrible.
7 He raped two ladies, carjacked somebody, he murdered
8 somebody and he took the responsibility for it 20 years ago,
9 18 years ago and got his sentence. He did his time for the
10 crimes that he committed. For whatever reason when the
11 State pursued this 20 years ago they thought 18 years was a
12 good number, and the reason why I know that is when you look
13 on this they checked there negotiated. And negotiated is
14 legalese meaning that everybody agrees with this sentence
15 and that's why there was an 18 year sentence is because
16 everybody agreed with it. He did his time. He got in the
17 prison, he stayed out of trouble, which is a good thing. He
18 got into prison, he got off of the drugs, he got off of the
19 alcohol. And how do we know that? Because he didn't get
20 written up for it. He stayed off of it and the prisons
21 didn't think there was an issue. And lastly -- well,
22 there's two more things. The second to the last thing is
23 I'm not even convinced that he meets the definition of
24 personality disorder. In order to meet that definition you
25 have to be getting into trouble legally under the age of 15,

JURY CHARGE

1 which Dr. Gehle testified to, and that the only evidence we
2 have of that -- and there's a long set of records, we heard
3 about all of the things that he did wrong, all of the
4 investigations that she did, all of the people she called,
5 all the documents she looked at. Nothing from the
6 government showed up that he'd gotten in trouble under the
7 age of 15. I would argue that that right there is
8 reasonable doubt that he even meets the definition of
9 personality disorder. And then lastly, we know that when he
10 gets out that his life is not going to be all rosy. We know
11 that he's not going to be able to just do whatever he wants
12 to do willy nilly, that he still has some of his punishment
13 still left. He still has to report to Agent Wix until she
14 passes the case off to somebody else. We know that he's got
15 conditions that he's got to live by. We know that he's got
16 to go through drug -- sex offender counseling and those sort
17 of things to make sure that he gets some of the treatment
18 that he needs that he didn't get while he was in prison.
19 Those are the reasonable doubts. Those are the things that
20 should cause you, the jury, to hesitate and go, well, maybe,
21 just maybe he doesn't meet the definition. Yesterday I told
22 you that your job was hard. Sometimes doing right things is
23 hard, and in this case the right thing to do is to check no,
24 that he's not a sexually violent predator.. Thank you.
25 Thank you, Your Honor.

JURY CHARGE

1 THE COURT: Thank you, Mr. Dunn. Anything in brief
2 reply?

3 MR. BOGLE: No, Your Honor, thank you.

4 THE COURT: All right. Thank you. All right. Ladies
5 and gentlemen of the jury, I'm going to ask you to give me
6 your close attention as I charge you the law that's
7 applicable to the issues which have arisen in this case.
8 Now, Madam Forelady, members of the jury, it's now my duty
9 as the trial judge under the constitution of this state to
10 charge and instruct you on the law applicable to this case.
11 It's your duty as jurors to accept as correct and apply the
12 law as I will now state it to you. The State has brought
13 this case under what's called the Sexually Violent Predator
14 Law of South Carolina. The State is seeking the civil
15 commitment of James Williams, the respondent here, for long
16 term control, care and treatment in a secured facility.
17 This is not a criminal proceeding seeking incarceration, but
18 rather it's a proceeding seeking civil commitment. Now, the
19 State of South Carolina alleges or claims that the
20 respondent is a sexually violent predator under the law.
21 The respondent has denied he is a sexually violent predator
22 and the burden of proof is therefore on the State of South
23 Carolina to prove by evidence sufficient to satisfy each of
24 you beyond a reasonable doubt that Mr. Williams is a
25 sexually violent predator. If the State is unable to meet

JURY CHARGE

1 that burden of proof as to one or more elements of this
2 claim, the respondent is entitled to a finding that he is
3 not a sexually violent predator. Now, ladies and gentlemen,
4 I want to make sure that you understand that Mr. Williams is
5 not accused of committing a crime in this proceeding before
6 you. As you've heard from the testimony, he did have
7 previous charges and was sentenced by the Court for those
8 charges, the respondent has now completed his sentence and
9 the State is now alleging that Mr. Williams is a sexually
10 violent predator. The State has the burden of proof in this
11 case and must prove its case beyond a reasonable doubt. If
12 you find that the State has not met this burden the
13 respondent will be released. If you find that the State has
14 met its burden of proof, and find that he is -- the
15 respondent is a sexually violent predator, he will not be
16 released but he will be committed to a secure treatment
17 facility in Columbia operated by the South Carolina
18 Department of Mental Health. Now, during this trial you and
19 I have had separate duties to perform. I told you earlier
20 that as the trial judge it is my duty to be the judge of the
21 law and preside over the trial. In that regard you are only
22 to consider the competent evidence which has come before you
23 and disregard from your mind any extraneous evidence and
24 testimony which I may have sustained or you may want to
25 consider. Again, as I told you yesterday, your role as the

