

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.

VOLUME I

THOMAS ISAIAH MOSLEY,
Defendant.

_____ /

PROCEEDINGS: COMPETENCY HEARING

BEFORE: THE HONORABLE SUSAN ST. JOHN
Circuit Court Judge

DATE: July 11, 2025

PLACE: Courtroom 2
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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1 P-R-O-C-E-E-D-I-N-G-S

2 MS. SEIFER-SMITH: While Mr. Mosley is coming
3 up, just a couple of quick things.

4 THE COURT: Sure.

5 MS. SEIFER-SMITH: Would Your Honor be okay with
6 us getting a Zoom link for the 23rd? Our mitigation
7 specialist will not be able to physically come back.

8 THE COURT: Oh, yeah. That's fine.

9 MS. SEIFER-SMITH: Okay.

10 THE COURT: If she's going to observe, that's
11 fine.

12 MS. SEIFER-SMITH: Yeah. Thank you. I'll reach
13 out to Jill for that.

14 THE COURT: Okay.

15 MS. SEIFER-SMITH: And then I -- we have copies
16 -- the courtesy copies of the medical records, and
17 then we have interview for Your Honor.

18 THE COURT: Oh, great. Thank you.

19 Are you waiting on me?

20 MS. RUSSELL: Well, Your Honor, I just had a
21 couple things. We have Dr. Tenaglia motions, but
22 also, I talked to the State, and just to be fair,
23 they're not in agreement. But Axon, with those
24 videos, when we upload them to Axon, it gives us an
25 unofficial transcript, which, when we were preparing,

1 was very helpful to me.

2 THE COURT: Okay.

3 MS. RUSSELL: So I was going to offer it to you
4 as a demonstrative if that would be helpful. I know
5 that the State is objecting to it, but we do have a
6 copy for you if -- it's basically an unofficial
7 transcript of Dr. Railey's exam video.

8 THE COURT: Okay. And what's your concern about
9 the unofficial transcript?

10 MS. SULLIVAN: They -- in my experience, when I
11 am watching an interview and then I'm seeing what's
12 being transcribed, it's not always accurate. I
13 haven't taken what they have and compared it to the
14 video. I believe they just handed you the video
15 itself.

16 THE COURT: Yeah.

17 MS. SULLIVAN: I think you're capable of
18 watching that and hearing that without any issues.
19 I've seen that evaluation; I can hear everything. So
20 my concern is that this is an inaccurate
21 representation. You have the video itself, and you
22 can review the video.

23 THE COURT: Okay. Were -- there were no parts
24 of it where you had trouble understanding what was --

25 MS. SULLIVAN: No.

1 THE COURT: -- being said? Okay.

2 MS. RUSSELL: I will say that I had trouble.

3 THE COURT: Okay. Well, why don't I do this?
4 Why don't I take the transcript, and if I have any
5 trouble hearing something, I will refer to the
6 transcript, let you know, and if there's any
7 disagreement about what I've heard versus what I've
8 read, I will bring it to your attention and make note
9 of it; does that work?

10 MS. SULLIVAN: Yeah. And just to be fair, I --
11 my main reason is because I just got handed this this
12 morning --

13 THE COURT: I understand.

14 MS. SULLIVAN: -- so I haven't compared it, so
15 it's hard for me to agree to something when I just
16 can't say it's accurate. That's my main --

17 THE COURT: I'm not going to look at it unless I
18 have a problem. If I have a problem and look at it,
19 I will let you know what portions I've looked at.

20 That way, if there's any disagreement about what
21 the transcript says, I can entertain arguments on it.
22 I just think that's the most expedient way of dealing
23 with it.

24 MS. RUSSELL: Absolutely. And I will also
25 stipulate that this is an unofficial transcript, and

1 it is --

2 THE COURT: No, I know.

3 MS. RUSSELL: -- not accurate.

4 THE COURT: Got it.

5 MS. RUSSELL: The State is completely right.

6 Do you want me to come hand it up?

7 THE COURT: Yes, I'll take it from you. Thank
8 you. So I'm just going to attach this to the CV.

9 Mr. Mosley is present. Just give me one second
10 to get my notes organized here, and then we can get
11 started.

12 Did any of the victims' family appear yet today?

13 MS. SULLIVAN: Not that I'm aware of, no.

14 THE COURT: Okay. No one is here yet? Okay.
15 You're going to alert me if they -- thank you.

16 UNIDENTIFIED SPEAKER: They were told, if they
17 come back in court they have to report to the side
18 room.

19 THE COURT: Thank you. But if -- I don't want
20 to leave them there all morning.

21 UNIDENTIFIED SPEAKER: I understand.

22 THE COURT: So if you see them --

23 UNIDENTIFIED SPEAKER: Yes.

24 THE COURT: -- just raise your hand, let me
25 know, and that way, at the next break, I can address

1 them and give them the opportunity to come in if they
2 want to. All right.

3 So today we have Dr. Tenaglia from the treatment
4 facility.

5 MS. SULLIVAN: Yes, Your Honor. First, I'm
6 going to call, briefly, Corporal Kaplan regarding
7 video visitations.

8 THE COURT: Okay.

9 MS. SULLIVAN: And then we'll start with the
10 doctor, if that's all right with you.

11 MS. SEIFER-SMITH: And we have two --

12 MS. RUSSELL: We have our two motions, Your
13 Honor.

14 MS. SEIFER-SMITH: -- motions, and we also have
15 two civilian witnesses for this afternoon, who should
16 be quite short.

17 THE COURT: Okay. And that one of them is Zoom
18 this afternoon, right?

19 MS. SEIFER-SMITH: Correct. That's Sarah
20 Franklin.

21 THE COURT: Okay.

22 MS. SEIFER-SMITH: And the other one is Desiree
23 Baker, the forensic specialist from Suncoast.

24 THE COURT: Okay. So do you want to do Kaplan;
25 is that correct?

1 MS. SULLIVAN: Yes.

2 THE COURT: All right. Let's do that now, then.

3 MS. SULLIVAN: The State will call Corporal
4 Kaplan.

5 THE COURT: And after that, we'll do the
6 motions.

7 THE BAILIFF: Step this way, stand right here.
8 Face the clerk, raise your right hand to be sworn.

9 (Witness was duly sworn on oath.)

10 THE BAILIFF: Come have a seat up here. Adjust
11 the mic. Speak in a loud and clear voice for the
12 Court.

13 THE COURT: Spell your last name for me.

14 THE WITNESS: K-A-P, as in "Paul," L-A-N, at the
15 end of it.

16 THE COURT: Thank you.

17 DIRECT EXAMINATION

18 BY MS. SULLIVAN:

19 Q. Good morning, Corporal.

20 A. Good morning.

21 Q. Just state your name for the record again.

22 A. Corporal Kaplan.

23 Q. And where do you work, ma'am?

24 A. The Visitation Center at the Pinellas County
25 Jail.

1 Q. And what's your title and responsibility there?

2 A. I supervise about eight staff members and
3 oversee the Visitation Center and remote visits.

4 Q. Okay. When someone is in custody over at the
5 Pinellas County Jail, is there an opportunity for an
6 inmate to have video visitations?

7 A. Yes, ma'am.

8 Q. Are there a couple of different ways this -- an
9 inmate can have a video visitation with somebody?

10 A. Well, they'll be brought to a video area, but
11 the visitation will occur like normal. The civilians will
12 be able to either come into the Visitation Center or
13 they'll have a remote visitation from their home or
14 anywhere else in the public.

15 Q. So the inmate always goes to the same location
16 depending on where they're housed?

17 A. Correct.

18 Q. But the visitor can either come on site or
19 there's now a new way where they can appear at home on a
20 phone, on a tablet?

21 A. Yes, ma'am.

22 Q. All right. And as part of your responsibilities
23 at the jail, do you oversee and review and manage these
24 video visitations?

25 A. Yes, ma'am.

1 Q. Okay. How many times a week is an inmate
2 permitted to have a video visitation?

3 A. Three times.

4 Q. Okay. And what is the software that the jail
5 uses in order to record and monitor these video visits?

6 A. It's called VIS Manager, and it's a ByPath
7 company.

8 Q. Okay. And you said you oversee some staff
9 members. Are they watching these video visits live?

10 A. Yes. So they cycle through live visits through
11 the entirety of the visit, but if they see something that
12 catches their eye, they'll stop and watch it further, but
13 it's just to monitor it to make sure everybody's following
14 the rules.

15 Q. And if something occurs like that, at times as a
16 supervisor over this area, do you step in and then review
17 video visits?

18 A. Yes. The staff members will terminate that
19 visit, write down the reason why, and then I will review
20 it afterwards to see if there's anything that needs to
21 occur afterwards.

22 Q. Okay. And are all visits recorded and
23 monitored?

24 A. Yes, ma'am.

25 Q. And are they all saved on the software?

1 A. Yes, ma'am.

2 Q. Are they saved indefinitely?

3 A. Yes.

4 Q. Who has access to reviewing and seeing these
5 video visitations through the software?

6 A. SAO Office, as well as anybody within agencies
7 within Pinellas County. They will contact me and request
8 permission to review them. If there's anybody outside of
9 that realm, they will then contact us, and we will make
10 this for them that they will then have to come pick up.

11 Q. And is each video visit assigned a session ID,
12 and what is that?

13 A. Yes, ma'am. So each visit will have a session
14 ID. That way, if it needs to be pulled up at a later
15 time, we can do it for that respect. So it could be, as
16 an example, 158249, and then every number will then
17 continue.

18 Q. And when you're utilizing the software to
19 retrieve the video visitation, can you search by both the
20 inmate's name and the visitor's name?

21 A. Yes, ma'am.

22 Q. And can you search specific dates or a date
23 range?

24 A. Within the software, yes.

25 Q. Okay. And then when you're in the software and

1 you locate a video, is there a way to download and save a
2 video visit, and also view the video visit?

3 A. Yes.

4 Q. Okay. Did I ask you to review six specific
5 video visitations regarding Thomas Mosley?

6 A. Yes, ma'am.

7 Q. And were you able to take a look at each of
8 those video visitations and verify that those were, in
9 fact, visits that occurred while Thomas Mosley's been an
10 inmate in the Pinellas County Jail?

11 A. Yes, ma'am.

12 Q. And do those video visits reflect the accurate
13 time and date that a session is being recorded?

14 A. Yes, ma'am.

15 MS. SULLIVAN: May I approach the witness?

16 THE COURT: Yeah.

17 MS. SULLIVAN: I'm showing Defense what's soon
18 to be marked as State's 3.

19 BY MR. SULLIVAN:

20 Q. I'm showing you what's been premarked for
21 identification as State's 3.

22 Corporal, can you take a look at this disk and
23 tell me if you recognize it as what you reviewed?

24 A. Yes, ma'am.

25 Q. And how do you recognize it?

1 A. My signature and date.

2 Q. All right. And did this authentically represent
3 the video visitations recorded on these six specific
4 dates? For the record, I'll put it in as March 30th of
5 2025, April 19th of 2025, May 25th of 2025, May 21st of
6 2025, June 9th of 2025, and June 21st of 2025.

7 And you reviewed all six of those visits?

8 A. Yes, I did.

9 MS. SULLIVAN: Your Honor, I'd ask to move into
10 evidence what's been premarked as State's 3 as
11 State's 3.

12 THE COURT: Any objection?

13 MS. SEIFER-SMITH: Yes, Your Honor. Our
14 objection would be as to relevance. These video
15 visits are from 2025. That is past the developmental
16 period. Mr. Thomas Mosley was 23 years old at the
17 time, not under the age of 22.

18 THE COURT: Okay. Overruled. Can I repeat
19 those dates to you?

20 MS. SULLIVAN: Yes. I said them out of order.

21 THE COURT: I have 3/20, 4/19, 5/25, 5/21, 6/9,
22 and 6/21.

23 MS. SULLIVAN: That's all correct except it was
24 3/30.

25 THE COURT: 3/30. Those were all of 2025,

1 correct?

2 MS. SULLIVAN: Yes.

3 THE COURT: Okay. All right. Thank you.

4 MS. SULLIVAN: And I've made a copy on a USB for
5 Your Honor if you would like it.

6 THE COURT: Yes, please.

7 THE CLERK: And so 3 was admitted, Your Honor?

8 THE COURT: Yes.

9 (State's Exhibit 3 received in evidence.)

10 MS. SULLIVAN: I have no further questions.

11 Thank you, Corporal.

12 THE COURT: All right. Do you have any
13 questions for Corporal Kaplan?

14 MS. SEIFER-SMITH: Yes, briefly.

15 CROSS-EXAMINATION

16 BY MS. SEIFER-SMITH:

17 Q. Good morning.

18 A. Good morning.

19 Q. How are you?

20 A. Good. How are you?

21 Q. Good. Are you also familiar with how a video
22 visitation is set up? Like, in terms of, like, does the
23 inmate do it, or does the person on the outside who wants
24 to visit do it?

25 A. The person on the outside will schedule the

1 visit.

2 Q. Okay. So the person who's in custody really
3 does nothing?

4 A. No. Just the deputy will call them out, and
5 they'll go sit at the camera.

6 Q. Okay. And they just sit at the camera, and they
7 pick up, like, what looks like an old school, like, phone
8 receiver, right?

9 A. Yes, ma'am.

10 Q. Puts that to their ear, and that's their
11 participation in the video visit, right?

12 A. Yes, ma'am.

13 Q. They don't have the ability to, like, sign up
14 who they want to have visit them; is that correct?

15 A. They do not; however, they do have the
16 capability of saying that they do not want this person to
17 visit them. They submit a request on the ASK, and the
18 visitation staff, at that moment, can then restrict that
19 person on behalf of the inmate.

20 Q. You didn't see any kind of record like that for
21 Thomas Mosley?

22 A. I can't say I did or didn't. I didn't look into
23 that.

24 Q. Okay.

25 A. But if he had that person restricted, they would

1 not be able to make a visit with him.

2 Q. That requires some affirmative action on the
3 part of the Defendant or the inmate, correct?

4 A. Correct. We would not do that unless that was
5 requested by the inmate or there was no-contact put in
6 place that we were made aware of.

7 Q. Okay. You weren't aware of any kind of
8 no-contact orders that would have restricted visits in
9 this case?

10 A. Not that I'm aware of. I can't -- I can't
11 necessarily say because I did not look into that in --

12 Q. Okay.

13 A. -- order for this -- this conversation today.

14 Q. But, basically, the video visitation process,
15 from an inmate's perspective is very passive, right?
16 Like, they just show up when they're called by the deputy,
17 correct?

18 A. Yes, ma'am.

19 Q. They're not in charge of scheduling. They're
20 not in charge of who's coming to visit? Nothing like
21 that?

22 A. No, ma'am.

23 Q. And there's no technology that the inmate has to
24 engage in in order for the video visit to actually occur,
25 correct?

1 A. No, ma'am.

2 Q. Okay. And you didn't actually watch any of
3 these video visits, like, in their entirety; is that also
4 correct?

5 A. I reviewed the video visits when I met with
6 Ms. Sullivan. Other than that, no, ma'am.

7 Q. But that was just for, like, verification that
8 they took place, like, the ID was appropriate for those
9 particular times that were requested, correct?

