

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION

4 EDWARD BRAGGS, et al.,

5 Plaintiffs,

6 vs.

CASE NO.: 2:14cv601-MHT

7 JEFFERSON S. DUNN, in his
8 official capacity as
9 Commissioner of the
Alabama Department of
Corrections, et al.,

10 Defendants.

12 EXCERPT OF BENCH TRIAL PROCEEDINGS

13 TESTIMONY OF M.P.

14 VOLUME 1

15 | Page

16 BEFORE THE HONORABLE MYRON H. THOMPSON, SENIOR UNITED
17 STATES DISTRICT JUDGE, at Montgomery, Alabama, on Thursday,
18 December 9, 2016, commencing at 4:04 p.m.

19 | APPEARANCES:

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8 Proceedings reported stenographically;
9 transcript produced by computer.

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11 EXAMINATION INDEX

12 M.P.

13 DIRECT BY MS. LYONS 3

14 * * * * *

15 (The following excerpt of proceedings was heard before the
16 Honorable Myron H. Thompson, Senior United States District
17 Judge, at Montgomery, Alabama, on Thursday, December 8,
18 2016, commencing at 4:04 p.m.:)

19 M.P.

20 The witness, having first been duly sworn to speak the
21 truth, the whole truth and nothing but the truth, testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MS. LYONS:

25 Q. Good afternoon.

A. Good afternoon.

Q. Today we're going to be using your initials or referring to

1 you as Mr. P. in order to protect your privacy. Okay?

2 A. Okay.

3 Q. Are you incarcerated in a facility run by the Alabama
4 Department of Corrections?

5 A. Yes.

6 Q. And when I use the term ADOC, do you understand that to mean
7 Alabama Department of Corrections?

8 A. Yes.

9 Q. Okay. And what facility were you housed at before you came
10 here to testify?

11 A. Ventress.

12 Q. Okay. How old are you?

13 A. Forty-four.

14 Q. What year were you first incarcerated in ADOC?

15 A. End of 2006, first of 2007.

16 Q. Had you been in prison before then?

17 A. No, ma'am.

18 Q. Mr. P., you gave a deposition in this case; correct?

19 A. Yes.

20 Q. Last week?

21 A. Yes.

22 Q. Did you talk about whether you wanted to testify today?

23 A. Yes, I did.

24 Q. What did you say about that?

25 A. I was concerned about retaliation from officers.

1 MR. LUNSFORD: Your Honor, we're going to object. I
2 mean, what relevancy does this have in these proceedings?

3 THE COURT: Let me hear what he's going to say. I
4 don't know.

5 Q. Can you repeat? What did you say in deposition last week?

6 A. I was concerned about retaliation from officers and
7 getting -- I'm in a program -- and getting back and forth and
8 continuing my program I'm in.

9 Q. So you said you were concerned -- I didn't understand --
10 about what from officers?

11 A. Retaliation.

12 Q. How many correctional officers are we talking about?

13 A. A couple has asked me if I was testifying.

14 Q. And how did that make you feel?

15 A. A little uncomfortable.

16 Q. Did you change your mind about testifying?

17 A. Yeah. Yes.

18 Q. And why did you change your mind?

19 A. Because other people need help, too.

20 Q. Today do you still have those fears about correctional
21 officers retaliating against you?

22 A. Some.

23 Q. Mr. P., have you been diagnosed with any mental health
24 conditions?

25 A. Yes, I have.

1 Q. What conditions are those?

2 A. Bipolar, borderline personality disorder, and schizophrenia.

3 Q. And how do you know that you've been diagnosed with those

4 conditions?

5 A. Dr. Kern at Bullock Correctional Facility.

6 Q. This is a provider at Bullock Correctional Facility?

7 A. Yes, it is.

8 Q. When did you get diagnosed by Dr. Kern?

9 A. Last summer.

10 Q. And these conditions, what symptoms do you experience from

11 them?

12 A. Mind racing, paranoia, voices, depression, mood swings. Bad

13 mood swings.

14 Q. When you say your mind races, can you describe that.

15 A. Hundred miles an hour in ten different directions. Mind

16 goes wide open in different directions.

17 Q. And when your mind is racing, does it affect the way you

18 speak?

19 A. Yes. It makes me talk real fast.

20 Q. You also mentioned paranoia. Can you describe that?

21 A. I just get paranoid sometimes. My medicine ain't strong

22 enough or something. Over the years I've had lot of trouble out

23 of it. I think everybody's after me.

24 Q. And paranoid about what kinds of things?

25 A. Just paranoid about everything. Everybody trying to kill

1 me, DOC officers, inmates, everything.

2 Q. You mentioned you hear voices?

3 A. Yes.

4 Q. What do the voices say?

5 A. Sometimes they say kill myself, it's hopeless, I'm a burden,
6 different things.

7 Q. So the voices tell you to kill yourself. Do you sometimes
8 feel suicidal?

9 A. Yes.

10 Q. How does that feel?

11 A. It feels pretty bad. Pretty depressing.

12 Q. Okay. We're going to talk a little bit about before you
13 came to ADOC. Okay? Before you got to prison, had you ever
14 received any mental health treatment?

15 A. Yes, I had.

16 Q. How old were you when you first received mental health
17 treatment?

18 A. Early to mid twenties.

19 Q. Do you remember your age at that time?

20 A. No.

21 Q. What were the circumstances that first led you to receiving
22 mental health treatment?

23 A. Suicide attempt.

24 Q. Just one suicide attempt?

25 A. Three. The first suicide attempt, I had to see -- I had to

1 go to the hospital.

2 Q. Okay. And so you had two other suicide attempts?

3 A. Yes.

4 Q. Did you go to the hospital on either of those?

5 A. Yes, on both times.

6 Q. For each of those, how long were you in the hospital?

7 A. Around ten days, two weeks.

8 Q. Can you repeat that?

9 A. Around ten days.

10 Q. And this was a hospital for treating mental health symptoms?

11 A. Yes, it was.

12 Q. When you got out of the hospital on these three occasions,

13 did you get any further treatment?

14 A. Yes. Outpatient treatment.

15 Q. And what do you mean by outpatient treatment?

16 A. You go once a month, see someone that prescribes you

17 medication follow-up every month.

18 Q. Someone prescribed you medication?

19 A. Yes.

20 Q. Do you know the title of that person?

21 A. No.

22 Q. Do you know what medication you were on?

23 A. I've been on lots of different kind of medications.

24 Q. And you don't remember at the time what medication that was?

25 A. Unh-unh.

1 Q. Okay. And you -- how often did you see that person?

2 A. Once a month.

3 Q. Okay. That outpatient treatment, did you receive that
4 monthly outpatient treatment after every time you were
5 hospitalized?

6 A. Yes.

7 Q. And how long did that outpatient treatment continue?

8 A. Continued until I quit going. It continued up to I quit
9 going. I just quit going.

10 Q. Okay. Before you were incarcerated at ADOC, approximately
11 how many times had you tried to commit suicide?

12 A. Probably five times.

13 Q. Okay. We are going to --

14 MS. LYONS: Your Honor, I don't know if I need a mike.
15 I know that that's been an issue. I'm going to take this over
16 there.

17 THE COURT: I thought we had a mike.

18 MS. LYONS: I wasn't instructed. I apologize. One
19 minute, please. Would you prefer this here?

20 THE COURT: Yes, so I can see it.

21 Q. Mr. P., we're going to talk about the time that you've been
22 in ADOC and where you've stayed. When you were incarcerated in
23 2006, 2007 -- and let me clarify. You said end of 2006, early
24 2007?

25 A. Yes.

1 Q. Where were you first housed?

2 A. In Kilby.

3 Q. Kilby?

4 A. Kilby.

5 Q. Okay. And how long were you at Kilby?

6 A. Just a few weeks. That's just a transfer order. They come
7 in, classify you, and send you on your way. You don't usually
8 stay there long.

9 Q. You said a few weeks?

10 A. Yeah.

11 Q. Okay. And then where did you go after Kilby?

12 A. Donaldson.

13 Q. Donaldson?

14 A. Yes.

15 Q. How long were you there?

16 A. I left there around June 2007.

17 Q. And if you could just speak a little bit more slowly, I
18 think that would be helpful to everyone.

19 A. Okay.

20 Q. Where did you go after Donaldson?

21 A. St. Clair.

22 Q. St. Clair? And how long were you at St. Clair?

23 A. From then until this year, this April.

24 Q. 2016?

25 A. Yes.

1 Q. Okay.

2 A. I left for a short time, went to -- I went to Bullock for a
3 short time.

4 Q. Okay. We'll talk about that after I write.

5 You said you went to Bullock for a short time. Do you
6 remember approximately when that was?

7 A. Last summer.

8 Q. And when you say last summer, do you mean 2015?

9 A. Yes.

10 Q. Okay. You mentioned that you went to St. Clair in April of
11 2016. Where did you go after that?

12 A. Limestone.

13 Q. Okay. And how long were you at Limestone?

14 A. Just about two or three months.

15 Q. Two or three months?

16 A. Yes.

17 Q. And then where did you go?

18 A. Ventress.

19 Q. Okay. And earlier you said that that was where you were
20 before you came to testify in this case?

21 A. Yes, ma'am.

22 Q. Okay.

23 MS. LYONS: Is that okay?

24 THE COURT: Yes, that's fine.

25 Q. Okay. Let's talk a little bit about your medication. Are

1 you on the mental health caseload in prison?

2 A. Yes, I am.

3 Q. When were you put on the caseload?

4 A. When I first come to prison, I was on it.

5 Q. Say that again?

6 A. When I first come to prison, I was put on it.

7 Q. When you first came to prison?

8 A. Yes.

9 Q. So was that at Kilby?

10 A. Yes.

11 Q. And how do you know that you're on the caseload at Kilby?

12 A. I took psychotropic medication.

13 Q. You were on medication?

14 A. Yes.

15 Q. Okay. Do you know if you were diagnosed with a specific

16 condition at that time?

17 A. I don't know.

18 Q. So is it your understanding that you were on the mental

19 health caseload because you were on medication?

20 A. Yes.

21 Q. Okay. Have you been on the mental health caseload since

22 that time?

23 A. I took myself off for a short time.

24 Q. What do you mean when you say you took yourself off?

25 A. It was sedating me when I was at Donaldson, and I couldn't

1 function, so I -- it was making me sleepy, drunk feeling. I had
2 to take myself off. It's too dangerous a place.
3 Q. Okay. So you're saying that the medication that they had
4 you on at Donaldson was making you feel drunk?
5 A. Yes.
6 Q. And sleepy?
7 A. Ma'am?
8 Q. I thought you said sleepy. Did you say sleepy?
9 A. Yes, sleepy.
10 Q. And you said it was too dangerous. What do you mean by
11 that?
12 A. That's a very violent place.
13 Q. So being drunk affected your willingness to be on the
14 medication?
15 A. Yes.
16 Q. Okay. Do you remember the name of the medication?
17 A. No, I don't remember.
18 Q. How did you take yourself off?
19 A. I just signed a piece of paper, told them it was sedating
20 me. I couldn't take it anymore. I wanted to come off of it.
21 Q. Okay. Who gave you the piece of paper?
22 A. Somebody in mental health.
23 Q. Okay. Do you remember the person's title?
24 A. I don't remember.
25 Q. Okay. Do you remember the person's name?

1 A. No, ma'am.

2 Q. Did you meet with that person to get the paper?

3 A. Yes.

4 Q. Okay. Was it a meeting that you requested?

5 A. No.

6 Q. So what kind of meeting was it?

7 A. It was just my regular monthly meeting, and I asked to come

8 off the medication. It was sedating me.

9 Q. Was this -- so this was a mental health person you were

10 seeing on a monthly basis?

11 A. Yes.

12 Q. Okay. And when you told the mental health person that you

13 wanted to come off the medication, did that person talk to you

14 about changing the medication?

15 A. Not that I remember.

16 Q. Okay. Do you remember what the piece of paper said?

17 A. No, ma'am.

18 Q. But you signed it at the meeting?

19 A. Yes.

20 Q. And were you taken off the medication?

21 A. Yes.

22 Q. Were you ever put back on psychotropic medications?

23 A. Yes, I was.

24 Q. At what facility?

25 A. St. Clair Correctional Facility.

1 Q. And you got to St. Clair in 2007?

2 A. Yes.

3 Q. How long were you at St. Clair before you got put back on
4 meds?

5 A. Probably a couple months maybe.

6 Q. Okay. In the time that you've been at ADOC, what
7 psychotropic medications have you been prescribed?

8 A. I took a lot. Let's see. I took Haldol, Zoloft, Prolixin,
9 I'm on Lithium, and I take Risperdal. I can't remember the
10 rest.

11 Q. So there are others?

12 A. Yeah. There's a lot others.

13 Q. You just can't remember all the names?

14 A. No, ma'am.

15 Q. If you could speak just a little bit more loudly, that would
16 be helpful.

17 A. Okay.

18 Q. Are you currently on medication?

19 A. Yes, ma'am.

20 Q. Okay. What med -- what medications are you on?

21 A. Lithium and Risperdal.

22 Q. Do you know what dosage?

23 A. Nine hundred milligrams of Lithium, and I don't know the
24 Risperdal.

25 Q. Okay. Let's talk about segregation. Have you ever been in

1 segregation?

2 A. Yes.

3 Q. At what facilities have you been in segregation?

4 A. St. Clair, Limestone, Bullock.

5 Q. Okay. Let's talk about St. Clair. How many times were you
6 put in segregation at St. Clair?

7 A. Couple of times.

8 Q. What was the longest period when you were in segregation at
9 St. Clair?

10 A. About six years.

11 Q. And what date did that period begin?

12 A. August 25th, 2009.

13 Q. Okay. What date were you removed from segregation in
14 St. Clair?

15 A. I don't know. This year.

16 Q. 2016?

17 A. Yes.

18 Q. Do you remember the month?

19 A. April, I think.

20 Q. And you had mentioned earlier, that's when you were
21 transferred to Limestone?

22 A. Yes.

23 Q. How many times were you put in segregation at Limestone?

24 A. That's where they housed us at. I was never put in any
25 other place in Limestone. Always in segregation. And Limestone

1 wouldn't let nobody in population from St. Clair because
2 St. Clair is such a violent place, they thought everybody was
3 violent.

4 Q. So are you saying that you were housed in segregation the
5 whole time you were in Limestone?

6 A. Yes.

7 Q. At that time, had you recently had a disciplinary that led
8 to you being housed in segregation at Limestone?

9 A. No.

10 Q. Okay. Let's go back to St. Clair. During the six years you
11 spent in segregation there, were you housed in the same cell?

12 A. No.

13 Q. So different cells.

14 A. Yes.

15 Q. Can you give an approximate number of how many different
16 cells, segregation cells you were in?

17 A. Probably six or seven.

18 Q. Were you also housed in different segregation dorms?

19 A. Yes.

20 Q. Can you tell us the dorms?

21 A. C, B, D, and E.

22 Q. When you were in segregation at St. Clair, were you ever
23 housed with another prisoner?

24 A. No. Single-man cells.

25 Q. Okay. So if I refer to single-man cell, you know what I

1 mean.

2 A. Yes.

3 Q. Comparing the segregation cells that you lived in at

4 St. Clair, were they similar in width?

5 A. Yes.

6 Q. How wide?

7 A. Probably seven foot wide, 12, ten foot long, 12 foot long.

8 Q. So somewhere around seven feet to ten or 12 feet?

9 A. Yeah.

10 Q. Okay. Were there any windows?

11 A. Yes.

12 Q. How many?

13 A. There was one back window and one in the door. Two windows.

14 Q. You said one in the back?

15 A. Yes.

16 Q. Is that the wall across from the door?

17 A. Yes.

18 Q. Okay. What was the approximate size of the window on the

19 door?

20 A. On the door? Probably five and a half inches by 12 inches.

21 Q. And what about the window in the wall?

22 A. Probably two and a half foot by three foot.

23 Q. Were there bars on either of those windows?

24 A. There's a screen across the window on the door. There's

25 bars across the back window.

1 Q. And was the door locked?

2 A. Yes.

3 Q. Did you have any vents in your segregation cell?

4 A. Yes, we had two.

5 Q. Do you know what those vents did?

6 A. Blowing the exhaust fan. One's a blower.

7 THE COURT: Could I ask you about the windows? The
8 window, the large window, was that facing outside?

9 THE WITNESS: Yes.

10 THE COURT: Okay.

11 Q. And is that in every segregation cell you were in?

12 A. Yes.

13 Q. You said one was a blower. During the summer, did cold air
14 come through the blower vent?

15 A. No.

16 Q. Never?

17 A. No.

18 Q. What was the temperature in segregation like in the summer?

19 A. It gets pretty hot. It got -- in 2007 it got so hot, they
20 passed out GatorAde.

21 Q. You passed out?

22 A. No. They passed out GatorAde for everybody and extra ice
23 and stuff. Record breaking heat. But it gets pretty hot. They
24 come by and check the temperature of the cell every so often in
25 some people's cells. Not everybody's.

1 Q. Have they passed out GatorAde since?

2 A. No. Got a different warden.

3 Q. When the temperature was really hot in segregation, how did

4 it feel?

5 A. You had to splash water on your face or put water on the

6 floor, wet your sheet or something.

7 Q. Were you on psychotropic medications when you were in

8 segregation?

9 A. Yes, I was.

10 Q. And just to clarify, this is at St. Clair?

11 A. Yes.

12 Q. And were you on psychotropic meds the entire time you were

13 in segregation?

14 A. Yes.

15 Q. Have you ever received information from mental health staff

16 about the effect of psychotropic medication on the body's

17 ability to handle hot temperatures?

18 A. Yes.

19 Q. What did it say?

20 A. It says we have to drink so many glasses of water a day,

21 keep cool. If we get too hot, holler for the police. Had to

22 sign a piece of paper. Heat stroke can occur, even death.

23 Q. Is this information that was verbally given to you by

24 someone?

25 A. It's a piece of paper I had to sign every summer.

1 Q. And so did you sign it every summer you were in segregation?

2 A. Yes.

3 Q. You mentioned heat stroke. Was this communicated as a

4 potential effect?