JURY CHARGE

1 jury in this case is to consider only the testimony from
2 this witness stand and only the evidence which has come into
3 the record. I am the sole judge of the law of this case.
4 It's your duty to accept as correct and to apply the law as
5 I now state it to you. If you have any preconceived ideas
6 as to what you think the law is or what the law ought to be
7 you don't concern yourself with that, because you must go by
8 the law that I give you, okay? Please do not infer that I
9 have any opinion about the facts of this case from anything
10 I have said during the course of this trial and the way that
11 I have ruled on objections, or from anything that I now say
12 during the course of this charge to you. In this regard the
13 law simply does not permit me to have an opinion about the
14 facts. Like I said, you're the judges of facts, I'm the
15 judge of the law, okay? Now, ladies and gentlemen, in most
16 civil cases that are tried in the court of common pleas or
17 civil court, the burden of proof is what's called by a
18 preponderance or greater weight of the evidence. That's
19 where you have your traditional set of scales you can
20 imagine where one side slightly tips to the other side.
21 Now, that's what typically the burden of proof is in the
22 civil court. However, that's not the case in this type of
23 trial, okay? In this type of case under this particular law
24 the State's burden is greater than that. Here it must be
25 beyond a reasonable doubt. If you find the State has failed

JURY CHARGE

1 to meet this high burden you must find that Mr. Williams is
2 not a sexually violent predator. So what is a reasonable
3 doubt in the law, okay? A reasonable doubt is proof that
4 leaves you firmly convinced that respondent is a sexually
5 violent predator. A reasonable doubt is a doubt that would
6 make a reasonable, conscientious juror in search for a
7 verdict to hesitate to act. Now, ladies and gentlemen,
8 there's very few things in this world that we know with
9 absolute certainty, and in this type of case the law does
10 not require proof that overcomes every possible doubt. So
11 if based upon your consideration and your weighing the
12 evidence you're firmly convinced that Mr. Williams is a
13 sexually violent predator, then you must find him so. If on
14 the other hand you think there's a real possibility that he
15 is not a sexually violent predator, you must give him the
16 benefit of that doubt and return a verdict for the
17 respondent. Now, evidence can be direct or circumstantial
18 evidence. Direct evidence is testimony by a witness about
19 what the witness personally saw, heard or did.
20 Circumstantial evidence is indirect evidence, in other
21 words, proof of one or more facts from which one can find
22 another fact, and you are to weigh all of those
23 circumstances together, and if you — give it what weight
24 you think is applicable. All right. The lawyers talked
25 about credibility of witnesses, let me talk to you briefly

JURY CHARGE

1 about that. You as the finders of fact get to judge the
2 believability or credibility of witnesses who testify, and
3 you get to decide what weight and value to give their
4 testimony. In deciding or in weighing upon credibility you
5 can take into consideration many things, such as the
6 appearance and the manner in which a witness testifies. Was
7 the witness forthright, hesitant? Was the witness biased?
8 Was the witness prejudiced for one side or the other? Was
9 the witness' testimony corroborated on the one hand or
10 contradicted on the other hand? Did the witness' testimony
11 have any discrepancies? All of these things you take into
12 consideration understanding that you are the judge of the
13 facts and decide what testimony you wish to believe. You
14 can believe a small portion of a witness' testimony, some of
15 it or none of it, that's solely for you, the jury, to
16 determine. All right. There was an expert witness in this
17 case, I've already described to you what an expert witness
18 can do. An expert witness simply means that someone who is
19 qualified by training, expertise, skill or knowledge can be
20 and is qualified by that way by the Court, which I did in
21 this case, can testify in the form of an opinion. Again,
22 just because a witness gives an opinion doesn't mean you
23 have to accept the opinion, it's just something for you to
24 consider when you weigh all of the evidence. So let's talk
25 about the Sexually Violent Predator Statute. This is the

JURY CHARGE

1 law on that, this is the law that you must apply to the
2 facts as you find them to be. Now, the elements which the
3 State of South Carolina must prove beyond a reasonable doubt
4 are, one, that the respondent has been convicted of a
5 sexually violent offense. I charge you, ladies and
6 gentlemen, that criminal sexual conduct in the first degree
7 is a sexually violent offense, all right? So the State has
8 to prove that first prong beyond a reasonable doubt. Number
9 two. And the State also has to prove the second prong,
10 which is that the respondent suffers from a mental
11 abnormality or personality disorder that makes him likely to
12 engage in acts of sexual violence if he's not confined to a
13 secure facility for long term control, care and treatment.
14 Now, inherent in these two elements is that the State must
15 prove the requirement that the respondent's mental
16 abnormality or personality disorder causes him serious
17 difficulty in controlling his behavior. In other words, the
18 State must prove to you beyond a reasonable doubt that the
19 individual it seeks to commit, and in this case that's Mr.
20 Williams, suffers from a mental illness which he could not
21 sufficiently control without the structure and care provided
22 by a mental health facility rendering him otherwise likely
23 to commit a dangerous act. So let me help you better
24 understand the elements of the State's cause of action. I'm
25 going to define for you some of the terms that I just used,