10 A. Correct. Yes, ma'am.

11 Q. Okay. So for administrative purposes rather
12 than for, like, familiarity on the case?

13 A. Yeah.

14 Q. Okay.

15 MS. SEIFER-SMITH: If I could just have one
16 brief moment?

17 THE COURT: Sure.

18 MS. SEIFER-SMITH: Nothing else. Thank you.

19 THE COURT: All right.

20 Anything else?

21 MS. SULLIVAN: No, Your Honor.

22 THE COURT: Thank you.

23 THE WITNESS: Thank you very much.

24 THE COURT: All right. So we have some motions
25 to do, correct?

1 MS. SEIFER-SMITH: Yes. I think we'd just ask
2 that Dr. Tenaglia step out of the courtroom for
3 the --

4 THE COURT: Okay.

5 MS. SEIFER-SMITH: -- argument.

6 THE COURT: Sure. All right. I have a lot of
7 paper that's around. I've got the Motion to Exclude
8 Testimony of Dr. Tenaglia, and then a Motion to Bar
9 the Testimony of Dr. Tenaglia.

10 Since you're standing up, I assume you're
11 arguing the motions?

12 MS. RUSSELL: Yes, Your Honor.

13 THE COURT: All right. Is there -- enlighten me
14 on the difference between a Motion to Exclude and a
15 Motion to Bar.

16 MS. RUSSELL: Well, the Motion to Exclude is a
17 Daubert Motion. The Motion to Bar is actually a
18 motion that is really based on the fact that
19 Dr. Tenaglia shredded her notes in anticipate of
20 litigation, which --

21 THE COURT: Is there some sort of legal
22 difference between Motion to Exclude and Motion to
23 Bar?

24 MS. RUSSELL: Well, I mean, it would be -- the
25 basis would be different, and that's because

1 basically, the basis is just the --

2 THE COURT: So you're just trying to distinguish
3 between the two? There's no --

4 MS. RUSSELL: Yes.

5 THE COURT: -- legal threshold difference
6 between the two?

7 MS. RUSSELL: Not to my knowledge, Your Honor.

8 THE COURT: All right. That's all. I'm trying
9 to make sure that I'm not missing something. That
10 there's no significant standard difference between
11 the two. All right.

12 So go ahead. Which one do you want to start
13 with?

14 MS. RUSSELL: Actually, Your Honor, could I
15 start with renewing our Daubert Motion for
16 Dr. Railey? For the record --

17 THE COURT: Sure.

18 MS. RUSSELL: -- after his testimony yesterday,
19 we'd like to renew the motion and just make the point
20 that Dr. Railey's testing on adaptive functioning was
21 so far out of the standards for scientific validity
22 that we feel that our motion should be granted.

23 THE COURT: Okay. So I'll have the same ruling.
24 I really believe that the -- I understand and
25 appreciate your concerns. That seems more like a

1 weight issue than an admissibility issue, and you can
2 argue in closing related to how much weight, if any,
3 you think I should give to it. So we'll go from
4 there.

5 THE CLERK: And so it's denied, Your Honor?

6 THE COURT: Yeah.

7 MS. RUSSELL: All right. Starting with the
8 Motion to Bar the Testimony of Dr. Tenaglia --

9 THE COURT: Okay.

10 MS. RUSSELL: -- Your Honor. I'm going to read
11 to you the excerpt from her deposition in which she
12 said over and over again that she anticipated that
13 this case was headed for litigation from the time
14 that Mr. Mosley got to the South Florida Evaluation
15 and Treatment Center.

16 I asked her: But you were aware from the
17 outset, it sounds like January in this case, that it
18 might be headed toward litigation, right?

19 Yes.

20 And you shredded your notes when Mr. Mosley was
21 discharged. Is that what you're testifying to today?

22 Her answer: Yes.

23 That's all on page 94 of her deposition.

24 The problem, Your Honor, is a number of the
25 experts have testified how important these notes are

1 in terms of being able to look at observations,
2 double-check things that may have been entered on a
3 computer, and it's essential to our
4 cross-examination.

5 Dr. Railey, for all his faults, did produce his
6 notes to Counsel and to the other experts.

7 Dr. McClain produced -- I don't think it was
8 requested that Dr. McClain produce her raw data notes
9 to anybody, but she would have produced them. And I
10 think that Dr. McClain also testified how important
11 it is to sometimes see those things to fact-check
12 what is in reports and testing.

13 Basically, Dr. Tenaglia, through destroying
14 evidence, has not only committed a second-degree
15 felony, but she's also critically deprived Mr. Mosley
16 of the opportunity for effective cross-examination in
17 violation of all of the protections in the Due
18 Process Clauses of the Florida and United States
19 Constitutions.

20 We think her testimony should be barred as a
21 result.

22 THE COURT: Okay. Response?

23 MS. SULLIVAN: She testified in her deposition
24 that she has handwritten notes. She then inputs the
25 notes into the electronic record that's saved there,

1 and then those medical records are saved in the
2 system.

3 I asked Dr. McClain on cross a few days ago, you
4 know, Do you have handwritten notes? Is there some
5 assumption that those handwritten notes are, in some
6 way, different than what you ultimately input into a
7 report?

8 She said, No. That it would be unethical for me
9 to assume that, is their doctor's words.

10 So I think there's some assumption here. I
11 mean, she -- I mean, I don't think there's an
12 assumption. She just accused a doctor of committing
13 a second-degree felony. So she's saying that
14 whatever is in those notes that she purposely
15 destroyed because they are so different than what
16 she's uploading into an electronic record.

17 There's no evidence of that. There's no
18 indication that that's occurred. She's held to
19 ethical standards. She's a professional. She's a
20 licensed psychologist, and there's no -- nothing in
21 the record to support that she, in any way, tampered
22 with any evidence in this case, that she purposely
23 shredded her notes to keep anything from Defense
24 Counsel.

25 THE COURT: Were those electronic records

1 provided?

2 MS. SULLIVAN: Yes. They're the medical records
3 that we all have.

4 THE COURT: Okay.

5 MS. SULLIVAN: So that's really all I have to
6 say about that.

7 THE COURT: Okay.

8 MS. SULLIVAN: To say that, you know, we should
9 bar her testimony because she shredded her notes.
10 She did indicate in her depo, just for the record,
11 that that is a policy at the facility. That after
12 someone is discharged, they do shred the handwritten
13 notes so they're not bogged down with just needless
14 paper piling up in their office, but it is inputted
15 into an electronic format and saved in that respect.

16 THE COURT: Okay. Anything else you'd like to
17 add?

18 MS. RUSSELL: For Dr. Tenaglia's notes, just to
19 be clear, were not downloaded and saved. They were
20 transcribed and put on a form.

21 Now, oftentimes, these forms are things where,
22 you know, you may have notes, and then you just sort
23 of bubble in, yes, no, maybe. I think that we did
24 get a chance to look at the CAT Evaluations --

25 THE COURT: Uh-huh.

1 MS. RUSSELL: -- that Dr. Tenaglia did. And she
2 testified that when she would evaluate Mr. Mosley for
3 competency, and P.S., those CATs, and the evaluation
4 of Mr. Mosley for competency are the issue that we're
5 here really to talk about. It's not a tangential
6 issue. It's a really, really important thing.

7 So those notes were not uploaded as they were.
8 She used them to remind her how to fill out these
9 various forms in her competency assessment. So we
10 actually don't have copies of the notes uploaded.
11 What we have is what Dr. Tenaglia remembered, what
12 maybe she didn't put in, and because we don't have
13 the notes, we can effectively cross-examine her on
14 that.

15 THE COURT: Okay. So it sounds like, based on
16 her deposition testimony, everything that she would
17 have handwritten would have been transcribed and
18 placed onto an electronic format and provided to the
19 Defense. So -- not to mention that she authored a
20 fairly lengthy report, and all of those electronic
21 notes have been provided to Defense.

22 So I'm going to deny the Motion to Bar. I'll
23 allow her to testify. Again, if you think, at any
24 particular point, it's creating an issue related to
25 accuracy of her memory or accuracy of her notes,

1 then, certainly, you can draw my attention to how
2 much weight, if any, you think I should give to it,
3 and we'll go from there. Okay?

4 Motion -- let's move forward with the Motion to
5 Exclude. This is related to -- I believe this was a
6 staleness issue.

7 MS. RUSSELL: Right. There was one staleness
8 issue, Your Honor, and that's basically that
9 Dr. Tenaglia also testified in her deposition that
10 she had no opinion on competency because it
11 had been --

12 THE COURT: That she -- I'm sorry?

13 MS. RUSSELL: That she had no opinion on
14 competency because she had not seen Mr. Mosley in
15 months.

16 THE COURT: Okay.

17 MS. RUSSELL: So we think under that testimony
18 that her testimony is now irrelevant, and she should
19 not really be permitted to testify if she has no
20 opinion on competency in a competency hearing.

21 THE COURT: Okay.

22 MS. RUSSELL: But to add to that, she was very
23 equivocal about whether or not she had evaluated
24 Thomas Mosley for autism. On page 4 of my motion --
25 and I can just read it -- Dr. Tenaglia's answer: I

1 did not evaluate him for autism because I did not
2 observe any symptoms of autism, so I would say, no.

3 Again, you cannot develop autism within three
4 months, so I would say, no, he would not be
5 incompetent due to that.

6 Question: But you didn't actually evaluate him
7 for autism, right?

8 Answer: No, because it was not clinically
9 necessary, in my opinion.

10 Question: So if you did evaluate him, I'm a
11 little confused as if how you might have an opinion.

12 Answer: Well, because he didn't demonstrate any
13 signs of autism, nor do I think there were any
14 symptoms that were interfering with his competency.

15 Question: But you didn't give him any
16 standardized test to see if he had autism, right?

17 Answer: No, because I only give assessments
18 based on what I think is clinically necessary, and I
19 did not think that autism was a concern.

20 Dr. Tenaglia has no expertise. There's no
21 scientifically reliable data for her opinion about
22 whether or not Thomas Mosley has autism. She didn't
23 give any tests. She didn't do any evaluation. So
24 she should really be barred for giving any opinion
25 about autism because she really doesn't have one that

1 is scientifically valid.

2 THE COURT: Didn't you have a language therapist
3 give me an opinion about whether or not Mr. Mosley
4 should be referred for an autism review based on her
5 experience in the school system with him?

6 MS. RUSSELL: Yes.

7 THE COURT: All right. How is that any
8 different this that based on her observations?

9 MS. RUSSELL: Well, she actually gave objective
10 tasks, which Dr. Tenaglia never did.

11 THE COURT: What about the lady I talked to
12 yesterday?

13 MS. RUSSELL: Mrs. -- Ms. Daw?

14 THE COURT: Yeah.

15 MS. RUSSELL: Well, she gave him the TOLD and
16 the OWLS.

17 THE COURT: How many years ago?

18 MS. RUSSELL: Well, it was in -- when he was in
19 third and fourth grade.

20 THE COURT: Okay.

21 MS. RUSSELL: And what she testified to is that
22 she would have referred him, at that point, back in
23 third and fourth grade except for the fact that she
24 was discouraged from referring children.

25 THE COURT: But not a doctor at the time?

1 MS. RUSSELL: No.

2 THE COURT: Right? Okay.

3 Any additional argument you'd like to make?

4 MS. RUSSELL: Well, also --

5 THE COURT: There was a malingering issue you --

6 I think you referenced in your motion, as well, that
7 you wanted to discuss.

8 MS. RUSSELL: Right. She basically --

9 Dr. Tenaglia testified in her deposition that she had
10 no idea that there were malingering measures in the
11 WAIS, and she also gave no standard measures of
12 adaptive functioning.

13 So we'd also ask that she be barred from
14 testifying about any opinion with regard to whether
15 Mr. Mosley suffers from intellectual disability.

16 THE COURT: Okay.

17 State, your response? There's three issues that
18 I -- that have been raised, so...

19 MS. SULLIVAN: Staleness. She has evaluated
20 within the last 6 months. You can give weight to her
21 testimony on the fact that her competency
22 determination was at the end of February.

23 We have testimony in this case from Dr. Fabian.
24 He didn't even evaluate him at all -- Mr. Mosley at
25 all, yet he took the stand and testified for four

1 hours last week.

2 The testing. A licensed psychologist evaluates
3 someone in multiple ways. There is, obviously,
4 standardized formal testing, but there's also just
5 clinical observations. And they make their
6 determination on whether or not they're going to go
7 forward with testing based on those observations and
8 what's clinically indicated by the evaluation.

9 And that's what Dr. Tenaglia did when she was
10 determining what test that she would implement with
11 Mr. Mosley, and she'll give her reasoning when she
12 testifies this morning.

13 Again, on malingering. She issued a WAIS. She
14 then did a Validity Indicator Profile after to deal
15 with the poor effort that she was seeing. She'll
16 explain her reasons behind that.

17 And, again, in terms of the Daubert hearing,
18 really, the only way you can do that is by putting
19 the person on the stand and hearing their
20 qualifications. So I'd ask if we could get started
21 with that this morning.

22 THE COURT: Okay. Anything else you'd like to
23 add?

24 MS. RUSSELL: Yes, Your Honor. The short answer
25 is that the state hospital is in charge of these

1 competency restorations in trespass cases and death
2 penalty cases. Dr. Tenaglia didn't apply the
3 appropriate amount of expertise. They messed this
4 up.

5 And part of what they messed up was giving him
6 an IQ test that was 46 without really being able to
7 do any other diagnosis of ID in autism, leaving us
8 with having to do that during these hearings.

9 Dr. Tenaglia, in no way, was able to give
10 scientifically valid opinions, and we'd ask that her
11 testimony be barred.

12 THE COURT: Okay.

13 MS. RUSSELL: And excluded.

14 THE COURT: Okay. Got it.

15 So I -- one thing I just want to make a point
16 of. When I look at the order that I prepared after
17 our last hearing, page 20 of 22: The Court
18 recommends -- I did recommend Chattahoochee for
19 evaluation, treatment, observation, and appropriate
20 testing not limited to the issues of depression,
21 intellectual disability, and malingering.

22 At the time of that hearing, which I believe in
23 total was 12 hours or so, there was a lot of
24 discussion about depression. And I believe, at some
25 point, I'm paraphrasing, Dr. McClain had indicated

1 that she believed his depression was so severe it
2 would have interfered in intellectual testing, which
3 is why she didn't do any, and her recommendation was
4 that intellectual disability testing be done, which
5 is why I recommended and requested that the Florida
6 State Hospital do it.

7 Now, it does say "not limited to," so they could
8 have tested for other things, but when reviewing the
9 record, which I've done, I did not see any indication
10 from any doctor that the word "autism" was ever
11 mentioned.

12 If it was, I have no recollection, and perhaps I
13 missed it. And if it's in there, someone is welcome
14 to bring it to my attention, but I just don't know
15 that that was on anyone's radar. But I did -- it
16 appears that I specifically requested intellectual
17 disability testing be done at the state hospital,
18 which seems to be what everybody wanted at the time.
19 So -- at least the doctors that testified that
20 believed him to be incompetent. So, there's that
21 issue.

22 As far as staleness is concerned, I'll say this:
23 That when dealing with intellectual disability or any
24 mental illness, for that matter, as well, it's
25 important to understand historical information, which

1 I suspect is why I've been given records back to the
2 third grade. I heard from folks -- yesterday, I
3 heard from a language pathologist, I believe, who was
4 working at his elementary school, and did an
5 evaluation of him or was teaching him in the fourth
6 grade, helping him with his learning disabilities.

7 That historical information is helpful and
8 appropriate for me to understand Mr. Mosley's
9 educational background, history as it relates to the
10 possibility of there being an intellectual
11 disability.

12 So, to the extent that I requested the Florida
13 State Hospital to do testing related to intellectual
14 disability, regardless of whether it was a year ago
15 or three months ago, will be helpful for me in my
16 analysis potentially or not, but I'm at least going
17 to hear from Dr. Tenaglia to see what she has to say.

