IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF THE STATE FLORIDA, IN AND FOR PINELLAS COUNTY
CASE NO.: CRC23-03157CFANO

STATE OF FLORIDA,

Plaintiff,

vs.

THOMAS ISAIAH MOSLEY,

Defendant.

_____/

DEPOSITION OF: OHIANA TORREALDAY, PH.D., CCHP-MH

DATE: August 14, 2025

TIME: 1:00 p.m. - 4:20 p.m.

PLACE: Pinellas County Justice Center
14250 49th Street North
Clearwater, Florida 33762

REPORTED BY: Charlene M. Eannel, RPR
Court Reporter, Notary Public

(Pages 1 - 178)

**A-P-P-E-A-R-A-N-C-E-S**

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APPEARING ON BEHALF OF THE DEFENDANT, THOMAS MOSLEY:

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INDEX OF PROCEEDINGS



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INDEX OF EXHIBITS

**OHIANA TORREALDAY, PH.D,**

HAVING BEEN DULY SWORN ON OATH, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

**DIRECT EXAMINATION**

BY MS. SEIFER-SMITH:

Q. Could you please state your name for the record?

A. Yes. Ohiana Torrealday.

Q. We are here in the matter of Thomas Mosley. Our court Case Number is 23-03157CF. My name is Julia Seifer-Smith. I'm an assistant public defender. Together with Margaret Russell, we represent Mr. Mosley in this matter.

Joining us via Zoom are two prosecutors, Christie Ellis, and Courtney Sullivan, who I think are on mute.

So can you tell me what, if anything, you reviewed in connection with your involvement in the case before you were sworn in by our court reporter today?

A. Yes. As I listed on my report, this information was provided to me to see -- prior to seeing Mr. Mosley, and then something shortly thereafter seeing him.

Q. Okay.

A. I administered some testing, but I had the Court order that was provided for me, and the charging document, and then several evaluation reports that had been

conducted with him.

Q. So in looking at kind of the bottom of page 1 onto page 2 of your report --

A. Uh-huh.

Q. -- did you take a look at all of these things, like, just in the recent time, like, the last week or so, in preparation for your deposition and your testimony that's going to be next week?

A. Review as well, but I did -- what was available to me, I did review that at the time of the evaluation.

Q. Okay. I think we had a brief conversation this morning. Do you happen to have a copy of your curriculum vitae with you?

A. I do. I do.

Q. Wonderful.

A. Do you want that right now?

Q. If you don't mind, that would be terrific.

A. Okay. One second. I printed it.

Q. Alternatively, if you don't have it, I always welcome e-mails, too.

A. There you go. I printed it. There you go.

Q. Wonderful. Okay. So just so you know, and everybody does, for the purpose of our conversation this afternoon, I think what I would like to do is kind of go through your education, your experience, talk about that,

and then we'll get into the work that you did on the case like the records that you reviewed, and the testing that you did, and the examination that did you with Mr. Mosley just so that you are aware.

I blocked out quite a bit of time, so if you need to take a break at any time or if you need to pause and take a look at everything, of course, all of those things are fine. Just let us know if you need to see anything, if you need a moment, whatever it is.

A. Sure.

Q. And I guess I probably also should have asked you if you've ever been deposed before?

A. I have.

Q. So you know the drill?

A. Uh-huh.

Q. Great. So tell me about, like, your professional development, your education, and how you've gotten into this point in your career?

A. Uh-huh. I attended USF, the University of South Florida. I did my undergraduate and studied psychology and criminology. Then I attended graduate school at Auburn, where I did my master's, and ultimately my Ph.D. in clinical psychology.

In part of that training, I spent time at the University of Tennessee Health Sciences Center where I did

my internship. That's APA accredited that you need to do for the degree, and then to be able to, you know, for the accredited program, to be able to (indiscernible). Then I did post-doctoral training at Brown.

Q. I am a very fast talker, and I know you are as well. I think Charlene might kill us both if we carry on at the rate of speed that we are.

A. Yes, I am fast.

Q. So to protect all of our safety, we'll try to slow down.

Can you tell me what it means for a school to be APA accredited? Like, what does APA stand for?

A. American Psychological Association.

Q. Okay. And you said that was the Department of Psychiatry in Memphis?

A. That's with the medical school in Memphis.

Q. Okay.

A. Yes. It's psychology interns as well that train there, as well as psychiatrists, but it was through the medical school in Memphis.

Q. Okay. What would you call -- like, what would you say your title is now?

A. A licensed psychologist.

Q. Okay. Are you a neuropsychologist?

A. No, ma'am.

Q. What is the difference between a neuropsychologist and a psychologist?

A. Uh-huh. So there are different specialties in psychology. There's a range of them. Mine is clinical psychology, which is for the diagnosis of mental disorders and treatment. We do evaluations and assessments and treatment, various forms.

And there, you can subspecialize. So typically, neuropsychologists, I will not speak, you know, I'm not a neuropsychologist. They do typically a clinical program, oftentimes, and then specialize in neuropsych. So looking at evaluations of different neurological or neuro-related disorders. I specialized that way.

There's other specialties you could have. You could have pediatric specialties. You could do forensic specialties. You could kind of narrow -- narrow the scope of your training after the fact, but it's a separate training.

Q. Okay. In terms of, like, your engagement with either, like, the diagnosis or the treatment of neuro-cognitive issues for people, are you capable of diagnosing neuro-cognitive disorders?

A. We can do basic screenings. I am not trained as a neuropsychologist, but we can screen for and do testing for different conditions. I often will recommend further

testing --

Q. Okay.

A. -- in some cases, but I do not conduct the same testing as a neuro-psyched trained individual.

Q. When you say "we," are you talking about clinical psychologists?

A. Correct. Yes.

Q. So have you, as a clinical psychologist, done screenings for neuro-cognitive disorders?

A. I have, yes.

Q. Can you tell me what those screeners are that you do?

A. Sure. There's different ones, and there's some that I've been trained on that I don't use, you know, more recently. So we're looking at different types of disorders of different types of, like, for example, on the ADHD spectrum, intellectual disabilities, some autism, you can do for mild cognitive impairment.

So, for example, early signs of dementia. Symptoms of those things. And then refer for further testing if there's the etiology or the causal component is not figured out.

Q. Okay. So what you just described, like ADHD, Intellectual Disability, Autism Spectrum Disorder, would you say that all three of those are separate

neuro-cognitive disorders?

A. They fall under the same neuro and developmental, yeah.

Q. Okay. So they're all neuro and developmental disorders, but they're separate diagnoses; is that fair?

A. Yes, and there could be overlap, but, yeah, they're separate.

Q. Have you in your practice used different types of screeners for those different neuro-cognitive disorders?

A. I have.

Q. Can you tell me what the screeners are that you've used?

A. Like the Mini-Mental Status Exam, the MoCA, the Montreal Cognitive Screener. There are some other ones that are done for, like, you can do the Stroop. We're looking for learning disabilities. For example, if I do any psycho ed ones. You can do the clock drawing. There is, let's see. So some for learning disabilities. So, like, the one that's the repetitive naming test, those kinds of things.

Q. Okay. We're going to get into testing stuff a little bit later.

A. Uh-huh.

Q. But just in terms of the test that you've

mentioned, the Stroop, the MMSE, the MoCA, are those screeners that you would use for all? Like, ADHD, ID, and ASD?

A. Not necessarily, no.

Q. Okay. What would you use for an Intellectual Disability screener?

A. I use a full comprehensive, so I don't screen. If a --

Q. I understand.

A. -- question is raised for Intellectual Disability, then I do an IQ test.

Q. Okay. How about for ASD, is there a screener that you use for ASD?

A. There are, uh-huh.

Q. Can you tell me --

A. Like the GARS or the CARS. I do not use the ADOS. There's the IDR, which is the -- oh, the ADR, the Autism Diagnosis Interview.

Q. Okay.

A. There's different ones that you can use like that, but I often use the GARS.

Q. Okay. Is the GARS the Gilliam --

A. Yes, that's the Gilliam, yes.

Q. Okay. So have we kind of covered the screeners, generally --

A. Generally, uh-huh.
Q. -- that you would use as a clinical psychologist for the purpose of neurocognitive disorders?
A. Yes. Generally, yes.
Q. Okay. Any other screeners that we haven't really spoken about? We can certainly come back to this.
A. I mean, if you can give me a few minutes to think about it. I can --
Q. Yes, that's fine.
So let's get back to talking about, like, your education and your experience.
A. Uh-huh.
Q. So you are a licensed clinical social worker? Or, I'm sorry, not social worker. A psychologist?
A. Correct.
Q. So licensed in the State of Florida?
A. Yes, and Texas.
Q. Okay. Do you practice in Texas?
A. I used to.
Q. Okay. Not recently, though?
A. No. I've had licenses in other states as well that are retired.
Q. I imagine in Tennessee, since you --
A. Uh-huh. Yes.
Q. -- were -- okay.

And what does it mean to be a licensed clinical psychologist?

A. That you attended -- you can sit for the licensing exam. So you went to an accredited program. You completed the internship requirements, the supervised requirements, and the practicum requirements that are needed and then you sit for the exam.

Q. Okay. Is there a requirement of, like, continuing education?

A. There is, uh-huh.

Q. Okay. What kind of requirements are --

A. 40 hours every two years, and I keep them up for both states.

Q. What kind of education is required? Like, is it, like, do you have to physically go to a conference? Are you able to do it as, like, an online webinar type of thing?

A. There's options. You can do a combination of those. You could attend conferences that are APA approved for hours. You can attend online trainings as well. The thing is it has to have APA approval for the hours to count. You can be involved in different other activities if you give presentations at conferences. If you author chapters, et cetera. So you can use a combination of things to meet the hours.

Q. Have you recently, like, in the past five years, have you done any kind of presentations at conferences?

A. Not recently, no.

Q. Okay. It looks like you have been -- I'm looking at your CV.

A. Yes, I did more when I was academically affiliated.

Q. Okay. I think that makes sense for most people. I think what I would like to do is mark your CV as an exhibit. I think that makes sense. That will be Exhibit 1.

(Exhibit No. 1 was marked for identification.)

BY MS. SEIFER-SMITH:

Q. Do you have any professional memberships currently?

A. I do.

Q. Can you tell me what those are?

A. Yes. I'm with FATSA, the Florida Association for the Treatment of Sexual Abusers. I am with NCCHC, the National Commission on Correctional Health Care. I am on one of their committees there, so I am involved with that organization that accredits and provides education support for health services in jails and in prisons.

And then the AFCP, the American Forensic -- I forget the exact initials are -- or the abbreviations on

there. That's also a forensic -- a subdivision of APA for the psychology and law.

Q. Is it APLA?

A. APLA. Uh-huh.

Q. Okay. I'm sorry. Where would I find that?

A. Probably at the end.

Q. Okay. I didn't get that far. Ah, okay. Professional affiliations. Right where it says.

So tell me about this correctional -- the National Commission on Correctional Health Care.

Did you work in corrections at some point?

A. I did.

Q. Okay. Tell me about that.

A. Starting with graduate training in facilities -- correctional facilities with juveniles and adults, doing research and treatment. And then I -- that was in Alabama and Rhode Island and Tennessee. And then in Texas, I was involved with the University of Texas Medical Branch who provides the health care services for -- the state is divided in half. So the eastern part of the state, all the adult correctional facilities and juvenile facilities in the state. So providing direct care and administrative services with that department within the university, and I was -- I assisted with training of psychiatry fellows.

Q. Okay. In terms of, like, your work and your

education, do you have any kind of, like, subspecialties within the field of clinical psychology?

A. I'm adult trained and child trained, which are the typical subspecialties for clinical. Then you can further specialize in post doc, which I did in forensics.

Q. Okay. So what does it mean to, like, further specialized in forensics?

A. Well, you have to do an internship.

Q. Okay.

A. And it can be a general internship. There's a lot of variability, but then -- although, it's not required to do forensic work. You can do post-doc training.

Q. Uh-huh.

A. And so typically -- there's always exceptions -- typically to specialize, you do post-doctoral, additional training after the fact, after you get your doctorate in the area of specialty or interest that you have.

Q. Okay. I want to talk a bit about your current employment.

A. Uh-huh.

Q. So it looks like on your CV it says 2018, you have your own private practice; is that correct?

A. Correct.

Q. Okay. So tell me about that and about how that

kind of dovetails with your work as a court-appointed psychologist?

A. Yes. So when I returned to Florida, I went into private practice to see individuals, primarily do evaluations of various kinds. I'm based out of Tampa. And part of that, in doing forensic work, is involvement or working with the courts.

So I started working with the courts in Hillsborough. Did the training for, you know, at USF and the DCF list of approved evaluators, the training that's required for the State to be able to work with the court circuits. So being in Tampa, I started with Hillsborough County to be able to do some evaluations that the Court may need. And then I started working with the Sixth Circuit contract. I have done cases for other circuits as well, but I'm not under contract with them.

Q. Are you just under contract with -- I think Hillsborough is the Thirteenth?

A. Correct. Yes.

Q. So just the Thirteenth and the Sixth now?

A. Correct. Uh-huh.

Q. And I understand that there are a couple of different, I guess, like, lists within each circuit. So there is -- like there's juvenile. There's adult. Competency to proceed for mental health. Competency to

proceed for ID and/or ASD.

A. Uh-huh.

Q. Like, Intellectual Disability is a bar to the death penalty. So there are a number of different lists that are kept at each circuit. Can you tell me what your contracts are for?

A. Uh-huh. Juvenile adult competency.

Q. Okay.

A. And ID. ID and ASD for both. And then on occasion they do the other for if there's insanity cases, things that are not routinely ordered, but those are on there. Those are the ones I'm on.

Q. So you are on the ID, ASD list?

A. Uh-huh.

Q. Certainly in the Sixth Circuit --

A. Uh-huh.

Q. -- because otherwise you wouldn't have been appointed on this case, I don't think.

A. Uh-huh.

Q. What is required in order to be on that particular list?

A. The training that the State requires and then having background and experience in evaluating individuals. It's through APD, so I've not seen their documents or what, you know, their list, but having the

background to be able to do those evaluations.

Q. Is it a separate application to APD, or is it just an application directly to the Courts?

A. I believe it's to the Courts. I can't recall. It's been a few years --

Q. I understand.

A. -- but to the Court. Uh-huh.

Q. That's fair.

And are there particular requirements in order to, like, make a finding as to whether or not somebody is competent or not due to ID or ASD?

A. Meet the diagnosis of the condition, the disorder, and then do competency after that.

Q. Okay. And Mr. Mosley's case is a death penalty case, as you know.

A. Uh-huh.

Q. Can you tell me what your familiarity is with death penalty cases?

A. I'm not on the list to do death penalty cases, so I've not done many of those.

Q. So when you say "not on the list," do you mean, like, not on the list for ID as a bar to death penalty?

A. Correct.

Q. Okay. Have you done competency evaluations on death penalty cases?

A. A few. Not many, though.
Q. When you say "a few," do you have a sense of the number?
A. One or two, three maybe.
Q. Okay. Can you just tell me kind of generally, like, what your familiarity is with the death penalty in terms of, I guess, kind of, like, legally what goes into the process?
A. It's limited because I've chosen not to go that route.
Q. Okay.
A. So besides that, there is a separate process for that following the finding for the case.
Q. Okay. So how familiar are you with, like, I guess, kind of the two trials that would be required and what would go into, like, I guess, really, like, you know, a defendant's plea of not guilty to potentially being sentenced to death?
A. Uh-huh.
Q. Like, how familiar are you with that process?
A. Not very familiar.
Q. Okay. Is there -- because I'm not super familiar with the training with USF for competency.
A. Uh-huh.
Q. Can you tell me, like, what that training is

about?

A. Uh-huh.

Q. My understanding is the UFS training is about, like, certifying people in order to do competency evaluations; is that correct?

A. Yes, doing basic -- the straightforward competency evaluations and looking at the prongs.

Q. Can you tell me what's covered by that training?

A. Yes. So they -- oh, gosh, I should have brought the book, if I could --

Q. Oh, there's a book. I love that.

A. Well, they do -- they have the training because it's --

Q. Yeah.

A. -- that's done with the presentation to talk about -- let's see if I can recall. I should have brought it.

Q. Is this the training that's run by Dr. Randy Otto?

A. Correct.

Q. Okay. Is it a training that you have to do on multiple occasions?

A. No, they don't require it.

Q. Okay.

A. I think people do do that, but...

Q. How many times have you done it?
A. I did it one time.
Q. When did you do it?
A. It would have been a few years ago, after I came back to Florida. So that would have been in '17, perhaps.
Q. Okay. 2017?
A. Correct.
Q. Okay. So now I'm asking you to remember things from about eight years ago.
A. Yeah.
Q. Do you remember kind of, I guess in the broad strokes, like, what was covered by Dr. Otto, or any of his colleagues in the training?
A. Yes. So the prongs of competency, the different state laws or statutes. Assessments, what are some of the common instruments that are used, you know, I guess that would be validated or updated at that time. And then he does touch on insanity evaluations, and then it's typically separated. You know, there's an adult track, I guess, and a juvenile track you can do.
Q. And you said that there's a book associated, or like, a training manual associated --
A. Yes, sort of what you would, like, get with Power Point slides, those kinds of things.
Q. And you own that training manual?

A. Everyone who goes to that is given one.
Q. Great. And it sounds like you're pretty familiar with what's in the training manual?
A. I haven't looked at it in a little while. I mean...
Q. Do you remember if there's anything in the training manual specific to death penalty cases?
A. I don't recall that, no.
Q. Okay. Should we assume -- and you can say yes or no or it's outside of your scope.
A. Uh-huh.
Q. Should we assume that it doesn't really cover death pendency cases separate and apart from competency in general?
A. I don't recall it being addressed separately.
Q. Okay. And was it competency just kind of generally, in terms of the six prongs? Or was it specific to incompetence or competency to mental health disorders?
A. Well, he -- generally, it's an overview kind of training. So he talks about that there's the mental health.
Q. Okay.
A. There could be ID. Those kinds of things that, you know, what are some of the conditions or disorders that are identified that come into question when doing

competency.

