STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Richland County
Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHARLES M. MITCHELL,

APPELLANT

APPELLATE CASE NO. 2019-000942

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

BYRON GIPSON
Solicitor, Fifth Judicial Circuit

Post Office Box 192
Columbia, S.C. 29201
(803) 576-1800

ATTORNEYS FOR RESPONDENT

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ORIGINAL

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND

THE STATE	:	CASE NO. 92-GS-40-2260
	:	
-vs-	:	TRANSCRIPT OF RECORD
	:	(Guilty Plea)
CHARLES M. MITCHELL	:	(Blair Hearing)

August 4 and 6, 1992
Columbia, South Carolina

B E F O R E:

HONORABLE L. HENRY MCKELLAR, Judge

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

Richard Harpootlian, Solicitor
Duffie Stone, Assistant Solicitor
Jay Johnson, Assistant Solicitor
Attorneys for the State

John Delgado
Nate Roberson
Attorneys for the Defendant

Jenny H. Williams, CSR
Circuit Court Reporter

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TUESDAY, AUGUST 4, 1992

MR. HARPOOTLIAN: YOUR HONOR, I HAND UP TO YOU INDICTMENT NO. 92-GS-40-2260, THE STATE VS. CHARLES MICHAEL MITCHELL, AN INDICTMENT FOR MURDER. IT'S MY UNDERSTANDING MR. MITCHELL WOULD LIKE TO ENTER A GUILTY PLEA TO THAT CHARGE.

I WOULD ALSO LIKE THIS DOCUMENT — I DON'T KNOW IF WE NEED TO PUBLISH IT — MADE A PART OF THE RECORD. IT'S SIGNED BY MR. DELGADO AND MYSELF. MR. DELGADO WOULD LIKE THAT MADE A PART OF THE RECORD, AND I HAVE NO OBJECTION.

THE COURT: ALL RIGHT.

MR. HARPOOTLIAN: I CAN HAND THAT TO THE COURT REPORTER IF YOU'D LIKE ME TO.

(STATE'S EXHIBIT NO. 1, PLEA CONSIDERATION, MARKED AND RECEIVED IN EVIDENCE)

THE COURT: ALL RIGHT. MR. DELGADO, YOU REPRESENT MR. MITCHELL?

MR. DELGADO: YES, SIR, I DO.

THE COURT: HAVE YOU ADVISED HIM OF THE CHARGE CONTAINED IN THE INDICTMENT AND THE POSSIBLE PUNISHMENT?

MR. DELGADO: YES, SIR, I HAVE.

THE COURT: AND HIS CONSTITUTIONAL RIGHT TO A JURY TRIAL?

MR. DELGADO: YES, SIR.

THE COURT: DOES HE UNDERSTAND THESE THINGS?

MR. DELGADO: HE DOES, YOUR HONOR.

THE COURT: DOES HE WISH TO PLEAD GUILTY?

MR. DELGADO: HE DOES, SIR.

THE COURT: MR. MITCHELL, DO YOU WISH TO PLEAD GUILTY TO MURDER?

MR. MITCHELL: YES, SIR.

THE COURT: MR. DELGADO, DO YOU AGREE WITH HIS DECISION TO PLEAD GUILTY?

MR. DELGADO: YES, SIR, I DO.

THE COURT: MR. MITCHELL, LET ME ASK YOU SOME QUESTIONS. HOW OLD ARE YOU?

MR. MITCHELL: I AM SEVENTEEN.

THE COURT: SEVENTEEN (17)?

MR. MITCHELL: YEAH.

THE COURT: HOW FAR DID YOU GO IN SCHOOL?

MR. MITCHELL: THE TENTH GRADE.

THE COURT: HAVE YOU EVER BEEN TREATED FOR ABUSE OF ALCOHOL OR DRUGS?

MR. MITCHELL: NO, SIR.

THE COURT: HAVE YOU TAKEN ANY MEDICATION, DRUGS OR ALCOHOL WITHIN THE LAST 24 HOURS?

MR. MITCHELL: YES, SIR.

THE COURT: WHAT HAVE YOU TAKEN?

MR. DELGADO: YOUR HONOR, HE HAS BEEN AT THE SOUTH CAROLINA STATE HOSPITAL FOR PROBABLY A MONTH. AS A RESULT OF

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THAT EVALUATION, HE HAS A PRESCRIPTION FOR PROZAC. THE PHYSICIANS AT THE STATE HOSPITAL HOWEVER IN EVALUATING HIS COMPETENCY AND HIS MCNAUGHTON TESTS INDICATE THAT HE IS COMPETENT, HE DOES KNOW THE DIFFERENCE BETWEEN RIGHT AND WRONG. WE HAVE NO QUESTION AS TO HIS COMPETENCY. HE STILL IS IN A DEPRESSED STATE THAT THE DOCTOR SAID IS GOING TO BE CHRONIC FOR A WHILE, BUT THAT DOES NOT INTERFERE WITH HIS ABILITY TO UNDERSTAND, EVEN WITH THE MEDICATION, WHAT IS GOING ON.

THE COURT: WAS HE SENT TO THE DEPARTMENT OF MENTAL HEALTH UNDER A COURT ORDER ——

MR. HARPOOTLIAN: YES, SIR, YOUR HONOR.

THE COURT: —— FOR EVALUATION?

MR. HARPOOTLIAN: YES, SIR.

THE COURT: DO WE NEED TO HOLD A BLAIR HEARING?

MR. HARPOOTLIAN: NOT IF THE DEFENDANT CONCEDES THAT THERE IS NO ISSUE, YOUR HONOR. AS I UNDERSTAND, MR. DELGADO'S POSITION IS THAT THERE'S NO NEED FOR A BLAIR HEARING IN THAT HE CONCEDES THAT THE REPORT — DO YOU HAVE A COPY OF THAT REPORT IN THE FILE?

MR. DELGADO: YOUR HONOR, WE HAVE TALKED TO DR. MCKEE FROM THE SOUTH CAROLINA STATE HOSPITAL. DR. MCKEE SAYS TO US THAT MR. MITCHELL IS COMPETENT TO STAND TRIAL. HE DOES UNDERSTAND WHAT IS GOING ON. HE CAN EVALUATE AND HELP US IN A TRIAL IF THAT WERE TO BE THE CASE. EARLIER TODAY, YOUR

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HONOR, WITH BOTH MR. MITCHELL'S MOTHER AND GRANDMOTHER ALONG WITH MR. ROBERSON IN MY OFFICE, WE'VE HAD SEVERAL OCCASIONS TO TALK TO MIKE. THERE IS NO QUESTION HE IS IN A DEPRESSED STATE, BUT HE DOES UNDERSTAND WHAT HE IS DOING. AND I FEEL THAT A BLAIR HEARING IS NOT REQUIRED AT THIS TIME.

MR. HARPOOTLIAN: YOUR HONOR, MY UNDERSTANDING IS THAT IF BOTH PARTIES AGREE THAT THE BLAIR HEARING IS NOT REQUIRED, I HAVE NEVER HELD ONE UNLESS THERE IS SOME ISSUE RAISED BY THAT EVALUATION. WE WOULD CONCUR WITH MR. DELGADO'S REPRESENTATION THAT THE STATE HOSPITAL, THE EXAMINERS FOUND HIM COMPETENT TO STAND TRIAL, ABLE TO ASSIST COUNSEL IN HIS OWN DEFENSE, ABLE TO UNDERSTAND THE CHARGES AGAINST HIM; AND THERE'S NO QUESTION OF HIS CAPACITY TO STAND TRIAL OR HIS COMPETENCY BEFORE YOUR HONOR HERE TODAY.

MR. DELGADO: YOUR HONOR, AS A MATTER OF FACT, HE WAS RETURNED FROM THE SOUTH CAROLINA STATE HOSPITAL THIS PAST WEEK, THURSDAY, MAYBE EVEN FRIDAY OF THIS PAST WEEK, IN ANTICIPATION OF THIS CASE BEING CALLED HERE TODAY.

THE COURT: ALL RIGHT. WELL, LET'S MAKE THE REPORT FROM THE DEPARTMENT OF MENTAL HEALTH A PART OF THE RECORD.

MR. HARPOOTLIAN: YOUR HONOR, I DON'T HAVE IT WITH ME HERE IN THE COURTROOM, BUT I WILL MAKE IT A PART OF THE RECORD. I WILL SUBMIT IT TO THE COURT REPORTER.

THE COURT: ALL RIGHT. MR. MITCHELL, THE FACT THAT YOU ARE TAKING THE DRUG, PROZAC, DOES THAT AFFECT YOUR ABILITY TO

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UNDERSTAND WHAT'S GOING ON HERE TODAY?

MR. MITCHELL: NO, SIR.

THE COURT: SO YOU CAN UNDER THE QUESTIONS THAT I'M ASKING YOU?

MR. MITCHELL: YES, SIR.

THE COURT: ALL RIGHT. IF AT ANY TIME YOU HAVE ANY QUESTION ABOUT ANYTHING I SAY OR ANY QUESTION I ASK, YOU MAKE SURE YOU TELL ME, OKAY?

(NO RESPONSE)

THE COURT: NOW, YOU'VE HEARD YOUR ATTORNEY TELL ME THAT HE'S EXPLAINED TO YOU THE CHARGE CONTAINED IN THIS INDICTMENT, WHICH IS MURDER?

MR. MITCHELL: YES, SIR.

THE COURT: AND THE PUNISHMENT, WHICH IS LIFE IMPRISONMENT. DO YOU UNDERSTAND THAT?

MR. MITCHELL: YES, SIR.

THE COURT: YOU UNDERSTAND UNDER THE LAW THAT I HAVE TO GIVE YOU LIFE IMPRISONMENT? DO YOU UNDERSTAND THAT?

MR. MITCHELL: (NODS HEAD AFFIRMATIVELY)

THE COURT: DO YOU UNDERSTAND THAT?

(NO RESPONSE)

THE COURT: YOU HAVE TO ANSWER.

MR. MITCHELL: YES, SIR.

THE COURT: ALL RIGHT. AND YOU STILL WISH TO PLEAD GUILTY?

MR. MITCHELL: YES, SIR.

THE COURT: ALL RIGHT. AND WHEN YOU PLEAD GUILTY YOU GIVE UP CERTAIN VERY IMPORTANT CONSTITUTIONAL RIGHTS. AND LET ME EXPLAIN THOSE TO YOU. THE FIRST RIGHT YOU HAVE IS THE RIGHT TO REMAIN SILENT AND NOT TO SAY ANYTHING TO INCRIMINATE YOURSELF. THE SECOND RIGHT YOU HAVE, IS YOU HAVE A RIGHT TO A JURY TRIAL. IF YOU HAD A JURY TRIAL, THE STATE WOULD HAVE TO PROVE TO A JURY OF 12 PEOPLE THAT YOU WERE GUILTY BEYOND A REASONABLE DOUBT ON THE CHARGE OF MURDER. DO YOU UNDERSTAND THAT?

MR. MITCHELL: YES, SIR.

THE COURT: THE THIRD RIGHT YOU HAVE IS, IF YOU HAD A TRIAL, YOU WOULD HAVE A RIGHT TO BE PRESENT IN THE COURTROOM WHEN THE WITNESSES FROM THE STATE TESTIFIED. IN OTHER WORDS, YOU'D BE ABLE TO LOOK THEM IN THE EYE AND LISTEN TO THEM TESTIFY, AND THEN YOUR ATTORNEY WOULD BE ABLE TO ASK THEM QUESTIONS ON CROSS EXAMINATION. DO YOU UNDERSTAND THAT?

MR. MITCHELL: YES, SIR.

THE COURT: YOU WOULD ALSO BE ABLE TO CALL WITNESSES IN THIS COURT TO TESTIFY ON YOUR BEHALF. NOW, DO YOU UNDERSTAND ALL THESE RIGHTS THAT I'VE EXPLAINED TO YOU?

MR. MITCHELL: YES, SIR.

THE COURT: ALL RIGHT. NOW, WHEN YOU PLEAD GUILTY YOU HAVE TO GIVE UP THESE RIGHTS, BECAUSE THERE WILL BE NO JURY TRIAL. DO YOU UNDERSTAND THAT?

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MR. MITCHELL: YES, SIR.

THE COURT: IS THAT WHAT YOU WANT TO DO? GO AHEAD AND PLEAD GUILTY?

MR. MITCHELL: YES, SIR.

THE COURT: ALL RIGHT. DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY YOU ADMIT THE TRUTH OF THE CHARGES AGAINST YOU?

MR. MITCHELL: YES, SIR.

THE COURT: AND IF YOU HAVE ANY DEFENSES TO THESE CHARGES -- AND I DON'T KNOW IF YOU DO -- BUT IF YOU DO, YOU WAIVE THOSE DEFENSES WHEN YOU PLEAD GUILTY. DO YOU UNDERSTAND THAT?

MR. MITCHELL: YES, SIR.

THE COURT: AND YOU MAY HAVE MADE SOME INCRIMINATING STATEMENT IN THIS CASE OR A CONFESSION. I DON'T KNOW WHETHER YOU DID OR NOT. BUT IF YOU PLEAD GUILTY YOU GIVE UP THE RIGHT TO CHALLENGE WHETHER OR NOT THAT STATEMENT WAS GIVEN FREELY AND VOLUNTARILY. DO YOU UNDERSTAND THAT?

MR. MITCHELL: YES, SIR.

THE COURT: AND ARE YOU PLEADING GUILTY BECAUSE YOU ARE GUILTY?

MR. MITCHELL: YES, SIR.

THE COURT: HAVE THERE BEEN ANY PLEA NEGOTIATIONS, ANY RECOMMENDATIONS OR ANYTHING LIKE THAT?

MR. HARPOOTLIAN: NO, SIR, YOUR HONOR.

THE COURT: ALL RIGHT.

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MR. DELGADO: SAVE, YOUR HONOR, WE SUBMITTED ——

MR. HARPOOTLIAN: WE'VE ENTERED THE PLEA CONSIDERATION INTO THE RECORD, YOUR HONOR.

THE COURT: OKAY. ALL RIGHT. MR. MITCHELL, HAS ANYBODY PROMISED YOU ANYTHING OR HELD OUT ANY HOPE TO GET YOU TO PLEAD GUILTY?

MR. MITCHELL: NO, SIR.

THE COURT: HAS ANYBODY THREATENED YOU IN ANY WAY OR FORCED YOU TO PLEAD GUILTY?

MR. MITCHELL: NO, SIR.

THE COURT: HAVE YOU HAD ENOUGH TIME TO MAKE UP YOUR MIND?

MR. MITCHELL: YES, SIR.

THE COURT: AND ARE YOU PLEADING GUILTY OF YOUR OWN FREE WILL AND ACCORD?

MR. MITCHELL: YES, SIR.

THE COURT: ALL RIGHT. ARE YOU SATISFIED WITH THE MANNER IN WHICH YOUR ATTORNEY HAS REPRESENTED YOU AND ADVISED YOU?

MR. MITCHELL: YES, SIR.

THE COURT: HAVE YOU HAD ENOUGH TIME TO TALK TO HIM?

MR. MITCHELL: YES, SIR.

THE COURT: HAVE YOU UNDERSTOOD WHAT HE'S SAID TO YOU?

MR. MITCHELL: YES, SIR.

THE COURT: ARE YOU COMPLETELY SATISFIED WITH HIS

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SERVICES?

MR. MITCHELL: YES, SIR.

THE COURT: HAVE YOU UNDERSTOOD THE THINGS THAT I'VE EXPLAINED TO YOU HERE TODAY?

MR. MITCHELL: SIR?

THE COURT: HAVE YOU UNDERSTOOD WHAT I HAVE SAID TODAY?

MR. MITCHELL: YES, SIR.

THE COURT: ALL RIGHT. I FIND THEN THERE'S A SUBSTANTIAL FACTUAL BASIS FOR YOUR PLEA AND THAT YOUR DECISION TO PLEAD GUILTY IS FREELY, VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY MADE; AND THAT YOU'VE HAD THE ADVICE OF AN ATTORNEY WITH WHOM YOU SAY YOU'RE SATISFIED. SO I'LL ACCEPT YOUR PLEA. ALL RIGHT, MR. SOLICITOR.

MR. HARPOOTLIAN: IF IT PLEASE THE COURT, YOUR HONOR. FIRST I WOULD RELATE TO THE COURT THAT THE DEFENDANT HAS NO ADULT CRIMINAL RECORD. HE DOES HAVE A JUVENILE CONVICTION FOR GRAND LARCENY OF A MOTOR VEHICLE AND BURGLARY/GRAND LARCENY. AT THIS TIME I WOULD ASK THAT INVESTIGATOR MORTON OF THE RICHLAND COUNTY SHERIFF'S DEPARTMENT RELATE TO THE COURT THE FACTUAL BASIS FOR THIS CASE.

INVESTIGATOR MORTON: THANK YOU. YOUR HONOR, ON SATURDAY, THE 7TH OF DECEMBER, 1991, THE VICTIM IN THIS CASE, MR. STEVEN WAYNE HAMMOND, STEPPED OFF A CITY BUS ON NORTH MAIN STREET HAVING JUST PURCHASED A BLANKET AND SOME OTHER ITEMS FOR HIS NEWBORN BABY. HIS WIFE, CHARLOTTE, HAD JUST

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GIVEN BIRTH TO THEIR CHILD ON FRIDAY.

HE BEGAN WALKING TO HIS HOUSE UP FISK STREET. HIS HOUSE WAS LOCATED AT THE INTERSECTION OF WESTON AVENUE AND FISK STREET. AS HE APPROACHED THE 900 BLOCK OF FISK STREET HE ENCOUNTERED A GROUP OF WHICH THE DEFENDANT, MR. MITCHELL, WAS A MEMBER. ACCORDING TO MR. MITCHELL'S STATEMENT AS WELL AS THE STATEMENTS OF THE YOUNG MEN WHO WERE WITH HIM, AT THE TIME THAT MR. HAMMOND PASSED THE GROUP, MR. MITCHELL PRODUCED A WEAPON WHICH WE LATER RECOVERED AND IDENTIFIED AS A SMITH & WESSON .38 CALIBER REVOLVER.

ACCORDING TO THE DEFENDANT'S STATEMENT AS WELL AS OTHER STATEMENTS, MR. MITCHELL THEN SAID TO MR. HAMMOND, "GIVE IT UP", WHICH WE ALLEGE WAS AN ATTEMPT TO ROB MR. HAMMOND OF HIS POSSESSIONS. MR. MITCHELL'S STATEMENT INDICATES THAT AT THAT POINT MR. HAMMOND TURNED TO WALK AWAY. OTHER STATEMENTS INDICATE THAT HE SHRUGGED AS IF TO INDICATE HE DIDN'T HAVE ANYTHING TO GIVE UP AND THEN TURNED TO WALK AWAY.

AT THAT POINT MR. MITCHELL THEN FIRED A SHOT. CAUSE OF DEATH IS LISTED AS INTERNAL BLEEDING RESULTING FROM A GUNSHOT WOUND TO THE BACK. OTHER STATEMENTS THAT WE HAVE INDICATE THAT MR. HAMMOND ASKED FOR HELP, THAT HE PLED FOR HELP. AT THAT POINT ALL MEMBERS OF THE GROUP FLED DOWN FISK STREET TOWARDS NORTH MAIN CUTTING THROUGH A PASSAGEWAY INTO THE RANDALL AVENUE APARTMENTS. AND AT THAT POINT THE DEFENDANT AND HIS ACCOMPLICES UNLOADED THE WEAPON, AND SOME OF THE

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GROUP WENT TO AN APARTMENT BUILDING IN THE COMPLEX AND DUG A HOLE AND HID THE WEAPONS.

THE COURT: ALL RIGHT.

MR. HARPOOTLIAN: THANK YOU, INVESTIGATOR MORTON. AT THIS TIME, YOUR HONOR, I BELIEVE THE DECEASED WIFE WOULD LIKE TO MAKE A STATEMENT TO THE COURT. WHY DON'T YOU COME UP HERE, PLEASE, MA'AM. YOUR HONOR, SHE'S ASKED ME TO READ THIS TO YOU. SHE IS TOO EMOTIONALLY DISTRAUGHT TO READ IT.

THE COURT: OKAY.

MR. HARPOOTLIAN: "DEAR JUDGE, THIS IS THE HARDEST LETTER I HAVE EVER HAD TO WRITE, BUT I WILL TRY. I KEEP HOPING THIS IS ALL A VERY BAD NIGHTMARE, THAT COME MORNING I WILL WAKE UP IN MY HUSBAND'S ARMS AS ALWAYS. BUT COME TODAY IN COURT FULL OF REALITY, I REALIZE THAT MIKE MITCHELL TOOK THE BEST PART OF MY LIFE. HE TOOK MY OTHER HALF AND IT HAS BEEN VERY HARD TO SURVIVE WITHOUT HIM. HE TOOK MY CHILDREN'S FATHER WHOM THEY DEARLY LOVE AND MISS VERY MUCH.

"I HOPE THAT MIKE MITCHELL HAS LOTS OF TIME TO THINK ABOUT WHAT HE HAS DONE, BUT THE MOST IMPORTANT THING IS THAT HE BE PUT BEHIND BARS AND UNABLE TO DO THIS TO ANY OTHER FAMILY. THAT WILL HELP OUR PAIN, KNOWING THE PAIN OF OTHERS WILL BE SPARED.

"MIKE TOOK OUR LIGHT, THE BRIGHT STAR OF OUR FAMILY, AND IT WILL TAKE A LONG TIME TO MAKE THE CHILDREN AND I BRIGHT AGAIN.

"SINCERELY, MRS. CHARLOTTE HAMMOND."

I'D LIKE TO MAKE THIS ALSO A PART OF THE RECORD, YOUR HONOR.

THE COURT: ALL RIGHT. MARK THAT AS A COURT'S EXHIBIT. (COURT'S EXHIBIT NO. 1, LETTER OF CHARLOTTE HAMMOND, MARKED FOR IDENTIFICATION ONLY)

DOES ANYBODY ELSE CARE TO SAY ANYTHING?

MR. HARPOOTLIAN: YES, SIR. IDENTIFY YOURSELF FOR THE RECORD, PLEASE.

MR. GARY HAMMOND: MY NAME IS GARY HAMMOND.

MR. HARPOOTLIAN: AND YOUR RELATIONSHIP TO THE DECEASED, PLEASE.

MR. GARY HAMMOND: HE WAS MY BROTHER. I WOULD JUST LIKE TO SAY THAT HE'S GETTING A CHANCE TO LIVE. MY BROTHER IS DEAD. I HOPE YOU HAVE A LOT OF TIME TO THINK OF IT, AND I HOPE THAT OUR COURT WILL MAKE SURE OF THAT. AND MY NEPHEW, MY NIECES WILL NEVER HAVE A FATHER BECAUSE OF HIM. I HAVE NO REMORSE TOWARDS YOU. I JUST HOPE THAT YOU — I HOPE YOU HAVE A LONG TIME TO THINK OF WHAT YOU'VE DONE, BECAUSE IN MY HEART — I USED TO BELIEVE IN THE DEATH PENALTY. MY BROTHER WAS NEVER FOR IT. AND EVIDENTLY, THAT'S THE WAY IT SHOULD BE. THANK YOU, YOUR HONOR.

MR. HARPOOTLIAN: STATE YOUR NAME FOR THE RECORD, PLEASE.

MR. DENNIS HAMMOND: JUDGE, MY NAME IS DENNIS HAMMOND.

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I AM A BROTHER OF THE DECEASED. THEY ASKED ME TO TELL YOU HOW I FELT ABOUT WHAT CHANGES HAPPENED IN MY LIFE WHEN MY BROTHER DIED. AND I'M GOING TO TRY TO ATTEMPT TO DO SO AT THIS TIME.

YOU KNOW YOU CAN PICK UP THE PHONE AND CALL YOUR BROTHER, YOUR MOTHER, YOUR AUNT, YOUR UNCLE; BUT NOW I CAN'T CALL MY BROTHER. THE ONLY THING THAT I CAN DO IS GET IN MY CAR AND DRIVE DOWN TO PINCKNEY (PHONETIC), SOUTH CAROLINA, AND LOOK AT HIS GRAVE SITE AS I DO WITH SIX OTHERS IN MY FAMILY.

I HAD HOPED THAT HIS MOTHER AND FATHER WOULD HAVE HAD TO DO THE SAME IN HIS BEHALF ALTHOUGH THAT THE SYSTEM DOESN'T ALWAYS ALLOW US TO DO THAT THROUGH THE LAWS. NOW I HAVE A NIECE AND A NEPHEW, TWO NIECES AND A NEPHEW, THAT THE FAMILY HAS TO WATCH OVER. THIS IS MY BROTHER'S JOB THAT HE TOOK AWAY.

NO MATTER WHAT IS SAID HERE TODAY IN HIS BEHALF, ONE THING IS TO BE REMEMBERED; IT WAS HIM THAT SHOT HIM, MY BROTHER, IN THE HEART. SO GIVE NO HEART TO HIM. THANK YOU.

MR. HARPOOTLIAN: YOUR HONOR, I BELIEVE THAT CONCLUDES THE FOLKS WHO HAD SOME DESIRE TO ADDRESS THE COURT. I WOULD ONLY NOTE THIS IN ADDITION, YOUR HONOR. AND FIRST OF ALL, I WANT TO THANK THE RICHLAND COUNTY SHERIFF'S DEPARTMENT AND INVESTIGATOR MORTON FOR THE EXCELLENT JOB THEY DID IN INVESTIGATING THIS CASE AND JAY ERVIN FROM MY OFFICE WHO

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WORKED THIS CASE UP AND PREPARED IT FOR TRIAL AND WORKED VERY HARD GETTING IT READY TO GET TO COURT TODAY.

I WOULD MAKE THIS ADDITIONAL NOTE, YOUR HONOR. HERE WE HAVE A 17-YEAR-OLD, AND AT THE TIME -- HIS BIRTHDAY IS IN OCTOBER -- HE WAS BARELY 17. AT THE TIME HE WAS WANDERING THE STREETS OF OUR TOWN ARMED WITH A GUN. AND YOU AND I HAVE SEEN OVER THE LAST FEW MONTHS LITERALLY DOZENS OF YOUNG PEOPLE LIKE MR. MITCHELL CARRYING GUNS. AND THIS IS WHAT HAPPENS. THE TRAGEDY THAT THIS FAMILY FACED AND IS CONTINUING TO FACE IS COMPOUNDED BY THE TRAGEDY THAT THESE FOLKS WILL FACE.

THIS MADNESS OF GUNS AND KIDS HAS GOT TO STOP. THAT DOESN'T EXCUSE MR. MITCHELL. AND WE ENCOURAGE YOU AS YOU LISTEN TO THE PLEAS FOR MERCY FROM HIS FAMILY AND FROM HIS LAWYER TO IMPOSE THE SENTENCE OF LIFE. THAT WILL MEAN THAT HE WILL NOT EVEN BE ELIGIBLE FOR PAROLE FOR TWENTY YEARS. HE'LL BE 37 AT LEAST BEFORE HE'S CONSIDERED FOR PAROLE. I'M SURE THESE FOLKS AND MY OFFICE WILL OPPOSE PAROLE FOR HIM FOREVER BECAUSE HE NEEDS TO BE BEHIND BARS. BUT HAD HE NOT HAD THAT GUN, WE MIGHT NOT BE HERE TODAY. THANK YOU.

THE COURT: ALL RIGHT, MR. DELGADO.

MR. DELGADO: YOUR HONOR, I AM NOT GOING TO BELABOR THIS. THERE IS NOTHING I CAN SAY THAT IS GOING TO BRING BACK THE VICTIM, GOING TO DO ANYTHING EXCEPT SULLY THE VICTIM IN THE EYES OF HIS FAMILY. THIS MAN WAS WRONG.

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MR. ROBERSON AND I HAVE FROM THE FIRST DAY WE MET HIM AGREED WITH WHAT MR. HARPOOTLIAN HAS SAID HERE TODAY. IT IS A MADNESS. AND IF WE, LIKE I IMAGINE MY FRIEND, MR. HARPOOTLIAN, HAD BEEN THERE THE MOMENT BEFORE THIS HAPPENED AND COULD HAVE GOTTEN THIS YOUNG MAN AND TALKED TO HIM ABOUT WHAT CAN HAPPEN WHEN IRRESPONSIBLE YOUNG MEN LIKE THIS HAVE WEAPONS THAT CAN TAKE SOMEONE'S LIFE AS IN EFFECT IT DID HAPPEN THAT NIGHT, MAYBE IT WOULDN'T HAVE OCCURRED. BUT THAT'S OBVIOUSLY NOT THE CASE.

GUNS ARE A DANGER AND GUNS HAVE TO BE REMOVED. AND HOPEFULLY, AS A RESULT OF THIS CASE, MAYBE ANOTHER SIGNAL GOES OUT TO INDIVIDUALS IN THIS COMMUNITY THAT THE USE OF GUNS IS SOMETHING THAT IS NOW TO BE CONSIDERED ANATHEM (PHONETIC), THAT WE HAVE TO MAKE CERTAIN THAT GUNS ARE CONTROLLED.

WHAT THIS MAN DID WAS WRONG, YOUR HONOR, AND HE HAS TO BE PUNISHED; HE KNOWS THAT. THE ONLY THING I CAN SAY, AND I SAY THIS ON BEHALF OF MRS. MITCHELL, THE GRANDMOTHER, AND MRS. DOROTHY MITCHELL, HIS MOTHER, WHO HAVE WORKED WITH US IN THIS CASE TO MAKE CERTAIN THAT CHARLES UNDERSTOOD FULLY WHAT HIS RIGHTS WERE, WE APOLOGIZE TO THIS FAMILY, TO THESE FOLKS WHOSE FAMILY MEMBERS, INNOCENT OF ANY INVOLVEMENT AND ANY WRONGDOING AT ALL, WHOSE LIFE WAS TAKEN.

AND PERSONALLY, AS A RESULT OF WHAT ONE OF THE BROTHERS SAID ABOUT HIS FEELING ABOUT THE DEATH PENALTY, I THINK

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THAT'S POSSIBLY MORE THAN I COULD SAY IN A SITUATION IF THE CIRCUMSTANCES WERE REVERSED. AND I APPRECIATE HIS CANDOR AND HIS HONESTY AND HIS UNDERSTANDING. THERE'S NOTHING ELSE WE CAN SAY, YOUR HONOR. WE KNOW WHAT YOUR SENTENCE WILL HAVE TO BE. THANK YOU, SIR.

THE COURT: ALL RIGHT. MR. MITCHELL, IS THERE ANYTHING YOU WANT TO TELL THE COURT BEFORE I PASS SENTENCE?

MR. MITCHELL: LIKE MR. HARPOOTLIAN SAID, GUNS, THEY ARE BAD FOR YOU, YOU KNOW. THEY REALLY ARE. I TOOK SOMEBODY'S LIFE AWAY FOR NOTHING. AND I'M SORRY TO THE FAMILY BECAUSE THEY'RE GOING TO HAVE PAY FOR IT. I'M VERY SORRY.

THE COURT: WOULD ANYBODY ELSE CARE TO SAY ANYTHING?

