

IN THE SUPERIOR COURT OF THE SAN DIEGO JUDICIAL DISTRICT

CENTRAL DIVISION

COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

DEPARTMENT NO. 55

HONORABLE KENNETH K. SO, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF,

VS.

RICHARD ERIC ROSS,

DEFENDANT.

) SUPERIOR COURT
) CASE NO. SCD241238

) DISTRICT ATTORNEY
) CASE NO. ADE743

) PAGES 1 THROUGH 325,
) INCLUSIVE.

REPORTER'S TRIAL TRANSCRIPT

MARCH 25, 26 AND 27, 2014

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1 SAN DIEGO, CALIFORNIA; TUESDAY, MARCH 25, 2014

2 9:59 A.M.

3 ---000---

4 THE COURT CLERK: PEOPLE OF THE STATE OF CALIFORNIA
5 VERSUS RICHARD ERIC ROSS, CASE NUMBER SCD241138.

6 MS. DI TILLIO: GOOD MORNING, YOUR HONOR.

7 MARISA DI TILLIO FOR THE PEOPLE.

8 MS. OLIVER: EUKETA OLIVER, DEPUTY PUBLIC DEFENDER,
9 APPEARING ON BEHALF OF RICHARD ROSS, WHO IS PRESENT
10 BEFORE THE COURT, IN CUSTODY.

11 THE COURT: ALL RIGHT. WE'LL PICK A JURY TOMORROW.
12 WE HAVE 90 PEOPLE COMING TO DEPARTMENT 24.

13 LET'S START WITH -- LET'S START WITH
14 MISS OLIVER'S MOTIONS.

15 MOTION D IS THE MOTION TO EXCLUDE WITNESSES
16 FROM THE COURTROOM. AND THAT'S GRANTED, WITH THE
17 EXCEPTION OF ANY INVESTIGATING OFFICER THAT THE PEOPLE
18 ARE -- WOULD LIKE TO DESIGNATE.

19 AND MOTION TO ADMONISH WITNESSES NOT TO
20 COMMUNICATE WITH EACH OTHER. THAT'S GRANTED AS WELL.

21 MOTION A IS A MOTION TO EXCLUDE EVIDENCE OF
22 CHILD SEXUAL ABUSE SYNDROME.

23 ARE THE PEOPLE SEEKING TO INTRODUCE THAT
24 EVIDENCE, THAT TERM, I GUESS?

25 MS. DI TILLIO: THAT TERM, NO, YOUR HONOR. THE
26 PEOPLE ARE NOT INTENDING TO INTRODUCE EVIDENCE OF ANY
27 SYNDROME OR ANY -- ANY TESTIMONY THAT WOULD INDICATE THAT
28 THE VICTIMS HAVE BEEN DIAGNOSED WITH ANYTHING THAT WOULD

1 COME CLOSE TO SOMETHING BY THE LABEL OF "CHILD SEXUAL
2 ABUSE ACCOMMODATION SYNDROME."

3 THE COURT: OKAY. SO WE JUST TRIED A CASE WHERE
4 THE PEOPLE WERE SEEKING TO INTRODUCE TESTIMONY OF SOMEONE
5 SIMILAR. AND, AS I UNDERSTAND IT, IT'S TO HELP THE JURY
6 UNDERSTAND RESPONSES THAT THE KIDS MAKE.

7 MS. DI TILLIO: YES, YOUR HONOR. I THINK IT'S PART
8 OF MY MOTIONS IN LIMINE.

9 THE COURT: RIGHT.

10 MS. DI TILLIO: SO THAT SORT OF DOVETAILS INTO THAT
11 DISCUSSION.

12 THE COURT: WELL, SINCE THERE'S GOING TO BE NO
13 EVIDENCE OF CHILD ABUSE SYNDROME --

14 MS. DI TILLIO: RIGHT.

15 THE COURT: -- THERE WON'T BE ANY EVIDENCE OF THE
16 TERM "CHILD ABUSE SYNDROME" OR A DIAGNOSIS UNLESS THE
17 COURT GOES OVER IT AGAIN.

18 SO WE'RE NOT GOING TO HAVE ANYTHING LIKE
19 THAT.

20 MS. OLIVER: OKAY.

21 THE COURT: ALL RIGHT?

22 LET'S TALK ABOUT C, THE EVIDENCE OF AN
23 EXPERT ON SUGGESTIBILITY.

24 WHAT'S THAT ABOUT?

25 ESSENTIALLY, THAT'S DR. EISEN; CORRECT?

26 MS. OLIVER: CORRECT.

27 THE COURT: AND WHAT IS IT THAT YOU WOULD LIKE FOR
28 HIM TO SAY?

1 MS. OLIVER: I WOULD LIKE TO --

2 THE COURT: WHAT IS IT THAT HE IS GOING TO SAY?
3 WHAT'S THE OFFER OF PROOF?

4 MS. OLIVER: SO DR. EISEN WILL BASICALLY TALK ABOUT
5 HOW CHILDREN CAN BE PERSUADED INTO TESTIFYING ABOUT
6 CERTAIN THINGS, HOW THEY'RE OPEN TO SUGGESTION, HOW --

7 THE COURT: SO THEN THE REAL QUESTION IS WHETHER OR
8 NOT ANY OF THAT HAPPENED IN THIS CASE.

9 BUT HE'S NOT GOING TO TALK SPECIFICALLY
10 ABOUT WHETHER THESE KIDS WERE -- WHETHER SUGGESTIONS WERE
11 MADE TO THESE INDIVIDUAL CHILDREN?

12 THIS IS JUST KIND OF GENERAL TESTIMONY; IS
13 THAT CORRECT?

14 MS. OLIVER: YES, YES.

15 THE COURT: ALL RIGHT. IS THERE ANYTHING FROM THE
16 PEOPLE THAT THE PEOPLE WOULD LIKE TO SAY IN CONNECTION
17 WITH THAT?

18 MS. DI TILLIO: JUST, YOUR HONOR, MY UNDERSTANDING
19 OF HOW THESE WITNESSES WORK -- AND I'VE SEEN SEVERAL OF
20 THEM -- IS THAT, CORRECT, THEY MAY NOT OPINE AS TO THE
21 FACTS OF THIS CASE. OFTENTIMES, HYPOTHETICALS ARE POSED
22 TO THEM, AND THOSE HYPOTHETICALS ASSUME FACTS FROM OUR
23 CASE OR SCENARIOS.

24 AND SO I WOULD ASK THAT, IF THE COURT IS
25 GOING TO ALLOW THAT LINE OF QUESTIONING IN TERMS OF
26 HYPOTHETICALS, AT LEAST THAT THE QUESTIONS BE A FAIR
27 REPRESENTATION OF THE EVIDENCE. AND I THINK THAT'S
28 WHAT'S APPROPRIATE. IT'S WHAT THE LAW SUGGESTS.

1 THEY TESTIFY JUST TO THE STATE OF THE
2 LITERATURE IN THIS PARTICULAR ARENA AS TO -- NOT THAT
3 CHILDREN ARE PERSUADED TO TESTIFY A CERTAIN WAY IN COURT,
4 BUT THE WAY -- BASICALLY, CHILD SUGGESTIBILITY AND CHILD
5 MEMORY, SO THEIR ABILITY TO RECALL AND FACTORS --

6 THE COURT: THAT'S FAIR GAME, THE GENERAL
7 LITERATURE IN THE AREA. I THINK IT'S A LOT LIKE
8 MCLENNAN.

9 MS. DI TILLIO: EXACTLY.

10 THE COURT: IT'S JUST THE OTHER SIDE.

11 MS. DI TILLIO: RIGHT.

12 THE COURT: SO -- SO, YOU KNOW, AS FAR AS
13 HYPOTHETICAL QUESTIONS, I THINK IT'S GOING TO DEPEND UPON
14 WHAT THE HYPOTHETICAL QUESTION IS.

15 SO JUST BE CAREFUL.

16 AND WE MAY HAVE TO GO SIDEBAR ABOUT IT.

17 MS. OLIVER: OKAY, YOUR HONOR.

18 THE COURT: ALL RIGHT. SO TO THAT EXTENT, C IS
19 GRANTED, WITH THE CAVEAT ABOUT THE GENERAL NATURE OF THE
20 TESTIMONY. AND IT'S NOT GOING TO REFER TO THE INDIVIDUAL
21 CHILDREN HERE.

22 AND WE'LL GET TO B BECAUSE THAT'S A COMMON
23 -- THAT'S A COMMON MOTION. B IS THE ALLEGED PRIOR ACTS.

24 SO LET US THEN TURN TO THE PEOPLE'S MOTIONS.

25 PEOPLE ARE SEEKING TO INTRODUCE THE DVD'S OF
26 THE INTERVIEWS PURSUANT TO EVIDENCE CODE SECTION 1360.

27 MISS OLIVER, DO YOU HAVE A POSITION ON THAT?

28 MS. OLIVER: SUBMITTED.

1 THE COURT: ALL RIGHT. IT'S GRANTED.

2 AS FAR AS NUMBER 2, THE INITIAL DISCLOSURES
3 PURSUANT TO EVIDENCE CODE SECTION 1240, DO YOU HAVE A
4 POSITION ON THAT ISSUE?

5 MS. OLIVER: I WOULD, YOUR HONOR.

6 IN REGARDS TO -- IN THE PEOPLE'S PAPERS, AS
7 TO ITEM 2 ON PAGE 5 AND 6, WHERE IT SAYS, IN THE INSTANT
8 CASE BREANNA WAS FREAKED OUT AND SCARED AFTER THE
9 DEFENDANT FORCIBLY MOLESTED AND DIGITALLY PENETRATED HER,
10 SHE TOOK SHELTER IN THE BATHROOM AND WAS JOINED BY
11 BREANNA, I WOULD OBJECT TO THAT BECAUSE, FROM THAT POINT
12 IN TIME, FROM THE DISCOVERY I'VE READ, HANNAH -- I DON'T
13 BELIEVE SHE SPECIFICALLY DISCLOSED TO BREANNA THAT MR.
14 ROSS PHYSICALLY TOUCHED HER.

15 I BELIEVE THAT HER RECALL OF WHAT HAPPENED
16 EXACTLY -- THAT IT VARIES ON DIFFERENT OCCASIONS. AND SO
17 I WOULD OBJECT TO THAT PARTICULAR, QUOTE, UNQUOTE,
18 "DISCLOSURE" COMING OUT.

19 THE COURT: AND THE GROUNDS FOR THE OBJECTION, THE
20 EVIDENTIARY GROUNDS FOR THE OBJECTION, IS WHAT?

21 MS. OLIVER: WELL, YOUR HONOR, I DON'T NECESSARILY
22 BELIEVE THAT IT QUALIFIES UNDER 1240.

23 THE COURT: BECAUSE WHY?

24 MS. OLIVER: BECAUSE IT WASN'T NECESSARILY -- I
25 DON'T BELIEVE THAT IT WAS THAT SORT OF DISCLOSURE.

26 THE COURT: ALL RIGHT.

27 OKAY. ALL RIGHT.

28 SO WHAT YOU'RE SAYING IS IT DOESN'T --

1 YOU'RE NOT QUARRELING WITH WHETHER OR NOT IT WAS
2 SPONTANEOUS. YOU'RE SAYING IT DOES NOT NARRATE, DESCRIBE
3 OR EXPLAIN AN ACT OR POSITION.

4 IS THAT IT?

5 MS. OLIVER: YES.

6 THE COURT: ALL RIGHT. SO THE PEOPLE'S POSITION?

7 MS. DI TILLIO: YOUR HONOR, THERE WAS A STATEMENT
8 MADE BY BREANNA THAT HANNAH DID DISCLOSE SOME TOUCHING BY
9 THE DEFENDANT IN THAT BATHROOM SCENARIO.

10 HANNAH ULTIMATELY, WHEN SHE WAS INTERVIEWED
11 -- THERE WAS SOME EXCHANGE BACK AND FORTH ABOUT WHETHER
12 OR NOT SHE HAD MADE THAT -- A VERY DETAILED STATEMENT,
13 BUT THERE WAS A DISCUSSION THAT HAPPENED. AND SHE WAS
14 VERY CLEARLY FREAKED OUT AND VERY UPSET. AND THEN SHE
15 RAN OFF.

16 SO I THINK THAT THAT CONVERSATION, THROUGH
17 BREANNA, CAN COME IN UNDER 1240.

18 THE COURT: THE OBJECTION IS OVERRULED. AND IT
19 WILL BE ADMITTED. I FIND IT COMES WITHIN 1240.

20 THERE MAY BE, ALSO, OTHER REASONS THAT IT
21 MAY COME IN, DEPENDING ON WHETHER OR NOT IT'S A PRIOR
22 CONSISTENT STATEMENT, DEPENDING ON HOW THE OTHER EVIDENCE
23 COMES IN.

24 MS. OLIVER: AND THEN, YOUR HONOR, IN REGARDS TO
25 ALLAN -- BECAUSE THAT'S ALSO ON PAGE 6.

26 MS. DI TILLIO: IF I COULD JUST MAKE A POINT OF
27 CLARIFICATION ON THAT ONE?

28 THE COURT: SURE.

1 MS. DI TILLIO: BEFORE WE DISCUSS IT?

2 IN MY CUTTING AND PASTING, I THINK I MADE A
3 MISTAKE HERE. ESSENTIALLY, WHAT HAPPENED WAS THAT HANNAH
4 CALLED ALLAN AND MADE A BRIEF STATEMENT OVER THE PHONE
5 IMMEDIATELY AS TO WHAT HAD HAPPENED. AND THEN ALLAN AND
6 MELISSA DROVE TO THE HOUSE BASED ON THAT STATEMENT.

7 SO IN THE WAY THAT I WORDED IT, IT APPEARS
8 TO BE BACKWARDS IN TIME, BUT SHE MADE THAT STATEMENT
9 BEFORE HE GOT TO THE HOUSE.

10 THE COURT: THAT'S THE STATEMENT YOU WANT --

11 MS. DI TILLIO: THAT'S THE STATEMENT. YES.

12 THE COURT: -- ADMITTED UNDER 1240?

13 MS. DI TILLIO: YES.

14 THE COURT: SO YOUR OBJECTION IS NOTED.

15 I'M GOING TO ALLOW IT.

16 NUMBER 3, AS I UNDERSTAND IT, IS THE FLIP
17 SIDE OF THE TESTIMONY OF DR. EISEN.

18 MS. DI TILLIO: ESSENTIALLY, YOUR HONOR, YES.

19 I THINK THAT THE PEOPLE ARE REQUESTING TO
20 PUT THAT ON IN OUR CASE-IN-CHIEF FOR VARIOUS REASONS, AS
21 I'VE OUTLINED, BUT, SPECIFICALLY, IN THIS CASE, I THINK
22 THE FACT THAT DR. EISEN IS GOING TO BE CALLED -- IT'S
23 IMPORTANT FOR THE JURORS TO UNDERSTAND HOW DISCLOSURES
24 WORK WITH CHILDREN.

25 THE COURT: SO IT'S THE GENERAL NATURE OF
26 DISCLOSURES?

27 MS. DI TILLIO: IT'S THE GENERAL NATURE. THAT'S
28 RIGHT.

1 THE COURT: ALL RIGHT.

2 MS. DI TILLIO: AND JUST FOR CLARIFICATION AS WELL,
3 THERE WAS SOME DISCUSSION ABOUT IT BEING KATHY MCLENNAN.
4 I THINK IT'S GOING TO BE LAURIE FORTIN, JUST GIVEN THE
5 SCHEDULING, BUT IT'S ESSENTIALLY THE SAME THING.

6 THE COURT: ANYTHING FROM DEFENDANT ON THAT ISSUE?

7 MS. OLIVER: SUBMITTED.

8 THE COURT: THAT'S GRANTED THEN.

9 AS I UNDERSTAND IT, IT WILL BE GENERAL
10 NATURE, NOT SPECIFICALLY IN REFERENCE, OR THERE'S NO
11 OPINION WITH REGARD TO THESE INDIVIDUAL CHILDREN.

12 MS. DI TILLIO: AS TO THEIR TRUTH AND VERACITY,
13 ABSOLUTELY, YOUR HONOR.

14 THE COURT: ALL RIGHT. SO IF I'M NOT MISTAKEN, ONE
15 OF THE REMAINING ISSUES, IF NOT THE ONLY REMAINING ISSUE,
16 DEALS WITH THE ALLEGED ACTS THAT THE PEOPLE ARE SEEKING
17 TO INTRODUCE OF THE DEFENDANT UNDER 1108.

18 AND I WOULD LIKE THE RECORD TO BE CLEAR AS
19 TO WHAT ACTS WE'RE TALKING ABOUT. ONE DEALS WITH AN
20 INCIDENT WITH KARINA.

21 AND IS THERE ANOTHER ACT?

22 MS. OLIVER: YES.

23 MS. DI TILLIO: NO, JUST THE ACT WITH KARINA.

24 MS. OLIVER: IN MY PAPERS I PUT ALSO -- I LISTED
25 BETTINA, B-E-T-T-I-N-A, LAST NAME F-R-A-G-O-S-O. WHEN I
26 DID THAT --

27 THE COURT: WELL, THE REAL QUESTION IS ARE THE
28 PEOPLE SEEKING TO INTRODUCE EVIDENCE OF THAT?

1 MS. DI TILLIO: NO, YOUR HONOR.

2 MS. OLIVER: SO NO.

3 THE COURT: SO LET'S TALK ABOUT KARINA.

4 AND THE OFFER OF PROOF FOR WHAT KARINA WOULD
5 DESCRIBE IS WHAT?

6 MS. DI TILLIO: YES, YOUR HONOR.

7 SHE -- SHE IS THE COUSIN OF BREANNA. AND
8 SHE WOULD TESTIFY THAT, WHEN SHE WAS ABOUT 14 YEARS OLD,
9 SHE HAD BEEN BABYSITTING FOR BREANNA. AND THE DEFENDANT
10 HAD COME INTO THE ROOM WHEN JUST SHE WAS JUST IN IT. AND
11 HE HAD COME INTO THE ROOM, AND HE EXPOSED HIS PENIS TO
12 HER, INDICATED TO HER THAT SHE COULD TOUCH IT IF SHE
13 WANTED TO. SHE WAS OBVIOUSLY TAKEN ABACK.

14 THE COURT: AND WHEN, IN RELATIONSHIP TO THE
15 ALLEGED INCIDENTS IN THIS CASE, DID THAT TAKE PLACE?

16 MS. DI TILLIO: RIGHT. SO IT WAS ABOUT -- MY
17 UNDERSTANDING, TIMEWISE, IT WAS ABOUT A YEAR BEFORE THESE
18 DISCLOSURES TOOK PLACE, BUT IT WAS HAPPENING CONCURRENTLY
19 WITH SOME OF THE CONDUCT THAT WAS HAPPENING WITH BREANNA
20 BECAUSE THE CONDUCT WITH BREANNA SPANS SOME TIME.

21 SO, PURSUANT TO 1108, I DO BELIEVE THAT IT
22 DOES QUALIFY AS ANNOYING OR MOLESTING A CHILD. AND THAT
23 IS SPECIFICALLY INCLUDED WITHIN 1108 AS AN APPROPRIATE
24 CHARGE TO INCLUDE.

25 THE EVIDENCE OF THAT IS SHORT. IT'S ONE
26 WITNESS. IT'S NOT LENGTHY. IT'S NOT GOING TO CONSUME
27 THE JURORS' TIME.

28 I THINK IT'S HELPFUL TO THE JURORS TO

1 UNDERSTAND EXACTLY WHAT 1108 ALLOWS THEM TO DO WITH THAT
2 EVIDENCE. AND THE COURT IS GOING TO GIVE THAT
3 INSTRUCTION. THEY CAN USE IT AS PROPENSITY EVIDENCE, BUT
4 IT DOESN'T -- IT'S NOT MORE EGREGIOUS THAN THE CHARGED
5 CONDUCT. SO THERE'S NO REAL 352 ARGUMENT HERE.

6 I THINK IT'S APPROPRIATE TO PUT THAT
7 EVIDENCE IN, AND I WOULD SUBMIT ON MY PAPERS.

8 THE COURT: MISS OLIVER, IS THERE ANY ARGUMENT
9 YOU'D LIKE TO MAKE ON THIS ISSUE?

10 MS. OLIVER: YES, YOUR HONOR.

11 WE'D BE OPPOSED TO THE EVIDENCE OF KARINA K.
12 COMING IN FOR THE REASONS STATED IN MY MOVING PAPERS.

13 BREANNA, WHEN SHE DISCLOSED AND FOR HER
14 FORENSIC INTERVIEW, HER FORENSIC INTERVIEW DISCLOSURE, IT
15 VARIED, AND IT WAS SORT OF DIFFERENT FROM WHAT SHE
16 TESTIFIED TO AT HER PRELIMINARY EXAMINATION HEARING.

17 SO THE TIME -- HER TIMELINE IS NOT EXACTLY
18 PINPOINT FOR ANY PARTICULAR POINT IN TIME.

19 WHAT'S IMPORTANT TO NOTE -- THE DIFFERENCE
20 IS THAT KARINA K. DID NOT DISCLOSE ANY ALLEGED EVENTS
21 UNTIL SHE WAS ADVISED BY HER MOTHER, SPOKEN TO WITH HER
22 MOTHER AND HER AUNT, WHO IS BREANNA'S MOTHER. THAT IS
23 WHEN SHE CAME UP WITH THIS DISCLOSURE.

24 SHE INDICATED IN HER FORENSIC INTERVIEW THAT
25 IT WAS A SINGLE ALLEGED INCIDENT, THAT AT NO POINT IN
26 TIME DID MR. ROSS EVER TOUCH HER, EVER ATTEMPT TO TOUCH
27 HER, ANYTHING OF THAT NATURE.

28 AND SO THE PEOPLE HAVE INDICATED THAT THEY

1 BELIEVE THAT THAT TESTIMONY IS IMPORTANT, AND IT WOULD BE
2 HELPFUL TO HELP THE JURY UNDERSTAND. BUT I'M NOT QUITE
3 SURE EXACTLY WHAT THAT PARTICULAR TESTIMONY WOULD BE
4 AIDING THE JURY IN UNDERSTANDING AS FAR AS MR. ROSS IS
5 CONCERNED.

6 IT'S THE DEFENSE'S POSITION THAT THAT
7 PARTICULAR PIECE OF EVIDENCE SHOULD NOT BE ADMITTED, THAT
8 IT'S HIGHLY PREJUDICIAL TO MR. ROSS. AND WE WOULD ASK
9 THAT IT BE EXCLUDED.

10 THE COURT: OKAY. ANYTHING ELSE FROM THE PEOPLE?

11 MS. DI TILLIO: NO, YOUR HONOR. SUBMITTED.

12 THE COURT: AND MY ANALYSIS IS AS FOLLOWS:

13 1108 SAYS IT'S RELEVANT BECAUSE IT'S A
14 SEXUAL OFFENSE AS LISTED IN THE -- AS LISTED IN
15 SUBSECTION (A).

16 THEN THE QUESTION BECOMES WHETHER OR NOT
17 IT'S ADMISSIBLE UNDER 352 OF THE EVIDENCE CODE. AND
18 AFTER WEIGHING AND BALANCING UNDER 352, I FIND THE
19 PROBATIVE VALUE OUTWEIGHS ANY OVERLY PREJUDICIAL EFFECT.

20 THE OFFENSE IS NOT SUPER-EGREGIOUS AND HIS
21 CONDUCT WOULD BE MUCH WORSE WITH THE CRIMES WITH WHICH
22 HE'S CHARGED.

23 AND AFTER WEIGHING AND BALANCING UNDER 352,
24 I'M GOING TO ADMIT THAT INCIDENT.

25 ANY OTHER IN LIMINE ISSUES THAT YOU WOULD
26 LIKE FOR US TO ADDRESS THAT ANYBODY CAN THINK OF RIGHT
27 NOW?

28 MS. DI TILLIO: NO, YOUR HONOR.

1 MS. OLIVER: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT. SO LET ME TELL YOU HOW WE
3 PICK A JURY.

4 I THINK MISS OLIVER HAS PICKED ONE HERE
5 BEFORE.

6 WE'LL BE IN DEPARTMENT 24. WE FILL 90 SEATS
7 WITH THE RANDOM LIST. SO IT WILL BE 1 THROUGH 90. THE
8 FIRST 12 ARE THE BOX. THE FIRST 12 ARE THE JURORS IN THE
9 BOX.

10 WE WILL QUESTION EVERYBODY. WHEN CHALLENGED
11 -- AND YOU'RE GOING TO TURN YOUR SEATS -- YOU'LL BE
12 SEATED ON THIS SIDE, SO YOU CAN LOOK OUT, AND YOU WON'T
13 HAVE TO TWIST YOUR NECK AROUND.

14 WHEN THERE ARE CHALLENGES, IT WILL BE TO THE
15 12 JURORS IN THE BOX. AND, FOR EXAMPLE, YOU EXCUSE JUROR
16 NUMBER 10. JUROR 13 THEN COMES TO TAKE SEAT NUMBER 10.
17 AND WHEN YOU EXCUSE THEM, YOU CAN EXCUSE JUROR NUMBER 13
18 WITH THE "JUROR SEATED IN SEAT NUMBER 10," WHATEVER IT
19 IS, JUST SO WE HAVE A GOOD RECORD.

20 PLEASE LET THE -- FOR EXAMPLE, JUROR 13 IS
21 GOING TO TAKE SEAT NUMBER 10, AND YOU KNOW YOU'RE GOING
22 TO EXCUSE THAT JUROR. PLEASE WAIT UNTIL THAT JUROR COMES
23 AND TAKES THE SEAT, SO THAT WE CAN KEEP A RECORD OF IT.
24 THAT WAY, I DON'T GET TOTALLY CONFUSED.

25 I ANTICIPATE WE WILL BE PRETTY CLOSE TO
26 SELECTING A JURY BY TOMORROW AFTERNOON. I WILL ASK THE
27 QUESTIONS ABOUT MOLEST, WHETHER OR NOT THEY'RE AWARE OF
28 IT, WHETHER OR NOT THEY KNOW OF IT IN THEIR OWN FAMILY OR

1 PERSONAL RELATIONSHIPS.

2 AND I'M OPEN TO ASKING ANY OTHER QUESTIONS
3 THAT YOU WOULD LIKE THE COURT TO ASK AS OPPOSED TO YOU
4 HAVING TO ASK THOSE QUESTIONS.

5 I DON'T KNOW HOW LONG YOU WANT TO INQUIRE.
6 IT'S INQUIRY FOR CAUSE. MY GUESS IS IT'S PROBABLY GOING
7 TO BE AN HOUR OR SO.

8 ANY QUESTIONS ABOUT HOW WE DO THIS?

9 MS. DI TILLIO: JUST A POINT OF CLARIFICATION, YOUR
10 HONOR.

11 YOUR HONOR INDICATED THAT OUR CHALLENGES
12 WILL BE TO THE FIRST 12.

13 IS THAT ASSUMING WE'VE ALREADY GONE THROUGH
14 CHALLENGES FOR CAUSE, OR DOES THAT INCLUDE CAUSE?

15 THE COURT: OH, NO, NO, NO. WE'LL DO CAUSE FIRST.

16 MS. DI TILLIO: I WANTED TO JUST MAKE SURE.

17 THE COURT: NO. WE DO CAUSE FIRST. AND THEN YOU
18 DO --

19 MS. DI TILLIO: THAT'S WHAT I ASSUMED. BUT --

20 THE COURT: WE'LL GET RID OF THEM.

21 ANY OF THE JURORS THAT HAVE -- AND, YOU
22 KNOW, OUR EXPERIENCE WITH THESE CASES IS THERE WILL BE A
23 NOT SMALL NUMBER OF JURORS WHO ARE UNCOMFORTABLE WITH
24 THESE CASES AND WILL TELL US THEY WILL NOT BE ABLE TO BE
25 FAIR AND IMPARTIAL. AND AFTER THAT, THEN IT'S THE
26 CHALLENGES FOR CAUSE.

27 AND I HOPE WE'LL BE ABLE TO DO IT WITH 90.
28 AND, IF NOT, WE'LL GET ANOTHER PANEL. BUT I ANTICIPATE

1 WE'RE GOING TO LOSE -- IF THEY'RE SCREENED PROPERLY FOR
2 TIME AND IF WE DON'T LOSE ANYBODY FOR TIME, WE'LL END UP
3 WITH 60 OR 70 YOU'LL BE ABLE TO SELECT FROM.

4 MS. DI TILLIO: WHAT'S THE COURT'S SCHEDULE ON
5 FRIDAY?

6 THE COURT: WE'RE GOING TO GO ON FRIDAYS. WE'LL BE
7 DARK MONDAY.

8 HOW MANY DAYS DO YOU THINK THIS IS GOING TO
9 TAKE?

10 MS. DI TILLIO: NO. IT'S MOSTLY FOR WITNESS
11 SCHEDULING BECAUSE I HAVE A WITNESS LEAVING OUT OF TOWN
12 ON MONDAY. SO I WANT THE OPPORTUNITY TO GET HER ON.

13 THE COURT: WE'D LIKE TO DO THIS AS EFFICIENTLY AS
14 POSSIBLE.

15 SO HOW MANY DAYS DO YOU THINK IT WILL BE?

16 MS. DI TILLIO: WITNESSES, MAYBE THREE, POSSIBLY
17 FOUR, INCLUDING THE VIDEOTAPES.

18 THE COURT: AND YOU'VE GOT DR. EISEN, WHICH IS A
19 COUPLE OF HOURS?

20 MS. OLIVER: (NO AUDIBLE RESPONSE.)

21 THE COURT: ALL RIGHT. ANYTHING ELSE ANYBODY WANTS
22 TO RAISE?

23 MS. OLIVER: SO WHAT TIME SHOULD WE BE THERE, IN
24 DEPARTMENT 24, TOMORROW?

25 THE COURT: WELL, THE JURORS ARE SUPPOSED TO ALL
26 ARRIVE, BE THERE AT 9:00 O'CLOCK. LIKE, TODAY, THEY'RE
27 RECEIVING THE ORDER.

28 THE COURT CLERK: 8:45.

1 THE COURT: OH. THEY'VE BEEN ORDERED TO APPEAR AT
2 8:45. SO I HOPE IT'S PRETTY CLOSE TO THAT.

3 MS. OLIVER: OKAY.

4 THE COURT: USUALLY, WE HAVE TO WAIT UNTIL 10:30 OR
5 11:00. AND I THOUGHT WE WOULD TRY IT THIS WAY, TO SAVE
6 SOME TIME, SEE IF WE COULD FINISH THIS.

7 MS. OLIVER: OKAY.

8 MS. DI TILLIO: WERE THEY HERE TODAY, AND THEY GOT
9 THAT ORDER?

10 THE COURT CLERK: THEY ARE HERE TODAY. THEY'RE
11 GOING THROUGH ORIENTATION WITH THE JURY COMMISSIONER, AND
12 THEY'RE BEING PRESCREENED TODAY.

13 THE COURT: FOR TWO WEEKS, LIKE YOU --

14 THE COURT CLERK: AND THEN GIVEN AN ORDER TO COME
15 BACK.

16 MS. DI TILLIO: PERFECT.

17 OKAY. GREAT.

18 THE COURT: SO WE'RE HOPEFUL THAT THIS MEANS YOU
19 DON'T HAVE TO WAIT MORE.

20 MS. DI TILLIO: OKAY. FINGERS CROSSED.

21 ---000---

22 (THEREUPON THE PROCEEDINGS IN THIS MATTER WERE
23 RECESSED UNTIL WEDNESDAY, MARCH 26, 2014, AT
24 9:00 A.M., FOR FURTHER PROCEEDINGS.)

25 ---000---

26 ***

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28

1 SAN DIEGO, CALIFORNIA; WEDNESDAY, MARCH 26, 2014

2 9:00 A.M.

3 ---000---

4 (A PANEL OF 89 PROSPECTIVE JURORS WERE SWORN
5 AS TO THEIR QUALIFICATIONS. VOIR DIRE
6 EXAMINATION WAS CONDUCTED;
7 THESE PROCEEDINGS WERE REPORTED IN MACHINE
8 SHORTHAND BUT ARE NOT HEREIN TRANSCRIBED AS PART
9 OF THE NORMAL RECORD ON APPEAL.)

10 ---000---

11 (THEREUPON THE PROCEEDINGS IN THIS MATTER
12 WERE RECESSED FOR LUNCH.)

13 ---000---

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1 SAN DIEGO, CALIFORNIA; WEDNESDAY, MARCH 26, 2014

2 1:39 P.M.

3 ---000---

4 (VOIR DIRE EXAMINATION OF THE PROSPECTIVE
5 JURORS CONTINUED;
6 A PANEL OF 12 JURORS AND THREE ALTERNATES
7 WERE SELECTED AND SWORN TO TRY THE CAUSE.
8 THESE PROCEEDINGS WERE REPORTED IN MACHINE
9 SHORTHAND BUT ARE NOT HEREIN TRANSCRIBED AS PART
10 OF THE NORMAL RECORD ON APPEAL.)

11 ---000---

12 (THEREUPON THE PROCEEDINGS IN THIS MATTER
13 WERE RECESSED UNTIL THURSDAY, MARCH 27, 2014,
14 AT 9:00 A.M. FOR FURTHER PROCEEDINGS.)

15 ---000---

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1 SAN DIEGO, CALIFORNIA; THURSDAY, MARCH 27, 2014

2 9:30 A.M.

3 ---000---

4 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
5 COURT, OUTSIDE THE PRESENCE OF THE JURORS AND
6 THE ALTERNATE JURORS.)

7 ---000---

8 THE COURT: ALL RIGHT. THE RECORD WILL REFLECT THE
9 DEFENDANT AND ATTORNEYS ARE PRESENT IN THE CASE OF PEOPLE
10 OF THE STATE OF CALIFORNIA AGAINST RICHARD ROSS.

11 AND PRELIMINARY MATTERS BEFORE WE BEGIN WITH
12 THE JURY THIS MORNING?

13 THE PEOPLE, AS I UNDERSTAND IT, ARE SEEKING
14 TO HAVE A THERAPY DOG ACCOMPANY THE ALLEGED CHILD VICTIM.
15 IS THAT CORRECT?

16 MS. DI TILLIO: THAT'S CORRECT, YOUR HONOR.

17 BOTH BREANNA AND HANNAH HAVE REQUESTED THE
18 ASSISTANCE OF A THERAPY DOG, BOTH FOR THEIR COMFORT AND
19 FOR THEIR EMOTIONAL WELL-BEING.

20 THE DOG IS CERTIFIED WITH THE COURT PROGRAM
21 AND IS ACCOMPANIED BY A CERTIFIED HANDLER. SO THEY'RE
22 VERY FAMILIAR WITH THE PROCEDURES IN THE COURTROOM AND
23 WHAT'S ALLOWED AND WHAT'S NOT ALLOWED.

24 THE COURT: WHAT KIND OF DOG IS IT AND HOW BIG IS
25 IT?

26 MS. DI TILLIO: IT'S A SMALL BLACK LAB. IT'S A
27 PETITE BLACK LAB.

28 THE COURT: OKAY. AND IS THERE AN OBJECTION FROM

1 THE DEFENDANT AT THIS TIME?

2 MS. OLIVER: YES, YOUR HONOR.

3 THE COURT: AND THE REASON FOR THE OBJECTION?

4 MS. OLIVER: IT'S THE DEFENDANT'S POSITION THAT, IF
5 THE JURORS WERE TO SEE THE -- THE THERAPY DOG
6 ACCOMPANYING THE MINORS, THAT IT MAY BRING OUT SOME SORT
7 OF -- EVOKE SOME KIND OF EMOTIONS OR SYMPATHY BY THE JURY
8 IF THEY THINK THAT THE VICTIMS, THE ALLEGED VICTIM, ARE
9 SO TRAUMATIZED THEY NEED THE ASSISTANCE OF A THERAPY DOG.

10 AND SO IT'S THE DEFENSE'S POSITION THAT IT
11 WOULD BE PREJUDICIAL TO THE JURY AND MAY EVOKE EMOTIONS
12 AND SYMPATHY.

13 THE COURT: ANYTHING ELSE FROM THE DEFENDANT OR THE
14 PEOPLE?

15 MS. DI TILLIO: NO, YOUR HONOR.

16 MS. OLIVER: NO, YOUR HONOR.

17 THE COURT: I'M GOING TO OVERRULE THE OBJECTION AND
18 ALLOW THE USE OF THE THERAPY DOG.

19 MS. DI TILLIO: THANK YOU, YOUR HONOR.

20 THE COURT: AND, FOR THE RECORD, IT'S ANALOGOUS TO
21 THE PERSON'S CLOSE RELATIVE OR SUPPORT PERSON.

22 ARE THEY ALL OUT THERE?

23 THE BAILIFF: I DON'T KNOW, YOUR HONOR. I CAN'T
24 CHECK ON THEM.

25 THE COURT CLERK: DO YOU WANT ME TO BRING THEM IN
26 IF THEY'RE ALL OUT THERE?

27 THE COURT: PLEASE.

28 AND EVERYTHING IS WORKING WITH TECHNOLOGY

1 THIS MORNING?

2 MS. DI TILLIO: WE SHALL SEE.

3 RIGHT?

4 SO FAR SO GOOD.

5 THE COURT: OKAY.

6 ---000---

7 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
8 COURT, WITHIN THE PRESENCE OF THE JURORS AND
9 THE ALTERNATE JURORS.)

10 ---000---

11 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

12 WELCOME TO DEPARTMENT 55. THIS WILL BE YOUR
13 HOME FOR THE NEXT FEW DAYS.

14 IF THE BAILIFF WOULD PASS OUT THE NOTEBOOKS,
15 PLEASE?

16 YOU'VE ALL BEEN SELECTED AND SWORN TO SERVE
17 AS EITHER JURORS OR ALTERNATE JURORS. AND WE'RE GOING TO
18 START THE SECOND PART OF THIS TRIAL. AND THAT'S GOING TO
19 BE THE PRESENTATION OF THE EVIDENCE.

20 BEFORE WE HEAR THE OPENING STATEMENTS OF THE
21 ATTORNEYS, IN WHICH THEY WILL DESCRIBE WHAT THEY EXPECT
22 THE EVIDENCE WILL BE, IT'S MY DUTY TO INSTRUCT YOU
23 CONCERNING YOUR BASIC FUNCTIONS, DUTIES AND CONDUCT.

24 I'M GOING TO EXPLAIN SOME OF THE BASIC RULES
25 OF LAW AND SOME OF THE BASIC PROCEDURES THAT WE WILL BE
26 FOLLOWING THE NEXT FEW DAYS.

27 THESE RULES ENSURE THAT BOTH SIDES RECEIVE A
28 FAIR TRIAL.

1 AND I REALIZE THAT SOME OF THESE
2 INSTRUCTIONS ARE WRITTEN IN A WAY THAT MAY BE A LITTLE
3 DRY, BUT THE LAW REQUIRES AND DIRECTS THAT I READ THESE
4 INSTRUCTIONS TO YOU.

5 THESE INSTRUCTIONS ARE FOR YOUR USE IN
6 LISTENING TO AND CONSIDERING THE EVIDENCE PRESENTED IN
7 THIS CASE. AFTER THE ATTORNEYS HAVE PRESENTED THE
8 EVIDENCE, I WILL GIVE YOU FURTHER INSTRUCTIONS ON THE
9 LAW. ALL OF MY INSTRUCTIONS, WHETHER GIVEN BEFORE,
10 DURING, OR AFTER THE TAKING OF TESTIMONY, ARE OF EQUAL
11 IMPORTANCE.

12 SIMPLY BECAUSE I GIVE YOU SOME INSTRUCTIONS
13 NOW AND SOME AT THE END OF THE EVIDENCE HAS NO
14 SIGNIFICANCE AS TO THEIR IMPORTANCE.

15 IF I REPEAT ANY PRINCIPLE, INSTRUCTION OR
16 IDEA OR STATE IT IN VARYING WAYS, NO EMPHASIS IS INTENDED
17 BY ME, AND NONE SHOULD BE INFERRED BY YOU.

18 YOU MUST ACCEPT AND FOLLOW THE LAW AS I
19 INSTRUCT YOU WHETHER OR NOT YOU AGREE WITH THE LAW. IF,
20 DURING THE TRIAL, EITHER ATTORNEY SAYS ANYTHING
21 CONCERNING THE LAW THAT CONFLICTS WITH MY INSTRUCTIONS ON
22 THE LAW, YOU MUST FOLLOW MY INSTRUCTIONS.

23 YOU'VE ALL BEEN GIVEN NOTEBOOKS AND MAY TAKE
24 NOTES DURING THE TRIAL. DO NOT REMOVE THEM FROM THE
25 COURTROOM. YOU MAY TAKE YOUR NOTES INTO THE JURY ROOM
26 DURING DELIBERATIONS.

27 HERE ARE SOME POINTS TO CONSIDER ABOUT
28 TAKING NOTES:

1 NOTE TAKING MAY TEND TO DISTRACT YOU. IT
2 MAY AFFECT YOUR ABILITY TO LISTEN CAREFULLY TO ALL THE
3 TESTIMONY AND TO WATCH THE WITNESSES AS THEY TESTIFY.

4 YOU MAY USE YOUR NOTES ONLY TO REMIND
5 YOURSELF OF WHAT HAPPENED DURING THE TRIAL. BUT PLEASE
6 REMEMBER YOUR NOTES MAY BE INACCURATE OR INCOMPLETE.

7 I DO NOT MEAN TO DISCOURAGE YOU FROM TAKING
8 NOTES. I BELIEVE YOU MAY FIND IT HELPFUL.

9 PLEASE DO NOT PAY ATTENTION TO WHEN I AM AND
10 AM NOT MAKING NOTES. GENERALLY, I AM FOCUSING ON MATTERS
11 THAT DO NOT REQUIRE THE ATTENTION OF THE JURY.

12 SOME WORDS OR PHRASES THAT MAY BE USED
13 DURING THIS TRIAL HAVE LEGAL MEANINGS THAT ARE DIFFERENT
14 FROM THEIR MEANINGS IN EVERYDAY USE. THESE WORDS AND
15 PHRASES WILL BE SPECIFICALLY DEFINED IN THE INSTRUCTIONS.

16 PLEASE BE SURE TO LISTEN CAREFULLY AND
17 FOLLOW THE DEFINITIONS THAT I GIVE YOU.

18 WORDS AND PHRASES THAT ARE NOT SPECIFICALLY
19 DEFINED IN THE INSTRUCTIONS ARE TO BE APPLIED USING THEIR
20 ORDINARY, EVERYDAY MEANINGS.

21 EVIDENCE IS THE SWORN TESTIMONY OF
22 WITNESSES, THE EXHIBITS ADMITTED INTO EVIDENCE, AND
23 ANYTHING ELSE I TELL YOU TO CONSIDER AS EVIDENCE.

24 UP TO THIS POINT IN THE TRIAL, NO EVIDENCE
25 HAS BEEN ADMITTED. AS A JUROR, YOU DO NOT YET HAVE A
26 BASIS FOR DETERMINING THE FACTS IN THIS CASE.

27 DURING THE EVIDENTIARY PORTION OF THE TRIAL,
28 PIECES OF EVIDENCE WILL BE ADMITTED. AND, OF COURSE, THE

1 ATTORNEYS WILL TAKE AN ACTIVE ROLE IN THE TRIAL. THIS
2 MAY INCLUDE MAKING OPENING STATEMENTS TO YOU, QUESTIONING
3 WITNESSES, MAKING OBJECTIONS, INTRODUCING EXHIBITS AND,
4 AT THE END, PRESENTING AN ARGUMENT.

5 IT IS THE ATTORNEYS' RESPONSIBILITY TO
6 DEVELOP THE EVIDENCE FOR YOUR CONSIDERATION.

7 THE PROCEDURE IS AS FOLLOWS:

8 ONE ATTORNEY WILL CALL A WITNESS TO THE
9 STAND AND ASK QUESTIONS OF THAT WITNESS. THIS IS
10 REFERRED TO AS *DIRECT EXAMINATION*.

11 THE OTHER ATTORNEY MAY THEN QUESTION THAT
12 WITNESS ON *CROSS-EXAMINATION*.

13 NOTHING THAT THE ATTORNEYS SAY IS EVIDENCE.

14 IN THEIR OPENING STATEMENTS AND CLOSING
15 ARGUMENTS, THE ATTORNEYS WILL DISCUSS THE CASE, BUT THEIR
16 REMARKS ARE NOT EVIDENCE. THE ATTORNEYS' QUESTIONS ARE
17 NOT EVIDENCE. ONLY THE WITNESSES' ANSWERS ARE EVIDENCE.

18 THE ATTORNEYS' QUESTIONS ARE SIGNIFICANT
19 ONLY IF THEY HELP YOU UNDERSTAND THE WITNESS'S ANSWERS.

20 DO NOT ASSUME THAT SOMETHING IS TRUE JUST
21 BECAUSE ONE OF THE ATTORNEYS ASKS A QUESTION THAT
22 SUGGESTS IT IS TRUE.

23 DURING THE TRIAL, THE ATTORNEYS MAY OBJECT
24 TO QUESTIONS ASKED OF A WITNESS. I WILL RULE ON THE
25 OBJECTIONS ACCORDING TO THE LAW.

26 IF I SUSTAIN AN OBJECTION, YOU MUST IGNORE
27 THE QUESTION. IF THE WITNESS HAS NOT ANSWERED, THE
28 WITNESS WILL NOT BE PERMITTED TO ANSWER. DO NOT GUESS

1 WHAT THE ANSWER MIGHT HAVE BEEN OR WHY I RULED AS I DID.

2 IF THE WITNESS HAS ANSWERED AND I ORDER
3 TESTIMONY STRICKEN FROM THE RECORD, YOU MUST DISREGARD IT
4 AND MUST NOT CONSIDER THAT TESTIMONY FOR ANY PURPOSE.

5 WHEN THE PRESENTATION OF EVIDENCE IS
6 COMPLETED AND THE JURY BEGINS DELIBERATIONS, YOU WILL
7 HAVE FOR YOUR CONSIDERATION ALL THE EVIDENCE THAT WAS
8 ADMITTED DURING THE TRIAL, WHICH IS THE ONLY INFORMATION
9 YOU CAN USE IN DETERMINING THE FACTS IN THIS CASE.

10 YOU MUST DISREGARD ANYTHING YOU SEE OR HEAR
11 WHEN THE COURT IS NOT IN SESSION, EVEN IF IT IS DONE OR
12 SAID BY ONE OF THE PARTIES OR WITNESSES.

13 YOU MUST NOT ALLOW ANYTHING THAT HAPPENS
14 OUTSIDE OF THE COURTROOM TO AFFECT YOUR DECISION.

15 DURING THE TRIAL, DO NOT READ, LISTEN TO OR
16 WATCH ANY NEWS REPORT OR COMMENTARY ABOUT THE CASE OR
17 ABOUT SIMILAR-TYPE CASES. IF YOU RECEIVE ANY INFORMATION
18 ABOUT THIS CASE FROM ANY SOURCE OUTSIDE OF THE TRIAL,
19 EVEN UNINTENTIONALLY, DO NOT SHARE THAT INFORMATION WITH
20 ANY OTHER JUROR.

21 IF YOU DO RECEIVE SUCH INFORMATION OR IF
22 ANYONE TRIES TO INFLUENCE YOU OR ANY JUROR, YOU MUST
23 IMMEDIATELY TELL THE BAILIFF.

24 YOU SHALL PROMPTLY REPORT TO THE COURT ANY
25 INCIDENT WITHIN YOUR KNOWLEDGE INVOLVING AN ATTEMPT BY
26 ANY PERSON EITHER TO IMPROPERLY INFLUENCE ANY MEMBER OF
27 THE JURY OR TO TELL A JUROR HIS OR HER VIEW OF THE
28 EVIDENCE IN THIS CASE.

1 DO NOT DO ANY RESEARCH ON YOUR OWN OR AS A
2 GROUP. DO NOT USE A DICTIONARY, THE INTERNET OR OTHER
3 REFERENCE MATERIALS TO OBTAIN INFORMATION ABOUT THE CASE.
4 DO NOT INVESTIGATE THE FACTS OR LAW, CONDUCT ANY TESTS OR
5 EXPERIMENTS OR VISIT THE SCENE OF ANY EVENT INVOLVED IN
6 THIS CASE.

7 IF YOU HAPPEN TO PASS BY THE SCENE, DO NOT
8 STOP OR INVESTIGATE.

9 BY LAW, THE PROHIBITION AGAINST DOING
10 RESEARCH ABOUT THIS CASE MEANS THAT YOU CANNOT USE *GOOGLE*
11 OR OTHER SEARCH DEVICES TO SEARCH FOR INFORMATION ABOUT
12 THE LAWYERS, THE WITNESSES OR PERSONS WHO TESTIFY OR WHO
13 ARE MENTIONED IN THIS CASE.

14 YOU ARE NOT TO LOOK UP NEWS ARTICLES ABOUT
15 THE CASE, CHECK DEFINITIONS ON *WIKIPEDIA* OR SEARCH FOR
16 EVIDENCE THAT HAS BEEN SPECIFICALLY EXCLUDED BY ME.

17 UNDER OUR LEGAL SYSTEM, YOU ARE TO RELY ON
18 THE ATTORNEYS, WHO ARE RESPONSIBLE FOR PRESENTING TO YOU
19 THE EVIDENCE THAT YOU ARE TO CONSIDER. A FAILURE TO
20 FULLY COMPLY WITH THE PROHIBITION AGAINST DOING RESEARCH
21 ABOUT THIS CASE COULD DEPRIVE THE PARTIES OF A FAIR TRIAL
22 AND CAUSE A NEEDLESS EXPENDITURE OF OUR TAX DOLLARS.

23 DURING THE TRIAL, YOU ARE NOT TO TALK ABOUT
24 THE CASE OR ABOUT ANY OF THE PEOPLE OR ANY SUBJECT
25 INVOLVED IN THE CASE WITH ANYONE. YOU MUST NOT TALK
26 ABOUT THESE THINGS WITH FAMILY, FRIENDS, SPIRITUAL
27 ADVISORS OR THERAPISTS.

28 YOU MUST NOT TALK ABOUT THESE THINGS WITH

1 THE OTHER JURORS EITHER UNTIL AFTER ALL OF THE EVIDENCE
2 HAS BEEN PRESENTED, THE ATTORNEYS HAVE COMPLETED THEIR
3 ARGUMENTS, I'VE INSTRUCTED YOU ON THE LAW, I'VE TOLD YOU
4 TO BEGIN DELIBERATIONS, AND ALL 12 OF ARE YOU PRESENT AND
5 YOU ARE INSIDE THE JURY ROOM.

6 YOU ARE NOT TO SPEAK TO ANY PARTY, WITNESS
7 OR LAWYER INVOLVED IN THE TRIAL ABOUT THE CASE OR ANY
8 OTHER TOPIC.

9 DO NOT POST ANY INFORMATION ABOUT THE TRIAL
10 OR YOUR JURY SERVICE ON THE INTERNET IN ANY FORM. DO NOT
11 SEND OR ACCEPT ANY MESSAGES, INCLUDING E-MAIL OR TEXT
12 MESSAGES, TO OR FROM ANYONE CONCERNING THE TRIAL OR YOUR
13 SERVICE.

14 DO NOT LISTEN TO ANYONE WHO TRIES TO TALK TO
15 YOU ABOUT THE CASE OR ABOUT ANY OF THE PEOPLE WHO ARE
16 SUBJECTS INVOLVED IN IT. IF SOMEONE ASKS YOU ABOUT THE
17 CASE, TELL HIM OR HER THAT YOU CANNOT DISCUSS IT. IF
18 THAT PERSON KEEPS TALKING TO YOU ABOUT THE CASE, YOU MUST
19 END THE CONVERSATION.

20 WHEN I DIRECT YOU TO BEGIN DELIBERATIONS,
21 YOU'LL BE PLACED IN THE JURY ROOM. DURING DELIBERATIONS,
22 YOU MUST DECIDE WHAT THE FACTS ARE IN THIS CASE. TO FIND
23 THAT SOMETHING IS A FACT, YOU MUST USE ONLY A
24 STIPULATION, AN ADMISSION, OR THE EVIDENCE THAT IS
25 PRESENTED IN THE COURTROOM.

26 A *STIPULATION* IS AN AGREEMENT BY THE
27 PROSECUTOR AND THE DEFENSE THAT A FACT IS PROVED.

28 AN *ADMISSION* IS WHERE ONE PARTY ACKNOWLEDGES

1 THAT A FACT IS PROVED.

2 I WILL ADVISE YOU WHEN A FACT HAS BEEN
3 PROVEN BY A STIPULATION OR AN ADMISSION. IT IS THEN YOUR
4 DUTY TO REGARD SUCH STIPULATED OR ADMITTED FACT AS BEING
5 CONCLUSIVELY PROVED.

6 FOR FACTS THAT ARE NOT PROVED BY A
7 STIPULATION OR AN ADMISSION, IT IS YOUR DUTY TO DETERMINE
8 THOSE FACTS SOLELY FROM THE ADMISSIBLE EVIDENCE YOU SEE
9 AND HEAR IN THIS COURTROOM AND NOT FROM ANY OTHER SOURCE.
10 YOU MUST NOT CONSIDER OR DISCUSS FACTS AS TO WHICH THERE
11 IS NO EVIDENCE.

12 DURING DELIBERATIONS, THE JURY IS TO ANALYZE
13 ONLY THE EVIDENCE THAT IS PRESENTED IN THIS COURTROOM AND
14 THEN FIND THE FACTS THAT ARE PROVED OR DISPROVED BY THE
15 ADMISSIBLE TESTIMONY, EXHIBITS AND ANYTHING ELSE I TELL
16 YOU TO CONSIDER.

17 FACTS MAY BE PROVED BY DIRECT OR
18 CIRCUMSTANTIAL EVIDENCE OR BY A COMBINATION OF BOTH.

19 TO ILLUSTRATE, ASSUME THAT THE FACT IN
20 QUESTION IS WAS IT RECENTLY RAINING OUTSIDE THE
21 COURTHOUSE?

22 *DIRECT EVIDENCE* CAN PROVE A FACT BY ITSELF.

23 A WITNESS COMES AND TESTIFIES, QUOTE, "I
24 JUST CAME INTO THE COURTHOUSE, AND IT WAS RAINING
25 OUTSIDE."

26 THAT TESTIMONY IS DIRECT EVIDENCE THAT IT
27 WAS, QUOTE, "RECENTLY RAINING OUTSIDE THE COURTHOUSE."

28 *CIRCUMSTANTIAL EVIDENCE* ALSO MAY BE CALLED

1 *INDIRECT EVIDENCE.*

2 CIRCUMSTANTIAL EVIDENCE DOES NOT DIRECTLY
3 PROVE THE FACT IN QUESTION, BUT IS EVIDENCE OF ANOTHER
4 FACT, OR GROUP OF FACTS, FROM WHICH YOU MAY CONCLUDE THE
5 TRUTH OF THE FACT IN QUESTION.

6 A WITNESS TESTIFIES, QUOTE, "I WAS SEATED
7 INSIDE THE COURTHOUSE. I SAW SOMEONE COME IN WEARING A
8 RAINCOAT. THE RAINCOAT WAS COVERED WITH DROPS OF WATER,"
9 UNQUOTE.

10 THE THREE STATEMENTS OF THIS TESTIMONY,
11 TAKEN TOGETHER, IS CIRCUMSTANTIAL EVIDENCE OF WHETHER IT
12 WAS RECENTLY RAINING OUTSIDE THE COURTHOUSE.

13 BOTH DIRECT AND CIRCUMSTANTIAL EVIDENCE ARE
14 ACCEPTABLE TYPES OF EVIDENCE TO PROVE OR DISPROVE THE
15 ELEMENTS OF A CHARGE, INCLUDING INTENT AND MENTAL STATE
16 AND ACTS NECESSARY TO A CONVICTION. AND NEITHER IS
17 NECESSARILY MORE RELIABLE THAN THE OTHER. NEITHER IS
18 ENTITLED TO ANY GREATER WEIGHT THAN THE OTHER.

19 YOU MUST DECIDE WHETHER A FACT IN ISSUE HAS
20 BEEN PROVED BASED ON ALL THE EVIDENCE.

21 YOU, AND YOU ALONE, MUST JUDGE THE
22 CREDIBILITY OF THE WITNESSES.

23 IN DECIDING WHETHER TESTIMONY IS TRUE AND
24 ACCURATE, USE YOUR COMMON SENSE AND EXPERIENCE.

25 THE TESTIMONY OF EACH WITNESS MUST BE JUDGED
26 BY THE SAME STANDARD. YOU MUST SET ASIDE ANY BIAS OR
27 PREJUDICE YOU MAY HAVE, INCLUDING ANY BASED ON THE
28 WITNESS'S GENDER, RACE, RELIGION OR NATIONAL ORIGIN.

1 YOU MAY BELIEVE ALL, PART, OR NONE OF ANY
2 WITNESS'S TESTIMONY. CONSIDER THE TESTIMONY OF EACH
3 WITNESS AND DECIDE HOW MUCH OF IT YOU BELIEVE.

4 IN EVALUATING A WITNESS'S TESTIMONY, YOU MAY
5 CONSIDER ANYTHING THAT REASONABLY TENDS TO PROVE OR
6 DISPROVE THE TRUTH OR ACCURACY OF THAT TESTIMONY.

7 AMONG THE FACTORS THAT YOU MAY CONSIDER ARE:

8 HOW WELL COULD THE WITNESS SEE, HEAR OR
9 OTHERWISE PERCEIVE THE THINGS ABOUT WHICH THE WITNESS
10 TESTIFIED?

11 HOW WELL WAS THE WITNESS ABLE TO REMEMBER
12 AND DESCRIBE WHAT HAPPENED?

13 WHAT WAS THE WITNESS'S BEHAVIOR WHILE
14 TESTIFYING?

15 DID THE WITNESS UNDERSTAND THE QUESTIONS AND
16 ANSWER THEM DIRECTLY?

17 WAS THE WITNESS'S TESTIMONY INFLUENCED BY A
18 FACTOR SUCH AS BIAS OR PREJUDICE, A PERSONAL RELATIONSHIP
19 WITH SOMEONE INVOLVED IN THE CASE OR A PERSONAL INTEREST
20 IN HOW THE CASE IS DECIDED?

21 WHAT WAS THE WITNESS'S ATTITUDE ABOUT THE
22 CASE OR ABOUT TESTIFYING?

23 HOW REASONABLE IS THE TESTIMONY WHEN YOU
24 CONSIDER ALL THE OTHER EVIDENCE IN THE CASE?

25 DO NOT AUTOMATICALLY REJECT TESTIMONY JUST
26 BECAUSE OF INCONSISTENCIES OR CONFLICTS. CONSIDER
27 WHETHER THE DIFFERENCES ARE IMPORTANT OR NOT.

28 PEOPLE SOMETIMES HONESTLY FORGET THINGS OR

1 MAKE MISTAKES ABOUT WHAT THEY REMEMBER. ALSO, TWO PEOPLE
2 MAY WITNESS THE SAME EVENT, YET SEE OR HEAR IT
3 DIFFERENTLY.

4 I WILL NOW EXPLAIN THE PRESUMPTION OF
5 INNOCENCE AND THE PEOPLE'S BURDEN OF PROOF.

6 THE DEFENDANT HAS PLEADED NOT GUILTY TO THE
7 CHARGES. THE FACT THAT A CRIMINAL CHARGE HAS BEEN FILED
8 AGAINST THE DEFENDANT IS NOT EVIDENCE THAT THE CHARGE IS
9 TRUE.

10 YOU MUST NOT BE BIASED AGAINST THE DEFENDANT
11 JUST BECAUSE HE HAS BEEN ARRESTED, CHARGED WITH A CRIME,
12 OR BROUGHT TO TRIAL. A DEFENDANT IN A CRIMINAL CASE IS
13 PRESUMED TO BE INNOCENT. THIS PRESUMPTION REQUIRES THAT
14 THE PROSECUTION PROVE EACH ELEMENT OF A CRIME BEYOND A
15 REASONABLE DOUBT.

16 WHENEVER I TELL YOU THE PROSECUTION MUST
17 PROVE SOMETHING, I MEAN THEY MUST PROVE IT BEYOND A
18 REASONABLE DOUBT UNLESS I SPECIFICALLY TELL YOU
19 OTHERWISE.

20 PROOF BEYOND A REASONABLE DOUBT IS PROOF
21 THAT LEAVES YOU WITH AN ABIDING CONVICTION THAT THE
22 CHARGE IS TRUE.

23 THE EVIDENCE NEED NOT ELIMINATE ALL POSSIBLE
24 DOUBT, BECAUSE EVERYTHING IN LIFE IS OPEN TO SOME
25 POSSIBLE OR IMAGINARY DOUBT.

26 IN DECIDING WHETHER THE PROSECUTION HAS
27 PROVED ITS CASE BEYOND A REASONABLE DOUBT, YOU MUST
28 IMPARTIALLY COMPARE AND CONSIDER ALL THE EVIDENCE THAT

1 WAS RECEIVED THROUGHOUT THE ENTIRE TRIAL. UNLESS THE
2 EVIDENCE PROVES THE DEFENDANT GUILTY BEYOND A REASONABLE
3 DOUBT HE IS ENTITLED TO AN ACQUITTAL AND YOU MUST FIND
4 HIM NOT GUILTY.

5 KEEP AN OPEN MIND THROUGHOUT THE TRIAL. DO
6 NOT MAKE UP YOUR MIND ABOUT THE VERDICT OR ANY ISSUE
7 UNTIL AFTER YOU HAVE DISCUSSED THE CASE WITH THE OTHER
8 JURORS DURING DELIBERATIONS.

9 DO NOT TAKE ANYTHING I SAY OR DO DURING THE
10 TRIAL AS AN INDICATION OF WHAT I THINK ABOUT THE FACTS,
11 THE WITNESSES OR WHAT YOUR VERDICT SHOULD BE.

12 DO NOT LET BIAS, SYMPATHY, PREJUDICE OR
13 PUBLIC OPINION INFLUENCE YOUR DECISION.

14 DURING THE COURSE OF THIS TRIAL, THE LAW
15 REQUIRES THAT CERTAIN MATTERS BE ARGUED AND DECIDED BY ME
16 OUTSIDE OF YOUR PRESENCE. IT MAY BE NECESSARY FOR ME TO
17 MEET WITH THE ATTORNEYS EITHER IN CHAMBERS, AT SIDEBAR,
18 OR BY ASKING YOU TO LEAVE THE COURTROOM.

19 YOU ARE NOT TO SPECULATE ON THESE
20 PROCEEDINGS. THEY GENERALLY CONCERN LEGAL ISSUES UPON
21 WHICH THE COURT MUST RULE BEFORE THE TRIAL MAY PROCEED.

22 IF THE ATTORNEYS AND I ARE OUT OF THE
23 COURTROOM ADDRESSING AN ISSUE, PLEASE FEEL FREE TO STAND
24 UP AND STRETCH.

25 OUR USUAL COURT SCHEDULE WILL BE
26 APPROXIMATELY FROM 9:00 IN THE MORNING TO NOON AND FROM
27 1:30 TO 4:30. WE WILL GENERALLY TAKE ONE RECESS
28 MIDMORNING AND ONE RECESS MID AFTERNOON.

1 WE WILL BE DARK ON MONDAY. MONDAY IS A
2 COURT HOLIDAY. THAT'S THE 31ST. SO WE WILL NOT HAVE
3 COURT SESSION ON MONDAY. I WILL ADVISE YOU OF ANY
4 MODIFICATIONS.

5 YOU WILL BE PERMITTED TO SEPARATE DURING
6 RECESSES AND AT THE END OF THE DAY. I WILL TELL YOU WHEN
7 TO RETURN. PLEASE REMEMBER, WE CANNOT BEGIN OR RESUME
8 THE TRIAL UNTIL ALL OF YOU ARE PRESENT. SO IT IS
9 IMPORTANT TO BE ON TIME.

10 AFTER EACH RECESS, PLEASE WAIT IN THE HALL
11 IMMEDIATELY OUTSIDE OF THE COURTROOM UNTIL YOU ARE
12 DIRECTED TO ENTER. WE WILL MAKE EVERY EFFORT NOT TO KEEP
13 YOU WAITING, BUT SOMETIMES MATTERS NEED TO BE RESOLVED
14 BEFORE THE CASE MAY CONTINUE. PLEASE BEAR WITH US WHEN
15 THIS OCCURS.

16 THIS COURTHOUSE HANDLES MANY MATTERS AT THE
17 SAME TIME. DURING THE TRIAL, YOU WILL LIKELY HEAR THE
18 PHONE RING IN OUR COURTROOM, OR YOU MAY SEE SOMEONE BRING
19 DOCUMENTS TO BE PROCESSED. THIS ACTIVITY GENERALLY
20 INVOLVES OTHER CASES. EVERY EFFORT WILL BE MADE TO AVOID
21 DISRUPTION OF THIS CASE.

22 AT THE END OF THE PRESENTATION OF THE
23 EVIDENCE, YOUR DUTY IS TO DELIBERATE ON ALL THE EVIDENCE
24 PRESENTED.

25 TO FULFILL THAT DUTY, YOU NEED TO PAY FULL
26 ATTENTION TO THE EVIDENCE AS IT IS BEING PRESENTED IN
27 THIS COURTROOM.

28 UNLIKE ESPN, THERE IS NO INSTANT REPLAY

1 BUTTON. EVEN LISTENING TO A READ BACK OF THE TESTIMONY
2 OF A WITNESS WILL NOT PRESENT THE TONE OF VOICE OR FACIAL
3 EXPRESSION OF THE WITNESS WHILE TESTIFYING.

4 YOU SHOULD CAPTURE FOR YOURSELF, DURING THE
5 TRIAL, THE DETAILS, CHARACTER AND RELATIONSHIPS AS THEY
6 ARE PRESENTED IN THE COURTROOM.

7 DURING THE PRESENTATION OF EVIDENCE, IF
8 ANYTHING INTERFERES WITH YOU BEING ABLE TO FOCUS YOUR
9 FULL ATTENTION, PLEASE TELL ME IMMEDIATELY.

10 IN LOOKING TO YOU TO DECIDE THIS CASE, BOTH
11 THE PEOPLE AND THE DEFENDANT HAVE A RIGHT TO EXPECT THAT
12 YOU WILL CONSCIENTIOUSLY CONSIDER AND WEIGH THE EVIDENCE,
13 APPLY THE LAW AS I INSTRUCT YOU TO THE FACTS AS YOU FIND
14 THEM, AND IN THIS WAY ARRIVE AT A JUST VERDICT REGARDLESS
15 OF THE CONSEQUENCES.

16 REMEMBER, DO NOT TALK ABOUT THE CASE OR
17 ABOUT ANY OF THE PEOPLE OR ANY SUBJECT INVOLVED IN IT
18 WITH ANYONE, INCLUDING THE OTHER JURORS. DO NOT MAKE UP
19 YOUR MIND ABOUT THE VERDICT OR ANY ISSUE UNTIL AFTER YOU
20 HAVE DISCUSSED THE CASE WITH THE OTHER JURORS DURING
21 DELIBERATIONS.

22 AS FAR AS THE ALTERNATE JURORS ARE
23 CONCERNED, YOU ARE BOUND BY ALL OF THESE ADMONITIONS.
24 YOU MUST NOT CONVERSE WITH ANYONE ON ANY SUBJECT
25 CONNECTED WITH THIS TRIAL OR FORM OR EXPRESS ANY OPINION
26 ON IT UNTIL THE CASE IS SUBMITTED TO YOU. THAT MEANS
27 UNTIL SUCH TIME AS YOU ARE SUBSTITUTED IN FOR ONE OF THE
28 12 JURORS AND BEGIN DELIBERATIONS ON THE CASE. YOU MUST

1 NOT DECIDE HOW YOU WOULD VOTE IF YOU WERE DELIBERATING
2 WITH THE OTHER JURORS, AND YOU MUST NOT FORM OR EXPRESS
3 AN OPINION ABOUT THE CASE UNLESS AND UNTIL YOU HAVE BEEN
4 SUBSTITUTED IN AS A JUROR IN THE CASE.

5 WHEN THE TRIAL HAS ENDED AND YOU HAVE BEEN
6 RELEASED AS JURORS, YOU MAY DISCUSS THE CASE WITH ANYONE,
7 BUT, UNDER CALIFORNIA LAW, YOU MUST WAIT AT LEAST 90 DAYS
8 BEFORE NEGOTIATING OR AGREEING TO ACCEPT ANY PAYMENT FOR
9 PROVIDING INFORMATION ABOUT THE CASE.

10 BEFORE WE HEAR THE OPENING STATEMENTS OF THE
11 ATTORNEYS, I'M GOING TO GO OVER THE INFORMATION WITH YOU.
12 ESSENTIALLY, THAT MEANS THE CHARGES WITH WHICH -- THAT
13 HAVE BEEN FILED AGAINST MR. ROSS.