18 And just to be clear, other than looking at the
19 reports of the doctors to make sure I've had them,
20 number one; and, number two, to see whether they're
21 making a competency or incompetency finding, I don't
22 read them until they're admitted into evidence.

23 So I really don't have any idea what it is she's
24 going to testify to, other than what you all are
25 telling me. So just so I can come into the hearing

1 as a blank slate. So I'll listen to what she says,
2 how she says it, like I would any other witness,
3 listen to her opinions, and I'm not -- you know,
4 whether or not she tested for autism, number one, I
5 didn't request her to do that.

6 Secondly, if, in her opinion, she didn't believe
7 it was necessary, I'll certainly listen to that
8 opinion and decide, based on all of the other doctors
9 and argument that I've heard, whether or not that is
10 a valid opinion that I want give any credibility to.

11 So with that, I will allow Dr. Tenaglia to
12 testify, and we'll go from there. Okay?

13 Anything else we need to address before she
14 comes in?

15 MS. SULLIVAN: No, Your Honor.

16 THE COURT: All right. Let's have Dr. Tenaglia
17 in, please.

18 THE BAILIFF: Step this way, stand right here.
19 Face the clerk, raise your right hand to be sworn.

20 (Witness was duly sworn on oath.)

21 THE BAILIFF: Come have a seat up here. Adjust
22 the mic. Speak in a loud and clear voice for the
23 Court.

24 DIRECT EXAMINATION

25 BY MS. SULLIVAN:

1 Q. Good morning, Doctor.

2 A. Good morning.

3 Q. Could you please introduce yourself and spell
4 your name for the court reporter?

5 A. Sure. I'm Dr. Lana Tenaglia. My name is -- my
6 first name Lana, L-A-N-A. Last name, T-E-N-A-G-L-I-A.

7 Q. And I think we've been pronouncing your last
8 name wrong all week. The g is silent; is that right?

9 A. Yeah. Tenaglia.

10 Q. Tenaglia. I'll try to stick with that.

11 A. Okay.

12 Q. And what do you do for a living?

13 A. I'm a forensic psychologist.

14 Q. And where do you currently work?

15 A. The South Florida Evaluation and Treatment
16 Center.

17 Q. And before we get into your educational
18 background and experience, did you provide to both the
19 State and Defense in this case your CV?

20 A. I did.

21 MS. SULLIVAN: May I approach the clerk?

22 THE COURT: Yes.

23 MS. SULLIVAN: Thank you.

24 BY MS. SULLIVAN:

25 Q. And then also, while I'm at it, did you also

1 create two reports in relation to Mr. Mosley; one dated
2 January 7th, 2025, and one dated February 28th, 2025?

3 A. I did.

4 MS. SULLIVAN: May I approach the witness?

5 THE COURT: Yes.

6 BY MS. SULLIVAN:

7 Q. I'm showing you what's been premarked as State's
8 5 -- 4, 5, and 6. If you can take a look at these and let
9 me know if they are accurate and reflect your CV and the
10 two reports you wrote in this case.

11 THE COURT: Which is which?

12 MS. SULLIVAN: State's 4 is the report dated
13 January 7th, 2025.

14 THE COURT: Okay.

15 MS. SULLIVAN: State's 5 is the report dated
16 February 28th, 2025.

17 THE COURT: Okay.

18 MS. SULLIVAN: And State's 6 is the CV for the
19 doctor.

20 THE COURT: All right. Thank you.

21 MS. SULLIVAN: You're welcome. At this time,
22 the State would request to move in State's 4, 5, and
23 6.

24 THE COURT: Any --

25 MS. RUSSELL: No objection.

1 THE COURT: -- objection? Okay. They'll be
2 admitted as such.

3 (State's Exhibits 4, 5, and 6 received into
4 evidence.)

5 BY MS. SULLIVAN:

6 Q. And do you have copies of your CV and both of
7 your reports with you today?

8 A. I do, yes.

9 Q. Okay. Great.

10 THE COURT: I only have, just so we're clear,
11 the state hospital report from the 28th. Thank you.

12 Is this a copy of everything for me?

13 MS. SULLIVAN: Yes.

14 THE COURT: Thank you.

15 BY MS. SULLIVAN:

16 Q. All right. Let's talk about your educational
17 background and your experience in becoming a licensed
18 psychologist. All right?

19 A. Okay.

20 Q. Where did you go to undergrad?

21 A. Marist College.

22 Q. Okay. And after that, when did you graduate?

23 A. I graduated in May 2014.

24 Q. And where is that located?

25 A. In Poughkeepsie, New York.

1 Q. All right. And then after that, where'd you go
2 on for education?

3 A. St. John's University.

4 Q. All right. And what did you receive when you
5 graduated from there?

6 A. I received a doctor of psychology in school
7 psychology.

8 Q. All right. And when did you graduate?

9 A. May 2020.

10 Q. Okay. And then did you go on to get a doctor of
11 psychology?

12 A. Oh, yes. That's what I was referring to. So
13 first --

14 Q. Oh, I'm sorry.

15 A. Yeah. First I got the master's in school
16 psychology in 2017, and then a doctorate in 2020.

17 Q. All right. And that was in school psychology?

18 A. Yes.

19 Q. And what specific things were you learning when
20 you were getting -- doing the school psychology route?

21 A. So school psychology focuses a lot on
22 assessment. We had a few courses in cognitive
23 assessments. Also, we have courses on clinical work like
24 psychotherapy, behaviorism, how to do functional behavior
25 plans, things like that.

1 Q. Did it involve in diagnosing both learning
2 disabilities and cognitive disabilities, including
3 intellectual disability?

4 A. Yes. That was part of it.

5 Q. Okay. After you finished your education
6 portion, where did you go on to work?

7 A. I began my internship at South Florida
8 Evaluation and Treatment Center.

9 Q. All right. And then from there, did you remain
10 there, or did you go elsewhere for a time?

11 A. Well, I remained there for my postdoctoral
12 residency, did that the following year.

13 Q. And your postdoctoral residency, what was that
14 focused in?

15 A. In forensic psychology.

16 Q. All right. Did you also work at a correctional
17 center in New York?

18 A. I did my training at the Federal Bureau of
19 Prisons in New York.

20 Q. All right. Did you have to deal with evaluating
21 inmates that were housed there?

22 A. Yes. We did competency to stand trial and
23 criminal responsibility evaluations there.

24 Q. All right. Ultimately you currently still work
25 at the South Florida Evaluation and Treatment Center; is

1 that right?

2 A. That's correct.

3 Q. Okay. And how long have you, in total, been
4 working there?

5 A. I believe -- I left for a year, so I'm going to
6 say five years.

7 Q. Okay. And have you -- how many competency
8 evaluations would you say you've conducted in your career?

9 A. Hundreds.

10 Q. All right. And have you been called to conduct
11 those types of evaluations regarding court cases?

12 A. Yes.

13 Q. All right. And have you been previously called
14 as an expert in court regarding matters of competency?

15 A. I have.

16 Q. Okay. And do you belong to any professional
17 organizations?

18 A. I do. I belong to the APA.

19 Q. All right. I want to move our attention to why
20 you're here today regarding Thomas Mosley. When was
21 Thomas Mosley first admitted to your facility?

22 A. He was first admitted on December 12th, 2024.

23 Q. All right. And after he was admitted, when was
24 your first competency assessment of him?

25 A. Let me look. I believe it was December 18th.

1 Yes. December 18th, yes.

2 Q. All right. When you first met with him, was
3 that your first time meeting Mr. Mosley?

4 A. No. We -- we likely had an initial meeting
5 prior to that.

6 Q. All right. So my understanding is when someone
7 first arrives at the facility, there's just an initial
8 team meeting; is --

9 A. Uh-huh.

10 Q. -- that right? The psychiatrist also meets with
11 the patient?

12 A. Yes.

13 Q. All right. So you had that initial team
14 meeting?

15 A. Uh-huh.

16 Q. And then December 18th is the first time you do
17 your first official assessment of Mr. Mosley one-on-one?

18 A. That's correct.

19 Q. All right. And you document in referring to
20 what's now in as State's --

21 MS. SULLIVAN: If, Your Honor, can help me out.
22 State's -- the January 7th report is.

23 THE COURT: Is 4.

24 MS. SULLIVAN: Thank you.

25 THE COURT: State's 4.

1 BY MS. SULLIVAN:

2 Q. State's 4, the January 7th report.

3 Did you document your opinions regarding that
4 assessment that you conducted?

5 A. I did.

6 Q. All right. And what were the results of your
7 initial assessment that you completed on December 18th?

8 A. I initially opined he was incompetent to
9 proceed.

10 Q. All right. And you create -- we have some
11 records already in evidence, these Competency Assessment
12 Tool documents --

13 A. Yes.

14 Q. -- that are part of the full medical history of
15 Mr. Mosley.

16 A. Yes.

17 Q. You created one of those for December 18th,
18 2024; is that right?

19 A. That's correct.

20 Q. All right. And when you went through that
21 assessment with him, was there anything that stood out to
22 you or that you felt was important in that initial
23 assessment regarding Mr. Mosley?

24 A. I felt at times he wasn't putting forth full
25 effort. At some points, he would be a little defiant when

1 I would correct him on some of the answers. Those were
2 the main things that I had noticed initially.

3 Q. All right. Did you next meet with him on
4 January 2nd of 2024, to gather some background info from
5 him?

6 THE COURT: '24 or '25?

7 MS. SULLIVAN: I meant '25. Thank you.

8 BY MS. SULLIVAN:

9 A. Yes.

10 Q. Okay.

11 A. That's correct.

12 Q. Okay. And is that essentially a self-report by
13 Mr. Mosley, when you're asking some questions about his
14 history and his background?

15 A. Yes. I do incorporate other information from
16 previous evaluators, if anything is available, but it's
17 mainly based on self-report.

18 Q. All right. And did Mr. Mosley discuss his
19 family history with you?

20 A. He did.

21 Q. And was he -- in your opinion, was he
22 cooperative, forthcoming in that information?

23 A. He -- he was cooperative. He had no difficulty
24 responding to the questions.

25 Q. Okay. Did you ask him about his schooling, his

1 parents, if he had any siblings, things of that nature?

2 A. I did.

3 Q. And you were able to have a conversation with
4 him and obtain that historical information?

5 A. I was.

6 Q. All right. Did you and Mr. Mosley discuss if he
7 was having any types of hallucinations?

8 A. Yes.

9 Q. And what did he tell you about that?

10 A. He had told me that -- let me just check to make
11 sure -- he told me that he was seeing blood in his eyes
12 every day and voices telling him to rage every day.

13 Q. Okay. During your meeting with him to gather
14 this background info on January 2nd of '25, did you
15 observe, yourself, any symptoms of hallucinations?

16 A. I did not.

17 Q. Okay. So that was all self-reported by
18 Mr. Mosley?

19 A. That's correct.

20 Q. Okay. You mentioned you had reviewed some other
21 documents?

22 A. Uh-huh.

23 Q. When you -- before you begin your assessments,
24 do you go through records and try to review as much as
25 possible regarding a patient at your facility?

1 A. Yes.

2 Q. And in this case, what types of documents and
3 records did you review as it pertains to Mr. Mosley?

4 A. I reviewed the arrest affidavits. I reviewed
5 the prior evaluations completed before his first
6 admission, his evaluation completed during his prior
7 admission, and all of the evaluations completed prior to
8 his most current admission.

9 I also reviewed the summaries of the testimonies
10 that were documented in the Commitment Order, and also
11 just the medical chart. Usually, there's an initial
12 psychiatric evaluation at that point, so I review that.
13 Any notes that might be in the chart.

14 Q. All right. So you -- Mr. Mosley had previously
15 been at your treatment facility about a year prior; is --

16 A. That's correct.

17 Q. -- that right?

18 Did you review all of those medical records kept
19 within your facility?

20 A. I reviewed the reports. I did not go through
21 every note that was in there during his previous
22 evaluation.

23 Q. Right. But the ultimate reports, probably from
24 Dr. Ascherman Jones, you reviewed that?

25 A. I did, yes.

1 Q. And then you also -- did you say you reviewed
2 other doctors' reports from the previous competency
3 hearing that had occurred?

4 A. Yes.

5 Q. All right. And did you incorporate the
6 information you derived from those reports into both the
7 reports you completed in this case?

8 A. I did.

9 Q. All right. And then you also read the
10 Commitment Order that was issued by the judge?

11 A. I did.

12 Q. As of January 7th of 2025, what diagnostic
13 impressions did you make at that time regarding
14 Mr. Mosley?

15 A. At that time, I provided Unspecified Mood
16 Disorder.

17 Q. Okay. And then did you also document that he
18 was reporting hallucinations, but did he present with any
19 other symptoms of psychosis, in your opinion, at that
20 time?

21 A. In my opinion, no, he did not.

22 Q. All right. How would you describe his effort
23 level during this first evaluation you did when he first
24 arrived?

25 A. Well, I -- I felt the effort was poor and

1 questionable. But, of course, I needed more time to
2 observe and assess.

3 Q. All right. Did you also review the admitting
4 psychiatric clinician's notes prior to your first
5 evaluation of Mr. Mosley?

6 A. I did.

7 Q. And did you document what you reviewed and what
8 you derived from that in your report dated January 7th of
9 2025?

10 A. I did.

11 Q. Did the psychiatric clinician also offer the
12 diagnosis of Unspecified Mood Disorder, as well as
13 Cannabis Use Disorder at that time?

14 A. Yes, she did.

15 Q. Were any issues with behavior noted as of
16 January 7th, 2025, report date?

17 A. No.

18 Q. In terms of medications that the Defendant was
19 prescribed --

20 A. Uh-huh.

21 Q. -- was he prescribed meds upon coming to the
22 facility for psychosis?

23 A. He was, yes.

24 Q. How about depression?

25 A. Yes.

1 Q. And anxiety?

2 A. Yes.

3 Q. Insomnia?

4 A. Yes.

5 Q. And then was there an issue with possible -- an
6 issue with his thyroid? Was he placed on thyroid
7 medication?

8 A. Yes.

9 Q. All right. While assessing his mental status at
10 the time back when he was first admitted --

11 A. Uh-huh.

12 Q. -- was he cooperative with you?

13 A. He was cooperative.

14 Q. Was he guarded about any particular areas or
15 subjects?

16 A. When asking about his legal case, he became more
17 guarded.

18 Q. Okay. Can you explain a little bit what you
19 noticed when you'd ask about the legal case?

20 A. I can. So when I would discuss his legal
21 charges to him, he would tell me he didn't want to speak
22 about it. And I reminded him of the limits of
23 confidentiality that, you know, I wouldn't incriminate him
24 in the report. He continued to say that he wouldn't want
25 to speak about it. Yeah, that pretty much sums it up.

1 Q. Okay. And you've documented in your report
2 anything noteworthy regarding specific things Mr. Mosley
3 said to you regarding that, right?

4 A. Yeah. It's listed in the competency --

5 Q. All right.

6 A. -- portion.

7 Q. While you were speaking to him, did he appear to
8 respond to any internal stimuli or be distracted by that?

9 A. No.

10 Q. When it came to assessing legal knowledge, did
11 you have any concerns regarding his effort level?

12 A. I did. He -- yeah. So when I would question
13 him about these things, sometimes he'd be a little defiant
14 and disagree with me about the education, which usually
15 isn't very typical of what patients will do, even if they
16 don't know the answer. He would say, I don't know, a lot.
17 I don't know how to explain it to you. Things like that.

