1 TESTIFY THAT THERE WAS A CATHETER, AND OBVIOUSLY THIS IS
2 SLIGHT OR MARGINAL EVIDENCE. UM -- MY SAME ARGUMENT WOULD
3 APPLY THAT -- UM -- THAT IT DOES NOT RISE TO THE LEVEL WHAT
4 WAS INTENDED FOR SEXUAL ASSAULT, BECAUSE THERE WAS NO SEXUAL
5 PURPOSE.
6 COUNT 37, IF YOU LOOK AT PAGE 217 ON THE JUNE 9TH --
7 UM --
8 **THE COURT:** WHICH COUNT ARE YOU ON?
9 **MR. MANN:** SURE, COUNT 37.
10 **THE COURT:** ALL RIGHT.
11 **MR. MANN:** OKAY. UM -- ON PAGE 217 ON JUNE 9TH -- UM --
12 SHE SPECIFICALLY SAYS THAT -- UM -- THERE WAS NO PENETRATION,
13 JUST TOUCHED ON THE PRIVATE -- UM -- NOT THAT IT INSERTED
14 IN -- INTO HER PRIVATE.
15 **THE COURT:** THAT'S -- OKAY, THE PAINT STICK.
16 **MR. MANN:** THE PAINT STICK, YES. I'M SORRY, I SHOULD
17 HAVE MADE THAT CLEAR.
18 SO IT SAYS ON LINE -- UM -- STARTING AT LINE 11, "OKAY.
19 NOW, DID IT TOUCH YOUR PRIVATE?"
20 "YES, IT DID."
21 "WHERE DID IT TOUCH YOUR PRIVATE AT?"
22 "UM -- LIKE IN THE FRONT."
23 IN THE FRONT OF THE PRIVATE?
24 "YES."
25 "WHAT DID IT FEEL LIKE?"

1 "VERY GROSS, AND IT WAS HURTFUL."

2 THAT SHE DOESN'T TALK ABOUT IT ENTERING INTO HER PRIVATE,
3 AND BECAUSE OF THAT, THAT WOULD NOT RISE TO A LEVEL OF SEXUAL
4 ASSAULT.

5 NOW, COUNTS 38 AND 39 -- UM -- ARE NEW COUNTS, BATTERY
6 WITH INTENT TO COMMIT SEXUAL ASSAULT WITH A CATHETER.
7 OBVIOUSLY THESE -- UM -- I THINK -- UM -- ONE, IF YOU ARE
8 GOING TO ASSUME THAT THE SEXUAL ASSAULTS, THAT THERE IS SLIGHT
9 OR MARGINAL EVIDENCE, THAT THESE WOULD MERGE INTO THOSE,
10 BECAUSE THAT WAS PART OF THE SEXUAL ASSAULT ITSELF. UH -- IN
11 ORDER TO COMPLETE THE SEXUAL ASSAULT, THERE NEEDED TO BE A
12 BATTERY. UM -- AND SO, THEREFORE, I WOULD SAY ON -- ON THAT
13 INSTANCE, THAT WOULD NOT APPLY.

14 BUT, TWO, THAT -- UM -- THE DIFFERENCE WITH THIS BATTERY
15 WITH INTENT TO COMMIT SEXUAL ASSAULT IS SPECIFIC IS THAT THERE
16 IS THE INTENT TO COMMIT A SEXUAL ASSAULT.

17 UM -- AND SO, IN THAT, WE'RE KIND OF -- MY SAME ARGUMENT
18 WOULD APPLY THAT SHE HAD TO HAVE SOME SORT OF SEXUAL PURPOSE
19 TO COMMIT BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT. THAT
20 THERE HAS BEEN NO INDICATION THAT THERE WAS ANY SORT OF SEXUAL
21 PURPOSE FOR THAT, WHATSOEVER. AND BECAUSE OF THAT, COUNTS 38
22 AND 39 WOULD NOT APPLY -- UM -- AND SHOULD BE DISMISSED.

23 COUNT 40, ON PAGE 99 OF -- THIS MUST BE THE JUNE 10TH --
24 UM -- JUNE 10TH TRANSCRIPT. LET ME JUST VERIFY. WHERE SHE
25 INDICATES THAT SHE WAS KICKED UP THE STAIRS -- UH -- BUT SHE

1 JUST LANDED ON HER KNEES -- UM -- AND -- UH -- THAT IT WAS
2 ONLY, YOU KNOW, THAT SHE WAS KICKING HER UP THE STAIRS. I
3 WOULD ALSO ARGUE THAT THAT WOULD NOT RISE TO THE LEVEL OF
4 CHILD ABUSE, BECAUSE IT DID NOT SUFFER -- SHE DID NOT SUFFER
5 UNJUSTIFIABLE PHYSICAL PAIN FROM THAT INSTANCE. THE --
6 YOUR HONOR, AT THAT POINT, I'LL -- I'LL SUBMIT IT.
7 **MS. BLUTH:** AND, JUDGE, WOULD IT BE POSSIBLE FOR ME TO GO
8 AFTER EACH OF THEM, OTHERWISE, I'M GOING TO BE REPEATING
9 MYSELF, BECAUSE THERE'S SO MANY COUNTS AND SO MANY DEFENDANTS.
10 I'M JUST ASKING TO GO AFTER EACH DEFENDANT.
11 **THE COURT:** I DON'T HAVE A PROBLEM WITH THAT, AS LONG --
12 AS LONG AS SOMEBODY DOESN'T HAVE A OBJECTION TO THAT.
13 **MR. MUELLER:** NONE WHATSOEVER, JUDGE.
14 **THE COURT:** OKAY. THE ONLY THING IS, MISS BLUTH, I JUST
15 WANT TO TAKE A TWO-MINUTE RECESS --
16 **MS. BLUTH:** OKAY.
17 **THE COURT:** UNLESS --
18 **MS. BLUTH:** ALL RIGHT.
19 (WHEREUPON A RECESS WAS TAKEN.)
20 **THE COURT:** I'M THINKING JUST NOW, I ACTUALLY WOULD
21 RATHER THE FULL DEFENSE MAKE THEIR ARGUMENT AND THEN YOU
22 RESPOND. I ACTUALLY THINK THAT WILL BE MORE EFFORTLESS.
23 **MS. BLUTH:** OKAY.
24 **THE COURT:** SO, MR. MUELLER?
25 **MR. MUELLER:** ALL RIGHT, THANK YOU, YOUR HONOR. I WILL

1 INFER BY THAT, THAT YOU'VE DONE A LOT OF RESEARCH AND HAVE
2 SOME VIEWS OF YOUR OWN, SO I'LL POINT TO WHERE I THOUGHT IS
3 VERY IMPORTANT, AND I WILL TRY NOT TO BE REPETITIVE TO THE
4 ARGUMENTS OF MY VERY ABLE COLLEAGUE.
5 I WANT TO START A LITTLE DIFFERENTLY. AS I WENT THROUGH
6 AND PREPARED THIS, WE WENT THROUGH COUNT BY COUNT, I'VE GOT
7 THE SPREADSHEETS AND THE TEXT, BUT I WANT TO GO OVER IT WITH
8 AN OVERARCHING THEME AND THEN COME BACK TO THESE INDIVIDUALLY.
9 NUMBER ONE, I BELIEVE AND I OBJECT IN THE MOST STRENUOUS
10 TERMS TO ANY OF THE SEXUAL ASSAULT CHARGES. I CANNOT FIND ANY
11 SUPPORT FOR THESE CHARGES IN LOGIC, IN LAW, FACT, OR
12 TESTIMONY, AND I'M GOING TO LAYOUT MY ARGUMENTS HERE.
13 MR. RANDALL WEED, AS YOU'LL RECALL, JUDGE, JUST RETIRED A
14 FEW YEARS AGO FROM THE DISTRICT ATTORNEY'S OFFICE. WHEN IT
15 WAS MY FIRST WEEK OR TWO AS A DEPUTY DISTRICT ATTORNEY, HE WAS
16 MY TEAM CHIEF, AND HE SAID, "KID, WHEN YOU DON'T KNOW WHAT TO
17 DO, GO READ THE BOOK." WELL, THAT WAS TO ME SO BLINDINGLY
18 OBVIOUS AT THE TIME I WAS ACTUALLY FAIRLY INSULTED. BUT NOW,
19 22 YEARS INTO MY LEGAL CAREER, I NOW UNDERSTAND THE WISDOM OF
20 THAT ADVICE, SO I DID THAT.
21 SO I WENT BACK AND I TOOK A LOOK AT THAT, AND I BRING THE
22 COURT'S ATTENTION TO DEFINITIONAL STATUTES 200.366, SUB 1. "A
23 PERSON WHO SUBJECTS ANOTHER PERSON TO SEXUAL PENETRATION, OR
24 WHO FORCES ANOTHER PERSON TO MAKE A SEXUAL PENETRATION ON
25 HIMSELF OR HERSELF OR ANOTHER, OR ON A BEAST, AGAINST THE WILL

1 OF THE VICTIM OR UNDER CIRCUMSTANCES WHICH THE PERPETRATOR
2 KNOWS OR SHOULD HAVE KNOWN THAT THE VICTIM IS MENTALLY OR
3 PHYSICALLY INCAPABLE OF RESISTING OR UNDERSTANDING THE NATURE
4 OF HIS OR HER CONDUCT, IS GUILTY OF SEXUAL ASSAULT."
5 THEN THE DEFINITION OF SEXUAL PENETRATION. SEXUAL
6 PENETRATION MEANS, AND I DON'T MEAN TO BELABOR THIS,
7 CUNNILINGUS, WHICH IS CLEARLY NOT INVOLVED HERE. FELLATIO,
8 WHICH IS NOT INVOLVED HERE. OR INTRUSION, HOWEVER SLIGHT, OF
9 ANY PART OF A PERSON'S BODY OR OBJECT MANIPULATED OR INSERTED
10 INTO THE GENITAL OR ANAL OPENINGS OF THE BODY OF ANOTHER,
11 INCLUDING SEXUAL INTERCOURSE IN ITS ORDINARY MEANING.
12 THAT MEANS GENITAL. GENITAL MEANS VAGINA, PENIS,
13 TESTICLES. THAT'S GENITAL. URETHRA IS NOT GENITALS. NOT --
14 THIS IS NOT A SEXUAL ACT AT ALL IN ANY WAY OR SHAPE OR FORM.
15 A DATABASE -- A NATIONAL DATABASE SEARCH, LEXISNEXIS
16 BRINGS UP NO CASES SUPPORTING THE STATE'S THEORY HERE. I CAN
17 FIND NONE. I CAN FIND ONLY ONE THAT IMPLIEDLY RULED IT OUT,
18 AND EVEN THEN, IT WASN'T WORTH PRINTING OUT AND BRINGING IT TO
19 YOU. THERE'S NOTHING ON THIS THEORY OF LIABILITY, THE STATE
20 IS COMPLETELY AT SEA HERE.
21 NOW, SPECIFICALLY -- AND I WANT TO BRIDGE THE GAP HERE, I
22 WANT TO -- AND I CAN ENGAGE IN A COUPLE THOUGHT EXERCISES THAT
23 MAYBE UNDERSCORE THE POINT. I HAVE A SIX-YEAR-OLD BOY AT
24 HOME. HE IS OCCASIONALLY SUBJECT TO CONSTIPATION, AS CHILDREN
25 ARE WHEN THEY DON'T EAT WHAT THEY'RE SUPPOSED TO. IF HE'S

1 CONSTIPATED, AND I GET INSTRUCTIONS FROM THE DOCTOR TO GIVE
2 HIM AN ANAL SUPPOSITORY, AND I -- HE DOESN'T WANT TO, LIKE I
3 DON'T THINK ANY CHILD WOULD, AND I BEND HIM OVER AND STICK IT
4 IN AGAINST HIS WILL, THAT'S NOT A SEXUAL ASSAULT.
5 WELL, BY THE CLEAN DEFINITION OF THE STATUTE, IT
6 CERTAINLY WOULD APPEAR TO BE, BUT WHY ISN'T IT? AND I
7 CERTAINLY CAN'T COMPREHEND BEING CHARGED IF I DID THAT. WHY?
8 THE PURPOSES ARE NOT SEXUAL. IT'S FOR MEDICAL NECESSITY.
9 NOW, MY ANALOGY BRIDGES THE GAP BETWEEN WHAT WE ALL THINK
10 OF AS SEXUAL ASSAULT, AND WHAT IS CLEARLY NOT SEXUAL ASSAULT.
11 SO THERE'S A -- A RANGE OF SPECTRUM OF BEHAVIOR. BUT SEXUAL
12 PENETRATION, IN ITS ORDINARY MEANING, IS WHAT NEEDS TO BE
13 SHOWN HERE.
14 NOW, I'M GOING TO GET DOWN TO BRASS TACKS HERE FOR A
15 MOMENT, AND I'LL START TO -- UM -- BUT ALL THE SEXUAL ASSAULT
16 CHARGES, AND SPECIFICALLY AS TO DWIGHT, NEED TO BE DISMISSED.
17 THIS IS JUST COMPLETELY FABRICATED THEORY OF LIABILITY FROM
18 START TO FINISH, WHOLE CLOTH.
19 SPECIFICALLY AS TO DWIGHT IN PARTICULAR, THERE'S NOT A
20 SCINTILLA OF TESTIMONY THAT HE WAS EVEN PRESENT WHEN THESE
21 CATHETERS WERE USED. NOT EVEN THERE.
22 THE STATE HAS ONLY PRODUCED, AS TO DWIGHT, IF THIS WERE,
23 IN FACT, SEXUAL ASSAULT, AN INVOICE OFF OF HIS E-MAIL ORDERING
24 THEM. NOW THAT'S IT. AND FOR THAT, THEY WANT HIM TO FACE
25 TWENTY TO LIFE.

1 **MS. BLUTH:** THIRTY-FIVE.

2 **MR. MUELLER:** YOU'VE MADE MY POINT, COUNSEL.

3 **MS. BLUTH:** SURE HAVE.

4 **MR. MUELLER:** NOW, FOR THAT, THAT'S WHAT THEY'RE ASKING
5 THIS COURT TO BIND UP FOR TRIAL AND TO HOLD HIM TO ANSWER FOR.
6 NOW, A CATHETER IS A MEDICAL DEVICE. IT IS A PROPER
7 INSTRUMENT, AND BY ALL ACCOUNTS, THROUGH THE LITTLE BIT OF
8 TESTIMONY THAT WAS ADDUCED, IT WAS USED IN ITS INTENDED
9 MEDICAL PURPOSES, IT WAS TO REMOVE SOMEONE OF URINE. NOW,
10 THERE IS NO SEXUAL COMPONENT TO THIS CHARGE WARRANTING IT TO
11 BE BOUND UP OR FOR IT BEING ALLOWED TO BE AMENDED.

12 NUMBER 2, THERE IS NO EVIDENCE THAT MR. DWIGHT ACT -- OR
13 DWIGHT ACTUALLY PARTICIPATED IN ANY WAY, SHAPE OR FORM. AND
14 NO. 3, THERE'S ABSOLUTELY NO EVIDENCE OF A CONSPIRACY. NOW,
15 ALL WE'VE GOT LITERALLY IS AN INVOICE. NOW, THOSE -- ALL THE
16 SEXUAL ASSAULT CHARGES NEED TO BE DISMISSED JUST OUT OF THE
17 BOX.

18 NOW, WITH THAT OVERARCHING THEORY ADDUCED, I DID NOT HAVE
19 THE BENEFIT OF THE STATE'S AMENDED, PROPOSED AMENDED WHEN I
20 HAD FELT IT ABSOLUTELY NECESSITY I GET STARTED ON THIS, SO I
21 THINK THE COUNTS STILL LINE UP, BUT WE'LL HAVE TO GO ONE STEP
22 AT A TIME.

23 NOW, THE FIRST COUNT IS -- THAT DWIGHT IS NAMED IN, IS
24 COUNT 1. SPECIFICALLY, DWIGHT SOLANDER -- UM -- AND THE
25 ALLEGATIONS ARE, AND I'M GOING TO USE THEM JUST BY NOUN NAMES

1 FOR CLARITY, THE PAINT STICK ALLEGATION.

2 NOW, PAGE 72, PAGE 73 COULD NOT -- AVA, THE YOUNGEST,
3 COULD NOT LOOK AT HER BOTTOM AFTER SHE CLAIMED THE SCARS FROM
4 SPANKING, DID NOT SEE OR ASK FOR A BAND-AID, ONLY SAW BLOOD ON
5 THE STICK ONE TIME. THAT BROUGHT OUT IN MR. MANN'S
6 CROSS-EXAMINATION.

7 PAGE 69, LINE 24 TO 25, AND LINE 71, 12 TO 13, PER
8 CROSS-EXAMINATION BY MR. MANN, AVA SAYS JANET WAS THE ONE WHO
9 DID THE HIT. PAGE 126 AND 127, JANET WAS THE ONLY ONE WHO HIT
10 HER AND BREAK THE STICK. MR -- OR DWIGHT WOULD NOT HAVE BEEN
11 HOME, BROUGHT OUT BY ME ON CROSS-EXAMINATION.

12 PAGE 25, LINES 15 THROUGH 20 SAYS, THE STICK WOULD BREAK
13 AND THEY WOULD CONTINUE TO HIT. THAT SAYS -- AND THEN LATER,
14 PAGE HERE 70, 1 THROUGH 13 SAYS, JANET DID THE HITTING AND
15 TOLD HER TO GET INTO THE POSITION. LINES [SIC] 104, NEVER
16 TAKEN TO SEE THE DOCTOR IN FLORIDA, NEVER COMPLAINED OF ANY
17 PHYSICAL ISSUES OF MARKS OR SCARS, BROUGHT OUT BY MR. MANN.

18 DWIGHT WAS WORKING MOST OF THE TIME AND HAD LIMITED
19 CONTACT WITH THEM DURING THE DAY, IF AT ALL, BROUGHT OUT BY
20 ME. THAT'S LINES [SIC] 120, 121. DWIGHT WAS RARELY HOME WHEN
21 THEY WENT TO BED. THAT'S BROUGHT UP, PAGE 121, ONE -- 15
22 THROUGH 23. HIT MOST OF THE TIME BY JANET, PAGE 125, 126.

23 **MS. BLUTH:** I'M SORRY TO OBJECT, MR. MUELLER, BUT I'M
24 GOING TO OBJECT TO THIS. THIS WAS THE WHOLE POINT OF
25 PREPARING YOUR HONOR FOR THE BINDOVER ARGUMENT.

1 THE FACT OF THE MATTER IS -- I MEAN IF YOU WANT ME TO GO
2 THROUGH EVERY ONE OF MY CITES, I CAN, TOO. THE CHILDREN WERE
3 INCONSISTENT IN SOME PARTS AND THEY WEREN'T IN OTHERS, BUT
4 THAT'S FOR A JURY TO DECIDE. SO IF WE'RE GOING TO GO THROUGH
5 LINE BY LINE OF EVERY SINGLE ONE ON THAT GRAPH, WE'RE GOING TO
6 BE HERE FOR SIX HOURS.
7 **THE COURT:** WELL, I'LL BE HERE FOR SIX HOURS, BECAUSE THE
8 POINT IS THE STATE WENT THROUGH LINE BY LINE OF THE
9 TRANSCRIPTS, AND THEY -- THE DEFENSE HAS NOT HAD THE BENEFIT
10 OF MAKING THEIR RECORD, FOR INSTANCE, OR ARGUING TO THE COURT
11 WHAT INCONSISTENCIES THERE WERE IN THE TESTIMONY. I AGREE
12 THERE WERE INCONSISTENCIES IN THE TESTIMONY, BUT -- AND I'M
13 NOT GOING TO -- I DON'T THINK IT'S APPROPRIATE FOR YOU TO
14 OBJECT TO HIM TRYING TO MAKE HIS CLOSING ARGUMENT AND TRYING
15 TO CITE TO THE RECORD IN DOING SO.
16 MIGHT IT BELABOR THE EXERCISE TODAY, YES, BUT THEY ARE
17 ENTITLED TO DO THAT.
18 **MR. MUELLER:** I DON'T DISAGREE WITH MY COLLEAGUE OR THE
19 COURT THAT OCCASIONALLY SOME OF THESE POINTS ARE GOING TO
20 BE -- UH -- BELABORING THE POINTS, BUT THE REALITY IS THIS IS
21 THE RECORD THAT'S BEEN ADDUCED AT THIS HEARING. AND I WOULD
22 TRY TO CUT THROUGH, BUT I'VE GOT TO --
23 **THE COURT:** NO, IT'S OKAY.
24 **MR. MUELLER:** I MEAN IT IS WHAT IT IS, JUDGE.
25 UM -- CROSS-EXAMINATION, JANET -- PAGE 126, 127, JANET

1 HAD A PAINT STICK AND BROKE IT OVER AVA'S BUTT. IT WAS DURING
2 A SCHOOL DAY AND I COULD NOT -- SO MR. SOLANDER WAS NOT HOME.
3 NOW, AS WE KNOW, THE TESTIMONY WAS THAT THEY WERE
4 HOMESCHOOLING.
5 NOW, COUNT 3, WE CALL IT SITS ON BUCKETS. THE EVIDENCE
6 ON -- THERE'S PICTURES OF BUCKETS. FROM PAGE 29 TO 30, THE
7 DIRECT IS COMPLETELY -- MISS BLUTH'S DIRECT EXAMINATION IS
8 NAKED OF ANY MENTION OF MR. SOLANDER EVEN MEN -- HAVING THEM
9 SIT ON BUCKETS. NOTHING I COULD FIND IN THERE.
10 THE PICTURES THAT THEY INTRODUCED WERE TAKEN BY CPS, AND
11 MR. SOLANDER WASN'T EVEN HOME. I'LL -- AND MAYBE IF I COULD,
12 I'LL START -- IF YOU WANT ME TO, I'LL GIVE THE CITES, BUT I
13 CAN SPEED THIS UP, I'LL JUST GO THROUGH THE SUMMARIES RATHER
14 THAN THE POINTS.
15 UM -- SOLANDER WASN'T EVEN HOME. ALL RIGHT?
16 NOW, MR. SOLANDER -- OR SOLANDER NOT HOME DURING THE DAY.
17 AVA SAYS THAT SHE -- ON PAGE -- IT SAYS THEY WERE MADE TO SIT
18 ON THE BUCKETS ALL DAY, HE'S NOT HOME. NOW, I DON'T KNOW HOW
19 HE COULD MAKE THEM SIT ON THE BUCKETS WHEN HE'S NOT HOME.
20 NOW, JANET HAD THEM SIT -- AND SHE SAYS, MR. MANN BRINGS
21 OUT ON CROSS, JANET HAD THEM SIT ON THE BUCKETS AS A ROUTINE,
22 BECAUSE SHE DIDN'T WANT TO DEAL WITH ACCIDENTS. JANET DID
23 THAT. PAGE 139, IT SAYS HE WOULD OCCASIONALLY HELP THEM ON
24 ACCIDENTS, AS BROUGHT OUT BY ME, BUT THAT HE WASN'T HOME MOST
25 OF THE TIME. NUMBER 13, WAS WORKING, LIMITED CONTACT.

1 NOW, THE FOURTH COUNT, THEY WOULD HOLD THEIR URINE OR
2 BOWELS. WHEN ASKED, DIRECT EXAMINATION BY MISS BLUTH ON
3 LINE -- OR PAGE 19, LINES 20 AND 23, MR -- IT SAYS DWIGHT
4 WOULD LET HER GO. SAID THE TIMERS WERE ONLY USED DURING
5 SCHOOL HOURS, AND OBVIOUSLY MR. SOLANDER WOULD NOT HAVE BEEN
6 HOME. SAID TIMERS -- UM -- AND THAT'S ACTUALLY BROUGHT OUT IN
7 THREE DIFFERENT PLACES, PAGE 63, 64, 65, BY MR. MANN. UM --
8 PUNISHMENT OR SITTING ON THE BUCKET, WAS WORKING MOST OF THE
9 TIME, AND WOULD NOT BE IF THEY WERE -- UH -- HOLD THEIR URINE.
10 THE BOARDS AND THE FANS, COUNT 5. NOT -- FIRST OFF, I'M
11 GOING TO ADOPT MR. MANN'S ARGUMENTS. THESE AREN'T -- THIS
12 ISN'T CHILD ABUSE AND NEGLECT, BY ITS VERY DEFINITION.
13 CROSS-EXAMINATION, MR -- THEY BRING OUT, ALL THREE OF THE
14 GIRLS BRING OUT, AVA BRINGS OUT, THAT HE WASN'T HOME MOST OF
15 THE TIME AT BEDTIME. THEY WENT UPSTAIRS AND PUT THEMSELVES TO
16 BED, AND MR. SOLANDER DID NOT CAUSE THEM TO SLEEP ON THE
17 BOARDS. WAS WORKING MOST OF THE TIME, HAD LIMITED CONTACT, IF
18 AT ALL, DURING THE WORKWEEK WITH THEM. PAGE 124, JANET, YOU
19 GUYS GO UPSTAIRS AND GO TO BED, NOT MR. SOLANDER DOING IT.
20 NOW, THERE'S ACTUALLY NO EVIDENCE -- IT'S KIND OF HARD TO
21 ARGUE THIS ONE, BECAUSE THERE'S ACTUALLY NO EVIDENCE THAT HE
22 WAS INVOLVED WITH IT IN ANY WAY, SHAPE, OR FORM.
23 AS IN NO. 6, AVA, DIRECT DENIAL, PAGE -- LINE -- OR PAGE
24 138, LINES 6 AND 9, NEVER SAID IT. DWIGHT SAYS HE NEVER SAID
25 IT, CROSS-EXAMINATION BROUGHT OUT BY ME. THAT'S THE ONLY

1 THING WE COULD FIND ON THAT COUNT, AND AVA DENIED IT HAPPENED.
2 SEXUAL ASSAULT BY CATHETER. WE'VE ALREADY GONE THROUGH
3 THAT. COUNT 7, I BELIEVE, SHOULD BE PROPERLY DISMISSED.
4 NOW, THE NEXT COUNT THAT APPLIES TO MR. SOLANDER, AGAIN,
5 IS COUNT 13. THAT IS AS TO AMAYA. SHE SAYS, PAGE 16, JANET
6 WOULD SPANK THEM WITH A PAINT STICK. PAGE 16, WHAT DID DWIGHT
7 DO? SAID, I WENT IN THE GARAGE AND DID SOMETHING, I DON'T
8 EVEN KNOW, BROUGHT OUT BY --
9 **MR. MANN:** THEY CHANGED COUNTS.
10 **MR. MUELLER:** OKAY, DID THEY CHANGE THE COUNT THEN?
11 **MR. MANN:** YES.
12 **MR. MUELLER:** SORRY. WE GOT THE AMENDED COMPLAINT LATE
13 YESTERDAY.
14 **THE COURT:** WHICH COUNT ARE YOU -- OH, YOU'RE LOOKING IN
15 THE PROPOSED AMENDED, OKAY. YEAH, BECAUSE THAT'S WHAT I'M
16 LOOKING AT. THAT'S WHAT I'VE WORKED OFF OF --
17 **MR. MUELLER:** OKAY.
18 **THE COURT:** -- THE LAST 24 HOURS.
19 **MR. MUELLER:** ALL RIGHT. OKAY, LET ME JUST SYNC THEM UP,
20 JUDGE. JUST A SECOND.
21 **MR. MANN:** HERE ACTUALLY.
22 **MR. MUELLER:** THANK YOU.
23 (DISCUSSION BETWEEN MR. MANN AND MR. MUELLER.)
24 **MR. MUELLER:** OKAY. THANK YOU.
25 YOU GOT THE OLD COMPLAINT OVER THERE? OKAY.

1 **THE COURT:** WHICH --

2 **MR. MUELLER:** I'LL --

3 **THE COURT:** NOT COUNT-WISE, BUT WHAT ARE THE ALLEGATIONS?

4 **MR. MUELLER:** THE ALLEGATION IS, SO I'M SPECIFICALLY

5 TALKING TO THE PAINT STICK AGAINST AMAYA, AND THAT WOULD BE

6 THE NEW COUNT -- AND IT'S OLD COUNT 13, NEW COUNT 14. ALL

7 RIGHT?

8 **THE COURT:** OKAY.

9 **MR. MUELLER:** AS TO AMAYA, SAYS JANET WAS THE ONE WHO HIT

10 THEM WITH A STICK -- STICK. AMAYA WENT INTO THE GARAGE -- OR

11 DWIGHT WENT INTO THE GARAGE, DID SOMETHING, SHE DOESN'T KNOW

12 WHAT IT WAS. SHE SAYS SHE HAS NO SCAR FROM THE PAINT STICK.

13 NOW, THAT'S AN IMPORTANT POINT, BECAUSE UNDER NEVADA LAW,

14 WHEN YOU --

15 **THE COURT:** WHERE ARE YOU AT?

16 **MR. MUELLER:** I'M AT PAGE 19, LINES -- OR PAGE 19 AND 20.

17 **THE COURT:** ON WHICH DAY?

18 **MR. MUELLER:** ON AMAYA'S TESTIMONY.

19 **THE COURT:** I GO BY VOLUMES, SO --

20 **MR. MUELLER:** OKAY.

21 **THE COURT:** OR DATE.

22 **MR. MUELLER:** THEN IT WOULD HAVE BEEN AMAYA'S

23 TESTIMONY -- LET ME GET THIS. GIVE ME THE TRANSCRIPT. THERE

24 WE GO. THIS WOULD BE VOLUME 3, JUNE 9TH.

25 **THE COURT:** OKAY. AND WHAT PAGES DID YOU SAY?

1 **MR. MUELLER:** I'M REFERRING TO PAGES 16 --

2 **THE COURT:** OKAY.

3 **MR. MUELLER:** -- AND 19, DIRECT EXAMINATION BY MISS BLUTH

4 AND CROSS-EXAMINATION BY MR. MANN.

5 **THE COURT:** OKAY. IT TALKS ABOUT HE WOULD DO IT IF SHE

6 WASN'T HOME. THAT'S WHERE I'M AT ON 17. WHERE ARE YOU?

7 **MR. MUELLER:** PAGE 16, LINES 12 THROUGH 16.

8 **THE COURT:** YEAH.

9 **MR. MUELLER:** JANET WOULD SPANK WITH A PAINT STICK. THEN

10 AMAYA SAYS, DWIGHT WENT INTO THE GARAGE AND DID SOMETHING.

11 **THE COURT:** UM-HUM.

12 **MR. MUELLER:** SHE DIDN'T KNOW WHAT IT WAS. SHE HAD NO

13 SCARS FROM THE PAINT STICK, THAT'S LINES 19 THROUGH 20.

14 **THE COURT:** UM-HUM.

15 **MR. MUELLER:** PAGE 52 AND 53, SHE CAN'T REMEMBER HOW MANY

16 TIMES SHE WAS HIT WITH --

17 **MS. BLUTH:** I'M SORRY, MR. MUELLER, DID YOU SAY LINES 19

18 AND 20 ON PAGE 16, SAID THERE WERE NO SCARS FROM THE PAINT

19 STICK?

20 **MR. MUELLER:** YEAH. NINETEEN --

21 **MS. BLUTH:** THAT DOESN'T SAY THAT. "DO YOU REMEMBER WHAT

22 THE PAINT STICK LOOKED LIKE?"

23 "YES."

24 "CAN YOU TELL ME ABOUT IT?" AND THEN SHE TELLS US ABOUT

25 IT.

1 **MR. MUELLER:** ALL RIGHT, GIVE ME A SECOND.

2 **THE COURT:** AND THEN IT TALKS ABOUT THE PAINT STICKS

3 BREAKING. GO GET ANOTHER ONE.

4 "DID IT LEAVE MARKS?"

5 "YES."

6 "WHERE DID IT LEAVE MARKS AT?"

7 "ON MY ARM AND ON MY BOTTOM."

8 SHE SAYS SHE ONLY HAS ONE MARK ON HER ARM.

9 I MEAN THAT'S WHERE I'M AT, I'M ON PAGE 18 NOW.

10 **MR. MUELLER:** I'M SORRY, JUDGE, IT'S A LOT OF MATERIAL

11 HERE, LET ME GET THROUGH IT.

12 YOU GUYS -- OKAY, IF YOU WANT TO TALK ABOUT -- THIS IS

13 AMAYA'S TESTIMONY ABOUT THE PAINT STICK. IT SAYS, "DO YOU

14 REMEMBER WHO IT WAS THAT GAVE YOU THOSE?" THAT'S LINE 18 --

15 OR PAGE 18, LINES 25, AND THEN GOING INTO 19, "YES."

16 "WHO WAS IT?"

17 "DANIELLE."

18 NOW, NO TESTIMONY HERE AT ALL -- DO YOU HAVE ANY -- HERE

19 IT IS, RIGHT HERE, JUST WHAT I SAID. "DO YOU HAVE ANY SCARS

20 FROM THAT?"

21 "NOT ANYMORE."

22 **THE COURT:** WHERE ARE YOU AT?

23 **MR. MUELLER:** BOTTOM OF PAGE 19. "DO YOU HAVE ANY SCARS

24 FROM THAT?" THE ANSWER IS "NOT ANYMORE."

25 WELL, SCAR IS PERMANENT DISFIGUREMENT, THAT'S WHAT THE

1 STATE NEEDS TO SHOW. IF IT'S NOT THERE ANYMORE, IT'S NOT A
2 SCAR.
3 **THE COURT:** I'M SORRY, I'M NOT SEEING --
4 **MS. BLUTH:** PAGE --
5 **THE COURT:** ARE YOU TALKING ABOUT LINE 5, PAGE 19?
6 **MR. MUELLER:** YES, ON THE JUNE 9TH TESTIMONY.
7 **THE COURT:** IT SAYS, "OKAY. DO YOU WANT YOUR SWEATER
8 BACK ON OR ARE YOU HOT?"
9 "DO YOU REMEMBER WHAT YOU DID WHEN DANIELLE DID THAT?"
10 **MR. MUELLER:** AND THEN IF YOU GO RIGHT TO THE BOTTOM OF
11 THAT PAGE, PAGE 19, LINES 24 AND 25.
12 **THE COURT:** WELL, YOU DIDN'T TELL ME TO GO TO THE BOTTOM,
13 BUT OKAY.
14 **MR. MUELLER:** OKAY. QUESTION --
15 **THE COURT:** YES.
16 **MR. MUELLER:** -- "DO YOU HAVE ANY SCARS FROM THAT?"
17 ANSWER: "NOT ANYMORE."
18 WELL, A SCAR BY ITS DEFINITION IS A PERMANENT
19 DISFIGUREMENT. SO SHE HAS NO SCARS FROM THE PAINT STICK.
20 **THE COURT:** OKAY.
21 **MR. MUELLER:** CAN I CONTINUE?
22 **THE COURT:** UM-HUM.
23 **MR. MUELLER:** SHE SAYS AT PAGE 52 AND 53, SHE CAN'T
24 REMEMBER HOW MANY TIMES SHE WAS HIT. IT WAS A LONG TIME AGO.
25 ONCE AGAIN, PAGE 121, SHE SAID, JANET DID MOST OF THE

1 SPANKING, AND DWIGHT WOULD SOMETIMES SPANK ME WHEN HE GOT HOME
2 FROM WORK, AND HE ONLY HIT HER ON THE BOTTOM.
3 (DISCUSSION BETWEEN MR. MUELLER AND MR. MANN.)
4 **MR. MUELLER:** OKAY. AS TO THE NEW PROPOSED COUNT 15,
5 CHILD ABUSE FOR SITTING ON THE BUCKETS FOR EXTENDED PERIODS OF
6 TIME AS TO AMAYA. AMAYA ONLY TESTIFIES THAT SHE THOUGHT
7 THAT -- ON DIRECT EXAMINATION, THAT SHE THOUGHT THAT
8 MR. DWIGHT BOUGHT THE BUCKETS. SHE SAYS AT PAGE 22 THAT SHE
9 SAID JANET WAS THE ONE WHO MADE HER SIT ON THE BUCKET. SAID
10 THAT SHE WOULD HAVE TO SIT ON THE BUCKET WHEN JANET AND
11 DANIELLE WERE OUT OF TOWN, NEVER SAID FOR HOW LONG OR OFTEN,
12 JUST SAT ON THEM.
13 PAGE 114, JANET DID THE SCHOOLING AND GAVE THEM WORK.
14 PAGE 123, LINES 20 THROUGH 23, SAID THEY SAT ON THE BUCKETS
15 DOING THEIR SCHOOLWORK, JANET DID THE SCHOOLING.
16 PAGE 125, BROUGHT OUT BY ME ON CROSS-EXAMINATION, SHE SAT
17 ON THE BUCKETS ONLY DOING SCHOOLWORK. JANET DID THE
18 SCHOOLING. NOT ANY INDICATION AT ALL IN COUNT -- NEW COUNT
19 PROPOSED 15 THAT MR. SOLANDER WAS EVEN INVOLVED. NOTHING.
20 NOW, NEXT COUNT, OLD 15, NOW NEW 16, HOLD URINE.
21 TESTIMONY IS LITERALLY NO -- NOTHING. NOT A SINGLE ALLEGATION
22 AGAINST MR. SOLANDER ON THIS COUNT. COULD NOT FIND ANYTHING
23 IN THIS RECORD.
24 COUNT 16 AND 17, SAME ARGUMENTS ARE --
25 **THE COURT:** OKAY. CAN I JUST INTERRUPT YOU?

1 **MR. MUELLER:** SURE.

2 **THE COURT:** OKAY. SO ON COUNT 16, THE NEW COUNT 16 --

3 **MR. MUELLER:** NEW 16 --

4 **THE COURT:** -- THAT YOU WERE JUST GOING THROUGH, HOLDING

5 URINE.

6 **MR. MUELLER:** RIGHT.

7 **THE COURT:** SO ON -- ARE YOU SAYING THAT THE -- UM -- THE

8 STATE'S SECOND BULLET POINT, PAGE 14, VOLUME 3, IF MR. DWIGHT

9 WAS WATCHING THEM, HE WOULD CALL MISS JANET, AND THEY WOULD

10 EITHER SAY THAT THEY COULD GO, OR IF MISS JANET SAID THEY HAD

11 TO HOLD IT, THEN HE WOULD MAKE THEM HOLD IT?

12 ARE YOU SAYING THAT'S AN INACCURATE STATEMENT OF THE

13 RECORD?

14 **MR. MUELLER:** THAT'S THE WAY THE REC -- NO, YOUR HONOR, I

15 DON'T RECO -- RECOLLECT THE RECORD THAT WAY.

16 **THE COURT:** WELL, LET'S LOOK.

17 **MR. MUELLER:** OKAY.

18 **MS. BLUTH:** I THINK IF YOU GO TO PAGE 14, LINE 19, IF YOU

19 WANT.

20 **THE COURT:** SO PAGE 14, STARTING AT LINE 19, "WHAT ABOUT

21 IF MISS JANET WASN'T THERE AND MR. DWIGHT WAS TAKING CARE OF

22 YOU, WHAT WOULD HAPPEN IN THAT SITUATION?"

23 WELL, SHE WOULD TELL MR. DWIGHT THAT THEY CAN'T GO UNTIL

24 THE TIME IS UP.

25 **MR. MANN:** YOUR HONOR --

1 **THE COURT:** "SO WHEN MR. DWIGHT WAS TAKING CARE OF YOU,
2 HE'D HAVE TO LISTEN TO MISS JANET?"
3 "YES."
4 OKAY. SO IT'S KIND OF BOTH. I MEAN IT'S HER SUMMARY OF
5 WHAT THE --
6 **MR. MUELLER:** YES, JUDGE.
7 **THE COURT:** -- EXACT TESTIMONY WAS.
8 **MR. MUELLER:** YES.
9 THE PROBLEM IS, THIS IS A CRIMINAL ALLEGATION, I
10 UNDERSTAND. AND UNFORTUNATELY PEOPLE USE LANGUAGE MUCH LOOSER
11 IN DAY-TO-DAY BUSINESS THAN WE LAWYERS NEED TO. NOW, AS A
12 CRIMINAL ALLEGATION, THE STATE HAS TO ADDUCE EVIDENCE.
13 NOW, LOGICALLY, THE GIRLS TESTIFIED THAT MISS SOLANDER
14 DECIDED TO SCHOOL THEM AT HOME. THAT THE TIMER AND THE
15 HOLDING OF THE URINE STRUCK ME AS SOMETHING OTHER THAN A
16 MECHANISM OF AN INCREASINGLY FRUSTRATED WOMAN TO TRY TO TEACH
17 THE KIDS BASIC BATHROOM BEHAVIOR.
18 NOW, THEN MR. SOLANDER IS NOT -- I MEAN THAT'S NOT AN
19 ALLEGATION. THERE'S A -- NOT SUFFICIENT TO SEND UP FOR TRIAL.
20 NOW, THE LITTLE GIRL SAID THE TIMERS WERE USED -- THE
21 LITTLE GIRLS ALL SAID THAT THE TIMERS WERE USED DURING SCHOOL.
22 MISS JANET WAS RUNNING THE SCHOOL. MR. SOLANDER WASN'T HOME.
23 NOW SHE THEN SAYS, WELL, IF I WERE HOME, MR. SOLANDER WOULD
24 CALL AND ASK JANET. WELL, THAT DOESN'T MAKE ANY SENSE,
25 BECAUSE THEY WERE NEVER USING THE -- THE -- THE SCHOOLING, IT

1 DOESN'T MAKE ANY SENSE.

2 NOW, THERE'S NO RECORD AT ALL THAT ANY OF THE GIRLS CAME
3 IN, FOR THAT MATTER, AND SAID HE WOULDN'T LET ME GO TO THE
4 BATHROOM WHEN I WANTED TO.

5 ALL RIGHT. COUNT -- OLD COUNT 16, NOW 17, CHILD ABUSE BY
6 BOARDS AND FANS. PAGE 33 AND 34, JANET DECIDED WHERE THEY
7 SLEPT AND IF THEY WERE ON THE BOARDS. DOES NOT MENTION DWIGHT
8 AT ALL. THAT'S DIRECT EXAMINATION BY MISS BLUTH.

9 SAID, I FOLLOWED JANET RULES SLEEPING ON THE BOARDS WHEN
10 SHE WAS NOT THERE, AND I ALSO WATCHED THEM. NOW, LINE 13,
11 SAID JANET WAS THE ONE WHO TUCKED THEM IN, SAID IT TWICE. SO
12 JANET'S THE ONE WHO PUTS THEM TO BED. SAID I WAS NOT THERE
13 AND GONE MOST OF THE WEEK, ON CROSS-EXAMINATION, PAGE 116 AND
14 117, AND NOT THERE TO MAKE THEM SLEEP ON BOARDS OR TURN THE
15 FANS ON. THAT'S AMAYA'S DIRECT TESTIMONY.

16 NOW, PAGE 151 AND 156, SAME REFERENCE, DID NOT TURN THE
17 FANS ON THEM. THAT WAS REDIRECT BY MRS -- BY MISS BLUTH.
18 NOW, THERE WAS A LONG SERIES OF OBJECTIONS, AND WE GOT BACK
19 TO -- THE FINAL TESTIMONY WAS, I DON'T THINK SO, I'M NOT SURE,
20 AND THAT'S THE TESTIMONY ON THAT ONE.

21 PAGE -- NEW COMPLAINT, LET'S SEE, 18, CHILD ABUSE BY
22 WITHHOLDING FOOD AND WATER FOR A PERIOD OF TIME.

23 THERE'S LITERALLY NO EVIDENCE, NO EVIDENCE AT ALL THAT
24 MR. SOLANDER WAS INVOLVED WITH THAT COUNT OR ALLEGATION AT
25 ALL. THE GIRLS SPECULATED THAT MAYBE DWIGHT HAD SOME PHONE

1 CALLS WITH JANET, BUT THAT'S IT. THERE'S QUITE LITERALLY NO
2 TESTIMONY TO SUPPORT THAT ALLEGATION.
3 NOW, THEN WE GOT -- WE COME TO COUNT 18, SEXUAL ASSAULT,
4 AGAIN BY INSERTING CATHETER. YOU'VE HEARD MY VIEW ON THAT
5 SUBJECT, I DON'T BELIEVE IN ANY WAY CRIMINAL -- OR CRIMINAL
6 LIABILITY ATTACHED TO MR. SOLANDER FOR -- UH -- THE CATHETERS
7 OR THE ALLEGED ALLEGATIONS FOR MISS SOLANDER INSERTING THE
8 CATHETER.
9 NOW, NEXT IS TO AMAYA, AND THEN WE COME TO THE LAST SET
10 OF ALLEGATIONS AGAINST -- TESTIMONY BY ANASTASIA. THE NEXT
11 COUNT THAT I -- I'VE GOT TO CROSS-REFERENCE IT, THANK YOU, MR
12 UH -- SORRY. THANK YOU, JOEL. I'M SORRY, DOING TWO THINGS AT
13 ONCE HERE.
14 ALL RIGHT. NOW, AS TO ANASTASIA, THIS IS NOW COUNT 24,
15 THE PAINT STICK AGAIN. SAYS THAT DWIGHT ONLY SPANKED HER ON
16 THE BOTTOM. STATE THAT JANET WOULD TELL HIM TO SPANK HER
17 AFTER SHE HAD ACCIDENTS, LINES [SIC] 188 AND 187, AND THEN I
18 WOULD PUNISH HER FOR THAT.
19 PAGE 190, ANASTASIA TESTIFIED THAT THE STICK WAS BROKEN
20 WHEN JANET HIT HER. SHE BELIEVES IT WAS -- LET'S SEE, BELIEVE
21 THAT WAS ANSWER TO, QUOTE "... I BELIEVE MR. DWIGHT." I
22 BELIEVE. NOT A DEFINITIVE ANSWER, I BELIEVE IT WAS
23 MR. DWIGHT.
24 194 SAYS, GET IN THE POSITION, BUT THEN I NEVER SPANKED
25 HER AFTER SAYING THAT. THAT'S 194, LINES 1 THROUGH 12. SHE

1 GOT SASSY. SAYS, I WROTE THE RULE OF EDUCATION ON THE PAINT
2 STICK, WHICH DOES NOT MEAN ANYTHING WAS DONE AFTER THAT. I
3 DON'T THINK THIS IS -- THIS IS NOT EVEN RELEVANT.
4 NOW, ONCE AGAIN, THE BUCKETS. THIS IS NOW COUNT 26, SIT
5 ON BUCKETS FOR EXTENDED PERIODS OF TIME, THAT SOMEHOW THIS WAS
6 CHILD ABUSE.
7 ANASTASIA, I GUESS THE YOUNGEST OF THE THREE, SAT ON A
8 POTTY TOILET. SHE DIDN'T EVEN SIT ON A BUCKET AS CHARGED, AND
9 THAT WAS THE DIRECT TESTIMONY OF -- MR. MANN BROUGHT THAT OUT
10 ON CROSS-EXAMINATION. THAT'S LINES 1 -- PAGE 137, 138. ASKED
11 IF THE POT -- OR SHE SAT ON THE POTTY, SHE SIMPLY SAID YES.
12 DOES NOT MAKE -- DID NOT SAY ANYBODY MADE HER DO IT.
13 THEN GO TO THE NEXT COUNT, HOLDING URINE, FOR COUNT 27
14 NOW, HOLDING URINE. PAGE 186, SAYS THAT DWIGHT WOULD LET HER
15 GO IN THE BATHROOM WHENEVER SHE ASKED. AGAIN AT 191, SAID
16 DWIGHT WOULD LET HER GO WHENEVER SHE ASKED. THAT WAS BOTH ON
17 MISS BLUTH'S DIRECT TESTIMONY.
18 PAGE 192, LINE 7, ANASTASIA TESTIFIES THAT THEY WOULD ASK
19 DWIGHT, AND SHE [SIC] WOULD LET HIM [SIC] GO. WE ASKED HIM
20 AND HE WOULD LET US GO. THAT'S HER TESTIMONY ON THE COUNT FOR
21 HOLDING URINE.
22 NOW, WITHHOLDING FOOD. THAT'S THE NEXT COUNT, COUNT 28.
23 LET'S SEE, COUNT -- I GUESS NOW COUNT 29, WITHHOLDING FOOD.
24 PAGE 191, SAYS SHE CAN'T REMEMBER IF I WITHHELD ANY FOOD FROM
25 THEM, WHICH HAS TO BE -- YOU KNOW, CAN'T REMEMBER IF SHE EVER

1 DID IT.

2 UM -- SEXUAL ABUSE, COUNTS 29 THROUGH 31, ARE OLD COUNTS
3 29 THROUGH 31, WHICH ARE NOW 30 THROUGH 33, INSERTING THE
4 CATHETER. YOU'VE ALREADY HEARD MY VIEW ON THE SUBJECT HERE.

