

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 STEVEN DALE FARMER,)

No. 65935

4 Appellant,)

5 v.)

6 THE STATE OF NEVADA,)

7 Respondent.)

Electronically Filed
Feb 23 2015 11:40 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

8
9 **APPELLANT'S APPENDIX VOLUME I PAGES 001-158**

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INDEX
STEVEN DALE FARMER
Case No. 65935

	<u>PAGE NO.</u>
Amended Criminal Complaint filed 06/17/2008	003-005
Amended Information filed 07/08/2010	289-293
Amended Notice of Witnesses and/or Expert Witnesses filed 06/05/2009	193-195
Amended Order Granting State's Motion to Consume Entire DNA Samples for Y-STR Testing by Outside Laboratory filed 05/08/2012	366-367
Criminal Complaint filed 05/20/2008	001-002
Defendant's Motion for Recordation of All Proceedings Including Bench Conferences & Contingent Motion for Stay of Proceedings in the Event the Motion for Recordation of Bench Conferences is Denied filed 01/21/2014	419-425
Defendant's Notice of Expert Witnesses, Pursuant to NRS 174.234(2) filed 12/02/2011	323-330
Defendant's Opposition to State's Notice of Motion and Motion for Videotaped Testimony of Victim, Marcia Peterson filed 09/16/2010	301-307
Defendant's Proposed Jury Instructions Not Used at Trial filed 04/10/2014	486-490
Defendant's Reply to State's Motion to Use Videotaped Testimony of Victim, Marcia Peterson at Trial filed 01/21/2014	414-418
Defendant's Reply to State's Oppositon to Motion for Discovery filed 01/21/2009	147-158
Defendant's Second Notice of Witnesses, Pursuant to NRS 174.234 filed 01/27/2014	433-434
Defense Opposition to State's Motion to Consolidate filed 04/06/2010	254-268
District Court Minutes from 11/17/2009 through 05/28/2014	502-562
Eighth Supplemental Notice of Witnesses and/or Expert Witnesses filed 01/27/2014	435-441
Ex Parte Motion for Release of Medical Records filed 01/22/2009	159-160
Ex Parte Motion for Release of Medical Records filed 01/22/2009	161-162
Ex Parte Motion for Release of Medical Records filed 01/22/2009	163-164
Ex Parte Motion for Release of Medical Records filed 01/22/2009	165-166
Ex Parte Motion for Release of Medical Records filed 01/22/2009	167-168
Ex Parte Motion for Release of Medical Records filed 01/22/2009	169-170
Ex Parte Order filed 03/23/2010	252-253
///	

1	Ex Parte Order for Transcript filed 05/09/2011.....	315-316
2	Ex Parte Order for Transport filed 10/23/2009	217-218
3	Ex Parte Order for Transport filed 11/03/2009	219-220
4	Ex Parte Order for Transport filed 11/05/2009	221-222
5	Ex Parte Order for Transport filed 02/25/2010	223-224
6	Ex Parte Order for Transport filed 03/17/2010	251
7	Ex Parte Order for Transport filed 02/11/2011	310-311
8	Ex Parte Order for Transport filed 08/08/2011	317-318
9	Ex Parte Order for Transport filed 08/30/2011	319-320
10	Ex Parte Order for Transport filed 02/27/2012	352
11	Ex Parte Order for Transport filed 01/31/2013	380
12	Expedited Ex Parte Order for Transcript filed 05/15/2009	183-184
13	Farmer's Motion to Sever Counts Involving Separate Counts Involving Different Accusers filed 06/04/2010.....	269-288
14	Fifth Supplemental Notice of Witnesses and/or Expert Witnesses filed 10/22/2012.....	373-379
15	Fourth Supplemental Notice of Witnesses and/or Expert Witnesses filed 01/20/2012....	331-350
16	Indictment filed 11/19/2008	086-089
17	Indictment Warrant filed 11/19/2008	090
18	Indictment Warrant Return filed 11/20/2008	091-092
19	Information filed 07/02/2008.....	008-011
20	Instructions to the Jury filed 02/28/2014	453-482
21	Judgment of Conviction filed 06/02/2014.....	493-495
22	Justice Court Minutes from 05/21/2008 through 07/01/2008	006-007
23	Motion for Discovery filed 12/30/2008.....	123-131
24	Motion to Continue Trial Date filed 01/20/2009	143-146
25	Motion to Continue Trial Date filed 06/05/2009	188-192
26	Motion to Continue Trial Date filed 02/23/2011	312-314
27	Motion to Continue Trial Date filed 07/11/2012.....	370-372
28	///	

1	Motion to Continue Trial Date filed 02/14/2013	381-385
2	Notice of Appeal filed 06/16/2014	496-497
3	Notice of Appeal filed 06/20/2014	498-501
4	Notice of Motion and Motion in Limine to Limit Cross Examination of Roxanne and Scott Cagnina on an Order Shortening Time filed 01/28/2014	442-447
5	Notice of Motion and Motion to Consume Entire DNA Samples for Y-STR Testing by an Outside Laboratory filed 02/27/2012	353-359
6	Notice of Witnesses and/or Expert Witnesses filed 06/04/2009	185-187
7	Objection to State's Request for Destructive Testing of DNA Samples for Y-STR Testing filed 03/30/2012	360-363
8	Order for Transcript filed 01/31/2012	351
9	Order Granting State's Motion for Videotaped Testimony of Victim, Marcia Peterson filed 11/17/2010	308-309
10	Order Granting State's Motion to Consolidate and Partially Denying Defendant's Motion to Sever filed 11/02/2011	321-322
11	Order Granting State's Motion to Consume Entire DNA Samples for Y-STR Testing by Outside Laboratory filed 04/17/2012	364-365
12	Order Releasing Medical Records filed 02/04/2009	171-172
13	Order Releasing Medical Records filed 02/04/2009	173-174
14	Order Releasing Medical Records filed 02/04/2009	175-176
15	Order Releasing Medical Records filed 02/04/2009	177-178
16	Order Releasing Medical Records filed 02/04/2009	179-180
17	Order Releasing Medical Records filed 02/12/2009	181-182
18	Plaintiff's Proposed Jury Instructions Not Used at Trial filed 04/10/2014	491-492
19	Real Party in Interest and Victim Roxanne Cagnina's Response to Defendant Steven Farmer's Motion to Continue Trial Date filed 02/22/2013	386-401
20	Reporter's Transcript of Preliminary Hearing heard 07/01/2008	012-085
21	Reporter's Transcript of Proceedings heard 11/18/2008	093-122
22	Second Amended Information filed 02/24/2014	448-452
23	Second Amended Order Granting State's Motion to Consume Entire DNA Samples for Y-STR Testing by Outside Laboratory filed 05/22/2012	368-369
24	Second Supplemental Notice of Witnesses and/or Expert Witnesses filed 09/28/2009...	207-210

1	Seventh Supplemental Notice of Witnesses and/or Expert Witnesses filed 01/24/2014	426-342
2		
3	Sixth Supplemental Notice of Witnesses and/or Expert Witnesses filed 01/09/2014	402-408
4	State's Notice of Motion and Motion for Videotaped Testimony of Victim, Marcia Peterson filed 03/08/2010	246-250
5	State's Notice of Motion and Motion for Videotaped Testimony of Victim, Marcia Peterson filed 08/20/2010	294-300
6		
7	State's Notice of Motion and Motion to Consolidate filed 03/08/2010	225-245
8	State's Notice of Motion to Use Videotaped Testimony of Victim, Marcia Peterson at Trial filed 01/16/2014	409-413
9	State's Opposition to Defendant's Motion for Discovery filed 01/16/2009	132-142
10	Supplemental Notice of Witnesses and/or Expert Witnesses filed 09/28/2009	196-206
11	Third Supplemental Notice of Witnesses and/or Expert Witnesses filed 10/16/2009	211-216
12	Verdict filed 02/28/2014	483-485

TRANSCRIPTS

15	Transcript of Proceedings, Jury Trial—Day One	
16	Date of Hrg: 02/03/2014	866-995
17	Transcript of Proceedings, Jury Trial—Day Two	
18	Date of Hrg: 02/04/2014	996-1179
19	Transcript of Proceedings, Jury Trial—Day Three	
20	Date of Hrg: 02/05/2014	1180-1350
21	Transcript of Proceedings, Jury Trial—Day Four	
22	Date of Hrg: 02/06/2014	1351-1596
23	Transcript of Proceedings, Jury Trial—Day Five	
24	Date of Hrg: 02/07/2014	1597-1699
25	Transcript of Proceedings, Jury Trial—Day Six	
26	Date of Hrg: 02/10/2014	1700-1820
27	Transcript of Proceedings, Jury Trial—Day Seven (Excludes Sealed Bench Conference)	
28	Date of Hrg: 02/11/2014	1821-2034

1	Transcript of Proceedings, Jury Trial—Day Eight	
2	Date of Hrg: 02/12/2014.....	2035-2199
3	Transcript of Proceedings, Jury Trial—Day Nine	
4	Date of Hrg: 02/13/2014.....	2200-2398
5	Transcript of Proceedings, Jury Trial—Day Ten	
6	Date of Hrg: 02/14/2014.....	2399-2504
7	Transcript of Proceedings, Jury Trial—Day Eleven	
8	Date of Hrg: 02/19/2014.....	2505-2590
9	Transcript of Proceedings, Jury Trial—Day Twelve	
10	Date of Hrg: 02/20/2014.....	2591-2637
11	Transcript of Proceedings, Jury Trial—Day Thirteen	
12	Date of Hrg: 02/21/2014.....	2638-2735
13	Transcript of Proceedings, Jury Trial—Day Fourteen	
14	Date of Hrg: 02/24/2014.....	2736-2784
15	Transcript of Proceedings, Jury Trial—Day Fifteen	
16	Date of Hrg: 02/27/2014.....	2785-2796
17	Transcript of Proceedings, Jury Trial—Day Sixteen	
18	Date of Hrg: 02/28/2014.....	2797-2805
19	Recorder's Transcript, All Pending Motions	
20	Date of Hrg: 03/07/2011.....	760-766
21	Recorder's Transcript, Calendar Call/ All Pending Motions	
22	Date of Hrg: 01/27/2014.....	855-865
23	Recorder's Transcript, Calendar Call; Defendant's Motion for Discovery and Defendant's Motion to Continue Trial	
24	Date	
25	Date of Hrg: 02/04/2009.....	595-626
26	Recorder's Transcript, Defendant's Motion for Discovery	
27	Date of Hrg: 01/12/2009.....	581-584
28	///	

1	Recorder's Transcript, Defendant's Motion for Discovery	
2	Date of Hrg: 01/21/2009.....	588-591
3	Recorder's Transcript, Defendant's Motion for Discovery/ Defendant's Motion to Continue Trial Date	
4	Date of Hrg: 02/02/2009.....	592-594
5	Recorder's Transcript, Defendant's Motion to Continue Trial Date (Both)	
6	Date of Hrg: 02/25/2013.....	846-854
7	Recorder's Transcript, Defendant's Motion to Continue Trial Date (C245739)	
8	Date of Hrg: 07/23/2012.....	843-845
9	Recorder's Transcript, Defendant's Motion to Continue Trial Date/ Calendar Call	
10	Date of Hrg: 06/17/2009.....	631-636
11	Recorder's Transcript, Grand Jury Indictment Return	
12	Date of Hrg: 11/09/2008.....	573-575
13	Recorder's Transcript, Motion to Consolidate	
14	Date of Hrg: 07/07/2010.....	710-735
15	Recorder's Transcript, Sentencing	
16	Date of Hrg: 05/28/2014.....	2806-2819
17	Recorder's Transcript, State's Motion for Videotaped Testimony of Victim, Marcia Petersen/ State's Motion to	
18	Consolidate	
19	Date of Hrg: 03/17/2010.....	647-649
20	Recorder's Transcript, State's Motion for Videotaped Testimony of Victim, Marcia Petersen/ State's Motion to	
21	Consolidate	
22	Date of Hrg: 03/22/2010.....	650-654
23	Recorder's Transcript, State's Motion for Videotaped Testimony of Victim, Marcia Petersen/ State's Motion to	
24	Consolidate	
25	Date of Hrg: 04/07/2010.....	655-657
26	Recorder's Transcript, State's Motion to Consolidate	
27	Date of Hrg: 05/05/2010.....	662-663
28	Recorder's Transcript, State's Motion to Consolidate/ State's Notice of Motion and Motion for Videotaped Testimony	
	of Victim, Marcia Petersen	
	Date of Hrg: 05/19/2010.....	664-703

1	Recorder's Transcript, State's Motion to Consolidate with C245739/ State's Notice of Motion and Motion for	
2	Videotaped Testimony of Victim, Marcia Petersen	
3	Date of Hrg: 06/07/2010.....	704-706
4	Recorder's Transcript, State's Motion to Consolidate with C245739/ State's Notice of Motion and Motion for	
5	Videotaped Testimony of Victim, Marcia Petersen	
6	Date of Hrg: 06/28/2010.....	707-709
7	Recorder's Transcript, State's Motion to Consolidate with C245739/ State's Notice of Motion and Motion for	
8	Videotaped Testimony of Victim, Marcia Petersen/ On Calendar Per Department	
9	Date of Hrg: 09/01/2010.....	736-738
10	Recorder's Transcript, State's Motion to Consume Entire DNA Samples for Y-STR Testing by an Outside Laboratory	
11	(C245739)	
12	Date of Hrg: 04/04/2012.....	839-842
13	Recorder's Transcript, State's Notice of Motion and Motion for Videotaped Testimony of Victim, Marcia Petersen	
14	Date of Hrg: 09/22/2010.....	739-748
15	Recorder's Transcript, State's Request to Continue Trial	
16	Date of Hrg: 10/28/2009.....	640-643
17	Recorder's Transcript, Status Check (Both)	
18	Date of Hrg: 10/17/2011.....	767-773
19	Recorder's Transcript, Status Check (Both)	
20	Date of Hrg: 02/06/2012.....	837-838
21	Recorder's Transcript, Status Check: Hearing: Preservation of Witness Testimony (Both)	
22	Date of Hrg: 12/14/2011.....	779-783
23	Recorder's Transcript, Status Check: Pending Court Dates (Both)/ Further Proceedings/ Status Check (Both)	
24	Date of Hrg: 10/25/2010.....	749-755
25	Recorder's Transcript, Status Check: Reset Video Deposition (Both)/ Status Check: Amended Information/	
26	Consolidation (Both)/ Further Proceedings: Video Deposition of Victim (Both)/ Status Check:	
27	As to Severed Counts (Both)	
28	Date of Hrg: 12/13/2010.....	756-759
29	Recorder's Transcript, Status Check: Trial Date and Video Exam (Both)	
30	Date of Hrg: 10/19/2011.....	774-778
31	///	

1	Recorder's Transcript of Hearing, Arraignment	
2	Date of Hrg: 07/08/2008.....	563-565
3	Recorder's Transcript of Proceedings, Calendar Call	
4	Date of Hrg: 01/27/2009.....	585-587
5	Recorder's Transcript of Proceedings, Calendar Call	
6	Date of Hrg: 05/19/2009.....	657-630
7	Recorder's Transcript of Proceedings, Hearing: Preservation of Witness Testimony	
8	Date of Hrg: 01/20/2012.....	784-836
9	Recorder's Transcript of Proceedings, Initial Arraignment; Indictment Warrant Return	
10	Date of Hrg: 12/02/2008.....	576-577
11	Recorder's Transcript of Proceedings, Initial Arraignment; Indictment Warrant Return	
12	Date of Hrg: 12/11/2008.....	578-580
13	Recorder's Transcript of Proceedings, Trial Setting	
14	Date of Hrg: 07/14/2009.....	637-639
15	Recorder's Transcript of Proceedings, Trial Setting	
16	Date of Hrg: 11/17/2009.....	644-646
17	Recorder's Transcript of Proceedings, Trial Setting	
18	Date of Hrg: 05/04/2010.....	658-661
19	Reporter's Transcript, Hearing	
20	Date of Hrg: 08/18/2008.....	566-568
21	Reporter's Transcript, Hearing	
22	Date of Hrg: 08/20/2008.....	569-572

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FILED
JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA
May 20 8 43 AM '08

THE STATE OF NEVADA,

Plaintiff

JUSTICE
LAS VEGAS, NEVADA

DEPUTY

-vs-

CASE NO: 08F10344X

DEPT NO: 8

STEVEN DALE FARMER #2679879,

Defendant.

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of SEXUAL ASSAULT (Felony - NRS 200.364, 200.366), and OPEN OR GROSS LEWDNESS (Gross Misdemeanor - NRS 201.210), in the manner following, to-wit: That the said Defendant, on or about the 16th day of May, 2008, at and within the County of Clark, State of Nevada,

COUNT 1 - SEXUAL ASSAULT

did then and there wilfully, unlawfully, and feloniously sexually assault and subject ROXANNE CAGNINA, a female person, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said ROXANNE CAGNINA, against her will.

COUNT 2 - SEXUAL ASSAULT

did then and there wilfully, unlawfully, and feloniously sexually assault and subject ROXANNE CAGNINA, a female person, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said ROXANNE CAGNINA, against her will.

COUNT 3 - SEXUAL ASSAULT

did then and there wilfully, unlawfully, and feloniously sexually assault and subject ROXANNE CAGNINA, a female person, to sexual penetration, to-wit: cunnilingus, by placing his mouth and/or tongue on or in the genital opening of the said ROXANNE CAGNINA, against her will.

///


1 COUNT 4 - OPEN OR GROSS LEWDNESS

2 did then and there wilfully and unlawfully commit an act of open or gross lewdness
3 by the Defendant touching and/or rubbing the thighs of ROXANNE CAGNINA.

4 COUNT 5 - OPEN OR GROSS LEWDNESS

5 did then and there wilfully and unlawfully commit an act of open or gross lewdness
6 by the Defendant touching and/or rubbing the breasts of ROXANNE CAGNINA.

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

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12 5/19/2008 
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27 08F10344X/cas
28 LVMPD EV# 0805161021
(TK8)

ORIGINAL

FILE IN OPEN
COURT ON

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

FILED
CLERK

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN DALE FARMER #2679879,

Defendant.

CASE NO: 08F10344X

DEPT NO: 8

AMENDED
CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of SEXUAL ASSAULT (Felony - NRS 200.364, 200.366); OPEN OR GROSS LEWDNESS (Gross Misdemeanor - NRS 201.210) and INDECENT EXPOSURE (Gross Misdemeanor - NRS 201.220), in the manner following, to-wit: That the said Defendant, on or between December, 2007, and the 16th day of May, 2008, at and within the County of Clark, State of Nevada,

COUNT 1 - OPEN OR GROSS LEWDNESS

did, during December 2007, then and there wilfully and unlawfully commit an act of open or gross lewdness by the Defendant taking the hand of FRANCES V. ROSE and placing it on his penis.

COUNT 2 - OPEN OR GROSS LEWDNESS

did, on or about April 27, 2008, then and there wilfully and unlawfully commit an act of open or gross lewdness by the Defendant pulling the feet of LEDAHLIA SPURLOCK while she lay in a bed and rubbing and/or touching his penis to them.

COUNT 3 - OPEN OR GROSS LEWDNESS

did, on or about May 15, 2008, then and there wilfully and unlawfully commit an act of open or gross lewdness by the Defendant exposing the breasts of HEATHER SHANK and/or touching them, while in an elevator, under the guise of removing electrodes.

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1 COUNT 4 - INDECENT EXPOSURE

2 did, on or about May 15, 2008, then and there intentionally, wilfully, and unlawfully
3 make an open, indecent, and obscene exposure of another person by then and there
4 deliberately exposing the breasts of HEATHER SHANK, and/or touching them under the
5 guise of adjusting leads from the EKG machine.

6 COUNT 5 - OPEN OR GROSS LEWDNESS

7 did, on or about the 16th day of May, 2008, then and there wilfully and unlawfully
8 commit an act of open or gross lewdness by the Defendant exposing and then touching the
9 breasts of DENISE HANNA.

10 COUNT 6 - SEXUAL ASSAULT

11 did, on or about the 16th day of May, 2008, then and there wilfully, unlawfully, and
12 feloniously sexually assault and subject ROXANNE CAGNINA, a female person, to sexual
13 penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of
14 the said ROXANNE CAGNINA, against her will.

15 COUNT 7 - SEXUAL ASSAULT

16 did, on or about the 16th day of May, 2008, then and there wilfully, unlawfully, and
17 feloniously sexually assault and subject ROXANNE CAGNINA, a female person, to sexual
18 penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of
19 the said ROXANNE CAGNINA, against her will.

20 COUNT 8 - SEXUAL ASSAULT

21 did, on or about the 16th day of May, 2008, then and there wilfully, unlawfully, and
22 feloniously sexually assault and subject ROXANNE CAGNINA, a female person, to sexual
23 penetration, to-wit: cunnilingus, by placing his mouth and/or tongue on or in the genital
24 opening of the said ROXANNE CAGNINA, against her will.


25 COUNT 9 - OPEN OR GROSS LEWDNESS

26 did, on or about the 16th day of May, 2008, then and there wilfully and unlawfully
27 commit an act of open or gross lewdness by the Defendant touching and/or rubbing the
28 thighs of ROXANNE CAGNINA.

1 COUNT 10 - OPEN OR GROSS LEWDNESS

2 did, on or about the 16th day of May, 2008, then and there wilfully and unlawfully
3 commit an act of open or gross lewdness by the Defendant touching and/or rubbing the
4 breasts of ROXANNE CAGNINA.

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

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10 6/13/2008

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27 08F10344X/cas
28 LVMPD EV# 0805161021; 0805302056; 0505311717; 0805311315; 0806042539
(TK8)

Justice Court, Las Vegas Township

STATE VS. FARMER, STEVEN DALE.

08F10344X

CASE NO.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

MAY 20, 2008	CRIMINAL COMPLAINT FILED: COUNTS 1, 2, 3: SEXUAL ASSAULT COUNTS 4, 5: OPEN OR GROSS LEWDNESS	RG
MAY 20, 2008	MEDIA REQUEST AND ORDER FILED	LM
MAY 21, 2008 A. ZIMMERMAN B. KOICHEVAR DA W. GELLER, PD C. BROKA, CR L. MUAINA, CLK	INITIAL ARRAIGNMENT DEFENDANT PRESENT IN COURT IN CUSTODY ADVISED OF CHARGES/WAIVES READING OF COMPLAINT PUBLIC DEFENDER APPOINTED TO REPRESENT THE DEFENDANT MOTION BY DEFENDANT FOR O/R RELEASE - MOTION DENIED PRELIMINARY HEARING DATE SET DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	06/04/08 9:00 #8 LM
JUNE 4, 2008 A. ZIMMERMAN M. BOLENBAKER, DA K. KUZEMKA, PD G. DELUCCA, CR L. MUAINA, CLK	TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN COURT IN CUSTODY CONTINUED BY STIPULATION OF COUNSEL MEDIA REQUEST AND ORDER SIGNED AND FILED IN OPEN COURT RESET PRELIMINARY HEARING DATE DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	06/17/08 9:00 #8 LM
JUNE 17, 2008 R. WALSH FOR A. ZIMMERMAN S. CLARKE, DA S. ROUNDTREE, PD C. BROKA, CR L. MUAINA, CLK	TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN COURT IN CUSTODY COUNTS 1, 2, 6, 7, 8 STATE FILES AN AMENDED CRIMINAL COMPLAINT IN OPEN COURT - OBJECTION BY DEFENSE COUNTS 1, 2, 3, 5, 9, 10 - OPEN OR GROSS LEWDNESS COUNT 4 - INDECENT EXPOSURE COUNTS 6, 7, 8 - SEXUAL ASSAULT RESET PRELIMINARY HEARING DATE	07/01/08 9:00 #8
	DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF COUNTS 1, 2, 6, 7, 8 NO BAIL POSTED COUNTS 3, 4, 5, 9, 10	LM JUL 9, 2008 CLERK'S OFFICE

Justice Court, Las Vegas Township

STATE VS. FARMER, STEVEN DALE

CASE NO. 08F10344X

PAGE 2

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

JULY 1, 2008
A. ZIMMERMAN
S. CLARKE, DA &
M. BOLENBAKER, DA
G. COYER, PD &
S. ROUNDTREE, SPD
C. BROKA, CR
L. MUAINA, CLK

TIME SET FOR PRELIMINARY HEARING
DEFENDANT PRESENT IN COURT IN CUSTODY COUNTS 1, 2, 6, 7, 8
STATE WITNESSES

1. ROXANNE CAGNINA, SWORN IN, ID'D DEFENDANT
2. TIMOTHY LEHAM, SWORN IN, ID'D DEFENDANT
3. HEATHER SHANK, SWORN IN, ID'D DEFENDANT
4. LEDAHLIA SPURLOCK, SWORN IN, ID'D DEFENDANT
5. DENISE HANNA, SWORN IN, ID'D DEFENDANT

07/08/08 1:30 DC
ARRAIGNMENT

6. FRANCES GROSS, SWORN IN, ID'D DEFENDANT
MOTION BY STATE TO AMEND CRIMINAL COMPLAINT BY INTERLINEATION TO
CONFORM TO TESTIMONY — MOTION GRANTED

STATE RESTS

DEFENDANT ADVISED OF HIS STATUTORY RIGHT TO MAKE A SWORN OR
UNSWORN STATEMENT, TO WAIVE MAKING A STATEMENT, AND/OR OF HIS
RIGHT TO CALL WITNESSES

DEFENDANT WAIVES HIS RIGHT TO MAKE A STATEMENT

DEFENSE RESTS

SUBMITTED WITHOUT ARGUMENT

DEFENDANT BOUND OVER TO DISTRICT COURT #20 AS CHARGED. DEFENDANT
TO APPEAR IN THE EIGHTH JUDICIAL DISTRICT COURT ARRAIGNMENT LOWER
LEVEL

RESET BAIL:

COUNT 1 — 250,000/250,000

COUNTS 2 — 10 — O/R RELEASE

DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF COUNT 1

O/R CONTINUES COUNTS 2 — 10

LM

CASE FORWARDED TO

JUL 7 3 2008

COUNTY CLERK'S OFFICE


CLERK OF THE COURT

INFO

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
SUMMER CLARKE
Deputy District Attorney
Nevada Bar #008988
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. 07/08/08
1:30 P.M.
PD

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN DALE FARMER,
#2679879

Defendant.

Case No: C245739
Dept No: XX

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That STEVEN DALE FARMER, the Defendant(s) above named, having committed the crimes of **SEXUAL ASSAULT (Felony - NRS 200.364, 200.366); OPEN OR GROSS LEWDNESS (Gross Misdemeanor - NRS 201.210) and INDECENT EXPOSURE (Gross Misdemeanor - NRS 201.220)**, on between December, 2007, and the 16th day of May, 2008, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

//

//

1 COUNT 1 - OPEN OR GROSS LEWDNESS

2 did, during December 2007, then and there wilfully and unlawfully commit an act of
3 open or gross lewdness by the Defendant taking the hand of FRANCES V. ROSE and
4 placing it on his penis.

5 COUNT 2 - OPEN OR GROSS LEWDNESS

6 did, on or about April 27, 2008, then and there wilfully and unlawfully commit an act
7 of open or gross lewdness by the Defendant rubbing and/or touching and/or pushing on
8 and/or pressing against the feet of LEDAHLIA SPURLOCK with his penis and/or his genital
9 area while she lay in a bed.

10 COUNT 3 - OPEN OR GROSS LEWDNESS

11 did, on or about May 15, 2008, then and there wilfully and unlawfully commit an act
12 of open or gross lewdness by the Defendant exposing and/or touching the breasts of
13 HEATHER SHANK, while in an elevator, under the guise of removing electrodes.

14 COUNT 4 - INDECENT EXPOSURE

15 did, on or about May 15, 2008, then and there intentionally, wilfully, and unlawfully
16 make an open, indecent, and obscene exposure of another person by then and there
17 deliberately exposing and/or brushing against and/or touching the breasts of HEATHER
18 SHANK, under the guise of adjusting leads from the EKG machine.

19 COUNT 5 - OPEN OR GROSS LEWDNESS

20 did, on or about the 16th day of May, 2008, then and there wilfully and unlawfully
21 commit an act of open or gross lewdness by the Defendant exposing and/or touching the
22 breasts of DENISE HANNA under the guise of adjusting leads from the EKG machine.

23 COUNT 6 - SEXUAL ASSAULT

24 did, on or about the 16th day of May, 2008, then and there wilfully, unlawfully, and
25 feloniously sexually assault and subject ROXANNE CAGNINA, a female person, to sexual
26 penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of
27 the said ROXANNE CAGNINA, against her will.

28 //

1 COUNT 7 - SEXUAL ASSAULT

2 did, on or about the 16th day of May, 2008, then and there wilfully, unlawfully, and
3 feloniously sexually assault and subject ROXANNE CAGNINA, a female person, to sexual
4 penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of
5 the said ROXANNE CAGNINA, against her will.

6 COUNT 8 - SEXUAL ASSAULT

7 did, on or about the 16th day of May, 2008, then and there wilfully, unlawfully, and
8 feloniously sexually assault and subject ROXANNE CAGNINA, a female person, to sexual
9 penetration, to-wit: cunnilingus, by placing his mouth and/or tongue on or in the genital
10 opening of the said ROXANNE CAGNINA, against her will.

11 COUNT 9 - OPEN OR GROSS LEWDNESS

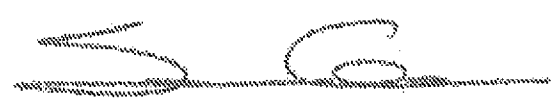
12 did, on or about the 16th day of May, 2008, then and there wilfully and unlawfully
13 commit an act of open or gross lewdness by the Defendant touching and/or rubbing the
14 thighs of ROXANNE CAGNINA.

15 COUNT 10 - OPEN OR GROSS LEWDNESS

16 did, on or about the 16th day of May, 2008, then and there wilfully and unlawfully
17 commit an act of open or gross lewdness by the Defendant touching and/or rubbing the
18 breasts of ROXANNE CAGNINA.

19 DAVID ROGER
20 DISTRICT ATTORNEY
Nevada Bar #002781

21
22 BY


23 SUMMER CLARKE
24 Deputy District Attorney
Nevada Bar #008988
25
26
27
28

Names of witnesses known to the District Attorney's Office at the time of filing this
Information are as follows:

NAME

ADDRESS

CAGNINA, ROXANNE – 3717 LOWER SAXON AVE., LVN 89085

CAGNINA, SCOTT – ADDRESS UNKNOWN

HANNA, DENISE – 7932 OLYMPUS AVE., LVN

JEX, CRAIG – LVMPD P#5597

LEHAN, TIMOTHY – 5209 FIRESIDE RANCH AVE., LVN 89131

MILLER, RONALD – LVMPD P#3233

PENCE, MISTY – LVMPD P#4950

ROSE, FRANCES – 2104 CLUB PACIFIC WAY, #19-102, LVN 89128

SAUNDERS, MICHAEL – LVMPD P#7294

SHANK, HEATHER – 5209 FIRESIDE RANCH AVE., LVN 89131

SPURLOCK, LEDAHLIA – 4408 SAN GABRIEL HILL AVE., LVN 89115

DA#08F10344X/mmw/SVU
LVMPD EV#0805161021; 0805302056; 0505311717; 0805311315; 0806042539
(TK8)

C 245739

1 CASE NO. C245739

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IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

5

6

7 THE STATE OF NEVADA,)

8 Plaintiff,)

9 vs.)

10 STEVEN DALE FARMER,)

11 Defendant.)

12

13 REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING

14 BEFORE THE HONORABLE ANN E. ZIMMERMAN,
15 JUSTICE OF THE PEACE
16 TUESDAY, JULY 1, 2008
9:00 A.M.

17 APPEARANCES:

18 For the State: S. CLARKE, ESQ.
19 M. BOLENBAKER, ESQ.
DEPUTY DISTRICT ATTORNEYS

20 For the Defendant: S. ROUNDTREE, ESQ.
21 G. COYER, ESQ.
DEPUTY PUBLIC DEFENDERS

22

23

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25 Reported by: CHRISTA BROKA, GCR. No. 574

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CLERK

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LAS VEGAS, CLARK COUNTY, NEVADA,

JULY 1, 2008 AT 9:00 A.M.

PROCEEDINGS

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THE COURT: Steve Dale Farmer, 08F10344X.
MS. CLARKE: Good morning. Summer Clarke

for the state.

MR. BOLENBAKER: Mike Bolenbaker for the
State as well.

MS. ROUNDTREE: Stacy Roundtree with Gregory
Cory for Mr. Farmer.

THE COURT: This is the time set for the
preliminary hearing in the State of Nevada versus Steven
Dale Farmer. Is the state ready to proceed?

MS. CLARKE: Yes, Your Honor.

THE COURT: Is the defense ready to proceed?

MS. ROUNDTREE: Yes, Your Honor.

THE COURT: State, call your first witness.

MS. CLARKE: State calls Roxanne Cagnina.

Your Honor, before we do that may we

approach briefly?

THE COURT: Sure.

(Discussion held off the record.).

THE COURT: For the camera people here in
the courtroom the district attorney has made the request

2

INDEX

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

WITNESS

PAGE

ROXANNE CAGNINA

Direct Examination by Ms. Clarke 4

Cross-Examination by Ms. Roundtree 25

Redirect Examination by Ms. Clarke 76

TIM LEHAN

Direct Examination by Mr. Bolenbaker 82

Cross-Examination by Mr. Coyer 101

HEATHER SHANK

Direct Examination by Ms. Clarke 109

Cross-Examination by Mr. Coyer 125

Redirect Examination by Ms. Clarke 129

LEDHALIA SPURLOCK

Direct Examination by Mr. Bolenbaker 131

Cross-Examination by Mr. Coyer 141

Redirect Examination by Mr. Bolenbaker 146

DENISE HANNA

Direct Examination by Ms. Clarke 148

Cross-Examination by Mr. Coyer 163

FRANCES ROSE

Direct Examination by Ms. Clarke 168

Cross-Examination by Ms. Roundtree 184

Redirect Examination by Ms. Clarke 203

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CLERK OF THE COURT

4

that you possibly not film the identity of the alleged
victims in this case. I'm not ordering you to but
requesting that you don't to respect their privacy.
Okay? Thank you.

MS. CLARKE: Thank you, Your Honor.
(Whereupon Roxanne Cagnina was duly sworn.)

THE CLERK: Please be seated. State your
first and last name and spell both for the record.

THE WITNESS: Roxanne Cagnina,
R-O-X-A-N-N-E, C-A-G-N-I-N-A.

DIRECT EXAMINATION

BY MS. CLARKE:

Q. Ms. Cagnina, on May 15th of 2008, can you tell us
what happened while you were at home that day?

A. Yes. I wasn't feeling good. I have seizures and
so I felt a seizure coming on. I was home alone so I
called the paramedics.

Q. How long have you been suffering from seizures?

A. About ten years.

Q. Do you recall about what time you had the seizure
at your house?

A. Not the exact time but I know it was between
probably 10:00 and maybe 12:00.

Q. Between 10:00 and 12:00 p.m.?

- 1 A. Yes.
- 2 Q. After you called the ambulance what happened?
- 3 A. The paramedics -- I told them I had seizures so
- 4 the paramedics had showed up. They came in and loaded
- 5 me up. I believe I had maybe one or two more seizures
- 6 in route to the hospital. I don't really remember much
- 7 of the ride to the hospital.
- 8 Q. Why is that?
- 9 A. When you have seizure sometimes you lose like
- 10 memory for a short period of time, but in time usually
- 11 it takes me a while to get that back.
- 12 Q. While you were in the ambulance on the way to
- 13 hospital were you fully conscious?
- 14 A. When I was not having a seizure, yes.
- 15 Q. Where were you taken?
- 16 A. I don't know. I don't know -- Centennial Hills.
- 17 Q. Is that at 6900 North Durango here in Las Vegas?
- 18 A. I don't know the address. I know it was the
- 19 closest one to my home.
- 20 Q. Is the hospital here in Las Vegas, Clark County,
- 21 Nevada?
- 22 A. That is correct.
- 23 Q. When you first arrived at the hospital what area
- 24 of the hospital were you taken to?
- 25 A. I was taken into the emergency room.

- 1 Q. While you were in the emergency room that day did
- 2 you come to contact with anyone you recognize here in
- 3 court today?
- 4 A. One person.
- 5 Q. Can you please point to them and tell the Judge
- 6 what he's wearing?
- 7 A. He's wearing -- in the middle over there wearing
- 8 blue. The gentleman with the white hair.
- 9 MS. CLARKE: Your Honor, may the record
- 10 reflect identification of the defendant?
- 11 THE COURT: So ordered.
- 12 BY MS. CLARKE:
- 13 Q. Did you ever learn this man's name?
- 14 A. What?
- 15 Q. Do you know this man's name?
- 16 A. Later on it was Mr. Farmer. While I was at the
- 17 hospital I think I always referred to him as nurse. I
- 18 never referred to him by first name.
- 19 Q. When did you first have contact with the
- 20 defendant?
- 21 A. The moment that I entered the ER.
- 22 Q. Did he say anything to you --
- 23 A. I don't know what he told me.
- 24 Q. -- when you went into the ER? At that point did
- 25 you know what his purpose was of being in the ER?

- 1 A. He was there to care for me, you know, make me
- 2 comfortable. At that time him and there was another
- 3 female nurse that was there that I believe that those
- 4 were the two that were caring for me. He came and told
- 5 me that he'd be taking care of me. I believed that she
- 6 said the same thing that she'd be the one taking care of
- 7 me during that time.
- 8 Q. Were any there any other relatives or family
- 9 members that were with you when you first came to the
- 10 emergency room that day?
- 11 A. No.
- 12 Q. What was the defendant wearing?
- 13 A. I believe he was wearing just, you know, hospital
- 14 scrubs or something like that.
- 15 Q. You said they were making you comfortable. How
- 16 did the defendant make you comfortable?
- 17 A. On many occasions I complimented him and the
- 18 female nurse. Anytime that I needed something he was
- 19 always there. They I thought they were giving me
- 20 excellent excellent care. They gave me warm blankets.
- 21 Every time my blanket got cold I had a new warm blanket.
- 22 Q. Who brought you a new warm blanket every time it
- 23 got cold?
- 24 A. The defendant.
- 25 Q. Who did you have more contact with? You said

- 1 there was the defendant and the female nurse, out of the
- 2 two who did you have more contact with when you were in
- 3 the ER?
- 4 A. Him.
- 5 Q. How often would you see the defendant while you
- 6 were still in the ER?
- 7 A. I couldn't give a number, but I've been in
- 8 numerous hospitals but every time I needed something he
- 9 was there.
- 10 Q. What were you wearing when you were in the
- 11 emergency room at Centennial Hills Hospital?
- 12 A. When I went into the hospital the paramedics
- 13 dropped me off. I was wearing I believe a pair of jeans
- 14 and just a regular shirt, bra and underwear.
- 15 Q. The next time when you were into -- strike that.
- 16 When you were in the ER section what were you
- 17 wearing?
- 18 A. At one point I just had a gown that came down to
- 19 length of my shirt, maybe a little bit longer.
- 20 Q. Is that just approximately maybe upper thigh
- 21 area? Can you stand up?
- 22 A. Probably between right here and about right here.
- 23 Q. Upper thigh area for the record.
- 24 What did you have underneath your hospital gown?
- 25 A. Nothing.

1 Q. Were you wearing a bra?
 2 A. When I went in.
 3 Q. Under the hospital gown were you wearing a bra?
 4 A. I had just a gown on. No underwear, no bra.
 5 Q. Do you remember how you got changed into that
 6 hospital gown?
 7 A. I don't.
 8 Q. Do you know what medicine you were taking that
 9 day.
 10 A. I know they were giving me Phenobarbital, Ativan.
 11 I guess Ativan from my understanding helps stop seizures
 12 and the Phenobarbital I take on a regular basis. So
 13 they were bringing my levels up.
 14 Q. You said from what I understand because you are a
 15 seizure sufferer for the past ten years or so; is that
 16 correct?
 17 A. Yes.
 18 Q. How did the medicine make you feel while you were
 19 in the emergency room?
 20 A. When it's given to you through IV then
 21 everything, Ativan can make you very tired. They were
 22 giving me something else for pain which I don't know
 23 what it was.
 24 Q. That other medicine you're not sure what it was,
 25 how did that make you feel?

1 A. I wanted to sleep.
 2 Q. At some point you leave the emergency room and go
 3 to a different area of the hospital?
 4 A. When I was admitted.
 5 Q. Typically when you are admitted into the hospital
 6 where do they take you?
 7 A. To whatever floor I'm going to.
 8 Q. Who told you you were going to be admitted as a
 9 patient at the hospital?
 10 A. I believe it was the defendant that had come and
 11 told me that they were going to admit me.
 12 Q. Had you on previous occasions been transported
 13 from the emergency room to different areas of the
 14 hospital in the past ten years that you'd been suffering
 15 from seizures?
 16 A. Yes.
 17 Q. Have you ever had a nurse transport you to those
 18 rooms that you can recall?
 19 A. No.
 20 Q. Who transported you had back on May 15, 2008?
 21 A. The defendant.
 22 Q. Do you recall how long you were in the emergency
 23 room before you were transported to a different room?
 24 A. You know I can't tell you the exact time but I
 25 was there for a very long time. My husband had come

1 down and I slept. I did a lot of sleeping in the
 2 emergency room, but it was hours.
 3 Q. You mentioned you had the seizure between 10:00
 4 a.m. and the 12:00 p.m. and the ambulance came. What
 5 time of day would you say you were transported to a
 6 different part of the hospital?
 7 A. It had to be midnight or early morning.
 8 Q. So midnight of May 15th or early morning hours of
 9 May 16th?
 10 A. Why I remember that is because I remember my
 11 husband saying well they are going to admit you. He was
 12 going to pick up the kids and he'd come back in the
 13 morning time.
 14 Q. When did your husband visit you in the ER?
 15 A. As soon as he get done. I think I had -- I
 16 believe he was at work. I believe that he left from
 17 work and came down. Because I had a neighbor who had
 18 picked up my children.
 19 Q. Before you were transported was your husband
 20 there at the hospital with you?
 21 A. No.
 22 Q. While you were being transported was anyone with
 23 you?
 24 A. No.
 25 Q. Could you tell the Judge how you began to be

1 transported to a different part of the hospital?
 2 A. I was told that I was going to be transported.
 3 They just moved me from -- just they didn't change beds
 4 or anything. I believe they rolled my bed that I was on
 5 out and I remember the defendant handing me my purse and
 6 putting -- I remember having it on the side of me and
 7 off we went.
 8 Q. When they were moving me who specifically was
 9 moving you?
 10 A. The defendant.
 11 Q. It's the defendant that's moving you to a
 12 different room and not anybody else?
 13 A. No.
 14 Q. I think you said you were on a bed is that sort
 15 of like a gurney, a rolling bed, I guess?
 16 A. I think it was more like -- it's a hospital bed
 17 but it has wheels on it a regular bed that, you know,
 18 regular hospital bed.
 19 Q. Where did the defendant take you while you were
 20 in the bed?
 21 A. We went to the elevator. We got in the elevator
 22 and I believe -- I don't recall the exact floor but I
 23 think it was the third floor if I am not mistaken.
 24 That's where I was going to be admitted.
 25 Q. When you first went into the elevator was anyone

1 else inside?

2 A. I recall when I first got in there was somebody
3 else in there when we first entered and exited. Then
4 after it was me and the defendant.

5 Q. What happened after you and the defendant were in
6 the elevator or while you were in the defendant were in
7 the elevator?

8 A. I don't know how long we were in the elevator.
9 He just kept asking me if I was okay, if I was warm, you
10 know, grabbing my blanket and making sure that I was
11 warm and things like that.

12 Q. What kind of covering did you have other than
13 your hospital gown while you were laying in the bed in
14 the elevator?

15 A. Just a blanket.

16 Q. Did you have any sheets or anything underneath
17 the blanket?

18 A. I believe that I may have had a sheet but I'm not
19 sure. But I know the blankets are so very thin, so it
20 was -- I remember it was warm and I had several warm
21 blankets that day I thought wow, you know.

22 Q. What, if anything, did the defendant mention to
23 you about the time or how late it was getting?

24 A. One of the things that really stands out is he
25 kept telling me it's really late you should be tired.

1 You need to get some rest. You should be sleeping,
2 things of that nature.

3 Q. While you were in the elevator what did the
4 defendant do?

5 A. He started adjusting my blanket and covering me.
6 I was covered. He was like touching, you know. At one
7 point he rubbed his hand against my inner thigh. At
8 that moment, I didn't really, you know, I thought maybe
9 he's, you know, adjusting my blanket or whatever. But
10 then he did it a second time and I remember grabbing my
11 blanket and holding my blanket and then he did it again.
12 He got closer up to the top of the upper thigh. I felt
13 very uncomfortable. I didn't have underwear on, you
14 know. I just kept pulling the blanket. I can remember
15 his whole demeanor changing from the ER.

16 MS. ROUNDTREE: Objection, Your Honor.
17 Nonresponsive.

18 THE COURT: Overruled.

19 BY MS. CLARKE:

20 Q. Go ahead.

21 A. Just his demeanor changed. He just seemed to be
22 focussing more on the blanket, you know, when he rubbed
23 my thigh, a few times, one or twice, you know. I pulled
24 the blanket and I tucked it. At one point I got this
25 sick feeling to my stomach because during that time he

1 kept saying you should be sleeping, you should be
2 sleeping, you know. You need -- you need to rest. You
3 need to go to sleep. You should be sleeping. I believe
4 he had said they gave you medication to sleep or I don't
5 know exactly word for word of what he had said but I
6 remember being very very tired. It's kind of like
7 having that feeling that something's not right so I had
8 that gut instinct, that you know, I just kept staying
9 awake. I was fighting it. I was actually fighting
10 staying awake.

11 Q. You said his hand moved towards your upper thigh.
12 Was it getting close to your genital area?

13 A. Very close.

14 Q. How close would you say it was?

15 A. Can I stand up?

16 Q. Yes, you can?

17 A. When I was laying on the bed he adjusted the
18 blanket and then he reached over and it was like this
19 and then when I pulled the blanket he was adjusting the
20 other side it seemed like it got closer.

21 Q. For the record, the witness took her right hand
22 up on her right thigh and came up to sort of where the
23 crease was between your hips perhaps and your leg and
24 took your left hand and went up the other describing the
25 second time the defendant did that; is that right?

1 A. Yes.

2 Q. Was his hand underneath the blankets or over the
3 blanket?

4 A. Under.

5 Q. And was his hand over the hospital gown or under
6 the hospital gown?

7 A. Under the hospital gown.

8 Q. Was that for both times he touched your legs?

9 A. Yes.

10 Q. What did you say in response to what he did while
11 you were in the elevator?

12 A. I remember looking at him and saying no, no.
13 Like, no, you know. I remember shaking. I was kind of
14 -- I was afraid. Before we had gotten on the elevator
15 he actually handed me my purse because I guess my purse
16 was underneath the bed or I don't know where it was. I
17 had my purse. I remember grabbing my cell phone. I had
18 my cell phone underneath the blanket because the whole
19 time I had my -- arms I had everything covered and I had
20 it tucked underneath my legs. We reached -- at some
21 point in time right before I got off the elevator or as
22 I was getting off the elevator I had this sick feeling.
23 I had pushed two on my phone.

24 Q. What is two on your cell phone programmed for?

25 A. I have two programmed as 911.

- 1 Q. Why did you call 911?
- 2 A. I was afraid.
- 3 Q. What happened after you hit two on your cell
- 4 phone?
- 5 A. The phone was underneath me so I can hear the
- 6 operator announcing who she was. In my mind I kept
- 7 saying if I can hear her then he can hear her, so I
- 8 ended the call.
- 9 Q. So at this point your cell phone is not up by
- 10 your ear traditionally where you would hold a cell
- 11 phone; right?
- 12 A. No. I had it -- I was trying to muffle the
- 13 volume of it.
- 14 Q. Just for the record, she's using her right hand
- 15 putting it down by your leg or your side?
- 16 A. Yeah, I'm kind of like underneath where the
- 17 blanket is and it was muffled and I could hear it. I
- 18 never said anything to the operator. I just -- I think
- 19 she may have said twice, you know, announced who she
- 20 was, state your emergency, then I just ended the call.
- 21 Q. You said you ended it because you figure if you
- 22 could hear her on the cell phone, certainly he could
- 23 hear her?
- 24 A. I was afraid of that.
- 25 Q. Where was he standing in relation to your bed

- 1 when you got in the elevator?
- 2 A. He was behind me. And then when he came and
- 3 touched my thigh it was on, I believe, my left-hand
- 4 side.
- 5 Q. After the elevator doors opened and you exited
- 6 the elevator where did he take you?
- 7 A. He was taking me to my room. I remember thinking
- 8 I'll be okay because I've been in the hospital numerous
- 9 times and normally a nurse or whoever is going to take
- 10 over will receive you. So I kept thinking to myself but
- 11 I remember paying attention more than usual to my
- 12 surroundings, you know, like where was I, you know, to
- 13 me it was a deserted hospital. There was no one in
- 14 sight. I looked around and I was like, you know, okay
- 15 maybe she's in my room, maybe the nurse is in my room,
- 16 you know. Then I don't know if the room was to the
- 17 right, if I am not mistaken, it was to the right but I
- 18 am not exactly for sure which way we went when we
- 19 exited. But I remember it was very far at the end. I
- 20 remember not being able to see the nurses' station at
- 21 all.
- 22 Q. When you got to your room what happened next?
- 23 A. I got in my room at that point the fear in me
- 24 really kicked in.
- 25 Q. Why is that?

- 1 A. Because he already touched me and he already, you
- 2 know, I was already afraid of him in the elevator.
- 3 There was no one there to receive me. So I didn't know
- 4 if anyone even knew that I was in the room.
- 5 Q. Were there any other patients in that room that
- 6 you had assigned to you?
- 7 A. No.
- 8 Q. Just you and the defendant were in the room?
- 9 A. Yes.
- 10 Q. Once he rolled you into your room what did he do
- 11 next?
- 12 A. He continued to, you know, adjust my blankets.
- 13 He was still, you know, trying to be nice but I remember
- 14 the chuckling and giggling and it was just -- it made me
- 15 feel very uncomfortable.
- 16 Q. The defendant was chuckling or giggling?
- 17 A. Yeah, every once in a while he'd give a little
- 18 chuckle or something like that and I remember looking at
- 19 him and did not know what to do. Then, you know,
- 20 adjusting my blankets and that's when, you know, he'd
- 21 rub my thigh and then that's when he put his fingers
- 22 inside my vagina.
- 23 Q. You keep saying he was adjusting your blankets,
- 24 did your blankets need adjusting?
- 25 A. No.

- 1 Q. Had they fallen off to the side?
- 2 A. No.
- 3 Q. Had they fallen down to your ankles?
- 4 A. No.
- 5 Q. So you were completely covered up the whole time
- 6 but yet he kept moving your blankets around?
- 7 A. Yes.
- 8 Q. You said he put his fingers inside your vagina
- 9 and he rubbed his hand up your thigh before that?
- 10 A. Yes. It was like he rubbed and then he inserted
- 11 his fingers. He kept telling me just to relax. You
- 12 should go to sleep. Just relax, relax, you need to
- 13 rest, you need to rest. When he did it, I mean, it was
- 14 very very hard. The rougher he got that's -- I was
- 15 really afraid.
- 16 Q. You said when he did it, you mean when he put his
- 17 fingers inside your vagina?
- 18 A. Mm-hmm.
- 19 Q. Is that a yes?
- 20 A. Yes, he did. He did it very very hard.
- 21 Q. When you say he did it very hard can you describe
- 22 to the Judge what you mean?
- 23 A. The only way I can best describe it is -- excuse
- 24 my language -- he was trying F me with his fingers. He
- 25 was literally just jamming it, jamming it. It was like

1 a hammer, someone hammering and hammering. That's what
2 I remember that was very hard. Then he kept saying,
3 kept saying, you know, oh, look at my -- he kept
4 commenting on his fingers and telling me my fingers -- I
5 do remember him saying my fingers look at my fingers,
6 you're going to enjoy this, you're going to enjoy this
7 and things like that, you know.

8 Q. What did he specifically say about his fingers?

9 A. They were fat.

10 Q. After he was jammed his fingers inside your
11 vagina what did he do next?

12 A. He did that for a while then, you know, he went
13 up and touched my breast area, but every time he
14 inserted his finger in my vagina he would lick his
15 fingers and then he would want me to lick his fingers.

16 Q. How did you know he wanted you to lick his
17 fingers?

18 A. He just kept telling me taste, taste it, taste
19 it.

20 Q. Did he ever say anything when he was licking his
21 own fingers?

22 A. Just like mmm, you know, this is good or
23 something like that. I don't remember word for word,
24 but that's basically what he was doing.

25 Q. Did he give you any directive as to the position

1 time during this incident?

2 A. Yes.

3 Q. What would you have done in order to reach the
4 call button?

5 A. Get out of the bed.

6 Q. It wasn't within arm's reach if you turned over
7 and tried to reach?

8 A. No, not at all.

9 Q. You said earlier he said put your hands up and
10 you put your hands up behind your ears?

11 A. He just -- you know -- just put them up, just
12 relax. I remember just okay, just relax it will be over
13 with, someone is going to walk in, you know, someone is
14 going to walk in. I've been in the hospitals where, you
15 know, especially when you're transported someone is
16 there to take your vitals and someone is there to look
17 at your chart to go over everything that's going on, you
18 know, with you. So I was just thinking that someone was
19 going to show up, someone was going to show up, someone
20 was going to show up.

21 Q. Did you put your hands over your own head or did
22 the defendant put or place your arms there?

23 A. He kind of, you know, here just do this. He's
24 guiding me, you know? It wasn't like he grabbed them
25 and said hold them here. He didn't do that. It was

1 of your body?

2 A. I am sorry. I don't understand your question.

3 Q. Did he give any directive as to where your arms
4 should be or where your legs should be?

5 A. At one point he just said relax just put your
6 arms back and relax, just relax, just relax. I promise
7 you, he goes, just relax and you'll feel much better
8 after this, you'll feel much better. I remember the
9 call button. This is something that I have a hard time
10 with, the call button was behind me and I couldn't reach
11 it, you know, I couldn't reach it. I kept looking back
12 at the call button and I remember looking at it,
13 thinking how could I get -- how could I get it, what do
14 I do, do I scream. But then I thought no one was even
15 on the floor when I got out, are they going to hear me,
16 is he going to kill me.

17 Q. Now, you looked over your -- over to your right
18 over your shoulders is that where the call button was
19 located?

20 A. Like, I believe on the wall like, you know. I
21 can remember it hanging, you know. I don't know if they
22 set it up there, but it was not on the bed at all.

23 Q. Were you laying on your back at this time?

24 A. Yes.

25 Q. Were you laying on your back the entire during

1 here, put them here, something, you know, like that.

2 Q. You said after he did that with your hands he
3 touched your breasts?

4 A. (No audible response.)

5 Q. Is that a yes?

6 A. Yes, he touched my breasts.

7 Q. How many hands did he use?

8 A. Both.

9 Q. Can you describe for the Judge the position his
10 hands were on your breasts?

11 A. He just kept squeezing them, touching them, you
12 know.

13 Q. What kind of force did he use to squeeze your
14 breasts?

15 A. It was a squeeze.

16 Q. After he squeezed your breasts where did he then
17 put his hands?

18 A. He went back down to putting his fingers in my
19 vagina.

20 Q. Do you recall whether or not he using one hand or
21 two hands or both hands?

22 A. You know I don't remember what -- to be honest, I
23 really don't know what hands he used to put his fingers
24 in there. All I can remember it was very hard. It was
25 just very like rapid, very fast, you know. It hurt, you

1 know. I remember just closing my eyes and I'm thinking
2 it will be over. It will be over with. Then after that
3 he at one point put his mouth down there and put his
4 tongue down there. Every time he would put his fingers
5 in my vagina he would lick them. The whole time he just
6 kept saying you should be asleep. You're going to enjoy
7 this. I think even one point he even said it's
8 procedure I think. You're going to relax. You're going
9 to sleep so good. You know, you're going to sleep so
10 good. It seemed like a lifetime.

11 Q. What, if anything, did you do to protest him
12 doing this to you?

13 A. I just every time he did it at one point I
14 crossed my legs. I was very weak. I didn't want to
15 fight him a whole bunch not because -- I was afraid. I
16 was afraid that what if he chokes me, what if something,
17 you know, so you know, when he opened my leg, he did it
18 again and inserted his fingers and touched my breasts.
19 He even tried to kiss me. He told me how pretty I was.

20 Q. You said you had crossed your legs, who opened
21 your legs?

22 A. He did.

23 Q. At that point did you still have your cell phone
24 with you or next to you?

25 A. I did.

1 Q. What, if anything, did you do with it?

2 A. I kept thinking because it seemed like it was
3 progressing, you know, the things that he was doing was
4 progressing. The only thing I can think of is I at the
5 time I have a phone that has a little camera button on
6 it and underneath the sheet I just kept snapping
7 photos, just hitting it and hitting it and hitting it
8 and hitting it. I kept thinking if I die then someone's
9 going to want to know who took the pictures. I don't
10 believe he knew I had my phone.

11 Q. After this incident did you have a chance to look
12 at your phone?

13 A. Yes.

14 Q. Were there photos taken on your phone during that
15 evening?

16 A. Yes, there were.

17 Q. Could you see anything from those cell phone
18 pictures?

19 A. No, in fact, the detective I had given them my
20 phone to look at and they were because there was no
21 light --

22 Q. So the light was off in the hospital room?

23 A. I don't think it was all the way off. I think it
24 was a dim light but because I don't have a flash on my
25 phone, it was just -- I just kept hitting that button.

1 I don't know how many times I hit it. It seems like I
2 hit it a million times, but I just kept hitting it and
3 hitting it and hitting it, you know. Just thinking, if
4 they came in and find me dead, then they are going to
5 want to know, you know, something.

6 Q. At any time from the time you were in the
7 elevator with the defendant and the third person exited
8 to the time you were in your hospital room and all this
9 occurred was anyone else around?

10 A. No.

11 Q. Do you remember whether or not the room to your
12 door was opened or closed?

13 A. I don't know. I believe that it wasn't closed
14 all the way. I think it was more half, but the bathroom
15 door was opened. I remember the bathroom door being
16 opened. So the door was here and I remember the
17 bathroom door was opened.

18 Q. At some point did the defendant leave your room?

19 A. Finally, yes.

20 Q. Before he did do you recall him saying anything
21 about whether or not he would be back?

22 A. He kept saying --

23 MS. ROUNDTREE: Your Honor, I'd object to
24 leading.

25 MS. CLARKE: I can rephrase.

1 THE COURT: Sustained.

2 BY MS. CLARKE:

3 Q. What did the defendant say to you before he left
4 the room?

5 A. During the time that this whole disgusting thing
6 was going on he kept referring to, you know, I get off
7 and I'll be back, you know, my shift is almost over or
8 something like that. I remember that standing out in my
9 head because when I finally -- I was afraid because I
10 didn't leave my bed. After he left I kept thinking is
11 he outside the hallway. Is he waiting for me to, you
12 know, what's he going to do, you know. I just stayed
13 quiet. Just didn't move. Just didn't cry. Never
14 cried. I just stood there kind of like froze, you know.
15 I'll wait hold it together. Hold it together. Hold it
16 together. That's what kept standing out in my head. Is
17 he going to come back. Is he going to come back. It
18 was one of my main concerns. I wanted to be moved.
19 That was the first request I asked was please move me
20 out of this room. Do not leave me alone.

21 Q. You said you stood there and you kind of froze
22 you actually were laying in the hospital bed?

23 A. I just stayed there. I didn't have leave my
24 hospital bed. I just -- I kept thinking someone is
25 going to come in. My nurse is going to come back in. I

1 don't know how long from the time that he left before my
2 nurse came in.

3 Q. Do you recall whether or not you were awake
4 during that time period?

5 A. You know what, I was so tired. I don't know. I
6 think I may have fallen asleep. I don't remember. All
7 I remember is that when that nurse came in, I lost it.

8 Q. After he left before the nurse came in were you
9 still under the effects of the medication that you were
10 on?

11 A. Oh, definitely. I was fighting the medication to
12 stay awake. I mean I was highly medicated. I was
13 highly medicated. I just wanted to go to sleep.

14 Q. While he was touching you in the room were you
15 still under the effects of the medication?

16 A. Yes.

17 Q. Were you still trying to fight falling asleep
18 then as well?

19 A. Oh, yes. You know, they say your gut instinct
20 kicks in. Mine did. You know, I am not going to sleep.
21 I am not going to a sleep. Stay awake. Stay awake.
22 Stay awake. I fought it.

23 Q. The nurse that came in was different than the
24 defendant?

25 A. Yes.

1 Q. Do you recall whether it was a male or female?

2 A. You know what, I believe it was a female.

3 Q. After she came in what did you do? I think you
4 said you lost it. What do you mean?

5 A. I just when she walked in my room, I just was
6 hysterical. I lost it. I just start crying. Please
7 call the police, please call the nursing supervisor. I
8 need someone right now. Do it now. Do it now. I even
9 think I shocked her because she walked in I think to get
10 my vitals, not knowing what -- I don't even know if she
11 knew I was there.

12 Q. Why do you say that?

13 A. Just because I believe there is a procedure and
14 when she came in she was oh, you know, like you're here.

15 MS. ROUNDTREE: Objection, Your Honor.
16 Hearsay.

17 MS. CLARKE: Judge, I am not offering it for
18 the truth of the matter.

19 THE COURT: Overruled.

20 BY MS. CLARKE:

21 Q. What did she say?

22 A. I believe she said, you know, oh, you're here.
23 Oh, let me go get, you know, take the pressure and do
24 all the things that she needed to do.

25 Q. Do you recall what time of day it was that she

1 came in, whether or not the sun was up?

2 A. It was early morning. There was no clock in the
3 room. I think it might have been coming up. I couldn't
4 tell you the exact time.

5 Q. Did the nurse stay with you the entire time?

6 A. I think I scared her. She was okay, okay. She
7 went and got somebody from the hospital staff.

8 Q. At that point where was your husband, do you
9 know?

10 A. My husband was home with my children.

11 Q. What did you do?

12 A. I called my husband. I didn't go into detail
13 because I didn't know how to tell him. I didn't tell
14 him this had happened. I didn't know even if I wanted
15 to. We were married for 13 years. This man with one
16 person for 13 years. I didn't know how he would take
17 it. I was afraid that he would get angry or what. I
18 remember just telling him please come down here. I need
19 you down here. I need you down here. I need you. I
20 need you. I kept saying, you know, I didn't state the
21 urgency, you know. He was I have the girls I got, you
22 know, I'll be there as soon as I can. I got to find --
23 to take the girls or have someone pick them up, you
24 know. I was look, okay, hurry, hurry, hurry. I
25 remember telling him hurry, hurry, hurry and not wanting

1 to get off the phone.