Q. Okay. So it sounds like that training does cover that somebody could be incompetent due to mental health disorders?

A. Uh-huh.

Q. As well as Intellectual Disability, as well as Autism Spectrum Disorder; is that fair?

A. That there's different conditions or disorders that could be -- that contribute to incompetency, yes.

Q. And then there's a presumption that the examiner themselves has the appropriate training in order to assess whether or not somebody has a mental health diagnosis or an ID or ASD diagnosis?

A. Correct. They do not provide that training.

Q. Okay. That seems fair.

Was there any other kind of training that you did with respect to competency examinations?

A. In other states.

Q. Okay. Tell me about those.

A. Yes. On internship, I trained with the University, this is in Tennessee, doing competency evaluations in the jails.

Q. Okay.

A. And then at the -- on the inpatient unit.

Q. Okay.

A. In Memphis.
Q. Did any of those address death penalty cases?
A. No.
Q. Did any of those, like, specifically address ID or ASD?
A. There were typically -- well, it could have -- if I'm recalling, and this is many years now --
Q. Yeah.
A. -- some ID for the preponderance or, I guess, the majority, if I had to say, were mental illness cases.
Q. Okay.
A. But, yes, ID would be in there, too.
MS. SEIFER-SMITH: Do you have any more questions on the background stuff, Ms. Russell?
MS. RUSSELL: I do.
BY MS. RUSSELL:
Q. You mentioned that in the training at USF, there was a juvenile track and an adult track?
A. They have two, uh-huh.
Q. Did you do both or --
A. I did.
Q. -- one or the other?
A. I did both.
Q. Were those completely separate training programs?

A. Well, they addressed more developmental issues, I think, for the juveniles. And the instruments are different, too. So you don't have to do both, and I think that's where then they ask what track you are capable of doing evaluations for, but there's two separate.

Q. And you say that you did some training in Tennessee with developmental disabilities?

A. On competency. Uh-huh.

Q. On competency?

A. Uh-huh.

Q. And that was, you said, Intellectual Disability was part of that. Was autism not a part of that?

A. Well, it would fall under the scope of developmental disabilities, but ID was what was mostly seen.

Q. Did you see anybody with autism or --

A. I would have to -- I mean, possibly. I can't recall. That would have been, like, almost 20 years ago.

MS. RUSSELL: Thank you.

MS. SEIFER-SMITH: Anything else?

MS. RUSSELL: No.

BY MS. SEIFER-SMITH:

Q. Okay. So I want to move on, I think, to the things that you reviewed.

A. Uh-huh.

Q. Or the sources of information.
A. Okay.
Q. So let's talk, I guess, kind of first about, like, documents that you received and that you reviewed in the work that you did in this case; is that fair?
A. Uh-huh.
Q. So does that orient you?
A. Uh-huh.
Q. So tell me about, like, the documentary sources of information that you reviewed, and that you relied on for the purpose of --
A. For the evaluation?
Q. Yes.
A. They're listed on here.
Q. Okay.
A. These various evaluations that were provided to me, including test results that didn't have corresponding evaluations with it, but two WAIS administrations also, and then -- so do you want me to go through the list of these?
Q. So I guess just so that everybody is oriented, we're looking at, like, your first and second page of your report?
A. Correct. Yes.
Q. That bullet-pointed section?

A. Uh-huh.

Q. Okay. So these are, like, actual documents that you received; is that correct?

A. Correct.

Q. Okay. When you mention, like, the two WAIS, W-A-I-S, those test results, it looks like it's from Michael Railey and from Valerie McClain; is that right?

A. Yes, those are the two.

Q. When you're talking about those results, did you receive, like, the raw data, or are you just talking about, like, what was read in the reports?

A. For example, it was raw data -- or not raw data -- interpretation. So the computer report for the testing that Railey did, and then a writeup, a one-page writeup from Dr. McClain that had the results on there from the testing.

Q. Okay. Did you ever receive something similar from Dr. Lana Tenaglia from the South Florida Evaluation and Treatment Center?

A. That was in the report, and they sent that. So the VIP and the WAIS, I believe. I would have to look and see what else was sent. The VIP, the WAIS, and I think it was the Miller.

Q. Okay. So you received the data for that?

A. Yes.

Q. Okay.

A. That was included -- the summaries were in the report.

MS. SEIFER-SMITH: Go ahead.

BY MS. RUSSELL:

Q. The data or the summaries that were in the report? We're talking about, just to be clear, raw data versus what happened to be in the report?

A. Yes. I have -- that was sent separately, the raw data from the hospital.

Q. Okay.

BY MS. SEIFER-SMITH:

Q. Did you receive any records associated with Mr. Mosley's time at the South Florida Evaluation and Treatment Center?

A. There were -- I wish I had printed them. They sent -- oh, gosh. I would have to look to see what I have.

Q. I don't think I saw that listed in --

A. Like, the mental health records, you mean, from the state hospital?

Q. Right. That's what I'm curious about. Like, if you just had the reports from I guess -- let me back up.

It looks like in your report that you indicate review of only one report from Dr. Lana Tenaglia; is that

correct?

A. The one that was from February.

Q. February 28th, 2025.

A. Uh-huh. And there was one of Jones from the same hospital.

Q. Okay. From the same hospital --

A. Uh-huh.

Q. -- but a year prior?

A. Correct.

Q. Okay. So you only had one report from Lana Tenaglia?

A. Uh-huh.

Q. Okay. Was that -- were those two reports from the state hospital, were those the only records that you received from the state hospital separate and apart from the data that we just discussed?

A. Sure. I would have to look because I'm confusing it with the jail records that might have been sent, so I can check.

Q. Okay.

A. But I know I did receive the jail records. I don't recall -- I'll double-check -- I don't recall any additional records from the state hospital, aside from the raw data and the report.

Q. I would just love to know that because I do have

some questions about some things.

So unclear at the moment, but it sounds like you would be able to --

A. Sure. Yes --

Q. -- for me whether or not you received further records from the hospital; is that fair?

A. Yes.

Q. Okay.

A. I'll make a note of that to look.

Q. I wanted to ask about the Pinellas County School records.

A. Uh-huh.

Q. Can you tell me what you received?

A. It's the packet your office sent.

Q. Okay. Were you able to review the entirety of that packet?

A. I did review it. Uh-huh.

Q. And the Pinellas County Jail mental health records, can you tell me, like, what that encompassed?

A. Uh-huh. The mental health notes.

Q. Okay.

A. And I can't tell you the specific date ranges. I can look that up. The active medications that are prescribed. Then they sent a separate -- it looked like the segregation rounding notes. Like, there's -- their

standard checklist that they have for when he was in segregation.

Q. Okay. So would that have just been from the timeframe around which up to the date that you saw him?

A. I usually ask for -- I may have asked for all of his, so I'll look at the dates. All of the records, we can specify time frames.

Q. Uh-huh.

A. But I believe in his, I requested all of them.

Q. Okay. Was there anything else that you think that you reviewed and/or relied upon, in terms of, like, documentary information that we don't see here?

A. I received after the fact another evaluation.

Q. Okay. I think you mentioned that you -- you mentioned the report from Dr. Amy Fritz?

A. Uh-huh.

Q. Dated June 2025.

A. Yes.

Q. So that would have been after you saw him; is that right?

A. Correct. I saw him. Uh-huh.

Q. Okay.

A. Then I received, this is while I was out, one from Whitney.

Q. Okay. And this -- did you receive the report

from Whitney after you had completed your work?

A. When I looked at it, it was sent to me, but I was, again, out of the country, so I didn't have access. That was not included in here because I was not able to access it until after.

Q. I guess now that you have it, have you had an opportunity to review it?

A. I did review it, yes.

Q. Was there anything in terms of Dr. Whitney's findings that you would incorporate now into, like, your findings in the report?

A. Well, it looked like the referral for -- this occurred after -- after Dr. Fritz raised the question for autism, and that he did specifically looking -- did an evaluation specifically looking for autism in the competency.

Q. Okay. So I guess my question would be, then --

A. Uh-huh.

Q. -- were you looking at all for autism as --

A. I did. Uh-huh.

Q. We'll get to that.

A. Okay. Sure.

Q. So the order that you received, it was to look into Mr. Mosley's competence.

A. Uh-huh.

Q. For the question being whether or not he was incompetent due to Intellectual Disability and/or autism; is that fair?

A. Correct. Yes.

Q. I just wanted to make sure that I was --

A. Yes.

Q. What does that mean for you, as a clinical psychologist? Like, what does that trigger for you that would be different for, like, an assessment of competency for mental health reasons?

Like, does it trigger for you, like, what kind of potential testing you're going to do?

A. Yes.

Q. What kind of things that you're going to look for in terms of, like, documentary evidence? Follow up with collaterals?

A. Uh-huh.

Q. Tell me about what that means for your process.

A. Yes. We were looking for the potential diagnosis of those disorders.

Q. Okay.

A. So looking at their history. Looking at the testing performance of prior evaluations, mental health records, those kinds of things to see if there's diagnosis or identification of it, and then on their testing, how

they perform.

Q. Okay.

A. Which the testing would vary depending on what the condition is that you're looking for.

Q. Okay. I think you earlier described both -- well, I guess, kind of three things: ADHD, Attention Deficit Hyperactivity Disorder --

A. Uh-huh.

Q. -- Intellectual Disability, and Autism Spectrum Disorder, as all being developmental disorders; is that fair?

A. It falls under the neurodevelopmental, yes.

Q. Okay. What is a neurodevelopmental disorder?

A. Disorders that typically present themselves during the early developmental years.

Q. Okay. So what does that mean for you as a clinical forensic psychologist in order to, I guess, substantiate whether or not somebody has ID or ASD, since it's a neurodevelopmental disorder?

A. Sure. So looking for the symptomatology of it during the early developmental years. So under 18.

Q. Okay.

A. So when they're developing, so as a child, adolescent.

Q. What helps you with that piece of it, right?

Because you're seeing somebody -- Mr. Mosley was 23 when you saw him.

A. Uh-huh.

Q. So what helps you with getting that piece of things?

A. Sure. Prior evaluations. I would have looked at the school records who have the earliest contact for a lot of individuals --

Q. Uh-huh.

A. -- and where typically things are identified when they're struggling or testing is needed. So school records. Prior testing. Testing performance.

Q. Okay. Do you find collateral interviews to be helpful?

A. They can when you're looking at different things. For example, adaptive functioning, but for intellectual, you're looking at data, typically, right? What their performance is, which the school records are a big part of that.

Q. Okay. And I think that I saw on your website that you do -- like separate and apart from your work in court cases -- that like you will do for private clinical patients these types of evaluations?

A. Uh-huh.

Q. Is that fair?

A. Yes.

Q. In making those types of diagnoses or referring them on for further diagnosis by, I guess, like a neuropsychologist, would you find it helpful to have information from collateral sources about how somebody is developing?

A. Yes.

Q. Okay. So I want to talk about the history portion now. We'll kind of work our way through your report.

A. Uh-huh.

Q. So you indicate that, I guess, this kind of note: Unless otherwise indicated, all information was provided by the examinee.

So that would have been Thomas Mosley; is that correct?

A. Correct. Yes.

Q. Okay. So in this section, this would have been pulled from, like, your conversation with him; is that fair?

A. Uh-huh.

Q. And you met with him on two occasions; is that right?

A. Yes.

Q. Okay. I know primarily one was more of an

interview, and the second occasion was primarily testing; is that fair?

A. Correct.

Q. But it was all within, I think, about a two- or three-week period?

A. Two-week.

Q. Okay. The first time you met with him this year, was that the first time you had ever had any kind of contact with Mr. Mosley?

A. Yes, that was the first time.

Q. So not familiar with him for any other reason?

A. Correct. Uh-huh.

Q. And can you tell me what you did to prepare for your initial examination?

A. Sure. Reviewed the records that I had.

Q. Okay.

A. And select the instruments that I was going to use or take with me in case they were indicated, and then scheduling of the appointments, and then requesting the jail records.

Q. Okay. Can you tell me what your initial impressions were upon meeting Mr. Mosley?

A. The first meeting with him was when we tried to do the broader meeting with all of the attorneys. He seemed very anxious about that.

Q. Can you tell me -- just describe to me, like, what you saw with his anxiety? I was not present, so I would appreciate that.

A. That he entered. I think when he saw a lot of individuals there, he was hesitant to come in. He was unwilling to really speak. He was not comfortable. He really didn't say much during that time.

Q. Can you just describe physically what he was doing?

A. He was very quiet, sitting still in his seat. I know he wasn't really -- he would take glances at people, not making eye contact with all of the attorneys, but with Defense counsel that he recognized, I guess, or was familiar with. He -- I had here, he sat calmly --

Q. We're just looking at, like, your initial --

A. Yeah. So we sat calmly --

Q. -- observations.

A. Yeah. One of the days, he sat with his arms in his shirt. You know, he was quiet. He was quiet and really hesitant to speak initially.

Q. Okay. Did you notice anything else about him physically? I know you mentioned, like, downcast like --

A. Uh-huh. His affect was flat.

Q. Anything else about his presentation? Like, how was his hygiene?

A. I thought it was fair. I mean, I didn't -- he wasn't unkept or dirty. He wasn't smelly, how some individuals can be, you know. So I think it was fair.

Q. During the, I guess, like, two occasions that you had to meet with him, did you ever notice anything other than what you would describe as a blunted affect?

A. It was -- it was pretty flat. He did show some smiling the second time when he was observing some of the interactions of the other inmates that were in the dayroom, but otherwise, it was pretty flat.

Q. Okay. Did he ever smile in connection with, like, a conversation that you were having or a conversation that he and Ms. Russell were having?

A. Smile?

Q. Yeah.

A. No, but I don't think the conversations were necessarily those that would elicit that.

Q. Okay. Did he ever make eye contact with you?

A. Uh-huh. He did.

Q. Can you describe when that would occur?

A. Well, when I was testing him, it was pretty good eye contact, but, again, it was flat. So he would make eye contact when speaking -- you know, when I was doing the testing when speaking.

Q. Okay. In terms of his conversation with you --

A. Uh-huh.

Q. -- I imagine it wasn't quite like the conversation that you and I are having?

A. Yeah.

Q. Can you describe to me, like, how he was able to answer questions, if he was able to answer questions?

A. Sure. There was a couple occasions where he did not readily answer questions. I know one of the times you encouraged him to speak and to answer questions and to do his best. When he did, it was brief, somewhat simplistic. There wasn't any elaboration to what was discussed. I wouldn't say he was a detailed historian by any means. He answered questions briefly, but concretely and coherently.

Q. Did you note anything with regards to, like, the vocabulary that he was using? I think you mentioned simplistic?

A. Yes. It was not advanced vocabulary, no.

Q. Okay. When you are interviewing somebody who is, I guess, kind of simplistic like that --

A. Uh-huh?

Q. -- not offering a lot of information, appears as though you have to kind of draw things out from them, do you change anything in your interview style?

A. So I repeat questions at times if they're non-responsive or hesitant to, or can rephrase it at times

to see if that helps elicit responses.

Q. Okay. How many examinations have you done for competency with respect to either ID or ASD? I don't know if that would be grouped together or if you could separate them out?

A. They're usually grouped together.

Q. Okay.

A. Several hundred.

Q. Okay. Is that all in Florida?

A. Specifically requesting those, yes.

Q. Okay. Is there anything that you do differently about an ID or ASD examination, rather than, like, a mental health examination for competency?

A. Looking at the record, the mental records, and then the testing.

Q. Okay. That would be the only difference?

A. The main ones. Those are, like, the big ones, yes.

Q. Okay. So I guess let's talk about the relevant history in terms of the information that he gave?

A. Uh-huh.

Q. Mr. Mosley told you that he had never lived individually; is that correct?

A. Correct.

Q. Did he actually use the word "independently"?

A. No.
Q. Okay.
A. Have you ever lived on your own is how it's questioned, yeah.
Q. Okay. I mean, I'm just guessing that "independently" is probably a word that he would not use?
A. Correct.
Q. So he said that he had never lived --
A. He's always lived with his parents, yeah.
Q. So never separate from his parents?
A. Correct.
Q. Okay. And he gave you a little bit of information about his school history; is that right?
A. He did.
Q. Okay. And prior to meeting with him, I think you said that you had his records?
A. I believe I did. It was sent to me. I don't know the specific date, but I believe I had it around the time of evaluation. I can't say with certainty, but I believe so.
Q. And I think you said that your goal was to have reviewed those records in advance of meeting with him?
A. If I can. They're not always available in that order.
Q. Okay. So Mr. Mosley told you that he completed

the 10th grade?

A. Uh-huh.

Q. Meaning, that he would have been advanced into the eleventh grade?

A. That he started it per his reports, yes.

Q. Okay. So he told you that he started the eleventh grade, but then dropped out of school?

A. Correct.

Q. And that he was at Boca Ciega High School; is that right?

A. Yes.

Q. Did you see any evidence of that being true in his school records when you reviewed them?

A. So there were teacher reports that -- I have them here -- that he did reach the ninth grade and was struggling in the ninth grade, is what I saw.

Q. So not indicating that he had moved on to the eleventh grade?

A. Correct.

Q. And not indicating that he had finished the tenth grade?

A. I did not get final results or school records for that, no.

Q. Okay. And he told you that he repeated the third grade; is that right?

A. Yes.
Q. Did you see that in the records?
A. Yes.
Q. Okay. And did it indicate why he was ultimately moved up in third grade?
A. I don't know the exact term it is, but I think because of age, where they bump -- there's a term for it.
Q. It's a good cause; does that sound right?
A. Yes.
Q. And I think "good cause" means when they've already repeated third grade, it's a testing year.
A. Uh-huh.
Q. So if you already repeated, they're going to move you on regardless --
A. Uh-huh.
Q. -- because they don't want you to be held back; does that sound about right?
A. Uh-huh.
Q. Is that a yes?
A. Yes. I'm sorry.
Q. That's fine.
He also indicated that he got help at school; is that right?
A. Yeah. That he was pulled out of class.
Q. How would he describe that to you?

A. That he was -- I can look. In fourth and fifth grades, he got pulled out of class. That he was taken out of class for reading.

Q. Was this in response to a question that you asked him?

A. I asked about his special education, which he denied. I said, Well, did you get any help? Because not everyone always identifies special education as getting extra services in school.

Q. Okay?

A. And he said, in the fourth and fifth grades, he got help.

Q. Okay. So initially to your question of: Did you receive specialized education --

A. Did you receive special education?

He said, No.

