

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY
CASE NUMBER CRC23-03157CFANO

STATE OF FLORIDA,

Plaintiff,

vs.

VOLUME I

THOMAS MOSLEY,

Defendant.

_____ /

PROCEEDINGS: COMPETENCY HEARING

BEFORE: THE HONORABLE SUSAN ST. JOHN
Circuit Court Judge

DATE: August 19, 2025

PLACE: Courtroom 2
Pinellas County Justice Center
14250 - 49th Street North
Clearwater, Florida 33762

REPORTER: Linda K. Fritsch
Registered Merit Reporter

(Pages 1 to 65)

Administrative Office of the Courts
Court Reporting Department
Pinellas County Justice Center
14250 - 49th Street North
Clearwater, Florida 33762
Telephone: (727) 453-7233
Fax: (727) 453-7488

APPEARANCES

**APPEARING ON BEHALF OF
THE STATE OF FLORIDA:**

CHRISTIE B. ELLIS, ASSISTANT STATE ATTORNEY
Office of Bruce Bartlett, State Attorney
Sixth Judicial Circuit, Pinellas County
14250 - 49th Street North
Clearwater, Florida 33762

COURTNEY A. SULLIVAN, ASSISTANT STATE ATTORNEY
Office of Bruce Bartlett, State Attorney
Sixth Judicial Circuit, Pinellas County
14250 - 49th Street North
Clearwater, Florida 33762

**APPEARING ON BEHALF OF
THE DEFENDANT THOMAS MOSLEY:**

JULIA B. SEIFER-SMITH, ASSISTANT PUBLIC DEFENDER
Office of Sara Mollo, Public Defender
Sixth Judicial Circuit, Pinellas County
14250 - 49th Street North
Clearwater, Florida 33762

MARGARET S. RUSSELL, ASSISTANT PUBLIC DEFENDER
Office of Sara Mollo, Public Defender
Sixth Judicial Circuit, Pinellas County
14250 - 49th Street North
Clearwater, Florida 33762

* * *

INDEX TO PROCEEDINGSPAGE

VOLUME I

(AUGUST 19, 2025)

STATE'S WITNESSES - CONT'D:**BRIAN BILBREY**

Direct Examination by Ms. Sullivan 12

Cross-Examination by Ms. Seifer-Smith 15

OHIANA TORREALDAY

Direct Examination by Ms. Ellis 19

CERTIFICATE OF REPORTER

65

INDEX OF EXHIBITS

<u>STATE EXHIBITS</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
8	Flash drive - rap videos	15
9	Report and CV	21

PROCEEDINGS

VOLUME I

1
2
3 THE COURT: Good afternoon, everybody. We are
4 here on Thomas Mosley, 23-03157.

5 Mr. Mosley is present with his lawyers, the
6 state attorneys are present, and we are continuing
7 our competency evidentiary hearing.

8 It's my understanding, from looking at
9 the schedule you-all provided to me, that
10 Dr. Torrealday is scheduled to testify today.

11 Is that correct?

12 MS. SULLIVAN: Yes, your Honor. And with the
13 Court's permission, prior to that, I have added
14 Detective Bilbrey, briefly, this morning, regarding
15 some evidence the State would be requesting to move
16 in. So, if possible, we can do that before we
17 start Torrealday.

18 THE COURT: Okay. Before we get to that
19 issue, let's just talk about scheduling for a
20 moment. We are low on court reporters, so we're
21 going to have a hard stop at noon, and then we're
22 getting a new court reporter at 1:30.

23 MS. SULLIVAN: Okay.

24 THE COURT: So that's gonna be our schedule --
25 plus, everybody needs to eat lunch, including

1 Mr. Mosley, so that's how we're going to proceed.

2 Okay?

3 All right. Did you want to take Detective
4 Bilbrey first?

5 MS. SULLIVAN: If that's okay with you.

6 THE COURT: Okay.

7 MS. SEIFER-SMITH: We have some objections
8 to --

9 THE COURT: Okay.

10 MS. SEIFER-SMITH: -- Detective Bilbrey. I
11 don't know if your Honor would like to do those
12 now?

13 THE COURT: If it's something we need to do
14 ahead of time, sure.

15 First, tell me what it is you're going to have
16 him testify to.

17 MS. SULLIVAN: He is testifying to his review
18 of two rap videos, that I will be seeking to move
19 into evidence --

20 THE COURT: Okay.

21 MS. SULLIVAN: -- in which Mr. Mosley is part
22 of the rap videos, solely to authenticate that he's
23 viewed them, and they're accurate, what he viewed,
24 and that he is familiar with Mr. Mosley, through
25 this investigation, and can represent that that is,

1 in fact, Mr. Mosley in those videos.

2 THE COURT: Okay.

3 And the objection to that is what?

4 MS. SEIFER-SMITH: So, the videos were
5 provided to us on Friday.

6 THE COURT: Okay.

7 MS. SEIFER-SMITH: Detective Bilbrey was --
8 "provided" is not the right word -- the State
9 indicated they were going to call Detective
10 Bilbrey, for this purpose, about an hour or so ago.

11 Detective Bilbrey has not been deposed. I'm
12 concerned about what he's going to be testifying
13 to.

14 We are also going to object to these videos
15 coming in at all. They are not relevant. I
16 believe they have been marked as an exhibit, but
17 your Honor would be able to see that these are
18 YouTube videos that were done well prior to
19 Mr. Mosley having been arrested.

20 As your Honor knows, competency is a
21 here-and-now determination, so looking at these
22 videos from many years ago is not relevant to the
23 particular question of what we're here to do today.

24 THE COURT: Okay.

25 MS. SEIFER-SMITH: Moreover, any kind of

1 testimony from Detective Bilbrey, beyond an
2 identification that a person on the video is in
3 fact Mr. Mosley, would be completely inappropriate.

4 There should be absolutely nothing in terms
5 of, you know, talking about the content, the
6 capabilities, what was done, et cetera. There's
7 nothing to indicate that Mr. Mosley was involved
8 in the production of these videos.

9 Simply -- I mean, as his attorney, I can see
10 that that is him, several years ago. He certainly
11 looks younger. We can't tell if it's actually him
12 speaking on the video. We know nothing about how
13 the video was produced, whether or not he
14 participated in the writing of any of this, the
15 mixing of any of this, nothing whatsoever.

16 THE COURT: Okay.

17 MS. SEIFER-SMITH: So our position would be,
18 that this evidence is completely irrelevant and
19 inappropriate in this particular context.

20 And we'd object to -- if your Honor is going
21 to insist on viewing this, we're going to insist,
22 too, that Detective Bilbrey be totally limited
23 in his testimony, only to what Ms. Sullivan has
24 indicated: Identify himself; that he was involved
25 in the initial investigation; and because of that

1 familiarity with Mr. Mosley, having never met him
2 before the investigation began, that he can look
3 at the video, just like your Honor can, and say
4 whether or not that person is, in fact, Mr. Mosley,
5 having sat with Mr. Mosley at counsel table for an
6 extended period of time.

7 THE COURT: Okay.

8 What's your response?

9 MS. SULLIVAN: First, just a fair
10 representation of, factually, what occurred,
11 regarding discovery, this witness, and the
12 evidence.

13 When I located the videos on Friday, within
14 an hour, I sent an Evidence.com download link to
15 Defense, so they would have the two videos that I'm
16 asking be moved into evidence. Within ten minutes
17 of that, I did additional discovery, where I listed
18 Detective Bilbrey as a witness, with the videos.

19 It was just prior to coming in here, I let
20 them know, for scheduling purposes, that it may be
21 easier just to put him on first. But, they've had
22 notice. I don't want it to seem like I just sprung
23 it on them, by calling Detective Bilbrey, this
24 morning. I did not do that; I would not do that.

25 I also just had a conversation with

1 Ms. Seifer-Smith about what I would be asking
2 Detective Bilbrey, which is exactly what I just
3 relayed to your Honor, that it's purely
4 authentication, to move it into evidence.