2 Q. Now, the girls you mentioned are those your
3 daughters?

4 A. Yes, eleven years old and ten years old.

5 Q. Did your husband get to the hospital?

6 A. Yes, he did.

7 Q. What happened once he got there?

8 A. He got there. I told him what happened in
9 detail.

10 Q. What was his demeanor when you talked to him?

11 A. I'm sorry?

12 Q. What was your demeanor when you were talking to
13 him?

14 A. I was hysterical.

15 Q. What happened when you told him what occurred
16 that evening?

17 A. He was very angry. He was very, you know, I
18 think in a way kind of blamed himself for not staying
19 with me. At that time I believe somebody from the
20 hospital had come you up to talk to us and my husband
21 was like --

22 MS. ROUNDTREE: Objection. Hearsay.

23 THE COURT: Sustained.

24 BY MS. CLARKE:

25 Q. After someone from the hospital came were the

1 police eventually called?

2 A. Well, I thought the police were called the moment
3 I made the accusation.

4 Q. Which was when the first nurse had come in?

5 A. The first nurse had come in and I stated I want
6 the police called. I want your supervisor. You call
7 whoever you need to call. I want them here.

8 Q. Did you give that nurse any detail of what
9 happened?

10 A. No, I don't believe so. I was hysterical. I was
11 I need to talk to somebody. I need to talk to them now.
12 I may have said, you know, the nurse who transported me
13 -- I may have mentioned him in a small briefing but I
14 don't think I went into great detail with her.

15 Q. Who ended up calling the police?

16 A. My husband.

17 Q. So that was after you talked to him and he came
18 to the hospital and you had told him what happened?

19 A. Yeah. The lady from the hospital came in. She
20 said, you know, let's concentrate on you getting better.
21 She said, if you want to pursue this then, it's within
22 your right. I was just like, what? What do you mean?
23 I was shocked and she was like, I released him and told
24 him he was not allowed on property. I was still
25 demanding I wanted to be transferred out of the

1 hospital. I wanted to be out of there because I thought
2 he was going to come back. I kept telling them, don't
3 leave me, don't leave me alone.

4 Q. I want to go back real quick to one area. You
5 said that at one point he put his mouth down on your
6 vaginal area?

7 A. Mm-hmm.

8 Q. Is that yes?

9 A. Yes, he did.

10 Q. I think you also said his tongue as well?

11 A. Yes, he was licking me.

12 Q. How long would you say he was down licking your
13 vagina?

14 A. Not long. To me it was more like licking his
15 fingers, you know, he kept sticking his fingers in there
16 and he licked down there, like he was licking my
17 fingers.

18 Q. What do you mean, licking down there like he was
19 licking your fingers?

20 A. Like he wanted to taste or something. He wanted
21 to taste it or something. I don't know.

22 Q. Was his head down in your vaginal area?

23 A. Yes.

24 MS. CLARKE: I'll pass the witness.

25 THE COURT: Defense?

CROSS-EXAMINATION

2 BY MS. ROUNDTREE:

3 Q. Ms. Cagnina, is that the correct pronunciation?

4 A. Yes.

5 Q. I'm going to be asking some questions. If you
6 can just be sure to answer what I asked and try not to
7 offer anything other than what I asked. Thank you.

8 The reason you were transported to the hospital
9 on that date was because you had a seizure and you are
10 prone to these seizures. Is there a condition related
11 to that that you're aware of?

12 A. Yes. I've taken Phenobarbital and Dilantin off
13 and on for ten years.

14 Q. Is there a name for that condition?

15 A. Epilepsy.

16 Q. The night before you had gone to the hospital
17 when the paramedics came had you taken Phenobarbital at
18 all that night?

19 A. I take my Phenobarbital twice a day, you know.

20 Q. When was the last time that night you took the
21 Phenobarbital?

22 A. I took -- in fact the last time I took it because
23 I can feel the seizures coming on. I tried to take, you
24 know, the Phenobarbital if I can stop the seizure by
25 taking it.

1 Q. Listen to my question one more time: Do you
2 remember about what time it was when you took the
3 Phenobarbital before paramedics arrived, approximately
4 how long before they arrived?

5 A. Approximately ten minutes I guess.

6 Q. Are you directed to take the Phenobarbital two
7 times a day or do you take it when a seizure is coming
8 on?

9 A. I take it every day. There has been times I've
10 not had a seizure two or three years.

11 Q. But you continue with the medicine?

12 A. I continue to take medication. It's recently
13 been lowered. It's been lowered to wean me off of it.

14 Q. Is that an addictive drug?

15 A. Addictive drug?

16 Q. Correct.

17 A. Do I have withdrawals when I take it is that what
18 you --

19 Q. When you get weaned off of it specifically?

20 A. Well, I don't know the doctor just he lowered it,
21 lowered the dose, because I hadn't had a seizure in a
22 while. I hoped that the lower dose studies have shown
23 in my family that people out grow seizures. I have
24 heard it many times. So my whole thing is I -- the
25 Phenobarbital makes me very tired.

1 Q. The question was: Have you just been told by the
2 doctor you should lower the dose of Phenobarbital before
3 this incident?
4 A. I don't know exactly how long but it was lowered
5 within the last three months.
6 Q. The last three months before from today or?
7 A. From that time. Then they actually at one point
8 had taken me off the Dilantin.
9 Q. On the night of May 15th, 2008, had you had
10 Phenobarbital that night?
11 A. Yes.
12 Q. Is that because you felt a seizure coming on?
13 A. Yes. I tried to double up on the medication, but
14 I did take it that morning.
15 Q. Had you had the Phenobarbital that night or only
16 in the morning?
17 A. I had it in the morning.
18 Q. A double dose?
19 A. Then when I felt the seizure coming on I took --
20 I don't know -- maybe two.
21 Q. The Dilantin is that the correct term?
22 A. Dilantin is one of them.
23 Q. Had you taken that that evening as well?
24 A. I was not on Dilantin at that point in time.
25 They had completely taken me off the Dilantin.

1 Q. The Dilantin was something you took before that
2 night but not necessarily on that night; correct?
3 A. I didn't take it that day I was off of it but
4 they put me back on it when I was admitted in the
5 hospital.
6 Q. Was there anything other than the Phenobarbital
7 you were taking that evening?
8 A. For my seizures?
9 Q. Correct, or for any condition?
10 A. I got really bad headaches from my seizures so I
11 take pain medication.
12 Q. What dose or type had you taken that night?
13 A. That night, I didn't take any medication for my
14 headaches that night. The paramedics after my seizure
15 they gave me medication for pain.
16 Q. Do you know what the paramedics gave you?
17 A. I don't know what they gave me.
18 Q. Was that some narcotic medication for pain?
19 A. Yes.
20 Q. You're being seen by doctor for the seizure
21 condition?
22 A. Yes.
23 Q. Who is that doctor?
24 A. Dr. Khalek. And also I've noticed that sometimes
25 when my sugar level drops I have a seizure too.

1 Q. Do you have a separate doctor for that issue?
2 A. I've seen the same doctor for ten years.
3 Q. That's the one you just mentioned?
4 A. Yes.
5 Q. Do you know how to spell that name?
6 A. I don't. But like K-H-A-L-E-K.
7 Q. Where is he located?
8 A. I can give you the phone number if you'd like it.
9 I don't know the address. It's off of Meadows Lane.
10 Q. Is he in a hospital or one of those little
11 doctor's offices?
12 A. He's a doctor. Actually when I was first
13 diagnosed with the seizures he actually -- I was
14 hospitalized for a month. He was the one of the doctors
15 that was recommended from friends. He actually got me
16 off intensive care where at one point in time they
17 didn't even think I was going to survive. So at that
18 time he's been my doctor ever since. I have a
19 neurologist at the very beginning when I first started
20 having seizures, Dr. Hysen, but I don't see Dr. Hysen on
21 a regular basis because Khalek gives me my Phenobarbital
22 and my Dilantin.
23 Q. I don't think you mentioned the purpose of the
24 Dilantin, what does that do?
25 A. It's another form to prevent seizures.

1 Q. Before you were transported to the hospital what
2 were you doing in your home when the seizure occurred or
3 was about to occur?
4 A. I was probably doing every day housework.
5 Q. This was obviously very late at night were you in
6 bed at that point?
7 A. When I called paramedics?
8 Q. Yes?
9 A. No.
10 Q. What time was it?
11 A. During the day.
12 Q. What time were you transported to the hospital?
13 A. Between 12:00 and 2:00.
14 Q. And that's 12:00 midnight and 2:00 in the
15 morning?
16 A. No. 12:00 p.m. and 1:00 p.m. during the day
17 because my girls were going to get off school,
18 so that's how I know that time.
19 Q. When you were transported to the hospital did you
20 stay in the clothing you were wearing the day you were
21 transported?
22 A. Yes.
23 Q. At some point obviously you changed into a
24 hospital gown do you know when that was?
25 A. No. I don't know who changed me out. I don't

1 know still to this day. I don't know who changed me
2 out.

3 Q. Do you know if you were still in your regular day
4 clothing when you went to the hospital?

5 A. Yes.

6 Q. The first time you became aware you were in a
7 hospital gown do you know what time approximately that
8 would have been?

9 A. When I was in the emergency room. I remember
10 being -- I'm kind of private so I remember looking up,
11 but I've always felt comfortable around doctors. I
12 never felt a doctor or nurse is a threat. If I needed
13 the bathroom I felt confident they -- I didn't feel, you
14 know, uncomfortable and I was okay with the fact, okay,
15 you're not allowed to get up to go to the bathroom, so
16 they give you a bed pan.

17 Q. Do you remember the first time you were no longer
18 in your day clothing but in your gown, do you remember
19 what time --

20 A. I don't remember.

21 Q. You were in the emergency room still?

22 A. It's not something -- I can't figure it out.
23 It's one of the nightmares that I still have.

24 Q. Are you in the emergency room at the time you
25 realized you were in the hospital gown?

1 A. Mm-hmm.

2 Q. And did you blackout for a while? Is that yes?

3 A. Anytime you have a seizure you do not completely
4 blackout but you have a seizure.

5 Q. So you do lose consciousness for a while and did
6 you do so on this occasion?

7 A. Yes.

8 Q. Was it during sometime of this loss of
9 consciousness you went from your day clothing to your
10 night clothing?

11 A. I don't know.

12 Q. I'm sorry?

13 A. I don't know.

14 Q. But you became aware at some point you had a
15 night gown on; is that a fair assumption?

16 A. Yes. I had a hospital gown, yeah, in the ER I
17 remember.

18 Q. Do you remember what room the clothing had been
19 stashed, the clothing you had been wearing that day in
20 the ER?

21 A. I believe underneath my bed. From my experience
22 being in so many hospitals for seizures they usually put
23 it in one of those little hospital bags, and if you're
24 in the ER, it's usually tucked under your bed.

25 Q. But you don't remember where it was on this

1 occasion actually; is that fair to say? You're assuming

2 where the clothing was, you don't remember on this

3 occasion is that what you're saying?

4 A. No. I know I had a bag underneath there.

5 Q. So with regard to the cell phone that you had on
6 you was that your personal cell phone?

7 A. Yes.

8 Q. In your personal cell phone 911 is programmed
9 number two; correct?

10 A. Yes, like you would have -- I have one programmed
11 as voice mail and you hold 1 down, then two --

12 Q. It's a speed dial; correct?

13 A. Kind of like.

14 Q. Is your husband on speed dial as well or
15 whatever you call that?

16 A. Yeah, I have many people -- not many.

17 Q. The question was about your husband, do you
18 remember what number he was on?

19 A. Actually, I don't have my husband programmed on
20 speed dial to be a fact.

21 Q. You have a lot of people but your husband is not
22 one of them?

23 A. I don't have -- I have my children, 911, voice
24 mail.

25 Q. So as you laid in the hospital bed in the

1 emergency room, the ER, the clothing you had during the
2 day was underneath the bed where was your cell phone?

3 A. With my purse, I believe with my purse.

4 Q. Where was your purse?

5 A. Underneath the bed.

6 Q. It was with the clothing as well?

7 A. I don't think in the bag. I think I had access
8 to my purse the whole time.

9 Q. Do you remember in the emergency room making any
10 calls to anybody or were you not well enough to do so?

11 A. To be honest, I don't know. I'm sure I called
12 people.

13 Q. Do you remember who your attending -- I don't
14 know if I am using the correct terminology I have not
15 spent a lot of time in the hospital -- do you remember
16 who your attending nurses were when you were in the
17 emergency room other than Mr. Farmer?

18 A. I know it was a female nurse.

19 Q. You don't recall her name or having --

20 A. I don't. I've never -- anytime I've been in the
21 hospital the only time that I have ever referred to
22 somebody is when you are admitted some of the places
23 have a board they will write their name like a dry erase
24 board.

25 Q. But you never did know the female attending

1 nurse's name on this occasion?

2 **A. I may have but to tell you her name, I don't know**
3 **her name.**

4 **Q. Is it fair to say you told the police you had**
5 **asked for her name and her contact information?**

6 **A. Oh, yes, definitely. I thought I was getting**
7 **outstanding care in the ER. I've been in many ER's**
8 **where sometimes --**

9 **Q. So the answer is, yes, you did ask for the**
10 **attending nurse the female's name at some point that**
11 **evening?**

12 **A. I just said you know what I'd like, you know, I**
13 **love to write a report to the hospital and find out, you**
14 **know, let them know how great you guys are.**

15 **Q. You were speaking of the attending female nurse**
16 **and Mr. Farmer; is that correct?**

17 **A. Yes.**

18 **Q. And you ultimately did have Mr. Farmer write his**
19 **information on something in your purse; correct?**

20 **A. Yes, and her --**

21 **Q. Did you get the information from the female**
22 **attending nurse?**

23 **A. Yes. I believe I did get both of them. In fact**
24 **it was on the sheet that she was checking out. She had**
25 **had her name.**

1 **Q. You don't know today who that was?**

2 **A. No, but I can pull the paperwork if you'd like.**

3 **Q. The police officer did ask you about the same**
4 **thing as well and you never did pull the paperwork for**
5 **them; is that fair to say?**

6 **A. The police asked just, you know, when I told them**
7 **the whole story, they asked what I had and I just gave**
8 **them Mr. Farmer's name.**

9 **Q. You didn't give them the female nurse's**
10 **information?**

11 **A. No.**

12 **Q. When you were in the O.R. -- you had some**
13 **additional seizures and thus needed additional care;**
14 **correct?**

15 **A. Yes.**

16 **Q. Like special attention because you were having**
17 **seizures?**

18 **A. Yes.**

19 **Q. When you have seizures what is the attending**
20 **nurse directed to do when that's happening?**

21 **A. Really I don't believe there's really anything**
22 **you can do for a seizure and make sure I am not out of**
23 **bed. Make sure I am, you know, I come out of it so I am**
24 **breathing.**

25 **Q. Mr. Farmer sat with you through a couple of those**

1 seizures; is that fair to say?

2 **A. Yes, every time eyes --**

3 **Q. You had commented to Mr. Farmer that you were**
4 **really cold is that a common symptom of the --**

5 **A. No, the hospital room was cold. The moment I**
6 **entered it was cold. I got the sheet and I know that**
7 **they have warm blankets because I've been in the**
8 **hospital before.**

9 **Q. So you asked Mr. Farmer to get additional**
10 **blankets for you; is that fair to say?**

11 **A. I told him I was cold. I don't know if I asked**
12 **for additional blankets --**

13 **Q. You did receive additional blankets from Mr.**
14 **Farmer; is that true?**

15 **A. He offered if I'd like a warm blanket.**

16 **Q. Did you receive a couple of warm blankets from**
17 **Mr. Farmer?**

18 **A. I received several.**

19 **Q. As you set on the -- I think the district**
20 **attorney referred to it as a gurney but --**

21 **A. It was a bed.**

22 **Q. -- a hospital bed in the ER you had not only your**
23 **original blanket but several additional heated blankets?**

24 **A. I had a sheet and a warm blanket. A blanket -- I**
25 **don't know if they are sheets but I had two.**

1 **Q. When you referred to several blankets before what**
2 **were you referring to?**

3 **A. Every time my warm blanket got cold Mr. Farmer**
4 **would bring me new one.**

5 **Q. As you left the emergency room, do you know how**
6 **many warm blankets you had on you at that point?**

7 **A. I believe it was one.**

8 **Q. Do you remember telling the police you had at**
9 **least three blankets on you as you left --**

10 **A. I don't know --**

11 **Q. -- the hospital -- the emergency room?**

12 **A. I don't recall. I don't know.**

13 **Q. You don't remember?**

14 **A. I don't remember.**

15 **Q. You would not be surprised if you told the police**
16 **you had at least three blankets on you because you were**
17 **cold throughout that evening; is that fair to say?**

18 **A. Hospitals are always cold. If I had a blanket I**
19 **am sure -- I don't know exactly. I didn't count them.**

20 **Q. You wouldn't have lied to the police about that;**
21 **is that fair to say?**

22 **A. No, I don't lie.**

23 **Q. When you went from the emergency room and you're**
24 **going to be transported do you remember exactly what**
25 **time it was or approximately what time?**

1 A. No.

2 Q. But you did become aware of the time that you hit
3 the hospital room -- the hospital room where you
4 described the events here today; is that fair to say?

5 A. Well, I know it was early -- late at night and
6 early morning, because I believe I spoke with my husband
7 and he had told me good night, you know, before I had
8 gotten to my room. I know it was late.

9 Q. Is it your testimony that while you were in the
10 emergency room although your purse was under the
11 hospital bed you did actually have your phone and spoke
12 with your husband down there?

13 A. My husband was at work. I don't know if I called
14 him at work. He was at work. I don't remember.

15 Q. You do remember a conversation with him that you
16 were just describing?

17 A. Yeah, I am sure I talked to him but I don't
18 remember when I called him or what.

19 Q. When you were in the emergency room with your
20 medical issues were you having friendly conversations
21 with the nurses about other things other than your
22 illness?

23 A. I have children, things like that. I believe
24 that when you spend a certain amount of time with
25 somebody that, you know, are you married.

1 Q. Is that a yes, ma'am, you did have a conversation
2 with the --

3 A. Yes, I have two children, my husband does this,
4 yeah --

5 Q. When you --

6 THE COURT REPORTER: You guys are talking
7 over each other.

8 BY MS. ROUNDTREE:

9 Q. When you had the conversation with the attending
10 nurses about the children who specifically are you
11 discussing, who are you talking to?

12 A. I think I told both of them.

13 Q. You just said you told both of them, is it fair
14 to say, what your husband did for a living?

15 A. Normally I don't like to say what my husband does
16 for a living, but I couldn't tell you yes or no, that I
17 said my husband what he does for a living --

18 Q. Isn't that what you just said right before I cut
19 you off?

20 THE COURT REPORTER: You guys are cutting
21 each other off.

22 THE WITNESS: You're going to have to ask
23 the question again because I don't know what you are
24 saying.

25 ///

1 BY MS. ROUNDTREE:

2 Q. You were talking about the fact of having
3 friendly conversation with people who are your attending
4 nurses and you said I think I told them about my
5 children, I told what my husband does. Was that --

6 A. No. I told them I have children. I am married.
7 Things of that sort. Whether I told them what he does
8 for a living I don't know. But it would be safe to say
9 they knew what he did because they had my insurance
10 card. It clearly says his name and everything on it.

11 Q. Does the attending nurse take your insurance
12 information?

13 A. I don't know who does that, but I know --

14 Q. It's not necessarily fair to say they knew that
15 because of that reason; is that fair to say?

16 A. No.

17 Q. Did you have a conversation in the emergency room
18 with the attending nurses, Mr. Farmer and this female
19 nurse whose name you don't know, about riding Harleys?

20 A. Yes.

21 Q. Do you remember the specifics of that
22 conversation?

23 A. No.

24 Q. Did you tell Mr. Farmer you liked to ride Harleys
25 because the way it felt riding a Harley?

1 A. I love riding Harleys and I think it's very
2 peaceful. If I said anything I've told many people
3 riding a Harley is the most peaceful thing in the world.
4 I can go from a very stressful day, hop on a bike,
5 you're in your own world. It's just a peaceful feeling.

6 Q. Your testimony is it's a possibility you told Mr.
7 Farmer you like the way it feels to ride a Harley?

8 A. Like the way it feels or I like the environment?
9 I don't know what you are trying to say.

10 Q. I ask you is it possible and you said you do
11 sometimes discuss with people about riding Harleys and
12 you said you might have discussed this with Mr. Farmer.
13 So my question was --

14 A. If I told Mr. Farmer --

15 Q. You have to make sure that I finish before you
16 start --

17 A. Okay, go ahead.

18 Q. -- and I will do the same. My question was since
19 you asked what my question was, is it true you told
20 Mr. Farmer you like the way it feels when you ride a
21 Harley?

22 A. No. I didn't say I like the way it feels. I
23 probably said I like the peacefulness of the Harley. I
24 like the way they sound. I love Harleys. Any Harley
25 rider can tell you I love -- if you are a Harley rider

1 you either love to ride or hate to ride.

2 Q. Do you remember the conversation specifically?

3 A. No.

4 Q. When you were in the emergency room did you have
5 a conversation about does your family have a pool
6 service or does someone in your family own a pool
7 service?

8 A. No.

9 Q. Did you have a conversation -- let me back up.

10 When you were in the emergency room and you were
11 laying on the bed which you called it, is it true, that
12 your hair because it was long hair was kind of being put
13 back over on the end of the bed; correct? Was it
14 perhaps so it didn't tangle or perhaps it didn't --

15 A. I couldn't tell you but normally my thing is I'm
16 always combing my hair. If anything I probably braided
17 it.

18 Q. Do you have any memory whatsoever what you did
19 with your hair in the emergency room?

20 A. No.

21 Q. You are just guessing?

22 A. I am not guessing. I am showing a pattern of
23 what I do when I go to the emergency room.

24 Q. On the night of this occasion do you remember
25 having your hair over the end of the bed? If you don't,

1 that's fine.

2 A. No, I don't.

3 Q. While you were in the emergency room you said --
4 you have may have not said this yet -- but you offered
5 to write a recommendation for both attending nurses
6 because you were so pleased with the care you received?

7 A. Yeah. I was just amazed with -- I mean anytime I
8 opened my eyes I didn't have to ask for anything. I got
9 it.

10 Q. And that was the case with both your attending
11 nurses; correct?

12 A. I think it was more with Mr. Farmer.

13 Q. And yet you offered to write a recommendation for
14 both of them; correct?

15 A. Yes. She was very nice. She was very nice. I
16 was -- not just with them, but just the whole care in
17 the ER whether it was just Mr. Farmer or the nurse. It
18 was Mr. Farmer, the nurse, the doctors. I was impressed
19 by the whole hospital. I've been in hospitals where,
20 you know, I didn't care for.

21 Q. So when you are in the emergency room and you had
22 some additional incidents or seizures were you also
23 given additional medication after you --

24 A. I don't know exactly what medication I was given.

25 Q. Do you know whether or not they were giving you

1 the Phenobarbital?

2 A. I do not know what medication they were giving
3 me. Other than the fact that they had I remember asking
4 -- they were going stop them with Ativan. To be even --
5 I don't want to say something that's not true.

6 Q. You don't remember?

7 A. No, I don't remember what they gave me.

8 Q. Do you remember they were giving you medication?

9 A. Oh, yes. They were giving me medication.

10 Q. And each time you would have an additional
11 incident perhaps more medication; is that fair to say?

12 A. No, not necessarily. I think that -- no. They
13 were giving me medication.

14 Q. Did they give you medication for the migraines?

15 A. I get headaches. They did give me something for
16 my headache. I don't know what they gave me.

17 Q. When you were being transported up from the ER to
18 the room, there was another nurse that got in the
19 elevator with you?

20 A. I don't know if it was a nurse. I don't even
21 remember if it was a male or female. But I know when I
22 got in they were in there.

23 Q. So as you were in the elevator being transported
24 to the room it would have been you and Mr. Farmer who
25 was guiding your bed; is that fair to say?

1 A. When I got on I believe the other person on in
2 fact got off.

3 Q. You don't remember -- did they get off at the
4 bottom floor or wherever the emergency room is or did
5 they get off on a floor?

6 A. I think I got off on the bottom floor if I am not
7 mistaken.

8 Q. Do you remember having a conversation with the
9 police about that issue?

10 A. Yeah, I remember -- I remember mentioning it to
11 them that there was somebody that they were in there,
12 you know.

13 Q. You do remember having a conversation with the
14 police about that issue?

15 A. Yes. I believe so, yes.

16 Q. You would have a better memory of that at that
17 time when you had the conversation with police; is that
18 fair to say?

19 A. One of the things is is when you have a seizure
20 sometimes you don't remember everything and it takes --
21 sometimes it will take me an hour or so depending on the
22 seizure the details. Like for now, I am remembering
23 things now that stand out that, you know --

24 Q. That you did not mention to the police?

25 A. That I did not mention to police what?

1 Q. You are remembering things now that you didn't
2 mention to police; is that what you are saying?
3 A. Yeah. I don't know why. I think that I gave the
4 police -- I know that I gave them a very detailed
5 statement.

6 Q. You wouldn't have been making things up, you
7 would have been talking from your memory or your
8 recollection; right?

9 A. No. I would not be talking from my memory.

10 Q. What would you be talking from --

11 A. What do you mean memory -- I didn't --

12 Q. You just --

13 THE COURT REPORTER: You guys are talking
14 over each other again.

15 THE COURT: Wait, wait.

16 THE COURT REPORTER: It's going to be
17 horrible when you see it.

18 THE COURT: Your transcript is going to be
19 horrible so you both know. I need you to both be quiet.
20 When you talk over each other my court reporter takes
21 down nothing. So that means we get to answer the same
22 questions all over again.

23 THE WITNESS: I'm sorry.

24 THE COURT: I'm sure you don't want to be
25 here.

1 THE WITNESS: No, I don't.

2 THE COURT: So if you wait and let each
3 other finish their sentence, then we'll have a great
4 transcript and you won't have to answer questions more
5 than once.

6 THE WITNESS: Thank you.

7 BY MS. ROUNDTREE:

8 Q. Be sure and just answer the questions that I
9 asked and not add additional things. I would appreciate
10 it. I am trying to hurry this up and I do realize that
11 I am talking over you but just answer the questions only
12 that are asked and if you want to say something more the
13 district attorney will have another chance to speak to
14 you --

15 A. If okay.

16 Q. -- If you feel like something was left out.
17 When you got in the elevator, you were on the bed and
18 your belongings were under your bed; is that fair to
19 say?

20 A. Yes, I guess. I couldn't see underneath my bed.
21 They always bring your stuff with you. I guess that it
22 would be fair to say.

23 Q. And where was the cell phone and your purse?

24 A. He handed me my purse. In fact I asked him to
25 give me my purse and I had it on the side of me.

1 Q. And in your purse was the cell phone?

2 A. Mm-hmm.

3 Q. Your testimony was that in the elevator that
4 Mr. Farmer began touching you or rubbing on your leg up
5 to your groin area; correct?

6 A. Yes.

7 Q. At that some point you popped your knees up, is
8 that fair to say, you popped them up?

9 A. All I remember when I was in the elevator that my
10 legs, I wanted the blanket tucked as tight as possible
11 underneath me. So me to have my legs up, no.

12 Q. So if you told the police that while in the
13 elevator you popped your knees up would make no sense
14 whatsoever; correct?

15 A. I don't remember telling them.

16 Q. I am asking you would it make sense to you to pop
17 your legs up when someone is groping your leg?

18 A. If someone was groping my leg, would I pop my leg
19 up?

20 Q. Would it make sense to pop your legs up, if your
21 laying down and someone is groping your leg?

22 A. I don't know how to answer that really. I don't
23 know how to answer that.

24 Q. You also told police Mr. Farmer was constantly
25 covering you with the blankets in the elevator?

1 A. Adjusting them.

2 Q. This was while he was groping your leg?

3 A. Yes. It was a way, you know, here let me fix
4 this --

5 Q. Is that yes?

6 A. Yes.

7 Q. You don't believe as you sit here today there was
8 another nurse in the elevator at that time?

9 A. There was someone in the elevator but not for the
10 whole entire time that I was in the elevator.

11 Q. Do you know the other person in the elevator --
12 would it be fair to assume that was a hospital personnel
13 maybe not a nurse but someone --

14 A. I don't believe it was a nurse. I don't know. I
15 wasn't paying attention. To me it wasn't something I
16 was paying attention to.

17 Q. Is it fair to assume that was someone from the
18 hospital though in the elevator at 3:00 in the morning?

19 A. I guess it would be fair. I don't know.
20 Everybody rides the elevator.

21 Q. Was this person in the elevator during the time
22 you say Mr. Farmer was groping your leg?

23 A. No.

24 Q. You do remember that?

25 A. Yes. I do remember that because if he would have

1 **groped my leg while someone was in there, I would have**
2 **told them.**

3 **Q.** Once you got up to the floor you said, we are not
4 talking about the floor your room was on, the room
5 Mr. Farmer was taking you to you said you don't -- I
6 think you said you didn't see anybody else around; is
7 that fair?

8 **A.** Yeah, to me it was like a deserted hospital. I
9 remember looking around and not seeing anything.

10 **Q.** Did you pass other hospital rooms on that floor,
11 the 6th floor?

12 **A.** Yeah, I was at the end. So the elevator was
13 here. It's only basic that you would pass other rooms.

14 **Q.** You passed several hospital rooms did you notice
15 about the other patients in the other hospital rooms?

16 **A.** I didn't pay any attention.

17 **Q.** You didn't notice to see whether or not there was
18 someone in the rooms?

19 **A.** No.

20 **Q.** You passed the nurses' station?

21 **A.** I didn't pass the nurses' station.

22 **Q.** Did you see any other nurses or hospital
23 personnel on the 6th floor?

24 **A.** No.

25 **Q.** Once you got to your room, is it your testimony,

1 the restroom?

2 **A.** Not without a bed pan, no. They kept giving me
3 bed pans. When you have seizures they don't want to
4 take the chance of you having a seizure outside the bed.
5 I was confined to the bed.

6 **Q.** And you have a memory of the fact you did not go
7 to the restroom, that's my question?

8 **A.** In the ER or in the room?

9 **Q.** In the hospital room?

10 **A.** No, I didn't go to the bathroom in the room.

11 **Q.** And definitely not in the presence of Mr. Farmer?

12 **A.** No.

13 **Q.** Once you got to the room were you on the hospital
14 bed, the one from ER, you had to get from that bed to
15 your hospital bed; correct?

16 **A.** No. I don't remember being transported to a bed.
17 I honestly don't remember being moved from this bed to
18 this bed. I thought it was the bed he rolled me in
19 there. I don't know whether I was transported from bed
20 to bed. I thought I was in the same bed.

21 **Q.** So is it your testimony today that the abuse took
22 place in the hospital bed from the ER?

23 **A.** I can't tell what bed it took place.

24 **Q.** You have no memory of that whatsoever?

25 **A.** No. I don't know what bed, whether he

1 that Mr. Farmer partially closed the door or how did
2 that door get partially closed --

3 **A.** I am saying I know the door was not closed. I
4 know that, but I believe it wasn't all the way open.

5 **Q.** How do you know the door wasn't closed?

6 **A.** Because I could see the hallway.

7 **Q.** Do you remember telling the police officer that
8 the door to the hospital room was closed?

9 **A.** No, I don't remember. I remember saying that
10 bathroom door was opened, so you couldn't -- with the
11 bathroom door opened you cannot see everything out
12 there.

13 **Q.** But you don't remember telling them the hospital
14 room was closed -- the door was closed?

15 **A.** No, I don't remember.

16 **Q.** In fact the bathroom door to your hospital room
17 was opened; correct?

18 **A.** Mm-hmm.

19 **Q.** Do you remember at some point asking Mr. Farmer
20 to you help you the restroom or having him help you to
21 the bathroom?

22 **A.** No, because I knew that I am not allowed out of
23 bed.

24 **Q.** So your testimony is you never did in the
25 presence of Mr. Farmer go from either hospital bed to

1 transported me into a bed or not. All I know was the
2 call button was not on the bed.

3 **Q.** It's possible -- your testimony is it's possible
4 that you were still in the hospital bed from the ER when
5 the event took place; is that fair to you say?

6 **A.** I am saying I don't remember whether I was
7 transported or not.

8 **Q.** So that's why I asked if it was possible since
9 you don't remember?

10 **A.** (No audible response.)

11 **Q.** Do you remember whether or not the bed you laid
12 as the abuse you described took place had rails on the
13 side? Do you know what I mean by that?

14 **A.** Yes, I do.

15 **Q.** Do you remember whether the bed that you laid on
16 during the events that you described had rails?

17 **A.** Yes, I believe all hospital beds have rails.

18 **Q.** My question was about that bed. Were the rails
19 in place?

20 **A.** I believe this was up and this one was down.

21 **Q.** For the record you indicated with your right arm
22 that rail would have been up and your left arm the rail
23 would be down; is that fair to say?

24 **A.** To be honest I don't remember if the rails were
25 up or down.

1 Q. Is that what you just indicated --

2 A. I said I think this one, I think, this one was up
3 and this one was down. I am not sure --

4 Q. I am trying to put on the --

5 A. I am --

6 THE COURT: Stop interrupting each other.

7 BY MS. ROUNDTREE:

8 Q. I am trying to put on the record what you are
9 indicating to me.

10 A. I don't remember.

11 Q. What you indicated may very well not be the case
12 at all; is that fair to you say?

13 A. What is fair?

14 Q. What you indicated with your hands may not be
15 accurate you don't remember?

16 A. I don't remember, no. I don't remember whether
17 the rails were up or down. I don't.

18 Q. You testified that Mr. Farmer was in the hospital
19 room, we don't know which bed, groping your breasts at
20 least one occasion, correct, or squeezing you said;
21 right?

22 A. Yes, he grabbed my breasts.

23 Q. And where is it your testimony that Mr. Farmer
24 was standing at the time?

25 A. He was always standing on the left-hand side.

1 Q. Your left hand --

2 A. The hospital, the window was facing here, the bed
3 was here --

4 THE COURT: Your right-hand side or
5 left-hand side?

6 THE WITNESS: The left-hand side.

7 BY MS. ROUNDTREE:

8 Q. Your left-hand side; correct?

9 A. Yes.

10 Q. Your testimony was all the abuse that took place
11 took place while Mr. Farmer stood on your left-hand
12 side?

13 A. Yes.

14 Q. So you testified that Mr. Farmer also jammed his
15 fingers into your vagina; correct?

16 A. Yes.

17 Q. You testified initially at some point you crossed
18 your legs. Do you know what point it was that you
19 crossed your legs, was that in the elevator, once you
20 got to your room, if you remember?

21 A. I believe it was in -- I remember in the elevator
22 just my ankles crossed -- not my ankles but the blanket
23 tucked. I remember the bottom of the blanket was tucked
24 underneath my feet, so my legs would be straight.

25 Q. You were tucked in in the elevator as you rode up

1 to the room you were tucked under the blankets; correct?

2 A. After he touched me and I kept grabbing the thing
3 the blanket and trying to tuck it as far in as I could.

4 Q. When you got in the room did you remain tucked?

5 A. No.

6 Q. You don't remember if you switched beds, at some
7 point -- my question was: Where and when did you cross
8 your legs, if you did?

9 A. I would believe it was probably after the second
10 time he jammed his finger into my vagina.

11 Q. Not after the first or not when he was rubbing
12 your leg?

13 A. No. I just remember trying to hold the blanket
14 down.

15 Q. You did not cross your legs after he rubbed your
16 legs nor after the first he jammed his fingers into you;
17 correct?

18 A. You know what to be honest I don't remember
19 exactly the details. The things that I seemed to focus
20 on are the jamming of the fingers and things like that.

21 Q. If you don't remember, it's fine just say I don't
22 remember.

23 A. I don't remember.

24 Q. You testified that Mr. Farmer also gave you oral
25 sex, you may not have used those terms, licked your

1 vagina; correct?

2 A. Yes.

3 Q. You testified that -- was this on the same bed as
4 the other events that you've described?

5 A. Everything took place on the same bed.

6 Q. So Mr. Farmer would have been on the left side of
7 the bed at that time?

8 A. I believe everything happened on this side.

9 Q. The left side?

10 A. Yes.

11 Q. Do you know the total period of time that you
12 remained in the room with Mr. Farmer from the time he
13 dropped you off at your room -- first, do you remember
14 the time the specific time you were remember dropped in
15 your room?

16 A. No.

17 Q. Do you remember telling the police that at that
18 time, I understand it's different today, at that time
19 you remembered that it was 3:00 in the morning because
20 he told you what time it was?

21 A. I don't remember. I just knew it was early
22 morning.

23 Q. You don't remember telling the police 3:00 a.m.?

24 A. I remember -- no. I don't remember what time. I
25 don't remember giving them a time. I'm sorry.

1 Q. Do you know what time it was or approximately the
2 time frame when Mr. Farmer left, how many minutes later,
3 or what time it was when he left?

4 A. I couldn't tell you. It seemed like a lifetime.

5 Q. Do you remember telling police it was 15 minutes
6 later at 3:15?

7 A. No, I don't remember. I think I was telling them
8 that it felt like a lifetime. They may have asked me to
9 give an estimate time. Maybe I thought but I had no
10 clock and I had no way of knowing how long he was there.

11 Q. But you actually specifically told them it was
12 3:15 that he left and this whole thing was in 15
13 minutes?

14 MS. CLARKE: If I can get a page reference,
15 I don't recall that actually 3:15. I recall it being 15
16 minutes long. Can I get a page reference for that?

17 THE COURT: Do you have a page reference
18 from her statement?

19 MS. ROUNDTREE: The 3:00 or?

20 MS. CLARKE: Well, I think you said she said
21 in her statement it was 3:15 when it ended. I don't see
22 that anywhere in the transcript.

23 MS. ROUNDTREE: Page 15 is what I have on my
24 notes, about halfway down, the time he left the room and
25 a lot of this is blank and that's why I am not referring

1 to the transcript, but her answer was, it was 15
2 minutes.

3 MS. CLARKE: She keeps asking the witness
4 well it was 3:15.

5 MS. ROUNDTREE: That's because initially
6 she told police that it started at 3:00 o'clock. She
7 knew the time because my client told her the time and
8 that's on page 5.

9 MS. CLARKE: That's fine as long as it's
10 clarified.

11 MS. ROUNDTREE: I am not refreshing your
12 recollection for the purpose of this proceeding, I am
13 not trying to impeach her. I am asking about what she
14 might have told police and if she remembers it.

15 BY MS. ROUNDTREE:

16 Q. You don't remember telling the police about the
17 3:00 o'clock --

18 A. Well --

19 Q. -- or the 3:15? And make sure you let me finish
20 my question before you answer.

21 You don't remember telling police this started at
22 3:00 and ended 15 minutes later; correct?

23 A. No, I --

24 Q. Okay. It just goes faster. I am not trying to
25 be rude.

1 A. Okay.

2 Q. You told police that Mr. Farmer touched your
3 breasts a total of thirty different times, thirty
4 separate times, going from something else and back to
5 the breasts; correct? Do you remember that?

6 A. I know that he just kept grabbing my breasts and
7 grabbing my breasts. I didn't count every time he
8 grabbed my breasts.

9 Q. You told police or do you remember telling police
10 that Mr. Farmer went from somewhere else back to your
11 vagina a total of nine different times?

12 A. I don't remember how many times.

13 Q. Do you remember telling the police that
14 Mr. Farmer went from somewhere else back to oral sex or
15 licking the vagina five separate times?

16 A. I remember he went down there several times.

17 Q. But you don't remember what you told police?

18 A. No.

19 Q. That's fine, I'm just asking.

20 Do you remember telling police that Mr. Farmer
21 was saying he was really worried because the nurse was
22 about to come, do you remember saying that?

23 A. He all I can --

24 Q. Yes or no?

25 A. No. Actually --

1 Q. Maybe?

2 A. Yes. Actually I remember something of time
3 frame, you know, he kept saying something of time frame.
4 But I keep associating time frame with, you know, when
5 it's happening you think it's forever.

6 Q. Understood.

7 Now, when these events were happening these
8 thirty different times he was grabbing your breasts and
9 the nine different times he was touching your vagina or
10 penetrating your vagina and the five different times he
11 was licking your vagina, did you have the opportunity to
12 press then number two on your phone that was apparently
13 in your hand on the bed?

14 A. No.

15 Q. In fact did you -- directly after these events
16 happened did you call your husband with that phone?

17 A. You know I was --

18 Q. Yes or no?

19 A. I don't remember.

20 Q. Do you remember there being a hospital bed phone
21 to your side in the hospital room?

22 A. Without reach.

23 Q. You are saying it was outside of your reach;
24 correct?

25 A. Yes.

1 Q. So you would had to have to perhaps stepped on
2 the floor to reach it; is that correct?

3 A. Or moved over to get it but it wasn't, you know,
4 like right here where I can grab it.

5 Q. Do you remember telling police you didn't call --
6 do know why you didn't call your husband at that time or
7 911 at that time?

8 A. I was afraid.

9 Q. Do you remember telling police you didn't call
10 certain people because your phone battery had gone dead?

11 A. My battery -- I had the battery with me the whole
12 time. My battery was very very low.

13 Q. It wasn't dead but it was low?

14 A. It was low and I was losing calls. I noticed --
15 I remember certain areas of the hospital I wasn't
16 getting connections.

17 Q. So you had been trying to call people at various
18 locations inside the hospital?

19 A. Various people from in the hospital?

20 Q. Yes.

21 A. No, I waited for the nurse come in.

22 Q. Your testimony just now was you noticed you
23 weren't getting reception from various locations inside
24 the hospital --

25 A. I noticed that down in the emergency room

1 depending on the area where I was at whether the
2 reception was there, sometimes calls would be dropped,
3 things like that.

4 Q. Is it your testimony you did not call the police
5 or your husband because the reception was not good in
6 the room?

7 A. No. I called 911 and when I heard her voice, I
8 knew he probably could hear it and at that point I was
9 afraid for my life.

10 Q. At the time you dialed 911 your testimony is
11 Mr. Farmer would have been right beside you in such
12 proximity that you were in fear for your life; is that
13 fair to say?

14 A. He was within the area that he can hear the
15 phone.

16 Q. At the time you called 911?

17 A. At the time I called 911. The only reason I hung
18 up from 911 was because I was afraid that he can hear
19 the 911.

20 Q. So he would have been right there in your
21 proximity at that time; correct?

22 A. Right there being how far away?

23 Q. Just right there by you in the room at least?

24 A. Of course, he was in the room.

25 Q. The things you said you remember now that you did

1 not remember to tell the police part of them would be he
2 tried to kiss you, you never told that to the police or
3 did you?

4 A. You know, I don't know if I told the police that
5 or not. But I remember him trying put his face on me
6 and trying to kiss me.

7 Q. And your testimony today about Mr. Farmer licking
8 his fingers that was something you never told police
9 that; is that correct?

10 A. No. I thought I told police that.

11 Q. And during this event you've testified today that
12 you never did sleep, I believe that's what you testified
13 to, that you fought sleep; is that fair to say?

14 A. I fought to stay awake. I fought very hard to
15 stay awake. I don't know if I fell asleep after he
16 left. I don't know but I know I was awake the whole
17 time he was doing that to me.

18 Q. So it's possible you fell asleep after he left?

19 A. Oh, definitely could be possible from the
20 medication that I was on. I fought everything I had to
21 stay awake.

22 Q. You tried to stay awake and you may have fallen
23 asleep after he left; correct?

24 A. Yes.

25 Q. You've talked about the fact that you told the

1 hospital staff that you need to call police. I need you
2 to get police here, there's been something that happened
3 and you even told hospital staff about what happened;
4 correct?

5 A. I didn't tell the nurse about it but I told the
6 hospital staff what he did.

7 Q. You seemed upset that no one called police and
8 your husband had to do it; correct?

9 A. Yes.

10 Q. Have you contacted an attorney about the fact you
11 might have a lawsuit against the hospital?

12 MS. CLARKE: Objection. Relevance.

13 THE COURT: Sustained. You don't have to
14 answer that.

15 MS. ROUNDTREE: Court's indulgence please.

16 Nothing further. Thank you.

17 THE COURT: Any redirect?

18

19 REDIRECT EXAMINATION

20 BY MS. CLARKE:

21 Q. Miss Roundtree asked you about letters of
22 recommendation. You wanted to write a letter of
23 recommendation for the defendant that was when you were
24 in the emergency room; right?

25 A. Yes.

- 1 Q. Before you got into the elevator with him?
 2 A. Yes.
 3 Q. And before he touched your vagina and before he
 4 grabbed your breasts?
 5 A. Yes.
 6 Q. Because after that you wanted to call the police
 7 and not write a letter of recommendation; right?
 8 A. No, no. I wanted to call the police.
 9 Q. You were asked questions about what time you got
 10 to the room from the emergency room. I think you said
 11 you don't recall. Would seeing a copy of your statement
 12 help refresh your recollection as to what you told the
 13 police?
 14 A. Yes, it would.
 15 MS. CLARKE: Your Honor, page 5. May I
 16 approach?
 17 THE COURT: Sure.
 18 BY MS. CLARKE:
 19 Q. I'd like you to direct your attention to half way
 20 down there and start with the "Q" and read the entire
 21 page silently to yourself and look up when you're
 22 finished.
 23 A. If you don't mind where it says around 3:00
 24 o'clock. It was around. It was an estimate.
 25 Q. So has your memory been refreshed or your

- 1 recollection after looking at your statement?
 2 A. Definitely.
 3 Q. You actually said around 3:00 o'clock; right?
 4 A. Mm-hmm. Yes.
 5 Q. In fact I think you said at one point the
 6 detective said around 3-ish and you said yes?
 7 A. Yes.
 8 Q. And the only reason why you knew that time was
 9 because the defendant told you that; right?
 10 A. Yes.
 11 Q. There was no clock in the room?
 12 A. No, there was no clock in the room.
 13 Q. Later on I think you told the detective the whole
 14 incident lasted probable around 15 minutes. Do you
 15 recall that?
 16 A. Yes. You know, I don't remember. I think I
 17 might have said it could have lasted 15 minutes. But
 18 once again I didn't have a clock and I was estimating --
 19 Q. You never told the detective it ended at 3:15?
 20 A. No, I didn't.
 21 Q. Do you remember the defendant making any comment
 22 about the way your breasts looked?
 23 A. I just remember him complimenting me and telling
 24 me how beautiful I was, grabbing my breasts. You know,
 25 things like that. I really can't recall exactly what

- 1 was his statements were, he was, you know, saying.
 2 Q. Do you recall him saying there was nothing to be
 3 ashamed of you have beautiful breasts?
 4 A. Yes, I do remember that now.
 5 Q. When you first got into the room, do you recall
 6 whether or not the defendant touched your upper body at
 7 all?
 8 A. He touched I remember him touching my arms and he
 9 did touch my breasts.
 10 Q. Do you remember whether or not he touched your
 11 shoulders?
 12 A. Just I believe that -- I don't remember.
 13 Q. Would you seeing a copy of your statement help
 14 refresh your recollection?
 15 A. Definitely.
 16 MS. CLARKE: Your Honor, may I approach?
 17 THE COURT: Yes.
 18 MS. CLARKE: Page 5 for defense counsel's
 19 reference.
 20 BY MS. CLARKE:
 21 Q. Looking at the last "A" on here if you read those
 22 couple lines to yourself silently and look up at me when
 23 you're finished. Then I'll ask you another question at
 24 that point.
 25 A. Yeah, I remember that.

- 1 Q. So the defendant rubbed your shoulders as well
 2 when you were in the hospital room?
 3 A. Yes.
 4 Q. What was your response to him when he did that?
 5 A. I was disgusted.
 6 Q. Did you tell him that was not necessary?
 7 A. Yes, he kept telling me that he was going -- just
 8 relax, just relax. I remember him telling me relax,
 9 relax, I am going to make you feel good, you know,
 10 always referring to his fingers and things like that.
 11 Q. When you were talking about your knees being
 12 propped up, do you recall, yeah, I had my knees propped
 13 up if I am not mistaken?
 14 A. Yes.
 15 Q. So you weren't exactly sure when you gave your
 16 statement to the police whether your knees were propped
 17 up or they were down on the bed?
 18 A. Yes.
 19 Q. Do you remember the defendant saying all I want
 20 to do is make you cum?
 21 A. Yes.
 22 Q. After the defendant left after he had done this
 23 to you while in the hospital room do you remember
 24 telling the police that he came back into the room later
 25 on?

1 A. Yes.

2 Q. Do you recall what time that was?

3 A. I don't remember but the nurse was there.

4 Q. Do you recall telling the police it was 7:00
5 o'clock in the morning?

6 A. I don't remember the time. But I remember him
7 coming back in the room and being very upset. I wanted
8 to be moved from the room because he knew where I was
9 at. I wanted to be moved. I remember him walking in
10 and the nurse looking at him.

11 Q. What was his facial expression when he was in the
12 room that second time?

13 A. Kind of shocked that someone was there.

14 Q. Do you remember telling the police that he was
15 glaring at you?

16 A. Yeah. When he walked in it was just like, you
17 know, he just kept staring at me and I think he was kind
18 of shocked that the nurse was there.

19 Q. Do you remember telling police that you actually
20 said to your husband that I need you here before 7:00
21 o'clock?

22 A. Yes.

23 Q. Okay. Was that because you thought the defendant
24 was coming back at 7:00 o'clock?

25 A. He kept -- during the time at the ER he kept

1 Q. What's your relationship to that person?

2 A. She's my girlfriend.

3 Q. How long have you been dating her?

4 A. Roughly about two years in December.

5 Q. Do you live with her?

6 A. Yes, sir.

7 Q. Where did you meet?

8 A. We met at a former employer at Steinberg

9 Diagnostics. She worked there and I was a technologist
10 there. It's an outpatient radiology facility.

11 Q. What were your duties there?

12 A. I was considered a special procedure technologist
13 my day ranged from doing biopsies to catheterizations of
14 vessels around the heart, prepping patients, setting up
15 patients for those procedures, suturing, things of that
16 nature.

17 Q. I want to focus your attention on May 14th, 2008.

18 Did anything happen to Heather's health that evening?

19 A. Yes. Roughly about between the hours of 10:00
20 and 11:00 it's hard to recall, but Heather began to tell
21 me she wasn't feeling well. Within 10 minutes after she
22 said he wasn't feeling well, she fell off the bed and
23 began to convulse and at that time I realized she was
24 having another seizure.

25 Q. When you say another seizure that wasn't her

1 saying I remember having a conversation with him and
2 they were saying what time they got off. They liked
3 working the night shift, things like that. 7:00 o'clock
4 always stood out in my mind, you know, I will back.
5 He'll be back.

6 MS. CLARKE: Nothing further.

7 THE COURT: Thank you, ma'am. You may step
8 down.

9 THE WITNESS: Thank you.

10 THE COURT: We are going to take a two
11 minute restroom break.

12 (Recess taken.)

13 THE COURT: Could counsel approach, please?

14 (Discussion held off the record.)

15 THE COURT: State, call your next witness.

16 MR. BOLENBAKER: State calls Timothy Lehan.

17 (Whereupon Timothy Lehan was duly sworn.)

18 THE CLERK: Please be seated. State your
19 first and last name and spell both for the record.

20 THE WITNESS: Timothy Lehan, L-E-H-A-N.

21
22 DIRECT EXAMINATION

23 BY MR. BOLENBAKER:

24 Q. Tim, do you know a person named Heather Shank?

25 A. Yes, I do, sir.

1 first seizure?

2 A. Correct, sir, she had one about four to six weeks
3 prior to that.

4 Q. Okay. When you recognized she was having a
5 seizure on May 14th, what did you do?

6 A. I immediately went down to the floor to make sure
7 she wasn't bleeding and she was okay. She was not
8 responsive to me. She was completely stiff and foaming
9 from the mouth and I didn't have my phone next to me.
10 My phone had been kind of been displaced from my reach.
11 I was nervous the prior time when she had her seizure I
12 had to perform CPR. I didn't want to leave her for any
13 length of time.

14 Q. Do you call an ambulance?

15 A. When ended up happening was I could not reach my
16 phone, I grabbed my phone and the first person I can get
17 to was my neighbor. I called my neighbor over. He
18 arrived at my house and they called 911 for me.

19 Q. So the neighbor called 911?

20 A. Yes.

21 Q. So an ambulance did come to your house?

22 A. Yes.

23 Q. How long did it take for the ambulance to get
24 there?

25 A. If I had to guess it was under five minutes.

1 Q. Was Heather taken to the hospital?
 2 A. Yes, she was taken to Centennial Hills.
 3 Q. Is that located in Las Vegas, Clark County,
 4 Nevada?
 5 A. That's correct, sir.
 6 Q. What did you do once she was goes into the
 7 ambulance?
 8 A. I gathered my stuff up. I had a little bag
 9 because I figured she was going to be staying because
 10 she had stayed the first time. I got in my car. I made
 11 sure my dog was good and my neighbors said they would
 12 check on the dog in the morning and I locked the door
 13 and left. It took me ten minutes to get to the
 14 hospital.
 15 Q. You drove over to the hospital?
 16 A. Mm-hmm.
 17 Q. Where did they take Heather?
 18 A. To the emergency room.
 19 Q. Did you go in the emergency room as well?
 20 A. When I arrived they were waiting for me, so they
 21 escorted me back to her exam room.
 22 Q. So you were with her for about how long?
 23 A. From when she got admitted to the ER?
 24 Q. Right.
 25 A. Until 5:30 that morning. So it was that prior

1 A. I drove straight to the hospital. I stayed at
 2 the hospital until about 4:30, 5:00 o'clock that general
 3 time frame. I went home to check on my dog and make
 4 sure the dog was okay, grab a sandwich, and went back to
 5 the hospital.
 6 Q. How was Heather's condition, how did she appear
 7 to you at that point?
 8 A. Up until I came back the second time so the first
 9 time when I arrived from coming from work she was still
 10 pretty much out of it. She could talk to me but not
 11 making a whole lot sense. She kept asking a lot of the
 12 same questions, what happened, why was she in here,
 13 those kinds of things.
 14 Q. Those statements and those questions that was
 15 when you got back from work around?
 16 A. Like between 2:00, 3:00.
 17 Q. Then you said you left again?
 18 A. Correct, I left probably an hour or two hours
 19 later. I hadn't been home all day.
 20 Q. Did you come back to the hospital again?
 21 A. Correct. I came back sometime in the early
 22 evening. I only stayed at my house -- if I recall
 23 correctly, I left my house about 5:00 o'clock that
 24 evening 4:30, 5:00. I was only at my house ten minutes.
 25 Q. When you got back to the hospital the third time,

1 night from 10:00 to 11:00 then until 5:30 the next
 2 morning.
 3 Q. Was there a nurse taking care of her?
 4 A. At the time there was a female nurse, correct.
 5 Q. A female nurse.
 6 A. She was having issues so she was pretty much in
 7 and out the whole time.
 8 Q. When you say she, you mean Heather?
 9 A. Yes.
 10 Q. And when you say in and out, in and out of
 11 consciousness?
 12 A. Yeah, they were concerned about her blood
 13 pressure so they had made sure the nurse stayed in the
 14 room quite frequently with her until they are able to
 15 stabilize her.
 16 Q. At some point they were able to stabilize her?
 17 A. Correct, sir, 5:00 that morning.
 18 Q. You left you said?
 19 A. About 5:30 I had work that morning so I had to
 20 get myself together so I went home around 5:30-ish.
 21 Q. You went to work then?
 22 A. Yes, I went to work. I was there about 7:00
 23 o'clock and I stayed to about 1:30, 1:00 o'clock. I
 24 can't recall. My last patient was 11:30.
 25 Q. What did you do after work?

1 did you come in contact with anybody in the courtroom
 2 today?
 3 A. Yes, about two hours later I did.
 4 Q. Could you point to that person and identify an
 5 article of clothing they are wearing today.
 6 A. Yes, sir, the blue top.
 7 MR. BOLENBAKER: Your Honor, may the record
 8 reflect identification of the defendant?
 9 THE COURT: So ordered.
 10 BY MR. BOLENBAKER:
 11 Q. What was he wearing when you saw him?
 12 A. I don't recall scrubs, I believe. I don't recall
 13 exactly what he was wearing. He was in hospital attire
 14 as best I can describe it.
 15 Q. Did you identify himself?
 16 A. Yes, sir. He walked through the room -- the door
 17 and mentioned that he was -- he said his name is David
 18 Farmer and said he just came on shift. He like to see
 19 all his patients right away and make sure everything is
 20 taken care of and it was a busy ER and he wanted to make
 21 sure all his patients were good to go.
 22 Q. What was his demeanor?
 23 A. Very happy. Very, you know, charismatic kind of
 24 I'll do anything for you just tell me and I'll get it
 25 for you.

1 Q. So you said he said he would do anything for you
2 did he get you any items, did he help you or Heather?
3 A. Yes, sir. At that time Heather was still in and
4 out but she was becoming more coherent at that time for
5 a little while. He had asked her initially what can I
6 do for you. Heather had been sleeping on the stretcher
7 so there was no pillow and she asked for a pillow and he
8 kind of saw there was only one blanket laying there and
9 he said can I get you a warm blanket or another blanket
10 and she said that would be great. He looked at me and
11 he asked if I needed anything. I said, no, not really.
12 I am going to step out anyway and get a cup of coffee
13 and he said I can get it for you we have a coffee
14 machine here and I said that would be great. That's
15 what he offered us.
16 Q. So he was it sounds like helpful?
17 A. Very helpful at the time, sir.
18 Q. Just to clarify Heather is still in the emergency
19 room?
20 A. She was still in the ER. They did not have a bed
21 for her yet. That was roughly in the evening 6:30.
22 When this started happening because they had forgotten
23 her dinner and I had gone that was the fourth time I had
24 gone back because I had gone to get her dinner. When I
25 came back from dinner getting her tacos that's when I

1 came in contact with him.
2 Q. Do you know what Heather was wearing?
3 A. Heather was wearing a hospital issued gown, no
4 bra. Just I had put on sweat pants for her because she
5 felt uncomfortable in the ER. She was very cold. So
6 when I came back from my multiple trips I had brought a
7 pair of sweat pants and put them on for her.
8 Q. She had gown on her top and she's wearing sweat
9 pants?
10 A. Yes, and underwear underneath that.
11 Q. Was there ever a time that you helped Heather to
12 the bathroom?
13 A. Yes, sir. Shortly thereafter she had eaten and
14 they were allowing her to go use the restroom, so we got
15 up and where the room was situated the restroom was a
16 good 25 feet 30 feet down, down to the left. There was
17 a series of them. We had walked about that far and she
18 had an IV pole and I helped her into the bathroom and
19 stayed in the bathroom the entire time. She was still
20 very wobbly. She asked me she couldn't really stand for
21 long periods of time and I could tell she was getting
22 tired so she went to the bathroom and we walked back.
23 Q. When you originally went to the bathroom was the
24 defendant in the emergency room with you?
25 A. He was in the hallway, yes, to the right behind

1 me, the north side.
2 Q. What was he doing?
3 A. I don't recall. I assuming getting our -- what
4 we asked for, you know. He had nothing in his hands.
5 He didn't stop me, didn't ask me anything, I could just
6 see him.
7 Q. You said you helped Heather in the bathroom,
8 where did you go?
9 A. We went back to her room. I helped her back into
10 her bed and just tried to get her comfortable because we
11 were still waiting for the pillow and blankets. At that
12 time Mr. Farmer had come in and had noticed that Heather
13 was in shambles. She had the blanket array and the EKG
14 leads were underneath her leg. She was trying to
15 situate herself and I was trying to get back to take
16 care of things on the side of her bed that's when he
17 came in.
18 Q. So she's awake?
19 A. Yes, sir.
20 Q. Anything else you could tell by her appearance at
21 that point?
22 A. She was very exhausted. All she kept saying up
23 the hallway was -- because I kept asking if she wanted a
24 wheelchair and she was, no, I am okay. When she got
25 back to her bed I could just tell by looking at her face

1 that she needed to lay down.
2 Q. Now, you had talked about how she was kind of
3 tangled?
4 A. Mm-hmm.
5 Q. Could you describe what she had on her that
6 tangling her?
7 A. Yes, sir. She had EKG leads and heart monitor
8 wires. They were attached to electrodes or sticky stabs
9 on her chest. She had a box, a wireless box, that
10 allowed them to communicate to the nurses' station to
11 her to monitor her heart rate or whatever they were
12 monitoring at that time. She had previously been on a
13 monitor behind her and I guess at some point when I
14 wasn't there they switched her to this monitor she had
15 hanging around her neck kind of displaced on her. When
16 I got -- the wires were underneath her and the box was
17 kind of sitting to one leg. I don't recall which leg
18 but it was underneath in a way.
19 Q. So you are saying the wires are underneath her,
20 underneath her where?
21 A. Underneath her thigh just --
22 Q. Her right or left?
23 A. I don't recall, sir.
24 Q. Where did the wires go to?
25 A. The wires went to a box and they are all the

1 wires join either a single wire or they all join a
2 single attachment kind of like a car stereo plugs in and
3 any kind of plug that goes into something, they all join
4 into this main unit. Those wires lead to the sticky
5 tabs which were on her chest and I believe on her sides.
6 At the time she only had a couple on.

7 Q. And you had testified earlier you worked at
8 Steinberg --

9 A. Diagnostic Imaging, correct.

10 Q. Where do you work currently?

11 A. Nevada Cancer Centers.

12 Q. Do you have any training with this kind of
13 equipment before?

14 A. Yes, sir. Previously when I first in '97 started
15 in this field I did mobile EKG placement and electrode
16 placement and halter monitors for patients and I did
17 mobile x-ray. Just about every call I would go to
18 nursing home it was always a chest x-ray with placement
19 of these electrodes. So that's what I was trained on
20 initially. Then I trained at Penn State University
21 Hospital and that's where I initially did my special
22 procedure training, I trained in electrocardiograms and
23 things of that nature.

24 Q. So you've seen these electrodes, do you remember
25 how many were on Heather?

1 A. She had multiple electrodes on her. She had
2 first responder electrodes on from the ambulance ride.
3 She had diagnostic ones. They ran a full cardiac work
4 up on her. They did an electrocardiogram on her so
5 there was 12 leads. There was 12 new sticky spots they
6 put on her. They didn't want to use the ones that were
7 already on her. After that when she went to the halter
8 monitor I could tell underneath her left side they had
9 placed another one, I guess maybe that one had come off
10 or lost its adhesiveness, so they placed one on that.

11 Q. So you're pointing to the left side under your
12 breast?

13 A. Mm-hmm.

14 Q. I know there's a lot of these things, these
15 electrodes. Can you describe just the general
16 placement.

17 A. They were all pretty much the same spot. They
18 usually put them in the same spot. She didn't have any
19 arms. She had then right here underneath her
20 collarbone. She had a couple here and a couple on her
21 chest.