JURY CHARGE

1 okay? Mental abnormality means a mental condition which
2 affects a person's emotional or volitional capacity that
3 predisposes that person to commit sexually violent offenses.
4 This mental abnormality or personality disorder must cause
5 Mr. Williams serious difficulty in controlling his behavior.
6 Likely to engage in acts of sexual violence means the
7 person's propensity to commit acts of sexual violence is of
8 such a degree as to pose a menace or to be extremely
9 dangerous to the health and safety of others. Now, again, I
10 remind you that the burden of proof is on the State to prove
11 to your satisfaction, ladies and gentlemen, beyond a
12 reasonable doubt that the respondent has been convicted of a
13 sexually violent offense, and also suffers from a mental
14 abnormality or personality disorder that makes him likely to
15 engage in acts of sexual violence if not confined in a
16 secure facility for long term control, care and treatment.
17 Confinement does not mean immunity supervision, it means
18 confinement in a secure facility for control, care and
19 treatment. Now, if the State carries this burden of proof
20 and has convinced you beyond a reasonable doubt as to these
21 two elements of this cause of action, the State is entitled
22 to a finding that Mr. Williams is a sexually violent
23 predator. If, however, any one of you has a reasonable
24 doubt or any of you have any reasonable doubt as to the
25 State's burden of proof, and if the State does not meet that

JURY CHARGE

1. burden of proof, then the respondent is entitled to a
2. finding that he's not a sexually violent predator. Now,
3. ladies and gentlemen, as you're fixin' to head back to your
4. jury room to begin your deliberations, I wish to express the
5. hope to each of you that you will be mindful of the
6. importance of your responsibility. You are not called upon
7. to serve as jurors very often, and the proper performance of
8. jury duty requires each of you to reach the height of
9. freeing your mind of improper influences. Now, as the
10. presiding officer of this court I am vitally concerned that
11. whatever verdict you find will be the result of your going
12. into your jury room and confining your consideration to the
13. evidence and the law that you just heard in this courtroom.
14. Deliberations is called deliberate for a reason, because you
15. are to consider the evidence freely and deliberately,
16. discussing it in a calm, courteous manner and come up with
17. your verdict. You weigh this evidence fairly and
18. impartially, and I have every confidence you will do so.
19. Now, ladies and gentlemen, your verdict must be unanimous,
20. that means all 12 of you must agree to whatever your verdict
21. is, and once you've reached a verdict, Madam Forelady, you
22. will write it on the verdict form, which I will go over it
23. with you right now. But you can't write anything on the
24. verdict form until all 12 of you agree as to what the
25. verdict is. And the verdict form is real easy, you just

JURY CHARGE

1 check one of the blanks, and it says, "Has the petitioner,
2 the State of South Carolina, proved beyond a reasonable
3 doubt James Williams is a sexually violent predator under
4 the Sexually Violent Predator Act?" And then it says, "We,
5 the jury, unanimously answer the question as follows,"
6 either yes, James Williams is a sexually violent predator,
7 or no, James Williams is not a sexually violent predator.
8 And then once you've reached that verdict you will sign it
9 and then you'll date it down at the bottom, knock on the
10 door, advise the bailiff and we'll bring you back out here
11 to receive your verdict. Remember, ladies and gentlemen,
12 your verdict cannot be based on sympathy, compassion,
13 prejudice or emotion or some other consideration that's not
14 been found in evidence. And I trust that you will weigh the
15 evidence and come up with whatever your verdict is
16 appropriate under the circumstances, okay? So at this point
17 in time, ladies and gentlemen, I'll ask that you go back to
18 your jury room, everybody except for my alternate, Madam
19 Alternate, if you will remain with me. Don't begin to
20 discuss the case until you've reached a verdict form as well
21 as the evidence which came in, and once you get that, that
22 will be your signal to start talking about the case, okay?
23 Thank you, head on back to your jury room.

24 (The jury left the courtroom.)

25 THE COURT: Any exceptions on the charge from the

JURY VERDICT

1 State?

2 MR. BOGLE: None, Your Honor.

3 THE COURT: From the defense?

4 MR. DUNN: No, sir.

5 THE COURT: All right. Thank you.

6 (The alternate was dismissed and the jury began
7 Deliberations.)

8 (The jury returned to the courtroom with a question.)

9 THE COURT: All right. Ladies and gentlemen, I've
10 received a note from you and the note has been entered into
11 the record. The question is, "If deemed a sexually violent
12 predator how long would Mr. Williams be committed?" Ladies
13 and gentlemen, you've heard the evidence, you've heard the
14 law, you can't speculate, remember, I advised you of that
15 yesterday, about evidence that's not in the record so your
16 verdict has to be based upon the evidence in the record,
17 okay? So I'm going to ask you to return to your
18 deliberations, thank you very much.

19 (The jury left the courtroom and resumed
20 Deliberations.)

21 THE COURT: It's my understanding we have a verdict.
22 Are y'all ready for the jury?

23 MR. BOGLE: Yes, sir.

24 MR. DUNN: Yes, sir.

25 THE COURT: Bring them in.

1 (The jury returned to the courtroom.)

2 THE COURT: All members of the jury are present. Madam
3 Forelady, it's my understanding that the jury has reached a
4 verdict.

5 THE JUROR: Yes, Your Honor.

6 THE COURT: And is the verdict unanimous?

7 THE JUROR: Yes.

8 THE COURT: Thank you. If you will hand it to the
9 clerk of court at this time. All right. Mr. Clerk, you may
10 publish the verdict.