5 I figured they would want a witness here, to
6 do that, instead of just doing it directly, since
7 this is how this hearing has gone, and I respect
8 that.

9 I have no -- I think they speak for themself.
10 You can weigh it however you want, like all the
11 other evidence in this hearing, and I simply am
12 going to ask him if he's familiar with Mr. Mosley,
13 and if that's Mr. Mosley on the videos, and that's
14 the end of it. I'm not going to ask him to comment
15 on the content of the videos.

16 THE COURT: Okay.

17 Anything else that you would like to put on
18 the record, Ms. Seifer-Smith?

19 MS. SEIFER-SMITH: Your Honor, I apologize.
20 I'm just looking at the docket. I apologize. I
21 did not know that Detective Bilbrey was listed on
22 Friday; and, in fact, he was. I know we have been
23 having docketing issues, so I was not aware that he
24 was listed previously. I apologize.

25 MS. SULLIVAN: That's okay.

1 THE COURT: There's been some complications,
2 I think, with the new programming everybody is
3 using. So --

4 MS. SEIFER-SMITH: That is very diplomatic,
5 to say "complications."

6 THE COURT: I will allow Detective Bilbrey to
7 testify, and it's hard for me to make a decision
8 about relevancy, without actually seeing it.

9 This isn't a jury trial, so it's just me, so
10 I've got to make evidentiary issues. And I can't
11 unring the bell. I have to see it, to make a
12 decision whether it's relevant or not, or germane
13 to this case.

14 Having said that, the issue of intellectual
15 disability has been raised, and, as just about
16 every doctor has testified to, historical data
17 is incredibly important in making that decision,
18 which includes school records from the third grade,
19 medical records, things he did as a child, and much
20 earlier on. So it seems like this may or may not
21 offer some assistance to the Court, in making that
22 determination.

23 So, if you want to start with Detective
24 Bilbrey, I'll allow that testimony now.

25 MS. SULLIVAN: Thank you.

1 The State would call Detective Brian Bilbrey.

2 THE BAILIFF: Right this way, sir. Stand
3 here. Raise your right hand and receive the oath,
4 please.

5

6 THEREUPON,

7

 BRIAN BILBREY,
8 the witness herein, having been first duly sworn, was
9 examined and testified as follows:

10

11 THE BAILIFF: Right this way, sir. You may
12 have a seat. Speak loud and clear into the
13 microphone.

14 THE COURT: Ms. Sullivan, whenever you're
15 ready.

16 MS. SULLIVAN: Thank you.

17

DIRECT EXAMINATION

18 BY MS. SULLIVAN:

19 Q. Good morning.

20 A. Good morning.

21 Q. Can you please introduce yourself, and spell
22 your last name for the Court Reporter.

23 A. My name is Brian Bilbrey, B-I-L-B-R-E-Y.

24 Q. And where are you employed?

25 A. I'm currently employed with the City of

1 St. Petersburg Police Department.

2 Q. In what capacity?

3 A. I'm a detective in the Major Crimes Unit.

4 Q. And how long have you been in Major Crimes?

5 A. Um, about nine years.

6 Q. All right.

7 Were you a part of a double homicide
8 investigation, that led to the arrest of a Thomas Mosley?

9 A. I was.

10 Q. In what capacity were you assigned to that case?

11 A. I was the lead investigator.

12 Q. During that investigation, did you come into
13 contact with Thomas Mosley?

14 A. I did.

15 Q. On how many occasions?

16 A. At least two.

17 Q. All right. And where was that?

18 A. One was in the hospital, right after surgery.

19 Um, the second was, um, at the jail, when we were getting
20 a buccal swab, I believe.

21 Q. Okay. Do you see Mr. Mosley in the courtroom,
22 today?

23 A. I do.

24 Q. Can you please identify him for the record?

25 A. He's wearing an orange jumpsuit with white

1 sleeves, um, has long dreads, seated at the table there.

2 Q. All right.

3 Did you have an opportunity, at the end of last
4 week, to review two YouTube rap videos?

5 A. I did.

6 Q. All right. And did you see anyone familiar to
7 you, in those videos?

8 A. Uh, Mr. Mosley.

9 Q. All right.

10 MS. SULLIVAN: May I approach the Clerk?

11 THE COURT: Yes.

12 MS. SULLIVAN: May I approach the witness?

13 THE COURT: Yes.

14 BY MS. SULLIVAN:

15 Q. Detective, I'm showing you what's been premarked
16 as State's Exhibit 8. Can you take a look at this, the
17 contents inside, and tell me if you recognize it?

18 A. Yes. That's my signature, and that's the flash
19 drive.

20 Q. Have you reviewed this flash drive?

21 A. I have.

22 Q. And do they accurately reflect the two YouTube
23 rap videos, that you were asked to review?

24 A. They do.

25 Q. And are your initials and the date on this

1 envelope?

2 A. They are.

3 Q. All right.

4 MS. SULLIVAN: And at this time, the State
5 would seek to move into evidence what's been
6 premarked as State's 8, as State's 8.

7 THE COURT: Any additional objections to
8 State's 8?

9 MS. SEIFER-SMITH: No. Same objection, as
10 to relevance.

11 THE COURT: It will be admitted.

12 (STATE'S EXHIBIT NUMBER 8 WAS RECEIVED IN EVIDENCE)

13 MS. SULLIVAN: No further questions. Thank
14 you, Detective.

15 THE COURT: Okay.

16 Any cross-examination?

17 MS. SEIFER-SMITH: If I could just beg a
18 moment?

19 THE COURT: Yes.

20 **CROSS-EXAMINATION**

21 BY MS. SEIFER-SMITH:

22 Q. Good morning.

23 A. Good morning.

24 Q. How are you?

25 A. I'm fine.

1 Q. Good.

2 Were those videos located by yourself, or by
3 somebody at the State Attorney's Office and sent to you?

4 A. Um, I have memorialized them recently, in
5 Evidence.com.

6 Q. Okay.

7 A. I have known about the videos since the time of
8 the crime.

9 Q. Okay. Did you do any further investigation
10 regarding the videos themselves?

11 A. Just memorializing them recently.

12 Q. And when you say "memorializing," you mean like
13 uploading them to Evidence.com?

14 A. Just copying them; making copies and putting
15 them into evidence.

16 Q. Okay. So you didn't do any investigation to
17 determine, like, the other people, who were in the videos?

18 A. I did not.

19 Q. Okay. You didn't look into the production team
20 that produced the videos?

21 A. No.

22 Q. Okay. You didn't seek the raw footage of the
23 videos from the production team?

24 A. I did not.

25 Q. Okay. So the only thing that you can testify

1 to, with regards to those videos, are that you viewed
2 them. Right?

3 A. Correct.

4 Q. And that one of the people on those videos is
5 somebody who has become known to you as Thomas Mosley,
6 through your investigation. Is that right?

7 A. Correct.

8 Q. Okay. And obviously, those videos were made
9 well in advance of Mr. Mosley's arrest in this case?

10 A. Um, it didn't have an exact date on the YouTube
11 videos, when they were posted, so I know that they were
12 prior to the arrest, but I don't know how far in advance.

13 Q. Okay.

14 MS. SEIFER-SMITH: If I could just beg one
15 more moment of the Court's indulgence?

16 THE COURT: Sure.

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

18 THE COURT: Any redirect?

19 MS. SULLIVAN: No, your Honor.

20 THE COURT: Thank you, Detective.

21 THE WITNESS: Thank you.

22 MS. SULLIVAN: May I approach the Clerk?

23 THE COURT: Do you have a copy?

24 MS. SULLIVAN: Yes.

25 THE COURT: And that was State's 8?

1 MS. SULLIVAN: Yes.

2 THE COURT: Do I need anything in particular,
3 to view this?

4 MS. SULLIVAN: It plays online, in various
5 computers, so it should be okay.

6 THE COURT: Okay.

7 All right. Anything else before
8 Dr. Torrealday?

9 MS. SULLIVAN: Not from the State.

10 THE COURT: Anything else?

11 MS. SEIFER-SMITH: Not from Defense.

12 THE COURT: All right.

13 Dr. Torrealday, come on up.

14 THE BAILIFF: Right this way, ma'am. Please
15 stand here. Face the Clerk. Raise your right hand
16 and receive the oath, please.