22 Q. Just for the record when you say here you mean
23 underneath the breast bone --

24 A. Right underneath the collarbone right underneath
25 the clavicle or collarbone. She had some directly on

1 her rib area.

2 Q. Underneath her breasts?

3 A. Yes.

4 Q. Now, in your training have you dealt with
5 tanglement of these electrodes before?

6 A. Yes, sir.

7 Q. In your training what are you trained to do when
8 something is tangled?

9 A. The easiest way for the patient was to disconnect
10 from the box if that was okay. What I mean is sometimes
11 they won't allow you to do that because you lose
12 communication with the monitor. If that was the case
13 you could ask somebody can I disconnect this because
14 they are tangled and that's usually what I did. I would
15 ask the head nurse can I disconnect this. It happened
16 to me quite a bit at Valley Hospital where I worked in
17 the ER. I would ask the nurse can I disconnect this for
18 a second so I can pull all the wires through instead of
19 going individually at each site. One it was faster for
20 me and two it was easier for the patient because you
21 just pull all the wires through the gown and now you
22 have all the wires and you just plug them back in and
23 you are good to go.

24 Q. Now, I want focus on what Heather was wearing.
25 You said earlier she was wearing a gown?

1 A. Correct.

2 Q. Where was it tied together?

3 A. In the front roughly about here and one down a
4 little further toward her abdomen.

5 Q. So you are saying there was two knots?

6 A. I believe so.

7 Q. The first one was located --

8 A. Up around this area.

9 Q. -- towards the neck?

10 A. The neck area sir, yes.

11 Q. And the other one?

12 A. Down around the abdomen area.

13 Q. Let's go back to the bigger picture. You are
14 helping Heather in bed?

15 A. Mm-hmm.

16 Q. Where was the defendant?

17 A. He comes in behind me. He was -- the ER hallway
18 formed a T. He was coming down the T portion and her
19 room was a little offset. You can kind of where you
20 could see from that T, you could see directly in her
21 room on my side. You couldn't see here but you could
22 inside where I was. He was walking that way behind me.

23 Q. Was he carrying anything do you remember?

24 A. At that time I don't remember. I don't believe
25 so because he did make two trips back with the blanket

1 and pillow and my coffee.

2 Q. When he comes back what does the defendant do?

3 A. He just very nonchalantly said you know you're
4 all tangled up let's take care of this. I didn't think
5 anything of it and he proceeded to untangle her.

6 Q. What did he do to untangle her?

7 A. He immediately opened up the front of her gown
8 which took me by surprise initially because all the
9 entanglement was underneath her leg. It confused me.
10 But he opened the gown and I didn't think anything of it
11 at first, but both of her breasts were exposed and the
12 gown continued to stay open. It wasn't oh, I have to
13 shut this because you're exposed. It was just exposed.
14 I had gotten up at that point to help with the
15 entanglement. I was becoming -- I felt Heather, you
16 know, she was exposed I didn't really think any more of
17 that. I got up to the side of the bed, I noticed she
18 was still exposed. He was feeling around with some
19 electrodes on her left side on this area over here and I
20 just said I got it and I pulled the blanket up and I
21 covered her gown over here and that was basically it.

22 Q. So where it was tangled was it tangled near her
23 chest?

24 A. No.

25 Q. It was tangled where?

1 A. Under her legs. The actual cord where it went to
2 the box it was underneath her leg.

3 Q. You said the defendant untied Heather's gown?

4 A. Kind of pulled because it was loosely tied.

5 Q. He just pulled them apart, each side?

6 A. Correct, sir.

7 Q. Could you describe the exposure of Heather at
8 this point?

9 A. Yeah, I would say pretty much umbilical -- I am
10 sorry, belly button just above the upper chest.

11 Q. You could see her breasts?

12 A. Yes, sir.

13 Q. You could see nipples?

14 A. Yes, sir.

15 Q. Everything was exposed?

16 A. Yes, sir.

17 Q. How long was this exposure?

18 A. If I had to guess, under a minute. You know
19 right around the minute mark because until it clicked in
20 my head I wanted to cover her up.

21 Q. What's the defendant doing while she was exposed?

22 A. Just playing with the electrode on the side. I
23 don't know what he was doing. I didn't see it because
24 that was on the opposite side. I was on the right side
25 of the bed. He was on the other side. I was getting up

1 to go help and he was on this side. I don't know what
2 he was doing.

3 Q. You said you were on the right side of the bed
4 where are you in relation to the defendant?

5 A. Across from him. So if Heather's head is against
6 the wall. Her head is here. Her feet were this way. I
7 was on this side and he was on the opposite side of the
8 gurney.

9 Q. Her left side?

10 A. Correct.

11 Q. You're to her right?

12 A. Correct.

13 Q. You said you saw the defendant playing with one
14 of the electrodes --

15 A. Doing something with it. I don't know what he
16 was doing with it. That's what struck me as odd because
17 that wasn't the issue in my mind. I knew what the issue
18 was.

19 Q. Where was that electrode located?

20 A. Underneath the left intercostal space or I'm
21 sorry under the left breast area the rib like the fifth
22 rib area.

23 Q. You said you found it odd. Why did you feel it
24 was odd?

25 A. Just because if the entanglement was underneath

1 the leg is what really clicked in my head. It wasn't --
2 there was nothing wrong with the leads here. It wasn't
3 -- by taking this lead off here it wasn't going to free
4 up the entanglement underneath her leg. It was the
5 blanket wrapped up in the cord wrapped up in the box
6 that was causing the issues.

7 Q. At that point you thought it was odd, what did
8 you do?

9 A. I was already on my way getting up to help him
10 figuring he needed some help. I just grabbed the
11 blanket and pulled it up to try and cover her up and at
12 that time she was cold and she asked for two blankets
13 and I was covering her up at the same time I was
14 pulling her gown across her.

15 Q. Was the defendant saying anything to you when you
16 got up?

17 A. No, sir. He just said I will be back and get the
18 rest of your stuff. I didn't think more of it.

19 Q. Did he actually fix the entanglement?

20 A. No, I did, sir.

21 Q. What did he do after you came and covered Heather
22 with the blanket?

23 A. Nothing really more. Along the lines if I had to
24 explain it more of like thank goodness someone helped me
25 kind of attitude. It was okay I'll leave. That was

1 that, so he left. I just made sure she was covered and
2 I retied her gown as tight as I could. I pulled the
3 blankets back above her and he came back in and gave the
4 pillow and another blanket. Then he oh, your coffee
5 must be done because he explained to me the coffee was
6 all gone. He had to go make me a fresh pot.

7 Q. So you thought it was odd. Why didn't you do or
8 say anything to him?

9 A. At that time when that happened it didn't dawn on
10 me that someone at that the hospital would be there to
11 be that, I just figured, you know, we'll attack this
12 later. Heather still wasn't doing great and my main
13 concern was Heather. I knew it was odd and I knew it
14 seemed wrong, but at the time, you know, I was more
15 focussed on Heather. She was still not out of the
16 water. She was not admitted to a bed yet. She was
17 still in the ER. She hadn't been fed. There was a lot
18 of other variables there. And my main concern was my
19 girlfriend.

20 MR. BOLENBAKER: No further questions.

21 THE COURT: Defense?

22 CROSS-EXAMINATION

23 BY MR. COYER:

24 Q. You said you worked at Valley hospital?

1 A. Yes, I worked per diem there.

2 Q. You said you had to check with a head nurse if
3 you were ever going to disconnect or miss with any of
4 the --

5 A. Not a head nurse, a nurse. It didn't matter
6 whatever nurse was taking those units of people. At
7 Valley Hospital they were grouped into groups or wings
8 and that nurse was in charge of "X" amount of rooms
9 three or four. I would always check with them because
10 we have to check the chart for orders. I work in CAT
11 scan so I'd check the order and if I noticed they were
12 on a cardiac monitor, I would come back out can I
13 disconnect the patient. A lot of nurses were very picky
14 and they wanted to take the leads off themselves to do
15 it themselves. I made sure I checked.

16 Q. You don't know whether or not the policy at
17 Centennial Hills is different than at Valley Hospital?

18 A. No, sir. I have no idea.

19 Q. You don't know anything at all about Centennial
20 Hills policy; fair?

21 A. That is very correct. That's fair.

22 Q. I guess likewise you don't know the policy with
23 regard to entanglements whether or not to check the
24 leads first, you don't know?

25 A. Strictly policy, no.

1 Q. You testified that when Mr. Farmer was inspecting
2 the electrodes whatever he was doing you have no idea
3 what he was doing?

4 A. I could not see his hands, sir, no.

5 Q. You described the entanglement of the electrical
6 wire situation in shambles?

7 A. Well, for her condition. She was in the midst of
8 she just had a seizure. She was frustrated to begin
9 with and she didn't get fed. I used the word shambles
10 meaning that was something else to add to her
11 inconvenience. No one had really taken care of her
12 there. He comes in and wants to help with this
13 entanglement and I consider that a shambles. She was
14 stretching her leg out trying to get comfortable and at
15 that time is when he walked in.

16 Q. Is it fair to say she was pretty unhappy with her
17 whole experience at Centennial Hills?

18 A. Sure, you're in the hospital so --

19 Q. Did you ever have the opportunity to be
20 introduced to whatever nurse was in charge of Heather?

21 A. Twice. When I first arrived in the ER I was
22 introduced to the nurse who was going to take care of
23 her.

24 Q. Who was that?

25 A. I have no idea. I can't remember anybody's name.

1 I could tell you they were both females. There was a
2 male nurse actually that was in charge of my nurse that
3 came and saw Heather. He was there. I met him briefly.
4 He just asked if there was anything that he could do,
5 let him know.

6 Q. You didn't get his name either?

7 A. No, sir.

8 Q. Did either that overseeing male nurse or the
9 female nurse did either one of those people ever say,
10 you know, this person here Mr. Farmer is going to be
11 checking in on everyone in the ER and walking around and
12 doing whatever it is he does?

13 A. No, sir.

14 Q. Nobody said that?

15 A. No.

16 Q. The first time you met Mr. Farmer was when he
17 introduced himself to you?

18 A. Correct, sir.

19 Q. Now, you said that your girlfriend Heather was
20 exposed, her breasts were exposed for under a minute?

21 A. If I had to put a number on it, sure.

22 Q. Could you estimate, we are trying to get your
23 best estimation of about how many seconds would you say
24 it probably was from start to finish?

25 A. I really can't --

1 THE COURT: Isn't under a minute good
2 enough?
3 THE WITNESS: I don't know.
4 THE COURT: I'm not sure how that would
5 change.
6 MR. COYER: If he had a better estimate I
7 thought I'd ask.
8 THE WITNESS: I don't.
9 THE COURT: I thought it was pretty good.
10 MR. COYER: I just asked.
11 THE COURT: Under a minute is good enough.

12 BY MR. COYER:

13 Q. You said that it didn't really dawn on you at
14 that time anything was wrong I should say?

15 A. For me ethically it was wrong. I would have
16 never done that but I am also in a hospital setting I
17 expect these people to perform professionally to me
18 that's why I say it didn't dawn on me but when you look
19 back on it in my retrospect or in my professional
20 opinion I would have never let that happen. That's why
21 I decided something needed to be said.

22 Q. That's where I am going. When was that point in
23 your mind?

24 A. Sure.

25 Q. When did you say we should follow-up something

1 might have happened?
2 A. It was probably Heather was in the hospital
3 through Saturday it was late Saturday I imagine. I
4 don't remember. It was sometime late Saturday. They
5 waited for a couple of tests. Sunday past. Me and
6 Heather had talked about her stay Sunday. I was trying
7 to talk her into it. You know talk to her about it. I
8 didn't mean to say into it, wrong choice of words. She
9 was very tired. She slept from the minute she got home
10 Saturday, all day Sunday. I worked Monday. She was off
11 Monday also. Monday night she got a little better and
12 we let it go. We brought it up Tuesday morning in the
13 car ride. She said she needed to tell me something.
14 Then I said to her this is what happened. I mentioned
15 it to her before what I saw in the ER, but when we
16 talked about it Tuesday in the car to her that was the
17 first time she heard about it in her head.

18 Q. Had anyone from the hospital or police department
19 contacted you or Heather and said do you have any
20 information about your --

21 A. How this came about was Sunday night, I guess
22 there was some kind of TV or read on the news. This was
23 conveyed back to us and Tuesday we were going into work
24 and she told me what happened in the elevator. I got on
25 the phone with my brother who lives in Pennsylvania and

1 I asked him to look it up on line, so he could read me
2 the article. I was understanding there was an article
3 on the news on the website, KVVU website. He started
4 reading me the article and I said I don't need you to
5 read me the article can you please just read me the
6 name. I know the guy's last name was going to be
7 Farmer. He said, yes, you're right. I described what I
8 remember him as being, does that sound like what he
9 looks like in the picture and my brother said, yes,
10 that's correct. I said I am ten minutes away from work
11 and I'll be right in and I'll check out the website
12 myself. It was a number on the bottom that said please
13 call Metro police. I'm not sure special victims unit.
14 I don't know how it was worded and then I called Heather
15 at her work and just mentioned this is the guy that took
16 care of you and transported you up the elevator. This
17 is the guy who did this to you. Then this is the same
18 guy who exposed you in the ER. I said I can call Metro
19 and we can get this rolling. She paused and said, yes,
20 go ahead and call. I said good because I was going to
21 call anyway. I called and Detective Saunders answered
22 the phone. Well, not him directly but that's eventually
23 who I talked to.

24 Q. You initiated the contact?

25 A. Yes.

1 Q. Do you recall if this was about June 4th?

2 A. June 4th, no. I can recall that because June 2nd
3 is my birthday and it was before birthday.

4 Q. I guess June 4th was the date you gave an
5 interview to Detective Saunders?

6 A. That might be accurate. I don't remember that
7 correct date, that could be.

8 Q. You don't know anything about -- in your
9 conversations with Mr. Farmer you didn't learn anything
10 about his qualifications and his expertise and what he's
11 not allowed to do at the hospital?

12 A. He introduced himself as a nurse. So I took that
13 as I know what a nurse does and I know their
14 responsibilities and that's how we left it. He never
15 mentioned anything about more of that, no, sir. He
16 introduced himself as a nurse.

17 Q. In your medical experience you know different
18 levels of nurses, right, some are allowed to do things
19 that others aren't?

20 A. Sure. If you talk to any R.N. they are -- a CNA
21 is not going to tell you he's a nurse not in the
22 hospital. It's just my experience because they know
23 they can get themselves into trouble with what they are
24 allowed to do and not to do. His demeanor was he was a
25 nurse. That was it.

1 Q. But you don't know anything about what he has
2 done, his educational background --

3 A. No, sir.

4 Q. -- or training, nothing like that?

5 A. No, sir.

6 MR. COYER: No further questions, Judge.

7 THE COURT: Any redirect?

8 MR. BOLENBAKER: No, Your Honor.

9 THE COURT: Is Mr. Lehan excused?

10 MR. BOLENBAKER: Yes, Your Honor.

11 THE COURT: Thank you. You may step down.

12 Next witness?

13 MS. CLARKE: Heather Shank.

14 (Whereupon Heather Shank was duly sworn.)

15 THE COURT: State your first and last name

16 and spell both for the record.

17 THE WITNESS: Heather Shank, H-E-A-T-H-E-R,

18 S-H-A-N-K.

19 THE COURT: Thank you.

20

21 DIRECT EXAMINATION

22 BY MS. CLARKE:

23 Q. Where do you work?

24 A. I work at Steinberg Diagnostic.

25 Q. What do you do there?

1 A. I am front the desk admittor.

2 Q. Do you know Timothy Lehan?

3 A. Yes, I do.

4 Q. How do you know him?

5 A. He is my boyfriend.

6 Q. How long have you been dating?

7 A. For about close to two years.

8 Q. Did you fact meet at work at Steinberg?

9 A. Yes.

10 Q. What are his duties there at Steinberg?

11 A. He was a special procedure tech.

12 Q. At the time you met him what were your duties?

13 A. I was a tech aid.

14 Q. What does a tech aid do?

15 A. I said assist the technician and I help with
16 patient care.

17 Q. Have you had any dealings with an EKG machine?

18 A. Not too much, no.

19 Q. Did there come a point when you were taken to
20 Centennial Hills Hospital?

21 A. Yes.

22 Q. Is that here in Las Vegas, Clark County, Nevada?

23 A. Correct.

24 Q. How many times have you been -- actually been
25 taken to Centennial Hills Hospital?

1 A. Twice.

2 Q. Do you recall when the first time was?

3 A. In the middle of March.

4 Q. 2008?

5 A. Yes.

6 Q. Why were taken in the middle of March 2008?

7 A. For seizures.

8 Q. Had you had seizures before?

9 A. No.

10 Q. So March 2008 was the first time you had suffered
11 a seizure?

12 A. Correct.

13 Q. Were with you Tim that time?

14 A. Yes.

15 Q. Were you taken to the emergency room at
16 Centennial Hills Hospital?

17 A. Yes, I was.

18 Q. At the time were you on medication for seizures?

19 A. No, I was not.

20 Q. On the first time you went were you hooked up to
21 an EKG machine?

22 A. Yes, I was.

23 Q. And did they have little sticky tabs that were an
24 your body?

25 A. Correct.

1 Q. Do you recall after you left whether those sticky
2 tabs were taken off of you?

3 A. No.

4 Q. But they didn't stay on your body after you left
5 the hospital?

6 A. No, I took them off myself.

7 Q. The nurse didn't take off the electrodes?

8 A. No.

9 Q. You mentioned there was a second time you to
10 Centennial Hills, when was that?

11 A. It was in May.

12 Q. 2008?

13 A. Yes.

14 Q. Why were you taken to Centennial Hills the second
15 time?

16 A. For the same reason a seizure.

17 Q. Were you taken by ambulance?

18 A. By ambulance, yes.

19 Q. Where did you have the seizure?

20 A. At home again.

21 Q. Were you with anyone?

22 A. I was with Tim.

23 Q. Do you recall about what time it was?

24 A. It was late evening probably close I would say
25 9:30, 10:00. I was getting ready for bed.

- 1 Q. I know you mentioned you suffered a seizure in
2 March and then again in May, when you suffer seizures
3 are you conscious?
4 A. I don't know how conscious. I am getting ready
5 for bed and the same thing happens all the time. I
6 pretty much pass out. I wake up the next day.
7 Q. So you sort of blackout --
8 A. Yeah, I blackout pretty much, yeah.
9 Q. Do you remember being taken by ambulance to
10 Centennial Hills the second time?
11 A. No.
12 Q. Do you remember being in the emergency room with
13 Tim?
14 A. In and out.
15 Q. You'd wake up and then go back to sleep?
16 A. Correct.
17 Q. What medicine were you on at that point the
18 second seizure?
19 A. I was told I had received Ativan.
20 Q. Were you taking anything for your own monitoring
21 of the seizures at that point?
22 A. I had taken Dilantin but I had taken myself off
23 Dilantin because I was told it wasn't doing anything.
24 Q. Had you been diagnosed with anything yet or are
25 they still doing tests to figure out what is going on?

- 1 A. I haven't been diagnosed with anything yet, no.
2 Q. You mentioned it happened 9:30 or 10:00 o'clock.
3 Do you recall what time it was that when you first
4 remember being in the emergency room?
5 A. I don't remember the time. I remember it was
6 like around dinner time when I woke up.
7 Q. So dinner time the next night is the first time
8 you remember waking up for sure?
9 A. Really waking up, yeah.
10 Q. Did you ever come in contact with anybody in the
11 emergency room that you see in court here today?
12 A. Yes.
13 Q. Could you point to that person and tell me
14 something he or she is wearing.
15 A. Navy blue.
16 Q. Where?
17 A. Right there.
18 Q. Can you describe anything else?
19 A. Gray beard and glasses.
20 MS. CLARKE: Your Honor, may the record
21 reflect identification of the defendant?
22 THE COURT: So ordered.
23 BY MS. CLARKE:
24 Q. Did you in fact ever get his name or know his
25 name?

- 1 A. I didn't ever know his name.
2 Q. When was the first time you had come in contact
3 with him?
4 A. He came in and asked if there was anything he
5 could get me.
6 Q. Do you recall what he was wearing when he first
7 came in?
8 A. I don't remember what he was wearing.
9 Q. Did you think he worked at the hospital?
10 A. Yes.
11 Q. What did you think he did for the hospital?
12 A. I thought he was a nurse.
13 Q. When he asked if you needed anything what was his
14 demeanor like?
15 A. He was cheerful. He was helpful.
16 Q. When he asked what did you tell him?
17 A. I ask if he could get me I believe something to
18 drink because I was unhappy at the point when I was in
19 the hospital.
20 Q. Now, you're still in the emergency room at that
21 point?
22 A. Yes, I was in the emergency for a while at that
23 point in time.
24 Q. What were you wearing?
25 A. I was wearing just my gown, just some panties.

- 1 Q. Do you recall if you had sweat pants at any point
2 during the day?
3 A. I don't recall, no.
4 Q. Did you have a bra on at all underneath your
5 hospital gown?
6 A. No, I didn't.
7 Q. Did you have panties on?
8 A. I did have panties on, yes.
9 Q. Do you recall where the hospital gown, whether it
10 was tied or how it was tied to your body while in the
11 emergency room?
12 A. It was very large and kind of wrapped around me.
13 Q. You said during this time you're in and out
14 sleeping still?
15 A. Yes.
16 Q. At some point did you see the defendant again?
17 A. Yes.
18 Q. When did that happen?
19 A. He had after he brought me something to drink.
20 He had then came back and asked if there was anything
21 else he could get me. I said I would like to have a
22 pillow and he brought me in a pillow.
23 Q. When is the next time you saw the defendant?
24 A. When he transported me.
25 Q. When he brought you the pillow and blanket was

- 1 Tim there in the room with you?
- 2 **A. Yes.**
- 3 **Q. The next time you saw him was when he transported**
- 4 **you, the defendant, right?**
- 5 **A. Correct.**
- 6 **Q. Was Tim with you when you were being transported?**
- 7 **A. No.**
- 8 **Q. What was your understanding of why you were being**
- 9 **transported out of the emergency room?**
- 10 **A. I was being admitted to my hospital room.**
- 11 **Q. Is that something similar that had occurred back**
- 12 **in March when you were at Centennial Hills Hospital?**
- 13 **A. Yes.**
- 14 **Q. Just to be sure you hadn't had any contact with**
- 15 **the defendant the first time you were Centennial Hills;**
- 16 **Is that correct?**
- 17 **A. Correct, I hadn't.**
- 18 **Q. What was the defendant doing when he first came**
- 19 **to transport you to your hospital room?**
- 20 **A. Excuse me?**
- 21 **Q. What was the defendant doing before he**
- 22 **transported you to the hospital room?**
- 23 **A. What he was doing he was just getting moving the**
- 24 **gurney.**
- 25 **Q. Was he talking to you at all?**

- 1 **A. He was talking a little bit but I just kind of**
- 2 **closed my eyes, just pretend to be asleep kind of I**
- 3 **guess.**
- 4 **Q. Why were you pretending to be asleep?**
- 5 **A. Didn't feel like talking. I decided if I closed**
- 6 **my eyes he wouldn't talk.**
- 7 **Q. At that point you still have a hospital gown on**
- 8 **and panties and no bra; is that right?**
- 9 **A. Yes, I was covered in blankets.**
- 10 **Q. Were you still on the hospital bed at this point?**
- 11 **A. Yes.**
- 12 **Q. Laying on your back?**
- 13 **A. Correct.**
- 14 **Q. Where did the defendant take you?**
- 15 **A. He took me in the elevator.**
- 16 **Q. Were any nurses or hospital staff around at that**
- 17 **point?**
- 18 **A. No.**
- 19 **Q. Do you recall what time in the evening this was?**
- 20 **A. I believe it was around 10:00.**
- 21 **Q. 10:00 p.m. a full day from when you were first**
- 22 **taken to Centennial Hills Hospital?**
- 23 **A. Yes.**
- 24 **Q. When he took you to the elevator and the doors**
- 25 **open was anyone else inside?**

- 1 **A. No.**
- 2 **Q. Did you and the defendant eventually get in**
- 3 **elevator he pushed you in?**
- 4 **A. Right, he pushed me in.**
- 5 **Q. Did the doors to the elevator shut?**
- 6 **A. Correct.**
- 7 **Q. Was there anybody besides you and the defendant**
- 8 **inside the elevator?**
- 9 **A. No.**
- 10 **Q. What did the defendant say to you?**
- 11 **A. He then told me that the things the EKG the ones**
- 12 **that are on my chest he said that we should take them**
- 13 **off because the longer that they are on the more they**
- 14 **hurt to take off because they are really sticky. He**
- 15 **said he should just take them off.**
- 16 **Q. At that point had you been given medication while**
- 17 **there at the hospital?**
- 18 **A. Yes, I was given medication.**
- 19 **Q. What was the effect that medication had on you?**
- 20 **A. It made me tired.**
- 21 **Q. After he said we should get those little sticky**
- 22 **things off, what did he do?**
- 23 **A. He proceeded to open my gown.**
- 24 **Q. Do you remember how he opened your gown?**
- 25 **A. Just pulled it open.**

- 1 **Q. How far open?**
- 2 **A. My gown was completely opened.**
- 3 **Q. What was exposed?**
- 4 **A. Everything from the waist up.**
- 5 **Q. You said you weren't wearing a bra, so your**
- 6 **breasts were exposed?**
- 7 **A. Yes.**
- 8 **Q. Did the defendant's body make contact with your**
- 9 **breasts?**
- 10 **A. His arms.**
- 11 **Q. Please tell the Court what happened with his**
- 12 **arms.**
- 13 **A. When he was taking them off the -- I don't know**
- 14 **the patches -- his forearm kind of brushed against my**
- 15 **breasts.**
- 16 **Q. Did it brush both of your breasts or just one?**
- 17 **A. I believe it was both, yes.**
- 18 **Q. Skin to skin contact; is that right?**
- 19 **A. Yes.**
- 20 **Q. How did that make you feel?**
- 21 **A. It made me feel uncomfortable.**
- 22 **Q. Are the sticky tabs on your chest area?**
- 23 **A. I had them all over. The ones he removed were**
- 24 **along the top across the my chest area and a little bit**
- 25 **along the side.**

- 1 Q. Along the side you're kind of pointing to the
2 left breast area?
3 A. Mm-hmm.
4 Q. Is that yes?
5 A. Yes.
6 Q. And what was he doing with his hands after he
7 opened up your gown?
8 A. I can't recall.
9 Q. Did he touch the little sticky tabs at all on
10 your chest?
11 A. He did take off a couple of sticky tabs.
12 Q. Did he take off all the sticky tabs?
13 A. No.
14 Q. He told you when you first got in the elevator we
15 have to take these off and he didn't finish taking them
16 off?
17 A. He doesn't finish taking them off. I then feel
18 uncomfortable and I kind of continue to take off a
19 couple of my own and I close my gown.
20 Q. You closed your gown because you were exposed?
21 A. Yes, correct.
22 Q. Do you remember what sounds the defendant made,
23 if anything, when he was doing that?
24 A. He didn't really didn't make any sounds until
25 after I started to close my gown.

- 1 Q. After you closed your gown what sounds did he
2 make?
3 A. Almost like kind of a giggle and like a stutter
4 at the same time like he was nervous.
5 Q. All this happened while the two of you were
6 inside the elevator and it was moving?
7 A. Yes.
8 Q. At some point the doors open?
9 A. Yes.
10 Q. And you were taken to the hospital room by the
11 defendant?
12 A. Right.
13 Q. When you arrived in the hospital room who was
14 there?
15 A. There was I don't know what his title is and
16 there another woman in the room.
17 Q. What did they do when you got in the room?
18 A. She was just getting my bed and stuff ready for
19 me.
20 Q. Sort of like welcoming you into your room?
21 A. Right.
22 Q. Do you recall being helped in your bed?
23 A. I got myself in bed.
24 Q. Why did you get yourself into bed?
25 A. I just wanted to get in my bed.

- 1 Q. What did the defendant tell you when you were
2 doing that on your own?
3 A. He said normally they are supposed to help me.
4 Q. Why didn't you want the defendant to help you get
5 in to bed?
6 A. I didn't need any help. I just wanted to get in
7 my bed myself. I didn't want him to help me.
8 Q. After this happened, did you ever see the
9 defendant again that particular evening or the next
10 morning?
11 A. No.
12 Q. Did you tell anybody about what happened?
13 A. I didn't, no.
14 Q. Did you tell Tim either?
15 A. No.
16 Q. When was the first time you first mentioned what
17 happened with the defendant and what he did to you?
18 A. The first I mentioned anything was after almost a
19 week after I had my grandmother had mentioned something
20 to me that she saw something on the news and just red
21 flags start going up and then I had calmly mentioned
22 something to Tim after that. He had just mentioned he
23 called the detective I guess. From then on that's when
24 I mentioned something.
25 Q. Do you have any memory of the defendant

- 1 untangling you from the EKG machine?
2 A. No.
3 Q. That was during the time you were out and of out
4 sleep?
5 A. I guess, yes. I don't recall any of that.
6 Q. Why didn't you say anything to anybody after it
7 happened?
8 A. I was very -- I didn't really know what was going
9 on. I was very confused. I wasn't sure what to think
10 about that. I didn't know.
11 Q. You said Tim called the detective. Did you make
12 contact with that detective at some point or did the
13 detective make contact with you?
14 A. The detective made contact with me.
15 Q. Did you have a conversation with Tim beforehand
16 about Tim calling the detective and giving him your
17 name?
18 A. Tim called the detective himself.
19 Q. Why didn't you call the detective?
20 A. I wasn't sure how I felt about it and I was
21 scared. I didn't know.
22 MS. CLARKE: Pass the witness.
23 THE COURT: Defense?
24 ///
25 ///

CROSS-EXAMINATION

- 1
2 BY MR. COYER:
3 Q. The first you mentioned anything about this was
4 about two weeks after it happened?
5 A. About a week or so, yeah.
6 Q. After your grandmother said something about
7 seeing him on the news?
8 A. Right.
9 Q. What did she say to you?
10 A. What did she say?
11 Q. Not exactly what she said but did she prompt you
12 to do anything?
13 A. No. She just said, oh, I heard something at
14 Centennial Hills Hospital. I had had that in my mind
15 for a while. Once she said that I thought it was time
16 to say something to Tim.
17 Q. When you said something to Tim, Tim indicated he
18 had already called the detective?
19 A. No. When I said something to Tim he said I think
20 we should say something and that's when he called the
21 detective.
22 Q. Could you describe for me please a little more in
23 detail why your experience was so bad prior to when
24 Mr. Farmer introduced himself to you?
25 A. What do you mean?

- 1 Q. Well, you indicated you were having a bad time at
2 the hospital and you were upset. Could you describe in
3 detail everything that occurred that made you feel that
4 way?
5 A. My experience in the hospital was bad because I
6 was irritated because they didn't give me dinner. I was
7 in the emergency room for a very long time. Then he had
8 come in the room and offered me water and offered coffee
9 to Tim and he was just very pleasant, so that's why.
10 Q. You were given Ativan at the hospital?
11 A. I was told that, yes.
12 Q. Do you know how much?
13 A. No.
14 Q. Were you told how much?
15 A. No.
16 Q. Nobody ever said you were given 2cc or whatever?
17 A. No.
18 Q. You had previously been on Dilantin; right?
19 A. Correct.
20 Q. You discontinued that?
21 A. Right.
22 Q. How long prior to this incident had you
23 discontinued the Dilantin?
24 A. Probably about a month.
25 Q. After your first seizure episode in March but

- 1 before the second seizure?
2 A. I was probably on Dilantin for about a month and
3 then took myself off of it.
4 Q. The Ativan made you really drowsy; right?
5 A. Yeah, it made me sleep.
6 Q. I think you indicated to the police that you
7 slept almost a 24-hour period?
8 A. Yes, in and out.
9 Q. You had no recollection of the incident where you
10 got your EKG wires tangled up and Mr. Farmer untangled
11 them?
12 A. No, no recollection.
13 Q. No recollection of wearing sweat pants at that
14 time?
15 A. Uh-huh.
16 MS. ROUNDTREE: Is that no?
17 THE WITNESS: No.
18 BY MR. COYER:
19 Q. You do you recall giving a statement to the
20 police, right, a Detective Saunders?
21 A. Yes.
22 Q. That was June 4th?
23 A. Yes, I believe it was that date.
24 Q. Do you remember toward the end of that discussion
25 you were asked whether or not you wanted to press

- 1 charges?
2 A. Yes.
3 Q. Do you remember what your response was?
4 MS. CLARKE: Objection. Relevance.
5 THE COURT: What's the relevance?
6 MR. COYER: Whether or not she was pressured
7 to come forward.
8 MS. CLARKE: He's asking what her response
9 is.
10 THE COURT: I don't mind if he asks the
11 question and she answers it.
12 MR. COYER: I think we can gauge whether or
13 not she was pressured by the give and take between her
14 and the detective.
15 THE COURT: That would be speculation on
16 anybody's part but hers.
17 BY MR. COYER:
18 Q. Did you feel any pressure to come forward and
19 press charges?
20 A. No.
21 Q. The detective didn't say anything that made you
22 feel pressured?
23 A. No.
24 Q. You just told him you weren't sure at the time
25 you wanted to press charges?

1 A. No.
 2 Q. You never said that?
 3 A. I don't remember.
 4 Q. Okay.
 5 MR. COYER: No further questions. Thanks.
 6 THE COURT: Any redirect?
 7 MR. CLARKE: Just briefly.

REDIRECT EXAMINATION

9
 10 BY MS. CLARKE:
 11 Q. How long were you in the hospital Centennial
 12 Hills that second time you were admitted in May 2008?
 13 A. I think it for three, four days. I can't quite
 14 remember.
 15 Q. So only a couple days after you got out did you
 16 eventually tell what had happened to you in the
 17 hospital?
 18 A. Yes.
 19 Q. So it wasn't like you got out of the hospital the
 20 next day and waited a week to tell somebody what the
 21 defendant had done to you?
 22 A. Right.
 23 Q. You were actually in the hospital almost that
 24 whole time?
 25 A. Right.

1 Q. Did the defendant ask you permission before he
 2 opened your hospital gown?
 3 A. No.
 4 Q. Did he tell he was going to expose your breasts
 5 while you were in the elevator with him?
 6 A. No.
 7 Q. Did you actually tell the detective that you
 8 wanted to press charges because you didn't want him to
 9 do this to anybody else? Do you remember saying that to
 10 the detective?
 11 A. Yes.
 12 MS. CLARKE: No further questions.
 13 THE COURT: Thank you, ma'am. You may step
 14 down.
 15 THE WITNESS: Thank you.
 16 THE COURT: Next witness?
 17 MR. BOLENBAKER: State calls Ledahlia
 18 Spurlock.
 19 (Whereupon Ledahlia Spurlock was duly
 20 sworn.)
 21 THE CLERK: Please be seated. State your
 22 first and last name and spell both for the record.
 23 THE WITNESS: Ledahlia Spurlock.
 24 THE COURT: Can you spell it please.
 25 THE WITNESS: Ledahlia, L-E-D-A-H-L-I-A,

1 Spurlock, S-P-U-R-L-O-C-K.

DIRECT EXAMINATION

2
 3 BY MR. BOLENBAKER:
 4 Q. Good morning, Ledahlia.
 5 A. Hello.
 6 Q. I am going to call you Dahlia, is that okay?
 7 A. Yes.
 8 Q. I want to focus your attention to around April
 9 27, 2008. Did you have reason go to the hospital that
 10 day?
 11 A. Yes.
 12 Q. Were you not feeling well or why did you have to
 13 go to the hospital?
 14 A. Attempted suicide.
 15 Q. You were at home that day?
 16 A. Yes.
 17 Q. What were you doing, how did you do what you did
 18 to make you have to go to the hospital?
 19 A. I took some Vicodin pills and some Ibuprofen.
 20 Q. Okay. Now, do you -- were you not feeling well
 21 did you call the hospital or?
 22 A. No. My cousin called the hospital, William.
 23 Q. Was he there at the house or how did he call
 24 the --
 25

1 A. Yeah, he came to the house eventually when I was
 2 taking the pills.
 3 Q. So does he live with you?
 4 A. Yes.
 5 Q. So you said he called for an ambulance?
 6 A. Yes.
 7 Q. Did an ambulance come?
 8 A. Yes.
 9 Q. Did go then to the hospital?
 10 A. Yes.
 11 Q. Where did they take you do you remember?
 12 A. Centennial Hills.
 13 Q. Is that in Las Vegas, Clark County, Nevada?
 14 A. Yes.
 15 Q. Do you remember about what time on the 27th that
 16 you were taken there?
 17 A. About 5:00 p.m.
 18 Q. Do you remember were they took you?
 19 A. To the ER.
 20 Q. Did you go anywhere else or were you just in the
 21 ER?
 22 A. I went to another part of the hospital later on
 23 around 10:00 or something.
 24 Q. When you were in the ER did they give you any
 25 medication or anything else for you, the nurses or

- 1 doctors?
- 2 **A. I had to take some charcoal mixture to throw up**
- 3 **the pills, I guess.**
- 4 **Q. Did you throw up the pills?**
- 5 **A. Mm-hmm.**
- 6 **Q. How are you feeling at this point?**
- 7 **A. Really, I mean, just exhausted and tired.**
- 8 **Q. Did anybody come visit you at the emergency room?**
- 9 **A. My aunt did.**
- 10 **Q. What are their names?**
- 11 **A. Dia Dotson and Ernestine Smith.**
- 12 **Q. Was that in the emergency room they came to visit**
- 13 **you at?**
- 14 **A. That was the other side of the hospital. Nobody**
- 15 **came in the emergency initially when I got there.**
- 16 **Q. So you were in the other side of the hospital,**
- 17 **you don't remember where?**
- 18 **A. No.**
- 19 **Q. They came to visit you?**
- 20 **A. Mm-hmm.**
- 21 **Q. So you're in your own room or how was the room?**
- 22 **A. It seemed like we were blocked off by a wall or**
- 23 **something, then a curtain in the front.**
- 24 **Q. At that time did you come into contact with**
- 25 **anybody that's in the courtroom today?**

- 1 **A. Yes.**
- 2 **Q. Could you point to this person and describe an**
- 3 **article of clothing that he or she is wearing today.**
- 4 **A. He's wearing scrubs.**
- 5 **Q. Any other description about him?**
- 6 **A. That his hair is white. His beard is white.**
- 7 **MR. BOLENBAKER: May the record reflect**
- 8 **identification of the defendant?**
- 9 **THE COURT: So ordered.**
- 10 **BY MR. BOLENBAKER:**
- 11 **Q. Did he come to visit you as well?**
- 12 **A. No, he didn't.**
- 13 **Q. Not as a friend. Did he come see you?**
- 14 **A. Yes, I guess, yes.**
- 15 **Q. Did he come into the room?**
- 16 **A. (No audible response.).**
- 17 **Q. Were you aunts there as well?**
- 18 **A. Yeah.**
- 19 **Q. Did he say anything to you when he came in?**
- 20 **A. Okay, wait a minute now. We are talking about**
- 21 **when my aunts came?**
- 22 **Q. Your aunts were in the room visiting with you.**
- 23 **A. Yes. He came in and he offered us something to**
- 24 **drink.**
- 25 **Q. Do you remember what he was wearing?**

- 1 **A. He was wearing royal blue scrubs.**
- 2 **Q. Did he identify himself as working for the**
- 3 **hospital?**
- 4 **A. I don't remember if he did or not. I assume that**
- 5 **he did.**
- 6 **Q. Based on the clothing he was wearing?**
- 7 **A. Mm-hmm.**
- 8 **Q. You said he offered you and your aunts something**
- 9 **to drink?**
- 10 **A. Mm-hmm.**
- 11 **Q. Is that a yes?**
- 12 **A. Yes.**
- 13 **Q. It's just for the record, it's easier.**
- 14 **A. Yes, he offered us something to drink.**
- 15 **Q. Did he get you something to drink?**
- 16 **A. Yes. He brought us back I think it was some**
- 17 **juices, apple juice, or something like that, water.**
- 18 **Q. What was his demeanor while he was getting you**
- 19 **drinks?**
- 20 **A. He was friendly, I guess.**
- 21 **Q. And did he ever talk to you and tell you any**
- 22 **stories or anything like that?**
- 23 **A. I remember him talking about dressing up as Santa**
- 24 **Claus at some hospitals or something.**
- 25 **Q. And where are you located in the room were you on**

- 1 **a bed?**
- 2 **A. I am on a bed.**
- 3 **Q. Where were your aunts?**
- 4 **A. One was on my left and one was on my right side.**
- 5 **Q. Where is the defendant now?**
- 6 **A. He's in front of my bed.**
- 7 **Q. The front of your bed. Where are your feet**
- 8 **located?**
- 9 **A. At the end of the bed.**
- 10 **Q. At the end of the bed?**
- 11 **A. Mm-hmm.**
- 12 **Q. You said the defendant was at the front of the**
- 13 **bed by your feet?**
- 14 **A. Yes.**
- 15 **Q. Are there any bars or railings on the bed?**
- 16 **A. Mm-hmm, on the side.**
- 17 **Q. On side of the bed?**
- 18 **A. Yeah. Not on the other part.**
- 19 **Q. At this time the defendant is telling you a story**
- 20 **about dressing up as Santa where --**
- 21 **A. He was probably talking about other stuff too,**
- 22 **but I don't remember. I remember Santa Claus.**
- 23 **Q. Okay. What did he do at this point?**
- 24 **A. He was at the end of the bed. He was in front of**
- 25 **the bed and my feet are at the end of the bed. He**

- 1 **seemed to be close to my feet, his body.**
 2 Q. When you say close what part of his body is close
 3 to your what part of your body?
 4 A. **His body is close to my feet. His stomach, his**
 5 **pelvic area.**
 6 Q. When you say he was close was he actually
 7 touching your feet with his body?
 8 A. **Yes.**
 9 Q. And what exactly what exact part of his body was
 10 touching your feet?
 11 A. **Pelvic area, the penis part.**
 12 Q. The penis?
 13 A. **Uh-huh.**
 14 Q. Did you feel his penis with your feet?
 15 A. **They were -- yes, I felt his penis on my feet.**
 16 Q. Where was his hands?
 17 A. **On the rail.**
 18 Q. On the rails that are on the bed?
 19 A. **On the bed, yeah.**
 20 Q. So his penis was touching your feet and what was
 21 he doing at this point with his body?
 22 A. **Pressing his area, his pelvic and penis on my**
 23 **feet.**
 24 Q. When you say pressing he's just applying
 25 pressure?

- 1 A. **Yes.**
 2 Q. Is there any kind of movement?
 3 A. **There was some what I would call, like a**
 4 **circular, slow. I don't know. There was some movement.**
 5 Q. So you say movement in this area in a circular --
 6 A. **Yeah.**
 7 Q. -- with the pelvic area?
 8 A. **Yes, the pelvic area.**
 9 Q. Your aunts are in the room at this point?
 10 A. **Mm-hmm. Yes.**
 11 Q. What was the defendant's demeanor when he was
 12 doing this?
 13 A. **He's looking, he has like a smile on his face.**
 14 Q. He's telling you a story?
 15 A. **Yes.**
 16 Q. About how long was he pressing his penis up
 17 against your feet and moving in a circular motion?
 18 A. **20, 30 seconds.**
 19 Q. What happened after that?
 20 A. **He left and told us to have a good evening. He**
 21 **was leaving.**
 22 Q. Was he your assigned nurse, do you remember?
 23 A. **I don't know if he was my assigned nurse. I**
 24 **don't think so.**
 25 Q. Did you have any contact with any other nurses?

- 1 A. **Yeah.**
 2 Q. You were in the hospital were you going to be
 3 transferred to another hospital later in the evening?
 4 A. **Yes.**
 5 Q. What hospital was that, what kind of hospital?
 6 A. **I remember it was mental illness.**
 7 Q. A mental illness facility?
 8 A. **Yes.**
 9 Q. Do you remember about what time all that
 10 happened?
 11 A. **Around the time that I was getting transferred**
 12 **was 8:00 o'clock, 8:00 p.m.**
 13 Q. When was the defendant in your room?
 14 A. **Around probably 6:30, 7:00.**
 15 Q. So the defendant leaves and you're in the room
 16 still with both your aunts?
 17 A. **Yes.**
 18 Q. Without telling me anything they said did you
 19 discuss the defendant's behavior?
 20 A. **Yes, we did.**
 21 Q. You discussed it with your aunts, why didn't you
 22 come forward to the police at that point?
 23 A. **Well, because the fact that I was in the hospital**
 24 **for attempted suicide, I was more like I didn't -- I was**
 25 **-- my mind was on that getting -- just getting through**

- 1 **that more than anything.**
 2 Q. Now, when the defendant had his penis pressed up
 3 against your feet did you move your feet at all?
 4 A. **Yes, I tried to.**
 5 Q. You tried to?
 6 A. **By just trying to fold them up closer to me.**
 7 Q. Did you feel uncomfortable?
 8 A. **Yes, I did.**
 9 Q. Now, Dahlia, have you had any contact with the
 10 defendant prior to the instance we talked about?
 11 A. **Yes.**
 12 Q. Can you describe -- did you have a cell phone
 13 with you?
 14 A. **Yes.**
 15 Q. Were you told by staff at the hospital you're not
 16 supposed to have that cell phone?
 17 A. **I had asked if I could still have the cell phone**
 18 **and another guy another person that worked there said**
 19 **you can only have it for a little bit more, just a**
 20 **little bit of time, then they will have to take it.**
 21 Q. At that point did you see the defendant come in
 22 this was earlier in the day; right?
 23 A. **Yes, earlier in the day. He had came in I don't**
 24 **know sometime in the morning I think. I don't remember,**
 25 **but he just came in and he took the cell phone.**

- 1 Q. Did he say anything when he took it?
 2 A. **Initially, no, he did not. He came back and told**
 3 **me that he had to take it away because of policy.**
 4 MR. BOLENBAKER: No further questions.
 5 THE COURT: Defense?
 6

CROSS-EXAMINATION

- 7
 8 BY MR. COYER:
 9 Q. I know this is a tough question, do you recall
 10 how many approximately Vicodin and Ibuprofen you took
 11 before you went to the hospital?
 12 A. **It was ten Vicodin and twenty Ibuprofen.**
 13 Q. How long in your estimate how much time passed
 14 from when you took those pills and when you were given
 15 the charcoal concoction to throw it all up?
 16 A. **Probably five or six hours.**
 17 Q. Now, you mentioned a different part of the
 18 hospital from the ER; right?
 19 A. **Mm-hmm.**
 20 Q. Is that like a psychiatric area of the hospital?
 21 A. **No.**
 22 Q. Just normal population, I guess?
 23 A. **Yes.**
 24 Q. You were waiting to be transported to a mental
 25 health facility?

- 1 A. **Yes.**
 2 Q. The attempted suicide, did that stem from
 3 depression or some other kind of diagnosis that you've
 4 been given?
 5 MR. BOLENBAKER: Objection, Your Honor.
 6 Relevance.
 7 THE COURT: What's the relevance?
 8 MR. COYER: Well, it could be any -- we have
 9 a right to know whether there was any sort of
 10 hallucinations or any kind of diagnosis that might lead
 11 her to experience something other than what she thought
 12 was going on on that date. There's obviously mental
 13 health issues here and there's no argument there. I
 14 feel I have the right to explore that a little bit,
 15 Judge.
 16 THE COURT: Sustained.
 17 BY MR. COYER:
 18 Q. Do you ever experience any kind of hallucinations
 19 or anything like that?
 20 A. **No.**
 21 Q. Any kind of paranoia or anything like that?
 22 A. **No.**
 23 Q. Describe the bed you were in for me. How long
 24 would you say it was?
 25 A. **Maybe from here to where Miss Clarke is kind of**

- 1 **long.**
 2 Q. From the wall --
 3 A. **No, from her right here.**
 4 Q. From the court reporter's wall to the desk?
 5 A. **Well, to the beginning of her desk.**
 6 Q. I am just questioning this for the record so
 7 we'll have it down.
 8 THE COURT: How about the standard size
 9 hospital bed?
 10 MR. COYER: That's kind of where I am
 11 getting at.
 12 BY MR. COYER:
 13 Q. You weren't in any kind of special bed where you
 14 had to be restrained down?
 15 A. **No, no.**
 16 Q. So wherever your hands and feet were in the bed
 17 you could freely move them, right, no kind of
 18 restraints?
 19 A. **Right.**
 20 Q. You said it's got rails on the sides and no rails
 21 at the foot?
 22 A. **Right.**
 23 Q. Rails at the head?
 24 A. **Huh?**
 25 Q. Rails at the head of the bed?

- 1 A. **No.**
 2 Q. And when you said Mr. Farmer made contact with
 3 you his pelvic area where was he standing exactly?
 4 A. **He was at the end of the bed or where my feet**
 5 **are.**
 6 Q. I call it the foot of the bed.
 7 A. **Okay, the foot of the bed, yes.**
 8 Q. So he wasn't like making contact with you through
 9 the rails on side of the bed?
 10 A. **No.**
 11 Q. Was there anything preventing you from just
 12 scooting your way on further on up the bed when this was
 13 going on?
 14 A. **Well, I didn't want to -- since I was there for**
 15 **attempted suicide another thing I was concerned about**
 16 **was I felt like if I pushed away, it may have seemed**
 17 **like I was kicking him or something. Since I was**
 18 **already in there for attempted suicide, I didn't want**
 19 **any other things to jeopardize or be added that he could**
 20 **have said like she kicked me or I don't know.**
 21 Q. So were you instructed to be calm don't make a
 22 seen or anything like that?
 23 A. **No. I just worried because I was going to a**
 24 **mental hospital.**
 25 Q. What eventually, we talked about this a little

1 bit already, but what prompted you to report all this?
 2 **A. My mom had called me because my aunt had seen --**
 3 **one of my aunts that was there had seen him on TV.**
 4 **Q.** Did she say what the report said or did she give
 5 you any indication of what sort of the allegations were
 6 being made?
 7 **A. She said that the guy that was in the hospital**
 8 **one of your nurses, remember the guy that looked like**
 9 **Santa Claus, she said just he's in trouble for**
 10 **assaulting a woman at the hospital.**
 11 **Q.** Okay. Let's go back to when the touching
 12 actually occurred. You said his pelvic area was rubbing
 13 your feet. You mentioned that you were communicating
 14 with him during that time, you guys were engaged in a
 15 conversation?
 16 **A. Me and Mr. Farmer?**
 17 **Q.** Yes, small talk?
 18 **A. He was talking to all three of us.**
 19 **Q.** Where was his attention his gaze, his eyes, where
 20 was his attention focussed when this was going on?
 21 **A. His eyes seemed to be looking at all three of us**
 22 **when he talked. He was making eye contact with all**
 23 **three of us.**
 24 **Q.** So there was nothing unusual about the
 25 conversation and the way it was being delivered to and

1 from each person?
 2 **A. Right.**
 3 **MR. COYER:** No further questions.
 4 **THE COURT:** Any redirect?
 5 **MR. BOLENBAKER:** Just a couple questions,
 6 Your Honor.
 7
 8 **REDIRECT EXAMINATION**
 9 **BY MR. BOLENBAKER:**
 10 **Q.** So you said your mother contacted you?
 11 **A. Mm-hmm.**
 12 **Q.** Is that yes?
 13 **A. Yes.**
 14 **Q.** Did she contact you and she told you that your
 15 aunt had seen a report on television?
 16 **A. Yes.**
 17 **Q.** When she told you about that did you remember
 18 anything right away? Do you remember going back to
 19 seeing the defendant?
 20 **A. I remembered, when she told me I was like, oh, I**
 21 **remember that, yeah.**
 22 **Q.** Were you scared to come forward?
 23 **A. Yes.**
 24 **Q.** Why was that?
 25 **A. Because it was on TV.**

1 **Q.** Did you go to the police right away after talking
 2 with your mother?
 3 **A. She gave me his number, then I maybe called him a**
 4 **day or two after.**
 5 **Q.** By him do you mean the detective?
 6 **A. Detective Saunders.**
 7 **MR. BOLENBAKER:** Court's indulgence.
 8 **BY MR. BOLENBAKER:**
 9 **Q.** I just quickly want to focus your attention on
 10 the night before you had contact. Had you been
 11 conscious or unconscious at the hospital, do you
 12 remember?
 13 **A. I would say I was conscious, just very tired.**
 14 **Q.** Tired. Were you sleeping, were you worried at
 15 any point that the defendant had done anything the night
 16 before?
 17 **A. When that happened with what he did when my aunts**
 18 **were there, I had wondered if something had happened**
 19 **maybe the night before when I was sleeping.**
 20 **MR. BOLENBAKER:** No further questions.
 21 **THE COURT:** Thank you, ma'am. You may step
 22 down. Can counsel approach?
 23 (Discussion off the record.)
 24 We are going to take a short break. There's
 25 some pizza that everyone is welcome to it.

1 (Recess taken.)
 2 **THE COURT:** We are back on the record with
 3 Steven Dale Farmer. State please call your next
 4 witness.
 5 **MS. CLARKE:** Denise Hanna.
 6 (Whereupon Denise Hanna was duly sworn.)
 7 **THE CLERK:** Please be seated. State your
 8 first and last name and spell both for the record.
 9 **THE WITNESS:** Denise Hanna, D-E-N-I-S-E,
 10 H-A-N-N-A.
 11
 12 **DIRECT EXAMINATION**
 13 **BY MS. CLARKE:**
 14 **Q.** Miss Hanna, I'd like to direct your attention to
 15 May 16th of 2008. Did you have occasion to be at the
 16 Southwest Medical Rancho Urgent Care?
 17 **A. Yes, I did.**
 18 **Q.** Why did you go there?
 19 **A. I was having chest pain.**
 20 **Q.** How did you get to the Southwest Medical Rancho
 21 office?
 22 **A. I drove myself in my vehicle.**
 23 **Q.** Was anyone else with you when you drove?
 24 **A. No.**
 25 **Q.** Do you recall what time on May 16th you arrived

- 1 at Southwest Medical?
- 2 **A. It was about 9:00 or 9:30 p.m.**
- 3 **Q.** Did you stay at Southwest Medical or at some
- 4 point did you leave that hospital?
- 5 **A. I stayed there a short period of time then was**
- 6 **transported.**
- 7 **Q.** Where were you transported to?
- 8 **A. Centennial Hills Hospital.**
- 9 **Q.** Here in Las Vegas, Nevada?
- 10 **A. Yes.**
- 11 **Q.** Do you recall about what time you were
- 12 transported to Centennial Hills Hospital?
- 13 **A. About 11:00 p.m.**
- 14 **Q.** That's May 16th; right?
- 15 **A. Correct.**
- 16 **Q.** How were you transported to Centennial Hills?
- 17 **A. By ambulance.**
- 18 **Q.** What section in the hospital were you taken to?
- 19 **A. To the emergency room.**
- 20 **Q.** Were you still by yourself?
- 21 **A. Yes.**
- 22 **Q.** No family members were with you?
- 23 **A. Not at that time.**
- 24 **Q.** Could you describe for the Court the area that
- 25 you were taken to in the emergency room?

- 1 **A. I'm sorry?**
- 2 **Q.** Where did you stay when you were in the emergency
- 3 room?
- 4 **A. In one of the rooms they had there.**
- 5 **Q.** Were they rooms with actual walls or did they
- 6 have curtains that divided the rooms?
- 7 **A. Three walls and a curtain.**
- 8 **Q.** The three walls maybe on the side and the
- 9 curtains across the front?
- 10 **A. Correct.**
- 11 **Q.** Did you come in contact with anyone that you see
- 12 today in court?
- 13 **A. Yes.**
- 14 **Q.** Can you point to this person and tell us
- 15 something he or she wearing.
- 16 **A. Sitting there wearing the blue smock top.**
- 17 **MS. CLARKE:** May the record reflect
- 18 identification of the defendant?
- 19 **THE COURT:** So ordered.
- 20 **BY MS. CLARKE:**
- 21 **Q.** How soon after you got to Centennial Hills
- 22 Hospital did you first see the defendant?
- 23 **A. Approximately two hours.**
- 24 **Q.** Had you seen other people or staff at the
- 25 hospital there before seeing him?

- 1 **A. Yes.**
- 2 **Q.** Were you assigned to a particular nurse to take
- 3 care of you in the emergency room?
- 4 **A. Yes.**
- 5 **Q.** Do you know her name?
- 6 **A. Her name was Margaret.**
- 7 **Q.** And was there more than one nurse or just
- 8 Margaret?
- 9 **A. Later on while I stayed there there was another**
- 10 **nurse that came in the last couple hours or so.**
- 11 **Q.** And that other person was that a male or female?
- 12 **A. It was a lady, female.**
- 13 **Q.** When you were at Rancho Urgent Care did they give
- 14 you any medication for the symptoms you had?
- 15 **A. Yes.**
- 16 **Q.** What did they give you?
- 17 **A. They gave me aspirin and nitroglycerin.**
- 18 **Q.** Had you had nitroglycerin before?
- 19 **A. Yes.**
- 20 **Q.** And what was the purpose of that?
- 21 **A. To stop chest pains.**
- 22 **Q.** Do you suffer from asthma?
- 23 **A. Yes.**
- 24 **Q.** Where was your room in regard to the nurses' desk
- 25 when you were at Centennial Hills?

- 1 **A. It was -- the nurses' station was like in U and**
- 2 **it was right in front of one of the stations there. It**
- 3 **was pretty close proximity.**
- 4 **Q.** If you had your curtain open all the way would
- 5 you be able to see the nurses' station from where you
- 6 laying in your hospital bed?
- 7 **A. Yes.**
- 8 **Q.** What were you wearing when you were in bed?
- 9 **A. Just a gown and my underwear.**
- 10 **Q.** Did you have a bra on at the time?
- 11 **A. No.**
- 12 **Q.** How would you describe the gown you were wearing?
- 13 **A. It was a gown that had ties on it.**
- 14 **Q.** If you tied the ties in the normal spot would the
- 15 gown fit you?
- 16 **A. No.**
- 17 **Q.** What did you do to make the gown fit you?
- 18 **A. I didn't tie it. I had it tucked to my side.**
- 19 **Q.** You did a motion across your waist and tucked it
- 20 underneath your back?
- 21 **A. Correct.**
- 22 **Q.** Before having any contact with the defendant do
- 23 you remember whether the curtain was opened or closed?
- 24 **A. Closed.**
- 25 **Q.** Had you seen Margaret at all before the defendant

- 1 came into your area?
 2 **A. As far as?**
 3 **Q.** Had she come into your room?
 4 **A. Oh, yes. She was in my room about 10, 15 minutes**
 5 **prior to that.**
 6 **Q.** At that time did you complain of any problems?
 7 **A. No.**
 8 **Q.** Did you need anything at all?
 9 **A. No.**
 10 **Q.** Any of your machines making any weird noises that
 11 you thought were unusual?
 12 **A. No.**
 13 **Q.** Can you please tell the Court what happened when
 14 you made contact with the defendant or he made contact
 15 with you?
 16 **A. He opened the curtain a couple feet to enter and**
 17 **left it open. He came to my bedside which was to my**
 18 **left and introduced himself and said I am Steven Farmer.**
 19 **I am a CNA, certified nurses' assistant and I am here to**
 20 **check things out.**
 21 **Q.** At the time you were there are you familiar with
 22 what is called an EKG machine?
 23 **A. Yes.**
 24 **Q.** Are you familiar with the term leads or
 25 electrodes?

- 1 **A. Yes.**
 2 **Q.** Did you have those on your body while you were
 3 laying in the emergency room?
 4 **A. Yes, I did.**
 5 **Q.** Could you please tell the Court where the little
 6 sticky tabs were located on your body.
 7 **A. I had them on the inner part of both my arms.**
 8 **One or two here and a couple here and a couple leading**
 9 **down towards my waist and I believe there was one on my**
 10 **ankle.**
 11 **Q.** For the record you pointed to your upper chest
 12 there were two there. You pointed to right underneath
 13 your breasts?
 14 **A. Yes.**
 15 **Q.** Two on your stomach?
 16 **A. Mm-hmm.**
 17 **Q.** And I believe you said one on your ankle?
 18 **A. Yes, and one on either side of my arms.**
 19 **Q.** And one each on your upper arms. Was anyone else
 20 in your room when the defendant opened the curtain and
 21 came in?
 22 **A. No.**
 23 **Q.** Other than introducing himself and saying he was
 24 a CNA, did he tell you why he was in your room?
 25 **A. The only statement was that he was there to check**

- 1 **things out.**
 2 **Q.** After he said that what did he do?
 3 **A. He bent over my bed and facing me and ungowned**
 4 **me, untucked it, and opened my gown up all the way.**
 5 **Q.** Were you fully exposed?
 6 **A. Yes.**
 7 **Q.** How far down did he open the gown?
 8 **A. To about by my waist length the upper portion of**
 9 **my body.**
 10 **Q.** Were your breasts no longer covered?
 11 **A. Correct.**
 12 **Q.** You mentioned that if you looked out you could
 13 you see the nurses' station if your curtain was opened.
 14 Do recall seeing anybody in the nurses' station at that
 15 point?
 16 **A. I saw Margaret and two other nurses at the**
 17 **corner.**
 18 **Q.** How far away would you say they were from where
 19 you were?
 20 **A. Probably here to the back of the courtroom.**
 21 **MS. CLARKE:** 39 feet or so.
 22 **THE COURT:** 40 feet.
 23 **MS. CLARKE:** Give or take.
 24 **BY MS. CLARKE:**
 25 **Q.** What was the defendant's body position in regards

- 1 to the nurses, was he facing them was to the side?
 2 **A. His rear was facing them.**
 3 **Q.** His back was towards the nurse?
 4 **A. His back would be.**
 5 **Q.** So they wouldn't be able to see what he was
 6 doing?
 7 **A. Correct.**
 8 **MR. COYER:** Objection. Speculation.
 9 **THE COURT:** Overruled.
 10 **BY MS. CLARKE:**
 11 **Q.** Before he opened up your gown, did he ask you if
 12 he could open up your gown?
 13 **A. No.**
 14 **Q.** Other than saying he was going to check things
 15 out did he tell you that he was going to check anything
 16 out as to the electrodes on your chest?
 17 **A. No.**
 18 **Q.** What did he do after he opened up your gown
 19 completely?
 20 **A. He then for each one of the leads that were down**
 21 **below my breast area pressed them.**
 22 **Q.** The lead was it actually attached to right on
 23 your lower breast?
 24 **A. Right below.**
 25 **Q.** And you said he pressing those leads?