11 THE CLERK: Thank you, Your Honor. Case
12 2018-CP-29-525, in the matter of the care and treatment of
13 James Williams, respondent. "We, the jury unanimously,
14 answer the question as follows, yes, James Williams is a
15 sexual violent predator. Signed, Emily Pritt, foreperson,
16 June 25, 2019." Ladies and gentlemen of the jury, if this
17 be your verdict say so by the raising of your right hands.
18 Let the record reflect all jurors raised their right hands.

19 THE COURT: All right, thank you. Ladies and gentlemen
20 of the jury, thank you so much for your jury service. I'll
21 ask that you retire at this point in time back to your jury
22 room, okay? Thank you.

23 (The jury left the courtroom.)

24 THE COURT: Mr. Dunn?

25 MR. DUNN: Your Honor, I renew all of my prior

1 objections, prior motions, motion for a direct verdict and
2 other motions I have made in this matter.

3 THE COURT: All of those are renewed, you're protected
4 in the record and the Court denies those motions as well as
5 overrules those objections. Anything else?

6 MR. BOGLE: I've got a proposed order, Your Honor, if I
7 may approach.

8 THE COURT: Yes, sir, if you will bring that to me.

9 MR. BOGLE: Now, the mechanics of this are once this
10 order is filed before they take him back to the jail I'll
11 give them the name and the contact person at the department
12 of mental health to call and set up a time to bring him down
13 there. You've got to make an appointment, you can't just
14 drive him down there, but usually it happens within about a
15 couple of days.

16 THE COURT: I know you disagree with the verdict, Mr.
17 Dunn, but is there any objection to the proposed order?

18 MR. DUNN: No, sir.

19 THE COURT: All right. I have signed the order.

20 MR. BOGLE: Actually there is one thing, Your Honor, it
21 has got Richland County Detention Center on there, it should
22 say Lancaster County. It's a form we use, that's on me. I
23 can have a corrected one emailed to you right now.

24 THE COURT: No. I'll just write in Lancaster --

25 MR. BOGLE: Okay.

1 THE COURT: -- and put my initials on it.

2 MR. BOGLE: Thank you, Your Honor.

3 THE COURT: Mr. Dunn, anything further?

4 MR. DUNN: No, sir.

5 THE COURT: Mr. Williams, I wish the very best of luck
6 to you, sir. Hopefully you'll get the treatment the jury
7 says you need and hopefully you won't be there very long.

8 (End of trial proceedings.)

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1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had and
6 evidence introduced in the trial of the captioned
7 case relative to appeal in the Court of Common Pleas
8 for Lancaster County, South Carolina, on the 24th
9 and 25th days of June, 2019.

10 I do further certify that I am neither of kin, counsel,
11 nor interest to any party hereto.

12

13

September 6, 2019

14

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16


Michael C. Watkins

17

Court Reporter

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STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

IN THE COURT OF COMMON PLEAS

IN THE MATTER OF THE)
CARE AND TREATMENT OF)
JAMES WILLIAMS,)

RESPONDENT,)
)
)
)
)
)
)
_____)

2018-CP-29-00525

TRANSCRIPT OF RECORD

JUNE 13, 2018
LANCASTER, SOUTH CAROLINA

BEFORE:

THE HONORABLE KRISTI F. CURTIS

APPEARANCES:

ATTORNEY FOR APPLICANT:

JAMES BOGLE
ASSISTANT ATTORNEY GENERAL

ATTORNEY FOR RESPONDENT:

GEOFFRY DUNN, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

INDEXWITNESSPAGE NO.

CERTIFICATE OF REPORTER

12

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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(No Exhibits Were Presented During This Hearing)

1 **THE COURT:** Okay. So we're here on the State's motion.
2 So, Mr. Bogle, I'm glad to hear from you.

3 **MR. BOGLE:** Thank you, Your Honor. May it please the
4 Court?

5 **THE COURT:** Yes, sir.

6 **MR. BOGLE:** Your Honor, this case is case number 2018-
7 CP-29-525. This is a case brought under the Sexually
8 Violent Predator Act.

9 Today's hearing is a probable cause hearing to
10 determine whether or not there's probable cause to have Mr.
11 James Williams, a/k/a James Louis Williams, evaluated under
12 that law. My name is Jim Bogle for the record. I represent
13 the State.

14 The information we have that Mr. Williams is currently
15 confined at SCDC. His max-out date is in January of next
16 year, so we have some time here.

17 The statutory prerequisites have been met in that the
18 Multidisciplinary Team met on March 15, 2018, voted for the
19 case to go forward, found probable cause. The Prosecutor
20 Review Committee received the case on March 19 and voted on
21 April 17, again, that there was probable cause to go
22 forward, and we filed our petition.

23 Now, I'll defer to counsel on this, but our indications
24 are there's no indication of prior military service of any
25 type by the Respondent. If there was, I would need to

1 submit a separate order to get those records. But I'm not
2 aware of any. There's nothing in the record. Does that
3 seem to be his case?

4 **MR. DUNN:** I believe that's correct, Your Honor.