18 Q. What did you estimate his global intellectual
19 functioning was at that first evaluation?

20 A. At the first evaluation, I noted it was within
21 the low average to average range.

22 Q. Okay. And then did you go through the
23 competency criteria at that first evaluation?

24 A. I did.

25 Q. And after this first evaluation, what were your

1 findings regarding competency and the specific criteria?

2 A. For a capacity to appreciate legal charges, I
3 noted it was unacceptable.

4 For capacity to appreciate the possible
5 penalties, I noted it was unacceptable.

6 Capacity to appreciate the adversarial nature of
7 the legal process, I noted it was unacceptable.

8 Capacity to disclose pertinent information to
9 his attorney, I noted it to be questionable.

10 Capacity to manifest appropriate courtroom
11 behavior, I noted it was acceptable.

12 And capacity to testify relevantly, I noted it
13 to be acceptable.

14 Q. And did you document in your report the specific
15 things Mr. Mosley said to you regarding each of the
16 criteria?

17 A. I did.

18 Q. All right. Did you observe anything that
19 suggested delusional thought content during this first
20 evaluation?

21 A. No.

22 Q. All right. And while reluctant to discuss this
23 case with you, did you find that Mr. Mosley presented with
24 any symptoms that would prevent him from doing so?

25 A. No.

1 Q. Did you suspect at the time after this first
2 evaluation that poor effort or motivation might be a
3 factor in his competency evaluation?

4 A. Yes.

5 Q. So after that first evaluation and your
6 findings, did you recommend that he remain at the facility
7 and attend competency training?

8 A. I did.

9 Q. All right. And did you -- throughout -- after
10 he begins in that first evaluation, did you administer
11 another Competency Assessment Tool at the end of January?

12 A. I did.

13 Q. All right. And what were your findings
14 regarding that when you assessed them again?

15 A. Again, I opined him to be incompetent to
16 proceed.

17 Q. All right. So between January and then when
18 we're going to get to the end of February for your final
19 assessment --

20 A. Uh-huh.

21 Q. -- did you routinely make contact with and see
22 Mr. Mosley?

23 A. Yes.

24 Q. How often?

25 A. Weekly.

1 Q. All right. Did you also administer the final
2 competency assessment to the Defendant and assess his
3 mental status on February 25th of 2025?

4 A. I did.

5 Q. Okay. And we've already put it into evidence,
6 but you created a report for that, as well?

7 A. I did.

8 Q. Okay. In that report, do you, again, document
9 all materials reviewed, things we've already discussed,
10 doctors' reports, medical records?

11 A. Yes.

12 Q. And while he is there, so when he comes in in
13 December up until the end of February, do you continue to
14 review all the ongoing progress notes, social work notes,
15 nursing notes while he's at the facility?

16 A. Yes.

17 Q. All right. And do you document in your report
18 some of those notes that you found to be relevant in your
19 determination?

20 A. Yes.

21 Q. Did you review the medications that he was
22 taking and any adjustments to his medications while he was
23 there?

24 A. I did.

25 Q. And specific to the thyroid, at some point in

1 time, was it indicated that the hypothyroidism seemed to
2 be under control with the medication he was prescribed?

3 A. Yes. I believe there was a nursing note that
4 indicated that that I included in my report.

5 Q. Okay. Regarding nursing notes, what was
6 documented by the nurses in the medical records relating
7 to the Defendant's appetite and sleep habits?

8 A. So there were, like, for example, on
9 December 13th, 2024, it was noted that he was compliant
10 with medication. He ate all his meals.

11 On December 14th, it was noted he was calm and
12 cooperative, and he slept very well, and it was noted, it
13 was about 6 to 8 hours. Again, on December 14th, there
14 was a note that said he ate a hundred percent of his
15 dinner.

16 On December 15th, it was noted he slept well.
17 He participated in outside break and consumed 100 percent
18 of his snacks and dinner. I believe -- I believe that's
19 all of them.

20 Q. So in reviewing the nursing notes --

21 A. Uh-huh.

22 Q. -- the nurses that are observing him day-to-day
23 and then documenting those results, did it appear to you
24 that he was having any issues regarding his appetite or
25 his sleep?

1 A. According to the notes, no.

2 Q. Okay. On February 25th, 2025, as part of your
3 evaluation, did you interview the attending mental health
4 technician assigned to Mr. Mosley?

5 A. I did.

6 Q. And was that regarding his daily functioning at
7 the facility?

8 A. Yes.

9 Q. And what did that mental health technician
10 report regarding his ability to take care of himself
11 independently?

12 A. She noted that he had no issues. Specifically,
13 she stated that he showers on his own, feeds himself, did
14 his own laundry, that he keeps his room clean. She said
15 he eats his meals and was not observed giving meals away
16 and noted that he asked for more food at times. It was
17 noted that he socialized with peers. He was described as
18 very polite, and she noted there were no behavioral issues
19 on the unit.

20 Q. Okay. Did anyone who made day-to-day contact
21 with Mr. Mosley ever hear him say anything odd or bizarre,
22 or was he observed talking to himself?

23 A. No.

24 Q. Were his medications adjusted while he was at
25 the facility?

1 A. They were.

2 Q. All right. Specifically to the psychotic meds
3 and the anti-depressions --

4 A. Uh-huh.

5 Q. -- were those increased, or what was going on
6 with those while he was there?

7 A. Yes. They were increased on December 13th. The
8 psychiatrist increased his Zyprexa to 20 milligrams at
9 night to help with sleep and psychosis. She also
10 increased his Trazodone to 100 milligrams at night to help
11 with his depression and insomnia.

12 Then on the 20th, it's noted that she increased
13 his Zyprexa to 30 milligrams at that time and prescribed
14 him 10 milligrams of melatonin to help with his sleep.

15 On December 24, she discontinued his Remeron
16 because he reported he was still feeling depressed even
17 after reaching the maximum dose. He was then prescribed
18 Prozac, which is also an antidepressant. And -- oh,
19 sorry. He said that he had been on Prozac before, but he
20 did not benefit from it. So she prescribed him Zoloft,
21 which is also an antidepressant, at 50 milligrams.

22 Q. Was it your understanding, in talking to the
23 attending psychiatrist, that the meds were being increased
24 and adjusted based on what Mr. Mosley was reporting
25 regarding his depression?

1 A. Correct. Yes.

2 Q. All right. Did the attending psychiatrist relay
3 to you the opinion regarding the medications increasing,
4 and then Mr. Mosley still reporting no change, was that
5 unusual?

6 A. Yes. He said it was unlikely that he would have
7 -- he would have demonstrated no changes given all the
8 medication changes.

9 Q. Okay. And were -- and I think you said this,
10 but some of the antidepressants, he was taking the maximum
11 dosage allowed and still reporting the same types of
12 symptoms?

13 A. Yes. I know I can speak for the Zyprexa. I'm
14 not 100 percent --

15 MS. SEIFER-SMITH: I'd object to the testimony
16 regarding this. This is beyond the, I guess,
17 personal knowledge of this particular witness.

18 THE COURT: Okay. Overruled.

19 BY MS. SULLIVAN:

20 Q. You can answer.

21 A. I can speak for the Zyprexa. I know 30
22 milligrams is the maximum. I'm actually not 100 percent
23 sure about the maximum for all of the antidepressants.

24 Q. Okay. And during this time, was Mr. Mosley
25 still consistently attending his competency classes?

1 A. He was attending classes, yes.

2 Q. And did you review the program notes regarding
3 his performance in those classes?

4 A. I did.

5 Q. What was noted regarding his participation?

6 A. It was noted that his participation was low at
7 times. A lot of times, he wouldn't participate unless he
8 was directly called on. At times, he wouldn't complete
9 any of the activities given in class. And he would
10 primarily interact with his peers. And when asked
11 questions, say, I don't know.

12 Some other notes that he completed half of the
13 activities given, but, again, was primarily interacting
14 with peers. It was noted his attendance was good, but his
15 level of participation was low, and that was something
16 that was consistently noted.

17 Q. How was it recorded regarding Mr. Mosley's
18 ability to read?

19 A. It was noted that at first, he told the program
20 -- the rehabilitation specialist that he could not read,
21 but then he was observed reading with no difficulties in
22 class.

23 Q. Okay. Would he actually be asked to read out
24 loud in class?

25 A. Yes.

1 Q. Okay. And he was able to do that?

2 A. Yes.

3 Q. Are there opportunities at the facility during
4 competency training for someone to move up what you guys
5 call "levels," and then receive benefits from that?

6 A. Yes.

7 Q. Can you explain a little bit what that is and
8 what that means?

9 A. Yes. So we have a leveling system. Usually,
10 when the patients are admitted, they're kind of, like, on
11 a probationary period. Then after 72 hours, they are
12 given a yellow sticker, so they're a Level 3. Then they
13 get a certain amount of points for completing certain
14 tasks, which includes going to class, showering, making
15 their bed, things like that.

16 If they demonstrate positive behavior and
17 continue doing what they're supposed to do, showing up to
18 treatment and taking their meds, they can move up to a
19 blue sticker, which affords them more points, and they can
20 get more canteen items, which are snacks.

21 Q. Okay.

22 A. Yeah.

23 Q. Was there anything relayed to you, about
24 Mr. Mosley specifically, regarding moving up in levels and
25 receiving benefits?

1 A. Yes. In one of the treatment team meetings, he
2 advocated to move up to a blue sticker.

3 Q. And what benefit would he receive if he did
4 that?

5 A. You get more points, then you can get more
6 canteen items.

7 Q. Okay. Did you interview his rehabilitation
8 specialist?

9 A. I did.

10 Q. And did she relay to you any input regarding
11 what information Mr. Mosley seemed to know and whether he
12 was consistent with that knowledge?

13 A. She said that when they would do exercises where
14 she would ask them 10 questions, and if they got them all
15 right, they'd get extra points, she said he would
16 generally get 4 out of the 10 questions wrong. She said
17 that he was inconsistent with the questions he would -- he
18 would get correct.

19 Q. Okay. And how did the rehabilitation specialist
20 compare Mr. Mosley's behavior with her versus his behavior
21 with the peers at the facility?

22 A. She said he was more reserved with her than with
23 his peers.

24 Q. Okay. And did you ask her again about his
25 reading ability?

1 A. Yes.

2 Q. And what did she say about that?

3 A. She stated he can read, and he exhibited no
4 significant difficulty. She noted if they're covering,
5 you know, a mental health or a medical topic where there's
6 more complex words, he might stumble over one of those,
7 but other than that, there were no issues.

8 Q. Okay. In your training and experience, just in
9 general, does a low reading level automatically equal an
10 intellectual disability diagnosis?

11 A. No.

12 Q. All right. Can it sometimes just be a learning
13 disability?

14 A. It could.

15 Q. The same thing about any speech impairment or
16 delays. Does it always automatically indicate
17 intellectual disability?

18 A. No.

19 Q. All right. In your time dealing in school
20 psychology, did you evaluate people for both reading
21 issues and speech issues?

22 A. It would be more so like academic issues.
23 Sometimes they go hand in hand, but evaluating for
24 specific learning disability, which could be reading,
25 writing, math. But globally, you know, you -- you would

1 generally assess everything with the cognitive
2 assessments.

3 Q. All right.

4 A. And the -- the verbal subtest would give you an
5 indication if there were some speech issues.

6 Q. All right. And when you talked to the
7 rehabilitation specialist, did she ever observe any odd or
8 bizarre behavior by Mr. Mosley?

9 A. No.

10 Q. Okay. At the time of your last evaluation in
11 February, did Mr. Mosley appear stable enough to
12 participate in standardized testing?

13 A. In my opinion, yes.

14 Q. Okay. He had been on medications from the
15 psychiatrist for a period of time, and all indications to
16 you, you were comfortable doing the testing at that point,
17 because he appeared stable?

18 A. Correct.

19 Q. All right. And was he presenting, at the time
20 of your last evaluation, with any symptoms of psychosis?

21 A. No. He just -- he would continually report the
22 same hallucinations.

23 Q. So we're still having the same self-report, the
24 same type of visual --

25 MS. SEIFER-SMITH: Objection to leading.

1 THE COURT: Overruled.

2 BY MS. SULLIVAN:

3 Q. The same report of hallucinations, but you never
4 observed any symptoms of that psychosis?

5 A. That's correct.

6 MS. SEIFER-SMITH: Objection. Asked and
7 answered, and leading.

8 THE COURT: Okay. Let's move on.

9 BY MS. SULLIVAN:

10 Q. Did you, at the time of this last evaluation,
11 observe any evidence of internal stimuli?

12 A. No.

13 Q. Any disorganized thoughts?

14 A. No.

15 Q. Any concern regarding his level of depression
16 that would affect his effort during the assessments?

17 A. No.

18 Q. All right. And did you administer the WAIS-IV
19 on February 18th, 2025?

20 A. I did.

21 Q. All right. What is that, and what is the
22 purpose of that test?

23 A. It's an intelligence measure. So it can give
24 information about the cognitive functioning of the patient
25 you're assessing.

1 Q. Okay. And when you administered that test, what
2 were his scores and overall IQ score?

3 A. So on the -- well, he obtained a 56, which is
4 the extremely low range on the Verbal Comprehension Index,
5 and that's measures of, like, verbal abilities and the
6 depth of his acquired knowledge throughout his life.

7 He scored a 51, which is also a extremely low
8 range on Perceptual Reasoning, which then includes
9 problem-solving and reasoning skills.

10 He received a 55, which is extremely low, on the
11 Working Memory Index, which included attention and
12 concentration in your ability to take in information and
13 hold it and transform it in your mind.

14 And processing speed was also in the extremely
15 low range. He scored at 50, which is the ability to
16 basically do simple tasks quickly and effectively as
17 possible.

18 His full-scale IQ was a 46, which falls in the
19 extremely low range of intellectual functioning.

20 Q. Okay. So across the board for all the
21 sub-scores and then the final IQ score, extremely low
22 range was the result?

23 A. That's correct.

24 Q. All right. Would a person, in your training and
25 experience, with an IQ of 46, have a capacity to

1 understand legal concepts at any point in time?

2 A. It would be very unlikely.

3 Q. Okay. Up until this point, did Mr. Mosley show
4 that he had the ability to understand legal concepts?

5 A. He would answer some things correctly. And when
6 I reviewed the records, there were -- the other doctors
7 had noted he was in the acceptable range, for example,
8 understanding the range of possible penalties.

9 Q. Okay. And how would you describe his effort
10 during this WAIS test?

11 A. It did not appear that he was putting forth
12 adequate effort. For example, in the Block Design Test,
13 which requires the examinee to form shapes out of blocks
14 with a given stimuli, he was kind of making towers before
15 he would actually try and recreate the stimuli, which I
16 think he was trying to run the time out. And that's
17 something very atypical --

18 Q. Okay.

19 A. -- for someone to do during the WAIS.

20 Q. We've heard a little bit this week about the
21 WAIS-5 that's come out. Why did you administer the
22 WAIS-IV instead of the 5 at this point in time in
23 February?

24 A. So, typically, the general rule is that you have
25 a year to learn the new test before -- and starting to

1 administer it. And at this -- because the WAIS-5 had just
2 come out in the fall of 2024, our facility didn't even
3 have the WAIS-5 yet.

4 Q. Okay. So what you had at the facility, the most
5 current was the WAIS-IV, and that's what you administered?

6 A. That's correct.

7 Q. Okay. After you administered the WAIS, did you
8 administer the Validity Indicator Profile, also known as
9 the VIP on February 19th of 2025?

10 A. I did.

11 Q. And why did you administer that test, and what
12 does that test measure?

13 A. It measures the validity of cognitive testing.
14 So it's something you would administer, along with a
15 cognitive battery, to see if they were putting forth
16 effort into the test.