14 AS I INDICATED DURING OUR SELECTION OF THE
15 JURY, THERE ARE 18 COUNTS.

16 COUNT 1 ALLEGES A VIOLATION OF PENAL CODE
17 SECTION 288.7(B), SEXUAL PENETRATION OF A CHILD 10 YEARS
18 OLD OR YOUNGER.

19 IT'S ALLEGED THAT, ON OR ABOUT MAY 21ST,
20 DEFENDANT DID UNLAWFULLY ENGAGE IN SEXUAL PENETRATION
21 WITH A CHILD, HANNAH C., TO WIT, DEFENDANT'S FINGER TO
22 CHILD'S VAGINA.

23 IN COUNT 2 IT'S ALLEGED THAT MR. ROSS
24 VIOLATED PENAL CODE SECTION 288(B)(1), FORCIBLE LEWD ACT
25 ON A CHILD.

26 IT'S ALSO ALLEGED THAT HE VIOLATED PENAL
27 CODE SECTION 667.61(B)(C)(E) IN THAT HE COMMITTED THIS
28 OFFENSE AGAINST MORE THAN ONE VICTIM.

1 IT'S FURTHER ALLEGED, UNDER PENAL CODE
2 SECTION 1203.066(A) (8), THAT HE DID HAVE SUBSTANTIAL
3 SEXUAL CONDUCT WITH HANNAH C.

4 COUNT 3 ALLEGES A VIOLATION OF PENAL CODE
5 SECTION 288(A), LEWD ACT UPON A CHILD.

6 ADDITIONALLY, THERE ARE ALLEGATIONS UNDER
7 PENAL CODE SECTION 667.61(B) (C) (E), THAT THIS OFFENSE WAS
8 COMMITTED AGAINST MORE THAN ONE VICTIM WITHIN THE MEANING
9 OF THAT SECTION.

10 AND THERE'S AN ALLEGATION UNDER PENAL CODE
11 SECTION 1203.066(A) (8), THAT HE DID HAVE SUBSTANTIAL
12 SEXUAL CONDUCT WITH HANNAH C.

13 COUNT 4 ALLEGES A VIOLATION OF PENAL CODE
14 SECTION 288.7(B), THAT ON OR ABOUT AND BETWEEN MAY 1ST,
15 2009, AND MAY 31ST, 2011, DEFENDANT DID UNLAWFULLY ENGAGE
16 IN ORAL COPULATION WITH BREANNA L.

17 COUNT 5 ALLEGES THAT, ON OR ABOUT AND
18 BETWEEN MAY 1ST, 2009, AND MAY 31ST, 2011, DEFENDANT
19 VIOLATED PENAL CODE SECTION 288.7(B) IN THAT HE ENGAGED
20 IN ORAL COPULATION WITH BREANNA L.

21 COUNT 6 ALLEGES A VIOLATION OF PENAL CODE
22 SECTION 288(A), LEWD ACT UPON A CHILD, WITHIN THAT SAME
23 TIMEFRAME, MAY 1ST, 2009, AND MAY 31ST OF 2011.

24 THE CONDUCT THAT'S ALLEGED HERE IS THE
25 DEFENDANT'S HAND TO CHILD'S VAGINA IN THE OLD HOUSE.

26 THERE'S AN ALLEGATION UNDER PENAL CODE
27 SECTION 667.61(B) (C) (E) AND PENAL CODE SECTION
28 1203.066(A) (8). AND IT IS YOUR DUTY, IF APPLICABLE, TO

1 FIND WHETHER OR NOT THESE ALLEGATIONS ARE TRUE OR NOT
2 TRUE.

3 COUNT 7 ALLEGES, BETWEEN JUNE 1ST, 2011, AND
4 MAY 21ST, 2012, DEFENDANT VIOLATED PENAL CODE SECTION
5 288.7(B) IN THAT HE IS ALLEGED TO HAVE COMMITTED ORAL
6 COPULATION, DEFENDANT'S MOUTH TO CHILD'S VAGINA, IN THE
7 LIVING ROOM OF THE NEW HOUSE.

8 COUNT 8 ALLEGES A VIOLATION OF PENAL CODE
9 SECTION 288.7(A). IT'S ALLEGED THAT, BETWEEN JUNE 1ST,
10 2011, AND MAY 31ST, 2012, THE DEFENDANT HAD SEXUAL
11 INTERCOURSE WITH A CHILD 10 YEARS OLD OR YOUNGER, TO WIT,
12 DEFENDANT'S PENIS TO CHILD'S VAGINA, IN THE LIVING ROOM
13 OF THE NEW HOUSE, THE CHILD BEING BREANNA L.

14 COUNT 9 ALLEGES A VIOLATION OF PENAL CODE
15 SECTION 288(A), DEFENDANT'S PENIS TO CHILD'S VAGINA, IN
16 THE LIVING ROOM OF THE NEW HOUSE.

17 THERE ARE ALLEGATIONS UNDER PENAL CODE
18 SECTION 667.61(B)(C)(E) AND PENAL CODE SECTION
19 1203.066(A)(8).

20 COUNT 10 ALLEGES A VIOLATION OF PENAL CODE
21 SECTION 288.7(B), SEXUAL PENETRATION WITH A CHILD 10
22 YEARS OR YOUNGER, TO WIT, AN OBJECT TO THE CHILD'S
23 VAGINA, IN THE LIVING ROOM OF THE NEW HOUSE, THE CHILD
24 BEING BREANNA L.

25 COUNT 11 ALLEGES A VIOLATION OF PENAL CODE
26 SECTION 288(A), TO WIT -- THAT IS A LEWD ACT UPON A CHILD
27 -- TO WIT AN OBJECT TO THE CHILD'S VAGINA IN THE LIVING
28 ROOM OF THE NEW HOUSE.

1 THERE ARE ALSO ALLEGATIONS UNDER PENAL CODE
2 SECTION 667.61(B)(C)(E) AND PENAL CODE SECTION
3 1203.066(A)(8).

4 COUNT 12 ALLEGES THAT, ON OR BETWEEN
5 JUNE 1ST, 2011, AND MAY 31ST, 2012, THE DEFENDANT
6 SEXUALLY PENETRATED BREANNA L., IN VIOLATION OF PENAL
7 CODE SECTION 288.7(B), TO WIT, DEFENDANT'S FINGER TO
8 CHILD'S VAGINA, IN THE LIVING ROOM OF THE NEW HOUSE.

9 COUNT 13 ALLEGES LEWD ACT UPON A CHILD, IN
10 VIOLATION OF PENAL CODE SECTION 288(A), DURING THAT SAME
11 TIME PERIOD, TO WIT, DEFENDANT'S HAND TO CHILD'S VAGINA,
12 IN THE LIVING ROOM OF THE NEW HOUSE.

13 AND THERE ARE ALLEGATIONS UNDER PENAL CODE
14 SECTION 667.61(B)(C)(E) AND PENAL CODE SECTION
15 1203.066(A)(8).

16 COUNT 14 ALLEGES A VIOLATION OF PENAL CODE
17 SECTION 288.7(B), ORAL COPULATION WITH A CHILD 10 YEARS
18 OLD OR YOUNGER, TO WIT, DEFENDANT'S MOUTH TO CHILD'S
19 VAGINA, IN THE CHILD'S BEDROOM OF THE NEW HOUSE, THE
20 CHILD BEING BREANNA L.

21 COUNT 15 ALLEGES A VIOLATION OF PENAL CODE
22 SECTION 288.7(B) -- THAT IS SEXUAL PENETRATION -- TO WIT,
23 DEFENDANT'S FINGER TO CHILD'S VAGINA, IN THE CHILD'S
24 BEDROOM OF THE NEW HOUSE, WITH THE CHILD BEING BREANNA L.

25 COUNT 16 ALLEGES A VIOLATION OF LEWD ACT ON
26 A CHILD DURING THAT SAME TIME PERIOD, TO WIT, DEFENDANT'S
27 HAND TO CHILD'S VAGINA, IN THE CHILD'S BEDROOM OF THE NEW
28 HOUSE.

1 THE ALLEGATIONS UNDER PENAL CODE SECTION
2 667.61(B) (C) (E) AND PENAL CODE SECTION 1203.066(A) (8) ARE
3 ALSO ALLEGED.

4 COUNT 17 ALLEGES A VIOLATION OF PENAL CODE
5 SECTION 288.7(A), SEXUAL INTERCOURSE WITH A CHILD,
6 DEFENDANT'S PENIS TO CHILD'S VAGINA, IN THE CHILD'S
7 BEDROOM OF THE NEW HOUSE, CHILD BEING BREANNA L.

8 COUNT 18 ALLEGES A VIOLATION OF PENAL CODE
9 SECTION 288(A), DEFENDANT'S PENIS TO CHILD'S VAGINA, IN
10 THE CHILD'S BEDROOM OF THE NEW HOUSE.

11 THE SAME ALLEGATIONS UNDER PENAL CODE
12 SECTION 667.61(B) (C) (E) AND PENAL CODE SECTION
13 1203.066(A) (8) ARE ALSO ALLEGED.

14 TO THESE CHARGES, THE DEFENDANT HAS ENTERED
15 PLEAS OF NOT GUILTY AND A DENIAL OF ALL OF THE
16 ALLEGATIONS.

17 IT IS YOUR TASK TO DETERMINE WHETHER OR NOT
18 THE EVIDENCE SHOWS THAT THE DEFENDANT IS GUILTY OR NOT
19 GUILTY AND WHETHER THE ALLEGATIONS ARE TRUE OR NOT TRUE.

20 AND THAT IS YOUR TASK AS TRIAL JURORS IN
21 THIS CASE.

22 HAVING GIVEN YOU THE PRELIMINARY JURY
23 INSTRUCTIONS, WE ARE NOW AT THE POINT OF THE TRIAL WHERE
24 EACH ATTORNEY HAS THE CHANCE TO GIVE AN OPENING
25 STATEMENT.

26 AN OPENING STATEMENT IS NOT EVIDENCE. WHAT
27 THE ATTORNEYS SAY IS NOT EVIDENCE. EACH ATTORNEY HAS THE
28 OPPORTUNITY TO OUTLINE FOR YOU WHAT THEY EXPECT THE

1 EVIDENCE WILL SHOW, THE SEQUENCE OF EVENTS, WHAT A
2 WITNESS WILL SAY, WHO DID WHAT.

3 THE SOLE PURPOSE OF THE OPENING STATEMENT IS
4 TO ASSIST YOU IN UNDERSTANDING THE CASE AS IT IS
5 PRESENTED.

6 DO THE PEOPLE WISH TO GIVE AN OPENING
7 STATEMENT?

8 MS. DI TILLIO: YES, YOUR HONOR. THANK YOU.

9 MAY I UTILIZE THE WELL?

10 THE COURT: YES.

11 MS. DI TILLIO: THANK YOU.

12 ---000---

13 (THEREUPON DEPUTY DISTRICT ATTORNEY MARISA
14 DI TILLIO PRESENTED AN OPENING STATEMENT ON
15 BEHALF OF THE PEOPLE OF THE STATE OF CALIFORNIA;
16 THESE PROCEEDINGS WERE REPORTED IN MACHINE
17 SHORTHAND BUT ARE NOT HEREIN INCLUDED AS PART
18 OF THE NORMAL RECORD ON APPEAL.)

19 ---000---

20 THE COURT: DOES THE DEFENSE WISH TO GIVE AN
21 OPENING STATEMENT AT THIS TIME?

22 MS. OLIVER: YES, YOUR HONOR.

23 ---000---

24 (THEREUPON DEPUTY PUBLIC DEFENDER EUKETA
25 OLIVER PRESENTED AN OPENING STATEMENT ON
26 BEHALF OF THE DEFENDANT, RICHARD ROSS;
27 THESE PROCEEDINGS WERE REPORTED IN MACHINE
28 SHORTHAND BUT ARE NOT HEREIN INCLUDED AS PART

1 OF THE NORMAL RECORD ON APPEAL.)

2 ---000---

3 THE COURT: THANK YOU.

4 ALL RIGHT. LADIES AND GENTLEMEN, WE'RE
5 GOING TO TAKE OUR MORNING RECESS.

6 YOU'RE REMINDED NOT TO TALK ABOUT THE CASE,
7 NOT TO FORM OR EXPRESS AN OPINION ABOUT THE CASE, NOT TO
8 DISCUSS THE MATTER AT ALL UNTIL THE MATTER IS SUBMITTED
9 TO YOU.

10 WE'LL TAKE 15 MINUTES, PLEASE.

11 ---000---

12 (THEREUPON THE COURT WAS IN RECESS.)

13 ---000---

14 THE COURT: ALL RIGHT. THE RECORD WILL REFLECT THE
15 DEFENDANT AND ATTORNEYS ARE PRESENT, AS WELL AS OUR
16 JURORS AND ALTERNATE JURORS.

17 LADIES AND GENTLEMEN, YOU'RE GOING TO SEE
18 WITNESSES AND THE ATTORNEYS IN THE HALLWAYS OR THE
19 ELEVATORS. PLEASE DO NOT FEEL THAT THEY'RE GOING TO BE
20 UNFRIENDLY IF THEY DON'T SPEAK WITH YOU BECAUSE I'M
21 ORDERING THAT THEY NOT TALK WITH YOU, EVEN IF IT'S ABOUT
22 SOMETHING INNOCUOUS, ABOUT WHETHER OR NOT WE'RE GOING TO
23 GET RAIN TOMORROW OR TONIGHT OR HOW THE AZTECS ARE DOING
24 IN THEIR BASKETBALL TOURNAMENT.

25 THAT IS SOMETHING THAT THEY'RE NOT TO DO.

26 SO JUST BE FOREWARNED.

27 FIRST WITNESS, PLEASE.

28 MS. DI TILLIO: THANK YOU, YOUR HONOR.

1 PEOPLE CALL TAMI R.

2 THE COURT CLERK: DO YOU SOLEMNLY STATE, UNDER
3 PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE
4 IN THIS MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
5 NOTHING BUT THE TRUTH?

6 THE WITNESS: YES.

7 THE COURT CLERK: THANK YOU.

8 PLEASE BE SEATED AT THE WITNESS STAND.

9 PLEASE STATE AND SPELL YOUR FIRST NAME AND
10 THE FIRST INITIAL OF YOUR LAST NAME.

11 THE WITNESS: TAMI, T-A-M-I, R, INITIAL.

12 THE COURT: IF YOU'D PLEASE IDENTIFY WHO'S WITH
13 HER?

14 MS. DI TILLIO: YES, YOUR HONOR.

15 THERE'S A VICTIM ADVOCATE FROM MY OFFICE,
16 MEGHAN QUEEN, SEATED NEXT TO HER, WHO IS NOT A WITNESS.

17 MAY I PROCEED?

18 THE COURT: YES.

19

20

TAMI R. ,

21 **A WITNESS CALLED ON BEHALF OF THE PLAINTIFF, THE PEOPLE**
22 **OF THE STATE OF CALIFORNIA, HAVING BEEN DULY SWORN,**
23 **TESTIFIED AS FOLLOWS:**

24

25

DIRECT EXAMINATION

26

27 BY MS. DI TILLIO:

28

Q. GOOD MORNING, MA'AM.

1 A. HI.

2 Q. THE SEAT THAT -- YOUR KNEE DOESN'T MOVE, BUT
3 THE MICROPHONE DOES A LITTLE BIT. SO IF YOU'D KEEP THAT
4 CLOSER TO YOU, SO WE CAN ALL HEAR YOU. AND THEN WE DON'T
5 HAVE TO ASK YOU TO REPEAT YOURSELF SO MUCH.

6 OKAY?

7 A. OKAY.

8 Q. HOW ARE YOU TODAY?

9 A. FINE.

10 Q. I'D LIKE TO GET A LITTLE BIT OF INFORMATION
11 FROM YOU REGARDING YOUR BACKGROUND.

12 WERE YOU MARRIED TO A GENTLEMAN BY THE NAME
13 OF ALLAN?

14 A. YES.

15 Q. WHEN WAS THAT?

16 A. 1996 TO 2007.

17 Q. AND DID THE TWO OF YOU HAVE ANY CHILDREN?

18 A. YES.

19 Q. HOW MANY?

20 A. ONE.

21 Q. WHAT'S HIS OR HER NAME?

22 A. BREANNA (L.).

23 Q. WE'RE JUST GOING TO USE LAST INITIAL.

24 A. OH, OKAY.

25 Q. THAT'S OKAY.

26 SO HER NAME IS BREANNA.

27 AND WHEN WAS SHE BORN?

28 A. JUNE 12TH, 2004.

1 Q. SO YOU AND ALLEN SEPARATED WHEN SHE WAS
2 ABOUT THREE? IS THAT ABOUT RIGHT?

3 A. YES.

4 Q. THANK YOU.

5 AND JUST ONE MORE FAVOR.

6 AS YOU CAN SEE, THE LADY SEATED IN FRONT OF
7 YOU IS GOING TO TYPE DOWN EVERYTHING YOU SAY.

8 A. OKAY.

9 Q. SO IF IT'S "YES" OR "NO," IF YOU COULD SAY
10 "YES" OR "NO," THAT WOULD BE HELPFUL.

11 OKAY?

12 A. YES.

13 Q. THANK YOU.

14 AND WHEN YOU AND ALLAN WERE LIVING TOGETHER
15 AND MARRIED, BEFORE YOU SEPARATED, WHERE WERE YOU LIVING?

16 A. SEVERAL PLACES.

17 Q. OKAY. RIGHT WHEN YOU SEPARATED?

18 A. OH, IN BEND, OREGON.

19 Q. AND WHEN YOU AND ALLAN SPLIT, DID YOU BOTH
20 STAY IN OREGON, OR DID YOU BOTH MOVE?

21 A. I MOVED RIGHT AWAY.

22 Q. WHERE DID YOU MOVE TO?

23 A. TO SAN DIEGO.

24 Q. AND DID YOU LIVE BY YOURSELF OR WITH ANYONE
25 ELSE AT THAT TIME?

26 A. WHEN I FIRST CAME BACK DOWN, I LIVED WITH MY
27 MOM.

28 Q. DID YOU GROW UP HERE?

1 A. NO. I'VE BEEN BACK AND FORTH. I GREW UP IN
2 OREGON.

3 Q. BUT YOU HAD PREVIOUSLY LIVED IN SAN DIEGO?

4 A. YES, I HAVE.

5 Q. AND SO WHAT ABOUT BREANNA? DID SHE COME
6 WITH YOU OR --

7 A. SHE STAYED IN BEND WITH HIM. WE WERE GOING
8 TO DO FOR SIX WEEKS, AND THEN SHE CAME WITH ME. WE WERE
9 FIGURING OUT THE CUSTODY.

10 Q. AND AT SOME POINT DID YOU START A
11 RELATIONSHIP WITH AN INDIVIDUAL BY THE NAME OF RICHARD
12 ERIC ROSS?

13 A. YES.

14 Q. IS HE HERE IN COURT TODAY?

15 A. YES.

16 Q. WOULD YOU POINT OUT WHERE HE'S SEATED AND
17 DESCRIBE AN ARTICLE OF CLOTHING FOR THE RECORD?

18 A. HE'S THERE, WITH A TIE ON (INDICATING).

19 MS. DI TILLIO: MAY THE RECORD REFLECT THE WITNESS
20 HAS IDENTIFIED THE DEFENDANT?

21 THE COURT: YES.

22 MS. DI TILLIO: THANK YOU.

23 Q. AND DID YOU CALL HIM RICHARD, OR DID YOU
24 HAVE ANOTHER NAME FOR HIM?

25 A. ERIC.

26 Q. DID MOST PEOPLE CALL HIM ERIC?

27 A. YES.

28 Q. AND AT WHAT POINT DID YOU AND ERIC START A

1 RELATIONSHIP?

2 A. RIGHT AWAY, AFTER MY SEPARATION WITH ALLAN.

3 Q. DID YOU KNOW HIM FROM BEFORE?

4 A. YES.

5 Q. AND WAS HE FRIENDS WITH YOU AND ALLAN?

6 A. YES.

7 Q. AND WHEN YOU AND MR. ROSS BEGAN A

8 RELATIONSHIP, DID YOU, AT SOME POINT, MOVE IN TOGETHER?

9 A. YES.

10 Q. WHEN WAS THAT?

11 A. JANUARY OF 2009.

12 Q. DO YOU KNOW WHERE THAT WAS?

13 A. YES.

14 Q. WHERE WAS THAT?

15 A. IN THE UTC AREA. I THINK IT WAS LOMBARD

16 PLACE.

17 Q. HERE IN LA JOLLA?

18 A. YEAH, YEAH, RIGHT BY THE MALL.

19 Q. AND THAT'S PART OF THE COUNTY OF SAN DIEGO?

20 A. YES.

21 Q. DESCRIBE THE HOUSE YOU LIVED IN ON -- I

22 THINK YOU SAID LOMBARD.

23 A. YES. IT WAS AN UP -- WHEN WE MOVED IN

24 TOGETHER, WE MOVED INTO A TWO-BEDROOM UNIT. IT WAS

25 UPSTAIRS. IT HAD VAULTED CEILINGS, TWO BEDROOMS, TWO

26 BATHS.

27 Q. AND YOU SAID IT WAS UPSTAIRS.

28 BUT WAS IT A TWO-STORY ITSELF, OR WAS IT

1 JUST A SINGLE-STORY UNIT?

2 A. A SINGLE-STORY UNIT, JUST AN UPSTAIRS UNIT.

3 Q. AND IT WAS YOU AND ERIC AND WHO ELSE?

4 A. AND BREANNA PART-TIME. WE SPLIT CUSTODY.

5 Q. ALL RIGHT. AND WHEN YOU SPLIT CUSTODY, WAS
6 IT PRETTY MUCH 50/50?

7 A. YES.

8 Q. DID YOU AND ALLAN HAVE ISSUES AGREEING TO
9 HOW YOU WERE GOING TO SPLIT YOUR CUSTODY?

10 A. NO.

11 Q. AND DID YOU HAVE ANY DIFFICULTY COPARENTING
12 WITH HIM?

13 A. NO.

14 Q. SO WAS IT LIKE ONE WEEK ON, ONE WEEK OFF, OR
15 WERE THERE CHUNKS OF TIME SHE WOULD SPEND WITH YOU,
16 CHUNKS WITH HIM? HOW DID THAT WORK?

17 A. ONCE HE MOVED BACK DOWN TO SAN DIEGO, IT WAS
18 A WEEK AT A TIME, EVERY OTHER WEEK.

19 Q. AND DO YOU KNOW WHEN IT WAS HE MOVED TO
20 SAN DIEGO?

21 A. I BELIEVE IT WAS MAY OF 2008.

22 Q. SO IT WAS BEFORE --

23 A. BEFORE I MOVED IN WITH ERIC, YES.

24 Q. IF YOU COULD JUST DO ME ONE FAVOR?

25 I KNOW SOMETIMES, WHEN WE JUST SPEAK, IT'S
26 EASY TO SPEAK OVER EACH OTHER, BUT IT COMES OUT PRETTY
27 GARBLED ON THE RECORD. SO IF YOU'D JUST LET ME FINISH
28 THE QUESTION, I'LL LET YOU FINISH THE ANSWER.

1 OKAY?

2 A. (NO AUDIBLE RESPONSE.)

3 Q. OKAY. SO HE MOVED BACK TO SAN DIEGO BEFORE
4 YOU MOVED INTO THE LOMBARD PLACE LOCATION WITH THE
5 DEFENDANT?

6 A. YES.

7 Q. OKAY. AND SO AT THAT POINT, IT WAS A WEEK
8 ON, WEEK OFF, PRETTY EASYGOING SITUATION WITH YOU AND
9 ALLAN REGARDING BREANNA?

10 A. YES.

11 Q. AND AT SOME POINT DID ALLAN REMARRY?

12 A. YES.

13 Q. DO YOU KNOW WHEN THAT WAS OR ABOUT WHEN THAT
14 WAS?

15 A. 2009 OR '10.

16 Q. OKAY. SO SOMETIME AFTER YOU MOVED IN WITH
17 THE DEFENDANT?

18 A. YES. YES.

19 Q. AND IF YOU'RE NOT SURE, IT'S OKAY TO SAY
20 YOU'RE NOT SURE.

21 A. OKAY.

22 Q. SORRY.

23 AND ARE YOU FAMILIAR WITH THE PERSON THAT
24 ALLAN MARRIED?

25 A. YES.

26 Q. AND WHAT'S HER FIRST NAME?

27 A. MELISSA.

28 Q. DID MELISSA HAVE ANY CHILDREN?

1 A. YES.

2 Q. WHAT'S HER FIRST NAME?

3 A. HANNAH.

4 Q. HOW OLD WAS HANNAH COMPARED TO BREANNA?

5 A. THEY ARE ABOUT ONE YEAR APART.

6 Q. WHEN YOU LIVED ON LOMBARD PLACE WITH THE
7 DEFENDANT -- AND YOU SAID YOU HAD YOUR DAUGHTER PRETTY
8 MUCH EVERY OTHER WEEK -- THAT SECOND BEDROOM THAT WAS IN
9 THERE, WAS THAT DEVOTED TO HER?

10 A. YES.

11 Q. DID HANNAH EVER SPEND THE NIGHT THERE?

12 A. I DON'T RECALL HER SPENDING THE NIGHT THERE.
13 I DON'T REMEMBER.

14 Q. OKAY. AND THE WEEKS THAT BREANNA WAS WITH
15 HER DAD, WOULD HANNAH ALSO BE THERE AT HIS HOUSE? DO YOU
16 KNOW?

17 A. I'M SORRY.

18 CAN YOU REPEAT THAT?

19 Q. SURE.

20 WHEN BREANNA WAS WITH ALLAN, HER DAD --

21 A. YES.

22 Q. -- WAS HANNAH ALSO PRESENT AT THAT HOME?

23 A. YES.

24 Q. AND AT SOME POINT DID THE TWO GIRLS HAVE A
25 RELATIONSHIP?

26 A. YES.

27 Q. DID THEY CONSIDER EACH OTHER SISTERS?

28 A. YES.

1 Q. WHILE YOU WERE LIVING ON THE -- AT THE
2 LOMBARD PLACE ADDRESS, WHAT WAS THE -- AND DURING THE
3 TIME THAT YOU HAD BREANNA WITH YOU, WHAT WAS THE
4 ARRANGEMENT BETWEEN YOURSELF AND THE DEFENDANT IN REGARDS
5 TO CHILDCARE?

6 A. I MADE SURE THAT SHE WAS AT SCHOOL OR HAD
7 AFTER SCHOOL CARE.

8 Q. DID HE WATCH HER AT TIMES?

9 A. FOR SHORT PERIODS OF TIME, YES.

10 Q. AND DID HE EVER TAKE HER TO SCHOOL?

11 A. YES.

12 Q. WERE THERE TIMES WHERE HE WOULD BE HOME WITH
13 HER WITHOUT YOU THERE?

14 A. YES.

15 Q. AND ABOUT HOW LONG DID YOU LIVE AT THAT
16 LOMBARD PLACE ADDRESS?

17 A. I BELIEVE IT WAS ABOUT A YEAR AND A HALF.

18 Q. WHERE DID YOU MOVE TO NEXT?

19 A. TO POWAY.

20 Q. AND DO YOU RECALL THE STREET ADDRESS THERE
21 AT POWAY?

22 A. YES.

23 Q. WHAT'S THAT ADDRESS?

24 A. 12178 WILSEY WAY.

25 Q. IS THAT W-I-L-S-E-Y?

26 A. YES.

27 Q. AND YOU SAID THAT'S IN THE CITY OF POWAY?

28 A. CORRECT.

1 Q. IN THE COUNTY OF SAN DIEGO?

2 A. YES.

3 Q. AND WHEN DID YOU MOVE INTO THAT LOCATION?

4 WOULD THAT HAVE BEEN 2011?

5 A. YES.

6 Q. AND DO YOU RECALL APPROXIMATELY WHEN?

7 A. YES. IT WAS AROUND MEMORIAL DAY BECAUSE I

8 BELIEVE THAT WAS THE WEEKEND. SO MAY 2011.

9 Q. OKAY. AND WHAT KIND OF A RESIDENCE IS IT
10 THERE ON WILSEY WAY?

11 A. THEY WERE LIKE A FOUR-PLEX OR DUPLEX. WE
12 HAD A TWO-STORY, TWO-BEDROOM UNIT.

13 Q. IS IT ATTACHED TO OTHER UNITS?

14 A. WE WERE ATTACHED TO ONE SIDE.

15 Q. SO LIKE A TOWNHOUSE?

16 A. YES.

17 Q. ALL RIGHT. AND YOU SAID TWO BEDROOMS?

18 A. YES.

19 Q. SO ONE BEDROOM FOR YOU AND THE DEFENDANT?

20 A. CORRECT.

21 Q. AND WAS THE OTHER BEDROOM FOR BREANNA?

22 A. YES.

23 Q. AND AT THAT LOCATION DID HANNAH EVER COME
24 AND SPEND THE NIGHT?

25 A. YES.

26 Q. DID YOU HAVE A WAY FOR HER TO SLEEP AT YOUR
27 HOME, LIKE AN EXTRA BED OR ANYTHING LIKE THAT?

28 A. SHE SHARED MY DAUGHTER'S ROOM ON THE FLOOR.

1 Q. AND WHEN YOU WERE LIVING AT THAT LOCATION ON
2 WILSEY WAY -- YOU THINK IT WAS THE END OF MAY, BEGINNING
3 OF JUNE 2011 -- WERE YOU LIVING THERE UP UNTIL MAY OF
4 2012?

5 A. YES.

6 Q. DURING THE TIME THAT YOU LIVED THERE, DID
7 BREANNA GO TO SCHOOL?

8 A. YES.

9 Q. WHAT GRADE WAS SHE IN WHEN YOU LIVED ON
10 WILSEY WAY?

11 A. SECOND GRADE.

12 Q. SO SECOND ON? THIRD, MAYBE FOURTH AS WELL,
13 OR --

14 A. WE MOVED. BREANNA AND I MOVED AFTER -- IN
15 DECEMBER OF 2012.

16 Q. OKAY. SO YOU THINK SECOND GRADE SHE SPENT
17 AT WILSEY WAY?

18 A. CORRECT.

19 Q. AND DID SHE GO TO KINDERGARTEN?

20 A. YES.

21 Q. AND KINDERGARTEN, FIRST GRADE, DID SHE DO
22 THOSE WHEN SHE WAS ON LOMBARD PLACE?

23 A. YES.

24 Q. BEFORE LIVING ON LOMBARD PLACE, DID YOU LIVE
25 ANYWHERE ELSE WITH THE DEFENDANT?

26 A. NO.

27 Q. DID YOU BRIEFLY LIVE IN ANY LOCATION WHERE
28 HE WAS ALREADY LIVING?

1 A. LIVING, I GUESS -- CLARIFY THAT QUESTION. I
2 WOULD STAY AT HIS HOUSE ON THE WEEKENDS.

3 Q. OKAY. AND WHEN YOU STAYED AT HIS HOUSE, DID
4 BREANNA EVER STAY WITH YOU?

5 A. YES.

6 Q. WHERE WAS THAT ADDRESS? DO YOU KNOW?

7 A. IT WAS IN LA JOLLA. I DON'T RECALL THE
8 STREET NAME.

9 Q. OKAY. BUT IT WASN'T THE LOMBARD PLACE?

10 A. NO.

11 Q. SO THERE WAS HIS PLACE, THEN LOMBARD PLACE
12 TOGETHER AND THEN WILSEY WAY TOGETHER IN POWAY?

13 A. CORRECT.

14 Q. AND DURING THE TIME THAT YOU AND THE
15 DEFENDANT AND YOUR DAUGHTER WERE LIVING ON WILSEY WAY,
16 WAS THE RELATIONSHIP SIMILAR TO HOW YOU DESCRIBED IT IN
17 LOMBARD PLACE WITH THE DEFENDANT'S DUTIES IN RELATION TO
18 YOUR DAUGHTER?

19 A. YES. IT WAS MORE CONSISTENT, WHEN I HAD MY
20 DAUGHTER EVERY OTHER MONDAY, THAT HE WOULD TAKE HER TO
21 SCHOOL BECAUSE I HAD TO BE TO WORK AT A CERTAIN TIME.

22 Q. SO EVERY OTHER MONDAY, DID YOU HAVE TO GO TO
23 WORK EARLIER?

24 A. I HAD TO BE TO WORK BY 8:00 A.M., AND WE
25 COULDN'T DROP HER OFF AT SCHOOL TOO EARLY. SO --

26 Q. SO WAS HE WORKING AT THE TIME?

27 A. NO.

28 Q. SO HE WOULD -- YOU SAID, EVERY OTHER MONDAY,

1 HE WOULD DROP HER OFF AT SCHOOL.

2 WERE THERE OTHER DAYS WHERE HE WOULD DROP
3 HER AT SCHOOL?

4 A. I DON'T RECALL. THERE COULD HAVE BEEN IF I
5 HAD TO BE TO WORK EARLY, BUT I CAN'T SAY SPECIFICALLY OR
6 CONSISTENTLY.

7 Q. BUT, FOR SURE, EVERY OTHER MONDAY?

8 A. YES.

9 Q. ALL RIGHT. AND DURING THOSE DAYS WHERE HE
10 WOULD TAKE BREANNA TO SCHOOL, DID HE ALSO EVER TAKE
11 HANNAH, TO YOUR KNOWLEDGE?

12 A. YES.

13 Q. WHAT WAS THE SITUATION OR THE SETUP WITH
14 THAT?

15 A. THERE WERE A FEW TIMES THAT ALLAN OR
16 MELISSA, WHICH WAS HANNAH'S MOTHER -- THEY HAD TO BE TO
17 WORK EARLY AND ASKED IF WE COULD BRING HANNAH TO SCHOOL.
18 AND SO WE HAD BREANNA. SO IF IT WAS -- FELL ON A MONDAY,
19 HE WOULD TAKE THEM, SINCE I COULDN'T. AND THEY WERE
20 AWARE OF THAT.

21 Q. AND DID THEY GO TO THE SAME SCHOOL, THE
22 GIRLS?

23 A. YES.

24 Q. AND WAS THAT A SITUATION THAT APPEARED TO BE
25 WORKING?

26 A. YES.

27 Q. ABOUT HOW MANY TIMES DO YOU THINK THAT THE
28 DEFENDANT TOOK HANNAH AND BREANNA TO SCHOOL ON THOSE

1 MONDAYS DURING THE TIME PERIOD WHERE YOU WERE LIVING ON
2 WILSEY WAY?

3 A. FIVE OR LESS, IF IT WAS BOTH OF THEM.

4 Q. WERE THERE TIMES, WHEN YOU WERE LIVING ON
5 WILSEY WAY, WHERE THE DEFENDANT AND YOUR DAUGHTER WOULD
6 BE HOME ALONE, WITHOUT YOU THERE?

7 A. YES.

8 Q. WHAT WOULD YOU DO WITH BREANNA AFTER SCHOOL
9 ON DAYS THAT YOU WORKED?

10 A. HER DAD WOULD PICK HER UP MOST OF THE TIME.
11 THAT'S WHY WE MOVED TO POWAY. THERE WERE INSTANCES THAT
12 HE WOULD PICK HER UP, BUT NOT AS MANY. SO SHE WOULD BE
13 WITH HER DAD. OR THE BOYS AND GIRLS CLUB, I HAD
14 ARRANGEMENTS AS WELL.

15 Q. AND SOMETIMES THE DEFENDANT WOULD PICK HER
16 UP FROM SCHOOL AND STAY WITH HER IN THE AFTERNOON?

17 A. YES.

18 Q. I WANT TO TALK A LITTLE BIT ABOUT A
19 SENSITIVE TOPIC.

20 DURING THE COURSE OF YOUR RELATIONSHIP WITH
21 THE DEFENDANT, DID YOU HAVE A SEXUAL RELATIONSHIP?

22 A. YES.

23 Q. AND DURING THE COURSE OF YOUR SEXUAL
24 RELATIONSHIP WITH THE DEFENDANT, DID YOU AND HE EVER
25 UTILIZE ANY DEVICES OR DILDOS OR VIBRATORS, ANYTHING OF
26 THAT NATURE?

27 A. YES.

28 Q. CAN YOU DESCRIBE FOR US WHAT WE'RE TALKING

1 ABOUT HERE?

2 A. YES. THERE WERE -- THERE WAS ONE THAT WAS A
3 DILDO, PINK PLASTIC, LIKE, A BUNNY ON IT. THERE WAS
4 ANOTHER ONE THAT WAS SILVER BULLETS THAT HAD A REMOTE OR
5 CORDS. I BELIEVE THERE WERE TWO SILVER BULLETS AT THE
6 END OF THEM.

7 Q. AND -- SO THERE WAS TWO -- LET'S CALL THEM
8 DEVICES.

9 AND WERE THOSE SOMETHING THAT YOU AND HE
10 UTILIZED THROUGHOUT THE COURSE OF YOUR RELATIONSHIP?

11 A. YES.

12 Q. ALL RIGHT. WHERE WERE THEY KEPT?

13 A. IN A DRAWER IN OUR BEDROOM, IN A NIGHTSTAND.

14 Q. OKAY. SO A NIGHTSTAND -- IS IT NEXT TO THE
15 BED?

16 A. YES.

17 Q. AND IN CONJUNCTION WITH THE DILDO AND THE
18 VIBRATOR, DID YOU EVER UTILIZE ANY LUBRICANT OR ANYTHING
19 OF THAT NATURE?

20 A. YES.

21 Q. CAN YOU DESCRIBE THAT FOR US?

22 A. IT WAS ASTROGLIDE.

23 Q. DO YOU -- DID IT --

24 WAS IT ALWAYS THE SAME KIND, OR DID YOU
25 SWITCH THINGS UP?

26 A. IT WAS USUALLY THE SAME KIND. IT WAS CLEAR.
27 THERE MAY HAVE BEEN AN OFF-BRAND. THAT WAS THE MAIN ONE,
28 YES.

1 Q. AND WHERE WOULD THAT USUALLY BE KEPT?

2 A. WITH THE TOYS, IN THE DRAWER.

3 Q. AND ANYTHING PARTICULAR ABOUT THE BOTTLE
4 THAT YOU REMEMBER, ANY COLORS OR ANYTHING LIKE THAT?

5 A. IT WAS A CLEAR BOTTLE. AND I THINK THE
6 COLORING WAS PURPLE AND BLACK. LIKE, THE LOGO AND THE
7 LID WAS A COLOR, BLACK OR PURPLE, I BELIEVE.

8 Q. OKAY. AND AT ANY POINT, DID YOU AND THE
9 DEFENDANT HAVE A DISCUSSION ABOUT THE -- WHAT YOU
10 DESCRIBED AS THE SILVER BULLET?

11 A. YES.

12 Q. I WANT TO USE MAY 12TH, 2012, AS SORT OF A
13 BENCHMARK, THE DAY THE POLICE WERE CALLED.

14 A. OH, OKAY.

15 Q. AND -- I'M SORRY. MAY 21ST. I JUXTAPOSED
16 MY NUMBERS.

17 SO MAY 21ST WE'LL USE AS A BENCHMARK.

18 A. OKAY.

19 Q. BEFORE MAY 21ST, 2012, WHEN WAS THE LAST
20 TIME THAT YOU RECALL YOU AND THE DEFENDANT USED THE
21 SILVER BULLET?

22 A. I DON'T KNOW.

23 Q. WAS IT SOMETHING THAT WAS USED WITH ANY
24 FREQUENCY?

25 A. NO. THE OTHER TOY WAS USED MORE FREQUENTLY.

26 Q. OKAY. AND DID YOU BUY THE SILVER BULLET, OR
27 DID THE DEFENDANT BUY IT? DO YOU RECALL?

28 A. THE DEFENDANT HAD IT WHEN WE GOT TOGETHER.

1 SO --

2 Q. OKAY. AND WHAT ABOUT THE DILDO? WAS THAT
3 SOMETHING PURCHASED DURING THE COURSE OF THE
4 RELATIONSHIP?

5 A. I BELIEVE I HAD THAT, ACTUALLY.

6 Q. OKAY. AND AT SOME POINT DID -- BEFORE
7 MAY 21ST, 2012, DID YOU AND THE DEFENDANT DISCUSS GETTING
8 RID OF THE SILVER BULLET?

9 A. YES. IT WASN'T A DISCUSSION ON -- YES. HE
10 CALLED ME ONE DAY AT WORK --

11 MS. OLIVER: OBJECTION. HEARSAY. IT'S
12 NONRESPONSIVE.

13 THE COURT: OVERRULED.

14

15 BY MS. DI TILLIO:

16 Q. YOU MAY CONTINUE.

17 A. AND SAID THAT HE WENT UPSTAIRS AND HEARD
18 SOMETHING IN THE DRAWER, OPENED IT, AND NOTICED THE
19 VIBRATOR, THE SILVER BULLET WAS ON, AND THOUGHT THAT IT
20 COULD BE A FIRE HAZARD OR SOMETHING. HE JUST WANTED TO
21 CALL AND LET ME KNOW HE HAD THROWN IT AWAY.

22 Q. SO HE CALLED YOU AT WORK TO SPECIFICALLY
23 DISCUSS THAT?

24 A. YES.

25 Q. DO YOU RECALL APPROXIMATELY WHEN THAT MIGHT
26 HAVE BEEN?

27 A. EARLIER IN THE YEAR OF 2012. NO, I DON'T
28 RECALL SPECIFICALLY.

1 Q. OKAY. DO YOU RECALL IF IT WAS WHEN YOU WERE
2 LIVING ON WILSEY WAY OR WHEN YOU WERE LIVING IN LA JOLLA?

3 A. WILSEY WAY.

4 Q. DID YOU EVER SEE THE SILVER BULLET AFTER
5 THAT?

6 A. NO.

7 Q. AND I THINK YOU DESCRIBED IT HAD -- YOU
8 BELIEVED IT HAD TWO BULLETS?

9 A. YES.

10 Q. LIKE SILVER OBJECTS? WHAT DID THEY LOOK
11 LIKE? CAN YOU DESCRIBE THAT?

12 A. KIND OF LIKE AN EGG, BUT NOT FAT IN THE
13 MIDDLE, ALL, LIKE, ONE GIRTH SIZE.

14 Q. AND WHAT WAS ATTACHED TO IT?

15 A. CORDS.

16 Q. AND DID IT HAVE ANY --

17 HOW DID IT OPERATE? DID IT PLUG INTO THE
18 WALL? DID IT HAVE BATTERIES?

19 A. BATTERIES.

20 Q. I'D LIKE TO SHOW YOU WHAT I'M GOING TO MARK
21 AS THE COURT'S EXHIBIT 1. OF COURSE, NOW THE PICTURE IS
22 MISSING. WELL, WE'LL GET BACK TO THAT WHEN I CAN FIND
23 IT.

24 SO YOU INDICATED THAT IT WAS -- IT HAD A
25 BATTERY THAT WORKED WITH IT.

26 AND IT WOULD VIBRATE; IS THAT CORRECT?

27 A. CORRECT.

28

---000---

1 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
2 COURT'S EXHIBIT FOR IDENTIFICATION:
3 1 - 8 1/2 BY 11-INCH PAGE CONTAINING COLOR
4 PHOTOGRAPH DEPICTING SILVER DEVICE AND
5 BLACK REMOTE.)

6 ---000---

7 BY MS. DI TILLIO:

8 Q. ALL RIGHT. AND -- OH, HERE WE GO.

9 I'M GOING TO SHOW YOU WHAT I'M MARKING AS
10 COURT'S EXHIBIT NUMBER 1. AND I'M JUST GOING TO ASK YOU
11 TO TAKE A LOOK AT IT.

12 AND, IF YOU COULD, TELL ME WHETHER OR NOT
13 YOU RECOGNIZE WHAT'S DEPICTED IN THAT PHOTOGRAPH.

14 THE COURT: COULD YOU GET THE TAG, PLEASE?

15 MS. DI TILLIO: YES.

16 THE WITNESS: YES. THIS IS WHAT THE BULLET LOOKED
17 LIKE. I BELIEVE THERE WERE TWO CORDS FROM IT. IT WAS
18 THE SAME THING ON THE END. AND AS THE REMOTE -- I
19 BELIEVE HAD LIKE AN ORANGE COLOR ON IT OR SOMETHING. IT
20 WASN'T ALL BLACK.

21

22 BY MS. DI TILLIO:

23 Q. OKAY.

24 A. BUT VERY SIMILAR, YES.

25 MS. DI TILLIO: MAY I PUBLISH TO JURY, YOUR HONOR?

26 THE COURT: YES.

27 MS. DI TILLIO: OKAY. HERE WE GO. IT ACTUALLY
28 WORKED.

1 Q. SO COURT'S EXHIBIT 1 SHOWS A SILVER SORT OF
2 EGG-SHAPED ITEM ON THE LEFT AND THEN A BLACK -- LOOKS
3 LIKE WHERE YOU MIGHT PUT BATTERIES? WOULD THAT BE FAIR?

4 A. YES. I WOULD GUESS THE SPEED CONTROL THING
5 ON THE FRONT, YES.

6 Q. OKAY. AND THIS IS SIMILAR IN APPEARANCE TO
7 THE ONE THAT YOU AND THE DEFENDANT WOULD SOMETIMES
8 UTILIZE?

9 A. YES.

10 Q. AND IT WAS KEPT IN THE DRAWER, THE
11 NIGHTSTAND?

12 A. YES.

13 ---000---

14 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
15 COURT'S EXHIBIT FOR IDENTIFICATION:

16 2 - 8 1/2 BY 11-INCH PAGE CONTAINING COLOR
17 PHOTOGRAPH DEPICTING FRONT DOOR OF
18 RESIDENCE MARKED 12178.)

19 ---000---

20 BY MS. DI TILLIO:

21 Q. OKAY. THANK YOU.

22 I'D LIKE TO SHOW YOU SOME ADDITIONAL
23 PHOTOGRAPHS OF YOUR RESIDENCE. I'M GOING TO SHOW YOU
24 WHAT'S MARKED AS COURT'S EXHIBIT NUMBER 2.

25 DO YOU RECOGNIZE WHAT'S SHOWN IN THAT
26 PHOTOGRAPH?

27 A. YES.

28 Q. WHAT'S SHOWN IN PHOTOGRAPH 2 OR COURT'S

1 EXHIBIT 2?

2 A. THE RESIDENCE AT 12178 WILSEY WAY.

3 Q. IS THAT THE FRONT DOOR?

4 A. YES.

5 Q. AND IT HAS THE NUMBER ON IT?

6 A. YES.

7 Q. AND THEN THE CARS THAT ARE THERE, WOULD
8 THOSE BE WHERE YOUR CAR WOULD BE PARKED?

9 A. (NO AUDIBLE RESPONSE.)

10 Q. LIKE, ARE THOSE ASSIGNED SPOTS OR --

11 A. YES, THEY ARE ASSIGNED SPOTS. I HAD ONE
12 CARPORT COVER, AND THEN THERE WAS ONE UNCOVERED. I JUST
13 I DON'T RECALL IF IT WAS THIS ONE -- ONE OF THESE. IT
14 WASN'T THE ONE TO THE LEFT OR TO THE RIGHT.

15 Q. OKAY. AND IS THAT AN ACCURATE DEPICTION OF
16 HOW YOUR RESIDENCE APPEARED ON MAY 21ST, 2012?

17 A. YES.

18 Q. NOTWITHSTANDING THE CARS? THEY MAY OR MAY
19 NOT --

20 A. YES.

21 Q. IF -- THE CARS MAY NOT HAVE BEEN THERE, BUT
22 THAT'S WHAT YOUR RESIDENCE LOOKED LIKE ON THAT DATE?

23 A. YES.

24 Q. ALL RIGHT. I'LL SHOW THAT ON THE SCREEN
25 THERE.

26 SO IT'S ATTACHED ON THE ONE SIDE, AND THEN
27 YOU HAVE THE OTHER SIDE THAT'S NOT ATTACHED; IS THAT
28 CORRECT?

1 A. CORRECT.

2 Q. OKAY. IF YOU'D LOOK TO THE NEXT PHOTOGRAPH,
3 WHICH IS COURT'S EXHIBIT NUMBER 3, CAN YOU DESCRIBE
4 WHAT'S DEPICTED IN THAT PICTURE?

5 A. THE DRIVEWAY DOWN THE OTHER -- IN THE
6 COMPLEX.

7 Q. OKAY.

8 A. THE TRASH ENCLOSURE.

9 Q. SO IF YOU WERE STANDING IN FRONT OF YOUR
10 DOOR WHERE THIS FIRST PICTURE IS SHOWN, COURT'S EXHIBIT
11 2, WOULD THAT BE TO THE LEFT OR TO THE RIGHT OF THE
12 DRIVE?

13 A. TO THE LEFT.

14 Q. IS THAT AN ACCURATE DEPICTION OF HOW IT
15 APPEARED ON MAY 21ST, 2012?

16 A. YES.

17 Q. SO IT SHOWS THE --
18 AND I'M GOING TO PUBLISH -- PUBLISHING THAT
19 TO THE JURY.

20 ---000---

21 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
22 COURT'S EXHIBIT FOR IDENTIFICATION:

23 3 - 8 1/2 BY 11-INCH PAGE CONTAINING COLOR
24 PHOTOGRAPH DEPICTING GATED TRASH AREA
25 TO LEFT, PARKING TO RIGHT, LARGE TREE
26 AND FENCE.)

27 ---000---

28 ///

1 BY MS. DI TILLIO:

2 Q. IN COURT'S EXHIBIT 3, THAT SHOWS THE TRASH
3 AREA ON THE LEFT AND THEN THE DRIVEWAY OUT? WOULD THAT
4 BE FAIR?

5 A. IT DEAD ENDS AT THIS AREA (INDICATING). YOU
6 CANNOT --

7 Q. SO THERE'S A BIG TREE IN THE MIDDLE OF
8 THE -- TOWARDS THE BACK, WOULD THAT BE SORT OF THE AREA
9 WHERE IT DEAD ENDS?

10 A. YES. THERE'S A FENCE BACK THERE, I BELIEVE.

11 ---000---

12 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
13 COURT'S EXHIBIT FOR IDENTIFICATION:

14 4 - 8 1/2 BY 11-INCH PAGE CONTAINING COLOR
15 PHOTOGRAPH DEPICTING END AREA OF
16 DRIVEWAY WITH CLOSER VIEW OF LARGE TREE
17 AND FENCE.)

18 ---000---

19 BY MS. DI TILLIO:

20 Q. AND IF YOU'D JUST GO AHEAD TO THE NEXT
21 PICTURE, WHICH IS COURT'S EXHIBIT 4, CAN YOU DESCRIBE
22 WHAT'S SHOWN IN THAT PICTURE?

23 A. THAT WOULD BE THE END OF WHERE THAT BIG TREE
24 IS AND THE FENCE.

25 Q. SO CONTINUING ON FROM COURT'S 3, WHERE THE
26 TREE IS, THAT SHOWS ADDITIONAL -- AN ADDITIONAL AREA
27 WHERE IT DEAD ENDS?

28 A. YES, CLOSER.

1 Q. AND IS THAT AN ACCURATE DEPICTION OF HOW
2 THAT WOULD HAVE APPEARED ON MAY 21ST, 2012?

3 A. YES.

4 Q. OKAY. IN THE MIDDLE OF THAT PHOTOGRAPH, IT
5 APPEARS TOWARDS THE BACK THAT THERE'S SOMEWHAT OF A
6 LITTLE PATH? IS THAT ACCURATE?

7 A. YES.

8 Q. DO YOU KNOW WHERE THAT PATH GOES?

9 A. I DO NOT.

10 Q. OKAY. HAVE YOU EVER BEEN DOWN THAT PATH?

11 A. NO.

12 Q. ALL RIGHT. THANK YOU.

13 ON THE -- ON MAY 21ST, 2012, HOW DID YOU
14 BECOME AWARE THAT THE POLICE WERE INVOLVED AT YOUR HOUSE?

15 A. I RECEIVED A CALL FROM ERIC AS I WAS GETTING
16 TO WORK. IT WAS A MONDAY MORNING. SO HE WAS TAKING THE
17 GIRLS TO SCHOOL AND SAID -- HE WAS TELLING ME THERE WAS A
18 PROBLEM WITH THE KIDS. HANNAH WAS TRYING TO RUN AWAY.
19 HE TRIED TO CHASE HER, AND HE TORE HIS ACHILLES.

20 Q. LET ME BACK UP A LITTLE BIT.

21 A. OKAY.

22 Q. HAVING GOTTEN A PHONE CALL ABOUT THE POLICE
23 THAT DAY, DID YOU THINK BACK TO HOW THAT MORNING HAD
24 GONE?

25 A. (NO AUDIBLE RESPONSE.)

26 Q. IS THAT DAY FAMILIAR IN YOUR MIND?

27 A. OH, YES.

28 Q. OKAY. SO TELL US ABOUT THAT MORNING.

1 ANYTHING UNUSUAL?

2 A. THE MORNING WAS NORMAL. MELISSA DROPPED
3 HANNAH OFF EARLY. IT WAS A SPECIAL DAY THAT WE WOULD
4 TAKE HANNAH TO SCHOOL.

5 Q. ABOUT HOW EARLY?

6 A. 6:00 OR 6:30 A.M.

7 Q. OH, OKAY.

8 VERY EARLY?

9 A. YES.

10 Q. AND WERE YOU AWAKE AT THAT TIME?

11 A. I WOKE -- YES. SHE HAD TEXTED ME THAT SHE
12 WAS ON HER WAY. SO WE GOT UP.

13 Q. AND YOU AND ERIC?

14 A. I BELIEVE HE DID, YES. I KNOW I STARTED TO
15 GET READY FOR WORK, AND I KNEW SHE WAS COMING.

16 Q. OKAY. WHAT ABOUT BREANNA? WAS SHE STILL
17 SLEEPING?

18 A. SHE WAS STILL SLEEPING, YES.

19 Q. AND WHAT WERE YOU DOING WHEN HANNAH ARRIVED?

20 A. I DON'T KNOW EXACTLY. I BELIEVE I WAS MAYBE
21 GETTING INTO THE SHOWER. I BELIEVE ERIC DID GET UP AND
22 GO DOWNSTAIRS FOR HER.

23 Q. ALL RIGHT. SO THIS IS A TWO-STORY HOME?

24 A. YES.

25 Q. BEDROOMS UPSTAIRS?

26 A. YES.

27 Q. DOWNSTAIRS, LIVING ROOM, KITCHEN?

28 A. KITCHEN. DINING ROOM, KITCHEN.

1 Q. SO YOU BELIEVE ERIC WENT DOWNSTAIRS WHEN
2 HANNAH GOT THERE, AND YOU GOT IN THE SHOWER?

3 A. YES.

4 Q. AT THAT POINT, DO YOU KNOW IF BREANNA WAS
5 AWAKE, OR WAS SHE STILL SLEEPING?

6 A. I DON'T KNOW.

7 Q. WHAT WOULD BE HER NORMAL TIME TO WAKE UP IN
8 THE MORNING?

9 A. BY 7:00.

10 Q. SO YOU'RE GETTING READY FOR WORK? NOTHING
11 UNUSUAL?

12 A. CORRECT.

13 Q. ALL RIGHT. WHAT HAPPENED AFTER YOU WERE
14 DONE WITH YOUR SHOWER?

15 A. I FINISHED GETTING DRESSED, GETTING READY.
16 BREANNA GOT UP, STARTED TO GET READY FOR SCHOOL. THE
17 GIRLS WENT DOWNSTAIRS, I BELIEVE, HAD BREAKFAST WHILE I
18 WAS STILL GETTING READY.

19 Q. ABOUT HOW LONG DO YOU THINK IT TOOK FOR YOU
20 TO GET READY?

21 A. A HALF AN HOUR.

22 Q. OKAY. AFTER YOU GOT READY FOR WORK, DID YOU
23 STICK AROUND AND HAVE BREAKFAST, OR DID YOU LEAVE?

24 A. I WENT DOWN AND MADE MY LUNCH AND THEN LEFT.

25 Q. WHEN YOU LEFT, WHERE WERE THE GIRLS?

26 A. I DON'T RECALL IF THEY WERE UPSTAIRS OR
27 DOWNSTAIRS.

28 Q. DO YOU KNOW IF THEY WERE TOGETHER?

1 A. I DON'T REMEMBER.

2 Q. OKAY. AND WHAT ABOUT THE DEFENDANT? DO YOU
3 REMEMBER WHAT HE WAS DOING WHEN YOU LEFT?

4 A. I DON'T REMEMBER.

5 Q. WHAT TIME, NORMALLY, WOULD THE DEFENDANT
6 LEAVE TO TAKE THE GIRLS TO SCHOOL ON A MONDAY WHEN HE WAS
7 TAKING THEM?

8 MS. OLIVER: OBJECTION, YOUR HONOR. SPECULATION.
9 HEARSAY.

10 THE COURT: OVERRULED.

11 IF YOU KNOW.

12

13 BY MS. DI TILLIO:

14 Q. IF YOU KNOW THE ANSWER, YOU CAN --

15 A. OH, OKAY. 7:40, 7:45. THEY NEEDED TO BE
16 THERE BY 8:00 A.M.

17 Q. AND IS THE SCHOOL CLOSE BY TO THE HOUSE?

18 A. YES.

19 Q. AND YOU SAID THAT YOU WENT TO WORK AND THEN,
20 WHILE YOU WERE AT WORK, YOU GOT A PHONE CALL FROM THE
21 DEFENDANT.

22 WAS THAT THE FIRST CALL YOU GOT REGARDING
23 THIS SITUATION?

24 A. YES.

25 Q. AND BASED ON YOUR CONVERSATION WITH THE
26 DEFENDANT, DID YOU DO ANYTHING OR GO ANYWHERE?

27 A. I TURNED AROUND AND CAME BACK TO THE HOUSE.

28 Q. YOU WERE STILL IN THE CAR?

1 A. I WAS OPENING THE DOOR TO MY WORK BUILDING.
2 I GOT THE CALL AND TURNED AROUND AND DROVE HOME.

3 Q. AND WHAT DID YOU SEE WHEN YOU GOT HOME?

4 A. I SAW COP -- WELL, COP CARS PARKED OUTSIDE
5 OF MY HOME. I SAW -- I GUESS -- I SAW COP CARS PARKED
6 OUTSIDE MY HOME. I WENT TO PARK. AND THEN ALLAN AND
7 MELISSA DROVE UP DIRECTLY BEHIND ME.

8 Q. DID THEY HAVE THE GIRLS WITH THEM AT THAT
9 POINT, OR WERE THEY BY THEMSELVES?

10 A. NO. I'M SORRY. ALLAN AND MELISSA WERE
11 THERE FIRST BECAUSE THEY WERE OUTSIDE WITH THE GIRLS WHEN
12 I GOT THERE.

13 Q. OKAY. AND WHAT HAPPENED AFTER THAT?
14 ALLAN AND MELISSA, THEY HAVE THE GIRLS.
15 ARE THEY IN THE CAR? ARE THEY OUTSIDE?
16 WHAT'S EVERYONE DOING?

17 A. IT WAS CHAOS. THERE WAS SOME SHERIFFS
18 OUTSIDE TALKING TO ALLAN AND MELISSA. I GOT PULLED
19 ASIDE, I BELIEVE, BY A SHERIFF, SO I COULD FIND OUT WHAT
20 WAS GOING ON. HANNAH WAS IN THE CAR. BREANNA WAS
21 OUTSIDE, I THINK, WITH ALLAN.

22 Q. OKAY. DID --
23 WHAT DID YOU DO AFTER ALL THE CHAOS WAS
24 GOING ON? WHAT HAPPENED NEXT?

25 A. I SAT OUTSIDE WITH BREANNA AND SPOKE WITH
26 ONE OF THE SHERIFFS AND --

27 Q. DID YOU TALK TO BREANNA ABOUT WHY THE POLICE
28 WERE THERE?

1 A. I JUST -- ALLAN AND MELISSA TOLD ME WHY THE
2 POLICE WERE THERE.

3 AND I ASKED BREANNA IF THIS WAS TRUE.

4 AND SHE SAID "YES."

5 THAT WAS THE ONLY CONVERSATION WE HAD.

6 Q. WHAT ABOUT SINCE THEN? HAVE YOU TALKED
7 ABOUT WHAT HAPPENED TO HER?

8 A. NO.

9 Q. AFTER THAT CONVERSATION HAPPENED WITH ALLAN
10 AND MELISSA, YOU, BREANNA, WHERE DID EVERYBODY THEN GO?

11 A. ALLAN AND MELISSA TOOK BREANNA AND HANNAH,
12 AND I WENT BACK INTO THE HOUSE.

13 Q. WHO WAS IN THE HOUSE WHEN YOU WERE THERE?

14 A. THE DEFENDANT.

15 Q. OKAY. AND I'M ASSUMING, AT SOME POINT, THE
16 POLICE LEFT?

17 A. YES.

18 Q. AND AFTER THE POLICE LEFT, DID YOU GO BACK
19 TO WORK? WHAT DID YOU DO?

20 A. NO.

21 Q. WHAT DID YOU DO THAT DAY?

22 A. I DROVE HIM TO THE V.A. HOSPITAL.

23 Q. THE DEFENDANT?

24 A. YES.

25 Q. WHY DID HE NEED TO GO TO THE HOSPITAL?

26 A. HE SAID HE TORE HIS ACHILLES TENDON FROM
27 RUNNING AFTER HANNAH.

28 Q. AND AFTER YOU TOOK HIM TO THE HOSPITAL, WHAT

1 DID YOU DO?

2 A. WE WENT BACK HOME.

3 Q. DID -- DID YOU AND HE HAVE ANY CONVERSATIONS
4 ABOUT THE DILDO AND THE LUBRICANT THAT WAS IN THE
5 NIGHTSTAND NEXT TO YOUR BED?

6 A. NO.

7 Q. AFTER THE POLICE WERE INVOLVED?

8 A. NO.

9 Q. AT ANY POINT DID YOU -- DO YOU KNOW WHAT
10 HAPPENED TO THAT STUFF?

11 A. YES.

12 Q. DID YOU DO ANYTHING WITH IT?

13 A. NO.

14 Q. WAS IT STILL AT YOUR HOUSE?

15 A. IT WAS.

16 Q. ON THAT DAY, MAY 21ST?

17 A. ON THAT DAY.

18 Q. AND AT SOME POINT WAS IT GONE FROM YOUR
19 HOUSE?

20 A. YES.

21 Q. WHEN WAS THAT? DO YOU RECALL?

22 A. I BELIEVE JUNE 1ST WAS A FRIDAY, WHICH IS
23 WHEN THE SEARCH WARRANT WAS AT MY HOME. PRIOR TO THAT, A
24 DAY OR TWO, WE JUST -- I HAD CHILD SERVICES, PROTECTION
25 -- I COULD NOT HAVE MY DAUGHTER ALONE. SO SHE WAS COMING
26 TO MY HOME THAT FRIDAY TO DO A HOME INTERVIEW, TO SEE IF
27 IT WAS A SAFE ENVIRONMENT FOR HER TO COME BACK TO.

28 Q. WAS THE DEFENDANT STILL LIVING WITH YOU AT

1 THAT TIME?

2 A. YES.

3 Q. OKAY. WHAT HAPPENED IN REGARDS TO THAT?

4 A. HE WAS GOING TO STAY WITH A FRIEND, AND HE
5 PACKED UP CERTAIN THINGS.

6 I GOT NERVOUS AND THOUGHT, "WELL, I DON'T
7 WANT ALCOHOL BOTTLES IN THE HOUSE."

8 SO WE GOT RID OF THAT.

9 I SAID, "SEX TOYS, LET'S GET RID OF THAT."

10 AND HE -- HE HAD AMMUNITION AND GUNS AND
11 SUCH. LET'S GET RID OF THAT.

12 SO WE PACKED THOSE ITEMS UP, AND HE TOOK
13 THEM TO HIS FRIEND'S HOUSE.

14 Q. AND DID HE TAKE ANY OTHER PERSONAL ITEMS
15 WITH HIM?

16 A. HIS LAPTOP, SOME CLOTHES.

17 Q. AND THEN HE MOVED OUT?

18 A. WE DIDN'T KNOW WHAT WAS GOING TO HAPPEN. SO
19 THAT I WASN'T -- HE WAS GOING TO STAY THERE TEMPORARILY.

20 Q. OKAY. AND THEN DID BREANNA COME HOME TO
21 YOU?

22 A. NO.

23 Q. WHERE DID SHE STAY?

24 A. WITH ALLAN AND MELISSA.

25 Q. OKAY. WAS THAT TEMPORARY AS WELL?

26 A. TEMPORARY UNTIL, YES, I COULD HAVE MY RIGHTS
27 BACK.

28 Q. OKAY. AND HAD YOU BEEN INVOLVED WITH CPS

1 BEFORE?

2 A. NO.

3 Q. OKAY. SO WERE YOU -- SAFE TO SAY, WERE YOU
4 SORT OF NOT KNOWING -- YOU DID NOT KNOW WHAT TO EXPECT
5 WHEN THEY CAME?

6 A. CORRECT.

7 MS. DI TILLIO: THANK YOU.

8 I HAVE NOTHING FURTHER AT THIS TIME.

9 THE COURT: CROSS-EXAMINATION.

10

11

CROSS-EXAMINATION

12

13 BY MS. OLIVER:

14 Q. THE DAY THAT YOU INDICATED THAT MR. ROSS
15 CALLED YOU AT WORK TO TELL YOU THAT HE HEARD THE
16 VIBRATION COMING FROM THE NIGHTSTAND, AND HE SUSPECTED
17 THAT IT WAS THE SILVER BULLET, HE TOLD YOU THAT HE WAS
18 GOING TO GET RID OF IT THAT DAY?

19 A. HE BELIEVED IT COULD BE A FIRE HAZARD FROM
20 GOING OFF AND TOLD ME HE THREW IT AWAY THAT DAY.

21 Q. DID HE ASK YOU IF YOU HAD TURNED IT ON BY
22 MISTAKE?

23 A. I DON'T RECALL.

24 Q. DO YOU KNOW IF -- DO YOU RECALL WHETHER OR
25 NOT HE ASKED YOU IF BREANNA HAD TURNED IT ON BY MISTAKE?

26 A. NO.

27 Q. AFTER MR. ROSS SAID THAT HE WAS GOING TO
28 THROW THAT DEVICE AWAY, DID YOU EVER SEE IT IN THE HOUSE?

1 A. NO.

2 Q. NOW, AS BREANNA'S MOTHER, WERE YOU
3 RESPONSIBLE FOR DOING HER LAUNDRY AT THE HOUSE WHEN SHE
4 WAS WITH YOU?

5 A. YES -- WELL, THE DEFENDANT DID LAUNDRY
6 SOMETIMES AS WELL.

7 Q. OKAY.

8 A. WE BOTH DID IT.

9 Q. AND SO IT WAS EITHER YOU OR HIM, BUT
10 EVERYONE -- THE ADULTS WOULD BE RESPONSIBLE FOR THE
11 HOUSEHOLD LAUNDRY?

12 A. CORRECT.

13 Q. WHEN YOU DID THE LAUNDRY OR WHEN YOU WOULD
14 SEE UNDERGARMENTS OF BREANNA'S, DID YOU EVER NOTICE ANY
15 BLOOD IN HER PANTIES?

16 A. NO.

17 Q. DID YOU EVER NOTICE ANY BLOOD IN HER PANTS,
18 LIKE IN THE SEAT OF HER PANTS?

19 A. NO.

20 Q. AFTER YOU LEARNED OF THE ALLEGATIONS AGAINST
21 MR. ROSS, DID YOU HAVE BREANNA PARTICIPATE IN A PHYSICAL
22 EXAMINATION?

23 A. NO.

24 Q. WHEN DID YOU FIRST MEET MR. ROSS?

25 A. I DON'T RECALL THE YEAR. I BELIEVE IT WAS
26 2001, WHEN I SOLD MY CONDOMINIUM IN RANCHO PENASQUITOS.

27 Q. SO WHEN YOU FIRST MET HIM, IT WAS IN
28 SAN DIEGO COUNTY?

1 A. CORRECT.

2 Q. AND YOU WERE STILL MARRIED TO ALLAN AT THE
3 TIME?

4 A. YES.

5 Q. AND HOW WAS IT THAT YOU MET MR. ROSS?

6 A. THROUGH A MUTUAL FRIEND.

7 Q. AT WHAT POINT DID YOUR FRIENDSHIP WITH
8 MR. ROSS BECOME SEXUAL?

9 MS. DI TILLIO: OBJECTION. RELEVANCE.

10 THE COURT: OVERRULED.

11 THE WITNESS: IN 2007.

12

13 BY MS. OLIVER:

14 Q. AND WHEN YOU MET MR. ROSS THROUGH THAT
15 MUTUAL FRIEND, WAS THAT AT A WEDDING?

16 A. THAT'S NOT WHEN I MET HIM, BUT I KNEW HIM
17 BEFORE THAT.

18 Q. OKAY. WHEN YOU SAY YOU KNEW HIM BEFORE
19 THAT, CAN YOU CLARIFY JUST A LITTLE BIT?

20 A. THE -- I MET HIM FIRST WHEN HE SOLD MY
21 CONDOMINIUM. AND IT WAS YEARS LATER, WHEN OUR FRIENDS
22 GOT MARRIED AND WE WERE BOTH IN THE WEDDING PARTY.