5 **MR. BOGLE:** Okay. The qualifying sexually violent
6 convictions were in Lancaster County back in April of 2005.
7 He pleaded guilty to criminal sexual conduct in the first
8 degree, two counts, kidnapping, three counts, and
9 carjacking. The criminal sexual conduct charges arose out
10 of a 2000 incident when he choked a victim, forced her into
11 having sexual relations with him.

12 There was a 2001 incident where he also choked a
13 victim, this time with an electrical cord until she was
14 almost unconscious in order to perform sexual intercourse
15 with her.

16 There was a third case where he forcefully took a
17 victim's car keys, hijacked her car. She jumped out of the
18 car and got away while the car was moving.

19 Now, there is a prior voluntary manslaughter conviction
20 out of Richland County that apparently pleaded guilty up
21 here. It started as a murder trial. And we supplemented
22 the record with exhibits from the Columbia Police Department
23 file on that.

24 Now, voluntary manslaughter is not a sexually violent
25 crime. The reason we got those records is to see if there

1 was a sexual component. And we don't know for sure. I know
2 a rape kit was taken, but it was never tested because he
3 pleaded guilty up here in Lancaster to that crime.

4 What we did find, though, was evidence of choking. The
5 autopsy report, the police officer's investigative notes
6 showed evidence of choke marks around the victim's neck,
7 also, petechial, I think that's the correct term for the
8 word, broken blood vessels in the eye, which suggests
9 choking. But she was killed by blows to the head. But
10 because of the similarity of choking in the other two
11 criminal sexual conduct convictions here, we found that
12 relevant.

13 There is also a prior CSC in 1993 in Chester County
14 that was not proessed. The reason I bring that up is even
15 though it was not a conviction, in the type of evaluations
16 in these cases the appointed experts look at everything the
17 guy's ever been arrested for, even cases not involving
18 convictions. What they're looking for is a pattern of
19 behavior. So that's why I bring it up. And they give it
20 the appropriate weight since he was not convicted of that
21 crime.

22 He has a number -- about 21 offenses that are other
23 than sexual, range from housebreaking to weapons or failure
24 to stop and things like that. These are significant from
25 our point of view in that if we can find conduct prior to

1 age 15, that could lead to a diagnosis of antisocial
2 personality disorder, which is a relevant abnormality in
3 these types of cases.

4 The only other thing is there's no evidence of any sex
5 offender treatment while he was at the Department of
6 Corrections. And that is essentially what we have here.

7 We would submit that based on all of this information
8 before the Court there's probable cause that standard has
9 been met to have him evaluated by the Court.

10 If Your Honor elects to find probable cause, the way
11 the Department of Mental Health works it right now, there's
12 five qualified doctors out there, a psychiatrist and four
13 psychologists. And to keep the workload even, once an order
14 is signed and submitted to them, they then -- the supervisor
15 then delegates it to one of those five doctors. So instead
16 of naming a doctor right off the bat, it's sent there and
17 they pick one of the five.

18 Judge, I'll be happy to answer any other questions you
19 might have about the case, but that's what we have.

20 **THE COURT:** Thank you, sir. Mr. Dunn.

21 **MR. DUNN:** May it please the Court, Your Honor? The --
22 Your Honor, I would point out that while he does, in fact,
23 have a 2005 conviction for manslaughter, and that the State
24 has supplemented their petition, that none of the evidence
25 in that supplement beyond the, you know, they're trying to

1 draw the parallel with the strangulation. There's no other
2 evidence in that -- there's an autopsy in there. There's no
3 evidence that there's any kind of sexual act performed on
4 that victim who was killed.

5 Your Honor, I would point out that the incidents that
6 are the qualifying convictions are 2000, 2001 incidents.
7 That's a relatively short period of time.

8 Mr. Williams is 60 years old. In that 60 years we have
9 a short period of his life where, you know, he was charged
10 with and convicted of these sort of acts that would go
11 towards the SVP statute. Your Honor, I would argue that --
12 based on those two things I would argue there's not enough
13 probable cause for him to be withheld or to be bound over
14 for this evaluation.

15 On a side note, my other concern just is that I've been
16 appointed to a number of these in the last six months, and
17 it seems like in all of them there's an inordinately amount
18 of time being required to have these evaluations performed.
19 The statute requires that the evaluation be performed within
20 60 days of today, if the Court so orders it. And it allows
21 for one continuance if need be, and yet I have cases where
22 it's been a year or more.

23 So not only are the gentlemen doing their time, and
24 he's done 18 years or, you know, an 18 year sentence, is
25 coming towards the end of that, but then they're doing

1 another six months, a year, year and a half. I've got a
2 trial on Monday, the guy's been in jail for a year and a
3 half.

4 Now, that's certainly not Mr. Bogle's fault, but, I
5 mean, I think it goes to show that we've got some prejudice
6 occurring towards these gentlemen and that based on that and
7 just the fact that there's a relatively short period of time
8 there's not -- there should not be probable cause found by
9 the Court, Your Honor.

10 **THE COURT:** What year was the voluntary manslaughter
11 conviction?

