IN THE CRIMINAL COURT FOR KNOX COUNTY, DIVISION I

AT KNOXVILLE, TENNESSEE

STATE OF TENNESSEE)
)
VS.) CASE NO. 24527
)
BILLY RAY IRICK)

FILED
AUG 27 2010
By Joy R. McCroskey, Clerk

TRANSCRIPT OF THE EVIDENCE

Volume 1 of 3 Volumes

(Proceedings on 8/16/10 and 8/17/10)

THE HONORABLE RICHARD R. BAUMGARTNER, PRESIDING JUDGE

APPEARANCES

FOR THE STATE:

Mr. Leland Price
Mr. Kenneth Irvine, Jr.
Assistant District Attorneys
400 Main Avenue
Knoxville, Tennessee 37902

FOR THE DEFENDANT:

Mr. C. Eugene Shiles, Jr.
Attorney at Law
Post Office Box 1749
Chattanooga, Tennessee 37401-17499

Mr. Howell G. Clements
Attorney at Law
1010 Market Street, Suite 404
Chattanooga, TN 37402

TABLE OF CONTENTS

Volume 1

	PAGE
Proceedings on August 16, 2010:	
Opening Statement:	
By Mr. Shiles	3
By Mr. Price	12
DEFENDANT'S PROOF:	
PETER IRVIN BROWN, M.D.:	
Direct Examination by Mr. Shiles	14
Cross-Examination by Mr. Price	45
Redirect Examination by Mr. Shiles	67
NINA BRASWELL LUNN:	
Direct Examination by Mr. Clements	74
Cross-Examination by Mr. Price	87
Volume 2	
Proceedings on August 17, 2010:	
Dr. Seidner's Report	89
STATE'S PROOF:	
BRUCE G. SEIDNER, Ph.D.:	
Direct Examination by Mr. Price	91
Cross-Examination by Mr. Shiles	117
Discussion Regarding Transcript Preparation	138
Statement by Mr. Clements	140
Volume 3	
Exhibits	142
Court Reporter's Certificate	149
Certificate of the Court	150

LIST OF EXHIBITS

NUMBER	ITEM	VOLUME	PAGE
1	CV - Dr. Brown	1	15
2	Report From Dr. Spica	1	19
3	Psychiatric Evaluation by Dr. Brown	1	19
4	Article - Assessment of Competency For Execution: Professional Guidelines and an Evaluation Checklist	1	73
5	Statement - Kathy Ann Jeffers	2	90
6	CV - Dr. Seidner	2	92
7	Report from Dr. Seidner	2	93

1 (This cause came on to be heard on the 16th day of
2 August, 2010, before the Honorable Richard R. Baumgartner,
3 Judge, holding the Criminal Court for Knox County, Division I,
4 at Knoxville, Tennessee, when the following proceedings were
5 had:)
6 THE COURT: All right. I think we're ready to
7 proceed on the Irick matter. We are here today--the issue
8 that we are here on is to determine Mr. Irick's competency to
9 be executed, and the purpose of today's hearing is to hear
10 testimony from Dr. Brown, as I understand it, who is a--has
11 been employed by the--by the defense on Mr. Irick's behalf,
12 but who is at least here on Mr. Irick's behalf to testify on
13 that issue as to his competency to be executed, and I'm going
14 to hear his testimony this morning, and then we--I think we
15 have a--we'll have--we're set again tomorrow morning to hear
16 from--from an expert for the state who is also going to
17 testify on this issue, but the hearing this morning is to hear
18 from Dr. Brown on behalf of the defense.
19 MR. PRICE: And, your Honor, just to up date on
20 Dr. Seidner, my understanding is he met with the defendant
21 over the weekend, and he's preparing his report. I don't have
22 it yet. As soon as I have it, I'll--or you get it, we'll just
23 furnish it to everybody involved, but to my knowledge, it's
24 not been finalized yet. But he--I talked with him Saturday
25 evening. He's prepared to be here on tomorrow morning and

1 render his opinion. Hopefully, we'll have the report this
2 afternoon.
3 THE COURT: Do we have--will we have the report this
4 afternoon?
5 MR. PRICE: I hope so, yes.
6 THE COURT: And you'll share it with these
7 gentlemen?
8 MR. PRICE: Yes, sir.
9 THE COURT: Okay. And if you would, for the purpose
10 of the record, you gentlemen would introduce yourself. We met
11 in the office but--
12 MR. SHILES: Yes. My name is Gene Shiles, your
13 Honor, for Billy Ray Irick.
14 MR. CLEMENTS: Your Honor, please, I'm Howell
15 Clements also for Mr. Irick.
16 THE COURT: Okay.
17 MR. CLEMENTS: That's H-O-W-E-L-L.
18 MR. SHILES: Your Honor, I may also note that
19 Mr. James Gaylord from the State Attorney General's Office is
20 here. I might introduce him to your Honor.
21 THE COURT: Mr. Gaylord, how are you?
22 MR. GAYLORD: Fine. Thank you, sir.
23 THE COURT: All right. And is Dr. Brown with us?
24 MR. CLEMENTS: Judge--
25 MR. SHILES: Yes, sir, he is. Mr. Brown is seated

1 here. Your Honor, I had two things I wanted to ask the Court.
2 He's ready to testify. I did have, with the Court's
3 permission, a few opening remarks, if the Court permits it.
4 THE COURT: Sure.
5 MR. SHILES: I also wanted to let the Court know
6 that we have--actually have two witnesses. Ms. Nina Lunn who
7 is also here and ready to testify this morning. Those are the
8 only two witnesses that we would expect to have testify before
9 your Honor, your Honor, with the Court's permission.
10 THE COURT: That--that'll be fine. I--whatever you
11 think is appropriate on the issue, I'm ready to hear.
12 MR. SHILES: Yes, sir.
13 MR. CLEMENTS: Judge, might I address the Court,
14 please just a moment on a new matter. As I understand it,
15 there's no sequestration rule--rule of evidence. We're going
16 to leave some witnesses in. We do not anticipate having them
17 testify, but there's some slim possibility they might, but
18 we're not asking them to leave the courtroom. We don't think
19 that's necessary.
20 MR. PRICE: We're not asking--
21 THE COURT: Any objection?
22 MR. PRICE: No, sir. We're not asking--
23 THE COURT: Nobody objects. So that's fine.
24 All right. You want to make an opening statement?
25 MR. SHILES: Yes, sir. As I said, it's a rather

1 brief statement, but let me probably just hit some of the
2 issues. Let me go back to a very painful time for many who
3 are concerned and even some members of the family that are
4 here this morning.
5 It goes back to April 15th of 1985, and this is a
6 telephone call, your Honor, that came through from Kenneth
7 Jeffers--or to Kenneth Jeffers. It goes, "Kenny, come home.
8 It's Paula. I can't wake her up." Those were the words that
9 Kenneth Jeffers used to describe to the jury that was
10 impaneled in 1986 to describe the telephone conversation or
11 call that he got from Billy Ray Irick who was at home on
12 Virginia Avenue on that very fateful morning--or evening.
13 Billy was there because Billy lived at the home with the
14 Jeffers family, with Paula. He had been there for two years.
15 He had had trouble keeping a job, so therefore, basically, for
16 those two years, he is an in-house babysitter for those
17 children, all five of them, including Paula. He'd do things
18 like feed these children. He'd help clothe the children.
19 He'd help get those children to where they needed to go,
20 whether it be school or chores or to a grandparent's house.
21 These are the sort of things that he did for two years, and to
22 the best of his ability, he loved those children. In fact,
23 the mother in a statement to Detective Wiser on the day after
24 Paula's death said that. She's told Detective Wiser, "He
25 loved the children, and he took up for them."

1 Of course--and very, very tragically, of course,
2 Paula did not wake up. She was pronounced dead at a local
3 hospital. She died of asphyxiation, and it was worse than
4 that. She had been raped twice. There were significant
5 injuries to her vaginal--vaginal and anal areas, and about a
6 year and a half later a jury was impaneled, and Billy Ray
7 Irick was found to have been guilty of felony murder and two
8 counts of rape. Two days later, November the 3rd, he was
9 sentenced to die, and of course, that's what brings us here
10 today.
11 When one looks back at any murder, and in
12 particular, this murder of a young child, seven years old, the
13 only word that can come to your mind is senseless. Perhaps
14 it's over used, but certainly that's--no other word is more
15 expressive of what happened back in 1985. It is senseless.
16 As we sit back here many years later, I'm sure it's--there's
17 no more--it makes no more sense to us now than it did then,
18 and what I'm here--and what this hearing's going to be about
19 is to inform the Court and those present, that it's not only
20 senseless, without sense, in other words, to us, but it's also
21 without sense her death and Billy Ray's connection to that
22 death of Paula Dyer back on April 15, 1985.
23 Of course, the question--the more precise question
24 as the Court has succinctly said is, is he presently competent
25 to be executed, because he is under a sentence of death. The

1 response for those of us who are speaking for Billy today is,
2 no, he's not competent to be executed. We'll be following the
3 law or--that governs us, which is Panetti v. Quarterman. It
4 states that in these United States, no matter what
5 jurisdiction, that a man or woman cannot be put to death if
6 they do not understand, if they don't have a rational
7 understanding of why they're being put to death, and
8 obviously, that presupposes they must also understand that
9 they're under a sentence of death.
10 So what is Billy Ray Irick's mental capacity or
11 state of mind as we sit here today, because it is a present
12 competency standard. Back in 1986 when Billy Ray was first
13 taken to Riverbend, where he has been ever since, the intake
14 classification, psychological summary stated that Billy Ray
15 scored at a very high--and I'm quoting--very high level in the
16 thought disturbance and self-depreciation scales which
17 reflects--and again quoting--disorganization of thinking,
18 confusion, perceptional distortions, hallucinations, and
19 feelings of unreality. Well, Dr. Brown's going to be adding
20 to that, but that also sums--sums it up pretty well.
21 What we will not be presenting to the Court today is
22 we are not claiming that Mr. Irick is in--at all times
23 hallucinating or delusional or that he does not know that he
24 is under a sentence of death. What we will be presenting to
25 the Court and what we think the proof will show is that he

1 does not have a rational connection or understanding of what
2 he is and what he did and Paula's death, and therefore, the
3 connection between a sentence of death for the death of Paula
4 Dyer has no rational connection to him in his mind.
5 To understand how that could be, and of course, we
6 have Dr. Brown here to testify today, your Honor, along with
7 Nina Lunn who treated him back when he was a child, one has to
8 have at least a few of the highlights or if you want to say
9 low lights of Billy Ray's life, and I just want to just talk
10 about those just very briefly, and--and I think the Court has
11 looked very closely at the record as I can tell from the
12 Court's records. But Billy Ray has been in mental health
13 counseling, treatment, or institution--or in an institution
14 since the age of six. He came to Nina Lunn at the age of six
15 because he was absolutely uncontrollable in school. In fact,
16 the school had made the referral to the Mental Health Center.
17 There were unconfirmed reports of physical and psychological
18 abuse from the home. When--by the age of eight, your Honor,
19 after about 18 months or so of outpatient treatment, he was
20 referred as an inpatient to the Eastern State Mental Hospital
21 where, in fact, he was taken in as an inpatient at age of
22 eight. Beginning at that time he was given, and in fact, even
23 before that, antipsychotic medications such as Thorazine, and
24 in fact, as we've put out in our brief over a period of time
25 the levels of Thorazine were doubled twice as he was an

1 inpatient in Eastern State.

2 Subsequently, after a few months of treatment at
3 Eastern State, he went to the Church of God Home in
4 Sevierville, Tennessee, and there two prominent events took
5 place. First of all, he was continued on antipsychotic--
6 antipsychotic medications for a period of time, but at some
7 point, and frankly, your Honor, we cannot point to exactly
8 when that happened, but it is clear from the record that he
9 was no longer given those types of medications.

10 And at the age of 13 there were two prominent
11 episodes that we think are important in understanding Billy
12 Ray's history and what he is today and how he thinks and his
13 competency today, and that is, when--when he went home on a
14 very rare vacation from the children's home in Sevierville,
15 Tennessee, he was found late one night over his sister
16 who--who was asleep, and frankly, was approximately the age of
17 seven. Billy was found with a razor by his mother and/or
18 father, and he had made at least some incisions in the pajamas
19 of his sister, Susan, as she had slept.