Q. Okay. But then when you phrased it in a much smaller word: Did you get help at school?

He said, Yes?

A. Yes.

Q. Okay. And just, I think, for the record, it looks like you're referring to, like, your notes taken from that --

A. Yes. When I was talking with him, yeah.

Q. And I saw in your report there are a number of

phrases that are in quotes?

A. Uh-huh.

Q. Can you tell me when you use quotes and why?

A. Yes. When I think it's something significant in their explanation of the answer, to give a little bit more detail as to their wording and how they expressed themselves.

Q. So what you put in quotes would be, like, directly what Mr. Mosley said?

A. Yes.

Q. Okay. And then when something is not in quotes, is it safe to say it's, like, a paraphrase of your conversation?

A. Yes. It's my summation of the information he shared.

Q. Okay. And you -- I've been in other examinations that you've done.

A. Uh-huh.

Q. You take notes as you're speaking with folks, right?

A. Yes.

Q. Like your handwritten notes?

A. Correct.

Q. And it looks like you have your notes available to you now; is that right?

A. Yes.
Q. So he ultimately told you that he did have help at school?
A. Uh-huh. Correct.
Q. And you had the records available to you.
A. Uh-huh.
Q. He didn't just get help in fourth and fifth grades, did he?
A. Correct.
Q. Okay. He received help throughout the entirety of the time --
A. That he had a history of special education, yes.
Q. Okay. So the entire time that he was in school, he was receiving specialized education assistance?
A. Yes. Uh-huh.
Q. Okay. And it seems like you also talked to him about his employment history?
A. I do and see if they have employment history. If they've ever worked, and what kind of work.
Q. Can you tell me what the question is that you asked him about employment?
A. Have you ever worked?
Q. Okay. So that's a much simpler word than "employment"?
A. Yes.

Q. What was his response to, Have you ever worked?
A. Yes. He said carpenter intern.
Q. That was his word, "intern"?
A. Uh-huh.
Q. Is that a yes?
A. I believe so.
Q. Okay. Did he tell you that he worked for his dad?
A. I didn't ask him, but, no, he did not offer that.
Q. Okay. Did you ask any more questions about what it means to be a carpenter intern?
A. No, I did not.
Q. And tell me more about, like, the information that he gave you about his employment?
A. That he did that for a couple of years, and then at Waste Management for four months. Then Waste Connections, I believe. That he worked through day labor, that he got the job through that.
Q. Okay. So Waste Management is the name of a company, as well as Waste Connection?
A. To my understanding, I believe so. Uh-huh.
Q. Okay. Did he tell you about any trouble that he had in employment?
A. I asked him. He said he worked for about a

year, and he can't remember why he left. I asked if he ever had been fired from a job, and he said, No.

Q. Did you talk to him about what it means to be fired?

A. No, I did not.

Q. So you did not explore that idea with him?

A. No. Uh-huh.

Q. Okay. Did he give you any other information, or did you ask him any other questions about either education or employment?

A. Those were the main ones.

Q. Okay.

A. Oh. I did ask about his reading, and he said, Not so well. Not very good. He denied any expulsions from school.

Q. Tell me about that question about reading. Is it just, like, how well do you read?

A. Uh-huh. Are you able to read? You know, some will say, not at all or not so well. He said, Not well.

Q. Did you have him read anything for you?

A. I did not. I did not do achievement testing, no.

Q. And I don't think any of the tests that you administered required him to read anything; is that correct?

A. No.

Q. Okay. In your review of his records, it also seems like he doesn't know how to read very well.

A. His reading is poor. Uh-huh.

Q. And you had an opportunity to review Dr. Fritz's report?

A. I did.

Q. All right. Who indicated very, very, very poor, like, reading comprehension, reading ability, writing ability; is that fair?

A. Yes. She did a battery of testing, and then gave him specific diagnosis with profound language impairment.

Q. Okay. Are you familiar with the work that, like, speech and language pathologists do? Like, have you seen reports like this before?

A. A few, but I was not trained in that or anything like that, no.

Q. Okay. Okay. Let's move on.

So it sounds like continuing in his history, you talk with him about any kind of, like, medical issues that he's experienced in his life and what medical issues he might currently be suffering under; is that fair?

A. Uh-huh. Yes.

Q. Can you tell me how you ask those questions?

A. Sure. Typically, do you have any medical problems or conditions? Are you being treated for any medical reasons kind of thing? He indicated that he takes medication for his thyroid.

Q. Did he tell you what his diagnosis was with respect to the thyroid?

A. No. I didn't ask additional information.

Q. Okay. And are you aware of how, like, some medical issues regarding a thyroid can actually have symptomology that mimics, like, psychological symptoms?

A. A little bit, but I'm not trained in that, no.

Q. I know you're not a medical doctor --

A. Right.

Q. -- but, like, obviously, it could impinge on some work --

A. It could --

Q. -- in that clinical --

A. It could, yes.

Q. So tell me about your familiarity with that? I know it's not significant.

A. Right. So besides that, there are medical conditions that could impact their presentation, their alertness, their processing of information, if things aren't being managed, but in his case, I did not further investigate it.

Q. Okay. So he denied a history of seizures.
A. Uh-huh.
Q. You obviously asked him if he had seizures?
A. Uh-huh.
Q. Is that yes?
A. Yes. Sorry.
Q. That's okay.
And when asked about serious injuries, he said that he ran into a pole?
A. He did.
Q. Okay. And that he actually lost consciousness as a result?
A. He said he was knocked out, yes.
Q. Did he indicate that he had experienced any other injuries?
A. No, he denied that. That's when you had asked him about -- I mean, not -- it wasn't you. Sorry. If any other injuries, and they asked about a car accident.
Q. Okay. Then he remembered that he had actually --
A. Yes.
Q. -- got in a serious car accident?
A. Yes. Which he said there wasn't a serious injury, and I know that, I think, there are different reports on that, but he said that he hurt his leg, but he

denied a head injury.

Q. Okay. You also inquired about any kind of history of mental health treatment; is that right?

A. Correct.

Q. Okay. And is that because that's just part of the battery of --

A. I asked for medical and mental health, yes.

Q. Okay. How did you ask that question?

A. Okay. Have you ever had any mental health treatment? And then I can break it down. Have you ever been to a mental health hospital? You know, have you ever taken medications for any mental health reason?

Q. When you asked that first question --

A. Uh-huh.

Q. -- was he able to answer it in the affirmative?

A. He -- for the mental health, he -- and I also ask sometimes, Have you ever been Baker Acted? Not everybody is familiar with those terms, but I do use it. He said Windmoor and St. Anthony's.

Q. Okay. So he did say that he had been psychiatrically hospitalized?

A. Yes, those two hospitals.

Q. Did you review any records with respect to those?

A. I did not have records for those, no.

Q. Okay. And did you ask him any questions about, like, what the hospitalizations were about? Like what --

A. Yeah. So do you remember why you went? You know, what led -- why did you have to go to the hospital? He said that he had tried to kill himself by cutting and tried to overdose on medicine.

Q. Okay. Did you ask him questions about medication for managing mental health symptomology?

A. Yes, and he identified two medications. He did not recall the third one that he was taking.

Q. And was this with respect to, like, current medication at the jail?

A. Yes. Uh-huh.

Q. So when he identified them, did he give you, like, the medication name?

A. Two of them.

Q. Okay. What did he tell you?

A. Trazodone and melatonin.

Q. Okay. He said he was only taking three medications for mental health purposes?

A. Well, he didn't know the name of the third. I asked, Do you know why you're given those medications?

He said, Sleep, anxiety, and depression.

Q. You had an opportunity to review his jail records --

A. Yes.
Q. -- which included his medication records; is that right?
A. Uh-huh. I got those after, yes.
Q. Is that a yes --
A. Yes, I received those after.
Q. Okay. I know that you're able to do that through the order.
A. Correct.
Q. So was there an indication of medication prescriptions?
A. Yes.
Q. Okay. And what was he prescribed?
A. Trazodone, sertraline, and melatonin.
Q. Okay. What is sertraline?
A. That one is, I believe, Zoloft.
Q. Okay. So that's a psychotropic --
A. Yes. These are all psychotropics except for the melatonin which is prescribed for sleep.
Q. Is it accurate to describe Trazodone, melatonin, and sertraline as just being for sleep, anxiety, and depression or psycho --
A. Well, I'm not a psychiatrist, but typically, those are the symptoms that they are commonly prescribed for.

Q. Are psychotropics also prescribed for, like, psychosis and mood disorders?

A. Yes. Those are the -- they fall under a psychotropic category, yes.

Q. Okay. And Mr. Mosley has -- like, in your review of all of the records of various reports, like, he has been treated for psychosis previously?

A. Yes. Uh-huh.

MS. SEIFER-SMITH: Ms. Russ, do you have any questions in that section?

MS. RUSSELL: No, I don't, but I wonder if we would like to take a copy of the notes and mark them as an exhibit.

MS. SEIFER-SMITH: Sure.

MS. RUSSELL: And produce a copy to the State.

THE WITNESS: For which part?

MS. SEIFER-SMITH: Your notes.

MS. SULLIVAN: Are your notes proprietary in terms of testing materials or --

THE WITNESS: Like my interview notes?

MS. RUSSELL: Yes.

THE WITNESS: I'll have to see about that. I don't know if I have to disclose that or not.

BY MS. SEIFER-SMITH:

Q. Did you previously disclose them to our doctors,

like, directly?

A. No.

Q. Okay. And the date -- well, I guess we didn't know about the testing that you had done. So you haven't sent, like, data from your testing to our doctors; is that right?

A. No.

Q. We'll follow up after.

A. Okay. That's fine.

Q. So let's -- we'll just put a pin in that.

A. Okay.

Q. Okay. So I guess let's move on. I think we've discussed some of this next section in your report, the clinical functioning and behavioral observations.

A. Uh-huh.

Q. Because there were two dates, I just kind of want to ask kind of generally. Like, was there anything that was different in terms of his behavior, demeanor or engagement on either of the two dates?

A. He was quiet both days. You know, he was not very verbal. He was not talkative.

Q. Uh-huh?

A. He did cooperate, you know, once he was videotaped. So the second part of the first day, and he was cooperative the second date, so that was good.

Q. Okay.

A. But quiet. His presentation was the same, it was flat. Cooperative. He was a bit more distractible the second date because of the other inmates or offenders that were in the dayroom laughing and watching TV or doing whatever.

Q. So let's set the stage a little bit. I think the first time that you met with him, it was in that conference room that's, like, out of the unit, kind of down the hall from the particular place where he's housed; is that right?

A. Correct. Yes.

Q. Okay. So he wouldn't have been able to see anybody else unless they happened to be passing by in the hall; is that correct?

A. Correct.

Q. So much fewer in the sense of distractions; is that right?

A. Yes. Uh-huh.

Q. Then on the second occasion, I was present. It's a small room within the actual pod where Mr. Mosley is housed; is that right?

A. Correct. It was a meeting or a multipurpose room. I'm not sure. It was a small room on the housing unit.

Q. Like a small room with a table, chairs, and glass walls so he can see everything that's going on?

A. Into the pod, yes.

Q. Okay. And I think -- at least when I was there and we were seated, your back was to the dayroom, but Mr. Mosley was facing the dayroom; is that correct?

A. Yes.

Q. And you described it earlier, like, he was pretty distracted by what he was seeing behind you?

A. On the second day, yes.

Q. Okay. Do you think that that -- I mean, the ability to see people moving around and laughing and obviously engaging with the television or with each other, do you think that that affected his ability to focus on you?

A. The majority of the time, he didn't do that. There were a few occasions. I mean, it was distractible for a little bit, but for the most part, he didn't do that the whole time, so...

Q. Were you able to hear other people in the room that you and Mr. Mosley were in?

A. I could hear -- it wasn't the whole time that they were making noise, but I could hear them getting a bit louder. It appeared like they were watching TV or something on the TV, but I wasn't paying attention to make

out what was being said or anything like that, or if it could be heard, but I heard noise.

Q. Do you think, like, that distraction effected, like, your ability to complete the evaluation with Mr. Mosley with that distraction?

A. I think it contributed -- potentially could contribute to his attention to it.

Q. Okay.

A. But it wasn't prolonged. But, you know, he wasn't fully attentive because there was some distraction.

Q. About how long do you think you spent with Mr. Mosley on each date?

A. I don't know the time frame. The first one was kind of divided because we had to kind of go back with him, so that one was longer. I don't know. Possibly an hour, an hour and something. Then the second day to do the testing would have been about 45 minutes or so.

Q. Okay.

A. Maybe an hour.

Q. Okay. Tell me about what you mean -- there's a phrase that he engaged in minor spontaneous conversation. What is "minor spontaneous conversation"?

A. Uh-huh. Asking if I had children. He asked me that. He asked if I've been doing this -- have you been doing this a long time? Those kinds of things.

Q. Okay. So when you say "spontaneous" it's a question that he asked unprompted by something that you said; is that what you mean?

A. I don't know what prompted it because I don't talk about my personal life, but that he had asked about it.

Q. Okay. Were there any other questions that he asked you?

A. Those are the two notable ones, because I could redirect, you know, to what we're doing.

Q. Okay. You indicate, too, that he observed, so he was able to see, and that he had laughed at other inmates in the dayroom, which I think we just talked about?

A. Correct.

Q. Did it appear that he was interacting with them? Like, sign language or, like, speaking to them or just --

A. Not responding to them, no, but more of a chuckle kind of laughing to whatever was going on.

Q. You said that he identified the correct month and year but erred on the day.

A. Uh-huh.

Q. Had you asked him to give you that information?

A. Yes.

Q. Can you tell me how you asked that?

A. Do you know what day it is? What's today's date? Do you know what day it is?

Q. Okay. And what did he say?

A. That he didn't know. I said, Well, let's start backwards. Do you know what year we are in? He said, 2025. Do you know what month? He said, five. He did not know the date.

Q. Okay. So he said five, he didn't say May?

A. Later, and I asked, what is five? He said May.

Q. Okay.

A. But he couldn't give me a more specific date.

Q. Okay. So not that he erred on the date, he just had no idea what the date was?

A. Correct. Uh-huh.

Q. Did you ask him any other kind of, like, orientation? Like person and place and --

A. Uh-huh. Person who -- you know, who he is? Place, where are we meeting? Because sometimes individuals aren't very oriented in that. And the reason why we're meeting, do you remember why we're meeting? And his answer was, The judge.

Q. Okay. So his answer was, The judge?

A. Yes, the judge. He did not give a good understanding of why I was there.

Q. Okay.

A. I initially asked that, you know, when I explain the reason for our meeting, and can you tell me in your own words? He initially indicated he didn't know. Then he told me he just got back from the hospital.

Then I asked again, Do you know why I'm here? Like, can you tell me in your own words why I'm here?

That, to ask.

And I said, Ask what?

He said, That you're a doctor, questions about me, and that was it.

Q. Okay. So he was not able to elaborate further?

A. He did not elaborate further, no.

Q. Did you educate him any more as to why you were there?

A. I did initially explain the reason for it, and that's why I asked for him to explain in his own words to see if he understood.

Q. Okay. And the most you were able to get out of him was, the judge?

A. Correct.

Q. Not saying, like, you're court appointed?

A. No.

Q. Or the judge had ordered you --

A. And he knew I was a doctor, but nothing more than that.

Q. And he knew you were a doctor because you introduced yourself --

A. Correct.

Q. -- as Dr. Torrealday?

A. Uh-huh.

Q. Can you tell me about, like, this information that you then write about him experiencing auditory hallucinations and hearing voices. Can you tell me how you got that information from him?

A. Uh-huh.

Q. Like, what the question was that you asked?

A. Yes. Has there ever been a time that you've heard voices or noises or things that others don't hear? He said, Yes, voices.

Q. Okay.

A. He endorsed that.

Q. Did you ask him more information about the voices that he hears?

A. Yes. That they tell him to kill himself. I ask, Well, what does it sound like? You know, are they angry voices? Calm voices? He said, They were angry. One voice. He identified hearing one --

Q. Uh-huh.

A. -- that started when he was around 18 years old is what he said. About 18 when he started experiencing

that.

Q. Okay.

A. And I asked, When is the last time you heard?

He said, This morning while he was laying down.

What is it that you heard?

He told me to kill myself, and other things, too, but he didn't go into what other things that he was told.

I asked, Have you told anybody about these voices?

He said that he had told that -- he had told others, including his parents.

Q. Okay. Did he describe any visual hallucinations?

A. Yes, that he saw blood in his eyes.

Q. How did he come to tell you about that? What was the question?

A. Yes. Has there ever been a time that you see things like shadows, images, or things that others wouldn't see typically? That's when he said blood in his eyes.

Q. And he described seeing that daily; is that right?

A. Every day for a couple seconds, yes.

Q. Okay. What did he say when you asked how he was

feeling?

A. How he was feeling? So currently he said he can't explain it in words. He wasn't able to explain it in words. I don't know -- hold on a second because I asked twice both days how he was feeling.

Q. Twice on both days or --

A. No. Both times I saw him.

Q. I see.

A. Just to see how he was doing that day. So the first day he had indicated not good because he was in jail. The second day he said that he can't explain it in words. I don't know how I feel.

Q. Did you ask any kind of, like, follow-up questions to that? I don't know how I feel.

A. When I asked -- no.

I ask, How do you feel most days?

He said, Regular.

Then I asked, Do you ever feel sad or depressed?

And he said, Yes.

How often?

Every day.

The second time he said, No, but I know he is being treated for anxiety and depression.

Q. Did you ask him about anxiety?

A. I did.

Q. Okay.

A. He indicated that he felt all right -- oh, I'm sorry. I'm sorry. The first time, What does that mean?

And he indicated, Yes.

Then the second time he said, No.

Q. So you asked him if he ever experienced anxiety?

A. Uh-huh.

Q. And he said, I don't know what that means?

A. Yes.

Q. Were you able to -- did you provide an explanation of what "anxiety" is?

A. I don't recall if I did. I oftentimes do, but I don't know in his case specifically.

Q. And when you do provide an explanation of what anxiety is, is it like a more simplistic --

A. Uh-huh.

Q. -- or examples of what kind of symptoms somebody might experience --

A. Yes.

Q. -- if they're anxious?

A. Yes.

Q. At that point, was he able to endorse experiencing anxiety?

A. Let me see. He did not. He didn't give me anything else. The second day, he didn't endorse it at

all, but I know he's being treated for it.