17

18 THEREUPON,

19 OHIANA TORREALDAY, PH.D.,
20 the witness herein, having been first duly sworn, was
21 examined and testified as follows:

22

23 THE BAILIFF: Right this way, ma'am. Have a
24 seat. Speak clear and loud into the microphone,
25 please.

1 THE WITNESS: Thank you.

2 THE COURT: All right. Ms. Ellis, whenever
3 you're ready.

4 **DIRECT EXAMINATION**

5 BY MS. ELLIS:

6 Q. Doctor, can you please introduce yourself to
7 the court?

8 A. Yes. My name is Ohiana Torrealday.

9 Q. And can you spell your first and last name?

10 A. Absolutely. It's O-H-I-A-N-A; last name is
11 T-O-R-R-E-A-L-D-A-Y.

12 Q. And did you write a report in this case,
13 "Thomas Mosley," after doing several evaluations?

14 A. I did write a report, yes.

15 Q. Okay.

16 MS. ELLIS: May I approach the Clerk?

17 THE COURT: Yes.

18 MS. ELLIS: And let the record reflect, I'm
19 showing Defense what's been premarked as State's
20 Exhibit 9 and --.

21 THE COURT: Is there more than one report?

22 MS. ELLIS: There is one report and a CD.

23 THE COURT: Oh, okay. Are they both
24 Exhibit 9?

25 MS. ELLIS: I'm sorry?

1 THE COURT: They're both Exhibit 9?

2 MS. ELLIS: They are.

3 May I approach the witness?

4 THE COURT: Yes.

5 BY MS. ELLIS:

6 Q. Doctor, if you can please look through that.

7 And does that fairly and accurately depict your
8 findings and your evaluation in the case?

9 A. Yes, it looks like my report.

10 Q. Okay. And in the back, what is that?

11 A. C.V.

12 Q. Okay.

13 MS. ELLIS: And, your Honor, I did find one
14 mark on this. I was going to make a complete clean
15 copy of this report. So I'm going to give -- it's
16 the same copy as this other, then.

17 Do you want to see this again, as well, to be
18 clear?

19 THE COURT: Did you write on it?

20 MS. ELLIS: It had, like, a check. That's it.
21 But I wanted it to be clean.

22 THE COURT: I appreciate that.

23 BY MS. ELLIS:

24 Q. Is that fairly and accurately, your report?

25 A. Yes, it is.

1 MS. ELLIS: At this time, the State would be
2 moving into evidence what's been premarked as
3 State's Exhibit 9, as State's Exhibit 9?

4 THE COURT: Any objection to State's 9?

5 MS. SEIFER-SMITH: None.

6 THE COURT: It will be admitted as such.

7 (STATE'S EXHIBIT NUMBER 9 WAS RECEIVED IN EVIDENCE)

8 BY MS. ELLIS:

9 Q. Doctor, can you please tell us about your
10 training and experience to become a clinical psychologist?

11 A. Sure. Following completion of an undergraduate
12 degree in psychology, I attended graduate school and
13 obtained a master's and a doctorate in Clinical
14 Psychology, from Auburn University, um, and completed an
15 internship at the University of Tennessee Medical School;
16 and then did postdoctoral training, at Brown, in juvenile
17 forensics.

18 Q. Okay. And when did you finish your psychology
19 doctorate?

20 A. In 2004.

21 Q. And you've been practicing as a psychologist,
22 since then?

23 A. Yes, ma'am.

24 Q. What type of psychology do you primarily
25 practice?

1 A. Um, clinical and forensic.

2 Q. And can you tell us what clinical psychology is?

3 A. Sure. Evaluation also includes treatment,
4 although I am not providing direct treatment services
5 right now, but doing evaluation for diagnostic reasons.
6 Referrals can come from different sources. It could come
7 from the school or agencies. I'm looking to see if
8 there's any mental health treatment needs that need
9 diagnoses for an individual, and making a recommendation.

10 Q. Okay. And what is forensic psychology?

11 A. Doing evaluations for those individuals that are
12 involved with the court system.

13 Q. And in the past 20 years, do you have any number
14 of approximately how many evaluations you did, for both
15 clinical and forensic psychology?

16 A. A couple thousand. Um, there was a period of
17 time that I was doing more academic and administrative,
18 but I have done many evaluations for juveniles and adults.

19 MS. SEIFER-SMITH: Excuse me, I'm so sorry.

20 Your Honor, would you be able to let our
21 mitigation specialist in. She's in the waiting
22 room.

23 THE COURT: Yes.

24 MS. SEIFER-SMITH: Thank you very much.

25 THE COURT: Give me a second to turn Zoom on.

1 MS. SEIFER-SMITH: I'm sorry to interrupt.

2 MS. ELLIS: That's okay.

3 THE COURT: All right. Zoom is on, and once I
4 see her in the waiting room, I'll let her in.

5 And, she's in.

6 MS. SEIFER-SMITH: Thank you.

7 BY MS. ELLIS:

8 Q. Doctor, do you have any licenses or
9 certifications --

10 A. I do.

11 Q. -- in clinical or forensic psychology?

12 A. I'm a licensed clinical psychologist.

13 Q. And in what states?

14 A. In Florida and Texas, currently.

15 Q. And are you a part of any commissions?

16 A. Yes. I am part of the National Commission of
17 Correctional Healthcare.

18 Q. And what is that?

19 A. It's a national organization, um, that looks at
20 providing, um, best practices, mental and medical health
21 treatment services in correctional settings.

22 Q. Okay. And are you appointed to that commission?

23 A. Um, I have become a member, but I am appointed
24 to different subcommittees within the commission, yes.

25 Q. As part of your education, did you work in the

1 correction system at all?

2 A. Yes, I did.

3 Q. And when was that?

4 A. Um, I, most recently -- prior to going into
5 private practice, and going to the jails to do
6 evaluations -- I was involved with the correctional system
7 in Texas; um, I was involved in the correctional system in
8 Tennessee, um, and Alabama and Rhode Island.

9 Q. And what sort of duties did you do, or
10 evaluations did you do, for the correctional system?

11 A. Sure. Um, in some settings, depending on if it
12 was pretrial or post competency evaluations, general
13 mental health evaluations, I also did, in some settings,
14 waiver evaluations for juveniles, mental health
15 evaluations for treatment needs, while they're in the
16 prison setting.

17 Q. And let's talk about your current work. What
18 do you do in your private practice?

19 A. I'm mostly an evaluator, um, and do diagnostic
20 evaluations, and then do court-involved evaluations.

21 Q. And where are you, on the court-appointed list,
22 currently?

23 A. In the Sixth Circuit, as well as the Thirteenth.

24 Q. How long have you been on both of those
25 court-appointed lists?

1 A. For seven years.

2 Q. Have you ever done any presentations on
3 intellectual development disorders?

4 A. I have.

5 Q. And how many presentations, approximately?

6 A. Um, a handful of them. Um, it's not been
7 overwhelming, but I have, for purposes of staff, for
8 example, who work with individuals that are in the
9 correctional setting.

10 Q. Okay. And besides being on the court-appointed
11 list, are you ever hired by the defense, as an expert in
12 any kind of competency hearing?

13 A. Yes.

14 Q. Do you know approximately how many times?

15 A. Most of the cases are court-appointed, that come
16 from the bench, but, um, more so from the defense, than
17 the prosecutor, but I do do them, yes.

18 Q. Okay. And you don't have an estimated number
19 of times?

20 A. Um, a hundred, maybe; something like that.

21 Q. And how many intellectual disability patients
22 or -- should we call them "patients"? -- or defendants,
23 in a forensic setting, would you estimate that you've
24 done evaluations on, over your 20 years?