23 Q. AND WHAT YEAR WAS THAT?

24 A. 2007.

25 Q. WHEN YOU BEGAN YOUR SEXUAL RELATIONSHIP WITH
26 MR. ROSS, WERE YOU STILL MARRIED TO ALLAN?

27 MS. DI TILLIO: OBJECTION. RELEVANCE.

28 THE COURT: SUSTAINED.

1 BY MS. OLIVER:

2 Q. DID YOU, MR. ROSS AND ALLAN PARTICIPATE IN
3 SEXUAL ACTS TOGETHER?

4 MS. DI TILLIO: OBJECTION. RELEVANCE.

5 THE COURT: SUSTAINED.

6 MS. OLIVER: YOUR HONOR, MAY WE HAVE A BRIEF
7 SIDEBAR?

8 THE COURT: YES.

9 ---000---

10 (THE FOLLOWING PROCEEDINGS WERE HELD AT SIDEBAR,
11 OUTSIDE THE PRESENCE OF THE JURORS AND THE
12 ALTERNATE JURORS.)

13 ---000---

14 THE COURT: SO THE RELEVANCE IS?

15 MS. OLIVER: YOUR HONOR, I BELIEVE THAT IT GOES
16 TOWARDS MOTIVE AS TO MR. ALLAN AND -- BECAUSE I BELIEVE
17 THAT TAMI STATED THAT THEY WERE ALL FRIENDS AND THAT THEY
18 ALL GOT ALONG, BUT IT'S THE DEFENSE'S POSITION THAT IT'S
19 THE EXACT OPPOSITE, BASED UPON THE CIRCUMSTANCES THEY
20 MET, THEIR RELATIONSHIP AND WHY TAMI AND ALLAN SPLIT UP.
21 AND THAT GOES TOWARDS THE ANIMOSITY THAT ALLAN HAS
22 TOWARDS MY CLIENT.

23 THE COURT: WELL, WHAT'S THE OFFER OF PROOF AS TO
24 THE EVIDENCE? WHAT'S THE EVIDENCE?

25 MS. OLIVER: THE EVIDENCE IS JUST --

26 THE COURT: WHAT'S THE EVIDENCE --

27 SO LET ME SEE IF I UNDERSTAND THIS.

28 MS. OLIVER: UH-HUH.

1 THE COURT: YOU'RE SAYING THERE'S ANIMOSITY BETWEEN
2 ALLAN AND THE DEFENDANT?

3 MS. OLIVER: YES.

4 THE COURT: ALL RIGHT. SO WHAT'S THE OFFER OF
5 PROOF? WHAT'S THE EVIDENCE THAT'S GOING TO DESCRIBE THE
6 OFFER OF PROOF?

7 MS. OLIVER: THE EVIDENCE WILL BE THAT I BELIEVE
8 THAT TAMI WILL SAY THAT THE THREE OF THEM WERE ENGAGED IN
9 A SEXUAL RELATIONSHIP AND THAT SHE AND MY CLIENT BEGAN A
10 RELATIONSHIP INDEPENDENT. AND THAT WAS ONE OF THE CAUSES
11 FOR THE DIVORCE OF TAMI AND ALLAN.

12 MS. DI TILLIO: THAT MAY BE A PROBLEM BETWEEN TAMI
13 AND ALLAN, BUT THAT DOESN'T GIVE -- THAT'S NOT THE
14 EVIDENCE THAT WOULD BE APPROPRIATE TO GIVE FOR ALLAN'S
15 ANIMOSITY TOWARDS THE DEFENDANT.

16 MS. OLIVER: WELL, I DISAGREE BECAUSE, IF MR. ROSS
17 WAS HAVING ANOTHER -- A SEXUAL RELATIONSHIP ON THE SIDE
18 WITH ALLAN'S WIFE, THAT WOULD CAUSE ANIMOSITY BETWEEN
19 ALLAN AND MY CLIENT AS WELL AS ALLAN AND TAMI.

20 MS. DI TILLIO: SHE'S NOT THE WITNESS TO BRING THAT
21 IN, YOUR HONOR. IF IT'S HIS ANIMOSITY, THEN HE WOULD BE
22 THE WITNESS TO BRING THAT IN THROUGH.

23 THE COURT: WELL --

24 MS. OLIVER: I MEAN, BUT I THINK YOU OPENED THE --

25 THE COURT: SO WHAT'S THE OFFER OF PROOF, THOUGH?
26 DID THEY HAVE A RELATIONSHIP OR NOT?

27 MS. DI TILLIO: OH, I THINK THEY DID, YEAH.

28 THE COURT: WHO'S "THEY"?

1 MS. DI TILLIO: I THINK THAT WHAT MISS OLIVER IS
2 SAYING HAPPENED, THAT THERE WAS A MOMENT WHERE THE THREE
3 OF THEM WERE INVOLVED. AND THEN, AFTER THAT, TAMI AND
4 THE DEFENDANT ENDED UP IN A RELATIONSHIP.

5 THE COURT: WHEN YOU SAY "THE THREE OF THEM WERE
6 INVOLVED" --

7 MS. DI TILLIO: ALLAN, THE DEFENDANT AND TAMI.

8 THE COURT: AT THE SAME TIME?

9 MS. DI TILLIO: TOGETHER.

10 MS. OLIVER: YES.

11 MS. DI TILLIO: TOGETHER. THERE WAS A THREESOME.

12 THE COURT: OKAY. AND WHEN WAS THAT?

13 MS. DI TILLIO: I DON'T KNOW.

14 MS. OLIVER: IT SOUNDS AS IF IT WAS IN 2007, BUT IT
15 WAS WHEN ALLAN AND TAMI WAS STILL MARRIED.

16 THE COURT: ALL RIGHT.

17 OKAY. THE OBJECTION IS OVERRULED.

18 I THINK IT'S GOING TO GO TO -- AS I
19 UNDERSTAND IT --

20 FIRST OF ALL, LET ME ASK THIS QUESTION.

21 WHAT IS IT THAT ALLAN IS GOING TO TESTIFY
22 ABOUT?

23 MS. DI TILLIO: WELL, IN RELATION TO THAT
24 PARTICULAR EVENT?

25 THE COURT: NO. IN RELATIONSHIP TO YOUR
26 CASE-IN-CHIEF. BECAUSE, ESSENTIALLY, WHAT WE'RE -- AS I
27 UNDERSTAND IT, THIS GOES TOWARDS ALLAN'S MOTIVE OR BIAS
28 ABOUT HIS TESTIMONY, BUT I NEED TO KNOW EXACTLY WHAT IT

1 IS HE'S GOING TO TESTIFY ABOUT BEFORE I CAN MAKE AN
2 INTELLIGENT RULING.

3 MS. DI TILLIO: SURE. HE'S GOING TO TESTIFY TO THE
4 NATURE OF THE CUSTODY SITUATION, HOW EVERYBODY -- YOU
5 KNOW, WHERE EVERYBODY LIVED AND SHARED CUSTODY AND TOOK
6 CARE OF THE CHILDREN.

7 HE IS ONE OF THE FIRST ONES TO GET A
8 DISCLOSURE FROM HANNAH. SHE DISCLOSED TO HIM OVER THE
9 TELEPHONE, AND THEN HE GOT TO THE SCENE.

10 THE COURT: ALL RIGHT. SO --

11 MS. DI TILLIO: AND TOOK -- AND IT SOUNDS LIKE THAT
12 THERE WAS A STATEMENT MADE BY BREANNA AS WELL.

13 THE COURT: OKAY. SO I'M GOING TO OVERRULE THE
14 OBJECTION.

15 AND WE'LL ALLOW YOU TO QUESTION ABOUT THIS
16 BECAUSE IT DOES GO -- IT SEEMS TO ME IT GOES TOWARDS
17 MR. ALLAN'S MOTIVE AND BIAS ABOUT TESTIMONY THAT APPEARS
18 TO BE COMING UP.

19 ---000---

20 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
21 COURT, WITHIN THE PRESENCE OF THE JURORS AND
22 THE ALTERNATE JURORS.)

23 ---000---

24 THE COURT: ALL RIGHT. THE OBJECTION IS OVERRULED.

25 MS. OLIVER: YOUR HONOR, MAY I ASK MADAM COURT
26 REPORTER FOR THE LAST QUESTION?

27 THE COURT: IF YOU'D PLEASE REASK IT?

28 IT TAKES TIME FOR HER TO --

1 MS. OLIVER: OKAY. THANK YOU.

2 Q. SO, TAMI -- SO YOU INDICATED THAT YOU HAD
3 LATER SEEN MR. ROSS AT A WEDDING; IS THAT CORRECT?

4 A. YES.

5 Q. AND THAT WAS A WEDDING THAT THE BOTH OF YOU
6 WERE IN THE WEDDING PARTY?

7 A. CORRECT.

8 Q. AND WHEN WAS THAT WEDDING?

9 A. IN JULY OF 2007.

10 Q. AND IN 2007, JULY 2007, WERE YOU STILL
11 MARRIED TO ALLAN AT THE TIME?

12 A. YES.

13 Q. AND DURING THAT TIME PERIOD, WERE YOU, ALLAN
14 AND MR. ROSS ENGAGED IN A SEXUAL RELATIONSHIP?

15 A. WE HAD A SEXUAL ENCOUNTER.

16 Q. THE THREE OF YOU?

17 A. YES.

18 Q. WAS THAT ON ONE OCCASION OR MORE THAN ONE
19 OCCASION?

20 A. ONE OCCASION.

21 Q. AND AFTER THAT OCCASION, HOW LONG WAS IT
22 AFTERWARDS THAT YOU AND ALLAN SEPARATED?

23 A. A COUPLE MONTHS.

24 Q. AND WHEN DID YOU BEGIN A DATING RELATIONSHIP
25 WITH MR. ROSS?

26 A. AFTER I MOVED BACK TO CALIFORNIA, OCTOBER OF
27 2007.

28 Q. BETWEEN THE WEDDING, WHERE YOU HAD THE

1 SEXUAL ENCOUNTER, AND WHEN YOU MOVED BACK TO SAN DIEGO IN
2 OCTOBER OF 2007, DID YOU HAVE ANY COMMUNICATIONS WITH
3 MR. ROSS DURING THAT TIME PERIOD?

4 A. YES.

5 Q. WHEN YOU BEGAN DATING MR. ROSS, WAS ALLAN
6 AWARE OF YOUR RELATIONSHIP WITH HIM?

7 A. YES.

8 Q. DO YOU KNOW -- TO YOUR KNOWLEDGE, DO YOU
9 KNOW THE NATURE OF THE --

10 WELL, STRIKE THAT.

11 TO YOUR KNOWLEDGE, DID ALLAN LIKE MR. ROSS?

12 MS. DI TILLIO: OBJECTION. CALLS FOR SPECULATION.

13 THE COURT: OVERRULED.

14 THE WITNESS: YES.

15

16 BY MS. OLIVER:

17 Q. THE TWO OF THEM GOT ALONG?

18 A. THEY GOT ALONG.

19 Q. WERE THEY FRIENDS?

20 A. DEFINE -- I MEAN ACQUAINTANCES.

21 Q. WERE THEY CORDIAL?

22 A. CORDIAL, YES.

23 Q. OKAY. AND SO WHEN THEY WERE IN THE SAME
24 ROOM, THEY KNEW HOW TO BEHAVE THEMSELVES?

25 A. CORRECT.

26 Q. BUT THEY NEVER WENT ON FISHING TRIPS
27 TOGETHER?

28 A. CORRECT.

1 Q. NEVER WENT TO BASEBALL GAMES?

2 A. NO.

3 Q. OKAY. YOU MENTIONED THAT THE CUSTODY
4 AGREEMENT THAT YOU HAD WITH ALLAN WAS 50/50 CUSTODY;
5 CORRECT?

6 A. YES.

7 Q. AND THAT YOU HAVE NO ISSUES REGARDING THE
8 CUSTODY ARRANGEMENT?

9 A. CORRECT.

10 Q. IN SETTING UP THOSE CUSTODY ARRANGEMENTS,
11 DID YOU AND ALLAN HAVE ANY DIFFICULTIES COMING TO THAT
12 50/50 ARRANGEMENT?

13 A. NO.

14 Q. NOW, YOU MENTIONED THAT YOU RECEIVED A PHONE
15 CALL, AND ALLAN -- AND YOU LATER SPOKE WITH ALLAN AND
16 MELISSA.

17 AND THEY TOLD YOU WHAT HAPPENED IN REGARDS
18 TO THE GIRLS; IS THAT CORRECT?

19 A. THEY TOLD ME WHY THEY CALLED THE POLICE.

20 Q. DID THEY GO INTO GREAT DETAILS WHEN THEY
21 GAVE YOU THAT DESCRIPTION OF WHY THEY CALLED THE POLICE?

22 A. NO.

23 Q. AND THEN, WHEN YOU ARRIVED AND YOU SPOKE
24 WITH BREANNA, YOU SAID THAT YOU ASKED HER IF IT WAS TRUE,
25 AND SHE SAID "YES"; IS THAT CORRECT?

26 A. CORRECT.

27 Q. WHEN YOU ASKED HER, "IS IT TRUE?" DID YOU
28 SPECIFY WHAT YOU WERE REFERRING TO?

1 A. THAT THE DEFENDANT TOUCHED HER
2 INAPPROPRIATELY.

3 Q. SO IS THAT WHAT YOU ASKED HER, SPECIFICALLY?

4 A. I DON'T REMEMBER MY EXACT WORDS.

5 Q. BUT YOU ASKED HER MORE THAN "IS IT TRUE"?

6 A. I DON'T REMEMBER.

7 Q. SO WHEN BREANNA RESPONDED, "YES," DO YOU
8 KNOW IF SHE KNEW WHAT YOU WERE REFERRING TO, WHAT
9 QUESTION YOU WERE ASKING?

10 A. YES. BECAUSE IT WAS FROM THE EVENTS OF THAT
11 MORNING. SO I WAS REFERRING TO THE EVENTS.

12 Q. FROM THAT PARTICULAR MORNING?

13 A. CORRECT.

14 Q. AND THAT WOULD BE THE EVENTS WITH HANNAH?

15 A. I DON'T KNOW EXACTLY WHAT HAPPENED THAT
16 MORNING.

17 Q. SO WHEN YOU ASKED HER "IS IT TRUE?" YOU
18 WEREN'T SURE EXACTLY WHAT HAD TRANSPIRED; CORRECT?

19 A. FROM -- CORRECT.

20 Q. AND SO WHEN BREANNA RESPONDED "YES," YOU
21 REALLY DON'T -- AT THAT POINT IN TIME, YOU DIDN'T KNOW
22 WHAT SHE WAS RESPONDING "YES" TO?

23 A. HER RESPONDING "YES" WAS ERIC HAD TOUCHED
24 HER INAPPROPRIATELY. I DON'T REMEMBER THE EXACT WORDS.

25 Q. DID -- WAS THERE AN -- DID SHE -- DID SHE
26 TELL YOU THAT ALLAN TOUCHED HER -- I'M SORRY -- THAT
27 MR. ROSS TOUCHED HER THAT DAY?

28 A. I DON'T RECALL.

1 Q. HOW LONG WERE THE POLICE AT YOUR HOME FROM
2 WHEN YOU ARRIVED TO WHEN YOU TOOK MR. ROSS TO THE
3 HOSPITAL?

4 A. I DON'T KNOW EXACTLY. AN HOUR OR TWO, A
5 COUPLE HOURS.

6 Q. OKAY. HOW LONG DID MR. ROSS REMAIN IN THE
7 HOME WITH YOU UNTIL HE WAS TO LEAVE?

8 A. ABOUT A WEEK AND A HALF.

9 Q. INITIALLY, DID YOU BELIEVE THAT MR. ROSS HAD
10 NOT COMMITTED THOSE OFFENSES?

11 MS. DI TILLIO: OBJECTION. RELEVANCE.

12 THE COURT: SUSTAINED.

13

14 BY MS. OLIVER:

15 Q. DID YOU HAVE DOUBTS AS TO WHETHER HANNAH WAS
16 BEING TRUTHFUL?

17 MS. DI TILLIO: OBJECTION. RELEVANCE.

18 THE COURT: SUSTAINED.

19 IT CALLS FOR A CONCLUSION, AS DOES THE
20 PREVIOUS QUESTION.

21

22 BY MS. OLIVER:

23 Q. IN YOUR RELATIONSHIP WITH HANNAH, HAVE YOU
24 EVER CAUGHT HER IN A LIE?

25 A. NOT THAT I RECALL.

26 Q. AND WHAT ABOUT BREANNA? HAVE YOU EVER
27 CAUGHT HER IN A LIE?

28 MS. DI TILLIO: OBJECTION. RELEVANCE.

1 THE COURT: OVERRULED.

2 THE WITNESS: I WOULD --

3 EVER CAUGHT HER IN A LIE?

4 YEAH. YES.

5

6 BY MS. OLIVER:

7 Q. HAVE YOU EVER -- HAS BREANNA EVER PLAYED IN
8 YOUR BEDROOM, AROUND -- LIKE, WHEN YOU STAYED AT THAT
9 RESIDENCE IN 2012, HAS SHE EVER PLAYED IN YOUR ROOM?

10 A. SHE WOULD WATCH T.V. IN THERE SOMETIMES.

11 Q. WOULD SHE EVER PLAY DRESS-UP?

12 A. NO.

13 Q. WOULD SHE EVER -- WOULD YOU EVER SEE HER IN
14 YOUR CLOSET?

15 A. NOT WITHOUT ASKING, NO.

16 Q. WOULD YOU EVER SEE HER IN ANY OF YOUR
17 DRESSER DRAWERS?

18 A. NO.

19 Q. DOES SHE ALWAYS ASK FOR PERMISSION TO GO
20 INTO ITEMS OR GO INTO DIFFERENT AREAS OF THE HOUSE?

21 A. TO GO INTO MY BEDROOM?

22 YES.

23 Q. AND SO -- AND YOU WOULD GIVE HER PERMISSION
24 TO WATCH TELEVISION IN THERE SOMETIMES?

25 A. YES, YES.

26 Q. EVERY TIME SHE WATCHES TELEVISION IN YOUR
27 ROOM, ARE YOU WITH HER?

28 A. NOT 100 PERCENT OF THE TIME.

1 Q. WERE YOU TOLD BY CPS THAT, IF MR. ROSS
2 REMAINED IN THE HOME, THAT THEY WOULD NOT ALLOW BREANNA
3 TO COME BACK?

4 MS. DI TILLIO: OBJECTION. HEARSAY.

5 THE COURT: OVERRULED.

6 THE WITNESS: THEY -- WELL, ALLAN AND MELISSA HAD A
7 RESTRAINING ORDER ON THEM AND INCLUDED HANNAH AND
8 BREANNA. SO I DON'T RECALL THEM SPECIFICALLY -- I COULD
9 NOT HAVE HER BACK IN MY HOME UNTIL IT WAS CLEARED. I
10 DON'T -- I DON'T --

11 CAN YOU ASK AGAIN?

12 I'M -- I GUESS I'M NOT SURE.

13

14 BY MS. OLIVER:

15 Q. SO ALLAN AND MELISSA -- THEY HAD A
16 RESTRAINING ORDER; CORRECT?

17 A. CORRECT.

18 Q. AND THAT RESTRAINING ORDER WAS AGAINST
19 MR. ROSS?

20 A. CORRECT.

21 Q. AND IT INCLUDED ALLAN; CORRECT?

22 A. YES.

23 Q. MELISSA?

24 A. YES.

25 Q. HANNAH?

26 A. YES.

27 Q. AND BREANNA?

28 A. YES.

1 Q. AND APART FROM THAT, CPS HAD GOTTEN INVOLVED
2 IN THIS CASE; CORRECT?

3 A. CORRECT.

4 Q. AND YOU WERE GOING TO HAVE -- MEET WITH THE
5 CPS WORKER, AND THEY WERE GOING TO COME TO YOUR HOME TO
6 CLEAR IT?

7 A. CORRECT.

8 Q. AND PART OF THE CLEARING, BASICALLY, WAS TO
9 SEE IF YOUR HOME WAS APPROPRIATE -- WAS AN APPROPRIATE
10 PLACE FOR BREANNA TO LIVE?

11 A. CORRECT.

12 Q. IN SPEAKING WITH THE CPS WORKER, DID THE CPS
13 WORKER TELL YOU THAT BREANNA COULD NOT COME BACK OR COULD
14 NOT COME LIVE WITH YOU IN YOUR HOME IF MR. ROSS WAS
15 THERE?

16 A. I DON'T RECALL THAT.

17 Q. IS IT FAIR TO SAY THAT, ONCE BREANNA WAS
18 TAKEN AWAY FROM YOUR HOME, THAT YOU JUST WANTED HER TO
19 COME BACK?

20 A. WELL, YES. I WANTED MY DAUGHTER, YES.

21 Q. DID ALLAN TELL YOU OR DID ALLAN SAY THAT HE
22 WOULD TAKE YOU TO COURT AND CHANGE THE CUSTODY
23 ARRANGEMENTS IF MR. ROSS REMAINED IN THE HOME?

24 A. I DON'T RECALL THAT HAPPENING, NO.

25 Q. YOU DON'T RECALL THAT CONVERSATION?

26 A. I DON'T RECALL THAT CONVERSATION.

27 Q. WHEN YOU SAID THAT MR. ROSS -- WHEN HE WAS
28 MOVING OUT, THAT HE PACKED UP -- THAT THE TWO OF YOU

1 PACKED UP THE ALCOHOL, GUN, BULLETS AND SEX TOYS, HOW
2 MANY SEX TOYS DID YOU PACK UP?

3 A. I DON'T REMEMBER.

4 MS. OLIVER: THANK YOU.

5 NOTHING FURTHER.

6 THE COURT: REDIRECT.

7 MS. DI TILLIO: THANK YOU.

8 I'LL JUST FINISH UP WITH A FEW QUESTIONS.

9 OKAY?

10 THE COURT: WHAT'S THE ESTIMATE ON YOUR REDIRECT?

11 MS. DI TILLIO: I COULD THEORETICALLY DO IT BEFORE
12 NOON. I'LL DO MY BEST.

13

14 **REDIRECT EXAMINATION**

15

16 BY MS. DI TILLIO:

17 Q. YOU TALKED ABOUT MEETING THE DEFENDANT IN
18 RELATIONSHIP TO SELLING YOUR CONDO.

19 WAS HE YOUR REAL ESTATE AGENT?

20 A. YES.

21 Q. AND SO YOU HAD A PROFESSIONAL RELATIONSHIP
22 WITH HIM INITIALLY?

23 A. CORRECT.

24 Q. AND WHEN -- I WANTED TO TALK ABOUT THE
25 RESTRAINING ORDER THAT ALLAN AND MELISSA HAD OBTAINED.

26 WAS THAT AFTER THE DISCLOSURES WERE MADE ON
27 MAY 21ST, 2012?

28 A. YES.

1 Q. THEY DIDN'T HAVE THAT BEFOREHAND?

2 A. CORRECT.

3 Q. AND YOU TALKED A LITTLE BIT ABOUT HAVING
4 CAUGHT BREANNA IN A LIE.

5 HOW OLD WAS SHE?

6 A. YOUNG.

7 I WOULD SAY, "DID YOU EAT YOUR LUNCH TODAY?"

8 AND SHE DIDN'T EAT HER SANDWICH IN A LUNCH.

9 SO, YES, THAT'S A LIE.

10 Q. SO LITTLE THINGS?

11 A. LITTLE THINGS.

12 Q. WHAT ABOUT ANY BIG THINGS?

13 A. NOT THAT I CAN RECALL.

14 Q. WHEN SHE WOULD SAY THAT SHE HAD EATEN HER
15 LUNCH, WOULD SHE HAVE GOTTEN IN TROUBLE IF SHE HADN'T?

16 A. FOR LYING, SHE WOULD BE TOLD THAT'S NOT
17 APPROPRIATE. A LITTLE BIT, YES.

18 Q. SO YOU'VE HAD CONVERSATIONS WITH HER --

19 A. OH, ABSOLUTELY, ABOUT LYING.

20 Q. I'M SORRY. LET ME JUST FINISH THE QUESTION.

21 YOU'VE HAD CONVERSATIONS WITH HER ABOUT NOT
22 LYING?

23 A. CORRECT.

24 Q. OKAY. THE -- AND THEN, JUST BRIEFLY, THE
25 CONVERSATION --

26 OKAY. SO YOU GET TO THE HOUSE. AND YOU
27 SAID ALLAN AND MELISSA TOLD YOU WHY THEY HAD CALLED THE
28 COPS.

1 DO YOU RECALL WHAT THEY SAID?

2 A. I RECALL THAT THEY SAID THE DEFENDANT --

3 MS. OLIVER: OBJECTION, YOUR HONOR. HEARSAY.

4 THE COURT: OVERRULED.

5 THIS DOESN'T GO FOR THE TRUTH OF THE MATTER.

6 IT GOES TO ESSENTIALLY -- THIS HAS TO BE TIED IN WITH THE

7 STATEMENT THAT --

8 MS. DI TILLIO: EXACTLY.

9 THE COURT: -- THAT BREANNA MADE.

10 MS. DI TILLIO: EXACTLY.

11 THE COURT: SO THIS DOESN'T GO TO THE TRUTH.

12

13 BY MS. DI TILLIO:

14 Q. YOU CAN KEEP GOING.

15 A. THAT THE DEFENDANT TOUCHED HANNAH
16 INAPPROPRIATELY. SHE DECIDED TO LEAVE THE HOUSE AND RUN
17 DOWN THE DRIVEWAY. AND ERIC CALLED HER BACK TO THE
18 HOUSE. SHE WANTED TO CALL HER DAD, ALLAN, OR MELISSA,
19 AND HE ALLOWED HER TO. SHE WENT OUT TO TALK TO THEM ON
20 THE PHONE.

21 Q. WHEN YOU HAD THIS CONVERSATION WITH ALLAN
22 AND MELISSA, WAS IT JUST THE ADULTS, OR WERE THE CHILDREN
23 ALSO PRESENT RIGHT THERE?

24 A. NO. THAT WAS JUST THE ADULTS.

25 Q. DID ALLAN AND MELISSA SAY ANYTHING TO YOU
26 ABOUT BREANNA DISCLOSING TOUCHING WITH THE DEFENDANT AT
27 THAT TIME?

28 A. ALLAN SAID, WHEN HE GOT THERE, HE TOOK

1 BREANNA OUTSIDE TO THE BACK JUST BECAUSE SHE WAS VERY
2 AFRAID AND SCARED.

3 AND HE ASKED HER IF SHE HAS EVER BEEN
4 TOUCHED INAPPROPRIATELY BY THE DEFENDANT.

5 AND SHE SAID, "YES."

6 Q. SO WHEN YOU HAD THIS CONVERSATION WITH
7 BREANNA, WAS THIS APART FROM ALLAN AND MELISSA?

8 A. ALLAN WAS PRESENT. WE WERE OUTSIDE. THAT'S
9 WHEN I -- ALLAN TOLD ME WHAT HAD CONSPIRED OR -- WHAT
10 HAPPENED.

11 Q. WAS BREANNA STANDING THERE WHEN ALLAN TOLD
12 YOU THIS?

13 A. NO, NOT THE STORY.

14 Q. OKAY.

15 A. WHEN SHE CAME OVER, THEN I ASKED IF WHAT HAD
16 HAPPENED THIS MORNING WAS TRUE.

17 AND THAT'S WHEN SHE SAID, "YES."

18 Q. SO YOU DIDN'T GET TO ASK HER ANY SPECIFICS?

19 A. NO.

20 Q. AND AT THAT POINT YOU DIDN'T KNOW WHAT HAD
21 HAPPENED?

22 A. NO.

23 MS. DI TILLIO: OKAY. THANK YOU.

24 I HAVE NOTHING FURTHER.

25 THE COURT: RE-CROSS?

26 MS. OLIVER: JUST BRIEFLY, VERY BRIEFLY.

27 ///

28 ///

RE-CROSS-EXAMINATION

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BY MS. OLIVER:

Q. TAMI, DO YOU HAVE ANY -- HAVE YOU HAD PROBLEMS REGARDING MELISSA AND HER CREDIBILITY?

MS. DI TILLIO: OBJECTION. CALLS FOR SPECULATION AND BEYOND THE SCOPE.

THE COURT: SUSTAINED.

MS. OLIVER: NOTHING FURTHER.

THE COURT: MA'AM, YOU CAN STEP DOWN. THANK YOU FOR COMING THIS MORNING.

LADIES AND GENTLEMEN, WE'RE GOING TO TAKE OUR NOON RECESS.

YOU'RE REMIND NOT TO TALK ABOUT THE CASE, NOT TO FORM OR EXPRESS AN OPINION ABOUT THE CASE, NOT TO DISCUSS THE CASE AT ALL UNTIL THE MATTER IS SUBMITTED TO YOU.

WE WILL START BACK AT 1:30.

HAVE A NICE LUNCH.

---000---

(THEREUPON THE PROCEEDINGS IN THIS MATTER WERE RECESSED FOR LUNCH.)

---000---

1 SAN DIEGO, CALIFORNIA; THURSDAY, MARCH 27, 2014

2 1:32 P.M.

3 ---OOO---

4 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
5 COURT, WITHIN THE PRESENCE OF THE JURORS AND
6 THE ALTERNATE JURORS.)

7 ---OOO---

8 THE COURT: THE RECORD WILL REFLECT THE DEFENDANT
9 AND THE ATTORNEYS ARE PRESENT, AS WELL AS OUR JURORS AND
10 ALTERNATE JURORS.

11 PLEASE CONTINUE WITH THE WITNESSES.

12 MS. DI TILLIO: THANK YOU, YOUR HONOR.

13 THE PEOPLE CALL BREANNA L.

14 THE COURT CLERK: DO YOU SOLEMNLY STATE, UNDER
15 PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE
16 IN THIS MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
17 NOTHING BUT THE TRUTH?

18 THE WITNESS: YES.

19 THE COURT CLERK: THANK YOU.

20 PLEASE BE SEATED AT THE WITNESS STAND.

21 PLEASE STATE AND SPELL YOUR FIRST NAME FOR
22 THE RECORD AND THE FIRST INITIAL OF YOUR LAST NAME.

23 THE WITNESS: BREANNA, B-R-E-A-N-N-A, AND L.

24 MS. DI TILLIO: MAY I APPROACH THE WITNESS, YOUR
25 HONOR?

26 THE COURT: OF COURSE.

27 MS. DI TILLIO: THANK YOU.

28 ///

1 **BREANNA L. ,**
2 **A WITNESS CALLED ON BEHALF OF THE PLAINTIFF, THE PEOPLE**
3 **OF THE STATE OF CALIFORNIA, HAVING BEEN DULY SWORN,**
4 **TESTIFIED AS FOLLOWS:**

5

6

DIRECT EXAMINATION

7

8 BY MS. DI TILLIO:

9 Q. GOOD AFTERNOON, BREANNA.

10 A. GOOD AFTERNOON.

11 Q. I'M JUST GOING TO MOVE THIS DOWN A LITTLE
12 BIT.

13 HOW'S THAT? IS THAT A LITTLE BETTER?

14 A. YES.

15 Q. IF YOU NEED WATER, LET ME KNOW. IF YOU NEED
16 A TISSUE, LET ME KNOW.

17 OKAY?

18 A. OKAY.

19 Q. BREANNA, CAN YOU TELL US HOW OLD YOU ARE?

20 A. I AM NINE AND A HALF.

21 Q. ALMOST 10?

22 A. YES.

23 Q. THAT HALF YEAR IS VERY IMPORTANT, HUH?

24 A. YEAH.

25 Q. WHEN ARE YOU GOING TO BE 10?

26 A. JUNE 12TH.

27 Q. THIS YEAR?

28 A. YES.

1 Q. BREANNA, I HAVE A FEW QUESTIONS I WANT TO
2 ASK YOU.

3 BUT, BEFORE WE DO THAT, I HAVE TO ASK YOU DO
4 YOU KNOW THE DIFFERENCE BETWEEN TELLING THE TRUTH AND
5 TELLING A LIE?

6 A. YES, I DO.

7 Q. OKAY. WHAT DOES THAT MEAN TO YOU?

8 A. WELL, A LIE IS NOT THE TRUTH, AND THE TRUTH
9 IS WHAT'S -- LIKE, IT'S REALLY HAPPENING OR -- YEAH.

10 Q. THANK YOU.

11 AND IS IT OKAY TO TELL A LIE?

12 A. NO, IT'S NOT.

13 Q. AND IN THIS COURTROOM WE'RE ONLY GOING TO
14 TALK ABOUT THINGS THAT REALLY HAPPENED.

15 CAN YOU PROMISE TO DO THAT?

16 A. YES.

17 Q. THANK YOU.

18 BREANNA, I WANT TO TALK TO YOU A LITTLE BIT
19 ABOUT -- NOW WHAT --

20 LET ME ACTUALLY ASK YOU ONE MORE QUESTION.

21 I'M GOING TO SHOW YOU THIS MARKER THAT I
22 HAVE HERE IN FRONT OF ME.

23 OKAY?

24 A. OKAY.

25 Q. DO YOU KNOW WHAT COLOR THIS MARKER IS?

26 A. YES.

27 Q. IF I TOLD YOU THIS WAS A GREEN MARKER, WOULD
28 THAT BE THE TRUTH OR A LIE?

1 A. THAT WOULD BE A LIE.

2 Q. WHY? WHY WOULD THAT BE A LIE?

3 A. BECAUSE IT'S NOT GREEN. IT'S YELLOW.

4 Q. IT IS YELLOW.

5 OKAY. AND I'D LIKE TO TALK TO YOU A LITTLE
6 BIT ABOUT YOUR FAMILY.

7 OKAY?

8 A. OKAY.

9 Q. WHAT'S YOUR MOM'S NAME?

10 A. TAMI.

11 Q. AND DO YOU HAVE ANY BROTHERS OR SISTERS?

12 A. I HAVE ONE STEPSISTER.

13 Q. WHAT'S HER NAME?

14 A. HANNAH.

15 Q. HOW OLD IS HANNAH?

16 A. SHE'S 11.

17 Q. AND SO SHE'S YOUR BIG SIS?

18 A. YES.

19 Q. ALL RIGHT. AND HOW LONG HAVE YOU AND HANNAH
20 BEEN STEPSISTERS?

21 A. I DON'T KNOW, BUT I THINK IT WAS WHEN I WAS
22 FOUR.

23 Q. OKAY. AND WHOSE --

24 WHAT'S YOUR DAD'S NAME?

25 A. ALLAN.

26 Q. AND IS YOUR DAD MARRIED?

27 A. YES, HE IS.

28 Q. WHO'S HE MARRIED TO?

1 A. MELISSA.

2 Q. AND IS HANNAH MELISSA'S DAUGHTER?

3 A. YES, SHE IS.

4 Q. OKAY. DO YOU AND HANNAH GO TO THE SAME
5 SCHOOL?

6 A. YES.

7 Q. WHAT GRADE ARE YOU IN?

8 A. I'M IN FOURTH.

9 Q. WHAT'S YOUR FAVORITE SUBJECT?

10 A. MATH, READING, SCIENCE AND WRITING.

11 Q. THAT'S A LOT.

12 OKAY. AND DO YOU KNOW WHAT GRADE HANNAH IS
13 IN?

14 A. YES. SHE'S IN FIFTH.

15 Q. OKAY. DO YOU KNOW WHO ERIC IS?

16 A. YES.

17 Q. WHO IS ERIC TO YOU?

18 A. WELL, NOTHING RIGHT NOW, BUT HE USED TO BE,
19 I GUESS, JUST LIKE A FRIEND.

20 Q. FRIEND OF YOURS?

21 A. YEAH. AND MY MOM'S.

22 Q. OKAY. DID YOU, AT ANY POINT, LIVE WITH HIM?

23 A. YES.

24 Q. OKAY. I WANT TO TALK ABOUT THE FIRST TIME
25 THAT YOU STARTED LIVING WITH HIM.

26 DO YOU REMEMBER ABOUT HOW OLD YOU WERE?

27 A. NO. BUT I WAS LITTLE. YEAH, THAT'S WHAT I
28 KNOW.

1 Q. YOU WERE LITTLE?

2 A. UH-HUH.

3 Q. DO YOU REMEMBER IF YOU WERE IN SCHOOL?

4 A. NOT THAT I KNOW OF.

5 Q. OKAY. AND DO YOU REMEMBER LIVING WITH YOUR
6 MOM AND ERIC?

7 A. YES.

8 Q. DID ANYONE ELSE LIVE WITH YOU?

9 A. NO.

10 Q. WHAT WAS THE KIND OF HOUSE YOU FIRST LIVED
11 IN TOGETHER? DO YOU REMEMBER WHAT IT LOOKED LIKE?

12 A. IT WAS A BIG HOUSE. AND I THINK IT HAD TWO
13 ROOMS NOT COUNTING THE KITCHEN AND THE LIVING ROOM.

14 Q. SO TWO BEDROOMS?

15 A. YES.

16 Q. ALL RIGHT. WAS IT ONE LEVEL OR TWO LEVELS?

17 A. I'M PRETTY SURE IT WAS ONE LEVEL.

18 Q. AND THAT WAS THE FIRST HOUSE YOU LIVED IN
19 WITH HIM?

20 A. YES.

21 Q. AND DID YOU LIVE IN ANY OTHER PLACES WITH
22 HIM?

23 A. YES.

24 Q. OKAY. AND DO YOU REMEMBER HOW OLD YOU WERE
25 WHEN YOU LIVED IN THE SECOND PLACE WITH HIM?

26 A. NO. I WAS -- I DON'T REMEMBER.

27 Q. OKAY. THE SECOND PLACE THAT YOU LIVED IN
28 WITH HIM, DO YOU REMEMBER WHAT THAT HOUSE LOOKED LIKE?

1 A. NO.

2 Q. DID IT HAVE ONE LEVEL, LIKE YOUR FIRST
3 HOUSE, OR DID IT HAVE MORE THAN ONE LEVEL?

4 A. IT HAD ONE LEVEL, I THINK. YEAH, IT HAD ONE
5 LEVEL.

6 Q. OKAY. AND THEN I WANT TO TALK TO YOU ABOUT
7 THE HOUSE THAT YOU LIVED IN LAST WITH ERIC, THE LAST
8 HOUSE YOU LIVED IN WITH HIM.

9 OKAY? DO YOU REMEMBER THAT ONE?

10 A. YES.

11 Q. ALL RIGHT. DID THAT ONE HAVE ONE LEVEL OR
12 TWO LEVELS?

13 A. THAT ONE HAD ONE LEVEL.

14 Q. DO YOU REMEMBER EVER LIVING IN A HOUSE THAT
15 HAD TWO?

16 A. NO. I DON'T REMEMBER.

17 Q. ALL RIGHT. AND I WANT TO TALK TO YOU A
18 LITTLE BIT ABOUT THE FIRST HOUSE THAT YOU REMEMBER LIVING
19 IN WITH ERIC.

20 CAN YOU THINK BACK THEN, WHEN YOU WERE
21 REALLY LITTLE?

22 A. YEAH. I JUST DON'T KNOW HOW OLD I WAS.

23 Q. OKAY. THAT'S FAIR. IT'S REALLY IMPORTANT
24 THAT YOU ANSWER THE QUESTIONS AS HONESTLY AS YOU CAN.
25 AND IF YOU DON'T KNOW, IT'S OKAY TO SAY, "I DON'T KNOW."

26 A. OKAY.

27 Q. ALL RIGHT. THANK YOU.

28 DID ANYTHING IN THE FIRST HOUSE THAT YOU

1 REMEMBER LIVING IN WITH ERIC, OKAY -- DID ANYTHING HAPPEN
2 BETWEEN YOU AND ERIC THAT MADE YOU FEEL UNCOMFORTABLE?

3 A. I DON'T REMEMBER IN THE FIRST HOUSE.

4 Q. OKAY. WHAT ABOUT THE SECOND HOUSE YOU LIVED
5 IN WITH HIM?

6 A. YES.

7 Q. TELL US ABOUT THAT.

8 A. HE WAS TOUCHING ME AND -- WHENEVER MY MOM
9 WAS IN WORK -- AT WORK.

10 Q. SO LET'S TALK ABOUT THAT A LITTLE BIT.
11 CAN YOU TALK ABOUT THAT WITH US?

12 A. YES.

13 Q. THANK YOU.

14 YOU SAID YOUR MOM WOULD BE AT WORK.

15 SO WHO ELSE WOULD BE AT HOME?

16 A. ONLY ME AND ERIC.

17 Q. AND YOU SAID HE TOUCHED YOU.

18 WHERE WOULD HE TOUCH YOU?

19 A. IN MY PRIVATE PARTS.

20 Q. DO YOU HAVE ANOTHER NAME FOR YOUR PRIVATE
21 PART?

22 A. NO.

23 Q. OKAY. WHERE ON YOUR BODY IS YOUR PRIVATE
24 PART?

25 A. UNDER YOUR STOMACH.

26 Q. OKAY. DOES ANYTHING COME OUT OF YOUR
27 PRIVATE PART?

28 A. YES.

1 Q. WHAT COMES OUT OF YOUR PRIVATE PART?

2 A. YELLOW LIQUID.

3 Q. OKAY. DO YOU HAVE ANOTHER NAME FOR THAT
4 LIQUID?

5 YOU CAN SAY ANY WORDS IN HERE.

6 A. PEE.

7 Q. OKAY. SO THE PART OF YOUR BODY WHERE YOUR
8 PEE COMES OUT, IS THAT WHAT YOU'RE TALKING ABOUT?

9 A. YES.

10 Q. ALL RIGHT. AND WHEN ERIC WOULD TOUCH YOU ON
11 YOUR PRIVATES WHERE THE PEE CAME OUT FROM, WHAT PART OF
12 THE HOUSE WERE YOU IN?

13 A. IN THE LIVING ROOM, CLOSE TO THE KITCHEN.

14 Q. AND DID YOU HAVE YOUR CLOTHES ON OR CLOTHES
15 OFF?

16 A. I HAD MY SHIRT ON.

17 Q. SO -- AND WHEN HE TOUCHED YOUR PRIVATES,
18 WHAT PART OF HIS BODY WAS HE USING?

19 A. HIS HANDS AND HIS MOUTH.

20 Q. OKAY. LET'S TALK ABOUT WHEN HE WOULD USE
21 HIS HANDS.

22 WHEN HE WOULD USE HIS HANDS, DID HE -- DID
23 HE TOUCH YOUR SKIN OR OVER YOUR CLOTHES?

24 A. SKIN. BUT I THINK ONE TIME OVER MY CLOTHES.

25 Q. SO THAT'S WHAT I WANT TO TALK ABOUT.

26 WHEN HE WOULD TOUCH YOUR PRIVATES WITH HIS
27 HAND AND TOUCHING YOUR SKIN, DID THAT HAPPEN ONCE OR MORE
28 THAN ONCE IN THAT HOUSE, THAT SECOND HOUSE?

1 A. MORE THAN ONCE.

2 Q. AND WHAT ABOUT WHEN HE WOULD TOUCH YOU WITH
3 YOUR CLOTHES ON, OVER YOUR CLOTHES? WHEN HE WOULD TOUCH
4 YOUR PRIVATES WHERE THE PEE CAME OUT, DID THAT HAPPEN
5 ONCE OR MORE THAN ONCE IN THAT SECOND HOUSE?

6 A. I THINK IT WAS ONLY ONCE.

7 Q. AND THAT'S WHEN HE WAS USING HIS HANDS?

8 A. YES.

9 Q. ON THE TIMES THAT HE WOULD USE HIS HANDS TO
10 TOUCH YOUR PRIVATE, DID HE TOUCH THE OUTSIDE OR THE
11 INSIDE OF YOUR PRIVATE? DO YOU REMEMBER?

12 A. I THINK IT WAS ONLY THE OUTSIDE, MAYBE.

13 Q. DID THIS HAPPEN A WHILE AGO?

14 A. A LITTLE.

15 Q. OKAY. AND WHEN YOU FIRST TOLD ABOUT THE
16 TOUCHING, DO YOU REMEMBER -- DO YOU REMEMBER BEING IN A
17 ROOM THAT HAD A BIG MIRROR, WHERE YOU TALKED TO
18 MISS CHRISTINA ABOUT WHAT HAPPENED TO YOU?

19 A. YEAH.

20 Q. AND DO YOU REMEMBER PROMISING TO TELL HER
21 THE TRUTH?

22 A. YES.

23 Q. AND DID YOU TELL HER ABOUT EVERYTHING THAT
24 HAPPENED WITH YOU AND ERIC?

25 A. YES, I DID.

26 Q. OKAY. AND DID YOU REMEMBER EVERYTHING
27 BETTER BACK THEN OR TODAY?

28 A. TODAY.

1 Q. YOU THINK SO?

2 A. UH-HUH.

3 Q. YEAH?

4 A. (NO AUDIBLE RESPONSE.)

5 Q. I'M GOING TO ASK YOU TO DO ME A FAVOR.

6 THE LADY WHO'S SEATED RIGHT IN FRONT OF YOU
7 IS ACTUALLY WRITING DOWN ALL THE WORDS THAT WE'RE SAYING.

8 A. OKAY.

9 Q. SO IF YOU SAY "UH-HUH," THERE'S NO BUTTON ON
10 HER MACHINE FOR THAT BECAUSE THAT'S NOT REALLY A WORD.

11 A. OKAY.

12 Q. SO IF YOU COULD DO ME A FAVOR AND JUST SAY
13 "YES" OR "NO"?

14 A. OKAY. I'M SORRY.

15 Q. THAT'S OKAY. THANK YOU.

16 EVERYBODY DOES IT.

17 OKAY. SO WE TALKED ABOUT HIM TOUCHING YOUR
18 PRIVATES IN THE LIVING ROOM IN THAT SECOND HOUSE --

19 A. YES.

20 Q. -- WITH HIS HAND.

21 AND YOU SAID HE ALSO WOULD TOUCH IT WITH HIS
22 TONGUE. TELL US ABOUT THAT.

23 A. WELL, THAT WAS NOT OFTEN. AND HE WOULD JUST
24 LICK MY PRIVATE PART. THAT'S ALL.

25 Q. OKAY. WHAT -- IN THAT SECOND HOUSE?

26 A. UH-HUH. OH, YES.

27 Q. WHAT ROOM WERE YOU IN?

28 A. I WAS IN THE LIVING ROOM.

1 Q. DID IT HAPPEN ONCE OR MORE THAN ONCE IN THE
2 LIVING ROOM, WHEN HE PUT HIS TONGUE ON YOUR PRIVATE PART?

3 A. I'M PRETTY SURE IT WAS MORE THAN ONCE.

4 Q. OKAY. AND DID IT HAPPEN IN ANY OTHER ROOMS
5 IN THE HOUSE?

6 A. NOT IN THE SECOND HOUSE WE LIVED IN.

7 Q. OKAY. WHEN YOU WERE IN THAT SECOND HOUSE,
8 WERE THERE ANY OTHER PARTS OF YOUR BODY THAT HE TOUCHED?

9 A. I DON'T REMEMBER.

10 Q. AND THEN YOU SAID YOU MOVED AGAIN.

11 SO NOW WE'RE ON THE THIRD HOUSE THAT YOU
12 GUYS LIVED IN TOGETHER?

13 A. YES.

14 Q. AND WHEN YOU WERE LIVING IN THAT THIRD
15 HOUSE, IS THAT THE HOUSE YOU WERE LIVING IN WHEN THE
16 POLICE CAME?

17 A. YES, IT WAS.

18 Q. OKAY. AND DID YOU LIVE THERE WITH YOUR MOM?

19 A. YES.

20 Q. AND DID ERIC LIVE THERE AS WELL?

21 A. YES.

22 Q. WERE YOU THERE ALL THE TIME, OR DID YOU
23 SPEND YOUR TIME SOMETIMES IN ANOTHER HOUSE?

24 A. SOMETIMES IN ANOTHER HOUSE.

25 Q. WHERE WOULD YOU SPEND YOUR TIME?

26 A. MY DAD'S, ALLAN, AND MY STEPMOM, MELISSA'S.
27 WITH MY SISTER, TOO.

28 Q. YOUR SISTER, HANNAH?

1 A. YES.

2 Q. SO WOULD YOU GO BACK AND FORTH BETWEEN THE
3 TWO HOUSES?

4 A. YES, EVERY OTHER WEEK.

5 Q. AND I WANT TO TALK ABOUT WHEN YOU LIVED IN
6 THAT THIRD HOUSE.

7 SO THE LAST HOUSE THAT YOU LIVED IN WITH
8 ERIC, OKAY?

9 A. OKAY.

10 Q. WE'LL JUST CALL THAT THE "NEWEST HOUSE."
11 HOW ABOUT THAT?

12 A. OKAY.

13 Q. WERE THERE EVER ANY TIMES THAT ERIC TOUCHED
14 YOU THAT MADE YOU FEEL UNCOMFORTABLE IN THAT THIRD HOUSE?

15 A. YES.

16 Q. ALL RIGHT. TELL US ABOUT THE FIRST ONE YOU
17 REMEMBER IN THAT HOUSE.

18 A. WELL, IT FELT UNCOMFORTABLE BECAUSE I DIDN'T
19 LIKE IT. AND HE -- HE KEPT ON DOING IT, BUT I NEVER SAID
20 -- I SAID TO STOP, I THINK, ONCE, BUT I DON'T THINK HE
21 DID. SO, YEAH.

22 Q. ALL RIGHT. SO YOU SAID THAT, WHEN HE
23 TOUCHED YOU, IT MADE YOU FEEL UNCOMFORTABLE?

24 A. YEAH.

25 Q. AND WHEN YOU TOLD HIM THE ONE TIME TO STOP,
26 WERE YOU LIVING IN THAT LAST HOUSE, OR WERE YOU IN THE
27 SECOND HOUSE?

28 A. I WAS IN, I THINK, THE THIRD HOUSE.

1 Q. SO THE LAST HOUSE?

2 A. BUT I'M NOT POSITIVE.

3 Q. OKAY. AND THAT'S IMPORTANT, IF YOU CAN'T
4 REMEMBER SOMETHING, TO JUST TELL US THAT YOU DON'T
5 REMEMBER. AND THAT'S OKAY.

6 A. OKAY.

7 Q. SO WHEN YOU -- WHEN YOU TALKED TO HIM ABOUT
8 STOPPING, DID HE SAY ANYTHING?

9 A. I'M PRETTY SURE HE SAID, "IT'S OKAY."
10 AND THEN I DON'T THINK HE SAID ANYTHING
11 ELSE.

12 Q. DID ERIC EVER SAY ANYTHING ELSE ABOUT THE
13 TOUCHING THAT HE WAS DOING TO YOU?

14 A. YES.

15 Q. WHAT DID HE SAY?

16 A. I -- I REMEMBER -- I THINK I REMEMBER HIM
17 SAYING, "DON'T TELL ANYBODY."

18 Q. AND WHAT DID YOU SAY TO HIM WHEN HE TOLD YOU
19 THAT?

20 A. I'M PRETTY SURE I SAID "OKAY."

21 Q. SO LET'S TALK A LITTLE BIT ABOUT THE
22 TOUCHING IN THAT LAST HOUSE, THE NEWEST HOUSE.

23 OKAY?

24 A. OKAY.

25 Q. WHAT KIND OF TOUCHING WOULD HE DO TO YOU IN
26 THAT LAST HOUSE?

27 A. HE WOULD DO THE SAME THING. HE WOULD TOUCH
28 ME IN MY PRIVATE PARTS.

1 Q. WHEN HE TOUCHED YOU ON THE PRIVATE PART IN
2 THE NEWEST HOUSE, THE LAST HOUSE --

3 A. YEAH.

4 Q. -- WHAT PART OF HIS BODY DID HE USE?

5 A. THE SAME, HIS HAND AND HIS MOUTH.

6 Q. OKAY. LET'S TALK ABOUT WHEN HE WOULD USE
7 HIS HANDS.

8 OKAY?

9 A. (NO AUDIBLE RESPONSE.)

10 Q. DO YOU REMEMBER WHAT ROOM IN THE HOUSE THAT
11 HAPPENED IN?

12 A. THAT WAS IN THE LIVING ROOM.

13 Q. ALL RIGHT. DID IT EVER HAPPEN IN ANY OTHER
14 ROOM IN THE HOUSE?

15 A. I THINK, IN THE NEWEST HOUSE, ONCE IN MY
16 BEDROOM.

17 Q. OKAY. AND LET'S TALK ABOUT WHEN IT HAPPENED
18 IN THE LIVING ROOM.

19 OKAY?

20 A. (NO AUDIBLE RESPONSE.)

21 Q. WAS IT OVER YOUR CLOTHES, OR WAS IT ON YOUR
22 SKIN?

23 A. ON MY SKIN.

24 Q. AND THIS WAS WHEN HE WAS USING HIS HAND?

25 A. YES.

26 Q. DID HE TOUCH THE OUTSIDE OF YOUR PRIVATE
27 PART OR THE INSIDE OF YOUR PRIVATE PART?

28 A. I'M PRETTY SURE THE OUTSIDE.

1 Q. OKAY. AND DID THAT HAPPEN ONCE OR MORE THAN
2 ONCE?

3 A. MORE THAN ONCE.

4 Q. OKAY. WHAT ABOUT IN THE BEDROOM? I THINK
5 YOU SAID THAT YOU THOUGHT IT MIGHT HAVE ONLY HAPPENED
6 ONCE WITH HIS HAND?

7 A. YEAH. I'M PRETTY SURE ONCE.

8 Q. OKAY. AND THAT WAS ON THE INSIDE OR THE
9 OUTSIDE OF YOUR PRIVATE PARTS, IF YOU CAN REMEMBER?

10 A. I THINK ON THE OUTSIDE.

11 Q. OKAY. I WANTED TO TALK ABOUT YOUR PRIVATE
12 PARTS.

13 DID HE TOUCH YOUR PRIVATE PARTS, IN THAT
14 THIRD HOUSE, WITH ANY OTHER PART OF HIS BODY?

15 A. I DON'T REMEMBER.

16 Q. OKAY. YOU TALKED ABOUT, IN THE SECOND
17 HOUSE, HOW HE USED HIS TONGUE?

18 A. YES.

19 Q. DID HE EVER DO THAT IN THE LAST HOUSE?

20 A. YES. I THINK HE DID THAT IN BOTH OF THE
21 HOUSES.

22 Q. OKAY. WHEN HE USED HIS TONGUE TO TOUCH YOUR
23 PRIVATE PART, WHAT ROOM IN THE HOUSE DID THAT HAPPEN IN?

24 A. THAT WAS ALL IN THE LIVING ROOM.

25 Q. IN THE LIVING ROOM?

26 A. YES.

27 Q. AND WAS THAT TO THE SKIN ON YOUR PRIVATE OR
28 OVER YOUR CLOTHES?

1 A. ON THE SKIN.

2 Q. OKAY. YOU SAID THAT HAPPENED IN THE LIVING
3 ROOM.

4 AND DID THAT HAPPEN IN ANY OTHER ROOM IN
5 THAT HOUSE, THAT LAST HOUSE?

6 A. YEAH, ONLY IN THAT BEDROOM, MY BEDROOM.

7 Q. SO IN THE LIVING ROOM AND IN THE BEDROOM?

8 A. YES.

9 Q. ALL RIGHT. AND WHEN HE TOUCHED YOUR
10 PRIVATES IN YOUR BEDROOM IN THE NEWEST HOUSE WITH HIS
11 TONGUE, WAS THAT OVER YOUR CLOTHES OR ON YOUR SKIN?

12 A. ON MY SKIN.

13 Q. OKAY. DID HE EVER PUT ANYTHING INSIDE OF
14 YOUR PRIVATES?

15 A. YES.

16 Q. CAN YOU TELL US ABOUT THAT, PLEASE?

17 A. IT WAS A LITTLE BUZZY TOY. IT HAD A BUZZY
18 THING ON THE VERY TOP. AND IT WAS KIND OF LIKE THE
19 MICROPHONE THING AT THE VERY BOTTOM, BUT IT WAS FATTER
20 (INDICATING).

21 Q. AND WHEN YOU'RE POINTING TO THE MICROPHONE,
22 ARE YOU POINTING TO THE PART THAT YOU SPEAK INTO?

23 A. NO. I'M TALKING ABOUT THIS PART
24 (INDICATING).

25 Q. OKAY. SO THE PART OF THE MICROPHONE THAT
26 ATTACHES TO THE STAND?

27 A. YES.

28 Q. AND DID IT LOOK LIKE THAT BECAUSE OF THE

1 SHAPE OR BECAUSE OF THE COLOR?

2 A. THE SHAPE. BUT IT WAS A LITTLE SMALLER, NOT
3 THIS TALL (INDICATING).

4 Q. OKAY. AND WHAT DO YOU MEAN BY IT WAS A
5 "BUZZY TOY"? WHAT DO YOU MEAN BY THAT?

6 A. WELL, IT HAD MEDIUM, FAST AND, LIKE, LOW.
7 AND IT WAS -- IT WOULD BUZZ AT THE VERY TOP, LIKE IT --
8 IT WAS KIND OF LIKE THIS DESIGN ON THE VERY TOP OF THIS
9 MICROPHONE, BUT IT WASN'T LIKE THIS (INDICATING).

10 Q. OKAY. AND YOU SAID IT WOULD BUZZ.
11 DO YOU KNOW WHAT MADE IT BUZZ?

12 A. (NO AUDIBLE RESPONSE.)

13 Q. ONLY IF YOU KNOW.

14 A. NO. I THINK IT WAS JUST THE BATTERIES THAT
15 WAS IN IT, AND IT WAS WORKING.

16 Q. OKAY. DID YOU AND ERIC EVER TALK ABOUT THIS
17 BUZZY TOY?

18 A. YEAH. I THINK SO.

19 Q. WILL YOU TELL US ABOUT THAT CONVERSATION?

20 A. WELL -- WELL, I DIDN'T WANT TO USE IT
21 ANYMORE. SO HE SAID HE WOULD THROW IT AWAY, BUT HE
22 DIDN'T. AND THEN HE SAID I COULD. AND I THREW IT AWAY.
23 BUT I THINK THAT'S THE ONLY TIME.

24 Q. WHEN YOU --

25 TELL US ABOUT THE FIRST TIME THAT HE SHOWED
26 YOU THE BUZZY TOY.

27 DID HE SAY ANYTHING ABOUT IT AT THAT TIME?

28 A. YES.

1 Q. WHAT DID HE SAY ABOUT IT THEN?

2 A. I THINK HE SAID, "I GOT US A NEW TOY."

3 Q. WHAT DID YOU THINK WHEN HE FIRST SAID THAT?

4 A. I THINK IT WAS LIKE -- I THINK IT WAS -- I
5 THOUGHT IT WAS LIKE JUST A REGULAR TOY THAT LITTLE KIDS
6 PLAY WITH, LIKE DOLLS OR SOMETHING SIMILAR TO THAT.

7 Q. AND THEN DID HE TALK TO YOU ABOUT IT A
8 LITTLE BIT MORE?

9 A. WELL, AFTER I SAID THAT, YES.

10 Q. WHAT DID YOU SAY WHEN HE SAID, "I HAVE A NEW
11 TOY FOR US"?

12 A. AND I SAID --

13 I THINK I SAID, "WHAT IS IT?"

14 Q. AND WHAT DID HE SAY? DO YOU REMEMBER?

15 A. NO, I DON'T.

16 Q. DID YOU GET A CHANCE TO LOOK AT IT AT THAT
17 TIME?

18 A. YES. I THINK SO.

19 Q. OKAY. AND THEN, AFTER HE SAID HE HAD THIS
20 NEW TOY, DID HE DO ANYTHING WITH IT?

21 A. YES.

22 Q. TELL US WHAT HE DID.

23 A. WELL, WITH THE BUZZY TOY, HE PUT IT ON MY
24 PRIVATE PART, BUT THAT WAS ONLY HAPPENING IN THE LIVING
25 ROOM, TOO.

26 Q. OKAY. IN THE LIVING ROOM OF THAT LAST HOUSE
27 YOU LIVED IN OR IN THE SECOND HOUSE?

28 A. I THINK IT WAS IN THE SECOND HOUSE AND THE

1 LAST HOUSE.

2 Q. OKAY.

3 A. BUT MAYBE JUST THE LAST HOUSE.

4 Q. AND YOU SAID HE PUT IT --

5 TELL US EXACTLY WHAT HE DID WITH IT.

6 DESCRIBE IT, IF YOU COULD.

7 A. HE -- I THINK HE TURNED IT ONTO MEDIUM. AND

8 HE WOULD JUST PUT IT ON MY PRIVATE PART, AND IT WOULD

9 BUZZ.

10 Q. AND COULD YOU FEEL THE BUZZ OUTSIDE YOUR

11 BODY OR INSIDE YOUR BODY OR BOTH?

12 A. I THINK IT WAS BOTH.

13 Q. DID HE DO THAT ONCE OR MORE THAN ONCE TO

14 YOUR PRIVATES?

15 A. MORE THAN ONCE.

16 Q. AND ON THE TIMES THAT IT HAPPENED, I THINK

17 YOU ALREADY SAID THAT IT WAS IN THE LIVING ROOM?

18 A. YES. NOT IN MY BEDROOM.

19 Q. NOT IN YOUR BEDROOM?

20 A. YEAH.

21 Q. ALL RIGHT. HAD YOU EVER SEEN THAT BUZZY TOY

22 BEFORE ERIC SHOWED IT TO YOU?

23 A. NO. I THINK THE FIRST TIME HE -- I SAW IT,

24 I THINK THAT WAS THE DAY HE GOT IT MAYBE, BUT I DIDN'T

25 SEE IT BEFORE THAT.

26 Q. THAT WAS THE FIRST TIME YOU SAW IT?

27 A. YEAH.

28 Q. AND THEN YOU SAID, AT SOME POINT, YOU TOLD

1 HIM THAT YOU DIDN'T WANT TO USE IT ANYMORE?

2 A. YEAH. OR "I DON'T WANT THIS."

3 Q. AND WHAT DID HE SAY WHEN YOU SAID THAT?

4 A. I THINK HE SAID, "OKAY. YOU CAN THROW IT
5 AWAY."

6 BUT I THINK HE SAID SOMETHING BEFORE THAT.

7 BUT I DON'T REMEMBER WHAT HE SAID.

8 Q. OKAY. AFTER HE TOLD YOU YOU COULD THROW IT
9 AWAY, DID YOU THROW IT AWAY?

10 A. YES.

11 Q. DO YOU REMEMBER WHERE YOU THREW IT?

12 A. I THINK IT WAS THE -- WE HAD A TRASH CAN IN
13 THE KITCHEN. AND I THINK I THREW IT AWAY IN THERE.

14 Q. IS YOUR KITCHEN ON THE SAME LEVEL AS YOUR
15 LIVING ROOM?

16 A. YES.

17 Q. AT ANY POINT WHEN YOU WERE LIVING IN THAT
18 LAST HOUSE WITH ERIC, DID HE PUT ANY OTHER PART OF HIS
19 BODY ON YOUR PRIVATES?

20 A. NOT THAT I REMEMBER.

21 Q. DO YOU REMEMBER TALKING TO MISS CHRISTINA
22 ABOUT BOY PARTS?

23 A. YES. I -- ACTUALLY, NO, I DON'T.

24 Q. WHAT DO YOU CALL BOY FRONT PRIVATES? DO YOU
25 HAVE A NAME FOR THAT?

26 A. NO. I DON'T KNOW.

27 Q. OKAY. THE PART THAT A BOY PEEES OUT OF,
28 WHAT'S THE NAME? WHAT DO YOU CALL THAT?

1 A. I JUST CALL IT A PRIVATE PART.

2 Q. OKAY. HAVE YOU EVER SEEN ERIC'S PRIVATE
3 PARTS?

4 A. YES.

5 Q. TELL ME ABOUT HOW YOU HAD SEEN ERIC'S
6 PRIVATE PARTS.

7 A. HE -- HE PEED ON ME.

8 Q. OKAY. TELL US ABOUT THAT TIME.

9 A. WELL, I -- HE PEED ON ME, IN MY PRIVATE
10 PART, THE ONE BELOW THE STOMACH. AND I DIDN'T LIKE IT.

11 Q. WHERE WERE YOU WHEN THAT HAPPENED? DO YOU
12 REMEMBER WHAT ROOM IN THE HOUSE YOU WERE IN?

13 A. I THINK IT WAS IN MY -- THE SECOND HOUSE.

14 Q. OKAY. THE SECOND HOUSE OR THE LAST HOUSE?

15 A. THE SECOND HOUSE.

16 Q. OKAY. AND DO YOU REMEMBER WHAT ROOM YOU
17 MIGHT HAVE BEEN IN?

18 A. THE LIVING ROOM.

19 Q. AND DID ERIC HAVE HIS CLOTHES ON OR HIS
20 CLOTHES OFF?

21 A. OFF.

22 Q. WHAT ABOUT YOU? DID YOU HAVE YOUR CLOTHES
23 ON OR OFF?

24 A. OFF.

25 Q. WHAT WAS HE DOING WITH HIS PRIVATE PART
26 RIGHT BEFORE HE PEED ON YOU?

27 A. I DON'T REMEMBER. OH, HE PUT A LIQUID
28 STUFF, I THINK, ON ME BEFORE.

1 Q. OKAY. TELL US ABOUT THAT.
2 WHAT KIND OF LIQUID STUFF?

3 A. I DON'T REALLY KNOW WHAT KIND, BUT IT LOOKS
4 LIKE WATER. AND IT WAS IN A SHORT BOTTLE.

5 Q. WHAT DID IT FEEL LIKE? DID IT FEEL LIKE
6 WATER?

7 A. YES, IT DID.

8 Q. ALL RIGHT. AND WHEN YOU SAY HE PUT IT ON
9 YOU, WHERE DID HE PUT IT?

10 A. ON MY PRIVATE PART.

11 Q. HOW DID HE PUT IT ON YOUR PRIVATE PART?
12 WHAT DID HE USE TO DO THAT?

13 A. I THINK HE USED -- PUT IT ON ME WITH HIS
14 HANDS.

15 Q. I DON'T WANT YOU TO GUESS. SO IF YOU
16 REMEMBER, YOU REMEMBER. AND IF YOU DON'T, THAT'S OKAY,
17 TOO.

18 ALL RIGHT?

19 A. YEAH. HE PUT IT ON WITH HIS HANDS.

20 Q. OKAY. AND AFTER HE PUT THE WATER STUFF ON
21 YOUR PRIVATE, DID HE DO ANYTHING WITH HIS PRIVATE?

22 A. NO. JUST, AFTER THAT, HE PEED ON MY PRIVATE
23 PART.

24 Q. DID HE EVER TOUCH YOUR PRIVATE WITH HIS
25 PRIVATE?

26 A. NOT THAT I KNOW OF, NO.

27 Q. AND THE TIME THAT HE -- THAT HE PEED ON YOU,
28 HOW DID IT FEEL?

1 A. IT FELT WEIRD AND STINGING, I THINK. YEAH,
2 STINGING.

3 Q. DID HE SAY ANYTHING?

4 A. NOT THAT I KNOW OF.

5 Q. DID YOU AND ERIC EVER TALK ABOUT THE TIME
6 THAT HE PEED ON YOU?

7 A. NO. I DON'T THINK SO.

8 Q. OKAY. WAS THERE ANY OTHER TOUCHING OF YOUR
9 BODY THAT HAPPENED IN THE LAST HOUSE THAT YOU LIVED IN?

10 A. YES. HE DID THE SAME THING.

11 Q. WHICH SAME THING?

12 A. HE WAS JUST TOUCHING ME IN THE LAST -- IN
13 THE NEWEST HOUSE.

14 Q. THE TOUCHING WE ALREADY TALKED ABOUT?

15 A. YES.

16 Q. OTHER THAN WHAT WE ALREADY TALKED ABOUT, ALL
17 THOSE PARTS, DID HE TOUCH ANY OTHER PART OF YOUR BODY?

18 A. YES.

19 Q. WHERE DID HE TOUCH?

20 A. MY LEGS AND MY OTHER PRIVATE PART THAT'S
21 ABOVE THE STOMACH, BUT I DON'T REALLY HAVE A NAME FOR
22 THAT EITHER.

23 Q. OKAY. THE ONES UP TOP?

24 A. YES.

25 Q. OKAY. AND YOU CALL THAT YOUR PRIVATES AS
26 WELL?

27 A. YES.

28 Q. WHAT DID HE USE TO TOUCH YOUR TOP PRIVATE?

1 A. HIS MOUTH.

2 Q. AND DO YOU KNOW WHAT ROOM OF THE HOUSE THAT
3 HAPPENED IN?

4 A. I THINK THAT WAS IN THE NEWEST HOUSE.

5 Q. OKAY. AND DID THAT HAPPEN ONCE OR MORE THAN
6 ONCE IN THE NEWEST HOUSE?

7 A. THAT HAPPENED MORE THAN ONCE, BUT NOT VERY
8 OFTEN.

9 Q. OKAY. OUT OF ALL THE THINGS THAT YOU'VE
10 ALREADY TALKED ABOUT, WHICH ONE WOULD HAPPEN THE MOST
11 OFTEN?

12 A. THE TOUCHING WITH HIS HANDS AND HIS MOUTH.
13 BUT MOSTLY THE HANDS.

14 Q. I WANT TO TALK A LITTLE BIT ABOUT THE DAY
15 THAT THE POLICE CAME TO YOUR HOUSE.

16 A. OKAY.

17 Q. ALL RIGHT. SO DO YOU REMEMBER THAT DAY?

18 A. YES, I DO.

19 Q. OKAY. WHAT'S THE FIRST THING YOU REMEMBER
20 FROM THAT DAY, THE EARLIEST THING?

21 A. I REMEMBER MY STEPMOM, MELISSA, AND HIM
22 YELLING AT EACH OTHER --

23 Q. DO YOU REMEMBER --

24 A. -- SAYING BAD WORDS.

25 Q. SORRY.

26 A. THAT'S OKAY.

27 Q. DO YOU REMEMBER THAT MORNING, BEFORE MELISSA
28 CAME BY?

1 A. YES, I DO.

2 Q. ALL RIGHT. SO LET'S TALK ABOUT THAT.

3 A. OKAY.

4 Q. WHAT'S THE FIRST THING YOU REMEMBER FROM
5 WHEN YOU WOKE UP? WHO WAS THERE?

6 A. WELL, HANNAH CAME A LITTLE AFTER I WOKE UP.
7 AND ERIC WAS STILL THERE. AND MY MOM LEFT BEFORE HANNAH
8 CAME, I THINK. YEAH.