5 A. Yes.

6 Q. And possibly death?

7 A. Yeah.

8 Q. During the winter, did hot air come through the blower?

9 A. It did for sometime.

10 Q. By sometime, do you mean that it stopped blowing hot air at

11 a particular time?

12 A. Yes.

13 Q. How do you know that?

14 A. Because it quit heating my cell. I started getting cold in

15 my cell.

16 Q. And how cold did it get?

17 A. Got real cold. Some people started cutting their mattresses

18 and getting inside the mattresses. It got real cold.

19 Q. Could you ever see your own breath?

20 A. Yeah, I seen that a couple of times.

21 Q. Do you remember when this change in the hot air happened?

22 A. When they put smaller motors on the blower vent.

23 Q. I'm sorry. I didn't understand that. Can you say it a

24 little slower?

25 A. They put new motors on the blower vent.

1 Q. Did you see someone putting new motors on the blower vent?

2 A. Yes, I did.

3 Q. How did you know they were motors?

4 A. I just -- I graduated in electrical trade. I'm pretty

5 familiar with electrical motors. I did residential wiring, but

6 I was pretty familiar with electric motors.

7 Q. So you said you took training in electrical?

8 A. Yes.

9 Q. Okay. Did you complain to anyone about the cold?

10 A. Yes. I go to seg board and complained to the warden.

11 Q. Do you remember which warden it was?

12 A. No, I don't remember the warden.

13 Q. What did you say?

14 A. My heater wasn't working.

15 Q. What did the warden say?

16 A. He sent maintenance over to my cell.

17 Q. He sent maintenance?

18 A. Yes.

19 Q. Did you talk to maintenance?

20 A. Yes.

21 Q. What did maintenance tell you?

22 A. Maintenance said they put smaller motors on the vents.

23 Ain't nothing they could do on the motors.

24 Q. Going back to your segregation cell, were there any openings

25 in the door?

1 A. Yes. There's a small tray door to put the -- get your food
2 through and your juice, and there's a gap underneath the bottom
3 of the door.

4 Q. How big is the gap under the bottom of the door?

5 A. About five inches high, the length of the door.

6 Q. Is there any other opening in your cell?

7 A. Yeah. There's a small flap on the window in the back.

8 Q. What did you have in the cell?

9 A. My personal belongings, my clothes, my food, my Bible, legal
10 work.

11 Q. Did you have a mattress?

12 A. Yeah, I had a mattress and sheet and blanket.

13 Q. Can you describe the mattress.

14 A. Probably three and a half, four inches thick by seven foot
15 long.

16 Q. Was it placed on a frame?

17 A. For a short time it was. Then an incident happened, and
18 they changed it.

19 Q. So for a short time, you had a bed frame.

20 A. Yes.

21 Q. And they changed it. What did they change?

22 A. They put a concrete slab in.

23 Q. So after that, your three to four-inch mattress was on a
24 concrete slab?

25 A. Yes.

1 Q. Did you have a toilet?

2 A. Yes, with a sink made in.

3 Q. And anything else that was in there?

4 A. That's about it. Couple of lights. Two lights.

5 Q. Were you allowed any books?

6 A. Law library books.

7 Q. Law library books?

8 A. Yes.

9 Q. Anything more interesting than law library books?

10 A. That's about it.

11 Q. How often were you let out of your segregation cell?

12 A. Hour a day.

13 Q. To do what?

14 A. To walk.

15 Q. Walk where?

16 A. On the walk yard.

17 Q. On the walk yard?

18 A. Yes.

19 Q. When you were let out to the walk yard, were you in
20 restraints?

21 A. Yeah.

22 Q. Handcuffs?

23 A. Handcuffs.

24 Q. Anything else?

25 A. I had shackles on.

1 Q. Can you describe the shackles.

2 A. Giant handcuffs.

3 Q. What were they attached to?

4 A. My ankles.

5 Q. And was there a chain between them?

6 A. Yes.

7 Q. About how long was the chain?

8 A. About 18 inches.

9 Q. How easy was it to walk in shackles?

10 A. It makes it a little difficult.

11 Q. Yeah. Were you let out to the walk yard every day of the

12 week?

13 A. Every day but Sunday, holidays, and seg board day or medical

14 day.

15 Q. What do you mean by medical day?

16 A. If you turn in a sick call slip, you go see the doctor or

17 the nurse practitioner one day a week or chronic care. They

18 take everybody out there one time. You don't get to walk that

19 day.

20 Q. So the day that they take people for medical appointments or

21 other medical needs, everyone in the segregation dorm isn't

22 allowed out?

23 A. People -- all of seg get to go to medical, and nobody gets

24 to walk that day.

25 Q. Was medical day every week?

1 A. Huh?

2 Q. Did medical day happen every week?

3 A. Yeah, every week, once a week.

4 Q. Did you have a medical need every day of the week?

5 A. No.

6 Q. So were there days when medical day happened and you were --

7 you stayed in your cell?

8 A. Yes.

9 Q. And they didn't let you out for walk yard.

10 A. Right.

11 Q. You mentioned seg board. Can you describe what seg board

12 is?

13 A. You walk in front of -- you get to go in front of the

14 warden, ask to go into population or be transferred or have your

15 custody dropped. Any issue you got, you get to talk to the

16 warden about it, the assistant warden.

17 Q. And was it similar that not every seg board day you would go

18 to seg board?

19 A. No.

20 Q. But it happened once a week?

21 A. Yes.

22 Q. And so on the days when seg board day was happening, you

23 weren't allowed outside of your cell?

24 A. No.

25 Q. You also mentioned that you weren't allowed out on Sundays?

1 A. No.

2 Q. Or holidays?

3 A. No.

4 Q. Was there any other reason that you were let out of your

5 segregation cell?

6 A. Dental, mental health.

7 Q. Did you get to shower?

8 A. Shower, yeah, every other day.

9 Q. How long were you -- how much time were you given to shower?

10 A. About ten, 15 minutes max.

11 Q. Were there correctional officers stationed in the

12 segregation dorms where you were housed?

13 A. In the cube.

14 Q. Describe the cube.

15 A. Just a square building in the middle of two triangles. C1

16 side, C2 side, across the hall from each other. The cube sits

17 in the middle. One officer sits in the cube, looks out the

18 windows to either side, whatever side he wants to watch.

19 Q. So you said it's a building in the segregation dorm?

20 A. Yes.

21 Q. Is it completely enclosed?

22 A. Yes.

23 Q. And you said C1, C2. Are those different dorms?

24 A. Yes. C1 side and C2 side. C dorm, 1 side and 2 side. 24

25 beds on each side.

1 Q. And where was the cube in relation to C1 side, C2 side?

2 A. Dead center.

3 Q. In the center. Did the cube have windows?

4 A. Yes.

5 Q. And was it shaped like a cube?

6 A. Yes. Square.

7 Q. Was there a cube in each of the dorms where you were housed?

8 A. Yes.

9 Q. When you talk about the segregation cells, was it just one

10 floor of segregation cells?

11 A. No, it's two floors. It's upstairs.

12 Q. And in the cube, based on your experience, how many officers

13 were stationed in that cube on one shift?

14 A. One cube -- one officer.

15 Q. One officer. Was the cube visible from your segregation

16 cell?

17 A. Sometimes. Upstairs cells, you could see the cube.

18 Downstairs cells, it could make it difficult. Some cells you

19 couldn't see the officer.

20 Q. On those -- in the cells where you could see the cube, could

21 you always see the correctional officer?

22 A. Sometimes. Most of the time he would be sitting down.

23 Q. The officers that were in this enclosed cube, did they ever

24 communicate with prisoners in the segregation cells?

25 A. Yes.

1 Q. How did they do that?

2 A. Hollering through this little gap in the window, one of the

3 windows. Looked like a bank teller's gap, the bank teller at

4 the drive through. It's like something like that.

5 Q. So you say it's like a bank teller's gap?

6 A. Yes.

7 Q. Are we talking about the place where bank tellers put their

8 money?

9 A. Yes.

10 Q. And where you put your other paperwork?

11 A. Yeah.

12 Q. Okay. And that was the opening that correctional officers

13 would use to communicate out to the dorm?

14 A. Yes.

15 Q. Did correctional officers ever leave the cube?

16 A. No.

17 Q. When you have observed officers in the cube, what kinds of

18 things did you observe them doing?

19 A. Sleeping, reading books, talking on the phone, just staring

20 at the wall, eating.

21 Q. You said you saw them sleeping. How did you know they were

22 sleeping?

23 A. You could sit there and watch them sleep. They got their

24 eyes closed. They sleeping. They ain't praying that long.

25 Q. Were there any other officers stationed in the segregation

1 dorm?

2 A. They had a rover for B side and C side hooked together.

3 They had a rover from -- one rover for B side for both sides and
4 the cube on B side and cube on C side, officer in each cube.

5 One rover supposed to be working.

6 Q. I'm going to try to understand this. So earlier we talked
7 about C1 side, C2 side, and the cube in the center. Are you
8 saying that there was one rover for C1 side and C2 side?

9 A. No. One rover for both sides. Just one rover.

10 Q. Got it.

11 A. For B and C.

12 Q. Okay. And in your experience being in segregation for six
13 years, what did you observe the rovers doing?

14 A. On shower night, they won't be over there. They'll be
15 showering or pulling mental health. They won't be over there.
16 There's not enough officers, really. They have to pull mental
17 health or pull showers. They have to go to other buildings.

18 Q. Are you saying they pull officers for other duties?

19 A. Yes.

20 Q. Like showering?

21 A. Yes.

22 Q. Like mental health --

23 A. Yes.

24 Q. -- appointments? What was the noise level like in the
25 segregation dorms?

1 A. Sometimes it gets real loud. People kicking on the door,
2 people hollering back and forth. It gets pretty loud sometimes.

3 Q. What was it like to be in a dorm with people kicking on the
4 doors and hollering real loud?

5 A. It's stressful.

6 Q. During the six years that you were on -- in segregation at
7 St. Clair, you were on the mental health caseload?

8 A. Yes.

9 Q. We talked earlier about the symptoms that you experienced
10 from your diagnoses. Did those symptoms get worse when you were
11 put in segregation?

12 A. Yeah, I would say so.

13 Q. In what ways?

14 A. Well, sometimes my paranoia didn't get as bad, probably, but
15 my voices did. The loneliness. But I had a radio.
16 But I had a lot of problems in segregation. My medication
17 not working. I'd have to ask to increase it or change it.
18 Sometimes it's better. Segregation is a lot safer than
19 population at St. Clair.

20 Q. Let's talk about -- earlier we talked about the times that
21 you've attempted suicide. Have you ever attempted suicide while
22 you were in prison?

23 A. Yes.

24 Q. Can you estimate how many times?

25 A. Probably four they know about.

1 Q. Four they know about?

2 A. Yeah.

3 Q. At what facilities did you attempt to kill yourself?

4 A. St. Clair.

5 Q. Do you remember the year of the first time you tried to kill

6 yourself at St. Clair?

7 A. August 24th, 2009.

8 Q. Do you remember the year of the most recent time you tried

9 to kill yourself?

10 A. Last year. Last summer -- spring.

11 Q. 2015?

12 A. Yeah.

13 Q. Spring of 2015?

14 A. Something like that. Earlier that year, that year.

15 Q. And during that time frame, 2009 to 2015, you were in

16 segregation at St. Clair?

17 A. Yes.

18 Q. And you were on the mental health caseload?

19 A. Yes.

20 Q. Were you on psychotropic medications during that time?

21 A. Yes.

22 Q. Were you getting counseling at that time?

23 A. I see a counselor once a month.

24 Q. Earlier we talked about hearing voices. Do you hear voices

25 before you attempt to kill yourself?

1 A. Yes.

2 Q. What do they say?

3 A. Kill yourself. Hurt yourself. It ain't worth it. Give up.

4 Q. You mentioned earlier mood swings. What's your mood like

5 when you're feeling suicidal?

6 A. Very depressed. Ready to pull the trigger.

7 Q. During these times that you hurt yourself at St. Clair, what

8 kinds of things did you do to hurt yourself?

9 A. Things they know about? Things they know about? Razor

10 blades.

11 Q. What about things that they didn't know about?

12 A. Shoe bootlace, blood pressure pills.

13 Q. You said blood pressure pills. Are you saying that you took

14 blood pressure pills?

15 A. Yes.

16 Q. How many?

17 A. About 10 or 12.

18 THE COURT: What did you say? Shoe what?

19 THE WITNESS: I took blood pressure pills.

20 THE COURT: And you said something about a boot?

21 THE WITNESS: A boot shoe string.

22 THE COURT: What would you do with that?

23 THE WITNESS: I tried to hang myself.

24 THE COURT: Oh, okay.

25 Q. How many times did you try to hang yourself?

1 A. Once.

2 Q. And then you said you cut yourself?

3 A. Yes.

4 Q. With razor blades?

5 A. Yes.

6 Q. Let's talk about the blood pressure pills. When did this
7 happen?

8 A. August 24th, 2009. I had a -- I was going through a lot.
9 They closed -- I was in a re-entry program. They shut it.

10 (Court reporter interrupts for clarification.)

11 A. I was in a re-entry program. They stopped that. I had a
12 friend that got raped at St. Clair. I had another friend that
13 got murdered at St. Clair. My grandmother was in the hospital
14 and not expecting to live. So all that stress on me, I gave up.
15 I was in population. Took a bunch of blood pressure pills and
16 went to sleep.

17 Q. And I'm just going to say, we talked earlier about talking
18 fast.

19 A. Yeah. Sorry.

20 Q. I think the court reporter is having a little bit of
21 difficulty, so we'll just --

22 A. Okay.

23 Q. Yes. So you said you took the blood pressure pills and you
24 went to sleep?

25 A. Yeah.

1 Q. Then what happened?
2 A. Police woke me up.
3 Q. What do you mean by the police wrote you up?
4 A. They woke me up.
5 Q. Oh, woke you up.
6 A. Yeah.
7 Q. Then what happened?
8 A. I had to go to the infirmary.
9 Q. What happened at the infirmary?
10 A. They took my blood pressure. Body chart.
11 Q. Were you told what your blood pressure was?
12 A. I think it was 30 something over 50 something, I believe.
13 Q. Can you repeat?
14 A. I think it was 30 something over 50 something.
15 Q. Did you stay at the infirmary?
16 A. No.
17 Q. What happened then?
18 A. I went to segregation.
19 Q. And?
20 A. Stayed in segregation.
21 Q. Did someone from mental health meet with you about this
22 incident?
23 A. No. They didn't know about the suicide. They just thought
24 I was under the influence of alcohol and narcotics. They didn't
25 know I was trying to kill myself. I didn't tell them.

1 Q. Do you remember when you tried to hang yourself?
2 A. Yes.
3 Q. Was it in your segregation cell?
4 A. Yes.
5 Q. Do you remember the date?
6 A. No, I don't.
7 Q. Okay. But it was after this incident with the blood
8 pressure pills?
9 A. Yes.
10 Q. Can you describe, slowly, what you did to hang yourself.
11 A. I crawled up on my bed and got the boot shoe string from the
12 guy slept beside me, tied a loop around it, put it around the
13 sprinkler and jumped off the bed -- jumped off the sink.
14 Q. What happened then?
15 A. Well, I woke up with a busted elbow and a knot on my head.
16 Q. Did you get any help from an officer on that incident?
17 A. No. They didn't know.
18 Q. They didn't know?
19 A. No, they didn't know.
20 Q. Did you receive counseling about this incident from mental
21 health staff?
22 A. No. They didn't know.
23 Q. They didn't know?
24 A. No.
25 Q. Were you on psychotropic medication when you attempted to

1 hang yourself?

2 A. Yes, I was.

3 Q. Had you told anyone on the mental health staff that you were
4 thinking about hanging yourself?

5 A. Yes, I did.

6 Q. About how many times?

7 A. I don't know. At least once.

8 Q. Let's talk about the times that you cut yourself. Do you
9 have any visible scars from cutting?

10 A. Yes, I do.

11 Q. Would you be willing to show the Court the scars?

12 A. Sure.

13 MS. LYONS: Your Honor, would it be okay if he had his
14 handcuffs removed to show you?

15 THE COURT: Yes.

16 Q. Could you please point to them and describe for the Court.

17 THE WITNESS: That one got me. I cut a blood vein on
18 that one.

19 THE COURT: You did what?

20 THE WITNESS: I cut a blood vein in that one.

21 THE COURT: What about the other one?

22 THE WITNESS: That one, I cut twice. And that one.

23 THE COURT: Are those your only scars from cutting
24 yourself?

25 THE WITNESS: Yes.

1 THE COURT: Why did you cut yourself?

2 THE WITNESS: Suicide.

3 Q. So did you point -- how many did you point to?

4 A. Four.

5 Q. Four?

6 A. Yes.

7 Q. Do you remember the date of each instance that you cut
8 yourself?

9 A. No.

10 Q. Earlier you mentioned going to Bullock. When were you at
11 Bullock?

12 A. Last summer.

13 Q. And that was summer 2015?

14 A. Yes.

15 Q. Do you recall whether any of these cutting instances
16 happened before you went to Bullock in summer of 2015?

17 A. Yeah. Two did back to back. That's when they sent me for
18 stabilization at Bullock.

19 Q. So you said two of the instances were before you went to
20 Bullock, and they were back to back?

21 A. Yes.

22 Q. What do you mean by back to back?

23 A. One after the other one. About a month apart, two months
24 apart.

25 Q. And the other instances when you cut yourself, were they

1 also before you went to Bullock?

2 A. Yes.

3 Q. Do you remember when those instances happened?

4 A. No.

5 Q. You said that you used razors to make these cuts?

6 A. Yes.

7 Q. Where did you get the razors?

8 A. Officers.

9 Q. Correctional officers?

10 A. Yes.

11 Q. Can you describe how you got the razors?

12 A. Every other day they shower us, and they bring us a razor

13 around to shave us, or they used to. They stopped that.

14 Q. So when you went to shower, the correctional officer would

15 give you a razor?

