

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 II

THOMAS ISAIAH MOSLEY,  
Defendant.

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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

Pages 131 - 306

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

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## INDEX OF PROCEEDINGS

## PAGE

**WITNESS CALLED BY STATE:**

LANA M. TENAGLIA, PSY.D  
Cross-Examination by Ms. Seifer-Smith 136

**WITNESSES CALLED BY DEFENSE:**

SARA FRANKLIN  
Direct by Ms. Seifer-Smith 256  
Cross-Examination by Ms. Ellis 267

DESIREE BAKER  
Direct Examination by Ms. Seifer-Smith 275  
Cross-Examination by Ms. Sullivan 291

CERTIFICATE OF REPORTER 306

**INDEX OF EXHIBITS****STATE'S**

<b><u>EXHIBIT #</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>PAGE REC'D</u></b>
-------------------------	---------------------------	--------------------------

7	Inmate Request Form	304
---	---------------------	-----

**DEFENSE EXHIBITS**

25A	Progress Notes - Suncoast	275
-----	---------------------------	-----

25B	Progress Notes (Full) Suncoast	274
-----	--------------------------------	-----

29	Forensic Psychological Report	152
----	-------------------------------	-----

30	Wellpath Weekly Progress Notes	141
----	--------------------------------	-----

31	Initial Psychiatric Evaluation	189
----	--------------------------------	-----

32	Journal of Clinical and Experimental Neuropsychology - Use of WAIS Digit Scan subtest for malingering	207
----	---	-----

P-R-O-C-E-E-D-I-N-G-S

THE COURT: You can have a seat. Thank you.

All right. Mr. Mosley's present.

Madam Reporter, you ready for me?

THE COURT REPORTER: Yes, ma'am.

THE COURT: Is Dr. Tenaglia on her way?

MS. ELLIS: She's walking down the hall.

THE COURT: Okay.

MS. SEIFER-SMITH: Your Honor, could we ask a favor?

THE COURT: Sure.

MS. SEIFER-SMITH: Mr. Mosley did not get lunch. There apparently are sandwiches downstairs that they could bring up. Would he be permitted to maybe have a sandwich here at counsel table? I just --

THE COURT: What happened with lunch?

THE COURT OFFICER: Here downstairs, apparently, he told me that he didn't get one. They have --

THE COURT: Okay.

THE COURT OFFICER: -- sandwiches downstairs.

THE COURT: Can you have one brought up and --

THE COURT OFFICER: We can get him one. Yes, Your Honor.

THE COURT: -- he can eat it in the back. Okay?

THE COURT OFFICER: Okay, Judge.

1 MS. SEIFER-SMITH: Thank you.

2 THE COURT: You're welcome. I'm going to let  
3 him eat in the back.

4 THE COURT OFFICER: They're bringing one up.  
5 It'll be a few minutes.

6 THE COURT: Okay. All right. So let's get  
7 started, and then just let me know when his lunch is  
8 here, we'll take a break, he can eat his lunch, and  
9 get started when he's done.

10 THE COURT OFFICER: Yes, ma'am.

11 THE COURT: Okay?

12 MS. SEIFER-SMITH: Did you have a nice lunch?

13 THE WITNESS: I did.

14 MS. SEIFER-SMITH: Good.

15 THE COURT: Really? Down in the cafeteria?

16 THE WITNESS: I mean, nice enough.

17 MS. SEIFER-SMITH: You're still under oath.

18 THE COURT: All right.

19 THE WITNESS: Yeah.

20 CROSS-EXAMINATION (continued)

21 BY MS. SEIFER-SMITH:

22 Q. Okay. So I think we were talking -- well, I  
23 want to go back for just a moment to that December 18th  
24 CAT, the Competency Assessment Tool.

25 A. Okay.

1 Q. Do you have that in front of you?

2 A. I don't have the actual printout of the --

3 Q. Okay.

4 A. I just have the summary of the findings and the  
5 report.

6 Q. Okay. I think I can help with that.

7 THE COURT: What exhibit are you looking for?

8 MS. SEIFER-SMITH: SFETC Competency Assessment  
9 Tools. It might be 16. No. No. It's not 16. It's  
10 7. Sorry. I've just gone through it so many times.

11 THE COURT: 16 is the progress notes.

12 MS. SEIFER-SMITH: I actually have a copy if I  
13 can approach the witness with --

14 THE COURT: Yeah.

15 MS. SEIFER-SMITH: -- mine. It's the  
16 December 18th. Okay. Great. I'll just leave those  
17 exhibits with them. Thank you. Oh, that's much  
18 better.

19 BY MS. SEIFER-SMITH:

20 Q. So we just want to draw your attention to the  
21 December 18th one. That's how we received it. It's very  
22 much out of order.

23 A. Okay.

24 Q. Okay. So in the notes -- well, like, you have  
25 notes that are in kind of like a narrative portion, right?

1           A.    I'm sorry.  I'm just looking for the -- these  
2 aren't in order.

3           Q.    Oh, yeah.  They -- I want to say December is in  
4 the middle.  Not that that makes any kind of sense at all.

5           A.    It's in the middle of mine.

6           Q.    Okay.  I want to draw your attention to what I  
7 have is the last page for the December 18th, 2024, entry  
8 under the "Groups" section.

9           A.    Okay.  The Groups section.

10          Q.    Okay.  So under Barriers, do you see that?

11          A.    Yes.

12          Q.    Okay.  It says, Mr. Mosley demonstrated a lack  
13 of legal knowledge, correct?

14          A.    Uh-huh.  Yeah.

15          Q.    And questionable motivation; is that right?

16          A.    Yeah.

17          Q.    Why would you question his motivation?

18          A.    Because, like I said before, I felt some of his  
19 answers were evasive.

20          Q.    Okay.  But, essentially, the barrier is that he  
21 is essentially incompetent to proceed at this point  
22 because he hasn't demonstrated the appropriate knowledge,  
23 right?

24          A.    Correct.  Uh-huh.

25          Q.    Okay.  And then further down, there's a patient



1 response that he agreed to study the competency packet  
2 that you provided to him, right?

3 A. Yes.

4 Q. Okay. So he says, I'm going to try.

5 A. Uh-huh.

6 Q. Like, I'm going to learn? Is that a yes?

7 A. Yes.

8 Q. Okay. So that is the first time that you meet  
9 with him; is that right?

10 A. Yes.

11 Q. Okay. So he's indicating that he is actually  
12 motivated to learn. He's going to study what you gave  
13 him?

14 A. Right. Well, he -- he said that, yes.

15 Q. He said that. Okay.

16 And then you have progress notes for those  
17 weekly meetings with him; is that right?

18 A. That's correct.

19 Q. And those weekly meetings, you said earlier, are  
20 very short, about five minutes?

21 A. Correct.

22 Q. Okay. Now, there is one from December 26th; is  
23 that right?

24 A. Yes.

25 Q. Okay.

1 A. Let me just turn to --

2 Q. And just so that we know what you are referring  
3 to, is that your report?

4 A. I was going to look in my report. It's easier  
5 to find them, but I can dig through here, if you prefer  
6 that.

7 Q. Well, I think those are just the Competency  
8 Assessment Tools.

9 MS. SEIFER-SMITH: May I approach?

10 THE COURT: Yeah.

11 MS. SEIFER-SMITH: I can probably give you --

12 THE WITNESS: Okay.

13 MS. SEIFER-SMITH: -- the program notes.

14 THE WITNESS: Yeah. Okay.

15 MS. SEIFER-SMITH: May I approach with Exhibit

16 16? I'm sorry. These are the program notes.

17 THE COURT: Yes.

18 MS. SEIFER-SMITH: May I approach with what has  
19 been marked as Defense 30?

20 THE COURT: Yes.

21 MS. SEIFER-SMITH: Okay. This would be pulled  
22 out of the psychology notes.

23 THE WITNESS: Got it.

24 BY MS. SEIFER-SMITH:

25 Q. Do you recognize these, Dr. Tenaglia?

1 A. Yes, I do.

2 Q. Okay. And what are these?

3 A. These are my weekly progress notes.

4 Q. Okay. So these are the electronic version of  
5 the notes that you were taking, a set by handwritten  
6 means --

7 A. Uh-huh. And then transferred them into the  
8 chart.

9 Q. Okay.

10 MS. SEIFER-SMITH: I'd like to move to Defense  
11 30 into evidence.

12 THE COURT: Yes, may I see it?

13 MS. SEIFER-SMITH: Of course.

14 THE COURT: I just want to compare that I'm  
15 looking at the right thing. Okay. Yes. All right.

16 MS. SEIFER-SMITH: I'm sorry. They come to us  
17 through a -- I'm going to take the shortcut.

18 THE COURT: Any objection to 30?

19 MS. SULLIVAN: No, Your Honor.

20 THE COURT: Okay.

21 (Defense Exhibit 30 was received into evidence.)

22 MS. SEIFER-SMITH: And as we said earlier, I  
23 think these are part of the compilation that was in  
24 evidence earlier.

25 THE COURT: Uh-huh.

1 MS. SEIFER-SMITH: May I approach the witness  
2 again?

3 THE COURT: Yes.

4 BY MS. SEIFER-SMITH:

5 Q. Okay. So you have your notes in front of you.  
6 All right. So this -- he told you throughout that he did  
7 not understand, correct?

8 A. That's correct.

9 Q. Okay. So on December 26th, and I think we  
10 talked about this before, he said he didn't understand the  
11 difference between a felony and a misdemeanor?

12 A. That's correct.

13 Q. Okay. And you provided him with some  
14 education --

15 A. Uh-huh.

16 Q. -- regarding that, and he said, no. A  
17 misdemeanor is higher than a felony. And when you asked  
18 him why he said that, he said that that was what he had  
19 been told?

20 A. Yeah. So that was during the -- the competency  
21 assessment. During the December 26th note, I asked him  
22 again the difference between a felony and a misdemeanor,  
23 and he said, I don't -- and I don't want to answer that  
24 question. When I asked him why, he said, I don't  
25 understand. So those were two different days.

1 Q. How are you certain that it was during the  
2 competency assessment rather than during this?

3 A. Because the competency assessment was  
4 December 18th, and the specific note is December 26th. So  
5 this is weekly, the following week.

6 Q. So I'm just looking at the Competency Assessment  
7 Tool, which is here, and I don't see any notes regarding  
8 your education of him regarding a felony and a misdemeanor  
9 difference from December 18th.

10 A. Let me just double-check.

11 Q. And I'm happy to share the Competency Assessment  
12 Tool back with you. I think I took that.

13 Would that help you?

14 A. It would. But generally, for all the  
15 evaluations, if they get something wrong, I do educate  
16 them on the proper term.

17 Q. It's not actually in the Competency Assessment  
18 Tool for December 18th, is it?

19 A. It says, I attempted to educate him that a  
20 felony is a more serious charge than a misdemeanor. He  
21 disagreed with me saying misdemeanor is higher.

22 Q. Where is that?

23 A. That's in the competency report.

24 Q. That's in the report, but --

25 A. Yes.

1 Q. -- that's not actually in your tool, is it? And  
2 the report was written after both of those, right?  
3 Because the report was written January 3rd.

4 A. Yes.

5 Q. The draft --

6 A. Right.

7 Q. -- which comes after December 16th -- or  
8 December 18th and December 26th, right?

9 A. Right.

10 Q. Okay. It probably would have been really  
11 helpful to have your handwritten notes to see where all  
12 this came from, wouldn't it?

13 A. Right. Well, they -- I transcribed it into the  
14 report, which is in the electronic monitor system.

15 Q. Okay. On January 2nd, still before your  
16 finalization of that initial report, you had another,  
17 like, weekly meeting with him that's documented in the  
18 psychology weekly note --

19 A. Uh-huh.

20 Q. -- correct?

21 THE COURT: Is that a yes? You've just got to  
22 answer out loud.

23 THE WITNESS: Yes. Sorry.

24 THE COURT: Thank you.

25 BY MS. SEIFER-SMITH:

1 Q. Okay. And on January 2nd, he also said he  
2 indicated that he didn't understand everything, right?

3 A. Correct.

4 Q. He said, it's kinda hard. I don't understand  
5 some of the things?

6 A. That's correct.

7 Q. And he indicated that he was not studying the  
8 competency material because I need more understanding of  
9 it.

10 A. That's correct.

11 Q. Is that right? Okay. And then I wanted -- so  
12 you relied on these psychology notes, your interactions  
13 with Mr. Mosley in order to write that initial kind of  
14 intake report; is that correct?

15 A. Yes. I mean, other things, of course, too, but  
16 I took in everything.

17 Q. Right. And other things, right? And that's  
18 pretty obvious from your report. You're citing to a lot  
19 of other sources, as well --

20 A. Yeah.

21 Q. -- correct?

22 A. Uh-huh.

23 Q. Okay. And in terms of all those other things  
24 that you're citing to, it's all the information that you  
25 received in the Commitment Packet, correct?

1           A.     Correct.

2           Q.     And I think we talked about this earlier, but  
3 that included a number of reports from a number of other  
4 doctors; is that right?

5           A.     That's correct.

6           Q.     Okay. So Dr. Precious Ogu, who's a  
7 neuropsychologist, correct?

8           A.     I'd have to double-check on her credentials.  
9 I'm actually not sure.

10           THE COURT REPORTER: How do you spell that name?

11           MS. SEIFER-SMITH: Ogu.

12           THE COURT: O-G-U.

13           MS. SEIFER-SMITH: Yeah. It's not really that  
14 simple, is it?

15           THE WITNESS: Yeah. I'm actually not sure as to  
16 her credentials, to be honest.

17 BY MS. SEIFER-SMITH:

18           Q.     Okay. But certainly, she was a doctor who wrote  
19 a report in connection with Mr. Mosley's case that made  
20 its way to you, correct?

21           A.     That's correct.

22           Q.     And Dr. Ogu opined that -- or rather indicated  
23 that she was suspicious that Mr. Mosley suffered from  
24 cognitive impairments, correct?

25           A.     Let me just double-check. Yes.



1 Q. Okay.

2 A. That's correct.

3 Q. And she also saw indications of mental illness,  
4 correct?

5 A. That's correct.

6 Q. So much so that you wrote about that, correct?

7 A. She did. Correct.

8 Q. Okay. And she's just one of a number of doctors  
9 that you cited to in your report, correct?

10 A. That's correct.

11 Q. Okay. So there was also a Dr. Ramm who  
12 indicated that Mr. Mosley was schizophrenic, correct?

13 A. Dr. Ramm noted unspecified schizophrenic and  
14 other psychotic disorder.

15 Q. Okay. There was a Dr. Maher, correct?

16 A. Correct.

17 Q. Okay. He also indicated that he was suspicious  
18 that Mr. Mosley had mental health issues that was  
19 impacting his ability to be competent to proceed, correct?

20 A. That's correct.

21 Q. Okay. Also, Dr. McClain, right?

22 A. Yes.

23 Q. Okay. Dr. McClain opined that she believed that  
24 he had indices of psychosis, and that he also had  
25 cognitive impairments, correct?

1 A. That's correct.

2 Q. As well as Dr. Hall, correct?

3 A. Correct.

4 Q. Who also noted psychosis and likely intellectual  
5 disabilities, correct?

6 A. Dr. Hall, let's see. Yes, I believe so.

7 Q. Okay. And all of this information was available  
8 to you when you had that initial meeting, December 18th;  
9 the subsequent meeting, December 26th; and when you were  
10 writing your report on January 3rd, correct?

11 A. That's correct.

12 Q. Okay. So this initial report. I want to talk  
13 about that. We'll call it, like, the January 3rd or  
14 January 7th report.

15 A. Okay.

16 Q. Okay. So can you tell me why this report is  
17 written?

18 A. So as per DCF, we are required to produce --  
19 produce a report within 60 days. As per the hospital, we  
20 are required to produce a report within 30 days. So --

21 Q. Okay.

22 A. -- I have to produce a report within 30 days  
23 just of the patient's progress.

24 Q. Okay. And Mr. Mosley came to the South Florida  
25 Evaluation and Treatment Center on the 13th of December;

1 is that right?

2 A. I believe it was the 12th.

3 Q. Okay. So you were still within that window of  
4 the 30 days, complying with your facility's requirements?

5 A. That's correct.

6 Q. And certainly within the requirements of DCF?

7 A. Correct.

8 Q. Okay. And so the purpose of this is to get,  
9 what, kind of like an initial feel for what the person's  
10 competency is?

11 A. Yeah.

12 Q. Okay.

13 A. I would say so.

14 Q. Okay. And so I think we've been over this a  
15 number of times in terms of --

16 A. Uh-huh.

17 Q. -- what you relied on. And you generated  
18 initially, a draft report; is that right?

19 A. Yes.

20 Q. Okay. And the purpose of producing that draft  
21 report was because you -- a draft report rather than just  
22 going into a final, was because you anticipated that there  
23 was going to be litigation involved in this case, correct?

24 A. I would say that's correct.

25 Q. And you wanted to get some input from your

1 colleagues; is that right?

2 A. Yeah.

3 Q. Or at least a colleague?

4 A. Yeah. I mean, generally, just to review the  
5 report to see if there's any errors or anything.

6 Q. Okay. But you had your colleague review -- in  
7 deposition, you told us that you had your colleague review  
8 the report because you believed that you would be  
9 subpoenaed in connection with this case.

10 Do you remember saying that?

11 A. I remember saying that.

12 Q. Okay. And you believed that you would be  
13 subpoenaed because Dr. Ascherman Jones had previously been  
14 subpoenaed in connection with the case, right?

15 A. That's correct.

16 Q. Okay. And the colleague that you provided that  
17 draft report to was Dr. Annette Lujan; is that right?

18 A. That's correct.

19 Q. Okay.

20 MS. SEIFER-SMITH: If I could approach?

21 THE COURT: Yeah.

22 MS. SEIFER-SMITH: I'm showing Defense 29.

23 MS. SULLIVAN: May I see it?

24 MS. SEIFER-SMITH: Yeah. Of course. It was  
25 provided to you prior to the --

1 MS. SULLIVAN: Yeah. I just like to see  
2 everything --

3 MS. SEIFER-SMITH: Of course.

4 MS. SULLIVAN: -- before it goes up there.

5 MS. SEIFER-SMITH: Okay. Can I approach?

6 THE COURT: Yes.

7 BY MS. SEIFER-SMITH:

8 Q. Okay. I'm showing you what is premarked as  
9 Defense 29.

10 A. Okay.

11 Q. Do you recognize what this is?

12 A. I do.

13 Q. Okay. Can you tell us what that is?

14 A. It's the draft of my initial report.

15 Q. Okay. And that draft report is -- well, the  
16 report itself was written by you; is that right?

17 A. Yes.

18 Q. And the comments that appear on the right --

19 A. Uh-huh.

20 Q. -- is written by your colleague, Dr. Lujan; is  
21 that right?

22 A. That's correct.

23 Q. Am I pronouncing the name correctly?

24 A. Lujan.

25 Q. Lujan. I apologize; the silent J.

1 A. Yeah.

2 Q. Okay.

3 MS. SEIFER-SMITH: I would like to move Defense  
4 29 into evidence.

5 THE COURT: Okay. Any objection?

6 MS. SULLIVAN: No.

7 THE COURT: It will be admitted as such.

8 (Defense Exhibit 29 received into evidence.)

9 BY MS. SEIFER-SMITH:

10 Q. I just want you to have this in front of you so  
11 we can go over a few things.

12 A. Okay.

13 Q. Okay. Now, Dr. Lujan provided you with both  
14 comments and proposed edits to your draft, correct?

15 A. Correct.

16 Q. Okay. Now, I want to draw your -- and I guess  
17 everybody's attention to page 8 of 14, I believe.

18 A. Okay.

19 Q. Okay. It would be helpful if I got there, too.  
20 Okay.

21 So there's a comment that's numbered AL-11; do  
22 you see that?

23 A. Yes.

24 Q. Okay. So Dr. Lujan stated, I would keep an eye  
25 on this while he is here this time to see if they treat

1 this, so you can use it as another point, if it was  
2 treated and he still presents the same/better whatever he  
3 decides to do.

4 And this comment is linked to at SFETC, his lab  
5 work showed an abnormal thyroid hormone value that was  
6 supposed to be followed up on, but he sought no follow-up  
7 in the notes. This is about Dr. Hall.

8 A. Okay.

9 Q. Okay. So you see this in your report?

10 A. I see it.

11 Q. Okay. Did you know what Dr. Lujan was meaning  
12 by that?

13 A. I think she was suggesting to see if the  
14 hospital did follow-up on his thyroid issues.

15 Q. Okay. And the reason that that would be  
16 important is because Mr. Mosley had been diagnosed with  
17 hypothyroidism, correct?

18 A. Yes.

19 Q. That's in all of his psychiatry and medical  
20 notes, right?

21 A. Yes.

22 Q. And he was actually prescribed a medication to  
23 address that, correct?

24 A. Yes.

25 Q. Okay. And hypothyroidism can have symptoms that

1 kind of mimic mental health symptoms, correct?

2 A. Correct.

3 Q. What are those?

4 A. I believe, depression.

5 Q. Right. So fatigue, depression --

6 A. Uh-huh.

7 Q. -- lack of motivation. All of those things can  
8 be attributed --

9 A. Uh-huh.

10 Q. -- to mal- or under-treated or nontreated  
11 hypothyroidism, correct?

12 A. Correct.

13 Q. Which is why Dr. Lujan suggested that this was  
14 something to keep an eye on, right?

15 A. Correct.

16 Q. Because there could be a number of explanations  
17 for some of Mr. Mosley's perceived behaviors, right?

18 A. Right.

19 Q. Okay. Okay. And then further down that same  
20 page, the comment that's titled AL-13 --

21 A. Uh-huh.

22 Q. -- Dr. Lujan asks: Is he on a different  
23 antidepressant now, with respect to Dr. Hall's question  
24 about trying a different major antidepressant, correct?