25 A. Sure. And that is hard to gauge. I do do

1 evaluations for APD, as well, so, um, I do see individuals
2 under that. Um, the majority, I would say, are mental
3 health-driven evaluations, with mental illness, but I do
4 have some co-occurring intellectual disability. Um, a
5 couple hundred, probably.

6 Q. Okay. Does that include your APD clients as
7 well?

8 A. Yes.

9 Q. How about autism? Have you ever done any kind
10 of evaluations for autism?

11 A. I do.

12 Q. And, approximately, how many evals have you done
13 over the past 20 years?

14 A. Sure. Those are fewer. Um, several dozen of
15 them, for just looking at autism, in the corrections.

16 Q. Do you have experience with patients with
17 language learning disabilities?

18 A. I have interacted, and have evaluated. I don't
19 specialize in that --

20 Q. Okay.

21 A. -- in evaluating for that.

22 Q. Is there anything you do differently, if someone
23 were to have a language learning disability?

24 A. Um, yes. You would look at the instruments that
25 you need to use for evaluation purposes.

1 Q. Okay. And we'll get to the instruments that you
2 used, in a moment.

3 So, what -- as part of the APD evaluations --
4 what do you do for those type of evaluations? What type
5 of clients do you evaluate?

6 A. Sure. Um, those -- those are evaluations that
7 are referred when questions of possible intellectual
8 disability or autism has been raised, so looking for
9 diagnosing of those disorders in the individual, and,
10 if so, if they meet criteria, and then doing competency
11 to proceed.

12 Q. Okay. And how long have you been doing the
13 APD evaluations?

14 A. I actually started assisting with those slightly
15 before I went into private practice, so about eight years.

16 Q. Okay. And I'm gonna turn your attention to
17 this particular case. How did you get involved in this
18 particular case?

19 A. I was court-appointed.

20 Q. And when were you court-appointed?

21 A. Good question. It is March 4th.

22 Q. Okay. And when you get court-appointed to a
23 particular case, are there directions as to what type of
24 evaluation the court would like you to perform?

25 A. Um, it's identified, typically, um, if it's

1 general competency, or if there are questions about
2 intellectual disability or autism, that can be specified.
3 Um, if it is APD, that's appointed, then that is autism
4 and intellectual disability.

5 Q. Okay. And what particular directions did you
6 get in this case?

7 A. Yes. And so, the court order for this one was
8 not specified. The initial one, I believe, was an amended
9 order, looking for intellectual disability.

10 Q. Okay. But it is a competency evaluation?

11 A. Correct, yes.

12 Q. What do you do, when you first get appointed to
13 a case, to determine competency?

14 A. Request records.

15 Q. All right. And what records did you get in this
16 particular case?

17 A. Um, the court order, the charging document,
18 um, and criminal report affidavit. And then, um, prior
19 evaluations, that may be available, um, I request them. I
20 don't know initially what is available, so those are sent
21 to me, when they have been identified.

22 Q. And did you detail in your report, that's been
23 entered into evidence, what documentation you received
24 prior to any evaluations in this case?

25 A. I did, yes.

1 Q. In addition to what's documented in your report,
2 did you ever receive anything in addition?

3 A. Um, I received some additional test results.

4 Q. Okay. And that would have been the raw data
5 from other doctors?

6 A. I received raw data from other doctors, as well
7 as scores on more recent intellectual testing done this
8 summer.

9 Q. And can you specify what doctors you did receive
10 the raw data from?

11 A. Yes. I received raw data from Dr. Railey and
12 Dr. McClain, and then data was provided from South Florida
13 Evaluation and Treatment Center.

14 Q. Okay.

15 How about Dr. Railey's report? Did you get
16 provided that at a later time as well?

17 A. I did.

18 Q. And you were able to review that?

19 A. Um, yes. I recently received it, so I was able
20 to look at it.

21 Q. Okay. Anything in addition, that I missed, that
22 you reviewed in coming to your opinion in this particular
23 case?

24 A. I believe that -- and I requested the jail
25 mental healths records.

1 Q. I'm sorry?

2 A. The jail mental health records.

3 Q. Okay.

4 So, once you review all of these records, that
5 you detailed in your report, what is your next step?

6 A. Um, yes. I go ahead to make plans to schedule
7 -- so I have the records that I need -- and scheduled an
8 evaluation.

9 Q. Okay. Did you schedule an evaluation in this
10 particular case?

11 A. I did, yes.

12 Q. And when was that?

13 A. It was on the 8th of May.

14 Q. All right. And who was present at that
15 evaluation?

16 A. Um, yes. Part of the defense team and the
17 prosecution.

18 Q. All right. Where did that evaluation take
19 place?

20 A. At the Pinellas County Jail, in his housing
21 unit. It was in a conference room across from his housing
22 unit, that was a little larger, so outside of his pod, but
23 across the hall, in the same floor and building.

24 Q. Okay. And what was your initial observations of
25 the Defendant sitting there?

1 A. Um, yes. He came in, um, and sat. Sat down,
2 and, um, he presented as quite guarded and unwilling to
3 participate in the evaluation.

4 Q. And what does that mean, that he "presented as
5 quite guarded and unwilling"?

6 A. Um, very quiet. He was looking around. He, uh,
7 didn't want to answer questions, um, with all the parties
8 that were in the room.

9 Q. Okay. And you said he didn't want to answer
10 questions with all the parties in the room. Can you
11 expand on that, and say why he didn't want to answer the
12 questions, or what he was verbalizing?

13 A. Um, yes --

14 MS. SEIFER-SMITH: Objection, as to
15 speculation.

16 THE COURT: Okay.

17 MS. ELLIS: I can rephrase it.

18 THE COURT: Rephrase your question.

19 BY MS. ELLIS:

20 Q. Doctor, was he telling you why he didn't want
21 to answer questions?

22 A. Um, he consulted with defense counsel that was
23 there, too. He didn't want to speak with the prosecutors
24 present.

25 Q. Okay. So he recognized us as the prosecutors

1 in the case?

2 MS. SEIFER-SMITH: Objection. Leading.

3 THE COURT: Overruled.

4 BY MS. ELLIS:

5 Q. So that's a yes?

6 A. Yes.

7 Q. And what did he say, to make you think that he
8 recognized us as prosecutors in the case?

9 A. Um, he, um -- I think he made a statement -- he
10 didn't want to participate. The defense attorney talked
11 to him, to try to get him to cooperate, and he was
12 unwilling to talk.

13 Q. Okay. Did he make any statements as to who we
14 were, or understanding what our role was, in this process?

15 A. Let me see my notes. I can't recall
16 specifically. I don't think I made a note of any comments
17 that he had made.

18 Q. Did he make any comments at that time, about the
19 penalties that he was facing?

20 A. I did make note of that. I vaguely recall
21 something, but I didn't take specific notes of what he
22 said.

23 Q. Okay. Do you recall him saying something along
24 the lines of: I'm not speaking with them, because they're
25 trying to kill me?

1 A. Along those lines, but I don't have a specific
2 quote for it.

3 Q. So, what happens after he made that statement,
4 and he was guarded and unwilling to participate in the
5 eval?

6 MS. SEIFER-SMITH: Objection. Counsel
7 testifying. Dr. Torrealday has not indicated that
8 any of these statements were made, that Counsel is
9 insisting that he made.

10 THE COURT: Rephrase your question. What was
11 your question?

12 MS. ELLIS: My question was, what happened
13 after he made the statement that he was
14 unwilling, or he was guarded, which is what she
15 testified to, earlier.

