

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

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

APPEARING ON BEHALF OF THE STATE OF FLORIDA:

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APPEARING ON BEHALF OF THE DEFENDANT, THOMAS MOSLEY:

MARGARET RUSSELL, ESQUIRE  
JULIA B. SEIFER-SMITH, ESQUIRE  
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Office of Sara B. Mollo, Public Defender  
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**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

1 conducted with him.

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

4 A. Uh-huh.

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

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

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

14 A. I do. I do.

15 Q. Wonderful.

16 A. Do you want that right now?

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

18 A. Okay. One second. I printed it.

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

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

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

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

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

10 A. Sure.

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

13 A. I have.

14 Q. So you know the drill?

15 A. Uh-huh.

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

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

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

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

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

8 A. Yes, I am fast.

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

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

13 A. American Psychological Association.

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

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

17 Q. Okay.

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

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

23 A. A licensed psychologist.

24 Q. Okay. Are you a neuropsychologist?

25 A. No, ma'am.

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

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

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

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

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

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



1 testing --

2 Q. Okay.

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

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

7 A. Correct. Yes.

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

10 A. I have, yes.

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

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

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

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

1 neuro-cognitive disorders?

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

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

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

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

11 A. I have.

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

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

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

24 A. Uh-huh.

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

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

4 A. Not necessarily, no.

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

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

9 Q. I understand.

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

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

14 A. There are, uh-huh.

15 Q. Can you tell me --

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

19 Q. Okay.

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

22 Q. Okay. Is the GARS the Gilliam --

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

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

1 A. Generally, uh-huh.

2 Q. -- that you would use as a clinical psychologist  
3 for the purpose of neurocognitive disorders?

4 A. Yes. Generally, yes.

5 Q. Okay. Any other screeners that we haven't  
6 really spoken about? We can certainly come back to this.

7 A. I mean, if you can give me a few minutes to  
8 think about it. I can --

9 Q. Yes, that's fine.

10 So let's get back to talking about, like, your  
11 education and your experience.

12 A. Uh-huh.

13 Q. So you are a licensed clinical social worker?  
14 Or, I'm sorry, not social worker. A psychologist?

15 A. Correct.

16 Q. So licensed in the State of Florida?

17 A. Yes, and Texas.

18 Q. Okay. Do you practice in Texas?

19 A. I used to.

20 Q. Okay. Not recently, though?

21 A. No. I've had licenses in other states as well  
22 that are retired.

23 Q. I imagine in Tennessee, since you --

24 A. Uh-huh. Yes.

25 Q. -- were -- okay.

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

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

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

10          A.    There is, uh-huh.

11          Q.    Okay. What kind of requirements are --

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

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

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

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

3 A. Not recently, no.

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

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

8 Q. Okay. I think that makes sense for most people.  
9 I think what I would like to do is mark your CV as an  
10 exhibit. I think that makes sense. That will be Exhibit  
11 1.

12 (Exhibit No. 1 was marked for identification.)

13 BY MS. SEIFER-SMITH:

14 Q. Do you have any professional memberships  
15 currently?

16 A. I do.

17 Q. Can you tell me what those are?

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

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

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

3 Q. Is it APLA?

4 A. APLA. Uh-huh.

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

6 A. Probably at the end.

7 Q. Okay. I didn't get that far. Ah, okay.

8 Professional affiliations. Right where it says.

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

11 Did you work in corrections at some point?

12 A. I did.

13 Q. Okay. Tell me about that.

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

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

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

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

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

8 A. Well, you have to do an internship.

9 Q. Okay.

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

14 Q. Uh-huh.

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

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

21 A. Uh-huh.

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

24 A. Correct.

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



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

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

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

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

19 A. Correct. Yes.

20 Q. So just the Thirteenth and the Sixth now?

21 A. Correct. Uh-huh.

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

1 proceed for ID and/or ASD.

2 A. Uh-huh.

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

7 A. Uh-huh. Juvenile adult competency.

8 Q. Okay.

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

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

14 A. Uh-huh.

15 Q. Certainly in the Sixth Circuit --

16 A. Uh-huh.

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

19 A. Uh-huh.

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

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

1 background to be able to do those evaluations.

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

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

6 Q. I understand.

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

8 Q. That's fair.

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

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

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

16 A. Uh-huh.

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

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

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

23 A. Correct.

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

1           A.    A few.  Not many, though.

2           Q.    When you say "a few," do you have a sense of the  
3 number?

4           A.    One or two, three maybe.

5           Q.    Okay.  Can you just tell me kind of generally,  
6 like, what your familiarity is with the death penalty in  
7 terms of, I guess, kind of, like, legally what goes into  
8 the process?

9           A.    It's limited because I've chosen not to go that  
10 route.

11          Q.    Okay.

12          A.    So besides that, there is a separate process for  
13 that following the finding for the case.

14          Q.    Okay.  So how familiar are you with, like, I  
15 guess, kind of the two trials that would be required and  
16 what would go into, like, I guess, really, like, you know,  
17 a defendant's plea of not guilty to potentially being  
18 sentenced to death?

19          A.    Uh-huh.

20          Q.    Like, how familiar are you with that process?

21          A.    Not very familiar.

22          Q.    Okay.  Is there -- because I'm not super  
23 familiar with the training with USF for competency.

24          A.    Uh-huh.

25          Q.    Can you tell me, like, what that training is

1 about?

2 A. Uh-huh.

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

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

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

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

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

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

14 Q. Yeah.

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

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

20 A. Correct.

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

23 A. No, they don't require it.

24 Q. Okay.

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

1 Q. How many times have you done it?

2 A. I did it one time.

3 Q. When did you do it?

4 A. It would have been a few years ago, after I came  
5 back to Florida. So that would have been in '17, perhaps.

6 Q. Okay. 2017?

7 A. Correct.

8 Q. Okay. So now I'm asking you to remember things  
9 from about eight years ago.

10 A. Yeah.

11 Q. Do you remember kind of, I guess in the broad  
12 strokes, like, what was covered by Dr. Otto, or any of his  
13 colleagues in the training?

14 A. Yes. So the prongs of competency, the different  
15 state laws or statutes. Assessments, what are some of the  
16 common instruments that are used, you know, I guess that  
17 would be validated or updated at that time. And then he  
18 does touch on insanity evaluations, and then it's  
19 typically separated. You know, there's an adult track, I  
20 guess, and a juvenile track you can do.

21 Q. And you said that there's a book associated, or  
22 like, a training manual associated --

23 A. Yes, sort of what you would, like, get with  
24 Power Point slides, those kinds of things.

25 Q. And you own that training manual?

1 A. Everyone who goes to that is given one.

2 Q. Great. And it sounds like you're pretty  
3 familiar with what's in the training manual?

4 A. I haven't looked at it in a little while. I  
5 mean...

6 Q. Do you remember if there's anything in the  
7 training manual specific to death penalty cases?

8 A. I don't recall that, no.

9 Q. Okay. Should we assume -- and you can say yes  
10 or no or it's outside of your scope.

11 A. Uh-huh.

12 Q. Should we assume that it doesn't really cover  
13 death pendency cases separate and apart from competency in  
14 general?

15 A. I don't recall it being addressed separately.

16 Q. Okay. And was it competency just kind of  
17 generally, in terms of the six prongs? Or was it specific  
18 to incompetence or competency to mental health disorders?

19 A. Well, he -- generally, it's an overview kind of  
20 training. So he talks about that there's the mental  
21 health.

22 Q. Okay.

23 A. There could be ID. Those kinds of things that,  
24 you know, what are some of the conditions or disorders  
25 that are identified that come into question when doing

1 competency.

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

5 A. Uh-huh.

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

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

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

14 A. Correct. They do not provide that training.

15 Q. Okay. That seems fair.

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

18 A. In other states.

19 Q. Okay. Tell me about those.

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

23 Q. Okay.

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

25 Q. Okay.



1 A. In Memphis.

2 Q. Did any of those address death penalty cases?

3 A. No.

4 Q. Did any of those, like, specifically address ID  
5 or ASD?

6 A. There were typically -- well, it could have --  
7 if I'm recalling, and this is many years now --

8 Q. Yeah.

9 A. -- some ID for the preponderance or, I guess,  
10 the majority, if I had to say, were mental illness cases.

11 Q. Okay.

12 A. But, yes, ID would be in there, too.

13 MS. SEIFER-SMITH: Do you have any more  
14 questions on the background stuff, Ms. Russell?

15 MS. RUSSELL: I do.

16 BY MS. RUSSELL:

17 Q. You mentioned that in the training at USF, there  
18 was a juvenile track and an adult track?

19 A. They have two, uh-huh.

20 Q. Did you do both or --

21 A. I did.

22 Q. -- one or the other?

23 A. I did both.

24 Q. Were those completely separate training  
25 programs?

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

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

8           A.    On competency. Uh-huh.

9           Q.    On competency?

10          A.    Uh-huh.

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

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

16          Q.    Did you see anybody with autism or --

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

19                MS. RUSSELL: Thank you.

20                MS. SEIFER-SMITH: Anything else?

21                MS. RUSSELL: No.

22 BY MS. SEIFER-SMITH:

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

25          A.    Uh-huh.

1 Q. Or the sources of information.

2 A. Okay.

3 Q. So let's talk, I guess, kind of first about,  
4 like, documents that you received and that you reviewed in  
5 the work that you did in this case; is that fair?

6 A. Uh-huh.

7 Q. So does that orient you?

8 A. Uh-huh.

9 Q. So tell me about, like, the documentary sources  
10 of information that you reviewed, and that you relied on  
11 for the purpose of --

12 A. For the evaluation?

13 Q. Yes.

14 A. They're listed on here.

15 Q. Okay.

16 A. These various evaluations that were provided to  
17 me, including test results that didn't have corresponding  
18 evaluations with it, but two WAIS administrations also,  
19 and then -- so do you want me to go through the list of  
20 these?

21 Q. So I guess just so that everybody is oriented,  
22 we're looking at, like, your first and second page of your  
23 report?

24 A. Correct. Yes.

25 Q. That bullet-pointed section?

1           A.    Uh-huh.

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

4           A.    Correct.

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

8           A.    Yes, those are the two.

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

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

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

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

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

25          A.    Yes.

1 Q. Okay.

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

4 MS. SEIFER-SMITH: Go ahead.

5 BY MS. RUSSELL:

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

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

11 Q. Okay.

12 BY MS. SEIFER-SMITH:

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

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

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

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

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

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

1 correct?

2 A. The one that was from February.

3 Q. February 28th, 2025.

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

6 Q. Okay. From the same hospital --

7 A. Uh-huh.

8 Q. -- but a year prior?

9 A. Correct.

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

12 A. Uh-huh.

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

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

20 Q. Okay.

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

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

1 some questions about some things.

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

4 A. Sure. Yes --

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

7 A. Yes.

8 Q. Okay.

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

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

12 A. Uh-huh.

13 Q. Can you tell me what you received?

14 A. It's the packet your office sent.

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

17 A. I did review it. Uh-huh.

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

20 A. Uh-huh. The mental health notes.

21 Q. Okay.

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

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

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

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

8 Q. Uh-huh.

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

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

13 A. I received after the fact another evaluation.

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

16 A. Uh-huh.

17 Q. Dated June 2025.

18 A. Yes.

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

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

22 Q. Okay.

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

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



1 from Whitney after you had completed your work?

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

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

8 A. I did review it, yes.

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

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

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

18 A. Uh-huh.

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

20 A. I did. Uh-huh.

21 Q. We'll get to that.

22 A. Okay. Sure.

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

25 A. Uh-huh.

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

4 A. Correct. Yes.

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

6 A. Yes.

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

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

13 A. Yes.

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

17 A. Uh-huh.

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

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

21 Q. Okay.

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

1 they perform.