20 He was then taken back to Sevierville, Tennessee, to
21 the Church of God Home. Soon thereafter--and by the way, I
22 should--I should note back at the--when he was back at home,
23 there had been a very disturbing incident to him prior to this
24 incident with his sister. Billy had sought after five years
25 of being at the home for--Church of God Home to come back to

1 his parents who had rarely visited him. He was told by mother
2 either "no" or she equivocated. Billy was very distraught by
3 that. That is noted in the records which we have provided to
4 the state and to the Court.
5 Anyway, now, we're back at the Church of God Home
6 after the incident with his sister, and once again, Billy is
7 found late at night hovering over a young girl who's in the
8 dormitory there at the Church of God Home, and he is chased
9 off, and later it is reported that there was a knife found in
10 the bed. Billy Ray Irick is only 13 years old at this point,
11 and we've had two very, very dramatic incidents, and I might
12 even say ominous when you look back and know what finally did
13 happen back in 1985. Significantly, your Honor, after those
14 two incidents Billy claimed no memory of them, and that is
15 documented in the reports that we've provided to the Court and
16 to the state. After this incident, the Church of God Home
17 felt like they could no longer take him. He was sent back to
18 Eastern State and where, again, a report that we have provided
19 to the Court says in a note with his readmission that now he
20 had--well, first of all, that he had been off his medications,
21 and, now, he was believed to be really dangerous. That's
22 Eastern State.
23 Nevertheless, within just a few months, he was
24 released from Eastern State with a diagnosis of maladjustment
25 to adolescence. He was given no further treatment. He was

1 not seen on an outpatient basis. He didn't see a counselor,
2 to our understanding or knowledge. He was just sent on his
3 way. We know from that point on--actually, we know very
4 little from that point on. He was 14 years old. He had not
5 been living at home for five years. We do know from, again,
6 an affidavit that's within the exhibits that we have provided
7 to the Court that at least one neighbor testifies as to
8 physical beatings meted out by Mr. Irick against the whole
9 family, the whole Irick family, but also including Billy Ray.
10 She testify--she testifies in our affidavit to bruises, yells,
11 screams, that and all of those sort of things.
12 We also know that he had a short stint in the Army.
13 He roamed around the country, but then we know that two years
14 prior to the death of Paula, that he was in Clinton,
15 Tennessee, looking for work, out of work. Kenneth Jeffers
16 takes him in. Takes him in, shows an act of charity, really;
17 allows him to stay there; and as I've already reported, he was
18 off again, on again work, but mainly earned his keep at the
19 Jeffers' home by baby-sitting. What we did not know until
20 about 10 years ago, 1999, as the Court has noted in other
21 pleadings, that within days, at the most, week or two, while
22 the Jeffers were separated--because that's what happened.
23 Kenneth and Kathy Jeffers became separated when they moved to
24 Knoxville, Tennessee; that during that period of time Billy
25 lived with Kenneth Jeffers, the stepfather of Paula, and his

1 parents.

2 During that period of time, and these are the
3 affidavits that we've provided to the state and to the Court,
4 the Jeffers' or Jefferies' affidavits; that during that period
5 of time it was reported by rather hostile witnesses that he
6 was hearing voices, he was talking to the devil. He chased in
7 broad daylight down a Knoxville public street a little girl
8 with a machete, making no qualms about it. He also--probably
9 his best friend in the world, the one that had taken him in
10 for two years so he could have a place to live, Kenneth
11 Jeffers, he was going down the hall of his parent's home with
12 a drawn machete, Billy Ray was, to kill, according to him as
13 he reported it to Mr. Ramsey Jeffers, his best friend Kenneth.
14 And these were in the days and weeks--probably days, but just
15 to be safe, a week or two before the tragedy, the tragedy that
16 happened to Paula.

17 So we--so to sum up, your Honor, what we believe the
18 proof will show today is that No. 1--and I don't think it's
19 going to be contested, but that Billy has had a long and
20 severe case of mental illness, and that at times he was
21 incapable of controlling, understanding or maybe even
22 realizing that he was under certain impulses, and also in that
23 when he is in these psychotic episodes, his memory is
24 shattered. It's--or he has none at all, and his
25 understandings and his connection as I reported earlier in the

1 opening statement, he has none. He has no rational connection
2 or understanding of how he came to be the one who is charged
3 and sentenced to death for the death of Paula Dyer. In
4 addition, your Honor, that's--that, of course, will be our
5 main proof today.
6 Let me just add one more thing, and it may be I
7 understand for the record, your Honor, and I understand very
8 well what the Tennessee Supreme Court has said this hearing is
9 all about, but as we had briefed to the Court, we also believe
10 there is an alternative remedy perhaps that this Court
11 could--could fashion, and that is based on the--really the
12 developing case law in Virginia as reported in Virginia v.
13 Atkins and Roper v. Simmons that there--that there is really
14 an evolving standard of decency in regard to people who are
15 mentally ill, and we believe that that evolving standard would
16 permit or would require that Billy Ray whether he's--actually
17 meets the competency level as set by this state and by the
18 United States constitution that he--that his mental illness
19 rises to such a level that on that basis, an alternative
20 basis, that he should be spared the death penalty.
21 MR. PRICE: Your Honor--just, your Honor, very
22 briefly, I failed to introduce to the Court that Ms. Kathy
23 Jeffers, who is the mother of Paula, she's here with her
24 family, and I failed to mention that. I just wanted to let
25 you know, your Honor, that she's here.

1 THE COURT: Ms. Jeffers.

2 MR. PRICE: And, your Honor, just in general, I

3 would respond--remind your Honor and I know you're--you're

4 probably aware of this, that the standard we're operating

5 under is still Van Tran. I think Panetti expounded on that to

6 some degree, but Van Tran, in this case, the Tennessee Supreme

7 Court decision is what's controlling, and they set out the

8 standard for competency to be executed, and that is: Does the

9 defendant know he's under a sentence of death, and does he

10 understand factually the reason for it? Now, the Panetti

11 Supreme Court--U.S. Supreme Court indicated that needed to be

12 a rational understanding of it. But nevertheless, your Honor,

13 I think that's the examination. So it's a very low threshold.

14 It doesn't require either that the defendant be completely

15 rational in all regards or considered normal mentally

16 health-wise. I would note in the Panetti decision that

17 the--it says, "The mental state requisite for competence to

18 suffer capital punishment neither presumes nor requires a

19 person would be considered normal or even rational in a lay

20 person's understanding of those terms."

21 So simply because he suffers from a mental--has

22 mental health issues or mental diseases, your Honor, does not

23 mean that he is incompetent and cannot be--cannot suffer

24 capital punishment in this case, and I will also remind, under

25 Van Tran, at this stage the burden is on the defendant to show

1 that he is incompetent. The presumption is that he is
2 competent to suffer capital punishment, that's now the burden
3 on--is on the defendant to come and overcome that presumption
4 by a preponderance of the evidence, and your Honor, we simply
5 submit that that's not going to be met in this--in this
6 hearing, that that's not going to happen. From the
7 information that we have, we don't feel like the defendant can
8 show that, and we'll get into the details as we go through our
9 examinations of the witnesses.
10 Thank you.
11 THE COURT: Thank you.
12 MR. SHILES: Your Honor, therefore, I'd call
13 Dr. Brown to the stand, please.
14 THE COURT: Very well.
15 (Witness was sworn.)
16 DEFENDANT'S PROOF
17 PETER IRVIN BROWN, called as a witness, being duly
18 sworn, was examined and testified as follows:
19 DIRECT EXAMINATION
20 BY MR. SHILES:
21 Q Mr. Brown--I mean, Dr. Brown, I should say, when
22 you've settled in there, please state your full name for the
23 record, please.
24 A My name is Peter Irvin Brown, I-R-V-I-N.
25 Q I'm going to show you, and I have provided to the

1 state, a copy of your curriculum vitae.
2 MR. SHILES: And if I may approach, your Honor?
3 THE COURT: You may.
4 (Exhibit 1 was marked.)
5 Q Dr. Brown, if you would, please take a look at what
6 has been marked as the first exhibit for the defendant, and
7 I'm going to ask you if you can identify that document for me,
8 please, sir.
9 A Yes. That's a recent version of my curriculum
10 vitae.
11 Q And it appears to be--how many pages are there,
12 Dr. Brown? Is it nine pages?
13 A Yes. That's correct.
14 Q And have you looked over this CV recently?
15 A Yes. Yes, I have.
16 Q And, to the best of your knowledge, is it accurate?
17 A Yes. I think it's updated now.
18 MR. SHILES: Okay. All right. And, your Honor, I
19 don't want to spend more time than what the state or the Court
20 may want to. We can try to qualify this witness and go
21 through a lot of his background, or if that's conceded, and we
22 can get on to more subsequent matters, it's up to the--
23 MR. PRICE: I think Dr. Brown--
24 MR. SHILES: --General Price.
25 MR. PRICE: --has been qualified as an expert before

1 in this court, your Honor. We're familiar with him.
2 THE COURT: I believe he's been--he's qualified to
3 testify in this matter so--
4 MR. SHILES: Okay. Then, your Honor, then to save
5 time, I think we'll just go over--I mean, skip that.
6 Q Let me go over, Dr. Brown, a list, and I'm not going
7 to put--I'll just read it out to you, and what I'm going to
8 do--I know--tell the Court, have you reviewed documents in
9 preparation for this hearing today?
10 A Yes. Yes, I have.
11 Q Is it many or few documents?
12 A Many. Many documents.
13 Q Let me go over a list, and I'm going to read this
14 out to you and see if you concur that you have looked at these
15 documents. A birth certificate of Billy Ray Irick?
16 A Yes.
17 Q Portions of available school records for Billy Ray
18 Irick?
19 A Yes.
20 Q Knoxville Mental Health/Ross McNabb Center records
21 for Billy Ray Irick?
22 A Yes.
23 Q Eastern State Psychiatric Hospital records for Billy
24 Ray Irick?
25 A Yes.

1 Q Knoxville Orthopedic's records for Billy Ray Irick?
2 A Yes.
3 Q Mental health evaluations and notes by Dr. Dye and
4 Dr. Tennison previous to his trial in 1986?
5 A Yes.
6 Q U.S. Army records?
7 A Yes.
8 Q Portions of trial and post-conviction testimonies--
9 A Yes.
10 Q --in these cases?
11 A Yes.
12 Q And, in particular, testimony of Nina Lunn in the
13 sentencing phase of the trial?
14 A Yes.
15 Q Dr. Pamela Auble file and her testimony from
16 post-conviction hearing?
17 A Yes.
18 Q A statement--an eight-page statement of the mother,
19 Kathy Jeffers, given to Detective Wiser on April the 16th,
20 1985?
21 A Yes.
22 Q Dr. Blackerby CV and affidavit?
23 A Yes.
24 Q Dr. Nickerson affidavit?
25 A Yes.

1 Q The three Jeffers or Jefferies affidavits?
2 A Yes, that's correct.
3 Q Inez Prigmore affidavit?
4 A Yes.
5 Q And Knox County jail records regarding two--two
6 suicide attempts?
7 A Yes, that's correct.
8 Q Now, I may have missed something, but you've
9 assented to all those records, and you have reviewed those in
10 preparation for today; is that correct?
11 A Yes, that's correct.
12 Q Dr. Brown, you--have you examined Billy Ray Irick?
13 A Yes, I have.
14 Q And tell us when that occurred please, sir.
15 A That occurred in December of 2009 and January of
16 2010 on two separate visits. It was a total of five and three
17 quarter hours.
18 Q And did you--were your visits coordinated with any
19 other physician who examined Mr. Irick?
20 A Mr. Irick was concurrently examined by Dr. Spica,
21 S-P-I-C-A, who's a Ph.D. neuropsychologist who performed a
22 neuropsychological evaluation.
23 Q Let me--and did Dr. Spica, and did you, prepare
24 reports after examining him and giving him particular tests?
25 A Yes. That's correct.

1 Q Okay.

2 MR. SHILES: If I may come forward again, your

3 Honor, please?

4 THE COURT: Yes.

5 (Exhibits 2 and 3 were marked.)

6 Q Dr. Brown, I'm going to hand you two separate

7 documents. The first has been marked as Exhibit No. 2; the

8 second, Exhibit No. 3. Let's take a look at what's been

9 marked as Exhibit 2, and if you can, please tell us what that

10 document is or if you've ever seen it?

11 A Yes, I have seen it. This is the report from

12 Dr. Spica concerning his evaluation.

13 Q And when does it indicate that the examination of

14 Billy Ray Irick by Dr. Spica took place, sir?

15 A It indicates that Mr. Irick was examined over the

16 course of three days in November and early December of 2009.

17 Q And had you seen this, a copy of this report before?

18 A Yes. Yes, I had.

19 Q And how--I'm sorry--how had it come to your

20 possession?

21 A I was given a copy by you.

22 Q Okay. And did--did you review this report in

23 preparation for the hearing today?