17 Q. Okay. What did Mr. Mosley's score suggest when
18 you administered the VIP?

19 A. It suggested that he performed an irrelevant
20 response style, which means that his re -- his responding
21 was indicative that his responses bear no relationship to
22 the item content.

23 It also noted that in the relevant score on the
24 nonverbal subtest suggests that it's very likely that he
25 filled out the answer sheet without looking at the test

1 items, and, overall, I believe it indicated poor effort.

2 Q. Okay. Is this Validity Indicator Profile a
3 valid test to give Mr. Mosley at that point in time?

4 A. Yes.

5 Q. Why?

6 A. Because the -- the test cautions that if someone
7 has historical bona fide knowledge of having MR or right
8 now, as we call it, ID, then it's not an inappropriate
9 battery. But there was, to my knowledge, no history of
10 him having it documented by bona fide ID at the time, so
11 it was a valid measure.

12 Q. And in your own personal observations throughout
13 your time with Mr. Mosley at the facility, did you have
14 any clinical indications of intellectual disability at the
15 time of issuing the VIP?

16 A. No.

17 Q. All right. Why did you give the WAIS and do the
18 IQ test before doing the VIP test?

19 A. So there -- in my reviewing of the evaluations,
20 there was a series of doctors who had questions of
21 cognitive ability, so I wanted to give a measure to assess
22 that. And then when I suspected he was putting forth poor
23 effort, I wanted to give a comprehensive measure to see
24 the validity of the results.

25 Q. Okay. Have you seen anywhere that there's

1 supposed to be -- you do one test first, and do another
2 test after, any requirements like that regarding the WAIS
3 and the VIP?

4 A. No. In the VIP Manual, it says you can
5 administer it concurrently. And in my training,
6 typically, we were trained to do it after.

7 Q. Okay. And concurrently, you can't do two tests
8 at once, can you?

9 A. No.

10 Q. All right. Why didn't you use embedded measures
11 within the WAIS?

12 A. Honestly, it's just not the way I was trained.
13 The embedded measure in the WAIS is not a full,
14 comprehensive assessment. The way I was trained was to
15 use more like a full comprehensive assessment to assess
16 validity and cognitive assessment.

17 Q. And is that what the VIP test is?

18 A. It is.

19 Q. All right. What did his results on the VIP
20 indicate to you regarding his score results and his IQ
21 result on the WAIS?

22 A. It indicated to me that his scores on the WAIS
23 were not a valid represent -- representation of his level
24 of cognitive functioning.

25 Q. All right. Did you also administer the M-FAST,

1 the Miller Forensic Assessment of Symptoms?

2 A. I did.

3 Q. And when did you administer that test?

4 A. February 25th, 2025.

5 Q. Okay. What is that test, and why did you give
6 it?

7 A. That's to -- the test is designed to provide
8 information regarding feigning psychiatric illnesses. It
9 focuses mostly on psychosis. And I gave that because he
10 was reporting atypical hallucinatory symptoms.

11 Q. The continual self-report of the hallucinations?

12 A. Correct.

13 MS. SEIFER-SMITH: Objection. Leading.

14 THE COURT: Overruled.

15 BY MS. SULLIVAN:

16 Q. What did his total score indicate to you on the
17 M-FAST?

18 A. That he was likely feigning mental illness.

19 Q. All right. How many scales are there on that
20 test?

21 A. 7.

22 Q. All right. How many scores were elevated of
23 those 7 scales in the test with Mr. Mosley?

24 A. So it was actually 4. It should be noted, this
25 is a clerical error. It was 4 out of the 7 scales were

1 elevated.

2 Q. All right. So 4 scores out of 7 were elevated?

3 A. Yes.

4 Q. And why was this an appropriate test to give
5 after the WAIS and then the VIP?

6 A. So, according to the M-FAST Manual, it's
7 inappropriate to give to someone who was severely
8 decompensated or has profound cognitive impairment. And
9 based on my evaluation of the WAIS and the VIP, I noted
10 that I believed that that was not the case. He was not
11 severely decompensated or profound intellectual
12 impairment.

13 It also notes that evaluators should be aware
14 that some people malingering both intellectual impairment and
15 psychotic symptoms. So in those cases, it would be
16 appropriate to give. So I felt it was an appropriate
17 measure to give at the time.

18 Q. Okay. Did you observe any clinical indications
19 of cognitive impairment or mental instability to prevent
20 you from validly issuing the M-FAST at that time?

21 A. No.

22 Q. Based on your evaluation and the review of the
23 records and the interviews with the staff at the facility,
24 in your opinion, does Mr. Mosley have an intellectual
25 disability diagnosis?

1 A. In my opinion, he does not.

2 Q. All right. I want to talk about autism for a
3 minute.

4 A. Okay.

5 Q. Do you -- did you, yourself, observe any signs
6 or symptoms that Mr. Mosley may be on the Autism Spectrum
7 Disorder?

8 A. I did not.

9 Q. Okay. Are you trained to give specific autism
10 testing?

11 A. I don't have specific training. I'm qualified
12 to learn the test and administer them, but I have not
13 focused on that in my training.

14 Q. All right. Did you do any formalized testing
15 for autism with Mr. Mosley?

16 A. No.

17 Q. Okay. Did you see any clinical indications --
18 indicators regarding autism that would lead you to think
19 that he needed any formalized testing regarding autism?

20 A. I did not.

21 Q. Okay. I want to talk about adaptive
22 functioning. Did you assess Mr. Mosley's adaptive
23 functioning?

24 A. I did not do a formal measure, but I -- assessed
25 it through observation and through interviews from staff.

1 Q. All right. And through your observations --

2 A. Uh-huh.

3 Q. -- what did you personally observe regarding his
4 adaptive functioning?

5 A. I observed that he didn't have any deficits in
6 any of the factors of adaptive functioning. Conceptual,
7 for one, which is like linguistic skills. He did not
8 appear to have linguistic -- linguistic skills that were
9 more impaired than his peers. He was able to communicate
10 his wants and needs. He didn't appear to have any
11 difficulties with reading, as per staff.

12 As far as social, he got along very well with
13 peers. Then reports from staff indicated he would
14 socialize in class. He would go to the extracurricular
15 activities and was observed socializing with peers. And
16 again, there were no abnormal -- abnormalities in his
17 social functioning, even when speaking with staff.

18 He was able to take care of himself, his ADLs.
19 Like staff reported, he was able to do his own laundry.
20 He got around the unit fine. There were -- there were no
21 issues observed to me.

22 Q. So why did you opt not to do any formalized
23 testing regarding adaptive functioning?

24 A. Because I didn't think it was clinically
25 necessary. I had opined that I don't believe that he had

1 an overall cognitive score that would have been consistent
2 with -- with intellectual disability, and there didn't
3 appear to be any clinical signs that would lead me to need
4 to formally assess the severity of adaptive function
5 because there didn't appear to be any deficits.

6 Q. If Mr. Mosley was intellectually disabled at the
7 level that his IQ was showing, would you -- would those
8 deficits be apparent in his daily life or routine, even at
9 the facility he was at?

10 A. I believe so, yes.

11 Q. All right. What -- if you had done some
12 formalized adaptive --

13 A. Uh-huh.

14 Q. -- function testing, what kind of tests could
15 you have possibly done, or what would you have
16 recommended?

17 A. Well, there's different options. Of course,
18 there's the ADOS, the Vineland, the WHODAS. They are the
19 most typical ones.

20 Q. Okay. Those types of tests, are they difficult
21 when you're not out in the community to do those types of
22 tests?

23 A. Yes, I find that the line of questioning on the
24 WHODAS is most appropriate for our setting. The ADOS and
25 the Vineland have questions that I feel it would be

1 difficult to answer for the clinicians at the facility.

2 Like, for example, they have questions about,
3 like, Does the person ride a bike? Do they go on dates?
4 And those are, obviously, things that don't occur at the
5 facility, so that's a limitation.

6 Q. If you were to do some adaptive functioning
7 tests --

8 A. Uh-huh.

9 Q. -- and you had to choose from what was
10 available, what test would you have administered?

11 A. I likely would have administered the WHODAS.

12 Q. Okay. Let's talk about the competency criteria
13 you assessed in the February 2025 evaluation.

14 A. Uh-huh.

15 Q. As to the six criteria, what were your findings?

16 A. Capacity to appreciate legal charges, I deem
17 that acceptable.

18 Capacity to appreciate possible penalties, I
19 also deemed that acceptable.

20 Capacity to appreciate the adversarial nature of
21 the legal process, I deemed acceptable.

22 Capacity to disclose pertinent information,
23 acceptable.

24 Capacity to manifest appropriate courtroom
25 behavior, acceptable.

1 And capacity to testify relevantly, acceptable.

2 Q. All right. And did you document your specific
3 findings within your February 28th, 2025, report that's
4 now in evidence?

5 A. Yes.

6 Q. Okay. Did Mr. Mosley present with any symptoms
7 or deficits that would prevent him from understanding each
8 of those criteria during that evaluation?

9 A. I don't believe so.

10 Q. All right. And his self-reporting of depression
11 symptoms, did you determine whether or not he met the
12 criteria, the DSM-5 for a mood disorder?

13 A. I believe he did not.

14 Q. And why is that?

15 A. Well, I don't believe that the symptoms he was
16 reporting were necessarily functionally impairing him. He
17 was able to attend his treatment teams, take care of
18 himself, communicate, socialize with peers, so it didn't
19 seem like he was functionally impaired.

20 Q. And what he was self-reporting, did that line up
21 with what people who observed him day-to-day were seeing
22 regarding his appetite, his sleeping?

23 A. Yeah. There were discrepancies in the appetite
24 and sleep for sure with nursing. As far as reporting a
25 depressed mood. I mean, that's based on his self-report,

1 that could absolutely be true.

2 Q. Okay. On topics, did you feel that his
3 self-reported depression symptoms interfered with his
4 ability to participate in your competency evaluation?

5 A. No.

6 Q. Okay. On topics that Mr. Mosley would not
7 discuss with you, such as the facts of the case, did it
8 appear to be an inability to do so, or a choice not to
9 discuss these things?

10 A. It appeared to be a choice.

11 Q. All right. And after administering your final
12 competency assessment on Mr. Mosley, did you reach an
13 opinion regarding his competency to proceed in February
14 2025?

15 A. I did.

16 Q. And what is that opinion, within a reasonable
17 degree of medical certainty?

18 A. That he was competent to proceed.

19 Q. All right. What was Mr. Mosley's symptom
20 profile consistent with?

21 A. Well, I didn't give him a diagnosis in the DSM.
22 I just gave him malingering.

23 Q. Okay. So it was consistent with -- it's not a
24 diagnosis of malingering, but it's in the DSM-5 as
25 something -- a consideration, it's like the Z code?

1 A. Yeah. Exactly.

2 Q. All right. And what is malingering, and what
3 factors are considered for that?

4 A. Sure. Malingering is the intentional production
5 or false or grossly exaggerating, it could be physical or
6 psychological symptoms. And if there needs to be -- it
7 needs to be motivated by some incentive.

8 There are four criteria. One of them is a
9 medicolegal context. In this case, it would be the
10 context if he's referred by the Court with legal charges
11 and he was deemed incompetent to proceed due to an
12 observed mental illness.

13 He -- the next criteria is a discrepancy between
14 their claimed distress, what they're reporting, and the
15 objective findings and observations.

16 The third criteria is a lack of cooperation
17 during the diagnostic evaluation and complying with
18 treatment.

19 And the last one is the presence of antisocial
20 personality disorder.

21 Q. All right. And did Mr. Mosley meet any of those
22 conditions?

23 A. He met three out of the four.

24 Q. All right. Which one did he not meet, in your
25 opinion?

1 A. The presence of antisocial personality disorder.

2 Q. Okay. And did you outline in your report the
3 specific examples that led to your malingering conclusion?

4 A. Yes.

5 Q. All right. And that's in evidence and specifics
6 based on what you, yourself, observed and what other
7 people reported to you?

8 A. Yes. I took everything into consideration.

9 Q. Okay.

10 MS. SULLIVAN: May I have one moment, Your
11 Honor?

12 THE COURT: Yes.

13 BY MS. SULLIVAN:

14 Q. When you were doing your historical background
15 and review of records about Mr. Mosley, did you see
16 anything in there that leads you to suspect an Autism
17 Spectrum Disorder?

18 A. I did not.

19 Q. Okay. Nothing in the prior reports from any
20 doctors or any of the records you reviewed?

21 A. Not that I can recall, no. I don't believe so.

22 Q. And you, yourself, when you were evaluating
23 Mr. Mosley and met with him over the course of the time he
24 was there --

25 A. Uh-huh.

1 Q. -- did you see any symptoms that gave you
2 concern that he may have autism?

3 A. No.

4 MS. SULLIVAN: Nothing further.

5 THE COURT: Did I see the victim's family come
6 in?

7 THE BAILIFF: Yes. Do you want me to get them?

8 THE COURT: Yes, please. Have them to the
9 podium.

10 Good morning.

11 UNIDENTIFIED SPEAKER: Good morning.

12 THE COURT: Could I have your names, please?
13 Let's start over here. Your name?

14 MS. DENSON: Lakita Denson.

15 THE COURT: Okay. In the middle?

16 MS. TYLER: Sakoya Tyler (phonetic).

17 THE COURT: And ma'am, your name, please?

18 MS. HUNTER: (Indiscernible) Hunter.

19 THE COURT: You are here related to this case in
20 what way?

21 MS. DENSON: I'm Pashun Jeffrey's mother and
22 Taylen Mosely grandma.

23 THE COURT: Okay. Ma'am?

24 MS. HUNTER: She was the best friend. This is
25 my daughter and she was the best friend and the

1 Godmother to the child.

2 THE COURT: Okay. So a couple things I want to
3 talk to you about. Everybody is welcome to sit in
4 this courtroom. It is an open courtroom to the
5 public.

6 If you want to stay in for any of the
7 proceedings you have to be able to follow some rules,
8 okay? So I don't know who has been -- there's been
9 people coming in and out the last couple of days and
10 that's fine, but you have to be able to come in and
11 out quietly.

12 If you're going to talk quietly to each other
13 and whisper things briefly, that's okay, but I
14 can't -- but I should not be able to hear it. You
15 cannot use your cell phone. That is a strict rule by
16 the deputies. That applies to everybody that is
17 sitting in the gallery. You can't record. You can't
18 text. You can't check your e-mails. You can't use
19 the phone, all right?

20 It's really helpful for me for folks, if they
21 come in, to stay seated and not get up until there's
22 a natural break in the case. It's hard to do
23 sometimes, but if you have to slip out, please do so
24 as quietly as possible, okay?

25 There's been some instances in the last couple

1 of days where some of those rules have not been
2 followed. I don't know if it was any of you or not,
3 but I cannot have any poor behavior coming or going,
4 throwing your hands up, getting -- if you feel like
5 you're getting upset, please get up and leave, but I
6 can't hear it or see it.

7 Because if that's happening now, if we ever get
8 to a -- I don't know if we ever will, but if we get
9 to a point where there's a jury present, if you do
10 that, you're going to cause a mistrial and the entire
11 trial process would start over again and I can't
12 allow that to happen.

13 So if you demonstrate the inability to follow
14 appropriate courtroom behavior, I will not permit you
15 in anymore. I don't want to do that, okay? So can
16 you all promise me you're going to sit quietly for
17 these proceedings and follow the instructions of the
18 Court?