Q. And he did endorse he would appear to be, like, symptomatology associated with depression? Like sleep difficulties?

A. Yes.

Q. Decreased appetite?

A. Yes, he did say that, yes.

Q. Did you use the word "depression" with him?

A. No.

Q. Okay. Did you say "sad"?

A. Do you feel sad? Yeah.

Q. Okay. Is that because you expected that he wouldn't understand the word "depression"?

A. No. You can use them interchangeably. Do you ever feel depressed or sad? But not specifically for that reason.

Q. Okay. We already discussed that.

He didn't endorse any kind of current suicidal or homicidal ideation; is that right?

A. Correct.

Q. Okay.

A. Well, he did say -- he did say that he -- no plan or intent, but he did say the past history of cutting and overdosing and passive suicidal. That he has those thoughts, but he would not -- he did not endorse any

intent or plan to kill himself.

Q. Tell me what your question was and what his answer was with regards to, like, the passive suicidal ideation?

A. Uh-huh. Do you ever feel like you want to harm or kill yourself? And he said, you know, every day that he feels that way.

I said, Well, have you thought about how you would do that?

He said that in the past, that he'll find a way. He's, like, I don't know. I'll hang myself or find a way.

I said, Well, do you have an intent or plan to do that?

He said, No.

Q. Okay.

A. I said, Would you do anything?

He goes, I'll be all right. So he didn't endorse anything.

Q. All right. And his affect remained the same the whole time he was discussing this --

A. He was flat. Uh-huh.

MS. SEIFER-SMITH: Do you have any questions of this section?

MS. RUSSELL: No.

BY MS. SEIFER-SMITH:

Q. Okay. So the next section in your report is the results of the psychological testing. So I think we have a great deal of questions about this.

A. Uh-huh.

Q. I think that maybe one way to do it would be to discuss, like, what you've reviewed with regards to each previous evaluator, and, like, your conclusions that are drawn from it. Then we'll get to the one you did.

So you received some information from the South Florida Evaluation and Treatment Center. I think we talked about some of the records that you received.

A. Yes.

Q. You said that there was a report from Dr. Ascheman Jones from January of 2024.

A. Uh-huh.

Q. A report from Dr. Tenaglia from February of 2025, as well as -- I think you said that you received, like, the data itself from the test that she had administered; is that right?

A. Yes.

Q. Okay. So is that what you're relying on for this particular portion of your report?

A. Well, yes, the testing and what was written in her report as well. So the evaluations that had prior testing for intellectual functioning or other testing that

was administered.

Q. Okay. So it seems like, at least, per, like, this section of your report, that although you received the work that Dr. Ascheman Jones did, like, her report, that didn't factor into, like, your assessment here in like May of 2025?

A. Well, I mean, I review that and see what his testing approach is and how he's done on other tests, so I have that in there, and then I describe. So I have the actual testing, the past testing that's done, and what I did, and then in the competency to proceed, if it's diagnoses that come from, you know, the different testing or not, is included in that part.

Q. All right. So let's talk about this section, the South Florida Evaluation & Treatment Center.

A. Uh-huh.

Q. Okay. So Mr. Mosley, per the report, and the data that you received, he was administered the WAIS, the Wechsler-IV?

A. Uh-huh.

Q. On February 18th, 2025?

A. Yes. That's my understanding.

Q. Okay. Are you familiar with the Wechsler?

A. Yes.

Q. Okay. You're familiar with the fourth edition?

A. Yes.

Q. Tell me about what that test is?

A. They're different subtests, we have to give 10, that have -- fall into different domains for, you know, verbal abilities, performance ability, working memory, processing speed. So different areas of cognitive functioning then, in totality, comes to an intellectual quotient or IQ for an individual.

Q. Are you familiar with any kind of embedded measures within the Wechsler that look at malingering, or that can tell you about malingering?

A. In the Wechsler?

Q. Yeah.

A. No.

Q. Okay. And when I'm talking about malingering, I'm talking about, I guess, like, performance or effort testing that would be embedded in any of these subtests?

A. Not in the WAIS that I'm aware of, no.

Q. Okay. You said there are 10 subtests. About how long would it take for the Wechsler-IV -- or the WAIS-IV to be administered?

A. It really depends on the individual and how they answer. The more correct responses, the longer the testing typically goes. So if they're not able to go very far and not answer a lot of questions, it will be quicker.

Q. Okay.

A. So it could be from, I don't know, 25 minutes to I've done an hour, an hour plus, depending on the performance of an individual.

Q. Can you talk to me about what, like, what might affect somebody's test performance?

A. Uh-huh. Well, the environment. How alert they are, you know. If they're paying attention. If they've slept. They're not groggy. They're able to attend and be alert and focused, those kinds of things.

Then medication compliance. If there's conditions that they have that might impact their performance or attention, that they're stable in those areas as well.

Q. When you talk about, like, medication compliance or stability, is it safe to assume that, like, if medication was recently changed, that that could potentially affect somebody?

A. Potentially.

Q. Okay.

A. I mean, it's possible.

Q. Any other things that you think that could affect somebody's performance for this type of test?

A. And then effort. I mean, you know, motivation for an individual.

Q. Okay.
A. You know, if they're motivated to do well or not, or not as invested in it, that's a possibility also.
Q. In your practice, do you do any kind of effort testing when administering, like, the WAIS?
A. I do at times.
Q. Okay. When do you do it?
A. When there is suspected questions about effort and motivation, if there's a history of it as well.
Q. Okay. And when would you actually administer the effort test?
A. Following indications that there's -- it's questioned if there is a need for it. It wouldn't be the first test, for example, that's done.
Q. So I guess kind of describe that to me in terms of, like, what would be done, when it would be done, and what type of --
A. Uh-huh. So the testing that you do, if you do, for example, like, the CTONI, and you question effort or if they're attending or motivation. And then after the fact, to see if there is attention or effort concerns.
Q. The same day?
A. Uh-huh.
Q. Is that a yes?
A. Yes, I'm sorry.

Q. And why would you do it the same day?
A. As part of the battery. So it is typically done in conjunction with other testing.
Q. Is it because somebody's effort or motivation might wax and wane on different days?
A. Oh, that's possible. Yeah.
Q. Just like competency could wax and wane?
A. That's possible, yes.
Q. Are you -- and I'm sorry.
You had an opportunity to review the raw data that you received from Dr. Tenaglia for the WAIS-IV; is that right?
A. Yes.
Q. In terms of your review of the raw data, did you see anything there that gave you pause or, like, question the integrity of the testing?
A. Based on what I saw, he didn't do well. You know, he didn't go very far in the subtests.
Q. Okay. Can you describe to me, like, what you saw in terms of, like, the completion of the subtests?
A. So I'm going by recall here. That he met the ceiling, meaning, the criteria for stopping the administration of that test because of -- the test you have to get two incorrect answers or three incorrect answers, depending on the subtest, is when you stop

administering it, and that he reached those fairly quickly. So he didn't get very far in the subtests.

Q. Okay. And I think you described that that could be indicative of a number of things, right? Like, lack of sleep? Like, medication issues? It could be --

A. That could impact performance, yes, it's possible.

Q. And just, like, wanting to get something over with, like you would just start like --

A. That's possible.

Q. -- I think people call it Christmas treeing, right? When you just, like, give --

A. Correct. I mean, it's manifested differently, but, yes, the effort would be less, yeah.

Q. Okay. And Dr. Tenaglia wrote that he had obtained a full-scale IQ score of 46?

A. Correct.

Q. Which is extremely low?

A. Correct.

MS. SEIFER-SMITH: Okay. Do you have more questions about this otherwise I was going to move on?

MS. RUSSELL: No. Go ahead.

MS. SEIFER-SMITH: Okay.

MS. RUSSELL: Thank you.

BY MS. SEIFER-SMITH:

Q. Did you see any kind of indication in the records that you received from SFETC about either concerns or observations or questions about a potential Intellectual Disability for Mr. Mosley?

A. I think it was raised, which is why they did the testing for him.

Q. Okay. And, certainly, a full-scale IQ score of 46 would be indicative of an Intellectual Disability?

A. The score alone, yes, that would suggest. Uh-huh.

Q. Okay. And are you familiar with the Validity Indicator Profile?

A. A long time ago, yes.

Q. Okay. Tell me what your familiarity is with the VIP?

A. That it looks for performance.

Q. Okay.

A. Consistent performance. There tends to be questions that are done at different parts of the test to see if there's consistency and effort and attention in responding to items.

Q. You said "a long time ago." So it --

A. Yes. Like --

Q. -- sounds like it's not a test that --

A. I don't use it, no.

THE COURT REPORTER: Excuse me.

MS. SEIFER-SMITH: I'm sorry. Yes?

THE COURT REPORTER: You guys are talking over each other a little bit.

MS. SEIFER-SMITH: You're right. I'm sorry.

THE COURT REPORTER: It's okay. I'm just not getting complete questions or complete answers, so it's not going to read good.

MS. SEIFER-SMITH: I don't want that.

BY MS. SEIFER-SMITH:

Q. Okay. Since you said that you were familiar with it from before, is there a reason why you don't use it?

A. I just -- it's one that's used by some. We have our preferences of tests. I just haven't used it.

Q. Okay. Are you familiar with any kind of concerns about the VIP giving false positives of malingering or poor effort for people with cognitive deficits?

A. I can't speak to that because I haven't looked at that in so long.

Q. Okay. It sounds like that might be because it doesn't really impact your work since you don't administer the VIP?

A. I don't use that instrument.
Q. Okay. So when you're writing here this particular paragraph, it's just you're just pulling kind of information directly from the report from Dr. Tenaglia?
A. Correct. That quoted part, yes.
Q. Any particular conclusions that you are drawing with respect to the work that she did?
A. That he questioned the effort for him --
Q. Okay.
A. -- on the testing.
Q. Okay. And what does that mean for you in terms of, like, questioning the effort?
A. Well, just questions how valid the testing results could be. You know, and I think that's where, you know, additional testing is helpful or repeated testing, if you can. I know there's restrictions as to what instruments you can use if you've given them, but to look at to see if there's any other factors potentially impacting the performance.
Q. I want to talk about that.
A. Uh-huh.
Q. The limitations that you've just drawn.
A. Uh-huh.
Q. So tell me about what potential limitations there might be?

A. For testing affect. So if you use instruments, to not repeat them within a certain specific time of administration because it can impact performance.

Q. Okay. So would that be, like, testing again with the WAIS-IV within two months?

A. Yes.

Q. Okay. So did you draw any conclusions by Dr. Railey's use of the WAIS-IV within just a couple of months?

A. I chose not to use the WAIS-IV for that reason.

Q. Okay. And you saw that Dr. Railey had used the WAIS-IV?

A. Yes.

Q. Okay. What kind of conclusions did you draw with respect to Dr. Railey's administration of that test?

A. That he scored poorly on it.

Q. Okay. Any other kind of conclusions with respect to the administration of the WAIS-IV by Dr. Railey?

A. I didn't -- I mean, I got the computer report. I don't have any other documentation with regards to his evaluation or testing.

Q. Okay. Are you able to say one way or the other about the credibility or the conclusions that either Dr. Tenaglia or Dr. Railey have drawn with respect to

their, like, full-scale IQ scores?

A. That they both fall -- Tenaglia's was lower, but they're both low. So one is in the moderate range, and one is in the low mild.

Q. Is there any kind of conclusion to draw with respect to, like, those scores being invalid for any reason?

A. I don't know if Railey -- if they did any other testing with his battery, I can't speak to that. But the validity of the first evaluation is questionable, given the effort concerns.

Q. Okay. And are the effort concerns -- you're saying the effort concerns?

A. Uh-huh.

Q. Is that because of the administration of the VIP and the score on the VIP or --

A. In the battery, yeah, with the WAIS.

Q. Okay. You also received, I think you said, it was, like, a one-page summary from Dr. McClain with regards to the administration of the WAIS-5?

A. Correct.

Q. Okay. Are you familiar with the WAIS-5?

A. I don't use it yet.

Q. Okay. Have you received the test or any --

A. No, I haven't. I haven't used it yet.

Q. Okay. Can you tell me why? I know it came out fairly recently.

A. Yeah. So we have a window of time to be able to transition to the new instruments, and I haven't done that yet.

Q. Okay. Any particular reason why you haven't done it yet?

A. Because I still have time, and I have the WAIS. I mean, in this case, like, if I had the WAIS, the newer version, that's when I would consider to administer it because it's different, but I don't have the WAIS-5 yet.

Q. Okay. So if you had the WAIS-5, would you have considered administering the WAIS-5 to Mr. Mosley?

A. Potentially because it would be a different instrument.

Q. Okay. Having not done any training, not being familiar with the WAIS-5, how comfortable are you in answering any questions about it?

A. I'm not. I mean...

Q. Okay. So you can just report on, like, what you received in terms of the summary from Dr. McClain?

A. Correct. Uh-huh.

Q. So she administered it this July and obtained a full-scale IQ score of 69; is that --

A. Correct. That's what her report was, yes.

Q. Okay. But you can't speak to the validity or invalidity of that --

A. No. I don't have any information regarding that.

Q. Okay. Are you familiar with the Rey 15-Item Test?

A. Basic, yes.

Q. Okay. What is it?

A. Showing 15 items or designs that they have to recall later on when asked. So it's a recall and memory of stimulus.

Q. And what is it a test for?

A. Malingering.

Q. So an effort test?

A. Yes. Uh-huh.

Q. And Dr. McClain did this on the same date that she administered the WAIS-5; is that right?

A. It appears so, yes.

Q. And she indicated that Mr. Mosley's responses on the Rey 15 did not indicate poor effort; is that also right?

A. She said not indicative of malingering, yes.

Q. Okay. What does a full-scale IQ score of 69 mean to you in terms of Intellectual Disability?

A. It's upper mild. It's in the mild and MR range.

Q. Okay. So it means that he could be diagnosed as Intellectual Disability; is that right?

A. With a 69, yes. That's the top limit, you know, typically for ID before it goes into borderline, but, yes.

Q. Okay. You also reviewed Dr. Fritz's report, which I think we talked about a little bit?

A. Uh-huh.

Q. Did you find that to be helpful at all in terms of, like, ultimately, like, your opinion regarding Mr. Mosley?

A. I think it supports, you know, the identification in the school system of him having the language difficulties that he had. You know, the specific learning disability, and those kinds of things. Then it does speak to his approach to questions and answering.

Q. I mean, I think she described his learning disability or his --

A. As profound.

Q. -- (indiscernible) like a profound --

A. Profound mix. Uh-huh.

Q. Is that consistent with what you observed and what you experienced in your conversations with him?

A. Well, I didn't test for specific language disorders, so I wouldn't have used the instruments that she did. But could I say that it was a basic -- a very

basic answer questions. Yes, simplistic, but I can't speak to, you know, the severity in that sense of profound. That would come from the specific tests that are done by speech pathologists.

Q. Do you do tests for learning disorders?

A. I do some. Uh-huh.

Q. What are the tests that you use for learning disorders?

A. Achievement testing that you use for achievement with the intellectual testing. Then depending on what it is, there's measures that can assess for dyslexia or it can assess for processing issues, attention, if there's ADHD involved, those kind of things.

Q. I'm sorry. Can you give me the names of the achievement tests that you would use?

A. I use the WIAT, which is the Wechsler Achievement Measure for Individuals. Then there's screeners, but that's the one I typically use. There's also the Woodcock-Johnson, that's another one that's a common one that the school systems used.

Q. And Dr. Fritz provided in her report information about, like, the kind of age equivalency for a number of these, like, specific subtests that she performed; is that right?

A. Oh, for the speech and language?

Q. So you were able to see that; is that right?
A. I mean, I have the report.
Q. I think the highest that Mr. Mosely scored, in terms of, like, an age equivalency was -- I believe it was about 12 years, 7 months. I don't know if you see that.
A. I mean, I don't recall that. I would have to look it up, the specific.
Q. What would be like the grade equivalent of a 12-year-old?
A. Sixth.
Q. Maybe sixth grade?
A. Sixth grade-ish.
Q. So, like, certainly not -- far, far lower than a 23-year-old?
A. Yes.
Q. Okay. Now I want to talk about the test that you did.
A. Uh-huh.
Q. And we've been going for about an hour and 40 minutes.
Did anybody want to take a break?
A. No.
MS. SEIFER-SMITH: Charlene, did you want to take a break?
THE COURT REPORTER: No, I'm good.

BY MS. SEIFER-SMITH:

Q. So let's talk about the testing that you administered. So I guess let's list them off, and then we will go one by one.

What tests did you administer?

A. The CTONI, the Comprehensive Test Of Nonverbal Intelligence. Then I did the Mini-Mental Status Examination, then the Inventory of Legal Knowledge, and the Dot Counting Test.

Q. Okay. Do you remember if that's also the order in which you administered the tests?

A. The CTONI for sure. I can't tell you offhand the other three, if it would have been the MMSE first -- second, and then the other two, but the Dot Counting would have been the last one, likely.

Q. Okay. So tell me, I guess, kind of generally, not specific to Mr. Mosley, like, what is the CTONI or the CTONI, it looks like, Second Edition? Like, when is it used? Why is it used? Then we'll talk about your administration here.

A. Sure. It's a measure of intellectual functioning.

Q. Okay.

A. It's a comprehensive, so there's screenings and then there's those that you can use. It's one that is

identified by the school systems and agencies for -- as a comprehensive intellectual measure that's accepted or identified as being -- to be used in conjunction with other testing that's done, and I chose that because the WAIS had already been given.

Q. Okay. What kind of test is it? Like, without going into any kind of proprietary detail, what does it look like? What does it --

A. Sure. It's nonverbal based. It can be used with individuals of various background or linguistic abilities, nationalities. There's three areas. You get the pictorial scale, the geometric scale, and the full scale, where you show stimuli and you ask to answer.

For example, you know, how are these alike? Or these two are alike, which one of these is most like these others? So it doesn't depend on somebody's verbal abilities because they're pointing to the item that corresponds or they believe is the selected answer to the question.