24 A Yes, I did. And I've also had conversations with

25 Dr. Spica concerning the report.

1 Q Okay. And did you also rely on Dr. Spica's report
2 in forming your own report?
3 A Yes, I did.
4 Q And is that something that is typically done by
5 persons in your field to--to rely, for instance, on a report
6 prepared by Dr. Spica--
7 A Yes.
8 Q --that seen--that had seen the patient previous to
9 you?
10 A Yes, that's--that's correct. In the--in making a
11 psychiatric diagnosis, the standard is that because there is
12 no specific test for most psychiatric conditions, there's no
13 gold standard, that the developers of the DSM have talked
14 about what they call the lead standard, meaning longitudinal,
15 all of the records, expert data, meaning data from experts in
16 different fields that are relevant, and in this case,
17 neuropsychology, and all of the data, trying to get as many
18 data points from different experts as possible and--
19 Q So did you and Dr. Spica coordinate the particular
20 tests that were given to Billy Ray Irick or discuss them?
21 A Yes, that's correct.
22 Q All right. Now, let's turn to your report, and
23 let's--let's go right--really to the heart of the matter, and
24 I believe I'd like to bring your attention to at least around
25 page 20 of your report, and there I believe...

1 MR. SHILES: And, your Honor, I also have a--I have
2 a separate copy for your Honor if your Honor would like to
3 take a look. We have also provided it in the exhibits, but I
4 can provide the--
5 THE COURT: If you've got it right there, and I
6 wouldn't have to--
7 MR. SHILES: Yes, sir, I sure do. If I may
8 approach?
9 THE COURT: Thank you.
10 MR. SHILES: Yes, sir.
11 Q I believe, actually, on the exhibits that we have
12 provided to the Court and to the state, it begins at Irick--I
13 mean, Bate's stamped, Irick 907. But, anyway, turn to page 20
14 of the report, which is also Bate's stamped, Irick 926, I
15 believe we find your diagnosis; is that correct?
16 A Yes, that's correct.
17 Q Okay. Why don't you just tell us what your
18 diagnoses are of Mr. Irick.
19 A Yes. This is the--the form that's used for the DSM
20 multiaxial diagnosis. That's the appropriate measuring
21 psychiatric evaluations.
22 Q And, Dr. Brown, you might want to speak up just a
23 little bit, if you don't mind, or bring that microphone a
24 little bit closer to you.
25 A My apologies.

1 Q That's all right.
2 A On the first axis the acute psychiatric conditions
3 he met criteria for a diagnosis of cognitive disorder, NOS,
4 that's not otherwise specified; and for psychotic disorder,
5 NOS, by the history; and that leads us to an unfinished or
6 rule-out diagnosis of schizophrenia paranoid type. On Axis
7 II, which has to do with personalities, he meets criteria for
8 paranoid personality disorder and schizoid personality
9 disorder. Those are the primary diagnostic labels.
10 Q Okay. The GAF score, what is that about?
11 A GAF is the Global Adaptation Function scale, and he
12 has a score of 48, meaning a severe symptoms or impairment.
13 Q Okay. Let's--let's take these one at a time,
14 Doctor. First, with the--well, actually, let's begin with the
15 psychotic disorder first. That's Axis I, No. B on your
16 diagnoses. And what is the DSM designation for that, please?
17 A DSM definition of psychotic disorder that's not
18 otherwise specified is a person who has--clearly has psychotic
19 symptoms for which there is inadequate information to proceed
20 to the next more specific designation.
21 Q Okay. So this NOS, does this imply in certain--
22 uncertainty on your part as to whether or not he, in fact,
23 manifest a psychotic disorder?
24 A No. The DSM is a decision tree model, meaning that
25 you move along only according to the amount of information

1 that you have. So that based on--on the available
2 information, he meets the criteria for a psychotic condition
3 and additional information would be required to be more
4 specific.
5 Q Now, in finding that Mr. Irick has a psychotic
6 condition, tell us what sort of manifestations or symptoms are
7 relevant in either diagnosing or being able to relate to us
8 lay persons what Mr. Irick has when you say he has a psychotic
9 disorder.
10 A A psychotic disorder is what a lay person would be
11 able to recognize as a severe psychiatric condition, meaning
12 that the person has gross perceptual and thinking deficits
13 that are not seen in ordinary human beings. Typically, that
14 includes hallucinations, being--seeing or hearing things that
15 aren't there. Delusions, meaning fixed beliefs that--that are
16 patently false in our culture, and a gross disorganization of
17 things like the ordinary behavior, being able to look after
18 ones self, to be able to communicate, to be able to remember
19 activities, all of these can be grossly impaired.
20 Q Okay. Give some examples from Billy Ray's own life
21 of these sort of symptoms or manifestations, please.
22 A The best examples are those that are found in the
23 affidavits provided by the Jeffers family, and these include
24 that he was observed talking when there was no one else there.
25 Talking--what we would say talking to himself loud.

1 Tell--telling family members that he was receiving commands
2 from the devil and other voices that told him what to do, and
3 that he had--was believed that the--he had heard police sirens
4 who were coming--and that the police are coming to kill them,
5 and that they would have to protect themselves. Further, as
6 you mentioned earlier, he was observed on several occasions
7 with--with a machete: Once in broad daylight chasing a girl
8 down the street who he had no relationship with, and a second
9 time by Mr. Jeffers' father he was found with a machete--at
10 knife with--at night saying that he was planning to kill his
11 friend Kenneth.
12 Q Let me ask you some--let me ask you a couple of
13 follow-up questions to the incidents that you are referring
14 to. When it is reported by a member of the stepfamily that
15 Billy Ray Irick is running down a public street in daylight
16 chasing a little girl with a raised machete, what does that
17 tell you, if anything, as a psychiatrist, based on your
18 training and your experience, about how that person, in this
19 case, Billy Ray Irick views what he is doing there in the
20 public realm?
21 A Well, quite clearly he has no feeling that there's
22 any need for concealment, and that there's no need that--to in
23 any way, to cover what he is--what he's--what he's intending
24 to do. Further, that he feels completely justified that he
25 is--whether it is because he has the belief that--that he's

1 acting in self-defense, or that he's so disorganized that he
2 cannot control himself, or I think as in this case both of
3 those factors, that he's literally unable to refrain from what
4 he's doing.
5 Q I believe on page 15, if I remember correctly, you
6 refer to something or you make reference to the fact that
7 Billy Ray Irick when told that people had claimed that he
8 heard voices and done these sort of things that they were
9 either stupid or crazy or some--I actually don't have the page
10 right in front of me, but something to that effect. Do
11 you--do you remember that reference in your report?
12 A Yes, I do, and you're correct. It's on page 15.
13 Q Okay. So if Billy Ray Irick is disclaiming
14 responsibility or even memory of these things, does that
15 surprise you; and if not, why not?
16 A No.
17 Q Because these are pretty vivid events, you
18 would--you would admit?
19 A Uh-huh.
20 Q Would you not?
21 A Yes, they--you would think that these would stick in
22 someone's mind. The--one of the--the difficulties in one--of
23 making a diagnosis with someone who's paranoid and who has a
24 lack of hold on--on realities, both, (a) they are--their
25 judgment is impaired because of the psychosis and because of

1 the delusions, and perhaps, because of the auditory
2 hallucinations as well, they are--they see the world as being
3 a threatening place. So their tendency will be more often
4 than not to try to minimize or deny the symptoms whenever--
5 whenever they can. It's unusual for someone who has the
6 symptoms to--to admit to them in an interview with a
7 psychiatrist. The most reliable information we have is
8 typically--and the information we would look at most as being
9 the best quality information, short of witnessing it
10 ourselves, would be to have reliable individuals who--and over
11 multiple times and multiple people coming up with the same
12 report of severe symptoms.
13 Q And, in fact, that's what you were provided, is it
14 not, three affidavits from three stepfamily members which were
15 basically consistent; is that correct?
16 A That's correct.
17 Q Okay. You mention also in your report a phrase
18 "command hallucinations." What is that all about, and why is
19 it important?
20 A Yes. There are three symptoms that are of psychosis
21 that are particularly--that together form one of the most
22 dangerous conditions that we have in all psychiatry, and
23 command hallucinations are--are one of them. A command
24 hallucination is a voice or an instruction or a feeling that a
25 certain behavior has to be carried out. For the majority of

1 patients with schizophrenia, with psychotic illnesses, those
2 can be fairly innocuous things. They can be completely safely
3 ignored. In the case where--where it has to do with a
4 powerful force telling the person to do something that's
5 dangerous or that--warning them that they're at risk, then it
6 becomes an idea of--of--literally of a person feeling they're
7 in a situation where they have to defend their lives.
8 Q On that point or at that juncture, let me--I want to
9 bring your attention to something, but before I do, I'd like
10 to hand General Price something that I don't think you're
11 referring to.
12 This is actually in the record. It begins at Irick
13 256, but just so he can follow along, we'll bring your
14 attention to something that you have been provided. I'm not
15 going to--I don't think it's necessary to make it an exhibit,
16 but apropos to the point that you were just making. Again,
17 this is from the record Irick 256. It's psychological test
18 report. The date is May 19, 1965. The examiner is John A.
19 Edwards, and this is back when Billy Ray is six, but let me
20 ask you about this. When I look at page 2 and when the
21 general looks at page 2, under "dynamics," there is this
22 reference--and I'm only reading part of what is there. This
23 is a three-page-long report, but in the middle of that
24 paragraph it says, talking about Billy at six years old, "He
25 tends to fear his--his own impulses as well as being

1 threatened from those in his environment. In fact, he seems
2 to be overwhelmed and at the mercy of other people."
3 I'm going to ask you, based on what I've just read
4 to you, is that apropos or analogous to what you were just
5 talking about, the fear of impulses?
6 A Yes, very much so. It depends--and I think it
7 can--that observation can be explained both partly by this
8 diagnosis and by his other primary Axis I diagnosis, but this
9 is someone who not only has feelings of danger and threat
10 coming from inside and from outside, but also feels that he
11 has very little control over it, that his--his ability to cope
12 with the situation is minimal.
13 Q Is it significant, Doctor, to you, based on your
14 experience and learning, that this surfaces at the age of six
15 at least according to Dr. Edwards?
16 A Yes. It--it points and it's consistent with all of
17 the other data that we have of his childhood, that he had a
18 severe psychiatric condition from--as far as back as we have
19 records. His parents at--have told--have told the school that
20 they were unable to help then with the discipline problems,
21 because they were unable to manage him at home at any point as
22 well unlike their other three children.
23 Q When a person, whether they be six or 13 or 26,
24 whatever age, when they report or when a professional mental
25 health expert reports that they fear their own impulses, in

1 your experience, what have been the coping mechanisms that
2 individuals sometimes employ to deal with these impulses that
3 they fear?
4 A Yes. That--the--when--when people are feeling under
5 threat, then--then anyone will try to look to find the source
6 of it, and one of--of the ways of doing that and as
7 illustrated in this case, is to--to look outside. I don't
8 have the controls to do this. I don't understand what's
9 happening to me. Somebody's doing something to me that's--
10 it's--it is--we're looking outside for other people either for
11 help, or as they're--they're the cause of all of my problems.
12 Q Okay. And when an individual that has these sort of
13 impulses or psychotic episodes, when they look back,
14 what--what has been your experience, based on your training
15 and your experience, as to how they recollect these events?
16 A The average patient is particularly poor at being
17 able to articulate any memories or clear recollections.
18 The--you used the word earlier "shattered" to describe his
19 function. I think that that's entirely accurate. That's, in
20 fact, the--what schizophrenia means, the shattered mind, and
21 the--in fact, it is so unusual for someone to be able after
22 they've gone through a psychotic episode to be able to
23 articulate and describe it that those cases are well known in
24 psychiatry. The German jurist Schreber in the 19th Century
25 wrote a book about his psychotic experiences, and it's been an

1 invaluable tool for schizophrenia and paranoia researchers for
2 the last 150 years simply because it's so unusual for someone
3 to be able to remember and articulate, to have both the
4 memories and the language skills to do that.
5 Q So is it both, Doctor? Doctor, are you reporting
6 that it's both those, the ability to remember and/or--and/or
7 articulate?
8 A Yes. There--there were only--both have to have the
9 memories available, and those are typically not, and we also
10 have a competent level of language skills.
11 Q Okay. So, again, to kind of wrap up this section of
12 questioning and especially in regard to psychotic disorder, so
13 it does not surprise you that Billy Ray Irick would report as
14 to these incidents that you've just talked about that were
15 reported in the Jeffers accident--and Jeffers' affidavits that
16 he had no memory of those, that's not surprising to you?
17 A It would be surprising if it were otherwise.
18 Q Okay. Now, let's--still on the psychotic disorder,
19 you have reported certain instances from the historical
20 background. Tell the Court, tell the state, would one expect,
21 based on your diagnosis of psychotic disorder, that Billy Ray
22 Irick is always going to be delusional, is he always going to
23 be hallucinatory? Is that something that is a constant, does
24 it wax or wane, or are you going to see these psychotic
25 disorder at the same level all the time?