19 MS. HUNTER: Yes.

20 MS. TYLER: Yes.

21 MS. DENSON: Yes.

22 THE COURT: All right. Thank you, ladies. I
23 appreciate it. If you want to have a seat in the
24 courtroom, you can do that.

25 Do you need a break before cross-exam?

1 THE COURT REPORTER: I'm okay.

2 THE COURT: Okay. All right.

3 MS. SEIFER-SMITH: Okay. I just need a couple
4 of moments. Your Honor, may I approach?

5 THE COURT: You have some things for me? Yes,
6 thank you. Has Ms. Sullivan seen these yet?

7 MS. SULLIVAN: Yes. Thank you, Your Honor.

8 THE COURT: Okay.

9 MS. SEIFER-SMITH: Sorry. That was a lot of
10 walking around.

11 CROSS-EXAMINATION

12 BY MS. SEIFER-SMITH:

13 Q. Hi. How are you?

14 A. I'm good. How are you?

15 Q. Great. Thanks so much.

16 So I just want to talk a bit about your
17 background and experience before we get into some things.

18 A. Okay.

19 Q. So do you have your CV handy?

20 A. I do.

21 Q. Great. So your highest degree is a psychology
22 degree in school psychology from St. John's; is that
23 right?

24 A. That is correct.

25 Q. Okay. And you -- what is it, pass your

1 dissertation? Earn the dissertation? I can't remember
2 the right vocab.

3 A. Yeah. You pass your dissertation defense,
4 essentially.

5 Q. You pass your dissertation defense?

6 A. Yeah.

7 Q. That was in 2020?

8 A. Yes.

9 Q. Okay. So five years ago?

10 A. That's correct.

11 Q. Okay. And since that time, you have worked at
12 -- in the South Florida Evaluation and Treatment Center,
13 for -- would you say a total of four years rather than
14 five, since you took one year away from SFETC?

15 A. I think it would be five with the year taken
16 away. I think it would have been six.

17 Q. Okay.

18 A. So I think five, and then the one year at the
19 jail --

20 Q. Got it.

21 A. -- I believe.

22 Q. Okay. And so a school psychology program is not
23 a forensic program, correct?

24 A. Correct.

25 Q. And that degree specifically was in school

1 psychology?

2 A. It was, correct.

3 Q. And, in fact, your thesis was on the
4 effectiveness and mechanisms of a change of mindfulness
5 and relaxation training delivered in a high school; is
6 that right?

7 A. Yeah. That's right.

8 Q. And the students that you were working with were
9 predominantly white females from a swim team, right?

10 A. Some -- I would say predominantly --
11 predominantly, but there was, you know, other genders,
12 races, as well.

13 Q. The school in which you -- it's the school
14 within the town in which you were doing this research --

15 A. Yes.

16 Q. -- only 9 percent of those households were under
17 the poverty line; is that right?

18 A. I actually don't know.

19 Q. Okay. I think it's actually in your
20 dissertation.

21 A. It very well could be. I don't recall.

22 Q. Okay.

23 A. It's, you know, 100 pages.

24 Q. And in that --

25 A. Uh-huh.

1 Q. -- dissertation, you wrote about a number of
2 assessment tools that you used --

3 A. Uh-huh.

4 Q. -- in furtherance of your project, right?

5 A. Yeah.

6 Q. Okay. And in writing about the tools that you
7 were using, the assessment tools, you actually cited to,
8 like, the purpose of the test, their validity scales, and
9 how reliable those tests were, right?

10 A. Uh-huh.

11 Q. Is that correct?

12 A. I believe so.

13 Q. Okay. And you actually cited to journaled
14 articles that indicated their validity, their reliability,
15 correct?

16 A. I do recall that.

17 Q. That's what your training was during your
18 psychology degree, right? That, if you're going to say
19 something, you've got to have authority for it?

20 A. Yeah.

21 Q. Okay. And in terms of your school psychology
22 background, you actually did a number of practicums within
23 schools during your time, right?

24 A. That's correct.

25 Q. Okay. So you would've been actually, like,

1 embedded in the school on a couple of occasions, I think,
2 as the school psychologist?

3 A. Yeah. So there -- for the first couple, I was
4 just a practicum student. For my final internship, they
5 did hire me. So for 5 months, I was working as the school
6 psychologist, but it was also part of, like, my hours for
7 my training, if that makes sense.

8 Q. That does make sense.

9 And I think you had told us on direct that you
10 were involved in the diagnosis of, like -- or you assisted
11 in the diagnosis of, like, learning disabilities and other
12 kind of special education disabilities; is --

13 A. Yeah.

14 Q. -- that right?

15 A. Well, I believe it was -- we were trained to do
16 so. I think that's what I said on direct.

17 THE COURT: It is Exhibit 13.

18 MS. SEIFER-SMITH: Now, 13 is --

19 THE COURT: 13 is Fritz, yeah.

20 MS. SEIFER-SMITH: 13 is Fritz. Yeah.

21 THE COURT: Yeah.

22 BY MS. SEIFER-SMITH:

23 Q. So in your time in the schools, you're familiar
24 with working with speech and language pathologists,
25 correct?

1 A. Yes.

2 Q. Okay. And speech and language pathologists are
3 capable of making speech and language diagnoses, right?

4 A. To my knowledge.

5 Q. Okay. And they would assist you in your work of
6 more generalized diagnoses regarding more generalized
7 disabilities, correct?

8 A. Well, in the school, it works a little different
9 because you don't provide diagnoses in the school.

10 Q. Okay. You talked about providing -- or that you
11 were involved -- this is what you --

12 A. Uh-huh.

13 Q. -- said on direct, that you were involved in the
14 diagnosis of learning disabilities and cognitive
15 disabilities.

16 A. Yes. So we also had a clinic that was
17 outpatient, and that's where we would do the actual
18 diagnoses.

19 Q. Okay.

20 A. Yeah.

21 Q. But that is certainly something that you were
22 involved in?

23 A. I was involved in, yes.

24 Q. Okay. And it sounds like you worked on a team?

25 A. Yeah. Well, we had, like, group supervisions

1 where we were working under a licensed psychologist, and
2 then we had, like, a peer group. That -- so that was for
3 the outpatient.

4 Q. Okay.

5 A. But there wasn't, like, other disciplines
6 involved, I would say.

7 Q. Okay. You alone wouldn't diagnose a speech and
8 language impairment or disability, correct?

9 A. No, I haven't. No.

10 Q. Okay. You would rely on somebody who is
11 specialized in that to do so, correct?

12 A. I would say that's correct.

13 Q. Okay. And certainly, schools have speech and
14 language pathologists on staff?

15 A. They do.

16 Q. And they did in the schools that you worked in?

17 A. They did.

18 Q. Okay. And, in fact, you can recognize that
19 certainly it's important to look retrospectively to
20 determine whether or not somebody has a speech and
21 language impairment, correct?

22 A. I would say, yes.

23 Q. Okay. And so if you discovered that Mr. Mosley
24 had speech and language impairments going back to at least
25 2011, would that have been helpful to you in your

1 retrospective, you know, looking at his cognitive
2 abilities?

3 A. I certainly would have taken it into account and
4 explored the records.

5 Q. Okay. Are you familiar with any of the types of
6 testing that speech and language pathologists do?

7 A. No.

8 Q. Okay. If you learned that he had consistency in
9 terms of his speech and language impairments from 2011 to
10 2013 --

11 A. Uh-huh.

12 Q. -- as well as 2025 --

13 A. Uh-huh.

14 Q. -- would that surprise you?

15 A. I don't know if it would -- if it would surprise
16 me. I guess it would surprise me in the sense that I
17 haven't seen those records; I haven't looked at them.

18 Q. Okay. Are you familiar with the PPVT?

19 A. I don't -- it sounds familiar, but not enough
20 for me to really say --

21 Q. Okay.

22 A. -- anything about it, to be honest.

23 Q. The Peabody Picture Vocabulary Test.

24 A. I've heard of it, but I don't think I've ever
25 administered it.

1 Q. Okay. Have you heard of it in the context of,
2 like, the school system?

3 A. I believe so, yeah. I think that is something
4 in the schools that they would administer.

5 Q. Okay. Can you tell me what you know of the
6 PPVT?

7 A. I really don't -- I don't know much about it.

8 Q. Okay.

9 A. No.

10 Q. So that's not fair to ask you questions about
11 that, is it?

12 A. No. I don't --

13 Q. Okay. All right. So if you learned that speech
14 and language evaluations, going back as far as 2011 --

15 A. Uh-huh.

16 Q. -- showed that Mr. Mosley had profound and
17 intractable deficits in expressive -- so speaking --

18 A. Uh-huh.

19 Q. -- receptive, listening; and pragmatic, so
20 social communications --

21 A. Uh-huh.

22 Q. -- would that change your opinion regarding
23 Mr. Mosley having malingered with respect to his
24 communications?

25 A. I mean, obviously, I would like to see the

1 evaluations, but I would say not necessarily because
2 expressive and -- expressive language and receptive
3 language can improve. That's part of the services they
4 have implemented in school is speech and language
5 pathology where the students are pulled out and they go.
6 So it could have improved over time, depending on how old
7 these assessments are.

8 Q. So what if they didn't improve? And I'm happy
9 to share the report if --

10 A. Yeah. Well --

11 Q. -- you'd like to take a look. So he was
12 assessed in 2011 and did --

13 A. Okay.

14 Q. -- extremely poorly. Assessed again --

15 A. Uh-huh.

16 Q. -- in 2013, still extremely poorly.

17 A. Uh-huh.

18 Q. And then assessed just last month and his
19 prognosis having done two days of examinations with a
20 speech and language pathologist --

21 A. Uh-huh.

22 Q. -- his prognosis was extremely poor.

23 So now, knowing that --

24 A. Uh-huh.

25 Q. -- that his speech and language, his expressive,

1 receptive, and pragmatic communications, has not
2 changed --

3 A. Uh-huh.

4 Q. -- since 2011, remains extremely low.

5 A. Uh-huh.

6 Q. Now, would that change your opinion regarding
7 his malingering in terms of all of that type of
8 communication that is inherently necessary to
9 participating in a trial?

10 A. Well, I guess it's difficult for me to answer
11 because I haven't seen the tests, and I haven't -- like,
12 I'm not familiar with the test and how necessarily these
13 deficits would affect his ability to participate in a
14 trial. I mean, you can have deficits and still be
15 competent to proceed.

16 Q. Of course.

17 A. You can have cognitive deficits and still be
18 competent to proceed. So I guess it's more like, you
19 know, are these deficits really inhibiting his ability to
20 -- you know, his receptive and expressive language ability
21 to the point where he cannot be competent.

22 Q. Would you agree that speech and language
23 impairments can be a component of cognitive impairment?

24 A. I think so.

25 Q. Okay.

1 A. But it's not --

2 THE COURT: I'm sorry. Repeat your question for
3 me. Can --

4 MS. SEIFER-SMITH: Would you agree that speech
5 and language impairments can be -- now, I'm
6 forgetting the exact word.

7 THE COURT: No. I --

8 MS. SEIFER-SMITH: I figured that was what you
9 meant.

10 THE COURT: Yes. Thank you.

11 MS. SEIFER-SMITH: Okay.

12 BY MS. SEIFER-SMITH:

13 Q. Okay. All right. Just so that you understand,
14 I'm referring to Defense Exhibit 13, which is Dr. Fritz's
15 Speech and Language Evaluation from 2025; Amy King's
16 evaluation, which is Defense 14 from 2011; and Jessica
17 Daw's evaluation from 2013, which is Defense 15. Okay.

18 So I want to switch gears --

19 A. Uh-huh.

20 Q. -- just quickly.

21 Now, you understand that we're here on a death
22 penalty case, correct?

23 A. I do understand that.

24 Q. Okay. You're not, yourself, familiar with death
25 penalty cases?

1 A. I mean, we've had them at -- at the hospital.

2 Q. Okay. You're not certain about this -- the
3 legal standards in a death penalty case?

4 A. I know a little bit, but I'm sure there's, you
5 know, intricacies of a death penalty case that I'm not
6 completely aware of.

7 Q. I think when we asked you during deposition
8 last --

9 A. Uh-huh.

10 Q. -- month about legal standards, your only answer
11 was that you knew that there were 12 jurors. Do you --

12 A. I recall that.

13 Q. -- recall that?

14 A. Yeah.

15 Q. Okay. Are you aware of any other legal
16 standards that apply in death penalty cases?

17 A. I'm not sure I can say off the top of my head,
18 no.

19 Q. Okay. Do you know about the interplay of
20 intellectual disability and the death penalty in the State
21 of Florida or in the United States?

22 A. Again, I don't know the entire breadth of the
23 legal standards, but I -- I know that there's -- I believe
24 that someone can't receive the death penalty if they're --
25 if they have an intellectual disability. I do think

1 there's more to it than that, though. I think I'm
2 oversimplifying it, but I also could be wrong.

3 Q. So you'd agree, then, that whether or not
4 somebody has an intellectual disability would be an
5 extremely important thing to know in a death penalty case?

6 A. I would agree with that.

7 Q. And that determining whether or not somebody has
8 an intellectual disability would be something that
9 requires incredible standards of care in order to make
10 sure that they do not get that assessment wrong, correct?

11 A. I would agree.

12 Q. Okay. Now, I want to talk a little bit more
13 about the death penalty.

14 So do you know anything about what a mitigating
15 circumstance is?

16 MS. SULLIVAN: I'd object to relevance to this
17 witness.

18 THE COURT: How is this going to help me make a
19 competency decision?

20 MS. SEIFER-SMITH: Because it goes into the
21 capacity to engage in the entire case. The ability
22 to understand, like, what mitigation is, what
23 aggravation is, that is absolutely a part of
24 somebody's ability to participate in a death penalty
25 case.

1 THE COURT: I'm talking about whether or not
2 Mr. Mosley understands what that is, then.

3 MS. SEIFER-SMITH: Correct.

4 THE COURT: Okay. And your question to her was
5 what?

6 MS. SEIFER-SMITH: Was whether or not she knows
7 what a mitigating circumstance is.

8 THE COURT: Okay. All right. I'll allow you to
9 ask the question.

10 BY MS. SEIFER-SMITH:

11 Q. Dr. Tenaglia --

12 A. Uh-huh.

13 Q. -- do you know what a mitigating circumstance
14 is?

15 A. I believe they're circumstances that may
16 interfere with the -- the commission of the crime.

17 Q. That's wrong.

18 A. Okay. Fair enough.

19 Q. A mitigating circumstance is actually something
20 that affects sentencing, not necessarily whether or not
21 somebody --

22 A. Uh-huh.

23 Q. -- committed a crime or not, and can be found
24 guilty of first-degree murder.

25 A. Okay.

1 Q. Okay? Do you know what aggravating factors are?

2 A. I don't believe so.

3 Q. Okay. And so it sounds like your knowledge --

4 A. Uh-huh.

5 Q. -- of death penalty cases is extremely limited;
6 is that fair?

7 A. It's fair.

8 Q. Okay. Now, I want to just go back briefly to
9 some of your experience and your kind of professional
10 responsibilities.

11 You mentioned on direct that you are a member of
12 the American Psychological Association; is that right?

13 A. That's correct.

14 Q. Okay. And so that means that you would be bound
15 by their ethical rules -- their rules of ethical conduct,
16 correct?

17 A. Yes. Whether or not I'm part of it, it's --
18 every psychologist in the United States is bound by it.

19 Q. Okay. But you are not just like a psychologist
20 in the United States --

21 A. Uh-huh.

22 Q. -- you're also a member --

23 A. Yeah. Yeah.

24 Q. -- of this particular organization? Okay.

25 So that would require that you are familiar with

1 the ethical principles of psychologists and their code of
2 conduct, correct?