5 NOW, YOUR HONOR, THIS IS AN ENORMOUS TRANSCRIPT. I HAVE
6 DONE MURDER TRIALS THAT HAVE GONE LESS THAN THIS HAS. THERE'S
7 THREE AND A HALF, FOUR DAYS OF TESTIMONY, GOING THROUGH THE
8 TRANSCRIPT. THERE'S A LOT OF DETAIL HERE, AND WE ALL RISK
9 GETTING WEIGHED DOWN IN IT. BUT WHAT APPEARS TO BE AN
10 OVERARCHING THEME HERE IS WILLFUL REBELLION BY THESE YOUNG
11 GIRLS, AND AN EVER INCREASING DESPERATE REACTION TO IT BY MISS
12 SOLANDER, WHO TRIED TO ENFORCE SOME DEGREE OF DISCIPLINE.

13 NOW, THIS IS NOT A SEXUAL ASSAULT. I DON'T EVEN BELIEVE
14 THESE -- ANY OF THIS CONDUCT PARTICULARLY ARISES TO CHILD
15 ABUSE AND NEGLECT. THERE ARE A COUPLE OTHER -- ONE OFF
16 ISSUES, THE BURNS AND -- AND -- UH -- ALLEGATIONS, BUT
17 GENERALLY WHAT WOULD YOU EXPECT TO SEE IF CHILDREN -- AND MY
18 FOOTBALL COACH, AND I HATE TO USE THE VERNACULAR, HE USED TO
19 HAVE A SAYING, "I DON'T WANT YOU GUYS TO GET IN A PISSING
20 CONTEST," WHICH IS TWO GUYS GET IN A FIGHT OVER NOTHING THAT
21 PARTICULARLY MATTERED AT ALL.

22 NOW, HERE WE HAVE, QUITE LITERALLY, A PISSING CONTEST.
23 THESE KIDS DIDN'T WANT TO BE THERE, THEY'RE NOT HAPPY, SO THEY
24 START PEEING THEMSELVES. THEY ADMITTED SO MUCH AS THAT WAS
25 THE CASE. SO -- I MEAN, THIS CONTEXT IS A COUPLE OF

1 FRUSTRATED PARENTS TRYING TO ENFORCE SOME BASIC SANITATION AND
2 DECORUM ON THE CHILDREN.
3 SO WHAT DO YOU SEE? YOU SEE EXACTLY WHAT YOU'D EXPECT TO
4 SEE. NUMBER 1, TRY TO EMBARRASS THE KID, CHIDE THE CHILDREN,
5 SEE IF THEY WOULD MEND THEIR WAYS. PUT THEM ON A BUCKET.
6 MAKE SURE YOU UNDERSCORE THE POINT, IF YOU CAN'T BE TRUSTED,
7 YOU GOT TO SIT ON THE BUCKET.
8 WHAT ELSE WOULD YOU EXPECT TO SEE? WELL, ANYBODY WHO
9 SMELLED URINE THAT'S BEEN SITTING OUT FOR A COUPLE HOURS KNOWS
10 EXACTLY HOW AWFUL THAT SMELLS, SO WHAT WOULD YOU EXPECT TO
11 SEE? YOU'D EXPECT TO SMELL BAD SHEETS, DIRTY AND SOILED
12 LINENS. AND HOW MANY TIMES WOULD YOU CHANGE THE LINENS BEFORE
13 YOU TELL THE KID YOU GOT TO SLEEP ON A HARD SURFACE UNTIL YOU
14 STOP PEEING IN THE BED?
15 THEN THE PARENTS THINKS, GEE WHIZ, MAYBE THERE'S
16 SOMETHING WRONG WITH THE KIDS' DIETS. MAYBE THEY AREN'T DOING
17 THIS INTENTIONALLY, MAYBE THERE'S SOMETHING WRONG WITH THEM,
18 LET'S GET THEM SOME SPECIAL BLENDED FOOD.
19 NOW, THERE SEEMS TO BE ONE UPMANSHIP BETWEEN THESE GIRLS
20 AND MISS SOLANDER TRYING TO GET SOMETHING IN ORDER. NOW, WHAT
21 I DIDN'T HEAR ANYBODY VOLUNTEERING ANY HELP FROM CHILD
22 PROTECTIVE SERVICES, OR GIVING THEM ANY MEANINGFUL GUIDANCE.
23 NOW, I DO NOT BELIEVE THAT THE -- I DO NOT BELIEVE THE
24 SEXUAL ASSAULT CHARGES LIE. I DO NOT BELIEVE MOST OF THE
25 CHILD ABUSE CHARGES LIE. I DO NOT BELIEVE THE ALLEGATIONS

1 AGAINST MR. SOLANDER HAVE BEEN PROVED TO A REASONABLE
2 INFERENCE.
3 I SEE NOTHING OTHER THAN A REASONABLE EFFORT TO
4 DISCIPLINE SOME UNRULY GIRLS WHO, BY THEIR OWN TESTIMONY, WERE
5 INTENTIONALLY REBELLIOUS. AND I'D ASK FOR THESE CHARGES TO BE
6 DISMISSED AS TO MR. SOLANDER.
7 **THE COURT:** THANK YOU.
8 MR. RUE?
9 **MR. RUE:** THANK YOU, JUDGE. UM -- DOES YOUR HONOR HAVE
10 THE PICTURES THAT -- THE DEFENDANT'S A THROUGH --
11 **THE COURT:** I'M SURE WE DO.
12 **MR. RUE:** -- D?
13 **THE COURT:** YES.
14 **MR. RUE:** WELL, I'LL BE REFERENCING THOSE, AND I'LL --
15 **THE COURT:** A THROUGH D?
16 **MR. RUE:** YES. UM -- THEY'RE THE PICTURES OF AMAYA AND
17 OF ANASTASIA.
18 **THE COURT:** OF THE MARKS?
19 **MR. RUE:** CORRECT.
20 **THE COURT:** OKAY.
21 **MR. RUE:** AND I KNOW THIS IS LATE AND I'LL BE AS SUCCINCT
22 AND BRIEF AS POSSIBLE.
23 **THE COURT:** IT'S OKAY.
24 **MR. RUE:** I BELIEVE IF I READ THE STATE'S -- READ THE
25 AMENDED COMPLAINT, I'M ONLY DEALING WITH COUNT 14 AND

1 COUNT 24, SO THAT'S ALL I'M GOING TO TALK ABOUT, JUDGE.

2 **THE COURT:** COUNT 14 --

3 **MR. RUE:** FOURTEEN.

4 **THE COURT:** -- OF THE NEW ONE. HOLD ON, LET ME GET

5 THERE. I'M SURE YOU'RE CORRECT, BUT -- COUNT 14 PERTAINS TO

6 THE PAINT STICK WITH SUBSTANTIAL BODILY HARM --

7 **MR. RUE:** REGARD --

8 **THE COURT:** -- AS TO AMAYA.

9 **MR. RUE:** RELATING TO AMAYA.

10 **THE COURT:** AND WHAT OTHER COUNT?

11 **MR. RUE:** TWENTY-FOUR, WHICH IS THE SAME --

12 **THE COURT:** TWENTY-FOUR, ANASTASIA, PAINT -- SAME THING

13 AS TO ANASTASIA.

14 **MR. RUE:** CORRECT.

15 **THE COURT:** OKAY.

16 **MR. RUE:** SAME THING.

17 AND I GUESS I WANT TO MAKE A GENERAL COMMENT ABOUT BOTH.

18 IN THE WAY IT'S PLED, AS YOU SEE DWIGHT, DANIELLE AND JANET

19 ARE ALL CHARGED WITH THE SAME SORT OF CONDUCT THAT -- UH --

20 HAD RESULTED IN SUBSTANTIAL BODILY HARM AS IT RELATES TO A

21 PAINT STICK TO THE BODY, BUTTOCKS, ARM OR WRIST, DEPENDING ON

22 WHICH KID YOU'RE TALKING TO.

23 UM -- I DON'T THINK THAT'S CORRECTLY PLED, JUDGE. IT --

24 IT -- IT REMINDS ME OF THE OLD *RES -- RES IPSA LOQUITUR* DAYS

25 OF TORTS, WHERE THERE'S AN INJURY AND YOU CHARGE EVERYONE THAT

1 COULD BE INVOLVED, AND THEN THEY HAVE TO ESTABLISH THAT THEY
2 WEREN'T INVOLVED OR THEY'RE NOT ATTRIBUTABLE TO THAT.
3 IN THIS CASE THERE'S NO EVIDENCE TO TALK ABOUT THAT --
4 UM -- DANIELLE USED A STICK ON A BODY. THERE IS NO EVIDENCE
5 THAT AMAYA -- OR THAT DANIELLE USED A STICK ON THE BUTTOCKS OF
6 THESE GIRLS TO THE EXTENT THAT CAUSES INJURY.
7 THE ONLY THING, HONESTLY, THAT WAS ATTRIBUTABLE --
8 ATTRIBUTABLE TO DANIELLE, IS AMAYA SAYING THAT SHE GOT HIT ON
9 THE ELBOW, AND ANASTASIA SAYING SHE GOT HIT ON THE WRIST, BOTH
10 ONE TIME, THAT CAUSE THE INJURIES THAT THEY SAY THAT THEY
11 SHOWED YOU.
12 BUT -- UM -- WHEN ASKED ABOUT THE SPANKING ON THE
13 BUTTOCKS, WE DON'T HAVE ANY EVIDENCE THAT THERE WAS MORE THAN
14 ONE OR TWO INCIDENTS OF ANY OF THAT FROM ANY OF THE GIRLS.
15 THERE WAS NEVER TALK OF THEY WERE -- UM -- IT WAS SKIN TO --
16 TO -- TO THE PAINT STICK. THERE'S NO EVIDENCE OF ANY BLEEDING
17 OR BREAKING OR ANY SCARING, WHATSOEVER, ATTRIBUTABLE TO
18 DANIELLE SPANKING THEM, MAYBE ONE OR TWO TIMES, IF YOU ACCEPT
19 THE TESTIMONY.
20 AND, NO, I DON'T HAVE THE SPECIFIC REFERENCES OFF THE
21 BAT. I DO KNOW THAT THEY TALKED ABOUT MAYBE DANIELLE HITTING
22 THEM ONCE OR TWICE WITH THE -- UM -- PAINT STICK.
23 UM -- DANIELLE IS NOT A COCONSPIRATOR HERE. SHE'S NOT AN
24 AIDER AND ABETTOR HERE, SHE IS -- SHE IS ALLEGED TO BE
25 DIRECTLY LIABLE FOR SPANKING THESE KIDS ON THE BUTTOCKS AND

1 CAUSING SUBSTANTIAL BODILY HARM.

2 THERE -- THERE JUST IS NOT EVIDENCE OF THAT. THERE'S

3 NO -- NOTHING ATTRIBUTABLE TO DANIELLE THAT PUTS HER IN THAT

4 REALM OF THE BUTTOCKS WITH THE SCARS, AND WHATEVER YOU WANT TO

5 SAY ABOUT THAT.

6 I WILL TALK ABOUT, THOUGH, THE TWO THINGS THAT ARE

7 ATTRIBUTABLE TO HER, AND THAT IS AMAYA'S RIGHT -- RIGHT ELBOW?

8 I --

9 **THE COURT:** IT'S AN ELBOW.

10 **MR. RUE:** YEAH.

11 **THE COURT:** I DON'T KNOW WHICH ONE IT IS.

12 **MR. RUE:** OKAY. AMAYA'S ELBOW. WE HEARD FROM AMAYA THAT

13 THIS WAS WITH A PAINT STICK ON THE ELBOW. THERE WAS NO

14 BLEEDING, NO BREAKING OF THE PAINT STICK, AND IT WAS ONE SWAT

15 THAT HAPPENED IN 2012. AND WE KNOW THAT IT WAS BECAUSE SHE

16 GOT CAUGHT -- OR THE GIRLS GOT CAUGHT STEALING -- UM --

17 STEALING FOOD FROM REBECCA.

18 THERE ARE CLEAR INCONSISTENCIES BETWEEN WHAT AMAYA SAYS

19 ABOUT THIS INCIDENT AND WHAT ANASTASIA SAYS ABOUT THIS

20 INCIDENT. NONETHELESS, SHE SHOWED YOU PICTURES. UM -- I

21 WOULD ARGUE, JUDGE, THAT THAT DOES NOT AMOUNT TO ABUSE.

22 AND -- UM -- I WILL SIMPLY CITE THE TESTIMONY OF DR.

23 CETL. DR. CETL TOLD MISS LUZAICH ON DIRECT EXAMINATION, THAT

24 INJURY OF ITSELF IS NOT AN ISSUE OF ABUSE, AND THAT'S ON

25 PAGE 27 -- UM -- JUDGE CETL -- OR DR. CETL TALKED ABOUT --

1 **THE COURT:** WHAT -- WHAT VOLUME?

2 **MR. RUE:** WELL, DR. CETL'S TESTIMONY I THINK WAS IN

3 VOLUME 4, YOUR HONOR.

4 **THE COURT:** OKAY. AND YOU SAID PAGE 27?

5 **MR. RUE:** TWENTY-SEVEN. SHE -- SHE AGREED WITH MISS

6 LUZAICH THAT THIS IS AN AREA THAT'S FULLY EXPOSED, IT'S NOT A

7 PROTECTED AREA, THAT THESE ARE AREAS WHERE THERE ARE COMMON

8 INJURIES. SHE THEN INDICATED THAT THAT INJURY, BY ITSELF,

9 DOES NOT CAUSE CONCERN.

10 UM -- MISS LUZAICH THEN PROCEEDED TO SAY, WELL, BUT THAT

11 ALONG WITH EVERYTHING ELSE, THAT'S WHAT CAUSES THE CONCERN FOR

12 ABUSE, CORRECT? CORRECT.

13 BUT MISS HINTON'S ONLY ATTRIBUTABLE FOR THIS ONE INJURY,

14 THIS ONE INCIDENT. ACCORDING TO DR. CETL THAT'S NOT ABUSE.

15 AND I WOULD ARGUE, EVEN IF -- EVEN IF YOU FOUND SLIGHT OR

16 MARGINAL EVIDENCE THAT IT WAS ABUSE, I WOULD ECHO

17 MR. MANN'S -- UM -- ARGUMENT WITH REGARD TO THE SUBSTANTIAL

18 BODILY HARM ELEMENT, IT HAS TO BE SERIOUS PERMANENT

19 DISFIGUREMENT.

20 YOU SEE THE INJURIES. I WOULD ARGUE THAT THOSE ARE NOT

21 SERIOUS. THEY'RE NOT TO THE POINT TO WHERE -- TO RISE TO THE

22 LEVEL OF CHILD ABUSE, OR THAT THEY ARE -- UM -- SUBSTANTIAL

23 BODILY HARM.

24 WITH RESPECT TO COUNT 24, THAT DEALS WITH ANASTASIA. AND

25 IT'S -- TO BE CANDID, JUDGE, I DON'T KNOW REALLY HOW TO TALK

1 ABOUT THIS. SHE GOT UP HERE AND SHE SHOWED YOU TWO MARKS ON
2 HER RIGHT WRIST. SAID THAT WAS CAUSED BY APPARENTLY THE SAME
3 INCIDENT WHERE THE STEALING OCCURRED, AND IN THAT INCIDENT
4 DANIELLE HIT HER ON THE WRIST ONE TIME, THAT CAUSED APPARENTLY
5 TWO MARKS, ACCORDING TO THE TESTIMONY, ON THE RIGHT WRIST.
6 UM -- AND I HAVE THE CITES, IT'S PAGE 189 OF -- OF -- OF
7 VOLUME 3 OF HER TESTIMONY -- UM -- WHERE SHE TALKS ALL ABOUT
8 THE INCIDENT, JUDGE. UM -- AGAIN, IT'S NOT ABUSE, THOUGH,
9 BECAUSE THAT INJURY WAS NEVER THERE WHEN DR. CETL EXAMINED
10 HER. YOU RECALL DR. CETL, AND YOU LOOKED AT THE INJURIES THAT
11 I HAVE PRESENTED, THEY ARE A SCRATCH ON HER LEFT WRIST.
12 ANASTASIA CAME IN HERE AND SHOWED A BRUISE OR -- OR A
13 MARK, SCARS ON HER RIGHT WRIST. THERE WAS NEVER ANY MENTION
14 OF ANY MARK OR SCARRING ON HER RIGHT WRIST AT ALL. AND, MIND
15 YOU, THIS WAS A HEAD-TO-TOE EXAM. DR. CETL CAME IN AND TALKED
16 ABOUT HOW -- OR SUGGESTED THAT SOME DOCTORS JUST DON'T GET IT
17 RIGHT, BUT SHE DOES A HEAD-TO-TOE EXAM, VERY THOROUGH, NEVER
18 NOTED, NEVER SAW ANY SCARRING ON EITHER WRIST. SAW A SCRATCH,
19 BUT NEVER SAW ANYTHING OR NOTED ANYTHING OF ABUSE ON THE
20 RIGHT -- ON THE RIGHT WRIST TO SUGGEST ABUSE OR ANYTHING. SO,
21 AGAIN, I MEAN DR. CETL'S OWN TESTIMONY BELIES THE CLAIMS OF
22 THE STATE THAT THIS AMOUNTS TO ABUSE.
23 AND -- OH, BY THE WAY, EVEN IF YOU ACCEPT ANASTASIA'S
24 WORD THAT THIS HAPPENED FROM ONE INCIDENT, FROM ONE PAINT
25 STICK INCIDENT THAT CAUSED TWO MARKS -- UM -- THERE IS NO WAY

1 THAT THAT IS SERIOUS PERMANENT DISFIGUREMENT.

2 UM -- THERE'S NO -- THERE'S NO TESTIMONY OF PAIN.

3 THERE'S NO TESTIMONY OF ANYTHING, OTHER THAN WHAT SHE CLAIMED.

4 AND SHE DIDN'T EVEN -- SHE DIDN'T EVEN CLAIM THAT TO THE

5 DOCTOR. AND DIDN'T SHOW IT TO THE DOCTOR, JUDGE.

6 UM -- I DON'T THINK THAT WITH REGARD TO DANIELLE, FOR THE

7 INJURIES OR CONDUCT THAT IS ATTRIBUTABLE TO HER, THAT YOU HAVE

8 ANYTHING THAT AMOUNTS TO ABUSE. AND EVEN IF YOU DISAGREE AND

9 SAY THAT THERE IS SLIGHT OR MARGINAL EVIDENCE OF THAT, AND

10 SORT OF IGNORE THE DOCTOR'S TESTIMONY -- UM -- THERE'S BEEN NO

11 EVIDENCE, EVEN SLIGHT, THAT IT IS A SERIOUS PERMANENT

12 DISFIGUREMENT. AND I REALLY DON'T THINK THAT YOU CAN JUST

13 STAND -- I ANTICIPATE THE STATE'S GOING TO SAY MAYBE THAT'S A

14 JURY ISSUE. I DON'T THINK SO. I THINK AT SOME LEVEL THERE

15 HAS TO BE EVEN SLIGHT OR MARGINAL EVIDENCE THAT THERE IS A

16 SERIOUS PERMANENT DISFIGUREMENT. UM -- SO I -- I WOULD ASK

17 THAT BOTH 14 AND 24 BE DISMISSED AGAINST MISS HINTON.

18 **THE COURT:** THANK YOU.

19 MISS BLUTH?

20 **MS. BLUTH:** BEFORE I GET INTO EACH CHARGE, I WANT TO

21 DISCUSS A COUPLE ISSUES THAT SOME OF THE DEFENSE ATTORNEYS

22 HAVE BROUGHT UP. ACTUALLY, BEFORE I GET THERE, I WANT TO MAKE

23 CLEAR ON THE RECORD THAT -- UM -- WHEN -- I BELIEVE IT WAS

24 MISS LUZAICH PLAYED DANIELLE'S STATEMENT -- NOT PLAYED

25 DANIELLE'S STATEMENT, BUT SPOKE TO DETECTIVE EMERY ABOUT

1 DANIELLE'S STATEMENT, AND I THINK WE HAVE A LOT OF OBJECTIONS
2 ABOUT THAT -- REGARDING THAT.
3 I'M ASKING YOUR HONOR, WHEN YOU ARE MAKING THE BINDOVER
4 DECISIONS, TO CONSIDER THOSE COMMENTS THAT DANIELLE MADE --
5 UM -- ONLY TOWARDS DANIELLE'S SLIGHT OR MARGINAL EVIDENCE
6 STANDARD. I DON'T -- ANY STATEMENTS THAT SHE MADE, YOU KNOW,
7 REGARDING -- THE POINT OF THAT TESTIMONY WAS THAT WE FELT HER
8 STATEMENTS WERE VERY SELF-SERVING. UM -- BUT HER STATEMENTS
9 SHOULD NOT BE CONSIDERED IN THE OTHER -- AGAINST THE OTHER
10 DEFENDANTS. AND, YOU KNOW, AT A JURY TRIAL THAT DOESN'T
11 HAPPEN. THERE'S OTHER WAYS TO REMEDY THE SITUATION, BUT
12 YOU'RE NOT A JURY, AND YOU'RE SMART ENOUGH TO FIGURE OUT WHAT
13 CAN BE USED AGAINST WHICH DEFENDANT, SO I'M JUST ASKING YOU
14 WHEN YOU MAKE YOUR BINDOVER DECISIONS TO NOT BASE ANYTHING
15 THAT DANIELLE HINTON SAID ON THE CODEFENDANTS.
16 **THE COURT:** OKAY.
17 **MS. BLUTH:** THANK YOU.
18 UM -- I WANT TO TALK FIRST ABOUT SEXUAL ASSAULT. UM --
19 THE -- THERE ARE TWO FORMS OF SEXUAL ASSAULT WHERE YOU
20 ACTUALLY DON'T HAVE TO ESTABLISH PENETRATION, WHICH IS
21 CUNNILINGUS AND FELLATIO. IF -- UM -- A LIP TOUCHES THE
22 OUTSIDE OF THE VAGINA THAT'S CUNNILINGUS AND THAT'S SEXUAL
23 ASSAULT.
24 UM -- IN REGARDS TO DIGITAL PENETRATION, THE PENETRATION
25 WITH A STICK, THE PENETRATION WITH A CATHETER, YOU DO HAVE TO

1 ESTABLISH PENETRATION. YOU DON'T HAVE TO ESTABLISH WHICH HOLE
2 IT WENT THROUGH -- UM -- YOU HAVE TO ESTABLISH THAT IT WENT
3 PAST THE LABIA MAJORA. OBVIOUSLY, WOMEN HAVE TWO SETS OF
4 LIPS, THE LABIA MAJORA, THE BIGGER ONE IS ON THE OUTSIDE, AND
5 THE SMALLER ONES ON THE INSIDE. TO ESTABLISH PENETRATION, YOU
6 JUST HAVE TO SHOW THAT IT WENT BEYOND THE LIPS.
7 I DON'T LIKE THIS ANALOGY, BUT IT'S ONE THAT SOME OF MY
8 TEAMMATES CONSTANTLY USES, WHERE THE VAGINA ACTUALLY IS WET IS
9 ANOTHER WAY TO ESTABLISH PENETRATION. SOMETIMES CHILDREN,
10 THAT'S AN EASIER WAY FOR THEM TO ESTABLISH IT.
11 SO THIS IDEA THAT THE CATHETER TUBE OR NEEDLE, WHATEVER
12 TERM YOU WANT TO USE, WENT UP THE URETHRA AND NOT THE
13 VAGINAL -- OTHER -- WHERE OTHER THINGS GO -- UM -- THAT'S
14 STILL PENETRATION. BECAUSE IT WENT PAST THE LABIA MAJORA,
15 IT'S STILL PENETRATION. SO I WANTED TO ADDRESS THAT.
16 SECONDLY, ON SEXUAL ASSAULT, SEXUAL ASSAULT IS A GENERAL
17 INTENT CRIME. I THINK DEFENSE IS GETTING THIS CONFUSED WITH
18 LEWDNESS WITH A MINOR, WHERE YOU HAVE TO SHOW IT WAS DONE WITH
19 AN INTENT TO AROUSE OR GRATIFY THE LUST OR PASSIONS OF THE
20 DEFENDANT OR OF THE CHILD THAT THEY ARE TOUCHING.
21 SEXUAL ASSAULT, YOU DON'T HAVE TO HAVE ANY SEXUAL INTENT
22 AT ALL. THE FACT THAT YOU STICK SOMETHING, YOU KNOW, IN A
23 CHILD'S VAGINA, AND IF THEY DON'T WANT IT TO HAPPEN OR IF IT'S
24 UNDER CONDITIONS THAT YOU SHOULD HAVE KNOWN THE CHILD DIDN'T
25 WANT IT TO HAPPEN, IT'S SEXUAL ASSAULT. SO IT'S A GENERAL

1 INTENT CRIME.

2 IN REGARDS TO THE WAY THAT THE SEXUAL ASSAULT WAS PLED
3 AGAINST MR. SOLANDER -- UM -- THE STATE WOULD -- OBVIOUSLY,
4 THERE'S NO EVIDENCE THAT HE DIRECTLY COMMITTED THAT, IT WOULD
5 BE PURELY UNDER A CONSPIRACY AND AIDING, ABETTING TYPE
6 LANGUAGE. OBVIOUSLY THE STATE BELIEVES THEY PRESENTED
7 SUFFICIENT EVIDENCE TO SHOW -- UM -- THAT HE CONSPIRED WITH
8 HIS WIFE AND THAT HE AIDED AND ABETTED.

9 AND I WOULD TURN YOUR HONOR'S ATTENTION TO, YOU KNOW, THE
10 CLASSIC AIDING AND ABETTING, STATE -- WHICH IS *PHILLIP LEE*
11 *BROOKS V. STATE OF NEVADA*, WHICH IS 103 NEVADA 611. AND IN
12 THAT CASE, THE COURT STATED -- THEY CITE TO A CASE CALLED
13 *ROWLAND*, WHICH IS 96 NEVADA 300. UM -- IN *ROWLAND*, THIS COURT
14 FOUND THAT A CHARGE OF POSSESSION OF A SAWED-OFF SHOTGUN WOULD
15 BE SUPPORTED WHEN THE DEFENDANT WAS PRESENT, AND ACTIVELY
16 PARTICIPATED IN THE NEGOTIATIONS FOR THE SALE OF THE GUN.

17 SO IN *ROWLAND*, THAT THERE -- THERE'S A ROBBERY -- UM --
18 THEN ONE CODEFENDANT SHOOTS THE GUN, AND THE SECOND
19 CODEFENDANT WAS ACTIVELY INVOLVED -- ACTIVELY INVOLVED IN
20 PURCHASING THE SAWED-OFF SHOTGUN THAT RESULTED IN THE USE OF
21 THE CRIME. SO THAT'S THE CASE OF THE -- UM -- NEVADA SUPREME
22 COURT CONSTANTLY CITES TO IS *ROWLAND* AND *BROOKS*, AND THEY
23 STAND FOR THE EXACT SAME -- UM -- POSITION.

24 NOW, IF WE HAD EVIDENCE THAT HE WAS MERELY PRESENT,
25 THAT'S A COMPLETE DEFENSE. SO IF, YOU KNOW, HE WAS JUST THERE

1 WHEN IT WAS GOING ON, BUT WE HAD ABSOLUTELY NO PROOF THAT HE
2 HAD KNOWLEDGE OF WHAT WAS GOING ON, THAT HE WAS THERE, THAT IS
3 A DEFENSE TO IT, BUT THAT'S NOT WHAT WE HAVE IN THIS CASE. SO
4 I WANTED TO CLEAR THAT UP.
5 AND THEN CHILD ABUSE, I HEARD THAT MULTIPLE -- LIKE
6 SITTING ON THE BUCKETS, WITHHOLDING FOOD, THINGS LIKE THAT --
7 UM -- AREN'T CHILD ABUSE. BUT -- AND I SHOULD HAVE BROUGHT
8 THE CITE, AND I APOLOGIZE, BUT IT'S *STATE V. BRYAN CLAY* --
9 UM -- WHERE THERE WAS -- I'M SURE WE'RE ALL VERY FAMILIAR WITH
10 THE DEATH PENALTY ASPECT OF THAT CASE, BUT THERE'S ALSO A
11 CHILD ABUSE ELEMENT TO ONE OF THE OTHER CASES. AND THE
12 SUPREME COURT STATED IN *CLAY* THAT THERE HAS TO BE ACTUAL
13 INJURY IF IT IS NOT PLED -- UM -- SPECIFICALLY.
14 AND IF YOU LOOK AT OUR COMPLAINT, EACH ONE OF THOSE WE
15 PLED PURSUANT TO THE NEGLIGENT OR MALTREATMENT ASPECT OF THE
16 CHILD ABUSE AND NEGLECT -- UM -- STATUTE. AND SO WE'RE NOT
17 PROVING ACTUAL INJURY, WE DON'T HAVE TO PROVE ACTUAL INJURY IN
18 THOSE CASES. WE HAVE TO PROVE NEGLIGENT TREATMENT OR
19 MALTREATMENT. UM -- AND WE HAVE BEEN UPHELD ON THAT SINCE --
20 SINCE THAT DECISION CAME DOWN, WE HAVE NOW HAD TO CHANGE THE
21 WAY WE PLEAD THINGS, AND WE HAVE TO DO IT WITH SUCH
22 SPECIFICITY. BUT SINCE WE'VE BEEN DOING THAT, WE HAVE BEEN
23 UPHELD AT THE SUPREME COURT, SO.
24 IN REGARDS TO -- AND NOW, IF WE COULD GO TO COUNT 1,
25 WHICH IS MR. MANN -- OR WHICH IS TO ALL THREE OF -- NO, EXCUSE

1 ME, JUST TWO OF THE DEFENDANTS, BECAUSE I TOOK OUT -- UM --
2 MISS DANIELLE'S PART IN THIS ONE.
3 BUT IF YOU LOOK AT THE TESTIMONY -- UM -- OF AVA, BUT
4 ALSO LOOK AT THE TESTIMONY OF DR. CETL, WHICH MORE
5 IMPORTANTLY -- AND I DID PAGE 14, VOLUME 4 -- SHE FOUND
6 NUMEROUS SCARS ALL OVER THE BODY. THE ONES THAT WERE
7 PARTICULARLY CONCERNING WERE ON HER BOTTOM AND BACK. AND THEN
8 I SAID, THE PICTURES THAT ARE BEING SHOWN ARE OF AVA'S BACK
9 AND LEGS. THERE'S OBVIOUS SCARS AND HEALED SCAR TISSUE.
10 PERMANENT -- YOU HAVE TO SHOW PROLONGED PHYSICAL PAIN OR
11 PERMANENT DISFIGUREMENT. I'VE HAD --
12 **THE COURT:** OR SERIOUS PERMANENT DISFIGUREMENT.
13 **MS. BLUTH:** YEAH. I MEAN, I'VE HAD A CHIPPED TOOTH COME
14 BACK. I'VE HAD A SPLIT ON THE EYE WITH THREE STITCHES COME
15 BACK. THIS IS -- THIS IS A JURY QUESTION. I MEAN, WE HAVE
16 SHOWN THAT THERE ARE SCARS, THAT SHE'S STILL LIVING WITH
17 SCARS, AND THAT -- MULTIPLE SCARS ACTUALLY. THAT'S UP FOR A
18 JURY TO DECIDE IF THAT'S WHETHER -- WHETHER OR NOT THAT'S
19 SERIOUS PERMANENT DISFIGUREMENT, OR WHETHER OR NOT THAT THAT
20 WAS PROLONGED PHYSICAL PAIN -- UM -- TO BE BEATEN WITH A STICK
21 AND HAVE YOUR BUTT BLEED AND THINGS LIKE THAT. SO I WOULD
22 SUBMIT THAT THAT IS UP TO A JURY.
23 AND IN REGARDS TO MR. MUELLER'S COMMENTS THAT THERE ISN'T
24 TESTIMONY IN REGARDS TO MR. DWIGHT. UM -- IF YOU LOOK AT
25 PAGE 22, VOLUME 1, MISS JANET AND MR. DWIGHT WOULD SPANK HER

1 WITH A RULER. PAGE 24, VOLUME 1, WHEN THEY WOULD HIT HER,
2 THEY WOULD DO IT ON HER BOTTOM WITH HER CLOTHES OFF. PAGE 25,
3 WHEN THEY WOULD HIT HER, IT WOULD BREAK HER SKIN AND SHE WOULD
4 BLEED, SHE HAS SCARS ON HER BOTTOM.
5 SO I DISAGREE THAT THERE'S NO EVIDENCE THAT MR. DWIGHT
6 DID THAT, BECAUSE SHE CLEARLY STATED MULTIPLE TIMES ON THE
7 RECORD THAT HE DID DO THAT.
8 **MR. MUELLER:** THAT'S --
9 **MS. BLUTH:** UM -- IN REGARDS TO CHARGE TWO, COUNT 2,
10 THERE WAS TESTIMONY THAT SHE -- ON PAGE 44, VOLUME 1, SHE
11 DISCUSSED THAT IT WAS PURPLE, SHE WAS IN PAIN, AND IT
12 PARTIALLY CLOSED. UM -- SHE ALSO STATED ON PAGE 45 -- MR.
13 MANN SAID THAT SHE NEVER TESTIFIED THAT SHE COULDN'T SEE OUT
14 OF IT. WELL, PAGE 45, VOLUME 1 SAYS, SHE SAID SHE COULDN'T
15 SEE OUT OF IT AS MUCH AS SHE DID BEFORE, SO I DISAGREE WITH
16 THAT STATEMENT.
17 SO WE HAVE PROLONGED PHYSICAL PAIN AND WE HAVE THE FACT
18 THAT SHE COULDN'T SEE OUT OF IT AS MUCH. SO I -- I DISAGREE
19 WITH HIS CHARACTERIZATION OF THAT.
20 DID YOU HAVE ANY QUESTIONS ON WHETHER OR NOT ANY --
21 BECAUSE I DON'T WANT TO HAVE TO GO THROUGH EVERY COUNT, SO I
22 JUST WANT TO DISCUSS ANYTHING THAT YOU HAVE CONCERNS WITH OR
23 SPECIFIC ISSUES.
24 **THE COURT:** I DID.
25 **MS. BLUTH:** OKAY.

1 **THE COURT:** I DO. I HAVE A QUESTION ON COUNT 6.

2 **MS. BLUTH:** YES.

3 **THE COURT:** SO AS TO DWIGHT, YOU'RE SAYING THAT SHE
4 BASICALLY TESTIFIED INCONSISTENTLY HERE. AT ONE POINT SHE
5 SAID THAT DWIGHT WAS WITHHOLDING FOOD AND WATER, AND AT
6 ANOTHER POINT SHE -- SHE WAS INCONSISTENT WITH HER OWN
7 TESTIMONY, AND MR. DWIGHT -- AND SHE SAID, MR. DWIGHT NEVER
8 SAID THEY COULDN'T HAVE ANY FOOD OR WATER.

9 **MS. BLUTH:** CORRECT. AND I THINK IT'S IMPORTANT, BECAUSE
10 SOMETIMES, AND I FELL INTO THIS TRAP WHEN I WAS DOING THIS
11 CRIMINAL COMPLAINT, I WAS ONLY CONSIDERING EACH CHILD'S
12 TESTIMONY FOR THEIR CHARGES. BUT IF YOU LOOK AT THOSE SAME
13 CHARGES WITH THE SISTERS' TESTIMONY, THEY SAY MR. DWIGHT DID
14 THIS TO ALL OF THEM, AND SO IT DOESN'T REALLY MATTER -- I MEAN
15 I WILL AGREE WITH YOU THAT AVA WAS INCONSISTENT, AT ONE POINT
16 SHE SAID IT AND AT ONE POINT SHE RETRACTED.

17 **THE COURT:** OH, I AGREE. AND EVEN ANASTASIA DID NOT
18 FAULT DWIGHT ON -- EVEN ANASTASIA ON THAT SAME TYPE OF
19 ACTIVITY, OR ALLEGED ACTIVITY, SHE -- IT'S YOUR -- BASICALLY,
20 YOUR CITATION TO THE TRANSCRIPT THAT SHE COULDN'T REMEMBER
21 WHAT HAPPENED WITH FOOD WHEN MR. DWIGHT WAS WATCHING THEM.

22 **MS. BLUTH:** I'M SORRY, WHICH PAGE IS IT?

23 **THE COURT:** I'M SORRY.

24 **MS. BLUTH:** OR WHICH COUNT, I DON'T --

25 **THE COURT:** IT'S -- I HAVE ALREADY -- I'M SORRY, I'VE

1 MOVED TO COUNT 29.

2 **MS. BLUTH:** OKAY.

3 **THE COURT:** THAT'S JUST THE SAME TYPE OF CHARGE AGAINST,

4 BUT AS TO ANASTASIA.

5 **MS. BLUTH:** RIGHT. YES. YES. SHE CAN'T REMEMBER,

6 RIGHT. AND THEN --

7 **THE COURT:** BUT HERE'S -- I UNDERSTAND -- I UNDERSTAND

8 WHAT YOU'RE SAYING, IS THAT ONE OF THE GIRLS CAN TESTIFY --

9 **MS. BLUTH:** RIGHT.

10 **THE COURT:** -- AND IT CAN BE EVIDENCE TO WHAT HAPPENED TO

11 ANOTHER GIRL.

12 **MS. BLUTH:** RIGHT.

13 **THE COURT:** EVEN THOUGH MAYBE THE NAMED VICTIM CAN'T

14 REMEMBER OR --

15 **MS. BLUTH:** RIGHT.

16 **THE COURT:** -- TESTIFIES INCONSISTENTLY.

17 **MS. BLUTH:** AND I THINK ANASTASIA --

18 **THE COURT:** SHE WAS THE YOUNGEST ONE, CORRECT?

19 **MS. BLUTH:** YES. AND SHE, I DO BELIEVE SAID IT, BUT I'LL

20 GET TO IT. OH, NO, YOU WERE -- YOU WERE DIRECTING ME TO

21 ANASTASIA, SO WE'RE LOOKING FOR AVA OR AMAYA.

22 **THE COURT:** BECAUSE I UNDERSTAND -- I UNDERSTAND YOUR

23 ARGUMENT.

24 **MS. BLUTH:** OH, OKAY.

25 **THE COURT:** I DO.

1 **MS. BLUTH:** OKAY. WHAT ELSE?

2 **THE COURT:** UM -- THOSE WERE THE ONLY -- WAIT, HANG ON.

3 NO, THOSE ARE THE ONLY TWO QUESTIONS I HAVE. AND YOU'VE

4 ADDRESSED MY QUESTION ABOUT SERIOUS PERMANENT DISFIGUREMENT.

5 YOU'VE ADDRESSED THAT ARGUMENT BY THE DEFENSE.

6 **MS. BLUTH:** OKAY. LIKE I SAID, I THINK THAT MY PROPOSED

7 AMENDED WITH THE CITES IS KIND OF MY WHOLE ARGUMENT, BUT I

8 DIDN'T KNOW IF YOUR HONOR HAD ADDITIONAL QUESTIONS, OR IF YOU

9 WERE, YOU KNOW, IN THE MIDDLE OF SOMETHING, AND I'D BE HAPPY

10 TO DIRECTLY ADDRESS IT, BUT -- OR IF YOU CAN LET ME KNOW WHERE

11 YOU HAVE DOUBTS, THEN MAYBE I CAN ARGUE MY POSITION. BUT I

12 JUST DON'T WANT TO HAVE TO GO THROUGH EVERYTHING THAT I

13 THOUGHT.

14 **THE COURT:** NO, JUST LET ME PERUSE MY NOTES.

15 **MS. BLUTH:** OKAY.

16 **THE COURT:** OKAY. ALL RIGHT.

17 **MS. BLUTH:** DID YOU HAVE ANY QUESTIONS ABOUT THE BATTERY

18 WITHIN INTENT TO COMMIT SA?

19 **THE COURT:** YOU CAN ADDRESS MR. MANN'S ARGUMENT ABOUT THE

20 MERGER.

21 **MS. BLUTH:** ABOUT THE MERGER?

22 **THE COURT:** YEAH. HE SAYS THAT IT MERGES INTO THE SA.

23 **MS. BLUTH:** OH, NO. THE BATTERY HAS MULTIPLE --

24 **THE COURT:** HIS ARGUMENT IS THAT THAT'S -- THE BATTERY

25 WITH INTENT TO COMMIT SEXUAL ASSAULT IS KIND OF ONE IN THE

1 SAME OF SEXUAL ASSAULT.

2 WASN'T THAT YOUR ARGUMENT?

3 **MR. MANN:** YEAH. YES, YOUR HONOR, THAT --

4 **THE COURT:** WAS THAT -- IT'S KIND OF SUM AND SUBSTANCE OF

5 THE SEXUAL ASSAULT.

6 **MR. MANN:** WELL YOU GET TO --

7 **THE COURT:** THERE'S NOT A LOT OF -- SEXUAL ASSAULT YOU

8 COULD HAVE WITHOUT SOME SORT OF BATTERY.

9 **MS. BLUTH:** OH, I'M SORRY, I DON'T -- I MAY HAVE ZONED AT

10 THAT POINT.

11 **THE COURT:** I'M SORRY, IS THAT -- WAS THAT YOUR ARGUMENT?

12 **MS. BLUTH:** NO, HE SAYS YOU'RE RIGHT.

13 **MR. MANN:** THAT'S ABSOLUTELY CORRECT, YOUR HONOR.

14 **MS. BLUTH:** HE SAYS YOU'RE RIGHT. I DON'T KNOW, I

15 DIDN'T -- I'M GLAD I ASKED, BECAUSE I DIDN'T EVEN CATCH THAT,

16 BUT...

17 **THE COURT:** HIS ARGUMENT WAS --

18 **MS. BLUTH:** YEAH.

19 **THE COURT:** -- YOU KNOW, BATTERY IS THE SUM AND SUBSTANCE

20 OF SEXUAL ASSAULT BECAUSE --

21 **MS. BLUTH:** SURE.