25 A. Yes.



1 Q. Are you able to answer that?

2 A. At the time -- well, I'd have to go back and  
3 look -- from at the time Dr. Hall wrote that comment to  
4 when she asked if he's on a different antidepressant now?

5 Q. Right.

6 A. Let me go back and look at what Dr. Hall noted  
7 he was on at the time of the evaluation. I don't see --  
8 I'm not seeing this writeup that Dr. Hall noted he was on.  
9 So I guess I would not be able to answer on that, unless  
10 I'm missing it.

11 Q. So we think there's an indication that he had  
12 been on Zyprexa for a longer time. During the time --

13 A. Yes.

14 Q. -- that Mr. Mosley was in the hospital --

15 A. Uh-huh.

16 Q. -- you saw that a number of different  
17 antidepressants were --

18 A. Uh-huh.

19 Q. -- provided to Mr. Mosley, correct?

20 A. Yes. Correct.

21 Q. Okay. So there was an attempt to address what  
22 was noted as depressive symptoms, right?

23 A. Right.

24 Q. Okay. All right. Now, I want you to turn the  
25 page to page 9 of 14, and I want to draw your attention to

1 comment AL-17 all the way at the bottom.

2 A. Okay.

3 Q. Okay. So this is with respect to your citation  
4 to Dr. McClain, saying: She further noted that he, quote,  
5 had a potential learning disability with regard to  
6 reading, spelling, et cetera, end quote.

7 And Dr. Lujan's comment is: Et cetera.  
8 Wouldn't that be important to know what the et cetera is?  
9 Are you going to get the school records or see if he was  
10 on an IEP? I think he was, according to the rehab  
11 assessment done by my staff.

12 Why would Dr. Lujan have suggested getting the  
13 school records?

14 A. To see if there was any history of cognitive  
15 deficits.

16 Q. Okay. And you saw that there were a number of  
17 doctors who --

18 A. Uh-huh.

19 Q. -- were very suspicious that there were  
20 cognitive deficits in his history, correct?

21 A. Correct.

22 Q. Okay. Was there an attempt made?

23 A. There was.

24 Q. That was not by you, though, correct?

25 A. Well, I had him sign a consent form, but the

1 social worker is the one who reaches out.

2 Q. Okay. You didn't ask the social worker to  
3 re-reach out when --

4 A. I did.

5 Q. -- they didn't receive records?

6 A. I did.

7 Q. Okay.

8 A. The social worker said she reached out multiple  
9 times.

10 Q. Okay. Now, you saw indications in the  
11 reports --

12 A. Uh-huh.

13 Q. -- that other doctors had obviously relied on  
14 school records, correct?

15 A. Again, from Dr. McClain's notes.

16 Q. Okay. At no point in time did you reach out to  
17 Dr. McClain to ask about the school records, right?

18 A. No, I did not.

19 Q. Okay. And Dr. McClain was a Defense-hired  
20 expert. You never reached out to the Defense team to ask  
21 about those records, would you?

22 A. I did not.

23 Q. Okay. And those school records --

24 A. Uh-huh.

25 Q. -- would have provided a much more perfect

1 history of Mr. Mosley, right?

2 A. Well, specifically, what I wanted was prior  
3 cognitive evaluations from that time. Because, like  
4 Dr. McClain noted, she couldn't ascertain why he was  
5 getting poor grades. So that's specifically what I  
6 wanted.

7 I mean, I -- I'm not saying it wouldn't have  
8 helped, but it also wasn't specifically what I had  
9 requested from the school.

10 Q. If you had received records that indicated --

11 A. Uh-huh.

12 Q. -- entirely similar behavior to what you saw,  
13 lack of effort, poor attention, poor memory, poor scores  
14 on expressive, receptive, pragmatic learning, or  
15 communications, rather --

16 A. Uh-huh.

17 Q. -- wouldn't that have been helpful to your  
18 ultimate diagnosis of malingering because there's no gain,  
19 there's no secondary gain, when somebody is a child,  
20 right?

21 A. Right. Well --

22 Q. So wouldn't it have been instructive to know  
23 if --

24 A. Uh-huh.

25 Q. -- that's consistent throughout somebody's

1 history?

2 A. Right. I mean, it's also possible for students  
3 to put in poor effort, not necessarily in the context of  
4 malingering, that they're trying to gain something, but  
5 they just, you know, don't appear motivated.

6 Q. Okay.

7 A. So, you know.

8 Q. But there are certainly tests for that, as well,  
9 right? You just didn't see any documentation from the  
10 developmental period, full stop, right?

11 A. True.

12 Q. Okay.

13 A. Correct.

14 Q. So you never pressed harder than having the  
15 social worker reach out, right?

16 A. That's correct.

17 Q. Okay. On multiple occasions, Mr. Mosley  
18 indicated to you that he had a support system in his  
19 mother, right?

20 A. He -- oh, he told me during the -- when I  
21 collected the background information, he told me that.

22 Q. Okay. So just the one time?

23 A. To my knowledge, yes.

24 Q. Okay. And, presumably, you would have had  
25 contact information for his mother within your file?

1 A. Yes, from the social worker.

2 Q. Okay. At no time did you reach out to  
3 Mrs. Mosley to see if maybe she had kept school records?

4 A. I did not.

5 Q. Okay. You never spoke to Ms. Mosley at all?

6 A. I did not.

7 Q. Okay. All right. I want to point out on page  
8 11, the comment that is numbered AL-18. Okay.

9 So here, Dr. Lujan writes: Do you want to add  
10 anything about how he attends class so later on you can  
11 explain that he has attended classes from the get-go and  
12 still hasn't learned anything. You may have to up the  
13 approach and get him a one-to-one to say you did  
14 everything, too. Just thinking.

15 What did she mean by this?

16 A. Well, she wanted -- I'm assuming that she wanted  
17 me to -- to include information about how he's attending  
18 class, which I did. Typically, if I -- if somebody does  
19 have the presence of an intellectual disability, we can  
20 get them one-to-one competency, but because my opinion was  
21 that he was feigning, I didn't deem it necessary.

22 Q. Okay. So Mr. Mosley never even got the  
23 opportunity to benefit from one-to-one competency training  
24 while he was at FSETC?

25 A. That's correct.

1 Q. Okay. And that was because of your  
2 decision-making?

3 A. Yes. I mean, typically, I would be the one to  
4 refer it, if I felt it necessary.

5 Q. And you just didn't?

6 A. I did not deem it necessary, no.

7 Q. Okay. I want to turn everybody's attention to  
8 page 12, comment number AL-19.

9 Has he said anything else regarding his mental  
10 illness? I feel like they may go in on this if they want  
11 and simply stating that he takes his meds may not always  
12 mean he has insight, just if they want to be a-holes about  
13 it.

14 Who are those a-holes?

15 A. I believe she was referring to his counsel.

16 Q. Okay. And why might we be a-holes about it?

17 A. To be honest, I didn't write it. I didn't ask  
18 her for the context, so I don't want to speak for her on  
19 that.

20 Q. Okay. But it's true, isn't it, that just  
21 because somebody is taking medication doesn't mean that  
22 they have insight into their mental illness?

23 A. That's true. I mean, he did make multiple  
24 complaints about symptomology, so I guess that would be  
25 another example. But, true, there are some patients who

1 just take it because they feel like they have to because  
2 they're at the hospital.

3 Q. And certainly not all medication is going to  
4 work for all people, which is why they're monitored,  
5 right?

6 A. That's correct.

7 Q. To see if maybe a different medication is more  
8 appropriate for whatever that person is experiencing?

9 A. True.

10 MS. SEIFER-SMITH: Sandwiches are here?

11 THE BAILIFF: Yes, ma'am.

12 THE COURT: Okay. Lunch is here?

13 THE BAILIFF: Yes.

14 THE COURT: All right. Let's take a break until  
15 Mr. Mosley's done eating his lunch.

16 (Break taken)

17 THE COURT: All right. Let's proceed, please.

18 MS. SEIFER-SMITH: Okay. Thank you.

19 BY MS. SEIFER-SMITH:

20 Q. Okay. I want to talk some more about your  
21 initial report.

22 A. Okay.

23 Q. I think you have one in front of you. I can --

24 A. I do.

25 Q. -- probably return the draft.



1           A.    Okay.  Do you want these back as well, or?

2           Q.    Let's leave those with you.

3           A.    Okay.

4           Q.    Because we'll probably talk some more about  
5 those.  Okay.

6                    So for this report, did you get a social history  
7 from Mr. Mosley, or did you rely on information already  
8 received through those other sources?

9           A.    I would say both.

10          Q.    Okay.  Now, your report notes that Mr. Mosley  
11 dropped out in the eleventh grade under, like, social  
12 history; do you see that?

13          A.    Let me see.  Yes, that was what he reported to  
14 me.

15          Q.    Okay.  And, specifically, you put in quotes when  
16 I asked, like, why he dropped out --

17          A.    Uh-huh.

18          Q.    -- that he couldn't learn, right?  He said, I  
19 could not learn like everyone else?

20          A.    No.  He said, I didn't like school.

21          Q.    Didn't he also say, I could not learn like  
22 everybody else?

23          A.    That was when I asked him why he was placed into  
24 the specialization classes.

25          Q.    Oh, okay.  But he gave an indication to you that

1 he struggled in school, right?

2 A. He did say that, yes.

3 Q. Okay. So it wasn't just coming from Dr. McClain  
4 and her review of records?

5 A. No.

6 Q. Kay. It was also coming directly from  
7 Mr. Mosley?

8 A. It was.

9 Q. Okay. So Mr. Mosley identified for you that he  
10 was in special education classes, correct?

11 A. He did.

12 Q. And that he struggled to learn, correct?

13 A. Correct.

14 Q. Okay. And he had also told you earlier that he  
15 was going to try to learn the competency materials,  
16 correct?

17 A. He did tell me that.

18 Q. Okay. Now, he also gave you some information  
19 about his mental health history, and/or you drew some of  
20 that information from collateral sources, i.e., the  
21 records, right?

22 A. Yes.

23 Q. Okay. And so you identified that there had been  
24 at least two prior Baker Acts for suicide attempts; is  
25 that right?

1 A. Yeah. He said for trying to harm myself.

2 Q. Okay.

3 A. And then he said, yes, he attempted to commit  
4 suicide on both of these occasions by cutting.

5 Q. Okay. You did not attempt to get those records?

6 A. I did not.

7 Q. Okay. He also indicated to you that he had been  
8 experiencing audio and visual hallucinations since he was  
9 15 or 16 years old, correct?

10 A. Correct.

11 Q. And he identified for you what those audio  
12 hallucinations were from when he was a teenager, right?

13 A. He did.

14 Q. He told you that he would hear a voice, right?

15 A. Yes.

16 Q. And that voice would tell him what?

17 A. To kill himself.

18 Q. Okay. And yet, you ultimately did not diagnose  
19 him with any type of mental health illness, correct?

20 A. Correct.

21 Q. Okay. So for this particular report, you  
22 diagnosed him with an Unspecified Mood Disorder; is that  
23 right?

24 A. That's correct.

25 Q. And that was the same as Dr. Aschewan Jones,

1 right?

2 A. It was, yes.

3 Q. Okay. So both you and Dr. Ascherman Jones landed  
4 on a diagnosis totally different than any of the other  
5 doctors; is that right?

6 A. That's correct.

7 Q. Okay. At the time that you made your diagnosis,  
8 Mr. Mosley was taking medication for psychosis, correct?

9 A. Correct.

10 Q. For depression, correct?

11 A. Correct.

12 Q. For anxiety, for insomnia, correct?

13 A. Correct.

14 Q. Okay. And he was also taking medication for  
15 that hypothyroidism, which can have symptoms like  
16 depression as well, correct?

17 A. Correct.

18 Q. Okay. And your ultimate conclusion was that  
19 Mr. Mosley was putting in poor effort and that you needed  
20 more time to assess him; is that also correct?

21 A. I said --

22 Q. I think that's what you testified on direct?

23 A. Yeah.

24 Q. Not necessarily in the report.

25 A. He appeared to be putting in poor effort, but I

1 needed more observation assessment.

2 Q. Okay. All right. So that was January 7th that  
3 that report was submitted, correct?

4 A. That is correct.

5 Q. Okay. Your next contact with Mr. Mosley was on  
6 January 10th during your weekly visit with him, right?

7 A. Let me just -- January 10th. Yes.

8 Q. Okay.

9 A. That's correct.

10 Q. Okay. Now, on that occasion, Mr. Mosley told  
11 you that he doesn't really understand with regards to what  
12 is being taught in class, correct?

13 A. Yes.

14 Q. Okay. And he told you further that while he was  
15 in class, he got a paper so that he could try to  
16 understand from that paper, right?

17 A. Yes.

18 Q. So again, indicating to you that he is trying to  
19 learn, right?

20 A. He -- he stated that, yes.

21 Q. Okay. And it's not like you received any kind  
22 of differing information from the rehab specialist in the  
23 classroom, right, that he didn't get that paper to try to  
24 learn?

25 A. Right. Yeah.

1 Q. Okay.

2 A. That's correct.

3 Q. All right. And then you did not have any  
4 contact with him again until January 15th; is that right?

5 A. Yes. Let me just make sure, actually. Yes.

6 Q. Okay. And on January 15th, he told you he  
7 understands some of what is taught in class; is that  
8 right?

9 A. Yes.

10 Q. Okay. So indicating to you that he's starting  
11 to onboard, maybe, some of the information, right?

12 A. Possibly.

13 Q. Okay. Now, he also told you that he continued  
14 to experience the auditory hallucinations telling him to  
15 rage, correct?

16 A. Correct.

17 Q. Okay. So -- and I think that's pretty  
18 consistent, right? Every time that you meet with him, he  
19 endorses those audio and visual hallucinations, correct?

20 A. That's correct.

21 Q. Okay. And he never expands on them, right?

22 A. No.

23 Q. Okay. So he simply says that he hears this  
24 voice, either telling him to rage or telling him to go  
25 crazy or be crazy, right? I think on one occasion, he

1 says, "crazy."

2 A. Yeah. I believe he said that to the  
3 psychiatrist. To me, he always just said to rage.

4 Q. Okay. And in terms of the visual  
5 hallucinations, he says, like, blood in his eyes?

6 A. Yes.

7 Q. Like something across his, like, visual space  
8 that's blood, right?

9 A. Yes.

10 Q. Okay. Never elaborated on, right?

11 A. No.

12 Q. Never in different words?

13 A. No.

14 Q. In incredibly simple and concrete language,  
15 correct?

16 A. That's correct.

17 Q. And you never asked him to provide more  
18 information about that?

19 A. I did not.

20 Q. Okay. You didn't ask him if it occurred at  
21 particular times of day, did you?

22 A. No. He said it has never stopped.

23 Q. Okay. But you didn't ask him to be more  
24 specific about any of those?

25 A. About the content? No.

1 Q. No. Or the timing of it?

2 A. No. Well, he said it never stopped.

3 Q. You didn't ask for any further details?

4 A. No.

5 Q. You didn't ask him to tell you any more about  
6 what was said in terms of the voice?

7 A. No.

8 Q. Not what the voice sounded like?

9 A. No.

10 Q. If there was ever any change in the voice?

11 A. No.

12 Q. If he recognized the voice?

13 A. No, I did not.

14 Q. Okay. And he told you when asked about his  
15 appetite, he said, I eat some days, and some days I don't,  
16 right?

17 A. He said that, yes.

18 Q. Okay. And that was because you only spoke to  
19 him for about five minutes on that date, correct?

20 A. Roughly.

21 Q. Okay. And then you next had contact with him  
22 the following week on January 23rd, right?

23 A. Yes.

24 Q. Sorry, I think they're backwards. That's how we  
25 received them.



1 A. Yeah. It's okay.

2 Q. So on this occasion, you asked him if -- to tell  
3 you, rather, one thing that he has learned in class,  
4 right?

5 A. Yes.

6 Q. Okay. And he volunteered that he had learned  
7 about not guilty by reason of insanity; is that how he  
8 said it?

9 A. Yes.

10 Q. Okay. Because you put that in quotes.

11 A. Yes.

12 Q. So he said that full phrase, "not guilty by  
13 reason of insanity"?

14 A. Yes. I mean, that -- that's what I recall.

15 Q. Okay. Now, you then asked him to tell you what  
16 that phrase means, and he said, I forgot?

17 A. Correct.

18 Q. Okay. You didn't probe any further?

19 A. No.

20 Q. Okay. And he told you that he was feeling down,  
21 right? So his mood was low?

22 A. Yes.

23 Q. And that he continued to hear voices and see  
24 things?

25 A. That's correct.

1 Q. Did he endorse what those things were?

2 A. Yes. It was the same as it was in the prior --

3 Q. Okay.

4 A. -- notes.

5 Q. And he also told you that he was really  
6 struggling with his sleep, getting only four hours, right?

7 A. Yes.

8 Q. Okay. And that was kind of the sum total of  
9 your contact with him that week, right?

10 A. Yes.

11 Q. All right. So the next week, January 30th.

12 A. Yes.

13 Q. Okay. Now, that was a Competency Assessment  
14 Tool week, right?

15 A. Yes.

16 Q. Okay. So let's talk about that.

17 A. Okay.

18 Q. Are you also looking at the Competency  
19 Assessment Tool for the 30th?

20 A. Yes.

21 Q. Okay. And is that to refresh your recollection  
22 as to your contact with Mr. Mosley on that date?

23 A. Yes.

24 Q. Okay. And, again, right, like, this is an  
25 electronic version of what? The actual --

1 A. Yes.

2 Q. -- notes that you took on that occasion?

3 A. Yeah. We just basically print this out, and  
4 then -- because we don't bring, like, the laptops to the  
5 units or wherever we see them, like, in front of the  
6 patients, and then just put it into the system.

7 Q. Okay. So there are a number of sections, right,  
8 like, appreciation of the charges, appreciation of the  
9 possible penalties, and questions beneath those.

10 Does that mean that you asked each and every one  
11 of those questions of Mr. Mosley?

12 A. It does.

13 Q. Okay. So do you have, like, a printout of this  
14 so that you're sure that you asked each and every one of  
15 these questions in order to provide an answer?

16 A. Yeah. But it's -- it's literally this printed  
17 out.

18 Q. Okay. So this is printed out, and then, what?  
19 You'd like circle, and then you put it -- you do an input  
20 on the laptop?

21 A. Yeah. Pretty much, yeah. And anything else we  
22 write, you know, in the progress note section.

23 Q. Okay. And on the 30th, you found that  
24 Mr. Mosley remained incompetent to proceed, correct?

25 A. That's correct.

1 Q. Okay. And in terms of that kind of, like,  
2 bubbling section where --

3 A. Yeah.

4 Q. -- there are options for acceptable,  
5 questionable, or unacceptable --

6 A. Yeah.

7 Q. -- he was kind of all over the map, right?

8 A. Yes. Most were unacceptable or questionable.

9 Q. Most were unacceptable, right?

10 A. Yeah.

11 Q. Okay. And that was based on, like, your  
12 conversation with him on that occasion, right?

13 A. Yes.

14 Q. And you don't know how long you were actually  
15 with him on that day, correct?

16 A. I couldn't tell you the exact time, no.

17 Q. Okay. And the only example that you provided  
18 with respect to, like, specifically what he said during  
19 this Competency Assessment Tool is there in the progress  
20 notes --

21 A. Yes.

22 Q. -- is that right?

23 A. That's correct.

24 Q. Okay. And that's with respect to a question  
25 about the legal charges, right?

1           A.    The allegations.

2           Q.    Okay.  So you're saying he knew what he was  
3 charged with, but.  But what?

4           A.    But he -- when I asked him to describe the  
5 allegations associated with his charges, he stated he did  
6 not want to because he felt like something bad would  
7 happen if he talks about it.  I asked him what he believes  
8 will happen.  He stated, I don't know.  I just don't want  
9 to talk about it.

10          Q.    Okay.  Now, in terms of his legal charges, did  
11 he actually tell you what he was charged with?

12          A.    Yes.  He --

13          Q.    What did he say?

14          A.    Murder.

15          Q.    Did he say how many accounts of murder?

16          A.    I believe so.  I believe he knew it was two  
17 counts of murder to -- to my recollection, yes.

18          Q.    Okay.  Did he say what level charge of murder?  
19 Like, if it was a third-degree, a second-degree, a  
20 first-degree murder?

21          A.    I don't recall.

22          Q.    Okay.  So we don't know that?  So we --

23          A.    I don't recall.

24          Q.    Okay.  All right.  And Mr. Mosley consistently  
25 has a flat affect, correct?

1           A.    Yeah.  There were times where there will be a  
2 little bit of brightness, but typically, it was mostly  
3 flat.

4           Q.    Okay.  Can you describe to me what you mean by a  
5 flat affect?

6           A.    Lack of emotional expression.

7           Q.    Okay.  And that's consistent throughout, like,  
8 all the time that you spent with him during those 83 days,  
9 right?

10          A.    It was mostly consistent, yeah.

11          Q.    Okay.  And when you said "brightness," when did  
12 you ever observe brightness?

13          A.    Like sometimes he would smile a little,  
14 something like that.  But it was far and few between.

15          Q.    Okay.  So he appeared depressed throughout?

16          A.    Yeah.  I would say his affect appeared  
17 dysphoric, yeah.

18          Q.    Okay.  And can you just tell us what you mean by  
19 "dysphoria"?

20          A.    Like a sad affect, essentially.

21          Q.    Okay.  Also, on the 30th, because this is also  
22 -- it's a Competency Assessment Tool, but also your weekly  
23 check-in, he endorses --

24          A.    Yes.

25          Q.    -- to you that he is continuing to experience

1 what we would call psychotic symptoms, right? He endorses  
2 audio and visual hallucinations, correct?