(NO RESPONSE)

THE COURT: ALL RIGHT. MR. MITCHELL, EVERY DAY I HAVE YOUNG MEN COME BEFORE ME ON GUN CHARGES. AND I ECHO THE SOLICITOR'S SENTIMENTS, THAT THERE'S TOO MANY GUNS OUT THERE. WHEN I ASK THE QUESTION, "WHAT WERE YOU DOING WITH A GUN", THEIR ANSWER IS, "I NEED IT FOR PROTECTION, JUDGE." SO EVERYBODY, ALL THE YOUNG MEN OUT THERE ARE NOW CARRYING GUNS. AND THIS IS EXACTLY WHAT CARRYING GUNS CAN LEAD TO. AND I HOPE SOMEBODY GETS A MESSAGE OUT THERE TO PEOPLE YOUR AGE THAT YOU DON'T NEED TO CARRY GUNS IN COLUMBIA, SOUTH CAROLINA. YOU DON'T NEED GUNS FOR PROTECTION. A MAN'S LIFE HAS BEEN TAKEN SENSELESSLY BECAUSE YOUNG KIDS HAVE GUNS. THE SENTENCE OF THE COURT IS THAT YOU BE COMMITTED TO THE

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DEPARTMENT OF CORRECTIONS FOR THE TERM OF YOUR NATURAL LIFE.

MR. HARPOOTLIAN: THANK YOU, YOUR HONOR.

(WHEREUPON, THE GUILTY PLEA PROCEEDINGS WERE CONCLUDED)

THURSDAY, AUGUST 6, 1992

MR. STONE: CHARLES MICHAEL MITCHELL. MAY I APPROACH?

THE COURT: SURE. MR. DELGADO.

MR. DELGADO: YES, YOUR HONOR.

(WHEREUPON, A BENCH CONFERENCE WAS HAD)

THE COURT: IS THE SOLICITOR READY TO PROCEED?

MR. STONE: YES, YOUR HONOR.

THE COURT: ALL RIGHT. THIS IS A BLAIR HEARING ON THE DEFENDANT, CHARLES MICHAEL MITCHELL, WHO WAS SENTENCED ON TUESDAY MORNING?

MR. JOHNSON: YES, YOUR HONOR. AND ——

THE COURT: TUESDAY MORNING.

MR. JOHNSON: AND IT'S A BLAIR HEARING TO DETERMINE THE COMPETENCY OF CHARLES MICHAEL MITCHELL AT THAT TIME.

THE COURT: TO STAND TRIAL AND/OR TO PLEAD GUILTY.

MR. JOHNSON: YES, YOUR HONOR.

THE COURT: LET THE RECORD REFLECT THAT HE HAS ALREADY PLED GUILTY TO THE CRIME OF MURDER. IN AN ABUNDANCE OF CAUTION, WE'RE HOLDING THIS HEARING TO MAKE THIS DETERMINATION ON THE RECORD. ALL RIGHT, MR. JOHNSON.

MR. JOHNSON: THANK YOU, JUDGE. IF IT PLEASE THE COURT. AT THIS TIME THE STATE WOULD CALL DR. DONALD W. MORGAN.

DR. DONALD W. MORGAN, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE BE SEATED. STATE YOUR NAME FOR THE

CRIM LASER HOLD A PENDAFORM 1 800 631-6989

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RECORD.

DR. MORGAN: DONALD WILLIAM MORGAN.

DIRECT EXAMINATION BY MR. JOHNSON:

Q DR. MORGAN, WHERE ARE YOU CURRENTLY EMPLOYED?

A THE UNIVERSITY OF SOUTH CAROLINA SCHOOL OF MEDICINE.

Q AND IN YOUR EMPLOYMENT THERE, WHAT ARE SOME OF YOUR DUTIES?

A I COORDINATE THE FORENSIC TRAINING PROGRAM FOR THE DEPARTMENT OF NEUROPSYCHIATRY. AND AS A PART OF THAT, I DO FROM TIME TO TIME THE EVALUATIONS FOR COMPETENCY AND CRIMINAL RESPONSIBILITY, AS WELL AS MANY OTHER THINGS.

MR. JOHNSON: I BEG THE COURT'S INDULGENCE FOR JUST A SECOND.

(PAUSE - MR. JOHNSON AND MR. DELGADO CONFERRING)

MR. DELGADO: YOUR HONOR, I HAVE KNOWN DR. MORGAN ON MANY OCCASIONS IN THE PAST. I WOULD HAVE NO OBJECTIONS AT ALL TO STIPULATING TO HIS QUALIFICATIONS AS BEING AN EXPERT IN THIS FIELD AND THE ABILITY TO BE ABLE TO STATE THE EVALUATION.

THE COURT: ALL RIGHT. SO STIPULATED. HE IS QUALIFIED AS AN EXPERT. YOU CAN GO ON WITH YOUR QUESTIONING, MR. JOHNSON.

Q (BY MR. JOHNSON) DR. MORGAN, IN YOUR CAPACITY, DID HAVE YOU A CHANCE TO EVALUATE THE DEFENDANT IN THIS PARTICULAR HEARING, CHARLES MICHAEL MITCHELL?

A YES, I DID.

Q AND WHAT DID YOU DO IN THAT EVALUATION?

A WELL, IN THE EVALUATION, I ALONG WITH DR. KEE (PHONETIC), INTERVIEWED MICHAEL. WE WENT OVER THE INCIDENT REPORTS, AUTOPSY REPORTS, OTHER RECORDS. I ALSO HAD AN OPPORTUNITY TO TALK AT LENGTH WITH HIS TREATING PSYCHIATRIST IN THE CHILDREN'S UNIT AND WENT OVER PRIOR PSYCHOLOGICAL EVALUATIONS AS WELL AS THE CURRENT PSYCHOLOGICAL EVALUATION AND THE SOCIAL HISTORY THAT WAS OBTAINED. PLUS, TODAY WE SPENT ABOUT 45 MINUTES WITH MR. DELGADO AND MICHAEL.

Q SO THAT WAS THE SECOND TIME YOU'VE HAD A CHANCE TO FURTHER EVALUATE HIM?

A THIS IS, YES, JUST TODAY.

Q I HAND YOU UP THIS DOCUMENT AND ASK YOU IF YOU RECOGNIZE THAT.

A YES. THIS IS A COPY OF THE REPORT THAT I WROTE FOR THIS COURT CONCERNING MR. MITCHELL.

MR. JOHNSON: YOUR HONOR, AT THIS TIME THE STATE WOULD MOVE THIS EVALUATION OF CHARLES MICHAEL MITCHELL INTO EVIDENCE.

MR. DELGADO: WITHOUT OBJECTION.

THE COURT: ALL RIGHT. WITHOUT OBJECTION.

(STATE'S EXHIBIT NO. 2, EVALUATION, MARKED AND RECEIVED IN EVIDENCE)

Q (BY MR. JOHNSON) AND, DR. MORGAN, WOULD YOU BRIEFLY STATE FOR THE JUDGE WHAT THE RESULTS OF THAT EVALUATION WAS?

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A ON THAT EVALUATION WE WERE ASKED TO DETERMINE COMPETENCY, CRIMINAL RESPONSIBILITY, AND CAPACITY TO CONFORM HIS BEHAVIOR. AND WE FELT THAT HE WAS COMPETENT, THAT HE WAS CLEARLY CRIMINALLY RESPONSIBLE, AND THAT AT THE TIME OF THE INCIDENT THAT HE COULD CONFORM HIS BEHAVIOR TO THE REQUIREMENTS OF THE LAW.

Q AND IN YOUR INTERVIEW TODAY, THE 45 MINUTES THAT YOU HAD WITH CHARLES MICHAEL MITCHELL, DID THAT CONFIRM THE EVALUATION THAT YOU HAD MADE EARLIER?

A THE ONLY THING WE WERE ASKED TO DO TODAY WAS TO ANSWER THE QUESTION OF COMPETENCY. AND HE CLEARLY CAN RELATE TO MR. DELGADO IN A REASONABLE, RATIONAL MANNER. HE UNDERSTANDS THE FACTS OF THE CASE. HE HAS AN AWARENESS OF THE EVIDENCE AGAINST HIM. HE UNDERSTANDS THE OPTIONS THAT WERE AVAILABLE TO HIM, THE POSSIBLE PENALTIES. HE UNDERSTANDS THE ROLE OF HIS LAWYER, AND HE UNDERSTANDS THE ROLE OF THE SOLICITOR.

Q DOCTOR, IS IT YOUR OPINION THAT WHEN HE PLED GUILTY EARLIER THIS WEEK, AND EVEN TODAY, THAT HE WAS ABLE TO UNDERSTAND HIS LEGAL RIGHTS AND THAT HE WAS COMPETENT TO STAND TRIAL?

A YES, IT IS.

Q DR. MORGAN, PLEASE ANSWER ANY QUESTIONS THAT MR. DELGADO OR JUDGE MCKELLAR MAY HAVE FOR YOU.

MR. DELGADO: I HAVE NO QUESTIONS. THANK YOU.

QUESTIONS BY THE COURT:

Q ALL RIGHT, DR. MORGAN. WHEN WAS THE FIRST TIME YOU EVALUATED

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HIM? THE DATE ON YOUR REPORT?

A NO, NOT THE DATE ON THE -- THE DATE OF THE REPORT, THAT'S CORRECT. JUNE 5TH. THAT'S CORRECT, SIR.

Q OKAY. JUNE 5TH, 1992?

A YES, SIR.

Q ALL RIGHT. AT THAT TIME YOU MADE A DETERMINATION THAT HE WAS CAPABLE OF UNDERSTANDING THE PROCEEDINGS AGAINST HIM AND ASSISTING IN HIS DEFENSE AT THE TRIAL OF THIS CASE?

A YES, SIR. YES, SIR.

Q AND AFTER YOUR EXAMINATION TODAY, IS THAT STILL YOUR CONCLUSION, THAT HE IS CAPABLE OF UNDERSTANDING THE PROCEEDINGS BROUGHT AGAINST HIM AND ABLE TO ASSIST IN HIS DEFENSE?

A YES, SIR.

Q ALL RIGHT. THANK YOU VERY MUCH, DR. MORGAN. YOU CAN COME DOWN.

MR. JOHNSON: YOUR HONOR, THAT IS THE EXTENT OF THE WITNESSES THAT THE STATE WOULD CALL IN THIS HEARING.

THE COURT: WILL SOMEBODY HAND ME THE REPORT, PLEASE. ALL RIGHT. I'VE HEARD THE TESTIMONY OF DR. DONALD WILLIAM MORGAN, M.D. WHO IS QUALIFIED BY THE COURT AS AN EXPERT IN DETERMINING WHETHER OR NOT MR. MICHAEL MITCHELL WAS COMPETENT TO STAND TRIAL OR TO PLEAD GUILTY ON TUESDAY, AUGUST THE 6TH, 1992.

I CONCLUDE AND FIND FROM THE TESTIMONY AND FROM THE

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REPORT ENTERED INTO EVIDENCE THAT THE DEFENDANT WAS INTERVIEWED; THE INCIDENT REPORTS WERE REVIEWED WITH HIM; THE AUTOPSY REPORTS WERE REVIEWED WITH HIM. HE WAS FOUND ON JUNE THE 5TH, 1992, TO BE COMPETENT TO STAND TRIAL, TO BE ABLE TO UNDERSTAND THE PROCEEDINGS AGAINST HIM AND TO ASSIST IN HIS OWN DEFENSE.

HE WAS FURTHER FOUND TODAY, AUGUST THE 6TH, AFTER A 45-MINUTE INTERVIEW WITH DR. MORGAN TO BE BOTH COMPETENT TO UNDERSTAND THE NATURE OF HIS ACTS AND THAT HE WAS CRIMINALLY RESPONSIBLE AND THAT HE COULD CONFORM HIS BEHAVIOR TO THE LAWS, THAT HE UNDERSTOOD THE ROLE OF HIS ATTORNEY AND THE ROLE OF THE SOLICITOR AND, THEREFORE, THAT HE WAS COMPETENT, WAS FIT TO STAND TRIAL AND, THEREFORE, FIT TO PLEAD GUILTY ON AUGUST 6TH, 1992. AND IT IS SO ORDERED. HEARING CONCLUDED.

MR. DELGADO: THANK YOU.

MR. JOHNSON: THANK YOU, YOUR HONOR.

(WHEREUPON, THE PROCEEDINGS WERE CONCLUDED)

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I, THE UNDERSIGNED JENNY H. WILLIAMS, OFFICIAL COURT REPORTER FOR THE FIFTH 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 GUILTY PLEA AND SUBSEQUENT BLAIR HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CRIMINAL COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 4TH AND 6TH DAYS OF AUGUST, 1992.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

MAY 5, 1993

Jenny H. Williams

JENNY H. WILLIAMS
CIRCUIT COURT REPORTER

FORM LASER BOND & PLEADINGS 1-800 631 6989

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND

1992-GS-40-02260

State of South Carolina

Vs.

Charles M. Mitchell

Columbia, South Carolina

February 21, 2019

Before the Honorable Clifton Newman

APPEARANCES

For the State: R. Vance Eaton

For the Defendant: J. Rhodes Bailey, Laura Young

Reported by: Michael C. Watkins

Official Court Reporter

THE COURT: Charles Mitchell versus State of South Carolina, that's what we have.

MR. EATON: Yes, Your Honor. So Mr. Mitchell was convicted of murder in 1992 and was sentenced to life. After the Akin v. Byars cases down a lot of people were -- he was a juvenile when he was sentenced.

THE COURT: How old was he?

MR. EATON: Seventeen.

THE COURT: Was that a juvenile at the time? Is it a juvenile, 17? Sometimes the definition of an adult is based on what the crime is, so we're going to look that up as you're talking so go ahead.

MR. EATON: Yes, Your Honor. And, you know, I think he was considered a juvenile under the law at the time. I mean, a murder -- someone charged with murder can be bound up no matter what their age, actually, even from family court. But in any event, he was charged, he was sentenced to life. After the Akin v. Byars cases came down a lot of people asked for resentencings, Mr. Mitchell was one of those people who asked for a resentencing. I was assigned that matter to represent the State in his request for a resentencing. I looked at the case and I looked at the law, and I looked at the law in 1992 and I realized that Mr. Mitchell -- that a life sentence in 1992 included the possibility of parole. It was not life without parole, it

was life with parole, and, in fact, Mr. Mitchell has gone up for parole numerous times. He has a bad disciplinary record in prison, he starts riots and sexual misconduct and stuff like that. So, you know, he's gone up for parole, he'll keep going up for parole until he either gets parole or dies. Of course, Akin v. Byars line of cases applies to people who were sentenced to life without parole. You know, I think that the defense bar nationally is trying to find some case where someone -- is -- some juvenile has gotten life with the possibility of parole, but it's functionally equivalent to life without parole because they're never going to get it. Well, this isn't their case because he's not -- I mean, just based on his disciplinary record in prison alone is arguably the one thing that stands between him and being a good candidate for parole. But in any event, you know, I filed that in a written motion as soon as I got the case, as soon as we got his request for a resentencing, I wrote that up, I attached exhibits of his -- that he had been gone for -- well, first of all, that his sentence was life with the possibility of parole. And then the laws as it was in '92, the fact that he has, in fact, gone up to be considered by the parole board. And I submitted that all to Judge Knox McMahon, who had the case when it was first assigned to the supreme court. Well, there was sort of a miscommunication, if you will, in which

Judge McMahon dismissed this case, and I sent him a -- he asked for and I sent him a proposed order of dismissal, which really the same thing as my motion for dismissal, and he signed it and dismissed the case. Well, Mr. Bailey, who represented Mr. Mitchell at the time, didn't get a copy of that proposed order, and that was my fault, and felt like he had not had a chance to ask Judge McMahon to have a hearing on the case, so I consented to reopen it. I don't think it actually requires a hearing, but, you know, Mr. Mitchell's attorneys can at least ask for a hearing, even though I don't think it's necessary to have a hearing, and so that's why we're here today, Your Honor. It has been a reassigned, as Your Honor knows, to Your Honor from the supreme court since being reopened. Mr. Mitchell is in the department of corrections, we can, of course, get him here if we need to have some kind hearing. I wasn't sure what the status conference might consist of today so I apologize for not having transported him today. That's kind of the posture of where we are and my position, Your Honor.

THE COURT: All right, Mr. Bailey?

MR. BAILEY: Thank you, Your Honor. Yeah, sort of an interesting sort of case. And, of course, you know, my understanding is we're here just for a status conference today. So I guess we've got two potential situations or issues. And I might have -- if it's okay, Your Honor, I

might have Ms. Young jump in because she's more of an expert. She probably wouldn't want me to call her that, on the Akin v. Byars case law. She spent many years in mitigation work as there are basically a lot of mitigation in these cases, Your Honor. But I understand that Mr. Eaton put -- he did file a motion, and I know that what the State would like is they would like for the motion to be heard and then the whole case be dismissed. Your Honor, we would like a full sort of Miller hearing which just allows us to prevent -- sorry, allows us to present evidence and legal arguments that would allow for the Court to in their own discretion resentence. Just a couple of things, Your Honor. First of all, to answer your earlier question you had about was he an adult or not at 17 in '91, my understanding is that for the purposes of the Miller case -- for the purposes of the Miller case 18 is an adult and under that is -- anything under 18 is juvenile. So it's not -- I think for purposes of this I think he would be considered a juvenile, Your Honor. Another thing is, and we've heard this -- in fact, Mr. Barfield had this case before Mr. Eaton had it -- the State in a lot of jurisdictions has put forward this argument that, well, it was life with parole so he has a chance at parole so this isn't -- this is his own fault kind of a thing. Actually, there was no -- before 1996, Your Honor, the sentences of murders was just life with parole.

There wasn't any discretion or a range with the judge, it was just a completely different thing. Just to kind of give you a preview of it, Your Honor, our position is that if you're in jail with life with parole and they're not granting parole to a lot of these people, and they're not, they're not granting parole to most of these people, even though they may technically have an eligibility then it's the same, and it is basically a functional equivalent of life without parole. There's a case -- and I'm just speaking in broad strokes here, Your Honor, I don't want -- that basically -- there's another case that says that life without parole by any other name is still an 8th Amendment issue, which is where we're at, Your Honor. So what we would ask, Your Honor, is we want to do a full hearing and we would like to be able to present mitigation witnesses on his behalf, so obviously we're asking for a hearing. And again, the Court -- if he's given a full hearing and the Court decides they don't want to change anything, that's the Court's decision, but we feel like this qualifies because we think he does fit the standards of Akin v. Byars, you know, based on our legal arguments. Also there's a case, Slocumb, which has a similar matter right now, Your Honor, that my understanding is taking up -- it's pending in front of the supreme court now, and that that issue is being taken up currently, and I believe the State's argument there is the

same thing as Mr. Eaton's. And our position is, you know, what's the harm in having one of these hearings that ultimately the authority to change a sentence, if he's -- if the Court finds it appropriate, you know, lies in the court and we feel like he should have this have the hearing, Your Honor, and should be heard on it. And then, you know -- and if the State wants to do a -- I know that the State wants to do their motion to dismiss -- we would be fine having them do their motion to dismiss and then we have the hearing in the same day, you know. Honestly that way they're heard and then we get to have our mitigation hearing. And Ms. Young, you can certainly chime in if you have anything to add, and then the Court can make a determination either to consider resentencing or to dismiss on, you know, the State's legal arguments. I do want to say that I had no idea that any request for dismissal was made. Getting back to the sort of miscommunications, I had asked Judge McMahon for some funding for mitigation experts, Your Honor, and Ms. Young was actually doing pro bono mitigation work for us on this case, so she's really involved with this case. But I would -- she out of the kindness of her heart got involved with it. But I was trying to get some mitigation resources and funding stuff, as has been happening with these types of cases, and I kept checking back with his clerk, and I know that he was close to retirement and he was in Lexington so

it wasn't like I could just kind of walk up to his office. And I suspect that Judge McMahon was trying to get things done or consider stuff. I know he had a lot happening and he was trying to wrap up lose ends, we never got a request for an order or a hearing, and we never had a hearing on the motion to dismiss, that was kind of our biggest thing. So I certainly don't think there was mal-intent or shadiness on the part of Mr. Eaton. My understanding was that his boss said McMahon wants proposed orders, if you have them he wants to see them, or send them in, and then Mr. Eaton just sort of sent it. I didn't even know that the judge was interested in proposed orders or I would had said, "Hey, we still get to have a hearing about the motion to dismiss." So that's just sort of background on that, Your Honor. I can answer any other questions you have, but we would like to have -- I think we can be ready in a month to have a full -- you know, to have a hearing for a potential resentencing. And of course, Your Honor, if you would rather hear Mr. Eaton's motion to dismiss first in a separate situation and then us do a mitigation thing later, that can be done, too, Your Honor.

MS. YOUNG: Mr. Bailey is correct, I did get involved sort of on a pro bono basis doing mitigation investigation, and I actually represented Mr. Mitchell at his most recent parole hearing. I think Mr. Eaton wants the Court -- and I

don't know that we're here to argue the motion to dismiss. I think Mr. Mitchell should be present for any hearing regarding Mr. Eaton's motion to dismiss. But as far as a status conference goes if you want to, kind of what Mr. Bailey was saying, to see where we're headed with this, I think we have a presentation to make regarding the motion to dismiss which is, you know, that Akin and Miller and Montgomery and Graham before all of them, those all said that you cannot sentence a juvenile to life without parole without given an individualized consideration to things like childhood and background and family life and circumstances of the crime, much like you would do in a capital sentencing hearing, right? And while I get that he's serving a life with parole sentence, Miller also says you have to be given a meaningful opportunity for release. Well, the parole board is not doing that, they are rubber-stamp denying all of these kids and keeping them in prison for very lengthy sentences. I also represented a guy who was sentenced in 1972, he's been disciplinary free for 15 years and the parole board still denied him for the 22nd time, he was 17 when he committed his offense. So these turn into de facto life without parole sentences. If the parole board is not going to do their job then it's incumbent on the circuit court to step in and do it for them, and we have a presentation to make about that. There are statistics that

show I'm not making this stuff up. And then if Your Honor was still inclined to dismiss, you know, we would like to proffer what we would put on at a Miller hearing, or in the alternative hopefully we would convince you and you would let us have a full blown hearing and then it would be up to you what sentence Mr. Mitchell would receive.

THE COURT: Well, I know since Akin v. Byars came out the supreme court has been issuing these cases out to various judges across the state, and they didn't dish any of it to me and I didn't think I had any until you all contacted me about this order. Because my question was, "Well, how am I involved in this?" Because we have an order by Judge McMahon, and then somehow or another Judge Manning has entered the picture by signing an order vacating McMahon's order but -- a consent order, so maybe you all need to go back to him since he's gotten involved in it (inaudible.)

MR. BAILEY: If I can speak to that, Your Honor, if I may. I don't have it in my notes 100 percent, but I believe that you were chief admin at that time and you were out of town for a few weeks or something and we were just trying to get a consent order in to have it reopened at the time that he was around. I can't remember all the specifics but I remember it was just an availability issues. And the fact it had been dismissed and we were -- at that point we were

both trying to reopen it and, of course, Judge McMahon was not around anymore. And it's difficult whenever you have a judge that's not on the bench or a judge that passes away, so we were just trying to find an available judge.

THE COURT: Well, apparently Judge Manning got in right under the wire, because he signed this order August 22nd, 2018 vacating McMahon's order June 26, 2018. The order then was signed by the supreme court on August 27th after McMahon -- I mean, after Manning signed it giving me exclusive jurisdiction to do this. And included in that order it says if necessary to resolve issues relating to appointment of counsel a hearing should be conducted within 30 days of this order. Within 60 days of the date of this order Judge Newman shall issue a scheduling order setting forth the schedule that shall be followed in this matter, including the date of hearing on the merits. So that order was signed on August 27th but never sent to me as far as I know, I had no clue what one of these was, so this just a status conference. I can't just send it back to Judge Manning since he got involved in it. And then, of course, checking my box a couple of days ago here in the Richland County Clerk's Office a copy of a lot of papers pertaining to this case that had -- addressed to Chief Administrative Judge Benjamin, and then on top of it it says reassigned to Judge C. Newman.

(Break in proceedings.)

THE COURT: So this guy is sentenced to life without parole?

MS. YOUNG: No, Your Honor, he was sentenced to life with parole.

THE COURT: To life with parole.

MS. YOUNG: The Slocumb case that Mr. Bailey referenced earlier, I believe, is a term of years case, it's like 99 years or something. And the issue before the Court is is that a functional equivalent of life without parole. And I believe there are other cases also pending at a lower level with smaller term of years.

THE COURT: Have they heard the case?

MS. YOUNG: They heard oral arguments, I believe, in November.

THE COURT: So we should be getting something pretty soon on that that may answer this question. So Mr. Bailey, you said y'all could be ready next month.

MR. BAILEY: I think so, Your Honor. I got this one, read the case law and went to an educational thing, it was kind of new to me too. Initially we proposed a scheduling order which would lay out exactly you do this kind of hearings on merits or discovery and funding, you know, these things. And then the State filed a motion, and then I guess everybody got sort of busy and then there was a discussion

of a motion thing and then it got rescheduled. We have been fortunate in the meantime. As I said, we've had mitigation and witness work done, and I've worked with Ms. Young on this so we're kind of in a situation where I think we can get it prepared sooner than a lot of times you would be when it is a new case.

MS. YOUNG: It was about a year ago that Mr. Bailey had contacted me, so I have been working on the case since then in a limited capacity since I wasn't getting paid, but as much as I could.

THE COURT: How did you get it? Did you just decide this is your specialty for a limited time?

MS. YOUNG: People convince me to do things, Your Honor. I had been doing capital mitigation for quite some time and there is quite a bit of overlap in the area of the law, so yes, I got talked into it.

(Break in proceedings.)

THE COURT: Well, to comply with this order we need to set a schedule. Does the State agree to have the motion to dismiss and merits set at the same time, or do you want the motion to dismiss hearing, and then if it is not dismissed then prepare for a merits?

MR. EATON: Well, Your Honor, I guess even if it is necessary to have a hearing on the motion to dismiss, I would just as soon have them at separate times, I think.

THE COURT: We have to have a hearing on the motion to dismiss because the defendant has a right to be present. If he has someone trying to get his case thrown out then he has a right to be here.

MR. EATON: Unless Your Honor can rule on my written motion.

THE COURT: I wasn't going to rule on your written motion because the defense wants a hearing and the defendant has a right to be present. We're in Akin so who knows when this opportunity can present itself again.

MR. EATON: If it is okay with the Court, Your Honor, seeing as we're going to have a hearing on the motion to dismiss I would just as soon have that hearing, let that be ruled upon, and then if there is going to be a sentencing, which he is not entitled to under the law, but we could argue that then.

THE COURT: We'll do a scheduling order. Do you want it to say we'll have a hearing on the motion to dismiss in 45 days -- within 45 days? And if the case is not dismissed then the Court shall conduct a merits hearing within 45 days thereafter. Is that within how much time you said you needed?

MS. YOUNG: Yes, Your Honor, that's plenty of time.

MR. EATON: That's fine with the State.

THE COURT: And the defendant shall be present at these

hearings. Did you file a written response to the motions?

MR. BAILEY: No, Your Honor, I did not.

THE COURT: So due process will necessitate giving the defense an opportunity to be heard. So we'll file a scheduling order saying all of that and we'll schedule it at a time that we all are available to do it.

(End of the hearing.)

State of South Carolina) In The Court of General Sessions
) Fifth Judicial Circuit
County of Richland) 1992-GS-40-02260

State of South Carolina,)
)
Plaintiff,)
)
vs.) Transcript of Record
)
Charles Mitchell,)
)
Defendant.)
)
)

April 29, 2019
Columbia, South Carolina

B E F O R E:

The Honorable Clifton B. Newman, Judge

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

R. Vance Eaton, Esquire, Assistant Solicitor
Attorney for the State

J. Rhodes Bailey, Esquire
Laura W. Young, Esquire
Attorneys for the Defendant

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

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THE COURT: All right, Mr. Eaton.

MR. EATON: May it please the court, Your Honor? Vance Eaton for the state. We're on the record this morning in *The State vs. Charles Mitchell* -- rather, Charles Mitchell as petitioner vs. The State of South Carolina. Mr. Mitchell is represented by Rhodes Bailey and Laura Young of the public defender's office.

Your Honor, Mr. Mitchell was sentenced in 1991 for the murder of Stephen Wayne Hammond, to which he received a sentence of life with the possibility of parole. The Hammond family actually is here in the courtroom today: Dennis Hammond, brother; Charlotte Hammond, wife, widow; Charles -- Caroline Wayman, daughter. She was actually being born right when Mr. Hammond was killed; her mother was still in the hospital with her. And Carol Cole, mother-in-law. They understand, Your Honor, that this is a legal hearing, but if for some reason Your Honor wanted to hear from them, they are, they are here to observe.

So, Your Honor, as the court is well aware, the *Miller* case with the United States Supreme Court banned mandatory life without parole sentences and required that courts consider unique attributes of youth for anyone that is a juvenile who is going to be sentenced, potentially sentenced to life without parole, of course only for homicide offenses, and that was retroactive. Under state

-- our state case *Aiken vs. Byars*, state circuit courts have been assigned these cases to resentence juveniles who were sentenced to life without parole to consider the unique attributes of youth and consistent with the Supreme -- United States Supreme Court ruling.

Mr. Mitchell filed to have a resentencing on his case, and we are here today on my motion to dismiss that petition. Your Honor, this is honestly fairly straightforward. *Miller* and *Aiken vs. Byars* apply to sentences of life without the possibility of parole. That is not the sentence that Mr. Mitchell got. His sentence, in accordance with the law as it was in 1991 which I've attached to my exhibits I believe the court has, at that time murder carried a sentence of life with the possibility of parole. Therefore, he does not fall within the purview of *Miller*; he does not fall within *Aiken vs. Byars*.

In fact, Mr. Mitchell has been up for parole multiple times. Mr. Mitchell has a bad disciplinary record in the Department of Corrections. So, you know, if there's anyone who we could initially blame for his not being granted parole, it's likely Mr. Mitchell himself, given his disciplinary record in the Department of Corrections, and that's not just unique to him. That is specifically part of what these line of cases talk about is whether a person has been rehabilitated. We don't see that with Mr.

Mitchell. But in any event, it's, you know, it simply does not fall within *Miller* or *Aiken vs. Byars*.

Now, a recent case has come down from the state Supreme Court, the *Slocumb* case, Your Honor, the *State vs. Slocumb*, and that, that just came out a few weeks ago and that's instructive. I think we already knew what the result ought to be in Mr. Mitchell's case: that is that he is not entitled to a new sentencing. That's already apparent from *Miller* and *Aiken*, *Aiken vs. Byars*. However, *Slocumb* makes that even more clear that the court should grant my motion to dismiss his petition and not give him a new sentencing.

In *Slocumb*, a juvenile, Mr. Slocumb in that case, was sentenced to a nonhomicide offense to 130 years. So, that's what we might call a *de facto* life sentence. It's not a *de jure* life sentence. He wasn't sentenced to the words life, but 130 years *de facto* means that he will die in prison. And the South Carolina Supreme Court in rejecting his claims under the, you know, *Roper*, *Graham*, *Miller* line of cases and the Eighth Amendment United Stated Constitution held that they don't have the authority to extend the rights that were granted by those United States Supreme Court cases. Even though, in essence, they essentially agreed that, yeah, this is -- Mr. Slocumb has a *de facto* life sentence, they still said they cannot extend

the rights that were outlined in the *Roper*, *Graham*, *Miller* trilogy of cases. And they said, if I may:

> Rather than predict what the Supreme Court may or may not do, we believe the proper course is to respect the Supreme Court's admonition that lower courts must refrain from extending federal constitutional protections beyond the line drawn by the Supreme Court.

So, that's on a case where a guy got a 130 years. So -- but nobody even tried to argue that it was anything other than a *de facto* life sentence. And here with Mr. Mitchell, we have someone who, by his very sentence as it was in '91, got life with the possibility of parole, has been up for parole, and will continue to go up for parole, Your Honor. So, that's, in short, why I believe the court should dismiss his petition for a resentencing, and I'm happy to address any questions Your Honor has.

THE COURT: All right.

Mr. Bailey.

MS. YOUNG: Actually, Your Honor.

THE COURT: Yes.