Q. Are you familiar with any kind of limitations with the CTONI?

A. You have to have vision.

Q. Okay.

A. So there are times where people have some vision impairment, and it's not appropriate. It is for six and

up. It does not have -- for six and up, until, I think, nine years old or something like that. There isn't any limitations to educational background or language spoken because it can be offered -- or administered by pantomime also if the need comes up.

Q. Is it something that you can administer equally to somebody who is, like -- I guess, like, neuro normative versus ASD?

A. You can use it for both.

Q. Okay. Are there any concerns with respect to the administration of the CTONI to people with ASD?

A. The administration would be the same, yeah.

Q. Okay. And about how long does it take to administer the CTONI?

A. Again, it's dependent on the response style how long it takes. It's typically 20 minutes, 25 minutes, something like that. It depends. I've had individuals take a lot longer because they're really thinking about the items or are hesitant to pick, or whatever, and you encourage them to take your best. I didn't have to do that with him. But typically, 25 minutes or something like that. It could be longer.

Q. Okay. So about how long -- and this is a general question, not just specific to the CTONI.

A. Uh-huh.

Q. About how long did the testing take with Mr. Mosley?

A. About an hour.

Q. Okay.

A. Maybe a little under, but about an hour.

Q. Was all the testing done on the same day?

A. Yes.

Q. During that period of time that you were engaged in the testing, was there -- did you need to give him affirmation, encouragement, anything like that?

A. He was cooperative. I didn't have to encourage him very much. I mean, he was cooperative. He was quiet, but he was cooperative and did the testing.

Q. Okay. So I guess let's specifically talk about the CTONI in terms of your administration here with Mr. Mosley.

A. Sure.

Q. So it's, obviously, like -- there are test items.

A. Uh-huh.

Q. Like, there's, like, I'm sure a booklet that you are filling out --

A. Yeah, a (indiscernible) that's shown.

Q. Okay. So talk to me about the administration. Like, do you have to give instructions?

A. Yes. There's standard instructions that are given.

Q. Okay. Did he have any kind of difficulty understanding the instructions?

A. Not that he verbalized. So there are three sample questions or items for each of the subtests. So then the instructions are repeated each time. And then sometimes there are individuals who visually seem confused or don't know, and then you could repeat it again, but he didn't verbalize any -- he didn't verbalize any misunderstanding or poor understanding of what the instructions are.

Q. Okay. So if I'm understanding this correctly, the information, in terms of how he's supposed to take the test, is given to him verbally?

A. Uh-huh.

Q. It's not like he has to read anything.

A. Correct.

Q. And then most -- it's pictorial, it's visual because he's looking at things. So he has to listen to the instructions, and then he has to look at what he's been presented?

A. Correct.

Q. Okay. As far as you're aware, he was able to do that? He was able to engage with you?

A. Yes, besides the couple of times where he was distracted, yes, he engaged in the testing.

Q. And the distraction was because of whatever was going on in the dayroom?

A. Yes, whatever was going on in the dayroom.

Q. Okay. So when you talk about his attention and effort being questionable because he was looking elsewhere?

A. Uh-huh.

Q. You're not talking about his effort in the test itself?

A. He answered the questions.

Q. Okay.

A. So he was cooperative in that way.

Q. Okay. Did you have concerns that he wasn't putting forth best effort in that test?

A. Distractibility concerns.

Q. Okay. Not that he wasn't motivated?

A. He didn't refuse to take the items. He wasn't, you know, uncooperative or anything. I've had individuals do that, right, who don't want to or resist into it. There was nothing like that with him.

Q. Did it seem at all that he was intentionally answering questions incorrectly?

A. I mean, I -- he didn't make any verbalizations

or anything to suggest that he was doing that.

Q. Was there anything in, like, your review of the data --

A. Uh-huh.

Q. -- of the test that gave you that indication?

A. The test data would not give you that. It would be more behavioral observations.

Q. Okay.

A. And then additional testing that's done in conjunction with it.

Q. And the only behavioral observations that you made with regards to effort was that it appeared like he was distracted by the people behind you?

A. Yes. The smiling and laughing at them, yes.

Q. So these were people that he could see, but not people that you could see, right?

A. Correct. They were behind him.

Q. So that could have been mitigated or avoided if you all swapped where you were sitting?

A. Potentially. I mean, it wasn't the whole testing, but, yes.

Q. Okay. Now, tell me about the scores on the CTONI.

A. Uh-huh. Yes. So on the scales, so the pictorial and geometric scales, they were pretty

consistent. They all fall within the very poor range. A 55 on the pictorial, a 61 on the geometric, and 54 on the full scale all fall within the very poor range typically suggestive of Intellectual Disability.

Q. Okay. And this appears as though it would be consistent with his scores on the WAIS-IV, as well as the WAIS-5?

A. The WAIS 5 was higher than that, a little bit higher, but, yes, in the ID range.

Q. Okay.

MS. SEIFER-SMITH: Do you have any questions of the CTONI?

MS. RUSSELL: Well, I do, but I also have some questions going back.

MS. SEIFER-SMITH: Okay. Go back.

THE WITNESS: Sure.

BY MS. RUSSELL:

Q. Dr. Torrealday, what instruments -- we talked about the VIP.

A. Uh-huh.

Q. I know you don't use it very often just to get you oriented, what instruments do you use most often for effort testing?

A. The Dot Counting for that. I do -- if it is for mental illness, there are some others, looking at the

M-FAST for symptomatology, and then for the legal knowledge for the competency.

Q. And which of those tests are normed for people who are cognitively impaired?

A. Normed? Some of them don't exclude them, but they're not created necessarily for those that are ID.

Q. So the Dot Counting Test, for example, is that normed on people with cognitive impairment --

A. Those --

Q. -- or is it intended to be used for people --

A. It can be. It excludes -- it is supposed to exclude those that have visual impairments, cognitive like dementia, and then those who might have acute mental health symptoms. Psychosis, for example. It does not exclude ID. So it can be used for ID because it is a simplistic test.

Q. Are there any others that you can think of that are appropriate for use in effort testing of people either with Autism Spectrum Disorder or Intellectual Disability?

A. Yeah. I'm not aware of effort testing for autism specific, if there's instruments for that. I do know these are the ones that are typically used in the hospital setting for individuals with ID or autism go to.

Q. Are you aware if you need to do specific training in order to take the WAIS -- in order to begin to

use the WAIS 5?

A. Yes.

Q. How many hours of training is it before you can start to use it?

A. I haven't gone through it yet. I don't use the WAIS 5. So I do know the publishing company that proprietary that owns it, does offer the training. So I don't know the number of hours. I haven't gone through that yet.

Q. But we know that it requires training, right?

A. Yes. There's overlap between -- so there are some differences between the WAIS 5 and the IV. They're not completely different instruments, but, yes, the training would address the additional scales or subtests that are included that the IV does not include.

Q. Now, speaking about those IQ results from the South Florida Evaluation & Treatment Center --

A. Yes.

Q. -- are you saying that that score is valid or not valid?

A. Questionable. It raises concern, given that there wasn't prior testing or identification. I was looking for other testing that had been done to see how consistent it is. Then the effort that was put forth for him there. It raises question of it.

They did not diagnose him with Intellectual Disability, and I didn't see any prior diagnosis either by any of the other evaluators that saw him prior to that. So it's questionable.

Q. So valid or not valid? Would you use it to rely on a diagnosis yourself or no?

A. I would question it. I don't know if I would use it. I would have to use it in conjunction with everything else.

Q. Because in diagnosing Intellectual Disability, it makes sense to have the broadest amount of information possible, right? As many sources as you can get?

A. Yes, and ideally is early developmental, yes.

Q. What about the IQ test done by Dr. Railey, do you consider that a valid score?

A. I questioned that as well because of the recency of the testing.

Q. So you would think that was not valid because of the practice effect?

A. I think that could -- well, that's something to be concerned about. The one thing for him is he didn't go up very much in the testing. Typically, with practice effects, you do go up, which is why you don't want to re-administer it, you know, within a short period of time, but I don't know if he did other testing to look to see if

there was effort issues or anything like that.

Q. So valid score or not valid?

A. Honestly, I'm -- it's consistent with the others, but I have concerns about it being the recency of it.

Q. Would it be normal to expect a practice effect to be plus or minus 5 points or 10 points? What would you expect that practice effect to be?

A. A confidence interval, maybe less than that of 5 points or so.

Q. And that was about the range here, right?

A. Yeah. He did a 45. About 10, 9 or so, and then it went up on the 5, which is a different instrument.

Q. So let's talk about the 5. Do you have any reason to think that the score that Dr. McClain got on the WAIS 5 is not a valid score?

A. I don't -- besides the information here, I don't have any other information to indicate it's not valid.

Q. And the information about the Rey given at the same time --

A. She said --

Q. -- we know that she did effort testing --

A. Correct.

Q. -- and then gave the WAIS 5.

A. Correct.

Q. So no reason to doubt that --
A. I didn't see anything to say that there were concerns for effort or distractibility or anything like that.
Q. All right. Just to clarify. You mentioned that a 69 --
A. Uh-huh.
Q. -- is the very top of where you could be in order to be diagnosed with Intellectual Disability?
A. So below 70. Uh-huh.
Q. Now, isn't there something called the standard error of measurement --
A. Yes. It's --
Q. -- and so basically it --
A. -- confidence interval. Uh-huh.
Q. -- would be plus or minus 5 --
A. Plus or minus, uh-huh.
Q. -- points, right?
A. Uh-huh.
Q. So, actually, more 75, 76 might be the --
A. Sure. The DSM identifies it as below 70, but there is a standard error.
Q. And that would be plus or minus 5 points?
A. Yes.
Q. Okay. Now, you said you gave the CTONI-2?

A. Uh-huh.
Q. And you're saying that's comprehensive. It's not a screening?
A. Correct.
Q. Now, are you aware, in your work here at the courthouse or sort of in your other work with the Agency for Persons with Disabilities, as to whether the APD accepts the CTONI as a reliable, valid IQ test?
A. It is one they do use, yes.
Q. And you're saying that they accept it --
A. The CTONI is one --
Q. -- in ID?
A. -- yes.
Q. Okay. Are there any other IQ test that they accept?
A. The WAIS is one. They would also, I would imagine, Stanford-Binet. I don't use that one, but that would be another one. Comprehensive measure.
Q. As you sit here now, you don't have any reason to doubt the accuracy of Dr. Fritz's testing?
A. That there's a significant speech issue? I don't have anything to indicate that's not valid. Those are different instruments to be able to gauge the level of impairment, but I didn't see anything in there.
Q. And you're not familiar with any of the

instruments -- you're not --

A. I mean, many years ago, like, the Peabody, yes, and the Self, but I don't use that.

Q. But as far as you know, those are generally accepted --

A. Oh, yes.

Q. -- instruments?

A. For the --

Q. -- used for that kind of testing?

A. Yes, ma'am.

Q. In fact, they're kind of the gold standard, correct?

A. Those are the ones that are typically used, yes.

MS. RUSSELL: I don't have any other questions for now.

BY MS. SEIFER-SMITH:

Q. Were you aware that at SFETC, Dr. Tenaglia administered the VIP a day after her administration of the WAIS-IV?

A. I do not -- I can't say one way or the other without looking.

Q. If it's reflected in the report that you received from Dr. Tenaglia --

A. I can look. I don't know.

Q. It looks like you have that in front of you.

A. I'm looking for it. Yes, it looks like it was the day after.

Q. Okay. And that's not how you would practice, right, like, administering an effort test the day after?

A. I typically do it the same day.

Q. And that's because it would be more indicative of how somebody is doing that particular day, right?

A. That's part of the battery, yeah.

Q. Okay. I just want to check. Okay.

So let's move on to -- is there anything else with respect to, like, your administration of the CTONI-2 that we haven't talked about that you think is important for us to know?

A. No.

Q. And just so that I get this correct, the CTONI-2 is a valid measure for intellectual testing, and the APD would accept that?

A. Yes.

Q. Okay. Are you aware of what's valid intellectual testing for the purposes of Intellectual Disability within the Courts?

A. Typically, it's the WAIS and the CTONI.

Q. Okay.

A. And the Stanford-Binet. I know there's some individuals that use that.

Q. Okay. So let's talk about the MMSE, which is the Mini-Mental Status Examination.

A. Uh-huh.

Q. And that's the second edition?

A. Yes.

Q. About how long does it take to administer that generally?

A. 15 minutes.

Q. Do you know about if it took 15 minutes with Mr. Mosley?

A. I would say a little less.

Q. Why is that?

A. He was -- the items don't take very long. The math, he didn't really do well on the math components, so that didn't take very long.

Q. And he's not very verbose, is he?

A. He's not, no.

Q. Okay. So what type of test is the MMSE?

A. It's a screener for cognitive impairment, mild cognitive impairment.

Q. Okay. Why did you administer this?

A. Because there was a reported accident, a potential head injury. He said there wasn't an injury, but he had that car accident.

Q. So was that the only reason that you were

administering the MMSE?

A. And it has orientation. You know, another measure of orientation to see how he answers, so there's different components to it.

Q. Is it something that could be indicative of Intellectual Disability or ASD?

A. Not necessarily.

Q. Okay. Would it be testing or screening for either of those things?

A. It's not created for that, no.

Q. Okay. So what kind of implications does the administration of the MMSE have for either Intellectual Disability or ASD?

A. No. I look to see about orientation and attention to see how he performed on those to have another measure -- testing instrument that -- and it's a screener -- that looks at those domains as well.

Q. Can you just tell me what you mean by "orientation," and what the testing means for orientation?

A. The orientation, you know, date, where he is, day of the week, those kind of things.

Q. I see.

A. Uh-huh.

Q. Tell me how he scored on this test?

A. He scored within the mild cognitive impairment.

Q. Okay. Are there any kind of embedded effort tests with respect to the MMSE that you're aware of?

A. No.

Q. Were you able to, like, independently assess his effort on this test?

A. He was cooperative, and he answered the questions when asked. He didn't push back or anything like that.

Q. Okay.

A. He appeared to be cooperative.

Q. So does his score in the -- what you wrote as the range of mild cognitive impairment, is that consistent with his scores on other tests?

A. For me, what he had was difficulty with attention and calculation, so I wanted to see if he was able to attend and perform the questions being asked, and then the drawing visuospatial.

Q. Can you tell me about the drawing and visuospatial.

A. Sure. They copy a geometric design to see how well their visual abilities are in executive functioning of being able to copy it.

Q. And so is that kind of testing how, like, something relates to another in, like, the physical space?

A. Well, being able to process. So the

visuospatial skills, being able to see something and manually be able to copy it.

Q. Okay. That kind of difficulty, is that indicative of anything with respect to cognition?

A. Well, it can be if it's really impaired, potentially for early onset dementia or other difficulties in that way.

Q. Okay. And what, in terms of the difficulty with attention --

A. Uh-huh.

Q. -- what does that say in terms of cognition?

A. So looking at, for him, it was attending and being able to hold information and do the calculations. So these are questions that sometimes people include in Mini-Mental Status Exams. You know, being able to count backwards by 7, those kinds of things, to be able to attend to the information that you're supposed to be doing and being able to process that and provide the answer.

Q. Was that one of the tests, the counting backwards by 7s?

A. That is one of them, yes.

Q. Can you tell me how he did on that?

A. He did not do well.

Q. Do you have the data in front of you?

A. I should. Hang on one second.

Q. Because it's been a favorite in this particular hearing.

A. Oh, is it? Okay.

He did not do them well. He counted backwards -- first, the first one taking away, say, 7, he took away by 3, and then 10 after that.

Q. Okay. When you did that test with him, can you describe it for me? Like, how you did it? If you explained how it's done? If you gave him an example of, like, the first --

A. No. You have to administer it verbatim, the instructions.

Q. Okay.

A. So, you know, now I would like you to subtract 7 from 10, then keep subtracting 7 from each answer until I tell you to stop.

Q. That's 7 from 100, is that --

A. So what is 100 if you take away 7.

Q. Okay.

A. If you take away 7.

Q. And his first answer was 97?

A. Correct. I say, keep going, another 7, and then he was counting backwards by 10s.

Q. So it sounds like that was really difficult for him?

A. He didn't get them correct, yeah.
Q. Okay. I think you said earlier that it appeared to you like he was putting forth best effort with regards to his engagement on this test; is that right?
A. He didn't show distractibility like he did on the other test. On this one, he was cooperative.
Q. Did you do the Clock Drawing Test with him?
A. I did not. That's oftentimes separate or part of the MoCA, but I did not give that, no.
Q. I love that test. Super interesting.
The drawing one, what did you have him draw?
A. It's two interlocking geometric shapes that are pentagons that they have to copy, and his were not good.
Q. Are you able to show us?
A. Uh-huh. Five-sided and they were not five-sided, all of them. So that was -- he didn't get credit for that.
Q. Is that your handwriting at the top with his name and the date?
A. No, that's his.
Q. That's his?
A. Yes.
Q. Okay. Was there anything else that you had him write?
A. There is write about where you live.

Q. Is that part of the MMSE?
A. Yes.
Q. Okay.
A. He wrote, I live in Florida.
Q. What do people typically write?
A. That one is --
Q. Broad?
A. -- broad. I get all kinds of answers. Some put, I live at this specific address, or I live -- some people put the jail. There really is -- you're looking to see if there's, like, a noun and a verb and if it makes sense.
Q. Okay.
A. It varies significantly.
Q. Did he spell everything correctly?
A. He misspelled Florida.
Q. How did he spell it?
A. He put an extra "I" in it.
Q. Where did he put the extra I?
A. At the end, Floridai.
Q. Okay. Did he capitalize Florida?
A. He did not.
Q. Did he add any punctuation?
A. No, and that's not required for this, but he did not.

Q. And it was just, I live in Floridai?
A. I live in Floridai, yes.
MS. SEIFER-SMITH: Do you have any questions about the MMSE?
MS. RUSSELL: I do.
MS. SEIFER-SMITH: I figured.
BY MS. RUSSELL:
Q. Dr. Torrealday, you and I met with Mr. Mosley on May 8th.
A. Uh-huh.
Q. There was a lot going on that day?
A. Yes.
Q. Then Ms. Seifer-Smith met with you a second day?
A. Correct.
Q. And the second day, what was the date?
A. The 21st, I believe.
Q. Okay. Are you saying that you gave him the Mini-Mental State Exam on the day when you were there with Ms. Seifer-Smith, or the day that you were there with me?
A. All the testing was -- no, it was a second day. Testing was by myself with him.
Q. Because in my notes from that day I have, you know, the Mini-Mental State Exam is the one where you have him spell "world" backwards?
A. That's in the interview, the MMSE.