22 **THE COURT:** -- YOU KNOW, SEXUAL ASSAULT IS SOME SORT OF

23 INSERTION OR TOUCHING OF SOME FORM.

24 **MS. BLUTH:** RIGHT. BUT THE FACT OF THE MATTER IS, IS

25 BATTERY WITH INTENT TO COMMIT SA IS A COMPLETELY SEPARATE

1 CRIME UNDER THE *BLOCKBURGER* TEST. THERE'S ELEMENTS IN EACH OF
2 THEM THAT AREN'T ADDRESSED IN THE OTHER.
3 IF YOU HOLD SOMEONE DOWN AND YOU COMMIT A SEXUAL ASSAULT
4 UPON THEM, YOU CAN BE CHARGED WITH BATTERY WITH INTENT TO
5 COMMIT SEX ASSAULT, AND YOU CAN BE CHARGED WITH SEXUAL --
6 SEXUALLY MOTIVATED COERCION, WHICH I DIDN'T HOLD HERE, BECAUSE
7 I DIDN'T FIND IT TO BE AS APPLICABLE. BUT IF YOU HOLD A CHILD
8 DOWN WITH THE PURPOSE OF STICKING SOMETHING IN THEIR VAGINA,
9 YOU HAVE COMMITTED THE CRIME OF BATTERY WITH INTENT TO COMMIT
10 SEXUAL ASSAULT, AND THAT IS A SPECIFIC INTENT CRIME. BUT IT'S
11 A SPECIFIC INTENT CRIME FOR HOLDING THE PERSON DOWN, BUT NOT
12 COMMITTING THE SA, WHICH WOULD BE GENERAL INTENT.
13 **THE COURT:** ALL RIGHT. OKAY, THANK YOU VERY MUCH.
14 **MS. BLUTH:** YOU'RE WELCOME.
15 **THE COURT:** OKAY. YOU KNOW, I'M GOING TO SAY THIS, AND I
16 DON'T -- I REALLY -- I HONESTLY DON'T MEAN IT LIGHTLY AT ALL.
17 UM -- I APPRECIATE EVERYONE'S PREPARATION AND ATTENTION TO
18 THIS CASE, AND ALL THE LAWYERS, THE STATE AND ALL THE DEFENSE
19 LAWYERS, AND YOUR ATTENTION TO DETAIL, YOUR ATTENTION TO THE
20 TRANSCRIPTS. UM -- OBVIOUSLY, IT WAS A LONG PRELIMINARY
21 HEARING, BUT EVERYBODY WAS, I THINK, ABLE TO KEEP FOCUSED, AND
22 I JUST THINK THAT EVERYBODY DID A GREAT JOB, AND I THINK FOR
23 THE PURPOSES OF THE DEFENDANTS, YOU KNOW, YOU ALL HAVE VERY
24 GOOD LAWYERS.
25 THE -- SOME OF THE ISSUES THAT THE COURT HAD GOING INTO

1 ARGUMENT AND BINDOVER ARGUMENT, BASICALLY AFTER THE CONCLUSION
2 OF THE EVIDENCE, WERE THE ISSUES THAT THE DEFENSE HAS RAISED
3 TODAY, SUCH AS DO THESE SCARS, IF YOU WILL, IF -- IF WE'RE
4 GOING TO ASSUME THAT THESE SCARS WERE CAUSED BY THE PAINT
5 STICKS, DO THEY RISE TO THE DEFINITION OF SERIOUS PERMANENT
6 DISFIGUREMENT, I THINK IS WHAT THE DEFINITION WAS.
7 MR. MANN, YOU HAVE RAISED, AS TO THE SEXUAL ASSAULT
8 CHARGES, THAT THEY'RE NOT SEXUALLY MOTIVATED IN NATURE. UM --
9 I HAVE REVIEWED THE STATUTES MORE THAN THREE TIMES, AND THE
10 SEXUAL MOTIVATION, WHICH I WILL AGREE WITH YOU THAT THERE WAS
11 NO EVIDENCE OF ANY SEXUAL MOTIVATION, EVEN THOUGH MAYBE A JURY
12 COULD INFER IT, THERE WAS NO EVIDENCE AT ALL OF ANY SEXUAL
13 MOTIVATION.
14 THERE IS NO REQUIREMENT OF SEXUAL MOTIVATION IN THE
15 CRIMES IN WHICH THEY'RE SPECIFICALLY CHARGED WITH. IT'S JUST
16 THE PENETRATION. AND -- UM -- YOU GET VERY TECHNICAL ON WHERE
17 THAT PENETA -- PENETRATION MAY BE, AND MAYBE THAT'S AN ISSUE
18 FOR THE LEGISLATURE TO ADDRESS, SINCE THIS MIGHT BE A CASE OF
19 FIRST IMPRESSION, I DON'T KNOW.
20 AS YOU SAID, YOU'VE LOOKED ALL OVER THE COUNTRY AND CAN'T
21 FIND THIS TYPE OF CHARGE THAT RISES TO THE LEVEL OF SEXUAL
22 ASSAULT WITH IT BEING IN THE PARTICULAR AREA THAT A CATHETER
23 WAS -- IS INSTALLED.
24 UM -- BUT THE -- THE OTHER KIND OF GENERAL COMMENT I WANT
25 TO MAKE IS, I WHOLEHEARTEDLY AGREE WITH THE DEFENSE, AND I

1 BELIEVE THE STATE WILL MORE THAN CONCEDE THIS, THAT THERE ARE
2 INCONSISTENCIES, WERE INCONSISTENCIES, ARE INCONSISTENCIES ALL
3 OVER THE BOARD WITH THE GIRLS. AND I DON'T KNOW -- I
4 DIDN'T -- I KNOW THE DEFENSE BELIEVES THAT THEY'RE LYING. I
5 KNOW THE DEFENDANTS BELIEVE THEY'RE LYING.
6 YOU KNOW, AS THE JUDGE SITTING HERE, I DIDN'T REALLY GET
7 THAT SENSE. I GOT THE SENSE THAT THEY'RE CHILDREN, I GOT THE
8 SENSE THAT THEY'VE LIVED WITH THESE PEOPLE FOR AWHILE -- UM --
9 AND THAT THEY'RE TYPICAL CHILDREN, AND IF MISS BLUTH ASKED
10 THEM ONE THING, THEY'RE GOING TO SAY SOMETHING, AND IF
11 MR. MANN ASKS THEM SOMETHING TOTALLY DIFFERENT, THEY'RE GOING
12 TO RESPOND TO YOUR QUESTION. AND THOSE ARE ISSUES THAT THE
13 STATE IS GOING TO HAVE TO DEAL WITH AT TRIAL, NOT ONLY BASED
14 UPON THE PRELIMINARY HEARING TRANSCRIPTS, BUT -- UM -- BASED
15 UPON WHATEVER EVIDENCE THAT THE CHILDREN GIVE AT TRIAL.
16 BUT FOR THE PURPOSES OF PRELIMINARY HEARING, THE EVIDENCE
17 IS SLIGHT OR MARGINAL. AND -- UM -- REALLY PAYING ATTENTION
18 TO THE SUBSTANTIAL BODILY HARM ASPECTS OF THESE CHARGES, I DO
19 BELIEVE THAT IT IS FOR A JURY TO DETERMINE WHETHER THESE
20 MARKS, PERMANENT MARKS, RISE TO THE LEVEL OF SUBSTANTIAL
21 BODILY HARM.
22 I DO BELIEVE THAT UNDER THE STATUTE THE SEXUAL ASSAULT
23 CHARGES DO NOT NEED -- UM -- A SEXUAL MOTIVATION. I DO
24 BELIEVE THAT, DEPENDING ON WHO CITES ME WHAT PORTION OF THE
25 TRANSCRIPT, WHETHER IT'S THE STATE OR WHETHER IT'S THE

1 DEFENSE, THE GIRLS ARE GIVING DIFFERENT ANSWERS -- UM -- AND
2 THAT IS A CREDIBILITY ISSUE. AND IF I THOUGHT THE GIRLS WERE
3 COMPLETELY LYING ABOUT EVERYTHING, THEN I COULD PROBABLY
4 IGNORE THEIR TESTIMONY, BUT I DON'T THINK THAT THAT
5 INCONSISTENCY IS THAT THEY ARE COMPLETELY LYING ABOUT
6 EVERYTHING. I THINK IT'S AN INCONSIST -- DIFFERENT REASONS
7 FOR INCONSISTENCIES THAT THE STATE WILL HAVE TO DEAL WITH AND
8 THAT THE JURY WILL HAVE TO STRUGGLE WITH.
9 BUT I HAVE GONE THROUGH THE PROPOSED AMENDED CRIMINAL
10 COMPLAINT, AD NAUSEAM AND IN DETAIL, AND -- UM -- WHILE THE
11 DEFENSE HAS POINTED OUT CERTAIN AREAS OF THE TRANSCRIPTS TODAY
12 THAT SUPPORT THEIR ARGUMENTS, THE BOTTOM LINE IS, FOR EVERY
13 AREA OF THE TRANSCRIPT THAT THEY POINT OUT THAT DWIGHT DIDN'T
14 DO A PARTICULAR THING OR DANIELLE DIDN'T DO A PARTICULAR
15 THING, THE STATE HAS A PORTION OF THE TRANSCRIPT THAT SAYS
16 DWIGHT DID OR DANIELLE DID, AND, AGAIN, THOSE ARE JUST PURE
17 INCONSISTENCIES.
18 THIS IS -- ALL OF YOUR ARGUMENTS I THINK ARE CANDIDLY
19 GREAT CLOSING ARGUMENTS FOR A JURY, BUT THEY'RE NOT FOR THIS
20 COURT, AND I'M HAPPY THAT THEY'RE NOT FOR THIS COURT.
21 SO BASED UPON THE COMPLAINT ON FILE HEREIN, AND WHAT IS
22 NOW THE PROPOSED AMENDED CRIMINAL COMPLAINT, AND ALL OF THE
23 EVIDENCE ADDUCED AT THE HEARING, I BELIEVE THERE'S PROBABLE
24 CAUSE TO BELIEVE THAT -- UM -- ALL OF THE CHARGES AS
25 REFERENCED IN THE PROPOSED AMENDED CRIMINAL COMPLAINT HAVE

1 BEEN COMMITTED.

2 NOW -- UM -- AS TO DEFENSE COUNSEL, DO YOU WANT ME TO

3 READ ALL THOSE CHARGES ON THE RECORD, MR. MANN?

4 **MR. MANN:** NO, YOUR HONOR.

5 **THE COURT:** MR. MUELLER?

6 **MR. MUELLER:** NO, YOUR HONOR.

7 **THE COURT:** MR. RUE?

8 **MR. RUE:** NO.

9 **THE COURT:** ALL RIGHT. SO FOR THE SAKE OF BREVITY, I

10 WILL NOT READ ALL OF THE CHARGES, BUT TO BE CLEAR, IT IS THE

11 PROPOSED AMENDED CRIMINAL COMPLAINT THAT CITES 46 COUNTS, AS

12 AMENDED FROM THE ORIGINAL AMENDED CRIMINAL COMPLAINT THAT WAS

13 ORIGINALLY ON FILE.

14 SO I THINK WHAT YOU NEED TO DO, MISS BLUTH, I DON'T KNOW

15 IF YOU HAVE IT FILED HERE, BECAUSE I THINK REALLY IT NEEDS TO

16 BE ENTITLED SECOND AMENDED CRIMINAL COMPLAINT, AND YOU HAVE IT

17 ENTITLED -- I MEAN FOR MY PURPOSES, I DIDN'T LOOK AT YOUR

18 FINAL VERSION, SO MAYBE IT IS. I JUST -- IT SAYS PROPOSED

19 AMENDED CRIMINAL COMPLAINT, BUT THERE'S ALREADY AN AMENDED

20 CRIMINAL COMPLAINT FILED, SO I THINK IT NEEDS TO BE SECOND

21 AMENDED.

22 **MS. BLUTH:** I'LL SEND IT OVER RIGHT NOW.

23 **THE COURT:** OKAY. SO IT WILL BE SECOND AMENDED CRIMINAL

24 COMPLAINT, AND IT WILL BE FILED, AND ALL OF THE DEFENDANTS

25 WILL BE HELD TO ANSWER TO ALL OF THESE CHARGES IN THE EIGHTH

1 JUDICIAL DISTRICT COURT ON THE DAY MY CLERK GIVES YOU.

2 **THE CLERK:** DO YOU HAVE A COMPLAINT FOR ME TODAY, OR NO?

3 **MS. BLUTH:** I CAN. I JUST HAVE TO GO BACK TO MY OFFICE.

4 **THE CLERK:** OH, THAT'S FINE. I JUST WANTED TO --

5 **MS. BLUTH:** YEAH, I DON'T HAVE IT RIGHT HERE, I'M SORRY.

6 **THE CLERK:** GOTCHA. THAT'S OKAY.

7 SO IT WILL BE JULY 31ST AT 9:30, LOWER LEVEL ARRAIGNMENT

8 A.

9 **THE COURT:** THANK YOU FOR YOUR TIME AND ATTENTION.

10 **MS. BLUTH:** THANK YOU.

11 **MR. MUELLER:** MADAM CLERK, DO WE KNOW WHICH DISTRICT

12 COURT JUDGE WE'RE GOING TO?

13 **THE CLERK:** WE DON'T --

14 **THE COURT:** IT'S EITHER ADAIR OR ELLSWORTH, WE DON'T KNOW

15 WHICH ONE UNTIL IT WORKS ITS WAY UP THERE.

16

17 (AT 3:21 P.M. THE PROCEEDINGS WERE RECESSED.)

18

19 * * * *

20

21 ATTEST: FULL, TRUE AND CERTIFIED TRANSCRIPT.

22

23 /S/KIT MACDONALD
KIT MACDONALD, C.S.R.

24 COURT REPORTER
C.S.R. 65

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IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA, Appellant, vs. JANET SOLANDER, Defendant.	)))))))))	CASE NO. 67711 (District Court Case No. C299737-3) **VOLUME II**

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Clerk of Supreme Court

RESPONDENT'S APPENDIX TO ANSWERING BRIEF

STEVEN B. WOLFSON, ESQ.
Nevada Bar No. 001565
Clark County District Attorney
CHRIS BURTON, ESQ.
Nevada Bar No. 012940
Deputy District Attorney
200 Lewis Avenue
Las Vegas, NV 89155
(702) 671-2500

ADAM PAUL LAXALT, ESQ.
Nevada Bar No. 012426
Nevada Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101
(702) 486-3420

Attorneys for Appellant

KRISTINA WILDEVELD, ESQ.
Nevada Bar No. 005825
CAITLYN MCAMIS, ESQ.
Nevada Bar No. 012616
The Law Offices of Kristina Wildeveld
615 S. 6th St.
Las Vegas, NV 89101
(702) 222-0007

Attorneys for Respondent

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1 CASE NO.

2

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

4 CLARK COUNTY, STATE OF NEVADA

5

6 STATE OF NEVADA,)
7 PLAINTIFF,)
8 VS.) CASE NO. 14F04585A
14F04585B
14F04585C
9 DWIGHT SOLANDER,)
DANIELLE HINTON,)
10 JANET SOLANDER,)
DEFENDANTS,)
11)

12

13 REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING - VOLUME IV

14 BEFORE THE HONORABLE DIANA L. SULLIVAN, JUSTICE OF THE PEACE

15 THURSDAY, JUNE 10, 2014

16 10:45 O'CLOCK A.M.

17

18 FOR THE PLAINTIFF: JACQUELINE ELIZABETH BLUTH,
ELISSA LUZAICH,
19 DEPUTY DISTRICT ATTORNEYS

20 FOR DEFENDANT D. SOLANDER: CRAIG A. MUELLER, ESQ.

21 FOR DEFENDANT HINTON: JEFFREY T. RUE,
DEPUTY PUBLIC DEFENDER

22

23 FOR DEFENDANT J. SOLANDER: JOEL MANN, ESQ.

24 REPORTED BY: KIT MACDONALD, C.S.R.
CERTIFICATE NO. 65

25

1 I N D E X

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1 LAS VEGAS, CLARK COUNTY, NEVADA, THURSDAY, JUNE 10, 2014

2

3 10:45 O'CLOCK A.M.

4

5 * * * * *

6

7

8 **THE COURT:** OKAY. TODAY IS THE DATE AND TIME SET FOR THE

9 CONTINUED PRELIMINARY HEARING OF DWIGHT SOLANDER, DANIELLE

10 HINTON, AND JANET SOLANDER.

11 FOR SCHEDULING PURPOSES, WE WILL GO TILL 12:15 TODAY.

12 WE'LL TAKE A RECESS UNTIL ABOUT 1:20, BECAUSE I HAVE A 1

13 O'CLOCK BAD CHECK CALENDAR. SO WE'LL GO TO 12:15, AND THEN

14 HAVE A LUNCH BREAK, AND COURT WILL RESUME AT 1 O'CLOCK, BUT

15 THIS PRELIM WILL RESERVE AT ABOUT -- RESUME AT ABOUT 1:20.

16 ALL RIGHT. MR. MUELLER, MR. RUE AND MR. MANN ARE

17 PRESENT, THE THREE DEFENDANTS ARE PRESENT. MISS BLUTH AND

18 MISS LUZAICH ARE PRESENT.

19 YOU CAN CALL YOUR NEXT WITNESS, STATE.

20 **MS. LUZAICH:** THE STATE CALLS DR. CETL.

21 **THE COURT:** HI.

22 **SANDRA CETL, M.D.,**

23 CALLED AS A WITNESS BY THE STATE, AND HAVING BEEN FIRST DULY

24 SWORN TO TESTIFY TO THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT

25 THE TRUTH, TESTIFIED AS FOLLOWS:

1 **THE WITNESS:** YES, I DO.

2 **THE CLERK:** THANK YOU, MA'AM. GO AHEAD AND HAVE A SEAT.

3 I DO NEED YOU TO STATE YOUR FIRST AND YOUR LAST NAME, AND

4 TO SPELL BOTH FOR THE RECORD.

5 **THE WITNESS:** SANDRA, S-A-N-D-R-A, CETL, C-E-T-L.

6 **THE COURT:** C-E-T-L.

7 THANK YOU. YOU CAN PROCEED.

8 **MS. LUZAICH:** THANK YOU.

9

10 **DIRECT EXAMINATION**

11 **BY MS. LUZAICH:**

12 **Q** MA'AM, WHAT DO YOU DO FOR A LIVING?

13 **A** I'M A PEDIATRICIAN AT SUNRISE CHILDREN'S HOSPITAL,

14 AS WELL AS AT SOUTHERN NEVADA CHILDREN'S ASSESSMENT CENTER.

15 **Q** OKAY.

16 **A** UM -- AND I WORK IN TWO BASIC AREAS, AS A CHILD

17 ABUSE PEDIATRICIAN, AS WELL AS AN E.R. PHYSICIAN.

18 **Q** CAN YOU DESCRIBE FOR THE COURT WHAT TRAINING,

19 EDUCATION YOU HAVE THAT QUALIFIES YOU TO DO THAT?

20 **A** UM -- I ATTENDED -- UH -- UNIVERSITY OF CALIFORNIA,

21 LOS ANGELES -- UM -- AND EARNED A BACHELOR'S DEGREE IN

22 NEUROSCIENCE. UM -- AFTER WHICH, I ATTENDED MEDICAL SCHOOL AT

23 UNIVERSITY OF VERMONT, A FOUR-YEAR PROGRAM, AT THE END OF

24 WHICH I WAS A MEDICAL DOCTOR.

25 I NEXT ATTENDED A SPECIALTY PEDIATRIC RESIDENCY AT

1 THE UNIVERSITY OF NEVADA IN THE LAS VEGAS PROGRAM. UM -- AND
2 AFTER WHICH, I SPENT ABOUT SIX MONTHS IN AN APPRENTICESHIP
3 WITH A CHILD ABUSE PEDIATRICIAN, AND THEN CONTINUED -- UH --
4 WORKING IN THAT FIELD.
5 **Q** AND WHAT HAVE YOU BEEN DOING SINCE YOUR -- UH --
6 APPRENTICESHIP FINISHED?
7 **A** UM -- SO I EVALUATE ANY CONCERNS OF CHILD ABUSE
8 AND/OR NEGLECT, IN ADDITION TO TAKING SHIFTS IN THE EMERGENCY
9 DEPARTMENT AS JUST A E.R. DOCTOR.
10 **Q** AND HAVE YOU TESTIFIED AS AN EXPERT IN THE EIGHTH
11 JUDICIAL COURTS IN BOTH FAMILY COURT AND CRIMINAL COURT AS A
12 PEDIATRICIAN, AS WELL AS A CHILD ABUSE EXPERT?
13 **A** YES.
14 **Q** NOW, CAN YOU DESCRIBE FOR US, YOU SAID YOU WORKED
15 BOTH AT SUNRISE CHILDREN'S HOSPITAL AND THE SNCAC. WHAT DO
16 YOU DO AT SUNRISE CHILDREN'S HOSPITAL?
17 **A** AT SUNRISE CHILDREN'S HOSPITAL, WHEN -- UM -- A
18 CHILD COMES IN AND SEES ONE OF OUR PHYSICIAN STAFF DUE TO
19 CONCERNS -- UH -- WHATEVER THEY COME IN FOR, AND THERE MAY BE
20 CONCERNS OF SEXUAL ABUSE, NEGLECT OR PHYSICAL ABUSE -- UM --
21 ONE OF THE PHYSICIANS OR A SOCIAL WORKER MAY CONTACT ME AND
22 CONSULT FOR ME TO CONTINUE THE EVALUATION AS A CONSULTANT. SO
23 THAT MAY TAKE PLACE IN THE EMERGENCY DEPARTMENT, THAT MAY TAKE
24 PLACE IN THE PEDIATRIC FLOOR OR THE INTENSIVE CARE UNIT.
25 **Q** AS THE CHILD ABUSE PEDIATRICIAN -- UM -- DO YOU SEE

1 EVERY CHILD, OR ARE THERE SITUATIONS WHERE YOU'RE ASKED TO
2 REVIEW MEDICAL RECORDS FOR -- UM -- OTHER INDIVIDUALS?
3 **A** UM -- EITHER, EITHER WAY. SO I -- I SEE A GREAT
4 MAJORITY OF THEM, AND THEN ANOTHER PART OF WHAT I DO WITH WORK
5 IS TO STAFF -- UH -- CHILDREN, THE MEDICAL CONCERNS OF
6 CHILDREN THAT MAY HAVE NOT GONE THROUGH EITHER MY FACILITY OR
7 BEEN IN AN OUTSIDE FACILITY, OR NOT IN MEDICAL CARE AT THAT
8 TIME.
9 **Q** OKAY. UM -- YOU MENTIONED THAT YOU ALSO TAKE SHIFTS
10 AT THE SUNRISE CHILDREN'S HOSPITAL. CAN YOU DESCRIBE WHAT YOU
11 DO THERE?
12 **A** UM -- I WORK AS AN EMERGENCY ROOM PHYSICIAN JUST
13 SEEING WHATEVER COMES THROUGH THE DOOR.
14 **Q** OKAY. SO YOU DON'T ONLY WORK ON CHILD ABUSE CASES,
15 YOU SEE KIDS FOR OTHER CONCERNS AS WELL?
16 **A** CORRECT.
17 **Q** AND THEN YOU SAID THAT YOU WORK AT THE SNCAC. CAN
18 YOU DESCRIBE FOR THE COURT VERY BRIEFLY WHAT IS THE SNCAC?
19 **A** THE SNCAC IS A -- IT'S A --
20 **MR. MUELLER:** MAY I ASK THE WITNESS TO SLOW DOWN JUST A
21 LITTLE BIT ON THE JARGON, I CAN'T WRITE AS FAST AS THEY CAN
22 TALK. WHAT -- WHAT IS --
23 **THE COURT:** OKAY, WELL --
24 **MR. MUELLER:** S, WHAT IS IT?
25 **THE WITNESS:** SOUTHERN NEVADA CHILDREN'S ASSESSMENT

1 CENTER.

2 **MR. MUELLER:** ALL RIGHT. THANK YOU.

3 **THE WITNESS:** SURE.

4 UM -- SO THE SNCAC OR THE CAC -- UM -- IS A -- KIND OF A
5 ONE-STOP SHOP FOR KIDS WHEN THERE COMES TO CONCERNS OF CHILD
6 ABUSE. SPECIFICALLY, MY CLINIC -- UM -- FOCUSES ON
7 NON-EMERGENT CONCERNS OF CHILD SEXUAL ABUSE.

8 FOR INSTANCE, IF A CHILD HAS ANY CONCERNS, HAS DISCLOSED
9 SOMETHING MAYBE INAPPROPRIATE HAS HAPPENED, OR SOMETHING LIKE
10 THAT, AND SOMEBODY HAS CONCERNS, THEN THEY CAN MAKE
11 APPOINTMENTS -- UM -- WHICH WE HAVE FOR TWICE A WEEK.

12 UM -- IN ADDITION, IF THERE ARE CONCERNS OF SEXUAL ABUSE
13 AND/OR PHYSICAL ABUSE AND NEGLECT, THEN I CAN SEE THEM THERE,
14 AS WELL. THE MAJOR DIFFERENCE IS THAT WE DON'T COLLECT ANY
15 FORENSIC EVIDENCE. WE DON'T -- UM -- SEE KIDS WHO HAVE
16 EMERGENT OR REQUIRING MEDICAL TREATMENT AT THAT MOMENT FOR
17 ANYTHING THAT YOU WOULD SEE, LET'S SAY, IN A HOSPITAL.

18 **BY MS. LUZAICH:**

19 **Q** AND WHEN YOU TALK ABOUT BEING A CHILD ABUSE
20 PEDIATRICIAN, IS THAT ONLY PHYSICAL ABUSE, ONLY SEXUAL ABUSE,
21 A COMBINATION OF THE TWO?

22 **A** IT CAN BE A COMBINATION -- UM -- ALSO COULD INCLUDE
23 NEGLECT AS WELL.

24 **Q** OKAY. WHEN YOU SEE THE KIDS AT SUNRISE CHILDREN'S
25 HOSPITAL, DO YOU -- YOU TALKED ABOUT COLLECTING FORENSIC

1 EVIDENCE. IS THAT THE ONLY DIFFERENCE IN HOW THE KIDS ARE
2 TREATED AT SUNRISE AS OPPOSED TO AT THE CAC?
3 **A** THAT'S A MAJOR DIFFERENCE, YES.
4 **Q** SO WHEN THE KIDS COME INTO THE CAC -- WELL, CAN YOU
5 DESCRIBE WHAT THE CAC BUILDING IS, FOR THOSE HERE WHO HAVE NOT
6 BEEN THERE?
7 **A** SURE.
8 IT'S A LOCKED FACILITY -- UM -- THAT IS SET UP FOR
9 CHILDREN WHEN THERE ARE CONCERNS OF ABUSE. THEY CAN KIND OF
10 COME IN -- UM -- WHETHER IT'S INVESTIGATORS OR CPS, OR --
11 UH -- SOMETIMES THE DISTRICT ATTORNEY'S OFFICE HAVE KIND OF
12 FACILITIES IN THAT ONE AREA -- UM -- SO A CHILD DOESN'T HAVE
13 TO TRAVEL TOO MUCH WHEN THERE ARE ANY CONCERNS.
14 IN THAT, THEY ALSO HAVE PSYCHOLOGY SERVICES. THERE
15 ARE OTHER VICTIM TYPE OF ADVOCACY SERVICES, AS WELL AS THE
16 CLINIC THAT -- UM -- I'M A PART OF. UM -- AND IT JUST --
17 UM -- IT MAKES IT KIND OF A MORE CHILD FRIENDLY SAFE
18 ATMOSPHERE FOR KIDS.
19 THEY CAN ALSO CONDUCT FORENSIC INTERVIEWS IN THIS
20 FACILITY, AND SO IT'S SOMEWHERE THAT IT'S TRYING OF BE KIND OF
21 SAFE AND AN EASY PLACE THAT KIDS CAN HAVE ALL THEIR
22 EVALUATIONS DONE, KIND OF IN THE SAME TIME.
23 **Q** OKAY. SO IT'S BASICALLY ONE BUILDING THAT HOUSES
24 METRO'S SEXUAL ABUSE JUVENILE DIVISION, THE SEXUAL ABUSE CHILD
25 PROTECTIVE SERVICES INVESTIGATORS -- UM -- FORENSIC

1 INTERVIEWERS --

2 **A** YES.

3 **Q** -- AND FORENSIC INTERVIEW ROOMS --

4 **A** CORRECT.

5 **Q** -- PSYCHOLOGICAL COUNSELING, AND THEN YOU SAID YOU

6 HAVE A CLINIC THERE?

7 **A** YES.

8 **Q** CAN YOU DESCRIBE FOR THE COURT YOUR CLINIC THAT'S

9 THERE?

10 **A** SO OUR CLINIC IS FOR -- IT'S ON MONDAYS AND

11 THURSDAYS -- UM -- APPOINTMENTS ARE MADE VIA A REFERRAL --

12 UM -- FROM AN AGENCY -- UM -- SUCH AS LAW ENFORCEMENT OR CPS.

13 UM -- THE CLINIC IS -- CONSISTS OF MYSELF AND THEN TWO NURSES,

14 WHO ARE NURSES AT THE SUNRISE CHILDREN'S EMERGENCY DEPARTMENT.

15 UM -- AND WHEN WE SEE CHILDREN, WE DO A HEAD-TO-TOE

16 EVALUATION. UM -- NO MATTER WHAT THE CONCERNS BROUGHT THEM

17 THERE, WE CHECK THEIR VISUAL ACUITY, MAKE SURE THEY CAN SEE

18 OKAY. WE CHECK DENTAL, HEIGHT, WEIGHT, GO THROUGH ALL THEIR

19 VITAL SIGNS AND DO KIND OF FULL-TIME BODY CHECKS ON THEM.

20 UM -- AND THEN WE WILL PROCEED TO DO A PHYSICAL

21 EXAMINATION, AS WELL AS TALK TO ANY CAREGIVERS, IF THEY'RE,

22 YOU KNOW, ANYBODY THAT'S PRESENT -- UM -- THEY HAVE CONCERNS

23 OR QUESTIONS, AND -- UM -- THEN OFFER ANY REFERRALS BEYOND

24 THAT POINT.

25 WE ALSO HAVE THE ABILITY TO DRAW BLOOD AND TAKE LABS

1 FROM URINE, AS WELL AS FROM ANY OF THE OTHER BODY FLUIDS.
2 **Q** YOU SAID THAT YOU DON'T -- UM -- COLLECT FORENSIC
3 EVIDENCE, BUT DO YOU ALSO DO, AND THEREFORE HAVE THE ABILITY
4 TO DO -- UM -- VAGINAL EXAMS?
5 **A** ABSOLUTELY, YES.
6 **Q** AND WHEN YOU DO A VAGINAL EXAM ON A CHILD, IS THAT
7 THE SAME AS ON AN ADULT OR DIFFERENT?
8 **A** UM -- IT DEPENDS ON THE AGE, SO IT'S A LITTLE BIT
9 DIFFERENT. WITH ADULTS IT'S PRETTY STANDARDIZED WHERE THERE
10 MAY BE INTERNAL EXAMS, MUCH LIKE WHEN A FEMALE GOES TO HER --
11 UM -- OB/GYN OR SOMETHING LIKE THAT -- UM -- AND THAT'S PRETTY
12 STANDARD FOR ADULTS.
13 FOR THE KIDS, IT DEPENDS ON WHAT STAGE OF PUBERTY
14 THEY ARE IN. WE MAY NOT DO INTERNAL EVALUATIONS, THE MORE
15 EXTERNAL, KIND OF LOOK ON THE OUTSIDE OF THE BODY. UM -- BUT
16 IN TERMS OF TESTING THAT WE COLLECT FOR SEXUALLY TRANSMITTED
17 INFECTIONS, THAT'S PRETTY MUCH THE SAME ACROSS THE BOARD.
18 **Q** AND THAT'S DONE BY BLOOD AS OPPOSED TO -- UM --
19 **A** WE DO BOTH. WE DO BLOOD --
20 **Q** -- SWABS?
21 **A** -- AND WE DO SWABS.
22 **Q** OKAY. I'M GOING TO DIRECT YOUR ATTENTION
23 SPECIFICALLY TO MARCH 13TH OF 2014. WERE YOU WORKING AT THE
24 SNCAC, YOUR CLINIC, THAT DAY?
25 **A** YES.

1 **Q** AND WERE YOU ASKED TO EXAMINE THREE CHILDREN KNOWN
2 TO YOU AS AVA SOLANDER, AMAYA SOLANDER, AND ANASTASIA
3 SOLANDER?
4 **A** YES, I DID.
5 **Q** WHAT WAS THE NATURE OF WHAT BROUGHT THEM TO YOU?
6 **A** UM -- THE REPORT THAT I RECEIVED, OR THAT I WAS
7 TOLD, THERE WERE CONCERNS OF PHYSICAL ABUSE, NEGLECT, AND
8 POSSIBLY SOME KIND OF INAPPROPRIATE SEXUAL CONTACT, AND,
9 THEREFORE, WE WERE EVALUATING THEM FOR KIND OF ALL THREE.
10 **Q** AND WHAT WAS YOUR UNDERSTANDING OF THE INAPPROPRIATE
11 SEXUAL CONTACT?
12 **A** MY UNDERSTANDING WAS THAT THERE MAY HAVE BEEN --
13 UM -- CONTACT BY THEIR CAREGIVERS -- UM -- WITH A PAINT STICK
14 OR SOME KIND OF HOUSEHOLD OBJECT, AS WELL AS INSERTION OF
15 URINE CATHETERS.
16 **Q** OKAY. AND DID YOU SEE ALL THREE CHILDREN?
17 **A** YES.
18 **Q** DID YOU GIVE ALL THREE CHILDREN A HEAD-TO-TOE
19 INVESTIGATE -- EXAMINATION?
20 **A** YES. AN EXAM, YES.
21 **Q** ULTIMATELY, WERE THERE PHOTOGRAPHS TAKEN AT THE CAC
22 OF ALL THREE CHILDREN?
23 **A** YES.
24 **Q** AND AS YOU SAW THE THREE CHILDREN, DID YOU ALSO SEE
25 SOME INJURIES THAT CAUSED PHOTOGRAPHS TO BE TAKEN?

1 **A** YES.

2 **Q** UM -- FIRST, LET ME -- OH, AND WHEN YOU SEE THESE

3 KIDS, IS A HISTORY TAKEN?

4 **A** YES, A MEDICAL HISTORY IS TAKEN. UM -- SO, AND THAT

5 INCLUDES -- UM -- ANY PAST MEDICAL HISTORY -- UM -- FAMILY

6 HISTORY, SOCIAL HISTORY, SO AS WE WOULD DO AT ANY CLINIC OR

7 HOSPITAL OR ANY SETTING, MEDICAL SETTING, TRYING TO UNDERSTAND

8 THEIR BACKGROUND AS MUCH AS POSSIBLE -- UM -- TO HELP GUIDE US

9 WITH THE MEDICAL MANAGEMENT OR INTERVENTION.

10 **Q** WHO BROUGHT THE KIDS TO YOU?

11 **A** UM -- A CPS INVESTIGATOR, YVETTE GONZALES.

12 **Q** AND I'M GOING TO DIRECT YOUR ATTENTION FIRST

13 SPECIFICALLY TO AVA SOLANDER. UM -- WHEN YOU EXAMINED AVA,

14 YOU SAID YOU EXAMINED HER FROM HEAD TO TOE?

15 **A** CORRECT.

16 **Q** AND YOU ALSO DID BLOOD WORK?

17 **A** YES.

18 **Q** DID YOU NOTICE ANYTHING ON HER BODY THAT CAUSED YOU

19 CONCERN?

20 **A** UM -- SHE HAD MULTIPLE -- UM -- HEALED SCARS ON HER

21 BODY -- UM -- THAT WERE OF CONCERN TO ME, YES.

22 **Q** AND DID YOU ACTUALLY HAVE PHOTOS TAKEN OF THEM?

23 **A** YES.

24 **Q** CAN YOU DESCRIBE WHERE ON HER BODY THE SCARS THAT

25 CAUSED YOU CONCERN WERE LOCATED?

1 **A** UM -- THE -- SHE HAD THEM KIND OF ON A LOT OF PLACES
2 ON THE BODY. ONES THAT WERE MOST CONCERNING WITH ON HER
3 BUTTOCKS -- UM -- AS WELL AS ON HER BACK.
4 **Q** AND WHY WOULD THEY BE CONCERNING BEING ON HER
5 BUTTOCKS AND HER BACK?
6 **A** THOSE ARE AREAS THAT ARE VERY PROTECTED. SO NOT
7 JUST PROTECTED BY CLOTHING, BUT PROTECTED FROM, LET'S SAY,
8 FALLING TYPES OF MECHANISMS. UM -- THE WAY OUR BODIES REACT
9 AND -- UM -- JUST, YOU KNOW, REFLEXES -- UM -- WE TEND TO
10 PROTECT THOSE AREAS.
11 ADDITIONALLY, THEY ARE PROTECTED ON THE BODY ITSELF
12 JUST BY THE WAY OUR PHYSIOLOGY IS, AND SO IT'S -- UM -- KIND
13 OF A VERY UNUSUAL PLACE TO HAVE ANY KIND OF ACCIDENTAL SCARING
14 OR INJURY.
15 **Q** OKAY. YOU KNOW, KIDS ARE CARELESS AND FALL DOWN A
16 LOT, WOULD YOU AGREE WITH THAT?
17 **A** ABSOLUTELY.
18 **Q** ARE THERE CERTAIN AREAS ON THE BODY THAT IF YOU SEE
19 INJURIES, YOU WOULD NOT BE CONCERNED?
20 **A** ANYTHING THAT STICKS OUT. SO YOUR KNEES, YOUR
21 SHINS, ANYTHING ON THE BONE. SO BONES LIKE ON THE FOREARM,
22 FOREHEAD -- UM -- EVEN, YOU KNOW, CHIN OR CHEEKBONES, NOSE,
23 THINGS LIKE THAT. UM -- THOSE ARE PLACES THAT KIDS TYPICALLY
24 INJURE FROM WHEN THEY BEGIN TO WALK TILL -- TILL FOREVER.
25 **Q** OKAY. SO INJURIES THERE WOULD BE LESS CONCERNING?

1 **A** YES.

2 **MS. LUZAICH:** UM -- MAY I APPROACH THE WITNESS?

3 **THE COURT:** YES.

4 **BY MS. LUZAICH:**

5 **Q** DR. CETL, I'M GOING TO SHOW YOU WHAT'S BEEN MARKED

6 AS STATE'S PROPOSED EXHIBITS 7, 8, 9, 10 AND 11, FOR THE

7 RECORD, HAVE BEEN SHOWN TO COUNSEL EARLIER.

8 **THE COURT:** WHAT DID YOU START WITH?

9 **MS. LUZAICH:** SEVEN --

10 **THE COURT:** SEVEN. THANK YOU.

11 **BY MS. LUZAICH:**

12 **Q** EIGHT, NINE, TEN AND ELEVEN.

13 CAN YOU TELL ME, ARE THESE ALL -- UM -- PHOTOGRAPHS

14 OF AVA SOLANDER THAT WERE TAKEN ON MARCH 13TH OF 2014?

15 **A** YES.

16 **Q** UM -- AND DO THESE PHOTOGRAPHS FAIRLY AND ACCURATELY

17 DEPICT THINGS ON AVA'S BODY THAT YOU NOTICED ON THAT DATE?

18 **A** YES, THEY DO.

19 **MS. LUZAICH:** MOVE THEM INTO EVIDENCE.

20 **THE COURT:** ANY.

21 **MR. MANN:** NO.

22 **THE COURT:** -- OBJECTION?

23 **MR. MANN:** NO OBJECTION.

24 **THE COURT:** MR. RUE?

25 **MR. RUE:** NO, YOUR HONOR.

1 **THE COURT:** MR. MUELLER? NO.

2 OKAY. SEVEN, EIGHT, NINE, TEN, AND ELEVEN WILL BE

3 ADMITTED. THANK YOU.

4 (WHEREUPON STATE'S EXHIBIT NOS. 7 THROUGH 11 WERE

5 ADMITTED INTO EVIDENCE.)

6 **BY MS. LUZAICH:**

7 **Q** DR. CETL, STATE'S EXHIBIT 7, IS THAT A PHOTOGRAPH OF

8 AVA'S FACE?

9 **A** YES.

10 **Q** SO THAT WE KNOW THAT THE REST OF THE PICTURES ARE OF

11 AVA?

12 **A** YES.

13 **Q** STATE'S EXHIBIT 8, CAN YOU DESCRIBE FOR ME WHAT

14 YOU'RE SEEING THERE?

15 **A** WELL, AVA IS LAYING ON HER -- ON HER BELLY, KIND OF

16 ON HER -- ON HER FRONT SIDE -- UM -- ON THE EXAM TABLE, AND --

17 UM -- A PHOTOGRAPH IS -- IS BEING TAKEN OF HER BUTTOCKS AND

18 LOWER LEG AREA.

19 **Q** AND WHAT SPECIFICALLY ARE WE SEEING THAT IS OF NOTE

20 IN THE PHOTO?

21 **A** UM -- SHE HAS HEALED SCARS -- UM -- SPECIFICALLY ON

22 THE RIGHT BUTTOCK ARE MOST PROMINENT.

23 **Q** AND WHEN YOU SAY HEALED SCARS, HOW CAN YOU TELL THAT

24 THEY'RE HEALED SCARS?

25 **A** UM -- SKIN CHANGES THAT OCCUR WITH SCARRING WILL BE

1 SOME RAISED, ALSO DISCOLORATION -- UM -- AND KIND OF JUST
2 THE -- THE QUALITY OF THE SKIN IN THAT AREA THERE, SCAR TISSUE
3 HAS FORMED.
4 **Q** OKAY. SHOWING YOU STATE'S EXHIBIT 9, WHAT IS THAT?
5 **A** THAT IS A CLOSE-UP OF HER BUTTOCKS -- UM --
6 INCLUDING THE SCARS THAT WE WERE SEEING. MOST SPECIFICALLY ON
7 KIND OF THE RIGHT-HAND SIDE -- UM -- OF THREE MORE PROMINENT
8 AREAS OF HEALED SCAR.
9 **Q** YOU SAID MOST SPECIFICALLY THE RIGHT-HAND SIDE. IS
10 THERE ALSO -- UM -- SOME HEALED SCARING ON THE LEFT SIDE OF
11 THE BUTTOCK?
12 **A** THERE ARE, BUT A LITTLE BIT MORE FAINT FROM THIS
13 PHOTO.
14 **Q** OKAY. BUT PRESENT?
15 **A** YES. YES.
16 **Q** STATE'S EXHIBIT 10, WHAT ARE WE SEEING?
17 **A** SO AN EVEN MORE CLOSE-UP PHOTO OF THE RIGHT BUTTOCK.
18 **Q** AND STATE'S EXHIBIT 11?
19 **A** UM -- I BELIEVE THIS IS ON HER -- UM -- KIND OF HER
20 BACK, BACKSIDE. UM -- ANOTHER SCAR MORE LINEAR IN NATURE.
21 **Q** OKAY. HIGHER UP ON HER BUTTOCKS, BUT --
22 **A** CORRECT.
23 **Q** -- KIND OF IN THE CREASE OF THE BACK TO THE BUTTOCK?
24 **A** CORRECT.
25 **Q** SO IT'S A SEPARATE SCAR FROM EIGHT, NINE, AND TEN?

1 **A** YES.

2 **Q** UM -- NOW, IN EIGHT, NINE, AND TEN, THE SCARS THAT

3 YOU DESCRIBED, IS THERE ANYTHING SIGNIFICANCE TO THE FACT THAT

4 IT'S ON BOTH THE RIGHT AND THE LEFT BUTTOCK?

5 **A** UM -- AGAIN, IT'S A VERY PROTECTED AREA. UM -- IT'S

6 SOMEWHERE THAT DOESN'T INJURE MUCH AT ALL WITH ANY KIND OF

7 ACCIDENTAL MECHANISMS OR FALLS, AND SO -- AND ADDITIONALLY,

8 IT'S PRETTY EXTENSIVE SCARRING.

9 AND I THINK THIS ONE'S ACTUALLY ON THE THIGH, AND I

10 APOLOGIZE, IT'S NOT ON THE HIGHER END, IT'S ON THE LOWER END.

11 **Q** OH, SORRY.

12 **THE COURT:** WHICH ONE?

13 **MS. LUZAICH:** ELEVEN.

14 **THE WITNESS:** ELEVEN. YEAH, NO. 11.

15 **THE COURT:** THANK YOU.

16 **BY MS. LUZAICH:**

17 **Q** NOW, BY LOOKING AT THESE SCARS WHEN YOU SAW THEM IN

18 PERSON, WOULD YOU AGREE THAT THEY'RE -- WHILE THE PHOTOGRAPHS

19 SHOW YOU A LOT, THEY'RE NOT QUITE AS DESCRIPTIVE AS SEEING

20 THEM IN PERSON?

21 **A** CORRECT.

22 **Q** UM -- WHEN YOU LOOK AT THESE SCARS IN PERSON, IS

23 THERE ANY WAY TO TELL HOW OLD THEY ARE?

24 **A** NO.

25 **Q** CAN YOU SAY MORE THAN, YOU KNOW, THIS, LESS THAN

1 THAT?

2 **A** UH -- YOU KNOW, TYPICALLY SCAR FORMATION OCCURS WITH

3 MORE THAN A COUPLE OF WEEKS OF HEALING. BUT IN TERMS OF LESS

4 THAN, I WOULDN'T BE ABLE TO ACCURATELY PINPOINT THAT AGE.

5 **Q** OKAY. YOU SAY MORE THAN A COUPLE OF WEEKS. WOULD

6 YOU SAY MORE THAN MONTHS?

7 **A** MORE THAN LIKELY.

8 **Q** AND COULD IT BE AS MUCH AS A YEAR OLD?

9 **A** OH, YES.

10 **Q** UM -- COULD IT BE AS MUCH AS -- WELL, BUT YOU CAN'T

11 SAY SPECIFICALLY ANYTHING OTHER THAN OLDER?

12 **A** CORRECT.

13 **Q** UM -- WAS IT YOUR UNDERSTANDING THAT WHEN AVA CAME

14 TO YOU SHE WAS TAKING ANY MEDICATIONS?

15 **A** UH -- YES, I BELIEVE SHE WAS.

16 **Q** WHAT MEDICATIONS WAS SHE TAKING WHEN SHE CAME TO

17 YOU?

18 **A** UM -- AVA, I BELIEVE, WAS ON -- UM -- MEDICATIONS

19 FOR SEIZURES. UM -- I KNOW -- YOU KNOW, AVA AND AMAYA ARE

20 BOTH ON DIFFERENT MEDICATIONS.

21 WOULD I BE ABLE TO REVIEW JUST MY LIST, JUST TO

22 DOUBLE-CHECK IT?

23 **Q** WHEN YOU EXAMINE THE KIDS, DO YOU DO -- UM -- WHAT'S

24 CALLED A SCAN EXAM?

25 **A** YES.

1 **Q** AND DO YOU GENERATE A REPORT AT OR NEAR THE TIME
2 THAT YOU DO THESE EXAMINATIONS?
3 **A** YES.
4 **Q** AND WOULD REFRESHING YOUR -- OR WOULD REVIEWING YOUR
5 REPORT REFRESH YOUR RECOLLECTION?
6 **A** YES, IT WOULD.
7 **Q** GO RIGHT AHEAD.
8 **A** OH, MAY I TAKE --
9 **Q** YEAH.
10 AND JUST FOR THE RECORD, WHAT'S A SCAN EXAM?
11 **A** SO SCAN STANDS FOR SUSPECTED CHILD ABUSE AND
12 NEGLECT, AND THE EXAM SIMPLY MEANS THAT DUE TO THOSE CONCERNS
13 AN EXAMINATION WAS DONE. AND IT'S JUST THE STANDARDIZED
14 PAPERWORK THAT'S USED TO FILL OUT AND DESCRIBE THAT
15 EXAMINATION.
16 **Q** OKAY.
17 **A** SO LET ME JUST DOUBLE-CHECK.
18 **MR. MANN:** YOUR HONOR, COULD WE JUST GET, FOR THE RECORD,
19 THE REPORT THAT'S SHE REVIEWING, HOW MANY PAGES IT IS AND --
20 **THE COURT:** YEAH. BUT I ASSUME YOU PROB -- YOU PROBABLY
21 HAVE IT.
22 **MR. MANN:** I WOULD HOPE SO, AND I BELIEVE SO, BUT I'M
23 JUST MAKING SURE.
24 **THE COURT:** SO CAN YOU LIKE REFER TO SAY A DATE OF A
25 REPORT, AND MAYBE HOW LONG IT IS, SO WE CAN BE ASSURED THAT

1 THE DEFENSE HAS THE REPORT THAT YOU'RE LOOKING AT?

2 **THE WITNESS:** ABSOLUTELY. SO THIS IS FROM MARCH 13TH,

3 2014. UM -- THERE ARE --

4 **THE COURT:** DID YOU SAY MARCH 14TH?

5 **THE WITNESS:** THIRTEENTH.

6 **THE COURT:** THIRTEENTH, THANK YOU.

7 **THE WITNESS:** SO THERE ARE -- UM -- THERE'S NURSING NOTES

8 TITLED, THE BEGINNING -- THE FIRST PAGE IS *SOUTHERN NEVADA*

9 *CHILDREN'S ASSESSMENT CENTER CLINIC ASSESSMENT*. IT CONTINUES

10 TO -- UM -- THAT'S ABOUT THREE PAGES. AND THEN MY -- UH -- MY

11 SPECIFIC ENTRANCE IN THE REPORT IS THE CHILD, SLASH,

12 ADOLESCENT SEXUAL ABUSE, SLASH, ASSAULT FORENSIC MEDICAL

13 EXAMINATION. THE NEXT FIVE PAGES IS THE SCAN PHYSICAL ABUSE

14 AND NEGLECT FORM, IT STARTS WITH A NARRATIVE.

15 AND SO I'M LOOKING DOWN HERE -- UM -- JUST FOR HER

16 MEDICAL HISTORY TO UNDERSTAND WHICH MEDICATIONS SHE WAS ON.

17 I'M JUST GOING BACK TO THE NURSING AREA HERE. UM -- SO

18 SHE WAS NOT ON ANY MEDICATIONS WHEN I HAD SEEN HER, AT THE

19 TIME THAT I HAD SEEN HER.

20 **BY MS. LUZAICH:**

21 **Q** OKAY. WAS IT YOUR UNDERSTANDING THAT THEY HAD

22 DISCONTINUED ALL MEDICATIONS?

23 **A** YES.

24 **Q** UM -- AND WHEN YOU SAW AVA, WAS SHE IN A MEDICALLY

25 HEALTHY CONDITION?

1 **A** YES.

2 **Q** WHILE NOT TAKING ANY MEDICATIONS?

3 **A** YES, SHE APPEARED TO BE.

4 **Q** WAS SOME OF THE HISTORY PROVIDED TO YOU THE FACT

5 THAT SOMEONE HAD INDICATED THAT AVA HAD CROHN'S?

6 **A** YES.