16 THE COURT: That's not a direct quote, you're
17 summarizing, I suspect?

18 MS. ELLIS: I think her words were that he was
19 guarded and unwilling to participate in the eval,
20 is what I wrote down. But --

21 THE COURT: All right.

22 MS. ELLIS: -- maybe I am summarizing.

23 THE COURT: All right. Answer the question,
24 if you can.

25

1 BY MS. ELLIS:

2 Q. So, what happened next?

3 A. Um, we tried to problem solve, and to see if
4 there was a way to get it done. Um, a request was made,
5 to see if we could get the evaluation done, with the
6 prosecutors in the hallway, with the door open, um, but
7 that didn't work, because it was difficult to hear.

8 Q. Okay. And then, what happened?

9 A. And then arrangements were made, to meet with
10 him, separately, without the prosecutors present, but have
11 the interview recorded.

12 Q. Okay. And did you continue to meet with the
13 Defendant that day?

14 A. Later on, yes.

15 Q. Okay. How long did you meet with the Defendant,
16 at that time?

17 A. Um, I would approximate about an hour or so.

18 Q. Who was present during the rest of that
19 evaluation on that day?

20 A. A member of the defense team.

21 Q. And where did that evaluation take place?

22 A. Yes. So that happened in a meeting room, on
23 his housing unit.

24 Q. And tell us about that evaluation. What did
25 you gather, and how did you conduct that evaluation?

1 A. He was cooperative. He sat calmly, and he was
2 cooperative. Um, he answered questions, um, so we were
3 able to complete that, um, and we did the interview
4 portion at that time.

5 Q. Okay. So his demeanor went from guarded and
6 unwilling, to being cooperative, once the prosecution was
7 not there?

8 MS. SEIFER-SMITH: Objection. Leading.

9 THE COURT: Rephrase your question, please.

10 BY MS. ELLIS:

11 Q. Did his demeanor change, once the prosecution
12 left?

13 A. He answered questions.

14 Q. Okay. And you said that you did his interview.
15 What does that consist of?

16 A. Um, yes. So, background information, mental
17 status exam, and then I did the competency portion of
18 the evaluation.

19 Q. Okay. Let's talk about his background
20 information. What historical background information
21 was he able to give you?

22 A. Um, sure. That he was born and raised in
23 St. Petersburg, with his parents and siblings, and was
24 living with them prior to his arrest.

25 Um, he denied living outside of the home without

1 his parents, never living independently, and he has never
2 married, and did not have children.

3 Q. Okay. Was he able to give you any details, like
4 the number of siblings he had, or any other details about
5 his home life?

6 A. He had four siblings.

7 Q. Okay. Did you cover any other topics with him,
8 as far as background information that he was able to
9 provide to you?

10 A. Sure. That he attended Boca Ciega High School,
11 and had started the 11th grade, is what he reported, and
12 dropped out because he didn't want to be in school.

13 He did state he repeated the third grade; and
14 he denied any history of special education services, when
15 he was in school.

16 Um, when I asked, um, more about that, about
17 special education, if he received any help, or any kinds
18 of services, um, he did say he was pulled out of class,
19 for help in reading and math, in the fourth and fifth
20 grades.

21 Um, and then I asked him about his employment
22 history, that he had worked as, like, an intern, for
23 carpentry, for two years; and then in waste management,
24 for a few months. And he denied receiving disability.

25 Q. Okay. I'm going to break that down a little

1 bit. So he was able to tell you that he went to Boca
2 Ciega. Were you able to verify that in any of the
3 records?

4 A. He had IEP's, that were sent to me later, yes.

5 Q. From Boca Ciega?

6 A. I believe so.

7 Q. And how about when he said that he was -- he
8 denied special education, but then told you that he was
9 pulled out of the class, in fourth and fifth grade.

10 Was that also substantiated with the school
11 records that you were provided?

12 A. He actually had an IEP for a reading disability
13 and language, and so he did receive services addressing
14 that.

15 Q. Okay. And he was pulled out of, like, regular
16 classes, to get extra --

17 A. He received assistance. I don't know the
18 mechanisms of how it happened, but he was receiving extra
19 help for reading.

20 Q. Okay. And then, you said that -- when you asked
21 him about his employment -- you said he was an intern
22 carpenter. Did he use that -- or carpenter intern --
23 sorry -- did he use that term to you?

24 A. He said he did carpentry, and interned. I
25 didn't ask follow-up questions as to what that meant for

1 him; but, yes.

2 Q. Okay. Did he give you any other background, as
3 to employment that he has had in his life?

4 A. Um, that he had worked for waste management for
5 a few months.

6 Q. Did you ask any details as to why he left, or,
7 um, how he was doing at those particular jobs?

8 A. Um, I asked him how -- you know -- how did he
9 find that job. He said it was day labor. Um, he worked
10 for -- he can't remember why he stopped, or why he left,
11 he said.

12 Q. How about the carpenter intern? Was he ever
13 able to give you any details to that employment?

14 A. He said about two years, and, um, he didn't
15 really like it. It wasn't his thing; like, it wasn't a
16 good fit for him.

17 Q. All right. How about -- in the education
18 records, were there any indications that he had special
19 classes in middle school?

20 A. Um, in my review of what I was provided, IEP's
21 had assistance for reading, since early elementary school.

22 Q. Okay. Was there a specific diagnosis for his
23 learning disability?

24 A. Um, a specific learning disability, and language
25 impairment, in the school setting.

1 Q. Did you see, in any of the records -- and I
2 believe we have them from second grade, all the way up
3 to ninth grade -- several times, in ninth grade --

4 A. Uh-huh.

5 Q. -- did you see anything in those records, that
6 indicated that he was ever tested for intellectual
7 disability?

8 A. I did not see any testing in the record.

9 Q. Okay. Did you see any indication in any of
10 those records, that a parent, or a teacher, or a provider
11 ever suggested that he needed to be tested for
12 intellectual disability?

13 A. I don't recall seeing that. Just the reading
14 difficulties and oral comprehension was identified in the
15 records, repeatedly.

16 Q. Okay. And the same question for autism. The
17 records from second grade, all the way up to ninth grade,
18 several times, is there any indication that he was ever
19 tested for autism in all of those years?

20 A. I did not see anything for that, no.

21 Q. Was there any indication that a parent, or a
22 teacher, or any sort of provider ever suggested that he
23 had needed to be tested for autism in any of those years?

24 A. I did not see it raised in the records that
25 I saw.

1 Q. Was he able to tell you what medications that
2 he was on, during your evaluation?

3 A. Um, I believe so. Um, he -- in general, he did
4 talk about it, yes.

5 Q. Okay. And wasn't he able to, at some point,
6 tell you the actual medications?

7 A. Um, he -- some of them, not all of them. He was
8 taking multiple, but he did identify two of them.

9 Q. Two out of three?

10 A. Yes --

11 Q. Okay. And --

12 A. -- for mental health. And that he is on a
13 thyroid med; he didn't label that one.

14 Q. Okay. So the two medications that he did know
15 he was on, was he able to name them?

16 A. Yes.

17 Q. And what did he say?

18 A. Trazodone and melatonin.

19 Q. Okay. Was he able to say why he was on those
20 particular medications?

21 A. Anxiety and depression.

22 Q. And what was the Defendant's demeanor like, when
23 you were doing this first evaluation?

24 A. Um, he answered questions briefly. Um, so he
25 did not elaborate on any answers or provide a lot of

1 details, but he did answer question directly and
2 coherently.

3 Q. Okay. So the questions were coherent, and the
4 appropriate answers?

5 A. Yes.

6 Q. Although brief?

7 A. Yes, they were brief.

8 Q. How about his hygiene? What was his hygiene?

9 A. Um, appeared appropriate. Um, he -- his uniform
10 was not dirty. His grooming appeared appropriate. He
11 wasn't malodorous. He presented adequately.

12 Q. And you did receive all of the jail records.
13 Was there any indication that he was getting any
14 assistance, as to his daily living, in the Pinellas County
15 Jail?

16 A. Daily living?

17 Q. Like showering and hygiene?

18 A. I think there's a couple of times I saw him
19 there, he didn't come out, he didn't want to shower; but
20 it was not a continuous issue that I saw.