12 **MR. BOGLE:** The same time, 2005. The woman was found
13 deceased in Columbia under a railroad bridge in 2003.
14 Witnesses came forward who placed Respondent last seen with
15 her. The investigation developed further. That's when the
16 crime happened. She was found killed.

17 The cause of death were blows to the head, but they
18 found the evidence of choking in each eye, which I mentioned
19 earlier. So it was in 2003 she was found dead. He pleaded
20 guilty along with all these other charges in 2005.

21 **THE COURT:** And he's ---

22 **MR. BOGLE:** And I'm gathering he did it up here because
23 the same judge signed them all.

24 **THE COURT:** And he has been incarcerated continuously
25 since 2005?

1 **MR. BOGLE:** That's correct, Your Honor. He may have
2 some prior time awaiting trial prior to that. I do not know
3 about that. But he's been in SCDC since at least 2005.

4 **MR. DUNN:** SCDC says he's been there in SCDC since 2005
5 and that his start date was September the 18th, 2003, which,
6 to me, would suggest ---

7 **MR. BOGLE:** Yeah.

8 **MR. DUNN:** --- he's been incarcerated since September
9 of 2003.

10 **MR. BOGLE:** We wouldn't dispute that.

11 **THE COURT:** Well, I think even without the voluntary
12 manslaughter it would certainly meet the criteria under the
13 statute with the two convictions or several counts of CSC,
14 first degree, and kidnapping. The good news is that they've
15 started this process well in advance of his max-out date.

16 And I understand the statute gives a maximum 60 days
17 and 60 days. I don't know how it addresses, I mean, you
18 certainly have the right for a jury trial if the ---

19 **MR. DUNN:** Yes, ma'am.

20 **THE COURT:** --- report comes back unfavorably. So I
21 can't control that aspect of it. But the statute does limit
22 the continuances to an additional 60 days.

23 I do find that there's probable cause.

24 **MR. BOGLE:** May I approach, Your Honor?

25 **THE COURT:** You've had a chance to look, Mr. Dunn, at

1 this proposed order?

2 MR. BOGLE: I believe so.

3 MR. DUNN: I've seen it, Your Honor.

4 THE COURT: I'm sorry, you've taken a look at it, Mr.
5 Dunn?

6 MR. DUNN: I've looked at it.

7 THE COURT: Any proposed changes, additions to this
8 order ---

9 MR. DUNN: No, ma'am.

10 THE COURT: --- that you'd suggest?

11 (Pause)

12 THE COURT: All right. Thank you both.

13 MR. DUNN: Thank you, Your Honor.

14 MR. BOGLE: Thank you, Your Honor.

15 (Hearing Ended at 10:16 am)

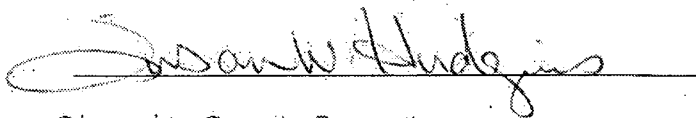
16 (End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Sixth 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/hearing of the captioned case, relative to appeal, in the Circuit Court for Lancaster County, South Carolina, on the 13th day of June 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 27, 2019

A handwritten signature in cursive script, reading "Susan W. Hudgins", is written over a horizontal line.

Circuit Court Reporter

WITNESSES

Lt. Jeff Hilton - LCSO

10:16

ARREST WARRANT NO. F-357490

ACTION OF GRAND JURY

Elaine C. Cornwell

Foreman of Grand Jury

APR 26 2001

VERDICT

TRUE BILL

Foreman of Petit Jury

Date

DOCKET NO. 2001-GS-29-524

The State of South Carolina,

County of Lancaster

COURT OF GENERAL SESSIONS

APRIL

TERM 2001

THE STATE

vs.

James Lewis Williams

01-573-216

*12-11-02
21-9-04*

Indictment for Criminal
Sexual Conduct First Degree

*016001543
0160021442*



CERTIFIED TO BE A TRUE COPY

Jeff Hammond

JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY

FORM 29 (12/87)

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

INDICTMENT FOR CRIMINAL
SEXUAL CONDUCT FIRST DEGREE

At a Court of General Sessions, convened on APRIL 26 2001,
the Grand Jurors of Lancaster County present upon their oath:

COUNT ONE — CRIMINAL SEXUAL CONDUCT
FIRST DEGREE

That James Lewis Williams did in
Lancaster County on or about December 11, 2000, engage
in sexual battery, to wit: sexual intercourse

upon and with the body of COMPLAINANT 1 without
his/her consent. Such sexual battery was accomplished by the use of force of a high and aggravated
nature, to wit: by choking her with a belt until she submitted to have sexual
intercourse

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.


SOLICITOR

10000 9900 PD
DOCKET NO. 2001-GS-29-526

The State of South Carolina,

County of Lancaster

COURT OF GENERAL SESSIONS

APRIL

TERM 2001

THE STATE J 1/2
E

vs.