2 Q. Okay.

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

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

8 A. Uh-huh.

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

12 A. It falls under the neurodevelopmental, yes.

13 Q. Okay. What is a neurodevelopmental disorder?

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

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

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

22 Q. Okay.

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

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

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

3 A. Uh-huh.

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

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

9 Q. Uh-huh.

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

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

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

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

24 A. Uh-huh.

25 Q. Is that fair?

1 A. Yes.

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

7 A. Yes.

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

11 A. Uh-huh.

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

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

17 A. Correct. Yes.

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

21 A. Uh-huh.

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

24 A. Yes.

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

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

3 A. Correct.

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

6 A. Two-week.

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

10 A. Yes, that was the first time.

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

12 A. Correct. Uh-huh.

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

15 A. Sure. Reviewed the records that I had.

16 Q. Okay.

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

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

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

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

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

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

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

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

16          A.    Yeah. So we sat calmly --

17          Q.    -- observations.

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

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

23          A.    Uh-huh. His affect was flat.

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

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

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

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

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

14          A.    Smile?

15          Q.    Yeah.

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

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

19          A.    Uh-huh. He did.

20          Q.    Can you describe when that would occur?

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

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



1           A.    Uh-huh.

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

4           A.    Yeah.

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

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

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

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

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

20          A.    Uh-huh?

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

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

1 to see if that helps elicit responses.

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

6 A. They're usually grouped together.

7 Q. Okay.

8 A. Several hundred.

9 Q. Okay. Is that all in Florida?

10 A. Specifically requesting those, yes.

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

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

16 Q. Okay. That would be the only difference?

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

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

21 A. Uh-huh.

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

24 A. Correct.

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

1 A. No.

2 Q. Okay.

3 A. Have you ever lived on your own is how it's  
4 questioned, yeah.

5 Q. Okay. I mean, I'm just guessing that  
6 "independently" is probably a word that he would not use?

7 A. Correct.

8 Q. So he said that he had never lived --

9 A. He's always lived with his parents, yeah.

10 Q. So never separate from his parents?

11 A. Correct.

12 Q. Okay. And he gave you a little bit of  
13 information about his school history; is that right?

14 A. He did.

15 Q. Okay. And prior to meeting with him, I think  
16 you said that you had his records?

17 A. I believe I did. It was sent to me. I don't  
18 know the specific date, but I believe I had it around the  
19 time of evaluation. I can't say with certainty, but I  
20 believe so.

21 Q. And I think you said that your goal was to have  
22 reviewed those records in advance of meeting with him?

23 A. If I can. They're not always available in that  
24 order.

25 Q. Okay. So Mr. Mosley told you that he completed

1 the 10th grade?

2 A. Uh-huh.

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

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

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

8 A. Correct.

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

11 A. Yes.

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

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

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

19 A. Correct.

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

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

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

1 A. Yes.

2 Q. Did you see that in the records?

3 A. Yes.

4 Q. Okay. And did it indicate why he was ultimately  
5 moved up in third grade?

6 A. I don't know the exact term it is, but I think  
7 because of age, where they bump -- there's a term for it.

8 Q. It's a good cause; does that sound right?

9 A. Yes.

10 Q. And I think "good cause" means when they've  
11 already repeated third grade, it's a testing year.

12 A. Uh-huh.

13 Q. So if you already repeated, they're going to  
14 move you on regardless --

15 A. Uh-huh.

16 Q. -- because they don't want you to be held back;  
17 does that sound about right?

18 A. Uh-huh.

19 Q. Is that a yes?

20 A. Yes. I'm sorry.

21 Q. That's fine.

22 He also indicated that he got help at school; is  
23 that right?

24 A. Yeah. That he was pulled out of class.

25 Q. How would he describe that to you?

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

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

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

10          Q.    Okay?

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

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

15          A.    Did you receive special education?

16                   He said, No.

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

19                   He said, Yes?

20          A.    Yes.

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

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

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

1 phrases that are in quotes?

2 A. Uh-huh.

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

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

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

10 A. Yes.

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

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

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

18 A. Uh-huh.

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

21 A. Yes.

22 Q. Like your handwritten notes?

23 A. Correct.

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

1           A.    Yes.

2           Q.    So he ultimately told you that he did have help  
3 at school?

4           A.    Uh-huh.  Correct.

5           Q.    And you had the records available to you.

6           A.    Uh-huh.

7           Q.    He didn't just get help in fourth and fifth  
8 grades, did he?

9           A.    Correct.

10          Q.    Okay.  He received help throughout the entirety  
11 of the time --

12          A.    That he had a history of special education, yes.

13          Q.    Okay.  So the entire time that he was in school,  
14 he was receiving specialized education assistance?

15          A.    Yes.  Uh-huh.

16          Q.    Okay.  And it seems like you also talked to him  
17 about his employment history?

18          A.    I do and see if they have employment history.  
19 If they've ever worked, and what kind of work.

20          Q.    Can you tell me what the question is that you  
21 asked him about employment?

22          A.    Have you ever worked?

23          Q.    Okay.  So that's a much simpler word than  
24 "employment"?

25          A.    Yes.



1 Q. What was his response to, Have you ever worked?

2 A. Yes. He said carpenter intern.

3 Q. That was his word, "intern"?

4 A. Uh-huh.

5 Q. Is that a yes?

6 A. I believe so.

7 Q. Okay. Did he tell you that he worked for his  
8 dad?

9 A. I didn't ask him, but, no, he did not offer  
10 that.

11 Q. Okay. Did you ask any more questions about what  
12 it means to be a carpenter intern?

13 A. No, I did not.

14 Q. And tell me more about, like, the information  
15 that he gave you about his employment?

16 A. That he did that for a couple of years, and then  
17 at Waste Management for four months. Then Waste  
18 Connections, I believe. That he worked through day labor,  
19 that he got the job through that.

20 Q. Okay. So Waste Management is the name of a  
21 company, as well as Waste Connection?

22 A. To my understanding, I believe so. Uh-huh.

23 Q. Okay. Did he tell you about any trouble that he  
24 had in employment?

25 A. I asked him. He said he worked for about a

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

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

5 A. No, I did not.

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

7 A. No. Uh-huh.

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

11 A. Those were the main ones.

12 Q. Okay.

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

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

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

20 Q. Did you have him read anything for you?

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

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

1 A. No.

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

4 A. His reading is poor. Uh-huh.

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

7 A. I did.

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

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

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

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

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

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

24 A. Uh-huh. Yes.

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

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

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

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

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

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

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

13          A.    Right.

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

16          A.    It could --

17          Q.    -- in that clinical --

18          A.    It could, yes.

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

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

1 Q. Okay. So he denied a history of seizures.

2 A. Uh-huh.

3 Q. You obviously asked him if he had seizures?

4 A. Uh-huh.

5 Q. Is that yes?

6 A. Yes. Sorry.

7 Q. That's okay.

8 And when asked about serious injuries, he said  
9 that he ran into a pole?

10 A. He did.

11 Q. Okay. And that he actually lost consciousness  
12 as a result?

13 A. He said he was knocked out, yes.

14 Q. Did he indicate that he had experienced any  
15 other injuries?

16 A. No, he denied that. That's when you had asked  
17 him about -- I mean, not -- it wasn't you. Sorry. If any  
18 other injuries, and they asked about a car accident.

19 Q. Okay. Then he remembered that he had  
20 actually --

21 A. Yes.

22 Q. -- got in a serious car accident?

23 A. Yes. Which he said there wasn't a serious  
24 injury, and I know that, I think, there are different  
25 reports on that, but he said that he hurt his leg, but he

1 denied a head injury.

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

4 A. Correct.

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

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

8 Q. Okay. How did you ask that question?

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

13 Q. When you asked that first question --

14 A. Uh-huh.

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

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

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

22 A. Yes, those two hospitals.

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

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

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

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

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

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

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

13 A. Yes. Uh-huh.

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

16 A. Two of them.

17 Q. Okay. What did he tell you?

18 A. Trazodone and melatonin.

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

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

23 He said, Sleep, anxiety, and depression.

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

1 A. Yes.

2 Q. -- which included his medication records; is  
3 that right?

4 A. Uh-huh. I got those after, yes.

5 Q. Is that a yes --

6 A. Yes, I received those after.

7 Q. Okay. I know that you're able to do that  
8 through the order.

9 A. Correct.

10 Q. So was there an indication of medication  
11 prescriptions?

12 A. Yes.

13 Q. Okay. And what was he prescribed?

14 A. Trazodone, sertraline, and melatonin.

15 Q. Okay. What is sertraline?

16 A. That one is, I believe, Zoloft.

17 Q. Okay. So that's a psychotropic --

18 A. Yes. These are all psychotropics except for the  
19 melatonin which is prescribed for sleep.

20 Q. Is it accurate to describe Trazodone, melatonin,  
21 and sertraline as just being for sleep, anxiety, and  
22 depression or psycho --

23 A. Well, I'm not a psychiatrist, but typically,  
24 those are the symptoms that they are commonly prescribed  
25 for.



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

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

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

8           A.    Yes.  Uh-huh.

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

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

14           MS. SEIFER-SMITH:  Sure.

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

16           THE WITNESS:  For which part?

17           MS. SEIFER-SMITH:  Your notes.

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

20           THE WITNESS:  Like my interview notes?

21           MS. RUSSELL:  Yes.

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

24           BY MS. SEIFER-SMITH:

25           Q.    Did you previously disclose them to our doctors,

1     like, directly?

2           A.    No.

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

7           A.    No.

8           Q.    We'll follow up after.

9           A.    Okay.  That's fine.

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

11          A.    Okay.

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

15          A.    Uh-huh.

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

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

22          Q.    Uh-huh?

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

1 Q. Okay.

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

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

12 A. Correct. Yes.

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

16 A. Correct.

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

19 A. Yes. Uh-huh.

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

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

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

3           A.    Into the pod, yes.

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

7           A.    Yes.

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

10          A.    On the second day, yes.

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

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

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

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

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

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

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

8 Q. Okay.

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

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

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

18 Q. Okay.

19 A. Maybe an hour.

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

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

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

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

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

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

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

15 A. Correct.

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

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

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

22 A. Uh-huh.

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

24 A. Yes.

25 Q. Can you tell me how you asked that?

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

3           Q.    Okay.  And what did he say?

4           A.    That he didn't know.  I said, Well, let's start  
5   backwards.  Do you know what year we are in?  He said,  
6   2025.  Do you know what month?  He said, five.  He did not  
7   know the date.

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

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

10          Q.    Okay.

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

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

14          A.    Correct.  Uh-huh.

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

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

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

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

25          Q.    Okay.

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

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

7                   That, to ask.

8                   And I said, Ask what?

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

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

12           A.    He did not elaborate further, no.

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

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

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

20           A.    Correct.

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

22           A.    No.

23           Q.    Or the judge had ordered you --

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



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

3           A.    Correct.

4           Q.    -- as Dr. Torrealday?

5           A.    Uh-huh.

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

10          A.    Uh-huh.

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

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

15          Q.    Okay.

16          A.    He endorsed that.

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

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

23          Q.    Uh-huh.

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

1 that.

2 Q. Okay.

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

4 He said, This morning while he was laying down.

5 What is it that you heard?

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

9 I asked, Have you told anybody about these  
10 voices?

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

13 Q. Okay. Did he describe any visual  
14 hallucinations?

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

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

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

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

24 A. Every day for a couple seconds, yes.

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

1 feeling?

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

6 Q. Twice on both days or --

7 A. No. Both times I saw him.

8 Q. I see.

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

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

15 A. When I asked -- no.

16 I ask, How do you feel most days?

17 He said, Regular.

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

19 And he said, Yes.

20 How often?

21 Every day.

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

24 Q. Did you ask him about anxiety?

25 A. I did.

1 Q. Okay.

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

4 And he indicated, Yes.

5 Then the second time he said, No.

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

7 A. Uh-huh.

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

9 A. Yes.

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

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

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

16 A. Uh-huh.

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

19 A. Yes.

20 Q. -- if they're anxious?

21 A. Yes.

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

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

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

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

5 A. Yes.

6 Q. Decreased appetite?

7 A. Yes, he did say that, yes.

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

9 A. No.

10 Q. Okay. Did you say "sad"?

11 A. Do you feel sad? Yeah.

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

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

17 Q. Okay. We already discussed that.

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

20 A. Correct.

21 Q. Okay.

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

1 intent or plan to kill himself.