MS. YOUNG: Laura Young on behalf of Mr. Mitchell. Good morning, Your Honor.

THE COURT: Good morning.

MS. YOUNG: Just briefly, we're going to respond to

all of Mr. Eaton's arguments on, you know -- but I'd like to start with his argument regarding Mr. Mitchell's disciplinary history. We don't believe that that's relevant to today's findings. That would be more relevant at a merits hearing where Your Honor would consider all of the evidence put before you about whether to resentence Mr. Mitchell to a term of years.

Additionally, the disciplinary record isn't that bad. He averages less than one disciplinary conviction per year and twenty-seven -- or twenty of his twenty-seven disciplinary convictions happened before he turned thirty years old, Your Honor, which exactly lines up with why we treat juveniles differently because once he reached full maturity, his behavior has improved and he's been, you know, completely disciplinary free of any major infractions for the last three years.

So -- but, you know, the reason we should have a hearing is because, as Your Honor is well aware, context matters for disciplinary infractions: calling witnesses, being able to explain what happened, being able to demonstrate and show that Mr. Mitchell has, in fact, grown over the course of the last twenty-eight years that he's been in prison.

And while Mr. Eaton is correct in the sense that, yes, *Miller* absolutely says life without parole, but *Miller*

says a lot more than that. It also says that juveniles are treated differently under the constitution. They have special constitutional rights that adults do not get and are not afforded, and one of those rights is a meaningful opportunity at release if you can demonstrate rehabilitation. And Mr. Bailey is going to get into this in a minute, but the parole board is not giving a meaningful opportunity for release. And, therefore, it's not just is the word without in the sentence. It is what is actually happening.

We can also distinguish *Slocumb*, which Mr. Bailey is going to get into in a little while, but, you know, it is already being afforded an opportunity of release and are the factors under *Aiken* being considered, and the answer here, Your Honor, is no. And the law requires some sort of consideration of the five factors. You know, what was his chronological age, what was his background and history? Parole hearings last maybe ten minutes. None of this information is being considered, and the constitution of the State of South Carolina absolutely requires that under the Eighth Amendment, and so does the U.S. Constitution.

Now, I understand what *Slocumb* says, but *Slocumb* was only based in the federal constitution and not in the South Carolina Constitution, and the court very much left the door open in *Slocumb* for that reason.

So, I'm going to turn it over to Mr. Bailey to talk about some stuff, the -- I believe it's the declaration that was previously provided about parole.

MR. BAILEY: Thank you very much, Your Honor. May it please the court?

THE COURT: Yes, sir.

MR. BAILEY: So, so, in our case, I believe in, in Charles Mitchell's case -- we call him Mike -- we think that this is a situation where it is clearly the functional equivalent of life without parole. Even though the sentence was initially life with parole under the old law, we, we argue that because of the way the parole system is, and even just the guideline and they're --- I'm not just saying it's not fair. It's just set up in such a way that, that parole is, is not possible.

Your Honor, if I could just turn this in? I don't know what the court has had a chance to look at. I wanted to turn in a declaration of ---

THE COURT: I haven't a chance to look at anything.

MR. BAILEY: Okay. That's -- and that's fine, Your Honor. I believe I gave one to your law clerk, and if I could, if I could move -- if I could go ahead and put this -- mark this as an exhibit and just submit it into evidence for part of the record? This is a declaration from Dr. Amelia Courtney Hritz. She is a, on top of a lawyer, she

is a Ph.D. from Cornell and she's done extensive research on cases exactly like this, Your Honor. I'll just kind of walk you through it.

(DECLARATION OF DR. A.C. HRITZ MARKED AS DEFENDANT'S EXHIBIT NUMBER 1 FOR IDENTIFICATION.)

So, so, Dr. Hritz, she, she published -- this is published or in the process of being published, this -- yeah, a lot, a lot of her work is in the process of being published. She works with John Blume, also of Cornell and, you know, of course of the South Carolina Bar. So, she did a study to find out just how likely was it for somebody -- and not just for us. They did studies for other cases for individuals like Mike, how likely is it they actually would be paroled, you know, how often does this actually happen.

And what she did is they took a sample. They took a sample from 960 people. That's 3,941 hearings. The sample included people that were sentenced to life, that were convicted of murder, and had parole hearings from 2006 to 2007. Now, those samples included some juvenile offenders and it included adult offenders. It included 100 juvenile offenders, and of course each individual had more than one hearing, especially if they're getting denied parole over and over again. So, that's why obviously the hearing number is higher than, than the individuals.

So, you know, the Supreme Court recently -- their

recent sentencing or, or, excuse me, rules on judicial sentencing established that the Eighth Amendment requires the sentencer to give individualized consideration to, to juvenile offenders. They say that, you know, when you're young, it can be transient maturity as opposed to, you know, something like irreparable corruption. So, life with parole sentence can be cruel and unusual punishment, and unless a juvenile is one of the very few individuals who is redeemable, then he or she is entitled to, again, some meaningful opportunity to obtain release, some meaningful opportunity to obtain release, and under the system that's really just not possible. So, at what point does this life with parole sentence become the functional equivalent of life without parole? It's when there is no meaningful opportunity for release and that it's life with, with the opportunity of parole only, only in name.

So, she, she, Dr. Hritz, took these people from South Carolina Department of Corrections. These numbers are from the Department of Corrections from 2006 to 2016. And she narrowed it down to murder cases and, you know, and as it turned out, the juvenile hearing parole -- hearings that resulted in parole were very, very low. They were in at 8 percent. That's 29 out of 369 hearings. So, you know, that's a really low, that's a really low parole hearing rate, and these are some -- these are people that are going

in for the same hearings over and over again.

Now, I want to get to the guidelines that, that were used by the parole board and that they have to use. There are six factors, Your Honor, and I'm on page -- if you'd like to check out the affidavit, I'm on page 6 of, of Dr. Hritz's declaration we've got here. This is just kind of a summation of her findings.

THE COURT: Okay.

MR. BAILEY: Yes, Your Honor. Okay. So, there are six reasons why someone might be denied parole and, yeah, we're on -- and now that's on page 7, Your Honor, but the text is on page 6. Go ahead and skip to page 7, if you wouldn't mind, sir. The first four reasons are nature of the seriousness of offense. That's the top part on page 7. The next one is indication of violence in this or previous offense. The third is use of a deadly weapon in this or a previous offensive. Then there's criminal record is number 4, indicates a poor community adjustment. Then the last two are failure to successfully complete a community supervision program and institutional record is unfavorable.

So, the first four official reasons, Your Honor, relate to the crime or the criminal record, but nature and seriousness of the current offense, indication of violence in this or previous offense, these all relate to the nature

of the crime that put Mr. Mitchell in jail, okay? Only two of these official reasons can relate to institutional record, to your ability to rehabilitate yourself or not or, you know, the behavior since you've been in, in prison. So, what does that mean? That means that these four factors can't ever be changed; they're always going to be the same.

So, look at this. 99 percent of these parole denials up top are because of the nature and seriousness of the current offense. Then indication of violence or previous offense, juvenile is 95 percent. Basically they can't ever get past this, this standard. If -- you know, you can't change the nature of the offense. You can't. No matter how many programs you get involved in, no matter how well you do in Department of Corrections, these things can't change. Only the last two. Nobody, nobody ever gets -- I mean, not nobody, but just a small percentage gets denied based on failure to complete a program or, or, or a record. You could be a model citizen and the odds are stacked against you. 99 percentage of these denials are based on the nature and the seriousness of the case.

You know, Your Honor, Mr. Mitchell is a reflection of the findings referenced in this declaration. He, he fits, he fits just with these other, you know, people that were in the sample data. So, even, even though he was a

juvenile at the time -- and the law says that if they're a juvenile at the time of the offense, you should be, you should be given a chance to be evaluated by the five *Miller*, *Aiken* factors. Those are five factors. No matter, no matter what happens, even when you weigh with those factors, you're not going to match up with the standards set down by Department of Corrections. So, to give the factors ---

THE COURT: What are the five factors?

MR. BAILEY: I'm going to get on that, Your Honor. One is the age of the defendant; that's kind of the hallmark feature of youth. So, if you're young, you're not fully -- your brain isn't fully developed. You know, transient -- intransient immaturity, Your Honor. Another one is family and home environment. Another is the circumstances of the offense. Then there's incompetence when it comes to association with youth, and then just general -- then, of course, there's rehabilitation.

Well, these are things we should be able to evaluate in a hearing, and I should have started with that, Your Honor. We think we should have a merits hearing just like was asked -- was, was ordered by the court under the scheduling when they initially -- they initially scheduled this. I shouldn't say scheduled. When they initially gave an order for these hearings to be scheduled back in 19 --

back in 2016, Your Honor. We just want a merits hearing. That's what, that's what we want, and we think that the merits hearing as other defendants have gotten is the way to evaluate him against these five factors: age, family life, home environment, circumstances, the offense, incompetence associated with youth, and rehabilitation.

The thing is the current parole system, if you look at, if you look at the chart on page 7, you know, they, they can't -- you can't factor these things in. He is denied the opportunity to have the circumstances of his youth, and that isn't a factor at all. That is not on here. All it is is the nature of the seriousness of offense: murder, 99 percent denied; indication of violence, 99 percent denied. So, he is not given a meaningful opportunity.

So, under the court, under the rules, under the current law, you should be, you should be giving a meaningful opportunity of release based on, based on how, how juveniles are. Their brain's different; they're wired differently. That's why the Supreme Court keeps going back and adding more to these cases than this case law, Your Honor. But if we have a system that's in place that cuts these factors out of the picture, then he never gets, he never gets a chance to be heard.

So, Your Honor, back to what, back to what we're

asking for -- oh, I'm sorry. I want to real quick, Your Honor, I want to, I want to go into denials, and we're going to, we're going to -- I think you've got these letters; we want to submit them to the court -- even though he's had three hearings and three denials.

Sorry. I want to pass this up to the -- this, Your Honor, what I'm showing you here are some letters, denial letters from March 2012, April 2014, and then I guess -- what's the other one? And June, June 2016, and these are all sort of stapled together. I'm going submit them to the court as an exhibit. We'll just do them all together, Your Honor.

(LETTERS MARKED AS DEFENDANT'S EXHIBIT NUMBER 2 FOR IDENTIFICATION.)

So, Mike has had three different hearings and there were three denials and they were based on, you know, surprise, these, these top three reasons for denying parole: nature and seriousness of the crime or offense, indication of violence in those or previous offense. You know, this is it; this is the offense. It's not a previous offense, use of a deadly weapon in this or previous offense. It's a murder case. So, he's had three hearings, three denials based only on these three reasons. This is it. These aren't going to factor in *Miller*; they're not going to factor in *Aiken*. They're not even allowed to be

on the table because these three things are insurmountable factors the way it is being applied currently right now. So, all the parole board uses to weigh their decision of parole is the nature of the crime. It's a real weird sort of circular situation, Your Honor. It's a loop.

So, the parole board looks at these three things. They take a look at somebody, and I can tell you Ms. Young understands parole hearings. She's done, she's done a fair amount of these. Additionally, she understands disciplinary infractions better than anybody I know because she deals -- has dealt with more custodial people in SCDC. Disciplinary infractions aren't just a thing on paper for her. She understands the whole process. She understands the level of them, and I urge you. If you have questions about what constitutes a serious infraction and interfering with count or something like that which is not a serious infraction, I urge you to ask her because she has a better grasp of disciplinary action in the Department of Corrections than any other lawyer I know.

But -- so, the parole board uses only these, really these three factors to deny parole, and if the decision is based only on the nature of the crime and you can't ever change that crime, then you never get parole. It's set up in such a way that, that it's, that it's almost impossible to get it. So, this is not really life without parole. It

is the functional equivalent of life without parole.

Now, Ms. Young has an affidavit from an actuary that was employed by John Blume's law.

You want to talk about that briefly?

MS. YOUNG: Yes. Sure.

Sorry, Your Honor. We're a little back and forth, but back when -- after *Aiken* was decided, one of the things that the Indigent Defense did was fund an actuarial study to determine life expectancy for folks that enter into the Department of Corrections. So, what she did, she looked at statistics from SCDC from 1996 until 2015, and then she compared that data with the corresponding years from the Department of Health to determine who had died, you know, during that period. And that, that included people who had either died during their incarceration or after their incarceration, and she, she used that to then calculate mortality rates. And I am not a mathematician and do not completely understand all of it, but she used the word mortality rates to then determine life expectancy for both all males in the Department of Corrections, black males individually, and then also non-Hispanic white males. So, not -- yeah.

MR. BAILEY: I'm going to make one a Court's Exhibit, too. I apologize. Not ---

MS. YOUNG: Yeah.

MR. BAILEY: Petitioner's Exhibit 3.

MS. YOUNG: Petitioner's.

MR. BAILEY: I'd like to ask the court reporter to mark it.

(AFFIDAVIT MARKED AS DEFENDANT'S EXHIBIT NUMBER 3 FOR IDENTIFICATION.)

MR. BAILEY: I apologize.

MS. YOUNG: No. That's fine.

You can learn three basic things from this affidavit and the tables that she came up with. On page 7 of, let's see, of her affidavit, you can see that spending any amount of time in the Department of Corrections drastically reduces your life expectancy. So for Mr. Mitchell, who entered SCDC or incarceration at the age of seventeen with his life, life sentence, his life expectancy decreases by 31.8 years from that of another black male within the U.S. population. He -- his life expectancy, based on the fact that he has been incarcerated in the Department of Corrections, is fifty-seven years old. Mr. Mitchell is currently forty-six. So, that leaves him, you know, a little over ten years left to live statistically. And with parole continuing to deny based on the nature of the offense and his reduced life expectancy due to the fact that he's in the Department of Corrections -- and there's all kinds of reasons that that would be reduced -- then

he's essentially going to die in prison if someone does not take into account all of the things that *Aiken* and *Miller* require under the U.S. and South Carolina Constitution.

So, we wanted you to have this information because we think it's imperative upon you, the court, to consider the things that the parole board is refusing to consider, and I'm not -- and I don't mean refusing. Just unable to. Yeah, they do so many hearings in a day, and they just don't have the time or the resources to do the job that the constitution requires. So, we think it's incumbent upon you, Your Honor, to do what they won't do and all we're asking is for a hearing.

You know, Mr. Eaton is telling you that you cannot, in fact, have a hearing. Mr. Eaton is, in fact, telling you you cannot have a hearing but you can. It's fully within your discretion about whether to have a resentencing hearing or not and to consider, and to consider the evidence that...

THE COURT: I see that our security is snoring. Go ahead.

MS. YOUNG: And it's incumbent upon you and you have the ability fully within your power and your discretion to have a hearing and to consider the evidence that we would put forward, and then you can resentence him to a term of years or not, as you determine, but certainly it's not

happening by the rule ---

THE COURT: Is it that simple?

MS. YOUNG: It is that simple, Your Honor.

THE COURT: Is it that simple based on me just having this discretion, or is it that simple based on the status of the law?

MS. YOUNG: I think both.

THE COURT: Okay. Explain the law that says that it's that simple.

MS. YOUNG: Well.

THE COURT: Not the sociology of what all probation deals with or the parameters of the parole board's authority but the directives as indicated through case authority that causes me to be sitting here today in this situation.

MS. YOUNG: Well, Your Honor, I think it's interesting that -- well -- so, okay, so *Miller*, that gives you the ability to have a resentencing hearing for someone who is sentenced to life without parole, right? Our, our Supreme Court in *Aiken* went a step further. *Miller* only applied to mandatory life sentence -- life without parole sentencing schemes in other states.

THE COURT: All right.

MS. YOUNG: Our U.S. Supreme Court said no.

THE COURT: Our U.S. Supreme Court?

MS. YOUNG: I mean, our South Carolina Supreme Court said no.

THE COURT: All right.

MS. YOUNG: We're actually going to go ahead and apply this to nonmandatory schemes to the South Carolina ---

THE COURT: In what case did they say that?

MS. YOUNG: *Aiken vs. Byars*, Your Honor, and they actually said we're going to extend that further. South Carolina doesn't even have a mandatory life without parole scheme in place, and so they did extend past what *Miller*, the U.S. Supreme Court, said was necessary. And the South Carolina Supreme Court took it a step further, and in addition, they made it retroactive before the U.S. Supreme Court did it.

THE COURT: So, let's go to that case and explain to me how it did everything that you just said it did.

MS. YOUNG: Do, do you have a copy of *Aiken*?

THE COURT: Yes.

MS. YOUNG: Okay.

THE COURT: I'm looking at it.

MS. YOUNG: Let's see. So, on page -- I'm not sure which version I have in front of me. It's under part 2, scope of *Miller*'s holding, about the four paragraph in. It says:

> We recognize that in holding the Eighth Amendment

> proscribes a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders, the court did not expressly extend its ruling to states such as South Carolina whose sentencing scheme permits a life without parole sentence to be imposed on a juvenile offender but does not mandate it. Indeed, the court noted that because its holding was sufficient to decide the cases before it, consideration of the defendant's alternative argument that the Eighth Amendment requires a categorical bar on life without parole for juveniles was unnecessary. However, we must give effect to the proportionality rationale integral to *Miller*'s holding youth has constitutional significance.

I can't say it any better than they said it: Youth has constitutional significance. It doesn't just say that a mandatory life without parole is where juveniles have constitutional significant. It's any time that they are sentenced to life in prison, they deserve and are entitled to, under the U.S. and South Carolina Constitution, to have a meaningful consideration of their life experiences in an effort to have an opportunity of release and to demonstrate what *Miller* and *Roper* and *Graham* and *Montgomery* and all the

cases around juveniles say, which is they have more of an ability to rehabilitate than adults do. And so they should be treated differently, and they should be given the opportunity to prove their rehabilitation.

THE COURT: Hold just a moment, please.

(A PAUSE.)

THE COURT: You may proceed.

MS. YOUNG: And, and, Your Honor, just very briefly. I'm going to turn it over to Mr. Bailey. I think he wants to finish up and I think also discuss and distinguish *Slocumb* from the current circumstances.

But I do think it's telling that when these cases were sent to the South Carolina Supreme Court to be assigned to judges, they didn't throw out the ones that were long terms of years or life with parole. They assigned them to a judge and they assigned it to a judge for a reason: because the authority is based in you and your jurisdiction to decide these cases as you see fit and to give an individual determination about Mr. Mitchell and his case. Otherwise, they would have just said -- looked at the sentencing sheet and said that doesn't say life without parole. Toss it out. We're not going to assign a judge; we're not going to waste resources. That's not what happened. They sent it out. They gave you, Your Honor, sole discretion to decide all of the issues around this case, including whether to

have a hearing on the merits.

THE COURT: When you use the word you, you mean me, Judge McMahon, whomever had this before it was tossed to me?

MS. YOUNG: Correct, Your Honor, I do.

THE COURT: You as in I am Judge McMahon?

MS. YOUNG: Well, no. We have a new order assigning you specifically, Judge Newman.

MR. BAILEY: Presiding judge over the -- over this petition in circuit court.

MS. YOUNG: Right, a subsequent order to Judge McMahon's.

THE COURT: All right.

MR. BAILEY: And thank you, Your Honor. Again, we're not even asking you to change the sentence today. We think that that's why you have the merits hearing because at this merits hearing, you know, we can, we can present the evidence of the five factors outlined in *Miller* and *Aiken*, which is *Miller* and *Aiken*, both of those cases.

You know, a hearing would allow the court to give meaningful consideration to issues that the Probation, Pardon, and Control -- Pardon -- excuse me, Probation, Pardon, and Parole Department cannot. They can't weigh these factors the way it's currently structured, Your Honor. A hearing would allow the court to give meaningful

consideration to the same factors that are mentioned in *Miller* and *Aiken*.

And I'd like to, Your Honor, talk about *Slocumb* for just a second, Your Honor. Okay. So, *Slocumb* -- you know, the state, the state wants to say *Slocumb* just means you should shut, shut this down, shut down this process, but *Slocumb* is not, is not that simple at all. You know, *Graham* established that a state must do -- must give defendants some meaningful opportunity to obtain release, okay?

What *Slocumb* says is that the South Carolina Supreme Court can't expand or -- a federal right driven by a United States Supreme Court case. All *Slocumb* really says is hey. Listen. We're the South Carolina Supreme Court. You can't speak -- we can't speak for the United States Supreme Court. In fact, there's a footnote, footnote 8 in *Slocumb* that -- where, where South Carolina says we didn't even address the South Carolina Constitution arguments because the petitioner in that case, in *Slocumb*, didn't bring them up. Footnoting 8 says, quote:

> *Slocumb* did not argue he would be entitled to relief under our state constitution's cruel and usual punishment clause.

Which is in South Carolina Constitutional, Constitutional Article 1 and Section 15. And that that of

course, says, you know, cruel and unusual, corporal or unusual punishment shall not be inflicted.

> Accordingly, we do not address the import of state constitutional protections on *Slocumb*'s sentence.

So, really, I mean, it's a jurisdictional argument. They don't say, you know, they don't say that, that petitioners can't get relief. They just say you can't do it based on this one federal Supreme Court case, and you don't bring up state issues. They're, like, we're the South Carolina Supreme Court. We can't expand on federal constitutional rights. That's what the holding is.

And they go to great lengths, Your Honor. I don't know if you've had a chance to read *Slocumb* yet, but especially the second half of it is really interesting. They go to huge lengths to say:

> Courts have struggled in good faith trying to determine the manner in which juveniles may be constitutionally sentenced. We are one of those courts.

They say: Our holding should in no way be read to signal the end of the debate. And that's what we want, Your Honor. We just want to have this debate at a merits hearing.

THE COURT: Well, let me ask you this question.

Looking at a portion of *Aiken vs. Byars* that Ms. Young did not read, the last paragraph of that section A and then section B starts with, it says: Appropriate procedure. But the paragraph before that starting with the words: In our review. You see that?

MS. YOUNG: Yes.

MR. BAILEY: Yes, Your Honor.

THE COURT: In our review, whether their sentence is mandatory or permissible, any juvenile offender who receives a sentence of life without the possibility of parole is entitled to the same constitutional protections afforded by the Eighth Amendment's guarantee against cruel and unusual punishment.

Now, what's the significance of that sentence of this opinion regarding these arguments that you all are making here today?

MR. BAILEY: Well, Your Honor, that's the thing. It says a sentence -- who receives a sentence of life without the possibility of parole.

THE COURT: Yes.

MR. BAILEY: I mean, that, that's the thing. He was sentenced to life, and he does not have the possibility of parole. It is called, based on the old law, it's called life with parole with possible -- life with parole

eligibility only, only in name.

THE COURT: I don't buy it. I don't understand what you mean.

MR. BAILEY: Yes, sir.

THE COURT: I've been dealing with this, you know, for a long time. If a person is sentenced with life without the possibility of parole, that's a sentence. If the person is sentenced to life, then that's another -- that's not the same sentence as life without the possibility of parole, is it?

MR. BAILEY: Well, I -- you know, this is an older law before, before life was day for day. You know, murder now, just the murder statute ---

THE COURT: Life, life used to be twenty years.

MR. BAILEY: Yeah.

THE COURT: Then you're eligible for parole.

MR. BAILEY: Yes, Your Honor.

THE COURT: Then it changed to thirty years. Then you're eligible for parole, and if you were sentenced to life without parole, then that was the end of the story.

MR. BAILEY: Right. It was life, life and that's, that's sort of what's interesting. Again, back to Ms. Young's earlier point, *Aiken* didn't just make *Miller* apply. *Aiken* actually expanded it, expanded the rights that were in *Miller* in South Carolina, expanded a South Carolina

citizen's rights.

And, you know, that's the thing. We didn't even have mandatory, you know, mandatory life without parole charges or instructions initially, or South Carolina didn't. That was other states, and so they -- the court wanted to, you know, to operate within the spirit of *Miller*, and that's why they used *Aiken*. *Aiken* in itself is an expansion through the state court, using state law to protect rights of individuals here.

THE COURT: Is this the first instance where someone who has, who has not been sentenced to life without parole has had these hearings? Is that -- is this -- are you all trying to ---

MR. BAILEY: Your Honor, I ---

THE COURT: --- tread new ground here and use this as a test case that, okay, even though he wasn't sentenced to life without the possibility of parole, he still comes in this category as well?

MR. BAILEY: Your Honor, Your Honor, we don't really use it as a test case. Lord knows we've been waiting for other cases to, to show us some guidance on it. You know, we really just want this case treated individually and not dismissed by comparing it to *Slocumb*. I mean, you know, cases like -- *Slocumb* is so completely different.

THE COURT: All right. Okay. *Slocumb* is different.

MR. BAILEY: Okay.

THE COURT: Let's forget about *Slocumb*.

MR. BAILEY: Yes, sir.

THE COURT: Let's focus on *Aiken vs. Byars*.

MR. BAILEY: Yes, sir.

THE COURT: And the cases that can be reviewed, the only cases where someone was sentenced to life without the possibility of parole, though in South Carolina it is not -- it's permissible, not mandatory. As the court says here, that whether permissive or mandatory, if someone is sentenced to life without the possibility of parole, they are entitled to have that reviewed.

MR. BAILEY: Well, Your Honor, we can't ---

THE COURT: And so the question is how does that extend to this situation as argued by the state that it doesn't extend to this situation.

MR. BAILEY: And certainly interrupt me if I'm not answering this appropriately, Your Honor. We're can't point to one case right now that says, that says he is -- you know, Mr. Mitchell is absolutely entitled to this resentencing based on one case. But the state can't point to one case either like Mr. Mitchell's and say you're barred from doing it, and that's the thing. The state is trying to shut this process down early by saying that, you know, it should be dismissed because it doesn't meet

certain guidelines. There's, you know, there ---

THE COURT: If it's not shut down early, then what would be the limitation of ---

MR. BAILEY: Well, well, the ---

THE COURT: --- cases that would come back? You know, in *Slocumb* they said, well, Judge Benjamin gave him a long, long sentence and so, therefore, that should come back. Three/two decision, they said no. That does not apply; that does not come with the ambit of this. I guess you all may argue, well, he got a *de facto* life, so the Supreme Court is wrong on that decision. Three to two, you know, that was the decision. So, now...

MR. BAILEY: Well, the court also says we couldn't rule on stuff we weren't asked, which is, which is state constitutional issues about cruel and unusual punishment.

THE COURT: All right. So.

MR. BAILEY: I, I feel like the court, Your Honor, although some of it kind of comes across as *dicta*, I feel like the court is trying to say, you know, we're, we're -- this is -- doesn't end -- this does not end the debate. It says, it says -- they say, quote:

> The Supreme Court is taking ground in the context of *de jure* life sentences for juveniles. It is for the states in the first instance to explore the means and mechanisms for complying with the

Eighth Amendment.

And I guess that's what we're doing right here. I wish I were a better appellate lawyer, Your Honor. I'm more of a -- I'm a circuit level trial lawyer typically. So, I have, I have not thought in terms of how Mr. Mitchell's cases would affect other cases as extensively as I should. I've just been trying to think how can I -- how can I get my client a hearing that I think, that I think would be the fair thing in this situation. And we just want a merits hearing, Your Honor.

THE COURT: Your argument is that at any point in time and of anyone doing time in the Department of Corrections, if they have a life sentence and the sentence is life, they're entitled to a review. If they are sentenced to life without the possibility of parole, then clearly they are entitled to review if they were a juvenile under this *Aiken vs. Byars*. But you're saying that if they're a juvenile, whether it's life or life without parole, they're entitled to a review?

MR. BAILEY: Yes. Yes.

THE COURT: And there were -- certain questions were asked in *Slocumb*, people who got sentenced to ninety years, they should be reviewed as well. In fact, the circuit court should now be a form of substitute for the parole board because getting parole is nearly an impossibility.

MR. BAILEY: Well, well, I think, I think what it comes to, reevaluating the factors that have been presented in *Miller* and *Aiken*, we think that, that the court is the remedy because the constraints on the parole system as it currently is doesn't allow for those factors to be weighed. If everybody's getting kicked, kicked or denied based on the nature and the seriousness of the crime, then factors relating to age and immaturity can't be factored, and this is a relatively small group I think, Your Honor.

That's -- you know, I've talked to some other lawyers that had some similar -- I mean, or one or two here and there and tried to communicate with the Court of Appeals and, and that's, you know, that's the problem because every case is, is different, you know. I mean ---

THE COURT: You take Mr. -- you're saying, well, in the end, regardless to whether you agree with the defense -- that is, he should have a less sentence -- or not, that the court should have a merits hearing, should treat this case the same as the court mandated for those who are sentenced to life without parole. That though his sentence does not specify without the possibility of parole, he and everyone else similarly situated should at the very least get a merits hearing to determine whether their sentence should be reduced?

MR. BAILEY: Yes, Your Honor, because we think that

because this is the functional equivalent of life without parole. Yes, that's what we would like. We think he should have a hearing.

THE COURT: All right. Well, let's hear what Mr. Eaton has to say about it.

MR. EATON: Just very briefly, Your Honor. It is an incomplete statement of law to state that if you are a juvenile and you're sentenced to life, you get a hearing into the hallmarks of youth. That is incomplete; that is not what the law says. The law says life without parole.

Now, we can guess why they assigned these things to the circuit courts even if they weren't entitled to a hearing because they couldn't look into all of them. They just sent them all down for the circuit court to determine if the person was entitled or not, and he's not entitled. It would be an illegal sentence. It would be improper to reopen this sentence at this point and do it again because he doesn't fall within the law. *Aiken vs. Byars* was not an expansion of rights. It was an application of federal rights. They were interpreting federal law.

As to *Slocumb*'s suggestion about state law, everything indicates that the state cruel and unusual punishment provision is going to be congruent with the federal one. That's the way it looks. And with all due respect, this court doesn't have the authority to make that

determination. Our own state Supreme Court said they don't have the authority to do it on federal law. If they want to do it on state law, I guess, you know, they can. Indications are that it's the same. Justice Pleicones said in *Aiken vs. Byars* that he would have come to the same conclusion under the state constitution. That's their purview.

So, Your Honor, this should be dismissed because he didn't get life without parole. He doesn't fall within *Miller*; he doesn't fall within *Aiken vs. Byars*. He's not entitled to a new sentencing, and it would be improper for him to get a new sentencing. So, I ask that you dismiss this case.

And respectfully, Your Honor, I'm also going to ask that -- I have a service in North Carolina. That if we can adjourn quickly? I have a service in North Carolina to get to. I apologize.

THE COURT: All right.

MR. BAILEY: If I, if I could just, if I could just answer that, Your Honor, and I know Mr. Eaton has to go.

All right, Your Honor, well, it's still -- the courts, the courts still get to, get to make decisions on current legal arguments. And *Slocumb*, I think it's incorrect to say that the court didn't care about what was -- that the court in *Slocumb* didn't care about what was going on in

state court because the state goes to great lengths to say we are not saying this is no relief can ever be granted. We're just not granting relief to *Slocumb*. So, I'll make the argument here in circuit court right now.

Mr. Mitchell is entitled to relief under our state constitution's cruel and usual punishment clause. That's South Carolina Constitution, Article 1 and Article -- I mean, Article 1, Section 15. I would say based on that, we should have a merits hearing in other stuff we've presented today because, because his life with parole sentence is a functional equivalent of life without parole, and that having a merits hearing would be in the spirit of *Miller* and *Aiken*, Your Honor.

So, I, you know, I -- this question, the Supreme Court, our state Supreme Court seems to want to answer it, and just because they haven't, just because, you know, in *Slocumb* doesn't mean that we're not entitled to it. So, that's what we would ask. That's the argument we're making, the state argument in state court right now, Your Honor, and I'm going -- I think Ms. Young ---

MS. YOUNG: Yes.

MR. BAILEY: --- wants to add something.

THE COURT: I think Mr. ...