9 Q. ALL RIGHT. AND WHAT DO YOU REMEMBER YOU AND
10 HANNAH DOING?

11 A. I REMEMBER US PLAYING IN OUR -- MY ROOM,
12 PLAYING IN MY ROOM OR LAYING IN MY MOM AND ERIC'S BED,
13 WATCHING T.V.

14 Q. LET'S TALK ABOUT PLAYING IN YOUR ROOM.
15 WHEN YOU WERE PLAYING IN YOUR ROOM, DO YOU
16 REMEMBER WHAT YOU WERE PLAYING.

17 A. NO, I DON'T.

18 Q. DO YOU REMEMBER WHO YOU WERE PLAYING WITH?

19 A. YES. ONLY MY SISTER.

20 Q. SO YOU AND HANNAH WERE IN YOUR ROOM.

21 AND AT THAT TIME DO YOU KNOW IF YOUR MOM WAS
22 STILL THERE OR NOT THERE?

23 A. SHE WASN'T THERE.

24 Q. AND THEN YOU SAID YOU THINK YOU REMEMBER
25 BEING IN YOUR MOM AND ERIC'S BED?

26 A. YES.

27 Q. DID YOU OFTEN GO IN YOUR MOM AND ERIC'S BED
28 TO WATCH T.V.?

1 A. NO. I THINK THAT WAS ONLY LIKE THE THIRD OR
2 SECOND TIME.

3 Q. AND WAS ERIC IN THAT ROOM AS WELL, OR WAS HE
4 SOMEWHERE ELSE IN THE HOUSE?

5 A. HE WAS DOWNSTAIRS, BUT THEN HE CAME UP.

6 Q. SO, AT FIRST, YOU AND HANNAH -- WERE YOU
7 UNDER THE COVERS OR ON TOP OF THE COVERS?

8 A. I THINK HANNAH WAS ON TOP -- UNDER, AND I
9 WAS ON TOP OF THE COVERS.

10 Q. WHAT WERE YOU GUYS WATCHING?

11 A. EITHER *ICARLY* OR *VICTORIOUS*.

12 Q. AND ARE THOSE SOME OF YOUR FAVORITE T.V.
13 SHOWS?

14 A. THEY USED TO BE.

15 Q. AND, THEN, SO YOU WERE WATCHING T.V. FOR A
16 LITTLE WHILE WITH HANNAH?

17 A. YES.

18 Q. AND WHAT HAPPENED AFTER THAT?

19 A. ERIC CAME UPSTAIRS AND LAID IN THE BED WITH
20 ME AND HANNAH.

21 Q. BEFORE ERIC GOT IN THE BED WITH YOU GUYS,
22 DID YOU PLAY ANY GAMES WITH ERIC?

23 A. NO, NOT THAT I KNOW OF.

24 Q. OKAY. AND WHAT'S --

25 YOU SAID HE GOT INTO THE BED.

26 DO YOU REMEMBER WHO WAS NEXT TO WHO?

27 A. YES, I DO.

28 Q. TELL ME ABOUT THAT.

1 A. I -- WELL, ERIC WAS BY THE WINDOW. AND THE
2 WINDOW WAS ON THAT SIDE (INDICATING).

3 Q. YOU'RE POINTING TO YOUR RIGHT?

4 A. YES. AND I WAS ON THE LEFT SIDE, AND HANNAH
5 WAS IN THE MIDDLE.

6 Q. AND IS THAT SOMETHING THAT YOU AND ERIC
7 WOULD DO ONCE IN A WHILE, WATCH T.V. TOGETHER?

8 A. NO. I THINK THAT WAS ONLY MY FIRST TIME.

9 Q. WOULD YOU AND HANNAH WATCH T.V. TOGETHER
10 SOMETIMES?

11 A. YEAH. BUT I DON'T THINK WE WOULD BE LAYING
12 IN BED. WE WOULD JUST BE SITTING ON THE COUCH IN THE
13 LIVING ROOM.

14 Q. AND THEN WHAT HAPPENED AFTER ERIC GOT IN THE
15 BED?

16 A. I DON'T REALLY KNOW, BUT I REMEMBER HANNAH
17 -- I MEAN, MAYBE ERIC TOUCHING HANNAH BECAUSE HANNAH RAN
18 INTO THE BATHROOM AND WAS FREAKING OUT.

19 Q. OKAY. SO ONE OTHER THING THAT'S REALLY
20 IMPORTANT HERE IS TO TALK ABOUT THE THINGS THAT YOU SAW
21 OR YOU HEARD.

22 OKAY?

23 A. OKAY.

24 Q. CAN YOU DO THAT?

25 A. YES.

26 Q. ALL RIGHT. SO TELL ME WHAT IT IS THAT YOU
27 SAW HAPPEN AFTER ERIC GOT TO THE BED.

28 DID HE GET UNDER THE COVERS, OR WAS HE ABOVE

1 THE COVERS?

2 A. HE GOT UNDER THE COVERS.

3 Q. SO WHAT HAPPENED AFTER HE GOT UNDER THE
4 COVERS? WHAT'S THE FIRST THING YOU REMEMBER?

5 A. I'M PRETTY SURE HE STARTED TOUCHING HANNAH.

6 Q. DID YOU SEE THAT OR --

7 A. NO, I DIDN'T.

8 Q. OKAY. SO LET'S TALK ABOUT WHAT YOU SAW WITH
9 YOUR EYES.

10 OKAY?

11 A. OKAY.

12 Q. WHAT'S THE NEXT THING THAT YOU SAW AFTER
13 ERIC GOT IN THE BED?

14 A. I DIDN'T SEE ANYTHING UNTIL HANNAH RAN OUT
15 OF THE BED, KIND OF PUSHED ME. BECAUSE I THINK SHE WAS
16 SCARED BECAUSE SHE RAN INTO THE BATHROOM.

17 Q. LET'S DO THIS.

18 SO YOU SAID YOU SAW HANNAH GET UP?

19 A. YES.

20 Q. AND YOU SAW HER GO TOWARDS THE BATHROOM?

21 A. YES.

22 Q. IS THE BATHROOM IN THE BEDROOM, LIKE IN THE
23 SAME ROOM, OR IS IT OUTSIDE OF THE BEDROOM?

24 A. IT'S CONNECTED TO THE WALLS THAT ARE IN THE
25 BEDROOM, BUT IT WASN'T IN THE BEDROOM. IT WAS RIGHT
26 OUTSIDE.

27 Q. ALL RIGHT. AND WHEN YOU SAW HANNAH, DID SHE
28 LOOK TO YOU TO BE THE SAME THAT SHE LOOKED WHEN SHE GOT

1 IN THE BED, OR DID SHE LOOK DIFFERENT TO YOU?

2 A. SHE LOOKED DIFFERENT.

3 Q. HAD YOU EVER SEEN HER LOOK THAT WAY BEFORE?

4 A. I THINK ONLY ONCE BECAUSE SHE WAS SCARED
5 THAT SHE WAS GOING TO FALL OFF SOMETHING. SO I WAS
6 ASSUMED -- I WAS THINKING THAT SHE WOULD BE SCARED. I
7 DIDN'T KNOW WHY, THOUGH.

8 Q. AND SO, WHEN YOU SAW HER LOOKING THAT WAY
9 AND GOING TOWARDS THE BATHROOM, WHAT DID YOU DO?

10 A. I -- I THINK I ASKED ERIC FOR A SNACK. AND
11 THEN I ASKED IF HANNAH COULD HAVE ONE, TOO, MY SISTER.
12 AND I WENT -- I OPENED THE DOOR. AND I JUST -- I DIDN'T
13 PEEK IN.

14 I JUST REACHED MY ARM IN AND SAID, "ERIC
15 SAID WE COULD HAVE IT -- WE COULD HAVE ONE."

16 Q. WHAT WAS IT?

17 A. I DON'T REMEMBER, BUT IT WAS KIND OF LIKE A
18 SUGAR SNACK.

19 Q. ARE THOSE THE BEST KIND, SUGAR SNACKS?

20 A. SOMETIMES.

21 Q. OKAY. SO YOU SAID YOU REACHED YOUR HAND IN
22 TO GIVE HANNAH HER SNACK.

23 WHAT HAPPENED NEXT?

24 A. HANNAH JUST -- SHE SAID "OKAY," BUT THEN SHE
25 STARTED FREAKING OUT.

26 AND SHE SAID, "I'M SCARED, AND I'M FREAKING
27 OUT."

28 Q. WHEN YOU SAY SHE STARTED "FREAKING OUT,"

1 WHAT DID THAT LOOK LIKE TO YOU?

2 A. I -- WELL, IT LOOKED LIKE SOMETHING HAPPENED
3 IN THE BED. AND I DIDN'T KNOW WHAT, THOUGH.

4 Q. SO WHEN SHE SAID SHE'S FREAKING OUT, WHAT
5 HAPPENED RIGHT AFTER THAT?

6 A. SHE TOLD ME WHAT HAPPENED. SO THAT'S HOW I
7 KNEW THAT ERIC WAS TOUCHING HANNAH, TOO.

8 Q. BEFORE HANNAH TOLD YOU THAT, HAD YOU EVER
9 TOLD HANNAH WHAT WAS GOING ON WITH ERIC?

10 A. NO, I DIDN'T.

11 Q. ALL RIGHT. AND WHY IS IT THAT YOU NEVER
12 TOLD HANNAH ABOUT IT?

13 A. BECAUSE ERIC TOLD ME TO NOT TELL ANYBODY,
14 AND I WAS TOO SCARED TO.

15 Q. WHY WERE YOU SCARED?

16 A. BECAUSE I THOUGHT HE WAS GOING TO GET ME IN
17 TROUBLE BECAUSE HE LOOKED LIKE A REALLY STRONG GUY.

18 Q. IS HE A LOT BIGGER THAN YOU?

19 A. YEAH.

20 Q. AND SO SHE TOLD YOU THAT.

21 AND THEN WHAT DID HANNAH DO?

22 A. HANNAH -- AFTER SHE WENT TO THE BATHROOM,
23 SHE -- SHE SAID -- I'M PRETTY SURE SHE SAID, "I'M
24 GRABBING MY BACKPACK AND RUNNING TO SCHOOL OR WALKING."

25 AND I SAID, "WHY?"

26 Q. WHAT DID SHE SAY?

27 A. MAY YOU PLEASE REPEAT THAT?

28 I DIDN'T HEAR IT. SORRY.

1 Q. THAT'S OKAY. THANK YOU FOR CORRECTING ME.
2 SO YOU SAID THAT SHE TOLD YOU SHE WAS GOING
3 TO GRAB HER BACKPACK AND THEN HEAD TO SCHOOL?

4 A. YES.

5 Q. DID SHE -- DID SHE DO THAT?

6 A. NO. BUT SHE DID LEAVE HER BACKPACK ON THE
7 CURB RIGHT OUTSIDE OUR DOOR AND STARTED RUNNING TO THE
8 RIGHT OF THE HOUSES. BECAUSE WE LIVED IN A COMPLEX.

9 Q. DID YOU SEE WHERE SHE WENT?

10 A. NO. WELL, YES, I DID. SHE STARTED RUNNING
11 TOWARDS, I THINK, A FENCE AT THE VERY END.

12 Q. AND DID YOU GO AFTER HER?

13 A. I DON'T REMEMBER.

14 I THINK I JUST SAID, "HANNAH, COME BACK."

15 I YELLED IT. AND SHE WOULDN'T COME BACK.

16 Q. WHAT DID ERIC DO?

17 A. HE STARTED RUNNING AFTER HER. AND SINCE SHE
18 FORGOT HER BACKPACK, SHE STARTED RUNNING BACK TO THE
19 HOUSE. SHE GOT HER BACKPACK AND STARTED RUNNING BACK TO
20 HER RIGHT, BUT I DON'T KNOW WHY BECAUSE THE OUTDOORS WERE
21 LEFT. AND SHE DID SAY SHE WAS RUNNING TO SCHOOL, BUT I
22 DIDN'T KNOW WHY.

23 Q. AFTER SHE RAN OFF THAT SECOND TIME, AND ERIC
24 FOLLOWED -- DID HE FOLLOW HER AGAIN?

25 A. YES. BUT THAT WAS THE SECOND TIME SHE RAN,
26 HE FOLLOWED HER.

27 Q. WHAT HAPPENED NEXT?

28 A. WELL, ERIC SAID HE -- HE HURT HIS FOOT, AND

1 SOMETHING POPPED. BUT I DIDN'T HEAR ANYTHING. HE JUST
2 SAID IT.

3 Q. AND WHERE WERE YOU WHILE ALL THIS WAS GOING
4 ON?

5 A. I WAS RIGHT BY THE DOOR, WORRYING, BECAUSE I
6 THOUGHT HANNAH WAS GOING TO RUN AWAY. AND I -- AND I
7 DIDN'T WANT HER TO.

8 Q. AT SOME POINT DID ERIC AND HANNAH COME BACK
9 TO THE HOUSE?

10 A. YES, AT SOME POINT.

11 Q. OKAY. AND WHAT HAPPENED WHEN THEY GOT BACK
12 TO THE HOUSE?

13 A. HANNAH WAS CRYING WITH HER BACKPACK SITTING
14 ON THE STAIRS. SO THE NEWEST HOUSE WAS ACTUALLY A SECOND
15 STORY. SHE WAS SITTING ON THE STAIRS.

16 AND HE JUST STARTED SAYING TO HER, "WHY DID
17 YOU DO THAT?"

18 AND HE WAS MAD AT HER, I THINK.

19 Q. WHAT WAS HANNAH DOING?

20 A. CRYING, SAYING "MOMMY."

21 I THINK SHE WANTED HER MOMMY. I WAS
22 ASSUMING.

23 Q. WHAT HAPPENED NEXT?

24 A. HANNAH ASKED TO CALL MELISSA, HER MOM.
25 AND I THINK -- I'M PRETTY SURE HE SAID
26 "OKAY."

27 AND SHE -- SHE TOLD MY MOM AND MY DAD -- MY
28 STEPMOM AND MY DAD WHAT WENT ON, I THINK.

1 Q. SO LET ME ASK YOU.

2 WHEN YOU SAY HANNAH ASKED TO CALL HER MOM,
3 WERE YOU THERE AS WELL?

4 A. YES, I WAS. I WAS THERE THE WHOLE TIME.

5 Q. AND YOU COULD HEAR THIS CONVERSATION
6 HAPPENING BETWEEN HER AND ERIC?

7 A. YES. I WAS BY THE DOOR, BUT THE DOOR WAS
8 SHUT THIS TIME.

9 Q. WERE YOU INSIDE THE HOUSE OR OUTSIDE THE
10 HOUSE?

11 A. INSIDE.

12 Q. AND WERE THEY INSIDE THE HOUSE --

13 A. YES, THEY WERE.

14 Q. -- OR OUTSIDE?

15 AND HANNAH ASKED FOR THE PHONE.

16 AND YOU SAID THAT ERIC LET HER HAVE THE
17 PHONE?

18 A. YES, I THINK SO.

19 BUT I THINK HE TOLD HER, BEFORE THAT, "DON'T
20 TELL HER WHAT HAPPENED."

21 BUT HANNAH DID.

22 Q. AND YOU HEARD HIM SAY THAT?

23 A. YEAH. I'M PRETTY SURE HE SAID THAT. I
24 REMEMBER.

25 Q. AND WERE YOU THERE WHEN HANNAH TALKED ON THE
26 PHONE?

27 A. YES, I WAS.

28 Q. AND AFTER HANNAH TALKED ON THE PHONE, DID

1 ANYBODY COME TO THE HOUSE?

2 A. YES. FIRST, MY DAD AND MELISSA CAME. AND
3 THEN MY AUNT CAME. AND THEN THE COPS CAME. AND THEN MY
4 MOM CAME. SHE WAS THE LAST ONE THERE BECAUSE HER WORK
5 WAS SO FAR.

6 Q. LOTS OF PEOPLE.

7 SO LET'S TALK ABOUT WHEN YOUR DAD AND
8 MELISSA CAME.

9 A. OKAY.

10 Q. WERE YOU STILL INSIDE THE HOUSE, OR WERE YOU
11 OUTSIDE OF THE HOUSE?

12 A. WHEN MY DAD AND MELISSA CAME, I THINK I WAS
13 OUTSIDE THE HOUSE.

14 Q. AND WHAT HAPPENED WHEN THEY FIRST GOT THERE?

15 A. I THINK ERIC AND -- WELL, MELISSA STARTED
16 HUGGING ME AND HANNAH.

17 AND THEN SHE WENT OVER TO ERIC AND STARTED
18 YELLING AT HER (SIC), BUT I WAS IN THE BACKYARD AT THAT
19 TIME.

20 Q. SO LET ME JUST -- I JUST WANT TO MAKE SURE I
21 UNDERSTAND.

22 SO YOU SAID YOU WERE OUTSIDE.

23 WERE YOU OUT FRONT OR IN THE BACKYARD WHEN
24 THEY FIRST GOT THERE?

25 A. OUT FRONT. BUT THEN I RAN TO THE BACKYARD.

26 Q. SO MELISSA HUGGED YOU. AND THEN YOU SAID
27 SHE STARTED YELLING AT ERIC.

28 WERE YOU -- HAD YOU ALREADY GONE TO THE

1 BACKYARD WHEN SHE STARTED YELLING?

2 A. YES.

3 Q. COULD YOU HEAR HER FROM THERE?

4 A. YEAH. THEY WERE YELLING PRETTY LOUD.

5 Q. BOTH OF THEM, BOTH ERIC AND MELISSA?

6 A. YES.

7 Q. WHAT ABOUT YOUR DAD?

8 A. HE -- HE -- I WAS -- I STARTED TO CRY, AND I
9 ALMOST SCREAMED.

10 SO I THINK MY DAD ASKED ERIC TO GO CALM ME
11 DOWN.

12 AND ERIC, I THINK, SAID, "OF COURSE, YES."
13 AND HE CARRIED ME.

14 Q. WHO CARRIED YOU?

15 A. MY DAD.

16 Q. WHERE DID HE TAKE YOU TO?

17 A. HE WAS JUST -- HE STAYED IN THE BACKYARD
18 WITH ME.

19 Q. OKAY. SO WAS IT YOUR DAD ASKING ERIC IF HE
20 COULD GO CALM YOU DOWN?

21 A. YES.

22 Q. OKAY. AND THEN YOU SAID YOUR DAD CAME IN
23 THE BACKYARD.

24 WHAT HAPPENED WHEN HE CAME IN THE BACKYARD?

25 A. HE STARTED ASKING ME, "WHY DIDN'T YOU TELL
26 ME?"

27 BECAUSE HE -- HE -- WHILE ERIC WAS -- WELL,
28 NOT WHILE -- BUT WHILE ERIC -- THE TOUCHING WAS GOING ON

1 IN DAYS, MY DAD KEPT ON ASKING ME ONCE IN A WHILE, "HAS
2 ERIC DONE ANYTHING INAPPROPRIATE TO YOU?"

3 AND I WOULD SAY, "NO."

4 SO HE ASKED ME, "WHY DIDN'T YOU TELL ME?"

5 Q. AND WHAT DID YOU SAY?

6 A. I SAID, "BECAUSE I WAS TOO SCARED."

7 AND HE UNDERSTOOD.

8 HE SAID, "OKAY. I UNDERSTAND THAT."

9 Q. OKAY. I KNOW MELISSA WAS PRETTY UPSET.
10 WHAT ABOUT YOUR DAD? WAS HE UPSET, LIKE
11 MELISSA, OR WAS HE CALM?

12 A. HE WAS CALM, BUT I'M PRETTY SURE HE WAS
13 REALLY UPSET. HE -- HE -- BUT HE DOESN'T SHOW HIS
14 EMOTIONS THAT WELL. HE JUST STAYS CALM.

15 Q. AND I WANT TO SHOW YOU A COUPLE OF PICTURES.
16 CAN YOU LOOK AT SOME PICTURES WITH ME?

17 A. YES, OF COURSE.

18 Q. OKAY. THANK YOU.

19 I'M GOING TO SHOW YOU WHAT'S ALREADY BEEN
20 MARKED AS COURT'S EXHIBIT NUMBER 1 -- I'M GOING TO SHOW
21 YOU THIS. IT'S COURT'S EXHIBIT 1.

22 DO YOU KNOW WHAT'S SHOWN IN THAT PICTURE?

23 A. YES, I DO.

24 Q. TELL ME ABOUT THAT PICTURE.

25 A. THAT IS MY HOUSE, THE NEWEST HOUSE, THE LAST
26 HOUSE THAT ME AND ERIC AND MY MOM LIVED IN.

27 Q. IS THIS THE HOUSE WHERE -- WHEN THE POLICE
28 GOT CALLED?

1 A. YES.

2 Q. ALL RIGHT. AND WHAT PART OF THE HOUSE ARE
3 WE LOOKING AT HERE?

4 A. THE DOOR. AND WE SEE TWO WINDOWS AND ONE
5 DOOR OVER TO THE RIGHT.

6 Q. SO THE DOOR IS RIGHT IN THE MIDDLE OF THE
7 PICTURE? IS THAT FAIR?

8 A. YES.

9 Q. OKAY. AND THEN RIGHT ON -- ABOVE THAT DOOR,
10 THERE'S A SMALL WINDOW.

11 WHAT ROOM IS THAT?

12 A. I'M PRETTY SURE THAT'S THE BATHROOM WINDOW.

13 Q. OKAY.

14 A. YEAH, THAT IS.

15 Q. AND THEN TO THE -- IF YOU'RE LOOKING AT IT,
16 TO THE RIGHT SIDE OF THAT, THERE'S ANOTHER WINDOW WITH
17 SOME BROWN UNDERNEATH THAT.

18 WHAT ROOM IS THAT?

19 A. THAT WAS ERIC'S AND MY MOM'S ROOM.

20 Q. OKAY. AND THEN WAS YOUR ROOM NEXT TO IT OR
21 ON THE OTHER SIDE OF THE HOUSE?

22 A. IT WAS RIGHT NEXT TO IT, BUT MY ROOM WAS ON
23 -- IN FRONT OF -- IT WAS TO THE SIDE OF MY MOM'S ROOM.

24 Q. OKAY. AND I'M GOING TO SHOW YOU WHAT'S
25 MARKED AS COURT'S EXHIBIT NUMBER 2.

26 DO YOU RECOGNIZE WHAT'S ON THE SCREEN THERE?

27 A. YEAH. YES, I DO.

28 Q. ALL RIGHT. TELL US ABOUT THAT.

1 COURT'S EXHIBIT FOR IDENTIFICATION:
2 5 - 8 1/2 BY 11-INCH PAGE CONTAINING
3 PHOTOGRAPH DEPICTING WALKWAY WITH LIGHT
4 TO RIGHT, FENCE.)

5 ---000---

6 BY MS. DI TILLIO:

7 Q. I'M GOING TO SHOW YOU WHAT'S MARKED AS
8 COURT'S EXHIBIT NUMBER 5.

9 DO YOU RECOGNIZE WHAT'S SHOWN IN THAT
10 PICTURE?

11 A. YES, I DO.

12 Q. OKAY. TELL US ABOUT THAT PICTURE.

13 A. THAT PICTURE IS NEAR MY TWO FRIENDS' HOUSE.
14 AND IT'S CLOSER TO THE FENCE NOW, BUT IT -- THE ROAD THAT
15 -- THE SIDEWALK THAT IS -- THAT IS STRAIGHT, GOING INTO
16 THE FENCE AREA, THAT IS CONNECTED TO THE SIDEWALK AND THE
17 CURB AND THE ROAD.

18 Q. OKAY. SO THAT'S THE SAME PICTURE, BIGGER.
19 SO IS THAT THE AREA YOU TALKED ABOUT WITH
20 THE FENCE AND THE LIGHTS?

21 A. YES, IT WAS.

22 ---000---

23 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
24 COURT'S EXHIBIT FOR IDENTIFICATION:
25 6 - 8 1/2 BY 11-INCH PAGE CONTAINING
26 PHOTOGRAPH DEPICTING WALKWAY, SIMILAR
27 TO EXHIBIT 5, AT A DISTANCE.)

28 ---000---

1 BY MS. DI TILLIO:

2 Q. OKAY. I'M GOING TO SHOW YOU WHAT'S MARKED
3 AS COURT'S 6.

4 CAN YOU DESCRIBE FOR US WHAT'S MARKED IN
5 THAT PICTURE?

6 A. YES.

7 Q. OKAY. TELL US ABOUT IT. IT'S NOT ON THE
8 SCREEN YET. IT'S JUST IN FRONT OF YOU.

9 A. YEAH.

10 Q. SO TELL US ABOUT THAT PICTURE.

11 A. IT'S NEARBY THE THREE SIDEWALKS THAT WERE TO
12 THE LEFT, THE RIGHT AND BEHIND -- BEHIND THE INNER
13 SIDEWALK.

14 Q. WAS IT FURTHER ON THE SAME PATH OF THE LAST
15 PICTURE WE JUST LOOKED AT?

16 A. YES, IT WAS.

17 Q. OKAY. SO IF YOU --

18 SO THAT'S THAT THIRD PATH; IS THAT CORRECT?
19 LIKE, THAT'S SHOWN HERE WITH THE SIDEWALK AND THEN THE
20 ROCKS?

21 A. YES.

22 ---000---

23 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
24 COURT'S EXHIBIT FOR IDENTIFICATION:

25 7 - 8 1/2 BY 11-INCH PAGE CONTAINING
26 PHOTOGRAPH DEPICTING WALKWAY, WITH PLANT
27 TO LEFT, GATED DECK AT END OF WALKWAY IN
28 CENTER.)

1 ---000---

2 BY MS. DI TILLIO:

3 Q. OKAY. AND I'M GOING TO SHOW YOU WHAT'S
4 MARKED AS COURT'S 7.

5 DO YOU RECOGNIZE THAT PICTURE?

6 A. YES, I THINK SO.

7 Q. OKAY. AND CAN YOU DESCRIBE WHERE THAT IS IN
8 RELATIONSHIP TO THIS LAST PICTURE?

9 A. IT IS -- IT'S CONNECTED TO THE VERY LAST
10 THAT WE JUST LOOKED AT, BUT IT'S GOING STRAIGHT. AND IT
11 WAS A LITTLE TURN TO THE RIGHT.

12 Q. AND I'M GOING TO SHOW YOU --

13 SO THAT WOULD BE -- IF YOU KEPT GOING ON THE
14 PATH, YOU WOULD END UP DOWN THIS LITTLE WALKWAY?

15 A. YES, YOU WOULD.

16 ---000---

17 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
18 COURT'S EXHIBIT FOR IDENTIFICATION:

19 8 - 8 1/2 BY 11-INCH PAGE CONTAINING
20 PHOTOGRAPH DEPICTING PATH TO DECK,
21 CLOSER VIEW.)

22 ---000---

23 BY MS. DI TILLIO:

24 Q. ALL RIGHT. AND SHOWING YOU COURT'S EXHIBIT
25 NUMBER 8, DOES THAT LOOK -- WHAT DOES THAT LOOK LIKE TO
26 YOU?

27 A. THAT LOOKS LIKE THE SAME EXACT PATH THAT WE
28 JUST LOOKED AT, BUT CLOSER.

1 Q. OKAY. CLOSER, LIKE WALKING DOWN THE PATH,
2 TAKING PICTURES?

3 A. YEAH.

4 ---000---

5 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
6 COURT'S EXHIBIT FOR IDENTIFICATION:

7 9 - 8 1/2 BY 11-INCH PAGE CONTAINING
8 PHOTOGRAPH DEPICTING FEMALE NEAR
9 GATED DECK.)

10 ---000---

11 BY MS. DI TILLIO:

12 Q. ALL RIGHT. AND I'M GOING TO SHOW YOU THE
13 LAST ONE HERE OF THESE PICTURES, IS COURT'S EXHIBIT
14 NUMBER 9.

15 DO YOU RECOGNIZE WHAT'S SHOWN IN THAT
16 PICTURE?

17 A. YES.

18 Q. WHAT IS THAT?

19 A. THAT IS THE SAME EXACT SCENE, CLOSER, BUT
20 WITH MY SISTER IN THE CORNER, WEARING HER FANCY PANTS,
21 LEGGINGS.

22 Q. OKAY. SO IS THAT YOUR SISTER, HANNAH?

23 A. YES.

24 Q. ALL RIGHT.

25 A. BUT SHE'S YOUNGER IN THAT PICTURE.

26 Q. OKAY. YOUNGER THAN SHE IS NOW?

27 A. YES.

28 Q. AND THEN I'D LIKE TO TALK A LITTLE BIT MORE

1 ABOUT -- A LITTLE BIT MORE ABOUT THE BUZZY THING.

2 ALL RIGHT?

3 A. OKAY.

4 Q. DO YOU REMEMBER MAKING THE DRAWING OF THE
5 BUZZY THING FOR MISS CHRISTINA?

6 A. I THINK SO, YEAH.

7 Q. OKAY. AND IF I SHOWED YOU A PICTURE OF WHAT
8 YOU DREW, WOULD YOU THINK YOU WOULD RECOGNIZE IT?

9 A. YES.

10 ---000---

11 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
12 COURT'S EXHIBIT FOR IDENTIFICATION:

13 10 - 8 1/2 BY 11-INCH PAGE CONTAINING

14 TWO DRAWINGS, OVAL WITH LINES AND SQUARE
15 SHAPE.)

16 ---000---

17 BY MS. DI TILLIO:

18 Q. I'M GOING TO SHOW YOU WHAT I WOULD ASK BE
19 MARKED COURT'S NEXT-IN-ORDER, WHICH I BELIEVE WOULD BE
20 10.

21 THANK YOU. OOPS, THAT WAS CLOSE.

22 OKAY. I'M GOING TO SHOW YOU THIS PICTURE
23 HERE.

24 ALL RIGHT. DO YOU RECOGNIZE THAT PICTURE?

25 A. I RECOGNIZE THE LINE WITH THE END THING ON
26 IT, BUT I DON'T RECOGNIZE WHAT'S TO THE RIGHT OF IT, LIKE
27 THE LITTLE BOX, I THINK.

28 Q. ALL RIGHT. DO YOU -- WHICH PART DO YOU NOT

1 RECOGNIZE, THE PART AT THE BOTTOM HERE?

2 A. YES, RIGHT THERE AND RIGHT THERE. BUT I DO
3 RECOGNIZE THAT (INDICATING).

4 Q. ALL RIGHT. SO YOU RECOGNIZE A PORTION OF
5 IT?

6 A. YES.

7 Q. AND DO YOU KNOW WHO MADE THAT DRAWING?

8 A. YES. IT WAS ME.

9 Q. IT WAS YOU.

10 ALL RIGHT. AND DO YOU REMEMBER WHERE YOU
11 WERE WHEN YOU MADE THAT DRAWING?

12 A. NO. BUT -- YES, I THINK I WAS IN THE ROOM
13 WITH THAT GIRL WITH THE HUGE MIRROR.

14 Q. OKAY. AND --

15 MS. OLIVER: I HAVE A QUESTION BEFORE IT'S
16 PUBLISHED.

17 MS. DI TILLIO: OKAY.

18 MS. OLIVER: YOUR HONOR, MAY I HAVE JUST ONE
19 MOMENT, PLEASE?

20 THE COURT: YES.

21

22 BY MS. DI TILLIO:

23 Q. ALL RIGHT. SO WE -- SO YOU RECOGNIZE THIS
24 PORTION, THE TOP PORTION OF THE DRAWING?

25 A. YES.

26 Q. DID YOU SAY THAT'S THE ONE THAT YOU MADE?

27 A. YES. I'M PRETTY SURE.

28 Q. AND WHEN YOU MADE THAT, WHAT WERE YOU

1 DESCRIBING?

2 A. THE BUZZING TOY THAT WE TALKED ABOUT A
3 LITTLE BIT AGO.

4 Q. OKAY. AND IT'S GOT A BUNCH OF LINES LIKE
5 COMING OUT FROM IT.

6 WHAT ARE THOSE LINES SUPPOSED TO MEAN?

7 A. IT MEANS THAT IT'S BUZZING, AND IT'S MAKING
8 A LOT OF LIKE -- IT'S NOT MAKING A LOT OF NOISE, BUT IT'S
9 LOUD BUZZING. AND IT'S -- IT'S BUZZING HARD.

10 Q. OKAY. WHEN IT WAS BUZZING, COULD YOU HEAR
11 IT?

12 A. A LITTLE, BUT NOT AS MUCH -- IT'S NOT -- IT
13 WASN'T THAT LOUD, I DON'T THINK.

14 Q. AND WHAT ABOUT FEEL IT? COULD YOU FEEL IT
15 BUZZING?

16 A. YES, I COULD.

17 Q. AND THEN THERE'S A LINE COMING OUT OF THE
18 SIDE OF IT?

19 A. YES.

20 Q. TELL US ABOUT THAT.

21 A. I THINK THAT'S THE CORD THAT CONNECTED TO
22 THE -- TO THE CIRCLE THING. AND, YEAH, I THINK THAT WAS
23 JUST A CORD.

24 Q. OKAY. BREANNA, BEFORE -- BEFORE THE POLICE
25 BECAME INVOLVED --

26 A. YES?

27 Q. -- AND YOU TALKED ABOUT THE TOUCHING THAT
28 ERIC DID TO YOU, DID YOU AND ERIC GET ALONG OKAY?

1 A. MAY YOU PLEASE REPEAT THAT?

2 I DIDN'T REALLY UNDERSTAND IT.

3 Q. SURE, SURE.

4 DID YOU LIKE HANGING OUT WITH ERIC?

5 A. NOT AS MUCH. I DIDN'T -- I WAS ALWAYS
6 WORRIED OR DIDN'T WANT ERIC TO PICK ME UP FROM SCHOOL
7 BECAUSE HE WOULD PICK ME UP FROM SCHOOL EVERY DAY
8 BECAUSE MY MOM WOULD WORK LATE. SHE WOULD WORK TILL
9 6:00 O'CLOCK.

10 Q. AND DID, SOMETIMES, YOU AND ERIC DO FUN
11 THINGS TOGETHER?

12 A. I THINK ONCE IN A WHILE, MAYBE.

13 Q. OKAY. AND DID --

14 I THINK YOU SAID YOU REMEMBERED THAT YOUR
15 MOM WAS FRIENDS WITH ERIC?

16 A. YES.

17 Q. AND DID THEY SEEM TO GET ALONG?

18 A. YEAH.

19 Q. OKAY.

20 A. THEY DID.

21 Q. THANK YOU. I HAVE NO FURTHER QUESTIONS FOR
22 YOU. MISS OLIVER IS GOING TO ASK YOU A FEW QUESTIONS,
23 THOUGH.

24 OKAY?

25 A. OKAY.

26 MS. DI TILLIO: ALL RIGHT. THANK YOU.

27 THE COURT: CROSS-EXAMINATION.

28 MS. OLIVER: THANK YOU.

CROSS-EXAMINATION

1

2

3 BY MS. OLIVER:

4 Q. IS IT "BREANNA" OR "BRE-ONNA"?

5 A. "BREANNA."

6 Q. NOW, BREANNA, I'M MISS OLIVER.

7 AND WE DIDN'T MEET THE LAST TIME?

8 A. NO. I DON'T THINK SO.

9 Q. OKAY. SO I'M GOING TO ASK YOU A FEW
10 QUESTIONS.

11 A. OKAY.

12 Q. AND JUST LIKE WITH MISS DI TILLIO, IF I ASK
13 YOU A QUESTION AND YOU DON'T REMEMBER, JUST TELL ME YOU
14 DON'T REMEMBER.

15 A. OKAY.

16 Q. AND IF YOU DON'T UNDERSTAND THE QUESTION,
17 JUST ASK ME IF I CAN SAY IT A DIFFERENT WAY. AND I'LL
18 TRY MY BEST.

19 A. OKAY.

20 Q. AND THEN, ALSO, IF YOU GET A LITTLE TIRED,
21 IF YOU WANT A LITTLE BREAK, JUST LET ME KNOW.

22 A. OKAY.

23 Q. OKAY. SO, FIRST, I WANT TO TALK TO YOU
24 ABOUT THE NUMBER OF HOUSES YOU LIVED IN WITH YOUR MOM AND
25 ERIC.

26 A. OKAY.

27 Q. SO WAS IT A TOTAL OF THREE HOUSES?

28 A. YES.

1 Q. AND TWO OF THE HOUSES HAD ONE LEVEL?

2 A. YES.

3 Q. BUT YOU REMEMBER THAT THE THIRD HOUSE, THE
4 NEWEST HOUSE, HAD TWO LEVELS?

5 A. YES. THAT'S WHAT I REMEMBER.

6 Q. WHEN YOU LIVED IN THE SECOND HOUSE, DO YOU
7 REMEMBER WHAT GRADE YOU WERE IN?

8 A. I THINK I WAS IN -- I WAS ACTUALLY IN
9 KINDERGARTEN OR FIRST.

10 Q. AND WHY DO YOU THINK THAT?

11 A. BECAUSE, IN THE NEWEST HOUSE, I WENT TO A
12 NEW SCHOOL, WHICH WAS POMERADO ELEMENTARY. AND I STARTED
13 THAT SCHOOL IN SECOND GRADE.

14 Q. OKAY. GREAT.

15 YOU SAID THAT, WHEN YOU WERE IN THE SECOND
16 HOUSE, THAT, WHEN YOUR MOMMY WOULD BE AT WORK, THAT
17 SOMETIMES ERIC WOULD TOUCH YOU IN YOUR PRIVATE PARTS?

18 A. YES.

19 Q. AND HE USED HIS HANDS?

20 A. YES.

21 Q. WHEN HE USED HIS HANDS, YOU SAID THAT IT WAS
22 MORE THAN ONCE?

23 A. YES.

24 Q. DO YOU REMEMBER HOW MANY TIMES?

25 A. NO, I DON'T. I JUST REMEMBER IT WAS A LOT
26 OF TIMES.

27 Q. AND WOULD YOUR -- WOULD YOU HAVE ON PANTS?

28 A. NO. NO, I WOULDN'T.

1 Q. WOULD YOU HAVE ON PANTIES?

2 A. WHEN HE WAS TOUCHING ME?

3 Q. YES.

4 A. NO, NOT THAT I KNOW OF.

5 Q. WOULD YOU HAVE ON PAJAMAS?

6 A. NO.

7 Q. WOULD THIS HAPPEN IN THE DAYTIME OR THE
8 NIGHTTIME?

9 A. ONLY ONCE AT NIGHT, BUT MOSTLY IN THE
10 AFTERNOON. SO THE DAYTIME.

11 Q. AND WHEN YOU WERE IN KINDERGARTEN AND FIRST
12 GRADE, DO YOU REMEMBER WHAT SCHOOL YOU WENT TO?

13 A. YES. I WENT TO CURIE ELEMENTARY SCHOOL.

14 Q. DID YOU EVER GO TO THE GIRLS OR BOYS CLUB
15 AFTER SCHOOL?

16 A. I USED TO, BUT NOW I GO HOME WITH MY FRIEND.

17 Q. AND WHEN DID YOU GO TO THE --

18 WAS IT THE GIRLS CLUB, BOYS CLUB OR BOTH?

19 A. BOTH. IT WAS CALLED THE GIRLS AND BOYS
20 CLUB.

21 Q. WHEN YOU WENT TO THE GIRLS AND BOYS CLUB, DO
22 YOU REMEMBER WHAT GRADE YOU USED TO GO TO THE GIRLS AND
23 BOYS CLUB?

24 A. I THINK I STARTED IN FIRST GRADE. AND SO
25 ABOUT THREE YEARS. BECAUSE I -- I STARTED NOT GOING IN
26 THE BEGINNING OF SCHOOL OF THIS YEAR, IN FOURTH GRADE.

27 Q. OKAY. AND YOUR DAD'S NAME IS ALLAN?

28 A. YES. THAT IS CORRECT.

1 Q. OKAY. DOES YOUR DAD, ALLAN -- DID HE EVER
2 PICK YOU UP FROM SCHOOL WHEN YOU WERE IN KINDERGARTEN OR
3 FIRST GRADE?

4 A. NOT THAT I KNOW OF, NO.

5 Q. HOW ABOUT WHEN YOU STARTED GOING TO YOUR NEW
6 SCHOOL FROM THE SECOND GRADE? DID YOUR DAD EVER PICK YOU
7 UP?

8 A. ACTUALLY, NO. UNTIL THE LAST -- THE LAST
9 TIME OF THIRD GRADE AND ALL OF FOURTH GRADE.

10 Q. OKAY. WHEN YOU STAYED IN THE THIRD HOUSE,
11 THAT WAS THE HOUSE THAT YOU SAW THE PICTURES OF ON THE
12 T.V. SCREEN?

13 A. YES, THAT WAS.

14 Q. OKAY. IN THE HOUSE, IN THE THIRD HOUSE, IS
15 IT THE KIND OF HOUSE THAT HAS A LIVING ROOM DOWNSTAIRS
16 AND A LIVING ROOM UPSTAIRS?

17 A. NO. IT WAS ONLY DOWNSTAIRS.

18 Q. SO THE LIVING ROOM WAS ONLY DOWNSTAIRS?

19 A. YES.

20 Q. AND WAS YOUR BEDROOM DOWNSTAIRS, NEAR THE
21 LIVING ROOM, OR WAS IT UPSTAIRS?

22 A. IT WAS UPSTAIRS.

23 Q. AND WAS YOUR BEDROOM CLOSE TO YOUR MOM'S
24 BEDROOM?

25 A. YES. IT WAS RIGHT BESIDE IT. THERE WAS
26 JUST A THICK WALL BETWEEN.

27 Q. SO THERE WERE NEXT-DOOR NEIGHBORS?

28 A. YEAH.

1 Q. DID YOU EVER GO INSIDE OF YOUR MOM'S ROOM?

2 A. YEAH. I USED TO PLAY DRESS-UP AND PLAY WITH
3 HER SHOES.

4 Q. AND DID YOU EVER GO THROUGH YOUR MOM'S
5 DRAWERS, HER DRESSER DRAWERS?

6 A. NO, I WOULD NEVER. I WOULD ONLY GO IN THE
7 CLOSET TO GET HER SHOES OR HER JACKET, HER WORK JACKET.

8 Q. HER SHOES OR HER WORK JACKET?

9 A. YEAH.

10 Q. WOULD YOU WEAR HIGH HEELS?

11 A. YES, I WOULD.

12 Q. SO YOU WORE HIGH HEELS AND A WORK JACKET?

13 A. YEP.

14 Q. OKAY. WAS THERE -- DO YOU KNOW WHAT A
15 NIGHTSTAND IS?

16 A. YES, I DO. I HAVE ONE IN MY ROOM.

17 Q. WHAT IS A NIGHTSTAND?

18 A. IT'S -- IT'S -- IT'S LIKE A -- LIKE, ALMOST
19 LIKE A TABLE, BUT A LITTLE SMALLER. AND SOME -- SOME
20 NIGHTSTANDS HAVE TWO DRAWERS OR A DRAWER. AND IT WOULD
21 USUALLY SIT BY YOUR BED AT NIGHT.

22 Q. OKAY. IN YOUR MOMMY'S ROOM, DID SHE HAVE A
23 NIGHTSTAND?

24 A. YES. THEY HAD -- SHE HAD TWO IN THE ROOM.

25 Q. WHERE WERE THE NIGHTSTANDS IN YOUR MOMMY'S
26 ROOM?

27 A. ONE WAS ON THE LEFT SIDE OF THE BED, AND ONE
28 WAS ON THE RIGHT SIDE OF THE BED.

1 Q. OKAY. AND YOUR MOMMY IS TAMI?

2 A. YES.

3 Q. DID YOUR MOMMY AND ERIC -- DID THEY SHARE A
4 BEDROOM?

5 A. YES, THEY WOULD.

6 Q. DID YOU EVER GO INTO THE DRAWERS OF THE
7 NIGHTSTAND?

8 A. NO, I WOULDN'T.

9 Q. NOW, EARLIER, YOU ANSWERED A LOT OF
10 QUESTIONS ABOUT A BUZZY TOY?

11 A. YES.

12 Q. DO YOU REMEMBER THAT?

13 A. (NO AUDIBLE RESPONSE.)

14 Q. DO YOU KNOW WHERE IN THE HOUSE THE BUZZY TOY
15 WAS KEPT?

16 A. I THINK IT WAS IN ERIC'S NIGHTSTAND BECAUSE
17 I THINK MY MOM AND ERIC HAD SEPARATE NIGHTSTANDS.

18 Q. AND I THINK YOU SAID THAT THE BUZZY TOY --
19 THAT IT WENT EITHER MEDIUM, FAST OR LOW?

20 A. YES. IT WAS IN ORDER OF LOW, MEDIUM AND
21 FAST.

22 Q. OKAY. AND DID YOU EVER PLAY WITH THE BUZZY
23 TOY?

24 A. NO, I WOULDN'T.

25 Q. HOW DO YOU KNOW THAT THE BUZZY TOY HAD LOW,
26 MEDIUM AND FAST?

27 A. BECAUSE I THINK ERIC WOULD -- BEFORE HE USED
28 IT ON ME, HE WOULD SAY, "WOULD YOU LIKE IT ON LOW, MEDIUM

1 OR FAST?"

2 I THINK I REMEMBER HIM SAYING THAT.

3 Q. YOU THINK YOU REMEMBER?

4 A. YES.

5 Q. DO YOU ACTUALLY REMEMBER HIM SAYING THAT?

6 A. YEAH, A LITTLE, YEAH.

7 Q. A LITTLE?

8 A. I REMEMBER HIM SAYING SOMETHING ABOUT, LIKE,
9 "WHICH ONE DO YOU WANT IT ON?"

10 Q. OKAY.

11 A. SO, YES.

12 Q. AND WAS THAT AT THE SECOND HOUSE OR THIRD
13 HOUSE?

14 A. I THINK IT WAS ONLY IN THE THIRD HOUSE,
15 MAYBE. I DON'T KNOW.

16 Q. OKAY. NOW, YOU ALSO SAID THAT, ONE DAY, YOU
17 SAW ERIC'S PRIVATE.

18 DO YOU REMEMBER THAT?

19 A. YES, I DO.

20 Q. AND HE DIDN'T -- YOU SAID HE DIDN'T HAVE ON
21 ANY CLOTHES?

22 A. NO, NOT THAT I KNOW OF. YEAH. NO.

23 Q. WHEN YOU SAW -- WHEN YOU SAW THAT ERIC
24 DIDN'T HAVE ON ANY CLOTHES, WHERE WAS HE IN THE HOUSE?

25 A. HE WAS IN THE LIVING ROOM. BUT, AFTER HE
26 TOUCHED ME WITH HIS HANDS, HE HAD NO CLOTHES ON. WHEN HE
27 PEED ON ME, HE -- HE JUST WENT TO THE BATHROOM TO GET A
28 TOWEL.

1 Q. BEFORE THAT HAPPENED, HAD HE GOTTEN OUT OF
2 THE SHOWER?

3 A. I DON'T THINK SO.

4 Q. DO YOU REMEMBER IF THAT WAS DAYTIME OR
5 NIGHTTIME?

6 A. I'M PRETTY SURE IT WAS DAYTIME, BUT I DON'T
7 REMEMBER.

8 Q. AND WHEN YOUR MOMMY IS AT WORK, DOES SHE
9 WORK ON SATURDAYS AND SUNDAYS?

10 A. NO, SHE DOESN'T. SHE GETS THOSE DAYS OFF.

11 Q. OKAY. NOW, YOU SAID A FEW MINUTES AGO THAT
12 -- AND I'M GOING TO KIND OF MOVE AROUND A LITTLE BIT.

13 OKAY?

14 A. OKAY.

15 Q. SO NOW I'M GOING TO TALK ABOUT HANNAH.

16 A. OKAY.

17 Q. OKAY. NOW, YOU SAID THAT YOU REMEMBER ERIC
18 TELLING HANNAH, BEFORE SHE WAS GOING TO TALK ON THE
19 TELEPHONE, TO NOT TELL HER MOM WHAT HAPPENED.

20 A. YES, I DO REMEMBER THAT.

21 Q. DID YOU EVER TELL ANYBODY ELSE THAT?

22 A. NO, I DIDN'T. I WAS TOO SCARED TO TELL EVEN
23 MY FRIENDS.

24 Q. SO TODAY IS THE FIRST DAY THAT YOU CAN TELL
25 THAT PART OF THE STORY?

26 A. YES. THE ONLY PERSON I TOLD IT TO AFTER THE
27 COPS CAME WERE MY DAD AND MELISSA AND MY MOM.

28 Q. OKAY. SO YOU TOLD YOUR DAD, MELISSA AND

1 YOUR MOM THAT YOU HEARD ERIC TELLING THAT TO HANNAH?

2 A. YES. BUT MY DAD WAS THE FIRST ONE I TOLD.

3 Q. OKAY. AND WHEN DID YOU TELL YOUR DAD THAT?

4 A. WHEN HE WAS CARRYING ME OUTSIDE, TRYING TO
5 CALM ME DOWN.

6 Q. DID YOU TELL YOUR DAD ANYTHING ELSE?

7 A. NOT OTHER THAN THE TOUCHING AND WHAT HANNAH
8 SAID, NO, NOT THAT I KNOW OF.

9 Q. DID YOUR -- WHEN YOUR DAD WAS CARRYING YOU,
10 DID HE ASK YOU A LOT OF QUESTIONS?

11 A. I DON'T REMEMBER, BUT I THINK IT WAS JUST A
12 COUPLE, NOT A LOT.

13 Q. AND ON THAT DAY, WHEN THE POLICE WERE AT
14 YOUR HOUSE, DID YOUR MOMMY ASK YOU A LOT OF QUESTIONS?

15 A. NO.

16 I DON'T THINK SHE ACTUALLY ASKED ME ANY
17 QUESTIONS, EXCEPT FOR, "ARE YOU OKAY?"

18 I DON'T THINK SHE ASKED ME, LIKE, "WHY
19 DIDN'T YOU TELL ME?"

20 Q. AND WHAT ABOUT MELISSA? DID MELISSA ASK YOU
21 A LOT OF QUESTIONS?

22 A. I DON'T REMEMBER.

23 Q. DID THE POLICE ASK YOU A LOT OF QUESTIONS?

24 A. NO, THEY DIDN'T REALLY ASK ME ANY QUESTIONS,
25 BUT ALL THEY ASKED -- I THINK THEY ONLY ASKED ME ONE
26 QUESTION.

27 Q. OKAY. AND DID YOU AND HANNAH TALK A LOT
28 ABOUT WHAT WAS GOING ON?

1 A. NO, NOT AFTER THE COPS CAME.

2 Q. OKAY. WHAT ABOUT BEFORE THE COPS CAME?

3 A. NO. I TOLD HER THAT NOTHING HAPPENED, JUST
4 LIKE MY DAD.

5 BECAUSE SHE WOULD ASK, BEFORE SHE CAME OVER,
6 "DID ERIC DO ANYTHING TO YOU?"

7 AND I WOULD SAY, "NO."

8 BUT I WOULDN'T TRY TO LIE. BUT I WOULD HAVE
9 TO BECAUSE I WAS WAY TOO SCARED.

10 Q. AND GIVE ME JUST A SECOND.

11 A. OKAY.

12 Q. YOU -- YOU SAID YOU DIDN'T -- WHEN HANNAH
13 WOULD ASK YOU IF ERIC EVER TOUCHED YOU, YOU WOULD SAY
14 "NO" BECAUSE YOU WERE WAY TOO SCARED?

15 A. YES.

16 Q. WHAT WERE YOU WAY TOO SCARED OF?

17 A. I WAS WAY TOO SCARED OF ERIC HURTING ME TO
18 TELL SOMEBODY OR GETTING ME IN TROUBLE. AND I DON'T LIKE
19 GETTING IN TROUBLE, BUT I NEVER REALLY DO.

20 Q. YOU NEVER REALLY GET IN TROUBLE?

21 A. NOT REALLY.

22 Q. OKAY. SO IF YOU WERE TO GET IN TROUBLE,
23 WHAT KIND OF PUNISHMENT WOULD YOUR MOMMY GIVE YOU?

24 A. SHE WOULD ONLY SEND ME TO MY ROOM BECAUSE I
25 DON'T USUALLY GET IN TROUBLE. SO THEY DON'T REALLY KNOW
26 WHAT TO PUNISH ME FOR, BUT, UNLIKE MY SISTER, I DON'T GET
27 IN TROUBLE.

28 Q. OKAY. SO YOU NEVER REALLY GOT IN TROUBLE.

1 AND WHEN YOU DID, THEY WOULD JUST SAY, "GO
2 TO YOUR ROOM"?

3 A. YEAH. AND SIT ON MY BED FOR A LITTLE BIT.

4 Q. FOR, LIKE, A FEW MINUTES?

5 A. YEAH, UNTIL I CAN TELL THEM, LIKE, WHY I DID
6 SOMETHING OR WHAT I DID.

7 Q. OKAY. NOW, WHILE YOU WERE STAYING WITH YOUR
8 MOMMY AND ERIC, DID ERIC EVER HIT YOU?

9 A. NO.

10 Q. DID ERIC EVER PUNISH YOU?

11 A. NOT THAT I KNOW OF.

12 Q. YOU WOULD STAY ONE WEEK AT YOUR MOMMY AND
13 ERIC'S HOUSE, AND THEN THE NEXT WEEK YOU WOULD GO TO YOUR
14 DADDY AND MELISSA'S HOUSE?

15 A. YES, WITH MY SISTER.

16 Q. WITH YOUR SISTER?

17 A. YES.

18 Q. DID YOU LIKE STAYING AT YOUR DADDY AND
19 MELISSA'S HOUSE BETTER?

20 A. YES. BUT I DID MOST LIKE SEEING MY MOM WHEN
21 I WENT OVER TO MY MOM'S HOUSE.

22 MS. OLIVER: YOUR HONOR, MAY I HAVE JUST ONE
23 MOMENT, PLEASE?

24 THE COURT: YES.

25 MS. OLIVER: THANK YOU.

26 Q. NOW, I'M GOING TO MOVE YOU TO ANOTHER TIME.

27 A. OKAY.

28 Q. AND THIS IS WHEN HANNAH IS IN THE BATHROOM.

1 A. OKAY.

2 Q. OKAY?

3 A. (NO AUDIBLE RESPONSE.)

4 Q. AND WE'RE AT THE THIRD HOUSE; CORRECT?

5 A. YES.

6 Q. AND SO YOU TALKED ABOUT HOW HANNAH WAS
7 INSIDE THE BATHROOM, AND YOU CAME AND TOLD HER THAT,
8 BASICALLY, YOU GUYS COULD HAVE A SNACK.

9 ERIC SAID IT WAS OKAY?

10 A. YES.

11 Q. AND YOU KIND OF CRACKED THE DOOR AND PUT
12 YOUR HAND IN A LITTLE BIT?

13 A. YES. BECAUSE I WAS -- I WOULD ASSUME THAT
14 SHE WOULD GRAB IT AND WANT IT BECAUSE SHE LIKES SUGARY
15 SNACKS.

16 Q. OKAY. SO YOU WERE TRYING TO HAND HER THE
17 SUGARY SNACK?

18 A. YEAH. I THINK IT WAS ACTUALLY A FRUIT
19 ROLLUP, MAYBE.

20 Q. OKAY. YOU THINK IT WAS A FRUIT ROLLUP?

21 A. UH-HUH. YES.

22 Q. THANK YOU.

23 DID YOU EVER GO INSIDE OF THE BATHROOM WHEN
24 HANNAH WAS IN THERE?

25 A. NO.

26 Q. AFTER YOU HANDED HANNAH THE FRUIT ROLLUP,
27 DID YOU CLOSE THE DOOR?

28 A. YEAH. I CLOSED IT.

1 Q. HOW LONG AFTER -- WHEN YOU CLOSED THE DOOR
2 -- WHEN DID HANNAH RUN OUTSIDE?

3 A. RIGHT AFTER SHE WENT TO THE BATHROOM. I
4 HEARD HER FLUSH THE TOILET AND HEARD FOOTSTEPS. AND I
5 WAS DOWNSTAIRS. SO I THINK SHE WAS JUST RUNNING OR
6 WALKING, BUT I'M PRETTY SURE SHE WAS RUNNING.

7 Q. DID YOU SEE HER RUNNING?

8 A. I DIDN'T SEE HER RUN DOWN THE STAIRS, BUT I
9 DID SEE HER RUN FOR THE DOOR.

10 Q. AND WAS SHE RUNNING FAST?

11 A. NOT REALLY. CUZ I'M PRETTY SURE MY MOM HAD
12 THE RULE OF NO RUNNING FAST OR JUST LIKE SPEED WALKING
13 AND WALKING.

14 Q. HAS HANNAH -- DOES SHE ALWAYS TELL THE TRUTH
15 TO YOU?

16 A. NO. SHE -- A LOT OF TIMES SHE TELLS A LIE,
17 BUT, ONCE IN A WHILE, WHEN SHE WANTS TO BE NICE TO ME,
18 SHE DOESN'T REALLY TELL A LIE.

19 Q. OKAY. DO YOU KNOW IF HANNAH LIES TO YOUR
20 DAD, ALLAN?

21 MS. DI TILLIO: OBJECTION. CALLS FOR SPECULATION.

22 THE COURT: SUSTAINED.

23 THE WITNESS: HMM.

24 THE COURT: STOP. YOU DON'T HAVE TO ANSWER THE
25 QUESTION --

26 THE WITNESS: SORRY.

27 THE COURT: -- BREANNA.

28 THANK YOU.

1 BY MS. OLIVER:

2 Q. HAVE YOU EVER BEEN WITH HANNAH, AND YOU KNEW
3 WHAT THE TRUTH WAS, BUT SHE TOLD A LIE TO ALLAN?

4 A. YES.

5 Q. HAVE YOU EVER BEEN WITH HANNAH, AND YOU KNEW
6 WHAT THE TRUTH WAS, BUT HANNAH TOLD A LIE TO HER MOTHER?

7 A. YES.

8 MS. OLIVER: THANK YOU.

9 NOTHING FURTHER.

10 THE COURT: HOW LONG ARE YOU GOING TO BE ON
11 REDIRECT?

12 MS. DI TILLIO: MAYBE FIVE MINUTES.

13 THE COURT: GO AHEAD.

14

15 **REDIRECT EXAMINATION**

16

17 BY MS. DI TILLIO:

18 Q. I DO HAVE A FEW MORE QUESTIONS FOR YOU.

19 OKAY?

20 A. OKAY.

21 Q. ARE YOU GOOD TO GO?

22 A. YES.

23 Q. ALL RIGHT. SO YOU SAID YOU'VE BEEN AROUND
24 HANNAH WHEN SHE'S TOLD LIES TO YOUR DAD AND HER MOM.

25 WHAT KINDS OF THINGS DID SHE LIE ABOUT?

26 A. WELL, SHE LIED A COUPLE DAYS AGO. AND I WAS
27 WITH HER, AND I KNEW THE TRUTH BECAUSE SHE WOULD USUALLY
28 TELL ME EVERYTHING THAT HAPPENED IN HER DAY AFTER SCHOOL.

1 BUT SOMETIMES SHE WOULDN'T. BUT SHE DID A COUPLE DAYS
2 AGO OR WEEKS.

3 Q. OKAY. SO RECENTLY?

4 A. YES.

5 Q. AND WHAT WAS IT THAT SHE LIED ABOUT?

6 A. SHE LIED ABOUT HER HOMEWORK BECAUSE SHE HAD
7 A SPELLING TEST. AND SHE KEPT IT AT SCHOOL, AND SHE
8 DIDN'T WANT TO SHOW HER PARENTS.

9 Q. DID SHE NOT DO SO WELL ON THE SPELLING TEST?

10 A. NO, I DON'T THINK SHE DID, BUT SHE GOT IN
11 TROUBLE. AND NOW SHE'S GROUNDED.

12 Q. AND YOU SAID SOMETIMES SHE TELLS YOU LIES,
13 UNLESS SHE WANTS TO BE NICE?

14 A. YES.

15 Q. SO WHAT KINDS OF THINGS WOULD SHE LIE TO YOU
16 ABOUT?

17 A. WELL, SHE WOULDN'T REALLY LIE, BUT SHE WOULD
18 LIKE -- I WOULD -- SHE WOULD ASK ME FOR STUFF. AND I
19 WOULD SAY NO, BUT SHE WOULD USE IT ANYWAY BEHIND MY BACK.
20 AND I WOULD SAY NO, BUT I DON'T LIKE HER DOING THAT
21 BECAUSE I HAVE A REASON FOR SAYING NO.

22 Q. OKAY. SO SOMETIMES SHE'D WANT TO USE YOUR
23 STUFF, AND YOU'D SAY NO, BUT SHE WOULD USE IT ANYWAY?

24 A. YES.

25 Q. OKAY.

26 A. BUT, ACTUALLY, SOMETIMES SHE WOULD LIE TO
27 ME. LIKE, I THINK, YESTERDAY NIGHT, I PUT A PENCIL IN
28 FRONT OF HER BACKPACK, BUT IT WAS MEANT FOR ME. AND SHE

1 DIDN'T KNOW IT WAS MINE. AND SHE TOOK IT, AND SHE PUT IT
2 IN HER BACKPACK. AND I ASKED, BUT SHE THOUGHT IT WAS
3 CAMOUFLAGE. AND I SAID BLUE, BUT IT WAS BLUE. SO SHE
4 LIED ABOUT TAKING A PENCIL OF MINE.

5 Q. SO SHE TOOK THE PENCIL BY MISTAKE AND THEN
6 LIED ABOUT IT AFTERWARDS?

7 A. YES.

8 Q. OKAY. AND YOU TALKED EARLIER ABOUT -- YOU
9 SAID THAT YOU DIDN'T WANT -- THAT YOU DIDN'T WANT TO LIE
10 ABOUT WHAT WAS HAPPENING WITH ERIC, BUT YOU FELT YOU HAD
11 TO BECAUSE WERE TOO SCARED?

12 A. YES.

13 Q. SO YOU DON'T LIKE TO TELL LIES.

14 A. NO, I DON'T. I KNOW IT'S WRONG.

15 Q. AND DID YOU -- DID YOU EVER MAKE A PROMISE
16 TO ERIC ABOUT TELLING THE TRUTH OR LYING OR ANYTHING LIKE
17 THAT?

18 A. I DON'T REMEMBER.

19 Q. OKAY. DID ERIC EVER MAKE YOU DO SOMETHING
20 THAT YOU DIDN'T WANT TO DO?

21 A. YES. BUT THAT WAS WITH THE TOUCHING BECAUSE
22 HE WOULD MAKE ME LAY UPSIDE DOWN.

23 Q. TELL ME ABOUT THAT.

24 A. WELL, I WOULD LAY UPSIDE -- NOT RIGHT SIDE
25 UP. I WOULDN'T BE SITTING UP. I WOULD BE SITTING DOWN
26 AT THE -- SORRY -- AT THE END OF -- AT THE VERY TOP OF
27 THE COUCH, WHERE IT'S LIKE HARD.

28 Q. SO THE VERY BACK OF THE COUCH, ON THE TOP?

1 A. YES.

2 Q. AND YOU WOULD SIT THERE?

3 A. YEAH. I WOULD ACTUALLY LAY DOWN, UPSIDE
4 DOWN, WATCHING T.V.

5 Q. SO WHERE WOULD YOUR BOTTOM BE?

6 A. IT WOULD BE A LITTLE HANGING OFF THE END OF
7 THE VERY BACK OF THE COUCH.

8 Q. AND WHAT WOULD ERIC DO TO YOU WHEN YOU WERE
9 UPSIDE DOWN, WITH YOUR BOTTOM AT THE TOP OF THE COUCH?

10 MS. OLIVER: OBJECTION, YOUR HONOR. BEYOND THE
11 SCOPE.

12 THE COURT: OVERRULED.

13

14 BY MS. DI TILLIO:

15 Q. YOU CAN TALK ABOUT IT.

16 A. OKAY. SORRY.

17 CAN YOU REPEAT THAT?

18 Q. SURE.

19 YOU SAID THAT HE WOULD MAKE YOU GO UPSIDE
20 DOWN ON THE COUCH, SO YOUR BOTTOM WOULD BE CLOSE TO THE
21 TOP MOST PORTION OF THE COUCH?

22 A. YES. BUT I WOULD BE LAYING, LIKE I AM RIGHT
23 NOW, BUT LIKE THIS (INDICATING).

24 Q. WITH YOUR HEAD BACK, YOU DEMONSTRATED FOR
25 US?

26 A. YES.

27 Q. AND WHAT WOULD ERIC DO TO YOU WHEN YOU DID
28 THAT?

1 A. HE WOULD JUST BE TOUCHING ME IN MY PRIVATE
2 PART.

3 Q. WITH WHAT?

4 A. WITH HIS HAND, HIS MOUTH, AND, ONCE IN A
5 WHILE, THE BUZZY TOY.

6 Q. AND YOU TOLD US EARLIER THAT YOU USUALLY
7 DON'T GET IN TROUBLE?

8 A. NO.

9 Q. IS THAT -- WHY NOT?

10 A. WELL, I -- I THINK I WAS RAISED BY A LOT OF
11 GOOD PEOPLE, MY MOMMY, MY DAD, MY STEPMOM, HANNAH --
12 WELL, SOMETIMES HANNAH. AND I -- I'VE LIED ONCE OR TWICE
13 BEFORE, AND I GOT IN TROUBLE FOR IT. SO I KNOW NOW THAT
14 IT'S WRONG TO TELL A LIE. SO I DON'T DO IT.

15 Q. OKAY. DO YOU --

16 I'M ALMOST DONE.

17 OKAY?

18 A. OKAY.

19 Q. ALL RIGHT. SO I HAVE A COUPLE OTHER THINGS
20 I WANT TO TALK ABOUT.

21 YOU TALKED A LITTLE BIT ABOUT HOW A LOT OF
22 THE TOUCHING WOULD HAPPEN IN THE AFTERNOONS?

23 A. YES.

24 Q. WOULD THOSE BE TIMES WHEN YOUR MOM WAS HOME
25 OR NOT HOME?

26 A. NOT HOME. BUT ONLY ONCE -- THAT WAS IN MY
27 BEDROOM, I THINK, IN THE EVENING. AT NIGHT, SHE WAS
28 HOME.

1 Q. WAS SHE IN THE BEDROOM, TOO?

2 A. NO. SHE WAS IN THE SHOWER.

3 Q. SO I WANT TO TALK ABOUT HOW YOUR CLOTHES
4 WOULD BE OFF.

5 HOW DID YOUR CLOTHES GET OFF? DID YOU TAKE
6 THEM OFF?

7 A. NOT THAT I KNOW OF. I -- HE PULLED THEM
8 OFF, I THINK.

9 Q. AND YOU TALKED ABOUT HOW YOU WOULD GO IN
10 YOUR MOM'S ROOM AND IN HER CLOSET FOR SOME OF HER
11 CLOTHES, BUT NEVER IN HER DRAWERS.