- 1 A. Mm-hmm.
 2 Q. Is that a yes?
 3 A. Yes.
 4 Q. You also said below did he touch the leads on
 5 your stomach?
 6 A. Yes.
 7 Q. Did he touch the two leads that were on your
 8 upper chest?
 9 A. No.
 10 Q. Did he touch the leads that were on your biceps?
 11 A. No.
 12 Q. Did he touch the lead on your ankle?
 13 A. No.
 14 Q. So only the four leads, two underneath your
 15 breasts and two on your stomach?
 16 A. Yes, I believe there was four but I think he
 17 touched three of them. Two here and one of the sides.
 18 Q. The two under your breasts and one on your side?
 19 A. Mm-hmm.
 20 Q. Did he actually touch part of your breasts when
 21 he was pushing those leads?
 22 A. My right breast.
 23 Q. You mentioned Margaret had been in the room 10 or
 24 15 minutes before?
 25 A. Correct.

- 1 Q. Had she mentioned anything about changing the
 2 leads or moving any of the electrodes?
 3 A. No.
 4 Q. Were you still hooked up to a machine?
 5 A. Yes.
 6 Q. Did you hear the machine make any beeping noise
 7 or anything?
 8 A. No.
 9 Q. Did the defendant say anything to you when he was
 10 pressing on the leads?
 11 A. No.
 12 Q. Did any of the leads feel loose before the
 13 defendant came in?
 14 A. No.
 15 Q. Were any off your body and maybe laying to the
 16 side?
 17 A. No.
 18 Q. How did that make you feel?
 19 A. Very uncomfortable.
 20 Q. How long would you say your gown was open and
 21 your breasts were exposed?
 22 A. A minute or two.
 23 Q. Could you see whether or not the defendant had
 24 any type of expression when he was doing that?
 25 A. I didn't look at his face.

- 1 Q. Why not?
 2 A. I was embarrassed I looked up at the ceiling.
 3 Q. Had Margaret ever touched your leads that you can
 4 remember since being at Centennial Hills Hospital
 5 emergency room?
 6 A. No.
 7 Q. Was that last you contact that you had with the
 8 defendant?
 9 A. Yes.
 10 Q. How long were you in the hospital before being
 11 released?
 12 A. I was released at about 3:00 or 4:00 that
 13 afternoon on the 17th.
 14 Q. Did you tell anyone about what the defendant had
 15 done to you after you got out of the hospital?
 16 A. No.
 17 Q. Why not?
 18 A. I wasn't sure. I don't know.
 19 Q. You have a husband as well; is that right?
 20 A. I do.
 21 Q. Did you tell your husband what happened?
 22 A. No.
 23 Q. When was the first time you had contact with the
 24 police about what the defendant had done to you?
 25 A. About a week and a half later.

- 1 Q. How did that contact come about?
 2 A. I was at work.
 3 Q. Had you called the police at that point?
 4 A. No.
 5 Q. What happened while you were at work?
 6 A. I was at work and the security desk called up and
 7 said a detective from Metro was there that wanted to
 8 speak to me.
 9 Q. But you hadn't called him; right?
 10 A. No.
 11 Q. And as far as you know your husband didn't call
 12 him?
 13 A. No.
 14 Q. You had no idea why he came to you?
 15 A. No.
 16 Q. Where do you work or where did you work?
 17 A. Still at Health Plan of Nevada.
 18 Q. When you came down and made contact with the
 19 detective were you aware of why he was there to see you?
 20 A. No.
 21 Q. When he got there did he tell you he was
 22 investigating something?
 23 A. Not at first.
 24 Q. What did he tell you when he got there?
 25 A. He introduced himself. He asked if I was a

1 recent patient at Centennial Hills Hospital.

2 Q. What did you say?

3 A. Yes.

4 Q. What was his next question?

5 A. He asked me if I thought maybe something
6 inappropriate may have happened while I was a patient
7 there.

8 Q. What did you say?

9 A. Yes.

10 Q. Then did you tell him what the defendant had done
11 to you?

12 A. Yes.

13 Q. Before telling the detective what the defendant
14 had done, had the detective said anything to about a
15 particular nurse who had done this? Did he ever give
16 you the name Steven Dale Farmer?

17 A. No, not at that time.

18 Q. Did he ever tell you I am investigating something
19 where a nurse has been touching patients or did he just
20 say did anything inappropriate happen when you were
21 there?

22 A. That was his first -- after he introduced himself
23 that was the first thing he said to me.

24 Q. That's when you responded and said, yes, actually
25 here's what happened and told the story?

1 MS. ROUNDTREE: Your Honor, I have to ask
2 for clarification because there were two different
3 questions posed to her.

4 THE COURT: You are kind of asking a
5 compound question.

6 MS. CLARKE: Sorry, Judge.

7 BY MS. CLARKE:

8 Q. The detective makes contact with you and
9 introduces himself; is that right?

10 A. Detective Saunders?

11 Q. Yes.

12 A. Yes.

13 Q. Then he said were you a patient recently at
14 Centennial Hills Hospital and your response was?

15 A. Yes.

16 Q. Then he said did something inappropriate happen
17 to you while you were a patient there?

18 A. Yes.

19 Q. Did he ask you any other questions before you
20 told him what the defendant did to you?

21 A. No.

22 Q. Who brought up the name Steven Dale Farmer or
23 Steven Farmer?

24 A. I did.

25 MS. CLARKE: Pass the witness.

1 THE COURT: Defense?

2

3

CROSS-EXAMINATION

4 BY MR. COYER:

5 Q. So you were transferred to Centennial Hills
6 Hospital you were having chest pains?

7 A. Yes.

8 Q. They admit you there?

9 A. Yes, into the emergency room.

10 Q. Were you ever admitted into the main part of the
11 hospital and given a room?

12 A. No.

13 Q. All this happened in the ER?

14 A. Yes.

15 Q. So your bed, I guess, was divided just by
16 curtains or was it an actual room?

17 A. Three surrounding walls and it was curtain in
18 front of me.

19 Q. Okay. No doorway or anything?

20 A. No.

21 Q. The curtain lead out into the main part of the
22 ER?

23 A. The nurses' station.

24 Q. You said Mr. Farmer came in and pulled back the
25 curtain, right, a few feet?

1 A. Yes.

2 Q. He came up to your bed; right?

3 A. Yes.

4 Q. Did he make any effort to close the curtain
5 behind him or anything like that?

6 A. No.

7 Q. Did he look around to see what was going on
8 around him or just walk right up and introduce himself?

9 A. He walked right up.

10 Q. You said, I think you said, the curtain was open
11 and you could see a couple other nurses?

12 A. Yes.

13 Q. Could you see whether or not they were watching
14 what was going on?

15 A. Yes.

16 Q. They were or were not watching?

17 A. Margaret the nurse that I knew was able to see
18 what went on and did.

19 Q. Correct me if I am wrong, once the lead check
20 began you looked up to the ceiling?

21 A. Correct.

22 Q. So you were no longer watching Margaret, you
23 don't know how much she saw at this point?

24 A. Correct.

25 Q. How long -- this may have already been asked --

1 but how long would you say you were exposed while this
 2 was going on?
 3 **A. A minute or two.**
 4 **Q.** Was it closer to a minute or closer to two
 5 minutes?
 6 **A. Closer to two.**
 7 **Q.** Do you have any kind of medical training?
 8 **A. Very little.**
 9 **Q.** After this occurred, I guess you didn't talk with
 10 Margaret about it?
 11 **A. No.**
 12 **Q.** Or flag down that other nurse either; right?
 13 **A. No.**
 14 **Q.** You looked like you were kind of considering how
 15 to answer when the district attorney asked you why you
 16 didn't report it?
 17 **MS. CLARKE:** Objection. Commenting on this
 18 witness' testimony.
 19 **THE COURT:** Sustained.
 20 **BY MR. COYER:**
 21 **Q.** Why didn't, I guess, you report until later, ever
 22 really because Metro contacted you; right?
 23 **A. Yes, they had.**
 24 **Q.** Do you want to answer why you didn't report it?
 25 **A. I was a little confused at the time why somebody**

1 **was a potential health problem. The nurse was in just a**
 2 **few minutes short of that.**
 3 **Q.** It was Detective Saunders that came to see you at
 4 work?
 5 **A. Yes.**
 6 **Q.** I guess they took you back to one of their
 7 offices on Oakey; right?
 8 **A. North Tenaya. You mean when I gave my report,**
 9 **yes, on Oakey.**
 10 **Q.** Without getting into what anybody said, did the
 11 detective indicate to you how they found you?
 12 **A. Yes.**
 13 **Q.** Did he indicate that it was done through the
 14 hospital and they tracked you down basically?
 15 **A. No, he didn't tell me that.**
 16 **Q.** Are you on any kind of regular or daily or as
 17 needed medication for your asthma?
 18 **A. Yes.**
 19 **Q.** What do you take on a daily basis?
 20 **A. Cingular and Albuterol.**
 21 **Q.** Do you have side effects from these medications?
 22 **A. No.**
 23 **Q.** Had you taken them that day the day you went to
 24 Centennial Hills?
 25 **A. They gave me a Cingular tablet in Centennial**

1 **would be even in there checking the leads when the**
 2 **machine was quiet and the registered nurse was in there**
 3 **just a few minutes prior. Not really sure, you know,**
 4 **the appropriateness of it. After all nobody had touched**
 5 **those leads since I was admitted. I was just on the**
 6 **fence. It just -- when it happened it was done very --**
 7 **I've had the same test done previously the same**
 8 **monitoring and it didn't require or they didn't**
 9 **previously have to disown me to do it. It was done a**
 10 **little bit more discretely. It was not very discrete.**
 11 **Q.** Was this prior examination done at Centennial
 12 Hills?
 13 **A. Yes, when I got there.**
 14 **Q.** I mean you said it had been done on prior
 15 occasions at the same hospital visit?
 16 **A. No.**
 17 **Q.** So it had been done to you prior at a different
 18 hospital?
 19 **A. Yes.**
 20 **Q.** Would it be fair for me to say that you not
 21 having any medical training or anything you weren't sure
 22 whether something inappropriate even happened at all?
 23 Fair?
 24 **A. Yes and no. I've had it before and the monitor**
 25 **wasn't going off that a lead maybe disconnected or there**

1 **Hills ER. That was it.**
 2 **Q.** Does the nitroglycerin spray you received produce
 3 any kind of side effects?
 4 **A. Slight headache.**
 5 **MR. COYER:** No further questions.
 6 **THE COURT:** Any redirect?
 7 **MS. CLARKE:** No, Your Honor.
 8 **THE COURT:** Thank you very much. You're
 9 excused. Next witness?
 10 **MS. CLARKE:** State calls Francis Rose.
 11 (Whereupon Francis Rose was duly sworn.)
 12 **THE CLERK:** Please be seated. State your
 13 first and last name and spell both for the record.
 14 **THE WITNESS:** Frances V. Rose,
 15 F-R-A-N-C-E-S, V, R-O-S-E.
 16 **THE COURT:** Thank you, ma'am.

DIRECT EXAMINATION

19 **BY MS. CLARKE:**
 20 **Q.** Miss Rose back in December 2007 were you a
 21 patient at Rawson-Neal Psychiatric Hospital? Rawson is
 22 R-A-W-S-O-N, dash, N-E-A-L.
 23 **A. Yes, I was.**
 24 **Q.** Do you recall the specific dates you were there
 25 in December?

1 A. Yes, I was there from the 7th to the 15th, my
2 first time. The second time I was in there from the
3 20th until the first of January.

4 Q. Why were you admitted to that hospital?

5 A. I had a psychotic break down. I was a manic
6 depressive and I did not know it.

7 Q. That hospital is that located here in Las Vegas,
8 Clark County, Nevada?

9 A. Yes, ma'am.

10 Q. Did you come into contact with somebody by the
11 name of Steve Farmer?

12 A. Yes, I met Mr. Farmer the second time I was in
13 Rawson-Neal.

14 Q. The second time you mean December 20th until
15 January 1st?

16 A. Yes, ma'am.

17 Q. Do you see that person in court?

18 A. Yes, ma'am.

19 Q. Can you point to him and tell me what he's
20 wearing.

21 A. Blue shirt, glasses.

22 MS. CLARKE: Your Honor, may the record
23 reflect identification of the defendant?

24 THE COURT: So ordered.

25 ///

1 BY MS. CLARKE:

2 Q. How long did you -- strike that.

3 When did you first come into contact with the
4 defendant?

5 A. When he -- my first few days were kind of fuzzy.
6 I came into the unit to do the intake and then I was in
7 one unit and I recall my meeting Mr. Farmer in the
8 second unit that they put me in. He was wearing a Santa
9 Claus outfit and he was sitting at a table with another
10 gentleman. They were playing on their phones or
11 something.

12 Q. You said he was dressed up as Santa Claus?

13 A. Yes, ma'am.

14 Q. Was there like Christmas decorations at the
15 hospital?

16 A. Yes, ma'am.

17 Q. What type of medicine were you on?

18 A. I was on Seroquel, Lithium, Restoril, Ambien, and
19 Ativan.

20 Q. You had met the defendant during the second time
21 you were at the hospital so the first time in December
22 you hadn't met him yet?

23 A. Yes, ma'am.

24 Q. What was interaction like with the defendant that
25 day he was dressed up as Santa Claus?

1 A. My first interaction with him was -- I kind of
2 had a real crappy attitude. I had just been told I
3 couldn't go home for Christmas. I hadn't had a
4 Christmas with my daughter for four years because she
5 had been living with her father and I was quite upset,
6 so he was just kind of talking to me.

7 Q. What was the defendant's demeanor when he talked
8 to you?

9 A. He was very nice, kind of flirty but a very nice
10 person.

11 Q. At that point were you aware of whether or not he
12 was actually employed by the hospital or just a hired
13 Santa to come in and play Santa?

14 A. No, he told me he worked there.

15 Q. Did he tell you what he did there?

16 A. Well, I knew he was nurse CNA because my
17 sister-in-law is a nurse and I knew because of that he
18 was a CNA and not a nurse. I had been in interaction
19 with the actual nurses there.

20 Q. He was something other than a registered nurse?

21 A. Yes, ma'am.

22 Q. What would your daily interaction be like with
23 the defendant?

24 A. Just talking, him flirty with me, you know. Me
25 kind of flirting back, just talking back and forth. He

1 asked me what he could do for me for Christmas how he
2 could make my Christmas better. He's telling me ways
3 that -- he told me I was normal and I didn't need to be
4 there, you know. That I wasn't like the rest of the
5 patients.

6 Q. Did you ever have an opportunity to see the
7 defendant early in the morning?

8 A. Yes, I did.

9 Q. How did that come about?

10 A. He would bring in coffee. I would get up because
11 I was an insomniac and I could would get coffee from
12 him. I would go by the room where he was sitting with
13 patients sleeping. I would go by and get my coffee.

14 Q. Were you allowed to have coffee in the
15 psychiatric hospital?

16 A. No, ma'am.

17 Q. Was any patient allowed to have coffee there?

18 A. No, ma'am.

19 Q. So he was kind of breaking the rules and letting
20 you have coffee?

21 A. Yes, ma'am.

22 Q. Did you have a particular area of the hospital
23 where you stayed, did you have a room?

24 A. Yes, I had a room. I had a separate room.

25 Q. Were you aware of whether or not the defendant

- 1 was assigned to that portion or area?
- 2 **A. I usually know what rooms he would be in.**
- 3 **Q. Was he ever assigned to your particular room?**
- 4 **A. No.**
- 5 **Q. Did he ever make any comments about not being**
6 **assigned to your room?**
- 7 **A. No.**
- 8 **Q. Or how he would come about seeing you?**
- 9 **A. No, he would find excuses to come up and see me**
10 **he told me later on because we did go into a**
11 **relationship.**
- 12 **Q. So you did have a dating relationship with the**
13 **defendant at some point later?**
- 14 **A. Yes, ma'am.**
- 15 **Q. Did anything inappropriate happen between you and**
16 **the defendant while you were there that second time at**
17 **Rawson-Neal Psychiatric Hospital?**
- 18 **A. We had one inappropriate moment when I went to**
19 **get coffee and he grabbed my hand and placed it on his**
20 **groin.**
- 21 **Q. Do you recall when this was in December 2007?**
- 22 **A. It was between the 25th and the 27th the**
23 **December. He told me this is what you do to me.**
- 24 **Q. Where did you go to get the coffee from the**
25 **defendant?**

- 1 **A. I went to the room where he was sitting with a**
2 **patient. He was a retarded child, young man.**
- 3 **Q. Where in the room was the child in relation --**
- 4 **A. He was in the bed and Mr. Farmer was sitting up**
5 **against the wall in a chair.**
- 6 **Q. When you came to the door did the defendant get**
7 **up and come over to where you were?**
- 8 **A. No.**
- 9 **Q. How did you get close to the defendant?**
- 10 **A. I usually sit down to talk to him on the floor**
11 **and reaching and get the coffee and the one time that**
12 **happened I reached in to get the coffee and he placed my**
13 **hand on his groin.**
- 14 **Q. Did you actually feel his penis?**
- 15 **A. Yes, ma'am.**
- 16 **Q. What did he say when he put your hand on his**
17 **penis?**
- 18 **A. He said this is what you do to me.**
- 19 **Q. This is what you do to me is what he said?**
- 20 **A. Yes, ma'am.**
- 21 **Q. What was your response after he said that?**
- 22 **A. I left went and back to my room because I didn't**
23 **know what to think or feel.**
- 24 **Q. Now, you said you were reaching, and for the**
25 **record you put your hand forward, and were reaching for**

- 1 coffee?
- 2 **A. Yes.**
- 3 **Q. Could you describe how your hand got to his area.**
- 4 **A. He took my hand and placed it on his groin. Then**
5 **handed me the coffee.**
- 6 **Q. Did you have any further contact with the**
7 **defendant while you were still at the psychiatric**
8 **hospital?**
- 9 **A. Yes, I saw him. I would see him off and on.**
- 10 **There was one or two days that I didn't see him, but New**
11 **Years Eve we danced together.**
- 12 **Q. At the point that he put your hand on his penis**
13 **was there any physical contact between the two of you**
14 **meaning sexually?**
- 15 **A. No.**
- 16 **Q. Had his hands touched any of your private parts?**
- 17 **A. No.**
- 18 **Q. Had your hands or anything touched any of his**
19 **private parts?**
- 20 **A. No, ma'am.**
- 21 **Q. So nothing but just a flirting relationship with**
22 **a staff member at the hospital?**
- 23 **A. Yes, ma'am.**
- 24 **Q. You said you just left because you didn't know**
25 **what to do?**

- 1 **A. No, ma'am.**
- 2 **Q. You didn't know how to feel?**
- 3 **A. I didn't understand how to feel.**
- 4 **Q. What do you mean?**
- 5 **A. Well, one I wanted to leave the hospital and they**
6 **promised if I did what I could do and take my medication**
7 **and did the right things I could leave. So I thought if**
8 **I said anything I would be kept there longer. Second, I**
9 **thought nobody would believe me because he was a CNA and**
10 **third in my own sick way he made me feel like somebody**
11 **wanted me. Like I wanted to feel normal as normal as**
12 **possible, if you could understand that.**
- 13 **Q. Did you want him to take your hand and put it in**
14 **his penis?**
- 15 **A. No, ma'am.**
- 16 **Q. You mentioned when you left the facility you had**
17 **a dating relationship with the defendant. Did you at**
18 **some point exchange contact information with the**
19 **defendant before you left the hospital?**
- 20 **A. Yes, ma'am. When I was there he gave me his**
21 **phone number and told me he was not allowed to date**
22 **anybody for six months that he was leaving Rawson-Neal**
23 **but he wanted to date me. He gave me his phone number**
24 **and when I returned home I called him within the first**
25 **couple days.**

- 1 Q. After calling within the next couple of days did
2 you meet him in person?
3 A. Yes, ma'am, I did.
4 Q. Did you bring him around your family?
5 A. I brought him to Christmas my family had for me
6 January 3rd.
7 Q. You got out January 1st, 2008?
8 A. Yes, ma'am.
9 Q. You start dating right away after you got out?
10 A. Yes, ma'am.
11 Q. How long did your relationship with the defendant
12 last?
13 A. Approximately six weeks off and on.
14 Q. What do you mean off and on?
15 A. We would see each other and then we wouldn't see
16 each other for a few days. You know, things would
17 happen. He called me one time and told me that he was
18 black balled pending further investigation from
19 Rawson-Neal because it was told he was supposed to have
20 some kind of set up with a young lady, making move in
21 plans with her after she left the facility. He asked if
22 I actually was the woman that called.
23 Q. So there was some situation where he was getting
24 into trouble for setting up a living arrangement with a
25 former patient?

- 1 A. Yes, ma'am.
2 Q. He called you and said, hey, was this you that
3 did it?
4 A. Yes, ma'am.
5 Q. What was your response to him?
6 A. Well, I didn't want to have anything to do with
7 it. I was trying to get my mental health back and get
8 my life back in order. I wanted to go back to school.
9 Q. Because it wasn't you that reported him?
10 A. No, ma'am.
11 Q. During this time were you on medication?
12 A. Yes, ma'am.
13 Q. Was your medication being adjusted or changed?
14 A. It has been tweaked ever since I left. It's been
15 changed several times.
16 Q. As your medication started to get adjusted or
17 changed what, if anything, did you begin to feel?
18 A. Things started not to feel right about the whole
19 situation and the relationship. Mr. Farmer and I went
20 on a Valentines Day trip together.
21 Q. Where did you go?
22 A. We went to Buffalo Bills at Stateline.
23 Q. Did you go in February of 2008?
24 A. Yes, ma'am.
25 Q. How many nights were you going to stay?

- 1 A. We stayed there for two nights.
2 Q. At this point you were sort of a couple with the
3 defendant; is that true?
4 A. Correct.
5 Q. Had you mentioned at this point him putting your
6 hand on his penis back in December?
7 A. I wrote him a letter and told him his forwardness
8 scared me and then I got used to seeing him and start
9 looking forward to seeing him because once again I
10 wanted to feel wanted.
11 Q. Back to the Buffalo Bills trip did anything
12 unusual happen on that trip that caused you concern?
13 A. Yeah, it did. He stayed down and played some
14 cards. I went up and went to sleep. When I fell asleep
15 my breast fell out of my gown and when I woke in the
16 morning he told me that I had a beautiful breast and he
17 came in and he saw it he just turned on the light and
18 looked at it. Just sat there and stared at it and that
19 bothered me.
20 Q. This is what the defendant stated that he had
21 done the night before; right?
22 A. Yes, ma'am.
23 Q. You don't have any recollection of it yourself
24 other than what he told you?
25 A. No, ma'am.

- 1 Q. While you were dating did you and the defendant
2 have sexual intercourse?
3 A. No, ma'am.
4 Q. Did you ever perform oral sex on the defendant?
5 A. No, ma'am.
6 Q. Did you masturbate him with your hand?
7 A. No, ma'am.
8 Q. Did he ever perform oral sex on you?
9 A. Yes, ma'am.
10 Q. So he would put his mouth near or on your vagina?
11 A. Yes, ma'am.
12 Q. What would he say while he was performing oral
13 sex on you?
14 MS. ROUNDTREE: Your Honor, I let this go a
15 little ways probably because I knew the fact of this
16 allegation in this might be going to show her state of
17 mind at some point, but he's not charged with these
18 other things, so I would object to this going any
19 further it's not relevant to the charge that relates to
20 this witness.
21 THE COURT: How is this relevant?
22 MS. CLARKE: It's relevant because he said
23 the same thing to all these different women and he said
24 your breast is beautiful to this woman and her
25 explanation for what he said and did while he was giving

1 her her oral sex was the same as Miss Cagnina which is
2 licking his fingers and saying she tasted good.
3 Certainly that's relevant in this case, Judge, is
4 certainly a pattern and behavior that he used with the
5 women he assaulted.

6 THE COURT: Okay. I'll allow it.

7 BY MS. CLARKE:

8 Q. What did the defendant say to you while he was
9 performing oral sex on you?

10 A. He always told me that I tasted good and this is
11 what he enjoyed doing.

12 Q. What did he do with his fingers?

13 A. He would lick his fingers and his lips.

14 Q. When was the first time you contacted the police
15 about what the defendant to you the previous December?

16 A. My brother called me and asked me -- I was
17 writing a school paper -- and asked me Mr. Farmer's last
18 name, Steve, is what he said. I was writing a paper and
19 I couldn't be bothered. I said I can't remember. He
20 said Fran, do you remember if it was Farmer. I said,
21 yes, it was. He said I need you to get on the
22 television or pick up a newspaper or get on the
23 Internet. I said okay I would. He called back several
24 times and I still had not done it because I was writing
25 a paper. He finally before he picked me up from school

1 said that he would not pick me up unless I picked up and
2 looked at the internet and saw what happened. It was at
3 that time I made my decision to come forward. It was my
4 brother that contacted the office first.

5 Q. So your brother contacted the Las Vegas
6 Metropolitan Police Department?

7 A. Yes, ma'am.

8 Q. He got the contact information and relayed that
9 to you?

10 A. Yes, ma'am.

11 Q. So you weren't the one who first initiated
12 contact with the police about this incident?

13 A. No, ma'am.

14 Q. In fact you were distracted by the paper you were
15 writing?

16 A. Yes, ma'am.

17 Q. Did you in fact go on the internet or the news
18 and see anything related to the defendant?

19 A. I saw it on the internet.

20 Q. What exactly did you see?

21 A. I saw that he had been charged with allegations
22 from a patient from Centennial Hills. Can I get some
23 water?

24 THE COURT: Sure.

25 ///

1 BY MS. CLARKE:

2 Q. At the point did you contact Detective Sanders?

3 A. Yes, ma'am.

4 Q. You gave him a statement about what happened?

5 A. Yes, ma'am.

6 Q. Why did you wait four, five months after your
7 relationship with the defendant to report what he had
8 done to you in December?

9 A. My medications changed and after I saw that he
10 done it to other women I thought it was only the right
11 thing to come forward and do.

12 Q. You didn't say he had done this just because you
13 heard he had been accused of doing similar things to
14 other women; right?

15 A. No.

16 Q. When was the last time you had contact with a
17 defendant after you kind of broke up in February?

18 A. I talked to him in March and wished him a happy
19 birthday.

20 Q. Did he ever call you back after that time?

21 A. He called me back after that and asked me to call
22 him and he would like to take me out to supper but I
23 never returned his phone call.

24 Q. Any type of argument or anything that ended your
25 relationship?

1 A. No, ma'am.

2 Q. Why did the relationship end?

3 A. It just didn't end because as soon as my
4 medication was right and I started feeling right in my
5 head this -- he didn't click for me. It didn't seem
6 like a normal healthy relationship and things I had seen
7 and things that happened, didn't seem right. He didn't
8 settle right with me.

9 Q. Okay.

10 MS. CLARKE: Pass the witness.

11 THE COURT: Defense?

12

13 CROSS-EXAMINATION

14 BY MS. ROUNDTREE:

15 Q. Miss Rose, you were on the last occasion that you
16 were admitted into the mental health facility that you
17 talk about that would have been December 17th until
18 January 1st, 2008?

19 A. December 20th.

20 Q. On this last occasion on December 20th, 2007, to
21 January 1st, 2008, you involuntarily committed to the
22 mental health facility; correct?

23 A. I as a Legal Hold 2000.

24 Q. Can you explain what that means?

25 A. It means they entered me because they thought I

1 might harm myself or somebody else.

2 Q. That was as a result of an incident that you had
3 done; is that correct?

4 A. **Not the second time. I had a psychotic break**
5 **down. The first time was an incident.**

6 Q. The first time there was incident that lead you
7 to be hospitalized was that the same type of commitment?

8 A. **A Legal Hold 2000.**

9 Q. That's when there's been a determination that you
10 are either going to be dangerous to someone or to
11 yourself?

12 A. **Yes, ma'am.**

13 Q. But you're saying there was some criminal matter
14 that was pending and you were forced in that facility so
15 a result; is that correct?

16 A. **I wasn't forced. I was taken to Sunrise Hospital**
17 **and Sunrise took me there.**

18 Q. You could not leave facility until you were
19 allowed to; is that fair to say?

20 A. **I could not leave until my medication was right.**

21 Q. As to the December 20th commitment, same type of
22 thing except you are saying you had a psychotic break
23 down, there was no incident proceeding that; is that
24 what you're saying?

25 A. **There was no legal matter. There was never a**

1 your commitment to this facility on December 20th, what
2 did it result in, what happened to you?

3 A. **Well, I hadn't slept for days. I hadn't slept**
4 **for days and I was delusional. Completely 100 percent**
5 **delusional.**

6 Q. At that time around December 20th before your
7 commitment to the facility were you on medication at
8 that time?

9 A. **Seroquel only.**

10 Q. You later mentioned several other medications
11 that you've already mentioned those, when did those
12 medications come into play when were those given to you
13 after the 20th of December 2007? Were they administered
14 to you in the facility?

15 A. **I think they started them in the facility.**

16 Q. The mental health facility?

17 A. **Yes, ma'am.**

18 Q. At some point after December 20th, 2007?

19 A. **Yes, ma'am.**

20 Q. Shortly thereafter?

21 A. **Mm-hmm.**

22 Q. Is that yes?

23 A. **Yes.**

24 Q. So they were trying regulate your -- you
25 basically; is that fair to say?

1 legal matter the first time.

2 Q. Who was it that made you be committed to the
3 facility or caused you to be committed to the facility?

4 A. **The second time?**

5 Q. **Yes, ma'am.**

6 A. **My family took me to Rawson-Neal and they took me**
7 **to Southern Hills. They did the Legal Hold 2000.**

8 Q. You are saying southern Hills is the one who
9 actually arranged the commitment?

10 A. **Yes, ma'am. My family took me. I went there**
11 **voluntarily --**

12 Q. To Southern Hills?

13 A. **Rawson-Neal.**

14 Q. With regard to Southern Hills what kind of
15 facility is that?

16 A. **It's a hospital.**

17 Q. Southern Hills Hospital?

18 A. **Yes, ma'am.**

19 Q. So a regular medical facility?

20 A. **Yes, ma'am.**

21 Q. Is that by your house or something?

22 A. **No, ma'am. It's off 215 and Sunset.**

23 Q. Do you know why that location was chosen?

24 A. **No, ma'am.**

25 Q. When you had this psychotic break down proceeding

1 A. **Yes, ma'am.**

2 Q. Were you before being committed to the facility
3 but after the prior commitment that ended December the
4 15th, had you been seeing a medical doctor for the
5 condition that lead you to the first commitment? Were
6 you seeing a doctor?

7 A. **While I was in there.**

8 Q. Ma'am, in between your two visits like once they
9 release you from the mental health facility the first
10 time but prior to you're going in the second time, had
11 they recommend that you see a doctor?

12 A. **I didn't make it to that doctor's appointment**
13 **before I had the psychotic break down.**

14 Q. They had arranged for an appointment for you and
15 you intended to do so but had another break down before
16 that happened?

17 A. **Yes, ma'am.**

18 Q. Where were you when the break down the second
19 break down before the 20th happened or on the 20th?

20 A. **At home.**

21 Q. And was your family with you there?

22 A. **Yes, ma'am.**

23 Q. So you were having hallucinations was a medical
24 personnel ever called to your residence there?

25 A. **No, ma'am.**

1 Q. So your family just transported you to the
2 hospital themselves?

3 A. They told me the night before but I thought I was
4 going somewhere else. They told me they'd be picking me
5 up at 8:00 in the morning and 8:00 in the morning I was
6 ready to go.

7 Q. Your understanding was your family was picking
8 you up to go somewhere and they took you to the hospital
9 instead; is that what you're saying?

10 A. They were taking me to get my medication and to
11 my appointment.

12 Q. But instead they had you admitted; is that fair
13 to say?

14 A. They wanted me self-admitted.

15 Q. We are talking about Southern Hills at this
16 point?

17 A. No, this was at Rawson-Neal.

18 Q. Did you self-admit the second time on the 20th?

19 A. I was so delusional they called Southern Hills to
20 come and pick me up.

21 Q. So you were involuntarily committed, and I don't
22 know if that's the correct terminology, but you couldn't
23 leave until they told you; is that fair to say?

24 A. Yes, ma'am.

25 Q. Were the medications that you mentioned

1 previously in response to the district attorney, were
2 you on those medications throughout your term or visit
3 the second time at the mental health facility?

4 A. The first time I left it was Seroquel. The
5 second time I was on the list of medications that I told
6 Miss Clarke.

7 Q. That was concoction of medications they deemed to
8 be beneficial to sort of control you?

9 A. Yes, ma'am.

10 Q. You are aware of what Mr. Farmer's job was inside
11 the mental health facility?

12 A. Yes, ma'am.

13 Q. You're familiar with what a CNA does because
14 sister's a nurse; is that fair to say?

15 A. Yes, ma'am.

16 Q. But you had not been in contact with Mr. Farmer
17 on your prior visit to the facility?

18 A. No, ma'am.

19 Q. Was it on December the 24th when you first met
20 Mr. Farmer?

21 A. I think that might be correct.

22 Q. Christmas Eve?

23 A. It was the day of Christmas Eve.

24 Q. We are talking about 2007 at this point?

25 A. Yes, ma'am.

1 Q. You testified I thought you said something was
2 said to you by Mr. Farmer like what can I do for you for
3 Christmas or something like that?

4 A. Yes.

5 Q. Was that something you actually said to
6 Mr. Farmer because you were sort of bitter for being
7 there? What can you do for me for Christmas, do you
8 remember saying to Mr. Farmer?

9 A. He asked me what do I want for Christmas, what
10 did I want for Christmas and I said what can you do for
11 me for Christmas.

12 Q. In fact Mr. Farmer was acting as sort of a Santa
13 Claus at that facility; correct?

14 A. Yes, ma'am.

15 Q. He was asking other people what they wanted for
16 Christmas; is that fair to say?

17 A. Yes, ma'am.

18 Q. You were one of them who was there?

19 A. Yes, ma'am.

20 Q. You struck up a friendship or maybe a flirtacious
21 relationship at least a mutual flirtation with
22 Mr. Farmer; is that fair to say?

23 A. Yes, ma'am.

24 Q. You asked Mr. Farmer to do things for you that he
25 was not supposed to do; is that fair to say?

1 A. Yes, ma'am.

2 Q. Including getting coffee for you, was there
3 anything else along those lines?

4 A. No, ma'am.

5 Q. You would occasionally sit and talk with Mr.
6 Farmer as a friend; correct?

7 A. Yes, ma'am.

8 Q. The two of you would flirt with one another back
9 and forth?

10 A. Yes, ma'am.

11 Q. On the occasion -- on the occasion you described
12 for Miss Clarke where you were reaching for the coffee
13 this inside one of the rooms that were there?

14 A. Yes, ma'am. The door was opened.

15 Q. The door was open?

16 A. Yes, ma'am.

17 Q. Where was Mr. Farmer?

18 A. He was sitting inside the door and the bed is to
19 the right where the patient was asleep.

20 Q. So there was another person in the room as well,
21 you mentioned a young mentally challenged --

22 A. Yes, ma'am.

23 Q. Mr. Farmer was attending to that person; is that
24 fair to say?

25 A. Yes, ma'am.

- 1 Q. And you went in to get a cup of coffee as you had
2 done in the past?
- 3 A. Yes, ma'am.
- 4 Q. In doing so you came close to Mr. Farmer when you
5 were reaching for the coffee; is that fair to say?
- 6 A. Close to his chest.
- 7 Q. It's when you became close in proximity to Mr.
8 Farmer is that your testimony he grabbed your hand and
9 placed on his groin area?
- 10 A. Yes, ma'am.
- 11 Q. Were you sitting on the floor speaking with him
12 at the time, you mentioned you had done that before.
13 Were you sitting on the floor at that time or were you
14 standing?
- 15 A. I was standing.
- 16 Q. You testified that you touched his groin?
- 17 A. Yes, ma'am.
- 18 Q. Did you feel whether or not there was an
19 erection?
- 20 A. Yes, ma'am, he had an erection.
- 21 Q. That's why he said -- this is when he said this
22 is what you do to me --
- 23 A. Yes, ma'am.
- 24 Q. You assumed he was referring to the erection?
- 25 A. Yes, ma'am.

- 1 Q. This would have been on approximately what date,
2 if you remember?
- 3 A. Between the 25th and 27th, I don't know exactly
4 what day.
- 5 Q. When something happens in a facility of this
6 nature, are there incident reports that can be made that
7 you can complain about procedures and people inside the
8 facility; is that true?
- 9 A. I'm sure there is in every facility.
- 10 Q. Had you ever given a complaint about Mr. Farmer
11 before that?
- 12 A. No.
- 13 Q. Did you complain to someone at the facility about
14 that incident?
- 15 A. No, ma'am.
- 16 Q. You left the room after that happened; correct?
- 17 A. Yes, ma'am.
- 18 Q. In a few days were you about to get out of the
19 facility; correct?
- 20 A. Yes, ma'am.
- 21 Q. Mr. Farmer and you made an agreement to keep in
22 contact after you left; is that true?
- 23 A. Yes, ma'am. He gave me his phone number.
- 24 Q. Ma'am, did you give him your phone number?
- 25 A. No, ma'am.

- 1 Q. But within a couple of days of leaving that
2 facility you contacted Mr. Farmer; is that correct?
- 3 A. Yes, ma'am.
- 4 Q. You asked him that he come to a family gathering
5 around -- an after Christmas gathering in fact after the
6 new year; correct?
- 7 A. Yes, ma'am.
- 8 Q. In fact you had a celebration with Mr. Farmer on
9 New Years Eve at the facility; correct?
- 10 A. We had a dance.
- 11 Q. Was there a celebration going on at that time a
12 like New Years celebration?
- 13 A. There's a little room where everybody was
14 dancing.
- 15 Q. So there were others dancing not just the two of
16 you?
- 17 A. Yes, ma'am.
- 18 Q. Did you see Mr. Farmer dance with anyone else?
- 19 A. No, ma'am.
- 20 Q. Were there other both patients were dancing as
21 well?
- 22 A. Everybody was dancing.
- 23 Q. Mr. Farmer would be in charge of a lot of the
24 patients, if not all of them, in that ward; is that
25 true?

- 1 A. There was several.
- 2 Q. He was in charge of taking care of the needs of
3 all of those under his care; correct?
- 4 A. I don't know. I didn't talk about that with him.
- 5 Q. You told the police that when regarding him
6 forcing you to touch his penis, you told police that the
7 word pervert came into your head. When did that word
8 pervert pop into your head?
- 9 A. When it happened.
- 10 Q. Yet within a few days you contacted Mr. Farmer to
11 arrange for him to meet your family; correct?
- 12 A. Yes, I did.
- 13 Q. You told police also that it made you -- the
14 incident we just talked about regarding the penis
15 touching -- you told the police it made you feel dirty
16 like a slut; correct?
- 17 A. Yes, it did when it first happened.
- 18 Q. So is that when it made you feel that way is
19 right when it happened?
- 20 A. Yes, ma'am.
- 21 Q. Yet within a couple of days you were dancing with
22 him on New Years Eve; correct?
- 23 A. Yes, ma'am.
- 24 Q. And within a couple more days you were asking him
25 over to meet your family; correct?

- 1 A. Yes, ma'am.
- 2 Q. Did you continue with the medication on that list
- 3 that you told Miss Clarke you were taking, did you
- 4 continue that medication when you left the facility on
- 5 January the 1st?
- 6 A. I've had the medication changed about every two
- 7 weeks since then except for since March. They finally
- 8 got some medication that's working well.
- 9 Q. During the time frame a couple days after you
- 10 left during the time frame you had the family gathering
- 11 with Mr. Farmer, do you know which occasion I am talking
- 12 about when you invited family for a celebration of
- 13 Christmas even though Christmas?
- 14 A. Yes, ma'am.
- 15 Q. During that occasion were you on the list of
- 16 medications you were being given inside the facility?
- 17 A. No, ma'am.
- 18 Q. Was there a time -- do you know what medications
- 19 you were on at that time?
- 20 A. Yes, ma'am. I was on at that time Tegretol,
- 21 Seroquel, and Lithium. They left -- it was just those
- 22 three I left the facility with.
- 23 Q. That's what they discharged you with?
- 24 A. Yes, ma'am.
- 25 Q. With instructions to continue on those?

- 1 A. Yes, ma'am.
- 2 Q. On a daily basis, ma'am?
- 3 A. Yes, ma'am.
- 4 Q. At some point you said the medication would
- 5 change. Did you a doctor outside the facility or did
- 6 you continue going back to one inside the mental health
- 7 facility?
- 8 A. I was back at Rawson-Neal within three days
- 9 because I hadn't slept again.
- 10 Q. Who was the doctor that was caring for you?
- 11 A. Dr. Brown from Rawson-Neal.
- 12 Q. Is he only the doctor you continued to see
- 13 between leaving the facility and today?
- 14 A. No. I see Dr. Delrosario.
- 15 Q. I'm sorry I didn't hear you?
- 16 A. Dr. Delrosario.
- 17 THE COURT: Is that Dale Rosario?
- 18 THE WITNESS: Dr. Delrosario.
- 19 THE COURT: Is Delrosario the last name?
- 20 THE WITNESS: Yes, Delrosario is the last
- 21 name.
- 22 BY MS. ROUNDTREE:
- 23 Q. Oh, one word. Delrosario?
- 24 A. Yes, ma'am.
- 25 Q. Is he here locally?

- 1 A. Yes, ma'am.
- 2 Q. Does he work out of a certain facility or does he
- 3 have his own office?
- 4 A. 6161 West Charleston adult mental health.
- 5 Q. Southern Nevada Adult Mental Health?
- 6 A. Yes, ma'am.
- 7 Q. Do you continue to see him today?
- 8 A. Yes, ma'am.
- 9 Q. What medications as you testify today are you
- 10 taking?
- 11 A. I'm on Depakote, Embilify, Klonopin, and
- 12 Trazodone.
- 13 Q. And that seems to be working for you; correct?
- 14 A. Yes, ma'am.
- 15 Q. These are the ones you say you feel comfortable
- 16 with?
- 17 A. Yes, ma'am.
- 18 Q. You talked about a Valentines celebration that
- 19 you had with Mr. Farmer and you told us about an
- 20 incident in which you awoke and Mr. Farmer told you had
- 21 a beautiful breast; correct?
- 22 A. Yes, ma'am.
- 23 Q. That was at time a number one it was Valentines
- 24 Day; correct?
- 25 A. Yes, ma'am.

- 1 Q. You were having sexual relations with him
- 2 although you might not have had sexual penial
- 3 intercourse; right?
- 4 A. Yes, ma'am.
- 5 Q. You know what I mean by that?
- 6 A. Yes, ma'am.
- 7 Q. You were in a sexual relationship and he was your
- 8 boyfriend?
- 9 A. Yes, ma'am.
- 10 Q. It made you feel funny that he told you you had
- 11 beautiful breasts?
- 12 A. It bothered me that he set up and watched, turned
- 13 the light on and watched my breast, yes, it did, while I
- 14 was asleep.
- 15 Q. First of all someone at a later point -- you
- 16 continued that relationship beyond that trip to Buffalo
- 17 Bills?
- 18 A. No, we didn't go out after that, ma'am.
- 19 Q. Was the last time you saw him? Is that when you
- 20 broke up?
- 21 A. We never broke up. We just stopped contacting
- 22 one another.
- 23 Q. So was that the last contact you had with Mr.
- 24 Farmer was there at Buffalo Bills?
- 25 A. Yes, ma'am.

- 1 Q. You talked about a time when you called him on
2 his birthday what date would that have been?
3 A. In March.
4 Q. You had not seen him between the Valentines Day
5 and in March?
6 A. Not that I recall.
7 Q. Was that the last contact with Mr. Farmer on his
8 birthday in March?
9 A. The last phone call, yes, ma'am.
10 Q. You said that you finally broke up and ended your
11 relationship -- let me back up.
12 At some point was it your brother that mentioned
13 to you that Mr. Farmer was the subject of some awful
14 allegations; correct?
15 A. Correct.
16 Q. Your brother forced you to go and inform yourself
17 about those allegations?
18 A. Yes, ma'am.
19 Q. It was only after that that you made the decision
20 to talk about what you described here today; correct?
21 A. Yes, ma'am.
22 Q. Prior to that you had not reported any of these
23 incidents to anyone; is that fair to say?
24 A. Yes, ma'am.
25 Q. In fact the two of you were dating for a good

- 1 portion of the time in between; correct?
2 A. I'm sorry? Can you repeat the question.
3 Q. In fact the two of you, meaning Mr. Farmer and
4 you, were dating for a good period of time between
5 January 1st until you broke off communication in March;
6 correct?
7 A. Correct.
8 Q. It was in May that you were called by your
9 brother saying you needed to check out these allegations
10 about Mr. Farmer?
11 A. Yes, ma'am.
12 Q. After that you contacted the police department?
13 A. My brother contacted them first.
14 Q. Then someone contacted you?
15 A. Yes, ma'am.
16 Q. You talked about a daughter so you have more than
17 one child?
18 A. I have a 17 year old daughter.
19 Q. Only one child?
20 A. Yes, ma'am.
21 Q. Had you ever had Mr. Farmer around your daughter?
22 A. Yes, ma'am.
23 Q. And Mr. Farmer had been introduced to the rest of
24 your family as well; is that fair to say?
25 A. Yes, ma'am.

- 1 Q. Is it fair to say that the allegations you heard
2 about Mr. Farmer sounded sort of dreary and that
3 concerned you and that caused you to be concerned about
4 all your previous contact with him?
5 A. I don't understand the question.
6 Q. The allegations you heard about Mr. Farmer from
7 your brother and from the website sounded pretty
8 serious; correct?
9 A. Correct.
10 Q. And is it fair to say that that caused you to be
11 concerned about all the previous contact you had with
12 Mr. Farmer?
13 A. Not all the previous contact, no.
14 Q. But the ones you've described today?
15 A. Yes, ma'am.
16 MS. ROUNDTREE: Nothing further. Thank you.
17 THE COURT: Any redirect?
18 MS. CLARKE: Thank you.
19
20 REDIRECT EXAMINATION
21 BY MS. CLARKE:
22 Q. But actually didn't you just say after he put
23 your hand on his penis you said you were concerned about
24 that; right?
25 A. Yes, ma'am.

- 1 Q. That was immediately after that happening?
2 A. Yes, ma'am.
3 Q. Then the day he told you, hey, I was up watching
4 you, you have beautiful breasts that made you
5 uncomfortable as well?
6 A. Yes, ma'am.
7 Q. That was immediately after he told you about
8 that?
9 A. Yes, ma'am.
10 Q. So your feelings of concern or uncomfortableness
11 about your interactions with the defendant didn't just
12 come up after you read the news report; right?
13 A. No, ma'am.
14 Q. You mentioned writing a letter to the defendant
15 do you recall when in that time frame you wrote him that
16 letter?
17 A. January 3rd.
18 Q. Did you give him the letter or mail him the
19 letter?
20 A. I gave it to him.
21 Q. Did you watch the defendant read the letter?
22 A. No, I didn't.
23 Q. You just handed him the letter and what exactly
24 did you say in the letter?
25 A. I said a lot of different things.

1 MS. ROUNDTREE: Objection. Hearsay. It's
2 an out-of-court statement. I don't know what the
3 relevance of that letter is. I don't remember this from
4 prior questioning.

5 THE COURT: It was brought up. Overruled.

6 MS. CLARKE: I can be more specific.

7 MS. ROUNDTREE: I mean by me on cross. So
8 beyond the subject of cross-examination.

9 THE COURT: You are correct you did not
10 bring it up on cross-examination.

11 MS. CLARKE: But she did bring up the
12 contact she had with the defendant and that's what I am
13 getting at.

14 THE COURT: Okay.

15 BY MS. CLARKE:

16 Q. Did you actually see the defendant and hand him
17 the letter?

18 A. Yes, ma'am.

19 Q. Did the letter mention something about the
20 incident you testified about?

21 A. Yes, ma'am. I told his forwardness scared me at
22 first.

23 MS. CLARKE: Nothing further.

24 THE COURT: Thank you, Miss Rose. You may
25 step down.

1 THE WITNESS: Thank you, ma'am.

2 THE COURT: State rest?

3 MS. CLARKE: Your Honor, we do. We do have
4 some amendments to make most of them are language-wise.
5 Count 2, line 20, we'd ask that it read of open or gross
6 lewdness by the defendant rubbing and/or touching and/or
7 pushing and/or pressing his penis and/or genital area on
8 or against Ledahlia Spurlock while she lay in bed. I am
9 sorry the feet of. Let me read that again. Open or
10 gross lewdness by the defendant rubbing and/or touching
11 and/or pushing and/or pressing his penis or genital area
12 on or against the feet of Ledahlia Spurlock while she
13 lay in bed.

14 THE COURT: Okay.

15 MS. CLARKE: The next one, Judge, we'd just
16 ask to remove on line 25 while in an elevator. It's not
17 necessary in a complaint or in an information to specify
18 exactly where in the hospital, so we'd ask that be
19 stricken.

20 MS. ROUNDTREE: I'm sorry, same page?

21 MS. CLARKE: Same page, line 25, Count 3.
22 We'd also ask that after exposing on line 4, by the
23 defendant exposing and/or touching the breasts of
24 Heather Shank under the guise of moving electrodes.
25 Count 4, line 4, we'd ask it be deliberately exposing

1 and/or touching the breasts of Heather Shank under the
2 guise of adjusting the EKG machine. Count 5, line 8,
3 page 2, we'd ask that it be commit an act of open or
4 gross lewdness by the defendant exposing and/or brushing
5 against and/or touching the breasts of Denise Hanna
6 under the guise of adjusting the leads from the EKG
7 machine.

8 Those would be our only changes, Judge, to
9 the amended complaint just to conform to the testimony
10 and clear up the language the way it was plead.

11 THE COURT: Does the defense have any
12 objection to the motions to amend?

13 MS. ROUNDTREE: No, Judge.

14 THE COURT: So ordered.

15 Defense have any witnesses?

16 MS. ROUNDTREE: Court's indulgence. Judge,
17 Mr. Farmer has been made aware of his right to testify
18 and/or call witnesses and he chooses not to do so at
19 this time.

20 THE COURT: Any argument by the state?

21 MS. CLARKE: We'd reserve for rebuttal,
22 Judge.

23 THE COURT: Defense?

24 MS. ROUNDTREE: Judge, we'll submit it.
25 Thank you.

1 THE COURT: Mr. Farmer, please stand. In
2 case 08F10344X, I believe the following crimes have been
3 committed from the amended criminal complaint: Counts
4 1, 2, 3 open or gross lewdness; Count 4, indecent
5 exposure; Count 5, open or gross lewdness; Counts 6
6 through 8, sexual assault; Counts 9 and 10, open or
7 gross lewdness and there's probable cause to believe
8 you, sir, have committed said crimes. I will hold you
9 to answer to these charges in the Eighth Judicial
10 District Court on the date my clerk gives you.

11 THE CLERK: July 8, 1:30, lower level
12 courtroom A, District Court 20.

13 THE COURT: We will dismiss case 08F11714X.

14 MS. CLARKE: Judge, the state would like to
15 be heard on bail. I'm not sure what he's being held on.
16 We'd assume it was 45,000 because this complaint this
17 case number was for only three counts of sexual assault.
18 We amended and we have not added the bail to reflect
19 that. The state is going to ask, Judge, for \$650,000
20 total. We are asking for \$100,000 on each sexual
21 assault count. \$50,000 for each open or gross lewdness
22 count. \$50,000 on the indecent exposure. The total
23 would be \$650,000. The reason, Judge, is this is not a
24 typical open or gross or indecent exposure or even an
25 sexual assault case. This man violated these women

1 while they were most vulnerable. They were patients at
 2 a hospital. It's not just one lady, not two, it's five.
 3 He's a travelling nurse and he's only been in Las Vegas
 4 since July 2007, so one year. When he was here and was
 5 arrested he was actually renting a room from someone, so
 6 he doesn't have permanent residence. He's worked in
 7 California, Arizona, Texas, Colorado, and now Nevada.
 8 Multiple victims are still coming forward as this cases
 9 are proceeding. He's fading life in prison. We feel
 10 he's a danger to the community and certainly a flight
 11 risk. That's the reason for the bail motion and I'd
 12 submit it.

13 THE COURT: Defense?

14 MS. ROUNDTREE: Judge, we ask the Court to
 15 actually release him completely from any obligation to
 16 post bail or allow him to appear out of custody to come
 17 to court. The reason being the state has chosen to
 18 pursue this case under what I believe is 174.085 and
 19 pursuant to the motions we formally filed and it appears
 20 at least the Court technically or arguably agreed that
 21 state could combine cases if you found cause to do so,
 22 but in that circumstance if the state wants to dismiss
 23 other cases and combine or to pursue a case in a
 24 different case, what the state does -- they must do, is
 25 to first of all he should have been released from his --

1 released completely in all the other cases because those
 2 cases would have been dismissed and under 174.085, 6b,
 3 the Court shall not issue a warrant for the arrest of a
 4 defendant who's released from custody pursuant to
 5 subsection 5 or require that defendant whose bail that
 6 has previously been posted to be exonerated in
 7 subsection 5 to give bail. Unless a defendant does not
 8 appear in court in response to a properly issued summons
 9 in connection with the case. So in other words, he
 10 would have been summoned to come back to court when they
 11 decided to pursue the new case. He should have been
 12 released from all the other cases instead of having them
 13 all pending at one time. We would argue that he should
 14 not be required to have a bail at all in these cases.

15 THE COURT: Mr. Farmer, I think you're a
 16 danger to the community at least to anybody who's a
 17 patient in the hospital as well as a flight risk. You
 18 have no ties to this community whatsoever that I can
 19 tell. You don't even have a valid driver's license,
 20 insurance, or registration. I am going to set your
 21 total bail at \$250,000 cash or surety.

22 MS. ROUNDTREE: For the record which case
 23 was --

24 THE COURT: I dismissed 08F11714X.

25 MS. CLARKE: And 08F11334X is set for on

1 calendar in Justice Court 5 to be dismissed.

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ATTEST: FULL, TRUE AND ACCURATE

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TRANSCRIPT OF PROCEEDINGS.