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

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

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

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

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

14 He said, No.

15 Q. Okay.

16 A. I said, Would you do anything?

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

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

21 A. He was flat. Uh-huh.

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

24 MS. RUSSELL: No.

25 BY MS. SEIFER-SMITH:

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

4 A. Uh-huh.

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

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

12 A. Yes.

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

15 A. Uh-huh.

16 Q. A report from Dr. Tenaglia from February of  
17 2025, as well as -- I think you said that you received,  
18 like, the data itself from the test that she had  
19 administered; is that right?

20 A. Yes.

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

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

1 was administered.

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

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

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

16 A. Uh-huh.

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

20 A. Uh-huh.

21 Q. On February 18th, 2025?

22 A. Yes. That's my understanding.

23 Q. Okay. Are you familiar with the Wechsler?

24 A. Yes.

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



1           A.    Yes.

2           Q.    Tell me about what that test is?

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

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

12          A.    In the Wechsler?

13          Q.    Yeah.

14          A.    No.

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

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

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

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

1 Q. Okay.

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

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

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

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

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

19 A. Potentially.

20 Q. Okay.

21 A. I mean, it's possible.

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

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

1 Q. Okay.

2 A. You know, if they're motivated to do well or  
3 not, or not as invested in it, that's a possibility also.

4 Q. In your practice, do you do any kind of effort  
5 testing when administering, like, the WAIS?

6 A. I do at times.

7 Q. Okay. When do you do it?

8 A. When there is suspected questions about effort  
9 and motivation, if there's a history of it as well.

10 Q. Okay. And when would you actually administer  
11 the effort test?

12 A. Following indications that there's -- it's  
13 questioned if there is a need for it. It wouldn't be the  
14 first test, for example, that's done.

15 Q. So I guess kind of describe that to me in terms  
16 of, like, what would be done, when it would be done, and  
17 what type of --

18 A. Uh-huh. So the testing that you do, if you do,  
19 for example, like, the CTONI, and you question effort or  
20 if they're attending or motivation. And then after the  
21 fact, to see if there is attention or effort concerns.

22 Q. The same day?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yes, I'm sorry.

1 Q. And why would you do it the same day?

2 A. As part of the battery. So it is typically done  
3 in conjunction with other testing.

4 Q. Is it because somebody's effort or motivation  
5 might wax and wane on different days?

6 A. Oh, that's possible. Yeah.

7 Q. Just like competency could wax and wane?

8 A. That's possible, yes.

9 Q. Are you -- and I'm sorry.

10 You had an opportunity to review the raw data  
11 that you received from Dr. Tenaglia for the WAIS-IV; is  
12 that right?

13 A. Yes.

14 Q. In terms of your review of the raw data, did you  
15 see anything there that gave you pause or, like, question  
16 the integrity of the testing?

17 A. Based on what I saw, he didn't do well. You  
18 know, he didn't go very far in the subtests.

19 Q. Okay. Can you describe to me, like, what you  
20 saw in terms of, like, the completion of the subtests?

21 A. So I'm going by recall here. That he met the  
22 ceiling, meaning, the criteria for stopping the  
23 administration of that test because of -- the test you  
24 have to get two incorrect answers or three incorrect  
25 answers, depending on the subtest, is when you stop

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

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

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

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

10 A. That's possible.

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

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

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

17 A. Correct.

18 Q. Which is extremely low?

19 A. Correct.

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

23 MS. RUSSELL: No. Go ahead.

24 MS. SEIFER-SMITH: Okay.

25 MS. RUSSELL: Thank you.

1 BY MS. SEIFER-SMITH:

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

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

8 Q. Okay. And, certainly, a full-scale IQ score of  
9 46 would be indicative of an Intellectual Disability?

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

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

14 A. A long time ago, yes.

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

17 A. That it looks for performance.

18 Q. Okay.

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

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

24 A. Yes. Like --

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

1           A.    I don't use it, no.

2           THE COURT REPORTER:   Excuse me.

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

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

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

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

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

11   BY MS. SEIFER-SMITH:

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

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

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

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

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

1 A. I don't use that instrument.

2 Q. Okay. So when you're writing here this  
3 particular paragraph, it's just you're just pulling kind  
4 of information directly from the report from Dr. Tenaglia?

5 A. Correct. That quoted part, yes.

6 Q. Any particular conclusions that you are drawing  
7 with respect to the work that she did?

8 A. That he questioned the effort for him --

9 Q. Okay.

10 A. -- on the testing.

11 Q. Okay. And what does that mean for you in terms  
12 of, like, questioning the effort?

13 A. Well, just questions how valid the testing  
14 results could be. You know, and I think that's where, you  
15 know, additional testing is helpful or repeated testing,  
16 if you can. I know there's restrictions as to what  
17 instruments you can use if you've given them, but to look  
18 at to see if there's any other factors potentially  
19 impacting the performance.

20 Q. I want to talk about that.

21 A. Uh-huh.

22 Q. The limitations that you've just drawn.

23 A. Uh-huh.

24 Q. So tell me about what potential limitations  
25 there might be?



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

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

6           A.    Yes.

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

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

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

13          A.    Yes.

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

16          A.    That he scored poorly on it.

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

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

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

1 their, like, full-scale IQ scores?

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

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

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

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

14 A. Uh-huh.

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

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

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

21 A. Correct.

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

23 A. I don't use it yet.

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

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

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

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

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

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

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

14 A. Potentially because it would be a different  
15 instrument.

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

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

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

22 A. Correct. Uh-huh.

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

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

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

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

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

7 A. Basic, yes.

8 Q. Okay. What is it?

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

12 Q. And what is it a test for?

13 A. Malingering.

14 Q. So an effort test?

15 A. Yes. Uh-huh.

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

18 A. It appears so, yes.

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

22 A. She said not indicative of malingering, yes.

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

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

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

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

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

7 A. Uh-huh.

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

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

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

18 A. As profound.

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

20 A. Profound mix. Uh-huh.

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

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

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

5 Q. Do you do tests for learning disorders?

6 A. I do some. Uh-huh.

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

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

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

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

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

25 A. Oh, for the speech and language?

1 Q. So you were able to see that; is that right?

2 A. I mean, I have the report.

3 Q. I think the highest that Mr. Mosely scored, in  
4 terms of, like, an age equivalency was -- I believe it was  
5 about 12 years, 7 months. I don't know if you see that.

6 A. I mean, I don't recall that. I would have to  
7 look it up, the specific.

8 Q. What would be like the grade equivalent of a  
9 12-year-old?

10 A. Sixth.

11 Q. Maybe sixth grade?

12 A. Sixth grade-ish.

13 Q. So, like, certainly not -- far, far lower than a  
14 23-year-old?

15 A. Yes.

16 Q. Okay. Now I want to talk about the test that  
17 you did.

18 A. Uh-huh.

19 Q. And we've been going for about an hour and 40  
20 minutes.

21 Did anybody want to take a break?

22 A. No.

23 MS. SEIFER-SMITH: Charlene, did you want to  
24 take a break?

25 THE COURT REPORTER: No, I'm good.

1 BY MS. SEIFER-SMITH:

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

5 What tests did you administer?

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

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

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

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

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

23 Q. Okay.

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



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

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

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

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

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

22 A. You have to have vision.

23 Q. Okay.

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

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

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

9 A. You can use it for both.

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

12 A. The administration would be the same, yeah.

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

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

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

25 A. Uh-huh.

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

3 A. About an hour.

4 Q. Okay.

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

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

7 A. Yes.

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

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

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

17 A. Sure.

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

20 A. Uh-huh.

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

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

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

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

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

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

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

16          A.    Uh-huh.

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

18          A.    Correct.

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

23          A.    Correct.

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

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

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

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

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

9           A.    Uh-huh.

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

12          A.    He answered the questions.

13          Q.    Okay.

14          A.    So he was cooperative in that way.

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

17          A.    Distractibility concerns.

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

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

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

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

1 or anything to suggest that he was doing that.

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

4 A. Uh-huh.

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

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

8 Q. Okay.

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

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

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

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

17 A. Correct. They were behind him.

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

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

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

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

1 consistent. They all fall within the very poor range. A  
2 55 on the pictorial, a 61 on the geometric, and 54 on the  
3 full scale all fall within the very poor range typically  
4 suggestive of Intellectual Disability.

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

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

10 Q. Okay.

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

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

15 MS. SEIFER-SMITH: Okay. Go back.

16 THE WITNESS: Sure.

17 BY MS. RUSSELL:

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

20 A. Uh-huh.

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

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

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

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

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

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

9 A. Those --

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

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

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

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

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



1 use the WAIS 5?

2 A. Yes.

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

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

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

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

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

18 A. Yes.

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

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

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

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

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

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

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

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

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

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

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

1 there was effort issues or anything like that.

2 Q. So valid score or not valid?

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

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

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

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

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

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

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

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

21 A. She said --

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

23 A. Correct.

24 Q. -- and then gave the WAIS 5.

25 A. Correct.

1 Q. So no reason to doubt that --

2 A. I didn't see anything to say that there were  
3 concerns for effort or distractibility or anything like  
4 that.

5 Q. All right. Just to clarify. You mentioned that  
6 a 69 --

7 A. Uh-huh.

8 Q. -- is the very top of where you could be in  
9 order to be diagnosed with Intellectual Disability?

10 A. So below 70. Uh-huh.

11 Q. Now, isn't there something called the standard  
12 error of measurement --

13 A. Yes. It's --

14 Q. -- and so basically it --

15 A. -- confidence interval. Uh-huh.

16 Q. -- would be plus or minus 5 --

17 A. Plus or minus, uh-huh.

18 Q. -- points, right?

19 A. Uh-huh.

20 Q. So, actually, more 75, 76 might be the --

21 A. Sure. The DSM identifies it as below 70, but  
22 there is a standard error.

23 Q. And that would be plus or minus 5 points?

24 A. Yes.

25 Q. Okay. Now, you said you gave the CTONI-2?

1 A. Uh-huh.

2 Q. And you're saying that's comprehensive. It's  
3 not a screening?

4 A. Correct.

5 Q. Now, are you aware, in your work here at the  
6 courthouse or sort of in your other work with the Agency  
7 for Persons with Disabilities, as to whether the APD  
8 accepts the CTONI as a reliable, valid IQ test?

9 A. It is one they do use, yes.

10 Q. And you're saying that they accept it --

11 A. The CTONI is one --

12 Q. -- in ID?

13 A. -- yes.

14 Q. Okay. Are there any other IQ test that they  
15 accept?

16 A. The WAIS is one. They would also, I would  
17 imagine, Stanford-Binet. I don't use that one, but that  
18 would be another one. Comprehensive measure.

19 Q. As you sit here now, you don't have any reason  
20 to doubt the accuracy of Dr. Fritz's testing?

21 A. That there's a significant speech issue? I  
22 don't have anything to indicate that's not valid. Those  
23 are different instruments to be able to gauge the level of  
24 impairment, but I didn't see anything in there.

25 Q. And you're not familiar with any of the

1 instruments -- you're not --

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

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

6 A. Oh, yes.

7 Q. -- instruments?

8 A. For the --

9 Q. -- used for that kind of testing?

10 A. Yes, ma'am.

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

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

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

16 BY MS. SEIFER-SMITH:

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

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

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

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

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

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

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

5           A.    I typically do it the same day.

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

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

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

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

14           A.    No.

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

18           A.    Yes.

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

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

23           Q.    Okay.

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

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

3 A. Uh-huh.

4 Q. And that's the second edition?

5 A. Yes.

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

8 A. 15 minutes.

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

11 A. I would say a little less.

12 Q. Why is that?

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

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

17 A. He's not, no.

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

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

21 Q. Okay. Why did you administer this?

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

25 Q. So was that the only reason that you were



1 administering the MMSE?