3 A. Yes.

4 Q. Okay. And those are the same that he has  
5 consistently been telling you about; is that right?

6 A. That's correct?

7 Q. Okay. Okay. February 6th was your next and  
8 last psychology program note -- or I'm sorry, psychology  
9 progress note; is that --

10 A. Yes.

11 Q. -- right?

12 A. That's correct.

13 Q. Okay. You -- on that occasion, you asked  
14 Mr. Mosley if he's understanding what's being taught in  
15 class, right?

16 A. I did.

17 Q. And what was his response?

18 A. He said, Not really.

19 Q. Okay. Then you asked him to expand on that,  
20 right?

21 A. I did.

22 Q. You asked him to explain what's making it  
23 difficult? And he said, It's too much. It's hard to  
24 understand, correct?

25 A. Correct.

1 Q. After this, there were no more check-ins from  
2 you on a weekly basis, right?

3 A. No.

4 Q. Okay. So after this, after him saying that he's  
5 still struggling to understand --

6 A. Uh-huh.

7 Q. -- you then decided to do the WAIS-IV; is that  
8 right?

9 A. That's correct.

10 Q. Okay. And that was done 12 days later, on the  
11 18th?

12 A. On the 18th, yeah.

13 Q. Okay. So he actually indicates throughout that  
14 he's struggling --

15 A. Uh-huh.

16 Q. -- but that he's attempting to learn, right?

17 A. He has said that, yes.

18 Q. Okay. I want to talk a little bit about the  
19 program notes. I think you told us earlier that program  
20 notes are taken by the rehabilitation specialist; is that  
21 right?

22 A. That's correct.

23 Q. Okay. And so they would be the notes of the  
24 people who actually, like, have more contact with  
25 Mr. Mosley during those, like, competency training



1 courses; is that right?

2 A. That's correct.

3 Q. Okay. And that those would have been a part of  
4 Mr. Mosley's chart or file, so they would have been  
5 available to you at that time; is that right?

6 A. Yes.

7 Q. Okay. I think those are Exhibit 16. I'm going  
8 to take the psychology notes and trade.

9 MS. SEIFER-SMITH: May I approach?

10 THE COURT: Yes.

11 BY MS. SEIFER-SMITH:

12 Q. So this is Defense 16. Do you recognize these?  
13 You'll probably have to look through past that disclosure  
14 information.

15 A. Yes. These are the programming notes.

16 Q. Okay. And so the programming notes would have  
17 been available to you at the time that you were doing your  
18 work, correct?

19 A. Correct.

20 Q. Okay. And so what the rehab specialists' notes  
21 are, like, kind of each module --

22 A. Uh-huh.

23 Q. -- that they're working on.

24 A. Yes.

25 Q. And if the patient has any barriers to their

1 completion of that module, if they're meeting, I guess,  
2 certain metrics, and if they're not meeting the metrics,  
3 if there's a reason for that, correct?

4 A. Correct.

5 Q. Okay. And that's kind of broad strokes, but  
6 that's about what it is, right?

7 A. Yeah. Okay.

8 Q. And I'd say kind of throughout, there was an  
9 indication of a lack of participation by Mr. Mosley,  
10 correct?

11 A. Yes, I do recall that.

12 Q. Okay. On one occasion, the same day as your  
13 Competency Assessment Test of January 30th, there's an  
14 indication that Mr. Mosley accepts and completes with,  
15 respect to the competency, completes half of any  
16 activities --

17 A. Uh-huh.

18 Q. -- and he does not participate in competency  
19 activities in the classroom; is that right?

20 A. It says -- yes, it says that.

21 Q. Okay. And with respect to, like, the other kind  
22 of modules, because it's not just all competency all the  
23 time. There's also life skills, social skills, vocational  
24 prep?

25 A. Yeah, there's all different types of classes.

1 Q. Mr. Mosley is also seen to exhibit, at least for  
2 the rehabilitation specialist throughout, lack of  
3 participation and poor attention, right?

4 A. Yes, I do remember seeing those.

5 Q. Okay. And, again, specifically on January 30th,  
6 that his attendance is good, but his level of  
7 participation is low. So that means that he is going to  
8 the classes, right?

9 A. Yes.

10 Q. But he's not participating in the classes?

11 A. That's what it says.

12 Q. Okay. Now, you had also told us during direct  
13 about Mr. Mosley's ability to read; is that right?

14 A. Yes.

15 Q. You never had him read anything for you?

16 A. Not for me, no.

17 Q. Okay. So not in any of those five-minute weekly  
18 check-ins, right?

19 A. No.

20 Q. Not during any of the administration of the  
21 Competency Assessment Tools?

22 A. No.

23 Q. And not during your administration of any  
24 standardized testing?

25 A. No.

1 Q. Okay. So you are just relying on what you were  
2 told --

3 A. Yes.

4 Q. -- about whether or not he can read?

5 A. Yes.

6 Q. Okay. And you'd agree that in order for  
7 somebody to actually understand what they're reading, they  
8 would have to be able to both read something out loud,  
9 right, and then be able to describe what it was that they  
10 just said, right?

11 A. I would agree with that.

12 Q. So it would be an indication of their acuity at  
13 both expressive and receptive language, right? Like, how  
14 they're processing things?

15 A. I would say that's fair.

16 Q. Okay. So -- and, I mean, we have this in  
17 evidence, so I don't want to spend too, too much time on  
18 it, but I just want to make the point that with regards to  
19 Mr. Mosley's barriers, they're described as barriers,  
20 right?

21 A. In the -- are you referring to the clinical  
22 program notes?

23 Q. Yes. Like, that section is called Barriers?

24 A. Yes. Yes.

25 Q. Okay. And throughout, there's an indication of

1 a lack of participation?

2 A. Yes.

3 Q. Poor attention?

4 A. Yes.

5 Q. Poor concentration?

6 A. Yes.

7 Q. Apathy?

8 A. Apathy.

9 Q. That he is attending but not participating?

10 A. Yes.

11 Q. That he will not offer information unless it is  
12 specifically asked of him by the instructor, right?

13 A. Yes, that was noted.

14 Q. Okay. And you were able to observe that last in  
15 your conversations with him, right?

16 A. Can you repeat the question? I'm sorry.

17 Q. Sure. That last bit about not offering  
18 information unless --

19 A. Uh-huh.

20 Q. -- it's specifically asked of him, you observed  
21 that yourself in your --

22 A. I did observe that, yes.

23 Q. -- conversations with him, right? He's never  
24 offering information without being specifically asked to  
25 provide it, right?

1           A.   Rarely.  Yes, I would agree.

2           Q.   Can you name any time that he has offered  
3 information to you without specifically being asked to?

4           A.   One time that comes to mind is during the first  
5 competency evaluation, I asked him if he had any questions  
6 for me, and he did list off a lot of questions.  That was  
7 the most I heard him kind of speak and engage beyond --

8           Q.   What were those questions?

9           A.   Just give me a second.  I can -- I'll read them  
10 to you so they're accurate.

11          Q.   So this is the competency assessment from  
12 December 18th?

13          A.   Well, I'm looking at -- I listed it in both  
14 reports.  I'm specifically looking at the one on  
15 February 28th under the capacity to disclose pertinent  
16 information.  I asked any questions for me.  He pointed to  
17 the papers in my hand, said, Is this from my lawyers?  I  
18 reminded him that I would be writing a report to the Court  
19 regarding his competency to proceed, and that his  
20 attorneys would receive it.

21               He then asked me if I write the report on the  
22 computer.  I confirmed that I do.  He asked me how his  
23 attorneys would receive the report.  I told him our legal  
24 team would send it out.  He then stated, You don't work  
25 for my legal team, right?  I told him I did not, and that

1 the hospital has a legal department that sends the reports  
2 to Court.

3 Q. So these are all the questions that he asked  
4 you?

5 A. Yes.

6 Q. Okay. So you're talking about this as, like,  
7 volunteering information for you?

8 A. Yes. Volunteering questions, engaging.

9 Q. Okay. So it sounds like he didn't actually  
10 understand the limits of confidentiality initially because  
11 he was asking questions about those, even though you said  
12 that you explained them at the outset, right?

13 A. I did. And I -- and he acknowledged he  
14 understood.

15 Q. And then he asked more about it during that --

16 A. He did ask more -- well -- yeah, he did. Yeah.  
17 Because, again, he asked, Are these for my lawyers? So  
18 that would be part of it because I do explain to them that  
19 the lawyers on both sides see the report.

20 Q. Okay. All right. So they're also obviously  
21 psychiatrists at the hospital, right?

22 A. There are, yes.

23 Q. Okay. Psychiatrists are medical doctors?

24 A. They are.

25 Q. You have accessibility to the Psychiatry Risk

1     Assessment and the notes, like the -- I think they're  
2     monthly check-ins that the psychiatrist do; is that right?

3             A.     That's correct.

4             Q.     Okay. And so that information is all available  
5     to you at the outset for that initial 60-day report, as  
6     well as the final report; is that correct?

7             A.     That's correct.

8             Q.     Okay. But you are not a medical doctor?

9             A.     I am not.

10            Q.     Okay. And you do not prescribe medication,  
11     you're not capable of doing so, correct?

12            A.     That is all correct.

13            Q.     Okay. So that is entirely up to the  
14     psychiatrist?

15            A.     Correct.

16            Q.     Okay. And I think you told us in deposition  
17     that you typically don't review the Psychiatry Risk  
18     Assessment; is that right?

19            A.     Yeah. That's correct. I typically don't.

20            Q.     You just find that irrelevant to your work?

21            A.     If there are issues with risk, then I might look  
22     into it, but that didn't come up during his admission, so  
23     I didn't look into it.

24            Q.     How did it not come up during his admission?

25            A.     Well, typically, the level of risk changes if



1 they have, like, suicide attempts and things like that,  
2 and that wasn't an issue, so I typically don't look into  
3 the risk assessments.

4 Q. Mr. Mosely actually had two suicide attempts in  
5 his history, correct?

6 A. But not -- I'm saying not while at the --  
7 because the risk assessments get updated if there is risk  
8 at the hospital; that's what I'm saying.

9 Q. You said that initial risk assessment, though,  
10 right? So it's like as he's --

11 A. Uh-huh.

12 Q. -- been in intaked, I guess, into the hospital,  
13 right?

14 A. Right.

15 Q. That's when they do the initial?

16 A. I believe so.

17 Q. It'd be hard to have a suicide attempt, like, by  
18 that time, that's the first day that he's there, right?

19 A. Right. I mean, it's possible, but...

20 Q. Okay. So we're going to leave it up to the  
21 medical doctors in terms of medication, right?

22 A. Correct.

23 Q. Okay. But certainly, that information is  
24 available to you, so it can be part of, kind of like your  
25 global comprehension regarding Mr. Mosley, right?

1 A. Yes.

2 Q. Okay. And you'd agree that he was on a number  
3 of different medications, right?

4 A. I would agree with that.

5 Q. Okay.

6 MS. SEIFER-SMITH: May I have permission to  
7 approach?

8 THE COURT: Yeah.

9 BY MS. SEIFER-SMITH:

10 Q. This is Defense 31. If you could just kind of  
11 page through it, and let me know if you find that to be  
12 familiar to you in any way.

13 A. Yes.

14 Q. How is it familiar to you?

15 A. Well, on the first page, I believe, was the  
16 initial psychiatric evaluation when they get admitted.  
17 Well, the first few pages, I would say.

18 Q. Would you say that that's handwritten?

19 A. Yes.

20 Q. Okay. And what else? Because I know there are  
21 some pages that are not handwritten.

22 A. The Psychiatry Risk Assessments. The psychiatry  
23 monthly notes and their progress notes. I believe that's  
24 what's in here.

25 Q. Okay. So, like, everything from the psychiatry

1 department? Or maybe not everything, but --

2 A. I --

3 Q. -- essentially that's what it is?

4 A. Maybe not everything. I don't want to say  
5 everything, but this would be a decent amount of it, I'll  
6 say.

7 Q. Does it seem like it's familiar to you in terms  
8 of records that you've seen before?

9 A. Yes, I would say that.

10 Q. Okay.

11 MS. SEIFER-SMITH: I'd like to move Defense 31  
12 into evidence.

13 THE COURT: Any objection?

14 MS. SULLIVAN: No objection.

15 THE COURT: Will be admitted as such.

16 (Defense Exhibit 31 received into evidence.)

17 MS. SEIFER-SMITH: Thank you.

18 BY MS. SEIFER-SMITH:

19 Q. And so in terms of the medication information,  
20 it would have been available to you, the information about  
21 any kind of changes in medication, correct?

22 A. Yes.

23 Q. Okay.

24 A. Typically, the psychiatrist puts in notes when  
25 she makes changes.

1 Q. Okay. So you saw that on February 11th, 2025?  
2 So less than a week prior to your administration of the  
3 WAIS-IV, that Mr. Mosley's medication was changed, right?

4 A. Let me just refer to where I summarize the notes  
5 so that I can be on the same page as you.

6 Q. Are you referring to a report of yours?

7 A. Yeah. The February 28th report, I believe I did  
8 summarize the medication changes. Okay. You said what  
9 date? I'm sorry.

10 Q. February 11th.

11 A. Yes, February 11th. Yeah. Taper down Zyprexa,  
12 and she started Prolixin.

13 THE COURT REPORTER: Can we get the spelling on  
14 that?

15 THE WITNESS: Yeah. The second report.

16 THE COURT REPORTER: No. No.

17 THE WITNESS: I'm sorry.

18 THE COURT REPORTER: Repeat --

19 THE COURT: The medication.

20 THE WITNESS: Tapered down Zyprexa and then she  
21 started him on Prolixin.

22 THE COURT: Can you spell that?

23 THE WITNESS: Prolixin?

24 THE COURT: Yes.

25 THE WITNESS: P-R-O-L-I-X-I-N.

1 THE COURT: Thank you.

2 THE WITNESS: You're welcome.

3 MS. SEIFER-SMITH: Okay.

4 BY MS. SEIFER-SMITH:

5 Q. Is Prolixin fluphenazine?

6 A. Yes.

7 Q. Okay. Fluphenazine is an antipsychotic,  
8 correct?

9 A. That's correct.

10 Q. Okay. And he was given 5 milligrams to start at  
11 that time; is that right?

12 A. That's right.

13 Q. That's a high dose for an antipsychotic, isn't  
14 it?

15 A. All different antipsychotics have different  
16 levels of dosages, so I couldn't say for certain.

17 Q. Okay. Okay. That's fair. It's outside of your  
18 knowledge, but this was started within the same week that  
19 Mr. Mosley took the WAIS, correct?

20 A. Yeah. Like, 7 days prior, so, yeah.

21 Q. In fact, there's an indication within the  
22 psychiatrist's notes that he doesn't start until  
23 February 13th; is that right? I'm sorry. I'm happy to  
24 show --

25 THE COURT: It doesn't start what until

1 February 13th?

2 MS. SEIFER-SMITH: The fluphenazine.

3 THE COURT: Thank you.

4 THE WITNESS: I actually don't have that in my  
5 notes, but...

6 BY MS. SEIFER-SMITH:

7 Q. Let me show you.

8 MS. SEIFER-SMITH: May I approach?

9 THE COURT: Uh-huh.

10 BY MS. SEIFER-SMITH:

11 Q. Do you see that for the start date?

12 A. Start date. Yeah, I see that.

13 Q. Okay. So within five days --

14 A. Uh-huh.

15 Q. -- Mr. Mosley has started a new --

16 A. Uh-huh.

17 Q. -- antipsychotic; is that right?

18 A. That's correct.

19 Q. Okay. Now, I think you spoke about this a bit  
20 on direct, but it's certainly important that when you're  
21 assessing somebody for competency, for cognitive ability,  
22 that that person is stable, right?

23 A. I would agree.

24 Q. Okay. Let's talk about some things that can  
25 affect stability. Psychosis can affect stability, right?

1 A. Correct.

2 Q. Changes in medications can affect stability?

3 A. It could, yes.

4 Q. You seem a little skeptical of the ability for  
5 medication to affect somebody's stability.

6 A. Well, I think it depends on the medications and  
7 how they react to it. So it -- it is possible.

8 Q. Okay. But certainly, it could?

9 A. It could.

10 Q. And not just it could, but, right, like, it's an  
11 antipsychotic, which is --

12 A. Uh-huh.

13 Q. -- supposed to have an effect on somebody's --  
14 well, let me back up.

15 Antipsychotics --

16 A. Uh-huh.

17 Q. -- if prescribed for schizophrenia, are going to  
18 address the positive symptoms of schizophrenia, correct?

19 A. Correct.

20 Q. You're aware that there are positive and  
21 negative symptoms of schizophrenia?

22 A. I am aware.

23 Q. Okay. Let's talk about the positive symptoms of  
24 schizophrenia. What are those?

25 A. Hallucinations, delusions, disorganized thought

1 process, that's the main one.

2 Q. Paranoia?

3 A. Paranoia would be, yeah.

4 Q. Okay.

5 A. Including delusions.

6 Q. And there are also negative symptoms of  
7 schizophrenia, right?

8 A. Uh-huh. Yes.

9 Q. Okay. What are those?

10 A. That could be diminished emotional expression,  
11 avolition, anhedonia, which is lack of motivation; loss of  
12 pleasure and interest, psychomotor retardation, things  
13 like that.

14 Q. And antipsychotic medication addresses exactly  
15 what it's talking about, right? Like, it addresses the  
16 psychosis or the psychotic symptoms of schizophrenia,  
17 correct?

18 A. Yes.

19 Q. It does not address the negative symptoms.

20 A. I -- I mean, there are varying antipsychotics.

21 I couldn't say with certainty that none of them would  
22 address the negative symptoms. That's beyond the scope of  
23 what I would --

24 Q. Okay.

25 A. -- know, I think.



1 Q. And Mr. Mosley has been diagnosed with  
2 schizophrenia by multiple doctors besides yourself, right?

3 A. Correct.

4 Q. Okay. And what you just described to us --

5 A. Uh-huh.

6 Q. -- in terms of an anhedonia, avolition, lack of  
7 motivation --

8 A. Uh-huh.

9 Q. -- failure to find joy in anything --

10 A. Uh-huh.

11 Q. -- you described Mr. Mosley pretty well, didn't  
12 you?

13 A. Well, he did seem -- appear to be motivated to  
14 do the things he wanted to do. Like, he went to classes.  
15 He was motivated to, you know, move up a level. He went  
16 to the extracurricular activities available, like the  
17 talent show. So he was motivated to do the things he  
18 wanted to do. I wouldn't say he was totally -- you know,  
19 it -- it wasn't -- you know, typically, we see patients  
20 with schizophrenia who have an overly negative  
21 presentation. They don't leave their room. They don't  
22 shower. You have to encourage them, you know, to do  
23 anything, typically.

24 Q. You described some pretty easy things to do,  
25 right? Attend class --

1           A.    Uh-huh.

2           Q.    -- yeah?  Go to the --

3           A.    Yeah.

4           Q.    -- talent show?  Okay.

5                    You talked about moving up a level, but also  
6 described in the program notes are that he was given the  
7 opportunity to get extra points during competency  
8 classes --

9           A.    Uh-huh.

10          Q.    -- right, if he answered all of the questions  
11 correct, and he could not consistently answer more than  
12 four out of ten, right?

13          A.    That was in the notes, yes.

14          Q.    And so he would not have benefited from that  
15 type of leveling up whatsoever?

16          A.    Right.  Well, that was on specific occasions.  
17 If you move up a level, then you get more points every day  
18 in everything you do.  It is much more motivation, I would  
19 say.

20          Q.    So he wasn't able to move up with that kind of  
21 extra point system, though?

22          A.    Well, what the -- the teacher was referring to  
23 that she did in class was just, you're -- you're just  
24 going to get extra points today for doing this activity.  
25 When you move up a level in color, you get more points for

1 everything you do. So they get points for, like,  
2 showering, making their bed, going to class, et cetera, et  
3 cetera, and they get more points for everything. So  
4 that's more motivating. They get a lot more points. Not  
5 just a few more points in one class. They get more points  
6 across the board every day.

7 Q. He consistently said that class was hard, right?

8 A. Yes, he said he had trouble understanding  
9 things.

10 Q. He told you that he had trouble in school?

11 A. He said that.

12 Q. Okay. He didn't say that showering was hard?

13 A. No. I don't recall that.

14 Q. He didn't say that making his bed was hard?

15 A. No.

16 Q. And you'd agree that, like, the structure of the  
17 hospital is pretty simple, right?

18 A. It's simple. I would agree.

19 Q. He can't get out. He's locked in, right?

20 A. Right.

21 Q. They tell him where to go and when to be there?

22 A. Yeah. He can refuse.

23 Q. Okay. That's pretty easy. He just says no,  
24 right?

25 A. Yeah.

1 Q. Okay. A toddler can do that.

2 A. Right. Yeah.

3 Q. Okay.

4 A. But I'm saying he was motivated to go.

5 Q. Okay.

6 A. Because he could have refused and sat in his  
7 room.

8 Q. He didn't even have to set an alarm to get up,  
9 right?

10 A. No.

11 Q. He's woken up.

12 A. Yes.

13 Q. Okay. He doesn't have to make his own food?

14 A. No.

15 Q. He's fed.

16 A. He's fed.

17 Q. Okay. And in terms of, like, doing the  
18 laundry --

19 A. Uh-huh.

20 Q. -- which you, I guess, said that he was doing --

21 A. Uh-huh.

22 Q. -- he didn't have to go out and buy washing  
23 powder, right?

24 A. No.

25 Q. And there were specific settings already on the

1 machines, so he basically just presses go, right?

2 A. That, I'm not sure about the settings on the  
3 machines, to be honest.

4 Q. Okay. It's not complicated. He doesn't have to  
5 go anywhere to do it?

6 A. No. There's the laundry room in the unit.

7 Q. Okay. So he truly doesn't have to go anywhere  
8 to do it. Okay. We've got a little bit far field here.

9 So we were talking about the stability required  
10 in order to give the WAIS-IV. Now, let's talk about that  
11 WAIS-IV.