12 A. YES.

13 Q. DID YOUR MOM HAVE A RULE ABOUT GOING IN HER
14 DRAWERS?

15 A. NO, SHE DIDN'T. I JUST -- IN THE NEWEST
16 HOUSE, SHE WOULD JUST KEEP SOMETIMES HER PHONE IN IT OR
17 HER CAMERA. AND I JUST -- I WOULD THINK SOME OF HER
18 PRIVATE STUFF WAS IN IT. SO I WOULDN'T WANT TO GO IN IT.

19 Q. DO YOU HAVE ANY PRIVATE STUFF?

20 A. ONLY A JOURNAL.

21 Q. WHERE DO YOU KEEP THAT?

22 A. I KEEP THAT UNDER MY PILLOW.

23 Q. AND DID YOU EVER WRITE ABOUT THIS STUFF IN
24 YOUR JOURNAL?

25 A. NO.

26 Q. YOU TALKED A LITTLE BIT EARLIER ABOUT
27 KNOWING -- WHAT YOU THOUGHT THAT THE BUZZY TOY WAS IN
28 ERIC'S NIGHTSTAND.

1 HOW DID YOU KNOW THAT?

2 A. I'M PRETTY SURE I KNEW THAT BECAUSE HE SAID
3 HE WOULD PUT IT IN THERE, BUT HE SAID I WASN'T ALLOWED TO
4 GO IN HIS DRAWERS.

5 Q. OKAY. SO ERIC HAD A RULE ABOUT HIS STUFF?

6 A. YES.

7 Q. WAS THERE ANYTHING ELSE THAT HE MADE YOU DO
8 THAT YOU DIDN'T WANT TO DO?

9 A. YES. ONCE. BUT IT WAS BECAUSE OF -- HE WAS
10 JUST TOUCHING ME. AND I DIDN'T WANT TO DO IT, BUT HE
11 SAID HE WOULD GET ME ICE CREAM, BUT HE DIDN'T. SO I WAS
12 PRETTY MAD ABOUT THAT BECAUSE I WANTED ICE CREAM.

13 Q. SO HE PROMISED YOU ICE CREAM IF HE TOUCHED
14 YOU?

15 A. YES. OR IT WAS SOMETHING ELSE, BUT I'M
16 PRETTY SURE IT WAS ABOUT THE TOUCHING.

17 Q. DID HE EVER MAKE YOU LOOK AT SOMETHING YOU
18 DIDN'T WANT TO SEE?

19 A. YES.

20 MS. OLIVER: OBJECTION, YOUR HONOR. BEYOND THE
21 SCOPE.

22 THE COURT: OVERRULED.

23

24 BY MS. DI TILLIO:

25 Q. GO AHEAD.

26 A. YES.

27 Q. WHAT WAS THAT?

28 A. IT WAS A VIDEO OF A GIRL AND A BOY, BUT I

1 DON'T REMEMBER WHAT IT WAS.

2 Q. WHERE WAS IT? ON THE T.V. OR SOMEWHERE
3 ELSE?

4 A. ON HIS COMPUTER. BECAUSE HE HAD A DESK.
5 BUT THAT WAS IN THE SECOND HOUSE.

6 Q. AND WHEN YOU SAY A "GIRL," WAS IT A GIRL
7 LIKE SOMEONE MY AGE OR SOMEONE LIKE YOUR AGE?

8 MS. OLIVER: OBJECTION, YOUR HONOR. RELEVANCE,
9 BEYOND THE SCOPE.

10 THE COURT: OVERRULED.

11 THE WITNESS: JUST A LITTLE YOUNGER THAN YOU, I
12 THINK.

13

14 BY MS. DI TILLIO:

15 Q. OKAY. AND WHAT WAS SHE DOING?

16 A. I DON'T REMEMBER. I JUST KNOW SHE WAS IN
17 THE BATHROOM.

18 MS. DI TILLIO: OKAY. THANK YOU, HANNAH --
19 BREANNA. I'M ALL DONE. THANK YOU.

20 THE COURT: AND, MISS OLIVER, DO YOU HAVE ANY
21 QUESTIONS ON RECROSS?

22 MS. OLIVER: JUST BRIEFLY.

23

24 **RECROSS-EXAMINATION**

25

26 BY MS. OLIVER:

27 Q. BREANNA, YOU SAID THAT ERIC -- THAT YOUR
28 CLOTHES WOULD BE OFF BECAUSE YOU THINK THAT HE WOULD BE

1 THE ONE TO TAKE THEM OFF?

2 A. YES. BUT I WOULD TAKE MY SHIRT OFF. BUT HE
3 WOULD ASK ME TO.

4 Q. DID YOU EVER TELL ANYONE THAT YOU WOULD TAKE
5 OFF YOUR SHIRT BECAUSE ERIC WOULD ASK YOU TO?

6 A. NO. I DIDN'T TELL ANYBODY.

7 Q. DID YOU TELL ANYONE THAT ERIC WOULD BE THE
8 ONE TO PULL OFF YOUR BOTTOMS?

9 A. NO, I WOULD NOT.

10 MS. OLIVER: THANK YOU.

11 NOTHING FURTHER.

12 THE COURT: ANYTHING ELSE?

13 MS. DI TILLIO: NO, YOUR HONOR. THANK YOU.

14 THE COURT: THANK YOU. YOU CAN STEP DOWN. THANK
15 YOU.

16 WE'RE GOING TO TAKE OUR AFTERNOON RECESS,
17 LADIES AND GENTLEMEN. WE WILL BE IN RECESS FOR 15
18 MINUTES.

19 YOU'RE REMINDED NOT TO TALK ABOUT THE CASE.
20 YOU'RE NOT TO FORM OR EXPRESS AN OPINION ABOUT THE CASE.
21 YOU'RE NOT TO DISCUSS THE MATTER AT ALL UNTIL THE MATTER
22 IS SUBMITTED TO YOU.

23 FIFTEEN MINUTES, PLEASE.

24 ---000---

25 (THEREUPON COURT WAS IN RECESS.)

26 ---000---

27 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
28 COURT, OUTSIDE THE PRESENCE OF THE JURORS AND

1 THE ALTERNATE JURORS.)

2 ---OOO---

3 MS. OLIVER: I WAS INFORMED THAT I BELIEVE, OVER
4 THE BREAK, WHEN MR. ROSS WAS BEING BROUGHT BACK INTO THE
5 COURTROOM, THAT JUROR 1 AND POTENTIALLY JUROR NUMBER 6
6 MAY HAVE SEEN HIM IN HIS CHAINS.

7 THE COURT: SO DO YOU WANT ME TO READ THE
8 INSTRUCTION, THE GENERAL INSTRUCTION?

9 MS. OLIVER: YES.

10 THE COURT: ALL RIGHT. I'LL BE HAPPY TO DO THAT.

11 MS. OLIVER: THANK YOU.

12 THE COURT: THE GENERAL INSTRUCTION ABOUT --
13 LET ME FIGURE OUT WHAT IT IS.

14 MS. DI TILLIO: I THINK I HAVE IT.

15 THE COURT: AND I CAN READ IT NOW, OR I CAN READ IT
16 AT THE END OF THE CASE.

17 MS. OLIVER: ABOUT HIM POSSIBLY BEING IN CUSTODY.

18 THE COURT: YES.

19 MS. OLIVER: THE ONLY THING IS I DON'T KNOW --
20 OR COULD WE JUST TALK TO THOSE TWO?

21 BECAUSE I DON'T WANT -- IF EVERYONE ELSE
22 DOESN'T KNOW --

23 THE COURT: WHAT WOULD YOU LIKE ME TO ASK THEM?

24 MS. DI TILLIO: THAT MIGHT DRAW TOO MUCH ATTENTION
25 TO IT.

26 MS. OLIVER: OR MAYBE JUST, YOU KNOW, IF THEY SAW
27 SOMETHING, THEY'RE NOT TO CONSIDER IT OR DISCUSS IT WITH
28 OTHER JURORS.

1 LET ME INQUIRE OF DEPUTY SANCHEZ AS TO --
2 BECAUSE HE ALERTED TO ME. SO I WAS GOING TO ASK HIM WHAT
3 DID HE SEE IN TERMS OF THOSE JURORS.

4 DEPUTY SANCHEZ: WE DID RUN INTO JUROR NUMBER 6
5 INITIALLY AS WE WERE EXITING THE HOLDING TANK, WHICH IS
6 ON THE SECOND FLOOR. I DON'T ACTUALLY THINK HE SAW HIM
7 BECAUSE I WAS ABLE TO PUSH HIM IN BEFORE THE DOOR EVEN
8 OPENED UP ALL THE WAY.

9 AS FOR JUROR NUMBER 1, SHE WAS SITTING AT
10 THE TABLE AT THE END BY THE ELEVATORS AND STAIRWELL. SO
11 IT DIDN'T MATTER WHICH WAY WE CAME IN, SHE WOULD HAVE SAW
12 US. HE WAS BEING ESCORTED WITH ME. HE WAS WALKING A
13 STEP BEHIND ME. AND THE WAY I SET UP HIS CLOTHING IS IT
14 COVERS UP THE HANDCUFFS, WAIST CHAINS. AND THERE WAS NO
15 SOUND OR ANYTHING. I MEAN, HE CAN VOUCH FOR THAT AS
16 WELL. THERE WAS NOTHING ACTUALLY SHOWING.

17 MS. OLIVER: SO HE HAD ON --

18 DEPUTY SANCHEZ: HE DID HAVE HIS JACKET ON. HIS
19 SLEEVES COVERED UP THE HANDCUFFS.

20 DEFENDANT ROSS: SHE WOULD ONLY HAVE BEEN EXPOSED
21 TO THE SIDE. SO IF SHE LOOKED MORE THAN ONCE -- BUT HER
22 NOSE WAS BURIED IN THAT BOOK. SO SHE LOOKED AT US AND
23 KEPT READING.

24 MS. OLIVER: WITH THAT, I THINK IT'S SUFFICIENT
25 THAT IT'S ON THE RECORD.

26 THE COURT: THANK YOU.

27 AND I'LL BE HAPPY TO READ THE INSTRUCTION,
28 IF YOU'D LIKE.

1 MS. DI TILLIO: WE COULD ALSO NOT READ IT RIGHT
2 NOW, SO AS TO DRAW ATTENTION, BUT JUST INCLUDE IT IN THE
3 PACKET.

4 THE COURT: WHY DON'T YOU SUBMIT IT?

5 MS. DI TILLIO: I'LL PULL IT.

6 THE COURT: ARE YOU READY?

7 MS. OLIVER: YES.

8 THE COURT: WHO'S NEXT?

9 MS. DI TILLIO: HANNAH.

10 THE COURT: THIS WILL BE LESS TIME, YOU THINK?

11 MS. DI TILLIO: YES.

12 THE COURT: 4:25, I NEED TO --

13 MS. DI TILLIO: YES. WE WILL BREAK AT 4:25,
14 WHEREVER WE ARE AT.

15 ---000---

16 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
17 COURT, WITHIN THE PRESENCE OF THE JURORS AND
18 THE ALTERNATE JURORS.)

19 ---000---

20 THE COURT: THE RECORD WILL REFLECT THE DEFENDANT
21 AND ATTORNEYS ARE PRESENT, AS WELL AS OUR JURORS AND
22 ALTERNATE JURORS.

23 THE NEXT WITNESS, PLEASE.

24 MS. DI TILLIO: THE PEOPLE CALL HANNAH C.

25 THE COURT CLERK: DO YOU SOLEMNLY STATE, UNDER
26 PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE
27 IN THIS MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
28 NOTHING BUT THE TRUTH?

1 THE WITNESS: YES.

2 THE COURT CLERK: THANK YOU.

3 PLEASE BE SEATED AT THE WITNESS STAND.

4 MS. DI TILLIO: ARE YOU ALL SETTLED, HANNAH?

5 THE WITNESS: UH-HUH.

6 THE COURT CLERK: PLEASE STATE AND SPELL YOUR FIRST

7 NAME AND THE FIRST INITIAL OF YOUR LAST NAME.

8 THE WITNESS: HANNAH, H-A-N-N-A-H, C.

9

10

HANNAH C. ,

11 **A WITNESS CALLED ON BEHALF OF THE PLAINTIFF, THE PEOPLE**

12 **OF THE STATE OF CALIFORNIA, HAVING BEEN DULY SWORN,**

13 **TESTIFIED AS FOLLOWS:**

14

15

DIRECT EXAMINATION

16

17 BY MS. DI TILLIO:

18 Q. HOW ARE YOU DOING?

19 A. GOOD.

20 Q. ARE YOU A LITTLE NERVOUS?

21 A. YEAH.

22 Q. OKAY. SO DO ME A FAVOR. WHEN YOU ANSWER

23 YOUR QUESTIONS, JUST SPEAK INTO THE MICROPHONE.

24 OKAY?

25 A. (NO AUDIBLE RESPONSE.)

26 Q. AND THEN, THAT WAY, WE'LL ALL HEAR YOU. THE

27 MICROPHONE MOVES, IF YOU NEED IT TO MOVE. THE CHAIR

28 DOESN'T. SO JUST GO AHEAD AND GET YOURSELF COMFORTABLE.

1 ALL RIGHT. HANNAH, TELL US HOW OLD YOU ARE.

2 A. ELEVEN.

3 Q. WHEN DID YOU TURN 11?

4 A. FEBRUARY 17TH.

5 Q. JUST THIS YEAR?

6 A. YEAH.

7 Q. AND ARE YOU IN -- WHAT GRADE ARE YOU IN IN
8 SCHOOL?

9 A. FIFTH.

10 Q. DO YOU HAVE A FAVORITE SUBJECT?

11 A. RECESS.

12 Q. RECESS.

13 OKAY. AND, HANNAH, DO YOU KNOW WHAT THE
14 DIFFERENCE IS BETWEEN TELLING THE TRUTH AND TELLING A
15 LIE?

16 A. YES.

17 Q. IS IT OKAY TO TELL A LIE?

18 A. NO.

19 Q. AND DO YOU PROMISE TO TELL US TODAY ONLY
20 ABOUT THINGS THAT REALLY HAPPENED?

21 A. YES.

22 Q. IF I SAID TO YOU -- I'M GOING TO HOLD THIS
23 MARKER UP.

24 IF I SAID TO YOU, "THIS IS A PURPLE MARKER,"
25 WOULD THAT BE TRUE, OR WOULD IT BE A LIE?

26 A. IT WOULD BE A LIE.

27 Q. AND WHY WOULD IT BE A LIE?

28 A. BECAUSE IT'S A YELLOW MARKER.

1 Q. OKAY. BECAUSE IT IS A YELLOW MARKER.

2 I WANT TO TALK TO YOU A LITTLE ABOUT YOUR
3 FAMILY.

4 CAN WE TALK ABOUT YOUR FAMILY A LITTLE BIT?

5 A. YEAH.

6 Q. WHAT'S YOUR MOM'S NAME?

7 A. MELISSA.

8 Q. IS YOUR MOM MARRIED?

9 A. YES.

10 Q. TO WHOM?

11 A. MY STEPDAD, ALLAN.

12 Q. OKAY. AND HOW LONG -- DO YOU KNOW -- IF YOU
13 KNOW, HOW LONG HAVE YOUR MOM AND ALLAN BEEN TOGETHER?

14 A. NOT MARRIED, BUT THEY'VE BEEN TOGETHER SINCE
15 I WAS SIX.

16 Q. OKAY. AND DO YOU LIVE WITH YOUR MOM?

17 A. MOST OF THE TIME.

18 Q. AND WHEN YOU LIVE WITH YOUR MOM, DO YOU ALSO
19 LIVE WITH ALLAN?

20 A. YES.

21 Q. AND I THINK YOU REFERRED TO HIM AS YOUR
22 STEPDAD.

23 DO YOU CONSIDER HIM A STEPDAD?

24 A. YES.

25 Q. ARE YOU AND HE PRETTY CLOSE?

26 A. WELL, IN A FAMILY RELATIONSHIP, YES. BUT WE
27 DON'T REALLY SPEND THAT MUCH TIME AS, LIKE, A FAMILY
28 BECAUSE HE'S ALWAYS DOING STUFF.

1 Q. AND THE TIME THAT YOU DON'T LIVE WITH YOUR
2 MOM, WHO DO YOU LIVE WITH?

3 A. MY DAD.

4 Q. WHEN YOU LIVE WITH YOUR MOM, DO YOU HAVE ANY
5 BROTHERS OR SISTERS?

6 A. YES.

7 Q. AND WHO IS THAT?

8 A. MY SISTER, BREANNA.

9 Q. AND SHE'S YOUR YOUNGER SISTER; RIGHT?

10 A. YES.

11 Q. AND IS SHE USUALLY AT YOUR MOM'S HOUSE WITH
12 YOU WHEN YOU'RE AT YOUR MOM'S?

13 A. EVERY OTHER WEEK.

14 Q. AND WHO IS -- WHO'S TAMI?

15 A. TAMI IS BREANNA'S MOM.

16 Q. AND DO YOU HAVE A RELATIONSHIP WITH HER AS
17 WELL?

18 A. NO. I JUST GO TO HER HOUSE SOMETIMES.

19 Q. OKAY. AND I WANT TO TALK TO YOU ABOUT GOING
20 TO HER HOUSE. SPECIFICALLY, I WANT TO TALK ABOUT SOME
21 STUFF THAT HAPPENED ALMOST TWO YEARS AGO.

22 OKAY?

23 A. (NO AUDIBLE RESPONSE.)

24 Q. CAN WE DO THAT?

25 A. YEAH, UH-HUH.

26 Q. IS THAT "YES"?

27 A. YES.

28 Q. OKAY. BACK IN MAY OF 2012, THE DAY THAT THE

1 POLICE CAME TO TAMI'S HOUSE -- DO YOU REMEMBER THAT DAY?

2 A. YES.

3 Q. OKAY. I'M GOING TO TALK ABOUT THAT TIME.

4 ALL RIGHT?

5 A. (NO AUDIBLE RESPONSE.)

6 Q. WHO WAS LIVING IN TAMI'S HOUSE AROUND THAT

7 TIME?

8 A. TAMI, BREANNA AND ERIC.

9 Q. WHO'S ERIC?

10 A. THE PERSON SITTING OVER THERE (INDICATING).

11 Q. OKAY. AND CAN YOU DESCRIBE SOME OF HIS

12 CLOTHES FOR US?

13 A. (NO AUDIBLE RESPONSE.)

14 Q. DID YOU SEE WHAT HE WAS WEARING?

15 A. I DIDN'T LOOK AT HIM.

16 Q. OKAY. AND YOU POINTED OVER TO THE TABLE.

17 AND IS IT A MAN OR A WOMAN?

18 A. A MAN.

19 MS. DI TILLIO: MAY THE RECORD REFLECT THE WITNESS

20 IDENTIFIED THE DEFENDANT?

21 THE COURT: YES.

22 MS. DI TILLIO: THANK YOU.

23 Q. AND HOW DO YOU KNOW ERIC?

24 A. HE WAS WITH TAMI.

25 Q. OKAY. WHAT DO YOU MEAN, "WITH"?

26 A. I THINK IT WAS LIKE A DATING RELATIONSHIP.

27 Q. OKAY. BOYFRIEND/GIRLFRIEND KIND OF THING?

28 A. WELL, TAMI DIDN'T REALLY TELL ME. I JUST

1 KIND OF FIGURED.

2 Q. OKAY. DID HE LIVE THERE AT THE HOUSE?

3 A. YES.

4 Q. AND WERE THERE TIMES WHEN YOU WOULD BE AT
5 BREANNA'S HOUSE WHEN ERIC WOULD BE THERE?

6 A. YES.

7 Q. WHAT KIND OF TIMES WOULD YOU GO OVER THERE
8 WHEN ERIC WOULD BE THERE?

9 A. WHEN MY MOM OR ALLAN HAD TO WORK EARLY.

10 Q. WHY WOULD YOU GO TO BREANNA'S HOUSE?

11 A. BECAUSE MY STEPDAD, ALLAN -- HE WOULD DROP
12 ME OFF AT SCHOOL. BUT, IF HE WENT TO WORK EARLY, HE
13 DIDN'T HAVE A CHANCE TO DO THAT. SO REALLY, REALLY EARLY
14 IN THE MORNING, I WOULD WAKE UP AND GO TO BREANNA'S
15 HOUSE.

16 Q. HOW WOULD YOU GET TO SCHOOL FROM BREANNA'S
17 HOUSE?

18 A. EITHER TAMI OR ERIC WOULD DRIVE US.

19 Q. AND ON THE DAYS WHEN YOUR MOM AND ALLAN
20 WOULD GO VERY EARLY TO WORK, WOULD IT BE TAMI OR ERIC
21 THAT WOULD DRIVE YOU?

22 A. IT KIND OF DEPENDED ON WHAT TIME TAMI WENT
23 TO WORK. BECAUSE, IF SHE WAS THERE, THEN SHE WOULD HAVE
24 DRIVED US TO WORK (SIC), BUT, IF SHE WASN'T, THEN ERIC
25 WOULD HAVE DRIVED US TO SCHOOL.

26 Q. TO SCHOOL, OKAY.

27 AND SO I WANT TO TALK ABOUT WHEN -- THE DAY
28 THAT THE POLICE CAME TO TAMI AND ERIC'S HOUSE.

1 DO YOU REMEMBER HOW OLD YOU WERE AT THAT
2 TIME?

3 A. I THINK I WAS ABOUT EIGHT.

4 Q. EIGHT? OR COULD YOU HAVE BEEN NINE?

5 A. TURNING.

6 Q. TURNING NINE.

7 OKAY. AND WAS THAT ONE OF THE DAYS WHEN
8 YOUR MOM DROPPED YOU OFF EARLY?

9 A. YES.

10 Q. WHAT HAPPENED WHEN YOU FIRST GOT TO TAMI AND
11 ERIC'S HOUSE?

12 A. I WENT INSIDE. AND TAMI WAS UPSTAIRS, AND
13 BREANNA WAS SLEEPING. AND ERIC WAS IN THE KITCHEN.

14 Q. WAS IT PRETTY EARLY?

15 A. YEAH.

16 Q. AND WAS ERIC STILL IN HIS PJ'S, OR WAS HE
17 DRESSED?

18 A. HE WAS IN, LIKE, SWEATS AND A T-SHIRT.

19 Q. WHAT HAPPENED WHEN YOU FIRST GOT THERE?

20 A. HE ASKED ME TO GIVE HIM A HUG.

21 Q. DID YOU GIVE HIM A HUG?

22 A. YES.

23 Q. WAS THAT SOMETHING YOU WOULD NORMALLY DO --

24 A. NO.

25 Q. -- GIVE HIM A HUG?

26 I'M GOING TO ASK YOU FOR ONE FAVOR.

27 THE LADY WHO'S SEATED RIGHT IN FRONT OF YOU

28 HAS TO WRITE DOWN EVERYTHING WE SAY. SO IF WE SPEAK OVER

1 EACH OTHER, IT DOESN'T COME OUT WELL ON THE PAPER.

2 OKAY?

3 A. (NO AUDIBLE RESPONSE.)

4 Q. SO IF YOU'D LET ME FINISH THE QUESTION, I'LL
5 LET YOU FINISH YOUR ANSWER.

6 CAN WE DO THAT? YES?

7 A. YES.

8 Q. ALL RIGHT. THANK YOU.

9 SO YOU SAID THAT ERIC ASKED YOU FOR A HUG.

10 AND THEN I ASKED YOU IF THAT WAS SOMETHING
11 THAT YOU WOULD NORMALLY DO.

12 A. YES.

13 Q. OKAY. SO YOU WOULD NORMALLY GIVE HIM A HUG?

14 A. NO.

15 Q. SO IT WAS UNUSUAL ON THIS OCCASION?

16 A. YES.

17 Q. WHAT HAPPENED AFTER HE HUGGED YOU?

18 A. I WENT TO SIT ON THE COUCH. AND HE MADE ME
19 SOME CEREAL.

20 Q. DID YOU EAT CEREAL?

21 A. YES.

22 Q. DID YOU EAT IT THERE, WHILE YOU WERE SITTING
23 ON THE COUCH, OR DID YOU GO TO THE KITCHEN?

24 A. I SAT ON THE COUCH.

25 Q. WHAT HAPPENED AFTER YOU ATE YOUR CEREAL?

26 A. ERIC ASKED ME FOR ANOTHER HUG.

27 Q. WERE YOU STILL ON THE COUCH AT THAT TIME?

28 A. YES.

1 Q. AND WHERE WAS HE?
2 A. BY THE COMPUTER.
3 Q. WHEN HE ASKED YOU FOR ANOTHER HUG, WHAT DID
4 YOU DO?
5 A. I GAVE HIM ANOTHER HUG.
6 Q. AND WHERE DID THAT TAKE PLACE?
7 A. BY THE COMPUTER.
8 Q. DID ANYTHING HAPPEN WHILE HE WAS HUGGING
9 YOU?
10 A. YES.
11 Q. WHAT HAPPENED?
12 A. HE GAVE ME A HUG. AND THEN HE TOLD ME THAT
13 I WAS GROWING UP OR SOMETHING OR BECOMING A WOMAN.
14 Q. SO HE SAID THAT TO YOU.
15 DID YOU SAY ANYTHING TO HIM?
16 A. NO.
17 Q. DID HE DO ANYTHING WHILE HE WAS SAYING THAT
18 YOU WERE BECOMING A WOMAN?
19 A. YES.
20 Q. WHAT DID HE DO?
21 A. (NO AUDIBLE RESPONSE.)
22 Q. DO YOU NEED SOME WATER?
23 A. (NO AUDIBLE RESPONSE.)
24 Q. YEAH?
25 A. (NO AUDIBLE RESPONSE.)
26 Q. OKAY. LET ME GET IT FOR YOU, SO YOU DON'T
27 SPILL IT.
28 A. THANKS.

1 Q. SURE. TAKE YOUR TIME.

2 OKAY. ARE YOU A LITTLE BETTER?

3 A. (NO AUDIBLE RESPONSE.)

4 Q. YES?

5 A. ERIC TOUCHED ME IN THREE DIFFERENT PLACES.

6 Q. ALL RIGHT. COULD YOU TELL ME WHERE HE

7 TOUCHED YOU?

8 A. THE FRONT, THE BACK AND IN MY CHEST AREA.

9 Q. OKAY. LET'S TALK ABOUT THE FRONT.

10 WHAT PART OF YOUR FRONT DID HE TOUCH?

11 A. THE PART WHERE MY ZIPPER WAS.

12 Q. AND DO YOU HAVE ANOTHER NAME FOR THAT PART?

13 A. YES.

14 Q. WHAT DO YOU CALL IT?

15 A. WELL, I DON'T REALLY CALL IT ANYTHING
16 BECAUSE I DON'T REALLY LIKE TO SAY THE NAME OF IT, BUT MY
17 MOM CALLS -- SHE USES TWO NAMES FOR IT. I DON'T REALLY
18 WANT TO SAY.

19 Q. OKAY. IT'S OKAY, IN THIS COURTROOM, TO USE
20 ANY WORDS, AS LONG AS THEY ARE THE TRUTH. SO IT'S OKAY
21 TO SAY WORDS EVEN IF THEY'RE NOT SOMETHING THAT YOU WOULD
22 NORMALLY SAY OUTSIDE, AS LONG AS IT'S TRUE.

23 SO DO YOU HAVE ANOTHER NAME FOR THAT PART OF
24 YOUR BODY?

25 A. WELL, I CALL IT MY "BIKINI" AREA, BUT MY MOM
26 CALLS IT A "VAGINA."

27 Q. A VAGINA?

28 A. UH-HUH.

1 Q. IS THAT "YES"?

2 A. YES.

3 Q. THOSE ARE HARD WORDS TO SAY IN A ROOM FULL
4 OF STRANGERS, BUT IT'S OKAY. IT'S AN OKAY PLACE TO SAY
5 THEM.

6 OKAY?

7 A. UH-HUH.

8 Q. SO YOU CALL IT YOUR BIKINI AREA.
9 AND YOU SAID HE TOUCHED YOU.
10 WAS IT OVER YOUR CLOTHES OR UNDER YOUR
11 CLOTHES AT THAT TIME?

12 A. OVER.

13 Q. AND YOU SAID HE TOUCHED YOUR CHEST.
14 WHAT PART OF YOUR CHEST DID HE TOUCH?

15 A. (NO AUDIBLE RESPONSE.)

16 Q. DO YOU HAVE A WORD FOR IT OR A NAME FOR IT,
17 EVEN IF IT'S A SILLY ONE?

18 A. YES.

19 Q. WHAT'S IT CALLED?

20 A. WELL, MY MOM CALLS -- I DON'T REALLY TALK
21 ABOUT THEM, BUT MY MOM CALLS THEM "BOOBS."

22 Q. OKAY. AND I'VE HEARD THAT WORD BEFORE.
23 AND YOU SAID HE ALSO TOUCHED --
24 WHAT WAS THE THIRD PART?

25 A. MY BOTTOM.

26 Q. AND DO YOU HAVE ANOTHER NAME FOR THAT?

27 A. YES.

28 Q. WHAT'S THAT?

1 A. "BUTT."

2 Q. OKAY. YOUR BUTT.

3 ALL RIGHT. WE GOT ALL THE SILLY WORDS OUT
4 OF THE WAY.

5 ALL RIGHT. WHAT DID YOU DO WHEN ERIC
6 TOUCHED THOSE PARTS OF YOUR BODY?

7 A. I JUST STOOD THERE.

8 Q. HOW DID YOU FEEL?

9 A. A LITTLE VIOLATED.

10 Q. OKAY. WHAT DO YOU MEAN BY THAT?

11 A. LIKE MY BUBBLE WAS POPPED.

12 Q. YOUR BUBBLE.

13 OKAY. WHAT DOES A BUBBLE MEAN TO YOU?

14 A. IT'S MY SPACE. AND I DON'T LIKE PEOPLE IN
15 IT.

16 Q. DID YOU SAY ANYTHING TO ERIC AT THAT TIME?

17 A. NO.

18 Q. WHAT DID YOU DO?

19 A. I JUST FROZE.

20 Q. DID YOU DO ANYTHING OR SAY ANYTHING OR GO
21 ANYWHERE AFTER THAT?

22 A. AFTER THAT, HE SAID, "I THINK BREANNA WOKE
23 UP."

24 SO I WENT UPSTAIRS TO GO SAY HI.

25 Q. HE SAID THAT BREANNA WOKE UP, OR YOU SAID
26 THAT?

27 A. HE SAID, "I THINK I HEARD BREANNA WAKE UP."

28 Q. AND WHEN YOU --

1 YOU SAID YOU WENT UPSTAIRS.

2 DID YOU GO TO BREANNA'S ROOM?

3 A. UH-HUH.

4 Q. IS THAT "YES"?

5 A. YES.

6 Q. WAS SHE AWAKE THEN?

7 A. YES.

8 Q. WHAT HAPPENED WHEN YOU WENT TO BREANNA'S
9 ROOM?

10 A. SHE -- WELL, TAMI WAS IN THE BATHROOM, DOING
11 HER HAIR. SO I WENT IN THERE. I WATCHED HER DO HER
12 HAIR. AND THEN BREANNA WAS LOOKING FOR SOMETHING FOR US
13 TO DO.

14 Q. SO WHAT DID YOU DO?

15 A. I WAS WAITING FOR HER TO LOOK FOR SOMETHING.
16 AND WE -- AND THEN, AFTER THAT, I WENT BACK INTO HER
17 ROOM, AND WE WERE PLAYING A BOARD GAME FOR A LITTLE BIT.

18 Q. SO YOU AND BREANNA PLAYED A BOARD GAME IN
19 BREANNA'S ROOM?

20 A. YES.

21 Q. WAS ANYONE ELSE IN BREANNA'S ROOM AT THAT
22 TIME?

23 A. NO. IT WAS JUST BREANNA.

24 Q. AND YOU?

25 A. AND ME.

26 Q. OKAY. AND YOU SAID TAMI WAS DOING HER HAIR.
27 WHAT WAS ERIC DOING?

28 A. HE WAS DOWNSTAIRS, WATCHING A VIDEO ON HIS

1 COMPUTER.

2 Q. DID YOU SEE THE VIDEO THAT HE WAS WATCHING?

3 A. YES.

4 Q. DID HE SHOW IT TO YOU, OR YOU JUST HAPPENED
5 TO SEE IT?

6 A. I WAS ON THE STAIRS, AND I LOOKED THROUGH
7 THE BARS. AND HE WAS WATCHING THIS VIDEO.

8 Q. WHAT KIND OF VIDEO WAS IT?

9 MS. OLIVER: OBJECTION, YOUR HONOR. RELEVANCE.

10 THE COURT: OVERRULED.

11 GO AHEAD. YOU CAN ANSWER.

12

13 BY MS. DI TILLIO:

14 Q. YOU CAN ANSWER.

15 A. WAIT.

16 WHAT WAS THE QUESTION?

17 Q. SURE.

18 WHAT WAS HAPPENING ON THE VIDEO? COULD YOU
19 SEE IT?

20 A. WELL, IT WAS THIS GIRL IN A LIBRARY. AND
21 THEN I DON'T REMEMBER WHO IT WAS, BUT IT WAS SOME GUY.
22 AND THEY WERE DOING STUFF ON THE COUNTER OF THE LIBRARY.

23 Q. TO EACH OTHER?

24 A. YES.

25 Q. SO -- SO, AT SOME POINT, DID YOU AND BREANNA
26 STOP PLAYING THE BOARD GAME?

27 A. YES.

28 Q. WHEN WAS THAT?

1 A. I DON'T REALLY REMEMBER WHEN, BUT ME AND
2 BREANNA WERE IN HER ROOM. AND WE DIDN'T PLAY THE BOARD
3 GAME. SHE WANTED ME TO JUMP ON THE AIR MATTRESS IN HER
4 ROOM. AND THEN ERIC WAS UP THERE.

5 AND HE SAID, NO, WE WOULD BREAK IT.

6 Q. OKAY. SO, AT THAT POINT, WAS TAMI STILL
7 HOME?

8 A. YES.

9 Q. AND AT SOME TIME DID TAMI LEAVE?

10 A. YES.

11 Q. WHAT HAPPENED AFTER TAMI LEFT?

12 A. BREANNA WENT DOWNSTAIRS AND ASKED ERIC IF WE
13 COULD JUMP ON HIS BED.

14 Q. AND DID HE LET YOU DO THAT?

15 A. YES.

16 Q. DID HE COME UPSTAIRS AT ALL AT THAT POINT?

17 A. YES.

18 Q. WHAT HAPPENED WHEN ERIC CAME UPSTAIRS? DID
19 YOU GUYS JUMP ON THE BED?

20 A. YES.

21 Q. AND WAS ERIC PLAYING WITH YOU AT ALL AT THAT
22 TIME?

23 A. YES. BREANNA ASKED HIM IF HE COULD PLAY
24 THIS FIND US GAME OR SOMETHING, THAT WE WOULD HIDE UNDER
25 THE BLANKET, AND HE WOULD TRY TO PULL US OUT BY OUR FEET.

26 Q. WAS THIS IN ERIC AND TAMI'S ROOM?

27 A. YES.

28 Q. DID YOU DO THAT, HIDE UNDER THE COVERS?

1 A. YES.

2 Q. AND DID ERIC PULL YOU OUT BY YOUR FEET?

3 A. NO.

4 Q. WHAT HAPPENED?

5 A. HE PULLED ME OUT FROM MY WAIST.

6 Q. WHAT ABOUT BREANNA? WAS HE PLAYING WITH HER

7 AS WELL?

8 A. YES.

9 Q. WHAT HAPPENED --

10 HOW LONG DO YOU THINK YOU GUYS PLAYED THAT

11 GAME?

12 A. I DON'T KNOW. FIVE MINUTES.

13 Q. OKAY. AND WHAT DID YOU DO AFTER THAT?

14 A. WELL, ME AND BREANNA WANTED TO WATCH T.V.

15 Q. SO DID YOU DO THAT?

16 A. YES.

17 Q. WHERE?

18 A. STILL IN HIS ROOM.

19 Q. WAS HE THERE AS WELL?

20 A. YES.

21 Q. AND DID HE WATCH WITH YOU?

22 A. YES.

23 Q. WHAT DID YOU GUYS WATCH? DO YOU REMEMBER?

24 A. WE WATCHED *FAIRLY ODD PARENTS*.

25 Q. YOU WATCHED WHAT?

26 A. *FAIRLY ODD PARENTS*.

27 Q. OKAY. IS THAT A CARTOON?

28 A. IT'S A NICKELODEON SHOW.

1 Q. AND IT WAS YOU AND BREANNA AND, YOU SAID,
2 ERIC AS WELL?

3 A. YES.

4 Q. WHERE WAS EVERYBODY SITUATED?

5 A. WELL, BREANNA WAS ON -- WELL, IF I'M LOOKING
6 AT YOU, WE WERE ALL FACING THIS WAY. SO YOU'RE LOOKING
7 THIS WAY. BREANNA WAS ON MY RIGHT SIDE. AND THEN ERIC
8 WALKED TO THE OTHER SIDE OF THE BED AND GOT ON MY LEFT
9 SIDE.

10 Q. SO I JUST WANT TO MAKE IT CLEAR.
11 WHEN YOU POINT, WE HAVE TO SPEAK ABOUT IT SO
12 THAT IT'S ON THE RECORD.

13 SO YOU WERE LOOKING AT ME, AND YOU POINTED
14 INITIALLY TO YOUR RIGHT.

15 SO YOU WERE IN THE MIDDLE?

16 A. YEAH.

17 Q. AND BREANNA?

18 A. WAS ON MY RIGHT. AND ERIC ON MY LEFT.

19 Q. ERIC ON YOUR LEFT.

20 OKAY. AND WAS THIS ON THE BED?

21 A. YES.

22 Q. WERE YOU GUYS SITTING OR LAYING?

23 A. I WAS LAYING DOWN, AND BREANNA WAS LAYING
24 DOWN, AND THEN ERIC WAS LAYING DOWN.

25 Q. WAS THIS UNDER THE COVERS OR OVER THE
26 COVERS?

27 A. ME AND BREANNA WERE UNDER THE COVERS. AND
28 THEN ERIC GOT UNDER THE COVERS.

1 Q. AND DID ANYTHING HAPPEN WHILE ERIC WAS UNDER
2 THE COVERS, NEXT TO YOU?

3 A. YES.

4 Q. TELL ME ABOUT THAT.

5 A. (NO AUDIBLE RESPONSE.)

6 Q. ARE YOU OKAY?

7 A. YES. I JUST DON'T REALLY WANT TO TALK ABOUT
8 IT.

9 Q. OKAY. I NEED YOU TO DO ME A FAVOR AND SPEAK
10 A LITTLE BIT LOUDER INTO THE MICROPHONE, SO WE CAN ALL
11 HEAR YOU. AND THEN I WON'T HAVE TO ASK YOU TO REPEAT
12 YOURSELF.

13 OKAY?

14 A. (NO AUDIBLE RESPONSE.)

15 Q. IS THAT "YES"?

16 A. YES.

17 Q. I KNOW IT'S TOUGH TO TALK ABOUT, BUT IT'S
18 OKAY TO TALK ABOUT IN THIS ROOM. AND IT'S IMPORTANT FOR
19 YOU TO EXPLAIN TO THE JURY WHAT WE'RE TALKING ABOUT, SO
20 WE ALL KNOW THE SAME THING.

21 OKAY?

22 A. (NO AUDIBLE RESPONSE.)

23 Q. SO YOU SAID THAT ERIC WAS NEXT TO YOU.

24 AND THEN HE DID SOMETHING THAT -- DID IT
25 MAKE YOU FEEL UNCOMFORTABLE?

26 A. YES.

27 Q. ALL RIGHT. TELL ME ABOUT IT.

28 WHAT'S THE FIRST THING THAT HAPPENED?

1 A. WE WERE ALL UNDER THE COVERS. AND THEN I
2 HAD SOME PURPLE SKINNY JEANS ON. AND THEN THEY HAD LIKE
3 THOSE LITTLE BUCKLES, WHERE YOU PUT YOUR BELT THROUGH,
4 BUT I DIDN'T HAVE A BELT ON. AND THEN ERIC STARTED TO
5 TRY AND TAKE OFF MY PANTS.

6 Q. HOW DID HE DO THAT?

7 A. WITH HIS HANDS.

8 Q. I'M SORRY?

9 A. WITH HIS HANDS.

10 Q. OKAY. WITH HIS HANDS.

11 AND WHAT PART OF YOUR PANTS WAS HE TOUCHING?

12 A. MY BELT BUCKLES.

13 Q. WHAT DID HE DO WITH YOUR PANTS?

14 A. HE PULLED THEM DOWN TO MY KNEES.

15 Q. WHAT HAPPENED NEXT?

16 A. AFTER THAT, HE STARTED TO TOUCH MY BIKINI
17 AREA.

18 Q. OKAY. WHAT PART OF HIS BODY DID HE USE TO
19 TOUCH YOUR BIKINI AREA?

20 A. HIS HANDS.

21 Q. AND DID HE TOUCH OVER YOUR CLOTHES OR UNDER
22 YOUR CLOTHES?

23 A. UNDER MY CLOTHES.

24 Q. UNDER YOUR CLOTHES?

25 A. (NO AUDIBLE RESPONSE.)

26 Q. AND WHAT KIND OF TOUCHING DID HE DO TO YOUR
27 BIKINI AREA?

28 A. (NO AUDIBLE RESPONSE.)

1 Q. CAN YOU DESCRIBE IT FOR US?

2 A. I DON'T REALLY KNOW HOW TO DESCRIBE IT. HE
3 JUST TOUCHED ME THERE.

4 Q. OKAY. DID HE TOUCH THE OUTSIDE PART OR THE
5 INSIDE PART?

6 A. THE INSIDE PART.

7 Q. WHAT DID YOU DO WHEN HE FIRST TOUCHED THAT
8 PART?

9 A. I GOT SCARED, BUT I DIDN'T SAY ANYTHING.

10 Q. DID YOU DO ANYTHING WITH YOUR BODY?

11 A. YES. I TRIED TO PULL MY PANTS UP, BUT HE
12 WOULDN'T LET ME.

13 Q. WHAT DID HE DO THAT STOPPED YOU FROM PULLING
14 YOUR PANTS UP?

15 A. HE JUST WOULDN'T LET ME. HE KEPT HIS HANDS
16 ON MY BELT BUCKLE.

17 Q. WHAT HAPPENED NEXT?

18 A. I TOLD -- I SAID I HAD TO USE THE BATHROOM.

19 Q. I JUST WANT TO BE CLEAR HERE.

20 OKAY. YOU SAID HE PULLED YOUR PANTS DOWN,
21 AND THEN HE TOUCHED THE INSIDE PART.

22 AND DO YOU REMEMBER TALKING TO A
23 MISS CHRISTINA IN A ROOM WITH A BIG MIRROR?

24 A. (NO AUDIBLE RESPONSE.)

25 Q. IS THAT "YES"?

26 A. YES.

27 Q. ALL RIGHT. AND DO YOU REMEMBER TALKING
28 ABOUT DOING SOMETHING WITH YOUR LEGS?

1 A. YES.

2 Q. DO YOU REMEMBER NOW WHAT IT IS THAT YOU DID
3 WITH YOUR LEGS?

4 A. I PUT MY LEGS IN, SO THAT HE COULDN'T PULL
5 MY PANTS DOWN.

6 Q. AFTER YOU PUT YOUR LEGS IN, DID HE DO
7 ANYTHING TO YOUR LEGS?

8 A. (NO AUDIBLE RESPONSE.)

9 Q. IS THAT A "YES"?

10 A. YES.

11 Q. WHAT DID HE DO TO YOUR LEGS?

12 A. HE WOULDN'T LET ME CLOSE THEM.

13 Q. AND AFTER YOU TRIED TO CLOSE YOUR LEGS, DID
14 HE TOUCH THAT SAME AREA AGAIN?

15 A. WELL, I DIDN'T CLOSE MY LEGS WHEN HE WAS
16 TRYING TO PULL MY PANTS DOWN. SO IT WAS BEFORE.

17 Q. ALL RIGHT. YOU SAID HE PUT HIS FINGER ON
18 THE INSIDE OF YOUR PRIVATE AREA.

19 AND THEN WHAT DID YOU DO?

20 A. (NO AUDIBLE RESPONSE.)

21 Q. I THINK YOU SAID THAT YOU HAD TO GO TO THE
22 BATHROOM; IS THAT RIGHT?

23 A. YES.

24 Q. ALL RIGHT. SO WHAT DID YOU DO?

25 A. I WENT TO THE BATHROOM. AND THEN BREANNA
26 CAME IN THERE AND ASKED ME IF I WANTED TO SPLIT A FRUIT
27 ROLLUP WITH HER.

28 Q. HOW WERE YOU FEELING AT THAT POINT, WHEN YOU

1 WERE IN THE BATHROOM?

2 A. I WAS CRYING.

3 Q. WHY WERE YOU CRYING?

4 A. BECAUSE I DIDN'T REALLY KNOW WHAT TO DO AT
5 THAT POINT.

6 Q. WHAT HAPPENED NEXT?

7 A. I SAID, "NO."

8 AND THEN I ASKED HER IF ERIC EVER TOUCHED
9 HER.

10 Q. WHY DID YOU ASK HER THAT?

11 A. BECAUSE I ASKED HER IF SHE KNEW WHAT HE WAS
12 DOING.

13 AND SHE SAID, "YES."

14 AND I SAID, "HAS ERIC EVER DONE ANYTHING
15 LIKE THAT TO YOU BEFORE?"

16 AND SHE SAID, "NO."

17 AND I KNEW SHE WAS LYING TO ME.

18 Q. SHE'S YOUR SISTER?

19 A. (NO AUDIBLE RESPONSE.)

20 Q. IS THAT "YES"?

21 A. YES.

22 Q. OKAY. ALL RIGHT.

23 SO YOU AND BREANNA TALKED A LITTLE BIT.

24 AND THEN -- AND THEN DID YOU ACTUALLY GO TO
25 THE BATHROOM WHILE YOU WERE IN THERE?

26 A. NO.

27 Q. WHAT HAPPENED NEXT?

28 A. AFTER THAT, BREANNA WENT OUT AND DOWNSTAIRS.

1 AND THEN I -- THERE'S TWO DOORS TO THE BATHROOM. ONE,
2 FROM HIS BEDROOM, GOES INTO THE BATHROOM. AND THEN
3 ANOTHER DOOR THAT GOES OUT TO THE HALLWAY AND DOWNSTAIRS.

4 AND I WENT THROUGH THE SECOND DOOR AND
5 DOWNSTAIRS. AND I GRABBED MY BACKPACK AND MY SHOES, AND
6 I RAN OUT THE DOOR.

7 Q. WHAT DID ERIC DO WHEN YOU RAN OUT THE DOOR?

8 A. HE CHASED AFTER ME.

9 Q. HOW FAR DID YOU GET?

10 A. I GOT TO SOMEONE'S APARTMENT, AND I HID
11 BEHIND THE MOTORCYCLES.

12 Q. WHAT HAPPENED WHEN YOU HID BEHIND THE
13 MOTORCYCLES?

14 A. HE FOUND ME.

15 Q. WHAT DID HE DO WHEN HE FOUND YOU?

16 A. HE GRABBED MY ARM AND STARTED GOING BACK TO
17 THE HOUSE.

18 Q. WHAT DID YOU DO AS HE WAS DOING THAT?

19 A. I DROPPED ONE OF MY SHOES.

20 Q. WHAT HAPPENED THEN?

21 A. HE LET GO OF MY ARM. AND I GRABBED MY
22 SHOES, AND I STARTED RUNNING AGAIN.

23 Q. WHERE DID YOU GO THIS TIME?

24 A. HOME. I WENT BACK TO THE HOUSE TO GET MY
25 BACKPACK. AND I PUT ON MY SHOES. AND THEN HE WAS STILL
26 TRYING TO CHASE ME. AND THEN HE SAID THAT HE HURT HIS
27 ANKLE.

28 AND THEN HE SAT ON THE CURB AND SAID, "WHY

1 DID YOU MAKE ME CHASE YOU?"

2 Q. SO HE'S OUTSIDE ON THE CURB.

3 DID IT APPEAR THAT HE WAS HURT?

4 A. NO. HE WAS JUST SITTING THERE, HOLDING HIS
5 ANKLE. AND BREANNA STARTED CRYING BECAUSE HE HURT HIS
6 ANKLE.

7 Q. AND WERE YOU INSIDE THE HOUSE OR OUTSIDE THE
8 HOUSE?

9 A. I WAS OUTSIDE THE HOUSE, LOOKING AT HIM.

10 Q. WHAT HAPPENED NEXT?

11 A. NEXT, WE ALL WENT IN THE HOUSE. AND I SAT
12 ON THE STAIRS, CRYING.

13 Q. WHAT HAPPENED AFTER THAT?

14 A. HE SAID, "SORRY IF I HURT YOU."

15 Q. AT SOME POINT DID YOU -- DID YOU CALL ALLAN?

16 A. YES.

17 Q. TELL ME ABOUT THAT.

18 A. I ASKED HIM IF I COULD USE HIS PHONE
19 OUTSIDE.

20 AND HE SAID, "NO, YOU'LL JUST RUN AGAIN."

21 AND I SAID, "THEN LET ME USE IT OUT ON THE
22 BACK PORCH."

23 AND THEN I -- HE GAVE ME HIS PHONE. AND I
24 CALLED ALLAN. AND I HAD GONE OUT TO THE BACK PORCH. AND
25 I TOLD HIM WHAT HAPPENED.

26 AND THEN HE SAID, "OKAY. WELL, GIVE ME A
27 SECOND."

28 AND HE HUNG UP.

1 Q. WHEN YOU SAY YOU TOLD HIM WHAT HAPPENED,
2 WERE YOU SPEAKING ABOUT THE DEFENDANT OR ALLAN?

3 A. HIM, THE DEFENDANT.

4 Q. WHEN YOU WERE ON THE PHONE, WERE YOU TALKING
5 TO ALLAN?

6 A. I WAS TALKING TO ALLAN.

7 Q. AND DID YOU TELL ALLAN WHAT HAPPENED WITH
8 THE DEFENDANT?

9 A. YES.

10 Q. WHERE WAS BREANNA WHILE ALL OF THAT WAS
11 GOING ON?

12 A. SHE WAS STILL CRYING.

13 Q. WAS SHE NEAR YOU?

14 A. SHE WAS ON THE COUCH INSIDE.

15 Q. I'M GOING TO SHOW YOU SOME PICTURES.
16 OKAY?

17 A. OKAY.

18 Q. I WANT TO SHOW YOU WHAT IS MARKED AS COURT'S
19 EXHIBIT 2.

20 DO YOU RECOGNIZE THAT PHOTOGRAPH?

21 A. YES.

22 Q. ALL RIGHT. THIS IS THE HARD PART, WHEN
23 YOU'RE LOOKING THAT WAY AND YOU'RE SPEAKING, BECAUSE THE
24 MICROPHONE IS NOT IN FRONT OF YOU. SO WHAT I'LL DO IS
25 I'LL HAND YOU THESE PRINTED OUT VERSIONS, SO THAT YOU CAN
26 SEE THEM.

27 AND WE CAN LOOK AT THEM ON THE T.V.

28 OKAY. SO COURT'S 3, CAN YOU TELL US WHAT'S

1 IN THAT PICTURE?

2 I MEAN COURT'S 2. SORRY.

3 A. THAT'S HIS APARTMENT.

4 Q. ERIC AND TAMI'S HOUSE?

5 A. YEAH.

6 Q. OKAY. AND I'M GOING TO SHOW YOU COURT'S 3
7 NOW, WHICH IS THE --

8 CAN YOU DESCRIBE WHAT'S IN THERE?

9 A. THAT'S -- WHEN YOU DRIVE IN FROM UP THE HILL
10 AND YOU TURN RIGHT, THAT'S WHAT YOU SEE.

11 Q. ALL RIGHT. I'M GOING TO GIVE THESE TO YOU
12 IN ORDER. SO THESE ARE GOING TO BE THE NEXT ONES I'M
13 GOING TO ASK YOU TO FLIP IN ORDER.

14 OKAY?

15 A. ALL RIGHT.

16 Q. SO THE NEXT PHOTOGRAPH, WHAT'S MARKED ON THE
17 BACK OF THAT ONE? DO YOU SEE A STICKER ON THE BACK?

18 A. YES.

19 Q. OKAY. SO COURT'S EXHIBIT NUMBER 4, CAN YOU
20 TELL US WHAT'S IN THAT PICTURE?

21 A. THAT'S ON THE RIGHT SIDE OF HIS APARTMENT.

22 Q. OKAY. IS THIS IF YOU HAD BEEN WALKING --
23 IS THIS THE PATH THAT YOU TOOK WHEN YOU RAN
24 AWAY?

25 A. YES.

26 Q. AND I'M GOING TO SHOW YOU THE NEXT PICTURE,
27 COURT'S 5.

28 DO YOU RECOGNIZE THAT?

1 A. YES.

2 Q. TELL US A LITTLE BIT ABOUT THAT.

3 A. THIS IS THE WAY I RAN TO AND THE TREES BY
4 THE LIGHT. BEHIND THAT IS A PERSON'S APARTMENT. THAT'S
5 WHERE I WENT.

6 Q. OKAY. I'M GOING TO SHOW YOU THE NEXT
7 PICTURE, WHICH SHOULD BE 5.

8 DO YOU RECOGNIZE THAT?

9 A. YEAH. THAT'S WHERE I WENT.

10 Q. IS THAT FURTHER ALONG ON THE PATH?

11 A. YES.

12 Q. ALL RIGHT. AND THEN 6, CAN YOU TALK ABOUT
13 THAT ONE?

14 A. THAT'S WHERE I WAS, EXCEPT THERE WERE
15 MOTORCYCLES THERE.

16 Q. OKAY. SO THERE'S A LITTLE, LIKE, GATE AREA?

17 A. YEAH. THE MOTORCYCLES WERE IN FRONT OF THE
18 GATE.

19 Q. OKAY. AND I'M GOING TO SHOW YOU THE NEXT
20 PICTURE. I THINK IT SHOULD BE 7. JUST CORRECT ME IF I'M
21 WRONG.

22 CAN YOU TELL US WHAT'S IN THAT PICTURE?

23 A. IT'S WHERE THE MOTORCYCLES WERE.

24 Q. OKAY. AND THEN ONE MORE PICTURE. IT SHOULD
25 BE 8.

26 DO YOU RECOGNIZE THAT PICTURE?

27 A. YES.

28 Q. OKAY. WHO'S IN THAT PICTURE?

1 A. IT'S ME.

2 Q. ALL RIGHT. AND HOW OLD WERE YOU WHEN THAT
3 PICTURE WAS TAKEN?

4 A. TURNING NINE, IN THIRD GRADE.

5 Q. IS THAT THE AREA THAT YOU HID?

6 A. YES.

7 Q. AND WHERE WERE THE MOTORCYCLES? WOULD THEY
8 HAVE BEEN IN FRONT OF YOU, BEHIND?

9 A. THEY WERE IN FRONT OF ME.

10 ---000---

11 (THE FOLLOWING WAS MARKED/IDENTIFIED AS
12 COURT'S EXHIBIT FOR IDENTIFICATION:

13 11 - 8 1/2 BY 11-INCH PAGE CONTAINING COLOR
14 PHOTOGRAPH DEPICTING A PAIR OF BLUE PANTS.)

15 ---000---

16 BY MS. DI TILLIO:

17 Q. OKAY. THANK YOU.

18 I'M GOING TO SHOW YOU A COUPLE MORE
19 PHOTOGRAPHS.

20 FIRST, I'LL ASK YOU TO TAKE A LOOK AT THIS
21 ONE. IT'S MARKED AS COURT'S EXHIBIT 11.

22 DO YOU RECOGNIZE THAT PICTURE?

23 A. YES.

24 Q. TELL US WHAT'S IN THAT PICTURE.

25 A. THOSE WERE THE PANTS I WAS WEARING.

26 Q. THOSE WERE THE PANTS YOU WERE WEARING WHEN
27 THIS INCIDENT HAPPENED?

28 A. (NO AUDIBLE RESPONSE.)

1 Q. IS THAT "YES"?

2 A. YES.

3 ---000---

4 (THE FOLLOWING WAS MARKED/IDENTIFIED AS

5 COURT'S EXHIBIT FOR IDENTIFICATION:

6 12 - 8 1/2 BY 11-INCH PAGE CONTAINING COLOR

7 PHOTOGRAPH DEPICTING TOP PORTION OF PANTS.)

8 ---000---

9 BY MS. DI TILLIO:

10 Q. ALL RIGHT. AND I'M GOING TO SHOW YOU

11 COURT'S EXHIBIT NUMBER 12.

12 DO YOU RECOGNIZE THAT?

13 A. YES.

14 Q. TELL US ABOUT THAT PICTURE.

15 A. THAT'S THE TOP OF MY PANTS.

16 Q. OKAY. AND GO BACK TO 11 FOR ME, IF YOU
17 WOULD.

18 THERE WE GO.

19 OKAY. LET'S GO BACK TO 11.

20 YOU SAID THOSE WERE THE JEANS YOU WERE
21 WEARING?

22 A. YES.

23 Q. I THINK YOU SAID THEY WERE KIND OF SKINNY
24 JEANS? ARE THEY STRETCHY OR --

25 A. YEAH. THEY WERE LIKE JEGGINGS.

26 Q. JEGGINGS.

27 ARE THOSE JEAN LEGGINGS? IS THAT WHAT THAT
28 MEANS?

1 A. YEAH.

2 Q. AND THEN THE NEXT EXHIBIT WAS 12.

3 MY COMPUTER IS TIRED, TOO.

4 WE'LL JUST DO IT THIS WAY. SO THAT WOULD BE

5 EXHIBIT 12.

6 AND CAN YOU DESCRIBE WHAT'S SHOWN IN EXHIBIT

7 12?

8 A. IT'S THE TOP OF MY PANTS.

9 Q. OKAY. AND TELL US ABOUT THE WAIST.

10 IS THAT LIKE ELASTIC?

11 A. IT WAS -- YEAH, IT WAS.

12 Q. ALL RIGHT. THANK YOU.

13 SO YOU TOLD ALLAN WHAT HAPPENED ON THE

14 PHONE.

15 AND THEN WHAT HAPPENED AFTER YOU HUNG UP THE

16 PHONE WITH HIM?

17 A. I GAVE THE PHONE BACK TO ERIC.

18 Q. DID HE SAY ANYTHING TO YOU BEFORE YOU GOT ON

19 THE PHONE?

20 A. YEAH.

21 HE SAID -- WHEN I WAS STILL ON THE STAIRS,

22 HE SAID, "I'M SORRY IF I HURT YOU."

23 Q. AND HOW WERE YOU FEELING ABOUT ERIC AT THAT

24 POINT?

25 A. TO BE HONEST --

26 Q. YES.

27 A. -- I SERIOUSLY WANTED TO HURT HIM.

28 Q. WERE YOU UPSET?

1 A. YES.

2 Q. WERE YOU ANGRY?

3 A. YES.

4 Q. DID YOU HAVE ANY OTHER EMOTIONS?

5 A. WELL, I WAS ANGRY AND SAD. AND I DON'T
6 KNOW. IT WAS A FEELING I'VE NEVER FELT BEFORE.

7 Q. AND THEN DID ALLAN AND YOUR MOM COME TO THE
8 HOUSE?

9 A. YES.

10 Q. ABOUT HOW LONG DID IT TAKE FOR THEM TO GET
11 THERE?

12 A. FIVE MINUTES.

13 Q. WHAT HAPPENED WHEN THEY GOT THERE?

14 A. THEY WERE FOLLOWED BY POLICE.

15 Q. AFTER YOU AND BREANNA HAD THAT CONVERSATION
16 IN THE BATHROOM ABOUT -- WHEN YOU ASKED IF HE HAD EVER
17 DONE THAT TO HER, DID YOU AND BREANNA TALK ABOUT ANY OF
18 THIS TOUCHING AGAIN?

19 A. NO.

20 Q. OKAY. THANK YOU.

21 I HAVE NO FURTHER QUESTIONS.

22 MISS OLIVER MAY HAVE A FEW QUESTIONS FOR
23 YOU.

24 OKAY?

25 A. YES.

26 MS. DI TILLIO: ALL RIGHT. THANK YOU.

27 ///

28 ///

CROSS-EXAMINATION

1

2

3 BY MS. OLIVER:

4 Q. HI, BREANNA.

5 HOW ARE YOU DOING?

6 A. I'M DOING FINE.

7 Q. GOOD.

8 SO I'M MISS OLIVER. AND I'M JUST GOING TO
9 ASK YOU A FEW QUESTIONS.

10 OKAY?

11 A. YES.

12 Q. NOW, I KNOW IT'S GETTING LATE IN THE
13 AFTERNOON. SO IF YOU NEED TO TAKE A LITTLE BREAK OR
14 SOMETHING LIKE THAT OR IF I ASK A QUESTION AND YOU DON'T
15 UNDERSTAND IT OR YOU JUST WANT ME TO ASK IT A DIFFERENT
16 WAY, JUST LET ME KNOW.

17 A. OKAY.

18 Q. AND, ALSO, IF I ASK YOU A QUESTION AND YOU
19 DON'T KNOW THE ANSWER, JUST TELL ME, "I DON'T KNOW THAT
20 ANSWER."

21 OKAY?

22 A. YES.

23 Q. OKAY. SO YOU SAID THAT SOMETIMES YOU WOULD
24 GO OVER TO ERIC AND TAMI'S HOUSE WHEN YOUR MOM AND ALLAN
25 HAD TO GO TO WORK REALLY EARLY; IS THAT CORRECT?

26 A. YES.

27 Q. HOW MANY TIMES DID YOU GO OVER TO ERIC AND
28 TAMI'S HOUSE IN THE MORNING?

1 A. ABOUT TWICE.

2 Q. ABOUT TWICE.

3 A. (NO AUDIBLE RESPONSE.)

4 Q. WHENEVER YOU WOULD SEE ERIC, WAS IT -- WOULD
5 YOU ALWAYS GIVE HIM A HUG HELLO?

6 A. NO.

7 Q. HOW OFTEN WOULD YOU SAY YOU WOULD GIVE HIM A
8 HUG HELLO?

9 A. THAT WAS THE FIRST TIME.

10 Q. SO WHEN YOU AND BREANNA WERE UPSTAIRS, AT
11 FIRST, THE TWO OF YOU WANTED TO PLAY ON THE AIR MATTRESS?

12 A. YES.

13 Q. BUT ERIC SAID "NO"?

14 A. YES.

15 Q. AND SO -- BUT YOU TWO WERE ALLOWED TO JUMP
16 AND PLAY ON ERIC AND TAMI'S BED, IN THEIR BEDROOM;
17 CORRECT?

18 A. YES.

19 Q. WHEN YOU WERE JUMPING ON THE BED, CAN YOU
20 DESCRIBE -- TELL ME ABOUT THE GAME THAT YOU WERE PLAYING?

21 A. WELL, I'VE NEVER PLAYED IT BEFORE, BUT
22 BREANNA AND ERIC, I GUESS, HAVE BECAUSE SHE, LIKE, ASKED
23 ME IF I WANTED TO PLAY A GAME. AND SHE CALLED IT, LIKE,
24 "FIND US" OR SOMETHING.

25 AND THEN SHE EXPLAINED WHAT IT WAS TO ME.

26 AND THEN I SAID, "SURE, WHY NOT?"

27 AND THEN WE JUST PLAYED IT FOR A FEW
28 MINUTES.

1 Q. SO IN THE "FIND US," THAT'S WHEN YOU WOULD
2 BE UNDER THE COVERS, AND THEN HE WOULD GRAB YOUR LEGS OR
3 GRAB YOUR FEET TO PULL YOU BACK?

4 A. YES.

5 Q. AND THEN WOULD YOU GO TO THE TOP OF THE BED.
6 AND THEN HE'D PULL YOU BACK TO THE BOTTOM OF THE BED? IS
7 THAT HOW IT WENT?

8 A. NO. BREANNA SAID THAT YOU GO UNDER THE
9 BLANKET, AND ERIC WOULD HAVE TO TRY AND FIND YOU AND PULL
10 YOU OUT BY YOUR FEET. AND THEN YOU WOULD JUST GO BACK
11 UNDER.

12 Q. OKAY. WHILE YOU WERE PLAYING -- WHILE YOU
13 WERE PLAYING THAT GAME, DID ERIC EVER ACCIDENTALLY PULL
14 YOUR PANTS A LITTLE BIT?

15 A. YES.

16 Q. AND DID HE HELP YOU PULL THEM BACK UP REAL
17 QUICK?

18 A. NO. I HAD TO.

19 Q. YOU PULLED THEM UP YOURSELF?

20 A. YES.

21 Q. AND, AFTER THAT, DID YOU KEEP PLAYING THE
22 GAME?

23 A. YES. BECAUSE I THOUGHT IT WAS AN ACCIDENT.

24 Q. AND WHEN YOU GOT FINISHED PLAYING THE GAME,
25 THAT'S WHEN -- THAT'S WHEN YOU AND BREANNA SAID YOU
26 WANTED TO WATCH TELEVISION?

27 A. YES.

28 Q. AND SO YOU, BREANNA AND ERIC, THE THREE OF

1 YOU WERE IN THE BED?

2 A. YES.

3 Q. AND WERE YOU UNDERNEATH THE COVERS OR ON TOP
4 OF THE COVERS?

5 A. ME AND BREANNA WERE UNDERNEATH THE COVERS,
6 AND THEN ERIC WENT UNDERNEATH THE COVERS.

7 Q. SO, AT FIRST, WAS ERIC ON TOP OF THE COVERS?

8 A. NO.

9 Q. OKAY. SO WHEN HE GOT INTO BED, HE JUST GOT
10 UNDERNEATH THE COVERS, ALSO?

11 A. YES.

12 Q. AND WAS ERIC IN THE MIDDLE? WAS HE IN
13 BETWEEN YOU AND BREANNA?

14 A. NO.

15 Q. OKAY. WHERE WAS ERIC SITTING IN THE BED?

16 A. BREANNA WAS ON MY RIGHT SIDE, AND ERIC WAS
17 ON MY LEFT.

18 Q. SO YOU WERE IN THE MIDDLE?

19 A. YES.

20 Q. AND YOU SAID THAT, WHILE YOU WERE IN THE
21 BED, AT SOME POINT, ERIC TRIED TO PULL DOWN YOUR JEANS?

22 A. YES.

23 Q. AND YOU SAID THAT YOUR -- THAT HE WAS ABLE
24 TO GET THEM DOWN NEAR YOUR BIKINI AREA?

25 A. YEAH.

26 Q. NOW, THIS MAY -- THIS IS GOING TO BE -- THIS
27 MAY BE A LITTLE DIFFICULT, OKAY, THE NEXT QUESTION OR TWO
28 THAT I'M GOING TO ASK YOU. SO JUST TAKE YOUR TIME WITH

1 IT.

2 WHEN YOU SAY "BIKINI AREA," ARE YOU TALKING
3 ABOUT UNDERNEATH THE NAVEL, THE BELLY BUTTON?

4 A. NO.

5 Q. DO YOU GO FURTHER DOWN?

6 A. YES.

7 Q. WHEN YOU DESCRIBE THE "BIKINI AREA," ARE YOU
8 ACTUALLY IN BETWEEN YOUR LEGS OR RIGHT ABOVE WHAT'S IN
9 BETWEEN YOUR LEGS?

10 A. IN BETWEEN.

11 Q. IN BETWEEN?

12 A. (NO AUDIBLE RESPONSE.)

13 Q. IS THAT A "YES"?

14 A. YES.

15 Q. TO PULL DOWN YOUR PANTS, DID ERIC USE ONE
16 HAND OR TWO?

17 A. TWO.

18 Q. DO YOU KNOW WHAT SIZE BED ERIC AND TAMI HAD?

19 A. I THINK IT WAS LIKE A TWIN SIZE BED.

20 Q. WHEN ERIC USED BOTH HANDS TO PULL DOWN YOUR
21 PANTS, WAS HE STILL SITTING BESIDE YOU?

22 A. YES.

23 Q. AND WHEN THIS WAS GOING ON, WAS ERIC LOOKING
24 STRAIGHT AHEAD?

25 A. NO.

26 Q. WHERE WAS HE LOOKING?

27 A. HE WAS TURNED TOWARDS ME.

28 Q. WERE THE TWO OF YOU FACE-TO-FACE?

1 A. NO.

2 Q. HOW WAS HE TURNED TOWARDS YOU?

3 A. WELL, I WAS LIKE THIS, LOOKING AT THE T.V.,
4 AND HE WAS TURNED TOWARDS ME (INDICATING).

5 Q. OKAY. WHEN YOU SAY "LIKE THIS," SO YOU WERE
6 SITTING -- WERE YOU SITTING -- WERE YOU SITTING UP?

7 A. NO. I WAS LAYING ON MY BACK.

8 Q. YOU WERE LAYING ON YOUR BACK?

9 A. (NO AUDIBLE RESPONSE.)

10 Q. "YES"?

11 A. YES.

12 Q. AND YOU WERE LOOKING STRAIGHT AHEAD,
13 WATCHING THE TELEVISION?

14 A. YES.

15 Q. WHERE WAS BREANNA WHEN THIS WAS GOING ON?

16 A. ON MY LEFT SIDE.

17 Q. DID SHE EVER SAY ANYTHING TO YOU?

18 A. NO.

19 Q. WHEN ERIC WAS PULLING DOWN -- WHEN HE HAD
20 HIS HANDS ON YOUR PANTS, WAS HE BLOCKING THE TELEVISION?

21 A. NO.

22 Q. WHEN YOU WENT -- WHEN YOU GOT UP, YOU WENT
23 INTO THE REST ROOM?

24 A. YES.

25 Q. WHERE WAS HANNAH WHEN YOU WENT INTO THE REST
26 ROOM?

27 A. BREANNA?

28 Q. I'M SORRY.

1 BREANNA?

2 I'M SORRY, HANNAH.

3 HANNAH, WHERE WAS BREANNA WHEN YOU WENT INTO
4 THE REST ROOM?

5 A. SHE WAS STILL IN THE ROOM WHEN I WENT IN THE
6 BEDROOM -- BATHROOM. AND THEN I CLOSED BOTH OF THE
7 DOORS. SO I FIGURE SHE WENT DOWNSTAIRS TO ASK HIM FOR A
8 FRUIT ROLLUP.