16 A. Yes.

17 Q. And did they pick up the razors after you showered?

18 A. Most of the time.

19 Q. Sometimes they didn't?

20 A. Yeah.

21 Q. About how often was it that a correctional officer would not

22 return to pick up the razor?

23 A. Maybe once a month.

24 Q. And the razor -- you talked about two of the instances being

25 back to back right before you went to Bullock. This was in

1 spring of 2015?

2 A. Yes.

3 Q. The razors that you used for those cutting instances, were
4 they from correctional officers?

5 A. Yes.

6 Q. Did each of these four cutting instances happen in your
7 segregation cell?

8 A. Yes.

9 Q. Any of these instances, did you attempt to get the attention
10 of a correctional officer?

11 A. Yes.

12 Q. Was this before you cut yourself?

13 A. Yes.

14 Q. How many times did you try to get a correctional officer
15 before you cut yourself?

16 A. At least 30 minutes.

17 Q. And can you describe how you tried to get a correctional
18 officer before you were cutting.

19 A. I screamed at him, kicked on the door, hollered. He
20 wouldn't get up.

21 Q. What did you scream?

22 A. I was suicidal.

23 Q. And did you scream through one of the openings in your cell?

24 A. Yes.

25 Q. Which opening?

1 A. The tray door, tray slot.

2 Q. And what happened after that?

3 A. Other inmates was hollering, too, and he didn't -- he never

4 stood up.

5 Q. This is the officer in the cube?

6 A. Yes.

7 Q. Any other times that you screamed that you were suicidal

8 before you cut yourself?

9 A. That's only one I recall right now.

10 Q. After these four cutting instances, did you go to the

11 infirmary?

12 A. Yes.

13 Q. Had you ever been taken to an outside facility after one of

14 these instances?

15 A. Yes.

16 Q. Which one?

17 A. Brookwood.

18 Q. Do you remember what procedure they performed?

19 A. I cut a vein, so they did something. They tied a vein off

20 or something.

21 Q. Tied a vein off?

22 A. Yeah.

23 Q. Were you brought to the infirmary after these instances?

24 A. Yes.

25 Q. By who?

1 A. Correctional officers.

2 Q. Of the four times that you cut on yourself in segregation,
3 what was the shortest period between cutting yourself and a
4 correctional officer arriving?

5 A. Shortest span? Probably 10, 15 minutes.

6 Q. What was the longest period?

7 A. Probably 30, 45.

8 Q. During these waiting periods, were you bleeding?

9 A. Yes.

10 Q. What did you do during these waiting periods?

11 A. Smoked a cigarette.

12 Q. Sorry?

13 A. I smoked a cigarette.

14 Q. Smoked a cigarette? During the instance where you waited
15 about 30 to 45 minutes, is that all you did, smoked a cigarette?

16 A. Sometimes I would holler for officers, but most of the time
17 just smoke a cigarette.

18 Q. You said you were bleeding?

19 A. Yeah.

20 Q. Did you ever try to tie off the bleeding?

21 A. No. One time I wrapped it up so it wouldn't bleed -- so it
22 wouldn't be squirting. But, no, not really. I didn't never tie
23 it off.

24 Q. Did you ever do anything with your blood?

25 A. I wrote on the wall one time.

1 Q. You wrote on the wall?

2 A. Yeah.

3 Q. Can you tell us what you wrote?

4 A. Mental health wasn't helping. Ms. Coogan wasn't helping.

5 Pills not working.

6 Q. You said mental health wasn't helping?

7 A. Yes.

8 Q. Ms. Coogan wasn't helping?

9 A. Yes.

10 Q. And what was the last thing you said?

11 A. Pills not working.

12 Q. Pills not working.

13 A. Yes.

14 Q. Who is Ms. Coogan?

15 A. The nurse practitioner over mental health.

16 Q. Was she one of the people who was a provider for you at

17 St. Clair?

18 A. Yeah. She's the one that prescribes the medication.

19 Q. The entire time you were at St. Clair?

20 A. Yes.

21 Q. On this occasion when you were wrote Ms. Coogan's name on

22 your cell wall in your own blood, were you on psychotropic

23 medication?

24 A. Yes.

25 Q. And prior to that incident, had you asked Ms. Coogan to

1 change your medication?

2 A. I hadn't been out of suicide cell long. I had been in a
3 suicide cell, I hadn't been out long, and she wouldn't change
4 it. I come out of suicide cell, and it wasn't too long after
5 that, couple of weeks later, I had cut myself and wrote on the
6 wall.

7 Q. Okay. So I'm just going to try to understand that. You
8 were in a suicide cell?

9 A. Yeah.

10 Q. And you were released?

11 A. Yes.

12 Q. And then you went -- you were sent back to segregation?

13 A. Yes.

14 Q. And it was soon after that that you cut yourself?

15 A. Yes.

16 Q. And that was the instance where you wrote on the wall?

17 A. Yes.

18 Q. About Ms. Coogan?

19 A. Yes.

20 Q. Okay.

21 THE COURT: What's the difference between a suicide
22 cell and a segregation cell?

23 THE WITNESS: Suicide cell is in the infirmary where
24 you're monitored all the time. Every 15 minutes.

25 Q. Mr. P., these times that you have hurt yourself in prison,

1 were you trying to kill yourself?

2 A. Yeah, most of them. All but one.

3 Q. All but one?

4 A. Yeah.

5 Q. So the one that you weren't trying to kill yourself, why did

6 you cut on yourself?

7 I'm sorry. Was it a time you cut on yourself that you

8 weren't trying to kill yourself?

9 A. Yes.

10 Q. And why did you cut?

11 A. She wouldn't change the medication. She wouldn't help me.

12 Q. When you say "she," are you talking about Ms. Coogan?

13 A. Ms. Coogan.

14 Q. During this time period that you were hurting yourself, were

15 you receiving counseling?

16 A. I seen a counselor once a month.

17 Q. Okay. From the same counselor?

18 A. Yeah. The other counselors, they changed over the years.

19 They don't usually last too long.

20 Q. How many counselors do you think you had at St. Clair?

21 A. They've had a few. Three or four while I was there. At

22 least three.

23 Q. At least three? Do you remember their names?

24 A. Ms. Parmore (phonetic) was one of them. I don't remember

25 the other ones.

1 Q. Do you know what their titles were?

2 A. Counselor.

3 Q. Let's talk about those monthly sessions. How long were
4 they?

5 A. About five, ten minutes at the max.

6 Q. How often would the counseling sessions be closer to five
7 minutes?

8 A. When she -- when she was in a hurry, had 15 people behind
9 me, long lines, bad weather, bad mood.

10 Q. What would happen at these five-to-ten-minute counseling
11 sessions?

12 A. Ask about the medication, was the medication working or not,
13 sign a treatment plan, have a nice day.

14 Q. So they would ask if your medication was working?

15 A. Yes.

16 Q. And did you try to tell them about the symptoms that you
17 were experiencing?

18 A. I told them. I told them. They -- I've told the counselor
19 and the counselor said that she -- she told Ms. Coogan, but
20 Ms. Coogan wouldn't increase my medicine or wouldn't change it
21 sometimes. Sometimes she would, but a lot of times she
22 wouldn't.

23 Q. What is this treatment plan they would have you sign?

24 A. I never read one.

25 Q. You never read one?

1 A. No.

2 Q. Is this a document?

3 A. Yeah. Piece of paper.

4 Q. Have words on it?

5 A. Yeah.

6 Q. Did you try to read it?

7 A. No.

8 Q. Why didn't you try to read it?

9 A. I don't read too good.

10 Q. Did the counselor read it to you?

11 A. No.

12 Q. Were all your counselors female?

13 A. I believe so.

14 Q. Okay. So when I say "she," I'm referring to all of them.

15 A. Yeah.

16 Q. Did she explain it to you?

17 A. Only one -- at St. Clair, nobody ever explained a treatment

18 plan to me.

19 Q. Earlier you talked about Ms. Parmore. How long was she your

20 counselor?

21 A. She was -- she worked there for a while. She didn't like

22 it, but she worked there.

23 Q. So did you have her as a counselor for more than six months?

24 A. Yeah. At least six months, I believe.

25 Q. More than a year?

1 A. I would say so because -- I mean, I can't really say how
2 long. But I remember her -- I remember her working there for a
3 while, because, I mean, she talked to me more than I talked to
4 her.

5 Q. What kinds of things did Ms. Parmore say to you?

6 A. She didn't like working there. She got a lot of sexual
7 harassment. A lot of guys screaming out the windows, muttering
8 things. It's a bad place for a woman to work.

9 Q. Did you ever try to tell Ms. Parmore about the issues you
10 were experiencing?

11 A. Sometimes. Sometimes she would write stuff down.

12 Q. Say that again. That was real quick.

13 A. Sometimes I did. Sometimes she would write stuff down. I
14 don't know what she wrote down. But she said she would tell
15 Ms. Coogan that my medicine wasn't working or that my -- I'd
16 like to change it or something.

17 Q. Did she ever respond to your -- withdraw.

18 When you talked to Ms. Parmore, did you tell her that you
19 were hearing voices?

20 A. Sometimes. Sometimes I just say I'm doing fine and get out
21 of the way.

22 Q. Would you say you were doing fine because you were actually
23 doing fine?

24 A. No. I was maintaining. I was doing fine. If I can
25 maintain, I'm doing okay. I'll make it.

1 Q. You mentioned that these were about five to ten-minute
2 sessions. Did you feel that you had an opportunity to talk
3 about your issues?

4 A. No. Sometimes -- sometimes she said she didn't have time
5 today. Didn't have time to hear it.

6 Q. Were you ever disciplined on these instances where you hurt
7 yourself?

8 A. Yes.

9 Q. Was the discipline for hurting yourself?

10 A. Yes.

11 Q. About how many times was that?

12 A. About four times.

13 Q. Do you remember the name of the charge that was brought
14 against you?

15 A. Creating a safety security health hazard.

16 Q. Creating a safety -- would you say that again?

17 A. Creating a safety security health hazard. I believe that's
18 it.

19 Q. Earlier you talked about -- I can't remember -- did you say
20 suicide cell or crisis cell?

21 A. Yes.

22 Q. After these cutting instances that we've just talked about,
23 were you placed in a crisis cell?

24 A. Yes.

25 Q. This is at St. Clair?

1 A. Yes.

2 Q. Any other times that you were placed -- any other times,
3 other than the times when you actually hurt yourself, were you
4 placed in a crisis cell?

5 A. Yes.

6 Q. And why?

7 A. Suicidal thoughts.

8 Q. Did you communicate those suicidal thoughts to someone?

9 A. Yes.

10 Q. How many times do you think you were in a crisis cell at
11 St. Clair?

12 A. Probably eight times, ten times.

13 Q. What is the longest period you've spent in a crisis cell in
14 St. Clair?

15 A. Probably a couple of weeks.

16 Q. What about the shortest?

17 A. Three days.

18 Q. How big is that cell?

19 A. About a ten by -- about a 12 by 12 probably.

20 Q. Twelve feet --

21 A. Yeah, 12 feet by 12 feet probably.

22 Q. -- by 12 feet?

23 A. Probably.

24 Q. And what's in that cell?

25 A. Sink and toilet made together, suicide mattress, suicide

1 outfit on, a big window with Plexiglass over it so you can't get
2 no air. But you got air conditioner. There's air conditioners.
3 Q. Can you describe what a suicide mattress is?
4 A. It's a mattress that's extremely hard to tear up.
5 Q. Can you repeat that? I think that was kind of quick.
6 A. That mattress, it's -- I don't know if it's a fire retardant
7 mattress. It's not made by the prison system. It's bought.
8 Most of the mattresses we got are made at St. Clair Correctional
9 Facility. They sell them across the state. Rest of state
10 probably uses them. It's an industry.
11 Q. You said you had a suicide outfit. What was that?
12 A. That's a velcro outfit. Velcro across the stop and across
13 the sides.
14 Q. Did it have sleeves?
15 A. No.
16 Q. Did it have pants?
17 A. No.
18 Q. Was it like a gown?
19 A. Yeah.
20 Q. When you are housed in a crisis cell, are you ever allowed
21 to leave the cell?
22 A. No.
23 Q. Allowed to shower?
24 A. No. You -- no. You're in there and all you got on, you
25 ain't got no boxers on, nothing. No shoes, nothing.

1 Q. So you said no shoes?

2 A. No.

3 Q. No additional clothing other than the suicide gown?

4 A. You got a suicide blanket, too. They also got a suicide

5 blanket.

6 Q. When you were in a suicide or crisis cell, were you ever

7 allowed to go outside?

8 A. No.

9 Q. So when you're in a -- you're housed in a crisis cell,

10 you're there 24 hours a day?

11 A. Yes.

12 Q. These instances or periods of time when you've been housed

13 in a St. Clair crisis cell, did a mental health counselor visit

14 you?

15 A. Sometimes.

16 Q. Every day?

17 A. No.

18 Q. When the counselor did visit you, how long was the visit?

19 A. About ten minutes. Talked through the window of my door.

20 Q. So you said she talked through the window. She was on the

21 other side of the door?

22 A. Yeah.

23 Q. How big is that window?

24 A. It's probably seven inches by 18 inches. About 14 inches

25 probably. Seven inches by 14 inches, seven, 14.

1 Q. And when she visited you, that was the window that she would
2 speak to you through?

3 A. Yes.

4 Q. Was there an opening in the door?

5 A. No.

6 Q. So could you hear her?

7 A. Yeah, you can hear.

8 Q. When you were in the crisis cell in St. Clair, did
9 Ms. Coogan visit you?

10 A. Yes, after three days. After the first -- the first 72
11 hours, she wouldn't visit you.

12 Q. Okay. So you wouldn't see her during the first 72 hours.

13 A. She wouldn't stop to see me.

14 Q. This is every time you were in a crisis cell?

15 A. No. If I hurt myself, she wouldn't see me.

16 Q. So are you saying that if you hurt yourself in a crisis
17 cell, she would come see you?

18 A. If I hurt myself and was put in a crisis cell, she wouldn't
19 come see me. If I just went to a crisis cell, she would come by
20 and see me, but she wouldn't let me out for 72 hours.

21 Q. When Ms. Coogan would visit you at the crisis cell, what did
22 she say?

23 A. Wanted to know why I done it. Tell me my medicine is
24 working. Sometimes she would change my medicine. She put me on
25 shots for a couple of times, too, some kind of shots. Just

1 wanted to know if I was going to do it again; when was I going
2 to do it again.

3 Q. How long did she talk with you when she visited you at the
4 crisis cell?

5 A. Not very long. She would stand up at my door, write some
6 stuff down.

7 Q. Was it like with the counselor where she would be behind the
8 door?

9 A. Yeah.

10 Q. Talking through the window?

11 A. Yeah.

12 Q. All those ten -- well, you said eight to ten times that you
13 were put in a crisis cell, did being in a crisis cell help you
14 get better?

15 A. Kept me from hurting myself. You couldn't hurt yourself in
16 a crisis cell. You didn't have nothing.

17 Q. So it kept you from hurting yourself.

18 A. Yes.

19 Q. Did it keep you from hearing voices?

20 A. No. They usually increased my medication or something.

21 They done some changing or something to it.

22 Q. Let's talk about your medication. You mentioned that you
23 wanted to change your medication. Why did you want your
24 medication changed?

25 A. Wasn't working.

1 Q. And when we talk about this, are we talking about all the
2 different medications that you listed earlier?

3 A. Yeah. Ones I'm taking now are working. Other medications
4 wasn't working for me.

5 Q. So right now, you said that you are on Lithium and
6 Risperdal?

7 A. Yes.

8 Q. And those are working?

9 A. Yes, they are.

10 Q. And the medicines before that you said weren't working?

11 A. No.

12 Q. And why did you want your medication changed?

13 A. Wasn't working. Voices. Paranoia. Mind racing. That's a
14 big one there, the mind racing. You can't listen to your own
15 radio. You just can't focus.

16 Q. So you were experiencing these symptoms when you were on the
17 medications that Ms. Coogan was prescribing you?

18 A. Yes.

19 Q. How often do you think you asked Ms. Coogan to change your
20 medicine?

21 A. At least ten, 12 times. Either change it or increase it.

22 Q. I couldn't hear what you said.

23 A. At least ten or 12 times. Either change it or increase it,
24 one.

25 Q. And did she -- you said that she did change your medicine

1 sometimes.

2 A. Sometimes she did, yeah. Sometimes. Sometimes she
3 wouldn't, but sometimes she would.

4 Q. What about the other times?

5 A. Sometimes she would tell me that my medicine was working.

6 Q. So when she said your medicine was working, did you agree
7 with her?

8 A. No.

9 Q. Anything else that Ms. Coogan told you about the medication
10 that she prescribed you?

11 A. Yes. She told me it was strong enough to knock an elephant
12 out.

13 Q. When she said it was strong enough to knock an elephant out,
14 did you agree with that?

15 A. No. It wouldn't even sedate me. The Donaldson stuff would
16 sedate me, but the stuff Ms. Coogan had wasn't even working.

17 Q. So the changes that Ms. Coogan made to your medicine, did
18 those changes help you?

19 A. She give me Risperdal one time, and Risperdal -- I have an
20 issue with Risperdal, myself. I still hear voices, but I'm able
21 to cope with it.

22 She tried to help me, I think, sometimes. Sometimes she
23 just wouldn't help me. She just totally refused.

24 Q. When you were meeting with her during this period of time --
25 and the period of time I'm talking about is the time period

1 2009, 2015, when you were hurting yourself on occasion -- did
2 you tell her you were hearing voices?

3 A. Yes.

4 Q. And this was when you were on the medication she had
5 prescribed you?

6 A. Yes.

7 Q. About how many times do you think you told Ms. Coogan you
8 were hearing voices?

9 A. Several times. I couldn't estimate.

10 Q. More than ten?

11 A. I'd say more than ten, yeah.

12 Q. More than 20?

13 A. I don't know about 20, but at least more than ten. At least
14 ten.

15 Q. How could you tell -- in your person, how could you tell
16 that your medicine wasn't working?

17 A. My voices be so loud, I couldn't hear. I'd be either
18 depressed or mind racing. I can't even focus to listen to the
19 radio.