Q. Okay. So I mean --
A. That's not part of that test.
Q. Okay. And when you asked him who the president is and if a dog has four legs?
A. Hold on a second. That's not part of the MMSE. I don't know that I asked him that. Yes. That's part of the interview.
Q. Okay. So basically, those questions are questions that you just interview, and it's not part of the MMSE?
A. Correct.
Q. And when you did that part of the interview -- and the reason I was asking because I was wondering if any of this made it into your report -- that you asked him that if he paid with $100 and got 23 back, do you have that note?
A. I have here -- so the question I typically ask is: If you buy something that cost 78 cents and you pay with a dollar, how much change should you get back? He said, A penny.
Q. It seems like he didn't know much about counting change.
A. No.
Q. And when he spelled "world," for you, do you have that note?

A. Yes. It's W-L-O-R-D.

Q. Not the way you spell world?

A. Correct.

Q. Were there any errors that he made in that part -- any other errors that you have in your notes that he made in that part?

A. The serial 7s counting back. I had him do 5s, and he did not do that correctly. He did -- he started off right counting backwards by 10s, then erred on that after 70.

I asked him to spell "bird," and he misspelled bird. He was aware of how many months in a year. Let's see here. The president, he said it was Biden. Let's see. Legs of a dog, four. And simple math, one of them he got incorrect.

Q. And when he was arrested and came into the jail in Pinellas, President Biden was president, right?

A. It would -- he came back in February, correct, yeah.

Q. Well, I mean, actually, he was arrested, like, two years ago?

A. Oh, you mean initially? Initially, yes. I'm sorry, yes.

Q. So I think that might have been the last president that he was aware of, and not aware of the

current president.

A. Yes.

Q. So what did you consider about those answers, even though they weren't specifically on the Mini-Mental Status Exam, in terms of those answers, what did you take from his ability to --

A. Yeah. Basic. Very basic abilities with computation and spelling. I asked him to do a simple addition, and he said, No idea, then guessed 10, which was incorrect.

Q. Now, would those types of things with consistent with someone who had an IQ two standard deviations below the norm?

A. It could be, yes.

Q. And do they demonstrate any deficits in adaptive functioning?

A. Yes. For Intellectual Disability, yes.

Q. How so?

A. Those different areas, so you're looking at communication, daily functioning, community functioning. If there's any work -- those who have work histories, a lot of individuals have never really had real jobs, so that's not oftentimes scored, I guess.

In the functional, that's where it would be like counting money, being able to get around in the community

on their own, being able to use transportation, et cetera, those kinds of things.

Q. I guess what I was asking was: Is that reflected in these areas where he --

A. Yes.

Q. -- make change?

A. Yes. I mean, that would show difficulty with managing money, potentially, yes.

Q. And did you feel like he was cooperative in giving you full effort when he was answering your questions?

A. He was cooperative during that, yes.

MS. RUSSELL: That's all that I have.

BY MS. SEIFER-SMITH:

Q. Okay. The next test that you indicated that you administered is the Inventory of Legal Knowledge?

A. Correct.

Q. Okay. Can you tell me about that test?

A. Sure. It is one that is given to look at -- it's competency questions and it's response style, you know. It's a true-and-false instrument that asks questions of different aspects of competency, and they have to answer if it's true or false, the statement that's made there.

So it looks at effort for those, and then the

scoring of their knowledge of it -- of the different domains.

Q. About how many questions is it?

A. 60, I believe.

Q. And about how long does it take to administer?

A. Again, that depends on how slow they are. It probably takes a minute or less per -- a couple -- not even a minute, I'm sorry. A couple seconds, 10 seconds or so if they can answer or understand the question or if it needs to be repeated.

Q. Generally, how do you decide whether or not you're going to use the ILK?

A. Yes. So if -- I always have it with me. So depending on their performance and/or history on other competency tests that there's been questions raised or inconsistency in responding, I will use that. I don't use it in every case.

Q. When you say, like, responses on other competency testing.

A. Uh-huh.

Q. Are there other competency tests -- like, the administration of other competency-type test instruments?

A. Well, the ILK, if it's given also, but performance over evaluations.

Q. So you're not aware of any other, like, battery

of competency tests that were given in the case?

A. For Mr. Mosley?

Q. Correct.

A. I believe -- I don't know if the ILK was given before. Perhaps. I would have to look to see.

Q. Okay.

A. Hold on a second. I think there was. I would have to look. I don't want to error and say that it was given, but I believe it was given before.

Q. Okay. And the administration, I think, is how you've described it. Like, you read off a question, and then you're asking the examinee if it's true or false, the statement?

A. Correct.

Q. Okay. So they're not required to read anything?

A. Correct, they do not read.

Q. When you administered the ILK to Mr. Mosley, did you have to repeat yourself at all?

A. A few times.

Q. Okay. Why would you have to repeat yourself?

A. If he indicated he didn't understand what was being asked, or he was not responding. Typically, it's, you know, I don't understand the question. And I can't word it any different way. It has to be read to him the same way, so it was just repeated.

Q. Did he ever say, I don't understand the question?

A. He asked if I could repeat it.

Q. Okay. Do you take notes regarding his responses while he's responding to you?

A. It's usually true or false. If there's something that's spontaneous or outside, I may take note of that, but I just make a note if I repeat the question.

Q. Okay. Do you have those notes? Like, do you have any notes indicating that he responded something else spontaneously?

A. I can check. I don't believe so. No. Just that I repeated a couple of times.

Q. Okay. Are you aware of any limitations of the ILK?

A. There is an elementary school grade -- fourth or fifth grade, I believe, for comprehension.

Q. Do you know if the ILK is normed for people with Intellectual Disability?

A. I have not seen that it is formally normed for that, no.

Q. Okay. Are you aware of any kinds of studies indicating that there may be any false positives for malingering or poor effort for people --

A. It has to be normed for the right population

because that could be a concern that comes up.

Q. Okay. So if it's not normed for somebody who is -- or if it is not normed for individuals who are intellectually disabled, then it could indicate, like, false positives?

A. It's possible, yes.

Q. And Mr. Mosley has consistently scored within an Intellectual Disability range; is that fair?

A. On all the comp evals that I've seen, yes.

Q. Okay. So tell me about, I guess, like, specifically, like, your administration of the ILK with Mr. Mosley and his score?

A. I have to administer it the same way to everybody.

Q. Okay.

A. So you read the instructions, and then the item is it true or false and then they have to give the response.

Q. And do you remember anything -- I know you mentioned that on a couple of occasions, you had to repeat the questions.

A. Uh-huh.

Q. Do you remember anything else in the administration standing out to you now?

A. With that instrument, no.

Q. Okay.
A. Just the repetition a few times.
Q. And what did you find in terms of his responses?
A. Well, that the score was greater than expected by chance.
Q. What does that mean?
A. By random responding. That the score was greater than random responding, and it tends to be low. So if you randomly responded, you would potentially do better than how he did.
Q. So what does that mean?
A. That there was feigning response styles for responding or suggesting that he knows less than he potentially does.
Q. I'm sorry. So you're saying he knows less than what the test shows?
A. No. That the test shows he scored low. That he could have performed better if he had randomly guessed than how he did on the test.
Q. Okay.
A. So it's response style, so effort. Looking at effort, too.
Q. So does it indicate poor effort; is that what you are saying?
A. Yes, that's what the testing does.

Q. Understanding that the ILK is not normed for people with cognitive deficits?
A. Correct.
Q. Okay. So it could be a false indicator of poor effort?
A. It's possible.
Q. Okay.
A. That's why I did the other test, too.
Q. Okay. And when you say "the other test," are you talking about The Dot Counting --
A. Yes.
MS. SEIFER-SMITH: Okay. Before we get to The Dot Counting Test, Ms. Russell, any more questions about the ILK?
BY MS. RUSSELL:
Q. During our time together, when you were talking to Mr. Mosley, he said a number of times that he thought that the judge was on the side of the State.
Do you have that reflected in your notes?
A. In the competency piece.
Q. And the ILK, basically, the test itself, right?
A. Uh-huh.
Q. Asks questions about what you understand about --
A. Yeah, the specific questions about the court

process.

Q. So if you actually don't understand questions about the court process, for example, that the judge is on the side of the State, you're probably going to score pretty poorly, right?

A. But if you randomly guess, it would be higher than he did, and that's where it was raised.

MS. RUSSELL: All right. That's all that I have.

MS. SEIFER-SMITH: Okay.

BY MS. SEIFER-SMITH:

Q. So tell me about The Dot Counting Test. Like, what it is kind of generally?

A. Sure. It's a pretty simple test that looks at test-taking effort, where you count -- you're presented stimuli, and you count the dots. It looks at how long it takes you to do it and if you're accurate.

Q. Okay. So tell me how it's administered.

A. It's, again, verbatim. I don't have the stimulus here, but you have to ask the question. Each stimuli, you show it to him and -- I don't know the word by heart, but, you know, how about -- the first one you say, tell me how many -- this is ad lib because I don't have it in front of me -- but count the number of dots. They do that. Then you show them the next one. Okay.

Now try this one. Then you start the timer.

Q. Okay. About how long does it take to administer?

A. Not very long because the -- I think the most complex of the items has you count to 30, maybe 35.

Q. About how long did it take with Mr. Mosley?

A. I would say about -- I mean, the things are measured typically in seconds.

Q. Okay.

A. It could take up to a minute or so, depending. He didn't take that long. So he did -- I think probably the longest was about -- his response time was 9 seconds, is the longest for one of them.

Q. Okay. And where does that fall in terms of, I guess, the administration of the test generally?

A. Sure. So then it is calculated to you look at -- you get the E score is how long it takes for each of them, and the accuracy, and there's a formula that the instrument has. Then you compare it to what the norming population is that you're comparing it to see if it is above average or not.

Q. Okay. And what kind of test is this? Like, what is it testing?

A. Effort.

Q. Okay. So just straight-up effort?

A. Correct.
Q. And why did you administer this?
A. Because of the distractibility, there was questions about effort in past testing with him as well. Just to have another measure to look at effort, given the distractibility, then the ILK, and to have another instrument to look at that.
Q. Okay. Tell me about the administration. Like, how you administered it to him?
A. It's verbatim. There's instruction that I have to give and you put the stimuli in there and you give the instruction to do it. You show him the -- it's a little booklet with the dots and you start -- you know, once I said, Tell me how many dots there are? Whatever the specific wording is. Then you start the timing, and the response of how many they say. Then you stop it. Then you go, Now try this one. There's a second one.
Q. Was he able to complete the test?
A. Yes.
Q. Did he have any questions or any, like, misunderstanding or anything?
A. No, not on this one.
Q. And how did he do?
A. He scored elevated. That shows that his score compared to -- I compared it to those with learning

disabilities -- was more suspect than the average of the group that it was normed for.

Q. So what was elevated? Was it the amount of time? Was it --

A. The time and the errors, uh-huh.

Q. What kind of errors?

A. Wrong calculations.

Q. So, like, counting wrong?

A. Uh-huh.

Q. Is that a yes?

A. Yes.

Q. Okay. And he's indicated some pretty significant troubles with math throughout his testing; is that fair?

A. Yes, and these are counting, like, 1 through 5, 1 through 10. The most you count is to 30 or 35, so it's not complicated counting the dots. They oftentimes use fingers to point to the dots when they're counting.

Q. But it is a fair statement that he has done really poorly with anything math related in the testing with you, and in the testing with others?

A. In doing calculations and money counting and those things, yes.

Q. Okay. Are you aware of any kind of limitations for The Dot Counting Test?

A. The ones I had mentioned before, I believe. Visual impairments. You can't use it with someone who is visually impaired. Those who have dementia or significant cognitive decline. And then those who are presenting with acute symptoms of psychosis, for example, are the ones not to use.

Q. Is it more difficult for people who have, like, difficulty with, like, visuospatial issues?

A. I'm not aware of that.

Q. Okay. Is a difficulty with visuospatial relationships, is that indicative of, like, some symptomology for ASD?

A. Visuospatial? It's typically for more cognitive decline. I'm not aware of it being specific to ASD.

Q. Is The Dot Counting Test normed for people with ID?

A. It does not exclude them. The ones that you are not to use it for are those three categories that I have indicated.

Q. Okay.

MS. SEIFER-SMITH: Do you have any other questions regarding dot counting?

MS. RUSSELL: I do.

BY MS. RUSSELL:

Q. I apologize, Dr. Torrealday. I have no

experience with this test.

A. Sure. That's fine.

Q. So I know that you said that you compared -- that you got, basically, like a raw score?

A. Uh-huh.

Q. And that you were able to compare that to the score for the learning disabled?

A. So --

Q. So is there, like, average, learning disabled and --

A. There are different categories, yes.

Q. Okay. So what are the categories?

A. Yes. I don't have it with me. So learning disability.

Q. Uh-huh.

A. There is -- I actually looked for two for them. The ones I looked for him for head injury, because of the suspected potential accident, and learning disability.

Q. What are the other -- like, all of the categories that can --

A. Yes. I may have brought it. Hold on one second. So the other ones are nonclinical, depression, schizophrenia, head injury, stroke, dementia, and then normal effort.

Q. And what are the cutoffs for all of those --

A. They vary.
Q. Would you mind just --
A. They vary --
Q. -- letting us know --
A. They range from --
Q. -- what he scores? I'm also interested in what's his score and what are the cutoffs for the other?
A. They vary from 14 to 20. So for, like, the head injury, it is -- let me see -- it is 20; and learning disability is 15. Then you have sensitivities for it, so his score was 37. So he scored above both of those.
Q. And what's the highest score possible?
A. It depends on the response time. You know, the longer they take, the inaccuracy, then the higher the score, typically.
Q. And there's no category for people with autism?
A. No.
Q. And there's no category for people with Intellectual Disability?
A. Those specific, no.
Q. All right.
A. But they do have the learning disability, which he had been identified, so I used that one as well as head injury.
Q. And schizophrenia?

A. Yes, schizophrenia is also one. Uh-huh.
BY MS. SEIFER-SMITH:
Q. I'm sorry. Did you make a comparison to the -- what is it -- the list for schizophrenia?
A. I did not. I looked at the learning disability and for the head injury.
Q. Okay. Because you indicate that your diagnostic impression is that he has --
A. Based on the symptom he reported, and there's a history of psychosis for him.
BY MS. RUSSELL:
Q. So the cutoff for schizophrenia is what number?
A. 20.
MS. RUSSELL: I know we may be getting close to the end. Is it possible that we take a 4-minute break?
MS. SEIFER-SMITH: Yes. Let's take 4 minutes.
(Break taken.)
BY MS. SEIFER-SMITH:
Q. Are you ready, Dr. Torrealday?
A. Uh-huh.
Q. Okay. So I think that the next section in your report is your diagnostic impressions with respect to Mr. Mosley.
A. Uh-huh.

Q. Can you just tell me what those are?

A. Yes. Unspecified Depressive Disorder, Unspecific Schizophrenia Spectrum and Other Psychotic Disorder, Specific Learning Disability, Malingering (Suspect Effort), and Cannabis Use Disorder; and sustained remission.

Q. So I want to talk about a few of these.

A. Uh-huh.

Q. So this Specific Learning Disability rather than Intellectual Disability; why is that?

A. That was documented in the school records and with the testing for the speech and language and received IEP services for those in the school years.

Q. Now, the testing indicates, and you write in your report kind of just about this, it indicates Intellectual Disability. Like many of the tests that were administered to Mr. Mosley, why do you not believe that this is something --

A. Well, I questioned the effort and that -- there hadn't been identified in the early developmental years in the school system. Typically, it is where it is identified first, and then prior evaluations, multiple psychologists and psychiatrists that saw him previous also didn't identify it, and then the jail records. So given my concern for suspect, you know, the effort, I didn't put

it in there.

Q. There was no intellectual testing in the school records; is that right?

A. I did not see it in what was given to me, no.

Q. Okay. But the intellectual testing that was done, you know, past the developmental age, indicated that -- like, just the rough scores alone indicated an Intellectual Disability; is that fair?

A. On the WAIS and the instruments that were given, yeah.

Q. And in an Intellectual Disability, like, that kind of test, that's immutable, right?

A. It tends to be constant in theory.

Q. Okay. And Mr. Mosley identified a head injury when he was, I think, seven years old?

A. Yes. No, seven --

Q. I'm sorry. Seventh grade?

A. Seventh grade, yes.

Q. Which would have been during the developmental period?

A. Yes, in seventh grade.

Q. Okay. But when he was prompted, with respect to the car accident, he didn't indicate an additional head injury; is that correct?

A. Correct. Yes.

Q. Okay. So it would be safe to assume that, like, if he had been given an IQ test in the eighth grade, that because our IQs or our intellectual capacities are immutable, his score now would be the same?

A. Potentially, unless they felt the testing was impacted by, you know, from a head injury, which I didn't get any records of, you know, how severe or not severe it was, so...

Q. Okay. Is it also helpful in terms of determining -- and I think we talked about this a little bit before -- but in terms of determining an Intellectual Disability diagnosis to take into account collateral sources?

A. For the adaptive, yes, specifically.

Q. Okay.

A. I mean, with a score of 46, that's why I was looking in the school records, that's fairly low and typically identified in the school system beyond being a specific learning disability, and I didn't see that in the records. It didn't indicate testing was or was not given. I didn't see any IQ scores, but he was not identified as having ID when he was in school.

Q. What if he just wasn't given any kind of intellectual testing?

A. I mean, that's possible. That can happen.

Q. So then your diagnostic impression is that he's malingering?

A. Suspect effort. Uh-huh.

Q. Tell me about that.

A. Based on the testing that the effort -- he did not put forth effort -- appropriate enough effort in the testing.

Q. Okay.

A. That raises a question.

Q. And are we -- we're just talking about the testing that you administered on the 21st of May?

A. That is, yes, for my testing.

Q. Okay. And I think, like, as we discussed, like, all of those tests do not take into account, like, norms for people who are cognitively impaired by Intellectual Disability?