7 **Q** WHAT IS CROHN'S DISEASE?

8 **A** CROHN'S DISEASE IS A FORM OF -- UM -- INFLAMMATORY

9 DISEASE OR I.B.D., ESSENTIALLY AN AUTOIMMUNE DISEASE, SO IT'S

10 WHERE YOUR BODY IS ATTACKING ITSELF. UM -- AND SPECIFICALLY

11 IN THE INTESTINES -- UM -- SO THAT IT MAKES IT VERY DIFFICULT

12 TO PROCESS FOODS THAT ARE COMING IN, PROTEINS, CARBOHYDRATES,

13 AND WILL CAUSE DAMAGE WITHIN THE INTESTINAL SYSTEM -- UM --

14 CREATING A -- SEVERAL DIFFERENT TYPES OF CONDITIONS.

15 **Q** ARE THERE TESTS THAT CAN BE DONE TO KIND OF CONFIRM

16 OR CONTRADICT WHETHER SOMEONE'S GOT CROHN'S?

17 **A** YES.

18 **Q** AND DID YOU REVIEW TESTS THAT AVA HAD HAD DONE?

19 **A** YES.

20 **Q** AND DID AVA HAVE CROHN'S?

21 **A** NO, SHE DID NOT.

22 **Q** AND, IN FACT, WAS THERE A TEST DONE THAT

23 SPECIFICALLY INDICATED SHE DID NOT HAVE CROHN'S?

24 **A** YES.

25 **Q** UM -- YOU SAID THAT PART OF HER HISTORY WAS THAT SHE

1 HAD SOME BOWEL PROBLEMS. WHAT WERE THE BOWEL PROBLEMS THAT
2 SHE ACTUALLY HAD?
3 **A** THE BOWEL PROBLEMS THAT WERE DOCUMENTED THROUGHOUT
4 HER VISITS INCLUDED -- UM -- ABDOMINAL PAIN THAT WAS
5 RECURRING, AS WELL AS CONSTIPATION.
6 **Q** DID YOU -- IN REVIEWING MEDICAL RECORDS AND AVA'S
7 ACTUAL EXAMINATION AND LAB WORK THAT YOU DID -- UM -- COULD
8 YOU TELL WAS THERE ANYTHING MEDICALLY WRONG WITH AVA THAT
9 WOULD CAUSE CONSTIPATION?
10 **A** THERE DID NOT APPEAR TO BE, NO.
11 **Q** ARE THERE OTHER THINGS, OTHER THAN MEDICALLY --
12 SOMETHING MEDICALLY WRONG INSIDE OF YOU, ARE THERE OTHER
13 THINGS THAT MIGHT CAUSE CHILDREN TO HAVE CONSTIPATION?
14 **A** YES.
15 **Q** FOR EXAMPLE?
16 **A** DIET. THAT'S A MAJOR REASON WHY CHILDREN DEVELOP
17 CONSTIPATION.
18 UM -- ALSO ANOTHER MAJOR REASON IS CALLED FUNCTIONAL
19 CONSTIPATION, SO HOLDING STOOL, NOT GOING TO THE BATHROOM --
20 UM -- CAUSES THE STOOL TO BE HARDER, AND THEN WHEN -- UM -- A
21 CHILD DOES HAVE A BOWEL MOVEMENT, IT MAY BE PAINFUL OR
22 UNCOMFORTABLE OR THEY MAY NOT BE ABLE TO GET RID OF ALL THE
23 POOP AND THE STOOL IN THERE, AND SO THEN IT'S KIND OF A
24 DOWNWARD SPIRAL KIND OF EFFECT WHERE THEY HOLD LONGER AND THEN
25 THAT CONTINUES TO CAUSE MORE CONSTIPATION.

1 **Q** OKAY. DID YOU ALSO EXAMINE AMAYA SOLANDER?

2 **A** YES.

3 **Q** AND WHEN YOU EXAMINED AMAYA FROM HEAD TO TOE AS

4 WELL?

5 **A** YES.

6 **Q** DID LABS ON AMAYA AS WELL?

7 **A** YES.

8 **Q** AND DID YOU NOTICE ANYTHING -- UM -- PHYSICALLY ON

9 AMAYA THAT CAUSED YOU CONCERN?

10 **A** SHE, ADDITIONALLY, HAD MANY AREAS OF SCAR TISSUE.

11 **Q** UH -- CAN YOU DESCRIBE WHERE THE AREAS OF SCAR

12 TISSUE WERE THAT CAUSED YOU CONCERN ON AMAYA?

13 **A** ON HER AS WELL ON HER BUTTOCKS AND -- AND BACK AREA.

14 **Q** OKAY. AND DID YOU CAUSE THOSE TO BE PHOTO -- WELL,

15 WERE THEY PHOTOGRAPHED --

16 **A** THEY WERE.

17 **Q** -- WHILE THEY WERE OUT THERE THAT DAY?

18 MAY I APPROACH?

19 **THE COURT:** YES.

20 **BY MS. LUZAICH:**

21 **Q** DOCTOR, I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS

22 STATE'S PROPOSED EXHIBIT 12, 13, 14, 15, 16 AND 17, WHICH FOR

23 THE RECORD HAVE BEEN SHOWN TO DEFENSE COUNSEL BEFORE THE

24 HEARING.

25 **A** OKAY.

1 **Q** ARE THOSE PHOTOGRAPHS FAMILIAR TO YOU?

2 ACTUALLY, ARE THEY PHOTOGRAPHS OF AMAYA SOLANDER

3 THAT WERE TAKEN ON MARCH 13TH OF 2014, MORE SPECIFICALLY?

4 **A** YES, THEY WERE.

5 **Q** AND DO THESE PHOTOGRAPHS FAIRLY AND ACCURATELY

6 DEPICT AMAYA AND SOME SCAR TISSUE THAT YOU HAD OBSERVED?

7 **A** YES.

8 **MS. LUZAICH:** MOVE THEM INTO EVIDENCE.

9 **THE COURT:** ANY OBJECTION?

10 **MR. MANN:** NO.

11 **MR. RUE:** NO, YOUR HONOR.

12 **MR. MUELLER:** NONE.

13 **THE COURT:** ALL RIGHT. TWELVE THROUGH SEVENTEEN WILL BE

14 ADMITTED.

15 (WHEREUPON STATE'S EXHIBIT NOS. 12 THROUGH 17 WERE

16 ADMITTED INTO EVIDENCE.)

17 **MS. LUZAICH:** THANK YOU.

18 **Q** AND FOR THE RECORD, STATE'S EXHIBIT 12, IS THAT A

19 PHOTOGRAPH OF AMAYA'S FACE, SO THAT WE KNOW THAT THE REST OF

20 THE PHOTOGRAPHS ARE OF AMAYA?

21 **A** YES.

22 **Q** EXHIBIT 13, WHAT DO WE SEE THERE?

23 **A** UM -- IT APPEARS TO BE TWO AREAS OF SCAR TISSUE ON

24 HER ELBOW.

25 **Q** STATE'S EXHIBIT 14, WHAT DO WE SEE THERE?

1 **A** A LINEAR KIND OF HEALING -- UM -- SCAR AREA ON
2 HER -- UM -- I BELIEVE IT WAS HER UPPER ARM.
3 **THE COURT:** ON HER WHAT?
4 **THE WITNESS:** UPPER ARM.
5 **THE COURT:** THANK YOU.
6 **BY MS. LUZAICH:**
7 **Q** STATE'S EXHIBIT 15, WHAT DO WE SEE THERE?
8 **A** UM -- SCAR TISSUE ON HER LEFT AND RIGHT BUTTOCK.
9 **Q** STATE'S EXHIBIT 16, WHAT DO WE SEE THERE?
10 **A** UM -- THIS IS A PHOTOGRAPH OF THE RIGHT BUTTOCK --
11 UM -- WHERE YOU CAN VISUALIZE SCAR TISSUE, AS WELL AS THE
12 UPPER PART OF HER -- THE BACK OF HER THIGH -- UM -- THERE
13 APPEARS TO BE A LINEAR HEALED AREA AS WELL OF SCAR TISSUE.
14 **Q** AND THAT'S ON THE UPPER BACK PART OF HER RIGHT
15 THIGH?
16 **A** CORRECT.
17 **Q** STATE'S EXHIBIT 17?
18 **A** THIS I BELIEVE IS FROM HER BACK -- UM -- SO KIND OF
19 THE UPPER -- UH -- UPPER -- OR LOWER BACK AREA. AGAIN,
20 ANOTHER -- A LITTLE SCAR, A LINEAR SCAR.
21 **Q** OKAY. AND WHY DO THESE AREAS CAUSE YOU CONCERN?
22 **A** FOR SIMILAR REASONS. THE BACK AND BUTTOCKS ARE
23 PROTECTED AREAS THAT ARE DIFFICULT -- UM -- TO INJURE, AND
24 THEN ADDITIONALLY TO CAUSE -- UM -- YOU KNOW, EXTENSIVE SCAR
25 TISSUE.

1 **Q** NOW, STATE'S EXHIBIT 13 YOU DESCRIBED AS HER ELBOW.
2 EARLIER YOU SAID THAT THE ELBOW IS A PLACE THAT KIDS, YOU
3 KNOW, OFTEN FALL DOWN. BY ITSELF, WOULD THAT INJURY CAUSE YOU
4 CONCERN?
5 **A** NO.
6 **Q** WHEN CONSIDERED WITH THE REST OF THE INJURIES THAT
7 YOU OBSERVED -- UM -- DOES THAT CAUSE YOU MORE CONCERN?
8 **A** UM -- THE MULTITUDE OF INJURIES, AS WELL AS THE
9 HISTORY OF -- GIVEN BY THE CHILD -- UM -- MADE ME MORE
10 CONCERNED ABOUT IT.
11 **Q** OKAY. AND, AGAIN, WITH AMAYA, THE INJURIES THAT YOU
12 SAW, THE SCARS THAT YOU SAW IN PERSON, DO THE PHOTOS KIND OF
13 NOT DO IT JUSTICE?
14 **A** NOT QUITE, NO.
15 **Q** OKAY. AND JUST FOR THE RECORD, THESE ARE NOT GLOSSY
16 PHOTOS OR ANYTHING, IT'S REGULAR PAPER, CORRECT?
17 **A** CORRECT.
18 **Q** IN ADDITION TO THE INJURIES THAT YOU'VE JUST
19 DESCRIBED ON AMAYA, DID YOU NOTICE ANYTHING ELSE ABOUT AMAYA
20 THAT WAS CONCERNING?
21 **A** UM -- HER HEIGHT -- UM -- WAS CONCERNING TO ME.
22 UM -- AFTER REVIEWING -- UM -- MEDICAL RECORDS FROM PRIMARY
23 MEDICAL VISITS EARLIER ON IN HER LIFE -- UM -- NOTING THAT SHE
24 HAD LOST -- UH -- HEIGHT VELOCITY, SO THE RATE IN WHICH SHE
25 WAS GROWING WAS -- UM -- DRAMATICALLY DECREASED FROM THOSE

1 PRIOR VISITS.

2 **Q** CAN YOU DESCRIBE FOR US WHY THAT IS CONCERNING TO

3 YOU?

4 **A** SO ANY -- EVERY CHILD GETS PLOTTED ON A GRAPH, AND

5 THAT'S A GROWTH CURVE. GROWTH CURVES HELP US SEE THAT

6 CHILDREN ARE GROWING APPROPRIATELY AS WE WOULD EXPECT. SO

7 SOME KIDS ARE SMALLER, SOME KIDS ARE BIGGER, SOME ARE RIGHT IN

8 THE MIDDLE, AND SO WHAT WE DO AS PEDIATRICIANS IS YOU PLOT

9 THEM ON THAT CURVE, AND THE ANTICIPATED RESULT IS THAT THEY

10 FOLLOW THE CURVE WHICH THEY STARTED. SO IF YOU START OUT

11 SMALL, YOU KIND OF CONTINUE SMALL, ET CETERA, ET CETERA.

12 UM -- AND WHEN THERE ARE DRAMATIC CHANGES IN THAT

13 VELOCITY, SO THAT ABILITY TO GROW WEIGHT AND HEIGHT -- UM --

14 THERE IS KIND OF AN EVALUATION TO UNDERSTAND WHAT'S GOING ON

15 THERE THAT'S CAUSING THAT -- UH -- CHANGE.

16 UM -- IN TERMS OF HEIGHT VELOCITY, WHAT IS

17 CONCERNING ABOUT THAT IS THAT WHEN CHILDREN, FOR WHATEVER

18 REASON, ARE NOT GROWING, THE FIRST THING TO BE AFFECTED IS

19 THEIR WEIGHT. THE SECOND THING, AFTER QUITE SOMETIME WILL BE

20 THEIR HEIGHT, AND THIRD WILL BE THEIR HEAD CIRCUMFERENCE, SO

21 THAT'S THE MOST PROTECTED OF OUR BODY.

22 AND FOR HER, ALTHOUGH HER WEIGHT APPEARED CONSISTENT

23 FROM THE TIME THAT I HAD -- UM -- HAD MEDICAL RECORDS, AND

24 THEN THERE WAS A JUMP TO THE TIME THAT SHE HAD BEEN SEEN AT

25 OUR CLINIC -- UM -- HER HEIGHT VELOCITY KIND OF PLATEAUED, AND

1 SHE HAD CROSSED SEVERAL STANDARD DEVIATIONS, SO LINES THAT
2 WHEN SHE STARTED OFF AT 50TH PERCENTILE, NOW SHE WAS AT THE
3 5TH, AND SO THAT WAS VERY CONCERNING OF WHY A CHILD WOULD DO
4 THAT.
5 **Q** WHY MIGHT A CHILD DO THAT?
6 **A** SO THERE CAN BE -- UM -- ANY REASONS WHY SOMEONE IS
7 NOT GETTING ENOUGH NUTRITION WOULD BE THE KIND OF NO. 1 REASON
8 FOR IT -- UM -- WHETHER IT WAS ENVIRONMENTAL OR MEDICAL.
9 **Q** UM -- WAS IT -- WELL, WAS AMAYA ON MEDICATIONS WHEN
10 SHE CAME TO YOU?
11 **A** SHE WAS NOT AT THE TIME SHE -- THAT SHE CAME TO ME.
12 **Q** OKAY. AND WHEN SHE CAME TO YOU, DID SHE APPEAR TO
13 BE IN GOOD HEALTH OTHERWISE?
14 **A** YES.
15 **Q** AND THIS IS IN MARCH OF 2014?
16 **A** CORRECT.
17 **Q** WAS IT YOUR UNDERSTANDING THAT SHE HAD BEEN ON
18 MEDICATIONS AND EVERYTHING HAD BEEN STOPPED?
19 **A** YES.
20 **Q** SO SHE WAS FINE WHILE NOT ON THE MEDICATIONS?
21 **A** SHE APPEARED TO BE, YES.
22 **Q** UM -- SO WAS IT ALSO YOUR UNDERSTANDING THAT THERE
23 HAD BEEN A TIME THAT AMAYA HAD SUFFERED SOME SEIZURES?
24 **A** YES.
25 **Q** WERE YOU ABLE TO REVIEW SOME MEDICAL RECORDS FROM

1 SUMMERLIN HOSPITAL OF SEIZURE ISSUES THAT AMAYA HAD SUFFERED?
2 **A** YES.
3 **Q** WHEN WAS THAT?
4 **A** DECEMBER --
5 **Q** THE HOSPITAL STAY, NOT THE REVIEW OF THE MEDICAL
6 RECORDS, SORRY.
7 **A** DECEMBER OF 2012, I BELIEVE.
8 **Q** DECEMBER 23RD MAYBE, RIGHT BEFORE CHRISTMAS?
9 **A** CORRECT.
10 **Q** UH -- AND IN THE MEDICAL RECORDS, DID IT INDICATE
11 THAT SHE HAD SUFFERED A SEIZURE AND, THEREFORE, WENT TO THE
12 HOSPITAL?
13 **A** YES.
14 **Q** UM -- WAS IT ACTUALLY DOCUMENTED THAT SHE SUFFERED A
15 SEIZURE CAUSING HER TO GO THERE, OR WAS IT SOMETHING SLIGHTLY
16 DIFFERENT?
17 **A** UM -- THE CHIEF COMPLAINT, OR WHAT YOU TELL THE
18 TRIAGE WINDOW WHEN YOU COME IN, IS -- UM -- PASSING OUT, THAT
19 SHE HAD LOST CONSCIOUSNESS.
20 **Q** UM -- AND DID IT INDICATE THAT SOMEBODY HAD TOLD HER
21 THAT SHE HAD SUFFERED A SEIZURE?
22 **A** UM -- IT -- I THINK IT WAS IN THE DIAGNOSES, BUT I'M
23 NOT -- I'M NOT SURE HOW -- IT WASN'T DOCUMENTED HOW THAT CAME
24 ABOUT.
25 **Q** OH, OKAY. WHAT WAS IN THE DIAGNOSES?

1 **A** THAT IT WAS A POSSIBLE SEIZURE DISORDER OR EPILEPSY
2 THAT WAS GOING TO BE EVALUATED.
3 **Q** OKAY. WAS THERE ACTUALLY A SEIZURE SUFFERED BY HER
4 THAT WAS OBSERVED BY SUMMERLIN HOSPITAL PERSONNEL AFTER SHE
5 WAS THERE?
6 **A** IT APPEARED THE MEDICAL STAFF HAD OBSERVED ONE
7 SEIZURE EPISODE.
8 **Q** WHAT MIGHT CAUSE SEIZURES IN A CHILD THAT AGE?
9 **A** UM -- SEIZURES ARE FAIRLY COMPLEX WHEN IT COMES TO
10 HOW THEY COME ABOUT. SOMETIMES, YOU KNOW, THE ANSWER IS THAT
11 WE DON'T KNOW. UM -- SOMETIMES IT COULD BE BRAIN DAMAGE OR
12 SOMETHING IRRITATING THE BRAIN. IT COULD BE -- UM -- TOXIC
13 EXPOSURE. IT COULD BE SOMETHING ELSE METABOLIC GOING ON IN
14 THE BODY, INFECTIONS, THERE IS A MYRIAD OF DIFFERENT CAUSES
15 FOR IT, AND USUALLY IT'S THAT WE DON'T KNOW.
16 **Q** OKAY. CAN, FOR EXAMPLE, DEHYDRATION, MALU --
17 MALNUTRITION, AND EXHAUSTION COMBINE AND CAUSE A SEIZURE IN AN
18 EIGHT-YEAR-OLD CHILD?
19 **A** IT'S POSSIBLE.
20 **Q** UM -- WAS THERE AN ISSUE WITH HER BEING HYPOTHERMIC
21 ON ADMISSION --
22 **A** YES.
23 **Q** -- ON DECEMBER 23RD OF 2012?
24 **A** YES, IT WAS DOCUMENTED THAT HER TEMPERATURE WAS VERY
25 LOW.

1 **Q** WHAT DOES THAT MEAN?

2 **A** UM -- OUR TEMPERATURE IS REGULATED BY OUR BRAIN --
3 UM -- AND ALSO BY JUST KIND OF NORMAL ACTIVITIES IN THE BODY.
4 ONCE WE'RE OUT OF INFANCY -- UM -- OUR BODIES CAN KIND OF
5 CONTROL THE TEMPERATURE, AND YOU SHOULD STAY AROUND, YOU KNOW,
6 98.6 IS KIND OF THE AVERAGE. AND SO HER BEING LOWER THAN THAT
7 WOULD MAKE A CONCERN FOR -- UM -- SOMETHING GOING ON IN HER
8 BODY THAT -- UH -- NEEDS TO BE EVALUATED.

9 **Q** WHAT MIGHT CAUSE THAT TO HAPPEN?

10 **A** IT CAN BE ENVIRONMENTAL, SUN EXPOSURE. IT CAN BE
11 NUTRITIONAL DEFICITS, IT CAN BE INFECTION, IT CAN BE MANY
12 DIFFERENT THINGS.

13 **Q** WAS IT YOUR UNDERSTANDING THAT MOST OF THOSE THINGS
14 WERE RULED OUT, EXCEPT FOR POTENTIALLY MALNUTRITION?

15 **A** UM -- SHE HAD, IT LOOKED LIKE, AN INFECTION IN HER
16 LUNGS POSSIBLY -- UM -- AND THEN -- UH -- OTHER THAN THAT,
17 EVERYTHING ELSE SEEMED TO COME UP NEGATIVE.

18 **Q** AND THEN FINALLY DID YOU ALSO EXAMINE ANASTASIA
19 SOLANDER?

20 **A** YES.

21 **Q** WHEN YOU EXAMINED ANASTASIA, ALSO HEAD TO TOE?

22 **A** YES.

23 **Q** BLOOD RESULTS ALSO --

24 **A** YES.

25 **Q** -- DONE OR BLOOD -- SORRY, LABS ALSO DONE?

1 **A** YES.

2 **Q** WAS THERE ANYTHING THAT YOU NOTICED ON ANASTASIA'S

3 EXAMINATION THAT CAUSED YOU NOTE?

4 **A** SHE ADDITIONALLY HAD SCAR TISSUE TO HER BUTTOCKS --

5 UM -- AS WELL AS OTHER PARTS OF HER BODY.

6 **Q** WHERE IN ADDITION TO HER BUTTOCKS?

7 **A** UM -- SHE, I BELIEVE, ALSO HAD KIND OF ON THE BACK

8 SHOULDER AREA -- UM -- AND -- UM -- KIND OF AN AREA ON HER --

9 HER NECK -- UM -- THAT WERE OF CONCERN.

10 **Q** IN ADDITION TO THE -- WELL, CAN YOU DESCRIBE THE

11 BACK SHOULDER/NECK AREA SCARS FOR ME? LIKE WERE THEY

12 DIFFERENT THAN THE ONES ON THE BUTTOCKS?

13 **A** THE SCAR TISSUE ITSELF WAS A LITTLE BIT DIFFERENT,

14 IT WAS A LITTLE BIT MORE PRONOUNCED -- UM -- AND IT WAS

15 IRREGULAR IN SHAPE, BUT APPEARED TO KIND OF HAVE THE SAME --

16 UM -- KIND OF START POINT FROM -- FROM THE NECK TO THE

17 SHOULDER, DOWN TOWARDS THE KIND OF ARMPIT AREA.

18 **Q** DID THE SCARS ON THE NECK/SHOULDER AREA HAVE A

19 DIFFERENT MECHANISM OF INJURY THAN THE ONES ON THE BUTTOCKS?

20 **A** THEY APPEARED TO BE CONSISTENT WITH BURN INJURIES.

21 **MS. LUZAICH:** WAS THERE ALSO A -- UM -- I'M SORRY, I LOST

22 MY TRAIN OF THOUGHT.

23 MAY I APPROACH?

24 **THE COURT:** YES.

25

1 **BY MS. LUZAICH:**

2 **Q** SHOWING YOU WHAT'S BEEN MARKED AS STATE'S PROPOSED

3 EXHIBITS 18, 19, 20, 21 -- ACTUALLY, 18 ALL THE WAY THROUGH

4 30, TO MAKE LIFE EASIER -- UM -- WHICH, FOR THE RECORD, HAVE

5 ALSO BEEN SHOWN TO COUNSEL PRIOR TO THE HEARING.

6 CAN YOU TELL ME ARE THESE ALL PHOTOGRAPHS OF

7 ANASTASIA THAT WERE TAKEN ON MARCH 13TH, 2014, AT THE

8 ASSESSMENT CENTER?

9 **A** SO FAR, YES. YEP.

10 **Q** I'M SORRY, I ASKED THAT QUESTION TOO QUICKLY.

11 NOW THAT YOU HAVE LOOKED AT ALL OF THOSE PHOTOS, ARE

12 THOSE PHOTOS TAKEN OF ANASTASIA ON THAT DAY?

13 **A** YES.

14 **Q** AND DO THOSE PHOTOS FAIRLY AND ACCURATELY REFLECT

15 THE INJURIES THAT YOU HAVE DESCRIBED FOR US?

16 **A** YES.

17 **MS. LUZAICH:** MOVE THEM INTO EVIDENCE.

18 **THE COURT:** ANY OBJECTION?

19 **MR. MANN:** NO, OBJECTION.

20 **MR. RUE:** NO, YOUR HONOR.

21 **MR. MUELLER:** NO.

22 **THE COURT:** OKAY. EIGHTEEN THROUGH 30 WILL BE ADMITTED.

23 THANK YOU.

24 (WHEREUPON STATE'S EXHIBIT NOS. 18 THROUGH 30 WERE

25 ADMITTED INTO EVIDENCE.)

1 **MS. LUZAICH:** THANK YOU.

2 **Q** STATE'S EXHIBIT 18, DOCTOR, IS THAT A PHOTOGRAPH OF

3 ANASTASIA'S FACE?

4 **A** YES.

5 **Q** SO THAT WE KNOW THAT THE PHOTOS, THE REST ARE HER.

6 STATE'S EXHIBIT 19, WHAT ARE WE LOOKING AT?

7 **A** WE'RE LOOKING AT A PHOTOGRAPH OF HER BACK. UM --

8 THERE IS SCAR TISSUE PRESENT ON THE -- UM -- KIND OF THE MID

9 SHOULDER AREA -- UM -- AS WELL AS ON THE -- KIND OF BACK OF

10 THE SHOULDER BLADE EXTENDING DOWN TO THE AXILLA OR THE ARMPIT

11 AREA.

12 **Q** STATE'S EXHIBIT 20, IS THAT A CLOSE-UP OF STATE'S

13 EXHIBIT 19?

14 **A** YES. OF THE BACK OF THE SHOULDER, YES.

15 **Q** AND THESE ARE THE PHOTOS THAT ARE CONSIS -- OR THE

16 SCARS THAT ARE CONSISTENT WITH BURNS?

17 **A** YES.

18 **Q** CAN YOU TELL WHEN YOU LOOK AT THE SCARS HOW OLD THE

19 BURNS WERE?

20 **A** NO, I CAN'T.

21 **Q** CAN YOU SAY THEY WERE MORE THAN?

22 **A** THEY WERE MORE THAN -- UM -- WEEKS TO MONTHS.

23 **Q** STATE'S EXHIBIT 21?

24 **A** THIS IS THE RIGHT SIDE OF HER BACK -- UM -- KIND OF

25 THE MIDDLE RIGHT SIDE OF THE BACK, AND IT'S A LINEAR SCAR --

1 UM -- ACCOMPANIED BY TWO KIND OF SMALLER LINEAR SCARS COMING
2 OFF OF THEM PERPENDICULAR -- UM -- ON -- ON HER BACKSIDE AREA.
3 **Q** BACKSIDE AS OPPOSED TO BUTTOCKS SIDE?
4 **A** CORRECT. SORRY.
5 **Q** EXHIBIT 22, IS THAT A CLOSE-UP OF WHAT YOU JUST
6 DESCRIBED?
7 **A** YES.
8 **Q** WHAT IS EXHIBIT 23?
9 **A** SO THAT IS ANOTHER FAIRLY LINEAR SCAR ON THE RIGHT
10 FLANK, SO THAT IS THE RIGHT -- UH -- SIDE OF THE BACK, BUT
11 LOWER DOWN.
12 **Q** STATE'S EXHIBIT 24?
13 **A** THIS IS THE -- A PHOTOGRAPH OF THE BACK OF HER EAR.
14 UM -- SHE HAS IN THE -- KIND OF THE CREASE OF THE BACK OF THE
15 EAR THAT'S CLOSEST TO THE SCALP AREA SOME FLAKING AND REDNESS
16 OF SKIN -- UM -- AND THEN A LITTLE BIT OF DISCOLORATION, BUT
17 I'M NOT SURE OF WHAT ON THE KIND OF OUTER EARLOBE.
18 **Q** UM -- IS THERE ALSO A SCAR ON THE EAR? IS THAT --
19 **A** IT WAS VERY DIFFICULT TO TELL. SHE -- UM -- SHE AND
20 ALL THE GIRLS HAD BEEN UNDERGOING TREATMENT WITH SOME TYPE OF
21 TOPICAL, SO LIKE A CREAM FOR THE HAIR, BECAUSE THEY HAD SOME
22 TYPE OF FUNGUS -- UM -- IN THE -- IN THE HAIR AREA. AND SO
23 DUE TO THAT, THEY HAD A LOT OF KIND OF REDNESS AND CHAFING OF
24 SKIN, KIND OF -- ESPECIALLY RIGHT AT THE HAIRLINE BEHIND
25 THERE, AND SO IT WAS A BIT OF A -- A DISTRACTER. WE TRIED

1 CLEANING SOME OF IT OFF, BUT WE WERE UNABLE TO KIND OF
2 SUCCESSFULLY GET EVERYTHING OFF.
3 **Q** OKAY. CAN YOU SEE ANY BURN MARKS IN 24?
4 **A** NOT THAT I'M COMFORTABLE --
5 **Q** YOU CAN'T, OKAY.
6 **A** UM-UM.
7 **Q** TWENTY-FIVE, WHAT IS THAT?
8 **A** THAT IS THE TOP OF HER RIGHT SHOULDER -- UM -- WITH,
9 AGAIN, SCAR TISSUE -- UM -- THAT APPEARS TO BE SECONDARY TO A
10 BURN -- UM -- KIND OF IN THE MIDDLE AREA OF THE TOP OF A
11 SHOULDER.
12 **Q** WHEN YOU SAY SCAR TISSUE THAT APPEARS TO BE
13 SECONDARY TO A BURN, WHAT DOES THAT MEAN IN PEOPLE TERMS?
14 **A** IT JUST MEANS THAT THE WAY IT LOOKS -- UM -- AND HOW
15 IT'S HEALED -- UM -- THE MECHANISM IS MORE CONSISTENT WITH
16 SOME KIND OF BURN RATHER THAN SOME KIND OF HIT OR FALL OR
17 ABRASION.
18 **Q** OKAY. STATE'S EXHIBIT 26?
19 **A** THAT IS HER -- THE OUTSIDE OF HER RIGHT EAR.
20 **Q** AND WHAT DO WE SEE?
21 **A** UM -- I SEE SOME LIGHTENING OF THE SKIN, KIND OF
22 TOWARDS THE OUTER END OF THE EARLOBE, AND THEN A LITTLE BIT OF
23 REDNESS ALL THE WAY AROUND.
24 **Q** STATE'S EXHIBIT 27?
25 **A** THAT IS HER BUTTOCKS -- UM -- AGAIN WITH SCAR TISSUE

1 TOWARDS THE KIND OF BOTTOM, ALMOST TOWARDS THE CREASE OF THE
2 BUTTOCK AREA.
3 **Q** STATE'S EXHIBIT 28?
4 **A** SIMILARLY -- UM -- THE BUTTOCKS, BOTH BEING ABLE TO
5 SEE THE RIGHT AND THE LEFT BUTTOCKS WITH SCAR TISSUE ON -- ON
6 BOTH BUTTOCK.
7 **Q** EXHIBIT 29?
8 **A** THIS IS THE LEFT BUTTOCKS, A LITTLE BIT HIGHER --
9 UM -- MID AREA WITH A LINEAR -- UM -- SCAR.
10 **Q** AND THAT WOULD BE THE CLOSE-UP OF THE BUTTOCKS,
11 CORRECT?
12 **A** THE CLOSE-UP OF THE --
13 **Q** LEFT SIDE.
14 **A** -- TOP -- TOP END OF THE LEFT SIDE.
15 **Q** AND THEN STATE'S 30?
16 **A** IS THE CLOSE-UP OF THE RIGHT -- UM -- BOTTOM OF THE
17 BUTTOCK -- UM -- SHOWING THE SCAR TISSUE.
18 **Q** DID I BRING A PAPER CLIP? NO?
19 UM -- IN ADDITION TO THE -- UM -- SCARS THAT WE'VE
20 JUST DISCUSSED, DID YOU NOTICE ANYTHING ELSE ABOUT -- UH --
21 ANASTASIA'S EXAM THAT CAUSED YOU CONCERN?
22 **A** SHE ALSO WAS ON A LOWER END OF HEIGHT -- UM -- FOR
23 HER GROWTH CURVE, GIVEN HER AGE. UM -- AND THEN LOOKING BACK
24 ON HER -- WE GOT A MEDICAL PASSPORT OF HER KIND OF EARLIER
25 YEARS OF -- OF PRIMARY MEDICAL CARE, APPEARED THAT SHE HAD --

1 UM -- INITIALLY BEEN ABOUT 50TH OR SO PERCENTILE AND HAD
2 CROSSED THOSE LINES OF 25TH AND 10TH AND WAS NOW CLOSER TO THE
3 5TH PERCENTILE WITH HER HEIGHT, SO LOSING VELOCITY, SO THE
4 SPEED OF WHICH SHE'S GROWING, WHICH WAS OF -- OF VERY MUCH
5 CONCERN.
6 **Q** AND CONCERN WHY?
7 **A** UM -- AGAIN, ANY TIME THAT THERE IS SOMETHING
8 AFFECTING A CHILD'S GROWTH, THE FIRST THING THAT IS AFFECTED
9 IS WEIGHT, AND THEN NOT ONLY TILL THEY'VE PASSED KIND OF THAT
10 POINT WHERE THERE'S NOTHING LEFT TO TAKE FROM THEIR WEIGHT, DO
11 THEY GO TO THEIR HEIGHT. SO LOSING HEIGHT -- UM -- IS
12 INDICATIVE OF A FAIRLY CONCERNING CONDITION.
13 **Q** UM -- WHEN YOU SAW THE SCARS ON THE THREE CHILDREN,
14 DID THAT CAUSE YOU MORE CONCERN THAN IF YOU HAD SEEN ONE CHILD
15 BY THEMSELF?
16 **A** EACH CHILD VISUALLY WAS VERY CONCERNING WHERE THEY
17 HAD THEIR SCARS AND THE EXTENT OF IT. BUT THEN SEEING THAT
18 ALL THREE HAD PRETTY MUCH THE SAME SCAR TISSUE ON BOTH
19 BUTTOCKS IN ALMOST THE IDENTICAL AREA -- UM -- WAS VERY
20 DEFINITIVE FOR NON-ACCIDENTAL TYPE OF TRAUMA.
21 **Q** OKAY. INITIALLY YOU SAID THAT SEEING JUST EACH
22 CHILD BY THEMSELVES WAS CONCERNING.
23 **A** YES.
24 **Q** WHY WAS IT CONCERNING JUST ONE CHILD BY THEMSELF?
25 **A** AGAIN, THIS IS A HIGHLY PROTECTED AREA, IT'S A PLACE

1 THAT DOESN'T SCAR VERY READILY, THAT IS NOT -- UM -- INJURED
2 TYPICALLY FROM ACCIDENTAL MECHANISMS, FALLS, ET CETERA. UM --
3 AND THE FACT THAT THREE OF THEM HAD THE EXACT SAME SET OF SCAR
4 TISSUE -- UM -- INDICATED EVEN MORE VEHEMENTLY THAT THIS WAS
5 NOT SOMETHING THAT WAS ACCIDENTAL.
6 **Q** NOW, THE ACTUAL INJURIES, THE SCARS THEMSELVES --
7 UM -- WAS THERE SOME KIND OF PATTERN TO THEM?
8 **A** UM -- SOME OF THEM HAD A COUPLE OF LINES, AND THERE
9 MIGHT HAVE BEEN A LITTLE BIT OF CURVATURE TO IT, BUT OVERALL
10 I'D DESCRIBE THEM AS IRREGULAR SHAPES, BECAUSE THEY DIDN'T
11 HAVE ANY SOLID PATTERNING TO THEM, NO.
12 **Q** OKAY. BUT THE FACT THAT THEY WERE THE SAME AS THE
13 OTHER GIRLS WAS WHAT WAS CONCERNING TO YOU?
14 **A** YES.
15 **Q** UM -- WOULD THESE -- UH -- THESE -- WELL, SO YOUR
16 CONCERN WAS OF NON-ACCIDENTAL INJURY.
17 **A** YES.
18 **Q** WHAT ABOUT THEIR CONDITIONS AS A WHOLE? WHAT KIND
19 OF CONDITION WERE THE GIRLS IN AS A WHOLE?
20 **A** AS A WHOLE, I WAS CONCERNED ABOUT THE HEIGHT
21 VELOCITY, THE GROWTH PARAMETERS THEY WERE NOT FOLLOWING.
22 UM -- CONCERN ABOUT THEIR OVERALL SCAR TISSUE THAT WAS SEEN.
23 UM -- AND THEN KIND OF AS A REVIEW OF RECORDS, KIND OF THE
24 MEDICATIONS AND SOME OF THE -- UM -- EVALUATIONS THAT THEY
25 WERE UNDERGOING WITHOUT -- UH -- KIND OF MEDICAL CONCERNS THAT

1 CAME FROM IT, SO ALL BEING NEGATIVE.

2 **Q** AND BASED ON YOUR TRAINING AND EXPERIENCE, DO YOU

3 HAVE AN OPINION WHETHER OR NOT THESE CHILDREN HAD SUFFERED

4 ABUSE?

5 **A** MY OPINION THAT THE SCAR TISSUE REPRESENTED

6 DEFINITIVE FOR ABUSE.

7 **MS. LUZAICH:** THANK YOU. I PASS THE WITNESS.

8 **THE COURT:** MR. MANN, CROSS-EXAMINATION?

9

10 **CROSS-EXAMINATION**

11 **BY MR. MANN:**

12 **Q** DR. CETL -- UM -- DO YOU KNOW THE HISTORY OF THESE

13 CHILDREN?

14 **A** UM -- MY -- TO SOME EXTENT. I UNDERSTAND THAT THEY

15 WERE IN, I GUESS, D.F.S. CUSTODY, AND THEN WERE IN FOSTER

16 CARE, AND THEN ADOPTED. UM -- SO I KNOW, IN GENERAL, THEIR --

17 KIND OF THEIR HISTORY.

18 **Q** SO YOU WERE AWARE THAT THEY WERE REMOVED FROM THEIR

19 BIOLOGICAL HOME?

20 **A** YES.

21 **Q** FOR SOME SORT OF NEGLECT OR ABUSE PURPOSES?

22 **A** THAT'S MY UNDERSTANDING.

23 **Q** OKAY. UM -- AND YOU ALSO INDICATED THAT YOU WERE

24 MISSING SIGNIFICANT PORTIONS OF THEIR MEDICAL HISTORY,

25 CORRECT?

1 **A** AT THE TIME OF THEIR INITIAL EVALUATION, YES.
2 **Q** OKAY. LET'S TALK ABOUT THE GROWTH CHART LINE FOR A
3 SECOND.
4 **A** YEP.
5 **Q** OKAY. NOW, THE GROWTH CHART LINES -- UM --
6 PEDIATRICIANS ACROSS THE UNITED STATES USE THIS, CORRECT?
7 **A** CORRECT.
8 **Q** IS IT SOMETHING -- SOMETHING OUT OF -- OUTSIDE THE
9 UNITED STATES OR JUST THE MAIN UNITED STATES?
10 **A** I BELIEVE THE UNITED STATES AS WELL. OR I MEAN
11 OUTSIDE THE UNITED STATES AS WELL.
12 **Q** OKAY. UH -- AND SO IT IS A NORMAL PRACTICE TO
13 CHART, RIGHT?
14 **A** CORRECT.
15 **Q** NOW, IN ORDER TO CHART CORRECTLY, YOU'RE DEPENDENT
16 ON WHOEVER MEASURES, WEIGHS THEM, AND THINGS LIKE THAT,
17 CORRECT?
18 **A** THAT IS CORRECT.
19 **Q** OKAY. NOW, IT'S NOT UNUSUAL FOR SOMEONE TO DEVIATE
20 FROM A DIFFERENT LINE ON A -- ON A REGULAR BASIS MOVE DOWN A
21 LINE, UP A LINE, UP TWO LINES, DOWN TWO LINES, CORRECT?
22 **A** HMM, I THINK IT WOULD BE UNUSUAL TO DEVIATE MORE
23 THAN ONE OR TWO LINES, THAT WOULD BE VERY UNUSUAL. BUT SOME
24 DEVIATION I WOULD EXPECT JUST FROM, YOU KNOW, DIFFERENT
25 SCALES, DIFFERENT PEOPLE MEASUREMENTS.

1 **Q** OKAY. AND SO YOU WOULD SEE -- IT'S POSSIBLE YOU CAN
2 SEE A NORMAL CURVE AND SOMEONE KIND OF BOUNCING ON A CURVE
3 BELOW OR ABOVE IT, CORRECT?
4 **A** YES.
5 **Q** OKAY. AND IN ORDER TO GET AN ACCURATE PICTURE, YOU
6 WOULD NEED TO BE ABLE TO SEE EVERY TIME THAT THEY WERE SEEN BY
7 A DOCTOR IN ORDER TO UNDERSTAND IF THEY HAD BOUNCED ONE DOWN,
8 TWO DOWN, AND WAS MAKING A SLOWER PROGRESSION ON THAT CURVE
9 LINE, VERSUS AN IMMEDIATE FALL TO WHICH YOU OBSERVED, CORRECT?
10 **A** UM -- YOU WOULD NEED MULTIPLE POINTS. NOT
11 NECESSARILY ALL OF THEM, BUT YES, MULTIPLE.
12 **Q** OKAY. AND IT'S FAIR TO SAY THAT THE MEDICAL RECORDS
13 THAT YOU LOOKED AT ENDED WELL WITHIN THEIR EARLY PARTS OF
14 THEIR LIFE, OF THE CHILD'S LIFE, CORRECT?
15 **A** YES.
16 **Q** AND -- UH -- THEY WERE -- WHEN YOU SAW THEM -- UM --
17 NINE, ELEVEN AND TWELVE?
18 **A** CORRECT.
19 **Q** OKAY. AND SO I BELIEVE THE LAST RECORD YOU SAW WAS
20 FOR WHAT, FOUR OR FIVE?
21 **A** UM -- AT THE TIME OF THE CAC WITH THE FIRST CURVE I
22 THINK THEY WERE ABOUT -- I THINK IT WAS 2010, SO IT MUST HAVE
23 BEEN, YEAH, ABOUT FOUR YEARS.
24 **Q** OKAY. AND SO -- UH -- THERE WAS, IN A CHILD'S LIFE,
25 THESE CHILDREN, ABOUT AT LEAST 25 TO 30 PERCENT OF THEIR LIFE,

1 OF A GAP THAT YOU DIDN'T HAVE INFORMATION FOR, CORRECT?

2 **A** AT THE TIME, THAT'S CORRECT.

3 **Q** OKAY. NOW, YOU SAY AT THE TIME. HAVE YOU SINCE

4 REVIEWED MORE MEDICAL RECORDS?

5 **A** RECENTLY I'VE RECEIVED MORE MEDICAL RECORDS.

6 **Q** OKAY. AND WHERE DID YOU RECEIVE THOSE MEDICAL

7 RECORDS FROM?

8 **A** UM -- FROM I BELIEVE IT WAS CPS AND FAMILY COURT.

9 **Q** OKAY. AND WHAT DO THOSE MEDICAL RECORDS INCLUDE?

10 **A** UH -- THEY WERE RECORDS FROM SUMMERLIN HOSPITAL --

11 UM -- I'M TRYING TO THINK. I BELIEVE ALSO AN ENDOCRINOLOGIST,

12 DR. DEWAN -- UM -- AND SOME OTHER APPOINTMENTS. I DON'T

13 RECALL ALL. THEY HAD SEVERAL SUBSPECIALISTS. THERE WAS

14 GASTROENTEROLOGY AND HEMATOLOGY AND SEVERAL OTHER ONES.

15 **MR. MANN:** ALL RIGHT, YOUR HONOR. AND JUST FOR THE

16 RECORD -- UM -- THE DEFENSE HAS NOT RECEIVED ANY OF THOSE

17 RECORDS.

18 **MS. LUZAICH:** NEITHER HAS THE STATE.

19 **MR. MANN:** UM -- T THE STATE WAS ASKING HER SPECIFICALLY

20 ABOUT THOSE RECORDS AND ABOUT THOSE INCIDENTS. UM -- SO --

21 UM -- I JUST WANTED TO MAKE SURE THAT YOUR HONOR WAS AWARE

22 THAT WE HAD ASKED FOR THAT AND HAD NOT RECEIVED IT, AND THE

23 STATE HAD ASKED QUESTIONS BASED ON THAT.

24 **Q** UH -- SO -- NOW, A PERSON THAT DEVIATES FROM

25 DIFFERENT GROWTH CHARTS, YOU WOULD INDICATE ALL THAT IS, IS

1 MAYBE A WARNING LIGHT THAT WOULD GO OFF TO INDICATE THERE
2 MIGHT BE A PROBLEM, CORRECT?
3 **A** UM --
4 **Q** OR ARE YOU SAYING THAT IT'S ABSOLUTELY A PICTURE OF
5 THERE IS A PROBLEM?
6 **A** UM -- I THINK THERE WERE ENOUGH POINTS IN THE EARLY
7 LIFE TO SEE WHERE THEY WERE GOING, AND THAT ALL THREE OF THEM
8 KIND OF WERE FOLLOWING A CERTAIN CURVE AND THEN WERE
9 SIGNIFICANTLY LOWER, SO I FELT THAT THAT WAS MORE THAN JUST A
10 WARNING LIGHT.
11 **Q** OKAY. BUT I'M SAYING THAT THAT GROWTH CHART USED IS
12 MAINLY A WARNING LIGHT TO ANY PEDIATRICIAN THAT, HEY, WE NEED
13 TO LOOK FURTHER INTO IT. IT'S NOT, IN AND OF ITSELF,
14 FUNDAMENTAL THAT THERE IS A PROBLEM?
15 **A** CORRECT.
16 **Q** OKAY. AND SO YOU COULD HAVE SOMEONE THAT ACTUALLY
17 JUST KIND OF SLOWS DOWN IN THEIR GROWTH PATTERN AND THAT'S
18 JUST IN THEIR GENETICS?
19 **A** THAT'S ACTUALLY BUILT INTO GROWTH CURVES, SO ALL
20 CHILDREN, THEY KIND OF HAVE A REALLY STEEP SLOPE AND THEN THEY
21 KIND OF CURVE OFF, AND THEN THEY ARE -- OR PLATEAU OFF AND
22 THEN GO BACK UP. UM -- AND SO THAT KIND OF SLOWING IS
23 ACTUALLY BUILT IN FOR IT.
24 AND ALSO GENETICS -- UM -- GENETIC ISSUES, SO JUST
25 FAMILY SHORT STATURE, THINGS LIKE THAT, IS SOMETHING THAT

1 DOESN'T CHANGE THROUGHOUT THE LIFETIME.

2 **Q** OKAY. NOW, YOU SAID THAT YOU REVIEWED OTHER

3 RECORDS -- UM -- SINCE THIS SCAN EXAM, CORRECT?

4 **A** CORRECT.

5 **Q** AND SOME OF THOSE OTHER RECORDS YOU SAID IN -- IN --

6 INCLUDED A DR. DEWAN, WHO'S AN ENDOCRINOLOGIST, CORRECT?

7 **A** CORRECT.