1 A No. Like many chronic illnesses, the symptoms will
2 tend to wax and wane according to circumstances. Also
3 individuals over the--over the years will develop ways of
4 minimizing the symptoms or minimizing their encounters. For a
5 paranoid individual, for a schizoid individual, a person that
6 has a chronic psychotic illness, that will be, as in this
7 case, to withdraw from people as much as possible. So it
8 would be, again, very unusual. I can think of only a couple
9 of patients I've seen in a quarter of a century that would
10 have constant psychotic symptoms over a significant period of
11 time.
12 Q You say under certain circumstances. What sort of
13 certain circumstances, and I don't mean particular, you know,
14 specific circumstances, but in general, what sort of
15 circumstances are going to bring out these florid psychotic
16 episodes in an individual who has this diagnosis?
17 A Emotional conflict and emotional contact so
18 that--and the difficulty is because the person's emotional
19 thermostat, the threshold for starting to blame other people
20 for difficulties is so low, the person is constantly in
21 everyday situations on the threshold of doing--of beginning to
22 escalate. And if a person is in a complex situation, such as
23 Mr. Irick was where the people that he was living with were in
24 the process of their own marital issues and their breakup and
25 all of the very sort of things that would happen, the flow of

1 conflict at that time would be certainly more than enough to
2 trigger a psychotic episode.
3 Q So from your review of Billy Ray Irick's history and
4 his examination, in your opinion as to whether or not there
5 were stressors in his life at the point where the Jeffers' or
6 Jeffries' affidavits pick up and describe would be, what,
7 there were or were not stressors at that period of time?
8 A There definitely were. This was the first family at
9 any point in his life that he had been accepted by and had a
10 role in it, albeit a temporary one. One would have expected
11 that he would have done much better than he did at any other
12 point. However, quite the opposite occurred.
13 Q Okay. Now, let's get to some questions about given
14 this diagnosis, Doctor, how has it affected, based on your
15 examinations, Mr. Irick's ability to comprehend information,
16 comprehend his surroundings, comprehend what is going on with
17 him?
18 A I--there are two major issues I think that are
19 relevant. One would be that in a psychotic episode it is
20 unusual and difficult for the person to have a coherent
21 understanding and memory of events that--that have happened.
22 So there would--
23 Q And why is that, before we go any further, and you
24 may have already mentioned it but--
25 A Simply because the memory traces--the way the memory

1 is consolidated in the brain are disrupted. We used to
2 think--one of the ways that--since the 1960s the way that our
3 understanding has changed is the way that memory works. We
4 used to think of memory as being a some--a computer or a tape
5 recorder where things were recorded, and that when you're
6 trying to remember something, it's simply a question of
7 pushing the right button and bringing up the right memories.
8 In fact, memory is much more of an active process that the
9 brain uses in creating a memory the same processes that our
10 brains are using right now is we're looking at each other and
11 communicating. It's using real time active motor and sensory
12 systems to be able to create the memory from--from nothing.
13 So that from disparate traces that are throughout the brain so
14 that that process, if it's being bombarded by hallucinations,
15 by delusions, by emotional storms, by various other things
16 will be markedly impaired in the--in the initial laying down
17 of the memory. Further, with difficulties with verbal skills,
18 difficulties with trusting individuals and using other
19 individuals makes it much more difficult to be able to draw on
20 those resources that--that I would need to remember what had
21 happened.
22 Q Perhaps that brings us to your second diagnoses
23 then, the cognitive disorder, or actually, it's your first,
24 but let's talk about that now, please, and explain to the
25 Court just what that means to have a cognitive disorder and

1 specifically as it relates to Billy Ray Irick.
2 A Cognitive disorder is reputable evidence of
3 significant problems with the processing of information that
4 doesn't meet the criteria for a specific diagnosis of a
5 dementia such as Alzheimer's or--and doesn't have an
6 alternative explanation.
7 Q And, again, there is that designation in your
8 report, NOS, not otherwise specified. I believe you've
9 answered this, but just for the record, does that indicate any
10 uncertainty on your part when there's an NOS designation?
11 A No. There's--there's ample information and based on
12 primarily the neuropsychological report and on its consistency
13 with his history that indicates that that's a reliable
14 diagnosis.
15 Q And, now, tell us as you have before on psychotic
16 disorders now in regard to cognitive disorders, what sort of
17 manifestations or symptoms would we lay people see in regard
18 to this particular illness?
19 A Yes. The--the deficit--the deficits that Dr. Spica
20 found on his testing showed that he has gross impairment in
21 what is known as executive function. That means that
22 capacities that may seem to be related primarily in the
23 frontal lobes, so that part of the brain just above the eyes,
24 to do with integrating information from various processes to
25 be able to make a decision, to be able to carry out a plan, to

1 be able to control impulses and to--and to make corrections
2 accordingly, and those were all grossly impaired. What's
3 particularly significant is that they're impaired on easy
4 tests, but that the--in an emotional situation or complicated
5 situation the degree of deficit is extreme. It falls into the
6 first or second percentile on a couple of the tests, meaning
7 that 99 percent of the population for his age would be better
8 at it than he is.
9 Q Tell us why that might be.
10 A The explanation is that the executive part, the part
11 of the brain that integrates information is--is simply not
12 operating, so that it's a question of faulty brakes, if you
13 will. A person can initiate things, but isn't able to stop
14 them or--or to control them, and if--if part of the things
15 initiate for an individual would be as in this case paranoid
16 delusions or command hallucinations, there's really no way for
17 the person to be able to resist those--those--those factors in
18 that situation.
19 Q Let me ask you how, if at all, having this cognitive
20 disorder would affect one's memory and/or recall of events
21 during particularly stressful episodes and/or psychotic
22 episodes?
23 A It would happen in two ways. The first would be
24 that because there isn't a way of planning in a meaningful and
25 comprehensive way and of monitoring ongoing function, that

1 that part of the memory isn't--isn't there. Things are
2 happening seemingly on a passive level. Things are happening
3 to me and at random rather than this being part of a
4 predictable sequence. The second is that he has gross deficit
5 in language function, meaning the ability to use words as
6 props to structure--structure memory which we--we all do
7 as--as native speakers.
8 Q That brings us now to the paranoid personality
9 disorder.
10 A Yes.
11 Q And if you would, explain that to the Court, please.
12 A Yes. Although I didn't feel that the data reached
13 the point of being able to say that Mr. Irick has paranoid
14 schizophrenia, he does certainly have all of the elements of
15 paranoid schizophrenia which would include evidence of a
16 psychotic episode and then the second piece of having a long
17 standing paranoid personality structure. That means
18 that--that he has great deficits in terms of evaluating people
19 because of his level of suspiciousness, and has a tendency
20 to--to be looking for attacks, verbal, physical, whatever they
21 are to any circumstances from a variety of--of different
22 places at different times.
23 Q Okay. Now, your four, schizoid personality
24 disorder?
25 A Yes. He also meets the criteria for schizoid

1 personality, sort of the personality structure that is most
2 like chronic schizophrenia, meaning that he has gross
3 disorganization. It was impossible to find a part, the times
4 in his life when he was succeeding at--at meeting the goals
5 and standards of his age group, and that the--his--that his
6 primary way of coping with that is--is to withdraw from
7 people, that the times in his life that he described as best
8 where the ones where he was traveling around the country
9 randomly, living on handouts or short-term jobs.
10 Q Those were all the diagnoses that you had provided
11 in your report; is that correct?
12 A That's correct.
13 Q All right. Now, of course, those were separate
14 diagnosis. What I'd like to now do is draw all that together
15 and look at Billy Ray Irick, the whole person, and just--and
16 ask you in general given those four diagnoses, now put it all
17 together and say how all four interact on Billy Ray Irick, and
18 what is that effect?
19 A Yes. There's evidence of two significant features.
20 One is of a lifelong severe psychiatric illness and evidence
21 of episodes from reliable reporters of some of the most severe
22 and the most dangerous psychiatric symptoms. The ones that
23 would--that are most associated with--with violent or
24 dangerous behavior in--in the psychiatric population.
25 Second, is that with the clear evidence of gross

1 impairment of his ability to control, plan, and effectively
2 execute or refrain from engaging in behavior with his
3 cognitive disorder. So this is--is really not only someone
4 who has impaired judgment, but who is also going to have real
5 difficulty in recognizing how to--when--when there is a real
6 problem versus when there isn't, and when things are
7 escalating beyond his control, they'll happen--it'll happen
8 very quickly.
9 Q Want to get--want to speak or get back to a point
10 that you just made, but one of your earlier points, and I'd
11 like to bring your attention to your own report on page 1,
12 Irick 907, as it is marked in the record. Under Roman numeral
13 III, conclusions, and I know that we're talking about--today
14 about present competency, but as I've--I think I've relayed to
15 the Court, and I--what I think your testimony has been today.
16 The relevance of No. 2 under that, under those conclusions,
17 would you just read that out, please, to the Court.
18 A Number two, as specifically the weight of the
19 available information indicates that Mr. Irick, more likely
20 than not, lacks substantial capacity either to appreciate the
21 wrongfulness of his conduct or to confirm--conform, excuse me,
22 that conduct to the requirements of the law due to a severe
23 mental illness. It is more likely than not that he lacks
24 substantial capacity to appreciate the wrongfulness of his
25 acts.

1 Q Okay. Now, let's fast-forward and bring that up to
2 the questions that we have today. How, if at all,
3 would--would--if he lacked that substantial capacity, as
4 you've articulated, how would that affect Billy Ray Irick's
5 ability to know or make a connection between him and his
6 actions and the terrible tragedy that happened to Paula Dyer.
7 A I think that to answer the question there are two
8 important factors. One is that the--there's an apparent
9 and--or I should say evident impairment in his memory and his
10 capacity to relate to the actions at that time to his current
11 situation, and the second is that taken all together, his
12 cognitive abilities to--his level of understanding isn't in
13 the range of a seven- to nine-year-old child. So that those
14 are the two factors that would--from my original conclusions,
15 that would relate to what we're dealing with for today.
16 Q And, in fact, that's what I was going to ask you
17 about that I believe on two occasions you made some analogy or
18 reference to the age of the child and their development, and
19 you place that at what age for Billy Ray Irick?
20 A Between a seven- to nine-year-old range, and
21 that--that's consistent both with my own review of the history
22 and mental status examination, but also with the
23 neuropsychological testing results.
24 Q Okay.
25 A I'd emphasize that he falls in that range that

1 certainly there would be many children in that range that
2 would be better than that, and some--some who would be worse.
3 Q I'm not sure if you've actually heard or seen this.
4 As I--as you've indicated, you've looked at lot of documents?
5 A Uh-huh.
6 Q And we've sent you a lot of documents, but so the
7 General will know, I'm going to read just a few excerpts from
8 Ms. Jeffers' testimony in the trial. It's on transcript page
9 554 and just a very few things. I'd like for you to listen to
10 these, Dr. Brown, and then I'll ask you a question about them.
11 This is a question on direct to Ms. Jeffers from the
12 district attorney, and it was asking what Billy Ray was doing
13 on the night that Paula died, and her answer was on line 16 of
14 page 554. He was talking to himself, or you know, I
15 didn't--at first, I thought he was talking to somebody, but I
16 found out there wasn't anybody out there. He was talking to
17 himself.
18 Page 568 of the transcript from Ms. Jeffers
19 again--well, I'm sorry. This is on cross, line 17 through
20 line 19. Again, this is in response to a question--well, let
21 me--let me read the question:
22 "When you went out, you heard Billy talking to
23 himself, you say? If I understand you correctly, you couldn't
24 hear or understand what he was saying. You just heard him
25 talking on the porch, question.