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CHRISTA D. BROKA, CCR 574

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\$	163 [1] - 2:16 168 [1] - 2:18 16th [4] - 11:9, 148:15, 148:25, 149:14 17 [1] - 202:18 174.085 [2] - 209:18, 210:2 17th [2] - 159:13, 184:17 184 [1] - 2:19 1:00 [2] - 40:16, 86:23 1:30 [2] - 86:23, 208:11 1st [6] - 169:15, 177:7, 184:18, 184:21, 197:5, 202:5	2nd [1] - 108:2	139:14 7th [1] - 169:1	adhesiveness [1] - 94:10 adjust [1] - 19:12 adjusted [3] - 15:17, 178:13, 178:16 adjusting [8] - 14:5, 14:9, 15:19, 19:20, 19:23, 19:24, 207:2, 207:6 Adjusting [1] - 60:1 administered [1] - 187:13 admit [4] - 10:11, 11:11, 163:8, 189:18 admitted [16] - 10:4, 10:5, 10:8, 12:24, 38:4, 44:22, 85:23, 101:16, 117:10, 129:12, 163:10, 168:5, 169:4, 184:16, 189:12, 189:14 admittor [1] - 110:1 adult [1] - 199:4 Adult [1] - 199:5 afraid [12] - 16:14, 17:2, 17:24, 19:2, 20:15, 25:15, 25:16, 28:9, 31:17, 73:8, 74:9, 74:18 afternoon [1] - 159:13 agreed [1] - 209:20 agreement [1] - 194:21 ahead [3] - 14:20, 62:17, 107:20 aid [2] - 110:13, 110:14 Albuterol [1] - 167:20 allegation [1] - 180:16 allegations [7] - 145:5, 182:21, 201:14, 201:17, 202:9, 203:1, 203:6 alleged [1] - 4:1 allow [3] - 95:11, 181:6, 209:16 allowed [11] - 33:24, 41:15, 62:22, 92:10, 108:11, 108:18, 108:24, 172:14, 172:17, 176:21, 185:19 allowing [1] - 90:14 Almost [1] - 122:3 almost [4] - 28:7, 123:18, 127:7, 129:23 alone [3] - 4:17,
\$100,000 [1] - 208:20 \$250,000 [1] - 210:21 \$50,000 [2] - 208:21, 208:22 \$650,000 [2] - 208:19, 208:23		3	8	
		3 [2] - 206:21, 208:4 3-ish [1] - 78:6 30 [2] - 90:16, 138:18 39 [1] - 155:21 3:00 [11] - 60:18, 68:19, 68:23, 69:19, 70:6, 70:17, 70:22, 77:23, 78:3, 87:16, 159:12 3:15 [7] - 68:6, 69:12, 69:15, 69:21, 70:4, 70:19, 78:19 3rd [2] - 177:6, 204:17	8 [3] - 207:2, 208:6, 208:11 82 [1] - 2:6 8:00 [4] - 139:12, 189:5	
			9	
			9 [1] - 208:6 911 [13] - 16:25, 17:1, 43:8, 43:23, 73:7, 74:7, 74:10, 74:16, 74:17, 74:18, 74:19, 84:18, 84:19 9:00 [3] - 1:15, 3:2, 149:2 9:30 [3] - 112:25, 114:2, 149:2	
		4	A	
08F10344X [3] - 1:9, 3:5, 208:2 08F11334X [1] - 210:25 08F11714X [2] - 208:13, 210:24	2	4 [5] - 2:3, 206:22, 206:25, 208:4 40 [1] - 155:22 45,000 [1] - 208:16 4:00 [1] - 159:12 4:30 [2] - 87:2, 87:24 4th [4] - 108:1, 108:2, 108:4, 127:22	a.m. [2] - 11:4, 68:23 A.M. [2] - 1:15, 3:2 abdomen [2] - 96:4, 96:12 able [6] - 18:20, 86:14, 86:16, 152:5, 156:5, 164:17 abuse [3] - 63:21, 64:12, 66:10 access [1] - 44:7 ACCURATE [1] - 211:5 accurate [2] - 65:15, 108:6 accusation [1] - 33:3 accused [1] - 183:13 act [1] - 207:3 acting [1] - 191:12 actual [4] - 98:1, 150:5, 163:16, 171:19 add [2] - 58:9, 103:10 added [2] - 144:19, 208:18 additive [1] - 36:14 Addictive [1] - 36:15 additional [10] - 46:13, 47:9, 47:12, 47:13, 47:23, 54:22, 54:23, 55:10, 58:9 address [2] - 5:18, 39:9	
1	2 [3] - 206:5, 207:3, 208:4 20 [3] - 138:18, 206:5, 208:12 2000 [3] - 184:23, 185:8, 186:7 2007 [7] - 168:20, 173:21, 184:20, 187:13, 187:18, 190:24, 209:4 2008 [17] - 1:15, 3:2, 4:14, 10:20, 37:9, 83:17, 111:4, 111:6, 111:10, 112:12, 129:12, 131:10, 148:15, 177:7, 178:23, 184:18, 184:21 203 [1] - 2:19 20th [12] - 169:3, 169:14, 184:19, 184:20, 185:21, 187:1, 187:6, 187:13, 187:18, 188:19, 189:18 215 [1] - 186:22 24-hour [1] - 127:7 24th [1] - 190:19 25 [4] - 2:4, 90:16, 206:16, 206:21 25th [2] - 173:22, 194:3 27 [1] - 131:10 27th [3] - 132:15, 173:22, 194:3 2:00 [3] - 40:13, 40:14, 87:16 2cc [1] - 126:16	5		
1 [4] - 1:15, 3:2, 43:11, 208:4 10 [4] - 83:21, 153:4, 157:23, 208:6 100 [1] - 187:4 101 [1] - 2:7 109 [1] - 2:9 10:00 [10] - 4:24, 4:25, 11:3, 83:19, 86:1, 112:25, 144:2, 118:20, 118:21, 132:23 11:00 [3] - 83:20, 86:1, 149:13 11:30 [1] - 86:24 12 [2] - 94:5 125 [1] - 2:10 129 [1] - 2:10 12:00 [6] - 4:24, 4:25, 11:4, 40:13, 40:14, 40:16 13 [2] - 31:15, 31:16 131 [1] - 2:12 141 [1] - 2:13 146 [1] - 2:13 148 [1] - 2:15 14th [2] - 83:17, 84:5 15 [11] - 10:20, 69:5, 69:12, 69:15, 69:23, 70:1, 70:22, 78:14, 78:17, 153:4, 157:24 15th [5] - 4:14, 11:8, 37:9, 169:1, 188:4		6		
		4 [5] - 2:3, 206:22, 206:25, 208:4 40 [1] - 155:22 45,000 [1] - 208:16 4:00 [1] - 159:12 4:30 [2] - 87:2, 87:24 4th [4] - 108:1, 108:2, 108:4, 127:22		
		6		
		6 [1] - 208:5 6161 [1] - 199:4 6990 [1] - 5:17 6:30 [2] - 89:21, 139:14 6b [1] - 210:2 6th [2] - 61:11, 61:23		
		7		
		76 [1] - 2:4 7:00 [5] - 81:4, 81:20, 81:24, 82:3, 86:22,		

<p>28:20, 34:3 amazed [1] - 54:7 Ambien [1] - 170:18 ambulance [14] - 5:2, 5:12, 11:4, 84:14, 84:21, 84:23, 85:7, 94:2, 112:17, 112:18, 113:9, 132:5, 132:7, 149:17 amend [1] - 207:12 amended [3] - 207:9, 208:3, 208:18 amendments [1] - 206:4 amount [2] - 49:24, 102:8 AND [1] - 211:5 angry [2] - 31:17, 32:17 ankle [3] - 154:10, 154:17, 157:12 ankles [3] - 20:3, 66:22 ANN [1] - 1:14 announced [1] - 17:19 announcing [1] - 17:6 answer [34] - 35:6, 45:9, 57:21, 58:4, 58:8, 58:11, 59:22, 59:23, 70:1, 70:20, 76:14, 165:15, 165:24, 208:9 answered [1] - 107:21 answers [1] - 128:11 Anytime [2] - 7:18, 42:3 anytime [2] - 44:20, 54:7 anyway [2] - 89:12, 107:21 apart [1] - 98:5 appear [3] - 87:6, 209:16, 210:8 appearance [1] - 91:20 APPEARANCES [1] - 1:17 apple [1] - 135:17 applying [1] - 137:24 appointment [3] - 188:12, 188:14, 189:11 appreciate [1] - 58:9 approach [5] - 3:21, 77:16, 79:16, 82:13, 147:22 appropriateness [1]</p>	<p>- 166:4 April [1] - 131:9 area [40] - 5:23, 8:21, 8:23, 10:3, 15:12, 21:13, 34:4, 34:6, 34:22, 59:5, 74:1, 74:14, 95:1, 96:8, 96:10, 96:12, 97:19, 99:21, 99:22, 120:22, 120:24, 121:2, 137:5, 137:11, 137:22, 138:5, 138:7, 138:8, 141:20, 144:3, 145:12, 149:24, 153:1, 156:21, 172:22, 173:1, 175:3, 193:9, 208:7, 208:11 areas [2] - 10:13, 73:15 arguably [1] - 209:20 argue [1] - 210:13 argument [3] - 142:13, 183:24, 207:20 Arizona [1] - 209:7 arm [2] - 64:21, 64:22 arm's [1] - 23:6 arms [11] - 16:19, 22:3, 22:6, 23:22, 79:8, 94:19, 120:10, 120:12, 154:7, 154:18, 154:19 around [1] - 78:14 arrange [1] - 196:11 arranged [2] - 186:9, 188:14 arrangement [1] - 177:24 array [1] - 91:13 arrest [1] - 210:3 arrested [1] - 209:5 arrived [9] - 5:23, 36:3, 36:4, 84:18, 85:20, 87:9, 103:21, 122:13, 148:25 article [6] - 88:5, 107:2, 107:4, 107:5, 134:3 ashamed [1] - 79:3 asleep [11] - 25:6, 29:6, 29:17, 75:15, 75:18, 75:23, 118:2, 118:4, 179:14, 192:19, 200:14 aspirin [1] - 151:17 assault [4] - 208:8, 208:17, 208:21, 208:25 assaulted [1] - 181:5</p>	<p>assaulting [1] - 145:10 assigned [7] - 19:6, 138:22, 138:23, 151:2, 173:1, 173:3, 173:6 assist [1] - 110:15 assistant [1] - 153:19 associating [1] - 72:4 assume [4] - 60:12, 60:17, 135:4, 208:16 assumed [1] - 193:24 assuming [2] - 43:1, 91:3 assumption [1] - 42:16 asthma [2] - 151:22, 167:17 AT [1] - 3:2 Ativan [8] - 9:10, 9:11, 9:21, 55:4, 113:19, 126:10, 127:4, 170:19 attached [2] - 92:8, 156:22 attachment [1] - 93:2 attack [1] - 101:11 attempted [4] - 139:24, 142:2, 144:15, 144:18 Attempted [1] - 131:15 attending [14] - 44:13, 44:16, 44:25, 45:10, 45:15, 45:22, 46:19, 50:9, 51:3, 51:11, 51:18, 54:5, 54:10, 192:23 attention [12] - 18:11, 46:16, 60:15, 60:16, 61:16, 77:19, 83:17, 131:9, 145:19, 145:20, 147:9, 148:14 ATTEST [1] - 211:5 attire [1] - 88:13 attitude [2] - 100:25, 171:2 attorney [5] - 3:25, 47:20, 58:13, 76:10, 165:15, 190:1 ATTORNEYS [1] - 1:19 audible [3] - 24:4, 64:10, 134:16 aunt [3] - 133:9, 145:2, 146:15 aunts [10] - 134:17,</p>	<p>134:21, 134:22, 135:8, 136:3, 138:9, 139:16, 139:21, 145:3, 147:17 awake [13] - 15:9, 15:10, 29:3, 29:12, 29:21, 29:22, 75:14, 75:15, 75:16, 75:21, 75:22, 91:18 aware [9] - 35:11, 41:6, 42:14, 49:2, 160:19, 171:11, 172:25, 190:10, 207:17 awful [1] - 201:13 awoke [1] - 199:20</p>	<p>B</p> <p>background [1] - 109:2 bad [4] - 38:10, 125:23, 126:1, 126:5 bag [3] - 43:4, 44:7, 85:8 bags [1] - 42:23 bail [8] - 208:15, 208:18, 209:11, 209:16, 210:5, 210:7, 210:14, 210:21 balled [1] - 177:18 bars [1] - 136:15 Based [1] - 135:6 basic [1] - 61:13 basis [4] - 9:12, 39:21, 167:19, 198:2 bathroom [16] - 27:14, 27:15, 27:17, 41:13, 41:15, 62:10, 62:11, 62:16, 62:21, 63:10, 80:12, 90:18, 90:19, 90:22, 90:23, 91:7 battery [4] - 73:10, 73:11, 73:12 beard [2] - 114:19, 134:6 beautiful [7] - 78:24, 79:3, 179:16, 180:24, 199:21, 200:11, 204:4 became [3] - 41:6, 42:14, 193:7 become [1] - 49:2 becoming [2] - 89:4, 97:15 bed [120] - 12:4, 12:14, 12:15, 12:16, 12:17, 12:18, 12:20, 13:13, 15:17, 16:16, 17:25, 22:22, 23:5, 28:10, 28:22, 28:24, 40:6, 41:16, 42:21, 42:24, 43:25, 44:2, 44:5, 46:23, 47:21, 47:22, 49:11, 53:11, 53:13, 53:25, 55:25, 58:17, 58:18, 58:20, 62:23, 62:25, 63:2, 63:3, 63:4, 63:5, 63:14, 63:15, 63:16, 63:17, 63:18, 63:19, 63:20, 63:22, 63:23, 63:25, 64:1, 64:2, 64:4, 64:11, 64:15, 64:18, 65:19, 66:2, 68:3, 68:5, 68:7, 72:13, 72:20, 80:17, 83:22, 89:20, 91:10, 91:16, 91:25, 96:14, 97:17, 98:25, 99:3, 101:16, 112:25, 113:5, 118:10, 122:18, 122:22, 122:23, 122:24, 122:25, 123:5, 123:7, 136:1, 136:2, 136:6, 136:7, 136:9, 136:10, 136:13, 136:15, 136:17, 136:24, 136:25, 137:18, 137:19, 142:23, 143:9, 143:13, 143:16, 143:25, 144:4, 144:6, 144:7, 144:9, 144:12, 152:6, 152:8, 155:3, 163:15, 164:2, 174:4, 192:18, 206:8, 206:13 beds [3] - 12:3, 64:17, 67:6 bedside [1] - 153:17 beeping [1] - 158:6 BEFORE [1] - 1:14 beforehand [1] - 124:15 began [5] - 11:25, 59:4, 83:20, 83:23, 164:20 begin [2] - 103:8, 178:17 beginning [2] - 39:19, 143:6 behavior [2] - 139:19, 181:4 behind [8] - 18:2, 22:10, 23:10, 90:25, 92:13, 96:17, 96:22, 164:5 belly [1] - 98:10</p>
---	--	--	---	---

<p>belongings [1] - 58:18</p> <p>below [3] - 156:21, 156:24, 157:4</p> <p>beneficial [1] - 190:8</p> <p>bent [1] - 155:3</p> <p>beside [1] - 74:11</p> <p>best [3] - 20:23, 88:14, 104:23</p> <p>better [7] - 22:7, 22:8, 33:20, 56:16, 105:6, 106:11, 172:2</p> <p>between [15] - 4:23, 8:22, 11:3, 15:23, 63:19, 67:16, 128:13, 173:15, 173:22, 175:13, 188:8, 198:13, 201:4, 202:1, 202:4</p> <p>Between [3] - 4:25, 40:13, 194:3</p> <p>beyond [2] - 200:16, 205:8</p> <p>biceps [1] - 157:10</p> <p>bigger [1] - 96:13</p> <p>bike [1] - 52:4</p> <p>Bills [4] - 178:22, 179:11, 200:17, 200:24</p> <p>biopsies [1] - 83:13</p> <p>birthday [5] - 108:3, 183:19, 201:2, 201:6</p> <p>bit [9] - 8:19, 95:16, 118:1, 120:24, 140:19, 140:20, 142:14, 145:1, 166:10</p> <p>bitter [1] - 131:3</p> <p>black [1] - 177:18</p> <p>blackout [4] - 42:2, 42:4, 113:7, 113:8</p> <p>blamed [1] - 32:18</p> <p>blank [1] - 69:26</p> <p>blanket [40] - 7:21, 7:22, 13:10, 13:15, 13:17, 14:5, 14:9, 14:11, 14:14, 14:22, 14:24, 15:18, 15:19, 16:3, 18:18, 17:17, 47:15, 47:23, 47:24, 48:3, 48:18, 59:10, 66:22, 66:23, 67:3, 67:13, 89:8, 89:9, 91:13, 96:25, 97:20, 100:5, 100:11, 100:22, 101:4, 116:25</p> <p>blankets [25] - 7:20, 13:19, 13:21, 16:2, 19:12, 19:20, 19:23, 19:24, 20:6, 47:7, 47:10, 47:12, 47:13,</p>	<p>47:16, 47:23, 48:1, 48:6, 48:9, 48:16, 59:25, 67:1, 91:11, 100:12, 101:3, 118:9</p> <p>bleeding [1] - 84:7</p> <p>blocked [1] - 133:22</p> <p>blood [1] - 86:12</p> <p>Blue [1] - 169:21</p> <p>blue [5] - 6:8, 88:6, 114:15, 135:1, 150:16</p> <p>board [2] - 44:23, 44:24</p> <p>body [18] - 22:1, 79:6, 111:24, 112:4, 116:10, 120:8, 137:1, 137:2, 137:3, 137:4, 137:7, 137:9, 137:21, 154:2, 154:6, 155:9, 155:25, 158:15</p> <p>Bolenbaker [4] - 2:6, 2:12, 2:13, 3:8</p> <p>BOLENBAKER [20] - 1:18, 3:8, 82:16, 82:23, 88:7, 88:10, 101:20, 109:8, 109:10, 130:17, 131:4, 134:7, 134:10, 141:4, 142:5, 146:5, 146:9, 147:7, 147:8, 147:20</p> <p>bone [1] - 94:23</p> <p>bothered [3] - 179:19, 181:19, 200:12</p> <p>bottom [4] - 56:4, 56:6, 66:23, 107:12</p> <p>bow [1] - 92:9, 92:16, 92:25, 95:10, 98:2, 100:5</p> <p>boyfriend [2] - 110:5, 200:8</p> <p>bra [9] - 8:14, 9:1, 9:3, 9:4, 90:4, 116:4, 118:8, 120:5, 152:10</p> <p>braided [1] - 53:16</p> <p>break [10] - 82:11, 147:24, 169:5, 185:4, 185:22, 186:25, 188:13, 188:15, 188:18, 188:19</p> <p>breaking [1] - 172:19</p> <p>breast [13] - 21:13, 94:12, 94:23, 99:21, 121:2, 156:21, 156:23, 157:22, 179:15, 179:16, 180:24, 199:21, 200:13</p> <p>breasts [39] - 24:3, 24:6, 24:10, 24:14,</p>	<p>24:16, 25:18, 65:19, 65:22, 71:3, 71:5, 71:6, 71:7, 71:8, 72:8, 77:4, 78:22, 78:24, 79:3, 79:9, 95:2, 97:11, 98:11, 104:20, 120:6, 120:9, 120:15, 120:16, 130:4, 154:13, 155:10, 157:15, 157:18, 157:20, 158:21, 200:11, 204:4, 206:23, 207:1, 207:5</p> <p>breathing [1] - 48:24</p> <p>briefing [1] - 33:13</p> <p>briefly [3] - 3:21, 104:3, 129:7</p> <p>bring [9] - 48:4, 58:21, 172:10, 177:4, 205:10, 205:11</p> <p>bringing [1] - 9:13</p> <p>BROKA [2] - 1:25, 211:9</p> <p>broke [5] - 183:17, 200:20, 200:21, 201:10, 202:5</p> <p>brother [19] - 106:25, 107:9, 181:16, 182:4, 182:5, 201:12, 201:16, 202:9, 202:13, 203:7</p> <p>brought [10] - 7:22, 90:6, 106:12, 116:19, 116:22, 116:25, 135:16, 162:22, 177:5, 205:5</p> <p>Brown [1] - 198:11</p> <p>brush [1] - 120:16</p> <p>brushed [1] - 120:14</p> <p>brushing [1] - 207:4</p> <p>Buffalo [4] - 178:22, 179:11, 200:16, 200:24</p> <p>bunch [1] - 25:15</p> <p>busy [1] - 66:20</p> <p>button [3] - 22:9, 22:10, 22:12, 22:18, 23:4, 26:5, 26:25, 64:2, 98:10</p> <p>BY [48] - 4:13, 6:12, 14:19, 28:2, 30:20, 32:24, 35:2, 50:8, 51:1, 58:7, 65:7, 66:7, 70:15, 76:20, 77:18, 79:20, 82:23, 88:10, 101:24, 105:12, 109:22, 114:23, 125:2, 127:18, 128:17, 129:10, 131:4, 134:10, 141:8,</p>	<p>142:17, 143:12, 146:9, 147:8, 148:13, 150:20, 155:24, 156:10, 162:7, 163:4, 165:20, 168:19, 170:1, 181:7, 183:1, 184:14, 198:22, 203:21, 205:15</p>	<p>cathertizations [1] - 83:13</p> <p>caused [4] - 179:12, 186:3, 203:3, 203:10</p> <p>causing [1] - 100:6</p> <p>CCR [2] - 1:25, 211:9</p> <p>celling [2] - 159:2, 164:20</p> <p>celebration [5] - 195:8, 195:11, 195:12, 197:12, 199:18</p> <p>cell [19] - 16:17, 16:18, 16:24, 17:3, 17:9, 17:10, 17:22, 25:23, 26:17, 43:5, 43:6, 43:8, 44:2, 58:23, 59:1, 140:12, 140:16, 140:17, 140:25</p> <p>Centennial [31] - 5:16, 8:11, 85:2, 102:17, 102:19, 103:17, 110:20, 110:25, 111:16, 112:10, 112:14, 113:10, 117:12, 117:15, 118:22, 125:14, 129:11, 132:12, 149:8, 149:12, 149:16, 150:21, 151:25, 159:4, 161:1, 162:14, 163:5, 166:11, 167:24, 167:25, 182:22</p> <p>Centers [1] - 93:11</p> <p>certain [4] - 49:24, 73:10, 73:15, 199:2</p> <p>Certainly [1] - 181:3</p> <p>certainly [3] - 17:22, 181:4, 209:10</p> <p>certified [1] - 153:19</p> <p>chair [1] - 174:5</p> <p>challenged [1] - 192:21</p> <p>chance [3] - 26:11, 58:13, 63:4</p> <p>change [3] - 12:3, 105:5, 198:5</p> <p>changed [10] - 9:5, 14:21, 40:23, 40:25, 41:1, 178:13, 178:15, 178:17, 183:9, 197:6</p> <p>changes [1] - 207:8</p> <p>changing [2] - 14:15, 158:1</p> <p>charcoal [2] - 133:2, 141:15</p> <p>charge [5] - 102:8,</p>
--	---	--	--	---

<p>103:20, 104:2, 180:19, 195:23, 196:2 charged [2] - 180:17, 182:21 charges [5] - 128:1, 128:19, 128:25, 130:8, 208:9 charismatic [1] - 88:23 Charleston [1] - 199:4 chart [2] - 23:17, 102:10 check [14] - 85:12, 87:3, 102:2, 102:9, 102:10, 102:11, 102:23, 107:11, 153:20, 154:25, 156:14, 156:15, 164:19, 202:9 checked [1] - 102:15 checking [3] - 45:24, 104:11, 166:1 cheerful [1] - 115:15 chest [17] - 92:9, 93:5, 93:18, 94:21, 97:23, 98:10, 119:12, 120:22, 120:24, 121:10, 148:19, 151:21, 154:11, 156:16, 157:8, 163:6, 193:6 child [4] - 174:2, 174:3, 202:17, 202:19 children [8] - 11:18, 31:10, 43:23, 49:23, 50:3, 50:10, 50:5, 51:6 choice [1] - 106:8 chokes [1] - 25:16 chooses [1] - 207:18 chosen [2] - 186:23, 209:17 CHRISTA [2] - 1:25, 211:9 Christmas [17] - 170:14, 171:3, 171:4, 172:1, 172:2, 177:5, 190:22, 190:23, 191:3, 191:7, 191:9, 191:10, 191:11, 191:16, 195:5, 197:13 chuckle [1] - 19:18 chuckling [2] - 19:14, 19:16 Cingular [2] - 167:20, 187:25 circular [3] - 138:4, 138:5, 138:17 circumstance [1] -</p>	<p>209:22 clarification [1] - 162:2 clarified [1] - 70:10 clarify [1] - 89:18 CLARK [2] - 1:4, 3:1 Clark [5] - 5:20, 85:3, 110:22, 132:13, 169:8 CLARKE [70] - 1:18, 3:6, 3:15, 3:19, 4:5, 4:13, 6:9, 6:12, 14:19, 27:25, 28:2, 30:17, 30:20, 32:24, 34:24, 69:14, 69:20, 70:3, 70:9, 76:12, 76:20, 77:15, 77:18, 79:16, 79:18, 79:20, 82:6, 109:13, 109:22, 114:20, 114:23, 124:22, 128:4, 128:8, 129:7, 129:10, 130:12, 148:5, 148:13, 150:17, 150:20, 155:21, 155:23, 155:24, 156:10, 162:5, 162:7, 162:25, 165:17, 168:7, 168:10, 168:19, 169:22, 170:1, 180:22, 181:7, 183:1, 184:10, 203:18, 203:21, 205:6, 205:11, 205:15, 205:23, 206:3, 206:15, 206:21, 207:21, 208:14, 210:25 Clarke [12] - 2:3, 2:4, 2:9, 2:10, 2:15, 2:18, 2:19, 3:6, 142:25, 190:6, 192:12, 197:3 Claus [7] - 135:24, 136:22, 145:9, 170:9, 170:12, 170:25, 191:13 clavicle [1] - 94:25 clear [1] - 207:10 clearly [1] - 51:10 CLERK [6] - 4:7, 82:18, 130:21, 148:7, 168:12, 208:11 clerk [1] - 208:10 click [1] - 184:5 clicked [2] - 98:19, 100:1 client [1] - 70:7 clock [6] - 31:2, 69:10, 78:11, 78:12, 78:18 Close [1] - 193:6</p>	<p>close [17] - 15:12, 15:13, 15:14, 110:7, 112:24, 121:19, 121:25, 137:1, 137:2, 137:4, 137:6, 152:3, 164:4, 174:9, 193:4, 193:7 closed [14] - 27:12, 27:13, 62:1, 62:2, 62:3, 62:5, 62:8, 62:14, 118:2, 118:5, 121:20, 122:1, 152:23 Closed [1] - 152:24 Closer [1] - 165:6 closer [6] - 14:12, 15:20, 140:6, 165:4 closest [1] - 5:19 closing [1] - 25:1 clothing [13] - 40:20, 41:4, 41:18, 42:9, 42:10, 42:18, 42:19, 43:2, 44:1, 44:6, 88:5, 134:3, 135:6 CNA [7] - 108:20, 153:19, 154:24, 171:16, 171:18, 176:9, 190:13 coffee [22] - 89:12, 89:13, 97:1, 101:4, 101:5, 126:8, 172:10, 172:11, 172:13, 172:14, 172:17, 172:20, 173:19, 173:24, 174:11, 174:12, 175:1, 175:5, 192:2, 192:12, 193:1, 193:5 coherent [1] - 89:4 cold [11] - 7:21, 7:23, 47:4, 47:5, 47:6, 47:11, 48:3, 48:17, 48:18, 90:5, 100:12 collarbone [3] - 94:20, 94:24, 94:25 Colorado [1] - 209:7 combine [2] - 209:21, 209:23 combining [1] - 53:16 comfortable [7] - 7:2, 7:15, 7:16, 41:11, 91:10, 103:14, 199:15 coming [11] - 4:17, 31:3, 35:23, 36:7, 37:12, 37:19, 81:7, 81:24, 87:9, 96:18, 209:8 comment [1] - 78:21 commented [1] - 47:3 Commenting [1] -</p>	<p>165:17 commenting [1] - 21:4 comments [1] - 173:5 commit [1] - 207:3 commitment [7] - 185:7, 185:21, 186:9, 187:1, 187:7, 188:3, 188:5 committed [7] - 184:21, 186:2, 186:3, 188:2, 189:21, 208:3, 208:8 common [1] - 47:4 communicate [1] - 92:10 communicating [1] - 145:13 communication [2] - 95:12, 202:5 community [3] - 209:10, 210:16, 210:18 complain [3] - 153:6, 194:7, 194:13 complaint [5] - 194:10, 206:17, 207:9, 208:3, 208:16 completely [8] - 20:5, 37:25, 42:3, 84:8, 120:2, 156:19, 209:15, 210:1 Completely [1] - 187:4 complimented [1] - 7:13 complimenting [1] - 78:23 compound [1] - 162:5 concentrate [1] - 33:20 concern [4] - 101:13, 101:18, 179:12, 204:10 concerned [3] - 86:12, 144:15, 203:3, 203:11, 203:23 concerns [1] - 28:18 concoction [2] - 141:15, 190:7 condition [7] - 35:10, 35:14, 38:9, 38:21, 87:6, 103:7, 188:5 confident [1] - 41:13 conform [1] - 207:9 confused [3] - 97:9, 124:9, 165:25 connection [1] -</p>	<p>210:9 connections [1] - 73:16 conscious [5] - 5:13, 113:3, 113:4, 147:11, 147:13 consciousness [3] - 42:5, 42:9, 86:11 consider [1] - 103:13 considered [1] - 83:12 considering [1] - 165:14 constantly [1] - 59:24 contact [50] - 6:2, 8:19, 7:25, 8:2, 45:5, 88:1, 90:1, 107:24, 114:10, 115:2, 117:14, 120:8, 120:18, 124:12, 124:13, 124:14, 133:24, 138:25, 140:9, 144:2, 144:8, 145:22, 146:14, 147:10, 150:11, 152:22, 153:14, 159:7, 159:23, 160:1, 160:18, 162:8, 169:10, 170:3, 175:6, 175:13, 176:18, 182:8, 182:12, 183:2, 183:16, 190:16, 194:22, 200:23, 201:7, 203:4, 203:11, 203:13, 205:12 contacted [12] - 78:10, 106:19, 146:10, 165:22, 181:14, 182:4, 182:5, 195:2, 196:10, 202:12, 202:13, 202:14 contacting [1] - 200:21 continue [8] - 36:11, 36:12, 121:18, 197:2, 197:4, 197:25, 198:6, 199:7 continued [4] - 19:12, 97:12, 198:12, 200:16 control [1] - 190:8 conversation [16] - 49:15, 50:1, 50:9, 51:3, 51:17, 51:22, 53:2, 53:5, 53:9, 56:8, 56:13, 56:17, 82:1, 124:15, 145:15, 145:25</p>
---	--	--	--	---

<p>conversations [2] - 49:20, 108:9</p> <p>conveyed [1] - 106:23</p> <p>convulse [1] - 83:23</p> <p>copy [2] - 77:11, 79:13</p> <p>cord [2] - 98:1, 100:5</p> <p>corner [1] - 155:17</p> <p>Correct [33] - 38:16, 38:9, 84:2, 86:17, 87:18, 87:21, 96:1, 98:6, 99:10, 99:12, 104:18, 110:23, 111:12, 111:25, 113:16, 117:5, 117:17, 118:13, 119:6, 126:19, 149:15, 150:10, 152:21, 155:11, 156:7, 157:25, 164:19, 164:21, 164:24, 179:4, 201:15, 202:7, 203:9</p> <p>correct [67] - 5:22, 9:16, 35:3, 37:21, 38:2, 43:9, 43:12, 44:14, 45:16, 45:19, 46:14, 53:13, 54:11, 54:14, 59:5, 59:14, 62:17, 63:15, 65:20, 66:8, 66:15, 67:1, 67:17, 68:1, 70:22, 71:5, 72:24, 73:2, 74:21, 75:9, 75:23, 76:4, 76:8, 85:5, 86:4, 93:9, 102:21, 107:10, 108:7, 117:18, 121:21, 184:22, 185:3, 185:15, 189:22, 190:21, 191:13, 192:6, 194:16, 194:19, 195:2, 195:6, 195:9, 196:3, 196:11, 196:16, 196:22, 196:25, 199:13, 199:21, 199:24, 201:14, 201:20, 202:1, 202:6, 203:8, 205:9</p> <p>correctly [1] - 87:23</p> <p>Cory [1] - 3:11</p> <p>counsel [2] - 82:13, 147:22</p> <p>counsel's [1] - 79:18</p> <p>Count [6] - 205:5, 206:21, 206:25, 207:2, 208:4, 208:5</p> <p>count [4] - 48:19, 71:7, 208:21, 208:22</p> <p>Counts [3] - 208:3, 208:5, 208:6</p> <p>counts [1] - 208:17</p> <p>COUNTY [2] - 1:4, 3:1</p> <p>County [5] - 5:20, 85:3, 110:22, 132:13, 169:8</p> <p>couple [23] - 46:25, 47:16, 79:22, 93:6, 94:20, 106:5, 121:11, 121:19, 129:15, 146:5, 151:10, 153:16, 154:8, 164:11, 176:25, 177:1, 179:2, 195:1, 196:21, 196:24, 197:9</p> <p>course [1] - 74:24</p> <p>Court [10] - 120:11, 149:24, 153:13, 154:5, 208:10, 208:12, 209:14, 209:20, 210:3, 211:1</p> <p>COURT [92] - 1:3, 3:5, 3:12, 3:16, 3:18, 3:22, 3:24, 6:11, 14:18, 28:1, 30:19, 32:23, 34:25, 50:6, 50:20, 57:13, 57:15, 57:16, 57:18, 57:24, 58:2, 65:6, 66:4, 69:17, 76:13, 76:17, 77:17, 79:17, 82:7, 82:10, 82:13, 82:15, 88:9, 101:21, 105:1, 105:4, 105:9, 108:11, 109:7, 109:9, 109:11, 109:15, 109:19, 114:22, 124:23, 128:5, 128:10, 128:15, 129:6, 130:13, 130:16, 130:24, 134:9, 141:5, 142:7, 142:16, 143:8, 146:4, 147:21, 148:2, 150:19, 155:22, 156:9, 162:4, 163:1, 165:19, 168:6, 168:8, 168:16, 169:24, 180:21, 181:6, 182:24, 184:11, 198:17, 198:19, 203:17, 205:5, 205:9, 205:14, 205:24, 206:2, 206:14, 207:11, 207:14, 207:20, 207:23, 208:1, 208:13, 209:13, 210:15, 210:24</p> <p>court [10] - 6:3, 57:20, 114:11, 143:4, 150:12, 169:17, 205:2, 209:17, 210:8, 210:10</p> <p>Court's [3] - 76:15, 147:7, 207:16</p> <p>courtroom [5] - 3:25, 88:1, 133:25, 155:20, 208:12</p> <p>cousin [1] - 131:23</p> <p>cover [2] - 98:20, 100:11</p> <p>covered [8] - 14:6, 16:19, 20:5, 97:21, 100:21, 101:1, 118:9, 155:10</p> <p>covering [4] - 13:12, 14:5, 59:25, 100:13</p> <p>COYER [22] - 1:20, 101:24, 105:6, 105:10, 105:12, 109:6, 125:2, 127:18, 128:6, 128:12, 129:17, 129:5, 141:8, 142:8, 142:17, 143:10, 143:12, 146:3, 156:8, 163:4, 165:20, 168:5</p> <p>Coyer [4] - 2:7, 2:10, 2:13, 2:16</p> <p>CPR [1] - 84:12</p> <p>crappy [1] - 171:2</p> <p>crease [1] - 15:23</p> <p>cried [1] - 28:14</p> <p>crimes [2] - 208:2, 208:8</p> <p>criminal [2] - 185:13, 208:3</p> <p>Cross [6] - 2:4, 2:7, 2:10, 2:13, 2:16, 2:19</p> <p>CROSS [6] - 35:1, 101:23, 125:1, 141:7, 163:3, 184:13</p> <p>cross [6] - 67:7, 67:15, 205:7, 205:8, 205:10</p> <p>Cross-Examination [6] - 2:4, 2:7, 2:10, 2:13, 2:16, 2:19</p> <p>CROSS-EXAMINATION [6] - 35:1, 101:23, 125:1, 141:7, 163:3, 184:13</p> <p>cross-examination [2] - 205:8, 205:10</p> <p>crossed [5] - 25:14, 25:20, 66:17, 66:19, 66:22</p> <p>cry [1] - 28:13</p> <p>crying [1] - 30:6</p> <p>cum [1] - 80:20</p> <p>cup [2] - 89:12, 193:1</p> <p>curtain [12] - 133:23, 150:7, 152:4, 152:23, 153:16, 154:20, 155:13, 163:17, 163:21, 163:25, 164:4, 164:10</p> <p>curtains [3] - 150:6, 150:9, 163:16</p> <p>custody [2] - 209:16, 210:4</p> <p>cut [1] - 50:18</p> <p>cutting [1] - 50:20</p>	<p>177:1, 177:16, 187:3, 187:4, 194:18, 195:1, 196:10, 196:21, 196:24, 197:9, 198:8</p> <p>dead [3] - 27:4, 73:10, 73:13</p> <p>dealings [1] - 110:17</p> <p>dealt [1] - 95:4</p> <p>December [20] - 83:4, 168:20, 168:25, 169:14, 170:21, 173:21, 173:23, 179:8, 181:15, 183:8, 184:17, 184:19, 184:20, 185:21, 187:1, 187:6, 187:13, 187:18, 188:3, 190:19</p> <p>decided [3] - 105:21, 118:5, 210:11</p> <p>decision [2] - 182:3, 201:19</p> <p>decorations [1] - 170:14</p> <p>deemed [1] - 190:7</p> <p>defendant [126] - 6:10, 6:20, 7:12, 7:16, 7:24, 8:1, 8:5, 10:10, 10:21, 12:5, 12:10, 12:11, 12:19, 13:4, 13:5, 13:6, 13:22, 14:4, 15:25, 19:8, 19:16, 23:22, 27:7, 27:18, 28:3, 29:24, 76:23, 78:9, 78:21, 79:6, 80:1, 80:19, 80:22, 81:23, 88:8, 90:24, 96:15, 97:2, 98:3, 98:21, 99:4, 99:13, 100:15, 114:21, 116:16, 116:23, 117:4, 117:15, 117:18, 117:21, 118:14, 119:2, 119:7, 119:10, 121:22, 122:11, 123:1, 123:4, 123:9, 123:17, 123:25, 129:21, 130:1, 134:8, 136:5, 136:12, 136:19, 139:13, 139:15, 140:2, 140:10, 140:21, 146:19, 147:15, 150:18, 150:22, 152:22, 152:25, 153:14, 154:20, 158:9, 158:13, 158:23, 159:8, 159:14, 159:24, 161:10, 161:13,</p>
---	--

D

Dahlia [2] - 131:7, 140:9

daily [4] - 167:16, 167:19, 171:22, 198:2

Dale [6] - 3:5, 3:14, 148:3, 161:16, 162:22, 198:17

DALE [1] - 1:10

dance [2] - 195:10, 195:18

danced [1] - 175:11

dancing [5] - 195:14, 195:15, 195:20, 195:22, 196:21

danger [2] - 209:10, 210:10

dangerous [1] - 185:10

dash [1] - 168:22

date [10] - 35:9, 108:4, 108:7, 127:23, 142:12, 176:21, 176:23, 194:1, 201:2, 208:10

dates [1] - 168:24

dating [8] - 83:3, 110:6, 173:12, 176:17, 177:9, 180:1, 201:25, 202:4

daughter [4] - 171:4, 202:16, 202:18, 202:21

daughters [1] - 32:3

David [1] - 88:17

dawn [2] - 101:9, 105:13, 105:18

days [16] - 129:13, 129:15, 170:5, 175:10, 176:25,

162:20, 169:23, 170:4, 170:20, 170:24, 171:23, 172:7, 172:25, 173:13, 173:16, 173:25, 174:6, 174:9, 175:7, 176:17, 176:19, 177:11, 179:3, 179:20, 180:1, 180:4, 181:8, 181:15, 182:18, 183:7, 183:17, 204:11, 204:14, 204:21, 205:12, 205:16, 206:6, 206:10, 206:23, 207:4, 210:4, 210:5, 210:7 Defendant [2] - 1:11, 1:20 defendant's [5] - 120:8, 138:11, 139:19, 155:25, 171:7 DEFENDERS [1] - 1:21 Defense [9] - 34:25, 101:21, 124:23, 141:5, 183:1, 184:11, 207:15, 207:23, 209:13 defense [3] - 3:16, 79:18, 207:11 definitely [4] - 29:11, 45:6, 63:11, 75:19 Definitely [2] - 78:2, 79:15 deliberately [1] - 206:25 delivered [1] - 145:25 Delrosario [5] - 198:14, 198:16, 198:18, 198:19, 198:20, 198:23 delusional [3] - 187:4, 187:5, 189:19 demanding [1] - 33:25 demeanor [10] - 14:15, 14:21, 32:10, 32:12, 86:22, 108:24, 115:14, 135:18, 138:11, 171:7 DENISE [2] - 2:16, 148:9 Denise [4] - 148:5, 148:6, 148:9, 207:5 Depakote [1] - 199:11 department [2] - 106:18, 202:12	Department [1] - 182:6 depression [1] - 142:3 depressive [1] - 169:6 DEPUTY [2] - 1:19, 1:21 describe [15] - 20:21, 20:23, 24:9, 68:14, 92:5, 94:15, 98:7, 114:18, 125:22, 126:2, 134:2, 140:12, 149:24, 152:12, 175:3 Describe [1] - 142:23 described [9] - 49:4, 64:12, 64:16, 68:4, 103:5, 107:7, 192:11, 201:20, 203:14 describing [2] - 15:24, 49:16 description [1] - 134:5 deserted [2] - 18:13, 61:8 desk [5] - 110:1, 143:4, 143:5, 151:24, 160:6 detail [6] - 31:12, 32:9, 33:8, 33:14, 125:23, 126:3 detailed [1] - 57:4 details [2] - 56:22, 67:19 detective [25] - 26:19, 78:6, 78:13, 78:19, 123:25, 124:11, 124:12, 124:13, 124:14, 124:16, 124:18, 124:19, 125:18, 125:21, 128:14, 128:21, 130:7, 130:10, 147:5, 160:7, 160:19, 161:13, 161:14, 162:8, 167:11 Detective [7] - 107:21, 108:5, 127:20, 147:6, 162:10, 167:3, 183:2 determination [1] - 185:9 Dia [1] - 133:11 diagnosed [3] - 39:13, 113:24, 114:1 diagnosis [2] - 142:3, 142:10 Diagnostic [2] - 93:9, 109:24 diagnostic [1] - 94:3	Diagnostics [1] - 83:9 dial [3] - 43:12, 43:14, 43:20 dialed [1] - 74:10 die [1] - 26:8 diem [1] - 102:1 different [21] - 10:3, 10:13, 10:23, 11:6, 12:1, 12:12, 29:23, 68:18, 71:3, 71:11, 72:8, 72:9, 72:10, 102:17, 108:17, 141:17, 162:2, 166:17, 180:23, 204:25, 209:24 Dilantin [14] - 35:12, 37:8, 37:21, 37:22, 37:24, 37:25, 38:1, 39:22, 39:24, 113:22, 113:23, 126:18, 126:23, 127:2 dim [1] - 26:24 dinner [6] - 89:23, 89:24, 89:25, 114:6, 114:7, 128:6 Direct [6] - 2:3, 2:6, 2:9, 2:12, 2:15, 2:18 direct [2] - 77:19, 148:14 DIRECT [6] - 4:12, 82:22, 109:21, 131:3, 148:12, 168:18 directed [2] - 36:6, 46:20 directive [2] - 21:25, 22:3 directly [4] - 72:15, 94:25, 96:20, 107:22 dirty [1] - 196:15 discharged [1] - 197:23 disconnect [5] - 95:9, 95:13, 95:15, 95:17, 102:3, 102:13 disconnected [1] - 166:25 discontinued [2] - 126:20, 126:23 discrete [1] - 166:10 discreetly [1] - 166:10 discuss [2] - 52:11, 139:19 discussed [2] - 52:12, 139:21 discussing [1] - 50:11 Discussion [3] - 3:23, 82:14, 147:23	discussion [1] - 127:24 disgown [1] - 166:9 disgusted [1] - 80:5 disgusting [1] - 28:5 dismiss [2] - 208:13, 209:22 dismissed [3] - 210:2, 210:24, 211:1 displaced [2] - 84:10, 92:15 distracted [1] - 182:14 District [2] - 208:10, 208:12 DISTRICT [1] - 1:19 district [5] - 3:25, 47:19, 58:13, 165:15, 190:1 divided [2] - 150:6, 163:15 doctor [15] - 36:20, 37:2, 38:20, 38:23, 39:1, 39:2, 39:12, 39:18, 41:12, 188:4, 188:6, 188:11, 196:5, 198:10, 198:12 doctor's [2] - 39:11, 188:12 doctors [4] - 39:14, 41:11, 54:18, 133:1 dog [4] - 85:11, 85:12, 87:3, 87:4 done [28] - 11:15, 23:3, 80:22, 101:5, 105:16, 109:2, 129:24, 147:15, 159:15, 159:24, 161:10, 161:14, 161:15, 166:6, 166:7, 166:9, 166:11, 166:14, 166:17, 167:13, 179:21, 181:24, 183:8, 183:10, 183:12, 185:3, 193:2, 193:12 door [20] - 27:12, 27:15, 27:16, 27:17, 62:1, 62:2, 62:3, 62:5, 62:8, 62:10, 62:11, 62:14, 62:16, 85:12, 88:16, 174:6, 192:14, 192:15, 192:18 doors [4] - 18:5, 118:24, 119:5, 122:8 doorway [1] - 163:19 dose [3] - 36:21, 36:22, 37:2, 37:18, 38:12 Dotson [1] - 133:11	double [2] - 37:13, 37:18 down [80] - 8:18, 11:1, 11:17, 17:15, 20:3, 24:18, 25:3, 25:4, 31:18, 31:19, 34:5, 34:12, 34:16, 34:18, 34:22, 43:11, 49:12, 57:21, 59:21, 64:20, 64:23, 64:25, 65:3, 65:17, 67:14, 69:24, 71:16, 73:25, 77:20, 80:17, 82:8, 84:5, 90:16, 92:1, 96:3, 96:18, 109:11, 130:14, 143:7, 143:14, 147:22, 154:9, 155:7, 156:20, 160:18, 165:12, 167:14, 169:5, 174:10, 179:13, 185:5, 185:23, 186:25, 188:13, 188:15, 188:18, 188:19, 205:25 Down [1] - 96:12 Dr [7] - 38:24, 39:20, 198:11, 198:14, 198:16, 198:18 dreary [1] - 203:2 dressed [2] - 170:12, 170:25 dress [2] - 135:23, 136:20 drink [6] - 115:18, 116:19, 134:24, 135:9, 135:14, 135:15 drinks [1] - 135:19 driver's [1] - 210:19 dropped [4] - 8:13, 68:13, 68:14, 74:2 drops [1] - 38:25 drove [4] - 85:15, 87:1, 148:22, 148:23 drowsy [1] - 127:4 drug [2] - 36:14, 36:15 dry [1] - 44:23 duly [5] - 4:6, 82:17, 109:14, 130:19, 148:6, 168:11 Durango [1] - 5:17 During [5] - 28:5, 40:11, 178:11, 197:9, 197:15 during [20] - 7:7, 14:25, 22:25, 23:1, 26:14, 29:4, 40:16, 42:8, 44:1, 60:21, 64:16, 75:11, 81:25,
---	---	---	---	--

116:2, 116:13, 124:3, 145:14, 170:20, 197:10 duties [3] - 83:11, 110:10, 110:12	77:1, 106:24, 107:16, 118:15, 118:24, 119:3, 119:5, 119:8, 121:14, 122:6, 130:5, 206:16 eleven [1] - 32:4 embarrassed [1] - 159:2 Embility [1] - 199:11 emergency [55] - 5:25, 6:1, 7:10, 8:11, 9:19, 10:2, 10:13, 10:22, 11:2, 17:20, 41:9, 41:21, 41:24, 44:1, 44:9, 44:17, 48:5, 48:11, 48:23, 49:10, 49:19, 51:17, 53:4, 53:10, 53:19, 53:23, 54:3, 54:21, 56:4, 73:25, 76:24, 77:10, 85:18, 85:19, 89:18, 90:24, 111:15, 113:12, 114:4, 114:11, 115:20, 115:22, 116:11, 117:9, 126:7, 133:8, 133:12, 133:15, 149:19, 149:25, 150:2, 151:3, 154:3, 159:5, 163:9 employed [1] - 171:12 employer [1] - 83:8 end [12] - 18:19, 53:13, 53:25, 61:12, 127:24, 136:9, 136:10, 133:24, 136:25, 144:4, 184:2, 184:3 ended [11] - 17:8, 17:20, 17:21, 33:15, 69:21, 70:22, 78:19, 84:15, 183:24, 188:3, 201:10 engaged [1] - 145:14 enjoy [3] - 21:6, 25:6 enjoyed [1] - 181:11 entanglement [7] - 97:9, 97:15, 99:25, 100:4, 100:19, 103:5, 103:13 entanglements [1] - 102:23 enter [1] - 153:16 entered [4] - 6:21, 13:3, 47:6, 184:25 entire [5] - 22:25, 31:5, 60:10, 77:20, 90:19 environment [1] -	52:8 Epilepsy [1] - 35:15 episode [1] - 126:25 equipment [1] - 93:13 ER [39] - 6:21, 6:24, 6:25, 8:3, 8:6, 8:16, 11:14, 14:15, 42:16, 42:20, 42:24, 44:1, 45:7, 47:22, 54:17, 55:17, 63:8, 63:14, 63:22, 64:4, 81:25, 85:23, 88:20, 89:20, 90:5, 95:17, 96:17, 101:17, 103:21, 104:11, 106:15, 107:18, 132:19, 132:21, 132:24, 141:18, 163:13, 163:22, 168:1 ER's [1] - 45:7 erase [1] - 44:23 erection [3] - 193:19, 193:20, 193:24 Ernestine [1] - 133:11 escorted [1] - 85:21 especially [1] - 23:15 ESQ [4] - 1:18, 1:18, 1:20, 1:20 estimate [3] - 69:9, 77:24, 104:22, 105:6, 141:13 estimating [1] - 78:18 estimation [1] - 104:23 ethically [1] - 105:15 Eve [5] - 175:11, 190:22, 190:23, 195:9, 196:22 evening [15] - 26:15, 32:16, 37:23, 38:7, 45:11, 48:17, 83:18, 87:22, 87:24, 89:21, 112:24, 118:19, 123:9, 138:20, 139:3 event [2] - 64:5, 75:11 events [5] - 49:4, 64:16, 68:4, 72:7, 72:15 eventually [8] - 33:1, 107:22, 119:2, 129:16, 132:1, 144:25 exact [5] - 4:23, 10:24, 12:22, 31:4, 137:9 exactly [17] - 15:5, 18:18, 37:4, 48:19,	48:24, 54:24, 67:19, 78:25, 80:15, 88:13, 125:11, 137:9, 144:3, 182:20, 194:3, 204:23, 206:18 exam [1] - 85:21 examination [3] - 166:11, 205:8, 205:10 Examination [16] - 2:3, 2:4, 2:4, 2:6, 2:7, 2:9, 2:10, 2:10, 2:12, 2:13, 2:13, 2:15, 2:16, 2:18, 2:19, 2:19 EXAMINATION [16] - 4:12, 35:1, 76:19, 82:22, 101:23, 109:21, 125:1, 129:9, 131:3, 141:7, 146:8, 148:12, 163:3, 168:18, 184:13, 203:20 excellent [2] - 7:20 except [2] - 185:22, 197:7 exchange [1] - 176:18 Excuse [1] - 117:20 excuse [1] - 20:23 excused [2] - 109:9, 168:9 excuses [1] - 173:9 exhausted [2] - 91:22, 133:7 exited [4] - 13:3, 18:5, 18:19, 27:7 exonerated [1] - 210:6 expect [1] - 105:17 experience [8] - 42:21, 103:17, 108:17, 108:22, 125:23, 126:5, 142:11, 142:18 expertise [1] - 108:10 explain [2] - 100:24, 184:24 explained [1] - 101:5 explanation [1] - 180:25 explore [1] - 142:14 expose [1] - 130:4 exposed [16] - 97:11, 97:13, 97:16, 97:18, 98:15, 98:21, 104:20, 107:18, 120:3, 120:6, 121:20, 155:5, 158:21, 165:1 exposing [4] - 206:22, 206:23,	206:25, 207:4 exposure [5] - 98:7, 98:17, 208:5, 208:22, 208:24 expression [2] - 81:11, 158:24 eye [1] - 145:22 eyes [7] - 25:1, 47:2, 54:8, 118:2, 118:6, 145:19, 145:21
F				
face [4] - 75:5, 91:25, 138:13, 158:25 facial [1] - 81:11 facility [38] - 83:10, 139:7, 141:25, 176:16, 177:21, 184:16, 184:22, 185:14, 185:18, 188:3, 186:15, 188:19, 187:1, 187:7, 187:14, 187:15, 187:16, 188:2, 188:9, 190:3, 190:11, 190:17, 191:13, 194:5, 194:8, 194:9, 194:13, 194:19, 195:2, 195:9, 197:4, 197:16, 197:22, 198:5, 198:7, 198:13, 199:2 facing [5] - 66:2, 155:3, 156:1, 156:2, 209:9 fact [26] - 26:19, 35:22, 41:14, 43:20, 45:23, 51:2, 55:3, 56:2, 58:24, 62:16, 63:6, 72:15, 75:25, 76:10, 78:5, 110:8, 114:24, 139:23, 180:15, 182:14, 182:17, 191:12, 195:5, 195:8, 201:25, 202:3 Fair [1] - 166:23 fair [48] - 42:15, 43:1, 45:4, 46:5, 47:1, 47:10, 48:17, 48:21, 49:4, 50:13, 51:14, 51:15, 55:11, 55:25, 56:18, 58:18, 58:22, 59:8, 60:12, 60:17, 60:19, 61:7, 64:5, 64:23, 65:12, 65:13, 74:13, 75:13, 102:20, 102:21, 103:16, 166:20, 185:19,				

187:25, 189:12, 189:23, 190:14, 191:16, 191:22, 191:25, 192:24, 193:5, 201:23, 202:24, 203:1, 203:10 fallen [4] - 20:1, 20:3, 29:6, 75:22 falling [1] - 29:17 familiar [3] - 153:21, 153:24, 190:13 family [18] - 7:8, 36:23, 53:5, 53:6, 149:22, 177:4, 177:5, 186:6, 186:10, 188:21, 189:1, 189:7, 195:4, 196:11, 196:25, 197:10, 197:12, 202:24 far [9] - 18:19, 67:3, 74:22, 90:17, 120:1, 153:2, 155:7, 155:18, 160:11 FARMER [1] - 1:10 Farmer [104] - 3:5, 3:11, 3:14, 6:16, 44:17, 45:16, 45:18, 46:25, 47:3, 47:9, 47:14, 47:17, 48:3, 51:18, 51:24, 52:7, 52:12, 52:14, 52:20, 54:12, 54:17, 54:18, 55:24, 59:4, 59:24, 60:22, 61:5, 62:1, 62:19, 62:25, 63:11, 65:18, 65:23, 66:11, 68:14, 67:24, 68:6, 68:12, 69:2, 71:2, 71:10, 71:14, 71:20, 74:11, 75:7, 88:18, 91:12, 103:1, 104:10, 104:16, 107:7, 108:9, 125:24, 127:10, 144:2, 145:16, 148:3, 153:18, 161:16, 162:22, 162:23, 163:24, 169:11, 169:12, 170:7, 174:4, 178:19, 181:20, 190:16, 190:20, 191:2, 191:6, 191:8, 191:12, 191:22, 191:24, 192:6, 192:17, 192:23, 193:4, 193:8, 194:10, 194:21, 195:2, 195:8, 195:18, 195:23, 196:10, 197:11, 199:19, 199:20, 200:24, 201:7,	201:13, 202:3, 202:10, 202:21, 202:23, 203:2, 203:6, 203:12, 207:17, 208:1, 210:15 Farmer's [3] - 46:8, 181:17, 190:10 fast [1] - 24:25 faster [2] - 70:24, 95:19 fat [1] - 21:9 father [1] - 171:5 fear [2] - 18:23, 74:12 February [2] - 178:23, 183:17 fed [2] - 101:17, 103:9 feelings [1] - 204:10 feet [28] - 66:24, 90:16, 99:6, 136:7, 136:13, 136:25, 137:1, 137:4, 137:7, 137:10, 137:14, 137:15, 137:20, 137:23, 138:17, 140:3, 143:16, 144:4, 145:13, 153:16, 155:21, 155:22, 163:25, 206:9, 206:12 fell [5] - 75:15, 75:18, 83:22, 179:14, 179:15 felt [14] - 4:17, 14:12, 37:12, 37:19, 41:11, 41:12, 41:13, 51:25, 69:8, 90:5, 97:15, 124:20, 137:15, 144:16 female [17] - 7:3, 7:18, 8:1, 30:1, 30:2, 44:18, 44:25, 45:15, 45:21, 46:9, 51:18, 55:21, 86:4, 86:5, 104:9, 151:11, 151:12 female's [1] - 45:10 females [1] - 104:1 fence [1] - 166:6 few [8] - 14:23, 163:25, 166:3, 167:2, 170:5, 177:16, 194:18, 196:10 field [1] - 93:15 fifth [1] - 99:21 fight [2] - 25:15, 29:17 fighting [3] - 15:9, 29:11 figure [3] - 17:21, 41:22, 113:25 figured [2] - 85:9,	101:11 figuring [1] - 100:10 filed [1] - 209:19 film [1] - 4:1 Finally [1] - 27:19 finally [4] - 28:9, 181:25, 197:7, 201:10 fine [4] - 54:1, 67:21, 70:9, 71:19 finger [2] - 21:14, 67:10 fingers [31] - 19:21, 20:8, 20:11, 20:17, 20:24, 21:4, 21:5, 21:8, 21:10, 21:15, 21:17, 21:21, 24:18, 24:23, 25:4, 25:18, 34:15, 34:17, 34:19, 66:15, 67:16, 67:20, 75:8, 80:10, 181:2, 181:12, 181:13 finish [6] - 52:15, 58:3, 70:19, 104:24, 121:15, 121:17 finished [2] - 77:22, 79:23 First [1] - 200:15 first [78] - 3:18, 4:8, 5:23, 6:18, 6:19, 7:9, 12:25, 13:2, 13:3, 28:19, 33:4, 33:5, 39:12, 39:19, 41:6, 41:17, 67:11, 67:16, 68:13, 79:5, 82:19, 84:1, 84:16, 85:10, 87:8, 93:14, 94:2, 96:7, 97:11, 102:24, 103:21, 104:16, 106:17, 109:15, 111:2, 111:10, 111:20, 114:3, 114:7, 115:2, 115:6, 117:15, 117:18, 118:21, 121:14, 123:16, 123:18, 125:3, 126:25, 130:22, 148:8, 150:22, 159:23, 180:23, 161:22, 161:23, 168:13, 169:2, 169:3, 170:3, 170:5, 170:21, 171:1, 176:24, 181:14, 182:4, 182:11, 185:5, 185:6, 186:1, 188:5, 188:9, 190:4, 190:19, 196:17, 202:13, 205:22, 209:25 fit [2] - 152:15, 152:17	five [8] - 71:15, 72:10, 84:25, 141:16, 163:6, 209:2 fix [2] - 60:3, 100:19 flag [1] - 165:12 flags [1] - 123:21 flash [1] - 26:24 flight [2] - 209:10, 210:17 flirt [1] - 192:8 flirtacious [1] - 191:20 flirtation [1] - 191:21 flirting [2] - 171:25, 175:21 flirty [2] - 171:9, 171:24 floor [7] - 10:7, 12:22, 12:23, 22:15, 56:4, 56:5, 56:6, 61:3, 61:4, 61:10, 61:11, 61:23, 73:2, 84:6, 174:10, 193:11, 193:13 foaming [1] - 84:8 focus [5] - 67:19, 83:17, 95:24, 131:9, 147:9 focussed [2] - 101:15, 145:20 focussing [1] - 14:22 fold [1] - 140:6 follow [1] - 105:25 follow-up [1] - 105:25 following [1] - 208:2 following [1] - 143:21, 144:6, 144:7 force [1] - 24:13 forced [3] - 185:14, 185:16, 201:16 forcing [1] - 196:6 forearm [1] - 120:14 forever [1] - 72:5 forgotten [1] - 89:22 form [1] - 39:25 formally [1] - 209:19 formed [1] - 96:18 former [2] - 83:8, 177:25 forth [2] - 171:25, 192:9 forward [3] - 128:7, 128:18, 139:22, 146:22, 174:25, 179:9, 182:3, 183:11, 209:8 forwardness [2] - 179:7, 205:21 fought [5] - 29:22,	75:13, 75:14, 75:20 four [6] - 84:2, 102:9, 129:13, 157:14, 157:16, 183:6 fours [1] - 171:4 fourth [1] - 89:23 frame [8] - 69:2, 72:3, 72:4, 87:3, 197:9, 197:10, 204:15 Fran [1] - 181:20 Frances [1] - 168:14 FRANCES [2] - 2:18, 168:15 Francis [2] - 168:10, 168:11 free [1] - 100:3 freely [1] - 143:17 frequently [1] - 86:14 fresh [1] - 101:6 friend [2] - 134:13, 192:6 friendly [3] - 49:20, 51:3, 135:20 friends [1] - 39:15 friendship [1] - 191:20 front [11] - 96:3, 97:7, 110:1, 133:23, 136:6, 136:7, 136:12, 136:24, 150:9, 152:2, 163:18 froze [2] - 28:14, 28:21 frustrated [1] - 103:8 full [2] - 94:3, 118:21 FULL [1] - 241:5 fully [2] - 5:13, 155:5 funny [1] - 200:10 fuzzy [1] - 170:5
---	---	---	--	---

G

gathered [1] - 85:8
gathering [3] -
195:4, 195:5, 197:10
gauge [1] - 128:12
gaze [1] - 145:19
general [2] - 87:2,
94:15
genital [3] - 15:12,
206:7, 206:11
gentleman [2] - 6:8,
170:10
giggle [1] - 122:3
giggling [2] - 19:14,
19:16
girlfriend [3] - 83:2,
101:19, 104:19

<p>girls [4] - 31:21, 31:23, 32:2, 40:17 given [14] - 9:20, 26:19, 54:23, 54:24, 119:16, 119:18, 126:10, 126:16, 141:14, 142:4, 163:11, 187:12, 194:10, 197:16 glaring [1] - 81:15 glasses [2] - 114:19, 169:21 goodness [1] - 100:24 gown [5] - 8:18, 8:24, 9:3, 9:4, 9:6, 13:13, 16:5, 16:6, 16:7, 40:24, 41:7, 41:18, 41:25, 42:15, 42:16, 90:3, 90:8, 95:21, 95:25, 97:7, 97:10, 97:12, 97:21, 98:3, 100:14, 101:2, 115:25, 116:5, 116:9, 118:7, 119:23, 119:24, 120:2, 121:7, 121:19, 121:20, 121:25, 122:1, 130:2, 152:9, 152:12, 152:13, 152:15, 152:17, 155:4, 155:7, 156:11, 156:12, 156:18, 158:20, 179:15 grab [2] - 73:4, 87:4 grabbed [8] - 23:24, 65:22, 71:8, 77:4, 84:16, 100:10, 173:19, 193:8 grabbing [6] - 13:10, 14:10, 16:17, 67:2, 71:6, 71:7, 72:8, 78:24 grandmother [2] - 123:19, 125:6 Gray [1] - 114:19 great [6] - 33:14, 45:14, 58:3, 89:10, 89:14, 101:12 Gregory [1] - 3:10 groin [6] - 59:5, 173:20, 174:13, 175:4, 193:9, 193:16 groped [1] - 61:1 groping [6] - 59:17, 59:18, 59:21, 60:2, 60:22, 65:19 gross [6] - 206:5, 206:10, 207:4, 208:4, 208:5, 208:7, 208:21,</p>	<p>208:24 grouped [1] - 102:7 groups [1] - 102:7 grow [1] - 36:23 guess [25] - 9:11, 12:15, 16:15, 36:5, 58:20, 58:21, 60:19, 84:25, 92:13, 94:9, 98:18, 102:22, 106:21, 108:4, 118:3, 123:23, 124:5, 133:3, 134:14, 135:20, 141:22, 163:15, 165:9, 165:21, 167:6 guessing [2] - 53:21, 53:22 guiding [2] - 23:24, 55:25 guise [3] - 206:24, 207:2, 207:6 gurney [4] - 12:15, 47:20, 99:8, 117:24 gut [2] - 15:8, 29:19 guy [6] - 107:15, 107:17, 107:18, 140:18, 145:7, 145:8 guys [5] - 45:14, 50:6, 50:20, 57:13, 145:14</p>	<p>174:25, 175:3, 175:4, 175:12, 176:13, 179:6, 180:6, 193:8, 203:23, 205:16 handed [4] - 16:15, 56:24, 175:5, 204:23 handing [1] - 12:5 hands [18] - 23:9, 23:10, 23:21, 24:2, 24:7, 24:10, 24:17, 24:21, 24:23, 65:14, 91:4, 103:4, 121:6, 137:16, 143:16, 175:16, 175:18 hanging [2] - 22:21, 92:15 Hanna [5] - 148:5, 148:6, 148:9, 148:14, 207:5 HANNA [1] - 2:15 happy [2] - 88:23, 183:18 hard [8] - 20:14, 20:20, 20:21, 21:2, 22:9, 24:24, 75:14, 83:20 Harley [7] - 51:25, 52:3, 52:7, 52:21, 52:23, 52:24, 52:25 Harleys [5] - 51:19, 51:24, 52:1, 52:11, 52:24 harm [1] - 185:1 hate [1] - 63:1 head [17] - 23:21, 28:9, 28:16, 34:22, 95:13, 98:20, 99:5, 99:6, 100:1, 102:2, 102:5, 106:17, 143:23, 143:25, 184:5, 196:7, 196:8 headache [2] - 55:16, 168:4 headaches [3] - 38:10, 38:14, 55:16 Health [2] - 160:17, 199:5 health [13] - 83:18, 141:25, 142:13, 167:1, 178:7, 184:16, 184:22, 187:16, 188:9, 190:3, 190:11, 198:6, 199:4 healthy [1] - 184:8 hear [12] - 17:5, 17:7, 17:17, 17:22, 17:23, 22:15, 74:8, 74:14, 74:18, 158:6, 198:15 heard [6] - 36:24, 74:7, 106:17, 125:13,</p>	<p>163:13, 203:1, 203:6, 208:15 hearing [1] - 3:13 HEARING [1] - 1:13 Hearsay [3] - 30:16, 32:22, 205:1 heart [3] - 83:14, 92:7, 92:11 heated [1] - 47:23 Heather [35] - 82:24, 83:20, 85:1, 85:17, 86:8, 89:2, 89:3, 89:6, 89:18, 90:2, 90:3, 90:11, 91:7, 91:12, 93:25, 95:24, 96:14, 97:15, 98:7, 100:21, 101:12, 101:13, 101:15, 103:20, 104:3, 104:19, 106:2, 106:6, 106:19, 107:14, 109:13, 109:14, 109:17, 206:24, 207:1 HEATHER [2] - 2:9, 109:17 Heather's [4] - 83:18, 87:6, 96:3, 99:5 held [3] - 3:23, 82:14, 208:16 Hello [1] - 131:6 help [15] - 62:20, 77:12, 79:13, 89:2, 97:14, 99:1, 100:9, 100:10, 103:12, 110:15, 123:3, 123:4, 123:6, 123:7 helped [6] - 80:11, 90:18, 91:7, 91:9, 100:24, 122:22 helpful [3] - 89:16, 89:17, 115:15 helping [1] - 96:14 helps [1] - 9:11 herself [1] - 91:15 highly [2] - 29:12, 29:13 Hills [3] - 5:16, 8:11, 85:2, 102:17, 102:20, 103:17, 110:20, 110:25, 111:16, 112:10, 112:14, 113:10, 117:12, 117:15, 118:22, 125:14, 129:12, 132:12, 149:8, 149:12, 149:16, 150:21, 151:25, 159:4, 161:1, 162:14, 163:5, 166:12, 167:24, 168:1,</p>	<p>182:22, 186:7, 186:8, 186:12, 186:14, 186:17, 189:15, 189:19 himself [14] - 32:18, 88:15, 104:17, 108:12, 108:16, 124:18, 125:24, 135:2, 153:18, 154:23, 160:25, 161:22, 162:9, 164:8 hips [1] - 15:23 hired [1] - 171:12 hit [4] - 17:3, 27:1, 27:2, 49:2 hitting [8] - 26:7, 26:8, 26:25, 27:2, 27:3 hmm [24] - 20:18, 34:7, 42:1, 59:2, 62:18, 78:4, 85:16, 92:4, 94:13, 96:15, 121:3, 133:5, 133:20, 135:7, 135:10, 136:11, 136:16, 138:10, 141:19, 146:11, 154:16, 157:1, 157:19, 187:21 hold [8] - 17:10, 23:25, 28:15, 43:11, 67:13, 208:8 Hold [5] - 28:15, 184:23, 185:8, 186:7 holding [1] - 14:11 home [15] - 4:15, 4:17, 5:19, 31:10, 40:3, 86:20, 87:3, 87:19, 93:18, 106:9, 112:20, 131:16, 171:3, 176:24, 186:20 honest [4] - 24:22, 44:11, 64:24, 67:18 honestly [1] - 63:17 Honor [2] - 3:15, 3:17, 3:20, 4:5, 6:9, 14:16, 27:23, 30:15, 77:15, 79:16, 88:7, 109:8, 109:10, 114:20, 142:5, 146:6, 162:1, 168:7, 169:22, 180:14, 206:3 HONORABLE [1] - 1:14 hooked [2] - 111:20, 158:4 hop [1] - 52:4 hoped [1] - 36:22 horrible [2] - 57:17, 57:19 hospital [18] - 5:8,</p>
---	---	---	---	---