James L. Williams

01-523 → 210

noted
noted

WITNESSES

Lt. Jeff Hilton

J Bailey

ARREST WARRANT NO. F-357488

ACTION OF GRAND JURY

Elaine C. Cornwell

Foreman of Grand Jury

APR 26 2001

VERDICT

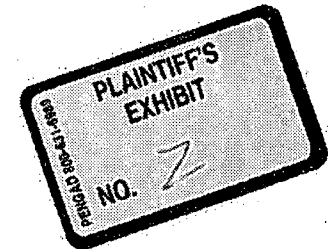
TRUE COPY

Foreman of Petit Jury

Date

Indictment for Criminal
Sexual Conduct First Degree

01001543
010021492



CERTIFIED TO BE A TRUE COPY

Jeff Hammond

JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, SC

FORM 29 (12/87)

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

INDICTMENT FOR CRIMINAL
SEXUAL CONDUCT FIRST DEGREE

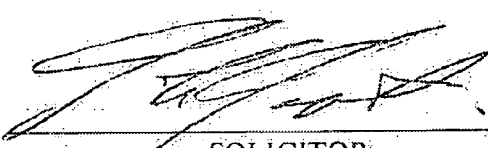
At a Court of General Sessions, convened on APRIL 26 2001,
the Grand Jurors of Lancaster County present upon their oath:

COUNT ONE — CRIMINAL SEXUAL CONDUCT
FIRST DEGREE

That James L. Williams did in
Lancaster County on or about January 24, 2001, engage
in sexual battery, to wit: sexual intercourse

upon and with the body of COMPLAINANT 2 without
his/her consent. Such sexual battery was accomplished by the use of force of a high and aggravated
nature, to wit: by preventing the victim to leave his residence, using a cord
to choke the victim unconscious and performing sex on the victim

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.


SOLICITOR

South Carolina Department of Probation, Parole and Pardon Services

Standard Sex Offender Conditions

1. I will register as a sex offender as required by the Code of Laws of South Carolina and as described in the Department's *Notice of Sex Offender Registry*.
2. I will attend, actively participate in, not give cause to be terminated from, and successfully complete any counseling/treatment program, to which I am referred by my agent, which may include polygraph or other treatment related testing, all at my own expense. I waive all rights to confidentiality between myself and my treatment provider, and authorize my treatment provider to disclose to my agent, the Court, the Parole Board, the releasing authority, and/or the hearing officer, information about my attendance and participation in the program. (Must complete Referral Form 1054).
3. I will not have any contact with the victim(s) of my crime, directly or indirectly. This includes but is not limited to physical or face to face contact, contact through letters or written notes, telephone calls, or electronic mail (e-mail), or any contact through a third party, unless such contact is approved in writing by the Court, the Parole Board, or the releasing authority, or the hearing officer. I also will not enter into, travel past, or loiter near a victim's residence or workplace.
4. I will not have any contact with a person under the age of 18, with the exception of my immediate family members and then may only have such contact if approved in advance under conditions set by my treatment provider and my agent. If I have incidental contact with any child, I will be civil and courteous and immediately remove myself from the situation. I will discuss the contact at my next treatment session and will immediately report this contact to my agent.
5. I will not enter into, loiter or work within one thousand (1,000) feet of any area or event frequented by people under the age of 18 including but not limited to: schools, day care centers, playgrounds, arcades, public swimming pools or beaches, shopping malls, theaters, or and festivals, unless approved in advance by my agent.
6. I will not purchase, possess, or use any sexually stimulating or sexually explicit material or device, nor enter into, loiter or work within one thousand (1,000) feet of any place where such material or device is sold or presented as entertainment. This includes but is not limited to adult book stores, sexually explicit internet sites, television services, or telephone services, sex shops, topless bars, strip clubs, and massage parlors.
7. I will permit my agent or a representative of the Department, without a warrant and with or without the assistance of any other law enforcement officer, to search my person, residence, any vehicle I own or have permission to use, and any of my possessions, including computers, cellular telephones, and other electronic devices, for the presence of sexually stimulating or sexually explicit materials or devices prohibited by these conditions, and to seize said materials. Such materials seized shall be considered property of the court, Parole Board, or releasing authority, and shall be safely kept by the Department or other law enforcement agency until any violations concerning the seized materials have been addressed.
8. If permitted by the Department to have computer and internet access, I will abide by the Computer/Internet Use Agreement for Sex Offenders. (Form 1402)
9. I will abide by all curfews as directed by my agent.
10. I will at all times maintain a suitable residence, approved by my agent, which complies with all conditions of my supervision, which may not be within one thousand (1000) feet of any area frequented by people under the age of 18, including but not limited to schools, day care centers, playgrounds, arcades, public swimming pools or beaches, shopping malls, or theaters. I will obtain approval from my agent of my residence and employment and shall obtain prior approval from my agent before changing my residence or employment. I will stay at my approved residence every night and will not sleep or stay overnight anywhere else without prior approval of my agent.
11. I will not consume alcoholic beverages and will submit to alcohol testing as instructed by my agent or treatment provider. I agree that any test results may be used as evidence in any hearing for the violation of the conditions of my supervision and I waive any right to challenge the validity of such results.
12. I will comply with the Department's requirements for any electronic monitoring program which I am ordered to participate in by the Court, the Parole Board, the releasing authority, the hearing officer, or my agent, or as required by statute, all at my own expense.