21 Q. Okay. Was there anyone that had to assist him
22 in showering, or getting dressed, or getting to breakfast?

23 A. Not that I'm aware of, no.

24 Q. And how was his affect, when he was talking
25 to you?

1 A. Flat.

2 Q. Was there any time, during your interview --
3 either your first or second interview -- that he did smile
4 or joke or laugh?

5 A. Um, briefly, yes, there was a time.

6 Q. Okay. And tell us about that.

7 A. Um, it was in response to, um, activity, um,
8 that was behind me, that I could not see, that was in the
9 dayroom, the other defendants that were back there -- or
10 residents.

11 Q. Okay. So the activity is going on behind you,
12 so you don't know exactly what's going on there. That's
13 fair to say?

14 A. Correct.

15 Q. All right. But he could see behind you, because
16 he was facing you?

17 A. Yes. It was within his line of sight, but I
18 couldn't see it.

19 Q. Okay. How do you know it was, like, his peers
20 that were diverting his attention?

21 A. They were all there, congregating near the TV,
22 watching TV in the open space -- it's not a ton of space,
23 but open space -- right outside the door.

24 Q. Okay. And did he appear to be distracted at
25 any point during your interview, because of that?

1 A. Um, it was more so during the second day for
2 testing, that he did that.

3 Q. Okay. And at that point in time is when he
4 smiled or joked or?

5 A. He chuckled -- um-hmm, he smiled and chuckled,
6 yes.

7 Q. Did he ever ask any spontaneous questions to
8 you?

9 A. He did. Not many, but he did.

10 Q. Okay. And what were they?

11 A. Um, if I had any children, and if I've been
12 doing this for a long time.

13 Q. Did you ask him about any prior accidents that
14 he may have been involved in?

15 A. Yes.

16 Q. What was his response?

17 A. Um, yes. I asked if experiencing any serious
18 injuries, um, and he said he had suffered, um, lost
19 consciousness, in a concussion. He ran into a pole, when
20 he was in middle school.

21 Q. Okay. Did you have any -- in your review of
22 the records, did you substantiate and corroborate that
23 with anything?

24 A. I didn't have any medical records from that
25 incident, no.

1 Q. All right. How about mental health history?
2 Was he able to give you a mental health background?

3 A. Yes, a brief one; but, yes.

4 Q. What did he say?

5 A. He had been Baker-Acted and voluntarily
6 hospitalized on two occasions, um, at Windmoor and
7 St. Anthony's.

8 Q. And was he able to detail why he was Baker-Acted
9 on those two occasions?

10 A. For suicidal ideation and attempts.

11 Q. All right. And did he elaborate on how he tried
12 to commit suicide?

13 A. Um, he said cutting -- he tried to cut himself
14 -- and overdosed on medication.

15 Q. All right. Were you able to corroborate that by
16 any of the records that you were provided?

17 A. Um, he reported two Baker Acts to other mental
18 health staff, but I do not have records from the two
19 hospitals.

20 Q. Okay. And as far as the medical records that
21 you did receive, did you review those records, and see any
22 kind of ID diagnosis in any of those medical records that
23 you received?

24 A. I don't recall seeing that, no.

25 Q. How about in the Pinellas County Jail records

1 that you received?

2 A. No, ma'am.

3 Q. The same question for autism. Did you see any
4 kind of diagnosis or suggestion, he should be tested, in
5 any of the medical records that you have received?

6 A. The ones that I reviewed, that I received, no.

7 Q. How about in the Pinellas County Jail records?

8 A. No.

9 Q. The only time that autism or intellectual
10 disability is brought up, in your review of the records,
11 is through defense experts. Is that correct?

12 A. Well, the order is for intellectual disability
13 or autism, so that's how it was raised.

14 Q. Okay. But, as far as a diagnosis goes, that
15 would be purely in the past year, or the pendency of this
16 case, let's say, by the defense experts?

17 MS. SEIFER-SMITH: Objection. Leading.

18 THE COURT: Okay. Rephrase your question.

19 BY MS. ELLIS:

20 Q. Do you recall if any of the other experts,
21 besides defense experts, have ever said an intellectual
22 disability or autism?

23 A. Um, just defense evaluations was part of this
24 case.

25 Q. Was the Defendant able to tell you the date,

1 time and year, when you asked him?

2 A. Um, he was able to tell me the month and the
3 year, but did not know the date.

4 Q. Okay. And when he told you the month, how did
5 he tell you?

6 A. May.

7 Q. And was he able to give you a number associated
8 with May?

9 A. Yes. Five.

10 Q. Did you ask the Defendant about his reporting
11 of voices?

12 A. Yes.

13 Q. And tell us about that.

14 A. Um, yes. Um, he, um, when asked if there's ever
15 been a time that he's heard voices or noises or things
16 that others do not hear, he did say -- he endorsed hearing
17 voices, telling him to kill himself.

18 Q. Okay. And did he tell you when he has heard
19 those voices?

20 A. Um, he indicated they started around age 18.

21 Q. Okay. And then, how recently has he heard
22 voices?

23 A. He reported last hearing them the mornings of
24 each of the days I saw him.

25 Q. Okay. So the mornings of the evaluations is

1 when he's hearing the voices?

2 A. Most recently.

3 Q. Did you ask him how he was feeling?

4 A. Yes.

5 Q. And what was his response?

6 A. Um, that he -- it was difficult to explain and
7 put in words, not knowing very well how he felt; and then,
8 not good; um, and he indicated that -- because he's in
9 jail.

10 Q. Okay.

11 A. And he did endorse feeling anxiety and
12 depression on a regular basis.

13 Q. Okay.

14 Did I cover most of the background that you
15 have? You did the interview with the Defendant, on that
16 initial evaluation?

17 A. He also endorsed visual hallucinations.

18 Q. Okay. And tell us about what he said about
19 visual hallucinations.

20 A. Um, seeing blood in his eyes, and being blinded
21 by that, when he sees that, for a couple of seconds. So,
22 apparently, it's very brief for him.

23 Q. Okay. Did you ever observe any internal stimuli
24 -- of him reacting to any internal stimuli, in either of
25 the two evaluations that you did?

1 A. No, I didn't.

2 Q. Is there anything else about the history or
3 background interview of the Defendant, that you feel is
4 appropriate and necessary to bring out, that I have not
5 brought out?

6 A. Um, besides, you know, the history of some
7 substance use, you've covered everything.

8 Q. Okay. And that substance abuse was the cannabis
9 disorder, that you listed in the --

10 A. Yes.

11 Q. -- diagnostics? All right.

12 And that was obviously controlled, because he's
13 in the Pinellas County Jail at this point?

14 A. Correct, yes.

15 Q. So, what do you do next, once you gather the
16 background information on the Defendant?

17 A. Um, yes. I, um, then did, um -- because the
18 testing would be separate, without counsel -- any counsel
19 present, I did the competency portion of the evaluation.

20 Q. All right. And what is encompassed in the
21 competency portion of the evaluation?

22 A. Um, reviewing of records of, you know, what was
23 given to me, prior evaluations done for him, but assessing
24 the different factors, um, of -- addressed by the statute.

25 Q. And how do you assess the different factors at

1 this point, without doing the testing?

2 A. Um, interview.

3 Q. Okay. And talk to us about that interview.

4 A. Um, yes. Um, I have the different -- so I ask
5 questions for the different prongs that fall into the
6 different factors.

7 I'm asking about -- um, do you want me to go
8 into that? -- the charges, if you understand what the
9 charges are, and allegations. And then, asking about,
10 um, the different, uh, individuals involved in the court
11 system, pleas, possible outcomes, um, and the adversarial
12 nature of the court process; and then, um, behavior in
13 court.

14 Q. Okay. Let's break those down. The first prong
15 is the appreciation of the charge.

16 What was he able to tell you about the charges
17 that he is facing?

18 A. Um, yes. That he is facing two counts of
19 first degree murder.

20 Q. All right. And did you have any other
21 follow-up, as to that, two counts of first degree murder?

22 A. I asked if, um -- if there's -- if he
23 understands what the allegations are, against him, if he
24 knows what they are.