12 A. Okay.

13 Q. The WAIS-IV is an intelligence test, correct?

14 A. That's correct.

15 Q. Okay. Would you agree that it's the gold  
16 standard in cognitive assessments?

17 A. I would agree. I mean, I think there's other  
18 very valid tests, but I think this is the most commonly  
19 used, and it's a very good test.

20 Q. What are the other ones?

21 A. I also -- the Woodcock-Johnson is also a very  
22 good test, I would say.

23 Q. Do you know which measures of cognitive ability  
24 are approved by Florida law for the determination of  
25 intellectual disability?

1 A. I don't.

2 Q. Okay. The WAIS-IV is not designed to detect  
3 malingering, correct?

4 A. No.

5 Q. But this is why you administered the WAIS-IV to  
6 Mr. Mosley, correct?

7 A. I administered the WAIS-IV because there was --  
8 I wanted to address the concerns by the other psychologist  
9 that he was ex -- had cognitive deficits. And also, I was  
10 suspecting already, at this point, low effort, and it  
11 could -- any test can give information on a patient's  
12 effort.

13 Q. Okay. You administered the WAIS-IV because you  
14 thought that he would not put forth effort, correct?

15 A. No, I administered it because of the concerns by  
16 the other evaluators. If there weren't those concerns by  
17 the other evaluators, I likely would not have given him  
18 the WAIS at all. I would have just given him a  
19 malingering testing.

20 Q. And when you say concerns --

21 A. Uh-huh.

22 Q. -- from the other evaluators, are you talking  
23 about concerns that he was cognitively impaired?

24 A. Yes. And some of the evaluators were suggesting  
25 that cognitive testing should be done.

1 Q. Okay.

2 THE COURT: Can we be clear about what evaluator  
3 she is talking about?

4 MS. SEIFER-SMITH: Sure.

5 THE COURT: I just -- I want to make sure I  
6 understand. Is she talking about all of the prior  
7 reports that she read before he arrived at the state  
8 hospital, or somebody at her own hospital at this  
9 time indicating they believed there was a cognitive  
10 impairment?

11 THE WITNESS: It -- it was the evaluators prior  
12 to him arriving at the hospital.

13 THE COURT: Okay. So all the prior reports that  
14 you read?

15 THE WITNESS: Yes.

16 THE COURT: Okay. Thank you.

17 BY MS. SEIFER-SMITH:

18 Q. Okay. Sorry. I just want to ask again because  
19 I thought that you said that you administered the  
20 WAIS-IV --

21 A. Uh-huh.

22 Q. -- to Mr. Mosley because you thought that he  
23 would not put forth effort, so that was the underpinning  
24 reason for your administration?

25 A. I wouldn't say that's the underpinning reason.

1 It was mostly because of the evaluators, but I -- but I  
2 did also believe that it would give me information about  
3 his level of effort.

4 Q. Okay.

5 MS. SEIFER-SMITH: I would like to draw the  
6 Court's attention to page 128 of Dr. Tenaglia's  
7 deposition, lines 17 through 25.

8 THE COURT: Okay. Do you have one for me?

9 MS. SEIFER-SMITH: Sure.

10 THE COURT: Is it filed in my court file?

11 MS. SEIFER-SMITH: What's that?

12 THE COURT: Is it in the court file?

13 MS. SEIFER-SMITH: I'm sure it is.

14 THE COURT: Okay. It is not.

15 MS. SULLIVAN: I don't think it's filed  
16 separately. I think it's attached --

17 MS. SEIFER-SMITH: Oh, I apologize.

18 MS. SULLIVAN: -- as an exhibit to one of the  
19 motions filed against Dr. Tenaglia.

20 MS. SEIFER-SMITH: You know, I wonder if it's  
21 not filed because it was being discussed. We can  
22 file it under seal.

23 THE COURT: What page and line am I looking at?

24 MS. SEIFER-SMITH: 128, line 17.

25 MS. ELLIS: The other state hospital doctor is.



1 MS. SEIFER-SMITH: It's filed under someone?

2 THE COURT: The other state hospital doctor's  
3 what?

4 MS. ELLIS: Was filed under seal. The original  
5 Teresa Ascherman was in the court file, so...

6 THE COURT: Was it sealed or not sealed?

7 MS. ELLIS: I mean, honestly, I can't say  
8 because we have access to it.

9 THE COURT: Okay. Well --

10 MS. ELLIS: I didn't have any special --

11 THE COURT: -- let's table that for another  
12 time.

13 MS. ELLIS: Yeah.

14 THE COURT: I'm looking at page 128, right?

15 MS. SEIFER-SMITH: Yes. Okay. Can I read it  
16 into the record? Is everybody there?

17 THE COURT: What line are you on?

18 MS. SEIFER-SMITH: 17.

19 BY MS. SEIFER-SMITH:

20 Q. Okay. And so here, I think, you said that you  
21 wanted to administer the WAIS in Mr. Mosley's case because  
22 you thought that he would not put forth effort; is that  
23 right?

24 Well, I believe -- well, part of it was because  
25 the prior evaluator noted in numerous reports they

1 suspected possible cognitive deficits. But, yes, I did  
2 believe he would put forth poor effort, and his score  
3 would be inconsistent with his overall functioning.

4 THE COURT: Okay.

5 MS. SEIFER-SMITH: Okay.

6 THE COURT: That sounds -- I'm sorry. That  
7 sounds like what she just said.

8 MS. SEIFER-SMITH: I mean, she did end at the --  
9 yeah. That was why she did it.

10 BY MS. SEIFER-SMITH:

11 Q. Okay. Are you -- you're aware that there are  
12 embedded measures within the WAIS-IV to detect potential  
13 malingering, right?

14 A. I am aware.

15 Q. Okay. And when we're talking about malingering,  
16 malingering can mean, like, putting forth poor effort,  
17 right?

18 A. Yeah. For a -- for like, a secondary gain,  
19 specifically.

20 Q. Okay. Or can mean exaggerating symptoms?

21 A. Correct.

22 Q. Okay. Are you capable of naming which tests are  
23 those embedded measures within?

24 A. No, I'm not -- I'm not familiar with them.

25 Q. Okay. Do you engage in, like, continuing

1 education?

2 A. I do.

3 Q. Okay. And do you try to stay on top of the  
4 literature that's appropriate to your field?

5 A. I do.

6 Q. Okay.

7 MS. SEIFER-SMITH: May I approach?

8 THE COURT: Yes.

9 BY MS. SEIFER-SMITH:

10 Q. I'm approaching with Defense 32.

11 Can you tell me what this is?

12 A. Journal of Clinical and Experimental  
13 Neurophysiology Use of the Wechsler Adult Intelligent  
14 Scale Digit Span subtest for malingering detection a  
15 meta-analytic review.

16 THE COURT: Did you give me that?

17 MS. SEIFER-SMITH: No, I did not. I apologize.  
18 May I?

19 THE COURT: Thank you.

20 BY MS. SEIFER-SMITH:

21 Q. Okay. What is a meta-analysis?

22 A. It basically looks into all of the research done  
23 on the topic and kind of compiles it and --

24 Q. Okay.

25 A. -- you know, statistics are done to show, like,

1 what the general consensus is on the topic.

2 Q. Okay. Well, I guess, first of all, the Journal  
3 of Clinical and Experimental Neuropsychology, especially  
4 with regards to the WAIS, this would be something that  
5 would be relevant to your work, correct?

6 A. Yeah.

7 Q. Okay.

8 MS. SEIFER-SMITH: I'd seek to have Defense 32  
9 moved into evidence.

10 THE COURT: Any objection?

11 MS. SULLIVAN: Just my prior objection from  
12 yesterday. It's fine to go into evidence. These are  
13 articles that were never presented to me ahead of  
14 this hearing, presented to the doctors ahead of the  
15 hearing. I haven't had or the opportunity to read  
16 them before.

17 THE COURT: Okay.

18 MS. SULLIVAN: But other than that, sure.

19 THE COURT: Do you have any other exhibits that  
20 maybe Ms. Sullivan hasn't seen that you're going to  
21 use today?

22 MS. SEIFER-SMITH: No, I don't.

23 THE COURT: Okay. This -- so this is the last  
24 one like this of the day?

25 MS. SEIFER-SMITH: Yes. So may this exhibit

1 be --

2 THE COURT: Yes.

3 MS. SEIFER-SMITH: -- moved into evidence?

4 THE COURT: Yes.

5 MS. SEIFER-SMITH: Okay.

6 THE COURT: It's in.

7 (Defense Exhibit 32 received into evidence.)

8 BY MS. SEIFER-SMITH:

9 Q. So that title just indicated a particular  
10 subtest; is that right? The --

11 A. The --

12 Q. The Digit Span?

13 A. Yeah.

14 Q. Okay. That is the subtest on the WAIS?

15 A. It is.

16 Q. Okay. And if it's a meta-analysis, that means  
17 that there have been many studies regarding whether or not  
18 the Digit Span subtest is an aid in determining whether or  
19 not someone is malingering, correct?

20 A. I mean, I looked at the title briefly, but if  
21 that's what the title says, then, yeah.

22 Q. Oh, I'm sorry.

23 A. Yeah.

24 Q. Do you mind just kind of reading -- taking a  
25 look at the abstract? So the abstract actually indicates

1 that either the reliable Digit Span or the age-corrected  
2 scaled score effectively discriminated between honest  
3 responders and dissimulators, right?

4 A. It says that, yes.

5 Q. Okay. And that's across 24 studies that were  
6 reviewed within --

7 A. Yes.

8 Q. -- this particular article, right?

9 A. Yes.

10 Q. So I think you told us during your deposition  
11 that you're aware --

12 A. Uh-huh.

13 Q. -- that there are embedded measures for  
14 malingering or effort test --

15 A. Uh-huh.

16 Q. -- within the subtest of the WAIS-IV, right?

17 A. I did say that.

18 Q. Okay. But you weren't aware -- or you weren't  
19 able to name which ones they were?

20 A. No.

21 Q. Okay. And so you're not familiar with using  
22 those embedded measures for testing effort, right?

23 A. That's correct.

24 Q. Okay. And so you actually have no idea if  
25 Mr. Mosley passed those embedded measures of malingering,

1 right?

2 A. I don't.

3 Q. Okay. You decided, rather than do that, knowing  
4 that there were embedded measures within the test that you  
5 actually used, you decided to do a separate malingering  
6 test the following day, right?

7 A. Yes.

8 Q. So after the WAIS. And then another malingering  
9 test the following week; is that right?

10 A. That's correct.

11 Q. Okay. So, essentially, extrapolating Mr.  
12 Mosely's performance on the WAIS on February 18th to his  
13 performance on the VIP on the 19th --

14 A. Uh-huh.

15 Q. -- and the M-FAST on the 25th of February; is  
16 that right?

17 A. Yes. Those -- those are the dates on the  
18 assessments I administered.

19 Q. Okay. You didn't do any effort testing on the  
20 18th; is that right?

21 A. That's correct.

22 Q. Okay. Now, the WAIS is about an hour long,  
23 right?

24 A. It could take a little longer, but roughly.

25 Q. Do you know how long you were with Mr. Mosley on

1 that day?

2 A. It was probably, roughly, like an hour or so. I  
3 couldn't tell you the exact time.

4 Q. Okay. So it's not as though it's an especially  
5 exhausting trial, right?

6 A. I would say that it is a longer test, and often,  
7 patients can get fatigued. So I typically don't give  
8 other tests along with the WAIS for that reason.

9 Q. Are you familiar with any other tests for  
10 malingering besides the VIP or the M-FAST?

11 A. Just in general, any malingering tests?

12 Q. Yeah.

13 A. Yeah.

14 Q. Okay. The TOMM, that's a Test of Memory  
15 Malingering, right?

16 A. That's correct.

17 Q. Okay. And certainly, memory can have an effect  
18 on how somebody performs on a number of different types of  
19 standardized testing, correct?

20 A. That's correct.

21 Q. Okay. And did you know that the TOMM is  
22 actually okay to use for people with cognitive  
23 impairments?

24 A. I do. I -- I know it's normed for people with  
25 dementia. I -- from my memory, I couldn't speak to other



1 forms of cognitive impairment, but that, I do know --

2 Q. Dementia --

3 A. -- (indiscernible).

4 Q. -- is a form of cognitive impairment, correct?

5 A. It -- it is, yes.

6 Q. Okay. Well, I want to talk, I guess, just a  
7 little bit more about the WAIS first. Okay.

8 So you said it was about an hour. And as best  
9 as you can recall, the test with Mr. Mosley took about an  
10 hour, right?

11 A. As best as I can recall.

12 Q. Okay. Your baseline for administration would be  
13 just that, the person in front of you is stable, right?

14 A. Yeah. I mean, if they're exhibiting symptoms  
15 that I think would prevent them from being able to attend  
16 to the test.

17 Q. Okay. And I think you've described for us that  
18 stability is, you know, whether or not they are in an  
19 acute -- what you've described as acute psychosis; is that  
20 right?

21 A. Yes. That would be part of it, yeah.

22 Q. Okay. So if somebody is still experiencing  
23 psychotic symptoms but they're not acute, you'd still find  
24 them stable for testing?

25 A. Yeah. As long as it's not interfering with

1 their ability to cooperate with the test.

2 Q. How do you know if it's -- if it is affecting  
3 their ability to cooperate with the test?

4 A. If they appear distracted, internally  
5 preoccupied, if their speech is coherent, if they're able  
6 to sit still, if they're constantly looking around, like,  
7 you know, you observe those kind of behaviors.

8 Q. Those are your only tells?

9 A. Yeah. I mean, there's other things besides I  
10 come -- if a person is, like, extremely fatigued, falling  
11 asleep, like, you know, there's -- there's different  
12 things.

13 Q. If they consistently have low motivation, low  
14 effort, that's not something that factors into your  
15 stability determination; is that right?

16 A. I wouldn't say that low effort would be factored  
17 into stability as far as mental stability, that's a  
18 choice.

19 Q. How about poor attention or apathy?

20 A. I would say poor attention. Yeah. I mean,  
21 that's something that occurs in people with psychosis if  
22 they're unable to attend to the test.

23 Q. Okay. And I think we discussed earlier about  
24 the effects of medication. So on the 13th, Mr. Mosley was  
25 given the change in the fluphenazine, like, the new

1 fluphenazine or the new prescription; is that right?

2 A. Right.

3 Q. Okay. And he also experienced a doubling in  
4 Zoloft, which is an antidepressant; is that right?

5 A. Let me just double-check. I don't see that  
6 here, but it -- that -- that could be correct.

7 Q. I believe it's in the psychiatry notes.

8 A. Yeah. I have for the 11th, taper down Zyprexa  
9 until discontinued. In 7 days, start with Prolixin, 5  
10 milligrams for psychosis. That's all I wrote, but it is  
11 possible that I missed if there's something else. I don't  
12 know.

13 Q. Because there were different notes in the  
14 psychiatry -- there were different entries in the  
15 psychiatry notes, actually, right? Like, the fluphenazine  
16 that we just discussed on --

17 A. Yeah.

18 Q. -- February 13th?

19 A. So the -- if you're talking about, like, the  
20 list of medications on top of the notes, that's what  
21 they're described at the time. It isn't necessarily the  
22 change he made.

23 Q. But it is actually the change. There was -- it  
24 was newly prescribed.

25 A. Yeah. Which -- which -- like I said, I could

1 have missed it. That could be true.

2 Q. Okay. And Mr. Mosley had consistently reported  
3 audiovisual hallucinations every time he was assessed as  
4 recently as February 12th, right?

5 A. Correct.

6 Q. Okay. And his results in the WAIS was extremely  
7 low across all of the subtests, correct?

8 A. That's correct.

9 Q. And so the only example that you gave to us  
10 earlier on direct that you didn't think that he was  
11 putting forth best effort --

12 A. Uh-huh.

13 Q. -- was that he was stacking the blocks during  
14 the block design test?

15 A. Yeah. Like making a tower, kind of.

16 Q. Okay. So according to you, that couldn't be  
17 because he didn't really understand the test instructions  
18 very well, but rather because he just wanted to run the  
19 time out?

20 A. It's unlikely, because part of the test is that,  
21 especially in the beginning examples, you show them. So I  
22 -- again, like, okay, watch me do it, and you show them  
23 how to do it, and that gets repeated multiple times, so...

24 Q. So wouldn't that also be a test of his memory,  
25 whether or not he has a particularly good memory to

1 understand what you've just explained to him, and the  
2 ability to apply it then to what the stimuli is?

3 A. I mean, that test isn't typically used as a  
4 memory test. To -- my assessment was that he was putting  
5 in poor effort.

6 Q. You've administered the WAIS, what, 10 times  
7 over the past 5 years?

8 A. I would say it's something like that.

9 Q. Okay. All right. So I want to talk a little  
10 bit about -- well, so the full-scale IQ that you scored  
11 was 46; is that right?

12 A. That's correct.

13 Q. Okay. And you believe that that score is  
14 incorrect based on the effort testing from the VIP the  
15 following day, and the M-FAST the following week?

16 A. Not -- the M-FAST was administered in relation  
17 to symptoms of psychosis.

18 Q. Okay.

19 A. It's based more on the VIP and just general  
20 observations during the exam.

21 Q. Okay. So let's talk about the VIP.

22 A. Okay.

23 Q. You've administered -- well, what does the VIP  
24 stand for?

25 A. Validity Indicator Profile.

1 Q. Okay. You've administered the VIP perhaps 5  
2 times since --

3 A. I would say --

4 Q. -- being licensed?

5 A. -- that's about right.

6 Q. Okay. Now, the VIP is not normed for people  
7 with cognitive impairment; is that right?

8 A. I believe it is normed for people with brain  
9 injuries, but I don't believe it says specifically  
10 cognitive impairment, if I'm remembering that correctly.

11 Q. So you think that it's -- I'm sorry. You think  
12 that it's normed for people with brain injuries?

13 A. I believe that in the manual it says one of the  
14 criterion groups is people with brain injuries.

15 THE COURT: Where it should or should not be  
16 given?

17 THE WITNESS: I believe it's normed that it can  
18 be given, but I could be wrong.

19 BY MS. SEIFER-SMITH:

20 Q. I think you're quite wrong.

21 A. Okay.

22 Q. Okay. When a test is given to a person who is  
23 not within the group that the test is normed for, that  
24 would be improper, right? We can agree on that?

25 A. Yeah. Well, it will specifically say if there's

1 groups that the test cannot be given to.

2 Q. Okay. And I'll say that in the manual, right?

3 A. It will.

4 Q. Okay. And you had a copy of the VIP Manual,  
5 right?

6 A. I do.

7 Q. And that would have been something that you  
8 reviewed prior to administering the test?

9 A. I can't say exactly when I reviewed it, but I  
10 have reviewed the VIP Manual.

11 Q. You've reviewed it at some point in the past?

12 A. Correct.

13 Q. Okay. And the VIP Manual, you'd agree,  
14 specifically says that you're not to use it for people  
15 with cognitive impairments?

16 A. It says for people who have historic, bona fide  
17 MR based on historical data.

18 Q. Okay. You don't have any historical data  
19 regarding Mr. Mosley, do you?

20 A. No.

21 Q. You didn't obtain any of that before actually  
22 administering the VIP?

23 A. No.

24 Q. And there were a lot of suspicions from other  
25 people, doctors who had seen Mr. Mosley on multiple

1 occasions over the prior two years, indicating that they  
2 had significant concerns about his cognition, right?

3 A. But suspicions is not known historical data.

4 Q. Including their review of his educational  
5 records, right?

6 A. Right. The educational records that --

7 Q. Okay.

8 A. -- have his grades.

9 Q. Educational records are historical?

10 A. Yes.

11 Q. Okay. You attempted nothing to determine  
12 anything about his history?

13 A. I mean, I reviewed the records that per -- that  
14 the other evaluators provided of his history.

15 Q. Okay. But you would agree, certainly, that it's  
16 best to use a test normed for people with cognitive  
17 impairment?

18 A. I'm sorry. Repeat the question.

19 Q. If somebody -- if it is suspected that somebody  
20 has a developmental disability, it would be best if you  
21 used a test that's actually normed for them, right?

22 A. Well, the thing with the VIP is that it is made  
23 to assess to see if people who are performing poorly on  
24 cognitive assessments are putting in effort. So by that  
25 logic, if you suspect that they're, you know, doing poorly



1 on the cognitive testing, you -- the -- there would never  
2 be a reason to give the VIP.

3 The purpose of it is to give to people who you  
4 suspect might be doing poorly on the cognitive test.

5 Q. Why would you not do that on the same day, then,  
6 before the WAIS?

7 A. Because typically, what I do is if I give the  
8 WAIS, and if I feel like they're putting poor -- for --  
9 putting poor effort towards the WAIS, then I'll give a  
10 measure to assess their effort.

11 Q. Then on how many times of these 10  
12 administrations of the WAIS --

13 A. Uh-huh.

14 Q. -- have you also given the VIP afterwards?

15 A. I've always given it afterwards.

16 Q. Okay. So you give the VIP every single time you  
17 give the WAIS?

18 A. No, not every single time.

19 Q. How many times have you given the VIP after the  
20 WAIS?

21 A. Probably the -- the amount of times that I said  
22 I've given it, it was after a WAIS.

23 Q. So the five times that you've administered the  
24 VIP, that's been after the WAIS?

25 A. Yes.

1 Q. Okay. So the following day? The following  
2 week?

3 A. I don't recall.

4 Q. So you just rely -- in terms of, like, your  
5 determination that somebody is putting forth poor effort  
6 on the WAIS, it's based on what? Just you watching them,  
7 not looking at any of the embedded measures in the WAIS,  
8 and then giving the VIP on a separate occasion?

9 A. It's based on my observations. Also on -- not  
10 -- not just observations on the WAIS, but in general, how  
11 they're presenting there at the hospital, and then, yes,  
12 how they do on the VIP.