20 Q. When you said the voices were so loud you couldn't --

21 A. I couldn't hear myself think. Couldn't hear the radio.

22 Q. And the mind racing, could you describe that a little bit
23 more.

24 A. Mind racing so fast, going different directions, you can't
25 even listen -- it's just hard to focus. It's a miserable

1 feeling.

2 Q. Did you ever tell Ms. Coogan that you were feeling suicidal?

3 A. Yes.

4 Q. How many times?

5 A. Several times.

6 Q. And this is when you were on the medication that she had
7 prescribed you?

8 A. Yes.

9 Q. Did any of the psychotropic medications that Ms. Coogan
10 prescribed help your voices?

11 A. Probably Risperdal, probably, a little. I still take it
12 today, but -- I don't know if it's the same milligrams, but I
13 still have a little issue with it. But, I mean, I'm
14 maintaining. I can't be sedated in prison.

15 Q. You were hearing voices the entire time you were --

16 Well, let's talk about the time frame we've been talking
17 about, 2009 to 2015.

18 A. Yes.

19 Q. Were you hearing voices that entire time?

20 A. Yes.

21 Q. Did any of the medicines that she prescribed you help with
22 your suicidal thoughts?

23 A. No.

24 Q. So you were still feeling suicidal during that time period?

25 A. Pretty much.

1 Q. Did you hurt yourself every time that you felt suicidal?

2 A. No.

3 Q. So you felt suicidal more often than you actually acted on

4 it?

5 A. Yes.

6 Q. Let's talk about Bullock. You mentioned that Dr. Kern

7 prescribed medicine for you at Bullock?

8 A. Yes.

9 Q. And that medicine was Lithium and Risperdal?

10 A. Yes.

11 Q. How long were you at Bullock?

12 A. All last summer. About three months, probably, four months.

13 Q. So approximately three months in the summer of 2015?

14 A. Yes.

15 Q. What were the circumstances that led to you being

16 transferred to Bullock?

17 A. I cut myself about a month apart.

18 Q. Those were the back-to-back suicide attempts we talked about

19 earlier?

20 A. Really bad. They had to sew them up on the inside and

21 outside.

22 Q. Where were you housed when you were in Bullock?

23 A. In the stabilization unit, I think. I think that's what

24 it's called.

25 Q. Were you in a cell?

1 A. Yes.

2 Q. Were you housed in a single-man cell?

3 A. Yes.

4 Q. How big was that cell?

5 A. A little smaller than St. Clair's. It's probably seven --

6 no, it's probably six and a half foot -- probably seven foot

7 wide, nine foot long. It's a little smaller than St. Clair's,

8 but it's got air conditioner.

9 Q. So when you say it's smaller than St. Clair, do you mean

10 segregation?

11 A. Yes. All cells at St. Clair.

12 Q. So the stabilization unit at Bullock was smaller than the

13 segregation cell you were in at St. Clair?

14 A. Yes.

15 Q. You said air conditioning. The temperature was better

16 than --

17 A. Yes.

18 Q. -- segregation?

19 A. Yes.

20 Q. When you were in a stabilization unit at Bullock, were you

21 ever let out of your cell?

22 A. Yes.

23 Q. Every day?

24 A. Five days a week, Monday through Friday.

25 Q. When were you let out?

1 A. In the mornings, in the mornings until lunch.

2 Q. Mornings and lunch?

3 A. Until lunch.

4 Q. What did you do when you were let out?

5 A. We would play games, play card games, communicated with each

6 other, communicated with the counselor. I guess she was a

7 counselor. She was something.

8 Q. When you say communicate with each other, do you mean other

9 prisoners?

10 A. Yeah. Other inmates.

11 Q. Was this time outside of the cell playing card games

12 helpful?

13 A. Yes. It kept your mind distracted.

14 Q. Was it helpful to interact with other people?

15 A. Yeah.

16 Q. So during that -- you said mornings. Do you remember what

17 time you were let out?

18 A. About eight o'clock in the morning, I guess.

19 Q. And then?

20 A. To about eleven.

21 Q. To about eleven? And then were you let out for lunch?

22 A. We got to eat out, and then we went down in lockdown.

23 Q. And then for the rest of the day, were you back in your

24 cell?

25 A. Yeah, and another group was out.

1 Q. So you mentioned you received -- you had a counselor at
2 Bullock.

3 A. Yeah.

4 Q. How often did you see that counselor?

5 A. About every -- about once a week. We had Dr. Kern, we had a
6 counselor, and then we had the people over the little program,
7 the group sessions.

8 Q. I didn't totally understand that.

9 A. We had people over the group sessions, then we had a
10 counselor, and then Dr. Kern that come through.

11 Q. Okay. So you said you met with a counselor once a week.
12 How long were those sessions?

13 A. Probably ten, 15 minutes. Sometimes even a little longer.

14 Q. And we earlier talked about your sessions in St. Clair as
15 being five to ten. Were these sessions just typically longer
16 than the sessions at St. Clair?

17 A. Yes.

18 Q. What did you talk about with your counselor at Bullock?

19 A. She would ask me a lot more in-depth questions. A lot more
20 questions about everything from my day to my family.

21 Q. So more in depth about your life?

22 A. Yes.

23 Q. And your family?

24 A. Yes.

25 Q. Did she talk to you about issues you were experiencing at

1 the time?

2 A. Yes.

3 Q. Was that helpful?

4 A. Yes, it was.

5 Q. Did your counselor at Bullock provide you with treatment
6 plans?

7 A. Yes, she did.

8 Q. Did she review the treatment plans with you?

9 A. Yeah.

10 Q. What did she tell you about the treatment plans?

11 A. I can't remember what it was, but she read them. I told her
12 I didn't read too good, and she read it to me. Couple of times
13 she read it to me. I asked her to read it.

14 Q. And that was different than the counselors at St. Clair?

15 A. Yes.

16 Q. When did you first meet with Dr. Kern?

17 A. When I first got there. Probably within the first 24 hours,
18 probably.

19 Q. And did he evaluate you?

20 A. Over a period of time. He started me out on some
21 medication. Then he changed it, I think. Increased my Lithium.
22 Started me on Lithium and increased it.

23 Q. So he started you out on a medication that wasn't Lithium?

24 A. Yeah, I think so. He might have started me on Lithium, but
25 he talked to me for a while first.

1 Q. And then he put you on Lithium?

2 A. Yes.

3 Q. And then he increased your Lithium dosage?

4 A. Yes.

5 Q. Do you know Dr. Kern's title other than doctor?

6 A. No.

7 Q. Do you know he's a doctor?

8 A. They called him doctor. He wore a white coat. I don't know.

10 Q. Do you recall how soon after you got to Bullock that he put you on the Lithium?

12 A. I don't recall.

13 Q. Do you think it was more than a week?

14 A. Probably around there probably.

15 Q. And do the Lithium and Risperdal that you're currently on, do they help you?

17 A. Yeah. The medications I'm currently on? Yeah, it works. I can maintain with what I'm taking today.

19 Q. Before you were transferred to the Bullock stabilization unit, how often were you hearing voices?

21 A. Daily basis.

22 Q. How often did you experience mood swings?

23 A. About a weekly basis, real bad ones.

24 Q. And how often do you think you felt suicidal?

25 A. About every other day, every few days. At least once a

1 week.

2 Q. How long have you been on the Lithium and Risperdal?

3 A. Since Dr. Kern put me on it last summer.

4 Q. So earlier we said that you were at Bullock for about three
5 months in the summer of 2015. So would you say it's accurate
6 that you've been on the Lithium and Risperdal for over a year?

7 A. Yeah.

8 Q. And are you on that same dosage that Dr. Kern prescribed
9 you?

10 A. Yes.

11 Q. Since you went on the Lithium and Risperdal, have you been
12 hearing voices?

13 A. Somewhat. Very little.

14 Q. When you say "very little," are the voices impacting your
15 ability to function?

16 A. No.

17 Q. Since you went on the Lithium and Risperdal, have you had
18 mood swings?

19 A. None noticeable.

20 Q. And since you went on the Lithium and Risperdal, have you
21 felt suicidal?

22 A. No, I don't think, not one time.

23 Q. How long in your life -- so we can include before you came
24 to ADOC -- had you been hearing voices before you got on the
25 Lithium?

1 A. Since I was probably a teenager.

2 Q. Probably a teenager?

3 A. Probably.

4 MS. LYONS: Your Honor, would it be okay if we took a
5 picture of Mr. P.'s arm to preserve the record?

6 THE COURT: Yes.

7 MS. LYONS: Would you like to come?

8 (Brief pause in the proceedings)

9 THE COURT: Are you going to mark that as an exhibit?

10 MS. LYONS: Yes.

11 THE COURT: It's admitted. It's admitted.

12 MS. LYONS: Thank you. That's all we have for now,
13 Your Honor.

14 THE COURT: Okay. Who will examine -- cross-examine --
15 I'm sorry. From ADOC do we have any examination?

16 MR. MUJUMDAR: No questions, Your Honor.

17 THE COURT: How long will you be, Mr. Lunsford?

18 MR. LUNSFORD: I would estimate 45 minutes.

19 THE COURT: Why don't we start in the morning.

20 MR. SMITH: Your Honor, I probably have 15 or 30
21 minutes of questions.

22 THE COURT: Thank you very much, Mr. Smith. Nine
23 o'clock tomorrow, then. Thank you.

24 (Evening recess at 5:20 p.m.)

25 * * * * *

COURT REPORTER'S CERTIFICATE

2 I certify that the foregoing is a correct transcript
3 from the record of the proceedings in the above-entitled matter.

4 This 13th day of October, 2017.

/s/ Patricia G. Starkie
Registered Diplomate Reporter
Certified Realtime Reporter
Official Court Reporter

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION

4 EDWARD BRAGGS, et al.,

5 Plaintiffs,

6 vs.

CASE NO.: 2:14cv601-MHT

7 JEFFERSON S. DUNN, in his
8 official capacity as
9 Commissioner of the
Alabama Department of
Corrections, et al.,

10 Defendants.

11 * * * * *

12 EXCERPT OF BENCH TRIAL PROCEEDINGS

13 TESTIMONY OF M.P.

14 VOLUME II

15 * * * * *

16 BEFORE THE HONORABLE MYRON H. THOMPSON, SENIOR UNITED
17 STATES DISTRICT JUDGE, at Montgomery, Alabama, on Friday,
18 December 9, 2016, commencing at 9:10 a.m.

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9 Proceedings reported stenographically;
10 transcript produced by computer.

11 * * * * *

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13 M.P.

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19 * * * * *

20 (The following excerpt of proceedings was heard before the
21 Honorable Myron H. Thompson, Senior United States District
22 Judge, at Montgomery, Alabama, on Friday, December 9, 2017,
23 commencing at 9:10 a.m.::)

24 M.P.

25 The witness, having previously been duly sworn to speak
the truth, the whole truth and nothing but the truth, further
testified as follows:

26 CROSS-EXAMINATION

27 BY MR. LUNSFORD:

28 Q. Good morning, sir. We met a little bit before the Court

1 convened this morning. We've not met before, have we?

2 A. Yes -- no, not before this.

3 Q. Not before today; right?

4 A. No.

5 Q. But you remember that you actually met one of my cocounsel.

6 You met Mr. Dorr last week, didn't you?

7 A. Yes. The man --

8 Q. You met him when you were sitting down for a deposition; is

9 that correct?

10 A. Yes.

11 Q. And you'll remember -- and M., I'll ask you for our court

12 reporter and for the judge and for all the folks that are here,

13 they all want to hear your testimony. If you could speak up

14 loudly and clearly enough. We're not in any rush this morning,

15 so you take your time. But if you could speak loudly and

16 clearly enough so they can hear you, I would greatly appreciate

17 that. Okay?

18 A. Okay. Thank you.

19 Q. Yes, sir.

20 THE COURT: Let me interrupt you there. I do have

21 difficulty understanding you, so just speak really slowly. I

22 think you drop your words at the end. That just may be your

23 habit. But just help me understand you, because it's really

24 important that I understand you.

25 And Mr. Lunsford, feel free to ask him to repeat

1 things, because I do also have difficulty understanding him.

2 MR. LUNSFORD: Yes, sir. I will. Thank you, Your
3 Honor.

4 Q. Yes, sir. When Mr. Dorr was asking you questions last week,
5 he asked you, on a scale of one to ten, how likely it was that
6 you would be here to testify this week. Do you remember that?

7 A. Yes.

8 Q. Okay. And you told him, and I'm quoting here, you said,
9 "I'm about a two. I'm in a program now. I'm doing real good."
10 Do you remember that?

11 A. Yes.

12 Q. Okay. Those were your words. You said, "I'm doing real
13 good." Correct?

14 A. Yes.

15 Q. When he asked you that question, you never said anything
16 about retaliation, did you?

17 A. No.

18 Q. You never told Mr. Dorr that you had any concerns for your
19 safety about testifying here today or yesterday, did you?

20 A. No.

21 Q. And there have been times during your incarceration --

22 Well, let's back up for a minute. And as you testified
23 yesterday, I believe, it's your allegation now that you're
24 concerned because some officers asked you a question; correct?

25 A. The way it was asked.

1 Q. They asked you a question; correct? Those officers?

2 A. Yes.

3 Q. They asked you if you were going to testify; correct?

4 A. Yes.

5 Q. They didn't say anything else to you, did they?

6 A. No.

7 Q. And, in fact, since you were asked those two questions,
8 you've not had anybody else say anything to you about testifying
9 in this case, have you?

10 A. No.

11 Q. And, in fact, none of the officers that you've interacted
12 with today have asked you about testifying, have they?

13 A. No.

14 Q. None of the officers that are here today have done anything
15 to retaliate against you, have they?

16 A. No.

17 Q. They haven't hit you, have they?

18 A. No.

19 Q. They haven't kicked you, have they?

20 A. No.

21 Q. They haven't deprived you of anything, have they?

22 A. No.

23 Q. There have been times during your incarceration when you've
24 sought out the help of the officers at the facilities where
25 you've been incarcerated; right?

1 A. That's right.

2 Q. You asked them to protect you; correct?

3 A. That's right.

4 Q. You asked them to protect you from other inmates that you
5 were worried about, didn't you?

6 A. Yes.

7 Q. And on those occasions, you sought out those officers;
8 correct?

9 A. Yes.

10 Q. And you trusted those officers to protect you; correct?

11 A. Yes.

12 Q. Now, those officers that now you claim you're worried about
13 retaliating against you --

14 MS. LYONS: Objection. Misstates testimony.

15 MR. LUNSFORD: I don't know what could possibly be more
16 accurate of a statement of his testimony.

17 THE COURT: Is that a correct summary of your
18 testimony, what he just said?

19 THE WITNESS: Yeah.

20 Q. So these officers that you now claim that you're worried
21 about retaliating against you, it's these same officers that on
22 those occasions that you sought out their help, they protected
23 you, didn't they?

24 A. Not the same officers.

25 Q. It's the same type of correctional officers, isn't it?

1 A. Yes, same type of correction officers, yes.

2 Q. They could have sent you back to general population on those
3 occasions, couldn't they?

4 A. Yes.

5 Q. And just to be clear, let's go back for a minute. The
6 reason that you sought out these officers and the reason you
7 sought out their assistance was because you were worried about
8 other inmates; correct?

9 A. Yes.

10 Q. You were worried about those other inmates because you owed
11 a debt.

12 A. No.

13 Q. You've never owed a debt to another inmate?

14 A. Yes, but you're -- that's a false statement I made to DOC.

15 Q. Okay. So you sought out the help of the officers based on a
16 false statement you made to them; correct?

17 A. I had a friend get raped and a friend get murdered.

18 Q. That's correct, though. You made something up; correct?

19 A. Yes.

20 Q. You told them you owed a debt.

21 A. And I got wrote up for it.

22 Q. Now let's talk about -- let's go back for a minute. Have
23 you ever owed a debt to another inmate?

24 A. I take the Fifth Amendment.

25 Q. I'm sorry?

1 A. I take the Fifth Amendment.

2 Q. You take the Fifth Amendment?

3 A. Yes.

4 Q. Because you understand that owing a debt to another inmate

5 is a violation of ADOC regulations; correct?

6 A. That's right.

7 Q. Okay. I don't want to talk about any debts that you have

8 owed to people in the past; okay? I just want to talk about the

9 general process so the Court is aware of how this happens.

10 Okay? So let's just generally talk about how debts happen.

11 Typically you have what we call a PMOD account; right? Or

12 an inmate account?

13 A. Yes.

14 Q. And you have to have somebody in the free world put money on

15 your PMOD account; correct?

16 A. Yes.

17 Q. Have you ever had money on your PMOD account?

18 A. Yes.

19 Q. When you've got money on your inmate account, you can go to

20 the store and buy stuff off the store; correct?

21 A. Yes.

22 Q. For example, you smoke; right?

23 A. Yes.

24 Q. You've got to buy cigarettes off the store; correct?

25 A. Yes.

1 Q. Can't buy cigarettes off the store if you don't have money
2 in your account; right?

3 A. Right.

4 Q. So what happens is if you don't have money on your account,
5 you've got to go get cigarettes from somebody else; correct?

6 A. Right. That's how it usually works.

7 Q. Okay. And when we talk about a debt, it means you got an
8 item off another inmate; correct?

9 A. Not me.

10 Q. I'm not saying -- I'm just talking generally.

11 A. Yes.

12 Q. I appreciate that. I'm not asking about you. I'm just
13 talking generally about how debts happen. That's how they
14 happen; correct?

15 A. Yes.

16 Q. And that's an inmate's choice to get into debt to another
17 inmate; correct?

18 A. Yes.

19 Q. And you've heard of inmates who are in debt hundreds of
20 dollars; correct?

21 A. Yes.

22 Q. And eventually, if you don't pay your debts, you get
23 worried, don't you?

24 A. Yes.

25 Q. You get worried about another inmate acting out, coming to

1 collect their debt; correct?

2 A. Yes.

3 Q. So you knew when you went to those officers and sought out
4 their help and told them you had a debt, you were confident that
5 they were going to protect you, weren't you?