8 **Q** OKAY. AND THE CHIEF COMPLAINT TO DR. DEWAN WAS THE

9 FACT THAT SHE WASN'T -- AND THAT WAS FOR ANASTASIA, CORRECT?

10 **A** I BELIEVE SO. I JUST RECENTLY RECEIVED THOSE, SO I

11 HAVEN'T GOTTEN TO LOOK AT THEM VERY CLOSE --

12 **Q** I HAVEN'T SEEN THEM AT ALL, SO WE'RE PLAYING BLIND

13 TOGETHER.

14 AND -- UM -- THE CHIEF COMPLAINT TO THE

15 ENDOCRINOLOGIST WAS THE FACT THAT SHE WASN'T GROWING PROPERLY,

16 CORRECT?

17 **A** I BELIEVE SO.

18 **Q** OKAY.

19 **A** I CAN'T SAY THAT FOR CERTAIN.

20 **Q** AND THE ENDOCRINOLOGIST, IN YOUR REVIEW OF THE

21 ENDOCRINOLOGIST RECORDS, DID THEY MAKE A DETERMINATION AS TO

22 WHY?

23 **A** IT WAS NOTED AS HYPOTHYROIDISM.

24 **Q** OKAY. SO THAT THERE WAS A MEDICAL ISSUE AS TO WHY

25 THEY WERE NOT GROWING CORRECTLY?

1 **A** THAT IS WHAT WAS -- UM -- DIAGNOSED BY THAT
2 ENDOCRINOLOGIST.
3 **Q** OKAY. AND YOU'RE SAYING -- ARE YOU SAYING THAT
4 DR. DEWAN, WHO DIAGNOSED THAT, IS CORRECT OR INCORRECT?
5 **A** BASED ON THE LABORATORIES THAT I SAW FROM
6 DR. DEWAN'S OFFICE, THERE WASN'T ANY SIGNIFICANT ABNORMALITY
7 IN HER THYROID STUDIES, AND SO I WAS CONCERNED THAT -- UM --
8 THERE WERE -- THERE WAS OTHER THINGS THAT WERE AT PLAY HERE.
9 **Q** OKAY. AND -- UM -- NOW, ARE YOU AN ENDOCRINOLOGIST?
10 **A** NO, SIR.
11 **Q** ARE YOU SPECIALIZED IN ENDOCRINOLOGY?
12 **A** NO.
13 **Q** AND WOULD YOU THEN SAY THAT YOU ARE BETTER TO
14 EVALUATE ANASTASIA'S CONDITION THAN DR. DEWAN?
15 **A** AS A WHOLE, I THINK, JUST LOOKING AT THE TOTALITY OF
16 HER MEDICAL RECORDS. HOWEVER, IN TERMS OF THE
17 HYPOTHYROIDISM -- UM -- THAT'S SOMETHING THAT HE, YOU KNOW, IS
18 SUFFICIENT TO EVALUATE. I JUST DIDN'T SEE ANY FURTHER
19 EVALUATIONS BEYOND THAT POINT.
20 **Q** OKAY. AND YOU ALSO TALKED ABOUT HOW -- UM -- AMAYA
21 HAD BEEN -- UM -- DIAGNOSED WITH CROHN'S DISEASE, CORRECT?
22 **A** THAT SHE WAS NOT DIAGNOSED WITH CROHN'S DISEASE.
23 **Q** WELL, THAT SHE AT ONE POINT WAS -- UM -- DID YOU
24 REVIEW MEDICAL RECORDS FROM DR. -- UM -- BERNSTEIN?
25 **A** YES.

1 **Q** WHO'S A HEMATOLOGIST?

2 **A** YES.

3 **Q** AND DR. BERNSTEIN LOOKS AT BLOOD, CORRECT?

4 **A** CORRECT.

5 **Q** AND MAKES A DETERMINATION BASED ON WHAT YOU SAY LAB

6 REPORTS, RIGHT?

7 **A** CORRECT.

8 **Q** AND DOCTOR -- DID YOU SEE THAT DR. BERNSTEIN HAD

9 REFERRED -- UM -- AMAYA TO DR. DEZENBERG (PHONETIC) -- UH --

10 FOR GASTROINTESTINAL ISSUES?

11 **A** YES.

12 **Q** BASED ON THOSE LAB REPORTS?

13 **A** CORRECT.

14 **Q** OKAY. AND GASTROINTESTINAL ISSUES WOULD BE -- UM --

15 IN LINE WITH CROHN'S DISEASE, CORRECT?

16 **A** YES.

17 **Q** OKAY. THAT CROHN'S DISEASE IS PART OF A G.I. TYPE

18 ISSUE, CORRECT?

19 **A** YES.

20 **Q** NOW, CROHN'S DISEASE -- UH -- PREVENTS THE BODY FROM

21 BEING ABLE TO ABSORB THE NUTRIENTS -- OR LET ME REPHRASE --

22 THE COLON TO BE ABLE TO ABSORB THE NUTRIENTS INTO THE BODY,

23 CORRECT?

24 **A** CORRECT.

25 **Q** ALL RIGHT. AND SO IF SOMEONE HAD CROHN'S DISEASE,

1 IT'S NOT SURPRISING TO SEE SOMEONE'S GROWTH CHART CHANGE
2 BECAUSE OF THOSE ISSUES?
3 **A** IF SOMEONE HAD IT, YES.
4 **Q** OKAY. NOW, YOU -- UH -- ARE YOU A GASTRO IN --
5 INTERNIST?
6 **A** NO.
7 **Q** OKAY. DO YOU HAVE THE SPECIALTY THAT DR. DEZENBERG
8 HAS?
9 **A** NO.
10 **Q** OKAY. AND YET YOU'RE SAYING DR. DEZENBERG IS WRONG
11 IN HIS DETERMINATION THAT HE HAD -- THAT SHE HAD CROHN'S
12 DISEASE?
13 **A** HE HADN'T DIAGNOSED HER WITH CROHN'S DISEASE. THERE
14 WAS SOME LABORATORIES THAT WAS SUGGESTIVE OF IT, SO
15 APPROPRIATELY WENT TO SEE DEZENBERG, DR. RHEE -- UM -- AND
16 THEY, THROUGH THE DEFINITIVE TESTING, FOUND THAT IT WAS NOT
17 CONSISTENT WITH CROHN'S DISEASE.
18 **Q** OKAY. AND THAT WAS OVER A SIGNIFICANT PERIOD OF
19 TIME THAT THEY WENT THROUGH THAT?
20 **A** CORRECT.
21 **Q** OKAY. IT WASN'T IMMEDIATE, WHERE THEY TOOK THE
22 BLOOD IMMEDIATELY KNEW SHE DIDN'T HAVE CROHN'S DISEASE?
23 **A** THAT'S CORRECT.
24 **Q** THEY ACTUALLY SUSPECTED IT FOR A YEAR, RIGHT --
25 **A** YES.

1 **Q** -- THAT SHE HAD CROHN'S DISEASE?

2 **A** THEY WERE EVALUATING FOR IT, YES.

3 **Q** OKAY. AND SO OVER THAT YEAR'S TIME, THAT'S WHAT

4 THEY WERE FOLLOWING. AND IN A NORMAL COURSE AND PRACTICE, A

5 GOOD DOCTOR WOULD ASSUME THAT SHE DOES HAVE CROHN'S DISEASE

6 AND START DIRECTING THE PATIENT TO FOLLOW AS IF SHE DID,

7 CORRECT?

8 **A** UM -- THEY WOULD, BUT THEY DIDN'T -- NOT THE TYPE OF

9 TREATMENT THAT SHE WOULD NEED FOR CROHN'S DISEASE. SHE DID

10 NOT RECEIVE ANYTHING --

11 **Q** WELL, ADJUSTING DIET?

12 **A** SHE WAS ADJUSTING, AND MEDICATION FOR CONSTIPATION,

13 BUT ALL THE OTHER CHANGES WERE NOT FOR CROHN'S DISEASE. THE

14 CHANGES THAT WERE RECOMMENDED WERE ACTUALLY FOR -- UM --

15 CONSTIPATION CONCERNS.

16 **Q** OKAY. BUT THERE WAS NO DIRECTIVE FROM DR. DEZENBERG

17 TO ADJUST FOR DIET?

18 **A** UM -- NOT THAT I NOTED IN TERMS OF CROHN'S DISEASE

19 CARE.

20 **Q** OKAY. AND -- UM -- BUT, AGAIN, YOU SAW

21 DR. DEZENBERG'S FILE, CORRECT, ON AMAYA?

22 **A** YES.

23 **Q** AND IN THAT FILE YOU'RE SAYING THAT THERE WAS NO

24 EVIDENCE OR INDICATION THAT DR. DEZENBERG GAVE ANY SORT OF

25 INDICATION TO AMAYA OR HER FAMILY TO CHANGE DIET OR THE WAY

1 SHE EATS?

2 **A** UM -- I DID NOT SEE ANYTHING IN TERMS OF CROHN'S. I

3 THINK THAT THERE WERE INSTRUCTIONS AND EDUCATION IN TERMS OF

4 DIET IN GENERAL ADDRESSING THE CONSTIPATION.

5 **Q** OKAY. SO YOU'RE SAYING THAT EVEN THOUGH CROHN'S WAS

6 SUSPECTED, THEY -- WHATEVER RECOMMENDATIONS WERE MADE WAS NOT

7 ON THE BASIS OF CROHN'S, BUT BASED ON SOME OTHER ISSUE, IN

8 THIS CASE YOU'RE SAYING CONSTIPATION?

9 **A** THAT'S WHAT IT APPEARED TO BE.

10 **Q** OKAY. BUT YOU DON'T -- YOU'RE NOT DR. DEZENBERG,

11 CORRECT?

12 **A** THAT'S CORRECT.

13 **Q** AND YOU DON'T KNOW WHAT HE OR SHE WAS ACTUALLY

14 THINKING?

15 **A** CORRECT.

16 **Q** OKAY. AND SO YOU'RE MAKING ASSUMPTIONS BASED ON THE

17 REPORTS THAT YOU RECEIVED FROM -- I'M SORRY, IS IT A MALE OR

18 FEMALE DOCTOR?

19 **A** HE'S A MALE.

20 **Q** MALE, OKAY. FROM-FROM HIS OFFICE?

21 **A** YES, FROM HIS DOCUMENTATION.

22 **Q** OKAY. NOW, THE -- UM -- THE SCARS THAT YOU TALK

23 ABOUT ON -- UM -- EACH OF THE CHILDREN. UM -- YOU HAVE NO

24 IDEA WHEN THEY WERE CAUSED, CORRECT?

25 **A** CORRECT.

1 **Q** THEY COULD HAVE BEEN CAUSED -- UM -- BACK IN 2007?
2 **A** IT'S POSSIBLE.
3 **Q** OKAY. THEY COULD HAVE BEEN CAUSED IN 2008?
4 **A** CORRECT.
5 **Q** 2009?
6 **A** CORRECT.
7 **Q** SO ANY -- THESE SCARS ARE NOT -- UH -- INDICATIVE OF
8 WHO CAUSED THEM, WHATSOEVER?
9 **A** NO.
10 **Q** OKAY. NOW -- UM -- THE SCARS THAT YOU OBSERVED --
11 UM -- YOU SAID THAT THEY WERE IRREGULAR IN SHAPE.
12 **A** UM -- SOME OF THEM WERE, YES, IRREGULAR IN SHAPE.
13 **Q** OKAY. AND THAT -- UM -- YOU COULD NOT SEE AT --
14 WHEN MISS LUZAICH HAD ASKED YOU IF THERE WAS A PATTERN, YOU
15 COULD NOT IDENTIFY A PATTERN OF THESE SCARS?
16 **A** CORRECT.
17 **Q** OKAY. NOW -- UM -- THE ONLY REASON WHY YOU'RE
18 HYPOTHESIZING THAT IT'S ACTUALLY ABUSE IS BECAUSE IT'S IN THE
19 BUTT OR LOWER BACK REGION, CORRECT?
20 **A** THE LOCATION, YES.
21 **Q** OKAY. AND, OBVIOUSLY, YOU'RE SAYING THAT -- UH --
22 THESE CHILDREN CAN'T CAUSE THESE INJURIES TO THEMSELVES
23 BECAUSE, ONE, PEOPLE NORMALLY DON'T FALL ON THEIR BUTT OR
24 LOWER BACK, RIGHT?
25 **A** UH -- NOT THAT THEY DON'T FALL ON THEIR BUTT OR

1 LOWER BACK, BUT THEY ARE PROTECTED AREAS THAT DON'T OFTEN
2 SUSTAIN ANY TYPE OF INJURIES THIS WAY, ESPECIALLY BEING THAT
3 THEY ARE CLOTHED INDIVIDUALS -- UM -- AND THAT THEY ALL HAVE
4 THE SAME SCARRING PATTERN.
5 **Q** OKAY. SO YOU'RE ASSUMING THAT IF THESE INJURIES
6 OCCURRED BY THESE CHILDREN ON THEMSELVES, THAT THEY WERE
7 CLOTHED WHEN THEY HAPPENED, AND THAT SOMEHOW OR ANOTHER THESE
8 CHILDREN WOULD PROTECT THEMSELVES FROM INJURING THEIR BUTT?
9 **A** MORE THAN LIKELY, YES.
10 **Q** OKAY. AND -- UM -- IT'S QUITE POSSIBLE THAT THESE
11 INJURIES THAT YOU SAW ALSO COULD HAVE OCCURRED IN THE
12 BEGINNING OF 2014, CORRECT?
13 **A** UH -- YES.
14 **Q** AND SO THERE REALLY IS NO TIMEFRAME THAT YOU ARE
15 PUTTING TO THESE INJURIES, WHATSOEVER?
16 **A** THAT'S CORRECT.
17 **Q** OKAY. UM -- NOW -- UM -- CONSTIPATION -- UM -- A
18 CHILD THAT HAS CONSTIPATION -- UM -- IS THAT A MEDICAL REASON,
19 OR IS THERE SOME OTHER REASON?
20 **A** I DON'T -- I DON'T UNDERSTAND YOUR QUESTION.
21 **Q** SURE. MAYBE I DON'T UNDERSTAND MY QUESTION, EITHER.
22 UM -- THERE WAS TESTIMONY THAT ONE OF THE CHILDREN
23 PURPOSELY HELD THEIR PEE OR POOP -- UM -- FOR SIGNIFICANT
24 PERIODS OF TIME IN A WAY TO GET BACK AT THEIR CAREGIVERS.
25 **A** UM-HUM.

1 **Q** AND DOING THAT COULD CAUSE DAMAGE TO THEMSELVES,
2 CORRECT?
3 **A** UM -- YES, HOLDING STOOL COULD.
4 **Q** OKAY. AND -- UM -- THAT'S ACTUALLY A COMMON TRAIT
5 FOR KIDS THAT ARE -- UH -- GOING THROUGH THE FOSTER CARE
6 SYSTEM OR BEING REMOVED FROM THEIR HOME TO ACT OUT IN SOME
7 WAY, CORRECT?
8 **A** IN SOME WAY.
9 **MS. LUZAICH:** WELL, OBJECTION. I DON'T THINK SHE CAN
10 TESTIFY TO ANY KIND OF ISSUE WITH THE FOSTER CARE SYSTEM.
11 **THE COURT:** I THINK YOU NEED TO LAY SOME FOUNDATION FOR
12 THAT QUESTION.
13 **MR. MANN:** SURE. SURE.
14 **Q** UM -- THE STATE ASKED YOU AD NAUSEAM THAT YOU ARE --
15 **MS. LUZAICH:** WELL, OBJECTION, TO THE --
16 **MR. MANN:** -- PLACED IN PART IN THE -- IN THE CHILD ABUSE
17 PROCESS OF EVALUATION, AND YOU ARE IN CLOSE CONNECTION WITH
18 THOSE PARTIES THAT EVALUATE CHILD ABUSE, AND THAT YOU HAD A
19 APPRENTICESHIP WITH SOMEONE THAT DEALT WITH CHILD ABUSE CASES,
20 CORRECT?
21 **THE WITNESS:** CORRECT.
22 **THE COURT:** OKAY. IS THERE AN OBJECTION?
23 **MS. LUZAICH:** WELL, MY OBJECTION --
24 **THE COURT:** I MEAN I WAS JUST --
25 **MS. LUZAICH:** -- WAS TO THE "AD NAUSEAM."

1 **THE COURT:** OH, OKAY.

2 **MR. MANN:** CAN I KEEP GOING?

3 **THE COURT:** WELL, THEY TRIED TO LAY HER EXPERTISE. THEY
4 LAY HER EXPERTISE, IN WHICH SHE HAS AN EXPERTISE IN. SO --
5 UM -- YOU CAN CONTINUE TO TRY TO LAY A FOUNDATION FOR YOUR
6 ORIGINAL QUESTION.

7 **MS. LUZAICH:** AND MY EXPERTISE FOUNDATION HAD NOTHING TO
8 DO WITH FOSTER CARE, JUST CHILD ABUSE. PEOPLE WHO ABUSE
9 CHILDREN AREN'T ONLY IN -- OR CHILD ABUSE VICTIMS ARE NOT ONLY
10 FROM FOSTER CARE, SO THERE IS NO FOUNDATION HERE FOR THAT.

11 **THE COURT:** YES, I'VE SUSTAINED YOUR -- I'VE SAID HE
12 NEEDS TO LAY A FOUNDATION FOR HIS ORIGINAL QUESTION.

13 **MR. MANN:** RIGHT.

14 **Q** UM -- AND SO YOU'VE DEALT WITH A LOT OF KIDS THAT
15 HAVE MADE -- UM -- OR HAVE HAD ALLEGATIONS OF BEING ABUSED,
16 CORRECT?

17 **A** YES.

18 **Q** OKAY. AND THOSE KIDS -- UM -- ARE BOTH IN FOSTER
19 CARE AND NOT IN FOSTER CARE, CORRECT?

20 **A** CORRECT.

21 **Q** OKAY. AND SO WOULD YOU SAY THAT YOU'VE SEEN A
22 SIGNIFICANT NUMBER OF CHILDREN IN FOSTER CARE?

23 **A** UM -- I'M NOT SURE HOW TO DEFINE SIGNIFICANT
24 NECESSARILY. THE MAJORITY ARE NOT IN FOSTER CARE, BUT THERE
25 DO COME OCCASION THAT WE DO SEE FOSTER CARE CHILDREN.

1 **Q** OKAY. NOW, YOU HAVE STUDIED -- UM -- THE PROCESS OF
2 CHILD ABUSE, CORRECT?
3 **A** YES.
4 **Q** UM -- KIDS THAT -- THE PSYCHOLOGICAL EFFECTS OF
5 CHILD ABUSE?
6 **A** YES.
7 **Q** THE EFFECTS OF -- UM -- THE PHYSICAL EFFECTS OF
8 CHILD ABUSE?
9 **A** CORRECT.
10 **Q** OKAY. NOW, IN THOSE STUDIES -- UM -- YOU HAVE BEEN
11 ABLE TO -- UM -- GRASP THE CONCEPT THAT CHILDREN THAT ARE IN
12 ABUSIVE HOMES -- UM -- FIND WAYS TO ACT OUT?
13 **A** THEY CAN, YES.
14 **Q** OKAY. AND SO A CHILD THAT'S IN AN ABUSIVE HOME,
15 THAT'S ACTUALLY REMOVED FROM THAT HOME -- UM -- MAY -- MAY ACT
16 OUT EVEN IN THE NEW HOME, CORRECT?
17 **A** THEY MAY, YEAH.
18 **Q** OKAY. AND SO IS IT A NORMAL COURSE FOR A CHILD TO
19 PURPOSELY WITHHOLD THEIR PEE OR POOP, EVEN WHEN IT INJURES
20 THEMSELVES?
21 **A** NOT REALLY AS A NORMAL COURSE. UM -- TYPICALLY WITH
22 FECES -- UM -- IT TENDS TO BE THE OPPOSITE. THERE'S A LOT OF
23 SMEARING IT ON WALLS, THINGS LIKE THAT, TEND TO BE KIND OF A
24 RED FLAG OR SOMETHING THAT WE -- WE WILL SEE. UM -- HOLDING
25 STOOL -- UM -- YOU KNOW, IS SEEN, BUT I DON'T KNOW THAT IT

1 WOULD NECESSARILY BE COMMON OR -- OR NORMAL.

2 **Q** OKAY.

3 **A** NO.

4 **Q** AND SO THESE SAME CHILDREN THAT -- UH -- MAY NOT

5 WITHHOLD THEIR STOOL, MAY TRY AND USE IT AT CERTAIN TIMES, TO

6 DEFECATE AT CERTAIN TIMES, CORRECT?

7 **A** THEY CAN, YES.

8 **Q** IN ORDER TO CAUSE HAVOC TO THEIR CAREGIVERS?

9 **A** AS A WAY OF ACTING OUT, YES.

10 **Q** OKAY. UM -- AND SO A CHILD THAT IS ATTEMPTING TO DO

11 THAT COULD CAUSE INJURY TO THEIR STOMACHS AND THEIR

12 GASTROINTESTINAL PROCESS, CORRECT?

13 **A** UM -- TO THE MECHANISM OF HAVING BOWEL MOVEMENTS,

14 YES. NOT DIRECT DAMAGE TO THE TISSUE, BUT, YEAH, THERE COULD

15 BE PROBLEMS.

16 **Q** WHICH WOULD SEEM ACCURATE WITH A CHILD WHO HAS A

17 CHIEF COMPLAINT OF CONSTIPATION?

18 **A** YES.

19 **Q** AND THAT WOULD SEEM DIRECTLY IN LINE WITH -- UH -- A

20 CHILD HAVING SOME STOMACH ISSUES?

21 **A** UM --

22 **Q** COMPLAINING OF ABDOM --

23 **A** YES.

24 **Q** -- ABDOMAL (PHONETIC) --

25 **A** YES.

1 **Q** SORRY. YOU SAY FROM --

2 **A** ABDOMINAL.

3 **Q** ABDOMINAL ISSUES AND CAUSING THEM TO GO TO VARIOUS

4 SPECIALISTS TO DEAL WITH THESE ISSUES?

5 **A** YES.

6 **Q** OKAY. UH -- WHEN THOSE ISSUES MAY NOT BE MEDICAL IN

7 NATURE BUT PSYCHOLOGICAL IN NATURE?

8 **A** THAT'S POSSIBLE, YES.

9 **Q** OKAY. NOW, IN -- UM -- EVALUATING AMAYA'S RECORDS,

10 YOU SAID THAT -- UM -- YOU WERE CONCERNED ON THE GROWTH CHART

11 BECAUSE SHE WAS NOT GETTING ENOUGH NUTRITION. UM -- AND,

12 AGAIN, THAT GOES BACK TO THE DR. DEZENBERG QUESTION.

13 DR. DEZENBERG IN HIS FILE, HE ACTUALLY PERFORMED TWO

14 COLONOSCOPIES ON AMAYA, RIGHT?

15 **A** YES.

16 **Q** SO OBVIOUSLY HE SUSPECTED THAT THERE WAS SOMETHING

17 SIGNIFICANT GOING ON, CORRECT?

18 **A** UM -- THAT'S WHAT IT SEEMS, YES.

19 **Q** AND ISN'T IT TRUE THAT EVEN ON CROHN'S DISEASE, THAT

20 BLOOD WORK THAT COMES BACK DOESN'T NECESSARILY INDICATE THAT

21 THEY HAVE CROHN'S. BUT IT'S WHEN THEY DO A COLONOSCOPY THAT

22 THEY SEE THE INFLAMMATION OF THE COLON THAT THEY ACTUALLY ARE

23 ABLE TO INDICATE WHETHER IT'S CROHN'S DISEASE OR NOT?

24 **A** IT'S FROM THE BIOPSY, SECONDARY TO THE COLONOSCOPY.

25 **Q** OKAY.

1 **A** SO GOING IN THERE, SOMETIMES YOU SEE INFLAMMATION,
2 BUT IT'S TAKING A PIECE OF THAT TISSUE AND TESTING IT, AND
3 THAT'S WHAT GIVES YOU THE DEFINITIVE.
4 **Q** RIGHT.
5 **A** YES.
6 **Q** AND SO BLOOD WORK, JUST PLAIN OLD LAB WORK, IS NOT
7 DEFINITIVE OF CROHN'S DISEASE --
8 **A** NO.
9 **Q** -- BUT YOU ACTUALLY HAVE TO DO A BIOPSY OF THE
10 COLON?
11 **A** SOME BLOOD WORK. SO THERE'S CERTAIN NONSPECIFIC
12 BLOOD WORK THAT KIND OF TESTS AUTOIMMUNE FUNCTIONS IN
13 GENERAL -- UM -- AND SO CAN POINT TOWARDS CROHN'S. THERE IS
14 SOME BLOOD WORK, IT'S A -- IT'S A PRETTY EXTENSIVE PANEL --
15 UM -- THAT CAN PROVIDE MORE DEFINITIVE DIAGNOSIS FOR IT, IN
16 CONJUNCTION WITH ALL THE OTHER STUDIES?
17 **Q** OKAY.
18 NOW, THE -- UM -- THE -- WHAT YOU DEFINED AS BURN
19 MARKS ON ANASTASIA, YOU DON'T KNOW WHEN THOSE BURN MARKS
20 OCCURRED?
21 **A** NO, SIR.
22 **Q** YOU DON'T KNOW WHAT CAUSED THOSE BURN MARKS?
23 **A** IT DIDN'T APPEAR TO BE -- UM -- THE APPLICATION OF A
24 HOT IMPLEMENT OR SURFACE. APPEARED MORE TO BE SOMETHING FROM
25 A LIQUID TYPE OF BURN, NOT NECESSARILY A RADIATION BURN OR

1 CHEMICAL -- UM -- BUT FROM THAT -- BUT SPECIFICALLY THE -- THE
2 ACTUAL MEDIUM, I DON'T KNOW.
3 **Q** OKAY. AND SO THE ONLY REASON WHY YOU'RE ABLE TO SAY
4 THAT YOU BELIEVE IT WAS SOME SORT OF LIQUID SOURCE IS BECAUSE
5 OF THE SHAPE AND THE WAY IT FELL ON THE BODY?
6 **A** CORRECT.
7 **Q** OKAY. IF IT WAS FROM LIKE AN IRON, YOU'D SEE A
8 PATTERN OF AN IRON?
9 **A** MORE THAN LIKELY.
10 **Q** OKAY. AND -- UM -- YOU DON'T HAVE ANY INDICATION AS
11 TO TIME, CORRECT?
12 **A** ONLY THAT IT'S NOT RECENT OR ACUTE, BUT YEAH, TIME
13 IN GENERAL I DON'T -- I DON'T HAVE.
14 **Q** OKAY. SO IT COULD BE FROM THE EARLY PART OF 2014,
15 IT COULD BE FROM 2008, AS FAR AS YOU KNOW?
16 **A** CORRECT.
17 **Q** OKAY. NOW, THOSE -- UM -- THOSE MARKS ON
18 ANASTASIA'S BODY, IS THERE ANYTHING ELSE OTHER THAN A BURN
19 THAT THEY COULD BE?
20 **A** UM -- THERE -- IT'S A POSSIBILITY THAT -- UM --
21 ACTING AS A BURN, YOU CAN LIKE MACERATE OR RUB OFF THE SKIN
22 ENOUGH SO IT WOULD BE A -- SOME KIND OF FAIRLY SIGNIFICANT
23 ABRASIVE THAT COULD SOMETIMES CAUSE THOSE TYPES, BUT -- UM --
24 WOULDN'T BE THE LOCATION ON THE BODY THAT WE -- THAT WE WOULD
25 SEE SOMETHING LIKE THAT, AND SPECIFICALLY -- UM -- HOW THEY

1 ARE IN CONJUNCTION WITH EACH OTHER -- UM -- THAT WOULD BE
2 VERY, VERY LOW ON THE LIST.
3 **Q** OKAY.
4 (DISCUSSION BETWEEN MR. MANN AND DEFENDANT J. SOLANDER.)
5 **MR. MANN:** I HAVE NO FURTHER QUESTIONS AT THIS TIME.
6 **THE COURT:** MR. MUELLER?
7
8 **CROSS-EXAMINATION**
9 **BY MR. MUELLER:**
10 **Q** DOCTOR, I'M A LITTLE CONFUSED HERE. YOU DISREGARDED
11 THE OPINIONS OF NOT ONE BUT TWO SPECIALISTS IN YOUR TESTIMONY
12 TODAY.
13 **A** NO, I DON'T BELIEVE SO.
14 **Q** WELL, YOU DISAGREE WITH THE DIAGNOSIS OF
15 HYPOTHYROIDISM?
16 **A** NO. I LEFT THAT FOR DR. DEWAN. I SAID FOR THAT
17 BEING THE ONLY CAUSE OF FAILURE TO THRIVE, THAT'S WHAT I WAS
18 CONCERNED THAT THERE WASN'T A FURTHER EVALUATION DONE.
19 **Q** WELL, I WAS A LITTLE CONFUSED, MAYBE I DIDN'T HEAR
20 YOU CORRECTLY.
21 YOU DO OR DON'T AGREE WITH THE DIAGNOSIS OF
22 HYPOTHYROIDISM?
23 **A** THE LABS WEREN'T VERY SIGNIFICANTLY ABNORMAL, BUT I
24 WOULD TRUST HIS OPINION ON THAT.
25 **Q** ALL RIGHT. AND HE DIAGNOSED HYPOTHYROIDISM.

1 **A** CORRECT.

2 **Q** OKAY. AND WHAT WOULD THAT BE -- WHAT WOULD BE THE

3 MEDICAL EFFECTS OF HYPOTHYROIDISM?

4 **A** UM -- HYPOTHYROIDISM, BECAUSE IT'S A THYROID

5 METABOLISM -- UM -- YOU CAN HAVE GROWTH PROBLEMS, BUT

6 OFTENTIMES IT'S USUALLY --

7 **Q** SUCH AS WHAT WE HAVE SEEN HERE?

8 **MS. LUZAICH:** WELL, OBJECTION. LET HER FINISH THE

9 ANSWER.

10 **THE COURT:** OKAY. YEAH, SHE WASN'T DONE.

11 **BY MR. MUELLER:**

12 **Q** GROWTH PROBLEMS?

13 **A** YOU CAN HAVE THAT, BUT MORE OFTEN -- UM -- IT WOULD

14 BE OVERWEIGHT, NOT METABOLIZING FAST ENOUGH. KIDS WHO HAVE

15 TEMPERATURE FLUCTUATIONS THAT ARE ABNORMAL. SOMETIMES YOU CAN

16 ALSO SEE CHANGES IN THE SKIN. CONSTIPATION CAN BE A PART OF

17 IT AS WELL.

18 **Q** OKAY. AND YOU ALSO DISAGREE WITH THE CROHN'S

19 DISEASE DIAGNOSIS?

20 **A** I DON'T BELIEVE SHE WAS EVER DIAGNOSED WITH CROHN'S

21 DISEASE.

22 **Q** JUST SUSPECTED?

23 **A** INITIAL -- ON INITIAL EVALUATION SUSPECTED, AND THEN

24 RULED OUT BY THE GASTROENTEROLOGIST.

25 **Q** ALL RIGHT. NOW, HUMAN BEINGS ARE COMPLICATED

1 CREATURES, ARE THEY NOT?

2 **A** YES.

3 **Q** ALL RIGHT. AND THE BODY AND MIND ARE, IN FACT,

4 TIGHTLY INTERTWINED?

5 **A** YES.

6 **Q** ALL RIGHT. SO FREQUENTLY WHAT HAPPENS TO A PERSON

7 PSYCHOLOGICALLY AND EMOTIONALLY CAN HAVE A CHRONIC EFFECT ON

8 THE BODY?

9 **A** IT CAN, YES.

10 **Q** NOW, YOU DIAGNOSED, AT MY COLLEAGUE'S BEHEST, A

11 CONDITION OF ABUSE?

12 **A** YES.

13 **Q** ALL RIGHT. YOU DON'T KNOW WHEN THAT ABUSE OCCURRED,

14 CORRECT?

15 **A** CORRECT.

16 **Q** NOW, IF YOU'RE GOING TO COME IN AND OPINE THAT THERE

17 HAD BEEN ABUSE, HAVE YOU GONE BACK AND DONE ANY SOCIAL HISTORY

18 OF THESE CHILDREN?

19 **A** UM -- THE SOCIAL HISTORY THAT WAS PROVIDED BY

20 D.F.S., YES.

21 **Q** ALL RIGHT. AND WHAT HISTORY -- AND DID YOU RELY ON

22 THAT, AT LEAST IN PART, IN FORMING AN OPINION?

23 **A** IN PART -- OH, NOT IN FORMING THE OPINION, NO, THAT

24 WAS BASED ON THE MEDICAL EVALUATION.

25 **Q** WELL, LET ME ASK YOU THE QUESTION. MOVING AROUND A

1 LOT, HAVING CHANGES OF ENVIRONMENT, IS THAT GOOD FOR CHILDREN,
2 YOUNG CHILDREN?
3 **A** IT CAN AFFECT THEM POORLY.
4 **Q** IT CAN AFFECT THEM POORLY.
5 AND AS YOU SIT HERE NOW, DOCTOR, HOW MANY DIFFERENT
6 HOUSEHOLDS HAVE THESE THREE GIRLS LIVED IN, IN THE LAST FIVE
7 YEARS?
8 **A** MULTIPLE.
9 **Q** HOW MANY MULTIPLE?
10 **A** I BELIEVE ONE, TWO, AT LEAST FOUR, THAT'S MY
11 UNDERSTANDING. PROBABLY FIVE, ONCE THEY -- UH -- GOT RE --
12 REHOUSED, SO I BELIEVE AT LEAST FIVE.
13 **Q** AND THAT INCLUDED THE GIRLS SCHOOL IN FLORIDA, DID
14 YOU INCLUDE THAT ONE?
15 **A** UM -- YES.
16 **Q** OKAY. NOW, FIVE TIMES BEING CHANGED FROM FAMILIES
17 IN CIRCUMSTANCES, WHAT EXPECT -- WHAT WOULD YOU EXPECT TO SEE
18 IN KIDS IN THAT LEVEL OF TURMOIL?
19 **A** UH -- YOU KNOW, KIDS THEY -- THEY DO HAVE A -- QUITE
20 A VARIETY. IT'S KIND OF ON A CONTINUUM, THEIR REACTIONS TO
21 THOSE ENVIRONMENTS. UM -- BUT WE DO OFTEN SEE BEHAVIORAL
22 ISSUES, WE CAN SEE, YOU KNOW, DEPRESSION. UM -- YOU KNOW,
23 THERE ARE DIFFERENT TYPES OF SYMPTOMS THAT CAN ARISE FROM IT.
24 **Q** ANGER ISSUES?
25 **A** THERE CAN BE, YES.

1 **Q** ACTING OUT?

2 **A** YES.

3 **Q** WOULD YOU HAVE OR WERE YOU TAKING A SOCIAL HISTORY

4 FROM ANYBODY OTHER THAN THE DEPARTMENT OF SOCIAL SERVICES?

5 **A** UM -- I LOOKED AT ALL THE SOCIAL HISTORIES THAT WERE

6 GIVEN -- UM -- OF --

7 **Q** JUST THAT WERE GIVEN. DID YOU DO ANY INDEPENDENT

8 RESEARCH?

9 **A** THROUGH THE -- UM -- MEDICAL RECORDS -- UM -- AS

10 WELL, SO NOT JUST FROM D.F.S., BUT WHAT WAS -- UM -- PLACED IN

11 ALL THOSE MEDICAL RECORDS AS PER THE CAREGIVER.

12 **Q** NOW, WHEN YOU WERE GIVEN MEDICAL RECORDS AND

13 HISTORIES, THERE ARE OCCASIONS WHERE PEOPLE NOT NECESSARILY

14 WANT TO GIVE YOU A COMPLETE STORY, CORRECT?

15 **A** CORRECT.

16 **Q** ALL RIGHT. AND PART OF YOUR JOB AND YOUR SPECIALTY

17 IS TO KIND OF FILL IN THE BLANKS.

18 **A** UM -- NOT TO FILL IN THE BLANKS, JUST TO TAKE THAT

19 ALL AS A WHOLE AS PART OF THE GENERAL EVALUATION.

20 **Q** ALL RIGHT. NOW, DID YOU DO ANY IN-DEPTH

21 PSYCHOLOGICAL REVIEW ON THESE CHILDREN?

22 **A** THAT IS THE OUT OF SCOPE -- OUT OF THE SCOPE OF MY

23 PRACTICE.

24 **Q** IT IS OUT OF THE SCOPE?

25 **A** (NO AUDIBLE RESPONSE.)

1 **Q** DO YOU KNOW IF ANY OF THEM WERE HAVING EMOTIONAL OR
2 HAD EMOTIONAL OR MENTAL HEALTH ISSUES?
3 **A** UM -- I BELIEVE THAT AMAYA HAD AN INPATIENT -- UM --
4 ADMISSION TO -- UM -- YEAH, AN INPATIENT PSYCHOLOGICAL
5 FACILITY HERE.
6 **Q** ALL RIGHT. NOW, WOULD CHANGING THEIR ENVIRONMENT
7 FOUR OR FIVE TIMES IN OVER A FEW YEARS, WOULD THAT BE THE SORT
8 OF SIDE EFFECT THAT YOU WOULD EXPECT TO SEE?
9 **A** IT COULD BE.
10 **Q** ALL RIGHT. AND USING YOUR BOWEL MOVEMENTS AND YOUR
11 URINARY MOVEMENTS AS A WEAPON FOR LASHING OUT, HAVE YOU SEEN
12 THAT, AND THAT'S A COMMON PHENOMENON?
13 **A** I'VE SEEN IT, I WOULDN'T CALL IT A COMMON
14 PHENOMENON.
15 **Q** WELL, WERE YOU FAMILIAR WITH OR DID YOU READ ANY
16 PART OR ANY DISCLOSURE ABOUT ANASTASIA SMEARING FECES ON THE
17 WALL?
18 **A** I DON'T RECALL.
19 **Q** YOU DO NOT RECALL THAT.
20 DID YOU INTERVIEW ANY OF THE CAREGIVERS PERSONALLY?
21 **A** NO.
22 **Q** SO YOU GOT HANDED WHATEVER THE GOVERNMENT WANTED YOU
23 TO HAVE?
24 **A** UM -- I LOOKED AT ALL THE MEDICAL RECORDS THAT WERE
25 PROVIDED TO ME.

1 **Q** NOW, HAVE YOU EVER RENTED A CAR, DOCTOR?

2 **A** YES.

3 **Q** ALL RIGHT. HAVE YOU EVER GONE IN AND CHECKED THE

4 BODY DAMAGE SO THAT YOU DIDN'T GET BLAMED FOR IT LATER?

5 **A** YES.

6 **Q** OKAY. SO YOU KNOW WHAT I'M TALKING ABOUT?

7 **A** YES.

8 **Q** NOW, WHEN A KID COMES INTO THE D.P.S. [SIC]

9 SERVICES, DOES ANYBODY PROACTIVELY DOCUMENT THE CONDITION OF

10 THE KID BEFORE THEY ARE ASSIGNED FOSTER CARE?

11 **MS. LUZAICH:** WELL, OBJECTION, FOUNDATION. THIS IS NOT

12 WITHIN THE SCOPE OF WHAT SHE DOES. SHE IS A DOCTOR, SHE

13 EXAMINES KIDS.

14 **THE COURT:** OKAY. LACK OF FOUNDATION IS THE OBJECTION,

15 IT'S SUSTAINED.

16 **MR. MUELLER:** ALL RIGHT, LET ME REPHRASE.

17 **Q** HAVE YOU EVER BEEN ASKED TO DOCUMENT THE KID'S --

18 THE CONDITION OF A CHILD COMING INTO THE FOSTER CARE SYSTEM?

19 **A** I DON'T, NO.

20 **Q** NO?

21 **A** AS THEY COME INTO FOSTER CARE, THAT'S ANOTHER

22 FACILITY, THAT'S NOT SOMETHING THAT I -- I PARTICIPATE IN.

23 **Q** WHAT FACILITY WOULD THAT BE?

24 **MS. LUZAICH:** WELL, OBJECTION.

25 **MR. MUELLER:** IF SHE --

1 **MS. LUZAICH:** THIS IS NOT FOR HER.

2 **THE COURT:** WELL, SHE MAY OR MAY NOT KNOW, I DON'T KNOW.

3 **MR. MUELLER:** WELL --

4 **THE COURT:** THAT'S A -- THAT'S A FAIR QUESTION. I DON'T

5 KNOW IF SHE KNOWS, BUT...

6 **BY MR. MUELLER:**

7 **Q** WELL, DOCTOR, YOU'VE DIAGNOSED AND BELIEVE THAT THE

8 KIDS WERE SUBJECT TO SOME ABUSE?

9 **A** CORRECT.

10 **Q** ALL RIGHT. WELL, WE KNOW AS A FACT THAT THEY WERE

11 TAKEN AWAY FROM THEIR BIOLOGICAL PARENTS, CORRECT?

12 **A** YES.

13 **Q** AND THEY'VE BEEN BOUNCED THROUGH AT LEAST FOUR OR

14 FIVE OTHER LOCATIONS IN THE LAST FEW YEARS, CORRECT?

15 **A** YES.

16 **Q** SO I'M SIMPLY ASKING, VERY SIMPLY, DO YOU KNOW ARE

17 THERE ANY MEDICAL RECORDS OUT THERE AT ANY FACILITY THAT WOULD

18 DIAGNOSE THOSE KIDS' CONDITIONS WHEN THEY CAME INTO THE FOSTER

19 CARE, AND WHEN THEY WERE TRANSFERRED FROM HOUSE TO HOUSE?

20 **A** SO MY UNDERSTANDING OF HOW IT WORKS, IS THAT --

21 UM -- THERE'S A CASEWORKER OR INVESTIGATOR, WHOEVER'S ASSIGNED

22 FROM CPS OR D.F.S., DOES A BODY CHECK, AND THEN -- UM -- UPON

23 ARRIVAL TO CHILD HAVEN -- UM -- WHICH IS THE TEMPORARY FOSTER

24 CARE SYSTEM HERE, MY UNDERSTANDING IS THERE'S ALSO A MEDICAL

25 STAFF THAT DOES A HEAD-TO-TOE BODY CHECK ON EACH CHILD THAT

1 COMES IN.

2 **Q** AND DID YOU, IN FACT, LOOK AT ANY OF THOSE RECORDS,

3 IF THEY EXIST, ON BEHALF OF THESE THREE GIRLS?

4 **A** UM -- THROUGH THEIR MEDICAL PASSPORT, I BELIEVE THAT

5 THEIR -- ALL THEIR CHECK-INS TO -- I BELIEVE IT WAS CHILD

6 HAVEN WHEN THEY WERE EVALUATED.

7 **Q** AND YOU DID LOOK AT THOSE?

8 **A** I BELIEVE THAT I DID, BUT I WOULD HAVE TO REVIEW

9 THAT AGAIN.

10 **THE COURT:** REVIEW WHAT, YOUR REPORT TO SEE IF THAT'S

11 WHAT YOU REVIEWED?

12 **THE WITNESS:** NOT MY REPORT --

13 **THE COURT:** OH.

14 **THE WITNESS:** -- BUT I KNOW THAT I REVIEWED ENTRANCE

15 INTO -- UM -- THE FOSTER CARE SYSTEM AND THEIR MEDICAL

16 PASSPORTS FOR THEIR PRIMARY MEDICAL CARE DURING FOSTER CARE.

17 BUT THEIR EXACT DATES AND WHAT WAS CONTAINED IN THERE, I WOULD

18 HAVE TO SEE THAT AGAIN, JUST SO THAT I CAN REFRESH MY MEMORY

19 ON --

20 **MR. MUELLER:** RIGHT.

21 **THE WITNESS:** -- EXACTLY WHAT WAS THERE.

22 **MR. MUELLER:** COULD I GET THE COURT'S INDULGENCE FOR JUST

23 A MOMENT?

24 **THE COURT:** SURE.

25 (DISCUSSION BETWEEN MR. MUELLER AND DEFT. D. SOLANDER.)

1 **BY MR. MUELLER:**

2 **Q** NOW, IF I UNDERSTOOD RIGHT, YOU HAD YOUR MEDICAL

3 TRAINING -- UH -- BASIC MEDICAL TRAINING AT THE UNIVERSITY OF

4 VERMONT?

5 **A** YES.

6 **Q** AND THEN YOU CAME BACK HERE AND HAD ADVANCE TRAINING

7 IN -- AT UNLV?

8 **A** THE UNIVERSITY OF NEVADA HAS A LAS VEGAS RESIDENCY

9 FOR PEDIATRICS, BECAUSE THEY CAN'T SUSTAIN THE RESIDENCY UP

10 NORTH, SO THAT WAS THE SPECIALTY TRAINING THROUGH U.N.R. IN

11 THE LAS VEGAS PROGRAM.

12 **Q** OKAY. SO YOU DID YOUR -- ALL RIGHT. SO YOU DID

13 YOUR PEDIATRIC TRAINING UNDER U.N.R.'S AUSPICES IN THE VALLEY?

14 **A** CORRECT.

15 **Q** JUST -- I THINK WE ALL KNOW THE MAJORITY OF PEOPLE

16 IN NEVADA LIVE IN THIS VALLEY.

17 **A** CORRECT.

18 **Q** AND HOW LONG WAS THAT TRAINING?

19 **A** UM -- SO THE PEDIATRIC RESIDENCY, IS THAT WHAT

20 YOU'RE ASKING ME ABOUT?

21 **Q** YES, MA'AM.

22 **A** THAT'S THREE YEARS.