13 Q. Okay. You do not know the reading level  
14 requirement for the VIP?

15 A. No.

16 Q. Okay. And you don't know Thomas's -- Thomas  
17 Mosley's reading level, do you?

18 A. No.

19 Q. Okay. Now, I just want to go back just again to  
20 the full-scale IQ from the WAIS was 46, right?

21 A. Correct.

22 Q. But you told us that you had a presumption, with  
23 regards to his IQ, of borderline to low average, right?

24 A. I believe I said that's what I believe he might  
25 have scored if he put in effort.

1           Q.    Okay.  So does that mean that you would presume  
2   that he has a borderline to low average IQ, actually?

3           A.    Likely not.  So the thing with the WAIS and a  
4   lot of -- of the IQ scales, is that they take into account  
5   crystallized intelligence, which that's heavily biased  
6   towards formal education.  So what happens is that people  
7   who have a lot of history of truancy, like Mr. Mosley has  
8   recorded, and who dropped out of school early, they don't  
9   have the exact educational opportunity as the normative  
10   sample.

11                So a lot of times, their score is pulled down by  
12   the crystallized inte -- intelligence measure.  So  
13   sometimes you'll find their scores a little lower.  So  
14   that's why maybe it would drop down to the borderline to  
15   low average range.

16           Q.    So what do you suspect his IQ actually is?

17           A.    Probably low average to -- to average, I would  
18   say.

19           Q.    Okay.

20           A.    If you take into account the biases on the  
21   crystalized intelligence measures.

22           Q.    Okay.  So you're saying that, still, he's low  
23   average.  So there's still cognitive impairment, right?  
24   He's not average.  He's not above average.

25           A.    Well, he's still within the average range, but

1 towards the lower end, perhaps.

2 Q. What is this opinion based on?

3 A. Just based on my observations of him at the  
4 hospital.

5 Q. So your observations over six 5-minute sessions  
6 with him, a Competency Assessment Tool, and a WAIS?

7 A. Yeah. And, of course, the reports from staff.

8 Q. Okay.

9 MS. SEIFER-SMITH: Just a moment.

10 THE COURT: Okay.

11 BY MS. SEIFER-SMITH:

12 Q. Okay. Just very quickly. Like, you recognize  
13 that the TOMM is a test for malingering, correct?

14 A. Yes.

15 Q. As well as the Rey 15-Item Test?

16 A. Yes.

17 Q. Okay. I want to briefly discuss the M-FAST,  
18 which you administered on the 25th of February.

19 A. Okay.

20 Q. Why did you do this?

21 A. Because he was reporting atypical  
22 hallucinations.

23 Q. Okay. And by "atypical," you mean it's atypical  
24 because he's been saying the same thing over and over  
25 again?

1           A.    It's atypical because he -- he says that they  
2 have never stopped since he was a teenager. That isn't  
3 very typical. And the content of the blood in the eyes is  
4 also atypical.

5           Q.    Did you ask him any questions about the never  
6 stopping since he was a teenager?

7           A.    No.

8           Q.    Okay. And so the fact that his specific visual  
9 hallucination is that of blood in the eyes, you decided  
10 that that was also atypical?

11          A.    Yeah. It just -- it's not a typical type of  
12 visual hallucination that people with genuine psychosis  
13 would report.

14          Q.    Okay. So the M-FAST, you said, is a symptom  
15 validity test, right?

16          A.    Correct.

17          Q.    Okay. And you just wanted to determine whether  
18 or not he was what? You think he's feigning everything,  
19 cognitive deficits, as well as mental health?

20          A.    Yes.

21          Q.    Okay. Now, did you know that research also  
22 indicates that individuals with cognitive deficits are at  
23 a higher risk for misclassification as feigning on the  
24 M-FAST? Do you know that?

25          A.    I'm not sure I knew that.

1           Q.    Okay. Well, it turns out it's true. Okay.  
2 Now, in determining competency, you'd agree that an  
3 individual's capacity to understand and capacity to learn  
4 is critical, right?

5           A.    Correct.

6           Q.    Okay. Now, there's certainly a difference  
7 between a deficit in knowledge and a deficit in the  
8 capacity to learn, right?

9           A.    Correct.

10          Q.    Or capacity to understand?

11          A.    Yes.

12          Q.    Okay. And so what you would want to see is if  
13 somebody is capable of learning the material by, what,  
14 studying independently, going to classes, participating in  
15 classes, absorbing the material, and then articulating  
16 what they have learned, right?

17          A.    Right.

18          Q.    Okay. And if somebody has cognitive  
19 impairments, any of those things might be affected, right?

20          A.    Yes.

21          Q.    Okay. So, certainly, if somebody had -- is  
22 intellectually disabled, they could have trouble  
23 remembering the information taught to them, right?

24          A.    Right.

25          Q.    Okay. Now, there are certainly a number of

1 things that can affect competency, medication, mental  
2 health, stress, environment, cognition, processing, there  
3 could also be medical issues, too, right?

4 A. It's possible.

5 Q. Okay. Now, I want to talk specifically about  
6 that last report from the 25th --

7 A. Okay.

8 Q. -- with regards to your delineation of  
9 Mr. Mosley's capacities.

10 A. Okay.

11 Q. Okay. So capacity to appreciate the legal  
12 charges. You concluded that Mr. Mosley was acceptable,  
13 right?

14 A. I did.

15 Q. Okay. Now, you wrote, Mr. Mosley was able to  
16 relay his legal charges.

17 A. I wrote that, yes.

18 Q. Okay. What did he say those legal charges were?

19 A. Murder.

20 Q. Just murder, right?

21 A. To my recollection, yes.

22 Q. So he did not say, two counts of first-degree  
23 premeditated murder, correct?

24 A. I don't believe he -- he said it was first  
25 degree, but I might be recalling it incorrectly.

1           Q.    Okay.  Now, that would be particularly important  
2   in a death penalty case because only people charged with  
3   first-degree murder can be subject to the death penalty;  
4   does that make sense?

5           A.    It makes sense.

6           Q.    Okay.  And he did not identify exactly what his  
7   charges were?

8           A.    Again, I don't exactly recall.  I do remember he  
9   -- he told me he had murder charges, but I can't recall  
10  exactly.

11          Q.    Okay.  And when asked to describe the  
12  allegations, so, like, the facts of why he's charged with  
13  them -- with the murder, as he said -- he said, I don't  
14  want to say, right?

15          A.    Yeah.  I've seen it, but I don't want to speak  
16  on it.

17          Q.    Okay.  And he repeatedly said, like, I just  
18  don't want to talk about it, right?

19          A.    Yes.

20          Q.    Okay.  And so you didn't push any further,  
21  right?  You didn't say, like, Well, tell me what they're  
22  saying you did, right?

23          A.    Well, that's what the initial part of the arrest  
24  affidavit is.  I said, What do they say in the arrest  
25  affidavit?  That's -- that way, you know, he doesn't have



1 to say from his perspective, he could just tell me what  
2 the police report said.

3 Q. Did you say a "police report," or did you say  
4 "affidavit" to him?

5 A. I don't recall which one I said.

6 Q. Okay. You'd agree that affidavit isn't  
7 necessarily something that is really well understood?  
8 That's a tricky word, right?

9 A. It's a tricky word. When it's given to them it  
10 might say it on top, but it depends on the county.

11 Q. Did you hand the police report to him?

12 A. Yeah.

13 Q. Okay. Did you have him read it out loud?

14 A. No.

15 Q. Okay. You asked him the difference between a  
16 felony and a misdemeanor, and he correctly stated, one you  
17 get more time than the other.

18 Now, this seems like it's harking back to that  
19 first occasion --

20 A. Uh-huh.

21 Q. -- when you had a back and forth, not  
22 necessarily what he actually said to you on the 25th of  
23 February, right?

24 A. Well, he -- he said the same thing.

25 Q. He said the same thing, that a misdemeanor was

1 more?

2 A. Yeah. I believe in the first one he said the  
3 same thing was more. He gave the same answer.

4 Q. Okay.

5 A. He gave the same answer.

6 Q. So I just want to be clear. So he did not tell  
7 you what his actual charges were, right?

8 A. Yeah. Well, he told me he had murder charges.  
9 I can't recall the specifics of what he said.

10 Q. Okay. He didn't tell you exactly what he was  
11 charged with; you'd agree with that?

12 A. I'll agree with that.

13 Q. He did not tell you anything about what the  
14 allegations were?

15 A. No.

16 Q. I mean, he probably doesn't even understand what  
17 the word "allegations" means, right?

18 A. I don't know.

19 Q. Okay. But you concluded that Mr. Mosley does  
20 not appear to present with symptoms that would make him  
21 incapable of relaying all this information, so you decided  
22 that his capacity to appreciate the legal charges was  
23 acceptable, right?

24 A. Correct.

25 Q. Okay. But you really elicited no information

1 about whether or not he understands anything of what he's  
2 accused of, right?

3 A. Because he wasn't -- I don't believe he was  
4 being forthcoming. I feel like he was being evasive and  
5 wouldn't discuss it.

6 Q. Well, it doesn't sound like you asked him very  
7 many questions about it?

8 A. Well, when I asked him questions about it, he  
9 would refuse to talk about it.

10 Q. Okay. You didn't ask him to read out loud the  
11 police report, right?

12 A. I did not.

13 Q. Okay. All right. Moving on to capacity to  
14 appreciate the possible penalties, which is on page 18.

15 A. Yes.

16 Q. When you asked him about the possible penalties  
17 associated with this case, he said "life," right?

18 A. Uh-huh.

19 Q. Is that a yes?

20 A. That's a yes.

21 Q. Okay. Now, you asked him if he could receive  
22 the death penalty if found guilty, and he said "no,"  
23 correct?

24 A. Correct.

25 Q. That sounds like that's wrong since this is a

1 death penalty case, doesn't it?

2 A. Yes.

3 Q. Okay. So it sounds like he does not actually  
4 appreciate the possible penalties, does he?

5 A. Well, I believe he has the capacity to because  
6 in previous evaluations done by the evaluators before he  
7 got to SFETC, he was found by multiple evaluators that he  
8 could appreciate the possible penalties. And he did relay  
9 to, I believe it was Dr. Hall, that he did understand he  
10 would get the death penalty.

11 Q. Okay. So it's based on his responses to  
12 entirely different people? You didn't talk to him about  
13 the death penalty very much, did you?

14 A. Well, I educated him.

15 Q. What did you educate him on?

16 A. That he could receive the death penalty.

17 Q. You just said that?

18 A. What do you mean? I just said that.

19 Q. I don't think you did. You just asked him if he  
20 could receive the death penalty, and he said no. You  
21 didn't tell him that he would or that he could?

22 A. Throughout the evaluation, if the patients get  
23 something incorrectly, I educate them.

24 Q. Okay. But then when asked if he could  
25 potentially receive less prison time than a life sentence,

1 he then said, I don't know, right?

2 A. Correct.

3 Q. Okay. So indicating a lack of understanding.

4 When you asked him to name different verdicts, he stated,

5 What you mean? Okay. You then said that you educated

6 him, but then didn't ask any further questions about the

7 different verdicts?

8 A. Let me just --

9 Q. So I guess the question is, like, if asked to  
10 name the different verdicts, they're --

11 A. So I educated him and then asked what happens to  
12 defendants when they're found guilty. So I did educate  
13 him what they are and what they mean.

14 Q. Okay. And he said that they go home.

15 A. Right.

16 Q. Which is incorrect?

17 A. Correct.

18 Q. Okay. Now, there are really four correct  
19 responses to different verdicts. You can be found guilty.  
20 You can be found guilty of a lesser-included offense.

21 A. Uh-huh.

22 Q. You can be found not guilty, or you can be found  
23 not guilty by reason of insanity.

24 A. Yes.

25 Q. Is that right?

1           A.    Yes.

2           Q.    Okay.  Are there any other verdicts that there  
3 would have been?

4           A.    No.  Typically, we go over them -- the general  
5 ones of guilty and not guilty, and then not guilty by  
6 reason of insanity.

7           Q.    Okay.  And he was incapable of really discussing  
8 or defining not guilty by reason of insanity, correct?

9           A.    Correct.

10          Q.    He doesn't know the requirements for not guilty  
11 by reason of insanity?

12          A.    No.  No, not that he was a -- was willing to  
13 relay, I'll say that.

14          Q.    He answered your questions with regards to not  
15 guilty by reason of insanity.  So it's not about, like, a  
16 lack of answering.  You're just saying that he's -- he's  
17 not giving you the response that you want, right?

18          A.    Yeah.  I think he was giving me, like, partially  
19 correct responses.  I don't think he was being fully  
20 participative.

21          Q.    What if that is his full participation  
22 capability?

23          A.    It was just my opinion that it's not.

24          Q.    Okay.  He correctly answered, though, whether or  
25 not a defendant still takes the case to trial after

1 accepting a plea bargain, correct?

2 A. Yes. He answered that correctly.

3 Q. Okay. So he got a lot of things wrong regarding  
4 the possible penalties, right?

5 A. Yes.

6 Q. But you still decided that he was acceptable  
7 under this particular criterion?

8 A. That's correct.

9 Q. Okay. Now, capacity to appreciate the  
10 adversarial nature of the legal process. This is when you  
11 talk about, like, the roles of the individuals in the  
12 courtroom, right?

13 A. Correct.

14 Q. Okay. So for judge, Mr. Mosley said that they  
15 sentence people, right?

16 A. He did say that.

17 Q. Okay. He didn't say anything like referee?

18 A. No.

19 Q. Or neutral arbiter?

20 A. No. No.

21 Q. Okay. And they're taught typically, like, in  
22 the competency setting, that the judge is the referee,  
23 right? Like, that's an easy kind of thing for --

24 A. Yeah. That's typically what --

25 Q. -- a person to understand?

1 A. -- what they teach them.

2 Q. Okay. And, obviously, a judge has a lot of  
3 responsibilities besides sentencing, right?

4 A. Yes.

5 Q. He didn't name any other responsibility that --  
6 or role that the judge has besides sentencing, right?

7 A. That's all he stated, yes.

8 Q. And he told you that he was not certain about  
9 the role of the jury?

10 A. He did say that.

11 Q. Okay. He correctly answered that the public  
12 defendant -- excuse me, the public defender is to help  
13 you, right?

14 A. He did.

15 Q. Okay. So he got that right?

16 A. He did.

17 Q. But when asked about the role of the State  
18 attorney, he stated, Help with the case, right?

19 A. He did state that.

20 Q. Okay. Now, it doesn't look like there are any  
21 kind of notations regarding your re-evaluation of this, or  
22 ask for a clarification with regards to the State  
23 Attorney's role?

24 A. No.

25 Q. Okay. And he did not know if witnesses can



1 testify for him or if they can be neutral, right? He just  
2 said that they're against him?

3 A. Right. And then afterwards, he clarified too,  
4 for you, so he changed his answer.

5 Q. Okay. Now, with regards to a bench trial, he  
6 did not understand what that was?

7 A. No.

8 Q. Okay. And it made him confused as to who, then,  
9 gives the sentence, right?

10 A. Well, he -- once I told him what a bench trial  
11 is, he then did correctly say that the judge decides the  
12 verdict.

13 Q. Okay. So he is learning in these small discrete  
14 conversations with you, right? You were able to educate  
15 him?

16 A. Here and there. There were other things that I  
17 would educate him on, and he would still get the answer  
18 wrong.

19 Q. Okay.

20 A. He was inconsistent.

21 Q. But you simply concluded that he doesn't have  
22 any deficits, even though he got things wrong, and that he  
23 was acceptable on this criterion, right?

24 A. Correct.

25 Q. Okay. Now, capacity to disclose pertinent

1 information to her attorney. I'm assuming that that's a  
2 typo?

3 A. That's a typo. I apologize.

4 Q. Okay. He told you that he does trust his  
5 attorney?

6 A. He did.

7 Q. But he said that they haven't gotten to sit down  
8 and talk, right?

9 A. He said that, yes.

10 Q. Okay. He did not indicate that he was planning  
11 on talking to his attorneys, though. He said, maybe?

12 A. Yes.

13 Q. Okay. When you asked him why, he said, I don't  
14 really know?

15 A. Correct.

16 Q. Okay. Does he maybe not understand why it is  
17 important to discuss his case with his attorneys?

18 A. Well, he said -- when I asked him why it's  
19 important to discuss the case with the attorney, he said,  
20 so they can know about the case.

21 Q. Okay.

22 A. And then when I said, Why is it important that  
23 they know about the case? He said, So they can try to  
24 help you.

25 Q. Okay. That is incredibly concrete and simple,

1     isn't it?

2           A.    Yes.  And, I mean, for the sake of competency,  
3     that's pretty much what I -- I require them to understand.  
4     Your attorney helps you with your case and helps you  
5     resolve your charges.

6           Q.    It's not important, then, that they understand  
7     that their defenses -- their legal defenses might be  
8     developed through their conversations with their attorney;  
9     is that safe to assume?  You don't -- you don't think  
10    that's important?

11          A.    I think it's important.  But, again, we're  
12    talking about the capacity.  To see if they have the  
13    capacity to understand.  They have counsel, so they can  
14    sit and explain things like this to them.

15          Q.    He never used the word explain.  He just said,  
16    So they can know about the case.

17          A.    Right.  Correct.

18          Q.    Okay.  There was no conversation with him about  
19    why it's important for him to speak with his attorneys for  
20    a mitigation investigation, which is crucial in a death  
21    penalty case, right?

22          A.    No.

23          Q.    Okay.  Just so they can try and help you, right?

24          A.    Right.  That's what he said.

25          Q.    Okay.  And then further, we talked about this a

1 little earlier. Like, you decided, it looks like, that he  
2 has the capacity to disclose pertinent information to his  
3 attorneys because on December 18th, he asked if some  
4 papers were going to go to his attorneys; is that right?

5 A. Well, he asked a range of questions about the  
6 legal process. So my point is, is that we're talking  
7 about capacity. When I asked him --

8 Q. He asked three questions about the legal  
9 process --

10 A. Okay.

11 Q. -- on that occasion.

12 A. My -- my point is, is that when I ask him  
13 questions about taking this attorney, he'll give me more  
14 evasive answers, maybes, I don't really know. But when he  
15 wanted to ask questions, he was able to have a coherent  
16 and rational conversation, you know, about -- again, not  
17 extremely complex topics, but about his -- how at least  
18 the competency process worked at the hospital.

19 So I believe he has the capacity to speak with  
20 his attorneys and ask questions about his legal case.

21 Q. Okay. Capacity to manifest appropriate  
22 courtroom behavior.

23 Mr. Mosely has been, like, calm, he's polite,  
24 right?

25 A. Yes.

1 Q. No outbursts, no problems while he was on the  
2 unit, right?

3 A. Right. Correct.

4 Q. Okay. That's acceptable.

5 And then his capacity to testify relevantly.

6 A. Yes.

7 Q. I'm curious about this.

8 A. Okay.

9 Q. So he continued to endorse and experience audio  
10 and visual hallucinations every single time you had any  
11 kind of contact with him, right?

12 A. That's correct.

13 Q. Okay. I understand that you wrote that he did  
14 not appear to be distracted, but his mood is incredibly  
15 blunted throughout, like, every single occasion that  
16 you've had to see him, right?

17 A. Yes.

18 Q. Okay. The capacity to testify relevantly also  
19 means that you must indicate that you have the appropriate  
20 expressive, receptive, and pragmatic communication  
21 skills --

22 A. Uh-huh.

23 Q. -- to listen to a question asked of you --

24 A. Uh-huh.

25 Q. -- and respond with relevant information to that

1 question, right?

2 A. Uh-huh. Yes.

3 Q. Okay. Now, on a lot of occasions during your  
4 minimal contact with Mr. Mosely, he indicated things like,  
5 I don't understand. He would give wrong answers to your  
6 question.

7 So I'm confused as to how you think that he is  
8 going to testify relevantly?

9 A. Well, I don't believe that all of his reports  
10 saying he didn't understand were genuine; that's the first  
11 thing. But when, you know, Mr. Mosley never gave  
12 responses that were completely irrelevant or outside the  
13 scope of what I was asking him. His questions were --  
14 were -- his responses were relevant. They weren't  
15 disorganized. They weren't delusional. They made sense.

16 So that's why I believe that he can -- he has  
17 the capacity to testify relevantly.

18 Q. They were incredibly simple, right? His  
19 responses?

20 A. Most of them, yes.

21 Q. Okay. Single words or single phrases, right?

22 A. Yes.

23 Q. There are no compound sentences coming from  
24 Mr. Mosley?

25 A. Not typically.

1 Q. He doesn't provide explanations for things?

2 A. Not often.

3 Q. And certainly not unless asked?

4 A. Right.

5 Q. Okay. And so you ultimately decided -- you  
6 concluded, that he was competent to proceed even though he  
7 did really poorly, I'd say, with regards to these  
8 capacities, right?

9 A. Right. Because I -- my opinion was that he has  
10 the capacity if he chooses to do so.

11 Q. Now, I want to switch gears real quick -- I'll  
12 try to wrap this up soon -- and talk about intellectual  
13 disability.

14 A. Okay.

15 Q. Intellectual disability, you'd agree, is a  
16 permanent condition, right?

17 A. I would agree with that.

18 Q. Okay. You have not done any kind of continuing  
19 education with regards to intellectual disability, right?

20 A. I don't believe so.

21 Q. Okay. And you do not believe that the required  
22 Florida Adult Forensic Examiner Training really discusses  
23 much about intellectual disability; is that right?

24 A. Not to my memory, no.

25 Q. Okay. And I know that intellectual disability

1 was not, like, the underpinning purpose for your  
2 evaluations; is that right?

3 A. The underpinning purpose?

4 Q. I can ask -- I can re-ask that question.

5 A. Yes.

6 Q. Did you evaluate Mr. Mosley to see if he suffers  
7 from an intellectual disability?

8 A. Well, the -- I guess the overarching purpose of  
9 the evaluation is to see if he is competent to proceed.  
10 But part of it, yes. I mean, given the WAIS, that could  
11 have given an indication of an intellectual disability,  
12 but would I say that that's the purpose of the evaluation,  
13 no, because the purpose is to evaluate competency.