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

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

7 A. Not necessarily.

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

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

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

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

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

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

22 Q. I see.

23 A. Uh-huh.

24 Q. Tell me how he scored on this test?

25 A. He scored within the mild cognitive impairment.

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

3 A. No.

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

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

9 Q. Okay.

10 A. He appeared to be cooperative.

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

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

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

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

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

25 A. Well, being able to process. So the

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

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

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

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

10 A. Uh-huh.

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

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

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

21 A. That is one of them, yes.

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

23 A. He did not do well.

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

25 A. I should. Hang on one second.

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

3 A. Oh, is it? Okay.

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

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

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

13 Q. Okay.

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

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

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

19 Q. Okay.

20 A. If you take away 7.

21 Q. And his first answer was 97?

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

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

1           A.    He didn't get them correct, yeah.

2           Q.    Okay.  I think you said earlier that it appeared  
3 to you like he was putting forth best effort with regards  
4 to his engagement on this test; is that right?

5           A.    He didn't show distractibility like he did on  
6 the other test.  On this one, he was cooperative.

7           Q.    Did you do the Clock Drawing Test with him?

8           A.    I did not.  That's oftentimes separate or part  
9 of the MoCA, but I did not give that, no.

10          Q.    I love that test.  Super interesting.

11                The drawing one, what did you have him draw?

12          A.    It's two interlocking geometric shapes that are  
13 pentagons that they have to copy, and his were not good.

14          Q.    Are you able to show us?

15          A.    Uh-huh.  Five-sided and they were not  
16 five-sided, all of them.  So that was -- he didn't get  
17 credit for that.

18          Q.    Is that your handwriting at the top with his  
19 name and the date?

20          A.    No, that's his.

21          Q.    That's his?

22          A.    Yes.

23          Q.    Okay.  Was there anything else that you had him  
24 write?

25          A.    There is write about where you live.

1 Q. Is that part of the MMSE?

2 A. Yes.

3 Q. Okay.

4 A. He wrote, I live in Florida.

5 Q. What do people typically write?

6 A. That one is --

7 Q. Broad?

8 A. -- broad. I get all kinds of answers. Some  
9 put, I live at this specific address, or I live -- some  
10 people put the jail. There really is -- you're looking to  
11 see if there's, like, a noun and a verb and if it makes  
12 sense.

13 Q. Okay.

14 A. It varies significantly.

15 Q. Did he spell everything correctly?

16 A. He misspelled Florida.

17 Q. How did he spell it?

18 A. He put an extra "I" in it.

19 Q. Where did he put the extra I?

20 A. At the end, Floridai.

21 Q. Okay. Did he capitalize Florida?

22 A. He did not.

23 Q. Did he add any punctuation?

24 A. No, and that's not required for this, but he did  
25 not.

1 Q. And it was just, I live in Floridai?

2 A. I live in Floridai, yes.

3 MS. SEIFER-SMITH: Do you have any questions  
4 about the MMSE?

5 MS. RUSSELL: I do.

6 MS. SEIFER-SMITH: I figured.

7 BY MS. RUSSELL:

8 Q. Dr. Torrealday, you and I met with Mr. Mosley on  
9 May 8th.

10 A. Uh-huh.

11 Q. There was a lot going on that day?

12 A. Yes.

13 Q. Then Ms. Seifer-Smith met with you a second day?

14 A. Correct.

15 Q. And the second day, what was the date?

16 A. The 21st, I believe.

17 Q. Okay. Are you saying that you gave him the  
18 Mini-Mental State Exam on the day when you were there with  
19 Ms. Seifer-Smith, or the day that you were there with me?

20 A. All the testing was -- no, it was a second day.  
21 Testing was by myself with him.

22 Q. Because in my notes from that day I have, you  
23 know, the Mini-Mental State Exam is the one where you have  
24 him spell "world" backwards?

25 A. That's in the interview, the MMSE.

1 Q. Okay. So I mean --

2 A. That's not part of that test.

3 Q. Okay. And when you asked him who the president  
4 is and if a dog has four legs?

5 A. Hold on a second. That's not part of the MMSE.  
6 I don't know that I asked him that. Yes. That's part of  
7 the interview.

8 Q. Okay. So basically, those questions are  
9 questions that you just interview, and it's not part of  
10 the MMSE?

11 A. Correct.

12 Q. And when you did that part of the interview --  
13 and the reason I was asking because I was wondering if any  
14 of this made it into your report -- that you asked him  
15 that if he paid with \$100 and got 23 back, do you have  
16 that note?

17 A. I have here -- so the question I typically ask  
18 is: If you buy something that cost 78 cents and you pay  
19 with a dollar, how much change should you get back? He  
20 said, A penny.

21 Q. It seems like he didn't know much about counting  
22 change.

23 A. No.

24 Q. And when he spelled "world," for you, do you  
25 have that note?



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

2 Q. Not the way you spell world?

3 A. Correct.

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

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

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

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

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

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

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

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

1 current president.

2 A. Yes.

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

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

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

14 A. It could be, yes.

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

17 A. Yes. For Intellectual Disability, yes.

18 Q. How so?

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

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

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

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

5 A. Yes.

6 Q. -- make change?

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

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

12 A. He was cooperative during that, yes.

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

14 BY MS. SEIFER-SMITH:

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

17 A. Correct.

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

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

25 So it looks at effort for those, and then the

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

3             Q.     About how many questions is it?

4             A.     60, I believe.

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

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

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

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

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

20            A.     Uh-huh.

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

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

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

1 of competency tests that were given in the case?

2 A. For Mr. Mosley?

3 Q. Correct.

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

6 Q. Okay.

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

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

14 A. Correct.

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

16 A. Correct, they do not read.

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

19 A. A few times.

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

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

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

3 A. He asked if I could repeat it.

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

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

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

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

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

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

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

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

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

25 A. It has to be normed for the right population

1 because that could be a concern that comes up.

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

6 A. It's possible, yes.

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

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

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

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

15 Q. Okay.

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

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

22 A. Uh-huh.

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

25 A. With that instrument, no.

1 Q. Okay.

2 A. Just the repetition a few times.

3 Q. And what did you find in terms of his responses?

4 A. Well, that the score was greater than expected  
5 by chance.

6 Q. What does that mean?

7 A. By random responding. That the score was  
8 greater than random responding, and it tends to be low.  
9 So if you randomly responded, you would potentially do  
10 better than how he did.

11 Q. So what does that mean?

12 A. That there was feigning response styles for  
13 responding or suggesting that he knows less than he  
14 potentially does.

15 Q. I'm sorry. So you're saying he knows less than  
16 what the test shows?

17 A. No. That the test shows he scored low. That he  
18 could have performed better if he had randomly guessed  
19 than how he did on the test.

20 Q. Okay.

21 A. So it's response style, so effort. Looking at  
22 effort, too.

23 Q. So does it indicate poor effort; is that what  
24 you are saying?

25 A. Yes, that's what the testing does.



1 Q. Understanding that the ILK is not normed for  
2 people with cognitive deficits?

3 A. Correct.

4 Q. Okay. So it could be a false indicator of poor  
5 effort?

6 A. It's possible.

7 Q. Okay.

8 A. That's why I did the other test, too.

9 Q. Okay. And when you say "the other test," are  
10 you talking about The Dot Counting --

11 A. Yes.

12 MS. SEIFER-SMITH: Okay. Before we get to The  
13 Dot Counting Test, Ms. Russell, any more questions  
14 about the ILK?

15 BY MS. RUSSELL:

16 Q. During our time together, when you were talking  
17 to Mr. Mosley, he said a number of times that he thought  
18 that the judge was on the side of the State.

19 Do you have that reflected in your notes?

20 A. In the competency piece.

21 Q. And the ILK, basically, the test itself, right?

22 A. Uh-huh.

23 Q. Asks questions about what you understand  
24 about --

25 A. Yeah, the specific questions about the court

1 process.

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

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

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

10 MS. SEIFER-SMITH: Okay.

11 BY MS. SEIFER-SMITH:

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

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

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

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

1 Now try this one. Then you start the timer.

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

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

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

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

9 Q. Okay.

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

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

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

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

24 A. Effort.

25 Q. Okay. So just straight-up effort?

1 A. Correct.

2 Q. And why did you administer this?

3 A. Because of the distractibility, there was  
4 questions about effort in past testing with him as well.  
5 Just to have another measure to look at effort, given the  
6 distractibility, then the ILK, and to have another  
7 instrument to look at that.

8 Q. Okay. Tell me about the administration. Like,  
9 how you administered it to him?

10 A. It's verbatim. There's instruction that I have  
11 to give and you put the stimuli in there and you give the  
12 instruction to do it. You show him the -- it's a little  
13 booklet with the dots and you start -- you know, once I  
14 said, Tell me how many dots there are? Whatever the  
15 specific wording is. Then you start the timing, and the  
16 response of how many they say. Then you stop it. Then  
17 you go, Now try this one. There's a second one.

18 Q. Was he able to complete the test?

19 A. Yes.

20 Q. Did he have any questions or any, like,  
21 misunderstanding or anything?

22 A. No, not on this one.

23 Q. And how did he do?

24 A. He scored elevated. That shows that his score  
25 compared to -- I compared it to those with learning

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

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

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

6 Q. What kind of errors?

7 A. Wrong calculations.

8 Q. So, like, counting wrong?

9 A. Uh-huh.

10 Q. Is that a yes?

11 A. Yes.

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

15 A. Yes, and these are counting, like, 1 through 5,  
16 1 through 10. The most you count is to 30 or 35, so it's  
17 not complicated counting the dots. They oftentimes use  
18 fingers to point to the dots when they're counting.

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

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

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

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

7           Q.    Is it more difficult for people who have, like,  
8   difficulty with, like, visuospatial issues?

9           A.    I'm not aware of that.

10          Q.    Okay.  Is a difficulty with visuospatial  
11   relationships, is that indicative of, like, some  
12   symptomology for ASD?

13          A.    Visuospatial?  It's typically for more cognitive  
14   decline.  I'm not aware of it being specific to ASD.

15          Q.    Is The Dot Counting Test normed for people with  
16   ID?

17          A.    It does not exclude them.  The ones that you are  
18   not to use it for are those three categories that I have  
19   indicated.

20          Q.    Okay.

21                MS. SEIFER-SMITH:  Do you have any other  
22   questions regarding dot counting?

23                MS. RUSSELL:  I do.

24   BY MS. RUSSELL:

25          Q.    I apologize, Dr. Torrealday.  I have no

1 experience with this test.

2 A. Sure. That's fine.

3 Q. So I know that you said that you compared --  
4 that you got, basically, like a raw score?

5 A. Uh-huh.

6 Q. And that you were able to compare that to the  
7 score for the learning disabled?

8 A. So --

9 Q. So is there, like, average, learning disabled  
10 and --

11 A. There are different categories, yes.

12 Q. Okay. So what are the categories?

13 A. Yes. I don't have it with me. So learning  
14 disability.

15 Q. Uh-huh.

16 A. There is -- I actually looked for two for them.  
17 The ones I looked for him for head injury, because of the  
18 suspected potential accident, and learning disability.

19 Q. What are the other -- like, all of the  
20 categories that can --

21 A. Yes. I may have brought it. Hold on one  
22 second. So the other ones are nonclinical, depression,  
23 schizophrenia, head injury, stroke, dementia, and then  
24 normal effort.

25 Q. And what are the cutoffs for all of those --

1           A.    They vary.

2           Q.    Would you mind just --

3           A.    They vary --

4           Q.    -- letting us know --

5           A.    They range from --

6           Q.    -- what he scores?  I'm also interested in  
7 what's his score and what are the cutoffs for the other?

8           A.    They vary from 14 to 20.  So for, like, the head  
9 injury, it is -- let me see -- it is 20; and learning  
10 disability is 15.  Then you have sensitivities for it, so  
11 his score was 37.  So he scored above both of those.

12          Q.    And what's the highest score possible?

13          A.    It depends on the response time.  You know, the  
14 longer they take, the inaccuracy, then the higher the  
15 score, typically.

16          Q.    And there's no category for people with autism?

17          A.    No.

18          Q.    And there's no category for people with  
19 Intellectual Disability?

20          A.    Those specific, no.

21          Q.    All right.

22          A.    But they do have the learning disability, which  
23 he had been identified, so I used that one as well as head  
24 injury.