25 Q. Okay. And what is his response?

1 A. They say I killed two people.

2 Q. All right. Was he able to elaborate, like, who
3 he killed, or did he provide any other details?

4 A. Um, no. The only thing is, I asked where it
5 took place, in what city, and he said St. Pete; that,
6 allegedly, it occurred there.

7 Q. When you are asking the follow-up question, and
8 he does not want to give further detail, what are his
9 responses? What is he saying to you?

10 A. Um, that he didn't know anything about that, um,
11 that he's never known. Um -- and, um, I asked him if he's
12 ever talked to his attorney, or asked his attorney about
13 the allegations, and that he didn't really know anything.

14 Um, I asked if he's discussed that, and he said
15 it was not a good time. And I asked, "What do you mean
16 by that?" Um, that, when he's ready, that his mind needs
17 to be ready to do so, to talk about it.

18 Q. Okay. So he's saying that, when he's ready,
19 he'll talk about it?

20 A. Those are the words, uh-huh.

21 Q. All right. The next prong is appreciation of
22 the range and nature of the possible penalties.

23 What questions do you ask the Defendant, to
24 determine whether he has comprehension in that field?

25 A. Sure. Um, well, you know, if someone is

1 potentially found guilty of these charges, what -- what
2 can happen, what are the possible punishments or
3 consequences that can take place.

4 Q. And what was his answer?

5 A. Um, the death penalty, where you die, and in
6 prison.

7 Q. The third prong, which is understanding the
8 adversarial nature of the case, what questions did you
9 ask the Defendant, on that prong?

10 A. Um, I asked about the different roles of the
11 key court personnel, from the judge to the defense
12 attorney and the prosecutor. Um, and I, um -- do you
13 want me -- those are the three roles, that I ask about.

14 Q. Okay.

15 A. And then, um, the pleas that are available,
16 if he understands what those are, the plea bargaining
17 process, and then in jail, to see if there's a basic
18 understanding -- I mean -- sorry -- trial, not jail.

19 Q. Did he understand the role, or did he -- was
20 he able to identify his defense attorneys?

21 A. By first name.

22 Q. And how about the role of a prosecutor?

23 A. Um, he, um -- he did not know the names of the
24 prosecutors, but he demonstrated an understanding of the
25 role, that they are people who listen to the case. And

1 I asked why they would do that: To see if I did it or
2 not, and they try to send you to prison. And then, he
3 indicated: They are on the other side.

4 Q. Okay. How about the judge's role?

5 A. Yes. He identified, the judge's role is to
6 sentence an individual. Um, and when I asked whose side
7 he's on, he said, "The State's side, the people trying to
8 get you indicted and sent to prison, and found guilty."

9 Q. And how about plea bargaining? Was he able to
10 articulate what that was about?

11 A. Um, yes. He described it as a deal between you
12 and the State, that -- you know -- that involved a lighter
13 sentence, compared to what one could face. Um, and I
14 said, "Well, what do you mean, 'facing'?" "If sentenced,
15 you could get more time."

16 Q. Okay. Anything else with that particular prong,
17 that he was asked and answered, that I have not covered?

18 A. I asked basic questions about trial. Um, he
19 said, "It's where someone is sentenced." And I said,
20 "Well, who does the sentencing?" And he said, "The
21 judge."

22 Um, I asked, "Why would some defendants choose
23 to go to trial?" And he indicated, "They feel they can
24 beat the case."

25 Um, and I asked, um, you know, a few other

1 questions, like, "How do you plead, to go to trial?" He
2 answered that correctly. And he was able to identify, um,
3 who are the main participants in the trial.

4 Q. Okay.

5 The third prong is capacity to disclose the
6 facts. Talk to me about your conversation with the
7 Defendant, in that particular prong.

8 A. Um, yes. So, um, he demonstrated an
9 understanding of the charges, um, and, generally,
10 demonstrated an understanding of the allegations, although
11 he did not elaborate and did not discuss or provide any
12 other information about that, um, so he didn't discuss
13 the events surrounding it, what's been alleged. Um, and
14 Defense did state that he hasn't really done that in-depth
15 with them, either.

16 Um, and I noted he was quiet and guarded, um,
17 but he was able to answer background questions, for
18 example, briefly and coherently.

19 His thoughts were goal-directed and organized.
20 I didn't see any evidence of a thought disorder. Um, and
21 he appeared to have a basic capacity to be able to answer
22 questions, you know, coherently, relevantly. Um, they
23 were brief answers, so I don't know how -- to what extent
24 he'll elaborate far more, but he was able to answer them,
25 directly and coherently.

1 Q. Was this the only subject matter that he seemed
2 unwilling to even give you basic answers on?

3 A. Um, he just provided the basic background
4 questions, that we reviewed before.

5 Q. Okay. But, as far as the content of what
6 happened in the charge, or the allegations that are
7 before him, was he unwilling to even give you the basic
8 answers in those particular discussions?

9 A. Um, he didn't provide more information, besides
10 saying that he's, you know, accused of killing two people.
11 And then, I found out, it's allegedly in St. Pete, and
12 that was it.

13 Q. Okay. How about his ability to manifest
14 courtroom behavior?

15 A. Um, he demonstrated an understanding, how one
16 is supposed to behave, um, and knew -- was aware that
17 one can speak -- it's appropriate to speak when told to,
18 in court. He didn't demonstrate any difficulty in
19 managing his behavior. He sat calmly. He was, you know,
20 cooperative. He became cooperative, and answered
21 questions.

22 Q. Okay. And how long, total, did you meet with
23 him, in both evaluations?

24 A. Sure. Um, these are estimates. About an hour,
25 um, a piece, probably, uh, for the interview, and then the

1 testing, the second part, uh-huh.

2 Q. All right. And how about the capacity to
3 testify relevantly?

4 A. Um, yes. Um, I asked if he -- you know, "Do
5 you know what testifying in court means?" "Telling what
6 you know."

7 I did ask if he's required. He said, "I don't
8 think I can," like, he's able to. He was aware that one
9 must be honest, when testifying.

10 Um, I did note that, although he has been
11 identified as having a language disorder, um, he answered
12 questions briefly and coherently. Um, his thoughts were
13 organized and goal-directed.

14 Um, he was aware of his charges, although he
15 didn't elaborate on the allegations. Um, and then, he
16 was quiet and guarded. Um, and my opinion was, he wasn't
17 presenting with such significant impairments, or acute
18 symptoms of mental illness, that he wouldn't be able to
19 answer questions, um, you know, coherently and relevantly.

20 Q. Okay. Did you do any other evaluations or
21 interviewing of the Defendant on that first evaluation
22 day?

23 A. The background and the mental status, in the
24 competency case.

25 Q. Okay. So, the mental status, have you

1 determined or assessed that?

2 A. Um, yes. And we touched on those, um, earlier,
3 asking about, um, you know, my observations of his
4 presentation, his orientation, if he's aware of the date,
5 where the location is, how he's feeling; mood.

6 And I asked for experiencing symptoms of
7 psychosis, you know, if I see anything, is he experiencing
8 that, um, how he's feeling, um, how he's sleeping and
9 eating. I do ask about history of trauma, as well as, um,
10 any history of suicidal ideation or attempts, both past
11 and then current.

12 Q. Okay. And he was able to answer briefly and
13 simplistically, but he answered those questions for you?

14 A. Yes, briefly, yes.

15 Q. Did that conclude the first part of your
16 evaluation on that first day?

17 A. Yes.

18 Q. All right. And why did you have to come back
19 a second day?

20 A. To do formal testing that is typically done
21 without counsel present, because of the security of the
22 test instruments.