14 Q. Okay. I think you testified earlier that you  
15 believe that Mr. Mosley is not intellectually disabled?

16 A. I did say that.

17 Q. Okay. Are you familiar with the DSM-5?

18 A. I'm familiar.

19 Q. Okay. And the DSM-5 is what exactly?

20 A. The Diagnostic Statistical Manual used by  
21 psychologists and psychiatrists to diagnose patients with  
22 different disorders -- psychological disorders.

23 Q. Okay. And so the DSM-5 lays out what is  
24 required in order to diagnose somebody with intellectual  
25 disability; is that right?



1 A. That's correct.

2 Q. Okay. And you've read that, right?

3 A. I have read it.

4 Q. Okay. And so you're familiar with what's  
5 required in order to --

6 A. I'm familiar.

7 Q. -- diagnose somebody?

8 A. Yes. I'm familiar. I couldn't recite it word  
9 for word, but I am familiar.

10 Q. That's fine. I'm going to help you out. There  
11 is an exhibit.

12 A. Okay.

13 MS. SEIFER-SMITH: May I approach with 11?

14 THE COURT: Yes.

15 MS. SEIFER-SMITH: Oh, I'm sorry. Did you want  
16 to see it?

17 MS. SULLIVAN: I'm good.

18 BY MS. SEIFER-SMITH:

19 Q. Does that look familiar to you?

20 A. It does.

21 Q. Okay. So it's the cover page of the DSM-5, and  
22 then a table indicating what the three domains are with  
23 respect to intellectual development.

24 A. Yeah, for mild severity.

25 Q. Okay. All right. Do you know what the

1 diagnostic criteria is for diagnosing somebody with  
2 intellectual disability?

3 A. Yes.

4 Q. Can you tell me what they are?

5 A. They need to have an intellectual functioning in  
6 the extremely low range, like, under 70, and they also  
7 have to have deficits in adaptive functioning.

8 Q. Okay. It's actually a little bit more than  
9 that.

10 MS. SEIFER-SMITH: Your Honor, would you mind if  
11 I approach with the DSM? I'll show the State first.

12 THE COURT: Yes. I just --

13 MS. SEIFER-SMITH: Okay.

14 THE COURT: -- don't want to get in a position  
15 where we're just reading the DSM into the record.

16 MS. SEIFER-SMITH: Okay. I just want her to see  
17 one thing.

18 BY MS. SEIFER-SMITH:

19 Q. Would you agree that there is also a third  
20 thing, which is there is a requirement that the onset be  
21 during the developmental period?

22 A. Yes. Yes, I would agree.

23 Q. Okay. Now, you looked at absolutely nothing  
24 with regards to Mr. Mosley for the developmental period,  
25 correct?

1           A.     Correct.

2           Q.     Okay.  And I want to talk a bit about those  
3 particular domains.

4           A.     Okay.

5           Q.     The conceptual, social, and practical domain,  
6 right?  Okay.

7           A.     Yes, I see that here.

8           Q.     Okay.  So let's talk about the conceptual domain  
9 first.  Learning and problem-solving skills, right?

10          A.     Yes.

11          Q.     Which include language, reading, writing, math,  
12 and reasoning, right?

13          A.     Right.

14          Q.     Also, the ability to acquire and apply  
15 knowledge, right?

16          A.     Yes.

17          Q.     Okay.  Now, I'd say that based on what you had  
18 in front of you, still, like--

19          A.     Uh-huh.

20          Q.     -- he didn't really meet the conceptual domain,  
21 right?  He didn't do very well on it, right?  He indicated  
22 multiple times he didn't understand.

23          A.     Uh-huh.

24          Q.     He gave you incorrect answers often.  So he  
25 wasn't really applying knowledge?

1           A.    Right.  But my conceptual -- conceptualization  
2 of that was that he was feigning.

3           Q.    Okay.  You also never had him read anything, you  
4 just relied on somebody saying that he could read out  
5 loud?  You never checked to see what his comprehension was  
6 of the things that he was reading?

7           A.    Correct.

8           Q.    You never had him write anything?

9           A.    Yeah.  I don't believe I did, no.

10          Q.    Okay.  And, I mean, he wouldn't have had to  
11 engage in any kind of problem-solving skills because  
12 everything is done for him at the hospital, right?

13          A.    Yeah.  I mean, I guess the only -- the only  
14 thing I -- well, I guess, it would fall more under social,  
15 like problem-solving with peers, but that would be  
16 something he would have to navigate.  But that might fall  
17 under social more than conceptual.

18          Q.    It sounds like that's more social, right?

19          A.    Yeah.

20          Q.    Which we'll get to in a second.

21          A.    Yeah.

22          Q.    Okay.  So social is about interaction with other  
23 people, right?

24          A.    Correct.

25          Q.    And because you were only seeing him for about

1 five minutes --

2 A. Uh-huh.

3 Q. -- on a weekly basis, you never really saw him  
4 interacting with much of anybody except yourself?

5 A. Well, that's not true because if I -- sometimes  
6 I would walk onto the unit, he would be there. If I  
7 walked into the classroom, he would be there. I wasn't  
8 necessarily there to engage with him specifically, but I  
9 could still see him interacting with others.

10 Q. Okay. And you never -- you didn't write  
11 anything about any of those social interactions, right?  
12 You're just saying that, like, he meets all --

13 A. No.

14 Q. -- of these things? Okay.

15 A. Well, no. I mean, because it was more  
16 observations. It wasn't, like, sitting and listening to  
17 their conversations or anything, but there were no issues  
18 with peers from what I can recall.

19 Q. Now, practical domain. You were just looking  
20 only at how Mr. Mosley was functioning in the context of a  
21 hospital setting, correct?

22 A. Correct.

23 Q. Okay. You said earlier you never spoke with his  
24 mother who has known him, obviously, since he was born to  
25 determine whether or not he actually functioned well

1 outside of a hospital setting, correct?

2 A. Correct.

3 Q. Okay. So if he had actually, you know, like,  
4 was unable to hold a job for a very long period of time  
5 because he struggled, that would have been important for  
6 you to know with respect to, like, how he's doing in a  
7 practical domain?

8 A. Well, Dr. Hall did note some work experience  
9 that he had.

10 Q. So just having work experience doesn't mean that  
11 you're doing well.

12 A. It doesn't mean you're doing well, but he -- he  
13 did have work experiences, Waste Connections/Waste  
14 Management thing. It is work. It doesn't mean you're  
15 doing, I guess, well at it. That's a good point, but...

16 Q. Does it take very much to pick up a trash can?  
17 A lot of problem-solving skills?

18 A. I would say no.

19 Q. Okay.

20 A. But you still, you know, have the responsibility  
21 to maintain a job, show up on time, follow your schedule.  
22 There are some adaptive function skills related to keeping  
23 any job, I would argue.

24 Q. And that's more emblematic if you're living on  
25 your own, right? Like, if you really have to manage your

1 time, get yourself up, get out the door yourself --

2 A. Yeah.

3 Q. -- right? But if you're living at home with  
4 your parents --

5 A. Uh-huh.

6 Q. -- who make sure that you get to work on time,  
7 right, people are really kind of managing time for you,  
8 right?

9 A. Yeah.

10 Q. Okay.

11 A. But likely, depending on the relationship, I  
12 would say.

13 Q. One of the things that's typically considered in  
14 a practical domain is whether or not somebody has a  
15 driver's license, right?

16 A. Uh-huh.

17 Q. Is that a yes?

18 A. Oh, yes. Sorry. Yes.

19 Q. Okay.

20 A. I believe so.

21 Q. But if Mr. Mosley only ever had a learner's  
22 permit, and he only passed that after nine attempts,  
23 ultimately passing because of the assistance of his  
24 brother, that would also mean that he's not doing well at  
25 that kind of practical domain, right?

1           A.    I mean, I wasn't privy to any of that knowledge,  
2 but, sure, I would agree with that.

3           Q.    Because you weren't privy to anything in  
4 Mr. Mosley's history, right?

5           A.    Other than what -- the -- the information that  
6 was available to me, no.

7           Q.    Okay. Now, speaking with somebody who knew how  
8 Mr. Mosley performed tasks like managing his money,  
9 driving his car --

10          A.    Uh-huh.

11          Q.    -- that would have been important for a  
12 determination as to whether or not he is, in fact, meeting  
13 those adaptive functioning deficits, right?

14          A.    It would have been helpful information.

15          Q.    Yeah. Okay. And I just want to talk very  
16 briefly about Autism Spectrum Disorder.

17          A.    Okay.

18          Q.    Okay. So you said that sitting here today,  
19 right, like, you would not diagnose Mr. Mosley with Autism  
20 Spectrum Disorder; is that right?

21          A.    That's correct.

22          Q.    Okay. Having done absolutely nothing in the way  
23 of any kind of testing?

24          A.    Correct.

25          Q.    Okay. And so that's just based on, like, you



1 looking at Mr. Mosley and making a determination no ASD?

2 A. Yeah. Well, I didn't observe any of -- any  
3 symptoms associated with autism that would require an  
4 evaluation.

5 Q. What kind of symptoms would you be talking  
6 about?

7 A. Like deficits in social communication, nonverbal  
8 communication, rigidity as far as changes to the struc --  
9 to, you know, daily life activities, repetitive behaviors,  
10 abnormal -- abnormalities of speech, such as a palilalia,  
11 which is like repeating things, sensory issues. That's  
12 what I can think of off the top of my head.

13 Q. Now, there is no requirement that somebody has  
14 all of those things in order to be diagnosed with ASD,  
15 right?

16 A. Correct.

17 Q. Okay. It could be some of those things?

18 A. Yes.

19 Q. And not all of those things are going to be all  
20 present all the time, right?

21 A. Right. I would agree with that.

22 Q. Okay. Those symptoms have to be present during  
23 the early developmental period as well, right?

24 A. Yes.

25 Q. Okay. And, again, you spent very little time

1 with him outside the setting of, like, these brief  
2 conversations, right?

3 A. Yes. Well, the standardized testing and the  
4 competency assessments were a little more time.

5 Q. Okay. You never spoke to anybody about any of  
6 those symptoms like repetitive patterns of behavior,  
7 interests, et cetera, like his mother, his father, his  
8 siblings, nothing like that, right?

9 A. No.

10 Q. Okay. So you never really engaged in  
11 determining completely -- like, you didn't engage in the  
12 diagnostic criteria of, like, looking at all of these  
13 things?

14 A. No, because I don't believe -- even if he did  
15 have some of these symptoms, I don't believe that they  
16 would have interfered with his competency.

17 Q. Okay.

18 MS. SEIFER-SMITH: If I could just take a  
19 moment?

20 THE COURT: Yes.

21 BY MS. SEIFER-SMITH:

22 Q. Have you ever diagnosed anybody with ASD during  
23 your time at the South Florida Evaluation and Treatment  
24 Center?

25 A. I believe I have, but I believe it was based on

1 his history. I had historical information they were  
2 already diagnosed.

3 Q. So somebody had previously been diagnosed with  
4 ASD, and so you just reaffirmed that diagnosis?

5 A. I believe so. I had some historical  
6 documentation. I don't exactly recall. It's been a long  
7 time.

8 Q. Okay. And it sounds like that was only on one  
9 occasion; is that right?

10 A. One or two.

11 Q. Okay.

12 MS. SEIFER-SMITH: I don't think I have anything  
13 further.

14 THE COURT: All right. Thank you. Any  
15 redirect?

16 MS. SULLIVAN: No, Your Honor.

17 THE COURT: Is she free to go?

18 MS. SEIFER-SMITH: Yes.

19 THE COURT: Drive safely.

20 THE WITNESS: Fly safe.

21 THE COURT: Fly safe. Safe travels. Let's put  
22 it that way.

23 THE WITNESS: Yeah.

24 THE COURT: Who else is he coming this  
25 afternoon?

1 MS. SEIFER-SMITH: I have one witness who's  
2 available on Zoom, I think. I just need to make sure  
3 that she's at her computer. Otherwise, I have  
4 Desiree Baker with -- do you mind if I just step out  
5 and call her to --

6 THE COURT: Sure. Yeah.

7 MS. SEIFER-SMITH: -- to make sure. Okay. She  
8 said she's already on. She might be on.

9 THE COURT: I have two people in the waiting  
10 room. That would be --

11 MS. SEIFER-SMITH: Don't you just love it when  
12 everything lines up?

13 THE COURT: Yes. So there's two Susan St. Johns  
14 on there. One of those is Jill, my assistant,  
15 because our TV isn't working. When the power went  
16 out, TV doesn't work.

17 MS. SEIFER-SMITH: Oh, fun.

18 THE COURT: So she's watching on Zoom in case I  
19 need something. She's listening in.

20 MS. SEIFER-SMITH: Okay.

21 THE COURT: So that's why you see two of me on  
22 there.

23 MS. SEIFER-SMITH: Okay. And you said Ms.  
24 Franklin is in the waiting room?

25 THE COURT: I see her.

1 MS. SEIFER-SMITH: Okay. Great.

2 THE COURT: And I see you there.

3 MS. SEIFER-SMITH: Yep.

4 THE COURT: Okay. Ms. Franklin, can you hear me  
5 okay? Please, take yourself off mute and raise your  
6 right hand for me.

7 (Witness was duly sworn on oath.)

8 THE COURT: All right. I need you to get as  
9 close as you can to your microphone, nice and loud.  
10 We have a court reporter present that needs to take  
11 everything down that we're saying, okay?

12 THE WITNESS: Yes.

13 THE COURT: All right. So don't feel like  
14 you're yelling at me. I want you to talk as loud as  
15 you can.

16 THE WITNESS: Okay. I turned my microphone up,  
17 as well.

18 THE COURT: Perfect. And I turned it up here,  
19 too.

20 DIRECT EXAMINATION

21 BY MS. SEIFER-SMITH:

22 Q. Ms. Franklin, can you hear me?

23 A. Yes, I can hear you.

24 Q. Great. Okay. Can you please introduce  
25 yourself?

1 MS. SEIFER-SMITH: Or I think she needs to be  
2 sworn in.

3 THE COURT: I just did.

4 MS. SEIFER-SMITH: Oh, you did.

5 BY MS. SEIFER-SMITH:

6 Q. Ms. Franklin, can you please introduce yourself  
7 to everybody in the courtroom?

8 A. Yes. Hi, my name is Sara Franklin. I am a  
9 former Pinellas County school teacher.

10 Q. Okay. Can you tell me a little bit about your  
11 education and your multiple degrees?

12 A. Yes. I have a bachelor's degree from the  
13 University of South Florida in art, and then I have a  
14 master's degree in special education, exceptional student  
15 education, and English as a second language from the  
16 University of South -- South Florida, St. Petersburg  
17 Campus. I'm -- I'm currently working on a -- a second  
18 master's degree, as well--

19 Q. Okay.

20 A. -- but my primary education is in exceptional  
21 student education.

22 Q. And you, at one point, were a classroom teacher,  
23 but you have left classroom work, remained in education,  
24 though; is that right?

25 A. I was a varying exceptionalities resource

1 teacher. So I wasn't -- I didn't have a -- a full-time  
2 classroom, but I worked with students and in either a  
3 small group setting or within their classroom.

4 Q. And what school were you in like, 2011, '12?

5 A. I worked at Lakewood Elementary.

6 Q. Okay. Can you just give us kind of a broad  
7 description of that school? Like, what was Lakewood  
8 Elementary like?

9 A. Yeah. Lakewood Elementary, at the time, was or  
10 is classified as a Title I school in Pinellas County. It  
11 was -- it -- it's a school that -- let's see. It very  
12 much received a lot of additional support from the State  
13 in regards to academics.

14 At one point, it had been a magnet school and  
15 then transitioned to being under some additional, like,  
16 state -- like, we received, like, additional funding and  
17 additional -- at one point, additional, like, extended  
18 hours. So additional academic support for students.

19 Q. Okay. Which would you --

20 A. I'd say --

21 Q. I'm sorry. Go ahead.

22 A. I was going to say -- I'd say the majority of  
23 students were performing academically below compared to  
24 the majority of the rest of the county.

25 Q. Okay. So it sounds like Lakewood Elementary was

1 a school that struggled during this timeframe?

2 A. Yes.

3 Q. Okay. Did you review anything in connection  
4 with this case before being sworn in by the judge this  
5 afternoon?

6 A. Only what I've seen on the news.

7 Q. Okay.

8 A. And my -- and my -- I had very few previous  
9 records.

10 Q. Okay. I understand when you left the Pinellas  
11 County School System, you took some -- or you were able  
12 to, I guess, kind of save some of your own records. And  
13 you had records --

14 A. Uh-huh.

15 Q. -- in regards to Thomas Mosley that you took a  
16 look at; is that right?

17 A. Yes. Correct.

18 Q. Okay. And that was just with respect to some  
19 goals; is that right? Like, nothing substantive --

20 A. Yeah.

21 Q. -- reports or anything like that?

22 A. Uh-huh.

23 Q. Okay. Now, I just want to kind of change gears  
24 a little bit. So the name Thomas Mosley, are you familiar  
25 with that name?



1 A. Yes.

2 Q. How are you familiar with him?

3 A. Yes. I remember him as a former student that I  
4 worked with when he was at Lakewood.

5 Q. Okay.

6 A. And then also from what I've seen on the news.

7 Q. When you saw him and his name on the news, what  
8 is the first thing that you remember thinking?

9 A. I was -- I was heartbroken to see his face and  
10 his name on the news. Very sad.

11 Q. Do you recall telling me that one of the first  
12 things that you thought was, Does he even understand what  
13 he's done?

14 A. Yeah. I -- I -- yeah. That -- that's one of  
15 the reasons I was very saddened to see that. I -- I very  
16 much questioned whether he understood what -- what was  
17 happening at the time and what -- yeah, that was  
18 definitely one of my concerns.

19 Q. And is that because one of the things that stand  
20 out to you about Thomas Mosley is his --

21 MS. SULLIVAN: I'm going to object to leading at  
22 this point.

23 THE COURT: What's your question, please?

24 MS. SEIFER-SMITH: Okay. Sure.

25 BY MS. SEIFER-SMITH:

1 Q. Tell me about what stands out to you in terms of  
2 your memories -- well, actually, maybe I can backtrack.

3 You said Thomas Mosley was a student of yours;  
4 is that right?

5 A. Yes.

6 Q. Okay. So does that mean that he was in special  
7 education classes with you?

8 A. Yes. He received a small group support through  
9 special education -- through special education services.  
10 And I believe one year, I provided those -- I was not his  
11 case manager, I provided the supports. And then another  
12 year, I may -- it -- it's been a long time, I may have  
13 been his case manager, but I provided his support in a  
14 smaller group setting for the second year.

15 Q. Is there anything that stood out to you about  
16 Thomas in terms of his performance as a student with you?

17 A. Yeah. So I -- it -- it always was very much  
18 difficult to understand, really, whether -- whether Thomas  
19 was really fully understanding the content that we were  
20 working on or whether he was really giving his full  
21 effort.

22 I definitely remember there being a lot, you  
23 know, he -- where he stood out from his peers and that he  
24 was a lot less engaged in the content that we worked on.

25 Q. What would happen with Thomas if he was

1 frustrated with assignments?

2 A. So, what I remember from working with him on  
3 academic content if -- if he was frustrated with  
4 something, he would tend to, like, shutdown, not respond,  
5 and then kind of, like, look away or, again, become, like,  
6 more shutdown behaviors. Like, becoming nonresponsive and  
7 not wanting to continue with the activity.

8 There were times that I do remember that he  
9 would, every now and then, not want to work on things.  
10 And again, would not -- would not respond verbally when  
11 those situations would happen where he was either  
12 academically frustrated or not interested in -- or appear  
13 to be not interested in the work.

14 Q. What kind of assistance did Thomas require in  
15 those, like, small group activities with you?

16 A. So he required visual supports. So we would use  
17 things like manipulative pictures to model things. He  
18 needed support, for, like, spelling and things like that.  
19 Like, frequently, like, site word lists. So, like,  
20 commonly spelled words when -- either for his grade level  
21 or for grade levels below, and would need that type of  
22 support with writing. So -- and visuals for things like  
23 math.

24 Then he also needed, like -- so he received  
25 testing in a smaller group setting. So where peers might

1 take a test within, like, a whole classroom, he would take  
2 it with only a couple of other students and would get,  
3 like, those test questions read out loud to him and would  
4 receive additional breaks and prompting throughout --  
5 throughout any type of testing or assessments, as well.

6 Q. When you talk about prompting, is that like  
7 affirmation or encouragement; is that what you mean?

8 A. Uh-huh. Yeah.

9 Q. Okay.

10 A. Yes.

11 Q. Do you think that he was providing answers to  
12 your questions that were correct or just that he thought  
13 you might want to hear, if you're able to say?

14 A. I think there definitely was a question of  
15 whether the -- when he did answer questions, whether it  
16 was -- whether he was repeating something that maybe  
17 somebody else -- you know, like, if there was a peer who  
18 said a response, if somebody else said that, he might  
19 repeat something that somebody else said or repeat, like,  
20 the answer to part of a question.

21 It was a little hard to understand sometimes  
22 whether he was just repeating parts of things that sounded  
23 correct, or whether it was -- he was actually providing  
24 the correct -- a correct response.

25 Q. Do you remember anything about --

1 A. (Indiscernible).

2 Q. I'm sorry.

3 A. Go ahead.

4 Q. Do you remember anything about his speech?

5 A. Yeah. So I do remember when trying to, like,  
6 determine his reading comprehension when listening to him  
7 read out loud, a lot at the times he would read things  
8 very quietly, mumble, things like that. So it would be  
9 very difficult to understand whether he was correctly  
10 enunciating a word or whether he was -- it was just kinda  
11 like a speech issue or, you know, putting more, like,  
12 effort behind your vocals versus, like, talking, you know,  
13 very quiet under the breath, kind of like mumbling that --  
14 it was very, very hard to tell the difference whether some  
15 of the times that he was -- whether he was getting parts  
16 of the sound of a word correctly or whether he was just  
17 kind of guessing and mumbling through some of the things.