6 A. Yes.

7 Q. I want to go back for just a minute and talk to you about
8 what you told Mr. Dorr about doing real good. That statement
9 that I'm doing real good, that's true today, isn't it?

10 A. Yes, it is.

11 Q. You're not suicidal as you sit there, are you?

12 A. No, sir.

13 Q. And, in fact, as you sit here today, you're really not
14 asking this Court to do anything different as it relates to your
15 care, are you?

16 A. To my care? Not from now on. As long as I stay on the
17 medication I'm taking now, I'll be all right.

18 Q. All right. Thank you for that.

19 I want to go back and talk to you a little bit about some of
20 the questions we've already heard during your direct
21 examination. You were treated for mental health issues before
22 you were incarcerated; correct?

23 A. Yes, I was.

24 Q. And that treatment began, as you said, I believe, on direct,
25 in your twenties; correct?

1 A. Yes.

2 Q. Now, the treatment that you received during the time before
3 you were incarcerated included times when you were in the
4 hospital; correct?

5 A. Yes.

6 Q. Now, there were only three occasions when you were
7 hospitalized; correct?

8 A. Yes.

9 Q. And on each of those occasions, you were hospitalized
10 because you had attempted to commit suicide; correct?

11 A. Yes.

12 Q. Okay. So, in other words, there was never an occasion where
13 you met with a mental health professional and they said, you are
14 so ill that we just need to put you in a mental health facility
15 right now; correct?

16 A. Right.

17 Q. And so over time, on those three occasions when you were
18 hospitalized, you would receive treatment for a period of time,
19 and then you were released; correct?

20 A. Yes.

21 Q. In fact, I believe you testified that in one -- at least one
22 occasion, you just walked out of the facility. You didn't want
23 any more care; correct?

24 A. Right.

25 Q. So there were times when you didn't even stay before a

1 member of the mental health staff at that hospital released you;
2 correct?

3 A. Right.

4 Q. But most of the care that you received in the free world was
5 while you were living in the free world, not in a hospital;
6 correct?

7 A. Right.

8 Q. So most of the time, you had to leave wherever you lived and
9 you had to go to a clinic or a medical facility where you saw a
10 member of mental health staff; correct?

11 A. Yes.

12 Q. You've heard that referred to before as outpatient care;
13 right?

14 A. Yes.

15 Q. And so if we look at most of the care you've received in
16 that ten to 12-year period before you were incarcerated, most of
17 it was when you were just going to the clinic to see a member of
18 the mental health staff; correct?

19 A. Yes.

20 Q. Was that at a community health center or a hospital where
21 you were receiving treatment?

22 A. Community area in the county -- it was a county mental
23 hospital.

24 Q. It was the county mental health department?

25 A. Mental -- yeah, like a health department.

1 Q. Do you remember which county that was?

2 A. Lawrence County, Tennessee.

3 Q. Okay. So on the occasions that you would go to this clinic,
4 you would meet with, for example --

5 Well, let me back up for a minute. I want to talk about
6 your characterization of that care. You said that while you
7 were in the free world, you were stable, weren't you?

8 A. I don't recall saying that.

9 Q. You don't recall saying that you were stable in the free
10 world?

11 A. Not on occasions.

12 Q. Okay. Well, let me maybe refresh your memory, because I
13 understand you might not say that. But you understood that you
14 gave a deposition in this case; correct?

15 A. Yes.

16 Q. And during that deposition, let's look at what's on your
17 screen, which is a copy of your deposition. You go through --
18 and let me direct your attention to page 19 of your deposition,
19 line 12.

20 Mr. Dorr asked you: Do you remember the name of anyone
21 during the ten to 12-year period that treated you?

22 And you said: No, sir.

23 And then if we go on down, he asked you: Did you feel like
24 you were stable during that time mentally?

25 And what was your answer?

1 A. Pretty much.

2 Q. Okay. Is that still true today?

3 A. Yeah.

4 Q. So you pretty much felt like you were stable during that

5 period of time; correct?

6 A. Pretty much.

7 Q. And you attribute being stable in the free world to the

8 treatment you were receiving at that time; correct?

9 A. Yes.

10 Q. So, to state it differently, you were fairly satisfied with

11 the care you received in the free world, weren't you?

12 A. Yes.

13 Q. You had some concerns at different times in the free world

14 about your medications, didn't you?

15 A. Yes.

16 Q. But you expressed those concerns to the mental health staff

17 members you saw in the free world; correct?

18 A. Yes.

19 Q. And in response to your concerns, they changed your

20 medications; right?

21 A. Increased them or changed them, one.

22 Q. Okay. So in the free world, you saw a mental health

23 counselor; correct?

24 A. Yes.

25 Q. In the free world, you saw a counselor about once every

1 month; correct?

2 A. Yes.

3 Q. In the free world -- and I want to make sure this is very
4 clear, because I was confused about this on direct. In the free
5 world, you saw a counselor about every 15 minutes -- about 15
6 minutes at a time; correct?

7 A. Yes.

8 Q. And based on all of that care, plus the medications you were
9 on, you felt like you were stable; correct?

10 A. Yes.

11 Q. And those free-world appointments that you had with your
12 counselor over those 15 minutes basically involved them asking
13 you how you felt; right?

14 A. Yes.

15 Q. Now, that's very similar to the care you're receiving right
16 now, isn't it?

17 A. Yes.

18 Q. Because right now, just like in the free world, you're
19 assigned to a mental health counselor; correct?

20 A. Yes.

21 Q. Just like in the free world, you saw a counselor on regular
22 intervals while you've been incarcerated; correct?

23 A. Yes.

24 Q. Just like the free world, when you need to see a member of
25 the mental health staff, you understand you can submit a sick

1 call request form; correct?

2 A. Yes.

3 Q. And you've done that in the past, haven't you?

4 A. Yes.

5 Q. Just like in the free world, you're receiving mental health
6 treatment in terms of -- in the form of medication, aren't you?

7 A. Yes.

8 Q. Just like in the free world, though, let's be frank, there's
9 times when you still struggle; correct?

10 A. Yeah.

11 Q. And there's been times in the past, just like in the free
12 world, that you felt like you were going to hurt yourself;
13 right?

14 A. Yes.

15 Q. Just like in the free world, when your medications in your
16 opinion aren't working, you've told the mental health staff,
17 haven't you?

18 A. Yes.

19 Q. And just like in the free world, when they told you -- when
20 you told them that your medications weren't working, they
21 adjusted them; correct?

22 A. Not all the time.

23 Q. They did a lot, though, didn't they?

24 A. Yeah, a lot of times.

25 Q. Because you've received mental health treatment over such a

1 long time, you generally understand the process that you have to
2 go through to receive that treatment; correct?

3 A. Yes.

4 Q. So let's just go through this. While you were in the free
5 world and while you were incarcerated, there have been times
6 that you've met with mental health counselors; correct?

7 A. Yes.

8 Q. You met with psychiatrists as well; correct?

9 A. Very few times that I met a real psychiatrist except
10 Dr. Hoby I think that was.

11 Q. But you have met -- let's just go back and make sure we're
12 clear about this. You met with a psychiatrist while you were
13 hospitalized in the free world; right?

14 A. Yes, I think so.

15 Q. But very few times when you were in outpatient treatment in
16 the free world when you were meeting with a psychiatrist;
17 correct?

18 A. Right.

19 Q. So when you were incarcerated, a lot of the times you met
20 with members of the mental health staff, that was a counselor;
21 correct?

22 A. Yes.

23 Q. But while you've been incarcerated, you've also met with a
24 psychiatrist; correct?

25 A. If Dr. Hoby was a psychiatrist, then I have.

1 Q. Could you say that one more time for me, please?

2 A. If Dr. Hoby was a psychiatrist, then I have. Dr. Hoby used

3 to work mental health. They said he was a psychiatrist,

4 psychologist or something.

5 Q. So sometimes you may not even know if the doctor you're

6 meeting with is a psychiatrist or a psychologist; right?

7 A. Right.

8 Q. But you've met with someone from the mental health staff

9 that you know to be a doctor.

10 A. Yes.

11 Q. Correct?

12 A. Yes.

13 Q. And on those occasions that you've met with those people,

14 you come into the room and you sit down and they have introduced

15 themselves to you; correct?

16 A. Yes.

17 Q. And they've talked about your mental health condition with

18 you, haven't they?

19 A. Yes.

20 Q. They've asked you how you felt?

21 A. Yes.

22 Q. They've asked you about the symptoms that you're

23 experiencing at the time; right? Correct?

24 A. Yes.

25 Q. All right.

1 A. Yes.

2 Q. If you will slow down just a little bit, because -- I know
3 your attorney wants you to slow down. I know that they want to
4 hear you, and I do want everybody to hear you. So I appreciate
5 you sticking with me. Okay?

6 A. Okay.

7 Q. When you have these interactions with the counselors and the
8 psychiatrists and the nurses, are you honest with them?

9 A. Most of the time.

10 Q. Do you tell them what symptoms that you're experiencing?

11 A. Most of the time.

12 Q. But you understand that the members of the mental health
13 staff, whether it be in a hospital out in the free world or in a
14 prison, they can't treat symptoms they don't know about; right?

15 A. Right.

16 Q. So you understand it's your responsibility to tell them what
17 symptoms you're having; right?

18 A. I tell them my symptoms, but most of the time I just say I'm
19 doing okay and go on about my business.

20 Q. And you understand that if you tell them that you're okay,
21 they're going to listen to you; correct?

22 A. Yeah.

23 Q. You understand that in terms of treatment, that it requires
24 the mental health staff to evaluate your symptoms; right?

25 A. Yes.

1 Q. They have to look at what you're complaining about; correct?

2 A. Yes.

3 Q. They have to look at what medications you've received in the

4 past; correct?

5 A. Yes.

6 Q. They have to look at what other medications might be

7 available; correct?

8 A. Yes.

9 Q. And then they've got to make a judgment as to what's best

10 for you; correct?

11 A. Yes.

12 Q. And, in fact, that's exactly what's happened while you've

13 been incarcerated, hasn't it?

14 A. I wouldn't say that was exact what happened. That ain't

15 exactly what happened, no.

16 Q. Well, that's exactly what happened with Dr. Kern, wasn't it?

17 A. Yes. With Dr. Kern, it is.

18 Q. You understand that doctors can disagree as to what the best

19 course of treatment is; right?

20 A. Yes.

21 Q. And you understand that you're not qualified to decide what

22 medication is best for you; right?

23 A. No.

24 Q. That's why you go see these doctors; correct?

25 A. Yes.

1 Q. That's why you go see these nurses; correct?

2 A. Yes.

3 Q. Now, there's been some occasions, sir, during your

4 incarceration where you have -- you have been involved in some

5 programs; right?

6 A. Yes.

7 Q. And some of those programs -- for example, while you were in

8 a segregation cell, some of those programs you can actually take

9 in your cell.

10 A. Yes.

11 Q. In fact, you completed just about every program you could

12 take in your cell during that time, didn't you?

13 A. Pretty much.

14 Q. You thought those programs were helpful, didn't you?

15 A. Yes.

16 Q. You also took -- while you were incarcerated, you took a

17 substance abuse program, right?

18 A. Yes.

19 Q. We call that SAP; correct?

20 A. Yes.

21 Q. And you thought that the substance abuse program really

22 helped you with your substance abuse history; correct?

23 A. That's right.

24 Q. You also took another program on anger management; right?

25 A. Yes.

1 Q. You thought that program was helpful, too, didn't you?

2 A. Yes.

3 Q. Also took a program on relapse prevention; right?

4 A. Part of it. It shut down. I was about three months in the

5 program.

6 Q. Okay. But you took it for three months?

7 A. Yes.

8 Q. And currently, currently, as we sit here today, you're

9 participating in an aftercare program; correct?

10 A. That's right.

11 Q. And you think that aftercare program is very good, don't

12 you?

13 A. I think it's very important to me. Yeah.

14 Q. But the programs and the groups that you've participated in,

15 they really vary by facility, don't they?

16 A. Yes.

17 Q. And if somebody came into this courtroom -- let's just cut

18 to the chase. If somebody came into this courtroom and said on

19 that stand that you had never participated in any type of

20 program, that just wouldn't be true, would it?

21 A. Right.

22 Q. Another program that you completed was the electrical

23 program at St. Clair; right?

24 A. Yes.

25 Q. And that's part of the trade school at St. Clair, isn't it?

1 A. Yes, it is.

2 Q. You enjoyed that program, didn't you?

3 A. Yes, I did.

4 Q. It was a lot of hard work, too, wasn't it?

5 A. Yes, it was.

6 Q. It took you six months to finish that program, didn't it?

7 A. Yes, it did.

8 Q. And you weren't disqualified from that program because you

9 had a mental health issue.

10 A. No.

11 Q. Now, sir, you're currently housed at Ventress Correctional

12 Facility; correct?

13 A. Yes.

14 Q. And as I understand it -- and understand, I'm not trying to

15 bring this up. I'm going to get to a purpose. I'm not bringing

16 this up to embarrass you, but I just want to go into this point

17 because I think it's important, and the judge needs to

18 understand this.

19 You're serving a 25-year sentence; correct?

20 A. Yes, I am.

21 Q. And you were convicted of a violent crime; correct?

22 A. Yes, I was.

23 Q. You were convicted of two charges of attempted murder;

24 correct?

25 A. Yes.

1 Q. Now, that affects your security level; right?

2 A. Right.

3 Q. How does that affect your security level?

4 A. I don't really understand that. Some people go life
5 sentence for murder, changes to level fours. I really don't
6 understand how it works.

7 Q. But you understand what your security level was when you
8 were incarcerated at the beginning of 2006; correct?

9 A. Yes.

10 Q. Okay. So if we look at this chart that your attorney drew
11 out yesterday, when you were at Kilby, for example, and you came
12 in, your security level was Level V; correct?

13 A. Yes.

14 Q. And you understand there's only certain Level V facilities
15 in the state, aren't there?

16 A. That's right.

17 Q. Do you know which Level V facilities there are?

18 A. Donaldson, St. Clair, and Holman.

19 Q. Okay. Limestone, for example, is not a Level V security
20 facility, is it?

21 A. Only for PC.

22 Q. Only for PC. And just so we're clear, PC stands for
23 protective custody?

24 A. That's right.

25 Q. Okay. Now, as you may hear later, the judge is familiar

1 with how Limestone is laid out; okay? And while you were back
2 at Limestone in 2016, you were over in protective custody;
3 correct?

4 A. I was in segregation area.

5 Q. And that segregation area was over on what we call A side of
6 Limestone; correct?

7 A. Yes.

8 Q. And when you were in protective custody, you weren't allowed
9 to interact with other inmates; correct?

10 A. I wasn't in protective custody. I was housed in
11 segregation.

12 Q. I thought you just said you were in PC.

13 A. No. I said only PC at Limestone.

14 Q. Level V?

15 A. Level V.

16 Q. Okay. But you weren't in protective custody when you were
17 at Limestone, were you?

18 A. I was Level IV at Limestone.

19 Q. Okay. Were you ever housed in general population at
20 Limestone?

21 A. No. They never let us go to population.

22 Q. Do you know why you were never allowed in population?

23 A. One of the officers said that they didn't want St. Clair
24 inmates in their population.

25 Q. But St. Clair is a Level V facility; correct?

1 A. Yes, it is.

2 Q. Do you know when you were first a Level IV inmate?

3 A. Around first of this year.

4 Q. Around the first of 2016?

5 A. Yes. Something like that.

6 Q. We're going to come back to your classification, but let's
7 continue on talking about this chart that your counsel drew.

8 When you were at Kilby in 2006, you began receiving
9 medication at the time of your arrival at Kilby, didn't you?

10 A. Yes, I did.

11 Q. So you went through the intake process at Kilby in 2006;
12 correct?

13 A. Yes.

14 Q. And you haven't been back through the intake process at
15 Kilby since 2006, have you?

16 A. No.

17 Q. So you don't know how the intake process at Kilby is
18 currently working, do you?

19 A. No. I don't know how they doing it.

20 Q. Now, at various points in time -- and this is what was
21 confusing to me on direct, and I want to try to clarify this a
22 little bit with your help. You were housed in general
23 population through a lot of your incarceration; correct?

24 A. Yes.

25 Q. You're currently housed in general population?

1 A. Yes.

2 Q. There have been times when you've been placed in
3 segregation; correct?

4 A. Yes.

5 Q. Okay. But you weren't placed in segregation at Kilby, were
6 you?

7 A. No.

8 Q. Were you placed in segregation at Donaldson?

9 A. No. House arrest only.

10 Q. All right. And when you say "house arrest," what do you
11 mean by that?

12 A. It's the top tier of four dorm, four block.

13 Q. So you were housed in one particular dorm?

14 A. Yeah. Yes.

15 Q. Would it be possible for us to just lower the monitor just a
16 little bit? I'm having trouble seeing him, and it may at least
17 help if I can see. Yeah. That's a little bit better. Thanks,
18 Anthony. Appreciate that.

19 Now, this chart is a little bit off, simply because it says
20 you went to St. Clair from 2007, but you were only there to
21 2015; correct?

22 A. No. I left 2015. I went back.

23 Q. But you left in 2015 and went to Bullock; correct?

24 A. Yes.

25 Q. And you were housed at Bullock for a period of time?

1 A. Yes.

2 Q. And just to be clear, the reason you were transferred to

3 Bullock was because you had hurt yourself; correct?

4 A. Yes.

5 Q. Okay. And you were transferred to the SU or stabilization

6 at Bullock in 2015; correct?

7 A. Yes.

8 Q. And so after you were at Bullock for a period of time, you

9 were eventually released from the stabilization unit; correct?

10 A. I was transferred back to St. Clair. Yes.

11 Q. But you understand that there was a process whereby you met

12 with members of the mental health staff; right?

13 A. Yes. Yes.

14 Q. Okay. That included Dr. Kern; correct?

15 A. Yes.

16 Q. Okay. And after that time, you returned back to general

17 population, didn't you?

18 A. Yes.

19 Q. Now, there have been times during your incarceration when

20 you were placed on suicide watch; correct?