MS. YOUNG: Yeah, just very briefly. I wanted to admit Exhibits 1 through 3. I don't know that we ever

officially did that in the record.

THE COURT: All right. All right, very good. We're going to take the matter under advisement. I want each side to submit proposed orders.

MR. BAILEY: Okay.

MR. EATON: Yes, Your Honor.

MR. BAILEY: Thank you, Your Honor.

THE COURT: Proposed orders within thirty days.

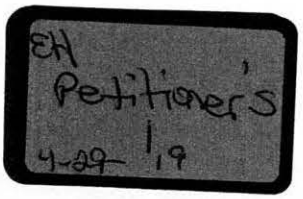
MR. EATON: Yes, Your Honor.

(DECLARATION OF DR. A.C. HRITZ MARKED INTO EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER 1.)

(LETTERS MARKED INTO EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER 2.)

(AFFIDAVIT MARKED INTO EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER 3.)

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Declaration of Amelia Courtney Hritz, JD, PhD

1. I am currently a Fellow at Cornell Law School and Justice 360. I hold a PhD in Developmental Psychology from Cornell University and a JD from Cornell Law School. I received a master's degree from the City University of New York and a bachelor's degree from Johns Hopkins University. I have authored numerous articles in both law review and peer reviewed journals, including the *Texas Law Review*, the *Cornell Law Review*, and the *Journal of Empirical Legal Studies*. I have been an instructor and a teaching assistant at Cornell University since 2012. I have also taught courses at the China University of Political Science and Law and in the Cornell Prison Education Program. My CV, which provides my training and publications, is attached as Exhibit A.

2. My doctoral dissertation focused on judgments about criminal culpability. In one chapter, I analyzed the decision-making of the South Carolina Parole Board and compared outcomes between parole-eligible juvenile and adult offenders serving life sentences. The research question was whether juvenile status could be a double-edged sword, both lessening culpability but increasing the risk of reoffending in the eyes of the parole board. That chapter is attached as Exhibit B. Below I summarize the main findings from my dissertation.

3. The Supreme Court's recent juvenile sentencing jurisprudence establishes that the Eighth Amendment requires the sentencer to give individualized consideration to juvenile offenders' youth (and the attendant characteristic thereof) at the time of a crime before sentencing them to life without parole.[1] When a crime reflects "transient immaturity" (as opposed to

[1] Graham v. Florida, 560 U.S. 48, 75 (2010); *see also* Roper v. Simmons, 534 U.S. 551, 570 (2005) ("Indeed, the relevance of youth as a mitigating factor derives from the fact that the signature qualities of youth are transient; as individuals mature, the impetuousness and recklessness that may dominate in younger years can subside.").

"irreparable corruption") a life without parole sentence constitutes cruel and unusual punishment, even if the sentence follows a constitutionally adequate sentencing hearing.[2] Unless the juvenile is one of the very few individuals who is irredeemable, then he or she is entitled to "some meaningful opportunity to obtain release."[3] *Montgomery* noted that "A State may remedy a *Miller* violation by extending parole eligibility to juvenile offenders."[4]

4. Most of the juvenile offenders sentenced to life with parole in the United States and who are now parole eligible were sentenced before the United States Supreme Court's more recent juvenile sentencing decisions discussed in paragraph 3. A growing number of states have modified their sentencing procedures and directed their parole boards to consider juvenile offenders to be less culpable.[5] But some states, including South Carolina, still give parole boards complete discretion to grant or deny parole, and permit an application for parole to be rejected solely based on the crime and without consideration of that fact that the inmate was a juvenile at the time of the offense and/or his maturity and rehabilitation during the period of incarceration.[6] This raises the question at what point – if any – does a life with parole sentence become the functional equivalent of a life without parole sentence if it appears that there really is no meaningful opportunity for release?

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[2] Montgomery v. Louisiana, 136 S. Ct. 718, 734 (2016) ("Because *Miller* determined that sentencing a child to life without parole is excessive for all but "'the rare juvenile offender whose crime reflects irreparable corruption,'" it rendered life without parole an unconstitutional penalty for "a class of defendants because of their status"—that is, juvenile offenders whose crimes reflect the transient immaturity of youth." (discussing Miller v. Alabama, 567 U.S. 460 (2012))).

[3] *Graham*, 560 U.S. at 82 ("A State need not guarantee the offender eventual release, but if it imposes a sentence of life it must provide him or her with some *realistic opportunity* to obtain release before the end of that term.") (emphasis added).

[4] *Montgomery*, 136 S. Ct. at 724.

[5] Sarah French Russell, *Review for Release: Juvenile Offenders, State Parole Practices, and the Eighth Amendment*, 89 IND. L.J. 373, 388-93 (2014).

[6] *Id.* at 396-97.

5. The South Carolina parole board states that in order to grant release it must determine "that the conduct of the offender merits a lessening of the rigors of imprisonment; that the interests of society will not be impaired by granting parole; and that the offender has secured, or will be able to secure, suitable employment and residence."[7] Before a parole hearing, board members review a case summary report that includes a description of the crime, criminal record, medical history, work experience, prison and disciplinary records, risk classification reports, and statements from law enforcement, witnesses, prosecutors and the judge.[8] The hearing itself involves a presentation by the person seeking parole (or their lawyer) to the board, a limited number of statements of support, and questioning by the board members. Next, the offender is excused and those opposing parole may speak. The board deliberates immediately after the hearing and then informs interested parties of its decision. If parole is denied, the department sends a brief written notice of denial that includes a checklist indicating which of the six official reasons for rejection applied in the case.

6. I sent FOIA requests to the South Carolina Department of Probation, Parole and Pardon Services (DPPP) and the Department of Corrections (SCDC) for information on people who had a parole hearing during 2006-2016 and were serving life sentences. The timeframe allows for a comparison of parole outcomes before and after *Graham* (2010) and *Miller* (2012). I narrowed the sample to murder cases to limit differences between the juvenile and adult offenses. The final sample included 960 people and 3941 parole hearings.

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[7] *Id.* at 26.

[8] SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, POLICY AND PROCEDURE: SOUTH CAROLINA BOARD OF PAROLES AND PARDONS 21 (June 2017), https://www.dppps.sc.gov/content/download/120663/2749351/file/Parole+Board+Manual+June+7+2017.pdf.

7. The murders were committed between 1954 and 1995.[9] Murders were committed by people between the ages of 14 and 65, with 100 people under the age of 18 and 860 people ages eighteen and older. Table 1 presents demographic variables by age group. Consistent with the homicide arrest rates in South Carolina, the population is mostly male and black.[10] Age groups did not significantly differ by gender or race (all p's > 0.10).[11]

Table 1
Demographic Variables: Race and Gender

	Juvenile Offender (n = 100)		Adult Offender (n = 860)	
	n	%	n	%
Race				
Black	67	67%	535	62%
Native American	0	0%	2	0.2%
Other	1	1%	2	0.2%
White	32	32%	321	37%
Sex				
Female	1	1%	44	5%
Male	99	99%	816	95%

8. Overall there were 175 grants of parole (for a success rate of 4%). These grants of parole were given to 28 juvenile offenders and 144 adult offenders (one juvenile and two adult offenders were paroled twice in the eleven-year period). Table 2 displays demographic variables by parole outcome. Juvenile offenders were more likely to be granted parole compared to adult

[9] There were missing offense dates for 11 cases, which were filled with sentencing dates. This method overestimates age at the time of the offense, as it may be years between the offense date and the sentence date.

[10] *See* NATIONAL CENTER FOR JUVENILE JUSTICE, EASY ACCESS TO SUPPLEMENTAL HOMICIDE REPORTS (last visited June 12, 2018), https://www.ojjdp.gov/ojstatbb/ezashr/asp/off_selection.asp (finding that from 1980 to 1995, black youth were 76% of youth arrested (n=485), black adults are 65% of adults arrested (n=5452). Boys were 92% of youth arrests and men are 85% of adult arrests).

[11] Both a Fisher's Exact Test comparing all races and a Chi-squared test comparing people of color and white people were not significant (p > .10).

offenders, although the percentage of all juvenile hearings resulting in parole was still very low: 29 of 369 hearings (8%).

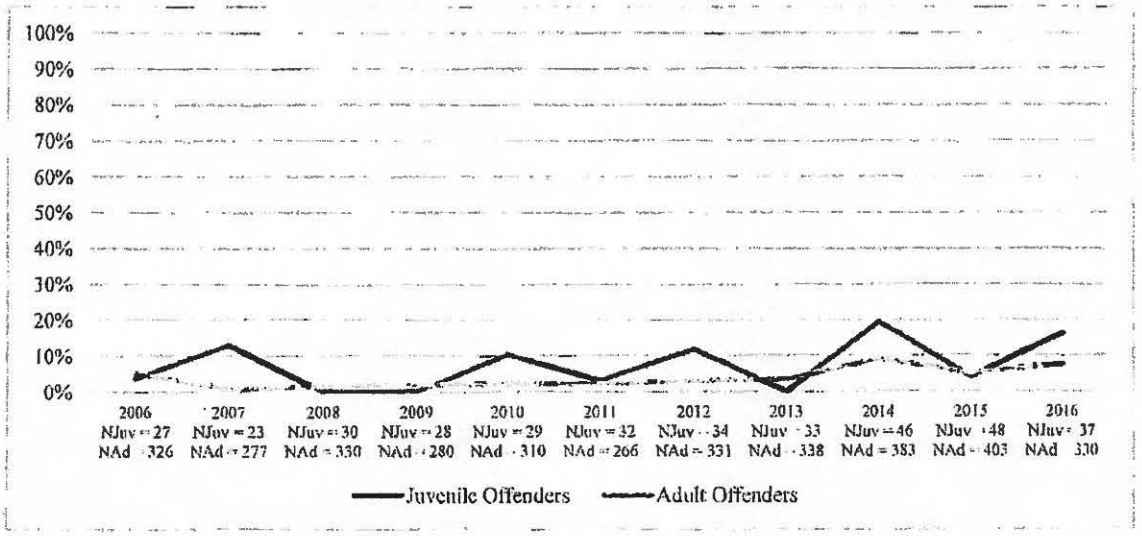
Table 2
Demographic Variables by Parole Outcome

	Paroled (n = 172)		Always Denied (n = 788)		Significance
	n	%	n	%	*p*
Age group					0.008
Juveniles	28	28%	72	72%	
Adults	144	17%	716	83%	
Race					0.69
People of color	106	17%	501	83%	
White	66	19%	287	81%	
Sex					0.57
Female	10	22%	35	78%	
Male	162	18%	753	82%	

Notes: "Paroled" includes everyone who was paroled at least once (many of these people were also denied parole within the time period). Significance tests are Pearson's Chi-square.

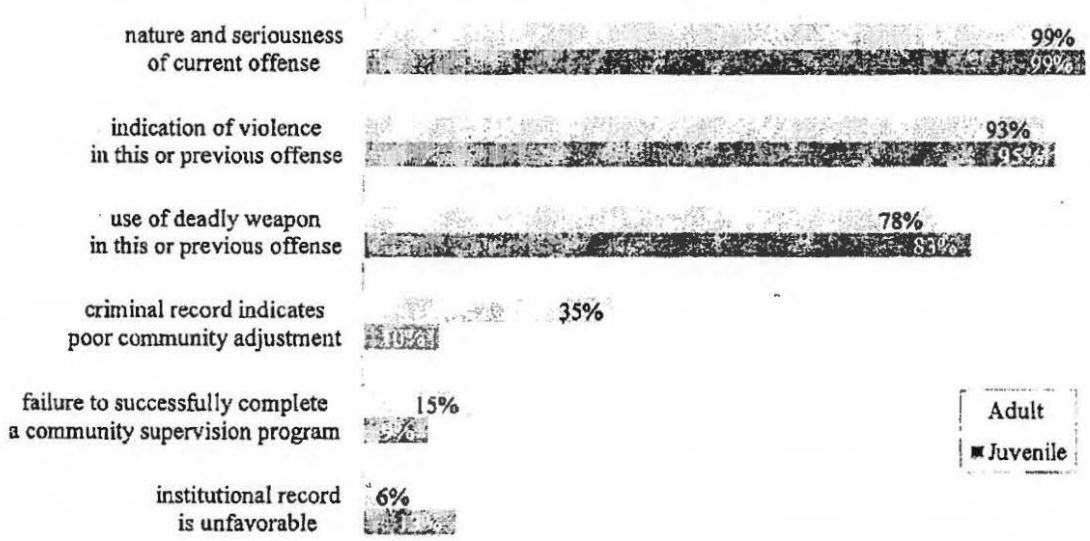
9. The rate of parole grants remained relatively stable during the study time period. Figure 1 displays the percent of juvenile and adult offender hearings resulting in parole each year. The number of hearings for each group are displayed below the year. There was not a large increase in parole grants after 2010 when the South Carolina Sentencing Reform Act was signed into law or after 2012 when the Supreme Court decided *Miller*. For both groups, the percentage receiving parole is very low throughout 2006 to 2016. The rates of parole grants fluctuate between 0% and 20% for juvenile cases, and between 1% and 9% for adult cases. The greater variation among juvenile cases is due to smaller cell counts, as the board heard about 30 juvenile offender cases per year compared to at least 200 adult offender cases.

Figure 1
Percent of Hearings Resulting in Parole by Year and Age Group



10. Reasons for parole denial are presented in Figure 2. The first four official reasons relate to the crime or criminal record of the person seeking parole: "nature and seriousness of current offense," "indication of violence in this or previous offense," "use of a deadly weapon in this or previous offense," and "criminal record indicates poor community adjustment." Only two official reasons for denying parole relate to the institutional record: "failure to successfully complete a community supervision program" and "institutional record is unfavorable." Neither institutional record variable was selected in 78% of juvenile offender denials (n = 340) and 73% of adult offenders denials (n = 3426). In the majority of cases, people are denied parole for the seriousness of the charge, indication of violence, and use of a deadly weapon. These reasons for denial are all things individuals cannot change, suggesting their life with parole sentences may be more appropriately characterized as life *without* parole.

Figure 2.
Official Reasons for Denying Parole by Age Group



11. This preliminary comparison of parole decisions involving juvenile and adult offenders serving life sentences reveals two significant findings. First, juvenile offender hearings are (slightly) more likely to result in grants of parole compared to adult offender hearings, but still only a small portion of their hearings result in parole (8%). Second, the most cited official reasons for parole denial are overwhelmingly related to characteristics of crime or previous offenses.

12. The small parole-grant rate and the emphasis on factors relating to the crime as a reason for denying parole raise the very real concern that these sentences are – in many cases – *de facto* life without parole. While these juvenile offenders are appearing before the parole board, it does not appear that they are being given "the opportunity to demonstrate the truth of *Miller*'s central intuition—that children who commit even heinous crimes are capable of change."[12]

[12] *Montgomery*, 136 S. Ct. at 724.

I affirm, under the penalty of perjury, that the foregoing is true and correct.

AMELIA COURTNEY HRITZ

Sworn to and subscribed before me
This 12th day of Apr., 2019

Notary Public for the State of New York
My commission expires: 11-13-20

SUSAN J. TOSTO
NOTARY PUBLIC
01TO6272075
MY COMMISSION EXPIRES
11/13/2020
STATE OF NEW YORK

CH Petitioners 2 4-29-19

State of South Carolina
Department of Probation, Parole and Pardon Services

NIKKI R. HALEY
Governor

KELA E. THOMAS
Director

2221 Devine Street, Suite 600
Post Office Box 50666
Columbia, South Carolina 29250
Telephone: (803) 734-9220
Fax: (803) 734-9440
www.dppps.sc.gov

March 15, 2012

Mr. Charles Mitchell #00189424
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472

RE: NOTICE OF REJECTION

Dear Mr. Mitchell:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); and (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, the Parole Board concludes that parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

FINDINGS OF FACT:

Nature And Seriousness Of Current Offense
Indication Of Violence In This Or Previous Offense
Use Of Deadly Weapon In This Or Previous Offense

Sincerely,

Heyward A. Hinton

Heyward A. Hinton
Director of Hearings & Parole Board Support

State of South Carolina
Department of Probation, Parole and Pardon Services

NIKKI R. HALEY
Governor

KELA E. THOMAS
Director

2221 Devine Street, Suite 600
Post Office Box 50666
Columbia, South Carolina 29250
Telephone: (803) 734-9220
Fax: (803) 734-9440
www.dppps.sc.gov

April 17, 2014

Mr. Charles Mitchell #00189424
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472

RE: NOTICE OF REJECTION

Dear Mr. Mitchell:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); and (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, the Parole Board concludes that parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

FINDINGS OF FACT:

Nature And Seriousness Of Current Offense
Indication Of Violence In This Or Previous Offense
Use Of Deadly Weapon In This Or Previous Offense

Sincerely,

Larry Ray Patton, Jr.
Director of Parole Board Support Services

State of South Carolina

Department of Probation, Parole and Pardon Services

NIKKI R. HALEY
Governor

JERRY B. ADGER
Director

2221 Devine Street, Suite 600
Post Office Box 50666
Columbia, South Carolina 29250
Telephone: (803) 734-9220
Fax: (803) 734-9440
www.dppps.sc.gov

June 23, 2016

Mr. Charles Mitchell #00189424
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472

RE: NOTICE OF REJECTION

Dear Mr. Mitchell:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, and (4) actuarial risk and needs assessment factors pursuant to Section 24-21-10 (F) (1) of the South Carolina Code of Laws. The Parole Board had determined that your parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

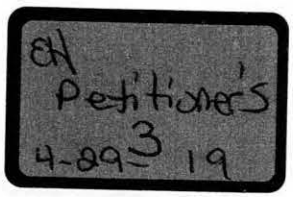
FINDINGS OF FACT:

Nature And Seriousness Of Current Offense
Indication Of Violence In This Or Previous Offense
Use Of Deadly Weapon In This Or Previous Offense

Sincerely,

Larry Ray Patton, Jr.
Director of Parole Board Support Services

6/22/2016



STATE OF NEVADA)
) AFFIDAVIT
COUNTY OF CLARK)

Vera F. Dolan who appeared personally before me, affirms and states the following:

1. I, Vera F. Dolan, am an epidemiologist and consultant. My business is located in Las Vegas, Nevada.

2. *Referral Question:* In 2015, I was asked by a lawyer representing a juvenile previously sentenced to life without parole to conduct an investigation and develop a life table with life expectancies specific to male inmates in the South Carolina Department of Corrections ("SCDC"). The question to be answered by my investigation was: what is the proper and accurate life expectancy for a male entering SCDC at the time he was a juvenile?

3. *Qualifications:* I am an epidemiologist[1] with a Bachelor's degree in public health from Johns Hopkins University and a Master's of Science in Public Health in epidemiology from the University of North Carolina, Chapel Hill. I have over 30 years of experience in the life and health insurance industries. I am a Fellow of the Academy of Life Underwriting, which is the highest credential in life insurance underwriting. I am currently a private consultant for the life insurance industry and related industries.

4. I have published over 33 peer reviewed articles in which I prepared a mortality ratio analysis from raw population data. I have prepared life tables for over 35 years, beginning when I was a student studying for my Masters of Science in Public Health. My current curriculum vitae is attached as Exhibit 1.

5. I have been qualified as an expert in life expectancy, life insurance, and epidemiology in state and federal courts throughout the country. In South Carolina, I was qualified as an expert in life expectancy and epidemiology in the Williamsburg County Court of General Sessions. In that court, I testified about my South Carolina study and life expectancy findings for SCDC inmates.

6. *Definition of Relevant Terms:*

    a. **Life expectancy:** the statistical calculation of the average length of life expected for an individual of a certain age, sex, race, and/or other risk factor.

    b. **Life table:** data laid out in a table format to show how a statistical calculation of life expectancy is done.

---

[1] An epidemiologist is similar to an actuary in that both are professionals who create life tables to determine life expectancies for various populations. Epidemiologists, unlike actuaries, have a medical background and specialize in the study of health and disease in populations statistically.

c. **Mortality rate:** the rate at which people die within a given age, sex, race and/or other risk factor group. A mortality rate is calculated by dividing the number of deaths occurring within a given population by the total number of that population at risk of death.

7. *South Carolina Code Life Expectancy Tables:* The South Carolina legislature adopted life expectancy tables, which are contained in S.C. Code § 19-1-150. The tables found in the South Carolina Code were derived from the 2001 Commissioners Standard Ordinary Mortality Tables ("CSO Mortality Tables"). The CSO Mortality Tables were created by the Society of Actuaries in conjunction with the National Association of Insurance Commissioners to provide statutory guidance to state insurance commissioners in figuring out what statutory reserves should be for insurers in their state. The CSO Mortality Tables do not reliably predict the life expectancy for the general population or an incarcerated population because they are based on the lives of insured people, essentially selecting a portion of the population that is much healthier than the general population. An additional problem with the tables is that they were created in 2001 with data much older than 2001 causing concerns that the data relied upon by the tables is outdated and unreliable.

8. *Methodology:* To determine life expectancies for male inmates in SCDC, I reviewed approximately 68,000 male inmate records provided to me by SCDC.[2] The SCDC information included a unique identifier for each inmate (in place of the inmate's name), their date of entry to SCDC, their age at entry, and the date of release or death (where applicable). Those records originally included all inmates incarcerated from 1996-2015 and included follow-up data through the first half of 2016. Of the 68,000 records, I identified 3,000 duplicate records and excluded them from my final data set. I also identified and excluded a small number of records where the dates of admission and dates of death or release were incongruent. After making these exclusions, I reviewed the records of the remaining 64,204 unique inmates. For purposes of this affidavit, the records of the 64,204 inmates reviewed are referred to as the "SCDC Population."

9. In the SCDC records provided to me was information from the South Carolina Department of Health and Environmental Control ("DHEC") on all of those individuals who died between 1996 and 2016. As part of the preparation of the records provided to me, DHEC used the identifying information provided by SCDC to link the SCDC database with DHEC's information. I was thus provided with the

[2] I did not receive data from the South Carolina Department of Juvenile Justice, so I did not have sufficient data to calculate the mortality rates of 15, 16, or 17 year olds. This does not affect the accuracy of the reported life expectancies for inmates 18 years old and older because, as discussed below, life expectancy is based on mortality rates for people the same age as the individual and those older than that individual.

date of death and the age at the time of death for each individual within the SCDC population who died at some point after they entered SCDC.[3]

10. *Mortality Rate Calculation:* To determine life expectancies from the SCDC Population, I first needed to determine the mortality rates for each year of age of people incarcerated in SCDC. Exhibit 2 shows my mortality rate calculations for all individuals incarcerated in SCDC between 1996 and 2015 (Exhibits 3 and 4 show my calculations for black inmates only and white inmates only, respectively). The following is a description of my mortality rate calculations, using column references to the tables in Exhibits 2, 3, and 4.

    a. The first column labeled **Age** lists ages 15 through 97. This range was used because an individual who was incarcerated at SCDC at some point between 1996 and 2015 was alive at each age between 15 and 97.

    b. The second column labeled **Alive** represents the number of men from the SCDC Population who passed through a given age during the time period between 1996 and 2015.

    c. The third column labeled **Dead** provides the number of men within the SCDC Population who died at a given age any time between 1996 and 2016.

    d. The fourth column labeled **Total** provides the total of the "Alive" and "Dead" columns, which is the total population at risk of death during a given age.

    e. The fifth column labeled **Mortality Rate** provides the rate at which men in the SCDC population die at any given age. The mortality rate is calculated by dividing the number of people who died (column three) at a given age by the total number of people at risk of death (column four) during the same age.

    f. The sixth column labeled **Smoothed Mortality Rate** provides the trend of the mortality rate. In statistics, when dealing with raw data like the data relating to the population considered in this case, the rate calculations can have anomalies and bumps such that smoothing is necessary to identify the actual trend over time. To find the trend for the SCDC population mortality

[3] The individuals died either during their incarceration or after their release from SCDC. Reliance on mortality information both during incarceration and after release is standard methodology in the actuarial field for calculating the life expectancy of individuals who have been incarcerated. Using this data provides the most reliable calculation for the life expectancy of a juvenile sentenced to a prison term of any length of time. Other analyses, including a study of deaths of incarcerated individuals serving life sentences shows the observed age at the time of death for those individuals who died while incarcerated is substantially lower than the life expectancy calculated from the data obtained from DHEC. *See* ¶¶ 17-18.

rate, I calculated the three-year moving average of the mortality rates by averaging a given age's mortality rate with the two ages surrounding it. As the data became sparser at the older ages, I used a five-year moving average, which included the mortality rate at a given age and the two ages above and below it. This calculation found the trend in these mortality rates for a more accurate calculation of life expectancies at each age.

11. *Mortality Ratio Calculation:* I next compared the SCDC Population mortality rates with the general United States population mortality rates.

    a. The seventh column on Exhibits 2-4 labeled **US Population Mortality Rate** provides the most current mortality rates by age for males in the US population available at the time of this analysis. These mortality rates were determined by the Centers for Disease Control ("CDC") and is used in life tables published in the CDC's Vital Statistics Reports. The CDC mortality rates are calculated for life tables for the all US males, for black US males only, and for white US males only; these life tables are attached as Exhibits 5, 6, and 7 respectively.[4] On SCDC Population Mortality Rate tables (Exhibits 2-4) for various races, the US Mortality rate was obtained from the US Life Table for the same race.

    b. The eighth, and final column, on Exhibits 2-4 labeled **Mortality Ratios** compares the smoothed mortality rate from the SCDC Population at a given age with the US Population mortality rate for the same age. The mortality ratio is calculated by dividing the SCDC Population mortality rate by the US Population mortality rate, meaning any mortality ratio over 1.0 indicates the SCDC Population mortality rate is higher than the US Population mortality rate. Mortality ratios are provided only for ages in which there were at least five deaths among the SCDC Population in order to ensure the accuracy of the resulting ratios and life expectancies.

12. *Race Specific Calculations:* I created mortality rate and mortality ratio tables for all races, blacks only, and whites only because doing so is consistent with the CDC analysis of the US population, which shows that race has a significant effect on mortality rates.

13. *Creation of Life Tables:* Life tables provide life expectancies based on mortality rates from a given population. Using the mortality ratios calculated in Exhibits 2-4, I created life tables for the SCDC Population. I created individual life tables for all males, all black males, and all white males, which are attached as Exhibits 8, 9, and 10, respectively. The following is a description of the life expectancy calculations, using column references to the tables in Exhibits 8, 9, and 10.

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[4] The mortality rates on the CDC US Population Life Tables are found in the column labeled **Probability of dying between ages x and x + 1** on Exhibits 5-7.

a. The first column labeled **Age** lists all ages 0-100.

b. The second column labeled **Basic Mortality** provides the mortality rate at a given age from the US Population Life Tables (Exhibits 5-7).

c. The third column labeled **Mortality Risk Factor** is the mortality ratio calculated on the SCDC Population Mortality Rate Tables in Exhibits 2-4.

d. The fourth column labeled **Adjusted Mortality** provides the US mortality rate for a given age adjusted by the mortality risk factor (mortality ratio) using multiplication.[5] At ages where there was sufficient mortality data (five or more deaths at any given age) from the SCDC Population, the adjusted mortality rate equals the mortality rate calculated from the SCDC Population data.[6] At ages where there was insufficient mortality data (four or less deaths at any given age) from the SCDC Population, the adjusted mortality rate equals the US Population mortality rates.

e. The fifth column labeled **Population at Risk** starts with a hypothetical cohort, or population of 100,000 at age 0. This population is decreased at each successive age by the number of deaths that occurred at the previous age. For example, in the SCDC Life Table for all races (Exhibit 8), the population at risk in age 0-1 is the full hypothetical cohort of 100,000 less 658 deaths that occurred during the first year of life.

f. The sixth column labeled **Deaths** provides the number of deaths expected to occur at a given age. This number is calculated by multiplying the adjusted mortality rate (column four) by the population at risk (column five).

g. The seventh column labeled **Interval Person-years** provides the number of years lived by the remaining population during a given age. This is calculated by subtracting one half of the number of deaths during that age from the population at risk during a given age (this assumes the individuals who die during that year live an average of half the year before dying).

h. The eighth column labeled **Cumulative Person-years** provides the total number of years left to be lived by the entire population surviving to a given

---

[5] I used the mortality ratio (comparing the SCDC Population mortality rates to the US Population mortality rates) because I did not have mortality rates for all ages from the SCDC Population data. Specifically, there is not sufficient data for male SCDC inmates at the very youngest and very oldest ages. In order to create a credible life table, one needs to have mortality rates for all of the ages. Use of the mortality ratio to create an adjusted mortality rate is standard practice in the actuarial field when reviewing populations that do not have enough data to calculate credible mortality rates for all ages.

[6] These ages are designated by highlighting in the Mortality Risk Factor column.

age. This is calculated by totaling the interval-person years for a given age and all of the ages after that age.

i. The ninth column labeled **Life Expectancy** provides the remaining life expectancy for any SCDC inmate surviving to a given age. It is calculated by dividing the cumulative person-years (column eight) by the population at risk (column five) at a given age.

j. To use the life expectancy to calculate the age to which an SCDC inmate is expected to live, on average, locate the age of the inmate in the age column and identify the corresponding life expectancy, then add the person's age to the life expectancy. For example, on the Life Table for blacks only (Exhibit 9), a black male inmate in SCDC at age 18 has a remaining life expectancy of 38.2 years. This individual would, therefore, be expected to live to age 56 (18 + 38.2).

14. *Notes on Using Life Tables:* Because race is a risk factor affecting life expectancy, it is most appropriate to use the life table for the race corresponding to the actual inmate to determine the life expectancy for that inmate. For example, a black male inmate's life expectancy is most accurately determined by using the Life Table for black males only (Exhibit 9). A white male inmate's life expectancy is most accurately determined by using the Life Table for white males only (Exhibit 10). Hispanic or Latino inmates' life expectancies are most accurately calculated by using the Life Table for white males only (Exhibit 10) because SCDC classifies them as white.[7] Life expectancies for inmates of other races can most accurately be calculated by using the Life Table for all races[8] (Exhibit 8).

15. *Findings:* The SCDC Population Life Tables (Exhibits 8-10) can be compared to the US Population Life Tables (Exhibits 5-7). Comparing the life expectancy for 18 year old males of any race in the general US Population and the SCDC Population reveals that an 18 year old in the general US Population has a remaining life expectancy of 59.1 years (expected death at 77 years old) and an 18 year old male in SCDC has a remaining life expectancy of 37.3 years (expected death at 55 years old). The 18 year old who is incarcerated in SCDC, accordingly, has a life expectancy that is 21.8 years shorter than a male in the general US Population.

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[7] Because SCDC does not classify Hispanic or Latino inmates separately from whites, the white male only mortality rates and life table include data from Hispanic and Latino inmates.

[8] In addition to classifying inmates as black or white, SCDC uses classifications for Pacific Islander, Asian, American Indian, unknown, and other, but these categories of inmates did not include a sufficient number of inmates to allow for creation of a life table specific to them. Thus, all races are included in the Life Table for all races and that table can be used for inmates who do not fall within the black, white or Hispanic/Latino categories.

16. The Life Tables created based on the SCDC Population clearly indicate that any person who has been incarcerated in SCDC has a lower life expectancy than a person in the general US Population.

17. *Observed Data on Deaths in SCDC:* SCDC also provided me with information on all inmates serving a life sentence who died in SCDC between January 2001 and June 2016. The number of deaths during this period was not sufficient to create a credible life table for inmates serving life sentences who died while incarcerated.[9] I was, however, able to compare the actual life span of the individuals who died to their expected age of death based on the US Population Life Tables.[10] I grouped these individuals by the age of their last admission to SCDC and calculated the average number of years difference between their actual age at death and their expected age at death in the table below.