1 "Answer: Most of it was mumbles. You could
2 understand a word here or there but not enough to be able to
3 tell what he was talking about.
4 Then, the third testimony I wanted to provide to
5 you, and this actually is not from trial, but it was provided
6 by the district attorney's office, and has been a document
7 which has followed this case for many years, and I'm talking
8 about Ms. Jeffers' statement that was given to Detective
9 Wiser. I believe it is an eight-page document. I'm reading
10 from page 6, and again, the two individuals are the mother,
11 Kathy Jeffers, and Detective Wiser, top of page 6--well, let
12 me begin at the bottom of page 5. I'm sorry. Ms. Jeffers is
13 talking of that evening.
14 "He came in," speaking of Billy. "I was getting
15 ready to go to the phone. The girl I worked with, Donna, was
16 there with me. I was going to call and see if he was at the
17 other truck stop and tell him to go home, that Billy was drunk
18 and talking crazy.
19 "Mr. Wiser: Bill, called you?
20 "No. I went down early for a reason, to find Kenny
21 and ask him to go home and stay with the kids, but he walked
22 in the door of Haggerman's.
23 "Bill was--Bill was drunk when you left home, the
24 question.
25 "Ms. Jeffers: I had to find somebody to stay with

1 the kids.

2 "Mr. Wisher: Yeah, but Bill was intoxicated when

3 you left?

4 "Kathy Jeffers: He wasn't drunk, drunk, but he was

5 well on his way.

6 "Wiser: Yeah, and so you told your husband when he

7 come in. What did he tell you when he come in the truck stop?

8 "Ms. Jeffers: He came in with a box of doughnuts

9 from Krispy Kreme.

10 "Wiser: Yeah.

11 "Kathy Jeffers: And he started talking about

12 Margaret, and I interrupted him, and I asked him to please go

13 to the house and stay with the kids, that Bill was drinking

14 and talking crazy."

15 You're aware that Billy Ray Irick lost his job that

16 day, correct?

17 A Yes, that's correct.

18 Q And you're aware that Ms. Linda Jeffers, the

19 grandmother of Paula or the step-grandmother of Paula, chased

20 Billy out of the house where he was staying with a broom?

21 A Yes, that's correct.

22 Q Based on your medical opinion, are those the sort of

23 factors that might play into a psychotic episode of Billy Ray

24 Irick on April the 15th, 1985?

25 A Yes. There's clear indication from a number of

1 people that--that he had reached a point of severe
2 decompensation. It's important--he'd been living with the
3 Jeffers over the--over several weeks. They had witnessed him
4 having--talking to himself, making bizarre comments,
5 threatening people with machetes, but none of that had been
6 enough for them to--to say, "You have"--for--for Mrs. Jeffers
7 to say, "You have to leave the house," but finally he became
8 so disorganized and so alarming that---that she threw him out.
9 Q Let me ask you. I'm sure we've really discussed
10 this, but let me ask you a question anyway. Is there any
11 significant--is there any significance to you, as a
12 professional, that Linda Jeffers, the grandmother, chases him
13 out of the house that day, looking back at his history--Billy
14 Ray's history?
15 A Yes. I think the Jeffers had been good samaritans
16 to an extraordinary degree and putting up with that, and--and
17 it was clear that at that point the situation had been
18 deteriorated so that it was--even for them it was intolerable,
19 and that, again, I know very little about what was happening
20 with the--with the couple that he was living with at that
21 particular time, but things were certainly complicated to the
22 point that--that he was talking about--that he had--he had to
23 leave, that there's no room for him and that would have been a
24 severe blow, as sort of his one safety net had fallen through.
25 Q Let me ask you this. Have you come to an opinion as

1 to what sort of relationship Mr. Irick had with his mother?
2 A The relationship was--extremely problematic would be
3 the--the only way to--to put it. There--there's evidence of
4 longstanding difficulties right from birth, that it appears
5 that from her report that his mother had a psychotic
6 depression, and was unable to care for her newborn infant and
7 required help with that. She also said that she'd never been
8 able to bond with him, when she was interviewed by mental
9 health professionals when he was in primary school.
10 And since that time she's also--I have reports from
11 reliable individuals that she also exhibits the same kind of
12 paranoid psychotic symptoms, beliefs that she's being
13 influenced by messages from the--over the--over the
14 television, that she's unwilling to have anything to do with
15 Mr. Irick, and in some sort of complicated way, has tried to
16 ward off any interview from it by threatening to put spells on
17 individuals who wanted to ask her about them.
18 Q Do you see any particular--then returning back to
19 1985, do you see any particular potency in the events whereby
20 Linda Jeffers, the grandmother, the mother of the home, chases
21 him out with a--Billy Ray Irick with a broom?
22 A Yes. I think that the--the difficulty is--for him
23 at that time was critical simply because this was a family who
24 had been able to tolerate him and had been--of all the people
25 involved appeared to have extended themselves to really offer

1 him the first meaningful home that he had, and the first
2 acceptance, so that reaching a point where even they say, "We
3 can't deal with you anymore," would have been catastrophic.
4 Q Okay. Then let's--let's probably bring my--at least
5 my direct examination to a close, and the question which
6 brings us here today, Dr. Brown, and that is your opinion as
7 to Billy Ray Irick at the--currently, at this point in time
8 after your examination of him whether he has a rational
9 understanding of why he's going to be put to death?
10 A The best answer that I can give is that his rational
11 understanding of events is that of a child in the seven- to
12 nine-year-old range. So that by the legal standards are
13 obviously not my business, but the--his--the capacity of his
14 brain to work in forming a rational understanding is in that
15 of a preadolescent child.
16 Q In his conversations with you, has he placed himself
17 there? Does he have--does he have memories of what happened
18 to Ms. Dyer?
19 A No, I don't believe that he does.
20 MR. SHILES: That's all the questions I have right
21 now, your Honor.
22 THE COURT: Cross-examine.
23 CROSS-EXAMINATION
24 BY MR. PRICE:
25 Q Dr. Brown, I think there were some brain scans that

1 were run at Vanderbilt last week, if I'm not mistaken, a week
2 ago today--
3 (Counsel conferred.)
4 Q Okay. You haven't--you didn't review those for your
5 testimony?
6 A No. No, I have not.
7 Q Okay. So none of your testimony here today is based
8 on that--any of that information if any was obtained?
9 A (Indicated by moving head from side to side.)
10 Q Okay. The last time you talked with this defendant
11 was--from Mr.--to Mr. Irick was January the 21st of this year?
12 A Yes, that's correct.
13 Q And you hadn't had any contact with him since then?
14 A No, I have not.
15 Q And you don't know whether his condition has
16 deteriorated or improved in that--that time frame?
17 A That's correct.
18 Q Now, what was the purpose of your evaluation that
19 you conducted there in January--or December and January of
20 this year?
21 A The purpose of the evaluation was to answer the
22 questions that had been posed that I've listed in my
23 conclusions about the--his ability to form specific intent or
24 that--or to be able to appreciate wrongfulness of his conduct
25 and conform at the time of the events.

1 Q So, in essence, your evaluation and the purpose of
2 that was to look back at the crime itself to determine his
3 mental status at that point and to determine if there were any
4 mitigation factors involved in that based on his mental
5 health; is that--
6 A That's correct.
7 Q --fair? Okay. And certainly the examination was
8 not to determine his present competency to be executed?
9 A That's correct.
10 Q Were you--are you aware of the Panetti case, the
11 U.S. Supreme Court case that deals with competency to be
12 executed? Have you reviewed that?
13 A Yes.
14 Q Okay. And you're aware of the standard that they
15 set out as to what the Court should look at in making that
16 determination?
17 A That's correct.
18 Q Were you keeping that in mind and aware of that
19 standard when you were doing this examination back in 2010?
20 A I was aware of the standard, but it did not relate
21 to what I was doing?
22 Q Are you aware of the--any American Psychological
23 Association or the Psychiatric Association of any articles or
24 guidance they give in how professionals should conduct such an
25 examination of competency to be executed?

1 A Yes. There's a specific guidelines and standards
2 for--from the American Academy of Psychiatry and the law that
3 is an affiliate of the American Psychiatric Association.
4 Q Okay. And I don't know if this is the article that
5 I have--
6 MR. PRICE: Let me find that article, your Honor.
7 Just a second.
8 Q Let me ask you to look at this article by--well, the
9 lead doctor, Patricia Zapf. Are you familiar with that--
10 A Yes, that's--
11 Q --her? And the title of that article, just for the
12 record, is "Assessment of competency for Execution:
13 Professional Guidelines and Evaluation Checklist"?
14 A Yes, that's correct.
15 Q All right. And you've indicated you're--you're
16 aware of that?
17 A Yes. Yes, I am.
18 Q Is this part of what you're talking about, the
19 professional standards for setting out--for doing one of these
20 evaluations?
21 A Yes, that's correct.
22 Q Okay. And the appendix to that article lists a
23 series of questions or things to explore with a patient when
24 you're doing these type of evaluations; is that correct?
25 A Yes.

1 Q All right. Did you go through any of these
2 questions in your interviews with the defendant?
3 A Some of them, yes, but not in the systematic way and
4 not for the purposes of current competency.
5 Q Okay. Well, which ones did you ask? It's at the
6 back if you--
7 A Yes. Yes, I have it.
8 Q You know where they are? Okay.
9 A Uh-huh. I asked Mr. Irick about his general
10 understanding of--of the situation and of--that he was in at
11 that time and of his--what the--what his charges were and
12 what--what he was experiencing at present with--with his
13 expectations about what would happen with him--
14 Q What were--
15 A --the legal system.
16 Q What where his answers to that, to those questions?
17 A That--that he was on death row, that he was
18 expecting to be executed.
19 Q Now, you've indicated--did you explore the reason
20 why he was on death row? Did you ask him about that in
21 relation to the crime itself?
22 A That he'd be--he did indicate that he knew that he'd
23 been convicted of--of a capital offense.
24 Q Did he know which offense?
25 A Yes.

1 Q And did he know the name of the victim that he'd
2 been accused of--
3 A Yes, he did.
4 Q I think you indicated that he had the cognitive
5 ability of a seven to nine year old; is that fair?
6 A That's correct.
7 Q And would a seven to nine year old understand crime
8 and punishment, in essence?
9 A Yes. At a seven or eight year old level, yes.
10 Q Understanding of doing something wrong and then
11 receiving punishment; is that correct?
12 A That's correct.
13 Q Looking at your report on page 2 you indicated that
14 as part of your evaluation, and I assume this is pretty much
15 standard for any examination in this context, would be to go
16 over the confidentiality, whether this--whether your interview
17 with him and your report was going to be confidential or not?
18 A Yes, that's correct.
19 Q How did you explain that to him?
20 A I explained who I was and why I was there, who I had
21 been retained by. I explained to him that I wasn't--although,
22 I'm a psychiatrist, I wasn't there as a treating physician. I
23 wasn't going to provide him with treatment, but that rather
24 that his answers would help me to form a report, and that I
25 would prepare that report for the Court and that that would be

1 the purpose of the evaluation.
2 Q Okay. And I think you indicated he was able to
3 summarize those statements back to you in his own words?
4 A Yes, that's correct.
5 Q So he appeared to understand what you--that
6 explanation you gave him?
7 A Yes, he did.
8 Q And certainly you wouldn't feel comfortable
9 disclosing your interview if you didn't feel that he was able
10 to waive that confidentiality?
11 A That's correct.
12 Q You feel confident then--you still feel confident
13 that he understood the reason for your interview and was able
14 to waive that confidentiality--
15 A Yes, that's correct.
16 Q --privilege? Looking back at the--some of the
17 records, on page 2 of your report you talk about some of the
18 personal history that you reviewed and things that you looked
19 at. There was that initial--you talk about a Braswell intake
20 evaluation on page 2 of your report?
21 A Yes.
22 Q And it talks about some of his behavior as a--at an
23 early age?
24 A Yes, sir.
25 Q How was his behavior then? I think we're dealing

1 with about age six or seven?
2 A Uh-huh.
3 Q How was his mental health issues manifesting itself
4 at that age?
5 A The driving force in the referral had been the
6 school saying that they found him to be unmanageable in his
7 classroom and--
8 Q So in a school setting, he was just uncontrollable?
9 A That's right. Then despite extensive efforts on
10 their part and extensive efforts to enlist the parents, they
11 hadn't been able to control him sufficiently so that he could
12 participate in an ordinary classroom.
13 Q And do you see that now as part of his mental
14 illnesses that that was something resulting from his mental
15 illnesses?
16 A Yes. I think that's correct, and also because it's
17 completely consistent with what his parents said, which was to
18 Ms. Braswell, "They can't control him at school. We can't
19 control him at home."
20 Q Okay. Then on page--top of page 3, there was
21 another evaluation--psychiatric evaluation by a Dr. Carpenter
22 in 1965, and again, they describe him as being extremely
23 disturbed in the interview and disorganized?
24 A Yes, that's correct.
25 Q And then on page 3 there was a test report done by

1 an Edwards in 1965, and they report his IQ to be 84; is that
2 correct?
3 A Yes, that's right. The full scale IQ is 84.
4 Q And certainly that's not in the mentally retarded
5 range; is that correct?
6 A That's correct.
7 Q And you're not--your opinion--not providing an
8 opinion here that he's mentally retarded or ever has been?
9 A No. He doesn't meet the criteria for mental
10 retardation.
11 Q And I think Dr. Spica actually found that his IQ was
12 96---
13 A Yes, that's--
14 Q --is that correct?
15 A --that's correct.
16 Q Again, in 1965, there's a report by Dr. Carpenter of
17 being--that he was unable to control his behavior, and I guess
18 that's talking about your impulse. It goes back to--
19 A Yes.
20 Q --poor control of impulse--impulses?
21 A Yes.
22 Q All right. Do you see that happening back then in
23 1965?
24 A Yes. That's correct.
25 Q Going on to page 4, you indicated--or there's a

1 Dr. Webster that is doing--
2 A Yes.
3 Q --an update on the patient, on Mr. Irick, and they
4 describe him as being, again, unmanageable at home, quite
5 disturbed?
6 A Yes, that's correct.
7 Q Now, then it has in 1967 this Tollerson has
8 indicated that he has responded well in a predictable and
9 structured setting?
10 A Yes.
11 Q Now, did that appear to be a pattern in his life
12 that when he was in a structured setting that he responded
13 well?
14 A Yes. Yes. There had been a correlation with that.
15 It's--it's difficult to sift out how much of that was that the
16 benefit of structured setting versus the fact that he was on a
17 substantial dose of an antipsychotic medication that might
18 have allowed him to take advantage of it, so--but the
19 combination of the two seemed to work as well for him--better
20 for him than anything else.
21 Q Well, let me ask you then, in preparing for today's
22 testimony, have you reviewed any of his records from his
23 incarceration here in the state of Tennessee at Riverbend?
24 A I've seen some records, but I don't know if it would
25 be the full record or not.