25          Q.    And schizophrenia?



1 A. Yes, schizophrenia is also one. Uh-huh.

2 BY MS. SEIFER-SMITH:

3 Q. I'm sorry. Did you make a comparison to the --  
4 what is it -- the list for schizophrenia?

5 A. I did not. I looked at the learning disability  
6 and for the head injury.

7 Q. Okay. Because you indicate that your diagnostic  
8 impression is that he has --

9 A. Based on the symptom he reported, and there's a  
10 history of psychosis for him.

11 BY MS. RUSSELL:

12 Q. So the cutoff for schizophrenia is what number?

13 A. 20.

14 MS. RUSSELL: I know we may be getting close to  
15 the end. Is it possible that we take a 4-minute  
16 break?

17 MS. SEIFER-SMITH: Yes. Let's take 4 minutes.

18 (Break taken.)

19 BY MS. SEIFER-SMITH:

20 Q. Are you ready, Dr. Torrealday?

21 A. Uh-huh.

22 Q. Okay. So I think that the next section in your  
23 report is your diagnostic impressions with respect to  
24 Mr. Mosley.

25 A. Uh-huh.

1 Q. Can you just tell me what those are?

2 A. Yes. Unspecified Depressive Disorder,  
3 Unspecific Schizophrenia Spectrum and Other Psychotic  
4 Disorder, Specific Learning Disability, Malingering  
5 (Suspect Effort), and Cannabis Use Disorder; and sustained  
6 remission.

7 Q. So I want to talk about a few of these.

8 A. Uh-huh.

9 Q. So this Specific Learning Disability rather than  
10 Intellectual Disability; why is that?

11 A. That was documented in the school records and  
12 with the testing for the speech and language and received  
13 IEP services for those in the school years.

14 Q. Now, the testing indicates, and you write in  
15 your report kind of just about this, it indicates  
16 Intellectual Disability. Like many of the tests that were  
17 administered to Mr. Mosley, why do you not believe that  
18 this is something --

19 A. Well, I questioned the effort and that -- there  
20 hadn't been identified in the early developmental years in  
21 the school system. Typically, it is where it is  
22 identified first, and then prior evaluations, multiple  
23 psychologists and psychiatrists that saw him previous also  
24 didn't identify it, and then the jail records. So given  
25 my concern for suspect, you know, the effort, I didn't put

1 it in there.

2 Q. There was no intellectual testing in the school  
3 records; is that right?

4 A. I did not see it in what was given to me, no.

5 Q. Okay. But the intellectual testing that was  
6 done, you know, past the developmental age, indicated  
7 that -- like, just the rough scores alone indicated an  
8 Intellectual Disability; is that fair?

9 A. On the WAIS and the instruments that were given,  
10 yeah.

11 Q. And in an Intellectual Disability, like, that  
12 kind of test, that's immutable, right?

13 A. It tends to be constant in theory.

14 Q. Okay. And Mr. Mosley identified a head injury  
15 when he was, I think, seven years old?

16 A. Yes. No, seven --

17 Q. I'm sorry. Seventh grade?

18 A. Seventh grade, yes.

19 Q. Which would have been during the developmental  
20 period?

21 A. Yes, in seventh grade.

22 Q. Okay. But when he was prompted, with respect to  
23 the car accident, he didn't indicate an additional head  
24 injury; is that correct?

25 A. Correct. Yes.

1           Q.    Okay.  So it would be safe to assume that, like,  
2   if he had been given an IQ test in the eighth grade, that  
3   because our IQs or our intellectual capacities are  
4   immutable, his score now would be the same?

5           A.    Potentially, unless they felt the testing was  
6   impacted by, you know, from a head injury, which I didn't  
7   get any records of, you know, how severe or not severe it  
8   was, so...

9           Q.    Okay.  Is it also helpful in terms of  
10  determining -- and I think we talked about this a little  
11  bit before -- but in terms of determining an Intellectual  
12  Disability diagnosis to take into account collateral  
13  sources?

14          A.    For the adaptive, yes, specifically.

15          Q.    Okay.

16          A.    I mean, with a score of 46, that's why I was  
17  looking in the school records, that's fairly low and  
18  typically identified in the school system beyond being a  
19  specific learning disability, and I didn't see that in the  
20  records.  It didn't indicate testing was or was not given.  
21  I didn't see any IQ scores, but he was not identified as  
22  having ID when he was in school.

23          Q.    What if he just wasn't given any kind of  
24  intellectual testing?

25          A.    I mean, that's possible.  That can happen.

1 Q. So then your diagnostic impression is that he's  
2 malingering?

3 A. Suspect effort. Uh-huh.

4 Q. Tell me about that.

5 A. Based on the testing that the effort -- he did  
6 not put forth effort -- appropriate enough effort in the  
7 testing.

8 Q. Okay.

9 A. That raises a question.

10 Q. And are we -- we're just talking about the  
11 testing that you administered on the 21st of May?

12 A. That is, yes, for my testing.

13 Q. Okay. And I think, like, as we discussed, like,  
14 all of those tests do not take into account, like, norms  
15 for people who are cognitively impaired by Intellectual  
16 Disability?

17 A. And don't exclude. Some of them don't exclude  
18 them, but they're not created specifically for ID.

19 MS. SEIFER-SMITH: Okay. Do you have any more  
20 questions about the diagnostic impressions?

21 MS. RUSSELL: I do have some questions about the  
22 non-ID diagnosis, but you might have --

23 MS. SEIFER-SMITH: Go ahead.

24 BY MS. RUSSELL:

25 Q. Dr. Torrealday.

1           A.    Uh-huh.

2           Q.    In general, my understanding -- and I'm just a  
3 silly lawyer with no training in psychology or psychiatry  
4 or medical training at all -- is that the first thing you  
5 look for is the mental health issue, right? Then the  
6 second one is something organic in developmental because  
7 if someone, for example, is suffering from Intellectual  
8 Disability, you might not be able to tell if they're  
9 profoundly psychotic; is that right?

10          A.    You have to -- yes, that is correct.

11          Q.    But you have to treat the psychosis first before  
12 sometimes you can even test for these other developmental  
13 disorders; is that fair?

14          A.    Yes. You have to manage the symptoms, yes.

15          Q.    So when you said that one of the reasons that  
16 you didn't diagnose Thomas Mosley was there was nothing in  
17 the school records, fair, or no IQ test in the school  
18 records, that's fair.

19          A.    Uh-huh.

20          Q.    But when you were talking about the fact that  
21 nobody else had diagnosed him with ID in the prior  
22 evaluations --

23          A.    Uh-huh.

24          Q.    -- is it possible that the reason why was  
25 because he was actually suffering from schizophrenia and

1 psychosis from the time he was arrested until the present?

2 You know, he's had two prior --

3 A. It is possible.

4 Q. -- stays --

5 A. It is possible. I mean, if he was unstable and  
6 acutely psychotic, it's possible, yes.

7 Q. And you know from reading the reports of  
8 Dr. Ramm, and all of the doctors that saw him over two  
9 prior competency evaluations --

10 A. Uh-huh.

11 Q. -- that he had -- he was diagnosed with  
12 schizophrenia and that he had --

13 A. Mental --

14 Q. -- psychosis, right?

15 A. Yes.

16 Q. Would you agree with me that that's probably the  
17 reason why none of the other doctors since his arrest have  
18 taken on the issue of ID?

19 A. It's possible. Sometimes in the way they  
20 communicate, they could raise concerns for that, but, yes,  
21 it's possible.

22 Q. Well, I think some of the doctors did raise  
23 concerns that there were potential cognitive -- that they  
24 had concerns about his cognition --

25 A. Uh-huh.

1 Q. -- in the various exams that were done, but all  
2 of them said, in general, this is not something that we  
3 can address right now until we get the psychosis under  
4 control, fair?

5 A. Okay. Fair. Uh-huh.

6 Q. And you don't take any issue with that, as you  
7 sit here now, that's standard operating procedure for  
8 people in your line of work, right?

9 A. Yes.

10 Q. All right. Let's talk now about the DSM-5.

11 A. Uh-huh.

12 Q. Three criteria for Intellectual Disability.

13 A. Uh-huh.

14 Q. One is a valid IQ test --

15 A. Uh-huh.

16 Q. -- two standard deviations below.

17 A. Below the mean.

18 Q. The mean. Which would be somewhere in the range  
19 of 70 plus or minus 5?

20 A. Uh-huh.

21 Q. Correct. All right.

22 In this case, do we have that?

23 A. We do have it in some of the testing, yes.

24 Q. And you would agree that that's a valid test?

25 A. Well, one of them is suspected effort. McClain



1 said it was no indications, and I don't know about Railey  
2 if he -- any commentary, any observations that he had, but  
3 his testing was within that range as well.

4 Q. Okay. We can agree that Dr. McClain's test is  
5 valid?

6 A. I don't have anything to say it's not, yeah.

7 Q. All right. Let's talk about adaptive  
8 functioning.

9 A. Uh-huh.

10 Q. Were you provided --

11 A. Yes.

12 Q. -- this set of school records with the colorful  
13 tabs?

14 A. Uh-huh.

15 Q. Did you have this with you at the time you wrote  
16 your report?

17 A. I did, yes.

18 Q. So you had it with you --

19 A. I mean, not next to it, but, yes, I had it. So  
20 I -- in the adaptive when I had questions about the IQ,  
21 and so I did not speak to the adaptive because I  
22 questioned the IQ results.

23 Q. Okay. So you did no analysis of his adaptive  
24 functioning?

25 A. Well, no. The records indicate that there is

1 deficits in adaptive functioning for him.

2 Q. Okay. And so you would say that the records  
3 indicate that he has adaptive functioning deficits in the  
4 conceptual, social, and practical domains?

5 A. In the different areas in school, yeah, that was  
6 identified.

7 Q. And you don't take any issues with those  
8 adaptive functioning deficits?

9 A. I don't have any indication to indicate it's not  
10 valid, yes.

11 Q. Did you do any collateral interviews?

12 A. I did not. Not with the parents, no.

13 Q. And you were provided contact information for  
14 them?

15 A. Yes.

16 Q. But you weren't able to do --

17 A. No, I didn't.

18 Q. And it is best practices in the diagnosis of  
19 Intellectual Disability to do collateral interviews,  
20 right?

21 A. Ideally, yes, if there is the ID testing, yeah.

22 Q. And that's because, in general, the self-report  
23 of people with low IQ, as well as mental illness  
24 co-occurring, schizophrenia, psychosis, as well as  
25 potentially autism co-occurring, right?

1 A. Uh-huh.

2 Q. Those self-reports just aren't reliable; is that  
3 fair?

4 A. It's helpful to have collateral, yes, in  
5 addition to the testing.

6 Q. All right. So you're telling me that we have  
7 the two prongs, IQ, and also adaptive functioning in all  
8 three domains? Adaptive functioning deficits in all three  
9 domains?

10 A. Oh, yeah. Uh-huh.

11 Q. Okay. So the third prong under the DSM-V is the  
12 age of onset --

13 A. Uh-huh.

14 Q. -- which strangely, under Florida standards,  
15 really the cutoff is age 18, right, legally for the death  
16 penalty analysis, right?

17 A. Uh-huh.

18 Q. But since the new DSM-5-TR has come out, the age  
19 of onset has now been expanded northward to the  
20 developmental period?

21 A. Correct.

22 Q. Is that fair?

23 A. Yes.

24 Q. So that's on the other side of 18?

25 A. Uh-huh.

1           Q.    So would you agree with me that Thomas Mosley  
2 meets the criteria that his IQ and adaptive functioning  
3 probably occurred during the age of onset?

4           A.    Given the stability of it, it should. It seems  
5 like it would.

6           Q.    So explain to me what it is that prevents you,  
7 at this time, as you sit here now, from diagnosing Thomas  
8 Mosley with Intellectual Disability?

9           A.    Because of the history, the school not  
10 identifying, and then the effort in the testing.

11          Q.    All right. But we agreed that there's an IQ  
12 test that's valid that's --

13          A.    Uh-huh.

14          Q.    -- two standard deviations below.

15          A.    That is. It's the 69, yes.

16          Q.    And there is so many examples of adaptive  
17 functioning deficits in the school records?

18          A.    Uh-huh.

19          Q.    I guess it's difficult for me to understand  
20 because there was no IQ test as a child, you're telling us  
21 that --

22          A.    No. That it wasn't identified, and so that it  
23 wasn't identified in the school that he was in that for --  
24 and that low of score typically is a red flag for the  
25 schools. So the question is, why wasn't he identified as

1 ID when he was younger?

2 Q. Are you familiar at all with testing done in the  
3 schools in Pinellas County, especially in the heart of  
4 South St. Pete?