5:7, 5:13, 5:20, 5:23, 5:24, 6:17, 7:13, 8:12, 8:24, 9:3, 9:6, 10:3, 10:5, 10:9, 10:14, 11:6, 11:20, 12:1, 12:16, 12:18, 13:13, 16:5, 16:6, 16:7, 18:8, 18:13, 26:22, 27:8, 28:22, 28:24, 31:7, 32:5, 32:20, 32:25, 33:18, 33:19, 34:1, 35:8, 35:16, 38:5, 39:10, 40:1, 40:12, 40:19, 40:24, 41:4, 41:7, 41:25, 42:16, 42:23, 43:25, 44:15, 44:21, 45:13, 47:5, 47:8, 47:22, 48:11, 49:3, 49:11, 54:19, 60:12, 60:18, 61:8, 61:10, 61:14, 61:15, 61:22, 62:8, 62:13, 62:16, 62:25, 63:9, 63:13, 63:15, 63:22, 64:4, 64:17, 66:18, 66:2, 72:20, 72:21, 73:15, 73:18, 73:19, 73:24, 76:1, 76:3, 76:6, 76:11, 80:2, 80:23, 85:1, 85:14, 85:15, 87:1, 87:2, 87:5, 87:20, 87:25, 88:13, 90:3, 101:10, 101:25, 103:18, 105:16, 106:2, 108:18, 108:11, 108:22, 112:5, 145:9, 115:11, 115:19, 116:5, 116:9, 117:10, 117:19, 117:22, 118:7, 118:10, 118:16, 119:17, 122:10, 122:13, 126:2, 126:5, 126:10, 129:11, 129:17, 129:19, 129:23, 130:2, 131:10, 131:14, 131:19, 131:22, 131:23, 132:9, 132:22, 133:14, 133:16, 136:3, 139:2, 139:3, 139:5, 139:23, 140:15, 141:11, 141:18, 141:20, 143:9, 144:24, 145:7, 145:10, 147:11, 149:4, 149:18, 150:25, 152:6, 159:10, 159:15, 163:11, 166:15,	166:18, 167:14, 169:4, 169:7, 170:15, 170:21, 171:12, 172:15, 172:22, 175:8, 175:22, 176:5, 176:19, 186:16, 189:2, 189:8, 206:18, 209:2, 210:17 Hospital [22] - 8:11, 93:21, 95:16, 102:7, 102:17, 110:20, 110:25, 111:16, 117:12, 118:22, 125:14, 149:8, 149:12, 150:22, 159:4, 161:1, 162:14, 163:6, 168:21, 173:17, 185:16, 186:17 hospitalized [2] - 39:14, 185:7 Hospitals [1] - 48:18 hospitals [5] - 8:8, 23:14, 42:22, 54:19, 135:24 hour [2] - 56:21, 87:18 hours [8] - 11:2, 11:8, 83:19, 87:18, 88:3, 141:16, 150:23, 151:10 house [9] - 4:22, 84:18, 84:21, 87:22, 87:23, 87:24, 131:24, 132:1, 186:21 housework [1] - 40:4 hung [1] - 75:17 hurry [7] - 31:24, 31:25, 58:10 hurt [2] - 24:25, 119:14 husband [30] - 10:25, 11:11, 11:14, 11:19, 31:8, 31:10, 31:12, 32:5, 32:20, 33:16, 43:14, 43:17, 43:19, 43:21, 49:6, 49:12, 49:13, 50:3, 50:14, 50:15, 50:17, 51:5, 72:16, 73:6, 74:5, 76:8, 81:20, 159:19, 159:21, 160:11 Hysen [2] - 39:20 hysterical [3] - 30:6, 32:14, 33:10	131:20, 141:10, 141:12 idea [4] - 102:18, 103:2, 103:25, 160:14 identification [6] - 6:10, 88:8, 114:21, 134:8, 150:18, 169:23 Identify [3] - 88:4, 88:15, 135:2 identity [1] - 4:1 Illness [3] - 49:22, 139:6, 139:7 imagine [1] - 106:3 Imaging [1] - 93:9 Immediately [4] - 84:6, 97:7, 204:1, 204:7 impeach [1] - 70:13 impressed [1] - 54:18 IN [1] - 1:3 Inappropriate [6] - 161:6, 161:20, 162:16, 166:22, 173:15, 173:18 Incident [17] - 23:1, 26:11, 37:3, 55:11, 78:14, 126:22, 127:9, 182:12, 185:2, 185:5, 185:6, 185:23, 194:6, 194:14, 196:14, 199:20, 205:20 Incidents [2] - 64:22, 201:23 Including [1] - 192:2 Inconvenience [1] - 103:11 indecent [3] - 208:4, 208:22, 208:24 INDEX [1] - 2:1 indicate [2] - 167:11, 167:13 indicated [7] - 64:21, 65:1, 65:11, 65:14, 125:17, 126:1, 127:6 indicating [1] - 65:9 Indication [1] - 145:5 Individually [1] - 95:19 Indulgence [3] - 76:15, 147:7, 207:16 inform [1] - 201:16 Information [9] - 45:5, 45:19, 45:21, 46:10, 51:12, 106:20, 176:18, 182:8, 206:17 initiated [2] - 107:24, 182:11 inner [2] - 14:7, 154:7	Inserted [3] - 20:10, 21:14, 25:18 Inside [17] - 13:1, 19:22, 20:8, 20:17, 21:10, 73:18, 73:23, 96:22, 118:25, 119:8, 122:6, 190:10, 192:13, 192:18, 194:7, 197:16, 198:6 Insomniac [1] - 172:11 inspecting [1] - 103:1 Instance [1] - 140:10 instead [4] - 95:18, 189:9, 189:12, 210:12 instinct [2] - 15:8, 29:19 Instructed [1] - 144:21 Instructions [1] - 197:25 Insurance [3] - 51:9, 51:11, 210:20 Intake [1] - 170:6 Intended [1] - 188:15 Intensive [1] - 39:16 Interaction [4] - 170:24, 171:1, 171:18, 171:22 interactions [1] - 204:11 Intercostal [1] - 99:20 Intercourse [2] - 180:2, 200:3 Internet [4] - 134:23, 182:2, 182:17, 182:19 Interrupting [1] - 65:6 interview [1] - 108:5 Introduce [1] - 164:8 introduced [10] - 103:20, 103:22, 104:17, 108:12, 108:16, 125:24, 153:18, 160:25, 161:22, 202:23 Introduces [1] - 162:9 introducing [1] - 154:23 investigating [2] - 160:22, 161:18 Investigation [1] - 177:18 Invited [1] - 197:12 involuntarily [2] - 164:21, 189:21 Irritated [1] - 126:6	issue [6] - 39:1, 56:9, 56:14, 99:17, 210:3 issued [2] - 90:3, 210:8 Issues [4] - 49:20, 86:6, 100:6, 142:13 Items [1] - 89:2 IV [2] - 9:20, 90:18
J				
Jammed [4] - 21:10, 66:14, 67:10, 67:16 Jamming [3] - 20:25, 67:20 January [9] - 169:3, 169:15, 177:6, 177:7, 184:18, 184:21, 187:5, 202:5, 204:17 jeans [1] - 8:13 Jeopardize [1] - 144:19 Job [1] - 190:10 Join [3] - 93:1, 93:3 Judge [19] - 6:5, 11:25, 20:22, 24:9, 30:17, 109:6, 142:15, 162:6, 181:3, 206:15, 207:8, 207:13, 207:16, 207:22, 207:24, 208:14, 208:19, 208:23, 209:14 Judicial [1] - 208:9 Juice [1] - 135:17 Juices [1] - 135:17 JULY [2] - 1:15, 3:2 July [2] - 208:11, 209:4 June [5] - 108:1, 108:2, 108:4, 127:22 Justice [1] - 211:1 JUSTICE [2] - 1:3, 1:14				
K				
K-H-A-L-E-K [1] - 39:6 keep [3] - 19:23, 72:4, 194:21 keeps [1] - 70:3 kept [4] - 13:9, 13:25, 14:14, 15:1, 15:8, 17:6, 18:10, 20:6, 20:11, 21:2, 21:3, 21:18, 22:11, 24:11, 25:6, 26:2, 26:6, 26:8, 26:25,				

<p>27:2, 27:22, 28:6, 28:10, 28:16, 28:24, 31:20, 34:2, 34:16, 63:2, 67:2, 71:6, 72:3, 80:7, 81:17, 81:25, 87:11, 91:22, 91:23, 176:8</p> <p>Khalek [2] - 38:24, 39:21</p> <p>kicked [2] - 18:24, 144:20</p> <p>kickin [1] - 144:17</p> <p>kicks [1] - 29:20</p> <p>kids [1] - 11:12</p> <p>kill [1] - 22:16</p> <p>Kind [3] - 43:13, 81:13, 98:4</p> <p>Kind [55] - 13:12, 15:6, 16:13, 17:16, 23:23, 24:13, 28:14, 28:21, 32:18, 41:10, 53:12, 81:17, 84:10, 88:23, 89:8, 92:2, 92:15, 92:17, 93:2, 93:3, 93:12, 96:19, 100:25, 106:22, 116:12, 118:1, 118:2, 120:14, 121:1, 121:18, 122:3, 138:2, 139:5, 142:3, 142:10, 142:18, 142:21, 142:25, 143:10, 143:13, 143:17, 162:4, 165:7, 165:14, 167:16, 168:3, 170:5, 171:1, 171:6, 171:9, 171:25, 172:19, 177:20, 183:17, 186:14</p> <p>kinds [1] - 87:13</p> <p>kiss [3] - 25:19, 75:2, 75:6</p> <p>Klonopin [1] - 199:11</p> <p>knees [5] - 59:7, 59:13, 80:11, 80:12, 80:16</p> <p>knots [1] - 96:5</p> <p>knowing [2] - 30:10, 69:10</p> <p>KVVU [1] - 107:3</p>	<p>Lane [1] - 39:9</p> <p>language [3] - 20:24, 206:4, 207:10</p> <p>language-wise [1] - 206:4</p> <p>large [1] - 116:12</p> <p>LAS [2] - 1:3, 3:1</p> <p>Las [9] - 5:17, 5:20, 85:3, 110:22, 132:13, 149:9, 169:7, 182:5, 209:3</p> <p>last [26] - 4:8, 35:20, 35:22, 37:5, 37:6, 79:21, 82:19, 86:24, 107:6, 109:15, 130:22, 148:8, 151:10, 159:7, 168:13, 177:12, 181:17, 183:16, 184:15, 184:20, 198:19, 198:20, 200:19, 200:23, 201:7, 201:9</p> <p>lasted [2] - 78:14, 78:17</p> <p>late [8] - 13:23, 13:25, 40:5, 49:5, 49:8, 106:3, 106:4, 112:24</p> <p>law [1] - 171:17</p> <p>lawsuit [1] - 76:11</p> <p>lay [3] - 92:1, 206:8, 206:13</p> <p>Laying [1] - 118:12</p> <p>laying [11] - 13:13, 15:17, 22:23, 22:25, 28:22, 53:11, 59:21, 69:8, 152:6, 154:3, 158:15</p> <p>lead [10] - 93:4, 100:3, 142:10, 156:22, 157:12, 163:21, 164:19, 166:25, 185:6, 188:5</p> <p>leading [2] - 27:24, 154:8</p> <p>leads [21] - 91:14, 92:7, 94:5, 100:2, 102:14, 102:24, 153:24, 156:20, 158:25, 167:4, 157:7, 157:10, 157:14, 157:21, 158:2, 158:10, 158:12, 159:3, 166:1, 166:5, 207:6</p> <p>learn [2] - 6:13, 108:9</p> <p>least [7] - 48:9, 48:16, 65:20, 74:23, 191:21, 209:20, 210:16</p> <p>leave [15] - 10:2, 27:18, 28:10, 28:20, 28:23, 34:3, 84:12, 100:25, 149:4, 176:5, 176:7, 185:18, 185:20, 189:23</p> <p>leaves [1] - 139:15</p> <p>leaving [4] - 138:21, 176:22, 195:1, 198:13</p> <p>Ledahlia [7] - 130:17, 130:19, 130:23, 130:25, 131:5, 206:8, 206:12</p> <p>LEDALIA [1] - 130:25</p> <p>LEDHALIA [1] - 2:12</p> <p>left [62] - 11:16, 15:24, 18:3, 28:3, 28:10, 29:1, 29:8, 48:5, 48:9, 58:16, 64:22, 65:25, 66:1, 66:5, 66:6, 66:8, 66:11, 68:6, 68:9, 69:2, 69:3, 69:12, 69:24, 75:16, 75:18, 75:23, 80:22, 85:13, 86:18, 87:17, 87:18, 87:23, 90:16, 92:22, 94:8, 94:11, 97:19, 99:9, 99:20, 99:21, 101:1, 108:14, 112:1, 112:4, 121:2, 136:4, 138:20, 153:17, 153:18, 174:22, 175:24, 176:10, 176:19, 177:21, 178:14, 190:4, 194:16, 194:22, 197:4, 197:10, 197:21, 197:22</p> <p>left-hand [5] - 18:3, 65:25, 66:5, 66:6, 66:8, 66:11</p> <p>leg [20] - 15:23, 17:15, 25:17, 59:4, 59:17, 59:18, 59:21, 60:2, 60:22, 61:1, 67:12, 91:14, 92:17, 97:9, 98:2, 100:1, 100:4, 103:14</p> <p>Legal [3] - 184:23, 185:8, 186:7</p> <p>legal [2] - 185:25, 186:1</p> <p>legs [17] - 16:8, 16:20, 22:4, 25:14, 25:20, 25:21, 59:10, 59:11, 59:17, 59:20, 66:18, 66:19, 66:24, 67:8, 67:15, 67:16, 98:1</p> <p>Lehan [5] - 82:16, 82:17, 82:20, 109:9, 110:2</p> <p>LEHAN [1] - 2:6</p> <p>length [3] - 8:19, 84:13, 155:8</p> <p>letter [13] - 76:22, 77:7, 179:7, 204:14, 204:16, 204:18, 204:19, 204:21, 204:23, 204:24, 205:3, 205:17, 205:19</p> <p>letters [1] - 76:21</p> <p>letting [1] - 172:19</p> <p>level [2] - 38:25, 208:11</p> <p>levels [2] - 9:13, 108:18</p> <p>lewdness [7] - 206:6, 206:10, 207:4, 208:4, 208:5, 208:7, 208:21</p> <p>license [1] - 210:19</p> <p>lick [5] - 21:14, 21:15, 21:16, 25:5, 181:13</p> <p>licked [2] - 34:16, 67:25</p> <p>licking [1] - 21:20, 34:11, 34:12, 34:14, 34:16, 34:18, 34:19, 71:15, 72:11, 75:7, 181:2</p> <p>lie [1] - 48:22</p> <p>lied [1] - 48:20</p> <p>life [4] - 74:9, 74:12, 178:8, 209:9</p> <p>lifetime [3] - 25:10, 69:4, 69:8</p> <p>light [5] - 26:21, 26:22, 26:24, 179:17, 200:13</p> <p>likewise [1] - 102:22</p> <p>line [7] - 107:1, 206:5, 206:16, 206:21, 206:22, 206:25, 207:2</p> <p>lines [3] - 79:22, 100:23, 192:3</p> <p>lips [1] - 181:13</p> <p>list [3] - 190:5, 197:2, 197:15</p> <p>Listen [1] - 36:1</p> <p>literally [1] - 20:25</p> <p>Lithium [2] - 170:18, 197:21</p> <p>live [2] - 83:5, 132:3</p> <p>lives [1] - 106:25</p>	<p>living [6] - 50:14, 50:16, 50:17, 51:8, 171:5, 177:24</p> <p>loaded [1] - 5:4</p> <p>locally [1] - 198:25</p> <p>located [9] - 22:19, 39:7, 85:3, 96:7, 99:19, 135:25, 136:8, 154:6, 169:7</p> <p>location [1] - 186:23</p> <p>locations [2] - 73:18, 73:23</p> <p>locked [1] - 85:12</p> <p>look [12] - 21:3, 21:5, 23:16, 26:11, 26:20, 31:24, 77:21, 79:22, 105:18, 107:1, 158:25, 164:7</p> <p>looked [11] - 18:14, 22:17, 78:22, 89:10, 145:8, 155:12, 159:2, 164:20, 165:14, 179:18, 182:2</p> <p>Looking [1] - 79:21</p> <p>looking [12] - 16:12, 19:18, 22:11, 22:12, 41:10, 61:9, 78:1, 81:10, 91:25, 138:13, 145:21, 179:9</p> <p>looks [1] - 107:9</p> <p>loose [1] - 158:12</p> <p>loosely [1] - 98:4</p> <p>lose [3] - 5:9, 42:5, 95:11</p> <p>losing [1] - 73:14</p> <p>loss [1] - 42:8</p> <p>lost [4] - 23:7, 30:4, 30:6, 94:10</p> <p>love [5] - 45:13, 52:1, 52:24, 52:25, 53:1</p> <p>low [3] - 73:12, 73:13, 73:14</p> <p>lower [4] - 36:22, 37:2, 156:23, 208:11</p> <p>lowered [5] - 36:13, 36:20, 36:21, 37:4</p>
<p>L</p> <p>L-E-H-A-N [1] - 82:20</p> <p>lady [4] - 33:19, 151:12, 177:20, 209:2</p> <p>laid [3] - 43:25, 64:11, 64:15</p>	<p>leg [20] - 15:23, 17:15, 25:17, 59:4, 59:17, 59:18, 59:21, 60:2, 60:22, 61:1, 67:12, 91:14, 92:17, 97:9, 98:2, 100:1, 100:4, 103:14</p> <p>Legal [3] - 184:23, 185:8, 186:7</p> <p>legal [2] - 185:25, 186:1</p> <p>legs [17] - 16:8, 16:20, 22:4, 25:14, 25:20, 25:21, 59:10, 59:11, 59:17, 59:20, 66:18, 66:19, 66:24, 67:8, 67:15, 67:16, 98:1</p> <p>Lehan [5] - 82:16, 82:17, 82:20, 109:9, 110:2</p> <p>LEHAN [1] - 2:6</p> <p>length [3] - 8:19, 84:13, 155:8</p> <p>letter [13] - 76:22, 77:7, 179:7, 204:14, 204:16, 204:18, 204:19, 204:21, 204:23, 204:24, 205:3, 205:17, 205:19</p> <p>letters [1] - 76:21</p> <p>letting [1] - 172:19</p> <p>level [2] - 38:25, 208:11</p> <p>levels [2] - 9:13, 108:18</p> <p>lewdness [7] - 206:6, 206:10, 207:4, 208:4, 208:5, 208:7, 208:21</p> <p>license [1] - 210:19</p> <p>lick [5] - 21:14, 21:15, 21:16, 25:5, 181:13</p> <p>licked [2] - 34:16, 67:25</p> <p>licking [1] - 21:20, 34:11, 34:12, 34:14, 34:16, 34:18, 34:19, 71:15, 72:11, 75:7, 181:2</p> <p>lie [1] - 48:22</p> <p>lied [1] - 48:20</p> <p>life [4] - 74:9, 74:12, 178:8, 209:9</p> <p>lifetime [3] - 25:10, 69:4, 69:8</p> <p>light [5] - 26:21, 26:22, 26:24, 179:17, 200:13</p> <p>likewise [1] - 102:22</p> <p>line [7] - 107:1, 206:5, 206:16, 206:21, 206:22, 206:25, 207:2</p> <p>lines [3] - 79:22, 100:23, 192:3</p> <p>lips [1] - 181:13</p> <p>list [3] - 190:5, 197:2, 197:15</p> <p>Listen [1] - 36:1</p> <p>literally [1] - 20:25</p> <p>Lithium [2] - 170:18, 197:21</p> <p>live [2] - 83:5, 132:3</p> <p>lives [1] - 106:25</p>	<p>M</p> <p>Ma'am [2] - 188:8, 194:24</p> <p>ma'am [132] - 50:1, 82:7, 130:13, 147:21, 168:16, 169:9, 169:16, 169:18, 170:13, 170:16, 170:23, 171:21, 172:16, 172:18, 172:21, 173:14,</p>

174:15, 174:20, 175:20, 175:23, 176:1, 176:15, 176:20, 177:3, 177:8, 177:10, 178:1, 178:4, 178:10, 178:12, 178:24, 179:22, 179:25, 180:3, 180:5, 180:7, 180:9, 180:11, 182:7, 182:10, 182:13, 182:16, 183:3, 183:5, 184:1, 185:12, 186:5, 186:10, 186:18, 186:20, 186:22, 186:24, 187:17, 187:19, 188:1, 188:17, 188:22, 188:25, 189:24, 190:9, 190:12, 190:15, 190:18, 190:25, 191:14, 191:17, 191:19, 191:23, 192:1, 192:4, 192:7, 192:10, 192:14, 192:16, 192:22, 192:25, 193:3, 193:10, 193:17, 193:20, 193:23, 193:25, 194:15, 194:17, 194:20, 194:23, 194:25, 195:3, 195:7, 195:17, 195:19, 196:20, 196:23, 197:1, 197:14, 197:17, 197:20, 197:24, 198:1, 198:2, 198:3, 198:24, 199:1, 199:6, 199:8, 199:14, 199:17, 199:22, 199:25, 200:4, 200:6, 200:9, 200:18, 200:25, 201:9, 201:18, 201:21, 201:24, 202:11, 202:15, 202:20, 202:22, 202:25, 203:15, 203:25, 204:2, 204:6, 204:9, 204:13, 205:18, 205:21, 206:1 machine [10] - 89:14, 110:17, 111:21, 124:1, 153:22, 158:4, 158:6, 168:2, 207:2, 207:7 machines [1] - 153:10 mail [3] - 43:11, 43:24, 204:18	main [5] - 28:18, 93:4, 101:12, 101:18, 163:10, 163:21 male [5] - 30:1, 55:21, 104:2, 104:8, 151:11 man [3] - 31:15, 174:2, 208:25 man's [2] - 6:13, 6:15 manic [1] - 169:5 March [12] - 111:3, 111:6, 111:10, 113:2, 117:12, 126:25, 183:18, 197:7, 201:3, 201:5, 201:8, 202:5 Margaret [9] - 151:6, 151:8, 152:25, 155:16, 157:23, 159:3, 164:17, 164:22, 165:10 mark [1] - 98:19 married [3] - 31:15, 49:25, 51:6 masturbate [1] - 180:6 matter [5] - 30:18, 102:5, 185:13, 185:25, 186:1 Meadows [1] - 39:9 mean [24] - 20:13, 20:16, 20:22, 29:12, 30:4, 33:22, 34:18, 54:7, 57:11, 64:13, 86:8, 94:22, 95:10, 106:8, 125:25, 133:7, 147:5, 166:14, 167:8, 169:14, 176:4, 177:14, 200:5, 205:7 meaning [3] - 103:10, 175:14, 202:3 means [3] - 57:21, 184:24, 184:25 medical [7] - 49:20, 108:17, 165:7, 166:21, 186:19, 188:4, 188:23 Medical [4] - 148:16, 148:20, 149:1, 149:3 medicated [2] - 29:12, 29:13 medication [39] - 15:4, 29:9, 29:11, 29:15, 36:12, 37:13, 38:11, 38:13, 38:15, 38:18, 54:23, 54:24, 55:2, 55:8, 55:9, 55:11, 55:13, 55:14, 75:20, 111:18, 119:16, 119:18, 119:19, 132:25, 151:14, 167:17, 176:6, 178:11, 178:13, 178:16, 184:4, 185:20, 187:7, 189:10, 197:2, 197:4, 197:6, 197:8, 198:4 medications [11] - 167:21, 183:9, 187:10, 187:12, 189:25, 190:2, 190:5, 190:7, 197:16, 197:18, 199:9 medicine [5] - 9:8, 9:18, 9:24, 36:11, 113:17, 170:17 meet [5] - 83:7, 110:8, 177:2, 196:11, 196:25 meeting [1] - 170:7 member [1] - 175:22 members [2] - 7:9, 149:22 memory [10] - 5:10, 53:18, 56:16, 57:7, 57:9, 57:11, 63:6, 63:24, 77:25, 123:25 Mental [1] - 199:5 mental [14] - 139:6, 139:7, 141:24, 142:12, 144:24, 178:7, 184:16, 184:22, 187:16, 188:9, 190:3, 190:11, 198:6, 499:4 mentally [1] - 192:21 mention [5] - 13:22, 56:24, 56:25, 57:2, 205:19 mentioned [33] - 11:3, 32:2, 33:13, 39:3, 39:23, 88:17, 106:14, 107:15, 108:15, 112:9, 113:1, 114:2, 123:16, 123:18, 123:19, 123:21, 123:22, 123:24, 125:3, 141:17, 145:13, 155:12, 157:23, 158:1, 176:16, 179:5, 187:10, 187:11, 189:25, 192:21, 193:12, 201:12, 204:14 mentioning [1] - 56:10 met [8] - 83:8, 104:3, 104:16, 110:12, 169:12, 170:20, 170:22, 190:19	Metro [4] - 107:13, 107:18, 160:7, 165:22 Metropolitan [1] - 182:6 middle [3] - 6:7, 111:3, 111:6 midnight [3] - 11:7, 11:8, 40:14 midst [4] - 103:7 might [12] - 31:3, 52:12, 70:14, 76:11, 78:17, 106:1, 108:6, 142:10, 180:16, 185:1, 190:21, 200:2 migraines [1] - 55:14 Mike [1] - 3:8 million [1] - 27:2 mind [3] - 17:6, 77:23, 82:4, 99:17, 105:23, 125:14, 128:10, 139:25, 180:17 Mine [1] - 29:20 minute [11] - 82:11, 98:18, 98:19, 104:20, 105:1, 105:11, 106:9, 134:20, 158:22, 165:3, 165:4 minutes [19] - 36:5, 69:2, 69:6, 69:13, 69:16, 70:2, 70:22, 78:14, 78:17, 83:21, 84:25, 85:13, 87:24, 107:10, 153:4, 157:24, 165:5, 166:3, 167:2 miss [1] - 102:3 Miss [10] - 76:21, 142:25, 148:14, 168:20, 181:1, 184:15, 190:6, 192:12, 197:3, 205:24 mistaken [4] - 12:23, 18:17, 56:7, 80:13 mixture [1] - 133:2 mobile [2] - 93:15, 93:17 mom [1] - 145:2 moment [5] - 6:21, 14:8, 33:2, 47:5, 173:18 Monday [3] - 106:10, 106:11 monitor [8] - 92:7, 92:11, 92:13, 92:14, 94:8, 95:12, 102:12, 168:24 monitoring [3] - 92:12, 113:20, 166:8 monitors [1] - 93:16	month [3] - 39:14, 126:24, 127:2 months [4] - 37:5, 37:6, 176:22, 183:6 morning [27] - 3:6, 11:7, 11:8, 11:13, 31:2, 37:14, 37:16, 37:17, 40:15, 49:6, 60:18, 68:19, 68:22, 81:5, 85:12, 85:25, 86:2, 86:17, 86:19, 106:12, 123:10, 131:5, 140:24, 172:7, 179:16, 189:5 most [3] - 52:3, 206:4, 209:1 mother [2] - 146:10, 147:2 motion [3] - 138:17, 152:19, 209:11 motions [2] - 207:12, 209:19 mouth [4] - 25:3, 34:5, 84:9, 180:10 move [5] - 28:13, 28:19, 140:3, 143:17, 177:20 moved [7] - 12:3, 15:11, 28:18, 63:17, 73:3, 81:8, 81:9 movement [3] - 138:2, 138:4, 138:5 moving [9] - 12:8, 12:9, 12:11, 20:6, 117:23, 122:6, 138:17, 158:2, 205:24 MS [100] - 3:6, 3:10, 3:15, 3:17, 3:19, 4:5, 4:13, 6:9, 6:12, 14:16, 14:19, 27:23, 27:25, 28:2, 30:15, 30:17, 30:20, 32:22, 32:24, 34:24, 35:2, 50:8,
--	---	--	---

<p>51:1, 58:7, 65:7, 66:7, 69:14, 69:19, 69:20, 69:23, 70:3, 70:5, 70:9, 70:11, 70:15, 76:12, 76:15, 76:20, 77:15, 77:18, 79:16, 79:18, 79:20, 82:6, 109:13, 109:22, 114:20, 114:23, 124:22, 127:16, 128:4, 128:8, 129:10, 130:12, 148:5, 148:13, 150:17, 150:20, 155:21, 155:23, 155:24, 156:10, 162:1, 162:6, 162:7, 162:25, 165:17, 168:7, 168:10, 168:19, 169:22, 170:1, 180:14, 180:22, 181:7, 183:1, 184:10, 184:14, 198:22, 203:16, 203:18, 203:21, 205:1, 205:6, 205:7, 205:11, 205:15, 205:23, 206:3, 206:15, 206:20, 206:21, 207:13, 207:16, 207:21, 207:24, 208:14, 209:14, 210:22, 210:25</p> <p>Multiple [1] - 209:8</p> <p>multiple [2] - 90:6, 94:1</p> <p>must [2] - 103:5, 209:24</p> <p>mutual [1] - 191:21</p> <p>muzzle [1] - 17:12</p> <p>muzzled [1] - 17:17</p>	<p>named [1] - 82:24</p> <p>names [1] - 133:10</p> <p>narcotic [1] - 38:18</p> <p>nature [4] - 14:2, 83:16, 93:23, 194:6</p> <p>Navy [1] - 114:15</p> <p>Neal [10] - 168:21, 169:13, 173:17, 176:22, 177:19, 186:6, 186:13, 189:17, 198:8, 198:11</p> <p>near [2] - 97:22, 180:10</p> <p>necessarily [3] - 38:2, 51:14, 55:12</p> <p>necessary [2] - 80:6, 206:17</p> <p>neck [3] - 92:15, 96:9, 96:10</p> <p>need [24] - 14:1, 15:2, 15:3, 19:24, 20:12, 20:13, 30:8, 31:18, 31:19, 31:20, 33:7, 33:11, 57:19, 76:1, 81:20, 107:4, 123:6, 153:8, 172:3, 181:21</p> <p>needed [13] - 7:18, 8:8, 30:24, 41:12, 46:13, 89:11, 92:1, 100:10, 105:21, 106:13, 115:13, 167:17, 202:9</p> <p>needs [1] - 196:2</p> <p>neighbor [4] - 11:17, 84:17, 84:19</p> <p>neighbors [1] - 85:11</p> <p>nervous [2] - 84:11, 122:4</p> <p>neurologist [1] - 39:19</p> <p>Nevada [11] - 3:13, 5:21, 85:4, 93:11, 110:22, 132:13, 149:9, 180:17, 169:8, 199:5, 209:7</p> <p>NEVADA [3] - 1:4, 1:7, 3:1</p> <p>Never [1] - 28:13</p> <p>never [18] - 6:18, 17:18, 41:12, 44:20, 44:25, 46:4, 62:24, 75:2, 75:8, 75:12, 78:19, 105:16, 105:20, 108:14, 129:2, 183:23, 185:25, 200:21</p> <p>New [3] - 175:10, 195:9, 195:12</p>	<p>new [8] - 7:21, 7:22, 48:4, 94:5, 195:6, 210:11</p> <p>News [1] - 196:22</p> <p>news [8] - 106:22, 107:3, 123:20, 125:7, 182:17, 204:12</p> <p>newspaper [1] - 181:22</p> <p>next [18] - 8:15, 18:22, 19:11, 21:11, 25:24, 82:15, 84:9, 85:1, 113:6, 114:7, 116:23, 117:3, 123:9, 129:20, 148:3, 161:4, 177:1, 206:15</p> <p>Next [3] - 109:12, 130:16, 168:9</p> <p>nice [5] - 19:13, 54:15, 171:9</p> <p>night [27] - 35:16, 35:18, 35:20, 37:9, 37:10, 37:15, 38:2, 38:12, 38:13, 38:14, 40:5, 42:10, 42:15, 49:5, 49:7, 53:24, 82:3, 88:1, 106:11, 106:21, 114:7, 147:10, 147:15, 147:19, 179:21, 189:3</p> <p>nightmares [1] - 41:23</p> <p>nights [2] - 178:25, 179:1</p> <p>nine [2] - 71:11, 72:9</p> <p>nipples [1] - 98:13</p> <p>nitroglycerin [3] - 151:17, 151:18, 168:2</p> <p>NO [2] - 1:1, 1:9</p> <p>nobody [2] - 166:4, 176:9</p> <p>Nobody [3] - 104:14, 126:16, 133:14</p> <p>noise [1] - 158:6</p> <p>noises [1] - 153:10</p> <p>nonchalantly [1] - 97:3</p> <p>Nonresponsive [1] - 14:17</p> <p>normal [8] - 141:22, 152:14, 172:3, 176:11, 184:6</p> <p>Normally [1] - 50:15</p> <p>normally [3] - 18:9, 53:15, 123:3</p> <p>north [1] - 91:1</p> <p>North [2] - 5:17, 167:8</p> <p>notes [1] - 69:24</p> <p>Nothing [6] - 8:25,</p>	<p>76:16, 82:6, 100:23, 203:16, 205:23</p> <p>nothing [7] - 57:21, 79:2, 91:4, 100:2, 109:4, 145:24, 175:21</p> <p>notice [2] - 61:14, 61:17</p> <p>noticed [7] - 38:24, 73:14, 73:22, 73:25, 91:12, 97:17, 102:11</p> <p>number [14] - 8:7, 39:8, 43:9, 43:18, 72:12, 104:21, 107:12, 147:3, 176:21, 176:23, 194:23, 194:24, 199:23, 208:17</p> <p>numerous [2] - 8:8, 18:8</p> <p>nurse [80] - 6:17, 7:3, 7:18, 8:1, 10:17, 18:9, 18:15, 28:25, 29:2, 29:7, 29:8, 29:23, 31:5, 33:4, 33:5, 33:8, 33:12, 41:12, 44:18, 45:10, 45:15, 45:22, 46:20, 51:11, 51:19, 54:17, 54:18, 55:18, 55:20, 60:8, 60:13, 60:14, 71:21, 73:21, 76:5, 81:3, 81:10, 81:18, 86:3, 86:4, 86:5, 86:13, 95:15, 95:17, 102:2, 102:5, 102:6, 102:8, 103:20, 103:22, 104:2, 104:8, 104:9, 108:12, 108:13, 108:16, 108:21, 108:25, 112:7, 115:12, 138:22, 138:23, 151:2, 151:7, 151:10, 156:3, 161:15, 161:19, 164:17, 165:12, 166:2, 167:1, 171:16, 171:17, 171:18, 171:20, 190:14, 209:3</p> <p>nurse's [2] - 45:1, 46:9</p> <p>nurses [18] - 44:16, 49:21, 50:10, 51:4, 51:18, 54:5, 54:11, 61:22, 102:13, 108:18, 118:16, 132:25, 138:25, 145:8, 155:16, 156:1, 164:11, 171:19</p> <p>nurses' [11] - 18:20,</p>	<p>51:20, 61:21, 92:10, 151:24, 152:1, 152:5, 153:19, 155:13, 155:14, 163:23</p> <p>nursing [2] - 30:7, 93:18</p>
O				
<p>o'clock [14] - 70:6, 70:17, 77:24, 78:3, 81:5, 81:21, 81:24, 82:3, 86:23, 87:2, 87:23, 114:2, 139:12</p> <p>O.R. [1] - 46:12</p> <p>Oakey [2] - 167:7, 167:9</p> <p>object [2] - 27:23, 180:18</p> <p>Objection [9] - 14:16, 30:15, 32:22, 76:12, 128:4, 142:5, 156:8, 165:17, 205:1</p> <p>objection [11] - 207:12</p> <p>obligation [1] - 209:15</p> <p>obviously [3] - 40:6, 40:23, 142:12</p> <p>occasion [13] - 42:6, 43:1, 43:3, 45:1, 53:24, 65:20, 148:15, 184:15, 184:20, 192:11, 197:11, 197:15</p> <p>occasionally [1] - 192:5</p> <p>occasions [3] - 7:17, 10:12, 166:15</p> <p>occur [1] - 40:3</p> <p>occurred [7] - 27:9, 32:15, 40:2, 117:11, 126:3, 145:12, 165:9</p> <p>odd [6] - 99:16, 99:23, 99:24, 100:7, 101:7, 101:13</p> <p>OF [7] - 1:3, 1:4, 1:7, 1:13, 1:14, 211:6</p> <p>offer [1] - 35:7</p> <p>offered [9] - 47:15, 54:4, 54:13, 89:15, 126:8, 134:23, 135:8, 135:14</p> <p>offering [1] - 30:17</p> <p>office [3] - 148:21, 182:4, 199:3</p> <p>officer [2] - 46:3, 62:7</p> <p>offices [2] - 39:11,</p>				

<p>167:7 offset [1] - 96:19 often [1] - 8:5 old [3] - 32:4, 202:18 Once [5] - 19:10, 61:3, 61:25, 63:13, 125:15 once [5] - 19:17, 32:7, 58:5, 66:19, 78:18, 85:6, 164:19, 179:9, 188:8 one [33] - 5:5, 5:19, 7:6, 8:18, 14:6, 14:23, 14:24, 18:13, 19:3, 22:5, 22:14, 24:20, 25:3, 25:7, 25:13, 28:18, 31:15, 34:4, 34:5, 36:1, 37:7, 37:22, 39:3, 39:10, 39:14, 39:16, 41:23, 42:23, 43:10, 43:22, 48:4, 48:7, 63:14, 64:20, 65:2, 65:3, 65:20, 76:7, 78:5, 84:2, 89:8, 92:17, 94:9, 94:10, 96:3, 96:7, 96:11, 99:13, 103:11, 104:9, 120:16, 136:4, 145:3, 145:8, 150:4, 151:7, 152:2, 154:9, 154:17, 154:18, 154:19, 156:20, 157:17, 157:18, 167:6, 170:7, 173:18, 174:11, 175:10, 176:5, 177:17, 182:17, 186:8, 191:18, 192:8, 192:13, 198:6, 198:23, 199:23, 200:22, 202:17, 202:19, 206:15, 209:2, 209:4, 210:13 One [6] - 6:4, 13:24, 56:19, 95:19, 136:4, 154:8 ones [6] - 94:3, 94:6, 119:11, 120:23, 199:15, 203:14 open [21] - 62:4, 97:12, 118:25, 119:23, 119:25, 120:1, 122:8, 152:4, 153:17, 155:7, 156:12, 158:20, 164:10, 192:15, 206:5, 207:3, 208:4, 208:5, 208:6, 208:21, 208:24 Open [1] - 206:9</p>	<p>opened [26] - 18:5, 25:17, 25:20, 27:12, 27:15, 27:16, 27:17, 54:8, 62:10, 62:11, 62:17, 97:7, 97:10, 119:24, 120:2, 121:7, 130:2, 152:23, 153:16, 154:20, 155:4, 155:13, 156:11, 156:18, 192:14 operator [2] - 17:6, 17:18 opinion [1] - 105:20 opportunity [3] - 72:11, 103:19, 172:6 opposite [2] - 98:24, 99:7 oral [7] - 67:24, 71:14, 180:4, 180:8, 180:12, 181:1, 181:9 order [3] - 23:3, 102:11, 178:8 ordered [7] - 6:11, 88:9, 114:22, 134:9, 150:19, 169:24, 207:14 ordering [1] - 4:2 orders [1] - 102:10 original [1] - 47:23 originally [1] - 90:23 out-of-court [1] - 205:2 outfit [1] - 170:9 outpatient [1] - 83:10 outside [4] - 28:11, 63:4, 72:23, 198:5 outstanding [1] - 45:7 Overruled [4] - 14:18, 30:19, 156:9, 205:5 overseeing [1] - 104:8 own [10] - 21:21, 23:21, 52:5, 53:6, 113:20, 121:19, 123:2, 133:21, 176:10, 199:3</p>	<p>77:15, 77:21, 206:20, 206:21, 207:3 PAGE [1] - 2:2 Page [2] - 69:23, 79:18 pain [5] - 9:22, 38:11, 38:15, 38:18, 148:19 pains [2] - 151:21, 163:6 pair [2] - 8:13, 90:7 pan [2] - 41:16, 63:2 pans [1] - 63:3 panties [4] - 115:25, 116:7, 116:8, 118:8 pants [5] - 90:4, 90:7, 90:9, 116:1, 127:13 paper [4] - 181:17, 181:18, 181:25, 182:14 paperwork [2] - 46:2, 46:4 paramedics [3] - 4:18, 5:3, 5:4, 8:12, 35:17, 36:3, 38:14, 38:16, 40:7 paranoia [1] - 142:21 part [15] - 11:6, 12:1, 75:1, 128:16, 132:22, 136:18, 137:2, 137:3, 137:9, 137:11, 141:17, 154:7, 157:20, 163:10, 163:21 partially [2] - 62:1, 62:2 particular [5] - 123:9, 161:2, 161:15, 172:22, 173:3 parts [2] - 175:16, 175:19 Pass [3] - 124:22, 162:25, 184:10 pass [5] - 34:24, 61:10, 61:13, 61:21, 113:6 passed [3] - 61:14, 61:20, 141:13 past [4] - 9:15, 10:14, 106:5, 193:2 patches [1] - 120:14 patient [17] - 10:9, 86:24, 95:9, 95:20, 102:13, 110:16, 161:1, 161:6, 162:13, 162:17, 168:21, 172:17, 174:2, 177:25, 182:22, 192:19, 210:17</p>	<p>patients [13] - 19:5, 61:15, 83:14, 83:15, 88:19, 88:21, 93:16, 161:19, 172:5, 172:13, 195:20, 195:24, 209:1 pattern [2] - 53:22, 181:4 paused [1] - 107:19 pay [1] - 61:16 paying [3] - 18:11, 60:15, 60:16 PEACE [1] - 1:14 peaceful [3] - 52:2, 52:3, 52:5 peacefulness [1] - 52:23 pelvic [6] - 137:5, 137:22, 138:7, 138:8, 144:3, 145:12 Pelvic [1] - 137:11 pending [3] - 177:18, 185:14, 210:13 penetrating [1] - 72:10 penial [1] - 200:2 penis [19] - 137:11, 137:12, 137:14, 137:15, 137:20, 137:22, 138:16, 140:2, 174:14, 174:17, 175:12, 176:14, 179:8, 196:6, 196:14, 203:23, 206:7, 208:11 Penn [1] - 93:20 Pennsylvania [1] - 106:25 people [17] - 3:24, 36:23, 43:16, 43:21, 44:12, 51:3, 52:2, 52:11, 73:10, 73:17, 73:19, 102:6, 104:9, 105:17, 150:24, 191:15, 194:7 per [1] - 102:1 percent [1] - 187:4 perform [4] - 84:12, 105:17, 180:4, 180:8 performing [2] - 180:12, 181:9 perhaps [5] - 15:23, 53:14, 55:11, 73:1 period [5] - 5:10, 29:4, 68:11, 127:7, 149:5, 202:4 periods [1] - 90:21 permanent [1] - 209:6 permission [1] -</p>	<p>130:1 person [22] - 6:4, 27:7, 31:16, 56:1, 60:11, 60:21, 82:24, 83:1, 84:16, 88:4, 104:10, 114:13, 134:2, 140:18, 146:1, 150:14, 151:11, 169:17, 171:10, 177:2, 192:20, 192:23 personal [2] - 43:6, 43:8 personnel [3] - 60:12, 61:23, 188:24 pervert [2] - 196:7, 196:8 Phenobarbital [16] - 9:10, 9:12, 35:12, 35:17, 35:19, 35:21, 35:24, 36:3, 36:6, 36:25, 37:2, 37:10, 37:15, 38:6, 39:21, 55:1 phone [47] - 16:17, 16:18, 16:23, 16:24, 17:4, 17:5, 17:9, 17:11, 17:22, 25:23, 26:5, 26:10, 26:12, 26:14, 26:17, 26:20, 26:25, 32:1, 39:8, 43:5, 43:6, 43:8, 44:2, 49:11, 58:23, 59:1, 72:12, 72:16, 72:20, 73:10, 74:15, 84:9, 84:10, 84:16, 106:25, 107:22, 140:12, 140:16, 140:17, 140:25, 176:21, 176:23, 183:23, 194:23, 194:24, 201:9 phones [1] - 170:10 photos [2] - 26:7, 26:14 physical [1] - 175:13 pick [5] - 11:12, 31:23, 181:22, 182:1, 189:20 picked [3] - 11:18, 181:25, 182:1 picking [2] - 189:4, 189:7 picky [1] - 102:13 picture [2] - 96:13, 107:9 pictures [2] - 26:9, 26:18 pillow [9] - 89:7, 91:11, 97:1, 101:4, 116:22, 116:25 pills [5] - 131:20,</p>
---	---	---	---	--

132:2, 133:3, 133:4, 141:14	198:4, 200:15, 201:12	presence [2] - 62:25, 63:11	professionally [1] - 105:17	75:5, 90:4, 90:7, 94:6, 94:18, 104:21, 170:8, 174:16, 174:25, 175:12, 176:13, 180:10, 203:22
pizza [1] - 147:25	pointed [2] - 154:11, 154:12	press [5] - 72:12, 127:25, 128:19, 128:25, 130:8	programmed [5] - 16:24, 16:25, 43:8, 43:10, 43:19	putting [4] - 12:6, 17:15, 24:18, 179:5
place [9] - 23:22, 63:22, 63:23, 64:5, 64:12, 64:19, 66:10, 66:11, 68:5	pointing [2] - 94:11, 121:1	pressed [2] - 140:2, 156:21	progressing [2] - 26:3, 28:4	
placed [8] - 94:9, 94:10, 173:19, 174:12, 175:4, 193:9	pole [1] - 90:18	Pressing [1] - 137:22	promise [1] - 22:6	Q
placement [4] - 93:15, 93:16, 93:18, 94:16	Police [1] - 182:6	pressing [6] - 137:24, 138:16, 156:25, 158:10, 206:7, 206:11	promised [1] - 176:6	qualifications [1] - 108:10
places [1] - 44:22	police [68] - 30:7, 33:1, 33:2, 33:6, 33:15, 45:4, 46:3, 46:6, 48:8, 48:15, 48:20, 56:9, 56:14, 56:17, 56:24, 56:25, 57:2, 57:4, 59:12, 59:24, 62:7, 68:17, 68:23, 69:5, 70:6, 70:14, 70:16, 70:21, 71:2, 71:9, 71:13, 71:17, 71:20, 73:5, 73:9, 74:4, 75:1, 75:2, 75:4, 75:8, 75:10, 76:1, 76:2, 76:7, 77:6, 77:8, 77:13, 80:16, 80:24, 81:4, 81:14, 81:19, 106:18, 107:13, 127:6, 127:20, 139:22, 147:1, 159:24, 160:3, 181:14, 182:12, 196:5, 196:6, 196:13, 196:15, 202:12	pressure [4] - 30:23, 86:13, 128:18, 137:25	prompt [1] - 125:11	questioning [2] - 143:6, 205:4
Plaintiff [1] - 1:8	policy [5] - 102:16, 102:20, 102:22, 102:25, 141:3	pressured [3] - 128:6, 128:13, 128:22	prompted [1] - 145:1	questions [18] - 35:5, 57:22, 58:4, 58:8, 58:11, 77:9, 87:12, 87:14, 101:20, 109:6, 129:5, 130:12, 141:4, 146:3, 146:5, 147:20, 162:3, 162:19, 168:5
Plan [1] - 160:17	pool [2] - 53:5, 53:6	pretend [1] - 118:2	prone [1] - 35:10	quick [1] - 34:4
plans [1] - 177:21	pop [4] - 59:16, 59:18, 59:20, 196:8	pretending [1] - 118:4	pronunciation [1] - 35:3	quickly [1] - 147:9
play [2] - 171:13, 187:12	popped [4] - 59:7, 59:8, 59:13, 80:12	pretty [11] - 25:19, 86:6, 87:10, 94:17, 98:9, 103:16, 105:9, 113:6, 113:8, 152:3, 203:7	properly [1] - 210:8	quiet [3] - 28:13, 57:19, 166:2
played [1] - 179:13	population [1] - 141:22	prevent [1] - 39:25	property [1] - 33:24	quite [4] - 86:14, 95:16, 129:13, 171:5
playing [3] - 98:22, 99:13, 170:10	portion [4] - 96:18, 155:8, 173:1, 202:1	preventing [1] - 144:11	propped [2] - 80:12, 80:16	
plead [1] - 207:10	posed [1] - 162:3	previous [5] - 10:12, 181:15, 203:4, 203:11, 203:13	protest [1] - 25:11	R
pleasant [1] - 126:9	position [3] - 21:25, 24:9, 155:25	previously [6] - 92:12, 126:18, 166:7, 166:9, 190:1, 210:6	proximity [4] - 74:12, 74:21, 152:3, 193:7	R-O-S-E [1] - 168:15
pleased [1] - 54:6	possibility [1] - 52:6	Previously [1] - 93:14	psychiatric [3] - 141:20, 172:15, 175:7	R.N. [1] - 108:20
plug [2] - 93:3, 95:22	possible [8] - 52:10, 59:10, 64:3, 64:8, 75:18, 75:19, 176:12	prison [1] - 209:9	Psychiatric [2] - 168:21, 173:17	radiology [1] - 83:10
plugs [1] - 93:2	possibly [1] - 4:1	privacy [1] - 174:3	psychotic [5] - 169:5, 185:4, 185:22, 186:25, 188:13	rail [3] - 64:22, 137:17
point [85] - 6:5, 6:24, 8:18, 10:2, 14:7, 14:24, 16:21, 17:9, 18:23, 22:5, 25:3, 25:7, 25:13, 25:23, 27:18, 31:8, 34:5, 37:7, 37:24, 39:16, 40:6, 40:23, 42:14, 45:10, 48:6, 59:7, 62:19, 66:17, 66:18, 67:7, 74:8, 76:5, 79:24, 86:16, 87:7, 88:4, 91:21, 92:13, 97:14, 98:8, 100:7, 105:22, 110:19, 113:17, 113:21, 114:13, 115:18, 115:21, 115:23, 116:1, 116:16, 118:7, 118:10, 118:17, 119:16, 122:8, 124:12, 133:6, 134:2, 136:23, 137:21, 138:9, 139:22, 140:21, 147:15, 149:4, 150:14, 155:15, 160:3, 164:23, 169:19, 171:11, 173:13, 175:12, 176:18, 179:2, 179:5, 180:17, 183:2, 187:18, 189:16, 190:24,	pop [4] - 59:16, 59:18, 59:20, 196:8	previously [6] - 92:12, 126:18, 166:7, 166:9, 190:1, 210:6	PUBLIC [1] - 1:21	Rails [2] - 143:23, 143:25
	popped [4] - 59:7, 59:8, 59:13, 80:12	pull [4] - 46:2, 46:4, 95:18, 95:21	PULL [1] - 1:21	ralls [10] - 64:12, 64:16, 64:17, 64:18, 64:24, 65:17, 137:18, 143:20, 144:9
	population [1] - 141:22	pulled [3] - 14:23, 15:19, 97:20, 98:4, 98:5, 100:11, 101:2, 119:25, 163:24	pulling [2] - 14:14, 100:14	ran [1] - 94:3
	portion [4] - 96:18, 155:8, 173:1, 202:1	purpose [4] - 6:25, 39:23, 70:12, 151:20	purse [4] - 12:5, 16:15, 16:17, 44:3, 44:4, 44:8, 45:19, 49:10, 58:23, 58:24, 58:25, 59:1	Rancho [3] - 148:16, 148:20, 161:13
	posed [1] - 162:3	probable [2] - 78:14, 208:7	purse [4] - 12:5, 16:15, 16:17, 44:3, 44:4, 44:8, 45:19, 49:10, 58:23, 58:24, 58:25, 59:1	ranged [1] - 83:13
	position [3] - 21:25, 24:9, 155:25	problem [1] - 167:1	pursuant [2] - 209:19, 210:4	rapid [1] - 24:25
	possibility [1] - 52:6	problems [1] - 153:6	pursue [4] - 33:21, 209:18, 209:23, 210:11	rate [1] - 92:11
	possible [8] - 52:10, 59:10, 64:3, 64:8, 75:18, 75:19, 176:12	procedure [5] - 25:8, 30:13, 83:12, 93:22, 110:11	pushed [4] - 16:23, 119:3, 119:4, 144:16	Rawson [11] - 168:21, 169:13, 173:17, 176:22, 177:19, 186:6, 186:13, 189:17, 198:8, 198:11
	possibly [1] - 4:1	proceed [2] - 3:14, 3:16	pushing [3] - 157:21, 206:7, 206:11	RAWSON [1] - 168:22
	post [1] - 209:16	proceeded [2] - 97:5, 119:23	put [34] - 19:21, 20:8, 20:16, 22:5, 23:9, 23:10, 23:11, 23:21, 23:22, 24:1, 24:17, 24:23, 25:3, 25:4, 34:5, 38:4, 42:22, 53:12, 65:4, 65:8,	Rawson-Neal [10] - 168:21, 169:13,
	posted [1] - 210:6	proceeding [4] - 70:12, 185:23, 186:25, 209:9		
	pot [1] - 101:6	PROCEEDINGS [1] - 211:6		
	potential [1] - 167:1	produce [1] - 168:2		
	PRELIMINARY [1] - 1:13	professional [1] - 105:19		
	preliminary [1] - 3:13			
	prepping [1] - 83:14			

<p>173:17, 176:22, 177:19, 186:6, 186:13, 189:17, 198:8, 198:11 ray [2] - 93:17, 93:18 reach [10] - 22:10, 22:11, 23:3, 23:6, 23:7, 72:22, 72:23, 73:2, 84:10, 84:15 reached [3] - 15:18, 16:20, 174:12 reaching [5] - 174:11, 174:24, 174:25, 192:12, 193:5 read [10] - 77:20, 79:21, 106:22, 107:1, 107:5, 204:12, 204:21, 206:5, 206:9 reading [1] - 107:4 ready [5] - 3:14, 3:16, 112:25, 113:4, 122:18, 189:6 real [2] - 34:4, 171:2 realize [1] - 58:10 realized [2] - 41:25, 83:23 really [27] - 5:6, 13:24, 13:25, 14:8, 18:24, 20:15, 24:23, 38:10, 46:21, 47:4, 59:22, 71:21, 78:25, 89:11, 90:20, 97:16, 100:1, 100:23, 103:11, 104:25, 105:13, 119:14, 121:24, 124:8, 127:4, 165:22, 166:3 Really [3] - 46:21, 114:9, 133:7 rear [1] - 156:2 reason [5] - 35:8, 51:15, 74:17, 78:8, 112:16, 131:10, 208:23, 209:11, 209:17 rebuttal [1] - 207:21 receive [4] - 18:10, 19:3, 47:13, 47:16 received [4] - 47:18, 54:6, 113:19, 168:2 recent [1] - 161:1 recently [2] - 36:12, 162:13 reception [3] - 73:23, 74:2, 74:5 Recess [2] - 82:12, 148:1 recognize [1] - 6:2 recognized [1] - 84:4 recollection [3] -</p>	<p>57:8, 70:12, 77:12, 78:1, 79:14, 127:9, 127:12, 127:13, 179:23 recommend [1] - 188:11 recommendation [5] - 54:5, 54:13, 76:22, 76:23, 77:7 recommended [1] - 39:15 record [25] - 4:8, 6:9, 8:23, 15:21, 17:14, 64:21, 65:8, 82:19, 88:7, 94:22, 109:16, 114:20, 130:22, 134:7, 135:13, 143:6, 147:23, 148:2, 148:8, 150:17, 154:11, 168:13, 169:22, 174:25, 210:22 record [2] - 3:23, 82:14 red [1] - 123:20 redirect [5] - 76:17, 109:7, 129:6, 146:4, 168:6, 203:17 Redirect [4] - 2:4, 2:10, 2:13, 2:19 REDIRECT [4] - 76:19, 129:9, 148:8, 203:20 reference [4] - 69:14, 69:16, 69:17, 79:19 referred [5] - 6:17, 6:18, 44:21, 47:20, 46:7 referring [5] - 28:6, 48:2, 69:25, 80:10, 193:24 refined [1] - 63:5 reflect [7] - 6:10, 88:8, 114:21, 134:7, 150:17, 169:23, 208:18 refresh [2] - 77:12, 79:14 refreshed [1] - 77:25 refreshing [1] - 70:11 regard [4] - 43:5, 102:23, 151:24, 186:14 regarding [2] - 196:5, 196:14 regards [1] - 155:25 registered [2] - 166:2, 171:20 registration [1] - 210:20</p>	<p>regular [8] - 8:14, 9:12, 12:17, 12:18, 39:21, 41:3, 167:16, 186:19 regulate [1] - 187:24 related [2] - 35:10, 182:18 relates [1] - 180:19 relation [3] - 17:25, 99:4, 174:3 relations [1] - 200:1 relationship [15] - 83:1, 173:11, 173:12, 175:21, 176:17, 177:11, 178:19, 183:7, 183:25, 184:2, 184:6, 191:21, 200:7, 200:16, 201:11 relatives [1] - 7:8 relax [15] - 20:11, 20:12, 22:5, 22:6, 22:7, 23:12, 25:8, 80:8, 80:9 relayed [1] - 182:8 release [2] - 188:9, 209:15 released [7] - 33:23, 159:11, 159:12, 209:25, 210:1, 210:4, 210:12 Relevance [3] - 76:12, 128:4, 142:6 relevance [3] - 128:5, 142:7, 205:3 relevant [4] - 180:19, 180:21, 180:22, 181:3 remain [1] - 67:4 remained [1] - 68:12 remember [195] - 5:6, 9:5, 11:10, 12:5, 12:6, 13:20, 14:10, 14:14, 15:6, 16:12, 16:13, 16:17, 18:7, 18:11, 18:19, 18:20, 19:13, 19:18, 21:2, 21:5, 21:23, 22:8, 22:12, 22:21, 23:12, 24:22, 24:24, 25:1, 27:11, 27:15, 27:16, 28:8, 29:6, 29:7, 31:18, 31:25, 36:2, 41:9, 41:10, 41:17, 41:18, 41:20, 42:17, 42:18, 42:25, 43:2, 43:18, 44:9, 44:13, 44:15, 48:8, 48:13, 48:14, 48:24, 49:14, 49:15, 49:18, 51:21, 53:2, 53:24, 55:3, 55:6, 55:7, 55:8,</p>	<p>55:21, 56:3, 56:8, 56:10, 56:13, 56:20, 59:9, 59:15, 60:24, 60:25, 61:9, 62:7, 62:9, 62:13, 62:15, 62:19, 63:16, 63:17, 64:6, 64:9, 64:11, 64:15, 64:24, 65:10, 65:15, 65:16, 66:20, 66:21, 68:23, 67:6, 67:13, 67:18, 67:21, 67:22, 67:23, 68:13, 68:14, 68:17, 68:21, 68:23, 68:24, 68:25, 69:5, 69:7, 70:16, 70:21, 71:5, 71:9, 71:12, 71:13, 71:16, 71:17, 71:20, 71:22, 72:2, 72:19, 72:20, 73:5, 73:9, 73:15, 74:25, 75:1, 75:5, 78:16, 78:21, 78:23, 79:4, 79:8, 79:10, 79:12, 79:25, 80:8, 80:19, 80:23, 81:3, 81:6, 81:9, 81:14, 81:19, 82:1, 93:24, 96:23, 96:24, 103:25, 106:4, 107:8, 108:6, 113:9, 113:12, 114:4, 114:5, 114:8, 115:8, 119:24, 121:22, 127:24, 128:3, 129:3, 129:14, 130:9, 132:11, 132:15, 132:18, 133:17, 134:25, 135:4, 135:23, 136:22, 138:22, 139:6, 139:9, 140:24, 145:8, 146:17, 146:18, 146:21, 147:12, 152:23, 159:4, 181:19, 181:20, 191:8, 194:2, 205:3 remembered [2] - 68:19, 146:20 remembering [2] - 56:22, 57:1 remembers [1] - 70:14 remove [1] - 206:16 removed [1] - 120:23 renting [1] - 209:5 repeat [1] - 202:2 rephrase [1] - 27:25 report [10] - 45:13, 145:1, 145:4, 146:15, 165:16, 165:21, 165:24, 167:8, 183:7,</p>	<p>204:12 reported [2] - 178:9, 201:22 Reported [1] - 1:25 REPORTER [4] - 50:6, 50:20, 57:13, 57:16 reporter [1] - 57:20 reporter's [1] - 143:4 REPORTER'S [1] - 1:13 reports [1] - 194:6 request [2] - 3:25, 28:19 requesting [1] - 4:3 require [2] - 166:8, 210:5 required [1] - 210:14 reserve [1] - 207:21 residence [2] - 188:24, 209:6 respect [1] - 4:3 responded [1] - 161:24 responder [1] - 94:2 response [11] - 16:10, 24:4, 64:10, 80:4, 128:3, 128:8, 162:14, 174:21, 178:5, 190:1, 210:8 response [1] - 134:16 responsibilities [1] - 108:14 responsive [1] - 84:8 rest [8] - 14:1, 15:2, 20:13, 105:8, 142:4, 202:23, 206:2 Restoril [1] - 170:18 restrained [1] - 143:14 restraints [1] - 143:16 restroom [5] - 62:20, 63:1, 63:7, 82:11, 90:14, 90:15 result [3] - 185:2, 185:15, 187:2 retarded [1] - 174:2 relied [1] - 101:2 retrospect [1] - 105:19 returned [2] - 176:24, 183:23 rib [3] - 95:1, 99:21, 99:22 ride [5] - 5:7, 51:24, 52:7, 52:20, 53:1, 94:2, 106:13 rider [2] - 52:25</p>
---	---	--	---	--