1 Q Okay. Now, are you seeing evidence of this pattern
2 of being unmanageable and uncontrollable and acting out in
3 psychotic episodes?
4 A No.
5 Q What was your memory of his behavior in prison?
6 A The--that he has a--has responded superficially to
7 the--to the structure of the environment. He's very isolated,
8 and he keep--the structure of the death row situation allows
9 him, to a large degree, to keep to himself or to keep contact
10 with others to a minimum, and he's availed himself of that,
11 and--and in that context, has not had any documented episodes
12 of psychosis or uncontrollable behavior.
13 Q Okay. And I believe you indicated that a lot of
14 times what sets off this psychotic episode are emotional
15 contact? Is that what you indicated in your direct--
16 A Yes, that--that's correct.
17 Q And he's not--there's nothing on death row, the way
18 he is, his situation now, and the way he chooses to conduct
19 himself there on death row, doesn't lend itself to any
20 emotional contact?
21 A No. He's been able to--to keep people at a
22 distance. So that's--that's not happening. The overall
23 stress of being on death row is a significant one, but--but it
24 doesn't--at my interviews, it wasn't having an immediate
25 effect on him.

1 Q Well, at least--so then you would agree then
2 looking--review over these childhood records and then his
3 prison records now and his behavior now, at least from an
4 outward review of that, his situation appears to have
5 improved?
6 A Yes. The level of function that he was having in
7 his early childhood is better. Another way of looking at it
8 is that he was behaving when he was seven, eight, nine, and 10
9 as if he were a two year old. He was unable to function in a
10 normal home that other children could function in, and that he
11 has developed, as our test findings result, into a seven to
12 nine year old.
13 Q Let me ask you about a paragraph there on page 5 of
14 your report. It's midway down, and it starts with, "He was
15 thrown out of school at age 16."
16 A Yes.
17 Q You see that? And then you--it talks
18 about--apparently, there was some discussion, and I think this
19 is--is this from your interview of him, or was this a
20 previous--review of previous records?
21 A I had reviewed the records, but that's--that's
22 through our discussion.
23 Q Okay. So you remember talking about it, and the
24 sentence I want to ask you about, he says, "The pattern of my
25 life is punishment, always the max." Did you discuss that

1 with him?
2 A Yes.
3 Q Do you recall?
4 A That's a quote from him, yes, to me.
5 Q And did you explore that with him what he meant by
6 that?
7 A That he sees himself as being--whenever he's in the
8 wrong or whenever his punishment is due, he's the one that's
9 going to be singled out to get the worst punishment of anyone.
10 Q Okay. And did he include that as what his--his
11 present situation of being on death row, did he include that
12 in there?
13 A Yes, that's correct.
14 Q And then the next paragraph you had indicated that
15 you talked with him some about his--the best period of his
16 life was when he was out kind of wandering and taking odd
17 jobs?
18 A Yes, that's correct.
19 Q And I take it, at that point there was nobody there
20 with him taking care of him?
21 A That's right.
22 Q He was at least able to function on some level
23 during this period?
24 A Yes. That it was as a vagrant, that he was at
25 the--and with no regular contact with anyone but able to move

1 accordingly, that he was able to from his own sense of
2 being--"I was able to survive." It was something that he was
3 pleased with, and it's a--it's a final end stage for many
4 people with paranoid schizophrenia because of--of the lack of
5 demands, the lack of structure, and the lack of emotional
6 contact.
7 Q Well, it wasn't just a complete vagrant lifestyle
8 where he was not working at all, was it?
9 A It was vagrant in the sense of--of moving from--at--
10 randomly and to--and working at some points and not at others.
11 He was able--he was able on several occasions to work briefly
12 at various odd jobs.
13 Q Particularly, the working on the fishing boat in the
14 gulf?
15 A Yes, that's correct.
16 Q He worked--worked at that for a year and a half;
17 isn't that right?
18 A Yes, that's correct.
19 Q Let me ask you, on the bottom of page five, you
20 talked to him about his relationship with his mother and his
21 parents--
22 A Yes.
23 Q --in those last two full paragraphs?
24 A Uh-huh.
25 Q And he was able to relate--I'm sorry--did you say

1 something? I must have heard something else.
2 Was he able to relate to you things from his
3 childhood and point to things from his childhood that
4 supported this assertion that he was--his parents favored
5 other children?
6 A He had--it was a general theme rather than specific
7 instances.
8 Q Was he able to recall events from his childhood to
9 you when you talk--
10 A Yes. He--he had some recollections of childhood.
11 He knew his parents, where they had lived, various
12 biographical information like that.
13 Q Well, now, you talked about his memory loss--or
14 memory impairment, were that--were those just related to
15 certain events that he has the memory loss, you believe?
16 A I believe that the memory deficits, the typical ones
17 would be--would be episode related, that in a psychotic
18 episode people don't remember clearly what happened. It's
19 an--it's an unusual thing for them to do that. So when he was
20 having psychotic symptoms, it would be more likely than not
21 that he wouldn't have good recollection. At other times
22 there's no indication that--that he would have specific memory
23 deficits.
24 Q So at least in this situation here, he doesn't have
25 a complete loss of memory of his childhood or things. It's

1 just dealing with specific episodes?
2 A That's correct. And which is consistent with if he
3 did talk about a total memory loss, then that would be much
4 more difficult thing to understand or make sense of.
5 Q Let me ask you about on page 8 of your report,
6 talking about his memory. Under No.--under that No. 2,
7 Dr. Dye, a 1985, I guess, evaluation. Would this--this would
8 have been his evaluation for competency to stand trial before
9 the original murder trial; is that right?
10 A Yes, that's right. In the state of Tennessee it's
11 typically--he would have been asked to do an evaluation of
12 competency and criminal responsibility.
13 Q And in that--during that evaluation he indicated
14 that he did not remember the events, but he said that he had
15 been drinking and conceded that he had been angry with the
16 family?
17 A Yes.
18 Q Is that what the report indicated?
19 A Uh-huh.
20 Q And then it says there was no evidence of current
21 florid psychosis. I wonder if you could explain that--what
22 that means?
23 A Yes. That--that would mean that--that there was no
24 evidence of acute hallucinations or delusions, that the person
25 isn't--isn't in front of the examiner able to--I'm sorry--is--

1 in front of the examiner is clearly responding to voices or to
2 a visual hallucinations and isn't demonstrating specific
3 delusional content.
4 Q Okay. At least during the interview?
5 A During the interview, that's correct.
6 Q And Dr. Tennison also performed an evaluation as
7 well; is that right?
8 A Yes, that's correct.
9 Q And, again, he recalled--the last full paragraph on
10 page 8. He reported that he was enraged with the father and
11 daughter when he was asked to baby-sit on the evening when he
12 wanted to go out?
13 A Yes, that's correct.
14 Q So at least there there's evidence to Dr. Tennison
15 in discussing it with him that he has memory of the evening--
16 A Yes.
17 Q --is that right?
18 A Yes.
19 Q And he felt degraded and humiliated by the request
20 to baby-sit the children?
21 A Yes.
22 Q And then he admitted to drinking that evening?
23 A Yes, that's correct.
24 Q And then--so the memory loss there is when the
25 child's father left--when Paula's father left and when he

1 awoke the next morning under a bridge?
2 A Yes, that's correct.
3 Q So he reported the memory loss just as to the events
4 surrounding the crime itself and not the whole entire evening?
5 A That's correct.
6 Q When you interviewed him, going on to page 9, during
7 your interview you discussed personal, medical, and
8 psychiatric history. He released--reported to you he denied
9 any significant general medical symptoms or impairment at
10 present?
11 A That's correct.
12 Q And, again--and we've already discussed that, but
13 you--you mention here that there have been no serious
14 incidents involving others or significant discipline problems
15 while in prison?
16 A That's correct.
17 Q Let me ask you this. Do you--are you aware that any
18 self-destructive type acts--talking about his behavior in
19 prison at present, are you aware of any self-destructive acts
20 that he's taken while in prison?
21 A While in--if we're separating out his experience in
22 jail from prison--
23 Q I'm talking about, yeah, while he's--while he's been
24 at Riverbend--
25 A Yes. While he's been at Riverbend, no. That would

1 be no.
2 Q Are you aware of him having a--being medicated for
3 any mental health issues?
4 A No, he has not.
5 Q And you've already indicated he--at least he didn't
6 report any audio/visual hallucinations of that or anything?
7 A In fact, he very explicitly has consistently denied
8 that he ever has these experiences.
9 Q And are you aware of any information from prison
10 guards or counselors or anything like that where--to the
11 contrary to that?
12 A No.
13 Q Are you aware of any situation where the prison
14 personnel were required to call mental health emergency--
15 A No.
16 Q --for Mr. Irick? Are you aware of while he's been
17 at Riverbend of any change in his condition--mental health
18 condition from either improving or deteriorating?
19 A No. It appears, and typically with what would be
20 consistent with a paranoid psychosis, it's stable. One of the
21 distinctions between paranoid psychosis versus other forms of
22 schizophrenia is that they don't show the same kind of
23 progressive impairment. Schizophrenia was originally
24 understood as being like Alzheimer's disease. A disease that
25 starts at adolescence and deteriorates, but paranoid patients

1 have always been recognized as people who have in an
2 intermediate course where they have chronic and often severe
3 symptoms, but neither get particularly better nor particularly
4 worse.
5 Q And so that's his condition? Interpreting, that's
6 his condition now. It's not likely to change, get better or
7 worse, in the future?
8 A Only that any changes are likely to be in response
9 to stresses and events and not to any identifiable
10 deteriorating course.
11 Q And let me ask you, on your--page 14 of your report,
12 under No. 3, you indicated, "There was no evidence of formal
13 thought disorder. His speech was coherent and goal directed.
14 He was able to answer my questions without florid evidence of
15 disorganization"?
16 A That's correct.
17 Q So, I mean, as far as you dealing with him, he was
18 able to talk with you in a reasonably normal fashion during
19 your interview?
20 A Yes, so that we could have a coherent conversation.
21 Q Page 15, you're talking about his insight and
22 judgment, under Roman numeral V?
23 A Yes.
24 Q You talk about his first attorney, I guess,
25 that--that he had that was appointed to him, or he retained,

1 and how did he describe him to you? That's the last paragraph
2 on page 15.
3 A Oh. He--he said that--that his first attorney had
4 abandoned him because of--that he had received death threats.
5 Q Okay. He also talked about his performance in court
6 as well, didn't he?
7 A Yes. Then he thought that the attorney had already
8 been compromised and--and was throwing the case.
9 Q So at least in that regard he had a memory of the
10 trial?
11 A Yes. That's correct.
12 Q And he had issues with the way his attorney
13 performed?
14 A Excuse me? Yes. Yes, he did.
15 Q Let me ask you about on page 16, you talk about his
16 amnesia or saying "I can't remember," and you indicated that
17 he does frequently say "I can't remember" about a variety of
18 events. This is the fourth paragraph down?
19 A Yes.
20 Q "He does frequently say 'I can't remember' about a
21 variety of events. However, this appears to be a mechanism to
22 avoid thinking about painful situations and to forestall
23 further questions or discussion, rather than true amnesia."
24 So it's your--you indicated here in this report that he
25 doesn't have true amnesia concerning some of these events; is

1 that right?
2 A That's--that's correct. That there's--there--he
3 doesn't meet the criteria for an amnestic disorder, that
4 there's--that there is clear evidence of--of memories that
5 cannot be retrieved at any point, but that's--that's the
6 significance of that.
7 Q And his--his frequently saying "I can't remember" is
8 a defensive mechanism?
9 A Yes. That's correct.
10 MR. PRICE: I may be close to being done, your
11 Honor. Let me check with my assistant.
12 Let me just hit a couple of things here.
13 THE COURT: All right.
14 Q All right. Do you know when the last time that
15 Mr. Irick was placed on any antipsychotic medications?
16 A To the best my knowledge, he hasn't been since early
17 adolescence.
18 Q And what about the last psychotic episode that we
19 have reports of?
20 A That would have been the affidavits that we
21 mentioned from the--from the Jeffers family.
22 Q Which would have been around in 1985?
23 A That's correct.
24 Q And the last command hallucination, that the same
25 thing?