A. And don't exclude. Some of them don't exclude them, but they're not created specifically for ID.

MS. SEIFER-SMITH: Okay. Do you have any more questions about the diagnostic impressions?

MS. RUSSELL: I do have some questions about the non-ID diagnosis, but you might have --

MS. SEIFER-SMITH: Go ahead.

BY MS. RUSSELL:

Q. Dr. Torrealday.

A. Uh-huh.

Q. In general, my understanding -- and I'm just a silly lawyer with no training in psychology or psychiatry or medical training at all -- is that the first thing you look for is the mental health issue, right? Then the second one is something organic in developmental because if someone, for example, is suffering from Intellectual Disability, you might not be able to tell if they're profoundly psychotic; is that right?

A. You have to -- yes, that is correct.

Q. But you have to treat the psychosis first before sometimes you can even test for these other developmental disorders; is that fair?

A. Yes. You have to manage the symptoms, yes.

Q. So when you said that one of the reasons that you didn't diagnose Thomas Mosley was there was nothing in the school records, fair, or no IQ test in the school records, that's fair.

A. Uh-huh.

Q. But when you were talking about the fact that nobody else had diagnosed him with ID in the prior evaluations --

A. Uh-huh.

Q. -- is it possible that the reason why was because he was actually suffering from schizophrenia and

psychosis from the time he was arrested until the present? You know, he's had two prior --

A. It is possible.

Q. -- stays --

A. It is possible. I mean, if he was unstable and acutely psychotic, it's possible, yes.

Q. And you know from reading the reports of Dr. Ramm, and all of the doctors that saw him over two prior competency evaluations --

A. Uh-huh.

Q. -- that he had -- he was diagnosed with schizophrenia and that he had --

A. Mental --

Q. -- psychosis, right?

A. Yes.

Q. Would you agree with me that that's probably the reason why none of the other doctors since his arrest have taken on the issue of ID?

A. It's possible. Sometimes in the way they communicate, they could raise concerns for that, but, yes, it's possible.

Q. Well, I think some of the doctors did raise concerns that there were potential cognitive -- that they had concerns about his cognition --

A. Uh-huh.

Q. -- in the various exams that were done, but all of them said, in general, this is not something that we can address right now until we get the psychosis under control, fair?

A. Okay. Fair. Uh-huh.

Q. And you don't take any issue with that, as you sit here now, that's standard operating procedure for people in your line of work, right?

A. Yes.

Q. All right. Let's talk now about the DSM-5.

A. Uh-huh.

Q. Three criteria for Intellectual Disability.

A. Uh-huh.

Q. One is a valid IQ test --

A. Uh-huh.

Q. -- two standard deviations below.

A. Below the mean.

Q. The mean. Which would be somewhere in the range of 70 plus or minus 5?

A. Uh-huh.

Q. Correct. All right.

In this case, do we have that?

A. We do have it in some of the testing, yes.

Q. And you would agree that that's a valid test?

A. Well, one of them is suspected effort. McClain

said it was no indications, and I don't know about Railey if he -- any commentary, any observations that he had, but his testing was within that range as well.

Q. Okay. We can agree that Dr. McClain's test is valid?

A. I don't have anything to say it's not, yeah.

Q. All right. Let's talk about adaptive functioning.

A. Uh-huh.

Q. Were you provided --

A. Yes.

Q. -- this set of school records with the colorful tabs?

A. Uh-huh.

Q. Did you have this with you at the time you wrote your report?

A. I did, yes.

Q. So you had it with you --

A. I mean, not next to it, but, yes, I had it. So I -- in the adaptive when I had questions about the IQ, and so I did not speak to the adaptive because I questioned the IQ results.

Q. Okay. So you did no analysis of his adaptive functioning?

A. Well, no. The records indicate that there is

deficits in adaptive functioning for him.

Q. Okay. And so you would say that the records indicate that he has adaptive functioning deficits in the conceptual, social, and practical domains?

A. In the different areas in school, yeah, that was identified.

Q. And you don't take any issues with those adaptive functioning deficits?

A. I don't have any indication to indicate it's not valid, yes.

Q. Did you do any collateral interviews?

A. I did not. Not with the parents, no.

Q. And you were provided contact information for them?

A. Yes.

Q. But you weren't able to do --

A. No, I didn't.

Q. And it is best practices in the diagnosis of Intellectual Disability to do collateral interviews, right?

A. Ideally, yes, if there is the ID testing, yeah.

Q. And that's because, in general, the self-report of people with low IQ, as well as mental illness co-occurring, schizophrenia, psychosis, as well as potentially autism co-occurring, right?

A. Uh-huh.

Q. Those self-reports just aren't reliable; is that fair?

A. It's helpful to have collateral, yes, in addition to the testing.

Q. All right. So you're telling me that we have the two prongs, IQ, and also adaptive functioning in all three domains? Adaptive functioning deficits in all three domains?

A. Oh, yeah. Uh-huh.

Q. Okay. So the third prong under the DSM-V is the age of onset --

A. Uh-huh.

Q. -- which strangely, under Florida standards, really the cutoff is age 18, right, legally for the death penalty analysis, right?

A. Uh-huh.

Q. But since the new DSM-5-TR has come out, the age of onset has now been expanded northward to the developmental period?

A. Correct.

Q. Is that fair?

A. Yes.

Q. So that's on the other side of 18?

A. Uh-huh.

Q. So would you agree with me that Thomas Mosley meets the criteria that his IQ and adaptive functioning probably occurred during the age of onset?

A. Given the stability of it, it should. It seems like it would.

Q. So explain to me what it is that prevents you, at this time, as you sit here now, from diagnosing Thomas Mosley with Intellectual Disability?

A. Because of the history, the school not identifying, and then the effort in the testing.

Q. All right. But we agreed that there's an IQ test that's valid that's --

A. Uh-huh.

Q. -- two standard deviations below.

A. That is. It's the 69, yes.

Q. And there is so many examples of adaptive functioning deficits in the school records?

A. Uh-huh.

Q. I guess it's difficult for me to understand because there was no IQ test as a child, you're telling us that --

A. No. That it wasn't identified, and so that it wasn't identified in the school that he was in that for -- and that low of score typically is a red flag for the schools. So the question is, why wasn't he identified as

ID when he was younger?

Q. Are you familiar at all with testing done in the schools in Pinellas County, especially in the heart of South St. Pete?

A. Not very well-versed, no.

Q. You're aware that there are schools that are very impoverished and underserved?

A. And that's true, yes, in a lot of places, yeah.

Q. And there's been a lot of, actually, publicity and press over the decades after desegregation in the Pinellas schools with issues with schools being underserved with children being in profound need and poverty and trauma and not being identified as either ID or autistic because of the fact that the schools were simply overwhelmed with the number of children with special needs?

A. That's possible, yes.

Q. Have you read anything about that?

A. No. Not in Pinellas County, no.

Q. So you would say that you would not diagnose Thomas Mosley with Intellectual Disability, even though we've talked about meeting the three criteria?

A. Uh-huh. I mean, I question it. The effort was the concern for me for him and how valid the testing was, but he does have general deficits, yes.

Q. So certainly the effort was a question.
A. Uh-huh.
Q. Did you make that conclusion before you received the valid test from Dr. McClain, because I know we provided that information late, and I wonder had you received Dr. McClain's valid test earlier on in this process if you might have come to a different conclusion about the diagnosis?
A. Potentially because she did do some malingering testing or, like, for effort, but I did not get that until after --
Q. Right.
A. -- after the evaluation.
Q. But it would have made a difference to you?
A. It could have. Uh-huh. Especially since it's a different instrument, a newer instrument.
MS. RUSSELL: All right. Thank you.
BY MS. SEIFER-SMITH:
Q. Okay. No diagnostic impressions with respect to Autism Spectrum Disorder?
A. I did not, no.
Q. Did you do any testing with respect to Autism Spectrum Disorder?
A. I did not.
Q. Why not?

A. Because I believed what I was seeing was the mental illness, the flat affect, those kinds of things are symptoms of the mental illness and not necessarily autism.

Q. Are you familiar with, like, the very frequent comorbidity between, like, schizophrenia or Schizoaffective Disorder and Autism Spectrum Disorder?

A. There is comorbidity as well as with Intellectual Disability, yes.

Q. And that's fairly frequent within those populations; is that fair?

A. It can be seen, yes.

Q. Okay. So here we have Mr. Mosley, who is testing, according to, like, Intellectual Disability, appears, at all facets, to have an Intellectual Disability. He's been diagnosed on many occasions with schizophrenia.

A. Uh-huh.

Q. But no testing for ASD?

A. Correct.

Q. Okay. And I think you had told me before about the test that you use or have used in the past with respect to ASD, as being the CARS and the GARS?

A. Uh-huh.

Q. Were there other tests that are available to you?

A. ADI-R, which is an interview for that. Uh-huh.

Q. And those tests can be done both with the individual themselves, as well as with people who are able to discuss the examinee during the developmental period?

A. You can do it singularly or both, yes.

Q. And those tests weren't administered to either Mr. Mosley or Mr. Mosley's family?

A. No.

Q. Okay. And, obviously, no teachers were interviewed in connection with this case either?

A. No.

Q. Okay. And am I getting this correct that you just didn't do any kind of, like, autism assessment because you believed that what you were seeing was related to, like, psychological symptoms rather than a --

A. The mental illness, yes.

Q. Okay. Do you think that that was a mistake not to do any testing for ASD?

A. No, because I think the mental illness -- I mean, there's a clear, documented history of mental illness, and he presented with the negative symptoms of mental illness. So I believed that was what I was seeing.

Q. Okay. I think you mentioned earlier that, after your report was written, you had the opportunity to review Dr. Whitney's report?

A. Yes. That was provided to me after, yeah.

Q. Okay. Having reviewed Dr. Whitney's report, does that give you any kind of pause with respect to the failure to have done any kind of testing or, like, further analysis regarding ASD?

A. I don't do the ADOS. So I know that came from the speech and language, I think, evaluation for further -- I think it was that one where they said to do further testing, so it's possible -- could he have autism as well? Yes, but I believe what I was seeing was symptoms of mental illness.

Q. Okay. So you think that Thomas Mosley does not have Autism Spectrum Disorder?

A. According to Dr. Whitney, then, yes, he sees the symptoms of that when he tests specifically for that.

Q. From Dr. Whitney's report, his examination, his testing, is there anything in that information that leads you to believe his findings to be invalid?

A. I did not see anything indicating it would be.

Q. Okay. So would it be a fair diagnostic impression that Thomas Mosley is also -- does also have the neurocognitive developmental disorder of Autism Spectrum Disorder?

A. Based on this evaluation, yes, he identified that.

MS. SEIFER-SMITH: Do you have any further questions regarding ASD, Ms. Russell?

BY MS. RUSSELL:

Q. But you are trained in the GARS, which is a screening test for autism?

A. Yes.

Q. Why didn't you give that in this case?

A. Because what I saw I thought were symptoms of mental illness.

MS. RUSSELL: Okay. Thank you.

BY MS. SEIFER-SMITH:

Q. Okay. I feel like that next section of your report, the Competency to Proceed, is mostly, like, the history in terms of, like, Mr. Mosley's competency or the competency proceedings; is that fair? Like, your assessment of, like, what you pulled from the various reports?

A. Oh, the first part, yes.

Q. Then it's your current assessment, right? Is that fair?

A. Yes.

Q. Okay. So I want to talk about each of those criterion individually. There are six; is that right?

A. Yes.

Q. And that's per statute?

A. Uh-huh.
Q. Okay. Is that a yes?
A. Yes. I'm sorry.
Q. Okay. So let's talk about the first. Mr. Mosley's appreciation of the charges against him.
Can you tell me how you asked him about this particular criterion?
A. Yes. I asked, Do you know what your charges are, what you've been charged with?
Q. And what did he say?
A. He said first-degree murder.
Q. Okay. Because what I see in quotes is "they say I killed two people."
A. When I asked what are the allegations, yes.
Q. Okay. Did you use the word "allegations"?
A. Whether they -- I may have in his case. I don't know. I use allegations sometimes. Sometimes I ask, What are they saying? What are they accusing you of doing?
Q. Okay. Do you think that he would understand the word "allegation"?
A. Oftentimes, that's why I use both words, because not everybody knows what that word means.
Q. So tell me -- kind of walk me through this particular portion of, like, your competency examination.
A. Uh-huh.

Q. Like, your conversation with him?

A. Yes. So I asked, you know, What is it that they're saying that you did?

He indicated he didn't know anything about it.

I asked, Well, what are they saying where this supposedly occurred? Where are they saying this happened?

He said, in St. Pete. He commented that I could ask his attorney for more information.

I asked, Have you talked to your attorney about this?

He said, It was not a good time.

So, you know, so I was asking, Well, what do you mean?

He said, When I'm ready. My mind needs to be ready, is what he said.

Q. Well, he also said that he needed to be free, out of jail --

A. Out of jail to be able to do --

Q. To be able to discuss this with his --

A. Apparently. I mean, that's all he said, yeah.

Q. That doesn't really seem like a feasible proposition for somebody --

A. No.

Q. -- who is charged with two counts of first-degree murder --

A. Correct.
Q. -- and facing the death penalty; is that fair?
A. That's fair.
Q. So is that really an ability to appreciate the charges and allegations if he can't actually discuss those things with his attorneys unless he's not in the jail?
A. That's why I had asked, you know, has he been able to discuss things about that? And that was, you know, when I was advised that not in any length or detail.
Q. So if he hasn't been able to discuss this at any length or in any detail, is that really an appreciation?
A. Well, with regard to the basic understanding of what he's accused of.
Q. So if he's just able to verbatim say back, like, I'm charged with two counts of first-degree murder, is that sufficient?
A. Understanding what the charges are and what the allegations are, and the severity of it.
Q. Okay. He didn't give you any kind of information as to, like, what specifically he's being accused of?
A. He did not talk about it.
Q. Okay. So no indication of who he is accused of killing?
A. He did not talk about it.

Q. No indication of the means by which he is supposed to have killed these two people?

A. No, he wouldn't -- he wouldn't -- he said he doesn't know anything.

Q. So he said he didn't know anything. Not that he was refusing to say anything to you?

A. He said, I don't know. I do not know. I know nothing, yeah.

Q. Okay. So, really, not saying that he understands all of the allegations against him and --

A. Well, I mean, these are charges that would have been asked of him and at the hospital, so he's aware of the counts and he's aware of what he's accused of, but the specific details of the allegations, he did not discuss.

Q. Okay. Tell me more about that conversation, because you have, like, some other entries here.

A. Uh-huh. That I was advised that he hasn't discussed it at length and that he said his charges were serious.

Q. So were those his words, "my charges are serious"?

A. I asked, Would you say your charges are serious?

He said, Yes.

Q. Okay. So he didn't volunteer "my charges are serious"?

A. No. I typically ask if they are or not.
Q. And when -- and you asked him about the difference between a felony and a misdemeanor?
A. Uh-huh.
Q. Is that a yes?
A. Yes.
Q. That's a pretty standard question?
A. Correct. Uh-huh. Yes.
Q. And how did he respond to that question?
A. That it's a higher charge. The difference is one is higher than the others.
Q. Okay. And what did he identify as --
A. He first said misdemeanor, and then it varies by sentence. And in some, you get more time, and in others, less.
Q. And he identified the misdemeanor as carrying the higher charge; is that right?
A. He did, yes.
Q. Okay. And that's incorrect?
A. Correct.
Q. But your finding was that, for this particular criterion, that he is acceptable with the rest --
A. Because he seemed to appreciate the seriousness of the charges.
Q. How did he appreciate the seriousness of the

charges?

A. That he's aware of what the charges are, that he's accused of killing two people, and that the consequence is serious.

Q. Okay. Was there anything more to your conversation for this particular criterion?

A. No. Just he wouldn't talk about the allegations.

Q. Okay. How about the next criterion? Mr. Mosley's ability to appreciate the range and nature of possible penalties imposed.

A. That he identified that he is potentially facing the death penalty or life, which would be also dying anyways.

Q. Okay. So that kind of response about dying anyways was in response to your request of whether or not he could be sentenced to prison?

A. Correct.

Q. Okay. And you put in quotes, no reason for that. What's the point of getting life if going to die anyway."

Is that about right?

A. Uh-huh. Yes.

Q. And you would say that that is an acceptable appreciation of the range and nature of possible

penalties?

A. That he is aware of the serious nature of the consequences, that he's looking at life in prison or possible death.

Q. Was there any kind of exploration about the process by which Mr. Mosley goes from having entered a plea of not guilty to being sentenced to death?

A. No.

Q. And why not?

A. Because I was asking the basic competency prongs, the basic understanding of the nature of the legal process and not looking to specific death penalty ones.

Q. So you would agree with me that, obviously, a death pendency is the most serious kind of case that we handle here?

A. Yes, of course.

Q. So somebody's ability to participate in the process, especially in a death penalty case, is extremely important?

A. Yes. Uh-huh.

Q. Okay. So just saying that he does have a death penalty case and that it's a possible penalty, that's pretty minimal for competency purposes, right?

A. Well, for understanding the possible penalties is acceptable.

Q. Why would just saying, like, this is a death penalty case, like, the death penalty is the possible punishment, but not appreciating the means by which you get to that particular punishment be acceptable?

A. Because it's asking about the range and nature of the possible penalties.

Q. So --

A. So --

Q. I'm so sorry.

A. No. That's fine.

Q. So he was just able to identify the top range, right? He said, Death penalty?

A. Death penalty and possible life in prison.

Q. It doesn't say anything about life in prison?

A. What's the point of getting life, if going to die anyway?

Q. So that's not a real appreciation of that being a possible penalty, I wouldn't think. Just, like, there are multiple potential outcomes for a homicide case; would you agree?