23 **Q** ALL RIGHT. AND AFTER YOUR PEDIATRIC RESIDENCY, WHAT

24 TRAINING DID YOU HAVE?

25 **A** UM -- I CONTINUED ON WITH A CHILD ABUSE PEDIATRICIAN

1 AND UNDERWENT ABOUT A SIX-MONTH APPRENTICESHIP WITH HER, AND
2 THEN A CONTINUED A PEER REVIEW FOR ABOUT TWO, TWO-AND-A-HALF
3 YEARS CONTINUING TO WORK WITH THAT PHYSICIAN.
4 **Q** NOW, DOES -- IS THAT A BOARD CERTIFIED SPECIALTY, A
5 BOARD RECOGNIZED SPECIALTY, BEING A CHILD ABUSE PEDIATRICIAN?
6 **A** IT IS.
7 **Q** OKAY. THAT'S ACTUALLY A BOARD?
8 **A** IT -- IT -- RECENTLY, YES.
9 **Q** OKAY. UNFORTUNATELY EVERYTHING GETS MORE
10 COMPLICATED.
11 HAVE YOU TAKEN THAT -- SAT FOR THAT BOARD YET?
12 **A** I HAVEN'T. I'M APPLYING TO GRANDFATHER INTO THAT.
13 **Q** NOW, SEVERE PSYCHOLOGICAL PROBLEMS IN CHILDREN --
14 **A** UH-HUM.
15 **Q** -- WHO HAVE GONE THROUGH THE UPHEAVAL THAT THESE
16 KIDS HAVE GONE THROUGH -- UM -- WOULD THAT EFFECT GROWTH?
17 **A** IT CAN.
18 **Q** OKAY. BODY AND MIND ARE TIED TOGETHER, CORRECT?
19 **A** CORRECT.
20 **Q** ALL RIGHT. HAVE YOU SEEN ANY STUDIES ON THAT POINT
21 OR DO YOU KNOW?
22 **A** I HAVE.
23 **Q** ALL RIGHT. AND DO YOU RECALL THE NATURE OF THE
24 STUDY?
25 **A** UM -- I'VE HAD ONE PATIENT, AND THAT'S HOW I WAS

1 CONNECTED, THAT -- UM -- UNDERWENT DIAGNOSIS OF PSYCHOSOCIAL
2 DWARFISM -- UM -- AN EXTREMELY RARE PROCESS -- UM -- BUT THAT
3 INCLUDED ALSO WITHHOLDING THE ENVIRONMENT OF FOOD AND
4 NUTRITION -- UM -- OF THE ENVIRONMENT ITSELF -- UM -- BEING
5 KIND OF LOCKED AWAY -- UM -- AND SO -- UH -- IT WAS A FAIRLY
6 SEVERE CASE.
7 **Q** ALL RIGHT. IT IS A PHENOMENON?
8 **A** UM-HUM.
9 **Q** OKAY. NOW, OVER THE COURSE OF THE LAST TWO OR THREE
10 YEARS, THESE KIDS HAVE SEEN DOCTORS, NUTRITION SPECIALISTS?
11 **A** UMM, I'M NOT SURE ABOUT A NUTRITION SPECIALIST.
12 **Q** OKAY. WELL THEY --
13 **A** I DON'T RECALL SEEING ANYTHING.
14 **Q** ALL RIGHT, I APOLOGIZE.
15 GASTROENTEROLOGIST?
16 **A** YES.
17 **Q** OKAY. SO THEY'VE BEEN TAKEN TO A
18 GASTROENTEROLOGIST. WHAT OTHER DOCTORS HAVE THEY SEEN?
19 **A** WELL, TWO OF THEM, THE GASTROENTEROLOGY. I THINK
20 THERE WAS A NEUROLOGIST, AN ENDOCRINOLOGIST. AGAIN, NOT FOR
21 ALL THREE, IT WAS KIND OF VARIED FOR ...
22 UM -- THEY HAD A PEDIATRICIAN. ONE OF THEM HAD A
23 HEMATOLOGIST/ONCOLOGIST. UH -- THEY WERE -- I THINK THAT
24 THAT'S ABOUT ALL THE SUBSPECIALTIES THAT -- MY UNDERSTANDING.
25 **Q** WELL THAT'S A LOT OF SUBSPECIALTIES?

1 **A** CORRECT.

2 **Q** OKAY. NOW, DID ANY OF THOSE SPECIALISTS OR

3 SUBSPECIALISTS NOTES INDICATE OR HAVE EVEN A WHISPER OR A

4 SUSPICION OF CHILD ABUSE?

5 **A** UM -- NOT DIRECTLY WRITTEN AS SUCH.

6 **Q** NOT ANYTHING THAT THEY WOULD -- I OR ANYBODY ELSE

7 COULD READ THROUGH THERE AND SAY, WOW? I MEAN, THE MARKS ON

8 THE BUTTOCKS WERE THERE TO BE SEEN?

9 **A** UM-HUM.

10 **Q** PRESUMABLY WOULD HAVE BEEN THERE TO BE SEEN,

11 CORRECT?

12 **A** CORRECT. NOBODY DOCUMENTED THAT.

13 **Q** NOBODY DOCUMENTED. THE BURN TO THE SHOULDER WOULD

14 HAVE BEEN THERE TO BE SEEN?

15 **A** CORRECT.

16 **Q** AND NOBODY DOCUMENTED THAT?

17 **A** NOT THAT I SAW, NO.

18 **MR. MUELLER:** OKAY. COULD I GET THE COURT'S INDULGENCE

19 FOR JUST A MOMENT?

20 **THE COURT:** SURE.

21 **BY MR. MUELLER:**

22 **Q** NOW, DO THESE GIRLS HAVE A PRIMARY CARE PHYSICIAN?

23 **A** YES, THEY DID.

24 **Q** AND WHO WAS THAT?

25 **A** I DON'T RECALL HIS NAME, IT'S A NIEVO (PHONETIC) OR

1 NAVARRO, I DON'T RECALL HIS NAME. IT STARTED WITH AN N, BUT
2 THEY HAD A PRIMARY PHYSICIAN FOR QUITE SOMETIME.
3 **Q** ALL RIGHT. AND THAT WOULD HAVE BEEN A DOCTOR WHO --
4 FOR THE SNIFFLES AND FOR THE SHOTS AND FOR THE TRAUMAS OF
5 ORDINARY LIFE, CORRECT?
6 **A** YES.
7 **Q** NOW, DID THAT -- THE PRIMARY CARE PHYSICIAN, THE ONE
8 WHO SAW THEM THE MOST, DID HE HAVE ANY INDICATION IN HIS
9 RECORD THAT HE SUSPECTED ABUSE?
10 **A** IT DIDN'T APPEAR SO.
11 **Q** HUH.
12 DID HE DO A PHYSICAL ON THE GIRLS?
13 **A** UM -- I BELIEVE, YEAH, THERE WAS PHYSICALS DONE ON
14 THEIR VISITS.
15 **Q** OKAY. AND PHYSICALS HAVEN'T CHANGED, BASICALLY GET
16 IN A ROBE AND THEY GO OVER HEAD TO TOE AND GO OVER EVERYTHING,
17 CORRECT?
18 **A** UNFORTUNATELY A LOT OF PHYSICIANS DON'T PUT PEOPLE
19 IN ROBES AND DO HEAD TO TOES, BUT I WOULD HOPE THAT THAT'S
20 WHAT WAS DONE.
21 **Q** OKAY. SO ARE YOU QUESTIONING THE -- IMPLYING OR AT
22 LEAST IN MY EAR, YOU'VE IMPUGNED THE QUESTION OF THE PHYSICALS
23 THAT THE PRIMARY CARE PHYSICIAN WAS GIVING?
24 **A** UM -- MAYBE THE HEAD TO TOE CONTAINED, LIKE THE SKIN
25 EXAM, I DON'T KNOW TO WHAT EXTENT. IT DIDN'T DOCUMENT --

1 UH -- THINGS THAT THEY'D SEEN THAT WERE NORMAL, IN ADDITION TO
2 ABNORMAL, AND SO I DON'T -- I DON'T KNOW. I COULDN'T SPEAK
3 FOR WHAT THE PHYSICIAN DID IN THEIR OFFICE.
4 **Q** NOW, THE DOCTOR WHO -- UH -- WHO WAS THE REFERRING
5 PHYSICIAN THAT SENT THE GIRLS OUT TO ALL THESE SPECIALISTS, DO
6 YOU RECALL?
7 **A** UM -- I BELIEVE THAT -- UM -- AMAYA HAD A REFERRAL
8 OUT OF SUMMERLIN HOSPITAL INITIALLY.
9 **Q** UM-HUM.
10 **A** I THINK IT WAS DR. KESAVULU (PHONETIC) OR POSSIBLY
11 DR. SEVAZIAN (PHONETIC).
12 AND THEN AVA -- GOSH, I'M NOT SURE ABOUT HER. I
13 KNOW THAT -- UM -- SOME OF THE REFERRALS CAME FROM OTHER
14 SUBSPECIALISTS THAT THINGS WERE GETTING LOOKED AT. I THINK
15 DR. BERNSTEIN HAD -- HAD SENT THE GIRLS TO GASTROENTEROLOGY,
16 SO IT WAS KIND OF DIFFERENT, DEPENDING ON THE SITUATION.
17 **Q** AND ALL THOSE DOCTORS AND ALL THOSE RECOMMENDA --
18 ALL THOSE RECORDS, NOT ANYBODY OTHER THAN YOU SAW ABUSE?
19 **A** NOBODY DOCUMENTED THAT THEY THOUGHT IT WAS ABUSIVE.
20 **MR. MUELLER:** OKAY. I HAVE NOTHING FURTHER.
21 **THE COURT:** REDIRECT?
22 **MS. LUZAICH:** I THINK MR. RUE GETS --
23 **THE COURT:** OH, I'M SORRY, MR. RUE. I ALWAYS --
24 **MR. RUE:** I KNOW, YOUR HONOR.
25 **THE COURT:** -- FORGET ABOUT YOU, BECAUSE I TRY TO PASS

1 LIKE THIS, BUT YOU GUYS ALWAYS DO -- LET MR. MUELLER GO
2 SECOND, SO ...
3
4 **CROSS-EXAMINATION**
5 **BY MR. RUE:**
6 **Q** UM -- DR. CETL, JUST SORT OF PIGGYBACKING ON THAT,
7 WHAT IS A MANDATORY REPORTER?
8 **A** UM -- A MANDATORY REPORTER IS THE STATE -- UM --
9 BASED ON THE STATE LAW -- BLESS YOU.
10 **Q** BLESS YOU.
11 **A** UM -- THAT IF A PERSON WHO WORKS WITH CHILDREN, SO
12 THAT CAN BE THROUGH MEDICAL CARE, SCHOOLING, ANYTHING LIKE
13 THAT -- UM -- IF THEY SUSPECT CHILD ABUSE AND/OR NEGLECT, THAT
14 THEY ARE REQUIRED TO CALL AN AGENCY SUCH AS CHILD PROTECTIVE
15 SERVICES AND/OR LAW ENFORCEMENT IN ORDER TO REPORT THEIR --
16 UH -- CONCERNS.
17 **Q** AND DOCTORS ARE MANDATORY REPORTERS?
18 **A** YES.
19 **Q** NURSES ARE MANDATORY REPORTERS?
20 **A** YES.
21 **Q** CNA'S ARE MANDATORY REPORTERS?
22 **A** YES.
23 **Q** UM -- ANYONE DEALING, AS YOU SAID, WITH KIDS IN A
24 MEDICAL FACILITY ARE PROBABLY MANDATORY REPORTERS?
25 **A** EVERY SINGLE PERSON IN THE MEDICAL FACILITIES GROUP

1 SHOULD BE.

2 **Q** AND TO BE CLEAR, IT'S NOT -- IT'S SUSPICION ALONE,

3 CORRECT?

4 **A** YES.

5 **Q** THAT -- THAT THEY'RE REQUIRED TO REPORT?

6 **A** YES.

7 **Q** SO -- UM -- IF THE PATIENT TELLS THEM SOMETHING,

8 THAT'S PROBABLY ENOUGH TO REPORT?

9 **A** IT IS, YES.

10 **Q** AND IF THE PATIENT DOESN'T TELL THEM ANYTHING, BUT

11 SEES WHAT LOOKS TO BE A SUSPICIOUS INJURY, THEY GOT TO REPORT

12 IT?

13 **A** THEY ARE SUPPOSED TO, YES.

14 **Q** OKAY. OKAY.

15 DOCTOR, INDULGE ME, I DON'T HAVE YOUR CV OR

16 ANYTHING, SO I JUST WANT TO ASK YOU A QUESTION. I HEARD

17 YOU -- THE STATE ASKED -- UM -- IF YOU'VE TESTIFIED IN THE

18 EIGHTH JUDICIAL DISTRICT. YOU'VE DONE THAT, CORRECT?

19 **A** YES.

20 **Q** BOTH IN -- IN FAMILY COURT AND IN HERE?

21 **A** YES.

22 **Q** OKAY. UM -- HOW MANY TIMES HAVE YOU TESTIFIED FOR

23 THE DEFENSE?

24 **A** I'VE BEEN REQUESTED -- I HAVE GOTTEN SUBPOENAED BY

25 THE DEFENSE ON SEVERAL OCCASIONS -- UM -- HOWEVER, FOR

1 WHATEVER REASON, THEY DIDN'T GO TO TESTIMONY. UM -- AND SO --
2 BUT THE MAJORITY IS FOR THE PROSECUTION.
3 **Q** COULD YOU GIVE ME A PERCENTAGE OF -- UM --
4 PROSECUTION VERSUS DEFENSE?
5 **A** UM -- PROBABLY 80 PERCENT.
6 **Q** OKAY. UM -- WHEN YOU WERE CALLED UPON TO EXAMINE
7 THESE THREE GIRLS --
8 **A** UM-HUM.
9 **Q** -- WHAT INFORMATION DID YOU REVIEW PRIOR TO THE
10 EXAMINATION?
11 **A** PRIOR TO THE EXAM, ITSELF, I REVIEWED REFERRAL NOTES
12 THAT INDICATED THERE WERE CONCERNS OF PHYSICAL ABUSE -- UM --
13 AND POSSIBLY SEXUAL CONTACT.
14 UM -- WHAT WAS HER NAME? I BELIEVE THAT I SPOKE TO
15 THE CPS INVESTIGATOR JUST PRIOR TO THE EXAM, ITSELF, ABOUT
16 WHAT WERE SOME OF THE CONCERNS FOR THE GIRLS, BUT, OTHERWISE,
17 ALL THE REST OF THE RECORDS AND EVERYTHING CAME AFTERWARDS.
18 **Q** OKAY. ANY REPORT -- ANY STATEMENTS, LIKE RECORDED
19 STATEMENTS OR ANYTHING LIKE THAT FROM INTERVIEWS, DID YOU
20 REVIEW ANY OF THOSE PRIOR TO?
21 **A** NO.
22 **Q** OKAY. HAVE YOU REVIEWED THOSE SINCE?
23 **A** UM -- NO RECORDINGS OR STATEMENTS, NO.
24 **Q** OKAY. DID YOU REVIEW ANY REPORTS FROM CPS IN
25 FLORIDA?

1 **A** NO, I DON'T BELIEVE SO, NO.

2 **Q** OKAY. AND I HAVE THREE SOUTHERN NEVADA CHILD

3 ASSESSMENT CENTER CLINIC ASSESSMENTS.

4 **A** YES.

5 **Q** UM -- ARE THOSE YOUR ONLY REPORTS, THE THREE FOR THE

6 THREE CHILDREN?

7 **A** YES.

8 **Q** OKAY. THERE'S NOT LIKE A SYNOPSIS REPORT OF

9 CONCLUSIONS AND FINDINGS OR ANYTHING LIKE THAT?

10 **A** NO, SIR.

11 **Q** OKAY. UM -- AND AS I UNDERSTAND IT, YOU -- YOU WERE

12 DOING THESE EXAMS BECAUSE THE PATIENT WAS BROUGHT IN FOR A

13 MEDICAL EXAM BECAUSE THERE WAS CONCERNS ABOUT THE PARENTS, THE

14 ADOPTIVE PARENTS; IS THAT CORRECT?

15 **A** UH, YES.

16 **Q** OKAY. THE ADOPTIVE PARENTS, DWIGHT AND JANET?

17 **A** CORRECT.

18 **MR. RUE:** UM -- JUDGE, CAN I APPROACH, I'D LIKE TO SEE --

19 **THE COURT:** YEAH.

20 **MR. RUE:** -- EXHIBIT 13.

21 **THE COURT:** WHICH ONE?

22 **MR. RUE:** NUMBER 13. THANK YOU, JUDGE.

23 JUDGE, IF I COULD APPROACH?

24 **THE COURT:** YES.

25

1 **BY MR. RUE:**

2 **Q** ASK HER ABOUT NO. 13.

3 **A** YES.

4 **Q** YOU RECALL THAT PICTURE?

5 **A** YES.

6 **Q** NOW, WHEN YOU'RE DOING THE EXAM -- UM -- DO YOU TALK

7 TO THE CHILDREN?

8 **A** UM -- MOSTLY JUST KIND OF COMFORT OR INSTRUCTIONS ON

9 WHAT TO DO, BUT NOT --

10 **Q** BUT NOT LIKE, HOW DID THAT HAPPEN, OR ANYTHING LIKE

11 THAT?

12 **A** NO, NOT NECESSARILY.

13 **Q** OKAY.

14 **A** NO.

15 **Q** UM -- CAN YOU -- THAT IS A PICTURE OF AMAYA'S ELBOW?

16 **A** CORRECT.

17 **Q** WHICH -- CAN YOU TELL WHICH ELBOW IT IS?

18 **A** I BELIEVE IT'S THE RIGHT ONE, BASED ON WHERE HER

19 GOWN IS, AND IT'S THE BACK --

20 **Q** OKAY.

21 **A** -- SO THAT WOULD BE HER RIGHT ELBOW.

22 **Q** OKAY. UM -- IN THIS -- YOU SAID TWO MARKS. IS IT

23 TWO OR THREE MARKS THAT YOU SEE THERE?

24 **A** UM -- I BELIEVE IT WAS TWO ON -- LOOKS -- LOOKS

25 DEPICTED ON HERE.

1 **Q** OKAY. UM -- AND I SEE THAT IN YOUR SCAN ABUSE AND
2 NEGLECT FORM, YOU CHARACTERIZE IT AS A POST-INFLAMMATORY
3 HYPOPIGMENTED SCAR.
4 **A** YES. IT JUST MEANS SCAR. UM -- IT -- SO ANYTHING
5 THAT CAUSES CHANGES IN THE SKIN --
6 **Q** OKAY.
7 **A** -- LEAD FROM INFLAMMATION. SO AFTER INFLAMMATION IS
8 POST-INFLAMMATION.
9 **Q** OKAY.
10 **A** THE SKIN WILL EITHER CHANGE TO BE LIGHTER OR DARKER.
11 LIGHTER, HYPOPIGMENT, SO LESS PIGMENT. HYPER, MORE PIGMENT,
12 AND THAT'S JUST THE WAY TO DESCRIBE SCARS. IT JUST MEANS THAT
13 DUE TO SOME INSULT THERE WAS CHANGES IN THE SKIN COLOR AND
14 THIS IS -- UH -- YOU KNOW, THE TYPE OF CHANGE, AS WELL AS IT'S
15 SCAR TISSUE.
16 **Q** OKAY. UM -- I THINK MISS LUZAICH ASKED YOU, YOU
17 CAN'T REALLY AGE THAT ONE?
18 **A** NO.
19 **Q** DOES THAT LOOK TO BE -- CAN YOU TELL ME WHETHER
20 THAT -- THOSE SCARS, TWO SCARS IN YOUR OPINION, ARE FROM ONE
21 INCIDENT OR MULTIPLE INCIDENTS, CAN YOU TELL THAT?
22 **A** NO.
23 **Q** OKAY. WHY DO YOU SAY POST-INFLAMMATORY?
24 **A** UM -- JUST ANY BREAK IN THE SKIN, FOR WHATEVER
25 REASON, IS INFLAMMATION. SCAR TISSUE IS SECONDARY TO THE

1 CASCADE OF INFLAMMATION, AND SO THAT'S THE ONLY REASON THAT --
2 IT'S JUST THE WAY I'VE LEARNED TO DOCUMENT SKIN FINDINGS.
3 **Q** OKAY. UM -- WHEN YOU SAY BREAK OF THE SKIN, WHAT DO
4 YOU MEAN BY BREAK OF THE SKIN?
5 **A** UM -- THAT THE INTEGRITY OF THE SKIN BEING SOLID --
6 **Q** UH-HUH.
7 **A** -- HAS SOMEHOW BEEN DISRUPTED.
8 **Q** AND WOULD THAT, IN YOUR OPINION, NORMALLY CAUSE
9 BLEEDING?
10 **A** UM -- USUALLY.
11 **Q** OKAY. UM -- WOULD YOU -- I MEAN USUALLY, IN YOUR
12 OPINION, WOULD THERE HAVE BEEN BLEEDING CAUSED BY THAT INJURY,
13 OR THOSE INJURIES?
14 **A** MORE THAN LIKELY TO SOME EXTENT, YES.
15 **Q** OKAY. AND IF MY CHILD CAME TO YOU AND YOU SAW THAT
16 INJURY ON AN ELBOW -- BY THE WAY, THE ELBOW IS ONE OF THOSE
17 AREAS THAT'S NOT A SOFT TISSUE AREA THAT YOU WOULD EXPECT TO
18 HAVE INJURIES ON?
19 **A** YES.
20 **Q** IF MY CHILD CAME IN -- UM -- AND YOU SAW THOSE
21 INJURIES, AND AS A PARENT I EXPLAINED TO YOU THAT IT WAS
22 CAUSED BY A RULER SLAPPING HER ONE TIME ON THAT ELBOW, WOULD
23 THAT -- WOULD YOU EXPECT AN INJURY LIKE THAT?
24 **A** UM -- I GUESS SLAPPING WITH THE -- I WOULD HAVE TO
25 UNDERSTAND MORE THAN THAT MECHANISM.

1 **Q** OKAY. SUPPOSE I EXPLAINED TO YOU THAT SHE GOT THOSE
2 INJURIES BY ME TAKING -- MAY I HAVE A PICTURE?
3 **MS. LUZAICH:** YEAH, IT'S RIGHT THERE.
4 **MR. RUE:** JUDGE, I'M SHOWING -- COULD I APPROACH?
5 **THE COURT:** UM-HUM.
6 **MR. RUE:** STATE'S EXHIBIT 2.
7 **THE WITNESS:** OKAY.
8 **BY MR. RUE:**
9 **Q** IF I EXPLAINED TO YOU THAT MY CHILD, MY DAUGHTER GOT
10 THAT INJURY FROM ME TAKING THAT PAINT STICK AND SLAPPING HER
11 ONE TIME, ONE TIME ON THAT ELBOW, WOULD -- DOES THAT SOUND
12 PLAUSIBLE?
13 **A** UH -- NOT WITH A REASONABLE AMOUNT OF FORCE.
14 **Q** NOT WITH A REASONABLE AMOUNT OF FORCE.
15 HOW MUCH FORCE WOULD IT TAKE -- IF I EXPLAINED TO
16 YOU IT WAS LESS FORCE THAT DID NOT EVEN CAUSE THE PAINT STICK
17 TO BREAK?
18 **A** UM -- I GUESS I DON'T -- I DON'T KNOW HOW MUCH FORCE
19 IT WOULD CAUSE FOR A PAINT STICK TO BREAK. MY CONCERN WOULD
20 BE THAT -- UM -- THAT IT'S LEFT SIGNIFICANT MARKS THAT THAT
21 WOULD BE SOMETHING THAT IS -- UM -- MORE FORCE THAN A CORPORAL
22 PUNISHMENT, THAT'S SOMETHING THAT, YOU KNOW, WE WOULD NOT
23 EXPECT TO SEE ANY MARKS FROM.
24 **Q** CAN YOU EXPLAIN TO ME HOW ONE STRIKE OF A PAINT
25 STICK WOULD CAUSE TWO OR THREE MARKS?

1 **A** UM-HUM. SO THE ELBOW -- UM -- IT HAS MULTI -- YOU
2 KNOW DIFFERENT SURFACES AND ANGLES. BUT THIS LOOKS LIKE IT'S
3 ALONG THE LINE OF SIMILAR. SO DEPENDING ON HOW IT WAS BENT,
4 IT COULD HIT CERTAIN SPOTS AND THEN INJURE THOSE AREAS
5 INDEPENDENTLY.
6 ONE CAN HAVE AN INJURY THAT COMES ACROSS AND BY --
7 THROUGH HEALING AND ALL THE INFLAMMATION AND EVERYTHING THAT'S
8 HAPPENED -- UM -- THE TWO THAT WERE EITHER THE MOST SEVERE,
9 DEEPEST OR HAD MAYBE GOTTEN RUBBED OFF OR SOMETHING LIKE THAT,
10 AFFECTED LATER ON IN THE HEALING PROCESS, MAY HAVE LEFT JUST
11 THESE TWO ISLANDS OF, YOU KNOW, THE SCAR TISSUE.
12 UM -- THERE ARE A FEW DIFFERENT REASONS WHY YOU CAN
13 HAVE KIND OF TWO AREAS WITH ONE HIT -- UM -- BASED ON IT'S
14 HEALING, HOW THE HIT HAPPENED, WHAT WAS THE ANGLE, WHAT WAS
15 HAPPENING --
16 **Q** OKAY. AND --
17 **A** -- UH -- SO ...
18 **Q** AND IF I TELL YOU THAT THERE WAS NO BLEEDING WHEN I
19 HIT HER --
20 **A** UM-HUM.
21 **Q** -- WOULD THAT CAUSE THOSE INJURIES?
22 **A** UM -- I MEAN IF IT WAS AN ABRASION THAT JUST WAS
23 OOZING AND NO DIRECT BLEEDING -- UM -- IT COULD, BUT I WOULD
24 HAVE TO UNDERSTAND MORE ABOUT YOUR DEFINITION OF BLEEDING AND
25 WHAT YOU MEAN BY THAT.

1 **Q** OKAY. ARE THOSE INJURIES, IN YOUR MIND, CONSISTENT
2 WITH ABUSE OR ACCIDENT?
3 **A** UM -- NEITHER. THEY'RE NOT SPECIFIC FOR EITHER ONE.
4 **Q** OKAY.
5 **A** I COULD --
6 **Q** THEY COULD BE CAUSED BY FALLING DOWN OFF A BIKE?
7 **A** YES.
8 **Q** THEY COULD BE CAUSED BY -- UM -- FALLING DOWN THE
9 STAIRS?
10 **A** YES.
11 **MR. RUE:** UM -- I DID HAVE ONE MORE -- THANK YOU -- AREA
12 THAT I WANTED TO ASK YOU ABOUT -- UM -- AND THAT'S WITH
13 ANASTASIA.
14 JUDGE, I'M GOING TO NEED SOME PICTURES MARKED. JUDGE,
15 COULD I APPROACH AND HAVE THESE MARKED?
16 **THE COURT:** SURE. ARE YOU MARKING THOSE?
17 **MR. RUE:** YES, DEFENSE B THROUGH D, MAYBE?
18 (DISCUSSION BETWEEN MR. RUE AND THE CLERK.)
19 (WHEREUPON DEFENSE PROPOSED EXHIBITS B, C AND D WERE
20 MARKED FOR IDENTIFICATION.)
21 **THE COURT:** SO B THROUGH D.
22 **MR. RUE:** YOUR HONOR, AND I BELIEVE THE STATE'S GRACIOUS
23 ENOUGH TO STIPULATE TO THE ADMISSION OF THESE.
24 **THE COURT:** OKAY. IS THAT CORRECT?
25 **MS. LUZAICH:** (NO AUDIBLE RESPONSE.)

1 **THE COURT:** B THROUGH D WILL BE ADMITTED.

2 (WHEREUPON DEFENSE EXHIBITS B, C AND D WERE ADMITTED

3 INTO EVIDENCE.)

4 **MR. RUE:** COULD I APPROACH?

5 **THE COURT:** YES.

6 **BY MR. RUE:**

7 **Q** DOCTOR, I'M SHOWING YOU -- UM -- DEFENDANT'S B, C,

8 AND D -- UM -- ANASTASIA, CORRECT?

9 **A** YES.

10 **Q** IN B.

11 AND C AND D ARE PICTURES OF WHAT I BELIEVE IS AN

12 INJURY; IS THAT RIGHT?

13 **A** YES.

14 **Q** UM -- WHERE IS THE INJURY?

15 **A** UH -- IT APPEARS TO BE ON HER RIGHT, KIND OF BELOW

16 THE WRIST, THE WRIST AREA.

17 **Q** OF WHICH WRIST?

18 **A** I BELIEVE HER RIGHT.

19 **Q** OKAY. SO AN INJURY ABOVE HER RIGHT WRIST.

20 UM -- I'M GOING TO NEED YOUR HELP, DOCTOR. I'M

21 LOOKING AT YOUR SCAN --

22 **A** UM-HUM.

23 **Q** -- PHYSICAL ABUSE AND NEGLECT FORM.

24 **A** THIS IS AMAYA?

25 **Q** NO, THIS IS ANASTASIA.

1 **A** OH, MY APOLOGIES. UM, LET'S SEE.

2 **MR. RUE:** JUDGE, COULD I APPROACH AND I'LL SHOW HER MINE?

3 **THE WITNESS:** YEAH, MAY I JUST LOOK AT YOURS? SORRY,

4 IT'S TOO MANY PAGES.

5 **BY MR. RUE:**

6 **Q** UM -- YOU CHARACTERIZE THAT INJURY AS A SUPERFICIAL

7 LINEAL --

8 **A** SCRATCH.

9 **Q** -- SCRATCH?

10 **A** YES, LINEAR SCRATCH. I KNOW. I KNOW. WE'RE

11 GETTING AN E.M.R. SOON.

12 **Q** OKAY.

13 **A** SORRY ABOUT THE HANDWRITING.

14 **Q** SO IT'S A SUPERFICIAL LINEAL SCRATCH, IT'S NOT A

15 SCAR?

16 **A** NO.

17 **Q** OKAY. YOU, IN FACT, CROSSED OUT SCAR HERE --

18 **A** CORRECT.

19 **Q** -- CORRECT?

20 UM -- THAT LOOKS PRETTY FRESH.

21 **A** UM-HUM.

22 **Q** I MEAN, IT LOOKS FRESHER THAN ANY SCAR?

23 **A** YES.

24 **Q** IS THERE ANY WAY THAT YOU CAN AGE THAT AT ALL?

25 **A** YEAH. I MEAN SCRATCHES -- UM -- SO, AGAIN, IT'S

1 ACUTE SO IT'S MORE RECENT. IT WOULD HAVE BEEN -- THEY USUALLY
2 START SCAR FORMATION, YOU KNOW, WITHIN A WEEK OR A LITTLE BIT
3 LONGER. SO I THOUGHT THAT SHE SUSTAINED A LITTLE SCRATCH --
4 UM -- THAT WAS A LINE IN NATURE.
5 **Q** SURE.
6 **A** UM -- AND SUPERFICIAL, SO NOT DEEP -- UH -- WITHIN
7 THE LAST FEW DAYS TO WEEKS OR SO.
8 **Q** LAST FEW DAYS TO WEEKS.
9 UM -- DID YOU NOTE ANY OTHER SCARRING ON THE WRIST
10 OF ANY SORT -- UM -- ON ANASTASIA?
11 **A** I DON'T BELIEVE SO.
12 **Q** OKAY. YOU WOULD HAVE NOTED IT HAD YOU -- HAD YOU --
13 UM -- SEEN IT?
14 **A** YES.
15 **Q** CORRECT?
16 UM -- AND TO BE FAIR, YOU DIDN'T NOTE IT?
17 **A** NO.
18 **Q** OKAY. EITHER TO HER LEFT WRIST OR HER RIGHT WRIST?
19 **A** CORRECT.
20 **Q** OKAY. UM -- NOW, YOU INDICATED THAT YOU HAD --
21 UM -- SEEN SOME REPORTS SINCE THEN, SINCE THE EXAMINATION.
22 **A** UH -- SOME MEDICAL RECORDS, YES.
23 **Q** UM -- DID -- DO YOU PROVIDE THOSE TO THE STATE, OR
24 HOW DOES THAT WORK?
25 **A** UM -- NO, I -- UM -- WELL, I GUESS I GOT THEM FROM

1 CPS AND FAMILY COURT -- UH -- IN PREPARATION FOR -- UM --
2 THEIR TRIAL COMING UP, AND SO WHETHER -- I MEAN, I DON'T OFTEN
3 PROVIDE MEDICAL RECORDS, THAT'S SOMETHING THAT I RECEIVE.
4 **Q** OKAY. YOU RECEIVE BUT YOU DON'T GIVE OUT?
5 **A** UM -- NOT -- NOT ONLY THE ONES THAT ARE FROM MY
6 CLINIC, THOSE GET SUBPOENAED AND THEN TAKEN. BUT, AGAIN,
7 THEY'RE REQUESTED, YEAH.
8 **Q** OKAY. AND JUST TO CONCLUDE, YOU -- YOU DIDN'T GIVE
9 ANY OF THOSE ITEMS TO THE STATE, TRUE?
10 **A** NO.
11 **Q** UM -- YOU WERE AWARE THAT THESE THREE CHILDREN
12 RECEIVED A PHYSICAL EXAM RIGHT BEFORE THEY WENT TO MARVELOUS
13 GRACE GIRLS ACADEMY. WERE YOU AWARE OF THAT?
14 **A** I -- UM -- I DON'T BELIEVE I REVIEWED ANY MEDICAL
15 RECORDS TO THAT. UM -- BUT I BELIEVE THAT I WAS -- YEAH, I
16 BELIEVE IT WAS REPORTED THAT THEY HAD, BUT I DID NOT SEE A
17 MEDICAL RECORD.
18 **MR. RUE:** OKAY. COURT'S INDULGENCE?
19 **THE COURT:** SURE.
20 (DISCUSSION BETWEEN MR. RUE AND DEFENDANT HINTON.)
21 **MR. RUE:** THANK YOU, DR. CETL, NOTHING MORE.
22 **THE WITNESS:** THANK YOU.
23 **THE COURT:** REDIRECT?
24 **MS. LUZAICH:** JUST VERY BRIEFLY.
25

1 **REDIRECT EXAMINATION**

2 **BY MS. LUZAICH:**

3 **Q** DOCTOR, GIVEN THAT ALL OF THE PHOTOS THAT WE LOOKED

4 AT TODAY AND YOUR EXAMINATION WAS IN MARCH OF 2014 -- UM --

5 MAY I APPROACH?

6 **THE COURT:** YES.

7 **BY MS. LUZAICH:**

8 **Q** I'M GOING TO SHOW YOU STATE'S EXHIBIT 2 -- UM --

9 IT'S BEEN CALLED A PAINT STICK, DOES THAT SOUND RIGHT TO YOU?

10 **A** THAT'S WHAT IT LOOKS LIKE.

11 **Q** ALL OF THE INJURIES TO THE GIRLS' BUTTOCKS, COULD

12 THEY BE CONSISTENT WITH -- UM -- BEING HIT WITH A PAINT STICK

13 THAT LOOKED LIKE OR SIMILAR TO THAT IN 2011, '12 OR '13?

14 **A** YES.

15 **Q** THE BURNS TO -- UM -- ANASTASIA'S NECK, SHOULDER,

16 EAR, GOING DOWN HER BACK, COULD THEY BE CONSISTENT WITH HAVING

17 BEEN HELD UNDER HOT WATER IN 2012?

18 **A** UM -- THEY COULD BE, YES.

19 **MS. LUZAICH:** NOTHING FURTHER.

20 **THE COURT:** ANY RECROSS?

21 **MR. MANN:** JUST BRIEFLY.

22

23 **RECROSS-EXAMINATION**

24 **BY MR. MANN:**

25 **Q** ON THAT SAME PAINT STICK ANALYSIS, IT DOESN'T HAVE

1 TO BE THAT PAINT STICK, CORRECT?

2 **A** CORRECT.

3 **Q** IT COULD BE ANYTHING?

4 **A** UM -- SOME KIND OF IMPLEMENT, YEAH.

5 **Q** IT COULD BE ANY -- ANY SCOPE OF TIME?

6 **A** YES.

7 **MR. MANN:** NO FURTHER QUESTIONS.

8 **THE COURT:** ANY REDIRECT -- I MEAN RECROSS, EXCUSE ME.

9 **MR. MUELLER:** NO, YOUR HONOR.

10 **THE COURT:** RECROSS, MR. RUE?

11 **MR. RUE:** NO. NO, YOUR HONOR.

12 **THE COURT:** ALL RIGHT. THANK YOU VERY MUCH, DOCTOR.

13 **THE WITNESS:** THANK YOU.

14 **THE COURT:** APPRECIATE YOUR TIME TODAY.

15 **THE WITNESS:** OKAY.

16 **THE COURT:** SO WE'RE JUST A LITTLE LATE BREAKING FOR

17 LUNCH, SO WE'LL RESUME AT LIKE 1:30, BECAUSE I HAVE TO DO MY

18 BAD CHECK AT 1:15.

19 **MS. BLUTH:** AND WE STAY IN HERE?

20 **THE COURT:** YES, WE STAY IN HERE.

21 **MR. MANN:** CAN I LEAVE MY BOOKS AND STUFF HERE?

22 **THE COURT:** YES.

23 **MR. MANN:** GREAT.

24 **THE COURT:** UM -- THERE -- THERE WILL BE A P.D. SITTING

25 THERE, BUT JUST BRIEFLY, SO ...

1 **MR. MANN:** NO, I'LL CLEAN UP.

2 **MR. RUE:** DON'T WORRY ABOUT IT.

3 **THE COURT:** DON'T LEAVE ANY NASTY NOTES ABOUT ANYBODY.

4 **MR. RUE:** NO, JUST LEAVE IT.

5 **THE COURT:** AND I -- SO I KNOW YOU NEED LUNCH, TOO, SO --

6 UM -- YOU CAN OPEN THE DOORS LATE IF YOU WANT. I FIGURE

7 WE'LL -- I E-MAILED SAM BATEMAN AND SAID WE'LL START AT 1:15.

8 **THE MARSHAL:** THAT WAS GOING TO BE LEFT?

9 **THE COURT:** YES, BUT --

10 **MS. LUZAICH:** I -- I HAVE A SCHEDULING ISSUE. CAN WE

11 APPROACH TO TALK ABOUT IT?

12 **THE COURT:** SURE.

13 **MS. LUZAICH:** AND IT'S NOT GOING TO EFFECT --

14 **THE COURT:** OKAY.

15 **MS. LUZAICH:** -- ANASTASIA.

16 **THE COURT:** BECAUSE WE'RE GOING TO GO -- ON THIS CASE,

17 WE'RE GONNA' GO FROM LIKE 1:30 --

18 **MR. MANN:** DO WE NEED TO APPROACH?

19 **THE COURT:** -- TO 3:30.

20 **MS. BLUTH:** YES.

21 **MR. MANN:** OH, WE DO, OKAY.

22 **MS. BLUTH:** YEAH. I KNOW IT'S WEIRD.

23 **MS. LUZAICH:** ONE-THIRTY TO THREE-THIRTY. WE HAVE TO

24 FINISH AT 3:30, RIGHT?

25 **THE COURT:** YES, THAT'S WHAT I SAID YESTERDAY.

1 **MS. LUZAICH:** OH, THEN WE MIGHT NOT HAVE A SCHEDULING
2 ISSUE.
3 (WHEREUPON ALL COUNSEL APPROACHED THE BENCH.)
4 **THE COURT:** THANK YOU. WE'LL SEE YOU BACK IN AN HOUR.
5 (WHEREUPON THE LUNCH RECESS WAS TAKEN.)
6 **THE COURT:** OKAY -- UM -- YOU CAN CALL -- ARE WE
7 CONTINUING ANASTASIA?
8 **MS. BLUTH:** YES. OKAY. AND THIS MORNING -- OR THIS
9 AFTERNOON JENNIFER VECCHIO WILL BE SITTING WITH HER, WHO'S ONE
10 OF THE THERAPISTS.
11 **THE COURT:** OH, WITH -- WHO'S ONE OF -- A CASA.?
12 **MS. BLUTH:** UM -- NO, SHE'S ONE OF HER THERAPISTS, LIKE
13 HER PSYCHIATRIST.
14 **THE COURT:** OH, OKAY.
15 **MS. BLUTH:** YEAH.
16 **THE COURT:** OKAY. SO I THOUGHT YOU MIGHT LIKE TO BRING
17 TIGGER TODAY, SWITCH IT UP A LITTLE.
18 **MISS ANASTASIA:** (NO AUDIBLE RESPONSE.)
19 **THE COURT:** NO? OKAY.
20 HELLO, ANASTASIA, HOW ARE YOU THIS MORNING?
21 **MISS ANASTASIA:** GOOD.
22 **THE COURT:** YOU KNOW WHAT, IT'S A NEW DAY, NEW AFTERNOON,
23 SO IF YOU WOULD PLEASE STAND UP AND RAISE YOUR RIGHT HAND,
24 MISS STEPHANIE IS GOING TO SWEAR YOU IN AGAIN, JUST SO WE
25 REMEMBER HOW IMPORTANT IT IS TO TELL THE TRUTH, OKAY?

1 **MISS ANASTASIA:** OKAY.

2 **THE COURT:** THANK YOU.

3

4 **ANASTASIA SOLANDER,**

5 CALLED AS A WITNESS BY THE STATE, AND HAVING BEEN FIRST DULY

6 SWORN TO TESTIFY TO THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT

7 THE TRUTH, TESTIFIED AS FOLLOWS:

8

9 **THE WITNESS:** YES.

10 **THE CLERK:** THANK YOU.

11 AND JUST ONE MORE TIME I WANT YOU TO STATE YOUR FIRST AND

12 YOUR LAST NAME FOR THE RECORD.

13 **THE WITNESS:** ANASTASIA, A-N-A-S-T-S-I-A. SOLANDER,

14 S-O-L-A-N-D-E-R.

15 **THE COURT:** THANK YOU. YOU CAN HAVE A SEAT THERE WITH

16 POOH.

17 YOU CAN CONTINUE WITH -- OH, IT'S CROSS-EXAMINATION. SO

18 NOW, MR. MANN'S GOING TO ASK YOU SOME QUESTIONS, OKAY, AND

19 THEN THEY -- MR. MUELLER WILL ASK YOU QUESTIONS, AND THEN

20 MR. RUE WILL ASK YOU QUESTIONS.

21 **THE WITNESS:** OKAY.

22 **THE COURT:** REMEMBER WHEN I TOLD EVERYBODY GETS TWO TURNS

23 PRETTY MUCH?

24 **THE WITNESS:** UM-HUM.

25 **THE COURT:** ALL RIGHT. THANK YOU.

1 **CROSS-EXAMINATION**

2 **BY MR. MANN:**

3 **Q** GOOD AFTERNOON, ANASTASIA.

4 **A** GOOD AFTERNOON.

5 **Q** WHAT GRADE ARE YOU IN, ANASTASIA?

6 **A** FOURTH.

7 **Q** AND -- UM -- IS THAT YOU JUST FINISHED YOUR FOURTH

8 GRADE OR YOU'RE MOVING INTO FOURTH GRADE?

9 **A** UM -- I JUST FINISHED IT.

10 **Q** SO YOU'RE MOVING INTO FIFTH GRADE?

11 **A** YES.

12 **Q** ALL RIGHT. AND YOU HAD TALKED ABOUT -- UM -- THERE

13 BEING RULES IN THE HOUSE ABOUT GOING TO THE BATHROOM, WHEN YOU

14 WERE LIVING AT THE SOLANDERS; DO YOU REMEMBER THAT?

15 **A** YES, SIR.

16 **Q** OKAY. AND ONE OF THE RULES THAT YOU TALKED ABOUT

17 WAS THAT YOU HAD TO ASK TO GO TO THE BATHROOM; IS THAT

18 CORRECT?

19 **A** YES, SIR.

20 **Q** OKAY. AND SO IN ORDER TO GO TO THE BATHROOM, YOU

21 JUST NEEDED TO ASK AND THEN YOU COULD GO TO THE BATHROOM,

22 CORRECT?

23 **A** YES.

24 **Q** OKAY. AND -- UM -- THEN -- UM -- THERE WERE TIMES,

25 THOUGH, THAT YOU WOULDN'T ASK TO GO TO THE BATHROOM, RIGHT?

1 **A** YES.

2 **Q** AND YOU ENDED UP -- UM -- PEEING OR POOPING

3 YOURSELF, CORRECT?

4 **A** YES.

5 **Q** UM -- NOW, WHEN YOU WOULD PEE AND POOP YOURSELF, YOU

6 WOULD DO THAT ON PURPOSE, CORRECT?

7 **A** NO.

8 **Q** YOU WOULDN'T DO THAT ON PURPOSE?

9 **A** NO.

10 **Q** OKAY. UM -- BUT YOU WOULD -- THERE WERE TIMES

11 THAT -- UM -- YOU WERE TOLD YOU CAN GO TO THE BATHROOM AND YOU

12 DIDN'T GO TO THE BATHROOM, CORRECT?

13 **A** NO.

14 **Q** OKAY. LET ME BACK UP.

15 WERE THERE TIMES THAT THERE WERE TIMERS ABOUT WHEN

16 YOU COULD AND COULDN'T GO TO THE BATHROOM?

17 **A** YES.

18 **Q** OKAY. AND THOSE TIMERS WERE SET, AND YOU WERE

19 OFFERED AN OPPORTUNITY OR A CHANCE TO GO TO THE BATHROOM,

20 CORRECT?

21 **A** NO. WE HAD TO ASK.

22 **Q** OKAY. SO EVEN THOUGH THERE ARE TIMERS THERE AND YOU

23 HAD TO ASK, AND IF YOU ASKED, YOU COULD THEN GO TO THE

24 BATHROOM?

25 **A** WE COULD GO TO THE BATHROOM IF WE ASKED, BUT IF WE

1 DON'T ASK, WE CAN'T GO BECAUSE SHE DOESN'T KNOW.
2 **Q** OKAY. AND SO IF YOU DON'T ASK, HOW WOULD SHE KNOW,
3 RIGHT?
4 **A** YEAH.
5 **Q** OKAY. AND SO WHEN YOU WOULD PEE AND POOP YOURSELF,
6 THAT WAS BECAUSE YOU DIDN'T ASK, CORRECT?
7 **A** IT WAS BECAUSE I ASKED, AND THEN SHE -- SHE -- AT
8 FIRST I ASKED AND SHE DIDN'T ANSWER, SO THEN I ASKED AGAIN,
9 AND SHE DIDN'T ANSWER. SO THEN I ASKED AGAIN, AND THEN I
10 SAID, "I HAVE TO GO TO THE BATHROOM REALLY BAD," SO THEN I
11 WENT. AND THEN SHE -- I WAS HOLDING IT, SO I DON'T KNOW.
12 **Q** OKAY. SO WHEN YOU SAID THAT YOU WENT, YOU MEAN YOU
13 WENT AND YOU WALKED TO THE BATHROOM WHERE THE TOILET WAS; IS
14 THAT CORRECT?
15 **A** YES.
16 **Q** OKAY. AND SO THEN YOU WALKED INTO THE BATHROOM
17 WHERE THE TOILET WAS, AND YOU DID WHAT YOU NEEDED TO DO INSIDE
18 THAT BATHROOM?
19 **A** YES.
20 **Q** OKAY. UM -- SO -- BUT THE TIMES -- WERE THERE TIMES
21 THAT YOU WOULD PEE AND POOP YOURSELF?
22 **A** YES.
23 **Q** OKAY. AND THOSE TIMES THAT YOU WOULD PEE AND POOP
24 YOURSELF, YOU DIDN'T ASK FOR PERMISSION TO GO TO THE BATHROOM,
25 CORRECT?

1 **A** YES, BECAUSE I WAS SCARED, BECAUSE SHE WOULD YELL AT
2 ME.
3 **Q** OKAY. BUT YOU -- YOU WERE ALSO, THOUGH, GIVEN TIMES
4 THAT -- UM -- IF YOU DID ASK, YOU COULD GO AND GO TO THE
5 BATHROOM?
6 **A** SAY THAT AGAIN.
7 **Q** SURE.
8 BUT THERE WERE NUMEROUS TIMES THAT YOU WERE ABLE TO
9 GO AND ASK IF YOU COULD GO TO THE BATHROOM, AND THEN
10 EVENTUALLY YOU WOULD GO TO THE BATHROOM?
11 **A** YES.
12 **Q** OKAY. NOW, YOU ALSO TALKED ABOUT -- UM -- WHEN --
13 UH -- THERE WAS AN ACCIDENT -- UH -- THAT SHE WOULD KICK YOU
14 UP THE STAIRS; IS THAT RIGHT?
15 **A** YES, SIR.
16 **Q** OKAY. AND SO SHE WOULD -- UM -- YOU WOULD BE
17 WALKING UP THE STAIRS AND SHE WOULD KICK YOUR BOTTOM?
18 **A** YES.
19 **Q** OKAY. AND YOU WOULD THEN CONTINUE TO MOVE UP THE
20 STAIRS, CORRECT?
21 **A** YES, BUT I'D BE FALLING, TOO.
22 **Q** YOU WOULD FALL DOWN?
23 **A** YEAH, BECAUSE -- UH -- SHE'LL KICK ME, SO THEN I'LL
24 FALL AND I'LL GET BACK UP.
25 **Q** OKAY. WHAT PART OF YOUR BODY DID YOU FALL ON?