1 A Yes, that's correct.
2 Q In 1985. And do you have any evidence or indication
3 that Mr. Irick is currently having hallucinations or
4 delusions?
5 A No, I don't.
6 MR. PRICE: That's it, your Honor.
7 MR. SHILES: Your Honor, I have just a very few
8 follow-ups, if I may, please?
9 REDIRECT EXAMINATION
10 BY MR. SHILES:
11 Q Dr. Brown, you indicated that when you saw Mr. Irick
12 on a couple occasions that you did not follow the--a
13 format--one of the formats that is available for performing a
14 competency exam. Let me ask you, however, based on your
15 examinations, based on your review of Dr. Spica's report, did
16 you feel like you had enough information and the correct type
17 of information to provide the opinions that you have provided
18 here to the Court this morning?
19 A Yes. I'm very comfortable and--as a professional,
20 with the opinions I've provided to the Court today.
21 Q Okay. And so when you performed these examinations
22 and when you reviewed these reports, were you able to obtain
23 the type of information--or the type of information for which
24 these particular formats for doing a competency exam try to
25 get at, the same type of information?

1 A The--the competency evaluation is a much narrower
2 range of information and because competency is--is a legal
3 concept, not a--not a clinical one. So that with regard to
4 the specifics, not having performed that evaluation, I don't
5 have an opinion about that. However, I do have an opinion
6 about his--the level of rational understanding that he
7 reaches.
8 Q Exactly. Now, let's--there were many questions, and
9 rightly so, about--questions of memory and when there appears
10 to be a normal type of memory and when, apparently, at least
11 according to the records, Mr. Irick has suffered some sort of
12 memory or recollection deficit, and I think it's clear, but in
13 case it's not, tell us, from your examinations, when--what is
14 the connection, what is the factor whereby Mr. Irick relates
15 or communicates a lack of memory, and what makes--what's
16 similar about those incidents?
17 A Well, the first thing to say about that is that
18 they're similar to other paranoid psychotic patients, patients
19 who have had florid psychosis. That kind of emotional
20 disintegration is extremely painful, and it's an extremely
21 emotionally difficult, horrible experience. Nobody except a
22 few extraordinary individuals have been able to go back and
23 say, I'm going to tell you of--I'm going to work hard at
24 trying to go back and do that. So that when we ask someone to
25 go back to that time and to try to reconstruct a memory, it's

1 not that there is no memory. It's not an amnesia where the
2 tape has been wiped clean, to use the old metaphor, but
3 rather, it's a painful and incoherent experience.
4 Q And what do you mean by "incoherent"--
5 A The person--
6 Q --in that--in that sentence?
7 A The person doesn't have a verbal explanation or
8 description of what happened. They can--the best that they
9 can come up will be spotty memories of--and disorganized
10 issue--disorganized experience. So that--that if a person is
11 willing to do it, is able to do it because of the verbal
12 skills, not in this case where the--those are limited, then
13 they may be able to--to do that. Therapeutically, not much is
14 served by just dragging somebody through a really painful
15 experience, but I think that--and--and because there's ample
16 experience that shows that at the end of it most of the--most
17 of the experiences are just incoherent and--and not part of
18 a--what we would think of as an--somebody being able to
19 explain what they remember.
20 Q Let's not talk about Billy Ray Irick for just one
21 moment. Let's talk about normal--what we would consider
22 normal people, people who are not under any sort of treatment
23 and in stressful situations. Do you in your experience and
24 education--are there memory lapses or deficits that are
25 associated with normal people under very stressful

1 circumstances, whether it be a car accident, whether it be a
2 robbery that they witnessed, just anything that that
3 particular person finds to be very stressful?
4 A Yes. There's--there's ample evidence from social
5 psychology that eyewitness reports of events can be extremely
6 spotty, meaning that they pick random things, that it may be
7 the thing that with regard to timing or emotional level that
8 stand out, but it's very difficult for--for many people--for
9 most people, in fact, to have a reliable eyewitness report in
10 extreme emotional circumstances.
11 Q Still on this point, let's go back to page 16 where
12 you were asked a question or two, and I want to really go,
13 again, down to that fourth paragraph, and--but I want to
14 finish up what you put in that paragraph. Would you just read
15 out to the Court--I think we left off with the questions, in
16 the fourth paragraph on page 16, with the words or the phrase
17 "true amnesia." Please, however, finish that paragraph up for
18 us, as far as your perspective on this, please, sir.
19 A The paragraph concludes: "These responses are not
20 part of any comprehensive attempt to feign or malinger memory
21 loss. Rather the responses occurred at times when they would
22 both hinder and help his case."
23 Q I think it's evident, but go ahead and explain to us
24 what you meant by those last two or three sentences.
25 A That there were--in his response that he doesn't

1 remember, there wasn't any evidence of dissimulation of trying
2 to make something up or to pretend that he has any kind of
3 psychiatric illness, and specifically, that he has kind of
4 memory loss. Quite the--quite the opposite. One would be
5 looking, in a case of malingering, for somebody who--whose
6 memory is convenient at--even at a seven or eight year old
7 level. Excuses, from my children at least, tend to--tend
8 to--their memory loss tends to favor their explanations rather
9 than the other way around. His memory losses tended to be
10 random. There are times where if he were malingering he would
11 have been able to--to manufacture something, and he has never
12 done that at any point.
13 Q And, in fact, I think your report indicates on more
14 than one occasion that he denies any sort of mental illness?
15 A Yes. Consistent with--with the paranoid illness,
16 that's been--that's the difficulty. It leads some people to
17 talk about malingered sanity of the person that's pretending
18 to be sane is a situation that occurs in paranoia because the
19 delusion is that the problems are coming from inside.
20 Q One further--one probably further point in--
21 depending on what's your recollection of this. Let me direct
22 your attention back to page 8, Dr. Tennison's review or
23 examination. Do you recall how long Dr. Tennison examined
24 Billy Ray Irick?
25 A It was a comparatively short interview. However, he

1 also relied on the information from--from the other examiner.
2 So he provided the medical integrated report.
3 Q Is it your recollection that it was an hour or less?
4 A Yes, that's correct.
5 Q All right. Now, and, again, just from your own
6 report there, again, under numeral No. 3, I believe that you
7 were asked to read at least portions of that.
8 A I'm sorry. Which page?
9 Q I'm sorry, page 8, paragraph--well, No. 3--
10 A I'm sorry.
11 Q --of the paragraph under Dr. Tennison. There were,
12 however, I believe you--or Dr. Tennison reported two certain
13 hallucinations or misperceptions. Would you fill us in on
14 that, please? "He did make reference," do you see that
15 sentence, page 8?
16 A I've disorganized myself. I apologize.
17 Q Okay. Under "Dr. Tennison."
18 A I have it. If you could repeat your question,
19 please.
20 Q Yeah, sure. Middle of the paragraph, is there any
21 reference to auditory hallucinations or misperceptions?
22 A Yes, that he did make reference to what--what seemed
23 to the doctor to be possible auditory hallucinations or
24 misperceptions.
25 Q And this was during--I'm sorry. Did I cut you off?

1 A No.
2 Q And this was during his one-hour exam; is that
3 correct?
4 A That's correct.
5 MR. SHILES: Nothing further.
6 MR. PRICE: Your Honor, I--in my cross, I referenced
7 to an article. I think it would probably be best since we
8 talked about the questions that are appendix, we'll make it an
9 exhibit.
10 THE COURT: Very well.
11 MR. PRICE: I don't have any further questions.
12 (Exhibit 4 was marked.)
13 THE COURT: Thank you, Dr. Brown.
14 THE WITNESS: Thank you.
15 (Witness excused.)
16 THE COURT: Are we going to hear any other proof
17 today?
18 MR. CLEMENTS: Judge, that's up to you. I--I have
19 Ms. Lunn here from Cookeville, Tennessee, and she had a hip
20 replacement. It's a little bit difficult for her to get
21 around. I'd like to get through with her today.
22 THE COURT: How long do you anticipate she'd--
23 MR. CLEMENTS: I don't think the direct examination
24 will take over 15 minutes.
25 THE COURT: Okay. Well--

1 MR. CLEMENTS: But we're certainly amenable to
2 whatever the Court desires.
3 Can you come back? Can you come back now?
4 THE COURT: Well, let's take a break, and let's come
5 back and finish that up. Let's take a short break. Take 10
6 minutes here, and we'll come back and finish up any testimony
7 today.
8 MR. CLEMENTS: All right.
9 (Recess was taken.)
10 THE COURT: All right. Call your next witness.
11 MR. CLEMENTS: Ms. Lunn, please.
12 (Witness was sworn.)
13 NINA BRASWELL LUNN, called as a witness, being duly
14 sworn, was examined and testified as follows:
15 DIRECT EXAMINATION
16 BY MR. CLEMENTS:
17 Q State your name, please, ma'am.
18 A Nina Braswell Lunn.
19 Q And, Ms.--
20 THE COURT: Spell your last--spell your last name.
21 THE WITNESS: L-U-N-N.
22 Q And, Ms. Lunn, where do you live now?
23 A In Cookeville, Tennessee.
24 Q Okay. And you were--at one time what was your
25 occupation?

1 A I had been a licensed clinical social worker. I was
2 at the Mental Health Center of Knoxville, which later became
3 Helen Ross McNabb, and at that time I was a psychiatric social
4 worker because that was the--that was the title that was given
5 in those days.
6 Q All right. And would you do for the Court, please,
7 ma'am, just give the chronology of those different degrees and
8 what years they were, and where they were, please.
9 A Yes. I received my master's degree in social work
10 from the University of Tennessee here in Knoxville in 1960 and
11 practiced at the Mental Health Center until 1967, and after
12 that, I was at the Department of Child Psychiatry at the
13 University of North Carolina Medical School, and then I
14 practiced in other mental health centers and have been on
15 faculty, but I've been in--in Cookeville now for about 32
16 years where I had a private practice, but I am now
17 refer--retired. I do not practice anymore.
18 Q All right. Now, during the time that you had a
19 license, would you tell the Court in your own words, please,
20 what your license would allow you to do and not to do as far
21 as diagnosis, treatment, and interviews and that sort of
22 thing, please, ma'am.
23 A Well, after licensure, which happened in 1986--I
24 think that was when licensure was permitted in the state of
25 Tennessee. I was--that--that permits me to diagnose and treat

1 for psychiatric disorders.
2 Q All right. Now, did you have an occasion in your
3 occupation or your practice to treat or see Billy Irick, and
4 if so, when and at what age, and where did you observe him,
5 please, ma'am?
6 A I saw Billy and his parents for the initial intake
7 interview when I was at the Mental Health Center of Knoxville
8 in 1965. The procedure for evaluations at that time was
9 usually for the psychiatric social workers to see the
10 individual and family first to do the social history, to do
11 all the work around presenting problems, referral sources, and
12 also to participate fully in the diagnostic process, but
13 primarily to provide history and any observations. I did see
14 him alone that first day.
15 Q All right.
16 A And then following that, I participated in the
17 diagnostic staffing for him.
18 Q All right. Very first day you saw him, please,
19 ma'am, that was as a result of what? Who sent him there, how
20 did he get into your company for you to see him?
21 A The public school system. He was--
22 Q The public school system?
23 A Yes.
24 Q And just tell the Court in your own words what you
25 did, if there was any testing, or what you observed, or what

1 procedures you went through as a part of your diagnosis and
2 the treatment.
3 A Certainly. Certainly. The history was important at
4 that point and the information from the school system. There
5 were indications that Billy had had difficulties within his
6 family. His family seemed quite chaotic. There were--there
7 was pretty good evidence that his mother was functioning at a
8 near psychotic level herself, and she did report that she had
9 had a severe depression following his birth. So those history
10 factors were--social history factors were very important. I
11 think it's important also--I thought it important was that he
12 was not, however, referred for any help for his behavioral
13 problems until he was in school.
14 Q All right.
15 A And the teachers said that he was very difficult to
16 control in the classroom.
17 Q Now, at that time, as a part of your history and as
18 a part of your overall finding out facts for treatment, did
19 you discover that there were any other mental illnesses in his
20 family?
21 A His mother.
22 Q All right.
23 A His mother reported having problems.
24 Q Okay. And do you know who looked after Billy when
25 he was a young child?