18 So it was hard to understand with his reading  
19 comprehension, and with his basic, you know, like, basic  
20 reading skills on whether some of those words were a  
21 speech issue, whether it was an issue with his ability to  
22 read the word, decode the word. Again, getting him to  
23 respond and participate was, you know, pushing further  
24 again would get that type on behavior, so...

25 Q. Do you remember anything in particular about his

1 mood or his affects?

2 A. Yes. That, more frequently than not, would have  
3 a very -- Thomas would have a very, very quiet or very  
4 less engaged affect. So a lot of infrequent eye contact,  
5 a lot of, like, gazing downwards. Again, lack -- lack of,  
6 like, direct engagement unless prompted.

7 Q. Did you have any concerns -- I guess, thinking  
8 back about Thomas now, like, did you have any concerns  
9 that he might have had cognitive impairments like  
10 intellectual disability or Autism Spectrum Disorder?

11 A. I think at the time, I think mostly we -- I  
12 don't think there were any specific concerns on those  
13 specific disabilities. We would have mostly looked at  
14 what supports would have benefited -- would have been the  
15 most benefit to him within the educational environment.

16 And at the time, the specific learning  
17 disability was providing him with the accommodations and  
18 special education services that were addressing the issues  
19 that we were seeing. So at the time, it was not something  
20 that was brought up as a possibility.

21 Q. Thinking about it now, though, like, with the  
22 context of time and space and, like, your additional  
23 degrees, do you think that maybe that should have been a  
24 concern in elementary school?

25 A. So, yeah, it definitely is something that --

1 that could have -- that could have been considered. I  
2 think, again, at the time when he was in fourth and fifth  
3 grade, the expectations for students and what supports we  
4 can provide within the educational environment are  
5 sometimes different than what a student might be  
6 struggling with.

7 I think looking back, there definitely could  
8 have been -- that's definitely something that could have  
9 been considered and it definitely would have met the --  
10 if, like, teachers had brought things up or if we had  
11 looked -- had considered something like Autism Spectrum  
12 Disorder or intellectual disability, they would have done  
13 additional -- additional testing.

14 At the time, I think there was just a lot of  
15 concern about Thomas's really his -- he really benefited a  
16 lot from the social aspect of the general education  
17 environment. So those types of things within the  
18 educational system really would be looking at if there  
19 would have been a benefit to, like, a smaller classroom  
20 setting as a more intensive support system.

21 At the elementary school level, I don't know  
22 that that necessarily would have been the right -- the  
23 right change for Thomas because he was very, very  
24 interested or motivated socially. However, I'm not sure  
25 what that -- as the social demands --

1 THE COURT: What was your question? I lost --

2 MS. SEIFER-SMITH: Okay.

3 THE COURT: -- track of what the question was.

4 MS. SEIFER-SMITH: Yeah. Okay.

5 THE COURT: Let's narrow her focus a little bit  
6 here, please.

7 BY MS. SEIFER-SMITH:

8 Q. Yeah. So I guess my next question is: During  
9 his time with you, did Thomas actually progress? Like,  
10 did he get better?

11 A. I don't have -- again, I don't have the academic  
12 records from what we worked on. I would have documented  
13 progress in his IEPs. I do believe he made some progress  
14 academically. I don't know whether it was significant or  
15 whether it was -- I don't believe it was up to grade  
16 level.

17 Q. And I think --

18 A. And I think I -- at the previous question,  
19 again, it was -- I think if I would have -- if we would  
20 have looked at those additional disabilities as part of  
21 his education review --

22 Q. Okay.

23 A. -- again, it's very -- it could have been a  
24 possibility, but it really would have been what the impact  
25 would be to his educational environment.



1 Q. Okay. Sorry. I think you mentioned that you  
2 worked with Thomas when he was in the fourth and fifth  
3 grade; is that right?

4 A. Yes.

5 Q. Okay.

6 MS. SEIFER-SMITH: Sorry. Just one second. I  
7 don't have any other questions, do you?

8 MS. ELLIS: I just have a few. I'm going to  
9 come up there, yeah.

10 MS. SEIFER-SMITH: Just stay up here? That's  
11 fine.

12 THE COURT: Sure.

13 MS. SEIFER-SMITH: Yeah.

14 CROSS-EXAMINATION

15 BY MS. ELLIS:

16 Q. Good evening, Ms. Franklin.

17 A. Hi.

18 Q. I think I spoke with you on the phone the other  
19 day. You haven't seen Thomas since, what, 2013, 2014; is  
20 that correct?

21 A. That's correct.

22 Q. And that would have been it?

23 A. Since he went to middle school.

24 Q. Okay. But he did progress from fourth grade to  
25 fifth grade and then to middle school with you; is that

1 correct?

2 A. That's correct.

3 Q. You have not been provided any school records,  
4 though, to review to refresh your memory on what progress  
5 that was, but he did graduate from fourth to fifth and  
6 then on to middle school?

7 A. Yes. Yeah, I received -- yeah, I have, again,  
8 some -- like, just a couple of notes -- some things from  
9 services and things like that that we worked on or that he  
10 received. Then I did review the report from a language  
11 evaluation from previous, but nothing that -- from his  
12 educational records from fourth and fifth grade. And then  
13 again, he did move from fifth grade on to middle school.

14 Q. Okay. And he was classified as having a  
15 language impairment; is that what you were treating him  
16 for?

17 A. He was -- so I -- again, I'm not -- I'm not  
18 quite sure what he was originally -- what his original  
19 disability would've been within the school system. At one  
20 point, he was classified as language-impaired. And he --  
21 -- he also had the specific learning disability label as  
22 well. So I supported him through the specific learning  
23 disability label.

24 So he would have, at one point, received  
25 language therapy, language services. Then we transitioned

1 those services to being supported through the educational  
2 setting. So through the specific learning disability  
3 primary label.

4 Q. Okay. But he was in normal math, science,  
5 English classes. It wasn't like a special education class  
6 that he was in?

7 A. He was in what was called a full-time general  
8 education setting with resource support. So he received  
9 -- one year, he received support within the classroom.  
10 So, like, I would have gone in, like, three times a week  
11 to provide some small group instruction with him and  
12 additional peers on remedial topics.

13 Then I believe in fifth grade, it may -- it was  
14 either within his classroom or within the resource room  
15 setting, but the same thing, it would've been around that  
16 amount of time within a small group setting.

17 Q. So you were almost giving him, like, extra  
18 tutoring support on different subject matters in either  
19 small groups or one-on-one?

20 A. Correct.

21 Q. And how many students would you say that you've  
22 taught over the years? Hundreds? Thousands?

23 A. Definitely up in the 100s. It could be close to  
24 the thousands. I taught for over 13 years in the public  
25 school setting, and then I worked with students outside of

1 that as well.

2 Q. Okay. And I --

3 A. So, yeah. A lot of students.

4 Q. I asked you specifically what stood out about  
5 Thomas, and do you recall telling me he was very much a  
6 challenge. Thomas was the effort.

7 Do you remember saying that to me?

8 A. Yes. Yes.

9 Q. And typically in the case of intellectual  
10 disabled students, that it's pretty easy to diagnose them  
11 and put them in a specialized education, not just general  
12 education, but with Thomas it was much harder because you  
13 could not determine whether he just wasn't putting forth  
14 the effort?

15 MS. SEIFER-SMITH: I'm going to object to that.  
16 That's outside of the scope of a special education  
17 teacher diagnosis of intellectual disability.

18 THE COURT: Overruled.

19 BY MS. ELLIS:

20 Q. You can answer that, ma'am.

21 A. Can you repeat the question?

22 Q. Sure. Do you recall telling me that what you  
23 remembered about Thomas was that he was very much a  
24 challenge, because he wasn't putting forth effort, and if  
25 it was a situation where it was an intellectual disabled

1 child that you would have taken them into a more  
2 specialized classroom, smaller setting, and worked with  
3 them, not in general education?

4 A. So yes. What stood out to me about Thomas was  
5 that he -- there was a concern about his effort. Again,  
6 but it was also that concern of whether it was his  
7 understanding, as well. So it was -- it -- and then as  
8 far as other students being -- looking at an intellectual  
9 disability within the school district, I'd say it's  
10 actually pretty challenging.

11 There are -- there's quite a lot of testing and  
12 data that would need to be collected and significant  
13 concerns to move a student from a full-time general  
14 education setting with resource support to a full-time  
15 small group -- or smaller classroom setting.

16 It would've been a very -- a very intensive  
17 process for that. That is a very intensive process. I  
18 would say I've had very few students over the years that  
19 really warrant that level -- that level of concern at that  
20 time.

21 There are things that -- again, with Thomas's  
22 behavior, that there was a very big -- the real challenge  
23 was understanding whether it was his ability to comprehend  
24 what was being asked of him or whether he was putting  
25 forth effort --

1 Q. Okay.

2 A. -- into some of those things.

3 Q. You would meet, what, monthly or at least  
4 yearly, to discuss the specialized education plan, and  
5 that would include with his parents?

6 A. Yes. Correct.

7 Q. Okay. And to your knowledge, intellectual  
8 disability or autism was never brought up by anyone in any  
9 of these meetings?

10 A. I don't remember it being brought up as a  
11 specific concern --

12 Q. But the language was always brought up, and  
13 that's what he was being treated for or given extra  
14 support for?

15 A. Yes. Correct.

16 Q. Also, you spoke about him blending in with his  
17 peers and how he was motivated with his peers. Isn't it  
18 true that he did blend in with his peers, and he had the  
19 adaptive functioning and the behaviors to be in a  
20 generalized classroom?

21 A. Again, so that -- that's something that is --  
22 it's really difficult to really say for sure because of  
23 the way that -- because of the school setting, because  
24 Lakewood had a very high number of students that were --  
25 that had significant behavior issues and were

1 performing -- were performing academically below grade  
2 level. There --

3 Q. But he didn't stand out? He blended in with  
4 that classroom?

5 A. He appeared still delayed compared to peers, but  
6 he did attempt to blend in with his peers. So he would do  
7 things -- I did observe behaviors like, you know, trying  
8 to see what other students were doing and mimicking those.  
9 Sometimes, again, answering questions that other students  
10 may have answered with the same response. Again, that  
11 mimicking sort of behavior, and also trying to not stand  
12 out to his peers.

13 Q. Do you recall --

14 A. He didn't like being singled out.

15 Q. Do you recall telling me that he seemed to make  
16 more efforts with his peers than in class?

17 A. Socially, definitely. Again, he tried -- he --  
18 he did.

19 Q. It's a yes or no. Do you recall saying that he  
20 made more efforts with his peers than in class?

21 A. I believe so, yeah. I think so, yes.

22 Q. Okay. And what you recall treating Thomas for  
23 is that he needed support in vocabulary, math, and English  
24 skills; is that correct?

25 A. Yeah. So I didn't treat him. I, again,

1 provided academic services, academic support within those  
2 areas.

3 Q. Okay. Any other particular areas that you  
4 remember giving him academic support in?

5 A. Again, it would have been, you know, testing  
6 accommodations, math, vocabulary, reading, and  
7 comprehension support.

8 Q. Okay?

9 MS. ELLIS: Thank you, Ms. Franklin.

10 THE COURT: Anything else?

11 MS. SEIFER-SMITH: Nope. Nothing further.  
12 Thanks so much, Ms. Franklin.

13 THE COURT: Thank you, ma'am. You can log off  
14 now.

15 THE WITNESS: Okay. Thank you.

16 THE COURT: Okay. And who else do we have here?

17 MS. SEIFER-SMITH: Desiree Baker.

18 THE COURT: Okay. Ms. Baker, I believe, has  
19 been patiently waiting for a good portion of the day.  
20 Thank you. Okay. Please raise your right hand.

21 (Witness was duly sworn on oath.)

22 THE BAILIFF: Right this way. Have a seat.  
23 Speak loud and clear into the microphone.

24 THE COURT: Is that for me?

25 MS. SEIFER-SMITH: Yes.



1 THE COURT: Are you thinking the Suncoast notes  
2 are in already? Any objection to 25? We might have  
3 already done it, but I'll just -- I don't think I've  
4 seen these, so.

5 MS. SEIFER-SMITH: You have not seen those.

6 THE COURT: Okay.

7 MS. SEIFER-SMITH: Okay. Thank you. It's a  
8 mystery.

9 THE COURT: All right. Well, now it's  
10 definitely in.

11 (Defense Exhibit 25 received into evidence.)

12 MS. SEIFER-SMITH: Okay.

13 Has Ms. Baker been sworn?

14 THE COURT: Yeah.

15 MS. SEIFER-SMITH: Okay. Great.

16 DIRECT EXAMINATION

17 BY MS. SEIFER-SMITH:

18 Q. Can you please introduce yourself to the Court?

19 A. My name is Desiree Baker. I am a forensic  
20 specialist at the Suncoast Center for Mental Health.

21 Q. Okay. Can you --

22 THE COURT: Can you spell your last -- sorry.

23 MS. SEIFER-SMITH: I'm sorry.

24 BY MS. SEIFER-SMITH:

25 Q. Yes. First and last name, please.

1           A.    D-E-S-I-R-E-E.   Last name is B-A-K-E-R.

2           Q.    Okay.   Ms. Baker, can you just give us a brief  
3 introduction in terms of your professional background?

4           A.    So for the last 10 years, I worked in the human  
5 services field with adults with developmental  
6 disabilities, (indiscernible) mental illness in a  
7 residential group home setting.   We also had clients that  
8 were registered sex offenders in that program, as well.

9                   I started at Suncoast Center in November of  
10 2024.   So just recently.   I hold a bachelor's in  
11 psychology with a concentration in forensics, and a minor  
12 in criminal justice.   And I am currently working to obtain  
13 my master's in forensic psychology.

14          Q.    Okay.   Can you tell us a little bit about what a  
15 forensic specialist is in terms of your responsibilities  
16 for Suncoast?

17          A.    So we act as a liaison for forensic clients that  
18 are committed to the state hospital and the court system.  
19 It involves case management, quarterly visits in person to  
20 the state hospital to visit with all the clients admitted  
21 there, as well as access to resources and assistance with  
22 the legal system.

23          Q.    Okay.   So it sounds like you, in your role as a  
24 forensic specialist, are a bit of an advocate for this  
25 person, separate and apart from an advocate within their

1 legal situation?

2 A. Yes.

3 Q. Okay. And can you tell me what that means in  
4 terms of, like, one-on-one visitation and what those  
5 requirements are?

6 A. So while they are admitted at the state  
7 hospital, I'm required to go every three months to see  
8 them in person. I usually meet with the client, and then  
9 I would meet with a member of hospital staff to get an  
10 update from their records after speaking with the client.

11 Once they're returned to Pinellas County Jail,  
12 we're supposed to meet with them within three days of them  
13 being transported back, and then at least monthly until  
14 they are either found competent to proceed or their  
15 charges are completed, one way or the other.

16 Q. Okay. In terms of those contacts with the  
17 client, are those documented? Like, is there a  
18 requirement in terms of, like, keeping track of that  
19 contact?

20 A. Yeah. So any client contact, it gets recorded  
21 in a progress note that is submitted to CFBHN, which is  
22 the Central Florida Behavioral Health Network, which is  
23 under DCF.

24 MS. SEIFER-SMITH: May I approach?

25 THE COURT: Yes.

1 BY MS. SEIFER-SMITH:

2 Q. I'm showing you what is already in evidence as  
3 Defense 25.

4 Do you recognize this?

5 A. Yes. They are case notes that I have written on  
6 my interactions with Thomas.

7 Q. Okay. These start on page 29 and go all the way  
8 to 54, is that because you only joined Suncoast in  
9 November of 2024?

10 A. Yes, that is correct.

11 Q. Okay. Did you have an opportunity to read and  
12 review all of these notes in preparation for your  
13 testimony today?

14 A. Yes, I did.

15 Q. Okay.

16 MS. SULLIVAN: Your Honor, the only thing I  
17 would ask is, we were provided from Defense pages 1  
18 through 54, which is the full Suncoast --

19 THE COURT: Okay.

20 MS. SULLIVAN: -- notes. We'd ask to move all  
21 of that into evidence --

22 THE COURT: Okay.

23 MS. SULLIVAN: -- so it's complete.

24 THE COURT: Do you have a copy with you?

25 MS. SULLIVAN: I do.

1 THE COURT: Okay. Any objections to the full  
2 Suncoast notes?

3 MS. SEIFER-SMITH: I don't have an objection. I  
4 just don't think that Ms. Baker can really testify to  
5 anything else.

6 THE COURT: Okay. If you're going to limit her  
7 testimony to 29 to 54, because that's her knowledge  
8 base about the specifics, that's fine.

9 What do you want to label that as, then?

10 MS. SULLIVAN: We can --

11 MS. SEIFER-SMITH: I guess it can be stipulated  
12 25B?

13 THE COURT: You can't -- yeah.

14 MS. SULLIVAN: That's fine.

15 THE COURT: This will be 25A, I guess, and then  
16 25B will be the full. I just need a copy of it if  
17 you want me to --

18 MS. SULLIVAN: Yes.

19 THE COURT: Madam Clerk, can you make that  
20 change? This will be 25A.

21 THE CLERK: What we had already admitted as 25A,  
22 and then the full report's B?

23 THE COURT: Is it already labeled? Is it  
24 labeled 25A already?

25 THE CLERK: No, it's 25. I'm saying --

1 THE COURT: Yeah. Just add the A to it.

2 THE CLERK: Yeah.

3 THE COURT: That's all. All right.

4 THE CLERK: And then for the B, will I be  
5 getting that?

6 THE COURT: Yes, you will. The full report.

7 MS. SULLIVAN: And I'm working on that right now  
8 for you.

9 THE CLERK: Okay.

10 BY MS. SEIFER-SMITH:

11 Q. So I want to talk a little bit about your visits  
12 with Mr. Mosely. Are you required to explain to  
13 Mr. Mosley what the purpose of your visit is, and what  
14 your role is as a forensic specialist?

15 A. It was never explained to me that that is a  
16 requirement. I always do it because, due to how they're  
17 transported back and forth, the stay at the hospital, I  
18 may not be consistent with them for a long period of time,  
19 so they may not remember who I am.

20 Q. Okay. So it sounds like that's something that  
21 you find to be important in terms of consistency for the  
22 client?

23 A. Yes.

24 Q. Okay. Is it something that you had to explain  
25 to Mr. Mosley on multiple occasions?

1           A.    Yes.

2           Q.    Okay.  So you had to explain on multiple  
3 occasions who you were, what your role was, what your  
4 responsibilities were, and that you were an advocate to  
5 him; am I getting that right?  Or maybe --

6           A.    Yes.

7           Q.    -- you can put it in your own words.

8           A.    So I introduced myself to him the first visit to  
9 the state hospital, as I had never met him before and I  
10 just recently had him assigned to me.  I reintroduced  
11 myself when he first came back from the state hospital and  
12 was in Pinellas County jail.  And I believe there was one  
13 other time after that that I had also explained again what  
14 my role was to him.

15          Q.    Okay.  So at least three times?

16          A.    Yes.

17          Q.    Okay.  And the first time you met with Thomas,  
18 he was already at the South Florida Evaluation and  
19 Treatment Center; is that right?

20          A.    Yes.

21          Q.    When was that visit with him; do you know?  I  
22 think I have it as February 12th, 2025; does that sound  
23 right?

24          A.    Yes.

25          Q.    Okay.  Now, did Thomas -- did Mr. Mosley tell

1 you that he was experiencing visual and auditory  
2 hallucinations?

3 A. Yes, he did.

4 Q. Okay. And that he was taking medication to  
5 address those hallucinations; is that right?

6 A. He said that he was taking Trazodone. He didn't  
7 elaborate as to why --

8 Q. Okay.

9 A. -- he was taking it.

10 Q. Did he remember any of the other medications  
11 that he was taking?

12 A. No, he did not.

13 Q. Okay. Is it your habit to ask a client, like,  
14 what medications they're taking and if those medications  
15 are helping?

16 A. Yeah.

17 Q. So is it safe to assume that the Trazodone was  
18 the only medication that he remembered?

19 A. At that point, that was all the information I  
20 had. When I met with the hospital worker, she was not  
21 able to get the rest of the medications due to, like, a  
22 computer error. So the only knowledge that I had was put  
23 into the report, stating that it was from Thomas.

24 Q. Okay. You also met with an employee at the  
25 hospital, I think, Laurie Picario Yanas (phonetic)?



1 A. Yes.

2 Q. Okay. Do you know what her role at the hospital  
3 is?

4 A. I don't know exactly what her full title is.

5 Q. It's okay.

6 A. Okay.

7 Q. But she gave you some information about how  
8 Thomas was doing at the hospital; is that right?

9 A. Yes.

10 Q. She told you that his attendance to his classes  
11 was inconsistent; is that right?

12 A. Yes.

13 Q. And his effort is poor?

14 A. Yes.

15 Q. Okay. And she also indicated to you that his  
16 last competency assessment indicated that he was still  
17 incompetent to proceed; is that right?

18 A. Yes.

19 Q. Okay. Anything else about that visit on  
20 February 12th that you think is particularly important or  
21 relevant?

22 A. Not at the time, no.

23 Q. Okay. I think on February 18th, you heard from  
24 the South Florida Evaluation and Treatment Center that  
25 they wanted your notes of that February 12th visit to be

1 handwritten; is that right?

2 A. Yes. It's so they can show when they're audited  
3 by the Department of Children and Families that we are  
4 conducting the required specialist visits to the state  
5 hospital.

6 Q. Okay. So had you already submitted your  
7 electronic notes to them?

8 A. So my note was submitted into our system. I --  
9 on the day that it says that it was put in, which was  
10 February 12th. And then the handwritten notes were faxed  
11 -- sent via e-mail, I'm sorry, to Laurie via secured  
12 e-mail on the 18th.