5 A. Not very well-versed, no.

6 Q. You're aware that there are schools that are  
7 very impoverished and underserved?

8 A. And that's true, yes, in a lot of places, yeah.

9 Q. And there's been a lot of, actually, publicity  
10 and press over the decades after desegregation in the  
11 Pinellas schools with issues with schools being  
12 underserved with children being in profound need and  
13 poverty and trauma and not being identified as either ID  
14 or autistic because of the fact that the schools were  
15 simply overwhelmed with the number of children with  
16 special needs?

17 A. That's possible, yes.

18 Q. Have you read anything about that?

19 A. No. Not in Pinellas County, no.

20 Q. So you would say that you would not diagnose  
21 Thomas Mosley with Intellectual Disability, even though  
22 we've talked about meeting the three criteria?

23 A. Uh-huh. I mean, I question it. The effort was  
24 the concern for me for him and how valid the testing was,  
25 but he does have general deficits, yes.

1 Q. So certainly the effort was a question.

2 A. Uh-huh.

3 Q. Did you make that conclusion before you received  
4 the valid test from Dr. McClain, because I know we  
5 provided that information late, and I wonder had you  
6 received Dr. McClain's valid test earlier on in this  
7 process if you might have come to a different conclusion  
8 about the diagnosis?

9 A. Potentially because she did do some malingering  
10 testing or, like, for effort, but I did not get that until  
11 after --

12 Q. Right.

13 A. -- after the evaluation.

14 Q. But it would have made a difference to you?

15 A. It could have. Uh-huh. Especially since it's a  
16 different instrument, a newer instrument.

17 MS. RUSSELL: All right. Thank you.

18 BY MS. SEIFER-SMITH:

19 Q. Okay. No diagnostic impressions with respect to  
20 Autism Spectrum Disorder?

21 A. I did not, no.

22 Q. Did you do any testing with respect to Autism  
23 Spectrum Disorder?

24 A. I did not.

25 Q. Why not?

1           A.    Because I believed what I was seeing was the  
2 mental illness, the flat affect, those kinds of things are  
3 symptoms of the mental illness and not necessarily autism.

4           Q.    Are you familiar with, like, the very frequent  
5 comorbidity between, like, schizophrenia or  
6 Schizoaffective Disorder and Autism Spectrum Disorder?

7           A.    There is comorbidity as well as with  
8 Intellectual Disability, yes.

9           Q.    And that's fairly frequent within those  
10 populations; is that fair?

11          A.    It can be seen, yes.

12          Q.    Okay. So here we have Mr. Mosley, who is  
13 testing, according to, like, Intellectual Disability,  
14 appears, at all facets, to have an Intellectual  
15 Disability. He's been diagnosed on many occasions with  
16 schizophrenia.

17          A.    Uh-huh.

18          Q.    But no testing for ASD?

19          A.    Correct.

20          Q.    Okay. And I think you had told me before about  
21 the test that you use or have used in the past with  
22 respect to ASD, as being the CARS and the GARS?

23          A.    Uh-huh.

24          Q.    Were there other tests that are available to  
25 you?

1           A.    ADI-R, which is an interview for that. Uh-huh.

2           Q.    And those tests can be done both with the  
3 individual themselves, as well as with people who are able  
4 to discuss the examinee during the developmental period?

5           A.    You can do it singularly or both, yes.

6           Q.    And those tests weren't administered to either  
7 Mr. Mosley or Mr. Mosley's family?

8           A.    No.

9           Q.    Okay. And, obviously, no teachers were  
10 interviewed in connection with this case either?

11          A.    No.

12          Q.    Okay. And am I getting this correct that you  
13 just didn't do any kind of, like, autism assessment  
14 because you believed that what you were seeing was related  
15 to, like, psychological symptoms rather than a --

16          A.    The mental illness, yes.

17          Q.    Okay. Do you think that that was a mistake not  
18 to do any testing for ASD?

19          A.    No, because I think the mental illness -- I  
20 mean, there's a clear, documented history of mental  
21 illness, and he presented with the negative symptoms of  
22 mental illness. So I believed that was what I was seeing.

23          Q.    Okay. I think you mentioned earlier that, after  
24 your report was written, you had the opportunity to review  
25 Dr. Whitney's report?



1 A. Yes. That was provided to me after, yeah.

2 Q. Okay. Having reviewed Dr. Whitney's report,  
3 does that give you any kind of pause with respect to the  
4 failure to have done any kind of testing or, like, further  
5 analysis regarding ASD?

6 A. I don't do the ADOS. So I know that came from  
7 the speech and language, I think, evaluation for  
8 further -- I think it was that one where they said to do  
9 further testing, so it's possible -- could he have autism  
10 as well? Yes, but I believe what I was seeing was  
11 symptoms of mental illness.

12 Q. Okay. So you think that Thomas Mosley does not  
13 have Autism Spectrum Disorder?

14 A. According to Dr. Whitney, then, yes, he sees the  
15 symptoms of that when he tests specifically for that.

16 Q. From Dr. Whitney's report, his examination, his  
17 testing, is there anything in that information that leads  
18 you to believe his findings to be invalid?

19 A. I did not see anything indicating it would be.

20 Q. Okay. So would it be a fair diagnostic  
21 impression that Thomas Mosley is also -- does also have  
22 the neurocognitive developmental disorder of Autism  
23 Spectrum Disorder?

24 A. Based on this evaluation, yes, he identified  
25 that.

1 MS. SEIFER-SMITH: Do you have any further  
2 questions regarding ASD, Ms. Russell?

3 BY MS. RUSSELL:

4 Q. But you are trained in the GARS, which is a  
5 screening test for autism?

6 A. Yes.

7 Q. Why didn't you give that in this case?

8 A. Because what I saw I thought were symptoms of  
9 mental illness.

10 MS. RUSSELL: Okay. Thank you.

11 BY MS. SEIFER-SMITH:

12 Q. Okay. I feel like that next section of your  
13 report, the Competency to Proceed, is mostly, like, the  
14 history in terms of, like, Mr. Mosley's competency or the  
15 competency proceedings; is that fair? Like, your  
16 assessment of, like, what you pulled from the various  
17 reports?

18 A. Oh, the first part, yes.

19 Q. Then it's your current assessment, right? Is  
20 that fair?

21 A. Yes.

22 Q. Okay. So I want to talk about each of those  
23 criterion individually. There are six; is that right?

24 A. Yes.

25 Q. And that's per statute?

1 A. Uh-huh.

2 Q. Okay. Is that a yes?

3 A. Yes. I'm sorry.

4 Q. Okay. So let's talk about the first. Mr.

5 Mosley's appreciation of the charges against him.

6 Can you tell me how you asked him about this  
7 particular criterion?

8 A. Yes. I asked, Do you know what your charges  
9 are, what you've been charged with?

10 Q. And what did he say?

11 A. He said first-degree murder.

12 Q. Okay. Because what I see in quotes is "they say  
13 I killed two people."

14 A. When I asked what are the allegations, yes.

15 Q. Okay. Did you use the word "allegations"?

16 A. Whether they -- I may have in his case. I don't  
17 know. I use allegations sometimes. Sometimes I ask, What  
18 are they saying? What are they accusing you of doing?

19 Q. Okay. Do you think that he would understand the  
20 word "allegation"?

21 A. Oftentimes, that's why I use both words, because  
22 not everybody knows what that word means.

23 Q. So tell me -- kind of walk me through this  
24 particular portion of, like, your competency examination.

25 A. Uh-huh.

1 Q. Like, your conversation with him?

2 A. Yes. So I asked, you know, What is it that  
3 they're saying that you did?

4 He indicated he didn't know anything about it.

5 I asked, Well, what are they saying where this  
6 supposedly occurred? Where are they saying this happened?

7 He said, in St. Pete. He commented that I could  
8 ask his attorney for more information.

9 I asked, Have you talked to your attorney about  
10 this?

11 He said, It was not a good time.

12 So, you know, so I was asking, Well, what do you  
13 mean?

14 He said, When I'm ready. My mind needs to be  
15 ready, is what he said.

16 Q. Well, he also said that he needed to be free,  
17 out of jail --

18 A. Out of jail to be able to do --

19 Q. To be able to discuss this with his --

20 A. Apparently. I mean, that's all he said, yeah.

21 Q. That doesn't really seem like a feasible  
22 proposition for somebody --

23 A. No.

24 Q. -- who is charged with two counts of  
25 first-degree murder --

1 A. Correct.

2 Q. -- and facing the death penalty; is that fair?

3 A. That's fair.

4 Q. So is that really an ability to appreciate the  
5 charges and allegations if he can't actually discuss those  
6 things with his attorneys unless he's not in the jail?

7 A. That's why I had asked, you know, has he been  
8 able to discuss things about that? And that was, you  
9 know, when I was advised that not in any length or detail.

10 Q. So if he hasn't been able to discuss this at any  
11 length or in any detail, is that really an appreciation?

12 A. Well, with regard to the basic understanding of  
13 what he's accused of.

14 Q. So if he's just able to verbatim say back, like,  
15 I'm charged with two counts of first-degree murder, is  
16 that sufficient?

17 A. Understanding what the charges are and what the  
18 allegations are, and the severity of it.

19 Q. Okay. He didn't give you any kind of  
20 information as to, like, what specifically he's being  
21 accused of?

22 A. He did not talk about it.

23 Q. Okay. So no indication of who he is accused of  
24 killing?

25 A. He did not talk about it.

1 Q. No indication of the means by which he is  
2 supposed to have killed these two people?

3 A. No, he wouldn't -- he wouldn't -- he said he  
4 doesn't know anything.

5 Q. So he said he didn't know anything. Not that he  
6 was refusing to say anything to you?

7 A. He said, I don't know. I do not know. I know  
8 nothing, yeah.

9 Q. Okay. So, really, not saying that he  
10 understands all of the allegations against him and --

11 A. Well, I mean, these are charges that would have  
12 been asked of him and at the hospital, so he's aware of  
13 the counts and he's aware of what he's accused of, but the  
14 specific details of the allegations, he did not discuss.

15 Q. Okay. Tell me more about that conversation,  
16 because you have, like, some other entries here.

17 A. Uh-huh. That I was advised that he hasn't  
18 discussed it at length and that he said his charges were  
19 serious.

20 Q. So were those his words, "my charges are  
21 serious"?

22 A. I asked, Would you say your charges are serious?  
23 He said, Yes.

24 Q. Okay. So he didn't volunteer "my charges are  
25 serious"?

1 A. No. I typically ask if they are or not.

2 Q. And when -- and you asked him about the  
3 difference between a felony and a misdemeanor?

4 A. Uh-huh.

5 Q. Is that a yes?

6 A. Yes.

7 Q. That's a pretty standard question?

8 A. Correct. Uh-huh. Yes.

9 Q. And how did he respond to that question?

10 A. That it's a higher charge. The difference is  
11 one is higher than the others.

12 Q. Okay. And what did he identify as --

13 A. He first said misdemeanor, and then it varies by  
14 sentence. And in some, you get more time, and in others,  
15 less.

16 Q. And he identified the misdemeanor as carrying  
17 the higher charge; is that right?

18 A. He did, yes.

19 Q. Okay. And that's incorrect?

20 A. Correct.

21 Q. But your finding was that, for this particular  
22 criterion, that he is acceptable with the rest --

23 A. Because he seemed to appreciate the seriousness  
24 of the charges.

25 Q. How did he appreciate the seriousness of the

1 charges?

2 A. That he's aware of what the charges are, that  
3 he's accused of killing two people, and that the  
4 consequence is serious.

5 Q. Okay. Was there anything more to your  
6 conversation for this particular criterion?

7 A. No. Just he wouldn't talk about the  
8 allegations.

9 Q. Okay. How about the next criterion?  
10 Mr. Mosley's ability to appreciate the range and nature of  
11 possible penalties imposed.