A. Possibly, but these -- okay. Uh-huh.

Q. But, like --

A. Death and life in prison are --

Q. I mean, there's also the potential for plea bargaining and being sentenced to a term of years?

A. Oh, yes. For the legal process, yes.
Q. And you didn't talk about any of those possible penalties, right? Anything besides death penalty or life?
A. Well, I mean, in the process of understanding the adversarial nature, I ask about a plea bargain.
Q. But in terms of the sentence, I'm talking about.
A. A lighter sentence. He's aware that it's a lighter sentence.
Q. Okay. I'll move on.
So the next prong is whether or not Mr. Mosley understands the adversarial nature of the legal process?
A. Uh-huh.
Q. And for many people, this is really difficult, especially if they don't have any kind of prior contacts for a case; is that fair?
A. Yes.
Q. Okay. So walk me through this portion of the conversation that you had with Mr. Mosley.
A. Uh-huh. I ask about the different roles of the key personnel in the court process, from the judge to defense attorney and to the prosecutor, and the different pleas potentially available to him, and the plea bargaining, and then the basic understanding of the trial process.
Q. Okay. With respect to the judge's role --

A. Uh-huh.
Q. -- how did you ask that? Can you tell me that?
A. Yes. So what is the judge's job or role in the court?
He said, To sentence.
Then I asked whose side is the judge on?
He said, The State's side. The people trying to get you indicted and sent to prison, found guilty.
Q. And that's not an accurate reporting as to what the judge's role is, correct?
A. That is not, correct. No.
Q. Maybe I'm a little bit confused. So he identified the lawyer. My lawyer is the defendant in this case?
A. Uh-huh. Yeah. So the question: Who is the defendant in your case? He identified his lawyer, which is -- I get that often, the defense's lawyer as the defendant. They confuse "defense" and "defendant." So the lawyer, my lawyer.
Q. Okay. So he misidentified his lawyer as being the defendant?
A. And I do get that because of the wording of defense and defendant.
Q. Okay.
A. But, yes, he did.

Q. But he's now gotten 2 for 2 wrong?
A. That part of it.
Q. Okay. And he did say that he knew his defense attorneys; is that right?
A. Uh-huh.
Q. Did he -- did he give you our names?
A. First names, not last names.
Q. Did you ask for last names?
A. No.
Q. Okay. Does it seem as though he knew our last names?
A. I don't know. I don't know.
Q. Okay. And was he asked about the role of the prosecutor or the state attorney?
A. Yes.
Q. Okay. And what did he say?
A. Some people that listen to the case. I asked, Why would they listen? If did it or not. They try to send you to prison.
Q. And that's what he said the prosecutor's role is?
A. Yes.
Q. Okay.
A. And they are on the other side.
Q. Okay. He didn't say that these are the people

who are bringing the charges? These are the people who are prosecuting me? These are the people that are putting on witnesses against me? Nothing like that?

A. Correct.

Q. Okay. And he also identified that they are, quote, on the other side, correct?

A. Correct. Uh-huh.

Q. Okay. And you -- it looks like you then asked him what they tried to prove in court? I'm assuming that you mean the prosecutors?

A. Yes.

Q. And he reported, Not guilty?

A. He said, Hot guilty. Uh-huh.

Q. Okay.

A. But then he had indicated that they also want to send him to prison, so he was contradicting.

Q. So it seems like he is kind of all over the place here?

A. On some element.

Q. Okay. And, like, really not getting a lot of those elements correct?

A. Parts of it. I mean, I think some of these are bigger than others.

Q. Tell me about that, that impression?

A. That could be clarified with him. I mean, he

knows that there's adversarial relationships between the attorneys and that the judge sentences. And what the goal of, you know, the two sides typically try to do of helping versus, my words, to prosecute or to punish, sentence to prison.

Q. Okay. Then you went on to go through, like, some of the different pleas with him; is that right?

A. Yes.

Q. Okay. I want to specifically ask about the not guilty by reason of insanity.

A. Uh-huh.

Q. Can you tell me how you asked him a question regarding NGRI?

A. Yes. So I asked, you know, what does it mean if someone pleads guilty or not guilty and then not guilty by reason of insanity.

Q. And what was his response to that last question?

A. I put in there, in my own words, did do it, but don't want to say you did it. And that he -- oh, no. Sorry. That's no contest.

He said, I was told something, like, not in the right state, and may go to the hospital. If you go to trial and lose, you'll still go to prison. You don't go to the hospital.

Q. So like a very, very rudimentary --

A. Very basic, yes.
Q. For a pretty complicated plea?
A. That's a common answer, but, yes, it's very basic.
Q. Okay. And then there were some questions about a plea bargain as well?
A. Uh-huh. Yes.
Q. And he gave you some responses about that; is that correct?
A. He did, yes.
Q. And you ultimately found that his responses were acceptable; is that right?
A. Basic, yes. A basic understanding.
Q. Not questionable, even though he had gotten wrong what the judge's role is?
A. Partially wrong, uh-huh.
Q. Well, the judge is certainly not on the State's side. That's pretty incorrect, correct?
A. Correct. Oh, that could be addressed with him, but he is aware that the judge sentences, yeah.
Q. Okay. Mr. Mosley's capacity to disclose pertinent facts to counsel, okay, let's talk about that.
How did you assess this particular criterion?
A. Yes. So whether there's awareness of what the charges are. He did not go in length about what the

allegations are, but he's aware that he's accused of killing two individuals. He would not discuss the allegations.

I put that he has not done so with defense counsel, and that he was quiet and guarded, and answered questions briefly, but his thoughts were goal-directed and organized, and he didn't evidence acute symptoms of psychosis or a thought disturbance. So he has that basic capacity.

Q. I mean, did it seem like he was able to disclose pertinent facts to you? Not necessarily, like, about the crime itself, but, like, in response to your questions?

A. Which questions?

Q. Any questions?

A. A basic response. I mean, nothing in detail, but I also didn't ask a lot of follow-up questions, but he answered questions coherently and briefly.

Q. Okay. Ability to manifest appropriate courtroom behavior. I know you've never seen him in court --

A. No.

Q. -- but just on these two occasions, he was, what, like pleasant and polite --

A. Calm, cooperative, no outbursts.

Q. Okay.

A. Cooperative.

Q. Now, my question with respect to capacity to testify relevantly, he told you that he doesn't think that he can testify relevantly.

A. Are you required to testify? He said, I don't think I can. That he's not able to. The question wasn't, testify relevantly, but are you required to testify?

Q. Okay. So --

A. Yeah.

Q. -- it's, I don't think I can be required to testify? Is that his response?

A. Yeah, that he can testify. Not the relevancy part of that, but that he can testify.

Q. Okay. So I guess my next question, then, is, right, you've told us that he is very simplistic in his responses; is that right?

A. Brief and coherent, but, yes, simple.

Q. But very simple.

Have you ever noticed any kind of tangential responses?

A. No.

Q. Okay. And I think you told us earlier that you spent perhaps, like, an hour and 40 minutes with him over the course of two days?

A. I would have to guesstimate, but, yes. Under two -- under two hours.

Q. And a predominant part of that time with him was testing. So it's not really conversational like he is responding --

A. Not like in an interview, no.

Q. I guess I'm very concerned about his ability to actually testify given, like, his incredible simplicity, his significant cognitive deficits, which are, like, abundantly exhibited throughout his history, as well as, like, the negative symptoms of his psychosis for schizophrenia.

So can you talk to me a little bit about how you arrived at an acceptable --

A. Uh-huh. And that could be marginal. I -- he answered questions relevantly and coherently and simplistically, and he was not presenting with acute symptoms that would interfere in his ability to be able to answer relevantly.

Would he answer questions at length? Probably not, but he can answer relevantly.

Q. So he's able to answer background questions?

A. Uh-huh.

Q. I think you indicated briefly and coherently, but could he stand up to cross-examination?

A. With respect to his case, he wouldn't talk about it, so I can't say definitively.

Q. But just in general, like, do you think that based on your conversations with him, would he be able --

A. Just simplistic questions. To anything complex, it would be difficult for him.

Q. It seems like it would probably be very difficult for him to even follow, you know, a many-day trial with these complex issues, right?

A. Potentially.

Q. He did not understand -- I mean, he doesn't understand the word "anxiety," right? You had to explain that to him?

A. And I do do that on cases, yes.

Q. Okay. He likely didn't understand the word "allegation," right?

A. I don't know for sure which word was used, but I use that word also in the interview, or what he's accused of is typically --

Q. No. No. And I understand why --

A. Well, you're asking the level of the vocabulary.

Q. Right. Like, his level of comprehension.

A. Uh-huh. He's more limited, yes.

Q. And the court proceedings, I mean, it's all language, right? It's just everybody talking?

A. Uh-huh.

Q. Would you agree that that would be really

difficult for someone --

A. It could be. Better than if he had to read and to comprehend written, but, yes, it is complicated.

Q. But it could be very difficult for somebody who has an Intellectual Disability, right?

A. Yes.

Q. It could be extraordinarily difficult for somebody who also has an Autism Spectrum diagnosis?

A. Potentially, yes.

Q. As well as the comorbidity of schizophrenia on top of it?

A. Especially if it's not managed, yes.

Q. Right. We also know that he has that, like, medical complication of having a thyroid disorder?

A. That has been identified, yes.

MS. SEIFER-SMITH: Ms. Russell, do you have any questions for that section?

MS. RUSSELL: No.

BY MS. SEIFER-SMITH:

Q. Okay. Did you have any kind of concerns about feigning with respect to psychiatric symptomatology?

A. Not -- what -- what he reported was not out of, you know, out of -- an outlier, for example, of symptoms what he reported, and it was consistent what has been reported and documented from him. There hasn't been

concerns raised of the validity of that, so I didn't have reason to question it.

Q. Do you have concerns about the feigning of, I guess, like, intellectual testing?

A. That was my concern was the level of effort and did it genuinely reflect, given there wasn't a documented history. With such a low IQ, typically, that's identified or flagged in the school system when they're that low, and I didn't see that. They identified the speech and language communication issues as being very present for him. So that's what I thought the specific learning disorder for that area was the primary, I guess, difficulty he had as a student, and not the ID that wasn't identified.

MS. SEIFER-SMITH: Do you have any questions on that?

BY MS. RUSSELL:

Q. Well, Dr. Torrealday, knowing what you know, how about the WAIS, which is significantly higher. I understand that with a low score of 45, you're expecting that people potentially can't be, you know, potty trained? People at that age have trouble --

A. Well, not that low, but they typically are more easily identified, yes, when they're that low.

Q. Right. But when you're talking about a score in

the high 60s, that's a little different.

So has Dr. McClain's score really changed your opinion?

A. Well, that helps to clarify because it could -- I didn't have any questions that he would be at least in the borderline range based on what I saw. It's the ID component is, like, Was there cognitive deficits that are there?

And, again, being so low, it's easy -- it can happen that people fall through the cracks. They're not identified when they're right on the cusp, right? But when they score so low as a 45 or a 50, that's low. And in the schools, you know, those are the kids that are identified.

Typically, it's the higher functioning -- not higher functioning, but the little bit higher ID range that can be missed. So I do think that's significant that it is a 69, not so low, because a 69 could be more easily missed in the school system.

Q. And something like 70 percent of all ID diagnoses are mild ID, right?

A. Yes. That's prevalent.

Q. A mild ID is still ID?

A. Correct.

Q. All right.

MS. SEIFER-SMITH: I don't think I have any more questions at the moment.

MS. RUSSELL: At all for anything?

MS. SEIFER-SMITH: Yes.

BY MS. RUSSELL:

Q. I was just curious. On page 7, there's a reference to a Mr. Williams. I was wondering --

A. Oh, sorry. That's a typo.

Q. Was that another report that you were working on at the same time?

A. No. That was a typo. I don't know if I had something else out, but, no. That was a typo. My apologies.

Q. Okay. At the end of page 8, you said: Any additional information provided, such as school records, may alter the conclusions.

Looking at these school records now and that additional IQ test, it sounds like your conclusion is altered; is that fair?

A. It is meaningful, yes.

MS. RUSSELL: I think that's all that I have.

MS. SEIFER-SMITH: Courtney or Christie, do you guys have questions? I see Christie. Okay. She is shaking her head.

MS. SULLIVAN: I'm all good. Thank you.

MS. SEIFER-SMITH: Okay. Just a couple of things. So I think we have some questions about whether or not -- I think you were going to look into whether or not you would share your notes.

THE WITNESS: Uh-huh.

MS. SEIFER-SMITH: I think what we would like for you to do, though, is share your notes and your data from the testing with at least Dr. McClain. I think it would be Dr. McClain.

MS. RUSSELL: That would be great.

MS. SEIFER-SMITH: Would you be able to do that?

THE WITNESS: Yes, the data? The test data?

MS. SEIFER-SMITH: Yes. And I can send you an e-mail with her CC, so that you have everybody's e-mail.

MS. RUSSELL: I'm not sure if this helps at all, but in general, all of the experts throughout this have been sharing their handwritten notes upon request. So we have Dr. Railey's handwritten notes. Not the proprietary test data. We understand that that is not --

THE WITNESS: Uh-huh.

MS. RUSSELL: Another thing that I think we would like to request, and, by the way, they also came in from Dr. Railey's work on that MMSE was the

writing "Florida," and the shape test.

THE WITNESS: Okay.

MS. RUSSELL: Our understanding is that those are not proprietary. Dr. Railey's are admitted into evidence, and we might like to admit yours into evidence.

Part of the reason is, Dr. Torrealday, just to explain we're not pulling this out of the clear blue sky, but there is federal law, a case called Shinn, that basically says that if we don't admit the evidence in the State proceedings, it's unavailable for use in federal habeas.

And because this is a death penalty case that will live in infamy, we need to make sure that all of the evidence is actually in the record that we are permitted to put in the record. So that's why --

THE WITNESS: So it's those two elements of the MMSE?

MS. RUSSELL: If possible. Just the ones that he's written.

THE WITNESS: Well, he wrote in --

MS. RUSSELL: We understand we can't get the proprietary stuff.

THE WITNESS: Got it.

MS. RUSSELL: Then also your handwritten notes

from the two evaluations.

THE WITNESS: Okay.

MS. RUSSELL: And I'm not sure if there's anything else.

Is there anything else?

MS. SEIFER-SMITH: If there is anything else, we'll e-mail you and CC the State, so it is not a secret to anybody.

THE WITNESS: Okay.

MS. SEIFER-SMITH: And if you want to make sure what you're holding on to the actual copies of what -- like, the drawing and the handwriting, if you wanted to scan them, take a photo and send them, we'll make sure that they get into evidence as copies --

THE WITNESS: That's fine. I can scan it.

MS. SEIFER-SMITH: If you wouldn't mind also e-mailing me a copy of your CV, because I'm going to give this as an exhibit to our court reporter, Charlene.

THE COURT REPORTER: Yes.

MS. SEIFER-SMITH: So, I guess, just to conclude --

THE COURT REPORTER: Are you attaching the report as an exhibit?

MS. SEIFER-SMITH: Yes. We can attach the report. It will be Exhibit 2.

(Exhibit No. 2 was marked for identification.)

BY MS. SEIFER-SMITH:

Q. So have you understood all the questions that we've asked you today?

A. I believe so.

Q. Okay. Have you had an opportunity to answer everything fully and completely?

A. I believe so.

Q. Anything that you wish to add or change with regards to the testimony that you gave?

A. No. Is there any additional documentation or any other records?

Q. I don't think so.

MS. RUSSELL: We do have an updated report from Dr. McClain that includes that WAIS, which I'm not sure if we've sent you, but, basically, the only thing different about it, she put the score in from the new test.

THE WITNESS: Okay.

MS. SEIFER-SMITH: We'll make sure that you have that.

THE WITNESS: If there's anything else -- because I did get things kind of along the way. If

there is anything else, that would be helpful.

MS. SEIFER-SMITH: If you happen to review anything or rereview anything, like, in your preparation for your testimony on Tuesday and you realized that you left it out from our conversation today; although, I know that it was a very long conversation, would you be so kind to just let us know before you get on the stand to give any testimony?

THE WITNESS: Sure.

MS. SEIFER-SMITH: We're going to request that this transcript -- and Charlene is going to be super-fast about getting it to us. Then once we receive it, we'll get it to you.

So we're going to reserve your right to read. I don't know if you are familiar with what that means. That means that you have an opportunity to take a read through it. If you see any errors in transcription, like, Charlene somehow was taken over by the devil and she wrote down something incorrectly, which I'm sure did not happen, you just let us know so we can fix it.

THE WITNESS: Okay.

MS. SEIFER-SMITH: I think that's it. Thank you very much. I really appreciate you taking the time.

(Deposition was concluded at 4:20 p.m., and reading was reserved by the deponent.)

CERTIFICATE OF OATH

STATE OF FLORIDA )

COUNTY OF PINELLAS )

I, the undersigned authority, certify that OHIANA TORREALDAY appeared before me on the 14th day of August, 2025, and was duly sworn.

WITNESS my hand and official seal this 14th day of August, 2025.

Charlene M. Eannel, RPR

CHARLENE M. EANNEL, RPR
Stenographic Court Reporter
Notary Public
State of Florida at large
My Commission # HH 302446
Expires August 18, 2026

REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA )
COUNTY OF PINELLAS )

I, CHARLENE M. EANNEL, RPR, Stenographic Court Reporter, certify that I was authorized to and did stenographically report the deposition of OHIANA TORREALDAY; that a review of the transcript WAS requested; and that the transcript, pages 1 through 174, is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 16TH day of AUGUST, 2025.

Charlene M. Eannel, RPR
_____
CHARLENE M. EANNEL, RPR

ERRATA SHEET

WITNESS: OHIANA TORREALDAY

CASE: STATE OF FLORIDA V. THOMAS MOSLEY

CASE NO: CRC23-003157CFANO

DATE: August 14, 2025

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After you have read your transcript, please note any errors in transcription on this page. Do not mark on the transcript itself. Please sign and date this sheet as indicated below. If additional lines are required for corrections, attach additional sheets. If no corrections, please indicate "None."

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Under penalties of perjury, I declare that I have read the foregoing transcript, and I subscribe to its accuracy, to include the corrections or amendments noted above or hereto attached.

_____

OHIANA TORREALDAY DATE

SIGNATURE SHEET

CASE NO: CRC23-003157CFANO

STATE OF FLORIDA,

VS.

THOMAS ISAIAH MOSLEY,

DEFENDANT.

_____/

I, OHIANA TORREALDAY, declare that I have read the foregoing pages of my deposition taken in the above-captioned matter, and except for the corrections or amendments indicated on the Errata Sheet attached for such purposes, I hereby subscribe to the accuracy of this transcript.

_____
OHIANA TORREALDAY

_____
DATE