9 SHE CAME BACK UP WITH A FRUIT ROLLUP AND
10 SAID, "ERIC SAID WE COULD SPLIT THIS."

11 Q. WHEN YOU SAID YOU CLOSED BOTH DOORS, WHAT
12 DOORS ARE YOU TALKING ABOUT?

13 A. WELL, THERE'S ONE DOOR THAT GOES FROM HIS
14 BEDROOM TO HIS BATHROOM, AND THERE'S ANOTHER DOOR THAT
15 GOES FROM THE BATHROOM TO THE HALLWAY.

16 Q. OKAY. AND SO WHEN BREANNA KNOCKED ON THE
17 DOOR WITH THE FRUIT ROLLUP, DID YOU LET HER IN THE
18 BATHROOM?

19 A. YES.

20 Q. AND HOW LONG DID SHE STAY IN THE BATHROOM
21 WITH YOU?

22 A. I DON'T REALLY KNOW.

23 Q. DID YOU TELL HER THAT YOU WERE GOING TO BE
24 LEAVING THE HOUSE?

25 A. NO.

26 Q. WHEN -- AFTER YOU CALLED ALLAN, HE AND YOUR
27 MOM -- THEY CAME OVER TO TAMI AND ERIC'S HOUSE?

28 A. YES.

1 Q. AND YOU SAID THAT TOOK ABOUT FIVE MINUTES,
2 FOR THEM TO GET THERE?

3 A. YES.

4 Q. WHAT WERE YOU DOING DURING THAT FIVE
5 MINUTES?

6 A. I WAS EITHER STILL OUT ON THE PORCH, OR I
7 WAS ON THE COUCH, GETTING MY STUFF READY FOR SCHOOL.

8 Q. AND WHILE YOU'RE WAITING FOR --
9 LET ME ASK YOU THIS.
10 DID ALLAN TELL YOU THAT HE WAS COMING OVER?

11 A. NO.
12 HE JUST SAID, "HANG ON A SECOND."

13 Q. AND THAT'S WHEN HE HUNG UP?

14 A. YES.

15 Q. DURING THE FIVE MINUTES THAT IT TOOK FOR
16 ALLAN AND YOUR MOM TO GET TO ERIC AND TAMI'S, WHERE WAS
17 BREANNA?

18 A. SHE WAS CRYING BECAUSE -- SHE WAS CRYING
19 BECAUSE ERIC HAD HURT HIS FOOT.

20 Q. WAS SHE ALSO GETTING HER STUFF READY FOR
21 SCHOOL?

22 A. NO.

23 Q. WAS SHE SITTING NEXT TO YOU ON THE COUCH?

24 A. NO. SHE WAS ON THE END OF THE COUCH.

25 Q. WHEN YOUR MOM GOT THERE, DID SHE ASK YOU ANY
26 QUESTIONS?

27 A. NO.

28 Q. WHAT ABOUT ALLAN? DID HE ASK YOU ANY

1 QUESTIONS?

2 A. NO. THEY JUST -- MY MOM CAME. ALLAN WAS
3 BEHIND HER. AND MY MOM GOT OUT OF THE CAR AND TOLD ME
4 AND BREANNA TO GET IN THE CAR.

5 Q. YOUR MOM WAS PRETTY UPSET?

6 A. YES.

7 Q. WAS THERE A LOT OF YELLING?

8 A. YES.

9 Q. A LOT OF BAD WORDS BEING SAID?

10 A. YES.

11 Q. YEAH.

12 DID THE POLICE ASK YOU ANY QUESTIONS?

13 A. NOT THAT I REMEMBER.

14 Q. YOU SAID THAT YOU ASKED BREANNA IF ERIC HAD
15 EVER TOUCHED HER, AND SHE SAID "NO"; IS THAT CORRECT?

16 A. YES.

17 Q. YOU SAID BUT YOU THOUGHT THAT SHE WAS LYING?

18 A. YES.

19 Q. WHY DID YOU THINK SHE WAS LYING?

20 A. BECAUSE I CAN TELL WHEN SHE'S LYING TO ME.

21 Q. DOES SHE LIE TO YOU OFTEN?

22 A. NO.

23 Q. NO?

24 A. (NO AUDIBLE RESPONSE.)

25 Q. SHE MAINLY TELLS THE TRUTH?

26 A. YEAH.

27 Q. AND WHEN YOU ASKED HER THAT QUESTION, WERE
28 YOU ABLE TO LOOK AT HER IN THE FACE?

1 A. YES.

2 Q. BEFORE THAT DAY, HAD YOU EVER HEARD ALLAN
3 SAY ANYTHING BAD ABOUT ERIC?

4 A. NO. THEY'D NEVER TALKED ABOUT HIM.

5 MS. OLIVER: THANK YOU.

6 NOTHING FURTHER.

7 MS. DI TILLIO: JUST A COUPLE QUESTIONS, YOUR
8 HONOR?

9 THE COURT: YOU CAN TAKE ALL THE TIME YOU WANT.

10

11

REDIRECT EXAMINATION

12

13 BY MS. DI TILLIO:

14 Q. HANNAH, JUST A COUPLE OF FOLLOW-UP
15 QUESTIONS.

16 OKAY?

17 A. (NO AUDIBLE RESPONSE.)

18 Q. WE'RE ALMOST DONE.

19 SO MISS OLIVER ASKED YOU ABOUT THE SIZE BED
20 THAT ERIC AND TAMI HAD.

21 DO YOU KNOW THE NAMES OF THE DIFFERENT BED
22 SIZES?

23 A. I ONLY KNOW A TWIN SIZE BED BECAUSE BREANNA
24 HAS A TWIN SIZE BED.

25 Q. SO WAS TAMI AND ERIC'S BED BIGGER THAN
26 BREANNA'S OR THE SAME SIZE?

27 A. IT WAS ABOUT -- WELL, BREANNA'S IS A LITTLE
28 BIT BIGGER, BUT ERIC AND TAMI'S BED WAS, LIKE, TALLER.

1 Q. LONGER?

2 A. LIKE, IT WAS, LIKE, HIGHER OFF THE GROUND
3 AND ABOUT -- IT WAS PRETTY WIDE.

4 Q. OKAY. SO WHEN ERIC WAS LAYING DOWN ON IT,
5 DID HE FIT ON THE BED?

6 A. YES.

7 Q. DID HIS WHOLE BODY FIT ON THE BED?

8 A. NOT THAT I KNOW OF.

9 Q. WERE YOU LOOKING TO PAY ATTENTION?

10 A. NO.

11 Q. IS ERIC TALLER THAN YOU?

12 A. YES.

13 Q. OKAY. AND WHEN YOU TALKED A LITTLE BIT
14 EARLIER ABOUT -- WE WERE TALKING ABOUT THE PART OF YOUR
15 BODY BETWEEN YOUR LEGS OR HIGHER THAN THAT. AND I THINK
16 YOU SAID IT WAS BETWEEN YOUR LEGS.

17 DOES THE PART WHERE HE PUT HIS FINGER --
18 DOES ANYTHING COME OUT OF THAT PART OF YOUR BODY?

19 A. YES.

20 Q. WHAT COMES OUT OF THAT PART OF YOUR BODY?

21 A. (NO AUDIBLE RESPONSE.)

22 Q. I KNOW I SAID WE HAD ALL OF THE SILLY WORDS
23 OUT OF THE WAY, BUT WE HAVE ONE MORE.

24 A. (NO AUDIBLE RESPONSE.)

25 Q. SO -- OKAY. IT'S YOUR BOTTOM AND YOUR FRONT
26 AND YOUR BACK.

27 SO IS IT THE PART WHERE YOUR PEE COMES OUT
28 OR YOUR POOP COMES OUT?

1 A. YOUR PEE.

2 MS. DI TILLIO: OKAY.

3 ALL RIGHT. I DON'T HAVE ANY MORE QUESTIONS
4 FOR YOU. THANK YOU, HANNAH.

5 THE COURT: ANYTHING ELSE, MISS OLIVER?

6 MS. OLIVER: NO, YOUR HONOR.

7 THE COURT: HANNAH, THANK YOU. YOU CAN STEP DOWN
8 NOW.

9 LADIES AND GENTLEMEN, THAT WILL CONCLUDE THE
10 EVIDENCE FOR TODAY. WE WILL START TOMORROW MORNING AT
11 9:00 O'CLOCK. IT'S 4:15 NOW. TOMORROW MORNING AT
12 9:00 O'CLOCK.

13 YOU ARE REMINDED NOT TO TALK ABOUT THE CASE.
14 YOU'RE NOT TO FORM OR EXPRESS AN OPINION ABOUT THE CASE.
15 YOU'RE NOT DISCUSS THE MATTER AT ALL.

16 YOU'RE NOT LOOKING UP ANYTHING ON THE
17 INTERNET OR CONSULTING ANY BOOKS OR ENCYCLOPEDIAS ABOUT
18 ANYTHING DEALING WITH THIS CASE.

19 TOMORROW MORNING AT 9:00 O'CLOCK.

20 HAVE A NICE EVENING.

21 ---OOO---

22 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
23 COURT, OUTSIDE THE PRESENCE OF THE JURORS AND
24 THE ALTERNATE JURORS.)

25 ---OOO---

26 THE COURT: ALL RIGHT. TOMORROW, EVERYBODY KNOWS
27 WHO'S COMING?

28 MS. DI TILLIO: YES. AND, ACTUALLY, WE MAY END UP

1 BEING A LITTLE BIT SHORT WITNESS-WISE. I'LL TRY TO FILL
2 THE DAY AS WELL AS I CAN.

3 THE COURT: THAT'S FINE.

4 WHO'S ON TAP TOMORROW?

5 MS. DI TILLIO: ALLAN, MELISSA, KARINA. I THINK
6 THAT WILL PROBABLY BE THE MORNING. AND I MAY PUT THE
7 DEPUTIES ON IN THE AFTERNOON, THE SHERIFF'S DEPUTIES,
8 NICKLO AND LONG, BUT I'LL HAVE TO SEE, MAKE SURE THAT
9 THEIR SCHEDULING IS OKAY.

10 THE COURT: ALL RIGHT. HAVE A NICE EVENING.

11 MS. DI TILLIO: YOU, TOO, YOUR HONOR.

12 THE COURT: THE VIDEOS -- THE VIDEOS OF THE
13 INTERVIEWS, HOW LONG ARE THEY?

14 MS. DI TILLIO: THEY'RE ABOUT AN HOUR EACH.

15 THE COURT: SO WHEN DO YOU THINK YOU'RE GOING TO BE
16 DONE?

17 MS. DI TILLIO: WEDNESDAY, EARLY WEDNESDAY.
18 BECAUSE I HAVE ONE WITNESS THAT CAN'T BE HERE UNTIL
19 WEDNESDAY.

20 THE COURT: WHEN DO YOU THINK YOU'LL BE ARGUING?

21 MS. DI TILLIO: THURSDAY, PROBABLY.

22 BECAUSE YOU'LL HAVE YOUR WITNESS ON
23 WEDNESDAY, YOU THINK?

24 MS. OLIVER: YEAH. I'M GOING TO CALL HIM, NOW THAT
25 WE HAVE --

26 THE COURT: A LITTLE BETTER IDEA?

27 MS. OLIVER: UH-HUH. SO I'LL KNOW TOMORROW, BUT I
28 THINK IT COULD BE WEDNESDAY OR THURSDAY.

1 BECAUSE YOU'RE JUST GOING TO HAVE THE ONE
2 WITNESS ON WEDNESDAY?

3 MS. DI TILLIO: RIGHT.

4 THE COURT: ALL RIGHT.

5 MS. DI TILLIO: SO EITHER CLOSE WEDNESDAY AFTERNOON
6 OR THURSDAY MORNING.

7 ---000---

8 (THEREUPON THE PROCEEDINGS IN THIS MATTER
9 WERE RECESSED UNTIL FRIDAY, MARCH 28, 2014,
10 AT 9:00 A.M., FOR FURTHER PROCEEDINGS.)

11 ---000---

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1 SAN DIEGO, CALIFORNIA; FRIDAY, MARCH 28, 2014

2 9:20 A.M.

3 ---000---

4 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
5 COURT, WITHIN THE PRESENCE OF THE JURORS AND
6 THE ALTERNATE JURORS.)

7 ---000---

8 THE COURT: THE RECORD WILL REFLECT THE DEFENDANT
9 AND THE ATTORNEYS ARE PRESENT, AS WELL AS OUR JURORS AND
10 ALTERNATE JURORS.

11 GOOD MORNING, LADIES AND GENTLEMEN.

12 WE'RE GOING TO CONTINUE WITH THE EVIDENCE
13 THIS MORNING.

14 NEXT WITNESS, PLEASE.

15 MS. DI TILLIO: THANK YOU.

16 THE PEOPLE CALL KARINA K.

17 THE COURT CLERK: DO YOU SOLEMNLY STATE, UNDER
18 PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE
19 IN THIS MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
20 NOTHING BUT THE TRUTH?

21 THE WITNESS: YES.

22 THE COURT CLERK: THANK YOU.

23 PLEASE BE SEATED AT THE WITNESS STAND.

24 PLEASE STATE AND SPELL YOUR FIRST NAME AND
25 THE FIRST INITIAL OF YOUR LAST NAME

26 THE WITNESS: KARINA K., K-A-R-I-N-A.

27 ///

28 ///

1 DO YOU KNOW WHO BREANNA IS?

2 A. YES. SHE'S MY COUSIN.

3 Q. HOW ARE YOU GUYS COUSINS? WHAT'S THE FAMILY
4 CONNECTION?

5 A. SHE'S MY MOM'S SISTER'S DAUGHTER.

6 Q. DO YOU AND BREANNA HAVE A CLOSE
7 RELATIONSHIP?

8 A. KINDA, YES.

9 Q. I'M SORRY?

10 A. YEAH.

11 Q. SHE'S MUCH YOUNGER THAN YOU; RIGHT?

12 A. YEAH, SHE IS.

13 Q. AND HAVE YOU SPENT TIME IN HER HOME?

14 A. YES, I HAVE.

15 Q. HAVE THERE BEEN TIMES WHERE YOU HAVE BABYSAT
16 FOR HER?

17 A. YEAH.

18 Q. DO YOU REMEMBER A TIME --

19 DO YOU KNOW WHO ERIC IS?

20 A. YES.

21 Q. IS HE HERE IN COURT TODAY?

22 A. YES.

23 Q. WOULD YOU POINT TO WHERE HE IS AND JUST
24 DESCRIBE HIS CLOTHES?

25 A. HE IS OVER THERE, IN A BLUE SUIT
26 (INDICATING).

27 MS. DI TILLIO: MAY THE RECORD REFLECT THE WITNESS
28 HAS IDENTIFIED THE DEFENDANT?

1 THE COURT: YES.

2 MS. DI TILLIO: THANK YOU.

3 Q. AND HOW DO YOU KNOW ERIC?

4 A. HE WAS MY AUNT'S EX-BOYFRIEND.

5 Q. YOUR AUNT?

6 A. TAMI.

7 Q. AND THAT'S BREANNA'S MOM?

8 A. YES.

9 Q. DID YOU EVER VISIT --

10 OR DO YOU KNOW IF ERIC EVER LIVED WITH TAMI?

11 A. YES.

12 Q. AND HAVE YOU EVER VISITED THEM AT THEIR
13 HOUSE?

14 A. YES.

15 Q. DO YOU REMEMBER WHICH HOUSE YOU VISITED THEM
16 IN?

17 A. THE ONE BY UTC.

18 Q. OKAY. IS THAT A ONE-STORY OR TWO-STORY
19 HOUSE? DO YOU REMEMBER?

20 A. ONE-STORY.

21 Q. AND I'D LIKE TO TALK ABOUT A TIME WHEN YOU
22 WERE YOUNGER, MAYBE AROUND 14, WHEN YOU VISITED THEM IN
23 THEIR HOUSE.

24 DO YOU REMEMBER BEING AROUND THAT AGE,
25 VISITING THEM?

26 A. YES.

27 Q. OKAY. WAS THERE A TIME WHERE YOU HAD A
28 SITUATION WITH ERIC THAT MADE YOU FEEL UNCOMFORTABLE?

1 A. YES.

2 Q. WOULD YOU TELL US ABOUT THAT, PLEASE?

3 A. HE TOLD ME HE WANTED TO TALK TO ME. SO HE
4 BROUGHT ME IN THE ROOM AND CLOSED THE DOOR BEHIND ME.

5 HE PULLED DOWN HIS PANTS AND SAID -- AND HE
6 SHOWED ME HIS PRIVATES AND SAID, "YOU CAN TOUCH IT IF YOU
7 WANT."

8 AND HE WAS, LIKE, TALKING TO ME.

9 Q. OKAY. WHO WAS HOME AT THE TIME WHEN THIS
10 HAPPENED?

11 A. JUST HIM AND BREANNA.

12 Q. AND YOURSELF?

13 A. YES.

14 Q. AND WAS IT -- DO YOU RECALL IF IT WAS DURING
15 THE DAY OR IN THE EVENING?

16 A. DAY.

17 Q. WERE YOU -- WHY WERE YOU THERE AT THE HOUSE
18 THAT DAY?

19 A. I WAS SUPPOSED TO BE WATCHING BREANNA.

20 Q. DID YOU EXPECT FOR ERIC TO BE THERE AS WELL?

21 A. WELL, I WAS TOLD THAT HE WAS GOING TO BE
22 THERE.

23 Q. OKAY. AND YOU SAID THAT HE BROUGHT YOU INTO
24 THE ROOM.

25 WHAT ROOM?

26 A. THE ROOM -- THE BEDROOM THAT HE STAYED IN,
27 LIKE, HIM AND MY AUNT'S BEDROOM.

28 Q. DO YOU RECALL HOW MANY BEDROOMS WERE IN THAT

1 HOUSE?

2 A. TWO.

3 Q. AND WHEN YOU SAID HE BROUGHT YOU INTO THE
4 BEDROOM, WAS IT JUST THE TWO OF YOU?

5 A. YES.

6 Q. WHAT WERE YOU GUYS DOING BEFORE THAT?

7 A. ME AND BREANNA WERE PLAYING WITH PLAY-DOH, I
8 THINK. AND THEN HE TOLD ME HE WANTED TO TALK TO ME AND
9 BROUGHT ME INTO THE ROOM AND CLOSED THE DOOR BEHIND ME.

10 Q. AND YOU SAID HE SHOWED YOU HIS PRIVATES.
11 DO YOU HAVE ANOTHER NAME FOR THAT PART?

12 A. HE SHOWED ME HIS PENIS.

13 Q. OKAY. IT'S OKAY TO FEEL UNCOMFORTABLE AND
14 SAY THE WORD. WE JUST WANT TO ALL MAKE SURE THAT WE ARE
15 TALKING ABOUT THE SAME THING.

16 OKAY?

17 A. (NO AUDIBLE RESPONSE.)

18 Q. AND YOU SAID --

19 DO YOU RECALL WHAT HE WAS WEARING?

20 WAS HE WEARING CLOTHES OR PAJAMAS OR
21 SOMETHING IN THE MIDDLE?

22 A. HE WAS WEARING CLOTHES.

23 Q. OKAY. AND I THINK YOU ALREADY SAID HE
24 PULLED DOWN HIS PANTS.

25 DID HE TAKE OFF ANY OTHER PART OF HIS
26 CLOTHES?

27 A. I DON'T THINK SO. IT WAS JUST HIS BOTTOMS.

28 Q. AND COULD YOU DESCRIBE WITH ANYMORE

1 SPECIFICITY WHAT HIS PENIS LOOKED LIKE? LIKE, WAS IT
2 DOING ANYTHING? WAS HE DOING ANYTHING WITH IT?

3 A. HE WAS HOLDING IT AND KIND OF LIKE PLAYING
4 WITH IT THERE.

5 Q. I'M SORRY?

6 A. HE WAS KIND OF LIKE PLAYING WITH IT THERE,
7 LIKE, HOLDING IT AND --

8 Q. AND I THINK YOU SAID HE ASKED YOU IF YOU
9 WANTED TO TOUCH IT?

10 A. YEAH.

11 Q. WHAT DID YOU DO WHEN HE SAID THAT?

12 A. I SAID "NO," GOT UP AGAINST THE BACK OF THE
13 DOOR AND TRIED TO WALK OUT.

14 Q. WHAT HAPPENED WHEN YOU TRIED TO WALK OUT?

15 A. I JUST WALKED OUT.

16 Q. DID ANYTHING LIKE THAT HAPPEN EVER AGAIN
17 BETWEEN YOU AND ERIC?

18 A. NO.

19 Q. DID YOU TELL ANYBODY ABOUT IT RIGHT AWAY?

20 A. NO.

21 Q. WHY NOT?

22 A. I WAS SCARED HE WOULD, LIKE, DO SOMETHING
23 OR, LIKE, COME AFTER ME OR SOMETHING.

24 Q. WHEN HE WAS ASKING YOU TO -- IF YOU WANTED
25 TO TOUCH HIS PENIS, HOW DID YOU FEEL?

26 A. SCARED. LIKE, I WOULDN'T EVER IMAGINE
27 MYSELF IN THAT SITUATION.

28 Q. WERE YOU UNCOMFORTABLE?

1 A. YEAH.

2 Q. AND WHEN DID YOU FINALLY TELL SOMEBODY ABOUT
3 WHAT HAPPENED?

4 A. WHEN I HEARD THAT -- WHAT HAPPENED TO
5 BREANNA AND THAT BREANNA GOT TAKEN AWAY FROM HER MOM
6 BECAUSE OF WHAT HAPPENED BETWEEN BREANNA AND HIM AND
7 HANNAH AND HIM.

8 Q. AND WHY DID YOU FEEL THAT WAS THE TIME TO
9 TELL?

10 A. WELL, BECAUSE I THOUGHT MAYBE, IF I WOULD
11 HAVE SAID SOMETHING, THAT WOULD HAVE NEVER HAPPENED. OR
12 I DON'T KNOW. IT'S JUST SOMETHING TO ADD, I GUESS.

13 Q. I DIDN'T HEAR THE LAST WORD.

14 A. IT'S JUST SOMETHING TO ADD, LIKE, SAY SHE
15 WASN'T THE ONLY ONE.

16 Q. OKAY. THANK YOU.

17 I HAVE NOTHING FURTHER AT THIS TIME.

18 MISS OLIVER MIGHT HAVE SOME QUESTIONS FOR
19 YOU.

20 OKAY?

21 A. (NO AUDIBLE RESPONSE.)

22 THE COURT: CROSS-EXAMINATION.

23 MS. OLIVER: THANK YOU.

24

25 **CROSS-EXAMINATION**

26

27 BY MS. OLIVER:

28 Q. KARINA, DO YOU REMEMBER WHAT THE HOUSE AT

1 UTC -- WHAT IT LOOKED LIKE ON THE INSIDE PRETTY CLEARLY?

2 A. YES.

3 Q. OKAY. SO THE BEDROOM THAT YOU'RE TALKING
4 ABOUT, WAS THERE A BATHROOM CLOSE TO THAT BEDROOM?

5 A. YEAH. THERE WAS A BATHROOM IN THAT BEDROOM.

6 Q. OKAY. AND IS THERE A BATHROOM ALSO RIGHT
7 OUTSIDE OF THAT BEDROOM?

8 A. I BELIEVE SO.

9 Q. SO THERE'S ONE BATHROOM THAT'S INSIDE OF THE
10 BEDROOM; CORRECT?

11 A. YES.

12 Q. AND THEN WOULD THAT HAVE BEEN THE BATHROOM
13 THAT YOU AND BREANNA WOULD USE?

14 A. NO.

15 Q. OKAY. SO WHERE IS THE BATHROOM THAT YOU AND
16 BREANNA WOULD USE?

17 A. I DON'T REMEMBER EXACTLY, BUT I KNOW IT WAS
18 IN THE BUILDING, IN THE HOUSE.

19 Q. IT WAS IN THE BUILDING?

20 A. IT WAS IN THE HOUSE, APARTMENT THING.

21 Q. OKAY. WOULD IT HAVE BEEN CLOSER TO WHERE
22 BREANNA'S ROOM WAS?

23 A. I THINK SO.

24 Q. WOULD IT HAVE BEEN IN THE HALLWAY?

25 A. MAYBE.

26 Q. MAYBE? YOU JUST DON'T REMEMBER?

27 A. NOT REALLY.

28 Q. OKAY. BUT YOU DO REMEMBER THAT THERE WAS A

1 BATHROOM INSIDE OF THE BEDROOM?

2 A. YES.

3 Q. OKAY. AND WHERE THE BATHROOM IS LOCATED
4 INSIDE OF THAT BEDROOM, IS IT CLOSE TO THE DOORWAY?

5 A. THERE'S, LIKE, THE DOOR AND THEN THE
6 BEDROOM, AND THEN THERE'S, LIKE, THE BATHROOM OFF TO THE
7 SIDE, KIND OF.

8 Q. SO IF YOU'RE IN THE HALLWAY AND YOU PASS BY
9 THAT BEDROOM DOOR, CAN YOU SEE INTO THAT BATHROOM?

10 A. I DON'T REMEMBER.

11 Q. OKAY. SO WHEN YOU WERE AT YOUR AUNT'S HOUSE
12 AND BREANNA AND ERIC WAS THERE, DO YOU KNOW WHETHER OR
13 NOT ERIC HAD JUST GOTTEN OUT OF THE SHOWER?

14 A. I DON'T THINK SO.

15 Q. DID YOU WALK BY THE DOOR, AND THE BEDROOM
16 DOOR WAS CRACKED?

17 A. NO.

18 Q. DID YOU PASS BY THE BEDROOM AND BATHROOM
19 DOOR AND NOTICE HIM STANDING IN THE BATHROOM WITHOUT
20 CLOTHES ON?

21 A. NO.

22 Q. DID ERIC CALL YOU INTO THE ROOM LATER TO ASK
23 YOU QUESTIONS ABOUT WHETHER OR NOT YOU HAD SEEN HIM
24 NAKED?

25 A. NO.

26 Q. NOW, YOU MENTIONED THAT YOU WERE SCARED THAT
27 HE MAY COME AFTER YOU?

28 A. YES.

1 Q. DID ERIC THREATEN YOU?

2 A. NO. HE JUST TOLD ME NOT TO TELL ANYONE AND
3 KEEP THIS BETWEEN THEM -- US, I MEAN.

4 Q. DID YOU TELL ANYONE THAT HE SAID KEEP THAT
5 BETWEEN THE TWO OF YOU?

6 A. NOT UNTIL I TOLD MY MOM WHAT HAD HAPPENED.

7 Q. AND THAT WAS AFTER YOU LEARNED THAT YOUR
8 COUSIN HAD BEEN TAKEN AWAY FROM YOUR AUNT?

9 A. YES.

10 Q. AND DID YOU VOLUNTARILY TELL THIS TO YOUR
11 MOM, OR DID YOUR MOM AND YOUR AUNT BEGIN TO QUESTION YOU?

12 A. I VOLUNTARILY SAID IT.

13 Q. AND WHEN YOU VOLUNTARILY SAID IT, DID YOU
14 THINK IT WOULD HELP YOUR AUNT BE ABLE TO GET -- HAVE YOUR
15 COUSIN COME BACK HOME?

16 A. I DON'T KNOW WHAT I THOUGHT. I JUST KNOW
17 THAT I NEEDED TO SAY SOMETHING ABOUT IT.

18 Q. AND WERE YOU SAD WHEN YOU LEARNED THAT YOUR
19 COUSIN HAD BEEN REMOVED FROM YOUR AUNT'S HOME?

20 A. YEAH, AND THAT -- WHAT HAD, LIKE, HAPPENED
21 TO HER AND HER STEPSISTER.

22 Q. SO YOU KNEW -- SOMEONE TOLD YOU ABOUT WHAT
23 HAPPENED TO YOUR COUSIN AND HER STEPSISTER?

24 A. WELL, NOT FULLY, JUST LIKE BROADLY WHAT
25 HAPPENED.

26 Q. AND WHO WAS THAT? WHO TOLD YOU THAT?

27 A. MY MOM.

28 Q. AND WHEN DID YOUR MOM TELL YOU? DO YOU

1 REMEMBER?

2 A. WELL, RIGHT BEFORE I TOLD HER ABOUT ME.

3 Q. AND WAS IT YOUR MOM WHO ALSO TOLD YOU THAT
4 YOUR COUSIN, BREANNA, HAD BEEN TAKEN AWAY FROM HER MOM?

5 A. YES.

6 Q. IS THAT A "YES"?

7 A. YES.

8 Q. WAS YOUR MOM PRETTY UPSET WHEN SHE WAS
9 TALKING TO YOU?

10 A. YES. SHE WAS MORE DISAPPOINTED THAT I
11 DIDN'T REALLY TELL HER.

12 Q. WAS SHE SAD THAT YOUR COUSIN HAD BEEN TAKEN
13 AWAY FROM -- FROM HER MOTHER?

14 A. YES.

15 Q. DO YOU REMEMBER WHAT ERIC WAS WEARING THAT
16 DAY?

17 A. NO.

18 MS. OLIVER: YOUR HONOR, MAY I HAVE JUST ONE
19 MOMENT, PLEASE?

20 THE COURT: YES.

21

22 BY MS. OLIVER:

23 Q. KARINA, DID YOU NOTICE ANY -- ANY SCARS ON
24 ERIC'S LEGS?

25 A. NO.

26 MS. OLIVER: THANK YOU.

27 NOTHING FURTHER.

28 THE COURT: REDIRECT?

1 MS. DI TILLIO: THANK YOU.

2

3

REDIRECT EXAMINATION

4

5 BY MS. DI TILLIO:

6 Q. KARINA, DID YOU HAVE THE CHANCE TO SEE THE

7 DEFENDANT'S LEGS?

8 A. NO.

9 Q. WHAT PART OF HIS BODY DID YOU SEE?

10 A. JUST, LIKE, HIS PRIVATES.

11 Q. SO WHEN YOU TALKED ABOUT HIM PULLING HIS

12 PANTS DOWN, DID HE PULL THEM DOWN JUST FAR ENOUGH TO SHOW

13 HIS PRIVATES, OR DID HIS PANTS GO DOWN BEYOND THAT?

14 A. JUST FAR ENOUGH.

15 Q. IS THERE ANY CHANCE THAT YOU WALKED IN ON

16 THE DEFENDANT WHILE HE WAS USING THE BATHROOM?

17 A. NO.

18 Q. ANY CHANCE THAT YOU JUST WALKED BY THE

19 BATHROOM WHILE HE HAPPENED TO BE GOING TO THE BATHROOM?

20 A. NO.

21 Q. YOU EXPLAINED TO US THAT HE ACTUALLY BROUGHT

22 YOU INTO THE BEDROOM; IS THAT RIGHT?

23 A. YES.

24 Q. WHAT ROOM WERE YOU IN BEFORE YOU WENT INTO

25 THE BEDROOM?

26 A. IN, LIKE, THE MAIN AREA, LIVING ROOM, I

27 GUESS.

28 Q. SO I THINK YOU SAID IT WAS A ONE-STORY

1 HOUSE; RIGHT?

2 A. YEAH. IT WAS LIKE A CONDO, SORT OF, TWO
3 STORIES, BUT THEY ONLY HAD THE UPPER STORY.

4 Q. AND ALL THE ROOMS ARE PRETTY MUCH CONNECTED?

5 A. YEAH.

6 Q. WHEN -- YOU SAID THAT YOU -- YOU HAD LEARNED
7 THAT BREANNA HAD BEEN TAKEN FROM HER MOM.

8 DO YOU KNOW HOW LONG THAT LASTED, WHERE SHE
9 WAS AWAY FROM HER MOM?

10 A. I DON'T REMEMBER.

11 Q. AND DO YOU KNOW WHERE SHE WAS AT THE TIME?
12 WAS SHE WITH SOMEONE ELSE?

13 A. I BELIEVE SHE WAS WITH HER DAD.

14 Q. AND THEN WAS SHE BACK WITH HER MOM AGAIN?

15 A. AFTER SOME TIME, SHE WAS ALLOWED TO SEE HER,
16 BUT I DON'T KNOW HOW LONG.

17 MS. DI TILLIO: THANK YOU.

18 I HAVE NOTHING FURTHER.

19 THE COURT: RE-CROSS? ANY?

20 MS. OLIVER: NO. THANK YOU.

21 THE COURT: ALL RIGHT. THANK YOU FOR COMING THIS
22 MORNING.

23 NEXT WITNESS, PLEASE.

24 MS. DI TILLIO: THANK YOU.

25 PEOPLE CALL MELISSA L.,

26 THE COURT CLERK: DO YOU SOLEMNLY STATE, UNDER
27 PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE
28 IN THIS MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND

1 NOTHING BUT THE TRUTH?

2 THE WITNESS: YES.

3 THE COURT CLERK: THANK YOU.

4 PLEASE BE SEATED AT THE WITNESS STAND.

5 PLEASE STATE AND SPELL YOUR FIRST NAME AND
6 THE FIRST INITIAL OF YOUR LAST NAME.

7 THE WITNESS: MELISSA, M-E-L-I-S-S-A.

8 AND I'M SORRY.

9 SAY THAT AGAIN?

10 THE COURT: FIRST INITIAL OF THE LAST NAME.

11 THE WITNESS: S. I'M SORRY. L.

12 I'M SO FLUSTERED. MY LAST NAME WAS (S.).

13 IT'S NOW (L.). SO L.

14

15

MELISSA L.,

16 **A WITNESS CALLED ON BEHALF OF THE PLAINTIFF, THE PEOPLE**

17 **OF THE STATE OF CALIFORNIA, HAVING BEEN DULY SWORN,**

18 **TESTIFIED AS FOLLOWS:**

19

20

DIRECT EXAMINATION

21

22 BY MS. DI TILLIO:

23 Q. GOOD MORNING.

24 A. GOOD MORNING.

25 Q. SO HOW ARE YOU TODAY?

26 A. FLUSTERED.

27 Q. OKAY. IF YOU NEED A BREAK, JUST LET US KNOW

28 YOU NEED A BREAK. TAKE YOUR TIME WHEN YOU ANSWER THE

1 QUESTIONS.

2 OKAY?

3 A. (NO AUDIBLE RESPONSE.)

4 Q. ALL RIGHT. MELISSA, I WANT TO TALK JUST A
5 LITTLE BIT ABOUT YOUR FAMILY DYNAMICS.

6 OKAY?

7 A. (NO AUDIBLE RESPONSE.)

8 Q. IS THAT A "YES"?

9 A. YES. SORRY.

10 Q. I'LL JUST NEED YOU TO ANSWER OUT LOUD, SO
11 SHE CAN WRITE IT ALL DOWN.

12 ALL RIGHT?

13 IF YOU NEED SOME WATER, LET ME KNOW. I CAN
14 GET YOU A CUP.

15 OKAY?

16 A. (NO AUDIBLE RESPONSE.)

17 Q. MELISSA, ARE YOU MARRIED?

18 A. YES.

19 Q. TO WHOM ARE YOU MARRIED?

20 JUST FIRST NAMES.

21 A. ALLAN.

22 Q. HOW LONG HAVE YOU AND ALLAN BEEN MARRIED?

23 A. SINCE AUGUST 7TH, 2010.

24 Q. HOW LONG HAVE YOU BEEN TOGETHER WITH HIM?

25 A. SINCE OCTOBER OF 2008.

26 Q. AND DID YOU KNOW ALLAN BEFORE YOU AND HE
27 STARTED DATING?

28 A. YEAH.

1 Q. HOW LONG DID YOU KNOW EACH OTHER?

2 A. ABOUT FIVE MONTHS. WE BECAME GOOD FRIENDS
3 OVER THOSE FIVE MONTHS.

4 Q. HOW DID YOU MEET?

5 A. WORK.

6 Q. DO YOU GUYS WORK AT THE SAME LOCATION?

7 A. YES.

8 Q. AND YOU SAID --

9 SO YOU STARTED DATING IN 2008 AND THEN
10 MARRIED IN 2010.

11 WHERE WERE YOU -- WHAT PART OF TOWN WERE YOU
12 LIVING IN IN 2008?

13 A. WITH -- WELL, WE ACTUALLY ENDED UP MOVING IN
14 TOGETHER IN 2008, IN THE END OF 2008.

15 SO BEFORE THAT OR --

16 Q. YES, WHEN YOU MOVED IN TOGETHER.

17 A. WE WERE LIVING IN -- IT WOULD BE CONSIDERED
18 SAN DIEGO.

19 Q. OKAY. AND WHO ELSE LIVED WITH YOU AT THAT
20 RESIDENCE?

21 A. MY DAUGHTER FULL-TIME, HANNAH, AND BREANNA
22 50/50.

23 Q. AND IS BREANNA ALLAN'S DAUGHTER?

24 A. YES.

25 Q. WHEN HANNAH LIVED -- WHEN YOU FIRST MOVED
26 TOGETHER IN 2008, DID HANNAH LIVE WITH YOU MOST OF THE
27 TIME?

28 A. YES.

1 Q. WHEN IS HANNAH'S DATE OF BIRTH?

2 A. 2-17-03.

3 Q. AND YOU INDICATED THAT BREANNA WAS WITH YOU
4 50 PERCENT OF THE TIME.

5 WHERE WAS SHE THE OTHER 50 PERCENT?

6 A. WITH TAMI.

7 Q. IS THAT HER MOM?

8 A. YES.

9 Q. AND DID YOU AND ALLAN AND TAMI HAVE A DECENT
10 RELATIONSHIP AS TO HOW IT RELATED WITH CHILD CUSTODY AND
11 THINGS LIKE THAT?

12 A. YES.

13 Q. BACK IN 2008?

14 A. YES.

15 Q. AND STILL TODAY?

16 A. YES.

17 Q. AND DO YOU OFTEN COMMUNICATE REGARDING THE
18 -- BREANNA'S NEEDS?

19 A. I, SPECIFICALLY?

20 Q. ALL THREE OF YOU?

21 A. YES.

22 Q. IS IT MOSTLY ALLAN, OR ARE YOU PART OF IT AS
23 WELL?

24 A. IT'S MOSTLY ALLAN. IF IT'S -- THERE ARE
25 CERTAIN SCENARIOS WHERE I'LL GET INVOLVED, IF IT'S LIKE
26 SPORTS STUFF. I DO FINANCES, OUR FINANCES. SO, YOU
27 KNOW, IF IT'S, YOU KNOW, DECIDING WHAT TO GO WITH BASED
28 ON MONEY OR SOMETHING LIKE THAT, TAMI AND I WILL DISCUSS

1 IT.

2 Q. SO YOU AND TAMI GET ALONG OKAY?

3 A. YEAH. YES. SORRY.

4 Q. AND DO YOU KNOW WHO ERIC IS?

5 A. YES.

6 Q. IS HE HERE IN COURT TODAY?

7 A. YES, HE IS.

8 Q. WOULD YOU DESCRIBE WHAT HE'S WEARING AND
9 JUST POINT TO HIM FOR US?

10 A. A SUIT (INDICATING).

11 THE COURT: IDENTIFICATION OF THE DEFENDANT FOR THE
12 RECORD.

13 MS. DI TILLIO: THANK YOU.

14 Q. HOW DID -- WHO WAS ERIC WHEN YOU FIRST MET
15 HIM? WHAT WAS ERIC'S RELATIONSHIP IN THE FAMILY?

16 A. HE WAS TAMI'S BOYFRIEND.

17 Q. AND DO YOU RECALL WHEN YOU MET HIM?

18 A. (NO AUDIBLE RESPONSE.)

19 Q. LIKE, HOW EARLY ON?

20 A. I MET HIM FEBRUARY -- PROBABLY FEBRUARY OF
21 2009.

22 Q. OKAY. SO A FEW MONTHS AFTER YOU AND ALLAN
23 MOVED IN TOGETHER?

24 A. UH-HUH.

25 Q. IS THAT "YES"?

26 A. YES. I'M SORRY.

27 Q. WHEN YOU MET ERIC, WAS HE ALREADY LIVING
28 WITH TAMI?

1 A. YES.

2 Q. DO YOU KNOW WHERE THEY WERE LIVING, WHAT
3 PART OF TOWN?

4 A. UTC.

5 Q. AND WERE THERE TIMES WHERE HANNAH WOULD GO
6 SPEND TIME AT TAMI AND ERIC'S HOUSE?

7 A. AT THAT TIME, NO.

8 Q. AT THAT TIME WERE BREANNA AND HANNAH GOING
9 TO THE SAME SCHOOL?

10 A. NO.

11 Q. WERE YOU LIVING IN A DIFFERENT PART OF TOWN?

12 A. YES.

13 Q. WHAT PART OF TOWN WERE YOU LIVING IN?

14 A. WE HAD MOVED, IN THE BEGINNING OF 2009, TO
15 POWAY.

16 Q. AND AT SOME POINT DID TAMI, ERIC AND BREANNA
17 ALL MOVE TO POWAY AS WELL?

18 A. YES, THEY DID.

19 Q. DO YOU RECALL WHEN THAT WAS?

20 A. THAT WAS ALMOST A YEAR AFTER WE DID.

21 Q. SO 2010, BEGINNING OF 2010?

22 A. ACTUALLY, IT WAS A LITTLE AFTER A YEAR AFTER
23 WE DID. I DON'T RECALL THE DATE. SORRY.

24 Q. THAT'S OKAY. I'M JUST GETTING A SENSE OF
25 TIME.

26 SO AT THAT POINT DID THE GIRLS THEN START
27 GOING TO THE SAME SCHOOL?

28 A. NOT RIGHT AWAY. BUT THE FOLLOWING YEAR THEY

1 DID.

2 Q. SO AT THE VERY START OF THE NEXT SCHOOL
3 YEAR?

4 A. UH-HUH.

5 Q. IS THAT "YES"?

6 A. YES.

7 Q. AND WAS THERE A CONCERTED EFFORT TO PUT THE
8 GIRLS TOGETHER IN THE SAME SCHOOL?

9 A. YES.

10 Q. WAS THAT A DISCUSSION THAT YOU ALL HAD
11 TOGETHER, YOU AND ALLAN AND TAMI?

12 A. AND ERIC, YES.

13 Q. AND ERIC.

14 SO EVERYBODY WAS INVOLVED IN THE IDEA OF
15 MOVING CLOSER?

16 A. YES.

17 Q. AND DID YOU HAVE, AT THAT TIME, AN OKAY
18 RELATIONSHIP WITH ERIC?

19 A. YES.

20 Q. DID YOU AND HE HAVE MANY DISCUSSIONS, OR DID
21 YOU SPEND A LOT OF TIME TOGETHER?

22 A. WE DIDN'T SPEND TIME TOGETHER. WE DID NOT
23 HAVE -- I MEAN, WE DIDN'T HAVE MORE THAN A FEW
24 DISCUSSIONS AS FAR AS US ALL MEETING UP TOGETHER TO
25 DISCUSS SOMETHING THAT WE COULDN'T AGREE ON THROUGH
26 E-MAIL BASED ON BREANNA'S SCHEDULE OR SOMETHING LIKE
27 THAT.

28 Q. AND THE TYPES OF THINGS THAT YOU NEEDED TO

1 GET TOGETHER TO DISCUSS, DID THAT ALWAYS INVOLVE THE
2 CHILDREN?

3 A. YEAH. YES.

4 Q. MOST SPECIFICALLY, BREANNA, I WOULD IMAGINE?

5 A. YES.

6 Q. WERE THERE EVER TIMES THAT YOU AND ALLAN
7 SPOKE ABOUT ERIC IN FRONT OF EITHER BREANNA OR HANNAH?

8 A. DURING WHICH TIMEFRAME?

9 Q. AT ALL, BEFORE MAY OF 2012, WOULD YOU TALK
10 ABOUT TAMI AND ERIC IN FRONT OF THE GIRLS?

11 A. NO.

12 Q. DID YOU EVER SAY ANYTHING NEGATIVE ABOUT
13 ERIC IN FRONT OF EITHER BREANNA OR HANNAH?

14 A. NO.

15 Q. I'D LIKE TO TALK A LITTLE BIT ABOUT ONCE
16 TAMI AND ERIC LIVED IN POWAY AND THE GIRLS STARTED GOING
17 TO SCHOOL TOGETHER.

18 WERE THERE TIMES, DURING THAT TIMEFRAME,
19 WHERE HANNAH WOULD SPEND TIME OVER AT BREANNA'S HOUSE IN
20 POWAY?

21 A. I BELIEVE THE NUMBER OF NIGHTS WAS TWO, BUT,
22 BECAUSE THEY WERE CLOSE AND WENT -- THEY LIVED CLOSE TO
23 US, A FEW BLOCKS AWAY, AND THEY WENT TO THE SAME SCHOOL,
24 THE GIRLS WOULD WANT HANNAH TO GO STAY THE NIGHT OVER
25 THERE WHEN TAMI HAD HER. SO THERE WERE A COUPLE OF TIMES
26 THAT HANNAH STAYED THE NIGHT OVER THERE.

27 Q. WHAT ABOUT DURING THE DAY? WERE THERE TIMES
28 WHEN HANNAH WOULD GO VISIT BREANNA DURING THE DAY?

1 A. NO.

2 Q. WERE THERE ANY TIMES WHEN YOU AND TAMI
3 CARPOOLED BRINGING THE KIDS TO SCHOOL?

4 A. NO.

5 Q. WERE THERE EVER ANY TIMES WHERE YOU WOULD
6 DROP HANNAH OVER AT TAMI'S HOUSE, SO THAT ERIC COULD TAKE
7 HER TO SCHOOL?

8 A. YES.

9 Q. HOW MANY -- HOW OFTEN DO YOU THINK THAT THAT
10 HAPPENED?

11 A. ONCE.

12 Q. AND DO YOU RECALL WHY YOU NEEDED ERIC TO
13 TAKE HANNAH TO SCHOOL?

14 A. I NEEDED TO GO INTO WORK EARLY, AND I
15 WOULDN'T HAVE BEEN ABLE TO DROP HER OFF.

16 Q. WHAT TIME DID SCHOOL START?

17 A. 8:10.

18 Q. AND WHAT TIME DID YOU NEED TO BE TO WORK
19 THAT DAY?

20 A. 7:00 A.M.

21 Q. AND I WANT TO DRAW YOUR ATTENTION TO
22 MAY 21ST, 2012. YOU INDICATED THAT THERE WAS ONE TIME
23 THAT YOU HAD TO BRING HANNAH OVER.

24 WAS THAT THE SAME DAY?

25 A. YES.

26 Q. AND HAD YOU MADE ARRANGEMENTS WITH TAMI THE
27 NIGHT BEFORE OR THE DAY BEFORE TO DO THAT?

28 A. YES.

1 Q. DID SHE KNOW WHAT TIME TO EXPECT YOU?

2 A. YES.

3 Q. AND DID YOU LET HER KNOW WHILE YOU WERE
4 EN ROUTE OVER TO THE HOUSE?

5 A. (NO AUDIBLE RESPONSE.)

6 Q. OR LEAVING YOUR HOUSE?

7 A. I DON'T REMEMBER.

8 Q. OKAY. YOU SAID YOU DROPPED OFF HANNAH.
9 DO YOU RECALL ABOUT WHAT TIME YOU MIGHT HAVE
10 DROPPED HER OFF?

11 A. PROBABLY ABOUT 6:00. I DON'T RECALL, BUT IT
12 LIKELY WOULD HAVE BEEN 6:45 BECAUSE IT'S NOT VERY FAR
13 FROM MY WORK.

14 Q. OKAY. SO BEFORE 7:00, YOU DROPPED HER OFF.
15 AND DO YOU RECALL HOW HANNAH WAS THAT DAY?

16 A. NORMAL.

17 Q. OKAY. DID SHE -- WHEN YOU FIRST DROPPED HER
18 OFF, DID SHE SEEM UPSET IN ANY WAY?

19 A. NO.

20 Q. WAS SHE IN ANY TROUBLE AT HOME?

21 A. NO.

22 Q. WAS SHE IN ANY TROUBLE AT SCHOOL?

23 A. NO.

24 Q. DID IT APPEAR TO JUST BE A NORMAL DAY?

25 A. YEAH. SHE WAS EXCITED TO -- SHE LIKES WHEN
26 THEY GO TO SCHOOL TOGETHER. SO SHE WAS EXCITED TO GO
27 OVER THERE.

28 Q. AND HANNAH AND BREANNA -- DO THEY HAVE A

1 NORMAL SIBLING-TYPE RELATIONSHIP?

2 A. YES.

3 Q. A LOVE/HATE SIBLING-TYPE RELATIONSHIP?

4 A. YES.

5 Q. SO PRETTY NORMAL SISTERS?

6 A. YEAH. YES.

7 Q. AND DO THEY LIKE TO SPEND TIME TOGETHER?

8 A. (NO AUDIBLE RESPONSE.)

9 Q. FOR THE MOST PART?

10 A. YES. THEY HAVE FUN TOGETHER WHEN THEY SPEND
11 TIME TOGETHER.

12 Q. SO YOU INDICATED YOU DROPPED HER OFF ABOUT
13 6:45.

14 WERE YOU WITH ALLAN, OR WERE YOU BY
15 YOURSELF?

16 A. I WAS BY MYSELF.

17 Q. DO YOU AND ALLAN NORMALLY CARPOOL TO WORK?

18 A. (NO AUDIBLE RESPONSE.)

19 Q. WELL, AT THAT TIME, I SHOULD SAY?

20 A. I CAN'T REMEMBER.

21 Q. DO YOU GUYS STILL WORK IN THE SAME PLACE?

22 A. YES.

23 Q. AND DO YOU REMEMBER IF HE NEEDED TO BE AT
24 WORK AS EARLY AS YOU DID?

25 A. THAT WOULD HAVE BEEN THE ONLY REASON THAT I
26 WOULD HAVE DROPPED HER OFF EARLY, BECAUSE HE WOULD HAVE
27 HAD TO HAVE BEEN AT WORK EARLIER.

28 Q. OKAY. AND SO YOU DROPPED HER OFF.

1 DID YOU GO STRAIGHT TO WORK?

2 A. YES.

3 Q. AND DID YOU GET YOUR DAY STARTED?

4 A. UH-HUH.

5 Q. IS THAT "YES"?

6 A. YES.

7 Q. DID SOMETHING INTERRUPT YOUR MORNING AT
8 WORK?

9 A. YES.

10 Q. WHAT HAPPENED?

11 A. ALLAN CAME OVER TO MY DESK AND TOLD ME, "WE
12 NEED TO GO. ERIC JUST TOUCHED HANNAH."

13 Q. AND WHAT DID YOU DO WHEN HE SAID THAT?

14 A. I GRABBED MY PURSE, AND I RAN BY MY BOSS'S
15 DESK.

16 AND I SAID, "I NEED TO LEAVE."

17 THAT WAS THE FIRST THING OUT OF MY MOUTH. I
18 DON'T REMEMBER IF I SAID ANYTHING AFTER THAT, BUT I LEFT.

19 Q. DID YOU AND ALLAN GO IN THE SAME CAR?

20 A. YES.

21 Q. WHERE DID YOU GUYS GO?

22 A. TO TAMI AND ERIC'S HOUSE.

23 Q. WHO DROVE? DO YOU REMEMBER?

24 A. ALLAN.

25 Q. WHAT DID YOU DO WHILE HE WAS DRIVING?

26 A. I CALLED 911.

27 Q. AND WERE YOU UPSET?

28 A. YES.

1 Q. WHAT HAPPENED WHEN YOU GOT TO THE HOUSE?
2 WHAT DID YOU SEE WHEN YOU FIRST GOT THERE?

3 A. THE DOOR.

4 Q. WAS ANYONE INSIDE OR OUTSIDE OR --

5 A. THE DOOR WAS SHUT. NOBODY WAS OUTSIDE.

6 Q. AND WHAT HAPPENED NEXT?

7 A. I GOT OUT OF THE CAR. AND I WENT TO THE
8 DOOR AND STARTED -- THERE WAS A SCREEN AND A DOOR. AND I
9 STARTED BANGING ON IT.

10 AND ERIC OPENED THE DOOR WITH BREANNA
11 DIRECTLY TO HIS LEFT, A LITTLE BEHIND HIM, WITH HANNAH TO
12 BREANNA'S LEFT.

13 Q. LET ME STOP YOU THERE.

14 A. OKAY.

15 Q. ON THE WAY OVER --

16 HOW LONG DO YOU THINK IT TOOK YOU TO GET
17 OVER TO ERIC AND TAMI'S HOUSE?

18 A. SIX MINUTES.

19 Q. AND EVERYTHING SEEMS TO BE IN THE SAME
20 GENERAL VICINITY?

21 A. UH-HUH.

22 Q. IS THAT "YES"?

23 A. YES.

24 Q. OKAY. WHILE YOU WERE ON THE WAY, BEFORE YOU
25 CALLED 911, DID YOU AND ALLAN HAVE A CONVERSATION ABOUT
26 WHAT WAS GOING ON?

27 A. ALLAN AND I DID NOT HAVE A CONVERSATION. I
28 WAS RANTING.

1 Q. DID ALLAN TELL YOU WHAT HANNAH HAD TOLD HIM,
2 OTHER THAN THE STATEMENT THAT YOU'VE ALREADY TOLD US?

3 A. I DON'T THINK HE DID.

4 Q. OKAY. AND SO YOU CALLED 911. AND THEN YOU
5 GOT THERE. YOU SAID THE DOOR WAS CLOSED.

6 AND IS IT ONE OF THOSE METAL SCREEN DOORS OR
7 A SOFT SCREEN DOOR?

8 A. METAL SCREEN DOOR.

9 Q. WAS THAT LOCKED OR UNLOCKED?

10 A. IT WAS LOCKED.

11 Q. SO WHEN YOU SAY YOU WERE BANGING ON THE
12 DOOR, WAS IT THE SCREEN THAT YOU WERE BANGING ON THAT'S
13 OUTSIDE?

14 A. YES.

15 Q. OKAY. AND YOU SAID THAT ERIC OPENED THE
16 DOOR, AND THE CHILDREN WERE TO HIS LEFT, FIRST BREANNA
17 AND THEN HANNAH, IN THAT ORDER; IS THAT RIGHT?

18 A. RIGHT.

19 Q. CAN YOU DESCRIBE WHAT THE GIRLS LOOKED LIKE?

20 A. BREANNA LOOKED SCARED. HANNAH LOOKED SCARED
21 AND MAD. AND SHE HAD HER BACKPACK ON. AND I JUST
22 GRABBED HER ARM AND PULLED HER OUT THE DOOR.

23 Q. WHAT HAPPENED NEXT?

24 A. I TRIED TO PULL BREANNA OUT, TOO.

25 AND ERIC PUT HIS ARM IN FRONT OF HER AND
26 STOPPED HER AND SAID, "SHE'S NOT YOUR KID. YOU'RE NOT
27 FUCKING TAKING HER."

28 Q. WHAT HAPPENED AT THAT POINT? DID YOU SAY

1 ANYTHING TO HIM?

2 A. AT -- NOT AT THAT MOMENT.

3 Q. WHAT HAPPENED NEXT?

4 A. ALLAN HAD PUT THE CAR IN PARK, IN A PARKING
5 SPOT, BECAUSE I WAS OUT OF IT BEFORE THAT HAPPENED. BY
6 THAT TIME, HE WAS AT THE FRONT DOOR.

7 AND HE SAID TO ERIC, "WELL, SHE'S MY
8 DAUGHTER. CAN I -- CAN I AT LEAST TALK TO HER?"

9 Q. SO IS IT FAIR TO SAY YOU WERE PRETTY UPSET?

10 A. OH, YEAH.

11 Q. WHAT ABOUT ALLAN? WHAT WAS HIS Demeanor
12 LIKE?

13 A. ALLAN IS ALWAYS CALM.

14 Q. AND WHEN THE DEFENDANT TOLD YOU THAT YOU
15 WEREN'T TAKING BREANNA, WHAT WAS HIS Demeanor LIKE?

16 A. DEFENSIVE.

17 Q. SO YOU SAID ALLAN ASKED FOR BREANNA.

18 AND WHAT HAPPENED AFTER THAT?

19 A. ERIC TOLD HIM, "YOU'RE NOT TAKING HER, BUT
20 YOU CAN COME IN."

21 AND ALLAN WENT IN THE HOUSE.

22 Q. AND WHERE DID YOU GO?

23 A. I TOOK HANNAH TO THE CAR.

24 Q. WHAT HAPPENED WHEN YOU GOT TO THE CAR?

25 A. I SAT -- I PUT HER IN THE BACKSEAT. I SAT
26 IN THE PASSENGER SEAT. AND SHE WAS BAWLING. AND SHE
27 STARTED JUST TELLING ME THINGS THAT HE SAID TO HER. AND
28 I GOT IN THE BACKSEAT, AND I PUT MY ARMS AROUND HER. AND

1 I CRIED TOO.

2 Q. WHILE SHE WAS SHARING WITH YOU WHAT HAD
3 HAPPENED, DID YOU ASK HER ANY QUESTIONS?

4 A. NO.

5 Q. WHY NOT?

6 A. I FELT GUILTY FOR TAKING HER THERE. SHE WAS
7 ANGRILY RANTING ABOUT -- LIKE, SHE WAS SO UPSET.

8 Q. WAS SHE SHARING THE INFORMATION WITH YOU
9 FREELY? WAS SHE TELLING YOU WHAT HAD HAPPENED?

10 A. YEAH.

11 Q. DID YOU FEEL THE NEED TO ASK HER ANY
12 QUESTIONS?

13 A. NO.

14 Q. WHEN ALLAN WENT IN THE HOUSE WITH THE
15 DEFENDANT AND BREANNA, DID THE DOOR STAY OPEN, OR DID IT
16 CLOSE? DO YOU KNOW?

17 A. I DON'T REMEMBER.

18 Q. OKAY. WHAT'S THE NEXT THING YOU REMEMBER
19 HAPPENING?

20 A. I WAS -- I WAS IN THE CAR WITH HANNAH. AND
21 I WAS CRYING AND JUST TELLING HER "I'M SO SORRY." AND
22 THEN SHE CALMED DOWN. I CALMED DOWN. I GOT BACK IN THE
23 PASSENGER SEAT.

24 ALLAN CAME OUT OF THE HOUSE WITH BREANNA.
25 AND HE HAD BEEN IN THERE FOR WHAT SEEMED LIKE A LONG
26 TIME, BUT HE CAME OUT. AND HE PUT BREANNA IN THE
27 BACKSEAT ON THE OTHER SIDE.

28 Q. WHEN HE CAME OUT OF THE HOUSE -- YOU SAID

1 HE'S ALWAYS CALM -- WAS HE STILL CALM?

2 A. HE WAS CALM WITH HIS ANGRY FACE.

3 Q. WHAT DOES THAT MEAN?

4 A. HE DOESN'T REACT TO THE ANGER, BUT I CAN
5 TELL BY THE LOOK ON HIS FACE THAT HE WAS REALLY UPSET.

6 Q. AND WHAT ABOUT BREANNA? HOW WAS SHE WHEN
7 SHE CAME OUT OF THE HOUSE?

8 A. SHE WAS CRYING.

9 Q. YOU SAID HE PUT HER --
10 DID HE PUT HER IN THE BACKSEAT AS WELL?

11 A. (NO AUDIBLE RESPONSE.)

12 Q. IS THAT "YES"?

13 A. YES.

14 Q. WERE YOU STILL IN THE CAR?

15 A. YES.

16 Q. WHAT DID YOU DO NEXT?

17 A. I TURNED AROUND.

18 AND I SAID TO BREANNA, "HAS ERIC EVER
19 TOUCHED YOU?"

20 Q. WHAT DID SHE SAY?

21 A. SHE PUT HER HEAD DOWN AND HALF LOOKED BACK
22 UP AT ME AND SAID, "YES."

23 Q. DID YOU ASK HER ANY OTHER QUESTIONS?

24 A. NO. AS SOON AS SHE SAID THAT, I SAID --
25 LIKE, I DON'T KNOW IF ALLAN WAS GOING TO ASK A QUESTION,
26 BUT HE, LIKE, TURNED AROUND TO HER.

27 AND I SAID, "STOP. WE'RE NOT TALKING ABOUT
28 THIS. THIS" -- "WE'RE JUST NOT GOING TO HAVE THIS

1 CONVERSATION."

2 Q. WHY DID YOU SAY THAT?

3 A. I DON'T KNOW. I -- I MEAN, I GUESS I KNEW
4 IT WASN'T GOING TO END RIGHT THERE. AND I DON'T KNOW.
5 THE COPS WERE ON THEIR WAY.

6 Q. OKAY. AFTER YOU TOLD HIM TO STOP, WHAT'S
7 THE NEXT THING YOU REMEMBER HAPPENING?

8 A. WE PULLED OUR CAR -- ALLAN WAS DRIVING. HE
9 PULLED THE CAR FORWARD, INTO ANOTHER AREA OF PARKING.
10 AND THEN THE COPS CAME.

11 Q. STILL IN THE SAME COMPLEX?

12 A. YES.

13 Q. WHAT HAPPENED WHEN THE COPS GOT THERE?

14 A. THEY TOOK STATEMENTS FROM ME, ALLAN.

15 Q. WHERE WERE THE GIRLS WHILE YOU AND ALLAN
16 WERE BEING INTERVIEWED BY THE POLICE?

17 A. MY SISTER CAME. AND WE LEFT THEM WITH MY
18 SISTER. MY SISTER KEPT THEM, YOU KNOW -- THEY
19 INTERVIEWED US SEPARATELY, OBVIOUSLY. AND SO SHE WOULD
20 JUST KEEP THEM. AND WE WOULD -- ALLAN AND I WOULD COME
21 BACK AND FORTH.

22 Q. WERE THEY OUT OF EARSHOT, THE CHILDREN?

23 A. YEAH.

24 Q. DID -- DURING THE COURSE OF THE POLICE
25 INVESTIGATION, WERE THE CHILDREN ULTIMATELY INTERVIEWED
26 IN A FORENSIC SETTING, LIKE AT PALOMAR HOSPITAL?

27 A. YES.

28 Q. BEFORE THEY WERE INTERVIEWED AT PALOMAR, DID

1 YOU -- DID YOU HAVE CONVERSATIONS WITH HANNAH OR BREANNA
2 ABOUT WHAT HAPPENED WITH ERIC?

3 A. NOT ONCE.

4 Q. WHAT ABOUT AFTER THEY WERE INTERVIEWED AT
5 PALOMAR --

6 A. NOT ONCE.

7 Q. -- DID YOU --
8 LET ME FINISH.

9 A. SORRY.

10 Q. -- DID YOU EVER HAVE CONVERSATIONS WITH
11 BREANNA ABOUT WHAT HAPPENED?

12 A. NO.

13 Q. WHAT ABOUT HANNAH?

14 A. NO.

15 Q. DID YOU -- DO YOU RECALL SAYING ANYTHING TO
16 THE DEFENDANT, OTHER THAN THAT EXCHANGE AT THE DOOR,
17 REGARDING BREANNA, WHEN YOU WERE THERE AT THE SCENE?

18 A. YES.

19 Q. OKAY. WHEN WAS THAT?

20 A. WHILE THE DOOR WAS OPEN, WHEN HE WOULDN'T
21 LET ME TAKE BREANNA. WHILE THE DOOR WAS SHUT, WHEN HE
22 WAS IN THERE WITH ALLAN, I WAS SCREAMING. I WAS
23 HYSTERICAL. I WAS YELLING SOME PRETTY VULGAR THINGS.

24 Q. WAS THIS IN FRONT OF THE KIDS?

25 A. YEP.

26 Q. WERE YOU VERY UPSET?

27 A. YES.

28 Q. HAD YOU HAD GENERAL CONVERSATIONS WITH

1 HANNAH BEFORE THIS INCIDENT ABOUT GOOD TOUCHING AND BAD
2 TOUCHING, JUST GENERALLY?

3 A. YEAH.

4 Q. WHAT KIND OF CONVERSATIONS WOULD YOU HAVE
5 HAD WITH HANNAH ABOUT GOOD TOUCHING VERSUS BAD TOUCHING
6 BEFORE THIS INCIDENT HAPPENED?

7 A. THE DIFFERENCE BETWEEN RIGHT AND WRONG. AND
8 YOU DON'T EVER LET SOMEONE TOUCH YOU IN A PRIVATE AREA.

9 Q. AND ABOUT HOW MANY TIMES DO YOU THINK YOU'VE
10 HAD THAT CONVERSATION WITH HANNAH BEFORE THIS HAPPENED?

11 A. OVER THE COURSE OF HER LIFE, MAYBE FOUR OR
12 FIVE.

13 Q. SHE WAS ABOUT NINE WHEN ALL OF THIS
14 HAPPENED?

15 A. YES.

16 Q. WAS THAT IN THE CONTEXT OF OTHER MOTHER/
17 DAUGHTER TYPE CONVERSATIONS WITH HER?

18 A. NOT NECESSARILY. I MEAN, MAYBE MEETING NEW
19 PEOPLE, GOING TO A NEW SCHOOL, SOMETHING LIKE THAT, JUST,
20 YOU KNOW, WANTING TO PUT SAFETY REMINDERS IN HER HEAD.

21 Q. SO IT'S CONTEXTUAL?

22 A. (NO AUDIBLE RESPONSE.)

23 Q. IS THAT "YES"?

24 A. YES. SORRY.

25 Q. DID YOU -- DID YOU NOTICE WHETHER OR NOT
26 ALLAN HAD ANY SIGNIFICANT ISSUES WITH ERIC?

27 A. CAN YOU DESCRIBE "SIGNIFICANT"?

28 Q. SURE.

1 SO DID ALLAN AND ERIC, ACCORDING TO YOU --
2 ACCORDING TO WHAT YOU COULD SEE, DID THEY APPEAR TO GET
3 ALONG WITH EACH OTHER? WERE THEY CORDIAL WITH EACH
4 OTHER?

5 A. THEY WERE CORDIAL IN PERSON, YES.

6 Q. DID THEY APPEAR TO YOU TO HAVE ANY ISSUES
7 REGARDING TAMI?

8 A. NO.

9 Q. AND DID THEY APPEAR TO HAVE ANY ISSUES?

10 A. REGARDING BREANNA, YES.

11 Q. AND WHAT WERE THOSE IN REGARDS TO?

12 A. ANY AND EVERYTHING.

13 Q. WAS IT ABOUT RAISING HER?

14 A. THE WAY SHE WAS RAISED, WHERE SHE WENT TO
15 SCHOOL, WHAT SHE PARTICIPATED IN.

16 ANYTIME ALLAN TRIED TO HAVE A CONVERSATION
17 WITH TAMI REGARDING IT, ERIC ALWAYS TOOK CONTROL OVER IT
18 AND STARTED WITH THREATS, YOU KNOW.

19 "WELL, WE CAN JUST GET LAWYERS INVOLVED."

20 OR, YOU KNOW, HE WOULD GIVE HIS TWO CENTS
21 WITHOUT EVEN ALLOWING TAMI TO RESPOND TO AN E-MAIL. I
22 MEAN, I DON'T KNOW IF HE WOULDN'T ALLOW HER, BUT, YOU
23 KNOW, ALLAN WOULD E-MAIL TAMI AND GET A RESPONSE FROM
24 ERIC.