12 A. That he identified that he is potentially facing  
13 the death penalty or life, which would be also dying  
14 anyways.

15 Q. Okay. So that kind of response about dying  
16 anyways was in response to your request of whether or not  
17 he could be sentenced to prison?

18 A. Correct.

19 Q. Okay. And you put in quotes, no reason for  
20 that. What's the point of getting life if going to die  
21 anyway."

22 Is that about right?

23 A. Uh-huh. Yes.

24 Q. And you would say that that is an acceptable  
25 appreciation of the range and nature of possible



1 penalties?

2 A. That he is aware of the serious nature of the  
3 consequences, that he's looking at life in prison or  
4 possible death.

5 Q. Was there any kind of exploration about the  
6 process by which Mr. Mosley goes from having entered a  
7 plea of not guilty to being sentenced to death?

8 A. No.

9 Q. And why not?

10 A. Because I was asking the basic competency  
11 prongs, the basic understanding of the nature of the legal  
12 process and not looking to specific death penalty ones.

13 Q. So you would agree with me that, obviously, a  
14 death pendency is the most serious kind of case that we  
15 handle here?

16 A. Yes, of course.

17 Q. So somebody's ability to participate in the  
18 process, especially in a death penalty case, is extremely  
19 important?

20 A. Yes. Uh-huh.

21 Q. Okay. So just saying that he does have a death  
22 penalty case and that it's a possible penalty, that's  
23 pretty minimal for competency purposes, right?

24 A. Well, for understanding the possible penalties  
25 is acceptable.

1 Q. Why would just saying, like, this is a death  
2 penalty case, like, the death penalty is the possible  
3 punishment, but not appreciating the means by which you  
4 get to that particular punishment be acceptable?

5 A. Because it's asking about the range and nature  
6 of the possible penalties.

7 Q. So --

8 A. So --

9 Q. I'm so sorry.

10 A. No. That's fine.

11 Q. So he was just able to identify the top range,  
12 right? He said, Death penalty?

13 A. Death penalty and possible life in prison.

14 Q. It doesn't say anything about life in prison?

15 A. What's the point of getting life, if going to  
16 die anyway?

17 Q. So that's not a real appreciation of that being  
18 a possible penalty, I wouldn't think. Just, like, there  
19 are multiple potential outcomes for a homicide case; would  
20 you agree?

21 A. Possibly, but these -- okay. Uh-huh.

22 Q. But, like --

23 A. Death and life in prison are --

24 Q. I mean, there's also the potential for plea  
25 bargaining and being sentenced to a term of years?

1           A.    Oh, yes.  For the legal process, yes.

2           Q.    And you didn't talk about any of those possible  
3 penalties, right?  Anything besides death penalty or life?

4           A.    Well, I mean, in the process of understanding  
5 the adversarial nature, I ask about a plea bargain.

6           Q.    But in terms of the sentence, I'm talking about.

7           A.    A lighter sentence.  He's aware that it's a  
8 lighter sentence.

9           Q.    Okay.  I'll move on.

10                   So the next prong is whether or not Mr. Mosley  
11 understands the adversarial nature of the legal process?

12           A.    Uh-huh.

13           Q.    And for many people, this is really difficult,  
14 especially if they don't have any kind of prior contacts  
15 for a case; is that fair?

16           A.    Yes.

17           Q.    Okay.  So walk me through this portion of the  
18 conversation that you had with Mr. Mosley.

19           A.    Uh-huh.  I ask about the different roles of the  
20 key personnel in the court process, from the judge to  
21 defense attorney and to the prosecutor, and the different  
22 pleas potentially available to him, and the plea  
23 bargaining, and then the basic understanding of the trial  
24 process.

25           Q.    Okay.  With respect to the judge's role --

1 A. Uh-huh.

2 Q. -- how did you ask that? Can you tell me that?

3 A. Yes. So what is the judge's job or role in the  
4 court?

5 He said, To sentence.

6 Then I asked whose side is the judge on?

7 He said, The State's side. The people trying to  
8 get you indicted and sent to prison, found guilty.

9 Q. And that's not an accurate reporting as to what  
10 the judge's role is, correct?

11 A. That is not, correct. No.

12 Q. Maybe I'm a little bit confused. So he  
13 identified the lawyer. My lawyer is the defendant in this  
14 case?

15 A. Uh-huh. Yeah. So the question: Who is the  
16 defendant in your case? He identified his lawyer, which  
17 is -- I get that often, the defense's lawyer as the  
18 defendant. They confuse "defense" and "defendant." So  
19 the lawyer, my lawyer.

20 Q. Okay. So he misidentified his lawyer as being  
21 the defendant?

22 A. And I do get that because of the wording of  
23 defense and defendant.

24 Q. Okay.

25 A. But, yes, he did.

1 Q. But he's now gotten 2 for 2 wrong?

2 A. That part of it.

3 Q. Okay. And he did say that he knew his defense  
4 attorneys; is that right?

5 A. Uh-huh.

6 Q. Did he -- did he give you our names?

7 A. First names, not last names.

8 Q. Did you ask for last names?

9 A. No.

10 Q. Okay. Does it seem as though he knew our last  
11 names?

12 A. I don't know. I don't know.

13 Q. Okay. And was he asked about the role of the  
14 prosecutor or the state attorney?

15 A. Yes.

16 Q. Okay. And what did he say?

17 A. Some people that listen to the case. I asked,  
18 Why would they listen? If did it or not. They try to  
19 send you to prison.

20 Q. And that's what he said the prosecutor's role  
21 is?

22 A. Yes.

23 Q. Okay.

24 A. And they are on the other side.

25 Q. Okay. He didn't say that these are the people

1 who are bringing the charges? These are the people who  
2 are prosecuting me? These are the people that are putting  
3 on witnesses against me? Nothing like that?

4 A. Correct.

5 Q. Okay. And he also identified that they are,  
6 quote, on the other side, correct?

7 A. Correct. Uh-huh.

8 Q. Okay. And you -- it looks like you then asked  
9 him what they tried to prove in court? I'm assuming that  
10 you mean the prosecutors?

11 A. Yes.

12 Q. And he reported, Not guilty?

13 A. He said, Not guilty. Uh-huh.

14 Q. Okay.

15 A. But then he had indicated that they also want to  
16 send him to prison, so he was contradicting.

17 Q. So it seems like he is kind of all over the  
18 place here?

19 A. On some element.

20 Q. Okay. And, like, really not getting a lot of  
21 those elements correct?

22 A. Parts of it. I mean, I think some of these are  
23 bigger than others.

24 Q. Tell me about that, that impression?

25 A. That could be clarified with him. I mean, he

1 knows that there's adversarial relationships between the  
2 attorneys and that the judge sentences. And what the goal  
3 of, you know, the two sides typically try to do of helping  
4 versus, my words, to prosecute or to punish, sentence to  
5 prison.

6 Q. Okay. Then you went on to go through, like,  
7 some of the different pleas with him; is that right?

8 A. Yes.

9 Q. Okay. I want to specifically ask about the not  
10 guilty by reason of insanity.

11 A. Uh-huh.

12 Q. Can you tell me how you asked him a question  
13 regarding NGRI?

14 A. Yes. So I asked, you know, what does it mean if  
15 someone pleads guilty or not guilty and then not guilty by  
16 reason of insanity.

17 Q. And what was his response to that last question?

18 A. I put in there, in my own words, did do it, but  
19 don't want to say you did it. And that he -- oh, no.  
20 Sorry. That's no contest.

21 He said, I was told something, like, not in the  
22 right state, and may go to the hospital. If you go to  
23 trial and lose, you'll still go to prison. You don't go  
24 to the hospital.

25 Q. So like a very, very rudimentary --

1 A. Very basic, yes.

2 Q. For a pretty complicated plea?

3 A. That's a common answer, but, yes, it's very  
4 basic.

5 Q. Okay. And then there were some questions about  
6 a plea bargain as well?

7 A. Uh-huh. Yes.

8 Q. And he gave you some responses about that; is  
9 that correct?

10 A. He did, yes.

11 Q. And you ultimately found that his responses were  
12 acceptable; is that right?

13 A. Basic, yes. A basic understanding.

14 Q. Not questionable, even though he had gotten  
15 wrong what the judge's role is?

16 A. Partially wrong, uh-huh.

17 Q. Well, the judge is certainly not on the State's  
18 side. That's pretty incorrect, correct?

19 A. Correct. Oh, that could be addressed with him,  
20 but he is aware that the judge sentences, yeah.

21 Q. Okay. Mr. Mosley's capacity to disclose  
22 pertinent facts to counsel, okay, let's talk about that.

23 How did you assess this particular criterion?

24 A. Yes. So whether there's awareness of what the  
25 charges are. He did not go in length about what the



1   allegations are, but he's aware that he's accused of  
2   killing two individuals. He would not discuss the  
3   allegations.

4           I put that he has not done so with defense  
5   counsel, and that he was quiet and guarded, and answered  
6   questions briefly, but his thoughts were goal-directed and  
7   organized, and he didn't evidence acute symptoms of  
8   psychosis or a thought disturbance. So he has that basic  
9   capacity.

10          Q.   I mean, did it seem like he was able to disclose  
11   pertinent facts to you? Not necessarily, like, about the  
12   crime itself, but, like, in response to your questions?

13          A.   Which questions?

14          Q.   Any questions?

15          A.   A basic response. I mean, nothing in detail,  
16   but I also didn't ask a lot of follow-up questions, but he  
17   answered questions coherently and briefly.

18          Q.   Okay. Ability to manifest appropriate courtroom  
19   behavior. I know you've never seen him in court --

20          A.   No.

21          Q.   -- but just on these two occasions, he was,  
22   what, like pleasant and polite --

23          A.   Calm, cooperative, no outbursts.

24          Q.   Okay.

25          A.   Cooperative.

1           Q.    Now, my question with respect to capacity to  
2 testify relevantly, he told you that he doesn't think that  
3 he can testify relevantly.

4           A.    Are you required to testify? He said, I don't  
5 think I can. That he's not able to. The question wasn't,  
6 testify relevantly, but are you required to testify?

7           Q.    Okay. So --

8           A.    Yeah.

9           Q.    -- it's, I don't think I can be required to  
10 testify? Is that his response?

11          A.    Yeah, that he can testify. Not the relevancy  
12 part of that, but that he can testify.

13          Q.    Okay. So I guess my next question, then, is,  
14 right, you've told us that he is very simplistic in his  
15 responses; is that right?

16          A.    Brief and coherent, but, yes, simple.

17          Q.    But very simple.

18                Have you ever noticed any kind of tangential  
19 responses?

20          A.    No.

21          Q.    Okay. And I think you told us earlier that you  
22 spent perhaps, like, an hour and 40 minutes with him over  
23 the course of two days?

24          A.    I would have to guesstimate, but, yes. Under  
25 two -- under two hours.

1 Q. And a predominant part of that time with him was  
2 testing. So it's not really conversational like he is  
3 responding --

4 A. Not like in an interview, no.

5 Q. I guess I'm very concerned about his ability to  
6 actually testify given, like, his incredible simplicity,  
7 his significant cognitive deficits, which are, like,  
8 abundantly exhibited throughout his history, as well as,  
9 like, the negative symptoms of his psychosis for  
10 schizophrenia.

11 So can you talk to me a little bit about how you  
12 arrived at an acceptable --

13 A. Uh-huh. And that could be marginal. I -- he  
14 answered questions relevantly and coherently and  
15 simplistically, and he was not presenting with acute  
16 symptoms that would interfere in his ability to be able to  
17 answer relevantly.

18 Would he answer questions at length? Probably  
19 not, but he can answer relevantly.

20 Q. So he's able to answer background questions?

21 A. Uh-huh.

22 Q. I think you indicated briefly and coherently,  
23 but could he stand up to cross-examination?

24 A. With respect to his case, he wouldn't talk about  
25 it, so I can't say definitively.

1 Q. But just in general, like, do you think that  
2 based on your conversations with him, would he be able --

3 A. Just simplistic questions. To anything complex,  
4 it would be difficult for him.

5 Q. It seems like it would probably be very  
6 difficult for him to even follow, you know, a many-day  
7 trial with these complex issues, right?