21 A. Yes.

22 Q. You were placed on suicide watch on the occasions when you

23 notified members of the correctional staff that you were

24 suicidal; correct?

25 A. Yes.

1 Q. When you were on suicide watch, I believe your testimony was
2 when you talked to Mr. Dorr that you were typically on suicide
3 watch for a period of three days.

4 A. Yes.

5 Q. During that time, you were placed in a single cell; correct?

6 A. Yes.

7 Q. You were placed in a cell, and most of your personal
8 property was taken away; correct?

9 A. Yes. Yes.

10 Q. You were given a suicide gown; correct?

11 A. Yes.

12 Q. You were not allowed to take your typical ADOC-issued
13 clothing with you.

14 A. No.

15 Q. You stayed there until your counselor would release you;
16 correct?

17 A. Nurse practitioner released me.

18 Q. Okay. So you would stay there until the nurse practitioner
19 released you from your suicide cell; correct?

20 A. Yes.

21 Q. And even after they released you, a member of the mental
22 health staff would follow up with you after you were released
23 from suicide watch; correct?

24 A. Start back on my regular treatment, my regular meetings,
25 once a month.

1 Q. Actually, just to be clear, though, sir, you testified
2 during your deposition that simply a mental health staff member
3 would follow up with you after your release from suicide watch.
4 Is that still correct today?
5 A. Yes.
6 Q. And after your suicide attempts, for example, you saw
7 Ms. Coogan more frequently, didn't you?
8 A. If I had hurt myself, I did.
9 Q. After you were released from suicide watch, you were
10 typically returned to general population; correct?
11 A. Segregation.
12 Q. Were you ever returned to general population?
13 A. Not at St. Clair. I never went back.
14 Q. But every time you cut yourself, for example, your
15 medications were changed, weren't they?
16 A. Yes.
17 Q. Now, I want to make sure this is clear, too, because I was
18 confused about this on direct exam. You were also assigned to
19 segregation for disciplinary purposes, weren't you?
20 A. Yes.
21 Q. You have received various disciplinaries throughout your
22 incarceration, haven't you?
23 A. Yes.
24 Q. In fact, you've received over 20 disciplinary charges,
25 haven't you?

1 A. No, I don't think so.

2 Q. You don't think so or you don't know so?

3 A. I ain't sure, but I don't think -- I don't believe I have
4 that many disciplinaries.

5 Q. Well, I'm just going to ask you about this. And my
6 cocounsel, Mr. Smith over there, may go into this a little bit
7 further, but I just want to -- I'm going to go ahead and ask you
8 about this.

9 A majority of your disciplinaries were not for cutting
10 yourself, were they?

11 A. Smoking in seg was two of them. Cutting myself was four.

12 Q. Did you ever receive a disciplinary for contraband?

13 A. Cigarettes in segregation.

14 Q. I'm sorry?

15 A. Cigarettes in segregation.

16 Q. Did you ever receive a disciplinary for a failed urine test?

17 MS. LYONS: Objection. I want to know what the
18 relevance of this is, and it's prejudicial to M.P.

19 MR. LUNSFORD: Your Honor, they went into this issue of
20 segregation on direct, and we're simply -- we're entitled to go
21 into it. If they're going to raise the issue of segregation,
22 we're entitled to go into the reasons why he's there.

23 THE COURT: Overruled.

24 Q. You received a disciplinary for having illegal weapons;
25 correct?

1 A. First disciplinary I ever received at Donaldson. At
2 Donaldson.

3 Q. You received a disciplinary for failed urine tests?

4 A. I don't remember that one.

5 Q. You don't remember a March 12, 2009, disciplinary?

6 A. Nope.

7 Q. Do you remember receiving a disciplinary for refusing a
8 urine test?

9 A. Yeah.

10 Q. Do you remember receiving a disciplinary for fighting?

11 A. Nope.

12 Q. Do you remember receiving a disciplinary for having
13 controlled substances in your possession?

14 A. Nope.

15 Q. Is it your testimony that you never received a disciplinary
16 for fighting?

17 A. I ain't never received a disciplinary for fighting. I don't
18 believe so. I've been assaulted in the chow hall, guy hit me in
19 the head with a tray, but I was never wrote up. I never been in
20 a fight in DOC.

21 Q. Is it your testimony that you did not receive a disciplinary
22 for controlled substances?

23 A. Never -- I don't think I've ever been charged for it. Pled
24 not guilty.

25 Q. I'm going to leave that to Mr. Smith, who I'm sure is going

1 to want to ask you a little bit about that, and I'm going to
2 move on.

3 There were times also at Ventress in particular where you
4 simply requested to be moved to other parts of the facility;
5 right?

6 A. Yes.

7 Q. You voiced those requests to members of the mental health
8 staff, didn't you?

9 A. Yes.

10 Q. And those requests were granted, weren't they?

11 A. Yes, it was.

12 Q. In fact, each time you requested to be moved, you were
13 moved, weren't you?

14 A. I've only asked once.

15 Q. On direct examination, you were asked a question about an
16 event in 2007 when you stopped taking your medications. Do you
17 remember that?

18 A. Yes.

19 Q. Let's just go back through this. In 2007, you told the
20 mental health staff that you no longer wanted to take your
21 medications; correct?

22 A. That's right.

23 Q. That was your decision, wasn't it?

24 A. Yes.

25 Q. You told -- you told them, I refuse any further medications;

1 correct?

2 A. I told them it was sedating me. I wouldn't take it any
3 longer.

4 Q. But at the time that you refused those medications, no one
5 threatened you, did they?

6 A. Inmates.

7 Q. No member of the mental health staff or correctional staff
8 threatened you, did they?

9 A. No.

10 Q. No one held you down and forced you to take the medication,
11 did they?

12 A. No. Nope.

13 Q. No one told you that something bad would happen if you
14 didn't take the medication, did they?

15 A. No.

16 Q. They ask you to sign something acknowledging your voluntary
17 decision to not take your medication; correct?

18 A. That's right.

19 Q. You made that decision over the objection of your counselor;
20 correct?

21 A. They didn't care one way or the other.

22 Q. They made your symptoms worse, didn't they?

23 A. It was sedating me. I couldn't handle it.

24 Q. Did they make your symptoms worse?

25 A. My symptoms?

1 Q. Not taking your medications.

2 A. Yeah.

3 Q. Did they make you more suicidal?

4 A. Not really. That medication wasn't really working for me

5 anyway.

6 Q. Did they make you more paranoid?

7 A. It made me more paranoid.

8 Q. Would you agree with me that it wasn't a good idea to stop

9 your medication?

10 A. I had no choice.

11 Q. But would you agree with me it would have been better if you

12 had kept taking your medication?

13 A. No.

14 Q. Okay. But just to be clear, on the occasion you refused

15 your medication, you did not take it, did you?

16 A. Right.

17 Q. There also have been occasions when you -- you've just

18 simply missed pill call; right?

19 A. Yes.

20 Q. For example, there's times when you just chose not to go;

21 right?

22 A. Yes.

23 Q. There was an occasion recently at Ventress -- you may

24 remember this -- where you missed pill call four times in a row.

25 Do you remember that?

1 A. I remember that.

2 Q. And you went in --

3 And you became suicidal; right?

4 A. Yes.

5 Q. You went in and you went to see Ms. Smith; correct?

6 A. Yes.

7 Q. Now, you know Ms. Smith. She's your counselor; right?

8 A. Yes.

9 Q. Ms. Smith -- you like Ms. Smith; right?

10 A. Yes.

11 Q. You understand she's concerned about your well-being;

12 correct?

13 A. Yes.

14 Q. And on this one occasion when you missed your medication and

15 you were feeling suicidal and you needed somebody, you got to

16 see Ms. Smith; right?

17 A. Yes.

18 Q. You sat down with Ms. Smith and told her what was going on

19 with you; correct?

20 A. Yes.

21 Q. And even though it wasn't time for pill call, Ms. Smith went

22 and got your medications, didn't she?

23 A. That's right.

24 Q. She brought your medication to you and you took it; right?

25 A. Yes.

1 Q. And she had you sit there and you waited for, I think,
2 for 45 minutes.

3 A. Yes.

4 Q. And your medication eventually took effect; right?

5 A. Yes.

6 Q. And she kind of talked you down and made you feel better
7 about where you were; correct?

8 A. Yes.

9 Q. And eventually that medication made those symptoms go away;
10 right?

11 A. Yes.

12 Q. That was the occasion when you asked to be moved to another
13 cell block; right?

14 A. Yes, it is.

15 Q. And you had a friend over in that cell block; correct? You
16 told Ms. Smith that it would help you feel better if you moved
17 over with your friend in another cell block; right?

18 A. That's right.

19 Q. And Ms. Smith made that happen, didn't she?

20 A. Yes, she did.

21 Q. We just talked a little bit about Ms. Smith. I want to talk
22 about some of the other people that care a great deal about you
23 and want to see that you're doing well.

24 You know Ms. Coogan, right?

25 A. Yeah.

1 Q. Why are you smiling?

2 A. Me and her don't see eye to eye on things.

3 Q. What's that?

4 A. Me and her don't see eye to eye on things.

5 Q. You don't see eye to eye, but you know she was trying to

6 help you, don't you?

7 A. Yeah, she was -- in her own way.

8 Q. She responded to your complaints about your medication

9 levels; right?

10 A. Most of the time.

11 Q. She changed your medications at your request, didn't she?

12 A. Several times. Not all the time, but most of the time.

13 Q. But your experiences while you've been incarcerated, just to

14 be fair, I mean, a lot of it depends on the facility where

15 you're housed, doesn't it?

16 A. Yes.

17 Q. For example, I'm just -- you told Mr. Dorr, you said you got

18 nothing bad to say about Bullock, do you?

19 A. No.

20 Q. You saw Ms. Maddox while you were there; right?

21 A. Yes.

22 Q. You saw Ms. Buchanan while you were there?

23 A. Yes.

24 Q. They were really nice to you, weren't they?

25 A. Yes, they was.

1 Q. They made sure that you had a good experience there, didn't
2 they?

3 A. Yes, they did.

4 Q. Now, we talked already, but you know Dr. Kern, don't you?

5 A. Yes.

6 Q. You see him usually about every couple of weeks, don't you?

7 A. When I was there, about every week.

8 Q. When you were there. Correct.

9 A. Every week.

10 Q. And just so the Court is clear, Dr. Kern is at Bullock,
11 isn't he?

12 A. Yes.

13 Q. And you have a very high opinion of Dr. Kern, don't you?

14 A. Yes, I do.

15 Q. Okay. You were happy with the sessions you had with him at
16 Bullock; correct?

17 A. Yes, I am.

18 Q. You were happy with how often you got to see Dr. Kern?

19 A. Yes, I am.

20 Q. And because of Dr. Kern, you feel like since the summer of
21 2015, you've been on the correct medication; right?

22 A. Yes.

23 Q. Since you've been on this current medication with Dr. Kern,
24 you haven't attempted suicide, have you?

25 A. No.

1 Q. You haven't cut yourself, have you?

2 A. Nope.

3 Q. In fact, I think it's your testimony, you've said it, that

4 the medication you're on now is working for you; correct?

5 A. Yes, it is.

6 Q. I think Dr. Kern would like to know this, but it's your

7 testimony that Dr. Kern, and I'm quoting here, changed your

8 life.

9 A. That's what I said.

10 Q. Do you mind if I tell him that?

11 A. I'd appreciate it if you did.

12 Q. You see classification personnel on a regular basis, don't

13 you?

14 A. They got walk-ins at Ventress. You can go see them.

15 Q. Yes, sir. And then you're also scheduled for regular

16 reviews with classification; correct?

17 A. Every six months or every year, something like that. Yeah.

18 Q. Okay. Do you remember your last visit with classification?

19 A. I just had a review come up.

20 Q. Okay. It was a pretty good review, wasn't it?

21 A. They put me in for Limestone.

22 Q. They put you in for Limestone?

23 A. Yes.

24 Q. Do you want to go back to Limestone?

25 A. I'm going to population there, is what I would like to do.

1 Have to finish my program I'm in now.

2 Q. Do you think you can go to population on your current
3 medication?

4 A. Yes.

5 Q. You understand that at your last classification meeting,
6 they recommended changes to your custody level; correct?

7 A. Yes.

8 Q. And you understand that changes to that custody level are
9 important because they determine where you're housed; correct?

10 A. Yes.

11 Q. You've got one issue in that you're aware that for
12 classification purposes, they track your enemies; right?

13 A. Yes.

14 Q. And you've got enemies at every Level V facility, don't you?

15 A. Yes.

16 Q. You also understand that as part of the classification
17 process, they consult with your mental health counselor, don't
18 they?

19 A. Yes.

20 Q. You haven't had a disciplinary since the fall of 2014, have
21 you?

22 A. No.

23 Q. You have attended all of your counseling sessions; correct?

24 A. Pretty much.

25 Q. You're taking your medications?

1 A. Yes, I am.

2 Q. In fact, a year ago, your counselor told your classification
3 specialist that you were doing great. Would you agree with
4 that?

5 A. Yes.

6 MR. LUNSFORD: That's all I have at this time, Your
7 Honor.

8 CROSS-EXAMINATION

9 BY MR. SMITH:

10 Q. Sir, this is the first time that you and I have met as well,
11 is it not?

12 A. Yes, it is.

13 Q. I'm John Smith. I'm one of the other lawyers that
14 represents the commissioner and associate commissioner. I have
15 just a very few points I would like to follow along with
16 Mr. Lunsford about.

17 One of the things that you said in your testimony yesterday
18 is that there were times that you tried to kill or hurt
19 yourself; correct?

20 A. Yes.

21 Q. And after those times you tried to do that, you were either
22 placed in a crisis cell or suicide watch cell; correct?

23 A. Yes.

24 Q. You agree that was appropriate, wasn't it?

25 A. Yes.

1 Q. I mean, because you were trying to injure or kill yourself;
2 correct?

3 A. Yes.

4 Q. And you should are been placed in a cell or other area where
5 correctional officers could pay more attention to you; right?

6 A. Yes.

7 Q. You should have been -- on those occasions or times when you
8 tried to kill yourself, you should have been issued the suicide
9 mattress, the suicide smock, things of that nature; correct?

10 A. Yes.

11 Q. You don't -- you're not saying in this lawsuit, are you,
12 that the department, those times that you were trying to kill
13 yourself, should not have taken some more and additional action
14 like they did. You're not saying that, are you?

15 A. No.

16 Q. Okay. Now, you mentioned yesterday as well that there were
17 officers who gave you razors, correctional officers. Do you
18 recall that?

19 A. Yes.

20 Q. Now, help me understand what we're talking about here.
21 Since you've been in the Department of Corrections custody,
22 there have been, really, three kind of razors used to shave your
23 face whiskers; right?

24 A. Yes.

25 Q. One of them is an electric razor; right?

1 A. Right.

2 Q. Is that what you're currently using?

3 A. No.

4 Q. The clippers?

5 A. No.

6 Q. Okay. Another type is the old -- what I call the old shaft

7 and blade type; right?

8 A. Right.

9 Q. Now, the department quit using that back in 2014, two or

10 three years ago?

11 A. Yeah.

12 Q. Okay. Did you ever use that type of razor?

13 A. No.

14 Q. All right. So, then, the razor that you said the officers

15 gave you was not that kind of blade that came out of the staff;

16 correct?

17 A. No.

18 Q. All right. The third kind is a disposable razor; right?

19 A. Yes.

20 Q. And it's a plastic handle with a blade that's built into it;

21 right?

22 A. Yes.

23 Q. That's what you -- that's what the officers gave you;

24 correct?

25 A. Yes.

1 Q. They did not give you something with the blade already
2 broken out of it, did they?

3 A. No.

4 Q. You had to do that; right?

5 A. Yes.

6 Q. And you and other inmates know how to pop the blade out of
7 the razor, how to break it apart; right?

8 A. Yes.

9 Q. You understand, don't you, that when you do that, you're
10 creating contraband.

11 A. I got wrote up for it.

12 Q. I'm sorry?

13 A. I was -- disciplinary action I got.

14 Q. Okay. And let's be sure that we're all clear about this.
15 When you break the blade out of the plastic handle, that is
16 creating contraband; right?

17 A. I don't know.

18 Q. You don't know?

19 A. It was left in my cell.

20 Q. Well, the razor itself, the plastic handle with the blade in
21 it is not contraband, is it?

22 A. No.

23 Q. That's something that's issued to you and other inmates by
24 the department; right?

25 A. Yes.

1 Q. In fact, you can buy those out of the store, can't you?

2 A. Not at segregation.

3 Q. Not when you're in segregation. Right.

4 But what I'm talking about is when you and other inmates
5 break the blade out of the razor. You understand what I'm
6 saying? When you break the blade out of the plastic handle,
7 that blade, independent of the plastic handle, is contraband,
8 isn't it?

9 A. I guess it could be.

10 Q. Okay. And you know that you as an inmate aren't supposed to
11 have contraband; right?

12 A. That's right.

13 Q. And you can be disciplined for having contraband; correct?

14 A. That's right.

15 Q. And you on occasion have been disciplined for having
16 contraband.

17 A. Yes.

18 Q. And that includes -- part of that discipline includes
19 putting you in segregation cells; correct?

20 A. Yes.

21 Q. And regardless of any mental illness that you have, you know
22 as an inmate that you are not supposed to keep contraband in
23 your cell or on your person; right?

24 A. Right.

25 Q. I'm going to talk about some of the disciplinary reports

1 that you had in just a minute. There are two more points,
2 though, from your testimony yesterday I wanted to talk about.

3 While you were in segregation, you were receiving mental
4 health care, weren't you?

5 A. Yes.

6 Q. The nurse would come down, come along and do her mental
7 health rounds in seg?

8 A. Sometimes they done those. They stopped those about a year
9 or so, then they started them back for a couple of months, then
10 they would stop them again.

11 Q. Okay. The last time you were in seg, they were doing those
12 mental health rounds, weren't they?

13 A. Some guy was doing them. Yes, he was.

14 Q. Now, final point I want to make. You talked about
15 correctional officers in the cube and things that they did.
16 You're aware that there are television monitors in the cube;
17 correct?