13 Q. Okay. So you did comply with that directive to,  
14 like, submit handwritten notes?

15 A. Yes.

16 Q. Okay. Got it.

17 And then you saw Mr. Mosley on multiple  
18 occasions at the jail; is that right?

19 A. That is correct.

20 Q. All of those visits were video visits; is that  
21 correct?

22 A. Yes, that is correct.

23 Q. Okay. And, just kind of generally, we talked a  
24 couple of moments ago about, like, your questions about  
25 medication. You would always ask him what his medication

1 was?

2 A. Yes. I have, like, specific questions that I  
3 ask them just every time I go. They're typically the same  
4 questions that I ask.

5 Q. Okay. He had trouble remembering all of his  
6 medications when you asked him, right?

7 A. Yes.

8 Q. Okay. And he has a very flat affect -- would  
9 you say that he has a flat affect when you engaged with  
10 him in conversation?

11 A. Yes.

12 Q. Okay. Although sometimes would he get agitated?

13 MS. ELLIS: Objection. Leading.

14 THE COURT: Rephrase your question, please.

15 MS. SEIFER-SMITH: Sure.

16 BY MS. SEIFER-SMITH:

17 Q. Was there ever a time that Mr. Mosely was  
18 agitated in any visits with you?

19 A. Yes, there was.

20 Q. Okay. Was that on March 10th of 2025?

21 A. He did seem agitated during that visit, and he  
22 would roll his eyes when I would ask him a question, but  
23 he was compliant during the visit.

24 Q. Okay. Did he endorse any audio or visual  
25 hallucinations during that visit?

1           A.    Yes, he did.

2           Q.    Okay.  On March 24th, 2025, which I think is the  
3 next time you saw him, did Mr. Mosley seem to have some  
4 processing issues?

5           A.    Yes.  This time he was slow to respond the first  
6 time, but this time it appeared that he was taking a  
7 little bit longer to respond to my questions.

8           Q.    Okay.  So was he ultimately responding to your  
9 questions, just taking a while?

10          A.    Yes.

11          Q.    Okay.  And on April 7th, you had a bizarre  
12 encounter with him; is that right?

13               MS. SULLIVAN:  Objection.  Leading.

14               THE COURT:  What's your question?  Can you tell  
15 me your question again?

16               MS. SEIFER-SMITH:  My question was:  You had a  
17 bizarre encounter with him; is that right?

18               THE COURT:  Answer the question, if you can,  
19 please.

20               THE WITNESS:  Yes, I did.

21 BY MS. SEIFER-SMITH:

22          Q.    Okay.  Tell me about what was bizarre about this  
23 encounter with Mr. Mosley.

24          A.    A lot of his answers were the same as before.  
25 There was a point that I had asked him if he had any

1 questions for me, and he had asked where I lived, where I  
2 was from, and what my last name was.

3 Q. Okay. Did that strike you as anything in  
4 particular, like inappropriate or otherwise?

5 A. I did feel that the questions were inappropriate  
6 as far as, like, what the purpose of the meeting was for.

7 Q. In terms of, like, your experience over the past  
8 decade working with people with intellectual disabilities,  
9 is this something that would occasionally come up with  
10 that kind of, like, class of persons, like, asking  
11 inappropriate questions?

12 MS. ELLIS: Objection. This is outside her  
13 scope. She's forensic.

14 THE COURT: Rephrase your question, please.

15 MS. SEIFER-SMITH: Sure.

16 BY MS. SEIFER-SMITH:

17 Q. Have you encountered these types of  
18 inappropriate questions with people with developmental  
19 disabilities before?

20 A. Yes, I have.

21 Q. Okay. And so what did you do when he asked you  
22 those inappropriate questions?

23 A. I explained to Thomas that they were not  
24 appropriate to the visit that we were having. I asked him  
25 if he had any other questions. He stated, No. Then the

1 visit had ended at that point.

2 Q. Did the visit end because he didn't want to  
3 speak to you anymore?

4 A. Yes.

5 Q. Okay. On April 21st, did he continue to endorse  
6 audiovisual -- visual hallucinations?

7 A. Yes, he did.

8 Q. Okay. On May 22, was he agitated and annoyed  
9 again? All right. Just let me -- let me rephrase. On  
10 May 22nd, tell me about this particular visit. Like, what  
11 stands out to you?

12 THE COURT: Page 46.

13 BY MS. SEIFER-SMITH:

14 Q. Sorry. I'm being very unhelpful.

15 A. I'm sorry. Can you repeat the question?

16 Q. Sure. Is there anything about the May -- well,  
17 kind of walk me through the May 22nd visit.

18 A. So at this point, I had greeted Thomas, and he  
19 just stared at me for a few seconds. I thought maybe  
20 there was something wrong with the phones because that  
21 does happen. He then took a little while to respond. He  
22 immediately appeared agitated and and annoyed with my  
23 visit. It would take him usually a few minutes to become,  
24 like, agitated in previous visits.

25 Q. Can you describe what the agitation was?

1           A.    He would roll his eyes a lot.  If I would ask a  
2 question, he would, like, inhale, I guess, heavily, and  
3 exhale before answering the question.

4           Q.    Okay.  Was he responsive to your questions?

5           A.    This time, he did answer some questions, but I  
6 believe this visit was much more difficult than previous  
7 visits that I had with him.

8           Q.    Was this one of the occasions where you had to  
9 reexplain your role and that -- your role is as an  
10 advocate?

11          A.    Yes, this was.

12          Q.    Okay.  Did he tell you whether or not he felt  
13 like talking to you?

14          A.    He stated that he didn't want my help because I  
15 couldn't do anything for him.  I explained that I am  
16 required to visit him.  He then hung up and -- like, hung  
17 up the phone and had walked out of the visit at that  
18 point.

19          Q.    Before hanging up the phone, did you have an  
20 opportunity to tell him about what other people who are  
21 similarly situated will talk to you about?

22          A.    Yes, I did.

23          Q.    Okay.  And that can be, like, anything under the  
24 sun, right?  Like, you're there to listen; is that fair?

25          A.    Yes.

1 Q. Okay. And he was not interested in having any  
2 kind of conversation with you?

3 A. No.

4 Q. Okay. Did you continue to meet the obligations  
5 of your job by attempting to visit with him?

6 A. I did attempt to visit with him on more  
7 occasions, yes.

8 Q. And did he refuse those visits?

9 A. I attempted to visit on June 9th, and he had  
10 refused that visit.

11 Q. Did he refuse by, like, making it impossible for  
12 you to make an appointment with him, or did he refuse by,  
13 like, you know, checking to see who was on the video and  
14 then not engaging with you?

15 A. So for this visit, he had opened the door to the  
16 visitation. I saw him look, like, into the camera, and  
17 then he had left the visit.

18 Q. Okay. Did that happen on any other occasions?

19 A. Yes, it did.

20 Q. Okay. I think I have it as June 16th and  
21 June 20th, he did the same thing?

22 A. Yes, he did.

23 Q. Okay. So he never actually, like, I guess,  
24 petitioned or, like, submitted your name -- as far as you  
25 know, submitted your name to visitation and said, I'm not



1 going to see this person?

2 A. Not that I'm aware of.

3 Q. Okay.

4 MS. SEIFER-SMITH: Just a moment, please?

5 THE COURT: Yes.

6 MS. SEIFER-SMITH: I have nothing further.

7 THE COURT: Any cross-examination?

8 MS. SULLIVAN: Yes.

9 CROSS-EXAMINATION

10 BY MS. SULLIVAN:

11 Q. Good afternoon.

12 Do you have your own recollection about these  
13 meetings, or do you need to look at your reports every  
14 time?

15 A. I would prefer to look at them, so that --

16 Q. Okay.

17 A. -- I just know.

18 Q. These are meetings that took place in the last  
19 few recent months, though, right?

20 A. Yeah.

21 Q. What we just went through was about March,  
22 April, May, and most recently, June, correct?

23 A. Yeah.

24 Q. Okay. But every time you were asked about  
25 certain incidents, you had to look at your report to

1 recall the information, right?

2 A. Yes.

3 Q. And you write those reports close in time,  
4 usually, like the day after you go to visit?

5 A. Typically, yes.

6 Q. So those reports should accurately reflect what  
7 occurred during those visits, right?

8 A. Yes.

9 Q. All right. Is that a yes?

10 A. Yes.

11 Q. Okay.

12 A. Sorry.

13 Q. These are video visits, so they're recorded,  
14 right?

15 A. Yeah.

16 Q. They're recorded and monitored by the jail?

17 A. Uh-huh.

18 Q. Yes?

19 A. Yes.

20 Q. Sorry. She just has to take down what you --

21 A. I'm sorry.

22 Q. No problem.

23 During some of these visits, so specifically, we  
24 talked about the March 10th visit of this year, going on  
25 to the March 24th. It looks like each time Mr. Mosley

1 would confirm with you that he had recently spoken to his  
2 lawyer, right?

3 A. Am I allowed to --

4 Q. If you need to refer to it, go ahead.

5 A. March 10th, he did, yeah.

6 Q. All right.

7 A. I'm sorry. What was the other date?

8 Q. On March 24th of 2025, you told him about court  
9 and what had occurred. You were kind of giving him a  
10 recap of that. Didn't he indicate to you that he  
11 remembered what had occurred?

12 A. That was before -- on the 24th, it was before he  
13 went to court.

14 Q. Well, you have in there -- these are your words,  
15 right? You wrote this report?

16 A. Yes.

17 Q. And it says that -- let me go to it. I don't  
18 want to misspeak for you.

19 A. It says -- I'm sorry. The service date is 3/21.

20 Q. Okay. Then you wrote the report on 3/24?

21 A. Yes.

22 Q. Let's see. You said you told him about court,  
23 and he said he remembered; do you see that?

24 A. Yeah.

25 Q. Okay. Well, what are you referring to when you

1 say he remembered? What did he remember? That he had  
2 court?

3 A. I'm honestly not sure.

4 Q. Okay.

5 THE COURT: I need you to talk a lot louder.

6 THE WITNESS: Okay.

7 THE COURT: I'm just reading here. It says,  
8 forensic specialist reminded Thomas that they may be  
9 planning to bring him to court on Monday.

10 THE WITNESS: It was regarding the trip ticket,  
11 so --

12 THE COURT: Okay. And his response was what?

13 THE WITNESS: That he remembered --

14 THE COURT: Okay.

15 THE WITNESS: -- that he has to get up early to  
16 get the ticket and then come to court.

17 BY MS. SULLIVAN:

18 Q. All right. And then on -- we're talking about  
19 on page 39. I'll do it by page number, so it makes it a  
20 little easier for everyone.

21 This would be an April 3rd visit written -- you  
22 wrote your report on 4/7. I don't want to speak for you,  
23 but that's what that means?

24 A. Yes.

25 Q. You go to visit, and then you wrote the report

1 -- your notes from this on 4/7?

2 A. Yes.

3 Q. All right. So you're classifying this exchange,  
4 where he asked you if you lived in the area and what your  
5 last name was, as inappropriate?

6 A. Yeah.

7 Q. Okay. This is -- you've met him a few times, by  
8 this point?

9 A. Uh-huh.

10 Q. He initiated this conversation with you about  
11 asking what your last name was and where you lived?

12 A. Yeah.

13 Q. And it's your opinion that that's inappropriate  
14 for him to do after meeting you a few times and you're  
15 talking to him about what's going on with his case, how  
16 he's doing, how he's feeling. Him reciprocating that back  
17 to you, you labeled as inappropriate; is that accurate?

18 A. I felt that that was inappropriate.

19 Q. Okay. Every time you speak to him in these  
20 meetings, you confirm that he has met with his lawyer, and  
21 he confirms, yes, I met with my lawyer, and he indicates  
22 he knows the names of his lawyers?

23 A. I don't ask if he -- I don't believe that I  
24 asked if he knows the name. Just that he met with them.

25 Q. Okay. And then the 5/21/25 visit, I think you

1 said on direct, and you put in your report that --

2 THE COURT: Page 45.

3 MS. SULLIVAN: Thank you. Is it 45?

4 THE WITNESS: I think it's 46.

5 THE COURT: It says service date 5/21. Written  
6 on 5/22. Page 45.

7 MS. SULLIVAN: Okay. I have it as page 46, but  
8 that may --

9 THE COURT: There's also a 5/21 on page 46 --

10 MS. SULLIVAN: That's what I'm talking about,  
11 yes.

12 THE COURT: -- as well.

13 MS. SULLIVAN: Yes. Yes.

14 BY MS. SULLIVAN:

15 Q. So on page 46, just so we're all on the same  
16 page, a 5/21 visit, you were asked on direct, and you put  
17 in your report, Thomas then became more agitated.

18 Are you saying that his behavior changed in this  
19 moment from how he was the entire visit when you say "he  
20 became agitated;" do you remember?

21 A. I don't remember specifically this visit.

22 Q. Okay.

23 A. I'm sorry.

24 Q. It's okay. It's recorded, and it's actually one  
25 of the visits in evidence, so we'll be able to view that.

1 But that's your word at -- in that moment, during this  
2 part of the conversation, there was a behavioral change in  
3 him, and you're labeling it as agitated per your report;  
4 is that fair?

5 A. Yes, that's fair.

6 Q. Okay. And you put in here and asked the  
7 forensic specialist why they are there to visit him.

8 Is that your recollection of what was actually  
9 said that day, or do you have a recollection?

10 A. I don't remember exactly.

11 Q. Okay. If I told you that what was actually said  
12 is you said, Do you have any questions for me? And  
13 Mr. Mosley responded, Yeah. Do you have to come see me?

14 A. Okay.

15 Q. Would you dispute that?

16 A. No, I would not.

17 Q. Okay. And when you then said, Yeah, I do. So  
18 it wasn't a question of why you were there. It was if you  
19 had to come there because he didn't want to talk to you,  
20 right?

21 A. Yes.

22 Q. He said you weren't helping anything --

23 A. Correct.

24 Q. -- right? And then after the meeting, he walked  
25 out. Then it was -- the next time you tried to go visit

1 him you sat there for a few minutes, right?

2 A. Yes.

3 Q. And he came to the door, right?

4 A. Uh-huh.

5 Q. He opened the door?

6 A. Yeah.

7 Q. He walked through the door?

8 A. I believe this time he may have, yes.

9 Q. He started walking towards where he goes to sit  
10 down and pick up the phone, and he saw who was on that  
11 screen, right?

12 A. Yes.

13 Q. And then he made the conscious choice to turn  
14 around and walk out of that room, didn't he?

15 A. Yeah.

16 Q. Right. And then the next visit, I don't think  
17 he even makes it into the room. He may just kinda peaked,  
18 and then he walks away from you, right?

19 A. Uh-huh.

20 Q. All right. Because he didn't --

21 THE COURT: Is that a yes?

22 THE WITNESS: Yes.

23 BY MS. SULLIVAN:

24 Q. Because he didn't want to talk to you?

25 A. Yeah.



1 Q. He was making that choice?

2 A. Yes.

3 Q. And he had expressed, though, on 5/21 that you  
4 weren't there to help him, and did he have to talk to you?

5 A. Yes.

6 MS. SULLIVAN: Nothing further.

7 THE COURT: Any additional questions for  
8 Ms. Baker?

9 MS. SEIFER-SMITH: Just a moment. No questions.

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

11 THE WITNESS: Thank you.

12 THE COURT: It was a long day. I appreciate you  
13 being here. All right. We're done for the day.

14 MS. SULLIVAN: There's one thing I'd like to do  
15 is just moving something into evidence.

16 THE COURT: Okay.

17 MS. SULLIVAN: I have this. It became relevant  
18 during Dr. Railey's testimony because it's something  
19 he relied on in his review of records.

20 THE COURT: Okay.

21 MS. SULLIVAN: And then in reference to -- and  
22 then it was talked about today regarding the  
23 competency criteria with Dr. Tenaglia. It is an  
24 inmate request from Mr. Mosley. It's filed in the  
25 court docket, and I'd like to move it in to whatever

1 State number I'm on.

2 THE CLERK: 7.

3 THE COURT: It's filed in the court file  
4 already?

5 MS. SULLIVAN: It's on -- it's in the Odyssey  
6 docket. It's an inmate request that he made on 10/12  
7 of 24.

8 THE COURT: How did it wind up in the court  
9 file?

10 MS. SULLIVAN: Well, I'm saying court file. I  
11 mean, it's on the docket. It gets filed, and then  
12 it --

13 THE COURT: I don't know that. I don't  
14 generally unless I'm looking for --

15 MS. SULLIVAN: Those inmate requests usually get  
16 filed, and then they're on the public.

17 MS. SEIFER-SMITH: Because it went to the clerk.

18 THE COURT: Oh, so like the old Form 62?

19 MS. SULLIVAN: That's it.

20 THE COURT: Is that what it is? Okay. All  
21 right. So that, I know. I know Form 62. Okay.

22 MS. SULLIVAN: So technically I could ask the  
23 Court to take judicial notice of it. I just like to  
24 move it in it as the next --

25 THE COURT: Okay.

1 MS. SULLIVAN: -- State exhibit.

2 THE COURT: Any objection to it?

3 MS. RUSSELL: I have a small objection. I'm  
4 going to try to make it brief. I know everyone is --

5 THE COURT: It's okay.

6 MS. RUSSELL: -- had plenty of this today.

7 THE COURT: We've been here long enough. An  
8 extra five minutes isn't going to make a difference.

9 MS. RUSSELL: Hopefully, it won't take five  
10 minutes.

11 THE COURT: It's not a big deal.

12 MS. RUSSELL: A huge issue with the assessment  
13 of adaptive functioning in prison, which really --  
14 which we haven't discussed, which hasn't really come  
15 up in the testimony so far, is that a lot of times  
16 people with intellectual disability find people who  
17 help them in jail, right? They have people who help  
18 them write jail mails. They're sort of --

19 THE COURT: Sure.

20 MS. RUSSELL: -- jail lawyers who offer to  
21 assist. A lot of times the things --

22 THE COURT: I'm very familiar with that concept.

23 MS. RUSSELL: -- they do order canteen, right?  
24 People are always there to help.

25 The problem with this exhibit is that I wasn't

1       able to cross-examine Dr. Railey to find out if, for  
2       example, he had any idea or had asked any questions  
3       during his video examination or in his own mind as to  
4       whether Thomas Mosley did this alone or with  
5       assistance.

6               THE COURT:   How did Dr. Railey -- how did it  
7       come up in his testimony?

8               MS. SULLIVAN:   It was part of the records that I  
9       sent him.   I sent him video visits.   I sent him this  
10      document.   I sent him e-mails that --

11              THE COURT:   Did he talk about it?

12              MS. SEIFER-SMITH:   Yes.   He -- when he's saying  
13      the Inmate Request Form, that's what he was talking  
14      about.

15              THE COURT:   Okay.

16              MS. SULLIVAN:   So I'd like it to be part of the  
17      record.   It can be weighed however Your Honor wants  
18      to, but I'd like for it to be part of the record as  
19      something that was reviewed --

20              THE COURT:   Okay.   So I'm just trying to make  
21      sure I understand how it fit into Dr. Railey's  
22      testimony.

23              MS. ELLIS:   And the handwriting can be compared  
24      to the school records.

25              THE COURT:   Okay.

1 MS. RUSSELL: Right. But we don't have any --  
2 we haven't had any opportunity to ask Dr. Railey if,  
3 indeed, he had any idea whether this was done with  
4 assistance or by himself, and how that would have --

5 THE COURT: Well --

6 MS. RUSSELL: -- added or subtracted from his  
7 strong opinion that this was a very important piece  
8 of adaptive functioning --

9 THE COURT: What prevented you from asking him  
10 that yesterday?

11 MS. RUSSELL: I didn't think -- actually, there  
12 were a couple of things that he referred to. One was  
13 this, and another one were some e-mails that were  
14 from like 2023 --

15 THE COURT: Okay.

16 MS. RUSSELL: -- that were in the record from  
17 the first round of hearings.

18 THE COURT: Okay.

19 MS. RUSSELL: And it may have been my mistake,  
20 but I thought that I understood from the State that  
21 they were not planning to introduce into evidence  
22 those e-mails and this letter.

23 THE COURT: Okay.

24 MS. RUSSELL: I may be mistaken in that, but I  
25 thought that we had had a conversation, I don't know,

1 a month or six weeks ago. And if that was my  
2 misunderstanding --

3 THE COURT: I understand.

4 MS. RUSSELL: -- I will take that. But that was  
5 my understanding from a prior conversation.

6 THE COURT: Okay.

7 MS. SULLIVAN: I said I was not going to put in  
8 the emails. I never said anything about this. I  
9 think --

10 THE COURT: What number do you want it as?

11 MS. SULLIVAN: 7, please.

12 THE COURT: Okay. It'll be admitted as such.

13 (State's Exhibit 7 received into evidence.)

14 MS. SULLIVAN: I have a copy for Your Honor if  
15 you want?

16 THE COURT: Please, yes.

17 MS. SULLIVAN: And that's all I have for today.

18 THE COURT: All right. Thank you.

19 THE CLERK: Can I make it clear if anybody's  
20 resting at this point?

21 MS. SEIFER-SMITH: Nope.

22 THE COURT: No.

23 MS. SULLIVAN: No.

24 MS. SEIFER-SMITH: No, we're not even there.

25 THE COURT: We're close.

1 THE CLERK: Okay.

2 MS. SEIFER-SMITH: Well, we're getting closer.

3 MS. SULLIVAN: We appreciate you asking.

4 (Hearing was concluded for 07/11/25.)

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## CERTIFICATE OF REPORTER

STATE OF FLORIDA )

COUNTY OF PINELLAS )

I, CHARLENE M. EANNEL, RPR, Stenographic Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 25th day of August, 2025.

*Charlene M. Eannel, RPR*

CHARLENE M. EANNEL, RPR