3 A. Correct.

4 Q. Okay.

5 MS. SEIFER-SMITH: If I can -- may I approach?

6 THE COURT: Yes.

7 MS. SEIFER-SMITH: I'm showing the witness
8 what's been premarked as Defense 28.

9 BY MS. SEIFER-SMITH:

10 Q. Can you tell me what this is?

11 A. The ethical principles of psychologists and code
12 of conduct.

13 Q. Okay. And so this is put out by the American
14 Psychological Association, correct?

15 A. It is.

16 Q. Okay. And so this is something that you would
17 be familiar with as a member?

18 A. Yes. I mean, obviously, I haven't had to
19 memorize it, but I can reference it when needed.

20 Q. Okay.

21 MS. SEIFER-SMITH: At this point, I'd like to
22 move Defense 28 into evidence.

23 THE COURT: Any objection to 28?

24 MS. SULLIVAN: No, Your Honor.

25 THE COURT: It'd be admitted as such.

1 (Defense Exhibit 28 received into evidence.)

2 BY MS. SEIFER-SMITH:

3 Q. Okay. You can hang on to that copy. Well,
4 actually, let me get it marked by the clerk first, and
5 then I'll give it back to you.

6 A. Okay.

7 Q. So this particular document that you have in
8 front of you has both general principles as well as
9 ethical standards; would you agree?

10 A. I agree.

11 Q. Okay. And so I just want to talk about some of
12 these because you indicated that they -- these do, in
13 fact, bind you, even if you're not a member of the APA.
14 These are guidelines and requirements for all
15 psychologists -- all licensed psychologists within the
16 United States, correct?

17 A. That's correct.

18 Q. Okay. So I just want to draw your attention to
19 Principle A. I'm going to struggle with this word.
20 Principle A, Beneficence and Nonmaleficence. Okay. So --

21 A. Sorry.

22 Q. -- this principle -- sorry, it's on page 3.

23 This principle states: That psychologists
24 strive to benefit those with whom they work and take care
25 to do no harm. In their professional action,

1 psychologists seek to safeguard the welfare and rights of
2 those with whom they interact professionally and other
3 affected persons.

4 Further, because psychologists, scientific and
5 professional judgments and actions may affect the lives of
6 others, they are alert to and guard against personal,
7 financial, social, organizational, or political factors
8 that might lead to misuse of their influence.

9 You would agree with this principle, right?

10 A. I would.

11 Q. Okay. Now, onto Principle B, Fidelity and
12 Responsibility. Midway through: Psychologists uphold
13 professional standards of conduct, clarify their
14 professional roles and obligations, et cetera.

15 You would also agree that, obviously, there are
16 professional standards of conduct that you must uphold,
17 correct?

18 A. Yeah.

19 Q. Okay. And moreover, further down, they are --
20 presumably this is talking about psychologists --
21 concerned about the ethical compliance of their
22 colleagues' scientific and professional conduct.

23 You'd also agree that that's important, right?

24 A. Yeah.

25 Q. Okay. Now onto Principle D, Justice.

1 Psychologists exercise reasonable judgment and take
2 precautions to ensure that their potential biases and
3 boundaries of their competence and the limitations of
4 their expertise do not lead to or condone unjust
5 practices.

6 You would agree this is also important?

7 A. Yes.

8 Q. Especially in a death penalty case, correct?

9 A. Yes.

10 Q. Okay. Now, I want to draw your attention to
11 some of the ethical standards, which follow. So 2.04,
12 Bases for Scientific and Professional Judgment: A
13 psychologist's work is based upon established scientific
14 and professional knowledge of the discipline.

15 You'd agree with that?

16 A. I agree.

17 Q. Okay. 6.01, which is on page 9.

18 A. Uh-huh.

19 Q. This is about record keeping.

20 So 6.01 is Documentation of Professional and
21 Scientific Work and Maintenance of Records.

22 A. Uh-huh.

23 Q. Psychologists create and to the extent the
24 records are under their control, maintain, disseminate,
25 store, retain, and dispose of records and data relating to

1 their professional and scientific work in order to:

2 1. Facilitate provision of services later by
3 them or by other professionals.

4 2. Allow for replication of research design and
5 analyses.

6 3. Meet institutional requirements.

7 4. Ensure accuracy of billing and payment.

8 5. Ensure compliance with the law.

9 You would also agree that this particular code
10 of conduct is an important one, correct?

11 A. Correct.

12 Q. Okay. Now, moving on to Number 9, which is on
13 the bottom of page 12. So this particular section is
14 about assessments.

15 A. Uh-huh.

16 Q. Okay. So 9.01, The Bases for Assessments:
17 Psychologists base the opinions contained in their
18 recommendations, report, and diagnostic or evaluative
19 statements, including forensic testimony, on information
20 and techniques sufficient to substantiate their findings.

21 You'd agree that that's important, correct?

22 A. Correct.

23 Q. Okay. 9.02, Use of Assessments: Psychologists
24 administer, adapt, score, interpret, or use assessment
25 techniques, interviews, tests, or instruments in a manner

1 and for purposes that are appropriate in light of the
2 research on or evidence of the usefulness and proper
3 application of the techniques.

4 B, psychologists use assessment instruments
5 whose validity and reliability have been established for
6 use with members of the population tested.

7 You'd also agree that this is important,
8 correct?

9 A. Correct.

10 Q. Okay. And 9.06, Interpreting Assessment
11 Results: When interpreting assessment results, including
12 automated interpretation, psychologists take into account
13 the purpose of the assessment, as well as the various test
14 factors, test-taking abilities, and other characteristics
15 of the person being assessed, such as situational,
16 personal, linguistic, and cultural differences that might
17 affect psychologists' judgments or reduce the accuracy of
18 their interpretations, and they must indicate any
19 significant limitations of their interpretations.

20 You would agree that that is also important,
21 correct?

22 A. Correct.

23 Q. Now, everything that we've just discussed within
24 the APA's ethical principles of psychologists and code of
25 conduct, you'd agree that you are bound by, correct?

1 A. I would agree.

2 Q. Okay. Okay. Now, you mentioned earlier that
3 you have no current, meaning, like, contemporaneous now,
4 opinion with regards to Mr. Mosley's competence to
5 proceed, correct?

6 A. That is correct.

7 Q. Okay. And that's because you have not seen him
8 since February 25th, 2025?

9 A. Correct.

10 Q. Okay. About four and a half months ago?

11 A. Yes.

12 Q. A lot can happen during that time?

13 A. Yes.

14 Q. And you're not part -- excuse me.

15 You're not permitted to extrapolate your
16 observations --

17 A. Uh-huh.

18 Q. -- from back then to now, right?

19 A. Right.

20 Q. So as we sit here today, you do not have any
21 current opinion regarding his competency to proceed?

22 A. That's correct.

23 Q. So everything that you testified to on direct
24 was with respect to those observations, testing, et
25 cetera, that you did back at the beginning of this year?

1 A. That's correct.

2 Q. Okay. But you are rendering opinions --

3 A. Uh-huh.

4 Q. -- now with respect to whether or not Mr. Mosley
5 has intellectual disability --

6 A. Uh-huh.

7 Q. -- or Autism Spectrum Disorder; is that right?

8 A. Yes.

9 Q. Okay. And you're saying that, as to both of
10 those, that he does not; is that right?

11 A. That's right.

12 Q. Okay. I just want to get that straight.

13 So even if Mr. Mosley was not competent to
14 proceed today --

15 A. Uh-huh.

16 Q. -- you believe that that is not due and cannot
17 be due to intellectual disability; is that right?

18 A. That's my opinion, yes.

19 Q. Okay. And the same question with respect to
20 autism. So even if Mr. Mosley were incompetent to proceed
21 today, your opinion would be that it cannot be due to
22 Autism Spectrum Disorder; is that right?

23 A. That would be my opinion, yes.

24 Q. Okay. And indeed -- and maybe this isn't true,
25 but, you know, when he left the hospital, you had given

1 him no diagnosis with respect to any kind of mental health
2 disorder; is that right?

3 A. That's right.

4 Q. Okay. So you don't believe that he has any type
5 of mental health disorder?

6 A. That's correct.

7 Q. Okay. All right. I want to talk a bit about
8 the South Florida Evaluation and Treatment Center.

9 A. Okay.

10 Q. Okay. So I think you said that you've been
11 there for five years?

12 A. In total.

13 Q. In total. One year at the jail in Miami,
14 correct?

15 A. That's correct.

16 Q. Okay. And you've held, essentially, the same
17 position within SFETC during that time; is that right?

18 A. I was an intern, a postdoc, and then a licensed
19 psychologist.

20 Q. Doing approximately the same things?

21 A. Roughly, yeah.

22 Q. Okay. And it's a fairly small team at SFETC,
23 right?

24 A. I would say so, yeah.

25 Q. Okay. There are only six fully licensed

1 psychologists on the staff?

2 A. Yes.

3 Q. Thanks. You counted it out for us during your
4 deposition last month.

5 A. Yeah.

6 Q. Okay. One of your colleagues is Dr. Teresa
7 Ascheman Jones; is that right?

8 A. That's correct.

9 Q. Okay. And you've worked with her throughout
10 your entire time at SFETC; is that right?

11 A. I have, yeah.

12 Q. Okay. And because it's a fairly small
13 facility --

14 A. Uh-huh.

15 Q. -- you interact pretty frequently, right?

16 A. We actually don't interact frequently because
17 the hospital is separated on two sides and we work on the
18 opposite sides, so I don't see her very often.

19 Q. But you have team meetings, correct?

20 A. We do, yes.

21 Q. Okay.

22 A. So that's once a month.

23 Q. Okay. And you have the ability to communicate
24 with her, right? Like, you're not barred from e-mailing
25 her, picking up a phone talking to her?

1 A. Oh, no. Yeah. Of course.

2 Q. Okay. And you're friendly, right?

3 A. Yeah.

4 Q. Okay. Now, we know that Dr. Ascherman Jones
5 previously handled --

6 A. Uh-huh.

7 Q. -- Mr. Mosley's case when he was at the facility
8 on another occasion, right?

9 A. That's correct.

10 Q. Okay. And you were aware of him from that time,
11 correct?

12 A. Well --

13 Q. Just generally aware?

14 A. Now. I wasn't working there at that time.

15 Q. Oh.

16 A. That was when I was at the Miami-Dade County
17 Jail. It was his first admission.

18 Q. Oh, got it. Okay.

19 A. Yeah.

20 Q. So when he was returned to your facility --

21 A. Uh-huh.

22 Q. -- in December 2024 --

23 A. Yes.

24 Q. -- you know, he comes with all of this
25 background information.

1 A. Uh-huh.

2 Q. Then you realize that he had previously been
3 seen at the facility?

4 A. Yeah. It's all in the record.

5 Q. Okay. And you sought out Ascherman Jones to talk
6 to her about, you know, like, her prior work with
7 Mr. Mosley?

8 A. Yes.

9 Q. And you spoke with her several times regarding
10 her assessments of Mr. Mosley?

11 A. Yes. I mean, I spoke to her about the case. It
12 wasn't necessarily always about the assessments. I did
13 ask her her impressions. I believe we discussed the case
14 in one of the team meetings, but I also asked her about,
15 like, her testimony experience, the traveling, like, other
16 things like that.

17 Q. Okay. And one of the things that she's told you
18 was that she had been heavily questioned by Mr. Mosley's
19 attorneys --

20 A. She did.

21 Q. -- in a previous competency hearing, correct?

22 A. She did, yeah.

23 Q. Okay. And you told us during the deposition --

24 A. Uh-huh.

25 Q. -- that because of that conversation, that you

1 knew that Mr. Mosley's case was likely to be litigated,
2 correct?

3 A. Correct.

4 Q. Okay. And so you would have known this back in
5 December 2024, right?

6 A. Probably.

7 Q. Or potentially early January 2025?

8 A. Yeah, I can agree with that.

9 Q. But certainly --

10 A. Uh-huh.

11 Q. -- you know, in those first few conversations
12 that you had with Dr. Aschewan Jones, she explains what
13 her history on the case has been, what those experiences
14 have been like, so you knew to anticipate active
15 litigation on Mr. Mosley's case?

16 A. Yeah. I knew it was likely.

17 Q. Okay. And one of the things that -- or I think
18 one of the things that you mentioned having received and
19 reviewed, in the course of your work on this case, was the
20 work that Dr. Aschewan Jones did, right?

21 A. Yeah. It's in the chart.

22 Q. Okay. So in the charts within your facility,
23 but also her -- like, her written assessments, her
24 reports, essentially, right?

25 A. No. I only saw her final report.

1 Q. Okay. And, ultimately, you read a copy of her
2 deposition that she gave during the previous competency
3 hearing, correct?

4 A. I did.

5 Q. Okay. And that was in preparation for your own
6 deposition?

7 A. That's correct.

8 Q. Okay. Now, in terms of the South Florida
9 Evaluation and Treatment Center, it's a private facility,
10 correct?

11 A. Correct.

12 Q. Okay. Run by, is it Wellpath? I know they
13 changed names often.

14 A. Now it's Recovery Solutions.

15 Q. Okay. There we go.

16 And there are -- and the work with people who
17 are incompetent to proceed --

18 A. Uh-huh.

19 Q. -- due to mental health, that's a contract with
20 the Department of Children and Families; is that right?

21 A. Yes.

22 Q. Okay. Now, there is a particular length of stay
23 goal that your --

24 A. Uh-huh.

25 Q. -- facility has; is that right?

1 A. Yes.

2 Q. Okay. And --

3 THE COURT: Length of stay goal?

4 MS. SEIFER-SMITH: Length of stay goal.

5 THE COURT: Got it.

6 BY MS. SEIFER-SMITH:

7 Q. And the goal for recovery solutions at SFETC --

8 A. Uh-huh.

9 Q. -- is that a patient's stay be 90 days maximum,
10 right?

11 A. Well, our average length of stay should be
12 around 90 days. That's the goal.

13 Q. Okay.

14 A. It's not like we -- you know, they encourage us
15 to make them leave earlier than that or anything like
16 that.

17 Q. Okay. But like, the -- exactly what you said,
18 the encouragement is, though, to meet that metric of
19 averaging 90 days, right?

20 A. That's what we're told.

21 Q. Okay. And as far as you're aware, the facility
22 meets that goal of 90 days?

23 A. I actually don't know, because I'm not involved
24 in the -- that's, like, an administrative task. So that
25 would be, you know, administrative keeps track of the

1 actual length of stay.

2 Q. I think you told us last month --

3 A. Uh-huh.

4 Q. -- that, as far as you're aware, the facility is
5 meeting that 90-day stay.

6 A. Of around the average 90. But, obviously, it's
7 going to fluctuate slightly. It's not always going to be
8 exactly 90 days.

9 Q. Well, that's exactly what an average means,
10 right?

11 A. Yeah. Yeah.

12 Q. That there could be a standard deviation --

13 A. Correct.

14 Q. -- in either direction. And here, the median is
15 90 days, correct?

16 A. Correct. Yeah.

17 Q. Okay. And there are particular e-mails or
18 memorandums or some sort of documents specifically to that
19 effect?

20 A. I believe so.

21 Q. Okay. I think you described them as being
22 called CFOPS.

23 A. Yes.

24 Q. C-F-O-Ps?

25 A. Yeah.

1 Q. Okay. But you weren't able to produce one of
2 those for us?

3 A. No. That would be -- I mean, administration
4 would more likely have them.

5 Q. Okay. That's fair.

6 Now, Mr. Mosley was only at SFETC for 83 days.

7 A. Okay.

8 Q. So under that average, right?

9 A. Yes.

10 Q. Okay. So you're meeting your metric there,
11 yeah?

12 A. I suppose. Yeah.

13 Q. Okay. All right. Sorry. My notes are a little
14 bit out of order here.

15 So I want to talk a little bit about, like,
16 recordkeeping and kind of, like, records generally within
17 SFETC.

18 A. Okay.

19 Q. Okay. Because that's the facility that you work
20 at, whatever record is generated in the course of
21 Mr. Mosely's, like, care and treatment there --

22 A. Uh-huh.

23 Q. -- is available to you, right?

24 A. Yes.

25 Q. Okay. And so you would have the opportunity to

1 review all of those things in order to do the work that
2 you were doing, right?