25 Q. AND DID THAT UPSET ALLAN?

26 A. HE DIDN'T LIKE IT. HE JUST ALWAYS SAID IT
27 WAS BS. AND THAT WAS THE EXTENT OF IT.

28 Q. DID HE EVER HAVE ANYTHING BAD TO SAY ABOUT

1 THE DEFENDANT IN FRONT OF THE CHILDREN?

2 A. NO. WE'VE ALWAYS MADE IT A POINT TO NEVER
3 TALK ABOUT THE OTHER PARENTS IN FRONT OF OUR KIDS.

4 Q. AND WHY IS THAT?

5 A. WE DON'T WANT THEIR PERCEPTION OF THEIR
6 PARENTS TO BE BASED ON WHAT WE THINK.

7 Q. DID YOU AND ALLAN EVER FIGHT ABOUT TAMI AND
8 ERIC?

9 A. NO.

10 MS. DI TILLIO: OKAY. THANK YOU.

11 I HAVE NOTHING FURTHER.

12 THE COURT: CROSS-EXAMINATION.

13 MS. OLIVER: THANK YOU.

14

15 **CROSS-EXAMINATION**

16

17 BY MS. OLIVER:

18 Q. MELISSA?

19 A. YEAH?

20 Q. DID ALLAN THINK -- TO YOUR KNOWLEDGE, IN THE
21 CONVERSATIONS YOU HAD WITH YOUR HUSBAND -- DID HE BELIEVE
22 THAT ERIC WAS TRYING TO TAKE HIS PLACE AS BREANNA'S
23 FATHER?

24 A. NO, HE DIDN'T.

25 Q. DID HE THINK THAT HE HAD -- THAT ERIC HAD
26 TOO MUCH OF AN ACTIVE ROLE IN THE REARING OF BREANNA?

27 A. HE FELT THAT ERIC PLAYED A PRETEND ROLE.
28 THERE WERE -- THERE WAS ONE CERTAIN CIRCUMSTANCE I CAN

1 THINK OF THAT ALLAN DID MENTION TO ME. BUT, OTHER THAN
2 THAT, NO.

3 Q. DID ALLAN THINK THAT ERIC INTERFERED WITH
4 HIS ABILITY TO FREELY COMMUNICATE WITH TAMI REGARDING
5 DECISIONS ON HOW BREANNA WAS GOING TO BE RAISED?

6 A. INTERFERE?

7 NO. BECAUSE, WHEN ERIC WOULD STEP IN, IT
8 WOULD ULTIMATELY END IN THE FOUR OF US HAVING A PHYSICAL
9 MEETING AND WORKING OUT THE ISSUE.

10 Q. WOULD YOU SAY THAT ALLAN AND ERIC WERE
11 FRIENDS?

12 A. NO.

13 Q. WOULD YOU SAY THAT YOU AND ERIC WERE
14 FRIENDS?

15 A. NO.

16 Q. DID YOU GET ALONG WITH ERIC PRIOR TO --

17 A. YEAH.

18 Q. BEFORE MAY 21ST, 2012?

19 A. YES. YES, I DID.

20 Q. WHEN YOU SAY THAT THE TWO OF YOU GOT ALONG,
21 WHAT DO YOU MEAN BY THAT?

22 A. WE WERE CORDIAL IN A CONVERSATION. IF
23 SOMETHING FUNNY WAS SAID, I MEAN, WE WERE ABLE TO LAUGH.
24 I MEAN, AT LEAST MY PART WASN'T FAKE. I -- I DIDN'T HAVE
25 ANY ISSUES WITH HIM.

26 Q. EARLIER -- NOT EARLIER.

27 JUST A FEW MOMENTS AGO, ON DIRECT
28 EXAMINATION, WHEN YOU WERE ASKED TO DESCRIBE YOUR

1 RELATIONSHIP WITH ERIC, YOU SAID THAT IT WAS OKAY, BUT
2 YOU SEEMED VERY HESITANT TO ANSWER THAT QUESTION.

3 IS THERE ANY PARTICULAR REASON WHY?

4 A. I DIDN'T -- I DON'T NECESSARILY CARE FOR --
5 I'VE NEVER HAD A GOOD FEELING ABOUT ERIC. I JUST ALWAYS
6 FELT THERE WAS JUST SOMETHING OFF.

7 AND I COULD SEE THE DYNAMICS OF HIS
8 RELATIONSHIP WITH TAMI AND THAT HE -- I MEAN, JUST GIVEN
9 WHAT'S RIGHT IN FRONT OF YOUR FACE WITH THE FACT TAMI
10 WOULDN'T EVEN REPLY TO HER OWN E-MAIL, THEIR RELATIONSHIP
11 WAS MANIPULATIVE. AND I KNEW THAT IT WAS ON HIS PART.

12 AND I GOT -- THAT'S WHERE THAT HESITANCY
13 CAME FROM. I DIDN'T HOLD IT AGAINST HIM. IT'S NOT MY
14 RELATIONSHIP, BUT --

15 Q. NOW, WHEN YOU SAY THAT TAMI COULDN'T RESPOND
16 TO HER OWN E-MAILS, HOW DO YOU KNOW THAT?

17 A. BECAUSE ERIC WAS ALWAYS THE ONE TO REPLY
18 WHEN ALLAN E-MAILED TAMI REGARDING BREANNA.

19 Q. AND DO YOU KNOW WHETHER OR NOT THAT WAS
20 SOMETHING THAT TAMI WOULD ASK OF ERIC?

21 A. I DO NOT.

22 Q. YOU MENTIONED THAT THERE WAS PRETTY MUCH AN
23 AGREEMENT -- OR STRIKE THAT.

24 IN TERMS OF THE CUSTODY ARRANGEMENT, DO YOU
25 KNOW WHETHER OR NOT THERE WAS ANY DIFFICULTY IN REACHING
26 THAT CUSTODY ARRANGEMENT BETWEEN TAMI AND ALLAN?

27 A. I DON'T BELIEVE THERE WAS.

28 Q. WERE YOU SEEING ALLAN AT THE TIME WHEN HE

1 WAS GOING THROUGH HIS DIVORCE WITH TAMI?

2 A. NO, I WASN'T.

3 Q. WHEN YOU MET ALLAN OR BEGAN YOUR
4 RELATIONSHIP WITH HIM, HAD THE CUSTODY ALREADY BEEN SET
5 UP BETWEEN -- THE ARRANGEMENTS BETWEEN HIM AND TAMI?

6 A. YES.

7 Q. TO YOUR KNOWLEDGE, WAS THERE EVER A
8 DISCUSSION BETWEEN YOU, ALLAN, TAMI AND ERIC REGARDING
9 TAMI AND ERIC MOVING TO LAS VEGAS WITH BREANNA?

10 A. NO.

11 Q. HAS HANNAH EVER RUN OFF WHEN SHE WAS WITH
12 YOU?

13 A. WHAT DO YOU MEAN, "RUN OFF"?

14 Q. HAVE YOU EVER BEEN AT A LOCATION WITH
15 HANNAH, AND SHE LEFT YOUR -- SHE LEFT YOU WITHOUT
16 PERMISSION?

17 MS. DI TILLIO: OBJECTION. RELEVANCE AND VAGUE AS
18 TO TIME.

19 THE COURT: OVERRULED.

20 THE WITNESS: ABSOLUTELY NOT. OTHER THAN STORMING
21 TO HER ROOM A COUPLE OF TIMES, SHE'S NEVER LEFT MY SIDE,
22 UPSET OR OTHERWISE.

23

24 BY MS. OLIVER:

25 Q. SO YOU DESCRIBED SOMETHING THAT WOULD HAVE
26 TAKEN PLACE INSIDE THE HOME?

27 A. RIGHT.

28 Q. SO I'M GOING TO ASK WHAT ABOUT OUTSIDE THE

1 HOME?

2 A. NEVER.

3 Q. SO ON MAY 21ST, 2012, WHEN YOU ARRIVED AT
4 ERIC AND TAMI'S HOME, YOU INDICATED THAT YOU GOT OUT OF
5 THE CAR, AND YOU BEGAN BANGING ON THE SCREEN DOOR; IS
6 THAT CORRECT?

7 A. UH-HUH.

8 Q. IS THAT A "YES"?

9 A. YES.

10 Q. WHEN YOU WERE BANGING ON THE DOOR, WERE YOU
11 SAYING ANYTHING AT THE SAME TIME?

12 A. I DON'T REMEMBER.

13 Q. AND WHEN YOU REACHED IN AND GRABBED HANNAH,
14 REACHED IN THE DOOR AND GRABBED HANNAH, WERE YOU SAYING
15 ANYTHING AT THAT TIME?

16 A. YES.

17 Q. DO YOU RECALL WHAT YOU WERE SAYING?

18 A. I BELIEVE I SAID --

19 DO YOU WANT IT VERBATIM?

20 Q. IF YOU REMEMBER.

21 A. I THINK I SAID, "YOU'RE A SICK FUCKING
22 BASTARD," AND PULLED HANNAH OUT OF THE DOOR.

23 Q. DO YOU RECALL WHETHER OR NOT, DURING THAT
24 TIME PERIOD, IN FRONT OF HANNAH OR BREANNA, IF YOU
25 REFERRED TO ERIC AS A CHILD MOLESTER?

26 A. I DON'T BELIEVE THAT I DID.

27 Q. DID YOU -- WHEN YOU WERE -- WHEN YOU WERE
28 UPSET AND YOU WERE YELLING THESE THINGS, DID YOU EVER

1 MAKE REFERENCE TO ERIC TOUCHING ONE OF THE GIRLS?

2 A. I JUST NEED A SECOND.

3 Q. THAT'S OKAY.

4 A. I'M TRYING TO REMEMBER.

5 Q. THAT'S OKAY.

6 A. I THINK THAT I -- NO. ACTUALLY, I DON'T

7 THINK I DID.

8 Q. YOU MENTIONED THAT, WHILE YOU AND ALLAN WERE
9 BEING INTERVIEWED BY THE POLICE, THAT YOUR SISTER WAS
10 THERE ON SCENE; IS THAT CORRECT?

11 A. (NO AUDIBLE RESPONSE.)

12 Q. IS THAT A "YES"?

13 A. YES. SORRY.

14 Q. AND YOUR SISTER -- WAS SHE TENDING TO BOTH
15 HANNAH AND BREANNA AT THE SAME TIME?

16 A. YES, PART OF THE TIME. PART OF THE TIME,
17 AFTER TAMI SHOWED UP, BREANNA WAS STANDING WITH TAMI.

18 Q. OKAY. WHEN YOU WERE GIVING YOUR INTERVIEW
19 TO THE POLICE, WAS YOUR SISTER IN CHARGE OF BOTH THE
20 GIRLS AT THAT TIME?

21 A. YES.

22 Q. HOW FAR AWAY WAS YOUR SISTER AND HANNAH AND
23 BREANNA AWAY FROM YOU AND THE OFFICER?

24 A. FARTHER THAN THE LENGTH OF THIS COURTROOM.

25 Q. OKAY.

26 A. PROBABLY TWICE -- TWICE THE LENGTH.

27 THE COURT: THAT'S 30 FEET. IT'S 30 FEET FROM THE
28 WITNESS TO THE DOOR. SO THE RECORD WILL REFLECT THAT.

1 MS. OLIVER: OKAY.

2 Q. AND DO YOU KNOW WHAT THE GIRLS WERE DOING
3 WITH YOUR SISTER, IF THEY WERE TALKING OR --

4 A. THEY WERE PLAYING AROUND. AND SHE WAS
5 TRYING TO JUST CHEER THEM UP, GET THEIR MINDS OFF
6 EVERYTHING. I HAD ALREADY TOLD HER NOT TO SAY A WORD TO
7 THEM ABOUT ANYTHING. SO SHE WAS JUST TRYING TO KEEP THEM
8 BUSY.

9 Q. AND WHEN ALLAN GAVE HIS STATEMENT TO THE
10 POLICE, DO YOU KNOW HOW FAR HE WAS FROM WHERE HANNAH AND
11 BREANNA WERE?

12 A. THE SAME DISTANCE.

13 Q. OKAY. AND HOW FAR AWAY WAS ALLAN FROM YOU
14 WHEN YOU WERE GIVING YOUR STATEMENT TO THE POLICE?

15 A. THE SAME DISTANCE.

16 Q. SO WHEN YOU WERE TALKING WITH THE POLICE,
17 WAS ALLAN STANDING NEAR WHERE THE GIRLS WERE?

18 A. YES.

19 Q. AND THEN WHEN YOU -- WHEN ALLAN WAS GIVING
20 HIS STATEMENT TO THE POLICE, WERE YOU STANDING WHERE THE
21 GIRLS WERE?

22 A. YES.

23 Q. DO YOU KNOW WHERE TAMI WAS WHEN YOU WERE
24 SPEAKING WITH THE POLICE?

25 A. SHE WAS SITTING ON A CURB ABOUT 15 FEET FROM
26 MY SISTER.

27 Q. AND WAS SHE ALSO SITTING ON THAT SAME CURB
28 WHEN ALLAN WAS SPEAKING WITH THE POLICE?

1 A. YES. SHE WAS 15 FEET TO THE SIDE, THOUGH.
2 SO SHE WOULD HAVE BEEN A LITTLE BIT FARTHER AWAY FROM
3 HEARING OR FROM WHERE THE INTERVIEW WAS BEING GIVEN.

4 Q. OKAY. AND AFTER YOU LEARNED OF THESE
5 ALLEGATIONS, DID YOU HAVE HANNAH PARTICIPATE IN A
6 PHYSICAL EXAMINATION?

7 A. NO.

8 Q. WHEN YOU WERE AT WORK AND ALLAN CAME TO YOUR
9 DESK AND SAID THAT YOU NEEDED TO LEAVE, DID HE GO INTO
10 SPECIFICS, OR DID HE JUST SAY THAT HANNAH SAID THAT ERIC
11 TOUCHED HER?

12 A. THAT'S ALL HE SAID.

13 Q. WHEN YOU LEFT ALLAN -- I'M SORRY.
14 WHEN YOU LEFT ERIC AND TAMI'S HOME THAT DAY,
15 DID YOU TAKE BREANNA AND HANNAH WITH YOU?

16 A. YES.

17 Q. DID BREANNA STAY WITH YOU FOR A COUPLE OF
18 DAYS?

19 A. IT WAS OUR WEEK. SO WE KEPT HER THROUGH OUR
20 WEEK AND TAMI'S WEEK AND THEN OUR WEEK AGAIN.

21 Q. SO SHE STAYED WITH YOU FOR APPROXIMATELY
22 THREE WEEKS?

23 A. YES.

24 Q. AND WHEN SHE WAS STAYING -- WHEN BREANNA WAS
25 STAYING WITH YOU AT YOUR HOME, WHERE DOES SHE SLEEP?

26 A. IN HER BED.

27 Q. SO SHE HAS HER OWN BED AT YOUR HOME?

28 A. YES.

1 Q. AND DOES SHE SHARE A ROOM WITH HANNAH?

2 A. YES.

3 Q. AND WHILE -- WHILE THEY BOTH WERE STAYING
4 WITH YOU IN YOUR HOME, DID YOU EVER QUESTION THE GIRLS
5 ABOUT SPECIFICS ABOUT WHAT HAPPENED?

6 A. NO.

7 Q. DID YOU EVER HEAR THE TWO, HANNAH AND
8 BREANNA, DISCUSSING WHAT HAPPENED?

9 A. NO. WE TOLD THEM THAT THEY'RE NOT TO TALK
10 TO EACH OTHER ABOUT ANYTHING REGARDING ANYTHING ABOUT
11 ERIC.

12 Q. AND WHEN DID YOU TELL THEM THAT?

13 A. THAT DAY.

14 MS. OLIVER: THANK YOU.

15 NOTHING FURTHER.

16 THE COURT: REDIRECT?

17 MS. DI TILLIO: THANK YOU.

18

19 **REDIRECT EXAMINATION**

20

21 BY MS. DI TILLIO:

22 Q. MELISSA, YOU INDICATED THAT, ESSENTIALLY,
23 ALL TOGETHER, BREANNA STAYED WITH YOU ONE EXTRA WEEK
24 ABOVE WHAT WOULD HAVE BEEN YOUR NORMAL TIME WITH HER;
25 RIGHT?

26 A. RIGHT.

27 Q. SO AFTER THAT ONE EXTRA WEEK, DID BREANNA
28 RESUME GOING BACK TO HER MOM'S?

1 A. YES.

2 Q. AND WAS THAT YOUR -- YOU AND ALLAN'S
3 DECISION, TO KEEP HER WITH YOU THAT EXTRA WEEK? DO YOU
4 KNOW?

5 A. WE INITIALLY WERE GOING TO KEEP HER -- I
6 MEAN, WE DIDN'T -- WE DIDN'T KNOW WHAT WAS GOING TO
7 HAPPEN. WE KNEW THAT TAMI WASN'T SUPPORTIVE OF BREANNA
8 IN THE BEGINNING, AND WE KNEW THERE WAS NO WAY WE WERE
9 SENDING HER BACK TO HER HOUSE.

10 AND THEN, WHEN THE FORENSIC INTERVIEW WAS
11 DONE AND THE CPS WORKER TALKED TO TAMI, SHE ALSO DECIDED
12 THAT TAMI WAS UNSUPPORTIVE OF BREANNA, AND SHE DIDN'T
13 NEED TO BE PLACED IN HER HOME.

14 Q. SO THERE WAS AN INDEPENDENT EVALUATION THAT
15 WAS DONE.

16 AND THEN HOW -- WHEN WAS THE FORENSIC
17 INTERVIEW OF THE CHILDREN? DO YOU RECALL?

18 A. I DON'T RECALL THE DATE. IT WAS DONE ABOUT
19 A WEEK AFTER MAY 21ST, APPROXIMATELY.

20 Q. WHILE THE POLICE WERE THERE AT THE HOUSE,
21 YOU INDICATED THAT YOU -- I UNDERSTAND IT'S A COMPLEX
22 WITH A PARKING LOT SORT OF IN THE CENTER OF IT; IS THAT
23 RIGHT?

24 A. YES. IT KIND OF GOES AROUND, CURVES.

25 Q. SO WHEN YOU WERE BEING INTERVIEWED BY THE
26 POLICE, WHERE IN RELATION TO THE FRONT DOOR OF THE
27 DEFENDANT'S HOUSE WERE YOU ?

28 A. THE FRONT DOOR -- IT WAS A STATIONARY POLICE

1 CAR. WE WERE ALL BEING INTERVIEWED. THE FRONT DOOR WAS
2 OVER HERE, AND EVERYBODY WAS STANDING THAT WAY
3 (INDICATING).

4 Q. AND WHEN YOU SAY, "THE FRONT DOOR WAS OVER
5 HERE," YOU KIND OF GESTURED A LITTLE BIT TO THE RIGHT?
6 AND WHEN YOU SAID, "EVERYBODY WAS THAT WAY," YOU GESTURED
7 TO THE LEFT?

8 A. RIGHT.

9 Q. DO YOU KNOW WHERE THE TRASH CANS WERE?

10 A. I DO KNOW WHERE THE TRASH CANS WERE.

11 Q. AND WERE YOU NEAR THAT GENERAL VICINITY?

12 A. WE WERE NEAR THE TRASH CANS. THAT'S WHERE

13 --

14 Q. OKAY. SO LET ME SHOW YOU SOME PHOTOGRAPHS.
15 SO I'M GOING TO SHOW YOU WHAT'S BEEN MARKED
16 AS COURT'S EXHIBIT NUMBER 2, I BELIEVE. IT'S A
17 PHOTOGRAPH.

18 DO YOU RECOGNIZE THAT?

19 A. YES.

20 Q. AND IS THAT THE FRONT DOOR THAT YOU WERE
21 DISCUSSING?

22 A. YES, IT IS.

23 Q. OKAY. AND SHOWING YOU COURT'S EXHIBIT
24 NUMBER 3, DO YOU RECOGNIZE THAT PHOTOGRAPH?

25 A. YES.

26 Q. OKAY. WHAT'S DEPICTED IN THAT PHOTOGRAPH?

27 A. THE TRASH CANS TO THE LEFT AND WHERE WE WERE
28 STANDING ALL THE WAY AT THE END OF THE DRIVEWAY.

1 Q. SO BEYOND THE EDGE OF THAT PHOTOGRAPH?

2 A. PROBABLY RIGHT AT WHERE THE TREES ARE -- THE
3 TREES AND THE SUBURBAN, OR SUV, IS WHERE WE WERE
4 STANDING, NOT DURING THE INTERVIEW, BUT WHERE WE HAD
5 MOVED TO ONCE THE POLICE ARRIVED.

6 Q. OKAY. WHERE -- WHERE WOULD YOU HAVE BEEN
7 WHEN THE POLICE WERE INTERVIEWING YOU?

8 A. PARKED -- HE HAD HIS CAR PARKED RIGHT IN
9 FRONT OF THE TRASH CANS.

10 Q. THE POLICE CAR?

11 A. YES.

12 Q. ALL RIGHT. SO YOU WOULD HAVE BEEN NEAR THE
13 TRASH CANS?

14 A. YES.

15 Q. AND WHERE WERE THE GIRLS AT THAT TIME?

16 A. WITH MY SISTER, BY THE SUV AND THE TREES OR
17 THE BUSHES.

18 Q. THE WHITE SUV THAT'S THERE?

19 A. YES, ON THE LEFT (INDICATING).

20 Q. ON THE LEFT SIDE OF THE PHOTOGRAPH?

21 A. YES.

22 Q. SO SHOWING YOU COURT'S EXHIBIT NUMBER 4,
23 WOULD IT BE CLOSER TO THE LEFT SIDE OF THAT PHOTOGRAPH,
24 WHERE THE EDGE OF THE PARKING LOT IS? IS THAT WHERE THE
25 GIRLS WOULD HAVE BEEN?

26 A. YES.

27 Q. AND WHILE YOUR SISTER WAS WITH THE CHILDREN,
28 YOU SAID YOU AND YOUR HUSBAND WERE BEING INTERVIEWED,

1 FIRST, ONE OF YOU, AND THEN THE OTHER? FIRST, YOUR
2 HUSBAND, RIGHT? DO YOU REMEMBER?

3 A. I BELIEVE HE WENT FIRST, YES.

4 Q. OKAY. AND, THEN, SO HE WAS BEING
5 INTERVIEWED, AND YOU WERE WITH THE CHILDREN AND YOUR
6 SISTER?

7 A. YES.

8 Q. AND THEN YOU WERE BEING INTERVIEWED, AND HE
9 WAS WITH THE CHILDREN AND YOUR SISTER?

10 A. YES.

11 Q. AND IT WAS ONLY A BRIEF, I WOULD IMAGINE,
12 MOMENT OF TIME BETWEEN WHEN YOU GUYS WERE CROSSING PATHS
13 AND YOUR SISTER WAS ALONE WITH THE CHILDREN?

14 A. RIGHT.

15 Q. YOU SAID YOU ASKED YOUR SISTER,
16 SPECIFICALLY, NOT TO TALK TO THE GIRLS ABOUT WHAT HAD
17 HAPPENED?

18 A. YES.

19 Q. WHY WAS THAT?

20 A. I DIDN'T WANT ANYONE TO -- I DIDN'T WANT
21 THEM TO TELL ANYONE BUT THE POLICE. I DIDN'T WANT
22 ANYBODY TO TALK TO THEM. I DIDN'T WANT THERE TO BE ANY
23 CHANCE OF -- OF IT LOOKING LIKE WE TOLD THEM TO SAY
24 ANYTHING.

25 Q. HAS THIS PROCESS BEEN DIFFICULT ON YOUR
26 FAMILY?

27 A. YES.

28 Q. WHAT ABOUT YOURSELF, PERSONALLY?

1 A. YES.

2 MS. OLIVER: OBJECTION, YOUR HONOR. RELEVANCE.

3 THE COURT: OVERRULED.

4

5 BY MS. DI TILLIO:

6 Q. YOU INDICATED THAT THE CHILDREN WERE

7 FORENSICALLY INTERVIEWED AT PALOMAR; CORRECT?

8 A. YES.

9 Q. AND, THEN, HAVE YOU HAD TO COME TO COURT
10 SEVERAL TIMES?

11 A. YES.

12 MS. OLIVER: OBJECTION, YOUR HONOR. RELEVANCE.

13 THE COURT: SUSTAINED.

14 THE JURY WILL DISREGARD THE ANSWER.

15 NEXT QUESTION.

16

17 BY MS. DI TILLIO:

18 Q. YOU SAID THAT THERE WERE TIMES WHEN YOU,
19 ALLAN, TAMI AND ERIC COULDN'T NECESSARILY WORK THINGS OUT
20 VIA E-MAIL.

21 SO YOU WOULD GET TOGETHER, PHYSICALLY GET
22 TOGETHER?

23 A. CORRECT.

24 Q. AND WHEN YOU DID THAT, WERE YOU ALWAYS ABLE
25 TO IRON OUT WHATEVER THE DIFFERENCES WERE?

26 A. YES.

27 Q. YOU SAID THERE WERE TIMES WHEN, IF ERIC AND
28 ALLAN DISAGREED ON SOMETHING, THAT ERIC WOULD SAY, "LET'S

1 GET SOME LAWYERS INVOLVED"?

2 A. YES.

3 Q. DID IT EVER COME TO THAT?

4 A. NO.

5 Q. AND, AS FAR AS YOU KNOW, WHEN YOU AND ALLAN
6 FIRST GOT TOGETHER, WAS THE CUSTODY ARRANGEMENT ALREADY
7 50/50 BETWEEN ALLAN AND TAMI?

8 A. YES.

9 Q. AND DO THEY SOMETIMES HAVE TO SWITCH THE
10 WEEKS WHERE THE GIRLS ARE STAYING? LIKE, IF IT'S
11 NORMALLY -- IF THIS WOULD BE ALLAN'S WEEK AND HE HAD
12 SOMETHING TO DO, WOULD TAMI BE AMENABLE TO SWITCHING
13 WEEKS WITH HIM?

14 A. YES.

15 Q. AND WHAT ABOUT THINGS LIKE BIRTHDAYS OR
16 SPECIAL EVENTS? WOULD ALLAN AND TAMI BE ABLE TO WORK OUT
17 SWITCHING THINGS, IF NECESSARY?

18 A. WE USUALLY DO IT TOGETHER.

19 Q. SO REGARDLESS OF WHOSE WEEK IT MIGHT BE, IF
20 THERE'S A SPECIAL EVENT, YOU GUYS MIGHT DO IT TOGETHER?

21 A. RIGHT.

22 MS. DI TILLIO: THANK YOU.

23 I HAVE NOTHING FURTHER.

24 THE COURT: RE-CROSS?

25 MS. OLIVER: THANK YOU.

26 ///

27 ///

28 ///

RE-CROSS-EXAMINATION

1

2

3 BY MS. OLIVER:

4 Q. YOU MENTIONED THAT TAMI WASN'T SUPPORTIVE OF
5 BREANNA.

6 WHAT DO YOU MEAN BY "WASN'T SUPPORTIVE"?

7 A. SHE -- I -- I CAN'T SAY THAT SHE DIDN'T
8 BELIEVE HER, BUT I KNOW THAT ERIC HAD AN INJURY FROM THAT
9 DAY AND THAT, AFTER WE TOOK THE GIRLS, SHE TOOK HIM TO
10 THE HOSPITAL FOR IT. SO I WOULD TAKE THAT AS HER STILL
11 BEING SUPPORTIVE OF ERIC.12 Q. AND YOU MENTIONED THAT CPS ALSO DETERMINED
13 THAT TAMI WASN'T SUPPORTIVE OF BREANNA?

14 A. RIGHT.

15 Q. WHAT DO YOU MEAN BY THAT?

16 A. AFTER THE FORENSIC INTERVIEW, THEY
17 INTERVIEWED TAMI. AND THEN THEY INTERVIEWED ALLAN AND I
18 SEPARATELY AND TOLD US THAT THEY DETERMINED --

19 MS. DI TILLIO: OBJECTION. HEARSAY.

20 THE COURT: WAIT, WAIT.

21 IT'S NOT RELEVANT. SO WE'RE NOT GOING TO
22 HAVE ANYTHING DEALING WITH THAT SUBJECT MATTER.

23 THE OBJECTION IS SUSTAINED.

24

25 BY MS. OLIVER:

26 Q. TO YOUR KNOWLEDGE, DO YOU KNOW IF ERIC
27 CONTINUED TO LIVE WITH TAMI AFTER THE MAY 21ST DATE?

28 A. TO MY KNOWLEDGE, HE WAS THERE FOR A FEW

1 DAYS. ACTUALLY, I'M SORRY. TO MY KNOWLEDGE, HE WAS
2 THERE UNTIL THE FORENSIC INTERVIEW.

3 Q. DID THAT UPSET YOU?

4 A. THAT HE WAS STILL THERE?

5 Q. YES.

6 A. IT DID NOT UPSET ME THAT HE WAS STILL THERE.

7 Q. DO YOU KNOW IF IT UPSET ALLAN?

8 A. I DON'T BELIEVE THAT IT DID.

9 Q. DID YOU AND ALLAN HAVE DISCUSSIONS ON THE
10 FACT THAT TAMI HAD TAKEN ERIC TO THE HOSPITAL?

11 A. WHEN WE FOUND OUT THAT TAMI HAD TAKEN ERIC
12 TO THE HOSPITAL, WE BOTH THOUGHT THAT IT WAS BS, THAT SHE
13 IS -- IS SUPPORTING HIM AFTER WHAT JUST HAPPENED. AND, I
14 MEAN, SHE COULDN'T EVEN TAKE A STEP BACK TO -- TO JUDGE
15 WHAT WAS TRUTH AND WHAT WASN'T BEFORE BEING THERE FOR
16 HIM.

17 Q. AND DID ALLAN CONSIDER GETTING FULL CUSTODY
18 OF BREANNA?

19 A. YES.

20 MS. DI TILLIO: OBJECTION. CALLS FOR SPECULATION.

21 THE COURT: SUSTAINED.

22 MS. OLIVER: THANK YOU.

23 NOTHING FURTHER.

24 MS. DI TILLIO: NOTHING FURTHER, YOUR HONOR.

25 THE COURT: MA'AM, THANK YOU FOR COMING THIS
26 MORNING.

27 WE'RE GOING TO TAKE OUR MORNING RECESS AT
28 THIS TIME, LADIES AND GENTLEMEN. WE'LL TAKE 15 MINUTES.

1 YOU'RE REMINDED NOT TO TALK ABOUT THE CASE,
2 NOT TO FORM OR EXPRESS AN OPINION ABOUT THE CASE, NOT TO
3 DISCUSS THE MATTER AT ALL UNTIL THE MATTER IS SUBMITTED
4 TO YOU.

5 UNTIL 10:45, PLEASE.

6 ---000---

7 (THEREUPON COURT WAS IN RECESS.)

8 ---000---

9 THE COURT: THE RECORD WILL REFLECT THE DEFENDANT
10 AND ATTORNEYS ARE PRESENT, AS WELL AS OUR JURORS AND
11 ALTERNATE JURORS.

12 NEXT WITNESS, PLEASE.

13 MS. DI TILLIO: YOUR HONOR, THE PEOPLE CALL ALLAN
14 L.

15 THE COURT CLERK: DO YOU SOLEMNLY STATE, UNDER
16 PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE
17 IN THIS MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
18 NOTHING BUT THE TRUTH?

19 THE WITNESS: YES.

20 THE COURT CLERK: THANK YOU.

21 PLEASE BE SEATED AT THE WITNESS STAND.

22 PLEASE STATE AND SPELL YOUR FIRST NAME AND
23 THE FIRST INITIAL OF YOUR LAST NAME.

24 THE WITNESS: ALLAN, A-L-L-A-N, L.

25 ///

26 ///

27 ///

28 ///

1 Q. AND IF YOU COULD DO ME A FAVOR AND JUST
2 SPEAK UP A LITTLE BIT INTO THE MICROPHONE, SO WE CAN HEAR
3 YOU A LITTLE BIT BETTER?

4 THE COURT: YOU CAN MOVE IT.

5 THANK YOU.

6 THE WITNESS: OKAY.

7

8 BY MS. DI TILLIO:

9 Q. THANK YOU.

10 SO YOUR DAUGHTER, YOU SAID, IS BREANNA?

11 A. YES.

12 Q. HOW OLD IS BREANNA?

13 A. TEN -- NINE, NINE.

14 Q. SOON TO BE 10?

15 A. YES.

16 Q. AND BREANNA'S MOM IS TAMI; IS THAT RIGHT?

17 A. YES.

18 Q. DO YOU RECALL WHEN IT WAS THAT YOU AND TAMI
19 SPLIT UP?

20 A. 2007 OR 2008.

21 Q. AND DO YOU KNOW WHO ERIC IS?

22 A. YES.

23 Q. WOULD YOU POINT TO WHERE HE'S SEATED AND
24 DESCRIBE HIS CLOTHING?

25 A. HE'S IN A SUIT AND TIE (INDICATING).

26 MS. DI TILLIO: MAY THE RECORD REFLECT THE WITNESS
27 HAS IDENTIFIED THE DEFENDANT?

28 THE COURT: YES.

1 MS. DI TILLIO: THANK YOU.

2 Q. AND DID YOU KNOW -- DO YOU KNOW ERIC IN A
3 PROFESSIONAL CAPACITY, BEFORE YOU AND TAMI SPLIT?

4 A. YES.

5 Q. AND HOW WAS THAT?

6 A. HE WAS OUR REAL ESTATE AGENT.

7 Q. DO YOU RECALL APPROXIMATELY WHEN YOU MIGHT
8 HAVE MET HIM?

9 A. I WANT TO SAY OUR FIRST CONDO WE BOUGHT IN
10 '97, MAYBE.

11 Q. AND YOU KNEW HIM THEN?

12 A. HE WAS OUR AGENT FOR THAT CONDO.

13 Q. DID YOU START A FRIENDSHIP WITH HIM AFTER
14 THAT SALE OF YOUR CONDO OR THE PURCHASE OF YOUR CONDO?

15 A. I WOULDN'T SAY "FRIENDSHIP."

16 Q. PROFESSIONAL RELATIONSHIP?

17 A. YES.

18 Q. AND HOW DID YOU MEET THE DEFENDANT? HOW
19 WERE YOU INTRODUCED TO HIM?

20 A. (NO AUDIBLE RESPONSE.)

21 Q. WAS IT JUST A PROFESSIONAL THING, OR DID
22 SOMEONE INTRODUCE YOU?

23 A. ONE OF TAMI'S COWORKERS AT THE TIME, HER
24 FRIEND.

25 Q. AND DID YOU THEN UTILIZE THE SERVICES OF THE
26 DEFENDANT AS A REAL ESTATE AGENT AFTER THAT?

27 A. YES.

28 Q. WHEN WAS THAT?

1 A. WE SOLD OUR CONDO AND BOUGHT A HOUSE IN
2 VISTA TWO YEARS AFTER WE BOUGHT THE CONDO.

3 Q. SO MAYBE '99?

4 A. YEAH.

5 Q. AND AT SOME POINT DID YOU START TO KNOW THE
6 DEFENDANT ON A MORE PERSONAL LEVEL?

7 A. YES.

8 Q. ABOUT WHEN WAS THAT?

9 A. I DON'T RECALL.

10 Q. OKAY. DID -- DO YOU RECALL GOING TO A
11 WEDDING WITH THE DEFENDANT AND WITH TAMI?

12 A. YES.

13 Q. AND THE PEOPLE THAT WERE GETTING MARRIED,
14 DID YOU KNOW THE BRIDE AND THE GROOM?

15 A. YES.

16 Q. AND WHAT ABOUT THE DEFENDANT? DID HE KNOW
17 THE BRIDE AND THE GROOM?

18 A. YES.

19 Q. WERE TAMI AND THE DEFENDANT ACTUALLY IN THE
20 WEDDING PARTY?

21 A. YES.

22 Q. BEFORE THE WEDDING, DID YOU AND THE
23 DEFENDANT KNOW EACH OTHER ON A PERSONAL LEVEL?

24 A. YES.

25 Q. OKAY. AND DID YOU CONSIDER HIM A FRIEND?

26 A. (NO AUDIBLE RESPONSE.)

27 Q. OR AN ACQUAINTANCE?

28 A. AN ACQUAINTANCE.

1 Q. WAS HE A FRIEND OF FRIENDS?

2 A. YES.

3 Q. OKAY. AND AFTER THAT TIME, DID YOU AND TAMI
4 DECIDE TO SEPARATE?

5 A. AFTER WHAT TIME?

6 Q. AFTER THE WEDDING?

7 A. YES.

8 Q. ABOUT HOW MUCH TIME HAD PASSED?

9 A. I CAN ESTIMATE?

10 Q. SURE.

11 A. ONE MONTH, TWO MONTHS.

12 Q. SO RELATIVELY QUICKLY?

13 A. YES.

14 Q. AND DID YOU BLAME THE DEFENDANT FOR YOUR
15 SPLIT WITH TAMI?

16 A. NO.

17 Q. WHO DID YOU BLAME FOR YOUR SPLIT WITH TAMI?
18 OR DID YOU?

19 A. TAMI.

20 Q. AND DID YOU HARBOR ANY RESENTMENT TOWARDS
21 THE DEFENDANT AS -- BECAUSE OF THE BREAKUP OF YOUR
22 MARRIAGE?

23 A. NO.

24 Q. DID YOU -- YOU AND TAMI OBVIOUSLY ALREADY
25 HAD A CHILD TOGETHER; RIGHT?

26 A. YES.

27 Q. AND DID YOU MAINTAIN A RELATIONSHIP WITH
28 TAMI IN ORDER TO TALK ABOUT AND CARE FOR AND COPARENT

1 YOUR CHILD?

2 A. YES.

3 Q. AT THE TIME WHEN YOU INITIALLY SPLIT, WERE
4 YOU IN THE SAME CITY OR DIFFERENT CITIES?

5 A. AT THE TIME WE SPLIT, WE WERE IN THE SAME
6 CITY.

7 Q. I'M SORRY. RIGHT AFTER THE SPLIT.
8 SO DID SHE MOVE ANYWHERE? DID YOU MOVE
9 ANYWHERE?

10 A. SHE MOVED TO SAN DIEGO.

11 Q. AND WHERE WERE YOU?

12 A. BEND, OREGON.

13 Q. WHAT DID YOU DO IN TERMS OF CUSTODY OF YOUR
14 CHILD?

15 A. WE AGREED ON 50/50 CUSTODY, LEGAL CUSTODY,
16 BOTH LEGAL AND -- YOU KNOW, BUT 50/50 CUSTODY. WE'D
17 SHARED VISITATION SIX WEEKS AT A TIME. SO WE'D PASS HER
18 ALONG, BACK AND FORTH BETWEEN SAN DIEGO AND BEND, FOR SIX
19 WEEKS AT A TIME.

20 Q. AND HOW LONG DID THAT ARRANGEMENT LAST?

21 A. MAYBE -- I HAD HER FIRST, RIGHT AFTER THE
22 DIVORCE, FOR THE FIRST SIX WEEKS, PASSED HER TO TAMI FOR
23 ONE SIX-WEEK. I GOT HER BACK, SENT HER BACK. AND THEN,
24 AFTER THAT, I MADE A DECISION THAT I WAS GOING TO BE
25 MOVING DOWN.

26 Q. WHY DID YOU DO THAT?

27 A. BECAUSE SHE WAS A DIFFERENT KID EVERY SIX
28 WEEKS. IT WAS TOO FAR AT THE TIME, TOO MUCH TIME AWAY

1 FROM HER.

2 Q. SO DID YOU WANT TO BE CLOSER TO YOUR
3 DAUGHTER?

4 A. YES.

5 Q. AND SO, IN ORDER TO DO THAT, YOU ACTUALLY
6 MOVED TO SAN DIEGO?

7 A. YES.

8 Q. I SHOULD SAY MOVED BACK.
9 YOU HAD PREVIOUSLY LIVED HERE?

10 A. YES.

11 Q. AND DURING THE TIME RIGHT AFTER YOUR DIVORCE
12 WITH TAMI, DO YOU KNOW WITH WHOM TAMI WAS LIVING?

13 A. HOW FAR AFTER THE DIVORCE?

14 Q. SO WHEN SHE FIRST MOVED TO SAN DIEGO, DO YOU
15 KNOW WHERE SHE WENT TO LIVE?

16 A. YES.

17 Q. WHERE DID SHE GO?

18 A. HER MOM'S.

19 Q. HOW LONG DID SHE LIVE THERE?

20 A. I DON'T KNOW.

21 Q. AT SOME POINT DID SHE MOVE IN WITH ANYONE
22 ELSE?

23 A. YES.

24 Q. WHO WAS THAT?

25 A. ERIC.

26 Q. AND DO YOU KNOW HOW SOON AFTER THE DIVORCE
27 WAS FINAL THAT SHE MOVED IN WITH ERIC?

28 A. I DO NOT.

1 Q. WAS IT DURING THAT SAME TIME PERIOD WHEN YOU
2 WERE STILL LIVING IN OREGON?

3 A. YES.

4 Q. AND DID YOU AND TAMI HAVE ANY DISCUSSIONS
5 ABOUT HER LIVING WITH ERIC AT THAT TIME?

6 A. NO.

7 Q. HAVE YOU EVER?

8 A. LIVING WITH ERIC?

9 NO. NO, NOT THAT I CAN REMEMBER.

10 Q. OKAY. DID YOU HAVE ANY ISSUE WITH TAMI
11 LIVING WITH ERIC?

12 A. NO.

13 Q. DID YOU HAVE ANY ISSUES WITH BREANNA LIVING
14 WITH ERIC?

15 A. NO.

16 Q. WOULD YOU SAY THAT YOUR RELATIONSHIP WITH
17 ERIC HAS REMAINED CORDIAL?

18 A. CIVIL.

19 Q. OKAY. DID YOU AND HE -- FROM THE TIME THAT
20 YOU AND TAMI SPLIT UNTIL MAY 21ST, 2012, DID YOU AND HE
21 HAVE ANY MAJOR DISAGREEMENTS OVER -- OVER BREANNA?

22 A. WE'VE HAD DISAGREEMENTS.

23 Q. ABOUT WHAT KIND OF THINGS?

24 A. WITH 50/50, WHAT'S FAIR IN THE 50/50
25 CUSTODY.

26 Q. WHAT DO YOU MEAN BY THAT?

27 A. AS FAR AS BREANNA WENT TO SCHOOL IN THE
28 CLAIREMONT -- IN THE CLAIREMONT AREA, WHILE I LIVED IN

1 POWAY. AND THE PARENTING PLAN THAT WE AGREED UPON DURING
2 THE DIVORCE WAS THAT WE WOULD PUT BREANNA IN THE BEST
3 SCHOOL THAT WE COULD -- BEST SCHOOL POSSIBLE. AND THE
4 SCHOOL RATING AT THE TIME, IN CLAIREMONT, WAS HIGHER THAN
5 THE SCHOOL RATING IN POWAY AND -- BUT THE DRIVING
6 SITUATION SEEMED TO ME THAT IT WAS AT MY DISADVANTAGE.

7 SO IT WASN'T NECESSARILY 50/50. AND THAT
8 WHOLE DRIVING SITUATION AND THE COST OF DRIVING BACK AND
9 FORTH, FOR ME, TO CLAIREMONT WAS MORE THAN WHAT THEY HAD
10 TO DRIVE BECAUSE THEY LIVED JUST DOWN THE STREET FROM
11 THEIR SCHOOL AT THE TIME.

12 Q. SO THERE WAS SOME FINANCIAL COMPONENT TO IT?

13 A. YES.

14 Q. BUT DESPITE LIVING IN POWAY, YOU AGREED THAT
15 CLAIREMONT WAS A BETTER LOCATION FOR HER TO BE IN SCHOOL
16 AT THAT TIME?

17 A. YES.

18 Q. AND YOU CONTINUED TO DRIVE, TO PICK HER UP
19 AND SEE HER AND DROP HER AT SCHOOL?

20 A. YES.

21 Q. AND WHEN YOU AND TAMI HAD ISSUES COME UP IN
22 TERMS OF THE CUSTODY OR THE 50/50 ARRANGEMENT, HOW DID
23 YOU RESOLVE THEM?

24 A. THE TIMES WHERE IT GOT -- THE TIMES WHERE
25 THERE WERE DISAGREEMENTS, I BELIEVE IT CAME TO A POINT TO
26 WHERE WE WOULD ALL SIT DOWN AT A TABLE TOGETHER AND TALK
27 ABOUT IT.

28 Q. AND WHEN YOU SAY "ALL," WHO WOULD BE AT THE

1 TABLE?

2 A. MYSELF, MELISSA, TAMI AND ERIC.

3 Q. AND SO AMONGST THE FOUR OF YOU, WERE YOU
4 ABLE TO WORK OUT ALL OF YOUR DISAGREEMENTS ABOUT WHERE
5 BREANNA WAS GOING TO BE AND THE 50/50 SPLIT AND ALL OF
6 THAT?

7 A. YES.

8 Q. AND WOULD YOU SAY THAT THOSE CONVERSATIONS
9 REMAINED CIVIL?

10 A. YES.

11 Q. DURING THE TIME WHEN TAMI AND ERIC LIVED IN
12 THE UTC AREA, DID MELISSA'S DAUGHTER, HANNAH, EVER GO
13 VISIT OVER AT THAT HOUSE AND STAY OVER?

14 A. I DON'T REMEMBER.

15 Q. WHEN THE GIRLS WOULD SPEND TIME TOGETHER,
16 WOULD IT BE MOSTLY AT YOUR HOUSE?

17 A. YES.

18 Q. SO THE WEEKS THAT YOU HAD BREANNA, DID YOU
19 ALSO HAVE HANNAH AT YOUR HOUSE?

20 A. YES.

21 Q. AND THEN THE WEEKS THAT BREANNA WAS WITH HER
22 MOM, DID HANNAH GO TO HER DAD'S?

23 A. NO.

24 Q. DID SHE SPEND MORE TIME WITH YOU GUYS?

25 A. YES.

26 Q. AND WERE THERE ANY TIMES WHEN TAMI AND ERIC
27 LIVED IN POWAY THAT BREANNA -- I'M SORRY -- THAT HANNAH
28 WOULD GO AND SPEND THE NIGHT OVER AT THEIR HOUSE IN

1 POWAY?

2 A. I DON'T THINK SPEND THE NIGHT.

3 Q. WERE THERE TIMES WHERE SHE WOULD GO OVER
4 DURING THE DAY AND VISIT AT THEIR HOUSE, THAT HANNAH
5 WOULD GO?

6 A. YES.

7 Q. AND WERE THERE TIMES WHEN YOU AND MELISSA
8 NEEDED MAYBE ALLAN TO DROP THE GIRLS OFF AT SCHOOL?

9 A. ERIC?

10 Q. I'M SORRY.

11 ERIC?

12 A. NOT NECESSARILY ERIC. WE DIDN'T MAKE THAT
13 DECISION. THAT WAS ON TAMI AND ERIC. WE -- I ASKED
14 TAMI.

15 Q. SO THERE WERE TIMES WHERE, IF YOU NEEDED
16 SOME ASSISTANCE GETTING HANNAH TO SCHOOL, THAT TAMI WOULD
17 BE ABLE TO STEP IN?

18 A. YES.

19 Q. AND DID THAT EVER APPEAR TO BE A PROBLEM
20 BETWEEN YOU AND TAMI?

21 A. NO.

22 Q. OTHER THAN JUST EXCHANGING THE CHILDREN, DID
23 YOU AND TAMI ENGAGE IN ANY FAMILY ACTIVITIES TOGETHER?

24 A. BIRTHDAY PARTIES.

25 Q. AND WOULD YOU -- WOULD YOU ASSESS YOUR
26 RELATIONSHIP WITH HER AS CORDIAL?

27 A. YES.

28 Q. DO YOU GET ALONG OKAY WITH TAMI?

1 A. YES.

2 Q. I'D LIKE TO TALK A LITTLE BIT ABOUT
3 MAY 21ST, 2012.

4 DO YOU RECALL THAT DATE?

5 A. YES.

6 Q. ALL RIGHT. ON THAT DATE, DID YOU TAKE
7 HANNAH SOMEWHERE, OR DID YOUR WIFE TAKE HER SOMEWHERE?

8 A. MY WIFE DID.

9 Q. AND WHERE DID SHE TAKE HER?

10 A. TO TAMI AND ERIC'S HOUSE.

11 Q. WERE YOU ALREADY AT WORK, OR DID YOU GUYS --

12 A. YES. I WAS AT WORK.

13 Q. DO YOU AND MELISSA WORK TOGETHER?

14 A. YES, WE DO.

15 Q. SO IT WAS A DAY WHERE YOU BOTH WENT TO WORK
16 EARLY?

17 A. I GO TO WORK -- MY SHIFT STARTED AT 5:30 IN
18 THE MORNING.

19 Q. OH, OKAY.

20 A. SO I WOULD GO SEPARATELY.

21 Q. AND WHILE YOU WERE AT WORK, DID YOU GET A
22 CALL FROM HANNAH?

23 A. YES.

24 Q. DO YOU RECALL ABOUT WHAT TIME THAT MIGHT
25 HAVE BEEN?

26 A. A LITTLE BEFORE 8:00. BECAUSE THEY HAD TO
27 BE TO SCHOOL.

28 Q. CAN YOU DESCRIBE FOR US THAT PHONE CALL?

1 A. SHE WAS HYSTERICAL, SAYING THAT SHE DOESN'T
2 WANT TO BE HERE, SHE WANTS US TO COME GET HER.

3 Q. DID SHE SAY WHAT HAD HAPPENED TO HER THAT
4 CAUSED HER TO NOT WANT TO BE THERE?

5 A. YES.

6 Q. WHAT DID SHE SAY?

7 A. SHE SAID ERIC HAD TOUCHED HER.

8 Q. DID SHE SAY ANYTHING MORE SPECIFIC THAN
9 THAT?

10 A. NO.

11 Q. DID YOU GET A GIST OF WHAT THAT MEANT WHEN
12 SHE SAID IT?

13 A. YES.

14 Q. WHAT DID YOU DO WHEN SHE SAID THAT?

15 A. TOLD MY BOSS THAT I NEED TO LEAVE, WENT
16 DOWNSTAIRS TO TAMI -- OR TO MELISSA'S DESK AND EXPLAINED
17 TO HER REAL BRIEFLY THAT WE NEEDED TO LEAVE, GO GET
18 HANNAH.

19 SHE ASKED WHY. I TOLD HER I'D TELL HER IN
20 THE CAR, JUST LET'S GO. AND SHE WANTED TO KNOW WHY. I
21 TOLD HER WHY. AND WE LEFT.

22 Q. AND DURING THAT CONVERSATION WITH MELISSA,
23 DID YOU REMAIN AS CALM AS YOU ARE RIGHT NOW?

24 A. YES.

25 Q. ALL RIGHT. AND SO YOU GOT IN THE CAR.
26 AND WHERE DID YOU GUYS GO?

27 A. DROVE FROM MY WORK TO TAMI'S HOUSE.

28 Q. ABOUT HOW LONG DID IT TAKE FOR YOU TO GET

1 THERE, DO YOU THINK?

2 A. FOUR MINUTES.

3 Q. OKAY. DID YOU DRIVE PRETTY FAST?

4 A. YES.

5 Q. AND WHAT WAS MELISSA DOING AT THE TIME,
6 WHILE YOU WERE DRIVING?

7 A. CALLING THE POLICE.

8 Q. WHAT HAPPENED WHEN YOU FIRST GOT TO TAMI'S
9 HOUSE?

10 A. (NO AUDIBLE RESPONSE.)

11 Q. WHAT DID YOU FIRST NOTICE, OR WHAT DID YOU
12 SEE?

13 A. WHEN WE PULLED UP, WE PULLED UP IN FRONT OF
14 THEIR APARTMENT. AND BEFORE I CAME TO A COMPLETE STOP,
15 MELISSA WAS OPENING THE DOOR AND GETTING OUT. AND SHE
16 RAN TO THE DOOR, THE FRONT DOOR.

17 Q. WHAT DID YOU DO WHILE SHE WAS RUNNING TO THE
18 DOOR?

19 A. CONTINUED PARKING THE CAR.

20 Q. AND WHAT WAS MELISSA DOING? COULD YOU TELL
21 FROM WHERE YOU WERE?

22 A. SHE WAS RUNNING TO GET HANNAH.

23 Q. AND WHAT DID YOU DO WHILE SHE WAS DOING
24 THAT, AFTER YOU PARKED THE CAR?

25 A. I GOT OUT OF THE CAR. BY THAT TIME, SHE WAS
26 COMING BACK WITH HANNAH. AND -- AND SHE PASSED ME. AND
27 THEN SHE CAME BACK TO COME GET BREANNA, AND SHE WASN'T
28 ALLOWED IN THE HOUSE TO GET BREANNA.

1 Q. WHEN MELISSA WAS TRYING TO GET BREANNA, WERE
2 YOU AT THE DOOR?

3 A. I WAS WALKING UP TO THE DOOR BEHIND HER.

4 Q. DID YOU WITNESS THE EXCHANGE BETWEEN MELISSA
5 AND ERIC?

6 A. I'M SORRY.

7 THE QUESTION PRIOR, THE LAST QUESTION, WHAT
8 WAS THAT? WAS THAT WHEN SHE WENT TO GET HANNAH OR
9 BREANNA?

10 Q. BREANNA.

11 A. YEAH. I WAS BEHIND HER.

12 Q. WHAT HAPPENED WHEN SHE WENT TO GET BREANNA?

13 A. ERIC CURSED AT HER AND TOLD HER, "YOU'RE NOT
14 COMING IN HERE. SHE'S NOT YOUR DAUGHTER."

15 Q. WHAT DID YOU DO?

16 A. I STOOD AT THE DOOR AND TOLD HIM, "THAT'S MY
17 DAUGHTER," AND ASKED HIM IF I CAN COME IN.

18 Q. AND WHAT DID HE DO?

19 A. HE LET ME IN.

20 Q. WHAT HAPPENED WHEN YOU WENT INSIDE?

21 A. I PICKED UP BREANNA. SHE WAS CRYING
22 HYSTERICALLY. I PICKED HER UP AND IMMEDIATELY WALKED OUT
23 THEIR BACK SLIDING GLASS DOOR, OUTSIDE, AND SHUT THE DOOR
24 BEHIND ME.

25 Q. WHY DID YOU GO OUT THE BACK, AS OPPOSED TO
26 OUT THE FRONT?

27 A. BECAUSE ERIC WAS STANDING IN FRONT OF THE
28 DOOR.

1 Q. WAS HE BLOCKING THE DOOR IN ANY WAY?

2 A. I DON'T RECALL.

3 Q. AND HOW TALL ARE YOU?

4 A. (NO AUDIBLE RESPONSE.)

5 Q. IT'S OKAY. NOT WHAT YOUR DRIVER'S LICENSE
6 SAYS.

7 HOW TALL ARE YOU REALLY?

8 A. FIVE-SEVEN.

9 Q. AND DO YOU KNOW ABOUT HOW TALL THE DEFENDANT
10 IS?

11 A. SIX FOOT.

12 Q. WOULD YOU CONSIDER HIM TO BE MUCH TALLER
13 THAN YOU?

14 A. YES.

15 Q. SO YOU WENT OUT THE BACK SLIDING DOOR TO THE
16 PATIO AREA.

17 AND WAS BREANNA STILL UPSET?

18 A. YES.

19 Q. WAS SHE STILL CRYING?

20 A. YES.

21 Q. WHAT HAPPENED THEN?

22 A. I WENT TO THE -- BACK IN THEIR YARD THAT WAS
23 FENCED IN.

24 AND I TOLD HER, "I'M GOING TO ASK YOU A
25 QUESTION. I WANT AN HONEST ANSWER. I WANT A TRUTHFUL
26 ANSWER."

27 I TOLD HER TO CALM DOWN. SHE CALMED DOWN.

28 AND I ASKED HER, "HAS ERIC EVER TOUCHED

1 YOU?"

2 AND SHE SAID, "YES."

3 Q. AT THAT POINT YOU ALREADY KNEW WHAT HANNAH
4 HAD SAID TO YOU; IS THAT RIGHT?

5 A. YES.

6 Q. AFTER SHE SAID "YES," DID YOU ASK HER
7 ANYMORE QUESTIONS?

8 A. I ASKED HER, "WHERE?"

9 AND SHE SAID, "MY PRIVATES."

10 Q. WHAT HAPPENED NEXT?

11 A. SHE STARTED CUPPING MY CHEEKS AND STARTED
12 CRYING AND SAID, "DADDY, PLEASE DON'T CRY. PLEASE DON'T
13 CRY. PLEASE DON'T CRY."

14 Q. WHAT WERE YOU DOING? WERE YOU CRYING?

15 A. ALMOST.

16 Q. WERE YOU UPSET?

17 A. YES.

18 Q. DID YOU RAISE YOUR VOICE, OR WAS YOUR VOICE
19 JUST LIKE IT IS NOW?

20 A. JUST LIKE IT IS NOW.

21 Q. AND WHEN SHE ASKED YOU NOT TO CRY, WHAT DID
22 YOU DO AFTER THAT?

23 A. TURNED AROUND AND STARTED WALKING BACK
24 TOWARDS THE SLIDING GLASS DOOR. AND ERIC WAS THERE, ON
25 THE PHONE WITH TAMI.

26 Q. DID YOU HAVE BREANNA WITH YOU, OR WAS SHE
27 STILL --

28 A. SHE WAS IN MY ARMS.

1 Q. WHAT HAPPENED NEXT?

2 A. ERIC WAS ON THE PHONE WITH TAMI, EXPLAINED
3 HOW CRAZY MELISSA WAS BEING AND THAT I WAS CALM.

4 AND I ASKED TO TALK TO TAMI.

5 AND I TALKED TO TAMI AND TOLD HER THAT, "YOU
6 NEED TO GET DOWN HERE. I'M TAKING BREANNA."

7 I TOLD HER, "THE POLICE ARE ON THEIR WAY.
8 AND I'LL BE HERE WITH BREANNA WHEN THE POLICE ARRIVE."

9 Q. SO YOU --

10 DID YOU EXIT THE HOUSE AT THAT POINT?

11 A. YES. I TOOK HER AND WALKED THROUGH THE
12 HOUSE, STRAIGHT OUT THE FRONT DOOR.

13 Q. DID YOU AND THE DEFENDANT HAVE ANY
14 CONVERSATIONS DURING THAT --

15 A. NO.

16 Q. -- SORRY -- DURING THAT TIME?

17 A. NO. SORRY.

18 Q. IT'S OKAY.

19 YOU DIDN'T SAY ANYTHING TO HIM?

20 A. NO.

21 Q. DID HE REMAIN INSIDE THE HOUSE WHEN YOU WENT
22 OUTSIDE?

23 A. YES.

24 Q. AND DID THE POLICE ARRIVE?

25 A. YES.

26 Q. ABOUT HOW LONG DID IT TAKE FOR THEM TO GET
27 THERE?

28 A. I DON'T REMEMBER.

1 Q. DID IT FEEL LIKE FOREVER?

2 A. YEAH. YES. SORRY.

3 Q. THAT'S OKAY.

4 AT THAT POINT HAD BREANNA CALMED DOWN?

5 A. NO. I MEAN, IF YOU COMPARE CALM TO ME, NO.

6 Q. IT SOUNDS LIKE IT WOULD BE HARD TO COMPARE

7 ANYBODY ELSE'S CALM TO YOURS.

8 BUT HAD SHE STOPPED CRYING BY THE TIME THE

9 POLICE GOT THERE?

10 A. YES.

11 Q. AND WHAT ABOUT HANNAH?

12 A. YES.

13 Q. AND WHAT ABOUT MELISSA?

14 A. YES.

15 Q. WHEN THE POLICE GOT THERE, DID THEY TAKE A

16 STATEMENT FROM YOU?

17 A. YES.

18 Q. AND DID THEY ALSO SPEAK TO MELISSA?

19 A. YES.

20 Q. DID THEY SPEAK TO THE GIRLS AT THAT TIME?

21 A. NO.

22 Q. AND WHILE THEY WERE SPEAKING TO YOU, WHERE

23 WAS MELISSA?

24 A. SPEAKING TO -- NO. SHE WAS WITH THE GIRLS.

25 Q. AND WHEN --

26 A. WITH HANNAH, AT LEAST.

27 Q. AT SOME POINT HAD TAMI ARRIVED?

28 A. YES.

1 Q. AND WHILE -- WHILE MELISSA WAS SPEAKING WITH
2 THE POLICE, WHERE WERE YOU?

3 A. WITH HANNAH.

4 Q. DURING THE TIME BETWEEN WHEN YOU GOT THE
5 GIRLS OUT OF THE HOUSE AND THE POLICE CAME TO SPEAK TO
6 YOU, DID YOU ASK THE CHILDREN ANY QUESTIONS ABOUT WHAT
7 HAD HAPPENED WITH ERIC?

8 A. NO.

9 Q. DID YOU TALK ABOUT IT AT ALL?

10 A. NO.

11 Q. DID THEY TALK TO EACH OTHER ABOUT IT?

12 A. NO.

13 Q. AFTER THE POLICE CAME AND CONDUCTED THEIR
14 INVESTIGATION, DID YOU -- DID YOU LEAVE WITH THE GIRLS?

15 A. YES, WE DID.

16 Q. AND WAS THAT GOING TO BE YOUR WEEK WITH
17 BREANNA?

18 A. NO. I'M SORRY. YES, IT WAS.

19 Q. AND SO DID YOU TAKE HER A DAY EARLY?

20 A. (NO AUDIBLE RESPONSE.)

21 Q. WHEN DID YOUR WEEKS START, MONDAY, TUESDAY?

22 A. MONDAYS TO MONDAYS.

23 Q. SO WAS THAT A MONDAY? DO YOU RECALL?

24 A. I DON'T RECALL WHAT DAY THAT WAS.

25 Q. BUT IT WAS A SCHOOL DAY, FOR SURE?

26 A. YES.

27 Q. AND SO YOU TOOK BREANNA.

28 AND DID YOU -- WHERE DID YOU AND MELISSA AND

1 HANNAH ALL GO?

2 A. TO OUR HOUSE.

3 Q. DURING THE RIDE TO YOUR HOUSE OR FOR THE
4 REST OF THAT DAY, DID YOU OR MELISSA TALK TO THE GIRLS
5 ABOUT WHAT HAD HAPPENED?

6 A. NO.

7 Q. DID THE CHILDREN ULTIMATELY GET INTERVIEWED
8 AT PALOMAR HOSPITAL?

9 A. IF THAT'S THE HOSPITAL IN ESCONDIDO, THEN
10 YES.

11 Q. AND DO YOU RECALL APPROXIMATELY WHEN THAT
12 WAS OR HOW SOON AFTER THE INCIDENT?

13 A. I WANT TO SAY A WEEK LATER.

14 Q. DURING THAT PERIOD, DURING THAT WEEK, DID
15 YOU TALK TO BREANNA OR HANNAH ABOUT ANYTHING THAT HAD
16 HAPPENED WITH ERIC?

17 A. NO.

18 Q. WHAT ABOUT MELISSA? WERE YOU PRESENT FOR
19 ANY CONVERSATIONS SHE MIGHT HAVE HAD WITH THE CHILDREN?

20 A. YES.

21 Q. AND DID SHE SPEAK TO THEM AT ALL ABOUT IT?

22 A. NO.

23 Q. DID YOU GUYS RESUME YOUR NORMAL DAILY
24 ACTIVITY THE FOLLOWING DAY, OR WAS THERE, LIKE, A CHANGE
25 IN WHAT YOU WOULD NORMALLY DO?

26 A. WE TOOK THE KIDS OUT OF SCHOOL FOR THE REST
27 OF THE WEEK. AND WE TOOK OFF WORK FOR THE REST OF THE
28 WEEK, AND WE STAYED WITH THEM.

1 Q. BEFORE THE MAY 21ST, 2012, INCIDENT, HAD YOU
2 EVER SAID ANYTHING NEGATIVE ABOUT ERIC IN FRONT OF EITHER
3 HANNAH OR BREANNA?

4 A. NO.

5 Q. WHAT ABOUT MELISSA? DID SHE SAY ANYTHING
6 NEGATIVE ABOUT ERIC IN FRONT OF THE CHILDREN, TO YOUR
7 KNOWLEDGE?

8 A. NO.

9 Q. WHAT ABOUT TAMI? DID YOU OR MELISSA SAY
10 ANYTHING NEGATIVE ABOUT TAMI IN FRONT OF THE CHILDREN?

11 A. NO.

12 Q. AND OTHER THAN THE BRIEF CONVERSATIONS YOU
13 HAD WITH BOTH HANNAH ON THE PHONE AND BREANNA IN THE
14 BACKYARD, HAVE YOU TALKED TO THE GIRLS AT ALL, IN DETAIL,
15 ABOUT WHAT HAD HAPPENED BETWEEN THEM AND ERIC?

16 A. NO.

17 MS. DI TILLIO: THANK YOU.

18 I HAVE NOTHING FURTHER.

19 THE COURT: CROSS-EXAMINATION.

20

21

CROSS-EXAMINATION

22

23 BY MS. OLIVER:

24 Q. ALLAN, AT THE WEDDING THAT YOU ATTENDED WITH
25 TAMI -- YOU INDICATED THAT ERIC WAS AT THAT SAME WEDDING?

26 A. YES.

27 Q. AN AT THAT WEDDING OR SOMETIME DURING THAT
28 TIME PERIOD, DID YOU TAMI AND ERIC HAVE A SEXUAL

1 ENCOUNTER TOGETHER?

2 A. YES.

3 Q. AND WAS THAT ON ONE OCCASION OR MORE THAN
4 ONE OCCASION?

5 A. ONE OCCASION.

6 Q. AND, SHORTLY THEREAFTER, ABOUT A MONTH OR
7 TWO LATER, THAT'S WHEN YOU AND TAMI SEPARATED?

8 A. YES.

9 Q. WAS ERIC AND TAMI SEEING EACH OTHER DURING
10 THAT TIME PERIOD?

11 A. BEFORE WE SEPARATED OR AFTER?

12 Q. YEAH, BEFORE YOU SEPARATED.

13 A. NO.

14 Q. DO YOU KNOW WHETHER OR NOT TAMI MAINTAINED A
15 FRIENDSHIP WITH ERIC WHILE YOU WERE MARRIED TO HER?

16 A. YES.

17 Q. AND HOW LONG DID THAT FRIENDSHIP LAST?

18 A. BEFORE WE WERE DIVORCED?

19 Q. BEFORE YOU WERE DIVORCED.

20 A. I DON'T KNOW.

21 Q. WERE YOU UPSET WITH THE FACT THAT TAMI HAD
22 THAT FRIENDSHIP WITH ERIC?

23 A. I WAS UPSET AT TAMI.

24 Q. IS THAT PART OF THE REASON WHY YOU AND TAMI
25 GOT DIVORCED?

26 A. THAT IS THE REASON WHY WE GOT DIVORCED.

27 Q. DID IT UPSET YOU THAT ERIC WAS GOING TO HAVE
28 SUCH A VITAL ROLE IN BREANNA'S LIFE?

1 A. NO.

2 Q. DID IT UPSET YOU THAT BREANNA WAS GOING TO
3 BE LIVING WITH ERIC?

4 A. NO.

5 Q. WHEN TAMI MOVED IN WITH ERIC, DID SHE
6 DISCUSS THAT WITH YOU BEFORE?

7 A. I DON'T REMEMBER.

8 Q. WERE YOU UPSET WHEN YOU FOUND OUT THAT TAMI
9 WAS LIVING -- TAMI AND BREANNA WERE LIVING WITH ERIC?

10 A. NO.

11 Q. WHOSE DECISION WAS IT TO END THE MARRIAGE,
12 YOURS OR TAMI'S?

13 A. TAMI SAID TO ME, FIRST, SHE WANTED SPACE,
14 TIME APART.

15 Q. SO TAMI INITIATED THE SEPARATION?

16 A. YES.

17 Q. AND WHO ACTUALLY FILED FOR DIVORCE?

18 A. I DID.

19 Q. DO YOU KNOW HOW LONG AFTER THE DIVORCE THAT
20 TAMI BEGAN LIVING WITH ERIC?

21 A. NO, I DON'T.

22 Q. DID YOU LIKE ERIC?

23 A. WE WERE CIVIL.

24 Q. BUT DID YOU LIKE HIM?

25 MS. DI TILLIO: OBJECTION. ASKED AND ANSWERED.

26 THE COURT: OVERRULED.

27 YOU CAN ANSWER.

28 THE WITNESS: I HAD NOTHING AGAINST HIM. I DIDN'T

1 DISLIKE HIM.

2

3 BY MS. OLIVER:

4 Q. TO YOUR KNOWLEDGE, CLOSE TO THE MAY 21ST,
5 2012, DATE, WERE TAMI AND ERIC DISCUSSING OR MAKING PLANS
6 TO MOVE TO LAS VEGAS?

7 A. THEY HAD TALKED ABOUT IT.

8 Q. AND WOULD THEY HAVE BEEN TAKING BREANNA WITH
9 THEM?

10 A. WE HADN'T TALKED ABOUT THAT PART YET.

11 Q. WHEN THEY -- WHEN THEY BROUGHT THAT UP, THAT
12 THEY WERE GOING TO MOVE TO LAS VEGAS, WERE YOU CONCERNED
13 ABOUT THE CUSTODY ARRANGEMENTS?