18 A. No.

19 Q. Don't have those?

20 A. Not at St. Clair.

21 Q. You don't know what the correctional officers can see when
22 they're in the cube; correct?

23 A. I ain't seen nothing.

24 Q. I mean, you've never been in a cube; right?

25 A. Just standing at the window, look in.

1 Q. But you've never been inside to see what they can see out
2 and see?

3 A. No.

4 Q. Okay. Now, is it true that back in October of 2012 that you
5 were disciplined for injuring yourself?

6 A. Probably.

7 Q. You used a razor to cut yourself?

8 A. Probably.

9 Q. And that was a contraband razor, was it not? Is that right?

10 A. I guess.

11 Q. Now, you would agree that the department could have
12 disciplined you for having contraband on your person, for doing
13 that; right?

14 MS. LYONS: Objection. Misstates testimony. He never
15 agreed to understanding that razors were contraband.

16 MR. SMITH: I thought he did, Your Honor.

17 THE COURT: Just ask him to clarify.

18 Q. Well, again, you understand that razors are contraband.
19 When you break the blade out of the razor, that's contraband.
20 You told us you knew that; correct?

21 A. I said it could be. I guess it could be. I don't know.

22 Q. You don't know one way or the other?

23 A. I ain't sure.

24 Q. You've never been told by the department that you are not
25 supposed to have razors broken out of the handle?

1 A. No. They said I could have razors, period.

2 Q. Haven't you been given an inmate handbook?

3 A. Not at St. Clair.

4 Q. I'm sorry. Haven't you been given an inmate handbook?

5 A. Not at St. Clair.

6 Q. Not at St. Clair. At other facilities, have you been given

7 an inmate handbook?

8 A. Maybe when I first went to prison. I don't recall ever

9 getting one.

10 Q. You don't ever recall getting an inmate handbook?

11 A. Not at St. Clair, I know I didn't.

12 Q. So, then, your testimony is you don't know whether, when you

13 take a razor and you break the blade out of it, you don't know

14 whether that's contraband or not?

15 A. I don't know. The whole razor is contraband, ain't it?

16 Q. No correctional officer has --

17 MS. LYONS: Objection. Asked and answered.

18 THE COURT: Overruled.

19 Q. No correctional officer has ever told you that that's

20 contraband; right?

21 A. No. Never been wrote up for a razor blade in my cell.

22 Q. You have not been disciplined every time that you injured

23 yourself, have you?

24 A. Yes, I have.

25 Q. Every time you've injured yourself, you've been disciplined?

1 Is that your testimony?

2 A. I believe so.

3 Q. All right.

4 A. Creating safety security health hazard.

5 Q. I want to call your attention to an incident report dated
6 February 24, 2015.

7 MS. LYONS: Objection, Your Honor. If he's going to be
8 talking about incident reports, specific incident reports, we
9 object on the doctrine of completeness. The incident reports
10 for M.P. were not produced to plaintiffs in discovery and have
11 not been otherwise listed on the exhibit list. So in order for
12 us to properly respond, we would need the whole incident file.

13 THE COURT: Okay. Do you have the whole incident file?

14 MR. SMITH: Yes, sir, we have his inmate file, and we
15 can provide it. This is a rebuttal exhibit.

16 THE COURT: That's fine. Let me see it. Do you have
17 it with you now?

18 MR. SMITH: We don't have it in printed form, Your
19 Honor. We have it in electronic form.

20 THE COURT: Okay, then. What's your question for him?

21 MR. SMITH: I was going to ask him about an event that
22 occurred on February 24th, 2015, where Mr. P. tried to injure
23 himself and was given an incident report but not a disciplinary
24 report.

25 THE COURT: Okay. Why don't you give to opposing

1 counsel a full copy of the file so that they can respond to what
2 you've done? Can you just give it to them electronically?

3 MR. SMITH: We have the ability to provide that to them
4 electronically.

5 THE COURT: Okay. Good. With that understanding, you
6 may proceed.

7 MR. SMITH: Just a moment, Your Honor.

8 THE COURT: Try to get that to them as quickly as you
9 can.

10 MS. LYONS: Your Honor, it feels problematic that we
11 can't have it right now, since he's going to be asking questions
12 and we will be doing a redirect and not able to --

13 THE COURT: Okay. How quickly can you e-mail it?

14 MR. SMITH: How do you want me to e-mail that to you?

15 MS. MORRIS: I guess here, but -- how large is it?

16 MS. LYONS: Your Honor, these files tend to be very
17 large, like hundreds of pages.

18 MS. MORRIS: Thousands.

19 THE COURT: I understand that. Both sides are
20 confronted with large files. How large is his file? I assume,
21 because he's been in prison so long, it may be extensive or
22 what?

23 MR. SMITH: I'm sure it's extensive, Your Honor. I
24 don't have the ability to tell you off the top of my head how
25 large it is.

1 THE COURT: Can you get the file to plaintiffs'
2 counsel?

3 MR. SMITH: Yes. We're working on doing that, Your
4 Honor.

5 THE COURT: How long will that take? How long is the
6 file? How many pages?

7 MR. SMITH: I don't know.

8 THE COURT: Is it like 200?

9 MR. SMITH: Given the time that -- 700 pages.

10 THE COURT: It's pretty extensive, then. Do you have a
11 particular page you're working on right now?

12 MR. SMITH: Yes, sir, I do.

13 THE COURT: Okay. Then why don't you e-mail the file
14 to opposing counsel and let her know what page you're working
15 off of.

16 MR. SMITH: Okay.

17 THE COURT: I know you're going to be at a slight
18 disadvantage, but I've got to keep the case moving. And I think
19 they are entitled to go into this. But let's talk about how we
20 can facilitate this prospectively. When you're going to go into
21 inmate files like this, before -- if you have a reasonable
22 belief you're going to do this when the inmate is called, go
23 ahead and give it to opposing counsel at the beginning so
24 they'll have it.

25 MS. LYONS: Your Honor, just to explain a little bit

1 about the concern. In order for us to properly respond, not
2 only do we need to look at the --

3 THE COURT: You need to speak up. I'm sorry.

4 MS. LYONS: In order for us to properly respond, not
5 only do we need to be able to look at the specific page, but the
6 context of discipline of the particular person. And the way
7 these files tend to be, it could be that there's a page on the
8 PDF page 300 that relates to a page at 687. And so I appreciate
9 your efforts to help us today, but we will suffer some
10 prejudice.

11 THE COURT: Well, we're just going to have to deal with
12 it. I think they're entitled to go into this, so --

13 MR. SMITH: Your Honor, I would reiterate that this is
14 a rebuttal exhibit --

15 THE COURT: I'm ruling in your favor, so --

16 MR. SMITH: I understand.

17 THE COURT: I understand you're entitled to go into his
18 alleged suicide and how he was treated as a result. But they're
19 entitled also to see his record, and we just have to deal with
20 it.

21 But having said that, if you know you're going to do
22 this, if you can get the file to opposing counsel at the
23 beginning of the testimony, then they can start looking at it
24 and perhaps going to the page you're talking about when
25 you're -- while you're talking.

1 But what we're going to do is we're just going to take
2 about a three or four-minute recess while you get that to them
3 so they can follow you page by page.

4 MR. SMITH: Yes, sir.

5 THE COURT: Okay. Very good.

6 (Recess was taken from 10:02 a.m. until 10:15 a.m., after
7 which proceedings continued, as follows:)

8 THE COURT: Proceed. I understand that the transfer of
9 the file has been somewhat delayed?

10 MR. SMITH: Yes, sir.

11 THE COURT: Is the problem that it's too big?

12 MR. SMITH: Yes, sir.

13 THE COURT: Where are you transferring it from?

14 MR. SMITH: I'm not able to answer that question. My
15 paralegal may be able to, Your Honor. We're going -- to prevent
16 this from happening again, we're going to put this information
17 on an external hard drive.

18 THE COURT: That's what I was about to say. It may be
19 easier to put on an external hard drive. If this is something,
20 because we're dealing with huge documents, that my IT people can
21 help you with, let us know.

22 MR. SMITH: Okay. Thank you, Your Honor.

23 THE COURT: Just get with them because I know sometimes
24 maybe you need to put it on an external drive, then you've got
25 to get a machine that will allow you access to that disk, and it

1 gets complicated. But we have someone here, and if she can't
2 help you, there are others in our staff who can help you to
3 facilitate this process.

4 MR. SMITH: Thank you, Your Honor.

5 Q. (Mr. Smith, continuing:) Sir, I have two points. You
6 recall giving your deposition in this matter last month?

7 A. Yes.

8 Q. My partner, who deposed you, asked you some questions about
9 the times that you tried to commit suicide in 2015; correct? Do
10 you recall those questions?

11 A. Yes.

12 Q. And during the course of that deposition, you agreed you had
13 two incidents of cutting yourself in 2015?

14 A. Yes.

15 Q. They were about a month apart; right?

16 A. Yes.

17 Q. And that was when your medication was not working; correct?

18 A. Correct.

19 Q. But other than your medication not working, there were no
20 other issues that caused or contributed to your cutting
21 yourself; correct?

22 A. Say that again, please?

23 Q. Well, let me ask you the question that was posed to you in
24 your deposition.

25 MR. SMITH: This is on page 93, counsel.

1 Q. You were asked: "What was going on with your mental health
2 treatment at the time of those incidents?"

3 Talking about your cutting yourself.

4 And your answer was: "At that time, my medication wasn't
5 working."

6 Correct?

7 A. Yes.

8 Q. And then you were asked: "Was there any specific factor
9 that led to those incidents?"

10 And your answer was: "No, just same old regular day.
11 Nothing out of the ordinary happened." Correct?

12 A. I guess.

13 Q. I mean, that's what you said in your deposition, wasn't it?

14 A. I don't remember, really. I mean, I guess I did.

15 Q. All right.

16 MR. SMITH: May I approach the witness, Your Honor?

17 THE COURT: Yes.

18 MR. SMITH: Can you put up page 93 of his deposition,
19 please?

20 Q. You see the monitor there in front of you, sir?

21 A. Yes.

22 Q. I'm looking -- they're numbered on the right hand of the
23 page or the left hand of the page, number seven there. Do you
24 see that where the letter Q is? "Was there any specific factor
25 that led to those incidents?" Do you see that?

1 A. Yes.

2 Q. And your answer: "No. Just same old regular day. Nothing
3 out of the ordinary happened."

4 A. Yes.

5 Q. That was true then?

6 A. Yes.

7 Q. And it's true now?

8 A. Yes.

9 Q. You do not think staffing at any of the Alabama Department
10 of Corrections facilities that you have been assigned to has
11 affected your mental illness in any way, do you?

12 MS. LYONS: Objection. Calls for speculation.

13 THE COURT: If he has personal knowledge.

14 MR. SMITH: I'm asking for his opinion. Yes, sir.

15 THE COURT: Based on his personal experience?

16 MR. SMITH: Yes, sir. Correct.

17 THE COURT: If you have any experience that you can
18 relate that to about his overall view, no.

19 Q. Talking about his experience.

20 A. Would you ask the question again?

21 Q. Yes, sir. In your experience, after the years that you have
22 served in the Alabama Department of Corrections, you do not
23 believe, do you, that lack of staffing has --

24 THE COURT: Why don't you ask him this? Does he have
25 any experience where staffing has affected his --

1 Q. Do you have any experience where staffing has affected your
2 mental illness?

3 A. Let's see. I don't know --

4 THE COURT: Do you understand the question?

5 THE WITNESS: Yeah, I half understand it, I believe.

6 A. I believe the staffing at St. Clair could have sent me to
7 Bullock sooner.

8 Q. Okay. Well, you were asked in your deposition, weren't you:
9 "Do you think staffing or lack of staffing has in any way
10 contributed to any of your mental illness?" Do you recall that
11 question?

12 A. I don't recall it.

13 MR. SMITH: Page 211 of his deposition, please.

14 Q. Now, so we're clear, sir, I'm talking about number of
15 correctional officers in terms of staffing. Okay? Security
16 staff.

17 A. Okay.

18 Q. Do you follow me?

19 A. Okay.

20 Q. And you were asked here on line 6: "Also let me ask you, do
21 you think staffing or lack of staffing has in any way
22 contributed to any of your mental illness?"

23 MS. LYONS: Objection, Your Honor. We don't believe
24 this is a proper impeachment. The question in the deposition is
25 not the same as the question that's being asked to him right

1 now.

2 THE COURT: Well, he can explain the difference in the
3 questions if there is any difference.

4 Q. And your answer on line 10 to the question, sir, was: "I
5 wouldn't think so."

6 A. Yes.

7 Q. And that was true then?

8 A. Yeah, I guess it was.

9 Q. And it's true today; correct?

10 A. Yeah.

11 MR. SMITH: That's all I have, Your Honor. Thank you.

12 THE COURT: Yes. Redirect.

13 REDIRECT EXAMINATION

14 BY MS. LYONS:

15 Q. Good afternoon, Mr. P.

16 A. How you doing.

17 Q. I just have a few questions for you.

18 A. Okay.

19 Q. Earlier you talked about a false statement about a drug
20 debt. Why did you make that false statement?

21 A. The dangers of max security prison.

22 Q. What kind of dangers in a maximum security prison were you
23 discussing?

24 A. Rapes, murders. I've had a friend raped. I've had a friend
25 murdered.

1 Q. Earlier you were talking about being satisfied with the
2 treatment you received in the free world. Was that the
3 outpatient treatment you were talking about?

4 A. Yeah.

5 Q. During this time that you were getting treatment in the free
6 world when you attempted suicide, I believe, was it six or seven
7 times you said?

8 A. It was a few times.

9 Q. You continued to attempt suicide when you were getting that
10 treatment; correct?

11 A. Yes.

12 Q. You were asked about feeling stable during the time you were
13 in segregation at St. Clair. And let's focus in on the time
14 frame we were talking about yesterday, 2009 to 2015. Did you
15 feel stable during that entire time?

16 A. No.

17 Q. And you did attempt to kill yourself during that time.

18 MR. LUNSFORD: Your Honor, I'm going to object. I did
19 not ask about him being stable in St. Clair. That's a total
20 mischaracterization of cross-examination.

21 MS. LYONS: I believe he was talking about the
22 treatment he received when he was in segregation at St. Clair
23 and was getting M.P. to --

24 THE COURT: Now, what is your question?

25 MS. LYONS: My question is did he feel stable the

1 entire time he was in segregation at St. Clair.

2 THE COURT: I'll allow that question.

3 A. No.

4 Q. You talked about Ms. Coogan. To your knowledge, is she a
5 psychiatrist?

6 A. Nurse practitioner.

7 Q. Was she your provider -- and when I say provider, I mean the
8 person who prescribed your medications. Was she your provider
9 the entire time you were at St. Clair?

10 A. Yes.

11 Q. So whenever you were on medications, were those medications
12 prescribed by Ms. Coogan?

13 A. Yes.

14 Q. You talked about how she adjusted your medication a lot.
15 That involved changing the dosage?

16 A. Yes.

17 Q. And it involved changing the medications sometimes too;
18 right?

19 A. Yes.

20 Q. Any of those times that she changed your medication, did
21 those changes mean that you no longer heard voices?

22 A. No.

23 Q. Did any of those changes mean that you no longer had mood
24 swings?

25 A. No.

1 Q. Did any of those changes mean that you no longer felt
2 paranoia?

3 A. No.

4 Q. Did any of those changes prevent you from feeling suicidal?

5 A. Somewhat.

6 Q. What do you mean by somewhat?

7 A. Most of the time I would do pretty good. Most of the time
8 then -- I mean, I felt suicidal lots of times, and I fought the
9 urge and the voices and the paranoia. But, I mean, there's some
10 days I didn't have suicidal thoughts, but most of the time I
11 did.

12 Q. You said you fought the urge. So did you have the urge to
13 kill yourself when you were on those medications Ms. Coogan
14 prescribed?

15 A. Most of the time.

16 Q. And then when you were on those medications Ms. Coogan
17 prescribed, you did attempt to kill yourself; correct?

18 A. Yes.

19 Q. When you had counseling sessions during the time that you
20 were in segregation at St. Clair, yesterday you testified those
21 were about five to ten minutes. Did the counselor offer more
22 time?

23 A. No.

24 Q. Did the counselor offer to talk to you in depth about your
25 problems?

1 A. Didn't have time.

2 Q. Did you feel that you had an opportunity to talk in depth
3 about the problems that you were suffering?

4 A. No.

5 Q. Today when you were talking to Mr. Lunsford, you talked
6 about a relapse program that shut down.

7 A. Yes.

8 Q. To your knowledge, how long was that relapse program
9 scheduled for?

10 A. Six-month program.

11 Q. And it shut down in three months?

12 A. I was three months in the program.

13 Q. Were you ever given any reason to understand why it was shut
14 down?

15 A. No, ma'am.

16 Q. You talked with Mr. Lunsford about some of the programs that
17 you engaged in when you were in segregation, like anger
18 management.

19 A. Yes.

20 Q. And you talked about SAP?

21 A. Yes.

22 Q. These were programs you were involved in while you were in
23 segregation?

24 A. My substance abuse program come from Ventress when I got
25 there. I just graduated it.

1 Q. But you talked about programs that you were involved in
2 while you were housed in segregation at St. Clair?

3 A. Yes.

4 Q. Did those programs keep you from trying to kill yourself?

5 A. No.

6 Q. Did they help with the mood swings?

7 A. No.

8 Q. Did they help with hearing voices?

9 A. No.

10 Q. What about the paranoia that you experienced?

11 A. No.

12 Q. Mr. Lunsford was talking with you about the time frame that
13 you were in general population. You've been in prison about ten
14 years; right?

15 A. Yes.

16 Q. And yesterday you testified that you were in segregation at
17 St. Clair for --

18 MR. LUNSFORD: Your Honor, I'm going to object to
19 leading. I mean --

20 THE COURT: I'll allow that.

21 Q. So yesterday you testified that you were in segregation at
22 St. Clair for six years.

23 A. Yeah, about that.

24 Q. We've talked both yesterday and today about how you went to
25 Bullock during the summer of 2015.

1 A. Yes.

2 Q. I just want to clarify. When you returned to St. Clair from
3 Bullock, you were returned to segregation?

4 A. Yes.

5 Q. Mr. Lunsford talked with you about getting follow-up from
6 mental health staff after you were released from the crisis
7 cell. Did you get follow-up from mental health staff
8 specifically related to your suicide attempt every time you were
9 released from crisis cell?