<p>rides [1] - 60:20 riding [5] - 51:19, 51:25, 52:1, 52:3, 52:11 right-hand [1] - 66:4 risk [2] - 209:11, 210:17 rode [1] - 66:25 rolled [3] - 12:4, 19:10, 63:18 rolling [2] - 12:15, 107:19 room [158] - 5:25, 6:1, 7:10, 8:11, 9:19, 10:2, 10:13, 10:23, 11:2, 12:12, 18:7, 18:15, 18:16, 18:22, 18:23, 19:4, 19:5, 19:8, 19:10, 28:22, 27:8, 27:11, 27:18, 28:4, 28:20, 29:14, 30:5, 31:3, 41:9, 41:21, 41:24, 42:18, 44:1, 44:9, 44:17, 47:5, 48:5, 48:11, 48:23, 49:3, 49:8, 49:10, 49:19, 51:17, 53:4, 53:10, 53:19, 53:23, 54:3, 54:21, 55:18, 55:24, 56:4, 61:4, 61:25, 62:8, 62:14, 62:16, 63:8, 63:9, 63:10, 63:13, 65:19, 66:20, 67:1, 67:4, 68:12, 68:13, 68:15, 69:24, 72:21, 73:25, 74:6, 74:23, 74:24, 76:24, 77:10, 78:11, 78:12, 79:5, 80:2, 80:23, 80:24, 81:7, 81:8, 81:12, 85:18, 85:19, 85:21, 86:14, 88:16, 89:19, 90:15, 90:24, 91:9, 96:19, 96:21, 111:15, 113:12, 114:4, 114:11, 115:20, 116:11, 117:1, 117:9, 117:10, 117:19, 117:22, 122:10, 122:13, 122:16, 122:17, 122:20, 126:7, 126:8, 133:8, 133:12, 133:21, 134:15, 134:22, 135:25, 138:9, 139:13, 139:15, 149:19, 149:25, 150:3, 151:3, 151:24, 153:3, 153:4, 154:3,</p>	<p>154:20, 154:24, 157:23, 159:5, 163:9, 163:11, 163:16, 172:12, 172:23, 172:24, 173:3, 173:6, 174:1, 174:3, 174:22, 192:20, 194:16, 195:13, 209:5 rooms [12] - 10:18, 61:10, 61:13, 61:14, 61:15, 61:18, 102:8, 150:4, 150:5, 150:6, 173:2, 192:13 Rosario [1] - 198:17 Rose [5] - 168:10, 168:11, 168:14, 168:20, 184:15, 205:24 ROSE [1] - 2:18 rougher [1] - 20:14 Roughly [2] - 83:4, 83:19 roughly [2] - 89:21, 96:3 ROUNDTREE [33] - 1:20, 3:10, 3:17, 14:16, 27:23, 30:15, 32:22, 35:2, 50:8, 51:1, 58:7, 65:7, 66:7, 69:19, 69:23, 70:5, 70:11, 70:15, 76:15, 127:16, 162:1, 180:14, 184:14, 198:22, 203:16, 205:1, 205:7, 206:20, 207:13, 207:16, 207:24, 209:14, 210:22 Roundtree [4] - 2:4, 2:19, 3:10, 76:21 route [1] - 5:6 Roxanne [3] - 3:19, 4:6, 4:9 ROXANNE [2] - 2:3, 4:10 royal [1] - 135:1 rub [1] - 19:21 rubbed [5] - 14:7, 14:22, 20:9, 20:10, 67:15, 80:1 rubbing [5] - 59:4, 67:11, 145:12, 206:6, 206:10 rude [1] - 70:25 rules [1] - 172:19</p>	<p>109:18 S-P-U-R-L-O-C-K [1] - 131:1 sa [1] - 185:14 safe [1] - 51:8 Sanders [1] - 183:2 sandwich [1] - 87:4 Santa [10] - 135:23, 136:20, 136:22, 145:9, 170:8, 170:12, 170:25, 171:13, 191:12 sat [2] - 46:25, 179:18 Saturday [4] - 106:3, 106:4, 106:10 Saunders [5] - 107:21, 108:5, 127:20, 147:6, 162:10, 167:3 saw [17] - 88:11, 89:8, 99:13, 104:3, 106:15, 116:23, 117:3, 123:20, 155:16, 164:23, 175:9, 179:17, 182:2, 182:19, 182:21, 183:9, 200:19 scan [1] - 102:11 scared [5] - 31:6, 124:21, 146:22, 179:8, 205:21 school [4] - 40:17, 178:8, 181:17, 181:25 scooting [1] - 144:12 scream [1] - 22:14 scrubs [4] - 7:14, 88:12, 134:4, 135:1 seated [5] - 4:7, 82:18, 130:21, 148:7, 168:12 Second [1] - 176:8 second [25] - 14:10, 15:25, 67:9, 81:12, 87:8, 95:18, 112:9, 112:14, 113:10, 113:18, 127:1, 129:12, 169:2, 169:12, 169:14, 170:8, 170:20, 173:16, 185:4, 186:4, 188:10, 188:18, 189:18, 190:3, 190:5 seconds [2] - 104:23, 138:16 section [2] - 8:16, 149:18 security [1] - 160:6 see [53] - 8:5, 18:20, 26:17, 39:20, 57:17,</p>	<p>58:20, 61:8, 61:17, 61:22, 62:6, 62:11, 69:21, 88:18, 91:6, 96:20, 96:21, 98:11, 98:13, 98:23, 103:4, 114:11, 116:16, 123:8, 134:13, 140:21, 150:11, 150:22, 152:5, 155:13, 156:5, 158:23, 160:19, 164:7, 164:11, 164:13, 164:17, 167:3, 169:17, 172:6, 173:9, 175:9, 175:10, 177:15, 182:18, 182:20, 188:11, 195:18, 198:12, 198:14, 199:7, 205:16 seeing [12] - 61:9, 77:11, 79:13, 125:7, 146:19, 150:25, 155:14, 173:8, 179:8, 179:9, 188:4, 188:6 seem [2] - 184:5, 184:7 seizure [36] - 4:17, 4:21, 5:9, 5:14, 9:15, 11:3, 35:9, 35:24, 36:7, 36:10, 36:21, 37:12, 37:19, 38:14, 38:20, 38:25, 40:2, 42:3, 42:4, 46:22, 56:19, 56:22, 63:4, 83:24, 83:25, 84:1, 84:5, 84:11, 103:8, 111:11, 112:16, 112:19, 113:1, 113:18, 126:25, 127:1 seizures [25] - 4:16, 4:19, 5:3, 5:5, 9:11, 10:15, 35:10, 35:23, 36:23, 38:8, 38:10, 39:13, 39:20, 39:25, 42:22, 45:13, 46:17, 46:19, 47:1, 54:22, 63:3, 111:7, 111:8, 111:18, 113:2, 113:21 self [2] - 189:14, 189:18 self-admit [1] - 189:18 self-admitted [1] - 189:14 sense [4] - 59:13, 59:16, 59:20, 87:11 sentence [1] - 58:3 separate [4] - 39:1, 71:4, 71:15, 172:24 series [1] - 90:17</p>	<p>serious [1] - 203:8 Seroquel [4] - 170:18, 187:9, 190:4, 197:21 service [2] - 53:6, 53:7 set [7] - 3:12, 22:22, 47:19, 177:20, 200:12, 210:20, 210:25 setting [5] - 83:14, 105:16, 177:24 settle [1] - 184:8 several [10] - 13:20, 47:18, 47:23, 48:1, 61:14, 71:16, 178:15, 181:23, 187:10, 196:1 sex [7] - 67:25, 71:14, 180:4, 180:8, 180:13, 181:1, 181:9 sexual [5] - 180:2, 200:1, 200:2, 200:7, 208:6, 208:17, 208:20, 208:25 sexually [1] - 175:14 shaking [1] - 16:13 shall [1] - 210:3 shambles [4] - 91:13, 103:6, 103:9, 103:13 SHANK [1] - 2:9 Shank [5] - 82:24, 109:13, 109:14, 109:17, 206:24, 207:1 sheet [5] - 13:18, 26:6, 45:24, 47:6, 47:24 sheets [2] - 13:16, 47:25 shift [3] - 28:7, 82:3, 88:18 shirt [3] - 8:14, 8:19, 169:21 shocked [4] - 30:9, 33:23, 81:13, 81:18 short [4] - 5:10, 147:24, 149:5, 167:2 Shortly [2] - 90:13, 187:20 shoulders [3] - 22:18, 79:11, 80:1 show [4] - 23:19, 23:20, 180:16 showed [1] - 5:4 showing [1] - 53:22 shown [1] - 36:22 shut [2] - 97:13, 119:5 sick [3] - 14:25, 16:22, 176:10</p>
S				
S-H-A-N-K [1] -				

<p>side [sɪd] - 12:6, 15:20, 17:15, 18:4, 20:1, 58:25, 64:13, 65:25, 66:4, 66:5, 66:6, 66:8, 66:12, 68:6, 68:8, 68:9, 72:21, 91:1, 91:16, 94:8, 94:11, 96:21, 97:17, 97:19, 98:5, 98:22, 98:24, 98:25, 99:1, 99:3, 99:7, 99:9, 120:25, 121:1, 133:14, 133:16, 136:4, 136:16, 136:17, 144:9, 150:8, 152:18, 154:18, 156:1, 157:18, 158:16, 167:21, 168:3</p> <p>sides [saɪd] - 93:5, 143:20, 157:17</p> <p>sight [saɪt] - 18:14</p> <p>silently [saɪlɪntli] - 77:21, 79:22</p> <p>similar [sɪmələr] - 117:11, 183:13</p> <p>single [sɪŋɡl] - 93:1, 93:2</p> <p>sister [sɪstər] - 171:17</p> <p>sister's [sɪstərs] - 190:14</p> <p>sister-in-law [sɪstərɪnˈlɔː] - 171:17</p> <p>sit [sɪt] - 60:7, 174:10, 192:5</p> <p>site [saɪt] - 95:19</p> <p>sitting [sɪtɪŋ] - 92:17, 170:9, 172:12, 174:1, 174:4, 192:18, 193:11, 193:13</p> <p>Sitting [sɪtɪŋ] - 150:16</p> <p>situate [saɪˈtʃeɪt] - 91:15</p> <p>situated [saɪˈtʃuːeɪt] - 90:15</p> <p>situation [saɪˈtʃuːeɪʃən] - 103:6, 177:23, 178:19</p> <p>six [sɪks] - 84:2, 141:16, 176:22, 177:13</p> <p>size [saɪz] - 143:8</p> <p>Skin [skɪn] - 120:18</p> <p>skin [skɪn] - 120:18</p> <p>sleep [sliːp] - 10:1, 15:3, 15:4, 20:12, 25:9, 29:13, 29:20, 29:21, 75:12, 75:13, 113:15, 124:4, 127:5, 179:14</p> <p>sleeping [sliːpɪŋ] - 11:1, 14:1, 15:1, 15:2, 15:3, 89:6, 116:14, 147:14, 147:19, 172:13</p> <p>slept [slept] - 11:1, 106:9, 127:7, 187:3,</p>	<p>198:9</p> <p>Slight [slaɪt] - 168:4</p> <p>slow [sləʊ] - 138:4</p> <p>slut [slʌt] - 196:16</p> <p>small [smɔːl] - 33:13, 145:17</p> <p>smile [smɪl] - 138:13</p> <p>Smith [smɪθ] - 133:11</p> <p>smock [smɒk] - 150:16</p> <p>snapping [snæpɪŋ] - 26:6</p> <p>someone [sʊmʊn] - 21:1, 23:13, 23:15, 23:16, 23:18, 23:19, 28:24, 30:8, 31:23, 32:25, 53:6, 59:17, 59:18, 59:21, 60:9, 60:13, 60:17, 61:1, 61:18, 81:13, 100:24, 101:10, 185:10, 194:13, 200:15, 202:14, 209:5</p> <p>something's [sʌmθɪŋz] - 15:7</p> <p>sometime [sʌmtaɪm] - 42:8, 87:21, 106:4, 140:24</p> <p>sometimes [sʌmtaɪms] - 5:9, 38:24, 45:8, 52:11, 56:20, 56:21, 74:2, 95:10</p> <p>somewhere [sʌmweə] - 71:10, 71:14, 189:4, 189:8</p> <p>soon [suːn] - 11:15, 31:22, 150:21, 184:3</p> <p>Sorry [sɒri] - 162:6</p> <p>sorry [sɒri] - 22:2, 32:11, 42:12, 57:23, 68:25, 98:10, 99:21, 150:1, 198:15, 202:2, 206:9, 206:20</p> <p>Sort [sɔːt] - 122:20</p> <p>sort [sɔːt] - 12:14, 15:22, 51:7, 113:7, 142:9, 145:5, 179:2, 190:8, 191:6, 191:12, 203:2</p> <p>sound [saʊnd] - 52:24, 107:8</p> <p>sounded [saʊndɪd] - 203:2, 203:7</p> <p>sounds [saʊnds] - 89:16, 121:22, 121:24, 122:1</p> <p>Southern [sʌðən] - 186:7, 186:12, 186:14, 186:17, 189:15, 189:19, 199:5</p> <p>southern [sʌðən] - 186:8</p> <p>Southwest [saʊðwɛst] - 148:16, 148:20, 149:1, 149:3</p>	<p>space [speɪs] - 99:20</p> <p>speaking [spiːkɪŋ] - 45:15, 193:11</p> <p>special [speʃəl] - 46:16, 83:12, 93:21, 107:13, 110:11, 143:13</p> <p>specific [speʃɪfɪk] - 68:14, 168:24, 205:6</p> <p>specifically [speʃɪfɪkəlɪ] - 12:8, 21:8, 36:19, 50:10, 53:2, 69:11</p> <p>specifics [speʃɪfɪks] - 51:21</p> <p>specify [speʃɪfaɪ] - 206:17</p> <p>speculation [speʃuːleɪʃən] - 128:15</p> <p>Speculation [speʃuːleɪʃən] - 156:8</p> <p>speed [spiːd] - 43:12, 43:14, 43:20</p> <p>spell [spel] - 4:8, 39:5, 82:19, 109:16, 130:22, 130:24, 148:8, 168:13</p> <p>spend [spend] - 49:24</p> <p>spent [spɛnt] - 44:15</p> <p>spot [spɒt] - 94:17, 94:18, 152:14</p> <p>spots [spɒts] - 94:5</p> <p>spray [spreɪ] - 168:2</p> <p>Spurlock [spɜːrlɒk] - 130:18, 130:19, 130:23, 131:1, 206:8, 208:12</p> <p>SPURLOCK [spɜːrlɒk] - 2:12</p> <p>squeeze [sɪˈzjuː] - 24:13, 24:15</p> <p>squeezed [sɪˈzjuːd] - 24:16</p> <p>squeezing [sɪˈzjuːɪŋ] - 24:11, 65:20</p> <p>stabilize [steɪbəlaɪz] - 86:15, 86:16</p> <p>stabs [stæbs] - 92:8</p> <p>Stacy [steɪsi] - 3:10</p> <p>staff [stæf] - 31:7, 76:1, 76:3, 76:6, 118:16, 140:15, 150:24, 175:22</p> <p>stand [stænd] - 8:21, 15:15, 56:23, 90:20, 208:1</p> <p>standard [stændəd] - 143:8</p> <p>standing [stændɪŋ] - 17:25, 28:8, 28:16, 65:24, 65:25, 144:3, 193:14, 193:15</p> <p>stands [stænds] - 13:24</p> <p>stared [stərd] - 179:18</p> <p>staring [stəraɪŋ] - 81:17</p> <p>start [stɑːt] - 30:6,</p>	<p>52:16, 77:20, 104:24, 123:21, 177:9, 179:8</p> <p>started [stɑːtɪd] - 14:5, 39:19, 70:8, 70:21, 89:22, 93:14, 107:3, 121:25, 178:16, 178:18, 184:4, 187:15</p> <p>stashed [stæʃtɪd] - 42:19</p> <p>state [steɪt] - 3:7, 3:9, 3:14, 17:20, 31:20, 180:16, 207:20, 208:14, 208:19, 209:17, 209:21, 209:22, 209:24</p> <p>STATE [steɪt] - 1:4, 1:7</p> <p>State [steɪt] - 1:18, 3:13, 3:18, 3:19, 4:7, 82:15, 82:16, 82:18, 93:20, 109:15, 130:17, 130:21, 148:3, 148:7, 168:10, 168:12, 206:2</p> <p>Stateline [steɪtəˈlaɪn] - 178:22</p> <p>statement [steɪtəmənt] - 57:5, 68:18, 69:21, 77:11, 78:1, 79:13, 80:16, 127:19, 154:25, 183:4, 206:2</p> <p>statements [steɪtəmənts] - 79:1, 87:14</p> <p>station [steɪʃən] - 18:20, 61:20, 61:21, 92:10, 152:1, 152:5, 155:13, 155:14, 163:23</p> <p>stations [steɪʃənz] - 152:2</p> <p>stay [steɪ] - 29:12, 31:6, 32:20, 75:14, 75:15, 75:21, 75:22, 97:12, 108:6, 112:4, 149:3, 150:2, 178:25</p> <p>Stay [steɪ] - 29:21, 29:22</p> <p>stayed [steɪd] - 28:12, 28:23, 85:10, 86:13, 86:23, 87:1, 87:22, 90:19, 149:5, 151:9, 172:23, 179:1, 179:13</p> <p>staying [steɪɪŋ] - 15:8, 15:10, 32:18, 85:9</p> <p>Steinberg [steɪnbɜːrg] - 83:8, 93:8, 109:24, 110:8, 110:10</p> <p>stem [stem] - 142:2</p> <p>step [step] - 82:7, 89:12, 109:11, 130:13, 147:21, 205:25</p> <p>stepped [stept] - 73:1</p> <p>stereo [stɪəriə] - 93:2</p> <p>Steve [steɪv] - 3:5,</p>	<p>169:11, 181:18</p> <p>STEVEN [stiːvən] - 1:10</p> <p>Steven [stiːvən] - 3:13, 148:3, 153:18, 161:16, 162:22, 162:23</p> <p>sticking [stɪkɪŋ] - 34:15</p> <p>sticky [stɪki] - 92:8, 93:4, 94:5, 111:23, 112:1, 119:14, 119:21, 120:22, 121:9, 121:11, 121:12, 154:6</p> <p>stiff [stɪf] - 84:8</p> <p>Still [stɪl] - 160:17</p> <p>still [stɪl] - 8:6, 19:13, 25:23, 29:9, 29:15, 29:17, 33:24, 41:1, 41:3, 41:21, 41:23, 64:4, 87:9, 89:3, 89:18, 89:20, 90:19, 91:11, 97:18, 101:12, 101:15, 101:17, 113:25, 115:20, 116:14, 118:7, 118:10, 139:16, 140:17, 149:20, 158:4, 175:7, 181:24, 209:8</p> <p>stomach [stəmæk] - 14:25, 137:4, 154:15, 157:5, 157:15</p> <p>stood [stʊd] - 28:14, 28:21, 66:11, 82:4</p> <p>Stop [stɒp] - 65:6</p> <p>stop [stɒp] - 9:11, 35:24, 55:4, 91:5, 151:21</p> <p>stopped [stɒpt] - 200:21</p> <p>stories [stɔːrɪz] - 135:22</p> <p>story [stɔːri] - 46:7, 136:19, 138:14, 161:25</p> <p>straight [straɪt] - 66:24, 87:1</p> <p>stressful [stresfʊl] - 52:4</p> <p>stretcher [stretʃər] - 89:6</p> <p>stretching [stretʃɪŋ] - 103:14</p> <p>stricken [stɪkən] - 206:19</p> <p>Strictly [stɪktli] - 102:25</p> <p>strike [straɪk] - 8:15, 170:2</p> <p>struck [strʌk] - 99:16, 191:20</p> <p>studies [stʊdɪz] - 36:22</p> <p>stuff [stʌf] - 59:21, 85:8, 100:18, 122:18, 138:21</p> <p>stutter [stʌtər] - 122:3</p>
--	--	---	---	---

<p>subject [2] - 201:13, 205:8</p> <p>submit [2] - 207:24, 209:12</p> <p>subsection [2] - 210:5, 210:7</p> <p>suffer [2] - 113:2, 151:22</p> <p>suffered [2] - 111:10, 113:1</p> <p>sufferer [1] - 9:15</p> <p>suffering [2] - 4:19, 10:14</p> <p>sugar [1] - 36:25</p> <p>suicide [5] - 131:15, 139:24, 142:2, 144:15, 144:18</p> <p>Summer [1] - 3:6</p> <p>summoned [1] - 210:10</p> <p>summons [1] - 210:8</p> <p>sun [1] - 31:1</p> <p>Sunday [4] - 106:5, 106:6, 106:10, 108:21</p> <p>Sunrise [2] - 185:16, 185:17</p> <p>Sunset [1] - 186:22</p> <p>supervisor [2] - 30:7, 33:6</p> <p>supper [1] - 183:22</p> <p>supposed [4] - 123:3, 140:16, 177:19, 191:25</p> <p>surety [1] - 210:21</p> <p>surprise [1] - 97:8</p> <p>surprised [1] - 48:15</p> <p>surrounding [1] - 163:17</p> <p>surroundings [1] - 18:12</p> <p>survive [1] - 39:17</p> <p>Sustained [5] - 28:1, 32:23, 76:13, 142:16, 165:19</p> <p>suturing [1] - 83:15</p> <p>sweat [5] - 90:4, 90:7, 90:8, 116:1, 127:13</p> <p>switched [2] - 67:6, 92:14</p> <p>sworn [5] - 4:6, 82:17, 109:14, 130:20, 148:6, 168:11</p> <p>symptoms [1] - 151:14</p> <p>sympton [1] - 47:4</p>	<p>T</p> <p>table [1] - 170:9</p> <p>tablet [1] - 167:25</p> <p>tabs [5] - 93:5, 111:23, 112:2, 120:22, 121:9, 121:11, 121:12, 154:6</p> <p>tacos [1] - 89:25</p> <p>tangle [1] - 53:14</p> <p>tangled [5] - 92:3, 95:8, 95:14, 97:4, 97:22, 97:25, 127:10</p> <p>tanglement [1] - 95:5</p> <p>tangling [1] - 92:6</p> <p>taste [5] - 21:18, 34:20, 34:21</p> <p>tasted [2] - 181:2, 181:10</p> <p>tech [3] - 110:11, 110:13, 110:14</p> <p>technically [1] - 209:20</p> <p>technician [1] - 110:15</p> <p>technologist [2] - 83:9, 83:12</p> <p>Tegretol [1] - 197:20</p> <p>television [2] - 146:15, 181:22</p> <p>ten [11] - 4:20, 9:15, 10:14, 32:4, 35:13, 36:5, 39:2, 85:13, 87:24, 107:10, 141:12</p> <p>Tenaya [1] - 167:8</p> <p>term [3] - 37:21, 153:24, 190:2</p> <p>terminology [2] - 44:14, 189:22</p> <p>terms [1] - 67:25</p> <p>test [1] - 166:7</p> <p>testified [12] - 65:18, 66:14, 66:17, 67:24, 68:3, 75:11, 75:12, 93:7, 103:1, 191:1, 193:16, 205:20</p> <p>testify [2] - 199:9, 207:17</p> <p>testimony [16] - 49:9, 52:6, 59:3, 61:25, 62:24, 63:21, 64:3, 65:23, 66:10, 73:22, 74:4, 74:10, 75:7, 165:18, 193:8, 207:9</p> <p>tests [2] - 106:5, 113:25</p> <p>Texas [1] - 209:7</p> <p>THE [121] - 1:3, 1:7,</p>	<p>1:14, 1:14, 3:5, 3:12, 3:16, 3:18, 3:22, 3:24, 4:7, 4:9, 6:11, 14:18, 28:1, 30:19, 32:23, 34:25, 50:6, 50:20, 50:22, 57:13, 57:15, 57:16, 57:18, 57:23, 57:24, 58:1, 58:2, 58:6, 65:6, 66:4, 66:6, 69:17, 76:13, 76:17, 77:17, 79:17, 82:7, 82:9, 82:10, 82:13, 82:15, 82:18, 82:20, 88:9, 101:21, 105:1, 105:3, 105:4, 105:8, 105:9, 105:11, 109:7, 109:9, 109:11, 109:15, 109:17, 109:19, 114:22, 124:23, 127:17, 128:5, 128:10, 128:15, 129:8, 130:13, 130:15, 130:16, 130:21, 130:23, 130:24, 130:25, 134:9, 141:5, 142:7, 142:16, 143:8, 146:4, 147:21, 148:2, 148:7, 148:9, 150:19, 155:22, 156:9, 162:4, 163:1, 165:19, 168:6, 168:8, 168:12, 168:14, 168:16, 169:24, 180:21, 181:6, 182:24, 184:11, 198:17, 198:18, 198:19, 198:20, 203:17, 205:5, 205:9, 205:14, 205:24, 206:1, 206:2, 206:14, 207:11, 207:14, 207:20, 207:23, 208:1, 208:11, 208:13, 209:13, 210:15, 210:24</p> <p>themselves [4] - 102:14, 102:15, 108:23, 189:2</p> <p>thereafter [2] - 90:13, 187:20</p> <p>thigh [11] - 8:20, 8:23, 14:7, 14:12, 14:23, 15:11, 15:22, 18:3, 19:21, 20:9, 92:21</p> <p>thin [1] - 13:19</p> <p>thinking [10] - 18:7, 18:10, 22:13, 23:18, 25:1, 26:2, 26:8, 27:3,</p>	<p>28:10, 28:24</p> <p>third [4] - 12:23, 27:7, 87:25, 176:10</p> <p>thirty [3] - 71:3, 72:8</p> <p>threat [1] - 41:12</p> <p>three [15] - 36:10, 37:5, 37:6, 48:9, 48:16, 102:9, 129:13, 145:18, 145:21, 145:23, 150:8, 157:17, 197:22, 198:8, 208:17</p> <p>Three [2] - 150:7, 163:17</p> <p>throughout [2] - 48:17, 190:2</p> <p>throw [3] - 133:2, 133:4, 141:15</p> <p>tie [1] - 152:18</p> <p>tied [5] - 96:2, 98:4, 116:10, 152:14</p> <p>ties [3] - 152:13, 152:14, 210:18</p> <p>tight [2] - 59:10, 101:2</p> <p>Tim [17] - 82:24, 111:13, 112:22, 113:13, 117:1, 117:6, 123:14, 123:22, 124:11, 124:15, 124:16, 124:18, 125:16, 125:17, 125:19, 126:9</p> <p>TIM [1] - 2:6</p> <p>Timothy [4] - 82:16, 82:17, 82:20, 110:2</p> <p>Tired [3] - 147:14, 13:25, 15:6, 29:5, 36:25, 90:22, 106:9, 119:20, 133:7, 147:13</p> <p>title [1] - 122:15</p> <p>today [20] - 6:3, 37:6, 46:1, 49:4, 60:7, 63:21, 68:18, 75:7, 75:11, 88:2, 88:5, 114:11, 133:25, 134:3, 150:12, 198:13, 199:7, 199:9, 201:20, 203:14</p> <p>together [7] - 28:15, 28:16, 86:20, 96:2, 175:11, 178:20</p> <p>tongue [2] - 25:4, 34:10</p> <p>took [7] - 15:21, 15:24, 26:9, 35:20, 35:22, 36:2, 37:19, 38:1, 63:21, 63:23, 64:5, 64:12, 66:10,</p>	<p>66:11, 68:5, 85:13, 97:8, 107:15, 108:12, 112:6, 118:15, 118:24, 127:3, 131:20, 132:18, 140:25, 141:1, 141:10, 141:14, 167:6, 175:4, 185:17, 186:6, 186:10, 189:8</p> <p>top [5] - 14:12, 88:6, 90:8, 120:24, 150:16</p> <p>total [8] - 68:11, 71:3, 71:11, 208:20, 208:22, 210:21</p> <p>touch [8] - 79:9, 121:9, 157:4, 157:7, 157:10, 157:12, 157:20, 196:6</p> <p>touched [19] - 16:8, 18:3, 19:1, 21:13, 24:3, 24:6, 25:18, 67:2, 71:2, 77:3, 79:6, 79:8, 79:10, 157:17, 159:3, 166:4, 175:16, 175:18, 193:16</p> <p>touching [17] - 14:6, 24:11, 29:14, 59:4, 72:9, 79:8, 137:7, 137:10, 137:20, 145:11, 161:19, 186:15, 206:6, 206:10, 206:23, 207:1, 207:5</p> <p>tough [1] - 141:9</p> <p>toward [2] - 96:4, 127:24</p> <p>towards [4] - 15:11, 96:9, 154:9, 156:3</p> <p>TOWNSHIP [1] - 1:3</p> <p>tracked [1] - 167:14</p> <p>traditionally [1] - 17:10</p> <p>trained [4] - 93:19, 93:20, 93:22, 95:7</p> <p>training [7] - 93:12, 93:22, 95:4, 95:7, 109:4, 165:7, 166:21</p> <p>TRANSCRIPT [2] - 1:13, 211:6</p> <p>transcript [4] - 57:18, 58:4, 69:22, 70:1</p> <p>transferred [4] - 33:25, 139:3, 139:11, 163:5</p> <p>transport [2] - 10:17, 117:19</p> <p>transported [34] - 10:12, 10:20, 10:23, 11:5, 11:19, 11:22,</p>
---	---	---	--	---

<p>12:1, 12:2, 23:15, 33:12, 35:8, 40:1, 40:12, 40:19, 40:21, 48:24, 55:17, 55:23, 63:16, 63:19, 64:1, 64:7, 107:16, 116:24, 117:3, 117:6, 117:9, 117:22, 141:24, 149:6, 149:7, 149:12, 149:16, 189:1 traveling [1] - 209:3 Trazodone [1] - 199:12 tried [9] - 23:7, 25:19, 35:23, 37:13, 75:2, 75:22, 91:10, 140:4, 140:5 trip [4] - 178:20, 179:11, 179:12, 200:16 trips [2] - 90:6, 96:25 trouble [9] - 108:23, 145:9, 177:24 TRUE [1] - 211:5 true [8] - 47:14, 52:19, 53:11, 55:5, 179:3, 194:8, 194:22, 195:25 truth [1] - 30:18 try [2] - 35:6, 100:11 trying [23] - 17:12, 19:13, 20:24, 29:17, 52:9, 58:10, 65:4, 65:8, 67:3, 67:13, 70:13, 70:24, 73:17, 75:5, 75:6, 91:14, 91:15, 103:14, 104:22, 106:6, 140:6, 178:7, 187:24 tuck [1] - 67:3 tucked [11] - 14:24, 16:20, 42:24, 59:10, 66:23, 66:25, 67:1, 67:4, 152:18, 152:19 Tuesday [3] - 106:12, 106:16, 106:23 TUESDAY [1] - 1:15 turned [3] - 23:6, 179:17, 200:12 TV [3] - 106:22, 145:3, 146:25 tweaked [1] - 178:14 twenty [1] - 141:12 Twice [2] - 103:21, 111:1 twice [3] - 14:23, 17:19, 35:19 two [51] - 5:5, 7:4, 8:2, 16:23, 16:24,</p>	<p>16:25, 17:3, 24:21, 36:6, 36:10, 37:20, 43:9, 43:11, 47:25, 50:3, 72:12, 82:10, 83:4, 87:18, 88:3, 95:20, 96:5, 96:25, 100:12, 110:7, 122:5, 125:4, 147:4, 150:23, 154:8, 154:12, 155:16, 157:7, 157:14, 157:15, 157:18, 158:22, 162:2, 165:3, 165:4, 165:6, 175:10, 175:13, 179:1, 188:8, 192:8, 195:15, 197:6, 201:25, 202:3, 209:2 Two [2] - 154:15, 157:17 type [8] - 38:12, 158:24, 170:17, 183:24, 185:7, 185:21 typical [1] - 208:24 Typically [1] - 10:5</p>	<p>99:25, 100:4, 116:4, 152:20, 154:12, 157:14 Understood [1] - 72:6 underwear [5] - 8:14, 9:4, 14:13, 90:10, 152:9 ungowned [1] - 155:3 unhappy [2] - 103:16, 115:18 unit [5] - 93:4, 107:13, 170:6, 170:7, 170:8 units [1] - 102:6 University [1] - 93:20 unless [1] - 182:1 Unless [1] - 210:7 untangle [2] - 97:5, 97:6 untangled [1] - 127:10 untangling [1] - 124:1 untied [1] - 98:3 untucked [1] - 155:4 unusual [3] - 145:24, 153:11, 179:12 Up [2] - 87:8, 96:8 up [139] - 5:4, 5:5, 8:21, 9:13, 11:12, 11:18, 14:12, 15:15, 15:22, 15:24, 17:9, 20:5, 20:9, 21:13, 22:22, 23:9, 23:10, 23:11, 23:19, 23:23, 31:1, 31:3, 31:23, 32:20, 33:15, 37:13, 41:10, 41:15, 53:9, 55:17, 57:6, 58:10, 59:4, 59:7, 59:8, 59:11, 59:13, 59:17, 59:19, 59:20, 61:3, 64:20, 64:22, 64:25, 65:2, 65:17, 66:25, 74:18, 77:21, 79:22, 80:13, 80:17, 83:14, 84:15, 85:8, 90:15, 91:22, 94:4, 97:4, 97:7, 97:14, 97:17, 97:20, 98:20, 98:25, 100:4, 100:5, 100:9, 100:11, 100:13, 100:16, 105:25, 106:12, 107:1, 107:16, 111:20, 113:6, 113:15, 114:6, 114:8, 114:9, 120:4, 121:7, 123:21,</p>	<p>127:10, 133:2, 133:4, 135:23, 136:20, 138:16, 140:2, 140:6, 141:15, 144:12, 155:4, 156:11, 156:12, 156:18, 158:4, 159:2, 160:6, 162:22, 164:2, 164:8, 164:9, 164:20, 170:12, 170:25, 172:10, 173:9, 174:4, 174:7, 177:20, 177:24, 179:14, 181:22, 181:25, 182:1, 183:17, 189:5, 189:8, 189:20, 191:20, 200:12, 200:20, 200:21, 201:10, 201:11, 204:3, 204:12, 205:5, 205:10, 205:11, 207:10 upper [9] - 8:20, 14:12, 15:11, 79:6, 98:10, 154:11, 154:19, 155:8, 157:8 Upper [1] - 8:23 upset [4] - 76:7, 81:7, 126:2, 171:5 urgency [1] - 31:21 Urgent [2] - 148:16, 151:13 usual [1] - 18:11</p>	<p>182:5, 209:3 vehicle [1] - 148:22 versus [1] - 3:13 vessels [1] - 83:14 Vicodin [3] - 131:20, 141:10, 141:12 victims [3] - 4:2, 107:13, 209:8 violated [1] - 208:25 visit [8] - 11:14, 133:8, 133:12, 133:19, 134:11, 166:15, 190:2, 190:17 visiting [1] - 134:22 visits [1] - 188:8 vitals [2] - 23:16, 30:10 voice [3] - 43:11, 43:23, 74:7 volume [1] - 17:13 voluntarily [1] - 186:11 vs [1] - 1:9 vulnerable [1] - 209:1</p>
	<p>U</p> <p>ultimately [1] - 45:18 umbilical [1] - 98:9 uncomfortable [9] - 14:13, 19:15, 41:14, 90:5, 120:21, 121:18, 140:7, 158:19, 204:5 uncomfortableness [1] - 204:10 unconscious [1] - 147:11 under [20] - 16:5, 29:9, 29:15, 42:24, 49:10, 58:18, 67:1, 84:25, 94:11, 98:18, 99:21, 104:20, 105:1, 157:18, 196:3, 206:24, 207:1, 207:6, 209:18, 210:2 Under [5] - 9:3, 16:4, 16:7, 98:1, 105:11 Underneath [4] - 44:5, 92:21, 95:2, 99:20 underneath [34] - 8:24, 13:16, 16:2, 16:16, 16:18, 16:20, 17:5, 17:16, 26:6, 42:21, 43:4, 44:2, 58:20, 59:11, 66:24, 90:10, 91:14, 92:16, 92:18, 92:19, 92:20, 94:8, 94:19, 94:23, 94:24, 97:9, 98:2,</p>		<p>V</p> <p>vagina [18] - 19:22, 20:8, 20:17, 21:11, 21:14, 24:19, 25:5, 34:13, 66:15, 67:10, 68:1, 71:11, 71:15, 72:9, 72:10, 72:11, 77:3, 180:10 vaginal [2] - 34:6, 34:22 Valentines [4] - 178:20, 199:18, 199:23, 201:4 valid [1] - 210:19 Valley [4] - 95:16, 101:25, 102:7, 102:17 variables [1] - 101:18 various [2] - 73:17, 73:23 Various [1] - 73:19 VEGAS [2] - 1:3, 3:1 Vegas [8] - 5:17, 5:20, 5:3, 110:22, 132:13, 149:9, 169:7,</p>	<p>W</p> <p>waist [4] - 120:4, 152:19, 154:9, 155:8 Wait [1] - 57:15 wait [5] - 28:15, 57:15, 58:2, 134:20, 183:6 waited [3] - 73:21, 108:5, 129:20 waiting [4] - 28:11, 85:20, 91:11, 141:24 wake [2] - 113:6, 113:15 waking [2] - 114:8, 114:9 walk [3] - 23:13, 23:14, 164:8 walked [8] - 30:5, 30:9, 81:16, 88:16, 90:17, 90:22, 103:15, 164:9 walking [3] - 81:9, 96:22, 104:11 wall [5] - 22:20, 99:6, 133:22, 143:2, 143:4, 174:5 walls [4] - 150:5, 150:7, 150:8, 163:17 wants [2] - 103:12, 209:22 ward [1] - 195:24 warm [14] - 7:20,</p>

7:21, 7:22, 13:9, 13:11, 13:20, 47:7, 47:15, 47:16, 47:24, 48:3, 48:6, 89:9 warrant [1] - 210:3 watch [1] - 204:21 watched [2] - 200:12, 200:13 watching [4] - 164:13, 164:16, 164:22, 204:3 water [4] - 101:16, 126:8, 135:17, 182:23 ways [2] - 172:2, 180:15 we's [1] - 206:5 weak [1] - 25:14 wean [1] - 36:13 weaned [1] - 36:19 wearing [30] - 6:6, 6:7, 7:12, 7:13, 8:10, 8:13, 8:17, 9:1, 9:3, 40:20, 42:19, 68:5, 88:11, 88:13, 90:2, 90:3, 90:8, 95:24, 95:25, 114:14, 115:6, 115:8, 115:24, 115:25, 120:5, 127:13, 134:3, 134:4, 134:25, 135:1, 135:6, 150:15, 150:16, 152:8, 152:12, 169:20, 170:8 website [4] - 107:3, 107:11, 203:7 week [4] - 123:19, 125:5, 129:20, 159:25 weeks [4] - 84:2, 125:4, 177:13, 197:7 weird [1] - 153:10 welcome [1] - 147:25 welcoming [1] - 122:20 West [1] - 199:4 whatsoever [4] - 53:18, 59:14, 63:24, 210:18 wheelchair [1] - 91:24 wheels [1] - 12:17 white [3] - 6:8, 134:6 whole [21] - 14:15, 16:18, 20:5, 25:5, 25:15, 28:5, 36:24, 44:8, 46:7, 54:16, 54:19, 60:10, 69:12, 73:11, 75:16, 78:13, 86:7, 87:11, 103:17, 129:24, 178:18 William [1] - 131:23	window [1] - 66:2 wings [1] - 102:7 wire [2] - 93:1, 103:6 wireless [1] - 92:9 wires [11] - 92:8, 92:16, 92:19, 92:24, 92:25, 93:1, 93:4, 95:18, 95:21, 95:22, 127:10 wise [1] - 208:4 wished [1] - 183:18 withdrawals [1] - 36:17 witness [13] - 3:18, 15:21, 34:24, 70:3, 82:15, 109:12, 124:22, 130:16, 148:4, 162:25, 168:9, 180:20, 184:10 WITNESS [2] - 2:2, 4:9, 50:22, 57:23, 58:1, 58:6, 66:6, 82:9, 82:20, 105:3, 105:8, 109:17, 127:17, 130:15, 130:23, 130:25, 148:9, 168:14, 198:18, 198:20, 206:1 witness' [1] - 165:18 witnesses [2] - 207:15, 207:18 wobbly [1] - 90:20 woke [2] - 114:6, 179:15 woman [4] - 122:16, 145:10, 177:22, 180:24 women [5] - 180:23, 181:5, 183:10, 183:14, 208:25 wondered [1] - 147:18 word [8] - 15:5, 21:23, 103:9, 196:7, 198:23 worded [1] - 107:14 words [2] - 106:8, 210:9 world [2] - 52:3, 52:5 worried [3] - 71:21, 144:23, 147:14 wow [1] - 13:21 wrapped [3] - 100:5, 116:12 write [7] - 44:23, 45:13, 45:18, 54:5, 54:13, 76:22, 77:7 writing [5] - 181:17, 181:18, 181:24, 182:15, 204:14	wrote [2] - 179:7, 204:15 X x-ray [2] - 93:17, 93:18 Y year [3] - 195:6, 202:18, 209:4 Years [4] - 175:11, 195:9, 195:12, 196:22 years [13] - 4:20, 9:15, 10:14, 31:15, 31:16, 32:4, 35:13, 36:10, 39:2, 83:4, 110:7, 171:4 young [3] - 174:2, 177:20, 192:21 yourself [7] - 77:21, 79:22, 122:24, 149:20, 179:23, 185:11, 201:16 Z ZIMMERMAN [1] - 1:14
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1 IND

2 DAVID ROGER
 3 Clark County District Attorney
 Nevada Bar #002781
 4 SUMMER CLARKE
 Deputy District Attorney
 Nevada Bar #008988
 5 200 Lewis Avenue
 Las Vegas, Nevada 89155-2212
 (702) 671-2500
 6 Attorney for Plaintiff

FILED

Nov 19 12 51 PM '08

E. J. Smith
 CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

13 -vs-

14 STEVEN DALE FARMER,
 #2679879

15 Defendant(s).

Case No. C249693
 Dept. No. XII

INDICTMENT

18 STATE OF NEVADA }

19 COUNTY OF CLARK }

ss.

20 The Defendant(s) above named, STEVEN DALE FARMER, accused by the Clark
 21 County Grand Jury of the crime(s) of **SEXUAL ASSAULT (Felony - NRS 200.364,**
 22 **200.366), OPEN OR GROSS LEWDNESS (Gross Misdemeanor - NRS 201.210) and**
 23 **INDECENT EXPOSURE (Gross Misdemeanor - NRS 201.220),** committed at and within
 24 the County of Clark, State of Nevada, on or between May 13, 2008 and May 20, 2008, as

25 follows:

COUNT 1 - SEXUAL ASSAULT

did then and there willfully, unlawfully, and feloniously sexually assault and subject
 MARCIA PETERSEN, a female person, to sexual penetration, to-wit: digital penetration, by

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CLERK OF THE COURT

1 inserting his finger(s) into the anal opening of the said MARCIA PETERSEN, against her
2 will, or under conditions in which Defendant knew, or should have known, that the said
3 MARCIA PETERSEN was mentally or physically incapable of resisting or understanding
4 the nature of Defendant's conduct.

5 COUNT 2 - OPEN OR GROSS LEWDNESS

6 did then and there willfully and unlawfully commit an act of open or gross lewdness
7 by the Defendant touching and/or rubbing the genital opening of MARCIA PETERSEN with
8 his hand(s) and/or finger(s).

9 COUNT 3 - SEXUAL ASSAULT

10 did then and there willfully, unlawfully, and feloniously sexually assault and subject
11 MARCIA PETERSEN, a female person, to sexual penetration, to-wit: digital penetration, by
12 inserting his finger(s) into the genital opening of the said MARCIA PETERSEN, against her
13 will, or under conditions in which Defendant knew, or should have known, that the said
14 MARCIA PETERSEN was mentally or physically incapable of resisting or understanding
15 the nature of Defendant's conduct.

16 COUNT 4 - OPEN OR GROSS LEWDNESS

17 did then and there willfully and unlawfully commit an act of open or gross lewdness
18 by the Defendant touching and/or rubbing and/or pinching the breast(s) and/or nipple(s) of
19 MARCIA PETERSEN with his hand(s) and/or finger(s).

20 COUNT 5 - OPEN OR GROSS LEWDNESS

21 did then and there willfully and unlawfully commit an act of open or gross lewdness
22 by the Defendant touching and/or rubbing and/or pinching the breast(s) and/or nipple(s) of
23 MARCIA PETERSEN with his hand(s) and/or finger(s).

24 ///

25 ///

26 ///

27 ///

28 ///

1 COUNT 6 - INDECENT EXPOSURE

2 did then and there intentionally, willfully, and unlawfully make an open, indecent,
3 and obscene exposure of the person of MARCIA PETERSEN by then and there deliberately
4 lifting the hospital gown of the said MARCIA PETERSEN to look at her genital opening
5 and/or anal opening and/or buttock(s) and/or breast(s).

6 DATED this 19th day of November, 2008.

7
8 DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

9
10 BY

11 SUMMER CLARKE
12 Deputy District Attorney
Nevada Bar #008988

13 ENDORSEMENT: A True Bill

14
15 
16 Foreperson, Clark County Grand Jury
17
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1 Names of witnesses testifying before the Grand Jury:

2 PETERSEN, MARCIA

7712 Constanso Ave #104, LVN

3
4 Additional witnesses known to the District Attorney at time of file the Indictment:

5 SAUNDERS, MICHAEL

LVMPD #6076

6 PETERSEN, MARSHAL

9164 Accomplishment Ct, LVN

7 PETERSEN, MICAH

9164 Accomplishment Ct, LVN

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27 08AGJ078X/08F13671X/mj
28 LVMPD EV#0806151655
(TK7)

ORIGINAL

WARR

DISTRICT COURT
CLARK COUNTY, NEVADA

FILED

Nov 19 12 52 PM '08

THE STATE OF NEVADA,

Plaintiff,

-VS-

STEVEN DALE FARMER
ID#2679879

Defendant.

CASE NO: C249693 *Earl D. Hardcastle*
CLERK OF THE COURT

DEPT NO: XII

WARRANT FOR ARREST

INDICTMENT WARRANT

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An Indictment having been found on the 19th day of November, 2008, in the above entitled Court, charging Defendant STEVEN DALE FARMER, above named, with the crime(s) of: (2) COUNTS - SEXUAL ASSAULT; (3) COUNTS - OPEN OR GROSS LEWDNESS and (1) COUNT - INDECENT EXPOSURE.

YOU ARE, THEREFORE, COMMANDED forthwith to arrest and bring said Defendant before the Court to answer the Indictment. If the Court is not in session, you are to deliver Defendant into the custody of the Sheriff of Clark County, or if requested by Defendant, take Defendant before any Magistrate in the County where arrested that bail may be given to answer to the Indictment. Defendant shall be admitted to bail in the sum of \$ 100,000.00.

I HEREBY AUTHORIZE THE SERVICE OF THE WITHIN WARRANT BY TELETYPE, PURSUANT TO NRS 171.148. The Warrant may be served at any hour day or night

GIVEN under my hand this 19th day of November, 2008.

DAVID ROGER
District Attorney
Nevada Bar #002781

BY

[Signature]
SUMMER CLARKE
Deputy District Attorney
Nevada Bar #008988

[Signature]
DISTRICT JUDGE
KATHY A. HARDCASTLE, CHIEF
BAIL \$ 100,000.00

DA#08AG1078X/08F13671X/dd
LVMPD-EV#080615-1655
03/16/1952; WMA; SS#: 558-86-1676
(TK7) NOV 19 2008

CLERK OF THE COURT

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E. J. H. H.
CLERK OF THE COURT

114
DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781
SUMMER CLARKE
Deputy District Attorney
Nevada Bar #008988
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN DALE FARMER,
ID#2679879

Defendant.

CASE NO: C249693
DEPT NO: XII

INDICTMENT WARRANT RETURN

An Indictment having heretofore been found on the 19th day of November, 2008, in the above entitled Court, charging Defendant STEVEN DALE FARMER, above named, with the crimes of: (2) COUNTS - SEXUAL ASSAULT; (3) COUNTS - OPEN OR GROSS LEWDNESS and (1) COUNT - INDECENT EXPOSURE, and upon finding the said Indictment, the court issued a warrant for the arrest of said Defendant.

I hereby certify that I received a certified copy of the Indictment Warrant and served the same by arresting the within Defendant on the 19 day of NOVEMBER 2008.

DOUGLAS C. GILLESPIE, Sheriff,
Clark County, Nevada

BY

DAVID WEBB #45186
Deputy

MC

WARR

DISTRICT COURT
CLARK COUNTY, NEVADA

FILED

Nov 19 12 52 PM '08

THE STATE OF NEVADA,

Plaintiff,

-VS-

STEVEN DALE FARMER
ID#2679879

Defendant.

CASE NO: C249693

DEPT NO: XII

WARRANT FOR ARREST

INDICTMENT WARRANT

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An Indictment having been found on the 19th day of November, 2008, in the above entitled Court, charging Defendant STEVEN DALE FARMER, above named, with the crime(s) of: (2) COUNTS - SEXUAL ASSAULT; (3) COUNTS - OPEN OR GROSS LEWDNESS and (1) COUNT - INDECENT EXPOSURE.

YOU ARE, THEREFORE, COMMANDED forthwith to arrest and bring said Defendant before the Court to answer the Indictment. If the Court is not in session, you are to deliver Defendant into the custody of the Sheriff of Clark County, or if requested by Defendant, take Defendant before any Magistrate in the County where arrested that bail may be given to answer to the Indictment. Defendant shall be admitted to bail in the sum of \$ 100,000.00

I HEREBY AUTHORIZE THE SERVICE OF THE WITHIN WARRANT BY TELETYPE, PURSUANT TO NRS 171.148. The Warrant may be served at any hour day or night

GIVEN under my hand this 19th day of November, 2008.

DAVID ROGER
District Attorney
Nevada Bar #002781

BY

SUMMER CLARKE
Deputy District Attorney
Nevada Bar #008988

DISTRICT JUDGE
KATHY A. HARDCASTLE, CHIEF
BAIL \$100,000.00

DA#08AGJ078X/08F13671X/dd
LVMPD EV#080615-1655
03/16/1952; WMA; SS#: 558-86-1676
(TK7)

NOV 19 2008
CLERK OF THE COURT
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

CLERK OF THE COURT

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EIGHTH JUDICIAL DISTRICT COURT

ORIGINAL

CLARK COUNTY, NEVADA

FILED

DEC 2 12 59 PM '08

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID

DISTRICT COURT

CLERK OF THE COURT

0249693

THE STATE OF NEVADA,

Case No. 08AGJ078X

Plaintiff,

-vs-

STEVEN DALE FARMER,

Defendant.

Taken at Las Vegas, Nevada

Tuesday, November 18, 2008

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danette L. Antonacci, C.C.R. No. 222

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-CE45

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DEC - 2 2008
CLERK OF THE COURT

GRAND JURORS PRESENT ON NOVEMBER 18, 2008:

WALTER R. OLENDERSKI, Foreman

KARL MACDONALD, Deputy Foreman

DEIDRA MARLEY, Secretary

TOMMY URIBE, Assistant Secretary

MICHELLE ANDERTON

PAUL BACA

JAMES DUPLISEA

JOHN EATON

RUBYMIRA GERNHUBER

JUDITH KASKY

PATRICIA KELLY

JOAN MCMAKEN

JAMES PROVENZANO

THOMAS QUINLAN

JOHN SHIPP

LUIS SIMONEDI

JAMES TAYLOR

Also present at the request of the Grand Jury:
Summer Clarke,
Michael Bolenbaker,
Deputy District Attorneys

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

13

1

INDEX OF WITNESSES

2

3

Examined

4

MARCIA PETERSEN

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DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

INDEX OF EXHIBITSGrand Jury ExhibitsIdentified

1 - proposed Indictment

5

2 - photograph

11

13

1 LAS VEGAS, NEVADA, TUESDAY, NOVEMBER 18, 2008

2 * * * * *

3
4 DANETTE L. ANTONACCI,

5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 MS. CLARKE: Ladies and gentlemen, my name is
10 Summer Clarke. This is Michael Bolenbaker who is going to
11 be sitting in who is prosecuting the case with me. We are
12 assigned to present Grand Jury case number 08AGJ078X, State
13 of Nevada versus Steven Dale Farmer. I'd like the record
14 to reflect that we have marked a copy of the proposed
15 Indictment as Exhibit Number 1. Do all members of the
16 Grand Jury have a copy of that?

17 A JUROR: Yes.

18 A JUROR: Yes.

19 MS. CLARKE: The defendant Steven Dale Farmer
20 in this case is charged with one count of sexual assault,
21 five counts of open or gross lewdness and two counts of
22 indecent exposure, committed at and within Clark County, on
23 or between May 13, 2008 and May 20th of 2008. I am
24 required by law to advise you of the elements of these
25 charges.

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

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Sexual assault. A person who subjects another person to sexual penetration against the victim's will or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

As used in these instructions, sexual penetration means any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another.

Physical force is not a necessary ingredient in the commission of the crime of sexual assault.

Open or gross lewdness. Every person who willfully commits any lewd or lascivious act upon the body of another person in an offensive manner is guilty of the crime of open or gross lewdness.

With reference to this crime, you are instructed that the word open is used to modify the term lewdness. As such, it includes acts which are committed in a private place, but which are nevertheless committed in an open as opposed to a secret manner.

You are further instructed that the term gross is defined as being indecent, obscene or vulgar.

1 The term lewdness is defined as any act
2 of a sexual nature which the actor knows is likely to be
3 observed by the victim who would be affronted by the act.

4 Finally indecent exposure. Every person
5 who makes any open and indecent or obscene exposure of his
6 person or of the person of another, is guilty of indecent
7 exposure.

8 Do any members of the Grand Jury have
9 questions with regard to the charged offenses?

10 And if I could -- I'm sorry, who is the
11 secretary?

12 If I could get this marked as Grand Jury
13 proposed Exhibit 2. Thank you.

14 My first witness is Marcia Petersen.
15 And I'll go get her.

16 THE FOREPERSON: Please raise your right hand.

17 MS. CLARKE: Marcia, if you could raise your
18 right hand. They are going to administer the oath.

19 THE FOREPERSON: Do you solemnly swear the
20 testimony you are about to give upon the investigation now
21 pending before this Grand Jury shall be the truth, the
22 whole truth, and nothing but the truth, so help you God?

23 MS. PETERSEN: I do.

24 THE FOREPERSON: You are advised that you are
25 here today to give testimony in the investigation

1 pertaining to the offenses of sexual assault, open or gross
2 lewdness, indecent exposure, involving Steven Dale Farmer.

3 Do you understand this advisement?

4 MS. PETERSEN: I couldn't hear you. I'm
5 sorry.

6 THE FOREPERSON: Okay. You are advised that
7 you are here today to give testimony in the investigation
8 pertaining to the offenses of sexual assault, open or gross
9 lewdness and indecent exposure, involving Steven Dale
10 Farmer.

11 Do you understand this advisement?

12 MS. PETERSEN: Yes.

13 THE FOREPERSON: Please state your first and
14 last name and spell both for the record.

15 MS. PETERSEN: Marcia Petersen. M-a-r-c-i-a,
16 P-e-t-e-r-s-e-n.

17 THE FOREPERSON: Thank you.

18 MS. CLARKE: Thank you.

19

20 MARCIA PETERSEN,

21 having been first duly sworn by the Foreperson of the Grand
22 Jury to tell the truth, the whole truth, and nothing but
23 the truth, testified as follows:

24

25 ///

EXAMINATION

BY MS. CLARKE:

Q Miss Peterson, I would like to direct your attention to May 13th to May 20th of this year. Were you a patient at Centennial Hills Hospital?

A Yes.

Q And is that located here in Las Vegas, Clark County?

A Yes.

Q What is your date of birth?

A 5/9/57.

Q What medical condition do you suffer from currently?

A I suffered brain trauma in March which left me with a seizure disorder and uncontrollable sensory overload.

Q How long have you suffered from seizures?

A Off and on since '92 but haven't ever had to have medication for them nor have they ever been this extensive or damaging to me.

Q You could actually if you want to put that back in if that would be easier, that ear plug.

Is it okay?

A Yes, I can hear you. Then can I move this?

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14

1 Q Yes, you can.

2 A Thank you. My depth perception is affected so
3 seeing that, it's --

4 Q Is that better?

5 A Uh-huh.

6 Q Okay. How many seizure episodes might you
7 suffer from at a given time?

8 A If I have a seizure it's not just one seizure,
15 I can have anywhere from seven to thirty-two seizures in an
10 episode.

11 Q When is the last seizure that you had?

12 A This past Saturday.

13 Q And do you have seizures multiple times in a
14 month?

15 A Yes. Like in the month of July I had a
16 seizure every other day.

17 Q What happens after you have a seizure?

18 A After -- when I have -- when I have a seizure
19 my body clenches up and tightens up, everything seizes up,
20 I don't know what's going on around me. When I come out of
21 my seizure I can't talk and when I can finally talk it's a
22 long, drawn out stutter. I can't move.

23 Q Would it be fair to say that you're completely
24 immobilized after a seizure?

25 A Yeah, I can't move anything after a seizure.

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1 Q Can that state last for a long time?

2 A It can last up to forty-eight hours.

3 Q So the time that you can't move your body or
4 you can't speak can last up to two days after a seizure?

5 A Yes.

6 Q During May 13th to May 20th when you were in
7 Centennial Hills, did you go there because of a seizure?

8 A Yes. I was in the parking lot of a grocery
9 store and started to have seizures.

10 Q How did you get to Centennial Hills Hospital?

11 A Ambulance.

12 Q While there did you come into contact with
13 someone named Steve?

14 A Yes.

15 Q And I'm sorry, if I could I'm going to get up
16 and grab something that I should have grabbed before we
17 started.

18 Marcia, I'm showing you what has been
19 marked as Grand Jury, State's Grand Jury proposed Exhibit
20 2. Do you recognize that?

21 A Steve.

22 Q Is that the same person that you met when you
23 were at Centennial Hills Hospital?

24 A Yes.

25 Q Did you later learn his name to be Steve

.1 Farmer?

2 A Later I learned his last name, but while,
3 first thing he introduced himself to me.

4 Q And is this a fair and accurate depiction the
5 way he looked back in May of 2008?

6 A Yes. White hair.

7 Q Do you remember what Steve told you when he
8 first introduced himself to you?

9 A He introduced himself as my name is Steve, and
10 I know he said I'll be taking care of you.

11 Q What was he wearing?

12 A Some blue --

13 Q Blue shirt?

14 A Yeah. You know what they wear, nurse's smock
15 I think, something like that.

16 Q And did you, when you were first, when he
17 first introduced himself to you, were you able to speak at
18 that point?

19 A No, I couldn't speak or move at that time he
20 introduced himself.

21 Q So you were lying on the hospital bed
22 immobilized?

23 A Yes.

24 Q Can you describe the room that you were in?

25 A I was the only one in the room, it's just one,

1 just me, one, one bed. I remember the door to, to the foot
2 of the bed to the left and a window next next to it over
3 here.

4 Q Can you tell me about the time that Steve was
5 lifting your hospital gown?

6 A Yeah. He said he needed -- straightening my
7 bed, but had hem of my gown and was lifting it up and
8 looking at me and then putting it down and then lifting it
9 up and putting it down.

10 Q What were you wearing underneath your hospital
11 gown?

12 A Nothing.

13 Q Was your vagina exposed?

14 A Yes.

15 Q And was your buttocks exposed?

16 ~~A I was laying on my back but my whole top was~~
17 exposed so.

18 Q You said that he said that he was trying to
19 straighten your bed?

20 A Yes.

21 Q And then he pulled up your gown how many
22 times?

23 A Twice that I remember at that time.

24 Q Can you tell me about a time that he woke you
25 up concerning a bowel movement?

1 A Yeah. I, actually I woke up and he was
2 standing there and moved my right leg and then told me that
3 I had some bowel movement, but I knew I didn't, and then he
4 lifted my leg up into the air as if he were like putting --
5 I don't know how to explain.

6 Q Let me ask you this. You said you knew you
7 didn't have a bowel movement?

8 A Right.

9 Q So even though your body is immobilized after
10 a seizure you still know if you have a bowel movement?

11 A Yeah. Yeah. I know if I'm having bodily
12 functions or -- yeah, like urination or bowel movement.

13 Q At this point in your stay were you still
14 unable to speak?

15 A Yes.

16 Q ~~And were you still unable to move?~~

17 A Yes.

18 Q After he lifted your leg up in the air --
19 actually let me ask you a different question.

20 As a result of the seizures have you spent
21 time in hospitals before, in different hospitals before?

22 A If --

23 Q Before this time at Centennial Hills.

24 A Before -- I don't understand. I'm sorry.

25 Q Would it be fair to say that you've spent time

1 in hospitals after seizures, after you have had seizures
2 over the years?

3 Bad question too? Let me rephrase that.

4 Has anyone ever lifted your leg like
5 that after you've had a bowel movement?

6 A No. I've been hospitalized before and never,
7 never had, never had anybody do that. And if you, if you,
8 if you have something like that you have blue pads under
9 you that would need to be changed and, bed changed, and
10 none of that happened.

11 Q After he lifted your leg what he do with his
12 hand?

13 A He put his, he put his thumb in my rectum.

14 Q Prior to -- and did his thumb actually go
15 inside of your rectum?

16 A Yes.

17 Q Prior to his thumb going inside of your
18 rectum, did he place his hand or move his hand anywhere
19 else?

20 A One of his fingers, yes, was on my vagina.

21 Q You mentioned the pad and changing the bed.
22 After he inserted his thumb -- actually let me ask a
23 different question.

24 Did he say anything to you after he,
25 when he was doing that?

1 A No, not that I remember. I just remember him
2 telling me that I had some bowel movement.

3 Q At this point were you on medication in the
4 hospital?

5 A Yes.

6 Q Were you still aware of what was going on
7 around you?

8 A Yes.

9 Q Do you recall that blue pad being changed at
10 all?

11 A No.

12 Q Was that blue pad changed?

13 A No. No.

14 Q Were any of the bed sheets changed?

15 A No.

16 Q Did anyone come into your room and help. --

17 A No.

18 Q -- clean up?

19 A No, nobody came into my room when he was in my
20 room at all.

21 Q Do you remember how long that lasted?

22 A No.

23 Q After it happened did you tell anyone right
24 away?

25 A I couldn't talk. I couldn't talk and -- I

1 couldn't talk.

2 Q Did the defendant touch any other part of your
3 body?

4 A Yes. He came into my room and told me that
5 one of my heart leads had come undone and he was pinching
6 my right nipples. Nipple.

7 Q Your right nipple?

8 A Yes.

9 Q Was he saying anything when he was doing that?

10 A Only thing I remember is that he said that my,
11 one of my leads had come undone.

12 Q Let me ask you, Marcia, did you feel any of
13 your leads come undone?

14 A No.

15 Q Did you see any of your leads come undone?

16 A No, nor did I hear my monitor in my room give
17 off a beep that tells you that something is undone.

18 Q So based on the time you've spent in hospitals
19 in the past you knew that when the lead was undone you
20 usually heard beeping?

21 A Yes.

22 Q And there was no beeping this time?

23 A No.

24 Q When he was pinching your right nipple, was
25 this still during the time period that you couldn't speak?

16

1 A Yes.

2 Q Was it still during the time period that you
3 couldn't move?

4 A Yes.

5 Q How many times -- actually, other than that
6 time was there any other time the defendant touched you
7 inappropriately?

8 A Yes, he came in and did, said the same thing,
9 that one of my heart leads, one of the leads was undone,
10 and he then was pinching both my nipples.

11 Q So this other time he was pinching both of
12 your nipples?

13 A Yes.

14 Q Was he doing that at the same time with both
15 hands or was it one nipple and then the other?

16 A Both ways.

17 Q Okay. Both ways that time?

18 A Yes.

19 Q Okay. So let me just make sure I understand.
20 He would touch one nipple and then the other and also touch
21 them both at the same time?

22 A Yes.

23 Q So it was more than just one time when he
24 placed his hands on your nipples?

25 A Yes.

16 1 Q And all of this was during the May 13th to May
2 20th hospital stay?

3 A Yes.

4 Q And was it your belief that he worked for
5 Centennial Hospital?

6 A Yes.

7 Q Okay. Other than having the blue smock that
8 he had on, was there anything else that made you think he
9 worked at the hospital?

10 A Just that he, the way he introduced himself
11 and then next day my heart went in a fibrillation and I, I
12 had lots of people in my room because my heart went into a
13 fib, and he came into the doorway and told me that I was
14 not assigned to him that day but he just wanted to see how
15 I was doing and hoped that I felt better soon.

16 Q ~~Was anyone else in the room when he said that?~~

17 A Yes, nurse and I think a doctor or another
18 nurse.

19 Q When your heart went into a defibrillation,
20 were you taken to a different room?

21 A Yes, I was taken to a different floor, to I
22 think it's MCU so they could regulate my heart.

23 Q When the defendant inserted his thumb into
24 your rectum, did you want that to happen?

25 A No.

17 1 Q Did you want him to touch you anywhere on your
2 body?