Age at Last Admission Group	Average Difference Observed vs Expected Age at Death
16 to 19	-31.8
20 to 24	-26.5
25 to 29	-21.4
30 to 39	-21.7
40 to 49	-16.8
50 to 59	-10.0
60 up	-4.9

As this table shows, the individuals sentenced to life who entered SCDC between the ages of 16 and 19 died while incarcerated an average of 31.8 years earlier than predicted by the US Population life expectancies.

18. The SCDC Population Life Table for all races shows (Exhibit 8) a life expectancy for a 16 year old male incarcerated in SCDC for any length of time is 39.2 years, which is 21.8 years less than the life expectancy of a 16 year old male in the general US Population. The calculations above, based on observed deaths, show the actual

[9] In order to create a credible life table, the population data must include five deaths at each age. During the period of 2001 to 2016, there were 262 deaths among inmates serving a life sentence. This was insufficient data to create a life table. While the data set is not large enough to create a life table, it is sufficient to show the mortality risk trend of people serving life imprisonment in SCDC as compared to the general US Population.

[10] Because these deaths occurred between 2001 and 2016, I used the life expectancies published in 2000 for the general US Population. Since 2000, the life expectancies for the general population have increased.

life span of a 16 year old serving life imprisonment was 31.8 years less than the life expectancy of a 16 year old male in the general US Population. This demonstrates that a male incarcerated in SCDC for life is at a much higher risk of mortality and has a significantly shorter life expectancy than the general US Population.

19. *Other Notes:* My life expectancy calculations were completed in 2016 with records from 1996 to 2015 and mortality data through 2016. I recommend updating mortality data and mortality ratios every five years. I recommend a full twenty-year look back, as was completed here, be completed again in ten years.

I affirm, under the penalty of perjury, that the foregoing is true and correct.

VERA F. DOLAN

Sworn to and subscribed before me
This 5 day of May, 2017

Notary Public for the State of Nevada
My commission expires: 10-18-2020

PATRICIA A. GLASPER
Notary Public, State of Nevada
Appointment No. 12-9064-1
My Appt. Expires Oct 18, 2020

Exhibit 1

Vera F. Dolan

6238 Belgium Drive, Las Vegas, Nevada 89122-7592
702.476.8500 / dolanvp@consultancy.com

EDUCATION and PROFESSIONAL CERTIFICATIONS

MSPH University of North Carolina at Chapel Hill, Epidemiology, 1981
BA The Johns Hopkins University, Public Health, 1979
FALU Fellow of the Academy of Life Underwriting, 1998
ELS Editor in the Life Sciences, 2003

EXPERIENCE

Principal, VFD Consulting, Inc., 1989 to Present
Providing life and health insurance and related industries mortality and underwriting research, market research, product development, business development and technology, underwriting education and training, and litigation support to multinational clients, including:

AIG American General Life Cos.
American Family Life Insurance Co.
AVS Underwriting
Bank of America
Calypte Biomedical
Canada Life Reinsurance
Charles Schwab & Co.
Clinical Reference Laboratory
decydeWARE
Drinker, Biddle & Reath
Edwards Lifesciences
EMSI (formerly PMSI)
Farmers Mutual Insurance Co.
FaxWatch
Federal Home Loan Bank (San Francisco)
First Financial Underwriting Services
General American Life Insurance Co.
Golden Gateway Financial
Hank George, Inc.
Health Net of California
Heritage Labs
HSBC Insurance Services
Independent Order of Foresters
Insure.com
LabOne
Life Settlement Consulting & Management
Los Angeles County Crime Laboratories
MetLife Canada
MIB Group
Millennium Pharmaceuticals
Mutual of Omaha
North Coast Opportunities
On The Risk – The Journal of the Academy of Life Underwriting
PartnerRe Life (formerly Winterthur Life Reinsurance)
Pacific Blue Cross
PPO Oklahoma
Protective Life Insurance Co.
Safe Harbor Resources
Sagicor Financial Corporation
Society of Actuaries
Thomson Management Solutions
21st Services
Wells Fargo Bank
Western Reserve Life Assurance Co. of Ohio
Xcelerate Corporation

Vera F. Dolan
Curriculum Vitae, continued

Expert witness services provided to the following:

Multiple retentions:

Andres, Andres & Moore, Santa Ana, CA
Barger & Wolen, Irvine, CA and New York, NY
County of Hawaii, Hilo, HI
Donahue Horrow, El Segundo, CA
Lewis & Roca, Phoenix, AZ
McCue-Pauley & Associates, Dallas, TX
Taylor Anderson, Denver, CO
U.S. Department of Justice
Wilson Elser Moskowitz Edelman & Dicker, Los Angeles and San Diego, CA

Expert witness brokers:

AMFS / Medical Experts Nationwide
Consolidated Consultants
Insurance Expert Network
ForensisGroup
LITILI
Medical Advisors, Inc
Medical Consultant Services
The TASA Group
Thomson Reuters Expert Witness Service

Single cases:

Andrews Kurth, Dallas, TX
Bolt Keenley Kim, Berkeley, CA
Campano Law Group, Lancaster, CA
Carlin & Buchsbaum, Long Beach, CA
Carmody Torrance Sandak Hennessey, Waterbury, CT
City of Torrance, Torrance, CA
Corr Cronin Michelson Baumgardner Preece, Seattle, WA
Coughlin Law Firm, San Diego, CA
Cozen O'Connor, Wilmington, DE
Deitchman & Deitchman, Placerville, CA
Demas Law Group, Sacramento, CA
Dressler Law Office, New Haven, CT
Egan & Pechtel, Kennewick, WA
Epstein Becker & Green, Los Angeles, CA
Evan Freirich, Boulder, CO
Fairchild, Price, Haley & Smith, Nacogdoches, TX
Fallgatter Farmand & Catlin, Jacksonville, FL
Ferguson, Skipper, Shaw, Keyser, Baron & Tirabassi, Sarasota, FL
Friedman, Rubin & White, Anchorage, AL
Gilchrist & Rutter, Santa Monica, CA
Graves & King, Riverside, CA
Greenberg Traurig, Denver, CO
Greene Broillet & Wheeler, Santa Monica, CA
The Healy Law Firm, Chicago, IL
Hinshaw & Culbertson, Los Angeles, CA
Hoagland, Fitzgerald & Pranaitis, Alton, IL
Diana Holt, LLC, Columbia, SC
Jardine Law Office, DeForest, WI
Kent D. Jensen Law Office, Burley, ID
Johnson Schachter & Lewis, Sacramento, CA
Kantor & Kantor, Northridge, CA
Katten Muchin Rosenman, Los Angeles, CA
Kitch Drutchas Wagner Valitutti & Sherbrook, Detroit, MI
Knapp Petersen Clarke, Glendale, CA
Koch Degn & Gomez, Visalia, CA
Law Office of Andy Basseri, Beverly Hills, CA
Law Offices of Benjamin Blakeman, Los Angeles, CA
Law Offices of Robert A. Brenner, Woodland Hills, CA
Law Office of Sean Brew, San Diego, CA
Law Offices of James Matthew Brown, San Diego, CA
Law Offices of Clyde L. Butts, Walnut Creek, CA
Law Offices of Michael Jay Green, Honolulu, HI
Law Office of Katherine MacKinnon, St. Louis Park, MN
Law Office of Stephen W. Penn, Morgan Hill, CA
Law Office of Charles M. Ray, Newport Beach, CA
Law Office of Kenneth U. Reyes, Los Angeles, CA
Law Offices of Cary T. Tanaka, Honolulu, HI
Law Office of Edward J. Thomas, Bakersfield, CA
Littler Mendelson, San Jose, CA
MacMorris & Carbone, Stockton, CA
Daniel Q. Mahone, Frederick, MD
McArdle, Frost & Brinton, Chicago, IL
McDermott Will & Emery, Chicago, IL
McDowell & Osburn, Manchester, NH
McFall Burnett & Brinton, Manteca, CA
Meyers McConnell Reisz Siderman, Los Angeles, CA
Milavetz Gallop & Milavetz, Edina, MN
Morris Polich & Purdy, San Francisco, CA
Myers & Gomel, Las Vegas, NV
Nicholas & Tomasevic, San Diego, CA
Norton Rose Fulbright US, Houston, TX
Ogden Murphy Wallace, Seattle, WA
Pyle Sims Duncan & Stevenson, San Diego, CA
Renaud Cook Drury Mesaros, Phoenix, AZ
Riverside County Public Defender, Riverside, CA
Saur Law Office, Laguna Hills, CA
Schumacher Francis & Nelson, Charleston, WV
Segal and Kirby, Sacramento, CA
Seyfarth Shaw, Chicago, IL
SGH Martineau, London, England
Shook Hardy & Bacon, Kansas City, MO
Sigelman Law Corporation, Beverly Hills, CA
Snell & Wilmer, Phoenix, AZ
South Carolina Commission on Indigent Defense, Columbia, SC
Stanley Law Offices, Syracuse, NY
Stennett & Casino, San Diego, CA
Vaka Law Group, Tampa, FL
Webb Bordson Law Group, San Diego, CA
David K. Wilson & Associates, Sherman, TX
Whitfield & Eddy, Des Moines, IA
Winters & Associates, San Diego, CA

Vera F. Dolan
Curriculum Vitae, continued

Consulting Projects – Underwriting

- Life Underwriting Requirements Research, 2004 to Present Providing methodologies, analysis and write-up of insurance testing laboratory data to initiate new products and services. Conducting cohort mortality studies to improve life underwriting risk assessment.
- Life Policy and Procedures Manual, 2014 Revised and updated life insurance policy and procedures manual based on current underwriting and business operations.
- Health Medical Underwriting Manual, 2010 Adapted medical underwriting manual for supplemental health insurance products.
- Structured Settlement Underwriting Manual, 2008 Developed underwriting manual for structured settlements based on current processes.
- Life Claims Audit, 2007 Performed random selection of cases and designed case data extraction sheet for large life insurance claims study.
- Critical Illness and Disability Income Training, 2006 Prepared and presented training to life underwriters in critical illness and disability income underwriting.
- Underwriting Manual Research and Writing, 2006 Adapted traditional life underwriting manual for simplified life, disability and waiver of premium products.
- Life Settlement Experience Analysis, 2006 Analysis of life settlement mortality to determine predictive factors.
- Life Underwriting Research, 2001 to 2003 Constructed life tables from medical literature to validate life underwriting guidelines. Produced quantitative and qualitative life underwriting manual guidance.
- Life Settlement Underwriting Research, 1998 to 2004 Provided model and design of automated life expectancy calculation system, data collection instruments, evaluation scoring and impairment risk factor weights.
- Insurance Services Product Development, 1997 to 1998 Provided analysis of disease mortality, incidence and prevalence to develop new insurance services product.
- Pension Underwriting Research, 1994 Provided biostatistical research basis to a multinational consortium for a new type of impaired risk European pension product.

Consulting Projects - Business Development and Technology

- Simplified Products Survey and Report, 2005 Conducted survey of top-selling simplified products for underwriting and business process lessons learned.
- New Business Process Review and Optimization, 2004 to 2005 Examined current life new business processes to identify opportunities for decreasing redundancies, handoffs, and inefficiencies.
- Underwriting Decision Software Development, 2004 to 2005 Product and market development of life underwriting software that uses advanced logic engine
- Freelance Writing and Editing, 2004 Editing and writing summaries of medical articles, medical conferences, and insurance topics for physicians and consumers.
- Underwriting Operations Annual Report, 2004 Assisted in editing, writing and analysis of metrics presented in life underwriting operations report for 2003.
- Business Process Improvement, 2003 Interviewed underwriting and business support staff to prepare future improvement in life insurance business process workflow.

Consulting Projects - Banking

- Enterprise Technology Plan, 2000 Collaborated on design of three-year technology plan for a Federal bank.
- Financial Services Experience Analysis and Strategy, 1995 to 1998 Provided statistical analysis and models to select business and consumer customers for acquisition and retention programs. Estimated bank account life expectancies using actuarial life table methods.
- Human Resources Automation Plan, 1993 Collaborated in development of plan and prototype for automated human resources management.

Certificate of Appreciation for 30 Years of Contribution, *On The Risk - Journal of the Academy of Life Underwriting*, May 4, 2016
Associate Editor, *On The Risk - Journal of the Academy of Life Underwriting*, 2004-Present
Contributing Editor, *On The Risk - Journal of the Academy of Life Underwriting*, 1994-1997

Kaiser Foundation Health Plan, Oakland, California
Medical Economics and Statistics, 1988 to 1989
Converted community-based pricing approach to experience-based rating for a $2.5 billion premium enterprise. Conducted underwriting market study of 20,000 employers. Conducted analyses to determine competitive pricing for 2+ million member optical and pharmaceutical programs.

Transamerica Occidental Life Insurance Company, Los Angeles, California
New Business Underwriting Research, 1985 to 1988
Provided analysis of company data and medical literature to support management and underwriting decisions. Developed original methods for actuarial analyses now used for automated systems underwriting $1.5 billion in annual business.

Lincoln National Reinsurance, Ft. Wayne, Indiana
Underwriting Research, 1982 to 1985
Provided analysis of company data and medical literature to support management and underwriting decisions.

University of North Carolina, Chapel Hill, North Carolina
Department of Biostatistics, 1981 to 1982
Performed statistical analyses for multinational clinical trials.

National Institute of Occupational Safety and Health, Cincinnati, Ohio
Industrywide Studies Branch, Biometry Section, Summer 1980
Performed proportionate mortality analysis of death certificate data for evidence of excess brain tumors among petrochemical workers. Performed analysis of medical records for evidence of excess birth anomalies among railroad workers exposed to dioxin.

Vera F. Dolan
Curriculum Vitae, continued

PUBLICATIONS - INSURANCE

"Advantages of a Life Expectancy Using Life Insurance Underwriting and Life Settlement Methods in the Legal Setting" VFD Consulting, Inc.

"Highlights of the 2016 CLIMOA Annual Scientific Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 32, No. 4, 2016

"Hemoglobin Screening Independently Predicts All-Cause Mortality" J. Insurance Medicine, Vol. 45, No. 2, 2015, with Michael Fulks and Robert L. Stout

"Adjusting Measured Creatinine for Low Serum Glucose to Improve Mortality Prediction" On The Risk - Journal of the Academy of Life Underwriting, Vol. 31, No. 3, 2015, with Michael Fulks and Robert L. Stout

"Changing the 'Normal Range' for Blood Pressure from 140/90 to 130/any Improves Risk Assessment" J. Insurance Medicine, Vol. 45, No. 1, 2015, with Michael Fulks and Robert L. Stout

"2014 CRL Blood Pressure Study of Life Insurance Applicants" J. Insurance Medicine, Vol. 45, No. 1, 2015, with Michael Fulks and Robert L. Stout

"Which eGFR Calculation Offers the Best Mortality Prediction for Insurance?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 31, No. 2, 2015, with Michael Fulks and Robert L. Stout

"Using Urine Protein Creatinine Ratio Alone or Reflexing to Urine Albumin in the Applicant with HbA1c Elevation" On The Risk - Journal of the Academy of Life Underwriting, Vol. 31, No. 1, 2015, with Michael Fulks and Robert L. Stout

"Basic Laboratory Testing" In: Basic Life Insurance Underwriting, ALU 101 Textbook, Sixth Ed. Academy of Life Underwriting, 2014, with Michael Fulks and Robert L. Stout

"Evaluating the Risk of Renal Disease Using Urine Proteinuria or Urine Albuminuria in the Applicant with HbA1c Elevation" On The Risk - Journal of the Academy of Life Underwriting, Vol. 30, No. 4, 2014, with Michael Fulks and Robert L. Stout

"Advantages of a Life Expectancy Using Life Insurance Underwriting and Life Settlement Methods in the Legal Setting" Defense Research Institute Life, Health and Disability Newsletter, Vol. 25, Issue 2, June 26, 2014

"Serum Globulin Predicts All-Cause Mortality for Life Insurance Applicants" J. Insurance Medicine, Vol. 44, No. 2, 2014, with Michael Fulks and Robert L. Stout

"NT-proBNP as a Predictor of All-Cause Mortality in a Population of Insurance Applicants" On The Risk - Journal of the Academy of Life Underwriting, Vol. 30, No. 2, 2014, with Michael Clark, Valerie Kaufman, Michael Fulks and Robert L. Stout

PUBLICATIONS - INSURANCE, continued

"Beware That Low Urine Creatinine!" On The Risk - Journal of the Academy of Life Underwriting, Vol. 30, No. 1, 2014, with Michael Fulks and Robert L. Stout

"NT-proBNP as a Predictor of All-Cause Mortality in a Population of Insurance Applicants" J. Insurance Medicine, Vol. 44, No. 1, 2014, with Michael Clark, Valerie Kaufman, Michael Fulks and Robert L. Stout

"Scoring Life Insurance Applicants' Laboratory Results, Blood Pressure and Build to Predict All-Cause Mortality Risk" J. Insurance Medicine, Vol. 43, No. 3, 2012, with Michael Fulks and Robert L. Stout

"Urine Protein/Creatinine Ratio as a Risk Predictor in Non-Diabetics with Normal Renal Function" J. Insurance Medicine, Vol. 43, No. 2, 2012, with Michael Fulks and Robert L. Stout

"Trends in Mortality of Insurance Applicants with HIV Infection" J. Insurance Medicine, Vol. 43, No. 2, 2012, with Robert L. Stout and Michael Fulks

"PSA: What Values Predict Increased Mortality Risk?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 27, No. 3, 2011, with Michael Fulks and Robert L. Stout

"Letter to the Editor: The Use of Modeling for Associating Test Values and Mortality Risk" J. Insurance Medicine, Vol. 43, No. 1, 2012, with Michael Fulks and Robert L. Stout

"Isolated Hematuria as a Mortality Risk Predictor" On The Risk - Journal of the Academy of Life Underwriting, Vol. 27, No. 4, 2011, with Michael Fulks and Robert L. Stout

"Highlights of the 2011 AHOU Annual Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 27, No. 3, 2011

"Correction to article: Association of Cholesterol, LDL, HDL, Cholesterol/HDL and Triglyceride with All-Cause Mortality in Life Insurance Applicants" J. Insurance Medicine, Vol. 42, No. 2-4, 2011, with Michael Fulks and Robert L. Stout

"CDT and Serum Alcohol: What Is the Risk?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 27, No. 1, 2011, with Robert L. Stout and Michael Fulks

"Albumin and All-Cause Mortality Risk in Insurance Applicants" J. Insurance Medicine, Vol. 42, No. 1, 2010, with Michael Fulks and Robert L. Stout

"Mortality Associated with Positive Hepatitis C and B Test Results" On The Risk - Journal of the Academy of Life Underwriting, Vol. 26, No. 3, 2010, with Robert L. Stout and Michael Fulks

"Glucosuria as a Mortality Risk Predictor When Blood Is Not Collected" On The Risk - Journal of the Academy of Life Underwriting, Vol. 26, No. 2, 2010, with Robert L. Stout and Michael Fulks

PUBLICATIONS - INSURANCE, continued

"Mortality Associated with Positive Cocaine Test Results" On The Risk - Journal of the Academy of Life Underwriting, Vol. 26, No. 1, 2010, with Robert L. Stout and Michael Fulks

"Association of Cholesterol, LDL, HDL, Cholesterol/HDL and Triglyceride with All-Cause Mortality in Life Insurance Applicants" J. Insurance Medicine, Vol. 41, No. 4, 2009, with Michael Fulks and Robert L. Stout

"Letter to the Editor: The Authors Reply" J. Insurance Medicine, Vol. 41, No. 3, 2009, with Michael Fulks and Robert L. Stout

"Underwriting Implications of Elevated Carcinoembryonic Antigen" On The Risk - Journal of the Academy of Life Underwriting, Vol. 25, No. 3, 2009, with Robert L. Stout and Michael Fulks

"Mortality Associated with Bilirubin Levels in Insurance Applicants" J. Insurance Medicine, Vol. 41, No. 1, 2009, with Michael Fulks and Robert L. Stout

"Non-Cigarette Tobacco Use – What is the Risk?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 25, No. 2, 2009, with Robert L. Stout and Michael Fulks

"Hemoglobin A1c and Mortality in Insurance Applicants: A 5-Year Follow-Up Study", On The Risk - Journal of the Academy of Life Underwriting, Vol. 25, No. 1, 2009, with Robert L. Stout and Michael Fulks

"Using Liver Enzymes as Screening Tests to Predict Mortality Risk" J. Insurance Medicine, Vol. 40, No. 4, 2008, with Michael Fulks and Robert L. Stout

"Underwriting Integrity: Lessons from the Subprime Mortgage Crisis" On The Risk - Journal of the Academy of Life Underwriting, Vol. 24, No. 4, 2008

"Highlights from the 2007 AHOU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 24, No. 1, 2008

"Increased Mortality Associated with Elevated Carcinoembryonic Antigen in Insurance Applicants" J. Insurance Medicine, Vol. 39, No. 4, 2007, with Robert L. Stout, Michael Fulks, Mark E. Magee and Luis Suarez

"Relationship of Hemoglobin A1c to Mortality in Nonsmoking Insurance Applicants" J. Insurance Medicine, Vol. 39, No. 3, 2007, with Robert L. Stout, Michael Fulks, Mark E. Magee and Luis Suarez

"Highlights from the 2006 AHOU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 23, No. 1, 2007

"The Reproductive System" In: Intermediate Medical Life Insurance Underwriting ALU 201, 1st ed., Education Committee of the Academy of Life Underwriting, chapter 4, 2006

PUBLICATIONS - INSURANCE, continued

"Highlights from the 2006 CIU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 3, 2006

"Improvements in Cotinine Testing of Insurance Applicants" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 2, 2006 with Robert L. Stout and Mark Magee

"Highlights from the LOMA Emerging Technology Conference: Understanding How to Use New Technology" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 2, 2006

Panelist, "Contemplating Pandemic Risk" by Steven C. Siegel, The Actuary, Vol. 3, Issue 3, 2006

"Highlights of the 2005 AHOU Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 1, 2006

"Simplified Products: Something Old, Something New, and Something That May Just Make You Blue!" On The Risk - Journal of the Academy of Life Underwriting, with Ernest A. Testa, Vol. 22, No. 1, 2006

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Last update March 31, 2017

Exhibit 2

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for all races; N=64,204
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

	All races			Mortality	Smoothed Mortality	US Population Mortality	Mortality Ratios
Age	Alive	Dead	Total	Rate	Rate	Rate	(≥5 deaths only)
15	3	0	3	0.000000		0.000439	
16	90	0	90	0.000000		0.000552	
17	831	0	831	0.000000		0.000675	
18	2,272	6	2,278	0.002634	0.002701	0.000807	3.3
19	4,322	12	4,334	0.002769	0.003011	0.000942	3.2
20	6,585	24	6,609	0.003631	0.003233	0.001085	3.0
21	8,457	28	8,485	0.003300	0.003812	0.001216	3.1
22	9,725	44	9,769	0.004504	0.004359	0.001310	3.3
23	10,374	55	10,429	0.005274	0.005486	0.001353	4.1
24	10,409	70	10,479	0.006680	0.006254	0.001358	4.6
25	10,065	69	10,134	0.006809	0.006646	0.001351	4.9
26	9,552	62	9,614	0.006449	0.007431	0.001349	5.5
27	8,993	82	9,075	0.009036	0.007899	0.001353	5.8
28	8,454	70	8,524	0.008212	0.008922	0.001371	6.5
29	8,014	77	8,091	0.009517	0.009048	0.001399	6.5
30	7,681	73	7,754	0.009414	0.009188	0.001432	6.4
31	7,465	65	7,530	0.008632	0.010131	0.001464	6.9
32	7,199	90	7,289	0.012347	0.010670	0.001496	7.1
33	6,904	77	6,981	0.011030	0.011365	0.001528	7.4
34	6,738	73	6,811	0.010718	0.010614	0.001563	6.8
35	6,473	66	6,539	0.010093	0.010348	0.001613	6.4
36	6,288	65	6,353	0.010231	0.011223	0.001682	6.7
37	5,989	81	6,070	0.013344	0.012599	0.001764	7.1
38	5,823	84	5,907	0.014220	0.014226	0.001857	7.7
39	5,670	87	5,757	0.015112	0.015292	0.001964	7.8
40	5,529	93	5,622	0.016542	0.016436	0.002083	7.9
41	5,286	95	5,381	0.017655	0.017101	0.002227	7.7
42	5,114	89	5,203	0.017106	0.017659	0.002414	7.3
43	5,012	93	5,105	0.018217	0.018047	0.002653	6.8
44	4,901	94	4,995	0.018819	0.019173	0.002939	6.5
45	4,734	99	4,833	0.020484	0.021675	0.003243	6.7
46	4,545	120	4,665	0.025723	0.025268	0.003563	7.1
47	4,164	127	4,291	0.029597	0.027663	0.003922	7.1
48	3,971	113	4,084	0.027669	0.030107	0.004320	7.0
49	3,715	127	3,842	0.033056	0.032962	0.004749	6.9
50	3,453	137	3,590	0.038162	0.038314	0.005193	7.4
51	3,193	146	3,339	0.043726	0.041608	0.005647	7.4
52	2,920	131	3,051	0.042937	0.044710	0.006122	7.3
53	2,669	133	2,802	0.047466	0.045803	0.006630	6.9
54	2,372	117	2,489	0.047007	0.050491	0.007181	7.0
55	2,068	125	2,193	0.057000	0.053517	0.007779	6.9
56	1,852	111	1,963	0.056546	0.055167	0.008415	6.6
57	1,624	89	1,713	0.051956	0.057715	0.009074	6.4
58	1,418	98	1,516	0.064644	0.061413	0.009727	6.3
59	1,213	88	1,301	0.067640	0.069713	0.010371	6.7
60	1,057	88	1,145	0.076856	0.078531	0.011034	7.1
61	878	88	966	0.091097	0.082366	0.011738	7.0
62	733	63	796	0.079146	0.086399	0.012489	6.9
63	635	62	697	0.088953	0.083857	0.013335	6.3
64	549	50	599	0.083472	0.085654	0.014319	6.0
65	444	41	485	0.084536	0.087103	0.015482	5.6
66	379	39	418	0.093301	0.096722	0.016824	5.7
67	324	41	365	0.112329	0.097724	0.018330	5.3
68	271	26	297	0.087542	0.091657	0.019900	4.6
69	234	19	253	0.075099	0.089544	0.021539	4.2

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for all races; N=64,204
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	All races Alive	All races Dead	Total	Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
70	194	23	217	0.105991	0.095649	0.023396	4.1
71	152	20	172	0.116279	0.090170	0.025476	3.5
72	136	14	150	0.093333	0.096203	0.027794	3.5
73	125	8	133	0.060150	0.097922	0.030350	3.2
74	102	12	114	0.105263	0.091534	0.033204	2.8
75	85	11	96	0.114583	0.094742	0.036345	2.6
76	76	7	83	0.084337	0.109378	0.039788	2.7
77	57	7	64	0.109375	0.111855	0.043720	2.6
78	52	8	60	0.133333	0.114580	0.048335	2.4
79	45	6	51	0.117647	0.116462	0.053650	2.2
80	34	5	39	0.128205	0.125356	0.059565	2.1
81	29	3	32	0.093750		0.065848	
82	22	4	26	0.153846		0.072956	
83	20	1	21	0.047619		0.080741	
84	19	0	19	0.000000		0.089357	
85	17	1	18	0.055556		0.099650	
86	14	2	16	0.125000		0.110901	
87	13	1	14	0.071429		0.123146	
88	10	3	13	0.230769		0.136412	
89	13	0	13	0.000000		0.150710	
90	9	0	9	0.000000		0.166038	
91	8	0	8	0.000000		0.182374	
92	7	0	7	0.000000		0.199676	
93	10	0	10	0.000000		0.217880	
94	15	1	16	0.062500		0.236903	
95	2	0	2	0.000000		0.256636	
96	2	0	2	0.000000		0.276954	
97	2	0	2	0.000000		0.297713	
	Total deaths	4,239					

Exhibit 3

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for blacks only; N=40,454
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	Black Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
15	2	0	2	0.000000		0.000655	
16	60	0	60	0.000000		0.000822	
17	543	0	543	0.000000		0.001004	
18	1,504	5	1,509	0.003313	0.003033	0.001206	2.5
19	2,898	8	2,906	0.002753	0.003351	0.001421	2.4
20	4,498	18	4,516	0.003986	0.003383	0.001654	2.0
21	5,847	20	5,867	0.003409	0.004059	0.001874	2.2
22	6,867	33	6,900	0.004783	0.004333	0.002041	2.1
23	7,453	36	7,489	0.004807	0.005139	0.002134	2.4
24	7,508	44	7,552	0.005826	0.005656	0.002168	2.6
25	7,216	46	7,262	0.006334	0.005943	0.002186	2.7
26	6,842	39	6,881	0.005668	0.006574	0.002212	3.0
27	6,426	50	6,476	0.007721	0.007412	0.002230	3.3
28	5,938	53	5,991	0.008847	0.008178	0.002245	3.6
29	5,604	45	5,649	0.007966	0.008357	0.002259	3.7
30	5,284	44	5,328	0.008258	0.007893	0.002267	3.5
31	5,059	38	5,097	0.007455	0.008957	0.002276	3.9
32	4,786	54	4,840	0.011157	0.009753	0.002300	4.2
33	4,554	49	4,603	0.010645	0.010648	0.002350	4.5
34	4,392	45	4,437	0.010142	0.010346	0.002426	4.3
35	4,152	43	4,195	0.010250	0.009901	0.002527	3.9
36	3,937	37	3,974	0.009311	0.010548	0.002646	4.0
37	3,679	45	3,724	0.012084	0.012161	0.002772	4.4
38	3,525	54	3,579	0.015088	0.013441	0.002896	4.6
39	3,452	46	3,498	0.013150	0.015186	0.003027	5.0
40	3,291	58	3,349	0.017319	0.015133	0.003179	4.8
41	3,101	47	3,148	0.014930	0.015972	0.003369	4.7
42	3,016	48	3,064	0.015666	0.015002	0.003607	4.2
43	2,941	43	2,984	0.014410	0.014833	0.003902	3.8
44	2,870	42	2,912	0.014423	0.015822	0.004251	3.7
45	2,739	52	2,791	0.018631	0.019842	0.004616	4.3
46	2,611	71	2,682	0.026473	0.024402	0.005016	4.9
47	2,421	70	2,491	0.028101	0.026482	0.005513	4.8
48	2,274	58	2,332	0.024871	0.026654	0.006129	4.3
49	2,127	59	2,186	0.026990	0.028625	0.006838	4.2
50	1,988	70	2,058	0.034014	0.032107	0.007586	4.2
51	1,830	67	1,897	0.035319	0.035336	0.008344	4.2
52	1,681	64	1,745	0.036676	0.038086	0.009145	4.2
53	1,541	68	1,609	0.042262	0.041294	0.010011	4.1
54	1,360	64	1,424	0.044944	0.046430	0.010959	4.2
55	1,183	65	1,248	0.052083	0.049429	0.011995	4.1
56	1,055	57	1,112	0.051259	0.050691	0.013107	3.9
57	937	48	985	0.048731	0.056749	0.014274	4.0
58	794	60	854	0.070258	0.061732	0.015455	4.0
59	677	48	725	0.066207	0.072218	0.016630	4.3
60	585	51	636	0.080189	0.082261	0.017888	4.6
61	466	52	518	0.100386	0.093277	0.019207	4.9
62	363	40	403	0.099256	0.093367	0.020451	4.6
63	320	28	348	0.080460	0.093350	0.021595	4.3
64	269	30	299	0.100334	0.089763	0.022717	4.0
65	206	20	226	0.088496	0.097257	0.023933	4.1
66	183	21	204	0.102941	0.107622	0.025369	4.2
67	152	23	175	0.131429	0.114021	0.027104	4.2
68	116	14	130	0.107692	0.117090	0.029089	4.0
69	95	12	107	0.112150	0.107763	0.031191	3.5