1 A Other than the family, I think that there was an
2 aunt in the--in the home also, but the familial roles were not
3 very clear.
4 Q Now, what did you do for Billy or what did you
5 attempt to do for Billy in this regard in order to help his
6 situation as a result of the school referral?
7 A Well, we continued with the diagnosis there. The
8 complete diagnostic evaluation involved a psychiatric
9 observation, the psychological testing, and then the clinical
10 staffing, and that--with that staffing, it was agreed that we
11 should treat Billy. He was diagnosed as anxiety disorder at
12 that point, but the diagnostics process was pretty difficult,
13 that we--there were different things that we needed to rule
14 out, and at that time we did not have some--the--some of the
15 diagnostic evaluation tools that we have today, but it was
16 finally determined that he did have a severe anxiety disorder,
17 and there was all along a question of organic brain damage.
18 Q Now, when you describe it as an anxiety disorder,
19 how did that manifest itself, or how did that show itself or
20 portray itself? What would he do?
21 A Most of the time--almost all the time with children,
22 the evaluation has to do with behavior. Children express
23 themselves much more with behavior than they're able to do
24 verbally, and certainly that's the case with a six and a half
25 year old, and the problems were his--his rageful reactions,

1 his inability to respond in a relationship when--which he was
2 directed. He was--he just did not relate well, and this was
3 apparent in the very first contacts with him. He--he just was
4 not able to establish a significant relationship.
5 Q All right. And in order to find out what to do with
6 him, did you--did you take a history from Billy and/or his
7 parents as to how he was getting along with him, what they
8 were doing together and that sort of thing?
9 A Well, most of it had to do with the parents and the
10 teachers.
11 Q Right. But did you eventually take a history from
12 the mama?
13 A As a result of the diagnostic evaluation, I was to
14 see Billy in treatment, and I did see him in play therapy on
15 an ongoing basis.
16 Q And what did he tell you about the relationship
17 between he and his mama?
18 A Well, there were--there were indications that she
19 just could not control him, and there were times when he
20 reported that they would tie him to the bed, and some of those
21 reports started even when he was younger--
22 Q All right.
23 A --at an age that those are not things that children
24 ordinarily make up.
25 Q Okay. And--

1 A And the parents, though, repeatedly said that he was
2 just--he was--he was uncontrollable.
3 Q Other than tying him to the bed, was there anything
4 more vivid or lurid than that--
5 A Not--
6 Q --like being--
7 A Not that I recall from his parents.
8 Q Well, was there anything about being naked?
9 A No. It may be that you're referring to the incident
10 when--after he--after he went to Eastern State Hospital.
11 Q Oh, okay.
12 A There were those episodes there when the staff had
13 not gotten to the place that they were able to deal with him
14 by controlling him physically, that there was on one occasion
15 I was out at the hospital, and they had placed him in a--in a
16 room that now days or in those days I guess were sort of
17 called a "padded cell."
18 Q All right.
19 A And he--he was--they had taken his clothes off of
20 him because they didn't want him to hurt himself.
21 Q Okay. What--
22 A And tear up his clothes.
23 Q What age was he at that time?
24 A He was probably seven and a half, because he didn't
25 go to Eastern State until '66, I think, when he was--

1 Q Now, what kind of therapy or what kind of treatment,
2 or what were you doing to try and--to get him as--you know,
3 back to normal sort of?
4 A Well, during the course of the time that he was in
5 outpatient treatment that was play therapy once a week. There
6 was consultation with the school to--everybody's effort was
7 to--to see if Billy could relate meaningfully to the
8 caretakers and the people working with him so that he would
9 begin to internalize some of the controls that you would hope
10 that it would help him socially and academically. His
11 parents, it was very important that his parents be involved in
12 that treatment. That is a course of treatment--
13 Q Were they participating?
14 A And they were not. They were not participating.
15 They--it was just very clear that Billy's mother did not
16 respond positively to Billy at all.
17 Q And I probably jumped ahead of myself and misled you
18 a little bit, but did you recommend that he be at Eastern
19 State?
20 A It--it reached the point that it was clear that he
21 was going to need the kind of environmental support and
22 environmental involvement that would begin to make the
23 difference that we hoped to make with treatment.
24 Q As far as--
25 A So inpatient treatment was needed for that reason.

1 Q All right. And as far as treatment was concerned,
2 was Eastern State about it, or was there other children's
3 facilities available?
4 A There were very--there were no children's treatment
5 facilities available.
6 Q Okay. And at that--and at that time was he--how was
7 he acting out? Did he have any hallucinations, or how was he
8 acting? Or just describe his demeanor to the judge so the
9 judge can perhaps get a mental picture of it.
10 A The episodes that Billy had were psychotic in
11 nature. They were psychotic episodes in that they were
12 totally unrelated to the circumstances that precipitated them.
13 He--he--and that was the difficulty with Billy was in trying
14 to reach him when he was in that kind of episode. He was just
15 irrational. He was not reachable.
16 Q All right. And then--then was he--then did you try
17 to place him in another facility for better treatment or
18 long-term treatment that might--might in the long run serve
19 him better? I'm talking about the Church of God.
20 A The--well, maybe a little bit more history on what
21 was happening at Eastern State.
22 Q All right.
23 A Because there were no treatment facilities for
24 children at that time, the closest one for us, there were a
25 couple in Nashville. Vanderbilt had a diagnostic and

1 evaluations center for children, but the kind of ongoing
2 treatment that it was thought was needed for young children at
3 that time was just being developed, and we attempted to get
4 such a unit at Eastern State, and I was there as a consultant
5 working with them on staff at the Mental Health Center but
6 trying to move into a treatment center for young children, and
7 we had four or five children out there at that time. Billy
8 was one of the first. During the course of his treatment,
9 there were times when he improved, but we then attempted to
10 move him to the Church of God Home, which was also moving in
11 the direction of having more of a treatment approach for
12 children, not just care, not just an orphanage, if you will,
13 and so they had cottages and were developing their treatment
14 program. So my effort--and that was in part due to the fact
15 that I was--I was about to leave Knoxville. That's when I
16 went to Chapel Hill, to the University of North Carolina.
17 Q And I--
18 A So I did make the effort--
19 Q Right.
20 A --to have him transferred to Church of God Home.
21 Q And right before that, one of those reasons or maybe
22 among the many reasons, did he--was he indicating anything due
23 to not in touch with reality--with reality? Was he rational
24 or had a mental disease or anything, or just how was he acting
25 out?

1 A He was--there was still the episodes where he--and
2 there were episodes where he would--he was just out of
3 contact. He just was not in contact with the realities of
4 what were going on around him, and the--he was--he was on
5 medication. He was being--well, they continued with the
6 medication at Eastern State.
7 Q All right.
8 A But the effort continued to be to help Billy within
9 a constructive environment and one that was consistent to
10 develop the kinds of awareness of his behavior that would then
11 help him control himself better.
12 Q All right. And based upon your experience and
13 teaching and work that you--that you've done, you had a
14 program in mind that you thought would be the minimum floor to
15 treat Billy, and what was that?
16 A That was--at the--the treatment facility?
17 Q Yeah--well, no. Did--did you want his parents to
18 participate with him?
19 A His parents were totally uninvolved. That
20 was--continued to be the reason for his even being someplace
21 else besides at the home where treatment had--would happen.
22 Q Do you think he needed--
23 A So he went to Church of God Home.
24 Q --needed medication from time to time?
25 A Yes.

1 Q Okay.
2 A Right.
3 Q Did you think that he needed constant therapy and
4 consultation from time to time?
5 A Yes. He needed--he needed a constructive,
6 consistent environment as well as ongoing play therapy.
7 Q And you--and you felt like that that would probably
8 be a permanent situation?
9 A Well, you would hope that something would take hold
10 at some point, and he would be able to at least go back to
11 outpatient treatment somewhere.
12 Q At least now--
13 A But it looked like it--
14 Q All right.
15 A His--his--
16 Q Okay.
17 A His condition at that point--
18 Q Okay.
19 A --looked chronic enough that it looked as if he
20 would always need treatment.
21 Q Now--right. This is a little bitty question, a
22 note, his--but did his parents assist at all?
23 A No.
24 Q Okay. Now, I'm going to ask you a hypothetical.
25 Assume with me just a moment that he was in a girl's cottage

1 at age 13 at the Church of God, was then put back in Eastern
2 State with a diagnosis of really dangerous, and then was
3 discharged--I can't read it.
4 MR. CLEMENT: Excuse me just a moment, your Honor.
5 May I be excused just a minute? I can't read something.
6 Well, nobody can read it.
7 Q --and then was discharged back to his parents. Do
8 you think that was a wise therapeutic or psychological move
9 for Billy?
10 A My experience--my experience with them had ended
11 several years earlier.
12 Q Right.
13 A Unless there had been some change--
14 Q Has to have been change?
15 A --in that--in that--in their behavior, I would say
16 no.
17 Q And if it had been no change--
18 A And certainly there would need to be an ongoing
19 treatment plan for him.
20 MR. CLEMENTS: Okay. That's all I have. Attorney
21 General will want to ask you some questions, Ms. Lunn, and
22 perhaps the judge. So please keep your seat.
23 MR. PRICE: Thank you.
24 MR. CLEMENT: Yes, sir.
25 CROSS-EXAMINATION

1 BY MR. PRICE:
2 Q When was the last time you saw Billy Ray Irick on a
3 professional basis?
4 A I don't remember the exact last date that I saw him,
5 but it was in 1967.
6 MR. PRICE: Okay. Thank you. That's all.
7 THE COURT: I appreciate you traveling up here for
8 this. I'm sorry you had to wait this morning, but I think
9 you're free to go.
10 THE WITNESS: Thank you.
11 (Witness excused.)
12 MR. CLEMENTS: Judge, may I ask you a question,
13 please?
14 THE COURT: Yes, sir.
15 MR. CLEMENTS: And maybe the district attorney can
16 answer this. We'll be back, of course, whenever you want us,
17 but I guess we need to know whenever you want us back. We
18 certainly intend to be here.
19 THE COURT: Well, I think that, if I understand
20 correctly--you finished with your proof this morning, right,
21 on this?
22 MR. CLEMENTS: Yes, sir. That finishes our--that
23 finishes our proof, and I think the D.A., as I understand it,
24 has--at least their psychiatrist on, and I don't think--as of
25 a moment ago, they don't have a report, but we'll be back

1 anytime, you know.

2 THE COURT: Well, my understanding is that he is

3 supposed to have a report generated this afternoon, that he

4 conducted an evaluation Saturday and yesterday, and that he is

5 preparing a report, and is supposed to have it for everybody's

6 availability this afternoon, and I anticipated that we would

7 continue this tomorrow morning.

8 MR. CLEMENTS: All right, sir.

9 THE COURT: Now, if you don't feel that getting the

10 report this afternoon gives you sufficient time to review it

11 by tomorrow morning to proceed with the hearing, you know, I'd

12 be willing to listen to what you've got to say, but I--

13 MR. CLEMENTS: Well, Judge, we'll get right on it as

14 soon as we have it. We're not trying to delay the Court or

15 anybody else. You know, as slow as I am, it would take more

16 than 10 minutes, I guess, to look at it, but we'll be here

17 whenever you want us, Judge.

18 THE COURT: Well, I anticipate we're going to

19 continue this tomorrow morning at nine o'clock.

20 MR. CLEMENTS: Oh. All right, sir. That'd be fine.

21 That's fine.

22 THE COURT: Is that good for everybody?

23 MR. PRICE: Yes, sir.

24 THE COURT: Okay.

25 MR. PRICE: That's what I was planning on.