3 A. Yes.

4 Q. Okay. And those things included what I think
5 you already mentioned as, like, what was in the chart from
6 his previous stay, correct?

7 A. Yeah. Everything that's in the medical chart, I
8 have access to.

9 Q. Okay. And so medical includes both, like,
10 medical/physical, like going to an M.D. --

11 A. Yeah.

12 Q. -- with any kind of physical issues?

13 A. Yes.

14 Q. Psychiatry notes, correct?

15 A. Yes.

16 Q. Okay. Psychology notes, which is you?

17 A. Yeah, that's me.

18 Q. And your colleague, Dr. Ascherman Jones?

19 A. Yes.

20 Q. Okay. Program notes, which I think are written
21 by, is it a rehab specialist?

22 A. They call them rehabilitation specialists, yeah.

23 Q. Okay. So the rehabilitation specialists are not
24 doctors, correct?

25 A. That's correct.

1 Q. Not necessarily social workers either?

2 A. No.

3 Q. Okay. Can you maybe explain what a rehab
4 specialist is; if you know?

5 A. Essentially, they're the ones that are running
6 the programs for the patients.

7 Q. Okay. So they're teachers?

8 A. Essentially, yeah.

9 Q. And I'm sorry if I already mentioned this, but,
10 like, nursing notes. So not necessarily the treating
11 psychiatrist, but the nurse who may be administering
12 medication, et cetera?

13 A. Yeah. So there's a nurse assigned to every
14 unit. So usually, they document the, you know, anything
15 that's happening on the unit, what they observe.

16 Q. Okay. Now, ultimately, all of these records are
17 made available to yourself and then to, you know, an
18 appropriate request for them by electronic means; is that
19 right?

20 A. Yes.

21 Q. Okay. And we discussed this a bit during your
22 deposition, that, like, in the course of your work, you
23 take handwritten notes, right?

24 A. I do.

25 Q. Okay. And then you transcribe some parts of

1 those handwritten notes into an electronic version; is
2 that right?

3 A. That's right.

4 Q. Okay. And then upon discharge of a patient,
5 you --

6 A. Uh-huh.

7 Q. -- destroy those notes?

8 A. Yes. I mean, sometimes I shred them even before
9 then. But by the time the patient is discharged, I make
10 sure that the notes are shredded.

11 Q. Okay. So with regards to Mr. Mosley, there is
12 no way for us to go back in time and recreate all of the
13 notes that you took when you saw Mr. Mosley?

14 A. No, but everything is uploaded to the electronic
15 record.

16 Q. So every single note that you take with regards
17 to any patient, including Mr. Mosley, is uploaded into the
18 record?

19 A. Yeah. So the weekly notes, the competency
20 evaluations, those are all uploaded to the record.

21 Q. Okay. I want to talk a little bit about, like,
22 your involvement, like, one-on-one with Mr. Mosley.

23 A. Okay.

24 Q. So I think that's documented in what's called
25 the Psychology Weekly Notes; is that right?

1 A. Yes.

2 Q. Okay. And those are for seven weeks total that
3 we have in this record?

4 A. Yeah. It's eight weeks, but the first CAT
5 counts as Week 1, so that ends up being seven more weeks.

6 Q. Okay. So one Competency Assessment Tool --

7 A. Uh-huh.

8 Q. -- and then seven additional weeks; is that
9 right?

10 A. Correct.

11 Q. Okay. Every time you saw him for those seven
12 additional weeks, five minutes; is that right?

13 A. Roughly.

14 Q. Okay. On every single occasion that you saw
15 him --

16 A. Uh-huh.

17 Q. -- you documented essentially him not
18 understanding things; do you recall that from having --

19 A. I recall that.

20 Q. -- gone through your notes?

21 A. Yes.

22 Q. Okay. So the first CAT, right, was
23 December 18th, right?

24 A. Yes.

25 Q. Okay. And so you presumed that he was not

1 putting forth full effort. That's what you said on
2 direct; is that right?

3 A. That's right.

4 Q. Okay. But he did not do well on that Competency
5 Assessment Tool; is that right?

6 A. Well, correct. Yeah. He gave incorrect
7 answers, and he was evasive in some answers, so, yes.

8 Q. Why do you say that he was evasive?

9 A. Well, he was -- has a -- or had or -- he refused
10 to talk about some things, particular -- particularly
11 things related to his legal case.

12 Q. So what you actually wrote in your note --

13 MS. SEIFER-SMITH: And, Your Honor, I think this
14 is in evidence. I apologize. I don't have my note
15 in front of me. It is --

16 THE COURT: What are you looking for?

17 MS. SEIFER-SMITH: Sorry. The Competency
18 Assessment Tools, which I think we're --

19 THE COURT: I believe they were --

20 MS. SEIFER-SMITH: Oh, yes. I apologize.

21 THE COURT: -- attached to something --

22 MS. SEIFER-SMITH: Number 7. Exhibit Number 7.

23 THE COURT: I think you gave me another copy.
24 Is this the same thing that's already in evidence?

25 MS. SEIFER-SMITH: Possibly.

1 THE COURT: All right. Some of them were
2 longways --

3 MS. SEIFER-SMITH: Does it say Competency
4 Assessment Tool in the top?

5 THE COURT: -- some of them are sideways, right?

6 MS. RUSSELL: It is 7.

7 MS. SEIFER-SMITH: Competency Assessment Tool is
8 7. There were program notes that were sideways.

9 THE COURT: Yeah.

10 MS. SEIFER-SMITH: And I think the psychology
11 notes are also sideways. No, sorry. The psychology
12 notes are separate.

13 THE COURT: Yeah.

14 MS. SEIFER-SMITH: So --

15 THE COURT: Yes. I have it as Exhibit 7.

16 MS. SEIFER-SMITH: Okay.

17 THE COURT: And I believe they're all attached
18 in one exhibit.

19 MS. SEIFER-SMITH: They are.

20 THE COURT: Yeah.

21 MS. SEIFER-SMITH: Okay.

22 THE COURT: Got it.

23 BY MS. SEIFER-SMITH:

24 Q. So Competency Assessment Tool, December 18th --
25 sorry, just so we're all -- which is Exhibit 7.

1 You said that he appeared evasive at times.

2 That was your response? Okay.

3 A. Yes.

4 Q. And that was just because he, what, put his head
5 down and didn't want to answer?

6 A. No. He wouldn't speak about his legal situation
7 with me.

8 Q. Okay. Now, this is the first time that you're
9 meeting him?

10 A. Yeah.

11 Q. Okay. And we already talked about, you know,
12 like, the Code of Conduct. It requires that you tell
13 Mr. Mosley what your role is --

14 A. Yeah.

15 Q. -- right? You're not his lawyer?

16 A. Correct.

17 Q. You're not part of his legal team?

18 A. Yes.

19 Q. He doesn't have confidentiality with respect to
20 his conversation with you?

21 A. True. But I do make sure to inform all the
22 patients, that I do not put any incriminate --
23 incriminating information in the reports.

24 Q. Okay. This is also still the very first time
25 that you're meeting him?

1 A. Yes.

2 Q. He has just come to the hospital as somebody
3 who's incompetent to proceed due to --

4 A. Uh-huh.

5 Q. -- a mental health issue, correct?

6 A. Correct.

7 Q. Okay. And you had all that information at the
8 time that he arrived?

9 A. I did.

10 Q. And you also -- and maybe correct me if I'm
11 wrong -- but you also had access to all of the information
12 in the Commitment Packet, correct?

13 A. I did.

14 Q. Had you reviewed them prior to meeting with him
15 that first time, December 18th?

16 A. I did.

17 Q. Okay. So you had already read all of the
18 reports from the various doctors who opined that
19 Mr. Mosley had either schizophrenia, depression --

20 A. Uh-huh.

21 Q. -- and a number of them indicating that they had
22 particular concerns about cognitive impairment, correct?

23 A. Yes.

24 Q. Okay. But you decided that he appeared evasive
25 because he didn't want to talk to you about his legal

1 charges?

2 A. Yes. Because even patients with mental illness,
3 if they are motivated, they will, you know, discuss their
4 case with me typically.

5 Q. And that's in all circumstances they're
6 motivated to speak with you about their case?

7 A. Typically, yes. If they're motivated to be
8 competent so they can move on with their legal case, then
9 yeah, they'll usually talk to me.

10 Q. Okay. Now, he did actually talk to you. He --

11 A. Uh-huh.

12 Q. -- you wrote that: Although, he lacked some
13 factual information --

14 A. Uh-huh.

15 Q. -- he demonstrated his capacity to have a
16 rational conversation about his legal team, right?

17 A. Yes. So he would talk to me about -- when I
18 asked him if he had any questions for me, he was willing
19 to talk to me. But if I had questions for him about his
20 case, he wouldn't talk about it.

21 Q. You didn't put any kind of quotes in there
22 about, like, what he was willing to talk to you about?

23 A. Right.

24 Q. So we --

25 A. Well, it was documented in the report, which is

1 also in the chart.

2 Q. So -- I'm sorry. The quotes about what he spoke
3 to you about on December 18th?

4 A. Yes. I believe it's in here under capacity to
5 disclose pertinent information to his attorney.

6 Q. What are you looking at?

7 A. The report.

8 Q. Which report?

9 A. The first one.

10 Q. Okay. So that report was written how many days
11 later?

12 A. A few weeks later, I would say.

13 Q. Okay. I think you wrote your first draft on the
14 3rd of January; is that right?

15 A. The 7th of January.

16 Q. The 7th of January is when it was filed.

17 A. Uh-huh.

18 Q. It was sent to your colleague on the 3rd; does
19 that sound right?

20 A. Oh, yes. Yes. That sounds correct.

21 Q. Okay.

22 A. Yeah, that was it. It was sent to court on the
23 7th.

24 Q. Okay. So where, then, in all of these notes was
25 it documented all this information that he was disclosing

1 to you on December 18th, then?

2 A. Well, I -- I have the handwritten notes. I
3 transcribed them into the report.

4 Q. Oh, I see.

5 So we just don't know if there were other notes
6 with regards to what had occurred on the 18th during his
7 conversation with you if it wasn't --

8 A. It would have been transcribed into -- into the
9 chart somewhere, which includes the report.

10 Q. So everything that Mr. Mosley ever said to you
11 is either in his charts, so, meaning, in your psychology
12 notes, or in the report verbatim?

13 A. But -- well, what I wrote down in my notes. I
14 couldn't say with absolute certain recollection every word
15 he's ever said to me I wrote down.

16 Q. Okay. Now, further, like, in term -- so when
17 you're talking about this competency assessment in that
18 report, that first report that was -- the final version
19 was dated January 7th --

20 A. Correct.

21 Q. -- for capacity to appreciate legal charges, you
22 wrote, ultimately unacceptable, correct?

23 A. Yes.

24 Q. Okay. And you had more information as to why it
25 was unacceptable besides just him being evasive; is --

1 A. Yeah.

2 Q. -- that right?

3 A. Uh-huh.

4 Q. Because you asked him more questions than just,
5 tell me about your charges, correct?

6 A. That's correct.

7 Q. Okay. What he stated or what you wrote in
8 quotes was, I know, but I don't want to speak on the
9 situation. Is --

10 A. Yes.

11 Q. -- that right?

12 A. That's correct.

13 Q. Okay. So at no time did he tell you what his
14 actual charges were?

15 A. No. I'm sorry. He told me his legal charges.
16 He wouldn't speak about the allegations.

17 Q. Okay. And then when you asked him some further
18 questions about the legal charges, right, so determining,
19 you know, if he knows the particular severity of the
20 charges --

21 A. Uh-huh.

22 Q. -- you asked him about the difference between a
23 felony and a misdemeanor; is that right?

24 A. That's right.

25 Q. Okay. And he just said one is higher, one is

1 lower.

2 A. Uh-huh.

3 Q. And when asked which was higher, he said
4 misdemeanor, which is incorrect; is that right?

5 A. That's right.

6 Q. Okay. And I think you said, at this point, this
7 is when he disagreed with you. You talked about that --

8 A. Yes.

9 Q. -- earlier?

10 A. Uh-huh.

11 Q. Okay. And he told you that he disagreed with
12 you because he said, That's what I've been told. So he
13 gave you a reason for his disagreement?

14 A. Right.

15 Q. It wasn't just that he was being entrenched and
16 being difficult, right? He provided a reason for it.

17 A. He did provide a reason.

18 Q. Okay. And ultimately, you found that his
19 competency at that time to appreciate the legal charges
20 was unacceptable; is that right?

21 A. That's correct.

22 Q. Okay. So sorry. I want to go back to the
23 psychology notes, though.

24 A. Okay.

25 Q. So I think you said that during, like, each and

1 every -- or we were discussing each and every time that
2 you had contact with him, it was -- it seems like it was
3 pretty short, about five minutes; is that right?

4 A. Yeah.

5 Q. Okay.

6 A. Yeah, with the exception of, obviously, the
7 competency assessments and the standardized testing were
8 longer.

9 Q. Of course.

10 A. Yeah.

11 Q. So that first one, December 18th, that was a
12 Competency Assessment Tool?

13 A. That's correct.

14 Q. Okay. How long would you have spent with him on
15 that occasion?

16 A. Maybe 20 -- like, 25 to 40 minutes, depending on
17 how long they take with the responses; it can vary.

18 Q. Okay.

19 A. I couldn't say for certain.

20 Q. But there's no notes of how long you were with
21 him?

22 A. No.

23 Q. Okay. On December 26th, January 2nd,
24 January 10th, January 15th, January 23rd, January 30th,
25 and February 6th, those are just the other psychology

1 notes?

2 A. That's correct.

3 Q. So those would have been those much shorter,
4 truncated times that you were with Mr. Mosley; is that
5 right?

6 A. Yes.

7 Q. Okay. So on December 26th, he told you, I don't
8 understand the difference between a felony and a
9 misdemeanor; is that right?

10 A. Let me just refer to my report to make sure.

11 Q. Sure. I think we have the psychology notes in
12 as Exhibit 6. Oh, I'm sorry. Those are not --

13 A. Yes. You said on December 26th?

14 Q. Yes, December 26th.

15 A. Yes. What was your question? I'm sorry.

16 Q. Sure. We were talking about he doesn't -- he
17 didn't understand, right? And it was specifically that he
18 didn't understand the difference between a felony and a
19 misdemeanor.

20 A. Right. That's what he said.

21 Q. Okay.

22 THE COURT: We need to consider taking a lunch
23 break soon.

24 MS. SEIFER-SMITH: Okay. I'm happy to stop now.

25 THE COURT: Are you at a good stopping point?

1 MS. SEIFER-SMITH: Sure.

2 THE COURT: All right. It is 12:10, so we're
3 going to take an hour and a half for lunch, and so, I
4 will see you all back then. Okay. Thank you.

5 (Lunch break taken.)

6 VOLUME I CONCLUDED

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