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for blacks only; N=40,454
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	Black Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
70	78	9	87	0.103448	0.115344	0.033429	3.5
71	60	9	69	0.130435	0.116942	0.035780	3.3
72	55	4	59	0.067797		0.038397	
73	48	3	51	0.058824		0.041254	
74	39	5	44	0.113636		0.044174	
75	30	5	35	0.142857		0.047704	
76	27	2	29	0.068966		0.051047	
77	18	3	21	0.142857		0.054624	
78	17	3	20	0.150000		0.059628	
79	15	2	17	0.117647		0.064976	
80	11	2	13	0.153846		0.070676	
81	9	1	10	0.100000		0.076651	
82	8	0	8	0.000000		0.085516	
83	7	0	7	0.000000		0.092664	
84	6	0	6	0.000000		0.100307	
85	5	0	5	0.000000		0.108460	
86	4	1	5	0.200000		0.117140	
87	5	0	5	0.000000		0.126357	
88	4	0	4	0.000000		0.136120	
89	3	0	3	0.000000		0.146432	
90	2	0	2	0.000000		0.157294	
91	3	0	3	0.000000		0.168701	
92	2	0	2	0.000000		0.180641	
93	3	0	3	0.000000		0.193099	
94	7	0	7	0.000000		0.206052	
95	1	0	1	0.000000		0.219470	
96	1	0	1	0.000000		0.233321	
97	1	0	1	0.000000		0.247561	
Total deaths		2,351					

Exhibit 4

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for whites only; N=22,081
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	White Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
15	1	0	1	0.000000		0.000414	
16	28	0	28	0.000000		0.000522	
17	268	0	268	0.000000		0.000641	
18	717	1	718	0.001393		0.000773	
19	1,325	4	1,329	0.003010		0.000909	
20	1,944	6	1,950	0.003077	0.003181	0.001053	3.0
21	2,427	8	2,435	0.003285	0.003500	0.001185	3.0
22	2,647	11	2,658	0.004138	0.004806	0.001283	3.7
23	2,697	19	2,716	0.006996	0.006919	0.001333	5.2
24	2,676	26	2,702	0.009623	0.008440	0.001349	6.3
25	2,620	23	2,643	0.008702	0.009056	0.001354	6.7
26	2,466	22	2,488	0.008842	0.010391	0.001365	7.6
27	2,316	32	2,348	0.013629	0.009974	0.001379	7.2
28	2,265	17	2,282	0.007450	0.011864	0.001401	8.5
29	2,173	32	2,205	0.014512	0.011735	0.001432	8.2
30	2,161	29	2,190	0.013242	0.013335	0.001467	9.1
31	2,177	27	2,204	0.012250	0.013876	0.001502	9.2
32	2,195	36	2,231	0.016136	0.013753	0.001536	9.0
33	2,147	28	2,175	0.012874	0.013955	0.001570	8.9
34	2,150	28	2,178	0.012856	0.012136	0.001609	7.5
35	2,131	23	2,154	0.010678	0.011928	0.001665	7.2
36	2,177	27	2,204	0.012250	0.013112	0.001742	7.5
37	2,158	36	2,194	0.016408	0.014128	0.001829	7.7
38	2,156	30	2,186	0.013724	0.016339	0.001921	8.5
39	2,078	40	2,118	0.018886	0.016139	0.002023	8.0
40	2,117	34	2,151	0.015807	0.019133	0.002135	9.0
41	2,066	48	2,114	0.022706	0.019370	0.002273	8.5
42	2,001	40	2,041	0.019598	0.022267	0.002459	9.1
43	1,991	50	2,041	0.024498	0.023331	0.002703	8.6
44	1,956	52	2,008	0.025896	0.024755	0.002997	8.3
45	1,922	47	1,969	0.023870	0.025127	0.003309	7.6
46	1,864	49	1,913	0.025614	0.027223	0.003631	7.5
47	1,684	56	1,740	0.032184	0.030095	0.003984	7.6
48	1,638	55	1,693	0.032487	0.035454	0.004366	8.1
49	1,540	67	1,607	0.041693	0.039239	0.004768	8.2
50	1,428	65	1,493	0.043537	0.046941	0.005179	9.1
51	1,325	78	1,403	0.055595	0.050285	0.005596	9.0
52	1,210	66	1,276	0.051724	0.054307	0.006034	9.0
53	1,104	65	1,169	0.055603	0.052714	0.006508	8.1
54	990	53	1,043	0.050815	0.057024	0.007026	8.1
55	868	60	928	0.064655	0.060073	0.007591	7.9
56	780	54	834	0.064748	0.062302	0.008191	7.6
57	672	41	713	0.057504	0.060358	0.008812	6.8
58	608	38	646	0.058824	0.062585	0.009425	6.6
59	520	40	560	0.071429	0.068333	0.010028	6.8
60	458	37	495	0.074747	0.076123	0.010645	7.2
61	402	36	438	0.082192	0.072227	0.011305	6.4
62	362	23	385	0.059740	0.079569	0.012031	6.6
63	308	33	341	0.096774	0.074694	0.012880	5.8
64	276	20	296	0.067568	0.082340	0.013896	5.9
65	233	21	254	0.082677	0.085880	0.015110	5.7
66	191	18	209	0.086124	0.079940	0.016503	4.8
67	169	18	187	0.096257	0.074702	0.018045	4.1
68	153	11	164	0.067073	0.079705	0.019623	4.1
69	139	6	145	0.041379	0.083840	0.021262	3.9

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for whites only; N=22,081
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	White Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
70	116	14	130	0.107692	0.086566	0.023146	3.7
71	92	11	103	0.106796	0.085347	0.025278	3.4
72	81	10	91	0.109890	0.097071	0.027630	3.5
73	77	5	82	0.060976	0.095204	0.030219	3.2
74	63	7	70	0.100000	0.092364	0.033126	2.8
75	55	6	61	0.098361	0.088990	0.036255	2.5
76	49	5	54	0.092593	0.095477	0.039716	2.4
77	39	4	43	0.093023		0.043757	
78	35	5	40	0.125000		0.048405	
79	30	4	34	0.117647		0.053785	
80	23	3	26	0.115385		0.059839	
81	20	2	22	0.090909		0.066176	
82	14	4	18	0.222222		0.073348	
83	13	1	14	0.071429		0.081302	
84	13	0	13	0.000000		0.090236	
85	12	1	13	0.076923		0.100743	
86	10	1	11	0.090909		0.112235	
87	8	1	9	0.111111		0.124750	
88	6	3	9	0.333333		0.138311	
89	7	0	7	0.000000		0.152931	
90	6	0	6	0.000000		0.168603	
91	5	0	5	0.000000		0.185302	
92	5	0	5	0.000000		0.202980	
93	7	0	7	0.000000		0.221569	
94	8	1	9	0.111111		0.240976	
95	1	0	1	0.000000		0.261085	
96	1	0	1	0.000000		0.281762	
97	1	0	1	0.000000		0.302853	
Total deaths		1,874					

EXHIBIT 5

Table 2. Life table for males: United States, 2011

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table02.xlsx.

Age (years)	Probability of dying between ages x and $x+1$ q_x	Number surviving to age x l_x	Number dying between ages x and $x+1$ d_x	Person-years lived between ages x and $x+1$ L_x	Total number of person-years lived above age x T_x	Expectation of life at age x e_x
0–1	0.006575	100,000	658	99,427	7,629,389	76.3
1–2	0.000445	99,342	44	99,320	7,529,961	75.8
2–3	0.000301	99,298	30	99,283	7,430,641	74.8
3–4	0.000240	99,268	24	99,256	7,331,358	73.9
4–5	0.000183	99,244	18	99,235	7,232,101	72.9
5–6	0.000169	99,226	17	99,218	7,132,866	71.9
6–7	0.000150	99,210	15	99,202	7,033,648	70.9
7–8	0.000134	99,195	13	99,188	6,934,446	69.9
8–9	0.000115	99,181	11	99,176	6,835,258	68.9
9–10	0.000097	99,170	10	99,165	6,736,082	67.9
10–11	0.000085	99,160	8	99,156	6,636,917	66.9
11–12	0.000092	99,152	9	99,147	6,537,761	65.9
12–13	0.000132	99,143	13	99,136	6,438,613	64.9
13–14	0.000213	99,130	21	99,119	6,339,477	64.0
14–15	0.000323	99,109	32	99,093	6,240,358	63.0
15–16	0.000439	99,077	43	99,055	6,141,265	62.0
16–17	0.000552	99,033	55	99,006	6,042,210	61.0
17–18	0.000675	98,979	67	98,945	5,943,204	60.0
18–19	0.000807	98,912	80	98,872	5,844,259	59.1
19–20	0.000942	98,832	93	98,785	5,745,387	58.1
20–21	0.001085	98,739	107	98,685	5,646,602	57.2
21–22	0.001216	98,632	120	98,572	5,547,917	56.2
22–23	0.001310	98,512	129	98,447	5,449,345	55.3
23–24	0.001353	98,383	133	98,316	5,350,898	54.4
24–25	0.001358	98,250	133	98,183	5,252,582	53.5
25–26	0.001351	98,116	133	98,050	5,154,399	52.5
26–27	0.001349	97,984	132	97,918	5,056,349	51.6
27–28	0.001353	97,852	132	97,785	4,958,431	50.7
28–29	0.001371	97,719	134	97,652	4,860,646	49.7
29–30	0.001399	97,585	137	97,517	4,762,994	48.8
30–31	0.001432	97,449	140	97,379	4,665,477	47.9
31–32	0.001464	97,309	143	97,238	4,568,098	46.9
32–33	0.001496	97,167	145	97,094	4,470,860	46.0
33–34	0.001528	97,021	148	96,947	4,373,766	45.1
34–35	0.001563	96,873	151	96,797	4,276,819	44.1
35–36	0.001613	96,722	156	96,643	4,180,022	43.2
36–37	0.001682	96,565	162	96,484	4,083,378	42.3
37–38	0.001764	96,403	170	96,318	3,986,894	41.4
38–39	0.001857	96,233	179	96,144	3,890,576	40.4
39–40	0.001964	96,054	189	95,960	3,794,432	39.5
40–41	0.002083	95,866	200	95,766	3,698,472	38.6
41–42	0.002227	95,666	213	95,560	3,602,706	37.7
42–43	0.002414	95,453	230	95,338	3,507,147	36.7
43–44	0.002653	95,223	253	95,096	3,411,809	35.8
44–45	0.002939	94,970	279	94,830	3,316,713	34.9
45–46	0.003243	94,691	307	94,537	3,221,882	34.0
46–47	0.003563	94,384	336	94,216	3,127,345	33.1
47–48	0.003922	94,047	369	93,863	3,033,129	32.3
48–49	0.004320	93,679	405	93,476	2,939,266	31.4
49–50	0.004749	93,274	443	93,052	2,845,790	30.5
50–51	0.005193	92,831	482	92,590	2,752,738	29.7
51–52	0.005647	92,349	522	92,088	2,660,148	28.8
52–53	0.006122	91,827	562	91,546	2,568,060	28.0
53–54	0.006630	91,265	605	90,963	2,476,514	27.1
54–55	0.007181	90,660	651	90,335	2,385,551	26.3
55–56	0.007779	90,009	700	89,659	2,295,216	25.5
56–57	0.008415	89,309	752	88,933	2,205,557	24.7
57–58	0.009074	88,557	804	88,156	2,116,624	23.9
58–59	0.009727	87,754	854	87,327	2,028,469	23.1
59–60	0.010371	86,900	901	86,450	1,941,141	22.3
60–61	0.011034	85,999	949	85,525	1,854,692	21.6

See footnote at end of table.

Table 2. Life table for males: United States, 2011—Con.

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table02.xlsx.

Age (years)	Probability of dying between ages x and $x+1$ q_x	Number surviving to age x l_x	Number dying between ages x and $x+1$ d_x	Person-years lived between ages x and $x+1$ L_x	Total number of person-years lived above age x T_x	Expectation of life at age x e_x
61–62	0.011738	85,050	998	84,551	1,769,167	20.8
62–63	0.012489	84,052	1,050	83,527	1,684,616	20.0
63–64	0.013335	83,002	1,107	82,449	1,601,089	19.3
64–65	0.014319	81,895	1,173	81,309	1,518,641	18.5
65–66	0.015482	80,723	1,250	80,098	1,437,332	17.8
66–67	0.016824	79,473	1,337	78,804	1,357,234	17.1
67–68	0.018330	78,136	1,432	77,420	1,278,430	16.4
68–69	0.019900	76,703	1,526	75,940	1,201,010	15.7
69–70	0.021539	75,177	1,619	74,367	1,125,070	15.0
70–71	0.023396	73,558	1,721	72,697	1,050,702	14.3
71–72	0.025476	71,837	1,830	70,922	978,005	13.6
72–73	0.027794	70,007	1,946	69,034	907,083	13.0
73–74	0.030350	68,061	2,066	67,028	838,049	12.3
74–75	0.033204	65,995	2,191	64,900	771,021	11.7
75–76	0.036345	63,804	2,319	62,645	706,121	11.1
76–77	0.039788	61,485	2,446	60,262	643,477	10.5
77–78	0.043720	59,039	2,581	57,748	583,215	9.9
78–79	0.048335	56,458	2,729	55,093	525,467	9.3
79–80	0.053650	53,729	2,883	52,287	470,374	8.8
80–81	0.059565	50,846	3,029	49,332	418,086	8.2
81–82	0.065848	47,817	3,149	46,243	368,754	7.7
82–83	0.072956	44,669	3,259	43,039	322,511	7.2
83–84	0.080741	41,410	3,343	39,738	279,472	6.7
84–85	0.089357	38,066	3,402	36,366	239,734	6.3
85–86	0.099650	34,665	3,454	32,938	203,368	5.9
86–87	0.110901	31,211	3,461	29,480	170,430	5.5
87–88	0.123146	27,749	3,417	26,041	140,950	5.1
88–89	0.136412	24,332	3,319	22,672	114,910	4.7
89–90	0.150710	21,013	3,167	19,429	92,237	4.4
90–91	0.166038	17,846	2,963	16,364	72,808	4.1
91–92	0.182374	14,883	2,714	13,526	56,443	3.8
92–93	0.199676	12,169	2,430	10,954	42,918	3.5
93–94	0.217880	9,739	2,122	8,678	31,964	3.3
94–95	0.236903	7,617	1,804	6,715	23,286	3.1
95–96	0.256636	5,812	1,492	5,067	16,571	2.9
96–97	0.276954	4,321	1,197	3,722	11,505	2.7
97–98	0.297713	3,124	930	2,659	7,782	2.5
98–99	0.318755	2,194	699	1,844	5,123	2.3
99–100	0.339914	1,495	508	1,241	3,279	2.2
100 and over	1.000000	987	987	2,038	2,038	2.1

SOURCE: CDC/NCHS, National Vital Statistics System.

EXHIBIT 6

Table 17. Life table for non-Hispanic black males: United States, 2011

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table17.xlsx.

Age (years)	Probability of dying between ages x and $x+1$ q_x	Number surviving to age x l_x	Number dying between ages x and $x+1$ d_x	Person-years lived between ages x and $x+1$ L_x	Total number of person-years lived above age x T_x	Expectation of life at age x e_x
0–1	0.012502	100,000	1,250	98,927	7,173,820	71.7
1–2	0.000674	98,750	67	98,716	7,074,893	71.6
2–3	0.000494	98,683	49	98,659	6,976,177	70.7
3–4	0.000356	98,634	35	98,617	6,877,518	69.7
4–5	0.000316	98,599	31	98,584	6,778,901	68.8
5–6	0.000258	98,568	25	98,555	6,680,317	67.8
6–7	0.000224	98,543	22	98,532	6,581,762	66.8
7–8	0.000193	98,521	19	98,511	6,483,230	65.8
8–9	0.000161	98,502	16	98,494	6,384,719	64.8
9–10	0.000128	98,486	13	98,480	6,286,225	63.8
10–11	0.000107	98,473	11	98,468	6,187,746	62.8
11–12	0.000118	98,463	12	98,457	6,089,278	61.8
12–13	0.000183	98,451	18	98,442	5,990,821	60.9
13–14	0.000310	98,433	31	98,418	5,892,379	59.9
14–15	0.000481	98,402	47	98,379	5,793,961	58.9
15–16	0.000655	98,355	64	98,323	5,695,583	57.9
16–17	0.000822	98,291	81	98,250	5,597,260	56.9
17–18	0.001004	98,210	99	98,160	5,499,010	56.0
18–19	0.001206	98,111	118	98,052	5,400,849	55.0
19–20	0.001421	97,993	139	97,923	5,302,797	54.1
20–21	0.001654	97,854	162	97,773	5,204,874	53.2
21–22	0.001874	97,692	183	97,600	5,107,101	52.3
22–23	0.002041	97,509	199	97,409	5,009,501	51.4
23–24	0.002134	97,310	208	97,206	4,912,092	50.5
24–25	0.002168	97,102	211	96,997	4,814,886	49.6
25–26	0.002186	96,891	212	96,786	4,717,890	48.7
26–27	0.002212	96,680	214	96,573	4,621,104	47.8
27–28	0.002230	96,466	215	96,358	4,524,531	46.9
28–29	0.002245	96,251	216	96,143	4,428,173	46.0
29–30	0.002259	96,035	217	95,926	4,332,030	45.1
30–31	0.002267	95,818	217	95,709	4,236,104	44.2
31–32	0.002276	95,600	218	95,492	4,140,395	43.3
32–33	0.002300	95,383	219	95,273	4,044,904	42.4
33–34	0.002350	95,163	224	95,052	3,949,631	41.5
34–35	0.002426	94,940	230	94,825	3,854,579	40.6
35–36	0.002527	94,709	239	94,590	3,759,755	39.7
36–37	0.002646	94,470	250	94,345	3,665,165	38.8
37–38	0.002772	94,220	261	94,089	3,570,820	37.9
38–39	0.002896	93,959	272	93,823	3,476,730	37.0
39–40	0.003027	93,687	284	93,545	3,382,908	36.1
40–41	0.003179	93,403	297	93,255	3,289,363	35.2
41–42	0.003369	93,106	314	92,949	3,196,108	34.3
42–43	0.003607	92,793	335	92,625	3,103,159	33.4
43–44	0.003902	92,458	361	92,277	3,010,533	32.6
44–45	0.004251	92,097	392	91,901	2,918,256	31.7
45–46	0.004616	91,706	423	91,494	2,826,355	30.8
46–47	0.005016	91,282	458	91,053	2,734,861	30.0
47–48	0.005513	90,824	501	90,574	2,643,807	29.1
48–49	0.006129	90,324	554	90,047	2,553,233	28.3
49–50	0.006838	89,770	614	89,463	2,463,186	27.4
50–51	0.007586	89,156	676	88,818	2,373,723	26.6
51–52	0.008344	88,480	738	88,111	2,284,905	25.8
52–53	0.009145	87,742	802	87,340	2,196,794	25.0
53–54	0.010011	86,939	870	86,504	2,109,454	24.3
54–55	0.010959	86,069	943	85,597	2,022,950	23.5
55–56	0.011995	85,126	1,021	84,615	1,937,352	22.8
56–57	0.013107	84,105	1,102	83,553	1,852,737	22.0
57–58	0.014274	83,002	1,185	82,410	1,769,184	21.3
58–59	0.015455	81,817	1,264	81,185	1,686,774	20.6
59–60	0.016630	80,553	1,340	79,883	1,605,589	19.9
60–61	0.017888	79,213	1,417	78,505	1,525,705	19.3

See footnotes at end of table.

Table 17. Life table for non-Hispanic black males: United States, 2011—Con.

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table17.xlsx.

Age (years)	Probability of dying between ages x and $x+1$ q_x	Number surviving to age x l_x	Number dying between ages x and $x+1$ d_x	Person-years lived between ages x and $x+1$ L_x	Total number of person-years lived above age x T_x	Expectation of life at age x e_x
61–62	0.019207	77,796	1,494	77,049	1,447,201	18.6
62–63	0.020451	76,302	1,560	75,522	1,370,151	18.0
63–64	0.021595	74,742	1,614	73,935	1,294,629	17.3
64–65	0.022717	73,128	1,661	72,297	1,220,695	16.7
65–66	0.023933	71,466	1,710	70,611	1,148,398	16.1
66–67	0.025369	69,756	1,770	68,871	1,077,787	15.5
67–68	0.027104	67,986	1,843	67,065	1,008,915	14.8
68–69	0.029089	66,144	1,924	65,182	941,851	14.2
69–70	0.031191	64,220	2,003	63,218	876,669	13.7
70–71	0.033429	62,216	2,080	61,177	813,451	13.1
71–72	0.035780	60,137	2,152	59,061	752,274	12.5
72–73	0.038397	57,985	2,226	56,872	693,214	12.0
73–74	0.041254	55,759	2,300	54,608	636,342	11.4
74–75	0.044174	53,458	2,361	52,278	581,733	10.9
75–76	0.047704	51,097	2,438	49,878	529,456	10.4
76–77	0.051047	48,659	2,484	47,417	479,578	9.9
77–78	0.054624	46,175	2,522	44,914	432,161	9.4
78–79	0.059628	43,653	2,603	42,352	387,246	8.9
79–80	0.064976	41,050	2,667	39,716	344,895	8.4
80–81	0.070676	38,383	2,713	37,026	305,178	8.0
81–82	0.076651	35,670	2,734	34,303	268,152	7.5
82–83	0.085516	32,936	2,817	31,528	233,849	7.1
83–84	0.092664	30,119	2,791	28,724	202,321	6.7
84–85	0.100307	27,328	2,741	25,958	173,597	6.4
85–86	0.108460	24,587	2,667	23,254	147,639	6.0
86–87	0.117140	21,920	2,568	20,637	124,386	5.7
87–88	0.126357	19,353	2,445	18,130	103,749	5.4
88–89	0.136120	16,907	2,301	15,757	85,619	5.1
89–90	0.146432	14,606	2,139	13,537	69,862	4.8
90–91	0.157294	12,467	1,961	11,487	56,326	4.5
91–92	0.168701	10,506	1,772	9,620	44,839	4.3
92–93	0.180641	8,734	1,578	7,945	35,219	4.0
93–94	0.193099	7,156	1,382	6,465	27,274	3.8
94–95	0.206052	5,774	1,190	5,179	20,809	3.6
95–96	0.219470	4,584	1,006	4,081	15,630	3.4
96–97	0.233321	3,578	835	3,161	11,548	3.2
97–98	0.247561	2,743	679	2,404	8,388	3.1
98–99	0.262144	2,064	541	1,794	5,984	2.9
99–100	0.277019	1,523	422	1,312	4,190	2.8
100 and over	1.000000	1,101	1,101	2,878	2,878	2.6

NOTE: This life table is based on death rates that have been adjusted for race and ethnicity misclassification on death certificates.
SOURCE: CDC/NCHS, National Vital Statistics System.

EXHIBIT 7

Table 14. Life table for non-Hispanic white males: United States, 2011

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table14.xlsx.

Age (years)	Probability of dying between ages x and $x+1$ q_x	Number surviving to age x l_x	Number dying between ages x and $x+1$ d_x	Person-years lived between ages x and $x+1$ L_x	Total number of person-years lived above age x T_x	Expectation of life at age x e_x
0–1	0.005524	100,000	552	99,517	7,643,091	76.4
1–2	0.000413	99,448	41	99,427	7,543,575	75.9
2–3	0.000273	99,407	27	99,393	7,444,148	74.9
3–4	0.000229	99,379	23	99,368	7,344,755	73.9
4–5	0.000156	99,357	15	99,349	7,245,387	72.9
5–6	0.000160	99,341	16	99,333	7,146,038	71.9
6–7	0.000146	99,325	14	99,318	7,046,705	70.9
7–8	0.000132	99,311	13	99,304	6,947,387	70.0
8–9	0.000114	99,298	11	99,292	6,848,082	69.0
9–10	0.000095	99,286	9	99,282	6,748,790	68.0
10–11	0.000082	99,277	8	99,273	6,649,509	67.0
11–12	0.000088	99,269	9	99,264	6,550,236	66.0
12–13	0.000125	99,260	12	99,254	6,450,972	65.0
13–14	0.000201	99,248	20	99,238	6,351,718	64.0
14–15	0.000305	99,228	30	99,213	6,252,480	63.0
15–16	0.000414	99,197	41	99,177	6,153,268	62.0
16–17	0.000522	99,156	52	99,130	6,054,091	61.1
17–18	0.000641	99,105	64	99,073	5,954,960	60.1
18–19	0.000773	99,041	77	99,003	5,855,888	59.1
19–20	0.000909	98,964	90	98,920	5,756,885	58.2
20–21	0.001053	98,875	104	98,822	5,657,965	57.2
21–22	0.001185	98,770	117	98,712	5,559,143	56.3
22–23	0.001283	98,653	127	98,590	5,460,431	55.3
23–24	0.001333	98,527	131	98,461	5,361,841	54.4
24–25	0.001349	98,395	133	98,329	5,263,380	53.5
25–26	0.001354	98,263	133	98,196	5,165,051	52.6
26–27	0.001365	98,130	134	98,063	5,066,855	51.6
27–28	0.001379	97,996	135	97,928	4,968,792	50.7
28–29	0.001401	97,860	137	97,792	4,870,864	49.8
29–30	0.001432	97,723	140	97,653	4,773,072	48.8
30–31	0.001467	97,583	143	97,512	4,675,419	47.9
31–32	0.001502	97,440	146	97,367	4,577,907	47.0
32–33	0.001536	97,294	149	97,219	4,480,540	46.1
33–34	0.001570	97,145	153	97,068	4,383,321	45.1
34–35	0.001609	96,992	156	96,914	4,286,252	44.2
35–36	0.001665	96,836	161	96,755	4,189,338	43.3
36–37	0.001742	96,675	168	96,591	4,092,583	42.3
37–38	0.001829	96,506	177	96,418	3,995,992	41.4
38–39	0.001921	96,330	185	96,237	3,899,574	40.5
39–40	0.002023	96,145	195	96,047	3,803,337	39.6
40–41	0.002135	95,950	205	95,848	3,707,290	38.6
41–42	0.002273	95,745	218	95,637	3,611,442	37.7
42–43	0.002459	95,528	235	95,410	3,515,805	36.8
43–44	0.002703	95,293	258	95,164	3,420,395	35.9
44–45	0.002997	95,035	285	94,893	3,325,231	35.0
45–46	0.003309	94,750	313	94,594	3,230,338	34.1
46–47	0.003631	94,437	343	94,266	3,135,744	33.2
47–48	0.003984	94,094	375	93,907	3,041,479	32.3
48–49	0.004366	93,719	409	93,515	2,947,572	31.5
49–50	0.004768	93,310	445	93,088	2,854,058	30.6
50–51	0.005179	92,865	481	92,625	2,760,970	29.7
51–52	0.005596	92,384	517	92,126	2,668,345	28.9
52–53	0.006034	91,867	554	91,590	2,576,220	28.0
53–54	0.006508	91,313	594	91,016	2,484,630	27.2
54–55	0.007026	90,719	637	90,400	2,393,614	26.4
55–56	0.007591	90,081	684	89,739	2,303,214	25.6
56–57	0.008191	89,397	732	89,031	2,213,475	24.8
57–58	0.008812	88,665	781	88,274	2,124,444	24.0
58–59	0.009425	87,884	828	87,470	2,036,169	23.2
59–60	0.010028	87,056	873	86,619	1,948,700	22.4
60–61	0.010645	86,183	917	85,724	1,862,081	21.6

See footnotes at end of table.

Table 14. Life table for non-Hispanic white males: United States, 2011—Con.

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table14.xlsx.

Age (years)	Probability of dying between ages x and $x+1$	Number surviving to age x	Number dying between ages x and $x+1$	Person-years lived between ages x and $x+1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
61–62	0.011305	85,265	964	84,783	1,776,357	20.8
62–63	0.012031	84,301	1,014	83,794	1,691,574	20.1
63–64	0.012880	83,287	1,073	82,751	1,607,780	19.3
64–65	0.013896	82,214	1,142	81,643	1,525,029	18.5
65–66	0.015110	81,072	1,225	80,459	1,443,386	17.8
66–67	0.016503	79,847	1,318	79,188	1,362,927	17.1
67–68	0.018045	78,529	1,417	77,821	1,283,739	16.3
68–69	0.019623	77,112	1,513	76,355	1,205,919	15.6
69–70	0.021262	75,599	1,607	74,795	1,129,563	14.9
70–71	0.023146	73,991	1,713	73,135	1,054,768	14.3
71–72	0.025278	72,279	1,827	71,365	981,633	13.6
72–73	0.027630	70,452	1,947	69,478	910,268	12.9
73–74	0.030219	68,505	2,070	67,470	840,789	12.3
74–75	0.033126	66,435	2,201	65,335	773,319	11.6
75–76	0.036255	64,234	2,329	63,070	707,985	11.0
76–77	0.039716	61,905	2,459	60,676	644,915	10.4
77–78	0.043757	59,447	2,601	58,146	584,239	9.8
78–79	0.048405	56,845	2,752	55,470	526,093	9.3
79–80	0.053785	54,094	2,909	52,639	470,623	8.7
80–81	0.059839	51,184	3,063	49,653	417,984	8.2
81–82	0.066176	48,122	3,184	46,529	368,331	7.7
82–83	0.073348	44,937	3,296	43,289	321,802	7.2
83–84	0.081302	41,641	3,385	39,948	278,513	6.7
84–85	0.090236	38,256	3,452	36,530	238,565	6.2
85–86	0.100743	34,804	3,506	33,050	202,035	5.8
86–87	0.112235	31,297	3,513	29,541	168,985	5.4
87–88	0.124750	27,785	3,466	26,052	139,444	5.0
88–89	0.138311	24,319	3,364	22,637	113,392	4.7
89–90	0.152931	20,955	3,205	19,353	90,755	4.3
90–91	0.168603	17,750	2,993	16,254	71,402	4.0
91–92	0.185302	14,758	2,735	13,390	55,149	3.7
92–93	0.202980	12,023	2,440	10,803	41,758	3.5
93–94	0.221569	9,583	2,123	8,521	30,955	3.2
94–95	0.240976	7,459	1,798	6,561	22,435	3.0
95–96	0.261085	5,662	1,478	4,923	15,874	2.8
96–97	0.281762	4,184	1,179	3,594	10,951	2.6
97–98	0.302853	3,005	910	2,550	7,357	2.4
98–99	0.324194	2,095	679	1,755	4,807	2.3
99–100	0.345609	1,416	489	1,171	3,052	2.2
100 and over	1.000000	926	926	1,881	1,881	2.0

NOTE: This life table is based on death rates that have been adjusted for race and ethnicity misclassification on death certificates.
SOURCE: CDC/NCHS, National Vital Statistics System.