1 **A** MY KNEES.

2 **Q** OKAY.

3 **A** I -- I FALL -- I FELL, AND THEN I LANDED ON MY

4 KNEES.

5 **Q** OKAY. SO THAT WAS IT, JUST YOUR KNEES THAT YOU

6 LANDED ON?

7 **A** YES.

8 **Q** OKAY. AND -- UM -- AND THAT WAS ONLY KICKING YOU UP

9 THE STAIRS, CORRECT?

10 **A** YES.

11 **Q** OKAY. NOW -- UM -- THE NIGHTTIME BATHROOM, YOU

12 WOULD SLEEP IN THE LOFT; IS THAT RIGHT?

13 **A** YES.

14 **Q** OKAY. AND NEXT TO THE LOFT WAS A BATHROOM, CORRECT?

15 **A** YES.

16 **Q** AND IN THAT BATHROOM, THERE WAS A ANGEL NIGHTLIGHT,

17 CORRECT?

18 **A** YES.

19 **Q** AND YOU COULD SEE AT NIGHT WITH THAT ANGEL

20 NIGHTLIGHT ON?

21 **A** YES.

22 **Q** OKAY. AND SO IF YOU NEEDED TO GO TO THE BATHROOM,

23 YOU JUST WALK INTO THAT BATHROOM WITH THE ANGEL NIGHTLIGHT,

24 AND YOU WOULD BE ABLE TO DO WHAT YOU NEEDED TO DO?

25 **A** YES.

1 **Q** OKAY. UM -- AND -- UM -- THAT -- UM -- YOU ALSO
2 TALKED ABOUT THE FOOD THAT YOU WERE GIVEN; DO YOU REMEMBER
3 THAT?
4 **A** YES.
5 **Q** OKAY. AND YOU TALKED ABOUT THE FACT THAT YOU WERE
6 GIVEN REGULAR FOOD, YOU WERE GIVEN QUINOA AND OATMEAL IN THE
7 MORNING?
8 **A** YES.
9 **Q** OKAY. AND THE QUINOA WAS COOKED?
10 **A** YES.
11 **Q** THE OATMEAL WAS COOKED?
12 **A** YES.
13 **Q** OKAY. AND THAT IN THE AFTERNOON OR DINNERTIME, YOU
14 WERE GIVEN CORNBREAD AND BEANS AND RICE?
15 **A** WHEN I WAS EATING REGULAR FOOD, YES.
16 **Q** OKAY. BUT THERE WAS A TIME THAT YOU STOPPED EATING
17 REGULAR FOOD?
18 **A** YES.
19 **Q** AND THAT'S WHEN YOU WERE GIVEN SOME BLENDED FOOD; IS
20 THAT RIGHT?
21 **A** YES.
22 **Q** OKAY. AND THAT BLENDED FOOD YOU WOULD STILL EAT,
23 BUT YOU WERE JUST GIVEN THAT BLENDED FOOD, CORRECT?
24 **A** YES.
25 **Q** OKAY. AND YOU WOULD EAT THAT BLENDED FOOD WITH A

1 SPOON; IS THAT RIGHT?

2 **A** UM -- WE WOULD DRINK IT AT FIRST.

3 **Q** UH-HUM.

4 **A** AND THEN WHEN WE GET TO THE BOTTOM WHEN IT'S ALL

5 THICK, THEN WE START TO USE A SPOON.

6 **Q** OKAY. AND DID YOU HELP MAKE THE BLENDED FOOD?

7 **A** NO.

8 **Q** OKAY. DID YOU SEE WHO MADE THE BLENDED FOOD?

9 **A** NO.

10 **Q** YOU DIDN'T SEE WHO MADE IT?

11 **A** I KNOW MISS JANET WAS -- UM -- WAS THE MAIN ONE WHO

12 COOKED IT, BUT SOMETIMES SOMEONE ELSE WOULD COOK IT IF SHE'S

13 NOT THERE.

14 **Q** WHEN YOU SAY COOKED IT, YOU MEAN WOULD THEY COOK IT

15 IN A POT AND THEN BLEND IT UP?

16 **A** YES.

17 **Q** OKAY. SO THERE WAS SOME SORT OF -- DO YOU KNOW WHAT

18 WAS IN THE BLENDED FOOD?

19 **A** I ONLY KNOW THE -- UM -- IN THE MORNING, THEY

20 WOULD -- SHE WOULD -- SHE WOULD PUT OATMEAL, AND I KNOW SHE'LL

21 PUT OATMEAL, BUT IN THE -- AT DINNER, I DON'T KNOW. I THINK

22 SHE PUT -- UM -- BEANS AND RICE AND VEGETABLES.

23 **Q** AND THAT'S WHAT WAS BLENDED IN THE DRINK?

24 **A** YES.

25 **Q** OR IN THE --

1 **A** YES. AND -- UH -- SHE SAID SHE PUT SOMETHING ELSE
2 IN IT LIKE MICE.
3 **Q** OKAY. AND DID YOU SEE --
4 **A** NO.
5 **Q** OKAY. YOU DIDN'T SEE HER DANGLING A MICE AND
6 PUTTING IT IN THE BLENDED FOOD?
7 **A** NO. SHE -- SHE SAID SHE BOUGHT THE MICE FROM A CAN
8 AND SHE PUT IT IN THE -- IN THE BLENDER.
9 **Q** OKAY. DID YOU SEE A CAN THAT HAD A PICTURE OF A
10 MICE ON IT OR ANYTHING, A MOUSE ON IT?
11 **A** I NEVER SAW ANY CANS.
12 **Q** OKAY.
13 **A** I DON'T GO IN THE CABINETS.
14 **Q** OKAY. ALL RIGHT.
15 NOW, THE SHOWERS THAT YOU WOULD TAKE -- UM -- EACH
16 OF YOU, AVA, AMAYA, AND YOU, HAD YOUR OWN TOWELS THAT WAS EACH
17 A DIFFERENT COLOR, RIGHT?
18 **A** YES.
19 **Q** OKAY. AND THAT YOU WERE GIVEN THIS TOWEL TO THEN DO
20 WHATEVER YOU NEEDED TO DO DURING THE DAY, INCLUDING DRY OFF
21 FROM A SHOWER, RIGHT?
22 **A** YES, VERY OFTEN.
23 **Q** OKAY. SO YOU WOULD USE THESE TOWELS TO ACTUALLY DRY
24 OFF FROM SHOWERS MOSTLY, RIGHT?
25 **A** NO --

1 **Q** YOU SAID VERY OFTEN.

2 **A** -- NOT MOSTLY.

3 **Q** YOU SAID VERY OFTEN?

4 **A** YES. SOMETIMES. IT DEPENDS.

5 **Q** OKAY. WHAT DID --

6 **A** WHEN SHE --

7 **Q** -- IT DEPEND ON?

8 **A** WHEN SHE WANTS TO. OR IF SHE DOESN'T WANT TO, WE

9 HAD TO DRY OFF, AIR DRY WITH THE FAN.

10 **Q** OKAY. AND HOW WOULD SHE DECIDE TO AIR DRY?

11 **A** WITH A FAN.

12 **Q** WHAT WOULD SHE -- WHAT WOULD MAKE HER DECIDE THAT?

13 **A** BECAUSE IF WE DIDN'T FINISH OUR SCHOOLWORK OR IF WE

14 HAD AN ACCIDENT ON OURSELF.

15 **Q** OKAY. AND -- UM -- NOW, THE SLEEPING ARRANGEMENTS,

16 YOU SAID THAT -- UM -- YOU WOULD SLEEP ON A BED IN THE LOFT,

17 RIGHT?

18 **A** YES.

19 **Q** AND THEN THERE WERE SOMETIMES, THOUGH, THAT YOU SAID

20 THAT YOU WOULD SLEEP ON BOARDS IN THE LOFT; IS THAT RIGHT?

21 **A** WELL -- UM -- YES, WE DID SLEEP ON BOARDS ON THE

22 LOFT, BUT WE SLEPT ON IT IN THE BEGINNING WHEN SHE GOT THE

23 BOARDS, WE SLEPT ON THAT. AND -- AND THEN WHEN SHE THEN WENT

24 ON VACATION TO OHIO, WE SLEPT ON THESE -- UM -- POP-UP BEDS,

25 AND THEN WHEN SHE CAME BACK, WE STARTED TO SLEEP BACK ON THE

1 BOARDS.

2 **Q** OKAY. YOU SAID THE BOARDS WERE BLUE BOARDS?

3 **A** YES.

4 **Q** OKAY. AND SO -- UM -- WERE THE BLUE BOARDS MADE OF

5 WOOD?

6 **A** YES.

7 **Q** OKAY. AND YOU SAID THAT YOUR NAMES WERE WRITTEN ON

8 EACH OF THESE BLUE BOARDS?

9 **A** YES.

10 **Q** OKAY. UM -- BUT -- UH -- YOU ALSO GOT TO SLEEP ON A

11 PULL-OUT COUCH?

12 **A** HMM, NO, IT WAS A POP-UP BED THAT SHE ORDERED.

13 **Q** A POP-UP BED.

14 **A** YES.

15 **Q** OKAY, I'M SORRY.

16 AND THIS POP-UP BED, WAS IT LIKE A -- A MATTRESS?

17 **A** IT HAD A MATTRESS, YES.

18 **Q** OKAY. AND ON THE BOARDS, WERE THERE A MATTRESS ON

19 THE BOARDS?

20 **A** NO.

21 **Q** NEVER A MATTRESS ON THE BOARDS?

22 **A** NO, THERE WAS NO MATTRESS, BUT SOMETIMES SHE WOULD

23 GIVE US TOWELS OR --

24 **Q** OKAY.

25 **A** -- OR A PILLOW.

1 **Q** OKAY. BUT YOU'RE SAYING, THOUGH, THAT THERE WAS
2 NEVER A MATTRESS ON THOSE BOARDS?
3 **A** NO.
4 **Q** OKAY. AND SO IT WASN'T LIKE THERE WAS A MATTRESS ON
5 THERE, AND ONE OF YOU HAD AN ACCIDENT, AND THEN THAT MATTRESS
6 HAD TO BE REMOVED TO BE AIRED OUT?
7 **A** NO.
8 **Q** OKAY.
9 **A** THERE WAS NO MATTRESS ON THERE.
10 **Q** GOT IT.
11 UH -- AND -- UH -- LET'S TALK ABOUT THE INJURY ON
12 YOUR SHOULDER -- UM -- THE MARK ON YOUR SHOULDER. DO YOU KNOW
13 HOW THAT WAS CAUSED?
14 **A** YES.
15 **Q** HOW WAS THAT CAUSED?
16 **A** BECAUSE WHEN I -- AFTER I WAS DONE CLEANING THE DOG
17 BATHROOM, I WASHED MY HANDS AND IT WAS REALLY HOT, AND THEN I
18 DRAGGED MY HANDS OUT OF IT. SO THEN I STARTED TO CRY, AND I
19 SAID, "IT'S HOT," AND THEN SHE PUT -- SHE SQUEEZED MY HANDS
20 AND THEN SHE PUT MY HANDS IN IT, AND THEN I KEPT SAYING, "IT'S
21 HOT."
22 AND THEN SHE -- WE HAD A CANDLE IN THERE, SO THEN
23 SHE TOOK THE LID OFF OF IT, AND THEN SHE FILLED IT UP WITH THE
24 HOT WATER, AND THEN SHE PUT -- SPLASHED IT ON MY FACE, AND
25 THEN I STARTED TO CRY EVEN MORE, AND THEN SHE SAID, "STOP

1 CRYING," AND I COULDN'T STOP CRYING BECAUSE IT WAS REALLY HOT.
2 SO THEN -- UM -- SHE WOULD PICK ME UP, AND THEN SHE
3 TRIED TO PUT MY WHOLE BODY IN IT, AND THEN I WAS LIKE
4 SQUIRMING AROUND, SO THEN IT LANDED ON MY SHOULDER AND MY EAR.
5 **Q** SHE TRIED TO PUT YOUR WHOLE BODY IN WHAT?
6 **A** THE SINK.
7 **Q** IN THE SINK? OKAY.
8 SO IT'S A NORMAL SINK WITH A FAUCET, RIGHT?
9 **A** YES.
10 **Q** OKAY. AND IS THIS A BATHROOM SINK, A KITCHEN SINK,
11 WHERE IS IT?
12 **A** BATHROOM SINK.
13 **Q** BATHROOM SINK, OKAY.
14 AND IN THAT BATHROOM, IS THERE ONE OR TWO SINKS?
15 **A** ONE.
16 **Q** OKAY. AND -- UM -- THE WATER TEMPERATURE, YOU SAID
17 IT WAS REALLY HOT?
18 **A** YES.
19 **Q** AND THAT YOU PULLED YOUR HANDS OUT, RIGHT?
20 **A** YES.
21 **Q** OKAY. AND THAT SHE TOOK THAT SAME WATER AND
22 SPLASHED IT ON YOUR FACE?
23 **A** YES.
24 **Q** AND THEN SHE ENDED UP TRYING TO PUT YOUR BODY IN,
25 AND PUTTING YOUR SHOULDER INTO THE WATER, AND THAT'S HOW IT

1 GOT BURNED?

2 **A** YES.

3 **Q** OKAY. WHY IS IT, THEN, THAT YOUR FACE DIDN'T GET

4 BURNED?

5 **A** BECAUSE I WAS LANDING ON SIDEWAYS.

6 **Q** OKAY. WHY ISN'T IT THAT YOUR HANDS GOT BURNED WHEN

7 YOUR HANDS WERE IN THE WATER?

8 **A** IT -- I HAVE LITTLE SPLINTERS WHERE IT GOT BURNED,

9 THEN IT HEALED.

10 **Q** OKAY. SO YOUR SHOULDER DIDN'T HEAL, BUT YOUR HANDS

11 DID HEAL, AND THEN YOU --

12 **A** BECAUSE MY HANDS, I ONLY PUT IT IN THERE FOR ONE

13 SECOND. LIKE I PUT MY HANDS IN THERE, AND THEN I JERKED IT

14 BACK OUT AS SOON AS I PUT MY HANDS IN THERE.

15 **Q** OKAY. BUT SHE THEN PUT YOUR HANDS IN AGAIN YOU

16 SAID?

17 **A** YEAH, BECAUSE SHE MADE ME.

18 **Q** OKAY. SO YOU PUT YOUR HANDS IN THERE TWICE?

19 **A** YES.

20 **Q** OKAY. UM -- HOW LONG WAS YOUR SHOULDER IN THE --

21 UH -- IN THE SINK?

22 **A** I DON'T KNOW, IT WAS FOR LONG BECAUSE SHE -- SHE WAS

23 MAD.

24 **Q** OKAY. AN HOUR?

25 **A** NO, NOT AN -- AN HOUR.

1 **Q** HOW LONG?

2 **A** ABOUT A MINUTE.

3 **Q** OKAY. SO YOUR SHOULDER WAS IN THERE FOR A MINUTE?

4 **A** YES.

5 **Q** AND WHAT WERE YOU DOING WHEN YOUR SHOULDER WAS IN

6 THERE?

7 **A** I WAS SQUIRMING AROUND BECAUSE SHE TRIED TO PUT MY

8 WHOLE BODY IN THERE.

9 **Q** AND HOW WERE YOU SQUIRMING AROUND?

10 **A** I WAS -- I WAS SQUIRMING AROUND. LIKE SHE PUT --

11 SHE WAS ABLE TO PICK ME UP, PUT ME ON THE -- UM -- COUNTER,

12 AND THEN I WAS -- SO THIS, THIS PART AND MY EAR WERE ON THIS

13 SIDE, SO -- SO THAT WAY THE WATER WAS ON IT.

14 **Q** OKAY. SO YOU'RE SAYING THAT -- UM -- IS IT YOUR

15 RIGHT OR LEFT SHOULDER?

16 **A** RIGHT.

17 **Q** OKAY. YOUR RIGHT SHOULDER.

18 IS IT YOUR RIGHT OR LEFT EAR?

19 **A** UH -- I BELIEVE RIGHT.

20 **Q** OKAY. AND SO SHE PUT YOUR RIGHT SHOULDER INTO THE

21 RUNNING WATER?

22 **A** YES.

23 **Q** OKAY. AND SO WAS WATER COMING DIRECTLY OUT OF THE

24 FAUCET?

25 **A** YES.

1 **Q** OKAY. WAS THERE WATER POOLED INSIDE THE SINK OR WAS
2 IT GOING DIRECTLY DOWN THE DRAIN?
3 **A** DIRECTLY -- DIRECTLY DOWN THE SINK.
4 **Q** OKAY. SO THE STOPPER WASN'T STOPPED UP SO WATER
5 WOULD COLLECT?
6 **A** NO.
7 **Q** OKAY. AND SO SHE HELD YOU UNDER THAT FAUCET FOR A
8 MINUTE?
9 **A** YES.
10 **Q** AND THEN THAT WAS YOUR SHOULDER. WHEN SHE WAS
11 HOLDING YOU UNDER THE FAUCET, WAS IT YOUR SHOULDER AND EAR?
12 **A** YES.
13 **Q** OKAY. AND SO SHE WAS ABLE TO GET YOUR SHOULDER AND
14 EAR INSIDE THAT SINK AREA WHERE THE FAUCET WAS COMING DOWN?
15 **A** YES.
16 **Q** OKAY. AND THAT'S HOW YOU GOT BURNED ON YOUR --
17 BEHIND YOUR EAR --
18 **A** YES.
19 **Q** -- RIGHT? AND ON YOUR SHOULDER?
20 **A** YES.
21 **Q** BUT NOT ON YOUR NECK?
22 **A** NO.
23 **Q** NOT ON THE UPPER PART OF YOUR SHOULDER, RIGHT?
24 **A** YES.
25 **Q** NOT ON YOUR ARM?

1 **A** YES.

2 **Q** SO ONLY ON THAT SPOT ON YOUR SHOULDER, RIGHT?

3 **A** YES.

4 **Q** OKAY. AND THAT'S WHERE YOU GOT BURNED FROM?

5 **A** YES.

6 **Q** OKAY. AND IT WASN'T A SHOWER THAT YOU GOT BURNED

7 FROM, WAS IT?

8 **A** NO.

9 **Q** IT WAS THE SINK?

10 **A** YES.

11 **Q** OKAY. AND -- UM -- DO YOU KNOW ABOUT WHEN THIS

12 HAPPENED?

13 **A** I DON'T KNOW.

14 **Q** DO YOU KNOW WHAT YEAR?

15 **A** UM -- I THINK IN 2012 OR '13.

16 **Q** OKAY. UM -- AND DO YOU KNOW WAS IT WARM OR COLD

17 OUTSIDE? YOU HAD JUST GOTTEN BACK IN FROM CLEANING UP FROM

18 THE DOG, RIGHT?

19 **A** YEAH.

20 **Q** SO WAS IT WARM OR COLD OUTSIDE?

21 **A** IT WAS ABOUT LIKE -- IT WAS A LITTLE WARM, BUT A

22 LITTLE COLD BREEZE AT THE SAME TIME.

23 **Q** OKAY. AND DO YOU KNOW WHAT TIME OF YEAR IT WAS?

24 **A** NO.

25 **Q** A SEASON?

1 **A** NO.

2 **Q** OKAY. SO FALL, WINTER?

3 **A** I CAN'T REMEMBER.

4 **Q** OKAY. UM -- IS THERE A REASON YOU CAN'T REMEMBER

5 WHEN IT HAPPENED?

6 **MS. BLUTH:** OBJECTION.

7 **MR. MANN:** WHAT'S THE OBJECTION?

8 **MS. BLUTH:** IS THERE A REASON YOU CAN'T REMEMBER? I MEAN

9 IT'S VAGUE. HOW -- IF YOU DON'T REMEMBER SOMETHING, HOW DO

10 YOU HAVE A REASON YOU DON'T REMEMBER SOMETHING.

11 **MR. MANN:** WELL --

12 **THE COURT:** WELL, THAT'S TRUE, BUT --

13 **MR. MANN:** IT OBVIOUSLY WAS A VERY SPECIFIC EVENT. I'M

14 JUST CURIOUS IF SHE CAN'T REMEMBER THE TIME, WHY SHE CAN'T

15 REMEMBER THE TIME.

16 **THE COURT:** DO YOU KNOW WHY YOU CAN'T REMEMBER?

17 **THE WITNESS:** IT WAS IN THE MORNING, AND IT WAS -- I

18 DON'T KNOW. IT WAS ON WEDNESDAY, BECAUSE I HAD TO CLEAN --

19 BECAUSE IT WAS IN THE MORNING BECAUSE THE TRASHMAN COMES ON

20 WEDNESDAY AND, I BELIEVE, FRIDAY.

21 **THE COURT:** OKAY.

22 **BY MR. MANN:**

23 **Q** SO IT WAS ON A WEDNESDAY BECAUSE THE TRASHMAN COMES

24 ON WEDNESDAY --

25 **A** YES.

1 **Q** -- AND FRIDAY?

2 **A** YES.

3 **Q** OKAY. AND IS THERE A REASON THAT YOU RELATE THE

4 SINK STORY TO THE TRASHMAN?

5 **A** I REMEMBER THAT BECAUSE SHE SAID GET UP BECAUSE I

6 HAVE TO CLEAN THE DOG BATHROOM. AND IT WAS ON A WEDNESDAY

7 MORNING BECAUSE SHE SAID THAT BEFORE THE TRASHMAN COME.

8 **Q** OKAY. AND THE TRASHMAN --

9 **A** THAT'S HOW I REMEMBER.

10 **Q** AND THE TRASHMAN COMES ON WEDNESDAY?

11 **A** YES.

12 **Q** AND THAT'S WHY YOU HAD TO CLEAN UP THE DOG STUFF?

13 **A** YES.

14 **Q** ALL RIGHT. NOW -- UM -- DID YOU EVER SEE A -- A

15 DOCTOR ABOUT YOUR SHOULDER OR EAR?

16 **A** NO.

17 **Q** NO, YOU NEVER?

18 **A** NO.

19 **Q** DID YOU EVER POINT IT OUT TO ANYBODY?

20 **A** POINT WHAT OUT?

21 **Q** THAT -- YOUR INJURY?

22 **A** YES.

23 **Q** WHO DID YOU POINT IT OUT TO?

24 **A** YOU GUYS.

25 **Q** OKAY. ANYONE ELSE BESIDES US?

1 **A** NO.

2 **Q** OKAY. UM -- AND DID YOU GO TO THE DOCTOR AFTER THIS

3 FOR ANY REASON?

4 **A** NO.

5 **Q** OKAY. SO AFTER CLEANING UP THE DOG STUFF ON A

6 WEDNESDAY IN EITHER 2012 OR 2013, YOU DID NOT GO TO THE DOCTOR

7 AFTER THAT?

8 **A** NO, SHE PUT STUFF ON IT.

9 **Q** OKAY. WHAT DID SHE PUT ON IT?

10 **A** I DON'T KNOW.

11 **Q** AND WHY DOES PUTTING STUFF ON IT MEAN SOMETHING?

12 WHAT DID SHE -- WHAT WAS IT SUPPOSED TO DO?

13 **A** IT -- IT -- IT MAINLY HEALED MY EAR, BECAUSE IT'S

14 NOT LIKE I'M GOING TO GO OUT WITH MY SHIRT OFF AND GO INTO THE

15 STORE OUTSIDE, SO -- AND SHE DIDN'T HEAL -- IT -- YOU -- IT

16 HEALED MORE ON MY EAR, BECAUSE IF I WALKED OUT OUTSIDE, PEOPLE

17 COULD TELL.

18 **Q** SO ARE YOU SAYING THAT SHE ONLY PUT THE STUFF ON

19 YOUR EAR AND NOT ON YOUR SHOULDER?

20 **A** IT DIDN'T REAL HEAL -- REALLY HEAL ON MY SHOULDER,

21 BUT IT REALLY HEALED ON MY EAR.

22 **Q** WELL, DID SHE PUT IT ON BOTH EAR AND SHOULDER?

23 **A** NOT BOTH EAR, BUT I -- SHE DID PUT IT ON MY EAR, THE

24 RIGHT SIDE OF MY EAR WHERE IT GOT BURNED, AND THE SIDE -- THE

25 RIGHT SIDE OF MY BACK WHERE I GOT BURNED.

1 **Q** OKAY. THANK YOU FOR MAKING THAT CLEAR.

2 UM -- AND -- UH -- HOW OFTEN WOULD SHE PUT THIS

3 STUFF ON?

4 **A** ABOUT LIKE EVERY DAY IN THE MORNING AFTER I TAKE MY

5 SHOWER.

6 **Q** OKAY. AND DO YOU KNOW HOW LONG SHE WOULD DO THAT

7 FOR?

8 **A** I DON'T KNOW.

9 **Q** HOW MANY DAYS?

10 **A** HMM, PROBABLY ABOUT FIVE DAYS.

11 **Q** FIVE DAYS?

12 AND WHAT WAS IT, WAS IT A WHITE CREAM -- UH --

13 CLEAR, WHAT DID IT LOOK LIKE?

14 **A** I CAN'T REMEMBER, BUT I KNOW -- UM -- SHE PUT SOME

15 BANDAGE ON -- I MEAN BANDAGE, AND SHE WRAPPED IT UP.

16 **Q** OKAY. AND THAT'S ON YOUR EAR SHE DID THAT AS WELL?

17 **A** YES. AND THEN SHE TOOK A PIECE -- SHE RIPPED A PART

18 OF THE BANDAGE OFF, AND SHE PUT IT ON MY -- UM -- BACK.

19 **Q** OKAY. AND SO YOU WOULD -- DURING THOSE FIVE DAYS,

20 YOU WOULD HAVE A BANDAGE ON YOUR EAR?

21 **A** YES.

22 **Q** OKAY. AND THAT BANDAGE, WAS IT A WHITE BANDAGE, OR

23 WAS IT JUST A BAND-AID, WHAT WAS IT?

24 **A** I BELIEVE A WHITE BAN -- BANDAGE.

25 **Q** OKAY. SO IT WAS A WHITE BANDAGE THAT WAS ON YOUR

1 EAR, AND YOU HAD IT FOR FIVE DAYS WHEN THIS WAS GOING ON?
2 **A** YES.
3 **Q** OKAY. AND DURING THAT TIME WERE YOUR SISTERS HOME?
4 **A** YES.
5 **Q** OKAY. AND SO DID YOUR SISTERS SEE YOUR BANDAGE?
6 **A** I DON'T KNOW, BECAUSE IT'S -- I DON'T KNOW IF THEY
7 LOOKED AT ME, I DON'T KNOW WHAT THEY --
8 **Q** OKAY.
9 **A** -- WHAT THEY'RE DOING.
10 **Q** SO YOU DON'T KNOW.
11 UM -- DO YOU KNOW IF ANYONE ELSE SAW YOUR BANDAGE?
12 **A** PROBABLY MR. DWIGHT.
13 **Q** OKAY. ALL RIGHT.
14 DID YOU GO OUTSIDE DURING THIS TIME?
15 **A** I DON'T BELIEVE SO.
16 **Q** OKAY. SO FOR THE FIVE DAYS YOU DIDN'T GO OUTSIDE?
17 **A** NO, BECAUSE SHE -- WE -- WE DIDN'T REALLY GO
18 OUTSIDE.
19 **Q** OKAY. EXCEPT FOR TO CLEAN UP THE DOG STUFF?
20 **A** YEAH.
21 **Q** ALL RIGHT. AND -- UM -- NOW -- UM -- YOU'VE
22 EXPERIENCED TIMES WHERE -- UH -- AMAYA HAS LIED, RIGHT?
23 **A** YEAH.
24 **Q** UM -- AMAYA HAS LIED ABOUT HER HAVING A SEIZURE?
25 **A** SHE HAD A SEIZURE ONCE.

1 **Q** OKAY. WAS THERE A TIME THAT SHE TOLD MR. DWIGHT
2 THAT SHE WAS HAVING A SEIZURE, AND MR. DWIGHT CALLED 9-1-1?
3 **A** YES.
4 **Q** OKAY. AND THAT WASN'T TRUE, THOUGH?
5 **A** I DON'T KNOW.
6 **Q** YOU DON'T KNOW IF IT WAS TRUE OR NOT?
7 **A** I DON'T REALLY PAY ATTENTION TO HER. ALL I KNOW I
8 CAN -- WHEN WE -- WHEN SHE LEAVES US IN THE BATHROOM AND SHE'S
9 GOING OUT SOMEWHERE, SHE -- WE TALK TO EACH OTHER, BUT I CAN'T
10 DEFINE -- I CAN'T SAY, OH, SHE WAS LYING OR OH, SHE WAS
11 TELLING THE TRUTH.
12 **Q** OKAY. AND SO -- UM -- WHEN YOU SAY "SHE," YOU'RE
13 TALKING ABOUT AMAYA?
14 **A** YES.
15 **Q** OKAY. AND SO THIS TIME WHERE THEY CALLED 9-1-1
16 BECAUSE THEY THOUGHT THAT SHE WAS HAVING A SEIZURE, YOU DON'T
17 KNOW IF SHE WAS ACTUALLY HAVING A SEIZURE OR NOT?
18 **A** NO.
19 **Q** YOU NEVER TOLD --
20 **A** BECAUSE I DON'T --
21 **Q** YOU NEVER --
22 **A** I DON'T KNOW SYMPTOMS OF A SEIZURE.
23 **Q** OKAY. YOU --
24 **A** I DON'T KNOW HOW A SEIZURE LOOKS LIKE.
25 **Q** AND YOU NEVER TOLD MR. DWIGHT, ONCE HE WAS CALLING

1 9-1-1 THAT, NO, SHE'S -- SHE'S NOT REALLY HAVING A SEIZURE?

2 **A** NO, BECAUSE I DON'T KNOW IF SHE WAS REALLY HAVING A

3 SEIZURE OR NOT.

4 **Q** OKAY. AND -- UM -- YOU GUYS -- UM -- DO YOU KNOW

5 WHY -- UM -- AMAYA WAS PRETENDING TO HAVE A SEIZURE?

6 **A** I DON'T KNOW. BUT ALL I KNOW THAT WE -- SHE DIDN'T

7 LIKE IT THERE.

8 **Q** OKAY. AND SO SHE DIDN'T LIKE IT THERE, SO THAT'S

9 WHY SHE WAS PRETENDING TO HAVE A SEIZURE?

10 **A** I DON'T KNOW WHY SHE WAS PRETENDING TO HAVE -- HAVE

11 A SEIZURE.

12 **Q** OKAY.

13 **MS. BLUTH:** ONE SECOND, OKAY?

14 MY OBJECTION IS TO ASKED AND ANSWERED.

15 **THE COURT:** SUSTAINED.

16 **MS. BLUTH:** THANK YOU.

17 **BY MR. MANN:**

18 **Q** ALL RIGHT. AND SO -- UM -- THERE WERE OTHER TIMES

19 THAT YOU EXPERIENCED AMAYA LYING, RIGHT?

20 **A** YES.

21 **Q** OKAY. AND THAT THERE WERE TIMES THAT YOU'VE LIED AS

22 WELL, RIGHT?

23 **A** YES.

24 **Q** UM -- IN FACT, THERE WAS A -- A SHEET ON -- ON THE

25 REFRIGERATOR THAT MARKED DIFFERENT GOOD POINTS AND BAD POINTS

1 THAT EACH OF YOU WERE HAVING, RIGHT?

2 **A** YES.

3 **Q** OKAY. AND THERE WAS A TIME WHERE -- UM -- YOU WERE

4 ACTUALLY DOING BETTER THAN AVA, RIGHT?

5 **A** YES.

6 **Q** AND AVA GOT MAD AT YOU, RIGHT?

7 **A** YEAH, I CAN SAY SO.

8 **Q** OKAY.

9 **A** JEALOUS.

10 **Q** AND THEN AVA DID SOMETHING TO YOU, RIGHT?

11 **A** YES.

12 **Q** OKAY. AND THAT THEN AVA WAS PUNISHED FOR THAT,

13 RIGHT?

14 **A** YES.

15 **Q** OKAY. AND DID YOU GET BACK AT AVA AS WELL?

16 **A** I CAN'T REMEMBER. ALL I -- ALL I REMEMBER IS THAT

17 SHE -- MISS JANET SAID THAT SHE WAS TAKING STARS OFF, AND SHE

18 WAS -- SHE -- UM -- SHE WAS SAYING SOMETHING THAT AVA WAS

19 TRYING TO ACT BETTER AND TELLING EVERYTHING THAT I DID IN THE

20 PAST.

21 **Q** OKAY. AND WHAT KIND OF THINGS WAS AVA SAYING ABOUT

22 YOU DOING IN THE PAST?

23 **A** I DON'T KNOW. I CAN'T REMEMBER.

24 **Q** OKAY.

25 **A** THAT WAS LIKE YEARS AGO.

1 **Q** OKAY. HOW MANY YEARS AGO DO YOU THINK THAT WAS?
2 **A** WHEN WE -- WHEN SHE FIRST GOT US.
3 **Q** OKAY. SO BEFORE YOU WERE ADOPTED?
4 **A** YES.
5 **Q** OKAY. SO WHEN YOU WERE STILL FOSTERING AT THE
6 SOLANDERS?
7 **A** YES.
8 **Q** OKAY. AND -- UM -- YOU -- LET'S TALK ABOUT THE
9 CATHETER, OKAY?
10 **A** YES.
11 **Q** YOU SAID THAT -- UH -- THAT MISS JANET PUT A
12 CATHETER IN YOU THREE DIFFERENT TIMES?
13 **A** YES.
14 **Q** OKAY. YOU SAID ONE TIME IN THE -- YOUR/AMAYA'S, AN
15 OLD BEDROOM?
16 **A** YES.
17 **Q** ONE TIME IN THE BATHROOM?
18 **A** YES.
19 **Q** AND ONE TIME IN THE LOFT?
20 **A** YES.
21 **Q** AND THAT YOU FOUGHT MISS JANET EVERY TIME THAT
22 HAPPENED?
23 **A** YES, BECAUSE IT HURT.
24 **Q** OKAY. NOW, HOW WOULD YOU FIGHT MISS JANET?
25 **A** I WOULD KEEP MOVING.

1 **Q** OKAY. FLAILING YOUR ARMS?

2 **A** NO.

3 **Q** SO YOU WOULDN'T BE MOVING YOUR ARMS?

4 **A** NO.

5 **Q** WHAT ABOUT YOUR LEGS? MOVING YOUR LEGS?

6 **A** YES, I WAS MOVING MY LEGS.

7 **Q** OKAY. WERE YOU KICKING MISS JANET?

8 **A** NO.

9 **Q** OKAY. SO YOU WERE JUST MOVING YOUR LEGS AND NOT

10 KICKING HER?

11 **A** I WAS SQUIRMING MY LEGS AROUND, NOT CLICKING --

12 KICKING HER.

13 **Q** OKAY. AND SO MISS JANET HAD THE -- THE CATHETER IN

14 HER HAND, RIGHT?

15 **A** YES.

16 **Q** OKAY. DID SHE HOLD YOU DOWN AT ALL?

17 **A** YES, SHE DID.

18 **Q** HOW DID SHE HOLD YOU DOWN?

19 **A** SHE -- SHE KEPT MY LEGS DOWN, AND THEN WITH ONE HAND

20 IN THE -- AND WHILE SHE'S -- WHILE SHE'S DOING WITH THE OTHER

21 HAND WITH -- WITH A NEEDLE.

22 **Q** OKAY. YOU SAY A NEEDLE. WHAT -- WHAT DID THAT

23 NEEDLE LOOK LIKE?

24 **A** A NORMAL NEEDLE. I DON'T KNOW.

25 **Q** CAN YOU DRAW IT FOR ME?

1 **A** I DON'T KNOW HOW IT LOOKS LIKE. ALL I KNOW IS IT
2 WAS A NEEDLE.
3 **Q** SO YOU DREW THE RAZOR BLADE, RIGHT?
4 **A** YEAH, THAT WAS A RAZOR BLADE.
5 **Q** OKAY. CAN YOU DRAW THE NEEDLE FOR ME?
6 **A** I DON'T KNOW HOW THE NEEDLE LOOKS LIKE.
7 **Q** OKAY. SO --
8 **THE COURT:** SO IS THAT A NO, YOU CAN'T DRAW IT?
9 **THE WITNESS:** NO.
10 **THE COURT:** OKAY.
11 **MR. MANN:** OKAY.
12 **Q** SO DO YOU REMEMBER WHAT IT LOOKS LIKE, AND YOU JUST
13 CAN'T DRAW IT?
14 **A** I KNOW THERE WAS A LITTLE TUBE AND A BAG, BUT I'M
15 SUGGESTING IT WAS A NEEDLE BECAUSE IT FELT LIKE ONE --
16 **Q** OKAY.
17 **A** -- GOING UP ME.
18 **Q** SO YOU DIDN'T SEE A NEEDLE NOW, YOU'RE SAYING THAT
19 YOU JUST --
20 **A** YES.
21 **Q** -- FELT LIKE A NEEDLE?
22 **A** YES.
23 **Q** OKAY. ALL RIGHT. AND WHEN -- UH -- SHE WAS HOLDING
24 YOUR LEGS DOWN, HOW WOULD SHE HOLD YOUR LEGS DOWN?
25 **A** WITH ONE HAND, SHE'LL PUT -- SHE'LL HOLD MY FEET

1 DOWN, AND WITH THE OTHER SHE'S PUTTING THE NEEDLE IN.

2 **Q** OKAY. SO SHE WOULD BE HOLDING BOTH FEET DOWN WITH

3 ONE LEG -- WITH ONE HAND?

4 **A** NO. WITH ONE HAND, AND THE OTHER -- WITH ONE HAND

5 THAT IS ON, WHATEVER HAND SHE CAN GET TO, THAT CAN -- WHATEVER

6 HAND THAT SHE CAN -- IS AVAILABLE TO TOUCH WITH MY LEG, SHE

7 DID IT.

8 **Q** OKAY. SO WOULD THERE BE ONE LEG FREE?

9 **A** YES. AND I KEPT STILL BECAUSE SHE FINALLY PUT IT

10 IN.

11 **Q** OKAY. SO YOU HAD -- SHE HAD ONE HAND ON ONE LEG AND

12 DIDN'T HAVE A HAND ON THE OTHER LEG, AND THEN SHE PUT THE

13 CATHETER IN YOU?

14 **A** YES.

15 **Q** OKAY. AND WHAT PART OF YOUR BODY DID SHE PUT THE

16 CATHETER IN YOU?

17 **A** IN MY PRIVATE.

18 **Q** OKAY. AND WHAT'S THAT PART OF YOUR BODY CALLED?

19 **A** MY PRIVATE PART.

20 **Q** OKAY. DO YOU HAVE -- IS THERE A MORE SPECIFIC NAME

21 FOR THAT PART OF YOUR BODY?

22 **A** YES, BUT I DON'T REALLY LIKE TO SAY IT.

23 **Q** OKAY. CAN YOU SAY IT FOR ME TODAY, PLEASE?

24 **A** COOKIE.

25 **Q** COOKIE?

1 **A** YES.

2 **Q** OKAY. AND -- UM -- THAT'S WHAT SHE STUCK THE

3 CATHETER IN?

4 **A** YES.

5 **Q** OKAY. AND -- UM -- LET'S TALK ABOUT THIS -- WELL,

6 SO THAT FIRST TIME THAT SHE STUCK THE CATHETER IN, WHERE WAS

7 THAT?

8 **THE COURT:** WHERE WAS THAT? WHAT DO YOU MEAN WHERE WAS

9 THAT?

10 **MR. MANN:** I'M SORRY, WHAT ROOM WAS THAT IN.

11 I APOLOGIZE, JUDGE.

12 **THE WITNESS:** I BELIEVE IN THE -- IN ME AND AMAYA'S OLD

13 ROOM.

14 **BY MR. MANN:**

15 **Q** OKAY. DO YOU KNOW WHEN THIS OCCURRED?

16 **A** WHAT DO YOU MEAN?

17 **Q** WHAT TIME OF YEAR? WHAT TIME OF DAY?

18 **A** NO --

19 **Q** ANYTHING?

20 **A** -- I DO NOT.

21 **Q** OKAY. AND -- UM -- WHY DO YOU SAY YOURS AND AMAYA'S

22 OLD BEDROOM?

23 **A** BECAUSE ME AND AMAYA SHARED THE BEDROOM.

24 **Q** OKAY. WHERE WAS THIS ROOM? WAS THIS THE HOUSE THAT

25 HAD TWO STORIES OR A HOUSE --

1 **A** YES.

2 **Q** -- WITH ONE STORY?

3 **A** TWO STORY.

4 **Q** OKAY. AND SO WAS YOU -- YOUR BEDROOM -- UM -- WITH

5 AMAYA, WAS THAT UPSTAIRS OR DOWNSTAIRS?

6 **A** UPSTAIRS.

7 **Q** OKAY. AND WAS THIS THE ROOM THAT YOU SLEPT IN A LOT

8 OR JUST AT ONE POINT?

9 **A** LIKE WHEN WE FIRST CAME, WHEN SHE -- WHEN WE FIRST

10 CAME IN, WE SLEPT IN IT, BUT, YES, AT ONE POINT.

11 **Q** OKAY.

12 **A** WE DIDN'T SLEEP IN IT A LOT -- A LOT.

13 **Q** OKAY. AND THEN YOU WERE MOVED?

14 **A** YES.

15 **Q** AND WHERE WERE YOU MOVED TO?

16 **A** UM -- TO THE LOFT.

17 **Q** OKAY. AND IS THAT WHERE YOU SLEPT WITH AMAYA AND A

18 AVA?

19 **A** YES.

20 **Q** OKAY. AND SO WHEN IT WAS IN YOUR BEDROOM, HOW

21 WOULD -- HOW WOULD THAT WHOLE INCIDENT START? HOW WOULD SHE

22 BRING YOU UP TO THAT ROOM?

23 **A** SHE -- WHEN WE FIRST MOVED IN IT WAS -- SHE PUT THE

24 BEDS IN AND SHE PUT AVA'S BUNK BEDS IN, TOO.

25 **Q** OKAY. SORRY, LET ME BE A LITTLE MORE CLEAR,

1 ANASTASIA.

2 WHEN SHE PUT THE CATHETER IN YOU IN THAT ROOM, HOW

3 DID THAT INCIDENT START? HOW DID THAT HAPPEN?

4 **A** LIKE THE REASON?

5 **Q** DID SHE BRING YOU UP INTO THAT ROOM?

6 **A** YES.

7 **Q** OR WERE YOU ALREADY UPSTAIRS?

8 **A** SHE BRUNG ME UP THERE.

9 **Q** OKAY. AND WHY DID SHE BRING YOU UPSTAIRS?

10 **A** BECAUSE SHE WAS ABOUT TO -- SHE WAS ABOUT TO GIVE ME

11 THE CATHETER.

12 **Q** DO YOU KNOW WHY SHE WAS GIVING YOU THE CATHETER?

13 **A** I CAN'T REMEMBER.

14 **Q** OKAY. SO WAS THERE A REASON THAT SHE WOULD GIVE YOU

15 A CATHETER NORMALLY?

16 **A** EITHER WHEN I HAD AN ACCIDENT OR WHEN WE HADN'T --

17 WHEN WE HADN'T HAD -- WHEN WE DIDN'T GO TO THE BATHROOM LIKE

18 PRACTICALLY THE WHOLE DAY.

19 **Q** OKAY. SO IF YOU HADN'T GONE TO THE BATHROOM THE

20 WHOLE DAY, SHE WOULD THEN PUT THE CATHETER IN YOU?

21 **A** YEAH, BECAUSE SHE SAYS THAT SHE'S -- SHE'S PLAYING

22 GAMES AND SHE'S -- SHE'S TRYING TO PEE ON HERSELF ON PURPOSE,

23 AND I'M NOT, AND I DIDN'T EVEN HAVE TO GO.

24 **Q** OKAY. AND SO WHEN SHE PUT THE CATHETER IN YOU, DID

25 ANYTHING COME OUT?

1 **A** NO, NOT REALLY.

2 **Q** NOT REALLY?

3 **A** ONLY LIKE -- ONLY LIKE A LITTLE BIT WHEN -- WHEN --
4 AND WHEN WE HAD ACCIDENTS, SHE'LL PUT IT IN, AND THEN I'LL
5 FINISH DOING WHAT I HAD TO DO.

6 **Q** OKAY. SO YOU'D HAVE AN ACCIDENT, AND THEN SHE'D PUT
7 THE CATHETER IN, AND THEN YOU'D KEEP GOING --

8 **A** YES.

9 **Q** -- INSIDE THE CATHETER?

10 **A** YES. I'LL -- I'LL HAVE -- I'LL BEGIN TO BE PEEING
11 ON MYSELF, AND THEN SHE'LL -- I'LL TRY TO HOLD IT IN WHILE I'M
12 WALKING UPSTAIRS, SHE WILL PUT ME DOWN, AND I'LL LET IT --
13 I'LL DO THE REST IN THE BAG.

14 **Q** OKAY. AND WHY WOULD YOU PEE ON YOURSELF IF YOU
15 COULD JUST GO TO THE BATHROOM?

16 **A** BECAUSE WHENEVER -- SOMETIMES WHEN I ASKED TO GO TO
17 THE BATHROOM SHE'LL GET MAD BECAUSE IF WE -- IF WE HAD TO GO
18 TO THE BATHROOM A LOT, WE HAD TO GO TO THE BATHROOM A LOT.

19 **Q** OKAY.

20 **A** IT'S NOT MY FAULT I HAVE TO GO TO THE BATHROOM A
21 LOT.

22 **Q** OKAY. SO IT'S AT THAT TIME THAT YOU WOULD THEN HAVE
23 AN ACCIDENT BECAUSE YOU HAD TO GO TO THE BATHROOM A LOT?

24 **A** YES. AND SHE'LL -- LIKE SHE'LL SAY, "NO, YOU DON'T.
25 YOU'RE TRYING TO JUST WASTE MY TIME." AND SHE'LL SAY, "YOU'RE

1 PLAYING GAMES WITH ME."

2 **Q** OKAY. BUT YOU WEREN'T PLAYING GAMES?

3 **A** NO.

4 **Q** YOU WERE BEING SERIOUS?

5 **A** YES. BECAUSE IF I HAVE TO GO, I HAVE TO GO. IT'S

6 NOT WHAT I'M NOT SUPPOSED TO DO.

7 **Q** RIGHT. AND SO YOU KNEW TO ASK IF YOU HAD TO GO,

8 RIGHT?

9 **A** YES, AND I ASKED.

10 **Q** OKAY. AND -- UM -- THAT'S THE SAME FOR THE TIME

11 THAT THE CATHETER WAS PUT IN YOU IN THE BATHROOM?

12 **A** THERE'S MANY TIMES WHEN SHE PUT IT IN THE BATHROOM.