23 Q. Okay. So, tell us about that second evaluation.
24 What date was that on?

25 A. That was on the 21st.

1 Q. And where did that occur?

2 A. On his housing unit, in the meeting room.

3 THE COURT: May 21st?

4 THE WITNESS: Yes, Ma'am.

5 THE COURT: Thank you.

6 BY MS. ELLIS:

7 Q. And that's a different location than where that
8 first interview occurred?

9 A. It's the same location where -- when I was able
10 to do the interview.

11 Q. Okay.

12 A. Not the big conference room, but the meeting
13 room within his unit.

14 Q. Okay. So, when the prosecutors were there, we
15 were in a separate room, but when you actually conducted
16 the interview, it was in his, like, pod area?

17 A. Yes, in a small meeting room within his housing.

18 Q. Okay. And approximately how long was that
19 evaluation?

20 A. The second?

21 Q. The second one.

22 A. About an hour.

23 Q. All right. What tests did you perform on the
24 Defendant, on that particular date?

25 A. Yes. I, um, conducted a measure of intellectual

1 functioning, IQ testing.

2 Q. And what was that test?

3 A. The Comprehensive Test of Nonverbal
4 Intelligence.

5 Q. And what's the acronym for that?

6 A. The CTONI-2, it's the second version.

7 Q. Why did you administer the CTONI-2, versus the
8 WAIS?

9 A. Um, yes. The WAIS had been administered not too
10 long before, at the state hospital, um, so to be able to
11 choose a different instrument that would allow me to do
12 the testing, so looking at what other comprehensive
13 measures are available, um, that would be appropriate for
14 that, and the CTONI is one of them.

15 Q. Okay. And talk to us about the CTONI. What
16 does that test look for, and what are you evaluating in
17 that test?

18 A. Intellectual functioning.

19 Q. And how do you do that?

20 A. Um, it's a nonverbal, so it can be used with
21 individuals of different backgrounds, languages. Um, it
22 doesn't require reading or, um, writing, um, but it is
23 one where stimuli or items are presented, and they have
24 to select, by pointing, the answer that best fits that
25 subtest, what's being asked.

1 Q. And what grade level is that norm for?

2 A. It is ages six to 99.

3 Q. Okay. And how did the Defendant do on that
4 test?

5 A. Um, poorly.

6 Q. How so?

7 A. Um, he obtained a pictorial scale of 55, a
8 geometric scale of 61, and a full scale of 54.

9 Q. And did that match what you were seeing, when
10 you were having this conversation with him, in the initial
11 interview?

12 A. Um, I don't know if the score -- I wouldn't
13 be able to say the scores exactly matched, but, you know,
14 his conversations are brief, and it was somewhat
15 simplistic, so I didn't expect very high scores.

16 Q. Okay. What was his total score, in the CTONI?

17 A. Um, 54.

18 Q. And what does that equate to?

19 A. Intellectual disability. They score it in the
20 very poor range, the language that the instrument uses,
21 um, but that is on the -- the lower end of the mild,
22 upper moderate.

23 Q. Does that equate to the WAIS, like a 54, and the
24 CTONI be a 54?

25 A. They can be compared.

1 Q. Okay. And if you were to see a patient at 54,
2 would they be able to do the daily tasks of, like,
3 bathing, driving, um, living independently?

4 A. I've seen, more often, needing some help in some
5 of those capacities -- not driving, for example -- but
6 being able to bathe, might need help with some aspects of
7 showering, but they are able to do some things
8 independently.

9 Q. Okay. Did you have any concerns, to that point,
10 that effort might have been an issue in this particular
11 test?

12 A. Um, he -- at one point, at least, um, there was
13 some distractibility. That is where the chuckling and the
14 giggling -- there was the activity in the background,
15 going on, whatever that was, was during this testing.

16 Q. Okay. Did you do any other additional tests,
17 to test for effort or feigning or malingering?

18 A. Um, I did.

19 Q. And tell us about those.

20 A. The Inventory of Legal Knowledge, and then I did
21 the dot-counting test.

22 Q. Okay. Let's talk about the Inventory of Legal
23 Knowledge. What is that test?

24 A. Um, it's one looking at response style, with
25 respect to questions about competency.

1 Q. Okay. And is that norm for a particular
2 population?

3 A. It is, um, a reading level. It has a reading
4 level, uh -- it's fifth grade and above, in being able
5 to understand. It's provided orally, so you listen to
6 it, you don't read anything; um, but it does say fifth
7 grade.

8 Q. And were you able to determine what reading
9 level he had, through his school records?

10 A. Um, it was low. I saw varying numbers, um,
11 three -- upper elementary -- third grade to, I think,
12 fourth or fifth --

13 Q. Okay.

14 A. -- but low.

15 Q. And how did he do on the ILK?

16 A. Um, he scored, um, on the cusp -- so, like a
17 scoring on the relatively low -- so questioning, um, his
18 response style or effort.

19 Q. Okay. So, "relatively low" means what?

20 A. Meaning that he -- greater than chance. So,
21 one can randomly guess answers, and get them correct.
22 And then, where you miss more than you would, if it was
23 just by chance, guessing.

24 Q. Okay. So he missed more than someone who was
25 just, like, guessing, by chance?

1 A. Greater than chance.

2 Q. And what does that indicate to you, as far as
3 effort goes?

4 A. It questions. It raises concern for effort.

5 Q. And did you perform any other tests on the
6 Defendant, in regards to effort, at that time?

7 A. Yes, on the dot-counting test.

8 Q. And tell us about the dot-counting test.

9 A. Um, it is a measure designed to assess effort.
10 Um, it's fairly simplistic. It involves counting dots,
11 um, and that's timed, and so you're looking at error and
12 the amount of time it takes to do that.

13 Q. Okay. And to be fair, there is no, like,
14 arithmetic involved in this test, it's just literally
15 counting dots?

16 A. Correct.

17 Q. So you may have a card with one dot on it, but
18 what is the maximum number of dots that would be on a
19 card?

20 A. I believe the max, I think, is 30.

21 Q. All right. And how did the Defendant do on
22 this particular test?

23 A. So I looked at it, because different -- he
24 presents with a host of areas, potentially, of difficulty.

25 I looked at, um, the scoring for those who

1 have a reported head injury. Um, I looked for those,
2 um, that have been identified with a learning disability.
3 And then, um, there's also scores for schizophrenia, for
4 those who have been diagnosed with that.

5 Q. Okay. And you're getting the head injury from
6 when he ran into a pole, when he was seven?

7 A. He reported that. And then, later, um, when
8 he was asked -- or reminded, asked -- he had been in a
9 car accident also.

10 Q. Okay. And how did he do in comparison to the
11 head injury group?

12 A. He scored within normal range.

13 Q. Okay. How about the schizophrenia?

14 A. The same.

15 Q. And how about the learning disability?

16 A. Slightly above.

17 Q. And what does that mean?

18 A. Um, that, uh, it raises a question of effort.
19 He scored above the norm -- norming group, done for
20 learning disabilities.

21 THE COURT: All right. It is two minutes
22 after twelve. Okay?

23 MS. ELLIS: Okay.

24 THE COURT: Doctor, we're going to stop here.
25 You're available to be here, this afternoon,

1 correct?

2 THE WITNESS: Yes.

3 THE COURT: Can you be back at 1:30?

4 THE WITNESS: I can.

5 THE COURT: All right. Let's stop, and I'll
6 see everyone back at 1:30.

7 Can you please see that Mr. Mosley has an
8 opportunity to eat lunch today.

9 THE BAILIFF: Yes, your Honor.

10 THE COURT: All right. Thank you.

11 I will see everybody at 1:30.

12 THE BAILIFF: All rise. Court is in recess
13 until 1:30, by the courtroom clock.

14 (RECESS)

15 (VOLUME I CONCLUDED)

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Linda K. Fritsch, Registered Merit Reporter,
certify that I was authorized to and did stenographically
report the foregoing proceedings and that the transcript
is a true record.

DATED this 26th day of August, 2025.

/S *Linda K. Fritsch*

Linda K. Fritsch
Registered Merit Reporter