EXHIBIT 8

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
0-1	0.006575	1.0	0.0065750	100,000	658	99,427	5,474,009	54.7
1-2	0.000445	1.0	0.0004450	99,342	44	99,320	5,374,582	54.1
2-3	0.000301	1.0	0.0003010	99,298	30	99,283	5,275,262	53.1
3-4	0.000240	1.0	0.0002400	99,268	24	99,256	5,175,979	52.1
4-5	0.000183	1.0	0.0001830	99,244	18	99,235	5,076,723	51.2
5-6	0.000169	1.0	0.0001690	99,226	17	99,218	4,977,488	50.2
6-7	0.000150	1.0	0.0001500	99,209	15	99,202	4,878,271	49.2
7-8	0.000134	1.0	0.0001340	99,194	13	99,188	4,779,069	48.2
8-9	0.000115	1.0	0.0001150	99,181	11	99,176	4,679,882	47.2
9-10	0.000097	1.0	0.0000970	99,170	10	99,165	4,580,706	46.2
10-11	0.000085	1.0	0.0000850	99,160	8	99,156	4,481,541	45.2
11-12	0.000092	1.0	0.0000920	99,152	9	99,148	4,382,385	44.2
12-13	0.000132	1.0	0.0001320	99,143	13	99,137	4,283,238	43.2
13-14	0.000213	1.0	0.0002130	99,130	21	99,120	4,184,101	42.2
14-15	0.000323	1.0	0.0003230	99,109	32	99,093	4,084,982	41.2
15-16	0.000439	1.0	0.0004390	99,077	43	99,056	3,985,889	40.2
16-17	0.000552	1.0	0.0005520	99,034	55	99,007	3,886,833	39.2
17-18	0.000675	1.0	0.0006750	98,979	67	98,946	3,787,827	38.3
18-19	0.000807	3.3	0.0027013	98,912	267	98,779	3,688,881	37.3
19-20	0.000942	3.2	0.0030114	98,645	297	98,497	3,590,103	36.4
20-21	0.001085	3.0	0.0032334	98,348	318	98,189	3,491,606	35.5
21-22	0.001216	3.1	0.0038118	98,030	374	97,843	3,393,417	34.6
22-23	0.001310	3.3	0.0043592	97,656	426	97,443	3,295,574	33.7
23-24	0.001353	4.1	0.0054859	97,230	533	96,964	3,198,131	32.9
24-25	0.001358	4.6	0.0062542	96,697	605	96,395	3,101,168	32.1
25-26	0.001351	4.9	0.0066459	96,092	639	95,773	3,004,773	31.3

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
26-27	0.001349	5.5	0.0074312	95,453	709	95,099	2,909,001	30.5
27-28	0.001353	5.8	0.0078989	94,744	748	94,370	2,813,902	29.7
28-29	0.001371	6.5	0.0089216	93,996	839	93,577	2,719,532	28.9
29-30	0.001399	6.5	0.0090478	93,157	843	92,736	2,625,956	28.2
30-31	0.001432	6.4	0.0091878	92,314	848	91,890	2,533,220	27.4
31-32	0.001464	6.9	0.0101313	91,466	927	91,003	2,441,330	26.7
32-33	0.001496	7.1	0.0106698	90,539	966	90,056	2,350,328	26.0
33-34	0.001528	7.4	0.0113651	89,573	1,018	89,064	2,260,272	25.2
34-35	0.001563	6.8	0.0106137	88,555	940	88,085	2,171,208	24.5
35-36	0.001613	6.4	0.0103475	87,615	907	87,162	2,083,123	23.8
36-37	0.001682	6.7	0.0112230	86,708	973	86,222	1,995,961	23.0
37-38	0.001764	7.1	0.0125987	85,735	1,080	85,195	1,909,740	22.3
38-39	0.001857	7.7	0.0142256	84,655	1,204	84,053	1,824,545	21.6
39-40	0.001964	7.8	0.0152915	83,451	1,276	82,813	1,740,492	20.9
40-41	0.002083	7.9	0.0164363	82,175	1,351	81,500	1,657,679	20.2
41-42	0.002227	7.7	0.0171008	80,824	1,382	80,133	1,576,179	19.5
42-43	0.002414	7.3	0.0176592	79,442	1,403	78,741	1,496,046	18.8
43-44	0.002653	6.8	0.0180473	78,039	1,408	77,335	1,417,306	18.2
44-45	0.002939	6.5	0.0191735	76,631	1,469	75,897	1,339,971	17.5
45-46	0.003243	6.7	0.0216755	75,162	1,629	74,348	1,264,074	16.8
46-47	0.003563	7.1	0.0252682	73,533	1,858	72,604	1,189,727	16.2
47-48	0.003922	7.1	0.0276631	71,675	1,983	70,684	1,117,123	15.6
48-49	0.004320	7.0	0.0301072	69,692	2,098	68,643	1,046,439	15.0
49-50	0.004749	6.9	0.0329621	67,594	2,228	66,480	977,796	14.5
50-51	0.005193	7.4	0.0383143	65,366	2,504	64,114	911,316	13.9
51-52	0.005647	7.4	0.0416080	62,862	2,616	61,554	847,202	13.5

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
52-53	0.006122	7.3	0.0447095	60,246	2,694	58,899	785,648	13.0
53-54	0.006630	6.9	0.0458032	57,552	2,636	56,234	726,749	12.6
54-55	0.007181	7.0	0.0504908	54,916	2,773	53,530	670,515	12.2
55-56	0.007779	6.9	0.0535175	52,143	2,791	50,748	616,986	11.8
56-57	0.008415	6.6	0.0551671	49,352	2,723	47,991	566,238	11.5
57-58	0.009074	6.4	0.0577152	46,629	2,691	45,284	518,248	11.1
58-59	0.009727	6.3	0.0614132	43,938	2,698	42,589	472,964	10.8
59-60	0.010371	6.7	0.0697133	41,240	2,875	39,803	430,375	10.4
60-61	0.011034	7.1	0.0785312	38,365	3,013	36,859	390,573	10.2
61-62	0.011738	7.0	0.0823663	35,352	2,912	33,896	353,714	10.0
62-63	0.012489	6.9	0.0863986	32,440	2,803	31,039	319,818	9.9
63-64	0.013335	6.3	0.0838569	29,637	2,485	28,395	288,780	9.7
64-65	0.014319	6.0	0.0856537	27,152	2,326	25,989	260,385	9.6
65-66	0.015482	5.6	0.0871033	24,826	2,162	23,745	234,396	9.4
66-67	0.016824	5.7	0.0967221	22,664	2,192	21,568	210,651	9.3
67-68	0.018330	5.3	0.0977241	20,472	2,001	19,472	189,083	9.2
68-69	0.019900	4.6	0.0916566	18,471	1,693	17,625	169,612	9.2
69-70	0.021539	4.2	0.0895439	16,778	1,502	16,027	151,987	9.1
70-71	0.023396	4.1	0.0956488	15,276	1,461	14,546	135,960	8.9
71-72	0.025476	3.5	0.0901705	13,815	1,246	13,192	121,415	8.8
72-73	0.027794	3.5	0.0962033	12,569	1,209	11,965	108,223	8.6
73-74	0.030350	3.2	0.0979219	11,360	1,112	10,804	96,258	8.5
74-75	0.033204	2.8	0.0915335	10,248	938	9,779	85,454	8.3

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
75-76	0.036345	2.6	0.0947418	9,310	882	8,869	75,675	8.1
76-77	0.039788	2.7	0.1093784	8,428	922	7,967	66,806	7.9
77-78	0.043720	2.6	0.1118552	7,506	840	7,086	58,839	7.8
78-79	0.048335	2.4	0.1145796	6,666	764	6,284	51,753	7.8
79-80	0.053650	2.2	0.1164621	5,902	687	5,559	45,469	7.7
80-81	0.059565	2.1	0.1253563	5,215	654	4,888	39,911	7.7
81-82	0.065848	1.0	0.0658480	4,561	300	4,411	35,023	7.7
82-83	0.072956	1.0	0.0729560	4,261	311	4,106	30,612	7.2
83-84	0.080741	1.0	0.0807410	3,950	319	3,791	26,506	6.7
84-85	0.089357	1.0	0.0893570	3,631	324	3,469	22,716	6.3
85-86	0.099650	1.0	0.0996500	3,307	330	3,142	19,247	5.8
86-87	0.110901	1.0	0.1109010	2,977	330	2,812	16,105	5.4
87-88	0.123146	1.0	0.1231460	2,647	326	2,484	13,293	5.0
88-89	0.136412	1.0	0.1364120	2,321	317	2,163	10,809	4.7
89-90	0.150710	1.0	0.1507100	2,004	302	1,853	8,646	4.3
90-91	0.166038	1.0	0.1660380	1,702	283	1,561	6,793	4.0
91-92	0.182374	1.0	0.1823740	1,419	259	1,290	5,233	3.7
92-93	0.199676	1.0	0.1996760	1,160	232	1,044	3,943	3.4
93-94	0.217880	1.0	0.2178800	928	202	827	2,899	3.1
94-95	0.236903	1.0	0.2369030	726	172	640	2,072	2.9
95-96	0.256636	1.0	0.2566360	554	142	483	1,432	2.6
96-97	0.276954	1.0	0.2769540	412	114	355	949	2.3
97-98	0.297713	1.0	0.2977130	298	89	254	594	2.0
98-99	0.318755	1.0	0.3187550	209	67	176	341	1.6
99-100	0.339914	1.0	0.3399140	142	48	118	165	1.2
100+	1.00000	1.0	1.0000000	94	94	47	47	0.5

EXHIBIT 9

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
0-1	0.012502	1.0	0.0125020	100,000	1,250	99,007	5,516,944	55.2
1-2	0.000674	1.0	0.0006740	98,750	67	98,717	5,417,937	54.9
2-3	0.000494	1.0	0.0004940	98,683	49	98,659	5,319,221	53.9
3-4	0.000356	1.0	0.0003560	98,634	35	98,617	5,220,562	52.9
4-5	0.000316	1.0	0.0003160	98,599	31	98,584	5,121,946	51.9
5-6	0.000258	1.0	0.0002580	98,568	25	98,556	5,023,362	51.0
6-7	0.000224	1.0	0.0002240	98,543	22	98,532	4,924,807	50.0
7-8	0.000193	1.0	0.0001930	98,521	19	98,512	4,826,275	49.0
8-9	0.000161	1.0	0.0001610	98,502	16	98,494	4,727,763	48.0
9-10	0.000128	1.0	0.0001280	98,486	13	98,480	4,629,269	47.0
10-11	0.000107	1.0	0.0001070	98,473	11	98,468	4,530,790	46.0
11-12	0.000118	1.0	0.0001180	98,462	12	98,456	4,432,322	45.0
12-13	0.000183	1.0	0.0001830	98,450	18	98,441	4,333,866	44.0
13-14	0.000310	1.0	0.0003100	98,432	31	98,417	4,235,425	43.0
14-15	0.000481	1.0	0.0004810	98,401	47	98,378	4,137,009	42.0
15-16	0.000655	1.0	0.0006550	98,354	64	98,322	4,038,631	41.1
16-17	0.000822	1.0	0.0008220	98,290	81	98,250	3,940,309	40.1
17-18	0.001004	1.0	0.0010040	98,209	99	98,160	3,842,060	39.1
18-19	0.001206	2.5	0.0030332	98,110	298	97,961	3,743,900	38.2
19-20	0.001421	2.4	0.0033507	97,812	328	97,648	3,645,939	37.3
20-21	0.001654	2.0	0.0033826	97,484	330	97,319	3,548,291	36.4
21-22	0.001874	2.2	0.0040591	97,154	394	96,957	3,450,972	35.5
22-23	0.002041	2.1	0.0043329	96,760	419	96,551	3,354,015	34.7
23-24	0.002134	2.4	0.0051386	96,341	495	96,094	3,257,465	33.8
24-25	0.002168	2.6	0.0056559	95,846	542	95,575	3,161,371	33.0
25-26	0.002186	2.7	0.0059428	95,304	566	95,021	3,065,796	32.2

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
26-27	0.002212	3.0	0.0065743	94,738	623	94,427	2,970,775	31.4
27-28	0.002230	3.3	0.0074117	94,115	698	93,766	2,876,349	30.6
28-29	0.002245	3.6	0.0081778	93,417	764	93,035	2,782,583	29.8
29-30	0.002259	3.7	0.0083570	92,653	774	92,266	2,689,548	29.0
30-31	0.002267	3.5	0.0078932	91,879	725	91,517	2,597,282	28.3
31-32	0.002276	3.9	0.0089569	91,154	816	90,746	2,505,765	27.5
32-33	0.002300	4.2	0.0097525	90,338	881	89,898	2,415,019	26.7
33-34	0.002350	4.5	0.0106481	89,457	953	88,981	2,325,122	26.0
34-35	0.002426	4.3	0.0103458	88,504	916	88,046	2,236,141	25.3
35-36	0.002527	3.9	0.0099009	87,588	867	87,155	2,148,095	24.5
36-37	0.002646	4.0	0.0105482	86,721	915	86,264	2,060,941	23.8
37-38	0.002772	4.4	0.0121608	85,806	1,043	85,285	1,974,677	23.0
38-39	0.002896	4.6	0.0134407	84,763	1,139	84,194	1,889,393	22.3
39-40	0.003027	5.0	0.0151857	83,624	1,270	82,989	1,805,199	21.6
40-41	0.003179	4.8	0.0151330	82,354	1,246	81,731	1,722,210	20.9
41-42	0.003369	4.7	0.0159715	81,108	1,295	80,461	1,640,479	20.2
42-43	0.003607	4.2	0.0150020	79,813	1,197	79,215	1,560,019	19.5
43-44	0.003902	3.8	0.0148330	78,616	1,166	78,033	1,480,804	18.8
44-45	0.004251	3.7	0.0158215	77,450	1,225	76,838	1,402,771	18.1
45-46	0.004616	4.3	0.0198424	76,225	1,512	75,469	1,325,934	17.4
46-47	0.005016	4.9	0.0244018	74,713	1,823	73,802	1,250,465	16.7
47-48	0.005513	4.8	0.0264818	72,890	1,930	71,925	1,176,663	16.1
48-49	0.006129	4.3	0.0266542	70,960	1,891	70,015	1,104,738	15.6
49-50	0.006838	4.2	0.0286250	69,069	1,977	68,081	1,034,724	15.0
50-51	0.007586	4.2	0.0321075	67,092	2,154	66,015	966,643	14.4
51-52	0.008344	4.2	0.0353362	64,938	2,295	63,791	900,628	13.9

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
52-53	0.009145	4.2	0.0380858	62,643	2,386	61,450	836,838	13.4
53-54	0.010011	4.1	0.0412941	60,257	2,488	59,013	775,388	12.9
54-55	0.010959	4.2	0.0464298	57,769	2,682	56,428	716,375	12.4
55-56	0.011995	4.1	0.0494287	55,087	2,723	53,726	659,947	12.0
56-57	0.013107	3.9	0.0506911	52,364	2,654	51,037	606,221	11.6
57-58	0.014274	4.0	0.0567492	49,710	2,821	48,300	555,184	11.2
58-59	0.015455	4.0	0.0617318	46,889	2,895	45,442	506,885	10.8
59-60	0.016630	4.3	0.0722177	43,994	3,177	42,406	461,443	10.5
60-61	0.017888	4.6	0.0822606	40,817	3,358	39,138	419,038	10.3
61-62	0.019207	4.9	0.0932768	37,459	3,494	35,712	379,900	10.1
62-63	0.020451	4.6	0.0933672	33,965	3,171	32,380	344,188	10.1
63-64	0.021595	4.3	0.0933499	30,794	2,875	29,357	311,808	10.1
64-65	0.022717	4.0	0.0897633	27,919	2,506	26,666	282,452	10.1
65-66	0.023933	4.1	0.0972571	25,413	2,472	24,177	255,786	10.1
66-67	0.025369	4.2	0.1076218	22,941	2,469	21,707	231,609	10.1
67-68	0.027104	4.2	0.1140207	20,472	2,334	19,305	209,902	10.3
68-69	0.029089	4.0	0.1170901	18,138	2,124	17,076	190,597	10.5
69-70	0.031191	3.5	0.1077634	16,014	1,726	15,151	173,521	10.8
70-71	0.033429	3.5	0.1153442	14,288	1,648	13,464	158,370	11.1
71-72	0.035780	3.3	0.1169415	12,640	1,478	11,901	144,906	11.5
72-73	0.038397	1.0	0.0383970	11,162	429	10,948	133,005	11.9
73-74	0.041254	1.0	0.0412540	10,733	443	10,512	122,058	11.4
74-75	0.044174	1.0	0.0441740	10,290	455	10,063	111,546	10.8

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
75-76	0.047704	1.0	0.0477040	9,835	469	9,601	101,484	10.3
76-77	0.051047	1.0	0.0510470	9,366	478	9,127	91,883	9.8
77-78	0.054624	1.0	0.0546240	8,888	485	8,646	82,756	9.3
78-79	0.059628	1.0	0.0596280	8,403	501	8,153	74,111	8.8
79-80	0.064976	1.0	0.0649760	7,902	513	7,646	65,958	8.3
80-81	0.070676	1.0	0.0706760	7,389	522	7,128	58,313	7.9
81-82	0.076651	1.0	0.0766510	6,867	526	6,604	51,185	7.5
82-83	0.085516	1.0	0.0855160	6,341	542	6,070	44,581	7.0
83-84	0.092664	1.0	0.0926640	5,799	537	5,531	38,511	6.6
84-85	0.100307	1.0	0.1003070	5,262	528	4,998	32,980	6.3
85-86	0.108460	1.0	0.1084600	4,734	513	4,478	27,982	5.9
86-87	0.117140	1.0	0.1171400	4,221	494	3,974	23,505	5.6
87-88	0.126357	1.0	0.1263570	3,727	471	3,492	19,531	5.2
88-89	0.136120	1.0	0.1361200	3,256	443	3,035	16,039	4.9
89-90	0.146432	1.0	0.1464320	2,813	412	2,607	13,005	4.6
90-91	0.157294	1.0	0.1572940	2,401	378	2,212	10,398	4.3
91-92	0.168701	1.0	0.1687010	2,023	341	1,853	8,186	4.0
92-93	0.180641	1.0	0.1806410	1,682	304	1,530	6,333	3.8
93-94	0.193099	1.0	0.1930990	1,378	266	1,245	4,803	3.5
94-95	0.206052	1.0	0.2060520	1,112	229	998	3,558	3.2
95-96	0.219470	1.0	0.2194700	883	194	786	2,561	2.9
96-97	0.233321	1.0	0.2333210	689	161	609	1,775	2.6
97-98	0.247561	1.0	0.2475610	528	131	463	1,166	2.2
98-99	0.262144	1.0	0.2621440	397	104	345	704	1.8
99-100	0.277019	1.0	0.2770190	293	81	253	359	1.2
100+	1.00000	1.0	1.0000000	212	212	106	106	0.5

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
0-1	0.005524	1.0	0.0055240	100,000	552	99,517	5,349,849	53.5
1-2	0.000413	1.0	0.0004130	99,448	41	99,428	5,250,332	52.8
2-3	0.000273	1.0	0.0002730	99,407	27	99,394	5,150,905	51.8
3-4	0.000229	1.0	0.0002290	99,380	23	99,369	5,051,511	50.8
4-5	0.000156	1.0	0.0001560	99,357	15	99,350	4,952,143	49.8
5-6	0.000160	1.0	0.0001600	99,342	16	99,334	4,852,793	48.8
6-7	0.000146	1.0	0.0001460	99,326	15	99,319	4,753,459	47.9
7-8	0.000132	1.0	0.0001320	99,311	13	99,305	4,654,141	46.9
8-9	0.000114	1.0	0.0001140	99,298	11	99,293	4,554,836	45.9
9-10	0.000095	1.0	0.0000950	99,287	9	99,283	4,455,544	44.9
10-11	0.000082	1.0	0.0000820	99,278	8	99,274	4,356,261	43.9
11-12	0.000088	1.0	0.0000880	99,270	9	99,266	4,256,987	42.9
12-13	0.000125	1.0	0.0001250	99,261	12	99,255	4,157,722	41.9
13-14	0.000201	1.0	0.0002010	99,249	20	99,239	4,058,467	40.9
14-15	0.000305	1.0	0.0003050	99,229	30	99,214	3,959,228	39.9
15-16	0.000414	1.0	0.0004140	99,199	41	99,179	3,860,014	38.9
16-17	0.000522	1.0	0.0005220	99,158	52	99,132	3,760,835	37.9
17-18	0.000641	1.0	0.0006410	99,106	64	99,074	3,661,703	36.9
18-19	0.000773	1.0	0.0007730	99,042	77	99,004	3,562,629	36.0
19-20	0.000909	1.0	0.0009090	98,965	90	98,920	3,463,626	35.0
20-21	0.001053	3.0	0.0031812	98,875	315	98,718	3,364,706	34.0
21-22	0.001185	3.0	0.0035003	98,560	345	98,388	3,265,988	33.1
22-23	0.001283	3.7	0.0048065	98,215	472	97,979	3,167,601	32.3
23-24	0.001333	5.2	0.0069188	97,743	676	97,405	3,069,622	31.4
24-25	0.001349	6.3	0.0084401	97,067	819	96,658	2,972,217	30.6
25-26	0.001354	6.7	0.0090557	96,248	872	95,812	2,875,559	29.9

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
26-27	0.001365	7.6	0.0103911	95,376	991	94,881	2,779,747	29.1
27-28	0.001379	7.2	0.0099736	94,385	941	93,915	2,684,867	28.4
28-29	0.001401	8.5	0.0118636	93,444	1,109	92,890	2,590,952	27.7
29-30	0.001432	8.2	0.0117347	92,335	1,084	91,793	2,498,063	27.1
30-31	0.001467	9.1	0.0133350	91,251	1,217	90,643	2,406,270	26.4
31-32	0.001502	9.2	0.0138762	90,034	1,249	89,410	2,315,627	25.7
32-33	0.001536	9.0	0.0137534	88,785	1,221	88,175	2,226,218	25.1
33-34	0.001570	8.9	0.0139552	87,564	1,222	86,953	2,138,043	24.4
34-35	0.001609	7.5	0.0121357	86,342	1,048	85,818	2,051,090	23.8
35-36	0.001665	7.2	0.0119280	85,294	1,017	84,786	1,965,272	23.0
36-37	0.001742	7.5	0.0131122	84,277	1,105	83,725	1,880,487	22.3
37-38	0.001829	7.7	0.0141275	83,172	1,175	82,585	1,796,762	21.6
38-39	0.001921	8.5	0.0163393	81,997	1,340	81,327	1,714,178	20.9
39-40	0.002023	8.0	0.0161387	80,657	1,302	80,006	1,632,851	20.2
40-41	0.002135	9.0	0.0191327	79,355	1,518	78,596	1,552,845	19.6
41-42	0.002273	8.5	0.0193702	77,837	1,508	77,083	1,474,249	18.9
42-43	0.002459	9.1	0.0222673	76,329	1,700	75,479	1,397,166	18.3
43-44	0.002703	8.6	0.0233308	74,629	1,741	73,759	1,321,687	17.7
44-45	0.002997	8.3	0.0247547	72,888	1,804	71,986	1,247,928	17.1
45-46	0.003309	7.6	0.0251269	71,084	1,786	70,191	1,175,942	16.5
46-47	0.003631	7.5	0.0272227	69,298	1,886	68,355	1,105,751	16.0
47-48	0.003984	7.6	0.0300949	67,412	2,029	66,398	1,037,396	15.4
48-49	0.004366	8.1	0.0354544	65,383	2,318	64,224	970,999	14.9
49-50	0.004768	8.2	0.0392386	63,065	2,475	61,828	906,775	14.4
50-51	0.005179	9.1	0.0469414	60,590	2,844	59,168	844,947	13.9
51-52	0.005596	9.0	0.0502853	57,746	2,904	56,294	785,779	13.6

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
52-53	0.006034	9.0	0.0543075	54,842	2,978	53,353	729,485	13.3
53-54	0.006508	8.1	0.0527141	51,864	2,734	50,497	676,132	13.0
54-55	0.007026	8.1	0.0570244	49,130	2,802	47,729	625,635	12.7
55-56	0.007591	7.9	0.0600728	46,328	2,783	44,937	577,906	12.5
56-57	0.008191	7.6	0.0623023	43,545	2,713	42,189	532,970	12.2
57-58	0.008812	6.8	0.0603584	40,832	2,465	39,600	490,781	12.0
58-59	0.009425	6.6	0.0625852	38,367	2,401	37,167	451,182	11.8
59-60	0.010028	6.8	0.0683332	35,966	2,458	34,737	414,015	11.5
60-61	0.010645	7.2	0.0761226	33,508	2,551	32,233	379,278	11.3
61-62	0.011305	6.4	0.0722265	30,957	2,236	29,839	347,046	11.2
62-63	0.012031	6.6	0.0795687	28,721	2,285	27,579	317,207	11.0
63-64	0.012880	5.8	0.0746940	26,436	1,975	25,449	289,628	11.0
64-65	0.013896	5.9	0.0823396	24,461	2,014	23,454	264,180	10.8
65-66	0.015110	5.7	0.0858800	22,447	1,928	21,483	240,726	10.7
66-67	0.016503	4.8	0.0799398	20,519	1,640	19,699	219,243	10.7
67-68	0.018045	4.1	0.0747021	18,879	1,410	18,174	199,544	10.6
68-69	0.019623	4.1	0.0797052	17,469	1,392	16,773	181,370	10.4
69-70	0.021262	3.9	0.0838395	16,077	1,348	15,403	164,597	10.2
70-71	0.023146	3.7	0.0865662	14,729	1,275	14,092	149,194	10.1
71-72	0.025278	3.4	0.0853467	13,454	1,148	12,880	135,102	10.0
72-73	0.027630	3.5	0.0970708	12,306	1,195	11,709	122,222	9.9
73-74	0.030219	3.2	0.0952045	11,111	1,058	10,582	110,514	9.9
74-75	0.033126	2.8	0.0923638	10,053	929	9,589	99,932	9.9

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
75-76	0.036255	2.5	0.0889904	9,124	812	8,718	90,343	9.9
76-77	0.039716	2.4	0.0954766	8,312	794	7,915	81,625	9.8
77-78	0.043757	1.0	0.0437570	7,518	329	7,354	73,710	9.8
78-79	0.048405	1.0	0.0484050	7,189	348	7,015	66,357	9.2
79-80	0.053785	1.0	0.0537850	6,841	368	6,657	59,342	8.7
80-81	0.059839	1.0	0.0598390	6,473	387	6,280	52,685	8.1
81-82	0.066176	1.0	0.0661760	6,086	403	5,885	46,405	7.6
82-83	0.073348	1.0	0.0733480	5,683	417	5,475	40,521	7.1
83-84	0.081302	1.0	0.0813020	5,266	428	5,052	35,046	6.7
84-85	0.090236	1.0	0.0902360	4,838	437	4,620	29,994	6.2
85-86	0.100743	1.0	0.1007430	4,401	443	4,180	25,375	5.8
86-87	0.112235	1.0	0.1122350	3,958	444	3,736	21,195	5.4
87-88	0.124750	1.0	0.1247500	3,514	438	3,295	17,459	5.0
88-89	0.138311	1.0	0.1383110	3,076	425	2,864	14,164	4.6
89-90	0.152931	1.0	0.1529310	2,651	405	2,449	11,301	4.3
90-91	0.168603	1.0	0.1686030	2,246	379	2,057	8,852	3.9
91-92	0.185302	1.0	0.1853020	1,867	346	1,694	6,796	3.6
92-93	0.202980	1.0	0.2029800	1,521	309	1,367	5,102	3.4
93-94	0.221569	1.0	0.2215690	1,212	269	1,078	3,735	3.1
94-95	0.240976	1.0	0.2409760	943	227	830	2,658	2.8
95-96	0.261085	1.0	0.2610850	716	187	623	1,828	2.6
96-97	0.281762	1.0	0.2817620	529	149	455	1,206	2.3
97-98	0.302853	1.0	0.3028530	380	115	323	751	2.0
98-99	0.324194	1.0	0.3241940	265	86	222	429	1.6
99-100	0.345609	1.0	0.3456090	179	62	148	207	1.2
100+	1.00000	1.0	1.0000000	117	117	59	59	0.5

THE STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF GENERAL SESSIONS FIFTH JUDICIAL CIRCUIT
THE STATE, vs. CHARLES M. MITCHELL, Defendant.	)	**Indictment No. 1992-GS-40-2260** **NOTICE and MOTION FOR RESENTENCING PURSUANT TO *Aiken v. Byars*, Op. No. 27465 (S.C. Sup. Ct., filed November 12, 2014)**

TO: W. BARNEY GIESE, SOLICITOR, FIFTH JUDICIAL CIRCUIT

NOW COMES, Charles Michael Mitchell, the undersigned Defendant, appearing *pro se solely* for the filing of the instant motion, hereby notifies the State of South Carolina that he will move before this Honorable Court to be resentenced on the above-captioned Indictment Number in light of the South Carolina Supreme Court decision in *Aiken v. Byars*, Op. No. 27465, filed November 12, 2014. In support of this motion the Defendant would show this Honorable Court the following:

1) The Defendant's date of birth is [redacted]
2) The Defendant was arrested for the offenses the subject of the above Indictment on December 9, 1991 and was **17** years of age at the time of arrest; and
3) The Defendant was sentenced following a plea on August 4, 1992, and received a sentence of "natural life" pronounced by the Honorable L. Henry McKellar, Circuit Court Judge.

FILED
RICHLAND COUNTY
2014 DEC 16 PM 4:16
JEANNIE W. McBRIDE
C.P. & G.S.

SCANNED

CONCLUSION

WHEREFORE, based upon the foregoing facts and in light of *Aiken v. Byars*, Op. No. 27465, filed November 12, 2014, the undersigned Defendant, through counsel to be appointed, will move for resentencing of the August 4, 1992 sentence on the above indictment number.

Respectfully submitted,

dated December 4, 2014
at Ridgeville, SC

Charles Michael Mitchell
#189424
Lieber Corr. Inst. SA-03
P.O. Box 205
Ridgeville, SC 29472

DEFENDANT

SCANNED

THE STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF GENERAL SESSIONS FIFTH JUDICIAL CIRCUIT
THE STATE, vs. CHARLES M. MITCHELL, Defendant.	)	**Indictment No. 1992-GS-40-2260** **CERTIFICATE OF SERVICE**

The undersigned Defendant, Charles Michael Mitchell, hereby certifies that he has served a true and correct copy of 1) **NOTICE and MOTION FOR RESENTENCING PURSUANT TO *Aiken v. Byars***, and 2) **NOTICE and MOTION FOR APPOINTMENT OF COUNSEL** on counsel for the State of South Carolina by depositing a copy of same in the United States Mail, first-class postage affixed thereto, this 8 day of December, 2014, addressed as follows:

The Honorable W. Barney Giese
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina 29202

RICHLAND COUNTY
FILED
2014 DEC 16 PM 4:16
JEANETTE W. McBRIDE
C.C.P. & G.S.

Charles M. Mitchell

Charles Michael Mitchell
#189424
Lieber Corr. Inst. SA-03
P.O. Box 205
Ridgeville, SC 29472

DEFENDANT

SCANNED

92-A360

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	Indictment Number: 1992-GS-40-2260
	)	
Charles M. Mitchell,	)	D2-A360
	)	
Petitioner,	)	
	)	
v.	)	**Motion to Dismiss**
	)	
The State of South Carolina,	)	
	)	
Respondent.	)	

RICHLAND COUNTY
FILED
2016 DEC -5 PM 2:03
JEANETTE W. M...
C.C.P. & G.S.

This matter is before the Court on the Petitioner's motion for a resentencing pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014). On August 4, 1992, the Honorable R. Henry McKellar sentenced Mr. Mitchell to life imprisonment. His sentencing sheets, indictment, and relevant law are attached as Court's Exhibits One through Five. Mr. Mitchell filed a petition for resentencing on December 8, 2014, and on August 2, 2016 the Supreme Court of South Carolina vested this Court with jurisdiction in the matter.

The State moves this Court to dismiss the Petition because Mr. Mitchell did not receive a sentence of life without parole (LWOP) and therefore does not fall within the purview of *Aiken*.

In *Aiken*, the South Carolina Supreme Court ordered resentencing hearings for fifteen inmates serving LWOP sentences they received as juveniles. The Court ordered this in light of *Miller v. Alabama*, — U.S. ——, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), which held that LWOP sentencing hearings for juveniles must take into consideration the distinctive attributes of youth. If a juvenile offender received an LWOP sentence and did not present mitigating evidence relating to the offender's youth, the offender is entitled to resentencing.