3 A No.

4 Q And had you not been immobilized -- actually
5 let me ask it a different way.

6 Every time he touched you you were
7 unable to speak; is that true?

8 A Yes.

9 Q And you were unable to move; is that true?

10 A Yes.

11 Q Can you tell us about the time you had the
12 catheter in when he came into your room?

13 A He came in and said to check my catheter but
14 was, was touching, touching my, my vagina, lower than where
15 a catheter is and had one of his fingers touching it, my
16 vagina.

17 Q Did any of his fingers actually go inside your
18 vagina that you remember?

19 A Yes.

20 Q Okay. Were there any other times Steve
21 touched you either on your breasts or your vagina or your
22 buttocks while you were staying at Centennial Hospital in
23 May?

24 A No, I don't believe so. And after I, after I
25 went to the other room I was on a completely different

1 floor.

2 Q And you never saw him after that?

3 A Right.

4 Q Who did you first tell about what happened to
5 you at the hospital?

6 A It took about twenty-four hours for my heart
7 to become steady and after my heart became steady I told my
8 two sons, I told them that there was a nurse on the other
9 floor, his name was Steve and he had white hair and that
10 he, what he had done.

11 Q And did you tell your sons about what happened
12 while you were still in the hospital?

13 A Yes.

14 Q Did you have a conversation with one of your
15 sons after you got out of the hospital?

16 A Yes.

17 Q Okay. In between that time did you call the
18 police at all?

19 A What?

20 Q After you first told your sons about what
21 happened, did your sons call the police?

22 A No.

23 Q Did you call the police?

24 A Not at that time. Not at that time.

25 Q Okay. Tell me about the conversation you had

1 with your son about a month later in June.

2 A My oldest son came outside where I was sitting
3 and asked me what, what I, the guy's name was that I had
4 told them about in the hospital and I told him that the
5 guy's name was Steve, and he said with white hair, and I
6 said yeah, it's Steve and he had white hair, and he said he
7 had just seen him on TV, he had been arrested for
8 assaulting a patient in Centennial.

9 Q Okay. Just one minute.

10 Just for the record, the statements of
11 her son are offered only for presence sense impression in
12 terms of what she did next as a result of that. You are
13 not to consider the fact that he was arrested in relation
14 to any other case or any other patient, only this case.
15 It's only meant to explain how and when she reported the
16 defendant's actions.

17 And why was it that you waited a month
18 before you finally reported it?

19 A Because of the number of seizures that I've
20 had, I've been in the hospital every month since May
21 because of seizures, anywhere from three to ten days
22 hospitalized so.

23 Q In case I didn't ask you, when Steve inserted
24 his finger into your vagina the time with the catheter, you
25 didn't consent to that behavior, did you?

17 1 A No.

 2 Q Okay. And you didn't want that to happen?

 3 A No.

 4 Q In fact you didn't want any of this to happen?

 5 A No.

 6 Q Okay.

 7 A No.

 8 Q Okay.

 9 A He's -- he's a --

 10 Q Okay. Thank you. That's fine. Thank you.

 11 Ladies and gentlemen, at this time I

 12 have concluded my questioning of this witness. Do any

 13 members of the Grand Jury have any questions?

 14 BY A JUROR:

 15 Q How many instances were there when he touched

 16 your breasts?

 17 A I'm sorry, say it again.

 18 Q How many different times were there that he

 19 touched your breasts?

 20 A How -- how --

 21 BY MS. CLARKE:

 22 Q How many different times did the defendant

 23 come in and touch your breasts?

18 24 A Two. Two different, two different times.

 25 A JUROR: Thank you.

MS. CLARKE: Any other questions?

And I will be making some amendments to the Indictment.

THE FOREPERSON: No?

By law these proceedings are secret and you are prohibited from disclosing to anyone anything that has transpired before us, including evidence and statements presented to the Grand Jury, any event occurring or statement made in the presence of the Grand Jury, and information obtained by the Grand Jury.

Failure to comply with this admonition is a gross misdemeanor punishable by a year in the Clark County Detention Center and a \$2,000 fine. In addition, you may be held in contempt of court punishable by an additional \$500 fine and 25 days in the Clark County Detention Center.

Do you understand this admonition?

THE WITNESS: Yes.

THE FOREPERSON: Thank you for your testimony.

You are excused.

THE WITNESS: Okay.

MS. CLARKE: Thank you Marcia. I'm going to have someone take you.

THE WITNESS: Okay.

Not, not backwards, not backwards.

1 MS. CLARKE: Ladies and gentlemen, at this
2 time that concludes the presentation of evidence this
3 morning, however I would be amending the Indictment to add
4 one count of sexual assault. It would read "did then and
5 there willfully, unlawfully and feloniously sexual assault
6 and subject Marcia Petersen, a female person, to sexual
7 penetration, to-wit: digital penetration, by inserting his
8 finger," open paren close paren, "into the genital opening
9 of the said Marcia Petersen, against her will or under
10 conditions in which the defendant knew or should have known
11 that the said Marcia Petersen was mentally or physically
12 incapable of resisting or understanding the nature of the
13 defendant's conduct."

14 The State would be asking that for Count
15 2, open or gross lewdness, that that be an alternative to
16 Count, to the count that I just added. So if at trial the
17 jury determines that the finger was not actually inserted
18 into her vagina so there wasn't penetration we would have
19 an alternative count of open or gross lewdness. So I ask
20 that Count 2 be alternative to the count I just added.

21 I'd ask you not deliberate on Count 3, I
22 would ask that you not deliberate on Count 6, because the
23 witness stated that he touched or rubbed or pinched her
24 breasts on two occasions. That would be Count 4 and 5.
25 And I would ask that you not deliberate on Count 8, but

.1 that instead on Count 7, to look at her genital opening
2 and/or anal opening and/or buttocks and/or breasts. So I
3 would actually be combining that eighth count into 7.

4 So again it would be, Count 1 would be
5 sexual assault, Count 2 would be open or gross lewdness as
6 an alternative to a later count -- sorry, it's confusing --
7 not deliberate on Count 3, deliberate on Counts 4 and 5,
8 not deliberate on Count 6, deliberate on Count 7 with the
9 amendment of and/or breast, not deliberate on Count 8, and

10 then there would be the additional count of the sexual
11 assault, digital penetration, inserting fingers into her
12 genital opening.

13 Does anyone have any questions about
14 those amendments?

15 A JUROR: That very last one, what number
16 would that be?

17 MS. CLARKE: It would actually be renumbered
18 after we take out Counts 3, 6, 8.

19 A JUROR: How do we vote?

20 MS. CLARKE: Yes, I'm going to step out. I
21 just wanted everyone to be aware of the amendments and see
22 if there are any questions in regard to those.

23 Yes.

24 A JUROR: Was it ever established that this
25 guy worked at the hospital?

1 MS. CLARKE: I don't think she -- I can't
2 answer that for you. She cannot -- she didn't know. But
3 he had the gowns on and the scrubs. I would ask that based
4 on -- my response to that would be even if he did he would
5 have a burden to show that that was within his scope or
6 his, that he would have to show that was within his duties.
7 I've proven enough with the fact that it was against her
8 will, that it constituted those criminal acts, and then
9 that would be something later at trial that we would
10 address.

11 Any other questions?

12 Thank you for your time and I will step
13 out so you can deliberate.

14 Oh, and I would ask that State's
15 proposed 2, I'm going to ask that it be -- never mind.

16 It's been awhile since I've been down here.

17 (At this time, all persons, other than
18 members of the Grand Jury, exit the room at 2:24 p.m. and
19 return at 2:29 p.m.)

20 THE FOREPERSON: Madame District Attorney, by
21 a vote of twelve or more Grand Jurors a true bill has been
22 returned against Defendant Steven Dale Farmer charging the
23 crimes of sexual assault, open or gross lewdness, indecent
24 exposure, in Grand Jury case number 08AGJ078X. We instruct
25 you to prepare an Indictment in conformance with the

.1 proposed Indictment previously submitted to us with the
2 corrections set forth prior.

3 MS. CLARKE: Thank you very much.

4 THE FOREPERSON: Including Count 9, sexual
5 assault.

6 MS. CLARKE: Thank you. Appreciate it.

7
8 (Proceedings concluded.)

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--ooOoo--

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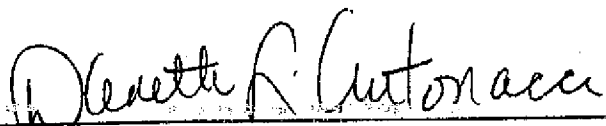
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REPORTER'S CERTIFICATE

STATE OF NEVADA)
: SS
COUNTY OF CLARK)

I, Danette L. Antonacci, C.C.R. 222, do hereby
certify that I took down in Shorthand (Stenotype) all of
the proceedings had in the before-entitled matter at the
time and place indicated and thereafter said shorthand
notes were transcribed at and under my direction and
supervision and that the foregoing transcript constitutes a
full, true and accurate record of the proceedings had.

Dated at Las Vegas, Nevada, December 1, 2008.


Danette L. Antonacci, C.C.R. No. 222

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

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AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER

08AGJ078X:

✓ Does not contain the social security number of any person,

-OR-

 Contains the social security number of a person as required by:

A. A specific state or federal law, to-wit: NRS 656.250

-or-

B. For the administration of a public program or for an application for a federal or state grant.

Danette L. Antonacci
Signature

12/1/08
Date

Danette L. Antonacci
Print Name

Official Court Reporter
Title

19

DANETTE L. ANTONACCI, C.C.R. 222 (702) 361-1947

ORIGINAL

FILED

2008 DEC 30 P 2:19

E. J. Kohn
CLERK OF THE COURT

1 PHILIP J. KOHN, PUBLIC DEFENDER
2 NEVADA BAR NO. 0556
3 309 South Third Street, Suite 226
4 Las Vegas, Nevada 89155
5 (702) 455-4685
6 Attorney for Defendant

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

12 STEVEN DALE FARMER,

13 Defendant.

CASE NO. C245739

DEPT. NO. ~~XX~~ *F*

DATE: January 12, 2009

TIME: 8:30 a.m.

9:00

14 MOTION FOR DISCOVERY

15 COMES NOW, the Defendant, STEVEN DALE FARMER, by and through
16 STACEY ROUNDTREE, Deputy Public Defender and hereby respectfully request this Honorable
Court grant this Motion for Discovery.

17 This Motion is made and based upon all the papers and pleadings on file herein and
18 oral argument at the time set for hearing this Motion.

19 DATED this 30 day of December 2008.

20 PHILIP J. KOHN
21 CLARK COUNTY PUBLIC DEFENDER

22 By: *Stacey Roundtree*
23 STACEY ROUNDTREE, #4735
24 Deputy Public Defender

CLERK OF THE COURT

RECEIVED
DEC 30 2008

RELEVANT STATEMENT OF FACTS

1
2 Defendant, Steven Allen Farmer (FARMER) is a Certified Nursing Assistant by
3 trade. He was employed by Rawson-Neal Mental Health Facility during 2007 as an assistant to the
4 psychiatric patients. During 2008, FARMER was employed by Centennial Hills Hospital as a
5 CNA. The scope of FARMER'S duties as a CNA are probably an issue in this case.

6 This case now involves a total of 5 alleged victims of various types of sexual abuse.
7 The alleged victims include: Roxanne Cagnina, Denise Hanna, Ledhalia Spurlock, Heather Shank
8 and Frances Rose. The basic allegations of all of these women are that FARMER sexually abused
9 them while under his care when he was acting as a CNA. Complainants Cagnina, Hanna,
10 Spurlock, and Shank were allegedly abused at Centennial Hills Hospital where the women were
11 patients. Complainant Rose was allegedly abused by FARMER while under his care at the
12 Rawson-Neal Mental Health Facility, where she was involuntarily committed by her family
13 following strange behavior. The dates of her alleged abuse were during December of 2007. Rose
14 alleges that FARMER caused her to place her hand on his penis while she was under his
15 psychiatric care.

16 Complainant Shank was allegedly sexually abused on May 15, 2008. Complainant
17 Hanna was allegedly sexually abused on May 16, 2008. Hanna and Shank allege that FARMER
18 acted inappropriately by deliberately and for a lewd purpose exposing their breasts under the guise
19 of checking or removing their EKG leads. Complainant Ledhalia Spurlock was allegedly sexually
20 abused by FARMER after being admitted to the Hospital following a failed suicide attempt. She
21 alleges that FARMER pulled at her feet causing them to be jammed into his groin for a lewd
22 purpose while she lay in the hospital bed under FARMER'S care.

23 Complainant Cagnina is the only person who contacted an authority to divulge the
24 alleged sexual abuse on the night it allegedly happened. Once she made her disclosure, police
25 embarked upon a media campaign to make contact with other possible victims of abuse by posting
26 FARMER'S face on the news and asking for victims to come forward. (PHT). Some
27 complainants were contacted by metropolitan police personally to see if they had problems with
28 FARMER'S medical care. (PHT)

1 All of the complainants were taking prescription medication during the time of their
2 alleged sexual abuse by FARMER. At least one of the complainants, Roxanne Cagnina, has
3 reportedly filed a civil lawsuit against the Centennial Hills Hospital as a result of FARMER'S
4 alleged abuse.

5 POINTS AND AUTHORITIES

6 **FAILURE BY THE STATE TO PROVIDE DISCOVERY IS A VIOLATION** 7 **OF THE DUE PROCESS UNDER THE U.S. CONSTITUTION AND THE** 8 **NEVADA CONSTITUTION**

9 The State must provide to the defense all exculpatory evidence in its actual or
10 constructive possession prior to trial. Failure to do so results in a violation of the Due Process
11 Clauses of the Fifth and Fourteenth Amendments of the United States Constitution. The rule
12 applies regardless of how the State has chosen to structure its overall discovery process. Brady v.
13 Maryland, 373 U.S. 83 (1963); Kyles v. Whitley, 514 U.S. 419 (1995); Strickler v. Greene, 527
14 U.S. 263 (1999).

15 Article 1, Section 8 of the Nevada Constitution guarantees every defendant a right
16 to due process. Therefore, a failure by the State to provide discovery is also a violation of the
17 Nevada Constitution. "It is a violation of due process for the prosecutor to withhold exculpatory
18 evidence, and his motive for doing so is immaterial...The prosecutor represents the state and has a
19 duty to see that justice is done in a criminal prosecution." Jimenez v. State, 112 Nev. 610, 618
(1996).

20 **THE STATE MUST TURN OVER ALL EVIDENCE THAT IS MATERIAL, RELEVANT** 21 **TO GUILT OR PUNISHMENT, FAVORABLE TO THE ACCUSED AND WITHIN THE** 22 **ACTUAL OR CONSTRUCTIVE POSSESSION OF THE STATE**

23 Material that must be turned over by the State is evidence which is 1) material, 2)
24 relevant to guilt or punishment, 3) favorable to the accused, 4) and within the actual or
25 constructive possession of anyone acting on behalf of the State. *Brady, supra*.

26 Material

27 Evidence is material if there is a reasonable probability that the result would have
28 been different if the evidence had been disclosed. After a specific request for evidence, omitted

1 evidence is material if there is a reasonable possibility it would have affected the outcome. Lay v.
2 State, 116 Nev. 1185, 1194 (2000).

3 The defense does not have to show that disclosure would have resulted in an
4 acquittal. Kyles, supra at 434. A reasonable probability is when nondisclosure undermines the
5 confidence in the outcome of the trial. *Id.*

6 Relevant to Guilt or Punishment

7 Brady material applies not only to evidence which might affect the defendant's
8 guilt, but also includes evidence which could serve to mitigate a defendant's sentence if convicted.
9 In Brady, the petitioner argued he was denied due process when a statement by his accomplice, in
10 which the accomplice admitted to being the one who did the actual killing, was withheld by the
11 State. Brady was given the death penalty. The court found that this was a violation of due
12 process and that a lower court was correct to give Brady a new hearing on penalty.

13 Other examples of this kind of evidence could be evidence of a diminished mental
14 state, even if not rising to a legal defense, evidence that the defendant was using drugs or alcohol
15 at the time of the offense, evidence that the defendant was under some kind of duress or mistaken
16 belief, evidence that the defendant tried to turn himself in, evidence that the defendant tried to seek
17 help, cooperation with law enforcement, and any similar type of evidence.

18 Favorable to the Accused

19 The Nevada Supreme Court has spoken directly to what is considered "favorable to
20 the accused" and therefore proper Brady material. In Mazzan v. Warden, 116 Nev. 48, 67 (2000)
21 the court stated:

22 Due process does not require simply the disclosure of "exculpatory" evidence.
23 Evidence also must be disclosed if it provides grounds for the defense to attack the
24 reliability, thoroughness, and good faith of the police investigation, to impeach the
25 credibility of the state's witnesses, or to bolster the defense case against
26 prosecutorial attacks.... Furthermore, "discovery in a criminal case is not limited
27 to investigative leads or reports that are admissible in evidence."... Evidence "need
28 not have been independently admissible to have been material." *Id.*

29 Material favorable to the accused is defined broadly and would include any
30 inconsistent statements by victims or witnesses, any pending charges or benefits or promises made

1 to anyone material to the case, any leads or information not followed up, any criminal history of
2 any witness or victim, any forensic testing done on any evidence, any medical or psychological
3 treatment of any victim or witness. Further, this would include any information relating to the
4 credibility of any witness to include law enforcement officers or other agents of the state.

5 **Possession or constructive possession**

6 A prosecutor is not only responsible for turning over Brady material in his
7 possession; he is equally responsible for Brady material in the possession of any other State agents.
8 Jimenez supra at 620.

9 In Kyles, supra, the United States Supreme Court held:

10 [T]he individual prosecutor has a duty to learn of any favorable evidence known
11 to the others acting on the government's behalf in the case, including the police.
12 But whether the prosecutor succeeds or fails in meeting this obligation (whether,
13 that is, a failure to disclose is in good faith or bad faith, see Brady, 373 U.S. at
14 87), the prosecution's responsibility for failing to disclose known, favorable
15 evidence rising to a material level of importance is inescapable. *Id.* at 437-438.

16 Defendant would submit that other state agents such as probation and parole
17 officers, Child Protective Service workers and their agents, jail personnel, law enforcement
18 personnel, and similar agents of the State are also included in those from whom the prosecution
19 must seek out Brady material. This is clearly an affirmative responsibility, the prosecutor cannot
20 rely on law enforcement or other government agents to come forward with the information, it must
21 be sought out.

22 **THE STATE CANNOT RELY ON AN "OPEN FILE" POLICY TO SATISFY
23 THEIR CONSTITUTIONAL DUTIES TO OBTAIN AND TURN OVER**

24 Based on prior experience, it is anticipated that the prosecution may assert that it
25 has an "open file" policy and that the requested material is not available in its file. This argument
26 is unavailing. In Strickler, supra, at 283, the United States Supreme Court explicitly held that a
27 prosecutor's open file policy does not in any way substitute for or diminish the State's obligation
28 to turn over Brady material.

There can be little question, therefore, that despite its "open file policy," the
prosecution has an affirmative duty to seek out the previously discussed Brady material, regardless

1 of whether such material is in the hands of the prosecutor or in the hands of some other entity
2 acting on behalf of the State.

3 **DEFENDANT'S SPECIFIC REQUESTS FOR BRADY MATERIAL**

4 The following specific requests are meant to help assist the State in their duty to find and
5 turn over the required Material. This request is not in any way intended to be a substitute for the
6 generalized duties described above.

7 1. Any and all Child Protective Service Records to include any and all notes of
8 CPS workers or their agents or assistants. This includes notes of social workers and
9 employees of Child Haven or any other institution where the subject minors may
10 have had contact with CPS while involved with the case. This also includes all
information on all referrals to any physicians, psychologists, psychiatrists, social
workers or other mental health workers or health care providers.

11 2. Any and all records and notes of any mental health workers who have had
12 contact with the subject minor or other family members or anyone else related to
13 events in this case.

14 3. Any and all notes, records, or photographs related to any physical exams
15 done on the subject minor or anyone else in connection with this case, including
DVD's of the video colposcopy associated with the sexual assault exam.

16 4. Any and all records and notes from the victim witness office of the District
17 Attorney to include any and all records of any monetary assistance given to the
18 subject minor and his or her relatives or other family members or guardians. This
19 also includes any benefits received in the way of services or favors or favorable
20 treatment. This is to include the names of any and all agencies and workers that
were given to any family member, relative or guardian in connection with this case,
or relevant to this case. This includes any services or benefits given to any witness
who is related to this case.

21 5. Any and all notes of all interviews of subject minor and material witnesses in
22 the case. To include any and all audio and video recordings of such interviews.
23 This includes any notes of interviews that were not later recorded, such as notes of
24 patrol officers, or notes of phone calls made to potential witnesses, or attempts to
contact such witnesses. To include any and all contact information known about all
material witnesses in the case, if not otherwise provided in the discovery given.

25 6. Any information on any criminal history of any material witness in the case,
26 to include any juvenile record, misdemeanors, or any other information that would
27 go to the issue of credibility and bias, whether or not the information is admissible
28 by the rules of evidence.

1 7. Any and all information known or which could be known by the diligent
2 actions of the State of any previous allegations of sexual misconduct made by the
3 subject minor or any material witness in the case. To include any and all
4 information or any possible false accusations made by the subject minor or any
5 material witness in the case. This includes as well, any and all information relating
6 to sources of sexual knowledge, outside the alleged events, which are known or
7 which the State should find by a diligent search.

8 8. Any and all information which shows that the defendant did not commit the
9 crimes alleged.

10 9. Any notes of any statements by the defendant, to include any notes of patrol
11 officers or other agents of the State who have had contact with the defendant, if not
12 given already in discovery. This includes any and all notes and reports of any
13 polygraph done by the State, including all of the raw data and graphs, preliminary
14 reports and printouts from such polygraph(s).

15 10. All relevant reports of chain of custody. All reports of any destruction of any
16 evidence in the case.

17 11. Any inconsistent statements made by the subject minor or any material
18 witness in the case. This includes any inconsistent statements made to any employee
19 or representative of the District Attorney's office.

20 12. Any and all notes and reports of any expert in the case, to include mental
21 health workers. This includes any preliminary reports or notes, not included in a
22 final report.

23 13. Any photographs of any lineups done or any other photographs in the case,
24 not already given in discovery. This includes any photos taken at any medical
25 exams as well as photos taken by law enforcement.

26 14. Any 911 recordings to include the relevant dispatch log.

27 15. Roxanne Cagnina has filed a lawsuit against the Hospital. If any other
28 complaining witnesses have filed a lawsuit in regards to the allegations in this case,
FARMER deems that information discoverable exculpatory evidence which should
be turned over by the state. [It should be noted that questions related to lawsuits of
the complaining witnesses were asked at the preliminary hearing in this case, but
the justice of the peace sustained the State's objection to our questions and the
information was never revealed. The case law cited herein makes clear that such
information is relevant and discoverable material.]

16 16. Frances Rose has numerous mental health issues for which she has been
17 medicated and hospitalized for the past several years. (PHT) FARMER asks this
18 court to order the state to enquire about Rose's prior mental health history and prior
19 hospitalizations (other than the one where the alleged crime against her occurred in
20 this case) and to turn such information to the defense as potentially exculpatory,
21 relevant information. If any other complaining witnesses in this case have prior

1 mental health histories (indeed Ledelia Spurlock was hospitalized in this case for
2 attempted suicide when the alleged abuse of her occurred) FARMER asks this court
3 to order the State to inquire about other mental health histories or prior mental
4 hospitalizations of other complaining witnesses, to be revealed to the defense if
5 such exists.

6 DATED this 30th day of December, 2008.

7 PHILIP J. KOHN
8 CLARK COUNTY PUBLIC DEFENDER

9 By: Stacey Roundtree
10 STACEY ROUNDTREE, #4735
11 Deputy Public Defender
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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the
above and foregoing Motion on for hearing before the Court on the 12th day of January, 2009, at
8:30 a.m.

DATED this 30th day of December, 2008.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: Stacey Roundtree
STACEY ROUNDTREE, #4735
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Motion for Discovery is hereby
acknowledged this 30 day of December, 2008.

CLARK COUNTY DISTRICT ATTORNEY

By: [Signature]


CLERK OF THE COURT

1 **OPPS**
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 SUMMER C. CLARKE
6 Deputy District Attorney
7 Nevada Bar #008988
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

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

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -VS-

13 STEVEN DALE FARMER,
14 #2679879

15 Defendant.

CASE NO: C245739

DEPT NO: I

16 **STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR DISCOVERY**

17 DATE OF HEARING: JANUARY 20, 2009
18 TIME OF HEARING: 8:30 A.M.

19 COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through
20 SUMMER CLARKE, Deputy District Attorney, and hereby submits the attached Points and
21 Authorities in Opposition to Defendant's Motion for Discovery.

22 This Opposition is made and based upon all the papers and pleadings on file herein,
23 the attached points and authorities in support hereof, and oral argument at the time of
24 hearing, if deemed necessary by this Honorable Court.

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STATEMENT OF FACTS

Defendant, STEVEN FARMER, is charged by way of Information with the crimes of Sexual Assault (Felony – NRS 200.364, 200.366); Open or Gross Lewdness (Gross Misdemeanor – NRS 201.210) and Indecent Exposure (Gross Misdemeanor -- NRS 201.220). The crimes occurred on or between December 2007 and May 16, 2008. The victims in this matter are Frances Rose, Ledahlia Spurlock, Heather Shank, Denise Hanna and Roxanne Cagnina. All of the women were patients in medical facilities of which Defendant was employed and, at some point, placed in charge of each woman's care as a nurse's assistant.

Trial of this matter is scheduled to commence on February 9, 2009. On December 30, 2008, Defendant filed a Motion for Discovery. The State's Opposition follows.

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LEGAL ARGUMENT

The State concedes that its obligation to Defendant in this and every other case is to provide discovery pursuant to the provisions of NRS 174.235 et seq., together with any exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963) and its progeny.

NRS 174.235 states:

1. Except as otherwise provided in NRS 174.233 to NRS 174.295 inclusive, at the request of a defendant, the prosecuting attorney shall permit Defendant to inspect and to copy or photograph any:

(a) Written or recorded statements or confessions made by Defendant, or any written or recorded statements made by a witness the prosecuting attorney intends to call during the case in chief of the state, or copies thereof, within the possession, custody or control of the state, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney;

(b) Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case, or copies thereof, within the possession, custody or control of the state, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; and

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1 (c) Books, papers, documents, tangible objects, or copies
2 thereof, which the prosecuting attorney intends to introduce
3 during the case in chief of the state and which are within the
4 possession, custody or control of the state, the existence of which
5 is known, or by the exercise of due diligence may become
6 known, to the prosecuting attorney.

7 2. Defendant is not entitled, pursuant to the provisions of this
8 section, to the discovery or inspection of:

9 (a) An internal report, document or memorandum that is
10 prepared by or on behalf of the prosecuting attorney in
11 connection with the investigation or prosecution of the case.

12 (b) A statement, report, book, paper, document, tangible object
13 or any other type of item or information that is privileged or
14 protected from disclosure or inspection pursuant to the
15 constitution or laws of this state or the Constitution of the United
16 States.

17 3. The provisions of this section are not intended to affect any
18 obligation placed upon the prosecuting attorney by the
19 constitution of this state or the Constitution of the United States
20 to disclose exculpatory evidence to Defendant.

21 In the case of Riddle v. State, 96 Nev. 589, 613 P.2d 1031 (Nev. 1980) the Nevada
22 Supreme Court reaffirmed the strictures of the provisions of our discovery statutes by
23 making the following statement:

24 The trial court is vested with the authority to order the discovery
25 and inspection of materials in the possession of the State. The
26 exercise of the court's discretion however is predicated on a
27 showing that the evidence sought is material to the presentation
28 of the defense and the existence of the evidence is known or, by
the exercise of due diligence may become known to the District
Attorney.

Id. at 390.

Defendant relies on Mazzan v. Warden, 116 Nev. 48, 993 P.2d 25 (2000) by stating
on page 4 of the instant motion: "The Nevada Supreme Court has spoken directly to what is
considered 'favorable to the accused' and therefore proper Brady material." Defendant then
goes on to quote a section of Mazzan to support his contention.

At first blush, Mazzan appears to give the defense a blank check for acquiring any
and all things that exist. However, a closer reading of this case reveals that it did not remove
the other requirements of materiality pursuant to Brady and its progeny:

1 Brady and its progeny require a prosecutor to disclose evidence
2 favorable to the defense when that evidence is *material* either to
3 guilt or to punishment. See Jimenez v. State, 112 Nev. 610, 618-
4 19, 918 P.2d 687, 692 (1996).

5 In other words, evidence is material if there is a reasonable
6 probability that the result would have been different if the
7 evidence had been disclosed. Id.

8 Id. at 66, 36 (emphasis added).

9 In determining its materiality, the undisclosed evidence must be
10 considered collectively, not item by item. Kyles v. Whitley, 514
11 U.S. at 436, 115 S.Ct. 1555. "[T]he character of a piece of
12 evidence as favorable will often turn on the context of the
13 existing or potential evidentiary record." Id. at 439, 1555.

14 Id. at 66-67, 36.

15 In sum, there are three components to a Brady violation: the
16 evidence at issue is favorable to the accused; the evidence was
17 withheld by the state, either intentionally or inadvertently; and
18 prejudice ensued, i.e., the evidence was *material*. Strickler v.
19 Greene, 527 U.S. 263, 119 S.Ct. 1936, 1948, (1999).

20 Id. at 67, 37 (emphasis added).

21 There will only be a Brady violation if the prosecution fails to provide material
22 evidence. As stated in Mazzan, evidence is material if there is a reasonable probability that
23 the result would have been different if the evidence had been disclosed. A reasonable
24 probability is shown when the nondisclosure undermines confidence in the outcome of the
25 trial.

26 Obviously, Mazzan and the majority of the cases that discuss Brady violations are
27 post-conviction proceedings. However, in those cases, it was required that it be shown that
28 the excluded evidence was material in that it might have changed the outcome of the case.
Because Defendant is asking for items which he contends are possibly exculpatory under the
blanket of Mazzan and consequently Brady, it is the State's position that Defendant should
have to show materiality to obtain them.

The State now responds to Defendant's specific requests, which range from pages 6
through 8, as follows:

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- 1 1. Any and all Child Protective Service Records to include any and
2 all notes of CPS workers or their agents or assistants. This
3 includes notes of social workers and employees of Child Haven
4 or any other institution where the subject minors may have had
5 contact with CPS while involved in the case. This also includes
6 all information on all referrals to any physicians, psychologists,
7 psychiatrists, social workers or other mental health workers or
8 health care providers. Specifically, any and all records related to
9 the counseling services rendered by Rosalie Montoya (Family
10 Division).

11 The victims in this case are not minor children; they are adult women who were
12 sexually assaulted while getting medical attention at Centennial Hills Hospital Medical
13 Center and/or various other medical facilities in town, where Defendant was employed as a
14 Nurse's Assistant. Defendant has not family ties with these victims and none of these
15 victims are his children, thus no interaction with CPS, with any of the victims, occurred in
16 this case.

- 17 2. Any and all records and notes of any mental health workers who
18 have had contact with the subject minor or other family members
19 or anyone else related to events in this case.

20 Again, these victims are not "subject minors" they are adult women who were
21 sexually assaulted by Defendant while receiving medical treatment. Moreover, the records
22 and notes of mental health workers who have had contact with these victims and/or their
23 families are privileged pursuant to NRS 174.235(2)(b), and the following Nevada Revised
24 Statutes as indicated:

25 NRS 49.209:

26 A patient has a privilege to refuse to disclose and to prevent any
27 other person from disclosing confidential communications
28 between himself and his psychologist or any other person who is
participating in the diagnosis or treatment under the direction of
the psychologist, including a member of the patient's family.

29 NRS 49.225:

30 A patient has a privilege to refuse to disclose and to prevent any
31 other person from disclosing confidential communications
32 among himself, his doctor or persons who are participating in the
33 diagnosis or treatment under the direction of the doctor,
34 including members of the patient's family.

35 //

1 NRS 49.252:

2 A client has a privilege to refuse to disclose, and to prevent any
3 other person from disclosing confidential communications
4 among himself, his social worker or any other person who is
5 participating in the diagnosis or treatment under the direction of
6 the social worker.

7 Defendant is not entitled to the requested mental health records of the victims in this
8 case, nor is Defendant entitled to notes and records of any of the victims' family members.

- 9 3. Any and all notes, records, or photographs related to any
10 physical exams done on the subject minor or anyone else in
11 connection with this case, including DVD's of the video
12 colposcopy associated with the sexual assault examination.

13 Any and all notes, records or photographs related to any physical examination of any
14 of the adult victims, including DVD's and video colposcopes associated with the
15 examination either have been or will be turned over by the State upon receipt of the same.

- 16 4. Any and all records and notes from the victim witness office of
17 the District Attorney to include any and all records of any
18 monetary assistance given to the subject minor and his or her
19 relatives or other family members or guardians. This also
20 includes any benefits received in the way of services or favors
21 or favorable treatment. This is to include the names of any and
22 all agencies and workers that were given to any family member,
23 relative or guardian in connection with this case or relevant to
24 this case. This includes any services or benefits given to any
25 witness who is related to this case.

26 5.

27 Defendant is not entitled to these items. Any benefits or assistance given by the
28 Victim Witness Assistance Center (VWAC) to State witnesses certainly cannot be construed
to fall under the same umbrella as inducements offered by the District Attorney for their
testimony. Moreover, Defendant has shown no justification, relevance or materiality for this
request and it should be summarily denied.

6. Any and all notes of all interviews of subject minor and material
witnesses in the case. To include any and all audio and video
recordings of such interviews. This includes any notes of
interviews that were not later recorded, such as notes of patrol
officers, or notes of phone calls made to potential witnesses, or
attempts to contact such witnesses. To include any and all
contact information known about all material witnesses in the
case, if not otherwise provided in the discovery given.

1 Police Officers notes of interviews and telephone calls to witnesses are work product
2 and not discoverable to the Defendant. In this case, copies of the transcribed audio
3 recordings of law enforcement interviews with the adult victims and other material witnesses
4 have and/or will be provided to the Defendant as required by statute.

- 5 7. Any information on any criminal history of any material witness
6 in the case, to include any juvenile record, misdemeanors, or
7 any other information that would go to the issue of credibility or
8 bias, whether or not the information is admissible by the rules of
evidence. Specifically, any and all reports or records related to
Robert Lane.

9 As a user of the National Crime Information Center (NCIC) database, the State is
10 prohibited from disseminating criminal history information to non-criminal justice agencies
11 as defined by Title 28 Code of Federal Regulations (CFR)§ 20.3, which describes a criminal
12 justice agency as: (1) Courts; and (2) a government agency or any subunit thereof which
13 performs the administration of criminal justice pursuant to a statute or executive order, and
14 which allocates a substantial part of its annual budget to the administration of criminal
15 justice. Unless specifically authorized by federal law, access to the NCIC/III for non-
16 criminal justice purposes is prohibited.

17 A 1989 United States Supreme Court case looked at this issue from the standpoint of
18 an invasion of privacy and ruled accordingly.

19 Accordingly, we hold as a categorical matter that a third party's
20 request for law enforcement records or information about a
21 private citizen can reasonably be expected to invade that citizen's
22 privacy, and that when the request seeks no "official
information" about a Government agency, but merely records
that the Government happens to be storing, the invasion of
privacy is "unwarranted."

23 United States Department of Justice v. the Reporters Committee for Freedom of the Press,
24 109 S.Ct. 1468, 1485 (1989).

25 Criminal defense attorneys, public or private, are not within the definition of
26 "criminal justice agency," nor is the criminal defense function considered a "criminal justice
27 purpose." Therefore, Defendant is not entitled to the criminal history information he seeks.

28 //

1 However, if the State learns that any witness the State intends to call at trial has a
2 prior felony conviction within the last ten (10) years, which would be admissible for
3 impeachment purposes under NRS 50.095, the State will disclose that information to the
4 defense immediately.

- 5 8. Any and all information known or which could be known by the
6 diligent actions of the State of any previous allegations of sexual
7 misconduct made by the subject minor or any material witness
8 in the case. To include any and all information or any possible
9 false accusations made by the subject minor or any material
witness in this case. This includes as well, any and all
information relating to sources of sexual knowledge, outside the
alleged events, which are known or which the State should find
by diligent search.

10 NRS 50.090 states:

11 In any prosecution for sexual assault or statutory sexual
12 seduction or for attempt to commit or conspiracy to commit
13 either crime, the accused may not present evidence of any
14 previous sexual conduct of the victim of the crime to challenge
15 the victim's credibility as a witness unless the prosecutor has
presented evidence or the victim has testified concerning such
conduct, or the absence of such conduct, in which case the scope
of the accused's cross-examination of the victim or rebuttal must
be limited to the evidence presented by the prosecution or victim.

16 The State would further point out that there are very limited exceptions to the rape-
17 shield law. One of those would be if the defense was alleging that there was a prior false
18 allegation. In Miller v. State, 105 Nev. 497, 779 P.2d 87, (1989), the Supreme Court of
19 Nevada ruled that the district court had properly excluded evidence the defense attempted to
20 elicit regarding prior sexual abuse allegations made by the complaining witness. The court
21 held that the defendant must prove, by a preponderance of the evidence, the following three
22 elements:(1) the accusation or accusations were in fact made;(2) that the accusation or
23 accusations were in fact false;(3) that the evidence is more probative than prejudicial. Id at
24 Nev. 502, P.2d 90 (emphasis supplied). Should the State become aware of any false
25 accusations made by the victim in this case, the State will disclose the information to the
26 defense.

27 //

28 //

1 Information of previous allegations of physical or sexual abuse of material witnesses
2 in this case is irrelevant and is not required to be turned over to the defense under Brady or
3 the codified rules of discovery in the State of Nevada.

4 9. Any and all information which shows the defendant did not
5 commit the crimes alleged.

6 The Defendant did commit the charged crimes in this case, thus, absolutely no
7 information exists which would show that he did not. However, if any information
8 exculpatory the Defendant did exist, the State would disclose it to the defense immediately.

9 10. Any notes of any statements by the defendant, to include any
10 notes of patrol officers or other agents of the State who have
11 had any contact with the defendant, if not given already in
12 discovery. This includes any and all notes and reports of any
polygraph done by the State, including all of the raw data and
graphs, preliminary reports and printouts from such
polygraph(s).

13 Defendant has provided no statements in this matter. Defense has been provided with
14 copies of the police reports which accurately memorialize Defendant's interaction, or lack
15 thereof, with law enforcement agents. Defendant is not entitled to notes of patrol officers or
16 other agents of the State as those are privileged work product and are most often thrown
17 away when the official report is prepared.

18 11. All relevant reports of chain of custody. All reports of any
19 destruction of any evidence in the case.

20 All relevant reports of chain of custody that have been received by the State have
21 been provided to the defense. No reports of any destruction of evidence are known to exist
22 in this case.

23 12. Any inconsistent statements made by the subject minor or any
24 material witness in the case. This includes any inconsistent
25 statements made to any employee or representative of the
District Attorney's Office.

26 All transcripts of statements made by the adult victims and material witnesses in this
27 case have been provided to the defense in this case. Should any further transcripts become
28 available, the State will certainly forward copies of the same to defense counsel as required.

1 13. Any and all notes and reports of any expert in the case, to
2 include mental health workers. This includes any preliminary
3 reports or notes, not included in a final report.

4 To the extent that the requested items are not privileged as work product, the State
5 will provide the requested items that have not already been provided and will provide others
6 as they become available to the State.

7 14. Any photographs of any lineups done or any other photographs in the case, not
8 already given in discovery. This includes any photos taken at any medical
9 exams as well as photos taken by law enforcement.

10 Any and all photographs have been provided to the defense in this case, pursuant to
11 statute.

12 15. Any 911 recordings to include dispatch log.

13 Any and all 911 recordings and/or dispatch logs that exist in this case, have or will be
14 turned over to the Defendant, upon receipt of the same by the State.

15 16. Roxanne Cagnina has filed a lawsuit against the Hospital. If
16 any other complaining witnesses have filed a lawsuit in
17 regards to the allegations in this case, FARMER deems that
18 information discoverable exculpatory evidence which should be
19 turned over by the State [It should be noted that questions
20 related to lawsuits of complaining witnesses were asked at the
21 preliminary hearing in this case, but the justice of the peace
22 sustained the State's objection to our questions and the
23 information was never revealed. The case law cited herein
24 makes clear that such information is relevant and discoverable
25 material.

26 17. Frances Rose has numerous mental health issues for which she
27 had been medicated and hospitalized for the past several years.
28 (PHT) FARMER asks this court to order the state to enquire
about Rose's prior mental health history and prior
hospitalizations (other than the one where the alleged crime
against her occurred in this case) and to turn such information to
the defense as potentially exculpatory, relevant information. IF
any other complaining witnesses in this case have prior mental
health histories (indeed Ledelia Spurlock was hospitalized in
this case for attempted suicide when the alleged abuse of her
occurred) FARMER asks this court to order the State to inquire
about other mental health histories or prior mental
hospitalizations of other complaining witnesses, to be revealed
to the defense if such exists.

//

//

1 This is a criminal prosecution of Defendant. The State has no interest in any lawsuits
2 field by any of the victims in this case and as such has not obtain any information,
3 exculpatory or otherwise, with regard to the same. Defense counsel enjoys the same
4 subpoena power as the State of Nevada. If defense counsel wishes to subpoena the requested
5 records from the victim's civil counsel, defense counsel is certainly able to do so.

6 The prior mental health issues of Frances Rose are privileged and have absolutely no
7 bearing as to the guilt or innocence of this Defendant. The State is not in possession of any
8 mental health records of the victim, nor is the State required to obtain the same without some
9 showing of materiality by the defense, which simply does not exists in this matter. The same
10 is true with regard to the mental health records of any of the victims in this matter.

11 **CONCLUSION**

12 For the foregoing reasons, the Defendant's Motion for Discovery should be DENIED.
13 DATED this 16th day of January, 2009.

14 Respectfully submitted,

15 DAVID ROGER
16 Clark County District Attorney
17 Nevada Bar #002781

18 BY /s/ SUMMER C. CLARKE

19 SUMMER C. CLARKE
20 Deputy District Attorney
21 Nevada Bar #008988

22 **CERTIFICATE OF FACSIMILE TRANSMISSION**

23 I hereby certify that service of State's Opposition, was made this 16th day of January,
24 2009, by facsimile transmission to:

25 STACEY ROUNDTREE, DPD
26 FAX # 366-9370

27 BY /s/ HOWARD CONRAD
28 Employee of the District Attorney's Office

hjc/SVU

ORIGINAL

FILED

2009 JAN 20 P 2:41

0026
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

E. J. Smith
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

CASE NO. C245739

DEPT. NO. I

STEVEN DALE FARMER,
Defendant.

DATE: February 2, 2009
TIME: 8:30 a.m.

MOTION TO CONTINUE TRIAL DATE

COMES NOW the Defendant, STEVEN DALE FARMER, by and through his attorney, STACEY ROUNDTREE, Deputy Public Defender, and respectfully moves this court for an order vacating the February 4, 2009 trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel and oral argument at the time set for hearing this Motion.

DATED this 20th day of January, 2009.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By

Stacey Roundtree
STACEY ROUNDTREE, #4735
Deputy Public Defender

RECEIVED

JAN 20 2009

CLERK OF THE COURT

CMC

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DECLARATION

STACEY ROUNDTREE makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. Defendant Steven Farmer (herein FARMER) is charged with multiple counts of Open and Gross Lewdness (six)—each which carry punishment of one year in the Clark County Detention Center, multiple counts of Sexual Assault (six)—each which carry a mandatory Life in the Nevada Department of Prison, and one count of Indecent Exposure (felony) which carries from one to six years in the Nevada Dept. of Prisons.

3. This case involves substantial pre-trial preparation because of the number of complainants involved, and the serious mandatory prison time facing FARMER if he is convicted.

4. In preparation for this trial, in order to allow FARMER to get a fair trial with effective assistance of counsel, each of the individual complainants must be investigated fully and substantially in order to determine any issues which would call into question their credibility at trial, and their possible motives or biases against FARMER to concoct the instant allegations against him.

5. All of the instant allegations arise out of the complainants' stay at either Centennial Hills Hospital or at Rawson Neal Mental Health facility where FARMER was employed at the time of the instant allegations.

6. Because the situs of the alleged crime is a hospital where the complainants were patients at the time, the defense team must examine carefully the medical records involved as well as the medications that the complainants were taking at the time of their allegations against FARMER, which medications could have in injurious effect on complainants' abilities to perceive, to recall and to relate the events accurately. (All complainants have indicated they were using at least one, and in some cases multiple medications at the time of the incidents leading to their allegations against FARMER.)

7. FARMER'S defense team has attempted subpoenas in order to attain the medical records needed from these hospitals, which is the subject of a pending motion for discovery.

1 (The court insinuated the Defense may have to get some items on our own subpoena power—an
2 issue which will have been litigated by the time this motion is heard.) Many of the documents
3 FARMER needs have not been produced to the defense, the absence of which would require
4 additional time to acquire.

5 8. Because the medical conditions affecting the complainants would most
6 certainly affect their abilities to perceive, recall and relate events, the Defense has enlisted the
7 assistance of Medical professionals as consultants to our trial. Without the medical records
8 indicated in #7, FARMER'S medical consultants cannot even do their job for FARMER.


9 9. FARMER has given to the defense team the names of various potential
10 defense witnesses, some of which do not live in the State of Nevada. While the defense team has
11 interviewed some of these witnesses, there are more witnesses for us to interview before announcing
12 ready for FARMER'S trial.

13 10. This motion is not prepared for the purpose of delaying trial, but to ensure
14 FARMER'S Constitutional right to a fair trial is respected.

15 11. Should this court force FARMER to trial at this juncture, he would receive
16 ineffective assistance of counsel, be convicted and sentenced to LIFE sentences, denying him his 6th
17 Amendment right to counsel as well as his Constitutional right to present a defense and receive a fair
18 trial.

19 I declare under penalty of perjury that the foregoing is true and correct. (NRS
20 53.045).

21 EXECUTED this 20th day of January, 2009.

22
23 
24 STACEY ROUNDTREE

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion to Continue Trial
Date will be heard on February 2, 2009, at 9:00 o'clock a.m. in District Court Department No. I.

DATED this 20th day of January, 2009.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By Stacey Roundtree
STACEY ROUNDTREE, #4735
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Motion to Continue Trial Date is
hereby acknowledged this 20th day of January, 2009.

CLARK COUNTY DISTRICT ATTORNEY

By Judy Olney

ORIGINAL

PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

FILED IN OPEN COURT

1-21-09
EDWARD A. FRIEDLAND
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA CHERYL CASE DEPUTY

THE STATE OF NEVADA,

Plaintiff,

v.

STEVEN DALE FARMER,

Defendant.

CASE NO. C245739

DEPT. NO. 1

DATE: January 21, 2009
TIME: 8:30 a.m.

DEFENDANT'S REPLY TO STATE'S OPPOSITION TO MOTION FOR DISCOVERY

COMES NOW, the Defendant, STEVEN DALE FARMER, by and through
STACEY ROUNDTREE, Deputy Public Defender and hereby respectfully request this Honorable
Court grant the Motion for Discovery..

This Motion is made and based upon all the papers and pleadings on file herein, the
attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 21 day of January, 2009.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: Stacey Roundtree 10013
STACEY ROUNDTREE, #4735
Deputy Public Defender

DECLARATION

STACEY ROUNDTREE makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and the Defendant has represented the following facts and circumstances of this case.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 21 day of January, 2009.


STACEY ROUNDTREE

POINTS AND AUTHORITIES

The State's Opposition to Defendant's Motion for Discovery shows a lack of understanding of a defendant's constitutional right to discovery. The State's Opposition ignores over forty years of case law from the United States Supreme Court on the issue of a defendant's constitutional right of discovery, from Brady v. Maryland, 373 U.S. 83 (1963) until the present day.

The State argues that Statutory privileges are secondary to the defendant's right to due process

1. CPS RECORDS

The State takes a position that Nevada's discovery statute, (cited on page 3 of State's Opposition) supercedes the United State's Constitution entitling the state to ignore constitutional requirements and withhold from the defense information that the law mandates be disclosed. The position of the State is unsupported by any controlling authority. The case cited by the State, (Riddle v. State @96 Nev. 589) does not stand for the proposition that the State need not turn over discovery to the defense. The defense in the Riddle case sought from the state evidence that the victim of the shooting had a violent pre-disposition, The Riddle court denied such motion for discovery. The Nevada Supreme Court held that such evidence was immaterial to Riddle because there was no evidence that Riddle was *aware of the victim's violent predisposition*. Riddle is not analogous and not controlling authority in this case.

The State argues that CPS (called the Dept. of Family Services in our jurisdiction) records are irrelevant because the alleged victims here are not children. While the defense would agree that DFS records are usually acquired in conjunction with cases involving minor children, the defense disagrees that these are the only cases in which DFS records are useful. Some of the alleged victims are young, and even for the older complainants, if evidence exists that the young women made false allegations of sexual abuse against others that DFS investigated in the past, such evidence would still be relevant and material in this trial and should be turned over by the State. The defense cannot get DFS records with a subpoena only. If this court wishes to have the State pull the complainants prior DFS involvement, but to turn it over only after an in-camera

1 review of such files, this is acceptable to the defense so long as the court allows us to be heard
2 beforehand to tell the court what evidence we would deem material.

3 **2. and 13. MENTAL HEALTH RECORDS**

4 The State argues that mental health records are only relevant for cases involving
5 minor children and mental health records of complaining witnesses are covered by privacy laws.
6 (p. 5 and 10 of State's Opposition) The defense fails to understand a distinction between children
7 and adults when it comes to relevance of mental health issues. The fact that a complaining person
8 has a mental health issue is relevant in every case if the defect could have an injurious effect on the
9 ability of the witness to perceive things correctly, to understand their surroundings in an lucid way,

10 to recollect events correctly and further to relate those events in a court of law to the trier of fact.
11 More importantly, the State cites NO authority for the proposition that the defense is not entitled to
12 the mental health records we have asked for in discovery. As mentioned, the State cannot enact a
13 statute which has the effect of denying a criminal defendant's right to a fair trial.

14 Should the court not order the State to turn over constitutionally required discovery,
15 then the defense cannot proceed to trial as such a trial would be in denial of the defendant's right
16 to due process under the Fifth and Fourteenth Amendments of the Constitution.

17 **3. MEDICAL RECORDS OF COMPLAINANTS**

18 The State argues that it has turned over all such medical records. If that is true, then
19 the records are recklessly out of order and incomplete. They do not contain all of the items that
20 medical records should contain. The various alleged victims' records were all mixed up in that we
21 could not sometimes tell what belonged to whom. The defense does not suggest that this is the
22 fault of the State, but since the Defense CANNOT get medical records of victims without a court
23 order, we do feel the evidence of their medical state, prognosis, diagnosis, medications taken, etc.
24 are material and relevant, we ask this court either order the State to order a complete set or to sign
25 a court order for the defense to get the same.

26 **4. VICTIM/WITNESS ASSISTANCE**

27 The State's next argument, on page 6, is that the defendant is not entitled to any
28 information of benefits or assistance from the Victim Witness Assistance Center. The State's

1 reasoning is that these benefits "cannot be construed to fall under the same umbrella as
2 inducements offered by the District Attorney for their testimony. Moreover, Defendant has shown
3 no justification, relevance or materiality for this request and it should be summarily denied."

4 First, the State makes an unreasonable distinction between benefits given for
5 testimony and benefits given not to testify. No such distinction can be made or would be relevant,
6 even if considered. Any benefits that the State gives to any witness would always be relevant to
7 bias, no matter what "umbrella" they came under. Interestingly, the State cites to no authority for
8 this unrecognized distinction. As the United States Supreme Court stated in Davis v. Alaska, *supra*,
9 "[w]e have recognized that the exposure of a witness' motivation in testifying is a proper and
10 important function of the constitutionally protected right of cross examination." *Id.* at 316.

11 Clearly, any benefit received by a witness would be relevant to their motivation to
12 insure their "victim" status and their cooperation with the prosecution. There is no doubt that this
13 evidence is material and must be disclosed by the State.

14 6. POLICE NOTES OF INTERVIEWS & TELEPHONE CALLS

15 The State argues without authority that the defense is not entitled to the police
16 officers notes of interviews or telephone calls to witnesses because of the "work product" doctrine.
17 The defense again disagrees that a defendant's constitutional rights must yield to any statutory
18 doctrine of this nature. To follow that argument to conclusion would mean that if the police spoke
19 to witnesses who lied and changed their stories, the defense could not know because it is *work*
20 *product*. The argument would also mean that if police followed one or more "alternative suspect"
21 leads given by witnesses or complainants, the defense is not entitled to know that either under this
22 "work product" doctrine. That is an obviously absurd result, perhaps why not authority exists
23 therefore.

24 7. PRIOR CRIMES OF WITNESSES

25 The State next makes the argument on page 7, that the defense is not entitled to any
26 information contained in the National Crime Information Center (NCIC) database because it would
27 violate federal law. The State then cites to the case United States Department of Justice v.
28

1 Reporters Committee for Freedom of the Press, 489 U.S. 749 (1989) to support their position that
2 such request would be an "invasion of privacy" and would be "unwarranted."

3 The Reporters case has to do with a Freedom of Information Act request made by a
4 news correspondent requesting a "rap sheet" and other criminal history data from the Department
5 of Justice. The case deals solely with the Freedom of Information Act, a law that deals with
6 requests from the public for information held by the government. The case has nothing to do with
7 criminal law, discovery, due process or the Sixth Amendment right to present a defense. The case
8 is completely irrelevant to the issues in the defense motion.

9 The State says that it intends only to turn over prior felony convictions of State
10 witnesses which occurred within the last 10 years admissible under impeachment law. A criminal
11 defendant's right to discovery is not limited to evidence that is admissible. Jiminez, supra at 620.
12 In the case of Davis v. Alaska, the evidence at issue was a **juvenile record** which under Alaska
13 law was not admissible in court. supra at 351. The court found that the defense must be able to
14 use this information to impeach the witness, since just the fact that the witness was on probation
15 was relevant to his credibility. *Id.* at 353.

16 Evidence of past crimes, arrests, juvenile adjudications, even if not per se
17 admissible by the evidence statute, can lead to important information bearing on a witness's
18 credibility. In this vein, it has been held that the Court's failure to require the State to turn over
19 juvenile court files denied a defendant's right to confront adverse witnesses. Davis, supra. [See
20 also, Burr v. Sullivan, 618 F. 2d 583 (1980) wherein the court affirmed the trial court's decision to
21 grant habeas corpus relief on the basis that the court erred in failing to turn over discovery of State
22 witnesses juvenile court proceedings.] It is not for the State to decide to summarily withhold this
23 information, claiming it would be "prohibited." The arguments of the State are clearly intended to
24 avoid their duty to turn over material evidence that must be disclosed.

25 **8. PAST ALLEGATIONS OF SEXUAL MISCONDUCT BY COMPLAINING**
26 **WITNESSES**

27 On page 8 of the State's Opposition, the State suggests they have no duty to provide
28 defense with allegations of physical or sexual abuse of the alleged victim. Here, the defense

1 requests the State follow the law and turn over any and all information which suggests that any
2 complaining witness has made past allegations of sexual misconduct. If the defense's investigation
3 concludes that such is a prior false allegation or that we are entitled to use it for another
4 permissible purpose as an exception to the rape shield statute, we will file the appropriate motions
5 with the court.

6 Allegations of prior sexual conduct of alleged victims of sexual assault are permissible into
7 evidence under a variety of circumstances as an exception to the rape shield statute, or because the
8 evidence falls outside of the rape shield statute. For example, acts of illegal prostitution fall out of
9 the purview of rape shield. Drake v. State, 108 Nev. 523, (1992). Additionally, prior false
10 accusations of sexual abuse or sexual assault by complaining witness did not constitute "previous
11 sexual conduct" for rape shield purposes. Miller v. State, 105 Nev. 497 (1989). Finally, due
12 process requires that a defendant must be afforded the opportunity to show, by specific incidents of
13 sexual conduct, that the prosecutrix has the experience and ability to contrive a statutory rape
14 charge against him. Summitt v. State, 101 Nev. 159 (1985).

15
16 It is this type of information that the Defense requests in the Motion for Discovery. If this
17 evidence exists, it fits the definition of material and relevant and potentially exculpatory. We ask
18 the court to order the State to turn it over if it exists under the rules of Brady, Kyles and progeny as
19 cited in the original Motion for Discovery.
20

21 9. and 12. EXCULPATORY INFORMATION OF DEFENDANT

22 To this request, the State argues that the Defendant is guilty, and therefore no
23 evidence exists which shows that he is not. The State also argues that no such evidence exists. (p. 9
24 State's Opposition.) The defense respectfully submits that FARMER'S guilt or innocence is the
25 subject of this controversy, and not an absolute as the State suggests. Evidence which the defense
26 feels fit this category would be information including but not limited to the following: the fact that
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1 the complainants never contacted police about a crime, but that instead the police solicited the
2 complainants asking if they had been harmed; the fact that one or more complainants were shown
3 a line-up or photo array of Defendant, but failed to identify him as their assailant; the fact that any
4 of the complainants identified someone else as their assailant; the fact that other witnesses were
5 interviewed by police and told them that Defendant could not have committed the crime; the fact
6 that the police received information suggesting that Defendant was a valued employee of either
7 Centennial Hills Hospital or Rawson Neal Mental Health facility and had receive
8 recommendations from either facility for stellar performance; the fact that any witness told police
9 that they believed that one of the complaining witnesses was lying about their allegations against
10 Defendant; the fact that any witness gave Defendant an alibi to any of the alleged crimes; the fact
11 that any complaining or other witness has told inconsistent stories regarding the crimes alleged.
12 (See Item 12 of Motion for Discovery). This is not an exhaustive list of potential exculpatory
13 evidence. It is merely exemplary of the kind of evidence which falls into this category. We feel it
14 is material and relevant under the case-law cited in defendant's Motion for Discovery and should
15 be ordered turned over by this court.

18 **10. NOTES AND STATEMENTS OF DEFENDANT GIVEN TO POLICE**

19 The State suggests that this evidence does not exist and if it existed was turned
20 over. The reason for continued requests of discovery is that usually once a case is submitted to the
21 district attorney, police and detectives continue efforts at investigation. Therefore, although not
22 part of the initial discovery packet, it exists in the file and is turned over closer to the time of trial.
23 This happens every day in the courthouse, and is the cause for a number of continued trials and
24 hearings. It is not the fault of the District Attorney unless they fail to request the full files from
25 each investigative agency and police agent. The defense believes and the case-law makes clear
26 that the State has the duty to specifically request and continue to request information of this nature.
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1 This request puts the State and the court on notice that we wish to attain in a timely fashion any
2 additional discovery relating to police further investigation after the case was turned over to the
3 district attorney's office for prosecution.

4 11. CHAINS OF CUSTODY

5 The State suggests that all relevant chains of custody have been turned over to the
6 defense. This writer is not aware of receipt of *any* chain of custody to date. While it is true that
7 these items are available for inspection at the time of trial, we request this court order the State to
8 turn it over to the defense in advance so that we may inspect such, and file any motions deemed
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10 necessary to address any inadequate or suspect chains of custody that we see in advance of trial so
11 not to be rushed and not to cause additional trial delay. Items which were collected but destroyed
12 are really not detectible by the defense until we have the district attorney inquire as to such. This
13 court is probably aware that if the defense sends a subpoena to the individual police officers or
14 detectives involved, they do not produce what we subpoena. Instead they send us a letter saying
15 that we need to go through the District Attorney's office to collect such evidence or reports,
16 photos, chains of custody, etc. If this court needed to see a sample of such response, one can
17 easily be provided to the court for inspection.
18

19 14. PHOTOGRAPHS OF LINEUPS, MEDICAL EXAMS OR POLICE PHOTOS

20 The State suggests that all photographs of all kinds have been turned over. The
21 defense makes this request for reasons explained in other sections. The hospitals do not turn over
22 records to defense attorneys due to HIPPA laws. The police do not produce anything in response
23 to our subpoenas except a letter telling us they are denying our lawful subpoena. The only route
24 left for the defense to get the photographs involved is for us to ask this court to order the State to
25 produce it as we have done in our Motion for Discovery. Otherwise, the defense would usually
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1 not see the police, medical or other photographs until the State moved to introduce them as
2 exhibits *during the trial itself*.

3 **16. and 17. ROXANNE CAGNINA'S LAWSUIT & FRANCES ROSE'S MENTAL**

4 **HEALTH**

5 The State suggests that because it is Mr. Farmer on trial, the State is not concerned
6 with the potential bias or credibility issues related to two of the complaining witnesses. Although
7 the State is not concerned, the Defense submits that the law dictates that the State and the trier of
8 fact must be concerned about such. The State cites no authority for the proposition that they need
9

10 not turn over evidence which relates to a potential bias or motivation of one complaining witness
11 or the mental capacity of the other complaining witness. In fact, a witnesses' motivation, bias and
12 credibility is exactly what is in issue once a person makes a criminal allegation against another.
13 The laws which speak to the right of a criminal defendant to challenge a witnesses' bias,
14 motivation and credibility are too numerous to mention, and include both State, Federal and
15 Constitutional principles of Due Process and Fair Play under the Fourth, Fifth, and Sixth and
16 Amendments to the United State's Constitution made applicable to the States under the 14th
17 Amendment of the Constitution. Some has been recited in the original Motion for Discovery.
18 Other is axiomatic in criminal law. The State is without authority to deny such a request.
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21 **Conclusion**

22 The defense has made a motion that comports with the defendant's constitutional
23 right to discovery. The State has not cited to any authority that refutes any issue in the defense
24 motion. The defendant prays this Honorable Court to grant the defense request. If the Court
25 chooses to do an in camera review, the defendant requests that all materials reviewed be attached
26 to the court record in such a way that they can be reviewed by a higher court, should that become
27 necessary.
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DATED this 21 day of January, 2009.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 
STACEY ROUNDTREE, #4735
Deputy Public Defender

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the
above and foregoing Motion on for hearing before the Court on the 21st day of January, 2009, at
8:30 a.m.

DATED this 21 day of January, 2009.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 
STACEY ROUNDTREE, #4735
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Defendant's Reply to State's
Opposition to Motion for Discovery is hereby acknowledged this ____ day of January, 2009.

CLARK COUNTY DISTRICT ATTORNEY

By: _____



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APPELLANT'S APPENDIX VOLUME I PAGES 001-158

CERTIFICATE OF SERVICE

Employee, Clark County Public Defender's Office