13 **Q** OKAY. NOW, YOU -- YOU HAD SAID THAT THE CATHETER

14 ONLY WENT IN YOU THREE TIMES, ON DIRECT EXAMINATION WHEN MISS

15 BLUTH -- OR I'M SORRY -- YEAH, MISS BLUTH WAS ASKING YOU

16 QUESTIONS.

17 **MS. BLUTH:** YOUR HONOR, OBJECTION. THAT MISSTATES HER

18 TESTIMONY. I ASKED IN HOW MANY ROOMS IT HAPPENED, I DIDN'T

19 ASK TIMES.

20 **MR. MANN:** ACTUALLY, SHE SPECIFICALLY ASKED HOW MANY

21 TIMES.

22 **THE COURT:** WELL, I -- SHE MAY HAVE ASKED HOW MANY TIMES.

23 I THINK IT MISSTATES THE TESTIMONY IN THAT YOU USED THE TERM

24 "ONLY." I DON'T THINK THAT WAS THE TESTIMONY.

25 **MR. MANN:** OKAY.

1 CASE NO. C299737A
C299737B
2 C299737C

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

4 CLARK COUNTY, STATE OF NEVADA

5

6 STATE OF NEVADA,)
)
7 PLAINTIFF,)
) CASE NO. 14F04585A
8 VS.) 14F04585B
) 14F04585C
9 DWIGHT SOLANDER,)
DANIELLE HINTON,)
10 JANET SOLANDER,)
DEFENDANTS,)
11 _____)

12

13 REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING

14 BEFORE THE HONORABLE DIANA L. SULLIVAN, JUSTICE OF THE PEACE

15 WEDNESDAY, JULY 23, 2014

16 1:32 O'CLOCK P.M.

17

18 FOR THE PLAINTIFF: JACQUELINE ELIZABETH BLUTH,
ELISSA LUZAICH,
19 DEPUTY DISTRICT ATTORNEYS

20 FOR DEFENDANT D. SOLANDER: CRAIG A. MUELLER, ESQ.

21 FOR DEFENDANT HINTON: JEFFREY T. RUE,
DEPUTY PUBLIC DEFENDER

22

23 FOR DEFENDANT J. SOLANDER: JOEL MANN, ESQ.

24 REPORTED BY: KIT MACDONALD, C.S.R.
CERTIFICATE NO. 65

25

1 LAS VEGAS, CLARK COUNTY, NEVADA, WEDNESDAY, JULY 23, 2014

2

3 1:32 O'CLOCK A.M.

4

5 * * * * *

6

7 **THE COURT:** THIS IS THE DATE AND TIME SET FOR CLOSING

8 ARGUMENTS ON THE PRELIMINARY HEARING OF DWIGHT SOLANDER,

9 DANIELLE HINTON, AND JANET SOLANDER, CASE 14F04585A, B, AND C.

10 IS EVERYBODY READY TO PROCEED?

11 **MS. BLUTH:** YES, YOUR HONOR.

12 **THE COURT:** OKAY. YOU WANT TO COME UP AND --

13 **MR. RUE:** YES, JUDGE. JEFF RUE ON BEHALF OF DANIELLE

14 HINTON, WHO'S PRESENT, AT LIBERTY.

15 **THE COURT:** OKAY.

16 **MR. RUE:** I WAS -- I WAS GOING TO PROPOSE THAT DANIELLE

17 JUST SIT BACK THERE.

18 **THE COURT:** THAT'S FINE. TO AVOID THE CROWDEDNESS?

19 **MR. RUE:** RIGHT.

20 **THE COURT:** THAT'S FINE.

21 **MR. MANN:** ALL RIGHT. GOOD AFTERNOON, YOUR HONOR, JOEL

22 MANN ON BEHALF OF JANET SOLANDER, WHO'S PRESENT, IN CUSTODY.

23 **MR. MUELLER:** GOOD MORNING, YOUR HONOR. CRAIG MUELLER ON

24 BEHALF OF DWIGHT SOLANDER. HE IS PRESENT, OUT OF CUSTODY.

25 **THE COURT:** ALL RIGHT.

1 **MR. MUELLER:** UM -- I HATE TO ADMIT THIS, BUT THE MOST
2 COMFORTABLE CHAIRS IN YOUR COURTROOM APPEAR TO BE THE ONES IN
3 CUSTODY CHAIRS, HAVING SAT THERE FOR A COUPLE HOURS NOW.
4 DO YOU WANT TO -- CAN WE ADDRESS THE COURT FROM HERE, OR
5 JUST GO OVER AND SIT OVER THERE ANYWAY?
6 **THE COURT:** WELL, I PREFER YOU COME UP TO THE BAR, BUT --
7 **MR. MUELLER:** OKAY.
8 **THE COURT:** I DON'T CARE WHERE YOU SIT, BUT YOU SHOULD
9 PROBABLY SIT PAST THE BAR.
10 **MR. MUELLER:** OKAY, I'LL DO THAT. WE'RE READY TO GO,
11 JUDGE.
12 **THE COURT:** OKAY. MISS BLUTH, YOU ARE UP.
13 **MS. BLUTH:** OKAY, JUDGE. UM -- I JUST WANT TO MAKE A
14 RECORD THAT I HAD SENT TO YOUR HONOR THREE DOCUMENTS VIA
15 E-MAIL. YOU RECEIVED ALL THREE, CORRECT?
16 **THE COURT:** I DID. THE ONLY ONE I REVIEWED, CANDIDLY,
17 WAS THE PROPOSED AMENDED CRIMINAL COMPLAINT THAT HAD WHAT I
18 CALL REDLINED VERSIONS IN THEM AND CITATIONS TO THE RECORD.
19 **MS. BLUTH:** OKAY.
20 **THE COURT:** OKAY.
21 **MS. BLUTH:** AND THEN I ALSO FORWARDED ALL THREE DOCUMENTS
22 TO DEFENSE COUNSEL.
23 EVERYBODY RECEIVED THOSE, CORRECT?
24 **MR. RUE:** YES, YOUR HONOR.
25 **MR. MANN:** YES.

1 **MR. MUELLER:** YES.

2 **MS. BLUTH:** EVERYBODY IS SHAKING THEIR HEAD YES, SO I'M
3 GOING TO RESERVE FOR REBUTTAL BECAUSE MY -- I MEAN I DON'T
4 HAVE MUCH MORE THAN WHAT WAS CONTAINED IN THAT AMENDED WITH
5 THE TESTIMONY CITED.

6 **THE COURT:** NO, AND I -- I APPRECIATE THAT. I --
7 OBVIOUSLY YOU DID A LOT OF WORK BY GOING THROUGH THE RECORD,
8 AND I -- IT CERTAINLY MADE THE COURT'S JOB EASIER, AND
9 PROBABLY DEFENSE COUNSEL EASIER TO KNOW WHAT YOUR ARGUMENTS
10 WERE.

11 **MS. BLUTH:** ALL RIGHT.

12 **THE COURT:** SO SHE'S RESERVING.

13 SO HOW ABOUT MR -- I DON'T CARE REALLY, MR. MANN, MR.
14 MUELLER, WHOEVER.

15 **MR. MANN:** THAT'S FINE, YOUR HONOR.

16 NOW, THEIR -- UM -- OBVIOUSLY, WHAT WE'LL -- WHAT I'LL
17 PROPOSE DOING IS I'M JUST GOING TO GO COUNT BY COUNT.

18 **THE COURT:** OKAY.

19 **MR. MANN:** AND WE'LL DO IT THAT WAY. AND, OBVIOUSLY, THE
20 COUNTS ARE SEPARATED BY SO-CALLED VICTIM OR CHILD -- UM -- SO
21 WE'LL STICK WITH THAT.

22 THE FIRST COUNT IS CHILD ABUSE WITH SUBSTANTIAL BODILY
23 HARM -- UH -- INDICATING THAT REPEATEDLY STRIKING ABOUT THE
24 BODY WITH A STICK.

25 NOW, FIRST OF ALL -- UM -- THE REQUIREMENT FOR

1 SUBSTANTIAL BODILY HARM, AND YOU'RE GOING TO HEAR THIS
2 ARGUMENT ACROSS THE BOARD ON THIS -- UM -- UNDER NRS .060,
3 INDICATES SERIOUS PERMANENT DISFIGUREMENT. THE SCARS THAT
4 WERE INDICATED, EVEN IF WE ACCEPT FOR THE MOMENT THAT THEY
5 WERE FROM THE HAND OF MISS SOLANDER, THE SCARS THAT THEY WERE
6 INDICATING WERE SO MINUTE AND SO SMALL THAT IT WAS -- I DON'T
7 THINK COULD IN ANY WAY INDICATE SERIOUS PERMANENT
8 DISFIGUREMENT.
9 IN FACT, THE CASES THAT TALK ABOUT SERIOUS PERMANENT
10 DISFIGUREMENT, IN TALKING ABOUT THAT, ARE PEOPLE THAT HAVE
11 EXTENSIVE BURNS ON THEIR BODY, AND INDICATING THAT -- UH --
12 THAT EVEN THOUGH THERE WASN'T PAIN ASSOCIATED WITH THAT AND
13 WHAT HAVE YOU, THAT THOSE BURNS WERE SERIOUS PERMANENT
14 DISFIGUREMENT THAT OBVIOUSLY WOULD AFFECT HOW THEY ARE TREATED
15 IN THE REST OF THEIR LIFE.
16 IN THESE CASES, THESE ARE SMALL, TINY BUMPS, SCARS,
17 WHATEVER YOU WOULD INDICATE, THAT I THINK EVERY ONE OF US HAS
18 ON OUR BODY FROM DAILY ACTIVITY, NOTHING SIGNIFICANT. UM --
19 AND SO I WOULD INDICATE THAT -- UM -- ON BEHALF OF THE NRS
20 060, THAT THE SUBSTANTIAL BODILY HARM ELEMENT WOULD NOT BE
21 ACCEPTED FOR COUNT 1 -- UH -- REGARDING STRIKING ABOUT THE
22 BODY WITH A STICK.
23 THEY -- THE EVIDENCE THAT WAS PRESENTED WAS THAT THERE
24 WERE SOME -- SOME SMALL SCARS ON THE BACK AND THE BUTTOCKS --
25 UH -- SOME ON THE ARM, BUT AT THE SAME TIME, WE DON'T EVEN

1 KNOW WHERE THOSE SCARS CAME FROM.

2 UH -- THEIR -- THE STATE INDICATES THAT ONE OF THE GIRLS
3 HAD TESTIFIED THAT SHE HAD SEEN BLOOD FROM THE SPANKING WITH
4 THE STICK, AND THAT BECAUSE SHE HAD SEEN BLOOD FROM THAT, SHE
5 JUST ASSUMED THAT THAT'S WHERE THE SCARS CAME FROM. BUT JUST
6 BECAUSE YOU BLEED, DOESN'T MEAN YOU GET SCARS.

7 AND, OBVIOUSLY, THAT'S NOT ENOUGH, AND THAT'S NOT EVEN
8 THE SLIGHT OR MARGINAL, JUST THAT SHE HAD BLED, JUST THAT
9 THERE WAS A STRIKING DOWN THERE DOESN'T MEAN THAT THAT WAS A
10 SERIOUS PERMANENT DISFIGUREMENT.

11 UM -- AND IF YOU LOOK AT PAGE -- UM -- SORRY. WELL, I'LL
12 STICK -- THERE WILL BE OTHER ARGUMENTS REGARDING THAT ONE. SO
13 I WOULD SAY FOR -- UM -- COUNT 1, THAT THE WITH SUBSTANTIAL
14 BODILY HARM HAS NOT BEEN SHOWN BY THE STATE, SLIGHT OR
15 MARGINAL.

16 AS FOR COUNT 2, REPEATEDLY SLAMMING HEAD OR EYE INTO THE
17 COUNTER. NOW, I BRING YOUR ATTENTION TO PAGE 97 ON DAY 20 --
18 IT WAS MAY 22ND I BELIEVE. UM --

19 **THE COURT:** WHAT PAGE?

20 **MR. MANN:** PAGE 97. YEAH, ON MAY 22ND.

21 **THE COURT:** GO AHEAD.

22 **MR. MANN:** UM -- AND THERE WAS A SERIES OF QUESTIONS
23 ABOUT THIS SO-CALLED INJURY TO THE EYE. AND -- UH -- SHE SAID
24 YES, THERE WAS A LITTLE BLACK-AND-BLUE MARK AROUND THE EYE,
25 BUT THAT IT HEALED UP ON ITS OWN. THAT SHE SAW A DOCTOR TWO

1 WEEKS LATER, AND THE DOCTOR DIDN'T DO ANYTHING FOR IT BECAUSE
2 IT WASN'T THERE ANYMORE, IT WAS CLEARED UP.
3 THAT THERE WAS NO INDICATION THAT -- UH -- SHE HAD ANY --
4 UH -- ANY INABILITY TO USE THE EYE ANYMORE, THAT THERE WAS ANY
5 PERMANENT DISFIGUREMENT. THERE WAS NOTHING TO INDICATE, OTHER
6 THAN SHE GOT A BLACK EYE AND THERE WAS A BRUISE FROM IT, WHICH
7 OBVIOUSLY IS THE VERY DEFINITION OF A BLACK EYE.
8 UM -- SO I DON'T BELIEVE THAT WOULD FALL UNDER
9 SUBSTANTIAL BODILY HARM EITHER, THAT THAT WOULD NOT BE A
10 SERIOUS PERMANENT DISFIGUREMENT OR PROTRACTED LOSS OR
11 IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN.
12 NOW -- UH -- YOU KNOW, SHE INDICATED THAT THE EYE STARTED
13 TO CLOSE UP A LITTLE BIT, BUT SHE NEVER SAID THAT SHE COULDN'T
14 SEE OUT OF THE EYE. SHE NEVER SAID THAT -- UH -- THAT WAS FOR
15 A LONG PERIOD OF TIME. SHE NEVER RECEIVED ANY MEDICAL
16 ATTENTION FOR IT. THAT WOULD NOT FULFILL THE ELEMENTS OF
17 SUBSTANTIAL BODILY HARM. SO -- UH -- AS FOR COUNT 2, I ALSO
18 BELIEVE THAT THEY FAILED TO PROVE THE SUBSTANTIAL BODILY HARM.
19 NOW -- UM -- COUNT 4, THE -- UH -- THE INDICATION THAT
20 THERE WAS CHILD ABUSE FROM HER HOLDING HER URINE OR BOWEL
21 MOVEMENT. AND I THINK THIS WILL APPLY TO ALL THE GIRLS ACROSS
22 THE BOARD, THAT -- UM -- THERE WAS SUBSTANTIAL EVIDENCE THAT
23 THESE GIRLS WERE GIVEN TIMES TO BE ABLE TO GO TO THE BATHROOM.
24 THAT JUST LIKE ANY SORT OF SCHOOLING OR ANYTHING ELSE, THAT
25 THERE ARE TIMES TO GO TO THE BATHROOM AND TIMES NOT TO GO TO

1 THE BATHROOM. THAT -- UM -- JUST BECAUSE YOU HAVE TO HOLD IT
2 FOR A LITTLE BIT, DOESN'T MEAN THAT -- UH -- THAT IS ANY SORT
3 OF HARM TO THE PERSON OR ANYTHING LIKE THAT, BUT RATHER THAT
4 THERE WERE TIMES AND THEY CHOSE -- AND I ASKED THEM ON MANY
5 OCCASIONS, THAT THEY CHOSE NOT TO USE THE RESTROOM WHEN THEY
6 WERE GIVEN THAT OPPORTUNITY.
7 EVEN THOUGH -- AND SPECIFICALLY AMAYA DEFINITELY STATED
8 THIS, EVEN THOUGH SHE HAD TO GO, SHE SPECIFICALLY DID NOT GO
9 AT THAT TIME, BECAUSE SHE WANTED TO WAIT AND SHE WANTED TO USE
10 THE FACT THAT SHE WAS PEEING OR POOPING ON HERSELF AS
11 PUNISHMENT TO THE SOLANDERS FOR ADOPTING THEM, ESSENTIALLY.
12 SO THE STATE HAS NOT SHOWN ANY EVIDENCE THAT THERE WAS --
13 UH -- A LONG -- UM -- A LONG TIME PERIOD THAT THEY WERE NOT
14 ALLOWED TO GO TO THE BATHROOM, TO USE THE RESTROOM. IN FACT,
15 ON NUMEROUS OCCASIONS I ASKED ALL OF THEM THAT IF THEY WERE --
16 UM -- GOING TO -- UH -- REQUEST TO GO TO THE BATHROOM, WOULD
17 THEY BE ALLOWED, AND THEY SAID YES. IN FACT, THAT'S WHAT THEY
18 WANTED US TO DO, THEY WANTED US TO ASK TO GO TO THE BATHROOM
19 SO WE COULD THEN GO TO THE BATHROOM.
20 AND I CAN -- UM -- BRING YOUR ATTENTION TO THAT SAME
21 VOLUME, MAY 22ND, TO PAGE 113, WHERE IT SAYS, THEY WERE
22 ASKING -- THIS IS UP TOWARDS THE TOP. IT SAYS, BECAUSE I WAS
23 HOLDING IT IN, BECAUSE I WASN'T -- I DIDN'T WANT TO GET IN
24 TROUBLE WHILE I WAS -- I DIDN'T WANT TO GET IN TROUBLE.
25 "THEY WERE ASKING YOU TO GO TO THE BATHROOM, BUT YOU

1 DIDN'T WANT TO GO TO THE BATHROOM BECAUSE YOU'D GET IN
2 TROUBLE?"
3 "WELL, I HAD A CHANCE TO TRY. I DIDN'T WANT TO GO" TO --
4 "GO BECAUSE I KNEW I WAS GOING TO GET IN TROUBLE FOR NOT
5 OPENING MY MOUTH."
6 SO CLEARLY THEY'RE SAYING, YOU NEED TO OPEN YOUR MOUTH
7 AND SAY YOU HAD TO GO TO THE BATHROOM. BUT EVEN AT THE TIMES
8 THAT THEY SAID OKAY, WHETHER YOU SAY YOU HAVE TO GO TO THE
9 BATHROOM OR NOT, GO TO THE BATHROOM, THAT IS NOT CHILD ABUSE
10 FOR SAYING YOU NEED TO GO TO THE BATHROOM AT THESE TIMES,
11 BECAUSE THAT'S WHEN THOSE TIMES ARE AVAILABLE. AND, IF YOU
12 NEED TO GO OUTSIDE THESE TIMES, YOU JUST NEED TO ASK.
13 AND THAT'S -- THAT'S WHAT THE EVIDENCE WAS FROM THESE
14 GIRLS WAS, YES WE NEEDED TO ASK. WE WERE GOING TO GET IN
15 TROUBLE BECAUSE WE DIDN'T GO AT THE CORRECT TIMES, BUT WE
16 NEEDED TO ASK.
17 SO, IN ADDITION TO THAT, EVEN UNDER THE STATUTE -- UM --
18 EVEN IF WHAT THE STATE IS ALLEGING WAS ACCURATE, I STILL DON'T
19 BELIEVE THAT UNDER NRS 200.508 THAT THEY WERE ABLE TO
20 DEMONSTRATE -- UH -- THAT IT WAS CHILD ABUSE BASED ON THE
21 EVIDENCE THAT WAS PRESENTED, BECAUSE -- UM -- THERE WAS NO
22 INDICATION THAT THEY SUFFERED UNJUSTIFIABLE PHYSICAL PAIN OR
23 MENTAL SUFFERING, SO THEY DID NOT DEMONSTRATE THAT THERE WAS
24 ANY MENTAL SUFFERING.
25 OBVIOUSLY THERE'S NO -- WELL, WE HAVE NO EVIDENCE OF ANY

1 PHYSICAL PAIN COMING FROM IT. UM -- BUT MENTAL SUFFERING,
2 THERE IS NO INDICATION THAT THEY WERE HARMED OR SERVED ANY
3 SORT OF MENTAL SUFFERING FROM THAT.
4 SO BASED ON THAT, I WOULD SAY THAT THE CHILD ABUSE WOULD
5 NOT APPLY, AND THAT COUNT SHOULD BE DISMISSED.
6 THAT SAME ARGUMENT GOES FOR COUNT 5 -- UH -- CHILD ABUSE
7 FOR SLEEPING ON BOARDS WITH NO SHEETS OR BLANKETS WITH FANS
8 BLOWING.
9 NOW, THERE WAS VARIED -- UH -- TESTIMONY REGARDING HOW
10 THEIR SLEEPING CONDITIONS ACTUALLY WERE, BUT THEY HAD
11 INDICATED THAT THROUGH TIME THEY ENDED UP HAVING TO SLEEP ON
12 THE BOARD BECAUSE THEY SOILED THE MATTRESS SO MANY TIMES
13 THAT -- UM -- ON PURPOSE, AT LEAST AMAYA HAD INDICATED,
14 THAT -- THAT THEY REMOVED THE MATTRESS AND ENDED UP SLEEPING
15 ON THE BOARDS.
16 NOW, SLEEPING ON BOARDS, IN AND OF ITSELF, I DON'T THINK
17 IS -- UH -- IS CHILD ABUSE, BECAUSE THERE'S NO INDICATION THAT
18 THERE IS UNJUSTIFIABLE PHYSICAL PAIN AND -- UM -- MENTAL
19 SUFFERING COMING FROM THAT. THERE ARE PEOPLE THAT SLEEP ON
20 THE GROUND, AND THAT WOULD NOT BE CONSIDERED CHILD ABUSE.
21 THERE ARE -- YOU KNOW, JUST BECAUSE IT'S NOT EXACTLY WHAT OUR
22 STANDARDS ARE, DOESN'T NECESSARILY MEAN THAT IT IS CHILD
23 ABUSE.
24 OBVIOUSLY, I THINK THE STATUTE IS VERY POORLY WRITTEN --
25 UH -- WHERE IT IS VERY AMBIGUOUS AS TO WHAT IS OR ISN'T CHILD

1 ABUSE, BUT THAT PUTS IT, UNFORTUNATELY, ON YOUR SHOULDERS,
2 YOUR HONOR, TO INDICATE, HAS THE STATE BEEN ABLE TO
3 DEMONSTRATE THE -- UM -- LANGUAGE THAT IS IN THE STATUTE WHERE
4 IT'S UNJUSTIFIABLE PHYSICAL PAIN.
5 IN THIS CASE, THE STATE HAS NOT DEMONSTRATED THAT IT WAS
6 UNJUSTIFIABLE PHYSICAL PAIN IN THIS PARTICULAR INSTANCE OF
7 THEM SLEEPING ON THE BOARDS. SURE, WAS IT NOT THE BEST OF
8 SITUATIONS? WAS IT NOT THE FANTASY THAT, YOU KNOW, WE WOULD
9 ALL DREAM UP? WAS IT -- IS IT SOMETHING THAT WE WOULD WANT?
10 NO, NOT NECESSARILY, BUT THAT DOESN'T MAKE IT CHILD ABUSE.
11 THAT DOESN'T MEAN THAT IT IS CHILD ABUSE.
12 IN FACT, THERE ARE MANY PEOPLE THAT -- UH -- SPANK THEIR
13 CHILDREN WITH SPOONS, AND THERE ARE MANY PEOPLE THAT FIND THAT
14 SPANKING WITH SPOONS IS NOT APPROPRIATE. DOES THAT MAKE
15 SPANKING WITH SPOONS CHILD ABUSE? NO. THE SUPREME COURT HAS
16 SAID THROUGHOUT THE LAND THAT THERE IS CORPORAL PUNISHMENT
17 THAT IS ALLOWED TO YOUR CHILDREN. AND -- UM -- JUST BECAUSE
18 IT'S NOT WHAT YOU OR I WOULD DO, DOESN'T MEAN THAT IT'S CHILD
19 ABUSE.
20 AS FOR COUNT 6, WITHHOLDING FOOD AND WATER FOR EXTENDED
21 PERIODS OF TIME. UH -- THERE WAS NO EVIDENCE, AT LEAST FOR
22 AVA, THAT THEY WITHHELD FOOD OR WATER FOR EXTENDED PERIODS OF
23 TIME. IN FACT, THEY -- THEY INDICATED OVER AND OVER AGAIN
24 THAT THEY WERE GIVEN FOOD. THEY WERE GIVEN BLENDED FOOD, THEY
25 WERE GIVEN -- UM -- OTHER -- OTHER TYPES OF FOOD -- UH --

1 BEFORE THAT AS WELL THAT -- THAT FED THEM.

2 NOW, THERE WERE TIMES THAT THEY DID GET IN TROUBLE AND
3 THEY ENDED UP HAVING TO GO TO BED WITHOUT DINNER. BUT GOING
4 TO BED WITHOUT DINNER IS -- IS NOT CHILD ABUSE. AND THERE IS
5 NO INDICATION THAT THEY SUFFERED ANY SORT OF PAIN OR -- OR
6 MALNOURISHMENT BECAUSE OF THAT. UM -- AND THERE WAS NO
7 INDICATION THAT THIS WAS SOMETHING THAT -- THAT HAPPENED ON A
8 REGULAR BASIS. AND BECAUSE OF THAT, I DON'T THINK THEY WERE
9 ABLE TO DEMONSTRATE CHILD ABUSE.

10 NOW, FOR COUNTS 7 AND 8 -- UH -- THE SEXUAL ASSAULT.
11 UM -- OBVIOUSLY THE STATE'S GOING TO ARGUE THAT ANY SORT OF
12 PENETRATION IS SEXUAL ASSAULT. UM -- AND I THINK AS TO HOW
13 THE STATUTE IS WRITTEN -- UM -- I WOULD SAY, UNFORTUNATELY,
14 THEY ARE CORRECT. HOWEVER, I ALSO WOULD ARGUE THAT -- UM --
15 THAT INTERPRETATION OF THE LAW WOULD MAKE ANY DOCTOR OR ANY
16 PERSON WHO IS PERFORMING A PROCEDURE ON A CHILD TO BE
17 COMMITTING SEXUAL ASSAULT, EVEN THOUGH THEY HAD NO SEXUAL
18 INTENT WHATSOEVER.

19 UM -- AND IN THIS CASE THERE WAS NO INDICATION THAT THERE
20 WAS ANY SORT OF SEXUAL INTENT. THERE WAS NO INDICATION THAT
21 EVEN IF YOU WERE TO BELIEVE THE STORIES ABOUT THE CATHETERS,
22 THAT THIS WAS A SEXUAL CRIME WHATSOEVER. UM -- IN FACT --
23 UH -- THE ORGAN THAT A CATHETER GOES INTO IS THE URETHRA AND
24 NOT THE VAGINA, WHICH IS OBVIOUSLY THE SEXUAL ORGAN.

25 SO I UNDERSTAND THAT THE STATE'S GOING TO ARGUE THAT ANY

1 SORT OF PENETRATION, NO MATTER HOW SLIGHT, WOULD BE PART OF
2 THE SEXUAL ASSAULT, BUT I AM IMPLORING YOUR HONOR THAT THE WAY
3 THAT SEXUAL ASSAULT IS THAT IT WAS NEVER ITS INTENTION TO BE
4 PART OF A -- UM -- A NONSEXUAL INTENT CRIME WHERE SOMEONE THAT
5 HAD NO SEXUAL INTENT, NO PERSONAL GRATIFICATION, OR THE
6 GRATIFICATION OF THE VICTIM -- UH -- THAT THAT WOULD BE
7 CONSIDERED A SEXUAL CRIME.
8 UM -- I'M GOING TO MOVE ON NOW TO -- UM -- COUNT 14,
9 AGAIN WITH THE SUBSTANTIAL BODILY HARM, REPEATEDLY STRIKING
10 ABOUT THE BODY WITH A STICK. UM -- AMAYA INDICATED THAT ANY
11 SORT OF INJURY THAT SHE HAD ON HER KNEES WAS ACTUALLY FROM
12 BIKE RIDING, AND THAT'S ON PAGE 84 OF THE JUNE 9TH STATEMENT
13 OR TESTIMONY.
14 AND -- UM -- THAT -- MY SAME ARGUMENT WITH THE
15 SUBSTANTIAL BODILY HARM, THAT EVEN IF THOSE INJURIES WERE
16 FROM -- UM -- THE HANDS OF MISS SOLANDER, THAT THAT DOES NOT
17 LEAD UP TO SUBSTANTIAL BODILY HARM, BECAUSE IT'S NOT SERIOUS
18 PERMANENT DISFIGUREMENT.
19 UM -- THE -- UM -- COUNT 16 -- UH -- CHILD ABUSE, HOLDING
20 URINE OR BOWEL MOVEMENT FOR EXTENDED PERIOD OF TIME, THAT'S
21 THE SAME ARGUMENT THAT I HAD WITH AVA THAT -- UM -- IN AMAYA'S
22 CASE, SHE SPECIFICALLY SAID OVER AND OVER AGAIN, THAT SHE
23 POO -- PEED AND POOPED PANTS ON PURPOSE, AND THIS IS ON PAGE
24 59 ON THE JUNE 9TH TRANSCRIPT. UH -- SHE WAS ENCOURAGED TO
25 GO, THAT THEY SET TIMES FOR HER TO GO, AND THAT SHE STILL

1 PURPOSELY CHOSE NOT TO GO TO THE BATHROOM. AND ON PAGE 112 OF
2 THAT SAME TRANSCRIPT, SHE INDICATES THAT SHE WAS ABLE TO GO TO
3 THE BATHROOM ANY TIME AT NIGHT. UM -- SO I THINK IT'S CLEAR
4 THAT HER -- THAT THE SOLANDERS DID NOT FORCE THEM TO HOLD
5 THEIR URINE OR BOWEL MOVEMENTS FOR EXTENDED PERIOD OF TIMES
6 AND, THEREFORE, WOULD NOT BE CHILD ABUSE. AND EVEN IF --
7 UM -- WELL, BASED ON THE TESTIMONY THAT WAS THERE, THAT THERE
8 IS NO EVIDENCE TO SUPPORT THAT CLAIM.
9 ALSO WITH COUNT 17 -- UM -- THE SLEEP ON BOARDS WITH NO
10 SHEETS OR BLANKETS WITH A FAN BLOWING, TURN YOUR ATTENTION TO
11 PAGE 149 OF THE JUNE 9TH TRANSCRIPTS, WHERE --
12 **THE COURT:** WHAT PAGE? ONE WHAT?
13 **MR. MANN:** 149 AND 150.
14 **THE COURT:** OKAY.
15 **MR. MANN:** UM -- WHERE AMAYA SPECIFICALLY SAYS THAT THE
16 FANS BLOWING AND THEM -- UM -- SLEEPING WAS -- WAS NOT A FORM
17 OF PUNISHMENT. THAT THIS WAS NOT THE INTENTION OF THE
18 SOLANDERS TO HAVE THE FAN BLOWING AS A FORM OF PUNISHMENT
19 WHILE THEY WERE SLEEPING -- UM -- BUT RATHER -- IN FACT, AMAYA
20 SPECIFICALLY SAYS THAT THE FAN WASN'T BLOWING ON THEM FOR THE
21 SLEEPING PURPOSES, BUT RATHER TO DRY OFF AFTER THEY'D PEED
22 THEMSELVES OR AFTER THEY HAD TAKEN A SHOWER. UM -- AND IF YOU
23 LOOK AT THOSE PAGES ON 149 AND 150 -- UM -- IT WILL -- YOU CAN
24 SEE THAT.
25 AND IF YOU'D LIKE ME TO READ IT TO YOU, I CAN.

1 **THE COURT:** NO, I SEE IT.

2 **MR. MANN:** OKAY.

3 COUNT 18, THE CHILD ABUSE, WITHHOLDING FOOD AND WATER FOR
4 EXTENDED PERIOD OF TIME -- UM --

5 **THE COURT:** WHICH COUNT, I'M SORRY?

6 **MR. MANN:** EIGHTEEN.

7 **THE COURT:** OKAY.

8 **MR. MANN:** IF YOU LOOK AT PAGE 118, YOU CAN SEE THAT --
9 THAT SHE WAS ASKED, BUT YOU WOULD ALWAYS GET A DINNER AFTER
10 YOU GOT YOUR HOMEWORK DONE?

11 AND SHE ASKED THE QUESTION -- OR ANSWERS THE QUESTION
12 WITH A QUESTION, "ALWAYS?" MEANING THAT THERE WERE OBVIOUSLY
13 TIMES THAT THAT DIDN'T HAPPEN, BUT REGULARLY THAT SHE DID GET
14 FOOD, THAT SHE DID GET HER DINNER, AND THAT THIS WAS NOT
15 SOMETHING THAT HAPPENED CONTINUALLY.

16 SO, YES, YOU KNOW, PARENTS HAVE WITHHELD DINNER AS A
17 PUNISHMENT FOR KIDS FOR HUNDREDS OF YEARS. UM -- AND -- UM --
18 YOU KNOW, I'M SURE MR. MUELLER GOT PUNISHED THAT WAY ALL THE
19 TIME. BUT, YOU KNOW, THAT, IN AND OF ITSELF, DOES NOT MAKE IT
20 CHILD ABUSE. THAT THERE IS NOT THAT UNJUSTIFIABLE PHYSICAL
21 PAIN OR MENTAL SUFFERING.

22 AND THE STATE HAS NOT DEMONSTRATED, EVEN BY SLIGHT OR
23 MARGINAL EVIDENCE, THAT EVEN IF WHAT THEY ARE SAYING WAS TRUE,
24 AND OBVIOUSLY WE'RE NEGATING THE FACT THAT IT WAS FOR AN
25 EXTENDED PERIOD OF TIME, BUT NOT HAVING DINNER IS NOT

1 UNJUSTIFIABLE PHYSICAL PAIN OR MENTAL SUFFERING.

2 AND I DON'T THINK THERE WAS REALLY ANY EVIDENCE THAT

3 WOULD INDICATE ANYTHING MORE THAN THEM MISSING A MEAL -- UM --

4 AS -- AS PUNISHMENT FOR PURPOSELY PEEING OR POOPING ON

5 THEMSELVES, WHEN, YOU KNOW, MAYA CLEARLY SAID, YES, I DID THIS

6 ON PURPOSE, AND I THINK, YOU KNOW, THE SOLANDERS WERE ACTUALLY

7 AT A LOSS AS TO HOW TO CONTROL THESE KIDS THAT WERE CLEARLY

8 DEFIANT TO ANY SORT OF DIRECTION WHATSOEVER.

9 COUNT 19, THE SEXUAL ASSAULT, INSERTING A CATHETER. ON

10 PAGE 106 -- UH -- I ASKED HER SPECIFICALLY ABOUT THAT HER

11 STORIES REGARDING THE CATHETER WAS REALLY ABOUT -- UM -- NOT

12 ABOUT A CATHETER, BUT ABOUT MISS SOLANDER APPLYING CREAM TO

13 THE VAGINA, AND SHE SAID YES. UM -- AND -- UM -- I THINK IT

14 WAS ASKED LATER THAT -- UH -- WAS THERE A SEPARATE TIME

15 THAT -- UM -- CREAM WAS APPLIED TO THE VAGINA, AND SHE SAID

16 YES. SO I THINK IT'S A LITTLE UNCLEAR AS TO WHAT ACTUALLY

17 HAPPENED.

18 BUT MY SAME ARGUMENT AS TO AVA WOULD APPLY, AND THAT IS

19 THAT THE SEXUAL ASSAULT -- UM -- THAT THEY ARE DESCRIBING IS

20 NOT WHAT THE INTENTION OF THE STATUTE IS, AND THAT -- THAT

21 THIS WOULD BE OVERBROAD AND APPLYING TO AN INTENT THAT WOULD

22 NOT BE THERE.

23 COUNT 20 -- UM -- THE CHILD ABUSE FOR PUSHING OR KICKING

24 ON THE STAIRS. NOW, ORIGINALLY, IT WAS PLED TO BE KICKING

25 DOWN THE STAIRS. THEY CHANGED THE PLEADING TO BE JUST KICKING

1 ON THE STAIRS.

2 UM -- AND IF YOU LOOK AT PAGE 88 OF THAT SAME

3 TRANSCRIPT -- UM -- REGARDING BEING KICKED DOWN THE STAIRS OR

4 KICKED ON THE STAIRS, SHE INDICATES THAT SHE -- SHE WASN'T

5 KICKED -- THAT IT WASN'T KICKED HARD, NOT ENOUGH FOR ME TO GET

6 HURT. AND PAGE 90 -- UH -- SHE EVEN INDICATES THAT MISS

7 SOLANDER DIDN'T DO IT ON PURPOSE. AND PAGE 91, "KICKED US

8 LIGHTLY."

9 SO, EVEN IF SHE WAS KICKED -- UM -- THAT THE KICK WAS NOT

10 ENOUGH TO -- UM -- RISE TO THE LEVEL OF CHILD ABUSE WHERE A

11 PERSON UNDER THE AGE OF 18 WOULD SUFFER UNJUSTIFIABLE PHYSICAL

12 PAIN OR MENTAL SUFFERING. AND SO FOR THAT ONE I WOULD SAY

13 COUNT 20 SHOULD BE DISMISSED.

14 I'LL MOVE TO -- UM -- ANASTASIA. UM -- COUNT 24, CHILD

15 ABUSE WITH SUBSTANTIAL BODILY HARM FOR STRIKING WITH STICK ON

16 BODY. AGAIN, MY SAME ARGUMENT WOULD APPLY -- UM -- WHERE THE

17 INJURIES THAT SHE INDICATED THAT SHE HAD WERE SO SMALL AND SO

18 SLIGHT, THAT EVEN IF IT WERE TRUE -- UH -- THAT IT WOULD NOT

19 APPLY TO SUBSTANTIAL BODILY HARM UNDER THE SERIOUS PERMANENT

20 DISFIGUREMENT.

21 AND -- UM -- THAT -- THAT JUST THE FACT THAT SHE SAW

22 BLOOD ON HER UNDERWEAR AFTER IT OCCURRED IS NOT ENOUGH TO SAY

23 THAT THE SCARS ARE EVEN FROM -- UH -- THE STRIKING AS IT WAS,

24 BECAUSE THERE'S NO INDICATION THAT SHE COULD EVEN SEE THAT

25 THAT'S HOW IT FORMED OR WERE THEY THERE ORIGINALLY OR ANYTHING

1 LIKE THAT, SO I WOULD SAY THAT WOULDN'T APPLY EITHER.
2 UM -- NOW, THE 25, COUNT 25, CHILD ABUSE WITH SUBSTANTIAL
3 BODILY HARM, BY HOLDING HEAD UNDER HOT WATER RESULTING IN
4 BURNED EARS OR BACK.
5 NOW, TO ME THIS WAS ONE OF THE MOST LUDICROUS STORIES
6 THAT I'VE EVER HEARD. SHE INDICATED IN HER TESTIMONY THAT --
7 UH -- THE WATER WAS SO HOT WHEN SHE PUT HER HANDS UNDER THAT
8 SHE WAS CRYING, AND BECAUSE SHE WAS CRYING -- UM -- MISS
9 SOLANDER TOOK A TOP FROM A CANDLE AND PUT SOME WATER IN IT AND
10 ENDED UP SPLASHING IT ON HER FACE, AND THEN ENDED UP SOMEHOW
11 PICKING UP HER BODY AND PUTTING HER EAR AND SHOULDER UNDER THE
12 RUNNING FAUCET AT THE SAME TIME, AND THAT'S HOW SHE GOT
13 BURNED, EVEN THOUGH HER HANDS DIDN'T GET BURNED, HER FACE
14 DIDN'T GET BURNED, OR ANYTHING ELSE DIDN'T GET BURNED.
15 IN ADDITION, THE STORY THAT -- UM -- AVA HAD TOLD
16 REGARDING THAT SAME INCIDENT WAS THAT -- UM -- ANASTASIA WAS
17 ACTUALLY IN THE SHOWER WHEN THIS OCCURRED AND -- UH -- THAT --
18 UM -- THAT THAT'S WHERE SHE GOT THE MARKS FROM, FROM THE HOT
19 WATER IN THE SHOWER.
20 BUT EVEN IF YOU LOOK AT -- UM -- I MEAN, AND YOU CAN READ
21 ON PAGE 107 WHEN I'M -- OF JUNE 10TH, WHEN I'M QUESTIONING HER
22 ABOUT THIS VERY INCIDENT -- UM -- UM -- YOU KNOW, HER HANDS
23 WERE NOT BURNED. UM -- HER EAR AND SHOULDER WERE IN THE SINK
24 AT THE SAME TIME, AND I DON'T EVEN KNOW HOW THAT'S PHYSICALLY
25 POSSIBLE. WHEN I QUESTIONED HER ABOUT, YOU KNOW, WHAT KIND OF

1 SINK WAS THIS, WAS THIS A BIG SINK, A SMALL SINK, NO, A
2 REGULAR BATHROOM SINK. AND, YOU KNOW, IT WAS JUST -- I SAID,
3 WAS -- WAS IT FILLED UP WITH WATER? NOPE, NOPE, NOT FILLED UP
4 WITH WATER, JUST WATER COMING FROM THE FAUCET, AND THAT WAS
5 ENOUGH TO CAUSE THIS DISCOLORMENT OF HER SKIN.
6 UM -- NOW, WE HAD DR. CETL TESTIFY THAT SHE WAS -- UH --
7 THAT THESE APPEARED TO BE BURN MARKS, BUT THAT SHE HAD NO
8 INDICATION -- AND THESE WOULD APPLY ACTUALLY TO -- UM -- ALL
9 THE MARKS ON THE KIDS, THAT DR. CETL HAD NO INDICATION OF TIME
10 OF THESE MARKS. HOW OLD THEY WERE, HOW NEW THEY WERE. COULD
11 NOT TELL WHERE THESE MARKS CAME FROM, ANY INDICATION LIKE
12 THAT.
13 SO EVEN FROM THE STATE'S OWN EXPERT, THEY WEREN'T ABLE TO
14 SUPPORT THAT -- UM -- THAT THESE MARKS ORIGINATED FROM THE
15 HAND OF THE SOLANDERS, OR THAT THEY WERE EVEN DURING THE TIME
16 THAT THE SOLANDERS WERE THERE OR WITH THEM.
17 UM -- SO THE ONLY BENEFIT THAT DR. CETL PROVIDED TO THE
18 STATE WAS THAT, YES, THESE ARE MARKS, AND YES, THESE COULD
19 APPEAR TO BE POSSIBLE BURN MARKS, BUT THAT SHE WASN'T SURE
20 THAT THESE WERE, IN FACT, BURN MARKS. AND SO THE ONLY -- THE
21 ONLY ASSISTANCE DR. CETL PROVIDED THIS COURT WAS POINTING OUT
22 WHAT WAS IN PICTURES AND SAYING YES, THAT MIGHT BE WHAT THAT
23 WAS.
24 AND SO THE STORY OF THE BURN MARKS I THINK WAS TOO IN --
25 WAS NOT PLAUSIBLE, AND -- UH -- THEREFORE, SHOULD NOT BE

1 CONSIDERED AS SUBSTANTIAL BODILY -- CHILD ABUSE WITH
2 SUBSTANTIAL BODILY HARM, THAT THE STORIES WERE ALL OVER THE
3 PLACE AND DID NOT SUPPORT EACH OTHER.
4 UM -- NOW, THE -- AND, I'M SORRY, I'M GOING TO BRING YOUR
5 ATTENTION TO COUNTS 3, 15, AND NOW 26 -- UH -- WHICH ARE ALL
6 THE CHILD ABUSE FOR SITTING ON BUCKETS FOR EXTENDED PERIOD OF
7 TIME, AND MAYBE ACTUALLY THAT'S HOW I SHOULD HAVE GONE WHERE I
8 JUST GROUPED EVERYTHING TOGETHER, BUT I APOLOGIZE.
9 **THE COURT:** THAT'S OKAY.
10 **MR. MANN:** THAT I WOULD ALSO ARGUE, BASED UPON THE
11 STATUTE THAT -- UH -- THAT SITTING ON BUCKETS -- UH -- FOR A
12 PERIOD OF TIME -- UM -- WOULD NOT RISE TO THE LEVEL OF CHILD
13 ABUSE, BECAUSE IT -- THE STATE NEVER PRESENTED ANY INDICATION
14 THAT THEY SUFFERED UNJUSTIFIABLE PHYSICAL PAIN OR MENTAL
15 SUFFERING FROM -- FROM SITTING THAT -- SITTING ON THOSE
16 CHAIRS, OR ON THOSE BUCKETS WITH SEATS, AND THERE WAS NOTHING
17 THAT CAME FROM THAT.
18 COUNT 27 -- UM -- HOLD URINE OR BOWEL MOVEMENTS FOR
19 EXTENDED PERIOD OF TIME, BRING YOUR ATTENTION TO PAGE -- UM --
20 97 OF -- 97 TO 98 OF JUNE 10TH, WHERE THEY INDICATE THAT THEY
21 WERE ALLOWED TO GO TO THE BATHROOM, THAT THEY HAD TO ASK --
22 UM -- AND THAT WHEN THEY ASKED, THEY WERE ALLOWED TO GO.
23 UM -- AND IF YOU SEE AT PAGE 97 AT THE BOTTOM, IT SAYS,
24 "OKAY. AND THOSE TIMES THAT YOU WOULD PEE AND POOP YOURSELF,
25 YOU DIDN'T ASK FOR PERMISSION TO GO TO THE BATHROOM, CORRECT?"

1 "YES, BECAUSE I WAS SCARED, BECAUSE SHE WOULD YELL AT
2 ME."
3 "OKAY. BUT YOU WERE ALSO, THOUGH, GIVEN TIMES THAT IF
4 YOU DID ASK, YOU COULD GO AND GO TO THE BATHROOM?"
5 AND SHE ULTIMATELY SAYS ON LINE 11, "YES."
6 UM -- SO CLEARLY THEY WERE GIVEN OPPORTUNITIES TO GO TO
7 THE BATHROOM, THAT HOLDING THEIR URINE OR BOWEL MOVEMENTS FOR
8 EXTENDED PERIOD OF TIME WAS NOT AN INDICATION THAT -- THAT
9 CAME THROUGH IN THE TESTIMONY THAT THEY ACTUALLY HAD THE
10 OPPORTUNITIES TO DO THAT, AND IF THEY CHOSE NOT TO, THAT WAS
11 THEIR CHOICE AND NOT -- UM -- NOT SOMETHING THAT WAS FORCED
12 UPON THEM.
13 COUNT 28, SLEEPING ON THE BOARDS WITH NO SHEETS OR
14 BLANKETS. AGAIN, THAT SAME ARGUMENT GOES BACK THAT THAT DOES
15 NOT RISE TO THE LEVEL OF CHILD ABUSE.
16 UM -- COUNT 29, WITHHOLDING FOOD AND WATER -- UH --
17 AGAIN, THAT WOULD NOT RISE TO THE LEVEL OF CHILD ABUSE
18 BECAUSE -- UH -- THE TESTIMONY WAS NOT THAT THEY DIDN'T GET TO
19 EAT, BUT THAT THEY DIDN'T GET TO EAT WHAT THEY WANTED TO, THAT
20 THEY HAD TO EAT THIS BLENDED FOOD. THAT BECAUSE ONE OF THE
21 GIRLS HAD A CONDITION, THAT THEY ALL ATE THE SAME SORT OF FOOD
22 TOGETHER, BUT THAT FOOD WAS RICE AND BEANS, QUINOA AND
23 OATMEAL. YOU KNOW, IT WAS ITEMS THAT -- THAT WERE WORTH
24 HAVING AND EATING FOR SUSTENANCE.
25 THE SEXUAL ASSAULTS FROM COUNTS 30 TO 36. UM -- SHE DID