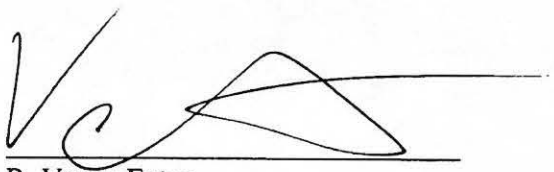
In order for an offender to fall within the purview of *Aiken v. Byars*, the offender must have been a juvenile at the time of sentencing, received a sentence of life without

parole, and not presented mitigation covering the "hallmarks of youth" covering the aspects identified in *Miller v. Alabama* at the sentencing.

Mr. Mitchell does not fall within the purview of *Aiken v. Byars* because he did not receive a sentence of life without parole. At the time of Mr. Mitchell's sentencing in 1992, a "life" sentence provided for parole eligibility after the service of 20 years. *See*, S.C. Code Ann. § 16–3–20(B) (Supp.1991) ("A person who is convicted of or pleads guilty to murder must be punished by death or imprisonment for life and is not eligible for parole until the service of twenty years…"). Mr. Mitchell is currently parole eligible. In fact, he went before a parole board in 2012 and 2016, and he will go again in 2018.

Because Mr. Mitchell does not fall within the class of offenders described in *Aiken v. Byars* and *Miller v. Alabama*, he is not entitled to a resentencing and this Court should dismiss his petition with prejudice.

I so move.



R. Vance Eaton
Assistant Solicitor, Fifth Circuit

Columbia, South Carolina

December 5, 2016

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	Indictment Number: 1992-GS-40-2260
	)	D247142
Charles M. Mitchell,	)	
	)	
Petitioner,	)	
	)	
v.	)	**Order of Dismissal**
	)	
The State of South Carolina,	)	
	)	
Respondent.	)	

2018 JUN 26 PM 12:34
C.C.P. & G.S.

This matter is before the Court on the Petitioner's motion for a resentencing pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014). On August 4, 1992, the Honorable R. Henry McKellar sentenced Mr. Mitchell to life imprisonment. Mr. Mitchell filed a petition for resentencing on December 8, 2014, and on August 2, 2016 the Supreme Court of South Carolina vested this Court with jurisdiction in the matter.

The Court dismisses the Petition because Mr. Mitchell did not receive a sentence of life without parole (LWOP) and therefore does not fall within the purview of *Aiken*.

In *Aiken*, the South Carolina Supreme Court ordered resentencing hearings for fifteen inmates serving LWOP sentences they received as juveniles. The Court ordered this in light of *Miller v. Alabama*, — U.S. —, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), which held that LWOP sentencing hearings for juveniles must take into consideration the distinctive attributes of youth. If a juvenile offender received an LWOP sentence and did not present mitigating evidence relating to the offender's youth, the offender is entitled to resentencing.

In order for an offender to fall within the purview of *Aiken v. Byars*, the offender must have: 1) been a juvenile at the time of sentencing, 2) received a sentence of life without parole, and 3) received that sentence without the sentencing court considering the "hallmarks of youth" as described in *Miller v. Alabama*.

Mr. Mitchell does not fall within the purview of *Aiken v. Byars* because he did not receive a sentence of life without parole. At the time of Mr. Mitchell's sentencing in

1992, a "life" sentence provided for parole eligibility after the service of 20 years. *See*, S.C. Code Ann. § 16–3–20(B) (Supp.1991) ("A person who is convicted of or pleads guilty to murder must be punished by death or imprisonment for life and is not eligible for parole until the service of twenty years…"). Mr. Mitchell is currently parole eligible. In fact, he went before a parole board in 2012 and 2016, and he will go again in 2018.

Because Mr. Mitchell does not fall within the class of offenders described in *Aiken v. Byars* and *Miller v. Alabama*, he is not entitled to a resentencing, and this Court dismisses his petition with prejudice.

IT IS SO ORDERED.

The Honorable R. Knox McMahon
Presiding Judge

Columbia, South Carolina

6/21, 2018

STATE OF SOUTH CAROLINA	) IN THE COURT OF GENERAL
	) SESSIONS JUDICIAL COURT
COUNTY OF RICHLAND	)
	) FIFTH JUDICIAL CIRCUIT
	)
	) 1992-GS-40-02260
	) D247142
	)
	)
Charles M. Mitchell,	)
	) MOTION SEEKING
Petitioner,	) CONSENT ORDER TO
vs.	) VACATE DISMISSAL
	)
The State of South Carolina,	)
	)
Respondent.	)
	)

JEANETTE W. McBRIDE
C.C.P. & G.S.
2018 AUG 22 PM 2:07
FILED

This matter comes before me on motion of J. Rhodes Bailey, attorney for the above-captioned petitioner. **IT APPEARS THAT:**

1. Petitioner was convicted of murder in 1992 and has been serving a life sentence since that time.
2. On December 16, 2014, Petitioner filed a petition for resentencing pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (SC 2014).
3. On August 4, 2016, the South Carolina Supreme Court granted Petitioner the opportunity to have his case reviewed in Richland County Circuit Court, vesting the Honorable R. Knox McMahon with jurisdiction over this matter. The Order mandated that a scheduling order be issued by the assigned circuit judge.
4. On September 23, 2016, Petitioner's counsel submitted a proposed scheduling order to the Court, but it was never signed.
5. On December 5, 2016, the State filed a motion to dismiss the petition, asking the Court to deny Petitioner's request for a resentencing hearing pursuant to *Aiken v. Byars*.
6. Although there were sporadic discussions with the Judge and his clerk regarding scheduling of the state's motion, the petitioner's motion, and other details, no hearing occurred.

1 2 3

7. On the evening of August 8, 2018, Petitioner's counsel received notice for the first time that Judge McMahon had signed a dismissal order on June 21, 2018 and filed it on June 26, 2018. Neither the State nor Petitioner had received notice of the dismissal from the Court.
8. Previously, the State had sent a proposed order of dismissal to Judge McMahon at the request of the Judge's administrative assistant. Petitioner was not made aware of any request for proposed orders by the Court. The State unintentionally sent the proposed order to the Judge without including Petitioner's counsel in the correspondence and without notice to Petitioner. Petitioner had no opportunity to respond to merits of the State's motion or view the State's proposed order. This was the order of dismissal that later was filed by Judge McMahon on June 26, 2018. Judge McMahon retired a few days later.
9. Petitioner and the State now request that the Court vacate this dismissal, so that the case can be reopened for a proper hearing on the merits of the State's motion and, if applicable, subsequent hearings on Petitioner's original motion.
10. Due to the State's unintentional omission of notice to Petitioner of its proposed motion for dismissal and Petitioner's inability to respond, the State consents to the Order to Vacate this Dismissal.

NOW THEREFORE IT IS ORDERED the Court's dismissal order from June 26, 2018 be vacated and this case be reopened. Petitioner and the State will proceed by requesting that Court Administration reassign the case to a current sitting judge for future hearings.

AND IT IS SO ORDERED.

The Honorable L. Casey Manning
General Sessions
Fifth Judicial Circuit

Columbia, South Carolina
This 22 day of August, 2018

(signatures on following page)

I SO MOVE:

J. Rhodes Bailey
Assistant Public Defender
Attorney for Defendant

I CONSENT:

Vance Eaton
Assistant Solicitor

3/3/25

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	Indictment Number: 1992-GS-40-2260
	)	
Charles M. Mitchell,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
The State of South Carolina,	)	
	)	
Respondent.	)	

D247142

Order of Dismissal

RICHLAND COUNTY
FILED
2019 MAY 29 AM 9:26
C.C.P., G.S., & F.C.

This matter is before the Court on the Motion of the State to Dismiss the Motion of the Petitioner for a Resentencing Hearing pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014).

On August 4, 1992, the Honorable R. Henry McKellar sentenced the Petitioner, Mr. Mitchell, to life imprisonment for murder. The Petitioner filed a Motion for a Resentencing Hearing on December 8, 2014. On August 2, 2016, the Supreme Court of South Carolina vested the Honorable R. Knox McMahon with jurisdiction over this case.

On December 5, 2016, the State filed a Motion to Dismiss the Motion of the Petitioner for a Resentencing Hearing. Although it appears there were sporadic discussions between Judge McMahon and his clerk regarding scheduling a hearing on the pending motions of the State and Petitioner, no hearing occurred. At the request of Judge McMahon, the State submitted a proposed order dismissing the Motion of the Petitioner for a Resentencing Hearing. The State sent the proposed order to Judge McMahon without copying counsel for the Petitioner in the correspondence and without giving notice to Petitioner.

On June 21, 2018, Judge McMahon signed an Order dismissing the Motion of the Petitioner for a Resentencing Hearing. The Order was filed on June 26, 2018. Judge McMahon retired shortly thereafter. Neither party was provided notice that an Order of Dismissal was issued.

When the parties became aware that an Order of dismissal had been issued, the parties agreed to a consent order vacating the Order of dismissal issued by Judge McMahon. On August

22, 2018, the Honorable L. Casey Manning signed a Consent Order vacating the June 26, 2018, Order of Dismissal and ordered that the case be reopened.

On January 9, 2019, this Court became aware that jurisdiction of this matter had been vested in this Court following the retirement of Judge McMahon. A status conference was held on February 21, 2019. The Petitioner was not present at the status conference because he was not transported to the courthouse. A scheduling order was entered shortly after the status conference.

A hearing on the Motion of the State to Dismiss the Motion of the Petitioner for a Resentencing Hearing pursuant to *Aiken v. Byars* was held on April 29, 2019. Assistant Solicitor Vance Eaton appeared for the State, and the Petitioner was represented by Rhodes Bailey and Laura Young.

Having fully considered the motions and arguments of counsel, this Court grants the Motion of the State and dismisses the Motion of the Petitioner for a Resentencing Hearing for the reasons stated below.

In *Aiken v. Byars*, the Supreme Court of South Carolina ordered resentencing hearings for fifteen inmates serving LWOP sentences they received as juveniles. The Court ordered the resentencing hearings based on *Miller v. Alabama*, 567 U.S. 460, 132 S. Ct. 2455 (2012). In *Miller*, the Supreme Court of the United States held that the mandatory imposition of LWOP sentences for those under the age of 18 at the time of their crimes violates the prohibition of cruel and unusual punishment in the Eighth Amendment. *Id.*, 567 U.S. at 465, 132 S. Ct. at 2460 (2012). The Court in *Aiken* therefore held that if a juvenile offender received an LWOP sentence and did not present mitigating evidence relating to the youth of the offender, the offender is entitled to a resentencing hearing. *Aiken*, 410 S.C. at 544, 765 S.E.2d at 577.

The Petitioner contends that he should receive relief under S.C. Const. art. I, § 15, which prohibits cruel or unusual or corporal punishment for conviction of a crime, due to the lack of a realistic possibility that he will ever receive parole. The Petitioner argues that his sentence of life is a *de facto* LWOP sentence because it is unlikely that he will ever be granted parole.

The issue of cruel and unusual punishment under the South Carolina Constitution, however, was not addressed in *Aiken v. Byars*. The Court in *Aiken* applied *federal* constitutional protections against cruel and unusual punishment only with regard to LWOP sentences. The authority of the Court to entertain this matter is governed solely by *Aiken v. Byars*, and, as such,

this court is restricted to granting resentencing hearings only to juveniles who received sentences of life without the possibility of parole.

The Petitioner herein did not receive a sentence of life without parole. In 1992, when the Petitioner was sentenced, a life sentence provided for parole eligibility after the service of 20 years. *See*, S.C. Code Ann. § 16–3–20(B) (Supp.1991). The Petitioner is parole eligible and appeared before the parole board in 2012, 2016, and 2018. This Court therefore has no authority to grant a resentencing hearing.

The position of the Court to dismiss the Motion of the Petitioner for a Resentencing Hearing is further supported by the holding in *State v. Slocumb*, wherein the Supreme Court of South Carolina was faced with a constitutional challenge to the aggregate 130-year sentence of Slocumb. --S.E.2d--, 2019 WL 1461584 (S.C. Apr. 3, 2019). Even though Slocumb was not sentenced to life without parole, counsel for Slocumb contended that his 130-year sentence was a *de facto* life sentence. *Id.*, at *1. The Court in *Slocumb* limited its opinion to the singular question of "whether the aggregate term-of-years sentence imposed on Slocumb categorically violates the Eighth Amendment pursuant to the reach of *Graham*." *Id* at *9.

In considering whether the aggregate term-of-years sentence violates the Eighth Amendment pursuant to the reach of *Graham*, the Court held that it would not be appropriate for the Supreme Court of South Carolina to "extend federal constitutional protections under the Eighth Amendment beyond the boundaries the Supreme Court set in *Graham*." *Slocumb*, at *5. *Graham v. Florida* prohibits a court from imposing a life *without parole* sentence on a juvenile offender who did not commit homicide. 560 U.S. 48, 74, 130 S. Ct. 2011, 2030, 176 L. Ed. 2d 825 (2010). As such, the Court declined to grant the petition for a resentencing hearing, holding that "neither *Graham* nor the Eighth Amendment as interpreted by the Supreme Court, currently prohibits the imposition of aggregate sentences for multiple offenses amounting to a *de facto* life sentence on a juvenile nonhomicide offender." *Id* at *10.

The Petitioner received a sentence of life *with* the possibility of parole. The Order of the Court in *Aiken v. Byars* does not contemplate resentencing for individuals who are eligible, but have been denied, parole. *Aiken v. Byars* therefore does not apply.

Having fully considered the matter, the Court grants the Motion of the State dismissing the Motion of Petitioner for Resentencing.

AND IT IS SO ORDERED.

Clifton Newman
Presiding Judge

Columbia, South Carolina

May 29, 2019

Criteria for Parole Consideration

The South Carolina parole law creates no right to be released on parole. Parole in South Carolina is strictly a matter of privilege or grace. The South Carolina Board of Probation, Parole and Pardon Services has absolute discretion to grant or deny parole. As such, the publication of these parole criteria in no way creates a expectancy of release; nor does it bind the Parole Board in any way to favorable parole decision or establish any presumptions of entitlement to parole.

In deciding whether or not to grant parole, the Parole Board considers, among other things, the inmate's record before incarceration as well as during incarceration. The record itself is prepared through investigations conducted for the Parole Board, and it becomes a part of the inmate's parole file. The files are maintained by the Department of Probation, Parole and Pardon Services and are, by the statute, privileged and confidential. The confidentiality of the parole file is far reaching; inmates themselves have no right to inspect the contents of their files. If the inmate thinks his/her file is somehow incomplete or contains some errors or other inaccuracy, he/she must notify the Board of the specific error or inaccuracy. The Board will investigate the inquiry and notify the inmate of the action taken.

Inmates do, however, enjoy certain rights in the parole process. The inmate has the right to appear at his parole hearing. If the inmate fails to appear, the Board may decide his/her case in absence. The inmate has the right to be represented by an attorney; however, he/she has no right to have an attorney appointed if he/she cannot afford one. At the hearing, the inmate has the right to present witnesses and evidence on his/her own behalf, but an inmate does not have a right to confront witnesses.

In deciding whether or not an inmate should be granted parole, the Board or Panel of the Board exercises its absolute discretion to the limits allowed by state and federal law. The discretion of the Board or panel aims at protecting the best interest of both society and the inmate being considered for parole. In its concern for the protection of society's and the inmate's best interests, the Board or Panel deliberates upon the "reasonable probability" that an inmate will not again violate the law, if parole is granted. When deliberating that an inmate will not again violate the law, the Board or Panel weighs the factors listed below. The Board or Panel, in its absolute discretion, also considers any other factors not listed below which it considers relevant in a particular case.

1. The risk the inmate poses to the community;
2. The nature and seriousness of the inmate's offense, the circumstances surrounding the offense, and the inmate's attitude toward it;
3. The inmate's prior criminal records and his/her adjustment under any previous programs or supervision;
4. The inmate's attitude toward his/her family, the victim, and authority in general;
5. The inmate's adjustment while in confinement, including his/her progress in counseling, therapy, and other similar programs designed to encourage the inmate to improve himself/herself;
6. The inmate's employment history, including his/her job training and skills and his/her stability in the work place;
7. The inmate's physical, mental and emotional health;
8. The inmate's understanding of the cause of his/her past criminal conduct;
9. The inmate's efforts to solve his/her problems such as seeking treatment for substance abuse, enrolling in academic and vocational education courses, and in general using whatever resources the Department of corrections has made available to inmates to help with their problems;
10. The adequacy of the inmate's overall parole plan. This includes inmates living arrangements, where he/she will live and who he will live with; the character of those with whom the inmate plans to associate in both his/her working hours and his/her off-work hours; the inmate's plans for gainful employment;
11. The willingness of the Community into which the inmate will be released to receive the inmate;
12. The willingness of the inmate's family to allow his/her to return to the family circle;
13. The attitudes of the sentencing judge, the solicitor, and local law enforcement officers respecting the inmates' parole;
14. The feelings of the victim's family, and any witnesses to the crime about the release of the inmate
15. The actuarial risk and needs assessment outlined in section 24-21-10 (F)(1) of the S.C. Code of laws; which evaluates based on Criminal Involvement, Relationships/Lifestyle, Personality/Attitudes, Family, Social Exclusion and Mental Health.
16. Other factors considered relevant in a particular case by the Board.

Reservation of Discretionary Power of the Parole Board

These criteria in no way limit the absolute discretion of the Parole Board or Panel to make parole decisions on a case-by case basis and to grant or deny parole as it determines to be in the best interest of society and the intimate under review.

In some cases, the Board may decide that the inmate should be granted parole if the inmate completes one or more stated conditions. When this is the case, the Board may grant a parole that becomes effective when the inmate completes one or more stated conditions. Should the inmate fail to complete any one of these conditions or disobey any rule or regulation of the South Carolina Department of Corrections before satisfying the stated conditions to make his parole effective, the Board may rescind the inmate's parole and treat the case as though parole had been rejected. In other cases, the Board may feel it needs more time to form its decision. In such cases, the Board may simply take the parole consideration under advisement and reschedule it at a later date. Similarly, the Board may postpone a parole hearing in order to dispose of detainers or pending charges.

If the Board rejects an inmate for parole, the inmate will be given written notice of rejection stating the reasons for rejection. Decisions of the Board have no precedential effect whatever and in no way limit the Board's absolute discretion at later parole hearings.

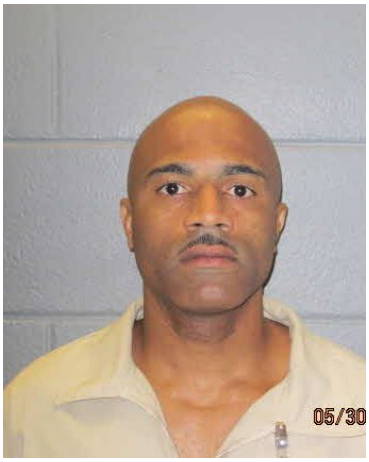
After rejection for parole, the procedure of scheduling of rehearing is as follows:

1. An individual serving time for a violent offense defined in §16-1-60 of the South Carolina Code of Laws 1976 will be reheard for parole two years following the date of parole rejections. Applicable legal exceptions may allow for a one year hearing.

2. An individual serving time for a nonviolent offense defined in §16-1-70 of the South Carolina Code of Laws 1976 will be reheard for parole one year following the date of parole rejections.

INMATE SEARCH DETAIL REPORT

MITCHELL, CHARLES MICHAEL (00189424)



INMATE DESCRIPTION

SEX:	MALE
RACE:	BLACK
HEIGHT:	5' 04"
WEIGHT:	138 lbs.
AGE:	42
CITIZENSHIP:	CITIZEN - NATIVE BORN
BUILD:	SMALL
COMPLEXION:	LIGHT BROWN
HAIR COLOR:	BLACK
EYE COLOR:	BROWN
PICTURE DATE:	05/31/2013

INMATE SENTENCE AND LOCATION

SCDC ID:	00189424
SID:	SC00833769
OFFENDER TYPE:	ADULT-STRAIGHT SENTENCE
ADMISSION DATE:	08/06/1992
LOCATION:	LIEBER
DORM-ROOM-BUNK:	CB-0005-B
SECURITY / CUSTODY:	3 / MININMUM IN
EWC LEVEL:	3F5
EEC LEVEL:	B7
PROJECTED RELEASE DATE:	NOT ELIGIBLE
PROJECTED PAROLE ELIGIBILITY:	12/09/2011
SUP. FURLOUGH ELIGIBILITY:	NOT ELIGIBLE

CURRENT OFFENSES

OFFENSE	SENTENCE TYPE	YRS	MOS	DYS	COUNTY	START DATE	V/NV	CAT	INDICT	STATUS
MURDER	ADULT-STRAIGHT SENTENCE	LIFE SENTENCE			RICHLAND	12/09/1991	V	5	92GS402260	ACTIVE

ESCAPES

NO ESCAPES DURING CURRENT INCARCERATION

DISCIPLINARIES

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
07/25/2016	INCITING/CREATING A DISTURBANCE
	LOSS OF CANTEEN PRIVILEGES FOR 105 DAYS
	DISC. DETENTION FOR 30 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 105 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 105 DAYS
07/17/2016	INCITING/CREATING A DISTURBANCE
	LOSS OF CANTEEN PRIVILEGES FOR 65 DAYS
	DISC. DETENTION FOR 20 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 65 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 65 DAYS
01/07/2016	USE,POSS NARC,MARIJ,UNAUTH DRUG,INHALANT
	LOSS OF CANTEEN PRIVILEGES FOR 110 DAYS
	DISC. DETENTION FOR 20 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 110 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 110 DAYS

MOVEMENT

MOVEMENT DATE	TO LOCATION	STATUS	REASON
10/04/2016	LIEBER	INCARCERATED	ADMINISTRATIVE
10/04/2016	KIRKLAND	INCARCERATED	MEDICAL
07/29/2014	LIEBER	INCARCERATED	ADMINISTRATIVE
07/29/2014	KIRKLAND	INCARCERATED	MEDICAL
05/21/2012	LIEBER	INCARCERATED	ADMINISTRATIVE
05/21/2012	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL

MOVEMENT

MOVEMENT DATE	TO LOCATION	STATUS	REASON
08/12/2009	LIEBER	INCARCERATED	ADMINISTRATIVE
08/12/2009	KIRKLAND	INCARCERATED	MEDICAL
06/11/2007	LIEBER	INCARCERATED	ADMINISTRATIVE
06/11/2007	KIRKLAND	INCARCERATED	MEDICAL
05/03/2007	LIEBER	INCARCERATED	ADMINISTRATIVE
05/03/2007	KIRKLAND	INCARCERATED	MEDICAL
04/19/2007	LIEBER	INCARCERATED	RETURN FROM COURT
04/19/2007	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
03/12/2007	LIEBER	INCARCERATED	ADMINISTRATIVE
03/12/2007	KIRKLAND	INCARCERATED	MEDICAL
01/18/2007	LIEBER	INCARCERATED	ADMINISTRATIVE
01/18/2007	KIRKLAND	INCARCERATED	MEDICAL
07/10/2006	LIEBER	INCARCERATED	ADMINISTRATIVE
06/23/2006	KIRKLAND	INCARCERATED	MEDICAL
06/23/2006	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
06/19/2006	LIEBER	INCARCERATED	ADMINISTRATIVE
06/19/2006	KIRKLAND	INCARCERATED	MEDICAL
05/29/2006	LIEBER	INCARCERATED	MEDICAL
05/29/2006	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
03/13/2006	LIEBER	INCARCERATED	ADMINISTRATIVE
03/07/2006	KERSHAW	INCARCERATED	ADMINISTRATIVE
01/12/2005	EVANS	INCARCERATED	ADMINISTRATIVE
01/11/2005	KIRKLAND	INCARCERATED	MEDICAL
06/13/2002	EVANS	INCARCERATED	ADMINISTRATIVE
08/23/2001	KERSHAW	INCARCERATED	ADMINISTRATIVE
10/19/1997	LEE	INCARCERATED	LOCKUP-INVESTIGATION
12/03/1996	EVANS	INCARCERATED	ADMINISTRATIVE
07/03/1996	BROAD RIVER R&E	INCARCERATED	DISCIPLINARY
06/25/1996	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
05/19/1996	BROAD RIVER R&E	INCARCERATED	LOCKUP-INVESTIGATION
09/09/1992	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
08/06/1992	BROAD RIVER R&E	INCARCERATED	NEW ADMISSION

EARNED WORK CREDITS

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LEVEL
BARBER	09/08/2015			3F5
COOK	03/09/2015	09/03/2015	INMATE REQUEST	3F5
WARDKEEPER ASSISTANT	08/28/2014	03/08/2015	INMATE REQUEST	3F5
FOOD SERVICE AIDE	03/21/2014	07/11/2014	INMATE REQUEST	3F5
PLUMBER	02/03/2012	02/07/2013	INMATE REQUEST	3F5
BARBER	05/31/2007	05/11/2010	PLACED IN ST/SP CUSTODY	3F5
FOOD SERVICE AIDE	01/19/2007	05/30/2007	INMATE REQUEST	3F7
FOOD SERVICE AIDE	01/05/2007	01/18/2007	INSTIT TRANSFER	3F7
MECHANIC HELPER	08/21/2006	12/22/2006	INMATE REQUEST	3F5
WARDKEEPER ASSISTANT	03/22/2006	06/23/2006	MEDICAL	3F5
CUSTODIAL WORKER	09/27/2005	09/27/2005	PLACED IN ST/SP CUSTODY	3F5
CUSTODIAL WORKER	08/24/2004	08/26/2005	PLACED IN ST/SP CUSTODY	3F5
LAUNDRY HELPER	04/06/2004	08/23/2004	LATERAL TRANSFER	3F5
FOOD SERVICE AIDE	03/02/2004	04/05/2004	LATERAL TRANSFER	3F5

EARNED WORK CREDITS

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LEVEL
CUSTODIAL WORKER	11/06/2003	03/01/2004	LATERAL TRANSFER	3F5
CUSTODIAL WORKER	09/11/2003	11/05/2003	CUSTODY REVIEW	5F5
CUSTODIAL WORKER	01/22/2003	05/05/2003	PLACED IN ST/SP CUSTODY	5F5
CUSTODIAL WORKER	06/14/2002	01/21/2003	CUSTODY REVIEW	3F5
WARDKEEPER	11/02/2001	06/13/2002	INSTIT TRANSFER	3F5
CUSTODIAL WORKER	08/30/2001	10/19/2001	DISCIPLINARY/LOCK-UP	3F5
TEACHER ASSISTANT	08/14/2001	08/23/2001	INSTIT TRANSFER	5F5
TEACHER ASSISTANT	06/21/2001	08/13/2001	CUSTODY REVIEW	7F5
GENERAL WORKER	11/17/2000	06/20/2001	INMATE REQUEST	7F5
GENERAL WORKER	11/04/2000	11/16/2000	CUSTODY REVIEW	5F5
GENERAL WORKER	09/12/2000	11/03/2000	CUSTODY REVIEW	7F5
CUSTODIAN HELPER	05/06/1999	07/08/1999	PLACED IN ST/SP CUSTODY	7F5
LANDSCAPE GARDENER	01/22/1999	05/05/1999	INMATE REQUEST	7F5
COOK	12/09/1997	12/21/1998	PLACED IN ST/SP CUSTODY	7F5
CUSTODIAL WORKER	08/12/1997	10/19/1997	LOCKUP-INVESTIGATION	3F5
SHIP & RECEIVNG CLK HLP	10/23/1995	01/08/1996	LOCKUP-INVESTIGATION	5F5
MECHANIC HELPER	09/19/1995	10/22/1995	PROMOTION	5F5
HORTICULT/SEMI-SKILLED	01/17/1995	06/29/1995	UNSAT JOB PERFORM	5F5
HORTICULTURE TRAINEE	11/20/1994	01/16/1995	PROMOTION	7F5
GENERAL WORKER	04/06/1994	08/10/1994	UNSAT JOB PERFORM	7F7
MACHINE OPERATOR	10/18/1993	11/27/1993	UNSAT JOB PERFORM	3F7
FOOD SERVICE AIDE	08/03/1993	10/17/1993	PROMOTION	5F7
FOOD SERVICE AIDE	06/01/1993	08/01/1993	UNSAT JOB PERFORM	5F7
LINCEN TAG QU CTL OP HLP	05/26/1993	05/31/1993	INMATE REQUEST	5F5
INDUSTRIES TRAINEE	05/18/1993	05/25/1993	PROMOTION	7F5
INDUSTRIES TRAINEE	04/12/1993	05/17/1993	UNSAT JOB PERFORM	7F5
INDUSTRIES TRAINEE	02/12/1993	02/24/1993	UNSAT JOB PERFORM	7F5
FOOD SERVICE AIDE	01/04/1993	01/29/1993	UNSAT JOB PERFORM	5F7
FURNITURE REPAIR HELPER	10/20/1992	11/24/1992	UNSAT JOB PERFORM	5F5

EARNED EDUCATION CREDITS

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 15 OR MORE	01/12/2015		
BONUS 4-7 HRS/WK	04/15/2014	01/11/2015	LATERAL TRANSFER
LVL 3 - FULL TIME(NO EWC)	02/08/2013	03/20/2014	INMATE REQUEST
BONUS 4-7 HRS/WK	09/26/2012	02/07/2013	INMATE REQUEST
LVL 3 - FULL TIME(NO EWC)	05/21/2010	02/02/2012	LATERAL TRANSFER
BONUS 4-7 HRS/WK	11/12/1998	12/21/1998	PLACED IN ST/SP CUSTODY

DOCKET NO. 92GS402260

WITNESSES

The State of South Carolina,

County of RICHLAND

COURT OF GENERAL SESSIONS

#49 MARCH TERM 1992

THE STATE

vs.

CHARLES MICHAEL MITCHELL, The Prisoner Charles Michael Mitchell is put to the bar and arraigned and upon his arraignmen pleads Guilty as charged.

Attest:

Barbara A Scott } K Charles M. Mitchell
C.C.C.P. & G.S.

8/18/92

ARREST WARRANT NO. D247142

BM [redacted]

SSN

ACTION OF GRAND JURY

TRUE BILL

Joyce S. Mothers
Foreman of Grand Jury

VERDICT

Foreman of Petit Jury *Date:*

Indictment for Murder

S. C. Code 16-3-10

jd

Atty :

FORM 5 (12/87)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT FOR MURDER

At a Court of General Sessions, convened on March 19, 1992,
the Grand Jurors of Richland County present upon their oath:

COUNT ONE -- MURDER

That Charles Michael Mitchell
did in Richland County on or about December 7, 1991,
feloniously, wilfully and with malice aforethought, kill one Steven Wayne Hammonds
by means of a gunshot wound to the back
and that the said victim died as a proximate result thereof.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR

Murder

SENTENCE

STATE OF SOUTH CAROLINA

Richland COUNTY

CASE NO. 92-GS-2260

The defendant Charles Michael Mitchell is committed to the State Department of Corrections/County for a term of Life months/years and/or to pay a fine of $_____; provided upon the service of _____ months/years and/or payment of $_____, plus pay/waive costs and assessments as applicable*, the balance suspended with probation for _____ months/years.

Restitution

Yes/No

to be paid _____

_____

to clerk for _____.**

For physical injury $_____

property damage $_____

Other conditions _____

_____

_____

Date 8/4/92

L. Henry McMillan
Presiding Judge

*Costs and Assessments

Non-waivable $_____

Not waived $_____

Total $_____

Barbara J. Scott
Clerk of Court

**Pay to Victim's Compensation Fund if subrogated.

SCCA Form 217 (3/86)

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,

RECEIVED
Jun 25 2020
SC Court of Appeals

s/Susan B. Hackett
Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 25th day of June, 2020.