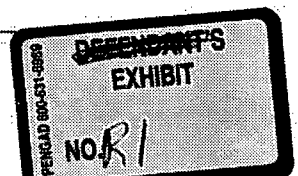
I have read, or had read to me, the above conditions and I understand their meaning. I have received a copy of these conditions. I accept and agree to these conditions and understand that any violation could result in the Court, Parole Board, or releasing authority revoking my supervision and reinstating my sentence or returning me to prison. If I refuse to accept these conditions, I must immediately ask my agent to bring my case before the Court, Parole Board, or releasing authority where I will request that my term of supervision be revoked and my sentence be reinstated or that I be returned to prison. I understand that, if I have objections to any of the above conditions but fail to timely take the actions described above, I will waive any right I may have to challenge these sex offender conditions at any future proceeding.

Offender Signature _____ Date _____

Offender Name (printed) _____

Agent Signature _____ Date _____

Agent Name (printed) _____



Computer/Internet Use Agreement for Sex Offenders

Offender _____ Supervising Agent/Designee _____

By signing below, the above named offender understands and agrees as follows: computer or other access to the internet may pose significant risk of triggering re-offense; access to the internet is a privilege not a right; and access to the internet may be prohibited by the Supervising Agent/Designee at any time. The offender specifically agrees to be fully compliant with the following conditions if allowed access to the internet.

1. If the victim of my offense was under the age of eighteen at the time of the offense, or I reasonably believed the victim was under the age of eighteen at the time of the offense, I will not: (1) use the internet to access social networking websites, (2) communicate with other persons or groups for the purpose of promoting sexual relations with persons under the age of eighteen, or (3) if I am over the age of eighteen, communicate with a person under the age of eighteen. See S.C. Code Section 23-3-555(D).
2. I will provide all personal/business phone records and credit card bills to the Supervising Agent/Designee upon request.
3. I will obtain prior written approval from the Supervising Agent/Designee before using an electronic bulletin board system, internet relay chat channel, DCC chat channel, newsgroup, usergroup, or any site-based email which provides some measure of anonymity (such as Hotmail or Gmail).
4. I will not use the computer for any purpose which might further sexual activity. Such activities include but are not limited to the following: possession of sexually explicit material in any manner; sexually related "chat" or email exchange; visiting or joining "chat rooms" which contain sexually explicit conversation; visiting/viewing sexually explicit material on web sites; downloading binary files, UUE files, MIME files, AVI files, MPG files, Real Player files, images in any format, text files, or multi-media material that is sexual in nature; or visiting and/or subscribing to usergroups or newsgroups which focus on sexual content.
5. I will not use any form of encryption, cryptography stenography, compression, password protected files and/or other method that might limit access to, or change the appearance of, data and/or images without prior written approval from the Supervising Agent/Designee.
6. I will not alter or destroy records of computer use, and will not use software designed to alter, clean or "wipe" computer media.
7. I agree that if, for work purposes, password protection is required on any system or files I use, I will provide the password upon request of the Supervising Agent/Designee.
8. I will permit the announced or unannounced examination or search by the Supervising Agent/Designee of any computer, cell phone, and/or electronic devices to which I have access to verify my compliance with these special conditions of supervision. This includes examination of all data and/or images stored on hard disks, "Zip Disks", floppy diskettes, CD ROMs, optical disks, magnetic tape and/or any other storage media whether installed within a device or removable and separate from the actual computer or other electronic device. I understand and agree that any computer, cell phone, related equipment, and/or storage device are subject to seizure by the Supervising Agent/Designee.
9. I will provide the Supervising Agent/Designee with a list of all equipment used with my computer, including back-up systems. I will keep this list current.
10. I agree to install or allow to be installed at my expense, equipment and/or software to monitor or limit computer use, or remove any hardware device including modem, network card, and/or other device that may be used to provide access to another computer or computers.
11. I agree to be fully responsible for all material and information found on my computer at all times.

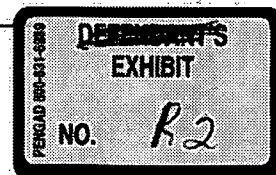
I have read, or had read to me, this Computer/Internet Use Agreement for Sex Offenders and understand its meaning. I have received a copy of this advisement, and understand that if I violate any condition restricting my computer or internet use, I may be brought before the Court, Parole Board or releasing authority for revocation of my supervision and reinstatement of my sentence.

Offender's Signature _____ Date _____

Supervising Agent's Signature _____ Date _____

Offender Name (printed) _____

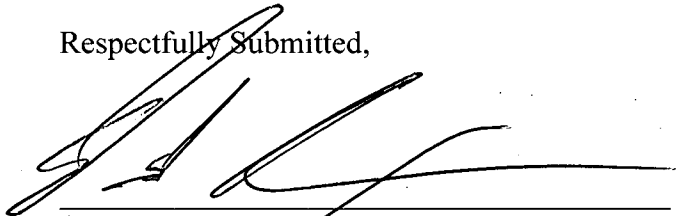
Agent Name (printed) _____



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "David Alexander", is written over a horizontal line.

David Alexander
Appellate Defender

This 13th day of March, 2020.

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT