

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,

Appellant,

v.

TARIQ MANSON,

Respondent.

Electronically Filed
May 04 2021 08:19 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 82038

**APPELLANT'S APPENDIX
Volume 1**

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Las Vegas, Nevada 89155
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Counsel for Appellant

Counsel for Respondent

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on May 4, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

CLAUDIA ROMNEY
DANIEL R. PAGE
Counsels for Respondent

ALEXANDER CHEN
Chief Deputy District Attorney

BY /s/ E. Davis
Employee, District Attorney's Office

AC/Brittni Griffith/ed

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TARIQ MANSON #8235713,

Defendant.

2018 APR - 21 P 12: 27

JUSTICE COURT,
LAS VEGAS NEVADA

BY

TJD DEPUTY

CASE NO: 18F05844X

DEPT NO: 2

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105), in the manner following, to-wit: That the said Defendant, on or about the 30th day of March, 2018, at and within the County of Clark, State of Nevada, did then and there willfully, unlawfully, and feloniously commit a sexual penetration upon T.C., a child under the age of 14 years, to wit: sexual intercourse.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

04/02/18

18F05844X/jw
LVMPD EV# 1804011893
(TK2)

18F05844X
CRM
Criminal Complaint
9240173



AA 000001

**Justice Court, Las Vegas Township
Clark County, Nevada**

Department: 02

Court Minutes



L009239074

18F05844X State of Nevada vs. MANSON, TARIQ

**4/2/2018 9:00:00 AM Initial Appearance Justice
Court (PC Review)**

Result: Signing Completed

**PARTIES
PRESENT:**

Judge: Walsh, Robert J.
Court Clerk: Tucker, Maggie

PROCEEDINGS

Hearings: 4/4/2018 7:45:00 AM: 72 Hour Hearing

Added

Events: Probable Cause Found

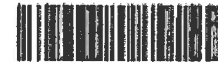
Bail Reset - Cash or Surety

Counts: 001; 999 - \$0.00/\$0.00 Total Bail No bail - Set in Court with conditions

**Justice Court, Las Vegas Township
Clark County, Nevada**

Department: 02

Court Minutes



L009250797

18F05844X State of Nevada vs. MANSON, TARIQ

Lead Atty: Public Defender

4/4/2018 7:45:00 AM Initial Appearance (In Custody)

Result: Matter Heard

| | | |
|-------------------------|--|---|
| PARTIES PRESENT: | State Of Nevada Attorney Defendant | Portz, Nick Leven, Pandora Lynn MANSON, TARIQ |
|-------------------------|--|---|

Judge: Sciscento, Joseph S.

Court Reporter: Ott, Shawn

Court Clerk: Moore, Stacey

PROCEEDINGS

| | | | |
|-------------------|--|---------------------|--------------|
| Attorneys: | Leven, Pandora Lynn | MASON, TARIQ | Added |
| | Public Defender | MASON, TARIQ | Added |
| Hearings: | 4/18/2018 11:00:00 AM: Preliminary Hearing | | Added |
| Events: | Initial Appearance Completed | | |
| | <i>Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint</i> | | |
| | Public Defender Appointed | | |
| | Oral Motion | | |
| | <i>By Defense To Release Defendant On Electronic Monitoring- Objection By State- Motion Denied</i> | | |
| | Oral Motion | | |
| | <i>By State To Set Bail At \$100,000 Total Bail- Motion Denied</i> | | |
| | Bail Reset - Cash or Surety | | |
| | <i>Counts: 001 - \$10,000.00/\$10,000.00 Total Bail</i> | | |
| | Release Order - Court Ordered Bail AND House Arrest | | |
| | <i>Counts: 001</i> | | |
| | Bail Condition - Stay Away From Victim | | |
| | Bail Condition | | |
| | <i>Defendant To Have No Access To The Internet</i> | | |

AA 000003

Las Vegas Justice Court: Department 02

LVJC_RW_Criminal_MinuteOrderByEventCode

Case 18F05844X Prepared By: moors

4/4/2018 11:08 AM

**Justice Court, Las Vegas Township
Clark County, Nevada**

Department: 02

Court Minutes



L009301607

18F05844X State of Nevada vs. MANSON, TARIQ

Lead Atty: Special Public Defender

**4/16/2018 8:00:00 AM Motion (Surety Bond w/
House Arrest)**

Result: Motion Granted

PARTIES PRESENT: State Of Nevada Attorney Hamner, Christopher
Page, Daniel

Judge: Sciscento, Joseph S.

Court Reporter: Ott, Shawn

Court Clerk: Moore, Stacey

PROCEEDINGS

| | | | |
|-------------------|---|---------------------|-----------------|
| Attorneys: | Page, Daniel | MASON, TARIQ | Added |
| | Special Public Defender | MASON, TARIQ | Added |
| Hearings: | 5/21/2018 8:00:00 AM: Negotiations | | Added |
| | 4/18/2018 9:00:00 AM: Preliminary Hearing | | Canceled |
| Events: | Motion | | |
| | <i>By State To File An Amended Criminal Complaint- Motion Granted</i> | | |
| | Amended Criminal Complaint | | |
| | <i>Filed In Open Court</i> | | |
| | Motion to Withdraw Due to Conflict | | |
| | <i>By The Public Defender's Office- Motion Granted</i> | | |
| | Special Public Defender Appointed | | |
| | <i>D. Page, Esq Off Track Through D. Christensen's Office</i> | | |
| | House Arrest Order Continues | | |
| | Bail Condition - Stay Away From Victim | | |
| | Bail Condition | | |
| | <i>Defendant To Have No Access To The Internet</i> | | |
| | Future Court Date Vacated | | |
| | 04/18/18 At 9AM | | |
| | Motion to Continue - Defense | | |
| | <i>For Negotiations- Motion Granted</i> | | |
| | Continued For Negotiations | | |
| Charges: | 002: Lewdness with child under age 14, first offense | | |
| | 003: Lewdness with child under age 14, first offense | | |
| | 004: Lewdness with child under age 14, first offense | | |

ORIGINAL

LAS VEGAS JUSTICE COURT
FILED IN OPEN COURT

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

APR 16 2018

BY


CLERK

THE STATE OF NEVADA,

Plaintiff,

-VS-

TARIQ MANSON #8235713,

Defendant.

CASE NO: 18F05844X

DEPT NO: 2

AMENDED
CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50105) and LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230 - NOC 50975), in the manner following, to wit: That the said Defendant, on or about the 30th day of March, 2018, at and within the County of Clark, State of Nevada,

COUNT 1 – SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did then and there willfully, unlawfully, and feloniously commit a sexual penetration upon T.C., a child under the age of 14 years, to wit: sexual intercourse, by placing his penis into the genital opening of T.C.

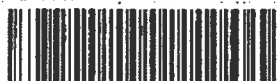
COUNT 2 – LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: T.C., a child under the age of fourteen years, by using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the breast(s) of T.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of Defendant, or T.C.

COUNT 3 – LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child, to wit: T.C., a child under the age of fourteen years, by using his mouth and/or tongue to kiss and/or lick the mouth and/or body

18F05844X
ACRM
Amended Criminal Complaint
0200319



AA 000005

W:\2018\2018F05844\18F05844-ACOM-001.DOCX

1 of T.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual
2 desires of Defendant, or T.C.

3 COUNT 4 – LEWDNESS WITH A CHILD UNDER THE AGE OF 14

4 did willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon
5 or with the body, or any part or member thereof, of a child, to wit: T.C., a child under the age
6 of fourteen years, by using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the
7 genital area of T.C., with the intent of arousing, appealing to, or gratifying the lust, passions,
8 or sexual desires of Defendant, or T.C.

9 All of which is contrary to the form, force and effect of Statutes in such cases made and
10 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
11 this declaration subject to the penalty of perjury.

12
13 
14 04/10/2018

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25
26
27 18F05844X/jg/SVU
28 LVMPD EV# 1804011893
(TK2)

AA 000006

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes

Department: 02



L009457115

18F05844X State of Nevada vs. MANSON, TARIQ

Lead Atty: Special Public Defender

**5/21/2018 8:00:00 AM Negotiations (Surety Bond
w/ House Arrest)**

Result: Matter Heard

PARTIES PRESENT: State Of Nevada Attorney Portz, Nick
Page, Daniel

Judge: Sciscento, Joseph S.

Court Reporter: O'Neill, Jennifer

Court Clerk: Moore, Stacey

PROCEEDINGS

Hearings: 6/18/2018 8:00:00 AM: Negotiations

Added

Events: Motion to Continue - Defense

Motion Granted

Continued For Negotiations

House Arrest Order Continues

Ball Condition

Defendant To Have No Access To The Internet

Ball Condition - Stay Away From Victim

**Justice Court, Las Vegas Township
Clark County, Nevada**

Department: 02

Court Minutes



L009573888

18F05844X State of Nevada vs. MANSON, TARIQ

Lead Atty: Special Public Defender

**6/18/2018 8:00:00 AM Negotiations (Surety Bond
w/ House Arrest)**

Result: Matter Heard

| | | |
|-----------------|-----------------|------------------|
| PARTIES | State Of Nevada | LoGrippto, Frank |
| PRESENT: | Attorney | Page, Daniel |
| | Defendant | MANSON, TARIQ |

Judge: Sciscento, Joseph S.

Court Reporter: O'Neill, Jennifer

Court Clerk: Moore, Stacey

PROCEEDINGS

| | | |
|------------------|-----------------------------------|-------|
| Hearings: | 7/9/2018 8:00:00 AM: Negotiations | Added |
|------------------|-----------------------------------|-------|

| | |
|----------------|--|
| Events: | House Arrest Order Continues |
| | Motion to Continue - Defense |
| | <i>Motion Granted</i> |
| | <u>Continued For Negotiations</u> |

**Justice Court, Las Vegas Township
Clark County, Nevada**

Department: 02

Court Minutes



L009653619

18F05844X State of Nevada vs. MANSON, TARIQ

Lead Atty: Special Public Defender

**7/9/2018 8:00:00 AM Negotiations (Surety Bond
w/ House Arrest)**

Result: Matter Heard

| | | |
|-----------------|-----------------|------------------|
| PARTIES | State Of Nevada | Martinez, Samuel |
| PRESENT: | Attorney | Page, Daniel |
| | Defendant | MANSON, TARIQ |

Judge: Sciscento, Joseph S.

Court Reporter: Ott, Shawn

Court Clerk: Moore, Stacey

PROCEEDINGS

| | | |
|------------------|---|----------|
| Hearings: | 10/24/2018 9:00:00 AM: Preliminary Hearing | Added |
| | 10/24/2018 9:00:00 AM: Preliminary Hearing | Canceled |
| | 10/24/2018 11:00:00 AM: Preliminary Hearing | Added |
| Events: | Motion to Continue - Defense | |
| | <i>Motion Granted</i> | |
| | Preliminary Hearing Date Reset | |

STATE OF NEVADA -v-
ID NO.:
[] Interpreter Required

CLARK COUNTY
COURTS

LAS VEGAS JUSTICE COURT
FILED IN OPEN COURT

OCT 24 2018

JUSTICE COURT CASE NO.

18F05844X DEPT. 2

DISTRICT COURT CASE NO.

TRACK DEPT.

REQUEST FOR EVALUATION(S) FOR COMPETENCY

I, Daniel Page, on behalf of Tyria Manson do hereby request that the above named defendant be evaluated for competency based on the following:

The defendant DOES NOT:

- ☒ appear to understand the charges or allegation
☒ understand the adversarial nature of the legal process
☐ appear to disclose to defense attorney pertinent facts
☐ do you believe the defendant currently suffers from:
[] TBI [] Dementia [] Alzheimer's

- ☒ understand the range and nature of the penalties
☐ display appropriate courtroom behavior
☐ demonstrate ability to provide relevant testimony
please indicate range of punishment: 35-154

10/24/18
Date

[Signature]
Signature of Person Requesting Evaluation

ORDER FOR COMPETENCY EVALUATION(S)

☒ PRESENT [] NOT PRESENT
THIS MATTER having come before the Court at a hearing where the Defendant was

THE COURT FINDS AND ORDERS that doubt has arisen as to the competence of the Defendant and that the proceedings are suspended until the question of competence is determined

IT IS FURTHER ORDERED that pursuant to N.R.S. 178.415 the appropriate evaluation(s) will be conducted; the defendant having been charged with a

[] MISDEMEANOR ☒ GROSS MISDEMEANOR / FELONY competency hearing to be set at 9:00 A.M. in District Court Department 9 on the 22nd day of NOV. 2018

FURTHERMORE, IT IS ORDERED the following records be made available to the Specialty Court Division of the Clark County Courts: 1) Any and all jail records to include, but not limited to, custody records, psychiatric records, medical records and incident reports 2) Any and all criminal records, including but not limited to, criminal complaint, police records and discovery.

ADDITIONALLY, it is ordered that the Clark County Detention Center and/or NaphCare shall provide the referring attorney and/or attorney's staff with any and all medical/psychiatric records of the defendant upon request and NaphCare staff including but not limited to physician and nursing records. Lastly, they shall speak with the referring attorney and/or their staff about the defendant's condition including but not limited to prognosis, diagnosis and treatment.

IT IS FINALLY ORDERED that the report(s) of said examination be submitted to the Specialty Courts Division no later than 5:00 PM on the third judicial day preceding the scheduled hearing.

DATED this 24 day of Oct, 2018

[Signature]
JUDGE

18F05844X
RFEC
Request for Evaluation for Competency
10/24/2018 000010
[Barcode]

**Justice Court, Las Vegas Township
Clark County, Nevada**

Department: 02

Court Minutes



L010103591

18F05944X State of Nevada vs. MANSON, TARIQ

Lead Att: Special Public Defender

**10/24/2018 11:00:00 AM Preliminary Hearing
(Surety Bond and House Arrest)**

Result: Matter Heard

PARTIES PRESENT: State Of Nevada Attorney Rowles, William Page, Daniel

Judge: Sciscento, Joseph S.

Court Reporter: O'Neill, Jennifer

Court Clerk: Moore, Stacey

PROCEEDINGS

Events: Competency Bind Over to District Court Review Date: 10/25/2018

Defendant conditionally bound over to District Court, re: Competency. Defendant to appear in District Court Department 9.

Competency Court Date Set

Nov 2 2018 9:00AM: Out of custody

Additional Information for Evaluating Doctor

Page two of Request and Order for Competency.

Oral Motion

by Defense to modify House Arrest to Electronic Monitoring Low Level - Objection by State - Motion denied

Bail Condition

8pm curfew

Bail Condition - Stay Away From Victim

Release Order - from House Arrest

Counts: 001; 002; 003; 004

Not in custody

Counts: 001; 002; 003; 004

Request for Evaluation for Competency

Request and Order filed in open Court

Bail Stands - Cash or Surety

Amount: \$10,000.00

Counts: 001; 002; 003; 004 - \$10,000.00/\$10,000.00 Total Bail Which Was Previously Posted On 04/08/18

Release Order - Court Ordered Bail AND EMP - Medium

(Release Order - Court Ordered Bail AND Electronic Monitoring - Medium Level)

Custody Comment

Defendant Is Out Of Custody On Surety Bond And House Arrest And Today Court Amended The Order To Surety Bond And Medium Level Electronic Monitoring

Surety Bond Ordered Transferred

To District Court

Bonds: Surety - AC18080324

AA 0000111,000.00

Plea/Dien:

Las Vegas Justice Court: Department 02

LVJC_RW_Criminal_MinuteOrderByEventCode

10/24/2018 1:54 PM

**Justice Court, Las Vegas Township
Clark County, Nevada**

001: Sex asslt against child < 14 [50105]

Disposition: Competency Bindover

002: Lewdness w/child < 14, (1st) [50975]

Disposition: Competency Bindover

003: Lewdness w/child < 14, (1st) [50975]

Disposition: Competency Bindover

004: Lewdness w/child < 14, (1st) [50975]

Disposition: Competency Bindover

AA 000012

10/29/2018

Heather S. Gemin

CLERK OF THE COURT

EIGHTH JUDICIAL DISTRICT COURT

Clark County, Nevada

STATE OF NEVADA,

Plaintiff,

District Court Case:

-v-

Justice Court Case: 18F05844X JC 2

MASON, TARIQ ID #8235713

C-18-335833-1

XXIII

Defendant,

COMMITMENT and ORDER

An Order having been made by Justice of the Peace, Las Vegas Township this date that, TARIQ MASON to be held to answer before the Eighth Judicial District Court for the purpose of a finding of competency.

IT IS HEREBY ORDERED that said defendant is commanded to appear in the Eighth Judicial District Court, Department IX at 9:00 AM on November 2, 2018 for a competency hearing.

DATED this 24th day of October, 2018

Jennifer P. Togliatti

Judge Jennifer Togliatti

AA 000013

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 30, 2018

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

November 30, 2018 09:00 AM Further Proceedings: Competency

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

Glen O'Brien Attorney for Plaintiff

State of Nevada Plaintiff

Tariq Manson Defendant

JOURNAL ENTRIES

Mr. Page advised the Defendant had a problem with transportation and requested a CONTINUANCE, noting they found a location closer to the Defendant. COURT SO ORDERED.

NIC

CONTINUED TO: 12/14/18 9:00 AM

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 14, 2018

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

December 14, 2018 09:00 AM Further Proceedings: Competency

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

| | |
|------------------------|-------------------------------|
| Claudia Romney | Attorney for Defendant |
| Daniel R. Page | Attorney for Defendant |
| Glen O'Brien | Attorney for Plaintiff |
| State of Nevada | Plaintiff |
| Tariq Manson | Defendant |

JOURNAL ENTRIES

Mr. Page requested a continuance to contact Stein about outpatient restoration. COURT ORDERED, matter CONTINUED; Defendant to stay out of trouble and have NO CONTACT with the named victim.

BOND / MLEMP

12/28/18 9:00 AM STATUS CHECK: OUTPATIENT RESTORATION / EVALUATIONS

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 28, 2018

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

December 28, 2018 09:00 AM Status Check: Outpatient Restoration / Evaluations

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

| | |
|------------------------|-------------------------------|
| Claudia Romney | Attorney for Defendant |
| Daniel R. Page | Attorney for Defendant |
| Glen O'Brien | Attorney for Plaintiff |
| State of Nevada | Plaintiff |
| Tariq Manson | Defendant |

JOURNAL ENTRIES

COURT ORDERED, matter CONTINUED. Defendant directed to stay out of trouble and attend all appointments.

BOND / MLEMP

CONTINUED TO: 3/1/19 9:00 AM



1 OCNRS
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 CHRISTOPHER J. LALLI
6 Assistant District Attorney
7 Nevada Bar #005398
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702)671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 TARIQ MANSON,
13 #8235713

14 Defendant.

CASE NO: C-18-335833-1

DEPT NO: IX

15 ORDER OF COMMITMENT
16 (OUT PATIENT)

17 THIS MATTER came before the Court on the 28th day of December, 2018, when doubt
18 arose as to competence of the Defendant, the Defendant being present with counsel,
19 CLAUDIA ROMNEY, Deputy Public Defender, the State being represented by STEVEN B.
20 WOLFSON, District Attorney, through GLEN O'BRIEN, his Deputy, and the Court having
21 considered the reports of Doctors C. Phillip Colosimo and Sunshine Collins, licensed and
22 practicing psychologists and/or psychiatrists in the State of Nevada, finds the Defendant
23 incompetent, and that he is not dangerous to himself and to society and that commitment is not
24 required for a determination of his ability to receive treatment to competency and to attain
25 competence, and good cause appearing, it is hereby

26 ORDERED that, at the time designated by the Administrator of the Division of Public
27 and Behavioral Health of the Department of Health and Human Services or his or her designee,
28 pursuant to NRS 178.425(3), the Defendant shall report to the said Administrator or his or her

AA 000017

1 designee as an outpatient for treatment, if it might be beneficial, and for a determination of his
2 ability to receive treatment to competency and to attain competence.

3 FURTHER ORDERED that, pursuant to NRS 178.425(4), these proceedings against
4 the Defendant are suspended until the Administrator or his or her designee finds him capable
5 of standing trial as provided in NRS 178.400; and, it is

6 FURTHER ORDERED that, pursuant to NRS 178.435, the expenses of the examination
7 are chargeable to Clark County; and, it is.

8 FURTHER ORDERED that the Administrator or his or her designee shall report in
9 writing to this Court and the Clark County District Attorney whether, in his opinion, upon
10 medical consultation, the Defendant is of sufficient mentality to be able to understand the
11 nature of the criminal charge against him and, by reason thereof, is able to aid and assist his
12 counsel in the defense interposed upon the trial or against the pronouncement of the judgment
13 thereafter. The administrator or his or her designee shall submit such a report within six (6)
14 months after this order and at six (6) month intervals thereafter. If the opinion of the
15 Administrator or his or her designee about the Defendant is that he is not of sufficient mentality
16 to understand the nature of the charge against him and assist his own defense, the
17 Administrator or his or her designee shall also include in the report his opinion whether:

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1. there is a substantial probability that the Defendant can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and

2. the Defendant is at that time a danger to him or to society.

DATED this 31st day of December, 2018.

DISTRICT JUDGE

STEVEN B. WOLFSON
District Attorney
Nevada Bar #001565

BY

Bryan J. Hall for
CHRISTOPHER J. LALLI
Assistant District Attorney
Nevada Bar #005398

mc

Heavenly
CLERK OF THE COURT

NOCH

**DISTRICT COURT
CLARK COUNTY, NEVADA**

State of Nevada

Case No.: C-18-335833-1

vs

Department 23

Tariq Manson

NOTICE OF CHANGE OF HEARING

The hearing on the Status Check, presently set for March 1, 2019, at 9:00 AM; has been moved to the 1st day of March, 2019, at 10:00 AM and will be heard by Judge Linda Marie Bell.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Marie Kramer
Marie Kramer, Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that this 28th day of January, 2019

☒ I placed a copy of the foregoing Notice of Change of Hearing in the appropriate attorney folder located in the Clerk of the Court's Office:
Steven B Wolfson
Special Public Defender

/s/ Marie Kramer

Marie Kramer, Deputy Clerk of the Court

AA 000020

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 01, 2019

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

March 01, 2019 10:00 AM Status Check: Outpatient Restoration / Evaluations

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

Glen O'Brien Attorney for Plaintiff

State of Nevada Plaintiff

Tariq Manson Defendant

JOURNAL ENTRIES

Also present: Denise Baker of the Specialty Courts.

Upon Court's inquiry, Mr. Page confirmed Defendant is compliant in treatment. Mr. O'Brien requested a status check be SET in 60 days. COURT SO ORDERED.

BOND/MID LEVEL EMP

05/03/19 10:00 AM STATUS CHECK: OUTPATIENT RESTORATION/EVALUATIONS

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 03, 2019

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

**May 03, 2019 10:00 AM STATUS CHECK: OUTPATIENT
RESTORATION/EVALUATIONS**

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Estala, Kimberly

RECORDER: Garcia, Trisha

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

Glen O'Brien Attorney for Plaintiff

State of Nevada Plaintiff

Tariq Manson Defendant

JOURNAL ENTRIES

Also present: Denise Baker of the Specialty Courts. Defendant not present.

Mr. Paige advised Defendant is participating in the Misdemeanor Diversion Program. Mr. O'Brien advised Defendant has staid out of trouble and requested matter be SET for status check. COURT SO ORDERED.

BOND/ MID LEVEL EMP

07/05/19 10:00 AM STATUS CHECK: DIVERSION DISCHARGE PLAN

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 12, 2019

C-18-335833-1 State of Nevada
vs
Tariq Manson

July 12, 2019 10:00 AM Status Check

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15C

COURT CLERK: Michaela Tapia

RECORDER: Renee Vincent

PARTIES

| | | |
|-----------------|-----------------|------------------------|
| PRESENT: | Manson, Tariq | Defendant |
| | O'Brien, Glen | Attorney for Plaintiff |
| | Page, Daniel R. | Attorney for Defendant |
| | State of Nevada | Plaintiff |

JOURNAL ENTRIES

- Appearances Continued: Denise Baker of the Specialty Courts also present. Deft. not present.

Mr. Page advised the evaluations are still pending. COURT ORDERED, matter CONTINUED.

BOND (H.L.E.M.P.)

CONTINUED TO: 8/9/19 10:00 AM

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 09, 2019

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

August 09, 2019 10:00 AM Status Check: Outpatient Restoration / Evaluations

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

Glen O'Brien Attorney for Plaintiff

State of Nevada Plaintiff

Tariq Manson Defendant

JOURNAL ENTRIES

Also present: Denise Baker of the Specialty Courts.

Mr. O'Brien advised Defendant is cooperating and requested a continuance for the evaluation.
COURT SO ORDERED.

BOND-HIGH LEVEL EMP

CONTINUED TO: 08/30/19 10:00 AM

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 30, 2019

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

August 30, 2019 10:00 AM STATUS CHECK: OUTPATIENT RESTORATION

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Claudia Romney Attorney for Defendant

Glen O'Brien Attorney for Plaintiff

State of Nevada Plaintiff

Tariq Manson Defendant

JOURNAL ENTRIES

Also present: Denise Baker Specialty Courts Coordinator.

Colloquy regarding discharge. COURT ORDERED, matter CONTINUED for Dr. Khan's reports.

BOND/ HIGH LEVEL EMP

CONTINUED TO: 09/27/19 10:00 AM

STEVE SISOLAK
Governor



LISA SHERYCH
Administrator

RICHARD WHITLEY, MS
Director

IHSAN AZZAM, Ph.D., M.D.
Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Southern Nevada Adult Mental Health Services
6161 West Charleston Blvd.
Las Vegas, NV 89146
Telephone 702 486-4400 • Fax 702 486-7608
<http://dpbh.nv.gov>

September 19, 2019

The Honorable Linda Bell
Eighth Judicial District Court
Courthouse – 200 South Third Street
Las Vegas, Nevada 89155

RE: Tariq Manson
Case #: C-18-335833-1

Dear Judge Bell:

Pursuant to the court order dated December 31, 2018, Mr. Tariq Manson, was evaluated by Drs. Khan, Bradley, and Bennet. They find that Mr. Manson does not meet the criteria to be considered competent to proceed with adjudication at this time. However, it is believed that the client may be able to attain competency in the future given a continued treatment regimen. Since the client was sent to Stein Forensic Facility Outpatient Restoration Services pursuant to NRS 178.425, three examiner's reports are required. Enclosed are copies of the doctors' reports.

If I can provide you with further information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Cornell".

Stanley Cornell, M.S.
Agency Manager

SC/lb

cc: Glen O' Brien, Deputy District Attorney
Claudia Romney, Attorney for Defendant

Encl: Psychiatric Evaluation (2)
Psychological Evaluations (1)

AA 000026

ADJUDICATIVE COMPETENCE EVALUATION

NAME: Manson, Tariq
MEDICAL RECORD #: [REDACTED]
DATE OF BIRTH: [REDACTED]
DATE OF ADMISSION: December 16, 2018
DATE OF EVALUATION: September 13, 2019
REPORT DATE: September 16, 2019
PREPARED BY: Mohammad Asim Khan, MD

SUMMARY AND RECOMMENDATIONS

The defendant is a 19-year-old male, who stands charged with Sexual Assault with a Minor under Fourteen Years of Age and three counts of Lewdness with a Child Under the Age of 14 (category A felonies) based on allegations that on or about March 30, 2018, Mr. Manson is engaged in sexual relations with a 13-year-old female. Court minutes indicate he was released on house arrest on April 16, 2018.

The defendant was accepted to the Stein Forensic Facility Outpatient Competency Restoration Program on December 16, 2018 under an Order of Commitment pursuant to NRS 178.425 filed December 31, 2018.

At this time, with regards to the Dusky standard and the Nevada statute, it is my opinion that Mr. Manson:

- 1) does have the ability to understand the nature of the criminal charges against him,
- 2) does NOT have the ability to understand the nature and purpose of the court proceedings, and
- 3) does NOT have the present ability to aid and assist counsel in his defense with a reasonable degree of rational understanding.

SOURCES OF INFORMATION

1. Interview with Mr. Manson conducted at Stein Forensic Facility on September 13, 2019 lasting about 50 minutes
2. Pre-commitment Competency Evaluations:
 - a. Charles P. Colosimo, Ph.D., dated November 8, 2018
 - b. Sunshine Collins, Psy.D., dated December 11, 2018
3. Clark County School District Student Services Division Records (Statement of Need for Reevaluation, IEP) dated September 14, 2018
4. Lisa M. Foerster, Psy.D. Psychological Assessment, dated June 22, 2018
5. Division of Public and Behavioral Health Medical and Mental Health Records
6. Collateral legal information (criminal complaints, arrest reports)

CONFIDENTIALITY

Mr. Manson was informed at the beginning of the interview that a report would be generated for the Court based on information gathered during the interview. Mr. Manson acknowledged the

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limits of confidentiality and agreed to proceed. He said, "Anything we talk about can go back to the court."

BACKGROUND INFORMATION

Mr. Manson was born in Las Vegas, Nevada. He said he was raised with his mother and father and still lives with his family. He said he dropped out of school in the 11th grade "because of all this court stuff," but that he's working on a GED. He said he recently started a job packing boxes.

MEDICAL HISTORY

Mr. Manson denied any active medical issues. He denied any allergies to medications but said he was allergic to bananas and pineapples.

SUBSTANCE USE HISTORY

Mr. Manson denied any history of alcohol use. He acknowledged smoking marijuana occasionally. He denied the use of any other illicit substances.

LEGAL HISTORY

Mr. Manson denied any arrests prior to the instant offense.

FAMILY HISTORY

Mr. Manson denied any family history of mental illness.

PSYCHIATRIC HISTORY

Mr. Manson denied any past psychiatric treatment. He said he had only seen mental health professionals in the context of his current case. He denied previous suicidal or homicidal ideation or attempts. He denied any history of psychotic or mood symptoms.

RECORD REVIEW

Dr. Foerster's Psychological Assessment (June 22, 2018)

Dr. Lisa Foerster completed a psychological assessment of Mr. Manson on June 22, 2018, at the request of his attorney Daniel Page. Dr. Foerster diagnosed Mr. Manson with Borderline Intellectual Functioning and "Learning Disorders, by Records."

Online Review of Clark County Courts Civil/Criminal Case Records

No additional convictions were found for Mr. Manson in Clark County jurisdictions.

Current Outpatient Restoration

I evaluated Mr. Manson on December 19, 2018 and recommended that he be accepted into our outpatient competency restoration program. He attended his first session on January 14, 2019. He scored a 30 percent on the legal process pre-test. He was started on the Slater Method which is a tool to educate lower intellectually functioning clients on topics related to competency restoration. He largely complied with the program's attendance requirements.

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MENTAL STATUS EXAMINATION

Mr. Manson was a young adult African American male who was casually dressed in a T-shirt and pants. He was well-groomed with good hygiene. He was cooperative with the interview. He sat calmly in a chair throughout the interview in no apparent distress. He made good eye contact. His speech was of normal rhythm, rate and volume. He described his mood as "good... wonderful." His affect was stable, appropriate and of full range. His thought processes were logical and organized but concrete. He did not demonstrate any delusions or ideas of reference. He denied current auditory and visual hallucinations. He did not appear to be internally preoccupied. He denied suicidal or homicidal ideation. His cognition was grossly intact. He demonstrated good insight and judgment.

ASSESSMENT OF COMPETENCY TO STAND TRIAL

Assessment of Understanding of Charges

Mr. Manson demonstrated a good understanding of the charges against him. He reported his charges to be, "Sexual assault one time and lewdness with a minor three times." He identified his charges to be "Category A felonies" and said he was facing "34 years to life" in prison.

Assessment of Understanding of Court Proceedings

Mr. Manson had a rudimentary knowledge of courtroom personnel and proceedings. He was aware of his attorney's name and his attorney's general function which he described as "helps you with court and stuff." He said the district attorney, "is trying to find you guilty... [by] trying to get a lot of witnesses and evidence." He said a judge, "sentences you and places you on bail and stuff." When asked about a jury, he initially said, "places you on bail too," but later clarified, "[they] find you guilty or not guilty." He understood the concept of witnesses and evidence. When asked about a plea bargain, he said, "like a plea deal... take a deal or go to trial." He was aware that a deal could be offered by the district attorney. He was also aware that he was not required to accept a plea bargain. When asked how a plea bargain could benefit him, he said, "I don't even know. Is it like deal or no deal?"

Assessment of Ability To Aid and Assist Counsel With Rational Understanding

Mr. Manson did not demonstrate the ability to aid and assist his attorney with rational understanding. He had difficulty discussing the various plea options available to him. Though he had a basic understanding of a plea bargain, he did not understand the benefits or risks involved with accepting or refusing a plea bargain. However, he expressed having a good relationship with his attorney and the willingness to work with him.

CONCLUSION

Tariq Manson is a 19-year-old male, who stands charged with Sexual Assault with a Minor under Fourteen Years of Age and three counts of Lewdness with a Child Under the Age of 14 (category A felonies) based on allegations that on or about March 30, 2018. Mr. Manson engaged in sexual relations with a 13-year-old female. Court minutes indicate he was released on house arrest on April 16, 2018. He was accepted to the Stein Forensic Facility Outpatient Competency Restoration Program on December 16, 2018 under an Order of Commitment pursuant to NRS 178.425 filed December 31, 2018.

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Mr. Manson does not suffer from any apparent mental illness. However, he has been diagnosed with learning disorders and appears to have intellectual limitations which are currently impairing his adjudicative competence. He has a simple and factual understanding of his charges and basic courtroom proceedings. However, his understanding of more complex processes such as plea bargaining is limited. His ability to rationally assist in his defense is also limited. He may ultimately improve in these areas with continued education and working with our outpatient restoration team and working with his attorney.

With regards to competency to proceed with his case, Mr. Manson demonstrates an understanding of his current charges but does not fully understand courtroom proceedings and does not currently have the ability to aid and assist counsel with a rational understanding.

Therefore, it is my opinion with a reasonable degree of medical certainty that Mr. Manson is not fit to proceed. I believe that he has the substantial probability of restoration in the foreseeable future.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'M. A. Khan', is written over a horizontal line.

Mohammad Asim Khan, MD
Psychiatrist, Board Certified in General and Forensic Psychiatry
Southern Nevada Adult Mental Health Services

State of Nevada | Division of Public and Behavioral Health
Southern Nevada Adult Mental Health Services | Stein Forensic Facility
Confidential: For Professional Use Only

Adjudicative Outpatient Competency Evaluation

Name: Tariq Manson
Case No: C-18-335833-1
Date of Birth: [REDACTED]
Age: 19 years
Outpatient Admission: December 16, 2018
Examiner: Shera D. Bradley, Ph.D.
Length of Evaluations: 35 minutes
Date of Interview: July 15, 2019
Date of Report: September 17, 2019

Opinion Regarding Competency: With reference to the Dusky Standard and Nevada Revised Statute 178.400, it is my opinion that Tariq Manson, as of the date of my evaluation, is seen as incompetent to proceed with substantial probability of restoration in the foreseeable future. Mr. Manson:

- 1) **Does not demonstrate** a rational and factual understanding of the criminal charges against him;
- 2) **Does not demonstrate** a rational and factual understanding of the nature and purpose of the court proceedings;
- 3) **Does not demonstrate** the ability to aid and assist counsel in his defense with a reasonable degree of rational understanding.

Evaluation Procedures:

1. Outpatient interview with Mr. Manson conducted by Shera D. Bradley, Ph.D., along with Sarah Damas, Psy.D., and Patrick Bennet, D.O. (observed by Gencsis Leon, Field Placement Student) at Stein Forensic Facility on July 15, 2019.
2. Review of Records
 - a. Legal Records
 - Las Vegas Metropolitan Police Department, Arrest Report, dates of occurrence February 6, 2018 and March 30, 2018
 - Las Vegas Metropolitan Police Department, Officer's Report, dated April 1, 2018
 - Las Vegas Metropolitan Police Department, Computer Forensics Lab, Examination Report, dated April 5, 2018
 - Las Vegas Metropolitan Police Department, Property Report, dated April 8, 2018
 - Las Vegas Township Justice Court, Amended Criminal Complaint, filed April 16, 2018
 - Clark County Courts, Request for Evaluation(s) for Competency, dated October 24, 2018

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- Clark County District Court, Order of Commitment (Outpatient), dated December 28, 2018 (filed December 31, 2018)
- b. Pre-commitment Competency Evaluations:
 - Charles P. Colosimo, Ph.D., dated November 8, 2018
 - Sunshine Collins, Psy.D., dated December 11, 2018
- c. Clark County School District Student Services Division Records (Statement of Need for Reevaluation, IEP) dated September 14, 2018
- d. John S. Pacult, LCSW, Inc., Pre-Plea Psychosexual Evaluation, dated September 6, 2018
- e. Lisa M. Foerster, Psy.D., Psychological Assessment, dated June 22, 2018
- f. Clark County Courts Civil/Criminal Case Records Online
- g. Division of Public and Behavioral Health Medical and Mental Health Records

Limits of Confidentiality: Mr. Manson was advised the usual doctor/client confidentiality privilege did not apply since he has been court ordered for an evaluation of competency to stand trial. He was informed the information provided during this evaluation would be put into a report, which would be provided to the court. Mr. Manson acknowledged the limits of confidentiality and agreed to participate in the interview.

Reason for Referral/Relevant History

Mr. Manson is currently charged with Sexual Assault with a Minor under Fourteen Years of Age and three counts of Lewdness with a Child Under the Age of 14 (category A felonies) for alleged incidents occurring on or about March 30, 2018. Mr. Manson is accused of having sexual relations with a 13-year-old female. According to the Las Vegas Metropolitan Police Department Arrest Report, the alleged victim reported the two met online in September 2017, met in person in December 2017, and began a romantic relationship in January 2018. She alleged they had sexual intercourse the following month. The alleged victim's mother reportedly became aware of their sexual relationship and eventually reported it to the police. Mr. Manson was subsequently arrested. Court minutes indicate he was released on house arrest on April 16, 2018.

On October 24, 2018, Mr. Manson's attorney, Daniel Page, requested competency evaluations due to concern regarding Mr. Manson's ability to understand his charges or allegation, the adversarial nature of the legal process, and the range and nature of the penalties.

Dr. Colosimo's report, dated November 8, 2018, describes Mr. Manson as tangential and circumstantial. The report indicates that Mr. Manson appeared "extremely agitated" and did not answer questions to the best of his ability. Dr. Colosimo suggested Unspecified Intellectual Disability and Unspecified Other Substance-Related Disorder for diagnostic consideration.

Dr. Collins's report, dated December 11, 2018, describes Mr. Manson as malodorous with an otherwise normal presentation. Dr. Collins noted that Mr. Manson failed to demonstrate an understanding of his charges, some of the legal terms, and the plea-bargaining process. She indicated that although Mr. Manson was communicating independently with his attorney (per his

father's report), he requires further assistance to familiarize himself with his case and the possible outcomes to better assist in his defense. Based on an interview with Mr. Manson's father, Dr. Collins noted that Mr. Manson can independently complete self-care tasks, household chores, and manage money. Given the lack of deficits in his adaptive functioning and scores from his recent cognitive testing, Dr. Collins diagnosed Mr. Manson with Borderline Intellectual Functioning.

Mr. Manson was committed to the Division of Public and Behavioral Health (DPBH) for outpatient competency restoration services on December 28, 2018, pursuant to NRS 178.425(3). He began receiving outpatient services on January 14, 2019.

Mental Status Examination/Behavioral Observations

Mr. Manson is a 19-year-old African American male who appears younger than his stated age. He presented with adequate grooming and hygiene and was casually dressed in a t-shirt and track pants. He was polite and cooperative during interview. He maintained appropriate eye contact and there were no abnormalities in his motor movements. His self-reported mood was "happy" and his emotional expression was predominantly euthymic. At times he appeared nervous, specifically when he answered legal process questions incorrectly. The rate, tone, and volume of speech were within normal limits and there were no problems with articulation. Mr. Manson's thought process was linear and organized. There were no behavioral indicators that Mr. Manson was experiencing internal stimuli during the interview. He denied suicidal and homicidal ideation.

Mr. Manson incorrectly identified the date by one day. He accurately named the current and immediately prior Presidents of the United States. He identified a current event as "congress woman...talking about cross country people...they can't cross the border" He correctly recalled 3 of 3 words immediately and after a short delay on a short-term memory recall task.

Brief/Relevant Psychosocial History

Mr. Manson reported he was born and raised in Las Vegas, Nevada. He reported he resided in Siegal Suites Extended Stay apartments with his mother at the time of his arrest. He denied a family history of mental illness.

Mr. Manson explained he stopped attending school in the 11th grade "because I wasn't getting no credits." He stated he was enrolled in special education classes starting in the fourth grade for "speech classes and that's it." He stated he attended regular education classes in high school but also stated that he received special help in a different classroom than the other students. He explained he attempted to obtain his General Education Diploma (GED) five months prior to our evaluation, but did not pass the test. Dr. Foerster's evaluation (June 22, 2018) indicates that Mr. Manson has never been employed but received Social Security Disability Income during childhood for a learning disability.

Mr. Manson denied any prior psychiatric hospitalizations, psychiatric prescriptions, and outpatient mental health treatment. He denied a history of symptoms of mental illness, including hallucinations of any kind. He denied a history of suicidal and homicidal ideation and attempts. Mr. Manson denied a history of major medical illness, head injuries and undergoing surgical procedures.

Mr. Manson denied drinking alcohol. He stated he smoked marijuana daily from 13 to 15 years of age. He stated he smoked "all day" beginning at age 19 (current age). He reportedly smoked two "Swishers" (brand of cigar often used to roll a marijuana blunt) a few times per day and was "high" most of the day. He stated he last smoked marijuana one week prior to our evaluation. He stated he tested positive for marijuana recently, as he is on house arrest, so he "had to slow down" his use. He reported he abused "purple cough syrup" once at 17 years of age. He denied use of all other illicit substances, synthetic drugs, and misuse of prescription drugs. He denied ever participating in substance abuse treatment.

Mr. Manson stated he was previously arrested at 17 years of age for possession of paraphernalia. He reported he was consequently expelled from school, attended court for a few months, and then was "on the run for two years until they caught me." He explained that during that time he did not know he was required to attend court and was eventually identified and detained by police at a 7-11 convenience store. He stated he was incarcerated at CCDC for an undetermined amount of time and then his charges were dropped. Mr. Manson is currently on house arrest with a GPS monitor while his current charges are pending.

Review of Records

Dr. Foerster's Psychological Assessment (June 22, 2018)

Dr. Lisa Foerster completed a psychological assessment of Mr. Manson on June 22, 2018 at the request of his attorney. Dr. Foerster administered the Wechsler Adult Intellectual Scales-Fourth Edition (WAIS-IV) and the Wide Range Achievement Test-Fourth Edition (WRAT-4) to assist in her assessment of Mr. Manson's cognitive abilities. Numerous records from Clark County School District were also reviewed. Dr. Foerster indicated that Mr. Manson was cooperative during testing and appeared invested in performing well.

Dr. Foerster noted that Mr. Manson's results from the WAIS-IV indicate his overall IQ to be 67, falling at the 1st percentile when compared to same-aged peers. Borderline intellectual abilities (2nd-4th percentiles) were noted for verbal comprehension, perceptual reasoning, working memory, and processing speed. Dr. Foerster noted that his scores were "likely at least a slight underestimate of his true abilities due to socioeconomic and cultural factors." Results from the WRAT-4 indicate his word reading and sentence comprehension abilities were consistent with his level of intelligence and place him at a fourth-grade level (3rd percentile).

Dr. Foerster diagnosed Mr. Manson with Borderline Intellectual Functioning and “Learning Disorders, by Records.” She explained that Mr. Manson has no prior diagnosis of an intellectual disability and there are no apparent deficits in his adaptive functioning.

Pre-Plea Psychosexual Evaluation (September 6, 2018)

Licensed Clinical Social Worker John Pacult interviewed Mr. Manson on September 6, 2018 at the request of Mr. Manson’s attorney. The report is titled “Pre-Plea Psychosexual Evaluation”; however, the report addressed Mr. Manson’s competency instead. As the qualifications of Mr. Pacult to conduct such a report are unclear, his report was not used in this evaluation and therefore will not be summarized.

Online Search of Clark County Courts Civil/Criminal Case Records

No additional convictions were found for Mr. Manson on the Eighth Judicial District Court, Las Vegas Justice Court, North Las Vegas Justice Court, and Henderson Municipal Court websites.

Current Outpatient Restoration

On December 19, 2018, Mr. Manson participated in his initial intake session with psychiatrist Dr. Khan to determine his appropriateness for outpatient services. He was subsequently referred for outpatient competency restoration and attended his first session on January 14, 2019. He completed a legal competency pretest and scored a 30%. Due to his borderline intellectual functioning, Psychiatric Caseworker Sara Peterson implemented the Slater Method, an educational tool used to restore legal competency in lower functioning defendants that uses simplified language and visuals to better explain legal concepts. Ms. Peterson continued to use this method for the rest of their sessions.

Mr. Manson did not attend another appointment until February 1, 2019. During the session, Ms. Peterson noted Mr. Manson correctly identified his charges and indicated he was familiar with the date and general circumstances surrounding his arrest. He identified the three most used pleas and stated that a “verdict” of not guilty by the jury is different than a defendant pleading not guilty. The following session he continued to demonstrate factual understanding of legal concepts taught in the lessons. However, on February 22, 2019, Ms. Peterson noted Mr. Manson evidenced poor memory recall and appeared to guess at most of his responses when quizzed on the material.

Over the next three months Mr. Manson demonstrated a factual understanding of his charges, the various courtroom personnel, and the pleas entered in court. However, he demonstrated continued difficulty with understanding plea bargains and verdicts. Towards the end of May, Mr. Manson reportedly began studying legal concepts at home. However, over the next two months Mr. Manson’s understanding of the plea-bargaining process did not improve, nor did he demonstrate a rational understanding of his legal situation.

Diagnostic Impression

- Borderline Intellectual Functioning

Adjudicative Competence Assessment

According to *Dusky v. United States* (1960), defendants must have “sufficient present ability to consult with his attorney with a reasonable degree of rational understanding and a rational as well as factual understanding of the proceedings against him.”

Nevada Revised Statute 178.400 specifies that an individual cannot be tried or adjudicated while incompetent. In order to be considered competent according to NRS 178.400 a person must have the present ability to:

- (a) Understand the nature of the criminal charges against them;
- (b) Understand the nature and purpose of the court proceedings; and
- (c) Aid and assist their counsel in their defense at any time during the proceedings with a reasonable degree of rational understanding.

Mr. Manson reported he is currently charged with “lewdness with a minor under 14, three times and sexual assault, one time.” He stated the charges are category A felonies, which he identified as the worst category. If convicted, he noted he could be sent to prison for “like 20 years.” When asked to describe what he is being accused of, he replied, “Nothing... To be honest I don’t really know.” When asked differently, Mr. Manson provided a brief description of events that were similar to the arrest report. He indicated they are serious charges and when asked why he stated, “Sexual assault with a minor is pretty serious.” When asked if he thought people would fear him if they knew his charges he replied, “Yeah, I think so.” When asked why it is important that “victim under 14” was included in his charge, he initially stated he did not know but then agreed that crimes against younger victims are considered more severe.

Mr. Manson identified his attorney as “Daniel Page.” He described the role of a public defender as “helps you through trial, through court stuff...they understand what you’re going through...talk for you.” He indicated his attorney speaks on his behalf “to the judge or to the district attorney.” Mr. Manson said the public defender’s goal is “to say you’re not guilty” but indicated he did not know how this is done. Mr. Manson indicated that the district attorney is also called the “prosecutor” and their goal is “to find you guilty.” When asked how the district attorney does this, he indicated he did not know. Mr. Manson indicated the jury provides “the verdict,” which he initially described as “guilty by innocent” and then “if you’re guilty or not guilty, innocent or not innocent.”

Mr. Manson was questioned several different ways to describe a trial and components of a trial. With several prompts, he explained that a trial is “like a plea bargain but a jury trial.” He indicated that the prosecutor could use “evidence” such as “cell phones” to find a defendant guilty. He indicated that his attorney could use witnesses and evidence in his defense. He explained that his family could be potential witnesses because “they might know something I

don't know." When asked about any witnesses the district attorney could use, he answered, "the girl." He indicated he did not know if her mother could be called as a witness.

Mr. Manson defined the plea of guilty as "that you did the charge" and then "you go to jail or prison." He explained the plea of not guilty is "that you didn't do it" and then you "go home." He indicated he did not know what happens after a defendant pleads not guilty; however, he indicated that they did not get to go home after. Mr. Manson said he did not know if someone could plead not guilty even if they committed the crime.

When asked why someone might decide to go to trial, he responded, "To get a lower sentence." He indicated it is the "jury's" job to prove he is guilty, despite having provided a correct description of the prosecutor's role moments earlier. He was asked if the judge, jury, and the prosecutor have an opinion of him currently and he replied, "no." He indicated he did not know if the prosecutor has any evidence in his case.

Mr. Manson indicated that the benefit of agreeing to a plea bargain is to "reduce sentence and reduce charge." He indicated he did not know who offers the plea bargain or how it is completed. When asked if a five-year sentence was a better deal than a 20-year sentence, he answered, "No, because my friends don't want me to go to jail." He also indicated he would not consider a deal of probation and having to register as a sex offender.

Mr. Manson said he could help his attorney by "telling him what he needs to know." When asked to elaborate, he said, "I don't know, I'll think of it when it comes to mind." He agreed that it is important to tell his attorney the truth, "so he could know me better." Mr. Manson stated he did not know if information he tells his attorney is confidential and was provided education on attorney-client privilege.

Summary and Conclusion

Mr. Manson is a 19-year-old African American male who was referred to outpatient competency restoration services at Stein Forensic Facility in December 2018. He is currently charged with Sexual Assault with a Minor under Fourteen Years of Age and three counts of Lewdness with a Child Under the Age of 14 (category A felonies) for alleged incidents occurring on or about March 30, 2018. He was referred to competency on October 24, 2018 by attorney Daniel Page due to concern regarding his ability to understand his charges or allegation, the adversarial nature of the legal process, and the range and nature of the penalties. He was subsequently opined incompetent by Drs. Colosimo and Collins and was committed to the Division of Public and Behavioral Health (DPBH) on December 28, 2018, pursuant to NRS 178.425. He began attending outpatient competency restoration services on January 14, 2019.

Mr. Manson denied a history of mental health treatment of any kind. According to school records, he was diagnosed with learning disorders throughout his schooling and was placed in special education classes. Dr. Lisa Foerster completed a psychological assessment of Mr.

Manson on June 22, 2018 which included cognitive testing and a review of his school records. Dr. Foerster noted that, according to Mr. Manson's testing results, his overall cognitive abilities were in the Extremely Low range (IQ = 67), scoring higher than only 1% of same-aged peers. She noted that his reading comprehension and word reading abilities are in the 4th grade range. She diagnosed him with Borderline Intellectual Functioning.

Given Mr. Manson's borderline cognitive functioning, legal competency lessons were taught using the Slater Method, an educational tool that uses simplified language and visuals to better explain legal concepts to lower functioning defendants. During the first month of legal competency sessions, Mr. Manson appeared to have a simplistic understanding of his charge and basic legal concepts. However, when quizzed on the material at a later session, he appeared to guess at most of the questions. It was apparent he was not retaining additional information related to the plea-bargaining process taught the previous sessions. Although he retained some factual knowledge regarding his charges and the courtroom personnel, he did not demonstrate a rational understanding of the plea-bargaining process.

Mr. Manson was polite and cooperative during his evaluation. He demonstrated a basic understanding of his charges and the role of the public defender. However, he did not demonstrate a rational understanding of how to proceed with his case. He provided irrational answers to hypothetical plea bargains (i.e., rejected a hypothetical deal of a 5-year sentence over a 20-year sentence because "my friends don't want me to go to jail). Additionally, Mr. Manson provided conflicting answers (i.e., the roles of the prosecutor and the jury) or responded with "I don't know."

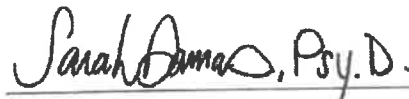
Mr. Manson does not appear to have a rational understanding of the severity of his charges, nor the impact of his decisions if offered a deal. However, he could become competent in the foreseeable future with additional, intensive individual sessions directed to the areas of his deficits. Given his observed polite and acquiescent nature, Mr. Manson may be hesitant to seek help from his attorney in understanding concepts he does not understand. When communicating with Mr. Manson, his attorney can assist him by explaining terms simply and checking to ensure he understands what is being presented.

Given Mr. Manson's presentation, it is my opinion that he does not meet the requirements of Nevada Revised Statute 178.400 and the Dusky Standard for Mental Competency at this time and will need further competency restoration and treatment.

Respectfully submitted,



Shera D. Bradley, Ph.D.
Licensed Psychologist II
Director of Forensic & Civil Psychology



Sarah Damas, Psy.D.
Psychological Assistant

ADJUDICATIVE COMPETENCE EVALUATION

Name: Manson, Tariq [REDACTED]

Date of Birth: [REDACTED]

Date of Final Evaluation: 07/15/2019

Date of Report: 07/24/2019

SUMMARY AND RECOMMENDATIONS:

Mr. Manson is a 19-year-old male who was found incompetent to stand trial and was admitted to Stein Psychiatric Hospital from CCDC, for further evaluation and treatment. He is charged with Sexual Assault with a Minor Under Fourteen Years of Age, a Category A Felony, and three counts of Lewdness with a Child Under the Age of 14, a Category A Felony. He was evaluated for adjudicative competency on July 15th, 2019.

As of the date of the evaluation with regards to the Dusky standard and the Nevada statute, it is my opinion that Mr. Manson does not have the present ability to:

- 1) Understand the nature of the criminal charge against him;
- 2) Understand the nature and purpose of the court proceedings; and
- 3) Aid and assist counsel in his defense with a reasonable degree of rational understanding.

However, there is substantial probability that Mr. Manson can be restored to competency in the near future.

CONFIDENTIALITY:

At the beginning of our meeting, I informed Mr. Manson of the purpose of the examination and reviewed the limits of confidentiality, including the fact that a report would be generated and sent to the court and ultimately given both to his attorney and to the district attorney. He indicated his understanding and agreed to proceed with the evaluation

SOURCES OF INFORMATION:

- Interview of the client on 07/15/2019 at Stein Psychiatric Hospital

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AA 000038

- District Court, Clark County, Nevada, Outpatient Order of Commitment, dated December 31st, 2018
- School Records from Clark County School District, Individualized Education Program
- Competency evaluation by John S. Pacult, LCSW, dated September 6th, 2018
- Competency evaluation by Dr. Charles P. Colosimo, dated November 8th, 2018
- Competency evaluation by Dr. Sunshine Collins, dated December 11th, 2018
- Psychological Assessment by Dr. Lisa Foerster, dated June 22nd, 2018
- Justice Court, Las Vegas Township, Clark County, Nevada, Criminal Complaint, dated April 10th, 2018
- Las Vegas Metropolitan Police Department, Arrest Report, dated February 6th, 2018 and March 30th, 2018

BACKGROUND INFORMATION:

Mr. Manson's personal background information was reviewed and gathered from collateral sources of information as well as the interview itself. Mr. Mason states he has lived in Las Vegas for "nineteen years." He lives with his parents. He has an eleventh-grade education and states he had been in special-education classes since the fourth-grade. He states he tried to get his GED but failed the test. He has not been working since he dropped out of school. He has never been married and has no children. School records indicate a history of a "specific learning disability," as per the Individualized Education program (IEP) dated September 14th, 2018, he had disabilities in "basic reading and reading comprehension, written expression, and math calculations." He was diagnosed with "Borderline Intellectual Functioning" by Dr. Lisa Foerster in her Psychological Assessment dated June 22nd, 2018.

MEDICAL HISTORY:

Mr. Manson denies any medical issues and denies any history of head injuries.

SUBSTANCE USE HISTORY:

Mr. Manson states he has a history of smoking marijuana going back to age thirteen. He would smoke "everyday from ages thirteen to fifteen. He states he has also recently been smoking everyday until a week ago, citing he showed a dirty drug test. He also states he would abuse over-the-counter cold medicines to get high. He denies any other illicit drug use. He denies any alcohol use.

AA 000040

PSYCHIATRIC HISTORY:

Mr. Manson denies any past psychiatric care. He denies taking any psychiatric medications in the past. He denies any past issues with anxiety, mood, or hallucinations. He denies any past suicide attempts.

LEGAL HISTORY:

Mr. Manson had an adjudicative competency evaluation done from a Mr. John S. Pacult on September 6th, 2018. In the evaluation it was opined that Mr. Mason was incompetent to proceed with his case, and Mr. Pacult goes further in saying "Based upon the psychological testing results and after interviewing Mr. Manson and his father, this evaluator also questions if deemed incompetent if Mr. Manson has the ability for restoration due to his severe cognitive deficits and intellectual functioning of an elementary age school child."

On evaluation Mr. Manson states he was first arrested for drug paraphernalia at age seventeen. He states this event led him to being expelled from school.

TREATMENT COURSE AT STEIN OUTPATIENT COMPETENCY RESTORATION:

Mr. Manson was started with outpatient competency restoration with Psychiatric Case Worker Sara Peterson on January 14th, 2019. Mr. Manson appears to have attended classes on a weekly basis on average, though there were occasional no-shows. He appeared to demonstrate some progress in advancement with legal process knowledge. As documented by Ms. Peterson on March 28th, 2019, "Tariq completed the worksheet and answered the questions correctly which shows that Tariq possesses a basic understanding of the judge and jury. After reviewing the criminal complaint, Tariq expressed concerns about his charges but was able to state his charges correctly."

Despite his progress, Mr. Manson clearly demonstrated continued issues with learning difficulties in class. As documented by Ms. Peterson on April 1st, 2019, "Tariq does not demonstrate an understanding of the legal terms and will guess at most questions with answers that are incongruent with the topic of discussion. For example, I asked Tariq who is responsible for deciding guilt and innocence and he responded, "Incompetent. No, I mean guilty." It was also documented on May 14th, 2019, "Tariq demonstrated a poor comprehension of the materials reviewed and requires significant prompting to answer questions regarding plea deals and types of pleas. Tariq was encouraged to review all of his material at home in preparation for his evaluations."

MENTAL STATUS EXAMINATION:

Mr. Manson is a male of average height and build wearing hospital attire with fair hygiene and grooming. He is pleasant and cooperative during the interview. He shows poor to fair eye

AA 000041

contact and speaks softly with a low volume throughout the interview. He denied any auditory or visual hallucinations and did not respond to any unseen stimuli. His thought process was concrete. He reported his mood as "good" but his affect is blunted. He denied suicidal and homicidal ideation.

Mr. Manson was alert and oriented to date, month, year, place and city. His immediate memory was intact to three out of three items, and he was able to recall all 3 of those same items after five minutes. He knew the current president is Trump and could correctly identify the previous president correctly. His insight into his mental health issues was assessed to be fair. His judgment was assessed to be fair by his willingness to comply with the evaluation, as well as his lack of any aggressive behaviors. The possibility of feigning or concealing symptoms was considered. I concluded that Mr. Manson was unlikely at this time to be feigning his symptoms or attempting to purposefully obscure them.

ASSESSMENT OF COMPETENCY TO STAND TRIAL:

I conducted an assessment of the client's ability to understand the nature of the charge against him and the nature and purpose of the proceedings as well as his ability to assist in his defense. Quotations are included where appropriate to exemplify responses but are not meant to be inclusive of the entirety of the dialog.

Assessment of Understanding of Charges and Courtroom Proceedings, and Assessment of Ability to Assist Counsel:

Mr. Manson was able to recite his charges as "Lewdness with a Minor under fourteen" and "Sexual Assault." He identifies he has three counts of the former charge and has one count of the latter." He is able to identify his charges as "serious" and that they are "felonies...A." He states if he is convicted he could "go to prison, like twenty years."

Mr. Manson was able to identify the District Attorney as "prosecutor, find you Guilty." He identifies the term "evidence" as "cell phones, cameras, witness evidence." He identifies the jury as "the verdict, guilty by innocent." When asked to clarify his last statement he says "guilty or not guilty."

Mr. Manson refers to Not Guilty as "didn't do it." He is unable to state what happens next if one pleads Not Guilty. He identifies Guilty as "did it the charge." He is unable to describe the meaning of No Contest.

When asked about a plea bargain Mr. Manson refers to it as "deal to reduce sentence, reduce charges." When asked what possible deal he may want he says "go home." He is otherwise unable to articulate any other kinds of potential deals. He is unable to state what one would plead in order to accept a deal. He is unable to state what rights one would give up in accepting a deal. He is unable to state what he plans on doing with his case.

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Mr. Manson was able to state that he had a Public Defender currently representing him. He states the roles of his Public Defender is to "help me through the court stuff, understand what you are going through." He also states his attorney will "try to get them to say Not Guilty." He states he can help his attorney by "tell[ing] him what he needs to know, tell the truth."

CONCLUSION:

Mr. Manson has a history of Unspecified Intellectual Disability and Cannabis Use Disorder. Although he appears to have made progress in his understanding of his charges and the legal process, he still is unable to formulate any kind of defense strategy at this time, thus preventing him from being able to assist his attorney in his defense. As he appears to have made some progress, this physician currently disagrees with Mr. Pacult's opinion that Mr. Manson may never be able to be restored to competency.

Therefore, it is my opinion with a reasonable degree of medical certainty that although Mr. Manson is not fit to proceed at this time, with adequate and continued assistance Mr. Mason has substantial probability of restoration of competency in the near future.

Thank you for the opportunity to serve the Courts and State of Nevada. This assessment was completed independent of the input of other evaluators. The right is reserved to reappraise and revise statements and conclusions made in this report about Mr. Manson, if additional information is received.

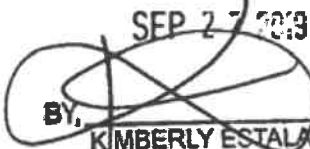


Patrick Bennet, DO

Psychiatrist, Diplomate of the American Board of Psychiatry and Neurology

1 **FIOR**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar # 001565**
5 **CHRISTOPHER J. LALLI**
6 **Assistant District Attorney**
7 **Nevada Bar #005398**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

SEP 27 2019
BY,  **KIMBERLY ESTALA, DEPUTY**

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 **THE STATE OF NEVADA,**
11 **Plaintiff,**

12 **-vs-**

13 **TARIQ MANSON,**
14 **#8235713**

15 **Defendant.**

CASE NO: C-18-335833-1

DEPT NO: VII

C - 18 - 335833 - 1

FIOR

Findings of Incompetency and Order Recor
4886428



16 **FINDINGS OF INCOMPETENCY AND**
17 **ORDER RECOMMITTING DEFENDANT (OUT PATIENT)**

18 **WHEREAS, On December 28, 2018, pursuant to Order of the above-entitled Court, the**
19 **above-named Defendant, TARIQ MANSON, was committed into the custody of the**
20 **Administrator of the Division of Public and Behavioral Health of the Department of Health**
21 **and Human Services or his or her designee to be examined at a secure facility operated by the**
22 **Division or his designee, and**

23 **WHEREAS, Defendant was examined pursuant to NRS 178.455 and the reports of that**
24 **examination having been forwarded to the Court for its review thereof; and the Court in a**
25 **hearing on September 27, 2019, having considered the reports of Doctors Mohammad Asim**
26 **Khan, Shera D. Bradley, and Patrick Bennet, licensed and practicing physicians and/or**
27 **psychiatrists in the State of Nevada, the Court finds pursuant to NRS 178.460(4)(b) that the**
28 **said Defendant TARIQ MANSON: 1) is incompetent to stand trial at this time; 2) that there**
is substantial probability that Defendant will attain competency to stand trial in the foreseeable

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1 future; and 3) the Court further finds that Defendant may constitute a possible danger to the
2 safety of himself and/or society if released from custody/monitoring at this time, and that the
3 recommitment of Defendant is required for a further determination of his ability to attain
4 competence.

5 WHEREFORE, the Court does hereby order pursuant to NRS 178.425 that the
6 Defendant, TARIQ MANSON, be readmitted into the custody of the Administrator of the
7 Division of Public and Behavioral Health of the Department of Health and Human Services or
8 his or her designee for further evaluation, care and treatment and that said Defendant shall
9 report to the said Administrator of the Division of Public and Behavioral Health of the
10 Department of Health and Human Services or his or her designee as an outpatient for
11 treatment; and, it is

12 FURTHER ORDERED that the Administrator of the Division of Public and Behavioral
13 Health of the Department of Health and Human Services or his or her designee, shall, pursuant
14 to the provisions and requirements of NRS 178.450, conduct periodic evaluations of Defendant
15 to determine his future ability to attain competence and then report in writing to this Court, the
16 Clark County District Attorney, and CLAUDIA ROMNEY, Deputy Public Defender whether,
17 in his opinion, the defendant is of sufficient mentality to be able to assist his counsel in the
18 defense interposed upon the trial; and, it is

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1 FURTHER ORDERED that said Defendant, TARIQ MANSON, is to report to the
2 Administrator of the Division of Public and Behavioral Health of the Department of Health
3 and Human Services or his or her designee, until the Court orders his release or until he is
4 returned for trial as provided in NRS 178.450 to 178.465, inclusive.

5 DATED this 27 day of September, 2019.

6
7 
8 JUDGE

9 STEVEN B. WOLFSON
10 District Attorney
Nevada Bar #001565

11
12 BY


13 CHRISTOPHER J. LALLI
14 Assistant District Attorney
Nevada Bar #005398

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C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 27, 2019

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

September 27, 2019 10:00 AM STATUS CHECK: OUTPATIENT RESTORATION

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

Glen O'Brien Attorney for Plaintiff

State of Nevada Plaintiff

Tariq Manson Defendant

JOURNAL ENTRIES

Also present: Denise Baker, Court Coordinator.

CONFERENCE AT BENCH. COURT ORDERED, matter CONTINUED.

BOND (HIGH LEVEL EMP)

CONTINUED TO: 12/27/19 10:00 AM

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 27, 2019

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

December 27, 2019 10:00 AM Status Check

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

Maria Lavell Attorney for Plaintiff

State of Nevada Plaintiff

Tariq Manson Defendant

JOURNAL ENTRIES

COURT ORDERED, matter CONTINUED; Court noted the Defendant is doing well on outpatient restoration.

BOND / HLEM

CONTINUED TO: 2/28/20 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 28, 2020**

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

February 28, 2020 10:00 AM Status Check: Outpatient Restoration

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Also present: Glen O'Brien, Deputy District Attorney, Daniel Page, Deputy Special Public Defender, and Denise Baker of the Specialty Courts. Defendant present.

State advised Defendant is attending treatment however he frequently misses appointments. Mr. Page advised Defendant had some issues with getting bus passes. COURT ADMONISHED Defendant he needs to attend appointments or the State may request a remand at the next hearing. COURT ORDERED, matter SET for Status Check.

BOND (HIGH LEVEL EMP)

05/08/20 10:00 AM STATUS CHECK: OUTPATIENT RESTORATION

Steve Sisolak
Governor

Richard Whitley, MS
Director



DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Division of Public and Behavioral Health
Helping people. It's who we are and what we do.



Lisa Sheryn
Administrator

Ihsan Azzam, Ph.D., M.D.
Chief Medical Officer

March 25, 2020

The Honorable Linda Bell
Eighth Judicial District Court
Courthouse – 200 South Third Street
Las Vegas, Nevada 89155

RE: Tariq Manson
Case#: C-18-335833-1

Dear Judge Bell:

Pursuant to the above court order dated December 31, 2018 (Recommitment date September 27, 2019), Mr. Tariq Manson was evaluated by Drs. Bossi, Damas, and Sussman, and at this time they find that Mr. Manson meets the criteria to be considered competent to proceed with adjudication. Since the client was sent to Stein Forensic Facility Outpatient Restoration Program pursuant to NRS 178.425, three examiner's reports are required. Enclosed you will find copies of the doctors' reports.

If I can provide you with any further information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Cornell".

Stanley Cornell, M.S.
Agency Manager

SC/lh

cc: Glen O' Brien, Deputy District Attorney
Claudia Romney, Attorney for Defendant

Enclosures: Psychiatric Evaluations (2)
Psychological Evaluations (1)

State of Nevada | Division of Public and Behavioral Health
Southern Nevada Adult Mental Health Services | Stein Forensic Facility
Confidential: For Professional Use Only

Adjudicative Outpatient Competency Evaluation

Name: Tariq Manson
Case No: C-18-335833-1
Date of Birth: [REDACTED]
Age: 20 years
Examiner: Sarah Damas, Psy.D.
Length of Evaluations: 60 minutes
Date of Interview: March 11, 2020
Date of Report: March 23, 2020

Opinion Regarding Competency: With reference to the Dusky Standard and Nevada Revised Statute 178.400, it is my opinion that Tariq Manson, as of the date of my evaluation, is seen as **competent to proceed**. Currently Mr. Manson:

- 1) **Does demonstrate** a rational and factual understanding of the criminal charges against him;
- 2) **Does demonstrate** a rational and factual understanding of the nature and purpose of the court proceedings;
- 3) **Does demonstrate** the ability to aid and assist counsel in his defense with a reasonable degree of rational understanding.

Evaluation Procedures:

1. Outpatient panel interview with Mr. Manson along with Eric Bossi, MD and Daniel Sussman, MD at Stein Forensic Facility on March 11, 2020.
2. Review of Records
 - a. Legal Records
 - Las Vegas Metropolitan Police Department, Arrest Report, dates of occurrence February 6, 2018 and March 30, 2018
 - Las Vegas Metropolitan Police Department, Officer's Report, dated April 1, 2018
 - Las Vegas Metropolitan Police Department, Computer Forensics Lab, Examination Report, dated April 5, 2018
 - Las Vegas Metropolitan Police Department, Property Report, dated April 8, 2018
 - Las Vegas Township Justice Court, Amended Criminal Complaint, filed April 16, 2018
 - Clark County Courts, Request for Evaluation(s) for Competency, dated October 24, 2018
 - Clark County District Court, Order of Commitment (Outpatient), dated December 28, 2018 (filed December 31, 2018)
 - Clark County District Court, Findings of Incompetence and Order Recommitting Defendant (Outpatient), filed September 27, 2019

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- b. Pre-commitment Competency Evaluations:
 - Charles P. Colosimo, Ph.D., dated November 8, 2018
 - Sunshine Collins, Psy.D., dated December 11, 2018
- c. Clark County School District Student Services Division Records (Statement of Need for Reevaluation, IEP) dated September 14, 2018
- d. John S. Pacult, LCSW, Inc., Pre-Plea Psychosexual Evaluation, dated September 6, 2018
- e. Lisa M. Foerster, Psy.D., Psychological Assessment, dated June 22, 2018
- f. Previous Stein Competency Evaluations by
 - Patrick Bennet, DO, dated July 24, 2019
 - Mohammad Asim Khan, MD, dated September 16, 2019
 - Shera D. Bradley, Ph.D., dated September 17, 2019
- g. Clark County Courts Civil/Criminal Case Records Online
- h. Division of Public and Behavioral Health Medical and Mental Health Records

Limits of Confidentiality: Mr. Manson was advised the usual doctor/client confidentiality privilege did not apply since he has been court ordered for an evaluation of competency to stand trial. He was informed the information provided during this evaluation would be put into a report, which would be provided to the court. Mr. Manson acknowledged the limits of confidentiality and agreed to participate in the interview.

Reason for Referral/Relevant History

Mr. Manson is currently charged with Sexual Assault with a Minor under Fourteen Years of Age and three counts of Lewdness with a Child Under the Age of 14 (category A felonies) for alleged incidents occurring on or about March 30, 2018. Mr. Manson is accused of having sexual relations with a 13-year-old female. The alleged victim's mother reportedly became aware of their sexual relationship and eventually reported it to the police. Mr. Manson was subsequently arrested. Court minutes indicate he was released on house arrest on April 16, 2018.

On October 24, 2018, Mr. Manson's attorney, Daniel Page, requested competency evaluations due to concern regarding Mr. Manson's ability to understand his charges or allegation, the adversarial nature of the legal process, and the range and nature of the penalties. Drs. Colosimo and Collins opined he was incompetent to proceed. Dr. Collins diagnosed Mr. Manson with Borderline Intellectual Functioning. Dr. Colosimo suggested Unspecified Intellectual Disability and Unspecified Other Substance-Related Disorder for diagnostic consideration.

Mr. Manson was subsequently committed to the Division of Public and Behavioral Health (DPBH) for outpatient competency restoration services on December 28, 2018, pursuant to NRS 178.425(3). He began receiving outpatient services on January 14, 2019. Mr. Manson was evaluated approximately six months later and was subsequently recommitted for additional outpatient competency restoration on September 27, 2019.

Mental Status Examination/Behavioral Observations

Mr. Manson is a 20-year-old African American male who appears younger than his stated age. He was casually dressed and presented with adequate grooming and hygiene. He was polite and cooperative during the interview and rapport was maintained throughout the interview. His eye contact was appropriate and there were no abnormalities in his motor movements. His self-reported mood was "good" and his emotional expression was predominantly euthymic. The rate, tone, and volume of speech were within normal limits and there were no problems with articulation. Mr. Manson's thought process was linear and organized. He appeared fully oriented to person, place, time, and situation. He correctly recalled 3 of 3 words immediately and after a short delay on a short-term memory task. There were no behavioral indicators that Mr. Manson was experiencing internal stimuli during the interview. He denied suicidal and homicidal ideation.

Brief/Relevant Psychosocial History

Mr. Manson's background information was obtained from Mr. Manson himself during this evaluation and from Dr. Shera Bradley's Adjudicative Outpatient Competency Evaluation dated September 17, 2019.

Mr. Manson reported he was born and raised in Las Vegas, Nevada. He stated he has never married and has no children. He reported he resides in an apartment with his mother. He denied a family history of mental illness.

Mr. Manson explained he stopped attending school in the 11th grade. He stated he was enrolled in a behavioral school and had an Individualized Education Plan (IEP). During his previous evaluation (September 17, 2019) Mr. Manson stated he attempted to obtain his General Education Diploma (GED) earlier that year but did not pass the test. Mr. Manson is reportedly unemployed currently and has been employed "in warehouse jobs." However, during his September evaluation, Mr. Manson reported he has never been employed. Records indicate he received Social Security Disability Income during childhood for a learning disability.

Mr. Manson denied any prior psychiatric hospitalizations, psychiatric prescriptions, and outpatient mental health treatment. He denied a history of symptoms of mental illness, including suicidal and homicidal ideation and attempts. Mr. Manson reported he has asthma. He denied a history of head injuries, undergoing surgical procedures, and any other major medical illnesses.

Mr. Manson reported he smoked marijuana daily from 13 to 15 years of age. He indicated he tested positive for marijuana in 2019, which resulted in him being put on house arrest. He denied use of alcohol. He denied the use of all other illicit substances, synthetic drugs, and misuse of prescription drugs. He denied ever participating in substance abuse treatment.

Mr. Manson reportedly was arrested at 17 years of age for possession of paraphernalia. He reported to Dr. Bradley that he was consequently expelled from school, attended court for a few months, and then was "on the run for two years until they caught me." He explained that during that time he did not know he was required to attend court and was eventually identified and

detained by police. He stated he was incarcerated at CCDC for an undetermined amount of time and then his charges were dropped. Mr. Manson is currently on house arrest with a GPS monitor while his current charges are pending.

Review of Records

For a more detailed review of Mr. Manson's records, please see Dr. Shera Bradley's Adjudicative Outpatient Competency Evaluation dated September 17, 2019.

Dr. Foerster's Psychological Assessment

Psychologist Dr. Lisa Foerster completed a psychological assessment of Mr. Manson on June 22, 2018 at the request of his attorney. She administered the Wechsler Adult Intellectual Scales-Fourth Edition (WAIS-IV) and the Wide Range Achievement Test-Fourth Edition (WRAT-4) to assist in her assessment of Mr. Manson's cognitive abilities. Numerous records from Clark County School District were also reviewed.

Based on the WAIS-IV results, Dr. Foerster estimated Mr. Manson's overall IQ was a 67, falling at the 1st percentile when compared to same-aged peers. Borderline intellectual abilities were noted for verbal comprehension, perceptual reasoning, working memory, and processing speed. Based on his WRAT-4 results, Dr. Foerster estimated that Mr. Manson's word reading and sentence comprehension abilities placed him at a fourth-grade level (3rd percentile). Dr. Foerster noted his scores were likely "at least a slight underestimate of his true abilities due to socioeconomic and cultural factors." Dr. Foerster diagnosed Mr. Manson with Borderline Intellectual Functioning and "Learning Disorders, by Records." She explained that Mr. Manson has no prior diagnosis of an intellectual disability and there are no apparent deficits in his adaptive functioning.

Online Search of Clark County Courts Civil/Criminal Case Records

No additional convictions were found for Mr. Manson on the Eighth Judicial District Court, Las Vegas Justice Court, North Las Vegas Justice Court, and Henderson Municipal Court websites.

Current Outpatient Restoration (January 2019 – September 2019)

Mr. Manson attended his first outpatient competency restoration session on January 14, 2019. He completed a legal competency pretest and scored a 30%. Due to his borderline intellectual functioning, Psychiatric Caseworker Sara Peterson implemented the Slater Method, an educational tool used to restore legal competency in lower functioning defendants that uses simplified language and visuals to better explain legal concepts. Ms. Peterson continued to use this method for the rest of their sessions. Ms. Peterson noted that Mr. Manson evidenced poor memory recall and appeared to guess at most of his responses when quizzed on the material.

Mr. Manson continued to demonstrate difficulty with understanding plea bargains and verdicts. His understanding of the plea-bargaining process did not improve, nor did he demonstrate a rational understanding of his legal situation. He was evaluated and opined incompetent to

proceed with substantial probability of future restoration by Drs. Bennet, Bradley, and Khan. He was subsequently recommitted to Stein outpatient restoration for further restoration and evaluation.

September 2019 to March 2020

Mr. Manson continued to attend outpatient competency restoration with Ms. Peterson on a weekly basis. On October 7, 2019, he was administered a pretest assessing legal knowledge and scored an 83 percent. The following week, Mr. Manson met with his new Psychiatric Caseworker Juli Gundle, who coincidentally administered the pretest again resulting in a score of 82 percent. Ms. Gundle consistently noted that Mr. Manson was cooperative and participated in each session. On November 21, 2019, Ms. Gundle reviewed a study guide with Mr. Manson and noted he “was able to accurately answer all questions regarding pleas, plea bargain, charges and outcomes and the responsibilities of people in the courtroom.” On February 27, 2020, Ms. Gundle noted that during the session Mr. Manson asked for a pen and paper so he could take notes and offered appropriate responses when asked how he might proceed if offered a plea bargain in the role play.

Diagnostic Impression

- Borderline Intellectual Functioning

Adjudicative Competence Assessment

According to *Dusky v. United States* (1960), defendants must have “sufficient present ability to consult with his attorney with a reasonable degree of rational understanding and a rational as well as factual understanding of the proceedings against him.”

Nevada Revised Statute 178.400 specifies that an individual cannot be tried or adjudicated while incompetent. In order to be considered competent according to NRS 178.400 a person must have the present ability to:

- (a) Understand the nature of the criminal charges against them;
- (b) Understand the nature and purpose of the court proceedings; and
- (c) Aid and assist their counsel in their defense at any time during the proceedings with a reasonable degree of rational understanding.

Mr. Manson reported he is currently charged with “sexual assault with a minor under 14 and lewdness with a minor under 14, three times.” He stated the charges are all category A felonies. He stated a felony conviction carries “one year to life” in prison. He provided a brief description of events that were similar to the arrest report. Mr. Manson demonstrated an understanding of the severity of his charges. He was educated on the definition of consensual.

Mr. Manson correctly listed the potential pleas entered in court (guilty, not guilty, no contest, “NGRI,” and guilty but mentally ill). He listed the potential verdicts as guilty and not guilty. When asked how someone could get an innocent verdict, he replied, “plead not guilty.” Mr.

Manson demonstrated an understanding of guilty and not guilty. He identified the plea of no contest as “not saying you did or didn’t do it.” Dr. Sussman educated him on the definitions of NGRI and guilty but mentally ill.

Mr. Manson listed the judge, jury, district attorney, and public defender as the key people in the courtroom. He indicated the public defender is there to help him and the district attorney is “against me.” He stated the role of the jury is to “see if you’re guilty or not guilty.” He stated the judge and the jury are both neutral.

Mr. Manson described a plea bargain as “the DA gives you a bargain...to reduce charges” He stated he must plead guilty or no contest in order to accept a plea deal. Mr. Manson provided rational responses when given hypothetical plea bargain scenarios (i.e., he would not agree to having to register as a sex offender for the rest of his life or many years in prison).

Mr. Manson indicated he did not know if the prosecutor has any potential evidence against him. He was unsure when asked if the note he allegedly wrote to the alleged victim’s mother could be used against him and was educated on evidence.

Mr. Manson identified his attorney as “Daniel Page” and that he has met with Mr. Page “like five times.” He agreed that it is important to tell his attorney the truth. He indicated he would talk to his attorney if he did not understand something in court and if a witness is lying about him on the stand. Mr. Manson understood that information he tells his attorney is confidential.

Summary and Conclusion

Mr. Manson is a 20-year-old African American male who was referred to outpatient competency restoration services at Stein Forensic Facility in December 2018. He is currently charged with Sexual Assault with a Minor under Fourteen Years of Age and three counts of Lewdness with a Child Under the Age of 14 (category A felonies) for alleged incidents occurring on or about March 30, 2018. He was referred to competency on October 24, 2018 by attorney Daniel Page and was subsequently opined incompetent by Drs. Colosimo and Collins. He was committed to the Division of Public and Behavioral Health (DPBH) on December 28, 2018, pursuant to NRS 178.425. He began attending outpatient competency restoration services in January 2019.

Mr. Manson does not have an apparent mental illness. According to school records, he was diagnosed with learning disorders throughout his schooling and was placed in special education classes. Dr. Lisa Foerster completed a psychological assessment of Mr. Manson in 2018, which suggested that Mr. Manson’s cognitive abilities were in the borderline range of functioning.

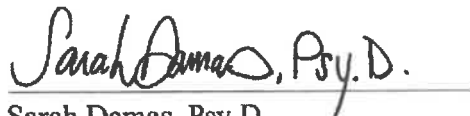
During the first six months of legal competency sessions, Mr. Manson appeared to have a simplistic understanding of his charges and basic legal concepts. However, he often appeared to guess at most questions when quizzed on the material and it was apparent, he was not fully retaining the information. During his evaluations, he continued to demonstrate deficiencies in his

rational understanding of the plea-bargaining process and how to proceed with his case. Since his recommitment, Mr. Manson has been attending competency restoration sessions twice per week and has demonstrated much improvement.

During his evaluation, Mr. Manson demonstrated a rational understanding of his charges, the severity of his charges, and the impact of his decisions if offered a deal. While Mr. Manson has consistently been polite and cooperative, he is hesitant to ask questions when he does not understand a term or a concept. Given his apparent polite and acquiescent nature, Mr. Manson may also be hesitant to seek help from his attorney in understanding concepts he does not understand. At the end of his evaluation, Mr. Manson was advised to write down questions he may have for his attorney prior to meeting with him and was encouraged to take notes during any future interactions with his attorney. Likewise, his attorney can assist Mr. Manson by explaining terms simply and checking to ensure he understands what is being presented.

Given Mr. Manson's presentation, it is my opinion that he meets the requirements of Nevada Revised Statute 178.400 and the Dusky Standard for Mental Competency at this time.

Respectfully submitted,

A handwritten signature in black ink that reads "Sarah Damas, Psy.D." The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Sarah Damas, Psy.D.
Licensed Psychologist I

COMPETENCY EVALUATION

Date of Report:
March 11, 2020

Name: Tariq Manson
Medical Record Number: [REDACTED]
Date of Birth: [REDACTED]
Date of Evaluation: 3/11/20
Prepared By: Eric Bossi, MD

Identifying Data/Reason for Evaluation:

Tariq Manson is a 19-year-old male charged with one count of Sexual Assault with a Minor Under Fourteen (A felony) and three counts of Lewdness with a Child Under Fourteen (A felony) for events alleged to have occurred on or around March 30, 2018. Mr. Manson was found incompetent to stand trial and was referred to the Stein Hospital outpatient restoration program pursuant to NRS 178.425 on or around December 16, 2018.

Examination Procedure:

I evaluated Mr. Manson at Rawson Neal Hospital (C pod) for approximately 60 minutes on March 11, 2020 with Drs. Damas and Sussman. Prior to the onset of the interview, Dr. Sussman informed Mr. Manson about the nature and purpose of the evaluation and the limits of confidentiality involved. He also explained that we would prepare written reports which would be shared with the Court. Mr. Manson stated he understood these issues and was willing to proceed.

Collateral Information Reviewed:

1. Outpatient competency restoration progress notes from January 14, 2019 to March 11, 2020.
2. Legal file including order of commitment and arrest reports.
3. Competency evaluation by Shera Bradley, PhD dated September 17, 2019.
4. Competency evaluation by Mohammad Khan, MD dated September 16, 2019.
5. Competency evaluation by Patrick Bennet, DO dated July 24, 2019.
6. Competency evaluation by Sunshine Collins, PsyD dated December 11, 2018.
7. Competency evaluation by Charles P. Colosimo, PhD dated November 8, 2018.
8. Pre-plea psychosexual evaluation by John S. Pacult, LCSW dated September 6, 2018.
9. Psychological assessment by Lisa Foerster, PsyD dated June 22, 2018.

COMPETENCY EVALUATION

Summary of Previous Competency Reports:

Dr. Bradley noted that Mr. Manson possessed a basic understanding but did not have a rational understanding of how to proceed with his case.

Dr. Khan felt Mr. Manson had a limited understanding of more complex court processes and did not have the ability to aid and assist counsel.

Dr. Bennet wrote that Mr. Manson was unable to formulate any sort of defense strategy and therefore could not assist in his defense.

Dr. Collins felt that Mr. Manson was not competent to stand trial and had limited factual knowledge of courtroom proceedings.

Dr. Colosimo wrote "The defendant does not have the ability to understand the procedural capacity."

Summary of Psychological Assessment:

Dr. Foerster noted that Mr. Manson had received special accommodations for a learning disability in school and received special speech and language services. Dr. Foerster performed psychological testing which indicated Mr. Manson's full-scale intelligence quotient (IQ) was 67 which placed him in the "extremely low" range and was suggestive of "severe cognitive deficits." Mr. Manson was also noted to have moderate-severe to severe deficits in verbal comprehension, perceptual reasoning, working memory, and processing speed. Mr. Manson was also assessed to have word reading and sentence comprehension abilities at approximately a 4th grade level.

Brief Background Information:

Mr. Manson currently resides with family and is unemployed. He is currently pursuing a high school equivalency certificate. Mr. Manson stated during our interview that he left school in the 11th grade where he had been earning "C and D" grades and had struggles with reading and writing. He stated he had done some warehouse work in the past and presently resided with his parents.

COMPETENCY EVALUATION

Substance Use

Mr. Manson reported weekly marijuana use to Dr. Foerster. Mr. Manson denied any alcohol or drug use during our interview.

Psychiatric History

There are no records of past admissions to Rawson Neal Hospital, Stein Hospital, or Lakes Crossing Center. Dr. Collins's report notes that Mr. Manson and his father reported that he has never been diagnosed with nor treated for a mental health condition. Mr. Manson reported no mental health history during our interview.

Legal History

Mr. Manson has no known previous criminal history.

Outpatient Restoration Course:

On January 14, 2019 Mr. Manson scored a 30% on a written test designed to assess his baseline legal knowledge. Records indicate that Mr. Manson had good attendance at outpatient competency restoration classes and showed effort but had struggles with understanding and retaining factual information related to the legal system. On October 7, 2019 Mr. Manson scored 83% on the written test of legal knowledge administered during outpatient restoration.

Current Psychiatric Medications as of March 11, 2020:

None

Diagnostic Impression:

Borderline Intellectual Functioning

COMPETENCY EVALUATION

Mental Status Examination on March 11, 2020:

Mr. Manson was dressed in clean, casual clothing and had overall good hygiene. He was calm and cooperative with the evaluation and put forth good effort. He was aware of the current month, date, and year. He knew the current and one previous United States president. He correctly remembered the names of three objects after a delay of several minutes and distraction with other questions. He struggled with basic mathematical calculations. He reported being in a "good" mood but had generally subdued facial expressions. He was rather soft-spoken. His thinking was organized and logical. He did not exhibit any signs that he was hallucinating. He did not express any odd or unusual beliefs. He had a somewhat simplistic vocabulary and appeared of below-average intelligence. His insight and judgment regarding his legal situation appeared intact.

Specific Competency Areas:

Mr. Manson stated he is charged with "sexual assault with a minor under 14 and lewdness with a minor under 14 three times." He stated the charges are "felony category A" and carry a possible sentence of "one year to life." He offered a rational account of the alleged offenses.

Mr. Manson described a guilty plea as "you did it" and stated a not guilty plea would result in going to trial. He described a no contest plea as "not saying you did it or didn't do it."

Mr. Manson described a plea bargain as "the DA gives you a bargain for reduced charges." He later stated a plea bargain could also result in a lower sentence. He stated accepting a plea bargain required pleading "guilty or no contest." He rationally described some elements he felt would be favorable in a plea bargain.

Mr. Manson stated the district attorney would "try to prove me guilty" while the public defender would assist him. He stated the judge is "neutral" and the jury would "see if you're guilty or not guilty." Mr. Manson rationally discussed some possible risks of taking a case to trial.

Mr. Manson stated his attorney is "Daniel Page" and indicated they had met "about five times." He stated he trusted his attorney and would follow his advice. He stated the best way to help his attorney would be "sit down and talk to them."

COMPETENCY EVALUATION

Mr. Manson provided some examples of possible witnesses and evidence in his case and stated he did not have to testify if his case went to trial. He stated he knew that information discussed with his attorney would remain confidential.

Mr. Manson accurately described proper courtroom behavior and stated violating the rules of courtroom decorum could result in "contempt of court."

Forensic Opinions and Discussion:

It is my opinion, with a reasonable degree of medical certainty, that Mr. Manson is able to understand the nature of his criminal charges and the nature and purpose of the proceedings against him, and he is able to assist his attorney in his defense with a reasonable degree of rational understanding.

The following findings support that Mr. Manson is presently capable of understanding the nature of his criminal charges and the nature and purpose of the proceedings against him:

1. He is aware of his charges and their severities. He offered a rational account of the alleged offense.
2. He understands the range and nature of the possible penalties if convicted.
3. He has a realistic appraisal of the defenses available to him, including the potential pleas of guilty, not guilty, and no contest.
4. He was able to outline a plea bargain and would be able to rationally weigh the risks and benefits of a plea bargain, if available, with attorney assistance and advice.
5. He understands the roles and objectives of various courtroom participants including the judge, prosecutor, defense attorney, witnesses, and jury.
6. He understands the concept of evidence.
7. He understands the adversarial nature of the courtroom proceedings.

The following findings support that Mr. Manson is presently capable of assisting his attorney in his defense with a reasonable degree of rational understanding:

COMPETENCY EVALUATION

1. Based on my interview, he demonstrated the capability to adequately relate to and communicate with others. He did not exhibit any gross or substantial deficits in his thought process or communication abilities.
2. He is able to plan a legal strategy with the assistance of his attorney, and he stated he would follow his attorney's advice and felt his attorney was trustworthy.
3. He has learned the content presented in competency groups as evidenced by improvement in his written test score from 30% to 83%. This demonstrates that he has the capacity to comprehend and follow instructions as well as learn and retain material.
4. He has no self-defeating motivations.
5. He understands proper courtroom decorum.

In summary it is my opinion, with a reasonable degree of medical certainty, that Mr. Manson is able to understand the nature of his criminal charges and the nature and purpose of the proceedings against him, and he is able to assist his attorney in his defense with a reasonable degree of rational understanding. Despite his intellectual limitations, Mr. Manson has a basic but fundamental understanding of courtroom procedures and has no gross or substantial deficits in the abilities necessary to assist counsel. He will benefit from having discussions conducted using simple terms and concepts to aid his understanding.

Respectfully Submitted,



Eric Bossi, M.D.
Forensic Psychiatrist
Board Certified in General Psychiatry
Southern Nevada Adult Mental Health Services

Daniel Sussman, M.D., Esq., MBA

ABPN Certified Psychiatrist

4205 Mont Blanc Way

Mt. Charleston, Nevada 89124

(702) 493-5203 (cell)

COMPETENCY TO STAND TRIAL – INDEPENDENT EVALUATION
SNAMHS Outpatient Restoration Program

Patient Name: Tariq Manson

MR #: [REDACTED]

Date of Birth: [REDACTED]

Date of Admission: 12/16/2018

Date of Final Evaluation: 3/11/2020

Date of Report: 3/22/2020

SUMMARY AND RECOMMENDATIONS:

Mr. Manson is a 20 year old AA male who was found incompetent to stand trial and was admitted to SNAMHS Outpatient Restoration Program from the Eighth Judicial District Court of Clark County for further evaluation and treatment on 12/16/2018. He is charged with Sexual Assault With A Minor Under 14; Lewdness With a Child Under Age 14 (3X, Felony A).

It is my opinion with reasonable degree of medical certainty that Mr. Manson, as of the date of my evaluation, in spite of some persistent cognitive deficits, has the present ability per the Dusky standard to:

- 1) Understand the nature of the criminal charge against him;
- 2) Understand the nature and purpose of the court proceedings; and
- 3) Aid and assist counsel in his defense with a reasonable degree of rational understanding.

Hence he has been restored to competency. Malingering is not suspected. In order to maintain the improvement that Mr. Manson has made, he should be monitored by the appropriate clinical personnel.

STATEMENT OF INFORMED CONSENT:

Prior to beginning the evaluation, Mr. Manson was advised of the purpose of this evaluation. The limits of confidentiality were reviewed, particularly regarding that this report

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would be distributed to the Court, and both his attorney and the district attorney. He was informed that the usual doctor/patient relationship did not exist. His comments during the discussion of these issues indicated that he understood the limits of confidentiality and the purpose of the evaluation.

SOURCES OF INFORMATION:

1. Patient Interview 3/11/20 at SNAMHS Forensic Psychiatric Unit (50 minutes)
2. Review of SNAMHS Forensic Psychiatric Unit medical chart.
3. Criminal Complaint Filing – not in records.
4. Arrest Report 4/1/18
5. Referral for Competency Evaluation from Public Defender 10/24/18
6. Competency Evaluation Charles Colosimo, Ph.D. 11/8/18
7. Competency Evaluation Sunshine Collins, Psy.D. 12/6/18
8. Psychological Evaluation Lisa Foerster, Psy.D. 6/25/18

FORENSIC POSTURE:

Charged with Sexual Assault With A Minor Under 14; Lewdness With a Child Under Age 14 (3X, Felony A).

Per the Arrest Report:

The mother of a missing 13 year old girl reported to LVMPD that the girl was at the residence of her 18 year old boyfriend, and that the two had had sex. The girl told LVMPD that the defendant was her boyfriend and that they had had sex. The defendant also told an Officer that they were sexually active.

The girl noted that they had met on Facebook in September 2017 and started dating January 2018. She reported that they had unprotected intercourse on 2/6/18 and 3/30/18. The girl's mother was aware of the relationship and disapproved. The defendant stated that the girl had stayed at his house after her mother kicked her out. He wrote an apology letter to the girl. The girl's accounting of events was consistent with the defendant's.

COMMITMENT POSTURE:

Public Defender Daniel Page believed the defendant was unable to:

- Understand the charges or allegation;
- Understand the adversarial nature of the legal process;
- Understand the range and nature of the penalties

Dr. Colosimo deemed him incompetent based on inability to (1) understand charges, (2) understand court proceedings, and (3) assist counsel. Malingering was not suspected. Diagnosis was Unspecified Intellectual Disability; and Unspecified other substance-related disorder. Dr. Colosimo noted the defendant's communication to be tangential and circumstantial.

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Dr. Collins deemed him incompetent based on inability to (1) understand charges, (2) understand court proceedings, and (3) assist counsel. Malingering was not ruled out. Diagnosis was Borderline Intellectual Functioning.

Dr. Foerster noted that his intellectual functioning measured in the Borderline range on the WAIS-IV (2nd-4th percentile.). His Full Scale IQ was 67. Dr. Foerster diagnosed Borderline Intellectual Functioning; and Learning Disorder, by Records.

PAST PSYCHIATRIC HISTORY:

Inpatient: negative.

Outpatient: Stein O/P Adjudication for 1 year for competency restoration. Pre-test 30% → 78%.

Suicidality / Self-Injurious behavior: negative.

Past Diagnosis: Defendant denies. See evaluations *supra*.

Family Psychiatric History: negative.

Trauma: negative. Witnessed a stabbing while in the laundry room of his apartment complex, but denied PTSD symptoms.

Past Psychotropic Medication: none.

Substance Abuse: Denies h/o cannabis, alcohol, Rx abuse, illicit, or tobacco.

PAST MEDICAL AND SURGICAL HISTORY: Asthma (controlled).

LABS: none in records.

ALLERGIES: NKDA

CURRENT MEDICATIONS: Proventil MDI PRN.

SOCIAL HISTORY:

Legal: no prior convictions.

Relations / Children: Never married, no children, no S.O.

Education: Left 11th grade after transferring from "behavior school". He had several failing grades when withdrawing from school with whereabouts unknown on 1/20/17. IEP throughout due to trouble with reading, mathematics and writing.

Occupational: Minimal employment history; brief h/o warehouse jobs. He received SSDI as a young child for the learning disability.

Residence: Lives with parents in LV.

Developmental (per Dr. Foerster): He was born healthy, but his mother smoked cigarettes during pregnancy. He walked and talked around the age of 3. Raised with both parents with a

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younger brother from his parent's union. Has four older half siblings. Family h/o financial instability and parental employment changes resulting in multiple residential relocations and school transfers. He tends to interact mostly with his family, but has developed a few friendships. Tends to be quiet and slow to warm up to people due to fears of embarrassment. He went to behavioral school twice for possession of fireworks and possession of a marijuana pipe on school property. He began skipping some classes in high school. He did not have behavioral problems at home.

TREATMENT COURSE AT SNAMHS OUTPATIENT RESTORATION PROGRAM:

He has been attending competency restoration sessions in that program since 1/14/2019. Since 11/19/19 he has attended 31 competency restoration groups, and missed two sessions. Notes indicate that he has been cooperative and participating in the groups.

MENTAL STATUS EXAM:

General: Alert, cooperative, attentive, good Eye Contact, no PMA/PMR. Dr. Damas and Dr. Bossi present.

Speech: Conversant, normal rate/rhythm/volume.

Mood/affect: "good", euthymic, full. No passive death wishes/SI/HI.

Symptom Review: Denies racing thoughts or hyperactivity. Denies euphoria, irritability, anger, mood swings, or depression. Sleep and appetite good. Exercises BIW x 3 hours.

Thought process /content: Denies hallucinations or delusions. No formal thought disorder.

Insight: fair.

Judgment: good.

Impulse Control: good.

Intelligence: mildly-moderately below average.

Cognition:

Alert and Oriented x 4

Short Term Recall: 3 of 3 at 5 minutes.

Fund of Knowledge: poor-fair (last 2/6 Presidents).

Abstraction: good.

Serial 7's: poor (98).

Long Term Recall: poor-fair.

COMPETENCY BASED EVALUATION:

Ability to comprehend charges, sentencing, and court proceedings:

- *Ability to understand criminal charges:* with excellent self-recital.
- *Awareness of misdemeanor/felony class and possible range of sentences:* excellent.
- *Ability to understand possible pre-trial pleas:* with good self-recital.

- *Ability to understand and differentiate possible trial outcomes:* with fair self-recital. Aware of risks of going to trial.
- *Awareness of Not Guilty by Reason of Insanity pleas/outcomes:* with poor self-recital. Poor retention at first when explained. Retention subsequently poor-fair.
- *Ability to understand plea bargaining:* with good self-recital.
- *Understanding of the role of Judge, Public Defender, and Prosecutor:* with excellent self-recital.

Ability to assist in his own defense:

- *Willingness to cooperate with defense counsel and follow advice:* Good stated intent.
- *Awareness of encounters with counsel:* IDs P.D. Page by name and states they met 5 times.
- *Ability to appraise the legal defenses available:* Poor self-recital. Fair self-recital.
- *Likelihood of appropriate courtroom deportment:* Good stated intent.
- *Ability to assist counsel with pertinent and plausible accounting regarding his behavior and whereabouts at time of arrest:* Good spontaneous recital of allegations. "At that time I didn't know I was violating the law."
- *Capacity to testify relevantly, and challenge prosecutorial evidence/witnesses:* Poor-fair. The defendant is yet to consider exoneratory defenses.

DSM5 DIAGNOSTIC IMPRESSION:

Borderline Intellectual Functioning
h/o Unspecified Learning Disorders

FURTHER RECOMMENDATIONS:

- 1) **COMPETENT:** regarding ability to understand charges and court proceedings, and to assist in his own defense per the Dusky standard.
- 2) **Malingering Potential:** none.
- 3) **Psychotropics recommended:** none.
- 4) **Could benefit from further brief procedural competency training.**



Daniel Sussman, M.D., Esq., MBA
Diplomate of the American Board of Psychiatry & Neurology
Contracting Psychiatrist
Southern Nevada Adult Mental Health Services

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C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 03, 2020

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

April 03, 2020 10:15 AM Further Proceedings: Competency-Return From Stein

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Daniel R. Page

Attorney for Defendant

JOURNAL ENTRIES

Also present: Glen O'Brien, Deputy District Attorney, Claudia Romney, Deputy Public Defender, and Denise Baker of the Specialty Courts. Defendant present.

Mr. Page advised there are some concerns and requested a continuance. Colloquy regarding Defendant's custody status. COURT ORDERED, Defendant's bond REINSTATED with Medium Level Electronic Monitoring and no contact with victim or internet access; matter CONTINUED.

BOND/MID LEVEL EMP

CONTINUED TO: 06/05/20 10:00 AM

Steven D. Grierson

ORDER

Linda Marie Bell
District Court Judge, Department VII
200 Lewis Avenue
Las Vegas, Nevada 89155
(702) 671-4344

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

Tariq Mason,
ID #8235713,

Defendant.

Case No: C-18-335833-1

Dept No: 7

**ORDER TO TRANSPORT DEFENDANT FROM SOUTHERN NEVADA ADULT
HEALTH RAWSON-NEAL PSYCHIATRIC HOSPITAL**

TO: SOUTHERN NEVADA ADULT HEALTH RAWSON-NEAL
PSYCHIATRIST HOSPITAL AND/OR CLARK COUNTY DETENTION
CENTER:

WHEREAS, on the 31st day of December, 2018 (Recommitment date September 27, 2019) pursuant to Order of the above-entitled Court, you were directed to transport the above-named Defendant to the custody of the Division of Mental Health and Developmental Services of the Department of Human Resources, or his designee, for necessary care and treatment; and,

WHEREAS, the Defendant having been examined by Drs. Bossi, Damas, and Sussman pursuant to NRS 178.455, with the reports of that examination being forwarded to the Court for its review thereof;

IT IS ORDERED that you, the Sheriff of Clark County and/or designee(s) of the Division of Mental Health and Developmental Services of the Department of Human Resources, are hereby ordered to transport the Defendant from the Southern Nevada Adult

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RECEIVED

APR 27 2020

CLERK OF THE COURT

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1 **Health Rawson-Neal Psychiatric Hospital**, Clark County, Nevada, to the Clark County
2 Detention Center, Las Vegas, Nevada, by Friday, April 3, 2020 at 10:00 a.m. when further
3 proceedings have been scheduled by the Court in this matter.

4 IT IS FURTHER ORDERED that the Sheriff of Clark County, Nevada, shall accept
5 and retain custody of said Defendant in the Clark County Detention Center pending
6 completion of proceedings in the above-captioned matter, or until the further Order of this
7 Court, and that you continue the course of treatment of the Defendant as prescribed by the
8 Administrator of the Division of Mental Health and Developmental Services of the
9 Department of Human Resources or his designee.

10 DATED: March 25, 2020

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12 LINDA MARIE BELL
13 DISTRICT JUDGE
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AA 000071



NEUROPSYCHOLOGICAL AND COMPETENCY EVALUATION

Patient Name: Tariq Manson

Dates of Examination: September 26th, 2019 and April 23rd, 2020

Date of Report: May 29, 2020

Place of Examination: Clark County Special Public Defender's Office

Examiner: Sharon Jones-Forrester, Ph.D.

Referral Source: Daniel Page, Esq., Chief Deputy Special Public Defender

THE CONTENTS OF THIS REPORT ARE STRICTLY CONFIDENTIAL AND ARE NOT TO BE REPRODUCED OR DISSEMINATED IN WHOLE OR IN PART BY ANY MEANS WITHOUT WRITTEN CONSENT OF THE PATIENT.

Tariq is a 20-year-old [REDACTED] right-handed young man on house arrest for two counts of sexual assault with a minor under 14. A neuropsychological evaluation was requested to assist in understanding his overall neurocognitive and intellectual functioning, and psychosocial and medical history to assess any clinical factors that may be pertinent to his case. A review of records follows the body of this report.

Informed Consent

I informed Tariq that the present evaluation was requested by his defense attorney. I explained the limits of confidentiality and the importance of effort in this forensic context. He agreed to continue with the interview and evaluation, having had the limitations explained to him, and after being given an opportunity to discuss concerns, and ask any questions.

Opinion Regarding Competency:

With reference to the Dusky Standard and Nevada Revised Statute 178.400, it is my opinion that Tariq Manson is not competent to proceed. Currently, Tariq:

- 1) Does not demonstrate a rational and factual understanding of the charges against him;
- 2) Does not demonstrate a rational and factual understanding of court proceedings;
- 3) Does not demonstrate the ability to aid and assist counsel in his defense with a reasonable degree of factual and rational understanding.

Competency Related Concerns:

It should be stated that neuropsychological evaluation examines intellectual, neurocognitive, and psychological functioning comprehensively, and thus includes neurocognitive testing over and above what would typically be included in competency evaluation alone. Significant intellectual and neurocognitive disability can undermine competency, and do so in this case. As such, I first assessed Tariq's competency independently on 09/26/19, in addition to his neuropsychological evaluation on this date. Competency related concerns noted on this 09/26/19 evaluation are discussed below.

After this, I met with Tariq and his defense attorney, Deputy Special Public Defender Daniel Page on 04/23/20 via videoconferencing due to the Covid-19 crisis to directly observe their interactions in order to assess Tariq's ability to consult with counsel and assist in his defense with a reasonable degree of factual and rational understanding. Tariq and his attorney met face to face in the same location, utilizing CDC Guidelines with regard to appropriate safety and social distancing precautions, whereas I observed their interaction via telehealth videoconferencing. During this meeting, I was able to specifically assess Tariq's abilities across multiple areas of legal knowledge during his direct interactions with his attorney, and results of this 04/23/20 competency evaluation will be discussed below.

Competency Concerns Noted in his September 26, 2019 Neuropsychological and Competency Evaluation:

Given the results of his 09/26/19 neuropsychological evaluation, I am concerned that Tariq does not meet the Dusky Standard and Nevada Revised Statute 178.400, and is not competent. His significant intellectual and neurocognitive disabilities are markedly undermining his understanding of the charges against him, understanding of court proceedings, and ability to aid and assist counsel in his defense with a reasonable degree of rational understanding. Specifically, results of his neuropsychological evaluation demonstrate that Tariq has intellectual disability, poor comprehension skills, and struggles with understanding complex legal information. He reads at the 2.3 grade level, has learning disabilities over and above what would be expected from intellectual disability alone, and will have significant difficulty understanding verbal and written information that is presented to him. He has a good rapport with his defense attorney, states that he is comfortable admitting when he does not understand information, and willingly asks for clarification and repetition of information. He also admitted that when he asks his attorney for clarification, he will continue to struggle with understanding, and will then ask his father to further explain information, likely leading to further confusion for him. It should also be noted that his intellectual disability will clearly limit his ability to accurately identify when he has failed to understand, and to appreciate the consequences of misunderstanding legal information. Each of these will pose an ongoing significant barrier to his ability to meaningfully engage in his defense, and effectively advocate for himself when he may have misunderstood information, or is unsure of the consequences of his legal decisions.

With regard to his charges, he was able to concretely state his charges, but not explain them. For example, he was unable to articulate the difference between lewdness and sexual assault and demonstrated significant difficulties understanding general concepts related to sexual information and decision making in general terms. Tariq's comprehension difficulties with regard to understanding the legal aspects of sexual relationships and consent were strongly consistent with those that have been found in research with individuals with intellectual disability (Griffiths & Fedoroff, 2009; McGuire & Bayley 2011; O'Callaghan & Murphy 2007). When asked about sentencing structure in the context of these charges, Tariq had significant difficulty with providing information about the range of sentencing or how this would be determined.

When asked about court proceedings, he first demonstrated significant difficulty with understanding the nuances and complexity of the roles played by various members of the legal community. For example, he accurately but concretely defined the role of the defense as "to help me with my case" by "telling me what to do and not to", but was unable to elaborate on this. He defined the role of the prosecution as to "find me guilty". He defined the role of the judge as to "read my case", but was unable to elaborate on what he meant by this. With prompting, he described that the judge would either sentence him or give him a deal, but had difficulty identifying what either of these terms meant. He defined the role of the jury as to "serve me". When asked for clarification about what he meant by "serve me" with regard to the jury, he replied "serve me" for him meant "it's like sentence but serve" and explained that it meant that the jury would give him probation or house arrest. He was unable to identify the role of the jury conceptually. When asked about his own role, he identified this as "help my lawyer get to know me better in some type of way" but was unable to provide any additional details about this, and was unable to independently generate any ways in which he could assist counsel in his defense. He also demonstrated a very concrete understanding of court proceedings and appropriate behavior in court. For example, he was able to accurately identify that he should be quiet and still, but also stated "don't say nothing" and had difficulty even with prompting identifying the exceptions to not speaking or potential consequences of failing to identify how to appropriately alert his attorney if he believed that something in the proceeding was factually inaccurate.

Overall, his intellectual disability, learning disabilities, and significant neurocognitive deficits are likely to interact in a manner that would significantly compromise his ability to understand and process legal information. Specifically, he will tend to be very concrete, easily confused, and will have marked difficulty understanding nuanced or complex information. He will tend to be gullible and easily manipulated, has extremely slow processing, has poor expressive and receptive language skills, and will significantly struggle with reasoning, problem-solving, and thinking through the consequences of his actions and responses. As such, he will be very vulnerable to misunderstanding information, and may also readily agree to information that he has entirely misunderstood. Each of these difficulties will be more pronounced when he is stressed, rushed, anxious, in unfamiliar situations, or when information is presented to him in a rapid and complex manner. Ultimately, it is highly likely that his intellectual disability, learning disabilities, and significant neurocognitive deficits will negatively impact his ability to understand legal information and the legal consequences of his actions, statements, and decisions with a reasonable degree of factual and rational understanding. His intellectual disability and neurocognitive deficits are expected to be lifelong and are not amenable to restoration. His significant

learning disabilities over and above what would be expected from his intellectual disability alone, while potentially amenable to improvement through educational interventions, will also continue to be clearly limited by his intellectual disability. His intellectual disability, learning disorders, and neurocognitive deficits are not amenable to improving to the point where they would not be expected to render significant day-to-day functional impairment in competency for him. It is hoped that this evaluation will be of assistance for his defense attorney and the court in further considering how his intellectual disability, learning disabilities, and neurocognitive deficits may ultimately impact his ability to understand legal information and participate in his defense with a reasonable degree of factual and rational understanding. Given the severity of these concerns, direct observation of Tariq's interactions with his attorney were also recommended. As such, I then met with Tariq and his defense attorney, Deputy Special Public Defender Daniel Page on 04/23/20 via telehealth videoconferencing, as outlined on page 1 above to specifically assess Tariq's abilities across multiple areas of legal knowledge during his direct interactions with his attorney. Results of this are discussed below.

Competency Concerns Noted in his Direct Interactions with his Attorney April 23, 2020:

During this meeting, I was able to specifically assess Tariq's abilities across multiple areas of legal knowledge during his direct interactions with his attorney. Specifically addressed areas of legal knowledge included his knowledge of his charges and facts of his case, understanding of the roles of members of the legal community and court proceedings, understanding of sentencing structure, understanding of offers and negotiation processes, understanding and retention of counsel's advice, ability to weigh the possible outcomes of going to trial and to weigh the relative strength and weakness of evidence and witnesses against him, and ability to appreciate the adversarial nature of the legal process. Each of these areas are discussed separately below for organizational purposes, although they are all mutually influential with regard to the limits posed by his significant intellectual and neurocognitive disabilities.

With regard to his ability to accurately recall and relate facts of his case and charges, Tariq was unable to accurately report important facts related to the detailed facts and timeline of the case. More concerning, in his interactions with his attorney, he continued to have clear confusion about key aspects of charges, despite repeated efforts to assist him with this. For example, he was unable to understand the meaning of the word consent. In fact, when asked to provide the meaning of the word consent, he demonstrated clear misunderstanding, replying "consent is forcing somebody". He is now able to concretely identify an understanding that it was illegal to engage in sexual activity with a minor, after going through competency restoration, and being told multiple times. This understanding remains very concrete and lacking in nuance though. For example, when asked why it is illegal to engage in sexual activity with a minor, he replied "you shouldn't have sex with someone under 14". However, beyond providing a very concrete repetition of this fact, he remains unable to understand why this is criminal, the relationship between age and ability to consent, nor could he understand how consent could not be given legally regardless of the nature of the relationship he had with his alleged victim. With regard to his lewdness charge, he continues to demonstrate confusion about the meaning of the word lewdness or how this differs from assault. When each of the above concepts were clearly and simply explained by his attorney, providing clear accommodation for his comprehension difficulties, he continued to have persistent difficulties that demonstrated a clear lack of factual and rational understanding of the charges against him sufficient to meet the Dusky Standard.

With regard to his understanding of the roles of members of the legal community and court proceedings, he continues to demonstrate many of the same difficulties outlined in his initial 09/26/19 evaluation described on page 2 above. He continues to have a very concrete understanding of the role of the defense and prosecution. He had difficulty understanding the word "prosecutor" but when this was substituted for D.A., he expressed understanding. He continued to have the same difficulties elaborating on the roles played by other members of the legal community previously noted in his initial evaluation. He also continued to demonstrate a very concrete understanding of court proceedings. For example, while understanding the importance of remaining quiet, but failed to appreciate the concept of non-verbal communication, and continued to be unable to appreciate any potential risks related to failing to understand information or appropriately alert his attorney of inaccuracies during court proceedings sufficient to assist in his defense with a reasonable degree of factual and rational understanding.

With regard to sentencing structure, Tariq demonstrated difficulty accurately understanding his counsel's explanation of the range of sentencing, how sentencing is determined by his charges, how sentencing may be stacked, and the relative likelihood of each end of the sentencing range.

With regard to his understanding of offers and negotiation processes, Tariq demonstrated clear comprehension difficulties. For example, he appeared to concretely understand that the process of negotiation could lead to a lesser sentence. However, he otherwise demonstrated no appreciation of how to effectively engage in appropriate decision-making, weighing advice of counsel, with regard to potential offers. With significant prompting, he said that he would: "read over the offer and decide if it's good" but was unable to articulate what he would consider to make this decision. He also has very little insight into his intellectual and neurocognitive disabilities or how these would limit his ability to accurately weigh offers and effectively engage in the negotiation process. He also demonstrated concrete confusion about multiple potential steps in negotiation, including a lack of understanding of the process of registering as a sex offender, and the difference between probation and house arrest, even after this was extensively explained by his attorney, using clear and concrete language to accommodate for his significant intellectual and neurocognitive difficulties.

With regard to his ability to remember and relate back advice of counsel, Tariq demonstrated clear and consistent difficulties. For example, when asked what advice his attorney had given him in the past, he was unable to identify any concrete advice from past visits with counsel. It should be noted that this was not attributable to any misunderstanding of the complexity of the concept of advice of counsel. Throughout my observations of his interactions with counsel, efforts were consistently taken to simplify concepts to accommodate for Tariq's intellectual disability, such that terms like "what your lawyer said you should do" were used rather than using more complex terms like "advice of counsel". Even with these accommodations, his clear difficulties continued to be evident. More concerning, while he was unable to identify past advice of counsel, even over the course of today's meeting with his attorney, Tariq continually struggled with identifying any advice he had been given. For example, when he was prompted to identify any advice counsel had given him even over the course of today's meeting, Tariq was only able to concretely identify the very last thing said by counsel related to the potential risks of going to trial, replying "don't go to trial". However, when asked to explain his understanding of this advice, or any other advice he had been given even today, he was unable to do so, beyond repeating back "don't go to trial" without being able to explain why or further explain the specific details his attorney had provided.

With regard to his ability to weigh the possible outcomes of going to trial, and to weigh the relative strength and weakness of evidence and witnesses against him, Tariq demonstrated significantly poor insight and very limited understanding. For example, even after his attorney attempted to discuss issues related to trial, including the burden of proof in simplified and very concrete terms, Tariq did not demonstrate any significant factual or rational understanding of these concepts. He also demonstrated clear inaccurate misunderstandings in this area. For example, he demonstrated a belief that the State could not meet the burden of proof unless they were able to show video or photographic evidence of the alleged crime. When asked about this misunderstanding, he continued to demonstrate a belief video or photos would have to be provided, and that if they were not, the accusations against him would be difficult to prove. When weighing the relative strength and weakness of evidence and witnesses against him, he was unable to demonstrate any clear understanding. With significant prompting, he was able to say that "he looks young" and that "it's a bad crime" but could not elaborate on his understanding of how these factors may be weighed in the context of trial. He also did not demonstrate any rational understanding of the evidence against him or how witnesses may be used against him at trial. When asked to engage in hypothetical reasoning about the possible risks of going to trial, he demonstrated significant confusion and very low insight, regardless of being provided with a high level of support and accommodations for his significant intellectual and neurocognitive disabilities. As noted above, while he was able to repeat back only the last advice of counsel as "don't go to trial", he was unable to elaborate on why this advice was given, despite continued efforts to communicate with him in a clear, simplified, and concrete manner. When these concerns are weighed as a whole, it is also clear that he has extremely low insight into the adversarial nature of the legal process, and does not have the ability to weigh these concerns with a reasonable degree of factual and rational understanding sufficient to meet the Dusky Standard.

For organizational purposes, each of the above abilities related to competence were discussed separately. However, it is clear that each of these abilities intersect and are mutually influential, particularly when considered in the context of his intellectual disability, major neurocognitive disorder, and learning disabilities over and above what would be expected from his intellectual disability alone. Ultimately, his difficulties in each of the above areas of legal knowledge will continue to undermine his ability to effectively communicate with counsel and participate in his defense with a reasonable degree of factual and rational understanding sufficient to meet the Dusky Standard. These difficulties have unfortunately continuously persisted despite clearly diligent attempts of his defense counsel to simplify information and accommodate for his disabilities to the greatest extent possible.

Competency Restoration History and Records:

I was able to review records from his two previous commitments for competency restoration. A list of records reviewed is included after the body of this report. He was first committed to the Stein Forensic Facility for competency restoration 12/28/19, and initiated outpatient competency restoration 01/14/19. During his first commitment, he was evaluated by Dr. Bennet 07/24/19, Dr. Khan 09/16/19, and Dr. Bradley 09/17/19, and all opined that he was not competent. It should be noted that these difficulties with competency continued despite the use of the Slater Method, throughout his initial commitment, which uses simplified language and visual aids to assist with competency restoration efforts for low functioning individuals and those with intellectual disability. He was then recommitted to Stein Forensic Facility 09/27/19 for outpatient competency restoration. During this recommitment, he was evaluated by Dr. Bossi 03/11/20, Dr. Damas 03/23/20, and Dr. Sussman 03/22/20, and all opined that he was competent.

It should be noted that during his two commitments for competency restoration at Stein Forensic Facility, it does not appear that any of his evaluators had the opportunity to directly observe his interactions with his attorney, Deputy Special Public Defender Daniel Page with regard to his competency concerns. Throughout these competency restoration commitments, it is clear that attempts were made to take his intellectual disability into account through the use of the Slater Method. However, I am concerned that his polite and cooperative manner, agreeableness, and relative strong memory skills in comparison to his other neurocognitive deficits may have made him able to engage in rote memorization of concepts sufficient to appear to be restored to competency without the necessary accompanying ability to functionally engage in legal decision-making and assist counsel in his defense with a reasonable degree of factual and rational understanding. These concerns are significantly more evident in the context of direct observation of his interactions with his attorney. Unfortunately, his lifelong intellectual disability and significant neurocognitive deficits are expected to be permanent and are not significantly amenable to restoration. It is hoped that the present neuropsychological and competency evaluation, including direct observations of his interactions with counsel, will be of assistance to the Court in considering the manner in which his lifelong intellectual disability and significant neurocognitive deficits will continue to undermine competency, despite all previous best efforts at competency restoration.

Behavioral Observations

Tariq was polite, cooperative, and established and maintained good rapport. Affect was relatively flat but otherwise congruent to context. He consistently had poor comprehension, was concrete, and required repetition and clarification of complex or multistep directions, but otherwise followed directions well. He was a disorganized and sparsely detailed historian, but willingly elaborated on information when prompted to do so, and responded to questions in an appropriate and non-defensive manner. Eye contact was infrequent but appropriate. Vision and hearing were adequate for testing. He responded well to the very highly structured context of testing, and consistently responded well to prompting, but became easily fatigued and overwhelmed with any tasks requiring him to work independently. He appeared to have poor insight into his cognitive limitations, but consistently had good perseverance and effort throughout testing. No overt anxiety, frustration, or resistance were evident in his test performance. Physically, he has relatively small eye folds with a subtle downward point, small ears bent inwards at the lobes, a relatively low flat nasal bridge, unusually long and hyper-flexible fingers bent slightly upward at the pinkies with notably smooth knuckle tops, and a relatively smooth and short philtrum ridge between the nose and upper lip. These physiological features are common markers of genetic and neurodevelopmental disorders that can contribute to intellectual disability.

NEUROCOGNITIVE TEST RESULTS

Neuropsychological measures possess high reliability and validity in detecting brain dysfunction, but should only be used to suggest the presence or absence of brain injury. Each score is compared to normative data derived from others of similar age, and whenever possible, of similar age, sex, and education. Test performance can be affected by mood, motivation, fatigue, natural variability in performance, and other factors. The neuropsychologist must interpret test results in light of these factors.

* On the tables below from left to right, SIG indicates a test score in the significantly or severely impaired range, MOD indicates a score in the moderately impaired range, MILD indicates a score in the mildly impaired range, LOW indicates a low average score, AVE indicates an average score, and HIGH indicates a high average test score.*

| INTELLECTUAL FUNCTIONING (Wechsler Adult Intelligence Scale-4th Edition -WAIS-IV) | | |
|---|------------|---|
| Index | Percentile | Measure |
| 70 | 2 | Full Scale IQ – combines skills related to four indices below (WAIS-IV) |
| 70 | 2 | Verbal Comprehension Index - Factors in only measures that load on verbal skills (WAIS-IV) |
| 71 | 3 | Perceptual Reasoning Index - Factors in only measures that load on perceptual/spatial reasoning (WAIS-IV) |
| 74 | 4 | Working Memory Index - Factors in measures that load on attention and mental tracking (WAIS-IV) |
| 84 | 14 | Processing Speed Index - Factors in two measures that load on perceptual motor speed and dual attentional speed (WAIS-IV) |
| PSI > VCI, PRI | | Discrepancy Significance - Typically discrepancies of more than 12 to 14 points are significant |

| ACADEMIC SKILLS (Woodcock-Johnson Third Edition (WCJ-III) Achievement Tests) | | | | | |
|--|------------|-------------|-----------------------|------------|-------------|
| Measure | Percentile | Grade level | Measure | Percentile | Grade level |
| Letter-word Identification | 1 | 3 5 | Writing Fluency | 1 | 3 3 |
| Reading Fluency | 2 | 3 2 | Passage Comprehension | 0 2 | 2 3 |
| Math Fluency | 1 | 3 4 | Applied Problems | 1 | 3 1 |
| Spelling | 15 | 6 2 | | | |

ATTENTION, MENTAL TRACKING, PROCESSING SPEED

| | | | | | | | |
|-----|-----|------|-----|-----|------|-----|--|
| SIG | MOD | MILD | LOW | AVE | HIGH | 5/5 | Digit Span Forward -Attentional Buffer Capacity - repetition of digits (Reliable) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 4/3 | Digit Span Reverse - Simple Mental Tracking Capacity - repetition of digits in reverse order (Reliable) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 4 | Working Memory Index - Mental Control – factors two measure of attentional buffering and mental tracking (%) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 14 | Processing Speed Index – (PSI) factors perceptual motor speed and dual attentional speed (%) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 7 | Symbol Search - Timed dual attention task - Subject simultaneously searches for two symbols (ss) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 7 | Coding - Perceptual Motor Speed with symbol transcription - rapid transcription of numbers into symbols (ss) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 5 | Arithmetic – Moderate Mental Tracking (ss) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 5 | Color Naming Condition 1 - Simple Visual Based Processing Speed (DKEFS Color Word) (ss) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 6 | Color Reading Condition 2 - Simple Lexical Based Processing Speed (DKEFS Color Word) (ss) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 28 | Trails A - Perceptual Motor Speed with Visual Search - Connect the Dots type task (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 155 | CPT-II - Vigilance/Focused Attention - Omissions (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 61 | Commissions (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 66 | Hit Reaction Time (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 92 | Hit Reaction Time standard error (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 86 | Variability (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 70 | Perseverations (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 49 | Hit RT Block Change (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 58 | Hit SE Block Change (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 77 | Hit RT ISI Change (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 88 | Hit SE ISI change (t-score) |

ADHD and Neurological = 99.9% Confidence Index

LANGUAGE SKILLS

| | | | | | | | |
|-----|-----|------|-----|-----|------|----|---|
| SIG | MOD | MILD | LOW | AVE | HIGH | 5 | Vocabulary - Vocabulary Knowledge (ss) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 36 | Boston Naming Test – Confrontation Naming - Ability to name schematic depictions of objects (raw) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 7 | Category Exemplar - Semantic Fluency - Rapidly generating words from specific semantic categories (ss) (DKEFS) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 5 | Similarities - Abstract Language Proficiency – Similarities - Providing abstract categorizations of two disparate concepts (ss) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 2 | Abstract Language Proficiency - Proverbs (ss) (DKEFS) |

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| SPATIAL PROCESSING AND CONSTRUCTIONAL SKILLS | | | | | | | |
|--|-----|------|-----|-----|------|--------|---|
| SIG | MOD | MILD | LOW | AVE | HIGH | 17 | Judgment of Line Orientation Test - Angle Orientation - Estimating angles (raw) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 29.5 | Rey Osterrieth Complex Figure Test - Low Structure Complex Construction - Drawing - Copying a complex geometric figure (raw) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 4 | Spatial Reasoning Skills - Matrix Reasoning (ss) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 5 | Block Design - High Structure Complex Construction - Blocks - Timed replication of geometric designs using colored cubes (ss) (WAIS-IV) |
| MEMORY AND NEW LEARNING | | | | | | | |
| SIG | MOD | MILD | LOW | AVE | HIGH | 7 | Logical Memory I - Immediate memory for highly structure verbal material - Immediate recall of two stories (%) (WMS-III) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 16 | Logical Memory II - 30 minute delayed recall - Recall of the above story after a 30 minute delay (%) (WMS-III) |
| SIG | MOD | MILD | LOW | AVE | HIGH | -1.5 | Trial 1 - Immediate recall of unstructured verbal material - Immediate recall of a long list of words (CVLT II Trial 1) (z-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 0.5 | Trial 5 - Learning capacity after five trials - Recall on the fifth trial (CVLT II Trial 5) (z-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 48 | Total Recall Trial 1-5 - Learning Efficiency - Recall performance over five presentations of the word list (CVLT II Total) (t-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 0.0 | Delay 1 - Proactive Interference (ability to recall target information after an interfering task) (CVLT II Delay 1) (z-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | -1.0 | Delay 2 - Delayed Retrieval of List - Retrieval of target words after a 20 minute activity filled delay (CVLT II Delay 2) (z-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | -2.0 | Recognition - Simple Recognition - Recognition of the target words from a long list of words (CVLT II Recognition) (z-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 0.0 | Recognition Intrusion Errors - subject's ability to differentiate target words from non-target words (z-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | (-0.5) | Intrusion Errors in free recall - Words recalled that were never even on the list presented (z-score) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 18 | Rey Osterrieth Delayed Recall Test - Delayed Retrieval of Spatial Material - 30 minute delayed recall of the Rey complex figure (raw) |
| EXECUTIVE CONTROL SKILLS | | | | | | | |
| SIG | MOD | MILD | LOW | AVE | HIGH | 71 | Trails B Test- Simple Set Shifting Efficiency - Rapid alternation between numbers and letters in order (raw) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 5 | Similarities - Abstract Language Proficiency - Providing abstract categorizations of two disparate concepts (ss) (WAIS-IV) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 61 | Commission Errors - Impulsivity - CPT-II Score derived from tendency to impulsively respond to non-target letters (t-score) (CPT-II) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 4 | VERBAL FLUENCY - Letter - internal searches for verbal information- generating words beginning with a given letter (ss) (DKEFS) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 7 | Category - generating words belonging to a given category (ss) (DKEFS) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 4 | Switching Total Correct - switching between two categories (ss) (DKEFS) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 5 | Switching Accuracy (ss) (DKEFS) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 6 | COLOR WORD- Inhibition - ability to inhibit a response when under pressure Inhibition (ss) (DKEFS - Color Word Condition 3) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 5 | COLOR WORD Inhibition/Switching - switching between word reading and the Stroop effect (ss) (DKEFS - Color Word Condition 4) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 1 | CARD SORTING Confirmed Correct - Conceptual shifting/cognitive flexibility (ss) (DKEFS Sorting Test) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 1 | Free Sort Description - Ability to verbally explain conceptual sorts (ss) (DKEFS Sorting Test) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 3 | Recog Description - Ability to recognize conceptual sorts when presented by the examiner (ss) (DKEFS Sorting Test) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 2 | TWENTY QUESTIONS Number of Questions Asked - Deductive Reasoning (ss) (DKEFS Twenty Questions - # of Questions Asked) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 2 | Weighted Achievement (ss) (DKEFS Twenty Questions-Total Weighted Achievement) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 7 | TOWER - Spatial Conceptual Problem Solving - Tower of Hanoi task - forethought, spatial tracking, and planning (ss) (DKEFS Tower) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 2 | PROVERBS Total Achievement - Abstract Reasoning - Proverbs (ss) (DKEFS Proverbs) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 2 | Multiple Choice (%) (DKEFS Proverbs) |
| MOTOR SKILLS | | | | | | | |
| SIG | MOD | MILD | LOW | AVE | HIGH | 38.2 | Finger Tapping Test - Motor Speed Dominant Hand (raw) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 35.8 | Finger Tapping Test - Motor Speed Non-Dom Hand (raw) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 95 | Grooved Pegboard Test - Fine Motor Dexterity Dom Hand (raw) |
| SIG | MOD | MILD | LOW | AVE | HIGH | 115 | Grooved Pegboard Test - Fine Motor Dexterity Non-Dom Hand (raw) |
| SYMPTOM VALIDITY MEASURES | | | | | | | |
| | | | | | | | See Issues Affecting the Validity of Interpretation Section Below |

NEUROCOGNITIVE TESTING: INTERPRETATION AND DISCUSSION

Issues Affecting the Validity of Interpretation

Effort is analyzed in a number of ways, including the administration of measures empirically shown to identify suboptimal effort or purposeful exaggeration. In addition, when possible the overall pattern of performance is analyzed for consistency between measures, consistency with the expected severity of impairment, and the presenting symptoms are compared against base rates of symptoms in other patients with similar problems. Based on the analysis, the neurocognitive data is valid for interpretation and not the result of suboptimal performance or exaggeration.

NEUROCOGNITIVE PROFILE

Intellectual Capacity

- Overall intellectual functioning (FSIQ) is 70, in the range of IQ seen in those with intellectual disability. Verbal and spatial conceptual reasoning and working memory (attention and mental tracking skills) are in the borderline range. Processing speed is in the low average range, and is significantly higher than his verbal and spatial conceptual reasoning indices on the IQ test. His relatively higher processing speed pulled his full-scale IQ upward, and likely had a mild effect on his spatial conceptual measures. As such, his verbal conceptual reasoning index is likely the most stable measure of his true intellectual skills. Each of these skills will be discussed in greater detail separately, below. Additionally, while over one year has passed since his 06/22/18 WAIS-IV completed in his Psychological Assessment by Dr. L. Foerster, we cannot entirely rule out the possibility that his current full-scale IQ of 70 may subtly overestimate his true intellectual skills given the potential for subtle practice effects from past evaluations.

Academic Skills

- Letter word identification skills are at the 3.5 grade level. Reading fluency and reading comprehension are at the 3.2 and 2.3 grade level, respectively. Simple spelling is an area of relative strength, and is at the 6.2 grade level, but writing fluency is at the 3.3 grade level. Math fluency and arithmetic problem-solving skills are at the 3.4 and 3.1 grade level, respectively.

Attention, Processing Speed, and Mental Tracking

- Basic attention for short time spans (attentional buffering) is in the low average range.
- Sustained attention is in the significantly impaired range.
- Processing speed is generally in the mildly impaired range across multiple measures, but he had good performance on a speeded simple connect the dots type task.
- Mental tracking skills are in the low average to mildly impaired range.

Language

- Basic language skills related to conversational word finding, comprehension, and repetition, are below expected levels. In particular, he was noted to have word finding problems conversationally, had poor comprehension, and required frequent repetition and clarification of complex or multistep instructions.
- Vocabulary is in the mildly impaired range.
- Phonemic and semantic fluency are in the moderately and mildly impaired range, respectively.
- Confrontation naming skills and general conversational word finding skills are significantly impaired and will likely present noticeable problems in day to day conversational exchanges.
- Abstract language processing is in the mildly impaired range.

Spatial Processing

- Angle estimation skills are in the moderately impaired range.
- Complex figure drawing was in the moderately impaired range.
- Construction of three-dimensional geometric designs was in the mildly impaired range.
- Overall, spatial processing and constructional skills are generally in the mildly to moderately impaired range.

Memory and New Learning

- Memory for stories is mildly impaired. Delayed recall suggests mild impairment in the long-term retention of information.
- New learning skills were assessed through a list learning task involving the presentation of a long word list over five trials. A mild level of difficulty was noted during the acquisition phase but overall performance across trials was in the average range. The information that was eventually learned appears to be fairly resistant to attempts to throw the recall off-balance, suggesting adequate encoding of learned material. However, delayed recall was in the mildly impaired range, and recognition was in the moderately impaired range. Memory performance is also notable for inconsistent organization strategies, and minimal benefit from cueing.
- Delayed recall for complex spatial information is in the average range.

Executive Control Skills

Executive control skills relate to self-regulation, abstract and deductive reasoning, verbal fluency, set shifting, response inhibition/impulse control, and problem solving. Each of these skills can be independently impaired.

- Executive skills related to internal information generation and verbal fluency are in the mildly to moderately impaired range. Response inhibition/impulse control skills are mildly impaired. Set shifting skills are highly variable, falling from the average to moderately impaired range. Deductive reasoning is in the moderately impaired range, and abstract reasoning varies from the mildly to severely impaired range. Problem-solving skills are in the mildly to severely impaired range.

Motor Functioning

- Finger tapping speed is mildly to moderately impaired for the right dominant hand and mildly impaired for the left nondominant hand.
- Fine motor dexterity is moderately impaired bilaterally.

PERSONALITY/PSYCHOLOGICAL FUNCTIONING

Formal measures of personality/psychological functioning could not be completed due to Tariq's intellectual disability and low reading comprehension level. He denies any significant difficulties with depression, anxiety, mania/hypomania, suicidal ideation, or auditory/visual hallucinations, and this appears to be consistent with his clinical presentation during clinical interviews and on formal testing. There were no significant psychological factors that appeared to be impacting his ability to engage in testing or complete testing tasks to the best of his ability.

ADAPTIVE FUNCTIONING SUMMARY:

In order to meet diagnostic criteria for intellectual disability, an individual must have significant limitations in both intellectual functioning, as demonstrated by his IQ and examination of intellectual functioning above, and significant limitations in day-to-day adaptive functioning in three adaptive functioning domains, the conceptual, social, and practical domains, as outlined in the diagnostic criteria of the DSM-5 and the American Association on Intellectual and Developmental Disabilities (AAIDD). Further, these limitations in intellectual and adaptive functioning must have originated before the age of 18. With regard to adaptive functioning, clinical interviews with Tariq, collateral interviews with both of his parents, neuropsychological evaluation, and an extensive review of educational and Social Security Administration records were all completed. Each of these sources had high convergent validity in demonstrating that Tariq has had clear and consistent adaptive functioning deficits in the conceptual, social, and practical domains, all of which have been lifelong and clearly originated before the age of 18. These adaptive functioning deficits are as follows:

- **Adaptive Functioning Deficits in the Conceptual Domain:**

In the conceptual adaptive functioning domain, Tariq has significant cognitive and academic difficulties, and his performance across formal academic measures was consistent with significant learning disabilities across academic domains, over and above what would be expected from his intellectual disability alone. Each of these issues, in addition to his intellectual disability and significant neurocognitive deficits, have all limited his educational and occupational opportunities. Consistent with others with mild intellectual disability, he is able to work in a highly structured job that is routine and provides clear directions and consistent supervision. He is currently demonstrating this in his first job. However, his significant intellectual and neurocognitive deficits predict that he will be unable to successfully work independently, and will continue to need a high level of supervision and structure in all educational and vocational pursuits. His adaptive functioning deficits have led him to have difficulties in the past with accurately identifying his own address, and his family's frequent moves likely exacerbated these difficulties. He continues to have significant difficulties with effective time management, decision-making, and task completion. He has also had lifelong difficulties with attention, processing speed, abstract reasoning skills, planning, organization, cognitive flexibility, problem solving, and thinking through the consequences of his actions. His Social Security Administration (SSA) records note multiple adaptive functioning deficits in the conceptual domain including difficulty concentrating, forgetfulness, problems following conversations, frustration, and becoming easily overwhelmed. Within his SSA records, he was noted to have a full-scale IQ of 71 at age 8, had severe speech and language impairment, and was diagnosed with developmental coordination disorder, expressive language disorder, and phonological disorder. A 10/26/11 Multidisciplinary Evaluation Team report within his SSA records when he was age 11.7 showed adaptive skills at the 1st percentile, in the extremely low and clinically significant range. He was placed in special education due to specific learning disability, although this is a common placement for children with Intellectual Disability, particularly when there has been a lack of parental follow through with accessing disability services that would have allowed him a higher level of access to appropriate diagnosis and care for children with Intellectual Disability, such as Desert Regional Center. This lack of parental follow through with accessing services was noted repeatedly in his SSA and educational records. Each of these factors is consistent with lifelong adaptive functioning deficits in the conceptual domain.

- **Adaptive Functioning Deficits in the Social Domain:**

In the social adaptive functioning domain, Tariq has always lived with his family and has relied on them to provide the high level of structure and support that he requires. His SSA records note adaptive functioning deficits in the social domain, such as problems following conversations, becoming overwhelmed, and being unable to be left alone. However, both his educational and SSA records note that he consistently got along well with others. As such, he was noted to have less than marked adaptive functioning deficits in interacting with others in his SSA records. However, he was noted to have poor social reciprocity skills in communication from early childhood on. For example, records noted early parental concerns because as late as age 8, he would not repeat stories, engage in humor, or provide explanations that would have allowed for more in-depth age-appropriate social interactions. His long-term expressive and receptive language deficits likely exacerbated these social skill difficulties. He has never lived independently, and consistently prefers to spend time with his family rather than with others in the community. He has had life-long difficulty with determining other's intentions and motivations, tends to be gullible and excessively trusting, and will be easily confused, misled, and vulnerable to getting taken advantage of. He is also shy with others, lacks confidence, and consistently worries about saying the wrong things or "seeming stupid", and so works to avoid interacting with others outside his family, with the exception of a few close friends and the friends of his siblings. When he does interact with friends, he prefers spending time with them at home with his family present. He has also had lifelong difficulty with carefully and accurately assessing social situations, planning appropriate responses, and thinking through the potential consequences of his social decisions and actions. Each of these concerns is consistent with lifelong adaptive functioning deficits in the social domain.

- **Adaptive Functioning Deficits in the Practical Domain:**

In the practical adaptive functioning domain, Tariq has never received any formal supports or training through programs providing supervised assistance and support for individuals with intellectual disability, such as Desert Regional Center (DRC), although he would have qualified for these supports. His Social Security Administration (SSA) records note disability onset from age 3 on, although he was not placed on Social Security Disability benefits until age 8. Educational records within his SSA records note a Multidisciplinary Evaluation Team report when he was 11.7 years old that placed his adaptive skills at the 1st percentile, as noted above. Educational records note that he had a slow rate of learning, low level of performance, and did not adequately improve in response to special education interventions or supports, despite consistently being placed in special education due to learning disabilities across academic domains. SSA records also describe him as having adaptive functioning deficits in the practical domain including difficulties controlling his bowels, and having a "childlike mindset". A 08/21/08 Mental Status Examination and WISC-IV done by Dr. Kalodner when he was age 8, was included in his SSA records. This 08/21/08 evaluation described Tariq as having multiple adaptive functioning deficits in the practical domain including being unable to get dressed independently, unable to tie his own shoes, button clothing, or place a belt through the buckle. He was noted to have delayed judgment and comprehension, and was unable to give appropriately well thought out responses to hypothetical safety scenarios. He was also noted to require multiple prompts for basic hygiene. He was formally placed on Social Security at age 8, but was noted to have onset of disability at age 3. He was unable to independently qualify for Social Security Disability benefits in late adolescence due to a lack of sufficient work history, despite ongoing disability. As noted above, his SSA records also note repeated difficulty with following through on his SSA application and continuing benefits requirements by both his parents when he was younger, and by Tariq himself once he reached the age of 18, leading to his benefits being discontinued and denied, despite his ongoing disability. When he was younger, his Social Security funds went to his mother, and Tariq has never managed his own money. He has never obtained a driver's license. Consistent with many individuals with mild intellectual disability, he is able to use the bus for transportation, and is comfortable taking familiar routes. However, his mother notes that while they wanted to support Tariq's independence, she would nonetheless walk him to the bus stop every day to ensure he got on the bus safely. He has never had a bank account, and does not have credit cards. Now that he has his first job, he gives his parents \$100 per month for rent, and spends the rest of his paycheck on food, clothing, or going to movies. He was unable to identify the importance of saving, money management, or avoiding debt. His parents cook meals for him daily, although he will fix himself simple snacks independently. Consistent with his early childhood practical adaptive functioning deficits, Tariq continues to require daily prompts for hygiene, including prompts to shower and brush his teeth, and he will not independently maintain hygiene without these prompts. He has never sought or received medical treatment independently, and relies on his family to assist him with managing healthcare. He has consistently had assistance with making important day-to-day decisions in all aspects of his life. Each of the above factors is consistent with lifelong adaptive functioning deficits in the practical domain.

Diagnostic Considerations with Regard to Intellectual Disability:

Taken as a whole, the above deficits across neurocognitive domains, significant learning disabilities over and above what would be expected from his intellectual disability alone, IQ test results, and adaptive functioning factors clearly represent life-long adaptive functioning deficits in the conceptual, social, and practical domains, which, in combination with his low IQ, and onset before age of 18, clearly qualify him for a diagnosis of Mild Intellectual Disability (formerly Mild Mental Retardation). Further, his lifelong intellectual disability and significant neurocognitive difficulties predict that he will continue to require lifelong assistance in each of the above adaptive functioning domains.

PSYCHOSOCIAL HISTORY

SUBJECTIVE COMPLAINTS:

Various areas of day-to-day functioning were specifically addressed during the interview. It should be kept in mind that these are subjective complaints and may not be accurate appraisals or may not even be measurable upon objective testing.

- Tariq denies overt depression, anxiety, mania/hypomania, suicidal ideation, or auditory/visual hallucinations. He has good social support from his family. He is usually easy-going, and does not have any difficulties with frustration, aggression, or irritability. He has frequent worry and stress about his case.
- Sleep is intact. He has a good appetite and hydration.
- No motor difficulties. He has never had a driver's license and does not drive, but uses the bus for familiar routes.
- Reaction time is intact, but he has slow processing.
- Vision, hearing, and olfactory functioning are intact.
- He has word finding problems, struggles with expressing himself, and describes himself as afraid of saying the wrong things or "seeming stupid", so tries to avoid speaking to unknown others outside of his family.
- Comprehension is poor. He frequently doesn't understand what is being said to him, misses details, and feels resistant and embarrassed to ask for clarification when he has not understood information.
- Attention and concentration are poor. He denies overt difficulties in this area, but this is in sharp contrast to his neuropsychological testing. He was initially diagnosed with ADHD in 2016, and currently meets diagnostic criteria.
- Memory is poor. He is forgetful for conversations and tasks, and requires frequent prompts and reminders.
- No headaches, dizziness or lightheadedness, or history of seizures.
- He has frequent leg and arm cramping of unknown etiology with a pain rating of 8/10 that last for approximately two hours once per week. No other pain complaints.

DETAILED HISTORY:

A psychosocial history was collected during clinical interviews, and is discussed below:

Family and Residential History Summary:

Tariq lives with his parents, three brothers, and two sisters, and denies any history of abuse. His family moved very frequently, typically every 6-8 months due to poverty, but were never evicted. The family often lived on food stamps, but he was always provided with food, and they were never homeless. They lived in multiple areas in Las Vegas, always in low income neighborhoods with frequent crime and gang presence, and were rarely connected with the larger community due to frequent moves. His parents consistently sheltered him within the family, and worried about him being outside in the neighborhood because he would typically be passive and gullible with peers, and would easily get taken advantage of. For example, they described multiple incidences in which Tariq would give away soft drinks or snacks from their home to unknown children in the neighborhood if they asked him to, even though they were not his friends, and they would thus repetitively approach him. Tariq also had multiple changes in schools due to their frequent moves.

Relationship History:

As noted above, Tariq has always lived with his family, and has never lived independently. He has had few relationships, other than briefly dating a friend of his brother's girlfriend. He demonstrates a very limited understanding of sexual information and decision making, other than identifying that his parents told him to wear condoms when engaging in sexual activity, and knowing that it is wrong to have sexual contact against someone's will. However, he was unable to identify factual information about the age of consent previous to his current charges. He has difficulties understanding how and why age and consent intersect, beyond understanding that this is related to his current charges. He does not have any children.

Educational and Employment History:

Tariq completed 11th grade and part of 12th grade, and then stopped attending school. He was in special education since kindergarten. His parents also note that he had a history of early behavior problems and temper tantrums starting at 8 years old. Per Social Security Administration (SSA) records, Tariq received Social Security Disability benefits from age 8 to age 12, with a disability age of onset of 3. He was granted Social Security Disability for Learning Disabilities. However, his SSA and educational records are strongly consistent with long-term low IQ and adaptive functioning deficits consistent with intellectual disability over and above his long-standing learning disorders. His Social Security Disability benefits were ultimately discontinued when he was 12 due to lack of parental follow through on requests for records. This was very likely attributable to significant family residential instability and transience given multiple notations in the records of unsuccessful attempts to reach the family by mail and phone, and disconnected numbers, leading him to be discontinued from benefits despite his ongoing disability.

Clark County School District educational records also indicate a long history of instability in educational placements. Specifically, he attended two schools in kindergarten, three schools in 1st grade, one in 2nd grade, three schools in 3rd grade, one in 4th grade, two in 5th grade, one in 6th, a separate school in 7th, three schools in 8th grade, one in 9th grade, four in 10th grade, and one in 11th grade, before he finally dropped out of school. With regard to grades, he was noted to have below grade level performance as early as kindergarten, and had F's in reading and math and a D in writing by 1st grade. In 2nd grade, he had D's in three subjects. By 3rd grade, he had failing grades in two subjects and one school, and five subjects in another school in the same year. In 4th grade, he did relatively better, earning mostly C's and D's. However, in 5th grade, he failed five classes. In 6th, he failed 9 of 13 classes that year, and earned D's in his remaining four classes. In 7th grade, he failed three classes, and had C/D grades in his remaining classes. In 8th grade, he failed 6 of 12 classes, and had D's in his remaining classes, with the exception of a C in math. In 11th grade, he failed all subjects with the exception of reading and English. Overall, between 6th and 8th grades, his GPA summary placed him at a rank of 420 out of 423 students. He was noted to have relatively good behavior throughout school, with the exception of three suspensions in 2014. With regard to special education placement, he was initially placed in special education for speech in 1st grade, and this continued into 2nd grade. By 3rd grade, he was noted to be eligible for special education due to both specific learning disability and speech, and this continued until 7th grade, when he was discontinued from speech, but remained eligible for special education due to specific learning disability. In 4th grade, his Multidisciplinary Team Evaluation report described him as having ongoing poor comprehension and language deficits impacting his development and social skills. He continued to be placed in special education until dropping out of school in 11th grade. His Individualized Education Plans (IEPs) noted continued difficulties despite consistent special education accommodations and interventions, and the need for continued assistance, prompts, modeling, and verbal cues.

The above pattern of continued difficulties and poor academic performance despite special education interventions is strongly consistent with patterns seen in children with intellectual disability over and above learning disabilities. This pattern was reinforced in his 3rd grade Multidisciplinary Team Evaluation report (MDT), previously referenced above, in which he was noted to have adaptive skills at the 1st percentile, which are significantly low, and are strongly consistent with adaptive functioning deficits seen in children with intellectual disability. This is also strongly consistent with his 3rd grade 08/10/10 WISC-IV performance at age 10, in which he was found to have a full-scale IQ of 73 (confidence interval 69-79). Most notably, this full-scale IQ was significantly pulled upward by relatively high processing speed of 100, which would also have pulled upward his spatial conceptual reasoning and working memory. His verbal IQ was 65, and is considered the most stable measure of IQ across the lifespan. This, in combination with his very low adaptive skills in the 1st percentile, noted above, are all strongly consistent with a diagnosis of intellectual disability. This same pattern of performance was notable in his earlier 08/21/08 Mental Status Examination and WISC-IV by Dr. Kalodner that included a WISC-IV full scale IQ of 71, a VCI of 59, a PRI of 69, a WMI of 102, and a PSI of 69. His lowest subtest score on this evaluation was in comprehension. Most notably, this pattern of relatively stronger processing speed in the context of very low verbal comprehension and low overall full-scale IQ remains identical to his current pattern of performance on the present evaluation. This pattern of performance appears to be consistent with long-term intellectual disability, at least since age 8, and very likely lifelong to the best of our scientific understanding. Additionally, his continued poor academic performance and relative non-response to special education interventions despite continued placement in special education for specific learning disabilities is also strongly consistent with patterns found in individuals with intellectual disability, who have been accommodated for learning disabilities, but who have not been adequately and appropriately diagnosed or accommodated for underlying intellectual disability. He also continues to meet diagnostic criteria for

ADHD over and above his intellectual disability and learning disabilities, but does not appear to have ever received academic accommodations for this. With regard to work history, he currently has his first job doing boxing and receiving at Express Temprapack, and has been in this position full-time for the past few months. No other work history reported. As noted above, he was unable to qualify for Social Security Disability benefits independently as an adult due to insufficient work history, despite his ongoing disability.

Medical and Neurodevelopmental History:

With regard to medical and neurological/neurodevelopmental history, Tariq has physical characteristics that are strongly suggestive of chromosomal irregularities and genetic abnormalities consistent with those seen in individuals with intellectual disability with a genetic etiology as noted in the behavioral observation section on page 2 of the present report. These physical characteristics include relatively small eye folds with a subtle downward point, small ears bent inwards at the lobes, a relatively low flat nasal bridge, unusually long and hyper-flexible fingers bent slightly upward at the pinkies with notably smooth knuckle tops, and a relatively smooth and short philtrum ridge between the nose and upper lip. Certainly, further genetic testing would be needed to confirm this diagnosis, but these features are strongly consistent with genetic disorder. Many of these characteristics are also seen in those with a history of prenatal alcohol exposure, although his mother denied any alcohol or drug use during his fetal development. With regard to his early neurodevelopmental history, he was born at term, but had significant developmental delays. When he began to crawl later into age 2, his parents report that he would routinely eat non-food items, such as paint chips within their apartment complex that later tested positive for lead, would also eat deodorant and baby powder, and was very difficult to redirect from these pica-like behaviors. He was bottle-fed until age 3, did not walk until age 3, and did not talk until age 4. He had special education interventions for speech when he began kindergarten. However, he did not otherwise have early interventions for neurodevelopmental motor or speech delays. His current medical history is notable for mild asthma and seasonal allergies, and he is prescribed an inhaler PRN. No history of concussion. Family history is notable for maternal learning disability, a sister with learning disability, maternal seizure disorder, a brother with seizure disorder, a maternal great aunt with mental retardation, paternal depression and PTSD, maternal bipolar disorder, a strong maternal family history of depression, a maternal grandmother and grandfather with diabetes, and a strong maternal family history of ADHD and learning disability in multiple family members.

Psychological History/Substance Abuse:

Tariq denies any current depression, anxiety, mania/hypomania, auditory/visual hallucinations, or suicidal ideation. No past suicide attempts or psychiatric hospitalizations. He has appropriate stress and worry about his current case. Substance abuse history is notable for occasional recreational marijuana use. No other history of alcohol or substance abuse. As noted above, family psychiatric history is notable for paternal depression and PTSD, maternal bipolar disorder, and a strong maternal family history of depression, ADHD, and learning disorders.

SUMMARY

Neurocognitive Evaluation:

The present evaluation was found valid for interpretation. Tariq did not demonstrate any indications of suboptimal performance or exaggeration. Overall intellectual functioning is notable for a full-scale IQ of 70, in the mild intellectual disability range (formerly mild mental retardation), and reading comprehension skills are at the 2.3 grade level. His neurocognitive testing data predicts that he will have substantial problems with attention and concentration, and mild problems with mental tracking and processing information rapidly and efficiently. He has a low vocabulary, very low naming skills, will be concrete, and will significantly struggle with generating rapid, well-thought-out verbal responses, or understanding nuance or ambiguity in information that is presented to him. He will have mild to more pronounced problems with the organization and completion of spatial tasks, and his poor fine motor speed and dexterity will exacerbate these spatial skill difficulties. He will have mild problems with organizing his approach to verbal memory and new learning tasks, and with weeding out unnecessary information. Although he is able to benefit from repetition and review, these verbal memory problems will subtly persist even after opportunities for repetition and review, and multiple exposures to the same information. In contrast to these verbal memory difficulties, his memory for spatial information is intact. He will have substantial problems with abstract and deductive reasoning, problem solving, generating alternative solutions, and thinking through the consequences of his actions. He will also struggle with cognitive flexibility and effectively shifting his attention. His performance on formal academic testing was consistent with significant learning

disabilities across academic domains, over and above those that would be expected from intellectual disability alone. These difficulties, in addition to his mild intellectual disability and low adaptive functioning, raise significant concerns with regard to competency, which will be discussed below.

Competency Related Concerns Summary:

As previously noted in the Competency Related Concerns Sections on pages 1-5 of the present report, I am concerned that Tariq's intellectual disability, ongoing adaptive functioning deficits, and significant neurocognitive deficits that are lifelong and not amenable to restoration, will continue to undermine his competency, and render him unable to meet the Dusky Standard or Nevada NRS 178.400. Summarily, these deficits include mild intellectual disability (formerly mild mental retardation); learning disabilities over and above what would be expected from his intellectual disability alone; attention and processing speed deficits; expressive and receptive language skill deficits, spatial skill deficits; memory deficits; and executive functioning deficits, and ongoing adaptive functioning deficits across all domains, all of which will continue to undermine his competency and negatively impact his ability to have clear factual and rational understanding of information related to his case and court proceedings, and his ability to participate in his defense with a reasonable degree of factual and rational understanding. As previously noted on pages 1-5 of the present report, I had the opportunity to directly observe Tariq's interactions with his defense attorney, Deputy Special Public Defender Daniel Page, on 04/23/20 while discussing a wide range of legal concerns, as outlined above. It was clear from his interactions with his attorney that, despite past efforts at competency restoration, Tariq continues to have substantial difficulties across all areas of legal knowledge. Specifically, these difficulties significantly undermine his competency, and continue to significantly limit his ability to accurately understand his charges and court proceedings, and his ability to aid and assist counsel in his defense with a reasonable degree of factual and rational understanding sufficient to meet the Dusky Standard. It is clear in reviewing his competency restoration program records from each of his two previous outpatient commitments at Stein Forensic Facility that all necessary efforts were taken to accommodate for his intellectual disability, including use of the Slater Method. Even with these accommodations, he was found to be incompetent by Dr. Khan on 09/16/19, Dr. Bradley on 09/17/19, and Dr. Bennet on 07/24/19 after his first commitment for competency restoration 12/28/19. He was then recommitted to Stein Forensic Facility for outpatient competency restoration, and was found competent by Dr. Bossi on 03/11/20, Dr. Damas on 03/23/20, and Dr. Sussman 03/22/20.

In reviewing these records, I strongly suspect that these accommodations, including the use of the Slater Method, the support of his competency restoration providers, and his relatively stronger rote memorization skills in comparison to his other more pronounced neurocognitive deficits made him able to appear to be competent after his second effort at competency restoration. However, neither of these outpatient commitments for competency restoration included direct observation of Tariq's interactions with his defense attorney, Deputy Special Public Defender Daniel Page, who continues to have significant concerns about Tariq's competency. In directly observing Tariq's interactions with his attorney, it is clear that despite his past two commitments for competency restoration, Tariq continues to be incompetent. Specifically, with reference to the Dusky Standard and Nevada Revised Statute 178.400, it is my opinion that Tariq Manson is not competent to proceed.

Currently, Tariq:

- 1) Does not demonstrate a rational and factual understanding of the charges against him;
- 2) Does not demonstrate a rational and factual understanding of court proceedings;
- 3) Does not demonstrate the ability to aid and assist counsel in his defense with a reasonable degree of factual and rational understanding.

Finally, and unfortunately, his lifelong intellectual disability and significant neurocognitive deficits are expected to be permanent and are not significantly amenable to restoration, despite efforts to accommodate for these disabilities with use of the Slater Method. This is not at all to say that all individuals with Intellectual Disability (ID) would be unable to meet competency requirements. Certainly, many are able, with sufficient accommodations, to easily meet competency standards. However, when his Intellectual Disability is considered in the context of his major neurocognitive deficits and lifelong learning disabilities that are in excess of what would be expected from his ID alone, Tariq has significantly compounded barriers to competency that are expected to continue despite all competency restoration efforts.

Ultimately, in directly observing Tariq's interactions with his defense attorney, Special Public Defender Daniel Page, I remain concerned that the severity of his lifelong intellectual disability and major neurocognitive deficits, particularly with regard to attention, cognitive processing speed, memory, and executive functioning will continue to undermine efforts at competency restoration in the long-term despite all best efforts at restoration. As noted above, these are lifelong, expected to be permanent, and are not considered to be significantly amenable to restoration. It is hoped that a consideration of these factors will be of assistance to the court in making an ultimate determination with regard to his competency.

Psychosocial History Pertinent Clinical Factors:

There are several key clinical factors that are critical to consider in Tariq's case. Concisely, these include:

Prenatal/Early Childhood Developmental Factors:

- Possible genetic disorder or prenatal alcohol/substance exposure during fetal development given his current physiological features consistent with markers of genetic and neurodevelopmental disorders that can contribute to intellectual disability. Lack of access to genetic testing or medical diagnosis for these.
- Developmental motor and speech delays, significantly delay of development of milestones. Lack of early interventions to treat developmental delays.
- Once he began crawling, development of Pica (repetitive and habitual ingestion of non-food items) in early childhood, leading to repeated exposure to lead paint chips and other toxins in deodorant and baby powder. It should be noted that Pica frequently co-occurs with intellectual disability and significant developmental delays. Lack of appropriate protection from harm that may have been caused by his Pica behaviors. Lack of early behavioral interventions and medical treatment for this.
- Poverty and residential and educational instability. Chaotic neighborhood environment. Social isolation and being repetitively taken advantage of in the neighborhood.
- Intellectual disability and lack of educational and therapeutic interventions for children with intellectual disability.
- Probable ADHD and lack of educational and therapeutic interventions for ADHD.
- Each of these factors likely had negative impacts on his prenatal and early childhood physical, cognitive, and emotional development.

Later Childhood/Early Adolescence Developmental Factors:

- Continued mild intellectual disability, learning disabilities, neurocognitive difficulties, and probable ADHD. Continued lack of appropriate treatment and interventions to address these.
- Continued poverty and residential and educational instability. Continued chaotic neighborhood environment.
- Continued social isolation and being taken advantage of in the neighborhood. Increased social avoidance, with the exception of family members and close friends related to this.
- Premature withdrawal from school. Lack of educational and vocational opportunities related to this.
- Continued lack of access to community-based educational and vocational interventions available for individuals with intellectual disability.
- Placement on Social Security Disability at age 8. However, age of onset of disability in SSA records noted to be 3 years old. Later loss of Social Security benefits at age 12 due to repeated lack of parental response to requests for information. Likely exacerbated by family high level of transience due to multiple references in the SSA records that attempts to reach his parents by mail and phone had been unsuccessful, and that numbers had been disconnected. Lack of access to follow up for disability services he would have qualified for due to this.
- Each of these factors likely had negative impacts on his late childhood and adolescent physical, emotional, and cognitive development.

Late Adolescence/Current Developmental Factors:

- Ongoing mild intellectual disability (mild mental retardation). Ongoing significant neurocognitive deficits. Ongoing ADHD and learning disabilities.
- Ongoing lack of access to educational and occupational opportunities for individuals with intellectual disability.
- Ongoing lack of access to educational and occupational accommodations for neurocognitive deficits, ADHD, and learning disabilities.

- Lack of independent qualification for Social Security Disability as a young adult per SSA records due to lack of sufficient work history to qualify him despite ongoing disability. Continued lack of access to follow up for disability services he would have qualified for due to this. Continued lack of parental and independent follow through on disability benefit application and maintenance requirements, both due to residential instability and to an ongoing lack of ability to comprehend and navigate these requirements.
- Lack of mature brain development in the context of the above concerns.
- These are likely continuing to have negative impacts on his late adolescent physical, emotional, and cognitive development.

Ongoing and Persistent Neurodevelopmental Factors:

- Possible genetic disorder or prenatal alcohol/substance exposure given his current physiological features.
- Possible additional contributions to intellectual disability given his history of Pica and lead exposure in early childhood.
- Ongoing immature brain development at time of offense due to chronological age, over and above his ongoing mild intellectual disability, neurocognitive deficits, ADHD, and learning disabilities across academic domains, as noted above.
- As noted above, genetic testing to confirm chromosomal abnormality, genetic disorder, or possible fetal alcohol/substance exposure given his multiple physical indicators of genetic disorders consistent with intellectual disability may also be considered.

Summarily, Tariq appears to have several developmental, lifelong, and persistent factors that should be carefully considered with regard to his case.

DIAGNOSTIC IMPRESSION

F70 Mild Intellectual Disability.

R41.9 Unspecified Major Neurocognitive Disorder.

F90.2 Attention-Deficit/Hyperactivity Disorder, Combined Presentation.

F81.0 Specific Learning Disorder with Impairment in Reading.

F81.2 Specific Learning Disorder with Impairment in Mathematics.

F81.81 Specific Learning Disorder with Impairment in Written Expression.

Developmental motor and speech delays, Pica with ingestion of lead paint and additional toxins in early childhood, asthma, seasonal allergies, per history.

Physiological features consistent with those seen in individuals with genetic disorders or chromosomal abnormalities that can contribute to intellectual disability, including relatively small eye folds with a subtle downward point, small ears bent inwards at the lobes, a relatively low flat nasal bridge, unusually long and hyper-flexible fingers bent slightly upward at the pinkies with notably smooth knuckle tops, and a relatively smooth and short philtrum ridge between the nose and upper lip. Pending confirmation of diagnosis with genetic testing, as noted above.

Thank you for this most interesting referral. Respectfully Submitted,

Sharon Jones-Forrester

Sharon Jones-Forrester, Ph.D.
Clinical Neuropsychologist

Records Reviewed

- Clark County School District Educational Records.
- Las Vegas Metropolitan Police Department Administrative Records.
- Las Vegas Metropolitan Police Department Arrest Report.
- Social Security Administration (SSA) Records.
- Additional Clark County School District Educational Records Included within his SSA Records.
- 08/21/08 Mental Status Examination and WISC-IV by Dr. M. Kalodner also included in above SSA Records.
- A 07/17/08 Speech and Language Evaluation also included in above SSA Records.
- 06/22/18 Psychological Assessment by L. Foerster, Psy.D.
- 09/06/18 Pre-Plea Psychosexual Evaluation by John S. Pacult, LCSW.
- 09/16/19 Adjudicative Competence Evaluation by Mohammed Asim Khan, M.D. found not competent.
- 09/17/19 Adjudicative Outpatient Competency Evaluation by Shera Bradley, Ph.D. found not competent.
- 07/24/19 Adjudicative Competence Evaluation by Patrick Bennet, D.O. found not competent.
- 03/23/20 Adjudicative Outpatient Competency Evaluation by S. Damas, Psy.D. found competent.
- 03/11/20 Competency Evaluation by E. Bossi, M.D. found competent.
- 03/22/20 Competency to Stand Trial Evaluation by D. Sussman, M.D., Esq., MBA found competent.

Collateral Interviews

- 10/11/19 Collateral interviews with Tariq's mother Rolanda Nicole Woods and father Mitchell Manson.

References

Griffiths, D. & Fedoroff, J. P. Persons with Intellectual Disabilities Who Sexually Offend. (2009). In Sex Offenders: Identification, Risk Assessment, Treatment, and Legal Issues, Saleh, F. M., Grudzinskas, A. J., Jr., Bradford, J.M., Brodsky, D. J., & Appelbaum, P. (Eds.): Chapter 25: 353-375.

McGuire, B. E. & Bayley, A. A. (2011). Relationships, sexuality and decision-making capacity in people with an intellectual disability. *Current Opinion in Psychiatry* 24: 398-402.

O'Callaghan, C. & Murphy, G. H. (2007). Sexual relationships in adults with Intellectual Disabilities: Understanding the Law. *Journal of Intellectual Disability Research*. Volume 51 (3): 197-206.

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 05, 2020

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

June 05, 2020 11:00 AM Further Proceedings: Competency

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

Tariq Manson Defendant

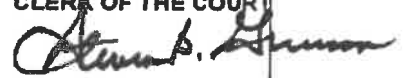
JOURNAL ENTRIES

Also present: Glen O'Brien, Deputy District Attorney and Denise Baker of the Specialty Courts.

Mr. Page advised there is a challenge to the findings and requested the matter be set for a hearing. Mr. O'Brien advised additional reports need to be reviewed by the doctors and should their findings not change a hearing can be set at that time. COURT ORDERED, matter SET for status check.

BOND/MID LEVEL EMP

06/19/20 11:00 AM STATUS CHECK: SET CHALLENGE HEARING



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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff,
vs.
TARIQ MANSON,
Defendant.

CASE#: C-18-335833-1
DEPT. VII

BEFORE THE HONORABLE JUSTICE MICHAEL CHERRY,
DISTRICT COURT JUDGE
FRIDAY, JUNE 5, 2020

**RECORDER'S TRANSCRIPT OF HEARING:
FURTHER PROCEEDINGS: COMPETENCY**

ALL APPEARANCES VIA BLUEJEANS:

| | |
|--------------------|---|
| For the State: | GLEN P. O'BRIEN, ESQ. Chief Deputy District Attorney |
| For the Defendant: | DANIEL R. PAGE, ESQ. Deputy Special Public Defender |
| Also Present: | DENISE BAKER Specialty Courts Representative |

RECORDED BY: RENEE VINCENT, COURT RECORDER



1 Las Vegas, Nevada, Friday, June 5, 2020

2
3 [Case called at 10:54 a.m.]

4 THE COURT: C335833-1, State of Nevada versus Manson.
5 Counsel state their appearances, please.

6 MR. PAGE: Good morning, Your Honor, Daniel Page, Special
7 Public Defender's Office. I'm here representing Mr. Manson, and I
8 believe he's also on the phone also.

9 THE COURT: Okay.

10 THE DEFENDANT: Yes.

11 THE COURT: State, please.

12 MR. O'BRIEN: Glen O'Brien for the State.

13 THE COURT: Okay.

14 MR. PAGE: Your Honor --

15 THE COURT: This is a return from Stein Outpatient
16 Restoration Program.

17 MR. PAGE: Yeah, Your Honor. As to this, we provided the
18 State, and I believe the Court, a report from Dr. Sharon Forrester. At this
19 time, we are going to be contesting the findings and seeking a hearing on
20 the matter.

21 THE COURT: Okay. Does this Court set the hearing date?

22 THE CLERK: Typically, yes we do. But I think it's at a point
23 where we can set it.

24 MR. O'BRIEN: So, Your Honor, I sent the report that
25 Mr. Page sent us to the doctors. I haven't heard back from the three of

1 them yet as to what their feelings are. I mean I strongly doubt it'll change
2 their findings. We usually give them a chance to evaluate the report and
3 then set a challenge hearing.

4 THE COURT: Okay. Could we do that?

5 THE CLERK: If we can find out how long the doctors will
6 need.

7 THE COURT: How long do we need for the doctors to review
8 the report?

9 MR. O'BRIEN: Just a week or two.

10 THE COURT: Let's do the two weeks out also.

11 THE CLERK: All right, so June 19th at 11:00 a.m. to set the
12 challenge hearing. And, Mr. Page, if you can please have availability,
13 and Mr. O'Brien as well, have availability of the doctors at that time so we
14 can set the hearing.

15 MR. PAGE: Absolutely.

16 THE CLERK: Thank you.

17 [Hearing concluded at 10:56 a.m.]

18 * * * * *

19 ATTEST: I do hereby certify that I have truly and correctly transcribed the
20 audio/video recording in the above-entitled case to the best of my ability.

21 
22 MARIA L. GARIBAY
23 Court Recorder/Transcriber
24
25

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 19, 2020

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

June 19, 2020 11:00 AM STATUS CHECK: SET CHALLENGE HEARING

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

JOURNAL ENTRIES

Also present: Maria Lavell Deputy District Attorney and Denise Baker of the Specialty Courts.
Defendant present.

COURT ORDERED, matter CONTINUED for Mr. O'Brien to appear and set the hearing.

BOND/MID LEVEL EMP

CONTINUED TO: 06/26/20 11:00 AM

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 26, 2020

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

June 26, 2020 11:00 AM STATUS CHECK: SET CHALLENGE HEARING

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Also present: Glen O'Brien, Deputy District Attorney, Daniel Page, Deputy Special Public Defender, and Denise Baker of the Specialty Courts. Defendant not present.

COURT ORDERED, matter SET for challenge hearing.

BOND/MLEMP

07/24/20 8:30 AM CHALLENGE HEARING

C-18-335833-1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 24, 2020

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

July 24, 2020 08:30 AM Challenge Hearing (Competency Court)

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

Glen O'Brien Attorney for Plaintiff

State of Nevada Plaintiff

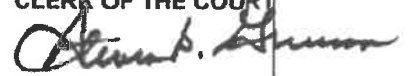
Tariq Manson Defendant

JOURNAL ENTRIES

Sharon Jones-Forrester, SWORN and TESTIFIED. Eric Bossi, SWORN and TESTIFIED. Daniel Sussman, SWORN and TESTIFIED. COURT ORDERED, matter CONTINUED for continued testimony.

BOND/EMP

CONTINUED TO: 08/14/20 8:30 AM



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-18-335833-1
DEPT. VII

10 vs.

11 TARIQ MANSON,
12 Defendant.

13
14 BEFORE THE HONORABLE LINDA MARIE BELL,
15 DISTRICT COURT JUDGE

16 FRIDAY, JULY 24, 2020

17 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
18 **CHALLENGE HEARING**

19
20 APPEARANCES (Via BlueJeans):

21 For the State:

GLEN O'BRIEN, ESQ.
Deputy District Attorney

22
23 For the Defendant:

DANIEL R. PAGE, ESQ.
Deputy Public Defender

24
25 RECORDED BY: RENEE VINCENT, COURT RECORDER

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FOR THE DEFENDANT:

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1 Las Vegas, Nevada, Friday, July 24, 2020

2
3 [Case called at 8:36 a.m.]

4 THE COURT: All right, good morning everyone.

5 MR. PAGE: Morning, Your Honor.

6 THE COURT: State of Nevada versus Tariq Manson, Case
7 Number C335833.

8 MR. PAGE: Good morning, Your Honor. Daniel Page,
9 Special Public Defender's Office. We have Tariq Manson, my client's
10 also present via video.

11 THE COURT: Great.

12 MR. O'BRIEN: Good morning. Glen O'Brien for the State.

13 THE COURT: Good morning, Mr. O'Brien.

14 All right. So Mr. Page, go ahead and call your first witness.

15 MR. PAGE: Understood, Your Honor. I believe the
16 preliminary matter, Mr. Glen and -- and I have agreed to the -- the
17 qualifications of experts of all our witnesses.

18 THE COURT: Great.

19 MR. PAGE: Is that correct, Glen?

20 THE COURT: I'll note that the --

21 MR. O'BRIEN: That's correct, Your Honor.

22 THE COURT: I'll note that the parties have stipulated to the
23 qualifications of the experts. Thank you.

24 MR. PAGE: You're welcome. So we call our first witness,
25 Sharon Jones-Forrester.

1 DR. JONES-FORRESTER: Good morning.

2 THE COURT: Good morning. Ma'am, if you'll just stand and
3 raise your right hand, the clerk will swear you in.

4 DR. SHARON JONES-FORRESTER

5 [having been called as a witness and being first duly sworn, testified as
6 follows:]

7 THE COURT: All right. And Doctor, if you'll please just state
8 your name and spell it for the record?

9 THE WITNESS: Certainly. Dr. Sharon Jones-Forrester,
10 S-h-a-r-o-n J-o-n-e-s hyphen F-o-r-r-e-s-t-e-r.

11 THE COURT: Thank you.

12 Whenever you're ready, Mr. Page.

13 MR. PAGE: All right. Thank you, Your Honor.

14 DIRECT EXAMINATION OF DR. SHARON JONES-FORRESTER
15 BY MR. PAGE:

16 Q Good morning, Mr. (sic) Jones-Forrester. The --

17 A Good morning.

18 Q Since we've already qualified you and as -- as an expert, I'll
19 (indiscernible) go ahead and ask you some preliminary questions
20 pertinent to the matter today, okay?

21 A Certainly. Thank you.

22 Q What is your current position?

23 A I'm a clinical neuropsychologist in private practice.

24 Q And how long have you been in that position?

25 A Since 2011.

1 Q And you have (indiscernible) you're licensed, correct?

2 A I am.

3 Q And as a clinical neuropsychologist, what do you do?

4 A I do forensic neuropsychological evaluation and
5 nonforensically I also treat clinical patients from age seven and up all the
6 way to folks in their nineties with various cognitive issues that can impair
7 neurocognitive functioning.

8 Q Discussing your forensic work, what do you do in that context?

9 A My forensic work is primarily criminal, mostly capital and
10 noncapital murder. And in that context I've completed 91
11 neuropsychological evaluations with individuals facing serious criminal
12 charges, and then 23 psychological evaluations and about 13
13 independent IQ evaluations and a handful of dementia evaluations for
14 individuals facing criminal charges

15 Q Do you -- and during your clinical and forensic (indiscernible)
16 have you worked with children?

17 A I have. I work with children seven and up.

18 Q And that also includes young adults 18 --

19 A It does. So I work across the lifespan so for children seven
20 and up, including adolescents, younger adults, middle-age adults and
21 older adults, so anyone seven and up presenting with neurocognitive
22 difficulties as a result of medical or psychiatric concerns.

23 Q Were you hired by the office of the Special Public Defender's
24 Office to assist with an individual named Tariq Manson?

25 A I was.

1 Q And what context did you see Tariq?

2 A I saw Tariq on September 26th, 2019 to complete a
3 neuropsychological evaluation and independent competency evaluation.
4 I then completed a collateral interview with both of his parents on
5 October 11th of 2019, and then separately on April 23rd of 2020, I met
6 with yourself, Mr. Page, and Tariq to observe his interactions with
7 counsel.

8 Q Going back to the September 26th date, stated that you
9 completed a comprehensive neuropsychological and a competency
10 evaluation, correct?

11 A That's correct.

12 Q Are you Nevada certified in competency --

13 A I am.

14 Q -- qualified?

15 A I am.

16 Q Beginning with the -- the competency part of the evaluation
17 that you conducted on September 26th, 2019, what was involved in that
18 competency part of the evaluation --

19 A I -- I apologize for the interruption, I didn't hear the last part of
20 your question, Mr. Page.

21 Q What was involved in the competency part of the evaluation?

22 A Thank you. So I independently met with Mr. Manson to and
23 used very simple open-ended questions to ask his understanding of his
24 charges, his understanding of sentencing, his understanding of the roles
25 of various members of the legal community, his understanding of court

1 proceedings and his ability to assist counsel in his defense.

2 Q While conducting that evaluation, did you find any problems in
3 those areas when you first evaluated him?

4 A I did, I found problems in most of those areas.

5 Q And so let's kind of go through some of those. What can you
6 tell us about the understanding at that time of -- of his knowledge of the
7 charges that point?

8 A He had a basic understanding of what he was charged with
9 but had clear difficulty understanding the concept of consent. He had no
10 appreciation of the relationship between age and consent. He also had
11 significant difficulty with understanding terms such as the difference
12 between lewdness and sexual assault.

13 Q And what about your -- what about his understanding dealing
14 with sentencing at that point?

15 A He had a basic but very concrete understanding of his
16 sentencing range.

17 Q And you also discussed the roles of the different parties.
18 What were your understanding of his understanding of that?

19 A He had a concrete but otherwise accurate understanding of
20 the role of the defense and the prosecution but had no clear
21 understanding of the role of the judge or jury. He also seemed to have
22 significant confusion about his own role and wasn't able to articulate
23 anything he could do to assist counsel in his defense beyond stating
24 simply that he should talk to his defense attorney, Mr. Page, in order for
25 him to get to know him better.

1 Q And I believe you also talked to about his understanding of the
2 court proceedings?

3 A That's correct. And he also seemed to have significant
4 difficulty in that regard. He had a general and concrete understanding
5 that he should be quiet in court, but he did not understand how to
6 identify appropriately any comprehension difficulties he might incur
7 during proceedings, nor did he have an understanding of how to
8 appropriately communicate with counsel during proceedings should
9 there be anything said that he knew to be inaccurate.

10 Q Through those questions did you have concerns about his
11 general competency at that time?

12 A I did.

13 Q And in addition to those -- to the competency evaluations you
14 also did a neuropsychological evaluation, correct?

15 A That's correct.

16 Q And what was involved in that?

17 A So the neuropsychological evaluation began with
18 administering the Wechsler Adult Intelligence test edition four to assess
19 his IQ. I assessed his academic skills using the Woodcock-Johnson and
20 then I completed neuropsychological measures to look at his attention,
21 concentration, processing speed, his language and spatial skills, his
22 memory, his executive skills and his fine motor skills, and that yielded 46
23 additional data points. Throughout the whole process of the
24 neuropsychological evaluation, I also considered culture in the analysis
25 of data and in the diagnostic workup.

1 Q Then -- and you prepared a report on that?

2 A That's correct.

3 Q And that report -- was that the report that was dated May 29th,
4 2020?

5 A It was, yes.

6 Q Do you have a copy of that report in front of you?

7 A I do, yes.

8 Q Now, in that report you discussed his IQ. What were his IQ
9 results?

10 A His full-scale IQ was 70. Full-scale IQ is made up of four
11 distinct measures so looking at his verbal, spatial, working memory and
12 processing speed indices. His verbal, spatial and working memory
13 indices were all low and his processing speed was an area of relative
14 strength so it was in the low average range and all of that yielded a
15 full-scale IQ of 70.

16 Q Thank you. And why -- why is it important then for to do a
17 psychological -- neuropsychological evaluation beyond just
18 understanding the IQ that he has?

19 A IQ helps us understand IQ stated simply, however
20 neuropsychological evaluation looks at multiple cognitive domains that
21 are important to look at beyond just assessing IQ. So IQ tells us about
22 intellectual functioning, but neuropsychological evaluation examines
23 attention, concentration, mental tracking, processing speed, language
24 and spatial skills, memory and executive skills that are well beyond what
25 we can determine by IQ alone.

1 Q And throughout those testing with the neuropsychological
2 evaluation did you find within those tests anything regarding the validity
3 of the -- the tests with him?

4 A I did. So we're consistently mindful of validity in all of the work
5 that we do and Mr. Manson passed all validity measures and there were
6 no indications of suboptimal performance or malingering.

7 Q Okay, so let's go in little bit more into your neuropsychological
8 evaluation. What were your end results?

9 A I found him to have significant difficulties with regard to
10 attention, mental tracking, processing speed, language and spatial skills.
11 He had variable memory skills and he had poor executive functioning
12 and fine motor skills.

13 Q So let's -- let's talk a little bit about each one of those. In your
14 report you talked about academic skills. What were his skills and why --
15 why is that important?

16 A His academic skills, just referring to my report, were generally
17 at the third grade level with the exception of his reading comprehension
18 was at the 2.3 grade level and he had relative strengths in spelling at the
19 6.2 grade level. In terms of why that's important is that it suggests that
20 he has continued academic difficulties despite a history of special
21 education interventions from first grade on. And so examining his
22 academic skills today we see those continued difficulties and given his
23 history of special education it suggests learning difficulties over and
24 above what would be expected simply from IQ alone.

25 Q Understood. And what about then also about the his

1 attention, mental tracking and the processing speed? What did you --
2 what were the results of that?

3 A He had significant difficulties in each of these areas. So when
4 we look at his sustained attention alone, his performance on the CPT II
5 which looks at sustained attention skills yielded a index score of 99
6 percent and this is strongly consistent with ADHD over and above his
7 intellectual disability -- what would be expected from his intellectual
8 disability alone with regard to attention problems. We found him to have
9 very poor processing speed. Even though that was an area of relative
10 strength, it was still a significant struggle for him and significant
11 difficulties with mental tracking. When we apply this functionally, it
12 suggests that in the context of court proceedings he's very likely to be
13 distractible, he's likely to miss and misunderstand information, he's likely
14 to be very slow to process information which means he'll also miss
15 important information in the context of proceedings.

16 Q Thank you. And you also mentioned an additional part of
17 language skills. What were your results with his language skills?

18 A I found him to have poor expressive and receptive language
19 skills such that he has a low vocabulary. He will tend to be very
20 concrete. He will struggle with answering questions in a
21 well-thought-out manner and considering all aspects of a question
22 before responding. Each of these things are strongly consistent with
23 comprehension difficulties in real time.

24 Q You also did in your evaluation test on spatial skills. What
25 were your results with that?

1 A I found him to have poor spatial skills and certainly his fine
2 motor -- poor fine motor speed and dexterity would exacerbate those
3 spatial skill difficulties.

4 Q Okay. And what about his -- his memory skills?

5 A Well --

6 Q What were those results?

7 A -- as I -- as I mentioned previously, Mr. Manson has variable
8 memory skills. What I mean by that is his recall for complex and
9 highly-structured information is poor, whereas his rote memorization
10 skills are quite good. What that suggests is that when he hears
11 information repeated to him frequently and consistently he is able to
12 benefit significantly from that repetition. However, when he has to later
13 recall or when he has to recall complex information, he significantly
14 struggles with that, and I think that at least partially explains his poor
15 memory both of his competency restoration training and his poor
16 retention of advice of counsel.

17 Q Thank you. And to his executive functioning what was those
18 results?

19 A I found him to have poor executive functioning so what -- what
20 that suggests is he will struggle with problem solving, abstract and
21 deductive reasoning, impulse control and his ability to shift his attention.
22 And when -- when we look at that from a functional perspective, it again
23 suggest he's going to be vulnerable to missing or missing --
24 misunderstanding information, he is likely to get distractible, he's likely to
25 respond impulsively without really thinking through the consequences of

1 his response and he's likely to have significant difficulties with engaging
2 in problem solving. All of these things are certainly likely to undermine
3 his comprehension during court proceedings.

4 Q So with all those -- understanding the skills within those the --
5 of your evaluation, how does all that impact his competency in the
6 evaluation, all these neuropsychological issues and problems that you --
7 you found?

8 A So aside from his low IQ, all of these neurocognitive issues
9 contribute to comprehension problems for him and those comprehension
10 problems undermine his ability to understand his charges and court
11 proceedings, his ability to understand what's presented in the context of
12 proceedings and his ability to assist counsel in his defense.

13 Q So knowing this -- that he has IQ neurocognitive problems, do
14 you believe that simplified information that, you know, breaking down
15 things in simplest form that -- that he would still have competency
16 problems?

17 A I do. In fact, part of the reason that I wanted to do an
18 independent competency evaluation aside from just looking at
19 neurocognitive functioning was that I think it's critical with Mr. Manson's
20 IQ and neurocognitive deficits to very -- to approach questions in a very
21 simple and open-ended context in order to best compensate for those
22 difficulties. I did that and even with that simplification and a combination
23 he continued to have significant comprehension difficulties.

24 Q So you mentioned that now that you did have another session
25 with myself and -- and Tariq Manson and observed his interaction with

1 myself; is that correct?

2 A I did.

3 Q And that was -- that -- that meeting or that interaction actually
4 happened after the Stein doctors found him competent; is that right?

5 A Yes, significantly after, so that was completed on April 23rd
6 2020 after his March 2020 final competency evaluations from his second
7 commitment to Stein.

8 Q And why did you decide that that would be the best --

9 A Well --

10 Q -- course of action?

11 A -- my understanding was that yourself, Mr. Page, continued to
12 have significant concerns with regard to his competency and aside from
13 the concerns that I raised in my initial competency evaluation and
14 concerns I had from his neurocognitive difficulties, I wanted to meet with
15 you to directly observe your interaction with Mr. Manson to better
16 understand what those continued concerns were.

17 Q Okay, and what was involved in that observation appointment
18 that -- that we had?

19 A So I -- due to our COVID19 pandemic, Mr. Page and Mr.
20 Manson met together in his office and I joined them via
21 videoconferencing. That was a 1.5 hour meeting in which I had the
22 opportunity to observe Mr. Manson's understanding of his charges and
23 case facts, his understanding of the roles of members of the legal
24 community and court proceedings, and his understanding of sentencing
25 and negotiations, his ability to retain advice of counsel, his ability to

1 engage in hypothetical reasoning and to -- about the possible outcomes
2 of going to trial and his ability to weigh the relative strength and
3 weakness of evidence against him and to understand the adversarial
4 nature of the legal process.

5 Q And during that observation period did Tariq have any
6 problems in those areas?

7 A He had problems in all of these areas.

8 Q Let's kind of go through then some of those areas through that
9 observation. How was his understanding of charges and case facts?

10 A I'm so sorry, Mr. Page --

11 Q Can you tell -- tell me any difficulties --

12 A Okay. Thank you. I apologize, I was just getting a little bit of
13 a static with an additional login.

14 Q Oh I apologize.

15 A No trouble. So I believe that you asked about his
16 understanding of his charges?

17 Q Yeah, what was his understanding and did he have any
18 difficulties with the understanding of his charges and case facts during
19 your observation?

20 A He did. He had significant difficulty across the board. So
21 breaking that down he had significant difficulty understanding the word
22 consent. When he was asked to identify consent in his own words, he
23 actually misinterpreted it to say, quote, consent means forcing someone.
24 He had no appreciation of the relationship between age and consent.
25 He was able to state very generally that he understood that it was wrong

1 to have sexual activity with a minor, but he was not able to articulate the
2 reason for this. And he had in general really significant difficulty with
3 understanding with any degree of depth sexual decision making or
4 sexual consent issues and all of these comprehension difficulties
5 continued despite his competency restoration both initially and his
6 second commitment.

7 Q Now, did you observe an effort during that time to simplify the
8 -- the questions greatest extent possible?

9 A Absolutely. In fact that's exactly why I had wanted to observe
10 his interactions with counsel to determine if we were sufficiently
11 simplifying and Mr. Page consistent -- you consistently used very simple
12 and direct open-ended questions to accommodate for his difficulties,
13 however even with those accommodations he continued to have
14 significant difficulty.

15 Q Now, is -- in your experience, do people with intellectual
16 disabilities do they have problems understanding sexual matters?

17 A They do. They have difficulty understanding sexual matters
18 particularly any complexity with regard to sexual matters and the law
19 and that's well documented in research within this area.

20 Q Okay. And are these problems with understanding his
21 charges so bad that they don't meet the *Dusky* standard in your opinion?

22 A Yes, in my opinion.

23 Q In your report you also stated that you -- we discussed the
24 understanding of the roles of members of the legal community. Did he
25 have difficulties with that?

1 A He did. And this is quite consistent with what I saw initially in
2 my neuropsych and competency evaluation. Again he had a fairly
3 accurate if concrete understanding of defense and prosecution. He
4 continued to have significant difficulty with understanding the role of
5 judge and jury, and he continued to have significant difficulty with
6 identifying his own role in proceedings or anything he might do to assist
7 counsel with his defense.

8 Q Okay, and what also did you find any difficulties with the
9 discussion under understanding of court proceedings?

10 A I did. And I'm just going to refer to my notes briefly here. He
11 actually had significant difficulty with understanding proceedings in
12 similar vein to how he did initially so specifically, he's able to understand
13 well that he should be quiet and appropriate in court. My concern is that
14 he wasn't able to appreciate how he might identify or even how he might
15 recognize any comprehension difficulties or how to identify if anything
16 was said in proceedings that was inaccurate. Most concerning, he didn't
17 seem to understand how to appropriately communicate with counsel
18 during proceedings.

19 Q And why do you think that these problems with understanding
20 roles -- I -- I -- I apologize, scratch that. And -- and I apologize, why do
21 you think he has these problems understanding roles and court
22 proceedings then?

23 A These problems are strongly consistent with his intellectual
24 disability and neurocognitive deficits.

25 Q Understood. Okay, and -- and do you believe that his

1 understanding of the -- the roles and courts are -- are significantly
2 hindered that they don't meet the *Dusky* standard?

3 A I am. I'm very concerned that they continue to undermine his
4 ability to understand both his charges and court proceedings as
5 sufficient to meet the *Dusky* standard.

6 Q You also mentioned observing the interactions with him and
7 myself about issues and problems understanding the sentencing
8 structure. Can you explain that?

9 A Yes, and when -- when you discussed sentencing with him, I
10 -- I felt that he had even more difficulty than he had initially with
11 understanding sentencing ranges. He didn't -- wasn't able to estimate
12 the relative likelihood of each end of the sentencing ranges. He had no
13 understanding of how sentencing might be stacked or the relationship
14 between his charges and sentencing so across the board that was a
15 significant area of difficulty for him.

16 Q And will that affect his ability to assist counsel in his defense
17 do you believe?

18 A Yes I do believe it will.

19 Q And we also discussed in that session his understanding of
20 offers and negotiations. Can you explain any problems that you
21 observed with that?

22 A Certainly. So he does have a generally good but concrete
23 understanding that negotiation could result or case negotiations could
24 result in lesser -- lesser sentencing. He otherwise had significant
25 difficulty with all of those areas so he didn't seem to understand the

1 process of registering as a sex offender, he wasn't able to distinguish
2 between probation and house arrest and he otherwise had poor
3 understanding across the board.

4 Q Now, understanding that these are complex considerations for
5 even most people, could it improve just by myself or others just
6 explaining it better to him in simpler terms?

7 A Well I -- I think that is where direct observation was
8 particularly helpful in that you -- you, Mr. Page, diligently and
9 consistently simplified, used open-ended questions and attempted to
10 accommodate for his intellectual and neurocognitive deficits to the
11 highest degree possible and even with that significant amount of effort,
12 these comprehension difficulties continued.

13 Q And do you believe that these continues problems
14 understanding negotiations and offers affect his ability to assist counsel
15 in his defense?

16 A I -- I do. I think they significantly undermine his ability to assist
17 counsel.

18 Q What about concerns you had regarding his ability to recall
19 advice from counsel? What can you tell us about that?

20 A That -- that was an area of significant concern. So first I
21 looked at his ability to retain advice of counsel from meeting to meeting.
22 He wasn't able to recount back any advice he had been given
23 previously. But much more concerning, even within the context of the
24 single meeting, he wasn't able to relate back advice of counsel. When
25 he was significantly prompted on this, the only advice he was able to

1 relate back was something counsel said immediately before just
2 moments before which was don't go to trial. He repeated that verbatim
3 and yet when he was asked to explain it, he wasn't able to explain that
4 advice of counsel.

5 Q Do you believe that his -- this will affect his ability to assist
6 counsel in his defense?

7 A I certainly do, yes. Mr. Page?

8 Q Yes.

9 A I -- I'm so sorry to interrupt, just procedurally, I believe with Dr.
10 Sussman I'm getting a lot of feedback and echo. When Dr. Sussman
11 returns -- I don't know if he can hear me. He just stepped out of frame.
12 But if we could ask to mute, I'm just getting a --

13 THE COURT: We --

14 A -- so much echo that it's a little --

15 THE COURT: We can --

16 A -- bit difficult to hear.

17 THE COURT: Yeah, we can mute everybody but -- but you
18 and Mr. Page.

19 THE COURT RECORDER: I just muted him.

20 THE WITNESS: Thank you so much and I --

21 THE COURT: Is that --

22 THE WITNESS: -- apologize for my poor hearing. I am
23 definitely --

24 THE COURT: Oh no that's --

25 THE WITNESS: -- reaching middle age in that regard so --

1 THE COURT: The echo can be --

2 THE WITNESS: Oh thank you so much. It was just for some
3 reason giving me feedback. I apologize for the interruption.

4 THE COURT: No problem.

5 THE WITNESS: Thank you so much for that help.

6 BY MR. PAGE:

7 Q And thank you for bringing that up. Where were we? And did
8 we -- you also discussed his ability to understand possible outcomes of
9 going to trial. Did -- did you observe any difficulties with that?

10 A I did, and I'm just going to briefly look at my report here. One
11 of the things that was -- was really striking to me is that he had poor
12 appreciation across the board for any potential outcome of going to trial.
13 I think the most striking example of that is when yourself, Mr. Page, tried
14 to explain the State's burden of proof. So for example, Mr. Manson had
15 a misunderstanding that charges alleged against him could not be
16 proven unless there was photograph or videographic evidence. He felt
17 that if there were not photos or video evidence directly demonstrating
18 these allege charges that the State couldn't meet the burden of proof
19 and he wasn't able to articulate anything else that could be used against
20 him at trial.

21 Q And prior to that -- that question, and this is if you recall or not,
22 do you recall the counsel describing in simple terms burden of proof and
23 what is needed for evidence reasons?

24 A Absolutely. Yes, it was explained clearly and repeatedly.

25 Q Now will this affect his ability to aid and assist counsel in his

1 defense?

2 A Yes it certainly will.

3 Q We also discussed at that time the relative strength and
4 weaknesses of the evidence and witnesses against him. Did you
5 observe any difficulties in that discussion?

6 A I did. He had significant difficulty with really identifying
7 anything concrete related to evidence or witness against him --
8 witnesses against him even with significant prompting. With prompting
9 to generate any understanding, he identified his young appearance and
10 that there were -- that they were -- it was a bad crime, quote unquote.
11 However, even with identifying those two things he didn't seem to be
12 able to articulate even whether -- how those would be used for or
13 against him or whether each of those factors might be weighed for or
14 against him in the context of proceedings.

15 Q Your opinion, will that affect his ability to aid and assist
16 counsel in his defense?

17 A Yes it will.

18 Q We also discussed his understanding of possible risks of
19 going to trial. Did you have any -- did he have any difficulties with that?

20 A I don't feel he had any appreciable understanding of the risks.
21 And so his -- his ability to weigh risks seemed to be extremely poor and
22 he had significant difficulty really identifying any concrete understanding
23 of the possible risks.

24 Q And why do you think he -- he's having all these difficulties?

25 A Well these difficulties are strongly consistent with his

1 intellectual disability and his significant neurocognitive difficulties
2 working together.

3 Q And -- and again, could it be that these problems could be
4 overcome if counsel would just explain better more simple terms these
5 issues?

6 A Throughout my observation, I consistently saw counsel use
7 very simple and concrete terms, check his understanding and
8 accommodate use -- and also use repetitive questions so all of the
9 accommodations we would typically use to compensate, even with those
10 accommodations he continued to have significant difficulties as I stated.

11 Q Is it your opinion that these problems affect his ability to aid
12 and assist counsel in his defense?

13 A Yes, absolutely, I think they all significantly undermine his
14 ability to do so.

15 Q And is it your opinion that these problems are so bad that they
16 would not meet the *Dusky* standard?

17 A Yes.

18 Q Now, could you tell the Court what records that you reviewed
19 for this case?

20 A Certainly. Let me just pull my records here. So I reviewed
21 educational records from the Clark County School District, records from
22 the Social Security Administration, his arrest report and administrative
23 records from Las Vegas Metropolitan Police Department, a
24 psychological evaluation completed by Dr. Forrester, a pre-plea
25 psychosexual evaluation completed by social worker, Mr. Pacult, and

1 with regard to competency, pre-commitment competency evaluations by
2 Dr. Collins and Dr. Colosimo (phonetic). And then with regard to his
3 Stein forensic facility records, from his first commitment to Stein I
4 reviewed competency evaluations from Dr. Bradley, Dr. Bennett and Dr.
5 Conn (phonetic). And from his second commitment to Stein, I reviewed
6 the competency evaluations by Dr. Damas, Dr. Bossi and Dr. Sussman.

7 Q Thank you. And the reports from Dr. Colosimo and Collins
8 were not listed in your report that you filed. Why is that?

9 A That was an oversight for which I apologize. I actually
10 reached out to Mr. Page after sending the report to notify him that I had
11 reviewed those and considered them and they were just I -- I had failed
12 to include them in my listing.

13 Q Understood. So having reviewed those reports, what was
14 your understanding of the pre-commitment evaluation by both Dr. Collins
15 and Dr. Colosimo?

16 A Dr. Collins and Dr. Colosimo both found him incompetent.

17 Q Now, in your review of the pre-commitment reports both by Dr.
18 Collins and also the IQ report that was done by Dr. Forrester that stated
19 that Tariq did not have adaptive functioning deficits, but you said -- but
20 you found adaptive functioning deficits, how can you explain that
21 discrepancy between what you're saying now and what they're saying?

22 A When I -- when I reviewed Dr. Collins' report, she did not
23 review his educational or Social Security records, both of which
24 established his adaptive functioning deficits before the age of 18. She
25 therefore assumed that there were not adaptive functioning deficits that

1 would have been evident and would have likely changed her diagnosis
2 had she had those records.

3 With regard to Dr. Forrester's evaluation, she tested Mr.
4 Manson and found him to have an IQ of 67. She did evaluate his
5 educational records, but she did not have access to his Social Security
6 records which discuss his adaptive functioning deficits in greater detail.

7 When we look at the Social Security records in particular, he
8 has well-established adaptive functioning deficits from at least age eight
9 and those are well-documented within the Social Security Administration
10 records. These include things like difficulties with independently
11 dressing himself, with hygiene, with communication and understanding
12 questions posed to him, with poor judgment and comprehension, with
13 responding to questions and accurately expressing his needs to others
14 and with safety planning. All of those were noted by the age of eight
15 and in collateral interview with both of his parents, many of those
16 difficulties continue to the present with regard to his adaptive functioning
17 deficits.

18 When we consider all of those adaptive functioning deficits in
19 addition to his well-established low IQ, they're strongly consistent with a
20 diagnosis of intellectual disability.

21 Q Thank you for explaining that. Now you also just mentioned
22 that you did a collateral interview with Tariq's parents?

23 A That's correct with both of his parents.

24 Q And when was that?

25 A That was October 11th of 2019.

1 Q And why did you interview them?

2 A I interviewed them to get a better understanding of his
3 developmental history over and above my review of his educational and
4 Social Security records.

5 Q And so now that wasn't -- so that wasn't the only -- that
6 interview with them wasn't the only reason that you (indiscernible) with
7 that diagnosis of intellectual disability there?

8 A No. Whereas collateral interview with his parents helped me
9 better understand his early development and adaptive functioning
10 deficits, it was certainly not all I relied on. I relied on his educational and
11 Social Security Administration records and on the guidelines of AAIDD
12 or the American Association for Intellectual and Developmental Disability
13 guidelines with regard to adaptive functioning.

14 Q Thank you. Now in review of your -- of the records, what was
15 your understanding of his first commitment to Stein?

16 A His first commitment to Stein, as I said I evaluated the
17 competency evaluations completed by Dr. Bradley, Dr. Bennett and Dr.
18 Conn and all opined that he was not competent.

19 Q And were -- were the Stein doctors aware of Tariq's
20 intellectual problems during that commitment are you aware?

21 A They were absolutely and they noted that they used the Slater
22 Method which is a method of competency restoration specifically
23 designed to accommodate for his intellectual disabilities.

24 Q And you also reviewed records with his second commitment to
25 Stein?

1 A That's correct. So for his second commitment to Stein I
2 reviewed the competency evaluations completed by Dr. Damas, Dr.
3 Bossi and Dr. Sussman.

4 Q And these doctors at that time opinion -- what was their
5 opinion?

6 A They all opined that he was competent.

7 Q And did these doctors note that he still could have difficulties
8 even after finding him competent?

9 A Absolutely, all three opined that he may have those continued
10 difficulties and then specifically Dr. Damas and Dr. Bossi were clear in
11 stating very appropriate accommodations including using simple
12 language and checking for his understanding of information and those
13 are certainly accommodations that I would agree with given his
14 difficulties. Dr. Sussman note that Mr. Manson could benefit from further
15 brief procedural competency training, again acknowledging that he might
16 continue to have difficulties even though he was found competent.

17 Q And again during your direct observation of Tariq's interaction
18 with his counsel, myself, after he was found competent by the Stein
19 doctors, were these suggestions incorporated?

20 A They were. So I -- those competency evaluations from his
21 second commitment were completed in March. I met with yourself, Mr.
22 Page, and Mr. Manson to directly observe your interactions and I felt
23 that you took all necessary efforts to incorporate those suggestions.
24 Specifically you used very concrete and simple language, you used
25 repetition, you continually asked Mr. Manson and checked with Mr.

1 Manson with regard to his understanding of information, however even
2 with those accommodations he continued to have all of the significant
3 difficulties that I've testified to.

4 Q And were the Stein doctors aware of Tariq's cognitive
5 difficulties during that commitment?

6 A Certainly yes. Very consistent with his first commitment to
7 Stein, the Stein doctors continued to use the Slater Method to attempt --
8 attempt to restore his competency with his intellectual and cognitive
9 difficulties in mind.

10 Q And do you -- and I guess do you believe that a consideration
11 of his neuropsychological evaluation beyond his intellectual disabilities
12 may have made a difference in his competency restoration?

13 A I think it may have specifically with regard to the extent of
14 understanding his attention processing speed, executive and memory
15 deficits. One of the things that's notable especially with regard to
16 memory is that Mr. Manson has good rote memory. So when Stein
17 provided -- used the Slater Method, I truly believe that Stein made every
18 effort to accommodate those considerations; they used frequent
19 repetition and high levels of structure and support. All of those things
20 allowed him to engage in rote memorization sufficient to appear to be
21 restored to competency and yet some month later from the -- the end of
22 March until April 23rd he wasn't able to retain that information. So we
23 see the initial benefit of rote memorization, but unfortunately he didn't
24 retain sufficiently the -- those accommodations that were provided at
25 Stein.

1 Q And I guess this question kind of goes along with that, but do
2 you believe that most people with intellectual disability would be found
3 incompetent then?

4 A No, and that's exactly why we have the Slater Method. Most
5 individuals with intellectual disability can be restored to competence.

6 Q Well then to add on to that then from what you already said,
7 what -- what is -- what is different about Tariq then?

8 A So with Tariq, aside from his low IQ, he has very significant
9 deficits across all domains of neurocognitive functioning. So specifically,
10 he has attentional difficulties that are strongly consistent with ADHD
11 over and above the attentional difficulties that would be expected from
12 intellectual disability alone. He has significantly slow processing, he has
13 language and spatial deficits, he has executive functioning deficits and
14 while he does have quite good rote memory skills, his ability to recall
15 complex and highly-structured information remains very poor. He thus
16 has very very significant neurocognitive deficits over and above what
17 can be explained simply by IQ alone.

18 Q And so to summarize, basically what we've talked about in
19 your direct observation of Tariq and his attorney, is it your opinion that
20 he is competent at this time?

21 A In my professional opinion, I do not believe that he is
22 competent at that time -- at this time I don't believe his -- these
23 comprehension difficulties allow him to meet the *Dusky* standard.

24 Q To your knowledge in reviewing the records from Stein, were
25 Tariq's interactions with his attorney observed (indiscernible) restoration

1 program?

2 A Not to my knowledge in reviewing his records.

3 Q Believe that directly observing his interactions with his
4 attorney would have made a difference in the competency restoration
5 program?

6 A I do, and I believe that for a couple reasons. Specifically
7 because in my independent competency evaluation with him I found
8 concerns, but I found additional concerns in my direct observation of his
9 interactions with yourself as counsel. I think the same is true with Stein
10 that with the Stein doctors they did absolutely acknowledge he may
11 have continuing difficulties and may need accommodations, but when I
12 observed your interactions with him, I saw you consistently provide the
13 recommended accommodations and that he continues to have these
14 comprehension difficulties even with those accommodations.

15 Q What are your -- what are Tariq's current diagnoses (sic)
16 then?

17 A So his current diagnoses are mild intellectual disability,
18 unspecified neurocognitive disorder, and note that with unspecified
19 neurocognitive disorder, this indicates that he does not meet criteria for
20 another neurocognitive disorder and the DSM-5 neurocognitive disorder
21 work group, when they discuss childhood and adolescence, talk about
22 potentially acquired difficulties that decline the trajectory of his
23 neurocognitive development. Stated in really simple terms, what that
24 means is that he had factors that further declined his neurocognitive
25 deficits over and above the intellectual disability alone.

1 And he also meets criteria for ADHD and specific learning
2 disorders in reading, math and written expression. Again of note his
3 significant learning disorders are in excess of what would be expected
4 from IQ alone.

5 He has a developmental history of pica, which is a condition
6 from toddlerhood in which he ingested nonfood items, potentially
7 including toxins and lead paint. His parents in the collateral interview
8 noted that their living -- where he was living at that point had been tested
9 and found positive for lead paint and he was frequently eating paint
10 chips as a toddler.

11 He also has physiological features that are consistent with
12 potential genetic disorders that can contribute to intellectual disability,
13 but short of genetic testing or further medical evidence, those are
14 notable but not confirmed.

15 And he also in the Social Security records was noted to have
16 hospitalization for hypoxia at three months. I did not have medical
17 records to further confirm that.

18 Q Thank you. Now, do you believe that the difficulties Tariq has
19 are amenable to restoration?

20 A I'm very concerned that given his long-term intellectual
21 disability and neurocognitive deficits, he will continue to have these
22 difficulties. These are unlikely to be significantly restorable. His
23 educational or academic difficulties, while potentially restorable due to
24 additional educational training, would still be limited by his intellectual
25 difficulties.

1 Q In your -- now in your CV you noted that you have a
2 professional membership in the American Association on Intellectual
3 and Developmental Disabilities. Can you tell us about what that
4 organization is?

5 A Sure, that organization is the oldest and largest national
6 interdisciplinary organization of individuals working with folks with
7 intellectual disability. They're -- they really provide guidance with regard
8 to understanding adaptive functioning deficits and they also provide
9 research and policy statements about best practices for working with
10 individuals with intellectual disability.

11 Q And is -- within your knowledge is it common that people
12 within the criminal justice system are not diagnosed with intellectual
13 disability?

14 A Yes. In fact, the AAIDD or American Association of
15 Intellectual and Developmental Disabilities released a position statement
16 specifically about this. So in their criminal justice position statement, the
17 AAID (sic) noted that underdiagnosis and misdiagnosis of intellectual
18 disability and stereotypes with regard to what individuals with intellectual
19 disability can and cannot do are all significant concerns for individuals
20 with intellectual disability within the criminal justice system.

21 Q Understand and clarify, are you saying that just because he
22 has intellectual disability that he should not be held accountable for his
23 current charges?

24 A No, not at all. I'm not saying that he should not be held
25 accountable for his current charges, I am merely saying that his lack of

1 competence, his intellectual disability, his neurocognitive difficulties and
2 his clear lack of understanding of these matters should all be taken into
3 account and weighed when decisions are made with regard to his case.

4 MR. PAGE: Appreciate your testimony.

5 No further questions, Your Honor.

6 THE COURT: All right.

7 THE WITNESS: Thank you.

8 THE COURT: Mr. O'Brien -- Mr. O'Brien, go ahead.

9 MR. O'BRIEN: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. O'BRIEN:

12 Q Doctor, just briefly about your background and we've talked
13 about this before but you've never worked in a forensic facility, correct?

14 A That's correct, Mr. O'Brien.

15 Q And you have no experience in actual competency
16 restoration?

17 A No.

18 Q And is it fair to say that primarily your work in the criminal
19 justice field is on behalf of the defense?

20 A No, I -- I have certainly worked with the defense, but I have
21 also worked with the office of the District Attorney and I have worked
22 with the prosecution and defense on a handful of civil work so while the
23 majority of my work as a neuropsychologist specializing primarily in
24 capital and noncapital murder is on behalf of the defense, I think it's
25 critical to work with all members of the legal community and willingly do

1 so whenever I'm retained.

2 Q Yeah and I'm -- I'm not saying you would turn those down, I'm
3 just trying to clarify what percentage of that was defense work versus
4 what percentage was work for a State --

5 A The -- the majority is defense work.

6 Q Okay. The initial testing you did Defendant was prior to his
7 commitment to the Stein facility, correct?

8 A That's correct.

9 Q And then this observe observation that was conducted in April
10 of this year was done after he had been returned from Stein?

11 A That was after he was returned from Stein for the second
12 time, yes.

13 Q Well and just to be clear, you referred to that a couple times
14 and also your report. Although there were two commitment orders,
15 you're aware this was basically one continuous commitment, correct?
16 He went to Stein and he was -- went through outpatient till such time as
17 they found him competent?

18 A That's correct. So his -- his first competency restoration he
19 was found incompetent, he was then engaged in additional training and
20 found competent, so yes.

21 Q So when we say his first and second time at Stein, we're really
22 just talking about when reports were done. As far as his treatment and
23 outpatient, it was one continuous period of time where he was treated
24 outpatient.

25 A Yes, understood.

1 Q Okay. You expressed concerns that he had trouble
2 differentiating between lewdness and sexual assault, correct?

3 A Yes.

4 Q Fair to say that these are sophisticated legal concepts?

5 A They -- they are, certainly, and that is why when I talked about
6 those difficulties, those are examples of difficulties but he also has much
7 broader difficulties with regard to understanding his charges.

8 Q You also talked about how he did not really understand what
9 the age of consent was, correct?

10 A That's correct.

11 Q He did understand that under the law as he's accused what he
12 did was wrong, was illegal behavior?

13 A Yes.

14 Q Okay. He understood that he was facing prison time?

15 A Yes.

16 Q He understood that if he went to trial and lost he could go to
17 prison?

18 A Yes.

19 Q In fact he could get a life sentence for his charges?

20 A Yes. However, with regard to the life sentence specifically, his
21 -- he has very very significant difficulty understanding sentencing ranges
22 across the board. So I do not think he has in -- in just reviewing my
23 records right now, the -- the concept of life seemed to be difficult for him
24 to understand so it was one year or a very long period of time, but I don't
25 think he has a appreciation for life.

1 Q He is relatively young, he's in his late teens, correct?

2 A He is currently 20.

3 Q Okay, early twenties. The concept of life --

4 A Yes, he's 20. Yes.

5 Q The concept of life for a 20-year-old is going to be hard to
6 measure no matter what his intellectual disabilities are, correct?

7 A But significantly much harder with someone with intellectual
8 disability to have that appreciation.

9 Q Is it fair to say that you're looking for a certain level of
10 sophistication regardless of his intellectual disability?

11 A I -- I'm not sure I understand your question.

12 Q Well --

13 A I -- I wouldn't expect a high level of sophistication --

14 Q Let me rephrase it. Don't -- don't guess at my -- what I'm
15 asking.

16 A Okay.

17 Q If you don't understand, let me rephrase it.

18 A Thank you, I appreciate that.

19 Q You -- you say in your report that -- I'm looking at page 2 of
20 your report -- he will tend to be very concrete, is confused and will have
21 marked difficulty understanding nuanced or complex information.

22 A Yes.

23 Q Is that correct?

24 A Yes.

25 Q That's not really the standard of competency though to look for

1 nuanced and -- and complex information. The standard of competency
2 is relatively low as far as being able to assist your counsel,
3 understanding your charges, understanding the proceedings against
4 you?

5 A I would agree with that and that's precisely why I was very
6 precise in the difficulties he continues to have well beyond nuance.

7 Q You said that the -- just the mere fact that he has intellectual
8 disability does not mean he's not restorable or that he can't be
9 competent to stand trial, correct?

10 A That's correct.

11 Q However you also said people with intellectual disability have
12 trouble understanding matters regarding sexual matters and the law?

13 A That's correct.

14 Q So this is -- this is going to be difficult for anybody with
15 intellectual disability?

16 A When we look at research in this regard, there's significant
17 variability. In fact, there's training programs specifically to help
18 individuals with intellectual disability better understand these matters so
19 it is not universally true that all people with intellectual disability lack the
20 ability to understand sexual matters, merely that the research shows us
21 that that's a significant problem area.

22 Q Okay. It -- it's difficult to understand the concept of what is
23 legal and illegal as far as sexual behavior goes?

24 A Yes, that's absolutely correct.

25 Q And it's difficult to understand the concept of consent under

1 the law?

2 A That's commonly documented within the research for
3 individuals with intellectual disability.

4 Q For example, someone with intellectual disability may not
5 understand that if someone doesn't say no, there could still be a lack of
6 consent?

7 A That -- that is fair, although it doesn't apply in this particular
8 case.

9 Q Here we're talking about consent being because of age,
10 correct?

11 A That's correct.

12 Q But again there's a lack of that -- a -- a lack of someone
13 saying no I don't want to do this as far as the consent goes?

14 A I'm -- I'm sorry but I don't --

15 THE COURT: I didn't -- I --

16 A I -- I wonder if you could just --

17 THE COURT: Mr. O'Brien, I --

18 A -- clarify your question?

19 THE COURT: -- I didn't understand the question either.

20 BY MR. O'BRIEN:

21 Q Sure. I'm just trying to -- you said he has difficulty with the
22 concept of consent and that in this case the lack of consent is
23 specifically regarding age. I guess that's what I'm getting at that the lack
24 of consent in this case isn't someone that is fighting him off and he's
25 forcing himself on someone?

1 A That is correct. In this particular case, it is very specifically
2 regarding age and not at all applied to force or resistance.

3 Q There are accommodations both the defense attorney and the
4 court could make for someone with intellectual disabilities; is that
5 correct?

6 A That is correct. Those accommodations were recommended
7 by the Stein doctors as I've testified to and Mr. Page has made those
8 accommodations as well in my observations of the interaction and those
9 -- yeah so -- yes. I'm sorry to answer your question more precisely.

10 Q So can you give us examples of what those accommodations
11 can be between a defense attorney and a defendant with intellectual
12 disabilities?

13 A So broadly, this is where I think it's really important to
14 understand neurocognitive functioning. There's not a one size fits all
15 model such that we can list out what each individual with intellectual
16 disability might need with regard to accommodations. I think that's
17 where it's really critical that we individually tailor those accommodations.

18 So broadly, those accommodations would include things like
19 using simple language, explanation of concepts, testing his
20 understanding. However, when Mr. Page attempted to do all of that, he
21 continued to have significant difficulties. When we look at
22 neurocognitive functioning, his memory, attention and executive
23 difficulties alone will significantly exacerbate the accommodations
24 needed just from his intellectual disability.

25 Q And I'm (indiscernible) I'm not talking about him specific, right

1 now I'm just sort talking about generally, are there some general things
2 that you recommend the attorney do with someone -- I understand that
3 every case is unique, but are there some general things a defendant -- a
4 defense attorney should do to accommodate intellectual disability of the
5 Defendant?

6 A Absolutely, and those I -- I'm sorry, I should have been more
7 clear. Those are exactly the accommodations that I was referring to
8 noted by Dr. Damas, Dr. Bossi and Dr. Sussman that the attorney
9 should use simple language and concrete, should test his understanding
10 of information, should keep concepts simple and make sure that he
11 understands so those accommodations were suggested, were
12 incorporated by Mr. Page, but he continued to have significant
13 comprehension difficulties despite those accommodations.

14 Q When this observe meeting happened, you were simply
15 watching Mr. Page interact with the Defendant over the video; is that
16 correct?

17 A I discussed with Mr. Page the areas I would like to observe. I
18 then observed and asked questions if there was anything I needed
19 clarification of.

20 Q And who did you ask questions of?

21 A Both Mr. Manson and Mr. Page during that meeting.

22 Q And did you make suggestions Mr. Page in different ways to
23 explain information to the Defendant?

24 A Yes. And modeled that as well, however it should be noted
25 throughout my testimony Mr. Page was aware of the difficulties and

1 aware of the need for accommodations and consistently provided those
2 throughout his interaction. So specifically --

3 Q Can you --

4 A Oh I'm sorry. I apologize.

5 Q Can you be more specific in what and how he did that?

6 A Yes, thank you. We were on the same page. I was about to
7 provide examples, thank you. So he used very simple language that
8 was concrete. He repeated information. He asked Tariq to explain his
9 understanding in his own words. When he continued to have difficulties,
10 he asked him questions like tell me more about that, help me
11 understand better so open-ended questions. Even with all of these
12 accommodations as I've stated, he continued to have these
13 comprehension difficulties.

14 Q Did you observe that his abilities to recall information or
15 interact with his attorney had improved from the first time you saw him
16 and the observe meeting in April?

17 A So with regard to improvement, I would say his understanding
18 of sentencing actually decreased from the first time I saw him to April.
19 He otherwise continued to have very significant difficulties across the
20 board that were quite consistent with the difficulties I observed in my
21 initial evaluation.

22 Q You're saying that his ability to understand the sentencing
23 range he was facing decreased following his restoration process?

24 A He -- he seemed to have slightly more confusion in that
25 regard, otherwise consistent and again, these are subtleties that I would

1 say in my second observation he had more difficulty understanding
2 specifics with regard to sentencing. What I mean by that is
3 understanding the relative likelihood of each range of sentencing as I've
4 testified to and understanding possible outcomes, understanding the
5 sentencing range, additionally understanding the process of negotiations
6 and understanding what might be involved in sentencing conditions,
7 specifically kind of his ability to have to or his requirement to register as
8 a sex offender and so forth. So he seemed to have more confusion in
9 that regard, although that is a subtlety, he certainly had confusion in the
10 beginning as well so across the board continued to have significant
11 difficulties.

12 Q He's facing multiple charges with different penalty ranges
13 here, correct?

14 A That's correct.

15 Q All right. When discussing the behavior -- the illegal behavior
16 (indiscernible) your report reflects that he understood that it was illegal
17 to engage in sexual activity with a minor but he didn't understand why
18 that was illegal, correct?

19 A That's correct, and my -- my impression in my observation and
20 in my initial assessment is that really does speak to rote memorization
21 that he has been told that that is illegal. He's able to repeat back that
22 information, but he doesn't seem to have any appreciable understanding
23 of why that is.

24 Q But setting aside the why, he does understand that the
25 behavior he's accused of is against the law and that he -- under the law

1 he shouldn't have engaged that behavior?

2 A That's correct.

3 Q He understood the roles of his attorney as well as the
4 prosecutor, correct?

5 A That's correct.

6 Q He had some difficulty with the word prosecutor, but when
7 was explained to him that's the DA he understood that; is that correct?

8 A That's correct. Absolutely yes.

9 Q You said he had difficulty with the understanding of registering
10 as a sex offender. Were you aware that he told Stein during the
11 evaluations he did not want to register as a sex offender?

12 A I was aware of that in my reviewing his records.

13 MR. O'BRIEN: Court's indulgence.

14 BY MR. O'BRIEN:

15 Q You said that he has significant memory issues, is that
16 correct, as far as I guess committing things to long-term memory or
17 being able to recall things after a significant period of time?

18 A So -- so just to speak to his memory results with regard to
19 neurocognitive functioning, what I see across the board is that his rote
20 memorization is quite good. That's an area of relative strength for him.
21 However, his ability to recall complex or structured information is poor.
22 What I mean by rote memory, a good day-to-day example of that is I'm
23 going to tell you a list of words, I'm going to ask you to repeat the words
24 back to me, there's no context, there's no other complexity, I simply want
25 you to listen and repeat back. That's a good example of rote memory.

1 He does fine in that regard. However, if you ask him to recall anything
2 more complex, he has significant difficulty.

3 Q When you say more --

4 A I hope that that -- so more complex, if I ask you to recall
5 information and I'm not providing that structure or support, if I'm asking
6 you some period of time after competency restoration to tell me what
7 you learned in really concrete terms, he continues to have difficulty. So
8 what that suggests is rote memorization allows him when he's getting a
9 high level of structure and support when he hears things over and over
10 again, he is able to benefit from repetition and review, but he isn't able to
11 retain that benefit over the long term.

12 MR. O'BRIEN: Court's indulgence.

13 BY MR. O'BRIEN:

14 Q When you were talking about him not knowing how to
15 communicate with his attorney in court, can you explain a little bit more
16 what you were talking about that?

17 A Certainly, I'd be happy to. I have two primary concerns in that
18 regard. Mr. Manson's intellectual and neurocognitive deficits makes it
19 very clear to me that he doesn't have insight into his comprehension
20 difficulties. It is not merely that he has comprehension difficulties, it's
21 that he doesn't have insight such that he can effectively recognize when
22 he has failed to understand information or to appreciate the potential
23 consequences of failing to understand. So in the context of
24 proceedings, his ability to communicate with his attorney when he hasn't
25 understood information is at least partially dependent on his insight; hey,

1 I didn't understand that, I need to tell you I didn't understand that, putting
2 it in really concrete terms.

3 He also because of his comprehension difficulties won't be
4 able to accurately identify if something -- follow along with proceedings
5 and identify if something is said that's inaccurate and communicate that
6 to counsel effectively. Both of those things are concern.

7 Q You make some mention of the family saying that he had
8 trouble when he was eight with his hygiene and his ability to take care of
9 himself; is that correct?

10 A Yes, and in my collateral interviews with his parents, his
11 mother also noted that he continues to needs -- need prompts with
12 regard to his management of hygiene to this day.

13 Q But he does to your knowledge bathe himself, feed himself --

14 A He -- he does, he just simply requires prompting so when we
15 talk about adaptive functioning deficits, the need for prompting is the
16 concern.

17 Q He also has some sort of job, correct?

18 A He does. He has a very highly-structured job, it is actually his
19 first job, and most people with intellectual disability can do very routine,
20 highly-structured job tasks under supportive supervision.

21 Q Do you know what sort of supportive supervision he gets at
22 this job?

23 A So he doesn't have any kind of independent -- I'm just looking
24 at my job notes here. Excuse me for one moment while I consult here.

25 So he's packing boxes under supervision, he's not -- he has

1 not -- oh, here we go. I apologize, Mr. O'Brien, I had to pull up the right
2 document here. So he -- he is doing routine work and I'm trying to
3 remember the -- oh, Express TemperPack. I apologize, for some reason
4 I couldn't find the name of the company. So it's his first job, he's doing
5 boxing and receiving, he's -- was doing that over about a few months
6 before I saw him initially so he's not given any complex tasks or having
7 to work independently or independently problem solve in the context of
8 that job.

9 Q And this is based on his report, the family's report or you
10 speaking to someone at his employment?

11 A That's based on his report and the family's report. I have not
12 talked to anyone in -- in that position.

13 Q And he also takes the bus to get to work; is that correct?

14 A That's correct. As do many people with intellectual disabilities.

15 Q And you don't take any issue with Stein using the Slater
16 Method to restore his -- him to -- to competency, correct?

17 A Not at all. In fact not only do I not take issue, I think that's
18 absolutely appropriate and it's clear to me that Stein provided him with a
19 high level of support and structure. They appropriately used the Slater
20 Method as certainly would be appropriate given his intellectual
21 disabilities and they provided him with support throughout his
22 competency restoration as I think is absolutely appropriate.

23 Q So really other than you think they should have seen him
24 interact with his attorney, you don't have any issue with the restoration
25 process the Defendant went through?

1 A That's absolutely correct that my -- my only concern is that I
2 think that these continued competency difficulties would be very difficult
3 to detect simply from competency restoration alone given that they
4 suggested accommodations. Now having observed his interaction with
5 counsel with those accommodations incorporated, it's evident he still
6 has difficulties that simply would not have been observable without that
7 direct observation of his interactions with counsel.

8 MR. O'BRIEN: Nothing further, Your Honor.

9 THE COURT: All right, thank you.

10 THE WITNESS: Thank you.

11 THE COURT: Mr. Page?

12 MR. PAGE: Just -- just briefly.

13 REDIRECT EXAMINATION

14 BY MR. PAGE:

15 Q Mr. Jones-Forrester, during the -- the time where you
16 observed both myself and Tariq interact, when asking those questions
17 regarding competency in the basic form, what would you say that was
18 the general response from Tariq of my questions? For -- what I mean by
19 that is were they simple and direct?

20 A Yes, they were simple and direct.

21 Q And --

22 A They -- I -- I apologize. They were also open ended. So you
23 -- you used simple and direct questions, you repeated where necessary
24 and you used open-ended questions to allow him to respond.

25 Q And specifically talking about Tariq's responses to my

1 questions, were they very simple, direct and short?

2 A Simple, direct and short and consistently evidenced
3 comprehension difficulties.

4 Q And so even on questions where it appeared that he said the
5 right answer, with any slight variation of questioning of that -- of that
6 issue, how was his response?

7 A His response -- the baseline of his response could best be
8 described as confusion and comprehension difficulties. Even without
9 that variation, even when things were repeated in that simplified format,
10 he continued to have comprehension difficulties and his responses were
11 brief and often very clearly demonstrative of comprehension difficulties.

12 Q Understood. And if you recall at the -- the original observation
13 that you did, the original evaluations of his competency and the
14 psychosocial -- I mean the neuropsychological evaluation conducted on
15 him, when discussing consent, when you asked him his -- his issues of
16 consent, what did he say?

17 A So when I asked him about consent -- are you talking about in
18 the direct observation or I -- I apologize, I was a little confused. So --

19 Q I believe it's the first -- the first evaluation of him.

20 A Okay. He -- he didn't have a good understanding of what the
21 term consent meant at all.

22 Q Did he understand what it meant to -- to -- what was required
23 for sexual assault on an individual? Do you remember?

24 A No. I think that he had a very concrete understanding of not
25 forcing someone, but I -- he had no appreciation for either sexual assault

1 or lewdness in any demonstrable manner.

2 Q So as to the fact of not forcing anybody it was -- in your
3 opinion it was clear that he was told you cannot force it on anybody else,
4 but at that time he believed he did nothing wrong and did not violate the
5 law?

6 A That is correct.

7 Q And that is because there was no force?

8 A That is because there was no force.

9 Q But then the concept of the consent and age, he -- it was
10 impossible for or I guess just he was unable to concretely understand
11 anything about that --

12 A He didn't have any appreciation of the relationship between
13 age and consent.

14 MR. PAGE: No further questions, Your Honor.

15 THE COURT: All right, thank you.

16 Anything else, Mr. O'Brien?

17 MR. O'BRIEN: No, Your Honor.

18 THE COURT: All right.

19 THE WITNESS: Thank you.

20 THE COURT: Thank you, Doctor.

21 THE WITNESS: Thank you.

22 THE COURT: Mr. Page, do you have any additional
23 witnesses?

24 MR. PAGE: No, Your Honor.

25 THE COURT: All right. Mr. O'Brien?

1 MR. O'BRIEN: State calls Dr. Bossi.
2 THE COURT: Good morning, Doctor, if you could --
3 DR. BOSSI: (Indiscernible) --
4 THE COURT: -- please stand and raise your right hand, the
5 clerk will swear you in.
6 DR. BOSSI: Okay.
7 DR. ERIC BOSSI
8 [having been called as a witness and being first duly sworn, testified as
9 follows:]
10 THE COURT: Go and have a seat, Doctor, if you could
11 please state your name and spell it for the record.
12 THE WITNESS: Eric, E-r-i-c, Bossi, B-o-s-s-i.
13 THE COURT: Thank you.
14 Go ahead, Mr. O'Brien.
15 MR. O'BRIEN: Thank you, Your Honor.
16 DIRECT EXAMINATION OF DR. ERIC BOSSI
17 BY MR. O'BRIEN:
18 Q Dr. Bossi, you were one of the certified competency
19 evaluators of the Defendant in March of this year; is that correct?
20 A Yes.
21 Q Were you involved in his treatment outside of that competency
22 evaluation?
23 A No I was not.
24 Q How was the competency evaluation conducted?
25 A It was conducted in a panel format with myself and Dr. Damas

1 and Dr. Sussman, as well as Tariq.

2 Q When you say panel format, was there one doctor asking
3 questions or was everyone --

4 A Oh.

5 Q -- asking questions?

6 A Sure. So -- so Dr. Sussman took the lead and asked the
7 majority of the questions, and then Dr. Damas and myself would chime
8 in with additional questions if we had things to add.

9 Q When competency evaluations are done at Stein, are they not
10 typically done just one doctor and one patient?

11 A On the inpatient setting, yes, but for the convenience of the
12 patient when they're an outpatient we usually try and schedule it at one
13 time. Otherwise the individual would have to come back, you know,
14 three separate times so we try and do it as a group.

15 Q So this panel was typical of outpatient competency
16 evaluations?

17 A Oh yes, definitely.

18 Q How was the actual questioning of him done? Just by Dr.
19 Sussman?

20 A The majority of it was done by Dr. Sussman and then I also
21 asked some -- I believe I also asked some questions and Dr. Damas
22 also asked a few questions.

23 Q When you asked questions and the Defendant provided
24 information, did you have any concerns about the way he was
25 answering questions?

1 A About the way he was answering questions?

2 Q Correct.

3 A What do you mean by that exactly?

4 Q Well, you heard Dr. Jones-Forrester's testimony from a few
5 moments ago, correct?

6 A Yes.

7 Q And she expressed that the Defendant had good rote
8 memorization but really didn't have good memorization or -- or grasp of
9 the concepts of --

10 A Okay.

11 Q -- competency --

12 A I -- I understand.

13 Q So when he was answering questions, did you feel he was
14 just giving you rote memorization of things he'd been taught in class?

15 A No I did not.

16 Q And how was it that you test that to make sure that that is not
17 what is happening?

18 A Well so for example, asking about the different plea options
19 like guilty or no contest, someone with rote memorization would just
20 regurgitate those definitions, but we will go back later and ask about
21 those concepts in a different way for example. We might ask later on
22 what pleas do you have to enter if you want to accept a plea bargain and
23 if he had just rote memorized definitions of pleas, he wouldn't really be
24 able to answer that, but he was able to come back and go through the
25 process of understanding we were asking about a plea bargain, that we

1 were asking about what pleas you enter for a plea bargain, he was able
2 to mention guilty and -- or no contest so --

3 THE COURT: Dr. Bossi --

4 A -- if he was just regurgitating information --

5 THE COURT: I'm sorry. Just while we're on this topic I had a
6 question for you from your report. You indicated that he -- something
7 about he could make an appraisal of defenses, but then it says including
8 pleas of guilty, not guilty and no contest which are -- those aren't really
9 defenses. I just was wondering if there was a little more information
10 about what you meant by that?

11 THE WITNESS: I -- I think I meant he has a realistic appraisal
12 of the different pleas available to him. That might have been a typo.

13 THE COURT: Well what about -- did he have an appraisal of
14 defenses?

15 THE WITNESS: He -- did he have -- tell me what you mean
16 by that?

17 THE COURT: Well could he understand potential defenses if
18 he were to go to trial and make decisions about -- strategy decisions
19 about which might be most appropriate?

20 THE WITNESS: He -- with regard to strategy, he was able to
21 say that his attorney had told him he should not go to trial and he was
22 able to say that the reason that that recommendation was made was
23 because there would be people that would be witnesses that would
24 testify and he was able to say that there would be evidence; specifically
25 he was able to say that there was a letter he had written like an apology

1 letter that the police had that would be used against him so in terms of
2 strategy he was able to say that he understood that the attorney was
3 recommending they not go to trial and he was able to say -- he was able
4 to explain why that recommendation was made.

5 THE COURT: Did he explain though if he did go to trial what
6 -- what potential defenses would be?

7 THE WITNESS: I don't believe that --

8 THE COURT: Because it's --

9 THE WITNESS: -- specific topic came up.

10 THE COURT: Just because, you know, in order for somebody
11 to make a rational decision about whether they're going to plead guilty or
12 go to trial that's a really pretty critical part of that decision.

13 All right, go ahead, Mr. O'Brien.

14 BY MR. O'BRIEN:

15 Q Did you -- sort of on that line of topic, did you discuss the
16 concept of consent with him?

17 A I don't believe we did discuss the concept of consent, no.

18 Q How do you evaluate whether or not he has a rational factual
19 understanding of the proceedings against him?

20 A Well we asked him questions about does he understand the
21 roles of different individuals in the courtroom, does he understand how
22 he might interact with those individuals in the courtroom, does he
23 understand the -- the goal of the or the overall role of the legal process
24 and his role in it.

25 Q Are these yes no type questions or do you try to get him to

1 elaborate on his answers?

2 A We try to get as much elaboration as possible, specifically to
3 make sure that he has a true understanding of this and that he's not just
4 regurgitating answers.

5 Q And how is it you go about doing that?

6 A Well I -- by asking him to explain, you know, more things like,
7 you know, if someone -- when we ask him about a plea bargain, he'll say
8 well it's the DA gives you this bargain. So we'll ask more questions like
9 well what do you mean by that or why might you want to take a plea
10 bargain or what things could come out of a plea bargain that could be
11 good for you and he's -- he was able to answer those questions
12 accurately so certainly we try and do more than just ask for a simple
13 yes, no or brief definition, we try and get enough information to be able
14 to say that he has an understanding.

15 Q If he was simply repeating something due to rote
16 memorization, would he be more inclined to only answer the yes no
17 questions or be able to elaborate on those answers as you just
18 described?

19 A I think if he was just giving rote memorization he would have
20 trouble with for example if we ask him to give a definition of a not guilty
21 plea and he will give a correct definition. I think if he was only rote
22 memorizing that he wouldn't be able to answer for example later on
23 when we ask him well, if you want to go to trial what plea do you enter,
24 he's able to connect that and say oh not guilty. I think if he was just rote
25 memorizing if we were asking questions any differently than he had

1 memorized, he would really struggle, but we didn't -- we asked the
2 questions in many different ways and he really didn't seem to struggle in
3 a way that made me think he had been just memorizing.

4 THE COURT: Dr. Bossi --

5 Q Did you discuss with him --

6 THE COURT: I'm sorry. I'm sorry, Mr. O'Brien, I just want to
7 -- because it -- it -- it appears from the reports that he has a -- I would
8 say he has a factual understanding. My concern is more with the
9 rational understanding so does he have ability to make decisions about
10 whether to plead guilty or not guilty, whether he should testify or not
11 testify, go to trial, have a judge, have a jury, and I -- I'm just a little bit
12 unclear on that from the -- the reports. So Mr. O'Brien, maybe that's
13 more actually for you if you could address that issue because that's
14 where my concern is.

15 BY MR. O'BRIEN:

16 Q So Doctor, you -- you heard the Court's concern about his
17 rational understanding of the process, correct?

18 A Yes.

19 Q Can you explain your finding in that regard?

20 A He -- he was able to rationally explain various aspects of his
21 case. He was able to rationally explain that he understood that he was
22 charged with a sexual offense, that it was with a minor. He understood
23 rationally -- he understood rationally that the -- the -- the law says that
24 was wrong. He understands rationally that he could be punished for
25 that. He has -- he expressed that he has a good rapport with his

1 attorney. He's able to --

2 THE COURT: So I think that --

3 A -- he was able to rationally describe --

4 THE COURT: I'm sorry. I -- I think that -- excuse me, I -- I
5 think maybe I was just being a little bit unclear. So it isn't whether he
6 has the -- those are all I believe factual understanding questions. This is
7 more about the -- the rational understanding is more about the ability to
8 make decisions so can he make a decision to plead guilty or go to trial,
9 not does he understand what pleading guilty is --

10 THE WITNESS: Yes.

11 THE COURT: -- but -- but those decisional things not just
12 understanding what the thing is itself.

13 THE WITNESS: Yes, well I mean using that example we --
14 we -- we asked him in -- in exploring his relationship with the attorney,
15 we asked him well what -- what -- has your attorney given you any
16 advice about what to do with your case and he was able to say yes they
17 -- they said I shouldn't go to trial. So a factual level would just end there,
18 but we were able to ask him well why is that, do you understand why
19 they're saying that? And so he was able to explain to us that -- that a
20 recommendation was being made because there was -- there was
21 evidence. He was able to cite the specific evidence that there were --
22 that there was a witness and that he was able to say that if he went to
23 trial, he probably would get a lot of time in prison and he didn't want that.
24 He also was able to say that he trusts his attorney and that the attorney
25 was saying don't go to trial and he was accepting of that.

1 Additionally when we asked him about plea bargains he was
2 able to give a -- a very -- a good factual definition of how a plea bargain
3 works, but he was able to go beyond that and rationally say what he
4 thought would be a good plea bargain or for example what -- what kind
5 of a plea bargain he might accept. For example he said that he really
6 didn't want one that required him to register as a sexual offender for the
7 rest of his life. He was able to say that he didn't want a plea bargain that
8 involved a long time in prison. So that to me exhibits rational
9 appreciation and decision making ability beyond just being able to list
10 what a plea bargain, excuse me, is but not be able to rationally evaluate
11 one.

12 THE COURT: All right. Thank you.

13 BY MR. O'BRIEN:

14 Q And you mentioned he cited specific evidence. Do you recall
15 what sort of evidence he was talking about?

16 A Yes, he mentioned that he -- he was concerned because he
17 had written a letter, like an -- an apology letter which was included in the
18 arrest report and police documentation in which he had sort of
19 apologized for the alleged offense and he was aware that that could be
20 used against him and so that that was part of the reason why the
21 attorney was recommending that he shouldn't go to trial.

22 Q What about the -- the fact that the victim and her mother could
23 testify against him?

24 A Yes, he also said he understood that there could be -- that the
25 victim and -- and that her mother who was the one who had the initial

1 concern could also testify and that that would not -- that that not -- that
2 would probably not turn out well for him.

3 Q And that --

4 A To me that exhibits the rational --

5 Q Go ahead, Doctor.

6 A Go ahead. So to me that exhibits a rational understanding
7 and an ability to appraise where things stand beyond just being able to
8 give a definition of what evidence means.

9 Q At the time that you did your evaluation you did not have
10 access to Dr. Jones-Forrester's report because it was done later,
11 correct?

12 A That's right.

13 Q Subsequent to these proceedings starting have you had a
14 chance to go through that report and read it?

15 A Yes.

16 Q Did that report change your mind on -- well I guess before
17 that, at the end of your evaluation you found Defendant competent,
18 correct?

19 A My -- my opinion was that he had the necessary abilities, yes.

20 Q And that was under the *Dusky* standard?

21 A Yes.

22 Q Did Dr. Jones-Forrester's report change your opinion on that
23 matter?

24 A No it did not.

25 Q She lists a number of problems she has with the Defendant's

1 potential competency.

2 A Yes.

3 Q You share those same concerns?

4 A In terms of -- so she shares concerns about --

5 Q Well --

6 A -- his -- his cognitive status and I do -- I understand that he
7 has limitations there, but my -- I think where we differ is do those rise to
8 the level of making him unable to participate in the legal process and --
9 and it seems that she would say that they -- they inhibit that ability and I
10 would part ways and disagree there.

11 Q And in -- why is that?

12 A Overall, it would seem that and -- and Dr. Forrester said this
13 several times in her testimony that Tariq has a basic but concrete or an
14 accurate but concrete understanding of various topics and I think we
15 differ on just what standard there is. To me, you know, for example if an
16 individual understands that they're charged with a sexual offense but
17 they understand that that was against the law, whether they know
18 lewdness versus sexual assault does not mean that they are unable to
19 understand their charges for example. So overall she's looking I think
20 for a high level, a complex level, a nuanced level. She used the term
21 nuanced several times in her report that he doesn't have a nuanced
22 understanding of various aspects I -- in my opinion, the standard for
23 competency where it is that those nuanced understandings are just not
24 necessary for an individual to meet the competency standard.

25 Q Is it fair to say that the level of sophistication she's looking for

1 and what you're looking for are not the same?

2 A It would seem so, yes.

3 Q Are there accommodations that a defense attorney can make
4 to assist a defendant with intellectual disability in understanding and
5 communicating with that attorney?

6 A Yes, there are accommodations that the -- the attorneys can
7 make as well as the -- the court can make to accommodate individuals
8 with -- with these types of disabilities.

9 Q Well let's start with the attorney. What can the attorney do to
10 facilitate (indiscernible) with a -- with a defendant with intellectual
11 disability?

12 A So -- so as we -- as we talked about in the report and as were
13 mentioned earlier, using simple terms to explain things, checking
14 understanding by asking individuals to restate those concepts back.
15 There's also some research and some papers that have been written
16 about using like a -- what's called a cognitive facilitator, an actual
17 individual who's not an attorney but who is experienced with individuals
18 with cognitive limitations who work as sort of a -- a go-between between
19 the attorney and the -- and the individual because sometimes attorneys
20 don't have a lot of experience dealing with individuals with these deficits
21 and who could help facilitate communication. Those are some ways that
22 those deficits could be accommodated.

23 Q What about in court?

24 A Similarly, simple terms, there could be options for additional
25 recesses, conferences between the defendant and the attorney to make

1 sure that they -- as sort of a checkpoint to make sure they understand
2 what happened in the last 15 minutes, as well as some -- some states,
3 Vermont for example, do use cognitive facilitators actually in the
4 courtroom with these individuals so that recesses can be taken and the
5 individuals can then explain to the defendant what just happened, make
6 sure that they check their understanding and so on, so those are some
7 things that can happen in the courtroom as well.

8 Q Is this a common problem? I mean there are people with
9 intellectual disability that go to trial, correct?

10 A Certainly.

11 Q And is there research and literature dealing with how to
12 accommodate those people in trials?

13 A Yes, I mean there's a large paper that was written in the
14 American Academy of Psychiatry and the Law in 2019 that cites
15 Department of Justice recommendations and also recommendations
16 from the National Center for Criminal Justice and Disability on exactly
17 that -- that topic, what accommodations can be made with attorneys as
18 well as what accommodations can be made in the courtroom, and that is
19 where they cited Vermont for example that uses cognitive facilitators.
20 There were some decisions in the State of Washington about
21 accommodations that can and should be made in courtrooms for these
22 individuals too so there is some research -- it's a newer area, but there
23 is some research.

24 Q And do you agree with Dr. Jones-Forrester that most people
25 with intellectual disability who are incompetent can be restored to

1 competency?

2 A Can be restored to competency, yes. Again there's also
3 research from Texas Tech in 2017 where they looked at individuals with
4 IQs -- average IQ lower than Mr. Manson and they were able to restore
5 80 percent of them. There was a Brown study in 2012 that also looked
6 at individuals with a mean IQ lower than Mr. Manson and they used the
7 Slater Method and they were able to successfully restore over 60
8 percent of those individuals so certainly yes.

9 Q Dr. Jones-Forrester expressed concern that the Stein doctors
10 had not seen the Defendant interact with his attorney, Mr. Page. Do you
11 share those same concerns?

12 A I don't.

13 Q Why is that?

14 A Most competency evaluations are -- are done without --
15 without observing attorney interactions. There are some times when we
16 as evaluators ask for that if there are specific concerns about that.
17 However, at the end of the -- at the end of the competency evaluation
18 with Mr. Manson that I was participating in, I had gathered sufficient
19 information from observing that interaction or observing that -- being part
20 of that interview and reviewing all the other records that were available
21 to me. At that point I had enough information to form an opinion, I didn't
22 -- it didn't -- I didn't feel that it was necessary to observe interaction. I
23 think if -- if I or any of us had felt like we needed to see that in order to
24 form an opinion, certainly we would have -- we certainly would have
25 asked for that.

1 Q What sort of records did you have to review when you did your
2 evaluation?

3 A So I had the -- the previous evaluations that had been done by
4 Doctors Conn and Bennett and Bradley, I had -- as well as by Doctors
5 Collins and Colosimo. I had a -- Dr. Forrester's psychological evaluation
6 and I had a pre-plea psychosexual evaluation by a social worker that
7 was done in 2018 and I also had all of the records from the outpatient
8 restoration that the social work staff that were doing the actual
9 restoration with Mr. Manson documented in terms of what he did on a
10 week-by-week basis, his interactions with them, how he performed in the
11 competency classes and so on.

12 Q Going back to your findings on the competency evaluation, in
13 your report you (indiscernible) to get a realistic appraisal of defenses
14 available to him (indiscernible) guilty, not guilty, no contest. You have
15 something of what the Court was getting to a few minutes ago. How did
16 you evaluate his realistic appraisal of defenses available to him?

17 A So as I said, I -- I -- I may have meant to say the -- the pleas
18 available to him, but we generally ask about can you -- can you tell us
19 what different plea options are available. Generally we look for guilty,
20 not guilty, no contest and then we ask the individuals can they -- not only
21 can they explain what they mean but what might be the result if they
22 were to enter such a plea so for example would someone know that if
23 they pled guilty they could immediately be sentenced. And we try and
24 again come back around later by -- when we talk about trials by asking
25 the individuals if they wish to go to trial, which plea -- which plea would

1 they enter so that's a way to check that someone is not just rote
2 memorizing but that they're able to manipulate the information from
3 different angles.

4 Q How do you evaluate whether or not he has the present
5 sufficient ability to consult his lawyer?

6 A We look for their communication abilities, you know, for
7 individuals -- and this is not Mr. Manson but who are very psychotic,
8 they might be just unable to really even have any sort of reciprocal
9 conversation or communication, and we look for do they have trust in
10 their attorney, do they believe in their attorney's advice, are they able to
11 understand advice that the attorney may have given to them and do they
12 understand why they gave that particular advice --

13 THE COURT: So Dr. Bossi, let me --

14 A -- do they believe that --

15 THE COURT: -- let me ask you a question about that
16 because with this population one of the concerns that I have is does he
17 have the ability to -- to not follow what his lawyer says, right? Because I
18 think with people with intellectual disabilities sometimes they just try to
19 make everybody around them happy so I mean do you think he would
20 have the ability to evaluate the advice his lawyer gives him and choose
21 not to follow that; for example if the lawyer says, you know, plead guilty
22 and he for whatever reason would make a decision that he wanted to go
23 forward with trial?

24 THE WITNESS: So when we engaged in the interview with
25 him, he -- he did say that the attorney told him you should not go to trial.

1 He understood why that was. He was able to understand the weight of
2 the evidence against him and my impression from the interview was that
3 that -- that he was inclined to agree with the attorney and he said that he
4 thought the attorney was trustworthy and would not give him bad advice.
5 And so my understanding was that he was inclined to follow that advice.

6 BY MR. O'BRIEN:

7 Q I guess --

8 A (Indiscernible) --

9 Q -- I think what the -- what the Court is asking is how do we
10 differentiate between him just going along with his attorney because he's
11 trying to please his attorney versus making a rational decision that it is
12 better to follow his attorney's advice as opposed to not follow his
13 attorney's advice?

14 A I would say because he was able to tell us why. So when he
15 said -- when we asked him what -- you know, what kind of advice has
16 the attorney given you or what do you remember about that and he said
17 not go to trial, if we had asked him well why is that and he would just --
18 he did not say well, I'll just do what he tells me to do. He was able to
19 say -- he was able to cite the evidence, he was able to cite the
20 witnesses, he was able to process that that was a lot of evidence to
21 overcome and that if he went to trial that he probably would lose and he
22 was able to say that if he did go to trial and lost he could get a lot of time
23 in prison and he didn't want that. So he was able to rationally say why
24 he might listen to the advice versus just saying for example I'll just do
25 whatever they tell me to do.

1 Q Did he need prompting as far as what evidence there was
2 against him?

3 A Not other than when we asked him why -- why would the
4 attorney say that you shouldn't go to trial he was able to spontaneously
5 talk about the letter that was there that he had written and he was able
6 to spontaneously talk about the allege victim and her mom so he didn't
7 really require any prompting other than just asking him what -- why the
8 attorney might make such a recommendation.

9 Q Did you explore what sort of punishments he might get if he
10 pled versus going to trial? What I mean was did he understand that
11 even if he pled guilty he might still face prison time as well as
12 registration as a sex offender?

13 A Yes. He did understand that, yes.

14 Q Did he have any concerns about that?

15 A Well he -- he -- he said that he really didn't want to have to
16 register as a sex offender, he -- he -- I -- I believe he said that he was
17 not a bad guy that he didn't think that he should have to do that. He did
18 say I think at one point that he was hoping that maybe he could get just
19 put on probation and not have to go to prison. But he did also say that
20 he understood that if he went to trial and lost, he could get a lot of prison
21 time.

22 Q And did you explore his understanding what it meant to be on
23 probation?

24 A He was able to say that you have to -- he was able to -- in a
25 general sense he was able to say you have to follow certain rules and

1 stay out of trouble. I believe that's what we asked that was the ability he
2 was able to say about probation.

3 Q Ultimately you found he had the sufficient present ability
4 consult with his lawyer with a reasonable degree of rational
5 understanding?

6 A Yes.

7 Q And he had rational factual understanding proceedings
8 against him?

9 A Yes.

10 Q And he understood the nature of the court proceedings and
11 his own position in the proceedings as the accused?

12 A Yes.

13 Q And did he understand the role of his attorney in these
14 proceedings?

15 A Yes.

16 Q And did he express his willingness to work with his attorney,
17 communicate with his attorney?

18 A Yes. Definitely.

19 Q Did he understand the role of others proceedings such as the
20 judge, the prosecutor, the jury, the witnesses?

21 A Most of those I think he did -- he did struggle a little bit on the
22 -- on the jury, but the other areas, yes, he did understand those and was
23 able to discuss those.

24 Q He understood this were adversarial proceedings and that
25 there was going to be a prosecutor accusing him of a crime and his

1 defense attorney would attempt to defend him?

2 A Yes.

3 Q Did he understand the nature of the charges against him?

4 A He understood that he was accused of -- of sexual acts with --
5 with a minor, yes.

6 Q And as you discussed, he understood the possible outcomes
7 of verdicts in the case?

8 A Yes, he was able to say he could face a year to life and that
9 again he said that if he was to become guilty at trial he could be in
10 prison for a very long time.

11 Q And ultimately under the *Dusky* standard you found him
12 competent to stand trial?

13 A Yes.

14 Q And nothing about today's testimony has changed your mind
15 in that regard?

16 A No.

17 MR. O'BRIEN: That's all I have, Your Honor.

18 THE COURT: All right. Mr. Page?

19 CROSS-EXAMINATION

20 BY MR. PAGE:

21 Q Yes, Mr. Bossi?

22 A Yes.

23 THE COURT: Doctor.

24 BY MR. PAGE:

25 Q So --

1 THE COURT: It's Doctor, Mr. Page.

2 Q -- you testified that you were not present in any of the
3 rehabilitation meetings that were done with Tariq using the Slater
4 Method, correct?

5 A The actual competency restoration classes, no.

6 Q You were just --

7 A We --

8 Q -- present at this evaluation?

9 A Correct. That's typically -- that's typically how it works, yes.

10 Q Understood. And so you don't know exactly the things that
11 were being discussed with Tariq during each one of those sessions
12 using the Slater Method?

13 A Well I -- as I said, I did review the -- the social worker who
14 does those -- writes a summary in the electronic chart. I did review
15 those every week, so yes, I did see what they discussed, what they did
16 for that week, how he responded, the topics that were covered, et
17 cetera, yes.

18 Q And all those topics that were covered are the topics that are
19 being discussed today?

20 A Yes.

21 Q Okay. And so go over -- the first time that he was, you know,
22 admitted to Stein, you understand that it was a whole time period but
23 there was kind of a -- a re-admittance per se --

24 A Sure.

25 Q -- after the -- I think it was September time period --

1 A Yes.

2 Q -- more or less. So speaking directly as to the January to
3 September, he went -- it's your understanding he went weekly for these
4 sessions, correct?

5 A Yes. That's my understanding.

6 Q And weekly he was -- it was repeatedly discussed things
7 about the parties of the -- of the court?

8 A Yeah, they had a different -- they -- they would go over a
9 different topic each week about the general topics that are covered in --
10 in competency restoration.

11 Q And he -- basically things to understand the proceedings of
12 court, the parties of the -- the court --

13 A Yes.

14 Q -- and to assist with counsel, correct?

15 A Yes, those would be the things that would be covered.

16 Q And he went through this restoration period for -- for nine
17 months?

18 A Yes.

19 Q At that first time period and was going weekly?

20 A Pretty much he --

21 Q Correct?

22 A -- missed a few, but he was mostly going every week, yes.

23 Q Okay. But after that nine months it was determined through
24 additional evaluations that he still was not competent, correct?

25 A Right. That is correct.

1 Q He still wasn't able to answer the questions appropriately or in
2 a manner to give a rational understanding that he knew the concepts; is
3 that correct?

4 A At that time in September, right, the -- the evaluators thought
5 he was not quite there yet.

6 Q And then at the next time as they -- as they transitioned to the
7 next one from September to March, they increased the sessions; it was
8 every two weeks, correct?

9 A Every two weeks or -- or twice a week?

10 Q I mean twice a week, I apologize.

11 A Yes, they did for a time I believe increase to twice a week.

12 Q And they even had him to start writing things down?

13 A I know they encouraged him to take notes, yes. And it
14 seemed like --

15 Q And so --

16 A -- he did sometimes.

17 Q Okay. But you would agree though that there -- there's a
18 continuation of -- of repeated discussion of the topics with him in -- in --
19 in different ways, correct?

20 A Yes.

21 Q And in simple form?

22 A Yes, that's what the Slater Method is, yes, designed to make it
23 simple, yes.

24 Q And so when after this I guess would be a total of almost a
25 year and three months of -- of working with him during using the Slater

1 Method and repeating continually these things over and over again, you
2 guys then had your evaluation and found him to be competent?

3 A That's -- yes, that is the time -- the time frame, yes.

4 Q Okay. And so it's your -- so it's your estimation that the
5 answers that he gave at that time were not the -- were not the same
6 responses that he was taught throughout the Slater Method?

7 A No (indiscernible) the Slater Method does not teach someone
8 to give a specific response, it teaches them to -- to learn the information
9 rather than to memorize certain responses and they use different
10 techniques in there, you know, they do role-plays for example and I saw
11 in some of the records that he was able to participate very well in a
12 role-play which requires some thinking and understanding beyond just
13 regurgitating information so while the Slater Method is more simple, it's
14 not designed to teach people to memorize and regurgitate, it's -- it's --
15 it's designed to actually teach them to -- to absorb and retain the
16 information and to get an understanding of it.

17 Q But when you -- when you gave your questions when the
18 questions were given to him at your evaluation with the three doctors,
19 you would agree with me though that his answers were -- were very brief
20 and concise, correct?

21 A Yes, I would say they would -- they would be more on the brief
22 and concise side.

23 Q Very good. And that they -- they were -- and they were
24 answers that would be just repeated several times throughout that
25 process, correct?

1 A Well so someone can answer, you know, a question about
2 competency in different ways and again the Slater Method doesn't teach
3 individuals for example that when you're asked this you must say that,
4 you know, it teaches them to -- to really learn the information, and the
5 documentation in the chart doesn't say, you know, we asked Tariq X and
6 he said Y so I can't say whether the -- the answers he gave us were
7 exactly verbatim what he gave during the competency classes.

8 Q So -- so yeah, you just don't know, correct?

9 A We don't. I don't.

10 Q Yeah. The -- now, you -- you -- you spoke about a little -- a
11 little bit about rote memory and your understanding of rote memory.
12 Your -- you haven't done any specialized training in -- in how memory
13 works, correct?

14 A No.

15 Q You haven't done work, you know, such as a
16 neuropsychologist would do as to how memory works?

17 A Well I'm a physician so I mean I have an understanding of
18 how the brain works and memory works there. But in terms of, you
19 know, specific training beyond medical school and residency, no.

20 Q And you weren't present during any of the questions that he
21 had and meetings he had with me, correct?

22 A No I was not.

23 Q And so as to this questions as to whether he would follow --
24 use his own rationale to make decisions rather than just a factual basis
25 of what he was previously told, you don't know if the things that he's

1 being repeated are just things that he -- he was told previously?

2 A I'm not sure I -- if you could -- when you say the rational -- if
3 you could repeat that, I'm not sure the question. Or rephrase.

4 Q So on the -- the questions of whether he should go to trial --

5 A Okay.

6 Q -- that was discussed previously --

7 A Yes.

8 Q -- and your reasoning was that he knew why he wouldn't go to
9 trial because his attorney told him to and that there's certain evidence
10 against him, correct?

11 A Yes.

12 Q And are you aware that if those things were the things that
13 were told to him by his attorney?

14 A It was my -- during the interview it was my understanding that
15 he had been told by the attorney that he shouldn't go to trial because
16 there are these aspects that would weigh heavily against him such as
17 the letter and the witnesses.

18 Q Did you ask him any reasons why he shouldn't go -- I mean
19 why he should go to trial?

20 A I don't believe we asked him any reasons why he should go to
21 trial. No, I don't think so.

22 Q Or anything that's in favor of his defense?

23 A In favor of his defense in -- in what sense do you mean?

24 Q Or factors that were in favor of his -- in his case. Reasons
25 why he would go to trial.

1 A I don't -- I don't believe we asked him any reasons why he
2 would go to trial, no.

3 Q Now you're saying that it's your continued opinion that Mr.
4 Tariq (sic) is competent to proceed to trial at this time based off of the
5 questions and the answers you received during your interview, your
6 evaluation, correct?

7 A Well not just that but based on all the information that was
8 available to me, including the previous evaluations, including the Dr.
9 Forrester's evaluation, including my review of all of the notes from his
10 competency sessions so not just based on what we asked him that one
11 hour but all the information that was available to me on -- on March 11th.

12 Q Since your report, about a month and a half later
13 approximately was when Sharon Jones-Forrester did her observation --

14 A That's my --

15 Q -- and then issued her report, correct?

16 A That's my understanding, yes.

17 Q You heard the testimony of -- of Dr. Sharon Jones-Forrester.

18 A I did --

19 Q Having the things that she observed in her testimony is what
20 she observed and the concerns that she had, if you were in that
21 situation, would you still believe that he was competent hearing the
22 responses that he gave month and a half later?

23 A That's a very difficult question to answer. I really -- I really
24 can't say what I would or would (sic) have done in that moment I wasn't
25 there. I -- I -- I couldn't answer that when I wasn't --

1 Q Understood. Understood. And so you're basing your
2 information on what you had before you at that time?

3 A Yes, what I had before me at that time.

4 Q And it's possible that since that time that he interviewed with
5 you that his memory of those factors and his understanding of those
6 factors could have deteriorated to the point where the answers weren't
7 sufficient when Dr. Sharon Jones-Forrester interviewed or when we
8 observed?

9 A That could be possible.

10 MR. O'BRIEN: Understood.

11 No further questions, Your Honor.

12 THE COURT: All right. Anything else, Mr. O'Brien?

13 MR. O'BRIEN: Just brief, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. O'BRIEN:

16 Q The Defendant's answers being brief and concise, does that
17 cause you concern that he doesn't truly understand the answers that
18 he's given?

19 A No.

20 Q And why is that?

21 A Well individuals -- I mean individuals can give brief and
22 concise responses and that does not really have any role upon whether
23 they do or don't understand the information and we did during the
24 interview ask him to expound at certain times on some of those
25 concepts and when we did that, he was able to provide more than just a

1 yes or no or one or two-word answer so the length of someone's
2 response does not have any predictive value as to whether they do or
3 don't understand what's being asked.

4 Q You also mentioned there were notes regarding role-play in
5 the restoration classes he conducted. What does that mean?

6 A Right, so I read there was a note that -- that (indiscernible) the
7 end of February that the social worker and Tariq engaged in a -- in a
8 role-play about plea bargains and usually that's, you know, where they
9 go back and forth like for example I'm playing the role of the -- of your
10 attorney and I'm telling you that you're being offered this deal and they
11 said there's conditions of the deal, what do you think, should we take it
12 and -- and so on that goes back and forth and -- and the documentation
13 suggested that he was able to participate very well in that activity and
14 that his -- you know, the -- they usually present a very poor -- a very
15 poor bargain and then perhaps a very good bargain and then perhaps a
16 maybe questionable bargain and the -- the documentation suggest that
17 he was able to respond appropriately to all of the different options and
18 made rational choices when each of the hypothetical plea bargains were
19 offered to him.

20 Q You said you did not think it was necessary to observe the
21 Defendant with his attorney, correct?

22 A Correct.

23 Q And you were never asked to see any such (indiscernible) the
24 Defendant, correct?

25 A No, we never were -- were asked to do that. If we -- if we --

1 Q You said that your --

2 A -- if we had been asked, we would have been happy to do so.
3 I'm sorry, go ahead.

4 Q You said that your evaluation was based not just on the
5 interview that you conducted but on the totality of the records before
6 you, correct?

7 A Yes, that's correct.

8 Q Would you describe a competency evaluation as a checklist
9 you just have to mark off certain things you're competent, you don't mark
10 them off you're not competent?

11 A No.

12 Q How would you describe a competency evaluation?

13 A It's a -- that's sort of a Gestalt or an overall assessment of an
14 individual's abilities based on not only just what they -- what they
15 present in that time that you speak to them but in all the records that are
16 available to you and all the information you have available about the
17 individual and it's just an overall assessment based on your expertise
18 and experience as to whether you think the individual meets the -- the
19 *Dusky* standard. It's -- it's certainly much more than just a yes or no
20 checklist.

21 Q And your assessment while done with two other doctors is
22 independent of the other doctors, correct?

23 A Yes. Totally independent.

24 MR. O'BRIEN: I have nothing further, Your Honor.

25 THE COURT: All right. Anything else, Mr. Page?

1 MR. PAGE: Nothing further, Your Honor.
2 THE COURT: All right. Thank you, Doctor.
3 Mr. O'Brien, call your next --
4 THE WITNESS: Thank you.
5 THE COURT: -- witness, please.
6 MR. O'BRIEN: State calls Dr. Sussman.
7 THE COURT: Good morning, Dr. --
8 DR. SUSSMAN: How are you Dr. --
9 THE COURT: If you'll -- if you please stand and raise your
10 right hand, the clerk will swear you in.
11 DR. SUSSMAN: Yes. Can you see me?
12 THE COURT: We can. You were upside down but now
13 you're right side up so that's good.
14 DR. SUSSMAN: Okay. Have to stand back?
15 DR. DANIEL SUSSMAN
16 [having been called as a witness and being first duly sworn, testified as
17 follows:]
18 THE COURT: All right. Doctor, go ahead and have a seat if
19 you can state your name and then spell it for the record, please.
20 THE WITNESS: Greetings to the Court from Colorado at
21 8800 feet.
22 THE COURT: Nice, that's the nice thing about technology,
23 right? It's much cooler there I'm sure.
24 All right, Mr. O'Brien, go ahead.
25 MR. O'BRIEN: Thank you, Your Honor.

1 DIRECT EXAMINATION OF DR. DANIEL SUSSMAN

2 BY MR. O'BRIEN:

3 Q Dr. Sussman, you were one of the certified evaluators on the
4 competency of Tariq Manson; is that correct?

5 A Yes, then we evaluated him on 3/11 of this year.

6 Q And is it fair to say you were sort of the lead evaluator in that
7 you were the one asking the questions of the Defendant during the
8 evaluation?

9 A I -- I -- I heard Dr. Bossi describe that. I -- you know, I took a
10 little bit of initiative but it was -- we spent a good time with Mr. Manson
11 and the other evaluators were very much involved and initiating lines of
12 questioning as well.

13 Q Would you agree with Dr. Bossi's testament that the questions
14 were asked a number of times in a number of different ways to evaluate
15 the Defendant's true understanding of his charges?

16 A Yes.

17 Q About how long did the interview last?

18 A Approximately two hours.

19 Q And prior to the interview did you have access or at least prior
20 to completing your report did you have access to the various records
21 from Stein as well as prior evaluations?

22 A I had access to a review of the forensic psychiatric unit
23 medical chart, the adjudicatory documents like criminal complaint, arrest
24 report, the referral from -- that was done by this public defender, Mr.
25 Daniel Page, as well as competency evaluations conducted by Dr.

1 Colosimo and Dr. Collins and subsequently there -- there were several
2 pages of the outpatient restoration program notes as -- specific to him
3 and with each encounter and also that was subsequently Dr. Forrest- --
4 Dr. Sharon Jones-Forrester's evaluation or report from May 29th would
5 come to me in early June and I responded to that then but I didn't have
6 that at the time of the evaluation that I did.

7 Q But you have now reviewed that report as well; is that correct?

8 A Yeah, I reviewed that back in early June.

9 Q When you evaluated, did you find whether or not the
10 Defendant had the sufficient present ability to consult with his lawyer
11 with a reasonable degree of rational understanding?

12 A Yes, and I -- I also noted that the very extensive and
13 admirable degree that Dr. Bossi went into about why on very specific
14 bases that he has that rational understanding.

15 Q And you --

16 A And I came to -- but I came to that conclusion myself at the
17 time I did the evaluation.

18 Q But you agree with Dr. Bossi's testament that he did have that
19 rational understanding?

20 A Yes.

21 Q And (indiscernible) had a rational and factual understanding
22 the proceedings against him?

23 A Yes, he did when we looked at procedural competency; ability
24 to understand criminal charges, excellent; felony class range of
25 sentences, excellent; pretrial pleas, good; difference between possible

1 trial outcomes as well as difference between guilt -- guilty, not guilty, that
2 was good on self-recital; aware of the risks of going to trial, aware of not
3 -- with the one area I was concerned is not guilty by reason of insanity.
4 He had poor recital on that and he -- somewhat poor retention when I --
5 when we -- we explained it and then on a subsequent go around it
6 improved to poor to fair.

7 But then on his ability to understand plea bargaining that was
8 good by his own self-recital. Excellent self-recital of the roles of the key
9 people in a -- in a judicial proceeding as well as the adversarial process
10 so there was only one hole that I saw in his procedural competence --

11 Asher please.

12 -- and for that reason, based on that one point problem I
13 wasn't going to deem the whole thing to be incompetent, particularly
14 being that I thought he could easily get some competency training to
15 very quickly remedy that.

16 Q And you also I -- I think (indiscernible) touched on this. He
17 understood the nature of the charges against him and the possible
18 verdicts and penalties he was facing?

19 A Yes, readily and to the point where I deemed it excellent.
20 Where I frequently (indiscernible) --

21 Q And --

22 A -- fair and very good, I deemed it excellent.

23 Q Ultimately you found him competent under the *Dusky*
24 standard?

25 A It was the *Dusky* standard that I evaluated him by, absolutely,

1 as did my colleagues, Dr. Damas and Dr. Bossi.

2 Q When you were talking about the self-recital, can you tell the
3 Court a little bit more about what that means?

4 A Self-recital means spontaneously, you know, tell me about
5 your criminal charges or tell me about what a plea bargain is all about.
6 That's allowing them to open-ended spontaneously tell me without me
7 having to cue them or without me having to explain when I think that
8 they don't know and then seeing if they can then retain it and
9 understand some aspects of it on more focal subsequent questioning. It
10 means they just outright know it spontaneously.

11 Q Did you evaluate whether or not he was aware of the risks of
12 going to trial?

13 A Well I heard that question before and I would concur with Dr.
14 Bossi that we didn't extensively get into that, but I have specifically on
15 my report that he was aware of the risks of going to trial that, you know,
16 we even specifically nuanced it with, you know, sexual offender charges
17 which are very serious and can end up with designation as a sex
18 offender for lifetime very serious ramification so we did discuss that and
19 he was quite aware of that, but I also, you know, appreciate Dr. Bossi's
20 account as well that we --

21 [Colloquy between the witness and family]

22 A -- that we -- you know, it was brief. It was brief we touched
23 upon it, but we -- I noted we definitively did and got good responses.

24 Q There's a quote on page 5 of your report from the Defendant,
25 at that time I didn't know I was violating the law. Can you elaborate

1 what he was talking about during that time of the evaluation?

2 A Yeah, he -- he didn't know that -- and this doesn't get into
3 competency, this gets more into issues of capacity and criminal
4 responsibility my opinion, but that goes beyond the scope of what I was
5 determining here. You know, he gave good spontaneous recital of the
6 allegations and then we wanted to hear if he had anything exoneratory
7 to say and he said he didn't know he was violating the law. I guess
8 perhaps with his intellectual disabilities and marginal intelligence that
9 basically that might render him more immature that Dr. Jones-Forrester
10 has alluded to that how people with low intelligence can be prone to
11 making, you know, judgment errors in terms of things that could lead to
12 sexual offenses.

13 And, you know, he -- you know, throughout childhood and
14 teens, girls can be more mature than boys so he -- he might have
15 thought that he wasn't bad markedly -- when I take his meaning that --
16 that he didn't think he was bad markedly (indiscernible) from her in terms
17 of maturity and made the error of realizing that this is a, you know,
18 statutory crime with strict liability type issue and he -- he wasn't -- he
19 didn't know that could work that way.

20 Maybe people regarded him as younger and he had
21 playmates that -- that age and he might have extrapolated it was okay to
22 have a girlfriend who was younger and so that -- I thought that was
23 actually a good explanation because that, you know, could help him
24 potentially in terms of the issue of intent, although as I mentioned it's a
25 strict liability crime which but, you know, intent could come in when

1 you're discussing an individual's capacity and criminal responsibility it --
2 it could conceivably be mitigating so I thought he gave good response to
3 that and that's pretty much what he was hanging his hat on because,
4 you know, I know that, you know, it is a strict liability crime but if it's due
5 to -- if intellectual capacity, you know, not ignorance of the law somehow
6 mitigates it, that's not -- still not a competency issue, that's getting into
7 criminal responsibility and capacity at trial and it's -- it's not a
8 competency issue.

9 Q But is it fair to say --

10 A (Indiscernible) --

11 Q -- that those are issues that --

12 A It stand just --

13 Q (Indiscernible) --

14 A -- it stands on its own as a pretty good explanation of what
15 was going on with him and what he was thinking at the time and it could
16 conceivably be mitigatory if the strict liability aspect and the ignorance of
17 the law doesn't totally rule the day when he if -- if he's in trial.

18 Q And whether or not he expressed it as such or even you
19 expressed as such, those are issues that may weigh in his sentencing or
20 in what a jury does with the case; those really are related to the defense;
21 is that correct?

22 A I think it is and I think for where he -- you know, where his
23 mind frame was at the time his actions I -- I thought that -- you know, I
24 didn't ask him beyond that. I moved on after that because I thought that
25 was a pretty solid -- solid explanation of the -- of his side of the

1 allegations, but, you know, you know, he doesn't know the law well
2 enough to maybe know that's not exoneratory but if they introduce
3 issues like his capacity that could be mitigating. So I thought it was
4 actually a pretty good answer and I left it at that and moved on. I
5 thought he gave an -- pretty adequate explanation and that speaks to his
6 ability to work with -- with and assist counsel. That's a -- that -- that
7 question is big component in that.

8 [Colloquy between the witness and family]

9 THE WITNESS: Sorry.

10 BY MR. O'BRIEN:

11 Q I -- Doctor, was there anything about your review of Dr.
12 Jones-Forrester's report or what you observed of her testimony today
13 that caused you to change your opinion as to the competency of the
14 Defendant?

15 A No it didn't. When I looked -- look, Dr. Forrester is -- is a very
16 expressive, thorough, intelligent individual. However, when I looked at
17 the report at first I said wow, it -- it only took me a very short time to
18 realize if I sit down do some penmanship here, you know, we could tear
19 a lot of holes in this because as admirable as it is -- as admirable it is for
20 the defense to have her in their behalf to try and zealously avoid trial,
21 this would -- what she was saying would constitute a revolutionary
22 alteration of the way competency determinations go. It's not only highly
23 nuanced and doesn't get to the four corners of what -- three corners
24 actually with *Dusky* what constitute competence, but competency
25 determinations not only need not be that tortuous, they shouldn't be that

1 tortuous. Where you come up and you meet this like Dr. Bossi, Dr.
2 Damas and myself clearly felt that those prongs, those corners -- corner
3 elements of competency were met, you -- it shouldn't -- it's tortuous and
4 it shouldn't go for some highly nuanced thing that goes beyond having
5 found that those prongs were met to come up (indiscernible) that's
6 revolutionizing competency determination.

7 Q Doctor, you were kind of breaking up a little bit --

8 A Did you get that?

9 Q Can you elaborate a little bit on why you think Dr.
10 Jones-Forrester has sort of increased the standard for competency?

11 A Because as Dr. Bossi said, it's a simple bar, widely noted to
12 be a simple, low bar. He clearly met the bar. My very esteem
13 colleagues, Dr. Bossi from forensic fellowship, Dr. Damas a very -- very
14 brilliant, gift psychologist runs the outpatient restoration program, myself
15 I've -- I've done over a thousand competency evaluations have, you
16 know, no problem definitively seeing this as meeting that standard and
17 so clearly the bar was met and by the -- the three of us and then he
18 appeared to interact adequately, sufficiently address questions despite
19 the fact that it said he was shy and very reticent to talk to sort of warm
20 up he -- he did fine. His explanations were logical and plausible and I
21 think also Dr. Forrester (indiscernible) repeatedly make references
22 borderline intellectual functioning she is very intelligent, makes very
23 frequent references to a lot of specific cognitive spheres and that's not
24 what competency determination is all about and frequently people who
25 are found competent can have cognitive holes and can have, you know,

1 (indiscernible) psychotic symptoms, but if they meet those prongs of the
2 *Dusky* standard, they are competent and that's -- and Dr. Forrester's
3 reports tortuously try to go around that fact and bypass -- actually
4 bypass that fact and so, you know, she -- but I think a lot of her things
5 can go to being mitigating at trial. She said that, you know, legal
6 aspects of sexual relationships with individuals with intellectual disability
7 (indiscernible) grounds he ran through are strongly consistent with those
8 found in research with individuals -- and she presents as a basis
9 incompetent, but that burden to a potential defense with diminished
10 capacity rather than competency (indiscernible) so she stated that she
11 thinks intellectual disability cognitive deficits suspected to be lifelong, not
12 amenable to restoration. I completely disagree with that because with a
13 reasonable degree of medical certainty I opine that he met the bar for
14 competency. Esteem colleagues also did. That's not a reason for me to
15 come to that conclusion but post facto we can note that.

16 He was constructively participating in 31 competency
17 restoration outpatient groups if I counted the notes right. I also noted he
18 could benefit from further brief training which I was fairly certain would
19 bolster the only minor hole with his understanding and not reason --
20 guilty by reason of insanity and that wasn't substantial enough to
21 constitute incompetence that that one little weak -- I shouldn't say little
22 but that one weak area and also I think it's important that Dr. Forrester
23 and myself agreed overwhelmingly on his diagnosis.

24 Now Dr. Forrester goes into intelligence aspects far more than
25 I did -- completely more than I did and she's very admirable and capable

1 in that regard, but I should -- I -- I diagnosed borderline intellectual
2 function, I was aware of his intellectual --

3 THE COURT: Dr. Sussman, hang on a second. Dr.
4 Sussman, I need -- I just need Mr. O'Brien to ask a question and I just
5 wanted to -- are you aware that diminished capacity is not a defense in
6 the State of Nevada?

7 THE WITNESS: I -- I wasn't fully aware of that with his
8 particular adjudication that there was -- I didn't know there was no how,
9 no way that that -- I know it's heavily based on delusions, I know -- not
10 exclusively in some people's --

11 THE COURT: All right. Mr. O'Brien. Could you ask --

12 MR. O'BRIEN: Thank you, Your Honor.

13 BY MR. O'BRIEN:

14 Q Dr. Sussman, you said that the -- you and Dr. Jones-Forrester
15 agree on the diagnosis but you -- you disagree on his --

16 A (Indiscernible) --

17 Q Go ahead.

18 A (Indiscernible) --

19 Q I'm pretty (indiscernible) --

20 A Just to show -- show how much we concur, Dr. Forrester
21 diagnosed -- I diagnosed borderline intellectual function, she said mild
22 intellectual disability. Those are pretty close. Borderline intellectual
23 function implies about 70, 75 IQ, mild intellectual disability maybe in the
24 sixties, and I noted -- I noted --

25 [Colloquy between the witness and family]

1 A -- I noted unspecified learning disorder where she -- she
2 specified those disorders as learning impairments in reading, math,
3 written expression. We differ in she diagnosed ADHD. I didn't find
4 support for it myself, but I thought Dr. Forrester was logical in surmising
5 that. Also, I differ from her and she diagnosed a -- a major
6 neurocognitive disorder which I disagree with. She made some
7 references to pica, additional toxins, possibly genetic disorder, spatial
8 dysmorphisms (phonetic). I -- I thought that that would have to be
9 proven and substantiated a lot more and --

10 Q And let me --

11 A -- not only that --

12 Q -- let me ask, Doctor, why --

13 A -- (indiscernible).

14 Q Why did you disagree with her diagnosis of major
15 neurocognitive disorder?

16 A Well to me I'm used to seeing even though that tries to
17 accommodate different etiologies, it mainly comes from things like
18 dementia, vascular from a stroke, Huntington's and it's very profound.
19 I've done a lot of work with geriatric patients and if you get the person
20 who has some mild cognitive impairment like they know the month but
21 not the date but they're zero out of three on short-term recall, they would
22 have known all the Presidents before but now they could only tell you
23 four of them, that's going to get like a mild neurocognitive disorder.

24 Major neurocognitive disorder is getting to severe, and I wish
25 there were a category between. A lot of practitioners are kind of making

1 their own where DSM-5 doesn't accommodate when you're -- they're --
2 they want to still say mild to moderate, moderate to severe, but the thing
3 is, is severe implies somebody who is in -- getting into later mental
4 stages, maybe not later physical in end of life stages of dementia but
5 getting into very prominent dementia that probably has them no longer
6 living at home, you know, in a facility and that major implies they can't
7 tell you who the President is now, they -- they're going to miss the year
8 or they may tell you the year but they have no idea the month and the
9 day. They're not going to be able to do serial sevens. They're not going
10 to be able to do abstraction that -- that's getting into major, that's a very
11 prominent declaration in things. You know, the word -- the word
12 moderate in psychiatry means fairly severe, means as short as severe
13 and to make the declaration of major is equivalent to severe and that's --
14 that's getting into --

15 Q Going back to --

16 A -- very very pronounced pathology.

17 Q Going back to where you agree on the diagnosis, what role
18 does that diagnosis have in his ability to stand trial under the
19 competency standards under *Dusky*?

20 A You know, it's going to stand by itself according to the specific
21 prongs and how he performs. Even if his IQ was somehow 55, 60 and
22 he performed well on those, I would have to wave that through and I
23 would say well maybe that testing that was done before or maybe --
24 maybe they -- they -- he was misdiagnosed, maybe, you know, there
25 was problems with attentivity or some aspect of the testing battery, but,

1 you know, because that would be surprise for somebody in the 55, 60 IQ
2 realm to be able to nail these kind of questions, but, you know, out of all
3 the evaluations I've seen I think that even that's possible and it's going to
4 stand on its own in terms of how they answer the specific components of
5 assessing competency.

6 Q And you still stand by your finding of competency after all the
7 information you received?

8 A Absolutely, that didn't change.

9 MR. O'BRIEN: Thank you, Doctor.

10 That's all I have, Your Honor.

11 THE COURT: All right. Mr. Page?

12 THE WITNESS: Thank you, sir.

13 THE COURT: Mr. Page, go ahead. I think you're muted.
14 There you go.

15 MR. PAGE: There we go.

16 CROSS-EXAMINATION

17 BY MR. PAGE:

18 Q Good afternoon -- good morning, Mr. -- Dr. Sussman. So it's
19 your testimony that --

20 A I (indiscernible) sir.

21 Q It's your testimony today that a continued observation with an
22 observation of how he works and -- and discusses things with counsel
23 would be of no help to you.

24 A Well the thing is, is I heard you talk with Dr. Bossi about
25 deterioration and, you know, absent some bad profound event or him

1 getting into using marijuana, some other drugs, I mean I -- I don't -- I just
2 don't think absent something like that that's likely, but as I agree with Dr.
3 Bossi that that's possible and certainly can happen. I've seen many
4 instances myself where the snapshot -- we took a snapshot that day and
5 the snapshot can change over time and, you know, my experience at
6 Stein tells me that restoration usually progresses in the right direction,
7 particularly if there's no substance abuse.

8 He -- he really didn't say that he -- he had any, he denied it,
9 but marijuana's possible because there was some mention of an arrest
10 for drug possession. But the thing is, is absent drug use, it's -- it usually
11 progresses in a way of getting better particularly when he's attending a
12 restoration program and he's (indiscernible) work so carefully attending
13 to monitoring and assessing him. But it's certainly possible that could
14 happen and I think what you mentioned, Mr. Page, cannot hurt, but I
15 didn't -- and it might have other purposes, but as far as the competency
16 assessment, I don't see a particular need unless somebody somewhere
17 sees a value of serial competency determinations which generally is not
18 necessary, not done that way unless there's some intervening event and
19 unusual reason for that.

20 Q But you yourself made the determination that he would need
21 continuous restoration assistance, would -- did you not in your ultimate --

22 A No, what I -- what I thought is that he had a weak answer one
23 little focal area with the not guilty by reason of insanity understanding
24 what that's all about so he could benefit from getting a real brief tune up
25 with that and then (indiscernible) in his competency class, plus it can't

1 hurt to keep those going until, you know, you have somebody -- I know
2 it's generally not done that way once they're deemed competent they
3 don't keep doing it, but if they -- it could not hurt for him to keep
4 attending a program like that just not to decline in knowledge he picked
5 up there and -- and people are trained in -- in that as well and, you
6 know, you risk -- you risk some declining just like a child in school over
7 the summer, you know, not -- not going to class how their reading might
8 decline for an early -- a young child.

9 So I don't think it could hurt, but, you know, he was -- the
10 competency evaluations I heard a question earlier with Dr. Bossi about
11 whether he was even ready yet. Well at -- at Stein we've seen
12 numerous people that just were not ready, not ready, not ready so we
13 didn't refer them for the competency evaluation. Then lo and behold
14 slowly but surely insidiously getting better we would refer them when we
15 thought they were there by pre-tests and post-tests, other things, Slater
16 Method, you know, starting to pay off with, you know, objective means
17 that -- and people after many months of not being able to get better and
18 I -- I interpret that they referred him over for competency eval from the
19 outpatient restoration program is they thought he was teed up and ready
20 -- ready for the evaluations because they thought he was (indiscernible)
21 if he's not totally there (indiscernible) they don't -- they don't send
22 somebody (indiscernible) maybe want to get some get a -- get report,
23 but usually that they believe they're there, believe they're there maybe
24 question and let's find out get some feedback and it's very rarely that
25 they might refer somebody over who is totally unamenable to the

1 program and it's like okay (indiscernible) --

2 Q So you made a --

3 A -- different (indiscernible) --

4 Q Dr. -- Dr. Sussman, I'm having a hard time --

5 A But he didn't fit that bill. He was clearly somebody before that
6 (indiscernible) --

7 Q So Dr. -- Dr. Sussman, you -- you basically said that was that
8 Dr. Jo- Forest Jones --

9 A Yeah (indiscernible) --

10 Q -- Forrester is --

11 A -- my assistant. I'm up at 8800 feet.

12 Q Dr. Sussman, can you hear me?

13 THE COURT: Mr. Page and Mr. O'Brien, can I just ask you
14 how much longer you think you --

15 THE WITNESS: (Indiscernible) --

16 THE COURT: -- you will be --

17 THE WITNESS: -- little bit of frozen screen maybe -- I hear
18 you now good --

19 THE COURT: Mr. Page?

20 BY MR. PAGE:

21 Q You testified that --

22 THE COURT: Mr. --

23 Q -- Dr. --

24 THE COURT: -- Page and Mr. O'Brien, can you please let me
25 know how long that you think you might be because I am supposed to

1 be doing grand jury about five minutes ago now and -- and then I have
2 competency afterwards so we may need to finish this up at some later
3 date.

4 MR. O'BRIEN: There's one additional State witness, Your
5 Honor, Dr. Damas still needs to testify.

6 THE COURT: Yeah. I -- I -- I mean I just -- I -- I apologize
7 because I know the doctor's been waiting on the phone, but I -- there's
8 just no way I'm going to get to that. Does next Friday work?

9 MR. O'BRIEN: We have a hearing next Friday, Your Honor,
10 but I don't expect it --

11 THE COURT: We do?

12 MR. O'BRIEN: -- to be a particularly long hearing.

13 THE COURT: I don't have that on my calendar. What do we
14 have?

15 THE WITNESS: I have a question. I have a quick question,
16 should I --

17 THE COURT: Oh I see, I'm looking at the wrong day, I'm
18 sorry.

19 Yes? Sorry, Dr. Sussman.

20 MR. O'BRIEN: Your Honor, I -- I would not be available this
21 next Friday.

22 THE COURT: Okay. How about the 1st?

23 MR. O'BRIEN: The 1st of August?

24 THE COURT: Oh that is next Friday, sorry. I don't know
25 what's going on with my calendar. It's not helping me --

1 THE WITNESS: Should I -- should I --

2 THE COURT: How about --

3 THE WITNESS: -- stay for the (indiscernible) --

4 THE COURT: Dr. Sussman, I -- we can't hear you at all.

5 MR. O'BRIEN: Your Honor, I'm out of the office the week of
6 the 3rd through the 7th so I'm not available --

7 THE COURT: Okay.

8 MR. O'BRIEN: -- that week. Other than that I'm, you know,
9 available at the Court's discretion.

10 THE COURT: Then how about the 14th? I don't have
11 anything set then.

12 THE WITNESS: Your Honor (indiscernible) --

13 MR. O'BRIEN: If -- if we can just check since we have -- if Dr.
14 Sussman can tell us and if Dr. Damas who's on the line --

15 THE COURT: Okay.

16 MR. O'BRIEN: -- can tell us if they're available on the 14th.

17 DR. DAMAS: Hi, yes, I'm -- I'm available.

18 THE COURT: Thank you. Sorry so much for making you wait
19 this morning.

20 DR. DAMAS: It's okay.

21 MR. PAGE: Available the 14th --

22 THE WITNESS: Anyway that's Friday. I could -- I could be
23 available.

24 THE COURT: Thank you so much. I apologize that we're not
25 able to finish it this morning.

1 THE WITNESS: Yeah, so quick question, should I stay here
2 today for Dr. Damas's testimony?

3 THE COURT: She's not going to be able to testify today
4 either --

5 THE WITNESS: After I'm -- after I'm done, should I stay for
6 Dr. Damas's testimony? Oh I see. Got it, got it.

7 THE COURT: Yeah, we're just going to --

8 THE WITNESS: Okay.

9 THE COURT: -- reschedule the whole thing because I'm -- I
10 have -- we just are on a very tight schedule because of Coronavirus and
11 our schedule with the detention center so we have all of all 18 judges
12 who handle any kind of criminal matter hearing basically on three -- one
13 of three tracks and that's they -- they go from 8 to 5 and people have
14 hour and a half slots it's a little bit -- our schedule is a little bit crazy right
15 now so normally we wouldn't schedule this way, we would have given
16 this more time but it's just really what we have so I apologize that --

17 THE WITNESS: Your -- Your Honor, do you -- do you know
18 what time that might be on the 14th of August?

19 THE COURT: We do it the same time at 8:30.

20 THE WITNESS: Okay.

21 THE COURT: All right, thanks folks. I'll see you in a couple
22 weeks --

23 THE WITNESS: Am I done for today or should I resume
24 testimony on --

25 THE COURT: You -- you are done for today. Thank you so

1 much.

2 THE WITNESS: Sure, thank you, Your Honor.

3 THE COURT: All right. Everybody have a great weekend.

4 MR. PAGE: Thank you, Your Honor.

5 MR. O'BRIEN: Thank you, Your Honor.

6 DR. DAMAS: Thank you.

7 THE WITNESS: Bye.

8 DR. DAMAS: Thank you.

9 [Hearing concluded at 11:12 a.m.]

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21 ATTEST: I hereby certify that I have truly and correctly transcribed the
22 audio/visual proceedings in the above-entitled case to the best of my
23 ability.

24

25



Tracy A. Gegenheimer, CER-282, CET-282
Court Recorder/Transcriber

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****August 28, 2020**

C-18-335833-1 State of Nevada
 vs
 Tariq Manson

August 28, 2020 08:30 AM Challenge Hearing (Competency Court)

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Estala, Kimberly

RECORDER: Takas, De'Awna

REPORTER:

PARTIES PRESENT:

Daniel R. Page Attorney for Defendant

Glen O'Brien Attorney for Plaintiff

State of Nevada Plaintiff

Tariq Manson Defendant

JOURNAL ENTRIES

Daniel Sussman, TESTIFIED having been previously sworn in. Sarah Damas, SWORN and TESTIFIED. Sharon Jones-Forrester, TESTIFIED having been previously sworn in. Argument by counsel. COURT ORDERED, matter UNDER ADVISEMENT, matter SET for status check on the decision.

BOND/EMP

09/11/20 11:30 AM STATUS CHECK: DECISION