10 A. No. No.

11 Q. How many times do you think you got counseling or other
12 mental health care that was specifically directed at your
13 suicide attempt?

14 A. I've only done it like four times. I probably got -- they
15 always give you a disciplinary for creating safety security
16 health hazard. You got to get a mental evaluation before
17 receiving a disciplinary. That takes like 15 minutes. So you
18 get to see her then. You got to see her to get out of the
19 crisis cell.

20 Q. So you're saying that you have to go through that progress
21 before you leave the crisis cell?

22 A. Yes. You have to see her. Then you have to -- after you
23 get out of the crisis cell, after she allows you out, you have
24 to see her for a mental evaluation.

25 Q. And this is a consultation related to the discipline that

1 you received for being in the crisis cell?

2 A. Yes.

3 Q. To your understanding, does mental health staff do this
4 every time someone is disciplined?

5 MR. LUNSFORD: Your Honor, I object. Again, there's
6 been no predicate laid that he knows what happens every time.

7 THE COURT: I agree. In his case, though.

8 MS. LYONS: Okay.

9 THE COURT: You can ask him about his case.

10 Q. In your experience with the discipline that you've received
11 for cutting and any other discipline, is it your experience that
12 mental health consults with you regarding that discipline?

13 A. You supposed to get a mental -- every person that's on the
14 mental health caseload supposed to get a mental evaluation
15 before receiving a disciplinary.

16 Q. You said supposed to. Have you gotten one every single time
17 you've been disciplined?

18 A. No.

19 Q. You talked earlier about mental health rounds, and you were
20 saying sometimes they did mental health rounds in segregation at
21 St. Clair. What do you mean by sometimes?

22 A. They do -- they get a guy working as a counselor or
23 something, he'll come through every so often. But counselors
24 don't last too long at St. Clair. They went through a lot of
25 them since I've been there.

1 Q. So were there times when there were no mental health rounds?

2 A. Yeah, there was times with no mental health rounds.

3 Q. Can you estimate for the Court how much of the time when you

4 were in segregation there were no mental health rounds?

5 A. They would have them -- they would shut them down.

6 Sometimes they would start them back up, then they would shut

7 them down again. It can -- it's -- they'll hire a lady, she'll

8 do them a couple of times, and they have to shut it down.

9 Q. During this period that we've talked about yesterday and

10 today when you had back-to-back instances of cutting.

11 A. Yes.

12 Q. Was the counseling helping you during that time?

13 A. No.

14 Q. During that time, were you experiencing the symptoms of your

15 mental illness that we talked about?

16 A. Yes.

17 Q. So by your estimate of the -- based on the time frames that

18 we've talked about that you've been in different prisons, you

19 were in ADOC for nine years before you got onto the medication

20 that's now working for you.

21 A. I guess, yeah.

22 Q. And that medication is the Lithium and the Risperdal?

23 A. Yes.

24 Q. You mentioned earlier that Ms. Coogan, to your

25 understanding, is a nurse practitioner.

1 A. Yes.

2 Q. Do you know -- do you recall meeting with any doctors -- and

3 when I say doctor, I mean mental health doctors -- when you were

4 at St. Clair in segregation?

5 A. I don't recall any.

6 Q. We were talking about the programs that you were

7 participating in when you were in segregation. Did those

8 programs give you an opportunity to talk with other people?

9 A. No. You do them in your cell.

10 Q. You would do those in your cell?

11 A. Yeah.

12 Q. When you were in segregation and you were -- you cut

13 yourself back to back, talking about the spring of 2015, was the

14 razor that you used a state-issued razor?

15 A. Yes.

16 Q. And that time period, the back-to-back cutting, you were in

17 segregation; correct?

18 A. Yes.

19 Q. Were you experiencing the symptoms that we've talked about?

20 A. Yes.

21 Q. The voices?

22 A. Yes.

23 Q. The mind racing?

24 A. Yes.

25 Q. The paranoia?

1 A. Yes.

2 Q. Mood swings?

3 A. Yes.

4 Q. I remember when you said that Dr. Kern changed your life.

5 Do you think that you would have continued to be suicidal if you

6 had not gone to Bullock?

7 A. Yes.

8 Q. So you think that if you stayed at St. Clair, you would have

9 continued to hurt yourself?

10 A. Yes.

11 MS. LYONS: Your Honor, we would like to ask some

12 questions not related to the scope of cross but related to some

13 of the issues that you brought up before we started about

14 differences between cells.

15 THE COURT: Go ahead.

16 Q. Yesterday you testified to having been in different

17 segregation cells at St. Clair.

18 A. Yes.

19 Q. And when you've been in crisis cells at St. Clair, have

20 those been different cells, too?

21 A. Yes.

22 Q. To your experience in the prisons that you've been in, is

23 there a difference between a segregation cell and an isolation

24 cell?

25 A. No.

1 Q. So do those words mean the same thing?

2 A. Yes.

3 Q. To your experience with crisis cells, is there a difference

4 between a crisis cell and a suicide watch cell?

5 A. No.

6 Q. Where are the crisis cells located at St. Clair?

7 A. In the infirmary.

8 Q. Is there a difference in temperature between the crisis cell

9 and the segregation cell at St. Clair?

10 A. Yeah. It's central heat and air.

11 Q. Can you repeat that? I didn't hear.

12 A. The crisis cell has central heat and air.

13 Q. So when you say central heat air, do you mean --

14 A. Air conditioner, heater.

15 Q. When you were in the stabilization unit, yesterday you

16 testified it was smaller than the segregation cell. Is that --

17 was that your testimony?

18 A. The one at Bullock is smaller than my segregation cell.

19 Q. Did it have windows like your segregation cell?

20 A. Yeah.

21 Q. Did it have the same kind of mattress?

22 A. No.

23 Q. What's the difference?

24 A. Segregation cell has a suicide mattress. Suicide cell has

25 like a different material, got of pillow made in through the

1 mattress.

2 Q. So I was asking about the stabilization unit. Is that what
3 you're talking about right now?

4 A. Yes.

5 Q. Okay. And you're saying it has a different kind of mattress
6 than your segregation mattress?

7 A. Yeah.

8 Q. Is it a similar thickness?

9 A. It's a little thicker. It's made out of different kind of
10 plastic, rubber or something.

11 Q. Okay. You're going to have to speak slower.

12 A. You can't -- it's a mattress that's really hard to rip. You
13 can't tear it with your hands. The other one you can get loose.
14 This one you can't.

15 Q. What about comfort level?

16 A. It's probably more comfortable than the regular mattress.

17 Q. And when you say "regular mattress," you mean the
18 segregation -- the mattress in seg?

19 A. Yes.

20 Q. When I say "seg," you understand that to mean segregation.

21 A. Yes.

22 Q. Anything else that's different about the stabilization unit
23 to -- from the stabilization unit to the segregation cell?

24 A. The unit itself, the officers checks on you in
25 stabilization.

1 Q. Okay. How often do officers check on you when you're in the
2 stabilization unit?

3 A. About every 15, 20 minutes, they supposed to come by and
4 sign a piece of paper.

5 Q. And how often do officers check on you when you're in
6 segregation?

7 A. Chow call, count time.

8 Q. Chow call and count time. Do those happen on the same day?

9 A. Yeah.

10 Q. And how many chow calls are there on a given day?

11 A. Three.

12 Q. Three. How many counts are there on a given day?

13 A. About four probably.

14 Q. So if you're in your segregation cell, generally how long of
15 a time passes between seeing a correctional officer?

16 A. On different days -- on seg board day, they come and get
17 everybody that goes to seg board. You'll see them in that
18 morning. Sick call days, the same process. Yard call, early in
19 the mornings, then you won't see them for a while. Then you'll
20 see them at lunch. Then you won't see them for a while, couple
21 of hours, and then they'll come back. You'll see them again.

22 Q. When you say you won't see them for a while, is that -- and
23 you referenced a while being two hours. Is that more than once
24 a day?

25 A. That's on the average day. Couple of times a day. At night

1 you don't see them except at pill call.

2 Q. Is the stabilization unit a mental health unit?

3 A. It's for people that -- yeah, for mental health people,
4 inmates.

5 Q. To your understanding, is that only at Bullock? Are there
6 stabilization units at St. Clair?

7 A. No, not stabilization unit.

8 Q. To your knowledge, were there stabilization units at Kilby?

9 A. Not to my knowledge.

10 Q. To your knowledge, were there stabilization units at
11 Limestone?

12 A. Not to my knowledge.

13 Q. What about where you are right now, Ventress?

14 A. No.

15 Q. And Donaldson?

16 A. Donaldson has something, some kind of mental health stuff
17 going on there, mental health ward.

18 Q. We talked -- we were talking yesterday a lot about what's in
19 the segregation cell. Is there toilet paper?

20 A. Yeah. We get a roll once a week.

21 Q. Do you have to make that last?

22 A. Yes.

23 Q. You had described yesterday that the toilet and sink are
24 connected in segregation. Is there anything else you can tell
25 us about the toilet and sink?

1 A. It's pretty much like the sinks and toilets they have here
2 downstairs.

3 Q. Okay. You mentioned there were two lights in your
4 segregation cell yesterday.

5 A. Yes.

6 Q. Are those lights on -- well, how long are those lights lit?

7 A. One of them stays -- one of them supposed to stay on all the
8 time, and one of them they cut it off. They cut your bed light
9 off. They got a light shines over the bed and then a light
10 shines on the sink and toilet.

11 Q. Can you slow down?

12 A. They got a light that shines over the bed. They cut it off.
13 It's in the corner. Then they got another light that hangs
14 above the sink, and they cut it off. They'll cut it -- they
15 leave it on, but they cut the bed light off.

16 Q. Okay. So you're saying that the light that's over the bed
17 gets cut off?

18 A. Yes.

19 Q. What time would it get cut off?

20 A. Just whenever they feel like it. No set time.

21 Q. Okay.

22 A. Sometimes they don't ever cut it off.

23 Q. So it's not consistent?

24 A. No.

25 Q. And sometimes it stays on?

1 A. Yeah.

2 Q. And the light over the sink, you said that stays on all the
3 time?

4 A. Yes.

5 Q. How bright are those lights?

6 A. Well, depends on what kind of bulb they got.

7 Q. Could you slow down?

8 A. They pretty bright. They really bright. Got to cover them
9 over with a piece of paper or something.

10 Q. Have you done that in the past?

11 A. Yes.

12 Q. Why would you cover them over with a piece of paper?

13 A. Can't sleep.

14 Q. Thank you, Mr. P.

15 THE COURT: Just one question. You said that officers
16 were supposed to check you every 15 to 20 minutes in the
17 stabilization cells?

18 THE WITNESS: Yes, sir.

19 THE COURT: Did they do that?

20 THE WITNESS: Sometimes. Some officers did, some --

21 THE COURT: I can't understand you.

22 THE WITNESS: Sometimes a few officers did.

23 THE COURT: A few officers did?

24 THE WITNESS: Yes.

25 THE COURT: But there were times when they didn't?

1 THE WITNESS: Yes.

2 THE COURT: Can you give me your general judgment? Did
3 it -- did they do it more often than not or vice versa?

4 THE WITNESS: Day shift. Day shift seemed to do it
5 more often. Night shift didn't -- seemed to sleep more or do
6 something more.

7 THE COURT: So during the day, they did check you, for
8 the most part, every 15 to 20 minutes?

9 THE WITNESS: Yes.

10 THE COURT: But at night, they did not?

11 THE WITNESS: Right.

12 THE COURT: I know it's hard to tell time, I guess.
13 You don't have a clock or a watch in stabilization; right?

14 THE WITNESS: No.

15 THE COURT: But can you give me your best judgment as
16 to how often they checked you at night?

17 THE WITNESS: They come through about every hour and a
18 half, probably, two hours, and sign all the back logs where they
19 missed.

20 THE COURT: Say that again?

21 THE WITNESS: They would come through about every hour
22 and a half or two hours, and they would sign all the papers they
23 had missed. They supposed to sign a piece of paper on your door
24 every 15 to 20 minutes saying that they had checked on you. And
25 they'll come through and sign it a bunch of times. Five or six

1 times they'll sign it.

2 THE COURT: You're losing me here. Tell me about this
3 paper.

4 Okay. They stick a piece of paper under your door?

5 THE WITNESS: On my door.

6 THE COURT: And you're supposed to sign it?

7 THE WITNESS: No. The officers supposed to sign it
8 every 15 to 20 minutes.

9 THE COURT: Why do they stick the paper under your
10 door?

11 THE WITNESS: No. It's stuck to my door.

12 THE COURT: Oh, stuck to your door.

13 THE WITNESS: Yes.

14 THE COURT: Okay. And then what would happen?

15 THE WITNESS: An officer -- at night the officers won't
16 come through. Then you'll hear them come through with the keys
17 rattling, and they'll sign it a bunch of times. I can look out
18 my window and see them signing it.

19 THE COURT: I was going to say, how do you know this?

20 THE WITNESS: I could look out my window and see them.

21 THE COURT: Anything else?

22 RECROSS-EXAMINATION

23 BY MR. LUNSFORD:

24 Q. When you were in that crisis cell at night, would you sleep?

25 A. I ain't sleep too much in the crisis cell. It was too cold.

1 Q. Were there times that you did sleep, though?

2 A. There were some times.

3 Q. Okay. Obviously, you don't know when the officers came by

4 while you were asleep, do you?

5 A. No.

6 Q. Okay. I want to go back to this because I'm still confused.

7 You said that you were in segregation for a period of six years;

8 correct?

9 A. Yes.

10 Q. Now, just to be clear, you were in administrative

11 segregation; correct?

12 A. Yes.

13 Q. Okay. You weren't in disciplinary segregation, were you?

14 A. No.

15 Q. You were there because you had told the officers that you

16 owed a debt; correct?

17 A. Right.

18 Q. To be more specific, you told them that you owed various

19 inmates \$2,000.

20 A. Yes.

21 Q. And you told them that you were concerned for your safety;

22 correct?

23 A. Yes.

24 Q. You told them -- well, also, you knew that you could tell

25 them, hey, what I told you about owing a debt was not true, and

1 you could be moved back to general population; correct?

2 A. Right.

3 Q. But you didn't do that, did you?

4 A. No.

5 Q. That was your choice, wasn't it?

6 A. Right.

7 Q. You talked also a little bit about these counseling
8 sessions, which, just to be clear, your estimation is that the
9 counseling sessions lasted 15 minutes; correct?

10 A. No. Five or ten.

11 Q. Okay. Do you recall giving a deposition in this case?

12 A. Yes.

13 Q. And during that deposition, did you swear to tell the truth,
14 the whole true, and nothing but the truth?

15 A. Yes.

16 Q. And you understand what that means, don't you?

17 A. Yes.

18 Q. You understand that means you're not supposed to make stuff
19 up; right?

20 A. Right.

21 Q. And you were telling the truth when you talked to Mr. Dorr
22 at the prison, weren't you?

23 A. Right.

24 MR. LUNSFORD: Your Honor, just one second. Page 17,
25 line 23.

1 Well, I'll tell you what. Let's move on. You can drop
2 that off.

3 Q. Did you ever time these events?

4 A. Sometimes.

5 Q. Sometimes?

6 A. Yes.

7 Q. Do you have a watch?

8 A. Yes.

9 Q. Do you have a watch now?

10 A. No, they took it away from me. I can't have it downstairs.

11 Q. Do you know how long your attorney asked you questions?

12 A. For a while.

13 Q. How long was it, do you know?

14 A. About 30 minutes.

15 Q. Okay. Did you ever ask your counselor for more time?

16 A. No.

17 Q. Did you ever tell your counselor that you wanted to talk
18 about something else?

19 A. No.

20 Q. Did you ever complain to your counselor that you didn't
21 think you had enough time?

22 A. No.

23 Q. Did you ever cut yourself because you didn't think you had
24 enough time with your counselor?

25 A. No.

1 Q. During the ten to 12 years that you were in the free world,
2 you were receiving medication and counseling; correct?

3 A. Yes.

4 Q. And during those ten to 12 years, you were still suicidal;
5 right?

6 A. Yes.

7 Q. You were still hearing voices?

8 A. Yes.

9 MR. LUNSFORD: That's all at this time, Your Honor.

10 MS. LYONS: Just one question.

11 John, did you have any?

12 MR. SMITH: No, I don't have any more questions.

13 THE COURT: Go ahead.

14 REDIRECT EXAMINATION

15 BY MS. LYONS:

16 Q. In your experience being in segregation, is there a
17 difference between disciplinary segregation and administrative
18 segregation?

19 A. Yes.

20 Q. What's the difference?

21 A. You can't have -- you can't get store in disciplinary
22 segregation. That's about the only difference.

23 Q. But as far as the size of the cell --

24 A. All the same.

25 Q. -- and all the other things that you described about the

1 cell --

2 A. Yeah.

3 Q. -- and how much time you were allowed out?

4 A. Yes.

5 Q. That's all the same?

6 A. Yes.

7 MS. LYONS: That's all, Your Honor.

8 THE COURT: When you say you can't get store, what do
9 you mean by that?

10 THE WITNESS: Well, you can catch a store -- you can
11 catch store at admin segregation if your family sends you money.
12 You can get soups and chips, food goods, deodorant, soap. And
13 in disciplinary segregation, you can't get the store. They
14 won't let you.

15 THE COURT: Anything else?

16 Thank you very much. Next witness.

17 (End of excerpt at 10:49 a.m.)

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COURT REPORTER'S CERTIFICATE

2 I certify that the foregoing is a correct transcript
3 from the record of the proceedings in the above-entitled matter.

This 13th day of October, 2017.

/s/ Patricia G. Starkie
Registered Diplomate Reporter
Certified Realtime Reporter
Official Court Reporter

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