8 A. Potentially.

9 Q. He did not understand -- I mean, he doesn't  
10 understand the word "anxiety," right? You had to explain  
11 that to him?

12 A. And I do do that on cases, yes.

13 Q. Okay. He likely didn't understand the word  
14 "allegation," right?

15 A. I don't know for sure which word was used, but I  
16 use that word also in the interview, or what he's accused  
17 of is typically --

18 Q. No. No. And I understand why --

19 A. Well, you're asking the level of the vocabulary.

20 Q. Right. Like, his level of comprehension.

21 A. Uh-huh. He's more limited, yes.

22 Q. And the court proceedings, I mean, it's all  
23 language, right? It's just everybody talking?

24 A. Uh-huh.

25 Q. Would you agree that that would be really

1 difficult for someone --

2 A. It could be. Better than if he had to read and  
3 to comprehend written, but, yes, it is complicated.

4 Q. But it could be very difficult for somebody who  
5 has an Intellectual Disability, right?

6 A. Yes.

7 Q. It could be extraordinarily difficult for  
8 somebody who also has an Autism Spectrum diagnosis?

9 A. Potentially, yes.

10 Q. As well as the comorbidity of schizophrenia on  
11 top of it?

12 A. Especially if it's not managed, yes.

13 Q. Right. We also know that he has that, like,  
14 medical complication of having a thyroid disorder?

15 A. That has been identified, yes.

16 MS. SEIFER-SMITH: Ms. Russell, do you have any  
17 questions for that section?

18 MS. RUSSELL: No.

19 BY MS. SEIFER-SMITH:

20 Q. Okay. Did you have any kind of concerns about  
21 feigning with respect to psychiatric symptomatology?

22 A. Not -- what -- what he reported was not out of,  
23 you know, out of -- an outlier, for example, of symptoms  
24 what he reported, and it was consistent what has been  
25 reported and documented from him. There hasn't been

1 concerns raised of the validity of that, so I didn't have  
2 reason to question it.

3 Q. Do you have concerns about the feigning of, I  
4 guess, like, intellectual testing?

5 A. That was my concern was the level of effort and  
6 did it genuinely reflect, given there wasn't a documented  
7 history. With such a low IQ, typically, that's identified  
8 or flagged in the school system when they're that low, and  
9 I didn't see that. They identified the speech and  
10 language communication issues as being very present for  
11 him. So that's what I thought the specific learning  
12 disorder for that area was the primary, I guess,  
13 difficulty he had as a student, and not the ID that wasn't  
14 identified.

15 MS. SEIFER-SMITH: Do you have any questions on  
16 that?

17 BY MS. RUSSELL:

18 Q. Well, Dr. Torrealday, knowing what you know, how  
19 about the WAIS, which is significantly higher. I  
20 understand that with a low score of 45, you're expecting  
21 that people potentially can't be, you know, potty trained?  
22 People at that age have trouble --

23 A. Well, not that low, but they typically are more  
24 easily identified, yes, when they're that low.

25 Q. Right. But when you're talking about a score in

1 the high 60s, that's a little different.

2 So has Dr. McClain's score really changed your  
3 opinion?

4 A. Well, that helps to clarify because it could --  
5 I didn't have any questions that he would be at least in  
6 the borderline range based on what I saw. It's the ID  
7 component is, like, Was there cognitive deficits that are  
8 there?

9 And, again, being so low, it's easy -- it can  
10 happen that people fall through the cracks. They're not  
11 identified when they're right on the cusp, right? But  
12 when they score so low as a 45 or a 50, that's low. And  
13 in the schools, you know, those are the kids that are  
14 identified.

15 Typically, it's the higher functioning -- not  
16 higher functioning, but the little bit higher ID range  
17 that can be missed. So I do think that's significant that  
18 it is a 69, not so low, because a 69 could be more easily  
19 missed in the school system.

20 Q. And something like 70 percent of all ID  
21 diagnoses are mild ID, right?

22 A. Yes. That's prevalent.

23 Q. A mild ID is still ID?

24 A. Correct.

25 Q. All right.

1 MS. SEIFER-SMITH: I don't think I have any more  
2 questions at the moment.

3 MS. RUSSELL: At all for anything?

4 MS. SEIFER-SMITH: Yes.

5 BY MS. RUSSELL:

6 Q. I was just curious. On page 7, there's a  
7 reference to a Mr. Williams. I was wondering --

8 A. Oh, sorry. That's a typo.

9 Q. Was that another report that you were working on  
10 at the same time?

11 A. No. That was a typo. I don't know if I had  
12 something else out, but, no. That was a typo. My  
13 apologies.

14 Q. Okay. At the end of page 8, you said: Any  
15 additional information provided, such as school records,  
16 may alter the conclusions.

17 Looking at these school records now and that  
18 additional IQ test, it sounds like your conclusion is  
19 altered; is that fair?

20 A. It is meaningful, yes.

21 MS. RUSSELL: I think that's all that I have.

22 MS. SEIFER-SMITH: Courtney or Christie, do you  
23 guys have questions? I see Christie. Okay. She is  
24 shaking her head.

25 MS. SULLIVAN: I'm all good. Thank you.



1 MS. SEIFER-SMITH: Okay. Just a couple of  
2 things. So I think we have some questions about  
3 whether or not -- I think you were going to look into  
4 whether or not you would share your notes.

5 THE WITNESS: Uh-huh.

6 MS. SEIFER-SMITH: I think what we would like  
7 for you to do, though, is share your notes and your  
8 data from the testing with at least Dr. McClain. I  
9 think it would be Dr. McClain.

10 MS. RUSSELL: That would be great.

11 MS. SEIFER-SMITH: Would you be able to do that?

12 THE WITNESS: Yes, the data? The test data?

13 MS. SEIFER-SMITH: Yes. And I can send you an  
14 e-mail with her CC, so that you have everybody's  
15 e-mail.

16 MS. RUSSELL: I'm not sure if this helps at all,  
17 but in general, all of the experts throughout this  
18 have been sharing their handwritten notes upon  
19 request. So we have Dr. Railey's handwritten notes.  
20 Not the proprietary test data. We understand that  
21 that is not --

22 THE WITNESS: Uh-huh.

23 MS. RUSSELL: Another thing that I think we  
24 would like to request, and, by the way, they also  
25 came in from Dr. Railey's work on that MMSE was the

1 writing "Florida," and the shape test.

2 THE WITNESS: Okay.

3 MS. RUSSELL: Our understanding is that those  
4 are not proprietary. Dr. Railey's are admitted into  
5 evidence, and we might like to admit yours into  
6 evidence.

7 Part of the reason is, Dr. Torrealday, just to  
8 explain we're not pulling this out of the clear blue  
9 sky, but there is federal law, a case called Shinn,  
10 that basically says that if we don't admit the  
11 evidence in the State proceedings, it's unavailable  
12 for use in federal habeas.

13 And because this is a death penalty case that  
14 will live in infamy, we need to make sure that all of  
15 the evidence is actually in the record that we are  
16 permitted to put in the record. So that's why --

17 THE WITNESS: So it's those two elements of the  
18 MMSE?

19 MS. RUSSELL: If possible. Just the ones that  
20 he's written.

21 THE WITNESS: Well, he wrote in --

22 MS. RUSSELL: We understand we can't get the  
23 proprietary stuff.

24 THE WITNESS: Got it.

25 MS. RUSSELL: Then also your handwritten notes

1 from the two evaluations.

2 THE WITNESS: Okay.

3 MS. RUSSELL: And I'm not sure if there's  
4 anything else.

5 Is there anything else?

6 MS. SEIFER-SMITH: If there is anything else,  
7 we'll e-mail you and CC the State, so it is not a  
8 secret to anybody.

9 THE WITNESS: Okay.

10 MS. SEIFER-SMITH: And if you want to make sure  
11 what you're holding on to the actual copies of  
12 what -- like, the drawing and the handwriting, if you  
13 wanted to scan them, take a photo and send them,  
14 we'll make sure that they get into evidence as  
15 copies --

16 THE WITNESS: That's fine. I can scan it.

17 MS. SEIFER-SMITH: If you wouldn't mind also  
18 e-mailing me a copy of your CV, because I'm going to  
19 give this as an exhibit to our court reporter,  
20 Charlene.

21 THE COURT REPORTER: Yes.

22 MS. SEIFER-SMITH: So, I guess, just to  
23 conclude --

24 THE COURT REPORTER: Are you attaching the  
25 report as an exhibit?

1 MS. SEIFER-SMITH: Yes. We can attach the  
2 report. It will be Exhibit 2.

3 (Exhibit No. 2 was marked for identification.)

4 BY MS. SEIFER-SMITH:

5 Q. So have you understood all the questions that  
6 we've asked you today?

7 A. I believe so.

8 Q. Okay. Have you had an opportunity to answer  
9 everything fully and completely?

10 A. I believe so.

11 Q. Anything that you wish to add or change with  
12 regards to the testimony that you gave?

13 A. No. Is there any additional documentation or  
14 any other records?

15 Q. I don't think so.

16 MS. RUSSELL: We do have an updated report from  
17 Dr. McClain that includes that WAIS, which I'm not  
18 sure if we've sent you, but, basically, the only  
19 thing different about it, she put the score in from  
20 the new test.

21 THE WITNESS: Okay.

22 MS. SEIFER-SMITH: We'll make sure that you have  
23 that.

24 THE WITNESS: If there's anything else --  
25 because I did get things kind of along the way. If

1           there is anything else, that would be helpful.

2           MS. SEIFER-SMITH: If you happen to review  
3           anything or rereview anything, like, in your  
4           preparation for your testimony on Tuesday and you  
5           realized that you left it out from our conversation  
6           today; although, I know that it was a very long  
7           conversation, would you be so kind to just let us  
8           know before you get on the stand to give any  
9           testimony?

10          THE WITNESS: Sure.

11          MS. SEIFER-SMITH: We're going to request that  
12          this transcript -- and Charlene is going to be  
13          super-fast about getting it to us. Then once we  
14          receive it, we'll get it to you.

15          So we're going to reserve your right to read. I  
16          don't know if you are familiar with what that means.  
17          That means that you have an opportunity to take a  
18          read through it. If you see any errors in  
19          transcription, like, Charlene somehow was taken over  
20          by the devil and she wrote down something  
21          incorrectly, which I'm sure did not happen, you just  
22          let us know so we can fix it.

23          THE WITNESS: Okay.

24          MS. SEIFER-SMITH: I think that's it. Thank you  
25          very much. I really appreciate you taking the time.

1                    (Deposition was concluded at 4:20 p.m., and  
2                    reading was reserved by the deponent.)  
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## 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

## 1 REPORTER'S DEPOSITION CERTIFICATE

2  
3 STATE OF FLORIDA )4 COUNTY OF PINELLAS )  
5

6 I, CHARLENE M. EANNEL, RPR, Stenographic Court  
7 Reporter, certify that I was authorized to and did  
8 stenographically report the deposition of OHIANA  
9 TORREALDAY; that a review of the transcript WAS requested;  
10 and that the transcript, pages 1 through 174, is a true  
11 and complete record of my stenographic notes.  
12

13 I further certify that I am not a relative,  
14 employee, attorney or counsel of any of the parties, nor  
15 am I a relative or employee of any of the parties'  
16 attorney or counsel connected with the action, nor am I  
17 financially interested in the action.  
18

19 DATED this 16TH day of AUGUST, 2025.  
20

21 *Charlene M. Eannel, RPR*

22 \_\_\_\_\_  
23 CHARLENE M. EANNEL, RPR  
24  
25



WITNESS: OHIANA TORREALDAY

CASE: STATE OF FLORIDA V. THOMAS MOSLEY

CASE NO: CRC23-003157CFANO

DATE: August 14, 2025

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.

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OHIANA TORREALDAY	DATE
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## SIGNATURE SHEET

CASE NO: CRC23-003157CFANO

STATE OF FLORIDA,

VS.

THOMAS ISAIAH MOSLEY,

DEFENDANT.

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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.

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OHIANA TORREALDAY

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DATE

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