14 A. NO.

15 Q. WERE YOU CONCERNED ABOUT BREANNA POSSIBLY
16 MOVING TO ANOTHER STATE?

17 A. THAT WAS PART OF OUR PARENTING PLAN.

18 Q. PART OF THE PARENTING PLAN WAS FOR BREANNA
19 TO MOVE ANOTHER STATE?

20 A. NEITHER PARENT CAN TAKE THE CHILD OUT OF
21 STATE WITHOUT THE OTHER PARENT'S CONSENT.

22 Q. AND IF ONE PARENT TOOK BREANNA OUT OF THE
23 STATE WITHOUT THE OTHER'S CONSENT, WOULD IT STILL BE
24 50/50?

25 A. WE DIDN'T TALK ABOUT THAT.

26 Q. WHEN WAS THE PARENTING PLAN SET UP?

27 A. IT WAS FILED WITH THE DIVORCE PAPERWORK THAT
28 I FILED.

1 Q. DID YOU THINK THAT, IF ERIC AND TAMI MOVED
2 TO LAS VEGAS, THAT THEY WOULD TAKE BREANNA WITH THEM?

3 A. NO. THE ONLY TALK ABOUT LAS VEGAS WAS
4 DURING THE -- THE DISCUSSION ABOUT MILEAGE THAT I
5 MENTIONED EARLIER, ABOUT GOING BACK AND FORTH BETWEEN ME
6 AND POWAY AND CLAIREMONT AND JUST THE EQUAL COST OF ALL
7 OF THAT.

8 AND THE MENTION OF LAS VEGAS WAS THEM
9 PUTTING THAT INTO A SCENARIO.

10 WELL, WHAT IF WE MOVED TO LAS VEGAS?

11 HOW WOULD THAT PLAY OUT?

12 THEY WERE TRYING TO USE THAT AS A -- AN
13 EXAMPLE OF -- TO GET ME TO UNDERSTAND THEIR SIDE OF WHY
14 WHAT I WAS PRESENTING TO THEM WASN'T FAIR. THERE WAS
15 NEVER A DISCUSSION ABOUT THEM MOVING TO LAS VEGAS.

16 Q. SO WHEN THEY BROUGHT UP THE SCENARIO ABOUT,
17 WELL, IF THEY MOVED TO LAS VEGAS, HOW WOULD IT BE AS FAR
18 AS GAS AND MILEAGE, YOU TOOK THAT TO MEAN THAT THAT WAS
19 JUST AN EXAMPLE, NOT THAT THEY WERE ACTUALLY GOING TO
20 MOVE TO LAS VEGAS?

21 A. YES. BECAUSE I WAS TRYING TO GET THE COST
22 OF EVERYTHING 50/50.

23 SO I BELIEVE IT WAS -- ERIC IS THE ONE THAT
24 SAID, "WELL, IF WE MOVED TO LAS VEGAS, AND WE HAVE TO
25 BRING BREANNA DOWN THERE," OR SOMETHING TO THAT EFFECT,
26 "ARE YOU GOING TO PAY FOR HALF THE GAS?"

27 AND I AGREED.

28 I SAID, "YES, THAT WOULD BE EQUAL. THAT

1 WOULD BE FAIR."

2 Q. DO YOU REMEMBER WHEN THE DISCUSSION OR WHEN
3 THE SCENARIO ABOUT LAS VEGAS WAS BROUGHT UP?

4 A. I DON'T. IT WAS WHEN BREANNA WAS STILL IN
5 CURIE. SO I BELIEVE SHE WAS THERE -- HER LAST YEAR THERE
6 WAS SECOND GRADE.

7 Q. AND WAS LAS VEGAS BROUGHT UP IN THE
8 DISCUSSION ONE TIME OR ABOUT TWO OR THREE?

9 A. I DON'T REMEMBER.

10 Q. HOW LONG HAVE YOU KNOWN HANNAH?

11 A. SINCE 2008.

12 Q. SO, IN 2012, IT HAD BEEN ABOUT -- ROUGHLY
13 ABOUT FOUR YEARS, GIVE OR TAKE, DEPENDING ON THE DATE?

14 A. YES.

15 Q. IN THAT FOUR-YEAR PERIOD, HAD YOU KNOWN
16 HANNAH TO ALWAYS BE TRUTHFUL?

17 A. NO.

18 Q. IN THAT FOUR-YEAR PERIOD, HAVE YOU EVER
19 KNOWN HANNAH TO RUN OFF?

20 A. RUN OFF FROM WHERE?

21 Q. RUN OFF FROM AN ADULT FIGURE?

22 A. YES.

23 Q. PRIOR TO MAY 21ST, 2012, HAD YOU EVER ASKED
24 BREANNA IF SHE -- IF ERIC HAD EVER TOUCHED HER IN HER
25 PRIVATE PARTS?

26 A. ASKED BREANNA?

27 Q. YES.

28 A. YES.

1 Q. AND WHAT WAS HER RESPONSE?

2 A. "NO."

3 Q. HOW MANY TIMES DID YOU ASK HER THAT
4 QUESTION?

5 A. ONCE OR TWICE.

6 Q. AND HER ANSWER WAS CONSISTENTLY "NO"?

7 A. YES.

8 Q. WHEN YOU WOULD POSE THAT QUESTION TO
9 BREANNA, DO YOU RECALL, SPECIFICALLY, WHAT YOU WOULD ASK
10 HER?

11 A. IF ANYTHING INAPPROPRIATE HAS EVER HAPPENED.

12 Q. AND WHEN YOU POSED THAT QUESTION TO BREANNA,
13 YOU BELIEVED THAT SHE UNDERSTOOD WHAT YOU MEANT?

14 A. YES.

15 Q. NOW, AFTER THE ALLEGATIONS SURFACED AGAINST
16 ERIC, DID YOU HAVE BREANNA PARTICIPATE IN A PHYSICAL
17 EXAMINATION?

18 A. NO. I DON'T -- I DON'T -- I DON'T THINK SO.

19 Q. ON MAY 21ST, 2012, WHEN YOU WERE SPEAKING
20 WITH THE OFFICERS, WHERE WERE THE GIRLS?

21 A. I BELIEVE THEY WERE WITH MELISSA.

22 Q. AND WHERE WAS MELISSA?

23 A. I DON'T RECALL.

24 Q. DO YOU KNOW HOW FAR MELISSA AND THE GIRLS
25 WERE AWAY FROM YOU AND THE POLICE OFFICER WHEN YOU WERE
26 GIVING YOUR STATEMENT?

27 A. I DON'T RECALL.

28 Q. DO YOU THINK -- WERE THEY IN CLOSE PROXIMITY

1 TO YOU?

2 A. NO. THE OFFICER PULLED ME -- PULLED ME
3 ASIDE.

4 Q. COULD YOU STILL SEE MELISSA AND THE GIRLS?

5 A. I DON'T RECALL.

6 Q. WAS MELISSA BY HERSELF, OR WAS SHE WITH
7 TAMI?

8 A. I BELIEVE MELISSA WAS WITH HER SISTER.

9 Q. AND WHO CALLED MELISSA'S SISTER?

10 A. I DON'T REMEMBER.

11 Q. DO YOU REMEMBER SPEAKING WITH MELISSA'S
12 SISTER?

13 A. NO.

14 Q. WAS MELISSA'S SISTER CALLED INSIDE OF THE
15 CAR OR ONCE YOU GOT TO ERIC AND TAMI'S?

16 A. I DON'T REMEMBER.

17 Q. WHEN HANNAH CALLED YOU AT WORK AND SAID THAT
18 ERIC HAD TOUCHED HER, DID YOU QUESTION HER ANY FURTHER?

19 A. NO, I DID NOT.

20 Q. WERE YOU ABLE TO CLEARLY UNDERSTAND WHAT SHE
21 WAS SAYING?

22 A. YES.

23 Q. AFTER THE ALLEGATIONS AGAINST ERIC, DID YOU
24 SEEK TO MODIFY YOUR CUSTODY ARRANGEMENTS IN REGARDS TO
25 BREANNA?

26 A. IMMEDIATELY AFTER THE SITUATION, CHILD
27 PROTECTIVE SERVICES WOULDN'T ALLOW BREANNA BACK IN THE
28 HOME. SO THEY GAVE HER TO ME.

1 Q. PRIOR TO MAY 21ST, 2012, HAD YOU MADE ANY
2 ATTEMPTS TO MODIFY THE CUSTODY ARRANGEMENTS?

3 A. NO.

4 Q. DID YOU THINK THAT ERIC HAD TOO MUCH OF A
5 DECISION-MAKING ROLE IN THE REARING OF HANNAH -- I'M
6 SORRY -- BREANNA?

7 A. THE REARING OF BREANNA?

8 Q. YES.
9 DECISIONS, PARENTAL DECISIONS CONCERNING
10 BREANNA, DID YOU THINK THAT ERIC HAD TOO MUCH OF A ROLE
11 IN THAT?

12 A. NOT TOO MUCH OF A ROLE. I THINK HE
13 INFLUENCED TAMI'S DECISION-MAKING ABILITIES.

14 Q. WHEN THE FOUR OF YOU -- THE FOUR OF YOU
15 BEING YOU, MELISSA, TAMI AND ERIC -- WOULD SIT DOWN TO
16 DISCUSS THINGS CONCERNING BREANNA, WOULD ERIC EVER BRING
17 UP GETTING AN ATTORNEY?

18 A. YES.

19 Q. HOW MANY TIMES DID HE DO THAT?

20 A. I DON'T REMEMBER EXACT TIMES OR -- ANY TIME
21 WE'D HAVE A DISAGREEMENT.

22 Q. AND HOW WOULD THAT MAKE YOU FEEL WITH YOUR
23 WIFE'S -- I'M SORRY -- YOUR EX-WIFE'S BOYFRIEND
24 THREATENING TO GET AN ATTORNEY TO SETTLE A DISPUTE
25 BETWEEN YOU AND YOUR EX-WIFE CONCERNING YOUR DAUGHTER?

26 A. ANY TIME IT WAS EVER BROUGHT UP, IT WASN'T
27 REALLY A CONCERN OF MINE. FROM A LEGAL ASPECT OF IT, MY
28 THOUGHT PROCESS WAS THAT WE HAVE A PARENTING PLAN IN

1 PLACE, A PARENTING PLAN THAT WE BOTH AGREED UPON.

2 AND IT'S GOING TO -- IF SHE GETS AN
3 ATTORNEY, THEN I'LL GET AN ATTORNEY. THAT'S FINE. BUT,
4 IF HE WANTS TO SAY THAT HE'S GOING TO GET AN ATTORNEY OR
5 THEY'RE GOING TO GET AN ATTORNEY, THAT'S -- I DON'T KNOW.
6 I DIDN'T HAVE A PROBLEM WITH IT.

7 IT WAS MORE LIKE, "OKAY, WELL, IF WE'RE
8 GOING TO GET AN ATTORNEY, LET'S GET ATTORNEYS."

9 Q. DID IT UPSET YOU?

10 A. NO.

11 Q. BACK ON MAY 21ST, WHEN YOU WERE INSIDE OF
12 ERIC AND TAMI'S HOME AND ERIC WAS ON THE PHONE WITH TAMI,
13 YOU ASKED TO SPEAK WITH TAMI; CORRECT?

14 A. I BELIEVE SO.

15 Q. AND ERIC GAVE YOU THE PHONE?

16 A. YES.

17 Q. WHEN MELISSA INITIALLY WALKED UP TO THE
18 DOOR, WERE YOU -- HOW FAR AWAY WERE YOU FROM HER?

19 A. WHICH TIME?

20 Q. WHEN YOU INITIALLY -- WHEN YOU INITIALLY
21 ARRIVED AT THE LOCATION, WHEN YOU LEFT FROM WORK?

22 A. BY THE TIME SHE WAS AT THE DOOR WITH HANNAH,
23 I BELIEVE I WAS COMING AROUND THE CAR FROM PUTTING IT IN
24 PARK.

25 Q. AND WAS MELISSA YELLING ANYTHING?

26 A. SHE WAS HYSTERICAL.

27 Q. SO SHE WAS YELLING?

28 A. YES.

1 Q. DO YOU RECALL SOME OF THE THINGS THAT SHE
2 WAS YELLING?

3 A. THAT "YOU'RE SICK," CURSING. I MEAN, I
4 DON'T REMEMBER DETAILS.

5 Q. OKAY. DID MELISSA EVER ACCUSE ERIC OF BEING
6 A CHILD MOLESTER?

7 A. VOICE IT?

8 Q. VOICE IT OUT LOUD?

9 A. I DON'T THINK SO. I DON'T RECALL.

10 Q. YOU DON'T RECALL HEARING THAT IN FRONT OF
11 THE CHILDREN?

12 A. NO.

13 Q. AND WHEN YOU WERE TALKING TO BREANNA, AND
14 SHE SAID THAT ERIC HAD TOUCHED HER, DID YOU ASK HER IF HE
15 TOUCHED HER IN HER PRIVATE PARTS?

16 A. NO.

17 I ASKED HER, "WHERE?"

18 Q. AND WHEN SHE SAID "MY PRIVATE PARTS," DID
19 SHE POINT TO ANY PARTICULAR AREA?

20 A. SHE POINTED DOWN TOWARDS HER PRIVATES.

21 MS. OLIVER: THANK YOU.

22 NOTHING FURTHER.

23 THE COURT: REDIRECT?

24 MS. DI TILLIO: YES. THANK YOU.

25 ///

26 ///

27 ///

28 ///

REDIRECT EXAMINATION

1

2

3 BY MS. DI TILLIO:

4 Q. I HAVE A FEW MORE QUESTIONS FOR YOU.

5 OKAY?

6 A. OKAY.

7 Q. I JUST WANT TO GET AN UNDERSTANDING OF THIS
8 WHOLE DISCUSSION ABOUT LAS VEGAS.9 IS IT SAFE TO ASSUME THAT, FROM THE WAY
10 YOU'VE TESTIFIED, THAT THIS WAS A THEORETICAL IDEA, AND
11 IT WASN'T AN ACTUAL PLAN TO GO TO VEGAS, BUT IT WAS JUST
12 KIND OF THROWN OUT THERE AS A "WHAT IF"?

13 A. YES.

14 Q. SO THIS IS IN THE CONTEXT OF THE DISCUSSION
15 OF WHEN ONE OF YOU WAS LIVING IN POWAY AND ONE OF YOU WAS
16 LIVING IN CLAIREMONT?

17 A. YES.

18 Q. AND YOU'RE ALREADY HAVING A DISCUSSION
19 ABOUT, FINANCIALLY, HOW THAT'S AN IMPOSITION ON ONE
20 PARTY, NOT THE OTHER?

21 A. HOW IT'S NOT EQUAL.

22 Q. AND THEN YOU SAID THAT THAT'S WHEN ERIC
23 BROUGHT THAT UP, "WHAT IF WE MOVE TO LAS VEGAS"?

24 A. YES.

25 Q. OKAY. DO YOU KNOW, TO YOUR KNOWLEDGE, WAS
26 THERE EVER A SERIOUS DISCUSSION ABOUT MOVING TO
27 LAS VEGAS?

28 A. NO.

1 Q. THAT THERE WAS NOT ONE?

2 A. THAT THERE WAS NOT ONE.

3 Q. AND HAD THE SITUATION PRESENTED ITSELF WHERE
4 TAMI AND ERIC HAD COME TO YOU AND SAID THEY WANTED TO
5 MOVE TO LAS VEGAS, WOULD YOU HAVE HAD A DISCUSSION WITH
6 THEM ABOUT THAT?

7 A. YES.

8 MS. OLIVER: OBJECTION. SPECULATION.

9 THE COURT: OVERRULED.

10

11 BY MS. DI TILLIO:

12 Q. SORRY?

13 A. YES.

14 Q. OKAY. YOU INDICATED A LITTLE EARLIER THAT
15 THERE WERE TIMES DURING THE FOUR YEARS BETWEEN WHEN YOU
16 MET HANNAH AND THE INCIDENT HAPPENED IN 2012 -- THAT
17 THERE WERE TIMES WHEN SHE WAS NOT ALWAYS TRUTHFUL.

18 WHAT KIND OF THINGS WOULD SHE LIE ABOUT?

19 A. LITTLE -- I MEAN, SHE WAS -- A SIX-YEAR-OLD
20 KID LIES ABOUT LITTLE THINGS.

21 I MEAN, JUST, "DID YOU DO THIS?"

22 "NO."

23 "DID YOU DO THAT?"

24 "YES," "NO."

25 I MEAN, LITTLE WHITE LIES THAT KIDS DO.

26 Q. ANYTHING MAJOR?

27 A. NO.

28 Q. AND WHAT WERE THE CIRCUMSTANCES SURROUNDING

1 WHEN SHE RAN OFF FROM AN ADULT AUTHORITY FIGURE?

2 A. IT WAS IN SCHOOL. IF SHE -- SHE WAS UPSET
3 ABOUT SOMETHING, AND HER FIRST INSTINCT IS TO RUN.

4 Q. WHAT GRADE DID THAT HAPPEN IN?

5 A. IT WAS WHEN SHE WAS IN LINDBERGH/SCHWEITZER
6 ELEMENTARY SCHOOL IN CLAIREMONT. AND THAT WOULD HAVE
7 BEEN, I BELIEVE, SECOND OR THIRD GRADE.

8 Q. SO I JUST WANT TO BE CLEAR.

9 WHEN YOU SPOKE TO BREANNA ON A PRIOR
10 OCCASION, BEFORE MAY 21ST, 2012, ABOUT ERIC, I THINK YOU
11 INDICATED THAT YOUR WORDS WERE, "HAS ANYTHING
12 INAPPROPRIATE HAPPENED WITH ERIC"?

13 A. IT WAS A CONVERSATION ABOUT ANYBODY, HAS
14 ANYBODY EVER DONE ANYTHING INAPPROPRIATE, HAS ANYBODY,
15 ANYBODY?

16 IT WASN'T SPECIFIC TOWARDS ERIC.

17 Q. WAS IT IN THE CONTEXT OF A LARGER
18 CONVERSATION?

19 A. I DON'T REMEMBER.

20 Q. AND WHEN SHE INDICATED "NO," DID YOU POKE OR
21 PROD OR FOLLOW UP WITH ANY ADDITIONAL QUESTIONS?

22 A. NO.

23 Q. OTHER THAN THAT BRIEF PERIOD OF TIME WHERE
24 CPS WAS INVOLVED IN PLACING BREANNA WITH YOU, HAD YOU
25 EVER MADE ANY ATTEMPTS, BEFORE MAY 21ST, 2012, TO MODIFY
26 THE 50/50 CUSTODY ARRANGEMENT YOU HAD WITH TAMI IN
27 REGARDS TO BREANNA?

28 A. CAN YOU REPEAT THAT?

1 Q. YEAH.

2 SO HAVE YOU EVER TRIED TO MODIFY THE CUSTODY
3 ARRANGEMENTS THAT YOU HAVE BETWEEN YOURSELF AND TAMI IN
4 REGARDS TO BREANNA?

5 A. NO.

6 Q. EVEN AFTER MAY 21ST, 2012?

7 A. (NO AUDIBLE RESPONSE.)

8 Q. SINCE THE POLICE GOT INVOLVED IN THAT
9 INCIDENT?

10 A. NO.

11 Q. DOES IT STILL, TO THIS DAY, REMAIN 50/50?

12 A. YES.

13 YOU'RE TALKING ABOUT ASIDE FROM CPS GETTING
14 INVOLVED?

15 Q. YES.

16 A. YES.

17 Q. AND THAT WAS JUST FOR ABOUT AN EXTRA WEEK?
18 WOULD THAT BE FAIR?

19 A. YES.

20 Q. IT WAS A SHORT PERIOD OF TIME?

21 A. YES.

22 MS. DI TILLIO: THANK YOU.

23 I HAVE NOTHING FURTHER.

24 THE COURT: RECROSS?

25 MS. OLIVER: BRIEFLY.

26 ///

27 ///

28 ///

RECROSS-EXAMINATION

1

2

3 BY MS. OLIVER:

4 Q. WOULD HANNAH EVER LIE IF SHE THOUGHT SHE WAS
5 GOING TO GET IN TROUBLE ABOUT SOMETHING?

6 A. I DON'T KNOW.

7 MS. OLIVER: THANK YOU.

8 NOTHING FURTHER.

9 THE COURT: ANYTHING ELSE?

10 MS. DI TILLIO: NO, YOUR HONOR.

11 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU MAY
12 STEP DOWN.

13 THE WITNESS: THANK YOU.

14 MS. DI TILLIO: PEOPLE CALL ROBERT NICKLO.

15 THE COURT CLERK: DO YOU SOLEMNLY STATE, UNDER
16 PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE
17 IN THIS MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
18 NOTHING BUT THE TRUTH?

19 THE WITNESS: YES, I DO.

20 THE COURT CLERK: THANK YOU.

21 PLEASE BE SEATED AT THE WITNESS STAND.

22 PLEASE STATE AND SPELL YOUR FULL NAME FOR
23 THE RECORD.24 THE WITNESS: ROBERT JOHN NICKLO, R-O-B-E-R-T,
25 J-O-H-N, N-I-C-K-L-O.

26 ///

27 ///

28 ///

1 ROBERT JOHN NICKLO,
2 **A WITNESS CALLED ON BEHALF OF THE PLAINTIFF, THE PEOPLE**
3 **OF THE STATE OF CALIFORNIA, HAVING BEEN DULY SWORN,**
4 **TESTIFIED AS FOLLOWS:**

5

6

DIRECT EXAMINATION

7

8 BY MS. DI TILLIO:

9 Q. GOOD MORNING, SIR.

10 A. GOOD MORNING.

11 Q. HOW ARE YOU CURRENTLY EMPLOYED?

12 A. I'M A DEPUTY SHERIFF FOR THE SAN DIEGO
13 COUNTY SHERIFF'S DEPARTMENT.14 Q. HOW LONG HAVE YOU BEEN A SWORN PEACE
15 OFFICER?

16 A. ALMOST 29 YEARS.

17 Q. ARE YOU WORKING ANY PARTICULAR LOCATION?

18 A. RIGHT NOW, I'M IN THE SPECIAL INVESTIGATIONS
19 DIVISION.20 Q. AND BACK IN MAY OF 2012, WHERE WERE YOU
21 WORKING?

22 A. POWAY PATROL.

23 Q. SPECIFICALLY IN REGARDS TO MAY 21ST, 2012,
24 DID YOU RESPOND TO AN ADDRESS AT 12178 WILSEY,
25 W-I-L-S-E-Y, WAY IN THE CITY OF POWAY?

26 A. YES.

27 Q. IS THAT IN THE COUNTY OF SAN DIEGO?

28 A. YES.

1 Q. DO YOU RECALL ABOUT WHAT TIME YOU GOT CALLED
2 OUT TO THAT LOCATION?

3 A. I BELIEVE IT WAS ABOUT 8:00 IN THE MORNING.

4 Q. AND DO YOU KNOW WHY YOU WERE CALLED TO THAT
5 LOCATION?

6 A. YES.

7 Q. WHAT DID YOU KNOW ON THE WAY THERE?

8 A. THAT THERE WAS A SUSPECTED CHILD ABUSE.

9 Q. AND WHAT KIND OF INFORMATION, SPECIFICALLY,
10 DID YOU HAVE ABOUT THAT BEFORE YOU ARRIVED? DID YOU HAVE
11 MUCH?

12 A. YEAH. I DON'T REMEMBER WHAT THE CAD STATED,
13 THE -- ON OUR COMPUTERS, IN THE CAR, THERE'S -- THE CALL
14 COMES UP. AND THERE'S SOME WORDING ON THERE, WHAT
15 HAPPENED, BASICALLY, THE ADDRESS, PHONE NUMBER, THINGS
16 LIKE THAT. I DON'T REMEMBER EXACTLY WHAT WAS STATED.

17 Q. BUT THE GIST OF IT WAS THAT YOU KNEW YOU
18 WERE GOING INTO SORT OF A CHILD ABUSE SITUATION?

19 A. YES.

20 Q. WHAT DID YOU OBSERVE WHEN YOU FIRST GOT
21 THERE?

22 A. I BELIEVE DEPUTY AARON BROOK WAS THERE
23 BEFORE ME, AND HE WAS SPEAKING WITH THE RP'S, THE
24 REPORTING PARTIES.

25 Q. AND WHO WAS THE REPORTING PARTY?

26 A. THE (L'S) MELISSA AND ALLAN (L.).

27 Q. WE'RE JUST GOING TO USE FIRST NAMES HERE, IF
28 THAT'S OKAY.

1 SO YOUR FELLOW DEPUTY WAS SPEAKING TO
2 MELISSA AND ALLAN.

3 AND DID YOU SEE ANY CHILDREN?

4 A. YES.

5 Q. AND WHERE WERE THEY?

6 A. I DON'T REMEMBER EXACTLY WHERE THEY WERE,
7 BUT THEY WERE KIND OF ALL IN THE SAME AREA.

8 Q. AND WAS THERE ANYONE ELSE, OTHER THAN THE
9 TWO ADULTS AND THEN THE TWO CHILDREN?

10 A. OUTSIDE THE RESIDENCE?

11 Q. YES.

12 A. MY PARTNER, DEPUTY PETERSON, WAS THERE.

13 Q. AND WHAT DID YOU DO ONCE YOU ARRIVED ON THE
14 SCENE?

15 A. I SAW THAT DEPUTY BROOK WAS SPEAKING WITH
16 THE REPORTING PARTIES. SO I WENT -- AND THERE WAS A
17 SUSPECT, A NAMED SUSPECT, AND A -- AT THE ADDRESS,
18 OBVIOUSLY. SO I WENT TO SPEAK WITH HIM.

19 Q. AND WHO WAS THAT?

20 A. THAT WAS A MR. ROSS.

21 Q. AND IS HE HERE IN COURT TODAY?

22 A. YES.

23 Q. CAN YOU DESCRIBE AN ARTICLE OF CLOTHING AND
24 WHERE HE'S SEATED?

25 A. HE'S WEARING A LIGHT BLUE SHIRT. HE'S
26 SITTING NEXT TO THE DEFENSE COUNSEL, AND HE HAS A BLUE
27 TIE (INDICATING).

28 MS. DI TILLIO: MAY THE RECORD REFLECT THE WITNESS

1 HAS IDENTIFIED THE DEFENDANT?

2 THE COURT: YES.

3 MS. DI TILLIO: THANK YOU.

4 Q. AND DID YOU SPEAK TO MR. ROSS AT THE
5 RESIDENCE THERE?

6 A. YES.

7 Q. AFTER YOU SPOKE TO HIM, DID YOU THEN SPEAK
8 TO ALLAN AND MELISSA?

9 A. YES.

10 Q. WHILE YOU SPOKE TO THEM, DID YOU SPEAK TO
11 THEM TOGETHER, SEPARATE? HOW DID THAT WORK?

12 A. ORIGINALLY, IT WAS TOGETHER. AND THEN I
13 SEPARATED THEM AND DID AN INTERVIEW, A RECORDED
14 INTERVIEW.

15 Q. SO PRELIMINARY INFORMATION TOGETHER?

16 A. YEAH.

17 Q. WHEN THEY WERE TOGETHER, YOU JUST GOT THEIR
18 NAMES AND STUFF OR WHAT KIND OF INFORMATION?

19 A. JUST IT WAS MORE SMALL TALK, NAMES,
20 INTRODUCING OURSELVES.

21 Q. AND THEN, WHEN YOU WENT TO ASK THEM ABOUT
22 WHAT HAD HAPPENED, DID YOU SEPARATE THEM?

23 A. YES.

24 Q. AND ABOUT HOW FAR APART FROM EACH OTHER WERE
25 THEY WHEN YOU WERE INTERVIEWING THEM? WERE THEY WITHIN
26 EARSHOT? WERE THEY FURTHER THAN THAT?

27 A. I BELIEVE THEY WERE OUT OF EARSHOT.

28 Q. WAS THAT THE GOAL?

1 A. YES.

2 Q. AND IS THAT ALWAYS YOUR GOAL, TO INTERVIEW
3 PEOPLE INDEPENDENTLY?

4 A. YES.

5 Q. AND WHILE YOU WERE INTERVIEWING EACH ADULT,
6 WHERE WAS THE OTHER ADULTS? WERE THEY WITH THE CHILDREN?
7 WERE THEY SEPARATE? DO YOU KNOW?

8 A. I DON'T REMEMBER.

9 Q. DID YOU INTERVIEW THE CHILDREN AT ALL?

10 A. NO.

11 Q. DID ANYBODY INTERVIEW THE CHILDREN AT THE
12 SCENE?

13 A. NO.

14 Q. WHY IS THAT?

15 A. TRAINING DICTATES THAT WE DON'T IN CASES
16 LIKE THIS. THERE'S SPECIALIZED PEOPLE THAT DO THE
17 INTERVIEWS. THEY'RE AUDIO AND VIDEOTAPED. AND THE
18 PEOPLE THAT DO THOSE VIDEOS ARE VERY HIGHLY TRAINED. SO
19 WE ALLOW THEM TO DO THAT AT A LATER DATE.

20 Q. AND DID YOU FACILITATE SETTING THAT UP IN
21 THIS PARTICULAR CASE?

22 A. NO.

23 Q. DID YOU PASS YOUR INVESTIGATION ON TO
24 ANOTHER DETECTIVE?

25 A. YES.

26 Q. SOMEONE WHO SPECIALIZES IN THE CHILD ABUSE
27 UNIT?

28 A. YES.

1 Q. WHEN YOU INTERVIEWED ALLAN, WAS HE PRETTY
2 CALM?

3 A. YES.

4 Q. WHAT ABOUT MELISSA? WAS SHE PRETTY CALM?

5 A. NO.

6 Q. WAS SHE UPSET?

7 A. VERY.

8 MS. DI TILLIO: THANK YOU.

9 I HAVE NOTHING FURTHER AT THIS TIME.

10 THE COURT: ANY CROSS?

11 MS. OLIVER: JUST BRIEFLY.

12

13

CROSS-EXAMINATION

14

15 BY MS. OLIVER:

16 Q. DEPUTY, WHEN YOU SPOKE WITH MR. ROSS, WHAT
17 WAS HIS Demeanor?

18 A. HE WAS IN PAIN.

19 Q. PHYSICAL PAIN?

20 A. YES.

21 Q. DO YOU KNOW WHY HE WAS IN PHYSICAL PAIN?

22 MS. DI TILLIO: OBJECTION. CALLS FOR HEARSAY.

23 THE COURT: SUSTAINED.

24

25 BY MS. OLIVER:

26 Q. WAS HE COOPERATIVE?

27 A. YES.

28 Q. WAS HE ARRESTED THAT DAY?

1 A. NO.

2 MS. OLIVER: NOTHING FURTHER.

3 THE COURT: REDIRECT?

4 MS. DI TILLIO: NO, YOUR HONOR.

5 THE COURT: THANK YOU, SIR.

6 THE WITNESS: THANK YOU.

7 MS. DI TILLIO: PEOPLE CALL DUSTIN LOPEZ.

8 THE COURT CLERK: DO YOU SOLEMNLY STATE, UNDER
9 PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE
10 IN THIS MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
11 NOTHING BUT THE TRUTH?

12 THE WITNESS: I DO.

13 THE COURT CLERK: THANK YOU.

14 PLEASE BE SEATED AT THE WITNESS STAND.

15 PLEASE STATE AND SPELL YOUR FULL NAME FOR
16 THE RECORD.

17 THE WITNESS: DUSTIN LOPEZ, D-U-S-T-I-N, L-O-P-E-Z.

18

19

DUSTIN LOPEZ,

20 **A WITNESS CALLED ON BEHALF OF THE PLAINTIFF, THE PEOPLE**

21 **OF THE STATE OF CALIFORNIA, HAVING BEEN DULY SWORN,**

22 **TESTIFIED AS FOLLOWS:**

23

24

DIRECT EXAMINATION

25

26 BY MS. DI TILLIO:

27 Q. GOOD MORNING, SIR.

28 A. GOOD MORNING.

1 Q. HOW ARE YOU CURRENTLY EMPLOYED?

2 A. I AM A SERGEANT WITH THE SAN DIEGO COUNTY
3 SHERIFF'S DEPARTMENT.

4 Q. HOW LONG HAVE YOU BEEN A SWORN PEACE
5 OFFICER?

6 A. TWENTY-ONE AND A HALF YEARS.

7 Q. AND DURING THE COURSE OF YOUR CAREER, HAVE
8 YOU, AT ANY POINT, BEEN ASSIGNED TO THE CHILD ABUSE UNIT?

9 A. I HAVE.

10 Q. WHEN WAS THAT?

11 A. FROM 2010 TO APPROXIMATELY JUNE OF LAST
12 YEAR, 2013.

13 Q. AND DURING THE COURSE OF YOUR TIME AT THE
14 CHILD ABUSE UNIT, DID YOU INVESTIGATE CASES INVOLVING
15 CHILD MOLEST?

16 A. YES, I DID.

17 Q. WERE YOU ASSIGNED TO DO SOME FOLLOW-UP
18 INVESTIGATION IN A CASE INVOLVING A SUSPECT, RICHARD
19 ROSS, AND TWO VICTIMS, BREANNA AND HANNAH?

20 A. YES, I WAS.

21 Q. AND WE'RE JUST GOING TO USE FIRST NAMES OF
22 THE GIRLS HERE, IF THAT'S OKAY.

23 DO YOU RECALL WHEN YOU WERE ASSIGNED THE
24 CASE?

25 A. I WAS ASSIGNED THE CASE THE -- WELL, I
26 INITIALLY RECEIVED A VERBAL CALL ON THE CASE ON -- I
27 BELIEVE IT WAS THE 21ST, OF 2007.

28 Q. IN MAY IN 2012?

1 A. CORRECT, MAY.

2 Q. WOULD THAT BE 2012?

3 A. YES, 2012.

4 Q. OKAY. AND YOU SAID YOU GOT A VERBAL.

5 WHO WOULD THAT HAVE BEEN FROM?

6 A. DEPUTY NICKLO.

7 Q. IS THAT SOMETHING COMMON, SOMEBODY ON THE

8 SCENE GIVES A CALL TO CHILD ABUSE?

9 A. CORRECT. THEY CALL FOR JUST PROTOCOL AND TO
10 SEE IF THEY NEED SOME GUIDANCE ON THE CASE AS FAR AS OUR
11 EXPERTISE.

12 Q. AND ARE THERE PROTOCOLS AND PROCEDURES PUT
13 IN PLACE TO INVESTIGATE CASES SUCH AS THIS?

14 A. IN CHILD ABUSE CASES?

15 Q. YES.

16 A. YES.

17 Q. SO YOU INDICATED YOU GOT A CALL FROM THE
18 SCENE.

19 AND DO YOU RECALL WHAT THAT WAS IN REGARDS
20 TO, SPECIFICALLY?

21 A. YES, I DO.

22 Q. WHAT WAS THAT?

23 A. DEPUTY NICKLO TOLD ME THAT HE ESSENTIALLY
24 HAD TWO GIRLS, AGES 7 AND 9. HE SAID THAT HE WAS A
25 STEPFATHER OR BOYFRIEND INVOLVED THAT WAS WATCHING THE
26 KIDS. AND ONE OF THE -- THE NINE-YEAR-OLD WAS MAKING AN
27 ALLEGATION OF SOME KIND OF ILLICIT TOUCHING.

28 Q. DID YOU ADVISE HIM TO EITHER INTERVIEW OR

1 NOT INTERVIEW THE CHILDREN?

2 A. BASED ON OUR PROTOCOL, ANYBODY UNDER 13
3 YEARS OLD, WE DO NOT HAVE THE DEPUTIES OR DETECTIVES
4 INTERVIEW.

5 Q. AND WHERE ARE THEY INTERVIEWED THEN?

6 A. THEY'RE INTERVIEWED AT A FORENSIC, FORENSIC
7 SCENE, WHERE THEY DO FORENSIC INTERVIEWS BY SPECIALIZED
8 SOCIAL WORKERS.

9 Q. AND WERE YOU IN CHARGE OF ENSURING THAT THAT
10 HAPPENED IN THIS CASE?

11 A. I WAS.

12 Q. DO YOU RECALL WHEN THOSE WERE SET FOR?

13 A. I BELIEVE THE DATE WAS MAY 30TH, 2012.

14 Q. SO ABOUT NINE DAYS AFTER THE INITIAL
15 CALLOUT?

16 A. CORRECT.

17 Q. DURING THAT PERIOD OF TIME, DID YOU CONDUCT
18 ADDITIONAL INVESTIGATION INTO THE CASE?

19 A. I MADE SOME PHONE CALLS TO FAMILY MEMBERS,
20 BUT, BASED ON THE INFORMATION THAT I HAD, I DIDN'T DO TOO
21 MUCH INVESTIGATING, UP UNTIL I KNEW WHAT HAD HAPPENED
22 DURING THE FORENSIC INTERVIEWS.

23 Q. AND DID YOU OBSERVE THE FORENSIC INTERVIEWS?

24 A. I DID.

25 Q. OF BOTH HANNAH AND BREANNA?

26 A. CORRECT.

27 Q. AND DURING THE COURSE OF THAT, DID YOU GET A
28 SENSE OF WHAT THE SPECIFIC ALLEGATIONS WERE?

1 A. YES, I DID.

2 Q. DID EITHER OF THE -- DID YOU REFER EITHER OF
3 THE CHILDREN FOR PHYSICAL EXAMINATIONS AFTER THEIR
4 FORENSIC INTERVIEW?

5 A. NO, I DID NOT.

6 Q. WHY WAS THAT?

7 A. BASED ON MY EXPERIENCE AND MY TRAINING,
8 AFTER THE NINE DAYS, THE CHANCE OF GETTING ANY KIND OF
9 TOUCH DNA OR ANY KIND OF DNA OR PHYSICAL FINDINGS IS VERY
10 LIMITED.

11 Q. IS THERE ALSO A PORTION OF THE PROTOCOL THAT
12 DEALS WITH THAT?

13 A. THERE IS SOME PROTOCOL PUT IN PLACE ABOUT
14 THE 72 HOUR POLICY, AS FAR AS, IF ANYTHING GOES PAST 72
15 HOURS, IT NEEDS TO BE VETTED AND LOOKED AT AS FAR AS WHAT
16 KIND OF SEXUAL MOLESTATION IT RELATES TO.

17 AND, ALSO, VICTIMS THIS YOUNG, I DON'T LIKE
18 TO SEND VICTIMS FOR MEDICAL EXAMINATIONS IF I DON'T
19 BELIEVE THERE'S GOING TO BE FINDINGS BASED ON THE FACT
20 THAT YOU'RE TRAUMATIZING YOUNG CHILDREN WITH THESE
21 MEDICAL EXAMINATIONS.

22 Q. AND DID YOU, AS PART OF YOUR INVESTIGATION,
23 LEARN ABOUT ANY DEVICES OR APPARATUSES THAT WERE USED ON
24 BREANNA?

25 A. YES.

26 Q. WHAT, SPECIFICALLY?

27 A. THROUGH MY INVESTIGATION, I LEARNED IT TO BE
28 A VIBRATOR, BUT I BELIEVE, IN THE FORENSIC INTERVIEW, SHE

1 DESCRIBED IT AS A VIBRATING TOY.

2 Q. AND DID YOU DO SOME INVESTIGATION IN AN
3 ATTEMPT TO LOCATE WHAT THAT SPECIFIC ITEM MIGHT HAVE
4 BEEN?

5 A. YES, I DID.

6 Q. AND WHAT WAS THAT?

7 A. I -- WELL, I USED A TWO-PRONG APPROACH. I
8 SERVED A SEARCH WARRANT TO SEE IF I COULD LOCATE THOSE
9 ITEMS PERSONALLY, BUT I ALSO QUESTIONED TAMI (R.), WHO IS
10 BREANNA'S MOM, TO SEE IF SHE KNEW WHERE THAT ITEM
11 POSSIBLY WAS.

12 Q. WHERE DID YOU SERVE THE SEARCH WARRANT?

13 A. ON WILSEY WAY, WHICH IS TAMI (R.)'S
14 RESIDENCE.

15 Q. AND WE'RE GOING TO STICK WITH THE FIRST
16 NAMES, IF THAT'S OKAY.

17 A. ALL RIGHT.

18 Q. DO YOU RECALL WHEN THAT WAS?

19 A. THE SEARCH WARRANT, I BELIEVE, WAS SERVED ON
20 MAY 30TH, 2012. I BELIEVE IT WAS SOMEWHERE AROUND
21 8:00 O'CLOCK IN THE EVENING.

22 Q. SO IT WAS AFTER THE FORENSIC INTERVIEWS?

23 A. CORRECT. IT WAS AFTER.

24 Q. I'M SORRY. I SPOKE OVER YOU. I APOLOGIZE.

25 A. THAT'S CORRECT.

26 Q. AND THAT WAS AFTER YOU HAD A SENSE OF WHAT
27 THE SPECIFIC ALLEGATIONS WERE?

28 A. YES.

1 Q. TO YOUR KNOWLEDGE, DID ANYBODY INTERVIEW THE
2 CHILDREN BETWEEN THE 21ST OF MAY AND THEN THEIR FORENSIC
3 INTERVIEWS?

4 A. NO.

5 Q. WHEN YOU SERVED THE SEARCH WARRANT ON -- AM
6 I SAYING IT WRONG? -- WILSEY WAY?

7 A. I BELIEVE IT'S "WESLEY" WAY.

8 Q. OKAY. WHEN YOU SERVED THE SEARCH WARRANT,
9 TO YOUR KNOWLEDGE, WAS THE DEFENDANT STILL LIVING THERE?

10 A. I KNEW THERE HAD BEEN A RESTRAINING ORDER
11 SERVED ON HIM, BUT I WAS NOT SURE OF HIS EXACT LOCATION.
12 BUT I BELIEVED HE WOULD NOT BE THERE AT THE TIME WE
13 SERVED THE SEARCH WARRANT.

14 Q. DID YOU CONFIRM WITH TAMI WHETHER OR NOT THE
15 DEFENDANT HAD MOVED OUT?

16 A. I DID.

17 Q. I'M SORRY?

18 A. I DID.

19 Q. AND DID SHE INDICATE THAT HE HAD MOVED OUT?

20 A. YES, SHE DID INDICATE HE HAD MOVED OUT.

21 Q. AND WERE YOU ABLE TO FIND ANY SEXUAL
22 APPARATUSES, TOYS, DEVICES, ANYTHING OF THAT NATURE IN
23 THE HOUSE?

24 A. NO, I DID NOT.

25 Q. DID YOU INQUIRE OF TAMI WHETHER OR NOT THEY
26 HAD EXISTED IN THE HOME BEFORE YOU SERVED THE SEARCH
27 WARRANT?

28 A. YES, I DID.

1 Q. AND WHAT WAS HER KNOWLEDGE OF THAT?

2 A. I ASKED HER SPECIFICALLY ABOUT THE VIBRATOR.
3 SHE HAD TOLD ME THAT THERE WAS SOME KIND OF PILLOWCASE
4 THAT SHE HAD KEPT SOME SEXUAL ITEMS IN, SUCH AS GELS AND
5 VIBRATORS AND STUFF LIKE THAT.

6 SHE SAID, SHORTLY AFTER THE FORENSIC
7 INTERVIEW, THAT SHE HAD CALLED THE DEFENDANT AND TOLD HIM
8 TO REMOVE THOSE ITEMS FROM THE HOUSE BASED ON THE FACT
9 THAT SHE THOUGHT CHILD PROTECTIVE SERVICES WAS GOING TO
10 COME TO THE HOUSE, AND SHE THOUGHT IT WAS GOING TO LOOK
11 BAD.

12 Q. DID YOU SHARE WITH HER ANY SPECIFICS ABOUT
13 THE FORENSIC INTERVIEWS?

14 A. NO, I DID NOT.

15 Q. AND ARE THE PARENTS ALLOWED TO WITNESS
16 THESE?

17 A. EXCUSE ME. NO, THEY'RE NOT.

18 Q. WHAT ABOUT ALLAN AND MELISSA? DID YOU SHARE
19 ANY OF THE SPECIFICS OF HANNAH'S OR BREANNA'S FORENSIC
20 INTERVIEW WITH THEM?

21 A. NORMALLY, IN FORENSIC INTERVIEWS, I WOULD
22 SHARE THE INFORMATION. BASED OFF THE SERIOUSNESS OF THIS
23 CASE AND THAT MULTIPLE FAMILIES WERE INVOLVED, I DIDN'T
24 WANT TO RELEASE ANY INFORMATION THAT WOULD HAMPER THE
25 INVESTIGATION. SO I DID NOT.

26 Q. DID YOU --

27 AS PART OF YOUR SEARCH WARRANT, DID YOU ALSO
28 ATTEMPT TO RECOVER A COMPUTER?

1 A. YES, I DID.

2 Q. WHY DID YOU DO THAT?

3 MS. OLIVER: OBJECTION, YOUR HONOR. RELEVANCE.

4 THE COURT: OVERRULED.

5

6 BY MS. DI TILLIO:

7 Q. YOU CAN ANSWER.

8 A. OFTENTIMES, IN THESE CASES, WE'LL FIND --

9 Q. WELL, LET ME STOP YOU THERE. ACTUALLY, I
10 WANT TO TALK SPECIFICALLY ABOUT THIS CASE.

11 DID YOU HAVE ANY SPECIFIC INFORMATION ABOUT
12 THE USE OF A COMPUTER IN THIS CASE?

13 A. YES, I DID.

14 Q. OKAY. SO DID YOU HAVE AN UNDERSTANDING AS
15 TO WHOSE COMPUTER IT WAS?

16 A. YES.

17 Q. WHOSE COMPUTER ARE WE TALKING ABOUT?

18 A. THE DEFENDANT'S.

19 Q. AND WHEN YOU SERVED THE SEARCH WARRANT, WAS
20 THAT ALSO ONE OF THE THINGS THAT YOU HAD REQUESTED TO
21 LOOK FOR?

22 A. YES.

23 Q. WERE YOU ABLE TO FIND IT --

24 A. YES.

25 Q. -- AT THE RESIDENCE?

26 A. YES.

27 Q. AT THE WILSEY WAY?

28 A. OH, EXCUSE ME. CORRECTION ON THAT. IT WAS

1 THE SECOND SEARCH WARRANT. AT WILSEY WAY, I DID NOT FIND
2 IT.

3 Q. AND BASED ON YOUR CONVERSATION WITH TAMI,
4 DID YOU KNOW WHETHER OR NOT THERE HAD BEEN A COMPUTER
5 THERE BEFORE YOU SERVED THE SEARCH WARRANT?

6 A. SHE SAID HE HAD A LAPTOP COMPUTER.

7 Q. AND DID YOU HAVE A SENSE OF WHERE -- WHERE
8 THE LAPTOP HAD GONE? LIKE, HAD HE TAKEN IT WITH HIM,
9 WITH THE OTHER THINGS?

10 A. I DID NOT KNOW THAT SPECIFIC INFORMATION AT
11 THE TIME.

12 Q. AND DO YOU KNOW IF THE DEFENDANT WAS
13 ULTIMATELY -- WHEN THE DEFENDANT WAS ULTIMATELY ARRESTED
14 FOR THIS CASE?

15 A. I BELIEVE IT WAS JUNE 4TH, 2012.

16 MS. DI TILLIO: OKAY. THANK YOU.

17 I HAVE NOTHING FURTHER AT THIS TIME.

18 THE COURT: CROSS?

19

20

CROSS-EXAMINATION

21

22 BY MS. OLIVER:

23 Q. SO, DEPUTY LOPEZ, WHY WAS THERE NO PHYSICAL
24 EVALUATION DONE IN THIS PARTICULAR CASE?

25 A. BECAUSE THE INFORMATION THAT I GOT FROM THE
26 FORENSIC INTERVIEWS OF THE GIRLS, WHAT THEY SAID HAD
27 ACTUALLY OCCURRED, IT HAD BEEN NINE DAYS PAST THE TIME
28 WHERE THE ACTUAL ALLEGATIONS HAD BEEN MADE ON THE 21ST.

1 I JUST DIDN'T THINK THAT IT WOULD BE RELEVANT AT THAT
2 POINT IN TIME, THAT THERE WOULD BE ANY KIND OF EVIDENCE
3 COLLECTED.

4 Q. SO AS FAR AS EVIDENCE COLLECTED IN A
5 PHYSICAL EVALUATION, IT WOULD SHOW IF THERE WAS EVIDENCE
6 OF TRAUMA; IS THAT CORRECT?

7 MS. DI TILLIO: OBJECTION. CALLS FOR SPECULATION.

8 THE COURT: OVERRULED.

9 THE WITNESS: IT DEPENDS WHAT -- I COULDN'T ANSWER,
10 SPECIFICALLY, BECAUSE IT DEPENDS ON THE LEVEL OF THE
11 TRAUMA THAT HAD OCCURRED.

12

13 BY MS. OLIVER:

14 Q. BUT THAT IS SOMETHING THAT COULD BE
15 DETERMINED OR BE DETECTED; IS THAT CORRECT?

16 A. POSSIBLY.

17 Q. AND A PHYSICAL EXAMINATION, EVEN THOUGH NINE
18 DAYS HAD PASSED, IF ONE WERE CONDUCTED, IT WOULD ALSO BE
19 ABLE TO SHOW SIGNS OF PENETRATION?

20 A. I DON'T WANT TO SAY EITHER WAY. IT DEPENDS
21 ON A LOT OF DIFFERENT FACTORS.

22 Q. AND THOSE FACTORS WOULD BE IF, IN FACT,
23 THERE WAS PENETRATION; CORRECT?

24 A. I'M NOT SURE I UNDERSTAND YOUR QUESTION.

25 Q. WELL, YOU SAID THAT, BASICALLY, YOU DID NOT
26 THINK THAT A PHYSICAL EXAMINATION, BECAUSE NINE DAYS HAD
27 PASSED, WOULD WARRANT OR WOULD DISCOVER ANY EVIDENCE?

28 A. WELL, IN THESE TYPES OF CASES -- THEY'RE

1 JUST LIKE RAPE CASES -- YOU'RE LOOKING FOR A MULTITUDE OF
2 THINGS. YOU'RE LOOKING FOR DNA EVIDENCE. YOU'RE LOOKING
3 FOR ANY TYPE OF TRAUMA, STUFF LIKE THAT.

4 AND BASED OFF WHAT THE GIRLS HAD ALLEGED
5 OCCURRED AND BASED ON THE TIMEFRAME THAT OCCURRED, AFTER
6 NINE DAYS, I MADE A DECISION, AT THAT POINT IN TIME, THAT
7 I DID NOT FEEL THOSE FINDINGS WOULD BE YIELDED.

8 Q. SO THE PHYSICAL EXAMINATION WOULD YIELD DNA,
9 POSSIBLY TRAUMA AND, YOU SAID, OTHER THINGS.

10 WHAT ARE SOME OF THE OTHER THINGS THAT A
11 PHYSICAL EXAMINATION WOULD YIELD?

12 A. WELL, ANY TYPE OF TRAUMA, SUCH AS, YOU KNOW,
13 SCRATCHING, YOU KNOW, CUTS, BRUISING. BUT, WHEN YOU'RE
14 OPERATING -- WHEN YOU'RE INVESTIGATING THESE CASES,
15 YOU'RE OPERATING UNDER A VERY LIMITED TIMEFRAME AS FAR
16 AS -- YOU KNOW, EVEN TOUCH DNA OR ANYTHING LIKE THAT, YOU
17 HAVE ABOUT A 72-HOUR WINDOW.

18 WE HAVE A SPECIFIC PROTOCOL UNDER THAT. AND
19 THAT'S THE PROTOCOL WE OPERATE UNDER UNLESS WE BELIEVE
20 WE'RE GOING TO ACTUALLY FIND SOMETHING.

21 PUTTING A SEVEN- AND A NINE-YEAR-OLD THROUGH
22 THESE MEDICAL EXAMINATIONS IS QUITE TRAUMATIZING. SO WE
23 MAKE THE BEST DECISION THAT WE CAN ON, AT THAT POINT IN
24 TIME, BASED ON WHETHER OR NOT WE'RE ACTUALLY GOING TO
25 YIELD THE EVIDENCE WE'RE LOOKING FOR.

26 Q. SO AFTER NINE DAYS, THE LIKELIHOOD OF DNA
27 EVIDENCE BEING THERE OR -- PRETTY MUCH IT'S NOT GOING TO
28 BE THERE?

1 A. WELL, I NEVER WANT TO SAY "NEVER" --

2 Q. WELL --

3 A. -- BUT THE POSSIBILITY IS LIMITED.

4 Q. OKAY. SO AS FAR AS DNA, THE POSSIBILITY IS
5 LIMITED THROUGH A PHYSICAL EVALUATION NINE DAYS LATER.

6 BUT IN TERMS OF THE TRAUMA, IN TERMS OF
7 BRUISING, ARE YOU SAYING THAT YOU DIDN'T BELIEVE THAT ANY
8 BRUISING WOULD BE THERE EITHER AFTER NINE DAYS?

9 A. NO.

10 Q. AND WHAT ABOUT SCRATCHING?

11 A. POSSIBLY SCRATCHING. BUT THAT WAS NEVER
12 ALLEGED DURING THE INTERVIEW. I WAS OPERATING OFF THE
13 INFORMATION THAT I HAD.

14 Q. SO BASED ON THE INFORMATION YOU HAD, YOU
15 DIDN'T BELIEVE THAT THERE WOULD BE EVIDENCE OF TRAUMA?

16 A. AFTER NINE DAYS, I DID NOT BELIEVE THERE
17 WOULD BE EVIDENCE OF TRAUMA.

18 Q. DID YOU BELIEVE THAT THE TRAUMA WOULD BE
19 HEALED OR NONEXISTENT?

20 A. I WOULDN'T EVEN WANT TO SPECULATE.

21 Q. DID YOU EVER SPEAK WITH HANNAH'S OR
22 BREANNA'S PARENTS TO SEE HOW THEY FELT ABOUT HAVING
23 PHYSICAL EVALUATIONS CONDUCTED OF THEIR KIDS?

24 A. I NEVER SPEAK TO WITNESSES, VICTIMS OR
25 FAMILY MEMBERS ON HOW TO DIRECT MY INVESTIGATION.

26 Q. TO YOUR KNOWLEDGE, DID THE PARENTS EVER
27 REQUEST A PHYSICAL EXAMINATION?

28 A. TO MY KNOWLEDGE, THEY DID NOT.

1 Q. WERE YOU PRESENT FOR THE FORENSIC
2 INTERVIEWS?

3 A. YES, I WAS.

4 Q. AND IN BREANNA'S FORENSIC INTERVIEW, DID SHE
5 ALLEGE INTERCOURSE?

6 A. YES.

7 Q. AND YOU HAD THAT INFORMATION WHEN YOU MADE
8 THE DETERMINATION THAT A PHYSICAL EVALUATION WAS NOT
9 NECESSARY IN THIS CASE?

10 A. THAT'S CORRECT.

11 MS. OLIVER: THANK YOU.

12 NOTHING FURTHER.

13 THE COURT: REDIRECT?

14 MS. DI TILLIO: THANK YOU.

15

16 **REDIRECT EXAMINATION**

17

18 BY MS. DI TILLIO:

19 Q. DETECTIVE, YOU INDICATED THAT -- THAT THE
20 STANDARD OR THE PROTOCOL IS, BEYOND 72 HOURS, YOU REALLY
21 HAVE TO HAVE SOME SIGNIFICANT INJURY IN ORDER TO WARRANT
22 A PHYSICAL EXAMINATION OF THESE CHILDREN?

23 A. CORRECT.

24 Q. DID THE CHILDREN DISCLOSE ANYTHING THAT, IN
25 YOUR MIND, WOULD HAVE RESULTED IN A SIGNIFICANT INJURY?

26 A. NO.

27 Q. WHEN THE CHILDREN -- SPECIFICALLY, BREANNA
28 -- TALKED ABOUT ORAL COPULATION, DID YOU ANTICIPATE,

1 AFTER NINE DAYS, THAT THERE WOULD BE ANY EVIDENCE OF ORAL
2 COPULATION AT THAT POINT?

3 A. ABSOLUTELY NOT.

4 Q. WHAT ABOUT DIGITAL PENETRATION OF HER
5 VAGINA? WOULD YOU EXPECT, AFTER NINE DAYS, TO FIND ANY
6 EVIDENCE OF THAT?

7 A. IT'S HIGHLY UNLIKELY.

8 Q. WHAT ABOUT JUST TOUCHING, JUST TOUCHING OF
9 THE EXTERIOR OF THE VAGINA? AFTER NINE DAYS, WOULD YOU
10 EXPECT TO FIND ANY EVIDENCE OF THAT?

11 A. NO.

12 Q. TOUCHING OVER THE CLOTHES?

13 TWO PEOPLE LIVE IN THE SAME HOME.

14 AFTER NINE DAYS OF THE CHILDREN DISCLOSING,
15 WOULD YOU EXPECT TO FIND ANY PHYSICAL EVIDENCE OF THAT?

16 A. ON CLOTHING IT'S A LITTLE DIFFERENT THAN
17 BODY CONTACT. THERE MAY BE -- CLOTHING-WISE, THERE MAY
18 BE SOMETHING ON CLOTHING, BUT IT WOULD HAVE TO BE
19 SOMETHING SUBSTANTIAL DNA-WISE, SUCH AS SEMEN, SALIVA, ET
20 CETERA.

21 Q. AND IF THE PEOPLE ALREADY LIVE IN THE SAME
22 HOME, WOULD YOU EXPECT THERE TO BE ANY FORENSIC OR
23 EVIDENTIARY VALUE OF DOING AN EXAMINATION OF THE CHILD AT
24 THAT POINT, LOOKING FOR DNA, IF PEOPLE LIVE TOGETHER?

25 A. DEPENDING ON THE CIRCUMSTANCES.

26 Q. DID THE CHILDREN INDICATE THAT THEY HAD ANY
27 INTERACTIONS WITH THE DEFENDANT THAT CAUSED THEM TO
28 BLEED?

1 A. NO.

2 Q. TO BRUISE?

3 A. NO.

4 Q. TO BE SCRATCHED?

5 A. NO.

6 Q. TO BE PHYSICALLY HARMED IN ANY WAY?

7 A. NO.

8 MS. DI TILLIO: I HAVE NOTHING FURTHER.

9 THANK YOU.

10 MS. OLIVER: JUST BRIEFLY.

11

12

RECROSS-EXAMINATION

13

14 BY MS. OLIVER:

15 Q. A PHYSICAL EVALUATION COULD HAVE BEEN DONE
16 PRIOR TO 72 HOURS IN THIS CASE; IS THAT CORRECT?

17 A. IT COULD HAVE, BUT I DID NOT HAVE THE FACTS
18 OF THE CASE. I DID NOT KNOW THE LEVEL OF THE ALLEGATIONS
19 UNTIL THE CHILDREN WERE ACTUALLY FORENSICALLY
20 INTERVIEWED.

21 Q. BUT IT COULD HAVE BEEN DONE PRIOR TO 72
22 HOURS?

23 A. IF I'D HAVE HAD THE FACTS OF THE CASE, IT
24 COULD HAVE BEEN DONE.

25 Q. AND WHO WAS IN CHARGE OF SCHEDULING THE DATE
26 FOR THE FORENSIC --

27 A. MYSELF.

28 Q. -- EVALUATION?

1 IT WAS YOU?

2 A. YES.

3 Q. AND WHAT IS YOUR --

4 YOU SAID "SIGNIFICANT INJURY."

5 WHAT DOES "SIGNIFICANT INJURY" MEAN TO YOU?

6 A. IT'S --

7 IN RELATION TO WHAT?

8 Q. WELL, YOU INDICATED THAT A CHILD HAS TO HAVE
9 SIGNIFICANT INJURY TO WARRANT A PHYSICAL EVALUATION. SO
10 I'M WONDERING WHAT'S A SIGNIFICANT --

11 A. WELL, A BELIEF OF SIGNIFICANT INJURY. WE
12 ALSO DO -- WHEN I INVESTIGATE CHILD ABUSE CASES -- WE
13 ALSO DO PHYSICAL CASES WHERE YOU COULD HAVE INTERNAL
14 INJURIES, BROKEN BONES, OBJECTS THAT ARE USED TO MOLEST
15 THE CHILD WHERE, YOU KNOW, THERE'S SUBSTANTIAL BELIEF
16 THAT THERE'S GOING TO BE FINDINGS IN THOSE CASES.

17 JUST, LIKE I SAID, I DON'T HAPHAZARDLY
18 SCHEDULE THESE MEDICAL INTERVIEWS ON CHILDREN BASED ON
19 THE FACT THAT THEY'RE JUST AS INTRUSIVE AS BEING
20 MOLESTED.

21 Q. AND JUST, LASTLY, WHEN YOU RECEIVE
22 INFORMATION AFTER THE FORENSIC INTERVIEWS -- IN THOSE
23 FORENSIC INTERVIEWS, IT WAS ALSO ALLEGED THAT THERE WAS
24 DIGITAL PENETRATION WITH FINGERS; IS THAT CORRECT?

25 A. CORRECT.

26 Q. AND IN YOUR EXPERIENCE, HAS DIGITAL
27 PENETRATION WITH FINGERS RESULTED IN SCRATCHING INSIDE OF
28 THE VAGINA?

1 A. THAT'S POSSIBLE, BUT IT DEPENDS ON THE
2 TIMEFRAME THAT YOU'RE GOING TO FIND FINDINGS ON THAT.
3 BASED ON MY TRAINING AND EXPERIENCE THAT I'VE RECEIVED IN
4 ADVANCED MOLESTATION CASES, USUALLY, WHEN YOU HAVE
5 SCRATCHING OR SOMETHING LIKE THAT INSIDE THE VAGINA,
6 THERE'S SO MUCH BLOOD FLOW TO THE AREA THAT IT QUICKLY
7 HEALS.

8 Q. BUT, IN YOUR TRAINING AND EXPERIENCE, ISN'T
9 THERE ALSO SOME EVIDENCE DETECTION THAT THERE WAS AN
10 INJURY IN THAT LOCATION, EVEN THOUGH IT'S HEALED?

11 A. DEPENDING ON HOW SIGNIFICANT THE INJURY IS.

12 Q. SO THERE CAN BE EVIDENCE THAT SCRATCHING HAS
13 OCCURRED IN THE AREA, EVEN THOUGH IT'S HEALED?

14 A. THERE CAN BE EVIDENCE IN ANY CASE.

15 Q. BUT, IN YOUR TRAINING AND EXPERIENCE, HAVE
16 YOU SEEN EVIDENCE LIKE THAT, WHERE THERE HAS BEEN
17 EVIDENCE OF SCRATCHING, EVEN THOUGH THAT INJURY HAS
18 HEALED?

19 A. I'VE INVESTIGATED ADULT RAPE CASES WHERE
20 I'VE SEEN THAT, BUT I HAVEN'T INVESTIGATED A CHILD CASE
21 WHERE I'VE HAD SHOWING OF AN INJURY, NO, IN A MEDICAL
22 EXAMINATION.

23 Q. AND, ON AVERAGE, HOW MANY MEDICAL
24 EVALUATIONS DO YOU USUALLY RECOMMEND?

25 A. THAT WOULD JUST BE SPECULATIVE, IF I -- IT
26 WOULD DEPEND ON DIFFERENT CASES. I DON'T WANT TO SAY I
27 DO ONE PER YEAR OR TWO PER YEAR. IT'S JUST A
28 CASE-BY-CASE BASIS.

1 MS. OLIVER: THANK YOU.

2 NOTHING FURTHER.

3 THE COURT: ANYTHING ELSE?

4 MS. DI TILLIO: NO, YOUR HONOR.

5 THE COURT: THANKS, SIR.

6 THE WITNESS: THANK YOU, SIR.

7 ARE THERE ANY FURTHER WITNESSES FOR TODAY?

8 MS. DI TILLIO: NOT FOR TODAY, YOUR HONOR.

9 THE COURT: LADIES AND GENTLEMEN, THAT MEANS YOU'RE
10 GOING TO GO HOME EARLY TODAY.

11 LET ME TELL YOU A LITTLE BIT ABOUT OUR
12 SCHEDULE. I DIDN'T WANT TO GIVE YOU ANY ADVANCED HOPE
13 EARLIER.

14 ALL RIGHT. WE'RE DARK MONDAY. WE'RE GOING
15 TO PICK THIS UP TUESDAY. I ANTICIPATE THAT THIS CASE IS
16 GOING TO BE ARGUED TO YOU WEDNESDAY OR THURSDAY. SO THE
17 JURY WILL HAVE IT FOR DELIBERATION PURPOSES SOMETIME
18 TOWARD THE END OF NEXT WEEK.

19 YOU ARE REMINDED OF A COUPLE OF THINGS.
20 YOU'RE NOT TO TALK ABOUT THE CASE. YOU'RE NOT TO FORM OR
21 EXPRESS AN OPINION ABOUT THE CASE. YOU'RE NOT TO DISCUSS
22 THE MATTER AT ALL.

23 YOU'RE ALSO NOT TO READ, WATCH, OR LISTEN TO
24 ANY ACCOUNTS OF ANY KIND OF CASES LIKE THIS IN ANY OF THE
25 NEWS MEDIA OR AN ENCYCLOPEDIA OR USE THE INTERNET OR LOOK
26 UP ANYTHING.

27 LIKE ONE OF THE THINGS THAT YOU CANNOT DO IS
28 YOU CANNOT LOOK UP A CALENDAR OF 2012. THAT IS SOMETHING

1 THAT YOU MUST NOT DO. YOU MUST NOT DO THAT.

2 SO I'M GOING TO ASK THAT YOU HAVE A NICE
3 WEEKEND. I WILL SEE EVERYBODY BACK TUESDAY AT
4 9:00 O'CLOCK, TUESDAY AT 9:00 A.M.

5 THANK YOU.

6 ---OOO---

7 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
8 COURT, OUTSIDE THE PRESENCE OF THE JURORS AND
9 THE ALTERNATE JURORS.)

10 ---OOO---

11 THE COURT: ALL RIGHT. ONE OF THE -- THE ISSUES
12 THAT I SEE COMING UP IS IN THE JURY INSTRUCTIONS AND
13 WHETHER OR NOT LESSER-INCLUDED OFFENSES ARE GOING TO BE
14 AN ISSUE.

15 AND I THINK WE OUGHT TO BE PREPARED TO TALK
16 ABOUT THAT. AND, AT FIRST GLANCE, RIGHT NOW, I THINK
17 THERE MAY BE A REQUIREMENT THAT I GIVE A LESSER-INCLUDED
18 OFFENSE INSTRUCTION ON AT LEAST ONE OR TWO OF THE COUNTS.

19 MS. DI TILLIO: VERY GOOD.

20 THE COURT: SO WE'RE GOING TO NEED THE WHOLE SERIES
21 OF -- THE REASON I'M SAYING THAT --

22 MS. DI TILLIO: SURE. YEAH.

23 THE COURT: -- THE WHOLE SERIES OF JURY
24 INSTRUCTIONS MIGHT BE REQUIRED, AS WELL AS VERDICT FORMS.

25 MS. DI TILLIO: SURE. NO PROBLEM.

26 BATTERY IS KIND OF OUT, JUST SO THE COURT'S
27 AWARE. THERE'S KIND OF A NEW CASE ON THAT, ON THE 288
28 CONTEXT. REALLY, WE'RE TALKING ABOUT WHETHER OR NOT

1 ASSAULT WOULD BE APPROPRIATE TO GIVE.

2 THE COURT: AND ATTEMPT RAPE, I THINK.

3 MS. DI TILLIO: YEAH.

4 ---000---

5 (THEREUPON THE PROCEEDINGS IN THIS MATTER
6 WERE RECESSED UNTIL TUESDAY, APRIL 1, 2014,
7 AT 9:00 A.M., FOR FURTHER PROCEEDINGS.)

8 ---000---

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PEOPLE OF THE STATE OF CALIFORNIA,)	SUPERIOR COURT
)	CASE NO. SCD241238
PLAINTIFF,)	
)	DISTRICT ATTORNEY
VS.)	CASE NO. ADE743
)	
RICHARD ERIC ROSS,)	
)	
DEFENDANT.)	
_____)	

DATE OF PROCEEDINGS: MARCH 25, 26, 27 AND 28, 2014

STATE OF CALIFORNIA)
) SS.
 COUNTY OF SAN DIEGO)

I, CYNTHIA K. WHITE, OFFICIAL COURT REPORTER
 FOR THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF
 SAN DIEGO, DO HEREBY CERTIFY:

 THAT I REPORTED THE FOREGOING PROCEEDINGS AND THE
 TESTIMONY ADDUCED IN MACHINE SHORTHAND;

 AND THAT THE FOREGOING TRANSCRIPT, CONSISTING OF
 PAGES NUMBERED FROM 1 THROUGH 325, INCLUSIVE, IS A TRUE,
 COMPLETE AND CORRECT TRANSCRIPTION OF SAID PROCEEDINGS, TO THE
 BEST OF MY ABILITY.

 DATED AT SAN DIEGO, CALIFORNIA, THIS 25TH DAY OF
 JUNE, 2014.

CYNTHIA K. WHITE
 CSR NO. 4460